

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, BENCH
 OA/TA/RA/CP/MA/PT of 20..... TA 833/86
 T.M. Tcede OS. No. 441/85
 Applicant(S)

Versus
 C.O. T. Eral Respondent(S)

INDEX SHEET

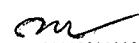
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Certified that the file is complete in all respects.
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Signature of S.C.



Signature of Deal. Hand



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

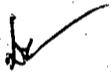
T.D 833/86

REGISTRATION No. of 198

APPELLANT
APPLICANT

VERSUS

DEFENDANT
RESPONDENT

order order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
	<p>Hon' Mr. Justice K. Nath, V.C. Hon' Mr. D.S. Misra, A.M.</p>	<p><u>GR</u> Counsel for applicant has not filed any rejoinder so far. Case is sub. It's for order</p>
20/4/89	<p>The learned counsel for the applicant requests for adjournment of the case. List this case for hearing on <u>9-5-89</u> as requested by the learned counsel for the respondents.</p>	<p><u>Adjud</u> 18/4</p>
9/5/89	<p> A.M. (sns)</p> <p> V.C. Hon' Mr. G.S. Sharma, J.M. Hon' Mr. K.J. Raman, A.M.</p> <p>Shri A.K. Jaiswal, learned counsel for the applicant and Shri A.V. Srivastava, learned counsel for the respondents are present, and heard. The learned counsel for the applicant files rejoinder after serving on the learned counsel for the respondents. Judgment reserved.</p> <p> A.M. (sns)</p> <p> J.M.</p> <p><u>order</u> J.M. granted Shw 5.7.89</p>	

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

Regn. NO. 833(T) OF 1986

JM Tudu VS. UOJ (RDSO) Fans

SL NO of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
22	10/06	<p>Hon. S. Zakeer Hasan, V.C. Hon. Ajay Singh, member/PL</p> <p>Mr. A. K. Jaiswal filed Rebalatnam on behalf of the applicant.</p> <p>Mr. Dalip Singh learned counsel for the respondents is said to be ill; however, one month's time is allowed to him to file his written statement.</p> <p>Put up on 1-12-1986 for final hearing.</p> <p align="right">R V.C. member</p>	<p>Office report -</p> <p>1. Notice issued by regd post to both the parties.</p> <p>2. Cause of action - Reversion</p> <p>3. Position at the stage of transfer -</p> <p>(i) W.S. not filed</p> <p>(ii) Pending for further order</p> <p>4. Notice issued by regd post to both the parties.</p> <p>5. No undelivered regd cover recd back so far submitted for orders.</p> <p align="right">M. J. Jaiswal 20/10/1986</p> <p align="right">In compliance with Hon. Tribunal's order dt 12/10/1986 no copy of document/s has been filed so far.</p> <p align="right">Submitted R 28/10/1986</p>

P/ay

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

Pl. Misc. NO. 3B/86(T) OF 198

JM Tudu VS U.O.J

Regn No. 833/86(T)

SL NO of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
19-12-86		Hon. Ajay Jain - AM Hon. G.S. Sharma - JM	<u>Office Report</u> - As per the order of Dy. Registrar the Misc. No. 3B/86(T) (for restoration of 833/86(T)) is submitted for orders
21.1.87		Heard & issued notice to the respondents fixing 21-1-87 for hearing. AM.	 JM
11.2.87		No setting. Adjourned to 11-2-87	 JM
11.2.87		Hon. S. Dhankar (P.C.), Hon. Ajay Jain, M.C.A. Sir A.K. Goraiya (for applicant). Sir D.P. S. D. for the respondent lived. The notice of counsel.	<u>Office Report</u> - In compliance with Hon. Tribunal's order dt: 19.12.86 notice issued to the defendant by regd. post.
10.4.87		No setting. Adj to 25-5-87	Submitted Malme 12.2.12.87
25.5.87		No setting. Adj to 30-6-87	Noted for 10-4-87 April Committee Against Council for Respondent

Court's order dt 11-1-87
has already been noted by

overseet

TA-833-86

11-12-87

Hon. S. Tokees Hosam, V.C.
Hon. D. Jayaram, D.M.

Sir. Sams for me affidavit
Prays for the to file rejoinder
Affidavit. Sir. DR. Sardana for me
affidavits is present.

Put up for hearing on 12-2-88
by order date not specified if any
may be filed.

M
V.C.

3
DR.

12-2-88 DR

As the Cases of Shri A.V.
Srivastava are adjourned.
list the case for final
hearing before Court on 11-5-88

DR (S)

11-5-88.

Hon. S. D. Desai, M.L.A.
Hon. Vijay John, A.M.

The petitioner, in person is present.

Sri P. V. Srivastava for respondents

Put up on 8-8-88
as prayed.

30 (2)

P.W.

V.C.

Recd

8.8.88. Hon. A. John, A.M.
Hon. L. S. Shastri, J.M.

As the Bench is sitting in Court No 2
the case is adj to 08.11.88
M.R.

D.R.

On the basis of applicant's application
for transferring the case to L.H.O. Circuit Bench
~~not~~ list this case before Circuit Bench
L.H.O. for hearing on 23.9.88 and inform the parties.

D.R.

order Sheet

T.A 833-86

7.10.88. Hon'ble K.S. Puttasamy re,
Hon'ble A. Ishaq re.

None is present for applicant. So
A. V. Sivastava for respondent.

On the request of counsel for respondent
the case is adjourned to 28.10.88
for hearing.

Recd
7/10

20
AM

re

28/10/88.

Hon. D. S. M. S. re, Am.
Hon. G. S. Shrivastava, Am.

For orders see our
order of date passed on
the main petition.

Recd
T.M.

by Am.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
COURT BENCH AT LOCHNOR

O.A./T.A. No. 833 1986 (I)

J. M. Tude

Applicant(s)

Versus

U.O.D.

Respondent(s)

Sl. No.	Date	Orders
	26/11/88	<u>OR</u> This is an affidavit filed by Sri J.M. Tude the petitioner in this case. The affidavit does not accompany any application for restoration but a prayer for restoration of this case has been made in Para D of the affidavit. This case was dismissed in default by this Hon'ble Tribunal on 20.10.88. This affidavit has been filed within 30 days from the date of dismissal of the case.
	22/12/88	Submitted for order No setting. Adjourned to 21-2-89. (1st) 22/12
	21/2/89	No setting. Adjourned to 9-3-89 P.M. 22/12 for order.

P.M.
21/2

Registered

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH, GANDHI BHAWAN
LUCKNOW

**

No.CAT/CB/LKO/ 1465

Dated : 12.5.89

OFFICE - MEMO

Registration No. Q.A. 833 of 1986. (L)
T.A.

J.M. Tuk

Applicant's

Versus

Union of India

Respondent's

A copy of the Tribunal's Order/Judgement
dated 10.5.89 in the abovenoted case is forwarded
for necessary action.

Par
For DEPUTY REGISTRAR (H)

Encl : Copy of Order/Judgement dated 10.5.89

To.

(1) shri A.K. Lalwani Adv C/R

(2) shri A.V. Srivastava Adv C/R

dinesh

Reserved

Central Administrative Tribunal, Allahabad Bench
CIRCUIT BENCH LUCKNOW.

Registration T.A.No.833 of 1986 (L)

J. M. Tudu ... Applicant

vs.

Union of India and
two others Respondents.

Hon'ble G.S.Sharma, JM
Hon'ble K.J.Raman, AM

(By Hon'ble G.S.Sharma, JM)

This transferred Application is an Original Suit and has been received from the Court of IV Additional Munsif Lucknow u/s. 29 of the Administrative Tribunals Act XIII of 1985.

2. The Applicant (hereinafter referred to as the Plaintiff) while working as Chief Design Assistant in the Motive Power Directorate of the R.D.S.O. Lucknow, a class III post, was promoted as Assistant Design ^{Engineer &} Assistant (for short ADA), a class II post vide order dated 25.1.1979 purely on temporary and adhoc long term basis pending availability of duly selected/regular incumbents. The plaintiff was, thereafter, posted as ADA (Wagon) vide order dated 1.3.1980 in the Wagon Directorate of the R.D.S.O. After completing 18 months service in Class II, the plaintiff had applied for his regularisation on the said post but his requests were repeatedly rejected by the defendants. The plaintiff had also appeared in the Class II (Technical) Departmental Examination for Mechanical Department for his selection on regular basis in 1984 but he could not qualify himself even in the written examination and was reverted w.e.f. 3.9.1985.

3. The suit was filed by the plaintiff on 16.9.1985 concealing the order of his reversion for the relief that the defendants be restrained from reverting him and he should be declared confirmed on the post of ADK (Wagon) w.e.f. 27.7.1980 after the completion of 18 months continuous ² Railway Board's officiation on the ground that in accordance with ~~the~~ circular letter No.E (D&A) 65 R.G. 6-24 dated 9.6.1965, a person working on the higher post for more than 18 months on adhoc basis can be reverted only after following the procedure prescribed in the Discipline and Appeal Rules. It has been further alleged that the plaintiff belongs to a Scheduled Caste and was promoted in the vacancy reserved for SC candidate and he cannot be reverted after serving on the higher post for several years. The suit was filed by the plaintiff for permanent injunction apprehending his reversion shortly in violation of the rules.

4. The defendants have contested the suit and in the written statement filed on their behalf by the Deputy Director R.D.S.O. Lucknow it has been stated that the promotion of the plaintiff as ADK was purely on temporary and adhoc basis against a reserved vacancy and subject to review of his performance pending availability of duly selected/regular incumbent. The plaintiff was transferred to Wagon Design Directorate on the equivalent post and on the same terms and conditions. The Class II (Technical) Departmental Examination proposed to be held for Mechanical Department was originally held during the years 1981 and 1983 and it could not be finally held only in 1984 in which the plaintiff had appeared after taking Pre Selection Coaching along with other reserved community candidates but he could not qualify himself even in the ~~1983~~

written test and was reverted w.e.f. 3.9.1985 on the availability of a regular and duly selected person after making the reserved post de-reserved with the approval of the competent authority vide Railway Board's order dated 29.12.1984. The rule of officiation for 18 months on adhoc basis as contained in the Railway Board's letter was revised vide letter dated 27.6.1983 in which it was provided that such adhoc promotees will have to undergo selections and the promotion of the plaintiff being purely temporary and adhoc, he cannot claim his right over that post. The plaintiff is not entitled to regularisation against a selection post without going through the process of selection. The plaintiff was well aware of the relevant rules and that is why he had appeared in the selection held in 1984 but he failed to qualify himself in the test and his allegations to the contrary are incorrect and he is not entitled to any relief.

5. The plaintiff filed a rejoinder in which it was stated that his having failed in the selection is immaterial for the reason that he is continuing on the post held by him w.e.f. 27.1.1979 to 2.9.1985. He cited an example of one M.S.Punchi, ADA working in his place to show that he too had failed in the test. He further disputed the de-reservation of the post in question and reiterated the pleas taken by him in the plaint.

6. After going through the record of the case and in the light of the submissions made before us, we feel that virtually this case has become infructuous as the plaintiff having already been reverted from the post of ADA (W) before the institution of the suit on 3.9.1985, no injunction ~~can~~ can be granted by this Tribunal in his favour

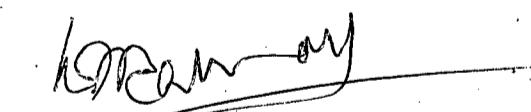
against his alleged apprehended reversion. The other relief claimed by the plaintiff is that he be declared to have been confirmed on the post of ADA (W) w.e.f. 27.7.1980 after the completion of 18 months continuous officiation in terms of the Railway Board's letter dated 9.6.1965. The plaintiff has produced before us uncertified copy of an unreported judgment of the Cuttack Bench of this Tribunal in Kunaram Marmdy Vs. Union of India decided on 30.1.1987 in which the Cuttack Bench had given the benefit of circular letter dated 9.6.1965 of the Railway Board to the petitioners before it working on adhoc basis for more than 18 months. The contention of the plaintiff is that he too is entitled to the benefit of this circular letter on account of his officiation on the higher post from 1979 to 1985.

7. The Allahabad Bench of the Tribunal has been constantly taking the view that the circular letter dated 9.6.1965 (copy annexure 4) applies only to the staff officiating on higher post after due selection or empanelment as specifically clarified by the Railway Board in its subsequent circular letter dated 22.1.66 (copy annexure 12). The same view was again expressed by the Railway Board in its circular letter dated 8.9.1983 (copy annexure 5). The Cuttack case was decided after some decisions given by the Allahabad Bench and we are inclined to follow the consistent view taken by our Bench on this point from the very beginning. We are, therefore, unable to accept the Cuttack view on which the reliance has been placed before us on behalf of the plaintiff.

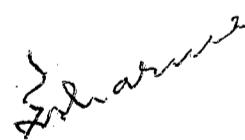
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8. It is an undisputed fact that the plaintiff was promoted to Class II post purely on adhoc and temporary basis though in long term reserved vacancy. It is also not in dispute that this is a selection post and the plaintiff having appeared in the selection in 1984 for this post had failed. He has, therefore, no right to work on this post without due selection and the question of his confirmation on the post will simply not arise. The contention regarding de-reservation of post made in this case is also not material for the purpose of our decision as even after assuming for the sake of argument that the de reservation was not in accordance with law, the plaintiff cannot get that post when the duly selected candidates are available. His plea raised in the Rejoinder that he is being substituted by a failed candidate too cannot be given any weight in the absence of any material before us as well as in the absence of any specific plea in the plaint. The plaintiff will be free to raise these questions, if so desired, in any appropriate proceedings later on. So far as the present case is concerned, he has failed to establish his case and he is not entitled to any relief.

9. The suit is accordingly dismissed without any order as to costs.



MEMBER (A)



MEMBER (J)

Dated: 10.5.1989
kkb.

सामान्य सची (अध्याय 4, नियम 4)

वाद संख्या

दर्ज 197 द०

राज्य सरकार दनाम

संस्कृत

व्यवसाय

निवासी

वाता

स्थान

वाता

जाति

जिला

नियंत्र का दिनांक

नियम 1 के अनुसार दनाम का प्रकार

पत्र की क्रम-संख्या	पत्रजात का प्रकार	नत्यी (क) या नत्यी (ख)	सम्मिलित किये गये पत्रजात के पदों की सं०	न्यायालय भूलक			पत्रजात को पत्रांकी में सम्मिलित किये जाने का दिनांक	अध्युक्ति
				टिकटों (स्टाप्टों) की संख्या	मूल्य	दर्ज 197 द०		
1	2	3	4	5	6	7	8	
1	दृष्टि पत्र	✓	1			12.90		
2	अप्रोटोल	✓	1+2+3					
3	दृष्टि पत्र	✓	10	7	52.6			
4	दृष्टि पत्र	✓	1					
5	प्राप्ति पत्र	✓	29					
6	दृष्टि पत्र ५००	✓	3	3	1.50			
7	दृष्टि पत्र	✓	2	8	1.50			
8	प्राप्ति पत्र ३५	✓	1	3	1.50			
9	दृष्टि पत्र	✓	1	3	1.50			
10	प्राप्ति पत्र	✓	1	3	1.50	27/१०/८५		
11	दृष्टि पत्र	✓	2	3	1.50		8/१५/८५	
12.	दृष्टि पत्र	✓	2	3	1.50			
13.	दृष्टि पत्र	✓	2	3	1.50			
14.	दृष्टि पत्र	✓	2	2				
ग्रन्ति	वकालत पत्र	✓	1	3	1.50			
ग्रन्ति	वकालत पत्र	✓	1	3	1.50			

पी० एस० य० पी० (अस० जार०) - ०५० क० न्याय - (ठच० ली० ज०० स० ७ अग्र०) - १० - ११ - १२ - २०,००,००० रु० ७८८

मुन्सिफ़ वाल

MUNSFIE WALES
LUCKNOW

प्रपत्र संख्या—२

आदेश-पत्र

(ग्रन्थाय ५, नियम १४३) प्रमो

44/८१-

Form No. 100. Part VI

प्रारम्भिक काद

संख्या

मामला

बनाम

सं. १९

₹०

T. M. Tindu v. Union of India

भाग

को	आदेश का दिनांक	आदेश, ग्रन्थासीन न्यायाधीश के संक्षिप्त हस्ताक्षर सहित	निर्देश उस प्रार्थना-पत्र आथवा पत्र का जिस पर मूल आदेश लिखा गया	आदेश के प्रतिपालन में किये गये प्रतिवेदन की संख्या तथा दिनांक का निर्देश
2		प्रियोग संख्या रोल दाता का नाम मिलिप्पुर रोल सेर्ट अटेक्स	13. 9. ८१ Delhi 2. 9. 5. 9. ८१ 52. ५० P.	
		13. 9. ८१ C-6 application u/s ८०(२) (१) Supported with an official file.		
		<u>OR</u> The matter appears urgent if permission is not granted in proposed the summa file, hence sent be registered Please bring file up with necessary reforms fronts.		
		A. Smt. Regd. S. Deen Seeman to defendents filing 14. 10. ८१ for W.S. and 23. 10. ८१ for Deen		adjt.
		C-6 application u/s ८०(२) (१) Supported with an official file only		
		<u>OR</u> Issue notice to defendant for 20. 9. ८१ for raffle and regularly execution application		

Court of Queen of Wale Deer ~~12/12/85~~
Date 16/12/85

T.A. Taddei & C.O. I.

30/12/85 Case pending. Complain
has not been done by the
afficer.

On

Adalman to Compl. Fix 3.12-85
to 31/12/85 a day

31/12/85 31/12/85 31/12/85 31/12/85

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31/12/85

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30/6/86

10/1/86

R.S. No - 441/85

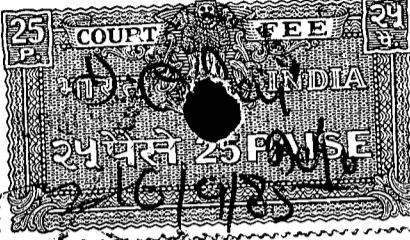
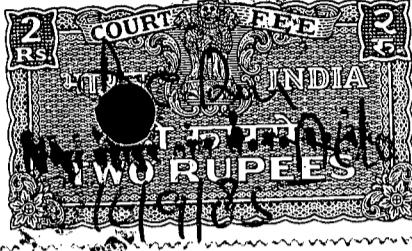
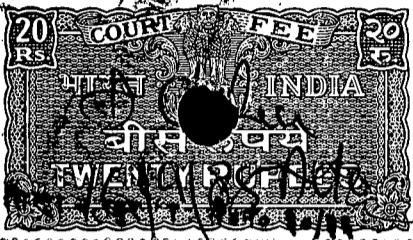
(2)

James W. Scott

Before the Hon'ble Court of Munsiff Hawali,

LUCKNOW

Civil Suit No. 441 of 1985



1. J.M.Tudu, S/o Late Sh. N.C.Tudu,
Aged 48 years, R/o Qr.No. B-172/3,
Manak Nagar, Lucknow-226011

2. All India SC&ST Railway Employee's Association
R.D.S.O. Zone, Lucknow-226011 Plaintiff

Versus

1. Union of India, through
Director General, R.D.S.O.,
Manak Nagar, Lucknow-226011
2. Director General,
R.D.S.O., Manak Nagar,
Lucknow-226011.
3. Director Standards(Wagon),
R.D.S.O., Manak Nagar,
Lucknow-226011.

... Defendants

Suit for declaration & injunction

The Plaintiff is an employed person of the R.D.S.O.,
an independent Railway establishment under the Railway Board,
begs to submit the following :

1. That the Plaintiff had been working as the Chief Design Assistant, scale Rs.650-960 (RS), in the Motive Power Directorate from 21st April, 1975 forenoon till he was promoted to officiate in Class II as Assistant Designing Engineer (D-V), vide Officers' Posting Order No.13 of 1979 on adhoc long term basis pending availability of duly selected/regular incumbents. herewith as Annexure - I
2. That the Plaintiff's promotion was further subjected to the condition that his promotion had been made against the reserved vacancy and depending upon the availability of

....2/-

53
2
AB

vacancies, in continuance of the promoted post was subject to review of his performance after six months.

3. That in view of the facts as contained in paragraphs 1 & 2 above, I had taken over the charge of the post of Assistant Design Engineer(D-6) in the Motive Power Directorate with effect from 27th January, 1979 and he has been continuing in the grade till the date of this Suit without any break in the middle thereby continuously held this post for ~~five~~^{six} years ~~seven~~^{Nine} months and ~~some~~ days on the date of this Suit.

4. That the Plaintiff had been promoted on long term adhoc basis against a reserved vacancy for Scheduled Tribe as per Roster Point of the 40 points Roster.

5. That the Plaintiff was subsequently posted as an Assistant Design Engineer(Wagon) vide Officer's Posting Order No.39 of 1980 and resumed that post from 01.3.1980 in the ~~Wagon Directorate of the R.D.S.O., and again he was posted~~ ^{alleged herewith as Annexure II} ~~in the same capacity on a different job vide Officer's Posting Order No.8 of 1980 in the same Wagon Directorate.~~

6. That the Plaintiff requested the employer defendants to regularise his officiating promotion in Class II from the date 27.7.1980 i.e. after completing of eighteen months service on the post in accordance with Railway Board's letter No.E(NG) I-82-PMI-204 dated 27th June, 1983. A copy of Board's letter aforesaid alongwith Board's letter of 1965 are attached herewith as Annexures III and IV.

7. That the employer Defendants had rejected the Plaintiff's claim for his regularisation on the post of Assistant Design Engineer, Class II(gazetted). In terms of the rules made by the Railway Board, taking into account the post/point reserved for the Scheduled Tribes candidates as per Roster under the powers vested in it under Rule 157 R-I he has already accrued his entitlement for his confirmation after 18 months continuous service on the current post. A copy



Xo 33 3

each of Board's letter No.E(D&A)65 RG6-24 dt.09.6.1965,
Plaintiff's applications dated 12.1.1984, 11.6.1984 and
Employer-Defendant No.2's replies thereto dated 22.6.1984
and 01.8.1984 are at Annexures VI to VII. ~~VII, 2, IX, XV~~

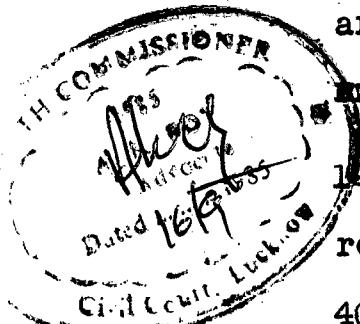
8. That the Plaintiff from the date of his promotion to the present post has since continued his officiating without any break in the middle in the higher grade (Class II Gazetted) in his avenue of promotion against a reserved post for the scheduled tribes as per 40 points Roster. This is in accordance with the rules on the subject made by the Railway Board.

9. That the Plaintiff has thus continuously worked for more than 18 months. As per Railway Board's rules contained in their letter No.E(D&A)65 RG6-24 dated 09-6-1965, those who have continuously worked for 18 months are deemed to have been regular on the officiating post against the reserved point of the communal Roster maintained for the purpose of ensuring observations of rules on filling those points by reserved community belonging to Scheduled Castes and Scheduled tribes.

10. That the Plaintiff has been regular on the post of the Assistant Design Engineer (Mechanical/Wagon-IV), by virtue of his condition of service as explained in Paragraph 9 above.

11. That in accordance with Railway Board's letter No.E(SCT)70 CM15/10 dated 20.4.1970 in each category there are 15% posts reserved for the scheduled castes and 7% posts reserved for the Scheduled tribes employees. ~~hereinwith as Annexure - IX, X, XVI~~

12. That as per extent rules those reserved posts are regulated by the Railway Administration by observing the 40 points communal Roster in the promotional grades in their avenue. This separate Roster System is maintained in the form given at Annexure-I to Railway Board's letter dated 29.4.1970



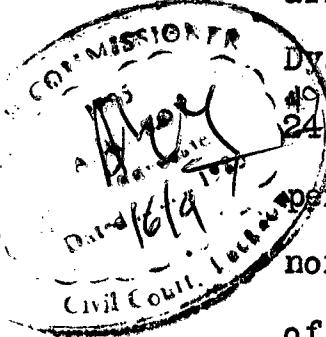
Shinde

reservations made in the matters of employment in Government services, and they prevent the railway servants belonging to the reserved communities from coming up in the higher positions of the Government machineries in invisible manners and in slow processes in a systematic ^{manners} ~~process~~ within the procedures. These caste hindu officers ^{bias} ~~bais~~ against the reserved community persons and record all adverse entries in their confidential reports with the motive in view to prevent them from seeking/getting promotions in higher grades, particularly in the administrative places.

17. 22. That the Plaintiff had also remained a victim of this communal bias of the caste hindus in the administrative positions with a view to detar in the Plaintiff's seeking entry into the next higher grades like Dy. Director and Joint Director, his annual increment was intentionally stopped at the stage of Efficiency Bar of the pay scale and his Confidential Report for the year ending 31.12.1982 was spoilt whereas there are persons who are working in the same grades and the same Department are of much lesser calibre than that of the Plaintiff. However, despite the Plaintiff's representation against the false remarks without any basis therefor, his points were not considered impartially and those fictitious remarks were maintained.

18. 23. That the adverse Confidential Reports did not have any affect on his continuing on the present post, as he had since been promoted to the grade. These certainly have adverse affect on my future promotion in the next higher grade of Dy. Director and Joint Director in the R.D.S.O.

24. That the Plaintiff has been working for a much excess period of 18 months against one of the two substantive and non-fortuitous existing vacancies/posts as per disclosure of the defendants in paragraph 3 of their Staff Notice dated 08.8.1983. The relevent portion of the aforesaid paragraph



reads as under :-

"..... Keeping in view the latest instructions, the number of vacancies for which the selection is to be held has been assessed as 28 including 10 that existed in the year 1979 and Nil that existed in the year 1981. Out of these vacancies, 5 are reserved for the Scheduled castes and 2 for Scheduled Tribes candidates."

25. That the Plaintiff has requested the Administration to kindly impart necessary training and also guide him as to improve his knowledge in the matters of procedures and in any other field wherever the Administration considered him to be deficient vide his application dated 20.8.1980. But till date the Administration has neither imparted any training or coaching, nor guided him in any matter to improve in his working capacity to meet the needs of the Administration on the post held by the Plaintiff. A copy of the application is also annexed hereto as Annexure-IX.
26. That as against the reserved posts/vacancies mentioned in the foregoing paragraph, the following candidates from the reserved communities were available within the zone of consideration.

1. Scheduled Caste candidates - 5 Posts

- (a) Shri K.L.Nirwan,
- (b) " Hardev Singh,
- (c) " D.K.Saha.

2. Scheduled Tribes - 2 Posts

- (a) " J.M.Tudu (Plaintiff)

27. That the Railway Board vide their letter No.E(NG)I-75-PM1-44 dated 31.5.1982 has classified certain categories of posts on Railways as 'Safety categories'. A copy of Board's letter quoted above is annexed herewith as Annexure-VIII.XI

28. That no gazetted post of the Railway services have been classified as 'Safety category', as may be seen from the Railway Board's letter at Annexure-VIII, and thus



each of Board's letter No.E(D&A)65 RG6-24 dt.09.6.1965,
Plaintiff's applications dated 12.1.1984, 11.6.1984 and
Employer-Defendant No.2's replies thereto dated 22.6.1984
and 01.8.1984 are at Annexures VI to VII. ~~VIII & IX, X~~

8. That the Plaintiff from the date of his promotion to the present post has since continued his officiating without any break in the middle in the higher grade (Class II Gazetted) in his avenue of promotion against a reserved post for the scheduled tribes as per 40 points Roster. This is in accordance with the rules on the subject made by the Railway Board.

9. That the Plaintiff has thus continuously worked for more than 18 months. As per Railway Board's rules contained in their letter No.E(D&A)65 RG6-24 dated 09-6-1965, those who have continuously worked for 18 months are deemed to have been regular on the officiating post against the reserved point of the communal Roster maintained for the purpose of ensuring observations of rules on filling those points by reserved community belonging to Scheduled Castes and Scheduled tribes.

10. That the Plaintiff has been regular on the post of the Assistant Design Engineer (Mechanical/Wagon-IV), by virtue of his condition of service as explained in Paragraph above.

11. That in accordance with Railway Board's letter No.E(SCT)70 CM15/10 dated 20.4.1970 in each category there are 15% posts reserved for the scheduled castes and 7% posts reserved for the Scheduled tribes employees. ^{hereinwith as} Annexure - ~~IX, X~~ ^{XVI}

12. That as per extent rules those reserved posts are regulated by the Railway Administration by observing the 40 points communal Roster in the promotional grades in their avenue. This separate Roster System is maintained in the form given at Annexure-I to Railway Board's letter dated 29.4.1970

found at page 171 of the Brochure on Reservation for the Scheduled castes and Scheduled Tribes in railway services, Second Edition. The actual number of posts/vacancies to be reserved for the scheduled castes and scheduled tribes in any promotion/appointment/recruitment be determined on the basis of the points in the communal Roster, taking into account the reservation brought forward from the previous year.

13. That the Plaintiff has come to know from reliable sources that the employer defendant No.2 and 3 have sought dereservation of the post/point reserved for the scheduled tribes, as per 40 points communal Roster, in the category of C Class II(gazetted) Technical in the Mechanical Engineering Department of the R.D.S.O., on some fictitious and baseless grounds.

14. That the post being held by the Plaintiff is a gazetted post in the Drawing Office of the R.D.S.O. and the same is called Assistant Design Engineer(Wagon-IV). He has 14 Nos. of staff under him, out of them 12 (^{Twelve} ~~nine~~) are Drawing office staff and two are Book Binders and three numbers are assisting class IV(Group D) office staff.

15. That the Plaintiff has been entrusted with the task of controlling the staff under him and supervise them in their day to day works. In addition, he has the work of preparing Railway Standard Specifications and retracting of old drawings, including getting them bound by the Book Binders and his assisting Class IV staff, pertaining to Wagon Directorate of the R.D.S.O. He has also to arrange despatch of those standard specifications and drawings to the parties ask for the same, micro-filming of drawings & specification

16. That there are some officers of higher castes in the administrative positions in the R.D.S.O. carries a caste hatred in their mind, particularly against the special

reservations made in the matters of employment in Government services, and they prevent the railway servants belonging to the reserved communities from coming up in the higher positions of the Government machineries in invisible manners and in slow processes in a systematic ~~process~~ ^{manners} within the procedures. These caste hindu officers cherish a ~~bias~~ ^{bias} against the reserved community persons and record all adverse entries in their confidential reports with the motive in view to prevent them from seeking/getting promotions in higher grades, particularly in the administrative places.

17. 22. That the Plaintiff had also remained a victim of this communal bias of the caste hindus in the administrative positions with a view to detar in the Plaintiff's seeking entry into the next higher grades like Dy. Director and Joint Director, his annual increment was intentionally stopped at the stage of Efficiency Bar of the pay scale and his Confidential Report for the year ending 31.12.1982 was spoilt whereas there are persons who are working in the same grades and the same Department are of much lesser calibre than that of the Plaintiff. However, despite the Plaintiff's representation against the false remarks without any basis therefor, his points were not considered impartially and those fictitious remarks were maintained.

18. 23. That the adverse Confidential Reports did not have any affect on his continuing on the present post, as he had since been promoted to the grade. These certainly have adverse affect on my future promotion in the next higher grade of Dy. Director and Joint Director in the R.D.S.O.

19. 24. That the Plaintiff has been working for a much excess period of 18 months against one of the two substantive and non-fortuitous existing vacancies/posts as per disclosure of the defendants in paragraph 3 of their Staff Notice dated 08.8.1983. The relevant portion of the aforesaid paragraph

reads as under :-

6

..... Keeping in view the latest instructions, the number of vacancies for which the selection is to be held has been assessed as 28 including 10 that existed in the year 1979 and Nil that existed in the year 1981. Out of these vacancies, 5 are reserved for the Scheduled castes and 2 for Scheduled Tribes candidates.

25. That the Plaintiff has requested the Administration to kindly impart necessary training and also guide him as to improve his knowledge in the matters of procedures and in any other field wherever the Administration considered him to be deficient vide his application dated 20.8.1980. But till date the Administration has neither imparted any training or coaching, nor guided him in any matter to improve in his working capacity to meet the needs of the Administration on the post held by the Plaintiff. A copy of the application is also annexed hereto as Annexure-IX.
26. That as against the reserved posts/vacancies mentioned in the foregoing paragraph, the following candidates from the reserved communities were available within the zone of consideration.

1. Scheduled Caste candidates - 5 Posts

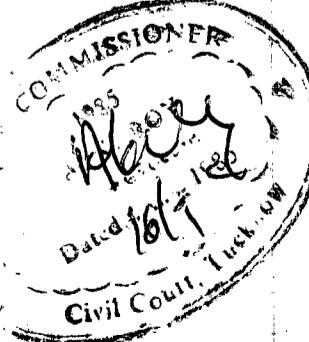
- (a) Shri K.L.Nirwan,
(b) " Hardev Singh,
(c) " D.K.Saha.

2. Scheduled Tribes - 2 Posts

- (a) " J.M.Tudu (Plaintiff)

27. That the Railway Board vide their letter No.E(NG)I-75-PMI-44 dated 31.5.1982 has classified certain categories of posts on Railways as 'Safety categories'. A copy of Board's letter quoted above is annexed herewith as Annexure-VIII-XI

28. That no gazetted post of the Railway services have been classified as 'Safety category', as may be seen from the Railway Board's letter at Annexure-VIII, and thus



23

23

they are all treated as kindred categories. They are exempt from the rules made for the non-gazetted railway servants as regards to their being treated as 'safety' or 'Non-safety' categories.

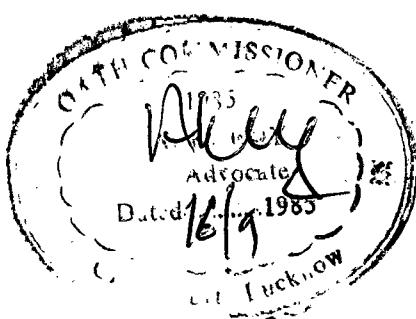
29. That seeking dereservation on the post/point reserved for scheduled tribes candidates is totally repugnant to the principle, rules and special rules, and processing the dereservation proposal falsely as a 'safety category' is certainly a practice of untouchability with the reserved community persons within the law made by the Parliament aiming to eradicate the practice of untouchability in the garb of discharging false official duties.

30. That in view of the facts stated in the foregoing paragraphs, the Plaintiff has since become regular on the post he has been holding for a period in excess of 18 months continuously as per existing law as defined the term in the Constitution of India and he has already acquired the entitlement of his being confirmed in the grade.

31. That in the circumstances explained in paragraphs 13 to 17 the gazetted posts being held by the Plaintiff, in the absence of an existing law classifying the gazetted posts of Drawing Offices on Railway, R.D.S.O., Production/Manufacturing Workshops, Railway Board on the Indian Railways as 'safety categories' is not a safety category and therefore, dereservation sought claiming this post as safety category is illegal and malafide.

32. That the Plaintiff has thus acquired the benefits mentioned in para 2 of Railway Board's letter No.E(D&A)65 - RG6-24 dated 9.6.1965, confirmed by the Board vide para 2 of Board's letter No.E(NG)I-82-PM1-204 dated 27.6.83. In this

....8/-



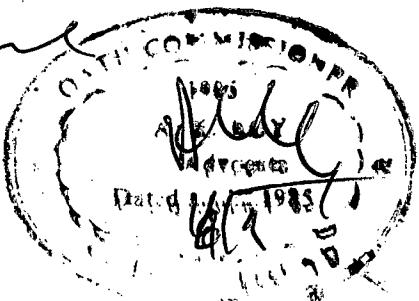
Summa

respect the detailed explanations on the procedures for regularisation of the workers working on Indian Railways on adhoc basis for more than 18 months continuously GM/NE.Rly Gorakhpur's letter No.E/2/10/0(Con) dated 21.1.1966 is worth mentioning. This circular letter of NE.Rly issued on the basis of orders of the Railway Board contained in its letters mentioned therein, it confirms that persons officiating for more than 18 months are to be confirmed and they can not be reverted without action under D&A Rules, 1968. herewith as Annexure — XII

28. 33. That the Plaintiff had been a Scheduled Tribe candidate in the Technical side in the RDSO. The Plaintiff was due sympathetic consideration in terms of Para-IV of Board's letter No. E55CM/3 dated 5.10.1955. The Plaintiff is also eligible for confirmation provided he maintained an appropriate standard in accordance with para 3(VII) of Board's letter No.E(SCT)73CM15/13 dated 17.8.1974.

29. 34. That the Plaintiff was promoted on long term officiating basis for 6 months as per extent rules contained in para 3-4 of Board's letter No.E(SCT)74 CM15/23 dated 17.8.74 against a vacancy reserved for Scheduled Tribe employees under the exercise of special power invested in DG/RDSO. In this respect Para 3 of OPO.No.13 of 1979 is worth mentioning for seeing three conditions of the promotion.

30. 35. That a colleague Officer of the RDSO, Shri B.N.Lal, in Writ Petition No.5962 of 1983, has been granted a permanent stay by the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, against his reversion from officiating promotion on adhoc basis beyond 18 months. The Plaintiff's case is also in the same position rather more deserving as a result of his officia-



ting for longer period. A copy of the stay order dated 11.11.1983 is submitted herewith as Annexure - XIII

36. The Plaintiff has come to understand that he is being reverted shortly on some flimsy grounds in violation of extent rules on Plaintiff's favour.

37. The cause of actions had arisen on 28.9.1985 when the Plaintiff heard from Establishment Branch that he is going to be reverted on some malafide grounds at Mohalla Manak Nagar, Ward Alambagh, P.S. Krishna Nagar, within the jurisdiction of this Hon'ble Court.

38. That the valuation of the Suit for the purpose of jurisdiction and Court Fees is Rs.500/- and the suit is ~~a declaration and injunction~~ ~~reatory suit~~. Hence, the Court Fees of Rs.52.50 is being paid.

39. That the Plaintiff prays for the following relief :-

- (1) The defendants be restrained from reverting the Plaintiff by passing a decree of 'Injunction' ~~till the suit is decided on its merits;~~
- (2) The Plaintiff be declared confirmed on the post of ADE/W-IV w.e.f. ^{27.7.1980} 27.1980, i.e. after completion of 18 months continuous officiating on that post in terms of Board's letter No.E(D&A)65 RG6-24 dated 9.6.1965;
- (3) The cost of the suit be awarded to the Plaintiff against the Defendants;
- (4) Any other relief which this Hon'ble Court deems fit and proper in the circumstances of case be awarded to the Plaintiff.

Lucknow,


Plaintiff

Dated: 16.9.1985.

...10/-

New No. H. C. J. Part-IV-71

Old No H.C.J. Part-XXI-71

(सर्वे साधारण में विक्रान्त)

बादी / प्रतिबादी द्वारा पेश किये गये दस्तावेजों की सूची

[आदेश १३ नियम]

न्यायालय

स्थान

बाद संख्या

सन १९ ई०

बादी

बनाम

प्रतिबादी

बाद पेंच के साथ

बादी/प्रतिबादी की ओर से पेश किये गये दस्तावेजों की सूची प्रथम सुनाई के समय इस सूची की ने आज सन १९ के दिवस को पेश किया

क्रम सं०	दस्तावेज का अभिवर्णन और उसकी तारीख	कागज किया हुआ	टीप्पी
१	२	३	
१	Annexure - 1	यदि अभिलेख में सम्मिलित कियागया तो प्रदर्शन क्रिय्ये जो उसपर डाला गया	यदि बाद निश्चय के पश्चात् कागज अभिलेख में रह जाये और अध्याय ३ नियम २५ के अधीन लिफाफे में बन्द किया तो लिफाफे में बन्द जाने की तारीख
२	Annexure - 2	Promotion order	
३	Annexure - 3	Second Postry order	
४	Annexure - 4	Application 11-4, 85	
५	Annexure - 5	Board's letter	
६	Annexure - 6	" "	
७	Annexure - 7	RDSO letter dt. 22-6-84	
८	Annexure - 8	Application	
९	Ann - 9	RDSO letter	
१०	Ann - 10	Board's letter	
११	Ann - 11	Application	
१२	Ann - 12	Board's letter	
१३	Ann - 13	High Court letter	सूची पेश करने वा पक्षकार के हस्ताक्षर
१४	Ann - 14	RDSO letter	
१५	Ann - 15	Application	
१६	Ann - 16	Application	

न्यायालय का नाम
बाद संख्या का नाम
पक्षकारों का नाम

D. C. S.
Adreaed
Dated - 16. 9. 85

Verification

I, the above named Plaintiff, hereby verify that the contents of Paras 11^o 9, 11^o 2^o are true to my knowledge and those in 14, 17/6/23, 25/6/3^o, Paras 10/3, 16/6/9^o are believed to be true.

Signed and verified this 16th day of September, 1985
inside the Court compound at Lucknow.



Plaintiff

Lucknow,

Dated : 16 - 9 - 1985.

Government of India

Ministry of Railways

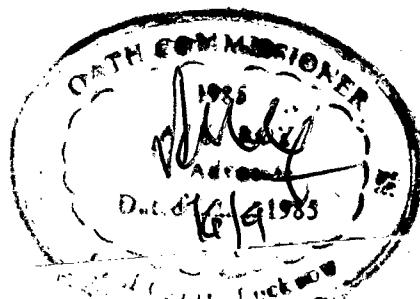
Research Designs and Standards Organisation

OFFICERS POSTING ORDER NO 13 of 1979

The following promotions/postings/reversions are ordered with immediate effect :

1. Sh. J.S. Eden, SDA/RMDO, is promoted to officiate in Cl.II and posted as AREM/OT against the existing vacancy of DDRM/OT-I in the Research Directorate.
 2. Sh. M.S. Surma, CRA/M is promoted to officiate in Cl.II and posted as ARE/MERD in the Research Dte against the existing vacancy vice Sh. A.B. Chatterjee since promoted as Dy. Director.
 3. Sh. J.M. Tudu, SDA/MP is promoted to officiate in cl. II and posted as ADE/D-V in the MP Dte.
 4. Sh. M.V. Balasubramanian, SDA/MP is promoted to officiate in cl. II and posted as ADE/D-VI in the MP Dte against the down graded post of DD/MP-D-VI vice Sh. Hari Mohan, who has been asked to look after the duties of JD/MP-4 in place of Sh. A. Chakraborty since seconded to Nigeria.
 5. Sh. G.S. Das, SI/C&W is promoted to officiate in cl.II and posted as ADE/CII in the Carriage Dte vice Sh. B.N. Roy, who retired from service.
 6. Sh. D.S. Arya, SDA/W is promoted to officiate in cl. II and posted as ADE(Container) in the Carriage Dte vice Sh. S.K. Sood who reverts to his cl. III post of SDA.
2. The above promotions are purely temporary and adhoc on long term basis pending availability of duly selected/regular incumbents.

Cond...2/-



(13)

Annexure - (2)

Government of India
Ministry of Railways
Research Designs and Standards Organisation

OFFICERS POSTING ORDER NO 39 OF 80

Ref : OPO No. 8 of 1980

Consequent upon the allotment of the floating class II post which is allotted to the Wagon Dte. at present, to the Research Dte. wef 1.3.80 FN, the following promotions/reversions/postings are made:

- i. Sh. Ganpat Rai, CTA(Com) is promoted to cl.II as ARO/Traffic on adhoc basis against the upgraded Cl. II post allotted to Traffic Res. Dte from 1.3.80 to 30.9.81.
 - ii. Sh. P.K. Deb, ADE/W(Adhoc) is reverted to his cl.III post wef 29.2.80 AN.
 - iii. Sh. J.M. Tudu, ADE/W(adhoc) is posted as ADE/W vice Sh. P.K. Deb.
2. The officers concerned may please send their charge report in quadruplicate to E II section.

(Auth : DG's orders dt. 26.2.80 in file No. EI/S/ORG/1
Estt/Tech)

File No. EII/ES/OP/Traffic

Sd/-
1.3.80.

Lucknow-11 Dated 1.3.80

(Brahm Dev)

for Director General

DSW, DTR, JDF, DY, DG, DDA, JDS/MP-Dte. SO(EIII), SO(Rectt), SOMCW, SO/ML,
Secy to DG, SO(EIV), CA, Notice Board, P/file of the officer concerned.

Sh. Ganpat Rai, CTA(Com) }

Sh. J.M. Tudu, ADE/W }

Sh. P.K. Deb, ADE/W }

RDSO/ Lucknow.

Same



(14)

Annexure-(3)

(13)

225

The Director General,

RDSO/Manak Nagar,

Lucknow - 226011.

Sir,

Sub : Regularisation against Reserved Posts SC/ST in
Class II(Tech) in Mech. Engg. Deptt.-request of.

With due respect, I beg to lay down the following lines for
your sympathetic consideration and favourable order in regard to
the subject in view of the extend Railway Board's orders.

1. That I belong to the Scheduled Tribe community and working as
Astt. Design Engineer in adhoc basis w.e.f. 27.1.79., first
in Motive Power Dte. as ADE/MP-A3 and was transferred in the
same capacity to Wagon Dte. from Feb.80 and working as ADE/W-IV
till date.
2. In the year 1972 a departmental selection was conducted to
fill up the post vacant for Cl.II(Tech) in the Mech. Deptt.
of RDSO/Lucknow, and a panel of nine candidates were formed
are as belows

- | | |
|-----------------------|--------------------|
| 1. S/Shri R.M.Sundram | 6. M.N. Wanikar. |
| 2. Gurdyal Singh. | 7. R.M. Sahore. |
| 3. A.K. Sengupta. | 8. A.B. Chaterjee. |
| 4. B.R. Dehraj. | 9. Raja Gopalan. |
| 5. K.N.T. Kantan. | |


and all of them were absorbed subswquently, besides the above
empanelled candidates (Officers) the names of the following
candidates were kept in a shadow panel to fill up the post

- 2 -

75

of Cl. II(Tech) in Mech. Engg. Deptt. for the occasion eventually arise is,

- | | |
|------------------------|---------------------|
| 1. S/Shri K.R. Sharma. | 7. Shrinivasan |
| 2. P.N. Soni. | 8. S.P. Puri. |
| 3. Y.P. Bhatia. | 9. A.N. Sen Sharma. |
| 4. J.P. Singh. | 10. M.R.G. Nair. |
| 5. S. Badruddin. | 11. S.C. Khan. |
| 6. B.N. Goyal. | |

All the above shadow panelled candidates were promoted to officiate in Class II(Tech) post on adhoc basis as per the staff notice No. EII/G/O/REP/Tech dt. 21.4.79., the officers kept on shadow panel then been regularised w.e.f. year 1972. Though vide the staff notice No. EII/SIS/O/Mech/77 dt. 24.11.77 they were subjected to appear on the departmental selection for the ensuing test of Class II(Tech) post. Now it is understood as the High Court Lucknow Bench has passed an order to regularise all shadow panelled candidates w.e.f. the back date i.e. from year 1972.

My point of appeal is that, if it is then the total number of posts which are available during the year 1972 were $9+11=20$ and out of 20 posts 3 posts come under the reserve point for Scheduled Casts and 2 posts for Scheduled Tribe community. And had the Administration accounted for 20 posts at that time then definitely I would have come within the zone of consideration in the combined seniority of eligible candidate.

So, due to miscalculation/miscompute/lack of foreseen of the total number of posts by the Administration, the lapses occurred causing me hurt and financial loss to me and have been deprived of my post which I ought to have got 12 years ago.

It is therefore requested that keeping in view of my five years continuous adhoc working in Class II(Tech) post of Engg.

..... 3/-

Annexure - (4)

(17)

Govt. of India (Ministry of Railways)
Railway Board
E(D&A)65 RG6-24

275
New Delhi, Dated: 9.6.1965.

CONFIDENTIAL

Sub : Reversion on grounds of general unsuitability
of staff officiating in a higher grade or post.

In Shri N. Kamlakara Rao, Director Establishments D.O.
No. 55 R.G. 6-25 dated 21.5.1965, it was inter alia stated that any
person who is permitted to continue to officiate beyond 18 months
can not be in future be reverted for un-satisfactory work without
following the procedure prescribed in the discipline & appeal rule.

These instructions were cancelled vide Board's letter No. E(D&A)65
RG 6-5 dated 1.2.1960 and 5.5.60 thus permitting the reversion of
an employee officiating in a higher post on grounds of general
unsuitability, at any time and not necessarily within a period of
18 months prescribed in discipline & appeal rule.

The Board have reconsidered the matter and feel that it
would not be correct to effect such reversions after prolonged
officiating period. They have therefore decided against that. In
future any person who is permitted to officiate beyond 18 months
cannot be reverted for unsatisfactory work without following the
procedure prescribed in the Discipline & Appeal rules.

Sd/- (P.B. Jain)

Copy to : Dy. Director Esstt./Railway Board
E(RB) I, E(RB) II, E(RB) III, Cash I, E(O) I, E(NF), E(GP), SO(SJ),
Sec(Det).

Shanl



Annexure — (5)

(18)

Research Designs & Standards Organisation

(70)

75
8

Note No. A/ES/SP

Lucknow-11, Dated 8.9.83

- Sub : 1) Adhoc appointments and promotions.
2) Allotments of marks at the time of interview.

A copy each of the following letters of the Board is sent herewith for information guidance and necessary action.

1. No.E(NG)I-82/PML-204 dated 27.6.83
2. No.E(NG)II-83/RSC/66 dated 11.7.83

Sd/-

(K. Kumar)

DA/ As above.

Dy. Director/Admn.

Distribution

JDF DDE-I, II, TEN, SOE-I, III, SO/Rectt., SO/Confl., Audit & Wel. Sec.

Copy of Rly. Bd's letter No. E(NG)I-82-PML-204 dated 27.6.83

- Sub : Adhoc appointments and promotions.

Instructions have been issued from the Railway Board from time to time that adhoc appointments and promotions should be avoided and should be resorted to only with the personal approval of the Chief Personnel Officer where it is considered essential. Last Instructions issued vide Adviser (Industrial Relations)'s DO No.E(NG)II-81-REL-1 dated 1.4.1981. Cases are, however, coming to Board's notice that adhoc promotions have been continued on Railways for years. Subsequently when selections are conducted and the incumbents fail to get through in the selections, they have to face reversion. In such a situation, they resort to filing petitions in the High Court and although the position of Civil Services is clear that such adhoc promotees have to undergo selections, the Courts have been giving to the benefit of instructions

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contained in Board's letter No. E(NG)65-RG 6-24 dated/9.6.1965 as clarified vide Board's instructions of 15.1.1966, according to which the persons, who have officiated for more than 18 months after regular selection can be reverted only after following the DAR proceedings.

2. In one of the cases, efforts were made to have the final ruling from the Supreme Court but the SLP was not admitted. The Ministry of Railways, therefore, are left with no alternative but to reiterate that selection should be conducted regularly and adhoc promotions should be resorted to only sparingly with the approval of Chief Personnel Officer. Any default in following the selections should viewed seriously and responsibility fixed.
3. Receipt of this letter may please be acknowledged.

Samuel



Annexure—(6)

23
70

Telegrams : RAILMANAK-LUCKNOW

Telephones : 50567 & 50017

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RESEARCH DESIGNS & STANDARDS ORGANISATION

Reference No. E II/SLN/O/Cl.II

LUCKNOW-226011 Dated: 22.6.84.

Tech./Mech.

MEMORANDUM

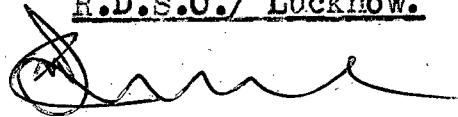
With reference to his application dated 11.6.84, Sh. J.M. Tudu is informed that his application is being examined separately & the proposed selection to be held on 23rd and 24th June '84.

Sd/-

(S. Bhatia)

for Director General.

Shri J.M. Tudu,
Asstt. Design Engineer/Wagon
R.D.S.O./ Lucknow.





Annexure - (7)

The Director General,
R.D.S.O./Lucknow-11.

Sir,

Sub : Regularisation in Class-II (Tech).

Ref : i) Staff Notice No. EII/SLN/0/Cl.II/Tech/Mech.
dated 8.8.83.

ii) Staff Notice No. EII/SLN/0/Cl.II/Tech/Mech.

1. I may please be permitted to state the following fact for your kind persual and favourable action :-

i) In RDSO. last selection for Class-II(Tech.) was held in 1971/72.

ii) In 1983, vide staff notice No. EII/SLN/0/Cl.II/Tech./Mech. dated 8.8.83. employees cocerned were informed about Examination dates for Class-II Tech., which could not be materialised due to some court cases. It is still indefinite when the court cases will be finalised. This has a very demoralising effect on senior person.

2. The undersigned has been asked to be in readiness vide staff notice No. EII/SLN/0/Cl.II/Tech./Mech. dated 15.12.81 to appear in Class-II(Tech) selection. It may not be out of place to mention that I always remained within the zone of consideration since 1977, 1981 and 1983, splitting into these subsequent selection has been held for the last 12 years due to legal complications.

3. Now, in this contex, I wish to draw your kind attention to the Railway Board's letter No. E(D&A)65-RG-6-24 dated 9.8.1965 in

(22)

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which Board have clearly instructed that the employees who have been officiating for more than 18 months in a higher grade cannot be reverted unless and until DAR inquiry is pending against him.

4. Hon'ble High Court have accepted the Railway Board's letter No.E(D&A)65-RG 6-24 dated 9.8.1965., which is very clear in letter No.E(NG)1-82-PML-204 dated 27.6.1983., indicating that the SLP in certain cases has not been granted by the Supreme Court. It is, therefore very clear that only the letter of 1965 is valid.
5. In view of the above, I wish to point out that I have been officiating in Class-II(Tech) for more than 18 months to the fullest satisfaction of Administration. As such, I consider myself fit and deemed to have been regularised in Class-II (Tech.) Cadre.
6. It is requested that early action may please be taken to confirm my regularisation in Class-II(Tech.) to avoid unnecessary harrassment and financial loss.

Thanking you,



Yours faithfully,

Sd/-

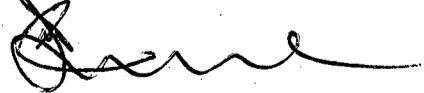
(J.M. Tudu.)

12-1-84

Asstt. Design Engineer/Wagon.

Copy to :

The Secretary (Estt.), Railway Board for issue of guide lines to held test in obeyance till my appeal is finalised.



Yours faithfully,

Sd/- (J.M. Tudu) / ADEW-Wagon.

Annexure-(8)

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(E)

Telegrams : RAILMANK-LUCKNOW

Telephones ; 50567 & 50017

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RESEARCH DESIGNS & STANDARS ORGANISATION

Our Reference: EII/SLN/O/C1.II

LUCKNOW-226011-Dated: 31.7.84.
1.8. 84

Tech./Mech.

MEMORANDUM

In continuation of this office memorandum of even no. 22.6.84 Shri J.M. Tudu is advised that since he has not come through regular selection and he is only working on adhoc basis , his request for regularisation in Class II cannot be accepted.

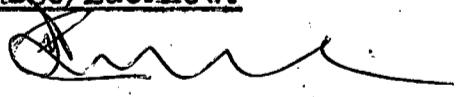
Sd/-

(S. Bhatia)

for Director General.

Shri J.M. Tudu,

Asstt. Design Engineer/Wagon,

RDSO/Lucknow.



Copy of Railway Board's letter No. E(SCT)70CM15/10 dated 20th.

April 1970.

Sub : Reservation for Scheduled Castes and Scheduled Tribes Revision of percentages and period of carrying forward of such reservations-Utilization of vacancies reserved for Scheduled Castes in favour of Scheduled Tribes and vice versa.

....

The policy of the Government of India in regard to reservation for Scheduled Castes and Scheduled Tribes in posts and services under the Government of India was laid down in the Ministry of Home Affairs Resolution No.42/21/49/NGS dated 13th September 1950, circulated with Railway Board's letter No.E47CM1/49/3 dated 23rd December 1950. The question of revising the percentages of reservation for Scheduled Castes and Scheduled Tribes in posts and services under the Government of India in the light of the population of these communities as shown in the 1961 Census has been under consideration of the Government for some time. It has now been decided in modification of the decisions contained in paras 2 and 4(1) of the Ministry of Home Affairs' Resolution dated 13th September 1950, that the following reservations will hereafter be made for Scheduled Castes and Scheduled Tribes in posts and services which are filled by direct recruitment :-

(A) Recruitment on All-India basis-(i) Scheduled Castes:- Instead of the existing reservation of 12-1/2 per cent, there will be a reservation of 15 per cent of the vacancies in favour of Scheduled Castes.

(ii) Scheduled Tribes:- The reservation for Scheduled Tribes will be 7-1/2 per cent as against the existing reservation of 5 per cent.

(B) Recruitment on Local/Regional basis- In posts and services recruitment to which is made on a local or regional basis i.e. the posts the scales of which do not go beyond Rs.375 per month, the percentage of reservation for Scheduled Castes and Scheduled Tribes

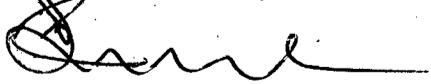
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- 2 -

shall be revised wherever necessary after taking into account the percentage of population of Scheduled Castes and Scheduled Tribes in the various States and Union Territories according to 1961 Census. Till then the existing percentages prescribed for different Railways in this regard, may continue to be applied for Scheduled Castes and Scheduled Tribes.

2. It has also been decided that in vacancies in posts filled by promotion in which reservations have been provided vide Railway Board's letter No. E(SCT)68CM15/10 dated 27th August 1968, the percentages of reservation for Scheduled Castes and Scheduled Tribes in such posts shall also be raised from 12-1/2 per cent to 15 per cent in favour of Scheduled Castes and from 5 per cent to 7-1/2 per cent in favour of Scheduled Tribes.

3. In terms of the instructions contained in this office letter No. E(SCT)63CM15/16 dated 6th October 1964, vacancies reserved for Scheduled Castes and Scheduled Tribes which are not filled by candidates of the appropriate communities due to non-availability of candidates of these communities are required to be carried forward to subsequent two recruitment years. It has now been decided that the period for carrying forward of the reserved vacancies should be increased from two to three subsequent recruitment years. The year in which no recruitment takes place is not to be taken into account for the purpose of calculating three years limit of carry forward. Reserved vacancies which had arisen prior to the date of issue of this letter and which have already been carried forward for one year will now be carried forward to two more recruitment years and similarly reserved vacancies which have been carried forward for two years will be carried forward to the third recruitment years, as well.




....3/-

To Director General,
RDSO/Lucknow,
226011.

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Sir,

I have been promoted against a non-fortuitous vacancy of ADE/W-IV (Class-II, gazetted (Tech.) reserved for Scheduled Tribe, and I have since completed more than 18 months continuous service on the post.

If the administration fills that, I could not reach to that standard for Class-II, I may be imparted in-service training and guide me to improve my knowledge in the matters of procedures and in any field wherever the administration consider to be difficult in term of Board's orders.

Thanking you,

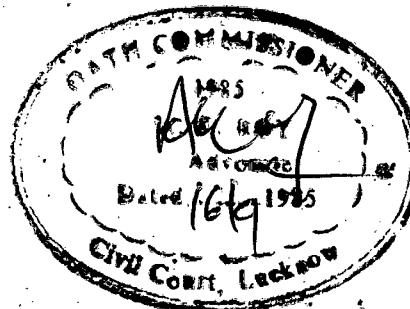
Yours faithfully,

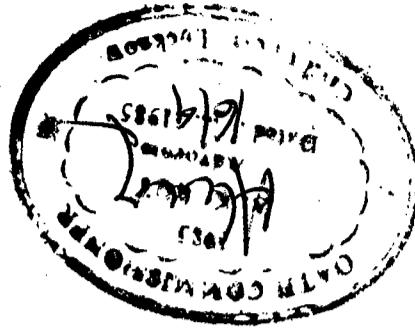
Sd/- (J. M. Tudu)

ADE/W-IV.

Dated, Lucknow,

20.8.1980.





4. The question of utilization of vacancies reserved for Scheduled Castes by supporting Scheduled Tribes and vice versa has also been considered and it has been decided, in modification of the orders contained in Board's Letter No. E (SCT) 62CML9/S dated 2nd August 1962 that while vacancies reserved for Scheduled Castes and Scheduled Tribes may continue to be treated as reserved for the respective communities only. Scheduled Tribe candidates may also be considered for applicability only. Scheduled Tribe candidates may also be considered for appointment against a vacancy not held by a Scheduled Caste candidate even in the third year to which the vacancy is carried forward. While advertising or notifying a vacancy which has been carried forward to the third year, it should therefore be made clear in the advertisement/recruitment that while the vacancy is reserved for Scheduled Castes, Scheduled Tribes candidates would also be eligible for consideration in the event of non-availability of suitable Scheduled Caste candidates. This arrangement will likewise apply also in the case of vacancies reserved for Scheduled Tribes. Accordingly in the third year of carry forward, candidates both from Scheduled the Castes and Scheduled Tribes will be considered against, reserved vacancies. The above instructions will take effect from 25th March 1970.

Annexure —(II)

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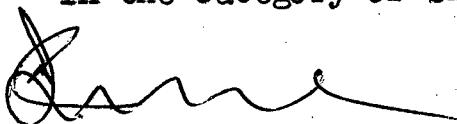
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Copy of the Railway Board's letter No. E(NG)I-75 PMI-44 dated 31.5.1982 addressed to the DG/RDSO, Lucknow and others.

Sub: Filling up non-gazetted posts on Railways Classification of Post as Safety Category.

The Ministry of Railways have reviewed the post already notified as Safety Categories posts under Board's letter of even number dated 6.6.1980 and 21.1.1981, and have decided to classify the post as enumerated in the enclosed Annexure 'A' and 'B' as Safety Categories in supersession of the above letters. Accordingly no relaxation be allowed in prescribed qualifications, period of service and guideline adopted for notifying the posts as Safety Categories are as under :-

- (i) The classification into Safety Categories should be restricted to Open Line (Operating and Maintenance Staff) and Loco/Diesel/Electric Sheds and Work Shops dealing with repair and should not cover production units ;
- (ii) The Staff should be directly connected with safety in train operation ;
- (iii) The staff should, for most part of the time, be working independently ;
- (iv) Entire category, irrespective of the various grades available in that category, should be classified as Safety Category i.e. Station Masters/A.S.Ms. etc of all ranks are included in the category of SM/ASM ;



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- (v) It should be restricted to class III and IV posts only ;
(vi) Only Important Inspecting Officials should be deemed to belong to Safety Categories, the staff will be required to put in a minimum of 2 years of service in each grade before promotion to higher grade.

Hindi Version will follow.

Sd/- D.D. Aggrawal

Joint Director Establishment, Railway Board.



To Director General,
RDSO/Lucknow,
226011.

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(AUS)

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Sir,

I have been promoted against a non- fortuitious vacancy of ADE/W-IV (Class-II, gazetted (Tech.) reserved for Scheduled Tribe, and I have since completed more than 18 months continuos service on the post.

If the administration fills that, I could not reach to that standard for Class-II, I may be imparted in-service training and guide me to improve my knowledge in the matters of procedures and in any field wherever the administration concider to be diffi-
cient in term of Board's orders.

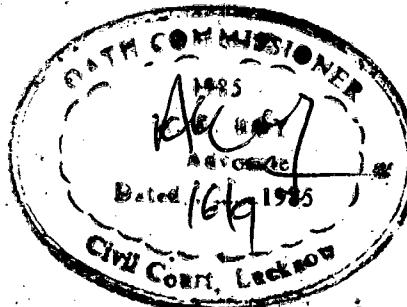
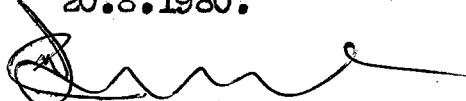
Thanking you,

Yours faithfully,

Sd/- (J.M. Tudu)

ADE/W-IV.

Dated, Lucknow,
20.8.1980.



Annexure (12)

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North Eastern Railway

No.E/210/0(Con).

Office of the General

All District Officer

Manager (Permanent)

All Assistant Officer in independent
charge,

Branch, Gorakhpur.

All Permanent Officer

Dated: 21.1.1966.

N.E.Railway.

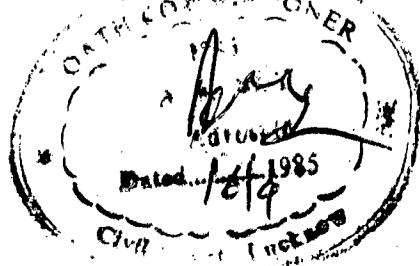
Sub : Reversion of employee officiating in higher
grades.

Attention is invited to this office's confidential letter
No.E/232/7 dt. 23.6.1964 vide which instructions were issued lay-
ing down the procedure to be followed in matter of reversion of
employees officiating in higher grades. The position has been
further revised and the instructions contained in the paragraphs
which follow are issued in supercession of the instructions issued
vide letter No. E/232/7 dt. 23.6.1964.

2. As per Board's directions contained in their letter No.
E(D&A)6 1RC6-30 dt.30.11.61, efforts are to be made to confirm
staff officiating in higher grades in clear vacancies, if they
are found suitable, after trial over a reasonable period not
exceeding 18 months. It is however observed that in practice no
proper system is being followed in this respect, with the result
that staff continue to officiate in higher grades for long peri-
ods and in several cases staff who have officiated for a number
of years have been reverted on account of inefficient working.
Such reversion are contrary to the extent orders.

3. With a view to ensure that a proper assessment of the
working of staff officiating in higher grades, is made and action
to revert such employees, as are found to be unsatisfactory in
work in the higher grades, is taken in time, the following
procedure is being introduced for strict compliance by all
concerned.

Surve



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4. Whenever an employee is out to officiate in a higher post which may be a selection post or a non-selection post, his immediate superior should sent an assessment report as soon as the employee has completed 3 months officiating period to the authority who had ordered the promotion. In the case of an unsatisfactory report a warning letter should also be issued to the employee and in which instances of his failure should be pointed out to him. A similar further report should be prepared 3 months later i.e. at the end of 6 months officiating period and sent to the authority who had ordered the promotion. If this report is also unsatisfactory the employee concerned may be reverted with the personnel sanction of a senior scales officer in the case of Class IV employee and of a Head of Department in the case of Class III employee.

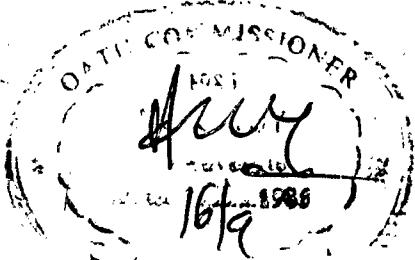
5. If an employee is reverted after 6 months due to his unsuitability it is to be assumed that either his record of service was not consulted at the time of ordering his promotion or if consulted it did not give a correct assessment of his abilities. This aspect also should be examined by the authority ordering the reversion in every such case.

6. When an employee is reverted for inefficient working from a selection post, his name will be automatically deleted from the panel. For repromotion he will have to appear before a selection Board afresh. Where an employee is reverted for inefficiency from a non selection post, his case should be revised at intervals of six months and if he is considered fit for promotion, he should be repromoted against next vacancy.

7. In terms of Board's letter No.E(D&A)65 R06-24 dated 9.6.65 circulated under this office letter No.E/VII/232/7(CON) dt. 30.6.65 any person who is permitted to officiate beyond

.....3/-

Samuel



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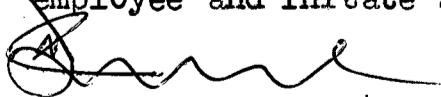
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18 months must not be reverted for unsatisfactory work without following the procedure prescribed in the Discipline and Appeal Rules.

8. A question may be raised whether this safe guard applies to person who are officiating in promotion as a stop gap measure and not after empanelment (in the case of selection posts) and after passing the suitability test (in the case of non selection posts). It is clarified that the safeguard applies to only to those employees who have acquires prescriptive right to the officiating posts by virtue of their empanelment or having been declared suitable by the competent authorities. It does not apply to those officiating on promotion as a stop gap measure and also to those cases where an employee duly selected has to be reverted after a lapse of 18 months because of cancellation of selection Board proceedings or due to a change in the panel position consequent to rectification of mistake in seniority etc.

9. Since no officiating individual whose working is unsatisfactory could have been allowed to continue beyond 18 months except under very special circumstances, confirmation must be made after two years officiating period has been completed subject to permanent post being available for the purposes. In the case of staff with satisfactory reports, confirmation against available vacancies can be ordered after one year. If it is proposed to defer the confirmation of an individual after 2 years General Manager's prior sanction should be obtained.

10. The assessment reports referred to above should be marked 'Confidential' and a proper record kept of those communication. The Establishment selection should watch the case each employee and initiate action when the employee completes 3 months



....4/-



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of officiating period by putting up a note to the executive officer for the purpose.

11. The above procedure should also be followed in the case of Class III employees promoted to officiate in Class II in their case, the assessment report should be sent to the Head of Department and where an officer has been reported on adversely the papers should be put up to the General Manager for his information and orders.

12. Please acknowledge receipt.



Sd/-
For General Manager.



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Annexure-(13)

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW DIVISION BENCH.

C.M.R. NO. 12703 (V) of 1989

In re

5562
Writ Petition No. 6968 of 1989

B.N.Lal Applicant/Petitioner

vs vs

The Union of India & others... Opp-Parties

Lucknow dated: 11.11.1989

Hon'ble D.S. Jha

Hon'ble L.C.J. Suresh J.

Issue notice.

Two weeks time as prayed for by the Learned standing counsel appearing for opposite parties now to 3 is allowed to file a counter affidavit serving a copy of the same outside the court on the learned counsel for the petitioner who may, if he so desires file a rejoinder affidavit within a further period of four days. List this application for further order thereafter.

TRUE COPY
R.P. 14/11/83
for Section Officer

Copying Department:
High Court; Lucknow Bench,
LUCKNOW

In the meantime the reversion order contained in Writ Petition No. 6 to the writ petition shall remain stayed.

(34)

Annexure - 13

IN THE HONOURABLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW BENCH, LUCKNOW

C.M.A.No.12702(W) of 1983

In Re.

Writ Petition No.5962 of 1983

B.N.Lal

... Applicant/Petitioner

Versus

The Union of India and others

... Opposite Parties

Lucknow, dated 11.11.1983

Hon'ble D.N.Jha, J.

Hon'ble R.C.Deo Sharma, J.

Issue notice.

Two weeks time as prayed for by the learned Standing Counsel appearing for Opposite Parties No.1 to 3 is allowed to file a counter affidavit serving a copy of the same outside the court on the learned counsel for the Petitioner who may, if he so chooses, file a rejoinder affidavit within a further period of four days. List this application for further orders thereafter.

In the meantime the reversion order contained in Annexure No.6 to the Writ Petition shall remain stayed.

Sd: D.N.Jha

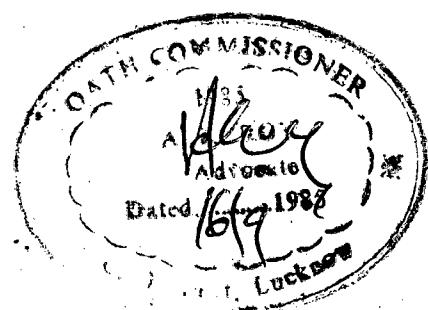
Sd: R.C.Deo Sharma

Round
Seal

True Copy

Sd: Illigible
14.11.83

for Section Officer
Copying Department
High Court, Lucknow Bench
Lucknow.



Annexure — (14)

(25)

Government of India
Ministry of Railways
Research Designs and Standards Organisation

No. E II/SLN/0/C1. II/Tech/Mech

Manak Nagar, Lucknow, 226011

Dated : 27.4.1984.

MEMORANDUM

With reference to his application dated 12.1.84 requesting for his regularisation in class II (Tech) in terms of Railway Board's letter No. E(NG)I-82-PML.204 dated 27.6.83, Shri J.M. Tudu, ADE/W (Adhoc) is informed that since he has not come through a regular selection and is working only on adhoc basis, the Board's instructions contained in the above letter are not applicable in his case.

Sd/-

(S. Bhatia)

for Director General.

Shri J.M. Tudu.

ADE/Wagon (adhoc)

RDSO/Lucknow.





Annexure - (15)

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The Director General,
R.D.S.O., Manak Nagar,
Lucknow.

Sir,

With reference to your letter No.E-II/SLN/0/Cl.II/Tech./Mech. dated 27.4.1984, I draw your kind attention to para 2 of Railway Board's letter No.E(DGA)65 RG6-24 dated 09.06.1965, read with para 2 of Board's letter No.E(NG)I-82-PML-204 dated 27.6.1983 wherein it has been confirmed by the Railway Board that all those officiating on higher posts irrespective of the facts whether selected or not selected they should only be reverted through D & A proceeding, if any, otherwise they are deemed to be confirmed on their officiating post after 18 months continuous officiating on the higher post.

Accordingly, your decision are based on wrong footings and need be revised and my confirmation orders on the present officiating post be issued early. If necessary, Board's approval to my confirmation against a non-fortuitous vacancy reserved for ST railway servant be obtained in terms of the letters aforesaid.

I may be communicated your decision as early as possible. I may also be given an opportunity to hear my claim before any adverse action is proposed against my continuing officiating.

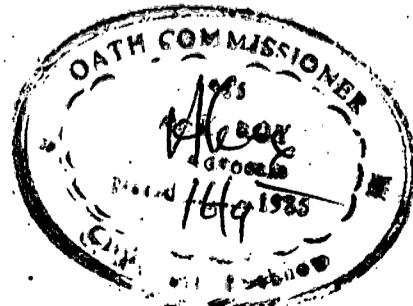
Thanking you,

Yours faithfully,

Lucknow,

Dated: 25.12.1984.

Sd: J.M.Tudu
Asstt.Design Engineer(W.IV)



Annexure — (16)

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Copy of Railway Board's letter No. E(SOT)70CM15/10 dated 29th April 1970.

Sub : Reservation for Scheduled Castes and Scheduled Tribes-Revised rosters to give effect to the increased percentages of reservation.

Ref : Board's letter of even number dated 20th April
1970.

The model roster for reservations of vacancies for Scheduled Castes and Scheduled Tribes filled by direct recruitment on all India basis by open competition and also for post filled otherwise than by open competition were circulated to Railways vide Board's letter No. E(SCT)64CM15/1 dated 16th January, 1964. Consequent on the Government's decision to increase the percentages of reservation for Scheduled Castes and Scheduled Tribes is communicated in Board's letter of even number dated 20th April 1970, the roster have been revised and the revised rosters are enclosed as Annexure I & II.

For posts filled by promotion where reservation has been provided for Scheduled Castes and Scheduled Tribes, the roster prescribed in Annexure I is to be followed.

Vacancies filled on or after 25th March 1970, should be shown in the roster be opened in the forms now prescribed unless selection for filling recruitment/promotion vacancies were made prior to 25th March 1970. The existing roster should be deemed to have been discontinued from that date. The unfilled reservation, if any, in the existing rosters should be carried over to the new rosters.

Carl



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ANNEXURE I

Model Roster for posts filled by direct recruitment on All India basis by open competition.

<u>Point in The Roster</u>	<u>Whether unreserved or reserved.</u>	<u>Point in the Roster</u>	<u>Whether unreserved or reserved.</u>
1	Scheduled Caste	21	Unreserved
2	Unreserved	22	Scheduled Castes
3	Unreserved	23	Unreserved
4	Scheduled Tribe	24	Unreserved
5	Unreserved	25	Unreserved
6	Unreserved	26	Unreserved
7	Unreserved	27	Unreserved
8	Scheduled Caste	28	Scheduled Castes
9	Unreserved	29	Unreserved
10	Unreserved	30	Unreserved
11	Unreserved	31	Scheduled Tribe
12	Unreserved	32	Unreserved
13	Unreserved	33	Unreserved
14	Scheduled Caste	34	Unreserved
15	Unreserved	35	Unreserved
16	Unreserved	36	Scheduled Caste
17	Scheduled Tribe	37	Unreserved
18	Unreserved	38	Unreserved
19	Unreserved	39	Unreserved
20	Unreserved	40	Unreserved

.....3/-

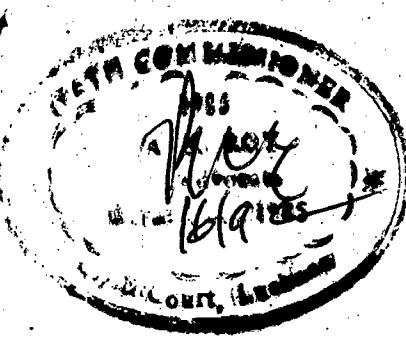
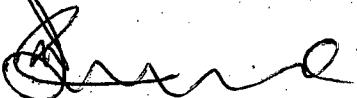


(39)

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- 3 -

Note :- If there are only two vacancies to be filled in particular year, not more than one may be treated as reserved and if there be only one vacancy, it should be treated as unreserved. If on this account, a reserved point is treated as unreserved the reservation may be carried forward to the subsequent three recruitment years.



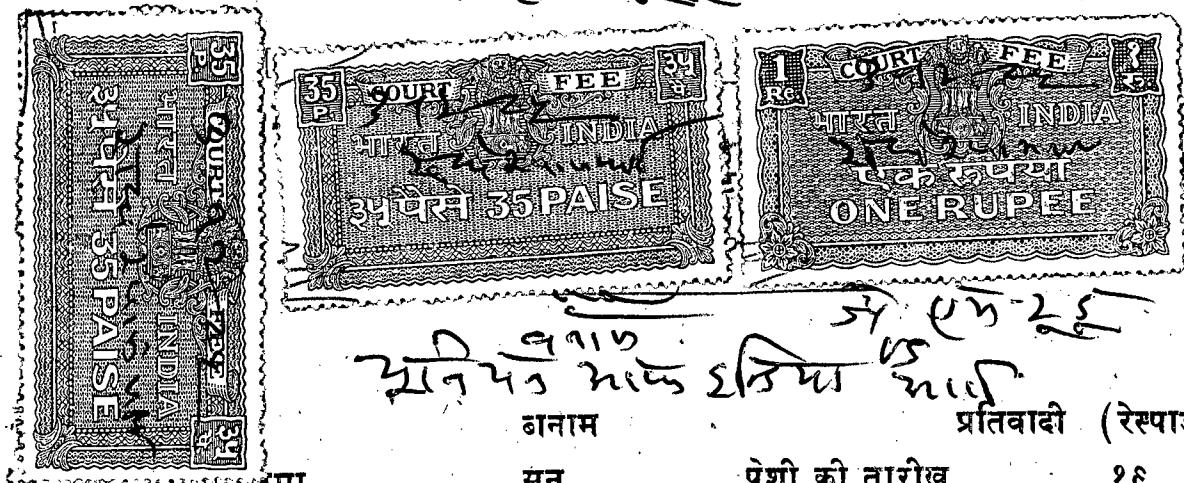
बा अदालत श्रीमान
प्रादी] अपीलान्ट

भूति इति ल १९८८

महोदय

१९८८

जे ७५२६ का वकालतनामा



को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा से वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रूपया वसूल करें या या सुलहनामा व इकलाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रूपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें - वकील महोदय दारा की गयी वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने पैशेकार को भेजता रहूँगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिसमेदारी मेरे वकील पर नहीं होगी इसलिये यह वकालतनामा लिख दिया ताकि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

J. M. T. 80

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

३

महीना

८२

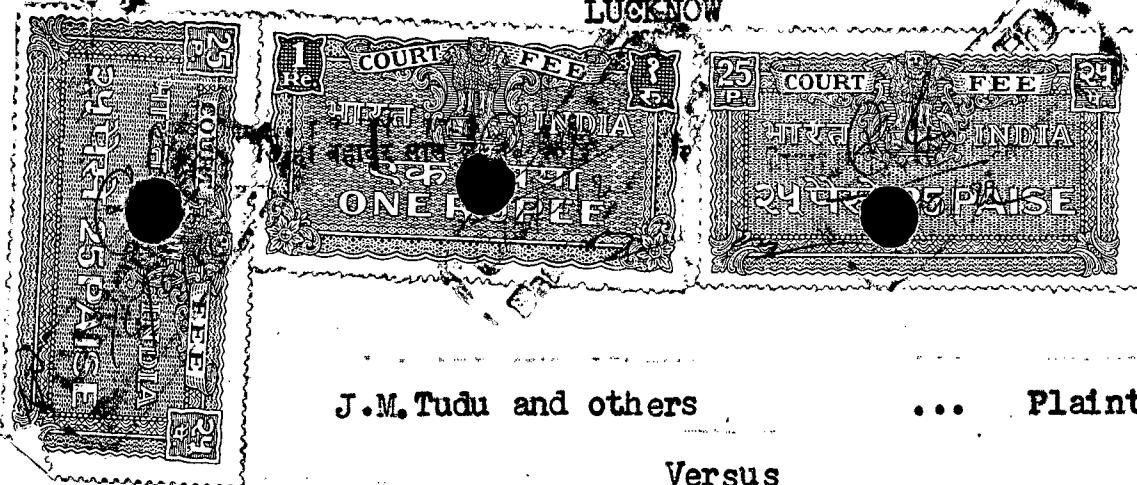
सन १९८८ ई०

स्वीकृत

Rey Sh. Heng
Anand
3/11/88

IN THE HONOURABLE COURT OF MUNSIFF HAVELI,
LUCKNOW

40
80
19
116
- 7



J. M. Tudu and others ... Plaintiff

Versus

Union of India and others ... Defendants

32/50
Date
10/3/80

Application under Section 80(2) C. P. C.
for leave to file injunction prayer without
Notice to the Defendants.

The Plaintiff has been continuously working
as Assistant Design Engineer (Class II Gazetted) in the
Research Designs & Standards Organisation (briefly R.D.
S.O.) with effect from 27.1.1979 Forenoon. Till date
the Plaintiff No.1 has since officiated on the abovesaid
post for the total period of six years seven months and
nineteen days.

2. In accordance with Statutory rules made by
the Railway Board as contained in their letter No. E(D&A)
65 RG6-24 dated 09.6.1965, the Plaintiff No.1 has since
accrued entitlement to his confirmation to the post he
held in the officiating capacity for the period in excess
of 18 months continuously. The Plaintiff could not be
reverted from his officiating post of Assistant Design
Engineer (Gazetted) (Class II) without following the pro-
cedure prescribed in the Discipline and Appeal Rules.

3. The Plaintiff No.1 had been representing to
the competent authorities for issuing the formal orders

....2



7/6
2
61

of his regularisation, the last being dated 25.12.1984
which is still pending with the Defendants.

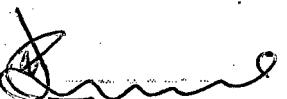
4. That the Defendants deliberately delaying in taking a favourable decision for the issuance of the formal orders of regularisation in accordance with the valid rules made by the Railway Board.
5. That the Plaintiff No.1 had proceeded on sanctioned leave from 02.09.1985 to 06-09-1985 on health grounds, which has been extended till his recovery or till he joins his duties after recovery. He has come to know from some reliable sources on 05-06-1985 that the Defendants were considering to revert him from his officiating post of Assistant Design Engineer(Gazetted) (Class II) without following the procedure prescribed in the Discipline and Appeal Rules.
6. That the Plaintiff No.1 while continuing on leave on health grounds came to know about the conspiracy of the Defendants Nos.2 & 3 about his reversion on 04-09-1985 from some retrospective date, against which the Plaintiffs are filing the Suit for a Declaration that the Plaintiff No.1's reversion without following the procedure prescribed in the Discipline and Appeal Rules is illegal and also for issuance of restraints on the Defendants from reverting the Plaintiff No.1 from his officiating post and also to maintain the status *que-ante* to 02-09-1985.
7. That there is no time for giving the notice under Section 80 C.P.C. and in case the Plaintiff waits for 60 days notice period the claim would be defeated and he would be met with serious injury which can not be made good afterwards.



....3

Wherefore it is most respectfully prayed that
the Plaintiff applicant may kindly be exempted from giving
notice under Section 80 Civil Procedure Code to the
Defendants and leave be granted to file this Declaratory
Suit and injunction application without notice.

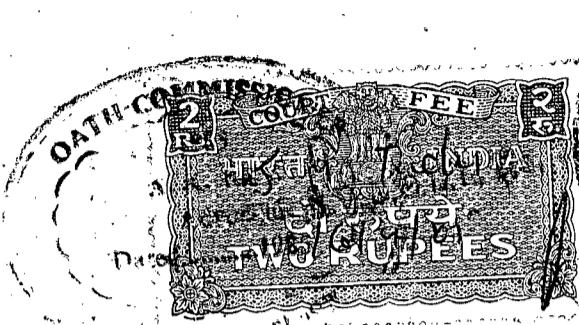
Lucknow,

 Plaintiff

Dated: 16.09.1985



IN THE HONOURABLE COURT OF MUNSIFF HAVELI,
LUCKNOW



J.M.Tudu and another

... Plaintiff

Versus

Union of India and others

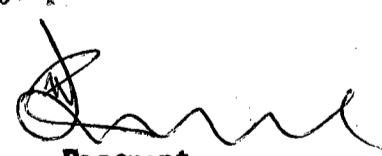
... Defendants

AFFIDAVIT

I, J.M.Tudu, aged about 48 years, son of late
Shri N.C.Tudu, resident of Qr.No.B-172/3, Manak Nagar, Police
Station Krishna Nagar, Lucknow-226011 do hereby solemnly
affirm and state as under :-

- That the deponent is the Plaintiff in the aforesaid
Suit and is fully conversant with the facts and the legal portion
of the case.
- That the contents of paragraphs 1-33 of the Plaintiff
are true to my personal knowledge.

LUCKNOW,
Dated 16-9-1985



Deponent

VERIFICATION

I, the above named deponent do hereby verify

....2

that the contents of paragraphs 1-9, 11&12, 14, 19-23, 25-30 are true to my knowledge and those paragraphs 10, 13, 16-18, 24, 31-33 are believed to be true. Nothing material has been concealed and no part of it is false. So help me God.

Signed and verified this 16th day of September, 1985
inside the Court Compound at Lucknow.

Lucknow,

Dated: 16-9-1985

Deponent

I identify the deponent who has signed before me.

(D.C.Rai)
(D.C.Rai)
Advocate

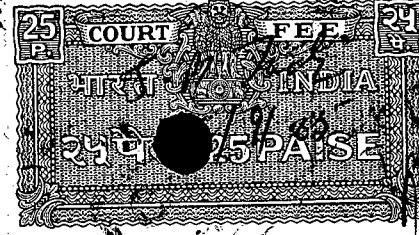
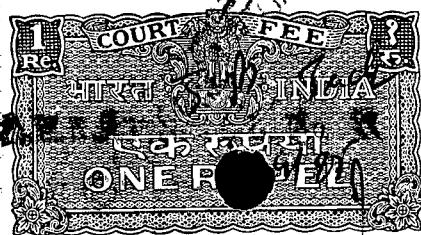


Solemnly affirmed before me in Office to day
at 10 A.M. by J. M. Tindler
who is known to me
Clerk. D. C. Har.

I am enabled to do so by examining the deposition which he made to the contents of this affidavit which has been read out and explained by the Sheriff of Rs. 1/- 50/-

AC Day
A. K. Kumar Roy
Commissioner
Civil Court, Lucknow
16/9

21 70 (15) 1/5
IN THE HONOURABLE COURT OF MUNSIFF HAVELI,
LUCKNOW



J. M. Tudu

----- Plaintiff

Versus

Union of India and others

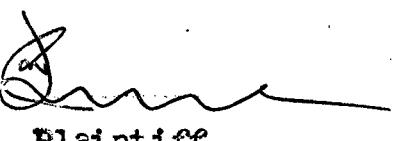
----- Defendants

Application under Order 39 Rule 1 & 2 CPC

*8/2/85
J.M.Tudu
26/8/85*
The Plaintiff in the above noted case with due
respect beg to submit that on the basis of facts ~~known~~
and circumstances stated in the accompanying Plaintiff and
also in the Affidavit, the Plaintiff is going to suffer a
severe and irreparable loss in the case if the Hon'ble
Court does not intervene in the matter.

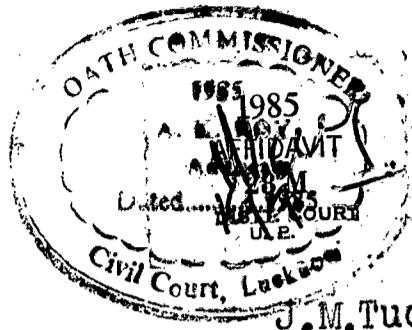
Wherefore it is most respectfully prayed that the
Defendants be restrained by issue of an Order of restrain
reverting the Plaintiff No.1 from his officiating post of
Assistant Design Engineer(Gazetted)(Class II) of the R.D.S.O
and also an Order be issued in favour of the Plaintiff against
the Defendants to maintain the position as status-quo ante
to 02-09-1985 till the suit is decided by the Hon'ble Court
and/or during the pendency of this case.

Lucknow,
Dated: 16.09.1985


Plaintiff



In the Hon'ble Court of Munsif Haveli, Lucknow. 779
779
779



J.M.Tudu..... Plaintiff.

versus

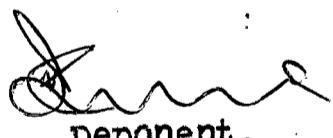
Union of India & Others..... Defendants.

Affidavit
in support of application u/Order 39 Rule 1 & 2 CPC.

I, J.M.Tudu, aged about 48 years, son of late Shri M.C.Tudu, resident of Qr.No.B-172/3, Nanak Nagar, Police Station Krishna Nagar, Lucknow-226011 do hereby solemnly affirm and state on oath as under:-

1- That the deponent in the above noted case with due respects begs to submit that on the basis of facts and circumstances stated in the accompanying plaint and also in the affidavit, the deponent is going to suffer a severe and irreparable loss in the case if the Hon'ble Court does not intervene in the matter.

Lucknow, Dated.



Deponent.

16-9-1985.

verification.

solemnly affirmed before me in Office to day
... to day. by J. M. Tudu
... is identified by Sri D. C. Lohia. I, the abovenamed deponent do hereby verify
that the contents of para 1 are true to my own
knowledge.

Signed and verified this 16th day of

September 1985 in Civil Court compound at Lucknow.
Ayudh L. Lohia
Oath Commissioner
Civil Court, Lko.



Deponent.

I identify the deponent
who has signed before me.

Advocate. 16/9/85

व अदालत श्रीमान्

[वादी] अपीलान्ट
श्री प्रतिवादी [रेस्पाइन्ट]

महोदय
In the Court of ~~Master~~ Hawali का वकालतनामा
Rueknew

J. M. Tuck
2 others.



श्री (अपीलान्ट)

Union of India 2
others.

बनाम

प्रतिवादी (रेस्पाइन्ट)

मुकदमा

सन्

पेशी की ता०

१६ ई०

अपने लिखे मुकदमा में अपनी ओर से श्री

अदालत न०
मुकदमा नाम
नाम फरीकेन्ट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और
लिखे देता हूं इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील
द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर 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 निग-
रानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और
तसदीक करें मुकदमा उठावें या कोई रुपया जमा करें या हारी
विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे
हस्ताक्षर युक्त (दस्तखती) रसीद से 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 मुकदमा 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

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

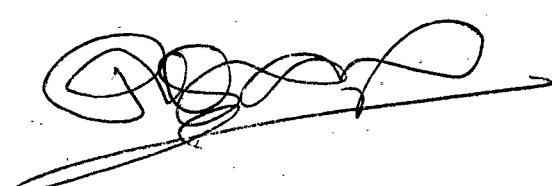
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महोना

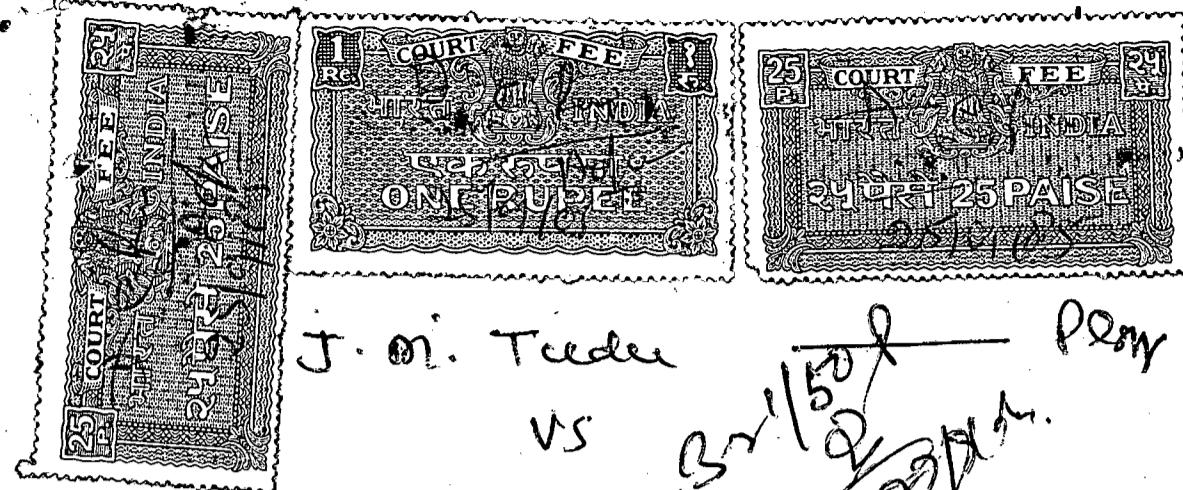
9

सन् १६ अगस्त १०

स्वीकृत



14/10/1965
In the Court of Small Causes



J. M. Tadee ~~Pls.~~ Pls.

vs ~~B. D. V. P. M.~~

wife of Dada's Laius — Laius.

Rs. 00 —

Pl. 16/10/65 - W.S.

27/10/65 - Done.

The applicant begs to state as under:

That applicant J. M. Tadee has filed above noted suit for declaration and injunction and also moved these in application under Order 3 Rule 1 and 2 (R.C. and R.C. 6/10/65) this Hon'ble Court was pleased to pass an order in the matter and fixed 27/10/65 for disposal of the aforesaid application.

That the matter is urgent and it is expedient of the interest of justice this Hon'ble Court may be pleased to fix early date for disposal of the matter.

Other wise applicant will suffer irreparable loss and injury

wherefore it is most respectfully
Prayed that in the ends of
justice and circumstances stated
above this Hon'ble Court

10
51/1
A/20
Before the Hon'ble Court of Munsiff Hawali,

Lucknow

Civil Suit No. of 1985

1. J.M. Tudu, S/o Late Shri N.C. Tudu
Aged 48 years, R/o Qr. No. B-172/3,
Manak Nagar, Lucknow-226011

... Plaintiff

Versus

1. Union of India through
Director General, R.B.S.O.,
Manak Nagar, Lucknow-226011
and others.

... Defendants

The Plaintiff most respectfully prays as under :-

1. That he had instituted a Civil Suit against the 'Union of India and others' on 16.9.1985.
2. That the said Civil Suit has since been admitted by the Hon'ble Court.
3. That the Plaintiff also prayed for an order of Injunction on the same date. That matter was fixed for hearing and orders on 22.9.'85.
4. That on 22.9.'85 the Injunction matter was not heard, in lieu the same has now been fixed for hearing on 27.10.'85.
5. That the Plaintiff is suffering from his illegal reversion which ought to be restrained as status-quo-ante.
6. That the Plaintiff is a victim of malafide and subversion of statutory rules.
7. That the Plaintiff essentially needs an order of this Hon'ble Court to maintain the status as it were on the last working day, before his proceeding on leave on medical grounds.

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*Each day
had already
had a lot of
work
to do
and
he
was
not
able
to
do
it
properly*

512

Wherefore it is prayed that the matter of Injunction
be heard and an order be passed thereon at an earliest date.

Lucknow ;

Date : .10.1985.

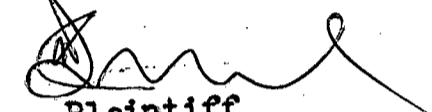

Plaintiff

Verification

I, the above named, verify the contents of Paras 1-7
to be true to his belief and personal knowledge.

Lucknow ;

Date : .10.1985.


Plaintiff

112

Before the Hon'ble Court of Munsiff Hawali,
Lucknow

Civil Suit No. of 1985.

1. J.M. Tudu, S/o Late Shri N.C. Tudu,
Aged 48 years, R/o Qr. No. B-172/3,
Manak Nagar, Lucknow-226011.Plaintiff

Versus

1. Union of India, through
Director General, R.D.S.O.,
Manak Nagar, Lucknow-226011
and others.Defendants.

The applicant, All India Scheduled Castes and Scheduled Tribes is the representative registered and recognised Association of the employees belonging to the Scheduled Castes and Scheduled Tribes Communities of the RDSO.

2. The applicant begs to state as under :-
(a) That the matters being agitated by J.M. Tudu Plaintiff in his suit pending before your Hon'ble Court is very important for both the Plaintiff and their Association.
(b) That the above mentioned applicant is equally concerned and interested in the same matter for protecting the rights and benefits of the Scheduled Castes and Scheduled Tribes employees of the R.D.S.O.

3. Wherefore it is prayed that the applicant be allowed to join the suit as intervenor as Proforma Plaintiff No.2 for

...2

defending the common interests of the Scheduled Castes and
Scheduled Tribes employees.

Lucknow;

Dated : 05.10.1985.


Applicant.

Verification

The contents of Paras 1-2 above are true to the
personal knowledge of the applicant.

Lucknow ;

Dated : 05.10.1985.


Applicant.

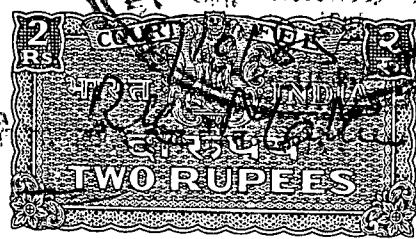
1985
AFFIDAVIT
96 M

DISPENSED
10TH COMMISSIONER

Before the Hon'ble Court of Munsiff Hawali,

Lucknow

Civil Suit No. of 1985



1. J.M. Tudu, S/o Late Shri N.C. Tudu,
Aged 48 years, R/o Qr. No. B-172/3,
Manak Nagar, Lucknow-226011 ...Plaintiff

Versus

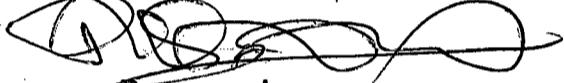
1. Union of India through
Director General, R.D.S.O.,
Manak Nagar, Lucknow-226011
and others. ...Defendants

A F F I D A V I T

I, R.K. Mallick, President, All India Scheduled Castes and Scheduled Tribes Railway Employees Association, R.D.S.O. Zone, aged about 46 years, R/o Qr. No. C-73/3, Manak Nagar, Lucknow-226011, do hereby solemnly affirms and state on oath as under :-

1. That Shri J.M. Tudu, Plaintiff, had officiated continuously for more than 18 months as per facts known to the deponent.
2. That in accordance with statutory rules made by the Railway Board, Shri Tudu can not be reverted without complying with the D&A proceedings.
3. That Shri Tudu has since accrued his permanency on the post of Asstt. Design Engineer in the Mechanical Engineering Department of the R.D. S.O.
4. That the reversion of Shri Tudu to lower post in malafide process, in violation of the statutory rules, is totally illegal.
5. That Status-quo-ante to the date of his proceeding on medical leave ought to be maintained in the interests of natural justice to the Plaintiff and the Scheduled Castes and Scheduled Tribes employees in the RDSO Services.
6. That Shri Tudu, a scheduled tribe candidate had been working against a post reserved for his community.

7. That filling up of that post by an unreserved candidate is totally illegal, and unconstitutional.
8. That the what Shri Tudu was holding before his proceeding on leave can not be filled by any body else, because he has since acquired his legal right to continue holding that post.
9. That the class interests of the entire reserved community employees employed in the R.D.S.O. consisting of the Scheduled castes and Scheduled tribes are under attack in violation of constitutional obligation and ought to be maintained by the Hon'ble Court as it were ante to the date of his proceeding on medical leave i.e. till the last date of his working.


Deponent

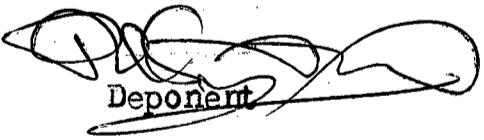
Lucknow,

Dated: 05-10-1985.

VERIFICATION

The above named deponent do hereby verify that the contents of paras 1 to 9 of the affidavit are true to the best of his knowledge and the statutory rules made by the Railway Board from time to time.

Signed on the 5th day of October, 1985 in the Court compound at Lucknow.

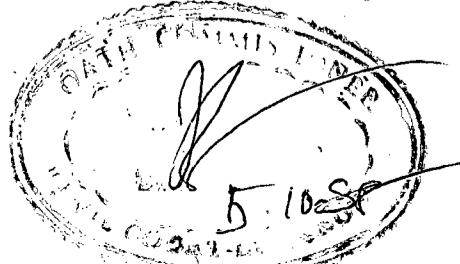

Deponent

Lucknow,

Dated: 05-10-1985.

96 M
30 A.M by R. K. Mallick
who is identified by Shri
Derk [Signature]

I declare myself by examining the
deponent that he understands the contents of
his affidavit which has been read out and
explained to him at Rs. Rs. 1.00



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W. G. E.

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John S. Smith

GIGS

~~1881~~
31/10/81

141 14/35

11. 98. 80-1928 out 6/14/2000

दिल्ली अध्यक्ष-सिद्धार्थ श. नाना

411

12/12/12

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2011-02-20-02

Granted

6/11/10

X/2

✓ 2

✓ *Johnson*

090-228. Gours do not mate with
D and 099-20-22

✓ 11/10

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1/2

John

~~over 10-20% beyond your initial 300.00
and a 2nd 10-20%~~

✓ WTP

14-10-88

हेतु संदर्भित करने की सूचना । साधारण प्रारूप 16/10/88

कानूनी कानूनी स्थान ज़िला
न्यायालय

वाद सं०

५५। सन १६८८ ई०

१०० रुपये

J.M. Tukdar & others

वादी

बनाम

Union of India & Others

प्रतिवादी

16/10/88

चूंकि उपरोक्त नामांकित

ने इस न्यायालय में यह आवेदन किया है कि

अल्लाहुअख्य आपको एतददारा चेतवनी दी जाती है कि आप इस आवेदन के खिलाफ हेतु संदर्भित करने के लिए 16/10/88

के दिवस को बजे पूर्वान्ह में स्वयं वा सम्यक रूपेश अनुष्ठित अपने

'अधिवक्ता दारा उपसंजाता हुं और ऐसा करने में असफल रहने

पर उसके आवेदन एक पक्षीय रूप सुना जायेगा और अवधारित किया जायेगा ।

मेरे हस्ताक्षर और न्यायालय की मुद्रा सहित आज दिनांक

१६८ के दिवस को लिखाई गई । 16/10/88

मुद्रा सहित
लिखाई गई

To, Union of India through
Diocesan General R.D.S.O.

Manak Nagar न्यायालय

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

WRITTEN STATEMENT IN THE MATTER OF T.A.No.833/86(T)
arising out of the application No. 441/85 filed by
J.M.Tudu in the Court of District Judge/Lucknow.

Between

J.M.Tudu

Applicant/Petitioner

Versus

Union of India and others ...

Respondents

.....

I, S.Bhatia S/O Late Sh.U.C.Bhatia, aged
about 53 years, resident of C-77/2 Manaknagar,
Lucknow, do hereby solemnly affirm and state as
under:-

1. that the Deponent is the Deputy Director
(Establishment-I) in Research, Designs and Standards
Organisation, Lucknow and as such, he is fully
competent to affirm the contents of this written
statement.
2. that the Deponent has read and understood
the contents of the Petition and he is well
acquainted with the facts and circumstances of
the case deposed below.
3. that the answering respondents have been
advised to traverse and/or deal with the allega-
tions which are relevant for the determination
of the issue involved in the aforesaid applica-
tion. The rest of the allegations made in the

S. BHATIA
Dy. Director (Estt. - I)
R. D. S. O. (Min. of Rlys)
Manak Nagar, Lucknow-226011

said application will be deemed to have not been admitted. The undersigned states that the instant application has got no cause of action and as such the said application will be liable to be dismissed with costs.

4. Without prejudice to the aforesaid objection the deponent craves leave to deal with the allegations as stated in the application.

5. That by way of brief background to the case, necessary facts are stated as under:-

(i) That Sh.J.M.Tudu, Sr.Design Asstt. in scale Rs.650-960(RS) was promoted as Asstt. Design Engineer(DV) in the Motive Power Directorate on purely temporary and ad hoc (long term) basis w.e.f. 27-1-79 against a reserved vacancy & subject to review of his performance, pending availability of duly selected/regular incumbent vide Officers Posting Order No.13 of 1979 (copy annexed as Annexure 1 of the application). Thereafter he was transferred from Motive Power Directorate to Wagon Design Directorate as the officers borne on both the Directorates form the same seniority group of Mechanical discipline. In order to make regular arrangements, a Class-II (Technical) departmental examination for Mechanical Department was originally proposed

in the same capacity


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during 1981 & 1983 vide Notice No. EII/SLN/0/C1.II/Tech/Mech dated 15-12-81 & 8-8-83 and finally held during 1984 wherein the petitioner appeared after taking pre-selection coaching along with other reserved community candidates; but he could not qualify himself even in the written test and therefore was reverted w.e.f. 3-9-85 on availability of a regular and duly selected person after making the reserved post dereserved with the approval of the competent authority viz. Ministry of Railways (Railway Board) vide Jt. Director(Estt. (R)-I, Railway Board's letter No.84-E(SCT)64/1 dated 29-12-84 (copy annexed at Annexure 2 of the written statement).

(ii) The petitioner filed a Civil Suit No.441 of 1985 in the Hon'ble Court of Munsif Hawali, Lucknow on 16-9-85 which has since been transferred to this Hon'ble Central Administrative Tribunal, Allahabad Bench vide T.A.No.833/86(T).

(iii) The petitioner has mainly contended that he should not be reverted, as he has already put in more than 18 months officiating service as Assistant Design Engineer in Class-II (Gazetted) service in terms of Railway Board's Confidential letter No.E(D&A)65RG6-24 dated 9-6-65 without following the procedure prescribed in the Discipline and Appeal Rules. This point was later on clarified ~~in~~ vide Railway Board's letter No.E(NG)I-82-PM1-204 dt. 27-6-83 inter alia

copy annexed as Annexure-4 of the application.

copy annexed at Annexure-5 of the application

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it is stated that such ad hoc promotees have to undergo selections and the staff who have officiated for more than 18 months after regular selections cannot be reverted without following the D&A proceedings but it is not applicable in respect of the petitioner who was promoted purely on ad hoc basis.

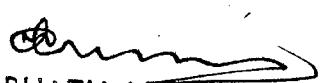
6. The contents of para 1 of the Petition need no comments.

7. That the contents of para 2 of the Petition need no comments.

8. That the contents of para 3 of the Petition need no comments except that he also worked as Asstt. Design Engineer in Wagon Directorate from 1-3-80 to 2-9-85 on the same terms and conditions as stipulated in the Officers Posting Order No.13 of 1979. It is admitted that he worked in Class II Gazetted post purely on ad hoc basis from 27-1-79 till 2-9-85.

9. That the contents of para 4 of the Petition need no comments except that the petitioner was promoted purely on ad hoc basis pending availability of duly selected/ regular incumbent.

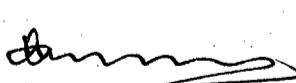
10. That in reply to the contents of para 5 of the Petition it is admitted that the


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Petitioner was posted as Asstt. Design Engineer/
Wagon vide Officers Posting Order No.39 of 1980,
copy of which has been annexed as Annexure-2 to
the Petition but it was on the same terms and
conditions as stipulated in Officers Posting Order
No.13 of 1979.

11. That the contents of para 6 of the Petition
need no comments except that the petitioner requested
for his regularisation vide his application dated
12-1-84 (copy at Annexure-7 of the Petition). Since
the promotion of the petitioner was made purely on
adhoc basis, he was not entitled for regularisation
against a selection post without going through the
process of selection and without getting selected
through the selection. The petitioner was apprised
of the position vide Memorandum No.EII/SLN/0/C1.II/
Tech./Mech. dt. 27-4-84 (copy at Annexure-14 of
the Petition).

12. That in reply to the contents of para 7 of
the Petition it is stated that the instructions
contained in Board's letters No.E(D&A)6-RG6-24
dated 9-6-65 and No.E(NG)L82-PM1-204 dt.27-6-83
(copies at Annexures 4 & 5 of the Petition respectively)
pertain to reversion of employees promoted on
regular basis and not to those who have been promoted
on ad hoc basis as already clarified vide Para 5(iii)
above.


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The position was advised to the petitioner vide Memorandum dated 27-4-84 & 31-7-84/1-8-84 (copy at Annexures 8 & 14 of the Petition).

13. That in reply to the contents of para 8 of the Petition, it is stated that the Petitioner continued to officiate in Class II against a reserved vacancy on purely temporary and ad hoc long term basis subject to the availability of the duly selected/regular candidate for the post. Since the Petitioner failed to qualify himself in the selection held in June 84 for the Class II post and the duly selected candidate was available after the selection, the question to continue him in Class II post ~~does~~ ^{did} not arise. So far as the promotion of the Petitioner against reserved vacancy is concerned, it is submitted that had he passed the selection & placed in the panel he would have been promoted on regular basis against the reserved vacancy.

14. That in reply to the contents of para 9

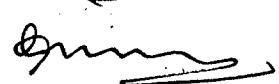
Signature
(S: BHATIA)
Dy. Director (Estt. - I)
R. D. S. O. (Min. of Rlys)
Manak Nagar, Lucknow-226011

of the Petition, it may be mentioned that as already stated above, the Petitioner was promoted purely on ad hoc basis and pending availability of duly selected/regular incumbents and since he could not come up in the selection, he had to be reverted by terminating the ad hoc arrangements. Therefore, Railway Board's orders contained in their letter No.E(D&A)65 RG6-24 dated 9-6-65 and letter No.E(NG)I-82-PM1-204 (copies at Annexures 4 & 5 of the application) & dt. 22-6-83 are applicable only in those cases where the ~~conditions~~ have been promoted on a regular basis. The petitioner had to be reverted because he was continuing purely on ad hoc basis pending availability of the selected candidate. He was also given a chance to appear in the regular selection but he could not qualify in the same and had to be reverted.

15. That in reply to para 10 of the Petition it is stated that since his promotion was made purely on ad hoc basis, subject to the replacement by the regular candidate, he had no claim for the regular post.

16. That the contents of para 11 of the Petition need no comments.

17. That in reply to para 12 of the Petition, the position is not denied except that it is admitted that he was promoted against a reserved vacancy for Scheduled Tribe candidate and he was

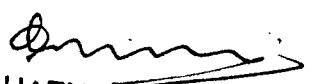

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Dy. Director (Estt. - 1)
R. D. S. O. (Min. of Rlys)
1anak Nagar, Lucknow-226011

given proper chance to appear in the selection but since he could not come up in the selection, the post had to be dereserved with the approval of Railway Board vide Board's letter No.84E(SCT)/64/1 dated 29-12-84 (copy annexed as Annexure A-1).

18. That in reply to the contents of para 13 of the Petition, it is submitted that since the Petitioner could not come up in the regular selection and there was no other candidate in the field, Railway Board had to be approached for the dereservation of posts which they approved vide their letter No.84E(SCT)64/1 dated 29-12-84. (annexed as Annexure A-1). As such, the action of the Respondent to dereserve the vacancy is fully legal, as all the laid down procedures for dereservation have been properly followed and approval of the competent authority was obtained. As such the contention of the Petitioner that the dereservation was done on some fictitious and baseless grounds is totally incorrect.

19. That the contents of paras 14 & 15 of the Petition do not call for any comments ~~as these~~ being matter^s of record.

20. That in reply to the contents of para 16 of the Petition it is submitted that the allegations made therein are totally false and baseless as the Hon'ble Court will observe that the Petitioner was given proper chance^s to appear in the examination


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in which he failed and then only the post was got dereserved.

21. That the contents of paras 17 & 18 of the Petition are denied as baseless in view of the averments made in this written statement. The petitioner's increment at the stage of Efficiency Bar Rs.1000/- in scale Rs.650-30-740-35-810-EB-880-40-1000-EB-40-1200 during 1983 was not granted because of his having not been found fit based on Confidential Reports in terms of Director General's orders of 6-2-83 (copy annexed as Annexure-2). The petitioner was reverted due to the fact that he could not qualify himself in the selection even after getting pre-selection coaching. He was imparted pre-selection coaching in terms of letters No.EII/SLN/0/C1.II/Tech/Mech of 28-9-83 and No.JDRM/SI/Misc. of 15-10-83, 26-5-84 (a copy of each annexed as Annexures A-3, A-4 & A-4/I).

22. That in reply to the contents of para 19 of the Petition, it is stated that the promotion of the Petitioner, though against a vacancy reserved for Scheduled Tribe candidate, was purely on temporary and ad hoc long term basis subject to availability of the selected candidate and review of performance after six months. The Petitioner, who appeared in selection for Class II post in June, 84 could

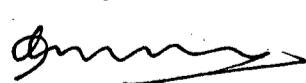

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not qualify in the written test and therefore was reverted on availability of the selected candidate. Even though the vacancies were regular, Shri Tudu was promoted in the first instance only on ad hoc basis against point reserved for ST pending selection which could not be held for some time due to the administrative reasons. Ad hoc promotion does not confer any right for regularisation against a selection post. Shri Tudu was very well aware of this and as such he did appear in the selection, held in June, 1984 but he failed to qualify himself in the test.

23. That the contents of para 20 of the Petition are denied. It is wrong on the part of the Petitioner to say that he was not imparted any training or coaching. In fact, the Petitioner along with other reserved community candidates was imparted the pre-selection coaching before the selection as per extant orders of the Govt. as will be seen from letters dt. 28-9-83, 15-10-83, 26-5-84 as Annexures A-3, A-4 and A-4/I, to this written statement.

24. That the contents of para 21 of the petition need/

25. As regards the contents of paras 22 & 23 of the Petition, it is stated that Board's letter No. E(NG) L-75-PMI/44 dated 31-5-82 (copy annexed at Annexure-11 of the Petition) pertains to non-gazetted posts on the Indian Railways and is not relevant in this case as this being the matter of gazetted posts. As per Railway


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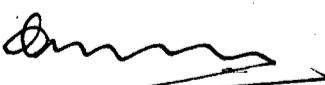
Board's orders contained in their letter No.81E (SCD/15/26 dated 23-3-81 (copy annexed at Annexure-A6), all Group 'B' posts in Civil Engg., Mechanical Engg., Signalling & Telecommunications, Electrical Engineering & in the Transportation (Traffic) Departments of Indian Railways have been classified as 'safety categories'.

26. As regards para 24 of the petition, this office has correctly followed the procedure for getting the post dereserved as the petitioner who belongs to ST community could not qualify in the selection.

27. As regards para 25 of the Petition, it is submitted that as stated above the contention of the Petitioner that by virtue of his working against the adhoc post of Asstt. Design Engineer, he becomes regular cannot be accepted unless he qualified himself in the regular selection.

28. That as regards the contents of para 26 of the petition, it is submitted that all Group 'B' posts in Civil, Mechanical, Electrical, and Signal & Telecommunication Departments & Transportation (Traffic) Department of Indian Railways have been classified as safety category.

29. As regards para 27 of the Petition, it is stated that the reply is covered by para 12 of this written statement.


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Dy. Director (Estt. - I)
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30. As regards para 28 of the petition, it is admitted that since the Petitioner was a Scheduled Tribe candidate, due consideration was given to him and before he appeared in the selection, pre-selection coaching and guidance as provided in the rules were provided to him as per Annexures A-3, A-4 and ~~A-4/I~~ of this written statement. There is no rule that reserved community candidates are to be promoted on regular basis without their being qualified in the selections.

31. That the contents of para 29 of the petition need no comments as the position regarding ad hoc promotion has already been explained in the preceding paragraphs.

32. As regards para 30 of the Petition, it is stated that the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow in Writ Petition No.5962 of 1983 - B.N.Lal Vs. Union of India and others, had granted the stay order and this had been opposed in the same Court as Shri Lal was also promoted in Class II post on ad hoc basis. It may be mentioned that in a similar case of Shri N.C.Dutta in Writ Petition No.6362/83 the Hon'ble Court, however, did not give the stay order. Both the Writ Petitions are pending before the Hon'ble High Court. Shri B.N.Lal has however since expired.

33. That in reply to the contents of paras 31 & 32 of the petition, it is stated that the Petitioner had


(S. BHATIA)
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1anak Nagar, Lucknow-226011

already been reverted to a Class III non-gazetted post w.e.f. 3-9-85 and as such there exists no cause of action and the instant suit is liable to be dismissed.

34. That in reply to para 33 of the petition it is stated that the instant suit is undervalued and the court fee paid is inadequate.

35. That in reply to the contents of para 34 of the petition it is stated that there had been no illegality committed by the answering Respondents in the instant case and the petitioner has been rightly, legally and as per extant rules reverted and as such he is not entitled for any reliefs claimed and the instant suit is liable to be dismissed.

VERIFICATION

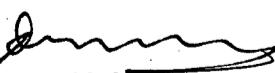
I, S.Bhatia, do hereby verify that the contents of paras 1 and 2 of this reply are true to my personal knowledge and those of paragraphs Nos 3 to 33

of this reply are based from the perusal of the relevant records of the case which all I believe to be true that no part of it is false and nothing material has been concealed in it. So help me God.

Land those of
paras 34 & 35
are based on the
advice of the
Advocate

10th July
Dated: June 1987.

Deponent


(S. BHATIA)
Dy. Director (Estt. - I)
R. D. S. O. (Min. of Rlys)
1anak Nagar, Lucknow-226011

GOVERNMENT OF INDIA MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No.84-E(SCT)64/1

Ne w Delhi, dt.29. 12.84.

The Director General,
R.D.S.O.
L, cknow.

Sub: Dereservation of one vacancy in the category of ADE ARE,AIE,EIE(M echanical)Engin eer) in scale R s-650-1200(RS) reserved for Sch.Tribe.

Ref: Sr.Dy.Director General's D.O.No.DG/ORG/OA dated 13.9.84 to Addl.Director,Estt.(R)Railway Board.

....

The Ministry of Railways in consultation with the Deptt. of personnel & A.R. have agreed to the dereservatinnof one vacancy in the category of ADE/ARE/AIE/EIE(Mechanical Enginee Class II in scale Rs.650-01200(RS)

(S. BHATTIA)

DA/Nil

Dy. Director (Estt. - I) *DA* Sd/-Felix Kullu
R. D. S. O. (Min. of Rlys) Jt. Director,Estt.(R)I
Manak Nagar, Lucknow-226011 Railw ay Board.

Answered A-2

from pre-page

Discussed with Dr.DY.DG. In terms of the Railway Board's letter of 1.2.79, the class II officers in RDSO are to be allowed to cross the 1st & 2nd Efficiency Bar, in the scale of pay Rs.650-1200 applicable to them by screening their CRs by the Director concerned and DG, through circulation of papers.

8) F/C

✓/✓

2. In this case Sh.J.M.Tudu, ALU(M), is to cross the 2nd Efficiency Bar at the stage of Rs.1000/-, in the scale Rs.650-1200. DSO, the Director concerned has, however, not recommended Sh.Tudu to cross the bar. The observations on papers made by DF(M) after perusal of CRs of Sh.Tudu are as under:

"CRs seen. He is not yet fit to cross the efficiency bar."

DG may kindly see before Sh.Tudu is advised of the position.



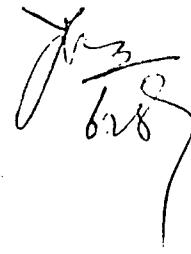
(B.R.Sharma)

DD(Estt-II) Encl

02-02-83

Mr.DY.DG

DG



DFA Please

✓/20/83

6

24/2/83

DD/E-II
E-II/2


(S. BHATIA)
Dy. Director (Estt. - 1)
R. D. S. O. (Min. of Rlys)
Banak Nagar, Lucknow-226011

Annexure A³

5422

Government of India
Ministry of Railways
Research Design and Standards Organisation

No. EII/SLN/0/Ct.II/Tech/Mech

Manak Nagar, Lucknow-11
Dt. 28.9.83

Sub: Pre-Selection coaching to the reserved
Community candidates for cl.II selection
in the Mech.Engg. Deptt. of RDSO.

Ref: Staff Notice No. EII/SLN/0/Ct.II/Tech/Mech
dt. 8.8.83.

In continuation of this office note of even no.
dated 14.9.83 on the above subject, pre-selection coaching
in respect of "General Engineering-Mechanical" will be
imparted as per following programme:-

Sl. No.	Name of the officer imparting coaching	Subject	Date
1.	Shri K.K.Gupta, JDMP	Mathematics	1.10.83 3.10.83
2.	Shri D.L.Nagpal, JDMP	Thermo-dynamics and Heat Engines	4.10.83 5.10.83
3.	Shri Pradeep Kumar, JDSW	Applied Mechanics and Strength of Materials	6.10.83 7.10.83
4.	Shri P.K.Gupta, JDS/C-II	Workshop Techno- logy and Metallurgy	10.10.83 11.10.83
5.	Shri C.M.Dutta, JDRM	Theory of Machines and Machine Design	12.10.83 13.10.83

Suggested reading material- Subject-wise is indicated

i) Mathematics

- Integral Calculus
- Differential Calculus } by Gorakh
Prasad
- Algebra } by Hall &
Knight

ii) Thermodynamics

- Applied Heat Engines
- Thermo Dynamics } by CS Lewitt
- Thermo Dynamics & } by Van Wylen
- Heat Engines } by F.L.
Milianey

iii) Applied Mechanics
and Strength of
Materials

- Statics &
Dynamics } by S.L.Loni
- Strength of
Materials } by Ramarutham
by Pukku
- Strength of
Materials } by Agnihotri

Theory of
Machines

by Jagdish Lal

- iv) Workshop Techno- Workshop Technology } by WAJ Chapman
logy & Metallurgy
- v) Theory of Machines & Theory of Machines & } by Hevan
Machine Designs Designs

1. The coaching will be conducted in L2 Room, Vehicle Section, Motive Power Directorate, RDSO, LKO.
2. The candidates should report in the room by 10-15 hrs. on the dates indicated above.
3. The candidates may come prepared after reading standard text books on the subject and also the suggested reading material, to make best use of coaching.

DA/Nil.

28/9/83
(K.K.Soni)

for Director General.

Distribution

DR, DS/MP, DS/Carr, DSW, Addl. Dir/Res. Mech., D(ED), Jt. Dir. Stds/MP-I/C
Dr. P. Moudgill, JDS/WD
Sh. K. K. Gupta, JDS/MP
Sh. D. L. Nagpal, JDS/MP
Sh. Pradeep Kumar, JDS/W
Sh. P. K. Gupta, JDS/Carr-II
Sh. C. M. Dutta, JDR/M-SI
Sh. K. K. Soni, DD/Estt-I

Copy to:-

1. S/Sh. DK Saha, CRA/M-Offg. ARE/M on adhoc basis.
2. " KL Nirwan, CDA/MP-Offg. ADE/Carr on adhoc basis.
3. " DS Arya, CDA/Carr
4. " Tilak Raj, CDA/Carr
5. " Hardev Singh, CDA/MP-Offg. ADE/MP on adhoc basis.
6. " JM Tudu, CDA/MP -do- ADE/W - do-
7. " Than Singh, CDA/RM
8. " Om Prakash, CDA/MP
9. " BS Dab, CDA/W
10. " RN Haldar, CDA/MP
11. " RK Gamit, CDA/MP
12. " Dargahi, SRA/M

Received for all

28.9.

Copy to:-

- Regrd
A.D.
1. GM/CLW, Chittaranjan (with one spare copy) for information of Shri B. P. Das, IRSME officer working at CLW/Chittaranjan
 2. GM, South Eastern Railway, Garden Reach, Calcutta (with one spare copy) for the information of Shri Kishan Swarup, IRSME Probationary officer
 3. The Secretary Railway Board, New Delhi (with one spare copy) for information of Shri N. K. Mallah, Field Inspector (Fuel Consumption) Mech. Dte. Railway Board, New Delhi.

DA/Nil.

28/9/83
(K.K.Soni)
for Director General

(S. BHATIA)
Dy. Director (Estt. - 1)
R. D. S. O. (Min. of Rlys)
Manak Nagar, Lucknow-226011

*1165
20/10*

Research Mechanical (SI)

X/10

No. JDRM/SI/Misc.

15-10-1983

Sub: Pre-selection coaching to the reserved community candidates for Cl. II selection in the Mech. Engg. Deptt. of RDSO.

Ref: No. EII/SLN/0/Cl. II/Tech/Mech.
dt. 14-9-1983.

In reference to the above, this is to certify that pre-selection coaching in respect of Theory of Machines and Machine Design was given to the reserved community candidates on 12th and 13th October 1983. The following candidates were present on these two dates.

12-10-1983

S/Shri

1. K. L. Nirwan
2. R. N. Haldar
3. Than Singh
4. Hardev Singh
5. Tilak Raj
6. D. K. Saha
7. N. K. Mallah
8. R. K. Gomit
9. Om Prakash
10. D. S. Arya
11. Dargahi
12. J. M. Tudu

13-10-1983

S/Shri

1. K. L. Nirwan
2. R. N. Haldar
3. Than Singh
4. Hardev Singh
5. Tilak Raj
6. D. K. Saha
7. N. K. Mallah
8. R. K. Gomit
9. Om Prakash

Chander
15/10
(C. M. Dutta)
Jt. Director Res. Mech. (SI)

DD/E-II

S. BHATIA
Dy. Director (Estt. - I)
R. D. S. O. (Min. of Rlys)
1anak Nagar, Lucknow-226011

Amrapur
B-47 47/1

Hydro Power Directorate

Note No. SD-STAFF. 4

Dt. 26.5.1984

Sub: Pre-Selection coaching to the reserved community candidates for class XI selection in the Hydro Engg. Deptt. of R.D.S.O.

Ref: DG/RDSO's Note No. PTI/SLI/0/
CL.II/Tech./Tech. dt. 26.9.83.

The following officers/staff of Hydro Engg. Deptt. of RDSO may please certify that the necessary pre-selection coaching in Mathematics as required inter-
view the above DG/RDSO's note has been imparted to them by Shri K.K. Gupta, Jt. Director Stds. (MP).
X/61

S/ Shri
B. K. K. Gupta, M.A.,
for M. Tech. sub. Deo Arya, CDM/MP Offg. as ADE/Carr.
S/ Shri 3. Tilak Raj, CDM/Carr.
Mr. Hardev Singh, CDM/MP Offg. as ADE/MP
S/ Shri J. M. Tudu, CDM/MP Offg. as ADE/Wagon.

Dr. Kishen Kumar
Jt. Director Stds. (MP) I/C

(S. BHATIA)
Dy. Director (Estt. - I)
R. D. S. O. (Min. of Rlys)
Banak Nagar, Lucknow-226011

Annexure A5
X/2
Railway Board's letter No. 83-E(SCT)23/1 dated 19th September 1983.

Sub : Ad hoc promotions pending consideration of cases of Scheduled Castes and Scheduled Tribes employees in—

A copy of Ministry of Home Affairs, D. O. P. & A. R.'s O. M. No. 36011/14/83-E(SCT) dated 30th April 1983 on the above quoted subject is sent herewith for information and guidance. Instructions issued by the Ministry of Railways *vide* their letter No. B(SCT)68CM15/12 dated 10th December 1971 already provide reservations for Scheduled Caste and Scheduled Tribe employees in *ad hoc* promotions, lasting for 45 days or more pending selection/suitability tests. However, the above instructions of the Ministry of Home Affairs have made the following qualitative changes:—

(1) When the number of Scheduled Caste/Scheduled Tribe candidates found fit are less even after considering the additional Scheduled Caste/Scheduled Tribe candidates by going down the seniority list than the number of vacancies reserved for them, in case formal de-reservation by the competent authority is not made before the post is filled up by others on *ad hoc* basis.

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(2) No formal roster register is required for *ad hoc* promotions pending selections/suitability tests. However, a register called the *ad hoc* promotions register is required and maintained for the different categories of posts for which *ad hoc* appointments are made to facilitate the record being kept of *ad hoc* appointments. For the above instructions of the D.G. the record of *ad hoc* promotions should also be kept in the roster register for regular promotions as per the practice followed S. E. Railway circulated to the Divisions *vide* their letter No. P/RP/SCT/Roster dated 15th January 1977 (copy enclosed).

(3) At the time of regular promotions, reversions of *ad hoc* appointees should take place strictly in the reverse order of seniority. No special concessions are to be given to Scheduled Caste/Scheduled Tribe candidates at the time of such reversions.

(4) Consideration of additional Scheduled Caste/Scheduled Tribe candidates by going down the seniority list will be applicable only when *ad hoc* arrangements are being made for more than 45 days. To this extent instructions issued so far on the subject should be treated as modified.

Dy. L. I. (E.S.I.)
R. D. S. C. (I. C. S. of Rlys.)
Manak Nagar, Lucknow-226011

Sub : Promotion of Scheduled Caste and Scheduled Tribe employees against reserved vacancies—In-service training to the best amongst the failed candidates.

Reference is invited to Board's letter of even number dated 19th June 1978 regarding *ad hoc* promotion of the best amongst the failed Scheduled Caste/Scheduled Tribe employees for a period of six months against the vacancies reserved for them for the purpose of imparting in-service training.

2. In para 2 of the above quoted letter, it was stated that the Board's instructions contained in their letters No. E(SCT)74CM 15/34 dated 31st August 1974 and 7th December 1976 would continue to apply in all categories of posts except in the 'Safety category' posts as enumerated in Board's letters No. E(NG)I-71PM1/161 dated 30th September 1974 and E(NG)I-75PM1/44 dated 4th August 1975. The Board have now decided that Group 'B' posts in the Civil Engineering, Mechanical Engineering, Signal and Tele-communications, Electrical Engineering and in the Transportation (Traffic) Departments should also come under the review of 'Safety category'. The scheme of promoting the best among failures will, therefore, not apply while filling the reserved vacancies in Group 'B' posts in these Departments. The scheme will however, continue to apply in all other Departments.

18A

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3. The cases of Scheduled Castes/Scheduled Tribe employees who have already been promoted on *ad hoc* basis for a period of six months under the above scheme against Group 'B' posts in the above mentioned Departments prior to the issue of this letter may be reviewed in accordance with the decision maintained in para 3 of Board's letter No. E(SCT)74CM15/34 dated 19th June 1978, namely, such candidates as have acquired the requisite degree of professional ability to work in safety posts, may be included in final panel/select list.

4. It has also been decided that the instruction issued *vide* Board's letter No. E(SCT)70CM15/9 dated 5th June 1973 to the effect that the cases of the reserved community candidates who were there in the zone of consideration but have not been empanelled for promotion to Group 'B' posts in the above mentioned 5 departments against reserved vacancies should be put up to the General Manager for review in cases where the reserved quota remains unfilled, should continue to be followed. While filling up reserved vacancies by general candidates involving de-reservation of reserved vacancies in posts in safety category, the General Managers, should satisfy themselves that the Scheduled Castes/Scheduled Tribes candidates were given the requisite amount of pre-promotion coaching as enjoined in Board's letter No. E(SCT)71CM15/40 dated 28th August 1971 and E(SCT)74CM15/1 dated 26th January 1974 enabling the Scheduled Castes/Scheduled Tribes employees to qualify for promotion and that in spite of that they could not qualify in the selection.

(A) Estt. - 1) E. of Rlys
know - 226
R. D. S. Nagarkar

X

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

Rejoinder to the statement submitted by correspondent
in Registration No.833(T) of 1986

Between

J.M. Tudu

.....

Applicant/Petitioner

Versus

Union of India and others

Respondents

....*

The applicant most respectfully beg to state
as under :-

1. That one Shri S. Bhatia said to be a DDE of the RDSO has filed the written statement with some unnecessary and irrelevant statements which are contained in para-1 to 5 of the written statement. Replies to his irrelevant statements are been given in view sentenced below :

Regarding his becoming fully competent to affirm the contents of his written statement is subject to of authority in his support and regarding his acquaintance with the facts of the case are denied in full. He not being dealing officer of the case of the applicant. Regarding having no cause of occassion in this application, he is misconception of the provision of law of this line and his contention regarding dealing with allegations in the application need no reply. Regarding reversion having not being qualified in the selection is a cooked fact and not material for continuation of the failed candidate for officiating. For example, the case of Shri M.S. Punchi ADE working in place of the applicant is a true example

in support of the claim of the applicant that Shri Punchi despite his failing in the test is being continued to officiate on the same post which the applicant had held. Remaining ~~xxx~~ other contentions of the said Shri Bhatia are all irrelevant, manufactured storey and prejudicial and also aimed to shield their mistries in reverting the applicant.

2. That the ~~xxx~~respondant Shri Bhatia in Para 6 & 7 of the written statement had admitted the contentions of Paras 1 & 2 of the application. However, the claims of the applicant in Paras 1 and 2 are reiterated.

3. That the contentions of the respondent in Para 8 of the written statement against Para 3 of the application that the applicant had been promoted on same terms and conditions as stipulated in ~~S.P.O.~~ No.13 of 1979 is wrong. The facts will be explained during the argument. However, the respondent have admitted the fact that the applicant had continue to work in class II gazetted post from ~~27.1.79~~ till 2.9.85.

4. That the contentions of the respondent in Para 9 of the written statement against Para 4 of the application, are denied. The claims of the applicant in para 4 of his application are reiterated.

5. That the contentions of the respondent in Para 10, & 12 of the written statement against para 5,6 & 7 are refuted in full and the claims of the applicant in para 5,6 & 7 of his application are reiterated.

6. That the contentions of the respondent in Para 13 of the written statement against para 8 of the application are denied in full and the claims of the applicant in para 8 of his application are reiterated.

7. That the contentions of the respondent in Para 14 of the written statement against Para 9 of the application are denied in full and the claims of the applicant in para 9 of his application are reaffirmed.
8. That the contentions of the respondent in Para 15 of the written statement against Para 10 of the application are denied in full and claims of the applicant in Para 10 of his application are re-affirmed. It is further added that applicant was promoted ~~as~~ initially on adhoc ~~next~~ basis against a long term bacancy reserved for ST community. As no suitable ST candidate was available, the applicant should have been continue till availability of a suitable selected ST candidate.
9. That the respondent have admitted claims of the applicant in Para 11 of his application vide para 16 of the written statement.
10. That the correspondant have admitted the claims of the applicant in Para 2 of his application vide para 17 of the written statement that the applicant have been promoted against a vacancy reserved for ST community.. Rest of the contentions about the applicant not claimed up in the selection is irrelevant because failing in the selection is no constraint for his continuation on adhoc basis against a reserved vacancy for the ST community to which the applicant failing on the same ground, enlarging, and precedents in the case of Shri M.S. Punchi aforesaid.
11. That the contentions of the respondent in Para 18 of the written statement against para 13 of the application are denied in full and the claims of the applicant in para 13 of his application are re-affirmed.

- X6X
12. That the respondent have admitted the claims of the applicant in paras 14 & 15 of his application vide para 19 of the written statement.
13. That the contentions of the respondent in Para 20 of the written statement against para 16 of the application are denied in full. The claims of the applicant in para 16 of his application are re-affirmed.
14. That contentions of respondent in Para 21 & 23 of the written statement regarding claims of the applicant in Para 17, ¹⁸ 19, & 20 of his application are denied in full. The contentions of Para 17, 18, 19 & 20 of the application are re-affirmed.
15. That the respondent have admitted the claim of the applicant in Para 21 of his application, hence no further comments.
16. That the contentions of the respondent in Para 22 and 23 of the written statement are denied in full. claims of the applicant in Paras 22 & 23 are re-affirmed. In support of the claim of the applicant, a copy of D.O. letter No. E(NG) I-86 PM 7/24 dated 8.7.86 is attached herewith as Annexure 17.
17. That the contentions of the respondent in Paras 26-27 of the written statement against paras 24 and 25 of the application are denied in full and claims of the applicant in paras 24 to 25 of his application are re-affirmed
18. That the contentions of the respondent in para 28 of the written statement against para 26 of the application are denied in full.
19. The contentions of the applicant in Para 26 of his application is re-affirmed. In this respect the contentions of the applicant against para 25 of the W.S. above may also be seen
- Omniel*

20. That the respondent has stated in para 29 of the W.S. against para 27 of the application that the reply in para 12 of the W.S. covers. Accordingly the comments of the applicant in respect of para 7 of his application also apply in toto.

21. That the contentions of the application in Para 30 and 31 of the W.S. against paras 28 & 29 of the application are denied in full and claims of the applicant in para 28& 29 of his application are re-affirmed.

21. That the contentions of the respondent in para 32 of the W.S. are denied in full and the contentions of the applicant in para 30 of his application are reiterated.

22. All the contentions of the respondents in para 33 to 35 of the W.S. against paras 31 to 34 of the application are all denied in full and the statement in para 31 to 34 of the application are reiterated and re-affirmed.

LUCKNOW

Dated


APPLICANT

GOVERNMENT OF INDIA (BHARAT SARKAR)
MINISTRY OF TRANSPORT (PARIVAHAN MANTRALAYA)
DEPARTMENT OF RAILWAYS (RAIL VIBHAG)
(RAILWAY BOARD)

K. B. LALL
J.T. DIRECTOR, ESTT. (N).

D.O.NO.E.(NG) I-86 PM 7/24

NEW DELHI, DATED: 8.7.86

My dear Aggarwal,

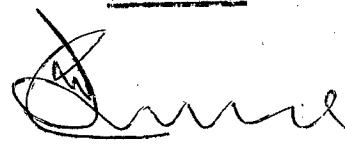
Sub:-Categories of posts as safety posts in RDSO.

Please refer to your D.O. Letter No. E-II/EST/I/DAA dated February, 1986 on the above subject.

2. In terms of guidelines laid down for classifying posts as "safety categories", only those posts can be classified as belonging to "safety categories" which are directly concerned with the train movements. Classification into safety categories is to be restricted to open line, sheds and workshops only. The posts in RDSO do not fall in these categories. The RDSO's proposal, has not, therefore been agreed to by the Board.

Yours sincerely,
Sd/-
(K. B. LALL)

Shri N.K. Aggarwal,
Dy. Director General,
Research Designs & Standards Organisation,
Lucknow.



A
110

CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD.

* * * * *

Misc. (Restoration) Application No. 3B/86(T)
(dated 8.12.1986)

in

Registration T.A.No. 833 of 1986.

J.M. Indu vs. . . . Union of India and others.

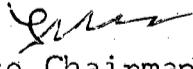
Hon'ble Justice Shri S.Zaheer Hasan, Vice Chairman.

Hon'ble Shri Ajay Johri, Member (A).

(Delivered by Hon.S.Zaheer Hasan, V.C.)

This is an application for setting aside the order of dismissal passed on 1.12.1986, on the ground that applicant's counsel was busy in High Court and he could not reach the Tribunal in time. There is no counter version.

Heard learned counsel for the parties. The cause shown is sufficient. This application is allowed. The order dated 1.12.1986 is recalled and the case is restored to its original number.


Vice Chairman.


Member (A).

February 11, 1987.

R.Pr. /

(15)

XII
Misc. Appln 3B/86(T)

B.G.
4/12/86

In the Central Administrative Tribunal,
Mumbai Bench, Mumbai.

Civil Misc. Restoration Application No. of 1986

in
Registration Case No. 833(T) of 1986

J.M. Indu..... applicant
versus

U.O.T. (R.D.S.O) and others..... Respondents.

To,

The Hon'ble Bench of the aforesaid court.

The humble petition of the applicant council
most respectfully showeth :

1. That the aforesaid case was listed on 1.12.1986 in the court no. 1, was dismissed in Default by Hon'ble S. Zahoor & A. John (S) A.R.
2. That the counsel for the applicant was engaged on 1.12.86 for full day in the Hon'ble High court and as such he could not reach the Hon'ble Central Administrative Tribunal on that day.
3. That the Hon'ble Bench of court no. 1 dismissed the aforesaid case in default on that day.

Arhat Khan Jiwani

8/12

2.

PRAYER

It is therefore most respectfully prayed that this Hon'ble tribunal court may be pleased to ~~cancel~~ ^{restore} the abovementioned registration Case no. 833 of 1986 J.M.Indu vs. Union of India (R.D.S.O.) and restore the same on its original number, and ^{fix} ~~fix~~ an early date.

Arsh Kumar Jaiswal

(A.K. Jaiswal)

Counsel for the applicant.

Arsh Kumar Jaiswal

B/13

In the Central Administrative Tribunal,
Aizabad Bench, Aizabad.

.....

Civil Misc. Restoration Application No. of 1986

in
Registration Case No. 833(T) of 1986

J.M. India applicant
versus
U.O.I. (R.D.S.O) and others respondents.

To,

The Hon'ble Bench of the aforesaid court.

The humble petition of the applicant council
most respectfully showeth :

1. That the abovenoted case was listed on 1.12.1986 in the court no.1, by Hon'ble S. Zahoor Hasan & Hon'ble A. John, was dismissed by Default.
2. That the counsel for the applicant was engaged on 1.12.86 for full day in the Hon'ble High court and as such he could not reach the Hon'ble Central Administrative Tribunal on that day.
3. That the Hon'ble Bench of court no.1 dismissed the abovenoted case in default on that day.

Ashok Kumar Jaiswal

PRAYER

It is therefore most respectfully prayed
that this Hon'ble tribunal court may be pleased to
~~concern~~ ^{restore} the abovenoted registration Case no.
833 of 1986 J.M.India vs. Union of India(R. D. S. O.)
and restore the same on its original number, ^{and} ~~and~~
~~fixed an early date~~ ^{and}

Arshdeep Kumar Joshi
(A.K. Jaiswal)

Counsel for the applicant.

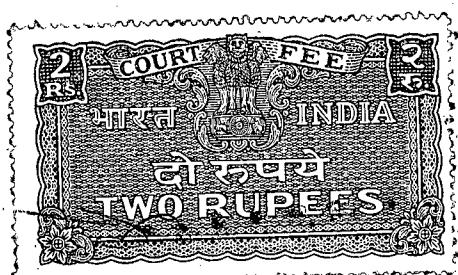
BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW.

C.M. An. No. 22/1988 (C) (Restoration)

On

Registration T.A. No. 833 of 1986 (I)



J. M. Tudu and others Applicants

Versus

Union of India and others Respondents

A F F I D A V I T

*Note for
22/4/88
22/4/88*
I, J. M. Tudu, son of late Sri N. C. Tudu, aged about 52 years, resident of 3/9, Vivek Khand, Gumti Nagar, Lucknow, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the applicant in the above said case and as such is well acquainted with the facts of the case hereinafter deposed.
2. That the deponent had applied before the Hon'ble Central Administrative Tribunal, Allahabad, on 8.3.1988 for kindly transferring his case number aforesaid.
3. That the various grounds necessitated for transfer of the case at Lucknow was described at length in his application aforesaid.
4. That as per procedure the deponent was

due to have an intimation from the Central Administrative Tribunal as regard to the orders passed by the Hon'ble C.A.T. on his application for transfer before the C.A.T. Lucknow Bench.

5. That the deponent so far has not received any communication from the C.A.T. about the decision on his application aforesaid. It is learnt from a communication of his earlier Advocate engaged in this case at Allahabad that the case was fixed for 28.10.1988 at Lucknow without any intimation to the deponent about the decision passed on his application for transferring the case to the Circuit Bench of the C.A.T. at Lucknow.

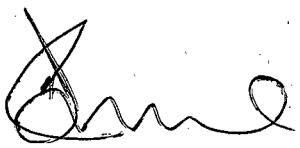
6. That it has also been learnt from his earlier Advocate that the case been heard ex parte and dismissed the same in default.

7. That as the deponent had no intimation of the date fixed for his case on 28.10.1988 at Lucknow the deponent could not attend the Hon'ble Tribunal on the specific date for due actions.

8. That as the case been dismissed in his absence without any intimation and hearing the deponent in this case, it is prayed that the be kindly restored to its original position and the same be decided on its merits, for natural justice to the deponent, otherwise the deponent will face with enormous and irreparable loss.

Lucknow:Dated:

Nov. 1988

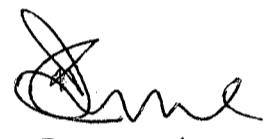

Deponent

VERIFICATION

I, the above named deponent do hereby verify
that the contents of paras 1 to 7 of this affidavit
are true to my personal knowledge and belief. No
part of it is false and nothing material has been
concealed in it. So help me God.

Lucknow:Dated:

Nov. 1988



Deponent

I identify the deponent who
has signed before me.

Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Circuit ALLAHABAD BENCH Lucknow

88-A, THORN HILL ROAD, ALLAHABAD

Gandhi Bhawan!!!!!! Lucknow.

NO. CAT/ALLD/JUD/32713 to 714

DATED _____

T.A.NO. 033 OF 1986 (T)

J. M. Tudu & others

Applicants'

VERSUS

Union of India & ors. R.D.S.O.

Respondents'

① J. M. Tudu, S/o Late Sri N. C. Tudu,
T/o R/o Cex. No: B-172/3, Manak Nagar
Lucknow.

WHEREAS the marginally noted case has been transferred by
D. J. Lucknow under the provision of the Administrative
Tribunal Act (No. 13 of 1985) and registered in this Tribunal
as above.

O.S. No. 441-85

Writ Petition No. _____

OF 19 of the
Court of Mumtiz Lucknow
arising out of order dated
passed by _____
in _____

The Tribunal has fixed date
of 23.9. 1988. The hearing
of the matter.

If no appearance is
made on your behalf by your
some one duly authorised to
act and plead on your behalf

the matter will be heard and decided in your absence.

GIVEN UNDER my hand seal of the Tribunal this 1st
day of September 1988.

② Sri A. V. Srivastava, Govt Advocate.
73, New Bairahana
Allahabad.

J. M. Tudu
DEPUTY REGISTRAR

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE
TRIBUNAL, CIRCUIT BENCH, LUCKNOW

Registration (IA) No. 833 of 1986 (I)

J. M. Tudu & another

Applicants

Versus

Union of India and others

Respondents

APPLICATION FOR TRANSFER OF THIS CASE
XXXXXX FOR HEARING BY THE
CIRCUIT BENCH, LUCKNOW

The applicant most respectfully begs to submit the following for favour of kind consideration of the Hon'ble Tribunal and passing of orders for transfer of this case before the Circuit Bench, C.A.T., Lucknow :-

1. That the applicants are employed in the Research Designs & Standards Organisation (hereinafter called in brief as 'RDSO') situated at Lucknow.
2. That the Respondents in this application are also from Lucknow and both the applicants and the Respondents have to attend the hearing from Lucknow to Allahabad in every hearing.
3. That every time the applicants have to spend minimum Rs. 100/- for pursuing his case in the C.A.T./Allahabad for justice. This monthly additional expenditure on the part of the applicants have become unbearable, and besides the above he has no accommodation there at Allahabad and thus have to spend in Railway Station.
4. That as both the parties are from Lucknow and the C.A.T. has established a Circuit Bench at Lucknow, the applicants and the Respondents both can pursue their cases before this additional Bench at Lucknow conveniently without any expenditure and trouble of any type.

A/20

5. That this case has also not been ripe for final hearing
as the same is at the stage of Written Statement only.

6. That the applicants come from poor families and educationally and economically backward section of the Society and therefore it would be convenient and economical for the applicants to pursue their cases at Lucknow for all purposes.

Wherefore it is prayed to the C.A.T., Allahabad, to be pleased enough to kindly pass their favourable orders for transfer of this case before the Circuit Bench of C.A.T. at Lucknow for which acts of their kindness the applicants would remain ever thankful.

 8/8/88

(J.M. Tudu)
APPLICANT

Allahabad,
Dated: 08-8-1988

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

23-A, Thornhill Road, Allahabad 211 001

No. CAT/Alld/ 10041 - 6/6

Dated 22/8/86

In re

Registration No.

833

of 1986 (T)

J. M. Thakur

APPLICANT

Versus

U.O.D. (R.P.S.O) Lucknow

RESPONDENTS

To

WHEREAS the marginally noted case has been transferred by _____
under the provisions of the Administrative Tribunals
Act (No. 13 of 1985) and registered in this Tribunal as above.

Case No. 461 of 1985
of the Court of _____
arising out of the order dated _____
passed by _____
in _____

and decided in your absence.

Given under my hand and the seal of the Tribunal this 5th day
of August 1986.

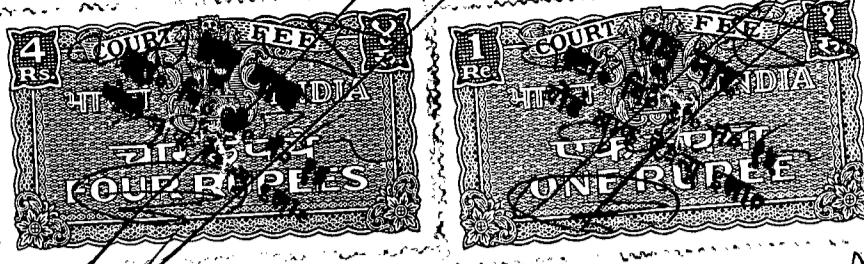
The Tribunal has fixed the date of 22/8/86
1986 for the hearing of the
matter.

If no appearance is made on your
behalf by yourself, your pleader or by
someone duly authorised to act and plead
on your behalf, the matter will be heard

DEPUTY REGISTRAR

P.T.O

%



In the Central Administrative Tribunal
अधिकारिक वकीलतनामा

हाईकोर्ट आफ जुडीके चर, इलाहाबाद

Petition No. 233

सन १९७६

J. M. Tudu

वादी प्रतिवादी
अधीकारिक वकील

U. O. J. (R. D. S. C.) & others वकालती

वादी प्रतिवादी
रेसान्डेन्ट

J. M. Tudu &/o Lato Sari N.

मै/हम कि

R.P. No. B-172/3 Manak Nagar
Lucknow

Sr. / Shok Kumar T. A. Sh. एडवक्ट हाईकोर्ट इलाहाबाद
श्री

को कानूनी निरिचित शुल्क (मेहनताना) नियंत करके अपना अभिभावक वकील (वकील) नियमत करना दूर्दृढ़ करते हैं। वह स्वीकार करता है/करते हैं कि उक्त सञ्जन हमारी ओर से वाद-पत्र (अजीदाबा), प्रति पत्र (विधान तद्वारी), वाद स्वीकार पत्र, विधाद पत्र पुनरुत्पादन एवं पुनर्निश्चय प्रार्थना पत्र (दरस्वा शापियक कथन (इलफनामा) प्रवन्नन पत्र (दरस्वामत इलराय) मूजवात अधील, निगमानी इत्य हर प्रकार के अन्य प्रार्थना वादि एवं लेखादि की प्रतिलिपियां अपने हस्ताक्षर करके न्यायालय में प्रस्तुत करे। अथवा किसी पत्र पर आवश्यकतानुसार शापियक पुस्टीकरण करे और आवश्यक सदाल जवाब करे और लेखादि की प्रतिलिपियां एवं हमारे प्रायधन को अपने हस्ताक्षारी पावती देकर प्राप्त करे। हमारी ओर संक्रिया को यध्य पत्र तथा साक्षी (गवाह) माने और उससे सम्बन्धित प्रार्थना-पत्र प्रस्तुत करे तथा उसका समर्थन करें तथा तसदीक करे, वाद-पत्र उठावे, छोड़े अथवा समौता करें तथा मुलहनामा दाखिल करे तथा उसके सम्बन्ध में प्रार्थना पत्र पर दाखिल करके उसका समर्थन करे। अर्थात् प्रकरण में सम्बन्ध रखने वाली कुल कार्यवाही डिप्पी भर पाई होने के समय तक स्वतः या संयुक्त करे। आवश्यकता होने पर किसी अन्य वकील महोदय को वकील करे।

उक्त सभी कार्यवाही जो उक्त सञ्जन करेंगे प्रत्येक दशा में अपने किये की भाँति हमको/मुमक्को स्वंधा स्वीकार होगी अगर मैं/हम कानूनी/निरिचित शुल्क उक्त सञ्जन को न दे दे तो उनका अस्विकार होगा कि वह हमारी ओर से मुकदमा की तैरवी न करे। उपरोक्त दशा में सञ्जन का कोई उत्तरदायित्वा न रहेगा।

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

वकालतनामा मन्त्रित है

तिथि

वाद

सं०

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(ALLAHABAD BENCH).

23-A, Thornhill Road, ALLAHABAD-211001

No. CAT/ALLD/ 15110-19

Dated: 23/12

In re

Misc. appl. ~~Registration~~ No. 3B of 1986 (T)

J.M. Tidy in Registration 833/06 (T)

APPLICANT

Union of India and another versus

RESPONDENTS

1^{to} Union of India through Director General RDSO
Manak Nagar Lucknow
2 - Director Standards (Wagon) RDSO Manak Nagar Lucknow

WHEREAS the marginally noted case has been transferred by DJ Lucknow under the provisions of the Administrative Tribunals Act (No.13 of 1985) and registered in this Tribunal as above.

OfS No. 441 of 1985
of the Court of DT Lucknow
arising out of the order dated _____
passed by _____
in _____

The Tribunal has fixed the date of 21st Jan 1987 for the hearing of the matter. By order

on your behalf, the matter will be heard and decided in your absence.

Given under my hand and seal of the Tribunal this 29th day
of December 1986.

Find:- A Copy of Restoration

MS
DEPUTY REGISTRAR.
James
321286

P/24

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration No. 833 of 1986 (T)

J.M.Tudu Plaintiff

Versus

Union of India & Others Defendants.

Hon.S.Zaheer Hasan, V.C.
Hon. Ajay Johri, A.M.

(By Hon.S.Zaheer Hasan, V.C.)

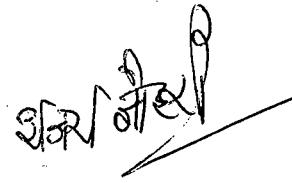
No one is present on behalf of the plaintiff.

Shri A.V.Srivastava for the respondents is present.

The application (Suit No. 441 of 1985) is dismissed
in default.



V.C.


Searched

A.M.

RKM

Dated the 1st Dec., 1986.

X/25

In the Hon'ble Central Administrative Tribunal
Additional Bench, Allahabad

Registration No.833 of 1986 (T)

J.M.Tudu

... Petitioner

Versus

Union of India and another

... Opp. Parties

Application for the supply of Paper Book

The Applicant (Contesting Opp. Parties in this case) hereby respectfully pray as under:

1. That a copy of the Hon'ble Tribunal's notice bearing No.CAT/ALLD/10043 dated 22-9-86 has been received by the Applicant on 24-9-86.
2. That prior to the transfer of case to Hon'ble Tribunal, the matter was in the court of Hon'ble District Judge, Lucknow as a regular suit No.441 of 1985.
3. That the Applicants are not aware & also have not received any notice, copy of the case from Petitioner or through Distt. Court regarding the admission and hearings on Regular Suit No.441 of 1985.
4. That on account of non-availability of the copy of case or paper book, the Respondents cannot file any reply.
5. The Hon'ble Tribunal, wherefore, are requested respectfully to direct the Petitioner to provide a copy of the case to the Respondents.

Despatch S.
MARY No.

Dt. 20/10/86

Dated: 20 -10-1986.

To

The Dy. Registrar,
Central Administrative Tribunal,
Additional Bench, Allahabad

Om 20/10/86
(S. Bhatia)
Dy. Director/Estt.-I
for Director General
(Applicant)

(S. Bhatia)
Dy Director (Estt I)
RSO Deptt of Ilys
Ministry of Transport
Manek Nagar, Lucknow-226011



Central Administrative Tribunal
बालतनामा

हाईकोर्ट ऑफ ज़दिकेवा एट इलाहाबाद

Case Regd. No. 833 CT इलाहाबाद

स्ट्रीपील नम्बर सन् १९८६

जिला

निगरानी

वादी/प्रतिवादी

J. M. Tuder

अपीलान्ट

वनाम

H. O. P. 458

वादी/प्रतिवादी

रेस्पान्डेन्ट

मैं कि J. M. Tuder & Sons H. C. Tuder & Sons

Virek Khand 3/9 Gomti Nagar Lucknow

उपरोक्त प्रकरण हम अपनो ओर के पक्ष समर्थन के हेतु

Sri G. C. GAHRANA
16 Moti Lal Nehru Road, Allahabad
एडवोकेट हाईकोर्ट

इलाहाबाद को कानूनी निश्चित शुल्क नियत करके अपना अभिभाषक नियुक्त करते हैं, और स्वीकार करते हैं कि उक्त सज्जन हमारी ओर से वाद-पत्र, प्रतिवाद-पत्र, वाद स्वीकार पत्र, विवाद-पत्र, पुनर्वलोकन एवं पुनःनिर्णय प्रार्थनापत्र शापथिक कथन प्रवर्तन पत्र अपील, निगरानी इत्यादि हर प्रकार के अन्य प्रार्थना आदि एवं लेखादि की प्रतिलिपियाँ अपने हस्तान्तर करके न्यायालय में प्रस्तुत करें अथवा किसी पत्र पर आवश्यकतानुसार शापथिक पुष्टीकरण करें, और आवश्यक सवाल जवाब करें और लेखादि की प्रतिलिपियाँ एवं हमारे प्राप्तधन को अपने हस्तान्तरों द्वारा रसीद देकर प्राप्त करें। हमारी ओर से किसी मध्य पत्र, तथा साज्जी माने और उससे सम्बन्धित प्रार्थना पत्र प्रस्तुत करें तथा उसका समर्थन करें तथा तसदीक करें वाद पत्र उठावें, छोड़े अथवा समझौता करें तथा सुलहनामा दाखिल करें तथा उसके सम्बन्ध में प्रार्थना पत्र दाखिल करके उसका समर्थन करें अर्थात् प्रकरण से सम्बन्ध रखने वाली कुल कायवाही डिग्री भर पाई होने के समय तक स्वतः या संयुक्त करें। आवश्यक होने पर किसी अन्य वकील महोदय को वकील करें।

उक्त सभी कायवाही जो उक्त सज्जन करेंगे प्रत्येक दशा में अपने किये की भाँति हमको सर्वथा स्वीकार होगी। अगर हम कानूनी/निश्चित शुल्क उक्त सज्जन को न दे तो उनका अधिकार होगा कि वह हमारी ओर से मुकदमा की पैरवी न करें। उपरोक्त दशा में उक्त सज्जन का कोई उत्तरदायित्व न रहेगा।

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

जिला नं १८६
वकालतनामा
बापूदस्त
Before the Central Income Tax Board of Delhi

Regd. No. 833 (क)
नम्बर मुकदमा

सन १९८६ (८०)

नम्बर इजारा

सन १९ ई०

मुद्रा

५.८०.८०

श्रीलालन्ट

बनाम

मुद्रालय

रेस्पान्डेन्ट

गविन लालकर जी खन्ध १०

मै/हम श्रीम लालकर उप निवासी अर्जी एनडी
निवासी लालकर

श्री प. वी. लालकर रुद्र के एडवोकेट को

उपरोक्त मुकदमे की पैरवी के लिए मेहनताना अदा करने का बचन देकर मैं
अपना वकील नियुक्त करता हूँ/करते हैं उक्त वकील महोदय को मैं/हम यह
अधिकार देता हूँ/देते हैं कि इस मुकदमा में वह मेरी ओर से पैरवी करे
आवश्यकता सवाल पूछे जवाब दे और बहस करें दस्तावेज व कागजात
अदालत में दाखिल करें व वापस लेवें पंचनामा स्थापित करें, पंच नियुक्त
करें यदि आवश्यकता हो तो पंच निर्णय का लिखित विरोध करें मुलहनामा
दाखिल करें, दावा स्वीकार करें या उठा लेवें और डिग्री प्राप्त हो जाय तो
उसे जारी करावें डिग्री का रूपया व खर्ची, हर्जनिंग का रूपया या किसी
दूसरी तरह का रूपया जो अदालत में मुझे/हमें मिलने वाला हो वसूल करें
मेरा हमारी ओर से अदालत दाखिल करें, कौट फीस व स्टाम्प देवें वा
वापिस लेवें रसीद लेवें त प्रमाणित करें, नकल प्राप्त करें, अदालत की
अनुचित मिसिल का मुआयना करें, आवश्यकता होने पर मुकदमा स्थापित
करावें इस मुकदमे के सम्बन्ध में दूसरे काम जो जरूरी समझे करें पैरवी
के लिये अपनी ओर के कोई दूसरे वकील को नियुक्त करें यदि आवश्यक
हो तो अपील या निगरानी दायर करें और अपील सिगरानी की अदालत
में पैरवी करें।

इस अधिकार पत्र के अनुसार उक्त वकील महोदय इस मुकदमे के
सम्बन्ध में जो कुछ काम करेंगे वह सब अदालत में स्वयं हमारा किया हुआ
समझा जायेगा और वह मुझे/हमें सदैव अपने ही किये के समान सुविधा
मान्य होगा।

तारीख

माह

सन १९

ई०

स्वीकार हैं

हस्ताक्षर

(S. Bhatia)

By Director (Estt 1)

ROS O F: p: l: s: 1: s:

Ministry of Finance

Mann ki Nagar, Lucknow-226001

ANNEXURE-B

CENTRAL ADMINISTRATIVE TRIBUNAL, DELHI

Application No. of 19.....

Transfer Application No. 833/56 (T) O.S. 441/55
old Writ Pet. No.

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided.)

Counter Signed:

Signature of the
Dealing Assistant.

Section Officer/Court Officer.

H.K.)

8-130

Monile Central Administrative Tribunal

३ अवालत धीमान्

महोदय

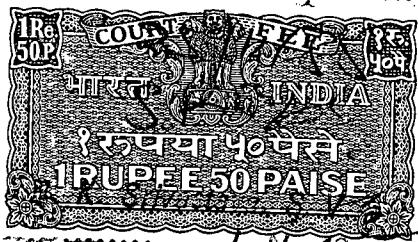
[वादी] ~~अवृत्तिमंड~~

प्रतिक्रिया-प्रेसप्रेस

J. M. Tuck

वकालतनामा

J.M. Tudor



शारी (अपीलाइट)

Union of India

ପରିମା

प्रतिवादी (एस्पारेट)

Registration No - 833/86 (T) and पं० मुकदमा

देशी की ताँ.

卷之三

AN 22/४४ इसे मुकद्दमा में अपनी ओर से श्री Satish Kumar Tripathi;

— वच्चील
— — — महोदय
एडवोकेट

ନାମ ଅବାହତ
ପୁଷ୍ପଦୟମ ନ୦

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देहो व प्रश्नोत्तर करें या कोई कायज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निमरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकदमा उठावें या कोई रुपया जमा करें या हमारी विवक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (वस्तस्ती) रसीद से लेवे या वंच नियुक्त करें—वकील महोदय द्वारा की यद्दि वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपनी पैरोकार को मेजता रहूंगा अगर मुकदमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतमामा लिख दिया प्रमाण रहे और समय पर काम आये।

स्त्रीकरण

साक्षी (प्रवाह)

साक्षी (सावाह)

३८१

1

સાહુના ૩

Accepted

After
S. K. Campbell
ACM

913

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

Rejoinder to the statement submitted by correspondent
in Registration No.833(T) of 1986

Between

J.M. Tudu **Applicant/Petitioner**

Versus

Union of India and others **Respondents**

....*

The applicant most respectfully beg to state
as under :-

1. That one Shri S. Bhatia said to be a DDE of the RDSO has filed the written statement with some unnecessary and irrelevant statements which are contained in para-1 to 5 of the written statement. Replies to his irrelevant statements are been given in view sentenced below :

Regarding his becoming fully competent to affirm the contents of his written statement is subject to of authority in his support and regarding his acquaintance with the facts of the case are denied in full. He not being dealing officer of the case of the applicant. Regarding having no cause of occasion in this application, he is misconception of the provision of law of this line and his contention regarding dealing with allegations in the application need no reply. Regarding reversion having not being qualified in the selection is a cocked fact and not material for continuation of the failed candidate for officiating. For example, the case of Shri M.S. Punchi ADE working in place of the applicant is a true example

In support of the claim of the applicant that Shri Punchi despite his failing in the test is being continued to officiate on the same post which the applicant had held. Remaining ~~xx~~ other contentions of the said Shri Bhatia are all irrelevant, manufactured storey and prejudicial and also aimed to shield their miseries in reverting the applicant.

2. That the ~~xx~~respondant Shri Bhatia in Para 6 & 7 of the written statement had admitted the contentions of Paras 1 & 2 of the application. However, the claims of the applicant in Paras 1 and 2 are reiterated.

3. That the contentions of the respondent in Para 8 of the written statement against Para 3 of the application that the applicant had been promoted on same terms and conditions as stipulated in S.P.O. No.13 of 1979 is wrong. The facts will be explained during the argument. However, the respondent have admitted the fact that the applicant had continue to work in class II gazetted post from 27.1.79 till 2.9.85.

4. That the contentions of the respondent in Para 9 of the written statement against Para 4 of the application, are denied. The claims of the applicant in para 4 of his application are reiterated.

5. That the contentions of the respondent in Para 10, & 12 of the written statement against para 5,6 & 7 are refuted in full and the claims of the applicant in para 5,6 & 7 of his application are reiterated.

6. That the contentions of the respondent in Para 13 of the written statement against para 8 of the application are denied in full and the claims of the applicant in para 8 of his application are reiterated.

7. That the contentions of the respondent in Para 14 of the written statement against Para 9 of the application are denied in full and the claims of the applicant in para 9 of his application are reaffirmed.
8. That the contentions of the respondent in Para 15 of the written statement against Para 10 of the application are denied in full and claims of the applicant in Para 10 of his application are re-affirmed. It is further added that applicant was promoted ~~as~~ initially on adhoc ~~as~~ basis against a long term vacancy reserved for ST community. As no suitable ST candidate was available, the applicant should have been continue till availability of a suitable selected ST candidate.
9. That the respondent have admitted claims of the applicant in Para 11 of his application vide para 16 of the written statement.
10. That the correspondant have admitted the claims of the applicant in Para 2 of his application vide para 17 of the written statement that the applicant have been promoted against a vacancy reserved for ST community. Rest of the contentions about the applicant not claimed up in the selection is irrelevant because failing in the selection is no constraint for his continuation on adhoc basis against a reserved vacancy for the ST community to which the applicant failing on the same ground, enlarging, and precedents in the case of Shri M.S. Punchi aforesaid.
11. That the contentions of the respondent in Para 18 of the written statement against para 13 of the application are denied in full and the claims of the applicant in para 13 of his application are re-affirmed.

- 5 -
20. That the respondent has stated in para 29 of the W.S. against para 27 of the application that the reply in para 12 of the W.S. covers. Accordingly the comments of the applicant in respect of para 7 of his application also apply in toto.
21. That the contentions of the application in Para 30 and 31 of the W.S. against paras 28 & 29 of the application are denied in full and claims of the applicant in para 28& 29 of his application are re-affirmed.
21. That the contentions of the respondent in para 32 of the W.S. are denied in full and the contentions of the applicant in para 30 of his application are reiterated.
22. All the contentions of the respondents in para 33 to 35 of the W.S. against paras 31 to 34 of the application are all denied in full and the statement in para 31 to 34 of the application are reiterated and re-affirmed.

LUCKNOW

Dated

APPLICANT

GOVERNMENT OF INDIA (BHARAT SARKAR)
MINISTRY OF TRANSPORT (PARIVAHAN MANTRALAYA)
DEPARTMENT OF RAILWAYS (RAIL VIHAG)
(RAILWAY BOARD)

K. B. LALL
J.T. DIRECTOR, ESTT. (N).

D. O. NO. E. (NG) L-86 PM 7/24

NEW DELHI, DATED: 8.7.85

My dear Aggarwal,

Sub:-Categories of posts as safety posts in RDSO.

Please refer to your D.O. Letter No. E-II/EST/T/DAA
dated February, 1985 on the above subject.

2. In terms of guidelines laid down for classifying posts as "safety categories", only those posts can be classified as belonging to "safety categories" which are directly concerned with the train movements. Classification into safety categories is to be restricted to open line, sheds and workshops only. The posts in RDSO do not fall in these categories. The RDSO's proposal, has not, therefore been agreed to by the Board.

Yours sincerely,
Sd/-
(K. B. LALL)

Shri N.K. Aggarwal,
By. Director General,
Research Designs & Standards Organisation,
Lucknow.

12. That the respondent have admitted the claims of the applicant in paras 14 & 15 of his application vide para 19 of the written statement.
13. That the contentions of the respondent in Para 20 of the written statement against para 16 of the application are denied in full. The claims of the applicant in para 16 of his application are re-affirmed.
14. That contentions of respondent in Para 21 & 23 of the written statement regarding claims of the applicant in Para 17, 18, & 20 of his application are denied in full. The contentions of Para 17, 18, 19 & 20 of the application are re-affirmed.
15. That the respondent have admitted the claim of the applicant in Para 21 of his application, hence no further comments.
16. That the contentions of the respondent in Paras 22 and 23 of the written statement are denied in full. The claims of the applicant in Paras 22 & 23 are re-affirmed. In support of the claim of the applicant, a copy of D.O. letter No.E(NG)1-86 PM 7/24 dated 8.7.86 is attached herewith as Annexure 17.
17. That the contentions of the respondent in Paras 26-27 of the written statement against paras 24 and 25 of the application are denied in full and claims of the applicant in paras 24 to 25 of his application are re-affirmed.
18. That the contentions of the respondent in para 28 of the written statement against para 26 of the application are denied in full.
19. The contentions of the applicant in Para 26 of his application is re-affirmed. In this respect the contentions of the applicant against para 25 of the W.S. above may also be seen.

(Copy)

(1987)

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KUNARAM MARMDY V. UNION OF INDIA (CUTT)
(1987) 3 Administrative Tribunals Cases 617
General Administrative Tribunal, Cuttack Bench

(Before B.R. Patel, Vice-Chairman and K.P. Acharya, J. Member)

KUNARAM MARMDY AND OTHERS ... Petitioners

Versus

Union of India and others ... Respondents

Transferred application No. 201 of 1986 arising out
of O.J.C. No. 3088 of 1981 decided on January 30, 1987.

Regularisation - Railway Board's Circulars issued in
1966 and 1985 - Railway employees officiating in Grade III
post for over 18 months - Such employees held entitled to
regularisation without appearing at a test for that purpose
- Circular of 1985, being prospective, held not applicable -
officiation - Railways. (Para 4)

Ram Chandra Pradhan V. Union of India, (1980) 49 CLT 266,
S.K. Mohanty V. Union of India, (1980) 49 CLT 322, D.B. Jana
V. Union of India, (1983) 55 CLT 290, S.L.P. No. 7493 of 1980,
decided on 24.8.1981 (SC), relied on.

Application allowed H.M./1200

Advocates who appeared in this case:

G.A.R. Dora, Advocate for the Petitioners;
Ashok Mohanty, Advocate (for Railway Administration), for
the Respondents.

The Judgement of the Bench was delivered by :

K.P. Acharya, Judicial Member. This case has been
transferred under Section 29 of the Administrative
Tribunals Act, 1985, for disposal according to law.

2. The Petitioners, three in number, joined the Signal
and Telecom Department of Khurda Road Division under South
Eastern Railway and in course of time the Petitioners were
promoted as Telecom-Inspector, Grade III, vide Annexures 3,
4 and 5 respectively. According to the Petitioners, they
have continuously officiated in the said promotional post
for about nine years. Since their promotions were not regu-
larised, they have made representations to the higher
authorities for regularising the promotion. Higher auth-
orities called upon the Petitioners to appear at a written
test. Being aggrieved by this order, the Petitioners invoked
the extraordinary jurisdiction of the Honourable High Court
of Orissa by filing an application under Article 226 of the
Constitution praying therein to command the Respondents
that the Petitioners have a right to the post in accordance
with the letter issued by the Railway Board stating that
nobody could be demoted from the promotional post if he
has worked for eighteen months and such demotion is permis-
sible provided that the procedure envisaged under the
Disciplinary, Appeal and Control Rules is followed for
unsatisfactory work.

S.No-15

Before the Central Administrative Tribunal
Jucknaw

Case No. 833/86(T)

J. M. Tudu

Abbs

V.

Union of India

O.P.

F.F. 20.4.89

Sir,

In the aforesaid case I am appearing on behalf of the applicant in this connection I have to submit that I am suffering with fever and cold since yesterday and I am not in a position to conduct the case to day.

whether it is most appropriate prayed that aforesaid case be adjourned to some other date of 15 days.

Jucknaw

Dated 26.4.89

S.K. Deo
D.O.

to A.C.P.