

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, (11/1/2002) BENCH

OA/TA/RA/CP/MA/PT 237/90 of 20.....

.....Smt. Deep-Li Rai.....Applicant(S)

Versus

.....C.O.L. R.S.Respondent(S)

INDEX SHEET

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Certified that the file is complete in all respects.

B/c weeded out. / destroyed.

Signature of S.O.

Signature of Deal. Hand

(7)

2

6

1

15-1

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

4/1

No. _____ OF 19

Vs. _____

Sl.No.	Date	Office Report	Orders
			Hon. Mr. Justice K. Nath, V.C. Hon. Mr. K. Dhayya, A.M. Dated: 8.2.91. Admit. Issue notice to respondents to file reply within four weeks to which the applicant may be file rejoinder within two weeks thereafter. List before DR(J) on 1.4.91 for fixing a date for final hearing, if possible, after completion of record. A.M. V.C.
	1-4-91	<i>on notice issued 15/2/91</i> D.R. None appeared for the parties. Notices have been issued on 15.2.91 to the respondents. Hence respondent is directed to file counter by 10.5.91	
	10/5/91	D.R. Both the parties are absent today Respondent to file counter by 10/7/91	

O A 237/90

24/92

D. R.

counsel for applicant

is present. He is

ordered to file Reply

due by 28/2/92.

23/7/90

A - R.A. 12.00

(1/3)

The case is fixed
 of today's date
 is not a contract,
 Indication, section
 to produce the
 file by 3.12.
 Put up again on
 25.3.92. As file p
 cannot be found
 Let Counsel in the
 applicant is present.

25.3.92

No sitting of D.B. adj to 4.4.92

d

52
 1/11/92. one
 M.P. 21/92
 for 26.9.92
 4.4.92

No sitting of D.B. adj to 20.4.92

d

20.4.92

- No sitting adj to 7.5.92

d

7.5.92

No sitting of D.B. case is adjourned to 14.7.92

B

14.7.92

D.R.
 M.P. 22/92
 application for
 amendment has been
 allowed by R.A. 11/11.

Case not reached adj to 15.9.92

more

4593

No finding of merit
to 23.7.93

(M)

23.7.93Due to strike of lawyers
Case is adjourned to 16.9.93CR
16.9.93

Case adj. - read adj. 16.11.93

Prose

Prose

CR
04/5/93
0.11.93

Case adj. - read adj. 21.12.93

Prose

21/12/93Hon. Mr. S. N. Prasad, J.M.
Hon. Mr. V. K. Seth, A.M.Shri Anil Srivastava Counsel
for the respondents in present
Shri R. B. Pandey Counsel for
the applicant has sought
adjournment till this case
on 28/1/94 for hearing
& disposal.

V K

A.M.

J.M.

28/1/94Hon. Mr. S. N. Prasad, J.M.
Hon. Mr. V. K. Seth, A.M.Shri Anil Srivastava Counsel
for the respondents in present.
Shri A. K. Pandey being holder
of Shri R. B. Pandey Counsel for
the applicant seeks adjournment
till this case on 7/3/94 for
hearing & disposal.

V K

A.M.

J.M.

CR
Submitted
for F.K.28/12/93CR
Order filed
S. F. R.
28/1/94

L

(40)

Sl.No.	Date	Office Report	Orders
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23/11/24

Hon. Mr. Justice B.C. Saxena, V.C.
Hon. Mr. V.K. Seth, A.M.

On the request of the learned counsel for the applicant the case is adjourned & shall be listed on 15/12/24.

[Signature]

V.S.
A.M.

Boh
V.C.

15/12/24 Hon. Mr. V.K. Seth, A.M.
Hon. Mr. D.C. Sharma, J.M.

Shri R.B. Pandey Adv for applicant.
Shri Anil Srivastava learned counsel for the respondents. MS 2352/24 substituted is allowed. Amendment be carried out within a week. As the pleading in the case are complete, the case be listed for hearing on 24-1-25.

[Signature]
J.M.

24/1/25 Hon. Mr. Justice B.C. Saxena, V.C.
Hon. Mr. V.K. Seth, A.M.

List on 24-2-95 for hearing.

V.S.
A.M.

Boh
V.C.

MS 2352/24
SFC
14/12

CF-H
23/12/25

27/2/90

(14)

24/2/95

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

for applicant: Sh. R.B. Pandey
for respondents: Sh. A. Srivastava

Sh. Pandey, counsel for
the applicant has sought
adjournment.

list on 31/3/95

J.M.

W.K.
A.M.

24/2/95
S.P.H.

2

31.3.95

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

on the adjournment applic.
of Counsel for respondents adj.
to 5.5.95

J.M.

W.K.
A.M.

on 24/2/95
Counsel for
S.P.H.
5/2/95

5.5.95

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

on the request of Counsel
for applicant adj. to 6.7.95

J.M.

W.K.
A.M.

6.7.95

Counsel for applicant adj. to 21.8.95
B.M.

DA 237/80

6/1/86

Hon Mr. Mr. Seth, A.M.
Hon Mr. De Venna, J.M.

for applicant Sh. S. Chandra Sekhri
held for Sh. R.B. Pandey
for respondent Sh. A. Srinivasa
Sh. Chandra Bays for
adjournment

list on 26/3/86

J.M.

A.M.

20/3/86 the sitting of DB 24/4
16/4/86

8/8/86

for the respondent adjourn
to 8/8/86

Dr.

Mr. George D. McCaffrey
CS & SL

Dr.

5/7/86

Hon Mr. S. Das Gupta, A.M.
Hon Mr. De Venna, J.M.

The learned counsel for respondent
has sought adjournment. The
learned counsel for the applicant
also states that all the
relevant documents are not
available as yet is very
old case, we adjourn this
case on 8/8/86.

list on 8/8/86. The Sh. S. Chandra
No adjournment shall be
granted on the next date

J.M.

A.M.

01/23/70

Hon. Mr. V.K. Seth. AM
Hon. Mr. D.C. Verma. AM

None for applicant.
Shri Anil Swastika for respondents
Ltr A on 16.8.96

VK
AM

VK
AM

B

14-8-96 Hon. Mr. V.K. Seth. AM
Hon. Mr. D.C. Verma. AM

None for applicant.
Shri Anil Swastika for applicant
respondents
Ltr A on 2.9.96.

VK
AM

VK
AM

B

2-9-96

No thing of D.M. office in
01.10.96

VK
AM

1/10/96

Hon. Mr. V.K. Seth. AM
Hon. Mr. D.C. Verma. AM

The Counsel for applicant has
sent an application for adjournment.
Sh. Anil Swastika for respondents
Ltr on 14/11/96.

VK
AM

VK
AM

B

are
26/9/96

O.A. 237/90

23-9-97

(10)

Hon. Mr. V. K. Seth, A.M.

Hon. Mr. D. C. Verma, J.M.

Note for applicant

Correspondent: Enril Sivastava

Record shows that on the last date nobody has put in appearance for applicant. As this is an old case on the next date the C.A. may be taken up for disposal in absence of the learned counsel for the applicant on the basis of the pleadings on record.

List on 23-9-97.

Jec

J

J.M.

V.C.

A.M.

23-9-97

Hon. Mr. V. K. Seth, A.M.

Hon. Mr. D. C. Verma, J.M.

Mr. R. B. Jindal, learned counsel for applicant has submitted final slip.

List on 27-11-97 for hearing.

J

J.M.

V.C.

A.M.

st

0
Pleadings are
complete
18/11/97

21.10.2014

21.9.99

No sitting of SB
Case adj. to 23.12.99

23.12.99

No sitting of SB
Case adj. to 18.2.99 for
hearing.

R.
Bic

18-2-99

Hon'ble Mr. D.C. Verma, J.M.
Hon'ble Mr. AK Misra, A.M.

For applicant Smt RB Pandey has sent
an adjournment application.

For respondent Smt A. Snuastava,
list on 18-5-99 for hearing.

A.M.

J.M.

18.5.99

can not reach

List on 20.7.99.

C.
DOC

20-7-99

Hon'ble Mr. D.C. Verma, J.M.
Hon'ble Mr. AK Misra, A.M.

None for parties.

List for hearing on 02-9-99.

A.M.

J.M.

Smt N. Snuastava
has filed an
application for
adj. to 20.7.99.

20.7.99

2/4

4
Boc

Due to bad demise of W.H. Handory -
case is adjn to 10/08/2000 for hearing -

03/07/2000

4

Handory

304

have sought settlement
late for hearing on 03/07/2000

Note for the applicant
Mr A. Shrestha counsel for respondent

Handory Mr D.C. Verma - 3M
Handory Mr A.M. Sriv - 1M

31/05/20

31/5/2000 for hearing
Boc

Case not reached, Adjourn to

17/5/2000

Boc

17/5/2000

Case not reached, Adjourn to

16/5/2000

Boc

Adjourned to 16.5.2000

Case not reached

15.5.2000

0.11.237/00



14/2/01

Hon. Mr. Rafiquddin, J.M.
Hon. Mr. M.P. Singh, A.M.

Sh. R.B. Pandey for applicant.
Sh. Anil Siverstana for respondent.
Heard. orders reserved.

Am.

Am.

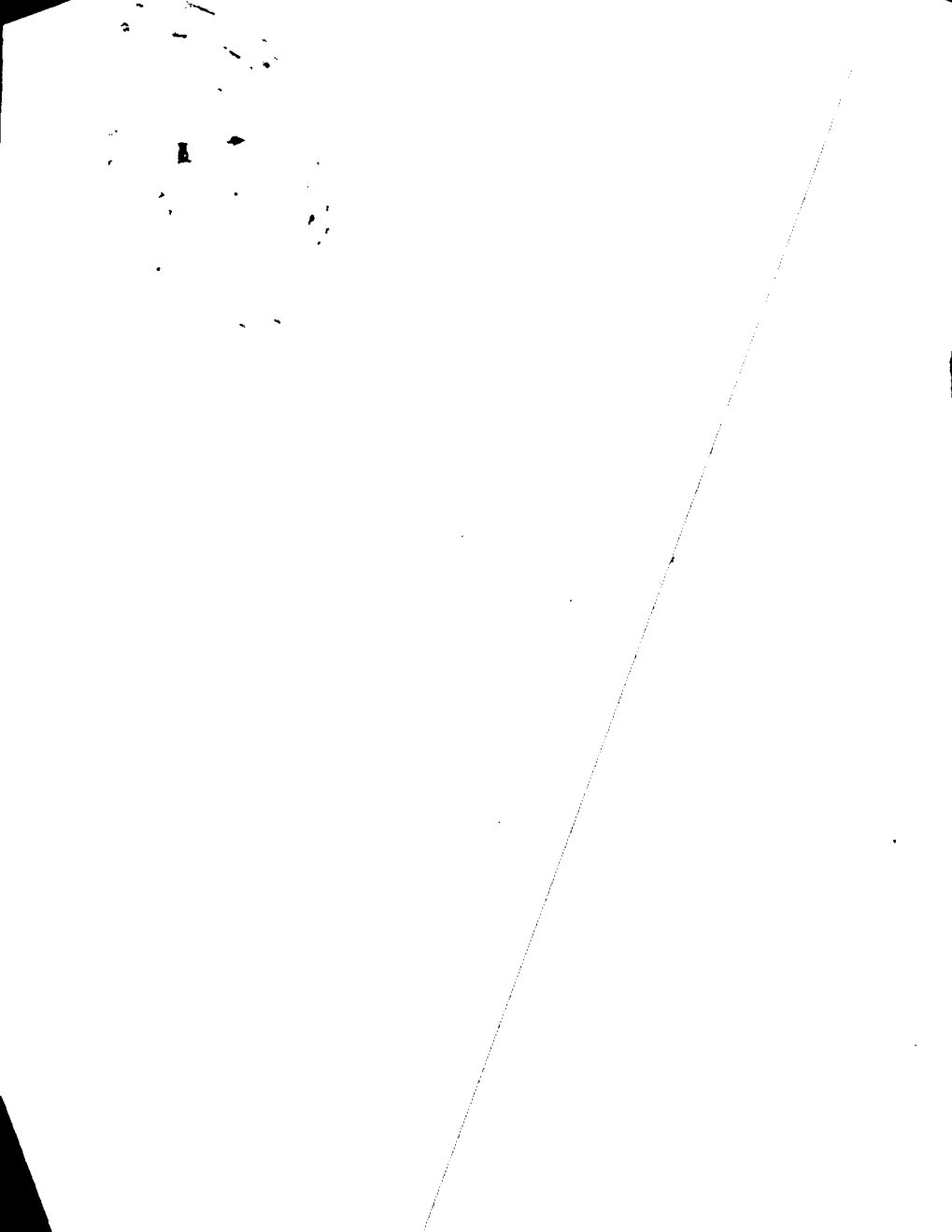
23-2-2001

Hon. Mr. Rafiquddin, J.M.
Hon. Mr. M.P. Singh, A.M.

Judgment pronounced in
the open court today.

A.M.

Am.



CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

OA No.237/1990

Lucknow, this 23rd day of February, 2001

Hon'ble Mr. Rafiquddin, JM
Hon'ble Mr. M.P. Singh, AM

1. Smt. Deepali Rai
II53B, CPM Colony, Alambag
Lucknow

2. Subroto Rai
II53B, CPM Colony, Alambag
Lucknow

.. Applicants

(By Mr. R.B. Pandey, Advocate)

Versus

Union of India, through

1. General Manager
Northern Railway, New Delhi
2. District Commissioner of Stores
Northern Railway, Charbagh, Lucknow
3. Dy. Commissioner (Stores)
Northern Railway, Alambagh, Lucknow
4. D.R. Manchanda, Inquiry Officer
Of ice of IRM
5. Shitala Deen, M.C.
Dy. Chief Engineer
Bridge Workshop, Charbagh, Lucknow

.. Respondents

(By Mr. Anil Srivastava, Advocate)

ORDER

By Mr. M.P. Singh

The present OA has been filed on behalf of the legal heirs of the deceased Government servant Shri Ashutosh Rai against the order dated 29.9.88 by which the said Shri Ashutosh Rai was ~~permanently~~ removed from service. The crux of the matter is that the deceased railway servant, who is stated to have expired on 22.10.94, while functioning as DSK-II under the respondent-Railway was proceeded against under Rule 3(i)(ii) & (iii) of the Railway Service Conduct Rules, 1966 for alleged misappropriation

..P/2



A
6

to the tune of approximately Rs.1,55,000/- by allowing 529.4 KG Tin Ingot, 114.1 KG Solder Soft and 23 KG Rotwel Bearing Metal to go out of the Stores Gate by entering fictitious names on the gate passes prepared by him, during the period February-March, 1985. Enquiry Officer was appointed to conduct enquiry. He concluded his enquiry and submitted his findings to the disciplinary authority, concluding that charges (1) and (2) are proved and charge No.(3) is not proved but the defendant is responsible for lapses mentioned at Items (i) to (iv) therein. After taking into consideration of the findings of the EO, the disciplinary authority imposed upon the applicant punishment of removal from service vide his order dated 29.9.98 and the appeal preferred against the same was rejected by the appellate authority vide his order dated 25/27.7.89.

2. We have heard the learned counsel for the contesting parties and perused the records.

3. The learned counsel appearing for the legal heirs is challenging the action of the respondents on three important grounds, namely, the Officer who passed the impugned order of punishment is not competent to do so as per rules, copies of additional documents sought for by the deceased were not made available to him and both the disciplinary authority (DA, for short) and the appellate authority (AA, for short) have passed cryptic and non-speaking orders.

4. As regards the first ground, the learned counsel for the respondents has shown us the relevant rules to contend that the punishment order was passed by the competent authority. We are satisfied. As regards the second ground, the EO has himself observed in his report that the additional documents were permitted by him but could not ^{be} provided by the DA and thus he has to give his defence unequipped with the facts

MR

on the basis of his (deceased railway servant) memory and recollections. Since the additional documents were not supplied to the deceased, this amounted to denial of reasonable opportunity to him to defend his case and this again is against the principles of natural justice as has been held by the apex court in a catena of judgements. Moreover, we are also in agreement with the contention of the learned counsel for the applicants that the orders passed by the DA and AA are non-speaking and without application of mind to the various contentions made by the deceased in his representation/appeal against the punishment imposed. In view of this position, we allow this OA and quash the orders dated 29.9.88 and 25/27.8.89 passed by the DA/AA respectively.

There shall be no order as to costs.

M.P. Singh
(M.P. Singh)
Member(A)

Rafiquddin
(Rafiquddin)
Member(J)

/gtv/

24.9.89
by
P.S. 101

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....., 20

..... 237 (L)

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..... 19-23

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..... 27-35

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..... 37

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..... 38

10. संशोधन संख्या - 9
 शुद्ध जलमय. तमिल देव प्रदर्शन के दिनांक 11.08.1990 में प्रकाशित 39
11. संशोधन संख्या - 10
 भारतीय जनता पार्टी के संशोधन संख्या 10 का प्रकाशन 40
12. संशोधन संख्या - 11
 भारत सरकार के संशोधन संख्या 11 का प्रकाशन 41
13. संशोधन संख्या - 12
 भारत सरकार के संशोधन संख्या 12 का प्रकाशन 42
14. संशोधन संख्या - 13
 भारत सरकार के संशोधन संख्या 13 का प्रकाशन 43-47
15. संशोधन संख्या - 14
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16. संशोधन संख्या - 15
 भारत सरकार के संशोधन संख्या 15 का प्रकाशन 53-58
17. संशोधन संख्या - 16
 भारत सरकार के संशोधन संख्या 16 का प्रकाशन 28.7.1990
18. संशोधन संख्या - 17
 भारत सरकार के संशोधन संख्या 17 का प्रकाशन 59

दिनांक :
 दिनांक: 26.7.1990

प्रमाणित किया
 प्रमाणित किया
 प्रमाणित किया

26/7/90

सम्-६ माननीय केंद्रीय प्रशासनिक न्यायाधिकरण इलाहाबाद।

लखनऊ पीठ, लखनऊ।

अभ्यर्था याचिका संख्या-

/1990.

- ① SMT Deepali Raiy age 56 years w/o Late Ashulosh Raiy R/o IISSB-CPH Colony Alambag Lucknow.
- ② Subroto Raiy age 26 years s/o Late Ashulosh Raiy R/o IISSB CPH Colony Alambag Lucknow.

आशुतोष राय पत्र स्वर्गीय श्री एस०एन० राय, उम्र लगभग 58 वर्ष, निवासी- 53 बी, सी०पी०एच० कालोनी, आलम्बाग, लखनऊ-5

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अभ्यर्थी

बनाम

1. भारत सरकार द्वारा महा प्रबन्धक, उत्तर रेल्वे, कड़ादा हाउस, नई दिल्ली।
2. जिला भंडार नियन्त्रक, उत्तर रेल्वे, चारबाग, लखनऊ।
3. उप नियन्त्रक [भंडार] उत्तर रेल्वे, आलम्बाग, लखनऊ।
4. श्री डी०आर० मन्वन्दा, जांच निरीक्षक, मंडल रेल्वे प्रबन्धक कार्यालय [सतर्कता अनुभाग], नई दिल्ली।
5. श्री शीतला दीन, एम०सी०, डिप्टी चीफ इंजीनियर, ब्रिज वर्कशाप, चारबाग, लखनऊ।

अभ्यर्थी का विवरण:-

1-अभ्यर्थी का नाम -

आशुतोष राय

2-पिता का नाम-

स्व० श्री एस०एन० राय

3-अभ्यर्थी की उम्र -

लगभग 58 वर्ष

4-पद और विवरण जहां प्रार्थी - डी०एस० के० []।

काम कर रहा हो या काम कर रहा - जिला भंडार, चारबाग था।

5- कार्यालय का पता- उप निबंधक ॥ भंडार ॥ उत्तर रेल्वे
आलमबाग, लखनऊ।

6-पता जिस पर सूचना हो सके-53 बी, सी पी 0 एच 0 कालोनी,
आलमबाग, लखनऊ।

2- प्रत्यर्थी का विवरण :-

1-भारत सरकार द्वारा महा प्रबन्धक, उत्तर रेल्वे, बड़ौदा हाउस,
नई दिल्ली।

2- जिला भंडार नियन्त्रक, उत्तर रेल्वे चारबाग, लखनऊ।

3-उप निबंधक ॥ भंडार ॥ उत्तर रेल्वे, आलमबाग, लखनऊ।

4-श्री डी 0 आर मन्वन्दा, जावे निरक्षक, मण्डल रेल्वे प्रबन्धक
कार्यालय, नई दिल्ली।

5-श्री शीतलादीन, सी 0 एम 0 सी 0 डिप्टी चीफ इंजीनियर,
ब्रिज वर्कशॉप, चारबाग, लखनऊ।

3- माननीय न्यायाधिकरण की अधिकारिता:-

अभ्यर्थी यह घोषित करता है कि उपर्युक्त अभ्यर्था
याचिका का विषय वस्तु पूर्ण रूप से माननीय
न्यायाधिकरण के अधिकारिता के अन्तर्गत है।

4- सीमांकन:-

अभ्यर्थी पुनः यह घोषित करता है कि प्रशासनिक
न्यायाधिकरण अधिनियम की धारा 21 के अनुसार वर्णित
समय सीमा के अन्तर्गत है।

6- वाद के तथ्य:-

वाद के तथ्य निम्नलिखित है :-

1- यह कि प्रस्तुत प्रार्थना पत्र द्वारा प्रार्थी के सेवा पथकरण
आदेश दिनांक 29.9.88 को प्रत्यर्थी संख्या- 2 द्वारा पारित
है, जिसकी अपील प्रार्थी ने प्रत्यर्थी संख्या-3 के यहाँ की

थी, जो ~~प्रथम~~ प्रत्यर्थी संख्या-3 द्वारा दिनांक 25.7.89/ 27.7.89 को ~~प्रथम~~ प्रत्यर्थी संख्या-2 द्वारा पारित आदेश को बहाल किया गया, को चुनौती दी जा रही है। उक्त आदेश दिनांक 29.9.88 व दिनांक 25.7.89/27.7.89 की छाया प्रतियां इस प्रार्थना पत्र के साथ संलग्न संख्या-1, व 2 संलग्न हैं।

2. यह कि प्रार्थी तृतीय श्रेणी लिपिक के पद पर वेतनमान ₹55-130 में दिनांक 23.7.53 को जिला भंडार नियंत्रक, उत्तर रेलवे, झरखस्ती, नई दिल्ली के कार्यालय में विधिवत चयन के उपरान्त नियुक्त हुआ। सन् 1954 में प्रार्थी स्थानान्तरित होकर जिला भंडार नियंत्रक कार्यालय आलमबाग, लखनऊ आ गया।
3. यह कि प्रार्थी अपनी नियुक्ति के उपरान्त एक कुशल लिपिक के रूप में अनुशासित ढंग से कार्य करता रहा।
4. यह कि प्रार्थी अपनी उत्तर क्षमता के आधार पर दिनांक 29.10.66 को वेतनमान ₹ 130-300 में चयनित हुआ और दिनांक 16.2.68 को उक्त वेतनमान में प्रोन्नत हुआ।
5. यह कि प्रार्थी निरन्तर अपनी सेवाएँ पूरी निष्ठा व ईमानदारी के साथ विभाग को प्रदान करता रहा और साथ ही अपने कार्यों को उत्कृष्ट ढंग से करने का पूरा प्रयास करता रहा।
6. यह कि प्रार्थी को उत्कृष्ट सेवा एवं उत्तम क्षमता के आधार पर दिनांक 26.7.79 को वरिष्ठ लिपिक के पद पर वेतनमान 330-560 में प्रोन्नत किया गया।
7. यह कि प्रार्थी ने उक्त प्रोन्नति के उपरान्त भी पूरी क्षमता सहित निष्ठा व ईमानदारी से अपनी सेवाएँ निरन्तर प्रदान करता रहा जिसके आधार पर प्रार्थी को वार्ड कीपर [डीएसओ] के पद पर दिनांक 5.3.80 को पदोन्नति दी गयी।

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8. यह कि प्रार्थी दिनांक 5 3.80 के उपरान्त वार्ड कीपर डी०एस०के० - 111 के पद पर पूर्ण लग्न व निष्ठा के साथ कार्य करता रहा। साथ ही प्रार्थी वार्ड नं०-9 का इंचार्ज था।
9. यह कि प्रार्थी दिनांक फरवरी/मार्च 1985 को कुछ वस्तुओं के आपूर्ति से सम्बन्धित मांग पत्र प्राप्त किया।
10. यह कि प्रार्थी ने जिस व्यक्ति से वस्तु के आपूर्ति हेतु मांग पत्र प्राप्त किया, उससे सम्बन्धित सम्स्त प्रपत्र जैसे परिचय-पत्र, व अथारिटी लेटर आदि देखे व सम्स्त औपचारिकताये पूर्ण करने के उपरान्त वस्तुओं की आपूर्ति करते हुए विभिन्न तिथियों में 6 गेट पास तैयार किये गये। जो प्रार्थी ने अपने कर्तव्य पालन के तहत किये। उक्त 6 गेट पास तीन व्यक्तियों द्वारा प्राप्त किये गये जिनके नाम क्रमशः ए०के० शर्मा, एम०सी०, श्री ओ०पी० शर्मा, एम०सी० व श्री राम सेवक एम०सी० थे।
11. यह कि कुछ समय के उपरान्त श्री सी०एम० मुखर्जी सतर्कता निरीक्षक द्वारा रिपोर्ट की गयी कि जिस मांग पत्र पर दिनांक फरवरी/मार्च, 1985 को जिला भंडार नियन्त्रक आलमबाग गोदाम से माल निकाला गया वह सभी मांग पत्र व वे व्यक्ति जो माल ले गये, सभी पर्जी था।
- यह कि सतर्कता निरीक्षक ने शीतलादीन एम०सी० का बयान दर्ज करने के उपरान्त रिपोर्ट किया था, उक्त बयान में शीतलादीन ने स्वीकार किया था कि जो माल श्री ए०टी०राय, डी०एस०के०-111 तृतीय चारबाग से प्राप्त किया, वह माल जहाँ जाना था वहाँ मैं नहीं ले गया। लेकिन फिर भी उक्त शीतलादीन को कोई आरोप पत्र नहीं दिया गया। क्योंकि सतर्कता निरीक्षक ने प्रार्थी व अन्य 6 कर्मचारियों को पकाने की न्यत से शीतलादीन का बयान ध्यान के तहत लिया ताकि वह साबित हो सके कि प्रार्थी गलत कार्यों में सहयोग देता था। जबकि यह आरोप प्रार्थी के विरुद्ध किसी भी स्तर पर सिद्ध नहीं हो पाया।

12.

- 13° यह कि उक्त सतर्कता निरीक्षक की रिपोर्ट के उपरान्त प्रार्थी को दिनांक 12.7.85 को निलम्बित कर दिया गया। उक्त निलम्बन आदेश दिनांक 12.7.85 इस प्रार्थना पत्र का संलग्नक-3 के रूप में संलग्न है।
- 14° यह कि उक्त सतर्कता निरीक्षक की रिपोर्ट के बाद प्रार्थी सहित 6 अन्य कर्मचारियों को षड्यन्त्र के तहत माल निकालने के आरोप में निलम्बित करने का आदेश उप निम्नत्रक भण्डार, आलमबाग द्वारा पारित किया गया। उक्त आदेश दिनांक 25.7.85/28.7.85 इस प्रार्थना पत्र के साथ संलग्नक संख्या-4 के रूप में संलग्न है।
- 15° यह कि प्रार्थी को लगभग 9 माह के निलम्बन काल के उपरान्त दिनांक 10.4.86 को आरोप पत्र प्रेषित किया। उक्त आरोप पत्र की छाया प्रतिलिपि इस प्रार्थना पत्र का संलग्नक संख्या-5 के रूप में संलग्न है।
- 16° यह कि आरोप पत्र प्राप्त होने के बाद जांच प्रारम्भ न होने के बाद प्रार्थी के निरन्तर लिखित पत्र देने के बाद दिनांक 28.10.87 को श्री डी०आर० मन्वन्दा को जांच निरीक्षक नियुक्त किया गया, उक्त आदेश दिनांक 28.10.87 की छाया प्रतिलिपि इस प्रार्थना पत्र के साथ संलग्नक संख्या-6 के रूप में संलग्न है।
- 17° यह कि दिनांक 1.5.86 को आरोपों का जवाब देने हेतु प्रार्थी ने विश्वसनीय कागजातों की मांग की। उक्त मांग पत्र दिनांक 1.5.86 इस प्रार्थना पत्र का संलग्नक संख्या-7 है।
- 18° यह कि उक्त पत्र के बावजूद डि सिल्लीनरी अथॉर्टी द्वारा किसी कागजात की आपूर्ति न करने पर प्रार्थी ने विभिन्न तिथियों में क्रमशः 12.6.86 व 14.11.86 को पत्र लिखकर विश्वसनीय

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कागजातों की पुनः मांग की जिसकी छायाप्रतियाँ इस प्रार्थना पत्र के साथ संलग्नक संख्या-8 व 9 के रूप में संलग्न हैं।

19. यह कि दिनांक 6.4.87 को कागजातों की आपूर्ति की गयी। प्रार्थी द्वारा समस्त कागजातों का अवलोकन करने के पश्चात सभी आरोपों को इकार करते हुए दिनांक 4.5.87 को सविष्ट उत्तर प्रस्तुत किया। उक्त उत्तर से सम्बन्धित पत्र दिनांक 4.5.87 इस प्रार्थना पत्र का संलग्नक संख्या-10 है।
20. यह कि दिनांक 18.5.87 को प्रार्थी ने अतिरिक्त कागजातों की मांग इस आशय से की कि अपना सम्पूर्ण बचाव पत्र प्रस्तुत करते हुए अपने निदोष साबित कर सके। उक्त मांग पत्र दिनांक 18.5.87 की छाया प्रति इस प्रार्थना पत्र का संलग्नक संख्या-11 है।
21. यह कि प्रार्थी द्वारा अतिरिक्त कागजातों की मांग बार-बार डिसिप्लिनरी अथॉर्टी से की गई किंतु मांगे गये कागजात प्रार्थी को उपलब्ध नहीं कराये गये।
22. यह कि विभाग द्वारा जानबूझकर अनावश्यक रूप से प्रार्थी को प्रताड़ित करने के उद्देश्य से जाँच की कार्यवाही नहीं प्रारम्भ की जा रही थी, जिसे पीड़ित होकर प्रार्थी ने सक्षम अधिकारी को लिखित रूप से अवगत कराया कि जाँच की कार्यवाही तत्काल प्रारम्भ की जाय अन्यथा प्रार्थी को सेवा में वापस लिया जाय।
23. यह कि इसके उपरान्त सक्षम अधिकारी द्वारा दिनांक 16.10.87 को प्रार्थी का निलम्बन आदेश रद्द कर दिया। साथ ही उसी आरोप से सम्बन्धित 6 अन्य कर्मचारियों का निलम्बन आदेश रद्द कर दिया गया और प्रार्थी को सेवा वापस लेते हुए जिला मंडार नियन्त्रक कार्यालय चारबाग लखनऊ से सहायक मंडार नियन्त्रक कार्यालय मुगलसराय में स्थानान्तरित कर दिया गया।

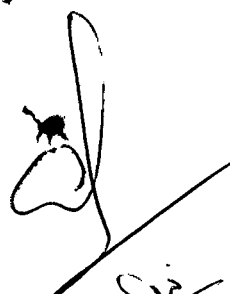
यह भी विदित हो कि प्रार्थी के साथ जो छः अन्य कर्मचारियों को सेवा से वापस लिया गया था, उन्हें लखनऊ में ही कार्य पर रखा गया।

24. यह कि जांच निरीक्षक द्वारा दिनांक 17.1.87 को जांच की प्रथम तिथि नियत की गयी जिसे कि जे.एन. प्रार्थी को उसके तैनाती स्थान मुगलसराय पर दी गयी। उसके उपरान्त प्रार्थी मण्डल रेलवे प्रबंधक कार्यालय, उत्तर रेलवे, नई दिल्ली के सतर्कता अनुभाग में जांच निरीक्षक के सम्मुख उपस्थित होकर जांच की कार्यवाही में सहयोग किया।

25. यह कि जांच निरीक्षक द्वारा जांच हेतु दिनांक 5.1.88 को दूसरी तिथि नियत की गयी। उक्त तिथि को भी प्रार्थी जांच निरीक्षक के सम्मुख उपस्थित हुआ और अतिरिक्त कागजात की जिन्की मांग प्रार्थी ने पहले भी डिसिप्लिनरी अथॉर्टी से किया था, की मांग की।

26. यह कि अतिरिक्त कागजातों में से केवल एक कागजात जो शीतलादीन के बयान से सम्बन्धित था उपलब्ध जांच निरीक्षक द्वारा कराया गया और शेष कागजातों के विषय में जांच निरीक्षक ने बताया कि डिसिप्लिनरी अथॉर्टी से बात करके आपको अवगत कराया जायेगा। उसके उपरान्त जांच निरीक्षक द्वारा जांच कार्यवाही हेतु दिनांक 29.1.88 की तिथि नियत की गयी, उक्त तिथि पर प्रार्थी जांच की कार्यवाही में सहयोग किया। किंतु प्रार्थी द्वारा पूर्व में मांगे गये अतिरिक्त कागजात की आपूर्ति नहीं की गयी। उसके उपरान्त जांच निरीक्षक द्वारा दिनांक 22.2.88 को जांच कार्यवाही की दूसरी तिथि नियत की।

27. यह कि प्रार्थी द्वारा बार-बार अतिरिक्त कागजातों की मांग करने पर दिनांक 15.3.88 को लिखित रूप से अतिरिक्त कागजात देने से इन्कार किया। उक्त आदेश पर दिनांक 15.3.88 की छाया प्रति इस प्रार्थना पत्र की संलग्नक सं०-12 है।


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मुगलसराय

28. यह कि दिनांक 15.4.88 को जांच निरीक्षक के सम्मोपस्थित होकर प्रार्थी ने लिखित रूप से अपना ब्याव पक्ष प्रस्तुत किया। उसके उपरान्त दिनांक 27.4.88 को प्रार्थी के डिपेंड काउंसिल श्री वीएन0 सक्सेना द्वारा लिखित रूप से प्रार्थी का ब्याव पक्ष प्रस्तुत किया गया जिसकी छाया प्रतिलिपियां इस प्रार्थना पत्र के साथ संलग्नक संख्या-13 व 14 के रूप में संलग्न हैं।
29. यह कि दिनांक 15.4.88 को जांच की कार्यवाही जांच निरीक्षक द्वारा समाप्त कर दी गयी।
30. यह कि जांच के दौरान जांच निरीक्षक ने सिर्फ दो पार्टियों को फ्रास इन्क्वैजिशन हेतु प्रार्थी के सम्मो बुलाया जबकि सतर्कता निरीक्षक द्वारा छः पार्टियों की रिपोर्टें की गयी, जिसके आधार पर प्रार्थी को निलम्बित करते हुए आरोप पत्र दिया गया था।
31. यह कि जांच की कार्यवाही के दौरान प्रार्थी ने जांच निरीक्षक से प्रार्थना की कि चार अन्य पार्टियां, जिसकी रिपोर्टें सतर्कता निरीक्षक द्वारा गयी थी, और उनके ब्यान इत्यादित प्रार्थी के सम्मो कराये जाय। उसके उपरान्त जांच निरीक्षक ने सतर्कता निरीक्षक जिसकी रिपोर्टें पर प्रार्थी को आरोप पत्र दिया गया था, से जांच निरीक्षक ने कहा कि अन्य चार पार्टियों के ब्यान इत्यादि उपलब्ध कराये जाय, जिस पर सतर्कता निरीक्षक ने उत्तर दिया कि यह मेरे अपने विचार पर है कि किसका ब्यान मैं आपके सम्मो रखूँ, किसका न रखूँ।
32. यह कि जांच की कार्यवाही समाप्त होने के उपरान्त जांच निरीक्षक द्वारा जो रिपोर्टें डि सिल्लीनरी अथॉर्टी को दिया गया, उस पर उनके हस्ताक्षर नहीं थे।
33. यह कि जक्त जांच रिपोर्टें जांच निरीक्षक द्वारा दृष्टि भावनाओं से प्रेरित होकर प्रार्थी को दण्डित कराने के उद्देश्य से प्रार्थी को षड्यन्त्र में शामिल बताते हुए दी गयी। यह कार्य जांच


 4 मई 1988
 जांच निरीक्षक

निरिक्षक द्वारा इतनी विधि द्वारा किया गया कि जांच रिपोर्ट के किसी भी भाग पर या उसके सम्बन्धित किसी भी सलमनक पर न तो जांच निरिक्षक की मोहर थी और न ही कहीं उनके हस्ताक्षर थे यहाँ तक कि रिपोर्ट के अन्त में भी जांच निरिक्षक के मोहर व हस्ताक्षर नहीं हैं। उक्त जांच रिपोर्ट की छाया प्रति इस प्रार्थना पत्र का सलमनक संख्या-15 के लक्ष्यरूप में सलमन है।

34. यह कि उक्त अद्वितीय जांच रिपोर्ट जांच निरिक्षक ने डि सिल्लीनरी अथॉर्टी को प्रस्तुत किया जिस पर डि सिल्लीनरी अथॉर्टी ने बिना मस्तिष्क लगाये ही प्रार्थी को सेवा से पृथक् करने का आदेश दिनांक 29.9.88 को जो पूर्ण रूप से नान-रूपीगि आदेश था, पारित कर दिया जो प्रार्थना पत्र का सलमनक सं०-1 है।

35. यह कि दिनांक 25.10.88 को प्रार्थी ने अपने सेवा पृथक्करण के आदेश के विरुद्ध उप भंडार नियन्त्रक आलम्बाग, लखनऊ के समक्ष अपील प्रस्तुत किया। उक्त अपील की छाया प्रति इस प्रार्थना पत्र के साथ सलमनक संख्या-16 के रूप में सलमन की जा रही है।

36. यह कि उक्त अपील पर उप भंडार नियन्त्रक महोदय आलम्बाग बाग, लखनऊ ने बिना अना मस्तिष्क लगाये ही 9 महीने बाद डि सिल्लीनरी अथॉर्टी द्वारा दिये गये ठण्डादेश को दिनांक 25.7.89 को नान रूपीगि आदेश पारित करते हुए आदेश बहाल कर दिया। उक्त आदेश दिनांक 25.7.89 प्रार्थी को दिनांक 27.7.89 को प्राप्त कराया गया जिसकी छाया प्रति इस प्रार्थना पत्र का सलमनक संख्या- है।

7. उपचार जो निःशेष किया उसका विवरण:- ज

उप भंडार नियन्त्रक आलम्बाग को अपील करके उक्त उपचार का लाभ लिया जा चुका है। प्रार्थी यह उद्घोषित

प्रार्थी
निःशेष किया
अनन्त
सलमनक संख्या-
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कि सेवा नियमावली के अनुसार सभी उपचार उपभोग कर चुका है।

8. किसी भी न्यायालय में पहले इस विषयवस्तु से सम्बन्धित कोई भी वाद लम्बित नहीं है।

प्रार्थी यह उद्घोषित करता है कि उपर्युक्त से विषयवस्तु से सम्बन्धित कोई भी वाद किसी भी न्यायालय में लम्बित नहीं है।

9. अनुच्छेद जो प्रार्थी मांग करता है:-

पैरा-6 में वर्णित तथ्यों एवं परिस्थितियों के आधार पर प्रार्थी माननीय न्यायाधिकरण से विनम्रतापूर्वक निवेदन करता है कि प्रार्थी का सेवा पृथक्करण आदेश दिनांक 29.8.88 जिसकी अपील उप भंडार निष्पक्ष आलमबाग को की गई थी तथा उप भंडार निष्पक्ष महोदय ने दिनांक 29.9.88 को आदेश को दिनांक 25.7.89/27.7.89 को बहाल कर दिया जो प्रार्थी पक्ष के साथ संलग्न सं-1 व 2 है, को निष्पक्ष करने की निम्न आधारों पर करता है:-

॥ १॥ क्योंकि प्रार्थी विभाग में रेलवे सेवा नियमावली के मुताबिक स्थाई कर्मचारी है।

॥ २॥ क्योंकि प्रार्थी को अपने ब्याव प्रस्तुत करने का पर्याप्त अवसर नहीं दिया गया।

॥ ३॥ यह कि प्रार्थी को जांच के दौरान जिस पार्श्वों के नाम से सक्किता निरीक्षक ने रिपोर्ट की थी, उनमें से चार पार्श्वों के न तो ब्यान ही जांच के दौरान दिये गये और न ही जांच के दौरान प्रति परीक्षण हेतु उनको उपस्थित ही किया गया।

॥ ४॥ क्योंकि प्रार्थी के बार-बार मांग करने के बावजूद भी अतिरिक्त कागजात उपलब्ध करने से मना कर दिया गया।


यु. म. ब. वि.
न्यायाधीश

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॥ 5॥ क्योंकि जांच निरीक्षक ने बिना मस्तिष्क लगाये शीघ्रता में बिना हस्ताक्षर किये ही जांच रिपोर्ट सलग्नक सहित डि सिल्लीनरीय अथॉर्टी को प्रस्तुत की।

॥ 6॥ क्योंकि सतर्कता निरीक्षक ने प्रार्थी को पंसाने की नियत से शीतलादीन का बयान लेकर जो बिल्कुल ही सिद्ध नहीं हुआ के आधार पर पर्जी रिपोर्ट की थी।

॥ 7॥ क्योंकि दण्डादेश पारित करने के पूर्व प्रार्थी को किसी भी प्रार्थी को किसी भी प्रकार की सुनवाई का उत्तर नहीं प्रदान किया गया जो नैसर्गिक न्याय के सिद्धान्तों का खुला उल्लंघन है।

॥ 8॥ क्योंकि प्रार्थी के गलत सेवा पृथक्करण आदेश से प्रार्थी अपने जीने का अधिकार व जीवन यापन का अधिकार से वंचित हो जाता है।

॥ 9॥ क्योंकि प्रार्थी का सेवा पृथक्करण आदेश जो क्रमशः प्रार्थी पत्र को सलग्नक सं.- 1 व 2 है, दृष्टि भावनाओं से प्रेरित होकर जारी किया गया है।

॥ 10॥ क्योंकि उसी आरोप में 7 व्यक्ति निलम्बित थे जो समान रूप से जिम्मेदार थे, प्रार्थी को छोड़कर शेष को दोषमुक्त कर दिया गया है।

प्रार्थी

उपयुक्त वर्णित तथ्यों एवं आधारों के आधार पर प्रार्थी माननीय न्यायाधिकरण से प्रार्थना करता है कि :-

॥ अ॥ प्रार्थी के सेवा पृथक्करण आदेश दिनांक 29.9.88 व दिनांक 25.7.89/27.7.89 को निरस्त करते हुए विपक्षीय गण को निर्देशित करें कि प्रार्थी को पुनः सेवा में मानते हुए समस्त सुविधाएं प्रदान करें।

॥ ब॥ यह कि माननीय न्यायाधिकरण अन्य कोई आदेश जो उपयुक्त सम्मो पारित करने की कृपा करें।

Amendment Certificate
Date and No. 11/12/95

Signature
Date 11/12/95
Signature

10°

अन्तरिम आदेश यदि कोई प्रार्थनीय हो:-

प्रार्थना पत्र अन्तिम रूप से निर्णीत होने तक एक अन्तरिम आदेश पारित करके माननीय न्यायाधिकरण प्रार्थना पत्र के संलग्नक संख्या- 1 व 2 को स्थगित करने की कृपा करें कि संलग्नक संख्या- 1 व 2 प्रार्थी का सेवा पृथक्करण आदेश बिना मस्तिकक का प्रयोग किये हुए दृष्टि भावनाओं से प्रेरित होकर पारित किया गया है।

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प्रार्थी का पता:-

अशुतोष राय पुत्र स्वर्गीय श्री एस.एन. राय,
निवासी-53बी, सी.पी.एच. कालोनी,
आलमबाग, जलन्धर-5

12°

बैंक ड्राफ्ट/पोस्टल ऑर्डर जो प्रार्थना पत्र के शुल्क के रूप में है, का वितरण:-

1. बैंक अथवा टाकसर का नाम अशुतोष राय
जहां से बैंक ड्राफ्ट अथवा अशुतोष राय
पोस्टल ऑर्डर जारी किया गया है।

2. डिमाण्ड ड्राफ्ट नं०-

अथवा

1. भारतीय पोस्टल ऑर्डर की संख्या- 02465637

2. जारी कर्ता पोस्ट ऑफिस का नाम अशुतोष राय

3. टाकसर का नाम जहां पर भुगतान होना है अशुतोष राय

13°

संलग्नक संख्या-

1°

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सत्यापन

मैं, आशुतोष राय पुत्र स्व० श्री एस०एन० राय, उम्र लगभग 58 वर्षी कार्यरत - D.S. के III : काळीजन सहपाठी भंडार निपत्तक युगल स्वरूप । निवासी 53 B. C.P.H. काळीजी आक्रमण कागज लगभग, एतद्वारा प्रमाणित करता हूँ कि पूर्वोक्त पत्र का प्रत्येक-1-36 में निम्नी बात को सत्य है तथा प्रत्येक प्रमाणित निम्नी बात से सत्य है । इसके लिये विली-तथा को दिया जा रहा है और न ही उक्त सत्य है । ईश्वर हमारी मदद करें।

दिनांक 26.7.90


आवेदन के हस्ताक्षर


प्रमाणित
चौ.ग.पु.म.पु.अ.म.प.

Orders of imposition of penalty under Rules 6 (VII) to (IX) of
Railway Servants (Discipline & Appeal) Rules, 1968.

E/5/538

No. Place of Issue

Dated

To - Shri

Acos/NR/VY N/MGS.

(Through)

I have carefully considered your representation
dated in reply to the Memorandum of show cause
Notices No. dated I do not find your

Representation to be satisfactory due to the following reasons:-

Charged against you have been proved . . .
and the gravity of misconduct attributed
to you is very high. I agree with the findings of
the Enquiry Officer.

I therefore, hold you guilty of the charge(s) viz. violation of
Rule 3.1 (1), (ii) & (iii) of the Rly. Service Conduct Rules
1966.

levelled against you and have decided to impose upon you that
penalty of compulsory retirement/removal from service.
You are, therefore, compulsorily retired/removed/dismissed from
service with effect from

2. Under Rule-18 of the Railway Servants (Discipline & Appeal)
Rules 1968, an appeal against these orders lies to you
N Rly. Alambag. Lucknow. provided.

(i) the appeal is submitted through proper channel 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

Designation of the Disciplinary Authority

Acos/N Rly VY N/MGS.

As Settlement / Ann H-10.

Handwritten signature and notes at the bottom left of the page.

Confidential
No.E/3/538

Enquiry Report of DAR enquiry proceedings in the case of Sri A.T.Roy,
DSK/CE/Lucknow.

Preamble

1. In terms of Rule-9(2) of Railway servants Discipline & Appeal Rules, 1968, I was appointed as Inquiry Officer in this case vide Disciplinary Authority(DCOS/A/V/LKO) Order No.E/S/538 to inquire into the charges as brought out against Sri A.T.Roy, DSK-III/CE/Lucknow vide memorandum of charge sheet No.E/S/538, dated 10/4/1986. The enquiry was accordingly conducted and completed by me.
2. The said Sri A.T.Roy, DSK/CE/Lucknow presented his case with the assistance of Sri B.N.Saxena, Retd.DSK/Lucknow nominated by him as his defence helper in terms of Rule-9(9) of RSDA Rules, 1983.
3. The enquiry was held at New Delhi on 17/12/87, 5/1/88, 29/1/88, 22/2/88, 15/3/88 & 15/4/88. At the outset of enquiry, the said Sri A.T. Roy, DSK/LKO herein-after referred to as defendant was presented with the following charges which were denied by him:-

"While working as DSK-III in Chatkhagh Stores Depot under DCOS/CE/LKO during Feb, 1985 to 8/85, Sri A.T.Roy committed the following gross irregularities:-

1. He intentionally prepared six gate passes for 529.4 Kg. tin ingot, 114.1 Kg. solder soft and 23 lg. Round Bearing. Material costing approximately Rs.1,55,000/- on fictitious requisitions and allowed these material to go out of the stores gate on the strength of these gate passes.
2. He also entered fictitious names of these gate passes as the representatives of the so called indenter in order to take the material out of the depot.
3. He has intentionally prepared two minor issue notes (viz. 09/1797 dated 11.10.84 for tin ingot, 84 Kg. and 09/1799 dated 11.10.84 for tin ingots 43.8 Kg.) and got them posted in E.L.Card No.1160017 in order to show that the material has not been issued or it has been returned back, thus establishing his malafide intention.

By having acted in the manner the said Shri A.T.Roy, contravened Rule 3.1(i), (ii) & (iii) of the Railway Service Conduct Rules, 1966."

Evidence

A) Oral

4.1) Prosecution:- The Disciplinary Authority cited 7 witnesses in support of charges. All of them were examined in the enquiry & their deposition are placed at pages of the proceedings as given below:-

17 16 96 46

Confidential
No.E/11/53

Inquiry Report of P.M. enquiry proceedings in the case of Sri A.T.Roy,
M.L.A., Lucknow.

1/2/85(Ex.P-1) of P.W./FIP which was got signed from Sri Pyarey Lal, Sr. DSK. It was also stated that two minus issue notes No.09/1777 dated 11/10/84 for 84 Kg. tin ingot & 09/1759 dated 11/10/84 for 43.8 Kg. tin ingot were prepared by the defendant but actually the material was not physically available in ward No.09 as it has come on record that the material 43.8 Kg. had already gone out of store depot on gate pass No. 366/38/09/1147 dated 21/3/84. Thus preparation of minus issue note & posting in P.L. Card without any resultant physical increase in the balance was only an attempt on the part of defendant to prove his innocence as he knew that no departmental stock verification is done. It was also stated that original gate pass No.366/38/09/1147 dated 21/3/84 for 43.8 Kg. tin ingot was destroyed and in its place gate pass of the same ~~XXXXXX~~ date for some other material & for some other consignee. This was circumstantially proved from the fact as the original gate pass number could not be made available. He suspected that there was a deep routed racket functioning in Charbagh Store Depot which has been misappropriating the govt. material. Regarding process of issue of material, he has stated that as per para 1307-S proper requisition register should be maintained in store depot separately for divisions and workshops. All indents received should be got recorded in the requisition register concerned & serial number should be marked on the right hand corner of indent. Thereafter the indent is sent to the respective ward for arranging the issue of material. Before issue of material stock holder get himself satisfied re: the genuineness of the requisition in respect of his identity card with photo-attach it, letter for collection of particular material and particular requisition. After the preparation of issue note by the stock holder, gate pass is prepared as per particulars given in the issue note which is initialed by the ward keeper & then got signed from another DSK. No such register number was found in Ex.P-7, P-8, P-10 & P-11. Either the stock holder should not have received the requisition direct from any special messenger. In the case of Ex.P-1, the name of messenger has been shown as Anil Kumar without any details in Ex. P-2 & P-4, the name of messenger has been given as A.E. Sharma in both cases of P-3/1/11 & P-4/2/11(XXXXXX) SS/BS/INC but I/card number is the same as 37818 dated 25/6/84. In the case of P-5/6/11(XXXXXX) although the name of messenger has been shown as A.E. Sharma but with I/card number as 12247 dated 3/6/84. He further explained that minus issue note can be prepared by ~~XXXX~~ if the messenger requests something that due to some reason, he will not be in a position to collect the material. However, in this case, the material had gone out of the gate as per gate register maintained by RIF & there is no entry in the gate register of this material having been readmitted in the store. ~~XXXX~~ Moreover, taking back the material which has already been issued, approval of the competent authority is required which does not seem to have been obtained.

Loj the same no was prepared on the same.

[Handwritten signature]

L.S.K.

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3/11/85
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12/11/85

(19)
(8)

-5-
94

Confidential
No. R/S/538

Enquiry Report of DAR enquiry proceedings in the case of Sri A.T. Roy,
DSR/CH/Lucknow.

- i) I/note No. 09/2926 of 21/3/84
- ii) -do- 09/2979 of 7/3/84
- iii) -do- 09/2192 of 15/2/84
- iv) -do- No. 09/2573 of 5/3/84
- v) -do- No. 09/2697 of 25/3/84
- vi) -do- No.
- vii) Gate pass No. 366/58/09/1147 dated 21/3/84
- viii) -do- No. 376/58/09/33 dated 21/4/84

The above additional documents were permitted by the Enquiry Officer but could not be provided by the Disciplinary Authority. Thus he has to give his defence unaided with the facts on the basis of his memory & recollection as under:-

- Land*
- i) That the requisition form No. 313 were properly used by the indentors (were signed on rubber stamps with certificate that the fund existed and the requisitions in question were found in order & genuine. Accordingly, gate passes were prepared & got signed from another D.A. after satisfying from Identity card & authority letter.
 - ii) On the subject matter written in the authority letter by the indentor it indicated proper code procedure was adopted but the same differs from depot to depot. In Charbagh depot requisitions are not entered in the requisition register specially in ward No. 08 & 09 as no such rigid instructions exist in this regard and as such their registration number is not checked.
 - iii) Regarding preparation of minus issue notes, the defendant stated that the material was not existing in his ward is not correct. The material is verified by stock verifier twice a year and no shortage has ever been found in the stock of P.L. No. 91.
 - 160917. Regarding the claim that 43.8 Kg. tin ingot was taken out by Shri Shitla M.C. vide gate pass No. 366/58/09/1147 dated 21/3/84 stated by Sri Rajrang Bahadur (Ex. R-10), the administration did not supplied him the original gate pass & in absence of the same gate pass and in absence of the same he denied that the material was taken out. He questioned the argument that the preparation of minus issue not order of the gazetted officers are required as the same are signed by the gazetted officers. He clarified that it is incorrect that every time Sri Anil Kumar Sharma has been used as M.C. He has been utilized as M.C. of P.S./FTP only whereas M.C. of FPO/C/Allahabad & SS/BIS/JUC is one Sri A.K. Sharma with I/ card No. 37718 and with FPO/C/Moradabad with identity card No. 12247 dated 3/6/84. So it is improper to say that Sri Anil Kumar Sharma & A.K. Sharma are the same person as their I/ cards are with different number. It was, however, accepted that due to rush of work, mentioning of Identity card & authority letter had been omitted in gate pass No. 366/58/09/1147.
- ab*
13/5/84
11/5/84

Confidential
No.E/3/538

Enquiry Report of DAR enquiry proceedings in the case of Sri A.T. Roy,
BSK/CB/Lucknow

14. The plea of the defendant that out of six gate passes shown, verification in respect of only two had been done by the V.I. for receipt of the material and regarding his plea that the V.I. did not contact the remaining indentors, it is pointed out that defendant has himself failed to prove delivery of material mentioned therein to the any of the indentors for whom these gate passes had been prepared and the Sr.Subordinates, who had been contacted, had very clearly stated that they had never indented the material nor received the same. The M.C. through whom material was issued, had never been working under them. Even the defendant himself in his defence has stated that unscrupulous men has robbed these material by submitting fictitious requisitions which could not be detected even prior to investigation. It appears even no efforts were made by the defendant to detect the fictitious requisitions as indentors to whom these requisitions pertained were not regular user of the said material and within a short span of one month such a huge quantity of this material was issued through M.C. named Sri A.K.Sharma/Amil Kumar Sharma for different Sr.Subordinates. In the case of outside requisitions, the duty pass of the M.C. could have been seen. The plea of the defendant that the indents were prepared on the prescribed form and were complete in all respect is not acceptable in view of the fact that they were not regular users of the said material and the M.C. cannot be the responsible person for all the frauds committed. Proper system of routing requisition from a centralised section was also not adopted. Identity card/Authority letter for drawal of material for a particular requisition has not been mentioned in Ex.P-1. Identity card number of Sri A.K.Sharma M.C. cannot be the same as 37818 dated 25/6/84, for two different subordinates i.e. S/BWS/JRC & S/BWS/JRC. Even in gate pass at Ex.P-4, indentor's designation has not been mentioned. When no intimation in the shape of verification of I/note were received the defendant did not take any high & authoritative action to report the matter to higher authority about non-verification/non-EPQ receipt of material. A perusal of photostat copies of Authority letter attached as Annexure to the defence brief reveals that the letter is of a general nature & does not specify authority for drawal of material against a particular indent or per extent instructions. Keeping in view the above lapses on the part of defendant, the charge is proved.

15. Charge No.(2):- The prosecution case is that the defendant entered fictitious name on the gate pass as the representative of so called indentor in order to take material out of the depot. In this connection the prosecution case is based on depositions of prosecution witnesses i.e. S/Sri V.K.P. Yadav, P.W.2, A.Z. Jaiswal, P.W.3 who have denied having sent any requisition for the ingots or solder rods or any such M.C. was working under their supervision in the gate passes. It has been stated that this is a clear proof of mala fide intention on the part of defendant in connivance with some unauthorised & non-railway persons to defraud the railway administration. It has been mentioned that on Ex.P-1, the M.C. has been shown as Amil Kumar Sharma without any details on Ex.P-2 & P-4, the name of M.C. has been shown as A.K.Sharma for both EPQ/C/ALD and S/BWS/JRC but the I/card number in both the cases have been shown as 37818 dated 25/6/84. In the case of IOW/DRC/MB & EPQ/C/MB the name of M.C. has been shown as A.K.Sharma

Confidential
No. 2/3/538

Enquiry Report of the DAR enquiry proceedings in the case of Sri A.T. Roy, DSK/CE/Lucknow.

He pleaded that the material covered under 'A' category are verified twice a year and no shortage was found in the stock of P.L.No.91 16 0017 even upto the last verification. Statement of Sri Bajrang Bahadur at Ex.P-20 is confusing as no original gate pass has been produced with a view to verify the factual position. PL-7 Sri Set Pal, Retd. MCC/Lucknow has clarified that the material mentioned in para-4 had not been received as ascertained from T.C. although it was mentioned therein. The record pertaining to Dy.CE/Pr Workshop/Lucknow was also shown to the V.I. at the time of investigation. Although the ~~XXXXXX~~ ingots for 43.8 Kg. & 84 Kg. were issued during 1984, the material had not reached till the start of investigation in 1985 in workshop. With a view to ascertain the factual position, whether the material had gone out of the depot gate or not, the relevant RPF gate register has not been made available. Hence this aspect cannot be verified. Even N.I. sheet of the relevant period showing first issue and then entry after preparation of minus I/note have not been produced. Keeping in view the above two important factors, the charge that the minus issue notes were prepared after removal of the material out of the depot gate is not proved. However, the defendant failed to observe the following aspects before preparation of minus issue notes:-

Not from
book.

In correct.

In correct

He is

Obtains

- i) He prepared Minus Issue note at Ex.P-13 & 14 on 11/10/84 whereas the Issue notes for issue of material were prepared on 21/3/84 i.e. after 7 months which is irregular.
- ii) At the time of preparation of minus issue notes, all the five copies of original I/note are collected. This was not done.
- iii) Before preparation of minus I/note written consent of the consignee is obtained that he is not in a position to remove the material due to some valid reasons and as such will left it on some other day. This was not done.
- iv) Written orders of DCO before preparation of minus I/note were not obtained.

The charge is not proved but the defendant is responsible for lapses mentioned at items (i) to (iv) above.

17. After going through the statements of witnesses & documentary evidence adduced in the enquiry, the charges of connivance of the defendant with impostors in taking away the material cannot be ruled out.

Conclusion & Findings.

18. Charges (1) & (2) are proved.
Charge No.(3) is ^{not} proved but the defendant is responsible for lapses mentioned at items (i) to (iv) above.

(D.R. Manchanda)
Inquiry Officer/II (HQ)

2/3/538
2/3/538
2/3/538

ANNEXURE No - 2

96

244

No EIS/538

उत्तर रेलवे
NORTHERN RAILWAY

25-7-39

Dyces/IRly
Alambagh
Lucknow

Sri A. T. Roy
Ex BSK/IR
II S 3/B C. P. II colony
Alambagh Lucknow

Sri - Appeal against Punishment notice
No EIS/538 dt 29-9-38

Ref - Your Appeal dt 25-10-38

With reference to the above it is to inform you that Appellate Authority has passed the following order:- "The Report by the Enquiry officer is a well detailed report prepared after proper application of mind and the findings are agreed to. The punishment imposed is considered to be proportionate to the extent of misconduct by Sri A. T. Roy. Hence the appeal of Sri A. T. Roy is disposed off and punishment already awarded is to stand."

27/2/90

for Dyces/IRly
Alambagh
Lucknow.

27/2/90

25
JH W EURE No 3

Standard Form No. 1

Standard form of order of suspension (rule-V (1) of the RS(D&A) Rules 1968

No 113.E - - - - - Name of Rly. Administration.

Dated 12-7-85 - - - - - Dy. Controller of Stores,
Place Amraoti

ORDER

Whereas a disciplinary proceeding against Shri A.T. Roy DSK/111/CB (name and designation of the Rly. Servant) is contemplated/ pending.

Whereas a case against Shri (name & Designation of the Rly. Servant) in respect of a criminal offence is under investigation/enquiry/trial.

Now, therefore, the President/the Rly. Board/the under signed (the authority competent to place the Rly. Servant under suspension in terms of the Scheduled I, II, III appended to RS(D&A) Rules 1968 and authority mentioned in proviso to rule 5 (i) of the RS(D&A) rules 1968), in exercise of the powers conferred by rule 4/Proviso to rule 5 (i) of the RS(D&A) rules 1968, hereby places the said Shri A.T. Roy DSK/111/CB under suspension with immediate effect, with effect from 12-7-85 AM.

It is further ordered that during the period this order shall remain in force, the said Shri A.T. Roy DSK/111/CB shall not leave the Ill. Rs. without obtaining the previous permission of the Competent Authority

* By order and in the name of the President).

Signature: [Signature]

Name: T. N. [Signature]

Designation: Dy. Controller of Stores, Amraoti Rly. Board, where Rly. Board is the suspending authority).

Designation of the Officer authorised under article 77 (2) of the Constitution to authenticate orders on behalf of the President is the suspending authority).

Copy to:-

Shri A.T. Roy DSK/111/CB (name and designation of the suspended Rly. Servant) Orders regarding subsistence allowance admissible to him during the period of suspension will issue separately.

"Where the order is expressed to be made in the name of President.

AKS

31/1 E/49A

1. SAC (C) NR/CB

2. He leaves & Pan/CB.

24
[Signature]
12.7.85

26-7-85

Northern Railway

Office order No. 179

Dated 25-7-1985.

The following employees of CR/Depot are placed under suspension w.e.f. 12.7.85. They will draw subsistence allowance equal to half of the leave salary and Dr & IR as admissible under the rules and 22 as they were in receipt preceding the date of their suspension.

- 1) Shri Pyarey ... 12/1/85
- 2) Shri Chhotey ... 11/85
- 3) Shri Hansu ... 11/85
- 4) Shri A.T. Roy ... 11/85
- 5) Shri R.B. Dubey ... 11/85
- 6) Shri Ram Adhar ... 11/85
- 7) Shri K.C. Saxena ... 11/85

for Dy. Controller of Stores,
Alambagh/Lucknow.

Copy to SAO(4)/H.Rly, M.F. Lucknow on Charbagh.
Copy to DCCF/H.Rly/Lucknow.
Copy to Hd. Clerk/Bills, Care & Insp.
Copy to parties concerned.

for Dy. Controller of Stores,
Alambagh/Lucknow.

....

20/8/85
M. G. A. S.

STANDARD FORM No. 5
STANDARD FORM OF CHARGESHEET

Rule 9 of the Railway Servants Discipline and Appeal Rules, 1950

No. E/5/538 (Name of Railway Administration)

Dyces office
(Place of issue) Alumbagh Lucknow dated 10-4-86

MEMORANDUM.

The President /Railway Board/ has proposed to hold an inquiry against Shri A.T. Roy DSK/III/CB (Discipline and Appeal) Rules, 1950 for breach of the provisions of misconduct of his behaviour in respect of which the charges proposed to be held is set out in the enclosed statement of charges of misconduct. A statement of the particulars of his conduct of misbehaviour in support of each article of charge is enclosed. A list of witnesses by whom the charges proposed to be sustained are also enclosed. Annexure III & IV.

2. Shri A.T. Roy DSK/4 is hereby informed that if he so desires, he can inspect and take extracts from the documents mentioned in the enclosed list of documents (Annexure III) during office hours within five days of receipt of this order. He is directed to be given access to any other documents held in the possession of railway administration but not included in the enclosed list of documents (Annexure III), he should give a notice to that effect to the undersigned. He is also directed to submit a list of documents of the documents required for inspection within the relevance authority for the purpose of inspection. He is also directed to submit a list of documents for inspection within five days of receipt of this order. He is also directed to submit a list of documents for inspection within five days of receipt of this order. He is also directed to submit a list of documents for inspection within five days of receipt of this order.

3. Shri A.T. Roy is informed that request for access to documents of the inquiry will not be entertained unless sufficient cause is shown for the same. In the event of a request for access to additional documents being made after the completion of the inquiry, the request will not be entertained unless sufficient cause is shown for the same.

Index

E/1

Recd
on 17/4/86
an

4-11-86
Sd/-
Sd/-

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of the Railway servants (Discipline and appeal) Rules, 1978 or the orders/directions issued in pursuance of the said Rules, the issuing authority may hold the enquiry expenses.

3. The attention of Shri A. T. Poy DSK/III is invited to Rule 30 of the Railway servants (Discipline and appeal) Rules, 1978, under which no railway servant shall be allowed to bring any political or other matters before any competent authority to further his interest except in matters pertaining to his service under the Government. It is observed that Shri A. T. Poy DSK/III 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 30 of the Railway servants (Discipline and appeal) Rules, 1978.

9. The receipt of this memorandum may be acknowledged by officers and in the name of the

(Signature)

Name and designation of competent authority

Encls:

To

Shri A. T. Poy DSK/III

(Under Signature) (Designation)

Deas/NR/SC (Place etc.)

@ Copy to Shri _____ (Name & designation of the lending authority) for information.

%This time limit may be extended upto ten days at the discretion of the competent authority.

&This time limit may be extended upto twenty days at the discretion of the competent authority.

To be retained wherever resident of the Railway Board is the competent authority.

Where the president is the disciplinary authority.

@ To be used wherever applicable for Rules 1(4) of the Railways servants (Discipline and appeal) Rules, 1978. Not to be inserted in the copy sent to the Railway Board.

/-/-Strike outword ever is not a suggestion

*Submission of such list at this stage need not be insisted upon if the employee does not employ with the railway.

24/5/1985/P

E/2

Handwritten signature and date 24/5/1985

statement of Articles of Charge framed against
Shri A.L.Roy, DS-III under DCB/Charbagh, Lucknow

while working as DS-III in Charbagh Stores Depot
under DCB/CB/LKO, during Feb, 1985 to 3/85, Shri
A.L.Roy, committed the following gross irregularities:-

1. He intentionally procured six gate passes for 529.4 kg Fin Ingot, 114.1 kg Solder Soft and 25 kg Hotwell bearing Metal casting approximately Rs. 1,50,000/- on fictitious requisitions and allowed these materials to go out of the Stores Gate on the strength of those gate passes.
2. He also entered fictitious names on those gate passes as the representatives of the so called indentors in order to take the materials out of the depots.
3. He has intentionally procured two minus issue Notes (Viz. 09/1757 dt. 11.10.84 for Fin Ingot 84 kg and 09/1759 dt. 11.10.84 for Fin Ingot 45.8 kg) and got them posted in A.S. Card No. 1160017 in order to show that the material has not been issued or it has been returned back, thus establishing his malafide intention.

By having acted in the manner the said Shri A.L.Roy, contravened Rule 5.1(i) (ii) (iii) of the Railway Service Conduct Rules, 1960.

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statement of imputation of misconduct or misbehaviour on the basis of which articles of charge have been framed against Sh. A.P. Roy; DSK/III under 100/05/430.

That Shri A.P. Roy, while working as DSK-I under DCS/CS/LKO during 2/85 to 5/85 committed the following irregularities :-

1. He prepared the under mentioned six gate passes for 529.4 kg Fin Ingot, 114.1 kg Solider Soft and 23 kg Solwel Bearing Metal on the strength of fictitious requisitions costing approximately Rs. 1,35,000/-.

G.P. No. & Date	Name of the I.O.	Description of material	Qty.	I/Vote No. & Date
* 452/58/09/1704 dt. 15.2.85	ICB/DIC/AB	Solider Soft Fin Ingot	19.1 kg	09/2492 dt. 17.2.85
* 452/58/09/1702 dt. 15.2.85	ICB/DIC/AB	Fin Ingot Solider Soft	111.5 kg 50.2 "	09/2483 dt. 15.2.85
* 462/58/09/1742 dt. 5.2.85	ICB/DIC/AB	Fin Ingot	84.8 "	09/2513 dt. 5.2.85
✓ 452/58/09/1685 dt. 5.2.85	ICB/DIC/AB	Fin Ingot Solider Soft	84.2 " 44.8 "	09/2425 dt. 5.2.85
* 452/58/09/1677 dt. 1.2.85	ICB/DIC/AB	Fin Ingot	127.5 "	09/2401 dt. 1.2.85
✓ 462/58/09/1712 dt. 25.2.85	ICB/DIC/AB	Fin Ingot Solider Soft	45.2 " 23.0 "	09/2638 dt. 25.2.85

During the course of investigation the DSK ABFI when questioned as to whether he sent any requisition for the supply of Fin Ingot and Solwel Bearing Metal and also to confirm whether he has received the material viz. Fin Ingot 45.2 kg and Solwel Bearing Metal 23.0 kg said to be issued by the DSK/CS/LKO vide I/Vote No. 09/2401 dt. 01.2.85 and also to confirm whether there is any other person working under him - he replied as under :-

"Number of two issue notes were shown to me by VI/ABFI but no such issue notes have been received by me either from DSK/CS/LKO or DSK/ABFI nor the material contained in the above stated I/Votes have been indented by me. There is no other person working under my control or supervision since 11.1.1 i.e. from the date of my joining."

...../-

[Signature]
Ymrold
Singh

Similarly, when the EFO/C/ALD another so called indenter for Tin Ingot 84.2 Kg and Solder Soft 44.8 Kg was questioned and asked to confirm the receipt of the above, said material & also whether there is any M.C. named Sri A.K. Sharma working under him - he has replied that :-

"There was no such staff named Shri A.K. Sharma, M.C. who had worked with me during the period of my working as EFO/C-I/ALD and at present also. I do not consume any Tin Ingot in my Unit. As regards Solder Soft, the consumption is very nominal. I have not sent any requisition during the month of Feb., 85 to DCOS/CB/LKO for the issue of Tin Ingot 84.2 Kg and Solder Soft 44.8 Kg as mentioned in Gate pass No. 452/58/09/1685 dated 5.2.85.

2. He has intentionally and deliberately put the name of one Shri O.P. Sharma, M.C. of CTI/ALJN on G.P.No.462/38/09/1772 dated 25.3.85 for Tin Ingot 43.2 Kg and Rolwel bearing metal 23 Kg on which he has shown the identity card No. 378181. Whereas the same identity card No. i.e. 378181 dt. 25.6.84 has been shown against Shri A.K. Sharma, M.C. of EFO/C/ALD on Gate Pass No. 452/58/09/1685 dated: 5.2.85. Again on gate pass No. 452/5-8/09/1702 dated 15.2.85, the same Shri A.K. Sharma, M.C. has been shown as the MC of SS/BW/JRC having the same identity card No. 378181 dated 25.6.84. In this way the said Shri A.T. Roy, DSK-III has misappropriated the material taken out through the above said gate passes, in connivance of those imposters (i.e. Shri O.P. Sharma & Shri A.K. Sharma).

He also failed in the capacity of incharge of the issuing wards to ask for the I.Card or any other railway documents from Shri Anil Kumar Sharma of PWI/FTP to whom 122.5 Kg Tin Igots were issued vide G.P.No.452/5-8/09/1677 dated 1.2.85. Further he has also utilised the name of Shri Anil Kumar Sharma said to be the MC of EFO/C/ALD, EFO/Const./MB & SS/BWS/JRC respectively, which he did with malafide intention to pick out the costly non-ferrous material out of the store gates from time to time.

He issued 43.8 Kg Tin Ingot to SS/BWS/LKO on the authority of his requisition of 766955 dated 8.2.84 and another 84.1 Kg Tin Ingots on requisition No. 766833 766840 dt 3.3.8. But when Shri R.P. Singh, SS/BWS/LKO was questioned about the sending of the above said two requisitions to DCOS/CB/LKO

...3./-

Sm. bid
S. P. Singh

for the said material, he has stated as under :-

" I have inspected requisition No.766933

dt. 8.2.84 & Regn.No.766933 dated 1.3.83

and found that the signature on the stamp of SS/BWS/LKO is not true. It seems to be fraudulently made/probably else".

Further Shri [unclear], [unclear] consumable store of Dy.CES/BWS/LKO has stated regarding the receipt of the above Tin Ingots in his statement as under :-

" I have examined the receipt register of consumable store & confirmed that the above noted material have not been received in my store".

Scrutiny of the [unclear] Outward register maintained at the CB/Store Main gate revealed that the above said 43.8 Kg Tin ingots was taken out of the Store Gate vide G.Pass No. 368/S-8/09/1147 dt. 12.3.84 by one Shri [unclear] [unclear], as per entry at S.No.9 of the [unclear] [unclear]. This fact has also been confirmed by Shri Bajrang [unclear] [unclear], Sr. [unclear] of Store Gate, CB/LKO on 27.5.85. It [unclear] [unclear] intentionally prepared two [unclear] [unclear] No.09/1759 dt. 11.10.84 & 09/1757 dt. 11.10.84 nullifying the above said two issues and got them posted in G.Pass No.9116 dt. 17. [unclear] [unclear] the materials were not existing in his ward.

Normally out station gate passes should be prepared by the GD Section of the [unclear] [unclear] Depot but in this case the said Shri [unclear] [unclear] intentionally prepared all the above said six gate passes, (although those were all fictitious) in his ward 09 to keep the same in limit. He has done with mala fide intention.

3. From the above mentioned facts it is evident that Shri A.T.Roy while working as [unclear] [unclear] [unclear] of S.No.09 has misappropriated the railway material to the extent of 1,55 Lacs of rupees in connivance with some persons who were not the bonafide railway employees rather they are imposters and has acted against the interest of the railway administration.

[Signature]
[unclear]
[unclear]
[unclear]

[Signature]
[unclear]
[unclear]

To Approve
if into [unclear]
[unclear]

List of documents by subject
framing first list of items
is prepared to be submitted.

- | <u>Serial</u> | <u>G.P.O. #</u> | <u>Date</u> | <u>Qty.</u> |
|---------------|--------------------------|-------------|--|
| 1. | 452/58/09/174 | dt. 15.1.85 | 12.1 kg. solder soft. |
| 2. | 452/58/09/1712 | dt. 15.2.85 | 82.2 kg. Pin Ingot
111.5 kg. Pin Ingot
50.2 kg. solder soft. |
| 3. | 462/58/09/1742 | dt. 5.1.85 | 84.1 kg. Pin Ingot |
| 4. | 452/58/09/1685 | dt. 5.2.85 | 84.2 kg. Pin Ingot
41.1 kg. solder soft. |
| 5. | 452/58/09/1677 | dt. 1.2.85 | 122.5 kg. Pin Ingot |
| 6. | 462/58/09/1772 | dt. 5.3.85 | 42.2 kg. Pin Ingot
23.1 kg. solder soft. |
| 7. | Regn. No. 757257 | dt. 2.2.85 | Issue date & Date |
| 8. | Regn. No. 757258 | dt. 2.2.85 | 2.2.85 dt. 5.2.85 |
| 9. | Regn. No. 757255 | dt. 21.1.85 | 2.2.85 - 10- |
| 10. | Regn. No. 757256 | dt. 2.1.85 | 2.2.85 dt. 1.2.85 |
| 11. | Regn. No. 757257 | dt. - - - | 2.2.85 dt. 15.2.85 |
| 12. | Regn. No. 185628 | dt. 2.1.85 | 2.2.85 dt. 15.2.85 |
| 13. | Minus I/Note No. 1-175 | dt. 11.1.84 | |
| 14. | Minus II/Note No. 1-1757 | dt. 11.1.84 | |
| 15. | Statement of Ch. ... | dt. 24.5.85 | |
| 16. | Statement of Ch. ... | dt. 27.5.85 | |
| 17. | Statement of ... | dt. 25.6.85 | |
| 18. | Statement of ... | dt. 1.7.85 | |
| 19. | Statement of ... | dt. 27.5.85 | |
| 20. | Statement of Ch. ... | dt. 27.5.85 | |
| 21. | E.C. Card ... | dt. 27.5.85 | |

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LIST OF THE

1. Shri G.M. Bhookharjee, V.I.
M. Dy. Hd. Qrs. Office, M.H.S.
- ✓ 2. Sh. V.P.P. Yadav, CEC/C - II/ 10
under Sr. DE /G/ADD
- ✓ 3. Sh. A.S. Hussain CJI/ 1/ 11
- ✓ 4. Sh. R. Singh, S/ 1/ 10
under Dy. CEC/ 1/ 10
- ✓ 5. Sh. Sat Pal KCS under Dy. C. 1/ 10
- ✓ 6. Sh. ^{Ram} Hias Choudhary under Dy. C. 1/ 10
- * 7. Sh. Sita Ram under Dy. C. 1/ 10

.....

RECEIVED
11-11-1971
10-11-1971

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JM 14 F 80 R 12 6

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1314
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Standard Form of Order Relating to Appointment of Inquiry Officer/Board of Inquiry Rule 9(2) of RS D&A Rules, 1968.

No. E/5/838

Name of Rly. Administration Dy. Commr. NR

Place of Issue Almora 140

O - R - D E R

Whereas an inquiry under rule 9 of the Railway Servants (Discipline and appeal) Rules, 1968 is being held against Shri A. T. Roy Dy. Commr. NR (Name and designation of the Railway servant).

AND WHEREAS the Railway Board/the undersigned consider(s) that a Board of Inquiry/an Inquiry Officer should be appointed to inquire into the charges framed against him.

NOW, THEREFORE, the Railway Board/the undersigned in exercise of the powers conferred by Sub-rule(2) of the said Rule, hereby appoint(s).

A Board of Inquiry Consisting :-

- 1.
- 2.
- 3.

} Here
Names & Designation of
members of
the Board of
Inquiry.

Shri D. R. Manchanda (Name and Designation of the Inquiry Officer) as Inquiry Officer to inquire into the charges framed against the said Shri A. T. Roy Dy. Commr. NR.

Signature

Name : (D. R. Manchanda)

Secretary Railway Board

Designation of the Disciplinary Authority.

Copy to :-

Shri A. T. Roy Dy. Commr. NR (Name and designation of the Rly. Servants)

Copy to :-

Shri D. R. Manchanda (Name and designation of the Members of the Board of Inquiry/Inquiry Officer).

Copy to :-

(Name and Designation of the Lending authority), for information.

Note:- To be used wherever applicable Not to be inserted in the copy sent to the Railway Servant.

RK27/5 E/64

[Handwritten signature and date 21/12/83]

Annex VII

21

To
The Dy Controller of Stores
N. RAILWAY, ALAMBAGH
LUCKNOW.

Sir,

SUB: Charge Sheet No. E/S/538 dated
10.4.1986

In terms of Rly Board Letter No. E(D&A) 83 RG6-14 dated 23.3.85 circulated vide G.M(P) NDL S letter No. 62E/O/26 Pt VII(D&A) dated 4/85 Pcb 702 further circulated vide Dy C.O.S /AMV letter No. 1924 dated 3.7.85, I may kindly be supplied Photostate or typed copies of the listed relied upon documents in Anx-(III) 21 documents together with copies of statement of witnesses as mentioned in Anx-(IV) 7 documents of the Charge-sheet to enable me to study the case and engage some one as defence council in my case

On receipt of these copies of documents if necessary, I shall request you to good self for copies of some additional documents relevant to my case and shall also like to inspect the original copies of the documents in the interest of my self defence.

*Recel.

Proper reply shall be submitted by me as and when the required formalities are complied with.

पाने वाले
Address:

Thanking you.

Yours faithfully,

बीमे के
Insure
वितरण
Date of

*अनाव
केवल

Dated 1.5.1986

(A. T. ROY)
Dsk/III (Under suspension)

Recd. AD
No 5772 on 2/5/86
for P. Adash Neta
A/D Acknowledged on 3/5/86.

5/5/86
min 4/5/86

REGISTERED L/D.

24

To
The Deputy Controller of Stores
M. Railway, Alambagh
LUCKNOW.

Sir,

Subj: Supplies of Photostat copies of
the relied upon documents.

While thanking you for your letter No. E/S/538 dated 6.6.1986 in reply to my letter for photostat copies of relied upon documents in accordance with Rly Board's letter No. E(D&A) 83 RG-6-14 dated 29.3.85 circulated vide G.M.(r)/New Delhi letter No. 62E/O/26 Pt VII (D&A) dated 4/85 PS8702 further circulated vide your letter No. 122E dated 3.7.85 I would inform you that the purpose of supplying photostat copies of relied upon documents will not be served by copying them out, because vital factors such as the handwriting on the Requisitions, the mode of signatures there on, the shape of the Seals and office stamps etc will not be available for the purpose of defense in case the documents are copied out. In fact the purpose of supplying photostat copies permitted by Rly Board ensures all the facilities.

In view of the above submission which calls for deserving and favourable consideration, I would request your honour to arrange early supply of photostat copies of the documents asked for by me. This is essential in view of the promise to allow full facilities of defence to the defaulting employee by the Administration.

Yours faithfully,

Ashu Tosh Roy

Dated. 12.6.1986

(A.T. ROY, DSKIII (under Susp)
1153 B, C.P.H. Colony
Alambagh, LUCKNOW.-5

[Handwritten signature]

[Handwritten text]

ANNEXURE NO. 9

(39)

(29)

To
The Deputy Controller of Stores
Northern Railway
Alambagh
Lucknow.

Sir,

Sub:- Supply of Photostat copies of
relied-upon documents.

In continuation of my letter dated 14.11.86, I beg to submit that I had been suspended on 12.7.85 which is almost two years ago and since then the administration has been paying me subsistence allowance without any work. I may also add that nothing has yet been heard about the starting of the enquiry, which in the normal course should have been started after six months.

It is needless to ^{impress} ~~convey~~ your honour the untold ~~story of~~ sufferings and misery which the abnormal delay has been causing to my self and my family apart from the mental torture and semi starvation inflicted on me during these critical days of soaring prices. More over, the loss caused to the Govt. in paying subsistence allowance to such a huge number of employees should also be considered in the right perspective, so that the enquiry may be started at a very early date after providing me with the ~~remaining~~ documents which have not yet been supplied. ^{additional} ~~documents~~ ^{by me}

Thanking you.

Dated 13.4.1987

Yours Faithfully,

(Ashu Tosh Roy)
DSK/III (U/S)
SGB, C.P.H. COLONY.
Alambagh, Lucknow.

Ym(612)
Smt. Smt. Smt.

30
40

The Deputy Controller of Stores
N. Railway
Alambagh, LUCKNOW.

Sir,

In reply to your Charge Sheet No. E/S/538 dated 10.4.86 I beg to state that the charges levelled against me in this charge sheet are entirely baseless and far from the truth.

I, therefore deny those charges in toto and reserve my right to offer complete defense during the course of the enquiry.

I may also point out that out of six indentors I have received the copies of statements of only two indentors viz CTI/ALJN, SEFO(C)/ALD, the copies of the statements of the following indentors have not yet been received, without which it will not be possible for me to defend and this way I shall be deprived of the proper facilities of defence which is a cardinal part of disciplinary proceedings.

1. Statements of JOM/DRC/MB.
2. " " SS/B.S/JRC.
3. " " EFO/C/MB.
4. " " PLI/FTP.

Yours faithfully,

Ashu Tush Roy
(ASHU TUSH ROY)
DSK /III (U/S)

10-5-87

Dated 4.5.1987.

5/5/87
21/5/87

ANNEXURE NO 11

31
41

To

The Deputy Controller of Stores
N. Railway, Alambagh.
L O C K N O W.

Sir,

Sub:- Additional documents.

10.4.86

Ref:- Your Memorandum No. LN/360 dated 10.4.86

Reference to your above quoted Memorandum I beg to state that run-upon-documents listed in Annexure III (Photostat Copies) were delivered to me on. 8.4.87. I have already given reply to your above memorandum on 4.5.87 but as some additional documents are essential for my defence, I will be obliged if you kindly furnish me Photostat copies of the undermentioned documents at your earliest.

Issue Note No. OS/2520, Dated 21.5.84 } Ann 1/10/84
OS/2573 Dated 7.5.84 } BR 2/10/84
OS/2452 Dated 15.2.85 10 W/DRC/MIB
OS/2578 Dated 5.5.85 EFC/C/MIB
OS/2579 Dated 5.5.85 C 7/H LJA
2697

Gate Pass No. 360/So/OS/1147 dated 21.3.84 ✓

Thanks.

Yours faithfully,
J. I. Roy
LCK/III (U/S)
Under L.C.O.S./CI/LRO

18.5.1987

Sh
Y. M. D.
18.5.1987

-2-

DAH / enquiry proceedings in the case of Sri A.T. Roy, PSE/LRO now at Mughalsarai.

(Order Sheet)

New Delhi: Dt: 22/2/88

The defendant, his helper & five PW out of six are present. Examined S/ Sri R. P. Singh, Shitla Din, A.Z. Hussain & V.P.P. Yadav in the presence of defendant & his helper. The examination of fifth PW Sri G.M. Modh... rje could not be taken up due to shortage of time. Next sitting for final hearing of prosecution case is fixed for 15/3/1988 at New Delhi at 10/- hours.

A.T. Roy

Defendant

Helper

I.O.

New Delhi: Dt: 15/3/88

The defendant, his helper, dealer of the case & remaining both the PWs are present. Examined both the PWs in the presence of defendant & his helper. With this the prosecution case is closed. The defendant is now required to submit his W/S of defence in four copies duly typed & each page duly signed by him & his helper along with a list of DWs, if any. Immediately the defence stated that they do not want to examine any witnesses in his defence. The defendant should come fully prepared for his examination by the Inquiry Officer after submission of W/S of defence. Next sitting for final hearing of defence case is fixed for 15/4/88 at New Delhi.

2. The D.A. could not produce the additional documents permitted vide Ex.D-1 except statement of Sri Shitla Din being untraceable. With this the demand of additional documents by the defence is fully disposed off.

A.T. Roy

Defendant

Helper

I.O.

2/2
Gm. 16/4
21/4/88

71
43

Statement of A.T. Roy given on 15.4.88

Before recording of my statement I most humbly bring forward the following facts before the learned enquiry officer

Number of times I have along with my defence helper, requested the learned enquiry officer to make available to me the following documents relevant with the case.

- (i) Issue no 09/2926 dt 21.3.84
- (ii) " " 01/2979 dt 7.3.84
- (iii) " " 09/2492 dt 15.2.85
- (iv) " " 09/2573 dt 5.3.85
- (v) " " 09/2697 dt 25.3.85
- (vi) Gate pass No. 368/58/04/1147 dt 21.3.84
- (vii) " " 376/58/04/33 dt 21.3.84

But I regret to point out that the learned enquiry officer could not provide me the documents mentioned above up till now, and vide his letter dated 15.3.88 he has explicitly stated that the D.A. could not provide the additional documents permitted by him earlier. Thus the demand of additional documents by the defence is fully disposed of.

The denial of the opportunity of obtaining ~~the documents~~ and additional documents by the enquiry officer amounts to a violation of Article 311(2) of the Constitution, ~~the~~ the whole question of the extent of access to official records during investigation, to which a Government servant is entitled under sub-rule 4 of Rule 5 of the All India Service (Discipline and Appeal) Rules or sub-rule 3 of the Central Civil Services (Classification control and appeal) Rules has been examined in consultation with the Ministry of P.W.D.

Under the above circumstances I am forced to give my recorded statement unqualified with the facts and figures which could have been brought out,

had the above mentioned documents been brought out by the learned enquiry officer.

[Signature]

[Signature]
A.T. Roy

[Signature]
D. Heaps
15/4/88

A. S. T. R. R.
15/4/88

2/13 -

(L/L)

(20)

In view of the above facts and the demand of the opportunity, I have no option left to me but to record my statement basing totally on the memory and recollection just to fulfil the administrative obligation as a ~~government~~ government servant.

While working as a ~~store~~ in ~~the~~ ~~depot~~ under DCS/CS/Lucknow during 1984 to 1985, I have performed my duties with full satisfaction of my superiors, as per extant rules and procedure.

I have been charged vide memorandum No. E/S/538 dated 10.4.86 (2) that I had intentionally prepared gate passes during 2/85 to 3/85 in fictitious requisitions and allowed the materials to go out of the stores gate on the strength of these gate passes.

● (2) I entered fictitious names on these gate passes as the representative of the so-called vendors.

● (3) Two minus issues notes were prepared intentionally (viz 09/1757 and 09/1759 dated 11.10.84) and got them posted in N.L. Card No. 116017 in order to show that material has not been issued or it has been returned back, thus establishing mala fide intention.

Reg. charge no 1

Before explaining I will mention the extant procedure in Charbagh Stores depot, all requisitions coming from different indentors are prepared on standard form no. S-1313 supplied from self-printing and stationery, Shahrasti (These forms are not available in any other source).

These are signed by the indentors and their controlling authority, duly checked, stamped, they also indicate on the requisition that funds exist.

The requisitions in question were also found in order and suppose to be genuine like other requisitions. As there are no specimen signature and list of the competent controlling authority with the B.O. (custodian) how could I presumed that these requisitions were fictitious. And after issuing material the requisitions are sent to despatch section except the requisition comes through any special messenger.

[Signature]

[Signature]
Gandhi

B/S/538
D/L/K
15/4/88

Ashu Tosh Roy
15/4/88

The requisition in question were came through special messengers so after issuing the material, gate passes were prepared in favour of messengers. The same with identity card with photograph and ^{authority letter given by the inductors and} signature of the controlling authority. (17)
(45)

From the above process it is evident that I also prepared Gate passes according to central and depot procedure and not intentionally as charged in the memorandum. The gate passes are also checked and signed by the other depot store keeper. After fully ~~satisfaction~~ satisfied with the requisition, Identity card and authority letter, and there were no exception in these gate passes. So that question of fictitious requisition is baseless.

Reg. Charge No. 2

On the gate Pass only the names described in the authority letters by the inductors are written. I also did so and no question of entering fictitious names comes on the gate passes.

On the both ~~side~~ ^{above} above ordered two charges there is no deviation from the central procedure and therefore I may not be held responsible.

In statement of P. W. Sri G. M. Mukherjee while narrating procedure of issuing material, he has quoted store code para 5-1307, but it describes only format of the requisition registration Register and it has nothing to do with the issue process.

Procedure of registration of requisition also varies from depot to depot, for example no similar process is being maintained in two stores depots viz. Alambagh and Chaulbagh. It has been found during investigation that some requisitions were not entered on the requisition register. In this connection I would like to say that if one goes through the requisition register it will be found that in Chaulbagh Stores depot, requisition in ward 08 and 09 no cent per cent requisition were registered. Apart from this as there was no such rigid instructions that no requisition should be entertained if it bears no registration nos. So there was no violation of the procedure. Depot store keeper has no duty to check that whether it has been registered or not.

[Signature]
Sd/-
Sd/-

P. W. Sri G. M. Mukherjee
Dated 15/11/88

Ashu Tosh
15/11/88

Reg. Charge No. 3.

④

when write back issue note or minus issue notes are prepared, the stock of the particular item increases, so why one should take such risk of increasing stock without receiving the material physically. (46)

The contention as stated in Page No 3 of Annexure II that physically the material were not existing in my ward is incorrect. The category A material are verified by the accounts department's stock verification twice in a year and as no shortage was found in the stock of PL No. 91.16.0017 even up to the last verification. How it is presumed that material was not existing.

Regarding the charges that 43.8 kgs Tin Ingot was taken out by Shri Shitla Deen m/c of Bridge workshops, vide gate pass No. 368/S-8/09/1147 dated 21.3.84 as per statement of Shri Bajrang Bahadur (Ex-P. 20) is confusing and demand of original gate pass also was not complied with the administration to enable me to see and verify it. It was also not investigated, whether the gate pass No. 368/S-8/09/1147 was issued to ~~for~~ my ward or any other section by general section of CS depot. In absence of above facts how it is emphatically establish that the material was taken out.

Regarding the validity of the minus issue note I would like to state that these are signed only by the gazetted officer. The minus S/note in question were signed by the ACOS/CS/LKO so it was quite in order.

Procedure of making minus S/note as stated by P.W. Shri E.M. Mukherjee in parall of his statement is his own invention, as he has failed to quote any store code para in support of this. Actually it has nowhere laid down in store code. It varies from one store depot to another which can be verified if procedure of some other depot obtained.

- Question of not-taking the prior approval does not arise as the minus S/note are signed by the gazetted officer and how one can sign it if he is not willing to do so.

It has been alleged that name of Shri Anil Kumar Sharma has been utilised as m/c of EFO/CS/ACD, EFO/CS/MB and SS/BW/JRE. But the list (attached) will reveal the actual facts.

Signature
Signature
Signature

Signature
Signature
Signature
15/4/88

(5) 76

Name of Shri Anil Kumar Sharma is meant only (67)
as m/c of Pw1/FTP SL No. 1 & SL 2, m/c of Pw1/ACD
is one A.K. Sharma 9/ card no. 37818 of 25/6/84 and not
Anil Kumar Sharma. SL No (5) m/c of EFO/MB is one
A.K. Sharma 9/ card no. 12/11/84 of 3/6/84 SL No (3) m/c of
SS/BWS/JRC is one Shri A.K. Sharma 9/ card no. 37818 of
25/6/84. (67)

The allegation that everywhere Shri Anil Kumar Sharma
has been mentioned is incorrect. From the list it is seen
that though name of Shri A.K. Sharma has also been written as
m/c of EFO/MB (SL no. 5) but the 9/ card is different and
it is improper to say both Shri A.K. Sharma were same man.

It is correct that 9/ card and Authority letter has
been omitted in gate pass no. 452/SS/09/1677 of 1/2/85
must probably due to rush of work. It is amazing
that nowhere it has been detected.

In concluding Para. I would like to state that
I have performed my duties abiding all procedure
according to Store Code and procedure in ^{practice} vogue but
a racket of unscrupulous men has rolled these
material submitting fictitious requisitions, which
could not be detected prior to investigation from
real indentors.

The indentors also did not intimate our depot.
Though they received debit list against the indents
sent by accounts department well in advance.

All these events occurred during Feb 85 and
march 85 and vigilance Inspector detected it
in the middle of June 1985, sufficient time had elapsed
between the incident and investigation.

In view of all the facts and figures narrated in
preceding paras it is observed that there were
many lacunas of administrative procedure, which
led to the loss of Government material.

Going through the investigation report as mentioned
in charge sheet and statement of Pw it is observed that
the investigating officer or agency has not investigated the
case properly and there intention was only to involve
Stores staff particularly DSK (custodian). It will be
evident from the following.

- ① Investigation of Identity cards from Printing press SSBS depot
was not done.
- ② Out of six indentors, statement from only two viz. EFO/ACD
and ETI/ALTM was obtained, other 4 indentors were not
contacted at all.

Tosh Rm

15/4/85

Ashu Tosh Rm

15/4/85

Ashu Tosh Rm

15/4/85

15/4/85

15/4/85

15/4/85

ANNEXURE - 14
(52) 68
7/6/

DEFENCE NOTES IN THE D.A.R. ENQUIRY
PROCEEDINGS IN THE CASE OF SRI A.T. ROY
DSK III/CB/LKO FOR AT MGS.

Shri A.T. Roy DSK/III/CB was served with S.F. 5 No. E/S/538 dated 10.4.86 with the following articles of charges framed against him as per Annexure I of the Memorandum mentioned above :-

1. He intentionally prepared six Gate Passes for 529.4 Kgs. Tin Ingot, 114.1 Kgs. Solder soft and 23 Kg. Rotwel Bearing metal casting approximately Rs. 1,55,000/- on fictitious requisition and allowed those materials to go out of the stores gate on the strength of those gate passes.
2. He also entered fictitious names on these gate passes as the representatives of the so called indentors in order to take the materials out of the depots.
3. He has intentionally prepared two minus issue Notes (viz. 09/1757 dtd. 11.10.84 for Tin Ingot 84 Kg. and 09/1759 dt. 11.10.84 for Tin Ingot 43.8 Kgs.) and got them posted in N.L Card No. 9116.0017 in order to show that the material has not been issued, or it has been returned back, thus establishing his malafide intention.

For providing the above mentioned charges framed against Shri A.T. Roy DSK/CB, DAR inquiry took place under Shri D.R. Manchanda Enquiry Officer at New Delhi from 17.12.1987 and concluded on 15.4.1988.

While expressing my gratitude to the Enquiry Officer for affording me the facilities and opportunities at the Cross examination of prosecution witnesses as per Annexure IV of the Memorandum in question. I would be failing if I do not mention here that the learned Enquiry Officer could not make available to me the following Additional documents relevant with this case inspite of repeated request by the defendant as well as by me

Contd...2-

- (1) 1/Note No. 09/2926 dt. 21.3.84
 (2) " 09/2979 dt. 7.3.84
 (3) " 09/2492 dt. 15.2.85
 (4) m " 09/2573 dt. 5.3.85
 (5) " 09/2697 dt. 25.3.85
 (6) Gate Pass No. 368/58/09/1147 dt. 21.3.84
 (7) Gate Pass No. 376/58/09/33 of 24.4.84.

The opportunity of granting access to additional documents which are not mentioned in the list of documents sent to the defendant with the charge-sheet is total violence of Rly. Board's letter No. E(D&A) 78-RG-6-11 dtd. 6.2.1980.

The arbitrary rejection by the learned Enquiry Officer is the denial of opportunity of additional documents to the defendant amounts to a violation of Article 311(2) of the Constitution. "Failure to supply documents is denial of reasonable opportunity" (State of Gujrat Vs. R.C. Mashruwala 1977 SLJ 148 SC).

During the Enquiry Proceedings the P.W. No. 1 Shri G.M. Mukherjee V.I., & N. Rly. HQrs Office, New Delhi has in his statement recorded before the Enquiry Officer has tried his utmost to implicate Shri A.T. Roy the custodian of the material for the scrupulous crime committed by an agency to defraud the Administration by drawing material from the Charbagh Store Depot. It is very ridiculous that the V.G. Shri G.M. Mookherjee who was entrusted with the job of investigation initially, has preferred to attribute all the responsibilities of the loss of the Administration on the shoulder of the custodian of the material rather than concentrating his energy & intelligence to catch-hold the real culprit who has actually defrauded the Administration.

To be very precise it appears that instead of catching the thief he has tried to falsely ~~implicate~~ implicate the custodian of the Govt. material who has been subjected to be a victim in the eyes of the Administration for no fault of his own.

Contd... 3-

The biased attitude of the V.I. was glaring from Paragraph 4 and 7 of the statement of Shri G.M. Mookherjee PW-1.

In Paragraph 4 of his statement he has mentioned that Shri A.K. Sharma and Shri Anil Kumar Sharma holding I/C No. 37818 are the same person. He has also stated that some Shri A.K. Sharma also collected material on behalf of CTI/ALJN. But the Gate Pass No. 462/58/09/1772 dtd. 25.3.85 clearly shows that it was Shri G.P. Sharma, and not Shri A.K. Sharma or Anil Kumar Sharma.

Actually the Vigilance Inspector has not cared to go into the deep of the case and he has never tried to ascertain about the issue of I/Card No. 37818 dt. 25.6.84 from the place where from the blank identity Cards are issued viz. Supd. /Printing and Stationery/SSB. similarly the V.I. also not cared to find out the source of issue of Identity card No. 12247 dtd. 3.6.84 so that the actual agencies who were involved in drawing the Railway material on the strength of the I/Cards from the stores Depot. Charbagh, Lucknow would have been unearthed.

In paragraph No. 7 in his statement he has given to the extent of recording his statement saying :-

"It was also heard that the original Gate Pass No. 368/58/09/1147 dt. 21.3.84 for 43.8 Kgs. Tin Ingot was deliberately destroyed and in its place gate pass of the same number was prepared on the same date for some other material and for some other consignee."

In the same paragraph he has stated that his above opinion circumstantially proved from the fact that the original Gate Pass No. could not be made available for the scrutiny of the Vigilance".

All the above quoted statement is irrelevant as neither he could prove it specifically nor it has been nowhere mentioned in the originally charged memorandum. It is only his after-thought.

Contd...4-

27/4/84

al
gmbd
- 11-3-85

4.

REGARDING CHARGE NO. 1 :

As per extent practice in Charbagh Stores Depot. all regus. coming from various Indentors are prepared on standard form No. S-1313, supplied from Supdt./P&S/SSB/ and such forms are not available in any where else. These requisitions are signed by the Indentors and Countersigned by their Controlling authority under their Office Seal. It also bears the declaration that "FUND EXISTS".

The requisitions in question were also in order and supposed to be genuine. As no specimen Signatures of the different Indentors are available with the Custodian it is not possible to verify the Signature of the Indentors

After issuing material the requisitions are sent to General Despatch Sec. for their onward despatch except the requisitions come through the Special messengers.

As the requisitions in question were came through special messenger holding Identity Card and an Authority letter authorised him to draw the requisit material. They were issued by the Custodian Shri A.T. Roy DSK/III.

From the above process it is observed that there were no deviation from the procedure.

REGARDING CHARGE NO. 2 :

On the Gate Pass only the name of the Messenger authorised to draw the material vide Authority letter are written. As for example photostat copies of Authority letter issued by the Indentors viz. EFO/C/ALD, AFO/C/MB and Asstt. Bridge Inspector/Bridge Workshop/N.Rly/JRC are enclosed herewith).

It is evident from the above that no fictitious name was entered.

Both the above referred two charges are refuted as there is no violation of the rule and extent procedure. So Shri A.T. Roy custodian of the Ward No. 09 may not be held responsible.

Contd...5-

5.

REGARDING CHARGE NO. 3 :

Procedure of Write back issue note (Minus Issue Note) has elaborately stated by Shri A.T. Roy DSK/III in his written Statement recorded before E.O. in 7 sheets on 15.4.88, are quite correct and as no original gate pass No. 368/S8/09/1147 dt. 31.3.88, could be supplied by the E.O. it could not be proved in absence of the same.

It may further be mentioned here that the entire projection of the case by the Vigilance Inspector who was initially entrusted with the investigation work of six Gate Passes as per details given below :-

- (1) EFO/C/ALD
- (2) CTI/ALJN
- (3) IOW/DRC/MB
- (4) EFO/C/MB
- (5) SS/BW/S/JRC
- (6) PWI/FTP.

clearly indicates that the Indentors mentioned from Serial No. 3 to 6 have been left out from the radius of his investigating Zone.

The hallowness of the initial investigation by the Vigilance Inspector has been crystal clear by his deliberate ignorance about the mentioned 4 Indentors who have also defrauded the Rly. Administration by drawing the material from Charbagh Depot. through their following requisition :

- (1) PWI/FTP Req. No. 757265 dt. 21.1.85
- (2) SS/BW/S/JRC Req. No. 254786 & 254787
dated 8.2.85
- (3) EFO/C/MB No. copy of the requisition ^{not} supplied
- (4) IOW/DRC/MB - do -

Actually the entire case has been very lightly investigated into by the Vigilance Inspector Shri G.M. Mookherjee who was made responsible by the Rly. Administration. to find out the truth and unearth the ~~fraud~~ fraudulent agencies who have defrauded the Rly. Administration at the tune of Rs. 1.55 lacs.

Contd...6-

The charges thus levelled against Shri A.T. Roy DSK/III/CB for preparation of six Gate Passes for 529.4 Kgs. Tin Ingot 114.1 Kg. Solder Soft and 23 Kgs. Rolwel Bearing Metal costing about Rs. 1.55 lacs on fictitious requisitions and allowed these material to go out of the stores gate on the strength of these Gate Passes becomes baseless in the face of the fact the none of the Four Indentors i.e. PWI/FTP, SB/SW/S/JRS, LOW/DRC/MB & EFO/C/MB have been enlisted as the prosecution witnesses, as Vigilance Inspector himself has not cared to investigate in this matter thoroughly by not even contacting any of the above mentioned 4 Indentors.

I would therefore, conclude that the hapazard investigation on the part of the Vigilance Inspector Shri G.M. Mookerjee and his biased notion to falsly implicate the Stock-holder for the alleged defraud will be most unjudicious in the eyes of the Law and thus the charges levelled against Shri A.T. Roy, DSK/III/CB now at MGS. could not be sustained.

(Encl = 3)

A. T. Roy
(A.T. ROY)
Defendant.

B. N. Saxena
(B.N. SAXENA)
DEFENCE HELPER

Dated : 27.4.1988

27/4/88
27/4/88
27/4/88

ANNEXURE No-1B

to

The Jy.C.O.S.,
Northern Railway,
Alambagh, Lucknow.

(117)
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Sub: Appeal under Rule 13 of the
DIA Rules, 1968 against Punishment
Notice No. 1/5/32 dated 22.2.38
issued by Shri R.K. Vyas, DCO, S,
Northern Railway, Chauraha,
Lucknow.

Sir,

Against the punishment notice mentioned
above, the appellant undersigned has to prefer
this appeal to your Honour on the grounds set out
ed hereunder, preceded by brief history of the
case as follows :-

BRIEF HISTORY OF THE CASE

1. That the appellant undersigned was
working as Jy.C.O.S., Chauraha, Lucknow,
from 1961 to 1965. The appellant was in charge
of Ward No. 1. In the month of February/March
1965, some ~~Requisition~~ ^{Requisitions} were received by the
appellant from various Senior Subordinates
pertaining to solder soft, tin ingots etc. and
other material. The material was to be taken
out by messengers having authority of 1st Rentors.
Accordingly, after completion of the entire pro-
cedure laid down in the Store Code, the appen-
dant issued material and prepared six
passes for the same in form of function
DOR. The names of the special messengers
were S/Chaitan, S/Chaitan, S/Chaitan, S/Chaitan,
S/Chaitan and S/Chaitan. The material was
issued in the month of March 1965 by Shri R.K. Vyas, DCO, S,
Northern Railway, Chauraha, Lucknow. (DOR-5)

2/11/65
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No.E/S/538 dated 10.4.86 was issued against the appellant. The appellant replied on which enquiry was set-up and Shri D.R. Manchanda, V.O., was appointed as Enquiry Officer. During the course of enquiry, prejudice in favour of the vigilance was clearly intelligible because the learned Enquiry Officer did not provide reasonable facilities of self-defence to the appellant and completely relied upon the story fabricated by the Vigilance Inspector. The documents required by the appellant for his self-defence were neither made accessible nor were furnished in photostat copies. One side investigation of the Vigilance Inspector was held reliable and the appellants' defence was rejected without being given consideration in its due process. The salient features of procedural lapses are detailed hereunder as grounds of appeal.

GROUND'S OF APPEAL

1. The punishment notice is unjust, perverse and worth being set aside on the following grounds :-

(a) Because the learned DCOS/CB, Lucknow, has failed to record detailed reasons which convinced him that this matter amounts to a grave mis-conduct and that an ultimate punishment of removal from service is well deserved in the instant case. The learned

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1/2

D.C.O.S., Northern Railway, Charbagh, Lucknow, should have recorded his own findings on ~~which~~ each charge in order to enable the appellant to controvert these conclusions in this appeal. A proper opportunity of coming in appeal before your honour has, therefore, not been provided to the appellant by the learned competent authority.

(b) Because the learned Enquiry Officer has also relied upon evidence on record which actually does not prove in disregard of rules or procedure by the appellant. While following the procedure prescribed by the administration, an employee can also possibly be duped by mis-creants and in that case the highest penalty of removal from service cannot be held justified. The learned Enquiry Officer has, therefore, failed to apply his own mind on the facts and possibilities of the appellant being made victim of a conspiracy hatched by other persons.

(c) Because the learned Enquiry Officer has failed to provide documents demanded by the appellant with contention that the same could form basis of his self-defence. Issue Notes No.09/2926 dated 31.3.84, 02/2979 dated 7.3.84, 09/2492 dated 15.2.85, 02/2573 dated 5.3.85, 02/2697 dated 25.3.85 together with gate passes dated 21.3.84 and 24.4.84 were essential for a self-defence of the appellant,

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unofficially copy

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non-provision of which has resulted into complete failure of natural justice. The learned competent authority has failed to take this fact into consideration.

(d) That the charges No.1 and 2 have been held as proved by the learned Enquiry Officer while the same contained dates on which the appellant was not working but he had been placed under suspension prior to those dates. The charges, therefore, stand vitiated by mis-carriage of justice and the entire proceeding based thereon is a complete nullity under existing case law.

(e) Because the arbitrary denial of the opportunity of going through and making reference to some additional documents by the learned Enquiry Officer, has also resulted in failure of justice and consequent vitiation of enquiry proceedings. On this ground alone, the findings of the Enquiry Officer and the punishment by the learned competent authority can be successfully assailed.

(f) That the entire investigation of the Vigilance Inspector in this case was one sided, mis-guided and malicious. He did not probe into the actual facts and find out the real culprit of this case. Instead of tracing out the persons hatching conspiracy for mis-appropriation of Railway material, he collected evidence against the custodian of the property

7/5
(47) (57)

himself. The learned Enquiry Officer and the competent authority has placed reliance on these prejudicial view points of the Vigilance Inspector resulting into complete mis-carriage of the principles of natural justice.

(g) That the learned Enquiry Officer and the competent authority have also relied upon presumptive opinion of the Vigilance Inspector and believed his story of deliberate destruction of gate passes by the appellant. This resulted into a pre-conceived notion against the appellant and the punishment was consequently based on conjectures and surmises. The responsibility of the prosecution to prove their allegation and to substantiate charges has been over-looked and the burden of proof has been erroneously saddled upon the party charged. This has resulted into deliberate injustice against the appellant by the learned competent authority.

(h) Because the vigilance has completely failed to establish on record that the rules of procedure were not followed by the appellant. Lapses even after following prescribed procedure cannot be held to be a deliberate mis-conduct worth being punished with removal from service.

(i) That the DCA Rules enquiry is a quasi-judicial proceeding in which the justice

Why

*Impd
Court 19/5/54*

should not only be done but should also look to have been correctly administered. The learned competent authority has failed to provide proper reasons for his conclusion and therefore this punishment deserves being set aside on this ground alone.

(j) That in any case the punishment awarded to an employee should not be disproportionate or excessive. Even if there are procedural lapses by a railway employee due to which some mis-appropriation takes place, if the intention of the employee is not proved bad beyond a shadow of doubt and in case the prescribed procedure has been followed by him correctly, errors, if any, do not deserve such a serious punishment as awarded to the appellant in this case.

P_R_A_Y_E_R

It is, therefore, prayed that your honour may be pleased to re-consider the entire evidence on record as well as non-provision of reasonable facilities of self-defence to the appellant and to please revise decision of learned DCOS, Channarayana by setting this unnatural, harsh and unjust penalty aside. In case your honour is still not convinced of the justification for setting aside this penalty as prayed for in the foregoing paras, the appellant may kindly be permitted to request for a personal hearing in which the appellant may have a proper opportunity of explaining matters prima facie before your honour.

DATED : OCT. 25 1933

Ashu Tish Roy
(A.T. ROY)
APPELLANT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

Civil Misc. Application No. 678 of 1991 (L)

IN RE;

Registration (O . A .) No. 237 of 1990 (L,

Ashutosh Rai Applicant.

Versus

Union of India & OthersOpp. Parties.

APPLICATION FOR CONDONATION OF DELAY IN FILING
COUNTER REPLY.

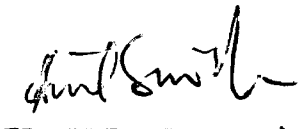
That delay in filing counter reply is not intentional or deliberate but due to administrative and bonafide reasons, which deserves to be condoned.

P R A Y E R

Therefore, it is most respectfully prayed that in the interest of justice, delay in filing counter reply may kindly be condoned and counter reply may be taken on record,

Lucknow.

Dated. 11/11/1991


(ANIL SRIVASTAVA)
Advocate

Counsel for Respondents.

*Filed today
by
1/11/91*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW. 8/8

Registration O.A.No.237 of 1990

Ashutosh Rai Applicant.

Versus

Union of India & others OpporP arties.

C O U N T E R R E P L Y

I, Jagdish Narain working as
Asstt. Personnel Officer in the office of Dy.
Controller of Stores, Northern Railway, Alambagh,
Lucknow, do hereby solemnly affirm and state as
under :-

1. That the official abovenamed is working in the
office of Dy. Controller of Stores, Northern
Railway, Alambagh, Lucknow and as such he is fully
conversant with the facts and circumstances of
this case. He has been authorised on behalf of
all the opposite parties to answer and file present
reply.

Contd2

हस्ताक्षर
उपायक कार्यालय अधिकारी (भंडार)
उत्तर रेलवे जालमवाग
वहनऊ।

2. That the contents of paras 1 to 4 of the Original Application do not call for any reply.

3. That ~~the contents of para 3~~ ⁱⁿ ~~of~~ the original application there is no para no. 5 and as such it require no reply.

That the reply ~~of~~ para 6 of the original application given as under :-

4. That the contents of paras 6.1 & 6.2 of the original application are admitted.

5. That the contents of para 6.3 of the original application are wrong as such denied. It is further submitted that during applicant's ^{he} working in the office ~~has~~ been imposed punishment several times.

6. That the contents of para 6.4 of the original application are admitted.

7. That the contents of para 6.5 of the original ^{and} application are false ~~as~~ such denied. It is further submitted that applicant had been issued chargesheet for his careless and neglegent work-

ing and for the same he had been punished several times.

8. That in reply to the contents of para 6.6 of the original application it is submitted that promotion of the applicant on the post of senior clerk had been made as per his seniority, adopting the channel of promotion.
9. That in reply to the contents of para 6.7 of the original application it is submitted that applicant was promoted and posted as wardkeeper (new DSKIII) as he desired to work on the job and also as per requirement of vacancies. Applicant was promoted by the administration for the cause of work.
10. That the contents of para 6.8 of the original application are admitted to the extent that applicant was posted to work as DSK-III in ward no. 09 under DCOS/CB-LKO. It is further submitted that in the year 1985 vigilance Branch of Headquarters of New Delhi, caught a case of mis-appropriation of Railway material worth Rs.1,55,000/- in stores depot/ Northern Railway , Charbagh, Lucknow and applicant alongwith 6 other employees
- h. 25-10-91
25-10-91
25-10-91

was placed under suspension with effect from 12.7.85 and as a consequence a case was contemplated against him by the Vigilance Branch. A copy of suspension order is enclosed as annexure no. 3 to the original application.

11. That in reply to the contents of paras 6.9 to 6.12 of the original application it is submitted that averments made in this paras are misleading as such denied . It is further submitted that applicant who was custodian of Railway material while working as DSK-III under DCOS/CB-LKO during Feb/ to March/85 comitted grave misconduct and contravened Rule No. 3 (1) (i) (II) & (iii) of Railway Services Conduct Rules 1966.in as much as he prepared six gate passes for 529.4 Kg. Tin Ingot 114.1 Kg. Solder Soft and 23 Kg. Rotwal Bearing Matal costing approximately Rs.1,55,000/- on fictitious requisitions and allowed those materials to go out of the Store GATE on the strength of those gate passes . A copy (photo copy) of all enclosures are attached with chargesheet dated 10.4.86 as annexure no. 5 to the original application.

12. That in reply to the contents of paras 6.13 & 6.14 of the ~~xxx~~ original application it is submitted that the applicant alongwith 6 other employees of C.B. Stores depot were placed under suspension from 12.7.85 as case for mis-appropriation of Railway Material was instituted against the applicant.
13. That in reply to the contents of para 6.15 of the original application it is submitted that applicant was issued a major penalty memo vide no. E/S 538 dated 10.4.86 after investigating the case properly by the Vig. Branch alongwith the Statement of charges and allegations and list of relied upon documents alongwith a list of Witnesses were also supplied to the applicant.
14. That in reply to the contents of para 6.16 of the original application only this much is admitted that Shri D.R. Manchanda Enquiry Inspector, D.R.M., NDLS was appointed to conduct enquiry as per orders issued vide letter no. E/S/538 dated 28.10.87.
15. That the contents of para 6.17 of the original application do not call for any comment.

25-10-91
सहायक कार्यालय प्रविष्टि (पंडार)
उत्तर प्रदेश सरकार

16. That in reply to the contents of para 6.18 of the original application it is submitted that G.M.(Vig.) NDLS was informed by the office of answering respondent to supply the relied upon document to the applicant vide letter nos. E/S 538 dated 17.4.87 and 19.5.87 respectively.

17. That the contents of para 6.19 of the original application are admitted.

18. That in reply to the contents of paras 6.20 & 6.21 of the original application it is submitted that relied upon document as shown in annexure no. 3 to the original application have been supplied to the applicant. Any averment contrary to it is denied.

19. That the contents of para 6.22 of the original application are false and as such denied.

20. That in reply to the contents of para 6.23 of the original application it is submitted that seeing the interest of administration and the work of the office competent authority considered to revoke the suspension and accordingly suspension of the

re. 10/91
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applicant alongwith 6 others was revoked on 16.10.87, it is further submitted that applicant was posted under ACOS/MGS which is under depot complex under Dy. COS/AMN.

21. That the contents of the paras 6.24 & 6.25 of the original application are admitted.
22. That in reply to the contents of paras 6.26 of the original application it is submitted that applicant was furnished with relied upon relevant documents and any thing contrary to it is denied.
23. That the contents of paras 6.27 & 6.29 of the original application are admitted.
24. That in reply to the contents of para 6.30 of the original application it is submitted that it is on the discretion of Enquiry Officer to cross examine as many members as he deems to fit for the purpose. Therefore saying that only two members were called before applicant has got no weightage.

२५.१०.८७
सहायक कामिक अधिकारी (मंडार)
उत्तर रेलवे आनमबाग
बखनऊ।

25. That in reply to the contents of paras 6.31 & 6.32 of the original application it is submitted that enquiry was conducted under rule 9 of D & AR rules 1968 by Enquiry Officer Shri D.R. Manchanda and the proceedings of enquiry alongwith findings of Enquiry Officer was sent under clear signature of Enquiry Officer vide confidential letter no. F259 /240-27/Vig.]87/EI dt. 13.7.88, any averment contrary to it is denied.

26. That the contents of para 6.34 of the original application are false and as such denied. It is further submitted that disciplinary Authority examine the case of the applicant and other relevant records and also agreed on the findings of the Enquiry Officer. It is stated that on the grave misconduct on the part of the applicant a order of removal was passed by the authorities concerned.

27. That the contents of para 6.35 of the original application are admitted.

28. That in reply to the contents of para 6.36 of the

सहायक कमिशन अधिकारी (बंदार)
उत्तर प्रदेश के नगरपालिका
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original application it is submitted that appellate authority after considering the appeal of the applicant, up hold the judgement of disciplinary authority. Any thing contrary to it is not admitted.

29. That the contents of paras 7 & 8 of the original application do not call for any reply.

30. That in reply to the contents of para 9 of the original application it is submitted that the grounds taken are false, misconceived, irrelevant and not applicable to instant case of the applicant.

31. That in reply to the contents of para 10 of the original application it is submitted that the relief claim is devoid of any merit and as such is liable to be dismiss against the applicant and infavour of the answeringx respondents with cost.

Lucknow.

Dated : 25/12/01

U. - 25-10-01
 उद्योग - विभाग (अधीनस्थ)
 उत्तर प्रदेश सरकार
 लखनऊ

VERIFICATION
=====

I, the official above named deponent do hereby verify that the contents of para 1 of this counter reply are true to my best knowledge and those of paras 2 to 31 of this counter reply are believed to be true on legal advice.

Lucknow.

Dated :

[Handwritten signature]
28-10-91
[Signature] (पंडार)
[Signature]
[Signature]

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH LUCKNOW

O.A. NO. 237 OF 1990 (L)

Ashutosh Rai

Applicant.

VERSUS:

Union of India and others.....

Opp. parties.

REPLY TO THE AMENDED PARAS OF THE
ORIGINAL APPLICATION

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16/11

I, Jagdish Narain, working as Assistant Personnel Officer, in the office of District Controller of Stores, Northern Railway, Alambagh, Lucknow, do hereby solemnly affirm and state as under:

1. That the official above named working as Assistant Personnel Officer, in the office of District Controller of Stores, Northern Railway, Alambagh, Lucknow and as such he is fully conversant with the facts of the case and he is fully competent to file the present reply.

2. That the contents of amended paragraph 37 of the original application are categorically denied. The Appointing Authority of class

16-11-92
A.P.O

: 2 :

III, staff is Senior Scale Officer who is District Controller of Stores. In terms of item no. 6, 7, 8 of the Schedule II for Schedule of disciplinary powers, the District Controller of Stores is empowered and is competent to remove an employee of Group 'B' and Group 'C' upto and including the grade of Rs. 1600-2660 (RPS). A copy of Schedule II of disciplinary powers is being annexed herewith as Annexure No. C-1 to this counter reply. A photostat copy of supporting Schedule in respect of delegation of powers is also being annexed as Annexure No. C-2 to this counter reply.

ANNEXURE
NO.C-1

ANNEXURE
NO.C-2

3. That the contents of amended para 38 of the original application are categorically denied. The appointing authority in respect of class III staff upto and including the grade of Rs. 1600-2660 (RPS) is the Senior Scale Officer. The District Controller of Stores is a Senior Scale Officer *equivalent to the rank of D. P. O. and Work Manager*. A perusal of Annexure No. C-1 and C-2 of this counter reply will make it abundantly clear that District Controller of Stores is the *disciplinary* authority in the case of applicant and accordingly he can remove an employee i.e. applicant from service as per Schedule II of Rule No. 7 of Discipline and Appeal Rules, 1968. At the time of his removal the

16.11.92
A.P.O

: 3 :

applicant was in grade Rs. 1400-2300 (RTP) as such the removal order of the applicant is a perfectly valid and legal order and there is no infirmity in it.

4. That the contents of amended para 39 of the original application are denied. The promotion order dt. 28/2/80 filed by the applicant is signed by the Assistant Personnel Officer but on behalf of Deputy Controller of Stores. This does not mean that Deputy Controller of Stores has become the Appointing Authority of the applicant. Infact, Deputy Controller of Stores is a higher officer than the Appointing Authority of the applicant. The applicant has rightly been removed by the approval of appropriate/competent authority prescribed under the rules. The applicant mis-appropriated the Railway material worth Rs.1,55,000/- which indicates the gravity of charges. The charges against the applicants stood fully proved after following the disciplinary due procedure as per rule.

5. That the contents of amended para 40 of the original application are categorically denied. As per Schedule of powers for establishment matters and disciplinary powers as shown in Annexure No. C-1 and C-2 to this reply, the

16/11/82
A.P.O.

: 4 :

District Controller of Stores being the senior scale officer is fully empowered/competent to remove the applicant from service, being the Appointing Authority of the applicant.

6. That it may also be stated that during the enquiry ~~officer~~ proceedings the applicant was afforded with all possible opportunities provided under the rules to defend his case with all the relied upon documents mentioned in the charge sheet, a copy of which is being annexed herewith as Annexure No. C-3 to this reply. The charges against the applicant stood fully proved. The applicant was working as Depot Stores Keeper Grade III and was custodian of Railway materials and, therefore, was responsible for mis-appropriation of railway materials worth Rs. 1,55,000/-. However, the charges against the other employees were different than of the applicant.

Lucknow;

Dated: 16/11/1992.

(Jagdish Varain)
Assistant Personnel
Officer

VERIFICATION:

I, the above named, officials do hereby verify that the contents of paras 1 to — are true to my own knowledge and those of paras 2 to 6 are based on legal advice and records. No part of it is false and nothing material has been concealed. So help me god.

Lucknow;

Dated: 16/11/1992.

(Jagdish Varain)
Asstt. Personnel Officer.

SCHEDULE-II

(See Rule 1 and sub-rule(2) of R.C.

Schedule of Disciplinary powers and powers of superintendence of grade of Railway Officers and Senior Supervisors in the gazetted staff of Zonal Railway C/W D/L, J.R, Meter Gauge Metro Rail (Calcutta). DCW (Patla) RCF (Kapurthala) and Metro Station Transport Project (Railways)

Supervisor Charge in Rs. 1400-2300 (RS 186)	Assistant Officers. (Junior & scale and Group 'B')	Gr. Scale Officers and Assistant Officers (Junior Scale and Group 'B')	Jr. Administrative grade Officers and Senior Scale Officers Officers holding Scale and Group 'B')	Additional Divisional Railway Managers in relation to the Deptt. attached to them/Divis- ional Railway Managers.	All Senior Admn. Gr. Officers (In the case of all Zonal Rlys this will be confined to only SAC Officer- General at RQs Off- ices) in Scale Rs. 5900-7600 (RS 1861) including Principal Heads of Department.	Additional General Manager in relation to Depts. notified/ Chief Administra- tive Officer/ General
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The Rly.
will
carry lists
of Supervisors
charge for
the purpose.

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4

5

6

7

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FILED

16-11-84

contd. p/1

1. CENSURE

2	3	4	5	6	7	8
Group 'L' and Group 'C' staff in grades upto and including Rs. 1400-2300 (Rs. 186)	Group 'D' and Group 'C' staff except in Grade Rs. 2200-3200 (Rs. 186) and above.	Group 'D' and Group 'C' staff.	Group 'L' and Group 'C' staff.	Group 'D' and Group 'C' staff.	Group 'D' and Group 'C' staff.	Group 'D' and Group 'C' staff.

2. WITH-HOLDING OF PAY/LEAVE PASSES AND/OR PDS

Group 'L' and Group 'C' staff in grades upto and including Rs. 1400-2300 (Rs. 186)	For Officers with 10 years and less as Gazetted Officers-Group 'D' and Group 'C' staff except in grade Rs. 1600-2560 (Rs. 186) and above. For Officers with more.	Group 'L' and Group 'C' staff.	Group 'D' and Group 'C' staff.	Group 'D' and Group 'C' staff.	Group 'D' and Group 'C' staff.	Group 'D' and Group 'C' staff.
--	---	--------------------------------	--------------------------------	--------------------------------	--------------------------------	--------------------------------

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Group 'D' and Group 'C' staff in grades upto and including Rs. 1400-2300 (Rs. 186) and above.

Group 'L' and Group 'C' staff in grades upto and including Rs. 1400-2300 (Rs. 186) and above.

2
3
4
5
6

than 10 years service as vice as gazetted Officers Group 'D' and Group 'C' staff except in grade Rs. 2000-3200 (RS'86) and above.

3(a) WITH-HOLDING OF PROMOTIONS & WITH-HOLDING OF INCURMENT
3(b) REDUCTION TO A LOWER STAGE IN TIME SCALE OF PAY FOR PERIOD NOT EXCEEDING 3 YEARS, WITHOUT, COMULATIVE EFFECT AND NOT AFFECTING PENSION.

Group 'D' and Group 'C' staff who are 3 grades below and lower than the disciplinary authority No Powers exercisable where a qualification under Rule 11(2) is required.	Group 'D' and Group 'C' staff except in grade Rs. 1400-2300 (RS'86) and above.	Group 'D' and Group 'C' staff except in Grade Rs. 1600-2360 (RS'86) and above.	Group 'D' and Group 'C' staff.	Group 'D' and Group 'C' staff.	Group 'D' and Group 'C' staff.	Group 'D' and Group 'C' staff.
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ALLIED
16-11-82

(16)

1 Group 'D' and Group 'C' staff who are 3 grades below and lower than the Disciplinary Authority.

2 Group 'D' and Group 'C' staff in scale of pay missing upto and including Rs. 1800 (Rs. 186)

3 Group 'D' and Group 'C' staff except in grades Rs. 1600-2660 (Rs. 186) and above.

4. RECOVERY FROM PAY OF PENULTIMATE LOSS CAUSED TO CONVENIENT BY NEGLIGENCE OR BREACH OF ORDER

Group 'D' and Group 'C' staff.

5 Group 'D' and Group 'C' staff.

6 Group 'D' and Group 'C' staff

7 Group 'D' and Group 'C' Staff.

5.(a) REDUCTION TO A LOWER TIME SCALE OF PAY GRADE, POST OR SERVICE.

Group 'D' and Group 'C' staff.

Group 'D' and Group 'C' staff.

Group 'D' and Group 'C' Staff.

Group 'L' Staff.

Group 'D' and Group 'C' staff except in grades Rs. 1600-2660 (Rs. 186) and above.

Attended

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cont...../17

1. 2. 3. 4. 5. 6. 7. 8.

NIL 5. (b) REDUCTION TO LOWER STAGE IN TIME SCALE FOR A PERIOD EXCEEDED THREE YEARS OR WITH CUMULATIVE EFFECT OR ADVERSELY AFFECTING PENSION.

NIL	Group 'D' and Group 'C' staff in scale of pay rising upto Rs.1800 and including Rs.1800 (RS'86).	Group 'D' and Group 'C' staff except in grade Rs.1600-2660 (RS'86) and above.	Group 'D' and Group 'C' staff.	Group 'D' and Group 'C' staff.	Group 'D' and Group 'C' staff.	Group 'D' and Group 'C' staff.	Group 'D' and Group 'C' staff.
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Appointing & authority or an authority of equivalent rank or any higher authority.

- 6. COMPULSORY RETIREMENT
- 7. REMOVAL FROM SERVICE.
- 8. DISMISSAL FROM SERVICE.

9. SUSPENSION (This is not a penalty)

Group 'D' and Group 'C' staff	Group 'D' and Group 'C' staff.	Group 'D' and Group 'C' staff.	Group 'D' and Group 'C' staff.	Group 'D' and Group 'C' staff.	Group 'D' and Group 'C' staff.
-------------------------------	--------------------------------	--------------------------------	--------------------------------	--------------------------------	--------------------------------

Group 'D' and Group 'C' staff in scales of pay rising upto and including Rs.1540 (RS'86) subject to Group 'D' and Group 'C' staff drawing Rs.1800 (RS'86) and upto and including Rs.1600-2660 (RS'86).

Attested
16/11/86

Contd..P/18...

1. Report to
2. District
3. Officer or
4. Assistant
5. Officer
6. In-charge
7. within 24
8. hours in
the case
of Group
(C) staff.

Note: (1)

The appellate authorities in the case of authorities mentioned in this schedule shall be as shown in the next column, whereas in the case of the authority specified in the last column, the appellate authority shall be the President, provided that, if post shall be that shown in the next column does not exist, the appellate authority

(2) The appointing authority or an authority of equivalent rank or any higher authority who is competent to impose the penalties of dismissal, removal or compulsory retirement may also impose any lower penalties.

MASIHUZZAMAN)
Secretary, Railway Board.

Note: The Principal Rules were published in the Gazette of India vide Notification No.E(D.A.) 66 RG6-9 dated 22.08.1968 (S.O. No.3181 dated 14.09.1968), subsequently, the following amendments have been made to the Railway Servants (Discipline & Appeal) Rules, 1963:-

Contd.p/19...

Annexure No. C-2

SCHEDULE C
Powers of General Manager delegated to Divisional Supdts., S.M. (W), Dy. C.M.E. (Workshops), Dy. C.E.E. Hd. Qrs. and Principal, Zonal Training School, Chandausi.*

No.	Nature of Items	Authority	Powers delegated to D.S., S.M. (W), Dy. C.M.E. (W) and Dy. C.E.E. (HQ. Divn.) dealing with Workshops.	Extent to which powers have been redelegated to other subordinate officers by G.M.
1	2	3	4	5
(a) ESTABLISHMENT MATTERS				
1 Creation of posts. To create posts on non-gazetted establishment other than posts controlled by Hd. Qrs. Office in the Authorised scales rising up to Rs. 380 - and in categories approved by the Railway Board subject to the terms and conditions prescribed from time to time and also the following restrictions.	Item 8 of App. VII-G-II.	Full powers. The Divl. Supdts. may also create in consultation with their respective D.A.Os. (i) Higher grade Class III posts as are governed by percentage basis & are controlled by the Divisions excluding the clerical staff required for D.Ss. own offices except that chargeable to capital works etc. within the percentages as may be fixed by Hd. Qrs. Office from time to time. (ii) Class III posts of running staff viz. Guards and Drivers which may be found necessary due to revision of links and which are governed by definite criteria laid down by the Rly. Bd. such as 'A' grade Guards and Drivers for Mail trains etc. (Serial No. 2326). (iii) Divl. Supdts. only - Full powers to create and extend W/charged posts and grades rising up to Rs. 380/- up to one year from the date of initial creation which are specifically provided for the sanctioned estimates letter No. 743E 32 (Eiv), dt. 7-8-70.		
(i) Any addition to or revision of any clerical strength of Divl. Supdts. own office except that chargeable to Capital works etc., would require sanction of G.M. or the authority to whom the powers is delegated by him.		(a) The DENs, DMES and D.E.Fs, DSTE & W.M., may sanction posts chargeable to estimates (Capital depreciation reserved fund development or revenue). They may also sanction Ty. posts in connection with revenue works for which no estimates are prepared and which can be sanctioned by them subject to the restrictions imposed by code rules & subsidiary orders issued from time to time. (b) D.M.O. may sanction the engagement of casual labour for any sanctioned work approved by D.Ss.		

* Principal, Zonal Training School, Chandausi will exercise powers in respect of Item (a) 1, 3, 4, 5, 6, (a) 6 (b) 7, 8, 11 to 13, 16, 18, 19, 20, (a) (b) & (d) 21, 22, 24, 25, 28, 29, 31 to 37, 40 to 48, 50 (Serial No. 5060).

Approved


1	2	3	4	5
	(ii) Powers to create posts of Signallers in Authorised scale Rs. 110-200 & Rs. 150-240 can be exercised only after obtaining approval of C.O.P.S. to such proposals.			<i>Note.</i> —The scales of pay of Casual Labour will be regulated by the orders contained in Rly. Bd's letter No. E48CPC/150, dated 15-5-1951 as amended from time to time.
	(iii) In categories in Class III service the posts will be created in the lowest grade.			
	(iv) In respect of Rly. Schools no post should be created.			

Note.—These powers have been curtailed in terms of G.M.(P)'s letter No. 743-E/62 (EIV), dated 7-5-1965 till this restriction is withdrawn.

2	To abolish any permanent post on subordinate Establishment subject to report being made to the General Manager in respect of posts controlled by Hd. Q's Office.		Full powers.	Nil
3	<i>Appointments</i> To appoint all Class III staff except in grades controlled by the Hd. Q's. Office subject to the terms and Conditions prescribed from time to time.	Para 134-R-1	Full powers.	D.P.Os and W.Ms.—Full powers.
4	To appoint all Class IV staff	Para. 134-R-1	Full powers.	D.P.Os and W.Ms.—Full powers Assit. Engineer (for Engineering labour) and A.P.O. for other staff subject to the conditions that all appointments are made in the lowest grade of each class subject to the observance of rules regarding recruitment.

Annexure No C-3

2.

उत्तर रेलवे/NORTHERN RAILWAY

जी.एल. 19/G.L. 19
जनरल 99-बड़ा/Genl. 99-Large

ANNEXURE III

List of documents by which the articles & charges framed against Shri A.T. Roy, DSN-III/ under DCS/33-LHC is proposed to be sustained.

S.No.	G.P.No.	dated	Qty.
(37)	1.	452/58/09/1704 dt. 15.2.85	10.1 Kg. Soldier soft.
			32.2 Kg. 1 in ingot
(36)	2.	452/58/09/1702 dt. 15.2.85	111.5 Kg. Tin Ingot
			50.2 Kg. Soldier soft.
(35)	3.	462/58/09/1742 dt. 5.3.85	84.3 Kg. Tin Ingot
(34)	4.	452/58/09/1685 dt. 5.2.85	84.2 Kg. Tin Ingot
			44.1 Kg. Soldier soft.
(32)	5.	452/58/09/1677 dt. 1.2.85	122.5 Kg. Tin Ingot
(33)	6.	462/58/09/1772 dt. 25.3.85	43.2 Kg. Tin Ingot
			23.0 Kg. Roller Bearings.
(31)	7.	Reqn. No. 757267 dt. 1.2.85	Issue Note No. 8 dt. 1.2.85
(30)	8.	Reqn. No. 757268 dt. 1.2.85	09-2424 dt. 1.2.85
(29)	9.	Reqn. No. 757265 dt. 21.1.85	-30-
(28)	10.	Reqn. No. 254786 dt. 8.2.85	09-2401 dt. 1.2.85
(27)	11.	Reqn. No. 254787 dt. -do-	09-2432 dt. 15.2.85
(26)	12.	Reqn. No. 185678 dt. 20.3.85	09-2483 dt. -do-
23	13.	Minus I/ Note No. 09-1750 dt. 11.10.84	09-2698 dt. 25.3.85
(24)	14.	Minus II/ Note No. 09-1757 dt. 11.10.84	
21	15.	Statement of Sh. R. F. Singh, DCS/33/LHC dated 24.5.85.	
20	16.	Statement of Sh. Sat Pal, DCS/33/LHC dt. 27.5.85	
19	17.	Statement of JTI/ALM dt. 25.6.85	
18	18.	Statement of SMC/Const/MD dt. 1.7.85	
162	19.	Statement of Sh. Rais Ahmed Khan of DCS/33/L C.	
15	20.	Statement of Sh. Bairang Bahaduri Srivastava, Sr. R. & S. Store/DC dt. 27.5.85.	
151	21.	N.C. Card No. 9116001 for Tin Ingot.	

Res documents
listed 1 to 21 Serial.
6/4/87

Attested
16/6/87

main copy.

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IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,
LUCKNOW BENCH AT LUCKNOW.

O.A.NO. 237 of 1990 (L)

237/90 (L)

Ashutosh Rai.

.. Applicant

Versus

Union of India & others.

.. Opp. Parties

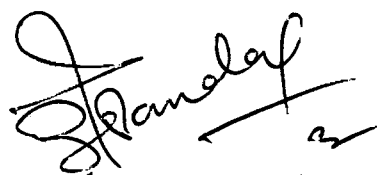
APPLICATION FOR CONDONATION OF DELAY
IN FILING REJOINDER REPLY .

My Lord,

In regards to submit the reply through rejoinder it could not have filed in due time due to reason that the Applicant due to illness and also residing at Hisaar, Haryana, as such the delay took place in filing the same in unavoidable circumstances is liable to be condoned. It is therefore, respectfully prayed that the rejoinder may be taken on record after condoning unavoidable delay without any fault of the Applicant.

Ashu Tosh Roy-
Applicant.

Lucknow,
Dated January 7, 1993.


(R. B. Pandey)

Advocate,
Counsel for the APPLICANT.

ATTESTED SIG.

Ashu Tosh Roy



A
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IN THE HON'BLE CHIEF JUSTICE'S COURT, BOMBAY, S.D.,
CIRCUIT BENCH AT MUMBAI.

O.A.No.237 of 1990 (L)

Ashutosh Rai.

Applicant

VERSUS

Union of India & Others.

Opponents

RE JOINT REPLY

I, Ashutosh Rai, s/o late G.P. Rai, aged about 60 years, resident of 53 B.C.P.R. Colony, Ahera Bagh, Mumbai 5 be the Applicant in the above noted case solemnly affirm and state as under :-

1. That the contents of para 1 to 3 of the counter reply needs no comment.
2. That the contents of para 4 of the counter reply also needs no reply being admitted.
3. That the contents of para 5 to the counter reply as alleged are wrong, hence denied and related paragraph of the Application be reiterated as correct.
4. That the contents of para 6 of counter reply needs no comments.
5. That the contents of para 7 of counter reply as alleged are wrong and denied, those of related paragraph of the Application be reiterated as correct. The Applicant's whole life is in meritorious service. He has falsely implicated at the verge of retirement.

Ex

6. That the contents of para 8 to 10 of the counter reply made to correct the factual position written by the respondents in para 10 of the application it is stated that by virtue of the suspension order issued by Vigilance Department the staff members were suspended and all have been reinstated but the punishment awarded only to Applicant without any fault of his own. None of the opportunity was given to Applicant according to the rule required and the punishment awarded is illegal in denial of reasonable opportunity it is wholly bad in law and is liable to be set aside.

7. That the contents of para 11 of the counter reply the related paragraph of the Original Application is reiterated as correct. It is further submitted that the Applicant has committed no fault and he has falsely implicated by virtue of suspension order and charge sheeted and none of the opportunity was given. The copy of the material evidences were also not been supplied. The factual position narrated in the counter reply are the subject matter of fulfilled inquiry which has not been done according to the law and with providing the opportunity to Applicant the action unlawfully done by the respondents. It further stated that the similar charge sheet was given to several persons including Applicant and out of several witnesses the only two have been relied upon by the enquiring officer and the person having more responsibility for alleged irregularity have given only the minor punishment and rest of others have been reinstated without any punishment. Thus for the petitioner no equal treatment had been done and gravity of charges does not commensurate the position, while the entire position is admitted.

ATTESTED SIG

V. S. K. Tosh Roy

8.

That the contents of para 12 of the counter reply regarding the factual position written in para 6.13 and 6.14 of the Application are correct.

the further allegation alleged in the counter reply is denied with this effect that on the part of the Applicant no misappropriation of Railway material was ever found and proved. The enquiry has not been done according to law after providing the reasonable opportunity required to him.

9. That the contents of para 13 of the counter reply it is submitted that without any foundation the charge sheet against the Applicant was issued and in this regard it is also stated that the additional evidence required by the Applicant were not supplied which is also admitted position. Hence para 6.15 of the Application be reiterated as correct.

10. That in reply to para 14 of the counter reply regarding the appointment of enquiry officer Mr.D.M.Manchanda it is stated that Mr.Manchanda was biased as on the basis of complaint raised by Vigilance Department the entire proceedings were conducted and held Mr.Manchanda also at the time of of enquiry posted in the Vigilance Department, so much the status of the enquiry officer was not a witness in the entire case. Hence para 6.16 of the Application be reiterated as correct.

11. That the contents of para 15 of the counter reply needs no comment.

12. That the contents of para 16 of the counter reply it is submitted that the Applicant had demanded the copies of the evidence but the additional evidence whatever demanded on 18.5.87 vide paragraph 11 have not been supplied accordingly. Hence para 6.18, of the Application be reiterated as correct.

That the contents of para 17 of the counter reply needs no comment.

14. That the contents of para 13 of the counter reply the respondents have not replied according to

ATTACHED FILE

ASTM TOSH/27

After 14.

7/2

pleading of para 6.20 and 6.21 of the Application. Hence para 6.20 and 6.21 be reiterated as correct. It is further stated that the additional documents required by the Applicant have not been supplied which is denial of reasonable opportunity and the impugned order does not sustain in the eye of law by virtue of this major legal defect.

15. That the contents of para 19 of counter reply as alleged are wrong, have been denied, and those of para 6.22 be reiterated as correct.

16. That the contents of para 20 of the counter reply it is stated that the suspension order was revoked on dated 16.10.37 and the Applicant as a measure of punishment was transferred from Lucknow to Mughal Serai. While the inquiry was scheduled at Delhi while the defence counsel taking legal help to Applicant was situated at Lucknow. This all action appears to be a false intention for Applicant's only.

17. That the contents of para 21 of counter reply are no content as admitted.

18. That the contents of para 22 of counter reply as alleged are wrong and denied. It is further stated that the contents of para 6.26 of the Application be reiterated as correct. It is further submitted that the Applicant during the course of inquiry was denied the copy of additional documents, according to Annexure 11 which has not been supplied.

19. That the contents of para 23 of the counter reply are no content.

20. That the contents of para 24 of the counter reply as alleged are wrong, have been denied and those of para 6.30 of the Application be reiterated as correct. It is obligatory upon the enquiring officer to provide the opportunity for cross examination and production in chief with

As per To Sh Rkr

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[Signature]

withdrawn. It is not the discretion of the
inquiring officer. The jurisdiction and scope of
the inquiring officer is very well limited within
mandatory provision of law. The discretion of
inquiring officer flouting the law is no excuse.

21. That the contents of para 25 of the counter reply
as alleged are totally wrong, out of context and
thought, hence denied, and those of para 6.31 and
6.32 be reiterated as correct. It is evident by
virtue of the annexed photostat copy of the inquiry
report that it has not been signed by any of the
authority. It is not understood that how the
contrary statements are being given by the
authority.

22. That the contents of para 26 of the counter reply
as alleged are wrong and denied and those of para
6.34 of the Application be reiterated as correct.
It is also stated that the reply of para 6.33 of the
Application has been admitted without reply. It is
further submitted that the disciplinary authority
also without application of mind passed the impugned
order in cyclostyled order that is arbitrary and
not speaking.

23. That the contents of para 27 of the counter reply
has no content.

24. That the contents of para 28 of the counter reply
as alleged are wrong and denied and those of para
6.36 of the Original Application be reiterated as
correct. It is further stated that the actual
disciplinary authority is this corrected and
exercised his power as disciplinary authority humbly
very wrongly and in an arbitrary manner which is
illegal.

Ashu Tosh Rev
SITG.

25.

That the reply of para 6.37 to 6.40 of the Original
Application which has been included by virtue of
annexure the reply furnished is not correct.

Letter of jurisdiction as stated by the respondents is not correct, hence denied. The sufficient evidence mentioned by filing the same along with the amendment application that the actual appointing and punishing authority for the case of Applicant is opposite party no.3 and opposite party no.2 being a subordinate authority having lower status has no right to pass the major punishment against the Applicant. The opposite party no.3 who wrongly exercised the powers of appellate authority proves the contention of the Applicant that the order passed by opposite party no.3 awarded punishment is beyond jurisdiction. The chart submitted by the respondents also wrongly interpreted. The post of opposite party no.3 has created some time in the year 1974 and for the Applicant the opposite party no.3 was initially appointing authority. Thus by virtue of any schedule the status for the Applicant cannot be changed, remaining other action of promotion, confirmation etc all action have been done by the opposite party no.3. Thus opposite party no.2 cannot be said as punishing authority for the Applicant.

26. That the contents of para 29 of the counter reply needs no comment.
27. That the contents of para 30 and 31 of the counter reply as alleged are wrong, hence denied and those of para 9 and 10 of the Original Application along with grounds mentioned therein read with the grounds mentioned in the amendment be reiterated as correct and this is the example case in which denial of reasonable opportunity had played deliberately and by virtue of legal and factual position also contents admitted by the respondents the impugned order does not sustain in the eye of law and it is to be set aside as the Applicant at the time of the verge of retirement had been punished in a manner so severe that is an excessive punishment which he cannot be held responsible. Thus the

Attn. Tosh Rm
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sought in the application deserves to be allowed.

Verification

I, the above named ... applicant do hereby verify that the contents of paragraphs 1 to 27 of this rejoinder reply are true to my personal knowledge. Nothing material has been concealed and no part of it is false.

Verified on this the 7th day of January, 1993 at Lucknow.

Ashu Tosh Roy

ATTESTED SIG.

[Signature]

Ashu Tosh Roy

APPLICANT.

I, identify the above named applicant who has signed before me.

[Signature]
(R. B. Pandey)
Advocate,

Counsel for the Applicant.

Main Copy

14/10/88

सम्माननीय केन्द्रीय प्रशासनिक न्यायाधिकरण, इलाहाबाद,
लखनऊ पीठ, लखनऊ।

M. P. No. 221/92

याचिका संख्या 237/90 एल

आशुतोष राय

-अभ्यर्थी,

बनाम

भारत सरकार द्वारा महाप्रबन्धक,
उत्तर रेलवे व अन्य

-विपक्षीगण

संशोधन प्रार्थना-पत्र

सतम्मान अभ्यर्थी की ओर से निम्न संशोधन प्रार्थना-पत्र
प्रेषित किया जाता है।

1- यह कि उपरोक्त याचिका में याची ने सेवा पृथक्करण आदेश
दिनांक 29-9-1988 को चुनौती देते हुए उसे अवैधानिक करार व
निरस्त करने हेतु माननीय अधिकरण से प्रार्थना की है।

2- यह कि उक्त याचिका में कतिपय वैधानिक मुद्दे किसी कारण
वशा मुख्य याचिका में छूट गये थे। ऐसी परिस्थिति में निम्न
संशोधन के साथ यह प्रार्थना पत्र प्रस्तुत करने की आवश्यकता पड़ी।
इसे मूल वाद पत्र में संशोधित माना जाय।

3- यह कि प्रस्तर-6 के प्रस्तर-36 के वाद निम्न प्रस्तर जोड़ने की
अनुमति प्रदान की जाय:-

प्रस्तर-37 यह कि याची के विरुद्ध सेवा पृथक्करण आदेश
दिनांक 29-9-1988 मूल रूप से अवैधानिक व क्षेत्राधिकार से परे है।
क्योंकि इसमें नियुक्ति प्राधिकारी द्वारा दण्डादेश पारित करने
नहीं किया गया है। इस संबंध में स्थिति को स्पष्ट करते हुए यह
कहना समीचीन होगा कि याची भण्डार पाल तृतीय के पद से

filed today

copy

12/3/92

As per TOSR for
Signature required
[Signature]

सेवा से पृथक किया गया है जिस पद के नियुक्त प्राधिकारी उप भंडार नियंत्रक विपक्षी संख्या-3 हैं। विपक्षी संख्या-2 विपक्षी संख्या-3 से निम्न स्तर के अधिकारी है। अतएव उनके द्वारा पारित दीर्घदण्ड मात्र ~~व्यव~~ अवैधानिक नहीं वल्लि क्षेत्राधिकार से परे भी है।

प्रस्तर-38 यह कि याची की नियुक्ति तृतीय श्रेणी में लिपिकीय पद पर रेलवे सेवा आयोग द्वारा वर्ष 1953 में हुयी थी। उस समय से लगभग 72-73 तक स्थिति सामान्य थी और तृतीय श्रेणी के पदों पर नियुक्ति अधिकारी का अधिकार विपक्षी संख्या-2 जिला भण्डार नियंत्रक को ही प्राप्त था परन्तु संभवतः वर्ष, 1974 या उसके आस-पास किसी समय उप भण्डार नियंत्रक के पद सृजन हो जाने के उपरान्त सारा अधिकार विपक्षी संख्या-3 में समाहित हो गया। इस संबंध में यह भी उल्लिखित करना आवश्यक है कि जिला भण्डार नियंत्रक विपक्षी संख्या-2 वर्तमान में पद श्रेणी संख्या-3 व उसके अतिरिक्त किसी भी पद के नियुक्त प्राधिकारी नहीं रह गये हैं और वर्ग-3 का पद लिपिकीय पद से ही प्रारम्भ होता है, ऐसी स्थिति में वर्तमान में विपक्षी संख्या-2 किसी भी भांति याची के नियुक्ति प्राधिकारी की गणना में नहीं आते हैं।

प्रस्तर-39 यह कि जैसा कि उल्लिखित किया गया है विपक्षी संख्या-3 उप भण्डार नियंत्रक का पद सृजित होने के पश्चात जो भी कार्यवाही याची के संबंध में या उसके समकक्ष वर्गीय कर्मचारियों के लिए की गयी है वे सभी उप भण्डार

John Tosh Roy
Dy. Commr.
Bihar

नियंत्रक द्वारा ही की गयी है। चूंकि याची के विरुद्ध जिस समय विभागीय कार्यवाही सम्पन्न की गयी है या प्रस्तुत की गयी उस समय उसके नियुक्ति कक्षा उप भण्डार नियंत्रक विपक्षी संख्या-3 ही थे परन्तु अवैधानिक स्म से विद्वेषात्मक भावना से प्रेरित होकर समस्त कार्यवाही जिस भांति जिला भण्डार नियंत्रक विपक्षी संख्या-2 द्वारा सम्पन्न की गयी वह पूर्ण स्म से अवैधानिक व क्षेत्राधिकार से परे हैं। उदाहरण स्वस्म दिनांक 28-2-80 को याची की प्रोन्नति भण्डार पाल के पद पर उप भण्डार नियंत्रक यात्री विपक्षी संख्या-3 द्वारा ही की गयी थी विपक्षी संख्या-3 द्वारा की गयी प्रोन्नति दिनांक 28-2-80 को साक्ष्य के स्म में माननीय अधिकरण के समक्ष संलग्नक संख्या-158 अ० के स्म में अवलोकनार्थ प्रस्तुत की जा रही है।

प्रस्तर- 40 यह कि याची भण्डारपाल तृतीय के पद पर तत्पश्चात् नियमित नियुक्ति प्राप्त किया उसके पूर्व याची ने संबंधित परीक्षा व साक्षात्कार में भी सफल हुआ और दिनांक 23-6-82 का प्रपत्र जो उप भण्डार नियंत्रक विपक्षी संख्या-3 द्वारा पारित किया गया है जिसके द्वारा याची को योग्य घोषित किया गया है उसकी भी प्रमाणित छाया प्रतिलिपि 158 ब० के स्म में माननीय अधिकरण के समक्ष अवलोकनार्थ प्रस्तुत की जा रही है जिससे यह भली भांति सिद्ध है कि याची के नियुक्त प्राधिकारी उप भण्डार नियंत्रक है और जिला भण्डार नियंत्रक द्वारा पारित दण्डादेश अवैधानिक, निर्मूल व क्षेत्राधिकार से परे पूर्ण स्म से खण्डित होने योग्य है। यही नहीं बल्कि याची का

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स्थानान्तरण भी समय-समय पर उप भण्डार नियंत्रक ही करते थे और प्रशासनिक दृष्टिकोण तथा नियुक्ति दृष्टिकोण से उप भण्डार नियंत्रक विपक्षी संख्या-3 ही याची के नियुक्त प्राधिकारी है और उन्हें ही याची के विस्द्व दिया गया दण्ड देने का अधिकार प्राप्त है तथा मुख्य स्म से वही सक्षम प्राधिकारी है। ऐसी अवस्था में याची के विस्द्व पारित दण्डादेश पूर्णस्म से अवैधानिक व निरस्त होने योग्य है।

4- यह कि उक्त तथ्य के संशोधन प्रार्थना के पश्चात यह भी न्यायानुकूल हो जाता है कि याची याचिका के प्रस्तर में उल्लिखित आधारों में भी आवश्यकतार् संशोधन करने हेतु माननीय न्यायालय से निवेदन करे। अतएव आधार के प्रस्तर-7 प्रस्तर-10 के पश्चात निम्न आधार और जोड़ने हेतु याची का निवेदन है।

प्रस्तर- 11 क्योंकि याची के विस्द्व पारित दण्डादेश क्षेत्राधिकार से परे एक ऐसे कनिष्ठ अधिकारी द्वारा पारित किया गया है जिसे याची को दण्ड देने का विधिक अधिकार प्राप्त नहीं है। अतएव दण्डादेश इसी मूल आधार पर निरस्त होने योग्य है।

प्रस्तर-12

क्योंकि याची के विस्द्व पारित दण्डादेश सेवा से पृथक्करण से पूर्व बचाव का समुचित अवसर प्रदान नहीं किया गया और समान स्म से ~~दण्डित~~ अन्य कर्मचारी भी आरोपित किये गये थे उन्हें दोषमुक्त मानते हुए याची को दण्ड स्वस्म सेवा से पृथक् किया गया जबकि याची अवकाश ग्रहण करने के स्तर पर अपनी सेवायें संभवतः पूरी कर चुका था

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ऐसी स्थिति में याची के विरुद्ध पारित दण्डादेश न्यायानुकूल कदापि नहीं कहा जा सकता ।

प्रस्तर-13

क्योंकि याची को जांच रिपोर्ट व जांच अधिकारी की आख्या जिससे दण्ड दिया गया एक वह ~~ब्रह्म~~/सम्यक अभिलेख नहीं कहा जा सकता, क्योंकि न उस पर किसी के हस्ताक्षर हैं न ही कोई तिथि दर्शायी गयी है। ऐसी परिस्थिति में माननीय सर्वोच्च न्यायालय ने यूनिक्स आफ इण्डिया बनाम रमजान खान में जिस सिद्धान्त को प्रतिपादित किया है उससे याची भी लाभान्वित होने योग्य है और यह माना जायेगा कि उसे जांच रिपोर्ट व जांच आख्या नहीं दी गयी है।

प्रस्तर-14

क्योंकि याची के मामले में जो मुख्य व संबंधित साक्ष्य थे उनको नहीं दिलाया गया न ही उनसे जिरह का अवसर प्रदान किया गया जिससे यह सिद्ध है कि याची को उपयुक्त बचाव का अवसर प्रदान नहीं किया गया और समस्त विभागीय कार्यवाही अवैधानिक स्म से भारतीय संविधान के अनुच्छेद 31। §2§ का उल्लंघन करते हुए सम्पन्न करली गयी तथा याची को अनाधिकृत स्म से दण्डित करते हुए उसके समस्त जीवन से छिड़वाया किया गया ।

प्रस्तर-15

क्योंकि याची की लगभग 34 वर्ष विशिष्ट सेवा लाभ को अनाधिकृत स्म से विलुप्त कर दिया

As per To Sh. Ray
Signature: [Signature]
[Signature]

गया और असक्षम अधिकारी द्वारा उसे दण्ड देकर जिस भांति सेवा से पृथक किया गया वह एक अवैधानिक आदेश है। जबकि माननीय सर्वोच्च न्यायालय का यह स्पष्ट मत है कि इन परिस्थितियों में कर्मचारियों के पेंशन न रोके जायें।

प्रस्तर-16 क्योंकि दण्डादेश के पश्चात् याची ने जो अपील किया उस पर भी विभाग ने विना साक्ष्यों का परीक्षण किये हुए निर्णय लेते हुए निरस्त कर दिया जबकि याची को उसके भविष्य निधि आदि का भी भुगतान नहीं किया गया। ऐसी स्थिति में दण्डादेश अवैधानिक, संविधान के अनुच्छेद 31(2) के विपरीत तथा रेलवे प्रशासन द्वारा निर्गत तमाम नियमों के विरुद्ध है जिसमें यह प्राविधान है कि

कर्मचारी को बचाव का पूर्ण अवसर देना चाहिये।
प्रस्तर-17 क्योंकि जांच अधिकारी कास्तर स्वयं साक्ष्यस्म में था अतएव उनके द्वारा की गयी जांच नियमानुकूल नहीं कही जा सकती और संपूर्ण जांच दोषपूर्ण है।
अतएव उपरोक्त वर्णित संशोधन प्रार्थना पत्र के तथ्य व

आधार पर विचार करते हुए माननीय अधिकरण से निवेदन है कि याची को याची को संशोधन प्रार्थना पत्र स्वीकृत किया जाय तथा उपरोक्त संशोधन को मूल याचिका में संदर्भित करने के लिए भी निर्देशित किया जाय।

§ आर०बी० पाण्डेय §
अधिवक्ता

लखनऊ:

दिनांक: 21-1-1992

सत्यापन

मैं, याची आशुतोष राय, आत्मज श्री एस०

राय, आयु लगभग 61 वर्ष, निवासी 53 बी, सी 0पी 0एच 0
कालोनी, आलमबाग, लखनऊ-5, यह सत्यापित करता हूँ कि संशोधन
प्रार्थना पत्र के प्रस्तर संख्या-38, से 40 तक के
तथ्य निजी ज्ञान, एवं विश्वास से सत्य हैं एवं प्रस्तर संख्या-
37 से 38 तक के तथ्य विधिक सलाह एवं अभिलेखों के
आधार पर सत्य हैं। किन्हीं भी तथ्यों को छिपाया नहीं गया
है। ईश्वर मेरी मदद करे।

Ashu Tosh Roy

॥ अभ्यर्थी ॥

लखनऊ:

दिनांक: 27-1-1992

Sig. alireza
S. Indu

In the Hon'ble C.A. 7. 15-31

A.T. Roy is. Union of India & Ins. 15-(35)

CA. 237/90(L)

26

15-31

NORTHERN RAILWAY

Office order No.E/72

Dated 28.2.1980.

The following arrangements are ordered with immediate effect.

- 1) Shri N.D. Bhaskar DSK/I/AMV is transferred to CB and posted in his present capacity vice Shri A.K. Dass, retired.
- 2) Shri Divender Kumar DSK /II/ Ward 'A'/AMV is posted in his present capacity in office vice no. 1 above.
- 3) Shri Basdeo Ram DSK/II Ward 'A'/AMV is transferred to Ward 'A'/AMV and posted in his present capacity vice no. 2 above.
- 4) Shri C.D. Pandey DSK/I Ward 'D' AMV is transferred to G.D./Section/AMV and posted in his present capacity vice Shri Fateh Bahadur.
- 5) Shri Fateh Bahadur, DSK/II/ G.D. Section/AMV is transferred to Ward 'A' AMV and posted in his present capacity vice no. 4 above.
- 6) Shri Mukh Ram Sharma DSK/II/CB is transferred to AMV and posted in Sale Section in his present capacity vice Shri Brij Basi Lal, retired.
- 7) Shri Jantri Lal Sr. Clerk RR/AMV is appointed to officiate as W.K. purely as a temporary adhoc arrangement on pay Rs 452/- + Rs 18/- (OP) P.M. in scale Rs 425-600 (RS) and posted in R.S. Section AMV vice Shri Chhotey Lal.
- 8) Shri Chhotey Lal, DSK/III R.S. Section/AMV is transferred to Stores Depot DSL/CB and posted in his present capacity against a vacancy caused due to retirement of Shri G.K. Saxena.
- 9) Shri A.T. Roy Sr. Clerk Ledger Section/AMV is appointed to officiate as W.K. purely as a temporary and adhoc arrangement on pay Rs 416/- + Rs 24/- (OP) PM in scale Rs 425-600 (RS) and transferred to CB Depot. His promotion orders will take effect from the date he takes over as W.K./Charbagh). against an existing vacancy caused due to transfer of Shri Kartar Singh to AMV.
- 10) Shri Hansu Ram DC/AMV is appointed to officiate as W.K. on pay Rs 392/- + Rs 33/- (OP) PM, in scale Rs 425-600 (RS) and posted in Ward 'C'/AMV vice Shri Moti Lal Gupta reported sick.
- 11) Shri Prem Narain Srivastava DSK/III Sale Section/AMV is transferred to 'D' Ward and posted in his present capacity vice Shri K.D. Singh Verma.
- 12) Shri K.D. Singh Verma W.K./D Ward AMV is transferred and posted in his present capacity vice no. 11 above.
- 13) Shri Chhattar Pal Singh M. Clerk Ward 'A'/Alambagh is transferred to Sale Section/Alambagh and posted vice Shri Jawahar Lal II.
- 14) Shri Jawahar Lal/MC Sale Section, AMV is transferred to Ward 'A' AMV and posted vice No. 13 above.

Arrangements vice no. 6 & 7 will be made subsequently.

for Dy. Controller of Stores,
Alambagh/Lucknow

Copy to the following :-

- 1) The Dy. CAO(W)/AMV/LKO (2) The AGOS/NR/CB (3) The AGOS/NR/DSL/CB.
- 4) The HC/Bills/AMV (5) The Leave Clerk/AMV & CB (6) The LSK/CRS/R
- 7) Parties concerned.

A.T. Roy - amon of India & N. S. 15-9
DA-237/90(4)

NORTHERN RAILWAY

(15-9)

29

Office Order No.E/160

Dated 23/6/1982.

The following employees who appeared in the suitability test for the post of Ward Keeper held on 5.4.82 & 7.5.82 have been declared suitable for the post of Ward Keeper grade Rs.425-600 (RS).

- DA/1
1. Shri A.T.Roy WK/CB. DA/1
 2. " R.P.Tripathi SDC/AMV
 3. " Kedar Ram Sr.Clerk/CB.
 4. " Hari Mohan Sr.Clerk AMV
 5. " Ram Patel Singh, WK/VYN.
 6. " Y.P.Misra WK/AMV.
 7. " A.K. Ahuja Sr.Clerk/AMV.
 8. " K.M.Gupta WK/ETD/CNB.
 9. " P.C.Duivedi WK/Ghaziabad.
 10. " Munna Lal Gupta, Sr.Clerk/CB
 11. " Roshan Lal. Offg.Steno/AMV. 360E
Sharma.
 12. " Madho Singh, Sr.Clerk/AMV.
 13. " M.P.Singh Yadava, WK/AMV.

S.C.

1. " Sat Pal Singh Sr.Clerk/CB.
2. " Nathu Ram Sr.Clerk/CNB.

/for seeking

They should submit their options on the form enclosed advance-ment in the Ward Keepers side (Non-Ministerial Stores Keeping Group) understanding clearly that they will not be considered for promotion to ministerial side if they opt. for promotion to non-ministerial side. If they do not opt for non-ministerial side it will be deemed that they are not willing promotion to non-ministerial side.

The following employees have not appeared in the suitability test of Ward Keeper hence it is deemed that they do not want their promotion to non-ministerial side and will not be called for the test of Ward Keeper in future.

1. Shri Prahlad Harain Sr.Clerk/CB.
2. " Shoo Shanker Lal -do-
3. " Chauharja Singh Sr.Clerk/VYN.
4. " R.S. Gupta, Sr.Clerk/AMV.
5. " Lakhan Lal, Sr.Clerk/AMV.

वैयक्तिक श्रीमान

In the Hon C AT Allahabad

Lower Bench 1st Div

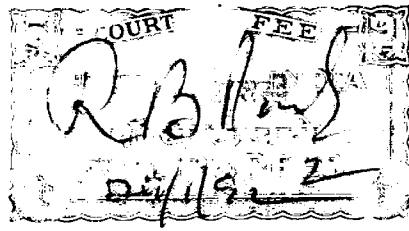
महोदय

[वादी] अपीलान्त

प्रतिवादी [रेस्पान्डेन्ट]

श्री

वकालतनामा



074 - 237 - 90 (L)

237 - 90 (L)

वादी (अपीलान्त)

A.T. Roy

बनाम

Union of India

प्रतिवादी (रेस्पान्डेन्ट)

मुकदमा नं०

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पेशी की ता०

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ऊपर लिखे मुकदमा में अपनी ओर से श्री

R. B. Pandey Adv.

एडवोकेट

महोदय

527/4 - B - Arund paper jail Road, Lucknow.

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (हस्तखती) 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 नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे !

हस्ताक्षर

Ashu Tosh Roy

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

24/1/92

महीना

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16-4-86

समक्षा माननीय केन्द्रीय प्रशासनिक सेवा आयोग द्वारा जारी किया गया।
माननीय पीठ, माननीय।

अभियोग या रिपोर्ट सं० 237/1980 सं०

M. P. 859/96

आशुतोष राय ----- अभियोगी

बनाम

भारत सरकार द्वारा महाप्रबन्धक,
उत्तर रेन्वे, बड़ोदा हाउस,
नई दिल्ली एवं अन्य ----- विपक्षीय

अभिनेता विवरण सूची

क्र०सं०	विवरण	पृष्ठ सं०
1-	प्रार्थना पत्र	
2-	संगणक संख्या-1 सेवा प्रचक्रण आदेश दिनांक 29-9-88 की तथा प्रति।	
3-	संगणक संख्या-2 सेवा प्रचक्रण दि० 25-7-89/ 27-7-89 तथा प्रति।	
4-	संगणक संख्या-3 निलम्बन आदेश दि० 12-7-85 की तथा प्रति।	
5-	संगणक संख्या-4 अन्य कर्मचारियों के निलम्बन आदेश दि० 25-7-85 की तथा प्रति।	
6-	संगणक संख्या-5 आरोप पत्र दिनांक 10-4-86 की तथा प्रति।	

-1-

-2-

-3-

7-संलग्नक संख्या-6

जांच निरीक्षक नियुक्ति करने हेतु आदेश दि० 28-10-87 की छाया प्रति ।

8-संलग्नक संख्या-7

कागजात मांगने हेतु प्रार्थना पत्र दि० 1-5-86 की छाया प्रति ।

9-संलग्नक संख्या-8

पुनः कागजात मांगने हेतु प्रार्थना पत्र दि० 12-6-86 की छाया प्रति ।

10-संलग्नक संख्या-9

पुनः कागजात मांगने हेतु प्रार्थना पत्र दि० 14-11-86 की छाया प्रति ।

11-संलग्नक संख्या-10

आरोप पत्र का संक्षिप्त उत्तर दि० 4-5-87 की छाया प्रति ।

12-संलग्नक संख्या-11

अति० कागजात मांगने हेतु प्रार्थना पत्र 18-5-87 की छाया प्रति ।

13-संलग्नक संख्या-12

अति० कागजात देने से इंकार करने का विवरण दि० 15-3-88

14-संलग्नक संख्या-13

प्रार्थी का बचाव कथन दिनांक 15-4-88 की प्रति ।

15-संलग्नक संख्या-14

प्रार्थी के कौत्सिक बहारा प्रार्थी का बचाव कथन दिनांक 27-4-88

16-संलग्नक संख्या-15

जांच रिपोर्ट ।

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-2-

10/10/2000

17- संगनक संख्या-16

अपीन दिनांक 25-10-88

18- संगनक संख्या-17

पोस्टल गार्डर

नखानक :

दिनांक 26-7-1990

हो/- योगेन्द्र मिश्र

अधिवक्ता

अभ्यर्थी के अधिवक्ता

(R. B. Pandey)
Adv

संयुक्त माननीय केन्द्रीय प्रशासनिक न्यायाधिकरण झाडावादा
न्यायनळ पीठ, न्यायनळ ।

अभ्यर्थना याचिका सं० 237/1990 § एन

- 1- आशुतोषा राय पुत्र स्वर्गीय श्री एस०एन० राय,
उम्र लगभग 58 वर्ष, निवासी-53 बी, सी०पी०एच० कॉलोनी
आनंदबाग, न्यायनळ, स्फ5 ----§ पुतक
- 2- श्रीमती लीपाणी राय, आरु लगभग 56 वर्ष,
पत्नी आशुतोषा राय । ----- अभ्यर्थी
- 3- सुब्रतो राय अरु आरु -26 वर्ष पुत्र स्वर्गीय
श्री आशुतोषा राय ।

बनाम

- 1- भारत सरकार वदारा महा प्रबन्धाक, उत्तर रेल्वे बडोदा
हाऊस नई दिल्ली ।
- 2- जिना भाण्डार नियन्त्रक, उत्तर रेल्वे, चारबाग न्यायनळ ।
- 3- उप नियन्त्रक § भाण्डार § उत्तर रेल्वे आनंदबाग न्यायनळ ।
- 4- श्री डी०आर० मनचन्दा, जॉब निरीक्षक, मण्डल रेल्वे प्रबन्धाक
कार्यालय § सतर्कता अनुभाग, नई दिल्ली ।
- 5- श्री शीतलदादीन, एस०सी०, डिप्टी चीफ रंजी नियर,
ब्रिज वर्कशाप, चारबाग, न्यायनळ । ----- विपक्षीगण

1- अभ्यर्थी का विवरण :

- | | |
|----------------------|-------------------------|
| 1- अभ्यर्थी का नाम | -- आशुतोषा राय |
| 2- पिता का नाम | -- स्व० श्री एस०एन० राय |
| 3- अभ्यर्थी की उम्र, | -- लगभग 58 वर्ष । |

4- पता और विवरण जहाँ प्रार्थी - डी०एस०के० ॥११॥
काम कर रहा हो या काम - जिला भाण्डार,
कर रहा था। चारबाग।

5- कार्यालय का पता :: उप नियन्त्रक ॥ भाण्डार ॥
उत्तर रेल्वे आन्ध्रबाग स्टेशन।

6- पता जिस पर सूचना हो सके -- 53-वी, सी०पी०एच०
कानोनी, आन्ध्रबाग स्टेशन।

2- प्रत्यर्थी का विवरण

1- भारत सरकार द्वारा, महा प्रबन्धाक उत्तर रेल्वे,
बड़ोदा हाउस, नई दिल्ली।

2- जिला भाण्डार निबन्धाक, उत्तर रेल्वे चारबाग, लखनऊ।

3- उप नियन्त्रक, ॥ भाण्डार ॥ उत्तर रेल्वे, आन्ध्रबाग स्टेशन।

4- श्री डी०आर० मनचन्दा, जांच निरीक्षाक, मण्डल रेल्वे
प्रबन्धाक, कार्यालय, नई दिल्ली।

5- श्री शीतलादीन, एम०सी० डिप्टी चीफ इंजीनियर,
ब्रिज परीक्षाप, चारबाग, लखनऊ।

3- माननीय न्यायाधिकारण की अधिकारिता :-

अभ्यर्थी यह धोखात करता है कि उपर्युक्त अभ्यर्थिता
याचिका का विषय वस्तु पूर्णरूप से माननीय न्यायाधिकारण
के अधिकारिता के अन्तर्गत है।

4- सीमांकन :-

अभ्यर्थी पुनः यह धोखात करता है कि प्रशासनिक
न्यायाधिकारण अधिनियम की धारा-21 के अनुसार
वर्णित समय सीमा के अन्तर्गत है।

6- वाद के तथ्य :-

वाद के तथ्य निम्नलिखित हैं :-

- 1- यह कि प्रस्तुत प्रार्थना पत्र द्वारा प्रार्थी के सेवा-
प्राक्करण आदेश दिनांक 29-9-1988 को प्रत्यर्थी
संख्या-2 द्वारा पारित है, जिसकी अपनी प्रार्थी ने
प्रत्यर्थी सं०-3 के यहाँ की थी, जो प्रत्यर्थी सं०-3
द्वारा दिनांक 25-7-88/27-7-89 को प्रत्यर्थी सं०-2
द्वारा पारित आदेश को बहाल किया गया, जो
चुनोती दी जा रही है। उक्त आदेश दिनांक
29-9-88 व 25-7-89/27-7-89 की छाया प्रतियां
इस प्रार्थना पत्र के साथ संलग्न संख्या-1 व 2 पर
संलग्न है।
- 2- यह कि प्रार्थी तृतीय श्रेणी लिपिक के पद पर वेतनमान
55-130 में दिनांक 23-7-53 को जिन्ना भाण्डार
नियन्त्रक, उत्तर रेन्वे, शाकुरवर्ती, नई दिल्ली के
कार्यालय में विधिवत बयान के उपरान्त नियुक्त हुआ।
सन् 1954 में प्रार्थी स्थानान्तरित होकर जिन्ना
भाण्डार नियन्त्रक कार्यालय आन्मदाग, नवानरु आगया।
- 3- यह कि प्रार्थी अपनी नियुक्ति के उपरान्त एक कुलान
लिपिक के रूप में अनुशासित ढंग से कार्य करता रहा।
- 4- यह कि प्रार्थी अपनी उत्तर क्षमता के आधार पर
दिनांक 29-10-66 को वेतनमान स्० 130-300 में
व्ययनित हुआ और दिनांक 16-2-68 को उक्त वेतनमान
में प्रोन्नत हुआ।



- 5- यह कि प्राथी निरन्तर अपनी सेवायें पूरी निष्ठा व ईमानदारी के साथ विभाग को प्रदान करता रहा और साथ ही अपने कार्यों को उत्कृष्ट तंग से करने का पूरा प्रयास करता रहा ।
- 6- यह कि प्राथी को उत्कृष्ट सेवा एवं उत्तम क्षमता के आधार पर दिनांक 26-7-79 को वरिष्ठ लिपिक के पद पर वेतनमान 330-560 में प्रोन्नति किया गया ।
- 7- यह कि प्राथी ने उक्त प्रोन्नति के उपरान्त भी पूरी क्षमता सहित निष्ठा व ईमानदारी से अपनी सेवायें निरन्तर प्रदान करता रहा, जिसके आधार पर प्राथी को वार्ड कीपर [डी०एस०के० तृतीय] के पद पर दिनांक 5-3-80 को प्रोन्नति दी गई ।
- 8- यह कि प्राथी दिनांक 5-3-1980 के उपरान्त वार्ड कीपर [डी०एस०के०-111] के पद पर पूर्ण ज्ञान व निष्ठा के साथ कार्य करता रहा । साथ ही प्राथी वार्ड सं०-9 का इंचार्ज था
- 9- यह कि प्राथी दिनांक जून/मार्च 1985 को कुछ वस्तुओं के आपूर्ति से सम्बन्धित मांग पत्र प्राप्त किया ।
- 10- यह कि प्राथी ने जिस व्यक्ति से वस्तु के आपूर्ति हेतु मांग पत्र प्राप्त किया, उससे सम्बन्धित तत्त्व प्रपत्र जैसे परिचय पत्र व अथारिटी लेटर आदि देखाकर व सस्ते औपचारिकतायें पूर्ण करने के उपरान्त वस्तुओं की आपूर्ति करते हुए विभिन्न तिथियों में 6 गेट पास तैयार किये गये । जो प्राथी ने अपने कर्तव्य पालन के तहत किये । उक्त 6 गेट पास तीन व्यक्तियों द्वारा प्राप्त किये गये जिनके नाम क्रमशः

श्री ए०के० शर्मा, एम०सी०, श्री ओ०पी० शर्मा, एम०सी० व
श्री रामसेवक एम०सी० जो ।

11- यह कि कुछ समय के उपरान्त श्री एम०मुखाजी सतर्कता निरीक्षक
द्वारा रिपोर्ट की गई कि प्लि मांग पत्र पर दिनांक फरवरी/
मार्च 1985 को प्लि भाण्डार नियन्त्रक आन्गबाग गौदाम से
मान लिया गया वह समय तभी मांग पत्र व वें व्यक्ति जो
मांग ले गए तभी फर्जी था ।

12- यह कि सतर्कता निरीक्षक ने शीतलादीन एम०सी० का बयान
दर्ज करने के उपरान्त रिपोर्ट किया था, उक्त बयान में
शीतलादीन ने स्वीकार किया था कि जो मान श्री ए०टी०
राय, डी०एस०के०-111 तृतीय चारबाग से प्राप्त किया, वह
मान जहाँ जाना था वहाँ मैं नहीं ले गया । लेकिन फिर
भी उक्त शीतलादीन को कोई आरोप पत्र नहीं दिया गया
कारण सतर्कता निरीक्षक ने प्रार्थी व अन्य उक्त कर्मचारियों
को फसाने की नियत से शीतलादीन का बयान जाडयन्त्र के
तहत लिया ताकि यह साबित हो सके कि प्रार्थी गन्त कार्यों
में सहयोग देता था जबकि यह आरोप प्रार्थी के निरुद्ध
जिसी भी स्तर पर सिद्ध नहीं हो पाया ।

13- यह कि उक्त सतर्कता निरीक्षक की रिपोर्ट के उपरान्त
प्रार्थी को दिनांक 12-7-85 को निरुद्ध कर दिया गया।
उक्त निरुद्धन आदेश दिनांक 12-7-85 इस प्रार्थना पत्र के
संलग्नक संख्या-3 के साथ में संलग्न है ।



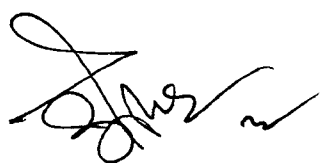
- 14- यह कि उक्त सतर्कता निरीक्षक की रिपोर्ट के बाद प्रार्थी सहित 6 अन्य कर्मचारियों को जाहयन्त्र के तहत मान निकालने के आरोप में निम्नलिखित करे का आदेश उप नियन्त्रक भाण्डार, आत्मबग द्वारा पारित किया गया। उक्त आदेश दिनांक 25-7-85/28-7-85 इस प्रार्थना पत्र के साथ संलग्न नक संख्या-4 के रूप में संलग्न है।
- 15- यह कि प्रार्थी के लगभग 9 माह के निवृत्तन काय के उपरान्त दिनांक 10-4-86 को आरोप पत्र प्रेषित किया। उक्त आरोप पत्र की छाया प्रतिलिपि इस प्रार्थना पत्र के साथ संलग्नक संख्या-5 के रूप में संलग्न है।
- 16- यह कि आरोप पत्र प्राप्त होने के बाद जांच प्रारम्भ न होने के बाद प्रार्थी के निरन्तर लिखित पत्र देने के बाद दिनांक 28-10-87 को श्री डी०आर० मनवन्दा को जांच निरीक्षक नियुक्त किया गया, उक्त आदेश दिनांक 28-10-87 की छाया प्रतिलिपि इस प्रार्थना पत्र के साथ संलग्नक सं०-6 के रूप में संलग्न न है।
- 17- यह कि दिनांक 1-5-86 को आरोपों ज जबाब देने हेतु प्रार्थी ने विश्वस्तनीय कागजातों की मांग की। उक्त मांग पत्र दिनांक 1-5-86 इस प्रार्थना पत्र का संलग्नक संख्या-7 है।
- 18- यह कि उक्त पत्र के बावजूद डिप्टी निरीक्षक अजायब द्वारा किसी कागजात की आपूर्ति न करने पर प्रार्थी ने विभिन्न तिथियों में क्रमशः 12-6-86 व 14-11-86 को पत्र लिखकर विश्वस्तनीय कागजातों की पुनः मांग की जिसकी छाया प्रतियां इस प्रार्थना पत्र के साथ संलग्नक सं०-8 व 9 के रूप में संलग्न हैं।

- 19- यह कि दिनांक 06-4-1987 को कागजातों की आपूर्ति की गई। प्रार्थी द्वारा ससुरत कागजातों का अवलोकन करने के पश्चात सभी आरोपों को खिंच इंकार करते हुए दिनांक 4-5-87 को संदिग्ध उत्तर प्रस्तुत किया। उक्त उत्तर से सम्बन्धित पत्र दिनांक 4-5-87 इस प्रार्थना पत्र का संग्रह नक सं०-10 है।
- 20- यह कि दिनांक 18-5-87 को प्रार्थी ने अतिरिक्त कागजातों की मांग इस आशय से की कि अपना सम्पूर्ण गवाह पक्ष प्रस्तुत करते हुए अपने को निर्दोष साबित कर सके। उक्त मांग पत्र दिनांक 18-5-87 की तारीख प्रति इस प्रार्थना पत्र का संग्रह नक सं०-11 है।
- 21- यह कि प्रार्थी द्वारा अतिरिक्त कागजातों की मांग बार-बार दि. सिप्लीनरी अथॉर्टी से की गई किन्तु मांगें गए कागजात प्रार्थी को उपलब्ध नहीं कराये गये।
- 22- यह कि विभाग द्वारा जांच कर अनावश्यक रूप से प्रार्थी को प्रताड़ित करने के उद्देश्य से जांच की कार्यवाही नहीं प्रारम्भ की जा रही थी जिसे पीड़ित होकर प्रार्थी ने सक्षम अधिकारी को लिखित रूप से अवगत कराया कि जांच की कार्यवाही तत्काल प्रारम्भ की जाये अन्यथा प्रार्थी को सेवा में वापस लिया जाय।
- 23- यह कि इसके उपरान्त सक्षम अधिकारी द्वारा दिनांक 16-10-87 को प्रार्थी का निम्न आदेश रद्द कर दिया। साथ ही उसी आरोप से सम्बन्धित 6 अन्य कार्यवाहियों का निम्न आदेश रद्द कर दिया गया और प्रार्थी को



सेवा वापस ले ली है जिस भाण्डार नियन्त्रक कार्यालय
चारबाग नखानऊ से सहायक भाण्डार नियन्त्रक कार्यालय
श्री गुरुनारायण में स्थानान्तरित कर दिया गया। यह भी
विदित हो कि प्राथमिक के साथ जो छः अन्य कर्मचारियों को
सेवा में वापस लिया गया था, उन्हें नखानऊ में ही कार्य
पर रखा गया है।

- 24- यह कि जांच निरीक्षक द्वारा दिनांक 17-12-87 को
जांच की प्रथम तिथि नियत की गयी जिसकी सूचना प्राथमिक
को उसके तैनाती स्थान गुरुनारायण पर दी गई। उसके
उपरान्त प्राथमिक मण्डल रेलवे प्रबन्धक कार्यालय, उत्तर रेलवे
नई दिल्ली के सतर्कता अनुभाग में जांच निरीक्षक के समक्ष
उपस्थित होकर जांच की कार्यवाही में सहयोग किया।
- 25- यह कि जांच निरीक्षक द्वारा जांच हेतु दिनांक 5-1-88 को
दूसरी तिथि नियत की गयी। उक्त तिथि को भी
प्राथमिक जांच निरीक्षक के समक्ष उपस्थित हुआ और
अतिरिक्त कागजात की जिसकी मांग प्राथमिक ने पहले भी
डिप्टीनरी अथॉर्टी से किया था, की मांग की।
- 26- यह कि अतिरिक्त कागजातों में से केवल एक कागजात जो
श्रीतलादीन के बयान से सम्बन्धित था उपलब्ध जांच
निरीक्षक द्वारा कराया गया और शेष कागजातों के
निष्पत्ति में जांच निरीक्षक ने बताया कि डिप्टीनरी
अथॉर्टी से बात करके आपको अलग कराया जाएगा। उ
उपरान्त जांच निरीक्षक द्वारा जांच कार्यवाही हेतु नि



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29-01-88 की तिथि नियत की गई, उक्त तिथि पर प्रार्थी/जांच की कार्यवाही में सहयोग किया किन्तु प्रार्थी द्वारा पूर्ण में मांगें गए अतिरिक्त कागजात की आपूर्ति नहीं की गई। उसके उपरान्त जांच निरीक्षक द्वारा दिनांक 22-2-88 को जांच कार्यवाही की दूसरी तिथि नियत की।

27- यह कि प्रार्थी द्वारा बार-बार अतिरिक्त कागजातों की मांग करने पर दिनांक 15-3-88 को लिखित रूप से अतिरिक्त कागजात देने से इंकार किया। उक्त आदेश पर दिनांक 15-3-88 की छाया प्रति इस प्रार्थना पत्र की संलग्नक सं0 12 है।

28- यह कि दिनांक 15-4-1988 को जांच निरीक्षक के समक्ष उपस्थित होकर प्रार्थी ने लिखित रूप से अपना बचाव पक्ष प्रस्तुत किया। उसके उपरान्त दिनांक 27-4-88 को प्रार्थी के डिफेंस काउंसिल प्री बी0एन0 तक्सेना द्वारा लिखित रूप से प्रार्थी का बचाव पक्ष प्रस्तुत किया गया जिनकी छाया प्रति निम्नलिखित प्रार्थना पत्र के साथ संलग्नक संख्या-13 व 14 के रूप में संलग्न है।

29- यह कि दिनांक 15-4-88 को जांच की कार्यवाही जांच निरीक्षक द्वारा समाप्त कर दी गई।

30- यह कि जांच के दौरान जांच निरीक्षक ने सिर्फ दो पार्टियों को ज्ञात इक्जामिनेशन हेतु प्रार्थी के समक्ष बुलाया जबकि सतर्कता निरीक्षक द्वारा छः पार्टियों की रिपोर्ट की गई, जिसके आधार पर प्रार्थी को निम्नलिखित करते हुए आरोप पत्र दिया गया था।



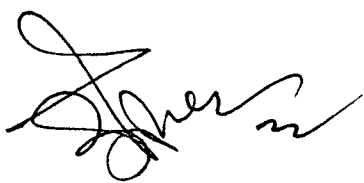
31- यह कि जांच की कार्यवाही के दौरान प्रार्थी ने जांच निरीक्षक से प्रार्थना की कि चार अन्य पार्टियां जिसकी रिपोर्ट सतर्कता निरीक्षक द्वारा की गई थी, और उनके बयान इत्यादि प्रार्थी के समक्ष कराये जाये। उसके उपरान्त जांच निरीक्षक ने सतर्कता निरीक्षक जिसकी रिपोर्ट पर प्रार्थी को आरोप पत्र दिया गया था, से जांच निरीक्षक ने कहा कि अन्य चार पार्टियों के बयान इत्यादि उपलब्ध कराये जाये जिस पर सतर्कता निरीक्षक ने उत्तर दिया कि यह मेरे अपने विचार पर है कि जिसका बयान मैं आपसे समझा रखूँ, जिसका न रखूँ।

32- यह कि जांच की कार्यवाही समाप्त होने के उपरान्त जांच निरीक्षक द्वारा जो रिपोर्ट डिप्टी कमिश्नरी अथॉर्टी को दिया गया, उस पर उनके हस्ताक्षर नहीं थे।

33- यह कि उक्त जांच रिपोर्ट जांच निरीक्षक द्वारा दृष्टि दूषित भावनाओं से प्रेरित होकर प्रार्थी को दण्डित कराने के उद्देश्य से प्रार्थी को जाहयन्न में शांति बताते हुए दी गई। यह कार्य जांच निरीक्षक द्वारा इतनी शीघ्रता द्वारा किया गया कि जांच रिपोर्ट के किसी भी भाग पर या उससे सम्बन्धित किसी भी संलग्नक पर न तो जांच निरीक्षक की मोहर थी और न ही कहीं उसके हस्ताक्षर थे। यहाँ तक कि रिपोर्ट के अन्त में भी जांच निरीक्षक की मोहर व हस्ताक्षर नहीं थे हैं। उक्त जांच रिपोर्ट की छाया इस प्रार्थना पत्र का संलग्नक सं०-15 के रूप में संलग्न है।



- 34- यह कि उक्त अधूरी जांच रिपोर्ट जांच निरीक्षक ने दितिप्पीनरी अधाटी को प्रस्तुत किया जिस पर सहितस्पीन दितिप्पीनरी में अधाटी ने बिना मस्तिक लगाये ही प्रार्थी को सेवा से प्रथाक करने का आदेश दिनांक 29-9-88 को जो पूर्ण रूप से नान-स्पीनिंग आदेश था, पारित कर दिया जो प्रार्थना पत्र का संलग्नक सं०-1 है ।
- 35- यह कि उक्त दिनांक 25-10-88 को प्रार्थी ने अपने सेवा-प्रथाककरण के आदेश के विरुद्ध उप-भाण्डार नियन्त्रक आन्मबाग बहानऊ के समक्ष अपील प्रस्तुत किया । उक्त अपील की भाषा प्रति इस प्रार्थना पत्र के साथ संलग्नक संख्या-16 के रूप में संलग्न की जा रही है ।
- 36- यह कि उक्त अपील पर उप-भाण्डार नियन्त्रक महोदय आन्मबाग बहानऊ ने बिना अपना मस्तिक लगाये ही 9 महीने बाद दितिप्पीनरी अधाटी द्वारा दिये गये दण्डादेश को दिनांक 25-7-89 को नान-स्पीनिंग आदेश पारित करते आदेश बहाल कर दिया । उक्त आदेश दिनांक 25-7-89 प्रार्थी को दिनांक 27-7-89 को प्राप्त कराया गया जिसका भाषा प्रति इस प्रार्थना पत्र का संलग्नक संख्या-2 है ।
- 37- यह कि प्रार्थी के विरुद्ध सेवा-प्रथाककरण आदेश दिनांक 29-9-1988 मूल रूप से अवैधानिक व क्षोत्राधिकार से पारित है, क्योंकि इसमें निरुक्ति प्राधिकारी द्वारा दण्डादेश पारित नहीं किया गया है । इस सम्बन्ध में स्थिति स्पष्ट करते हुए यह कहना समीचीन होगा कि याजी=के भाण्डार पान तृतीय के पद से सेवा से प्रथाक किया गया



जिस पद के नियुक्त प्राधिकारी उप भांडार नियन्त्रक विपक्षी सं०-३ हैं,। विपक्षी सं०-२, विपक्षी सं०-३ से निम्न स्तर के अधिकारी हैं। अतएव उनके द्वारा पारित दीधु, दण्ड मात्र अवैधानिक नहीं बल्कि क्षेत्राधिकार से परे भी है।

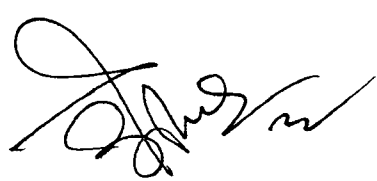
38- यह कि याची की नियुक्ति तृतीय श्रेणी में निपिणीय पद पर रेलवे सेवा आयोग द्वारा वर्ष 1953 में हुई थी। उस समय से अध्याय 72-73 तक स्थिति सामान्य थी और तृतीय श्रेणी के पदों पर नियुक्ति अधिकारी का अधिकार विपक्षी संख्या-2 जिन्ना भाण्डार नियन्त्रक को ही प्राप्त था परन्तु सम्भवतः वर्ष 1974 या उसके आस पास किसी समय उप भाण्डार नियन्त्रक के पद सृजन हो जाने के कारण उपरान्त सारा अधिकार विपक्षी सं०-३ में समाहित हो गया। इस सम्बन्ध में यह भी उल्लिखित करना आवश्यक है कि जिन्ना भाण्डार नियन्त्रक विपक्षी सं०-2 वर्तमान में पद श्रेणी संख्या-३ व उसके अतिरिक्त किसी भी पद के नियुक्ति प्राधिकारी नहीं रह गए हैं और वर्ग तीन का पद निपिणीय पद से ही प्रारम्भ होता है, ऐसी स्थिति में वर्तमान में विपक्षी सं०-2 किसी भी भांति याची के नियुक्ति प्राधिकारी की गणना में नहीं आते हैं।

39- यह कि जैसा कि उल्लिखित किया गया है विपक्षी सं०-३ उप भाण्डार नियन्त्रक का पद सृजित होने के पश्चात जो भी कार्यवाही याची के सम्बन्ध में या उसके समान वर्गीय कर्मचारियों के लिए की गई है वे सभी उपभाण्डार



नियन्त्रक द्वारा ही की गई हैं। चूंकि याची के विरुद्ध जिस समय विभागीय कार्यवाही सम्पन्न की गई है या प्रस्तावित की गई उस समय उसके नियुक्ति कर्ता उप भण्डार नियन्त्रक विपक्षी संख्या-3 ही जो परन्तु अवैधानिक रूप से विवेकात्मक भावना से प्रेरित होकर समस्त कार्यवाही जिस भांति जिना भण्डार नियन्त्रक विपक्षी संख्या-2 द्वारा सम्पन्न की गयी वह पूर्ण रूप से अवैधानिक व दोषाधिकार से परे है। उदाहरण स्वरूप दिनांक 28-2-80 को याची की प्रोन्नति भण्डार पाल के पद पर उप भण्डार नियन्त्रक याची विपक्षी संख्या-3 द्वारा ही की गई थी। विपक्षी संख्या-3 द्वारा की गई प्रोन्नति दिनांक 28-2-80 को साक्ष्य के रूप में माननीय अधिकरण के समक्ष संलग्नक संख्या -15 अ. के रूप में अवनोक्तार्थ प्रस्तुत की जा रही है।

- 40- यह कि याची भण्डारपाल तृतीय के पद पर तत्पश्चात् नियमित नियुक्ति प्राप्त किया उसके पूर्व याची ने संविधान परीक्षा व साक्षात्कार में भी सफल हुआ और दिनांक 23-8-82 का प्रपत्र जो उप भण्डार नियन्त्रक विपक्षी संख्या-3 द्वारा पारित किया गया है जिसके द्वारा याची योग्य घोषित किया गया है उसकी भी प्रमाणित छाया प्रतिलिपि 15 अ. के रूप में माननीय अधिकरण के समक्ष अवनोक्तार्थ प्रस्तुत की जा रही है जिससे यह भली भांति सिद्ध है कि याची के नियुक्ति व प्राधिकारी उप भण्डार नियन्त्रक है और जिना भण्डार नियन्त्रक द्वारा पारित दण्डादेश अवैधानिक, निर्गुण व दोषाधिकार से परे



पूर्ण रूप से छापित होने योग्य है। यही नही बल्कि याची का स्थानान्तरण भी समय समय पर उप भाण्डार नियन्त्रक ही करते थे और प्रशासनिक दृष्टिकोण तथा नियुक्ति दृष्टिकोण से उप भाण्डार नियन्त्रक विपक्षी सं०-३ ही याची के नियुक्ति प्राधिकारी हैं और उन्हें ही याची के निरस्त दिया गया दण्ड देने का अधिकार प्राप्त है तथा मुख्य रूप से वही सक्षम प्राधिकारी है। ऐसी अवस्था में याची के निरस्त पारित दण्डादेश पूर्ण रूप से औपचारिक व निरस्त होने योग्य हैं।

7- उपचार जो निःशेष किया उसका विवरण :

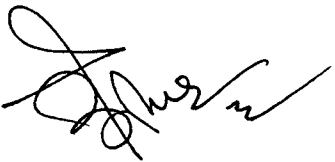
उप भाण्डार नियन्त्रक आन्तरिक को अपील करके उपचार का काम दिया जा चुका है। प्रार्थी यह उद्घोषित करता है कि सेवा नियमावली के अनुसार सभी उचित उपचार उपभोग क चुका है।

8- किसी भी न्यायालय में पहले इस विषयवस्तु के सम्बन्ध कोई भी वाद नस्बित रही है :

प्रार्थी यह उद्घोषित करता है कि उपर्युक्त विषयवस्तु के सम्बन्धित कोई भी वाद किसी भी न्यायालय में नस्बित नहीं है।

9- अनुमोदा जो प्रार्थी मांग करता है :

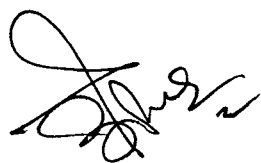
पैरा-6 में वर्णित तथ्यों एवं परिस्थितियों के आधार पर प्रार्थी माननीय न्यायाधिकरण से विनम्रतापूर्वक नि करता है कि प्रार्थी का सेवा-प्राप्त करण आदेश दिना 29-08-88 जिसकी अपील उप-भाण्डार नियन्त्रक आन्तरिक



को की गई थी तथा उप भाण्डार नियन्त्रक महोदय ने दिनांक 29-09-88 को आदेश को दिनांक 25-7-89/ 27-7-89 को बहाल कर दिया जो प्रार्थना पत्र के साथ संग्रह संख्या-1 व 2 है, को निरस्त करने की निम्न आधारों पर करता है :-

आधार

1. क्योंकि प्रार्थी विभाग में रेल्वे सेवा निवृत्त के मुताबिक स्थाई कर्मचारी है ।
2. क्योंकि प्रार्थी को अपने बयान प्रस्तुत करने का पर्याप्त अवसर नहीं दिया गया ।
3. यह कि प्रार्थी को जांच के दौरान जिस पार्टियों के नाम सतर्कता निरीक्षक ने रिपोर्ट की गई थी, उनमें से चार पार्टियों के न तो बयान ही जांच के दौरान दिये गये और न ही जांच के दौरान प्रति परीक्षा हेतु उनको उपस्थित ही किया गया ।
4. क्योंकि प्रार्थी के बार बार मांग करने के बावजूद भी अतिरिक्त कागजात उपलब्ध करने से मना कर दिया गया ।
5. क्योंकि जांच निरीक्षक ने बिना सक्षम न्याये शीघ्रता बिना हस्ताक्षर किये ही जांच रिपोर्ट संग्रह नक सहित डिप्टी निरीक्षक अधीन को प्रस्तुत की ।
6. क्योंकि सतर्कता निरीक्षक ने प्रार्थी को फसाने की निरत शीतलादीन का बयान लेकर जो निष्कर्ष ही सिद्ध नहीं है



के आधार पर फर्जी रिपोर्ट की गयी ।

§ 7§ क्योंकि दण्डादेश पारित करने से पूर्व प्रार्थी को लिखी भी प्रकार की सुनवाई का आसर नहीं प्रदान किया गया जो नैसर्गिक न्याय के सिद्धान्तों का खुला उल्लंघन है ।

§ 8§ क्योंकि प्रार्थी के मृत्यु सेवा प्रथाकरण आदेश से प्रार्थी अपने जीने का अधिकार व जीवन व्यपन का अधिकार से वंचित हो जाता है ।

§ 9§ क्योंकि प्रार्थी का सेवा प्रथाकरण आदेश जो क्रमशः प्रार्थना पत्र का संलग्नक सं०-1 व 2 है, दुष्प्रभाव भावनाओं से प्रेरित होकर जारी दिया गया है ।

§ 10§ क्योंकि उसी आरोप में सात व्यक्ति निन्मिषित थे जो समान रूप से जिम्मेदार थे , प्रार्थी को छोड़कर शेष को दोषमुक्त कर दिया गया है ।

§ 11§ क्योंकि याची के निश्चय पारित दण्डादेश धोखाधिकार से परे एक ऐसे कनिष्ठ अधिकारी द्वारा पारित किया गया है जिसे याची को दण्ड देने का विधिक अधिकार प्राप्त नहीं है । एतएव दण्डादेश इसी मूल आधार पर निरस्त होने योग्य है ।

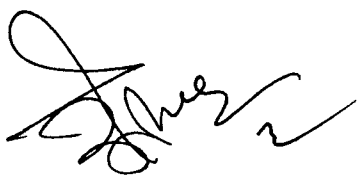
§ 12§ क्योंकि याची के निश्चय पारित दण्डादेश सेवा से प्रथाकरण से पूर्व बचाव का समुचित अवसर प्रदान नहीं किया गया और समान रूप से अन्य धर्मचारी भी आरोपित किये गये थे उन्हें दोषमुक्त मानते हुए याची को दण्डनरूप सेवा से प्रथाक किया गया जबकि याची अपना

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गृहणा करने के स्तर पर अपनी सेवाएँ सम्भावित: पूरी कर चुका था। ऐसी स्थिति में याची के विरुद्ध पारित दण्डादेश न्यायालुको कदापि नहीं कहा जा सकता।

§ 138 क्योंकि याची को जांच रिपोर्ट व जांच अधिकारी की आख्या पितते दण्ड दिया गया वह एक सम्यक अभिप्रेक्षा नहीं कहा जा सकता, क्योंकि न उस पर किसी के हस्ताक्षर हैं और न ही उस पर कोई तिथि दर्शायी गयी है। ऐसी परिस्थिति में माननीय सर्वोच्च न्यायालय ने यूनियन आफ इण्डिया बनाम रमजान खान में जिस सिद्धान्त को प्रतिपादित किया है उसे याची भी लागू करने योग्य है और यह माना जायेगा कि उसे जांच रिपोर्ट व जांच आख्या नहीं दी गई है।

§ 140 क्योंकि याची के मामले में जो मुख्य व संबन्धित साक्ष्य थे उनको नहीं दिया गया न ही उनसे जिरह का उत्तर प्रदान किया गया जिससे यह सिद्ध है कि याची को उपर्युक्त बचाम का उत्तर प्रदान नहीं किया गया और तमिल नाडु के विभागीय कार्यवाही अधिनियम से भारतीय संविधान के अनुच्छेद 311 § 2 का उल्लंघन करते हुए सम्पूर्ण सम्पत्ति कर ली गई तथा याची को अनाधिकृत रूप से दण्डित करते हुए उसके समस्त जीवन से छिन्नवाड किया गया।



§ 150 क्योंकि याची की लगभग 34 वर्ग फिट सेवा भाग को अनाधिकृत रूप से विनष्ट कर दिया गया और

अतः अतिरिक्त अधिकारी उद्घाटन हेतु दण्ड देकर तत्तु भांति सेवा से प्रथम किया गया वह एक अवैधानिक आदेश है । जबकि माननीय सर्वोच्च न्यायालय का यह स्पष्ट मत है कि इन परिस्थितियों में कर्मचारियों की पेंशन न रोकी जाये ।

§ 16§ क्योंकि दण्डादेश के पश्चात यात्री ने जो अपील किया उस पर भी विभाग ने बिना साक्ष्यों का परीक्षण किये हुए निर्णय लेते हुए निरस्त कर दिया जबकि यात्री को उसके भाविष्य विधि आदि का भी भुगतान नहीं किया गया । ऐसी स्थिति में दण्डादेश अवैधानिक, संविधान के अनुच्छेद-31। § 2§ के विपरीत तथा रेन्वे प्रशासन द्वारा निर्गत तमाम नियमों के विरुद्ध है जिसमें यह प्राविधान है कि कर्मचारी को बचाव का पूर्ण अवसर देना चाहिए ।

§ 17§ क्योंकि जांच अधिकारी का स्तर तत्तु साक्ष्य रूप में था अतएव उनके उद्घाटन की गयी जांच नियमानुसार नहीं कही जा सकती और तत्तुपूर्ण जांच त्रुटिपूर्ण है ।

प्रार्थना

उपर्युक्त वर्णित तथ्यों एवं आधारों पर के आधार पर प्रार्थना माननीय न्यायाधीशों से प्रार्थना करता है कि :-

§ अ। प्रार्थी के सेवा प्रथमकरण आदेश दिनांक 29-9-88 व दिनांक 25-7-89/27-7-89 को निरस्त करते हुए विपक्षीयता को निर्देशित करें कि प्रार्थी को पुनः सेवा में मानते हुए तत्तु तत्तु विधायक प्रदान करें ।

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१७॥ यह कि माननीय न्यायाधिकरण अन्य कोई आदेश जो उपयुक्त समझे पारित करने की कृपा करें।

10- अन्तरिम आदेश यदि कोई प्रार्थनीय हो :

प्रार्थना पत्र अन्तिम रूप से निर्णयित होने तक एक अन्तरिम आदेश पारित करके माननीय न्यायाधिकरण प्रार्थना पत्र के संलग्नक संख्या-1 व 2 को स्थापित करने की कृपा करें कि संलग्नक संख्या-1 व 2 प्रार्थी का सेवा प्रयोजककरण आदेश बिना मस्तिष्क का प्रयोग किये हुए दुष्प्रभाव भावनाओं से प्रेरित होकर पारित किया गया है।

11- प्रार्थी का पता :

आ लुतोषा राय पुत्र स्वर्गीय श्री एस0एस0 राय,
निवासी-53 बी, सी0पी0एस0 कानोनी, आन्ध्रप्रदेश,
नरानरु -5

12- बैंक ड्राफ्ट/पोस्टल ऑर्डर जो प्रार्थना पत्र के शीर्षक के रूप में है, का विवरण :

११॥ बैंक अथवा डाकधार का नाम अमीनाबाद
जहाँ से बैंक ड्राफ्ट अथवा पोस्टल बैंक
ऑर्डर जारी किया गया है।

१२॥ डिमाण्ड ड्राफ्ट नं०

अथवा

११॥ भारतीय पोस्टल ऑर्डर की संख्या- 02465637

१२॥ जारी की पोस्ट ऑफिस का नाम अमीनाबाद नरानरु

१३॥ डाकधार का नाम जहाँ पर भुगतान होता है।

13- संलग्नक संख्या:-

1-

2-

3-

4-

सत्यापन

मैं, आशुतोष राय, पुत्र स्व० श्री एस०एन० राय, उग्र
नगभाग 58 वर्डा, कार्वरत डी०एस०के०-111 कार्वरत सहायक भण्डार
नियन्त्रक, उत्तर रेलवे मुंगेर सराय निवासी- 53-बी सी०पी०एस०
कानोनी आनन्ददास न्यायज्ञ, सतद्वारा सत्यापित करता हूँ कि
प्रार्थना पत्र का प्रुत्तर- 1-36 मेरे निजी ज्ञान से सत्य है, शोषा
प्रुत्तर विधिक ज्ञान से सत्य है। इसमें न तो कोई ग़ात छिपायी
गई है और न ही कुछ छूठा है। ईश्वर मेरी मदद करें।

दिनांक: 26

आवेद के हस्ताक्षर



187/211/94

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,
CIRCUIT BENCH AT LUCKNOW.

(4176)
Civil Misc. Application No. 2353 of 1994(L)

In re :

Original Application No. 237/1990(L)

Fixed on
15.12.94

Benach on the
date fixed

Ashutosh Rai

.. Applicant.

Versus

Registrar

Union of India & Others.

.. Opp. Parties.

SUBSTITUTION APPLICATION ON BEHALF OF
OF THE APPLICANT.

File today

23/11/94

On behalf of the Applicant above named it is most respectfully beg to submit as under :-

1. That the original Applicant, Ashutosh Rai had preferred this O.A. challenging the impugned order of dismissal dated 25th/27th July, 1989 vide above said OA which is pending at Final Hearing stage.
2. That both the parties have exchanged their reply and now on dated 23.11.94 the date fixed for Final Hearing of the case before the Hon'ble Central Administrative Tribunal.
3. That unfortunately the sole Applicant Ashutosh Rai has died on dated 22.10.94. A photostat copy of the death certificate is also filed herewith as Annexure I to the Application.

Annex. I

That the Applicant being substituted namely Smt. Deepali Rai, the wife of late Ashutosh Rai, the sole Applicant of this O.A. and the major son n-

Subst. by
Smt. Deepali Rai
Signature

Subroto Rai are the legal heirs of deceased Ashutos. Hence this application is being furnished to substitute the names of legal heirs as Applicants in this Original Application.

5. That Smt. Deepali Rai, the wife of the deceased Applicant has no objection that on her behalf if the case is being contested by her son namely Subroto Rai and he is fully authorised to consult the counsel and also have all the right for pravi of the case and receive the order/judgment of this Court in respect of rightful claim accrued on behalf of his deceased father namely the Original Applicant. Hence this Application of substitution with the following prayer.

PRAYER

WHEREFORE it is most respectfully prayed that this Hon'ble Tribunal may be pleased to allow this Application and on behalf of the original Applicant the following be substituted petitioners-(applicants):-

1. Smt. Deepali Rai, aged about 56 years, Wife of late Ashutosh Rai, r/o II-53-B, CPH Colony, Alambagh, Lucknow-5.
2. Subroto Rai, aged about 26 years, S/o late Sri Ashutosh Rai, r/o II-53-B, CPH Colony, Alambagh, Lucknow-5.

The Applicants be directed also to incorporate their names in the Original Application, CA No. 237 of 1990 in the interest of justice.

Deepali Rai
1- Smt. Deepali Rai
2- Subroto Rai
(R.B. Pandey)
Advocate,
Counsel for the Applicants.

Lucknow,
Dated: November 23, 1994.

लखनऊ नगर निगम

उत्तर प्रदेश सरकार

स्वास्थ्य विभाग

मृत्यु का प्रमाण-पत्र



प्रपत्र सं० 10
(नियम 9 देखिए)

पेज नं० 36

दुक नं० 127

प्रमाणित किया जाता है कि निम्नलिखित सूचना मृत्यु के मूल अभिलेख से ली गई है जो लखनऊ नगर निगम राज्य के उत्तर प्रदेश जिले की लखनऊ तहसील के रजिस्ट्रार में है।

(स्थानीय क्षेत्र)

नाम..... आशुतोष शंभू - आशु (गंगा) 62 वर्ष

जिला..... पुनर्वा

राष्ट्रीयता..... भारतीय

मृत्यु का दिनांक 22.10.1994 (द्विहस्त अप्रत्याशित)

आरोग्य.....

मृत्यु का स्थान..... सी.पी.एस. कॉलोनी आलमबाग

रजिस्ट्रार संख्या..... 744/6

पिता/माता/पति का नाम..... सुरेश चंदा शंभू

रजिस्ट्रार का दिनांक..... 9.11.94

जारी करने वाले अधिकारी के हस्ताक्षर.....

दिनांक..... 11.11.94

मुद्रा

टिप्पणी—मृत्यु की दशा में मृत्यु के कारण के सम्बन्ध में प्रविष्टियां जैसा कि रजिस्ट्रार में प्रविष्ट है प्रकट नहीं की जाएंगी। धारा 1) का प्रतिबन्धन ध्यान रखें।

नगर स्वास्थ्य अधिकारी

जनम मृत्यु रजिस्ट्रार

लखनऊ नगर निगम

तला पावर गुण लखनऊ

Signature by the officer

ब अदालत श्रीमान्

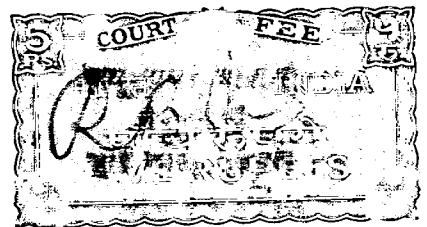
In the Hon C.A.T. Allahabad
Lucknow Bench A.O.

[वादी अपीलान्त]

प्रतिवादी [रेस्पाडेन्ट]

वकालतनामा

OA - 237 - 90 (4)



Ashoka Rai

बनाम

Union of India (प्रतिवादी रेस्पाडेन्ट)

नं. मुकद्दमा

सन्

पेशी की ता०

१९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

R. B. Pandey Adv

व

वकील

महोदय

एडवोकेट

नाम अदालत
मुकद्दमा नं०
नाम फरीकन

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

Chibali Roy

हस्ताक्षर

(गवाह) Subroto Roy

साक्षी (गवाह)

दिनांक

महोना

सन् १९

ई०

स्वीकृत

23/11/94

सम्प्रति माननीय केंद्रीय प्रशासनिक न्यायाधिकरण झाहाबाद।

लखनऊ पीठ, लखनऊ।

अभ्यर्थी याचिका संख्या-

/1990.

- ① SMT Deepali Ray a/a 56 years w/o Late Ashulosh Ray R/O IISB-CPH Colony Alambag Lucknow -
- 2- Subroto Ray a/a 26 years s/o Late Ashulosh Ray R/O IISB CPH Colony Alambag Lucknow
- (X)

आशुतोष राय पुत्र स्वर्गीय श्री एसएनएन राय, उम्र लगभग 58 वर्ष, निवासी- 53 बी, सी०पी०एच० कालोनी, आलम्बाग, लखनऊ-5

.....

अभ्यर्थी

बनाम



1. भारत सरकार के द्वारा महा प्रबन्धक, उत्तर रेलवे, बड़ौदा हाउस, नई दिल्ली।
2. जिला भंडार नियन्त्रक, उत्तर रेलवे, चारबाग, लखनऊ।
3. उप नियन्त्रक भंडार उत्तर रेलवे, आलम्बाग, लखनऊ।
4. श्री डी०आर० मन्वन्दा, जांच निरीक्षक, मंडल रेलवे प्रबन्धक कार्यालय 'सत्कर्ता अनुभाग', नई दिल्ली।
5. श्री शीतला दीन, एम०सी०, डिप्टी चीफ इंजीनियर, ब्रिज वर्कशॉप, चारबाग, लखनऊ।

अभ्यर्थी का विवरण:-

1-अभ्यर्थी का नाम -

आशुतोष राय

2-पिता का नाम -

स्व० श्री एसएनएन राय

3-अभ्यर्थी की उम्र -

लगभग 58 वर्ष

4-पद और विवरण जहां प्रार्थी - डी०एस० के०॥॥॥

काम कर रहा हो या काम कर रहा - जिला भंडार, चारबाग था।

5- कार्यालय का पता:- उप निरीक्षक भंडार, उत्तर रेलवे
आलम्बाग, लखनऊ।

6-पता जिस पर सूचना हो सके-53 बी, सी०पी०एच० कालोनी,
आलम्बाग, लखनऊ।

2- प्रत्यर्थी का विवरण :-

1- भारत सरकार द्वारा महा प्रबंधक, उत्तर रेलवे, बड़ौदा हाउस,
नई दिल्ली।

2- जिला भंडार निरीक्षक, उत्तर रेलवे चारबाग, लखनऊ।

3- उप निरीक्षक भंडार, उत्तर रेलवे, आलम्बाग, लखनऊ।

4- श्री डी० आर० मन्वदा, जांच निरीक्षक, मण्डल रेलवे प्रबंधक
कार्यालय, नई दिल्ली।

5- श्री शीतल दीप, सी० एम०सी० डिप्टी चीफ इंजीनियर,
जिला कारखाना, चारबाग, लखनऊ।

3- माननीय न्यायाधिकरण की अधिकारिता:-

अभ्यर्थी यह घोषित करता है कि उपर्युक्त अभ्यर्था
याचिका का विषय वस्तु पूर्ण रूप से माननीय
न्यायाधिकरण के अधिकारिता के अंतर्गत है।

4- सीमांकन:-

अभ्यर्थी पुनः यह घोषित करता है कि प्रशासनिक
न्यायाधिकरण अधिनियम की धारा 21 के अनुसार वर्णित
समय सीमा के अंतर्गत है।

6- वाद के तथ्य:-

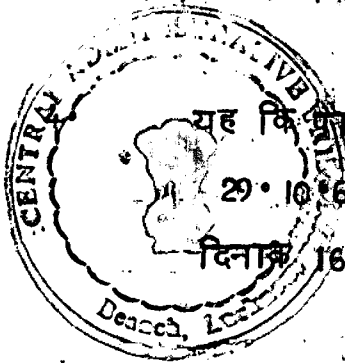
वाद के तथ्य निम्नलिखित हैं:-

1- यह कि प्रस्तुत प्रार्थना पत्र द्वारा प्रार्थी के सेवा प्रथमकरण
आदेश दिनांक 29.9.88 को प्रत्यर्थी संख्या-2 द्वारा पारित
है, जिसकी अपील प्रार्थी ने प्रत्यर्थी संख्या-3 के यहां की

थी, जो ~~प्रथम~~ प्रत्यर्थी संख्या-3 द्वारा दिनांक 25.7.89/
27.7.89 को ~~प्रथम~~ प्रत्यर्थी संख्या-2 द्वारा पारित आदेश
को बहाल किया गया, को मनाती दी जा रही है। उक्त
आदेश दिनांक 29.9.88 व दिनांक 25.7.89/27.7.89
की छाया प्रतियां इस प्रार्थना पत्र के साथ सलमक संख्या-1, व 2
सलम है।

2. यह कि प्रार्थी तृतीय श्रेणी लिपिक के पद पर वेतनमान ₹55-130
में दिनांक 23.7.53 को जिला भंडार नियंत्रक, उत्तर रेलवे,
शहरवस्ती, नई दिल्ली के कार्यालय में विधिवत चयन के उपरान्त
नियुक्त हुआ। सन् 1954 में प्रार्थी स्थानान्तरित होकर जिला
भंडार नियंत्रक कार्यालय आलमबाग, लखनऊ आ गया।

3. यह कि प्रार्थी अपनी नियुक्ति के उपरान्त एक कुशल लिपिक
के रूप में अनुशासित ढंग से कार्य करता रहा।



यह कि प्रार्थी अपनी उत्तर क्षमता के आधार पर दिनांक
29.10.66 को वेतनमान ₹0.130-300 में चयनित हुआ और
दिनांक 16.2.68 को उक्त वेतनमान में प्रोन्नत हुआ।

5. यह कि प्रार्थी निरन्तर अपनी सेवायें पूरी निष्ठा व ईमान-
दारी के साथ विभाग को प्रदान करता रहा और साथ ही
अपने कार्यों को उत्कृष्ट ढंग से करने का पूरा प्रयास करता
रहा।

6. यह कि प्रार्थी को उत्कृष्ट सेवा एवं उत्तम क्षमता के आधार
पर दिनांक 26.7.79 को वरिष्ठ लिपिक के पद पर वेतनमान
330-560 में प्रोन्नत किया गया।

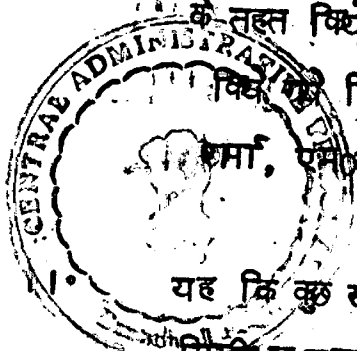
7. यह कि प्रार्थी ने उक्त प्रोन्नति के उपरान्त भी पूरी क्षमता
सहित निष्ठा व ईमानदारी से अपनी सेवायें निरन्तर प्रदान
करता रहा जिसके आधार पर प्रार्थी को वार्ड कीपर (डीप्टी) के
तृतीय के पद पर दिनांक 5.3.80 को प्रदोन्नति दी गयी।

गुमबि
चौधरी
20/10/89

8° यह कि प्रार्थी दिनांक 5.3.80 के उपरान्त वार्ड कीपर डीएसके-111 के पद पर पूर्ण लगन व निष्ठा के साथ कार्य करता रहा। साथ ही प्रार्थी वार्ड नं-9 का इंचार्ज था।

9° यह कि प्रार्थी दिनांक फरवरी/मार्च 1985 को कुछ वस्तुओं के आपूर्ति से सम्बन्धित मांग पत्र प्राप्त किया।

10° यह कि प्रार्थी ने जिस व्यक्ति से वस्तु के आपूर्ति हेतु मांग पत्र प्राप्त किया, उससे सम्बन्धित सम्स्त प्रपत्र जैसे परिचय-पत्र, व अथारिटी लेटर आदि देखा व सम्स्त औपचारिकतायें पूर्ण करने के उपरान्त वस्तुओं की आपूर्ति करते हुए विभिन्न स्थितियों में 6 गेट पास तैयार किये गये। जो प्रार्थी ने अपने कर्तव्य पालन के तहत किये। उक्त 6 गेट पास तीन व्यक्तियों द्वारा प्राप्त किये गये जिनके नाम क्रमशः एके0 शर्मा, एमसी0, श्री ओपी0 शर्मा, एमसी0 व श्री राम सेवक एमसी0 थे।



11° यह कि कुछ समय के उपरान्त श्री सीएम0 मुखर्जी सतर्कता निरीक्षक द्वारा रिपोर्ट की गयी कि जिस मांग पत्र पर दिनांक फरवरी/मार्च, 1985 को जिला भंडार नियन्त्रक आलमबाग गोदाम से माल निकाला गया वह सभी मांग पत्र व वे व्यक्ति जो माल ले गये, सभी फर्जी था।

12° यह कि सतर्कता निरीक्षक ने शीतलादीन एमसी0 का ब्यान दर्ज करने के उपरान्त रिपोर्ट किया था, उक्त ब्यान में शीतलादीन ने स्वीकार किया था कि जो माल श्री एटी0राय, डीएसके-111 तृतीय चारबाग से प्राप्त किया, वह माल जहाँ जाना था वहाँ मैं नहीं ले गया। लेकिन फिर भी उक्त शीतलादीन को कोई आरोप पत्र नहीं दिया गया। क्योंकि सतर्कता निरीक्षक ने प्रार्थी व अन्य 6 कर्मचारियों को पकाने की नियत से शीतलादीन का ब्यान ब्यन्त्र के तहत लिया ताकि वह साबित हो सके कि प्रार्थी गलत कार्यों में सहयोग देता था। जबकि यह आरोप प्रार्थी के विरुद्ध किसी भी स्तर पर सिद्ध नहीं हो पाया।

3.11.85
चौधरी नरिन्द्र कुमार

13° यह कि उक्त स्तर्कता निरीक्षक की रिपोर्ट के उपरान्त प्रार्थी को दिनांक 12.7.85 को मिलिम्बत कर दिया गया। उक्त मिलिम्बत आदेश दिनांक 12.7.85 इस प्रार्थना पत्र का सलमक संख्या-3 के रूप में सलम है।

14° यह कि उक्त स्तर्कता निरीक्षक की रिपोर्ट के बाद प्रार्थी सहित 6 अन्य कर्मचारियों को मध्यम के तहत माल निकालने के आरोप में मिलिम्बत करने का आदेश उप निम्नलिखित भंडार, आलमबाग द्वारा पारित किया गया। उक्त आदेश दिनांक 25.7.85/28.7.85 इस प्रार्थना पत्र के साथ सलमक संख्या-4 के रूप में सलम है।



15° यह कि प्रार्थी के लगभग 9 माह के मिलिम्बत काल के उपरान्त दिनांक 10.4.86 को आरोप पत्र प्रेषित किया। उक्त आरोप पत्र की छाया प्रतिलिपि इस प्रार्थना पत्र का सलमक संख्या-5 के रूप में सलम है।

16° यह कि आरोप पत्र प्राप्त होने के बाद जांच प्रारम्भ होने के बाद प्रार्थी के निरन्तर लिखित पत्र देने के बाद दिनांक 28.10.87 को श्री डी०आर० मन्वन्दा को जांच निरीक्षक नियुक्त किया गया, उक्त आदेश दिनांक 28.10.87 की छाया प्रतिलिपि इस प्रार्थना पत्र के साथ सलमक संख्या-6 के रूप में सलम है।

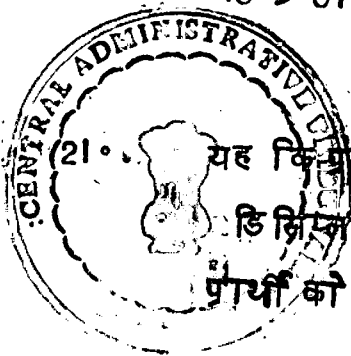
17° यह कि दिनांक 1.5.86 को आरोपों का जवाब देने हेतु प्रार्थी ने विश्वसनीय कागजातों की मांग की। उक्त मांग पत्र दिनांक 1.5.86 इस प्रार्थना पत्र का सलमक संख्या-7 है।

18° यह कि उक्त पत्र के बावजूद डि सिल्लीनरी अथॉर्टी द्वारा किसी कागजात की आपूर्ति न करने पर प्रार्थी ने विभिन्न स्थितियों में क्रमशः 12.6.86 व 14.11.86 को पत्र लिखकर विश्वसनीय

कागजातों की पुनः मांग की जिसकी छायाप्रतियाँ इस प्रार्थना पत्र के साथ संलग्नक संख्या-8 व 9 के रूप में संलग्न हैं।

19° यह कि दिनांक 6.4.87 को कागजातों की आपूर्ति की गयी। प्रार्थी द्वारा समस्त कागजातों का अवलोकन करने के पश्चात सभी आरोपों को इकार करते हुए दिनांक 4.5.87 को सक्षिप्त उत्तर प्रस्तुत किया। उक्त उत्तर से सम्बन्धित पत्र दिनांक 4.5.87 इस प्रार्थना पत्र का संलग्नक संख्या-10 है।

20° यह कि दिनांक 18.5.87 को प्रार्थी ने अतिरिक्त कागजातों की मांग इस आशय से की कि अपना सम्पूर्ण बचाव पत्र प्रस्तुत करते हुए अपने निर्दोष साबित कर सके। उक्त मांग पत्र दिनांक 18.5.87 की छाया प्रति इस प्रार्थना पत्र का संलग्नक सं-11 है।



21° यह कि प्रार्थी द्वारा अतिरिक्त कागजातों की मांग बार-बार डिप्टी कमिशनरी अफार्डों से की गई किन्तु मांगे गये कागजात प्रार्थी को उपलब्ध नहीं कराये गये।

22° यह कि विभाग द्वारा जानबूझकर अनावश्यक रूप से प्रार्थी को प्रताड़ित करने के उद्देश्य से जाँच की कार्यवाही नहीं प्रारम्भ की जा रही थी, जिसे पीड़ित होकर प्रार्थी ने सक्षम अधिकारी को लिखित रूप से अवगत कराया कि जाँच की कार्यवाही तत्काल प्रारम्भ की जाय अन्यथा प्रार्थी को सेवा में वापस लिया जाय।

23° यह कि इसके उपरान्त सक्षम अधिकारी द्वारा दिनांक 16.10.87 को प्रार्थी का निलम्बन आदेश रद्द कर दिया। साथ ही उसी आरोप से सम्बन्धित 6 अन्य कर्मचारियों का निलम्बन आदेश रद्द कर दिया गया और प्रार्थी को सेवा वापस लेते हुए जिला मंडार नियन्त्रक कार्यालय चारबाग लखनऊ से सहायक मंडार नियन्त्रक कार्यालय मुल्तराय में स्थानान्तरित कर दिया गया।

यह भी विदित हो कि प्रार्थी के साथ जो छः अन्य कर्मचारियों को सेवा में वापस लिया गया था, उन्हें लखनऊ में ही कार्य पर रखा गया।

24. यह कि जांच निरीक्षक द्वारा दिनांक 17.12.87 को जांच की प्रथम तिथि नियत की गयी जिसकी सूचना प्रार्थी को उसके तैनाती स्थान मुगलसराय पर दी गयी। उसके उपरान्त प्रार्थी मण्डल रेलवे प्रबंधक कार्यालय, उत्तर रेलवे, नई दिल्ली के सतर्कता अनुभाग में जांच निरीक्षक के सम्मुख उपस्थित होकर जांच की कार्यवाही में सहयोग दिया।

25. यह कि जांच निरीक्षक द्वारा जांच हेतु दिनांक 5.1.88 को दूसरी तिथि नियत की गयी। उक्त तिथि को भी प्रार्थी जांच निरीक्षक के सम्मुख उपस्थित हुआ और अतिरिक्त कागजात की जिम्मेदारी प्रार्थी ने पहले भी डि सिल्लीनरी अथॉर्टी से किया था, की मांग की।

26. यह कि अतिरिक्त कागजातों में से केवल एक कागजात जो शिवकादीन के बयान से सम्बन्धित था उपलब्ध जांच निरीक्षक द्वारा कराया गया और शेष कागजातों के विषय में जांच निरीक्षक ने बताया कि डि सिल्लीनरी अथॉर्टी से बात करके आपको अवगत कराया जायेगा। उसके उपरान्त जांच निरीक्षक द्वारा जांच कार्यवाही हेतु दिनांक 29.1.88 की तिथि नियत की गयी, उक्त तिथि पर प्रार्थी जांच की कार्यवाही में सहयोग दिया। किंतु प्रार्थी द्वारा पूर्व में मांगी गये अतिरिक्त कागजात की आपूर्ति नहीं की गयी। उसके उपरान्त जांच निरीक्षक द्वारा दिनांक 22.2.88 को जांच कार्यवाही की दूसरी तिथि नियत की।

27. यह कि प्रार्थी द्वारा बार-बार अतिरिक्त कागजातों की मांग करने पर दिनांक 15.3.88 को लिखित रूप से अतिरिक्त कागजात देने से इन्कार दिया। उक्त आदेश पत्र दिनांक 15.3.88 की छाया प्रति इस प्रार्थना पत्र की संलग्नक सं०-12 है।

28° यह कि दिनांक 15.4.88 को जांच निरीक्षक के समक्ष उपस्थित होकर प्रार्थी ने लिखित रूप से अपना ब्याव पक्ष प्रस्तुत किया। उसके उपरान्त दिनांक 27.4.88 को प्रार्थी के डिपेंड काउंसिल श्री वीएन० सक्सेना द्वारा लिखित रूप से प्रार्थी का ब्याव पक्ष प्रस्तुत किया गया जिसकी छाया प्रतिलिपियां इस प्रार्थना पत्र के साथ संलग्नक संख्या-13 व 14 के रूप में संलग्न है।

29° यह कि दिनांक 15.4.88 को जांच की कार्यवाही जांच निरीक्षक द्वारा समाप्त कर दी गयी।

30° यह कि जांच के दौरान जांच निरीक्षक ने सिर्फ दो पार्टियों को फ्रीस इक्वाड्रिमेंट हेतु प्रार्थी के समक्ष बुलाया जबकि सतर्कता निरीक्षक द्वारा छः पार्टियों की रिपोर्ट की गयी, जिसके आधार पर प्रार्थी को मिलम्बित करते हुए आरोप पत्र दिया गया था।

31° यह कि जांच की कार्यवाही के दौरान प्रार्थी ने जांच निरीक्षक से प्रार्थना की कि चार अन्य पार्टियां, जिसकी रिपोर्ट सतर्कता निरीक्षक द्वारा गयी थी, और उनके ब्याज इत्यादि प्रार्थी के समक्ष कराये जायें। उसके उपरान्त जांच निरीक्षक ने सतर्कता निरीक्षक जिसकी रिपोर्ट पर प्रार्थी को आरोप पत्र दिया गया था, से जांच निरीक्षक ने कहा कि अन्य चार पार्टियों के ब्याज इत्यादि उपलब्ध कराये जायें, जिस पर सतर्कता निरीक्षक ने उत्तर दिया कि यह मेरे अपने विचार पर है कि किसका ब्याज मैं आपके समक्ष रखूँ, किसका न रखूँ।

32° यह कि जांच की कार्यवाही समाप्त होने के उपरान्त जांच निरीक्षक द्वारा जो रिपोर्ट डिपेंडेंसी अथॉर्टी को दिया गया, उस पर उनके हस्ताक्षर नहीं थे।

33° यह कि अक्त जांच रिपोर्ट जांच निरीक्षक द्वारा दुष्क भावनाओं से प्रेरित होकर प्रार्थी को दण्डित करने के उद्देश्य से प्रार्थी को अक्षयन्त्र में शामिल बताते हुए दी गयी। यह कार्य जांच

37 :- यह कि याची के विरुद्ध सेवा संधिकरण आदेश दिनांक- 29-9-88 मूल रूप से अवैधानिक न क्षेत्राधिकार से परे है। क्योंकि इसमें नियुक्ति प्राधिकारी द्वारा दण्डादेश पारित नहीं किया गया है। इस संबंध में स्थित को स्पष्ट करते हुए यह कहा समीचीन होगा कि भण्डार पाल तृतीय के पद से सेवा से पृथक् किया गया है जिस पद के नियुक्ति प्राधिकारी उप भण्डार नियन्त्रक, विपक्षी सं०-3 है। विपक्षी सं०-2, विपक्षी सं० 3 से निम्न स्तर के अधिकारी है। अतएव उनके द्वारा पारित दण्डादेश मात्र अवैधानिक ही नहीं बल्कि क्षेत्राधिकार से परे भी है।

38 :- यह कि याची को नियुक्ति तृतीय श्रेणी में सिपिकेय पद पर रेलवे सेवा आयोग द्वारा वर्ष 1953 में हुई थी। उस समय से लगभग 42-73 तक स्थिति सामान्य थी और तृतीय श्रेणी के पदों पर नियुक्ति अधिकारी का अधिकार विपक्षी सं०-2, जिला भण्डार नियन्त्रक को ही प्राप्त था परन्तु सम्भवतः वर्ष 1974 या उसके आस-पास किसी समय उप भण्डार नियन्त्रक के पद सृजन हो जाने के उपरान्त द्वारा अधिकार विपक्षी सं० 3 में समाहित हो गया। इस संबंध में यह भी उल्लिखित करना आवश्यक है कि जिला भण्डार नियन्त्रक विपक्षी सं०-2 वर्तमान में पद श्रेणी सं०-3 न उसके अतिरिक्त किसी भी पद के नियुक्ति प्राधिकारी नहीं रह गए हैं और कर्ष-3 का पद सिपिकेय पद से ही प्रारम्भ होता है, ऐसी स्थिति में वर्तमान में विपक्षी सं०-2 किसी भी भांति याची के नियुक्ति प्राधिकारी की गणना में नहीं आते।

39 :- यह कि जैसा कि उल्लिखित किया गया है, विपक्षी सं०-3 उप भण्डार नियन्त्रक का पद सृजित होने के पश्चात जो भी कार्यवाही याची के संबंध में या उसके सम्बन्ध में कार्य कर्मचारियों के लिए की गयी है वे सभी उप भण्डार नियन्त्रक द्वारा ही की गयी है। चूंकि याची के विरुद्ध जिस समय सिपिकेय कार्यवाही सम्पन्न की गयी है या प्रस्तावित की गयी उस समय उसके नियुक्तिकर्ता उप भण्डार नियन्त्रक विपक्षी सं०-3 ही थे परन्तु अवैधानिक से विद्वेषात्मक भावना से प्रेरित होकर सम्बन्ध कार्यवाही जिस भांति जिला भण्डार नियन्त्रक विपक्षी सं०-2 द्वारा सम्पन्न की गयी है वह पूर्ण रूप से अवैधानिक न क्षेत्राधिकार से परे है। उदाहरण स्वरूप दिनांक 28-2-80 को याची को प्रोन्नति भण्डार पाल के पद पर उप भण्डार नियन्त्रक याची विपक्षी सं०-3 द्वारा की गयी प्रोन्नति दिनांक 28-2-80 को साक्ष्य के रूप में माननीय अधिकरण के समक्ष संलग्न सं०-15(अ) के रूप में अवलोकनार्थ प्रस्तुत की जा रही है।

40 :- यह कि याची भण्डार पाल तृतीय के पद पर तत्पश्चात नियुक्ति नियुक्ति प्राप्त किया उसके पूर्व याची संबंधित परीक्षा न सप्ताहकार में भी सफल हुआ और दिनांक 23-6-80 का प्रपत्र जो उप भण्डार नियन्त्रक, विपक्षी सं०-3 द्वारा पारित किया है जिसके द्वारा याची को योग्य घोषित किया गया है उसकी भी प्रमाणित दायी प्रतिकृति 15(ब) के रूप में माननीय अधिकरण के समक्ष अवलोकनार्थ प्रस्तुत की जा रही है जिससे यह भी भांति सिद्ध है कि याची के नियुक्ति प्राधिकारी उप भण्डार नियन्त्रक है, और जिला भण्डार नियन्त्रक द्वारा पारित दण्डादेश अवैधानिक निर्मित न क्षेत्राधिकार से परे पूर्ण रूप से खण्डित होने योग्य है। यही नहीं बल्कि याची का स्थानान्तरण भी समय-समय पर उप भण्डार नियन्त्रक ही करते थे और प्रशासनिक दृष्टिकोण तथा नियुक्ति दृष्टिकोण से उप भण्डार नियन्त्रक विपक्षी सं०-3 ही याची के नियुक्ति प्राधिकारी है और उन्हें ही याची के विरुद्ध दिया गया दण्ड देने का अधिकार प्राप्त है तथा मुख्य रूप से वही सक्षम प्राधिकारी है। ऐसी अवस्था में याची के विरुद्ध पारित दण्डादेश पूर्ण रूप से अवैधानिक न निरस्त होने योग्य है।

निरीक्षक द्वारा इसी शीटिंग द्वारा किया गया कि जांच रिपोर्ट के किसी भी भाग पर या उससे सम्बन्धित किसी भी सलमनक पर न तो जांच निरीक्षक की माहिर थी और न ही कहीं उसके हस्ताक्षर थे। यहाँ तक कि रिपोर्ट के अन्त में भी जांच निरीक्षक के मोहर के हस्ताक्षर नहीं हैं। उक्त जांच रिपोर्ट की छाया प्रति इस प्रार्थना पत्र का सलमनक संख्या-15 के समान रूप में सलमन है।

34° यह कि उक्त अदालत जांच रिपोर्ट जांच निरीक्षक ने डिसिप्लिनरी अथॉर्टी को प्रस्तुत किया जिस पर डिसिप्लिनरी अथॉर्टी ने बिना मस्तिस्क लगाये ही प्रार्थी को सेवा से पृथक् करने का आदेश दिनांक 29.9.88 को जो पूर्ण रूप से नान-स्पीसि आदेश था, पारित कर दिया जो प्रार्थना पत्र का सलमनक संख्या-1 है।

35° यह कि दिनांक 25.10.88 को प्रार्थी ने अपने सेवा पृथक्करण के अर्ज के विरुद्ध उप भंडार नियंत्रक आलमबाग, लखनऊ में समझौता अपील प्रस्तुत किया। उक्त अपील की छाया प्रति इस प्रार्थना पत्र के साथ सलमनक संख्या-16 के रूप में सलमन की जा रही है।

36° यह कि उक्त अपील पर उप भंडार नियंत्रक महोदय आलमबाग, लखनऊ ने बिना अना मस्तिस्क लगाये ही 9 महीने बाद डिसिप्लिनरी अथॉर्टी द्वारा दिये गये आदेश को दिनांक 25.7.89 को नान-स्पीसि आदेश पारित करते हुए आदेश बहाल कर दिया। उक्त आदेश दिनांक 25.7.89 प्रार्थी को दिनांक 27.7.89 को ग्राप्त कराया गया जिसकी छाया प्रति इस प्रार्थना पत्र का सलमनक संख्या-17 है।

37° उपचार जो निःशेष किया उसका विवरण:-

उप भंडार नियंत्रक आलमबाग को अपील करके उक्त उपचार का लाभ दिया जा चुका है। प्रार्थी यह उद्घोषित

Amendment incorporated
vide order dt. 11/8/95
J. S. S. S.

कि सेवा नियमावली के अनुसार सभी उपचार उपभोग कर चुका है।

8° किसी भी न्यायालय में पहले इस विषयवस्तु से सम्बन्धित कोई भी वाद लम्बित नहीं है।

प्रार्थी यह उद्घोषित करता है कि उपर्युक्त से विषयवस्तु से सम्बन्धित कोई भी वाद किसी भी न्यायालय में लम्बित नहीं है।

9° अनुलोम जो प्रार्थी माग करता है:-

पैरा-6 में वर्णित तथ्यों एवं परिस्थितियों के आधार पर प्रार्थी माननीय न्यायाधिकरण से विनम्रतापूर्वक निवेदन करता है कि प्रार्थी का सेवा पृथक्करण आदेश दिनांक 29.8.88 जिसकी अपील उम भंडार नियंत्रक आलम्बाग को की गई थी तथा उम भंडार नियंत्रक महोदय ने दिनांक 29.9.88 को आदेश को दिनांक 25.7.89/27.7.89 को खाल कर दिया जो प्रार्थी पक्ष के साथ सलमक सं०-1 व 2 है जो निश्चित करने की निम्न आधारों पर करता है:-

॥ १ ॥ क्योंकि प्रार्थी विभाग में रेलवे सेवा नियमावली के मुताबिक स्थाई कर्मचारी है।

॥ २ ॥ क्योंकि प्रार्थी को अपने ब्याव प्रस्तुत करने का पर्याप्त अवसर नहीं दिया गया।

॥ ३ ॥ यह कि प्रार्थी को जाच के दौरान जिस पार्टियों के नाम से संतुष्टि निरीक्षक ने रिपोर्ट की थी, उनमें से चार पार्टियों के न तो ब्यान ही जाच के दौरान दिये गये और न ही जाच के दौरान प्रति परीक्षण हेतु उनको उपस्थित ही किया गया।

॥ ४ ॥ क्योंकि प्रार्थी के बार-बार माग करने के बावजूद भी अतिरिक्त कागजात उपलब्ध करने से मना कर दिया गया।

प्रस्तर 11 :- क्योंकि याची के विरुद्ध पारित दण्डादेश क्षेत्राधिकार से परे एक ऐसे कानून अधिकारी द्वारा पारित किया गया है जिसे याची को दण्ड देने का विधिक अधिकार प्राप्त नहीं है। अतएव दण्डादेश इसी मूल आधार पर निरस्त होने योग्य है।

प्रस्तर 12 :- क्योंकि याची के विरुद्ध पारित दण्डादेश सेना से पृथक्करण से पूर्ण बन्तान का राशुचित अवसर प्रदान नहीं किया गया और सामान रूप से डाकू कर्मचारी भी आरोपित किए गए थे उन्होंने दोषमुक्त मानते हुए याची को दण्डस्वरूप सेना से पृथक् किया गया जबकि याची डाकूराश ग्रहण करने के स्तर पर अपनी सेवाएं संभवतः पूरी कर चुका था। ऐसी स्थिति में याची के विरुद्ध पारित दण्डादेश न्यायानुसृत नहीं कहा जा सकता

प्रस्तर 13 :- क्योंकि याची को जांच रिपोर्ट व जांच अधिकारी को बखला जिससे दण्ड दिया गया वह एक सम्पन्न अभिलेख नहीं कहा जा सकता क्योंकि न उस पर किसी के हस्ताक्षर हैं न ही कोई तिथि दर्शायी गयी है। ऐसी परिस्थिति में माननीय सर्वोच्च न्यायालय में मुनियन आफ इण्डिया बनाम राजान खान में जिस सिद्धान्त को प्रतिपादित किया है उससे याची भी लाभान्वित होने योग्य है और यह माना जायगा कि उसे जांच रिपोर्ट व जांच बखला नहीं दी गयी है।

प्रस्तर 14 :- क्योंकि याची के मामले में जो मुख्य व संबंधित अधिकारी उसे दण्डादेश देकर उसे दण्डादेश दिया गया न ही उनसे जिरह का अवसर प्रदान किया गया जिससे यह सिद्ध है कि याची को बचाव का उपयुक्त अवसर प्रदान नहीं किया गया और समस्त विभागीय कार्यवाही विधानिक रूप से भारतीय संविधान के अनु. 31(2) का उल्लंघन करते हुए सम्पन्न कर ली गयी तथा याची को अनधिकृत रूप से दण्डित करते हुए उसके समस्त जीवन से खिलनाउ किया गया।

प्रस्तर 15 :- क्योंकि याची को लगभग 34 वर्ष की निरोध सेना काश को अनधिकृत रूप से विमुक्त कर दिया गया और असक्षम अधिकारी द्वारा उसे दण्ड देकर जिस भांति सेना से पृथक् किया गया वह एक अवैधानिक आदेश है। उनके माननीय सर्वोच्च न्यायालय का यह स्पष्ट मत है कि इन परिस्थितियों में कर्मचारियों के पेंशन न रोके जाएं।

प्रस्तर 16 - क्योंकि दण्डादेश के पश्चात याची ने जो अपील किया उस पर भी विभाग ने बिना साक्ष्यों का परीक्षण किए हुए निर्णय लेते हुए निरस्त कर दिया, जबकि याची को उसके अनिवार्य निधि आदि का भी भुगतान नहीं किया गया। ऐसी स्थिति में दण्डादेश अवैधानिक संविधान के अनु. 31(2) के विपरीत तथा रेलवे प्रशासन द्वारा निम्न कई नियमों के विरुद्ध है जिसमें यह प्राविधान है कि कर्मचारी को बन्तान का पूर्ण अवसर देना चाहिए।

प्रस्तर 17 :- क्योंकि जांच अधिकारी का स्तर स्वयं साक्ष्य रूप में था अतएव उनके द्वारा की गयी जांच नियमानुसृत नहीं कही जा सकती और सम्पूर्ण जांच दोषपूर्ण है।

Amendment
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dt. 11.12.95

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॥ 5॥ क्योंकि जांच निरीक्षक ने बिना मस्तिष्क लगाये शीघ्रता में बिना हस्ताक्षर किये ही जांच रिपोर्ट सलमक सहित डि सिलीनरीय अर्थात् को प्रस्तुत की।

॥ 6॥ क्योंकि सक्तता निरीक्षक ने प्रार्थी को मसाने की मियत से शीतलादीन का ब्यान लेकर जो बिल्कुल ही सिद्ध नहीं हुआ के आधार पर पर्जी रिपोर्ट की थी।

॥ 7॥ क्योंकि ढण्डादेश पारित करने के पूर्व प्रार्थी को किसी भी प्रार्थी को किसी भी प्रकार की सुनवाई का अवसर नहीं प्रदान किया गया जो नैसर्गिक न्याय के सिद्धान्तों का सुभा उल्लंघन है।

॥ 8॥ क्योंकि प्रार्थी का के गलत सेवा पृथक्करण आदेश से प्रार्थी अपने जीने का अधिकार व जीवन यापन का अधिकार से वंचित हो जाता है।

॥ 9॥ क्योंकि प्रार्थी का सेवा पृथक्करण आदेश जो अमरा प्रार्थी पत्र का सलमक सं.-1 व 2 है, दृष्टि भावनाओं से प्रेरित होकर जारी किया गया है।

॥ 10॥ क्योंकि उसी आरोप में 7 व्यक्ति निलम्बित थे जो समान रूप से जिम्मेदार थे, प्रार्थी को छोड़कर शेष को दोषमुक्त कर दिया गया है।

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प्रार्थी

उपर्युक्त वर्णित तथ्यों एवं आधारों के आधार पर प्रार्थी माननीय न्यायाधिकरण से प्रार्थना करता है कि :-

॥ अ॥ प्रार्थी के सेवा पृथक्करण आदेश दिनांक 29.9.88 व दिनांक 25.7.89/27.7.89 को निरस्त करते हुए विपरीत गण को निर्देशित करे कि प्रार्थी को मनु.सेवा में मानते हुए समस्त सुविधाएं प्रदान करे।

॥ ब॥ यह कि माननीय न्यायाधिकरण अन्य कोई आदेश जो उपर्युक्त समझे पारित करने की कृपा करे।



Amendment copy
vide order dt. 11/12/95

Signature
Date 12/12/95

10°

अन्तरिम आदेश यदि कोई प्रार्थना है:-

प्रार्थना पत्र अन्तिम रूप से निर्णित होने तक एक अन्तरिम आदेश पारित करके मामनीय न्यायाधिकरण प्रार्थना पत्र के संलग्नक संख्या-1 व 2 को स्थगित करने की कृपा करे कि संलग्नक संख्या-1 व 2 प्रार्थना का सेवा पृथक्करण आदेश बिना अस्तित्व का प्रयोग किये हुए दृष्टि भावनाओं से प्रेरित होकर पारित किया गया है।

11°

प्रार्थना का पता:-

जैसे आशुतोष राय पुत्र स्वर्गीय श्री एसएनएन राय,
निवासी-53बी, सी०पी० एच० कालोनी,
आलमबाग, लखनऊ-5



कै. ड्राफ्ट पोस्टल आर्डर जो प्रार्थना पत्र के शुल्क के रूप में
का विलक्षण:-

1. कै. अथवा डाक्टर का नाम

30/01/54

जहाँ से कै. ड्राफ्ट अथवा

31/01/54

पोस्टल आर्डर जारी किया

31/01/54

गया है।

2. डिमाण्ड ड्राफ्ट नं०-

अथवा

3. भारतीय पोस्टल आर्डर की संख्या- 0 2 4 5 6 3 7

4. जारी कर्ता पोस्ट ऑफिस का नाम 30/01/54 लखनऊ

5. डाक्टर का नाम जहाँ पर भुक्तान होना है 30/01/54

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संलग्नक संख्या-

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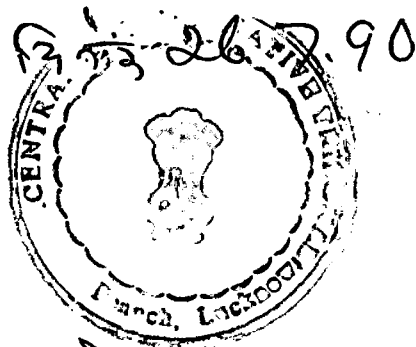
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सत्यामन

मै, बाबूराव राय फुल स्व० श्री एस०एन० राय, उम्र लगभग
58 वर्ष का निवासी - D. S. K. III - माछीगांव अहापठ

भंडार निपटारे, जुगाण खराप। निवासी 53 B.
C.P.H. माछीगांव आलम बाग लखनऊ, एतद्वारा
हस्ताक्षर करत है कि पूर्वीय पत्र का प्रत्येक 1-36
में निम्नी बात को सत्य है तथा प्रत्येक प्रमाण
विधिक आन से सत्य है। इसके लता विली-
तथा को दुरापा गजा है को न दी उद 1965
है। ईश्वर हमारी मदद करे।



डाक्टर के हस्ताक्षर

4
महोदय
को प्रमाणित

NORTHERN RAILWAY.

FORM No.9.

Orders of imposition of penalty under Rules 6 (VII) to (IX) of Railway Servants (Discipline & Appeal) Rules, 1968.

E151538

No. Place of Issue D.Y. COS / NR / Ann

Dated 29-9-88

To - Shri A. T. Roy

Dsic / III

ACOS / NR / VY N / MGS

(Through)

I have carefully considered your representation dated 15-4-88 in reply to the Memorandum of show cause

Notices No. E151538 dated 10-4-86. I do not find your

representation to be satisfactory due to the following reasons:-

Charged against you have been proved and the gravity of misconduct attributed by you is very high. I agree with the findings of the Enquiry Officer. I therefore, hold you guilty of the charge(s) viz. Contravened Rule 3.1 (1) of the Rly. Service Conduct Rules 1966. levelled against you and have decided to impose upon you that penalty of compulsory retirement/removal/dismissal from service. You are, therefore, compulsorily retired/removed/dismissed from service with effect from 15-4-88.

2. Under Rule-18 of the Railway Servants (Discipline & Appeal) Rules 1968, an appeal against these orders filed to you N. Rly. Alambag Lucknow provided.

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

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

3. Please acknowledge receipt of this letter.

DD/as above

Signature

Name

Designation of the Disciplinary Authority

ACOS / N. Rly. VYN / MGS As Settlement / Ann H Co

R. K. Vyas N. Rly. Alambag Lucknow

Handwritten signature and notes at the bottom left.

98. (87) 15 162
Confidential
No.E/3/538

Enquiry Report of DAR enquiry proceedings in the case of Sri A.T.Roy,
DSK/CB/Lucknow.

Preamble

1. In terms of Rule-9(2) of Railway servants Discipline & Appeal Rules, 1968, I was appointed as Inquiry Officer in this case vide Disciplinary Authority (DCOS/RIV/LKO) Order No.E/S/538 to inquire into the charges as brought out against Sri A.T.Roy, DSK-III/CB/Lucknow vide memorandum of charge sheet No.E/S/538, dated 10/4/1986. The enquiry was accordingly conducted and completed by me.

2. The said Sri A.T.Roy, DSK/CB/Lucknow presented his case with the assistance of Sri B.N.Saxena, Retd.DSK/Lucknow nominated by him as his defence helper in terms of Rule-9(9) of RSDA Rules, 1981.

3. The enquiry was held at New Delhi on 17/12/87, 5/1/88, 29/1/88, 22/2/88, 15/3/88 & 15/4/88. At the outset of enquiry, the said Sri A.T. Roy, DSK/LKO herein-after referred to as defendant was presented with the following charges which were denied by him:-

"While working as DSK-III in Chatkhagh Stores Depot under DCOS/CB/LKO during Feb, 1985 to 8/85, Sri A.T.Roy committed the following gross irregularities:-

1. He intentionally prepared six gate passes for 529.4 Kg. tin ingot, 1000 Kg. solder soft and 23 1/2 Round Bearing. Material costing approximately Rs.1,55,000/- on fictitious requisition and allowed these materials to go out of the stores gate on the strength of those gate passes.

2. He also entered fictitious names on those gate passes as the representatives of the so called indenter in order to take the materials out of the depots.

3. He has intentionally prepared two minor issue notes (viz. 09/1757 dated 11.10.84 for tin ingot, 84 Kg. and 09/1759 dated 11.10.84 for tin ingots 43.8 Kg.) and got them posted in R.L.Card No.1162017 in order to show that the material has not been issued or it has been returned back, thus establishing his malafide intention.

By having acted in the manner the said Shri A.T.Roy, contravened Rule 3.1(1), (ii) & (iii) of the Railway Service Conduct Rules, 1966."

Evidence

A) Oral

4.1) Prosecution:- The Disciplinary Authority cited 7 witnesses in support of charges. All of them were examined in the enquiry & their depositions are placed at pages of the proceedings as given below:-

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Enquiry Report of DAR enquiry proceedings in the case of Sri A.T. Roy,
DEK/SE/Lucknow.

1. Sri Rais Ahmed, ADC/MIV/LKO.	PL-1	page 3
2. " V.K.F. Yadav, SEFO/C/ALD.	PL-2	page 4
3. Sri A.Z. Hussain, TCI Gr. I/ALJH.	PL-3	page 5
4. " R.P. Singh, ALI/IT/LKO.	PL-4	page 6
5. " Shitla Deen, IC/LKO.	PL-5	page 7
6. " G.H. Kookherjee, Ex. VINDIS.	PL-6	Pages 8 to 10
7. " Sat Pal, Retd. MCC/LKO.	PL-7	page 11

11) Defence.- The defendant submitted his written statement of defence in 7 sheets at pages 12 to 18 of the proceedings and his examination by the Inquiring Authority appears at page 19 thereof. The defendant did not produce any witness in support of defence.

P) Documentary

5.1) Prosecutions.- The documents marked as Ex. P-1 to P-22

11) Defence.- The documents marked as Ex. D-1 & D-2.

After closing the enquiry proceedings, the defence helper submitted his written statement of defence in 6 sheets alongwith enclosures in three sheets.

Discussion & Analysis on evidence of the charges.

6. Sri G.H. Kookherjee, V.I. (PL-6) during his deposition in the enquiry has stated that in a preventive check conducted in the ward No. 09 of Charbagh Station Depot/Lucknow, it was found that some costly material e.g. brass & solder softs both non-ferrous had been issued by the defendant (the stock holder of ward No. 09) to such imaginary indentors who did not consume the said items. It was explained that modus operandi of the defendant was to get fictitious requisitions from workshops & divisions from time to time and issue the above two items in the name of some non-existing & non-railway persons showing them as bonafide M.Os of the so called indentors through gate pass prepared by him & then misappropriated the said material for his own benefit. Detailed investigation of the relevant gate passes revealed that the defendant had utilized the name of M.C. in some cases viz. CII/ALJI, SEFO/C/ALD & S. J. Workshop/JRC as A.K. Sharma I/card No. 37818 and again in the case of S. J. Workshop/JRC, he puts the name Sri A.K. Sharma giving same I/card number. In some other case, the name of the M.C. was given as Anil Kumar Sharma with same identity card number which the defendant forgot to change. The defendant did this mischief with pre-planned programme to misappropriate the govt. material. On gate pass No. 452/S8/09/1685 dated 5/2/85 (Ex. P-2), 84.2 Kg. tin ingots & 14.8 Kg. solder soft was issued in the name of IFQ/C/Allahabad. But, the defendant categorically denied for having sent any requisition for the ingots or solder softs. He has also stated that no M.C. in the name of Sri A.K. Sharma had been working under him. He further stated that the defendant omitted to give details of the so called Anil Kumar Sharma on gate pass No. 452/S8/09/1677 dated

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To: E/1/533

Inquiry Report of PAF enquiry proceedings in the case of Sri A.T. Roy,
DSE/CE, Lucknow.

1/2/85 (Ex.P-1) of PAF/FTP which was got signed from Sri Pyarey Lal, Sr. DSK. It was also stated that two minus issue notes No.09/1757 dated 11/10/84 for 84 Kg. tin ingot & 09/1759 dated 11/10/84 for 43.8 Kg. tin ingot were prepared by the defendant but actually the material was not physically available in ward No.09 as it has come on record that the material 43.8 Kg. had already gone out of store depot on gate pass No. 366/38/09/1147 dated 21/3/84. Thus preparation of minus issue note & posting in R.L. Card without any resultant physical increase in the balance was only an attempt on the part of defendant to prove his innocence as he knew that no departmental stock verification is done. It was also stated that original gate pass No.366/38/09/1147 dated 21/3/84 for 43.8 Kg. tin ingot was destroyed and in its place gate pass of the same/XXXXX date for some other material & for some other consignment. This was circumstantially proved from the fact as the original gate pass number could not be made available. He suspected that there was a deep routed racket functioning in Charbagh Store Depot which has been misappropriating the govt. material. Regarding process of issue of material, he has stated that as per para 1307-S proper requisition register should be maintained in store depot separately for divisions and workshops. All indents received should be got recorded in the requisition register concerned & serial number should be marked on the right hand corner of indent. Thereafter the requisition should be sent to the respective ward for arranging the issue of material. Before issue of material stock holder got himself satisfied regarding the genuineness of the requisition in respect of his identity card with photo. Subsequent to collection of particular material and particular requisition, after the preparation of issue note by the stock holder, gate pass is prepared as per particulars given in the issue note which is initialed by the ward keeper & then got signed from another DSK. No such register number was found in Ex.P-7, P-8, P-10 & P-11. Further the stock holder should not have received the requisition direct from any special messenger. In the case of Ex.P-1, the name of messenger has been shown as Anil Kumar without any details and in Ex. P-2 & P-4, the name of messenger has been given as A.K. Sharma in both cases of EFO/0/1147 & EFO/0/1147 (XXXXX) SS/BAS/IRC but I/card number is the same as 37818 dated 25/6/84. In the case of EFO/0/1147 (XXXXX) a although the name of messenger has been shown as A.K. Sharma but with I/card number as 10247 dated 3/6/84. He further explained that minus issue note can be prepared by [blank] if the messenger requests for writing that due to some reasons, he will not be in a position to collect the material. However, in this case, the material had gone out of the gate as per gate register maintained by EFO & there is no entry in the gate register of this material having been readmitted in the store. [blank] Moreover, taking back the material which has already been issued, approval of the competent authority is required which does not seem to have been obtained.

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Enquiry Report of DAR enquiry proceedings in the case of Sri A.T.Roy,
DSK/CB/Lucknow.

7. PW-1 Sri Rais Ahmed, SDC/MV, Lucknow owned his statement at Ex.R-19 stating it as correct. He stated that he was given a specification of some other minus issue notes by the defendant & ordered to prepare a similar issue note No.09/1757, 1758 & 1759 as he was a new man & was not aware as to how minus I/note is prepared. He confirmed that before preparation of minus I/note, written comment of the consignee is required but no such comment was seen by him. It was also stated that at the time of preparation of minus I/note all the five copies are collected before it is prepared but in this case, these 3 minus I/note were prepared on the basis of office copy only.

8. PW-2 Sri V.N.P.Yadav, SEFO/Const./Allahabada owned Ex.R-18 and certified that it was written by him and bore his signature. He clarified that he had given his statement after going through Ex.R-2. He explained that tin ingots are never used in their works and solder soft is used very nominally. Before sending the requisition to the store, the name is entered in a register after getting it signed from SS/Const./New Delhi. Sri A.K.Sharma, M.C. mentioned in the gate pass was not at all working under his organisation and as such question of issue of I/card No.37818 in his favour does not arise. No debit in respect of material mentioned in Ex.R-2 was received & verified by him.

9. PW-3, Sri A.Z.Hussain, TOI Gr.I/Aligarh owns Ex.R-17 and states that before recording of his statement. He stated that no I/card No. 37818 was issued or procured from DCO/SSB. He had also neither received the material nor verified the same. It was further clarified that the said material is never used in his section and as such no I/note was placed for this material.

10. PW-4, Sri R.P.Singh, AIF/TF/Lucknow owns his statement and signature at Ex.R-15. He stated that tin ingot is very rarely used in his workshop.

11. PW-5, Sri Siddha Deon, M.C. under Ex.Workshop/Lucknow has owned his statement at Ex.R-3 by stating that it has been written by him. His duty as M.C. was for collection & delivery of the material to different shops/stores & sometimes he was also utilised for preparation of ingots.

12. PW-6, Sri Sat Pal, Heta.MCC/Lucknow owns that his statement at Ex.R-16 as correct. Tin ingots 43.8 Kg. plus 84.00 Kg. were issued during 1984 and till the start of investigation in May, 1985, no ref. to the store Branch was made re: its supply as the material had not reached the workshop.

13. In his written statement of defence, the defendant has stated that in order to defend his case following documents which are relevant have not been made available:

* He says that Ex.R-12 I/note No.269C dt.25/3/85 does not pertain to his office & stamp and signatures are also not that of his. Counter-signatures on requisition No.183678 has been done by DDM whereas it is done by ASTE/ALIN. He had seen the I/note before recording of his statement.

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Enquiry Report of DAR enquiry proceedings in the case of Sri A.T. Roy,
DSK/CE/Lucknow.

- 1) I/note No. 09/2926 of 21/3/84
ii) -do- 09/2979 of 7/3/84
iii) -do- 09/2192 of 15/2/84
iv) -do- No. 09/2573 of 5/3/84
v) -do- No. 09/2697 of 25/3/84
vi) -do- No.
vii) Gate pass No. 366/58/09/1147 dated 21/3/84
viii) -do- No. 376/58/09/33 dated 21/4/84

The above additional documents were permitted by the Enquiry Officer but could not be provided by the Disciplinary Authority. Thus he has to give his defence unaided with the facts on the basis of his memory & recollection as under:-

- 1) That the requisition form No. 1113 were properly used by the indentors/were signed on rubber stamps with certificate that the fund existed and the requisitions in question were found in order & genuine. Accordingly, gate passes were prepared & got signed from another DSK after satisfying from Identity card & authority letter.

2) The requisition form No. 1113 were properly used by the indentors/were signed on rubber stamps with certificate that the fund existed and the requisitions in question were found in order & genuine. Accordingly, gate passes were prepared & got signed from another DSK after satisfying from Identity card & authority letter.

3) Regarding preparation of minor issue notes, the defendant stated that the material was not existing in his ward is not correct. The material is verified by stock verifier twice a year and no shortage has ever been found in the stock of P.L. No. 91. 160017. Regarding the charge that 43.8 Kg. tin ingot was taken out by Shri Shitla P. C. vide gate pass No. 366/58/09/1147 dated 21/3/84, stated by Sri Bajrang Bahadur (Ex. P-10), the administration has not supplied him the original gate pass & in absence of the same gate pass and in absence of the same he denied the material was taken out. He questioned the argument that the preparation of minor issue not order of the gazetted officers are required as the same are signed by the gazetted officers. He clarified that it is incorrect that every time Sri Anil Kumar Sharma has been used as M.C. He has been utilized as M.C. of P&T only whereas M.C. of EFQ/C/Allahabad & SS/BIS/JUC is one Sri A.K. Sharma with I/ card No. 3731 dated with EFQ/C/Moradabad with identity card No. 1224 dated 3/6/84. So it is improper to say that Sri Anil Kumar Sharma & A.K. Sharma are the same person as their I/ cards are with different number. It was, however, accepted that due to rush of work, mentioning of Identity card & authority letter had been omitted in gate pass.

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Enquiry Report of DAR enquiry proceedings in the case of Sri A.T. Roy,
DSI/CE/Lucknow

No. 45/88/09/1877 dated 1/2/45. In the enl he stated that he had performed his duty aliding all procedures according to store code but a racket of unscrupulous men have robbed these material by submitting fictitious requisitions which could not be detected prior to investigation. Indentors also did not intimate despite debit list having been sent well in advance. He also charged that the V.I. has not gone deep into the matter in order to ascertain the names of those who had taken away the material but has only involved the store staff. Out of six indentors only two i.e. EFO/C/ALD and CTH/ALJR were contacted by the V.I. and the remaining four indentors were not contacted. Regarding genuineness of Identity card, printing press at Shakturbasti should have been contacted & that both the above indentors have denied about receipt of material due to fear from vigilance.

14. Charge(1):- After going through documentary as well as oral evidence adduced in the enquiry, the prosecution charge is that the defendant intentionally prepared six gate passes for 5294 Kg. Tin ingot 114.1 Kg. Solder soft & 23 Kg. Rohal Metal costing approx. 1,55,000/- on fictitious requisition and allowed those material to go out of store depot on the strength of those gate pass. In this connection prosecution has quoted six gate passes as listed in Annexure-II of the memorandum of charge sheet against which material had been issued to ICH/DRC/Moradabad, BS/HIS/JFC, EFO/C/MB, EFO/C/ALD, SIF/C/ALD. The material shown in Ex.P-2 (Gate pass) has never been received in his office nor requisition for the said material was sent for its procurement. Sri A. K. Sharma, H.C. has been shown to have received the said material has never been worked under his name as such issue of I/card No. 37818 to him by his office does not arise. Even debit for this material was not received in his office. Similarly Sri A. Z. Hussain, TCI/Aligarh J. (P-3) stated that the material shown at indent (Ex.P-12) against I-card No. 4699 dated 25/3/35 does not pertain to his office. Signature & stamp affixed on it are forged one. Requisition are not signed from him as shown therein but are signed by JSTE/ALJR. He has further deposed that as per record of his office, I/card No. 37818 has never been issued in the name of Sri G.P. Sharma. The material shown in Ex.P-4 has also not been received in his office as such question of verification of debit did not arise. Even this material is never used in his section. Sri K.P. Singh (P-4), AII/IT, Lucknow who was Shop Supdt./Workshop/LKO deposed that he had inspected requisition No. 766933 dated 8/2/84 & 766940 dated 2/2/83 and found that signature & stamp of SSI Lucknow were not that of his & seemed to be fraudulently made out. further clarified that tin ingots are very rarely used in his works. P-5 Sri Shitla Deen, H.C. under Dr. Morison has also owned his statement at Ex.P-3 in which he had stated that no person in the name of Sri Lal was working as M.L. in Bridge workshop. In his statement he has stated that how 574.5 Kg. copper wire scrap and other material was being made away by the defendant.

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Enquiry Report of DAR enquiry proceedings in the case of Sri A.T. Roy,
ISK/CD/Lucknow

14. The plea of the defendant that out of six gate passes shown, verification in respect of only two had been done by the V.I. for receipt of the material and regarding his plea that the V.I. did not contact the remaining indentors, it is pointed out that defendant has himself failed to prove delivery of material mentioned therein to the any of the indentors for whom these gate passes had been prepared and the Sr.Subordinates, who had been contacted, had very clearly stated that they had never indented the material nor received the same. The M.C. through whom material was issued, had never been working under them. Even the defendant himself in his defence has stated that unscrupulous men has robbed these material by submitting fictitious requisitions which could not be detected even prior to investigation. It appears even no efforts were made by the defendant to detect the fictitious requisitions as indentors to whom these requisitions pertained were not regular user of the said material and within a short span of one month such a huge quantity of this material was issued through M.C. named Sri A.K.Sharma/Anil Kumar Sharma for different Sr.Subordinates. In the case of outside requisitions, the duty pass of the M.C. could have been seen. The plea of the defendant that the intents were prepared on the prescribed form and were complete in all respect is not acceptable in view of the fact that they were not regular users of the said material and the M.C. cannot be the main person for all the Sr.Subordinates. Proper system of routing requisition from a later centralized section was also not adopted. Identity card/Authority letter for drawal of material for a particular requisition has not been mentioned in Ex.P-1. Identity card number of Sri A.K.Sharma M.C. cannot be the same as 37818 dated 25/6/84, for two different subordinates i.e. EPQC/ALD & S/BWS/JRC. Even the gate pass at Ex.P-4, indentor designation has not been mentioned. When no intimation in the shape of verification of I/note was received, the defendant did not take any high authority action to report the matter to higher authority about non-verification/non-EPQC receipt of material. A perusal of photostat copies of Authority letter attached as Annexure to the defence brief reveals that the letter is of a general nature & does not specify authority for drawal of material against a particular indent as per extant instructions. Keeping in view the above lapses on the part of defendant, the charge is proved.

15. Charge No.(2):- The prosecution case is that the defendant entered fictitious names on the gate passes as the representative of so called indentors in order to take material out of the depot. In this connection the prosecution case is based on depositions of prosecution witnesses i.e. S/Sri V.P.P. Yadav, PW-2, A.Z. Hussain, PW-3 who have denied having sent any requisition for the intents or order to take or any such M.C. was working under them as mentioned in the gate passes. It has been stated that this is a clear proof of deliberate intention on the part of defendant in connivance with some unauthorised & non-railway persons to defraud the railway administration. It has been mentioned that on Ex.P-1, the M.C. has been shown as Anil Kumar Sharma without any details on Ex.P-2 & P-4, the name of M.C. has been shown as A.K.Sharma for both EPQC/ALD and S/BWS/JRC but the I/card number in both the cases have been shown as 37818 dated 25/6/84. In the case of IOM/DRC/MB & EPQC/MB the name of M.C. has been shown as A.K.Sharma

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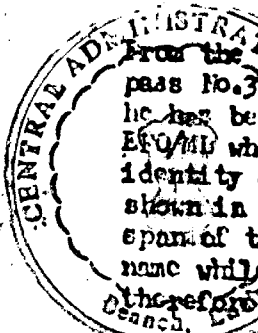
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No. J/S/538

Enquiry Report of D/R enquiry proceedings in the case of Sri A.T. Roy,
DSK/CR/Lucknow.

with identity card number as 12247 dated 3/6/84. In this connection the defendant has produced two photo-stat copies of authority letters from EFQ/C/MB and EFQ/C/AID. A perusal of the same reveals that the said authority letters are in general nature and have not been prepared for drawal of specific material indicated in the gate passes for which they were deputed. Both the authority letters seem to have been written in the same handwriting although the Sr. Subordinates are different and does not seem to be genuine. The other objection of the defendant as that the V.I. had consulted only two out of the six indentors who had deputed Sri A.K. Sharma and as such full investigations in this charge has not been done. In this connection the two Sr. Subordinates i.e. SEFQ/C/AID & TCI/ALJN who had been contacted, have deposed that there was no M.C. with the name of Sri A.K. Sharma/O.P. Sharma working under them. The identity card numbers given to the said Sri A.K. Sharma are as under:-

	M.C.	I/card
1. JMI/FTP	Sri Anil Kumar Sharma	81
2. EFQ/C/AID	" A.K. Sharma	37816 dt. 25/6/84
3. SC/MS/JRC	" -do-	-di-
4. EFQ/C/MB	" A.K. Sharma	12247 dt. 3/6/84
5. CII/ALJN	" O.P. Sharma	27811 dt. 25/6/84
6. JCI/C/MB	" -do-	12247 dt. 3/6/84



From the above, it is evident that Sri A.K. Sharma has been given I/card pass No. 37816 while working under EFQ/C/AID & SE/MS/JRC and again he has been shown against identity card No. 12247 while working under EFQ/MB whereas Sri RamSewak M.C. of IC/ALJN has also been shown against identity card No. 12247. This shows that the name of the M.C. have been shown in a haphazard manner and are thus fictitious. Even in a short span of time of one month so many transactions have been made in the same name while working under different subordinates. This charge is also, therefore, proved.

16. Charge (3):- During the course of examination, the V.I. has stated that the defendant prepared mine issue note No. 09/1757 dated 11/10/84 for 84 kg tin ingots & 09/1747 dated 11/11/84 for 42 kg. But actually the issued mine note was not physically available in the store as it had already gone out of the store depot on gate pass No. 09/1147 dated 21/3/84. P.W. 1 Sri Kishor Kumar, SDC/Lucknow has deposed that he had prepared mine I/note against issue note No. 09/1757, dated 09/1759. Although there are orders that before preparation of I/note, written consent of the consignee is required but no such consent was seen by him and at the time of preparation of I/note all five copies of I/note are collected but he prepared mine I/note on the basis of office copy only. The statement of Sri Kishor Kumar does not seem to be reliable. The defendant has denied the charge stating that the above material was not available physically.

Handwritten signature/initials.

Handwritten signature/initials.

Confidential
No.2/8/538

Enquiry Report of the DAR enquiry proceedings in the case of Sri A.T. Roy, DSK/CE/Lucknow.

He pleaded that the material covered under 'A' category are verified twice a year and no shortage was found in the stock of P.L.No.91 16 0017 even upto the last verification. Statement of Sri Bajrang Bahadur at Ex.P-20 is confusing as no original gate pass has been produced with a view to verify the factual position. PL-7 SriSat Pal, Retd. MCC/Lucknow has clarified that the material mentioned in para-4 had not been received as ascertained from T.C. although it was mentioned therein. The record pertaining to Dy.CE/Pr Workshop/Lucknow was also shown to the V.J. at the time of investigation. Although the ~~XXXXXXXX~~ ingots for 43.8 Kg. & 84 Kg. were issued during 1984, the material had not reached till the start of investigation in 1985 in workshop. With a view to ascertain the factual position, whether the material had gone out of the depot gate or not, the relevant RPF gate register has not been made available. Hence this aspect cannot be verified. Even N.I.-sheet of the relevant period showing first issues and then entry after preparation of minus I/note have not been produced. Keeping in view the above two important factors, the charge that the minus issue notes were prepared after removal of the material out of the depot gate is not proved. However, the defendant failed to observe the following aspects before preparation of minus issue notes:-

1) He prepared Minus Issue note at Ex.P-13 & -14 on 11/10/84 whereas the Issue notes for issue of material were prepared on 21/3/84 i.e. after 7 months which is irregular.

11) At the time of preparation of minus issue notes, all the five copies of original I/note are collected. This was not done.

111) Before preparation of minus I/note written consent of the consignee is obtained that he is not in a position to remove the material due to some valid reasons and as such will left it on some other day. This was not done.

1111) Written orders of DCG before preparation of minus I/note were not obtained.

The charge is not proved but the defendant is responsible for lapses mentioned at items (i) to (iv) above.

17. After going through the statements of witnesses & documentary evidence adduced in the enquiry, the chances of connivance of the defendant with imposters in taking away the material cannot be ruled out.

Conclusion & Findings.

18. Charges (1) & (2) are proved.

Charge No.(3) is ^{not} proved but the defendant is responsible for lapses mentioned at items (i) to (iv) above.

(D.R. Manchanda)
Inquiry Officer/CI(M)

Handwritten signature and date:
2/10/85

ANNEXURE No - 2

(96)

96

No E/S/538

उत्तर रेलवे
NORTHERN RAILWAY

25-7-89

Dycomrly
Alumbargh
Lucknow

Sri A. T. Roy
Es. BSKM
II 53/B c. P. H. colony
Alumbargh, Lucknow

Sd/- Appeal against Punishment notice
No E/S/538 dt 29-9-88

Ref - Your Appeal dt 25-10-88

With reference to the above it is to
inform you that Appellate Authority has
passed the following order - "The report
by the Enquiry officer is a well detailed
report prepared after proper application
of mind and the findings are agreed to.
The punishment imposed is considered to be
proportionate to the extent of misconduct
by Sri A. T. Roy. Hence the appeal of Sri
A. T. Roy is disposed off and punishment
already awarded is to stand."

27/2/90

for Dycomrly
Alumbargh
Lucknow.

सुनिश्चित
कराया गया

ANN EXRENO 3

Standard Form No. 1

Standard form of order of suspension (rule-V(1) of the RS(D&A) Rules GR

No 113.E --- Name of Rly. Administration
Dated 12-7-85 Dy. Controller of Stores,
Place. Am. Lines

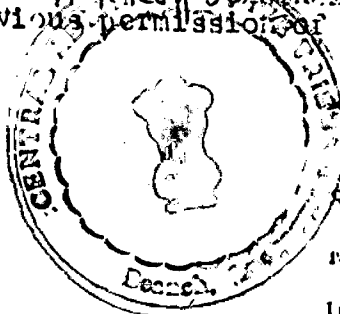
C.R.E.R.

Whereas a disciplinary proceeding against Shri A.T. Roy DSK/III/CB (name and designation of the Rly. Servant) is contemplated/ pending.

Whereas a case against Shri (name & Designation of the Rly. Servant) in respect of a criminal offence is under investigation/enquiry/trial.

now, therefore, the President/the Rly. Board/the under signed (the authority Competent to place the Rly. Servant under suspension in terms of the Scheduled I, II, III appended to RS(D&A) Rules 1968 and authority mentioned in proviso to rule 5(i) of the RS(D&A) rules 1968), in exercise of the powers conferred by rule 4/Proviso to rules 5(i) of the RS(D&A) rules 1968, hereby places the said Shri A.T. Roy DSK/III/CB under suspension with immediate effect/ with effect from 12-7-85 AM.

It is further ordered that during the period this order shall remain in force, the said Shri A.T. Roy DSK/III/CB shall not leave the Ill. Rs. without obtaining the previous permission of the Competent Authority



By order and in the name of the President).

Signature: J. Mondal
Name: J. Mondal

Designation of the suspending authority (Secretary, Rly. Board, where Rly. Board is the suspending authority).

Designation of the Officer authorised under article 77(2) of the constitution to authenticate orders on behalf of the President is the suspending authority).

Copy to:-

Shri A.T. Roy DSK/III/CB (name and designation of the suspended Rly. Servant) Orders regarding subsistence allowance admissible to him during the period of suspension will issue separately.

"Where the order is expressed to be made in the name of President.

AKS

31/1 E/49A

1. SAC (C) NR/CB

2. He leave & Pass/CB.

ymold
shirg (Ry)

RECEIVED

26-7-85

Northern Railway

Office order No.E/ 179

Dated 25-7-1985.

The following employees of CB/Depot are placed under suspension w.e.f. 12.7.85 AM. They will draw subsistence allowance equal to half of the leave salary and DA & IR as admissible under the rules and R.C. as they were in receipt preceding the dates of their suspension.

- 1) Shri Pyarey Lal DSK/I/CB
- 2) Shri Chhotey Lal -do- II/CB
- 3) Shri Hansu Ram DSK/II/CB
- 4) Shri A.T.Roy, DSK/III/CB
- 5) Shri R.B. Dubey DSK/III/CB
- 6) Shri Ram Adhar DSK/III/CB
- 7) Shri K.C. Saxena Clerk/CB

for Dy. Controller of Stores,
Alambagh/Lucknow.

Copy to SAO/II/H.Rly, BNV, Lucknow on Charbagh.
Copy to DCO/II/CB/Lucknow.
Copy to Hd. Clerk/Bills, Leave & Pass.
Copy to all offices concerned.

for Dy. Controller of Stores,
Alambagh/Lucknow.

....

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2m. 12.7.85
Smt. G. Singh

Rule 9 of the Railway Servants Discipline and Appeal Rules, 1955.

No. E/5/538 (Name of Railway Administration)

Dyces office

(Place of issue) Almoleph Lucknow dated 10-4-86

MEMORANDUM.

The President/Railway Board undersigned propose(s) to hold an inquiry against Shri A.T. Roy DSK/III/CB under Rule 9 of the Railway Servants Discipline and Appeal Rules, 1955. The substance of the imputations of misconduct of his behaviour 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 his conduct of misbehaviour in support of each article of charge is enclosed. ANNEXURE II. A list of documents by which and a list of witnesses by which the articles of charges are proposed to be sustained are also enclosed. ANNEXURE III & IV.

2. Shri A.T. Roy DSK/III is hereby informed that if he so desires, he can inspect and take extracts from the documents mentioned in the enclosed list of documents (Annexure III) at any time during office hours. In case he desires 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, N. Railway within ten days of the receipt at this headquarters, 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 additional documents within five days of their being made available. He will be permitted to take extracts from such of the additional documents as he is permitted to inspect.

3. Shri A.T. Roy is informed that request for access to documents made at late stage 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 shown clearly that request could not have been made at an earlier stage. No request for access to additional documents will be entertained after the completion of inquiry unless sufficient cause is shown for not making the request before the completion of the inquiry.

Index

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Recd
on 17/4/86
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17/4/86

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Shri A.T. Roy DSK/III is further informed that he may if he so wishes, take the assistance of any other railway servant an official of Railway Trade Union (who satisfies the requirements of rule 9(9) of the Railway servants (Discipline and Appeal) Rules 1963 and 10 to 1 and /or rule 2 there under as the case may be for inspecting the documents and assisting him in presenting his case before the Enquiry 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 servants (S) or Railway Trade Union official (S) Shri A.T. Roy DSK/III 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 enquiry case(s), if any in which the nominee(s) had already undertaken to assist and the undertaking should be furnished to the undersigned General Manager N
N

Shri A.T. Roy DSK/III is hereby directed to submit to the undersigned (through General Manager N Railway) a written statement of his defence (which should reach the said General Manager) within ten days of receipt of this memorandum, if he does not require to inspect any documents for the preparation of his defence, and within ten days after completion of inspection of documents if he desires to inspect documents, and also,

- a) to state whether he wishes to be heard in person, and,
b) to furnish the names and addresses of the witnesses, if any whom he wishes to call in support of his defence, and
c) to furnish a list of documents, if any which he wishes to produce in support of his defence.

Shri A.T. Roy DSK/III is informed that an inquiry will be held in respect of these allegations of charge as and when additional should, therefore, specification after delay each article of charges.

Shri A.T. Roy is further informed that if he does not submit a written statement of defence within the period specified in para-5 or does not appear in person before the Enquiry Authority or otherwise fails or refuses to comply with the provisions of rules of the Railway servants (Discipline and Appeal) Rules, 1963 or the orders/directions issued in pursuance of the said Rules, in the disciplinary proceedings, he may hold the inquiry ex parte.

Attention of Shri A.T. Roy DSK/III is invited to Rules 20 of the Railway servants (Discipline and Appeal) Rules, which provide that a railway servant shall bring or attempt to bring any civil claim before the Enquiry Authority or any superior authority to further his interests in respect of matters relating to his service unless the

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17/10
Shri A.T. Roy
17/10/15

(29) 178

of the Railway servants (Discipline and appeal) Rules, 1978 or the orders/directions issued in pursuance of the said Rules; the inquiring authority may hold the enquiry expenses.

3. The attention of Shri A.T. Roy DSK/III is invited to Rules (X) of the Railway servants (conduct) Rules, 1966, under which no railway servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interest 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 A.T. Roy DSK/III is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the Railway servants (Conduct) Rules, 1966.

9. The receipt of this memorandum may be acknowledged.
~~President~~ By orders and in the name of the

(Signature)

Name and designation of competent authority

Encls:

To

Shri A.T. Roy DSK/III

सहायक

(Designation)

DSK/III/CB (Place etc.)

@ Copy to Shri (name & designation of the lending authority) for information.

This time limit may be extended upto ten days at the discretion of the competent authority.

This time limit may be extended upto twenty days at the discretion of the competent authority.

To be retained wherever resident of the Railway Board is the competent authority.

Where the president is the disciplinary authority.

To be used wherever applicable see Rules 14(1) of the Railways servants (Discipline and appeal) Rules, 1968 - not to be inserted in the copy sent to the Railway servants.

/-/-Strike out which ever is not applicable

*Submission of such list at this stage need not be insisted upon if the employee does not employ with this requirement.

24/5/1985/P

E/2

मिडि
अप्रील 1985

Statement of articles of Charge framed against
Shri A.P.Roy, DSK/III under DCOS/Charbagh, Lucknow

While working as DSK- III in Charbagh Stores Depot
under DCOS/CB/LKO, during Feb, 1985 to 3/85, Shri
A.P.Roy, committed the following gross irregularities:-

1. He intentionally prepared six Gate passes for 529.4 KG Tin Ingot, 114.1 KG Solder Soft and 23 KG Rotwel Bearing Metal coating approximately Rs. 1,50,000/- on fictitious requisitions and allowed those materials to go out of the Stores gate on the strength of those gate passes.
2. He also entered fictitious names on those gate passes as the representatives of the so called indentors in order to take the materials out of the depots.
3. He has intentionally prepared two minus issue Notes (Min. 09/1757 dt. 11.10.84 for Tin Ingot 84 KG and 09/1759 dt. 11.10.84 for Tin Ingot 43.8 KG) and got them posted in N.L. Card No. 1160017 in order to show that the material has not been issued or it has been returned back, thus establishing his malafide intention.

By having acted in the manner the said Shri A.P.Roy, contravened Rule 3.1(1) (ii) & (iii) of the Railway Service Conduct Rules, 1966.

निदेशक निदेशक
उत्तरांचल, अयोध्या
लखनऊ

Smold
Singh

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AN EXHIBIT II (16)

statement of Imputation of his conduct or misbehaviour on the basis of which articles of charge have been framed against Sh. A.T. Roy, DSK/III under DCOS/CS/LKO.

That Shri A.T. Roy, while working as DSK-III under DCOS/CS/LKO during 2/85 to 3/85 committed the following irregularities :-

1. He prepared the under mentioned six gate passes for 529.4 Kg Tin Ingot, 114.1 Kg Solder Soft and 23 Kg Rotwel Bearing Metal on the strength of fictitious requisitions costing approximately Rs.1,55,000/-.

G.P. No. & Date	Name of the I.O.	Description of material	Qty.	I/Note No. & Date
452/58/09/1704 dt. 15.2.85	IOB/DRC/MB	Solder Soft Tin Ingot	19.1 Kg 83.2 "	09/2492 dt. 17.2.85. <i>not available</i>
452/58/09/1702 dt. 15.2.85	DCS/BK/ARC	Tin Ingot Solder Soft	111.5 " 50.2 "	09/2483 dt. 15.2.85. <i>not available</i>
462/58/09/1742 dt. 5.3.85	DCO/O/MB	Tin Ingot	84.8 "	09/2573 dt. 5.3.85. <i>not available</i>
452/58/09/1685 dt. 5.2.85	DCS/C/LH	Tin Ingot Solder Soft	84.2 " 44.8 "	09/2425 dt. 5.2.85. <i>not available</i>
452/58/09/1677 dt. 1.2.85	DCI/SP	Tin Ingot	122.5 "	09/2401 dt. 1.2.85.
462/58/09/1772 dt. 25.3.85	DCI/ALJN	Tin Ingot Rotwel Bz. Metal	43.2 " 23.0 "	09/2698 dt. 25.3.85. <i>not available</i>

During the course of investigation the DCI/ALJN when questioned as to whether he sent any requisition for the supply of Tin ingot and Rotwel Bearing Metal and also to confirm whether he has received the material (Viz. Tin Ingot 43.2 Kg and Rotwel Bearing Metal 23.0 Kg) said to be issued by the DCOS/CS/LKO vide I/Note No. 09/2697 and 09/2698 dt. 25.3.85 and also to confirm whether there is any D.O. named Shri C. S. Sharma working under him - he has replied under :-

"Number of two issue notes were shown to me by VI/HQ but no such issue notes have been received by me either from DCOS/CS/LKO or DCOS/CS/LKO nor the material contained in the above said two issue notes have been indented by me. There is no D.O. named Shri C. S. Sharma working under my control nor has he worked since 14.1.81 i.e. from the date of my joining".

..../-

Yashodh
Shri C. S. Sharma

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Similarly, when the EFO/O/ALD another so called indenter for Tin Ingot 84.2 Kg and Solder Soft 44.8 Kg was questioned and asked to confirm the receipt of the above, said material & also whether there is any M.C. named Sri A.K. Sharma working under him - he has replied that :-

"There was no such staff named Shri A.K. Sharma, M.C. who had worked with me during the period of my working as EFO/O-I/ALD and at present also. I do not consume any Tin Ingot in my Unit. As regards Solder Soft, the consumption is very nominal. I have not sent any requisition during the month of Feb., 85 to DCOS/CB/LKO for the issue of Tin Ingot 84.2 Kg and Solder Soft 44.8 Kg as mentioned in Gate pass No. 452/58/09/1685 dated 5.2.85.

2. He has intentionally and deliberately put the name of one Shri O.P. Sharma, M.C. of CTI/ALJN on G.P.No.462/58/09/1772 dated 25.3.85 for Tin Ingot 43.2 Kg and Rolwel bearing metal 23 Kg on which he has shown the identity card No. 378181 whereas the same identity card No. i.e. 378181 dt. 25.6.84 has been shown against Shri A.K. Sharma, M.C. of EFO/O/ALD on Gate Pass No.452/58/09/1685 dated: 5.2.85. Again on gate pass No.452/58/09/1702 dated 15.2.85, the same Shri A.K. Sharma, M.C. has been shown as the MC of SS/BW/JRC having the same identity card No.378181 dated 25.6.84. In this way the said Shri A.T. Roy, DSK-III has misappropriated the material taken out through the above said gate passes, in connivance of those imposters (i.e. Shri O.P. Sharma & Shri A.K. Sharma). He also failed in the capacity of incharge of the issuing wards to ask for the I.Card or any other railway documents from Shri Anil Kumar Sharma of PWI/FTP to whom 122.5 Kg Tin Ingots were issued vide G.P.No.452/58/09/1677 dated 1.2.85. Further he has also utilised the name of Shri Anil Kumar Sharma said to be the MC of EFO/O/ALD, EFO/Const./MB & SS/BWS/JRC respectively, which he did with mala fide intention to pick out the costly non-ferrous material out of the store gates from time to time.

He issued 43.8 Kg Tin Ingot to SS/BWS/LKO on the authority of his requisition of 766933 dated 8.2.84 and another 84.1 Kg Tin Ingots on requisition No. 766840 dt 3.3.85. But when Shri R.P. Singh, SS/BWS/LKO was questioned about the sending of the above said two requisitions to DCOS/CB/LKO

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Sumit
Surya Singh

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for the said material, he has stated as under :-

" I have inspected requisition No.7669331
dt. 8.2.84 & Reqn.No.766840 dated 3.3.83
and found that the signature on the stamp
of SS/BWS/LKO is not mine. It seems to be
fraudulently made/somobody else".

Further Shri Sat Pal, P.C. consumable store of
Dy.CEE/BWS/LKO has stated regarding the receipt of the
above Tin Ingots in his statement as under :-

" I have examined the receipt register of
of consumable store & confirmed that the above
noted material have not been received in my store".

Scrutiny of the RIF Outward register maintained at
the CB/Store Main gate revealed that the above said 43.8 Kg
Tin ingots was taken out of the Store Gate vide G.Pass No.
368/S-8/09/1147 dated 21.3.84 by one Shri Sitala Din., as per
entry at S.No.9 of the aforesaid regn. This fact has also
been confirmed by Shri Bajrang Bahadur Solvastava, Sr.Bk.
of Store Gate, CB/LKO on 27.5.85. But Shri A.T.Roy intention-
ally prepared two minus I/Votes No.09/1759 dt. 11.10.84 &
09/1757 dt. 11.10.84 nullifying the above said two issues and
got them posted in HL Card No.91160017. Although physically
the materials were not existing in his ward.

Normally out station gate passes should be prepared
by the GD Section of the issuing Stores Depot but in this
case the said Shri A.T.Roy had intentionally prepared
all the above said six gate passes, (Although those were
all fictitious) in his ward 09 to keep the same in limit.
He has done with mala fide intention.

3. From the above mentioned facts it is evident that
Shri A.T.Roy while working as BKK-III incharge of U.No.09
has misappropriated the railway material to the extent of
1,55 Lacs of rupees inconnivance with some persons who were
not the bonafide railway employees rather they are imposters
and has acted against the interest of the railway administration.

Signature
Date
Place

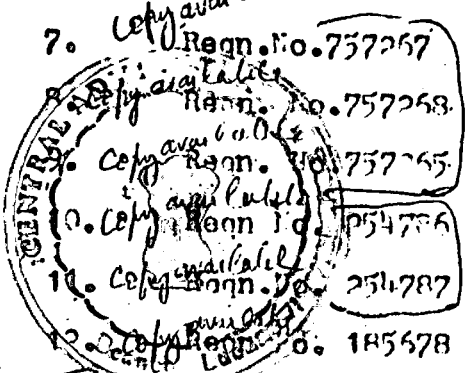
Handwritten signature

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ANNEXURE III

List of documents by which the articles of charges framed against Shri A.P. Singh, D-101/under 1004/CB-LD is prepared to be sustained.

S.No.	G.P.No. & Date	Qty.
1.	452/58/09/1704 dt. 15.2.85	12.1 Kg. Solder soft.
2.	452/58/09/1702 dt. 15.2.85	82.2 Kg. Tin Ingot 111.5 Kg. Tin Ingot 50.2 Kg. Solder soft.
3.	462/58/09/1742 dt. 5.3.85	84.8 Kg. Tin Ingot
4.	452/58/09/1685 dt. 5.2.85	84.2 Kg. Tin Ingot 44.8 Kg. Solder soft.
5.	452/58/09/1677 dt. 1.2.85	122.5 Kg. Tin Ingot
6.	462/58/09/1772 dt. 25.3.85	43.2 Kg. Tin Ingot 23.0 Kg. Roller Bearing.
7.	Copy available Regn. No. 757267 dt. 2.2.85 EPO/C/AW	Issue Note No. & Date 09-2425 dt. 5.2.85
8.	Copy available Regn. No. 757268 dt. 2.2.85 EPO/C/AW	09-2424 -do-
9.	Copy available Regn. No. 757265 dt. 21.1.85 PWI	09-2401 dt. 1.2.85
10.	Copy available Regn. No. 754786 dt. 8.2.85 SS/Booke	09-2482 dt. 15.2.85
11.	Copy available Regn. No. 254787 dt. -do- SS/Booke	09-2483 -do-
12.	Copy available Regn. No. 185678 dt. 21.3.85 CTI/ALJ	09-2618 dt. 25.3.85
13.	Minus I/ Note No. 02-1752 dt. 11.10.84	
14.	Minus II/Note No. 02-1757 dt. 11.10.84	
15.	Statement of Sh. A.P. Singh, D-101/LDO dated 24.5.85.	
16.	Statement of Sh. Sat Pal, MCC/BMS/LDO dt. 27.5.85	
17.	Statomant of CTI/ALJ dt. 25.6.85	
18.	Statemont of SEFO/Const/ALJ dt. 1.7.85	
19.	Statement of Sh. P. Singh Clerk of DCC/CR/LDO.	
20.	Statement of Sh. Rajrang Bahaduri Krivastava, Sr. Raksh k/CR/Store/LDO dt. 27.5.85.	
21.	H.C Card No. 9116017 for Tin Ingot.	



Signature
Date
Place

Signature
Date

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APPENDIX - IV

LIST OF WITNESSES

1. Shri G.H. Nookharjee, V.I.
N.Rly. Hd. Qrs. Office, PDLS.
- ✓ 2. Sh. V.N.P. Yadav, SEFC/C -IV/ALD
under Sr. DSE/G/ALD
- ✓ 3. Sh. A.J. Hussain CFI/NA/ LJP ✓
- ✓ 4. Sh. R.P. Singh, SS/SM/LKO
under Dy. CFI/BWS/LKO.
- ✓ 5. Sh. Sat Pal HCC under Dy. CFI/BWS/LKO.
- ✓ 6. Sh. ^{Rao} Hias Ahmed Clerk, under HCC/CP LKO.
7. Sh. Sita Deen MC under Dy. CFI/BWS/LKO.

.....

प्रमाणित किया गया
उत्तराखण्ड सरकार
लखनऊ

प्रमाणित
लखनऊ

1314
29-X-16

(42)

Standard Form of Order Relating to Appointment of Inquiry Officer/Board of Inquiry Rule 9(2) of RS D&A Rules, 1968.

No. E/S/538 Name of Rly. Administration D/COB/INR.
Place of Issue Almoleugh-1.100
19-26-10-1987
O _ R _ D _ E _ R

Whereas an inquiry under rule 9 of the Railway Servants (Discipline and appeal) Rules, 1968 is being held against Shri A. T. Roy DSE/III/CB (U.S.) (Name and designation of the Railway servant),

AND WHEREAS the Railway Board/the undersigned consider(s) that a Board of Inquiry/an Inquiry Officer should be appointed to inquire into the charges framed against him.

NOW, THEREFORE, the Railway Board/the undersigned in exercise of the powers conferred by Sub-rule(2) of the said Rule, hereby appoint(s).

- A Board of Inquiry Consisting :-
- 1.
 - 2.
 - 3.

Here
Names & Designation of
members of
the Board of
Inquiry.

OR
Shri D. R. Manchanda (Name and Designation of the Inquiry Officer) as Inquiry Officer to inquire into the charges framed against the said Shri A. T. Roy DSE/III/CB (U.S.)

Signature _____
Name : (Signature)

Secretary Railway Board
Designation of the Disciplinary Authority.

Copy to :-
Shri A. T. Roy DSE/III/CB (U.S.) (Name and designation of the Rly. Servants)

Copy to :-
Shri D. R. Manchanda (Name and designation of the Members of the Board of Inquiry/Inquiry Officer).

Copy to :-
Shri A. T. Roy DSE/III/CB (U.S.) (Name and Designation of the lending authority), for information.

Note:- To be used wherever applicable Not to be inserted in the copy sent to the Railway Servant.

RK27/5 E/64

Shri A. T. Roy
21-12-1987

Anx-VII

21

To
The Dy Controller of Stores
N. RAILWAY, ALAMBAGH
LUCKNOW.

Sir,

SUB: Charge Sheet No. E/S/538 dated
10.4.1986

In terms of Rly Board Letter No. E(D&A)
83 RG6-14 dated 29.3.85 circulated vide G.M(P) NDL S
letter No. 62E/O/26 Pt VII(D&A) dated 4/85 PS3702
further circulated vide Dy C.O.S /AMV letter No. 192E
dated 3.7.85, I may kindly be supplied Photostate or type
copies of the listed relied upon documents in Anx-(III)
21 documents together with copies of statement of witne-
ss as mentioned in Anx-(IV) 7 documents of the Charge-
sheet to enable me to study the case and engage some one a
defence council in my case

On receipt of these copies of documents
if necessary, I shall request you to good self for copies of
some additional documents relevant to my case and shall
also like to inspect the original copies of the documents
in the interest of my self defence.

*एक

*Receiv

Proper reply shall be submitted by me as and
when the required formalities are complied with.

पाने वाले

Address:

*बीमे क

*Insure

वितरण

Date of

*अनाव

*केवल

Thanking you.

Yours faithfully,

(A. T. ROY)

Dsk/III (Under suspension)

Dated 1.5.1986

Recd. APD
No 5772 on 2/5/86
for P. Adash No. 2
APD Acknowledged on 3/5/86.

Ym/1
20/5/86

38

REGISTERED L/D.

24

To
The Deputy Controller of Stores
N. Railway, Alambagh
LUCKNOW.

Sir,

Subj: Supplies of Photostat copies of
the relied upon documents.

While thanking you for your letter No. E/S/538 dated 6.6.1986 in reply to my letter for photostat copies of relied upon documents in accordance with Rly Board's letter No. E(D&A) 83 RG-6-14 dated 29.3.85 circulated vide G.M.(P)/New Delhi letter No. 62E/O/26 Pt VII (D&A) dated 4/85 PS8702 further circulated vide your letter No. 192E dated 3.7.85 I would inform you that the purpose of supplying photostat copies of relied upon documents will not be served by copying them out, because vital factors such as the handwriting on the Requisitions, the mode of signatures there on, the shape of the Seals and office stamps etc will not be available for the purpose of defense in case the documents are copied out. Infact the purpose of supplying photostat copies permitted by Rly Board ensures all the facilities.

In view of the above submission which calls for deserving and favourable consideration, I would request your honour to arrange early supply of photostat copies of the documents asked for by me. This is essential in view of the promise to allow full facilities of defence to the defaulting employee by the Administration.

Yours faithfully,

Ashu Tosh Roy

Dated. 12.6.1986

(A.T. ROY) DSK III (under Susp)
1153 B, C.P.H. Colony
Alambagh, LUCKNOW-5

al
smrtd
12/6/86

ANNEXURE No. 9

(39)

(29)

To
The Deputy Controller of Stores
Northern Railway
Alambagh
Lucknow.

Sir,

Sub:- Supply of Photostat copies of
relied-upon documents.

In continuation of my letter dated 14.11.86, I beg to submit that I had been suspended on 12.7.85 which is almost two years ago and since then the administration has been paying me subsistence allowance without any work. I may also add that nothing has yet been heard about the starting of the enquiry, which in the normal course should have been started after six months.

It is needless to ~~impress~~ ^{impress} your honour the untold ~~story of~~ sufferings and misery which the abnormal delay has been causing to my self and my family apart from the mental torture and semi starvation inflicted on me during these critical days of soaring prices. More over, the loss caused to the Govt. in paying subsistence allowance to such a huge number of employees should also be considered in the right perspective, so that the enquiry may be started at a very early date after providing me with the ~~remaining~~ ^{additional} documents which have not yet been supplied.

Thanking you.

Yours Faithfully,

Dated 13.4.1987

(Ashu Tosh Roy)
DSK/III (U/S)
53B, C.P.H. COLONY.
Alambagh, LUCKNOW.

ym/Gia
Subj: Enqy

ANNEXURE No 10

30 40

The Deputy Controller of Stores
N. Railway
Alambagh, LUCKNOW.

Sir,

In reply to your Charge Sheet No. E/S/538 dated 10.4.86
I beg to state that the charges levelled against me in this
charge sheet are entirely baseless and far from the truth.

I, therefore deny those charges in toto and reserve my right
to offer complete defense during the course of the enquiry

I may also point out that out of six indentors I have received
the copies of statements of only two indentors viz
CTI/ALJN, SEFO(C)/ALD, the copies of the statements of the
following indentors have not yet been received, without which
it will not be possible for me to defend and this way I
shall be deprived of the proper facilities of defence which
is a cardinal part for disciplinary proceedings.

1. Statements of POW/DRC/MB.
2. " " SS/BRS/JRC.
3. " " IFO/CAB.
4. " " PWI/PTA.

Yours faithfully,

Ashu Tosh Roy
(ASHU TOSH ROY)
DSK /III (U/S)

21/5/87

Dated 4.5.1987.

Amir
21/5/87

ANNEXURE No 11

To

The Deputy Controller of Stores
N. Railway, Alambagh.
L U C K N O W.

Sir,

Sub:- Additional documents.

10.4.86

Ref:- Your Memorandum No. LS/588 dated 10.4.86

Reference to your above quoted Memorandum
I beg to state that relied-upon documents listed in
Annexure III (Photostat Copies) were delivered to me
on 6.4.87. I have already given reply to your above
memorandum on 4.5.87 but as some additional documents
are essential for my defence, I will be obliged if you
kindly furnish me Photostat copies of the undermentioned
documents at your earliest.

Issue Note No. 89/2373 Dated 21.3.84 } Ann 1/100
89/2373 Dated 7.3.84 } BR 2/100
89/2432 Dated 15.2.85 } 10 W/DRC/MB
89/2573 Dated 5.3.85 } EFC/C/MB
89/2573 Dated 5.3.85 } CT/ALJA

Gate Pass No. 263/80/03/1147 dated 21.3.84 ✓

Thanks.

Yours faithfully,
A. T. Roy
DEK/III (U/S)
Under D.C.O.S./CI/LRO

18.5.1987

ymodi
18/5/87

ANNEXURE No-12

42

59

-2-

DAR enquiry proceedings in the case of Sri A.T. Roy, PSK/LKO now at Maghalsara.

(Order Sheet)

New Delhi: Dt: 22/2/88

The defendant, his helper & five PAs out of six are present. Examined S/Sri R. P. Singh, Shitla Din, A.Z. Hussain & V.R.P. Yadav in the presence of defendant & his helper. The examination of fifth PA Sri G.M. Modhrajee could not be taken up due to shortage of time. Next sitting for final hearing of prosecution case is fixed for 15/3/1988 at New Delhi at 10/- hours.

Asst. Tosh Ry
Defendant

Helper

I.O.

New Delhi: Dt: 15/3/88

The defendant, his helper, dealer of the case & remaining both the PAs are present. Examined both the PAs in the presence of defendant & his helper. With this the prosecution case is closed. The defendant is now required to submit his W/S of defence in four copies duly typed & each page duly signed by him & his helper alongwith a list of DAs, if any. Immediately the defence stated that they do not want to examine any witness in his defence. The defendant should come fully prepared for his examination by the Inquiry Officer after submission of W/S of defence. Next sitting for final hearing of defence case is fixed for 15/4/88 at New Delhi.

2. The D.A. could not produce the additional documents permitted vide Ex.D-1 except statement of Sri Shitla Din being untraceable. With this the demand of additional documents by the defence is fully disposed off.

Asst. Tosh Ry
Defendant

Helper

I.O.

g.m.b.d
22/2/88

71
43Statement of A.T. Roy given on 15.4.88

Before recording of my statement I most humbly bring forward the following facts before the learned enquiry officer.

Number of times I have along with my defence helper, requested the learned enquiry officer to make available to me the following documents relevant with the case.

- (i) Issue rule no. 09/2926 dt 21.3.84
- (ii) " " 01/2979 dt 7.3.84
- (iii) " " 09/2492 dt 15.2.85
- (iv) " " 09/2573 dt 5.3.85
- (v) " " 09/2697 dt 25.3.85
- (vi) Gate pass No. 368/S-8/05/1147 dt 21.3.84
- (vii) " " 376/S-8/05/33 dt 21.4.84

But I regret to point out that the learned enquiry officer could not provide me the documents mentioned above up till now, and vide his letter dated 15.03.88 he has explicitly stated that the D.A. could not provide the additional documents permitted by him earlier. Thus the demand of additional documents by the defendant is fully disposed of.

The denial of the opportunity of obtaining the ~~documents~~ and additional documents by the enquiry officer amounts to a violation of Article 311(2) of the constitution, ~~the~~ the whole question of the extent of access to official records during investigation, to which a Government servant is entitled under sub-rule 4 of Rule 5 of the All India Service (Discipline and Appeal) Rules or sub-rule 3 of the Central Civil Services (Classification control and appeal) Rules has been examined in consultation with the ministry of law.

Under the above circumstances I am forced to give my recorded statement un-equipped with the facts and figures which could have been brought out, had the above mentioned documents been provided by the learned enquiry officer.

[Signature]
J. M. D. Roy

[Signature]
D. Helpe
15/4/88

A. S. K. Toth R.
15/4/88

213 -

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In view of the above facts and the demand of the opportunity, I have no option left to me but to record my statement basing totally on the memory and recollection just to fulfil the administrative obligation as a ~~government~~ government servant.

While working as District incharge ^{Stores} Stores depot under DCOs/CBs/Lucknow during 1980 to 1985 I have performed my duties with full satisfaction of my superiors, as per extant rules and procedure.

I have been charged vide memorandum No. E/S/535 dated 10.4.86 (2) that I had intentionally prepared six gate passes during 2/85 to 3/85 on fictitious requisitions and allowed the materials to go out of the stores gate on the strength of those gate passes.

② I entered fictitious names on those gate passes as the representative of the so-called indentors.

③ Two minus Issuance notes were prepared intentionally (viz 09/1757 and 09/1759 dated 11.10.84) and got them posted in N.L. card No. 116017 in order to show that material has not been issued or it has been returned back, thus establishing mala fide intention.

Rep: charge No 1

Before explaining I will mention the extant procedure in Charbagh Stores depot, all requisitions coming from different indentors are prepared on standard form no. S-1313 supplied from subalt printing and stationery Shikhar Basti (These forms are not available in any other source).

These are signed by the indentors and their controlling authority, duly rubber stamped. They also indicate on the requisition that funds exist.

The requisitions in question were also found in order and suppose to be genuine like other requisitions. As there are no specimen signature and list of the competent controlling authority with the DSK (custodian) how could I presume that these requisitions were fictitious. And after issuing material the requisitions are sent to despatch section except the requisition comes through any special messenger.

G. K. O.

[Signature]
G. K. O.

B. S. S. S.
D. H. S. S.
15/4/88

Ashu Tosh Roy
15/4/88

messengers so after issuing the material, gate passes were prepared in favour of messengers. The gate passes were card with photographs and ^{authority letters given by the inductors and} signature of the controlling authority. (17) (45)

From the above process it is evident that I also prepared gate passes according to central and depot procedure and not intentionally as charged in the memorandum. The gate passes are also checked and signed by the other depot store keeper. After fully ~~satisfaction~~ satisfied with the requisition, identity card and authority letter, and there were no exception in these gate passes. So that question of fictitious requisition is baseless.

Reg. Charge No. 2

On the gate pass only the names described in the authority letters by the inductors are written. I also did so and no question of entering fictitious names comes on the gate passes.

On the both ^{above} ~~above~~ referred two charges there is no deviation from the central procedure and therefore I may not be held responsible.

In statement of P. W. Sri E. M. Mukherjee while narrating procedure of issuing material, he has quoted store code para 5-1307, but it describes only format of the requisition registration Register and it has nothing to do with the issue process.

Procedure of registration of requisition also varies from depot to depot, for example no similar process is being maintained in two stores depots viz. Alambagh and Charbagh. It has been found during investigation that some requisitions were not entered in the requisition register. In this connection I would like to say that if one goes through the requisition register it will be found that in Charbagh Stores depot, ~~requisition~~ in ward 08 and 09 no cent-per-cent requisition were registered. Apart from this as there was no such rigid instructions that no requisition should be entertained if it bears no registration nos. So there was no violation of the procedure. Depot store keeper has no duty to check that whether it has been registered or not.

G. Subhi
19/11/88

Alambagh
Depot
19/11/88

Atul Tosh
15/4/88

when write back issue notes or minus issue notes are prepared, the stock of the particular item increases, so why one should take such risk of increasing stock without receiving the material physically.

The contention as stated in Page No. 3 of Annexure II That physically the material were not existing in my ward is incorrect. The category A material are verified by the accounts department's stock verifiers twice in a year and as no shortage was found in the stock of PL No. 91.16.0017 even up to the last verification. How it is presumed that material was not existing.

Regarding the charges that 43.8 kgs Tin Ingot was taken out by Shri Shitla Deen m/c of Bridge workshops vide gate Pass No. 368/S-8/09/1147 dated 21.3.84 as per statement of Shri Bajrang Bahadur (Ex-P-20) is confusing and demand of original gate Pass also was not complied with the administration to enable me to see and verify it. It was also not investigated, whether the gate Pass No. 368/S-8/09/1147 was issued to ~~from~~ my ward or any other section by general section of C&S depot. In absence of above facts how it is emphatically establish that the material was taken out.

Regarding the validity of the minus issue note I would like to state that these are signed only by the gazetted officer. The minus notes in question were signed by the ACOS/C&S and it was quite in order.

Procedure of making minus notes as stated by P.W. Shri E.M. Mukherjee in parall of his statement is his own invention, as he has failed to quote any store code para in support of this. Actually it has nowhere laid down in store code. It varies from one store depot to another which can be verified if procedure of some other depot obtained.

Question of not-taking the prior approval does not arise as the minus notes are signed by the gazetted officer and now one can sign it if he is not willing to do so.

It has been alleged that name of Shri Anil Kumar Sharma has been utilised as m/c of EFO/C/ACD, EFO/C/MS and SS/BW/JRE. But the list (attached) will reveal the actual facts.

[Signature]
yours truly
[Signature]

15/4/88
D/Helper
15/4/88
Tosh Ryl
15/4/88

Name of Shri Anil Kumar Sharma is meant only

as m/c of PwI/FTP St. No. 1 & St. 2, m/c of EFO/c/ACD is one A.K. Sharma 9/card no. 37818 of 25/6/84 and not Anil Kumar Sharma. St. No (5) m/c of EFO/c/MB is one A.K. Sharma 9/card no. 12 of 3/6/84 St. No (3) m/c of SS/BWS/JRE is one Shri A.K. Sharma 9/card no. 37818 of 25/6/84.

The allegation that every where Shri Anil Kumar Sharma has been mentioned is incorrect. From the list it is seen that though name of Shri A.K. Sharma has also been written as m/c of EFO/c/MB (St. no. 5) but the 9/card is different and it is improper to say both Shri A.K. Sharma were same man.

It is correct that 9/card and Authority letter has been omitted in gate pass no. 452/SS/09/1677 of 1/2/85 must probably due to rush of work. It is amazing that nowhere it has been detected.

In concluding Para 9 would like to state that I have performed my duties abiding all procedure according to Store code and procedure in vogue but a racket of unscrupulous men has rolled these material submitting fictitious requisitions, which could not be detected prior to investigation from real indentors.

The indentors also did not intimate our depot. Though they received debit list against the indents sent by accounts department well in advance.

All these events occurred during Feb 85 and march 85 and vigilance Inspector detected it in the middle of June 1985, sufficient time had elapsed between the incident and investigation.

In view of all the facts and figures narrated in preceeding paras it is observed that there were many lacunae of administrative procedure, which led to the loss of Government material.

Going through the investigation report as mentioned in charge sheet and statement of Pw it is observed that the investigating officer or agency has not investigated the case properly and there intention was only to involve stores staff particularly DSK (custodian). It will be evident from the following.

- ① Investigation of identity cards from Printing press SSB depot was not done.
- ② Out of six indentors, statements from only two viz EFO/c/ACD and ETL/ALJA was obtained, other 4 indentors were not contacted at all.

Ry
1/6
Ry
1/1/88

Signature: [Signature]
D/Helper 15/1/88

ANNEXURE - 1
(52) 98

**DEPENDENCE NOTES IN THE D.A.R. ENQUIRY
PROCEEDINGS IN THE CASE OF SRI A.T. ROY
DSK III/CB/LKO NOW AT MGS.**

Shri A.T. Roy DSK/III/CB was served with S.F. 5
No. E/S/538 dated 10.4.86 with the following articles of
charges framed against him as per Annexure I of the
Memorandum mentioned above :-

1. He intentionally prepared six Gate Passes for 529.4
Kgs. Tin Ingot, 114.1 Kgs. Solder soft and 23 Kg.
Rotwel Bearing metal casting approximately Rs.
1,55,000/- on fictitious requisition and allowed
those materials to go out of the stores gate on
the strength of those gate passes.
2. He also entered fictitious names on these gate
passes as the representatives of the so called
indentors in order to take the materials out of
the depots.
3. He has intentionally prepared two minus issue
Notes (viz. 09/1757 dtd. 11.10.84 for Tin Ingot
84 Kg. and 09/1759 dt. 11.10.84 for Tin Ingot
43.8 Kgs.) and got them posted in N.L Card No.
9116.0017 in order to show that the material has
not been issued, or it has been returned back,
thus establishing his malafide intention.

For proving the above mentioned charges framed
against Shri A.T. Roy DSK/CB, DAR inquiry took
place under Shri D.R. Manchanda Enquiry Officer
at New Delhi from 17.12.1987 and concluded on
15.4.1988.

While expressing my gratitude to the Enquiry Officer
for affording me the facilities and opportunities at the
Cross examination of prosecution witnesses as per Annexure
IV of the Memorandum in question. I would be failing if
I do not mention here that the learned Enquiry Officer
could not make available to me the following Additional
documents relevant with this case inspite of repeated
request by the defendant as well as by me

27/4/88

Contd...2-

gaurish
MGS

- (1) 1/Note No. 09/2926 dt. 21.3.84
 (2) " 09/2979 dt. 7.3.84
 (3) " 09/2492 dt. 15.2.85
 (4) m " 09/2573 dt. 5.3.85
 (5) " 09/2697 dt. 25.3.85
 (6) Gate Pass No. 368/58/09/1147 dt. 21.3.84
 (7) Gate Pass No. 376/58/09/33 of 24.4.84.

The opportunity of granting access to additional documents which are not mentioned in the list of documents sent to the defendant with the charge-sheet is total violence of Rly. Board's letter No. E(D&A) 78-RG-6-11 dtd. 6.2.1980.

The arbitrary rejection by the learned Enquiry Officer is the denial of opportunity of additional documents to the defendant amounts to a violation of Article 311(2) of the Constitution. "Failure to supply documents is denial of reasonable opportunity" (State of Gujarat Vs. R. E. Mashruwala 1977 SLJ 148 SC).

During the Enquiry Proceedings the P.W. No. 1 Shri G.M. Mukherjee V. L. & N. Rly. HQs Office, New Delhi has in his statement recorded before the Enquiry Officer has tried his utmost to implicate Shri A.T. Roy the custodian of the material for the scrupulous crime committed by an agency to defraud the Administration by drawing material from the Charbagh Store Depot. It is very ridiculous that the V.G. Shri G.M. Mookherjee who was entrusted with the job of investigation initially, has preferred to attribute all the responsibilities of the loss of the Administration on the shoulder of the custodian of the material rather than concentrating his energy & intelligence to catch-hold the real culprit who has actually defrauded the Administration.

To be very precise it appears that instead of catching the thief he has tried to falsely ~~imp~~ implicate the custodian of the Govt. material who has been subjected to be a victim in the eyes of the Administration for no fault of his own.

Contd... 3-

49 A (S.S.)

The biased attitude of the V.I. was glaring from Paragraph 4 and 7 of the statement of Shri G.M. Mookherjee PW-1.

In Paragraph 4 of his statement he has mentioned that Shri A.K. Sharma and Shri Anil Kumar Sharma holding I/C No. 37818 are the same person. He has also stated that some Shri A.K. Sharma also collected material on behalf of CTI/ALJN. But the Gate Pass No. 462/58/09/1772 dtd. 25.3.85 clearly shows that it was Shri G.P. Sharma, and not Shri A.K. Sharma or Anil Kumar Sharma.

Actually the Vigilance Inspector has not cared to go into the deep of the case and he has never tried to ascertain about the issue of I/Card No. 37818 dt. 25.6.84 from the place where from the blank identity Cards are issued viz. Supd. /Printing and Stationery/SSB. Similarly the V.I. also not cared to find out the source of issue of Identity card No. 12247 dtd. 3.6.84 so that the actual agencies who were involved in drawing the Railway material on the strength of the I/Cards from the stores Depot. Charbagh, Lucknow would have been unearthed.

In paragraph No. 7 in his statement he has given to the extent of recording his statement saying :-

"It was also heard that the original Gate Pass No. 368/S8/09/1147 dt. 21.3.84 for 43.8 Kgs. Tin Ingot was deliberately destroyed and in its place gate pass of the same number was prepared on the same date for some other material and for some other consignee."

In the same paragraph he has stated that his above opinion circumstantially proved from the fact that the original Gate Pass No. could not be made available for the scrutiny of the Vigilance".

All the above quoted statement is irrelevant as neither he could prove it specifically nor it has been nowhere mentioned in the originally charged memorandum. It is only his after-thought.

Contd...4-

27/4/84

al
g.m. m. d.
Shri G. M. Mookherjee

REGARDING CHARGE NO. 1 :

As per extent practice in Charbagh Stores Depot. all regus. coming from various Indentors are prepared on standard form No. S-1313, supplied from Supdt./P&S/SSB/ and such forms are not available in any where else. These requisitions are signed by the Indentors and Countersigned by their Controlling authority under their Office Seal. It also bears the declaration that "FUND EXISTS".

The requisitions in question were also in order and supposed to be genuine. As no specimen Signatures of the different Indentors are available with the Custodian it is not possible to verify the Signature of the Indentors

After issuing material the requisitions are sent to General Despatch Sec. for their own despatch except the requisitions come through the Special messengers.

As the requisitions in question were came through special messenger holding Identity Card and an Authority letter authorised him to draw the requisit material. They were issued by the Custodian Shri A.T. Roy DSK/III.

From the above process it is observed that there were no deviation from the procedure.

REGARDING CHARGE NO. 2 :

On the Gate Pass only the name of the Messenger authorised to draw the material vide Authority letter are written. As for example photostat copies of Authority letter issued by the Indentors viz. EFO/C/ALD, AFO/C/MB and Asstt. Bridge Inspector/Bridge Workshop/N.Rly/JRC are enclosed herewith).

It is evident from the above that no fictitious name was entered.

Both the above referred two charges are refuted as there is no violation of the rule and extent procedure. So Shri A.T. Roy custodian of the Ward No. 09 may not be held responsible.

Contd...5-

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5.

REGARDING CHARGE NO. 3 :

Procedure of Write back issue note (Minus Issue Note) has elaborately stated by Shri A.T. Roy NSK/III in his written statement recorded before E.O. in 7 sheets on 15.4.88, are quite correct and as no original gate pass No. 368/S8/09/1147 dt. 31.3.88 could be supplied by the E.O. it could not be proved in absence of the same.

It may further be mentioned here that the entire projection of the case by the Vigilance Inspector who was initially entrusted with the investigation work of six Gate Passes as per details given below :-

- (1) EFO/C/ALD
- (2) CTI/ALJN
- (3) IOW/DRC/MB
- (4) BFO/C/MB
- (5) SS/BW/S/JRC
- (6) PWI/PTP.

clearly indicates that the Indentors mentioned from Serial No. 3 to 6 have been left out from the radius of his investigating Zone.

The hallowness of the initial investigation by the Vigilance Inspector has been crystal clear by his deliberate ignorance about the mentioned 4 Indentors who have also defrauded the Rly. Administration by drawing the material from Charbagh Depot. through their following requisition :

- (1) PWI/PTP Req. No. 757265 dt. 21.1.85
- (2) SS/BW/S/JRC Req. No. 254786 & 254787
dated 8.2.85
- (3) EFO/C/MB No. copy of the requisition ^{not} supplied
- (4) IOW/DRC/MB - do -

Actually the entire case has been very lightly investigated into by the Vigilance Inspector Shri G.M. Mookherjee who was made responsible by the Rly. Administration. to find out the truth and unearth the ~~fraud~~ fraudulent agencies who have defrauded the Rly. Administration at the tune of Rs. 1.55 lacs.

Contd...6-

(77) 82

The charges thus levelled against Shri A.T. Roy DSK/III/CB for preparation of six Gate Passes for 529.4 Kgs. Tin Ingot 114.1 Kg. Solder Soft and 23 Kgs. Rolwel Bearing Metal costing about Rs. 1.55 lacs on fictitious requisitions and allowed these material to go out of the stores gate on the strength of these Gate Passes becomes baseless in the face of the fact the none of the Four Indentors i.e. PWI/FTP, SB/BW/S/JRS, LOW/DRC/MB & EFO/C/MB have been enlisted as the prosecution witnesses, as Vigilance Inspector himself has not cared to investigate in this matter thoroughly by not even contacting any of the above mentioned 4 Indentors.

I would therefore, conclude that the hapazard investigation on the part of the Vigilance Inspector Shri G.M. Mookerjee and his biased notion to falsely implicate the stock-holder for the alleged defraud will be most unjudicious in the eyes of the Law and thus the charges levelled against Shri A.T. Roy, DSK/III/CB now at MGS, could not be sustained.

(Encl-3)

Ashu Tosh Roy
(A.T. ROY)
Defendant.

B.N. Saxena
(B.N. SAXENA)
DEFENCE HELPER

Dated : 27.4.1988

गुप्ता
हस्ताक्षर

(114)
(S3)

The Dy.C.O.S.,
Northern Railway,
Alambagh, Lucknow.

बाद,

Subj: APPEAL under Rule 13 of the
DRA Rules, 1968 against Punishment
Notice No.E/3/533 dated 29.9.88
issued by Shri R.K. Vyas, DCOS,
Northern Railway, Charbagh,
Lucknow.

Sir,

Against the punishment notice mentioned
above, the appellant undersigned begs to prefer
this appeal to your honour on the grounds detail-
ed hereunder, preceded by brief history of the
case as follows :-

BRIEF HISTORY OF THE CASE

1. That the appellant undersigned was
working as ~~DSK~~ - III, Charbagh, Lucknow,
from 1981 to 1985. The appellant was Incharge
of Ward No.62. In the month of February/March
1985, some ^{Requisitions} ~~large notes~~ were received by the
appellant from various Senior Subordinates
pertaining to solder soft, tin ingots etc. and
other materials. The material was to be taken
out by messengers having authority of 1 tentors.
Accordingly, after completing the entire pro-
cedure laid-down in the Store Code, the appe-
llant issued material and prepared six
passes for the same in bonafide function
DSK. The names of the special messenger
were S/Shri A.K. Sharma, M.C., S.D. Sharma,
H.C. and Shri Jan Senak. The matter was
later on investigated into by Shri C.P. Mukerji,
Vigilance Inspector and a charge sheet (CF-5)

Smt. A.K.

21/11/88

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54

No.E/S/538 dated 10.4.86 was issued against the appellant. The appellant replied on which enquiry was set-up and Shri D.R. Manchanda, V.O., was appointed as Enquiry Officer. During the course of enquiry, prejudice in favour of the vigilance was clearly intelligible because the learned Enquiry Officer did not provide reasonable facilities of self-defence to the appellant and completely relied upon the story fabricated by the Vigilance Inspector. The documents required by the appellant for his self-defence were neither made accessible nor were furnished in photostat copies. One side investigation of the Vigilance Inspector was held reliable and the appellants' defence was rejected without being given consideration in its due process. The salient features of procedural lapses are detailed hereunder as grounds of appeal.

GROUND OF APPEAL

1. The punishment notice is unjust, perverse and worth being set aside on the following grounds :-

(a) Because the learned DCOS/CB, Lucknow, has failed to record detailed reasons which convinced him that this matter amounts to a grave mis-conduct and that an ultimate punishment of removal from service is well deserved in the instant case. The learned

D.C.O.S., Northern Railway, Charbagh, Lucknow, should have recorded his own findings on ~~which~~ each charge in order to enable the appellant to controvert those conclusions in this appeal. A proper opportunity of coming in appeal before your honour has, therefore, not been provided to the appellant by the learned competent authority.

(b) Because the learned Enquiry Officer has also relied upon evidence on record which actually does not prove in disregard of rules or procedure by the appellant. While following the procedure prescribed by the administration, an employee can also possibly be duped by mis-creants and in that case the highest penalty of removal from service cannot be held justified. The learned Enquiry Officer has, therefore, failed to apply his own mind on the facts and possibilities of the appellant being made victim of a conspiracy hatched by other persons.

(c) Because the learned Enquiry Officer has failed to provide documents demanded by the appellant with contention that the same could form basis of his self-defence. Issue Notes No.09/2926 dated 31.3.84, 09/2979 dated 7.3.84, 09/2492 dated 15.2.85, 09/2573 dated 5.3.85, 09/2697 dated 25.3.85 together with gate passes dated 21.3.84 and 24.4.84 were essential for a self-defence of the appellant,

non-provision of which has resulted into complete failure of natural justice. The learned competent authority has failed to take this fact into consideration.

(d) That the charges No.1 and 2 have been held as proved by the learned Enquiry Officer while the same contained dates on which the appellant was not working but he had been placed under suspension prior to those dates. The charges, therefore, stand vitiated by mis-carriage of justice and the entire proceeding based thereon is a complete nullity under existing case law.

(e) Because the arbitrary denial of the opportunity of going through and making reference to some additional documents by the learned Enquiry Officer, has also resulted in failure of justice and consequent vitiation of enquiry proceedings. On this ground alone, the findings of the Enquiry Officer and the punishment by the learned competent authority can be successfully assailed.

(f) That the entire investigation of the Vigilance Inspector in this case was one sided, mis-guided and malicious. He did not probe into the actual facts and find out the real culprit of this case. Instead of tracing out the persons hatching conspiracy for mis-appropriation of Railway material, he collected evidence against the custodian of the property

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himself. The learned Enquiry Officer and the competent authority has placed reliance on these prejudicial view points of the Vigilance Inspector resulting into complete mis-carriage of the principles of natural justice.

(g) That the learned Enquiry Officer and the competent authority have also relied upon presumptive opinion of the Vigilance Inspector and believed his story of deliberate destruction of gate passes by the appellant. This resulted into a pre-conceived notion against the appellant and the punishment was consequently based on conjectures and surmises. The responsibility of the prosecution to prove their allegation and to substantiate charges has been over-looked and the burden of proof has been erroneously saddled upon the party charged. This has resulted into deliberate injustice against the appellant by the learned competent authority.

(h) Because the vigilance has completely failed to establish on record that the rules of procedure were not followed by the appellant. Lapses even after following prescribed procedure cannot be held to be a deliberate mis-conduct worth being punished with removal from service.

(i) That the D&A Rules enquiry is a quasi-judicial proceeding in which the justice

should not only be done but should also look to have been correctly administered. The learned competent authority has failed to provide proper reasons for his conclusion and therefore this punishment deserves being set aside on this ground alone.

(j) That in any case the punishment awarded to an employee should not be disproportionate or excessive. Even if there are procedural lapses by a railway employee due to which some mis-appropriation takes place, if the intention of the employee is not proved bad beyond a shadow of doubt and in case the prescribed procedure has been followed by him correctly, errors, if any, do not deserve such a serious punishment as awarded to the appellant in this case.

P_R_A_Y_E_R

It is, therefore, prayed that your honour may be pleased to re-consider the entire evidence on record as well as non-provision of reasonable facilities of self-defence to the appellant and to please revise decision of learned DCOS, Charbagh by setting this unnatural, harsh and unjust penalty aside. In case your honour is still not convinced of the justification for setting aside this penalty as prayed for in the foregone paras, the appellant may kindly be permitted to request for a personal hearing in which the appellant may have a proper opportunity of explaining matters prima facie before your honour.

Ashu Tosh Roy
(A.T. ROY)
APPELLANT

DATED : OCT. 25 1988

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW.

Civil Misc. Application No. 678 of 1991 (L)

IN RE;

Registration (O . A .) No. 237 of 1990 (L,

Ashutosh Rai Applicant.

Versus

Union of India & OthersOpp. Parties.

APPLICATION FOR CONDONATION OF DELAY IN FILING
COUNTER REPLY.

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

P R A Y E R

Therefore, it is most respectfully prayed that in the interest of justice, delay in filing counter reply may kindly be condoned and counter reply may be taken on record,

Lucknow.

Dated. 11/11/91


(ANIL SRIVASTAVA)
Advocate

Counsel for Respondents.

led today

oyu
1/11/91

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

Registration O.A.No.237 of 1990

Ashutosh Rai

.....

Applicant.

Versus

Union of India & others

Opp.P arties.



C O U N T E R R E P L Y

I, Jagdish Narain working as
Asstt. Personnel Officer in the office of Dy.
Controller of Stores, Northern Railway, Alambagh,
Lucknow, do hereby solemnly affirm and state as
under :-

1. That the official abovenamed is working in the office of Dy. Controller of Stores, Northern Railway, Alambagh, Lucknow and as such he is fully conversant with the facts and circumstances of this case. He has been authorised on behalf of all the opposite parties to answer and file present reply.

Contd....2

१०-१०-९१
नगिक अधिकारी (भंडार)
र रेलवे आलमबाग
खनऊ

2. That the contents of paras 1 to 4 of the Original Application do not call for any reply.

3. That ~~the contents of para 5~~ ⁱⁿ of the original application there is no para no. 5 and as such it require no reply.

That the reply ^{of} para 6 of the original application given as under :-

4. That the contents of paras 6.1 & 6.2 of the original application are admitted.

5. That the contents of para 6.3 of the original application are wrong as such denied. It is further submitted that during applicant's ^{he} working in the office ^{he} has been imposed punishment several times.

6. That the contents of para 6.4 of the original application are admitted.

7. That the contents of para 6.5 of the original ^{and} application are false ^{and} as such denied . It is further submitted that applicant had been issued chargesheet for his careless and neglegent work-

Contd.....3

ing and for the same he had been punished several times.

8. That in reply to the contents of para 6.6 of the original application it is submitted that promotion of the applicant on the post of senior clerk had been made as per his seniority, adopting the channel of promotion.

9. That in reply to the contents of para 6.7 of the original application it is submitted that applicant was promoted and posted as wardkeeper (new DSKIII) as he desired to work on the job and also as per requirement of vacancies. Applicant was promoted by the administration for the cause of work.

10. That the contents of para 6.8 of the original application are admitted to the extent that applicant was posted to work as DSK-III in ward no. 09 under DCOS/CB-LKO. It is further submitted that in the year 1985 vigilance Branch of Headquarters of New Delhi, caught a case of mis-appropriation of Railway material worth Rs.1,55,000/- in stores depot/ Northern Railway, Charbagh, Lucknow and applicant alongwith 6 other employees

was placed under suspension with effect from 12.7.85 and as a consequence a case was contemplated against him by the Vigilance Branch. A copy of suspension order is enclosed as annexure no. 3 to the original application.

11. That in reply to the contents of paras 6.9 to 6.12 of the original application it is submitted that averments made in this paras are misleading as such denied . It is further submitted that applicant who was custodian of Railway material while working as DSK-III under DCOS/CB-LKO during Feb/ to March/85 committed grave misconduct and contravened Rule No. 3 (1) (i) (II) & (iii) of Railway Services Conduct Rules 1966. in as much as he prepared six gate passes for 529.4 Kg. Tin Ingot 114.1 Kg. Solder Soft and 23 Kg. Rotwal Bearing Metal costing approximately Rs.1,55,000/- on fictitious requisitions and allowed those materials to go out of the Store GATE on the strength of those gate passes . A copy (photo copy) of all enclosures are attached with chargesheet dated 10.4.86 as annexure no. 5 to the original application.

Contd....5

12. That in reply to the contents of paras 6.13 & 6.14 of the ~~xxx~~ original application it is submitted that the applicant alongwith 6 other employees of C.B. Stores depot were placed under suspension from 12.7.85 as case for mis-appropriation of Railway Material was instituted against the applicant.

13. That in reply to the contents of para 6.15 of the original application it is submitted that applicant was issued a major penalty memo vide no. E/S 538 dated 10.4.86 after investigating the case properly by the Vig. Branch alongwith the Statement of charges and allegations and list of relied upon documents alongwith a list of Witnesses were also supplied to the applicant.

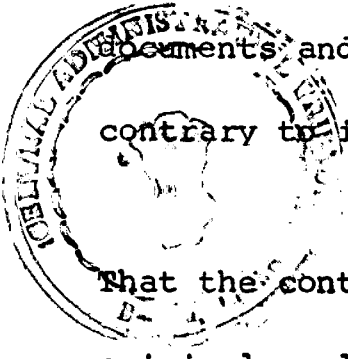
14. That in reply to the contents of para 6.16 of the original application only this much is admitted that Shri D.R. Manchanda Enquiry Inspector, D.R.M., NDLS was appointed to conduct enquiry as per orders issued vide letter no. E/S/538 dated 28.10.87.

15. That the contents of para 6.17 of the original application do not call for any comment.

16. That in reply to the contents of para 6.18 of the original application it is submitted that G.M.(Vig.) NDLS was informed by the office of answering respondent to supply the relied upon document to the applicant vide letter nos. E/S 538 dated 17.4.87 and 19.5.87 respectively.
17. That the contents of para 6.19 of the original application are admitted.
18. That in reply to the contents of paras 6.20 & 6.21 of the original application it is submitted that relied upon document as shown in annexure no. 3 to the original application have been supplied to the applicant. Any averment contrary to it is denied.
19. That the contents of para 6.22 of the original application are false and as such denied .
20. That in reply to the contents of para 6.23 of the original application it is submitted that seeing the interest of administration and the work of the office competent authority considered to revoke the suspension and accordingly suspension of the

applicant alongwith 6 others was revoked on 16.10.87, it is further submitted that applicant was posted under ACOS/MGS which is under depot complex under Dy. COS/AMN.

21. That the contents of the paras 6.24 & 6.25 of the original application are admitted.
22. That in reply to the contents of paras 6.26 of the original application it is submitted that applicant was furnished with relied upon relevant documents and any thing contrary to it is denied.
23. That the contents of paras 6.27 & 6.29 of the original application are admitted.
24. That in reply to the contents of para 6.30 of the original application it is submitted that it is on the discretion of Enquiry Officer to cross examine as many members as he deems to fit for the purpose. Therefore saying that only two members were called before applicant has got no weightage.



२९.१०.९१
अधिकारी (भंडार)
लवे आलमबाग
बखनऊ।

25. That in reply to the contents of paras 6.31 & 6.32 of the original application it is submitted that enquiry was conducted under rule 9 of D & AR rules 1968 by Enquiry Officer Shri D.R. Manchanda and the proceedings of enquiry alongwith findings of Enquiry Officer was sent under clear signature of Enquiry Officer vide confidential letter no. F259 /240-27/Vig. 87/EI dt. 13.7.88, any averment contrary to it is denied.

26. That the contents of para 6.34 of the original application are false and as such denied. It is further submitted that disciplinary Authority examine the case of the applicant and other relevant records and also agreed on the findings of the Enquiry Officer. It is stated that on the grave misconduct on the part of the applicant a order of removal was passed by the authorities concerned.

27. That the contents of para 6.35 of the original application are admitted.

28. That in reply to the contents of para 6.36 of the

original application it is submitted that appellate authority after considering the appeal of the applicant, up hold the judgement of disciplinary authority. Any thing contrary to it is not admitted.

29. That the contents of paras 7 & 8 of the original application do not call for any reply.
30. That in reply to the contents of para 9 of the original application it is submitted that the grounds taken are false, misconceived, irrelevant and not applicable to instant case of the applicant.
31. That in reply to the contents of para 10 of the original application it is submitted that the relief claim is devoid of any merit and as such is liable to be dismiss against the applicant and infavour of the answerings respondents with cost.

Lucknow.

Dated : 28/10/61

सहायक कायिक अधिकारी (भंडार)
उत्तर रेलवे आवासवाग
बखनऊ

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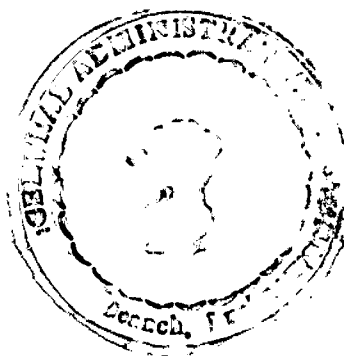
VERIFICATION
=====

I, the official above named deponent do hereby verify that the contents of para 1 of this counter reply are true to my best knowledge and those of paras 2 to 31 of this counter reply are believed to be true on legal advice.

Lucknow.

Dated :

C. S. S.
28-10-91
सहायक कानून अधिकारी (संसार)
उत्तर प्रदेश सरकार
लखनऊ



R.A

2/8

main copy

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,
LUCKNOW BENCH AT LUCKNOW.

O.A.NO. 237 of 1990 (L)

237/90 (L)

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Ashutosh Rai.

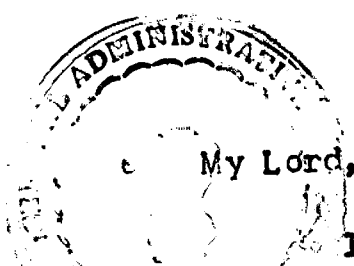
.. Applicant

Versus

Union of India & others.

.. Opp. Parties

APPLICATION FOR CONDONATION OF DELAY
IN FILING REJOINDER REPLY .



My Lord,

P.T.
80/1

In regards to submit the reply through rejoinder it could not have filed in due time due to reason that the Applicant due to illness and also residing at Hisaar, Haryana, as such the delay took place in filing the same in unavoidable circumstances is liable to be condoned. It is therefore, respectfully prayed that the rejoinder may be taken on record after condoning unavoidable delay without any fault of the Applicant.

Ashu Tosh Roy
Applicant.

Lucknow,
Dated: January 7, 1993.

8

(R.B. Pandey)
Advocate,

Counsel for the APPLICANT

ATTESTED SIG.

Ashu Tosh Roy

2/9

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLHABAD,
CIRCUIT BENCH AT LUCKNOW.

O.A.No.237 of 1990 (L)

Ashutosh Rai.

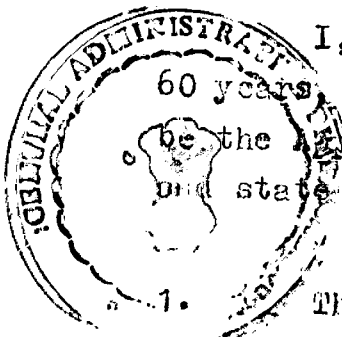
Applicant

Versus

Union of India & Others.

Opp. Parties

REJOINDER REPLY



I, Ashutosh Rai, S/o late C.M. Rai, aged about 60 years, resident of 53 B.C.P.H. Colony, Aalaanbagh, Lucknow 5 be the Applicant in the above noted case solemnly affirm and state as under :-

1. That the contents of para 1 to 3 of the counter reply needs no comment.
2. That the contents of para 4 of the counter reply also needs no reply being admitted.
3. That the contents of para 5 to the counter reply as alleged are wrong, hence denied and related paragraph of the Application be reiterated as correct.
4. That the contents of para 6 of counter reply needs no comments.
5. That the contents of para 7 of counter reply as alleged are wrong and denied, those of related paragraph of the Application be reiterated as correct. The Applicant's whole life rendered a meritorious service. He has falsely implicated at the verge of retirement.

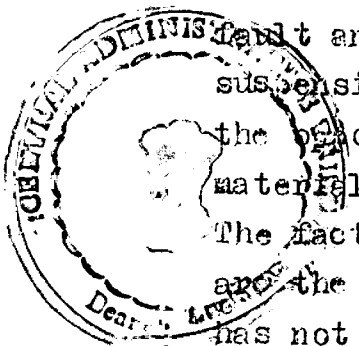
ATTESTED SIG.

Ashu Tosh Rai

ax

6. That the contents of paras 8 to 10 of the counter reply needs no comment. Regarding the factual position replied by the respondents in para 10 of reply it is stated that by virtue of the complaint made by Vigilance Department the seven persons were suspended and all have been reinstated but the punishment awarded only to Applicant without any fault of his own. None of the opportunity was given to Applicant according to the rule required and the punishment awarded is illegal in denial of reasonable opportunity it is wholly bad in law and is liable to be set aside.

7. That the contents of para 11 of the counter reply the related paragraph of the Original Application is reiterated as correct. It is further submitted that the Applicant has committed no fault and he has falsely implicated by virtue of suspension order and charge sheeted and none of the opportunity was given. The copy of the material evidences were also not been supplied. The factual position narrated in the counter reply and the subject matter of fulfilled enquiry which has not been done according to the law and without providing the opportunity to Applicant the entire action malafidely done by the respondents. It is further stated that the similar charge sheet was given to seven persons including Applicant and out of several witnesses the only two have been relied upon by the enquiring officer and the person having more responsibility for alleged irregularity have given only the minor punishment and rest of others have been reinstated without any punishment. Thus for the petitioner no equal treatment had been done and gravity of charges does not commensurate the position, while the entire position is admitted.



ATTESTED SIG

Atkin Tosh Roy

[Signature] 8.

8. That the contents of para 12 of the counter reply regarding the factual position written in paras 6.13 and 6.14 of the Application are correct. Only

the further allegation imposed in the counter reply is denied with this aspect that on the part of the Applicant no misappropriation of Railway material was ever found and proved. The enquiry has not been done according to law after providing the reasonable opportunity required therein.

9. That the contents of para 13 of the counter reply it is submitted that without any foundation the chargesheet against the Applicant was issued and in this regard it is also stated that the Additional evidence required by the Applicant were not supplied which is also admitted position. Hence para 6.15 of the Application be reiterated as correct.

10. That in reply to para 14 of the counter reply regarding the appointment of enquiring officer Mr.D.R.Manchanda it is stated that Mr.Manchanda was biased action the basis of complaint raised by Vigilance Department the entire proceedings were conducted and said Mr.Manchanda also at the time of enquiry posted in the Vigilance Department, as such the status of the enquiry officer was at a witness in the entire case. Hence para 6.16 of the Application be reiterated as correct.

11. That the contents of para 15 of the counter reply needs no comment.

12. That the contents of para 16 of the counter reply it is submitted that the Applicant had demanded the copies of the evidences but the Additional evidences whatever demanded on 18.5.87 vide Annexure 11 have not been supplied (admittedly). As such para 6.18, of the Application be reiterated as correct.

ATTESTED SIG

Asm Tosh/13

13. That the contents of para 17 of the counter reply needs no comment.

After 14.

That the contents of para 18 of the counter reply the respondents have not replied according to

pleading of para 6.20 and 6.21 of the Application. Hence para 6.20 and 6.21 be reiterated as correct. It is further stated that the Additional documents required by the Applicant have not been supplied which is denial of reasonable opportunity and the impugned order does not sustain in the eye of law by virtue of this major legal defect.

15. That the contents of para 19 of counter reply as alleged are wrong, hence denied, and those of para 6.22 be reiterated as correct.
16. That the contents of para 20 of the counter reply it is stated that the suspension order was revoked on dated 16.10.87 and the Applicant as a measure of punishment was transferred from Lucknow to Mughal Sarai. While the enquiry was scheduled at Delhi while the defence counsel making legal help to Applicant was situated at Lucknow. This all action appears to be a lafide intention for Applicants only.
17. That the contents of para 21 of counter reply needs no comment as admitted.
18. That the contents of para 22 of counter reply as alleged are wrong and denied. It is further stated that the contents of para 6.26 of the Application be reiterated as correct. It is further submitted that the Applicant during the course of enquiry was demanded the copy of Additional documents, according to Annexure 11 which has not been supplied.
19. That the contents of para 23 of the counter reply needs no comment.
20. That the contents of para 24 of the counter reply as alleged are wrong, hence denied and those of para 6.30 of the Application be reiterated as correct. It is obligatory upon the enquiring officer to provide the opportunity for cross-examination and examination-in-chief with

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witnesses. It is not the discretion of the enquiring officer. The jurisdiction and scope of the enquiring officer is very well limited within mandatory provision of law. The discretion of enquiring officer flouting the law is no excuse.

21. That the contents of para 25 of the counter reply as alleged are totally wrong, out of record and thought, hence denied, and those of para 6.31 and 6.32 be reiterated as correct. It is evident by virtue of the annexed photostat copy of the enquiry report that it has not been signed by any of the authority. It is not understood that how the contrary statements are being given by the authorities.

22. That the contents of para 26 of the counter reply as alleged are wrong and denied and those of para 6.34 of the Application be reiterated as correct. It is also stated that the reply of para 6.33 of the Application has been admitted without reply. It is further submitted that the disciplinary authority also without application of mind passed the impugned order in cyclostyled order that is arbitrary and nonspeaking.

23. That the contents of para 27 of the counter reply needs no comment.

24. That the contents of para 28 of the counter reply as alleged are wrong and denied and those of para 6.36 of the Original Application be reiterated as correct. It is further stated that the actual appointing authority in this case acted and exercised his power as appellate authority ~~frankly~~ very wrongly and in an arbitrary manner which is illegal.

Ashu Tosh Ror
ATTESTED SIG.

 25.

25. That the reply of para 6.37 to 6.40 of the Original Application which has been included by virtue of amendment the reply furnished is not admitted. This

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matter of jurisdiction as stated by the respondents is not correct, hence denied. The sufficient evidence mentioned by filing the same along with the amendment application that the actual appointing and punishing authority for the case of Applicant is opposite party no.3 and opposite party no.2 being a subordinate authority having lower status has no right to pass the major punishment against the Applicant. The opposite party no.3 who wrongly exercised the powers of appellate authority proves the contention of the Applicant that the order passed by opposite party no.3 awarded punishment is beyond jurisdiction. The chart submitted by the respondents also wrongly interpreted. The post of opposite party no.3 has created some time in the year 1974 and for the Applicant the opposite party no.3 was initially appointing authority. Thus by virtue of any schedule the status for the Applicant cannot be changed, remaining other action of promotion, confirmation etc all action have been done by the opposite party no.3. Thus opposite party no.2 cannot be said as punishing authority for the Applicant.

26. That the contents of para 29 of the counter reply needs no comment.

27. That the contents of para 30 and 31 of the counter reply as alleged are wrong, hence denied and those of para 9 and 10 of the Original Application along with grounds mentioned therein read with the grounds mentioned in the amendment be reiterated as correct. And this is the example case in which denial of reasonable opportunity had played deliberately and by virtue of legal and factual position also contents admitted by the respondents the impugned order does not sustain in the eye of law and liable to be set aside as the Applicant at the time of the verge of retirement had been punished in the manner so severe that is an excessive punishment for which he cannot be held responsible. Thus the relief

Ashu Tosh Rm

ATTESTED SIG.

[Signature]

sought in the application deserves to be allowed.

Verification

I, the above named applicant do hereby verify that the contents of paragraphs 1 to 27 of this rejoinder reply are true to my personal knowledge. Nothing material has been concealed and no part of it is false.

Verified on this the 7th day of January, 1993 at Lucknow.

Ashu Tosh Ray

ATTESTED SIG.

[Signature]

Ashu Tosh Ray

APPLICANT.

I, identify the above named applicant who has signed before me.

[Signature]

(R.B. Pandey)

Advocate,

Counsel for the Applicant.

16-4-86

समाप्त माननीय केन्द्रीय प्रशासनिक सेवा आयोग द्वारा
प्राप्त की गई, प्रमाणित ।

अभिलेख संख्या सं० 237/1980

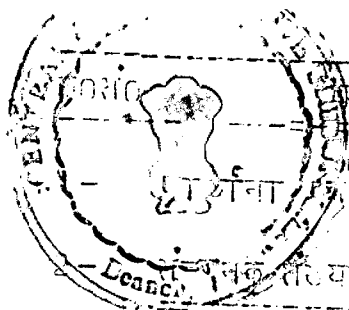
M. P. 859/96

आयुक्त सचिव ----- अभिलेख

प्रमाण

भारत सरकार द्वारा अध्यापक,
उत्तर रेलवे, बड़ोदा डोज,
नई दिल्ली एवं अन्य ----- विभागीय

अभिलेख विवरण सूची



13/6/1986

सेवा प्रकाशना आदेशा दिनांक 29-9-88 की
प्रति ।

3- संलग्नक संख्या-2

सेवा प्रकाशना दिनांक 25-7-89/
27-7-89 सेवा प्रति ।

4- संलग्नक संख्या-3

विमान आदेशा दि० 12-7-85 की सेवा प्रति ।

5- संलग्नक संख्या-4

अन्य अभिलेखों के विमान आदेशा दि० 25-7-85 की
सेवा प्रति ।

6- संलग्नक संख्या-5

आरोप पत्र दिनांक 16-4-86 की सेवा प्रति ।

1
Date of Filing 16-4-86
Date of Receipt by PCC

समक्ष माननीय केन्द्रीय प्रशासनिक न्यायाधिकरण इलाहाबाद ।
लखनऊ पीठ, लखनऊ ।

PR Registered

अभ्यर्थना याचिका सं० 237/1990 एल्

M. P. 859/96

आशुतोष राय ----- अभ्यर्थी

बनाम

भारत सरकार द्वारा महाप्रबन्धक,
उत्तर रेलवे, बड़ोदा हाउस,
नई दिल्ली एवं अन्य

विपक्षीय

अभिज्ञान विवरण सूची



सं० विवरण

पृष्ठ सं०

2- संलग्नक संख्या-1

सेवा प्रथककरण आदेश दिनांक 29-9-88 की
छाया प्रति ।

3- संलग्नक संख्या-2

सेवा प्रथककरण दिनांक 25-7-89/
27-7-89 छाया प्रति

4- संलग्नक संख्या-3

निलम्बन आदेश दि० 12-7-85 की छाया प्रति ।

5- संलग्नक संख्या-4

अन्य कर्मचारियों के निलम्बन आदेश दि० 25-7-85 की
छाया प्रति ।

6- संलग्नक संख्या-5

आरोप पत्र दिनांक 10-4-86 की छाया प्रति ।

क्रमशः-----2

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By Registrar ()

-1-

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7- संलग्नक संख्या-6

जांच निरीक्षक नियुक्ति करने हेतु आदेश दि० 28-10-87 की छाया प्रति ।

8- संलग्नक संख्या-7

कागजात मांगने हेतु प्रार्थना पत्र दि० 1-5-86 की छाया प्रति ।

9- संलग्नक संख्या-8

पुनः कागजात मांगने हेतु प्रार्थना पत्र दि० 12-6-86 की छाया प्रति ।

10-संलग्नक संख्या-9

पुनः कागजात मांगने हेतु प्रार्थना पत्र दि० 14-11-86 की छाया प्रति ।

11-संलग्नक संख्या-10

आदेश का संक्षिप्त उत्तर दि० 4-5-87 की छाया प्रति ।

12-संलग्नक संख्या-11

अति० कागजात मांगने हेतु प्रार्थना पत्र 18-5-87 की छाया प्रति ।

13-संलग्नक संख्या-12

अति० कागजात देने से इंकार करने का विवरण दि० 15-3-88

14-संलग्नक सं०-13

प्रार्थी का बचाव कथन दिनांक 15-4-88 की प्रति ।

15- संलग्नक संख्या-14

प्रार्थी के कौसिल वदारा प्रार्थी का बचाव कथन दिनांक 27-4-88

16- संलग्नक संख्या-15

जांच रिपोर्ट ।

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Central Administrative Tribunal
Lucknow Bench

Date of Filing

Date of Receipt by Post

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Dr. Registrar (1)

17- संलग्नक संख्या-16

अपील दिनांक 25-10-88

18- संलग्नक संख्या-17

पोस्टल ऑर्डर

नखाना :

दिनांक 26-7-1990

हो/- योगेन्द्र मिश्र

अधिवक्ता

अभ्यर्थी के अधिवक्ता

(R. B. Pandey
Adv)



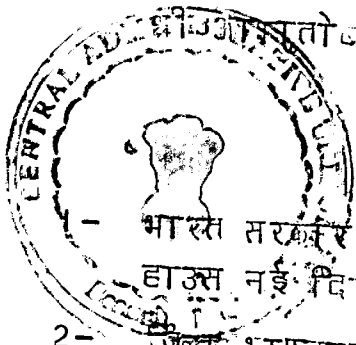
समक्ष माननीय केन्द्रीय प्रशासनिक न्यायाधिकरण इलाहाबाद
लखनऊ पीठ, लखनऊ ।

Regd. No. 1990/237

अभ्यर्थिता याचिका सं० 237/1990 § सल०

- 1- आशुतोष राय पुत्र स्वर्गीय श्री एस०एन० राय,
उम्र लगभग 58 वर्ष, निवासी-53 बी, सी०पी०एच० कॉलोनी
आलमबाग, लखनऊ, प्ल० 5 ---- § मृतक
- 2- श्रीमती दीपाणी राय, आयु लगभग 56 वर्ष,
पत्नी आशुतोष राय ।
- 3- सुब्रतो राय § आयु -26 वर्ष पुत्र स्वर्गीय
आशुतोष राय ।

----- अभ्यर्थी



बनाम

- 1- भारत सरकार द्वारा महा प्रबन्धक, उत्तर रेल्वे बड़ोदा
हाउस नई दिल्ली ।
- 2- जेन भाण्डार नियन्त्रक, उत्तर रेल्वे, चारबाग लखनऊ ।
- 3- उप नियन्त्रक § भाण्डार § उत्तर रेल्वे आलमबाग लखनऊ ।
- 4- श्री डी०आर० मनचन्दा, जंच निरीक्षक, मण्डल रेल्वे प्रबन्धक
कार्यालय § सतर्कता अनुभाग, नई दिल्ली ।
- 5- श्री शीतलादीन, एस०सी०, डिप्टी चीफ इंजीनियर,
ब्रिज वर्कशाप, चारबाग, लखनऊ ।

----- विपक्षीय

1- अभ्यर्थी का विवरण :

- | | |
|----------------------|-------------------------|
| 1- अभ्यर्थी का नाम | — आशुतोष राय |
| 2- पिता का नाम | -- स्व० श्री एस०एन० राय |
| 3- अभ्यर्थी की उम्र, | -- लगभग 58 वर्ष । |

U.P. District 072

4- पद और विवरण जहाँ प्रार्थी - डी०एस०के० § 111§
काम कर रहा हो या काम - जिला भाण्डार,
कर रहा था। चारबाग।

5- कार्यालय का पता :: उप नियन्त्रक § भाण्डार§
उत्तर रेलवे आलमबाग लखनऊ।

6- पता जिस पर सूचना हो सके -- 53-बी, सी०पी०एच०
कानोनी, आलमबाग लखनऊ।

2- प्रत्यर्थी का विवरण

1- भारत सरकार द्वारा, महा प्रबन्धक उत्तर रेलवे,
बड़ोदा हाउस, नई दिल्ली।

2- जिला भाण्डार निबन्धक, उत्तर रेलवे चारबाग, लखनऊ।

3- उप नियन्त्रक, § भाण्डार§ उत्तर रेलवे, आलमबाग लखनऊ।

4- श्री डी०आर० मनचन्दा, जांच निरीक्षक, मण्डल रेलवे
प्रबन्धक, कार्यालय, नई दिल्ली।

5- श्री शीतलदीन, एम०सी० डिप्टी चीफ इंजीनियर,
ब्रिज वर्कशाप, चारबाग, लखनऊ।

3- माननीय न्यायाधिकरण की अधिकारिता :-

अभ्यर्थी यह धोखा देता है कि उपर्युक्त अभ्यर्थीना
याचिका का विषय वस्तु पूर्णरूप से माननीय न्यायाधिकरण
के अधिकारिता के अन्तर्गत है।

4- सीमांकन :-

अभ्यर्थी पुनः यह धोखा देता है कि प्रशासनिक
न्यायाधिकरण अधिनियम की धारा-21 के अनुसार
वर्णित समय सीमा के अन्तर्गत है।

Dr. Laxmi

6- वाद के तथ्य :-

वाद के तथ्य निम्नलिखित हैं :-

- 1- यह कि प्रस्तुत प्रार्थना पत्र द्वारा प्रार्थी के सेवा-
प्रथक्करण आदेश दिनांक 29-9-1988 को प्रत्यर्थी
संख्या-2 द्वारा पारित है, जिसकी अपनी प्रार्थी ने
प्रत्यर्थी सं०-3 के यहाँ की थी, जो प्रत्यर्थी सं०-3
द्वारा दिनांक 25-7-88/27-7-89 को प्रत्यर्थी सं०-2
द्वारा पारित आदेश को बहाना किया गया, को
चुनोती दी जा रही है। उक्त आदेश दिनांक
29-9-88 व 25-7-89/27-7-89 की छाया प्रतियां
इस प्रार्थना पत्र के साथ संलग्नक संख्या-1 व 2 पर
संलग्न है।
- 2- यह कि प्रार्थी तृतीय श्रेणी लिपिक के पद पर वेतनमान
55-130 में दिनांक 23-7-53 को जिला भाण्डार
नियन्त्रक, उत्तर रेलवे, शाकुरबस्ती, नई दिल्ली के
कार्यालय में विधिवत चयन के उपरान्त नियुक्त हुआ।
सन् 1954 में प्रार्थी स्थानान्तरित होकर जिला
भाण्डार नियन्त्रक कार्यालय आलमबाग, लखनऊ आगया।
- 3- यह कि प्रार्थी अपनी नियुक्ति के उपरान्त एक कुशल लि
लिपिक के रूप में अनुशासित ढंग से कार्य करता रहा।
- 4- यह कि प्रार्थी अपनी उत्तर क्षमता के आधार पर
दिनांक 29-10-66 को वेतनमान स्० 130-300 में
चयनित हुआ और दिनांक 16-2-68 को उक्त वेतनमान
में प्रोन्नत हुआ।

- 5- यह कि प्राथी निरन्तर अपनी सेवायें पूरी निष्ठा व ईमानदारी के साथ विभाग को प्रदान करता रहा और साथ ही अपने कार्यों को उत्कृष्ट ढंग से करने का पूरा प्रयास करता रहा ।
- 6- यह कि प्राथी को उत्कृष्ट सेवा एवं उत्तम क्षमता के आधार पर दिनांक 26-7-79 को वरिष्ठ लिपिक के पद पर वेतनमान 330-560 में प्रोन्नति किया गया ।
- 7- यह कि प्राथी ने उक्त प्रोन्नति के उपरान्त भी पूरी क्षमता सहित निष्ठा व ईमानदारी से अपनी सेवायें निरन्तर प्रदान करता रहा, जिसके आधार पर प्राथी को वार्ड कीपर §डी०एस०के० तृतीय § के पद पर दिनांक 5-3-80 को पदोन्नति दी गई ।
- 8- यह कि प्राथी दिनांक 5-3-1980 के उपरान्त वार्ड कीपर §डी०एस०के०-111§ के पद पर पूर्ण लगन व निष्ठा के साथ कार्य करता रहा । साथ ही प्राथी वार्ड नं०-9 का इंचार्ज था ।
- 9- यह कि प्राथी दिनांक फरवरी/मार्च 1985 को कुछ वस्तुओं के आपूर्ति से सम्बन्धित मांग पत्र प्राप्त किया ।
- 10- यह कि प्राथी ने जिस व्यक्ति से वस्तु के आपूर्ति हेतु मांग पत्र प्राप्त किया, उससे सम्बन्धित सभ्य प्रपत्र जैसे परिचय पत्र व अथारिटी लेटर आदि देखाकर व समस्त औपचारिकतायें पूर्ण करने के उपरान्त वस्तुओं की आपूर्ति करते हुए विभिन्न तिथियों में 6 गेट पास तैयार किये गये । जो प्राथी ने अपने कर्तव्य पालन के तहत किये । उक्त 6 गेट पास तीन व्यक्तियों द्वारा प्राप्त किये गये जिनके नाम क्रमशः

श्री ए०के० शर्मा, एम०सी०, श्री ओ०पी० शर्मा, एम०सी० व
 श्री रामसेवक एम०सी० ओ ।

- 11- यह कि कुछ समय के उपरान्त श्री एम०मुखार्जी सतर्कता निरीक्षक
 द्वारा रिपोर्ट की गई कि जिस मांग पत्र पर दिनांक फरवरी/
 मार्च 1985 को जिला भाण्डार नियन्त्रक आलगबाग गौदाम से
 माल निकाला गया वह ~~क़र्र~~ सभी मांग पत्र व वें व्यक्ति जो
 माल ले गए सभी फर्जी था ।
- 12- यह कि सतर्कता निरीक्षक ने श्रीतलादीन एम०सी० का बयान
 दर्ज करने के उपरान्त रिपोर्ट किया था, उक्त बयान में
 श्रीतलादीन ने स्वीकार किया था कि जो माल श्री ए०टी०
 राय, डी०एस०के०-111 तृतीय चारबाग से प्राप्त किया, वह
 माल जहाँ जाना था वहाँ मैं नहीं ले गया । लेकिन फिर
 भी उक्त श्रीतलादीन को कोई आरोप पत्र नहीं दिया गया ।
 क्योंकि सतर्कता निरीक्षक ने प्रार्थी व अन्य छह कर्मचारियों
 को फसाने की नियत से श्रीतलादीन का बयान जाइयन्त्र के
 तहत लिया ताकि यह साबित हो सके कि प्रार्थी गलत कार्यों
 में सहयोग देता था जबकि यह आरोप प्रार्थी के विरुद्ध
 किसी भी स्तर पर सिद्ध नहीं हो पाया ।
- 13- यह कि उक्त सतर्कता निरीक्षक की रिपोर्ट के उपरान्त
 प्रार्थी को दिनांक 12-7-85 को निलम्बित कर दिया गया ।
 उक्त निलम्बन आदेश दिनांक 12-7-85 इस प्रार्थना पत्र के
 संलग्नक संख्या-3 के रूप में संलग्न है ।

By, Registrar (1)

14- यह कि उक्त सतर्कता निरीक्षक की रिपोर्ट के बाद प्रार्थी सहित 6 अन्य कर्मचारियों को डाइयन्त्र के तहत मान निकालने के आरोप में निन्मित करने का आदेश उप नियन्त्रक भण्डार, आन्मबाग द्वारा पारित किया गया। उक्त आदेश दिनांक 25-7-85/28-7-85 इस प्रार्थना पत्र के साथ संलग्न नक संख्या-4 के रूप में संलग्न है।

15- यह कि प्रार्थी के लगभग 9 माह के निन्मित काल के उपरान्त दिनांक 10-4-86 को आरोप पत्र प्रेषित किया। उक्त आरोप पत्र की छाया प्रतिलिपि इस प्रार्थना पत्र के साथ संलग्नक संख्या-5 के रूप में संलग्न है।

16- यह कि आरोप पत्र प्राप्त होने के बाद जांच प्रारम्भ न होने के बाद प्रार्थी के निरन्तर लिखित पत्र देने के बाद दिनांक 28-10-87 को श्री डी०आर० मनचन्दा को जांच निरीक्षक नियुक्त किया गया, उक्त आदेश दिनांक 28-10-87 की छाया प्रतिलिपि इस प्रार्थना पत्र के साथ संलग्नक सं०-6 के रूप में संलग्न न है।

17- यह कि दिनांक 1-5-86 को आरोपों का जबाब देने हेतु प्रार्थी ने विश्वसनीय कागजातों की मांग की। उक्त मांग पत्र दिनांक 1-5-86 इस प्रार्थना पत्र का संलग्नक संख्या-7 है।

18- यह कि उक्त पत्र के बावजूद डिटिप्लीनरी अथार्टी द्वारा किसी कागजात की आपूर्ति न करने पर प्रार्थी ने विभिन्न तिथियों में क्रमशः 12-6-86 व 14-11-86 को पत्र लिखाकर विश्वसनीय कागजातों की पुनः मांग की जिसकी छाया प्रतियां इस प्रार्थना पत्र के साथ संलग्नक सं०-8 व 9 के रूप में संलग्न हैं।

19- यह कि दिनांक 06-4-1987 को कागजातों की आपूर्ति की गई। प्रार्थी द्वारा समस्त कागजातों का अवलोकन करने के पश्चात सभी आरोपों को खिंचे इंकार करते हुए दिनांक 4-5-87 को संक्षिप्त उत्तर प्रस्तुत किया। उक्त उत्तर से सम्बन्धित पत्र दिनांक 4-5-87 इस प्रार्थना पत्र का संग्रह नक सं०-10 है।

20- यह कि दिनांक 18-5-87 को प्रार्थी ने अतिरिक्त कागजातों की मांग इस आशय से की कि अपना सम्पूर्ण बचाव पक्ष प्रस्तुत करते हुए अपने को निर्दोष साबित कर सके। उक्त मांग पत्र दिनांक 18-5-87 की छाया प्रति इस प्रार्थना पत्र का संग्रह नक सं०-11 है।

21- यह कि प्रार्थी द्वारा अतिरिक्त कागजातों की मांग बार-बार डिप्टी सिल्लीनरी अथॉर्टी से की गई किन्तु मांगें गए कागजात प्रार्थी को उपलब्ध नहीं कराये गये।

22- यह कि विभाग द्वारा जानबूझ कर अनावश्यक रूप से प्रार्थी को प्रताड़ित करने के उद्देश्य से जांच की कार्यवाही नहीं प्रारम्भ की जा रही थी जिससे पीड़ित होकर प्रार्थी ने सक्षम अधिकारी को लिखित रूप से अवगत कराया कि जांच की कार्यवाही तत्काल प्रारम्भ की जाये अन्यथा प्रार्थी को सेवा में वापस लिया जाय।

23- यह कि इसके उपरान्त सक्षम अधिकारी द्वारा दिनांक 16-10-87 को प्रार्थी का निम्न आदेश रद्द कर दिया। साथ ही उसी आरोप से सम्बन्धित 6 अन्य कर्मचारियों का निम्न आदेश रद्द कर दिया गया और प्रार्थी को

सेवा वापस लेते हुए जिला भण्डार नियन्त्रक कार्यालय
चारबाग लखनऊ से सहायक भण्डार नियन्त्रक कार्यालय
में मुंगलसराय में स्थानान्तरित कर दिया गया। यह भी
विदित हो कि प्रार्थी के साथ जो छः अन्य कर्मचारियों को
सेवा में वापस लिया गया था, उन्हें लखनऊ में ही कार्य
पर रखा गया ~~xxx~~

24- यह कि जांच निरीक्षक द्वारा दिनांक 17-12-87 को
जांच की प्रथम तिथि नियत की गयी जिसकी सूचना प्रार्थी
को उसके तैनाती स्थान मुंगलसराय पर दी गई। उसके
उपरान्त प्रार्थी मण्डल रेलवे प्रबन्धक कार्यालय, उत्तर रेलवे
नई दिल्ली के सतर्कता अनुभाग में जांच निरीक्षक के समक्ष
उपस्थित होकर जांच की कार्यवाही में सहयोग किया।



25- यह कि जांच निरीक्षक द्वारा जांच हेतु दिनांक 5-1-88 को
दूसरी तिथि नियत की गयी। उक्त तिथि को भी
प्रार्थी जांच निरीक्षक के समक्ष उपस्थित हुआ और
अतिरिक्त कागजात की जिनकी मांग प्रार्थी ने पहले भी
डिसिप्लिनरी अथॉर्टी से किया था, की मांग की।

26- यह कि अतिरिक्त कागजातों में से केवल एक कागजात जो
शीतलदीन के बयान से सम्बन्धित था उपलब्ध जांच
निरीक्षक द्वारा कराया गया और शेष कागजातों के
विषय में जांच निरीक्षक ने बताया कि डिसिप्लिनरी
अथॉर्टी से बात करके आपको अवगत कराया जायेगा। उसके
उपरान्त जांच निरीक्षक द्वारा जांच कार्यवाही हेतु दिनांक

Dr. Registrar (D)

29-01-88 की तिथि नियत की गई, उक्त तिथि पर प्रार्थी/जांच की कार्यवाही में सहयोग किया किन्तु प्रार्थी द्वारा पूर्व में मांगे गए अतिरिक्त कागजात की आपूर्ति नहीं की गई। उसके उपरान्त जांच निरीक्षक द्वारा दिनांक 22-2-88 को जांच कार्यवाही की दूसरी तिथि नियत की।

27- यह कि प्रार्थी द्वारा बार-बार अतिरिक्त कागजातों की मांग करने पर दिनांक 15-3-88 को लिखित रूप से अतिरिक्त कागजात देने से इंकार किया। उक्त आदेश पर दिनांक 15-3-88 की छाया प्रति इस प्रार्थना पत्र की संलग्नक सं० 12 है।

28- यह कि दिनांक 15-4-1988 को जांच निरीक्षक के समक्ष उपस्थित होकर प्रार्थी ने लिखित रूप से अपना बचाव पक्ष प्रस्तुत किया। उसके उपरान्त दिनांक 27-4-88 को प्रार्थी के विधेय काउंसिल श्री बी०एन० सक्सेना द्वारा लिखित रूप से प्रार्थी का बचाव पक्ष प्रस्तुत किया गया जिनकी छाया प्रतिलिपियां इस प्रार्थना पत्र के साथ संलग्नक संख्या-13 व 14 के रूप में संलग्न है।

29- यह कि दिनांक 15-4-88 को जांच की कार्यवाही जांच निरीक्षक द्वारा समाप्त कर दी गई।

30- यह कि जांच के दौरान जांच निरीक्षक ने सिर्फ दो पार्टियों को क्रास इक्जामिनेशन हेतु प्रार्थी के समक्ष बुलाया जबकि सतर्कता निरीक्षक द्वारा छः पार्टियों की रिपोर्ट की गई, जिसके आधार पर प्रार्थी को निम्नलिखित कर रहे हुए आरोप पत्र दिया गया था।

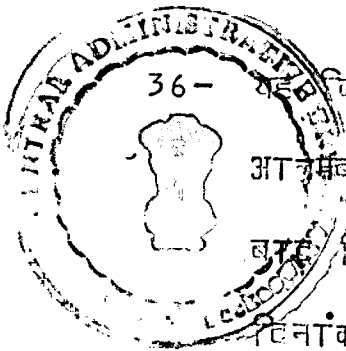
31- यह कि जांच की कार्यवाही के दौरान प्रार्थी ने जांच निरीक्षक से प्रार्थना की कि चार अन्य पार्टियां जिसकी रिपोर्ट सतर्कता निरीक्षक द्वारा की गई थी, और उनके बयान इत्यादि प्रार्थी के समक्ष कराये जाये। उसके उपरान्त जांच निरीक्षक ने सतर्कता निरीक्षक जिसकी रिपोर्ट पर प्रार्थी को आरोप पत्र दिया गया था, से जांच निरीक्षक ने कहा कि अन्य चार पार्टियों के बयान इत्यादि उपलब्ध कराये जाये जिस पर सतर्कता निरीक्षक ने उत्तर दिया कि यह मेरे अपने विचार पर है कि कितना बयान मैं आपके समक्ष रखूँ, कितना न रखूँ।

32- यह कि जांच की कार्यवाही समाप्त होने के उपरान्त जांच निरीक्षक द्वारा जो रिपोर्ट डिस्टिप्लीनरी अथार्टी को दिया गया, उस पर उनके हस्ताक्षर नहीं थे। यह कि उक्त रिपोर्ट जांच निरीक्षक द्वारा दण्डित भावनाओं से प्रेरित होकर प्रार्थी को दण्डित कराने के उद्देश्य से प्रार्थी को लाडयन्त्र में शामिल बताते हुए दी गई। यह कार्य जांच निरीक्षक द्वारा इतनी शीघ्रता द्वारा किया गया कि जांच रिपोर्ट के किसी भी भाग पर या उससे सम्बन्धित किसी भी संलग्नक पर न तो जांच निरीक्षक की मोहर थी और न ही कहीं उनके हस्ताक्षर थे। यहाँ तक कि रिपोर्ट के अन्त में भी जांच निरीक्षक की मोहर व हस्ताक्षर नहीं थे हैं। उक्त जांच रिपोर्ट की छाया-इस प्रार्थना पत्र का संलग्नक सं०-15 के रूप में संलग्न है।

100, 200, 300, 400

34- यह कि उक्त अधूरी जांच रिपोर्ट जांच निरीक्षक ने डिप्टी निरीक्षक अथॉर्टी को प्रस्तुत किया जिस पर डिप्टी निरीक्षक ने डिप्टी निरीक्षक ने बिना मस्तिक लगाये ही प्रार्थी को सेवा से प्रथाक करने का आदेश दिनांक 29-9-88 को जो पूर्ण रूप से नान-रूपींग आदेश था, पारित कर दिया जो प्रार्थना पत्र का संलग्नक सं०-1 है ।

35- यह कि उक्त दिनांक 25-10-88 को प्रार्थी ने अपने सेवा-प्रथाकरण के आदेश के विरुद्ध उप-भाण्डार नियन्त्रक आलमबाग लखनऊ के समक्ष अपील प्रस्तुत किया । उक्त अपील की छाया प्रति इस प्रार्थना पत्र के साथ संलग्नक संख्या-16 के रूप में संलग्न की जा रही है ।



36- यह कि उक्त अपील पर उप-भाण्डार नियन्त्रक महोदय आलमबाग लखनऊ ने बिना अपना मस्तिक लगाये ही 9 महीने बाद डिप्टी निरीक्षक अथॉर्टी द्वारा दिये गये दण्डादेश को दिनांक 25-7-89 को नान-रूपी किंग आदेश पारित करते हुए आदेश बहाल कर दिया । उक्त आदेश दिनांक 25-7-89 प्रार्थी को दिनांक 27-7-89 को प्राप्त कराया गया जिसकी छाया प्रति इस प्रार्थना पत्र का संलग्नक संख्या-2 है ।

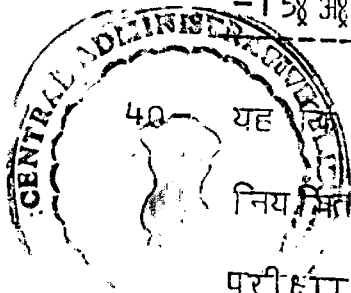
37- यह कि प्रार्थी के विरुद्ध सेवा-प्रथाकरण आदेश दिनांक 29-9-1988 मूल रूप से अवैधानिक व क्षेत्राधिकार से परे है, क्योंकि इसमें नियुक्ति प्राधिकारी द्वारा दण्डादेश पारित नहीं किया गया है । इस सम्बन्ध में स्थित को स्पष्ट करते हुए यह कहना समीचीन होगा कि याची=3 भाण्डार पाल तृतीय के पद से सेवा से प्रथाक किया गया है ।

जिस पद के नियुक्त प्राधिकारी उप भांडार नियन्त्रक विपक्षी सं०-३ हैं, विपक्षी सं०-२, विपक्षी सं०-३ से निम्न स्तर के अधिकारी हैं। अतएव उनके द्वारा पारित दीध, दण्ड मात्र औद्योगिक नहीं बल्कि क्षेत्राधिकार से परे भी है।

38- यह कि याची की नियुक्ति तृतीय श्रेणी में निपिकीय पद पर रेलवे सेवा आयोग द्वारा वर्ष 1953 में हुई थी। उस समय से लगभग 72-73 तक स्थिति सामान्य थी और तृतीय श्रेणी के पदों पर नियुक्ति अधिकारी का अधिकार विपक्षी संख्या-2 जिना भाण्डार नियन्त्रक को ही प्राप्त था परन्तु सम्भवतः वर्ष 1974 या उसके आस पास किसी समय उप भाण्डार नियन्त्रक के पद सृजन हो जाने के कारण उपरान्त सारा अधिकार विपक्षी सं०-३ में समाहित हो गया। इस सम्बन्ध में यह भी उल्लिखित करना आवश्यक है कि जिना भाण्डार नियन्त्रक विपक्षी सं०-२ वर्तमान में पद श्रेणी संख्या-३ व उसके अतिरिक्त किसी भी पद के नियुक्ति प्राधिकारी नहीं रह गए हैं और वर्ग तीन का पद निपिकीय पद से ही प्रारम्भ होता है, ऐसी स्थिति में वर्तमान में विपक्षी सं०-२ किसी भी भांति याची के नियुक्ति प्राधिकारी की गणना में नहीं आते हैं।

39- यह कि जैसा कि उल्लिखित किया गया है विपक्षी सं०-३ उप भाण्डार नियन्त्रक का पद सृजित होने के पश्चात् जो भी कार्यवाही याची के सम्बन्ध में या उसके समकक्ष वर्गीय कर्मचारियों के लिये की गई है वे सभी उपभाण्डार

नियन्त्रक वदारा ही की गई हैं। चूंकि याची के विरुद्ध जिस समय विभागीय कार्यवाही सम्पन्न की गई है या प्रस्तावित की गई उस समय उसके नियुक्ति कर्ता उप भण्डार नियन्त्रक विपक्षी संख्या-3 ही थे परन्तु अवैधानिक रूप से विवेक्षात्मक भावना से प्रेरित होकर समस्त कार्यवाही जिस भांति जिला भण्डार नियन्त्रक विपक्षी सं०-2 वदारा सम्पन्न की गयी वह पूर्ण रूप से अवैधानिक व क्षेत्राधिकार से परे है। उदाहरण स्वरूप दिनांक 28-2-80 को याची की प्रोन्नति भण्डार पाल के पद पर उप भण्डार नियन्त्रक याची विपक्षी सं०-3 वदारा ही की गई थी। विपक्षी सं०-3 वदारा की गई प्रोन्नति दिनांक 28-2-80 को साक्ष्य के रूप में माननीय अधिकरण के समक्ष संलग्नक संख्या -15 अर्ब के रूप में अवलोकनार्थ प्रस्तुत की जा रही है।



यह कि याची भण्डारपाल तृतीय के पद पर तत्पश्चात् नियुक्ति प्राप्त किया उसके पूर्व याची ने संबन्धित परीक्षा व साक्षात्कार में भी सफल हुआ और दिनांक 23-2-82 का प्रपत्र जो उप भण्डार नियन्त्रक विपक्षी संख्या-3 वदारा पारित किया गया है जिसके वदारा याची योग्य घोषित किया गया है उसकी भी प्रमाणित छाया प्रतिलिपि 15 अर्ब के रूप में माननीय अधिकरण के समक्ष अवलोकनार्थ प्रस्तुत की जा रही है जिससे यह भली भांति सिद्ध है कि याची के नियुक्ति का प्राधिकारी उप भण्डार नियन्त्रक है और जिला भण्डार नियन्त्रक वदारा पारित दण्डादेश अवैधानिक, निर्मूल व क्षेत्राधिकार से परे

पूर्ण रूप से छाण्डित होने योग्य है। यही नही बल्कि याची का स्थानान्तरण भी समय समय पर उप भाण्डार नियन्त्रक ही करते थे और प्रशासनिक दृष्टिकोण तथा नियुक्ति दृष्टिकोण से उप भाण्डार नियन्त्रक विपक्षी सं०-३ ही याची के नियुक्ति प्राधिकारी हैं और उन्हें ही याची के विरुद्ध दिया गया दण्ड देने का अधिकार प्राप्त है तथा मुख्य रूप से वही सक्षम प्राधिकारी है। ऐसी अवस्था में याची के विरुद्ध पारित दण्डादेश पूर्ण रूप से अवैधानिक व निरस्त होने योग्य हैं।

7- उपचार जो निःशेष किया उसका विवरण :

उप भाण्डार नियन्त्रक आत्मबलाग को अपील करके उपचार का लाभ दिया जा चुका है। प्रार्थी यह उद्घोषित करता है कि सेवा नियमावली के अनुसार सभी उक्त उपचार उपभोग कर चुका है।

8- जिसकी भी न्यायालय में पहले इस विषयवस्तु से सम्बन्धित कोई भी वाद नम्बित नहीं है :

प्रार्थी यह उद्घोषित करता है कि उपर्युक्त विषयवस्तु से सम्बन्धित कोई भी वाद किसी भी न्यायालय में नम्बित नहीं है।

9- अनुतोषा जो प्रार्थी मांग करता है :

पैरा-6 में वर्णित तथ्यों एवं परिस्थितियों के आधार पर प्रार्थी माननीय न्यायाधिकरण से विनम्रतापूर्वक निवेदन करता है कि प्रार्थी का सेवा-पृथक् करण आदेश दिनांक 29-08-88 जिसकी अपील उप-भाण्डार नियन्त्रक आत्मबलाग

को की गई थी तथा उप भाण्डार नियन्त्रक महोदय ने
दिनांक 29-09-88 को आदेश को दिनांक 25-7-89/
27-7-89 को बहाल कर दिया जो प्रार्थना पत्र के साथ
संलग्नक संख्या-1 व 2 है, को निरस्त करने की निम्न
आधारों पर करता है :-

आधार

- § 1§ क्योंकि प्रार्थी विभाग में रेल्वे सेवा नियमावली के
मुताबिक स्थाई कर्मचारी है ।
- § 2§ क्योंकि प्रार्थी को अपने बयाव प्रस्तुत करने का पर्याप्त अवसर
नहीं दिया गया ।
- § 3§- यह कि प्रार्थी को जांच के दौरान जिस पार्टियों के नाम से
सतर्कता निरीक्षक ने रिपोर्ट की गई थी, उनमें से चार
पार्टियों के न तो बयान ही जांच के दौरान दिये गये और
न ही जांच के दौरान प्रति परीक्षा हेतु उनको उपस्थित
ही किया गया ।
- § 4§ क्योंकि प्रार्थी के बार बार मांग करने के बावजूद भी
अतिरिक्त कागजात उपलब्ध करने से मना कर दिया गया ।
- § 5§ क्योंकि जांच निरीक्षक ने बिना मस्तिक न्याये शीष्टता में,
बिना हस्ताक्षर किये ही जांच रिपोर्ट संलग्नक सहित
डिप्टी निरीक्षक अथार्टी को प्रस्तुत की ।
- § 6§ क्योंकि सतर्कता निरीक्षक ने प्रार्थी को फसाने की नियत से
शीतलादीन का बयान लेकर जो बिल्कुल ही सिद्ध नहीं हुआ

Dr. B. K. Singh

के आधार पर फर्जी रिपोर्ट की थी ।

§ 7§ क्योंकि दण्डादेश पारित करने से पूर्व प्रार्थी को किसी भी प्रकार की सुनवाई का अवसर नहीं प्रदान किया गया जो नैतिक न्याय के सिद्धान्तों का खुला उल्लंघन है ।

§ 8§ क्योंकि प्रार्थी के गलत सेवा प्रथाकरण आदेश से प्रार्थी अपने जीने का अधिकार व जीवन यापन का अधिकार से वंचित हो जाता है ।

§ 9§ क्योंकि प्रार्थी का सेवा प्रथाकरण आदेश जो क्रमशः प्रार्थना पत्र का संलग्नक सं०-1 व 2 है, दुष्प्रभाव भावनाओं से प्रेरित होकर जारी किया गया है ।

§ 10§ क्योंकि उसी आरोप में सात व्यक्ति निराम्बित थे जो समान रूप से जिम्मेदार थे, प्रार्थी को छोड़कर शेष को दोषमुक्त कर दिया गया है ।

§ 11§ क्योंकि याची के विरुद्ध पारित दण्डादेश क्षेत्राधिकार से परे एक ऐसे कनिष्ठ अधिकारी द्वारा पारित किया गया है जिसे याची को दण्ड देने का विधिक अधिकार प्राप्त नहीं है । एतएव दण्डादेश इसी मूल आधार पर निरस्त होने योग्य है ।

§ 12§ क्योंकि याची के विरुद्ध पारित दण्डादेश सेवा से प्रथाकरण से पूर्व बचाव का समुचित अवसर प्रदान नहीं किया गया और समान रूप से अन्य कर्मचारी भी आरोपित किये गये थे उन्हें दोषमुक्त मानते हुए याची को दण्डस्वरूप सेवा से प्रथक किया गया जबकि याची अवकाश

गृहणा करने के स्तर पर अपनी सेवाएँ सम्पादित कर चुका था। ऐसी स्थिति में याची के विरुद्ध पारित दण्डादेश न्यायानुक्रम कदापि नहीं कहा जा सकता।

§ 138 क्योंकि याची को जांच रिपोर्ट व जांच अधिकारी की आख्या जिससे दण्ड दिया गया वह एक सम्यक अभिलेख नहीं कहा जा सकता, क्योंकि न उस पर किसी के हस्ताक्षर हैं और न ही उस पर कोई तिथि दर्शायी गयी है। ऐसी परिस्थिति में माननीय सर्वोच्च न्यायालय ने यूनियन आफ इण्डिया बनाम रमजान खान में जिस सिद्धान्त को प्रतिपादित किया है उसे याची भी लाभान्वित होने योग्य है और यह माना जायेगा कि उसे जांच रिपोर्ट व जांच आख्या नहीं दी गई है।



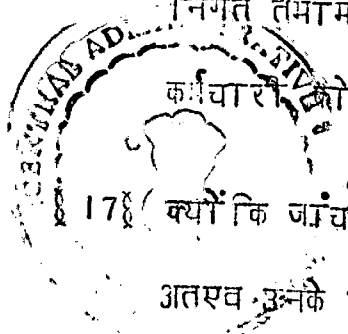
§ 140 क्योंकि याची के मामले में जो मुख्य व संबन्धित साक्ष्य थे उनका प्रमाण नहीं दिया गया न ही उनसे जिरह का अवसर प्रदान किया गया जिससे यह सिद्ध है कि याची को उपयुक्त बचाव का अवसर प्रदान नहीं किया गया और समस्त विभागीय कार्यवाही अवैधानिक रूप से भारतीय संविधान के अनुच्छेद 31। § 28 का उल्लंघन करते हुए सम्पूर्ण सम्पन्न कर ली गई तथा याची को अनाधिकृत रूप से दण्डित करते हुए उसके समस्त जीवन से खालवाड़ किया गया।

[Handwritten signature]

§ 150 क्योंकि याची की लगभग 34 वर्षों विशिष्ट सेवा लाभ को अनाधिकृत रूप से विलुप्त कर दिया गया और

असक्षम अधिकारी वदारा उसे दण्ड देकर जिस भांति सेवा से प्रथक किया गया वह एक अवैधानिक आदेश है। जबकि माननीय सर्वोच्च न्यायालय का यह स्पष्ट मत है कि इन परिस्थितियों में कर्मचारियों की पेंशन न रोकी जाये।

§ 168 क्योंकि दण्डादेश के पश्चात् याची ने जो अपील किया उस पर भी विभाग ने बिना साक्ष्यों का परीक्षण किये हुए निर्णय लेते हुए निरस्त कर दिया जबकि याची को उसके भाविष्य निधि आदि का भी भुगतान नहीं किया गया। -
ऐसी स्थिति में दण्डादेश अवैधानिक, संविधान के अनुच्छेद-311 § 28 के विपरीत तथा रेलवे प्रशासन वदारा निर्गत तमाम नियमों के विरुद्ध है जिसमें यह प्राविधान है कि कर्मचारियों को बचाव का पूर्ण अवसर देना चाहिए।



§ 178 (क्योंकि जांच अधिकारी का स्तर स्वयं साक्ष्य रूप में था अतएव उनके वदारा की गयी जांच नियमानुकूल नहीं कही जा सकती और सम्पूर्ण जांच दोषपूर्ण है।

प्रार्थना

उपर्युक्त वर्णित तथ्यों एवं आधारों पर के आधार पर प्रार्थी माननीय न्यायाधिकरण से प्रार्थना करता है कि :-

§ अ० प्रार्थी के सेवा प्रथककरण आदेश दिनांक 29-9-88 व दिनांक 25-7-89/27-7-89 को निरस्त करते हुए विपक्षीयता को निर्देशित करें कि प्रार्थी को पुनः सेवा में मानते हुए समस्त सुविधाएँ प्रदान करें।

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॥ ब॥ यह कि माननीय न्यायाधिकांश अन्य कोई आदेश जो उपयुक्त समझे पारित करने की कृपा करें ।

10- अन्तरिम आदेश यदि कोई प्रार्थनीय हो :

प्रार्थना पत्र अन्तिम रूप से निर्णीत होने तक एक अन्तरिम आदेश पारित करके माननीय न्यायाधिकांश प्रार्थना पत्र के संलग्नक संख्या-1 व 2 को स्थागित करने की कृपा करें कि संलग्नक संख्या-1 व 2 प्रार्थी का सेवा प्रथककरण आदेश बिना मस्तिष्क का प्रयोग किये हुए दुष्प्रति भावनाओं से प्रेरित होकर पारित किया गया है ।

11- प्रार्थी का पता :

आशुतोष राय पुत्र स्वर्गीय श्री एस०एन० राय,
निवासी-53 बी, सी०पी०एच० कॉलोनी, आनमबाग,
लखनऊ -5

12- बैंक ड्राफ्ट/पोस्टल आर्डर जो प्रार्थना पत्र के शुल्क के रूप में है , का विवरण :

॥ 1॥ बैंक अथवा डाकधार का नाम अमीनाबाद
जहाँ से बैंक ड्राफ्ट अथवा पोस्टल लखनऊ
आर्डर जारी किया गया है ।

॥ 2॥ डिमाण्ड ड्राफ्ट नं०
अथवा

॥ 1॥ भारतीय पोस्टल आर्डर की संख्या- 02465637

॥ 2॥ जारी कर्ता पोस्ट ऑफिस का नाम अमीनाबाद लखनऊ

॥ 3॥ डाकधार का नाम जहाँ पर भुगतान होना है ।

[Handwritten signature]

13- संलग्नक संख्या:-

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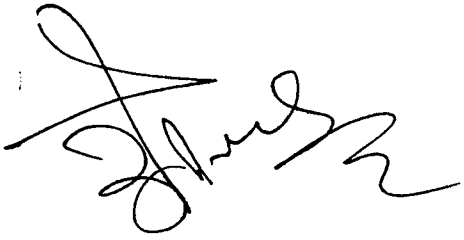
4-

सत्यापन

मैं, आशूतोष राय, पुत्र स्व० श्री एस०एन० राय, उम्र
लगभग 58 वर्ष, कार्यरत डी०एस०के०-111 कार्यालय सहायक भण्डार
नियन्त्रक, उत्तर रेलवे मुंगेर सराय निवासी- 53-बी सी०पी०एच०
कार्यालय आलमबाग नखाना, एतद्वारा सत्यापित करता हूँ कि
पत्र का प्रस्तर- 1-36 मेरे निजी ज्ञान से सत्य है, शेष
प्रस्तर अधिक ज्ञान से सत्य है। इसमें न तो कोई बात छिपायी
गई है और न ही कुछ झूठा है। शीघ्र मेरी मदद करें।

दिनांक: 26

आवेदक के हस्ताक्षर



CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

OA No.237/1990

Lucknow, this 23rd day of February, 2001

Hon'ble Mr. Rafiquddin, JM
Hon'ble Mr. M.P. Singh, AM

1. Smt. Deepali Rai
II53B, CPM Colony, Alambag
Lucknow

2. Subroto Rai
II53B, CPM Colony, Alambag
Lucknow

.. Applicants

(By Mr. R.B. Pandey, Advocate)

Versus

Union of India, through

1. General Manager
Northern Railway, New Delhi
2. District Commissioner of Stores
Northern Railway, Charbagh, Lucknow
3. Dy. Commissioner (Stores)
Northern Railway, Alambagh, Lucknow
4. D.R. Manchanda, Inquiry Officer
Of ice of DRM
5. Shitala Deen, M.C.
Dy. Chief Engineer
Bridge Workshop, Charbagh, Lucknow

.. Respondents

(By Mr. Anil Srivastava, Advocate)



ORDER

By Mr. M.P. Singh

The present OA has been filed on behalf of the legal heirs of the deceased Government servant Shri Ashutosh Rai against the order dated 29.9.88 by which the said Shri Ashutosh Rai was ~~terminated~~ removed from service. The crux of the matter is that the deceased railway servant, who is stated to have expired on 22.10.94, while functioning as DSK-II under the respondent-Railway was proceeded against under Rule 3(1)(ii) & (iii) of the Railway Service Conduct Rules, 1966 for alleged misappropriation

to the tune of approximately Rs.1,55,000/- by allowing 529.4 KG Tin Ingot, 114.1 KG Solder Soft and 23 KG Rotwel Bearing Metal to go out of the Stores Gate by entering fictitious names on the gate passes prepared by him, during the period February-March, 1985. Enquiry Officer was appointed to conduct enquiry. He concluded his enquiry and submitted his findings to the disciplinary authority, concluding that charges (1) and (2) are proved and charge No.(3) is not proved but the defendant is responsible for lapses mentioned at Items (i) to (iv) therein. After taking into consideration of the findings of the EO, the disciplinary authority imposed upon the applicant punishment of removal from service vide his order dated 29.9.98 and the appeal preferred against the same was rejected by the appellate authority vide his order dated 25/27.7.89.

2. We have heard the learned counsel for the contesting parties and perused the records.

3. The learned counsel appearing for the legal heirs is challenging the action of the respondents on three important grounds, namely, the Officer who passed the impugned order of punishment is not competent to do so as per rules, copies of additional documents sought for by the deceased were not made available to him and both the disciplinary authority (DA, for short) and the appellate authority (AA, for short) have passed cryptic and non-speaking orders.

4. As regards the first ground, the learned counsel for the respondents has shown us the relevant rules to contend that the punishment order was passed by the competent authority. We are satisfied. As regards the second ground, the EO has himself observed in his report that the additional documents were permitted by him but could not ^{be} provided by the DA and thus he has to give his defence unequipped with the facts

on the basis of his (deceased railway servant) memory and recollections. Since the additional documents were not supplied to the deceased, this amounted to denial of reasonable opportunity to him to defend his case and this ~~xxx~~ is against the principles of natural justice as has been held by the apex court in a catena of judgements. Moreover, we are also in agreement with the contention of the learned counsel for the applicants that the orders passed by the DA and AA are non-speaking and without application of mind to the various contentions made by the deceased in his representation/appeal against the punishment imposed. In view of this position, we allow this OA and quash the orders dated 29.9.88 and 25/27.8.89 passed by the DA/AA respectively.

There shall be no order as to costs.

sd/
(M.P. Singh)
Member (A)

sd/
(Rafiquddin)
Member (J)

/gtv/

Central Administrative Tribunal
Circuit Bench, LUCKNOW
(Copying Section)
(A) Serial number of the application... 2106
(B) Name of the applicant... *Anil Kumar Singh*
(C) Date of presentation of application for Copy... 08.06.2001
(D) Name of the... *Page 3 pas*
(E) Copying fee... *Rs. 05/-*
(F) Date of presentation of copy... 9/7/01
(G) Date of delivery of the Copy to the applicant...

Section Officer,
Copying Section

व अदालत श्रीमान

बादो (मुद्दी)

प्रतिवादी (मुद्दाअलेह)

वकालतनामा



Administrative Division
Bachchan Bazar 31/8/99
Date of Filing
Date of Receipt by Clerk (मुद्दी)

UNION OF INDIA

बनाम
प्रतिवादी (मुद्दाअलेह)

नं० मुकदमा २२९१ सन् १९९०

पेशी की ता० २.९.१९९९ ई०

ऊपर लिखे अभियोग से अपनी ओर से श्री जी० एन० श्रीवास्तव एडवोकेट सुरेन्द्र नाथ श्रीवास्तव मार्ग, निकट तहसील कोर्ट, लखबऊ 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 जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें वा मुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें— वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या अपने किसी पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है तो उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिये यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर.....

साक्षी (गवाह).....

साक्षी (गवाह).....

Accepted

Signature

LKO. Dated 31/8/99

COUNSEL FOR

APPELLANT

VA [REDACTED]

C.A. No 237/90(L)

Defendant
Plaintiff

One on of 2

-And Servant

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Amel Savchenko

Sanguin Crossing, Higley, Lucknow

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President
Indian this the.....19 .

Accepted
J. H. Crivastava
Adv.

Dated 198 .

Designation of the 1st Cor

12/15/2011

237

0F-105-082

.....Applicant.

Versus

.....Respondents.

2066

- Issue as per order.

OA No 237 ab 90
With Annexure
County & Refanidos

Dated this the 31st day of August 1999

Granted/Rejected

Addl. Copy for payable/paid and

SIGNATURE OF THE APPLICANT.

Details thereof

Initial of the Officer Incharge

Gabriel Stern
Advocate
Counsel for the applicant.

Received by
Per
CLOSING SIGNATURE
3/18/99

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copy prepared
& issued today
D. M. D. 99

Please take
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Notice that the
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registered in this Tribunal
Day of 2/1/71

If, no appearance is made on your behalf,
some one duly authorised to Act and plead
said application, it will be heard and decid

er my hand and the seal of the Tribunal this
26.

For Deputy Re
(Judicial)

For Deputy Re
(Judicial)

10:01

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