

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

OA/TA/RA/CP/MA/PT71/90 of 20.....

Niyaj AhmadApplicant(S)

Versus

u.o.g.Respondent(S)

INDEX SHEET

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Certified that the file is complete in all respects.

Signature of S.O.

Signature of Deal. Hand

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

1-3-90

Registration No. 71 of 1990

APPLICANT(S) N. Anmay

RESPONDENT(S) UOI

Particulars to be examined	Endorsement as to result of examination
1. Is the appeal competent ?	Yn
2. a) Is the application in the prescribed form ?	Yn
b) Is the application in paper book form ?	Yn
c) Have six complete sets of the application been filed ?	Yn
3. a) Is the appeal in time ?	Yn
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 authorisation/ Vakalatnama been filed ?	Yn
5. Is the application accompanied by B.D./Postal Order for Rs.50/-	Yn
6. Has the certified copy/copies of the order(s) against which the application is made been filed?	Yn
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	Yn
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Yn
c) Are the documents referred to in (a) above neatly typed in double space ?	Yn
8. Has the index of documents been filed and paging done properly ?	Yn
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application?	Yn
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?	NO

Received and sent
for review
Shankar Kumar
1-3-90

(R2)

Particulars to be Examined

Endorsement as to result of examination

1. Are the Application/duplicate copy/separate copies signed ?
12. Are extra copies of the application with Annexures filed ?
 - a) Identical with the Original ?
 - b) Defective ?
 - c) Wanting in Annexures
 - d) Nos. _____ pages Nos _____ ?
13. Have the file size envelopes bearing full addresses of the respondents been filed ?
14. Are the given address the registered address ?
15. Do the names of the parties stated in the copies tally with those indicated in the application ?
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?
17. Are the facts of the case mentioned in item no. 6 of the application ?
 - a) Concise ?
 - b) Under distinct heads ?
 - c) Numbered consecutively ?
 - d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for indicated with reasons ?
19. Whether all the remedies have been exhausted.

Yes

Yes

No

Yes

Yes

Yes

Yes

Yes

Yes

dinesh/

71/90 (L)

(24)

4.10.90

No sitting Adj to 20.12.90

(2)

20.12.90

No sitting Adj to 29.01.91

Sri N.K. Varma files
power h
6/11

20.12.90

29.1.91

No sitting Adj to 1.4.91

Q

GR

Sri N.K. Varma
files power on behalf
of O.P. but no corrob.
S.F.H.

h
27/3

Received Copy
Raz Ahmad
09/7/91
Applicant.

1.4.91
D.R.

Both the parties are
present today. Respondent
has filed counter today.
Now applicant will
file rejoinder by 18.4.91.

18.4.91
D.R.

9/11

Applicant's side is present
O.P. is absent today. C.A/R.A.
have been exchanged. Hence,
this case is listed before
the Hon. Bench, on 27/7/91
for F.H. ✓

(45)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No.71 of 1990 (L)

Niyaj Ahmad Applicant
Versus
Union of India & Others..... Respondents

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

Hon.Mr. A.B.Gorthi, Member (A)

(By Hon.Mr.Justice U.C.Srivastava, VC)

The applicant who is a railway employee has filed this application against the ex parte punishment order dated 12.5.89 passed by the Sr. DOS Moradabad and the appellate order dismissing the appeal. A chargesheet was given to the applicant on 13.3.89. The charges against the applicant were :

" Shri Niaz Ahmad while functioning as TI/HRI in the month of February, 1989 committed serious irregularities in as much as -

(i) He was caught red handed while travelling in AC 2 T of 51 UP on 16.2.89 on berth No.15 with 2nd class duty card pass No.20828. He was charged Rs.298/- (Rs.161/- + Rs.137/-) at NRS station vide EFT No.580614.

(ii) Shri Niaz Ahmad misused the 2nd class duty card Pass No.20828 as he did not perform any official duty during the course of his entire journey upto NRS. He also did not attend DRM's office/MB on 16.2.89 for any official work.

By the above acts of omission and commission on the part of Shri Niaz Ahmad, he violated Rule 3(1) (i), (ii) and (iii) of the Railway Service Conduct Rules, 1968 as he failed to maintain absolute integrity, devotion to duty and acted in an unbecoming manner of a Railway servant. "

2. The applicant was required to submit his reply. The applicant submitted his reply on 23.3.89. He also demanded certain relied upon and additional documents for preparation of his reply of the memo of chargesheet but no reply or documents were provided and ex parte punishment order without supplying documents was passed.

3. The respondents case is that the applicant was given full opportunity of hearing and he was also allowed to inspect the documents and if need be he may also copy out of the same but he could not do so. The applicant did not submit his defence reply, instead he asked for documents which were not relevant. The grievance of the applicant is that he was not given the copies of the documents for which he is entitled to get. The learned counsel for the applicant states that the applicant will now file his defence reply within fifteen days. In view of the fact that the applicant may be given reasonable opportunity and both the orders 12.5.89 passed by the Sr.DOS Moradabad and the appellate order dismissing his appeal are quashed and the disciplinary authority is directed to fix a reasonable date for submission of his reply and the applicant shall file his reply within fifteen days and thereafter after giving a personal hearing to the applicant, the disciplinary authority may proceed with the matter. The respondents will also make available all the required documents to the applicant to inspect and if need be he may be allowed to copy out the same. With these observations the application is disposed of without any order as to costs.

Dated the 3.7 July, 1991

Mentor (A)

Vice Chairman

Mam Ggy (A)

Before The Central Administrative Tribunal, Circuit Bench,
Lucknow.

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing 1-3-90
Date of Receipt by Post

GA 71/906

h
City Register 11

Niaj Ahmad..

..Claimant.

Vs.

Union of India & oths..

..Respondents.

Deptt. N.Rly.

Claim against Order Dt. 12.5.89 imposing
Penalty of Withholding Increments.

Compilation No. I

I N D E X

Sl. No.	Description of Documents	Page No.	Remarks
1.	Memo of Claim Petition	1 to 11	
2.	Annexure No. A1 Punishment Order Dt. 12.5.89	12	
3.	Annexure No. A2 Appellate Order Dt. 31.7.89 passed by Appellate Authority.	13	
4.	Vakalatnama	14	

Compilation No. II bounded Sopratly

Noted for 5/3/90

Ally

1/3/90.

LUCKNOW:DATED:

1st March

Feb., 1990

Filed Through:-

Ally
A.K.DIXIT,

ADVOCATE,

509/28-Ka, Old Hyderabad,

LUCKNOW.

Muzim G. 974 (22)

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL ADDL. BENCH

LUCKNOW.

1-3-90

REGISTRATION NO. 71

OF 1989

9061

Niyaz Ahemad aged about 37 years, son of Shri Moinuddin,
working as Traffic Inspector Northern Railway/Hardoi,
Resident of Rly. Quarter No. T-4-F Rly. Colony Hardoi
District Hardoi.

..

..Applicant.

Versus.

1. Union of India, through G.M./N.Rly. Baroda House
Now Delhi.
2. The Addl. Divisional Railway Manager, Northern Rly.,
Moradabad.
3. Shri Devi Prasad Pandey, Sr. D.O.S., N.Rly. Moradabad.

..

..Respondents.

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

That this application is made against the orders
of imposition of Ex-Party punishment order No. OPTG/MISC/
89 (NA) dated 12.5.89 passed by Senior D.O.S./N.Rly./
Moradabad Shri Davi Prasad Pandey respondent no. 3.
Copy of the order is enclosed as ANNEXURE NO. 1 to
this petition. The applicant also submitted his appeal

Niyaz Ahemad

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to A.D. R.M. Moradabad Respondent No.2, who also rejected the appeal and thus Ex-Party Punishment for W.I.T. Two years is to be imposed from 1.5.1990 Copy of appeal rejection order of A.D. R.M. Respondent No. 2, is attached as Annexure No. 2 to this Potition. which was rejected Vide A.D.R.M. Order No. OPTG/MISC/ 89 (NA) dated 31.7.89 served on the applicant on 21.8.89.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

The applicant further declares that the application is with in the limitation period prescribed in Section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the Cases

4.1. That applicant was required to submit the joint note regarding Banner Flags with other connected works to D.O.S./Moradabad as per instructions of D.O.S./Moradabad on 16.2.89 and so in order to deliver that Note, applicant who is Traffic Inspector posted at Hardoi travelled by SL from Hardoi to Moradabad on duty on

Naig Ahmed

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his Duty Card Pass Issued by the Rly.

Administration and obtained a certificate for its delivery from D.O.S./Moradabad which is Annexure No. 3 to this Petition.

4.2. That the applicant as Traffic Inspector on duty checked F.S.L.R. between Bareilly and Nagarja Sadar of Train No. 51 U.P. Loading and unloading of Assistant Guard Shri Shiv Singh working 51 U.P. Train Ex-Lucknow to Moradabad and also collected tally sheet of Loading and unloading which is marked as Annexure No. 4 and 5 to this petition.

4.3. That after checking Loading and unloading of Assistant Guard of 51 up between Bareilly and Nagarja Saadat Stations, the applicant went to get 2 Tier A.C. Sleeper Coach of 51 up dated 16.2.89 checked in his presence. The applicant directed Shri S.D. Gupta Caption to arrange its checking in his presence between Nagarja Saadat and Rampur. Shri A.K. Tyagi T.C. travelling in 2 Tier A.C. Sleeper coach declared himself on duty for checking of this Train and so he was asked to show his Authority for which he refused and used un-parliamentary language and demanded applicant's duty Card as in which was shown to him immediately. He became rude and demanded dues for travelling in 2 Tier

Viaz Ahmed

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A.C. Sleeper coach despite of the applicant instructions, he disobeyed his orders and forcibly and wilfully recovered unlawful dues and forced to give in writing under the threats of arrest which he had to give in writing under the threats of arrest which he had to give in writing under his dictation to save his prestige and also managed the amount through his acquaintances in the Train till Moradabad.

4.4. That the applicant submitted his report to D.C.S./Moradabad demanding refund of this illegal recovery of unauthorised amount of Rs. 298/- Vide Excess Fare Ticket No. 580614 of 16.2.89 immediately which was suppressed under the instructions of Sr.D.O.S./Moradabad rather Shri Tyagi T.C. was directed to assault the applicant on for which report was submitted to higher authorities and there after Shri Tyagi T.C. was placed under suspension. Copy of his report is Annexure No. 6 to this Petition which was submitted to D.C.S./Moradabad.

4.5. That since Shri Tyagi T.C. was closely connected with Sr.D.O.S. and others, a memorandum charge sheet No. OPTG/

Shri Tyagi T.C.

PK

-5-

MISC/89 (NA) dated 13.3.89 was served to the applicant on false and fabricated allegations copy of the said Memorandum charge sheet is enclosed as Annexure No. 7 to this petition.

4.6. That the applicant submitted his reply to the Memorandum charge sheet dated 13.3.89 on 23.3.1989 endorsing also report submitted to D.C.S. and also delivered one copy personally to Sr.D.U.S./Moradabad and One Reply to the Memorandum charge sheet sentely registered A.D. Pst on 28.3.89 vide 4915 received in DRM Office on 29.3.89. The applicant also demanded certain relied upon and additional documents for preparation of his reply of the memorandum chargesheet copy enclosed as Annexure No. 8 to this Petition, but no reply or documents were provided and Ex-Party punishment order without supplying documents or replying his representation was awarded to the applicant on account of extreme prejudicenes which is has already been attached as Annexure A-1 to this potition.

4.7. That the applicant submitted his appeal to A.D. R.M. Respondent No.2, copy of which is attached as Annexure No. 9 to this petition, but the applicant was neither afforded

Maz Ahmad

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-5-

personal hearing along with his defence helper or self but Ex-Parte punishment of Sr. D.O.S. was confirmed by A.D.R.M. Moradabad Annexure No.2.

4.8. That applicant is being harrassed in various ways like his transfer in the middle of sossions for which he has moved a representation which has been filed as Annexure A-10.

4.9. That true Photocopies of Registered Postal Receipt and A.D. by which reply of charge sheet was sent and its reminder Dt. 10/12.4.89 are attached as Annexure-A-11 and A-12.

5. Grounds For Belief with Legal Provisions:

(A) That the Disciplinary Authority as well as Appellant Authorities both failed to pass self contained, speaking and reasoned orders as mandated Vide Rly. Board Letter No. E9D&A) 78 RG 6-11 dated 3.3.78 as well as Government of India Ministry of Home Affairs Department of Personal and Administrative Reforms Office Memorandum No.134/1/81-ADV-1 dated 13.7.81 issued on the observations of the Hon'ble Supreme

✓ 1/12/81 Ahmed

Court of India orders in Case of Mahavir Pd.
Vs. State of U.P. (A.I.R. 1970) Page 1302.

(B) That the reminder sent by Sr.D.C.S./Moradabad dated 6.4.89 was also replied on 10.4.89 and there after copy of the report submitted to D.C.S. was also again delivered to Sr.D.O.S. Moradabad and he was requested to supply the copies of the documents but no reply in this connection was given and Ex-parte punishment Under was awarded violating Rly.Board Letter No. E (D&A) 77 RG 6.20 dated 12.6.78 N.R. Serial No. 7039 where in it has clearly been ordered that if the charged Officer demands copies of the document in case of minor penalty charge sheet, he should not be refused but should be supplied and if the same are refused reasons for such refusal should be quotted and there after action should be taken, but in this case all such rules were violated by learned Sr. D.O.S./Moradabad.The Rly.Board vide its order No. E9 D&A) 86 RG 6-3 dated 11.2.86 also issued instructions that if charged officer demands enquiry in case of minor penalty charge sheet it should not be refused, but in this case enquiry demanded by the applicant was refused.

(C) That rules of natural justice and reasonable

Miaz Ahmad

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opportunities Guaranteed under Article 311(2) of the Constitution were also violated in this case and Ex-parte punishment order was issued.

- (D) That Article 20 of the Constitution Guarantees that no one can be punished without affording reasonable facilities, but in this case this article too was violated and thus the punishment is liable to be cancelled.

xxx

6. Details of the Remedies Exhausted:-

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

- (A) That the applicant submitted his report dated 16/17.2.89 to D.C.S./Moradabad against Shri T.C.Tyagi T.C./Moradabad for refund of amount charged illegally ANNEXURE No. 6 , but no action was taken against him.
- (B) The applicant submitted reply to the charge sheet Annexure No. 8, demanding copies of certain documents but neither documents were supplied despite of his reminders dt. 10.4.89, but still none of the document was supplied and Ex-parte punishment was awarded.

King Ahmed

(C) The applicant submitted his appeal Annexure No. 9 to the A.D.R.M. Moradabad which too was rejected and no personal hearing was granted along with his Defence Holper.

7. Matters no previously filed or being pending with any other court.

The applicant further declares that he had not previously filed any application, writ petition, or suit regarding the matter in respect of which this application has been made, before any court or any other authority or any other Bench of the Tribunal nor any such application, Writ petition or suit is pending before any of them.

8. Relief Sought:-

In view of the facts mentioned in para 6 above the applicant prays for the following reliefs:-

- (A) The impugned punishment order passed Ex-parte be quashed and the applicant be exonerated from the allegations.
- (B) Since the punishment has been awarded Ex-parte on prejudicial basis and no one can be punished twice in one case. The

K. Z. Ahmad

applicant was charged illegally Rs.298/-
under S.F.T. No. 580614 of 16.2.89,
amount of which has not been refunded and
second punishment of W.I.T. Two years
has been awarded by Sr.D.O.S. which was
confirmed by the A.D.R.M. Moradabad.

- (C) That no one can be punished without providing him facilities permissible under the Rules.
- (D) That applicant was on duty and is authorised to exercise the Check of the Sleeper Coaches while was on duty.
- (E) That the duty of the applicant was verified by D.O.S. Moradabad as well as by Assistant Guard working 51 up Train on 16.2.89.
- (F) Because both authorities violated Rly.Board Orders already quoted in the Para noted above as well as disregarded the directives of the Ministry of Home Affairs on the observations of Hon'ble Supreme Court order.

9. Interim Order, If any Prayed for:-

Pending Final decision on the application,
the Ex-parte punishment order passed by respondent
No. 2 and 3 affecting from 1.5.1990, be stayed as the
punishment has not been implemented as yet.

Niaz Ahmad

AD

10. The Applicant shall present this application in person and shall get his case pleaded through an Agent Shri I.P.Gupta Retd. Captain TTE/N.Rly.Bareilly.
11. Particulars of Bank Draft in support/respect of the application for Rs. 50/- numbering DT/A/88 911011 Dt. 01.02.90 issued in favour of Registrar Central Administrative Tribunal Lucknow dt. 01.02.90 is attached with this application.
12. List of enclosures attached.

Applicant

Lucknow:
Dt. 1st Feb., 1990

Niaz Ahmad
(Niyaz Ahmad)

AD

Verification.

I, Niaz Ahmad son of Shri Moinuddin, aged about 37 years, working as Traffic Superintendent, Northern Railway Hardoi, Resident of Quarter No. T-4, F-Railway Colony/ N.Rly./Hardoi do here by verify that the contents of paras 1 to 12 are true to my personal knowledge and belief and that I have not suppressed any material fact.

Lucknow:
Dt. 1st Feb., 1990

Niaz Ahmad
Sig. of the applicant.

#13

[Faint, mostly illegible text, possibly a letter or report, with some words like "General" and "Unit" visible.]

Leah

Attest

[Signature]

General Manager
J.P. [illegible] Corp.
Unit - Hawaii

Page 13

(114)

Laney

Attested

[Signature]

Main Copy

Before The Central Administrative Tribunal, Circuit Bench,
Lucknow.

in 7/1/90 Lh.

Niaj Ahmad..

..Claimant.

Vs.

Union of India & oths..

..Respondents.

COMPILATION NO.II

I N D E X

Sl.No.	Description of Documents	Page No.	Remarks
1.	Annexure No.A-3 Certificate of DOS Moradabad.	15	
2.	Annexure No.A-4 Certificate of Asstt.Guard of SI Up	16	
3.	Annexure No. A-5 Copy of Loading and Unloading checking statement.	17	
4.	Annexure No. A-6 Report of Petitioner against Anur Tyagi.	18-19	
5.	Annexure No. A-7 Charge sheet Dt. 13.3.89	20-21	
6.	Annexure No. A-8 Reply of Ch.sheet Dt.23.3.89	22-23	
7.	Annexure No. A-9 Copy of Appeal Dt. 3.7.89	24-27	
8.	Annexure No. A-10 Representation against Trustee	28-29	
9.	Annexure No. A-11 Ragd. Postal Receipt No.4915 and its acknowledgement Due.	30	
10.	Annexure No.A-12 Reminder Dt. 10/12.4.89	31	

Lucknow:
Feb. 1-3, 1990

Niaj Ahmad
Claimant.

Page No 18

Annexure No 3

(18)

Certified that Sir. Niaz Ahmad
TI-HR/ attended my office on 16-2-89
in Connection with official work and
Submitted Joint Note & S.D.O. MB...

WQ

20/2

Attested

Deputy

Dr

उत्पादन के लिए जाता है। कि कड़ाके का 14.7.2008 2/22
 को ST/01 में FISLR को जाते D.T. 1 मुरादा लाल/T. 1-HR,
 नुं निरीक्षण किया तथा लोडिंग व अनलोडिंग में वरमा
 में तगर या सादात के बीच चक (काम) और लोडिंग
 अनलोडिंग देना को ला।

Jus Singh
 H.O. ST/EXP
 Lko - MB
 16-2-89

Certificate of Asst Guard

Attested

[Signature]

[Signature]

General Manager
 U.P. State Sugar Corporation Ltd
 Lucknow - India

(AP)

Slip exp. Lr to MB FTS die no-67/4E A 16/2/89

Fl. KR: (13) BBLs, U/L.

SPN = (17) - 14B/1M/Bag mag Ball. 1. B/5 Fr. U/L

LDG SPN = (1) eye ce at PPK.

BE = (8) - 4B/5 Fr. 2 RMS 2 n/s Ball. 1 Rnd (9) U/L.

BE = (12) at SAT / LDG.

RMM = (3) - 3G Ball U/L.

MB = (27) - 4 Rnd. 1 eye ce - 6G Ball. 2 n/s Ball. 2G 0.5/12G.

NBP = (1) - 1 Rnd.

SRE = (36) - 35 B/5 Fr. U/L. 1 RMS

OMB = (1) - 1 RMS

LDH = (55) - 7 B/5 Fr. 48 0.5 FF

JUE = (2) - 2 B K/5 FF

JAT = (37) - 14 B/5 Fr. 1 eye ce 5 B/5 Fr. B K/5 FF

R/RK = (3) - 2 B K/5 FF

SRE = (7) - 7 B K/5 FF

UMB = (2) - 2 B K/5 FF

LDH = (6) - 5 B K/5 FF

JUE = (10) - 10 B K/5 FF

JAT = (12) - 2 B/5 FF 6 B K/5 FF 4 0.5 FF

Attested
Lk. - MB
16/2/89

Loading & Unloading
checking statement

Attested

for

General Manager
U.P. State Sugar Corporation Ltd
Unnao - Jaidol

Signature

Date - 16/17-2-89.

To,

The D.C.S. N. Ry -
MORADABAD.

C/- Sr. D.O.S. N. Ry - MB.

SUB:- Refund of Rs 298-00, Illegally Charged by
Sr. ARUN. KUMAR TYAGI - TC-MB - working
51-UP train on 16-2-89 when asked him to check
2-tier A.C. Sleeper Coach in my presence

Sir,

I was travelling from HRI to MB by 51-UP train
on 16-2-89 for delivering the Joint Notes, Banner Pigs with other Comm-
-line works to Sr. DSO N. Ry - MB.

That I checked FSLR between BE & NRS by
51-UP on 16-2-89 and checked loading of Post Guard - Sr. Shree Singh
working 51-UP train ex-LKO to MB.

That at NRS, I went to get 2-tier A.C. Sleeper
Coach of 51-UP checked in my presence and accordingly I asked
Conductor Sr. S.D. Gupta and Sr. A.K. Tyagi - TC-MB who were
travelling in 2-tier A.C. Sleeper Coach at NRS.

That Sr. A.K. Tyagi - TC-MB who was ordering
to check the train, refused to check 2-tier A.C. Sleeper Coach of
51-UP of 16-2-89 and rather demanded my Duty Card Pass, which
I showed him immediately on demand.

That I was at loss to understand that instead
of checking the 2-tier A.C. Sleeper Coach, he demanded from me
Rs 298-00 for travelling in 2-tier A.C. Sleeper Coach and rushed to
Berth No 15 and sat there. I also accompanied him on Berth No
15 and again I instructed him to check the Coach but he refused
and used impertinent language and demanded Rs 298-00
as fare and penalty for travelling in 2-tier A.C. Sleeper Coach when
I was travelling on duty and had gone there to get it checked
in my presence.

That he forcibly and wickedly threatened
me to hand me over to Police to which I first refused.

Yours faithfully

Contd to Page-2

Attested

General Manager
U.D. State Transport Corporation Ltd

Continued from Page (1) - Page No (2)

Page No 19


(19)

the Illegal dues demanded by him and thereafter showed my inability to pay such huge amount having no such money available with me. He again threatened to get me prosecuted and forced me to write under his dictation which I gave in writing showing my inability to pay the Illegal Dues.

That he disobeyed my Instructions in Chapter 2-tur A.C. Super Coach and Illegally and Unlawfully recovered Rs 298.00 which I had to collect from my acquaintances for payment.

Please take suitable action against Sh. A.K. TYAGI - Ticket Collector - Moradabad and also arrange to refund the unlawful and Illegal amount recovered from me while performing my legitimate duties and Intimate the action taken in this case.

Attested


General Manager
U.P. State Sugar Corporation Ltd
Unio - Hardoi



Niaz Ahmad
(NIAZ AHMAD)
Traffic-Inspector
N. Rly - HARDOI.

चौथी धारा के अन्तर्गत (अनुशासन और अपील) नियम, 1968 का विवरण 11)
 Statement of charges for disciplinary or penalties [Rules 11 of RS (D&A) Rules, 1968]

No./... Date/11.09.89 (1A)

DRM's office, Moradabad

रेल प्रशासन का नाम/Name of Railway Administration

जारी का स्थान/Place of issue, MB, दिनांक/Date, 13.3.1989

MEMORANDUM

प्रति (इसे) (कॉपीज जिसमें
 जमा किया है) (को) एकादेश या अधिकार प्राप्त है कि राष्ट्रपति/...
 द्वारा उसके विरुद्ध रेल सेवक (अनुशासन और अपील) नियम, 1968 के अन्तर्गत कार्रवाई करने की
 सुझाव या अपील के संदर्भों का एक विवरण संलग्न है, जिस पर उपरोक्त कार्रवाई करने की स्थापना है।
 Shri. Niaz Ahmad (Designation) TI/HRI Office in which
 working) is hereby informed that the President Rail...
 propose (s) to take action against him under Rule 11 of the Railway Servants (Discipline and...
 A statement of the imputation of misconduct or misbehaviour on which action is proposed to...
 above, is enclosed.

2. श्री... एकादेश या अधिकार प्राप्त है कि (1) स्थापना के विरुद्ध
 पर जो भी अभ्यावेदन देना चाहे, वे दें। अभ्यावेदन यदि देन हो, तब हस्ताक्षरी को (1) स्थापना के विरुद्ध
 के माध्यम से), इस तरह प्रस्तुत किया जाता चाहिए ताकि वह इस बात की प्राप्ति के दस दिन में (1) स्थापना के विरुद्ध
 के पास पहुंच जाए।

Shri. Niaz Ahmad... as he may wish to make against the proposal. The representation
 (through the Competent Authority) should be submitted to the undersigned
 within ten days of receipt of this Memorandum.

3. यदि श्री... 1 में निर्दिष्ट अवधि के अन्तर्गत कोई भी अभ्यावेदन
 कि उन्हें कोई अभ्यावेदन नहीं देना है और श्री...
 If Shri. Niaz Ahmad... to submit his representation within the period specified in
 para 2, it will be presumed that he has no representation to make and orders will be liable to be passed against
 Shri. Niaz Ahmad... ex-parte.

4. श्री... इस प्राप्ति की प्रतिलिपि
 The receipt of this Memorandum should be acknowledged by Shri. Niaz Ahmad...

(राष्ट्रपति के आदेश द्वारा और उसके नाम से) / (In the name of the President)

Attested

हस्ताक्षर/Signature...

नाम/Name...

उपस्थित अधिकारी का नाम और पदनाम
 Name and Designation of the Competent Authority

प्रदाता को (रेल सेवकों के नाम, पदनाम और पद) (To be retained wherever this Memorandum is in the possession of the Railway Servants)

To Shri. Niaz Ahmad, TI/HRI

(Name, designation and address of the Railway Servants)

यह प्रतिलिपि मई प्राप्ति रेलवे बोर्ड/राष्ट्रपति द्वारा जारी की गई है।
 To be retained wherever this Memorandum is in the possession of the Railway Servants

यह प्रतिलिपि प्रेषित कर दी गई है।
 To be retained wherever this Memorandum is in the possession of the Railway Servants

ZR.P/R.Rb. (P.bg). Delhi-35-2071/17-6-87-90, 10.

Handed

1021

Statement of the imputation of misconduct or misbehaviour on which action is proposed to be taken against Shri Niaz Ahmad, T.I./HRI.

Shri Niaz Ahmad while functioning as T.I./HRI in the month of February, 1989 committed serious irregularities in as much as -

- 1) he was caught red handed while travelling in AC 2 T of 51Up on 16.2.89 on berth No. 15 with 2nd class duty card pass No. 20828. He was charged Rs. 298/- (Rs. 161/- + Rs. 137/-) at NRS station vide RFT No. 580614.
- 2) Shri Niaz Ahmad misused the 2nd class duty card pass No. 20828 as he did not perform any official duty during the course of his entire journey upto NRS. He also did not attend DRM's office/MB on 16.2.89 for any official work.

By the above acts of omission and commission on the part of Shri Niaz Ahmad, he violated Rule 3.(1), (i), (ii) and (iii) of the Rly. Service Conduct Rules, 1986 as he failed to maintain absolute integrity, failed to maintain devotion to duty and acted in an unbecoming manner of a Rly. servant.

1968

(D. P. Pande)
Sr. Divl. Engg, Superintendent,
Moradabad.

Attested

[Signature]

[Signature]

Recd on 15.3.89

20
24
328

Page No 22
A22

ANNEXURE NO 8

TO,

THE SR. D.O.S., RLY.,
MORADABAD.

FROM,

Subj: MEMORANDUM CHARGE SHEET NO 0749/4150/89 dated 13.3.89.

SIR,

In view of your above referred memorandum charge-sheet, I have the honour to submit the following representation preparatory to the submission of my defence statement:-

1- That kindly provide me the authenticated copies of the following documents to enable me to submit my defence statement:-

(a)- Photostatic copy of the report of Shri Arun Singh, Ticket collector/Moradabad with his duty card pass number, Ticket checking authority issued to him.

(b)- Photostatic copy of the statement of Conductor 2 for Moradabad of Coach Shri S.D. Gupta H.Q./Moradabad who conducted of 51 B train upto Moradabad on 16.2.89.

(c)- Photostatic copy of the A.Bill of Shri Arun Singh S.O. of 16.2.89.

(d)- Photostatic copy of the attendance certificate for submission of my statement to D.O.S./Rly./Moradabad as desired by Mr. S.O. S./Rly./Moradabad for 16.2.89 though the same certificate for my attendance for L.R.M. Office on 16.2.89 has been granted by the learned D.O.S./RB on 20.3.89 which is with me and can be produced if so desired and also the certificate of Assistant Guard of 51 B for my presence and checking of loading in S.L.R. of 51 B on 16.2.89 between BE and negative track.

2- That in case of minor enquiry charge sheet, copies of the documents are permissible as such may kindly be provided, which is well with in the knowledge of your honour.

3- That Railway Board has also issued the instructions vide its letter no (D) 86 LG 6-3 dated 11.2.86 where in it has been clearly been mentioned that if charged officer requests for enquiry, it should not be refused as such it is requested that your honour may please order for enquiry before submission of my defence statement.

Page 28

(123)

ANNEXURE NO 8

may please order to arrange enquiry before submission of my defence statement.

In the end it is prayed that your honour will kindly afford me reasonable opportunity permissible under rules and provide me the desired photostatic copies of the documents demanded vide para 1 (a), (b), (c) and (d) to enable me to submit my defence statement.

Thanking you.

Yours faithfully,

Dr. BIAZ AHMED

Dated 23 of March 1989.

Dr. BIAZ AHMED

HARDOT.

Attested

hineg

~~123~~

TO
THE ADDITIONAL DIVISIONAL MAGISTRATE,
MORADABAD.

A24

1. Appeal under Rule 13, of the Railway Appeal Rules, against the order of imposition of penalty of Rs. 1000/- by the Railway Board, dated 12.6.89, in the appeal No. 23.5.89.

Special Note :-

A copy of the appeal is also being sent under Rule 21 (2) of the Railway Appeal Rules to the Railway Board, to enable them to present their further case under Rule 21 (3) of the Railway Appeal Rules, to enable the appellate authority to decide this appeal within one month, as fixed by the Railway Board under Order No. E(RA) 71 RG 6-22 dated 11.6.71 under appeal No. 1231.

Sir,

Most respectfully, the humble applicant begs to prefer his appeal against the above captioned order as below :-

GROUND S O F A P P E A L

1- That the order of the learned Sr. D.O.S./Moradabad, here by appealed against, is basically invalid and void, in being violative of the legal pronouncement of the Hon'ble Supreme Court of India and the statutory directions of the Government of India contained in G.O./M.H.A., subject of Personnel and A.R./O.D. No 134/1/81-4-1 dated 13.7.81.

With due respects to the regularity of the disciplinary Authority (Sr. D.O.S./M) here in after called the A.A., it is submitted that he has failed to pass a valid and binding and reasoned order, as mandated in the letter G.O./M.H.A. Deptt. of P.A./O.D. No 134/1/81-4-1 dated 13.7.81 in compliance of which the Railway Board issued similar directions under Order No. E(RA) 73 RG 6-11 dated 2.8.70 to comply the decisions given by Hon'ble Supreme Court in Case of Bhavir Fd. Versus State of U.P. (A.I.R. 1970) 1312.

P.T.O.

925

1. That the facts of the case are as under :-

2. That the applicant was travelling on duty from HRI to MB by SL UP Train on 16-2-63 for delivering the 'Joint' Notes, Bazar Bhop with other connected work to Mr D.S./M. But he checked 7:15, between SL and Bazar Bhop by SL UP on 16-2-63 and checked working of Assistant Guard, Shri S.D. Singh working SL UP Train from HRI to MB.

3. That at Bazar Bhop station the applicant went to get 2 SLR A.C. Sleeper Coach of SL UP Train, checked in his presence and accordingly the applicant asked the Conductor of the Train Shri S.D. Gupta and Shri A.K. Singh T.C./M, to check the case in his presence as Shri A.K. Singh declared of himself that he was on duty to check the Train. Shri A.K. Singh T.C./M refused to check the 2 SLR A.C. Sleeper Coach of SL UP Train and became furious and demanded the Card pass of the applicant which was delivered to him immediately but he demanded 'fare and' penalty for travelling in 2 SLR A.C. Sleeper Coach amounting to RS 224/- which amount was not with the applicant and the applicant was properly travelling on duty and was authorized by the Mty. Administration for such checking, but Shri T.C. threatened for dire consequences and to hand over to the 'Police' and forced the applicant to write under his signature, since the applicant had not such amount with him and as he had no other alternative but to write under his signature and there after, the applicant was forced to take loan for this payment which he had to do and a.F.T. NO 500314 for RS RS 161/- as fare and RS 17/- as penalty Total RS 178/- was granted and delivered to the applicant by the said T.C./M who recovered this amount illegally and with out jurisdiction and disobeyed the directions of the applicant, Report P.T.C.

Attested

[Signature]

[Signature]

A26

of which was immediately submitted to S.O.S./IB dated 16-2-89 on 17-2-89 but sorry to mention that no action was taken by the learned S.O.S./IB on to influence of Shri Yashwanth by S.O.S./IB to say that Shri Yashwanth was on his own and a charge on false report of Shri Yashwanth 8.0.89 was moved to the applicant numbering CTR/1158/89 (U*) dated 12.3.89 which was moved to the applicant on 15.3.89.

3- That the applicant stated the whole case to Sr S.O.S./IB and also provide one copy of the report submitted to S.O.S./IB for record of Court as well as necessary action against the T.O. concerned, but under S.O.S./IB who is extremely prejudiced against the applicant refused to hear any thing and there after the applicant had no other alternative but to submit the folded up and send additional documents permissible under the Rules Vido his representation dated 23-2-89 which was sent through Registered A.D.Pent under Analyst No 4315 which was duly resolved by him on 22/2/89.

4- That the Sr S.O.S./IB who has resolved the reply sent under No even dated 6-4-89 for submission of reply which was delivered to the applicant on 10.4.89 which too was duly replied under applicant representation dated 10-4-89 to the State of Sr S.O.S./IB under his clear acknowledgment dated 12-4-89 and there after, State of Sr S.O.S./IB took the applicant before Sr S.O.S./IB on 21.4.89 where the applicant showed all papers etc with acknowledgments of reply of charge sheet as well as reminder and also delivered again the copy of the report dated 10/17-3-89 which was sent to S.O.S./IB to the learned Sr S.O.S./IB and he was requested to provide with copies of the documents for preparation of his defense statement which were absolutely necessary and are permissible under any law. Letter NO B(MA) 77 RG 6-20 dated 12.6.78 No. Serial NO 7089, where in it is clearly been ordered that if the P.S.O.

Attested

[Signature]

General Manager
U.P. State Sugar Corporation
Unnao

[Signature]

My former demands copies of documents in case of other
 equality charge sheet, he should not be refused and should
 be supplied and if the same are refused reasons should be
 granted and there should be given ten days more for
 the reply and then for action if any should be taken which
 is not the by the learned Sr DCS/AD arbitrarily to move
 for contempt order against him and then
 without valid and intachable punishment against the accused
 upon the applicant against my Board Order No 10(DCS) of
 1-3-89 which is which further instructions have been
 given that if anyone demand inquiry and cross examination
 of witnesses, it should be referred to him. and then after
 violating all such orders Sr DCS/AD to punishment against all
 Rules was given to the applicant.

PRAYER

- 1- It is there fore Respectfully Prayed that the impugned
 Sr DCS/AD punishment Order passed by Sr DCS/AD which is void
 Inoperative and intachable be set aside and contempt order
 be taken against Sr DCS/AD for disobeying the order
 and amount charged illegally be refunded to the applicant.
- 2- That applicant be granted personal hearing along with his
 defense before passing any order in this case.

In the end the applicant finally pray that
 he shall be heard along with his defense before passing
 any order in this case.

Yours faithfully,
 Naz Ahmed
 (Sr DCS/AD)
 DCS/AD

Dated 03-7-89.

Recd. on date
 11/11/89
 11/11/89

Attested

Genl.
 J.P. State Officer
 Ubi

Handwritten signature

Annexure No 10

Page No 28

978

The P. Divl. Secy.,
Northern Railway,
Lucknow.

:- Irregular and Undesirable transfer during
the Middle of School Session.

Ref:- M's letter No.940-S/O/-IV(Div) dt. 2.9.86.

Respected Sir,

I beg to lay the following few lines for your kind
consideration and sympathetic orders please.

That I have come to my notice that I have been
misused by the administration cause and
not communicated in writing

That all three children are studying at Chandauli
in different class and they can not get admission at any
other place of study during mid session, while half yearly
examination is on the head of the children. It will be
a severe set back and loss of academic year and career to
the children.

That my ^{old} widow mother is a heart patient and her
treatment is going on at Chandauli.

That I am selected and panelled hand of Rly. Service
Commission section 7th position in All India Open Competition.
After completing the training of 3 years as Traffic
Apprentice, securing 2nd position, out of 23 candidates batch,
I was asked to select as to which post I want to be posted
- temporary option for the post of T.I. and according to my
option I was posted as T.I. and offer of appointment and the
letter of appointment duly signed by the competent authority as a
token of contract between the employer and the employee was
signed and given to me and since then I have been working
successfully in the capacity of T.I. for more than two and
a half year duration which is per rule option once offered is
final and can not be changed.

5. That Shri Sudershan Kumar who has been transferred vice
me is a Allahabad Divisional hand in grade R.700-900 (Rs.) and the
post of R.700-900 (Rs.) has already been decentralised. In this
reference the case of Sh. Surendra Johri, SA/HFU can be quoted who
has been returned to MB-Divn. on this very ground and has been
refused Inter-Divisional transfer.

6. That there are already vacancies of TIs in Gr. R.700-900
(Rs.) at MB i.e. TI & DTI which is being looked after by one
Sh. G.S. Bhatia, an unselected and un-panelled man having
dual charges with him alone, Shri Shri Sudershan Kumar should
have been utilised vice one of these vacancies at MB, without
disturbing me during the School session. Whereas Rly.
Board's existing orders and policy, FORBIDS MB DURING SCHOOL S.

Heed

Attested

Signature

General Manager
N.P. State Sugar Corporation Ltd.
Lucknow

1. Mr. Krishna Lakhan Chaurasia P.I. Hardoi is the
owner of the land and has been utilised against the quota i.e. he is
occupying 11% against the 7% quota allotted to the
tribes from 01/28/44/11 C etc. etc.

In view of the above grievances, I request your honour on humanitarian grounds to kindly consider my case sympathetically and direct to get my transfer pending till scholastic session, if not cancelled at all.

Naz Ahmed

Cop. to IRM/1. Rly. Moradabad.

Attested

Lahing

M. A. Ahmad -- Claimant Vs. Union of India & others. -- Respondents

Annexure No. A-11

Signature of Receiving Officer

बीमा सहित NOT INSURED

क्रमांक/No.

4915

आवक्य का बीमा शुल्क का मूल्य रु. 6-1/2

एक रजिस्ट्रार प्रमाणित प्राप्त किया

Received a Registered

पानेवाले का नाम Mr. D.O.S.

Addressed to N. R. M. D.R.M. office

Moradabad पानेवाले अधिकारी के द्वारा
Signature of Receiving Officer

THE STATE (INDIA) ACKNOWLEDGMENT

आवक्य का बीमा शुल्क का मूल्य रु. 6-1/2

Received a Registered Letter, Date of Receipt, 1993

पानेवाले का नाम Mr. D.O.S.

Addressed to (Name) N. R. M. D.R.M. OFFICE

MORADABAD

आवक्य का बीमा शुल्क का मूल्य रु. 6-1/2

Received a Registered Letter, Date of Receipt, 1993

पानेवाले का नाम Mr. D.O.S.

Addressed to (Name) N. R. M. D.R.M. OFFICE

MORADABAD

Subscribed

Attested true (17/12/93)
H. S. 152
Deputy

Final Report - Continued

15. Green of India. -- By hand mts

Annexure No. A-12

A31

34

The S. D. S. Notice
Manuscript

Manufactured

71. HKI

Oct 10 4.89.

Sd/- *Specs Memorandum No 064/NA/*
04 (NA) dated 06-4-05 Serial No 4-
----- x 1987 -----

5.

This is to bring to your kind
notice that the necessary reply and the
demand of concerning documents have
already been made by me through airtel
AD-elt 23-3-89, the acknowledgment
of Reply No 4915 which was received by
the Receipt Section dt 24-3-89 in DPM file.
MB has been received from him.

However, I am submitting the duplicate copy of my letter dated 2-2-89 and receipt of Remittance dated on 4-5-89 duly received by me on 10-4-89 by your letter.

Submitted for your ¹⁰action, please.

Red

hal - 3
10/4/33

Michael

Attested True Copy

4/17/57

Atchew L.

833

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH, LUCKNOW

REPLY

ON BEHALF OF

THE RESPONDENTS

IN

REG. NO. 71 OF 1990

RAZ AHAD

... A LIAISON

Versus

UNION OF INDIA & OTHERS

..... RESPONDENTS.

1. I, *O. P. Kati* working as *Sr. DoS*
Northern Railway, *Moradabad*, have been
authorised to file this reply on behalf of the
respondents. I have read it and fully understood
the contents of the same.

filed today

CSM
1/4/91

2. That, the contents of paragraph No. 1 of the
application need no comments.

3. That, the contents of paragraph No. 2 of the
application need no reply.

4. That, the contents of paragraph No. 3 of the

omul
1/4/91
1/4/91
1/4/91

application need no reply.

5. That, in reply to the contents of paragraph No. 4(A) of the application, it is stated that the same are admitted.

6. That, in reply to the contents of para 4(B) of the application, it is stated that the same are incorrect hence denied. It is not the duty of one Traffic Inspector to help his colleague in the beat of the latter. In any case, it is absurd to allege that it would be physically possible to physically check each package in the heavily loaded SLR between the stoppages from Bareilly (2 minutes), Collector Buckranj (2 minutes), Bithora (2 minutes) and Nagaria Sadad (2 minutes) i.e. in only 14 minutes. Apparently, the applicant simply collected the tally sheets from the Asstt. Guard.

7. That, in reply to the contents of para 4(C) of the application, it is stated that the same are false and misleading, hence denied. As Traffic Inspector holding a second class duty card pass, the applicant was not entitled to travel in A.C.II tier, nor does any rule permit him to do checking in the said coach. The applicant was caught by the ticket checking staff at Nagaria Sadad travelling unauthorisedly in AC II tier and was correctly charged.

Handwritten: 7000

Stamp: 7000
Supt.

A35

.3.

8. That, the contents of para 4(D) of the application are false hence denied. No instructions were given to anyone to assault the applicant.

9. That, in reply to the contents of paragraph No. 4(E) of the application, it is stated that the same are false and emphatically denied. It is absurd to allege that Shri Tyagi T.C. was in anyway connected with Senior D.C.S. or other officers. In fact, the charge sheet, issued to the applicant, was based correctly on material facts available on the record and all the charges are correct.

10. That, the contents of paragraph No. 4(F) of the application are false, hence denied. Shri Ijaz Ahmad did not submit his defence reply, instead he asked for documents which were not relevant. His representation dated 23.03.1989 itself indicates this. On 24.04.1989, the applicant was heard in person by the Senior D.C.S. (Disciplinary Authority) and was shown all the documents that he asked for, in original. He was also allowed to copy out the pages he wanted to. However, he failed to submit his defence reply. In spite of a reminder, being issued (No. Cpty/Disc/39 (IA) dated 06.04.1989) when he failed to submit any defence reply, an ex parte decision, based on the material facts, available on the record, was taken in

Handwritten:
महाराष्ट्र राज्य सरकार
जयपुर येडी पुता.
Civil Cpty. Super
A. K. J. Moradabad

136

-4-

the case and a punishment of M.I.T.2 years was awarded to him, giving suitable reasons, by the Disciplinary Authority (i.e. Senior Divisional Operating Superintendent, Moradabad). A true copy of the reminder is being annexed herewith and marked as ANNEXURE NO. C.A. 1 to this reply.

ANNEXURE NO. C.A. 2

11. That, the contents of paragraph No. 4(G) of the application are false hence denied. The applicant was heard in person by the A.D.A., who was the Appellate Authority. A true copy of the applicant's admission to this fact is attached to ANNEXURE NO. C.A. 2 this reply as ANNEXURE NO. C.A. 2.

12. That, as explained in detail in prededing paragraphs of this reply, the applicant was heard in person, was shown and allowed to copy whatever documents he wanted and, when, inspite of a reminder he failed to submit any reply, ~~when~~ and then, after considering all the material available on record, the exparte decision had to be taken. No rule of law, natural justice or any provision of the Constitution of India have been violated. The grounds, on which the application is moved, are baseless and the same is liable to be dismissed.

Handwritten:
प्रमाणित
मोरदाबाद
मार्ग १००, मुम्बई
१००, मुम्बई
१००, मुम्बई

13. That, the contents of paragraph No. 6 of

137

-5-

the application are false hence denied. Under Rule 25 of the Railway Servants (Discipline and Appeal) Rules, 1968, the applicant could have submitted a review petition before the General Manager. Instead of availing of that alternate remedy, he has wrongly moved the present application before this Hon'ble Court.

14. That, the contents of paragraph No. 7 of the application need no reply.

15. That, the contents of paragraph No. 8 of the application are false and misconceived hence denied. The applicant was correctly charged and punished. He is entitled to no relief and the application is liable to be dismissed.

16. That, the contents of paragraph No. 9 of the application are denied. The applicant is not entitled to any interim order because he was given every opportunity to explain his defence. He has been correctly charged and punished.

17. That, the contents of paragraph No. 11 of the application need no comment.

issued
Sr. Div. Officer
Rly. M. Road

10 and
A

1930

-6-

18. That, the contents of paragraph No. 12 of
of the application need no comments.

I, *D.P. Kale* aged
about 38 years, son of *J.P. Kale*
working as *Sr. Dsr*
Northern Railway, *Moradabad* do hereby verify
that the contents of paragraph Nos. *1 and 6*
----- are based on personal
knowledge, those of paragraph Nos. *2, 5, 7 to*
13 and 15 ----- are based on perusal of
record and those of paragraph Nos. *3, 4, 14,*
16, 17 and 18 ----- are based on legal
advice.

W. S. S. S.
(Signed)
(On behalf of the Respondents)
उत्तर रेलवे, मुरादाबाद
Sr. Divl. Officer Supdt.
N. Ry, Moradabad

Date: 31-8-30

Place: *Moradabad*

1259

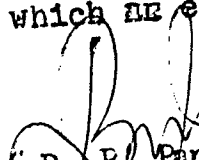
Annexure CA 1

NORTHERN RAILWAY

No: Optg/Misc/89(MA) dk Divl. Hly. Manager's office,
Moradabad.
Dt/- 6.4.1989

Shri Niaz Ahmad,
T.I., HarDOI.

Please refer to this office Memorandum Charge-sheet of even no. dated 13.3.89, acknowledged by you on 15.3.89. You are reminded to send your defence reply, if any, within 3 days, failing which an ex-parte action will be taken in the case.


(D. P. Pande)
Sr. DOS/MB.

I have already send Reply to
S. DOS- MB by Registered A.D. and
acknowledged by me. have been received
by me also. However - duplicate shall be
sent to you.
Sd/-
THAKUR
10/4/89.

T C Affected
Mug. W. S.

4410

Annexure CA 2

13

SS DOS/NO.

Sir,

I met the ADM on 10/8/09 in connection with my appeal against punishment of HIT-2 yaco in case No. Optg./H100/09 (NA) dated 12/5/09. He was very kind to grant me a personal hearing with the case on 10/8/09. Kindly arrange to put up the case to him. I am hereby reporting to the Divl. Office for the personal hearing.

Riaz Ahmad
16-8-89
(N102 Ahmad).
YI/Mordol of NO.
10/8/09

TC Affected
Mrs. W. W. W.

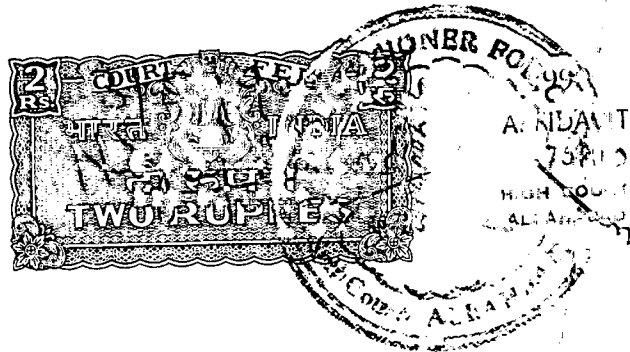
Moin Colony

Alu

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW:

O.A.NO.71 of 90(L)

Fixed on 23-5-90.



Niyaj Ahmad.

.....Claimant:

Versus.

Union of India & Others.

.....Respondents:

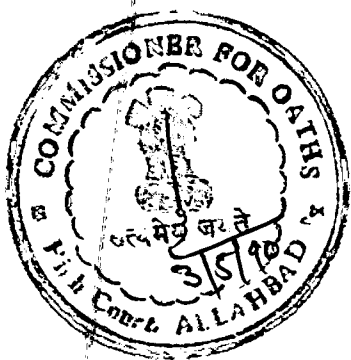
SUPPLEMENTARY AFFIDAVIT OF CLAIMANT:

I, NIYAJ AHMAD, aged about 38 years, S/o Sri Moinuddin, R/o T.4-A Railway Colony, Hardoi, do hereby solemnly affirm & state on oath as under in name of Almighty God: -

1- That deponent being claimant is fully conversant with the facts of case. As ordered by the Hon'ble Tribunal under its order dt: 6-4-90 and 3-5-90 he is furnishing this supplementary affidavit.

2- That as a Traffic Inspector deponent is also authorised to Check Tickets under authority of S.R 1/1 General and Subsidiary Rules Pt I and II of the Northern Railway.

Relevant true photo copy of such rule is attached herewith as Annexure "A" to this affidavit.



Niyaj Ahmad

contd---2/

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-: 2 :-

3- That on 16-2-89 while deponent was on duty in 51 Up. Express Train, he in pursuance of his duties directed Sri S.D.Gupta Captain to arrange checking of 2 Tier A.C.Sleeper Coach of said Train. One Sri A.K. Tyagi T.C. (Ticket Collector) who was travelling in said Coach declared himself on duty, for checking of Train. As a T.C. is generally not authorised to perform duties of Travelling Ticket examiner (T.T.E), deponent being a Superior Ranked Staff (Pay Scale of T.C. being Rs.260-480 and that of deponent being Rs.455-700) asked him to show his authority for which Sri A.K. Tyagi refused and dispute between deponent and Sri A.K. Tyagi arose as already detailed in para 4.3 of claim petition.

4- That duties of Traffic Inspector (T.I) include Supervision and checking of All types of irregularities in Rail Traffic, Inspection of Station etc., including that of guards and drivers.

5- That as submitted above deponent in pursuance of performance of his bonafide duties, asked for checking of 2 Tier A.C Coach of 51 Express on 16-2-89 and he



Maz Ahmad

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:- 3 :-

entered in said Coach in furtherance of his duties and not with an intention of just travelling in the said Coach .

Lucknow

dt: 3 May, 1990

DEPONENT:

Niyaj Ahmad
(Niyaj Ahmad)

VERIFICATION:

I, Niyaj Ahmad, deponent named above do hereby verify the contents of paras 1 to 5 of this affidavit to be true from personal knowledge. No part of it is false and nothing material has been concealed. So help me God.

Lucknow

dt: 3 May, 1990

DEPONENT:

Niyaj Ahmad
(Niyaj Ahmad)

I, know & identify the deponent who has signed on this affidavit in my presence.

(A.K. Dixit) Adv. 31/5/90

Solemnly affirmed by the deponent Sri Niyaj Ahmad on. . 3rd day of May, 1990 at 3.15 a.m/p.m. who is identified by Sri A.K. Dixit, Advocate, High Court, Lko. I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been readout and explained by me to him.



(K.P. SRIVASTAVA)

Advocate Oath Commissioner

Allahabad High Court

Lucknow Bench, Lucknow.

31/5/90

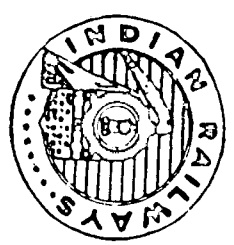
31/5/90

OATH COMMISSIONER

31/5/90

1000

NORTHERN RAILWAY



GENERAL

AND

SUBSIDIARY RULES

WITH APPENDICES

PART I & II

Embodying upto correction slip No. 98 dated 16.12.80

1001

3/5/90

General Rules for Indian Railways

with the

Subsidiary Rules of the Northern Railway.

PART I.

Rules for the guidance of railway servants.

CHAPTER I PRELIMINARY

Raz Ahmed

1. Short title—These rules may be called the open line (Railways in India) General rule, 1929.

1.A Definitions.—In these rules, unless there is anything repugnant in the subject or context—

- (1) "Act" means the Indian Railways Act, 1890 (IX of 1890), as amended from time to time;
- (2) "adequate distance" means the distance sufficient to ensure safety;
- (3) "approved special instructions" means special instructions approved of or prescribed by the Additional Commissioner of Railway Safety;
- (4) "authorised officer" means the person, who is duly empowered by general or special order of the Railway Administration, either by name or by virtue of his office, to issue instructions or do any other thing;

CHAPTER I

CARRIAGE OF PASSENGERS

1. Passengers' tickets.—(1) Tickets issued to passengers shall be available only from the date and for the period specified by the Railway Administration by which they are issued.

(2) If any guard, or any other railway servant who may be empowered by the authorized officer to take action under this clause has reason to suppose that any passenger is travelling without a ticket, or not in the proper class of carriage, he shall request the passenger to show his ticket and report to the Station Master any irregularity which he may detect.

1A. Reservation of seat or berth.—A Railway Administration may reserve a seat, a berth, compartment or carriage, as the case may be, in a passenger train, in accordance with conditions published in the Time Tables in force from time to time, and no person or persons other than for whom the accommodation is so reserved shall occupy such accommodation except with the permission of railway servant as may be appointed in this behalf by the authorised officer.

S.R. 1/1. Staff Authorized to check Tickets.—The Chief Commercial Superintendent is the Authorized Officer for the purposes of this rule, and the following are the other railway servants who are hereby empowered to take action under this rule :—

All Gazetted Officers of the railway.

Commercial Inspectors.

Traffic Inspectors.

Travelling Inspectors of Accounts.

All ticket-examining, checking and collecting staff.

Station Masters

Signallers or Station Clerks, doing the work of ticket collection.

S.R. 1/2. Sufficient Train Accommodation to be provided.—Station Masters, Guards and Station staff are to see that passengers get train accommodation according to the classes of tickets held, and that passengers are distributed as evenly as possible throughout the train.

S.R. 1/3. Overcrowding.—The staff are warned against overcrowding carriages and are not to allow this even at the request of passenger. The number of passengers which each compartment is to carry is marked on every carriage. These numbers are not to be exceeded.

S.R. 1/4. No Room in train.—Guards in charge of passenger trains must wire forward as soon as there is no more room for passengers, and also warn Control if on a controlled section. If extra vehicles cannot be added, Station master must warn intending passengers of the crowded state of the train so that they can postpone their journey if they so wish. It is, however, illegal to refuse to issue tickets even if there is no room in a train though passengers may legally be prevented from entering.

S.R. 1/5. Increase in Passenger Traffic.—When a Station Master expects an unusual number of passengers, he must apply for extra accommodation.

S.R. 1/6. Passengers Left-behind.—Station Master and Guard will report when passengers are left-behind from any cause whatever to Control or to the Controlling Station Master (in case of non-controlled sections) for appropriate action.

S.R. 1/7. Coaching Stock is to be given preference to goods stock on mixed trains.

S.R. 1/8. Preference to Ticket Holders over Pass-Holders.—Passengers with tickets have preference over persons with passes at starting station.

S.R. 1A/1. The undermentioned staff are hereby authorized to grant permission to a person to occupy a berth previously reserved for another passenger—

(a) At train originating stations or stations where through carriages are attached.

The official in charge of reservation present on the platform or in his absence, the Station Master on duty.

(b) At other stations.

The Station Master on duty or the Conductor Guard, if there is one on the train.

Naz Ahmad

(Ave)

In The Central Administrative Tribunal, Lucknow Bench
LUCKNOW
Through

The Deputy Registrar (Judicial)
Central Administrative Tribunal
Lucknow Bench
LUCKNOW.

M. P. No. 210/91 (L)

Niyaj Ahmad Applicant.

Vs.

Union of India & oths Opp. Parties.

O A No. 71 of 1990 (A)

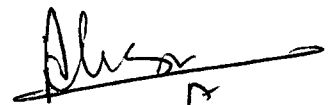
In view of Hon'ble Tribunal's order Dt. 23.5.89
the above noted case in which CA & RA have been exchanged,
deserves to be fixed before court for disposal of Interim
Relief matter.

It is therefore most respectfully prayed that
above noted case may kindly be ordered to be listed before
court for hearing on Interim Relief.

Lucknow.

Dt. 10 April 1991

Counsel for Applicant


A K Dixit

Advocate.

filed today
18/4/91

(M2)

In The Central Administrative Tribunal, Lucknow.

Rejoinder Affidavit on behalf of applicant

Inre.

O A No. 71 of 1990 (L)

Fixed on 18.4.91.



1991
AFFIDAVIT
70
HIGH COURT
ALLAHABAD

Niyaj Ahmad

....

... Applicant.

Versus.

Union of India & orhs

.... Respondents.

AFFIDAVIT

I, Niyaj Ahmad aged about 38 years, son of Sri Moinuddin, resident of ⁿ7-4-ⁿA-Railway Colony Hordoi, do hereby solemnly affirm and state on oath as under in the name of almighty God :-

- 1- That contents of Para 1 of reply are not admitted. In the present claim petition Sri Devi Prasad Pandey Sriⁿ DOS N Rly Mooradabad who has been impleaded in his personal capacity and against whom allegations of malefides have been made by applicant/deponent has not come forward to tender any reply as such in absence of any specific proof of authority (general or special power of Attorney) the affidavit filed by Sri O P Kala can not be deemed to have been filed by Devi Prasad Pandey.
- 2- That contents of paras 2 to 5 of reply need no comments.
- 3- That contents of para 6 of reply are quite evasive and hence denied. It is quite irrelevant, on part of respondents to plead before this Hon'ble Tribunal that it was not physically

...2/-

(406)

possible to check the package the relevant station. It is pertinent to note that no shortcoming has ever been reported in the checking of deponent and such irrelevant plea has been taken just to misguide the court.

It is further submitted that there are no paragraphs like 4A, B, C etc in the claim petition as respondents have mentioned in the reply.

4- That contents of para 7 of reply are denied. In view of submissions made by supplementary Affidavit (to which respondents have chosen to furnish no reply) a T.I. is also authorised to check tickets under authority ⁱⁿ ~~the~~ ^{of} SRI/1 General and subsidiary Rules Pt I and II of N.Rly (already annexed with supplementary Affidavit). Deponent entered into AC coach as a part of his duties and not for travelling purposes. It is not denied by respondents that Sri A K Tyagi Ticket Collector (and not T.T.E) was travelling in AC coach (who claimed himself on duty), the deponent in furtherance of his duties asked Sri Tyagi to show authority for travelling in AC coach to say that [✓] ~~Q.T.E~~ [✓] is not even entitled to enter into AC coach is just to put cart before ^{the} ~~horse~~ because just for the reason that a TC or T.T.E who are below in rank and pay scale than T.I do travel in AC coach in connection with their duties, how it can be said that a T.I [✓] ~~can't~~ ^{can not} enter into AC coach for performance of his duties.

5- That contents of paras 8 and 9 of reply are denied and those stated in claim petition are re-iterated to be correct.

6- That contents of para 10 of respondent's reply are specifically denied. Whether the documents demanded by deponent for submission of reply of charge sheet were relevant or irrelevant, was not a matter to be decided

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according to sweet will of respondents. Respondents before reaching to the conclusion that ^{the} documents were irrelevant (which conclusion has, for the first time, been disclosed only before this Hon'ble Court), should and ought to have at least taken the trouble to enquire from deponent about the relevancy of documents or they should have tendered any reply regarding refusal to supply the documents on the ground of so called irrelevancy.

It is specifically denied that deponent was shown any documents and/or allowed to copy out the wanted pages. It is beyond imagination that respondents (or concerned authority) would not have taken care to take in writing from deponent that he has made inspection of documents. In absence of any proof to this effect just statement of respondents (which not even on affidavit and not even by the concerned official) can not be believed particularly when deponent once again denies the same in clear terms.

Deponent could not submit any reply of ^{change} sheet just because he received no response from respondents regarding supply or non-supply of documents.

7- That contents of para 11 of reply are not admitted. Since appeal was already rejected on 31.7.89 (Annex. 2 of claim petition), relevancy of Annexure CA 2, which has reference of 10.8.89, becomes redundant. Deponent as a matter of fact met A D M for re-consideration of earlier ⁱⁿ rejection of appeal. It is specifically submitted that deponent was not given any sort of personal hearing ^{by} the A D M - the appellate authority before rejecting appeal by his non speaking and unreasoned order contained in Annex 2 of claim petition.

8- That contents of para 12 of reply are denied and facts stated in claim petition, supplementary Affidavit ...^{5/}

ASO

-5-

and as well as in this rejoinder affidavit are re-iterated to be correct.

9- That contents of para 13 of reply are not admitted as written. Deponent is required to avail substantive remedy of appeal which he has availed ^{in this} ~~not~~ mandatory to avail remedy of Review.

10- That contents of para 14 of reply need no comments.

11- That contents of paras 15 and 16 of reply are not admitted. Deponent ^{is} ~~is~~ entitled to the reliefs prayed, as well as interim relief.

12- That contents of paras 17 and 18 reply need no comments.

Lucknow

Dt. 18/4 April 1991

Deponent

Niyaj Ahmad
Niyaj Ahmad.

VERIFICATION

I, deponent named above do hereby verify contents of paras 1 to 7 of this affidavit to be true from my personal knowledge and contents of para 8 are believed to be true by me. Contents of paras 9 to 12 are also believed to be true. No part of it is false and nothing material has been concealed. So help me God.

Dt. 18/4/91

Deponent

Niyaj Ahmad
Niyaj Ahmad.

I, know and identify the deponent who has signed on this affidavit before me.

A K Dixit
A K Dixit.

Solemnly affirmed before me by the deponent Sri Niyaj Ahmad on day of April 1991 at 8.00 a.m./p.m. who is identified by Sri A K Dixit, advocate, High Court, Lucknow. I have satisfied my self by examining the deponent that he understands the contents of this affidavit which been read out and explained by me to him. *(Signature)*

OFFICIAL COMMISSIONER.

70/219
18/4/91