FORM NO. 21

(*See* rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, Lucknow BENCH

OA/TA/RA/CP/MA/PT 266/90 of 20.....

Mohd Ayeeb Khan ..... Applicant(S)

Versus

U.O.I. & Ors. ..... Respondent(S)

INDEX SHEET

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE
1 -	~~order sheets~~ Check list	A1 to A2.
2 -	order sheets.	A3 to A4.
3 -	Memo/Index sheet	A5
4 -	Judgment dt. 19-11-92.	A6 to A8.
5 -	Copy of petition/Annexure	A9 to A27.
6 -	Index sheet in Annexure.	A28 to A38
7 -	Power	A39
8.	Counter Reply/Power	A40 to A50.
9 -	Rejoinder affidavit	A51 to A58
10.	others Paper.	A59

Weeded out / destroyed -

Certified that the file is complete in all respects.

..... 15/6/11 .....

Signature of S.O. Signature of Deal. Hand

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 246 of 1989 (L)

APPLICANT(S) Abdul Ayub Khan

RESPONDENT(S)

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

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

dinesh/

Sd/ 22/8

Can be put up

CA 266/90

23.1.92 No sitting of DB adj to 30.3.92

30.3.92 No sitting adjourned to 20/5/92 for hearing.

20.5.92 Case not reached adj to 6.8.92

6.8.92 Case not reached adj to 22.9.92

22.9.92 No sitting of D.B. adj to 18.11.92

18.11.92 Case not reached adj to 19.11.92

19-11-92

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, A.M.

Heard the learned counsel for the parties. Judgment circulated separately

A.M.

C.R. 266/90 (L)

8.9.90

No sitting case is adjourned to 30/10/90

30.10.90

Due to holiday Adj to 21.11.90

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

Hon'ble Mr. M.M. Singh, A.M.

ADMIT.

Issue Notice.

Counter within 4 weeks rejoinder within 2 weeks thereafter. List before D.R. on 23.1.91 for fixing a date if possible after completion of record.

Sd/ A.M. Sd/ V.C.

Sd/

Notice issued 6/12-4/c

6/12-4/c

Notice of 3 [illegible] 19/1/91

23/1/91

D.R.

Applicant's side is present. O.P. is absent. O.P. [illegible] file counter till today. Respondent is ordered to file counter by 22/2/91.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(LUCKNOW BENCH)
LUCKNOW.

...

O.A. NO 266/90 ~~209~~ (L)

T.A NO

Date of Decision 19-11-9

Mohd. Ayyub Khan Petitioner.

Advocate for the Petitioner(s)

VERSUS

Union of India & others Respondent.

Advocate for the Respondents

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

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

1. Whether reporter of local papers may be allowed to see the Judgment ?
2. To be referred to the reporter or not ?
3. Whether tobe circulated to other benches ?
4. Whether ~~tebe~~ their Lord ships wish to see the fair copy of the Judgment ?

VICE-CHAIRMAN/MEMBER

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW.

O.A.No.266 of 1990.

Mohd.Ayyub Khan .....Applicant.

Versus

Union of India & others .....Respondents.

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

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

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

The applicant was punished by withholding increments for two years. His appeal against the same was also dismissed. Thereafter, he approached this tribunal.

2. The applicant was working as Deputy Chief Controller, North-Eastern Railway, Lucknow. A memo was issued to him on 20.5.89 requiring him to furnish his representations against the neglect of duty, irresponsible working, lack of planning and foresightedness. Precisely, the charge against the applicant was that while he was working as Deputy Chief Controller in 16.00 odd hours, shift on Lucknow Jn. Gonda Board on 16.5.89 detained 541 Up for one hour at Colonelganj for crossing 166-A Up and 115 Down endorsing to be before time on Control Chart and the train ultimately lost its punctuality. It was further stated that had 541 Up been pushed to Jarwal Road to cross 115 Down as per public Time Table so published in Working Time Table,541-Up would not have lost its punctuality. The applicant refuted the charge stating that the main reason for loss of punctuality was the loco requirement by driver, at Burhwal Station-because he unnecessarily stayed there for more than ten minutes and that he was never given a copy of Working Time Table and in the absence of the availability of Working Time Table, he did have no option except to take guidance from the Master Chart available in the Control Room in

which the Public Departure Time from Colonelganj was incorrectly mentioned therein. Correction was made in the Master Chart on 18.5.89 by the Deputy Chief Controller (Coaching) Cell i.e. after the date of occurrence and not before that. The applicant submitted his representation and according to the applicant, the matter was further enquired into by the Assistant Operating Superintendent at his back who submitted his report and on that basis, the punishment order was passed. According to the applicant, the punishment order is violative of priniciple of natural justice and that it has been acted upon on the basis of the report which had been given behind his back and that the said order is not a speaking order. It was a case of minor punishment.

3. The respondents, in their written statement, have refuted the charge levelled by the applicant and have stated that every responsible Officer is supposed to know the rules and in this connection, they have made reference to Para 2.03(a) under Chapter II of the General & Subsidiary Rules Book for Indian Railways which provides that "every railway servant shall be conversant with the rules relating to his duties whether supplied or not with a copy or translation of the Rules relating to his duties and the Railway Administration shall ensure that he does so." Revised Time Table was enforced from 1.5.89 and the copy of the Working Time Table was provided to the Controller/ Deputy Chief Controller of each Control Board on 30.4.89 under their clear signatures and as such the applicant was supposed to know the same even otherwise it was his duty to ascertain the latest Working Time Table and he could not have been heard saying that he was not aware of the revised Time Table in the

month of May, 1989. The applicant's allegation that the enquiry was held behind his back, is refuted and the respondents have stated that the charges against the applicant since pertained to coaching work i.e. detention of train in crossing, hence remarks were called for from Shri K.B.Lal, Assistant Operating Superintendent (Coaching) who was the Incharge of Coaching Movement of trains. After taking into consideration the representation, the respondents were not satisfied with the same, that is why minor punishment was awarded. There appears no good ground. Personal hearing was also given to the applicant by the appellate authority. The order, passed by the appellate authority , is a speaking order and it cannot be said that any extraneous matter was used and the opportunity in respect of minor punishment was not afforded to the applicant. Detention, in fact, occurred and the respondents found that the applicant cannot escape from his liability. It may be that the others were also responsible but in case he would have acted in accordance with the revised time-table, detention could not have occurred. Accordingly, we do not find any good ground to interfere with the same and the application is dismissed. No order as to costs.

MEMBER (A) VICE CHAIRMAN.

DATED : NOVEMBER 19.1992.
(ug)

2/6

[illegible] 2670 [illegible]

[illegible] Tribunal
[illegible]
Date of [illegible] 22/8/90
Date of [illegible] Post [illegible]

711
[illegible] Deputy Registrar

22/8

[illegible] ... ...

[illegible]

[illegible] ... ...

[illegible]

[illegible]

MKhan

DSChauhe

[illegible]
August
[illegible] 22 [illegible]

Noted for 18-9-90
B.K. Verma
Court of
Sri D.S. Chauhe Adv.

[illegible]

[illegible]

[illegible]

[illegible] 266 [illegible]

[illegible]

[illegible]

[illegible] ... ... [illegible]

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[illegible] ... ... [illegible]

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[illegible]

[illegible]

1. [illegible] Mills, Chittagong.

2. Additional Divisional [illegible] Mills, [illegible].

3. Senior Divisional [illegible] Mills, [illegible].

[illegible] B. Chatts.

[illegible]

August 22 [illegible].

August 22 [illegible].

1. [illegible]

2. [illegible]

(2) [illegible]

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(4) [illegible]

1. [illegible]

7/14

[illegible] further [illegible] cross [illegible] to [illegible] cation.

2. [illegible] supplement [illegible] representation [illegible] 21-5-19 [illegible] necessary [illegible]

option the

Mr Chan.

[illegible]

[illegible]

5. [illegible]

6. [illegible]

7. [illegible]

8. [illegible] on 19-10-1989 [illegible]

[illegible] of [illegible]

9. [illegible]

10. [illegible]

(b) [illegible]

1. [illegible]

2. [illegible]

3. [illegible]

4. [illegible]

5. [illegible]

6. [illegible]

[illegible]

[illegible] incorrect [illegible].

7. [illegible] giving [illegible] of the [illegible].

(6) [illegible]

[illegible] of all [illegible]

(7) [illegible]

[illegible] or any other authority [illegible] of [illegible] for any [illegible] on this [illegible].

(8) [illegible]

[illegible]

(10) [illegible]

[illegible]

[illegible]

(11) [illegible]

1. [illegible] B 0[illegible] 167093
[illegible] 5[illegible]/-
[illegible]

2. [illegible] GP[illegible] [illegible]
[illegible]

3. [illegible] 2/8/90
[illegible]
[illegible]

4. [illegible] Hdaiabad
[illegible]

(12) List of enclosures

1. [illegible]
[illegible]

2. [illegible]
[illegible]

3. [illegible]
[illegible]

4. [illegible]
[illegible]

5. [illegible]
[illegible]

[illegible]

1:04, 6 and 7

August 22 ,1990.

August 22 ,1990.

DYKanie

13

[illegible]

[illegible]

[illegible] : /1990 [illegible]

[illegible] [illegible]

[illegible]

[illegible]

[illegible] [illegible]

[illegible]

[illegible] : 1

[illegible] [illegible]

[illegible] 1988 [illegible] 11 [illegible]

[illegible]

[illegible]: [illegible]/78/89 [illegible] 4.8.1989.

[illegible],

[illegible]
[illegible] [illegible],

[illegible],

[illegible],
[illegible],
[illegible]

[illegible] [illegible]/78/89 [illegible]

[illegible] 20.5.89 [illegible]

[illegible]

D.S.Chauhan

"Since copy of WTT has been supplied on each board, he can not plead ignorence regarding public departure time of 541 up. He has worked in an utterly careless manner for which he is pujished with WTT two years."

[illegible]

[illegible]

1. [illegible]

2. [illegible]

[illegible] 45 [illegible]

[illegible]

Force copy

DCM/Lucknow

Advocate

15

[illegible] रेल्वे [illegible], [illegible]
[illegible], [illegible]

रजिस्ट्रेशन नं0: /1990

[illegible] [illegible] [illegible]

बनाम

[illegible] [illegible] [illegible] [illegible]

प्रोफार्मा नं0: 2

पूर्वोत्तर रेलवे

[illegible]: [illegible]/61/[illegible]/28/89 दिनांक 19.10.1989

प्रेषक,

[illegible] रेल प्रबन्धक,
पूर्वोत्तर रेलवे, [illegible]

सेवा में,

[illegible] [illegible] [illegible]
[illegible],
[illegible]/[illegible]

[illegible]: [illegible] 13.7.89

[illegible]: [illegible] [illegible] [illegible] [illegible]/61/[illegible]/28/89
दिनांक 4.8.89 [illegible] 1

[illegible] रेल प्रबन्धक [illegible] [illegible] [illegible]
[illegible] [illegible] है :

"[illegible] [illegible], [illegible] [illegible] [illegible]
दिनांक 13.9.89 [illegible] [illegible] [illegible] [illegible]
[illegible] 4.10.89 [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

12

72 [illegible] अनुमति की तारीख 30.4.09 [illegible] अनुमति [illegible] पर [illegible] कुछ [illegible] कुछ [illegible] बताया [illegible] पूरी [illegible] है। [illegible] उनके [illegible] है, [illegible] नहीं [illegible] है, [illegible] अनुमति [illegible] पूरी [illegible] कुछ [illegible], [illegible] है। [illegible] है।

ह0/ [illegible]

[illegible]

[illegible]

True Copy

D.K. [illegible]

Advocate

17-19

20-22

23-26

27

August 22

August 22-

17

[illegible]

[illegible]

[illegible] /[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] 1968 [illegible] III

[illegible]

[illegible]

[illegible]

[illegible] /23/39 [illegible]

[illegible]

[illegible] 1968 [illegible] II [illegible]

[illegible]

2. [illegible]

[illegible]

3. [illegible] 2 [illegible]

4. [illegible]

[illegible]

[illegible],
[illegible],
[illegible]
[illegible]

True copy,
[illegible]
Advocate

Statement of Deductions

Shri Mohd. Ayub Khan while working as [illegible] 10 to 0 [illegible] Board on 10.5.89 detained 541 up for one hour at CHJ for crossing 166 A up and 115 down endorsing to be before time on control chart and train ultimately lost its punctuality.

Had 541 up been pushed to CHJ to cross 115 down as per public time table so published in working time table, 541 up would not have lost its punctuality.

This tantamounts to neglect of duty, irresponsible working, lack of planning and foresightedness on the part of SMI Shri Mohd. Ayub Khan in performance of his duty as a Railway Servant.

sd/- [illegible]
Sr. D.S.O./[illegible]

In the Hon'ble Central Administrative Tribunal, Allahabad

Circit Bench Lucknow.

Registration No. of 1990(L).

Mohd. Ayub Khan Applicant

Versus

Union of India and others Opp.Parties.

Annexure No.4

To,

The Sr. D.O.S.,
N.E. Railway,
Lucknow.

Subject: Representation against the charges.

Ref: Memorandum No. T/61/Memo/28/89 dated 20.5.90.

Respected Sir,

With reference to the above I have the honour to plead myself not guilty of the allegations framed against me vide memorandum under reference. I am now clarifying the situation in the following lines.

No public time table or working time table in delivered to me up till now. I did not receive any time table from my predecessor DCM Shri Banerjee. The only thing which in available for the guidence of TNL is the mas master chert in which arrival of 541 up at CNL is shown

as 18-39 hrs. and departure 19.04 hrs. shedule crossing of 115 DN. and 541 up. is fixed at [illegible] and 541 up. gives way to 166 AUP at CLJ. As crossing of 115 Dn. and 166 A UP was arravged at SOJ- a two line station hence 541 up was not pushed from CLJ at 18.39 hrs. i.e. the arrival time of 541 up as per master chart. This train was started after 115 Dn. and 166 AUP. The reason for loss of punctiality is not the detention of this train at CLJ set the extra time of 8" taken by Dr. on w/c at BUW. It the driver would have started at 20/38 hrs. this train would have certainly reached BBK at 21/20 hrs. i.e. only 10" late. In this way its punchuality would not have been effected. So the main reason for loss of punctuality in the loco requirement at BUW. So far as pusing of 541 Urfrom CLJ on public time table in concerned , the coaching cell is solely responsible for his failure to mention public departure on master chart. These timings were lately been mentioned on master chart by Shri D.K. Srivastava DTM on 18.5.89. It was not mentioned prior to 18.5.89.

In these circumstances I am quite innocent in this matter . The driver and the coaching cell both are

22 A/34

responsible for loco requirement at BUM and for not giving clear direction in writing on master chart respectively. I therefore, request you kindly to cancel the memorandum issued against me.

Yours faithfully,

Dated: 21.5.89.

sd/-Mohd. Ayub Khan
DRM 2000-3200
DRM Train Control

True Copy
DRM Calicut
Administrative

23 X/5

In the Hon'ble Central Administrative Tribunal, Allahabad

Circit Bench Lucknow.

Registration No. of 1990(L).

Mohd. Ayub Khan Applicant

Versus

Union of India and others Opp.Parties.

Annexure No. 5

To,

The A.D.R.M.,
N.E. Railway,
Lucknow.

Subject: Appeal against the orders of Sri DOS/LJN who awarded punishment. of WTT 2 years.

Ref: (i) Memorandum no. T/61/memo/28/89 dt. 20.5.89.
(ii) Representation against charges dt. 21.5.89.
(iii) MP No. T/61/memo/28/89 dt. 4.8.89.
(iv) Rule no.18 of Rly. servant D.A.Rules 1968.

Respected Sir,

With reference of the above, I have the honour to submit the following lines as appeal for your kind consideration and judicious orders.

The contents of above MP under reference are reproduced below for ready reference:-

"Since copy of WTT has been supplied on each board, he can not plead ignorence regarding public departure time of 541 up. He has worked in an utterly

~~[illegible]~~

careless manner for which he is punished with ~~[illegible]~~ two years.

Grounds of Appeal.

(1) The decision of Sri DOS is not in good faith and is ~~[illegible]~~ also, one sided hence violates principles of natural justice.

(2) The very language of ~~[illegible]~~ shows that these orders are passed without application of judicial approach.

(3) Punishment is awarded without proving the charges by the administration .

(4) The decision of disciplinary authority is based upon prejudicad grounds.

(5) The orders of disciplinary authority are non speaking orders.

(6) The disciplinary authority although deputed AOS(og) to enquire but did not accept secoud para of the report and also could not assign any reasons for that.

(7) The report of AOS (og) is not at all related to the charges nor formed the basis of charges. He could not produce my acknowledgement for receiving ~~[illegible]~~ b~~[illegible]~~ me.

Arguments of Appeal.

When the charges have been denied by defence, it is the legal liability of administration to prove those charges

so levelled with the help of documentry or oral evidence in support of the charges because the onus of proof lies upon the administration. In this case the disciplinary authority although says that WTTs were supplied on each board yet failed to produce any material evidence in support of his action.On the other hand AOS(og)- the enquiry officer confirms in his report that public departure timings were recorded on master chart after issue of this memorandum. In this way the administration himself admits the fault and as such the punishment becomes illegal because no punishment should be awarded before the charges are fully proved beyond all reasonable doubt. Further the disciplinary authority failed to mention anything regarding reasons given by defence for loss of punctuality to 541 up. This shows that the decision is one sided and based upon prejudice and discrimination. I am enclosing herewith more than one dozen instances to prove prejudice,partiality and discrimination.

P R A Y E R

On the basis of above facts and reasons, I urge your goodself kindly to look into the matter with an open mind sympathetically and issue orders for setting aside the

punishment awarded to me. I further request you kindly to allow me personal hearing before disposal of this appeal.

Thanks.

Dated: 18.9.1989.

Yours faithfully,

sd/- Mohd. Ayub Khan
Dy. Chief Controller
N.F. Railway
LJN Train Control.

Encl: 3.

True Copy
Advocate

27

ब अदालत श्रीमान केन्द्रीय प्रशासनिक अधिकरण, महोदय

[वादी] अपीलान्ट सर्किट बैंच, लखनऊ

प्रतिवादी ~~[रेस्पान्डेन्ट]~~ श्री एम० एस० खान का

वकालतनामा

एम० एस० खान

COURT FEE 3 Rs. — COURT FEE 2 Rs. INDIA TWO RUPEES

भारतीय कोक श्रमिक बनाम प्रतिवादी (रेस्पान्डेन्ट)

मुकदमा नं० सन् पेशी की ता० १९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री डी० एस० चौबे

वकील महोदय एडवोकेट

नाम अदालत .....
मुकद्दमा नं० नाम .....
फरीकैन .....
बनाम .....

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि 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 हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मै यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूँगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

Accepted
D.S. Chaubey
Advocate

हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

दिनांक 22/9/99 महीना सन् १९ ई०

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL ,

Circuit Bench, Lucknow.

O. A. No. 266 of 1990

MOHD. AYUB KHAN .... Applicant

Versus

UNION OF INDIA AND OTHERS .... Opposite Parties.

Counter Reply on behalf of the Opposite Parties.

....

I, S.K. Buddhakoti aged about 39 years, son of G.C. Buddhakoti working as Sr. Divl. Opng. Supdt. North Eastern Railway, Lucknow, duly authorised by the opposite Parties, do hereby solemnly affirm and state as under : -

That I have read the contents of the application and have understood the same. As such I am fully conversant with the facts and circumstances of the case deposed to here in under:-

1. That the contents of para 1 of the application need no comments.

2. That the contents of para 2 of the application need no comments.

3. That the contents of para 3 of the application need no comments.

4. That the contents of para 4 of the application are being replied as under : -

4.1. That in reply to para 4.1 of the application it is submitted that the office order No.P/61/Memo/28/89 dated 20th May, 1989 containing the Charge Memorandum of imputation of charges against the applicant was issued under the signatures of the Senior Divisional Safety ~~Superintendent~~, Lucknow Junction, and not by the Senior Divisional Operating Superintendent, Lucknow Junction, as alleged in the para under reply, which is evident from Annexure No.3 to the application itself.

4.2. That in reply to para 4.2 of the application it is stated that the representation dated 21-5-1989 submitted by the applicant to the Disciplinary authority is admitted only. The rest of the averments are denied.

It is further submitted that the statement of the applicant is not only incorrect, but misleading in as much as vide para 2.03 (a) under Chapter II of the General & Subsidiary Rules Book for Indian Railways, it has been laid down " every Railway servant shall be conversant with the rules relating to his duties whether supplied or not with a copy or translation of the Rules relating to his duties and the Railway Administration shall ensure that he does so ".

And accordingly to para 10 of the Operating Circular No.- issued by the Chief Operating

Superintendent, North Eastern Railway, Gorakhpur, for guidance of staff, it is mentioned that the Control staff must acquaint themselves with the state of affairs at the time of joining duty, Each man before taking up his duties should go through diaries of the persons who have worked before him and note any special orders or occurrences entered therein which he should also go through; any message , important letters and circulars marked by the Chief Controller or the Deputy Chief Controllers for the purposes should also be noted by him.

Revised Time Table No. 72 was enforced from 1-5-1989 and the copy of the working time table was provided to the Controller / Deputy Chief Controller of each Control Board on 30-4-1989 under their clear signatures. A photostat copy of the same is being enclosed herewith as Annexure A-1 to this Counter Reply .

Certain trains may start at the arrival time of certain stations on account of late running of other trains to which a particular train had been detained for crossing in in the time table. Such earlier departures are printed in the public Time Table (Time Table sold to the public) and for the convenience of the Railway staff the earlier departures have also been printed in the remark column of Working Time Table also.

The earlier departure of 541 Up from Kusturi,

Colonelganj, Barjoo, Jarwal Road was printed on page 21 of the working time table No.72 for Lucknow Division and a copy of which was provided on every Control Boards.

Non-availability of Working Time Table to Sri M.A. Khan, the applicant, Deputy Chief Controller, on 16-5-1989 as stated by him, indicates that in the last 16 days Sri Khan never tried to go through the new Working Time Table which was effective from 1-5-1989 and the copy of which was available with the Controller / Deputy Chief Controller of each Board, Chief Controller (Shift) and in Coaching Cell etc.

The Master Chart put on each Control Board are only the graph drawn with the train timings as printed under the Working Time Table for minute to minute guidance for crossing and precedences of the Controllers and the earlier departure as mentioned in the public Time Table in the remarks column of Working Time Table are not drawn in the Master Chart.

4.3. That the contents of para 4.3 of the application are denied and in reply thereto it is submitted that no enquiry as alleged by the applicant was conducted in the instant case. The charges against the applicants since pertained to Coaching work i.e. detention of train in crossing, hence remarks were called for from Sri K.B. Lal, Assistant Operating Superintendent (Coaching) who is the Incharge of

Coaching Movements of trains. It is vehemently denied that the punishment was passed by the Disciplinary authority on that basis.

It is further submitted that the Disciplinary authority applied its mind while imposing the punishment on the applicant. The averments contrary to it are denied.

4.4. That the contents of para 4.4. of the application are denied and in reply thereto it is stated that the order dated 4-8-1989 imposing the punishment of with-holding increment temporarily for two years is perfectly legal and valid and there is no violation of the Principles of Natural Justice. It is denied that the matter was enquired by Assistant Operating Superintendent, Coaching. As already mentioned in the above para, it is reiterated that only the remarks of Assistant Operating Superintendent Coaching, were called for by the Disciplinary authority.

4.5. That the contents of para 4.5 of the application are denied and in reply thereto it is stated that the order dated 4-8-1989 is a speaking order and the Disciplinary authority has passed a reasoned order. It is further submitted that the Working Time Tables were distributed on each Board on 30-[illegible]-1989 by the Chief Controller which he was duty bound to look into

4.6. That the contents of para 4.6 of the application are wrong, hence vehemently denied. The same are

admitted to the extent that the applicant filed an appeal dated 18-9-1989.

4.7. That the contents of para 4.7 of the application are wrong, hence denied and in reply thereto it is submitted that each case is decided on its own merit and on facts and circumstances of the case. In the instant case there has been no discrimination.

4.8 . That ~~the~~ ~~contents~~ in reply to para 4.8 of the application, the appellate order dated 19.10.1989 is admitted. Rest of the averments made by the applicant in the para under reply are denied, and the same has already been explained in the preceding paras of this Counter Reply.

4.9. That the contents of para 4.9 of the application are wrong, hence denied and in reply thereto it is submitted that the applicant was granted personal hearing on 4-10-1989 by the Appellate authority, who after hearing the applicant in person, and also after perusal of records and considering the case came to the conclusion that the applicant was guilty of the charges levelled against him, hence the appellate authority was pleased to reject his appeal by a detailed and reasoned order while confirming the punishment awarded by the Disciplinary authority.

4.10. That in reply to para 4.10 of the application it is stated that the order of imposition of penalty and the order of the Appellate authority is justified, lawful and have been passed in view of the provisions

of law. As such the same deserves to be upheld.

5. That the contents of para 5 of the application are incorrect and in reply thereto it is stated that the Grounds for Relief which have been taken by the applicant are false, frivolous, concocted and baseless, as such those are not sustainable in the eyesof law. Hence the application deserves to be dismissed.

6. That the contents of para 6 of the application need no comments.

7. That the contents of para 7 of the application need no comments.

8. That in reply to para 8 of the application it is stated that the applicant does not deserve any relief as prayed in view of the facts and circumstances mentioned in the foregoing paras of this Counter Reply. The application as such deserves to be dismissed with costs throughout.

9. That in reply to para 9 of the application it is stated that the applicant does not deserve any relief in view of the facts and circumstances mentioned above.

10. That the contents of para 10 of the application need no comments .

11. That the contents of para 11 of the application need no comments.

12. That the contents of para 12 of the application need no comments.

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Verification

I, S.K. Budulakoti the above named, do hereby verify that the contents of paras X of this counter reply are true to my personal knowledge and those of paras 1 to 12 of this counter reply are true on the basis of knowledge derived from the perusal of records relating to the instant case kept in the official custody of the answering respondents except legal averments which are believed by me to be true on the basis of legal advice. No part of this counter reply is false and nothing material has been concealed.

Dated : Lucknow

26.3.1991.

S.K. Budulakoti

Through

(D.K. Shukla),
Counsel for the Respondents.

In the Hon'ble Central Administrative Tribunal
Circuit Bench, Lucknow.

OA No.266/90(L)

Mohd. Ayub Khan ---- Petitioner

V/s

Union of India and other ---Respondents. Annexure No R-1

Wk of Time table No 72 dt 1/5/89

distribution 30/4/89

RPO - GD Lal

GD - SKP(M)

GD - SKP(L)

GD - MLN

CMS - MLN

CML

CML(M)

CWS

T.C.

NS/CCS
64

VAKALATNAMA

Before / In the Court of Central Administrative Tribunal Bench Lucknow

OA No. 266 of 1990 (L)

Md. Ayub Khan

Versus

Union of India and others

I/We. Sushma Pandey Addl. Divl. Rly. Manager NER Lucknow and S.K. Budhlakote Sr. Divl. Optg. Supdt. NER Lucknow

do hereby appoint and authorise Shri B.K. Shukla

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

I/We hereby agree to ratify all acts done by the aforesaid Shri B.K. Shukla Railway Advocate, Lucknow in pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed by me/us this ..... day of ..... 198..

S.K. Budhlakote

(S.K. Budhlakote)

(Sushma Pandey)

NER 84650400 80 4 7 84

NS/CCS

VAKALATNAMA

Before / In the Court of: Central Administrative Tribunal Bench Lucknow
OA No. 266/90 (L)

Plaintiff / Defendant: Md Ayub Khan — Claiment / Appellant

Versus

Petitioner / Respondent — Defendant / Plaintiff: Union of India & others

The President of India do hereby appoint and authorise Shri B.K. Shukla Rly Advocate Lucknow to appear, act, apply, plead in and prosecute the above described suit/appeal/proceeding on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying, Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceeding against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agree to ratify all acts done by the aforesaid Shri B.K. Shukla Rly Advocate Lucknow in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the ..... day of ..... 198 .

S.K. Budhakoti 10/1/91

Dated 198

(S.K. Budhakoti)
Designation of the Executive Officer,

Accepted
B.K. Shukla
Advocate

NLR—84850400—8000—4 7 84

BEFORE THE HON'BLE [illegible]

CIRCUIT BENCH, LUCKNOW.

Rejoinder to the reply [illegible] filed on behalf of the [illegible] parties.

In re:

Original Application No. 266 of 1990.

Mohammad Ayub Khan ... Applicant.

Versus

Union of India and others Opposite-parties.

Filed today
25/7/91

---oOo---

RECITALS-WHEREIN.

I, Mohammad Ayub Khan, aged about 48 years, son of Late Sri Mohammad Ibrahim Khan, Deputy Chief Controller, North Eastern Railway, Office of Divisional Railway Manager, Ashok Marg, Lucknow, solemnly affirm and state on oath as under:-

1. That the deponent above named is the petitioner himself in the above noted application and, as such, he is fully conversant with the facts of the case.

2. That the deponent has gone through the counter reply filed on behalf of the opposite parties and has understood the contents thereof, parawise reply thereof is being given below.

3. That the contents of paragraphs 1 to 3 of the counter reply do not dispute the averments made in the corresponding paragraphs 1 to 3 of the application, hence they need ~~xxxxxxxxxxxx~~ no comments.

4. That in reply to the contents of paragraph 4.1 of the counter reply it is not denied that the charges were issued by the Senior Divisional Safety Officer. However, Senior Divisional Safety Officer and Senior Divisional Operating Superintendent are of equal rank and status but latter was officiating in place of the former as he was on leave.

5. That in reply to the contents of paragraph 4.2 of the counter reply it is stated that parawise reply has been furnished to mislead the Hon'ble Tribunal.

paragraph 2.03(a) Chapter II of the General and Subsidiary Rules Book for Indian Railways does not apply to the present case as the charge relates to detention only which is governed by the Time Table which is subject to change every after six months, and is thus flexable. Similarly paragraph 10 of Circular No. 4 mentioned in the paragraph under reply relates to duties of the concerned official/officer and not to the Time Table which is subject to change and as such cannot be memorised by any one.

The Revised Time Table No. 72 which has allegedly been made enforceable from 1-5-1989 was never supplied to the applicant. It has wrongly been alleged that this Time Table was supplied to each Controller/Deputy Chief Controller of each Control Board and signature of the recipient was obtained in token of having received the same. The falsity of this assertion is proved from the fact that Annexure R-1 enclosed with the counter reply does not bear the signature of the applicant in token of having received the Working Time Table ~~Chart~~ No. 72. In this way the statutory provisions contained in paragraph 4.07 of General Subsidiary Rules have been violated and the applicant cannot be held liable for the lapses on the part of the Administration.

Mkhan.

Since the public Time Table nor the Revised Working Time Table 72 was supplied to the applicant, hence he cannot be held liable for deviation from the time of departure indicated in the said Time Tables. He used to be governed by the Master Chart which is the graphical chart of the Time Table which does not indicate Public Departure as shown in the remarks column of the Time Table 72.

It is pertinent to mention here that there is vast difference of time of departure of 541 hr from Colonel and Railway Station inasmuch as in Master Chart it is 19.04 hours whereas Public Departure has been shown as 13.04 hours in the remarks column of Working Time Table no. 72. The Revised/Working Time Table was never issued to the applicant and hence he relied upon the timing given in the Master Chart bonafidely as he could not doubt the timings of the Master Chart.

6. That in reply to the contents of paragraph 4.3 of the counter reply it is submitted that an evasive reply has been furnished to the contents of paragraph 4.3 of the application which are reiterated and the assertions made contrary thereto are vehemently denied.

7. That the contents of paragraph 4.4 of the counter reply are not admitted as stated and in reply thereto the averments made in the corresponding paragraph 4.4 of the application are reaffirmed as correct.

8. That in reply to the contents of paragraph 4.5 of the counter reply, the averments made in paragraph 4.5 of the application are reiterated. The Revised Time Table 72 was never supplied to the applicant and thus no question of looking into it arose.

9. That the denial contained in paragraph 4.6 of the counter reply is not accepted and the averments made in the corresponding paragraph of the application are re-affirmed.

10. That the contents of paragraph 4.7 of the counter reply are vague and contain evasive reply to the contents of paragraph 4.7 of the application which is supported by documents which has been annexed as an Annexure to the appeal (Annexure 3) to this application.

11. That the contents of paragraph 4.8 of the counter reply are not admitted as stated and in reply thereto the averments made in paragraph 4.8 of the application are reiterated

12. That the contents of paragraph 4.8 of the counter reply are vehemently denied and in reply thereto the averments made in the corresponding paragraph 4.9 of the application are reiterated.

13. That in reply to the contents of paragraph 4.10 of the counter reply it is submitted that the imposition of punishment is illegal, unlawful and based on non-existent facts. The Appellate Authority has also fallen into error in not considering the defence of the petitioner and has given no reasons as to why the explanation given by the petitioner was not acceptable which makes the appellate order void and deserves to be quashed by this Hon'ble Tribunal.

14. That the contents of paragraph 5 of the counter reply are denied and in reply thereto it is stated that the application is based on forceful grounds as of facts and law and the application deserves to be allowed with costs.

15. That the contents of paragraphs 8 and 9 of the counter reply are vehemently denied and the petitioner deserves to be given the relief prayed for, for which he is legally entitled.

16. That the contents of paragraphs 10, 11 and 12 of the counter reply do not dispute the averments made in the corresponding paragraphs 10,11 and 12 of the application and are reiterated.

17. That the opposite parties have not furnished any proper reply to make justification for the impugned punishment which is unlawful and unjust. The application deserves to be allowed with cost and the punishment order is liable to be quashed.

Advocate.

Dated: Lucknow,
July 25, 1991.

Advocate,
Counsel for the applicant.

Verification:

I, Mohammad Iqbal, the deponent named above do hereby verify that the contents of paragraphs 1 to 3 of this rejoinder-affidavit

are true to my own knowledge and those of para graphs 4 to 17 are true to my knowledge derived from the record and those of para graphs [illegible] are based on the legal advice sought and received by me to be true. Some of the facts and some material has been suppressed. So help me God.

(MOHAMMAD AYUB KHAN)
D.F.C. [illegible].

Through

(D.S. Chauhe)
Advocate,
Counsel for [illegible] licens.

Dated: Lahore,
July 25, 1991.

887

7/59

THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH- LUCKNOW.

REG:-COPY OF JUDGMENT.

(A) NUMBER OF THE APPLICATION/CASE :-O.A 266/90.

(B) NAME OF THE PARTIES :- MOHD AYUB KHAN Vs. U.O.I.

(C) WHETHER THE CASE IS PENDING OR DISPOSED OF:-DECIDED ON 19/11/92.

(D) THE NAME OF THE DOCUMENT OF WHICH COPY IS REQUIRED:— COPY OF JUDGMENT ONLY.

(E) IN THE CASE OF A COPY OF AN ORDER WHETHER FOR PRIVATE. OR GENRAL USE:-PRIVATE USE.TO FILE THE REVIEW BEFOR DEPARTMENTAL AUTHORITY.

(F) THE NANE AND FULL POSTAL ADDRESS OF THE APPLICANT:- MOHD AYUB KHAN S A/1 BADSHAH NAGAR RAILWAY COLONY P/O MAHANAGAR LUCKNOW 226006.U.P

(G) POSTAL ORDER NO AND THE AMOUNT.
No:- 018035 Rs. 5/-

DATE:- 1-5-95

SIGNATURE OF APPLICANT
Mohd Ayub Khan
(MOHD AYUB KHAN)

J.S.

Copy recd.
Mohd Ayub Khan.
31/5/95

Copy issued