

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

OA/TA/RA/CP/MA/PT ...82/90...of 20.....

Onkar Nath

Applicant(S)

Versus

U.O.-9

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

22/6/12

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW Bench.

C.A. NO. 82 OF 1990(1)

LAST DATE 3 APRIL, 1991.

M.P. 195 / 95

W.D.

Place before the
Hon'ble
for order

Registrar

CHAKR NATH, & OTHERS.

...

...APPLICANTS.

VERSUS.

UNION OF INDIA, & OTHERS.

...RESPONDENTS.

APPLICATION FOR WITHDRAWAL OF THE CASE AS NOT PRESSED.

It is respectfully submitted:-

1. That the above named applicants who were Railway Commission Vendors do not want to pursue the present case which is liable to be dismissed as not pressed.

Therefore, it is respectfully prayed that this Hon'ble Tribunal may kindly be pleased to dismiss the above noted case as not pressed, so that the applicant may approach to the proper Forum.

LUCKNOW:

DATED: 24/1/95

APPLICANTS.

आचार्य

V.P. VADAY

(V.P. VADAY)

ADVOCATE.

COUNSEL FOR THE APPLICANTS.

सुबोध

सिधार्थ

मोहन

Filed today

24/1/95

M.P. No 195/95 C.A. 82/95 (1)

M.P. No 195/95
as submitted before
Hon. DB on 15.2.95
in order

DR
31.1.95

List M.P. No 195/95 before
Hon. DB on 15.2.95 for order

DR

(14) 15/2/95

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

M.P. No. 195/95 has been
filed by the applicant stating
that the C.A. is not pressed.
Accordingly the C.A. is
dismissed as not pressed.

V. K.
A.M.

B.C.
V.C.

15/2/95

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

15-3-50

(A)

Registration No. 82 of 1990 14

APPLICANT(S) Omkar Nath

RESPONDENT(S) U.S.

Particulars to be examined

Endorsement as to result of examination

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

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

No

Particulars to be Examined

Endorsement as to result of examination

1. Are the application/duplicate copy/spare copies signed ?
2. Are extra copies of the application with Annexures filed ?
 - a) Identical with the Original ?
 - b) Defective ?
 - c) Wanting in Annexures
3. Nos. _____ pages Nos _____ ?
4. Are 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.

Y

Y

Y NO

Y

Y

Y

Y

Y

Y

dinush/

02/90(L)

(82)

16-3-90

Hon K Obayya, AM

Shri H.C. Awasthi for applicant.

Put up before D.B. on
19/3/90 for interim matter.

[Signature]
AM.

[Handwritten marks]

20.3.1990

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

Shri. H.C. Awasthi, for the petitioner.

Heard Admitted.

As regards the interim relief, we consider that notice be served on D.R.M., Northern Railway, Hazaratganj, Lucknow to grant an opportunity to the administration to place the facts or atleast the records to enable us to grant or reject the interim prayer made by the petitioner. Let notice be issued to D.R.M. by name through special messenger.

List it for disposal on interim matter on 23.3.1990.

[Signature]
A.M.

[Signature]
J.M.

sd.

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

Shri S.C. Awasthi for applicant.
Shri A. Bhargava for respondents.

Shri A. Bhargava states that he is representing the D.R.M. i.e. respondent No. 3, although there appears to be no reason why the power on behalf of D.R.M. has not been filed by today. However, taking the statement of ~~the~~ Shri A. Bhargava, we presume that he is the counsel for D.R.M. i.e. respondent No. 3

We have heard the learned counsel for the parties. We consider that it is not a fit case for issue of ad interim order. However, we direct that the case can be disposed of on the next date. Let counter be filed within 3 weeks hereof, rejoinder if any within 1 week thereafter. List it for orders/hearing on 29.5.90. The original record be produced before us on 29.5.90, failing which adverse inference shall be drawn. Copy of the order may be given to the counsel for the respondents.

[Handwritten notes]
Notice issued
to D.R.M. on 21-3-90.
Submitted for order
on interim matter.
L
2013

[Handwritten notes]
No CA filed
S F O

23.3.90

Shake-1/

A.M.

[Signature]
J.M.

5.3.91

Hon Mr Justice V.C. Srinivasan, V.C.
Hon. Mr. A.B. Gothal, AM.

Sat up tomorrow as per
head.

AM.

VC.

6/3/91

Hon. Mr. Justice K. Prath, V.C.
Hon. Mr. A.B. Gothal, AM.

Counsel for the parties
are present. This case may be
put up tomorrow after lunch.
The learned counsel for the
applicant produces a copy
of the judgement dt 27/4/90 of
the Hon'ble Supreme Court
in Writ Petition No. 2275-86/82.

AM.

VC.

Kindly
Record of Petition
submitted at the court
of 18/4/91

Hon' Mr Justice K.C. Srinivasan, V.C.
Hon' Mr. A.B. Gothal, AM.

7 3/91

Arguments heard. Judgment

resumed.

AM.

VC.

नमोन की कपी
प्राप्त किया

सोमवार नाव बाप

12/4/91

18/4/91

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

O.A. No.
T-2/1990

1990

DATE OF DECISION March , 1991

Onkar Nath and ors Petitioner

Advocate for the Petitioner(s)

Versus

Union of India and ors Respondent

Shri A. Bhargava Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr. A.B. Corthi, A.M.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether to be circulated to all other Benches ?

.....

Ghanshyam/

Ghanshyam 8/5

(14)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALIAHABAD BENCH
(CIRCUIT BENCH LUCKNOW)

Registration O.A. No. 82 of 1990 (L)

Onkar Nath and others ... Applicants
versus

Union of India and others.... Respondents
Hon 'ble Justice U.C. Srivastava, V.C.
Hon 'ble Mr. A.B. Gorthi, A.M.

(Hon ' Mr A.B. Gorthi, A.M.)

Onkar Nath and four others, all Vendors at Charbagh Railway Station, Lucknow, Northern Railway, have filed this application under section 19 of the Administrative Tribunals Act, 1985, challenging the validity of the order (Annexure-1) dated 8-3-1990 issued by the Divisional Railway Manager (Respondent No.2) cancelling the vendership of the applicants with immediate effect. The applicants further prayed for the cancellation of the direction (Annexure-2) given by the Chief Commercial Superintendent (Respondent No.3) to the D.R.M. asking the latter inter-alia, to terminate the vendership of the applicants, vide his letter dated 13-2-1990.

2. It all began when the vendors were caught selling beverages like Tree Top and Frooti long after the 'date of expiry' printed on them. The applicants asserted that they sold whatever they got from the suppliers. Taking a different view of the matter, the authorities concerned decided to cancel the vendorship of the applicants resulting in the issue

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of impugned order/direction.

3. Besides pleading innocence in the matter of sale of beverages with expired dates, the applicants contended that they acquired the status of regular Railway Employees and that their services could not have been summarily terminated without proper inquiry. In support of their contention, the applicants produced a copy of the interim order they obtained from the Hon'ble Supreme Court; extract xx reproduced below:-

" Issue notice. Pending notice all the employees covered by Annexure 'A' to the writ petitions shall be paid salary in the same rate with effect from this month as salaried bearers of the Railway caterers are paid."

4. In the writ petitions, the applicants' (except for Om Prakash, applicant no.5) prayer was that they be deemed to be Railway employees and granted all consequential benefits. In compliance with the Hon'ble Supreme Court's ^{interim} order, instructions were issued by the Divisional Office for payment of salary to the applicants at the same rate as applicable to salaried bearers of the Railway catering.

5. The respondents have failed to file^a reply despite several opportunities and directions given to them. On 7-3-91 the case file was shown to us in which a copy of the counter affidavit also was placed. The stand taken by the respondents is that the applicants being vendors working on commission basis had no legal right to approach this Tribunal as they were neither railway employees nor was their grievance related ^{to} any of the service matters as defined in section 3(q) of the Administrative Tribunals Act, 1985. The

A. Singh

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-3-

respondents thus urged that the termination of vendorship by the Divisional Railway Manager was absolutely in order and called for no interference.

6. Admittedly the applicants were working for the past 13 years and performing duties under the direct supervision of the Railway officials, such as, U.C.M. (Catering), U.C.M. (Vending) and the Chief Catering Inspector. Nevertheless, they were all along serving on a commission basis and not as regular railway employees. Had they been Railway servants, suitable disciplinary action would have been initiated against them also, as was done in respect of Sri M.P.Singh, U.C.M. (Vending) and Sri Kamal Singh, UCM (Catering) who were also involved in the improper sale of old stocks of soft drinks by the vendors. Notwithstanding the aforementioned, the fact remains that the applicants are to be paid 'salary' by virtue of the Hon'ble Supreme Court's interim order referred to in para 3 above. Since the very question of the status of the applicants is now before the Supreme Court, it would be proper for us to await the final order of the Supreme Court before we arrive at a conclusion. We, therefore, direct that this application, which should no longer be tied up, be reheard

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as and when the decision of the Hon'ble Supreme Court is announced or the interim order by Supreme Court is vacated.

Anand Singh
Member (A)

Uesriwaras
Vice Chairman

(sns)

03 April 1991
s

...

15-3-90

Application under Section 19 of the Administrative
Tribunals Act, 1985.

(PP)

DATE OF FILING

15/3/90

OR

DATE OF RECEIPT

REGISTRATION NO.

82/90(L)

Signature

Registered

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, LUCKNOW.

B E T W E E N

1. Omkar Nath, aged about 30 years,
son of Shri Munchhad Brahad,
resident of Village: Bamsara,
Post: Bamsara,
District: Gonda.
2. Pram Chand, aged about 32 years,
son of Shri Late Sanju Prasad Singh,
resident of Charbagh, Platform No. 6 & 7,
Tea Stall, resident of Village: Bhayabharwa,
Post: Bara, Distt. Gonda.
3. Shrawan Maister, aged about 35 years,
son of Shri Babu Lal Maister,
resident of House No. 634, Sadar Bazar,
Azad Mahall, Sadar Bazar, Lucknow.
4. Siyaram, aged about 34 years,
son of Late Shri Bhawan Singh,
resident of L.P.F. Line, Kawaia,
Mehrauli, Lucknow.
5. Om Prakash, aged about 34 years,
son of Shri Gaur Das,
C/O Omkar Nath Maister, Quarter No. 88,
Lucknow, Lucknow.

--- Applicant

AND

1. Union of India,

1/2

Notes for 15/3/90
15/3/90

— श्रीमान नारायण

File

Ministry of Railways,
Rail Bhavan,
New Delhi, through its Secretary.

2. Divisional Railway Manager,
Northern Railway,
Meerutganj,
Lucknow.
3. Chief Commercial Superintendent (Catering),
Northern Railway,
Baradwari,
New Delhi.

- - - - - Responses.

Application under Section 19 of the Administrative
Tribunals Act, 1988.

DETAILS OF APPLICATION

1. Particulars of the applicants:

(i) & (ii) The names and father's name of the
applicants have been mentioned in their
description herein above.

(iii) Applicants are vendors working at the
Charbagh, Railway Station of Northern Railway,
Lucknow.

(iv) Charbagh Railway Station, Northern Railway,
Lucknow.

(v) The addresses of the applicants as given in
the array of parties is the addresses for service
of notices.

All the applicants are jointly interested in the
same cause of action arising out of the same order
passed for the same reason and they are seeking

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identical reliefs in the application which involved identical ~~own~~ facts and pleas and accordingly all of the applicants joined together in the present application.

2. Particulars of the Respondents:

(i), (ii) & (iii) The designation and Office address along with the address for service of all notices is already mentioned in the array of respondents herein above. However, the same is again mentioned below for more clarity.

3. The application is against the following orders:-

I. (i) Order No.C/274-Misc./89/PR

(ii) 8.3.1990

(iii) Passed by the Divisional Railway Manager, Northern Railway, Lucknow.

(iv) The Vendership of the applicants has been cancelled with immediate effect for the reason of sale of expired dated Frooti/Tree Top etc.

II. (i) D.O.No.65-AC/O/DC/Misc./89

(ii) 13.2.1990.

(iii) Passed by the Chief Commercial Superintendent (Catering), Northern Railway, Lucknow, New Delhi.

(iv) Direction has been given to the Senior DCS, Northern Railway, Lucknow for catering

31/07/2012

disciplinary action against one Shri Pandey, Catering Inspector, at Charbagh, Lucknow and for cancellation of the vendership of the applicants. True copies of the orders dated 13.2.90 and 3.3.1990 are attached as ANNEXURES 1 & 2 to this *Application*

The names of ~~the~~ all the applicants are mentioned in the orders and accordingly the applicants joined together in the present application for common reliefs arising out of the same cause of action and the application involves identical questions of law and facts.

4. The applicants declare that the subject matter of the order against which they want redressal is within the jurisdiction of the Tribunal.

5. The applicants declare that the application is within limitation prescribed in Section 21 of the Administration Tribunals Act, 1985.

6. Facts of the case:

(1) The applicants have been working as Vendors at the Charbagh Railway Station, Northern Railway, Lucknow for the last 13 years.

(2) That the applicants and other Vendors were earlier working in commission basis for the sales done by them of various items, but they claimed their status to be Railway servants at par with regular

Railway employees of the Catering Services and not merely on Commission basis.

(3) That the Respondents did not concede to the demands of the applicants and other vendors and accordingly they were constrained to file Writ Petition No.1156 and 1181 of 1937 in the Hon'ble Supreme Court of India, wherein they prayed for issue of a Writ in the nature of Mandamus or any other appropriate Writ or Direction or Order directing the Railway Board, New Delhi to treat all the Commission bearers' Vendors at par with the employees of the Catering Service of the Railways and grant them all benefits and service conditions as has been granted to the regular employees of the Catering Service of the Railways and to absorb them as a Regular employees of the Catering Service and to direct the Respondents to absorb the present Commission bearers/Vendors as regular employees in the Catering Service and they could be given the same salary, bonus and other benefits as are being given to other regular Railway employees of the Catering Service together with any other reliefs.

(4) That on application for Interim Relief the Hon'ble Supreme Court passed the same order as passed in Writ Petition No.4401 and 4616 of 1935 i.e. Issue notice. Pending notice, all the employees to the Writ Petition shall be paid salary in the same rate with effect from 6 months as salaried bearers of the Railway Catering are being paid. True copy of the Interim Order dated 14.10.1937 as also the list of Petitioners

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are attached as ANNEXURES 3 & 4 to the Application. It may be mentioned in this context that the applicant No.5 had not filed any Writ Petition in the Hon'ble Supreme Court of India, but he has is similarly situated and the questions involved in the Writ Petition are identical applying with equal force to the applicant No.5 as well, he is also entitled to the same benefits.

(5) That in pursuance of the Interim directions given by the Supreme Court, the applicants were allowed the same pay scale at par with the salaried employees of the regular/regular Catering service through Order No. C/223-26-37 FV dated 16.8.1983, a true copy whereof is attached as ANNEXURE - 5 to the Application filed herewith.

(6) That the applicants in the capacity of Vendors were selling various food items including Mrooti, Pies, Buns and other items at the Charbagh Railway Station.

(7) That the items are supplied by various companies and the supply is taken by the Unit Catering Managers. The said items are entered into the records and they are stored in the store attached to the office of the Unit Catering Managers at the Charbagh, Railway Station of Lucknow. The items are issued to the Vendors as per their requirements by the Unit Catering Managers.

(8) That besides the Unit Catering Managers, the Catering Inspectors and the Chief Inspector supervise the working of the Unit Catering Managers and Vendors.

(9) That the applicants are mostly illiterate or

3-11-84/12 ज्ञान

(HLS)

semi-literate persons and they discharge their duties strictly in accordance with the directions given to them by the Unit Catering Managers, Catering Inspector and the Chief Catering Inspector.

(10) That hundreds of packets of the "Frooti" and "Tree Top" were supplied by the Lipton Company, Mumbai and the said supply was taken by the Unit Catering Managers S/Shri Kamal Singh and M.A. Dwivedi.

(11) That the aforesaid items supplied by the Lipton Company were manufactured in the month of May, 1939 according to the printed label. It was also mentioned in the label "Delicious and Refreshing Mango Drink. Drink Chilled. Tastes Best if consumed within 6 months." This clearly indicates that the items had become 6 months old on the date of supply namely 1.11.1939.

(12) That the ~~aforesaid~~ applicants had been selling the aforesaid items in good faith under the directions of the Unit Catering Managers and Catering Inspector.

(13) That Shri S.S. Upadhyay, Member, Z.R.C.C., Northern Railway, New Delhi inspected the vending stalls at Charbagh, Railway Station on 7th and 8th of December, 1939, whereon he detected that old and expired "Frooti" and other drinks were being sold.

(14) That the applicants were placed under suspension on 8.12.1939.

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(15) That the applicants made representation dated 11.12.1939 to the Divisional Commercial Superintendent (Catering), Northern Railway, Lucknow protesting against their unjustifiable suspension. A true copy of the representation dated 11.12.1939 is attached as ANNEXURE - 6 to the application filed herewith.

(16) That the Chief Catering Inspector was required to make inquiries ~~and~~ on the report of Shri Uggal and to fix the responsibilities for such lapse. The Chief Catering Inspector filed his report dated 13.12.1939 in which it was mentioned that 6 Vendors had been suspended from 8.12.1939. He further reported that 345 packets were supplied by Lipton Company at Lucknow on ~~10~~ 19.10.1939 and 7290 packets were supplied on 11.11.1939 and the supply was taken by the Unit Catering Manager (Catering). The items supplied contained endorsement about the manufacturing date as 05-39 and the other endorsement was "Ice Cream Tastes Best if used within six months." The Chief Catering Inspector fixed the responsibility of S/Shri Kamal Singh and M.P. Dwivedi Unit Catering Managers as they had taken the supply on 19.10.1939 and 11.11.1939 of the items that were manufactured in May, 1939 as by the date of supply almost six months were complete. The Lipton Company was also made responsible for making the supply of expired Tree Top etc. A true copy of the said report dated 13.12.1939 of the Chief Catering Inspector is attached as ANNEXURE-7 to the application filed herewith.

(17) That on the basis of the report of the Chief

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Catering Inspector, the aforesaid two Unit Catering Managers were charged and ultimately punished vide Order No.C/374/Misc.-89/PR dated 10/31.1.1990. They were punished by withholding their two increments temporarily. True copies of the punishment orders of S/Shri M.P.Dwivedi and Kamal Singh are attached as ANNEXURES 8 & 9 to the application filed herewith.

(13) That in addition to the punishment of the Unit Catering Managers, the supply of items by the Lipton Company was also discontinued for future vide Order dated 31.1.1990 of the Divisional Railway Manager, Northern Railway, Lucknow. A true copy thereof is also attached as ANNEXURE - 10, ~~to the application~~.

(19) That it appears that the intimation of the action taken on the report of Shri S.S.Uppal - namely (i) Making inquiry by the Chief Catering Inspector and fixing the responsibility for the lapses in which he found very primarily the two Unit Catering Managers responsibilities as also Lipton Company, (ii) taking disciplinary action against the two Unit Catering Managers and passing final order of punishment dated 10.1.1990 withholding their two increments ~~temporarily~~, (iii) stopping for future to supply of all items by M/s. Lipton Company were not communicated either to Shri S.S.Uppal or to the Chief Commercial Supdt.(Catering), Northern Railway, Baroda House, New Delhi.

(20) That somehow the Chief Commercial Superintendent

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31/01/91

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Respondent No.3 under the impression that no action has so far been taken on the complaint of Shri S.S.Uppal, wrote a D.C. letter No.36/LC-O-ET/Misc./89 dated 13.2.1990 to the Senior DCS, Northern Railway, Lucknow directing him to take disciplinary action against Shri Pande the Catering Inspector and to cancel forthwith the Vendorship of the applicants, although the entire matter stood closed finally by punishment of the erring personnel and stopping the supply of the Lipton Co.

(21) That ~~however~~ instead reporting the action taken at Lucknow against erring staff and stopping the supply of M/s. Lipton Company, the Divisional Railway Manager, Lucknow, issued order dated 3.3.1990 cancelling the Vendorship of the applicants unilaterally, without any inquiry, without issuing any show cause notice, without calling for any explanation, without affording any opportunity of hearing to the applicants and the ground state of expired dated Proot/Free Top etc. is also mentioned in the impugned order dated 8.3.1990 rendering it completely punitive in violation of the mandatory provision of the Constitution of India and the Service Rules applicable to the regular vendors of the Railway Catering Services.

(22) That as has already been mentioned the applicants are mostly illiterate and semi-literate and they have absolutely no knowledge of English language. They had been discharging their duties as Vendors under the directions of the Unit Catering Managers and the Catering Inspectors.

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(23) That neither the Unit Catering Managers nor the Catering Inspector ever cautioned the applicants against selling the ~~new~~ said packets. There could not be any caution at all from their side, since the supply of the items was taken on 10.3.1939 and 11.11.39 and barely of couple of weeks before the date of checking namely 7.12.1939, the items had been supplied by the Unit Catering Managers to the applicants for sale at their respective ~~stalls~~ **stalls**.

(24) That the applicants are not at all at fault and the entire responsibility rests on Unit Catering Managers and the Catering Inspector who were in league with M/s, Lipton Company Limited.

(25) That the respondents have totally breached the principles of equity and natural justice in so far as the have not been afforded with any opportunity of hearing whatsoever.

(26) That the order is per se punitive and is liable to be quashed.

(27) That the entire affair should finally dropped with the punishment of the Unit Catering Managers and with the stoppage of the supply of the M/s, Lipton Co. Ltd. and no action of any kind was called for.

(28) That the Divisional Railway Manager, Northern Railway, Lucknow erral in law in taking action straightaway on the D.C. letter dated 13.2.1939

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without ascertaining whether any action prior to it had been taken on the complaint of Shri S.S.Uppal or not.

(29) That had the applicants been afforded with any opportunity of hearing, they would have definitely pointed out that the action has already been taken and the applicants are totally innocent and no action was called for against them.

(30) That in view of what has been stated, the impugned orders dated 8.3.1990 and 13.2.1990 Annexures 1 and 2 to the affidavit are liable to be quashed by this Hon'ble Tribunal.

7. That in view of the facts mentioned in Para 6 above, the applicants pray for the following reliefs:-

- (i) to quash the impugned orders dated 8.3.1990 and 13.2.1990 Annexures- 1 & 2;
- (ii) to direct the respondents not to take any action against the applicants on the basis of the complaint of Shri S.S.Uppal;
- (iii) to award the costs of in favour of the applicants and against the respondents.

8. Pending final decision on the application, the applicants seek to issue of the following Interim Order:

- i) To stay the operation of the impugned order

.. / 13

3/10/12 11/4

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Dated 3.3.1990 Annexure-1 and to direct the Respondents to allow the applicants to work as the Vendors and be paid salary during the pendency of the abovesaid application, as the applicants would suffer irreparable loss and injury which can not be compensated in terms of money, as the salary drawn is the only source of their livelihood and the livelihood of their families. The applicants are poor persons and they can not afford to remain out of employment till the application is decided.

9. That the applicants declare that they have availed of all the remedies for available to them under the relevant Service Rules by making a representation dated 3.3.1990 to the Competent Authority namely - The General Manager, Northern Railway, Baroda House, New Delhi. A true copy of the representation dated 3.3.1990 is attached as ANNEXURE - 11 to the application. There is no hope of the representation being decided in favour of the applicants as the directions for the cancellation of their Vendorship was issued from the same office in the Baroda House as is evident from Annexure-2 and accordingly the applicants without waiting for any decision of their representation, are filing the present application which is liable to be accepted under the aforesaid circumstances.

10. That the applicants further declare that the matter regarding which this application has been filed

उत्तराखण्ड

(P22)

made is not pending before any court of law or any other authority or any other Bench of the Tribunal.

11. Particulars of the Bank/Postal Order in respect of the application fee.

i) Name of the Bank on which drawn. - X

ii) Demand Draft No. - X

O R

i) Particulars of Indian Postal Order No 02 409874

ii) Name of Issuing Post Office. - High Court Post Office

iii) Date of Issue of Postal Order. - 14-3-90

iv) Post Office at which payable. - C.P.C. Lucknow

12. An index in duplicate containing the details of the documents to be relied upon is enclosed.

13. List of enclosures :

..../10.

31/04/91

[Handwritten signature]

1. 31107179121

Ernst

सिपायाम्

31/11/20

A24

VERIFICATION

We, the aboveramed applicants working as Vendors at the Charbagh Railway Station, Northern Railway, Lucknow do hereby verify that the contents of paragraphs 1 to 13 of this application are true to our personal knowledge and belief and that we have not suppressed any material facts.

Place - Lucknow.

Date: 14-3-1990.

Signature of the Applicants

1. श्रीमती राजा

2.

3.

4.

5.

श्रीमती राजा
श्रीमती राजा
श्रीमती राजा
श्रीमती राजा
श्रीमती राजा

To

The Registrar,
The Central Administrative Tribunal
Additional Bench,
Lucknow.

In the Central Administrative Tribunal
Additional Bench, Lucknow.

Application No.

of 1990

Onkar Nath and 4 others

.....Applicants

Versus
Union of India and 3 others

.....Respondents

ANNEXURE No.

0018 1074
NORTHERN RAILWAY

No. 0/274-Misc. 89/PR

Divl. Office,
Lucknow.
Dated 8.3.90

The Station Supt.,
N.Rly., Lucknow.

Sub:- Sale of expired dated the Top, Appy and
Fruit at Lucknow Main station.

The vendership of following is cancelled
with immediate effect for sale of expired dated of
Frooti/Tree Top etc.

1. Shri Gopi Singh Vendor.
2. Stall No. 1 at the west end at platform No. 1
3. Shri Prem Chand vender No. 117 platform No. 6 & 87
4. Shri Shrawan Maisay, Vender No. 25, Platform
No. 2 & 3.
5. Shri Sia Ram vender platform No. 2 & 3.
6. Shri Om prakash vender No. 2 platform No. 1
7. Shri Onkar Nath vender, platform No. 6 & 7.

Please ensure the compliance.

[Signature]
For Divl. Mly. Manager,
Lucknow.

Copy to:-

1. CIC/NR/Lucknow & CY/ER/LKO for information
and necessary action.
2. CCA/C for information. This is in compliance
to his D.O. No. 85-AC/O/DC/Misc./89 dt. 13.2.90.

[Signature]
3-11 CHIR 2-11 at

In the Central Administrative Tribunal
Additional Bench, Lucknow.

18

Application No.
Onkar Nath and 4 others

of 1990

(HVC)

Versus
Union of India and 3 others

.....Applicants

.....Respondents

ANNEAURE No...2...



K.K.CHAUDHARY

मुख्य वाणिज्य अधीक्षक (खानपान),
उत्तर रेलवे, बड़ोदा हाउस
नई दिल्ली
CHIEF COMMERCIAL SUPDT. (Catering)
NORTHERN RAILWAY
NEW DELHI

DO No. 85-AC/0/DC/Misc./89

13th Feb., 1990.

My dear Sharma,

Sub: Sale of expired date Tree Top, Appy
and Fruity at Lucknow Main Station.

Ref: Complaint from Shri S.S. Uppal, Member,
Z.P.U.C.C., Northern Railway, New Delhi.

.....

Shri S.S. Uppal complained that expired date
Frooti and other drinks are being sold
with the connivance of the Chief Catering Inspector
Shri Pandey at Lucknow. While the allegation of bribing
Shri Pandey regularly may be got enquired into at your
end, the specific cases detected should be taken up
separately. In the present case, kindly take the action
as indicated below under advise to the undersigned :-

- 1) Shri Pandey should be issued a charge-sheet for
slack supervision, his defence obtained and necessary action
taken within a month of issue of this letter.
- 2) The vendor-ship of the following should be cancelled
forthwith for allowing sale of expired date of Frooti/Tree
Top, etc.. The references about each vendor have been
received as enclosure to Shri Uppal's letter and have been
shown in the bracket for your information.
- i) Shri Gopi Singh, Vendor (SS/LKO's No. SS/LKO/Confdl/89
dated 12.12.1989).
- ii) Stall No. 1 at the West end at platform No. 1 (SS/
LKO's No. SS/LKO/Vending/89 dated 8.12.89).
- iii) Shri Prem Chand, Vendor No. 117, platform No. 6 & 7
(Statement of Prem Chand received as enclosure to Sh. Uppal's
letter dated 15.12.89).
- iv) Shri Shrvan Maisey, Vendor No. 25, platform No. 2 & 3,
(Statement of Maisey received as enclosure to Shri
Uppal's letter dated 15.12.89).
- Shri Sia Ram, Vendor, platform No. 2 & 3 (statement
of Shri Sia Ram dated 7.12.89 received as enclosure
to Shri Uppal's letter).

Contd....2

Received

3-11/11/90



: 2 :

मुख्य वाणिज्य अधीक्षक (खानपान)
उत्तर रेलवे, बड़ोदा हाउस
नई दिल्ली
CHIEF COMMERCIAL SUPDT. (Catering)
NORTHERN RAILWAY
NEW DELHI

- vi) Shri Om Prakash, Vendor No. 2, platform No. 1
(statement received as enclosure to Shri Uppal's
letter dated 15.12.89).
- vii) Ohnkar Nath, Vendor, platform No. 6 & 7 (statement
received as enclosure to Shri Uppal's letter dated
15.12.89).

I shall be grateful if you kindly issue necessary
cancellation order and charge-sheet to Shri Pandey under
advise to the undersigned.

With best wishes,

Yours sincerely,

(K.K.CHAUDHARY)

Shri R.C. Sharma,
Sr. D.C.S.,
Northern Railway,
LUCKNOW.

3.1.1990

Attested
✓

In the Central Administrative Tribunal
Additional Bench, Lucknow.

20

A28

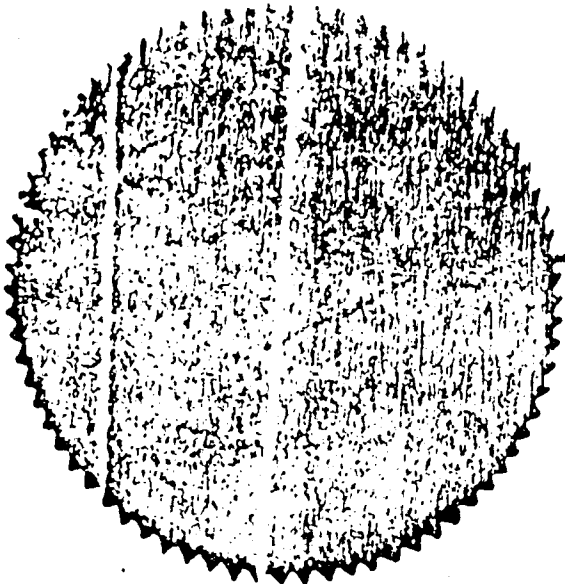
Application No. _____ of 1990
Onkar Nath and 4 others Applicants
Versus
Union of India and 3 others Respondents
ANNEXURE No. 3...

URGENT FILE RE. 6/-

SL NO.	14242
No. of Pages	9/
Date received	1/11/82
Ex/Sec	2/

Date of application for copy 23/10/82
Date of notifying requisition
Date of delivery of requisition 13/11/82
Date which the copy was ready
Date of delivery of the copy

Recd. 13/11/82
Section Officer
Supreme Court of India



13/11/82

25. 11. 82

13/11/82

3-11-82

Attosted

In the Central Administrative Tribunal
Additional Bench, Lucknow.

Application No. of 1990

Onkar Nath and 4 others

.....Applicants

Versus

Union of India and 3 others

.....Respondents

ANNEXURE No. 2 contd

Item No. 1

Court No.

Section X

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

198403

WRIT PETITION (CIVIL/CR.) No. 1156 & 1101

OF 1987 (For Prel. Hearing)

Magnavendra Gumashta Joint General Secretary
National Federation of Railway Porters Vendors
and Bearers etc.

...PETITIONERS

VERSUS

~~xxx~~ Union of India & Ors.

...RESPONDENTS

(With appln. for ex parte stay)

Date: 14.10.87.

This Petition was called on for hearing today.

CORAM:

SE

Hon'ble Mr. Justice

B.C. Ray

Hon'ble Mr. Justice

K. Jagannatha Shetty

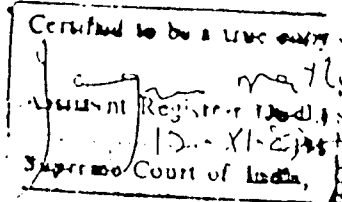
Hon'ble Mr. Justice

For the Petitioners :

Shri A.K. Sen, Sr. Adv.

Shri D.K. Garg, Adv.

For the Respondents



UPON hearing counsel the Court made the following
ORDER

Same order as orderx dated 15.7.1985 ~~xxx~~ in Writ
Petitions Nos. 4401-4516 of 1985 i.e. Issue notice. Pending
notice, all the employees covered by Annexure 'A' to the
Writ petition shall be paid salary in the same rate,
with effect from this month as salaried bearers of the
Railway catering are being paid.
List these matters with connected Writ Petitionx Nos.
4401-4516 of 1985.

R. N. Lakhanpal
(R. N. Lakhanpal)
Court Master.

CIP sent to
12. Section - 11/10/87
from 12.10.87
R -

Attested

3-11-87 91-11

In the Central Administrative Tribunal
Additional Bench, Lucknow.

A30

22

Application No. of 1990

Onkar Nath and 4 others

.....Applicants

Versus

Union of India and 3 others

.....Repondents

ANNEXURE No. 1

Annexure 'A'

LIST OF COMMISSION VENDORS AND BEARERS WORKING AT NORTHERN
RAILWAY CATERING VENDING LUCKNOW STATION UNIT AND MOBILE
UNIT OF COMET EXPRESS:

Sl. No.	Name & Father's Name	Nature of Work	Length of Service.
1.	Badri Pd. s/o Thanai R. K. Singh	Purce/Sweet	22 years
2.	Sarjee Pd. Gupta s/o Ramdass Gupta	-do-	22 years
3.	Ram Sukh s/o Badri Pd.	-do-	18 years
4.	Ram Naresh s/o Ram Lakhan	-do-	8 years
5.	Kamal Kishore s/o Ram Raj puri	Pkt	8 years
6.	Ram Sanehi s/o Ghisai	Tea/Smoke	22 years
7.	Asarfi Lal s/o Lalla	-do-	18 years
8.	Murli s/o Pokker	-do-	18 years
9.	Mohd. Siddiqui s/o Khair Ullah	-do-	22 years
10.	Bhikham Singh s/o Jagd Singh	Tea/Balta	5 years
11.	Puddan s/o Bhagwandin	Tea/Smoke	1 years
12.	Jagsen s/o Badal	Tea Blat.	8 years
13.	Makhmoerkhan s/o Allaudin	Snakes Bar	22 years
14.	Mahendra Pratap s/o Kishan Chandra	-do-	4 years
15.	Kedar Nath Pathak s/o Ram Naresh Pathank	-do-	4 years
16.	Kailash Chandra s/o Kishan Kumar	Water/LKC	7 years
17.	Shri Nath Gupta s/o Baldri Prasad Gupta	Water, Comiti/Bar/ LKC Bar	8 years
18.	Ram Pravesh s/o Laghuni Mahto	-do-	8 years
19.	Sudhir Sharma s/o Gauri Shankar	Poori Pakets	8 years
20.	Moharlal s/o Badri	-do-	8 years
21.	Onkameth	-do-	5 years
22.	Ram Raj Mishra	Poori Trolley	19 years

Attested

3-11-2012

In the Central Administrative Tribunal
Additional Bench, Lucknow.

(A31)

23

Application No.

of 1970

Onkar Nath and 4 others

.....Applicants

Versus

Union of India and 3 others

.....Repondents

ANNEXURE No. *E-1 (a)*

-2-

1/3

23. Ram Narayan Mishra	-do-	19 years
24. Ram Abhilash	Poorie Trolley	19 years
25. Brijpal Singh	-do-	12 years
26. Bhola Prasad	-do-	5 years
27. Rajendra Prasad Pandey	-do-	8 years
28. Ram Samujh Tiwari <i>Relax</i>	-do-	19 years
29. Satyanarayan Shukla	-do-	
30. Jagprasad	-do-	19 years
31. Ram Murat Gupta <i>Expire</i>	-do-	19 years
32. Ram Tahal	Tea	19 years
33. Gopi Singh	-do-	19 years
34. Bharat Kumar Sankar	-do-	8 years
35. Ram Raj	-do-	8 years
36. Daya Ram	-do-	10 years
✓ 37. Siya Ram	-do-	8 years
38. Sukru	-do-	8 years
39. Sahdoo Singh	Tea	8 years
✓ 40. Prem Singh	-do-	8 years
41. Vishnu Dayal <i>Ch</i>	-do-	" "
42. Ganga Prasad <i>+</i>	-do-	" "
43. Jagwant Singh	-do-	18 years
44. Bhole Singh	-do-	6 years
45. Ram Anokha <i>+</i>	-do-	7 years
46. Sabir Ali	-do-	19 years
47. Ram Prakat Singh	-do-	19 years
48. Abid Husain	-do-	21 years
49. Mata Prasad	-do-	12 years
50. Jogendra Singh	-do-	6 years
✓ 51. Sarwan Masih	-do-	8 years
52. Ram Singh	-do-	12 years

Accepted

3-11-70

1952

24

-3-

16 15

53. Hari Singh	-do-	12 years
✓ 54. K.I. Bliden	42-54-1 Tea	12 years
55. Pooran Chand Gupta	-do-	10 years
56. Khalil Ahmad	-do-	12 years
57. Jagatpal	-do-	12 years
58. Ayodhya Prasad	Bearer Refreshment Room	6 years
59. Salim Beig	-do-	12 years
60. Ram Prakash Shukla	Poorie Retained	21 years
61. Mohammed Unus	Pan	10 years
62. Ulfat Rai	-do-	10 years

3-10-52 नम

Attested
✓

In the Central Administrative Tribunal
Additional Bench, Lucknow.

25

A33

Application No.

of 1990

Onkar Nath and 4 others

.....Applicants

Versus

Union of India and 3 others

.....Respondents

ANNEXURE No. 5

5

उत्तर रेलवे
NORTHERN RAILWAY

No. - 4273-26-87 RPV

जी.एल. 19/G.L.-19-

जनस 99-बदा/Genl. 99-Large

Dist. Office,
Lucknow.

Dated 16-5-88

Subj: - Writ-Petition No. 1156 of 1987 with CMP
No. 22047 of 1987 and Writ-Petition
No. 1181 of 1987 with CMP No. 22379 in
the Supreme Court - Shri Raghuvendra
Gurustar Vs U.O.I.

In continuation to this office letter of even
no. 81-11-5-88, please find herewith monthwise
commission earned & monthwise attendance
of vendors of Lucknow (Vending), 15 Vendors/units
of Lucknow (Retail) and 2 Comm. Vendors of Gen. Ti.
Express in whose favour salaries are to be paid
from October/87 on the same rate as salaries
of Pky Colours are paid. The monthwise
commission earned by these staff should
be deducted from their bills.

BA/12 above

Sr DPO.

Atty. Genl. Secy. LKO

Copy to G.O. (C. & A.), Khandwa House, New Delhi
for information in reference to this letter no.
86-H/10/SC/1128-III Vended/LKO 81-28-1-88.

Autostad

31/05/88

In the Central Administrative Tribunal
Additional Bench, Lucknow.

A34 26

Application No.

of 1990

Onkar Nath and 4 others

.....Applicants

Versus

Union of India and 3 others

.....Respondents

ANNEXURE No.

6

सेवा में,

श्रीमान् मण्डल वाणिज्य अधीक्षक : खान पान :
उत्तर रेलवे, लखनऊ ।

विषय:- निर्दोष घाय स्टाल वेन्डरों के निलम्बन के सम्बन्ध में

महोदय,

धन्य निवेदन है कि हम प्रार्थगिण घाय स्टाल वेन्डर हैं । हम सब को रेलवे खान पान प्रबन्ध रेलवे स्टोर से समस्त खाद्य पदार्थ वा पिथों को बिक्री हेतु जारी करते हैं । जिसमें ठन्डा पेय पैकेट पुस्तक द्रोटाप फुटी गोरहन मँगो पाउच आदि जारी किये जाते हैं । अभी पिछले दिनों रेलवे स्टोर वेन्डिंग से द्रोटाप जारी किया गया जो खराब था और बिक्री तिथि के बाहर था । जिसको हम समस्त स्टाल वेन्डर अपने प्रबन्धक महोदय को रिपोर्ट किया कि जो द्रोटाप जारी किया गया वह खराब है तथा ओवर डैड है । इसे बदलवाने की कृपा करें । इस पर श्रीमान् प्रबन्धक महोदय ने कहा कि मैं शीघ्र द्रोटाप कंपनियों के आदमी बुलवायेगा और बदलवा दूँगा । आप लोग इसको बिक्री बन्द कर दें । यह बात 26 नवम्बर 1989 की है । परन्तु वह द्रोटाप हम लोग के स्टाल पर सुरक्षित रूप से रखा रह गया कि दि. 0 1-12-89 को जेड0 आर0 यू0 सी0 के सदस्य श्री उप्पल साहब ने निरोध किया और हम लोगों के पास वही खराब द्रोटाप पाया गया जिसे हम लोग बिक्री नहीं कर रहे थे । जिसकी रिपोर्ट उन्होंने स्टेशन अधीक्षक महोदय से किया उन्होंने हम सब बे गुनाह वेन्डरों को निलम्बित कर दिया है । इसमें हम सबका क्या दोष है रेलवे द्वारा जारी किया हुआ माल था हमारे सबके एकाउन्ट में दर्ज था उसे हम कहीं बाहर फेंक भी नहीं सकते रेलवे स्टोर में ही वापस कर सकते थे । जिसे प्रबन्धक महोदय ने स्टोर में वापस लेने से इन्कार कर दिया । वे यह कहते थे कि मैं द्रोटाप के सप्लायर को बुलवाकर बदलवा दूँगा । अतः श्रीमान् जो से प्रार्थना है कि हम सब निर्दोष हैं हम सबको निलम्बित किया जा रहा है जो धीरे अन्धाय है । अतः उपरोक्त तथ्यों से मुक्त करें आपकी महान कृपा होगी ।

हम हैं प्रार्थगिण

- 1- शिपाराम नं 124
- 2- अशफ़ी नं 63
- 3- ओम प्रकाश नं 2
- 4- सरवन मैसो नं 1

टी स्टाल वेन्डर
खान पान सेवा, उत्तर रेलवे
लखनऊ ।

दि. 11.12.89
Delested

3-10-11 नान

In the Central Administrative Tribunal
Additional Bench, Lucknow.

(735)

27

Application No. _____
Onkar Nath and 4 others

of 1990

.....Applicants

Versus

Union of India and 3 others

.....Respondents

ANNEXURE No.

7

To
The Sr D.C.S.
Northern Railway
Lucknow.

Dated: 13-12-89

Sub: Sale of Expire dated Tree top

Ref above it is inform to you that Station Supot. along with the members of SIG inspected the Station on 28-11-89 and found expire dated Tree top on Catering and Vending Stalls. SS/LKO informed Sri S.K. Pandey CI/LKO to remove all the expire dated food stuff from stalls. Sri S.K. Pandey CI/LKO stated that he had given the order to Kamal Singh and Sri M.P. Dwivedi UCM's of both the units to collect all the Expire dated Materials from stalls. Sri Kamal Singh UCM (Catering) collected all the Tree Top from Catering Stalls. But in the checking of ZRUCC Member Sri S.S. Uppal one Pkt Tree Top was found on Om Prakash Commission Vendor Stall and Three Pkt was found on Sri S. Mehsey CPC Vendor Stall, both stalls are under the control of UCM (Catering). Similarly Sri M.P. Dwivedi Vending Manager collected the Tree Top from Vending Stalls. But Vending Manager failed to collect the Tree top from Asharfi, Siya Ram, Gopi Singh and Raj Kumar Stalls as they have kept the Tree top in their Boxes. Hence they are responsible for not handing over the materials in Vending Store. DCS/Catg. has suspended all the six Vendors for their fault from 8-12-89.

The agent of Lipton Company at Lucknow supplied 945 pkt to UCM (Catering) on 19-10-89 and 7290 Pkt to UCM Vending on 11-11-89 Tree top on which the Manufacturing dated has been mentioned 05-89 and other endorsement is Ice-cold tastes best if used within six months. In my

contd..2

Accepted

3-11-1989 - T. N.

opinion it is not out of point to mention here that one side company is endorsing on pkt that 'Tastes best' if used within six months and on the other hand supplying the Tree top to UCM's on which the manufacturing date is printed 05.89 Sri Kamal Singh and Sri M.P. Dwivedi UCM of Catering and Vending failed to check up the manufacturing and expiree date at the time of taking the supply. Hence agent of Lipton Company and both the UCMs are equally responsible for making and taking the supply of Expire dated Tree Top.

Submitted.

CIC/LKO

13/12/89

37/12/89

Filed

In the Central Administrative Tribunal
Additional Bench, Lucknow.

127

29

Application No.

of 1990

Onkar Nath and 4 others

.....Applicants

Versus

Union of India and 3 others

.....Repondents

ANNEXURE No. ... 2 ...

Genl. 225
Form No.4

Orders of imposition of penalty under Rule 6(IV) of the
Railway Servants (Discipline and Appeal) Rules, 1968

No. C/274-Misc.-89/PR

Place of Issue: Civil-Office

Dated: 10/31-1-90

To
Shri M.P. Dwivedi
U.C.M. (Vending)
N.R. Lucknow

(THROUGH C.I. LKO)

I have carefully considered your representation dated 1-1-90 in reply to the Memorandum of Charge Sheet No. Even dated 13-12-89 do not find your representation to be satisfactory due to the following reasons taking of expired dated tree top for selling at the Station from the party for which explanation is not convincing

I therefore hold you and guilty of the charge(s) viz.

levelled against you and have decided to impose upon you the penalty of with holding of increment. Your increment raising your pay from Rs 1350/- to 1410 in the Grade B 1200-2040 normally due on 1st Jan. is, therefore, with held for a period of two years x months without postponing your future increment.

2. Under Rule 18 of the Railway Servant (Discipline and Appeal) Rules 1968, in appeal against these orders lies to DCS provided :-

1. the appeal is submitted within 45 days from the date you receive orders and
11. the appeal does not contain improper or disrespectful language.
3. Please acknowledge receipt of this letter.

Signature: Sd/-

Name (R.P. SRIVASTAVA)

Designation of the
Disciplinary Authority ACS/LKO

Copy to: 1. 'E' Branch for information
2. Pay Bill Section for information

3-11 Chik 21 21

Alte 8 tel

In the Central Administrative Tribunal
Additional Bench, Lucknow.

Application No. of 1990
Onkar Nath and 4 othersApplicants
Versus
Union of India and 3 othersRepondents

ANNEXURE No.9

Genl. 225
Form No.4

Orders of imposition of penalty under Rule 6 (IV) of the
Railway Servants (Discipline and Appeal) Rules, 1968

No. C/274-Misc.-89/PR

Place of Issue: Divil-Offico

To
Shri Kamal Singh
U.C.M. (Catering)
Lucknow.

Dated: 10/31-1-90

(THROUGH C.I. LKO)

I have carefully considered your representation dated 1-1-90 in reply to the Memorandum of Charge Sheet No. Even dated 13-12-89 do not find your representation to be satisfactory due to the following reasons
"Explanation is not convincing"

I therefore hold you and guilty of the charge(s) viz. taking of expired dated tree top for selling at the Station from the party. levelled against you and have decided to impose upon you the penalty of with holding of increment. Your increment raising your pay from Rs 1210/- to 1250/- in the Grade Rs 975-1540 normally due on 1-5-90 is, therefore, with held for a period of two years x months with/ without postponing your future increment.

2. Under Rule 13 of the Railway Servant (Discipline and Appeal) Rules 1968, in appeal against these orders lies to DCS provided :-

- i. the appeal is submitted within 45 days from the date you receive orders and
- ii. the appeal does not contain improper or disrespectful language.
3. Please acknowledge receipt of this letter.

Signature: Sd/-

Name (R.P. SRIVASTAVA)

Designation of the
Disciplinary Authority ACS/LKO

Copy to: 1. 'E' Branch for information
2. Pay Bill Section for information

3-11 chiz 11-11

Att. Secy

In the Central Administrative Tribunal
Additional Bench, Lucknow.

31

Application No. of 1990
Onkar Nath and 4 othersApplicants
Versus
Union of India and 3 othersRepondents

ANNEXURE No. 10

10

NORTHERN RAILWAY

M/s Ram Sons Agencies
86, Shaheed Ram Prasad Bisimil
Marg, Aminabad, Lucknow

Divil Office
N.Rly Lko
Dated: 31-1-90

Sub: Supply of expired dated Tree Top at Lucknow
Station.

You have supplied expired dated Tree Top at Lucknow
station. Hence your material will not be accepted in future.

Sd/-
For Divisional Railway Manager
N.Rly Lucknow

Copy to:

1. C.I./Lko for information
2. C.I.C./Lko for information
3. C.C.S. (Catg) N.Rly Baroda House, New Delhi for
in reference to his D.O.No.85-AC/O/Misc/89
dated 26-12-89.

31/01/90

filed
4

Application No.

of 1990

Onkar Nath and 4 others

.....Applicants

Versus

Union of India and 3 others

.....Respondents

ANNEXURE No.

सेवा में,

महा प्रबन्धक,

उत्तर रेलवे,

बड़ीवा हाउस, नयी दिल्ली ।

विषय:- सेवा समाप्ति आदेश दिनांक 8-3-90 के विरुद्ध प्रत्यवेदन ।

महोदय,

प्रार्थीगण निम्न निवेदन करते हैं:-

1- यह कि प्रार्थीगण चारबाग रेलवे स्टेशन उत्तर रेलवे लखनऊ पर
वेन्डर के पद पर कार्यरत हैं परन्तु उनकी सेवाएँ जी० आर० एम० महोदय
के आदेश दिनांक 8-3-90 के द्वारा समाप्त करने के आदेश पारित कर
दिये गये हैं ।

2- यह कि ऊरोक्त सेवा समाप्ति आदेश नियम विरुद्ध एवं अवैधानिक
होने के कारण प्रार्थीगण यह प्रत्यवेदन देने को विवश हो रहे हैं ।

3- यह कि प्रार्थीगण अपनी डिप्लोमा निष्ठा और ईमानदारी से करते
चले आ रहे हैं और कभी भी किसी को शिकायत का मौका नहीं दिया है ।

4- यह कि 7-12-89 को श्री एस० एस० उप्पल मेड० आर० यू० सी० सी०
के सदस्य को चेकिंग में पुराना टो-टाप मिला और 11-12-89 को 8 पेटी
पुराना टो-टाप कई स्टाल पर मिला । प्रार्थीगणों को 8-12-89 को ही
सेवा से निलम्बित कर दिया गया । उक्त चेकिंग के पश्चात चोफ केंटरिंग
इन्स्पेक्टर ने जांच करके रिपोर्ट प्रस्तुत करने से कक्षा गया श्री पी० पी०
शर्मा, सी० सी० आई० ने अपनी रिपोर्ट दिनांक 13-12-89 प्रस्तुत की
जिसमें उन्होंने सर्व श्री कमल सिंह एवं एल० पी० द्विवेदी, युनिट क्लेरिंग
मेनेजर को पूर्ण रूप से दोषी पाया क्योंकि मई 1989 में मैसर्स लिफ्टन की०
के द्वारा उत्पादित टो-टाप की सप्ताई बहुत अधिक मात्रा में उपरोक्त
यू० सी० एम० के द्वारा दिनांक 11-11-89 को प्राप्त की गयी । जबकि
टो-टाप के त्तर छे हुये तेल के अनुसार वह माह के अन्दर उसका
उपभोग होना चाहिये था । आई० कोल्ड टेस्ट बेस्ट यूजड विद्वान
सिक्स मन्थ्स इतने प्रगट होता है कि सप्ताई के दिनांक को ही टो-टाप
उह माह पुराना हो चुका था साथ ही साथ लिफ्टन की० की भी जिम्मे-
दारी ठहराई गयी उक्त रिपोर्ट दिनांक 13-12-89 के प्राप्त होने पर
प्रार्थीगणों को पुनः डिप्लोमा 14-12-89 से दे दी गयी ।

5- यह कि ऊरोक्त रिपोर्ट के आधार पर दोनों यू० सी० एम० के
विरुद्ध आरोप पत्र जारी करके कार्यवाही की गयी । और अस्तिटेन्ट
कम शिफ्ट सुपरिटेन्डेंट के आदेश दिनांक 31-1-90 के द्वारा उनका

....2/-

Attested

31/1/90

2 वर्ष की वेतन वृद्धि आरंभ की स्थिति से रोक दी गयी जिसका उल्लेख उनके सेवा विलेखों में भी कर दिया गया ।

6- यह कि उपरोक्त यू० सी० एम० को दण्डित करने के अलावा मैसर्स लिफ्टन कं० को भी दिनांक 31-1-70 के आदेश के द्वारा भविष्य में कोई भी सप्लाई न करने के बाड़े में लिख दिया गया ।

7- यह कि उपरोक्तानुसार सम्पूर्ण प्रकृति समाप्त हो गया । परन्तु सम्भवता की गयी कार्यवाही एवं दण्डित किये गये व्यक्तियों के बारे में कोई भी सूचना बड़ौदा हाउस नयी दिल्ली को नहीं भेजी गयी । बहूधा अगर भेजी गयी तो वहाँ समय से प्राप्त नहीं हुयी जिसके फलस्वरूप प्राथीगणों के विरुद्ध सेवा समाप्त के आदेश अनायास हो पारित कर दिये गये ।

8- यह कि प्राथीगणों को ज्ञात हुआ है कि के० के० चौधरी चौफ कामेशियाल सुपरिटेन्डेंट कंट्रोलिंग उत्तर रेलवे नयी दिल्ली में दिनांक 13-2-70 के आदेश द्वारा श्री पान्डे कंट्रोलिंग इंस्पेक्टर के विरुद्ध अनुशासनात्मक कार्यवाही करने एवं प्राथीगणों वेन्डरों के सेवा समाप्त के लिये लिखा गया । सेवा समाप्त आदेश दिनांक 8-3-70 श्री के० के० चौधरी के 13-2-70 के निर्देशानुसार प्राथीगणों को बिना कोई सफाई का मौका दिये और बिना किसी जांच पड़ताल के डी० आर० एम० महोदय द्वारा पारित कर अब दिया गया । यह कि प्राथीगण बिल्कुल निर्दोष हैं एवं उनके द्वारा कोई भी गलत कार्य नहीं किया गया और जिम्मेदारों व्यक्तियों को सजा भी मिल चुकी है ।

9- यह कि श्री के० के० चौधरी महोदय के आदेश प्राप्त होने पर डी० आर० एम० महोदय के द्वारा यू० सी० एम० के विरुद्ध ली गयी कार्यवाही को एवं मैसर्स लिफ्टन कं० की सप्लाई समाप्त किये जाने की कार्यवाही उनके सज्ञान में लाने चाहिये की ना कि निर्दोष प्राथीगणों की सेवा समाप्त को जानने चाहिये थी

10- यह कि सेवा समाप्त आदेश दिनांक 8-3-70 किसी भी दृष्टिकोण से न्यायोचित नहीं है और रद्द किये जाने योग्य है । प्राथीगणों को एवं उनके परिवार के सदस्यों की वी विकासात्मक आ अन्य कोई साधन नहीं है व प्राथीगणों वेन्डर के हस्तगत से पिछले 13 वर्षों से कार्यरत हैं ।

अतः श्रीमान् जो से विनम्र प्रार्थना है कि डी० आर० एम० उ० रेलवे, लखनऊ के द्वारा पारित सेवा समाप्त आदेश दिनांक 8-3-70 ॥ प्रति सलग्न ॥ को रद्द करते हुये प्राथीगणों को सेवा में लाने के आदेश

.....3/-

Amal

अधिकारी

पा रित करने की कृपा की जाये जिसके लिये प्रा र्थीगण सप रिदार आजोवन
आभारी होंगे ।

दिनांक: 8-3-70

प्रा र्थीगण

- 1- ओंकार नाथ
- 2- प्रेम चन्द
- 3- भवण मैत्री
- 4- सियाराम
- 5- ओम प्रकाश
- 6- १ वेन्सर्ग

घारबाग रेलवे स्टेशन
उत्तर रेलवे, लखनऊ ।

ओंकार नाथ

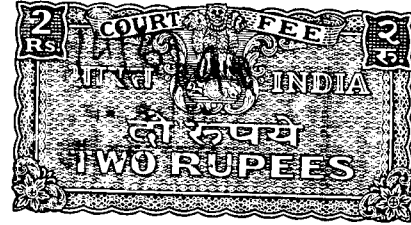
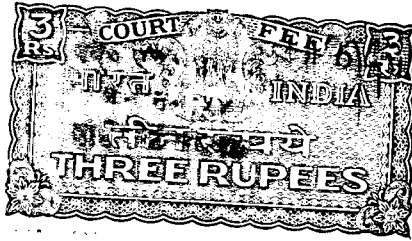
Attested
✓

ब अदालत श्रीमान *143* *35*
महोदय

वादी अपीलान्त

प्रतिवादी रेस्पान्डेन्ट का

वकालतनामा



वादी (मुद्दै)

बनाम

प्रतिवादी (मुद्दाअलेह)

न० मुकद्दमा सन १९ पेशी की ता० १९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

एच० सी० अवस्थी एडवोकेट १४, कृष्णा भवन, चारबाग, लखनऊ

फोन नं० ५१५३४ *for R.K. Dixit Advocate* महोदय

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

स्वीकार किया

1- *ओमप्रकाश*
हस्ताक्षर

2 -

3 -
साक्षी (गवाह)

4 - *सिधार्थ*
साक्षी [गवाह]

5 -
दिनांक

महीना.....सन् १९७ ई०

आनंदका

(Am)

IN THE COURT OF THE DISTRICT JUDGE, LUCKNOW,

Case No. 485/90 (C)

M.P. No. 9m

State of Uttar Pradesh vs. 82/1090 (C)
Filed for 31.10.1990.

State of Uttar Pradesh
Lucknow
Date of Filing: 13/8/90
Date of Receipt by Court: 13/8/90

Deputy Registrar (1)

13/8

Applicants/
Order Noth Mishra & Others Petitioners

VERSUS

Union of India & Others - Opposite Parties.

APPLICANT'S PETITION FOR INTERIM RELIEF

The applicant/Petitioners stated
respectfully submit:-

1. That in the above noted application, the
Interim Rel of the Petitioners was not granted on
the undertaking given by the learned Counsel
representing the Opposite Parties that he will cooperate
and file the Counter Affidavit at the earliest even
on the first date meant for the said purpose and that
the entire Petition will be finalized on 29.5.1990.

2. That on 29.5.1990 the Opposite Parties were
granted another three weeks time for filing of the
Counter Affidavit and the Petitioners were granted
3 weeks time thereafter for Rejoinder Affidavit.

(Signature)
(M. S. ...)
...

Received before
me today

Put up
for perusal
Humble Bench
on 31.8.90
in chambers.
27/8/90

Filed today

13/8/90

Order for 31-8-90
and I shall submit
for your signature and
for op.
for dismissal
29/8/90

...

Ans

-3-

3. That the Opposite Parties have failed to file any Counter Affidavit so far despite the grant of reasonably sufficient time and despite the fact that almost 5 months have elapsed since the filing of the application by the Petitioners.

4. That the understanding has proved to be fallacious and redundant and accordingly the Interim Relief is liable to be granted to the Petitioners in the shape of staying further operation of the Impugned Order of Determination.

5. That the Petitioners are gravely poorly paid Railway Servants and in case either the further operation of the Impugned Order is not stayed or the application itself is not decided quickly the Petitioners would suffer irreparable loss and injury which can not be compensated in terms of money.

P R A Y E R

WHEREFORE, it is humbly prayed that this Hon'ble Tribunal be pleased in the interests of justice to stay the further operation of the impugned order and content in Annexures 1 & 2 to the Petition or in the alternative to decide the claim application itself at the earliest.

[Signature]
Sd/-
Attorney for the Petitioners

[Signature]
Respondent/Petitioner

446

-3-

TESTIMONY

I, the undersigned applicant do hereby verify that the contents of paragraphs 1 to 5 are true to my own knowledge. No part of it is false and no material has been concealed. So helped God.

Signed and verified this 8th day of August, 1930 at the Court of Magistrate

at

at 8-8-1930.

डेवियर ज/थ

Magistrate/Deputy Magistrate

I identify the Applicant
under oath and verify
his above signature.

Y. C. C.
A. C. C.
8/8/30