

Central Administrative Tribunal
Lucknow Bench

-7A-152/92 (7L)

Cause Title

DA NO-573/90

of 1993

Name of the Parties

Union of India

Applicant

Versus

Wazir Ahmad

Respondents.

Part A . P.C

Sl. No.

Description of documents

Date

1.

Check List

A1-A2

2.

Order Sheet.

A3-A8

3.

Judgement: Dated 7/1/93

A9-A11

4.

Petition Copy :

A12-A31

5.

Annexure

6.

Power

7.

Counter Affidavit with power

A32-A42

8.

Rejoinder Affidavit.

A43-A44

Civil case No. 1486/91

A45-A52

B - File

B53-B92

E - File

C93-C101

C - File

Encl. 15/03/93

Wazir

17.03.93

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

23-ATTHORNHILL ROAD ****

ALLAHABAD U.P. ***

REGISTRATION No. 573 OF

1990

APPLICANT (S)

Union of Inds. & M.D.P.O. N.R.Ly.
Hazaratgarh, Lucknow.

RESPONDENT (S)

Shri Wazi Ahmad

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 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 case for not making the application in time, been filed?
- 4* Has the document of authentication: Vakalatnama been filed?
- 5* Is the application accompanied by:
B.O./Postal Order for Rs.50- (Fifty).
- 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 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?

73

73

73

73 (3 sets filed)

73

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DD 515560 du B. 50/-
A-17/5790.

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PARTICULARS TO BE EXAMINED

ENDORECMENT AS TO
RESULT OF EXAMINATION

- 8* Has the index of documents been filed and paging done properly?
- 9* Have the chronological details of representation made and the outcome of such representations been indicated in the application?
- 10* Is the matter raised in the application pending before any court of law of any other Bench of Tribunal?
- 11* Are the application/documents copy/spare copies signed?
- 12* Are extra copies of the application with annexures filed?
 - (A) Identical with the Original:
 - (B) Defective?
 - (C) Wanting in Annexures?
- NOS...../PAGES NOS.....?
- 13* Have file size envelopes bearing full address of the respondents been filed?
- 14* Are the given addresses, the registered addresses?
- 15* Do the names of the Parties 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. 5 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?
- 20* Classification of case: Bench Enr.
- 21* Cause of Action: Against order of I.D. AER.

Y3
—
NO
only direct copy signed.
Y3
Y3
NO
Y3
Y3
N-A
Y3
Y3
Y3
Y3
The case is complete.
@
17/7
80 (15)
No other remedy available.

ANIL/
5.6.90

Report as per and put up before Hon'ble Court on 06/8/90. ~~created in~~

3117/90
dy. Dy. (I)

①

O.A. No. 573/90

A3

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

Hon' Mr K.J. Raman, A.M.

① 6/8/90

We have heard Shri G.P. Agrawal, learned counsel for the respondents.

ADMIT.

Issue notice to the respondents to file counter within 4 weeks to which the applicant may file rejoinder within 2 weeks thereafter. ~~and~~

In the matter of interim relief issue notice to the respondents and list this case for orders on 20-8-90. Till that date the operation of so much of the impugned order dated 17.1.90 contained in Annexure-A-1, in which the applicant has been directed to post the respondent at Barabanki and for that purpose to transfer out another person who has already been posted in the respondent's place, shall remain stayed. The proceeding of recovery of back wages from the applicant shall also remain stayed till that date.

[Signature]
A.M.

[Signature]
V.C.

(sns)

②

20.8.90

Hon. K.J. Raman, A.M.

Hon. J.P. Sharma, J.M.

Shri Rakesh Verma, learned counsel, files his vakalatname on behalf of the respondents. He prays for and is allowed two weeks' time to file a counter affidavit. Rejoinder affidavit, if any, may be filed within one week thereafter.

Let this case for orders in regard to continuation of the stay ~~order~~ dated on 24.9.90.

Till 24.9.90 the interim order already issued shall continue.

[Signature]
J.M.

[Signature]
A.M.

OR

In compliance with Hon'ble Court's orders dt 6-8-90, notices issued to the respondents by Regd post. Neither any reply nor any undelivered cover received in the section so far submitted.

[Signature]

Recd copy for petition 16-8-90
23/8/90

O/R
No any person has not come to receive the order dt 20/8/90 for Barabanki.
[Signature]
23/8/90

Recd copy
24/8/90
24/8/90
24/8/90

3

AS

ORDER SHEET
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

O.A. NO. 573 OF 19 90

Vs.

Sl.No.	Date	Office Report	Orders
--------	------	---------------	--------

5

19.11.1990

Hon. D.K. Agrawal, J.M.

Hon. K. Obayya, A.M.

None appears for the applicant. Dr. R.G. Padia, learned counsel for the respondent, has sought an adjournment. Allowed. Counter affidavit may be filed within 8 weeks hereof. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

List this case before the DR(J) on 20.3.91 for completion of pleadings and thereafter let it be kept in the sine die list for it for hearing according to its Sl

The stay order dated shall continue to hold good till then.

[Signature]
A.M.

[Signature]
J.M.

pg.

OR

None has come to receive the copy of order dt. 19.11.90 for the parties.

[Signature]
21/11/90

6 20-3-91

Peruse office Report dt. 19/11/91. C.A and R-A has been filed. Now the pleadings are complete. Let the same be kept in sine die list.

Sri G.P. Agarwal, C.A.
Sri Rakesh Verma
R-G. Padia, C.A.

[Signature]

OR
C.A and R-A has been filed.

[Signature]
19/11/91

(5) T. A. 150/92 T.L

A)

30.6.92
D.R.

Register the case as T.A.

This case has been received
after transfer to this
Bench from CAT Ald.

Issue notice to both the
counsel for the parties.
Case is listed for
hearing before the
Hon. Bench on 24/8/92.

✓

OK
C.A.; R.A.
have been exchanged
SFH.
R
29-8-92

OK
Notices issued
on 16-7-92
✓

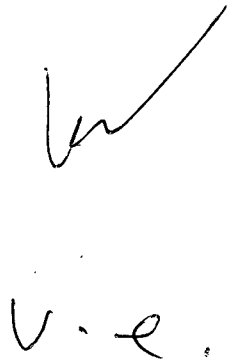
AB

O.A. No 573/90

28/8/92 Hon. Mr. Justice U.C. Sinvastava, V.C.
Hon. Mr. K. Obayya, A.M.

Request to take up the case
after the ~~the~~ lunch is
refused. Case is
adjourned to 12.11.92.


A-M.


V.C.

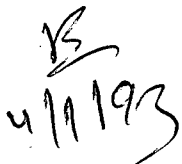
12.11.92

No sitting of D.M. only
to 24.12.92



24.12.92 - No sitting adj to 7.1.93
7.1.93

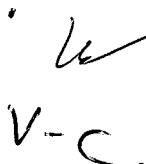
O.R.
S.F.H.


4/1/93

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

Heard learned Counsel for the Parties.
Judgment dictated separately.


A-M.


V.C.

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CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW

T.A.No.150 of 1992(L)

(O.A.No.573/90)

Union of IndiaApplicant

Versus

Wazi Ahmad Respondent

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

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

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

Feeling aggrieved by the award dated 7.1.90 given by the Central Government Industrial Tribunal holding that the termination of the services of the applicant w.e.f. 18.9.85 is illegal and unjustified and he was entitled to reinstatement with full back wages and all consequential benefits, the Union of India has filed this application. The case of the Union of India is that the respondent absented himself on several occasions and he was only a casual substitute and consequently no right was vested in him. The principle of 'no work-no pay' was applicable in this case but even then the same was ignored. The respondent was declared medically fit by the Railway Doctor vide memo dated 11.3.83. Thereafter he worked under the Station Superintendent, Lucknow upto 13.9.84 and subsequently on his request he was transferred to Barabanki to work as Porter where he worked from 17.9.85 whereafter his services were terminated. The Union of India opposed the application before the Labour Court stating that the applicant worked as a Substitute Porter at Lucknow Station for 137 days during the period from 16.1.84 to 13.8.84 and since the appointment of substitute porter at that time was banned, his appointment was not legal and the same

Uc

was fraudulently obtained. The ^{applicant} reported for duty on 3.8.84 and he was directed to work as casual substitute w.e.f. 18.9.84. He worked as such upto 17.9.85 and thereafter he absented himself and as another person was already appointed, no vacancy of porter remained to be filled up and the applicant was discharged w.e.f. 18.9.85 due to his continued absence.

2. The respondent refuted these allegations. The Labour Court after taking into consideration the oral and documentary evidence of record, came to the conclusion that as a matter of fact, the respondent had worked continuously and from the statement of witnesses, it was concluded that the applicant worked for more than 240 days. The Labour Court in its exhaustive judgment has dealt with entire evidence and thereafter arrived at a particular conclusion. The tribunal cannot sit in appeal over the assessment of the evidence. The judgment of the labour Court is based on the assessment of the evidence and it cannot be said that there was no material before the Labour Court or that it is based on no evidence. Accordingly, it came to the conclusion that as the applicant had worked for more than 240 days, his services were unjustifiably terminated and that is why he was directed to ^{be} reinstated in service with back wages. However, the Labour Court has allowed back wages to the respondent without taking any proof of it that he was not in any gainful employment as in that event, the respondent would not have been entitled to wages for the said period because he had got an employment. Accordingly, this

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application is allowed only to the extent that so far as the back wages are concerned, an enquiry shall be made by the applicant in accordance with law calling upon the respondent to furnish a proof that during this period he was not in any gainful employment and if it was so, after deducting the amount, the same will be paid to him. It is not a case in which there was a refusal on the part of respondent but it is a case in which the respondent was not allowed to work by the applicant. With the above observations, the application is partly allowed. No order as to costs.


MEMBER (A)


VICE CHAIRMAN.

DATED: JANUARY 7, 1993.

(ug)

Presenting Officer
G.P. Agarwal
Advocate

Bench.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

I N D E X

IN

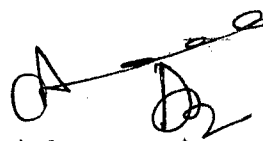
O.A. NO. 573 of 1990

DISTRICT ~~LUCKNOW~~ Kanpur.

Union of India vs. Shri Wazi Ahmad

Sl.No. Particulars of documents. Page no.

- | | |
|---|----------|
| 1. Stay application - | Misc. 1 |
| 2. Petition - | 1 to 5 |
| 3. Annexure A1 Compi.I -
copy of award - | 6 to 13 |
| 4. Annexure A2 Comp.II-
copy of application- | 14 to 15 |
| 5. Annexure A3 Comp. II
Copy of objection - | 16 to 18 |
| 6. Vakalatnama - | 19 |
-


(Ganga Prasad Agrawal)

Dt. 16 /7/90.

presenting Officer.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

O.A. NO. 573 of 1990

Stay App-No = 999/90 DISTRICT LUCKNOW *Kempur*

Union of India through D.P.O. N.Rly, Lucknow.

Vs.

Shri Wazi Ahmad -----

To

The Hon'ble Vice Chairman and his companion
Members of the Tribunal.

The humble application on behalf of the
petitioner abovenamed most respectfully sheweth :-

1- That full facts have been given in the
petition. It is expedient in the interest of justice
that the operation of the award dated 17.1.90 in
I.D. Case no. 99/88 be stayed till the disposal of the
petition.

It is, therefore, prayed that the
operation of the award dated 17.1.90 delivered in
I.D. Case no. 99/88 between the petitioner and the
respondent be stayed till the disposal of petition.



(Ganga Prasad Agrawal)

Dt. 16.7.90.

Presenting Officer.

A13
Central Administrative Tribunal
Additional Bench At Allahabad
Date of Filing... 16-7-90
OR
Date of Receipt
by Post
K 16/7
By Registrar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

ORIGINAL APPL. NO. 573 of 1990

DISTRICT LUCKNOW.

UNION OF INDIA through D.P.O. Northern Railway,
Hazratganj, Lucknow. ----- Petitioner.

Vs.

Shri Wazi Ahmad s/o Safi Ahmad

through the Divisional Secretary, Uttar Railway Karmchari
Union 39-J-II Multistoreyed Rly. Colony, Charbagh,
Lucknow. --- Respondent.

Application u/s 19 C.A.T. Act

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

Against the award dated 17.1.90

delivered in I.D.No. 99/88 in the matter of
dispute between the applicant and respondent
u/s 10 I.D. Act holding the termination of the
respondent as illegal and to reinstate with full
back wages and all consequential benefits.

2. Jurisdiction of Tribunal - Application is
within the jurisdiction of the Tribunal. As
the matter is solely and exclusively of the Central
Govt. employee.

3. Limitation - Application is within
limitation u/s 21 of C.A.T. Act, 1986. The date of
order is 17.1.90.

Filed on 16.7.90
Noted for 16.7.90
On 26/7/90

By
[Signature]
[Signature]

4. Facts of the case.

ANNEXURE A2 Compilation II is the copy of the application which was filed by the respondent before the Industrial Tribunal, Kanpur whereby the respondent challenged the termination on the grounds of non-compilation of Sec. 2F I.D. Act.

ANNEXURE A3 Compilation II is the copy of the objection of the applicant whereby the applicant set up the case that the applicant was asked the basis of engagement, the applicant instead of establishing the genuineness of his engagement, he did not turned up for duty. So it is not a case of retrenchment, hence the question of applicability of Sec. 25 F did not arise.

ANNEXURE A1 Compilation I is the copy of the Award.

The findings of the Prescribed Authority is that this is a case of breach of Sec. 25F of I.D. Act hence the respondent is entitled to the all the benefits of illegal termination.

GROUND.

1- Because it is not a case of re-trenchment/termination but the respondent himself did not turn to duty, hence the provisions of Sec. 25 F I.D. Act is not applicable.

2- Because the respondent was a casual


3- Because the principles of no work no pay is fully applicable, this principles were ignored by the Prescribed Authority.

5- Because the respondent was guilty in securing job by showing working prior to 1.6.78 and when facts were verified from the respondent, he filed away from 17.9.85 and did turn up to duty but filed the present case.

6- Because the respondent did not establish his working in any capacity in Railway Administration from June 1978 to 11.3.1983 i.e. about 5 years the Prescribed Authority on the one hand has given finding that on account of serious employment problem, the question of abandonment cannot be believed but has nothing said for the above gap period. This is incorrect approach of the facts.

7- Because it is clear that the respondent was only interested to be at Barabanki, his home place

पहले का अर्थ है कि पहिले
पहिले का अर्थ है कि पहिले



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-4-

and get wages without work that is why the respondent did not report for duty.

8- Because in such cases the Tribunals have refused back wages. The decisions of the Tribunal are binding on the respondent.

9- Because the decision is without jurisdiction.

10- Because the decision is against the Circulars of Railway Board, decision of Tribunal and other Courts.

5- That since this is service matter of Central Govt. employee hence the Hon'ble Tribunal has only the sole and exclusive jurisdiction.

6- That no case is previously filed and pending in any Court.

7. RELIEF. To set aside the direction dated 17.1.90 delivered in I.D. Case No. 99 of 1988 contained in ANNEXURE A1 Compilation I or to pass any other suitable order the Hon'ble Tribunal may deem fit and proper.

8. Interim relief. To stay the operation of the direction dated 17.1.90 delivered in I.D. Case No. 99 of 1988 till the disposal of the petition otherwise the petitioner shall suffer irreparably.

Recd

[Handwritten signature]
Secretary
Railway Board
New Delhi

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9- Remedies exhausted -

No other remedy available.

10- Particulars of Postal order -

postal order No. DD 515560 dt 17.5.90
for Rs. 50-00 is attached herewith.

RSK
सहायक कामिक अधिकारी
उत्तर रेलवे, जलनक

Dr
16/7/90

I, R.N. Tripathi Asst Personnel Officer, M.Ray.

do hereby verify that the contents of paras
1 to 10 of this petition are true to my
personal knowledge derived from the perusal
of record and information received and that
I have signed and verified the petition on this 16th
day of July, 1990. at Luck.

RSK
सहायक कामिक अधिकारी
उत्तर रेलवे, जलनक

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6

Annexure A1, Compilation 1

Before Shri Arjan Dev Presiding Officer
Central Government Industrial Tribunal
cum Labour Court Kanpur.

Industrial Dispute No. 99 of 1988

In the matter of dispute between :

The Divisional Secretary
Uttar Railway Kamachari Union
39-J-II Multistoried Railway Colony
Charbagh Lucknow.

And

The Divisional Personnel Officer,
Northern Railway Hazratganj
Lucknow.

A w a r d

1. The Central Govt. Ministry of Labour, vide its notification no.L-41012/12/87-D-2(B) dt. 22nd July, 1988 has referred the following dispute for adjudication to this tribunal :

KYA PRAHAGIYA KARMIK ADHIKARI UTTAR RAILWAY LUCKNOW KE PRABANDH ANTRA KI SHRI WAZI AHMAD SUPUTRA SHRI SAFI AHMAD KI 18.9.85 SE SEWAYEN SAMAPT KARNE KI KARWAHI VAIDHYA/NYAYOCHIT HAI? YADI NAHI TO SAMBANDHIT KARMKAR KI S ANUTO SH KA HAQDAR HAI?

2. The industrial dispute on behalf of the workman Shri Wazi Ahmad has been raised by Uttar Railway Kamachari Union (hereinafter referred to as Union) Lucknow.

3. The case of the Union is that the workman was declared medically fit by the railway doctor vide memo no.056593 dt. 11.3.83, for category A-2. After that

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-2-

the workman continued working under the Station Suptd. Lucknow on 15.9.84. Subsequently on his request he was transferred to Barabanki to work as porter under Station Superintendent Barabanki. Under the Station Superintendent, Barabanki he continuously worked from 17.9.84 to 17.9.85 where after his services were illegally terminated without notice or notice pay and retrenchment compensation. The union has therefore, prayed that the workman be reinstated with full back wages and all consequential benefits.

4. In defence, the management while admitting the fact that the workman was declared medically fit for category A-2 by the railway doctor on 11.3.83, plead that the workman worked as a substitute porter at Lucknow Station for 137 days during the period 16.1.84 to 13.8.84. Since the appointment of substitute porter at that time was banned, his appointment w.e.f. 11.3.83 was not legal. Therefore, the appointment having been obtained fraudulently by the workman he could not be held as an employee of the railway administration. The management further plead that the workman reported for duty vide DRM office Letter No. 220-E/6-9/CL/84 dt. 3.8.84, which contained the direction that the services of the workman be utilised against day to day casualties/ vacancies. In compliance of the said letter the workman was directed to work as casual substitute ~~xxxx~~ w.e.f. 18.9.84. He worked as such upto 17.9.85.

It is then pleaded by the management that the workman had been asked to produce the proof of his earlier

engagement, but he failed to produce such proof. Rather he absented himself from duty w.e.f. 17.9.85. On account of his absence the vacancy against which he was working was filled up by posting Shri Ram Prasad Porter, on regular panel hand. Thus with the posting of Shri Ram Prasad no vacancy of porter remained to be filled up. The workman was discharged w.e.f. 18.9.85, due to his continued absence.

5. In the rejoinder, the Union has alleged that the workman was engaged as a casual labour on 15.9.76 and as a substitute porter on 11.3.83. He was transferred from Lucknow to his home town Barabanki on his request. The Union denies that the workman absented himself w.e.f. 11.9.85 as pleaded by the management. Against his illegal termination of services, the workman made representations to the railway administration on 30.9.85 and 31.1.86 respectively but in vain. No other new fact has been alleged by the Union in the rejoinder.

6. In support of its case, the Union has filed the affidavit of the workman and a number of documents. On the other hand in support of their case, the management have filed the affidavit of Shri D.N. Warshaney, who has been Station Supdt. Barabanki since 1.8.87 and a few documents.

7. The Union's case, is that the workman had worked as a substitute porter under SS Barabanki from 17.9.84 to 17.9.85. The fact is corroborated by the workman himself by means of his affidavit. With his affidavit, the workman has filed the copy of certificate dt. 15.9.86 issued by Station Supdt. Barabanki. It is annexure 4 to the affidavit. From

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the said certificate it appears that the workman had worked continuously at Barabanki from 18.9.84 to 17.9.85. This fact as it comes out from his certificate has been admitted by the management witness in para 2 of his statement in ~~ex~~ cross examination. One of the most important question to be considered in this case is whether the workman had abandoned the job as pleaded by the management or his services were terminated as alleged by the Union.

8. In his cross examination the management witness has deposed that some time before 17.9.85, record x regarding his having worked at Lucknow Railway Station was demanded from the workman who instead of producing it absented himself from duty from the after noon of 17.9.85. On the other hand in his cross examination the workman has deposed that the Station Suptd. Barabanki never demanded from his record of his past services. According to him on 18.9.85, the Station Suptd. Barabanki informed him that since there was no vacancy he could not be kept in service. The workman has further deposed that he complained about the matter in writing on 30.9.85 DSO who passed an order on it the same day and directed him to see the Station Suptd. Barabanki. He went to Shri Ram Bahad Singh, the then Station Suptd. Barabanki, with the said complaint bearing the order of the D.S.O. but to his dismay, the Station Suptd., took no action. Before delivering his complaint bearing the order of DSO he had got prepared a photostat copy of it. On getting this complaint at the hands of Station Suptd. Barabanki,

सह. नि. अधिकारी
प्रति
जयपुर

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he again saw the DSO, who assured him that he (DSO) would call Station Suptd. Barabanki for the redressal of his grievances.

9. In para 5 of his ~~gr~~ affidavit the workman has deposed that on his request he was transferred to work under Station Suptd. Barabanki vide letter dt. 31.8.84, copy annexure-4. Annexure 4 is the photocopy of letter dt. 31.8.84 from the A.P.O. to the Station Suptd. Barabanki on the representation of the workman working as substitute porter under S. S. Lucknow. In the letter it was stated that the workman had been posted to work against day to day casualties/vacancies. It was further stated that he had passed a medical examination in category A-2 vide memo no.056593 dt. 14.3.84. His date of birth was given as 10.2.58 and it was also stated that he had worked prior to 1.6.78. Copies of these letters were endorsed to Station Suptd. Lucknow for information with a direction to send all the documents concerning workman to the Station Suptd. Barabanki, the workman, Sr. DAO and Suptd. Pay bill.

10. This fact that the workman had worked as a substitute porter at Lucknow railway station prior to his posting at Barabanki has even been admitted by the management in para 8 of the written statement. In the said para of the written statement it has been pleaded by the management that between 16.1.84 to 13.8.84 the workman had worked at Lucknow railway station as a substitute porter for 137 days. In his cross examination, the workman has deposed that at

10/11/84
10.11.84
10.11.84

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-6-

Lucknow railway station he had worked for 200-250 days. The question is not as to for how many days he had worked as substitute porter at Lucknow Rly. station. The fact which is of importance is that it is even admitted to the management that he had worked as a substitute porter at Lucknow Rly. Station.

11. When this fact that he had worked as substitute porter for some time at Lucknow Railway Station, is not in dispute, I fail to understand SS Barabanki demanded proof of his previous working from the workman. Had he received any report from any corner that he had not actually worked there. There is no such evidence on record from the side of management. If at all the S S Barabanki had any doubt about it, he should have referred the matter either to the SS Lucknow or to the APO, DSD Office Lucknow. Only after he had been informed by them that he had not worked there, the Station Suptd. Barabanki could have asked the workman to produce the proof of his previous working. Even now there is no cogent and reliable evidence from the side of the management to show that he had not worked there before that. To me therefore, the evidence adduced by the Union appears to be more reliable than the evidence of the management. In these hard days when it is difficult to get jobs, it is difficult to believe that a person properly engaged would leave the job of his own. The said question could have arisen only if the workman had found some where else a better job for which we have no evidence on record.

The workman lost no moment to press his claim and remove the DSD by means of a complaint photocopy of which he has filed on the date on which he was cross

examined by management's authorised representative. There also appears to be no force in the plea raised by the management that the appointment of the workman was against the bar imposed on recruitment of fresh casual substitute labour. From annexure 4 to the affidavit of the workman it is clear that he had worked prior to 1.6.78. This fact has been alleged by the Union in the rejoinder and by the workman in his affidavit also. Therefore, the bar to which the authorised representative for the management has pleaded has no application to the facts of the present case.

12. It is now admitted fact that during the period of 12 months prior to his termination workman had worked for more than 240 days. There is also no dispute on the fact that at the time of termination no notice or notice pay and retrenchment compensation was paid to the workman. Therefore, on account of non compliance of the provisions of section 25F I.D. Act, the termination of his services is held as void abinitio.

13. That normal relief to which the workman should be entitled is of reinstatement with full back wages. However, in the instant case it has been pleaded by the management that his vacancy had been filled up by a regular panel hand. There being no vacancy, reinstatement should not be ordered.

14. Looking to the facts and circumstances and dubious manner in which his services were terminated I see no sufficient reason not to reinstate the

A25

13

-8-

The management can transfer the person who has been posted in his place and reinstate the workman as a substitute porter at Barabanki.

15. Held that the termination of the services of Shri Wazi Ahmad son of Shri Shafi Ahmad w.e.f. 18.9.85 is illegal and unjustified. Consequently he is held entitled to reinstatement with full back wages and all consequential benefits.

16. The reference is answered accordingly.

Sd/- 17.1.90

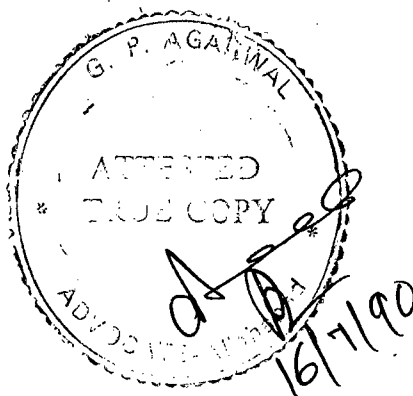
(Arjan Dev)
Presiding Officer

Bu

Let six copies of this award be sent to the Govt. for its publication.

Sd/- 17.1.90

(Arjan Dev)



A26

14

Annexure A2, Compilation 2

Before the Central Govt.'s Industrial Tribunal Kanpur
at Lucknow

In No. 99 of 1988

Wazi Ahmad Workman

Vs

Divisional Personnel Officer
Northern Railway, Hazratganj,
Lucknow. Employer.

Claim Statement of Union

Workman Shri Wazi Ahmad s/o Safi Ahmad was a Porter under Station Superintendent, Northern Railway Bara Banki. Prior to that he was working as such under Station Supdt. Lucknow from where was sent for medical examination of Rly. Doctor.

Workman Wazi Ahmad was declared fit by Rly. Doctor vide Memo No. 056593 dated 11.3.83 for A/2 category. He continued to work under S. S./Lucknow up to 15.9.84 further on his request he was sent to work as Porter under Station Superintendent, N. Rly. Barabanki where he worked continually from 17.9.84 to 17.9.85. Railway Administration terminated his services w.e.f. 18.9.85. No notice, Notice pay and retrenchment compensation was given to him at the time of termination of his services.

Under extant rules the compliance of S/25-F of ID/Act 1947 is a mandatory pre-condition of a valid retrenchment. Since all terminations barring three exceptions are retrenchment in the eye of law and this workman does not come under purview of any one of 3 exceptions. The said termination is ab-initio-void-and illegal in accordance with the following case law.

File
THE HON. JUDGE

15
A27
-2-

(1) AIR 1960 SC 610

AIR 1982 SCCLs (SC) 124

Such retrenchments are practically "non-est" in terms of -

(4) 1981 SCCLs 478 SC

AND

(5) 1988 LLJ Part - II 98 SC in Case of Union of India & another.

Vs.

Babu Ram Lalla

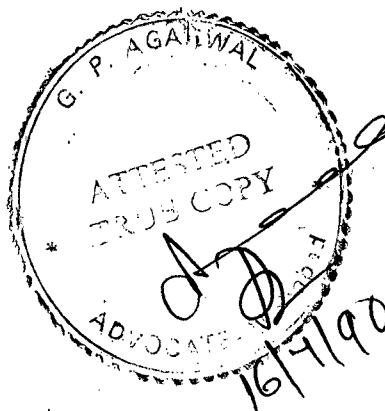
Union therefore demands that the termination of the workman aforementioned may be held as "not justified". And the workman may be re-instated in service from the date of his termination i.e. 18.9.1985 with full back wages and all other consequent benefits.

Sd/- D.P. Awasthi

(D.P. Awasthi)

Asstt. General Secretary

19.8.88.



16 A28

Annexure A3, Compilation 2

Before the Central Govt. Ind. Tribunal Cum Labour Court,
Kanpur

I.D. No. 99 of 1988

Wazi Ahmad Vs. Divl. Personal Officer,
Northern Rly., Lucknow.

Written Statement on behalf of the Opposite
Parties.

1. That the entire Claim statement filed by the
Union is not admitted and denied.

2. That the petitioner reported for duty vide
D.R.M. Office letter No 220-B/6-9/CL/84 dated 3.8.84
to be utilised against day to day casualties/vacancies
on 18.9.84.

3. That in the aforesaid letter it has been
stated that the petitioner had passed Medical
Examination in A2 Class vide Fit Memo No. ~~856~~ 056593
dated 14.3.83 and his date of birth was 10.2.1958. No
document regarding his Medical Examination and his
date of birth and his working prior to 1.6.78 is
available in the Department.

4. That any how in compliance of the Order of
the D.R.M., Lucknow dated 3.8.84, the petitioner
was allotted work as Casual substitute with effect
from 18.9.84 against day to day casualties and he
continued working upto 17.9.85. The petitioner was
asked to produce the proof of his engagement but
he failed and the petitioner absented himself from
duty w.e. from 17.9.85.

5. That since 18.9.85 his whereabouts were not known to this office and also he failed to turn up. The vacancy against which he was being utilised was filled up by posting of Regular Penal hand, Shri Ram Prasad, Porter; hence there existed no vacancy at all.

6. & That the petitioner was discharged with effect from 18.9.85 due to his being absent of his own accord from 17.9.85 as per entry in the Attendance Register. He was not retrenched or terminated by the Railway Administration.

7. That the petitioner has never submitted proof of his working under S. S. Lucknow although he was several times asked to produce such proof. Therefore, the S. S., Lucknow had no document regarding his working under him.

8. That the alleged petitioner was declared medically fit for A2 category by the Rly Doctor on 11.3.83 and worked as substitute Porter at Lucknow Station for 137 days (Not continuous) between 16.1.84 to 13.8.84. But the appointment of substitute porters was banned; therefore, his appointment w.e. from 11.3.83 is not legal, just and proper and the petitioner should furnish the details to judge the authenticity of his appointment.

9. That as the appointments were banned by the Railway Administration, the petitioner's appointment has been made fraudulently and the petitioner is not

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-3-

an employee of the Railway Administration.

10. That the petition is also barred by time.

11. That as the alleged appointment of the petitioner is fraudulently made, therefore, the Claim Statement is liable to be dismissed on this ground alone.

12. That for the reasons stated in the aforesaid paras of the written statement, the petition is liable to be dismissed with cost.

Opposite Party.

Divisional Personal Officer.

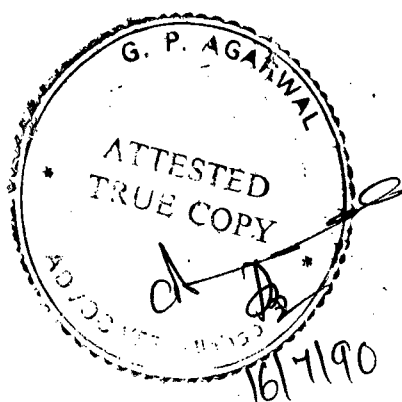
VERIFICATION

I, Jaswant Singh, Divl. Personal Officer
do hereby verify that the contents of paras 1 to 12
are true to my knowledge derived from official
records.

Verified this the day of January, 1989
at Lucknow.

Opposite Party

Divl. Personal Officer.



19

A31

ब अदालत श्री मान Central Administrative Tribunal

वादी मुद्दाई
प्रतिवादी मुद्दालय का वकालतनामा
6.01.90

वादी मुद्दाई
प्रतिवादी मुद्दालय

बनाम Waz Ahmed
नं० मुकदमा सन 19 पेसी की तारिख
उपर लिखे मुकदमा में अपनी ओर से श्री

19 ई०

G. P. Arora

रइवोकेट
महोदय

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा इकरार करता हूं। लिखें देता हूं। इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्न करेगा अन्य कोई कागज दाखिल करें या लौटा दें हमारी ओर से डिक्ली जारी करावें और स्पष्ट व सुलहनामा इकबाल दावा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करे या मुकदमा उठावें या कोर्ट में जमा करें या हमारी या विपक्ष फरीकसानी का दाखिल किया स्पष्ट अपने या हमारे हस्ताक्षर युक्त दस्तखती रसीद से लेवेगा पंच नियुक्ति करें वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं भी यह कहता हूं। कि मैं हर पेसी स्वयं या किसी अपने खरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरी वकील पर न होगी। इसलिये यह वकालतनामा लिख दिया कि प्रमाण रहें और समय पर काम आवें।

साक्षी गवाह
दिनांक 16.7.90 महीना

हस्ताक्षर
साक्षी गवाह
नाम अदालत
नं० मुकदमा
नाम फरीकन

Accepted
16.7.90

S O. (J) to keep it with file
and put up before Hon'ble
Court for orders
on *Dec. 10/90*
D. R.

*Recd on
3-10-90*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

*28
9/10/90*

A32

Misc. Application No. *363/10* of 1990.

in

Original Application No. 573 of 1990.

District Kanpur.

Union of India through D.P.O. Northern Railway,
Hazratganj, Lucknow.petitioner.

vs.

Shri Wazi Ahmad s/o Safi Ahmad, through the
Divisional Secretary, Uttar Railway Karamchhari
Union, 39-J-II Multistoreyed Railway Colony,
Charbagh, Lucknow. ...Respondent.

To,

the Hon'ble Vice Chairman and his Companion
Members of the Tribunal.

The humble application on behalf of the
respondent MOST RESPECTFULLY SHOWETH:

1. That full facts have already been
stated in the accompanying counter-affidavit.
2. That it is necessary in the
interest of justice that this Hon'ble Court may be please

lyt

5/11/90

*Red Copy
9/10/90*

2.

A 33

to vacate the ex parte stay order granted in favour
of the applicant and/or pass such other and further
order as it may deem just and proper in the facts and
circumstances of this case.



(DR. R.G. PADIA)
COUNSEL FOR THE RESPONDENT.

DATED:

September 12, 1990.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

COUNTER AFFIDAVIT

IN

STAY APPLICATION NO. 999 of 1990.

in

C.A.No. 573 of 1990.

District Lucknow.

Union of India through, D.P.O., N. Ply,
Hazratganj, Lucknow. ... Petitioner.

vs.

Wazi Ahmad, s/o Safi Ahmad,
r/o 88, Katra Baradari, Barabanki.

....Respondent.

Affidavit of Wazi Ahmad,
aged about 32 years, son of
Sri Safi Ahmad, r/o Mohalla
House No. 88, Katra Baradari,
district Barabanki.

I, Wazi Ahmad, the deponent abovenamed,
do hereby solemnly affirm and state as under:

9/11/90



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2.

1. That the deponent is the sole respondent in the aforementioned application and is, as such, well acquainted with the facts of the case deposed to below:

2. That the deponent has been read over the aforesaid original application filed before this Hon'ble Tribunal by the Union of India and the deponent is in a position to understand the contents thereof.

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

4. That the contents of para 2 of the application is not admitted. Against the award, only a writ petition lies.

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

6. That the contents of para 4 of the petition are not correct and true facts and as such are not admitted. Correct facts are that a dispute had been referred by the Central Government in respect of the illegal termination of the deponent and

9513-274

thereafter an award has been rightly given in favour of the deponent by the Presiding Officer of the Industrial Tribunal. It is respectfully submitted that it has been repeatedly held by the Hon'ble the Supreme Court that in the matter of awards there should be no interference by any court or Tribunal and the present is a fit case in which the interim order ex parte granted in favour of the Railways should be immediately vacated. It is wholly wrong to say that the deponent did not turn up for duty. In fact the services of the deponent were illegally terminated and he was not allowed to join his duties. That is why the deponent wrote several letters to the Railways asking them to allow the deponent to work. Full facts have already been stated in the award itself and this Hon'ble Tribunal may kindly peruse the same. It is respectfully submitted that all these are questions of facts which have been conclusively decided by the Industrial Tribunal and no interference by this Tribunal is called for. It has been rightly stated in the award that the termination of the deponent was in fact a case of retrenchment and section 25-F applied with full force. The findings recorded by the Industrial Tribunal are absolutely lawful and moreover the deponent is entitled for all the consequential benefits on account of his

११/३/२०२०

(23)

4.

illegal termination, in terms of the award.

7. That the various grounds taken in the application are all illegal, misconceived and non-existent. Ground nos. 1 and 2 are absolutely illegal. It is reiterated that the present is a case of illegal termination of the services of the deponent in violation of the provisions of section 25-F of the Industrial Disputes Act which is fully applicable in the present case. The deponent having worked for more than 240 days in one calendar year has been rightly given an award in his favour by the Industrial Tribunal. It is wholly wrong to say that no ^{legal} right vested in the deponent

8. That ground no. 3 also is wholly wrong and vehemently denied. The deponent could not be held responsible for the employer viz. the applicant Railway refused to take work from the deponent and as such it is wholly wrong to say that the Prescribed Authority did not take this principle into consideration.

9. That ground no. 4 is absolutely untenable and is vague. Since the deponent had a right to work on his original post, as such the Prescribed Authority rightly directed the substitute to go back on his

A38

5.

of such a nature which should be interfered with by this Hon'ble Tribunal. It is wholly wrong to say that it is against the jurisdiction of the Prescribed Authority.

10. That the ground no.5 is wholly wrong and vehemently denied. Wholly false allegations have been made in respect of the period which is wholly ~~ille~~ irrelevant and about which no evidence has been brought on record. It is absolutely wrong to say that the deponent fled away from 17th September, 1985 and there was absolutely no reason or basis for the deponent to run away from his job. Wholly false and baseless allegations are being made against the deponent and this Hon'ble Tribunal may be pleased to peruse the award in this connection.

11. That ground no.6 is not admitted, as stated. The award is not being perused in its proper prospective. The Tribunal has rightly held that the deponent having worked for more than 240 days in one calendar year is entitled for the benefit of section 25-F. The Tribunal rightly held that there was no basis for assuming that the deponent without any reason or basis thereof left his job, when he

9/11/2024

A39

6.

had immediately written a letter to the employer asking him to allow him (the deponent) to work.

12. That ground no.7 is wholly wrong and vehemently denied. The said allegation has been made without any evidence or without any basis.

13. That the ground no.8 is wholly wrong and vehemently denied. The award is perfectly legal and the deponent is fully entitled for the payment of his back wages.

14. That ground nos. 9 and 10 are wrong and denied.

16. That the contents of para 5 of the Application are wrong and denied. The Tribunal has no jurisdiction and it is only the High Court which has jurisdiction in respect of the validity of of the award.

17. That the contents of para 6 of the Application need no comments.

18. That the contents of paras 7 and 8 of the Application are not admitted. The applicant



4/5/34272

A40

7.

has absolutely no case for the grant of any interim relief whether permanent or interim. The whole application is misconceived and is liable to be rejected by this Hon'ble Tribunal.

I, the deponent abovenamed, swear that the contents of paras nos. 1 to 10 of this affidavit are true to my personal knowledge, that the contents of paras nos. 11 of this affidavit are based on perusal of record, that the contents of paras nos. 12 of this affidavit are based on legal advice, no part of it is false and nothing material has been concealed.
So help me God.

L.T. G. of Deponent

9/9/1990

I, Shobha Lal, Clerk to Dr. R.G. Padia, Advocate, High Court, Allahabad, do declare that the person making this affidavit and alleging himself to be Sri Wazi Ahmad is known to me from the perusal of record which he has produced in this case.

Sinf.

Solemnly affirmed before me this 8th day of September, 1990, at about 9-00 A.M. by the deponent who has been identified by Sri Shobha Lal,

9/9/1990



8.

A47

aforesaid.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read over by him before me.

OATH COMMISSIONER.

A. N. Singh
OATH COMMISSIONER
High Court, Patna
No. 44/847
Date 8/10/90

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एडवोकेट

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ALIAHABAD

Registration No. 573 of 1990

Union of India Vs. Wazi Ahmad

REJOINDER on behalf of the applicant is

as under :-

- 1- That the contents of paras 1, 2 and 3 of the Counter needs no comment.
- 2- That the contents of para 4 of the Counter are denied. Since 1-11-1985 as per amended C.A.T. Act and the decision of the Hon'ble Supreme Court no Writ lies before the High Court but the application lies before C.A.T.
- 3- That the contents of para 5 of the Counter needs no comment.
- 4- That the contents of para 6 of the Counter are incorrect and denied and the applicant reiterates the contents of para 4 of the application once again. Since termination of service of a Central Government servant is pure and simple a service matter which can only be adjudicated by the Central Administrative Tribunal and no other Court as alleged in the Counter. The respondent did not turn up so there is no question of applicability of Section 25 of I.D. Act, this is not a case of illegal termination.
- 5- That the contents of paras 7, 8, 9, 10, 11, 12, 13 and 14

Wazi Ahmad
22/11/90

A44

of the Counter are denied and the applicant reiterates the paras of grounds as mentioned in the application

6- That the contents of para 16 of the Counter are denied. Only Tribunal has got the jurisdiction to adjudicate the matter in question.

7- That the contents of para 17 of the Counter needs no comment .

8- That the contents of para 18 of the Counter are denied and the applicant reiterates the contents of the application.

9- That no grounds have been established for vacation of stay order and now since the pleadings are complete so the Hon'ble Bench may finally adjudicate the case instead of disposing off the stay matter only.

I, Shiv Pujan Prasad, APO

Shiv Pujan Prasad
22/11/90
for and on behalf of the applicant

Northern Railway , D.R.M.Office , Lucknow do hereby verify that the contents of paras 1 to 9 of the Rejoinder are true to my personal knowledge derived from official records and on legal advice which I believe to be true. Signed and verified on this 22 day of 11 1990 at Lucknow.

Shiv Pujan Prasad
22/11/90
for and on behalf of the applicant

S O. (1) to keep it with file
and put up before Hon'ble
Court for orders

on 14-9-91

D. R.

AMS

11/9/91

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH : ALLAHABAD

CIVIL MISC APPLICATION NO. 1486 OF 1991

IN

ORIGINAL APPLICATION NO. 573 OF 1991

(District Kanpur)

Union of India ----- Applicant.

Versus

Wazi Ahmed ----- Respondent.

Take notice that the court will be
moved by the undersigned on 12th Sep. 91 at 10⁰⁰ clock
in the forenoon, or so soon thereafter as the
parties or their counsel can be heard.

A copy of the application is enclosed
herewith.

Dated, this the day of July, 1991

(Dr. R. G. PADIA)
Advocate,

Counsel for the Respondent.

Noted for
19-9-91
U.S. Tiwan' Clerk
To Dr. R. G. Padia
12-9-91

11/9/91

Received
12-9-91
2:30 PM

Party names
wrong.

Noted for
12-9-91
U.S. Tiwan'

Am6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALAHABAD

CIVIL MISC APPLICATION NO. 1486 OF 1991
(Under Section 151 of the Civil Procedure Code)

On behalf of

Wazi Ahmed -----Applicant.

IN RE

ORIGINAL APPEAL No. 573 OF 1990 ✓

(District Kanpur)

Union of India, through D.P.O. Northern Railway
Hazratganj, Lucknow.

-----Applicant.

Versus

Wazi Ahmed, Son of Safi Ahmed, through the
Divisional Secretary, Uttar Railway Karamchhari
Union, 39-J-II Multistoreyed Railway Colony
Charbagh, Lucknow.

-----Respondent.

To,

The Hon'ble Vice Chairman and his Companion
Members of the Tribunal.

The humble application on behalf of the
respondent MOST RESPECTFULLY SHOWETH:-

1. That the full facts have been stated
- hkh

A47

-2-

in the accompanying supplementary affidavit
which may form part of this application.

2. That for the facts and reasons stated
in the accompanying supplementary affidavit
it is expedient in the interest of justice
that this Hon'ble Tribunal may be pleased to
take up the aforesaid case at an early date
and further be pleased to pass an appropriate
order in respect of pending stay vacation
application on behalf of the respondent no.1
and /or pas such other and further orders as
this Hon'ble Court may deem fit and proper in the
circumstances of the case, otherwise the
applicant shall suffer irreparable loss.

P_R_A_Y_E_R

It is, therefore, most respectfully
prayed that this Hon'ble Court may graciously
be pleased to take up the aforesaid case
at an early date and the Hon'ble Tribunal
may further be pleas-ed to pass appropriate
orders in respect of the ~~xx~~ pending stay

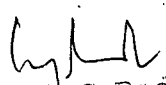
hjt

A48

-3-

vacation application on behalf of the
respondent and /or pass such other and
further orders as this Hon'ble Court may
deem fit and proper in the circumstances of
of the case.

Dt/- July, 1991


(Dr. R. G. Padia)
Advocate,
Counsel for the Respondent. 1



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH AT ALLAHABAD

AFFIDAVIT &

IN

CIVIL MISC APPLICATION NO.

OF 1991

IN

ORIGINAL APPLICATION NO. 573 OF 1990

(District Kanpur)

Union of India ,through D.P.O., N.Rly,

Lucknow .

-----Applicant.

Versus

Wazi Ahmed

-----Respondent.

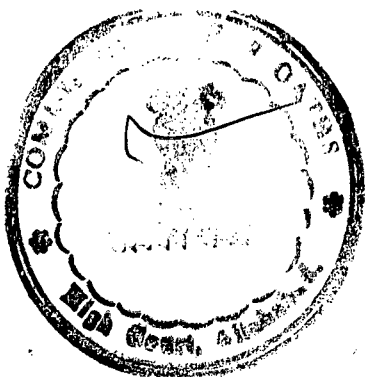
Affidavit of Shri Wazi Ahmed ,aged
about 28 years, son of Shafi Ahmed
resident of Mohalla Katra Baradari
House No.88 Barabanki.

(Deponent.)

I, the deponent abovenamed do hereby
declare on Oath as under:-

1. That the deponent is the respondent in the
aforesaid case and as such is fully acquainted
with the facts deposed to below.

2. That the deponent has already filed counter
affidavit alongwith stay vacation application



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-2-

Subsequently a Rejoinder affidavit has also been filed .However the matter regarding the vacation of the stay order has not been considered by the Hon'ble Court and on 20th March, 1991 the Hon'ble Court has been pleased to direct that the case should be post as sine-a-die

3. That for the facts and reasons stated above, it is expedient in the interest of justice that this Hon'ble Tribunal may graciously be pleased to take up the aforesaid case at an early date and the Hon'ble Tribunal may further be pleased to pass appropriate order in respect of the pending stay vacation application on behalf of respondent no. and /or pass such other and ~~other~~ further order as this Hon'ble Court may deem fit and proper in the circumstances of the case.



I, the deponent abovenamed do hereby declare that the contents of paragraph nos. 1, 2, and 3 of this affidavit are true to my personal knowledge which all I believe to be true

AS1

-3-

and nothing material has been concealed

in it and those of paragraph nos.

of the affidavit

are true on perusal of records and those of

~~xxxxxx~~ paragraph nos.


of this affidavit are based on legal advice which

all I believe to be true and no part of it is false

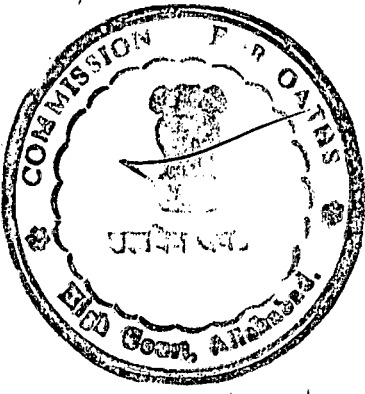
and nothing material has been concealed in it.

So help me God.

Deponent.


172 of 10/10/10

I, Shobha Lal, clerk to Dr. R. G. Padia,
Advocate, High Court, Allahabad do hereby
declare that the contents of affidavit and the
person making this affidavit and alleging himself
to be the deponent is the same person who
is known to me by the perusal of records
which he produced before me in this case.



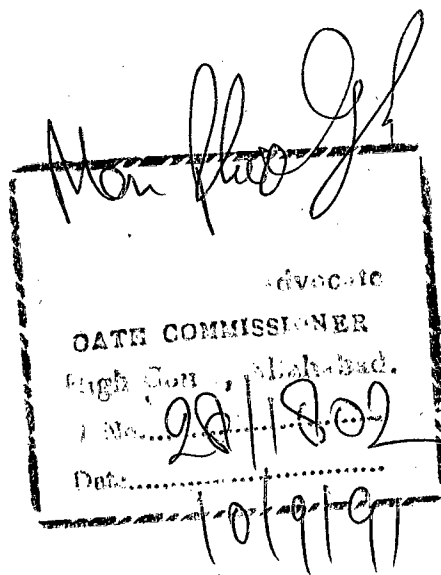
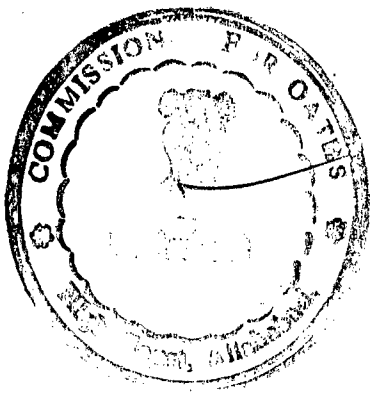

Clerk.

A52

Solemnly affirmed before me on this 10th day
September of July, 1991, at 11/30 AM A.M./P.M. by the deponent
who is identified by the aforesaid clerk.

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

Oath Commissioner.



Presenting Officer
G.P. Agrawal
Advocate

AS2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

I N D E X

IN

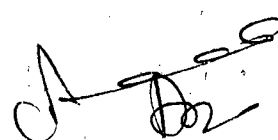
O.A. NO. 573 of 1990

DISTRICT LUCKNOW.

Union of India vs. Shri Wazi Ahmad

Sl.No. Particulars of documents. Page no.

1. Stay application -	Misc. 1
2. Petition -	1 to 5
3. Annexure A1 Compi.I -	
copy of award -	6 to 13
4. Annexure A2 Comp.II-	
copy of application-	14 to 15
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Copy of objection -	16 to 18
6. Vakalatnama -	19


(Ganga Prasad Agrawal)

Dt. 16/7/90.

presenting Officer.

AS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

O.A. NO. 573 of 1990

Stay App. No. = 999/90

DISTRICT LUCKNOW.

Union of India through D.P.O. N.Rly, Lucknow.

Vs.

Shri Wazi Ahmad -----

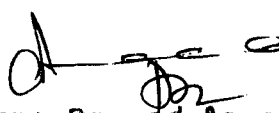
To

The Hon'ble Vice Chairman and his companion
Members of the Tribunal.

The humble application on behalf of the
petitioner abovenamed most respectfully sheweth :-

1- That full facts have been given in the
petition. It is expedient in the interest of justice
that the operation of the award dated 17.1.90 in
I.D. Case no. 99/88 be stayed till the disposal of the
petition.

It is, therefore, prayed that the
operation of the award dated 17.1.90 delivered in
I.D. Case no. 99/88 between the petitioner and the
respondent be stayed till the disposal of petition.


(Ganga Prasad Agrawal)

Dt. 16.7.90.

presenting Officer.

Central Administrative Tribunal
Additional Bench at Allahabad
Date of Filing... 16-7-90

OR
Date of Receipt
by Post

By Registrar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

ORIGINAL APPL. NO. 573 of 1990

DISTRICT LUCKNOW. KANPUR

UNION OF INDIA through D.P.O. Northern Railway,
Hazratganj, Lucknow. ---- Petitioner.

Vs.

Shri Wazi Ahmad s/o Safi Ahmad

through The Divisional Secretary, Uttar Railway Karam-
chari Union 39-J-II Multistoreyed Railway Colony,
Charbagh, Lucknow. --- Respondent.

Application u/s 19 C.A.T. Act

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

Against the award dated 17.1.90 delivered in I.D.No. 99/88 in the matter of dispute between the applicant and respondent u/s 10 I.D.Act holding the termination of the respondent as illegal and to reinstate with full back wages and all consequential benefits.

2. Jurisdiction of Tribunal - Application is within the jurisdiction of the Tribunal. As the matter is solely and exclusively of the Central Govt. employee.

3. Limitation- Application is within limitation u/s 21 of C.A.T.Act, 1986. The date of order is 17.1.90.

Handwritten signature/initials

4. Facts of the case.

A50

ANNEXURE A2 Compilation II is the copy of the application which was filed by the respondent before the Industrial Tribunal, Kanpur whereby the respondent challenged the termination on the grounds of non-compilation of Sec. 2F I.D. Act.

ANNEXURE A3 Compilation II is the copy of the objection of the applicant whereby the applicant set up the case that the applicant was asked the basis of engagement, the applicant instead of establishing the genuineness of his engagement, he did not turned up for duty. So it is not a case of retrenchment, hence the question of applicability of Sec. 25 F did not arise.

ANNEXURE A1 Compilation I is the copy of the Award.

The findings of the Prescribed Authority is that this is a case of breach of Sec. 25F of I.D. Act hence the respondent is entitled to the all the benefits of illegal termination.

GROUND.

1- Because it is not a case of re-termination but the respondent himself did not turn up to duty, hence the provisions of Sec. 25F I.D. Act is not applicable.

2- Because the respondent was a casual

A. B.

A37

-3-

substitute and no legal right vested to him.

3- Because the principles of no work no pay is fully applicable, this principles were ignored by the Prescribed Authority.

4- Because the direction of the Prescribed Authority "the management can transfer the person who has been posted in his place and reinstate the workman as a substitute porter at Barabanki" is against the established principles of service jurisprudence and also against the jurisdiction of Prescribed Authority.

5- Because the respondent was guilty in securing job by showing working prior to 1.6.78 and when facts were verified from the respondent, he failed away from 17.9.85 and did turn up to duty but filed the present case.

6- Because the respondent did not establish his working in any capacity in Railway Administration from June 1978 to 11.3.1983 i.e. about 5 years the prescribed Authority on the one hand has given finding that on account of serious employment problem the question of abandonment cannot be believed but has nothing said for the above gap period. This is incorrect approach of the facts.

7- Because it is clear that the respondent was only interested to be at Barabanki, his home place

A 37

and get wages without work that is why the respondent did not report for duty.

8- Because in such cases the Tribunals have refused back wages. The decisions of the Tribunal are binding on the respondent.

9- Because the decision is without jurisdiction.

10- Because the decision is against the Circulars of Railway Board, decision of Tribunal and other Courts.

5- That since this is service matter of Central Govt. employee hence the Hon'ble Tribunal has only the sole and exclusive jurisdiction.

6- That no case is previously filed and pending in any Court.

7. RELIEF. To set aside the direction dated 17.1.90 delivered in I.D. Case No. 99 of 1988 contained in ANNEXURE A1 Compilation I or to pass any other suitable order the Hon'ble Tribunal may deem fit and proper.

8. Interim relief. To stay the operation of the direction dated 17.1.90 delivered in I.D. Case No. 99 of 1988 till the disposal of the petition otherwise the petitioner shall suffer irreparably.

On

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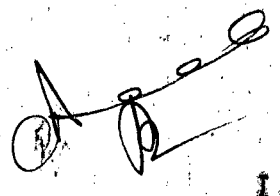
-5-

9- Remedies exhausted -

No other remedy available.

10- Particulars of Postal order -

postal order No. DD₅ 515560 dt 17.5.90
for Rs. 50-00 is attached herewith.



I, R.N. Jaiswal ~~As~~ Personal Officer, N.Ry.
do hereby verify that the contents of paras
1 to 10 of this petition are true to my
personal knowledge derived from the perusal
of record and information received and that
I have signed and verified the petition on this 13th
day of July, 1990. at Luck.

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6

Annexure A1, Compilation 1

Before Shri Arjan Dev Presiding Officer
Central Government Industrial Tribunal
cum Labour Court Kanpur.

Industrial Dispute No. 99 of 1988

In the matter of dispute between :

The Divisional Secretary

Uttar Railway Kamachari Union

39-J-II Multistoried Railway Colony

Chargagh Lucknow.

And

The Divisional Personnel Officer,

Northern Railway Hazratganj

Lucknow.

A w a r d

1. The Central Govt. Ministry of Labour, vide its notification no.L-41012/12/87-D-2(B) dt. 22nd July, 1988 has referred the following dispute for adjudication to this tribunal :

KYA PRAHAGIYA KARMIK ADHIKARI UTTAR RAILWAY
LUCKNOW KE PRABANDH ANTRA KI SHRI WAZI AHMAD
SUPUTRA SHRI SAEI AHMAD KI 18.9.85 SE SEWAYEN
SAMAPT KARNE KI KARWAHI VAIDHYA/NYAYOCHIT HAI?
YADI NAHI TO SAMBANDIT KARMIKAR KI SANUTO SH
KA HAQDAR HAI?

2. This industrial dispute on behalf of the workman Shri Wazi Ahmad has been raised by Uttar Railway Kamachari Union (hereinafter referred to as Union) Lucknow.

3. The case of the Union is that the workman was declared medically fit by the railway doctor vide memo no.056593 dt. 11.3.83, for category A-2. After that

the workman continued working under the Station Suptd. Lucknow on 15.9.84. Subsequently on his request he was transferred to Barabanki to work as porter under Station Superintendent Barabanki. Under the Station Superintendent, Barabanki he continuously worked from 17.9.84 to 17.9.85 where after his services were illegally terminated without notice or notice pay and retrenchment compensation. The union has therefore, prayed that the workman be reinstated with full back wages and all consequential benefits.

4. In defence, the management while admitting the fact that the workman was declared medically fit for category A-2 by the railway doctor on 11.3.83, plead that the workman worked as a substitute porter at Lucknow Station for 137 days during the period 16.1.84 to 13.8.84. Since the appointment of substitute porter at that time was banned, his appointment w.e.f. 11.3.83 was not legal. Therefore, the appointment having been obtained fraudulently by the workman he could not be held as an employee of the railway administration. The management further plead that the workman reported for duty vide DRM office Letter No. 220-E/6-9/CL/84 dt. 3.8.84, which contained the direction that the services of the workman be utilised against day to day casualties/ vacancies. In compliance of the said letter the workman was directed to work as casual substitute ~~XXXX~~ w.e.f. 18.9.84. He worked as such upto 17.9.85. It is then pleaded by the management that the workman had been asked to produce the proof of his earlier

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engagement, but he failed to produce such proof. Rather he absented himself from duty w.e.f. 17.9.85. On account of his absence the vacancy against which he was working was filled up by posting Shri Ram Prasad Porter, on regular panel hand. Thus with the posting of Shri Ram Prasad no vacancy of porter remained to be filled up. The workman was discharged w.e.f. 18.9.85, due to his continued absence.

5. In the rejoinder, the Union has alleged that the workman was engaged as a casual labour on 15.9.76 and as a substitute porter on 11.3.83. He was transferred from Lucknow to his home town Barabanki on his request. The Union denies that the workman absented himself w.e.f. 11.9.85 as pleaded by the management. Against his illegal termination of services, the workman made representations to the railway administration on 30.9.85 and 31.1.86 respectively but in vain. No other new fact has been alleged by the Union in the rejoinder.

6. In support of its case, the Union has filed the affidavit of the workman and a number of documents. On the other hand in support of their case, the management have filed the affidavit of Shri D.N. Warshney, who has been Station Supdt. Barabanki since 1.8.87 and a few documents.

7. The Union's case, is that the workman had worked as a substitute porter under SS Barabanki from 17.9.84 to 17.9.85. The fact is corroborated by the workman himself by means of his affidavit. With his affidavit, the workman has filed the copy of certificate dt. 15.9.86 issued by Station Supdt. Barabanki. It is annexure 4 to the affidavit. From

the said certificate it appears that the workman had worked continuously at Barabanki from 18.9.84 to 17.9.85. This fact as it comes out from his certificate has been admitted by the management witness in para 2 of his statement in a cross examination.

One of the most important question to be considered in this case is whether the workman had abandoned the job as pleaded by the management or his services were terminated as alleged by the Union.

8. In his cross examination the management witness has deposed that some time before 17.9.85, record x regarding his having worked at Lucknow Railway Station was demanded from the workman who instead of producing it absented himself from duty from the afternoon of 17.9.85. On the other hand in his cross examination the workman has deposed that the Station Suptd. Barabanki never demanded from his record of his past services. According to him on 18.9.85, the Station Suptd. Barabanki informed him that since there was no vacancy he could not be kept in service. The workman has further deposed that he complained about the matter in writing on 30.9.85 DSO who passed an order on it the same day and directed him to see the Station Suptd. Barabanki. He went to Shri Ram Bahal Singh, the then Station Suptd. Barabanki, with the said complaint bearing the order of the D.S.O. but to his dismay, the Station Suptd., took no action. Before delivering his complaint bearing the order of DSO he had got prepared a photostat copy of it. On getting this complaint at the hands of Station Suptd. Barabanki,

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-5-

he again saw the DSD, who assured him that he (DSD) would call Station Suptd. Barabanki for the redressal of his grievances.

9. In para 5 of his ex affidavit the workman has deposed that on his request he was transferred to work under Station Suptd. Barabanki vide letter dt. 31.8.84, copy annexure-4. Annexure 4 is the photocopy of letter dt. 31.8.84 from the A.P.O. to the Station Suptd. Barabanki on the representation of the workman working as substitute porter under S. S. Lucknow. In the letter it was stated that the workman had been posted to work against day to day casualities/vacancies. It was further stated that he had passed a medical examination in category A-2 vide memo no.056593 dt. 14.3.84. His date of birth was given as 10.2.58 and it was also stated that he had worked prior to 1.6.78. Copies of these letters were endorsed to Station Suptd. Lucknow for information with a direction to send all the documents concerning workman to the Station Suptd. Barabanki, the workman, Sr. DAO and Suptd. Pay bill.

10. This fact that the workman had worked as a substitute porter at Lucknow railway station prior to his posting at Barabanki has even been admitted by the management in para 8 of the written statement. In the said para of the written statement it has been pleaded by the management that between 16.1.84 to 13.8.84 the workman had worked at Lucknow railway station as a substitute porter for 137 days. In his cross examination, the workman has deposed that at

Lucknow railway station he had worked for 200-250 days. The question is not as to for how many days he had worked as substitute porter at Lucknow Rly. station. The fact which is of importance is that it is even admitted to the management that he had worked as a substitute porter at Lucknow Rly. Station.

11. When this fact that he had worked as substitute porter for some time at Lucknow Railway Station, is not in dispute, I fail to understand SS Barabanki demanded proof of his previous working from the workman. Had he received any report from any corner that he had not actually worked there. There is no such evidence on record from the side of management. If at all the S S Barabanki had any doubt about it, he should have referred the matter either to the SS Lucknow or to the APO, DSD Office Lucknow. Only after he had been informed by them that he had not worked there, the Station Suptd. Barabanki could have asked the workman to produce the proof of his previous working. Even now there is no cogent and reliable evidence from the side of the management to show that he had not worked there before that. To me therefore, the evidence adduced by the Union appears to be more reliable than the evidence of the management. In these hard days when it is difficult to get jobs, it is difficult to believe that a person properly engaged would leave the job of his own. The said question could have arisen only if the workman had found some where else a better job for which we have no evidence on record. The workman lost no moment to press his claim and move the DSD by means of a complaint photocopy of which he has filed on the date on which he was cross

examined by management's authorised representative. There also appears to be no force in the plea raised by the management that the appointment of the workman was against the bar imposed on recruitment of fresh casual substitute labour. From annexure 4 to the affidavit of the workman it is clear that he had worked prior to 1.6.78. This fact has been alleged by the Union in the rejoinder and by the workman in his affidavit also. Therefore, the bar to which the authorised representative for the management has pleaded has no application to the facts of the present case.

12. It is now admitted fact that during the period of 12 months prior to his termination workman had worked for more than 240 days. There is also no dispute on the fact that at the time of termination no notice or notice pay and retrenchment compensation was paid to the workman. Therefore, on account of non compliance of the provisions of section 25F I.D. Act, the termination of his services is held as void abinitio.

13. That normal relief to which the workman should be entitled is of reinstatement with full back wages. However, in the instant case it has been pleaded by the management that his vacancy had been filled up by a regular panel hand. There being no vacancy, reinstatement should not be ordered.

14. Looking to the facts and circumstances and the dubious manner in which his services were terminated, I see no sufficient reason not to reinstate the workman

The management can transfer the person who has been posted in his place and reinstate the workman as a substitute porter at Barabanki.

15. Held that the termination of the services of Shri Wazi Ahmad son of Shri Shafi Ahmad w.e.f. 18.9.85 is illegal and unjustified. Consequently he is held entitled to reinstatement with full back wages and all consequential benefits.

16. The reference is answered accordingly.

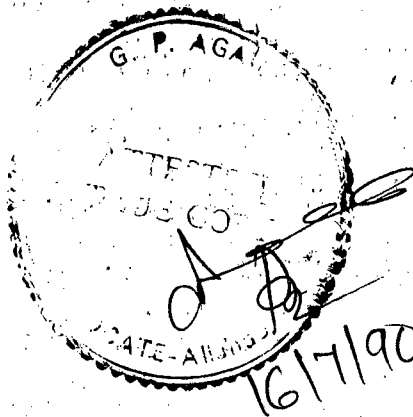
Sd/- 17.1.90

(Arjan Dev)
Presiding Officer

Let six copies of this award be sent to the Govt. for its publication.

Sd/- 17.1.90

(Arjan Dev)



D68

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Annexure A2, Compilation 2

Before the Central Govt.'s Industrial Tribunal Kanpur
at Lucknow

In No. 99 of 1988

Wazi Ahmad Workman

Vs

Divisional Personnel Officer
Northern Railway, Hazratganj,
Lucknow. Employer.

Claim Statement of Union

Workman Shri Wazi Ahmad s/o Safi Ahmad was a Porter under Station Superintendent, Northern Railway Bara Banki. Prior to that he was working as such under Station Supt. Lucknow from where was sent for medical examination of Rly. Doctor.

Workman Wazi Ahmad was declared fit by Rly. Doctor vide Memo No. 056593 dated 11.3.83 for A/2 category. He continued to work under S. S./Lucknow up to 15.9.84 further on his request he was sent to work as Porter under Station Superintendent, N. Rly. Barabanki where he worked continually from 17.9.84 to 17.9.85. Railway Administration terminated his services w.e.f. 18.9.85. No notice, Notice pay and retrenchment compensation was given to him at the time of termination of his services.

Under extant rules the compliance of S/25-F of ID/Act 1947 is a mandatory pre-condition of a valid retrenchment. Since all terminations barring three exception are retrenchment in the eye of law and this workman does not come under purview of any one of 3 exceptions. The said termination is ab-initio-void and illegal in accordance with the following case law.

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-2-

- (1) AIR 1960 SC 610
AIR 1982 SCCLs (SC) 124

Such retrenchments are practically "non-est" in terms of -

- (4) 1981 SCCLs 478 SC

AND

- (5) 1988 LLJ Part - II 98 SC in Case of Union of India & another.

Vs.

Babu Ram Lalia

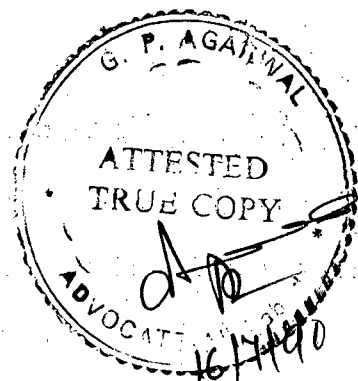
Union therefore demands that the termination of the workman aforementioned may be held as "not justified". And the workman may be re-instated in service from the date of his termination i.e. 18.9.1985 with full back wages and all other consequent benefits.

Sd/- D.P. Awasthi

(D.P. Awasthi)

Asstt. General Secretary

19.8.88.



16 B70
Annexure A3, Compilation 2

Before the Central Govt. Ind. Tribunal Cum Labour Court,
Kanpur

I.D. No. 99 of 1988

Wazi Ahmad Vs. Divl. Personal Officer,
Northern Rly., Lucknow.

Written Statement on behalf of the Opposite
Parties.

1. That the entire Claim statement filed by the Union is not admitted and denied.
2. That the petitioner reported for duty vide D.R.M. Office letter No 220-B/6-9/CL/84 dated 3.8.84 to be utilised against day to day casualties/vacancies on 18.9.84.
3. That in the aforesaid letter it has been stated that the petitioner had passed Medical Examination in A2 Class vide Fit Memo No. 858 056593 dated 14.3.83 and his date of birth was 10.2.1958. No document regarding his Medical Examination and his date of birth and his working prior to 1.6.78 is available in the Department.
4. That any how in compliance of the Order of the D.R.M., Lucknow dated 3.8.84, the petitioner was allotted work as Casual substitute with effect from 18.9.84 against day to day casualties and he continued working upto 17.9.85. The petitioner was asked to produce the proof of his engagement but he failed and the petitioner absented himself from duty w.e. from 17.9.85.

5. That since 18.9.85 his whereabouts were not known to this office and also he failed to turn up. The vacancy against which he was being utilised was filled up by posting of Regular Penal hand, Shri Ram Prasad, Porter; hence there existed no vacancy at all.

6. & That the petitioner was discharged with effect from 18.9.85 due to his being absent of his own accord from 17.9.85 as per entry in the Attendance Register. He was not retrenched or terminated by the Railway Administration.

7. That the petitioner has never submitted proof of his working under S. S. Lucknow although he was several times asked to produce such proof. Therefore, the S. S., Lucknow had no document regarding his working under him.

8. That the alleged petitioner was declared medically fit for A2 category by the Rly Doctor on 11.3.83 and worked as substitute Porter at Lucknow Station for 137 days (Not continuous) between 16.1.84 to 13.8.84. But the appointment of substitute porters was banned; therefore, his appointment w.e. from 11.3.83 is not legal, just and proper and the petitioner should furnish the details to judge the authenticity of his appointment.

9. That as the appointments were banned by the Railway Administration, the petitioner's appointment has been made fraudulently and the petitioner is not

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-3-

an employee of the Railway Administration.

10. That the petition is also barred by time.

11. That as the alleged appointment of the petitioner is fraudulently made, therefore, the Claim Statement is liable to be dismissed on this ground alone.

12. That for the reasons stated in the aforesaid paras of the written statement, the petition is liable to be dismissed with cost.

Opposite Party.

Divisional Personal Officer.

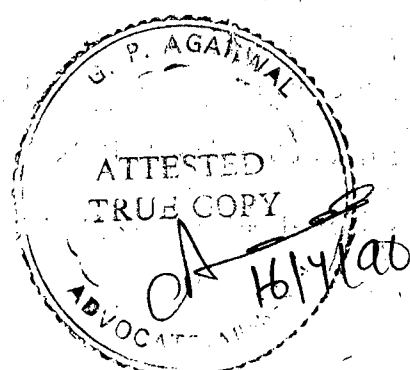
VERIFICATION

I, Jaswant Singh, Divl. Personal Officer do hereby verify that the contents of paras 1 to 12 are true to my knowledge derived from official records.

Verified this the day of January, 1989
at Lucknow.

Opposite Party

Divl. Personal Officer.



§ O. (J) to keep it with file
and put up before Hon'ble
Court for orders
On ~~Defence~~ ^{10/9}
D. R.

A73

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

9.10.90

Misc. Application No. 363/10 of 1990.

in

Original Application No. 573 of 1990.

District Kanpur.

Union of India through D.P.O. Northern Railway,
Hazratganj, Lucknow.Petitioner.

vs.

Shri Wazi Ahmad s/o Safi Ahmad, through the
Divisional Secretary, Uttar Railway Karamchari
Union, 39-J-II Multistoreyed Railway Colony,
Charbagh, Lucknow. ...Respondent.

To,

the Hon'ble Vice Chairman and his Companion
Members of the Tribunal.

The humble application on behalf of the
respondent MOST RESPECTFULLY SHOWETH:

1. That full facts have already been
stated in the accompanying counter-affidavit.

2. That it is necessary in the
interest of justice that this Hon'ble Court may be pleased

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2.

to vacate the ex parte stay order granted in favour of the applicant and/or pass such other and further order as it may deem just and proper in the facts and circumstances of this case.

(DR. R.C. PADIA)
COUNSEL FOR THE RESPONDENT.

DATED:

September 1990.

D 75

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

COUNTER AFFIDAVIT

IN

STAY APPLICATION NO. 999 of 1990.

in

O.A.No. 573 of 1990.

District Lucknow.

Union of India through, D.P.O., N. Rly,
Hazratganj, Lucknow. ... Petitioner.

VS.

Wazi Ahmad, s/o Safi Ahmad,
r/o 88, Katra Baradari, Barabanki.

....Respondent.

Affidavit of Wazi Ahmad,
aged about 32 years, son of
Sri Safi Ahmad, r/o Mohalla
House No. 88, Katra Baradari,
district Barabanki.

I, Wazi Ahmad, the deponent abovenamed,
do hereby solemnly affirm and state as under:

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2.

1. That the deponent is the sole respondent in the aforementioned application and is, as such, well acquainted with the facts of the case deposed to below:

2. That the deponent has been read over the aforesaid original application filed before this Hon'ble Tribunal by the Union of India and the deponent is in a position to understand the contents thereof.

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

4. That the contents of para 2 of the application is not admitted. Against the award, only a writ petition lies.

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

6. That the contents of para 4 of the petition are not correct and true facts and as such are not admitted. Correct facts are that a dispute had been referred by the Central Government in respect of the illegal termination of the deponent and

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3.

thereafter an award has been rightly given in favour of the deponent by the Presiding Officer of the Industrial Tribunal. It is respectfully submitted that it has been repeatedly held by the Hon'ble the Supreme Court that in the matter of awards there should be no interference by any court or Tribunal and the present is a fit case in which the interim order exparte granted in favour of the Railways should be immediately vacated. It is wholly wrong to say that the deponent did not turn up for duty. In fact the services of the deponent were illegally terminated and he was not allowed to join his duties. That is why the deponent wrote several letters to the Railways asking them to allow the deponent to work. Full facts have already been stated in the award itself and this Hon'ble Tribunal may kindly peruse the same. It is respectfully submitted that all these are questions of facts which have been conclusively decided by the Industrial Tribunal and no interference by this Tribunal is called for. It has been rightly stated in the award that the termination of the deponent was in fact a case of retrenchment and section 25-F applied with full force. The findings recorded by the Industrial Tribunal are absolutely lawful and moreover the deponent is entitled for all the consequential benefits on account of his

illegal termination, in terms of the award.

7. That the various grounds taken in the application are all illegal, misconceived and non-existent. Ground nos. 1 and 2 are absolutely illegal. It is reiterated that the present is a case of illegal termination of the services of the deponent in violation of the provisions of section 25-F of the Industrial Disputes Act which is fully applicable in the present case. The deponent having worked for more than 240 days in one calendar year has been rightly given an award in his favour by the Industrial Tribunal. It is legal wholly wrong to say that no right vested in the deponent.

8. That ground no. 3 also is wholly wrong and vehemently denied. The deponent could not be held responsible for the employer viz. the applicant Railways refused to take work from the deponent and as such it is wholly wrong to say that the Prescribed Authority did not take this principle into consideration.

9. That ground no. 4 is absolutely untenable and is vague. Since the deponent had a right to work on his original post, as such the Prescribed Authority rightly directed the substitute working on his place to go back on his original post and such a direction is not

of such a nature which should be interfered with by this Hon'ble Tribunal. It is wholly wrong to say that it is against the jurisdiction of the Prescribed Authority.

10. That the ground no.5 is wholly wrong and vehemently denied. Wholly false allegations have been made in respect of the period which is wholly ~~file~~ irrelevant and about which no evidence has been brought on record. It is absolutely wrong to say that the deponent fled away from 17th September, 1985 and there was absolutely no reason or basis for the deponent to run away from his job. Wholly false and baseless allegations are being made against the deponent and this Hon'ble Tribunal may be pleased to peruse the award in this connection.

11. That ground no.6 is not admitted, as stated. The award is not being perused in its proper prospective. The Tribunal has rightly held that the deponent having worked for more than 240 days in one calendar year is entitled for the benefit of section 25-F. The Tribunal rightly held that there was no basis for assuming that the deponent without any reason or basis thereof left his job, when he

A80

6.

had immediately written a letter to the employer asking him to allow him (the deponent) to work.

12. That ground no.7 is wholly wrong and vehemently denied. The said allegation has been made without any evidence or without any basis.

13. That the ground no.8 is wholly wrong and vehemently denied. The award is perfectly legal and the deponent is fully entitled for the payment of his back wages.

14. That ground nos. 9 and 10 are wrong and denied.

16. That the contents of para 5 of the Application are wrong and denied. The Tribunal has no jurisdiction and it is only the High Court which has jurisdiction in respect of the validity of of the award.

17. That the contents of para 6 of the Application need no comments.

18. That the contents of paras 7 and 8 of the Application are not admitted. The applicant

A81

7.

has absolutely no case for the grant of any interim relief whether permanent or interim. The whole application is misconceived and is liable to be rejected by this Hon'ble Tribunal.

I, the deponent abovenamed, swear that the contents of paras nos. 1 to 18 of this affidavit are true to my personal knowledge, that the contents of paras nos. _____ of this affidavit are based on perusal of record, that the contents of paras nos. _____ of this affidavit are based on legal advice, no part of it is false and nothing material has been concealed.
So help me God.

I, Shobha Lal, Clerk to Dr. R.G. Padia, Advocate, High Court, Allahabad, do declare that the person making this affidavit and alleging himself to be Sri Wazi Ahmad is known to me from the perusal of record which he has produced in this case.

Solemnly affirmed before me this 8th day of September, 1990, at about 9-00 A.M. by the deponent who has been identified by Sri Shobha Lal,

A82

8.

aforesaid.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read over by him before me.

OATH COMMISSIONER.

Presenting Officer
G.P. Agarwal
Advocate

S. C. 31
Keep on record if
in time
K 5/2/91
Df
A83

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ALLAHABAD

Registration No. 573 of 1990

Union of India Vs. Wazi Ahmed

REJOINDER on behalf of the applicant is

as under :-

- 1- That the contents of paras 1, 2 and 3 of the Counter needs no comment.
- 2- That the contents of para 4 of the Counter are denied. Since 1-11-1985 as per amended C.A.T. Act and the decision of the Hon'ble Supreme Court no Writ lies before the High Court but the application lies before C.A.T.
- 3- That the contents of para 5 of the Counter needs no comment.
- 4- That the contents of para 6 of the Counter are incorrect and denied and the applicant reiterates the contents of para 4 of the application once again. Since termination of service of a Central Government servant is pure and simple a service matter which can only be adjudicated by the Central Administrative Tribunal and no other Court as alleged in the Counter. The respondent did not turn up so there is no question of applicability of Section 25 of I.D. Act, this is not a case of illegal termination.
- 5- That the contents of paras 7, 8, 9, 10, 11, 12, 13 and 14

Copy Shall be
Forwarded out / Com
A.D.
5/2/91

Wazi Ahmed
22/11/90

of the Counter are denied and the applicant reiterates the paras of grounds as mentioned in the application

6- That the contents of para 16 of the Counter are denied. Only Tribunal has got the jurisdiction to adjudicate the matter in question.

7- That the contents of para 17 of the Counter needs no comment.

8- That the contents of para 18 of the Counter are denied and the applicant reiterates the contents of the application.

9- That no grounds have been established for vacation of stay order and now since the pleadings are complete so the Hon'ble Bench may finally adjudicate the case instead of disposing off the stay matter only.

I, Shiv Pujan Prasad, APO

Shiv Pujan Prasad
22/11/90
बहुमन्त्रि मंत्रालय, उत्तर प्रदेश
उत्तर रेलवे, लखनऊ

Northern Railway, D.R.M. Office, Lucknow do hereby verify that the contents of paras 1 to 9 of the Rejoinder are true to my personal knowledge derived from official records and on legal advice which I believe to be true. Signed and verified on this 22 day of 11 1990 at Lucknow.

Shiv Pujan Prasad
22/11/90
for and on behalf of
बहुमन्त्रि मंत्रालय, उत्तर प्रदेश
उत्तर रेलवे, लखनऊ

S.O. (1) to keep it with file
and put up before Hon'ble
Court for orders

on 19.7.91

D. R.

11/9
19/7/91

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH : ALLAHABAD

CIVIL MISC APPLICATION NO.

1486 OF 1991

IN

ORIGINAL APPLICATION NO. 573 OF 1991

(District Kanpur)

Union of India -----Applicant.

Versus

Wazi Ahmed-----Respondent.

Take notice that the court will be
moved by the undersigned on _____ at 100' clock
in the forenoon, or so soon thereafter as the
parties or their counsel can be heard.

A copy of the application is enclosed
herewith.

Dated, this the _____ day of July, 1991

hph
(DR. R. G. PADIA)
Advocate,
Counsel for the Respondent.

B86

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIVIL MISC APPLICATION NO. 1486 OF 1991
(Under Section 151 of the Civil Procedure Code)

On behalf of

Wazi Ahmed -----Applicant.

IN RE

ORIGINAL APPEALICATION No. 573 OF 1990

(District Kanpur)

Union of India ,through D.P.O.Northern Railway
Hazratganj,Lucknow.

-----Applicant.

Versus

Wazi Ahmed ,Son of Safi Ahmed ,through the
Divisional Secretary,Uttar Railway Karamchari
Union ,39-J-II Multistoreyed Railway Colony
Charbagh,Lucknow.

-----Respondent.

To,

The Hon'ble Vice Chairman and his Companion
Members of the Tribunal.

The humble application on behalf of the
respondent MOST RESPECTFULLY SHOWETH:-

1. That the full facts have been stated

in the accompanying supplementary affidavit which may form part of this application.

2. That for the facts and reasons stated in the accompanying supplementary affidavit it is expedient in the interest of justice that this Hon'ble Tribunal may be pleased to take up the aforesaid case at an early date and further be pleased to pass an appropriate order in respect of pending stay vacation application on behalf of the respondent no.1 and /or pas such other and further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case, otherwise the applicant shall suffer irreparable loss.

P R A Y E R

It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to take up the aforesaid case at an early date and the Hon'ble Tribunal may further be pleas-ed to pass appripriate orders in respect of the ~~re~~ pending stay

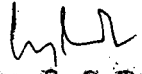
hpl

A-88

-3-

vacation application on behalf of the
respondent and /or pass such other and
further orders as this Hon'ble Court may
deem fit and proper in the circumstances
of the case.

Dt/- July, 1991


(Dr. R. G. Padia)
Advocate,
Counsel for the Respondent. 1

889

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH AT ALLAHABAD

AFFIDAVIT &

IN

CIVIL MISC APPLICATION NO. OF 1991

IN

ORIGINAL APPLICATION NO. 573 OF 1990

(District Kanpur)

Union of India, through D.P.O., N.Rly.,

Lucknow. Applicant.

Versus

Wazi Ahmed Respondent.

Affidavit of Shri Wazi Ahmed, aged
about 28 years, son of Shafi Ahmed
resident of Mohalla Katra Baradari
House No. 88 Barabanki.

(Deponent.)

I, the deponent abovenamed do hereby
declare on Oath as under:-

1. That the deponent is the respondent in the
aforesaid case and as such is fully acquainted
with the facts deposed to below.
2. That the deponent has already filed counter
affidavit alongwith stay vacation application.

A90

-2-

Subsequently a Rejpinder affidavit has also been filed .However the matter regarding the vacation of the stay order has not been considered by the Hon'ble Court and on 20th March,1991 the Hon'ble Court has been pleased to direct that the case should be post as sine-a-die

3. That for the facts and reasons stated above,it is expedient in the interest of justice that this Hon'ble Tribunal may graciously be pleased to take up the aforesaid case at an early date and the Hon'ble Tribunal may further be pleased to pass appropriate order in respect of the pending stay vacation application on behalf of respondent no. and /or pass such other and ~~other~~ further order as this Hon'ble Court may deem fit and proper in the circumstances of the case.

I, the deponent abovenamed do hereby declare that the contents of paragraph nos.1,2, and 3 of this affidavit are true to my personal knowledge which all I believe to be true

A91

-3-

and nothing material has been concealed
in it and those of paragraph nos.

of the affidavit
are true on perusal of records and those of
~~Exhibit nos.~~ paragraph nos.

of this affidavit are based on legal advice which
all I believe to be true and no part of it is false
and nothing material has been concealed in it.

So help me God.

Deponent.

I, Shobha Lal, clerk to Dr. R. G. Padia,
Advocate, High Court, Allahabad do hereby
declare that the contents of affidavit and the
person making this affidavit and alleging himself
to be the deponent is the same person who
is known to me by the perusal of records
which he produced before me in this case.

.....
Clerk.

A92

-4-

Solemnly affirmed before me on this 10th day
of ~~July~~ ^{September} 1991, at 11:30 A.M./P.M. by the deponent
who is identified by the aforesaid clerk.

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

Oath Commissioner.

1874 k 1875

43

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH: LUCKNOW.

TA 150/92 TL

NO. CAT/CB/LKO/INDI

DATE: 16-7

REGISTRATION NO. 573 OF 1990 (L)

Union of India

Applicant

VERSUS

Wazir Ahmad

Respondent

- 1- Sd G P Agrawal, Adv, CAT, 23-A, Thornhill Road
Allahabad.
- 2- Sd Wazir Ahmad, R/o Mohalla - Kalra Baradari
House No- 88, 88, Borabanki.

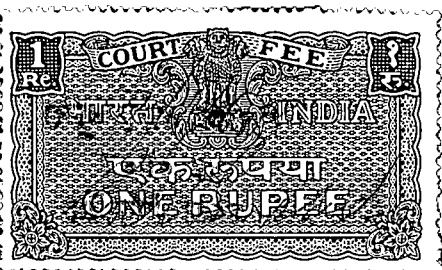
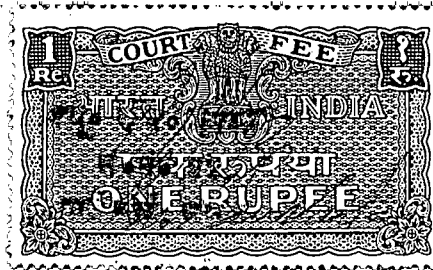
Please take notice that the applicant above named has presented
an application a copy of _____ thereof is enclosed herewith which
has been registered in the Tribunal and the Tribunal has fixed 24
day of 8/7 to show cause as to why the petition be not admitted.

Counter reply to be filed within _____ weeks. Rejoinder, if any, to be
filed within _____ weeks thereafter. *for hearing before Bench*

If, no appearance is made on your behalf, your pleader or by some
one duly authorised to act and plead on your behalf in the said ap-
plication, it will be heard and decided in your absence. Given my
hand and the seal of the Tribunal this 16 day of 7 1992.

FOR DEPUTY REGISTRAR

na/n/-



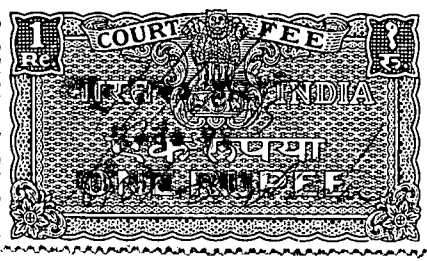
ब अदालत श्रीमान *Shri. Administration Tribunal, Lucknow*

[वादी अपीलान्त]

प्रतिवादी रेस्पॉडेन्ट]

वकालतनामा

९५



Union of India बनाम

०.११.५७३५/१९९० (प्रतिवादी रेस्पॉडेन्ट)
नं० मुकदमा सन पेशी की ता० १९ ई०
TL 150 4/1992

ऊपर लिखे मुकदमा में अपनी ओर से श्री *Ram Sushil*
and Mahesh Singh (वकील)

महोदय
एडवोकेट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही 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 मुकदमा उठावें या कोई रुपया जमा करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें 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 हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरबी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसको जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर *वजी अहमद*

साक्षी (गवाह) ... साक्षी (गवाह) ...

दिनांक ... महीना ... सन १९९० ई०

स्वीकृत

नाम अदालत
मुकदमा नं०
नाम फरीकन

Accepted
Ram Sushil
Mahesh Singh

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

O.A. NO. 573 of 1990

U.O.I.....Versus..... Wazi Ahmad.


19.11.90


Hon. D.K.Agrawal, J.M.
Hon. K.Obayya, A.M.

None appears for the applicant. Dr. R.G.Padia, learned counsel for the respondent, has sought an adjournment. Allowed. Counter affidavit may be filed within 8 weeks hereof. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

List this case before the DR(J) on 20.3.91 for completion of pleadings and thereafter let it be kept in the sine die list for listing it for hearing according to its Sl.No.

The stay order dated 6.8.90 shall continue to hold good till then.


AM.


J.M.

Typed by GHANSHYAM



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

O.A. NO. 573 of 1990

U.O.I.....Versus..... Wazi Ahmad.

19.11.90

Hon. D.K.Agrawal, J.M.
Hon. K.Obayya, A.M.

None appears for the applicant. Dr. R.G.Padia, learned counsel for the respondent, has sought an adjournment. Allowed. Counter affidavit may be filed within 8 weeks hereof. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

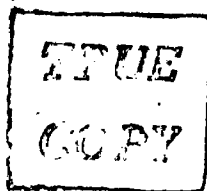
List this case before the DR(J) on 20.3.91 for completion of pleadings and thereafter let it be kept in the sine die list for listing it for hearing according to its Sl.No.

The stay order dated 6.8.90 shall continue to hold good till then.

Sl
AM.

See
J.M.

Typed by GHANSHYAM



22-11-90
(Sd/-) (Signature)
SECTION OFFICER
Central Administrative Tribunal
Allahabad,

C
96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

O.A. NO. 573 of 1990

U.O.I.....Versus..... Wazif Ahmad.

19.11.90

Hon. D.K.Agrawal, J.M.
Hon. K.Obayya, A.M.

None appears for the applicant. Dr. R.G.Padia, learned counsel for the respondent, has sought an adjournment. Allowed. Counter affidavit may be filed within 8 weeks hereof. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

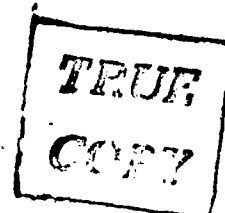
List this case before the DR(J) on 20.3.91 for completion of pleadings and thereafter let it be kept in the sine die list for listing it for hearing according to its Sl;No.

The stay order dated 6.8.90 shall continue to hold good till then.

AM.

J.M.

Typed by GHANSHYAM



21/11/90
(SHARAD KUMAR)
SECTION OFFICER
Central Administrative Tribunal
Allahabad.

C
97
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

.....

Registration O.A. No. 573/90

U.O. and others.

Versus

Sr Wazi Ahmad

Dated 5.11.1990

Hon. K. Nath, VC

Hon. K. Chavva, J

Neither parties nor their counsel are present,
on account of Lawyers' strike to day in continuation
of the strike on previous dates on state Action in
Ayodhya and Gurgaon in Allahabad.

The case is adjourned to 19.11.1990 for orders

The interim order passed earlier shall continue till
then

TRUE

CONF

07/11/90
(SHARAD KUMAR).
SECTION OFFICER
Central Administrative Tribunal
Allahabad

Sd/-
All

Sd/-
VC

C
98

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No. 573/90

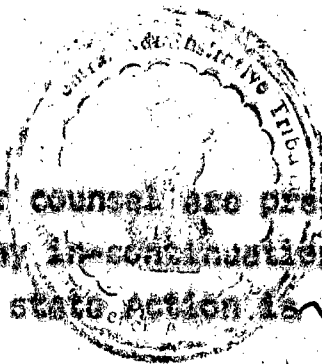
U.O. and others

VERSUS S. Wazir Ahmad

Dated 5.11.1990

Hon. K. Nath, VC

Hon. K. Chavva, AJ



Neither parties nor their counsel are present, on account of Lawyers' Strike to day in continuation of the strike on previous dates on state Action in Ayodhya and Curfew in Allahabad.

TRL
CC

The case is adjourned to 19.11.1990 for orders. The interim order passed earlier shall continue till then.

2/11/90

Sd/-
AJ

Sd/-
VC

(SHARAD KUMAR)
SECTION OFFICER
Central Administrative Tribunal
Allahabad.

99

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

GA No. 543/90

Union of India as

VERSUS Wazi Ahmad

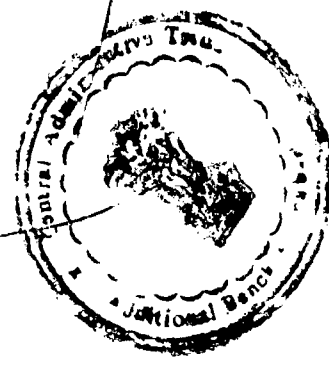
24.9.90

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

Hon'ble Mr K.J. Raman, A.M.

None is present for the parties. Lawyers are on strike. List this case for orders on 5.11.90. The interim order passed earlier shall continue till that date.

Sd/-
A.M.



Sd/-
V.C.



[Handwritten signature]

(HARDO KUMAR)
SECTION OFFICER
Central Administrative Tribunal
[Handwritten signature]

O/C

Registered (A.D.)

100

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Regd. A/D

23-A Thornhill Road

Allahabad, 211001

Registration O.A.No. 573 Of 1990

No. CAT/Alld/Jud.

APPLICANT.

Vrs

RESPONDENT.

[Faint handwritten text, possibly a petition or application, mostly illegible due to fading and bleed-through.]

Please take notice that the applicant above named has presented an Application a copy of whereof is enclosed herewith which has been registered in this Tribunal and the Tribunal has fixed

Defunct Day of . For:-

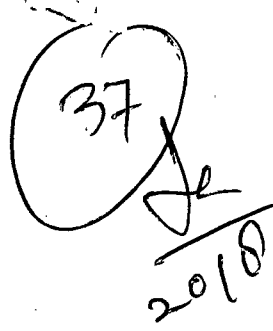
on interim relief

The counter can be filed within 4 weeks from 6/8/90

if, no appearance is made on your behalf, your pleader or by someone duly authorised to Act and plead on your behalf in the said application, it will be heard and decided in your absence. Given under my hand and the seal of the Tribunal this Day of 1990.

For Deputy Registrar
(Judicial)





0-A न० 573 सन् १९५०
U.O.I 86/4

वादी/प्रतिवादी
अपीलान्त

बेनाम

Mold water

वादी/प्रतिवादी

मैं/हम कि

Mohel Weyer Sp. Shaf. Alw. रेमान्डे.ट

रेस्पान्डेन्ट

Ages 28 yrs R/O mtd all 5

Kaba Bareda, H.M. ~~88~~ K/DO

BARABOLTER

उपरोक्त प्रकरण (मुकदमा) में मैं/हम अपना पक्ष समर्थन हेतु

RAKESH VERMA

एडवोकेट, हाईकोर्ट

91/3 Industrial Colony Naini Allahabad.

को धनूनी/निश्चित शुल्क (मेहनताना) नियत करके अपना/हमारा अभिभाषक (वकील) नियुक्त करता हूँ/करते हैं और यह स्वीकार करता हूँ/करते हैं कि उक्त सज्जन हमारी ओर से वाद-पत्र (अर्जी/दावा), प्रतिवाद-पत्र (बयान तहरीरी), वाद स्वीकार पत्र, विवाद-पत्र, पुनरावलोकन एवं पुनर्निर्णय प्रार्थना-पत्र (दरखास्त), शापथिक कथन (हलफनामा), प्रवर्तन-पत्र (दरखास्त इजराय), मुजबात अपील, निगरानी इत्यादि हर प्रकार के अन्य प्रार्थना पत्रादि एवं लेखादि का प्रतिलिपियाँ अपने हस्ताक्षर करके न्यायालय में प्रस्तुत करें अथवा किसी पत्र पर आवश्यकानुसार शापथिक पुष्टीकरण करें और आवश्यक सवाल जवाब करें और लेखादि का प्रतिलिपियाँ एवं हमारे प्राप्य धन को अपने हस्ताक्षरी पावती देकर प्राप्त करें, हमारी ओर से किसी को मध्यस्थ तथा साक्षी (गवाह) मानें और उससे सम्बन्धित प्रार्थना-पत्र प्रस्तुत करें तथा उसका समर्थन करें तथा तसदीक करें, वाद-पत्र उठावे/छोड़े अथवा समझौता करें तथा सुलहनामा दाखिल करें, तथा उसके सम्बन्ध में प्रार्थना-पत्र दाखिल करके उसका समर्थन करें अर्थात् प्रकरण से सम्बन्ध रखने वाली कुल कार्यवाही डिग्री के भर पाई होने के समय तक स्वतः या संयुक्त करें। आवश्यकता होने पर किसी अन्य वकील महोदय को वकील करें।

उक्त सभी कार्यवाही जो उक्त सज्जन करेंगे प्रत्येक दशा में अपने किये की भाँति हमको/मुझको सवथा स्वीकार होगी। अगर मैं कानूनी/हम निरचित शुल्क तथा विशेष शुल्क आखिरी बहस के वक्त उक्त सज्जन को न दूँ/देँ तो उनको अधिकार होगा कि वह हमारी ओर से मुकदमा की पैरवी न करें। उपरोक्त दशा में उक्त सज्जन का कोई उत्तरदायित्व न रहेगा।

अतएव यह अभिभा क पत्र लिख दिया कि प्रमाण रूप से समय पर काम आये।

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माह

सन १९८०