

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE T.A/091/82 W.P. 190/5422/82 OF

NAME OF THE PARTIES Lengar Ram, Applicant

Versus

U.O.F. Govt, Respondent

Part A.

Sl.No.	Description of documents	Page
1	Index sheet	A1 to A2
2	Order sheet	A3 to A4
3	Judgment order dt. 4-5-92	A5 to A7
4	Writ Petition / Annexure	A8 to A19
5	Power	A20
6	stay application	A21
7	Power, stay vacatio, application	A22 to A23
8	Courter Affidavit	A24 to A25
9	Power	A25
10	H.Court order sheet	A26
11		
12		
13		
14		
15		
16		
17		
18		

CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

Rechecked on Dated 28.9.11.....

Counter Signed.....

Rajan
30/6/11

Section Officer/In charge

M
Signature of the
Dealing Assistant

Central Administrative Tribunal
Lucknow Bench

Cause Title 64/1993 of 1993

Name of the Parties Bhanga Ram, Applicant
Versus

On Behalf of Plaintiff, Respondents.

Part A. P.C.

Sl. No.	Description of documents	Date
1.	Check List	
2.	Order Sheet.	11/12/
3.	Judgemental 4.5.92	15/15
4.	Plaintiff Copy	16/15
5.	Annexure	16/15
6.	Power	
7.	Counter Affidavit.	
8.	Rejoinder Affidavit.	
	<u>High Court file no. 1</u>	15/12

B - File

R/C

~~B - File 843 - 747~~

C - File 844 - 747

CHIEF ADMINISTRATIVE OFFICER
LAW COURT

Application No. - - - - - of 19

Transfer application No. - - - - - of 19

Original Writ Petition No. - - - - - of 19

CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment in the record room.

Counter Signed.

Signature of the
Dealing Assistant.

Section Officer/Court Officer.

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
20-11-89 present date of hearing	<p>No sitting adj. to 23-12-7/5/90</p> <p>This case has been received on transfer.</p> <p>Notice were issued to the counsels by the Office at Allahabad. ^{Parikar is present on behalf of C.R. No. 1} Let notice be issued again to the ^{applicant} parties as directed by Hon'ble Mr. D.K. Agarwal, J.M.</p>	<p>18/12/7/5/90 in R.C. 1 S. 12/2</p>
Notices 21-3-90 Served 4.12.89	Hon. Mr. D.K. Agarwal - J.M. Hon. Mr. K. Obayya - A.M.	OR Notice issued S. 12/3/90
7-5-90	The bar is on strike. Adjourned to 17/12/90 F.H.	Case is admitted C.A. filed
17-7-90	A.M.  J.M. 	Notice was given to the applicant. No answer has been received back. Sos S Varma files power on behalf of the applicant S. P. O.
17-7-90	No sitting adj. to 25/12/90	L 3/1
5-10-90	No sitting adj. to 22-11-90	OR
22-11-90	Hon. Mr. Justice K. N. Nali, V.C. Hon. Mr. M. M. Singh, A.M.	S. Varma files power on behalf of C.R. & also filed C.A. duly served on the applicant
	Counter having filed. The case be listed for first hearing on 17-1-91. In the meantime the applicant may file a rejoinder within 3 weeks.	No R.A. filed S. P. O. L 20/11
Dinesh 	M. M. Singh A.M.	V.C.

17.1.91 No setting down to 26.2.91

26.2.91 - No setting down to 24.6.91.

No & filed

L

41

S

24.6.91

Respondent has
not been filed up
in spite of the clear
directions of the
Hon. Mr. Justice
Harkish Singh dated

22.11.90

Put up before
the Hon. Justice
for final hearing
on 26.7.91

26.7.91 Hon. Mr. S. N. Prasad, J.M. 24.6.91

case called out several times at
intervals: None present. Put up again
after lunch.

26.7.91 Hon. Mr. S. N. Prasad, J.M. J.M.
case called out again after lunch;
None present. fixed this case for
final hearing on 3-10-91

J. M.

3. X. 91

also Sclerf. Adj to 9.12.91

(P)

1091-07-1

L

8/11

OR

RA has not
tied

S.E. 4

L
3/12/91

9.12.91

House. Mr. Jossie b.e. Somnath 16
Frank. Mr. A.B. Gath. A.M

On the performance. application
of Sr. S. Venkatesh Gundeti for a responsible
case in connection to 12.12.91 for
shearing

1
A.M

✓
12

12.12.91

Due to bad demand of Sr. B.D.
Chakravarthy. Def. made by him
Corriged on 23.3.92 &
B.M

23.3.92

No striking of D.P. only

29.4.92

From Mr. S.N. Prasad, T.D.

can called out several times at
intervals. now responds on behalf of
either of the parties. Part up again after
lunch.

T.M.

29.4.92

Hon Mr. S. N. Pasad J.M

case called out again after having
lunch. Has responds on behalf
of either of the parties despite
repeated calls at intervals.
Will this case for final hearing
on 4.5.92 -

J

A

J.M

4.5.92

case not reached adj to 13.8.92

2

(P3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL-LUCKNOW BENCH

LUCKNOW.

T.A. NO. ~~1091~~ 1091
of 1987.

*Concurred
10/7/92*
Ganga Ram..... Applicant.

Versus

The Union of India & others..... 0 pp. Parties.

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

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

The applicant who was trolleyman working at the railway station Mankapur filed a Writ Petition against the order of recovery which was being made from him in ~~view~~ ^{respect} of over time ~~amount~~ ^{allowance} which was paid to him earlier.

According to the ~~respondent~~ ^{applicant} he was a trolleyman and every day two hours extra duty was taken from him. The applicant protested against the same thereafter the Railway Administration decided to pay him over-time allowance and it was paid to the applicant but later on the said amount was ordered to be deducted without prior notice to the applicant and recovery order was passed. This writ petition has been filed ~~firstly~~ in the High Court Allahabad and by operation of law ~~it~~ this file has been transferred to this tribunal.

The respondents have opposed the claim of the petitioner and it has been pointed out the applicant was working as trolleyman in the scale of Rs. 210-270 at Mankapur under PWI, but he was essentially intermittent worker under hours of ~~employment~~ Employment Regulation and his duty hours ~~were~~ are 72 hours per week and he did not work more than the statutory hours of work, as such he was not entitled to over time, and as per policy laid down by the Railway Board under their circular no. E/

(LL) 73/HER/(RTA) /7 dated 13.6.74 it was ordered under Divisional Railway Manager's (P) XR Telegram No. E/vi/34/Engg. (Bill dated 1.5.1982 that the recovery on account of over payment of overtime made to the petitioner may be recovered at the rate of Rs. 100/- per month and thus the recovery was ~~made~~ being made. It has been stated that the acceptance of 'Railway Labour Tribunal, 1969 Award (also known as Miyan Bhai Award), a new concept of roastering was introduced in which the roastered ~~hours~~ hours as well as the rate of over time allowance ~~payable~~ payable to the staff in excess of the ~~restered~~ ~~hours~~ hours were changed from 1.8.1974 and the said award provides the classification of Trolleyman, Chowkidar and some of the Gatekeeper in 'Essentially Intermittent' (E.I.) category, and according to ~~which~~ which they were required to do - (a) 10 hours' duty at a junction Stations, where accommodation has been provided at a distance of more than 0.5 Kms. from the place of duty, and (b) at road side stations where accommodation to the staff has been provided within 0.5 Kms. of their place of duty, the duty hours shall be 12 hours a day or 72 hours per week. Mankapur Station is road side station, as such the applicant may not get the same, but he was made payment of overtime by mistake for which the recovery was being made from the order and circular issued by the Railway Administration which has been mentioned above. It appears that the applicant was essentially intermittent ~~work~~ trolleyman that is for 72 hours ~~maxxx~~ job in a week. as such the recover^{which} is being made cannot be said to be the illegal. As such the amount was wrongly paid to the applicant for which the

Railway Administration is responsible. The recovery so made from the applicant is not illegal, but the applicant was not to suffer ^{mistake and negligence} because of the instructions by the respondents. As such the application deserves to be dismissed. It is open for the Railway Administration to ~~xx~~ reduce the amount of recovery and to recover the same from the applicants in easy instalments ^{the application should be disposed of in this manner} as the applicant alone is not to suffer. No order as to the costs.


Vice Chairman.

Dated: May 4, 1992.

(DPS)

GENERAL INDEX

CIVIL
SIDE
CRIMINAL

Chapter XLI, Rules 2, 9 and 15

Nature and number of case W.P. No. 5427-82 No. 4/Name of parties George Ram vs. Union of India
S-11-82

Date of institution

Date of decision

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
1		W.P. with Answer and Affidit	10.	—	102.00			
2		Power	1—	—	5.00			
3		Comm 11538 (W-82-83)	1—	—	5.00			
4		Power.	1—	—	5.00			
5		Comm 11919 -884 notes	18	—	7.00			
6		order sheet	1—	—	—			
7								

I have this

day of

197

examined the

record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that they bear Court Fee Stamps of the aggregate value of Rs. —, that all orders have been carried out, and that the record is complete and in order up to the date of the certificate.

Date _____

Munsarim
Clerk

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH, LUCKNOW

(645) / Writ Petition No.

5427
of 1982

Ganga Ram

.... Petitioner

Versus

Union of India through
Secretary, Railways & others Opp. parties

I N D E X

Sl No	Description of papers	Pages
1.	Stay application	1
2.	Writ petition	2 + 6
3.	Annexure No.1 order dated 23/24/5.82	7
4.	Annexure No.2 Stay order dated 18.8.82	8
5.	Affidavit	9 + 12
6.	Vakalatnama	13

Lucknow :
Dated : Oct. 22 1982.

(RAJ KUMAR)
Counsel Advocate for the Petitioner



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD,

Lucknow Bench, Lucknow

5429
1982

Writ Petition No. of



Ganga Ram,

S/o Sri Baleshwar,

Resident of PWI (HER) Office,

Lankapur,

District Gonda.

.... Petitioner

Versus

1. Union of India,

through Secretary Railways,

Rail Bhawan, New Delhi.

2. Divisional Manager,

Railways (Ka),

Lucknow.

3. Rail Path Nirikshak, II(EL),

Lankapur,

District : Gonda

.... Opposite parties

22.10.82

Received duplicate
for opn no 1803
Notice was received
today on 3.11.82 too
5.11.82.

① Chander
3.11.82 BSY
for Chander Chander

RECD.

Impressed
Seal Adhesive 10/10--eo
Initial 10/10--eo

~~Correct but final Court-fee report~~

~~will be sent on receipt of fees~~

~~Court~~

~~In~~

~~Paper used. Copy of P.~~

~~should also be filed.~~

~~Chander - Banah.~~

Last day due no 1 or 22-5-82

① 19

Chander
22-5-82
22/5

H.M. S. C. Maitrey, J
Hon. S. S. Phool, J

Admit and connect
with writ petition no.
3928 of 82.

Chander

28.5.11.82
R.S.

Writ petition under article 226 of the Constitution of India.

The above named petitioner most respectfully begs to state as under :

1. That the instant writ petition is directed against the recovery order regarding recovery of the overtime wage paid to the petitioner in pursuance of a Railway Authority's order.
2. That the petitioner is a trolleyman attached to opposite party no. 3 and is discharging his duties at Mankapur.
3. That two hours extra duty was being taken from the petitioner but he was not paid overtime for the additional duty he was made to perform.
4. That the petitioner through his union protested against non-payment of overtime for the additional two hours' duties taken from him in addition to his routine duty.
5. That the Railway Authorities decided to pay the petitioner 2 hours overtime allowance since 1974 and issued an order to this effect. Petitioner applied and tried his level best to get this order for payment of overtime to the petitioner but he was refused by the authorities concerned to give the copy of the order to the petitioner and was told that some other trolleymen have filed a case against the railways as such no papers connected with

*Hand
22.10.82*

STOTTYPS

A/10

In the circumstances this Hon'ble Court may be pleased to summon the order in pursuance of which these trolleymen were allowed two hours' extra overtime allowance.

6. That on 23/24.5.82 the petitioner received communication that Rs. 100/- per month shall be deducted from his salary as recovery of overtime paid to them in pursuance of an order dated 1.5.82 issued by opposite party no. 2. The order in original is being filed as Annexure 1 to the writ petition.
7. That it is surprising that the petitioner was being subjected to two hours' extra duty in addition to his routine duty and after duly paying him overtime allowance the authorities concerned are recovering the same.
8. That when the authorities concerned could not return those additional two hours to the petitioner they are under no law entitled to recover the overtime payment for those additional two hours duty taken from the petitioner.
9. *Handwritten note: 22.5.82* That the petitioner is a very low paid employee as such recovery of nearly one third of his salary had subjected him to a miserable financial condition in which he is even unable to manage to meet his both ends.
10. That the recovery order has been passed by way of punishment without giving the petitioner any opportunity to defend himself against the punishment order and no notice has been provided under

law has been given to the petitioner prior to issuance of the impugned order.

11. That it is very pertinent to note that four trolleymen under BSI, Mankapur are getting their full salary and no recovery is being made from them, whereas the petitioners who are similarly placed and situated have been subjected to hundred rupees recovery per month from his salary.
12. That the recovery order impugned in another writ petition no. 3928 of 1982 which has been admitted and stayed by this Hon'ble Court vide its order dated 18.8.82 also includes the petitioner's name.
13. That having no other efficacious alternative remedy the petitioner filed the instant writ petition amongst other on the following grounds :

G R O U N D S

- I. Because recovery of overtime salary paid to the petitioner for two hours extra work taken from him in addition to his routine duty is absolutely illegal, malafide and without jurisdiction.
- II. Because when two hours additional duty performed by the petitioner and the payment for the same had been made to him that cannot be recovered as the authorities concerned

(A1)

5

(A2)

who took the additional duty of two hours from the petitioner cannot return back those extra two hours to the petitioner.

III. Because as other trolleymen similarly placed and similarly situated are not being subjected to the recovery order, as such recovery order is illegal, discriminatory and utter violation of article 16 of the Constitution of India.

IV. That in case the recovery order is illegal, malafide, capricious and hence inoperative.

V. Because the impugned order has been passed without giving notice to the petitioner as such the impugned order is illegal and against the principle of natural justice.

PRAYER

WHEREFORE it is most humbly prayed that this Hon'ble Court may be pleased to :

a) issue a writ direction or an order in the nature of certiorari to quash the impugned order dated 1.5.82 after summoning the same and communication dated 22/24.5.82 contained in Annexure No.1 to the writ petition.

b) issue a writ direction or order in the nature

- 6 -

(A13)

X
15

of mandamus directing the opposite parties not to recover any further amount from the salary of the petitioner and to pay already deducted amount forthwith.

c) issue a writ direction or order deemed fit and proper in the circumstances of the case and the cost of the petition be awarded to the petitioner.

RAJ KUMAR

(RAJ KUMAR)
Advocate
Counsel for Petitioner

Lucknow :

Dated : Oct., 1982.

(A.W) 7
15

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

Writ petition no. of 198

Ganga Ram

..... Petitioner

Versus

Union of India & others

..... Opp. parties

Annexure No.

न0520/पा०८८८८१

प्रायोगिक
रेलपथ ।।। दाक मनकापुर

रेलपथ निरिक्षक ।।। एम०एल०५ दिनांक 22-1-82

रेल पथ निरिक्षक ।।। सी०बी०एल०

मनकापुर

विषय : आर०एल०टी० द्राली मैन
सदीर्भि रेल प्रबन्धक का०५ लखनऊ का० । आर०
इ०/वी०/34/इन्जी० बिल दिनांक 1-5-82

आप के अन्तर्गत टुली मैनों के आर०एल०टी०
आवरजाइम की रिकवरी रु० 100/५ प्रति माह के हिसाब से
होगी आपकी सूचनार्थ हेतु

1. श्री पहलाद	HTM
2 श्री प्यारे	TM
3 श्री लाल विहारी	TM
4 " गंगा राम	HTM
5 " बुधराम	TM
6 " स्तीता राम	TM
7 " संतोषी	TM
8 " प्यारे राम औतार	HTM
9 " जगू	TM
10 " आशा राम	TM
11 " बैरागी	TM
12 " गोली	TM

प्रतिलिपि : सहायक अभिभा० गोली को
सूचनार्थ हेतु प्रषित

रेल पथ निरिक्षक मनकापुर
रेलम०नि० मनकापुर

8

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

P/S

Sitting at Lucknow

Writ petition no. of 1982

Ganga Ram

.... Petitioner

Versus

Union of India & others

.... Opp. parties

Annexure No. 2

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD (LUCKNOW BENCH)

L U C K N O W

C.M. Application No. 8002(W) of 1982

In re;

Writ Petition No. 3927 of 1982

Sher Bahadur

.... Petitioner

Vs.

Union of India through
Secretary Railways & others Opp. parties

Application for Stay

Lucknow Dated : 18.8.1982

Writ 22.8.82
Hon'ble R.C.Deo Sharma, J.
Hon'ble S.S.Ahmad, J.

Notice has already been accepted by Sri Umesh Chandra
on behalf of the opposite parties. The recovery of over
time dues already paid being made in pursuance of
Annexure 1 shall remain stayed.

Sd. R.C.Deo. Sharma,
Sd. S.S.Ahmad

True Copy

18.8.1982

(A16)

A/2

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH, LUCKNOW

Try. I

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Place
De

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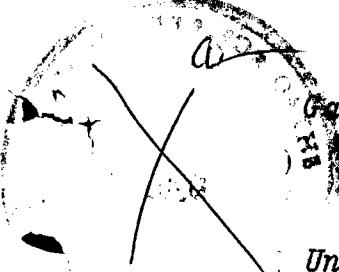
1982

END

AFFIDAVIT

In

Writ Petition No. of 1981

Ganga Ram

.... Petitioner

Versus

Union of India through
Secretary, Railways & others.... Opp. parties.

1. Hui 10.8.21
I, Ganga Ram, aged about 45 years, PWI
(Trolleyman), Mankapur, district Gonda, do hereby
solemnly affirm on oath as under :

Digitized by

1. That the deponent is the petitioner in the above noted writ petition and as such is fully conversant with the facts of the case.

2. That the contents of paras 1 & 7, 9, 11
of the accompanying writ petition are true
to my own knowledge and paras — are
believed by me to be true and those paras 8, 10, 12, 13
are based on legal advice.

3. That the annexure 1 & 2 are the original
communication of the order.

दाखिला

DEPONENT

Lucknow :

Dated : 22 Oct. 1982.

Verification

*I, above named deponent do hereby verify that
the contents of paras 1 to 3 of this affidavit are
true to my own knowledge. No part of it is false
and nothing material has been concealed, so help
me God.*

दाखिला

DEPONENT

Lucknow

Dated Oct. 22 1982,

I identify the deponent who has signed before me.

(RAJ KUMAR)
Advocate

R/9

Solemnly affirmed before me on 22/10/82
at 11.15 am/pm by Sri Ganga Ram, the deponent
who is identified by Sri Raj Kumar, Advocate,
High Court, Lucknow.

*11.15
22.10.82* I have satisfied myself by examining the deponent
that he understands the contents of the affidavit
which has been read out and explained by me.

Umaresh

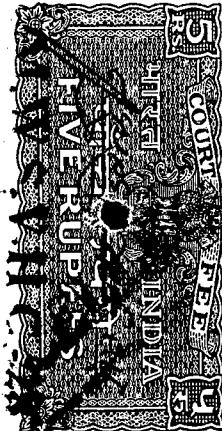
255-155 1910

22.10.82

A19

In the Honourable Court of Justice
ब अदालत श्रीमान Allahabad High Court महोदय

✓ वादी (मुरई)
प्रतिवादी (मुदालेह) का वकालतनामा



14251
७८/१

गवाह का

वादी (मुरई)

बनाम

Union of India vs प्रतिवादी (मुदालेह)

नं० मुकदमा सन् १९४७ पेशी की ता० १९ ई०
ऊपर लिखे मुकदमा में अपनी ओर से श्री

एडवोकेट

वकील महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा [इकरार] करता हूँ और
लिखे देता हूँ इस मुकदमा में वकील महोदय स्वयं अथवा अन्य
वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य
कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी
जारी करावें और रूपया वसूल करें या सुलहनामा या इकबाल
दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने
हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें
या कोई रूपया जमा करें या हमारी या विपक्षी [फरीकसानी] का
दाखिल किया रूपया अपने या हमारे हस्ताक्षर-युक्त [दस्तखती]
रसीद से लेवें या पंच नियुक्त करें - वकील महोदय द्वारा की
गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह
स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने पैरो
को मेजता रहूँगा अगर मुकदमा अदम पैरवी में एक तरफा मेरे
खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर
न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण
रहे और समय पर काम आवे।

हस्ताक्षर द्वारा सुन्न

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना १९ ई०

Accepted
गवाह

IN THE EQUITABLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH, LUCKNOW

Writ Petition No. of 1982

Ganga Ram

.... Petitioner

Forces

**Union of India through
Secretary, Railways & others Opp. parties**

FILED

Sl. No.	Description of papers	Pages
1.	Stay application	1
2.	Writ petition	2 - 7
3.	Writ Petition No. 1 order dated 23/4/3.82	8
4.	Writ Petition No. 2 Stay order dated 10.8.82	9
5.	Affidavit	10-12
6.	Pakolatnama	13

**Lucknow :
Dated 1 Oct. 1982.**

**(RAJ KUMAR)
Counsel for the Petitioner**

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

Civil Misc. Application No.

of 1982.

In

Writ Petition No.

of 1982

Ganga Ram

.... Petitioner

versus

State of India, through

Secretary, Railway & others Opp. Parties

APPLICATION FOR STAY

That upon the facts and circumstances disclosed in the accompanying affidavit to the instant writ petition the operation of the impugned order dated 1.5.1982 and communication of the same contained in Annexure No. 1 to the writ petition may be stayed till the decision of the instant writ petition.

Lucknow : Dated
October, 1982

(R.D. KUMAR)
Advocate
Counsel for the Applicant

IN THE HIGH COURT OF JUDICATURE AT ALMORA,

Lucknow Bench, Lucknow

Writ Petition No. 1982

Ganga Ram,

S/o Sri Balachandar,

Resident of P.O. (NER)Office,

Bankapur,

District Gonda.

.... Petitioner

VS

1. Union of India,

through Secretary Railways,

Rail Bhawan, New Delhi.

2. Divisional Manager,

Railways (Zo),

Lucknow.

3. Rail Path Mritkshak, II(RL),

Bankapur,

District : Gonda

.... Opposite parties

Writ petition under article 226 of the Constitution
of India.

The above named petitioner most respectfully
bega to state as under :

1. That the instant writ petition is directed
against the recovery order regarding recovery
of the overtime wage paid to the petitioner
in pursuance of a Railway Authority's order.
2. That the petitioner is a trolleyman attached to
Opposite party no. 3 and is discharging his
duties at Nankapur.
3. That two hours extra duty was being taken from
the petitioner but he was not paid overtime
for the additional duty he was made to perform.
4. That the petitioner through his union protested
against non-payment of overtime for the additional
two hours' duties taken from him in addition
to his routine duty.
5. That the Railway Authorities decided to pay
the petitioner 2 hours overtime allowance
since 1974 and issued an order to this effect.
Petitioner applied and tried his level best
to get this order for payment of overtime
to the petitioner but he was refused by the
authorities concerned to give the copy of
the order to the petitioner and was told that
some other trolleyman has filed a case against
the railways as such no papers connected with
the case can be given to the petitioner.

In the circumstances this Hon'ble Court may be pleased to summon the order in pursuance of which these troymen were allowed two hours' extra overtime allowance.

6. That on 23/24.5.82 the petitioner received communication that Rs.100/- per month shall be deducted from his salary as recovery of overtime paid to them in pursuance of an order dated 1.5.82 issued by opposite party no.2. The order in original is being filed as Annexure 1 to the writ petition.
7. That it is surprising that the petitioner was being subjected to two hours' extra duty in addition to his routine duty and after duly paying him overtime allowance the authorities concerned are recovering the same.
8. That when the authorities concerned could not return those additional two hours to the petitioner they are under no law entitled to recover the overtime payment for those additional two hours duty taken from the petitioner.
9. That the petitioner is a very low paid employee as such recovery of nearly one third of his salary had subjected him to a miserable financial condition in which he is even unable to manage to meet his both ends.
10. That the recovery order has been passed by way of punishment without giving the petitioner any opportunity to defend himself against the punishment order and no notice has provided under

law has been given to the petitioner prior to issuance of the impugned order.

11. That it is very pertinent to note that four typewriters under BSI, Ranchipur are getting their full salary and no recovery is being made from them, whereas the petitioners who are similarly placed and situated have been subjected to hundred rupees recovery per month from his salary.
12. That the recovery order impugned in another writ petition no. 3920 of 1982 which has been admitted and stayed by this Hon'ble Court vide its order dated 19.8.82 also includes the petitioner's name.
13. That having no other efficacious alternative remedy the petitioner filed the instant writ petition amongst other on the following grounds :

G R O U N D S

- I. Because recovery of overtime salary paid to the petitioner for two hours extra work taken from him in addition to his routine duty is absolutely illegal, malafide and without jurisdiction.
- II. Because when two hours additional duty performed by the petitioner and the payment for the same had been made to him that cannot be recovered as the authorities concerned

who took the additional duty of two hours from the petitioner cannot return back those extra two hours to the petitioner.

III. Because as other trolleymen similarly placed and similarly situated are not being subjected to the recovery order, as such recovery order is illegal, discriminatory and utter violation of article 16 of the Constitution of India.

IV. That in case the recovery order is illegal, malefide, capricious and hence inoperative.

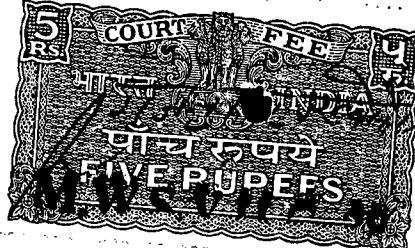
V. Because the impugned order has been passed without giving notice to the petitioner as such the impugned order is illegal and against the principle of natural justice.

PRAYER

BEFORE it is most humbly prayed that this Hon'ble Court may be pleased to :

a) Issue a writ direction or an order in the nature of certiorari to quash the impugned order dated 1.5.82 after summoning the same and communication dated 22/24.5.82 contained in Annexure No.1 to the writ petition.

b) Issue a writ direction or order in the nature



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

Civil Misc. Application No. 11580/1982 of 1982.

Writ Petition No.

In
5429

of 1982

Ganga Ram

.... Petitioner

Versus

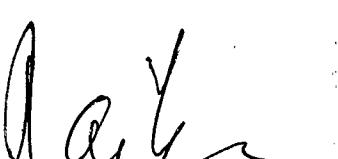
Union of India, through

Secretary, Railway & others Opp. Parties

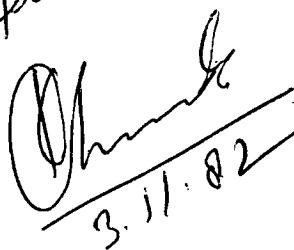
APPLICATION FOR STAY

That upon the facts and circumstances disclosed in the accompanying affidavit to the instant writ petition the operation of the impugned order dated 1.5.1982 and communication of the same contained in Annexure No. 1 to the writ petition may be stayed till the decision of the instant writ petition.

Lucknow : Dated
22.10.1982


(RAJ KUMAR)
Advocate
Counsel for the Applicant

Recd duplicate
to 5.11.82


5.11.82 (14)

Hon S C. Nathur, J
Hon. S. S. Alimad, J

Notice of this petition
has been accepted by
Sri Umesh Chandra on behalf
of opposite parties. He may file
Counter affidavit within two
weeks, the petitioner
may thereafter file
rejoinder within 10 days.

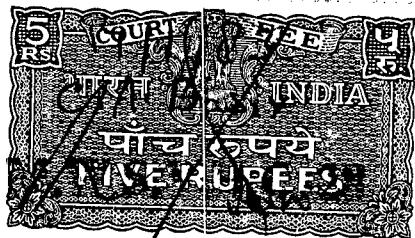
Meanwhile recovery
of the overtime dues shall
remain stayed.

22 5.11.82

RPS



VAKALAT NAMA



Before
In the court of IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD.
LUCKNOW BENCH : LUCKNOW.

W.P. No. 5427 of 1982.

Ganga Ram Petitioner

VERSUS

Union of India & others Opp. Parties.

IXWS A.Rama Rao, Divisional Railway Manager, North Eastern Railway Lucknow who is ex-officio authorised to act for and on behalf of Union of India and M.S.Akhtar, Senior Divisional Personnel Officer (Divisional Railway Manager /Ka) North Eastern Railway, Lucknow,

do hereby appoint and authorise Shri C.A.Basir,
Railway Advocate Lucknow to appear, act, apply and prosecute the above described Suit/Application/Case/Appal/Writ/ Civil Revision on my/our behalf of Union of India and Senior Divisional Personnel Officer (Divisional Railway Manager/Ka).
to file and take back documents, to accept processes of the court, to deposit moneys and generally to represent myself/ourselves for and on behalf of Union of India and Senior Divisional Personnel Officer (Divisional Railway Manager/Ka).
in the above proceeding and to do all things incidental to such appearing, acting, applying, pleading and prosecuting for and on behalf of Union of India & Divisional Personnel Officer, myself/ourselves (Divisional Railway Manager/Ka).
I/we hereby agree to ratify all acts done by the
foresaid Shri C.A.Basir Rly. Advocate Lucknow.
in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed
by me/us this
day of January 1983.

Alam
Divisional Railway Manager,
North Eastern Railway, Lucknow.

Alam
Senior Divisional Personnel Officer
North Eastern Railway, Lucknow.

Accepted
C.A.Basir

Alam
14/1/83

(APD) 5

C. M. S. A. No. 11,919 (W) 84
In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench, Lucknow.

Writ Petition no. 5427 of 1982

Ganga Ram ..	Petitioner
Versus	
Union of India & others ..	Opp. parties/Applicants



Stay Vacation Application

In the above noted writ petition the
opposite parties/Applicants submit as under:-

That for the facts and reasons disclosed
in the accompanying counter affidavit it is most
respectfully prayed that this Hon'ble Court may
graciously be pleased to vacate the stay order
granted earlier in this case.

C. A. Basir
(C. A. Basir),
Advocate,
Counsel for the opp. parties/
Applicants.

19/XI
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CBV

(20)

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~~.....~~
~~.....~~
Record duplicate
20.11.84

Mr. K.S. Varma,
Put up with
record. ^{KS}
21-11-84

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In the High Court of Judicature at Allahabad
Section 1 Bench, Lucknow.

and Petition No. 3247 of 1982

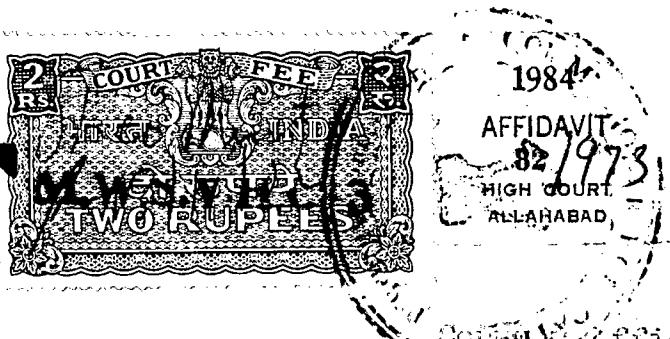
Plaintiff ..

Petitioner

vs

Union of India & others ..

Opposite parties.



Courtly Affidavit on behalf
Opposite parties.

SHEO MURTI A.M.O
is a member of the Bar Court of India son of
Avadh Behari A.M.O., working as Assistant Personnel
Officer in the office of Divisional Military Lawyer,
North Western Military, Lucknow, Lucknow do M.R. by
solemnly affirm and state on oath as under:-

2. That the deponent is working as Assistant
Personnel Officer in the office of Divisional Military
Lawyer, North Western Military, Lucknow, Lucknow
as such he is fully convergent with the facts of the
case.

3. That the deponent has read the contents of
the said petition and has understood all same.

4. That in reply to the questions made in para 1
of the petition he is satisfied to say that

down by the Ministry Board under their circular No.1/(IL)73/21/(MLA)/7 dated 13.6.74 it was ordered under Division I. Ministry of Labour's (P) Labour (P) No.2/vi/34/Reg.(Bill) dated 1.5.1952 that the recovery on account of over payment of overtime had to be partitioned only so far covered Rs.100/- per month. Accordingly the recovery was started from the month of May, 1982 for 9 months and as soon as the order dated 5.11.1982 was received by the petitioner from the Honourable High Court and communicated to the parties recovery from the month of May, 1983 was stopped.

5. That in reply to the question that if in para 2 of the petition it is stated that the petitioner is working as a trolleyman in scale Rs. 210-270 at Ranipur under P.M.L.R.C.

6. That in reply to the question asked in para 3 of the writ petition it is stated that the petitioner is essentially an intermittent worker under hours of employment regulation and his duty hours are 72 hours per week and as he did not work more than the statutory hours of work, he was not entitled to overtime. All questions contrary to it are denied.

7. That in reply to the question asked in para 4 of the petition it is stated that in view of reply given in previous para it is not necessary to comment.

8. That in reply to the question asked in para 5 of the petition only one such as admitted to a

(iii) Rostered Hours for Gateman 'C' Care Takers of Rest Houses and Reservoirs and Saloon Attendants will be 72 hrs. per week. However, their averaging period are 2 weeks so that the total no. of hours which the above class of workers can be called upon to work may be 144 hours per two weeks on an average.

(iv) Principle of averaging will apply only to the following groups of workers governed by the Hours of Employment regulations:-

- (a) Running staff.
- (b) Operating Staff.
- (c) Shift workers and
- (d) These workers whose work is connected with the work of the above categories.

(v) The workers who do not fall in any of the four groups of workers listed in para iv(a) to (d) above, will irrespective of their classification be excluded from the purview of the principles of averaging. In the case of other than four categories if any work is taken from them beyond the daily rostered hours on any day overtime for such work will be calculated on daily basis only.

(vi) The period of averaging will be:-

(a) 2 weeks in the case of workers in the "Intensive" and "Continuous Classification and Essentially Intermittent" workers in the categories etc., and Saloon Attendants, and

(b) One week in the case of rest of P.I. Workers.

(vii) Payment for overtime work done by the workers will be made as under:-

- (a) For overtime work done between the rostered hours and the Statutory hours, payment will be made at $1\frac{1}{2}$ times the ordinary rate, and
- (b) For overtime work done beyond the Statutory limits payment will be made at twice the ordinary rate.

The hourly rate of overtime will be worked out on the basis of rostered hours over the period of averaging.

(viii) For the purposes of Statutory limits of working hours will be the same as under the existing rules, viz;

- (a) Intensive workers 45 hours a week.
- (b) Continuous workers 54 hours a week.
- (c) E.I. workers 75 hours a week.

W.C.

.....

13/11/84

In the High Court of Judicature Allahabad, in question
(A34)

W. P. no 5927/82

13 A/25

Ganga Ram

petition

Union of India vs — app. marks

Annex A-2

10/11/82
S. S. S.

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N.E.Rly.

Sl. no. 3172
No. 8123/2nd I (IV)Office of the
G.M.(P)
Norakhpur
Dt. 18.6.74

All Heads of Deptts.
 All Divisional Suptdt.
 All Personal Officers
 The Dy. C.M. (shops) IZN/GKP WM/SPJ
 The Dy. G.S.T.E (SWS) GKE
 The Dy. C.E Bridges Gorakhpur.
 All extra divisions NX Rly.

Sub:- Hours of Employment Regulations, Report of
 Rly Labour Tribunal 1969 hours of employment
 of continuous intensive and essentially inter-
 mittent workers. ---

A copy of Rly Boards letter no. E(LL)73 HER(MA)/7
 dt. 12.6.74 is enclosed for guidance and necessary action.

The Boards decision will take effect from 1.8.74 and may please
 be implemented as early as possible.

DA/ as above.

sup-
for General Manager(P)

A copy of letter Railway Board letter no. E(LL)73/HJR(MA)/7 dt.
 13.6.74 addressed to G.M. All Indian Rlys and others.

Sub:- Hours of Employment Regulations report of
 Railway Labour Tribunal 1969 hours of employment
 of continuous intensive and essentially inter-
 mittent workers. ---

The Rly Boards Labour Tribunal 1969 interalia
 recorded the following decisions in respect of the issue relating
 to the hours of employment of continuous intensive and essentially
 intermittent workers under the terms of section 5
 viz. hours of Employment regulations.:-

'6.226(5) except as otherwise provided herein.

- a) daily and weekly hours of employment of continuous
 and essentially intermittent workers should be fixed
 8 and 48 respectively.
- b) daily and weekly hours of essentially intermittent
 workers may be increased by such number of hours
 as may be necessary but not exceeding those mentioned
 in sub para (8) herein below.

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c) weekly hours of employment of intensive workers will continue to be maintained at 42.

o) a) preparatory and or complimentary work, which expression also includes taking over and handing over charges can be mentioned in two cases in regard to work which must necessarily be carried on outside the limits laid down for the general working of an establishment or branch of service.

i) The concerned administrations will determine in the light of the proposition mentioned the time required for preparatory and or complimentary work in regard to each classification of workers or workers who in such a case will be required to be included in rosters to what be so done.

ii) preparatory and or complimentary work between 15 and less than 45 minutes per day in the case of continuous workers will be treated as half an hour which will be reflected in rosters and considered as period of duty.

iii) continuous workers who are required to do preparatory and or complimentary work for a period between 45 minutes and one hour per day will be considered to have rendered duty for one hour. The same will be reflected in their rosters and classifications and will be considered as period of duty. However continuous workers cannot be required to do preparatory and or complimentary work so as to violate statutory limits.

iv) As regards intensive workers preparatory and or complimentary work for a period between 15 and 30 minutes will be considered to be duty for 30 minutes and rosters will be prepared accordingly. However no intensive worker shall be required to do such work as to violate the statutory limits.

v) In the case of essentially intensive workers preparatory and or complimentary work for a period between 15 and 30 minutes will be considered to be duty for 30 minutes and rosters will be prepared accordingly. However the maximum addl hours of such type of work should be fixed at 3 hours per week in the case of class C Gatekeepers, saloon attendants and care takers of rest houses and canteens, etc. and FI workers at roadside stations who are given residential quarters within a radius of .5 km from their places of duty. As regards the rest of FI workers the maximum addl. hours should be fixed at 42 hours per week.

vi) Existing practice in regard to fixing start of averaging the whole period from signing on to signing off as period of duty will continue.

E) In addition to the hours of works as fixed above, all railway workers governed by HER can be called upon to render duty beyond statutory limits applicable to them in the circumstances mentioned in and by an order of temporary exemption made u/s 71C of the Railway Act by a competent authority.

6. 226 (8) (g)

XXXXXX XXXXXXXX XXXXXXXX XXXXXXXX XXXXXXXX

subject to ceiling mentioned below:-

Essentially intermittent worker can be called upon to render duty for additional hours which may be fixed so as to accord with one or more of the principles enunciated in paragraph 6.10/ the ceilings are as follows:-

i) Class C Waterman saloon attendants care takers of rest house and reservoirs etc may be required to do duty for additional hours per day and 24 hours per week. However their averaging period will be 2 weeks so that the total number of hours which the above class of workers can be called upon to work may be 144 per two weeks on an average.

ii) Essentially intermittent workers at roadside stations who are provided with residential quarters within a radius of 0.5 kilometers from their places of duty may be called upon to do duty for 4 hours per day and 24 hours per week, so that the above class of workers can be called upon to do work for 72 hours a week on an average.

iii) The rest of the essentially intermittent workers can be called upon to do duty for an addl. number of 2 hours per day and 12 hours per week, their averaging period will be one week so that such workers can be called upon to work for 60 hours of an average in a week.

2. The Government have accepted these recommendations of the tribunal. According the Railway Board have decided that:-

a) The hours of work of Rly employees governed by the hours of employment regulations will consist of:-

i) standard hours of duty which will be :-

aa) 42 hours a week in the case of intensive workers and

bb) 48 hours a week in the case of continuous and essentially intermittent workers and

ii) in addition to (i) above the time required for preparatory and complementary work for those categories of workers who are required to do such work and

-4-

iii) in the case of essentially intermittent workers addl. hours of work which will be subject to the prescribed maximum.

Explanations i) = preparatory and or complimentary work.

Preparatory and or complimentary work include the work of handing and or taking over charge, and has necessarily to be carried on outside the standard duty hours vide 2(a) (i) above. The time required for preparatory and or complimentary work to be done by the various categories of staff will be determined by mean of job analysis to be made of such work in respect of representative posts in respective categories, and the time so determined subject to the ceiling limits of indicated hereinafter for the respective classifications will be added to the standard duty hours of staff in all the various classifications. The job analysis will be completed and reflected in the duty rosters of the concerned workers, till then the time for this work to be reflected in duty rosters of the staff will be on the basis of the maximum limits or respective classifications as indicated in para 2(b) below.

Explanations ii) addl hours for essentially intermittent workers

The essentially intermittent workers can be called upon to work for additional hours vide 2 (iii) above as follows:-

a) Gateman C caretakers of rest houses and reservoirs etc and saloon attendants.	24 additional hours
b) All workers posted at roadside stations who are provided with residential quarters within 0.5 km from their places of duty and	addl hrs a week.
c) the rest of essentially intermittent workers - 12	

These additional hours have to be determined by means of job analysis of representative posts in respective categories and reflected in the duty rosters of the concerned workers with effect from 1.8.74.

3. In accordance with the general principles enunciated in para 2 above, the hours of employment of the staff in the three classifications under hours of employment regulations will be as under:-

13/11/84

a) for workers who are not required to do any preparatory and or complimentary work the hours of employment will be	
i) intensive workers - 42 hrs a week	
ii) continuance workers - 48 hrs a week and	
iii) essentially intermittent workers.	
ac) Gateman C caretakers of rest houses reservoirs etc and saloon attendants and these posted at roadside station who are provided with quarters within 0.5 kms from their place of duty.	48+24 additional hours a week
bb) rest of the workers 48+12 addl hrs of work a week.	

W.G

5) for workers who are required to do preparatory and or complimentary work the hours of employment will be as under:-

- Intensive workers - 42 hrs a week + time for preparatory and or complimentary work subject to a maximum of 3 hrs a week.
- continuous workers.- 48 hrs a week and time for preparatory and or complimentary work subject to a maximum of 6 hrs a week and
- essentially intermittent workers.

aa) Gatesman C caretakers of rest houses and dressers etc saloon attendants and those posted at roadside stations and 3(a) iii) above and time two are provided with residential quarters or residential and or within .5 kms from their places of duty. complimentary work subject to a maximum of 3 hours a week and

bb) rest of the workers.

- 48 hrs a week and 12 addl. hours a week and time for preparatory and or complimentary work subject to a maximum of 12 hours a week.

Note- for continuous and intensive and essentially intermittent workers who are called upon to do preparatory and or complimentary work for a period of less than 15 minutes per day such time shall not be considered as period of duty and may not be exhibited in the rosters of the such workers. In the case of the continuous workers preparatory and or complimentary work between 15 and less than 45 minutes should be treated as half an hour work and work between 45 minutes and one hour should be treated as one hour work. As regards intensive and essentially intermittent workers preparatory and or complimentary work for a period between 15 and 30 minutes will be treated as half an hour work. Such preparatory and or complimentary work should be included in the rosters. However care should be taken in fixing the total hours for preparatory and or complimentary work to ensure that the statutory maximum prescribed for each category is not exceeded.

c) In addition to the hours of work as fixed above all railway workers governed by H&R can be called upon to render duty beyond statutory limit applicable to them in the circumstances mentioned in any of an order or temporary exemption made u/s 71 C of the Indian Railway Act by an competent authority.

d) the existing practice of treating the whole period from signing on to signing off as period of duty for running staff will continue.

4. Board desire that urgent steps may be taken to ensure expeditious implementations of these orders. The addl. hours for which essentially intermittent worker" can be called upon to work have to be reflected in the rosters with effect from 1.8.74 the date of effect of these of these orders will be advised shortly.

5. In so far as and to the recent orders the orders contained in para 2 to 4 above modify the existing provisions of hours of employment regulations these regulations amended formal instruments to the regulations in consultations with the Ministry of Labour and Employment will be issued in due course.

6. The orders have the sanction of the President.

DA nil

sd/ OD Sharma
By Director Stat (RIT) Rly Board

MO

High Court, All India
12/11/84

52/1973

Enc 13/11/84

BMO
4/41

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW.

T.A.No.1091/87(T)

Sri Ganga Ram, Trolleyman Petitioner.
Versus
Union of India and othersOpposite Parties

APPLICATION ON BEHALF OF THE OPPOSITE PARTIES

This application on behalf of the opposite parties most respectfully sheweth :-

That for the facts, reasons and circumstances stated in the accompanying counter reply it is most respectfully prayed that in the interest of justice, this Hon'ble Tribunal may kindly be pleased to vacate the stay order dated 5.11.1982 passed by the Hon'ble High Court, Lucknow Bench, Lucknow on Civil Misc.Application No.11538(W)-82.

Such others orders which are deemed fit and proper in the circumstances of the case may also kindly be passed.

Lucknow, dated
8.03.1990.

S. Verma
(Siddharth Verma),
Advocate,
Counsel for Opposite
Parties.

AM

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW.

T.A.No.1091/87(T)

42

Sri Ganga Ram, TrolleymanPetitioner
Versus
Union of India and others. ...Opposite Parties.

COUNTER REPLY ON BEHALF OF THE OPPOSITE PARTIES

I, Salish Chandra Sinha, son of Sri Gopal Prasad, presently working as P.W.I., North Eastern Railway, Mankapur, do hereby solemnly state as under :-

1. That I am presently posted as P.W.I., North Eastern Railway, Mankapur and is well conversant with the facts stated hereunder. I am duly authorised and competent to file this reply on behalf of the answering opposite parties and have read and understood the contents of the above mentioned writ petition (hereinafter referred as the 'petition').
2. That the contents of paragraph 1 of the petition need no comments from the answering opposite parties. However, it is most respectfully submitted that as per policy laid down by the Railway Board under their Circular No.E/(LL)73/HER/(MA)/7 dated 13.6.1974, it was ordered vide the XR telegram of the Divisional Railway Manager (P) No.E/VI/34/Engg(Bill) dated 1.5.1982 that recovery on account of over payment of Overtime made to the petitioner Sri Ganga ^{Ram} Prasad may be recovered at the rate of Rs.100/- per month.

Accordingly, recovery from the petitioner was started from the month of May, 1982 for the wage period 16.5.1982 to 15.6.1982 at the rate of Rs.100/- per month for 9 months and as soon as the stay order passed by the Hon'ble High Court, Lucknow Bench, Lucknow was received by the Railway Administration, further recovery was stayed with effect from February, 1983.

02/3/92
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3. That the contents of paragraph 2 of the petition are admitted.

4. That the contents of paragraph 3 of the petition, as stated, are not admitted. It is most respectfully submitted that the petitioner is categorised as Essentially Intermittent (E.I.) Class under 'Hours of Employment Regulation,1961' (in short, HOER) and under rules, he has to perform 12 hours' daily duty or 72 hours' duty in a week. It is further submitted that with the acceptance of 'Railway Labour Tribunal,1969 Award' (also known as Miyan Bhai Award) hereinafter referred as RLT Award, a new concept of roastering was introduced in which the roastered hours as well as the rate of overtime allowance payable to the staff in excess of the roastered hours were changed from 1.8.1974. Under the new scheme circulated by the General Manager (P), North Eastern Railway, Gorakhpur vide letter dated 2.8.1979, the RLT Award provides the classification of Trolleyman, Chowkidar and some of the Gateman in 'Essentially Intermittent' (E.I.) category, and according to which they were required to do -

(a) 10 hours' duty at the Junction Stations, where accommodation has been provided at a distance of more than 0.5 Kms. from the place of duty, and

(b) At Roadside Stations where accommodation to the staff has been provided within 0.5 Kms. of their place of duty, the duty hours shall be 12 hours a day or 72 hours per week.

A true copy of letters dated 8.6.1978 and 2.8.1979 are being annexed herewith as ANNEXURE No.A-1 and A-2 respectively.

In terms of the above scheme, the petitioner was to be paid overtime in case he worked in excess of 72 hours per week, which he never did and hence, he was not entitled for any overtime as alleged by him.

5. That in view of the submissions already made in paragraph 4 above, the contents of paragraph 4 of the petition are denied.

6. That the contents of paragraph 5 of the petition are admitted only to the extent that under wrong notion, the Railway Administration issued orders for payment of overtime to the petitioner but as soon as it came to the notice of the competent authority that the overtime, which was not due to the petitioner has been paid to him, orders for recovery of the same were issued. Rest of the contents of the paragraph under reply are not admitted.

7. That the contents of paragraph 6 of the petition are denied in view of the submissions already made in the forgoing paragraph 6 of this reply.

8. That the contents of paragraph 7 of the petition, as stated, are denied. It is most respectfully submitted that the petitioner is posted at a non-junction station and he shall be entitled for overtime only if he works in excess of 72 hours per week as per averaging rules. It is further submitted that the petitioner was wrongly paid the overtime for which he was not entitled, and therefore, recovery for the said amount was effected from him.

9. That in view of the submissions already made in the paragraph 8 of this reply, the contents of paragraph 8 of the petition are not admitted.

10. That in reply to the contents of paragraph 9 of the petition it is most respectfully submitted that admittedly, the petitioner is a Class IV employee, but he was paid huge amount as overtime for which he was not entitled, and therefore, recovery from him has been ordered at a very reasonable rate, keeping in view his economic condition and status.

11. That the contents of paragraph 10 of the petition are strongly denied. It is most respectfully submitted that recovery from the petitioner has been ordered not by way of punishment but only for the reason that he was wrongly paid the overtime for which he was not entitled, and therefore, there was no question of giving him any opportunity for defending himself.

12. That the contents of paragraph 11 of the petition

are not admitted for want of knowledge as the petitioner has not disclosed the names of such persons who are getting their full salary and no recovery is being made from them. It is possible that they might not have been paid overtime for which they were not entitled.

13. That the contents of paragraph 12 of the petition are not admitted. The petitioner is not a petitioner in the Writ Petition No.3928 of 1982, but his name figures in the Annexure No.1 of that writ petition, which was filed by one Pyare Lal and others.

14. That in view of the submissions already made in the foregoing paragraphs of this reply, the contents of paragraph 13 of the petition are denied. The undersigned, has been advised to state that the present petition is devoid of merits and the grounds enumerated in the paragraph under reply are untenable and the petitioner is not entitled for any relief claimed by him and the petition is liable to be dismissed with cost.

Lucknow, Dated: 2.3.90

VERIFICATION

I, Dattan Chandra Sinha, the undersigned do hereby verify that the contents of paragraph 1 of this reply are true to my personal knowledge and those of paragraphs 2 to 13 are based on record and the same are believed to be true. The contents of paragraph 14 of the reply are based on the legal advice and the same is believed to be true.

Lucknow, Dated: 2. 3. 90

NORTH EASTERN RAILWAY

OFFICE OF THE
DIVISIONAL SUPERINTENDENT(P)
LUCKNOW: DATED: JUNE 8, 1978.

No. E/VII/123/RLT/o

The Station Superintendent,
N.E.Railway,
Gonda and Gorakhpur, LJN.

All Station Masters, TIs, DCIs,
Lucknow Division.

The Loco Foremans & CTXRs/Gorakhpur,
Gonda, Lucknow Jn. and HTXRs/MLN, CPA & STP.

The ASFO(D)/CPA and AME(D)/CPA, ALF/CPA, MLN.
The ASTE/Gonda, SI/LJN, LMP, CLJ, GH, GKP, TCI/LJN, GB.
The BFO/LJN, ABFO/GD, LJN.
ASE/Gorakhpur, ABC/STP, MLN, CPA.
The AEN(E)/LJN, AEN(W)/LJN, STP, GD, BBK.
The PWI(E) & (W)/GKP; UB, ALDN, JAW, BLP, GD, MUR, BBK,
JLD, BVN, CPA, MLN, STP, LMP.

TOW(W)GKP, UB, ALDN, JAW, BLP, GD, MUR, BBK, BBK, JLD, BVN, GPA,
MLN, STP, LMP.

The HI/LJN, MLN, GD & CHI/LJN.

All Sectional PIs & WIs./Lucknow Division.

Sub:-Payment for overtime work done by
the workers.

Before introduction of the recommendation of Railway Labour Tribunal, 1969 and acceptance by the Government, the overtime was payable to the workers @ $1\frac{1}{2}$ times and the ordinary rate for the extra hours of work done by them beyond the 'Statutory' limits during the averaging period.

Now after introduction of the recommendations of RLT 69 w.e.f. 1.8.1974 a worker is entitled to overtime for the work done between the limits of rostered hours and the statutory hours @ $1\frac{1}{2}$ times of the ordinary rate and the twice the ordinary rate beyond the statutory limits in an averaging period. This is also called sub-statutory and statutory overtime respectively.

This is, therefore, necessary that the overtime for the sub-statutory period viz. the difference between the rostered and the statutory hours should be made out/prepared and submitted to this office duly certified by the subordinate incharges on the overtime sheets by 31st July, 1978 or earlier to enable this office to arrange early payment. There is, however, no need to submit the O.T. worked beyond the statutory limit in an averaging period as the payment of O.T. at twice the rate is already being paid to all staff entitled to it.

True copy
F. E. D. A. R. A.
R. R. F. C. P.
R. R. F. C. P.
R. R. F. C. P.

...2

For details regarding preparatory and or complementary work in the relevant categories, the weekly rostered hours of duty etc., Annexure-I to this Circular may please be consulted before submitting the O.T.Journals.

Please note that the accurate submission of the O.T.Journals to this office shall primarily be the responsibility of the subordinate incharges, their certificates regarding extra hours of work done should be specific and based on availability of records to support it and not made out haphazardly.

Encls:-Annexure-I

Sd/-
for Divisional Suptd.(P)/
LJN.

Copy for information and necessary action to:-

1. Sr.DOS,DSO/LJN.
2. Sr.DCS/LJN.
3. DSE/LJN.
4. Sr.DME/LJN, DME(C&W)/LJN.
5. DEE/LJN.
6. DMO/GD,BNZ.
7. DSTE/LJN.
8. Suptd.Gorakhpur Area.
9. Area Officer/Gonda.
10. DAO/LJN.
11. GM(P)/N.E.Rly./GKP.

Sd/-
for Divisional Suptd.(P)
Lucknow.

True Copy

1 2 3 4 5 6 7

Coal Checker	-do-	-do-	51	-
Turner/ Machinist	-do-	-do-	51	-
Stores Issuer	-do-	-do-	51	-
PNL	-do-	-do-	51	75
TXR (Train Passing)	-do-	-do-	51	-
A.L.F. (R)	1 hr.	6 hrs.	54	-

Electrical

SPA	1 hr.	3 hrs.	51	75
T.L.Fitter	-do-	-do-	51	75
H.L.Fitter	-do-	-do-	51	75
ACCA	-do-	-do-	51	75
ACCI	-do-	-do-	51	75

1 hr. for out-
ward journey &
1 hr. for return
journey.

Signal

W.O.P.	1 hr.	3 hrs.	51	-
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Engineering

Gang staff	-do-	-do-	51	-
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Medical

Dressor	-do-	-do-	51	-
Lab. Assistant	-do-	-do-	51	-
Pharmacist	-do-	-do-	51	-
Nurse	-do-	-do-	51	-

N.B. (i) The Rostered Hours of Duty for R.I. staff posted at Junction stations will be 60 hrs. without preparatory and/or complementary work and 62½ hrs. with preparatory and/or Complementary work per week.

This is also applicable to "E.I." staff posted at Road side stations who have not been provided with Railway Quarter within 0.5 Kms. from the place of duty and for other "E.I." staff respectively it is 72 hrs. without preparatory and/or complementary work & 75 hrs. with preparatory and/or complementary work respectively per week. For "Continuous" workers the Rostered hours per week will be 48 hrs. without preparatory and/or Complementary work and 51 or 54 hours per week respectively after adding the preparatory and/or complementary work as indicated in the list above. There is however, no preparatory and/or complementary work involved in the categories which has not been mentioned in the above list at Annexure I()

(ii) JUNCTION STATIONS ON THE LUCKNOW DIVISION.

As per D.O. letter E/230/17(IV) dt. 24.5.76

GKC, GKP, ANON, GD, BUW, ASH, STP, MLN.
DDW, LCN CPA = 11 Stations.

65/1/3 76/1/3 3

पूर्ण वर्ष
पूर्ण वर्ष

जनरल
रेलवे ब्रांड
स्टेशन
लक्नऊ

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A/P

(iii) Rostered Hours for Gateman 'C' Care Takers of Rest Houses and Reservoirs and Saloon Attendants will be 72 hrs. per week. However, their averaging period are 2 weeks so that the total no. of hours which the above class of workers can be called upon to work may be 144 hours per two weeks on an average.

(iv) Principle of averaging will apply only to the following groups of workers governed by the Hours of employment regulations:-

- (a) Running staff.
- (b) Operating Staff.
- (c) Shift workers and
- (d) These workers whose work is connected with the work of the above categories.

(v) The workers who do not fall in any of the four groups of workers listed in para iv(a) to (d) above, will irrespective of their classification be excluded from the purview of the principles of averaging. In the case of other than four categories if any work is taken from them beyond the daily rostered hours on any day overtime for such work will be calculated on daily basis only.

(vi) The period of averaging will be:-

(a) 2 weeks in the case of workers in the "Intensive" and "Continuous Classification and Essentially Intermittent" workers in the categories etc., and Saloon Attendants, and

(b) One week in the case of rest of P.I. Workers.

(vii) Payment for overtime work done by the workers will be made as under:-

- (a) For overtime work done between the rostered hours and the Statutory hours, payment will be made at $1\frac{1}{2}$ times the ordinary rate, and
- (b) For overtime work done beyond the Statutory limits payment will be made at twice the ordinary rate.

The hourly rate of overtime will be worked out on the basis of rostered hours over the period of averaging.

(viii) For the purposes of Statutory limits of working hours will be the same as under the existing rules, viz;

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- (a) Intensive workers 45 hours a week.
- (b) Continuous workers 54 hours a week.
- (c) E.I. workers 75 hours a week.

25/3/2
16/3/2000
2000

Annexure No.2

Ans

PERSONNEL & ACCOUNTS JOINT CIRCULAR
N.E.RAILWAY

No.E/230/1 Pt.I(IV)

G.M.(P)'s OFFICE,
GKP:DT: 2.8.1979.

All Heads of Depts.
All Divl.Rail Manager/Divl.Suptd.,
All Personnel Officers,
All Extra Divisions,
N.E.Railway.

Sub:Payment of sub-statutory overtime allowance to staff governed by HOER on the basis of new concepts of RLT 1969.

1. With the acceptance of RLT-1969 Award (Mianbhoy Award) a new concept of rostering has been introduced in which the rostered hours as well as the rate of overtime allowance payable to the staff in excess of the rostered hours has been changed with effect from 1.8.74. The following instructions are issued to facilitate the drawl of arrear O.T.A. with effect from 1.8.74 by the bill preparing offices.
2. In accordance with the RLT recommendations, two rates of overtime allowances are payable to the staff, those who work in excess of their statutory hours and are entitled to receive payment of overtime allowance at twice the ordinary rate of pay, e.g. a Wireless Operator classified as Intensive worker will earn overtime allowance at twice the ordinary rate when he put in more than $45+45=90$ hours in two weeks and will be paid at twice the rate for working hours beyond 90 hours. Similarly, those ASMs classified as 'Continuous' will earn overtime beyond statutory hours at twice the ordinary rate of pay when he works in excess of $54+45=108$ hours in two weeks. An E.I. worker will likewise be entitled to payment of overtime at twice the rate when he works in excess of 75 hours a week. The orders for payment of statutory overtime have already been issued. The staff are also being paid overtime.
3. The most important concept which has been envisaged by RLT'69 is the payment of sub-statutory overtime at $1\frac{1}{2}$ times the ordinary rate of pay for working beyond rostered but upto statutory hours in cases of all staff classified as Intensive, Continuous and E.I. This is an additional compensation to staff for working beyond rostered hours for which bills for arrears of O.T. have to be prepared and submitted to the Accounts for payment to such staff wherever due and admissible.
4. With a view, therefore, to minimise the paperwork as also to expedite the payment of sub-statutory overtime to staff, it is stressed that the staff, who have already been paid overtime w.e.f.1.8.74 for performing duty in excess of 90 hours in case of Intensive, 108 hours in case of Continuous and 75 hours in case of Essentially Intermittent staff under Adjudicator's Award, should be paid straightway at the rate of $1\frac{1}{2}$ times of their ordinary rate of pay for working in excess of revised rostered hours but upto 90, 108 and 75 hours respectively. That is to say, the difference between the statutory hours and rostered hours of duty, for which preparation of fresh O.T. journals is hereby dispensed with. The arrear bills of sub-statutory overtime should be drawn in the proforma enclosed. Sufficient forms have already been supplied to the Divl.Personnel Officers for action. The names of the persons to be included in the O.T.bills should be carefully copies from the original O.T.bills and the should be no new names.

True Copy

General

General

5. There may be cases of staff who had actually worked or whose working hours were higher than the hours required by the revised rosters but all the same, lower than the statutory limit. The names of these category of staff would not appear in the old O.T.bills as they were not entitled to any O.T. prior to 1.8.74. Under RLT-69 Award all such staff will now be entitled to O.T.allowance @ $1\frac{1}{2}$ of the ordinary rate of pay for working in excess of the rostered hours of duty. Regular O.T.journals in respect of these should have to be prepared on the basis of revised rosters and record of attendance and hours of duties performed by them i.e. Muster Sheets, Station Master Diary etc. Unless these records are forthcoming, no arrears of O.T.allowance bill in respect of these should be prepared.

6. The following illustration will make the position more clear:-

A. Intensive worker - rostered hours of duty is 42 hours a week excluding periods of preparatory and complementary work. He will earn overtime for working in excess of 84 hours in two weeks. If he had already been paid overtime for working beyond 90 hours, he would be entitled to be paid arrear overtime allowance at the rate of $1\frac{1}{2}$ times of the ordinary rate of pay for 6 hours (80 hours-84 hours).

B. (i) Continuous worker - Daily rostered hours of duty weekly 48 hours (without PtG work) and on two weekly basis 96 hours, but he has already been paid overtime for working in excess of 108 hours. Thus the difference of 12 hours at the rate of $1\frac{1}{2}$ time the ordinary rate of pay payable to him as arrear O.T. allowance without any check being exercised.

(ii) There are many continuous staff whose duty hours include P&C work of $\frac{1}{2}$ hour and 1 hour also, as in the cases of ASMs and XTNI respectively. The weekly duty hours of an ASM will be 48+51 and 102 hours on two week basis. Hence, he will be entitled to payment of arrear overtime allowance only for 6 hours (108-102) at the rate of $1\frac{1}{2}$ times of the pay. In the case of CTNL, whose duty include 1 hour P&C work; the daily rostered hour of duty will be 9 hours and 54 hours a week and 108 hours in two weeks, he will not be entitled to sub-statutory overtime. Under Adjudicator's Award, staff classified as E.I. were entitled to get overtime for working in excess of 75 hours a week but this concept has been revised as under:-

1. E.I. staff posted at roadside stations and provided with residential accommodation within 0.5 Km. from the place of their duty, are required to work for 12 hours a day where no preparatory and/or complementary work is involved.

In shortly, such E.I. staff (without PAC work) will earn overtime for 3 hours at the rate of $1\frac{1}{2}$ times but upto 75 hours only.

2. Gatemen at 'C' class level crossing, Saloon attendants Caretakers of rest hours and reservoirs have also been re-classified as E.I. and are required to work for 12 hours a day. They will be entitled to overtime for working beyond 144 hours in two weeks where there is no PAC work.

3. The rest of the E.I. staff means those posted at junction stations/not provided with Rly. accommodation

within 0.5 Km. from the place of their duty at roadside stations, are required to do 10 hours duty daily and 60 hours a week. In such cases PAC work may be added upto $4\frac{1}{2}$ hours per week.

To enable the staff to have a concept of revised HOER a chart is enclosed showing the daily rostered hours, period of averaging and time for preparatory and complementary work, rate of overtime admissible beyond the period and the weekly rest admissible under Hours of Employment Regulations.

7. The following charts will be exercised for passing the bills of arrear O.T.Allowances:-

(i) To verify the original paid vouchers in reference of which will be quoted in col.20 of the calculation sheet that O.T.Allowance for overtime worked in excess of statutory cases had actually been paid previously.

(ii) In respect of arrear O.T.bills in favour of staff whose duty hours did not qualify for any O.T. allowance prior to 1.8.74 and who now stand eligible to the payment of the said allowance @ $1\frac{1}{2}$ of ordinary rate of their pay on the basis of revised rostered hours under RLT-69 Award, 100% check will be exercised thereon before these are admitted in internal check for payment.

(iii) The O.T.journals sent as supplementary vouchers of the arrear O.T.bill mentioned in para (ii) above shall be dealt within the Accounts Office as if the claims are original claims and are received for the first time.

(iv) The internal check- section will carry out a post check of 10% of the O.T.journals with initial records available in the executive offices. The result shall be put up to the sectional officer.

Sd/-
for F.A. & C.A.O.

Sd/-
for GENERAL MANAGER (P).

True Copy
[Signature]
■ परिवार
प्राप्ति नियम
प्राप्ति नियम

VAKALATNAMA

Before
In the Court of

The Central Administrative Tribunal
Circuit Bench, Lucknow.

TA No. 1091 of 1987(T) / ~~1090~~

Ganga Ram

Versus

Union of India

I/WC S.C. Sivasankar, Permanent Way Inspector
NERly, Mankapur

do hereby appoint and authorise Shri.... Siddharth Verma

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

I/WC hereby agree to ratify all acts done by the aforesaid Shri.... Siddharth Verma
Railway Advocate, Lucknow
in pursuance of this authority.

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

..... day of 198..

Accepted
Sharma

(.....)
Date 7/12/84
Permanent Way Inspector
NERly Mankapur

(X) 1

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No.

5427

of 1982

v.s.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
5-11-82	<p style="text-align: center;">Item 5 (Mathur), Item 55 (R. M. A.)</p> <p style="text-align: center;">Admit and connect with w.c. No. 3928 of P.L.</p> <p style="text-align: right;">Sd/ Sc Mathur Sd/ S.S.A 5-11-82</p> <p style="text-align: center;">Encl No. 11538 (Ans 82)</p>	11/11/82
5-11-82	<p style="text-align: center;">Item 5 (Mathur), Item 55 A (R. M. A.)</p> <p style="text-align: center;">Notice of this application been accepted by Sri Umesh Chandrappa</p> <p style="text-align: center;">+ over time dues shall remain stayed.</p> <p style="text-align: right;">Sd/ Sc Mathur Sd/ S.S.A 5-11-82</p>	11/11/82
29-1-83	<p style="text-align: center;">Report</p> <p style="text-align: center;">Of 1 to 3. Notice served to Sri Umesh Chandrappa. Advocate, Power of Sri C. A. Baskin, Advocate filed. Money after fine case?</p> <p style="text-align: center;">Yes No</p>	11/11/82

W.M.S.
29-1-83

VAKALATNAMA

TA No. 1091 of 1987 (T)

Before
in the Court ofCentral Administrative Tribunal Circuit Bench
LucknowPlaintiff
Defendant

Ganga Rani

Claimant
AppellantDefendant
Plaintiff

Versus

Union of India and others

Petitioner

Respondent

The President of India do hereby appoint and authorise Shri.....Siddharth Verma

.....Rajiv Dixit, Advocate, Lucknow.....

.....to appear, act, apply, plead in and prosecute the above described suit/appeal/proceeding on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying, Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceeding against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely judicial to the interest of the Government of India and said Pleader/Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agree to ratify all acts done by the aforesaid Shri.....Siddharth Verma
.....Rajiv Dixit, Advocate, Lucknow.....
in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the day of 198

Dated 198

SER-84850400-8000-4784

Accepted

Signature

(Siddharth Verma)

(Signature)
Designation of the Executive Officer
Sr. Div. Personnel Officer
NBER, Lucknow

for Union of India -