

(See rule 114)

OA/TA/RA/CP/MA/PT39/40 of 20.....

Versus

INDEX SHEET

Certified that the file is complete in all respects.

Signature of Deal. Hand

However, the Act, i.e. the A.T. Act 1985, does not envisage so. The Act prescribes limitation for following the

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALIHAHABAD,
CIRCUIT BENCH AT LUCKNOW.

O.A. 39 of 1990 (L)

Abdul Wahab ... Applicant.

versus

Union of India & ors. ... Respondents.

Hon. MR. D.K. AGRAWAL, JUDL. MEMBER.

Hon. MR. K. OBAYYA, ADM. MEMBER.

(HON. D.K. AGRAWAL, J.M.)

This Application under section 19 of the A.T. Act, 1985, has been filed, aggrieved with the order of termination dated 16.12.80/81. The applicant, employed as Electric Fitter in Northern Railway, absented himself with effect from 18.4.77 to 22.2.88 allegedly on the ground of illness and other personal domestic problems. He is said to have made application for leave. However, neither the copies of application, nor the dates of application, has been disclosed despite due opportunity to the applicant. The Supplementary Affidavit filed by the applicant is as vague as the Original Application. The question as to whether the application is time barred within the meaning of section 21 of the A.T. Act, 1985.

2. The applicant's contention is that the alleged order of termination was not communicated to him; that it had ^{never} come to his notice ^{& prior to 6.2.89} that such an order was passed. ~~before 6.2.89~~. Therefore, the applicant has urged that the limitation be reckoned from the date of his knowledge.

OK Agrawal


A3
✓
S

However, the Act, i.e. the A.T. Act 1985, does not envisage so. The Act prescribes limitation for following three types of Applications:

- 1) The application filed against an adverse order passed after 1.11.1985.
- 2) The application filed against an adverse order passed in between 1.11.1982 to 1.11.1985
- 3) The applications filed in respect of adverse orders passed before 1.11.1982.

3. In cases falling under category 1 and 2 the Act confers the power on the Tribunal to condone delay under certain circumstances. As regards category 3, the Act clearly lays down that if the cause of action arose before 1.11.1982 and no proceedings for redressal of such grievance had been commenced before the said date, before any court or High Court, the Application shall not be entertained by the Tribunal. Thus, there is a statutory prohibition to entertain the applications in which the adverse order was passed prior to 1.11.1982. In this view of the matter the present applicant is not entertainable by the Tribunal within the meaning of the provisions contained in Section 21 of the Act. As such the application is dismissed summarily.


(K. SUBBAYA)
ADM. MEMBER.


(D.K. AGRAWAL)
JUDL. MEMBER.

21.3.1990

Dated the 21st March, 1990.

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 39 of 1996

APPLICANT(S) Abdul Wahab

RESPONDENT(S)

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.D./Postal Order for Rs.50/-
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 ?
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 pagination done properly ?
Have the chronological details of representation made and the outcome of such representation been indicated in the application?
Has the matter arisen in the application pending before any court of other Bench of Tribunal?

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

No

1-2-90

(P/)

17/1

Particulars to be Examined

Endorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed ?
12. Are extra copies of the application with Annexures filed ?
 - a) Identical with the Original ?
 - b) Defective ?
 - c) Wanting in AnnexuresMss. _____ pages Nos _____ ?
13. Have the file size envelopes bearing full addresses of the respondents been filed ?
14. Are the given address the registered address ?
15. Do the names of the parties stated in the copies tally with those indicated in the application ?
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?
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 ?
18. Have the particulars for interim order prayed for indicated with reasons ?
19. Whether all the remedies have been exhausted.

Yes

Yes

No

Yes

Yes

N/A

Yes

No

Yes

dinesh

DA 39/90 (L)

(F/L)

3

21/2/90

Hon. Justice K. Nath, J.
for K. Obayya, Am.

Sri M. P. Sharma is present for the applicant. The termination of the applicant from service under order dated 16/12/80⁸¹ has been challenged in this case. The ground of termination is said to be unauthorised absence of the applicant. According to the applicant he had applied for and had been sanctioned ten days leave w.e.f. 18/4/77. The case of the applicant is that thereafter he had been sending applications after applications for extension of leave but none of these was sanctioned and ultimately the impugned order was passed without opportunity to the applicant. It is admitted that the applicant did not report for duty before 23/2/88. The question is whether in these circumstances this application is maintainable and is within limitation. In order to appreciate the relevant facts, it is directed that the applicant will file an affidavit stating the dates on which he filed applications for extension of leave. He will also furnish proof of having actually made the applications. List the case for admission on 19/3/90.

Am.

VC.

19-3-90

Hon. D.K. Agarwal, Jm.
Hon. K. Obayya, Am.

Heard Sri M. P. Sharma,
counsel for the applicant. Reserve
for orders.

Am.

Jm.

C
Pa
Pa

1-2-90

194
1/1
6

V L
De. Registrar(J)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH : LUCKNOW.

O.A. NO. 39 of 1990

4

ABDUL WAHID KHAN

.....

APPLICANT

VERSUS

UNION OF INDIA & OTHERS

.....

RESPONDENTS

I N D R X

Page No.

1. Application
2. Annexure No.1 (order dated 6.2.89)
3. Annexure No.3 (order dated 11.9.89)

1-9

10

11

Abdul Wahid Khan

Applicant

12/11/90

he n

Notes
Permanently
7/2/90

1-2-90

AM
2

V Deputy Registrar

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH : LUCKNOW.

O.A. No. 39 of 1990 (4)

Abdul Wahab Khan, aged about 50 years,
s/o Late Shri Abdul Sakoor Khan,
R/o C/o Mohd. Tayyer Khan,
30, Cantt. Road, Lucknow.

..... Applicant.

Versus

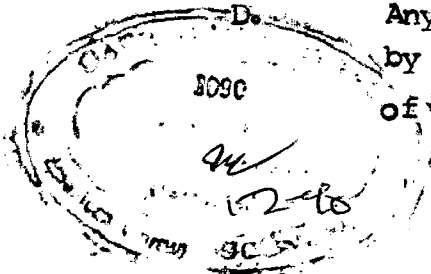
1. Union of India,
Through the Secretary to Government,
Ministry of Railways,
New Delhi.
2. General Manager,
North Eastern Railway,
Gorakhpur.
3. Divisional Railway Manager,
North Eastern Railway,
Lucknow.

..... Respondents.

Col.No.1 :

Particulars of the order against which application
is made :

- A. Alleged Order No.NIP E/PC/M-AW dated
16-12-80/81, which may kindly be summoned.
- B. Order No. K/161/A-Wahab/D dated 6.2.1989
contained in Annexure No.1.
- C. Order dated 11.9.1989 contained in
Annexure No.3.
- D. Any other order likely to be passed
by the Respondent no.2 on the appeal
of the Applicant.



Abdul Wahab Khan 2....

8
(14/3)

Col.No. 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 this Hon'ble Tribunal.

Col.No. 3 : Limitation :

The applicant further declares that the application is within time and under limitation prescribed under Section 21 of the A.T. Act 1985 on the basis of orders contained in Annexure Nos. 1 and 3.

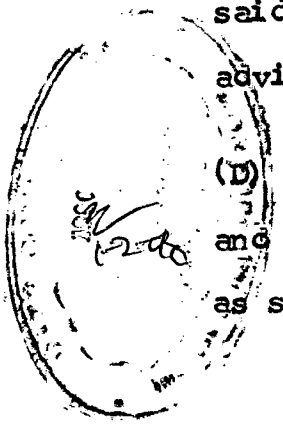
Col.No. 4 : Facts of the case :

(A) That the applicant was appointed on 11.1.1957 as semi-skilled, then skilled and lastly as Diesel Electric Fitter in the Kanpur Workshop, Anwarganj, Lucknow.

(B) That the applicant was a confirmed employee under the Respondents.

(C) That, however, the applicant proceeded on applied leave duly sanctioned for 10 days with effect from 18.4.1977 and due to compelling circumstances the applicant extended his leave as he was seriously ill and confined to bed and the said extension of leave was applied as Doctors had advised the same.

(D) That the applicant continued to extend leave and in between the extension of leave his wife died as she was also seriously ill.



Abdul Wahab Khan

9
(14/5)

(E) That ultimately on 23.2.1988 the applicant reported for his duty to the Divisional Railway Manager, North Eastern Railway, Lucknow.

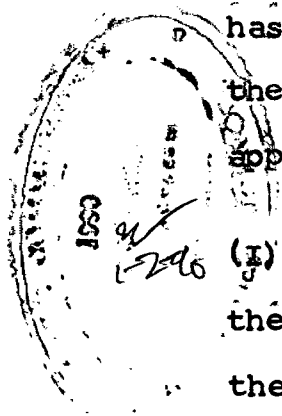
(F) That it is further submitted that the applicant was ready and always willing to attend his duties and actually he resumed his duties on 23.2.1988 by submitting his joining report to the Divisional Railway Manager, North Eastern Railway, Lucknow with a prayer that he is able to resume his duties and actually he resumed his duties in view to work on his duties.

(G) That, however, after receiving the joining report tendered to the Divisional Railway Manager, North Eastern Railway, Lucknow the office of the said authority obtained a report from the Divisional Mechanical Engineer who had reported that the applicant has already been removed from the service vice order no. NIP E/PC/M-AW dated 16-12-80/81 and he also opined that why the applicant has not availed the benefit of DAR and on the basis of that report the Respondent no.3 disallowed the applicant to resume his duties. A true copy of the communication letter dated 6.2.1989 is enclosed herewith as Annexure no.1 to this application.

(H) That the alleged order dated 16-12-80/81 has never been served upon the applicant, therefore, there was no occasion for the applicant to move an appeal under the Departmental & Appeal Rules.

(I) That as soon as the applicant had received the order dated 6.2.1989 he immediately applied to the Respondent no.3 with a prayer that the alleged

Abdul Wahab Khan...



order dated 16.12.80/81 has never been received by the applicant, therefore, the said authority may supply a copy of the said order so that the applicant may file an appeal against the order dated 16.12.80/81. A true copy of the applicant's request and demand of the alleged removal order is enclosed herewith as Annexure no.2 to this application.

(J) That in response to the applicant's request dated 17.2.1989 as contained in Annexure no.2 the Respondent no.3 had communicated vide its letter dated 11.9.1989 that the alleged removal order has been passed on the ground of applicant's absence and the same order was pasted in the notice board at Kanpur. A true copy of the order of communication dated 11.9.1989 is enclosed herewith as Annexure no.3 to this application.

(K) That the alleged response made by the Respondent no.3 vide its letter dated 11.9.1989 was incorrect and illegal because the case of the applicant was that the alleged removal order was not served and in any case as per his demand to supply a copy of the removal order as mentioned in Annexure No.2 was to the effect that the same may be supplied and, therefore, it was the duty of the Respondent no.3 to supply a copy of the removal order to the applicant but it has not been done and in spite of demand the applicant was not served with the removal order as alleged and communicated.

(L) That there is no law to the effect that the alleged removal order without serving personally

Abdul Wahab / ceri 5....

on the applicant the same shall be pasted in the notice board, therefore, the alleged mode of service as indicated in Annexure no.3 is totally illegal.

(M) That it appears from the Annexure no.3 itself that no efforts have been made to serve the applicant personally or by registered post which is valid mode of service.

(N) That it is further submitted that the home address, permanent and temporary address of the applicant was in the record of the Respondents and even at Kanpur but no efforts have been made to write a letter to the applicant intimating therein that the services of the applicant have been removed on the ground of his absence.

(O) That as the applicant was a confirmed employee his services could not have been removed on the ground of absence unless and until an opportunity to show ^ucase as contemplated under Article 311 of the Constitution of India is given to the applicant. In this instant case no such opportunity was given to the applicant and no opportunity ~~was given~~ under Article 311 of the Constitution of India was given, therefore, the alleged removal order was illegal.

(P) That the alleged removal order was also not passed by the competent authority and it was not disclosed to the applicant as to who has passed the order of removal till today, therefore, the alleged removal order is also illegal and without jurisdiction.

(b) Because the alleged removal order has not been served upon the applicant in accordance with the ~~law~~ provisions of law and, therefore, there is no presumption that the alleged removal order has been served on the applicant.

(c) Because the applicant was permanent employee and, therefore, he could not have been removed from service on the ground that he was absent from duty unless a show cause notice or proceedings in accordance with the provisions of principle of natural justice as well as in accordance with the provisions of Article 311 of the Constitution of India are adopted and proceeded by giving ~~principle of defence~~ opportunity to defence and say with regard to his leave.

(d) Because the applicant had applied leave and all the applications have been sent to the concerning authorities and the same was not refused.

(e) Because the applicant was already ready and willing to attend to his duties and actually he resumed his duties on 23.2.1988 but he was not allowed deliberately and wilfully by the concerning authority to resume his duties and, therefore, it was their fault.

(f) Because the alleged removal order is without jurisdiction and illegal.

Col. No. 6 :

Details of the remedy exhausted :

It is submitted that the applicant has filed an appeal on 20.6.1989 but till to-day no response has been made by the appellate authority and the same is still pending.

Col. No. 7:

Matter previously filed and pending ;

That the applicant submits that for the present disputes, the applicant has not filed any suit or proceeding in any court of law.

Col. No. 8 :

Reliefs sought for :

In view of the above facts and grounds it is respectfully prayed that this Hon'ble Tribunal be pleased to quash the alleged impugned order of removal dated 16.12.80/81 referred in Annexures No.1 and 3 respectively by declaring and directing the Respondents that the applicant is in continuous service and is entitled to get his salary and continuity on his post with the direction to the Respondents to pay salary upto date and it is further prayed that the alleged removal order may kindly be summoned from the Respondents and be placed on record.

Col. No. 9 :

Interim order :

NIL.

Col.No. 10:

Not relevant.

.....9.....

Abdul Wahab Khan

15

- : 9 : -

Col.No. 11:

Indian Postal Order no.

02 409945

Name of Post Office :

Ludhiana

Payable Post Office at G.P.O.

GPO Allahabad

Col. no. 12:

No. of enclosures :

Annexures :

1. Copy of order dated 6.2.1989.
2. Copy of ~~order dated 6.2.1989~~ applicant's request and demand letter.
3. Copy of order dated 11.9.1989.
4. Copy of appeal.
5. Copy of registry receipt.

Abdul Wahab Khan
Applicant.

Ne

verification

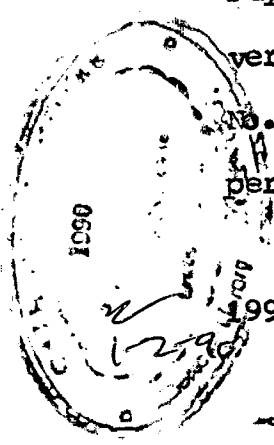
I, Abdul Wahab Khan, aged about 50 years, S/o Late Shri Abdul Sakoor Khan, R/o C/o Mohd. Tayyer Khan, 30, Cantt. Road, Lucknow do hereby verify that the contents of column No.1 to column No.12 of this application are true to my personal knowledge.

Signed and verified at this
1990 at Lucknow.

2-2-90
day of January.

Abdul Wahab Khan

Applicant.



C.N.A.
1-2-90
1-2-90

PK

1-2-90

समक्ष सेण्ट्रल स्टामिनस्ट्रेटिव ट्रिब्यूनल, लखनऊ

कलेम नं०- /1990

अब्दुल वहाब खान

..... याची

बनाम

नादर्न-ईस्टर्न रेलवे

.....प्रतिवादी।

सनेकजर नं०- 1

रजिस्टर्ड

सं०: का/161/अ०बहाब/डी०वि०फि० पूर्वोत्तर रेलवे

मण्डल रेल प्रबन्धक,
लखनऊ।

दिनांक: 6-2-89

श्री अब्दुल वहाब,
डी०वि०फिटर,
30, कण्टोमेण्ट रोड, कंधारी बाजार,
लखनऊ।

आपको सन०आई०पी० नं०-ई/पी०सी०/सम-स०डब्लू० दि०
16-12-80-81 के द्वारा रेल सेवा से निष्कासित रिसूव कर दिया
गया था। उपरोक्त सम्बन्ध में आपके प्रार्थना-पत्र दिनांक 23-2-89
पर डी०सम०ई०/सी०सण्डडब्लू० ने निम्न आदेश दिये हैं।

रिसूवल के बाद निर्धारित अवधि में अपील आवश्यक थी
किन्तु कर्मचारी ने डी०स०आर० के तहत प्रदत्त सुविधा का उपभोग
क्यों नहीं किया इस बात का कोई जिक्र नहीं है।

अतः इतने अन्तराल के बाद कार्य पर वापस लेने में कोई
वैधानिकता स्पष्ट नहीं होती है।

MP
ML
M. P. Sharma
Advocate,



कुले म०रे० प्र०का०
लखनऊ।

Abdul W. Kale Khan

5/2/

11

माननीय सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिब्यूनल, लखनऊ ।

पिटीशन नं० /1998

अब्दुल वहाब खॉ --- याची

बनाम

पूर्वोत्तर रेल्वे व अन्य ---- प्रतिवादीगण

एनेक्जर नं०- 3

पू०उ०रे०

पोस्टल

कार्यालय मं०रे०प्र०॥क॥,
लखनऊ ।

सं०ई/पीसी/अम्बडा/फिटर/डीजल

दिनांक 11.9.89

श्री. अब्दुल वहाब खॉ,
उ०केन्टामिण्ट रोड,
आडियन सिनेमा के नजदीक
लखनऊ ।

विषय :- श्री अब्दुल वहाब खॉ भूतपूर्व डीजल फिटर/ कानपुर अनवरगंज ।

संदर्भ :- आपका आवेदन पत्र दिनांक 12.6.89

आपके आवेदन पत्र के सन्दर्भ में सूचित किया जाता है

कि नियमानुसार रिमूवल सम्बन्धी निष आपके यहां भेजी गयी थी

तथा ~~आप~~ आपके अनुपस्थित रहने की दशा में निष को नोटिस

बोर्ड पर दो ग्राहों के समक्ष लगा दिया गया था ।

अतः यह मान्य नहीं है कि निष आपको सर्व
नहीं की गई ।

यह डी०मस्म०ई०॥सीएण्ड डबलू के अनुमोदन से
जारी किया जाता है ।

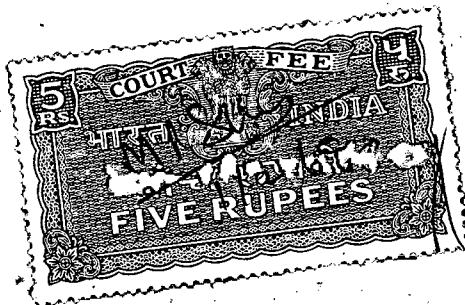
12
12)
M. P. Sharma
Advocate,

Abedul Wahab Kesro
ह० अपठनीय
मं०रे०प्र०॥क०॥
लखनऊ ।

ब अदालत श्रीमान
[वादी अपीलान्त]
प्रतिवादी [रेस्पाडेन्ट]

Before the Administrative Tribunal Lucknow
Abdul Wahab Khan
Union of India

महोदय



वादी (अपीलान्त)

बनाम

प्रतिवादी (रेस्पाडेन्ट)

नं० मुकद्दमा

सन

पेशी की ता०

१६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर श्री

M-P-SHARMA

PRANOD SHARMA, Sharwan Kumar
वकील
महोदय
एडवोकेट

नाम अदालत	नाम फरीकन	नाम
मुकद्दमा नं०		

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

M. P. Sharma
Advocate,

Abdul Wahab Khan
हस्ताक्षर 27.1.90

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महोदय

स्वीकृत

१६ ई०

1987

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH : LUCKNOW.

O.A. NO. 39 of 1990 U

ABDUL WAHID KHAN APPLICANT
VERSUS
UNION OF INDIA & OTHERS RESPONDENTS

I N D E X

Page No.

1. Annexure No.2 (Applicant's request and demand letter) 13
2. Annexure No.4 (Copy of appeal) 14-16
3. Annexure No.5 (Copy of registry receipt) 17

Abdul Wahid Khan
APPLICANT.

MU Ad

M. P. Sharma
Advocate.

20/13

सम्मान सेण्ट्रल एडमिनिस्ट्रेटिव ट्रिब्यूनल, लखनऊ।

कलेम नं० /1990

अब्दुल वहाब खान

याची

बनाम

नार्दर्न-ईस्टर्न रेलवे

....प्रतिवादी।

एनेकजर नं०- 2

रजिस्टर्ड एड्रेस

सेवा में,

मण्डल रेलवे प्रबन्धक,
पूर्वोत्तर रेलवे,
लखनऊ।

महोदय,

आपके पत्र सं० 161/अ-वहाब/डी०वि०पि० दिनांक 6-2-89 के संदर्भ में निवेदन है कि आपके पत्र दिनांक 6-2-89 में उल्लिखित पत्र सं०आई०पी०/इ/पीसी/एम०ए०हब्लू० दिनांक 16-12-80-81 जिसेके द्वारा आपने लिखा है कि मुझे सेवा से रिमूव कर दिया गया है। उस आदेश की प्रतिलिपि अथवा मूल आदेश मुझे आज तक नहीं दिया गया है। अतः अपील का प्रश्न नहीं उठता।

आपसे अनुरोध है कि आप अपने आदेश उपरोक्त की प्रतिलिपि मुझे शीघ्र प्रदान करने की कृपा करें, ताकि मैं अपील कर

सकूँ।

Res

M. P. Sharma
Advocate,

1990

आपका,

अब्दुल वहाब खान
डीजल इलेक्ट्रिक फिटर,
पता:- 30, केण्टोनमेण्ट रोड,
नियर ओडियन सिनेमा, के पास
लखनऊ।

Abdul Wahab Khan

121

CENTRAL ADMINISTRATIVE
BEFORE THE HON. MEMBER SECRETARY TRIBUNAL

No. /1990

Abdul Wahab Khan ...

Petitioner

Versus

Central North Eastern Railway ...

Ops.

Annexure No. 4

From,

Abdul Wahab Khan,
the then Diesel/ Vehicle Fitter,
C.P. A. (Diesel)
North Eastern Railway,
Kampur Mawganj,

at present residing at
30 Contonment Road,
Near Odeon Cinema, Lucknow.

120689

To,

The General Manager,
North Eastern Railway,
Gorakhpur.

Subject:- Appeal against the alleged order of
removal passed by the Divisional
Railway Manager, North Eastern Railway,
Lucknow.

Sir,

The appellant most humbly submits as under :-

That the appellant proceeded on applied leave

duly sanctioned for 10 days with effect from 18.4.77

and due to compelling circumstances the appellant

extended his leave as he was seriously ill and con-

fined to bed and the said extension of leave was

M. P. Sharma
Advocate,

Abdul Wahab Khan Contd:.....20

1522

applied as Doctors had advised the same.

That the appellant continued to extend leave and in between the extension of leave his wife died as she was also seriously ill.

That ultimately on 23.2.1988 the appellant reported for his duty to the Division Railway Manager North Eastern Railway, Lucknow.

That the Divisional Railway Manager, North Eastern Railway, Lucknow vide its letter dated 6.2.1989 informed the appellant that he has been removed from service.

That on 17.2.1989 the appellant applied to the Divisional Railway Manager, North Eastern Railway to supply the copy of the removal order as the same was never served upon the appellant but inspite of physical approach the alleged removal order dated 6/12.8.1981 has not been supplied to the appellant.

1c
1es
M. P. Sharma
Advocate,

That, however, against the alleged communication letter dated 6.2.1989 the appellant is filing the appeal on the ground that the alleged removal order has not been served upon the appellant as yet and in absence of proper service the appellant is

Abdul Wahab Khan Contd:.....

(A7/3)

23

- : 3 : -

16

entitled to resume his duties on his post as Diesel/
Vehicle Fitter.

That under the compelling circumstances
which were beyond his control the appellant had
applied leave and extended it and when he was in a
position to control his circumstances then he
presented himself for duty but the same was not
allowed.

That the appellant was a permanent Railway
Servant, and therefore, unless an opportunity is
given to him his services were not liable to be
removed.

That no opportunity as contemplated under
Article 311 of the Constitution of India was given
to the appellant, therefore, the alleged removal
order is illegal and void.

That under the circumstances, it is most respect-
fully prayed that the alleged removal order fore-
said which was not served upon the appellant may
kindly be summoned and be pleased to quash it by
directing the Divisional Railway Manager, North
Eastern Railway, Lucknow to reinstate the appellant
with full pay.

Thanking you,

Dated Luck 20.6.89

Your's faithfully,

Abdul Wahab Khan
ABDUL WAHAB

M. P. Sharma
Advocate.

Before the CAT, Civilist Benet
24 letters
Abdul Wahab & WAKP of 2nd

8/6

17

Rec no 5

बोमा नहीं NOT INSURED

लगाये गये डाक टिकटों का मूल्य रु०
Amount of Stamps affixed Rs.

एक रजिस्ट्री*.....
Received a Registered*.....

पानेवाले का नाम.....
Addressed to.....

क्रमांक/No. 49721

तारीख मोहर
Date Stamp

पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

बोमा नहीं NOT INSURED

लगाये गये डाक टिकटों का मूल्य रु०
Amount of Stamps affixed Rs.

एक रजिस्ट्री*.....
Received a Registered*.....

पानेवाले का नाम.....
Addressed to.....

क्रमांक/No. 49731

तारीख मोहर
Date Stamp

पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

बोमा नहीं NOT INSURED

Abdul Wahab Khan

NE
NE
M. P. Sharma
Advocate.

1950

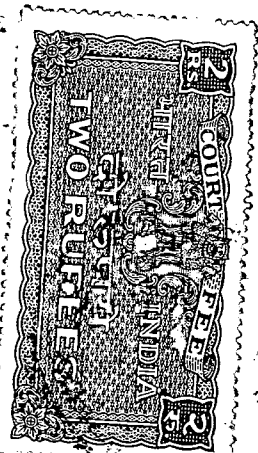
25 (AD 1)

Before the Learned Central Administrative Tribunal,
Circuit Bench, Lucknow.

O.A. No.

39

/1990 (4)



Abdul Wahab Applicant.

Versus

Union of India & others Opp. Parties.

1990
AFFIDAVIT
45 IM
DIST. COURT
U. P.

SUPPLEMENTARY AFFIDAVIT OF THE APPLICANT

I, Abdul Wahab Khan aged about 50 years S/o Late Sri
A.S. Khan R/o 30, Cantt. Road, Lucknow do hereby State
on oath as under :

1. That the deponent is applicant in the above noted
case and is well acquainted with the facts of the afore-
said case.
2. That deponent states that in between 18.4.77 to
22.2.88 the deponent availed leave .
3. That on 23.2.88 the deponent resumed his duties.
4. That w.e.f. 18.4.77 and onward the deponent submitted
his leave applications to the Foreman/Asstt. Engineer,
Diesel Shed, N.R. Anwarganj, Kanpur where he was posted
at the material time and the same are still available
in the records of the said authorities.
5. That the deponent had no duplicates of the leave
application and the same were originally submitted to
the concern authorities. Being illeterate, ^(Can only sign) the deponent
has not maintained the duplicate records of the original
leave applications as said herein above.

Abdul Wahab Khan

Contd....2/-

6. That the alleged removal order No. NIP(N)E/PC/M-AW dated 16,12.80/81 was never served on the deponent till this date of filing this affidavit.
7. That vide ^{Alone} ~~Act~~ No.3 to the application for the first time in response to the demand made by the applicant, the reason for termination was communicated vide order dtd. 11.9.89 that the deponent had been removed from service on the ground of absence from duties.
8. That no proceedings have been initiated against the deponent under Act 311 of the Constitution of India and no opportunity has been given to him before removal.
9. That as the services of the deponent was removed on the ground of absence from duties without complaine of Law hence the same being punishment is void as held by the Hon'ble Supreme Court of India as reported in 1982 AIR Sc. 854 Robert D.Suza Vs. Ex.Engineer and 1976 AIR Sc. 37, and in view of the said the application is maintainable.

Abdul Wahab Khan
Deponent.

VERIFICATION

I, the deponent do hereby verified that the contents of paras 1 to 9 of this affidavit are correct to the best of his own knowledge and belief. No part of it is false.

Signed and verified on the 19th day of March 1990 in court of Lucknow.

Abdul Wahab Khan
Deponent.

C-2104514

At Lucknow, this 19th day of March 1990
I, the deponent do hereby verified that the contents of paras 1 to 9 of this affidavit are correct to the best of his own knowledge and belief. No part of it is false.

Abdul Wahab Khan

Advocate
Lucknow Court, Lucknow
Date 19.3.1990

Identify him.
Ramesh Chandra