

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, BENCH

VOA/TA/RA/CP/MA/PT 91.....of 20-90

R. M. Shukla.....Applicant(S)

U.O. - Guru ^{Versus} & others.....Respondent(S)

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Certified that the file is complete in all respects.

Signature of S.O.

Signature of Deal. Hand

B.C. Bhatia and -
12-6-2012

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Date of
Date of Rec.

20/3/90

Deputy Registrar(J)

Registration No. 91 of 1980 (L)

APPLICANT(S)

P. N. Shukla

RESPONDENT(S)

U.O.L.

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent? *Ys*
2. a) Is the application in the prescribed form? *Ys*
- b) Is the application in paper book form? *Ys*
- c) Have six complete sets of the application been filed? *Ys*
3. a) Is the appeal in time? *Ys*
- b) If not, by how many days is it in arrears? *10*
- c) Has sufficient time for not making the application in time, been filed? *Ys*
4. Has the document of authorisation/ Jakalatnama been filed? *Ys*
5. Is the application accompanied by C.O./Postal Order for Rs.50/- *Ys*
6. Has the certified copy/ copies of the order(s) against which the application is made been filed?
- a) Have the copies of the documents relied upon by the applicant and mentioned in the application, been filed? *Ys*
- b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly? *Ys*
- c) Are the documents referred to in (a) above neatly typed in double space? *Ys*
8. Has an index of documents been filed and properly done properly? *Ys*
9. Have the biographical details of representation made and the outcome of such representation been indicated in the application? *Ys*
10. Is the matter before the application pending before any court of law or any other bench of Tribunal? *No*

Particulars to be Exam

Endorsement as to result of examination

A2

11. Are the application/duplicate copy ~~or~~ copies signed ? *Ys*
12. Are extra copies of the application with Annexures filed ? *Yp*
- a) Identical with the Original ?
- b) Defective ?
- c) Wanting in Annexures
- Nos. pages Nos. ?
13. Have the file size envelopes, bearing full addresses of the respondents been filed ? *No*
14. Are the given address the registered address ? *Ys*
15. Do the names of the parties stated in the copies tally with those indicated in the application ? *Ys*
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ? *NA*
17. Are the facts of the case mentioned in item no. 6 of the application ? *Yp*
- 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 ? *Ys*
19. Whether all the remedies have been exhausted. *Yp*

dinesh

Brief Order, Mentioning Reference
if necessaryHow com
with an
date of
compliaO
or
and date2-1-90 Hon. K. Nath, V.C.
Hon. K. J. Ramam, A.M.

Issue notice to the respondent to show cause why the petition be not admitted. In the matter of Interim Relief, the impugned order (An-1) is purported to be based on Rule 2046, Clause K. of Bariloche Establishment Code, Volume II ^{but} the publication of which before us indicates that that clause applies to persons who are not governed by any pension rules. The applicant is a pensionable employee.

In the circumstances, we direct the case to be listed for further orders on 16-4-90 when the O.O. will produce the record alongwith relevant rules. Till then the operation of the impugned order contained in Annexure A-1 dated 2-1-90 shall remain stayed.

L.M.
A.M.B
V.C.

Notices were
mixed on 4-4-90
Neither side
nor any other
concerned
with the case
replied to the
order.

(2)

(A)

DA 21/30

3-91. Hon Mr. V. Brijkumar. Am.
Hon Mr. DK Dgrwal, JM.

Shri D. S. Chander for Appellant.
Shri A. N. Verma for respondent.

Court to may file within
6 week, rejoinder within
2 weeks thereafter. List
on 2-1-91 for hearing.

Stay order already
passed will continue
till next date.

De
J.M.

De
J.M.

(4)

3/1/91

No sitting Adj to 20.3.91

(3)

20.3.91

No Sittings Adj to 3.4.91

J

of

No CA filed

S. F.H.

2/4

(9)

(3)

(17)

O.A 91/90

14.8.91

Hon Mr. Justice K. Nath, VC
Hon Mr. K. S. Bagga, AM.

Shri D.S. Chauhan, appearing on behalf of applicant requests for and is allowed two weeks' time to file rejoinder. List for orders on 18.9.91

A

R
AM.R
VC.

(10)

08

18.9.91. — Case not reached. Reli to
4.11.91.Mo. RA. Filed by
applicant.

S. PO

A

1
B.O.C.2
11.9.CA filed along with
MP 416-91 for vacatur
of stay.No RA filed.
S. F. O

3-10-91

(A)

O.A. 91/90 (CL)

6

21/11/92

Mr. K. Srivastava, L.C. for the applicant is present, and has filed power on behalf of the applicant ^{and} seeks and is allowed adjournment. Sri V. K. Srivastava, L.C. for the respondents is present and states that ~~see~~ the matter involved in this case ~~and~~ requires consideration by Division Bench.

O.R.

No R.A has been filed

S.P.O.

8

8/12/92

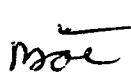
List this case on 9/12/92 for hearing / final disposal before D.B.


J.M.

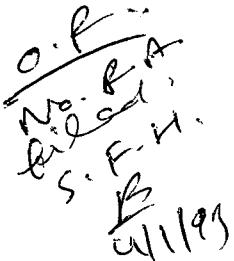

J.M.

9.12.92

Due to Perfect Counsel are not available adjourn to 7-1-93


J.M.

A

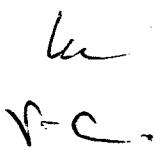

O.R.
No R.A.
Filed
S.P.O.
7-1-93

7-1-93

Hon. Mr. Justice V.C. Srivastava, V.C.
Hon. Mr. K. Obayya, A.M.

Heard the learned counsel for the parties. Judgment dictated separately.


A.M.


V.C.

(A II)

CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH, LUCKNOW

O.A. No. 91 of 1990.

P.W. Shukla Applicant

Versus

Union of India & others Respondents

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

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

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

The applicant was appointed on the post of Assistant Station Master on 1946.98. Thereafter, he was promoted to the post of Station Master in the year 1932. After completion of 30 years of service, even though he had earned an award 'Accident Free', he was served with a copy of order dated 2/1.90 compulsorily retiring him from service even though he had still three years more for attaining the age of superannuation. The applicant has challenged the exercise of this power conferred vide Clause K of Rule 2046 of the Railway Establishment Code to retire compulsorily a railway servant from his service. According to the applicant, his representation has wrongly been rejected although there was nothing wrong on his part and he has wrongly been retired.

2. The respondents have put in appearance and have pointed out that the applicant's case was taken into consideration and after review of the decision arrived at by the appropriate authority, a final decision was taken. It has been stated that even though he may have earned 'accident free' award but that was immaterial and he has been punished for about more than 30 times right from

23.3.61 and was given several censor entries in his service record and his increments were also withheld number of times temporarily as well as permanently. It was always open to the employer to assess the merit of a particular candidate and general assessment of the applicant's record shows that in the public interest it was required that the applicant should not be retained any longer in service. No such ground has been pointed out which may result in saving the order of compulsory retirement of the applicant. Accordingly, we do not find any merit in the application and it is dismissed. No order as to costs.

Rishabh
MEMBER (A)

U
VICE CHAIRMAN.

DATED : JANUARY 7, 1993.

(ug)

20/3/90

In the Honourable Central Administrative Tribunal, Allahabad. Deputy Registrar

Circuit Bench, Lucknow,

Registration No. 910 of 1990 (L).

P.N. Shukla

Applicant.

Versus.

North Eastern Railway
Lucknow and another.

Respondents.

COMPILATION - A

COMPILATION - B

Lucknow: Dated:

March 28, 1990.

D.S. Chaube

(D.S. Chaube)
Advocate.

Counsel for the Applicant.
Khursheedbagh Gate, Lucknow.

(2) 20/3/90

Deputy Registrar (J)

In the Central Administrative Tribunal, Allahabad.
Additional Bench, Allahabad.

Circuit Bench, Lucknow.

Registration No. 94 of 1990 (L).

P.N. Shukla. ----- Applicant.

Versus.

North Eastern Railway
and another. --- Respondents.

APP COMPILATION A.

Sl. No. Particulars

Page No.

1. Application U/S 19 of Central
Administrative Tribunal Act.

1-9

2. Impugned orders.

10

Lucknow: Dated:

March 28, 1990.

Mr. P. S. Agarwal

Applicant.

D.S. Chauhan
Advocate
Counsel for Petition

Noted down 2-4-90
S. Kumar
Advocate
28/3/90

29/3/90
A12 (3) Register

In the Central Administrative Tribunal, Allahabad,

Circuit Bench, Lucknow.

Registration No. 90 of 1990 (L).

PARTIES NAME:

P.N. Shukla, aged about 53 years, Son of Late Shri
Station Master/GADM through Traffic Inspector, N.N.P.

----- -- Applicant.

Versus.

1. North Eastern Railway through the Divisional
Railway Manager, Lucknow.

2. Senior Divisional Safety Officer, North Eastern
Railway, Lucknow.

filed today
SJM
28/3/90
3. Union of India through General Manager N.E
Railway Garkhpur. Opp. Parties.

11. p. 232m

Lucknow: Dated:

Applicant.

March 28, 1990.

DS Chauhan
Advocate
counsel for Petitioners

(4) 402

In the Central Administrative Tribunal, Allahabad.

Circuit Bench, Lucknow.

Registration No. 94 of 1990 (L).

P.N. Shukla, aged about 53 years, Son of Late Shri Station Master/GADM through Traffic Inspector, N.N.P.

--- --

Applicant.

Versus.

1. North Eastern Railway through the Divisional Railway Manager, Lucknow.
2. Senior Divisional Safety Officer, North Eastern Railway, Lucknow.
3. Union of India through General Manager N.E. Railway Garkhpur. Opp. Parties.

Details of application.

- | | |
|--|--|
| (1). (i). Name of the Applicant. | P.N. Shukla. |
| (ii). Name of Father. | Shri S.N. Shukla (Gangadham) |
| (iii). Designation and Office in which employed. | Station Master/GADM.C/O Traffic Inspector, N.N.P. (Nainpura) |
| (IV). Office address. | As above. |
| (v). Address for service of all notices. | As above. (Col.iii). |

(2). Particulars of the Respondents:

1. North Eastern Railway through the Divisional Railway Manager, Lucknow.
2. Senior Divisional Safety Officer, North Eastern Railway, Lucknow.
3. Union of India through the General Manager N.E. Railway Garkhpur.

At. P.O. 832m

D.S. Chawla
Adv

(3). Particulars of the order against which application is made.

The applicant is against the following order:-

(i) Order No. E/P/6/SM.

(ii). Date 2-1-1990 served on 3-1-1990.

(iii). Passed by: - Senior Divisional Safety Officer,
North Eastern Railway, Lucknow,
opposite party No.2.

(iv). Subject in Brief. By means of which this order, the applicant has been ordered to be compulsorily retired from service on expiry of notice period i.e. 3-4-1990.

(4). Jurisdiction of the Tribunal.

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

(5). Limitation.

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

(6). Facts of the case.

The facts of the case are given below:-

1. That the applicant was appointed on the post of Assistant Station Master on 13-6-1958. He was promoted to the post of Station Master on 1-8-1982 and he has since been confirmed on this post.

M. P. D. 23/2

D. Chauhan

-: 3 :-

2. That the work and conduct of the applicant remained satisfactory. No adverse entry or complaints from public or their representatives was ever communicated to the applicant. Certain minor punishments were given but formal orders were not communicated. In fact, in recognition of his meritorious service in rendering "Accident Free" service, he has been awarded with a cash reward of Rs.750/- by the Railway Administration.

3. That the applicant was shocked and surprised on 3-1-1990 when he was served the copy of order No.E/P/6/SM dated 2-1-1990 passed by the opposite party No.2 by means of which it has been ordered that the applicant will be compulsorily retired from service on expiry of notice period of three months. A true copy of the order dated 2-1-1990 is enclosed as Annexure-1 to this application.

4. That the applicant preferred an appeal against this order of compulsory retirement dated 2-1-1990 to the opposite party No.2 on 21-1-1990 and to the opposite party No.1 on 20-2-1990. A true copy of the appeal filed by the applicant on 20.2-1990 is enclosed as Annexure-2 to this application.

5. That the order of compulsory retirement dated 2-1-1990 is arbitrary, illegal and discriminatory. No ground has been assigned and no material has been furnished on the basis of which the opinion of retiring compulsorily to the applicant in "Public Interest" has been formed. It is a bald order and the applicant has not been made to understand what is behind "Public Interest".

A.P. 22/2
D.S. Chawla

7

411

-: 4 :-

6. That by means of ~~which~~ this order dated 2-1-1990 a short out method of removal from service without following the procedure laid down in the Railway Servants ~~has been adopted~~ (Discipline and Appeal) Rules 1968. The order of ~~compulsorily~~ ~~not~~ compulsory retirement is violative of Article 14 and 311(2) of the Constitution of India.

7. That the impugned order has been issued in exercise of the power conferred in Clause K of Rule 2046 R.II. Clause K of Rule 2046 R.II cannot be exercised in the case of the applicant because the applicant is a pensionable employee and this clause is applicable only in respect of those Railway Servants who are in Class III service or post "who is not governed by any pension rules". Thus exercise of power conferred in clause K of Rule 2046 R.II in retiring the applicant from service prematurely is not only erroneous and illegal but the same is malafide also.

8. That a perusal of the impugned order shows ~~been~~ that the review has ~~been~~ carried out on completion of 30 years service qualifying for pension on 31-8-1989. Since the applicant entered Railway service on 13-6-1958, he completed 30 years service qualifying for pension on 12-6-1988. According to Railway Board's letter No. E(P&A)I-76/R1/47 dated 29-11-1976, the assessment for suitability for retention beyond the specified age or 30 years qualifying

W.P. 2320
D.S. Chawla

8

A12

service should be made by the appropriate authority six months in advance on which a railway servant attains that age or completes 30 years of qualifying service. There was, therefore, no cause to assess or review the service records of the applicant after 12-6-1988. Hence the order of compulsory retirement is not only arbitrary, malafide and bad in law but the same is contrary to the rules provided for compulsory retirement. ~~Dotves copy of letter dated 20-1-1986 is enclosed as annexure to this application.~~

9. That the action of opposite party No.2 to retire the applicant before attaining the age of 55 years is bad in law and being discriminatory and violative to article 14 of the Constitution of India is ab-initio void. When the Rule 2046 specifically provides for requiring Class-III railway employees to retire only after attaining the age of 55 years, the provision contained in para 2 (2) of Railway Ministry circular to retire on completion of 30 years of qualifying service is totally discriminatory and untenable.

10. That the applicant has got a joint family consisting of 12 members. The father of the applicant has expired and there is no other source of income. He has got three daughters yet to be married. If the applicant is retired prematurely, his entire family will face great

A. P. S. S. M.
D. Chawla

(9) (AV)

financial hardship and the whole family will be ruined.

11. That as the applicant's service will fall short of 33 years, he will not be given full pensionary benefits as available to an employee on completion of 33 years qualifying service for pension. This order has the effect of reducing the pension of the applicant and the same cannot be passed being barred by Rule 2308 R.II.
12. That the applicant still has got about 5 years of service before attaining the age of superannuation. The action of opposite parties retiring him from service in such arbitrary and illegal fashion is ultravires and bad in law.
13. That no order on his representation has been passed and communicated to the applicant till today. He also approached the opposite party personally and placed full facts but his grievance was not redressed and no order on appeal was passed.
14. That the applicant will suffer irreparable and substantial injury if the impugned order of compulsory retirement is not quashed.

A. P. S. S. M.
D. Chawla

-: 7 :-

(7). Relief sought:

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

- (i). to quash the impugned order of compulsory retirement dated 2-1-1990 contained in Annexure-1 to this application and to allow him to continue in service with full benefits.
- (ii). to command the opposite parties to not to give effect to the impugned order of premature retirement and if any action in pursuance thereof has already been taken, the same may be deemed as non-existent and the applicant shall be deemed as in continuous service on duty with consequential benefits of salary and allowances.

(8). Interim order prayer.

Pending final decision on the application, the applicant seeks issue of following interim order:-

to stay the operation of the impugned order of premature retirement dated 2-1-1990 contained in Annexure-1 to this application.

At. P. 22/20
D/Chander

-: 8 :-

(9). Details of the remedies exhausted.

The applicant declares that he has availed of all the remedies available to him under the rules but he has failed to get any relief despite his appeal contained in Annexure-2 to this application.

(10). Matter not pending with any other Court etc.

The applicant further declares that the matter regarding which this application has been made is not pending before any Court of law or any other authority or any other Bench of the Tribunal.

(11). Particulars of Bank Draft/Postal order in respect of the Application Fee.

(i). Number of Indian Postal Order.	No.02-409887.
(ii). Name of Post Office:	High Court Bench, Lucknow
(iii). Date of issue of postal order.	26-3-1990.
(iv). Post Office at which payable.	Registration CAT Allahabad

(12). Details of Index.

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

(13). List of Enclosures.

1. Order dated 2-1-1990.
2. Appeal dated 26.2.1990

11. P.M. 22-2-90

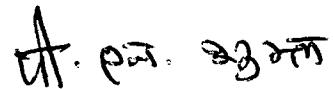
D. Chawla

12

-: 9 :-

VERIFICATION

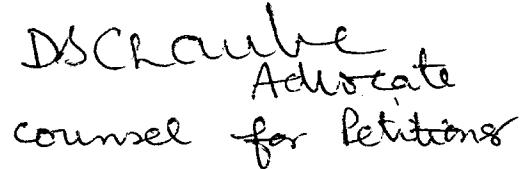
I, P.N. Shukla, aged about 53 years, Son of Late Shri S.N. Shukla working as Station Master/GADM C/O Traffic Inspector, N.N.P. do hereby ~~solemnly~~ verify that the contents of paras 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.



Lucknow: Dated:

Signature of Applicant.

March 28, 1990.


D.S. Chauhan
Advocate
counsel for Petitions

10
13
A23

In the Central Administration Tribunal, Allahabad
Circuit Bench, Lucknow.

Registration No. of 1990(L)

P.N. Shukla Applicant

Versus

North Eastern Railway
Lucknow and others. Respondents.

Annexure No.1

TO BE USED WHERE AN AUTHORITY OTHER THAN THE PRESIDENT
IS THE APPROPRIATE AUTHORITY TO AUTHORIZE A DAY. SERVANT.

O R D E R

WHERE AS the Sr.Divl.Safety Officer/DSO @
(appropriate authority) is of the opinion that it is in
the public interest to do so;

NOW THEREFORE, in exercise of the powers
conferred by Clause K of Rule 2046 R.II ** Para 2(2)
of Section I of Railway Ministry's letter no. R.480PC/208
dated 8.7.50, the Sr.DSO/DSO (appropriate authority)
Hereby gives notice to Sri P.N. Shukla S./GADK that he
on completing thirty years of service qualifying for
pension on the 31.3.00, shall retire from service on
the forenoon of the day following the date of expiry
of three months completed from the date following the
date of service of this notice on him, whichever is later.

No.E/P/6/Sm. 2.1.90

sd/-A.C.Lathe
Sr. DSO/DSO.

To,

Shri P.N. Shukla, SII/GADK
through R/KNP.

True copy
H.P. 8220
D.S. Chawla
Advocate

14

In the Hon'ble Central Administrative Tribunal.

Additional Bench, Allahabad.

Circuit Bench, Lucknow.

Registration No. _____ of 1990(L).

P.N. Shukla.

Applicant.

Versus.

North Eastern Railway
and another. ---

Respondents.

COMPILATION B.

Sl. No.	Particulars	Page No.	Annexure No.
2.	Order dated 2/3/1990.	4	
1.	Appeal filed by the applicant against order of retirement.	1 to 5	2
3.	Vakalatnama.	6	—

Lucknow: Dated:

March 28, 1990.

(B.S. Chaube)

Advocate.

Counsel for Applicant.

B.S. Chaube

15

AZU

In the Central Administration Tribunal, Allahabad
Circuit Bench, Lucknow.

Registration No.

of 1990(L).

P.N. Shukla

Applicant.

Versus

North Eastern Railway
Lucknow and ~~another~~

Respondents.

Annexure No. 2

To,

The Divisional Railway Manager,
North Eastern Railway,
Lucknow.

Through: proper Channel.

Sub: Compulsory retirement from service.

Ref: Your order communicated under No.
E/P6/S. dated 2.1.1990.

With profound respect, I wish to submit that I am
sufficiently shocked and averse to be compelled to receive your above
order wherein it has been ordered that I will be
compulsorily retired from service on expiry of notice
period of three months, in so-called "Public interest."

That, no ground has been assigned & no material
has been furnished by which such an order of compulsorily
retiring me from service in such an uncovenient manner,
has been issued without which such order is arbitrary,
unlawful and discriminatory and a short cut method of
removal or disposal from service without following the
procedure laid down in the Railway Servants (Discipline
and Appeal) Rule 1968. The order is therefore, violation
of Article 14 and 311(2) of the constitution of India
and is illegal.

A. P. 35
True copy
D. K. Chander
Advocate

— 1 —

That the order of my compulsory retirement from service has been issued erroneously in exercise of the powers conferred by clause K of Rule 2046 RIII. Clause K of Rule 2046 RIII could not be invoked to compulsorily retire me from service as this clause is applicable in respect of a railway servant in class III service or post" who is not governed by any pension rules", whereas I am a pensionable employee. Thus invoking of powers conferred in clause K of Rule 2046 RIII to compulsorily retire me from service prematurely is not only erroneous and arbitrary but also malafide and illegal.

That , it has been indicated in the above order of premature retirement that the review was carried out on completion of my 30 (Thirty) Years service qualifying for pension on 31.8.1989. Since I entered railway service on 13.6.1958, I completed 30 (Thirty) years service qualifying for pension on 12.6.1988. According to Railway Board's letter No.E(A&A)I-76/RT/47 dated 29.11.1976 the assessment for suitability for retention beyond the specified age or 30 years qualifying service should be made by the appropriate authority 6 (Six) months in advance on which a Railway servant attains that age or completes 30 years qualifying service. Since I completed 30 years qualifying service for pension on 12.6.88 or even assuanning that I completed 30 years of Railway qualifying

*A. E. 29/2/39
true copy*
service for pension on 31.8.39 as indicated in your above
order, the assessment for retention in service after
completion of 30 years qualifying service for pension
*D. S. Chawla
Advocate*

(17) A26

-3-

should have been made 6 (Six) months prior to 12.6.88 or six months prior to 31.8.89 as the case may be. There was therefore, no cause to assess and review my service record after 12.6.88 or even much after 31.8.89. Hence the order of my premature retirement from service dated 21.2.1.1990 is arbitrary, malafide and bad in law being contrary to rules. My retention in service till the age of superanuation can in no way be contrary to public interest.

That, further it has been stated in your above order that the order of my premature retirement has been ordered under the rub of "Public Interest", a term which is as vague and evasive as could possibly be. In this connection I beg to submit that I have completed over 31/2 years of service. During this long period of service as ASI and S. there was no public complaint against me, there was no detention of trains during my duty hours and there was no accident. In fact, in recognition of my meritorious services in the "Safe" "Accident Free" service, I have been awarded with a cash reward of ... 750/- by the Railway Administration. I have also never seen any adverse confidential report regarding my work and conduct. Therefore it is not only erroneous but baseless to come to any reasonable opinion that my services are not required in "Public Interest". In fact, the opinion regarding Public

*A.P.R. 8327
True copy
DS Chalke
Sarkar*
Interest is a little off track and the order has been passed without sufficient material.

That, however, there has been some such purpose

in my service because of the animosity of a few Commercial Inspectors towards me on the basis of their reports, I have often been punished harshly on flimsy ground and have been fined twice for the same offence even without holding any enquiry.

Again, the order of my premature retirement will deprive me and my wife and family the full social security as I will not be given full pensionary benefits as available to an employee on completion of 35 years qualifying service for pension, as my qualifying service for pension will fall short of 35 years. Such an order, therefore, is violative of article 311(2) of the constitution, such an order has the effect of reducing my pension as a consequence flowing directly from that order. In terms of Rule 2508 RII, only the President has the right to withhold or reduce a pension or any part of it. Hence, the order of premature retirement passed against me which has the effect of reduction of my pension can not be passed by any executive fiat being barred by Rule 2508 RII.

That my yearly increments have been withheld repeatedly and successively. As a result of the order of premature retirement from service passed against me, such withholding of my increment without holding any enquiry

A. P. S. S. S. T. True Copy
D. C. Chatterjee
Advocate
will adversely affect the amount of my pension. Such withholding of increments affecting my pension without holding an enquiry in the manner laid down in sub-rules

19

428

-5-

(6) to (25) of Rule 9 of R.S.(D&A) Rules 1968 is barred under rule 11(2) of R.S.(D&A) Rules, 1968 and therefore bad in law, illegal and void.

That, I have still about 7 (seven) years of service before attaining the age of superannuation, having a good health and active habits. There has been no case corruption or in efficiency in the discharge of essential duties as a S.M. against me. It is therefore, unjust, unfair and discriminatory, apart from malafide to compulsorily retire me from service prematurely and this order should be cancelled, withdrawn or rescinded.

I therefore, request your goodself to put up my case to the appropriate authority and arrange to communicate the decision thereon within 3 (three) weeks hereof.

Thanking you,

Yours faithfully,

Dated: 20.2.1990.

sd/-F.N.Shukla

SM/GADM

A. C. 220
True Copy
DS Chaturvedi
Advocate

(2)

(129) 6

ब अदालत श्रीमान कौटुम्ब प्रशासन का अधिकारी अलंकृत महोदय
व्यवस्था विवरण
[वादी] अपीलान्ट
प्रतिवादी [रेस्पान्डेन्ट]



(अपीलान्ट)

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

मुकदमा नं०

सन्

पेशी की ता०

१६ ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

डॉ रमेश चौहानी, 2 कुमार विठ्ठल

वकील

महोदय
एडवोकेट

लखानी

पर्याप्त राशि

बनाम	अदालत
मुकदमा नं० नाम	पर्याप्त
फरींकन	

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया बसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जसा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या यंत्र नियुक्त करें—वकील महोदय द्वारा को गई वह सब कार्यवाही हमको सर्वेषा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूँगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फँसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर जाम आवे।

पौ. इन. शुभल

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक २८

महीना ३

सन् १९९० ई०

Y. Kumar
Advocate
28/3/90

IN THE HON'BLE HIGH COURT, ADMINISTRATIVE TRIBUNAL,

ALLAHABAD, Circuit Bench, Lucknow.

O.A. 91/90 (L) CAT, Lucknow.

Registration no. 9 of 1990 (L)

I.A. No. of 1991

M.P. 416/91 30/7/91

P.N. Shukla

.. Applicant.

Versus

North Eastern Railway
Lucknow & others

.. opp. parties.

Application for vacation of stay order on behalf
of opposite parties.

For the facts and circumstances stated in the accompanying counter affidavit, it is most respectfully prayed that the exparte interim stay order in favour of applicant may kindly be vacated and the application for stay order of the applicant may be rejected.

Lucknow: dated

June 22, 1991


(VIJAY KRISHNA SRIVASTAVA)

counsel for opposite parties.

*Filed today
22/7/91*

22

A35

IN THE HON'BLE CENTRAL ADMINISTRATIVE TREBUNAL

ALLAHABAD

CIRCUIT BENCH : LUCKNOW.

Registration No. 91 of 1990 (L)



P.N. Shukla

Applicant

North Eastern Railway,

Lucknow & Others

..

Opp. Parties

COUNTER AFFIDAVIT ON BEHALF OF THE OPPOSITE
PARTIES TO THE CLAIM PETITION.

I, M.G. Patta, aged about 34 years, son of Shri Gangadhar Patta, posted as Div. Safety Officer in the office of Divisional Railway Manager, North Eastern Railways, Lucknow, do hereby solemnly affirm and state on oath as under :-

- That the deponent is posted as Div. Safety Officer in the office of the Divisional Railway Manager, North Eastern Railway, Lucknow and doing Pairvi of the case and he is well versed with the facts.
- That the deponent has read the contents of the claim petition of the applicant and understood the same.
- That with reference to the contents of sub-para 1 of para 6 of the claim petition, it is submitted

...2.

मानव संरक्षण अधिकारी
प्रधान सचिव
प्रधान सचिव



that the applicant was appointed on the post of T.N.C. with effect from 13-6-1958 and he was working as Asstt. Station Master with effect from 18-7-1960. The applicant was promoted as Station Master, but in the meantime, he was reverted to the post of Asstt. Station Master and worked as such for about two years, six months in grade Rs. 1200 - 2040.

4. That the contents of sub-para 2 of the para 6 of the claim petition as alleged are wrong and are denied. The applicant received only accident-free award which is given only to those employees, who have accident-free service for a period of 10 years, 20 years and 30 years, as the case may be. However, on the other hand, the applicant has been punished for about more than thirty times right from 23-3-1961 and he was given several censor entries in his service record, as well as his increments were withheld number of times temporarily as well as permanently. The service record of the applicant is not upto the mark.
5. That with respect to the contents of sub-para 3 of the para 6, it is admitted that a notice/order No. E/P/VI/SM, dated 2-1-1990, was served upon the applicant, retiring him pre-maturely in public interest.
6. That with reference to the contents of sub-para 4 of para 6, it is submitted that the applicant has preferred an appeal, which has been transmitted to the General Manager (Personnel), Gorakhpur for

consideration and decision by the competent authority. However, the applicant approached this Hon'ble Tribunal and got an interim order of stay on 2-4-90 which too, without exhausting the departmental remedies as provided under Law.

7. That the contents of sub-para 5 of para 6 are wrong and are denied. The decision of compulsory retirement was taken in public interest. Further, the service record of the applicant was not upto the mark and even at present, his increment has been withheld temporarily for two years. Further, after 30 years of service by a Railway employee, he can be retired by the Appointing authority after giving a three months' notice in writing which was done in the case of the applicant.
8. That the contents of sub-paras 6 & 7 of para 6 of the claim petition are wrong and are denied. The applicant was served with the notice in full compliance of the service rules and the same is not against the provisions of Article 14 and 311 of the Constitution. The provisions of Rule 1802, 1803 of the Indian Railway Establishment Code, Volume II (Sixth Edition), were properly followed and the applicant was legally retired.
9. That the contents of sub-para 8 of para 6 of the Claim Petition are wrong and are denied. The applicant's case was properly considered and he was ~~sought to be~~ retired compulsorily, according to the provisions of service rules. Further, there is no such binding about the review of case of an employee as

18-6-91...4.

महाराष्ट्र राज्य निधिकारी

प्रबोधर रेल्वे

प्रह्लाद

alleged. The order dated 2-1-1990 is quite legal and valid.

10. That the contents of sub-para 9 of para 6 are absolutely wrong and incorrect. The appointing authority has full power to review the case and retire compulsorily a Railway servant. There is no discrimination or violation of Article 14 of the Constitution of India. The impugned order is legal and the applicant cannot challenge the same.
11. That the contents of sub-para 10 of para 6 are not within the knowledge of the deponent, hence denied. However, the facts narrated in sub-para under reply are irrelevant for the purposes of the case.
12. That the contents of sub-para 11 of para 6 of the Claim Petition are wrong and are denied. The full pension as admissible is payable to the applicant and the order impugned, being in public interest, cannot be said to effect the pension of the applicant.
13. That the contents of the sub-para 12 of para 6 are wrong and are denied.. The impugned order is quite legal and valid and is in, no way, can be said to arbitrary or illegal.
14. That the contents of sub-paras 13 & 14 of para 6 of the claim petition as alleged are wrong and denied. The appeal of the applicant is still under consideration. Further, no details of representation have been furnished by the applicant

10-11
18.6.91
राज्य उत्तराखण्ड विधानसभा
प्रबोधन राज्य
उत्तराखण्ड

hence, complete reply cannot be given, however, since the matter has come before the Hon'ble Tribunal, the point involved can be decided. It is also submitted that no loss, much less irreparable loss would be caused by the impugned order.

15. That the deponent has been advised to state that the order in question is legal and valid and the applicant has got no right to challenge the same before exhausting the entire departmental remedies. The claim petition as well as stay application are liable to be rejected and stay order be vacated.

Lucknow:

Dated: June 18, 1991.

१८-६-९१
मुख्य दरबार अधिकारी
दूसरों रेखे
मुख्य

I, the above named deponent, do hereby verify that the contents of paras 1 & 2 are true to my knowledge and those of paras 3 to 8 & 14 are true to my knowledge and are based on record and those of paras 9 to 13 and 15 are believed by me to be true. No part of it, is ~~from~~ false and nothing material has been cancelled, so help me God.

18-6-91

१८-६-९१
मुख्य दरबार अधिकारी
दूसरों रेखे
मुख्य

I identify the deponent
who has signed before me

Mehmood

NS/CCS
64

(27) (A 36)

VAKALATNAMA

Before
In the Court of

Central Administrative Tribunal Circuit Bench Lucknow

OA No. 91 of 1980 (L)

P. N. Shukla

Versus

Union of India and others

I/we K. P. Singh Divisional Railway Manager

North Eastern Railway Lucknow

do hereby appoint and authorise Shri V. K. Somastara

Railway Advocate Lucknow to appear, act apply and prosecute the above described Writ/Civil Revision/Case/Suit/Applicaion/Appeal on my/our behalf, to file and take back documents, to accept processes of the Court, to deposit moneys and generally to represent myself/ourselves in the above proceeding and to do all things incidental to such appearing, acting, applying, pleading and prosecuting for myself/ourselves.

I/we hereby agree to ratify all acts done by the aforesaid Shri V. K. Somastara

Railway Advocate, Lucknow

in pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed by me/us this.....

..... day of 198..

(K. P. Singh)
C. 20/5-
.....

मंडल रेलवे प्रबन्धक,
पूर्वोत्तर रेलवे, लखनऊ

वकालतनामा

Central Administrative Tribunal Circuit Bench Lucknow के समक्ष
O.A. 91/90 (L) के न्यायालय में

P.N. Shukla

वादी
प्रतिवादीदावेदार
अपीलार्थीवादी
प्रतिवादीअर्जीदार
प्रत्यार्थीबनाम
Union of India and other

V.K. Sengarstara

भारत के राष्ट्रपति इसके द्वारा श्री
Railway Advocate Lucknow

को उपर्युक्त वाद/अपील/कार्यवाही में भारत संघ की ओर से उपसंजात होने, कार्य करने, आवेदन करने, अधिवचन करने और आपे कार्यवाही करने के लिए दस्तावेज दाखिल करने और वापस लेने, न्यायालय की आदेशिका स्वीकार करने, काउन्सेल, अधिवक्ता या प्लीडर नियुक्त करने और उन्हें अनुदेश देने, रूपया वापस लेने और उसका विशेष करने तथा उपर्युक्त वाद/अपील/कार्यवाही में भारत सरकार का साधारण नियन्त्रित करने और भारत संघ के लिए इस प्रकार उपसंजात होने, कार्य करने, आवेदन करने, अधिवचन करने और आपे कार्यवाही करने की अनुषांगिक सभी बातें करने के लिए नियुक्त और प्राधिकार प्राप्त नहीं कर दिया गया है, तब तक उक्त काउन्सेल/अधिवक्ता/प्लीडर या उसके द्वारा नियुक्त काउन्सेल/अधिवक्ता/प्लीडर सभी या किसी प्रतिवादी/प्रत्यार्थी/अपीलार्थी/वादी/विरोधी पक्षकार के विलक्षण उस वाद/अपील/वादी/प्रतिवक्ता/कार्यवाही को पूर्णतः या भागतः न तो वापस लेगा, न उसका अधित्यजन करेगा, न एसा कोई करार करेगा या समझौता करेगा जिसके द्वारा वाद/अपील/वादी/प्रतिवक्ता/कार्यवाही पूर्णतः या भागतः समायोजित की जाए और न उससे उद्भूत या उसमें विवादप्रस्त सभी या किसी विषय को मध्यस्थ को निर्देशित करेगा, परन्तु आपवादिक परिस्थितियों में जब भारत सरकार के समुचित शाधिकारी से परामर्श करने के लिए पर्याप्त समय नहीं है और वाद में समझौता करने में लोप करना निश्चित रूप से भारत सरकार के हित के प्रतिकूल होगा तो उक्त प्लीडर/अधिवक्ता/काउन्सेल एसा कोई क्षुरार या समझौता कर सकेगा जिसके द्वारा उक्त वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित हो जाय और ऐसे प्रत्येक मामले में काउन्सेल/अधिवक्ता/प्लीडर करार या समझौता करने के विशेष कारण बताते हुए उक्त अधिकारी को तत्काल संसूचित करेगा।

राष्ट्रपति इस प्राधिकार के अनुकूल में श्री
V.K. Sengarstara Railway Advocate
Lucknow

द्वारा किए गए सभी कार्यों का अनुसमर्थन करने को सहमत हैं।

इसके साझेस्वरूप भारत के राष्ट्रपति के लिए और उनकी ओर से इस विलेख को आज तारीख को सम्पूर्ण रूप से निष्पादित किया जाता है।

तारीख 19

NER-84850400-8000- 4784

Shri Shyam
S. M. N. Selam
निष्पादन करने वाले अधिकारी का पदनाम

पुरुष मण्डल कार्मिक अधिकारी,
पुर्वोत्तर रेलवे, लखनऊ

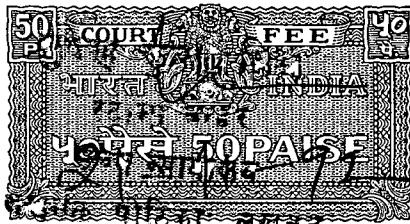
800009.

Before Central Administrative Tribunal Allahabad
Bench Lucknow
Vakalatnama

172

In the High Court of Judicature at Allahabad

SITTING AT LUCKNOW



20

P. N. Shekde

VERSUS

Union of India & others.

C. A.

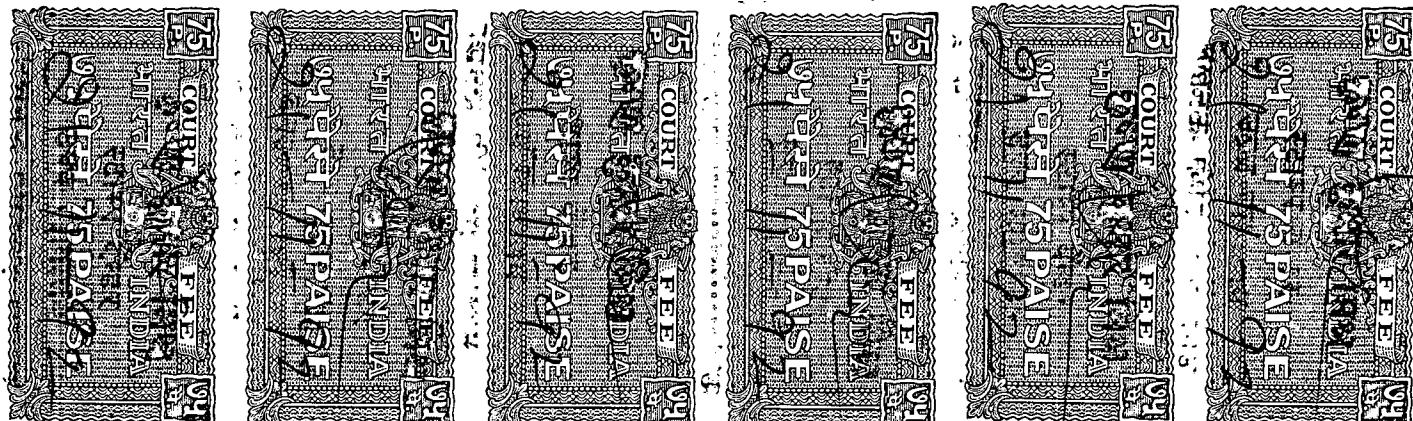
No. 91 | 90

of 19

I / we the undersigned do hereby nominate and appoint Shri _____
and: Shri Km. K. Sivashankar Advocate

Advocate, to

be counsel in the above matter, and for me / us and on my / our behalf to appear, plead, act and answer in the above Court or any Appellate Court or any Court to which the business is transferred in the above matter, and to sign and file petitions, statements, accounts, exhibits, compromises or other documents whatsoever, in connection with the said matter arising there from, and also to apply for and receive all documents or copies of documents, depositions, etc, etc, and to apply for issue of summons and other writs or subpoena and to apply for and get issued any arrest, attachment or other execution, warrant or order and to conduct any proceeding that may arise thereout and to apply for and receive payment of any or all sums or submit the above matter to arbitration.



ACCEPTED :

U

4-11-92
Signature of Client.....

1. Advocate
21-11-92

2. Advocate

.....
.....
.....
.....

KRISHNA KUMAR

MOHARRIR
STAMP VENDOR

~~27/10~~
Review do. 90/93 (90/93)

(35)

21-12-98

No list of DB
Case adj. to 20-4-99
for hearing

OK

The case is listed
before D.B.
on 20-7-99.
On 20-7-99.

B/C

(36)

20-7-99

Hon'ble Mr. D.C. Verma, J.M.
Hon'ble Mr. A.K. Misra, A.M.

None for parties.
List for hearing on 27-9-99.

A.M.

V
J.M.

(37)

27.09.99

case not reached. Adm. to
04.01.2000 for hearing

Y
B/C

(38)

04.01.2000

Hon'ble Mr. D.C. Verma J.M
Hon'ble Mr. A.K. Misra A.M.

Sh. P.N. Sinha ~~etc.~~ etc.
applicant in person

None for the defendant

List for hearing on 09/02/2000

A.M.

V
AM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

Review Application No. 90/93

this the 18 day of May, 2000

Hon'ble Mr. D.C. Verma, Member (J)

Hon'ble Mr. A.K. Misra, Member (A)

P.N. Shukla

...Applicant

Versus

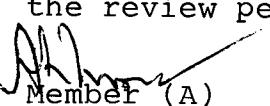
North Eastern Railway, Lucknow & Ors ..Opposite parties

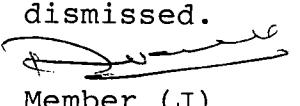
ORDER (ORAL)

D.C. Verma, Member (J)

The applicant had filed O.A. No. 91/90 which was decided by a Bench comprising Hon'ble Mr. Justice U.C. Srivastava, the then V.C. and Hon'ble Mr. K. Obbaya, the then Member (A). The said O.A. was decided on 7th January, 1993. The applicant filed this Review Application. This Bench (comprising (Hon. D.C. Verma, Member (J) and Hon'ble A.K. Misra, Member (A)) has now been constituted to hear this Review petition, as both the Hon'ble Members who decided the O.A. have since superannuated.

2. We have perused the grounds of review. All the grounds taken in the review petition is based on the illegality and also on the ground that the Bench has not given findings on certain points. This Bench being constituted to hear the Review Petition, cannot hear it as appeal to consider the grounds taken in the review petition. The ^{Grounds of} ~~power~~ to review is confined under order 47 rule 1 of CPC. Thus, the review petition can be entertained only if any ^{of the} ~~ground~~ under order 47(1) exists. No such grounds has been shown in the review petition. Consequently, we find that there is no merit in the review petition and the same is, therefore, dismissed.


Member (A)


Member (J)

Lucknow : Dated 1.5.2000

HLS/-

Rev 90/93

2-1-98

(31)

No sitting of D.B. case is adjourned
to 26-2-98.

Spec. BOC.

26-2-98

(31)

Hon. Mr. V. K. Seth, A.G.
Hon. Mr. D.C. Verma, J.L.

Mr. I.B. Pandey, brief
holder for Mr. D.S. Chawla,
Learned Counsel for applicant
prays for adjournment.

Fix on 19-3-98 for
hearing.

F.H.

V.S.
A.G.

Dr.

19-3-98

(32)

No sitting of DB after lunch
adj to 13-7-98.

V.S.
BOC

(33)

13-7-98

No sitting of D.B. case is adj.

to 18-9-98.

V.S.
BOC

OR
Submitted for
hearing
dtd 14/9/98

(34)

18-9-98 - No sitting of DB adj
to 21-12-98

V.S.

22) 11.3.96

OK

Submitted for hearing
new

No sitting D.B. adjourn
15.5.96
Bac

137) 15.5.96

On 2nd. second adjourn
23.5.96
Bac

23) 23-8-96

No sitting of D.B. Case adj. to

19-11-96.

Bac

24)

19.11.96 - No sitting of D.B. Case is
adj. to 13.1.97

el
Submitted for
hearing (new)

T/1
23) 13.1.97

OK
Submitted for hearing
new
20/8/97

No sitting of D.B. adjourn
to 31.3.97
Bac

26) 31.3.97

No sitting of D.B. adjourn
to 09.4.97
Bac

27) 9.4.97

No sitting of D.B. adjourn
22.4.97
Bac

④ cancel 900

③

12.12.94

Dir. to Smt. dem. from P. M. M. D. L.
ex J. 7.2.93

Boe

OR

Beechey, Mohi Patel
2 Mol D.C. Verma not
available
Submitted before D.R.

6/2

④

07/2/95

D.R.

Concerned Bench is not available. List on 02/3/95 for ~~fitting~~ hearing if concerned bench is available.

DR

DR (J)

6/8
Submitted for public
hearing
by
10/4

⑤

2-3.4.95

Ex m. ready adj. to
11.4.95

DR

⑥ 17.4.95

Due to sudden demise of ex P. M. Mohi
Mr. Morarji Desai. Case was not
taken up on 11.4.95. The case is adjourned
to 3.5.95.

Boe.

OR

Submitted for public
hearing

by

26/6

⑦

3-7.4.95

Adjoining structure due to sudden
demise of S. Gundlal Adv. adj. on
09.5.95

DR
Boe

OR

Submitted for
public hearing

7/1

Q

⑥ 10-2-94

D12 to Shrikrishna Adwadji
to B-4-94

D12

O.R.
Bench of Hon'ble Mr.
R.J.C. Jair. & L. Hayabu
V.I.C. Seth not available.
Searched for date

12/4

⑦

13-4-94

D.R.

Bench of Hon'ble Mr.
& Hon'ble Mr. V.K.
is not available. Case
to 13-5-94.

April

⑧

13/5/94

D.R.

Bench of Hon'ble Mr.
Chh. J. & Hon'ble
V.I.C. Seth not
available.

12/5

Bench is not a
case adjourned

April

⑨
Submitted for O.R.

15/2

⑩
Submitted
for O.R.
17/2

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

OA/TA/RA/CP/MA/PT 90 of 20 93

P. H. Shreves..... Applicant(S)

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2-	Tudor and - 01-S-2002	01
3-	R.A. Copy Roster	25

R. A. Capy. -

31 Page

Certified that the file is complete in all respects.

Signature of S.O. 

Signature of Deal. Hand

B.C. Biology and
12-612

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

Central Administrative Tribunal

Circuit Bench, Lucknow

Date of filing: 10/12/1993

Date of Receipt by Post: 10/12/1993

ULLAHABAD

LUCKNOW CIRCUIT BENCH.

Deputy Registrar (P)

C.M. Application No.

of 1993

P.N. Shukla, aged about 56 years,
son of late Sri S.N. Shukla,
Station Master/GADM c/o Traffic
Inspector, N.N.P.,.

...

Applicant.

in re:

Review Petition No. of 1993(L)

P.N. Shukla ... Applicant.

VERSUS

North Eastern Railway and
others. ...

Opposite-parties.

---000---

(2) (2)

2.

APPLICATION FOR CONDONATION OF DELAY
IN FILING REVIEW PETITION.

The applicant above named begs to submit as under:-

1. That the above noted O.A. No. 91 of 1990 was disposed of on 7th January, 1993.
2. That the applicant came to know about the decision of the O.A. No. 91 of 1990 only on 12th July, 1993 when copy of the judgment was received by him. ^{The copy of judgment was neither delivered to him nor to his counsel earlier.}
3. That as soon as the judgment was received, review petition was prepared which is being filed herewith.
4. That the delay in filing the review petition is neither deliberate nor intentional.
5. That it is expedient and necessary in the interest of justice to condone the delay in filing review petition.

PRAYER.

It is, therefore, humbly prayed

3.

that the delay in filing the review petition
be condoned and the same be admitted for
hearing.

D.S. Chauhan
(D.S. Chauhan)
Advocate,
Counsel for the applicant.

Dated: Lucknow,
August 10, 1993.

Dr. Saman

(1) (4)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD,
CIRCUIT BENCH, LUCKNOW.

Review Petition No. 10 of 1993(L)

in OA 91/90

P.N. Shukla, aged about 56 years,
son of late Sri S.N. Shukla,
Station Master/GAIM, c/o Traffic
Inspector, N.N.P.,.

...

Applicant.

versus

1. North Eastern Railway through the
Divisional Railway Manager,
Lucknow.
2. Senior Divisional Safety Officer,
North Eastern Railways, Lucknow.
3. Union of India through General
Manager, North Eastern Railway,
Gorakhpur.

...

Opposite-parties.

(S)

(5)

Review Petition ~~under section 96 of the RTI Act~~ against
the judgment and order dated 7th January,
1993 passed by this Hon'ble Tribunal in
O.A. No. 91 of 1990.

The applicant above named begs to
submit as under:-

1. That the petitioner filed O.A.
No. 91 of 1990 to seek relief against the
order dated 2nd January, 1990 passed by the
Divisional Security Officer, North Eastern
Railway, Lucknow, by means of which he has
been ordered to retire from service compulsorily
on expiry of notice period i.e. 3rd April, 1990.
 2. That the petitioner is confirmed
Station Master and was awarded cash reward
of Rs. 750/- by the Railway Administration
for rendering "Accident Free" service.
 3. That the impugned order has
been issued in exercise of the power conferred
in clause 'K' of Rule 2046 R. II which was
inapplicable in the case of the applicant
because it is applicable to those railway
servants who are in class III service or on
- 3/10/90*

post "which is not governed by any pension rules". Thus retiring the applicant prematurely is not only erroneous and illegal but the order in itself is void ab initio and is not tenable in the eyes of law.

4. That on 2nd April, 1990 a Bench of this Hon'ble Tribunal consisting of Hon'ble Mr. Justice K. Nath V.C. and Hon'ble Mr. K.J. Raman, A.M., was pleased to observe that the clause 'K' of Rule 2046 of Railway Establishment Code Volume II applies to persons who are not governed by any pension Rules whereas the applicant is stated to be a pensionable employee. With these observations the case was ordered to be listed for further orders on 16th April, 1990 when the opposite parties were directed to produce the record along with relevant rules and the operation of the impugned order contained in Annexure A-1 was stayed. A true copy of the interim order dated 2nd April, 1990 is being annexed herewith as Annexure R-1 to this review petition.

5. That the Hon'ble Tribunal by the judgment/order dated 7th January, 1993 have dismissed the application without considering this relevant and important point that the order impugned is void ab initio and on that

Br. m/sd/

4.

basic the retirement of the applicant prematurely is not sustainable. A true copy of the judgment/order in O.A. No. 91 of 1990 is being annexed herewith as Annexure no. R-2 to this review petition.

6. That the Hon'ble Tribunal ~~had~~ fell into error in overlooking the fact that there was no cause to assess or review the service records of the applicant after 12th June 1968, the date on which he completed 30 years service qualifying for pension as has been provided in Railway Board's letter No. E(P & A) I-763RT/47, dated 19th November, 1976 which requires that the assessment for suitability for retention beyond the specified age or 30 years qualifying service should be made by the appropriate authority six months in advance on which a railway servant attains that age or completes 30 years of qualifying service.

7. That the Hon'ble Tribunal has also committed ~~an~~ a manifest error of law in not considering the fact that opposite party no. 2 could not retire the petitioner before attaining the age of 55 years and the order is ab initio void being discriminatory and violative to Article 14 of the Constitution of India. Rule 2046 specifically provides for requiring class III Railway employees to retire only after attaining

5.

the age of 55 years. The provisions contained in Paragraph 2(2) of Railway Ministry Circular to retire an employee on completion of 30 years qualifying service is totally discriminatory and untenable.

8. That the petitioner is still working in pursuance of the interim order passed by this Hon'ble Tribunal and there has been no complaint about his work and conduct from any corner.

9. That at present the petitioner is on leave since 25th June, 1993 due to his illness.

10. That the petitioner will suffer irreparable and substantial injury in case the operation of the order impugned is not stayed during the pendency of the instant review petition.

PRAYER.

It is, therefore, most humbly prayed that this Hon'ble Tribunal may be graciously pleased to review the judgment/order dated 7th January, 1993 and to deliver

30/1/93

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6.

fresh judgment after making adjudication on
all the points mentioned above.

D.S. Chauhan

(D.S. Chauhan)
Advocate,
Counsel for the applicant.

Dated: Lucknow,
August 7, 1993.

Dr. G. S. Chauhan

10 16

In the Hon'ble Central Administrative Tribunal
Allahabad, Circuit Bench, Lucknow.

Review Petition No. of 1993(L).

P.N. Shukla

Petitioner

Versus

~~STATEMENT~~

Union of India and others

Opp. Parties.

Annexure No.R-1

Central Administrative Tribunal
Circuit Bench, Lucknow.

C.A.No.91 of 1990(L).

P.N. Shukla

Applicant

Vs.

Union of India and others

Respondents.

2.4.1990.

Hon'ble Mr. Justice A.Nath, V.C.

Hon'ble Mr. A.J. Ramam, A.M.

Issue Notice to the respondents to show cause why the petition be not admitted. In the matter of interim relief, the impugned order (Annexure-1) is purported to be based on Rule 2046, Clause-k of Railway Establishment Code, volume II but the publication which is before us indicates that clause applies to persons who ~~are~~ not governed by any pension

rules. The applicant is stated to be a pensionable employee.

In the circumstances, we direct the case to be listed for further orders on 16.4.1990. when the opp. parties will produce the record alongwith relevant rules. Till then the operation of the impugned order contained in Annexure A-1 dated 2.1.1990 shall remain stayed.

sd/-
A.R.

sd/-
V.C.

True Copy.

sd/-Deputy Registrar
Central Administrative Tribunal
Bench, Lucknow.

(12) (12)

In the Central Administrative Tribunal,

Lucknow Bench, Lucknow.

Review Petition No. of 1993(L).

P.N. Shukla

Petitioner

Versus

Union of India
and others

Opp. Parties.

Annexure No. R-2

Central Administrative Tribunal, Lucknow Bench
Lucknow.

P.N. Shukla

Applicant

Vs.

Union of India & others

Respondents.

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

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

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

The applicant was appointed on the post of Assistant Station Master on 15.6.56, thereafter, he was promoted to the post of Station Master in the year 1982. After completion of 30 years of service, even though he had earned an award 'Accident Free' he was served with a copy of order dated 2.1.90 compulsorily retiring him from service even though he had still three years more for attaining the age of superannuation. The applicant has

(12)

(13)

-2-

challenged the exercise of this power conferred vide clause K of rule 204 of the Railway Establishment Code to retire compulsorily a railway servant from his service. According to the applicant, his representation has wrongly been rejected although there was nothing wrong on his part and he has wrongly been retired.

2. The respondents have put in appearance and have pointed out that the applicant's case was taken into consideration and after review of the decision arrived at by the appropriate authority, a final decision was taken. It has been stated that even though he may have earned 'accident free' award but that was immaterial and he has been punished for about more than 30 times right from 23.3.61 and was given ~~several~~ several conser entries in his service record and his increments were also withheld number of times temporarily as well as permanent. It was always open to the employer to assess the merit of a particular candidate and general assessment of the applicant's record shows that in the public interest it was required that the applicant should not be retained any longer in service. No such ground has been pointed out which may result in saving the order of compulsory retirement of the applicant. Accordingly, we do not find any merit in the application and it is dismissed. No order as to costs.

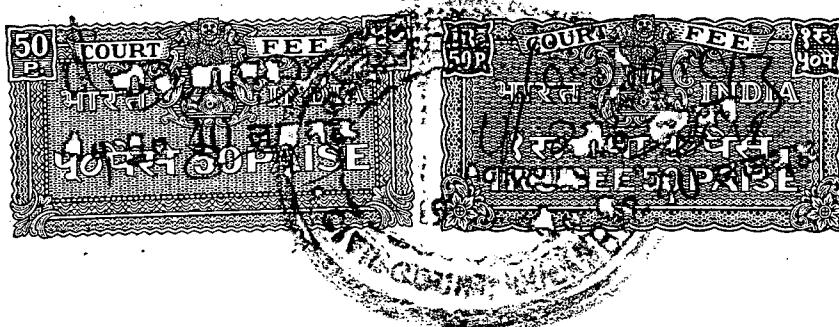
sd/-
ember(A)

s/-
V.C.

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD,
CIRCUIT BENCH, LUCKNOW.

Affidavit in support of

Review Petition No. of 1993(L)



P.N. Shukla

...

Applicant.

versus

North Eastern Railway and
others.

...

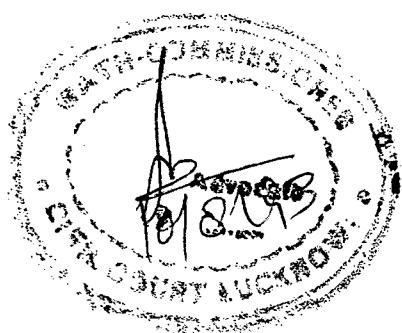
Opposite-parties.

---oo---

AFFIDAVIT.

I, P.N. Shukla, aged about 56 years,
son of late Sri S.N. Shukla, Station Master/
GAIM, C/o Traffic Inspector, N.N.P., do
hereby solemnly affirm and state on oath as
under:-

Verbal



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1. That the deponent above named is the applicant himself in the review petition and, as such, he is fully conversant with the facts deposed to hereunder.
2. That the deponent filed O.A. No. 91 of 1990 to seek relief against the order dated 2nd January, 1990 passed by the Divisional Security Officer, North Easter Railway, Lucknow, by means of which he has been ordered to retire from service compulsorily on expiry of notice period i.e. 3rd April, 1990.
3. That the deponent is confirmed Station Master and was awarded cash reward of Rs. 750/- by the Railway Administration for rendering "Accident Free" service.
4. That the impugned order has been issued in exercise of the power conferred in clause 'K' of Rule 2046 R. II which was inapplicable in the case of the deponent because it is applicable to those railway servants who are in class III service or on post "which is not governed by any pension rules". Thus retiring the deponent prematurely is not only erroneous and illegal but the order itself is void ab initio and is not tenable in the eyes of law.



Dr. M. S. B.

5. That on 2nd April, 1990 a Bench of this Hon'ble Tribunal consisting of Hon'ble Mr. Justice K.Math V.C. and Hon'ble Mr. K.J.Raman A.M., was pleased to observe that the clause 'k' of Rule 2046 of Railway Establishment Code Volume II applies to persons who are not governed by any pension Rules whereas the deponent is stated to be a pensionable employee, With these observations the case was ordered to be listed for further orders on 16th April, 1990 when the opposite parties were directed to produce the record along with relevant rules and the operation of the impugned order contained in Annexure A-1 was stayed. A true copy of the interim order dated 2nd April, 1990 has been annexed as Annexure R-1 to the review petition.

6. That the Hon'ble Tribunal by the judgment/order dated 7th January, 1993 have dismissed the application without considering this relevant and important point that the order impugned is void ab initio and on that basis the retirement of the deponent prematurely is not sustainable. A true copy of the judgment/order in O.A. No. 91 of 1990 has also been annexed as Annexure R-2 to the review petition.

Praveen K. V.



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7. That the Hon'ble Tribunal has fell into error in overlooking the fact that there was no cause to assess or review the service records of the respondent after 12th June, 1988, the date on which he completed 30 years service qualifying for pension as has been provided in Railway Board's letter No. E(P&A)I-76/RT/47, dated 19th November, 1976 which requires that the assessment for suitability for retention beyond the specified age or if 30 years qualifying service should be made by the appropriate authority six months in advance on which a railway servant attains that age or completes 30 years of qualifying service.

8. That the Hon'ble Tribunal has also committed a manifest error of law in not considering the fact that opposite party no.2 could not retire the deponent before attaining the age of 55 years and the order is ab initio void being discriminatory and violative to Article 14 of the Constitution of India. Rule 2046 specifically provides for requiring class III Railway employees to retire only after attaining the age of 55 years. The provisions contained in Paragraph 2(2) of the Railway Ministry Circular to retire an



✓

employee on completion of 30 years qualifying service is totally discriminatory and untenable.

9. That the deponent is still working in pursuance of the interim order passed by this Hon'ble Tribunal and there has been no complaint about his work and conduct from any corner.

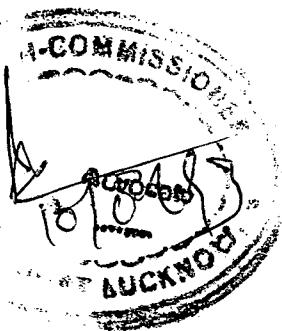
10. That at present the deponent is on leave since 25th June, 1993 due to his illness.

11. That the deponent will suffer irreparable and substantial injury in case the operation of the order impugned is not stayed during the pendency of the instant review petition.

12. That the deponent came to know about the decision of the O.A.No.91 of 1990 only on 12th July, 1993 when copy of the judgment was received by him. The copy of judgment was neither delivered to him nor to his counsel earlier.

13. That as soon as the judgment was received review petition was prepared which is being filed herewith.

14. That the delay in filing the review petition is neither deliberate nor intentional.



Dr. M. A.

6.

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15. That it is expedient and necessary
in the interest of justice to condone the
delay in filing review petition.

45/107 23/20

Deponent.

Dated: Lucknow,
August 10, 1993.

Verification:

I, the deponent above named do hereby
verify that the contents of paragraphs 1 to 3
and 9 to 14 of the review petition
are true to my own knowledge; those of paragraphs
4 to 8 are true to my knowledge
derived from the record and those of paragraphs
15 are based on the legal advice sought.
Nothing material has been suppressed. So help me
God.

45/107 23/20

Deponent.

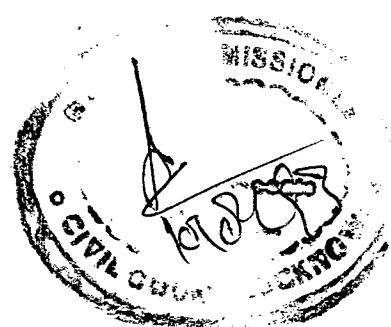
Dated: Lucknow,
August 10, 1993.

I identify the deponent who has signed before me.

D.S. Chawla

(D.S. Chawla)
Advocate,
Counsel for the applicant.

Dated: Lucknow,
August 10, 1993.



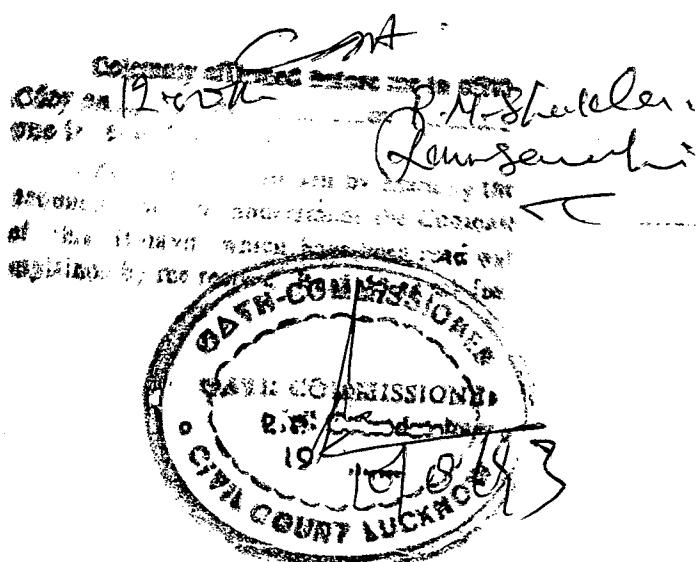
(90)

(20)

7.

Solemnly affirmed before me on
at a.m./p.m., by Sri P.N. Shukla,
the deponent who is identified by
Sri D.S. Chauhan, Advocate, High
Court, Lucknow.

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



Witnessed

OA 91/90

(61) (A1)

CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH, U.C.MOT.

C.A. Mot. No. 1990.

P.W. Shukla (.....), Applicant

Versus

Union of India & others (.....), Respondents

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

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

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

The applicant was appointed on the post of Assistant Station Master on 13/6/58. Thereafter, he was promoted to the post of Station Master in the year 1982. After completion of 30 years of service, even though he had earned an award 'Accident Free', he was served with a copy of order dated 2/1/90 compulsorily retiring him from service even though he had still three years more for attaining the age of superannuation. The applicant has challenged the exercise of this power conferred vide Clause K of Rule 2046 of the Railway Establishment Code to retire compulsorily a railway servant from his services. According to the applicant, his representation has wrongly been rejected although there was nothing wrong on his part and he has wrongly been retired.

2. The respondents have put in appearance and have pointed out that the applicant's case was taken into consideration and after review of the decision arrived at by the appropriate authority, a final decision was taken. It has been stated that even though he may have earned 'accident free' award but that was immaterial and he has been punished for about more than 30 times right from

U.C. Srivastava
06/11/90 A.M.

case on R
disputed.

22

A, (22)

23.3.61 and was given several censor entries in his service record and his increments were also withheld number of times temporarily as well as permanently?

It was always open to the employer to assess the merit of a particular candidate and general assessment of the applicant's record shows that in the public interest it was required that the applicant should not be retained any longer in service. No such ground has been pointed out which may result in saving the order of compulsory retirement of the applicant. Accordingly, we do not find any merit in the application and it is dismissed. No order as to costs.

Sd/-
Member (A)

Sd/-
Vice Chairman

DATED : JANUARY 7, 1993.

(sg)

Certified Copy

BHANDARI
Incharge
Judicial Section
C. A. T.
LUCKNOW
12/7/93

Ge
12/7/93

23

In the Hon'ble Central Administrative Tribunal.

23

Allahabad.

Lucknow Circuit Bench.

P.N. Shukla, aged about 50 years, Son of Late Shri S.M. Shukla, Station Master/GAUM, C/o Traffic Inspector, N.H.P.

— applicant.

In Re.

Review Petition No. 1993(L).

P.N. Shukla. — applicant.

Versus.

North Eastern Railway and others. — Opposite Parties.

Application for stay.

The applicant, above named begs to state as under:-

1. That from the facts and reasons disclosed in the review petition as well as Affidavit filed in support thereof, it is evident that the judgement/order dated 7-1-1993 passed by this Hon'ble Tribunal suffers from apparent error on the face of it and the same is ultimately liable to be set aside and fresh judgement is required to be delivered.

M

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-: 2 :-

2. That the applicant will suffer irreparable and substantial injury if he is made to compulsory retire from service in pursuance of the said judgement and the balance of convenience lies in giving him immediate relief.

PRAYER

It is, therefore, humbly prayed that this Hon'ble Tribunal may be graciously pleased to stay the operation of the judgement/order dated 7-1-1993 passed by this Hon'ble Tribunal during pendency of the Review Petition.

Lko. Dated:

Aug. 7, 1993.

(D.S. Chauhan)
Advocate.
Counsel for Applicant.

25

1. Review Application (R.A.) No. 90 of ... 93
has been filed in O.A. No. / T.A. No. 91 of ... 19.90 ... against
orders / Judgement dated passed by the Bench Consisting
of Hon'ble Mr. Justice U.C. Srivastava, M.C. and
Hon'ble Mr. K. S. Obayyash, A.M.

Both the Hon'ble Members have retired. According to C.A.T. (P.B.) Not-
ification dt. 18-2-92 (Appendix IV C.A.T. Rules of Practice 1993) such
cases R.A.s are to be placed before Hon'ble Vice-Chairman of the constitu-
ting the Bench. Para 3 of the said Notification is reproduced below :-

" Review of order in which both the Members have ceased to be
Members of the Tribunal. In such a case, the Vice Chairman shall place
the Review Petition for preliminary hearing before a Bench consisting
of any two Members of that Bench. It would not be necessary to seek
orders of the Chairman in such a case."

2. There is only one Division Bench of C.A.T. in Lucknow. The
Hon'ble Vice-Chairman may like to post the Review Petition before the
D.B.

Submitted for kind consideration and order please.

S.O. (Judicial)

✓
01-06-99

Dealing Clerk
✓ 01-6-99

Deputy Registrar

✓
1/6/99

Hon'ble V.C.

✓

✓
Yes

✓
u/g

✓
u/6/99