

FORM NO. 21

(See rule 114)

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

Versus

C.O.F. Bar Respondent(S)

INDEX SHEET

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE
1 -	Index sheets/order sheets.	A1 to A2.
2 -	Final judgement/memo order dt. 10-5-89	A8 to A12.
3 -	Index sheet	A13
4 -	Civil Court order sheets.	A14 to A16.
5 -	Copy of petition/nominate.	A17 to A58
6 -	Payor/application u/s 80(2) Cr.P.C./order	A59 to A66+1=67.
7 -	Arbitration dt. F.F. 16/10/85/27-10-85	A68 to A69+4=A73
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12 -	Misc. No 8/B/86/Cr. No. 22/88	A111 to A117.
13 -	Notices/Power/other papers	A118 to A130.

Certified that the file is complete in all respects.

already weeded out/destroyed

Signature of SO.

[Signature]

Signature of Deal. Hand

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

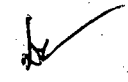

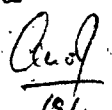
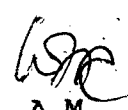

T.D 833/86

REGISTRATION No. _____ of 198 .

APPELLANT
APPLICANT

VERSUS

DEFENDANT
RESPONDENT

Order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
20/4/89	<p>Hon' Mr. Justice K. Nath, V.C. Hon' Mr. D.S. Misra, A.M.</p> <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> A.M.  V.C.</p> <p>(sns)</p> <p>Hon' Mr. G.S. Sharma, J.M. Hon' Mr. K.J. Raman, A.M.</p>	<p>GR</p> <p>Counsel for applicant has not filed any rejoinder so far. Case is submitted for orders.</p> <p> 19/4</p>
9/5/89	<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.  J.M.</p> <p>(sns)</p>	<p>GR</p> <p>Complied for applicant has not filed any rejoinder so far. Submitted for order.</p> <p>9/5</p> <p>J.M. Jaiswal</p> <p>Shu</p> <p>5.7.89</p>

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

Regn NO. 833(T) OF 1986

JM Tudu VS. UOD (RDSO) Cans

SL NO of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
22	10/86	<p>Hon. S. Zahoor Hasan, vs. Hon. Ajay Singh, member</p> <p>Mr. A.K. Jaiswal filed Vekalatnama on behalf of the applicant</p> <p>Mr. Dalji Sinha learned counsel for the respondent is said to be ill. However, one month's time is allowed to him to file a written statement.</p> <p>Put up on 1-12-1986 for final hearing.</p> <p>V.C. member</p>	<p>Office report</p> <p>OS No. 441/85 received on transfer from D Lucknow.</p> <p>2. Cause of action - Reversion</p> <p>3. Position at the stage of transfer -</p> <p>(i) WS 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 send back so far submitted for orders.</p> <p>20/10/86</p> <p>In compliance with Hon Tribunal's order dt 22/10/86 no copy of document has been filed so far. Submitted</p> <p>28/11/86</p>

A/27

ALLAHABAD

JM Tudor vs. UOJ

Regn No. ^{live} 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 Jais - AM. Hon. G.S. Sharma - JM	Office Report - As per the order of Dy. Registrar the Misc No. 3B/SE(T) (For restoration of 833/SE(T)) is submitted for orders.
	21.1.87	No setting. Adjourned to 11-2-87	Mojumdar - 17/12/86
	11.2.87	Hon. S. Zahoor Husain, Jc. Hon. Ajay Jais, (MCB) Sr. Ak. Gansoni for respondent Sd/- Sd/- for respondent heard. The restoration app. is allowed.	Office Report - In Compliance with Hon. Tribunal's order dt. 19.12.86 notice issued to the defendant by regd. post. Submitted Majumdar 22/12/86
	19/4/87	No setting. Adj to 25-5-87	Noted for 10-4-87 And Kumar
	25-5-87	No setting. Adj to 30-6-87	11-3-87 Council for Applicant Respondent Court's order dt. 11-2-87 has already been noted by

833/06 (P)

11-5-00

Hon. S. Daker Hasan, VC
Hon. Ajay John, Jm.

The petitioner in person is present.

Sri A. V. Srivastava for respondents

Put up an 8-8-00
as prayed.

Mem

30

Jm.

VC.

8.8.88. Hon. A. Johri - Jm
Hon. R. S. Shae Jm

As the Bench is
sitting in court no 2
the case is adj to 06.11.88
mhr

D.R.

1.9.00.

On the basis of applicant's application
for transferring the case to Lko Circuit Bench.
~~case~~ list this case before Circuit Bench
Lko for hearing on 23.9.00 and inform
the parties.

D.R.

~~PA~~ 833-86

7.10.88, Honble K.S. Puttasamy Kc,
Honble A. Johari A.M.

None is present for applicant. Ss
A. V. Sivasava for respondent.

On the request of Counsel for respondents
the case is adjourned to 28.10.88
for hearing.

22
A.M.

Aug
7/10

ve

28/10/08.

For D-S m 509, Aug.

Hon. E. S. Shaw/mr. Tr.

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

Jm

by Ann

Over

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUGANO.

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

J.M. Tude

Applicant(s)

Versus

U.O.R.

Respondent(s)

Sr. No.

Date

Orders

28/11/88

OR

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 8 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 day from the date of
dismissal of the case.

Submitted for order

22/12/88

No sitting. Adjourned to 21-2-89.
for order.

21/2/89

No sitting. Adjourned to 9-3-89
for order.

Perm

22/12.

Perm

21/3

Registered

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

No. CAT/CB/LKO/ 1466

Dated : 12.5.89

OFFICE - MEMO

Registration No. Q.A. 833 of 1936. (L)
T.A.

J.M. Tudu

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.

For DEPUTY REGISTRAR (H)

Encl : Copy of Order/Judgement dated 10.5.89

To.

(1) shri A.K. Lalouet Adv C/A

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

dinesh/

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VS.

• • • •

Hon'ble G.S.Sharma, JM

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

Munsif Lucknow u/s. 29 of the Administrative Tribunals

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 AD~~A~~), 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 AD~~A~~ (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 ADE (Wagon) w.e.f. 27.7.1980 after the completion of 18 months continuous officiation on the ground that in accordance with ^{Railway Board's} ~~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 ADE 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 for Mechanical Department was originally ^{proposed to be} 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

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, AD~~A~~ 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.

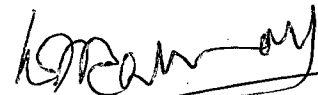
6. After going through the record of the case and in the light of the submissions made before us, we feel that virtually this case has become infructuous as the plaintiff having already been reverted from the post of AD~~A~~ (W) before the institution of the suit on 3.9.1985, no injunction ~~can~~ can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

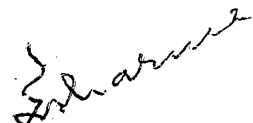
7. The Allahabad Bench of the Tribunal has been constantly taking the view that the circular letter dated 9.6.1965 (copy annexure 4) applies only to the staff officiating on higher post after due selection or empanelment as specifically clarified by the Railway Board in its subsequent circular letter 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.

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, ^{for the first time} 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.

वाद संख्य-

वर्ष १९७ ई०

राज्य सरकार बनाम

व्यवसाय

निवासी

खाना

स्थान

थाना

जाति

जिला:

निर्णय का दिनांक,

अध्यास/

1. 新

का प्रकाश

Indlu - 20



(243)

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T

पृष्ठ संख्या 4

MUNSIF HAVALA
LUCKNOW

Form No. 100. Part VI

प्रपत्र संख्या--2

आदेश-पत्र

(अध्याय 5, नियम 143)

28/10 44/101-

प्रारम्भिक क्रम

संख्या

सन् 19

ई०

मामला

बनाम

J. M. Tully & Co. v. Union of India

भाग

की 1	आदेश का दिनांक	आदेश, अध्यासीन न्यायाधीश के संक्षिप्त हस्ताक्षर सहित	निर्देश उस प्रार्थना- पत्र अथवा पत्र का जिस पर मूल आदेश लिखा गया	आदेश के प्रतिपालन में किये गये प्रतिवेदन की संख्या तथा दिनांक का निर्देश
	2		4	5
		श्रीमान दारिल्ला राय दाद का जमाना मालिफा राय रेखा कुमारी	17-9-85 Delm 2 M. 500/- 5250/-	
		17-9-85 C-6 application of 80/2/85 supported with an affidavit filed. <u>OR</u> The matter appears urgent if permission is not granted the proposed no. 39 rule will be sent to register Plaint is being put up with summary before for OR. <u>OR</u> A Sum. Reg. is. Issued according to defendants filing 14.10.85 for W.S. and 23.10.85 for Jans. not H. C-6 application of 39 Rule 12/85 supported with an affidavit filed OR. <u>OR</u> Issue notice to defendants for 20.9.85 for reply and as per application of plaintiff		

Court of Magistrate Haveli

Gen. 441/85

J.M. Tudda & U.O. 9.

Abdullah
complaint
3/12/85

30/10/85 Case put up today. Compliance has not been done by the accused.

On

3/12

Abdullah to comply. fix 3.12.85 for objection & reply

3.12.85 उपरोक्त अधिवक्ता नवीन आग 10 अवकाश पर वे

आदेश दिनांक 24.12.85 को अग्रिम आदेश हेतु देखा वे।

उप हवाई

24.12.85 आग अवकाश को फिर होना के कारण मुकदमा दिनांक 20.1.86 को अग्रिम आदेश हेतु देखा वे।

20.1.86 आग अधिवक्ता दंडाल पर है। उप हवाई

आदेश दिनांक 10.3.86 को अग्रिम आदेश हेतु देखा वे।

उप हवाई

24/12
20/1
Adm
24/12/85

10/2
10/12

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John W. Platt

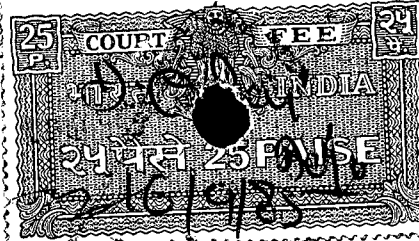
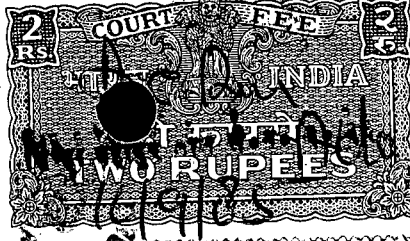
55, 100, 100

11

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 Gr.No. B-172/3,
Manak Nagar, Lucknow-226011

2. ~~All India SC&ST Railway Employees Association~~
~~R.D.S.O. 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 establishemt under the Railway Board,
begs to submit the following :

1. That the Plaintiff had been working as the Chief Design
Assistant, scale Rs.650-260(RS), in the Motive Power Directorate
from 21st April, 1975 forenoon till he was promoted to officiate
in Class II as Assistant Design 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*

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/-

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

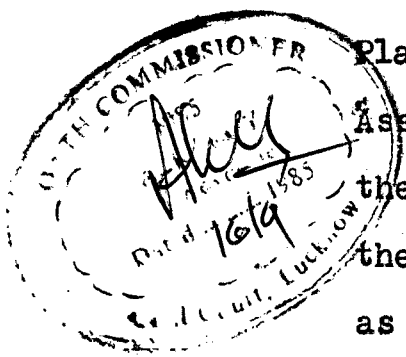
3. That in view of the facts as contained in paragraphs 1 & 2 above, I had taken over the charge of the post of Assistant Design Engineer(D-6) in the Motive Power Directorate with effect from 27th January, 1979 and he has been continuing in the grade till the date of this Suit without any break in the middle thereby continuously held this post for ^{six} ~~five~~ years ~~seven~~ ^{Nineteen} 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., ^{alleged herewith as Annexure II} and again he was posted ^{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-PM1-204 dated 27th June, 1983. A copy of Board's letter aforesaid alongwith Board's letter of 1965 ^{of 27th June} are attached herewith as Annexures III and IV, V

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



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-Defendent No.2's replies thereto dated 22.6.1984 and 01.8.1984 are at Annexures VI to VII. VIII & IX, XV

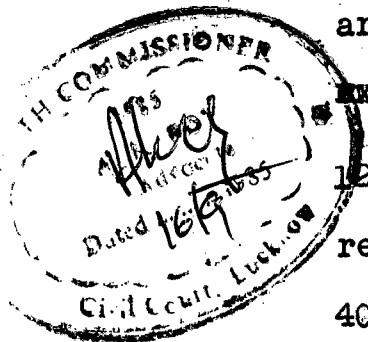
8. That the Plaintiff from the date of his promotion to the present post has since continued his officiating without any break in the middle in the higher grade(Class II Gazetted) in his avenue of promotion against a reserved post for the scheduled tribes as per 40 points Roster. This is in accordance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



Enine

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 ^{manner} process within the procedures. These caste hindu officers cherish a ^{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 deter 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."

20. 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.

21. 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)

22. 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

23. 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-Defendent 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. *herewith 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



Encl

40

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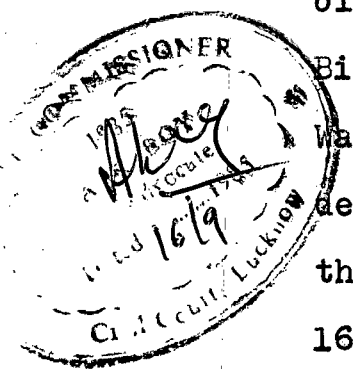
found at page 171 of the Brochure on Reservation for the Scheduled castes and Scheduled Tribes in railway services, Second Edition. The actual number of posts/vacancies to be reserved for the scheduled castes and scheduled tribes in any promotion/appointment/recruitment be determined on the basis of 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 ^(Twelve) 12 (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 - film 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



Signature

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 ^{manner} process within the procedures. These caste hindu officers cherish a ^{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 deter 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."

20. 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.

21. 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.

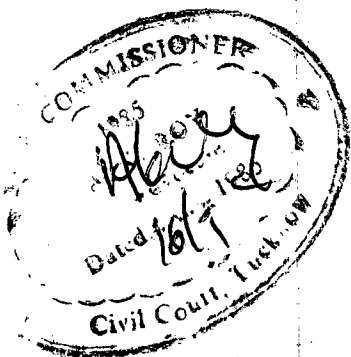
2. Scheduled Tribes - 2 Posts

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

22. 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

23. 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



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.

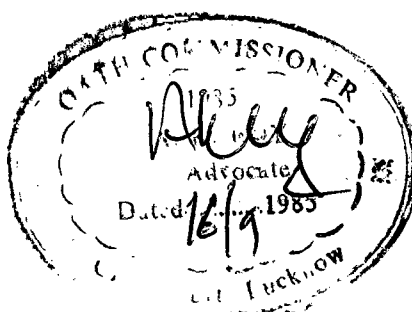
29. That seeking dereservation on the post/point reserved for scheduled tribes candidates is totally repugnant to the principle, rules and special rules, and processing the dereservation proposal falsely as a 'safety category' is certainly a practice of untouchability with the reserved community persons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

25
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.

26
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.

27
32. That the Plaintiff has thus acquired the benefits mentionsd 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/-



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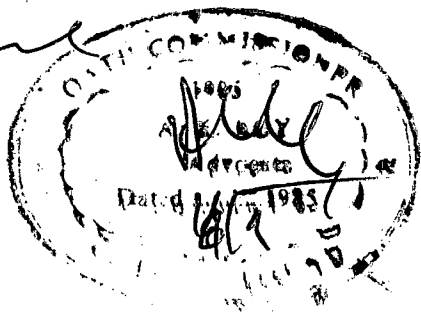
respect the detailed explanations on the procedures for regularisation of the workers working on Indian Railways on adhoc basis for more than 18 months continuously GM/NE.Rly Gorakhpur's letter No.E/2/10/0(Con) dated 21.1.1966 is worth mentioning. This circular letter of NE.Rly issued on the basis of 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. *herein 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. E55CM1/3 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-

...9/-



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.

32. 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.

33. 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 ~~and injunction~~ ~~atory suit~~. Hence, the Court Fees of Rs. 52.50 is being paid.

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

- (1) The defendants be restrained from reverting the Plaintiff by passing a decree of 'Injunction' ~~until~~ ~~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,

Dated: 16.9 -1985.


Plaintiff

...10/-

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

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

(सर्व साधारण में विक्रयार्थ)

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717

1/2

वादी / प्रतिवादी द्वारा पेश किये गये दस्तावेजों की सूची

[आदेश १३ नियम]

न्यायालय

स्थान

वाद संख्या

सन १९

ई०

बनाम

वादी

प्रतिवादी

वाद पत्र के साथ

वादी/प्रतिवादी 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

१	२	३			टीप्पणी
क्रम सं०	दस्तावेज का अभिवर्णन और उसकी तारीख	कागज किया हुआ			
		यदि अभिलेख में सम्मिलित किया गया तो प्रदर्शन त्रिन्ह जो उसपर डाला गया	यदि नामंजूर हुआ तो पक्षकार को लौटाये जाने की तारीख एवं पक्षकार या उसके अभिवक्ता के हस्ताक्षर जिसको कागज लौटाया गया	यदि वाद 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	
①	Annexure - 1	Promotion order			<div>न्यायालय का नाम वाद संख्या पक्षकारों के नाम</div>
②	Annexure - 2	Secand Postng order			
③	Annexure - 3	Application 11-4-85			
④	Annexure - 4	Board's letter			
⑤	Annexure - 5	" "			
⑥	Annexure - 6	RDSO letter dt. 22-6-84			
⑦	Annexure - 7	Applicant			
⑧	Annexure - 8	"			
⑨	Annexure - 9	RDSO letter			
⑩	Annexure - 10	Board's letter			
⑪	Annexure - 11	Applicant			
⑫	Annexure - 12	Board's letter			
		N.E.Rly. letter			

न्यायालय का नाम

वाद संख्या

पक्षकारों के नाम

सूची पेश करने वाले पक्षकार के हस्ताक्षर

L. C. San

Advised

Dated - 16.9.85


Verification

I, the above named Plaintiff, hereby verify that the contents of Paras 118 9, 112 are true to my knowledge and those in 14, 17 18 23, 25 18 30, Paras 10, 13, 16 18 19 are believed to be true.

24, 31 18 33
Signed and verified this 16th day of September, 1985
inside the Court compound at Lucknow.

Lucknow,

Dated : 16-9-1985.


Plaintiff

Government of India

Ministry of Railways

Research Designs and Standards Organisation

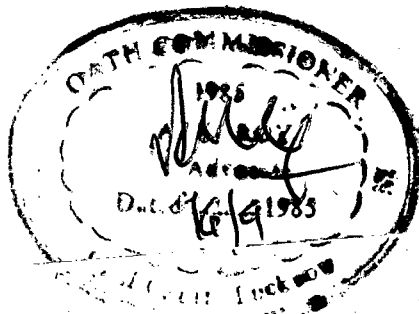
OFFICERS POSTING ORDER NO 13 of 1979

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/-



Annexure - (2)

13

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

Lucknow-11 Dated 1.3.80

Sd/-
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.



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
Asth. Design Engineer in adhoc basis w.e.f. 27.1.79., first
in Motive Power Dte. as ADE/MP-A3 and was transfered 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. Gurdial 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/-



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

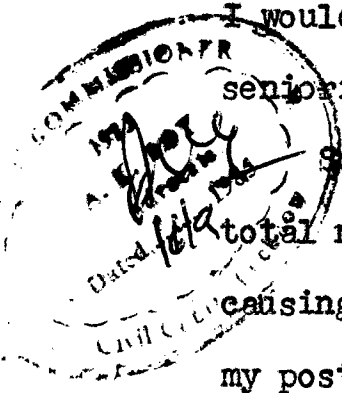
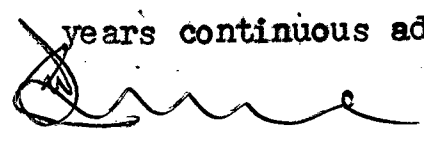
- | | |
|------------------------|--------------------|
| 1. S/Shri K.R. Sharma. | 7. Shrinivasan |
| 2. P.N. Soni. | 8. S.P. Puri. |
| 3. Y.P. Bhatia. | 9. A.N. Sensharma. |
| 4. J.P. Singh. | 10. M.R.G. Nair. |
| 5. S. Badruddin. | 11. S.C. Khan. |
| 6. B.N. Goyal. | |

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 ansuing 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 Rlys.)
Railway Board

E(D&A)65 RG6-24

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 DO
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 necessarizing within a period of
18 months prescribed in discipline & appeal rule.

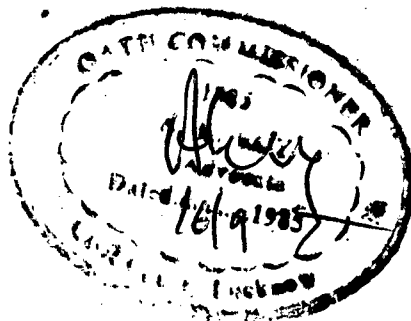
The Board have reconsidered the matter and feel that it
would not be correct to effect such reversions after prolonged
officiating period. They have therefore decided against that. In
future any person who is permitted to officiate beyond 18 months
cannot be reverted for unsatisfactory work without following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



Annexure — (5)

18

Research Designs & Standards Organisation

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/PMI-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-PMI-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 the Courts is clear that such adhoc promotees have to undergo selections, the Courts have been giving to the benefit of instructions

..... 2/-

④
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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.

[Handwritten signature]



Annexure — (6)

Telegrams : RAILMANAK-LUCKNOW

Telephones : 50567 & 50017

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RESEARCH DESIGNS & STANDARDS ORGANISATION

Reference No. E II/SLN/O/C1.II

LUCKNOW-226011 Dated: 22.6.84.

Tech./Mech.

MEMORANDUM

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

Sd/-

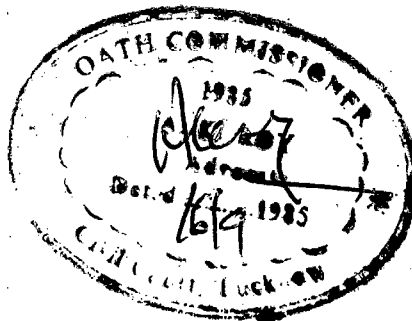
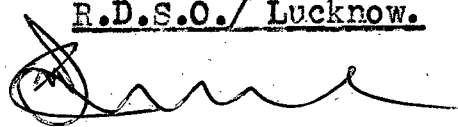
(S. Bhatia)

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/O/Cl.II/Tech/Mech.
dated 8.8.'83.

ii) Staff Notice No. EII/SLN/O/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/O/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/O/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, sphiting 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

.... 2/-



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-PMI-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.)

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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Telegrams : RAILMANK-LUCKNOW

Telephones : 50567 & 50017

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RESEARCH DESIGNS & STANDARDS ORGANISATION

Our Reference: EII/SLN/C/Cl.II
Tech./Mech.

LUCKNOW-226011-Dated: 31.7.84.
1.8.84

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.

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Annexure - (9)

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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-Utiliza-
tion of vacancies reserved for Scheduled Castes
in favour of Scheduled Tribes and vice versa.

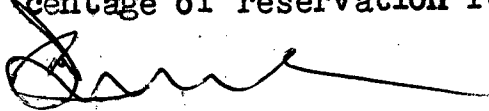
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The policy of the Government of India in regard to reservation for Scheduled Castes and Scheduled Tribes in posts and services under the Government of India was laid down in the Ministry of Home Affairs Resolution No.42/21/49/NGS dated 13th September 1950, circulated with Railway Board's letter No.E47CML/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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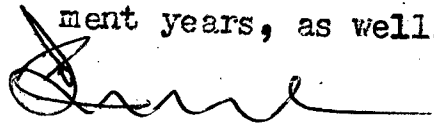
(A-3)

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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.



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(12) (A/S)

To Director General,

RDSO/Lucknow,

226011 .

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 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 deficient in term of Board's orders.

Thanking you,

Yours faithfully,

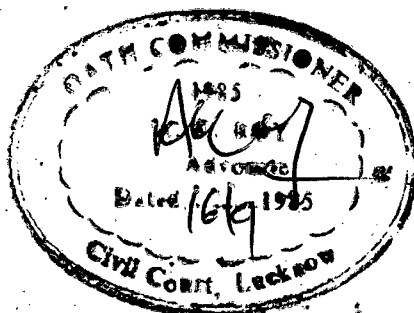
Sd/-(J.M. Tudu)

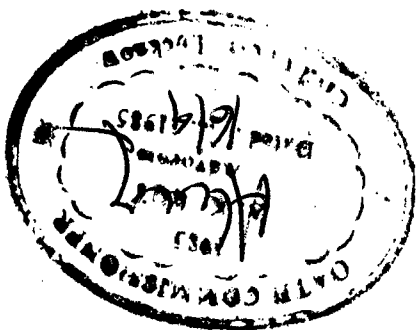
ADE/W-IV.

Dated, Lucknow,

20.8.1980.

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4. The question of utilization of vacancies reserved for Scheduled Castes by appointing 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)62CM19/2 dated 2nd August 1962 that while vacancies reserved for Scheduled Castes and Scheduled Tribes may continue to be treated as reserved for the respective community only. Scheduled Tribe candidates may also be considered for appointment against a vacancy reserved for Scheduled Caste candidates where such a vacancy could not be filled 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/requestion 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 Castes and Scheduled Tribes will be considered against reserved vacancies.
5. The above instructions will take effect from 25th March 1970.



Annexure — (11)

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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 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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....2/-





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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.



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(12) (X/5)

To Director General,

RDSO/Lucknow,

226011 .

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 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 deficient in term of Board's orders.

Thanking you,

Yours faithfully,

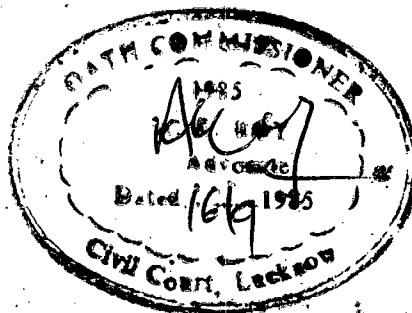
Sd/-(J.M. Tudu)

ADE/W-IV.

Dated, Lucknow,

20.8.1980.

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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.

Dated: 21.1.1966.

All Permanent Officer

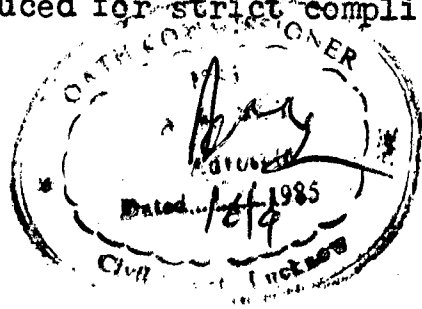
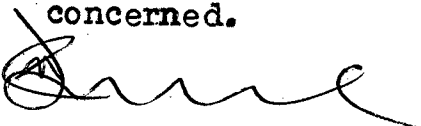
N.E. Railway.

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 supersession 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 LRC6-30 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.



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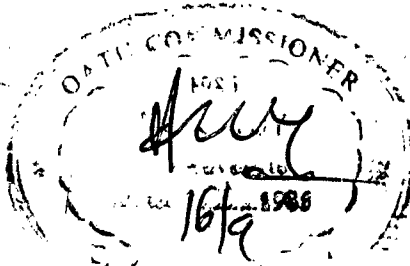
4. Whenever an employee is out to officiate in a higher post which may be a selection post or a non-selection post, his immediate superior should sent an assessment report as soon as the employee has completed 3 months officiating period to the authority who had orderêd the promotion. In the case of an unsatisfactory report a warning letter should also be issued to the empoloyee and in which instances of his failure should be pointed out to him. A similar further rport 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 personel 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/-



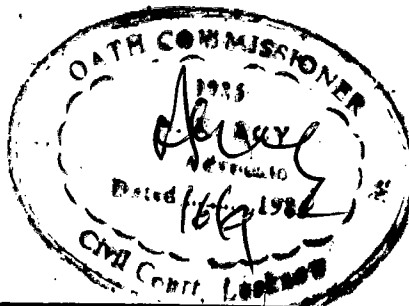
18 months must not be reverted for unsatisfactory work without following the procedure prescribed in the in the Discipline and Appeal Rules.

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 only 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

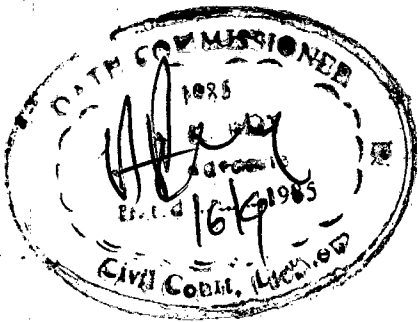
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11. The above procedure should also be followed in the case of Class III employees promoted to officiate in Class II in their case, the assessment report should be sent to the Head of Department and where an officer has been reported on adversely the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

[Handwritten signature]

For General Manager.

[illegible]

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

C.M.A. NO. 12708 (W) of 1983

In re:

Writ Petition No. 5362 of 1983

B.N. Lal

...

...

Applicant/Petitioner

vs

The Union of India & others...

Opp-parties.

Lucknow dated: 11.11.1983

Hon'ble P.C.J. J.A.

Hon'ble P.C.J. J.A.

Issue notice.

Two weeks time as prayed for by the learned standing counsel appearing for opposite parties now. 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 the day, if he so chooses, file a rejoinder affidavit within a further period of four days. List this application for further order thereafter.

In the meantime the reversal order contained in measure No. 6 to the writ petition shall remain stayed.



TRUE COPY

Section Officer
14/11/83

Copying Department:
High Court, Lucknow Bench,
LUCKNOW

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.

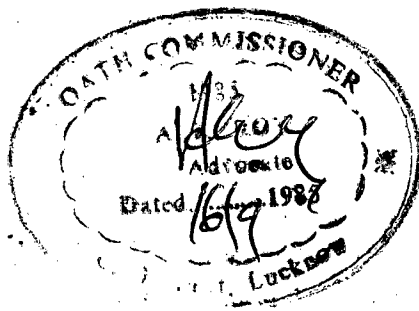
Sd: D.N.Jha

Sd: R.C.Deo Sharma

Round
Seal

True Copy

Sd: Illegible
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/O/Cl. II/Tech/Mech

Manak Nagar, Lucknow-11

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/-

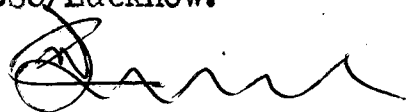
(S. Bhatia)

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/O/Cl.II/Tech./
Mech. dated 27.4.1984, I draw your kind attention to para 2 of
Railway Board's letter No.E(DSA)65 RG6-24 dated 09.06.1965, read
with para 2 of Board's letter No.E(NG)I-82-PM1-204 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-fortuitious vacancy reserved for
ST railway servant be obtained in terms of the letters aforesaid.

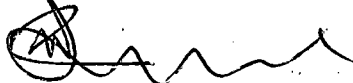
I may be communicated your decision as early as
possible. I may also be given an opportunity to hear my claim before
any adverse action is proposed against my continuing officiating.

Thanking you,

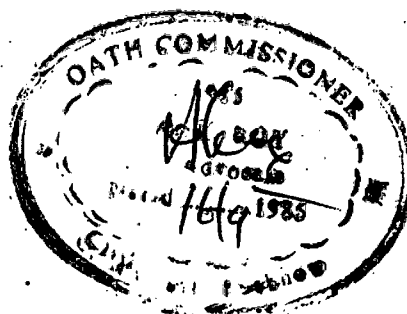
Yours faithfully,

Lucknow,

Dated: 25.12.1984.



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



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(SOT)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.



~~ANNEXURE-I~~

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

<u>Point in</u> <u>The Roster</u>	<u>Whether unreserved</u> <u>or reserved.</u>	<u>Point in</u> <u>the Roster</u>	<u>Whether unreserved</u> <u>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	Unrese-rved

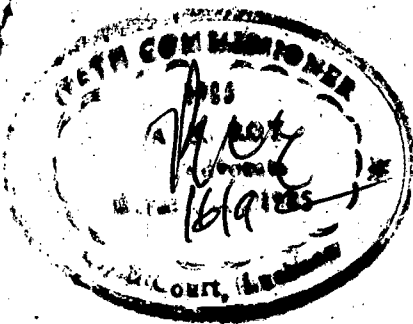
[Handwritten signature]

.....2/-



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.

[Signature]



बा अदालत श्रीमान

आदी] अपीलान्ट

मुनिम इबाली ल (कडे)

महोदय

2142

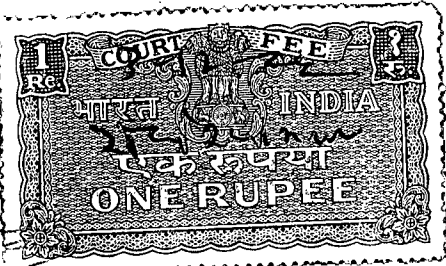
श्री

जे एफ डूड

का

वकालतनामा

1/59



जे एफ डूड

गनाम

प्रतिवादी (रेस्पाडेन्ट)

सन

पेशी की तारीख

१६

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उपर लिखे मुकद्दमा में अपनी ओर से श्री

2142/59

वकील

महोदय

एडवोकेट

नाम अदालत

मुकद्दमा नं

नाम फरीक

वनाम

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

हस्ताक्षर

J. M. T. 00

साक्षी (गवाह)

साक्षी (गवाह)

दिनाङ्क

3

महीना

12

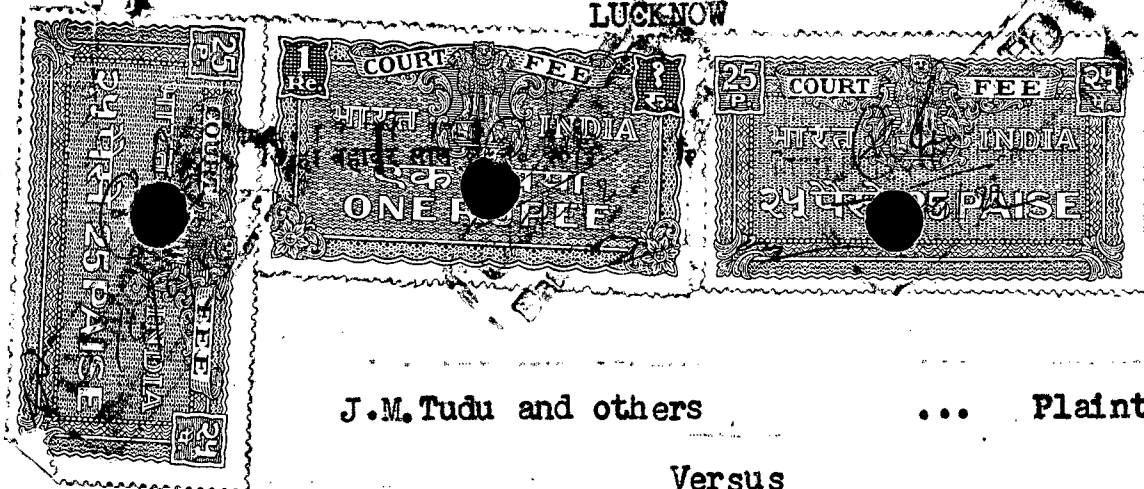
सन १९२५ ई०

स्वीकृत

3/12/25

(40)
19
7/6
- 7

IN THE HONOURABLE COURT OF MUNSIFF HAVELI,
LUCKNOW



J.M. Tudu and others ... Plaintiff

Versus

Union of India and others ... Defendants

32500
20800

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 procedure prescribed in the Discipline and Appeal Rules.

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

41
T/K
2

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

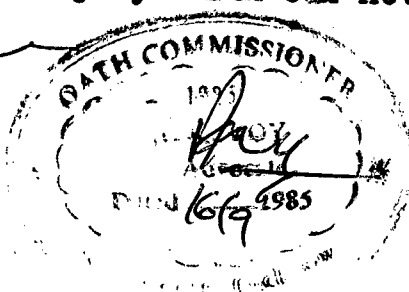
4. That the Defendants deliberately delaying in taking a favourable decision for the issuance of the formal orders of regularisation in accordance with the valid rules made by the Railway Board.

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 quo-ante to 02-09-1985.

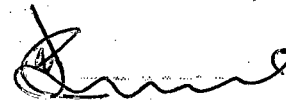
7. That there is no time for giving the notice under Section 80 C.P.C. and in case the Plaintiff waits for 60 days notice period the claim would be defeated and he would be met with serious injury which can not be made good afterwards.

....3

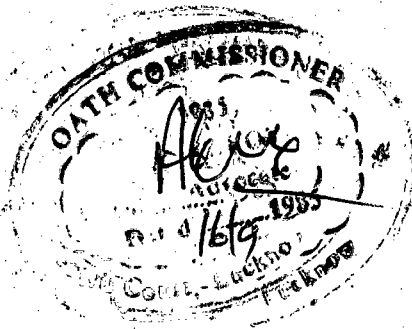


Wherefore it is most respectfully prayed that
the Plaintiff applicant may kindly be exempted from giving
notice under Section 80 Civil Procedure Code to the
Defendants and leave be granted to file this Declaratory
Suit and injunction application without notice.

Lucknow,

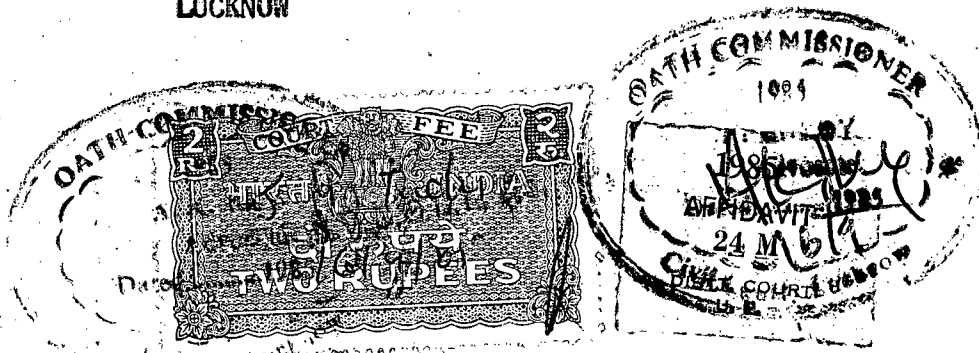

Plaintiff

Dated: 16.09.1985



(43)
712
7
(20)
P/3

IN THE HONOURABLE COURT OF MUNSIFF HAVELI,
LUCKNOW



J.M.Tudu and another

... Plaintiff

Versus

Union of India and others

... Defendants

A F F I D A V I T

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 :-

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

LUCKNOW,
Dated 16-9-1985

Deponent

V E R I F I C A T I O N

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.

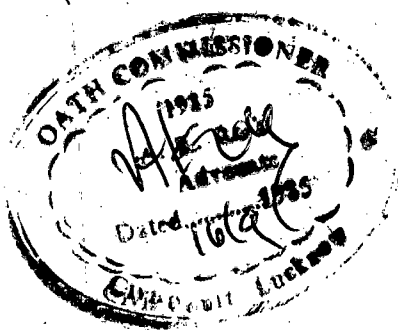
Lucknow,

Dated: 16-9-1985

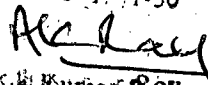

Deponent

I identify the deponent who has signed before me.


(D.C. Rai)
Advocate



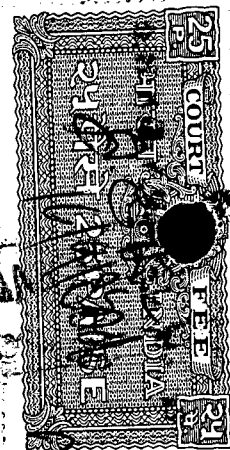
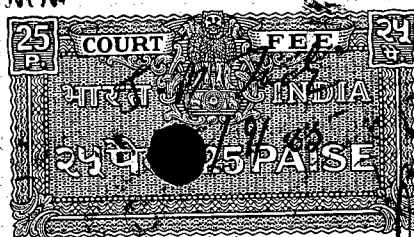
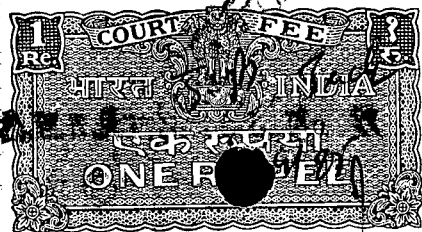
Solemnly affirmed before me in Office to day at... 10 AM... by J. M. Indu who is... Clerk to... I have... the deponent... of this... explained...


Advocate B. Kumar Roy
Commissioner
Civil Court, Lucknow. 16/9

(21) 770 (45)

18/5

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

*82/85
Yes
265007*

The Plaintiff in the above noted case with due respects beg to submit that on the basis of facts ~~stated~~ and circumstances stated in the accompanying Plaint 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.

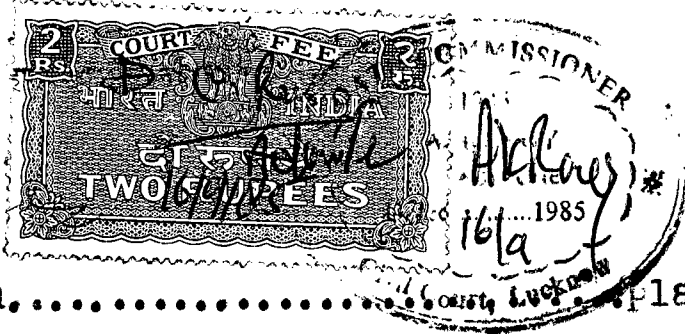
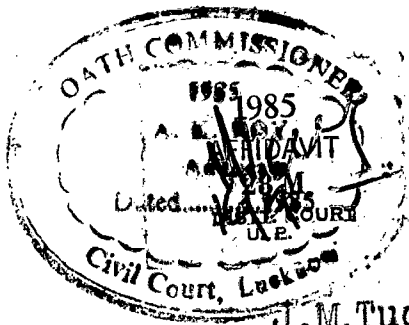
Lucknow,
Dated: 16.09.1985


Plaintiff



23
779
8/16

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



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

Versus

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

A f f i d a v i t

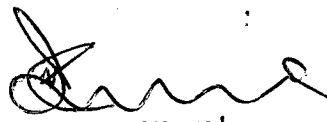
in support of application u/Order 39 Rule 1 & 2 CPC.

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.

16-9-1985.


Deponent.

Verification.

I solemnly affirmed before me in Office to day
... 10/10/85 by J.M.Tudu
who is identified by Shri D.A. Bansi
Advocate.
I have read the contents of the affidavit and the
plaint and find that the contents of para 1 are true to my own
knowledge.

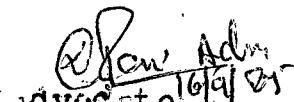
I, the abovenamed deponent do hereby verify that the contents of para 1 are true to my own knowledge.

Signed and verified this 16th day of September 1985 in Civil Court compound at Lucknow.

Ayadhi 16/9/85
Oath Commissioner
Civil Court, Lko.


Deponent.

I identify the deponent who has signed before me.


Advocate.

व अदालत श्रीमान्

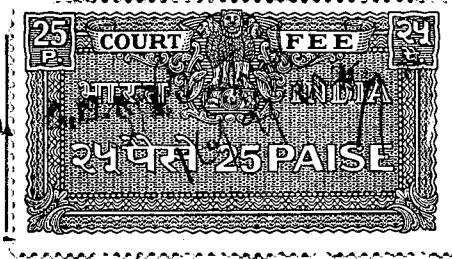
[वादी] अपीलान्त

प्रतिवादी [रेस्पाडेन्ट]

महोदय

In the Court of Master Hawali
Rukhnan

वकालतनामा

J. M. Tudi
& others.

डी (अपीलान्त)

Union of India &
others.

बनाम

प्रतिवादी (रेस्पाडेन्ट)

मुकद्दमा

सन्

पेशी की ता०

१६ ई०

अपर लिखे मुकद्दमा में अपनी ओर से श्री

वकील

महोदय

एडवोकेट

D. C. Rai Advocate

नाम अदालत
मुकद्दमा नं०
नाम फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोंत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निग-रानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा 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 मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

16

महीना

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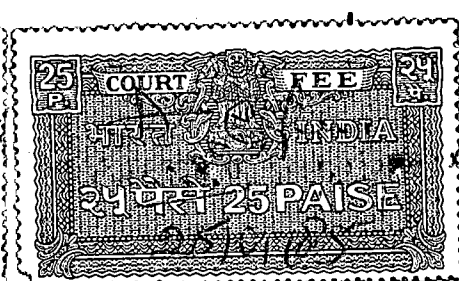
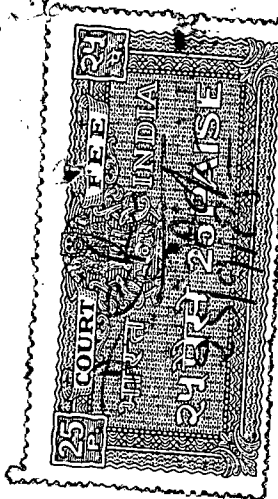
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स्वीकृत

Accepted
Open Ackn.
16/9/85

14/10

In the Court of Munsif Haveri



11/1

1/10

J. M. Teder

VS

Plm. 37/150
27/10/05

Union of India's Laws — 27/10/05

Rs 100 —

FF. 16/10/05 - W.S.

27/10/05 - Some

The applicant begs to state as under:

① That applicant / plm. has filed above noted suit for declaration and injunction and also moved there in application under order 34 rule 1 and 2 C.R. and the Honble Court was pleased to pass an order on the notice and fixed 27/10/05 for disposal of the aforesaid application.

② That the matter is urgent and it is expedient of the interest of justice this Honble Court may be pleased to fix early date for disposal of the application other wise applicant will suffer irreparable loss and injury.

Wherefore it is most respectfully prayed that in the ends of justice and a most amiable stated above this Honble Court

Heard. J. M. Teder
14/10/05
27/10/05
27/10/05
27/10/05

10

512/1

A/20

Before the Hon'ble Court of Munsiff Hawali,
Lucknow

Civil Suit No. of 1985

330/1152
8/10/85

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.

...2

Early date
has already been
fixed for the
H.O. of the
Union of India
7/10/85

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
A
12

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 Association, RDSO Zone, 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 :-

- 3-1/52
8/1/52
(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.

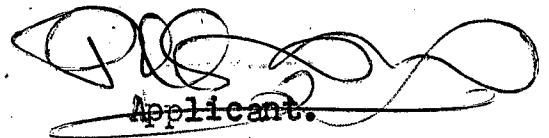

Applicant.

Verification

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

Lucknow ;

Dated : 05.10.1985.


Applicant.

174
1985
AFFIDAVIT
96 M

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

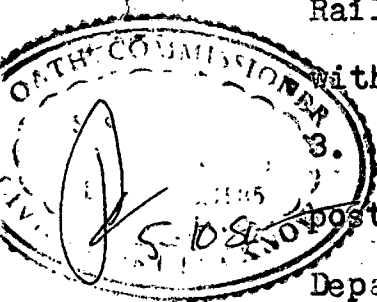
and others.

...Defendents

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.

Lucknow,

Dated: 05-10-1985.

Deponent

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.

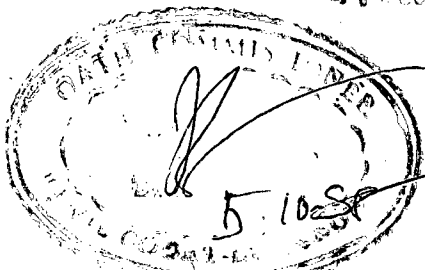
Signed on the 5th day of October, 1985 in the Court compound at Lucknow.

Lucknow,

Dated: 05-10-1985.

Deponent

96M
11.30 A.M. by R.K. Mallick
who is identified by Shri. Self
I myself by examining the
deponent that he understands the contents of
his affidavit which has been read out and
explained to him by Mr. H.A. 1-80



② 14/10/10

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31/10/10

31/10/10

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महाराष्ट्र

०१०१०-२२९. वसुधैव कुटुम्बकम्
०१०१०-२२९-१०-२२

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Amor

09-10-1950
of the year 1950
of the year 1950

11/10

हेतु संदर्भित करने की सूचना । साधारण प्रारूप

14-10-88

16-10-88

न्यायालय

Union of Municipal Hamirpur

स्थान

जिला

वाद सं०

441 सन १९८३ ई०

४० ५१६

J. M. T. & Son

वादी

बनाम

Union of Jule's & Son

प्रतिवादी

R.M.

चूंकि उपरोक्त नामांकित

ने इस न्यायालय में यह आवेदन किया है कि

अतएव आपको एतद्वारा चेतवनी दी जाती है कि आप इस आवेदन के खिलाफ हेतु संदर्भित करने के लिए

के दिवस को बजे पूर्वान्ह में स्वयं या सम्यक रूपेश अनुमिष्ट अपने 'अधिवक्ता द्वारा 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 १९८८ के दिवस को लिखाई गई । 12/8/08

To, Union of Jule's through
District General R.D.S.O.
Manah 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

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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/O/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. 2-9-85 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 Mansif 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 ~~vide~~ vide Railway Board's letter No.E(NG)1-82-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.

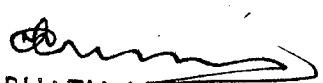
6. The contents of para 1 of the Petition need no comments.

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
ad hoc 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/O/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)I-82-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). V/2

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 ^{he did} ~~does~~ 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


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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

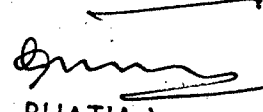
/candidates

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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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 are being matters 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 to appear in the examination

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/Scheduled
Tribe

/ & opportunity

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(cop y 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/O/Cl.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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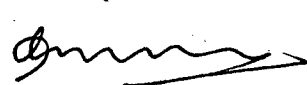
not qualify in the written test and therefore was reverted on availability of the selected candidate. Even though the vacancies were regular, Shri Tudu was promoted in the first instance only on ad hoc basis against post reserved for ST pending selection which could not be held for some time due to the 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.

/no comments.

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)I-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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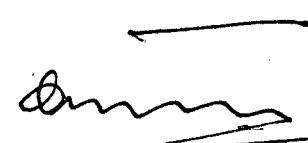
Board's orders contained in their letter No.81E (SCD)/15/26 dated 23-3-81 (copy annexed at Annexure-A5), all Group 'B' posts in Civil Engg., Mechanical Engg., Signalling & Telecommunications, Electrical Engineering & in the Transportation (Traffic) Departments of Indian Railways have been classified 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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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~~ 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.

/A-4/I

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


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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.

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

Dated: June 10th July, 1987.

Deponent

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

Amended A-1
A/oc

GOVERNMENT OF INDIA MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No.84-E(SCT)64/1

New Delhi, dt.29.12.84.

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

Sub: Dereservation of one vacancy in the category of ADE
ARE, AIE, EIE (Mechanical Engineer) in scale Rs-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 dereservation of
one vacancy in the category of ADE/ARE/AIE/EIE (Mechanical Engineer)
Class II in scale Rs. 650-1200(RS)

(S. BHATIA)

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R.D.S.O. (Min. of Rlys)

Manak Nagar, Lucknow-226011

Sd/- Felix Kullu

Jt. Director, Estt. (R) I

Railway Board.

DA/Nil

An enclosed A-2

from pre-page

Discussed with Sr.DY.DG. In terms of the Railway Board's letter of 1.9.79, the class II officers in RDSO are to be allowed to cross 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.

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

62-02-83

Sr.DY.DG

DG

DFA Please

23/2/83
24/2/83

DD/E-II

15-11/2

(S. BHATIA)

Dy. Director (Estt. - I)

R. D. S. O. (Min. of Rlys)

Manak Nagar, Lucknow-226011

Annexure A3
54.2.2

Government of India
Ministry of Railways
Research Designs and Standards Organisation

No. EII/SLN/O/C1.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/O/C1.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, JDMP3	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
below:

- | | | |
|--|--|--|
| i) Mathematics | - Integral Calculas
Differential Calculas
- Algebra | } by Gorakh
Prasad
by Hall &
Knight |
| ii) Thermodynamics | - Trigonometry
- Applied Heat Engines
Thermo Dynamics
Thermo Dynamics &
Heat Engines | } by S.L.Loni
by CS Lewitt
by Van Wylon
by P.L.
Millaney |
| iii) Applied Mechanics
and Strength of
Materials | - Statics &
Dynamics
Strength of
Materials
Strength of
Materials | } by S.L.Loni
by Ramarutham
by P.P. Agnihotri |

Theory of
Machines

by Jagdish Lal

iv) Workshop Technology & Metallurgy

Workshop Technology

by WAJ Chapman

v) Theory of Machines & Machine Designs

Theory of Machines & Designs

by Hevan

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.

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

Distribution

DR, DS/MP, DS/Carr, DSW, Addl. Dir./Res. Mech., D(ED), Jt. Dir. Stds/MP-I/O
Dr. P. Moudgill, JDS/WD
Sh. K.K. Gupta, JDS/MP
Sh. DL 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 Halder, CDA/MP
11. " RK Gamit, CDA/MP
12. " Dargahi, SRA/M

Copy to:-

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.

(K.K.Soni)
for Director General

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

11/65
20/16

Research Mechanical(SI)

X/100

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/O/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

13-10-1983

S/Shri

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.Gamit
9. Om Prakash
10. D.S.Arya
11. Dargahi
- ~~12. J.M.Tudu~~
12. J.M.Tudu

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.Gamit
9. Om Prakash

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

DD/E-II *12*

11/14

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

7.5.84

Ameyue
A-47

97/1

Hotelia Power Directorate

Note No. 3D, STAFF. 4

dt. 26.5.1984

Sub: Pre-Selection coaching to the reserved community candidates for class II selection in the Hecch. Engrs. Deptt. of R.D.S.O.

Ref: DG/EDSO's Note No. FFI/SUN/O/CI.II/Tech./Hecch. dt. 28.9.83.

The following officers/staff of Hecch. Engrs. Deptt. of EDSO may please ensure that the necessary pre-selection coaching in 'Mathematics' as required under vide the above DG/EDSO's note has been imparted to them by Shri K.K. Gupta, Jt. Director Stds. (RP)-3:

S/Shri

1. S. K. Harwan, 2. D.S. Arya,

3. Tilak Raj,

4. Hardev Singh,

5. J.M. Toddy-

CDR/MP Offg. as ADE/Carr.

CDR/Carr.

CDR/Carr.

CDR/MP Offg. as ADE/MP

CDR/MP Offg. as ADE/Wagon.

(Dr. Krishan Kumar)
Jt. Director Stds. (RP) I/C

(S. BHATIA)

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

Annexure A 5

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

A/07

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. E(SCT)68CM15/12 dated 10th December 1971 already provide for 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 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 completed 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 to be 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.O. the record of *ad hoc* promotions should also be kept in the roster register for regular promotions as per the practice followed in 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. (ESL)
R. D. S. O. n. of Rlys
Manak Nagar, Lucknow-226001

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)74CM15/34 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)1-71PM1/161 dated 30th September 1974 and E(NG)1-75PM1/44 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 purview 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.

R. D. S. S.
Nagat

IA)
Estt. - 1)
n. of Rlys)
know-2260

8/104

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

.....x

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
misconcept 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

4/10/5

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 ~~xxxx~~ 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 respondant 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."}~~G.P.O.~~ No.13 of 1979 is wrong. The facts will be explained during the argument. However, the respondant have admitted the fact that the applicant had continue to work in class II gazetted post from ²⁷⁻¹⁻⁷⁹~~27.1.79~~ till 2.9.85.

4. That the contentions of the respondant 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 respondant in Para 10, & ¹¹12 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 respondant 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 ~~is~~ 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 ~~on~~ initially on adhoc ~~post~~ 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.

1/3

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, ¹⁸19, & 20 of his applicant are denied in full. The contentions of Para 17, 18, 19 & 20 of the application are re-affirmed.

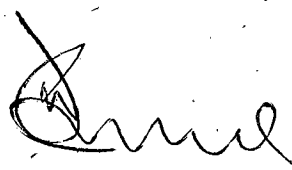
15. That the respondent have admitted the claim of the applicant in Para 21 of his application, hence no further comments.

16. That the contentions of the respondent in Para 22 and 23 of the written statement are denied in full. 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)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



X/8
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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

APPLICANT

Dated

X/18

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

K. B. LALL
JT. DIRECTOR, ESTT. (N).

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

NEW DELHI, DATED: 8.7.86

My dear Aggarwal,

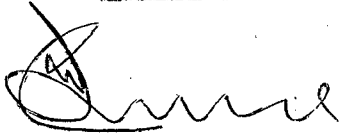
Sub:- Categories of posts as safety posts in RDSO.

Please refer to your D.O. Letter No. E-II/EST/T/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.



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.

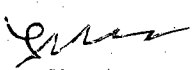
Hon'ble Justice Shri S.Zaheer Hasan, Vice Chairman.

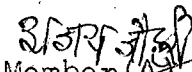
Hon'ble Shri Ajay Johri, Member(A).

(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)

Misc Appln 3B/86(T)

1/11

B.S.
4/25/87

In the Central Administrative Tribunal,
Allahabad Bench, Allahabad.

.....

Civil Misc. Restoration Application No. of 1986

in

Registration Cas. No. 833(T) of 1986

J.M. Indu..... 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 sheweth :

1. That the abovesaid case was listed on 1.12.1986 in the court no.1, ^{ALL} was dismissed in default by Hon'ble S. Zaker & A. Johri (J) ALL.
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 abovesaid case in default on that day.

Ashok Kumar Jaiswal

So (transfer)
Restoration
Application
May be laid
up before
Court for order
On 19.12.86
along with Pls.

8/12

2.

PRAYER

It is therefore most respectfully prayed
that this Hon'ble tribunal court may be pleased to
^{AK}restore ^{AK}~~cancel~~ the abovesaid 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, ^{AK}and ^{AK}
^{AK}fix an early date. ^{AK}

Arvind Kumar Jaiswal

(A.K. Jaiswal)

Counsel for the applicant.

Arvind Kumar Jaiswal

In the Central Administrative Tribunal,
Allahabad Bench, Allahabad.

.....

Civil Misc. Restoration Application No. of 1986

in

Registration Case No. 833(T) of 1986

J.M. Inan..... 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 sheweth :

1. That the abovenoted case was listed on 1.12.1986 in the court no.1, ^{was dismissed in default} by Hon'ble S. Zahoor Hasan & Hon'ble A. Jaiswal
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

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114

2.

PRAYER

It is therefore most respectfully prayed
that this Hon'ble tribunal court may be pleased to
~~cancel~~^{restore} the abovenoted 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. ^{AK} and ^{AK}

^{AK} fixed an early date ^{AK}

Arshu Kumar Jaiswal
(A.K. Jaiswal)

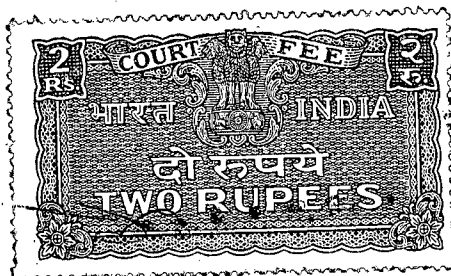
Counsel for the applicant.

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW.

C.M. An. No. 22/100(C) (Restoration)

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

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 afore 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 exparte 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:

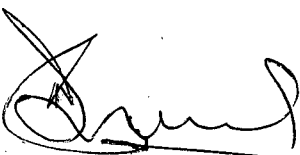
Nov. ,1988



Deponent

I identify the deponent who
has signed before me.

Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Circuit Bench Lucknow
28-A, THORN HILL ROAD, ALLAHABAD

Gandhi Bhawan!!!!!! Lucknow.

No. CAT/ALLD/JUD/32713 to 714

DATED _____

T.A.NO. 833 OF 1986(T)

J.M. Tudu & others Applicants'

V E R S U S

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

① J.M. Tudu, S/o Late Sri N.C. Tudu,
TO R/o Cx. 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 Mumtaz 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.

Deputy Registrar
DEPUTY REGISTRAR

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

.....

A/19

Registration (TA) No. 833 of 1986(T)

J.M. Tudu & another

Applicants

Versus

Union of India and others

Respondents

APPLICATION FOR TRANSFER OF THIS CASE
~~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.

PTC

Noted
23/9/88
A.S.
19/10/88

S.O.
08.8.88

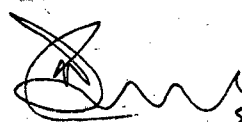
For MS. pl.
08/8/88

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120

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.


(J.M. Tudu)
APPLICANT
8/8/88

Allahabad,
Dated: 08-8-1988

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
23-A, Thornhill Road, Allahabad 211 001

No. CAT/Alld/ 10041-44

Dated 22/9/86

In re

Registration No.

833

of 1986 (T)

J. M. Tuli APPLICANT

Versus

U.O. 2 (R.D. 5.072) 11/86 RESPONDENTS

To

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

O.S. No. 441 of 1985
of the Court of J. J. L. B. B. B.
arising out of the order dated _____
passed by _____
in _____

The Tribunal has fixed the date of 22/11
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

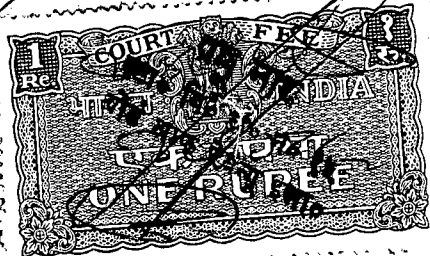
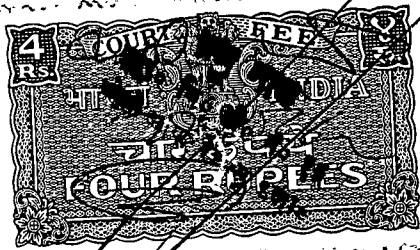
and decided in your absence.

Given under my hand and the seal of the Tribunal this 5.11 day
of Sept 1986.

DEPUTY REGISTRAR

P.T.O

%



In the Central Administrative Tribunal
आभिव्यक्त पत्र (वकीलतनामा)

हाईकोर्ट आफ जूडीकेचर, इलाहाबाद

Petition No. 233

सन १९७२

J. M. Tudu

वादी प्रतिवादी

अपीलान्ट

U.O. 9 (R.D.S.C.) & others

वनाम

वादी प्रतिवादी

J. M. Tudu & Late Sri N. C.

रेस्पान्डेंट

मैं/हम कि

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

Sri H. Shok Kumar, Advocate
एडवोकेट हाईकोर्ट इलाहाबाद

को कानूनी निश्चित शुल्क (मेहनताना) नियत करके अपना अभिव्यक्त वकील (वकील) नियत करवा
हैं/करते हैं। वह स्वीकार करता है/करते हैं कि उक्त सज्जन हमारी ओर से वाद-पत्र (अजीदावा), प्रति
पत्र (इयात तहरीरी), वाद स्वीकार पत्र, विवाद पत्र पुनर्विलोकन एवं पुनर्निर्णय प्रार्थना पत्र (दरखा
शापत्रियक कथन (इलफनामा) प्रवर्तन पत्र (दरखवास्त इजराय) मूजवात अपील, निगरानी इत्या
दर प्रकार के अन्य प्रार्थना वादि एवं लेखादि की प्रतिलिपियां अपने हस्ताक्षर करके न्यायालय से प्रस्तु
करें अथवा किसी पत्र पर आवश्यकतानुसार शापत्रियक पुष्टीकरण करें और आवश्यक सवाल जवा
ब करें और लेखादि की प्रतिलिपियां एवं हमारे प्रायधन को अपने हस्ताक्षरी पावती देकर प्राप्त करें
हमारी ओर से किसी को यध्य पत्र तथा साक्षी (गवाह) माने और उससे सम्बन्धित प्रार्थना-पत्र प्रस्तुत
करें तथा उसका समर्थन करें तथा तसदीक करें, वाद-पत्र उठावे, छोड़े अथवा समझौता करें तथा
मुलहनामा दाखिल करें तथा उसके सम्बन्ध में प्रार्थना पत्र पर दाखिल करके उसका समर्थन करें
अर्थात् प्रकरण में सम्बन्ध रखने वाली कुल कार्यवाही डिप्री भर पाई होने के समय तक स्वतः या संयुक्त
करें। आवश्यकता होने पर किसी अन्य वकील महोदय को वकील करें।
उक्त सभी कार्यवाही जो उक्त सज्जन करेंगे प्रत्येक दशा में अपने किये की भांति हमको/मुमको स्वस्था
स्वीकार होगी अगर मैं/हम कानूनी/निश्चित शुल्क उक्त सज्जन को न दें तो उनका अधिकार होगा
कि वह हमारी ओर से मुकदमा की गैरबी न करें। उपरोक्त दशा में सज्जन का कोई उत्तरदायित्व
न रहेगा।

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

वकालतनामा मन्जूर है

तिथि

माह

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. 33 OF 1986 (T)

J.M. Tudu

in Registration 833/86 (T)

APPLICANT

VERSUS

Union of India and another

RESPONDENTS

- To 1- 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.

Ops No. 441 of 1985
of the Court of DJ Lucknow
arising out of the order dated
passed by
in

The Tribunal has fixed the date
of 21/12/1987 for the
hearing of the matter by order dt

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 and decided in your absence.

Given under my hand and seal of the Tribunal this 22/12 day
of December 1986.

Encl - A Copy of Restoration

MR
DEPUTY REGISTRAR.
Name
22/12/86

A/124

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.



A.M.

RKM

Dated the 1st Dec., 1986.

A/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 &
DIARY No ...
Dt 24/10/86

Dated: 24 -10-1986.

To

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

(S. Bhatia)

Dy. Director/Estt-I
for Director General
(Applicant)
(S. Bhatia)

Dy Director (Estt I)
RDSO Deput of I lys
Ministry of Transport
Manak Nagar, Lucknow-226011



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Central Administrative Tribunal

हाईकोर्ट ऑफ जस्टिस एट इलाहाबाद

Case No. 833 (T) इलाहाबाद

स्टि/अपील

नम्बर सन् १९८६

जिला

निगरानी

J. M. Tuder

वादी/प्रतिवादी

अपीलान्त

वनाम

U. O. P. 48/85

वादी/प्रतिवादी

रेस्पान्डेंट

में कि J. M. Tuder & Co. vs. U. O. P. 48/85

हम Trivik Khan 3/9 Gouth-Nagar Lucknow

उपरोक्त प्रकरण हम अपने 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, पुनर्विलोकन एवं पुनःनिर्णय प्रार्थनापत्र शापथिक कथन प्रवर्तन पत्र अपील, निगरानी इत्यादि हर प्रकार के अन्य प्रार्थना आदि एवं लेखादि की प्रतिलिपियाँ अपने हस्ताक्षर 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 हस्ताक्षरों द्वारा रसीद देकर प्राप्त करें। हमारी ओर से किसी मध्य पत्र, तथा साक्षी माने और उससे सम्बन्धित प्रार्थना पत्र प्रस्तुत करें तथा उसका समर्थन करें तथा तसदीक करें वाद पत्र उठावे, 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 कार्यवाही जो उक्त सज्जन करेंगे प्रत्येक दशा में अपने किये की भांति 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।

तम्बर मुकुन्दमा

नम्बर इजारा

-सन् १९

450

पुद्ई

अपीलान्ट

बनाम

महललय

रेस्पान्डेन्ट

मैं/हम श्रीमति कौटिल्या उप नि.क. 1251 ने बिगड़ी एतका
निवासी लाहौर

श्री १०. श्री वाचस्पति स्वामी के एडवोकेट को

उपरोक्त मुकदमें 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/दिते हैं कि इस मुकदमा में वह मेरी ओर से पैरवी करें आवश्यकता सवाल पूछें जवाब दें और बहस करें दस्तावेज व कागजात अदालत में दाखिल करें व वापस लें पंचनामा उपस्थित करें, पंच नियुक्त करें यदि आवश्यकता हो तो पंच निर्णय का लिखित विरोध करें सुलहनामा दाखिल करें, दावा स्वीकार करें या उठा लें और डिग्री प्राप्त हो जाय तो उसे जारी करावें डिग्री का रुपया व खर्चा, हर्जाना का रुपया या किसी दूसरी तरह का रुपया जो अदालत में मुझे/हमें मिलने वाला हो वसूल करें मेरा हमारी ओर से अदालत दाखिल करें, कोई फीस व स्टाम्प दें वा वापिस लें रसीद लें व प्रमाणित करें, नकल प्राप्त करें, अदालत की अनुचित मिसिल का मुआयना करें, आवश्यकता होने पर मुकदमा स्थापित करावें इस मुकदमें के सम्बन्ध में दूसरे काम जो जरूरी समझें करें पैरवी के लिये अपनी ओर के कोई दूसरे वकील को नियुक्त करें यदि आवश्यक हो तो अपील या निगरानी दायर करें और अपील निगरानी की अदालत में पैरवी करें।

इस अधिकार पत्र के अनुसार उक्त वकील महोदय इस मुकदमें 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

महि

सन् १९

50

स्वीकार हैं

हस्ताक्षर.....(S. Bhatia)

By Director (Estt 1)

RDSO Dept of: (leg)

Ministry of Transport

Manak Nagar, Lucknow-226011

ANNEXURE-B

CENTRAL ADMINISTRATIVE TRIBUNAL, DELHI

Application No.....of 19.....

Transfer Application No. 833/86 (T)old Writ Pet. No. O.S. 441/85

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.)

8/30

Hon'ble Central Administrative Tribunal

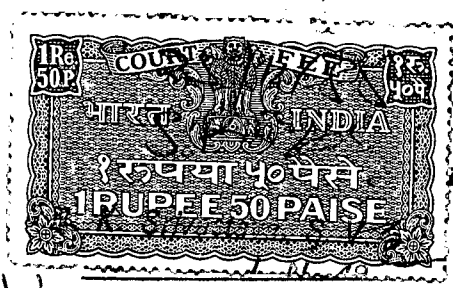
वकालत अधिनियम

[वादी] अपीलांत

प्रतिवादी [रिप्लाइंट]

J.M. Tudu

वकालतनामा



J.M. Tudu

Union of India

वताम

प्रतिवादी (रिप्लाइंट)

Registration No - 833/86 (T) सन १० मुकद्दमा

पेशी की ता०

१२ ई०

ANo 22/88 ऊपर लिखे मुकद्दमा में अपनी ओर से श्री Satish Kumar Tripathi

----- Adv -----

वकील
महोदय
एडवोकेट

नाम अदाकर
मुकद्दमा न०
वकील

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

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

पृष्ठ

सं० १२३९

Accepted
S.K. Tripathi
9/3

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

.....2

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 irrelevent statements which are contained in para-1
to 5 of the written statement. Replies to his irrelevent
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
misconcept 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

.....2

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 wrbttten 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 respondant 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 G.P.O. No.13 of 1979 is wrong. The facts will be explained during the argument. However, the respondant have admitted the fact that the applicant had continue to work in class II gazetted post from ⁹⁷⁻¹⁻⁷⁹ ~~27.1.79~~ till 2.9.85.

4. That the contentions of the respondant in Para 9 of the written statem~~ent~~ 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 respondant in Para 10, ¹¹ & 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 respondant 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 re-affirmed.

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 on initially on adhoc basis against a long term vacancy reserved for ST community. As no suitable ST candidate was available, the applicant should have been continued 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 respondent 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. Puchi 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.

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
JT. DIRECTOR, ESTT. (N).

D.O. NO. E. (NG) 1-86 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-11/EST/T/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.

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 applicant 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)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

(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 382, 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 autho-
rities 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.

.....2

S.No-15

Before The Central Administrative Tribunal
Jucknaw

Case No 833/86(T)

J.M. Tudu

Abb

1/3

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~~ am
not in a position to conduct
the case to day.

Whereas it is most respectfully
prayed that aforesaid case be
adjourned to some alternate
date of 15 days.

Jucknaw
Dated 20.4.89

S.K. J. palnis
for P.G.N.