

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

LOA/TA/RA/CP/MA/PT 275 of 20 90
Mr. P. Tripathi Applicant(S)

Versus
U. O. G. Lotens Respondent(S)

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Certified that the file is complete in all respects.

Signature of S.O.
B. C. Widing
14-6-90

Signature of Deal. Hand

IN THE

STATE

DA. 275/90

Shri. C. P. Tripathi

v/s

U. B. I.

PART (A)

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PART (B)

to
Shri. C. P. Tripathi
15.10.93

(A)

24/8/90

211

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24/8

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 275 of 1989 90 (L)

APPLICANT(S) Shri C. P. Tripathi

RESPONDENT(S) U. O. G.

Particulars to be examined Endorsement as to result of examination

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

A2

Particulars to be Examined

Endorsement as to result of examination

- | | | |
|-----|---|------|
| 11. | Are the application/duplicate copy/spare copies signed ? | yes |
| 12. | Are extra copies of the application with Annexures filed ? | yes |
| | a) Identical with the Original ? | yes |
| | b) Defective ? | x |
| | c) Wanting in Annexures | |
| | Nos. _____ pages Nos _____ ? | |
| 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 translations 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 consecutively | |
| | 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

24/8

Put up on 31/8/90
before the Hon'ble Bench
24-8-90

(1)

(A3)

CENTRAL ADMINISTRATION TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

O.A. No.275 of 1990(L)

(1) 31.8.1990.

Hon'ble. Mr. D.K. Agarwal, J.M.

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

Heard.

Admit.

Issur notice to respondents to file counter within 8 week, rejoinder may be filed within 2 weeks thereafter. list before D.R. on 8.10.90 for completion of leadings. As regards interim matter issue notice as to why the interim relief prayed be not granted. Meanwhile the operation of the order dated 27.6.90 contained in Annexure A-1 shall remain stayed. List for order on interim matter on 14.9.90.

sd/-

A.M.

sd/-

J.M.

// True Copy //

Notices Issued
Shr
4-9-90

(2) sd/-

14/9/90

For Mr. Dushik Math, re.
For Mr. M. M. Singh, Am.

Smt P.S. Mehra for the applicant
and Smt Rajim Shergava for the
respondents are present. Smt Shergava
requests for and is allowed four
weeks time to file counter for
which the case is already listed
before the DR (J) on 8/10/90.
Since no reply has been filed to
the interim order, the interim order of 31/8/90
is made absolute.

OR

Notices were issued on
4.9.90.

Neither reply nor
any unserved copy. Cover
has been return back.
Date is already fixed
on 8.10.90 before D.R.
S.P.O.

h
13/9

M. H. J.

Am.

Dr

vc.

10.5.91

Hon Mr. Justice V.C. Swire - v
 Hon Mr A B. Gathi AM

On the request of counsel
 for applicant case is adjourned
 to 19.8.91 for hearing

J
 AM

✓
 ve

19.8.91

No sitting adj to 28.10.91
 J

28.10.91

No sitting adj to D.B. adj to 13.1.92

13.1.92

No sitting adj to 10.3.92
 J

10.3.92

Hon Mr. Justice V.C. Swire - v

Hon Mr A B. Gathi
 for final hearing. Issue notice
 to both parties Counsel

✓
 ve

or
 Notice issued on
 23.3.92, CA RA
 have been exchanged &
 submitted for hearing.
 S.R.H.
 J
 23.3

OR
 Notice issued
 23/3/92

4.4.92

No sitting adj to
 26.10.92

AS

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH, LUCKNOW

Original Application No. 275 of 1990 (L)

C.P. Trikha Applicant

Versus

Union of India through its Secretary in Ministry
of Railway, Rail Bhawan, New Delhi. and others.

. Respondent

Hon'ble Mr. S.N. Prasad, Member (Judicial)

The applicant has approached this tribunal under section 19 of the Administrative Tribunals Act, 1985 with the prayer for staying the operation of the impugned order dated 27.6.1990 (Annexure-1) passed by respondent no. 3 whereby a recovery of Rs. 34,108.58 has been ordered from the applicant which is stated to be in excess of the payment of overtime allowance for the period from August 1986 to June 1989.

2. Briefly, stated the facts of this case, inter-alia, ^{~are~} that the applicant was posted as Electrical Chargeman after completion of his training of Chargeman and he joined in the office of Senior Divisional Electrical Engineer, Northern Railway Lucknow in the grade of Rs. 425 - 700/-, and later on after passing through various stages, the applicant was posted at Alambagh, Lucknow in the grade of Rs. 550 - 750/- from August, 1986 to June 1989 and as such the applicant has worked beyond the statutory limit of work in the interest of Railway Administration to avoid delay in the normal functioning of the department and that's why the applicant was paid overtime allowance after due sanction, but to the utter surprise of the applicant he received recovery order dated 27.6.90 passed by

:: 2 ::

the respondent no. 3 for recovery of a sum of Rs. 24,108.58 though no notice or any show cause letter has ever been issued to the applicant; and after ~~aforesaid~~^{~ said ~} receiving the recovery order, the applicant made his representation dated 5.7.1990 against the aforesaid recovery order, but no action has been taken so far, (vide Annexure-8); Hence, the applicant has approached this tribunal.

3. The respondents have resisted the claim of the applicant with the contentions, inter alia, that the post of SEFO was down graded as JFO Grade Rs. 550-750 (RS) and the applicant was promoted to officiate as Sr. Electric Chargeman in Grade Rs. 550-750 (RS), and made as supervisor/incharge of a depot as he was the senior most and he worked in that capacity during the period August 1986 to April 1989 and continued to hold the position of Supervisor/incharge of a depot ~~and~~ after being promoted to officiate as Senior Electric Foreman Train Lighting, Charbagh Lucknow till July, 1989. It has further been stated that after the retirement of ART Incharge, Sri Ram Deo, the applicant was also given the duty ^{~ of ~} and made ART Incharge also by Sr. D.S.E. though Sr. D.S.E. was not competent to do so, and particularly for a such a long period from August 1986 to June 1989; and it has further been stated that ^{~ though ~} the bills submitted by the applicant from time to time for the alleged overtime ~~was~~[~] passed for payment, but according to rules even if he had worked as ART Incharge, was not entitled to overtime allowance. Thus, in view of the above circumstances,

:: 3 ::

the application of the applicant is liable to be dismissed.

4. I have heard the learned counsel for the parties and have thoroughly gone through the records of the case.

5. This is worth while making mention of this fact that in para 4.7 of the application, it has been mentioned clearly that the work and conduct of the applicant has always been good and he left no stone unturned to give a good performance; and he has an unblemished service record and in 1990 the services of the applicant were appreciated for showing sincerity and dedication and he has been awarded a sum of Rs.500/- cash group award and a shield. In this context, it is noteworthy that the assertions made by the applicant in para 4.7 of the application have not been denied by the respondents in para 4(7) of the counter-reply filed by the respondents.

6. This is important to point ~~to~~ out that a perusal of para 4.12 of the application reveals that after receiving the impugned order dated 27.6.90, the applicant made representation on 5.7.90 against the aforesaid recovery order; but no action has been taken thereon by the respondents so far, Annexure-8 is copy of the aforesaid representation dated 5.7.90. In this connection it is significant to point out that in para 4.12 of counter-reply of the respondents, it has been ~~mentioned~~ mentioned that ~~in regard to~~ the averment made by the applicant in para 4.12 of the application ~~that it needs no reply~~ ^{is not denied}. Thus, it is apparent that the above representation of the applicant dated 5.7.90 (Annexure-8) is still lying with the respondents undecided.

:: 4 ::

7. It is also significant to point out that a perusal of para 4(8) of the counter reply filed by the respondents, inter alia, shows that the bills submitted by the applicant regarding over time allowance in question were passed by the competent authority and payment[~] were made to the applicant accordingly. However, it is contended[~] by the respondents that the payment regarding the bills for over time allowance in question were not according to the rules. Thus, this being so, it is apparent that formerly the bills were passed by the authorities concerned and payment[~] were made to the applicant, but later on it appears from the scrutiny of the entire material on records that the respondent no. 3 has passed the impugned order dated 27.6.90 ordered for recovery of the amount of Rs. 34,108.58 on account of excess payment for the period from August, 1986 to June 1989 from the applicant; without issuing any show cause notice and without affording any opportunity to the applicant and as such it is found that the impugned order is in violation of ^{~ even ~} the principle[~] of natural justice as ^{~ against the applicant ~} the aforesaid impugned order has been passed[~] without affording him any opportunity to explain his view points, ^{as} it has been enunciated in the case of Vinod Kumar Mittal (Petitioner) Vs. Union of India (Respondent), 1990(8) L.C.D. page 329-330[~]

" Principles of Natural Justice-Well settled that even Administrative actions affecting rights of citizen require compliance of the principles of natural justice-Held, principle requires providing opportunity of hearing before taking adverse action."

Contd...5/-

(A10)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW

O.A. No. : 275 OF 1990 (L)

Central Administrative Tribunal
Circuit Bench, Lucknow

Date of Filing 24/8/90

Date of Receipt by Post.....

D. 21/8/90
Deputy Registrar (J)

24/8

C.P. Trikha, aged about 35 years, Son of
Sri Shiv Dayal Trikha, resident of House No. 569-Ka/60,
Sneh Nagar, Alambagh, Lucknow. Applicant

Versus

1. Union of India through its Secretary in Ministry of Railway, Rail Bhawan, New Delhi.
2. General ^{Manager} Railway (Personnel), Northern Railway Baroda House, New Delhi.
3. Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.
4. Senior Divisional Personnel Officer, D.R.M. Office, Northern Railway, Hazratganj, Lucknow.
5. Senior Divisional Electrical Engineer, Northern Railway, D.R.M. Office, Hazratganj, Lucknow.

..... Respondents

APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL'S ACT, 1985

DETAILS OF APPLICATION

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

(i) Order No. with refer- : No. 2 E/ADS/ELC/RLT/89-
ence to Annexure. C.P. Trikha, Lucknow
dated 27.6.1990.

(ii) Dated : 27.6.1990.

(iii) Passed by : Divisional Railway Manager,

.....2

Northern Railway, Lucknow.

(iv) Subject in brief : The impugned order for recovery of Rs 34,108.58 has been passed by Divisional Railway Manager, Lucknow, Respondent No. 3 on account of excess payment for the period from August 1986 to June 1989 vide his Order No. 2 E/ADS /ELC /RLT /89-C.P. Trikha, Lucknow dated 27.6.1990.

The original copy of Order No. 2 E/ADS/ELC/RLT/89-C.P. Trikha dated 27.6.1990 is Annexure 1 to this application.

2. Jurisdiction of the Tribunal - The cause of action accrued to the applicant for filing this application at Lucknow within the jurisdiction of this Hon'ble Tribunal.
3. Limitation - The application is well within limitation as prescribed under Section 21 of the Administrative Tribunal's Act, 1985.
4. Facts of the case -

The applicant most humbly and respectfully submits as under :-

1. That the applicant was posted as Electrical Chargeman after completing his training of Chargeman and he joined in the office of Senior Divisional Electrical Engineer, Northern Railway, Lucknow in the Grade of Rs 425 - 700.

A photostat copy of applicant's appointment order No. 752-E/2-6 dated 10.9.1982 passed by Divisional Personnel Officer, Northern Railway, Lucknow is Annexure 2 to this application.

2. That the applicant was transferred from the office of Senior Divisional Electrical Engineer, Northern Railway, Lucknow to office of Electrical Foreman Town Supply, Alambagh, Northern Railway, Lucknow in the same pay scale, vide Order No. 764 E/2-6 dated 19.3.1983.

A photostat copy of applicant's transfer order No. 764 E/2-6 dated 19.3.1983 is being filed as Annexure 3 to this application.

3. That when the applicant was posted as Charge-man under Electrical Foreman (Town Supply) Northern Railway, Alambagh, Lucknow, the Divisional Railway Manager, Northern Railway, Lucknow has issued a letter of appreciation and the applicant was awarded a sum of Rs 200/- cash together with a commendation certificate for his exemplary services.

A photostat copy of commendation certificate issued by Divisional Railway Manager, Northern Railway, Lucknow is being filed as Annexure 4 to this application.

4. That the applicant was promoted to the post

A13

of Senior Electrical Ch argeman in the Grade of Rs 550 - 750, and posted at Alambagh (Town Supply).

A photostat copy of promotion order No. 759E/2-6/ELC dated 5.8.1986 passed by Divisional Personnel Officer, Lucknow is being filed herewith as Annexure 5.

5. That the Divisional Railway Manager, Northern Railway on 15.2.1989 issued commendation letter to the applicant together with cash award of Rs 250/- appreciating the services of the applicant.

A photostat copy of commendation letter dated 15.2.1989 issued by Divisional Railway Manager Northern Railway, Lucknow is being filed as Annexure 6.

6. That the applicant was promoted to the post of Senior Electrical Foreman in the grade of Rs 700 - 900 vide Order No. 759 E/3-1/ELC dated 26.4.1989 passed by Divisional Personnel Manager, Northern Railway, Lucknow, and the applicant was posted in the office of Senior Electrical Foreman, Train Lighting, Charbagh, Lucknow and the applicant is working in the same capacity till now.

A photostat copy of promotion order No. 759 E/3-1/ELC dated 26.4.1989 passed by Divisional Personnel Manager, Northern Railway, Lucknow is being filed as Annexure 7.

7. That the work and conduct of the applicant has always been good and he left no stone unturned to give a good performance. He has an unblemished service record and in 1990 the services of the applicant were appreciated for showing sincerity and dedication and he has been awarded a sum of Rs 500/- cash group award and a shield.

(A14)

8. While the applicant was posted at Alambagh in the grade of Rs 550 - 750 from August, 1986 to June 1989 the applicant has worked in dual capacity as no Chargeman was deputed with the applicant resulting extra burden of work on the applicant during the said period. The applicant was Incharge of Accident Relief Train and being Incharge of A.R.T., the applicant is supposed to attend the accident site and in performing his duties in dual capacity, the applicant had worked for more than the ceiling limit of hours of employment and for that extra work the applicant was allowed overtime allowance for the period worked beyond the prescribed limit.

The applicant has worked beyond the statutory limit of work in the interest of Railway Administration to avoid delay in the normal functioning of the department.

9. That the applicant was paid overtime allowance after due sanction of Senior Divisional Electrical Engineer, Northern Railway, Lucknow and the overtime bill has been passed by Senior Divisional Accounts Officer, Northern Railway, Lucknow after verifying the same from the competent authority. Thus, there is no any irregularity in the payment of overtime allowance to the applicant.

10. That the employees of Senior Divisional Mechanical Engineer (Loco-shed) and Senior Divisional Mechanical Engineer (Carriage & Wagon) in the scale of Rs 550 - 750 working under Senior Divisional Mechanical Engineer are still drawing the overtime allowance regularly.

11. That to the utter surprise of the applicant, he received Recovery Order No. 2 E/ADS/ELC/RLT/89-C.P. Trikh dated 27.6.1990 passed by Divisional Railway Manager Lucknow, Opposite Party No. 3 for recovery of a sum of

(A15)

6

Rs 34,108.58 though no notice or any show cause letter has ever been issued to the applicant.

12. That after receiving the recovery order dated 27.6.1990, the applicant made his representation dated 5.7.1990 against the aforesaid Recovery Order but no action has been taken till now by the opposite parties.

A photostat copy of petitioner's representation against the Recovery Order dated 5.7.1990 is Annexure 8 to this application.

13. That opposite parties are adamant to recover the said amount from the monthly salary of the applicant and the applicant shall suffer great injury if the opposite parties are not immediately restrained from making recovery of the said amount from the salary of the applicant.

14. That the impugned order of recovery has been passed by the Respondent No. 3 on the initiation of Uttar Railway Mazdoor Union. The Uttar Railway Mazdoor Union have on several occasions pressurised the applicant to join their union but the applicant refused to join Uttar Railway Mazdoor Union. The applicant being a sincere, devoted employee of the Railway Department does not want to indulge himself in the activities of the said Union and on this reason the officials of Uttar Railway Mazdoor Union are continuously trying to harass the applicant and the impugned order of recovery is also outcome of the rivalry of Uttar Railway Mazdoor Union.

15. That the respondents have passed the impugned order arbitrarily on the back of the applicant without giving him an opportunity of being heard.

16. That the Respondent No. 2 and 3 have not applied their mind in passing the order of recovery against the applicant and it is evident from the perusal of impugned order itself that the order has been passed under the undue influence of Uttar Railway Mazdoor Union in Permanent Negotiations Machinery meeting and the Railway Administration disregarded the principle of natural justice and other rules made for the purpose besides completely overlooking the fact that the applicant has unblemished service record. Thus, the impugned order of recovery is malafide and illegal. There is no any departmental proceeding pending against the applicant.

5. Grounds for Relief : The applicant is now left with no alternative than to approach this Hon'ble Tribunal. He is entitled to his relief on the following, among other -

G R O U N D S

- A - Because the work and conduct of the applicant has always been good.
- B - Because no departmental proceedings are pending against the applicant.
- C - Because the impugned order of recovery has been passed without scrutinising the facts.
- D - Because the impugned order of recovery is punitive and has been passed without any inquiry.
- E - Because the impugned order is arbitrary and violates Articles 14 and 16 of the Constitution of India.

- F - Because the impugned order has been passed without giving any opportunity of being heard

and there is utter disregard of the principle of natural justice.

- G - Because the decision taken at the level of General Manager/Permanent Negotiation Machinery on the basis of demand raised by Uttar Railway Mazdoor Union at the back of the applicant without affording him any opportunity is violation of the principle of law.
- H - Because the employees of the Railway Administration placed in the similar capacity are still obtaining overtime allowances and the impugned order of recovery is wholly illegal and discriminatory.

6. Details of Remedies Exhausted -

The applicant has requested to Respondent No. 3 to cancel the impugned order of recovery but no action has been taken till now and opposite parties have issued instructions to Senior Divisional Personnel Officer, Northern Railway, Lucknow to recover the amount from the monthly salary of the applicant.

The applicant has been left with no other alternate or efficacious remedy than to approach this Hon'ble Tribunal.

7. Matter not previously filed or pending with any Court -

The applicant has not filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any Court of law or any other authority or any Bench of the Tribunal and nor any such application, writ petition or suit is pending before any of them.

(A18)

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8. Reliefs sought :

WHEREFORE, the applicant most humbly and respectfully prays that this Hon'ble Tribunal be pleased to :

habad.

- (i) Quash the order of recovery dated 27.6.1990 passed by Respondent No. 3 contained in Annexure 1.
- (ii) Award such other and further relief, besides the costs of the petition, as the Hon'ble Tribunal may find the applicant entitled to.

The applicant shall ever pray for this act of kindness.

9. Prayer for Interim Relief :

The applicant most humbly and respectfully prays that the Hon'ble Tribunal be graciously pleased to stay the operation of the impugned order No. 2 E/ADJ/ELC/RLT/89-C.P. Trikha dated 27.6.1990 passed by Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow, Respondent No. 3 for recovery of Rs 34,108.58 on account of excess payment of overtime allowance for the period from August 1986 to June 1989 (contained in Annexure 1) as otherwise the applicant shall suffer irreparable injury.

10. The applicant is filing this application through his Counsel.

11. Particulars of Postal Order filed in respect of application fee :

- (i) No. of Indian Postal Order : B 02 468479
- (ii) Name of issuing Post Office: General Post Office, Lucknow.
- (iii) Date of issue : 30.7.1990

(A19)

10

(iv) Post Office at which payable : General Post Office, Allahabad.

12. Details of Index :

An index in duplicate containing the details of the documents is enclosed.

13. List of Enclosures :

1. Original copy of impugned Recovery Order dated 27.6.1990 ANNEXURE 1
2. Photostat copy of applicant's appointment order dated 10.9.1982. ANNEXURE 2
3. Photostat copy of applicant's transfer order dated 19.3.1983. ANNEXURE 3
4. Photostat copy of Commendation Certificate ANNEXURE 4
5. Photostat copy of Promotion Order dated 5.8.1986. ANNEXURE 5
6. Photostat copy of Commendation letter dated 15.2.1989. ANNEXURE 6
7. Photostat copy of Promotion Order dated 26.4.1989. ANNEXURE 7
8. Photostat copy of applicant's representation dated 5.7.1990. ANNEXURE 8

Lucknow :

Dated : 30.7.1990

24-8-90

VERIFICATION



Applicant

I, C.P. Trikha, aged about 35 years, Son of Sri Shiv Dayal Trikha, working as Senior Electrical Foreman in the office of Senior Electrical Foreman, Train Lighting, Charbagh, Lucknow, do hereby verify that the contents of paras 1 to 13 of this application are true to my personal knowledge and that I have not suppressed any material fact.

Lucknow :

Dated : 30.7.1990

24-8-90


Applicant

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW

O.A. No. : QF 1990 (L)
C.P. Trikha Applicant
Versus
Union of India and others Respondents
ANNEXURE - 1

No. 2E/AD3/ELC/RLT/89-C.P. Trikha
The Sr. Electrical Foreman,
Charbagh, Lucknow.

Divisional Office,
Lucknow Dated: 22-6-90

Sub:- Recovery of Rs. 34108.58 on account of excess payment for the period from August '86 to June '89 from Sri C.P. Trikha SEFO/CB/LKO.

Ref:- URMU/PNM decision taken on 24/25.4.90 Item No. 20/90 as conveyed vide letter No. 961E/URMU/Hd.Qr./PNM/Minutes dated 24.5.90.

General Manager (P)/New Delhi has conveyed the PNM decision held with URMU on 24/25.4.90 item No. 20/90 at Hd. Qrs. Office that the payment of overtime already paid to Sri C.P. Trikha SEFO/LKO is in violation of the rule and recovery may be made. Accordingly O.T. paid amounting to Rs. 34108.58 for the period from August 1986 to June 1989 may please be recovered in easy suitable instalments under advise to this office. The amount of recovery may be advised at once to this office so that Hd. Qrs. Office New Delhi may be apprised with the position.

E. H. Varad
for Divisional Railway Manager,
Lucknow.

- Copy to :
- 1) Sr. DAO/LKO
 - 2) Sri C.P. Trikha Sr. SEFO/CB/LKO
 - 3) G.M(P)/NDLS in reference to his letter under reference.
 - 4) SWLI/Union Cell in reference to his letter No. 961E/URMU/Hd.Qrs./PNM/Minutes/89-90 dated 24/5/90.

Twenty Accts
E. H. Varad
D. S. Chandra

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW

O.A. No.

OF 1990 (L)

ब अदालत श्रीमान्

[वादी] अपीलान्त

C.P. Trikha

प्रतिवादी [रिस्पाडेन्ट]

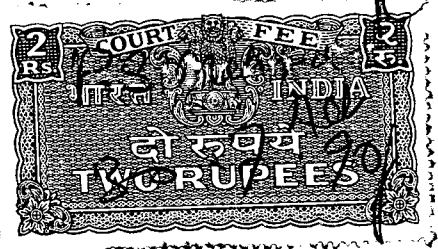
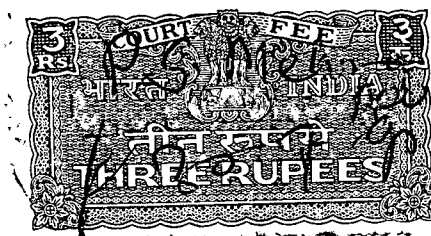
C.P. Trikha

(P.M.)

महोदय

वकालतनामा

.... Applicant



वनाम

प्रतिवादी (रिस्पाडेन्ट)

Union of India and others
सं० मुकद्दमा सन्

पेशी फीं तां० Respondents
१९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री पी० एस० मेहरा एडवोकेट

श्रीमती विना मेहरा एडवोकेट

२/२ एल० डी० ए० कालोनी ब्लाक II हाता रसूल खां, स्टेशन रोड,
लखनऊ-२२६००१

वकील

— महोदय

एडवोकेट

नाम अदालत
मुकद्दमा नं०
नाम फरीकन

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

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

30th

महीना

July,

सन् १९९० ई०

स्वीकृत

Accepted.

(P.S. Mehra)
Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW

A22

O.A. No.

OF 1990 (L)

C.P. Trikha

.....Applicant

Versus

Union of India and others

.....Respondents

I N D E X

Ser No.	Description of documents relied upon	Page No.
1.	Application	1 - 10
2.	Original copy of impugned Recovery Order dated 27.6.1990. <u>ANNEXURE 1</u>	11
3.	Photostat copy of applicant's appoint- ment order dated 20.9.1982. <u>ANNEXURE 2</u>	12
4.	Photostat copy of applicant's transfer order dated 19.3.1983. <u>ANNEXURE 3</u>	13
5.	Photostat copy of Commendation Certificate. <u>ANNEXURE 4</u>	14
6.	Photostat copy of Promotion Order dated 5.8.1986. <u>ANNEXURE 5</u>	15
7.	Photostat copy of Commendation letter dated 15.2.1989. <u>ANNEXURE 6</u>	16
8.	Photostat copy of Promotion Order dated 26.4.1989. <u>ANNEXURE 7</u>	17
9.	Photostat copy of applicant's represen- tation dated 5.7.1990. <u>ANNEXURE 8</u>	18
10.	Power	19

Lucknow :

Dated : 30.7.1990

Applicant

FOR USE IN THE TRIBUNAL'S OFFICE

Date of filing

or

Date of receipt by post.

Registration No.

Signature
for Registrar

(11)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALHABAD

CIRCUIT BENCH, LUCKNOW

O.A. No. : OF 1990 (L) A23 12
C.P. Trikha Applicant
Versus
Union of India and others Respondents
ANNEXURE - 1

No. 2E/ADJ/ELE/RLT/89-C.P. Trikha
The Sr. Electrical Foreman,
Charbagh, Lucknow.

Divisional Office,
Lucknow Dated: 26-90

Sub:- Recovery of Rs. 34108.58 on account of excess payment for the period from August '86 to June '89 from Sri C.P. Trikha SEFO/CB/LKO.

Ref:- URMU/PNM decision taken on 24/25.4.90 Item No. 20/90 as conveyed vide letter No. 961E/URMU/Hd.Qr./PNM/Minutes dated 24.5.90.

General Manager (P)/New Delhi has conveyed the PNM decision held with URMU on 24/25.4.90 item No. 20/90 at Hd. Qrs. Office that the payment of overtime already paid to Sri C.P. Trikha SEFO/LKO is in violation of the rule and recovery may be made. Accordingly O.T. paid amounting to Rs. 34108.58 for the period from August '1986 to June '1989 may please be recovered in easy suitable instalments under advise to this office. The amount of recovery may be advised at once to this office so that Hd. Qrs. Office New Delhi may be apprised with the position.

for Divisional Railway Manager,
Lucknow.

Copy to : 1) Sr. DAO/LKO
2) Sri C.P. Trikha Sr. SEFO/CB/LKO
3) G.M(P)/NDLS in reference to his letter under reference.
4) SWLI/Union Cell in reference to his letter No. 961E/URMU/Hd.Qrs./PNM/Minutes/89-90 dated 24/5/90.

True Copy attested
30/7/90
S. S. Mehra
(Advocate)

CIRCUIT BENCH, LUCKNOW

O.A. No. : OF 1990 (1) A24 13
 C.P. Trikha Applicant
 Versus
 Union of India and others Respondents
ANNEXURE - 2

DIVISIONAL OFFICE
 Northern Railway Lucknow.

Lucknow dated 10.9.1982

No. 752-E/2-6

Notice.

Sr. D.E.S./N.R./Lucknow has passed the following orders:- *a leave vacancy*

1. Shri R.C. Saxena, S.T.A. Grade Rs. 550-750 (RS) in Sr.DEN's Office is granted 30 days L.A.P. w.o.f. 13.9.82.
2. Shri R.K. Malhotra, WIC/TR Grade Rs. 425-700 (RS) in Sr.DEN's Office is hereby promoted to officiate as S.T.A. Grade Rs. 550-750 (RS) vice item 1 above.
3. Shri C.P. Trikha, App.WIC, who is under waiting for orders, is posted as WIC/TR grade Rs. 425-700 (RS) in Sr.DEN's Office vice item 2 above.

This has the approval of competent authority.

Chandrab
 Divisional Personnel Officer,
 N.R., Lucknow.

Copy to:-

1. Supdt. Sr.DEN's Office.
2. Sr.D.A.O./Lucknow.
3. Supdt. Pay Bill.
4. F.P.O./TS/AMV.

True copy attested
9/6/82
30/7/90
S.D. S. Chandra
12/10/1982

(13)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW

O.A. No. : OF 1990 (L) 14
C.P. Trikha Applicant

Versus

Union of India and others Respondents

ANNEXURE - 3

Northern Railway,

No. 764E/2-G.

Civil. Supd's Office,
Lucknow Dt. 2/3/90

NOTICE.

The A.R.M. (OP) Northern Railway, Lucknow has accorded approval for transfer of the post of Training Officer in grade Rs. 425-700 (RS) in Sr. PWS office to under EFO/AMV/LKO.

In view of the above Sri C. P. Trikha, ELC/TL in grade Rs. 435-700 (RS) under Sr. PWS Office, Lucknow is hereby transferred and posted under EFO/AMV/LKO also with post.

This has the approval of the competent authority.

[Signature]
for Divisional Personnel Officer,
Lucknow.

Copy to:-

- 1) The Supdt. Elect. in office.
- 2) The E.F.O./AMV/Lucknow.
- 3) The Sr. DAO/LKO.
- 4) The Supdt. Pay Bill in office.

EP/

True copy attested
[Signature]
3/5/90

P. S. Chandra
[Signature]

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW

O.A. No. : OF 1990 (L)

C.P. Trikha

Applicant

Versus

Union of India and others

Respondents

ANNEXURE - 4

Shri C.P. Trikha,
Electrical Chergeman,
Northern Railway,
Alambagh, Lucknow.

Shri Trikha has taken keen interest in the improvement of electrical installations of Langra Phatak area. He has been giving necessary schedules to the high tension sub-stations and had been keeping the equipments in clean and healthy condition.

He has also been handling his staff in a tactful manner and motivating them to do their work with zeal and dedication. He has also taken interest in the extra curricular activities including giving lessons and training to the trainees which are being provided with training facilities under EFO/TS/Alambagh, Lucknow.

For his exemplary activities he has been given cash award of Rs. 200/- and a Commendation certificate.

(H.S. Chatta)
Divisional Railway Manager,
Northern Railway,
Lucknow

True copy attested
30/7/90
Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW

O.A. No. :

OF 1990 (L)

C.P. Trikha

Applicant

Versus

Union of India and others

Respondents

ANNEXURE - 5

NORTHERN RAILWAY

759E/2-6/ELC

Divisional office,
Lucknow: Dt. 5/8/1986.

NOTICE

The following promotions and transfer orders are hereby issued to have immediate effect :-

- 1) Sri Nat Raj Tripathi, SEFO/AMV/LKO in gr. Rs. 700-900(RS) is hereby transferred and posted under S.E. (Const.) III/LKO on the same pay and grade.
- 2) Shri S.P. Srivastava, HTXR (Elect.) TL/LKO in grade Rs. 550-750(RS) under orders of promotion purely on adhoc basis and posted at RBL is now posted as SEFO/HL/LKO, against the post of SEFO/AMV/LKO transferred to HL/AMV/LKO.
- 3) Shri C.P. Tirkha, ELC/AMV/LKO in gr. Rs. 425-700(RS) under orders of transfer on promotion as HTXR (Elect) TL/LKO purely on adhoc basis is now posted at AMV/LKO as Sr. ELC in gr. Rs. 550-750(RS) against the post of HTXR/TL/LKO transferred to AMV/LKO (Power).
- 4) Shri O.P. Sharma, ELC/HL/LKO in grade Rs. 425-700(RS) is hereby transferred and posted as TXR (TL) LKO along with post of ELC/HL/LKO LKO in grade Rs. 425-700(RS) under SEFO/TL/LKO.
- 5) Shri V.B. Srivastava, who was temporarily posted as DTLI in grade Rs. 700-900(RS) in Sr. DEE's office is now transferred and posted as at RBL as SEFO in the same pay and grade.
- 6) Shri V.V. Pandey, ELC in gr. Rs. 425-700(RS) under SEFO/Pump/LKO is temporarily promoted purely on adhoc basis in gr. Rs. 550-750(RS) and posted under SEFO/AC/CB/LKO against work charge post. He will have no claim for his regular promotion.
- 7) Shri Mahendra Singh, ELC in gr. Rs. 425-700(RS) under ELC/CB/LKO is hereby transferred and posted under SEFO/Pump/LKO vice item No. 6. above.
- 8) Shri J.N. Mauriya, ELC in gr. Rs. 425-700(RS) working under Sr. DEE's office is hereby transferred and posted under Sr. ELC/PBH at JNH against the post of ELC in grade Rs. 425-700(RS) under ELC/CB/LKO transferred to JNH and on administrative grounds.

This has the approval of the competent authority.

[Signature]
for Divisional Personnel Officer,
Lucknow.

Copy to:

1. The ELC/CB/LKO & SEFO/TL/LKO.
2. The SEFO/AMV/LKO.
3. The S.E. (Const.)/III in office.
4. The SEFO/RBL.
5. The ELC/HL/LKO.
6. The Sr. DAO/LKO.
7. The Supdt. (Pay Bill) in office.
8. The Supdt. (Elect.) in office.

The copy attested
[Signature]
20/7/90
S. S. Mehra
14/07/90

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW

O.A. No. :

OF 1990 (L)

C.P. Trikha

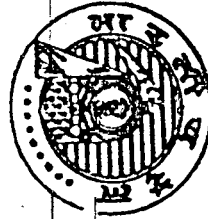
Applicant

Versus

Union of India and others

Respondents

ANNEXURE - 6



प्रशस्ति पत्र

COMMENDATION LETTER.

Shri C.P. Trikha, Electrical Foreman, ART/Lucknow performed his legitimate duties immensely well on 2/11/88. 7 Wagons of Train No. Dn. Hindan Spl. (Goods) got derailed at SYW Station at 19.10 Hrs. The Site of accident, was visited by ADRM - I, DME (C&W) Sr. DEE at 22.30 hrs. Being Pitch dark, nothing was visible and hence no relief-operation was possible. But Shri Trikha exerted his best and got sufficient light arranged within, no time. This is actually an applaudable and commendable job and he speaks of Shri Trikha's integral devotion to duty and sense of extreme duty-consciousness.

The administration therefore, feels pleased in giving him a cash award of Rs.250/- alongwith this commendation certificate and one copy will be attached in his service record.

Divisional Railway Manager

N. Riy., Lucknow.

प्रमुख रेलवे प्रबंधक

उत्तर रेलवे, लखनऊ

Annexure
15-2-89

True copy attached
30/7/90

CIRCUIT BENCH, LUCKNOW

O.A. No. :

OF 1990 (L)

C.P. Trikha

Applicant

Versus

Union of India and others

Respondents

ANNEXURE - 2

18

No: 7592/3-1/10.

Divided into 2 parts.
Lucknow, 25/7/90

The under noted transfer & promotion orders are issued to have immediate effect :-

1. Shri B. C. Chandra, CPO in Sr. L. 2570-2580 (1000) is transferred and posted as SPO/Computer reservation, Charbagh, Lucknow on same pay and grade, against a sanctioned post in the Computer Cell.
2. The one post of Sr. L. 2570-2580 (1000) of Computer Cell is temporarily graded to grade L. 2570-2580 (1000) and transferred to Varanasi. Consequently, Shri J. S. Surrai, SPO/TL/1000 in grade L. 2570-2580 (1000) is transferred and posted at Lucknow against the aforementioned vacant post.
3. Shri C. L. Tripathi, SPO/TL/1000 in grade L. 1600-2000 (1000) is temporarily promoted to officiate on ad hoc basis in grade L. 2570-2580 (1000) and posted as SPO/TL/1000 vice Shri J. S. Surrai.
4. Shri Pankaj Singh, SPO in grade L. 1600-2000 (1000) is transferred and posted as SPO/TL/1000 on the same pay and grade vice Shri C. L. Tripathi.
5. Shri A. R. Tripathi, SPO in grade L. 1600-2000 (1000) is temporarily promoted to officiate on ad hoc basis in grade L. 2570-2580 (1000) and posted under SPO/Computer reservation, Charbagh, Lucknow as SPO/Computer reservation.
6. Shri B. C. Chandra, SPO in grade L. 1600-2000 (1000) is transferred and posted as SPO/Computer reservation, Charbagh, Lucknow under SPO/Computer reservation, Charbagh, Lucknow on same pay and grade.

This has the approval of competent authority.

[Signature]
26/7/90

Copy to:-

1. SPO/TL/1000
2. SPO/TL/1000
3. SPO/TL/1000
4. SPO/Computer, Charbagh, Lucknow.
5. Sr. L. 2570/1000.
6. Sr. L. 2570/1000.
7. Dy. CEE/C&A, Rly., Lucknow House, New Delhi.
8. ELS/LA/LK
9. FPO/TS/AMU

True copy attested
26/7/90

CIRCUIT BENCH, LUCKNOW

O.A. No. : OF 1990 (L) 130
C.P. Trikha Applicant

Versus
Union of India and others Respondents

ANNEXURE - (8)

To

The Divisional Railway Manager
Northern Railway,
Lucknow.

(Through Proper Channel)

Subject : Recovery of Rs 34,108.58 on account of
excess payment for the period from August 86
to June 89.

Ref : Your letter No. 2 E/ADJ/ELC/RLT/89-C.P. Trikha
dated 27.6.90.

Sir,

With due regard I beg to state that through your
letter No. 2 E/ADJ/ELC/RLT/89-C.P. Trikha dated 27.6.90,
the order for recovery of Rs 34,108.58 is being passed
arbitrarily without giving me an opportunity of being
heard.

The order has been passed against the principle
of natural justice and no show-cause notice has ever been
issued to me for the said recovery. The overtime allow-
ance paid to me for the period from Aug 1986 to June 1989
according to rules and regulations framed for the purposes
of overtime payment. During the said period I was working
in dual capacity of Senior Electrical Chargeman and
Electrical Chargeman and as such I was allowed overtime
allowance for the work done by me beyond the ceiling
limit of employment.

It is, therefore, most respectfully prayed that
the order dated 27.6.90 passed for recovery of Rs 34,108.58
be kindly set aside as otherwise great injustice will be
caused to me.

Yours faithfully,

Lucknow :
Dated : 5.7.1990

(C.P. Trikha)
S.E.F.O./T.L./N.R.
Lucknow.

True copy attested
From
20/7/90
CP. S. ...

Fixed 8/7/91
(A 21) 20

In the Central Administrative Tribunal Allahabad
Circuit Bench Lucknow.

O.A. 275 of 1990

C.P. Trikha

....

Applicant

Versus

Union of India and others

..... Respondents.

Reply on behalf of the Respondents:

Para 1: That the contents of paragraph 1 of the application (i) to (iii) needs no reply.

Para 1(iv) It is not denied that the impugned order for recovery has been passed by Respondent No. 3, under orders from G.M.(P) New Delhi, the overtime already paid to the applicant is violation of the rules, hence recovery to be made. The original order as contained in Annexure No. 1 is not denied.

Para 2: Needs no reply.

Para 3: In reply, it is submitted that the representation having been made only on 5.7.90, the application before the Tribunal is premature.

Para 4(1) That the contents of paragraph 4(1) of the application are not denied.

Para 4(2) That the contents of paragraph 4(2) of the application are not denied.

A32

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- 2 -

Para 4(4): That in reply to the contents of paragraph 4(4) of the a plication, it is stated that wide orders as contained in Annexure No. 5, the applicant was promoted as Sr. Electric ~~Person~~ Chargemen in Grade Rs. 550-750(RS) purely on adhoc basis and posted at Alambagh (Town Supply). It is submitted that in Town supply, the post of SEFO (Rs. 700-900) was downgraded as EFO (Rs. 550-750) and the applicant was made supervisor/ incharge of a depot as he was the senior most.

Para 4(5) That in reply to the contents of paragraph 4(5) it is not denied that the applicant was given a commendation letter along with cash award of Rs. 250/-. Rest of the contents are denied.

Para 4(6) That in reply to the contents of paragraph 4(6) of the application, it is stated that the applicant was promoted toofficiate on adhoc basis vide order No. 759 E/3-1/ELC dated 26.4.'89passed by the Divisional ~~Person~~ Railway Manager Lucknow as SEFO TL/ CB/LKO in Grade Rs. 700-900(RS), now revised to Rs.2000- 3200(RPS).

Para 4(7) That in reply to the contents of paragraph 4(7) of the application, the fact of the applicant being awarded a cash group award of Rs. 500/- and a shield is not denied.

... 3

A32

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- 3 -

Para 4(8) In reply, it is stated that the post of

SEFO was downgraded as EFO Grade Rs. 550-750(RS)

and the applicant was promoted to officiate

as Sr. Electric Chargemen in Grade Rs. 550-750

(RS) and made as supervisor/incharge of a

depot as he was the senior most. He worked

in that capacity during the period August

1986 to April '89 and continued to hold the

position of supervisor/incharge of a depot

after being promoted to officiate as Senior

Electric Foreman Train Lighting , Charbagh

Lucknow till July '89. It is further stated

that after the retirement of ART Incharge,

Shri Ram Deo, the applicant was also given
the duty of

and made ART Incharge also by Sr. D.S.E.

though Sr. D.S.E. was not competent to do so,

~~for~~ and particularly for a such a long period -

from August 1986 to June '89. Though it is not

denied that the bills submitted by the applica-

nt from time to time for the alleged overtime

were passed for payment, but according to rules

even if he had worked as ART Incharge, was not

entitled to overtime allowance. It is submitted

that to attend the accident site, was a part

of its duty as a supervisor/incharge of a depot

was not entitled to any overtime allowance and

in such case hours of ~~employment~~ is not app-

licable.

Yob

Joint Secretary to Government
Lucknow

... 4

A34 23

- 4 -

Para 4(9): That in reply to the contents of paragraph 4(9) of the application, only this much is not denied that the bills as submitted by the applicant, were passed by Senior Electrical Engineer and Senior Divisional Accounts Officer Northern Railway Lucknow. Had these Bills been prepared correctly as the facts stood, they would never have been passed, as he being incharge of ART and supervisor/incharge Electrical, was not entitled to over time allowance. In fact a fraud was perpetuated by the applicant in suppressing the true state of affair, while preparing the bills from time to time for the alleged overtime. True photostat copies of the overtime bills are annexed to this reply as ANNEXURE NOS. to . Bare perusal of the bills would indicate that the applicant did not indicate himself as ART Incharge but instead made shri G. D. Singh working as cable jointer in Grade Rs. 380-560 sign as ART Incharge and himself shown as working under him as EFO, when in fact on his own admission in para 3(8) of the application, the applicant had been made to work as ART Incharge and working as such in dual capacity. It is submitted that had the position been so, as indicated in the bills, the applicant would have been entitled to overtime, being not the incharge of ART. As such the allega-

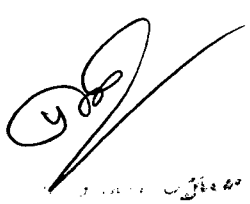
(A36)

25-

- 6 -

Para 4 (10): That in reply to the contents of paragraph 4(10) of the application, it is stated that the position is correct. As already stated above, if the position shown in the bills for alleged overtime prepared at the instance of the applicant was correct, then the petitioner would have been entitled to the overtime, but the bills were prepared fraudulently to cheat the administration. In fact the petitioner made Sri G.D. Singh (cable jointer in Grade Rs. 380-560) sign as ART Incharge, the petitioner himself signing as EFO, while the fact was that the applicant was admittedly appointed as ART Incharge and thus holding the post of Incharge ART he was not entitled to overtime allowance as other working under him were entitled to. It is further submitted that as per the bills submitted by the petitioner, he never worked as ART Incharge and thus was not having worked on accident site, thus disentitling him to submit any bill and also even according to extent rules, had he worked as ART Incharge he was not entitled to overtime allowance.

Para 4(11): In reply, issue of letter dated 27.6.19 90 by the DRM, thereby ordering recovery of Rs. 31,408-58 is not denied. It is submitted



DRM, Lucknow

... 7

A32

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- 7 -

that the payment having been made due to an administrative error, no notice or show cause was required to be served upon the applicant, as he himself was in full know of the fact that he was not entitled to over time and by preparing false over time bills for the alleged overtime, made the officers Sr. D.E.E. and Sr D.A.O. pass the bills and allowed payment in good faith, to which the applicant was not entitled to.

Para 4(12): That in reply to the contents of paragraph 4(12) of the application, the submission of representation dated 5.7.'90 is not denied.

Para 4(13): That in reply to the contents of paragraph 4(13) of the application, it is not denied that the recovery has been initiated to recover the amounts illegally withdrawn by the applicant and same should be allowed to continue, as the amount in question is illegally being with-held by the applicant which the administration paid on bills prepared fraudulently and is being recovered to correct the administrative error in payment as well as on detecting the fraud perpetuated by the applicant.



... 8

(128)

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- 9 -

Para 4(16): That the contents of paragraph 4(16) of the application are denied. It is stated that the order has been passed after due application of mind. It is also denied that the order was passed under influence of URMU in PM meeting. There is no violation of natural justice or any rules made for the purpose. The order of recovery cannot be termed as malafide or illegal as alleged.

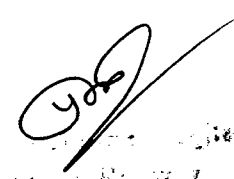
Para 5: Denied. The applicant is not entitled to any relief. None of the grounds are tenable under law. The application is liable to be dismissed with costs and special costs looking to the circumstances of the case.

Para 6 : Receipt of the representation is not denied. It is stated that on the facts and circumstances, the instructions issued for recovery are legal and valid to correct an administrative error.

Para 7: Needs no reply.

Para 8: Denied. The applicant is not entitled to any relief and the application is liable to be dismissed with costs.


Para 9: The applicant is not entitled to any relief by way of interim relief. No ground has been made out for staying the operation of the order dated 27.8.1990. The interim order passed by the Hon'ble Tribunal is liable to be vacated.


Sd/-
[Illegible text]
[Illegible text]

- 8 -

Para 4(14): That in reply to the contents of paragraph 4(14), it is submitted that recovery has been ordered correctly, after the same came to the notice of the administration at the instance of URMU. The applicant was not entitled to over time, as stated above and the bills would not have not been passed for payment and payment made, even otherwise, had the applicant not prepared the bills fraudulently to mis-represent himself to be working under Incharge Art i.e. Shri G.D. Singh who was not competent to be made Incharge ART as he was cable jointer in Grade Rs. 360-580.

Para 4(15): That in reply to the contents of paragraph 4(15) of the application, it is stated that... impugned order has not been passed arbitrarily but in accordance to rules, after it came to know that the applicant being incharge ART was not entitled to OT allowance and as well as that the bills prepared were fraudulently to get the same passed by giving incorrect position in the same. The correction of administrative error needs no notice to the applicant and can be corrected as and when it is known.


SECRETARY
MUMBAI
MUMBAI

29

(A40)

-10 -

Para 10: Needs no reply.

Para 11: Needs no reply.

Para 12: Needs no reply.

Para 13: Needs no reply.

Lucknow

Dated:



Opposite parties

Respondents.

Assistant General Manager,

North Western Railway,

LUCKNOW

Verification.

I,

working as

in the office of Divisional Railway Manager, Lucknow

competent and authorised to sign and verify this reply

do hereby verify that the contents of paras 1 to 13

are true to my own knowledge based on information

derived from the record and legal advice.



Assistant General Manager,

North Western Railway,

LUCKNOW

S/H/S

NS/H/S

उ०२० N.R

$$24/11/85 @ 16.76 = 384.96 = 105/11/85 @ 21/37 = 22/15.75 = 2630.91$$
जी.ओ.1-G.O.1
सा०-68 (संशोधित) Genl 68 (Rev.)

समयोपरि OVERTIME SLIP

रेल कर्मचारी (काम के घण्टे) नियम-1961-Railway Servant (Hours of Employment) Rule-1961
जिस दिन अधिक समय काम किया गया हो, उस दिन या अधिक से अधिक उससे अगले दिन भेजी जानी चाहिए।

To be submitted on the day on which overtime is worked or on the following day at the latest
Elect. से निम्नलिखित कर्मचारियों द्वारा रोज़र घण्टों से अधिक समय किए गए काम का विवरण (रिकार्ड)

Record of Extra rostered hours worked by the undermentioned staff at E.L.O./TS/ANIV

2202-52
नाम/Name C.P. Triloka पिता का नाम/Father's Name Suro
पदनाम/Designation ET वेतन दर कृपया पैरा (2) (3) देखें/Rate of Pay please see Paras (2) (3)
काम के नियमों के अन्तर्गत गहन कोटि, निरन्तर कोटि या अनिवार्यता सविरामी कोटि में से किस कोटि में वर्गीकृत किया गया है।
Classification under which H.E.R. whether T.A.O. N.I.L. intensive, continuous or essentially intermittent.

Classification under which H.E.R. is working						
25.9.88	Rest -	इसकी के घंटे/Duty Hours	17-30	7-15	7-15 के अतिरिक्त घण्टे	अतिरिक्त काम करने कीमत घंटे के लिये समयोपरि भना
26.9.88	8/12 13/17	8-30	17-30	9-30	अतिरिक्त घण्टे	अतिरिक्त काम करने कीमत घंटे के लिये समयोपरि भना
27.9.88	इसकी के घंटे/Duty Hours	अतिरिक्त घण्टे	अतिरिक्त काम करने कीमत घंटे के लिये समयोपरि भना	अतिरिक्त घण्टे	अतिरिक्त काम करने कीमत घंटे के लिये समयोपरि भना	अतिरिक्त काम करने कीमत घंटे के लिये समयोपरि भना
28.9.88	According to Duty Roster	अतिरिक्त घण्टे	अतिरिक्त काम करने कीमत घंटे के लिये समयोपरि भना	अतिरिक्त घण्टे	अतिरिक्त काम करने कीमत घंटे के लिये समयोपरि भना	अतिरिक्त काम करने कीमत घंटे के लिये समयोपरि भना
29.9.88	कब से कब तक	कुल	कुल	कुल	कुल	कुल
30.9.88	from To	Total	From To Total	From To Total	From To Total	From To Total
1-10-88	2 3	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
2-10-88	Rest -	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
3-10-88	8/12 13/17	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
4-10-88	8-30	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
5-10-88	8-30	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
6-10-88	8-30	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
7-10-88	8-30	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
8-10-88	8-30	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
9-10-88	Rest -	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
10-10-88	8/12 13/17	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
11-10-88	8-30	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
12-10-88	8-30	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
13-10-88	8-30	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
14-10-88	8-30	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
15-10-88	8-30	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
16-10-88	Rest -	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
17-10-88	8/12 13/17	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
18-10-88	8-30	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
19-10-88	8-30	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
20-10-88	8-30	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
21-10-88	8-30	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15
22-10-88	8-30	8-30	6-30 12-30 13-30	10-15	2-8-15	2-8-15

Senior Divisional Engineer
Northern Railway, Lucknow

Signature
Date

(V7)

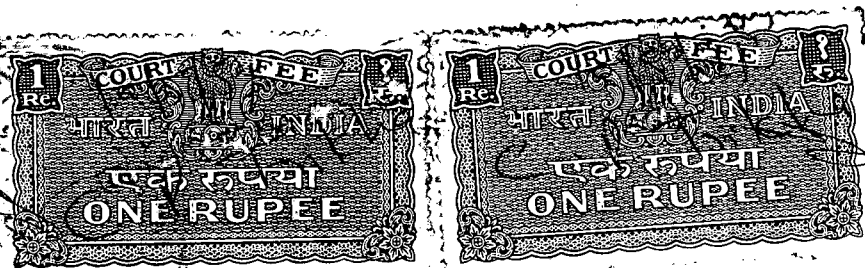
(A7)

32

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH, LUCKNOW

O.A. No. 275 of 1990 (L)

1991
AFFIDAVIT
87
HIGH COURT
ALLAHABAD



C.P. Trikha

....

Applicant

Versus

Union of India & Others....

Respondents

REJOINDER AFFIDAVIT

Filed today
10.5.91

I, C.P. Trikha, aged about 36 years, son of Sri Shri Dayal Trikha, resident of House No. 569-Ka/60, Sneh Nagar, Alambagh, Lucknow, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the applicant himself and as such he is fully conversant with the facts deposed.

In answer to para 1 of the reply filed on behalf of the respondents it is further stated that the overtime paid to the deponent is according to Rules and there is no any violation of the Rules.

2. That the contents of para 2 of reply need no reply.
3. That the contents of para 3 of reply are wrong and denied. The application is well within limitation



A48 33

: 2 :

and respondents have not decided the deponent's representation and started the recovery from the salary of the deponent. Thus, the deponent left with no alternate then to seek the protection of law against the illegal recovery.

- 4(1) That the contents of para 4(1) of reply need no reply.
- 4(2) That the contents of para 4(2) of reply need no reply.
- 4(4) That in reply to para 4(4) of reply it is submitted that the deponent was promoted to the post of Senior Electrical Chargeman in grade of Rs. 550 - 750 and posted at Alambagh (Town Supply), Lucknow and it is wrong to say that the deponent was made Supervisor.
- 4(5) That the contents of para 4(5) need no reply.
- 4(6) That the contents of para 4(6) of reply need no reply however, it is further stated that the deponent is still working as Senior Electrical Foreman, Train Lighting, Charbagh, Lucknow.
- 4(7) That the contents of para 4(7) of reply need no reply.
- 4(8) That the contents of para 4(8) of reply are not correct hence refuted. The deponent was posted at Alambagh from August, 1986 to June, 1989 in the grade of Rs. 550 - 750 and worked in ^{actual} ~~such~~ capacity as no Chargeman was deputed with the deponent. The deponent was Incharge of Accident Relief Train. The Depot Incharge is never ^{ever worked} ~~ever worked~~ for Accident Relief Train but the deponent was ^{ever worked} ~~ever worked~~ for



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A49

: 3 :

ART and a Supervisor in grade Rs. 1600 - 2600 is entitled to overtime whenever ~~marked~~^{was} for ART beyond normal duty hours. The deponent was allowed overtime as Incharge of Accident Relief Train. The letter dated 19.10.1989 issued by Senior Divisional Personnel Officer, Northern Railway, Lucknow, in reference to letter of Senior Divisional Electrical Engineer, Northern Railway, Lucknow, also shows that the deponent ~~ever~~^{was} worked for ART.

A photostat copy of letter No. 2E/Adj/ELC/RLT/89 dated 19.10.89 issued by Senior Divisional Personnel Officer, Northern Railway, Lucknow is "Annexure - R-1".

- 4(9) That the contennts of para 4(9) of reply are wrong and denied. The deponent reiterates the averments made in para 4(9) of application. It is wrong to say that a fraud was perpetuated by the applicant in suppressing the true state of affirs, while preparing the Bills from time to time for the alleged overtime. The certificate endorsed in each Bill clearly shows that the actual cause of overtime Bills is ART and normal traffic was intefered and the staff booked to attend the derailment or year work as staff or ART. The voucher of overtime was duly sanctioned by Senior Divisional Electrical Engineer, Northern Railway, Lucknow, and passed by Divisional Personnel Inspector (Competent Authority) in Adj. Branch of Divisional Railway Manager, The deponent has signed the Bill as Electrical Foreman/Town Supply Alambagh, Lucknow - Incharge of ART and Installation. Shri G.D.Singh acting as supervising staff of Electriacl side. The installation includes maintenance of



ASO 35

: 4 :

Railway Colonies, Loco Running Sheds as well as Accident Relief Train. The deponent has deputed three Incharge i^e (i) Loco Running Shed, (ii) Maintenance of Railway Colonies, and (iii) Accident Relief Train, respectively. Shri Dharma was Incharge of Loco Running Shed, Sri Om Prakash was Incharge of Maintenance of Railway Colony and Shri G.D.Singh was working as Incharge of Accident Relief Train. These three persons were deputed in a rotation for six months respectively.

The para 1420(2) of Railway Establishment Code clearly says that all other non-gazetted staff of all departments who are called out in connection with accident/Break-Down shall be allowed the concession of supply of free food, departmentally or otherwise during the period they are engaged in break-down duties, payment of overtime work in accordance with the normal rules time taken in travelling to the site of the accident and back shall also be reckoned for payment of overtime, and payment of full daily allowance without the stipulation that they should be out of Headquarters beyond 8 Kilometers for a period excluding 12 consecutive hours. The deponent is not entitled for break-down allowance as such he has been rightly paid the overtime.



The photocopy of Rule 1420 of Railway Establishment Code is "Annexure R-2" to this rejoinder-affidavit.

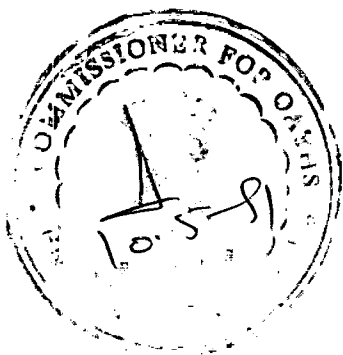
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ASI 36

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It is further stated that the Divisional Railway Manager and Senior Divisional Electric Engineer are the competent authority to verify and sanction the overtime Bill. The DRM/Sr.DEE is the Head of the electrical branch of the Northern Railway, Lucknow, Division. The deponent is working under him as his subordinate staff.

4(10) That the contents of para 4(10) are misleading and refuted. The correct position is that under Railway Establishment Manual, it is provided that the overtime allowance will be paid to the staff attending for extra hours worked beyond the sealing hours. It is submitted that the other employ placed similarly in other branch of Northern Railway i.e. Mechanical Branch and Engineering branch of Northern Railway. ^{one getting overtime} As already explained in para 4(9) of this rejoinder affidavit that the deponent was working as Incharge of Alambagh Installation which includes A.R.T. also. But to regularise the normal functioning of Railway the deponent had deputed three different persons as Incharge of Maintenance of Railway Colony, Maintenance of Loco Shed and A.R.T. But the deponent was the person responsible for whole work at Alambagh as well as in A.R.T. also. There was no chargeman was posted with the deponent and the deponent has to work in dual capacity. The deponent had fixed responsibility of aforesaid three different artisen staff to regulate the work skillfully. There is no illegality or fraud has been committed by the deponent as alleged in reply of the respondents. The deponent has acted bona fide and in the interest of



Railway administration. The deponent is sincere and devoted employee of Railway Department which is evident from perusal of Annexure - 6 of the application.

4(11) That in reply to para 4(11) the deponent reiterate the averments made in para 11 of the original application. The impugned recovery order is illegal based on rivalry of two Trade Unions of the Railways and the Railway Administration had not applied mind which is evident itself by the fact that the deponent was not issued any Show Cause Notice. The monthly deduction from the deponent's salary amounts punishment and recovery cannot be made without issuing any notice to the deponent. The deponent is entitled to overtime and the Bills submitted by him are based on actual overtime working hours. The payment has been made correctly after due verification of overtime Bills and as such there is no illegality in payment of overtime.

4(12) That the contents of para 4(12) need no reply. It is further submitted that the deponent's representation dated 5.7.1990 is still pending for disposal with the respondent.

4(13) That the contents of para 4(13) of reply are wrong and denied. The recovery is illegal and issued on wrong basis and deserves to be set aside as otherwise the deponent will suffer irreparable injury for his no fault. The overtime payment made to the deponent is in accordance to the Rules applicable thereto

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AS3

: 7 :

and the same cannot be recovered from the deponent in any manner. The deponent has obtained his overtime for work done by him beyond the sealing hours employment.

4(14) That the contents of para 4(14) are absolutely wrong and denied. The deponent has neither submitted any fraud nor misrepresented himself to be working under Shri G.D.Singh. As already explained in the preceding paras that the deponent had deputed three Artisans to lookafter maintenance of Railway Colony, Loco Shed and A.R.T. Shri G.D.Singh has signed the Bill being Supervising Staff of A.R.T. and the deponent is overall Incharge of the Alambagh electric installation. The ~~impugned~~^{impugned} order has been passed by the respondent No. 3 on the invitation of Uttar Railway Mazdoor Union. The U.R.M. on several occasions asked the deponent to join the Union but on refusal of deponent's to join U.R.M. ^{Union}, they started to harrass the deponent on one or other pretext and on this ground also the impugned order of recovery is against the principal of natural justice as well as without application of mind.



4(15) That the para 4(15) are absolutely wrong and denied and the deponent reiterates the averments made in paara 15 of original application.

4(16) That the para 4(16) of reply are wrong and denied. The deponent reiterates the contents of para 16 of original application in reply to para 4(16) of the reply to para 4(16) of the reply of ^{respondents in a} ~~representations~~.

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AS4

: 8 :

It is further submitted that impugned order of recovery is illegal and malafide.

5. That the contents of para 5 are wrong and denied. The deponent is entitled for his relief and ground taken in para 5 of original application are well maintainable and the deponent's application deserves to be allowed.
6. In reply to para 6 of the application^{with it} is submitted that the impugned order of recovery is illegal and bad in law and deserves to be set aside.
7. That the contents of para 7 of reply need no comments.
8. That the contents of para 8 of reply are wrong and denied. The deponent is entitled for relief claimed and the order of recovery dated 27.6.90 passed by respondent No. 3 (contained in Annexure - 1) deserves to be quashed and deponent is also entitled for exemplary costs.
9. That contents of para 9 of the application are wrong and denied. The Hon'ble Tribunal has passed order dated 31.8.90 and 14.9.90 after finding the prima -^{case} facie/in favour of deponent and against the respondents. The recovery was stayed by this Hon'ble Tribunal on 31.8.1990 and subsequently the interim order dated 31.8.1990^{was} was made absolute by this Hon'ble Tribunal on 14.9.90 which clearly shows that there is prima facie case in favour of deponent and balance of convenience also lies in favour of



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ASS

: 9 :

deponent and against the respondents. The deponent will suffer irreparable injury in case the order of recovery dated 27.6.1990 is not quashed finally.

10.to 13. That the contents of paras 10,11,12, & 13 need no comments.

Lucknow:

Dated: 10.5.91


Deponent

VERIFICATION

I, the deponent, named above, do hereby verify that the contents of paras 1 to 13 of this Rejoinder-Affidavit are true to my personal knowledge. Nothing material is concealed and no part of it is false. So help me God.

Signed and verified this 10th day of May, 1991 at Lucknow.

Lucknow:

Dated: 10.5.91


Deponent

I identify the deponent who has signed before me.


(P.S. Mehra)

Lucknow: Dated: 10.5.91 Advocate

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AN KHANAM

OATH COMMISSIONER
High Court Allahabad
Lucknow Bench Lucknow
No. ...
Date 10/5/91



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW

O.A. No. : 275 OF 1990 (L)

C.P. Tripathi

Applicant

VERSUS

Union of India and others

Respondents

ANNEXURE - R

54

1420. Breakdown Allowance.—(1) Non-gazetted railway servants employed in running sheds and carriage and wagon depots who are earmarked for attending to breakdown duties and Relief Train Electrical Staff shall be allowed the following special concessions:

- (i) A breakdown allowance, which will be treated as a Compensatory Allowance for all purposes and the payment of which would be subject to a review by the controlling Officer in every case where a railway servant has failed to turn out for breakdown duty within the stipulated time, at the following rates:—

Category of Staff	Scale		Amount of breakdown allowance per month w.e.f 1-7-85
	Old	New	
1. Unskilled workers	Rs. 196-232/750-940		
2. Semi-skilled Artisans	Rs. 210-290/800-1150		
3. Other Group 'D' Staff	Rs. 200-240 Rs. 200-250 Rs. 210-270/800-1150	775-1025	Rs. 10/- p.m.
4. in scales and skilled workers	Rs. 225---308/825-1200 Rs. 260-400/950-1500		Rs. 15/- p.m.
5. Highly skilled Artisans etc. Mistries, TXRs etc.	Rs. 330-480/1200-1800 Rs. 380-560/1320-2040		Rs. 20/- p.m.
6. Chargemen, TXRs etc. Staff in higher scales	Rs. 425-700/1400-2300 Rs. 550-750/1600-2660 and above		Rs. 25/- p.m.

Provided that the supervisory staff, holding posts in revised scales upto Rs. 550-750/1600-2660 (except the supervisors in charge of carriage and wagon depot, loco running shed or the electrical relief train) may be granted breakdown allowance at the rates prescribed in this clause;

- (ii) Supply of free food, departmentally or otherwise during the period they are engaged in breakdown duties;
- (iii) Payment for overtime work in accordance with the normal rules, time taken in travelling to the site of the accident and back shall also be reckoned for payment of overtime;
- (iv) Payment of full daily allowance without the stipulation that they should be out of headquarters beyond 8 kilometres for a period exceeding 12 consecutive hours;
- (v) Priority for allotment of quarters, particularly in quarters near the running sheds or carriage and wagon depots, as the case may be.

(2) All other non-gazetted staff of all departments who are called out in connection with accidents/breakdown shall be allowed the concessions enumerated in clauses (ii), (iii) and (v) of sub-rule (1) above;



Provided that in the case of permanent way staff, full daily allowance shall be paid irrespective of the restrictions laid down in Rule 1614.

Provided further that the above concessions will also be admissible to the supervisory staff who are not in receipt of the standing breakdown allowance in accordance with the proviso to sub-rule (2) above.

(3) Gazetted staff, who are called out in connection with accidents/breakdown shall be allowed the concessions enumerated in clauses (ii) and (iv) of sub-rule (1) above.

Provided that no Cash Compensation in lieu of free food shall be paid to the Gazetted staff.

(4) For the purpose of sub-rules (1), (2) and (3) above, a breakdown may be any of the following, which interrupt normal traffic on running lines:--

- (i) Any accident which involves the calling out of a breakdown train or engine with special staff or equipment (including MFL equipment or traffic crane), from the nearest breakdown train depot or shed;
- (ii) A breach or wash-away on the line;
- (iii) Snapping of overhead electric traction lines which involves calling out of tower wagon or breakdown lorry;
- (iv) Damage/bursting of points requiring the attendance of a breakdown/repair/maintenance gang;
- (v) Breakdown of interlocked lifting barriers;
- (vi) Total interruption of telecommunication/communications or of power supply.

1421. Outturn allowance.—A telegraph signaller/teleprinter operator/wireless operator may be paid additional remuneration per message worked in excess of the specified number of messages during his eight or six hours duty on a nominated circuit under the following conditions, viz.

- (i) 'Outturn allowance' is to be granted for all messages (including service messages which are now to be classified as 'T' messages) which are disposed of (sent or received) during an eight hour (continuous) or six hour (Intensive) shift in excess of the minimum number of messages as indicated in sub-rule (ii) below.
- (ii) Telegraph Signaller/Teleprinter Operator/Wireless Operator working on an 'Outturn' allowance circuit will be required to handle the following number of messages per term of eight or six hours duty either by "sending" or "receiving" or both without any extra remuneration.

	No. of minimum messages
(a) Telegraph Signaller	80
(b) Teleprinter Operator	160
(c) Wireless Operator link	72
net	50



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A58

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1420. भंजन भत्ता. — (1) रनिंग गेज और कैरेज तथा वेगन डिपो में नियोजित उन अराजपन्नित रेल सेवकों को, जो भंजन ड्यूटी करने के लिए निश्चित किए गए हैं, और राहत गाड़ी विद्युत कर्मचारियों को, निम्नलिखित विशेष रियायतें अनुज्ञात की जाएगी —

(i) निम्नलिखित दरों पर भंजन भत्ता जिसे सभी प्रयोजनों के लिए प्रतिकारात्मक भत्ते के रूप में माना जायेगा और जिसका संदाय प्रत्येक ऐसे मामले में, जहां कोई रेलसेवक नियत समय के भीतर भंजन ड्यूटी पर उपस्थित न हुआ हो, नियंत्रण अधिकारी की पुनर्निर्देश के अध्वधीन दिया जायेगा —

कर्मचारिवृन्द का प्रवर्ग	वेतनमान	1-7-85 से प्रतिमाह	भंजन भत्ते की रक
	पुराना (रु०)	नया	
1. अकुशल कर्मकार	196-232	750-940 रु०	10 रु० प्र० मा०
2. अर्ध-कुशल कारीगर	210-290	800-1150 रु०	
3. अना समूह "ब" कर्मचारिवृन्द	200-240 200-250 210-270	775-1025 रु० 800-1150 रु०	
4. वेतनमानों के कर्मचारि- वृन्द और कुशल कर्मकार	225-308 260-400	825-1200 रु० 950-1500 रु०	15 रु० प्रतिमाह
5. अतिकुशल कारीगर आदि, डोस्की, गामी परीक्षक आदि	330-480 380-560	1200-1800 रु० 1320-2040 रु०	20 रु० प्रतिमाह
6. चार्जमैन, गाड़ी परीक्षक आदि उच्चतर वेतनमानों में कर्मचारिवृन्द	425-700 550-750 और अधिक	1400-2300 रु० 1600-2660 रु०	25 रु० प्रतिमाह

परन्तु सगरी और मालखिंचो डिपो, लोको रनिंग गेज या विद्युत राहत गाड़ी के प्रभारी पर्यवेक्षकों के सिवाय, 550-750/1600-2660 रु० तक के पुनरीक्षित वेतनमानों में पदधारण करने वाले पर्यवेक्षी कर्मचारिवृन्द को इस खण्ड में विहित दरों पर भंजन भत्ता मंजूर किया जा सकेगा ;

(ii) उस अवधि के दौरान जब वे भंजन ड्यूटी में लगे हों, विभागीय तौर पर या अन्यथा मुक्त भोजन का दिया जाना ;

(iii) सामान्य नियमों के अनुसार अतिकाल काम के लिए संदाय, दुर्घटना स्थल तक और वहां से वापस यात्रा में लगे समय की भी अतिकाल के संदाय के लिए संगणना की जाएगी।

(iv) सभी कर्मचारिवृन्द को ऐसे किसी अनुबंध के बिना कि उन्हें लगातार 12 घंटे से अधिक की अवधि के लिए 8 किलोमीटर से दूर मुख्यालय के बाहर रहना चाहिए, पूरे दैनिक भत्ते का संदाय ;

(v) क्वार्टरों, विनिष्टता या यथास्थिति, रनिंग गेज या कैरेज और वेगन डिपो के निकट क्वार्टरों के आवंटन के लिए पूर्विक्ता

(2) सभी विभागों के ऐसे सभी अन्य अराजपन्नित कर्मचारिवृन्द को, जिन्हें दुर्घटनाओं/भंजन के संबंध में बुलाया जाए, ऊपर उपनियम (1) के खण्ड (ii), (iii) और (iv) में प्रगणित रियायतें अनुज्ञात की जायेंगी —



परन्तु नियम 1628-स्था. 11 के द्वितीय परन्तुक में अधिकाधिक निवृत्तों का ध्यान रिके दिना रेलपथ कर्मचारिवृन्द के मामले में पूरा दैनिक भत्ता संदत्त किया जायेगा।

परन्तु यह भी कि उपर्युक्त रियायतें उन पर्यवेक्षी कर्मचारिवृन्द को भी अनुज्ञेय होंगी जिन्हें उपर्युक्त उपनियम (2) के परन्तुक के अनुसार स्थायी भंजन भत्ता नहीं मिलता है।

(3) राजपत्रित कर्मचारिवृन्द को, जिन्हें दुर्घटना/भंजन के संबंध में बुलाया जाए, ऊपर उपनियम (1) के खण्ड (ii) और (iv) में प्रमाणित रिपोर्टें अनुज्ञात की जायेंगी।

परन्तु राजपत्रित कर्मचारिवृन्द को मुफ्त भोजन के बदले कोई नकद प्रतिकर संदत्त नहीं किया जायेगा।

(4) उपर्युक्त उपनियम (1), (2) और (3) के प्रयोजनार्थ ब्रेकडाउन निम्नलिखित में से कोई भी हो सकता है, जिससे रनिंग लाइनों पर सामान्य यातायात में बिना पड़ता है :—

- (i) कोई दुर्घटना, जिसमें निकटतम भंजन गाड़ी डिपों या शेड से विशेष कर्मचारिवृन्द या उसकर (एमएफडी उसकर या यातायात क्रेन सहित) के साथ ब्रेकडाउन गाड़ी या इंजन बुलाना आवश्यक हो ;
- (ii) लाइन का टूट जाना या बह जाना ;
- (iii) ऊपरी विद्युत वर्णन लाइनों का टूट जाना, जिसमें टावर वैन या भंजन गरी का बुलाना आवश्यक हो ;
- (iv) पाईंटों का क्षतिग्रस्त होना/टूट जाना, जिसमें भंजन/मरम्मत/अनुरक्षण गैंग का आना अपेक्षित हो ;
- (v) अत्यवशित लिफ्टिंग अवरोधकों का खराब होना ;
- (vi) दूर संचार/मनार का या पावर सप्लाई का पूर्णतः अवरुद्ध हो जाना।

1421. कार्यमात्रा भत्ता.—तार सिग्नलर/टेलीप्रिटर आपरेटर/वितार आपरेटर को किसी नामनिर्दिष्ट परिपथ पर अपनी आठ या छह घंटे की ड्यूटी के दौरान संदेशों की विनिर्दिष्ट संख्या से अधिक किए गए प्रत्येक संदेश के लिए अतिरिक्त पारिश्रमिक का संदाय निम्नलिखित शर्तों के अधीन किया जा सकेगा, अर्थात्:—

- (i) 'कार्यमात्रा भत्ता' उन सभी संदेशों (जिनके अंतर्गत सरकारी संदेश भी है जिन्हें अब 'टी' संदेश के रूप में वर्गीकृत किया जाना है) के लिए दिया जाता है जो आठ घंटे (निरंतर) या छह घंटे (श्रम प्रधान) की पारी के दौरान संदेशों की उस न्यूनतम संख्या से अधिक संख्या में निपटाए (भेजे या प्राप्त किए) जाए जो नीचे उपनियम (ii) में दी गई है।
- (ii) 'कार्य मात्रा' भत्ता परिपथ पर कार्य कर रहे तार सिग्नलर/टेलीप्रिटर आपरेटर/वितार आपरेटर से आठ या छह घंटे की उसकी ड्यूटी की प्रत्येक अवधि में निम्नलिखित संख्या में संदेश किसी अतिरिक्त पारिश्रमिक के विना या तो "भेज कर" या "प्राप्त करके" या दोनों भेजकर और प्राप्त करके निपटाने की अपेक्षा की जाएगी—

- (क) तार सिग्नलर
- (ख) टेलीप्रिटर आपरेटर
- (ग) वितार आपरेटर लिंक

संदेशों की न्यूनतम संख्या

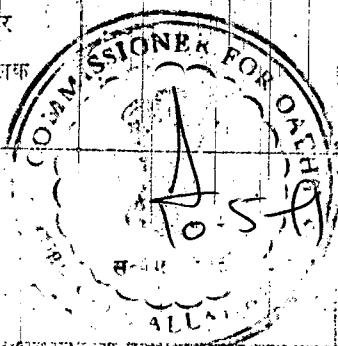
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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW

O.A. No. : 275 OF 1990 (L)

C.P. Trikha

.... Applicant

Versus

Union of India and others Respondents

ANNEXURE - 2

A60

MS

19/11/1

NORTHERN RAILWAY

No.2E/Adj/Elc/RLT/89

Divisional Office.,
Lucknow Dt. 19.10.89.

Sr. Divl. Electrical Engineer.,
Northern Rly:
Lucknow.

Sub:- Payment of O.T. allowance to Shri C.P. Trikha
EFO I/c-AMV-LKO.

Ref:- Your letter No. 167-Elec/LKO/NDA& OT dt. 17.10.89.

The O.T. Bills of Shri C.P. Trikha EFO -AMV; LKO were always received in Adj sec after sanction of O.T. claim by Sr. DEE/LKO. In none of the bills he was shown as Incharge as such there was no point to withhold sanctioned O.T. by the Branch Officer. More so an Incharge of the Depot is never earmarked for ART. How and under what circumstances he was ear-marked for ART is best known to your branch and you.

A supervisor in grade Rs. 1600-2660 (RS) is entitled to O.T. when earmarked for ART and detailed to work beyond normal duty hours on the site of accidents if he is not incharge of Depot.

Please find out the sanction of ART in electrical Department at LKO and check up as to how and under what circumstances he was earmarked for ART Staff earmarked for ART get special concessions like Rly. Accomodation for residence near the place of posting and ART allowance.

You may like to prepare the reply for URMU's agenda explaining the position on its merits.

28/11/1990
Sr. Divl. Personnel Officer.,
N.Rly/Lucknow.

