

(See rule 114)

OA/TA/RA/CP/MA/PT, 144/90 of 20.....

Versus

INDEX SHEET

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Signature of S.O.

Signature of Deal. Hand

O.A. No. 144/90

May

25/8/94

Hon. Mr. Justice B. E. Saxena, V. E.
Hon. Mr. K. Muthukumar, A. M.

Shri V. P. Mishra, brief-holder
of the learned counsel for the
applicant prays that the
case may ~~be~~ come up
tomorrow. i.e. on 26-8-14 for
hearing.

by
A.M.

Bar

V. E.

(over)

144/90 (C)

29/6/90. No sitting adjourn to
24/7/90 (V)
29/6.

24.7.90 Hono. Mr. Justice K. N. A. C.
Hon. M. K. Duggan, AM.

Application is prima facie
barred by time. Counsel for the
applicant is not available.
List for admission to B.S. 50
when the applicant has the show
that the application is within
limitation.

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8 90
23.10.90
No sitting Adj to 23.10.90

No sitting Adj to 19.11.90

W R L/c for the applicant
has not filed any application

S P A

L
17/12

13 3.91

(3)

O A 144/90.L.

Mo Conting Adj. to 1.4.91
Jr

XX

MR

Sr A. Srivastava
loses notices on behalf
of reply but no reply
have been filed.

S F A

L
2/13

1.4.91
D. R.

Applicant's side is
present. O.P. is absent
today. Respondent
to file counter
by 9.5.91. ✓

CH filed
L
11/4

9.5.91
D. R.

Both the parties
are present today
No R A filed.
Applicant to file
R.A. by 12/7/91.

(5)

07 144/90

11.5.92
D.R.

1/6

Both the parties are
absent today. Applicant
to file Rejoinder by 7/8/92.

7.8.92
D.R.

Both the parties are present
Applicant to file rejoinder
by 16.10.92.

16.10.92
D.R.

None is present for both the parties.
Rejoinder has not been filed.
Applicant to file rejoinder by
9.12.92.

9.12.92
D.R.

Both the parties are absent.
Applicant to file rejoinder
by 3-2-93

3/2/93
D.R. Both the parties are absent.
Applicant to file rejoinder.
List this case on 20/3/93
Bon F.H.

20.3.93

No further action
to be taken
etc

4/11

23.1.93.

D.R.

Both the parties are present. C.A. has been filed. R.A. has not been filed till today by the respondents. Respondents are directed to file it on the date fixed. List on 7.2.94 before me.

Amit..

D.R.

7.4.94.

D.R.

Applicant is present. C.A. has been filed but R.A. has not been filed by the applicant. Applicant is directed to file it on the date fixed. List on 8.3.94 before me.

Amit..

D.R.

8.3.94.

D.R.

Both the parties are present. C.A. & R.A. are also exchanged. Place before the Hon'ble Bench on the date fixed. List on 21-3-94 for final hearing.

Amit..

Dy. Registrar.

or
Admitted.
for same
before
18/3/94

or
C.A. Admitted
before change
for F.H.
before Hon'ble Bench
vide D.O. 15
18/3/94
18/3/94

in writing of D. M. only
16.3.94
2
18/3/94

26/8/94 Hon.Mr.Justice B.C. Saksena,V.C.
Hon. Mr. K. Muthukumar, A.M.

Heard learned counsel for the
parties. Judgment dictated separately
in the open Court.

J.
A.M.

Bcl
V.C.

CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.

O.A. No.144/90

Date of decision: -26/8/94

R.D. Awasthi ::::: Applicant.

(Shri R.K.Sharma,
Advocate.) Vs.

Union of India &
Others. ::::: Respondents.

(Shri Anil
Srivastava,
Advocate)

HON'BLE MR. JUSTICE B.C. SAKSENA, VICE CHAIRMAN.
HON'BLE MR. K. MUTHUKUMAR(MEMBER (ADMN.)

J U D G M E N T.

(By Hon.Mr.Justice B.C.Saksena,V.C.)

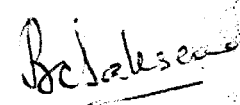
We have heard the learned counsel for the parties. The applicant has preferred this O.A. to challenge the order dated 21-12-87 passed by Divisional Safety Officer. It is alleged that thereafter the applicant preferred a representation/appeal on 4-8-88 with reminder on 29-5-89 but there has been no response. The applicant's counsel alleged that the applicant was not allowed the copy of the required documents, but the applicant had submitted his defence on 13-10-87. This averment has been made in para 2 of the O.A. Neither the date of representation by which the applicant had asked for the copies of documents has been indicated nor the document has been specified in the O.A. Therefore, the averment is vague. The applicant is also present in the Court. He submitted that the applicant had asked for the copies of the documents through appeal.

A/D

dated 4/8/88. He submits that ^{copy of} the enquiry report has been asked for but the same has not been given to him. The learned counsel for the applicant conceded that the decision in the case of Ramzan Khan Vs. U.O.I & Others was only subsequent to the proceedings in the case of the applicant i.e. in ^{November} ~~December~~, 1990 whereas the order in the case of the applicant had been passed on 21-12-87. As such the said decision would not render the order of punishment illegal in any manner and the said plea is, therefore, totally misconceived. No other ground has been raised by the learned counsel for the applicant.

2. On the basis of the discussions herein above, we find no merit in the O.A. and it is accordingly dismissed.


MEMBER (ADMN.)


VICE-CHAIRMAN.

20/4/72

X

Depy. Registrar

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 144 of 1980 65

APPLICANT(S) R. D. Awasthi

RESPONDENT(S)

<u>Particulars to be examined</u>	<u>Endorsement as to result of examination</u>
1. Is the appeal competent ?	Yes
2. a) Is the application in the prescribed form ?	Yes
b) Is the application in paper book form ?	Yes
c) Have six complete sets of the application been filed ?	Yes
3. a) Is the appeal in time ?	Yes
b) If not, by how many days it is beyond time?	
c) Has sufficient case for not making the application in time, been filed?	
4. Has the document of authorisation/ Vakalatnama been filed ?	Yes
Is the application accompanied by S.D./Postal Order for Rs.50/-	Yes
5. Has the certified copy/copies of the order(s) against which the application is made been filed?	Yes
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	Yes
b) Have the documents referred to in (1) above duly attested by a Gazetted Officer and numbered accordingly ?	Yes
c) Are the documents referred to in (a) above neatly typed in double space ?	Yes
8. Has the index of documents been filed and paging done properly ?	Yes
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application?	Yes
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?	Yes

1/2

Particulars to be Examined

Endorsement as to result of examination

11. Are the application/duplicate copy/separate copies signed ?
12. Are extra copies of the application and annexures filed ?
 - a) Identical with the Original ?
 - b) Defective ?
 - c) Missing in Annexures
 - d) Yes, _____ pages Nos _____ ?
13. Have the file size envelopes bearing full addresses of the respondents been filed ?
14. Are the given address the registered address ?
15. Do the names of the parties stated in the copies tally with those indicated in the application ?
16. Are the translations certified to be true or supported by an affidavit affirming that they are true ?
17. Are the facts of the case mentioned in item no. 5 of the application ?
 - a) Concise ?
 - b) Under distinct heads ?
 - c) Numbered consecutively ?
 - d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for indicated with reasons ?
19. Whether all the remedies have been exhausted.

No

YD

YD

NA

YD

YD

YD

dinesh/

✓ 4. Field Notes (10).

[illegible]

21. $\frac{37n(n)}{1}$

6.

8. The applicant is filing this application through his counsel.

The applicant is filing this application through his counsel. The applicant is filing this application through his counsel. The applicant is filing this application through his counsel.

9. Prayer for Interim Relief - NO.
10. The applicant is filing this application through his counsel.
11. The applicant is filing this application through his counsel.
12. The applicant is filing this application through his counsel.

(i) The applicant is filing this application through his counsel. 8 02 41/49

(ii) The applicant is filing this application through his counsel. 24/4/90

(iii) The applicant is filing this application through his counsel. 24/4/90

(iv) The applicant is filing this application through his counsel. At Allahabad

12. The applicant is filing this application through his counsel.

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13. The applicant is filing this application through his counsel.

(a) The applicant is filing this application through his counsel. 24/4/90

(b) The applicant is filing this application through his counsel. 24/4/90

(c) The applicant is filing this application through his counsel. 24/4/90

(d) The applicant is filing this application through his counsel. 24/4/90

(e) The applicant is filing this application through his counsel. 24/4/90

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10) Reference made to the report of the

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25/4/1980
reference

Atul Kanti
reference

४/९

१२४

१८४ य देहा जा ता है, बिन्दे निमा के अन्तर्गत अपोल
न के जो तपनी ।

१८५ जिस तारो के प्राजा के आदेशों, बिन्दे जिस अपोल
की मई, जो पूषा दो मई, जो ४५ दिन हज. जो अपोल न ।
की मई और जिस के जो कारण कहा जाता है ।

१८६ रेल सेवकों को राजा अनुशासन नियम १९६८ के
नियम-२१ के अन्तर्गत के अनुसार नज़र है ।

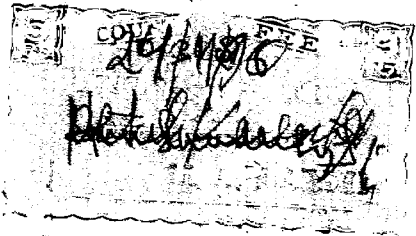
४- यह ज्ञान रेल सेवा बांधी के अन्तर्गत रहे,
जारा रहे जाने का रेल को जाय देहा बांधी ।

ब अदालत श्रीमान्
[वादी] अपीलान्त

प्रतिवादी [रैस्पाडेन्ट]

वकालतनामा

Shri. D. S. Maheshwari, P.L.
18
Union of India. —————



दनाम

प्रतिवादी (रैस्पाडेन्ट)

नं० मुकद्दमा

सन्

देशी की ता०

१६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Shri. R. K. Sharma ————— वकील
L. Atul Keshri ————— महोदय
एडवोकेट

नाम अदालत	नाम
मुकद्दमा नं०	
नाम फरीकें	

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

हस्ताक्षर

Atul Keshri

साक्षी (गवाह)

साक्षी (गवाह)

बिनांक

21/11/76 महीना

सन् १६

ई०

स्वीकृत

Atul Keshri

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Qc-72

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In the Central Administrative Tribunal,
Circuit Bench, Lucknow.

Application No. 144 /1990 (L)

Ram Deo Awasthi ... Applicant

Versus

Union of India and others ... Opp-Parties.

Index

S.No. Description of papers Page No.

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2. Power 6

3. True copy of impugned order dated 28.12.1987. Annexure No. -1 9

3. True copy of the Representation dated 28.12.88. Annexure No. -2 10

4. True copy of the Appeal dated 4.8.1988 and postal receipt. Annexure No. -3 11

5. Reminder dated 29.5.1989 and postal receipt. Annexure No. -4 12

6. True copy of the defence argument along with relied upon rules. Annexure No. -5 13-15

2. Power.

Lucknow dated:

25/4 /1990

Atul Kanti

Advocate
Counsel for the Applicant.

144/1990 (L)
Attested
True copy
Atul Kanti

(B)

70

Annexure No 2

1/20

The D.S.O.
H.E. Kh
Sargodha

V.P. H.P. Ramdeo / A.S. 11
Dated 21.12.88

With due regard I have to state that
above quoted N.I. has been served to me
without enclosing the ^{copy of} Enquiry Report submitted
by E.O. on completion of D.A. Enquiry.

I would arrange to supply me the
copy of Enquiry Report of E.O. and
diagram in order to enable
me to submit my appeal in time.

Thanking you

Yours faithfully

Ramdeo Aush

20/21/88

27/12/88
Attested
True copy
Atul Keshri

(11)
Annexure N-3

D/2

"A" Divisional Operating Supdt.,
North Eastern Railway,
Gangtok.

1. My letter dt. 28.2.88 of reminders dated 20.4.1988.
and 27.6.88.

Subject:- Appeal against NY No. 8/PC/Ram Dev/ASW/II dt.
21.2.88 sent to Divisional Safety Officer,
North Eastern Railway, Gangtok, received by me on 27.11.88.

With due regards and humble submission, I have to
state as under in respect of the above noted notice of
possession of penalty:-

1) That on 28.1.89 I have submitted an Representation
to the Divisional Safety Officer, N.E. Railway, Gangtok,
for supply of the copy of the enquiry report submitted by the
Enquiry Officer i.e. S.I. Kathgodam after completion of
enquiry in the case, to enable me to submit my
appeal in time.

2) The same without enclosing the enquiry report of
enquiry officer of the Disengagement Note recorded by
disciplinary authority of the NER is impetuous
and illegal.

3) The charge sheet served to me is not having the
signature of the Divisional Safety Officer, Gangtok,
therefore, it is void in law or law.

4) The notice of imposition of penalty referring regarding
explanation of the charge sheet dated 26.9.87 is without
any use. I have not submitted any explanation to the charge-
sheet vide my letter dt. 26.9.87 as referred in the notice.
5) This letter I have only requested for supplying of certain
documents to defend my case in the above noted charge-sheet.
6) Enclosed the consent letter of my nominated defence council
of M.V. Ram Dev/ASW/II as my defence counsel in the case.
7) The copy of the letter dt. 26.9.87 is enclosed herewith as
reference to this application for ready reference.

8) That I submitted my defence to the
charge sheet on 13.10.87 bearing my signatures as well as
the signatures of my defence counsel. After completion of the
enquiry by the enquiry officer within the stipulated time
and the copy of the above defence note is enclosed
herewith as annexure to this application.

9) I am unable to supply the DAR enquiry report
to the enquiry officer, i.e. S.I. Kathgodam, in the case as
far as possible, so that I am not able to prefer my appeal
in the case. I am not convinced with the reason
enclosed with this application and I am not satisfied
and I am not able to be satisfied by your yourself on the
basis of the reasons stated by me with this application.
10) I request you to participate for kind consideration.

Yours faithfully,

RAM DEV
R.D. RAMDEV
S.I., GANGTOK
N.E. RAILWAY

Attested
True Copy
Attested

True Copy

20/11/88
No. 04-1-1988

(12)

Annexure No 4

25

To,

The Sr. D.O. Sec.
N.E. Railway
IZATNAGAR

Sir,

Re:- N.I.P. No. 14/-2/Ham Deo/A.S.M. II dated 21-12-87
issued by D.O. Sec./I.N.

With due regards I have and humble submission I have
to state that Justice has been denied to me despite my
letter appeal dated 23-1-88 and 04-8-88.

I am again enclosing the copy of my appeal dated
04-8-88 and hope that your honour will accord Justice
to the poor employee.

Yours Faithfully,

Dated 21.5.89

Incl: 1:- Appeal
dated 28-1-88
04-8-88

with these enclosures.

Ramdeo Awasthi
(N.E. Railway)
A.S.M.
UTTARIPURA
N.E. Railway

True copy
Attested
Attested
Attested

The Enquiry Officer,
N.E.P.Ry.
DAR Enquiry against Sri R.D. Awasthi ASM/ZNP

AY

110.

Ref.: Memorandum for inposition of Major Panalty no.E/PC/Ram-
Dev/ASM/II Dt. 12-5-87.

Sub.: Defence argument.

In reference to the above quoted memorandum I have to sub-
mit that the charges levelled against the suspected public servant
are baseless which will be more evident by my submissions here under :-

That the charge levelled against the SPS that he is absenting
himself from his duties w.e.f. 13-2-87 without any information to the
Administration hence contravenes Rly. service conduct Rule 3(1) (ii)&(iii)

That the relied upon documents are the reports of SM/BJV and
TI/IZN to prove the charge as mentioned in the memorandum.

That relevant portions of the reports are reproduced below
to refute the charges.:-

RELIED UPON DOCUMENT NO 1 i.e. REPORT OF TI/IZN : 1st line.

"It is brought to your notice that Shri R.D. Awasthi ASM/BJV
who was transferred to ZNP is on P.M.C. since 13-2-87"

RELIED UPON DOCUMENT NO.2 i.e. PARA 4 OF SM/BJV's REPORT DT.7-4-87.

On 13-2-87 he i.e. S.P.S. approached me with a P.M.C. certifica-
te of local doctor M.P. Arya, Nawabjung, which was submitted to office.

It is evident from the extracts of the relied upon documents
quoted above themselves that the S.P.S. has not only informed the
Administration regarding his sickness but has also submitted the certificate
issued by an M.B.B.S. Doctor on the same day who is equally qualified to
the Rly. Doctors.

That the prosecution witness No. 1 i.e. SM/BJV has further
confirmed these facts during the course of his cross examination by
defence council on 6-10-87 in reply to Question No. 2 & 3. That the
S.P.S. has not only informed him about his sickness on 13-2-87 out also
submitted medical certificate issued in confirmation of his sickness.

As per extant Establishment Rules and of the Rly. and Rail-
way board circulars. Rly employees residing beyond the jurisdiction of
Rly Doctor and Hospital are free to submit private medical Certificate
for grant of leave on Medical grounds. Since there is no Rly Doctor
or Dispensary provided by the Administration within a radius of 8 Km.
from Nigauria Rly Station. The SPS is authorized to claim for medical
leave on production of certificate of the Private Doctor.

Cont.....2.

*Attested
True copy
A. Kulshrestha*

1472 of the Indian Railway Establishment manual lays down that the competent authority may, at its discretion accept the certificate of a Railway employee applying for sick leave or refer the case to the D.M.O. for advice or investigation and then deal with it as circumstances require, implying that such a medical certificate can as well as be accepted even without reference to D.M.O.

Orders were issued vide Railway Board's letter of even number dated 20.6.1970, that medical certificates from Registered Private Practitioners produced by Railway Employees in support of their applications for leave should be rejected by the competent authority only after the Railway Medical Officer has conducted the necessary verification and on the basis of the advice tendered by him after such verifications.

Whereafter clarifications were issued vide Railway Board's letter of even number dated 20.6.1970, that the above procedure of referring the matter to the D.M.O. should be adopted only in cases where the competent authority has reason to suspect the bonafide. The Railways were asked to furnish detailed reports indicating the actual working of the revised procedure.

After having considered the reports received from Railways the Board have decided that certificates from Registered private medical practitioners made above, having regard to local circumstances, to provide the Railway Medical Officer may, however, withdraw this privilege of special certification to the staff for specified periods. The authority competent to take action in these circumstances shall be lower than the Divisional Superintendent.

10/11/1971 DATED: 17.1.1973

In order to give effect to the Board's letter of even number dated 20.6.1970 with regard to the acceptance of private medical certificates for the purpose of leave or medical expenditure, it is hereby notified to the Board that the D.M.O.s which are in conformity to the rules, do not accept by the competent authority on certain conditions.

It shall be to ensure that these instructions are followed.

10/11/1971 DATED: 17.1.1973

Railway employee concerned on medical leave up to and including 15 days should be considered for duty with the condition that the private medical practitioners, who are to be considered for obtaining sickness certificate from the Railway Medical Officer subject to the condition that the employee has not suffered during the period of leave.

Attested
True Copy
Atul K. S. S.

Three circulars of The Railway Board for acceptance of Private Doctors Certificates are enclosed herewith as Annexure "A" with this defence note.

The Board has directed the Railway Officials to accept PMC in support of the sickness of the employees vide letter No. 68/H/1/12 Dt. 17-2-73. In terms of the Railway Board letter no 68/H/1/72 Dt. 6-1-72 only. DSE now DRM is competent to reject the PMCs for certain specified periods when men misuse of PMC by Railway employees in anticipated Para 4 of the above quoted letter is reproduced below for ready reference. :-

After having considered the replies received from Railways the Board have decided that certificates from Registered Private medical practitioners made above, having regard to local circumstances, to prevent misuse, the railway Administration may, however, withdraw this privilege by special notification to the staff for specified periods. The authority competent to take action in those circumstances shall not be lower than the Divisional Superintendent.

There was no such notification issued by DRM/IZN in the month of February 1987. Hence it will be illegal to reject the PMC submitted by SPS on 13-2-87.

The SPS has not been paid his wages w.e.f. ~~from~~ 9-1-87 to 28-7-87 despite of the fact that he performed duty upto 14-1-87 and then in BMC & PMC due to his prolonged sickness.

Photostate copy of the charge sheet is ^{received by SPS} annexed herewith as Annexure "B" to show that the rules quoted in the chargesheet does not exist at all. There is no DR 1959 & no service conduct Rule 1956 as Quoted in Page 2 of the Charge Sheet it does not bear the signature of the issuing authority hence illegal & void in the eyes of law.

Hence it is requested that the memorandum for imposition of the Major penalty may kindly be withdrawn & the wages for the period withheld from 9-1-87 to 28-7-87 illegally withheld may kindly be paid at an early date to avoid further harassment of the SPS.

Thanking You.

Yours faithfully.

Date-13-10-87

(M.V. SEXANA)
Refence council
ASM/IZN.

H. N. A. W. S. T. A.
(RAM DEV (AWASTHI))
SPS
ASM/ZNP

intimate
Attested
True copy
Atul Sec 16
Sps

X/29

IN THE COURT OF THE DISTRICT JUDGE, JALPAIGURI, DISTRICT, HOOGHLY.
Civil Misc. Application No. 93 of 1991(L)

In re:

Registration (C.O.) No. 144 of 1990(L)

R.D. Bhattacharya Applicant.

vs.

Union of India and others Respondents.

Exhibit 91

REQUEST FOR CONDONATION OF DELAY IN FILING COUNTER REPLY.

That delay filing counter reply is not intentional or deliberate but due to administrative and bonafide reasons, which deserves to be condoned.

SUBMISSION

Therefore, it is most respectfully prayed that in the interest of justice, delay in filing counter reply may kindly be condoned and counter reply may be taken on record.

Dated : 14/4/91

(Signature)
(Advocate)
ADVOCATE

Counsel for Respondents.

*Filed with
27/4/91
11/4/91*

3/1/1991

1/29

1/29/91

1/29/91

1/29/91

1/29/91

Respondent.

1/29/91

F. R. Arya

APO/NER

1.

APO

1/29/91

14/34

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1-4-91

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14/91

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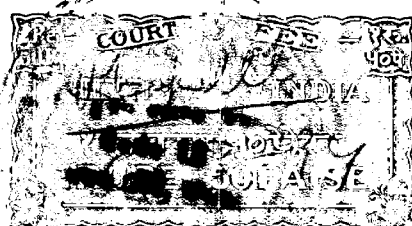
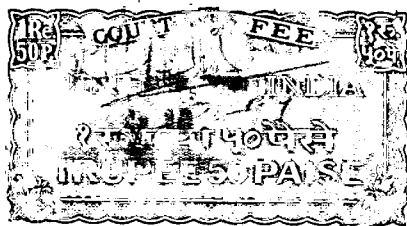
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1-12-1991

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14/91

D.A. 144/90(L)

1994
AFFIDAVIT
5 IM



Ram Deo Awasthi

....Applicant

VERSUS

Union of India

.....Opp. Party

REJOINDER AFFIDAVIT

I, Ram Deo Awasthi, aged about 54 years, son of Radha Krishna Awasthi, r/o Village Nagla Hussa, P.O. Amritpur District Farukhabad, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the applicant in the above noted case. He has been read over and explained the contents of the counter affidavit which he has understood.
2. That the deponent is fully conversant with the facts of the case and the facts herein after deposed.
3. That the contents of para 1 of the counter affidavit need no reply.

23

4. That the contents of para 2 of the counter need no reply as the opposite party has not denied the contents of 1 to 3 of the original application which are reiterated.

5. That contents of para 3 of counter affidavit are denied. The application is not time barred. It is very much within time. It is submitted that the deponent received the impugned order dated 21.12.1987 on 28.01.1988 and immediately made a representation to the Divisional Safety Officer, Izzat Nagar on 28.02.1988 which was sent under Certificate Posting on 29.02.1988 the photo-stat copy of which is marked as R.A.1 to the affidavit but with no result. Hence an appeal was preferred to the Divisional Operating Superintendent 04.03.1988 under Certificate of Posting the photostat copy of which is marked as an R.A.-2 to the affidavit. But with no effect. Hence he sent several reminders and thereafter on 29.05.1989 under Registered Post the photo-stat copy of which is marked as an R.A.3 to the affidavit.

It is herewith submitted that inspite of

....Pg.3/-

21/11/89

several requests and reminders the deponent was not supplied with the copy of Enquiry Report. It is further submitted that the Disciplinary Authority has failed to supply with the copy of Inquiry Report before passing the order of punishment which is an impugned ^{one} ~~are~~.

6. In reply to para 4 the deponent begs to submit that he has ^{stated correct} ~~noted~~ ~~over~~ facts in para 6 of his application which are reiterated. It is submitted that the impugned order is neither speaking order nor it ^{was} ~~is~~ ~~an~~ passed after applying the mind.

7. Contents of para 5 being wrong & false are denied.

3. Contents of para 6 are denied to the content which are contrary to the facts noted in para 6 which are correct and are reiterated.

9. Contents of para 7 are denied. The deponent was not spared from duty and so the transfer order was not implemented by the Authorities themselves ^{to the effect} It is denied that the deponent did not send the Medical Certificate of Private Doctor. He send the same and the Stationer Master

Bijoria in his statement before E. Officer has admitted the fact that the deponent send the Medical Certificate of Private Doctor.

10. Contents of para 8 are denied. The application is full of matter and is within time and is liable to be allow.

शनिद्वारा

PLACE : LUCKNOW.

DEPONENT

DATED : 8-3-94

Verification

I, the above-named deponent do hereby verify that contents of para 1 to 9 are true to my personal knowledge of facts of para 10 is believed to be true.

Signed & verified to-day

8th day of March 1994 at Lucknow

10.50 AM
Shri Manoj Kumar
Dependent
Hill

08/03/94

Signature

873/94

Before Central Administrative Tribunal Lko

R.A-1

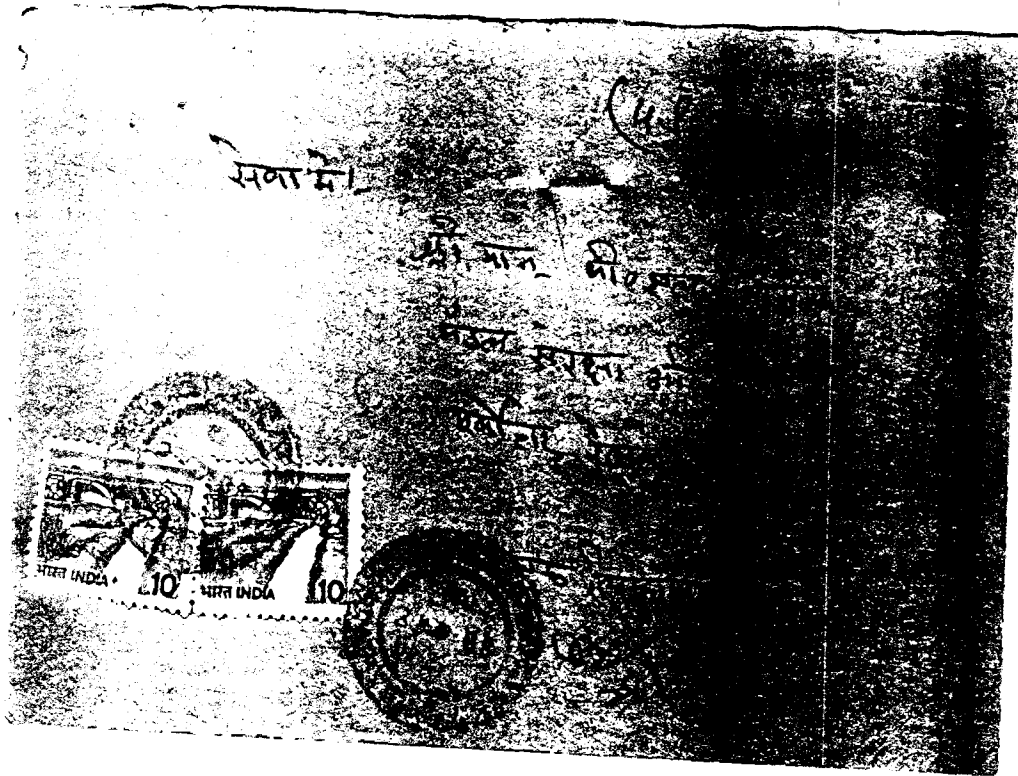
C.H. 144/90(L)

R. D. Awasthi ——— applicant

versus

U.O. I ——— app-party

A/39



श्रीमान श्रीमान

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3

To,

The D.S.O.
N.E. Rly
Jabalpur

Sir, Ref - NIT no E/2/Kamdeo/ASan/1.
dated 21-12-88

With due regards I have to state that
above quoted NIT has been served to me
without enclosing the ^{copy of the} Enquiry report submitted
by E.O. On completion of D.A. Enquiry

Kindly arrange to supply me the
copy of the Enquiry report of E.O. and
disagreement note if any to enable
me to submit my appeal in time.

Thanking you

Yours faithfully

Ram Dev Anand

21/12/88



20/12/88

To,

The Sr. Divisional Operating Supdt.,
North Eastern Railway,
Izatanagar.

Ref:- My letter dt. 28.2.88 and reminders dated 20.4.1988.
and 22.6.88.

Subject:- Appeal against NIP No. E/PC/Ram Dev/ASM/II dt.
21.12.88 issued by Divisional Safety Officer,
N.E. Railway, Izatanagar, received by me on 28.1.88.

Sir,

With due regards and humble submission, I have to state as under in respect of the above noted notice of imposition of penalty :-

- 1) That on 28.2.88 I have submitted an Representation to don'tle Divisional Safety Officer, N.E. Railway, Izatanagar, for supply the copy of the enquiry report submitted by the enquiry Officer i.e. T.I. Kathgodam after completion of proper DAR enquiry in the case. To enable me to submit my appeal in time.
- 2) The NIP without enclosing the enquiry report of the enquiry officer and the disagreement Note recorded by the disciplinary authority if any the NIP is impracticous in the eye of law.
- 3) The charge sheet served to me is not having the signature of the Divisional Safety Officer, N.E. Railway, Izatanagar, hence it is void in the Eye of law.
- 4) The notice of imposition of penalty reffers regarding my explanation to the charge sheet dated 24.9.87 is without any base. I have not submitted any explanation to the charge-sheet vide my letter dt. 24.9.87 as referred in the notice. In this letter I have only requested for supplying of certain documents to defend my case in the above quoted charge-sheet and enclosed the consent letter of my nominated defence council Shri M.V. Saxena ASM/IZN as my defence counsel in the case. The copy of the letter dt. 24.9.87 is enclosed herewith as Annexure-A to this application for ready reference.
- 5) That I submitted my ~~difference~~ defence to the charge sheet on 13.10.87 bearing my signatures as well as the signatures of my defence counsel. After completion of the DAR enquiry by the enquiry officer within the stipulated time and Photostat copy of the above defence note is enclosed herewith as Annexure-B to this application.

Kindly arrange to supply the DAR enquiry report of the enquiry officer, i.e. T.I. Kathgodam, in the case as early as possible, so that I may be able to prefer my appeal in the case. if your honour is not convinced with the copies enclosed with this application that the NIP is illegal and void and is liable to be quashed by your goodself on the basis of the Annexures submitted by me with this application.

Thanking you in anticipation for kind consideration.

Dated. 04.3.1988.

Yours faithfully,

R.D. AWASTHI
(R.D. AWASTHI)
A.S.M., Sindhpura.
NER./IZN/Div.

Before Central Administrative Tribunal L.K.O
C.A. 144/90 (L)

R.A. 2

R. D. Awasthi _____ applicant

versus

U. O. I. _____ opp. party

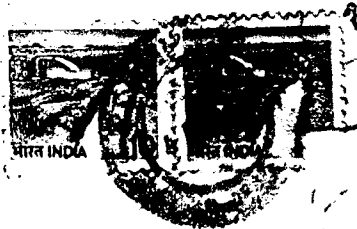
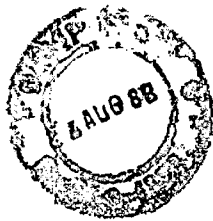
आयोग में सेवा में प्रवेश (करवा))

श्री. ए. सी. लोह

प्रतिहार सेवा

इलाहाबाद

दिनांक 4. 8. 88 एस. पी. सिंह UPL



सिंह एस. पी.

2

Before Central Administrative Tribunal 2nd
O.A. 144/90(2)

R.A-3

R. D. Awasthi _____ applicant
Versus

U.O. I _____ opp. party.

7-30

महोदय
माननीय जज महोदय
प्रधान न्यायाधीश
उच्च न्यायालय
कोटा रोड
जयपुर



Signature
Officer

18/5/90

To,

The Sr. D.O. S.,
N.E. Railway,
IZATNAGAR.

Sir,

Reg:- N.I.P. No. E/PC/Ram Deo/A.S.M. II dated 21-12-87
issued by D.S.O./I7N.

With due regards I have and humble submission I have
to state that Justice has been denied to me despite my
letter Appeal dated 28-2-88 and 04-8-88.

I am again enclosing the copy of my appeal dated
04-8-88 and hope that your honour will accord justice
to the poor employee.

Yours faithfully,

Dated 29.5.89

Enclosure:- Appeal

Dated 28-2-88
04-8-88

with three enclosures.

Ram Dev Awasthi
(RAM DEV AWASTHI)
A.S.M.,
UTTARI PURA
N.E. Railway.

राम देव अवास्थी (म)

29/5/89