

FORM NO. 21.

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

QA/TA/RA/CP/MA/PT ~~0A.362~~ of 20 90

Chedi Lal Applicant(S)

Versus

U.O.Z.

.Respondent(S)

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Certified that the file is complete in all respects.

ified that the file is complete in all respects.
B.C file needed and destroyed

Signature of S.O.

Signature of Deal. Hand

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

18/11/89

18

Registration No. 362 of 1989

APPLICANT(S) Shri Chaitanya

RESPONDENT(S) State (V.R.C.)

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent ?
2. a) Is the application in the prescribed form ?
b) Is the application in paper book form ?
c) Have six complete sets of the application been filed ?
3. a) Is the appeal in time ?
b) If not, by how many days it is beyond time ?
c) Has sufficient cause for not making the application in time, been filed ?
4. Has the document of authorisation/ Vakalatnama been filed ?
5. Is the application accompanied by B.O./Postal Order for Rs.50/-
6. Has the certified copy/copies of the order(s) against which the application is made been filed ?
a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?
c) Are the documents referred to in (a) above neatly typed in double space ?
8. Has the index of documents been filed and pageing done properly ?
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application ?
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal ?

affidavit

yes

application

yes

yes
original order
dated 26/2/89

Particulars to be Examined

Endorsement as to result of examination

11. Are the application/duplicate copy/spare copy's signed ? *Yes*

12. Are extra copies of the application & all Annexures filed ?
a) Identical with the Original ?
b) Defective ?
c) Wanting in Annexures
d) File, 1 pages Nos 1 ?

13. Have the file size, enclosures & mailing full addresses of the respondents been filed ? *No*

14. Are the given address the registered address ? *No*

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 Aftidavit affirming that they are true ? *No*

17. Are the facts of the case mentioned in item no. 6 of the application ?
a) Concise ?
b) Under distinct heads ?
c) Numbered consecutively ?
d) Typed in double space on one side of the paper ? *Yes*

18. Have the particulars for interim order prayed for indicated with reasons ? *Yes*

19. Whether all the remedies have been exhausted. *No*

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1905-1906. 1907.

218 15-11-91

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

(A3)

O.A.No. 362/90(L)

Chhedi Lal

Applicant.

versus

Union of India & others

Respondents.

Hon. Mr. Justice K. Nath, V.C.
Hon. Mr. M.Y. Priolkar, A.M.

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

We have heard the learned counsel for the applicant. The only prayer sought in this case is to direct the respondents to pay the applicant's subsistence allowance with effect from March, 1990 pending the departmental disciplinary enquiry.

Annexure 1 is order dated 26.2.90 whereby the applicant was placed under suspension in contemplation of a departmental disciplinary enquiry. The order contains a direction for payment of subsistence allowance @ half of the pay and all allowances. According to the facts stated in the petition, the charge sheet dated 22.5.90 was served upon the applicant on 31.5.90 in respect of which he gave his reply dated 16.6.90 requiring, interalia, the payment of his subsistence allowance. It is stated that the enquiry is still pending but the applicant has not been paid any subsistence allowance whatsoever.

We do not think it necessary to keep the case pending because we find that the applicant's claim

ADM

for subsistence allowance is substantiated not only by the applicable rules, but also by the suspension order itself. If the respondents have paid the subsistence allowance then nothing would be needed to be done in that direction but we do not think that the applicant has come up with a case for non-payment.

We, therefore, dispose of this application with a direction to the respondents to pay the arrears of the applicant's subsistence allowance from March, 1990 in terms of the suspension order (Annexure -1), if not already paid within a period of one month from the date of receipt of copy of this judgment. We further direct that the respondents will continue to pay subsistence allowance in future till the disposal of the disciplinary proceedings unless the order is modified by the competent authority.

A.M.

V.C.

Lucknow Dated: Nov. 15, 1990.

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH AT LUCKNOW

O.A.No. of 1990(L)

Chedi Lal

... Applicant

Versus

Union of India & others

... Respondents

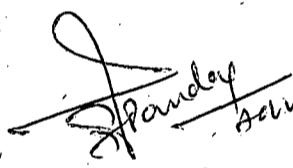
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1. Memo of application 1-9
2. Postal order No. 8-02-415960
Dated 15/11/90 for Rs 50/-only.
3. Vakalatnama Order of suspension - An I-10
Dated 26-2-90
4. Vakalatnama 11

Place: Lucknow

Dated: 15/11/90

Raju/-


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

*Reed copy
of judgment
S.P.S
Raju/-
26/11/90*

(5) (1)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH AT LUCKNOW

O.A. No. 362 of 1990(L)

CHEDI LAL
Aged about 41 years,
Son of Sri Raja Ram,
Resident of L66G Jail Road,
Fatehali ka talab, Lucknow.

Ticket no. 323,
working as Safaiwala,
under C.D.O. Charbagh,
Northern Railway, Lucknow.

... Applicant

Versus

22 Jan 1990

Sign all correct

Shambhu

1. Union of India through General Manager,
Northern Railway, Baroda House,
New Delhi.
2. Divisional Railway Manager,
Northern Railway, Headquarter,
Hazratganj,
Lucknow.
3. A.M.E. (C&W),
D.R.M. Office,
Northern Railway, Hazratganj,
Lucknow.

... Respondent

APPLICATION UNDER SECTION 19
OF THE TRIBUNALS ACT, 1985

DETAILS OF APPLICATION

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15-11-90
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1. Particulars of the order against which the application is made;

That the above said application is being preferred before this Hon'ble Tribunal against the impugned order of suspension dated 26.2.90 which had implemented with retrospective effect i.e. 24.2.90 and thereafter neither any departmental enquiry had been completed nor the applicant is allowed subsistence allowance according to Rules. A copy of the said impugned order of suspension dated 26.2.90 is being annexed here with as ANNEXURE No. 1 to this application.

2. Jurisdiction of the Tribunal;

The applicant declares that the subject matter of the order against which the applicant wants redressal is within the jurisdiction of the Tribunal.

filed today
SJM
15/11/90

3. Limitation;

The applicant further declares that the application is within the limitation period prescribed in section 21 of the Administrative Tribunals Act., 1985.

*Soyallistic
Fransde*

4. Facts of the case;

The brief facts of the case are as under;

1) That the petitioner was initially appointed as Safaiwala against a clear and substantive vacancy on 15.1.1971 and without any unsuitability or inefficiency the petitioner

(3)

is working on the same post under C.D.O.
Charbagh, Lucknow.

2) That the work and conduct of the applicant during the entire span of service was of such a high nature that none of the adverse entry has ever recorded or communicated and his service is full of satisfaction.

3) That on 23.2.1990 while the petitioner was working as Safaiwala, he was deputed to perform his work at plateform no. 5, 6 & 7. On that date 3005up Howrah Amritsar express train arrived at 16.50 and departed at 17.50. It is further stated that the scheduled stoppage of the said train at Lucknow charbagh station is only for 15 minutes while the train became 45 minutes late in accordance with the departure as given above.

23/2/1990
Signature
Shandy

4) That according to routine 3 safaiwalas are being deputed at one plateform but due to absence of other safaiwalas only the petitioner alone was on duty. It is also stated that when 2005 up came, the petitioner started cleaning A.C. compartment and he was present on his duty but certain complaints were made from the sleeper compartment at station and announcement took place by the station authorities to attend the said coach for cleaning. It is also stated that if a man entered in the A.C. coach, it is not possible to hear the voice, alarm or announcement

(4)

from out side at the plateform. As such without any fault of the petitioner departure of the said express train took place after 45 minutes late.

5) That on the basis of this ~~akkmr~~ complaint the petitioner was suspended with effect from 24.2.90 but the order has been passed by respondent no. 3 on 26.2.90.

6) That in consequent of the suspension order alleged as above the chargesheet dated 22.5.90 was served upon to the petitioner on 31.5.90. The only allegation is that due to fault of the petitioner express train became late for 45 minutes.

7) That in consequent of the chargesheet alleged as above the petitioner has submitted his detailed reply on dated 16.6.90 and stated that he was present on his duty and without any fault of his own he has illegally been suspended and the applicant also narrated that in place of 3 safaiwalas only he was present on duty and subsequently at the same time within a interval of 10 minuts 3 trains were arrived at different plateforms. By giving the reply petitioner analysed the position very clearly.

*Ex-Officer
Safaiwala
S. M. S.*

8) That in reply to the chargesheet the petitioner has also demanded that he may be allowed the subsistence allowance according to

(5)

rules but none of the single paige has been allowed to him with effect from March, 1990 till onwards.

9) That many representations have been preferred by the applicant and lastly on 13.9.90 the petitioner has sent a legal notice through his counsel and demanded the necessary subsistence allowance with effect from March, 1990 till onwards but nothing has been paid as yet. A copy of the legal notice dated 13.9.90 is being annexed herewith as ANNEXURE No. 2 to this application.

10) That the subsistence allowance of a suspended employee is his legal right and according to the rules the petitioner is entitled for subsistence allowance @ $\frac{1}{2}$ of his pay and after 3 months this may be enhanced @ $\frac{2}{3}$ of his pay.

11) That non payment of subsistence allowance is an illegal act of the authorities and the applicant is suffering great poverty which resulted that in the month of July, his children have been deprived for taking admission in school and college. This all humiliation proves the malefide intention and also amounting like major punishment.

12) That no law permits to Opposite Parties to restrain the suspension allowance of the petitioner while the petitioner generally used

(6)

to visit the office and also given an undertaking that he is not involved in any trade or business even then the subsistence allowance has not been paid to him by Opposite Party number-3. This shows the malafide intention of the authorities.

13) That no enquiry has been started as yet against the petitioner in consequent of his suspension.

5. Grounds for relief with legal provisions;

i) Because the impugned order of suspension is illegal does not stand according to the facts and circumstances.

ii) Because only the petitioner cannot be held responsible for late departure of the train.

iii) Because against the chargesheet the petitioner has already submitted a reply within time but none of the enquiry has been started as yet.

iv) Because the petitioner has not been allowed a single paisa as subsistence allowance from the date of suspension which is due with effect from March, 1990 till onwards.

v) Because non payment of subsistence allowance is punitive and humiliation against

(7)

the petitioner. The petitioner is also leading life in poverty and the education of his children has been stopped i.e. such punishment cannot be compensated in terms of money.

vi) Because the payment of subsistence allowance is the matter of right in accordance with law and principles of natural justice.

vii) Because it is obligatory upon the authorities to complete the enquiry within the stipulated period.

6. Details of remedy exhausted;

The applicant declares that he has availed all the remedies available to him under the relevant service rules etc.

(1) That the applicant for seeking the subsistence allowance made many requests to the authorities also reitreated the same request in reply to the chargesheet and by way of a separate legal notice dated 13.9.90 contained as Annexure no. 2 but to no response as yet on the request of the petitioner.

Exhibit
*Signed and
dated*

7. The matter is not previously filed or pending with any other court;

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

APZ

(8)

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

8. Relief sought;

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

(A) That this Hon'ble tribunal may very graciously be pleased to direct the Opposite Parties to pay subsistence allowance to the applicant according to rules which is unpaid with effect from March, 1990 till onwards and the Opposite Parties be directed to complete the enquiry within a specified period by this Hon'ble Tribunal failing which the impugned order of suspension dated 26.2.90 may be revoked and the applicant be reinstated with all service benefits.

2nd Jan 97

*Sigdised
J. M. D.*

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

9. Interim relief/order if any prayed for;

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

That on the basis of facts and circumstances

(9)

21/3
grounds mentioned in the application along with its annexures, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to issue a suitable direction/order to Opposite Parties to pay the subsistence allowance to the petitioner as early as possible which is due with effect from March, 1990 till onwards pending disposal of the application in the interest of justice.

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

11. Particulars of the postal order;

Postal order No. 8-02 Dated 15/11/90
for Rs 50/- only. 415960

VERIFICATION

I, Chedi Lal, Aged about 41 years, Son of Sri Raja Ram, Resident of L.66 G, Jail Road, Fatehali ka talab, Charbagh, Lucknow ticket no. 323, working as Safaiwala under C.D.O. Charbagh, Northern Railway, Lucknow do hereby verify that the contents of paragraphs 1 to 11 of this application are true to my personal knowledge except para-5 which is true on the basis of legal advice received and that I have not suppressed any material facts.

21/3
S. B. Pantry
J. M. S.

Application is being provided vide notification no. A-A.T.11019/44/87 dated 11th Oct. 1988.

Place: Lucknow

Dated: 15/11/90

SIGNATURE OF THE APPLICANT


(R.B. Pantry)
Advocate
Counsel for the applicant

उत्तर रेतवे

✓

निलम्बन आदेश का मानक फार्म, रेल मेत्रक ४३ अनुशासन और उपीलौ नियम

1968 का नियम ५४।४

मानक फार्म नं०-

सं०

TPC/34054/24/2/90

आदेश

पता श्री दीपीलाल, सप्लाइवाल

रेल प्रशासन का नाम

मण्डलकालिम

नियम स्थान

लखनऊ

दिन 26/2/90

पता श्री

N. 323 लखनऊ रेल कर्मचारी का नाम
और पदनामौ के विस्तृ अनुशासनिक कार्य
द्वाही अवेचित/अनिर्णित है।

रेल कर्मचारी का नाम और
पदनामौ के विस्तृ एक प्राइवेट एक अपराध
के सम्बन्ध में जॉच/पूछ-ताष की जा रही है
मुकदमा चल रहा है।

अतः अब स्वतंत्रता/रेलवे बोर्ड/निम्नहस्ताक्षरी रेलम० ५०३४० और ५०४ नियम, '968
के साथ संलग्न अनुसूची १, ११, और ११, को शतों के अनुसार रेल कर्मचारी को निलम्बित
करने वाला समझ प्राधिकारी/रेलम० ५०३४० और ०३०४, नियम १९६८ के नियम ५४।४ के परन्तु
में उल्लिखित प्राधिकारी, रेलम० ५०३४० और ०३०४ नियम, १९६८ के नियम ५४।४ के
परन्तु क्षारा प्रदत्त शक्तियों के प्रयोग करते हुये, स्वदद्वारा उक्त श्री दीपीलाल
- N. 323 लखनऊ के तत्काल/तारीख 24/2/90 को निम्नम्बनाधीन रखते हैं।

यह भी आदेश दिया जाता है कि जिस अवधि में यह आदेश प्रभावी रहेगा उसमें
उक्त श्री दीपीलाल, सप्लाइवाल समझ प्राधिकारी की अनुमति के बिना गुण्यालय नहीं
छोड़ेगा। T.N. 323 लखनऊ का राष्ट्रपति के आदेश द्वारा और उनके नाम से।

हस्ताक्षर ४

6/4/

नामौ (स्वतंत्रता/रेलवे बोर्ड) NAME (१५०)

यदि आदेश का राष्ट्रपति के नाम से दिया जाना अभिव्यक्त किया जाये।

निलम्बन प्राधिकारी का पद नाम

सचिव रेलवे बोर्ड, यदि निलम्बन प्राधिकारी रेलवे
बोर्ड हो।

यदि राष्ट्रपति निलम्बन प्राधिकारी हो तो प्राधिकारी का पदनाम, जिसे संविधान के अनुच्छेद ७७।२।४ के अधीन राष्ट्रपति की ओर
से आदेशों को अधिभावित करने का अधिकार दिया गया हो।

प्रतिलिपि श्री दीपीलाल, सप्लाइवाल T.N. 323 निलम्बित रेल मेत्रक का नामौ और
पदनामौ

निलम्बन की अवधि में उसे स्वीकार्य निर्वाह-भत्ते के सम्बन्ध में अलग से आदेश जारी किये
जायें।

कार्यालयी निलम्बन अधिकारी के कार्यालयी वित्तान अधिकारी सभी
वारों पाता रहेगा।

C/- कार्मिक व्याख्या, १५०/४८०

दीपीलाल

ब्राह्मण श्रीमान

महादेव भूमि भूमि भूमि

१५

लूक.

महादेव

वादी (मुद्देश्य)
मुद्देश्य (मुद्दालेह)

का

वकालतनामा

OA. 362-90 (i.)

Chhedi Lal.

६४

Council of India.

ब्राह्मण

नं० मुद्दमा

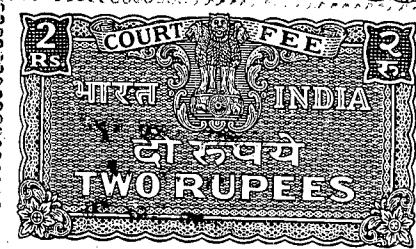
सन

पेशी की ता०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

R. B. Pandey. Adv.

562/२१ B. Chand nagar jain
Road - Rulema.



महादेव
एडवोकेट

नाम अंकालत
नं० मुकद्दमा फरीकैन
नाम फरीकैन

को अपना वकील नियुक्त करके (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महादेव स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रूपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकद्दमा उठावें या कोई रूपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रूपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें वकील महादेव द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी। मैं यह भी स्वीकार करता हूं कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को भेजता रहूंगा। अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे स्थिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर १० दिसंबर १९८०

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

१५/११/८०

महीना

सन् १९

ई०