

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ~~Lucknow~~ BENCH

OA / ~~TA/RA/CP/MA/PT~~ 288/90 of 20.....

C. S. Tewari Applicant(S)

Versus

Managers, Ordinance Factory & another Respondent(S)

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Certified that the file is complete in all respects.

B & C Filed weeded out & destroyed

Signature of S.O.

Signature of Deal. Hand

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

①

Registration No. 288 of 1989 90 (4)

APPLICANT(S) Shree Chandra Shekhar Tewari

RESPONDENT(S) Manager, Ordnance Factory and am

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?	
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?	
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 ?	by counsel
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 outcome of such representation been indicated in the application?	yes
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?	No

Particulars to be Examined

Endorsement as to result of examination

1. Are the application/duplicate copy/both copies signed?

yes

2. Are extra copies of the application and annexes filed?

yes

3. Confronted with the original?

4. Corrective?

5. Missing or damaged?

6. ...?

7. ... of the ...?

N.A.

8. Are the given addresses the registered addresses?

yes

9. Are the names of the parties stated in the order tally with those indicated in the application?

yes

10. Are the translations certified as correct or supported by an affidavit affirming that they are true?

yes

11. Are the facts of the case mentioned in item no. 5 of the application?

12. ...?

13. ... distinct heads?

14. ... consecutively?

15. ... in double space on one side of the paper?

yes

16. Have the particulars for interim relief prayed for indicated with reasons?

yes

17. Have all the remedies have been requested?

yes

R
38u
29/8

For copy
Prof. Dr.
Hansli Bensch
24.9.90
29.8.90

(1)

3

(1)
24.9.90

No sitting day to 30/10/90

[Signature]

(2)

20.10.90

Due to Holiday Day to 23.11.90

(3)

23.11.90

from Mr Justice Khandekar,
from Mr. M. M. Gungor & Mr.

Conferred for Applicants
not present.

Just for admission

on 11-1-91 when the

applicant will also

produce the relevant

rules regarding compensation.

M. M. Gungor

[Signature]

14th

[Signature]

V.C.

(4)

1.1.91

No sitting day to 29.1.91.

(5)

29.1.91

(6)

6.2.91

No sitting day to 6.2.91

(10)

from Mr Justice Khandekar, V.C.

from Mr. K. Chagga & Mr.

Shri R. B. Pandey for applicant. A question is whether the applicant has alternative remedy or otherwise under the provisions of Workmen's Compensation Act and if so whether he should file an appeal rather than come to the Tribunal first for admission on 25-3. 91 as requested.

[Signature]

V.C.

AM

21.10.91
⑫ D. R.

Both the parties
are present today.

Applicant to file

Rejoinder by

13/12/91.

13.12.91
⑬ D. R.

Both the parties
are present today.

Applicant to file

Rejoinder by 10/3/92.

⑭ 10.3.92
D. R.

counsel for the
applicant is present.

He is ordered to file

Rejoinder by 29/5/92

⑮ 29.5.92
D. R.

Both the parties are present

Applicant is directed

to file Rejoinder by

26/8/92.

OA 288/90

(23) 20/8/93 Not placed before the Hon'ble Bench on the date fixed. Place before the Hon'ble Bench on 27.9.93 for hearing & disposal.

File
20.8.93

Noted

21/8

(Counsel's application)

XXXXXX.

(24)

27.9.93.

Office has placed this file today.

Place before the Hon'ble Bench on

5.10.93 for ~~order~~ hearing and disposal.

Office concerned is warned for the lapse which he repeated again. D.R.

(A.K.)

(25) 5.10.93

Hon. Mr. S.V. Govind J.M.

It is a Sunday Court. Court for the applicant has sought adjournment. Now responds on behalf of respondents. List this case on 8.11.93 for hearing.

J.M.

ON 21/8/93
RA 10/10/93
RA 10/10/93
21/8/93

O-A-No. 2286/90

8/12/94. Hon-Mr. D.C. Verma, J.M.

None for the applicant.
 Learned Counsel for the
 respondents is present.
 R.A. has not been filed
 in law. It seems the

RA has not been filed
 till today
 SFH
 21/7/95

O.A. 288/90

4.1.94

(29)

No

Sitting of D. Bench to 10.2.94

Moe

(30) 10.2.94

Dine in sitting of Adv. Bench
to 11.4.94

Moe

CR
 CA on behalf
 of respondents
 has filed
 but of no
 2nd order
 RA has not
 been filed

No sitting of D. Bench
 to 24.5.94

Moe

Submitted for
 hearing
 (21)

17/2/94

CR

CA by Mr. R.
 not in white
 RA not in
 submitted for
 hearing

24/5/94. No sitting of Single Bench;
 adjourn to 26/5/94.

(22)

Bee

26-5-94

(33)

Hon'ble Mr. R.K. Saxena-J.M.

Shri. R. B. Pandey, learned
 Counsel for the applicant
 is present. None respondents on
 behalf of the respondents.
 The learned Counsel for
 the applicant wants to file
 R.A. & ^{forays} ~~place~~ for time. The
 same is granted. List
 this case on 8/7/94 for
 admission.

CR
 CA on behalf
 of 1st & 2nd
 RA not filed.
 Submitted.

Adm
 (21)
 24/2/94

omit

J.M.

G-A-No. 2886/90

8/12/94. Hon-Mr. D.C. Verma, J-M.

None for the applicant.
 Learned Counsel for the
 respondents is present.
 R.A. has not been filed
 so far. It seems the
 applicant is not interested
 in filing R.A. List on
 9/1/95 for hearing.

J-M.

9.1.95 No sitting of SM Bench.

Adj to 6.2.95 for hearing.

6/2/95.HON'BLE MR. JUSTICE B.C. SAKSENA, VICE-CHAIRMAN.

The learned counsel for the applicant
 has sought adjournment. List on 22/2/95 for
 hearing.

VICE-CHAIRMAN.

22.2.95

No sitting of SM Bench adj.
 to 20.3.95 for hearing.

(2)
 RA not been filed
 till today
 SFH
 8/1/95

(Moi)

(2)
 RA not filed
 SFH
 31.1.95

(Moi)

19/11/94

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

Present:- Applicant:- S. R. B. Pandey, Adv.
Respondents:- S. None.

Learned Counsel for the applicant states that R.A. is ready but seeks time to obtain signature of the applicant. 2 weeks time is granted as prayed.

List on 08/12/94 for orders


J.M.

02
A.M. not filed
Sfe
9/12

~~44~~

G-A-No. 2286/90

8/12/94. Hon-Mr. D.C. Verma, J-M.

None for the applicant.
 Learned Counsel for the
 respondents is present.
 R.A. has not been filed
 so far. It seems the
 applicant is not interested
 in filing R.A. List on
 9/1/95 for hearing.

J-M.

9.1.95 No sitting of SM Bench.

Adj to 6.2.95 for hearing.

6/2/95.HON'BLE MR. JUSTICE B.C. SAKSENA, VICE-CHAIRMAN.

The learned counsel for the applicant
 has sought adjournment. List on 22/2/95 for
 hearing.

VICE-CHAIRMAN.

22.2.95

No sitting of SM Bench adj.
 to 20.3.95 for hearing.

(2)
 RA has not been filed
 till today
 S.F.H.
 5/1/95

(Nai)

1.02
 RA not filed
 S.F.H.
 3/4/95

(Nai)

5-9-90

CA 288/90 9

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

The learned counsel for the
applicant has sent illness
slip. This is 1990 petition. We,
therefore, provide that no
further adjournment will
be granted on the next date
and the C.A. shall be heard
and decided on the basis of
record available on record.
But on 21-9-95 for hearing.

or
21/9/95
19/9/95

V.K.
A.M.

bc
V.C.

12

21-9-95

No sitting of Single Bench
adj. to 17-10-95.

or
21/9/95
12/10/95

17-10-95

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

Bac

Shri. S. Chandra, brief holder
for - S. K.B. Pandey, & P. Pandey, brief
holder for Shri. V.K. Dhawan, learned
counsel for the respondents are present.
on account of S Chandra, prays for adjournment
on the unavailability of his senior.
with on 08/11/95 for hearing.

or

V.K.
A.M.

7-2-96 No sitting of single Bench
can adj' to 9-2-96.

~~to~~
Boc

9/2/96

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

The applicant is present in
court & states that his counsel
has not come & seeks adjournment
None for the respondents.

List on 1/3/96.


J.M.

13-96

no sitting of S.B.
adj' to 25/3/96.


B.O.C.

25.3.96

call not reached adj. to

19.4.96.


B.O.C.

19-4-96

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

For applicant: Sri R.B. Pandey.

For respondents: None

List this case on 10-5-96.

L


J.M.

or
H-15
27/10/96



CA 200/96

11

27/5/96

or
His Supr. Affidavit
Law 2

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

For applicant: Sh. R.B. Pandey
For respondent: None
Partly ~~admitted~~ heard.

The Counsel for applicant
Section 8 is allowed 2 weeks
time to file Sub-affidavit.

Dist on 18/10/96.

2

18/11/96

No sitting of G.B. Case J.M.
adj. to 02/12/96.

2
BCL

2-12-96

No sitting of Single Bench
Case is adj. to 3-1-97.

2
BCL

3/1/97

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

None for the parties in
spite of revision of last
dist on 14/2/97

2
J.M.

2

14.3.97

11/11/97 V & K. 081

12

Shri R Bhandary for applicant.

None for respondent.

list on 11-4-97.

V &

A.M.

11-4-97

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

For applicant: Shri R.B. Bhandary, Adv.

For respondent: Shri Sandeep Chandra,
brot of holder for Shri K. Dhawan.

As prayed for, applicant is
allowed 2 weeks time to file reply
to the supplementary CA.

List on 9-5-97 for hearing.

V &

A.M.

09-5-97

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

Applicant is present
in person & prays adjourn-
ment on account of absence
of his counsel.

list on 15-5-97 for
hearing.

V &

A.M.

Shri

13
6A 238/87

8877

Hon Mr S. S. Gupta, AM

Learned Counsel for applicant
has sought adjournment.

This is a very old case.

Pleadings appear to be complete.

The case therefore be listed
for hearing on 12-8-87.

Pleadings are
complete
u/9/87

b)

Wp
H.M.

12/6/87

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

Counsel for applicant is on leave
due to illness. Notice for respondents
list for hearing on 3/10/87.

J.M.

3/10/87

Case not reached.
adjourned to 20/11/87 for hearing

V.M.
Soc.

28.11.97

Hon. Mr. V.K. Sethi, AM.

List on 16-1-98 for hearing.

L.M.
Om.

Aze

16-1-98

Lawyers abstained from Judicial
work Case is adj. to 13-2-98.

B.C.

14
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,

LUCKNOW.

ORIGINAL APPLICATION NO. 288 of 1990

this the 13th day of February, 1998.

HON'BLE MR D.C. VERMA, JUDICIAL MEMBER.

Chandra Shekhar Tewari, aged about 51 years, S/o Sri Deeran
Lal Tewari, R/o Village & post Ramapur, District Gonda.

Applicant.

By Advocate : Sri R.B. Pandey.

Versus.

General Manager, Ordinance Factory, Kalpi Road, Kanpur.

2. Commissioner/Prescribed Authority under Workman
Compensation Act, Kanpur Region, Kanpur.

Respondents.

By Advocate : Sri N.C. Upadhyaya for Shri U.K. Dhawan.

ORDER (O R A L)

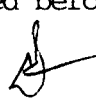
D.C. VERMA, MEMBER(J)

By this O.A., the applicant, Chandra Shekhar Tewari,
has challenged the order dated 17.7.89 of the Commissioner
for Workmen Compensation appointed under the Workmen
Compensation Act, 1923.

2. In the reply filed by the respondents and objection
has been taken that this Tribunal is not the appellate
authority against the judgment passed by the Prescribed
authority under the Workmen Compensation Act, Kanpur.

3. The learned counsel for the applicant and also the
learned counsel, who appeared for the respondents conceded
that in view of the decision of the apex court in the case of
Krishna Prasad Gupta Vs. Controller Printing &
Stationary(1995 (6) SCALE 89), this O.A. is not maintainable
before this Tribunal.

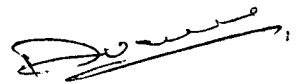
4. Section 30 of the Workmen Compensation Act 1923 provides
for appeal, but no appeal has been filed in this case,
against the order of the Commissioner appointed under the
said Act, ^{instead} O.A. has been filed before this Tribunal.



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-2-

5. In view of the above, the O.A. is held to be not maintainable before this Tribunal. It will however be open for the applicant to challenge the impugned order before the competent judicial forum. The O.A. is dismissed accordingly with no order as to costs.



MEMBER(J)

LUCKNOW: DATED: 13.2.98

GIRISH/-

16
Date of filing 29/8/90
Mode of receipt by Post...

29/8
29/8

IN THE COURT OF THE DISTRICT JUDGE AT LUCKNOW

SI. NO. 2880 of 1990 (1)

Chandra Shekhar Tewari ... Applicant

vs

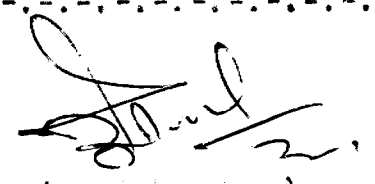
Genl - Manager, C. Indus. P. Co. and another. Respondents

INDEX

1. Memo of appearance 1-9
2. Annexure No. 1 10-12
Copy of judgment/order dt. 17.7.88
3. Postal order No. 82-414999
Dated 28/8/90 for 50/- only.
4. Vakalatnama

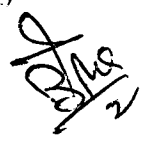
Filed today
29/8/90

Place: Lucknow
Dated: 28/8/90
By: /



(Advocate)
Counsel for the applicant

Filed by me
on 29/8/90

Noted for 21/9/90 for payment 618 Janaka Bhanu
Lucknow.


IN THE COURT OF THE DISTRICT JUDGE AT RAIPUR

ORIGINAL PETITION

... of 1985(L)

CHANDAN CHANDAN SINGH,
Aged about 51 years,
Son of Ch. Hardev Lal, deceased,
Village of Post Ranpur,
District Raipur.

... Applicant/
Petitioner

versus

1. Central Prison,
Ordnance Factory,
Raipur, M.P.,
Raipur.
2. Commissioner/Deputy Commissioner,
under Government compensation act,
Raipur Region,
Raipur.

... Cor. Parties/
Respondents

IN THE COURT OF THE DISTRICT JUDGE AT RAIPUR
ORIGINAL PETITION NO. 19
OF 1985(L)

DEMAND OF APPLICATION

चान्द्रसेखर तिवारी
By ...
...

Particulars of the order signed by the
applicant in this:

That this application is directed before
this Hon'ble Tribunal against the judgment passed
by respondent no. 2 dated 17.7.1985 and the copy
of which has been received by the counsel of the

18

(2)

applicant on 27.7.1939 and the same was received by the applicant through his counsel on dated 30.8.39. It is also stated that under the Workmen compensation Act, 1923, the applicant has preferred his claim for 100% disability and the claim of the applicant has been rejected by the respondent no. 2. A copy of the award of the /judgment is being annexed herewith as Annexure no. 1 to this application.

2. Jurisdiction of the Tribunal;

That the matter relates to the workman working in Central Govt. i.e. Ordnance Factory. Whereby the applicant declares that the subject matter of the order is within the jurisdiction of the Tribunal.

3. Limitation;

That the applicant further declares that the application is within the limitation prescribed under section 21 of the Administrative Tribunals Act, 1935, in view of the receipt of the copy of the order passed by respondent no. 2 already filed as Annexure no. 1 to this application..

4. Facts of the case;

The facts of the case are as under;

- i) That the applicant was employed under Credit Party No. 1 as C..C. and allotted ticket no. 2. The person entered in service of Credit Party No. 1 on dated 11.12.1936 on the pay scale of Rs. 150-200. Thereafter on the same

पिन्डु सेवर निवासी
सिंह भुवनेश्वर
2

(3)

pay scale was revised in the IVth pay commission and the petitioner's pay was fixed at Rs 850/- in the pay scale of Rs 850-1150.

ii) That during the entire span of service the petitioner has successfully rendered his performance without any unsuitability or inefficiency.

iii) That while on 27.1.1986 in the night shift petitioner was working in the ordnance factory he sustained a serious injury which resulted that the petitioner came in 'coma' subsequently he was hospitalised in Air Force Hospital, Kanpur and on 21.1.86 he was transferred from Air Force Hospital Kanpur to Command Hospital, Lucknow for further treatment.

iv) That the petitioner remained under treatment and at last after treatment on 24.3.87 by virtue of medical advisory board and due to sustained injury the petitioner was declared totally invalid for service, and on 25.4.87 the said medical board of Command Hospital, Lucknow declared the petitioner fully invalid from service which resulted that on 17.7.87 he was released from service only by giving Rs 30.5 compensation.

v) That the petitioner thereafter preferred his representation to Communist Party No. 1 and said that he is fully disabled from service as such

चन्द्र सेवर तिवारी
for petitioner
श्री

(4)

100% compensation be given to him, and on this basis the petitioner had claimed Rs 83,140/- as compensation. But only in view of 30%, the said compensation, only 23,970/- was paid to the petitioner.

vi) That by aggrieving the result of the Medical Board when the petitioner was denied for 100% compensation inspite of full disability from service the matter was again referred to the Medical Board but the said medical board again reiterated 30% disability and did not enhance the percentage of disability.

vii) That the humble petitioner in view of the claim has preferred a claim reference to respondent no. 2 after narrating all the legal and factual position with the request that according to the compensation claim the unpaid amount of Rs 59170/- be allowed with interest for payment and this claim was preferred by the petitioner under section 10 of Workmen Compensation Act, 1923. A copy of the reference claim is being annexed herewith as Annexure-2 to this application.

viii) That the claim of the petitioner pending before respondent no. 2 was replied by Dy. General Manager on behalf of Govt. Party No. 1 and denied all these aspects in reply that the compensation payable to petitioner i.e. 23970/- has been paid to him on the basis of Medical Service is sufficient and it cannot be enhanced. A copy of

चन्द्रशेखर मिश्रा
Sd/-
2/10/23

(5)

the reply of respondent no. 1 before respondent no. 2 is being annexed herewith as Annexure No. 3 to this application.

x) That the petitioner thereafter filed a rejoinder Affidavit reiterating his all the contents has been claimed by him and stated that he has been disabled fully by which he is entitled for 100% compensation to be paid to him and due to the reasons stated above the petitioner is entitled for 100% compensation.

x) That the petitioner has further invited the kind attention of the respondent no. 2 by way of his Rejoinder Affidavit and said that in view of injury sustained he was fully disqualified and his strength to perform the job has been fully exhausted as such he cannot be denied 100% disability what he has claimed. A copy of the Rejoinder Affidavit is being filed as annexure no. 4 to this application.

xi) That the main grievances of the petitioner that in accordance with law and natural justice if he had been declared disabled fully during the age or less than 47 years the disability awarded by the opinion of the medical board is not just and proper. Injury resulted that the petitioner has been disabled for service and as such he is entitled for full payment of Rs 83140/- less than the amount which has been paid to him.

चन्द्रशेखर तिवारी
Dep. Secy
B/M

x) That the labour laws taking full support

(3)

to petitioner's contention which have been omitted and the case of the petitioner has not been considered fully by respondent no. 2 and the claim is rejected is an error of law and the judgment of the respondent no. 2 is liable to be set aside.

xiii) That the Opposite Party No. 2 has wrongly decided the pending matter of the petitioner while the central administrative tribunals act 1985 was not in existence at that time of decision. This was the only alternate left to respondent under section 29 (2) of the Central Administrative Tribunals Act that the entire matter should have been transferred to this Hon'ble court but it has not been done as such the decision of respondent no. 2 is not only illegal against the law and fact but also beyond jurisdiction.

xiv) That in view of the order given by respondent no. 1 the petitioner has been disabled out from service and at the time of filing this application as well as the decision he was residing at his home address given as above. A copy of the judgment was received by the petitioner on 30.3.1989 which should be the date for computation of limitation and for all purposes. It is further pertinent to mention here that the petitioner is disabled and also handicapped hence in all respect for decision before the Hon'ble Tribunal the matter is to be preferred.

5. Grounds for relief under the provisions;

1. Cause: The applicant is for the purposes

चन्द्रसेनरत्निकारी
A. S. S. S.
3

(7)

to perform the duties of the petitioner is fully disabled,

i.) Because the petitioner is entitled for 100% disability and the compensation according to the law be paid to him.

ii.) Because the labour laws making support to workman is also supporting to the petitioner's contention.

iv.) Because due to injury sustained the petitioner become disqualified fully for service and it will fully become invalid and handicapped hence only 100% disability as assigned by the medical board is not just and proper.

v.) Because the judgment of respondent no. 2 is beyond jurisdiction and void.

vi.) Because the petitioner has paid very less amount as compensation and he is entitled for remaining amount as claimed.

vii.) That in the interest of justice, law of equity making full support to petitioner's contention for awarding compensation.

c. Details of remedy sought;

That this application is being preferred against the judgment of respondent no. 2 hence the question of further departmental remedy does not arise.

राम सैवर सिवारी
for counsel
Bhargava

(3)

and in accordance with judgment and its copy of the same, this application is being preferred before this Hon'ble Tribunal having its jurisdiction as the respondent is residing at Gonda, which is within the jurisdiction of this Hon'ble Tribunal.

7. The matter is not previously filed or pending without any other court;

The applicant further declares that except the judgment and order of respondent no. 2 which is being challenged, the matter is not anywhere other is pending before any court of law.

8. Relief sought;

In view of the facts and grounds mentioned of in paras 4 & 5 of this application, the applicant prayed for following reliefs;

(A) That this Hon'ble Tribunal may be pleased to issue a suitable direction/order to respondents that the compensation of respondent no. 1 by treating him 100% disabled during the service of respondent no. 1 and remaining unpaid amount of Rs. 50175/- be paid to him along with interest admissible in rule after quashing the judgment/order of respondent no. 2, contained as Annexure no. 1.

(B) That any other and further relief which this Hon'ble Tribunal deems fit and proper may also be awarded in favour of the applicant along with cost.

चन्द्र सेखर तिवारी
Sd/-
वैद्य

9. Interim order if any prayed for;

pending final decision, on the application the applicant seeks the following interim reliefs;

That in view of the facts and circumstances narrated in the application the humble applicant seeks no interim relief except to finally dispose of this application as early as possible in the interest of justice.

10. The humble applicant wants oral hearing through his counsel.

11. Particulars of postal order;

Postal order no. 8-02-414958
dated 28/8/90 for Rs 50/- only.

VERIFICATION

I, Chandra Shukhar Tewari, Aged about 51 years, Son of Shri. Leora Lal Tewari, Resident of Village and Post Sambar, District Gonda do hereby verify that the contents of paragraphs 1 to 11 are true to my personal knowledge except para-5 which is true on the basis of legal advice received and that I have been suppressed my material facts.

Application is being provided vide notification no. A.M. 1.11019/44/37 dated 11th October, 1937.

Place: Lucknow

Dated: 28/8/90

Signature of the applicant

(Signature)
(M.D. Pandey)
Advocate,

Counsel for the petitioner

चन्द्रशेखर तिवारी
Advocate
Lucknow

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कर्मकार क्षतिपूर्ति अधिनियम, 1923 की धारा 4 बी के अनुसार उसे पूरा सुआविषा मिलना चाहिए ~~प्रत्येक~~ वह कार्य हेतु पूर्ण रूप से अपंग घोषित किया गया है। वादी ने यह भी स्वीकार किया है कि उसे 30 प्रतिशत की दर से केवल र023970/- दिए गए हैं जबकि उसे कुल र083140/- प्राप्त होने चाहिए। अतिरिक्त र059170/- और दिया जाय। वादी ने यह भी कहा कि पत्र दिनांक 23-8-88 के अनुसार उसने यह वाद प्रबंधक वर्ग के पास रिज्यू हेतु भेजा था, परन्तु इस विषय में प्रतिवादी पक्ष ने कोई

In the Hon. C.A. 220
Chanda Shukar Inwar
G.M. vs. Kamfan
An I 26
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प्रमदा कीमनर, कर्मकार क्षतिपूर्ति अधिनियम, 1923 के अन्तर्गत, कानपुर जिला, कानपुर

डब्ल्यूसी 0 वाद सं 0 38/88

श्री चन्द्र शंकर शिवारी, पि0/0 2/ गोल पोरज ओ0एफ0सी0, माफन 10115/9,
बिजयनगर, कानपुर — वादी
नाम

महाप्रबंधक, आरुणा निर्माणी, ओ0एफ0सी0, कालपी रोड, कानपुर — प्रतिवादी

आदेश ::

वादी श्री चन्द्र शंकर शिवारी द्वारा, प्रतिवादी महाप्रबंधक, आरुणा निर्माणी ओ0एफ0सी0, कालपी रोड, कानपुर के विरुद्ध, कर्मकार क्षतिपूर्ति अधिनियम, 1923 के अन्तर्गत, एक प्रार्थना पत्र दिनांक 5-1-0-88 इस आशय से प्रस्तुत किया कि वादी प्रथम उस प्रतिवादी प्रतिष्ठान में कार्य करते हुए हर्षटनाग्रस्त हो जाने पर, मेडिकल बोर्ड द्वारा कार्य करने से पूर्ण रूप से अपंग घोषित किया गया। उसे प्रतिवादी पक्ष से 100 प्रतिशत क्षतिपूर्ति दिए जाने के निर्देश पारित किए गए।

वादी के उस प्रार्थना पत्र को पंजीकृत करके, वाद सं0डब्ल्यूसी038/88 का समा एवं उभाय पक्षों को सम्मन भेजकर, सुनवाई की गई। वादी ने अपने निवेदन में कहा है कि वह दिनांक 27-1-86 की राष्ट्रपाली में प्रतिवादी प्रतिष्ठान के 1017 में कार्य कर रहा था कि प्रातः उबते हर्षटनाग्रस्त होकर, शिर के बल गिरा, गिरने लगे। वादी को सर्वप्रथम एयरफोर्स हॉस्पिटल भेजा गया, व दिनांक 29-1-86 को क्रिष्ण स्लाब हॉस्पिटल, लखनऊ भेज दिया गया। अगले स्लाब 7-2-86 तक चलता रहा। बाद में वादी को 24-3-87 को सीनियर एडवाइजरी ब्यूरो 'सर्जरी' के पास जाय हेतु भेजा गया। जहाँपर गंभीर दोहरे के कारण वादी पूर्ण रूप से अपंग, पोंको भया व सेवा क्षिति की लिपिकरिता की तयारी इसके लिए मेडिकल बोर्ड बिठाया गया। बाद में वादी को 25-4-87 से मेडिकल बोर्ड द्वारा पूर्ण रूप से अपंग घोषित कर दिया गया व उसे पेंसदी के आदेश सं02782 दिनांक 17-7-87 द्वारा नौकरी से निकाल दिया गया। एवं वादी को मेडिकल बोर्ड की संस्तुति पर, 30 प्रतिशत क्षतिपूर्ति दी गई, जो कि बहुत ही कम है। वादी ने यह भी कहा

चन्द्र शंकर शिवारी
vs. Akash TIF
दीप

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कर्मकार क्षतिपूर्ति अधिनियम, 1923 की धारा 4 बी के अनुसार उसे पूरा सुआविषा मिलना चाहिए। क्योंकि वह कार्य हेतु पूर्ण रूप से अयोग्य घोषित किया गया है। वादी ने यह भी स्वीकार किया है कि उसे 30 प्रतिशत की दर से केवल र023970/- दिए गए हैं जबकि उसे कुल र083140/- प्राप्त होने चाहिए। अतिरिक्त र059170/- और दिया जाय। वादी ने यह भी कहा कि पत्र दिनांक 23-8-88 के अनुसार उसने यह वाद प्रामाणिक वर्ग के पास रिब्यू हेतु भेजा था, परन्तु इस रिब्यू में प्रतिवादी पक्ष ने कोई निर्णय नहीं लिया।

प्रतिवादी पक्ष ने बताया कि क्लिफोर्ड की चिकित्सा के अनुसार वादी को सर्वांगिक ल कार्ड इम्प्लान्ट बतार्ई गई, जिस पर मेडिकल बोर्ड, सीनियर हडवाइजर म्युरो-सर्जरी की सिफारिश पर बिठाया गया एवं मेडिकल बोर्ड की सिफारिश के अनुसार वादी को 30 प्रतिशत सुआविष पर, आसुधानिर्माण के आदेश सं02782 दिनांक 11-7-87 के अनुसार वादी श्रमिक को सेवा से अयोग्य घोषित कर दिया गया। कर्मकार क्षतिपूर्ति अधिनियम, 1923 के अनुच्छेद 11 की धारा 4 सी के अनुसार 30 प्रतिशत क्षतिपूर्ति र023970/- दिए जाने के बावजूद भी वादी के प्रतिवेदन दिनांक 13-5-88 के परिपेक्ष्य में पुनः इस सम्बन्ध में क्लिफोर्ड मेडिकल बोर्ड की सुंस्तुति मांगी गई, जिसमें मेडिकल बोर्ड ने पुनः 30 प्रतिशत सुआविष की सिफारिश की।

वादी ने अपनी आयु के सम्बन्ध में बताया कि प्राथमिकी की जन्मतिथि 13-7-39 है एवं दुर्घटना के समय वह 46 वर्ष 6 माह, 14 दिन की आयु का था। इस सम्बन्ध में प्रतिवादी पक्ष ने बताया कि सेवामार्जिका के अनुसार ही आयु सही है, व उसी आधार पर वादी को क्षतिपूर्ति 30 प्रतिशत की दर से दी गई है। प्रतिवादी पक्ष ने यह भी बताया कि वादी की सिफारिश दिनांक 22-7-87 पर, आसुधानिर्माण विभाग में, आश्रित को सेवा में लेने के किसी नियम के न होने के बावजूद भी, मानवता-पूर्वक वादी के पुत्र को इस शर्त के साथ इस विभाग में सौंप दी गई कि वह अपने परिवार का जीवन निर्वाह करता रहेगा।

वादी ने अपनी शायदापूर्वक बताया कि मैं डाक्टर के कहने पर, सभी कागजों हस्ताक्षर कर दिए। डाक्टरों ने क्या लिखा उसे इस विभाग में कुछ नहीं मालूम। वादी ने यह भी बताया कि 1976 से यह नियम है कि जिस व्यक्ति की सेवानिवृत्ति होती है, उसके लहके को काम पर रखा जाता है। वादी के अनुसार इस सम्बन्ध में वेबदी आदेशों की प्रेरणा जर्मनी का कानून है।

रॉबर्ट सेवर तिवारा
2005-18

वाद की सुनवाई के समय उभय पक्षा द्वारा प्रस्तुत अभिलेख एवं साक्ष्य से यह स्पष्ट है कि वादी, प्रतिवादी प्रक्रिया में डिप्टी के समय हार्डटमागस्त हुआ। वादी को मेट्रिक बोर्ड की प्रशिक्षण पर, 30 प्रतिशत की दर से वारिपुर्ति 1 वर्ष 23970/- प्रतिवादी द्वारा दिए गए। एवं वादी की प्रार्थना पर उसे पुनः मेट्रिक बोर्ड के समक्ष प्रस्तुत किया गया। बोर्ड ने पुनः 30 प्रतिशत की वारिपुर्ति ही दिए जाने की अनुमति दी गई। वादी के इस कथन के समर्थन में कोई पक्षी अथवा पत्रावली पर उपलब्ध नहीं है कि वेदी के कर्मचारी की सेवानिवृत्ति के बाद, उसके आश्रित को सेवा में रखा जाता है। फिर भी प्रतिवादी सेवायोजकों ने मानवता के आधार पर, वादी की स्थिति को देखाते हुए, एवं उसकी लिखित सिफारिश पर, उसके तत्त्व को सेवा में रखा। जिससे यह शर्त है कि वादी का लड़का भी उत्तुप्रकारा तिवारी, अपने पिता के साथ अपने परिवार का भारण पोषण करता रहेगा।

तथ्यों के आधार पर, प्रथम पक्ष के तथ्यों में कोई कल नहीं है। अतः वे वादी का वाद प्रार्थना पत्र दिनांक 5-10-88 निरस्त किए जाने का अनुरोध करता है। उभय पक्ष अपना अपना वाद परिष्कृत करने करेंगे।

यह आदेश आज दिनांक 17-7-89 को मेरे द्वारा पारित किए गए।

17/7/89
राजेश कुमार
कमिशनर,

21/7/89

22/7/89
23/7/89

27/7/89

चन्द्र सेक्टर तिवारी
Shree Rie,
बोर्ड

I. THE HONORABLE CENTRAL ADMINISTRATIVE TRIBUNAL

OF DELHI

C.A.O. of 1980(L)

Chandra Shekhar Bauri

... Petitioner/
Applicant

Versus

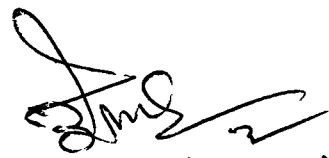
Gen- Manager Ordnance Factory and other ... Respondents

INDEX

1. Annexure No. 2 13, 14,
Copy of claim/reference.
2. Annexure No. 3 15, 16, 17,
Copy of reply to reference
3. Annexure No. 4 18, 19, 20
Copy of rejoinder affidavit

Place: Lucknow

Date : 28/8/90



(R.B. Pandey)
Advocate,
Counsel for the applicant.

चन्द्रसेखर तिवारी

26/1/88

3
(14)

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2. प्राणी की जन्म तिथि 13.7.1939 दुधिया के दिन आयु 46 वर्ष 6 माह 14 दिन
3. प्राणी का वजन प्रतिमास मूल वजन 965x मकान भाता 250 x नगर भाता 45 रुब हुन 1350/- रु 1
4. प्राणी में कई प्रतिवेदन दिये थे जिनमें से कुछ की प्रतिलिपि संग्रह है। इनके अतिरिक्त आयुष्य फेब्रु आदेश भी की प्रतिलिपि संग्रह की जा रही है।
5. मुझे 23970 रु दि 15.6.88 को 30% के हिसाब से प्राप्त हुआ
6. जब कि छति पूर्ति अधिनियम 1923, 41वीं. के अनुसार मुझे मासिक वेतन $\frac{1000}{2}$ रीसेन्ट फेक्टर के हिसाब से 1000 $\frac{1000}{2}$ 166.29

रुपया 83140 प्राप्त होना चाहिए था। बाकी पैसा रुपया 89170 मुझे और दिया जाये।

7. प्रबन्ध की के पत्र संख्या मेडिकल/ए.डी. 23.8.88 के अनुसार वेतन रिष्य के लिए देना गया था जो कि अनिश्चित किया रहा जिससे यह स्पष्ट हो रहा है कि प्रबन्ध निर्वास में कठिनाई महसूस कर रहा है।

8. इसलिये आपसे यह प्रार्थना है कि विवादित मुद्दों को निर्धारित करने की कृपा करें और अपना निर्णय प्रदान करें।

131. प्राणी हिण्टी पर काम के दौरान घोट लगने से काम पर नै हटा दिया गया। मेडिकली अनफिट। करार कर दिये जायें पर स्थायी एवं पूर्ण रूप से अर्पण हो गया है।
132. जब पूर्ण रूप से स्थायी तौर पर अर्पण हो गया तो छति पूर्ति अधिनियम 1923 के अन्तर्गत धारा 41वीं के अनुसार मुआवजा रु 83140 बनता है। जिसमें से रु 89170 देने की स्वीकृति प्रदान की जाये।

संग्रह पत्र:-
111 प्रतिवेदन की नकल
121 फेब्रु आदेश की नकल
131 रिष्य पत्र की नकल

दिनांक :- 5 अक्टूबर 1988

प्राणी
* चन्द्रसेखर तिवारी
। पन्ट सेखर तिवारी।
धारा जी के.डी. भागीव
रुबोवेह

मैं समय लेकर प्रमाणित करता हूँ कि मैंने प्रार्थना पत्र में जो तथ्य प्रेषित किये हैं वहाँ तक मेरी जानकारी और विचार है सही हैं।

दिनांक :- 5 अक्टूबर 1988

प्राणी
* चन्द्रसेखर तिवारी
। पन्ट सेखर तिवारी।
धारा जी के.डी. भागीव
रुबोवेह

चन्द्रसेखर तिवारी

अक्टूबर 1988

:- 2 -:

दिनांक-11.05.1987 के निर्माण आदेश भाग-11 दिनांक-17.07.1987 के अन्तर्गत जारी की गई थी।

द्वितीय नंबर 30 प्रत्यक्ष मुआवजे की आधार पर 100 प्रत्यक्ष मुआवजा की गई थी। उक्त उद्देश के आधार पर 100 प्रत्यक्ष मुआवजे-2 11, नंबर-4 से 111 कर्मचारियों की पूर्ति की गई है। अन्तर्गत भी अन्य उद्देश के आधार पर 100 प्रत्यक्ष मुआवजे के रूप में 23,970/- भुगतान किया गया।

इस आदेश पर भी तिवारी अपने प्रतिवेदन के दिनांक-13.05.1988 में उक्त किया गया और वह भी 100 प्रत्यक्ष मुआवजा दिया जाये। इस आदेश पर भी 100 प्रत्यक्ष मुआवजे की पूर्ति की गई है। उक्त उद्देश के आधार पर 100 प्रत्यक्ष मुआवजे की पूर्ति की गई है।

2- दावे के पैरा 2 में दिया गया तथ्य सही है। वादी को अन्तर्गत दिनांक 11.05.1987 के आदेश के अनुसार भुगतान किया गया है।

3- दावे के पैरा 3 में दिया गया तथ्य सही है। इस सम्बन्ध में कोई आदेश जारी नहीं किया गया है।

4- दावे के पैरा 4 में दिया गया तथ्य सही है। वादी द्वारा दाखिल किये गये दावे में कोई प्रमाणित नहीं है। केवल निर्माण आदेश भाग-11 दिनांक-17.07.1987 को ध्यान में रखा जाये।

5- दावे के पैरा 5 में दिया गया तथ्य सही है। वादी द्वारा दाखिल किये गये दावे में कोई प्रमाणित नहीं है। मुआवजे के रूप में 23,970/- दी गई है।

6- दावे के पैरा 6 में दिया गया तथ्य सही है। वादी द्वारा दाखिल किये गये दावे में कोई प्रमाणित नहीं है। मुआवजे के रूप में 23,970/- दी गई है।

चन्द्र सेखर तिवारी

पुनर्निर्माण

पृष्ठ: 3 पर

(15)

- 3 -

क्षतिपूर्ति को अनुया को धो । अतः क्षतिपूर्ति अधिनियम 1923 को धारा 4(बी) के अनुसार रु० 23,970/- को मुआवजा देना गया । जो विधायी क्षतिपूर्ति 1923 को धारा 4(बी) के अनुसार देना कि उन्होंने मांग को करे, प्राप्त करने को अधिकारी नहीं है । अतः भुगतान दिया गया मुआवजा निम्नानुसार है ।

7- दावे के पैरा 7 में दिया गया विवरण पूर्णतया गलत है । इस सम्बन्ध में यह कहना कि वादों का प्रकरण प्रतिवेदन पूर्णतया हेतु संतुष्टि / निष्कारण हेतु मैजिस्ट्रेट बोर्ड के पास भेजा गया जो कि अनिर्णित रहा है । क्योंकि वक्त यह है कि वादों का प्रतिवेदन पूर्णतया करने हेतु मैजिस्ट्रेट बोर्ड के पास भेजा गया । जिसने मैजिस्ट्रेट बोर्ड ने पुनः 30 प्रतिशत मुआवजे को निष्कारण को है । और इस प्रकार दो गई मुआवजे को रु० 23,970/- रही है ।

8- दावे के पैरा-8 का काम नहीं है । इस प्रकार वादों द्वारा क्षतिपूर्ति अधिनियम 1923 को धारा 4(बी) के अनुसार मुआवजे को रु० न होकर बिल्कुल क्षतिपूर्ति अधिनियम को धारा-4(बी) के अनुसार ही दिया जाना नहीं है बल्कि धीकट्या विशेष को संतुष्टि पर 30 प्रतिशत मुआवजे के लिए ही को गई थी अतः वादों द्वारा मुआवजे को शेष रु० 59,170/- का भुगतान दिया जाने का कोई औचित्य नहीं है ।

मीनरची - २०
[समस्त मोनाक्षी फेड]
उप महा प्रबन्ध/प्रशासक
एन. जे. आर.

अध्यापन:-

मैं श्रीमती मोनाक्षी फेड, उप महा प्रबन्ध/प्रशासक/एन. जे. आर. आर. आर. निम्नलिखित, जलपूर रोड, जलपूर में प्रतीक्षा करती हूँ कि प्रतिवादों के लिखित काम के पैरा 1 से 8 तक दिया गया विवरण मेरी कार्यालय जानकारी एवं विभाग के पास उपलब्ध विवरणों के आधार पर पूर्ण तथ्य है ।

दिना - 16.12.88

अ. न. च. २०
[समस्त मोनाक्षी फेड]
उप महा प्रबन्ध/प्रशासक
एन. जे. आर.
चन्द्र सेखर

सम्बन्ध कर्मकार क्षतिपूर्ति वायुक्त कानपुर क्षेत्र सर्वोदय नगर, कानपुर ।

नं० 56-57/ के०वार० डब्लु०सी० नं० 38/88

दिनांक 27-12-88

श्री चन्द्र शेखर तिवारी टि०नं० 2/सेल पौर्ज बा०प०सी०

मकान नं० 115/9 विजयनगर, कानपुर ।

द्वारा श्री के०डी० गार्गव पठवाकेट 429 की ब्लाक पनकी कानपुर ।

-----वादी

बनाम

महा प्रबन्धक वायुध निमाणी [बा०प०सी०] कोसपी रोड, कानपुर-9

-----प्रतिवादी

वादी की ओर से प्रस्तुत

1.- पैरा । मैं वर्णित उस्तर मेडिकल बोर्ड की मुआवजे की सिफारिश विवादित है । इस में विरोधा भास है । मुआवजा केवल 30% का दिया गया है जबकि वादी की निमाणी सेवा के ब्यौम्य घोषित किया गया है । सेवा से जायोज्य होने पर वेतन अर्जन शक्ति का पूर्ण ह्रास हो गया है । दुर्घटना से चोट लगने पर जब सेवा से ब्यौम्य छेराया गया तो वह पूर्ण रूप से अपंग हुआ । क्षतिपूर्ति अधिनियम 1923 की धारा 2 [पल] के अनुसार पूर्ण अपंग के अर्थ हैं । ऐसा अपंग हो कि अस्थायी बधवा स्थायी रूप से हो जिससे कि कर्मचारी उस सब काम के ब्यौम्य हो जाय जो कि वह दुर्घटना के समय या उससे पहले करने के लिये सक्षम था । वादी दुर्घटना होने के बाद उस सब काम करने के ब्यौम्य घोषित कर दिया गया । इसलिये 4[बी] के अनुसार पूरा मुआवजा गुप्तान किया जाना जरूरी है । जबकि क्षतिपूर्ति अधिनियम की धारा 4 सी [11] यह स्पष्ट करती है कि यदि दुर्घटना में चोट लगी है वह पार्ट 11 [11] में नहीं है ऐसी स्थिति में मुआवजा उतना ही दिया जाय जितना पूर्ण रूप से अपंग होने पर दिया जाय लेकिन यह ध्यान रखा जाय कि मुआवजा उसकी वेतन अर्जन शक्ति के ह्रास के अनुपात में होना चाहिये । जब मेडिकल बोर्ड ने कर्मचारी को बन मिलिठ कर

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चन्द्र शेखर तिवारी
सचिव नं०
नियुक्त

[2]

दिया और निर्माणी की सेवा के अपौरुषेय घोषित कर दिया तब उसकी पूर्णरूप से अर्जन समाप्त हो गया। ऐसी स्थिति में ही वह पूरी मुआवजे का हकदार हो गया। इस लिये उसकी मुआवजा तो पूरा ही मिलना चाहिये। 30% मुआवजा तो उस समय के लिये है जब वह निर्माणी की सेवा में लगा रहता है और पीस बर्क कम मिलता, पूरा वेतन अर्जित कर पाता तब उसे मुआवजा मिलने के बाद इस नुकसान के लिये कुछ मांगने का अधिकार न रहता। अभी तो दुर्घटना के बाद हर प्रकार का नुकसान वाहन करते हुए वादी को परिवार चलाना है और अपना स्वयम् का इलाज भी करते रहना है इसी आधार पर इस अधिनियम में संशोधन हुआ और मुआवजे की रकम बढ़ा दी गई है।

2- पैरा 2, 3, 4, 5 के उत्तर में कोई विवाद नहीं है।

6- पैरा 6 में यह स्पष्ट करना होगा कि वादी 27-1-86 की रात्रि पाली में दुर्घटनाग्रस्त हुआ और उसके बाद पेट्टी में उसे उधुटी करने का संशय प्राप्त नहीं हुआ। वह लगातार इलाज पर अमर्षित रहा। 27-1-86 को ही मुआवजे का हकदार हो गया। 27-1-86 को उसकी आयु 46 वर्ष 6 मास 14 दिन हुई। उसकी मुआवजा इस आयु के हिसाब से दिया जाना चाहिये। जो कि $1922 \times 166.29 = ₹ 83145.00$ होता है और बकाया रुपये 59175 दिया जाना चाहिये।

7- पैरा 7 का उत्तर विवादित है मेडिकल बोर्ड के निर्णय में विरोधाभास है। रिच्यू के समय भी इस विरोधाभास के लिये ध्यान आकर्षित नहीं किया जा सका। इसी लिये सही निर्णय नहीं हो सका। 4 सी॥॥॥ तो यही कहता है कि जब चोट शिङ्गल में न हो तो अर्जन शक्ति में जितना हानि हुआ हो उसी के अनुपात में मुआवजा दिया जाना चाहिये। वादी की अर्जन शक्ति का पूर्ण हानि हुआ है चूंकि उसकी सेवा से हटा दिया गया है। इसलिये उसे पूरा मुआवजा प्राप्त होना चाहिये।

8- पैरा 8 में उत्तर विवादित है। 4 सी॥॥ निर्धारित करता है। कि पूर्ण अपंग होने पर मुआवजा वादी के मासिक वेतन का 50% रिलेवेन्ट फेक्टर के हिसाब से दिया जाय। जबकि 4 सी के दो भाग हैं 4 सी॥॥ तो वादी के उमर लागू नहीं होता। क्योंकि उसे जो चोट दुर्घटना में लगी है वह पाट ॥॥॥ शिङ्गल ॥॥ में नहीं दी हुई है 4 सी ॥॥॥ भी इसी सीमा तक लागू है कि दुर्घटना से चोट इस प्रकार की आई है जो कि पाट

चन्द्रसेखर तिलारी
11/2

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॥१॥ रिजल ॥१॥ में नहीं दर्शायी गई है तब भी वह मुआवजे का अधिकारी है । वह मुआवजा उसकी अर्जन शक्ति के ह्रास के अनुपात में होना चाहिये । चूंकि दुर्घटना से चोट लगने के कारण वह काम के बायोम्य छोड़ित किया गया है उसकी अर्जन शक्ति पूर्ण रूप से समाप्त मानी गई है । इसलिये उसे पूरा मुआवजा मिलना चाहिये । मैट्रिकल बोर्ड की संस्तुति विवादित है उसमें विरोधाभासपूर्णता में काम के बायोम्य छोड़ित करने का अर्थ है वादी की पूर्ण रूप से अर्जन ठहराया गया और अर्जन शक्ति का पूर्ण ह्रास हुआ इसलिये ५ ॥बी॥ के हिसाब से मुआवजा पूर्ण दिया जाना चाहिये ।

चन्द्र सेखर तिवारी

॥ चन्द्र सेखर तिवारी ॥

डि० नं० २/ सी फी आ० ए० सी०

द्वारा श्री कै० डी० भागीव एडवोकेट

Kankar

मैं चन्द्र सेखर तिवारी डि० नं० २ सी फी आ० ए० सी० का नपुर प्रमाणित करता हूँ कि वादी के उपरोक्त प्रस्तुत स्तर में पैरा १ से ४ तक दिया गया विवरण मेरी व्योक्तगत जानकारी के आधार पर पूर्ण सत्य है ।

चन्द्र सेखर तिवारी

॥ चन्द्र सेखर तिवारी ॥

द्वारा श्री कै० डी० भागीव

एडवोकेट.
Kankar

चन्द्र सेखर तिवारी

Attest
[Signature]

the diagnosis of cervical cord injury, he was
discharged until further service by neuro-surgeon
General Hospital, London on April 24, 1947 and
transferred the petitioner back to Ordinance Hospital
Amoy, Amoy for further treatment where he
remained on April 25, 1947 and received the
petitioner unfit for service. On being boarded out
from service the petitioner reports his expenses
came for compensation under War-time Compensation
Act, 1925 in recognition of his disability. On December
10, 1947 the Board of War-time Compensation and Neuro-
logical Hospital, London assessed his disability
100 percent. Accordingly the petitioner has been
a payment of Rs 23,570.00 as towards compensation.
The petitioner demands his compensation of Rs
100 percent and requested the General Manager/CFO
to get the case reviewed and as such his case was
again referred to Board and Hospital, London for
re-assessment of his percentage of compensation. The
Advisory Board opined that the percentage of compen-
sation already granted is correct and requires no
modification. The result of review of his compen-
sation was informed to the petitioner. Aggrieved with
the decision of the Advisory Board, the peti-
tioner filed a suit in the Court of Sessions at Amoy
on a Bill of Complaint for recovery of Rs 23,570.00
where a Special Officer to hear Rajinder Singh
was assigned and the case was heard and decided
against the petitioner on July 18, 1949 indicating
therein that the petitioner has been paid the full
amount of compensation as assessed by the Board of
War-time Compensation. The respondent has given
a statement in support of the petitioner's claim.

31-7-49

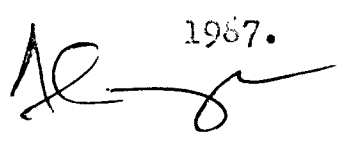
12-5

man ground on the condition that his son is employed will maintain the expenditure of the family.

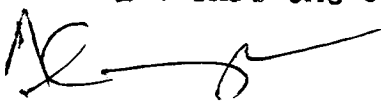
3. That the contents of para 4(i) of the petition are not disputed being the matter of record.

4. That the contents of para 4(ii) of the petition are not disputed.

5. That with respect to the contents of para 4(iii) of the petition it is submitted that the petitioner had sustained injury while on duty in the Night Shift on 27th/28th January, 1986. He was admitted in Ordnance Hospital, Awarpur Karpur with the diagnosis of 'Blunt injury in right foot with head injury' on the same day at 13-10 hrs. He was referred to 71 Air Force Hospital, Awarpur on the same day and examined by Surgical Specialist on January 29, 1986. Since he developed ~~convulsion~~ generalised seizure, he was referred to Command Hospital, Lucknow on January 29, 1986 where he remained under treatment till February 7, 1986 and discharged with the diagnosis 'Upper Cervical Cord Injury' by Neuro-surgeon of Command Hospital Lucknow and finally ^{medically boarded out} on June 11, 1987 as per the advice of Senior Adviser Neuro-surgeon dated March 24, 1987 vide P.O. No. 11 No. 2782 dated July 17, 1987.



6. That with respect to the contents of para 4(iv) of the petition it is submitted that the Experts of the Command Hospital, Lucknow assessed the disability of the petitioner to the extent of 30 percent and accordingly a sum of Rs 23,970.00 was paid to the petitioner by the respondents.
7. That with respect to the contents of paras 4(v) and 4(vi) of the petition it is submitted that after receiving the representation dated May 13, 1988 forwarded by the petitioner for 100 percent compensation the matter was referred to Command Hospital, Lucknow for re-assessment of the disability. The Specialists of Command Hospital, Lucknow again re-considered and assessed the disability to the extent of 30 percent and accordingly compensation of Rs 23,970.00 towards 30 percent disability was paid to the petitioner by the respondents.
8. That the contents of para 4(vii) of the petition are not disputed.
9. That the contents of para 4 (viii) of the petition are not disputed.
10. That the contents of para 4(ix) of the petition are not disputed.
11. That the contents of para 4(x) of the petition are not disputed.
12. That the contents of para 4(xi) of the petition are



4✓

stated are denied. It is further submitted that a sum of Rs 23,970.00 towards compensation for 30 percent disability as assessed by Senior Adviser Surgery and Neuro-surgery, Command Hospital, Lucknow has since been paid to the petitioner. Allegations contrary to this are denied.

13. That the contents of para 4(xii) of the petition as stated are denied. It is further submitted that the Hon'ble Tribunal is not an Appellate Authority against the judgment passed by the Prescribed Authority under Workmen Compensation Act, Kanpur. The order dated July 17, 1989 contained in Annexure No. 1 to the ~~xxx~~ petition is a just and legal order. It is also relevant to mention here that on humanitarian grounds the son of the petitioner has been given the job.
14. That the contents of para 4(xiii) of the petition as stated are denied.
15. That the contents of para 4(xiv) of the petition as stated are denied. Since the petitioner was declared unfit for further service, his son was taken in Government service on humanitarian grounds with a condition that he will maintain the family expenditure.
16. That the grounds taken in the petition are untenable. The petition has no force and deserves to be dismissed with cost.

12-5
Dated ✓
July 31, 1991.

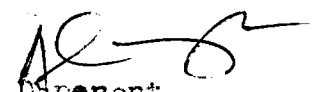
12-5
Deponent.

V E R I F I C A T I O N

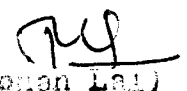
I, the above-named deponent do hereby verify that the contents of 1 to 15 of this counter-affidavit are true to my own knowledge based on perusal of relevant records and documents and the contents of para 16 of this counter-affidavit are believed by me to be true on the legal advice tendered and no part of it is false and nothing material has been concealed, so help me God.

Lucknow dated

July 31, 1991.

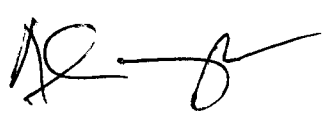

Deponent.

I identify the deponent who is personally known to me and who has signed in my presence.


(Mohan Lal)
Clerk to Shri U.K. Dhaen
Additional Standing Counsel,
Central Government.

Solemnly affirmed before me on 31-7-91
at 5:37 a.m./p.m. by Shri A.K. Nayak, the
deponent who is identified by Shri Mohan Lal,
Clerk to Shri U.K. Dhaen, Additional Standing Counsel,
Central Government.

I have satisfied myself by examining the deponent
that he understands the contents of this counter-
affidavit which has been read over and explained
by me.




Officer
Joint Secretary to Government
Ministry of Home Affairs
New Delhi
49-331
31-7-91

Manicopy

44

Central Administrative Tribunal

Lucknow Bench

21-9-95

Civil Miscellaneous Application

Date of Filing

Date of Receipt by 2/10/95

MP 1881/95

In No.

[Signature]
By. Registrar (1)

C.T. No. 235/1995 (I)

Shri. Shri. Shri. Shri.

... Applicant

versus

General Manager, Ordnance Factory,
Bangalore and others

... Respondents

Application for Condonance of Delay in
Filing of Miscellaneous Application

On behalf of the applicant is most respectfully, beg to submit as under :

1) That the applicant has now filed this rejoinder reply, in due time due to the reason that he was involved in a criminal case, also the applicant due to injury, always in some other illness and as such the rejoinder reply, is being prepared and is filed herewith.

2) That it is to be fully played that while on the Court may be pleased to condone the delay, and the rejoinder reply, be taken on record in the interest of justice.

Prayer

It is, therefore, respectfully, at this application may please be allowed in the interest of justice.

[Signature]

Lucknow, Dated

20th, 1995.

C.T. No. 235/1995
Advocate

[Signature]

45
Central Administrative Tribunal
New Bench

Date of Filing

Date of Receipt by Post

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

DELHI BENCH, DELHI

By Registrar (88)

Civil Miscellaneous Application No. /88.

In Re :

C. A. No. 238/1980 (I)

Chandra Shekhar Tewari

..... Applicant

Versus

General Manager, Ordnance Factory,
Bangur and others

... Respondents

RESPONSE TO THE APPLICATION

On behalf of the applicant it is most respectfully, be, to submit as under :

1, That the contents of para 1 of the Counter Reply, need no comments.

2, That the contents of para 2 of the Counter Reply, regarding the factual position and the applicant sustained injury and treatment, need no comments. So far as the concern of remaining other facts that are wrong and denied. The applicant by way of injury sustained had been declared 100% unfit to retain in service. It was unfortunate situation regarding the assessment of disability

चन्द्रशेखर
ATTESTED SIC

.....2

after providing the 100%. In fact the case of the applicant is that due to injury sustained during duty hours he has been found invalid permanently and on the basis of that the services of the applicant from factory, came to an end. Meaning thereby that the applicant is entitled for compensation at the ratio of 100% whatever sought before the prescribed authority, but the case of the applicant has not been considered accordingly. The sole matter pertaining to the applicant is that his case according to injury sustained had not been considered pertaining to provide compensation as such the relief sought before this Hon'ble Court challenging the award of the prescribed authority, the applicant is entitled for the same.

3) That the contents of paras 2 and 3 of the counter reply, needs no comments.

4) That the contents of para 4 of the counter reply, as alleged are wrong and denied. As far as the concern of actual position regarding the injury sustained etc. that needs no comments. The only practical question involved that by virtue of injury sustained the applicant has been thrown out from factory service and the disability is 100%, thus he is entitled to seek

चन्दीसर
ATTESTED SIT
[Signature]

compensation as per the ratio of 100,000/- the assessment of hospital pertaining to disability was not just and proper. The prescribed authority in adjudicating the matter also not considered although on the basis of only Rs. 20,970/- was paid i.e. too less and further the applicant is entitled for Rs. 21,175/- in accordance with his claim sought.

5, That the contents of para 3 of the counter reply as alleged are wrong hence denied and those of relevant para of the application be reiterated as correct. It is further stated that as already stated in the aforesaid para of this reply, the Command Hospital Lucknow assessed the disability of the applicant which is too less and not in accordance with the injury sustained. The matter was not accordingly, referred in its original request made by the applicant again through the Medical Board and according to law the Command Hospital (Military Hospital) did not consider the matter in accordance with the labour laws. The matter was dealt with by the Medical Board commanded by Army officers in accordance with the Armed Forces personnels while in the matter of the applicant the labour laws make application

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RECEIVED

2023

[Signature]

and according to which nothing has been done. Hence the applicant is entitled to the claims and interest.

3, That the contents of para 7 of the counter reply, as alleged are wrong hence denied. Those of para relevant of the C.A. be reiterated as correct. It is further stated that inspite of the request made by the applicant his matter has not been referred to the Medical Board. Neither his documents available were referred to not the applicant personally, allowed to face the Medical Board as his entire matter has not been looked into by the Medical Board (consisting Army officers). The mandatory requirement according to labour law has not been considered and by giving very less amount to the applicant he has been thrown out from service permanently while the service of the applicant was dispensed from factory service in July, 1987 while the applicant in accordance to his date of birth was entitled to retain in service upto 1999 and 12 years before the service of the applicant came to an end by virtue of injury, sustained during duty hours. As such he is entitled for full compensation.

नयनदीप

के.के.के.

7) That the contents of paras 3, 4, 10 and 11 of the counter reply need no comments.

8) That the contents of para 12 of the counter reply as alleged are wrong; hence denied and those of relevant para of C.A. be reiterated as correct. It is further stated that due to serious injury sustained the case of the applicant has not been dealt with accordingly which resulted that he has been deprived of his rightful compensation.

9) That the contents of para 13 of the counter reply as alleged are wrong; hence denied and those of relevant para of C.A. be reiterated as correct. It is further stated that the award of the prescribed authority which is under challenge by way of this C.A. is also challenged mainly on the basis that the correct contention has not been supplied by the prescribed authority, in deciding the matter.

10) That the contents of para 14 of the counter reply need no comments.

11) That the contents of para 15 of the counter reply as alleged are wrong; hence denied

(3,

and those of relevant para 31 of the C.A. be reiterated as correct. It is admitted position that the applicant sustained serious injury and he became unfit for further service, even though he has been deprived of his maximum compensation for which he was entitled.

12/ That the contents of para 13 of the counter reply, as alleged are wrong hence denied and those of relevant para 31 of the C.A. be reiterated as correct. The relief sought by the applicant fully deserves to be allowed in his favour.

20/4/2022
[Signature]

VERIFICATION

I, Chandra Shekhar Tewari, aged about 33 years, son of Sri. Meera Lal Tewari, Resident of Village and P.O. Ramapur, Distt. Gonda, do hereby verify that the contents of paras 1 to 12 of this rejoinder reply, are true to the best of my personal knowledge except those which are true on the basis of legal advice.

Lucknow, Dated

September 20, 1995.

चन्द्रशेखर
(Applicant)

ATTESTED SIGNATURE





(R.B. PANDEY)
Advocate

COUNSELLOR FOR APPLICANT

चन्द्रशेखर
चन्द्रशेखर



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE

TRIBUNAL LUCKNOW BENCH, LUCKNOW

OA NO. 288 OF 1990 (L)

Chandra Shekhar Tewari..... Applicant.

VERSUS

General Manager, Ordnance Factory,
Kanpur and another..... Respondents.

SUPPLEMENTARY COUNTER AFFIDAVIT TO THE
SUPPLEMENTARY AFFIDAVIT FILED BY THE
APPLICANT OF BEHALF OF RESPONDENT NO. 1. *Rm*

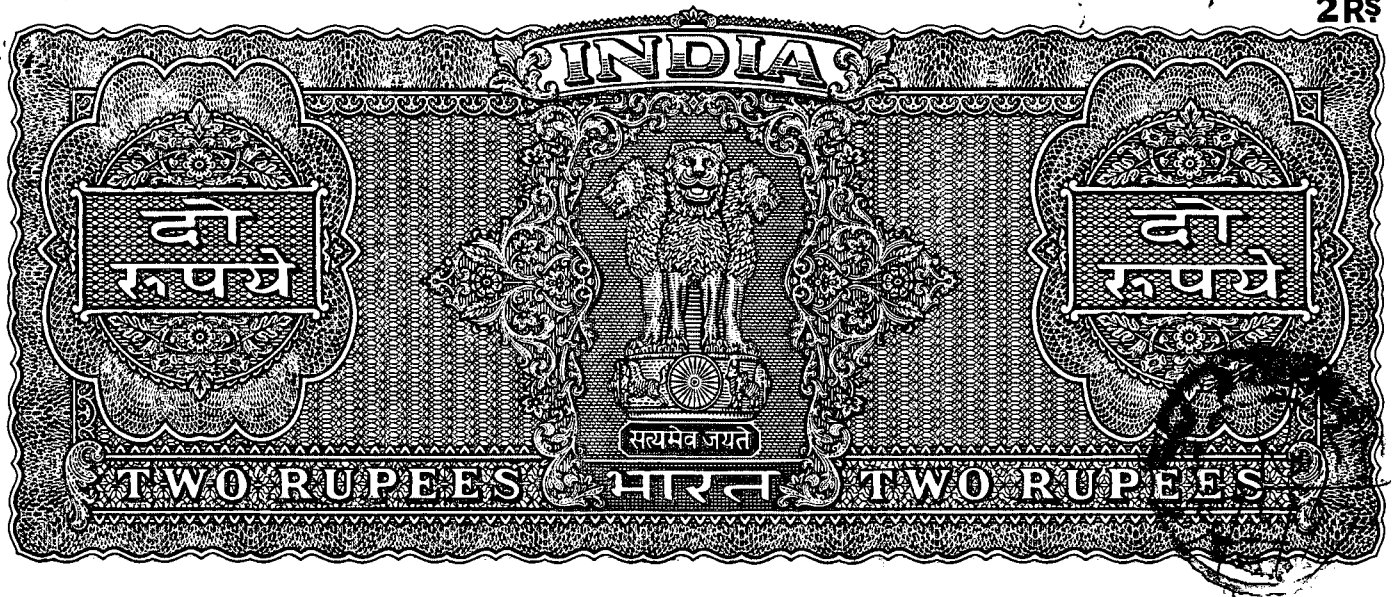
Affidavit of Shri Rajvir Singh
aged about 38 years, son of Sri
Pati Ram Working as Works
Manager/Admin in Ordnance Factory,
Kanpur. *Rm*

(DEPONENT)

1007
AFFIDAVIT
10 M
DIST COURT
UP 5/4/97



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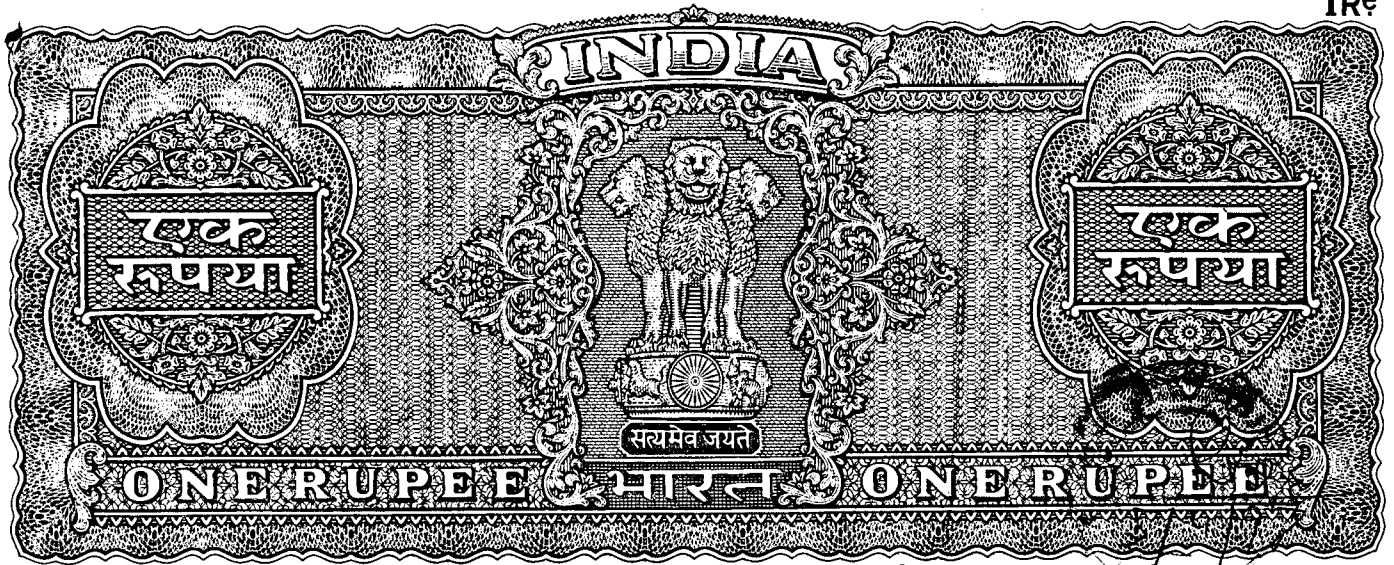
G.A - 288/90(L)



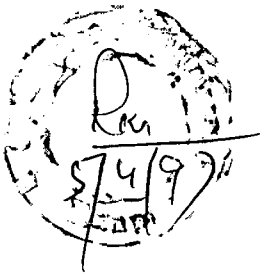
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O.A. No. 288/90(L)



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57

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW

-.-.-.-

O.A. No. 288 of 1990 (L)

Chandra Shekhar Tewari

... Applicant

Versus

General Manager, Ordnance Factory

Kampur and another

... Respondents.



SUPPLEMENTARY COUNTER AFFIDAVIT TO THE
SUPPLEMENTARY AFFIDAVIT FILED BY THE
APPLICANT ON BEHALF OF RESPONDENT NO. 1

-.-.-.-

I, ^{Ry} Rajvir Singh, aged about 38 years
son of ^{Ry} Shri Patiram, Works Manager,
Ordnance Factory ^{Ry} Kampur, do hereby solemnly affirm
and state on oath as under: - ^{Ry}

1. That the deponent is the Works Manager
in the Ordnance Factory Kampur and as such fully
conversant with the facts of the case. The
contents of the Supplementary Affidavit filed by ^{Ry}

Q. No. 1

Rm the applicant have been read and understood by the deponent who is authorised to file a parawise reply thereto: Rm

2. That the contents of paragraphs 1 and 2 of the Supplementary Affidavit need no comments. Rm

3. That in reply to the contents of paragraph 3 of the Supplementary Affidavit only the filing of the Original Application against the order of the Prescribed Authority, passed in Workman Compensation Case No. 38 of 1988, is admitted. Rest of the contents of this paragraphs are denied as incorrect. Rm

4. That the contents of paragraph 4 of the Supplementary Affidavit are denied as incorrect. The medical board held on 25.4.1987 took into consideration the medical case sheet dated 24.3.1987 of the applicant transferred by the Central Command Hospital Lucknow in which the medical board concurred with the opinion of the Neuro Surgeon, Colonel T.D. Pal, and the applicant was invalidated out of service. No percentage of disability was fixed by this medical board held on 25.4.1987 and averments contrary to this fact are denied. The true photostat copy of the medical case sheet submitted by Colonel, T.D. Pal dated 24.3.1987 and the report of the Medical Board held on 25.4.1987 are being filed herewith as Annexure SCA-1 & SCA-2 respectively to this counter affidavit. Rm

Rm
Annexure SCA-1
and SCA-2
Rm
G. D. D.

:: 3 ::

5. /That the contents of paragraph 5 of the Supplementary Affidavit are not disputed. Run

6. /That in reply to the contents of paragraph 6 of the Supplementary Affidavit it is submitted that Command Hospital Lucknow is a Government Hospital where civilian employees also get treatment. Accordingly the applicant was referred there in order to get better treatment, and the applicant was finally medically boarded out on June 11, 1987. The Medical Board constituted to assess the applicant's disability percentage on 16.12.1987 decided his disability as 30% and accordingly the applicant was paid Rs. 23,970/- towards compensation. At that time the applicant did not raise any objection that his disability should have not been assessed by Command Hospital Lucknow. Even at the time of drawing payment also he did not say anything and received the payment without any grudge. Run

7. /That the contents of paragraph 7 of the Supplementary Affidavit are incorrect hence denied. The assessment of disability and payment of compensation has been made as per Workmen's Compensation Act 1923. Contention contrary to this are incorrect and hence denied. Run

8. /That the contents of paragraphs 8 and 9 of the Supplementary Affidavit are incorrect and hence denied. The assessment of disability and Run

Q. A. A.

:: 4 ::

Annexures SCA-3
and SCA-4 *in*

Payment of compensation has been made as per Workmens' Compensation Act 1923 under Chapter II Section 4C(ii). A true copy of the relevant orders dated 18.12.1987 and 19.12.1987 are being filed herewith as Annexures SCA-3 and SCA-4 respectively to this counter affidavit.

9. That in reply to contents of paragraph 10 of the Supplementary Affidavit it is submitted that the averments made by the applicant in this paragraph are not clear and as such they are incapable of any specific reply. It is, however, submitted that, no doubt, he was civilian employee and when he sustained injury, he was referred to Command Hospital, Lucknow for better treatment where he was declared invalid for further service and accordingly he was Medically boarded out from service with effect from 25.4.1987 and he is being paid pension regularly as per Rules. On 16.12.1987 his disability was assessed as 30% by the said Hospital and he was paid compensation amounting to Rs. 23,970/- under Workmens' Compensation Act 1923.

Kanpur
Lucknow : Dated

5/4/1997.

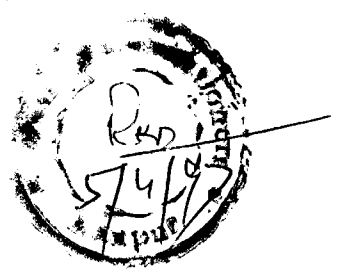
[Signature]
DEPONENT

VERIFICATION

I, the deponent abovenamed, do hereby verify that the contents of paragraphs *1*

:: 5 ::

are true to my personal knowledge, those of paragraphs 2, 4, 5 are believed to be true on the basis of record, while those of paragraphs 6, 7 are also believed to be true on the basis of legal advice and that I have not suppressed any material fact.



Kanpur, Dated 5/4/97.
1997.

[Signature]
DEPONENT

I identify the deponent who has signed before me.

[Signature]
5/4/97

G. Arun Kumar (Mohan Lal)
Clerk to Shri J.K. Dhaon, Advocate
Ordnance Factory, Kanpur
Senior Central Government Standing Counsel

42
3-30
5/4/97
5/4/97
5/4/97

I identify to Shri
Rajiv Singh works
Manager/Administrative
Firm Singh before me.
[Signature]
5/4/97.

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अस्पताल का नाम Central Command Hospital
NAME OF THE HOSPITAL Central Command, Lucknow

मेडिकल केस शीट
MEDICAL CASE SHEET

3. रैंक/रेट SF/ASST

नाम
Name C.S. TIWARI

2. सेवा नम्बर
Service No. 02/SF

4. यूनिट/जहाज
Unit/Ship OFC. KANPUR

5. सेनांग/कोर/शाखा/ट्रेड
Arms/Corps/Branch/Trade CIV/SA

6. सेना
Service
स्थल सेना/नौ सेना/वायु सेना
ARMY/NAVY/AIR FORCE CIV

1. रोग निदान
Diagnosis

CERVICAL CORD INJURY (C6/7) V.67

21.3.87

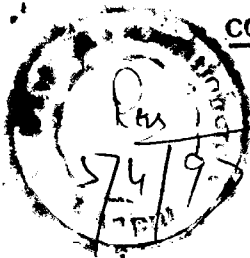
09/87

The 27 yrs old patient has
suffered Cervical Cord injury on
27 June 86 as a result of fall on
back of the head. He was unconscious
for a short time.

He was treated conservatively
and discharged satisfactorily with the
advice of wearing a Cervical Collar.

Though he is ambulatory now he
complains of pain in the neck and lower
back. He is unable to perform activities given to
him.

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21/3/87

Total output

Side Advised

include dr

Services hereby ceasing.
A. B. Service has been (Continued)

It is unable to perform the duties of
the while involve the physical
work.

Reason unfit for further service.
The Army & Air Force Hospital for
Medical and Dental Diseases

T D PAL
Colonel
Senior Advisor (Surgery)
OIC
NOW

Transfer concurred

A. Ahuja
(Mrs. N. Ahuja)
Maj. Gen.
Commandant
Comd Hosp (CC) - Lucknow

24/3/07

24/3

- Back from CH(CC) LKO & Reported to day.
- unfit since 28-1-06
- Report to Ret Dept for
Further management

- unfit since 28-1-06
- Report in LKO
- Adv unfit for further service

5/4/97

Sharma

CERTIFICATE FOR SUBORDINATE CIVILIANS IN MILITARY SERVICE

(See C.S.R. Article 4 47(a) and R.M.S.L. Para 223)

(MB: The form of certificate required for persons entering superior grades in the public service in India will be bound in C.S.R. Article 4).

We certify that we have carefully examined **S.S. Tewari** **T.No. 21/SF/OFC** S/O **Min. Ind. Dept.**

In the Ordnance/Small Arms Factory, Inspectorate of Armaments/ Inspectorate of Small Arms Field Gun Factory Kanpur.

1. We consider that he/she is fit to carry out the duties on which he/she is employed.
2. The clinical particulars of his/her disability are

Shri C.S. Tewari T.No. 21/SF/OFC aged 47 years sustained injury while on duty on 28-1-06 at 3 AM and was admitted to OHA. He was treated at No. 7 and Neurosurgeon CH(CC) Lucknow till 21-3-07 with diagnosis of Cervical Cord Injury upper cord. On 21-3-07 he was last seen by Col. T.K. Roy Sr. Adviser Neurosurgery CH(CC) Lucknow who opined that the patient is unfit for further service. On 25-4-07 the board was held who concurred with the opinion of Neurosurgeon and C.S. Tewari was invalided out of service.

APPROVED
[Signature]
11/8/07

We consider that he/she is suffering from **(old)**

and in consequence thereof is completely and permanently incapacitated for further service of any kind of DEFENCE ESTABLISHMENT.

5. His/her age is according to his/her own statement **47** years and by appearance **48** years.

6. His/her incapacity does/does not appear to us to have been caused by irregular or intemperate habits.

7. Recommendations (Sick leave, treatment etc.) **aw**

8. Remarks/hand thumb and finger impressions attested by one

(Brig. G. P. Mittal)
Director Health Services
Govt. of India, Min. of Ordnance
Ordnance Factory Board
10A, Auchland Road,
Calcutta-700 001

a) Identification Marks **Two black mole on the left side of the chin.**

b) Thumb & Finger impression of **Shri C.S. Tewari**

Lt. Index Finger	Lt. Middle Finger	Lt. Ring Finger	Lt. little Finger
------------------	-------------------	-----------------	-------------------

(PRESIDENT)
[Signature]
(DR. P.K. RATH)

STATION: KANPUR
DATED: 25-4-07

SR. MEDICAL OFFICER

MEMBER: *[Signature]*

5/4/97

(R.S.R. POUYATRA)
Asst. Insp. Amoy
S.R. Singh
KANPUR

(DR. S.R. ZIA)
SR. MEDICAL OFFICER
Asst. Insp. Amoy
KANPUR

[Signature]

गोपनीय
CONFIDENTIAL

सं. नि. से. फा. 7क
A.F.M.S.F. 74

अस्पताल का नाम
NAME OF THE HOSPITAL.....

मेडिकल केस शीट
MEDICAL CASE SHEET

1. नाम Name M C STIWAR	2. सेवा नम्बर Service No. 2	3. रैंक/रेट Rank/Rate Lieut
4. यूनिट/जहाज Unit/Ship OR	5. सेनांग/कोर/शाखा/ट्रेड Arms/Corps/Branch/Trade SF	6. सेवा Service 24
		स्वयं सेवा/नी सेना/वायु सेना ARMY/NAVY/AIR FORCE

1. रोग निदान
Diagnosis
CERVICAL CORD INJURY (old) 24/11/87

16/XI/87

- History of head injury with injury to cervical spine who was invalided out of service as he could not perform his duties involving strenuous physical work of continued to have back ache & pain in neck.

- Ambulant with normal gait.

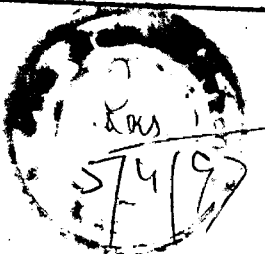
- No cranial nerve deficit.

- No long tract signs. D.R. normal.

- D.R. normal. Flexion.

- Movements at cervical spine restricted markedly & painful.

- Movements at lumbar spine restricted.



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नवीन

(10)

and painful.

- No further surgical treatment
required.

- Advised to wear cervical collar

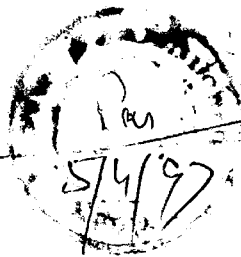
- Disability 30% (thirty percent)

18/12/87

Smo. i/c Rep. Col
JNA PE

mease
18/12/87

Col
P. B. (18/12/87)
Senior Officer
Surgery & Neurosurgery



(11)

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म० मे० नि० सं० फा०-7क

A.F.M.S.F.-7A

अस्पताल का नाम

NAME OF THE HOSPITAL.....

मेडिकल केस शीट
MEDICAL CASE SHEET

1. नाम
Name

M C STIWART

सेवा नम्बर
Service No.

2

3. रैंक/रेट
Rank/Rate

2nd Lt

4. यूनिट/जहाज
Unit/Ship

OR-

5. सेनांग/कोर/शाखा/ट्रेड
Arms/Corps/Branch/Trade

SF

6. सेवा
Service

स्थल सेवा/नौ सेना/वायु सेना
ARMY/NAVY/AIR FORCE

1st Lt

1. रोग निदान
Diagnosis

CERVICAL PAIN

19/12/87

Case Summary Col. C.P. Bajaj, Secy.
adviser Surgery & Neurosurgery
CHCC Lucknow 18/12/87

Disability is 30% (Thirty per cent)
non schedule, permanent & severe under
Chapter II, Sec 4-C(ii) of WCA-1923.

Dr. P.C. Dahi

countered etc.

5/4/97

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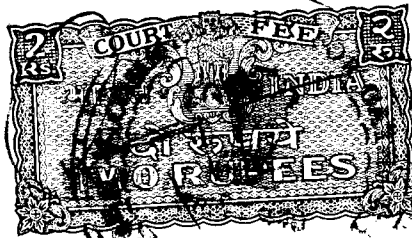
By, Registrar ()

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

MISC. APPLICATION NO. / OF 1996

In Re:

O.A. NO. 238 / 90 / L



Chandra Shekhar Tewari...

..... Applicant

Versus

General Manager, Ordinance Factory,
Kanpur and others.

..... Respondents

SUPPLEMENTARY AFFIDAVIT

I, Chandra Shekhar Tewari, aged about 56 years son of Shri Heera Lal Tewari, Resident of Village and Post Rampur District Gonda, the deponent do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the applicant himself in the above noted case and as such he is fully conversant with the facts of the case deposed hereunder.

2. That the deponent by way of this O.A. challenges the order passed by the Prescribed Authority under Workmen Compensation Act. Now Counter Affidavit

(Contd.....2)

-2-

No. Registrar (J)

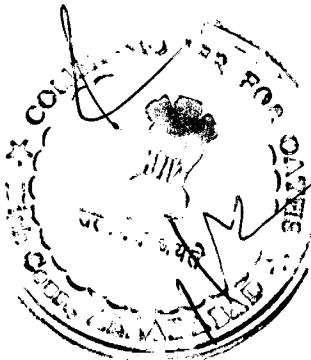
/Rejoinder Affidavit are exchanged and case is pending on the stage of final hearing.

3. That the applicant as workman has preferred the Claim ^{to} be prescribed ^{by} authority under the act vide workmen Compensation Case No. 38/88. The applicant prayed that he had been provided Rs. 2397/- as compensation while according to relevant facts calculation the age. The applicant is entitled for the payment of Rs. 83140/- Hence remaining amount Rs. 59170/- is still out-standing for which entitled to receive the amount alongwith interest.

4. That the applicant was released from the service of the Factory vide Medical Board on dated 25.4.1987 in which the applicant is declared 100% (hundred percent) disabled ⁱⁿ the service. In view of the Medical Board Stated as above. The applicant was (S.O.S) w.e.f. 17.7.1989. This O.A. being referred in this Tribunal at the stage of final hearing.

5. That the applicant was serving as S.F. Asstt. under ordinance factory Kanpur, ^{and} at sustained ^{by} service injury while under factory service.

6. That the Medical Board pertaining to applicant was ^{held} constituted by the Command Hospital at Lucknow, while the applicant was the worker under ordinance department as civilian. ^{workman.}



-3-

Ms. No. 100

7. That ^{the} in/case of the applicant sustained injury while working as civilian under this circumstances the provision of Labour Law as well as the workman compensation Act 1923 will apply in case of the applicant. It is also stated that in the case of the applicant Army Act and Army Rule will not apply. The applicant was serving as civilian (workman) under the Factory.

8. That the award dated 17.7.1989 passed by prescribed authority under workman compensation Act, 1923 is challenged before this Hon'ble Tribunal mainly on the ground that in the view of Section (4b) of said Act, calculating the relevant ^{factor} the compensation to application ^{have} ~~have~~ not been paid, whatever the percentage of disability decided by the medical board by command Hospital ^{may not be relevant factor}.

9. That according to that the compensation to applicant may not be allowed. In all respect the applicant is entitled to receive the benefit as workman in accordance the provision given under section 4b of the workman compensation Act, 1923. The relief sought by the applicant fully deserves to allow, treating the entire matter workman (civil) ^{Civil} under establishment.

10. That the applicant also receiving the service pension as civilian workman discharge certificate from the command Hospital is mentioned the case of the applicant happened to factory accident.

Lucknow:
Dated: 1/12/1996.

Deponent.



Chief Administrative Officer

Section 17

Case No.

Page No.

1. Paragraph 100

VERIFICATION

I, the above named deponent do hereby verify that the contents of paras 1 to 10 of this supplementary affidavit are true to my personal knowledge, No part of it is false and nothing material has been concealed. So help me God.

Signed and verified on this 15 day of December, 1996 at Lucknow.

Lucknow:

Dated: 1/12/1, 1996.

21/12/2011
Deponent t.

I, identify the deponent who has signed before me.

[Signature]
Advocate



1/12/96
C. S. Thakur
Identified by
R. B. Verma
Advocate

[Signature]

ANAND KUMAR J. CHARI
OATH COMMISSIONER
High Court of Judicature at
ALLAHABAD
Lucknow Bench Lucknow.

No.
Date: 1/12/96

¹⁴[4. Amount of compensation.—(1) Subject to the provisions of this Act, the amount of compensation shall be as follows, namely:—

(a) Where death results from the injury an amount equal to forty per cent of the monthly wages of the deceased workman multiplied by the relevant factor;

or

an amount of twenty thousand rupees, whichever is more;

✓ (b) Where permanent total disablement results from the injury

an amount equal to fifty per cent. of the monthly wages of the injured workman multiplied by the relevant factor;

or

an amount of twenty-four thousand rupees; whichever is more;

Explanation I.—For the purposes of clause (a) and clause (b), “relevant factor”, in relation to a workman means the factor specified in the second column of Schedule IV against the entry in the first column of that Schedule specifying the number of years which are the same as the completed years of the age of the workman on his last birthday immediately preceding the date on which the compensation fell due;

✓ *Explanation II.*—Where the monthly wages of a workman exceed one thousand rupees, his monthly wages for the purposes of clause (a) and clause (b) shall be deemed to be one thousand rupees only.

(c) Where permanent partial disablement results from the injury

(i) in the case of an injury specified in Part II of Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and

(ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity (as assessed by the qualified medical practitioner) permanently caused by the injury.

5. Bronchopulmonary diseases All work involving exposure to the
caused by hard metals, risk concerned.]

⁵³SCHEDULE IV

(See section 4)

Factors for working out lump sum equivalent of compensation amount in
case of permanent disablement and death.

Completed years of age on the last birthday of the workman immediately preceding the date on which the compensation fell due					Factors
1					2
Not more than 16..	..	..	..	..	228.54
17..	..	..	..	..	227.49
18..	..	..	..	..	226.38
19..	..	..	..	..	225.22
20..	..	..	..	..	224.00
21..	..	..	..	..	222.71
22..	..	..	..	..	221.37
23..	..	..	..	..	219.95
24..	..	..	..	..	218.47
25..	..	..	..	..	216.91
26..	..	..	..	..	215.28
27..	..	..	..	..	213.57
28..	..	..	..	..	211.79
29..	..	..	..	..	209.92
30..	..	..	..	..	207.98
31..	..	..	..	..	205.95
32..	..	..	..	..	203.85
33..	..	..	..	..	201.66
34..	..	..	..	..	199.40
35..	..	..	..	..	197.06
36..	..	..	..	..	194.64
37..	..	..	..	..	192.14
38..	..	..	..	..	189.56
39..	..	..	..	..	186.90
40..	..	..	..	..	184.17
41..	..	..	..	..	181.37
42..	..	..	..	..	178.49
43..	..	..	..	..	175.54
44..	..	..	..	..	172.52

⁵³ Sch. IV, Subs. by Act 22 of 1984, vide Sec. 7.

1						2
✓	45..	..	..	..	..	169.44
	46..	..	..	..	..	166.29
	47..	..	..	..	..	163.07
	48..	..	..	..	..	159.80
	49..	..	..	..	..	156.47
	50..	..	..	..	..	153.09
	51..	..	..	..	..	149.67
	52..	..	..	..	..	146.20
	53..	..	..	..	..	142.68
	54..	..	..	..	..	139.13
	55..	..	..	..	..	135.56
	56..	..	..	..	..	131.95
	57..	..	..	..	..	128.33
	58..	..	..	..	..	124.70
	59..	..	..	..	..	121.05
	60..	..	..	..	..	117.41
	61..	..	..	..	..	113.77
	62..	..	..	..	..	110.14
	63..	..	..	..	..	106.52
	64..	..	..	..	..	102.93
	65 or more	..	..	..	..	99.37]

Notes.—This Table is introduced in 1984 not helpful in determining the amount of Compensation payable for accidents under the Motor Vehicles Act; A.I.R. 1987 A.P. 127 (F.B.).