

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE TA No 1106/1987 of 19
W.P. No 13/83

Name of the parties Madan Kumar Lal

Applicant.

Versus.

Union of India and others Respondents

Part A

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CERTIFICATE

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

Date : 27-07-11

Countersigned

Section officer/Court officer.

Signature of the
Dealing Assistant.

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET

CAUSE TITLE TA 1106 OF 1987

NAME OF THE PARTIES M.K. Lal & others

Applicant

Versus

Respondent

Part A, B & C

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CERTIFICATE

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

Dated 4/4/2011

Counter Signed.....



Signature of the
Dealing Assistant

Section Officer / In charge

CIVIL
CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

A
1

Nature and number of case

W.P. No. 13-83

Name of Parties

Madan Kumar del. 15. Union of India & Ors.

Date of Institution

3-1-85

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
					Rs. P.			
	1	W.P. with affidavit and annex	13	-	302.00			
	2	Power	1	-	5.00			
	3	Cmd 20 WS 83 Jusly	3	-	7.00			
	4	Power	1	-	5.00			
	5	Contingent affidavit	11	-	2.00			
	6	Power	1	-	5.00			
	7	Reply affidavit	4	-	7.00			
	8	order Steel	2	-	-			
	9	Cmd 3594 (W) OB 83	3	-	7.00			
	10	Cmd 10234 (W) OB 83	1	-	5.00			
	11	Cmd 861 (W) OB 84	3	-	7.00			

I have this day of 198 , 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.

Munsarim

Clerk

Date

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	2	4	5	6	7	8	9
					Rs. P.			
	12	Powder	1-	-	5.00			
	13	Encl. 12417 (w) Bills with supply C.A.	9-	-	7.00			
	14	orchu sheet	1-	-	-			
	15	Bunch Copy	1-	-	-			

I have this _____ day of _____ 198 , 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 the 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.

Munsarim

Date _____

Clerk

ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No.

13

of 1983.

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
21.3.83	<p>C.M.A. 3594 (W) 83 for restoration Hon. K.M.R. Hon. R.C.D.S.T.</p> <p>Put up before the Bench concerned with the record. S.O. R.C.D.S.T. S.O. R.C.D.S.T. 21.3.83</p>	
25.3.83	<p>5-4-83 fixed in case 3594 (W) 83 for orders</p>	<p>T. K. M. T.S.M. Hon. D.H.J.T.</p>
6-4-83	<p>C.M.A. 3594 (W) 83 for orders</p> <p>Hon. T.S. Agarwal Hon. D.M. Sharma Hon. S.K.D.T.</p> <p>wrongly listed. Stand out.</p> <p>6-4-1983</p>	
28.4.83	<p>28-4-83 fixed in case 3594 (W) 83 for orders</p>	<p>T. K. M. T.S.M. Hon. D.H.J.T.</p>
2-5-83	<p>Hon. T.S.M. Hon. D.M. Sharma</p> <p>W.D. is restored in original numbers.</p>	

215783

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned	
1	2	3	
2.5.83	10.5.83 fixed for hearing		Burch
15.9.83	✓ amr 10234 (w/83 for early delv Adm. Registered		
	List before Mr. Simon Judge		
12.11.83	ent 081 (w/83 for 15.9.83 2-3.84 fixed in ent	061 (w/84	T. 6 Nov 85
10.8.84	- 10234 (w/83 for order ent		
	J. H. J.		
	Because of huge backlog of expedited cases, the application is rejected.		
	J.H.		
	10.5.84		
	fixed B/c		
10.1.85	ent 061 (w/84 for early hearing		T. 6 Nov 85

8

ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 13

of 1983

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
3.1.83	<p>Item S.C. Mathur & <u>Mr. S.S. Ahmad</u></p> <p>und. Issue notice to <u>op. No. 1</u> requisite them to show cause the learned Counsel <u>in relation</u> to effect service on <u>op. No. 1</u> on 10.1.83. The off'ce shall issue notice to the learned Counsel to effect service on <u>op. No. 2</u> on the date fixed the affidavit of service may be filed.</p> <p>Cal A 1020 (u) 83.</p> <p>Put up with the <u>u.D.</u> <u>Shr</u> <u>Shr</u></p> <p>10.1.83 Fixed for <u>altam dawa</u> and for filing <u>CA in und</u> <u>H.D. to op. No. 2 by Dasti</u> <u>Notices prepared and handed</u> <u>over to the clerk of Sr. Munim</u> <u>Advocate</u></p> <p style="text-align: right;">u.1.83</p>	<p>Received Notices and authenticate for service on <u>op. No. 2</u></p> <p>Authorised <u>Signature of Advocate</u> <u>Adv</u> <u>4.1.83</u></p>
10/83	<p>10.1.83 fixed with <u>c. m. m.</u> 20.1.83 for <u>admission</u></p>	<p>By court</p>

House. Semr
Hoer. Sr. Adv

Date	Note of progress of proceedings and routine orders	Dated which case is adjourned	
1	2	3	
	<p>Hon. S. C. Mallikarjuna</p> <p>Hon. S. S. Ahmad. J</p> <p>Apparatus of service has been filed on behalf of the petitioner.</p> <p>List on 14-1-83</p> <p>The case must be published in the cause list.</p>		
	<p>10.1.83</p> <p>28</p> <p>Alm</p>		
4/1/83	<p>14-1-83 fixed with com. 20-1-83 for return</p> <p>Hon. T. S. M.</p> <p>Hon. D. N. Thar.</p>	<p>By court</p> <p>perat</p>	
20/1/83	<p>Fixed with com. No. 20783 for return</p> <p>Hon. S. C. M.</p> <p>Hon. S. S. A.</p> <p>Stand out</p> <p>Boole</p> <p>21/1/83</p>		
20/1/83	<p>Hon. S. C. M.</p>		

Hon. S. C. A.

put up on 31-1-83.

Alm

20-1-83

ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 13

of 1983

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	Hon. S.C. Mathur, J Hon SS Ahmad, J	
	Parties have exchanged their affidavits. List for hearing in the week commencing 21st Feb. 1983.	
	21.1.83 R/S	
21/2/83	21-2-83 fixed for Hearing Hon Sanyal Hon RAJ	By court Bench
	As prayed for by the learned counsel for the petitioner list in the next week. Since this petition is to be listed for hearing it need not be treated as tied up with this Bench.	
	It may be listed before the Hearing Bench.	
	21.2.83 R/S	

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned	
1	2	3	
2 2 03	2-3-03 fixed for hearing	Early	
	Hable Kery	Bail	
	fug 12/11/77	By com	
8/2/03	Fixed for hearing		
14/2/03	Hou TSMR		
	Hou DM7had		
	Name appan - Dismissed	Bail	
		14/8/03	

7A 1106/17(7)

7

Serial number of order and date

Brief Order, Mentioning Reference if necessary

How complied with and date of compliance

1-12-47

No sitting. Adj. to 5-3-90

This case has been received on transfer.

Notice were issued to the counsels by the Office at Allahabad. None is present for the parties.

Let notice be issued again to the parties as directed by Hon'ble Mr. D.K. Agarwal, J.M.

or notice issued
19/2/90

1/12/47

Hon. J.P. Sharma, J.M.

Rm. S.B. Siddiqui files vakalatnama brief holder of Sn J.P. Malhotra is present & files vakalatnama. None is present for the respondents. List for admission on

2-4-90

JM

JM

Hon. Justice Nath V.C.

Hon. Justice K.J. Raman J.M.

On the request of the applicant the case is adj. to 16-4-90.

AM

AM

VC

16/2/40

Hon. Mr. D.K. Agarwal, J.M.

Hon. Mr. P.S. Mahabir, J.M.

The Counsel for the applicant is ill. Shri A. Srivastava, for the respondent is present. The pleadings are complete.

In A Srivastava files power today a copy of 102

2/5

Dinesh

Let it for hearing on 8/8/90.

AM

JM

1106/0717

8-8-90 No sitting Adj. to 7-11-90
Sps.

7-11-90

Hon. Mr M.Y. Pralakar AM.
Hon. Mr D.K. Agrawal JM.

Due to resolution of Bar
Association case is adj
to 7.12.90

7-12-90

No sitting Adj. to 11.1.91.

Q B.O.C

11.1.91

No sitting Adj. to 4.3.91

OR SFM

W.H.B

Recd copy of Judgment
S.K. Patil

14/3/91

Recd copy of Judgment

Prakash

18/3/91

Exce A-14 (87)

(3)

$\frac{A}{B}$

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

LUCKNOW BENCH, LUCKNOW.

WRIT PETITION NUMBER 13 OF 1983.

Madan Kumar Lal and 2 others. Petitioners

Versus.

Union of India and another. Opposite Parties.

I N D E X.

Particulars.

Page Numbers.

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| 2. Affidavit. | 8 to 9 |
| 3. Annexure No. 1 (Copy of appointment order) | 10 to 10 |
| 4. Annexure No. 2 (Copy of reversion order) | 11 to 12 |
| 5. Annexure No. 3 (Copy of reversion order) | 13 to 13 |

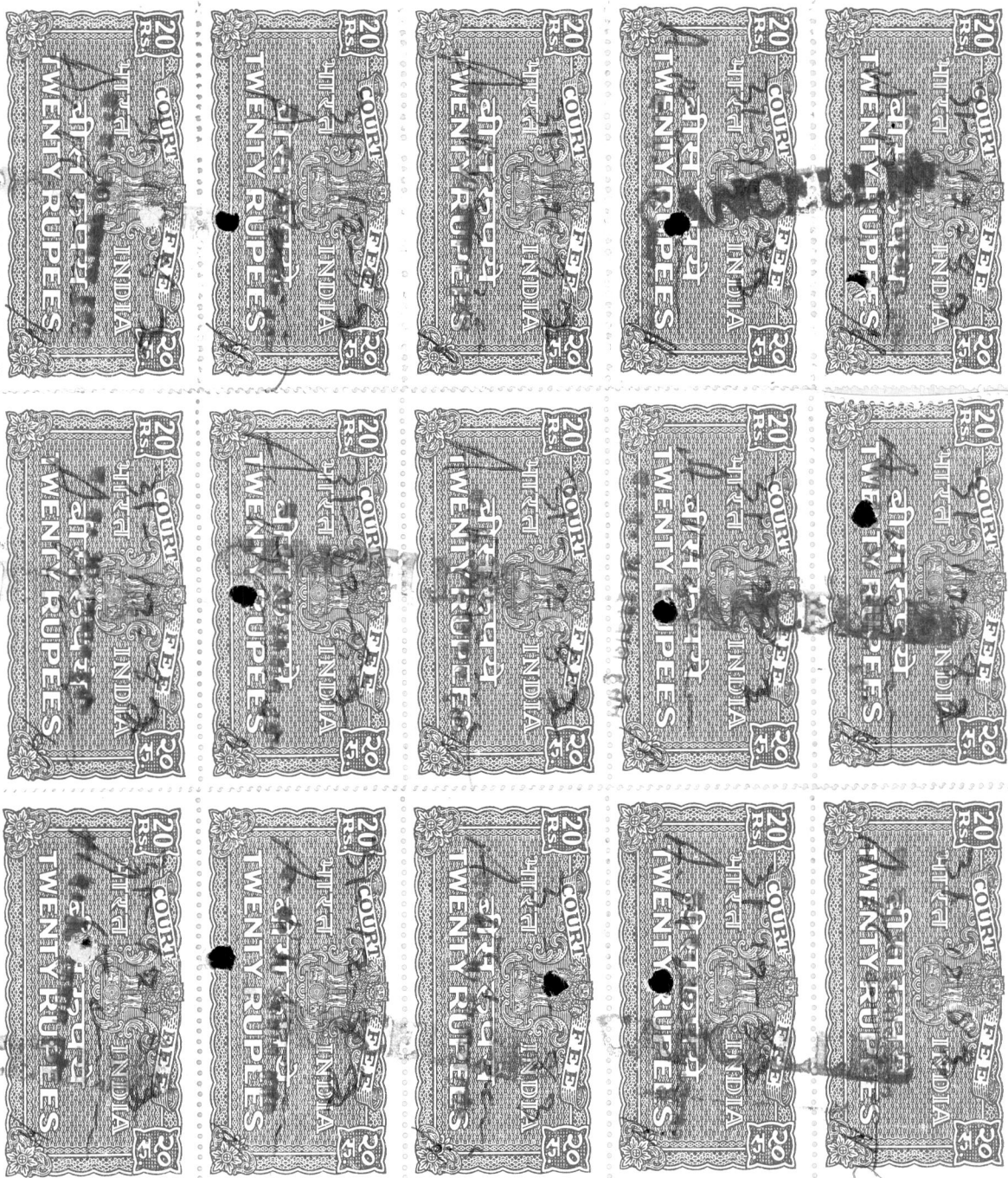
.....

DATED: LUCKNOW:

3-1-83

A. Narayan
Counsel for the
Petitioners.

7/67



In the Bankable India East of India at Allahabad
 Lucknow Bank, Lucknow

15 of 20 3000.
 1/1/83

W.L. No 13 2/9/83

Madan Kumar Lalda

Rehman

Union Bank of India
 State Bank

appears

A. Mannan
 counsel for the petitioners

1-1-83

A/8

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

WRIT PETITION NUMBER 13 OF 1983.

1. Madan Kumar Lal, aged about 43 years, Son of Shri Jagat Narain Lal, Resident of Mehdi Khara, Post Office - MANIK NAGAR, Lucknow;
 2. Ayodhya Prasad, aged about 46 years, Son of Shri Kallu Ram, Resident of Mehdi Khara, Post Office - MANIK NAGAR, Lucknow;
 3. Raj Kumar, aged about 44 years, Son of Shri Puran Chand, Resident of 35, Mangal Deep Bhawan, Jangli-ganj, Lucknow.
- Petitioners.

Versus.

1. Union of India, through the Secretary, Railways, New Delhi;
 2. The Deputy Controller of Stores, Northern Railways, Alambagh, Lucknow; ... Opposite Parties.
- ...-...-

WRIT PETITION UNDER ARTICLE 226 OF
THE CONSTITUTION OF INDIA.
-.-.-.-.-

The above named Petitioners most respectfully submit as under :-

1. That the Petitioner number 1 and 2 were appointed as Khalasis in Class IV category in the establish

Madan Kumar Lal

Impressed
 Filled Adhesive 15 300 - 20
 Total 15 300 - 20
 Correct but final Court fee ~~must~~
 will be made on receipt of lower
 Court record.
 In time up to
 Papers filed. Copy of P. O.
~~must also be filed~~
 W/No. Bench.

Last Drop 0.000 Ave 3 = 20 11-82

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Mr. S. C. Mathur. J.
 Mr. S. S. Ahmed. J.

Issue notice to
 the opp. parties
 requiring them
 to show cause why
 the writ petition
 may not be
 admitted. The
 learned counsel

①

for the petitioners
 undertakes to effect
 service upon the
 opp. parties. List
 on 10th January 1983.

The Office shall
 issue notice to the
 learned Counsel for
 the petitioners for
 effecting service
 upon the opp. party
 No. 2. on the date
 fixed the ^{affidavit} effect of
 service shall be
 filed along with the
 acknowledgement
 of opp. party No. 2.

Signed
 3-1-1983

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establishment of the Opposite Party Number 2, with effect from 1st May, 1958 and 6th October, 1956 respectively and since then they performed their duties honestly and efficiently.

2. That the Petitioner number 3 was also originally appointed as Khalasi in the Northern Railways, under the establishment of the Division Superintendent Lucknow, with effect from 3rd September, 1958, however, he was also transferred as Khalasi in the stores department of the Northern Railways in the year 1961 under the Opposite Party Number 2, in this manner all the three Petitioners worked as Khalasis in the Stores Department under the control of the Opposite Party No. 2.

3. That the next promotion for which the Petitioners could look forward was to the post of the Clerks Typists etc. falling in the class III category of posts

4. That the Railway Establishment evolved a policy of providing promotional avenues to the Class IV staff working in the railways, for this reason certain number of posts in the Class III category were reserved to be filled by way of promotion from Class IV. In the beginning the quota for the promotees in the Class III posts was 25 %, however, it was increased from 25 % to 33.3 % with effect from 1st October, 1975.

5. That the Petitioners were eligible for their promotion, the Petitioner number 1 and 2 were entitled



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Hon-T. S. Murari
Hon-D. N. Jha

None appears to
press the petition.
It is accordingly dismissed.

The J

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14.3.1983



for their promotion on the basis of their seniority.

6. That the Petitioner number 1 first gained short term promotion to Class III post in the year 1976 and in the year 1977, those were on the posts of the Clerk, however, through an order dated 20th January, 1978, the Petitioner number 1 was promoted temporarily to another post of Class III that is of the Typist, under the Opposite Party Number 2, and since then he remain typist till the impugned reversion. The Petitioner number 1 was appointed in place of Shri Ram Ghulam, who was selected for the post of the Clerk, joined there and the post of the typist on which the Petitioner was promoted became a clear and permanent vacancy and thus the Petitioner number 1 continued on the same post. A copy of this order of Appointment of the Petitioner Number 1 is annexed as Annexure No. 1 to this Writ Petition. The promotion of the Petitioner number 1 ~~at~~ was made on the basis of suitability test.

7. That the Petitioner number 2 was also promoted to the post of Typist after due test with effect from 20th September, 1978 and since then he continued on the post of the Typist in the establishment of the Opposite Party Number 2, till his impugned reversion.

8. That the Petitioner number 3 was also eligible for his promotion to Class III post, he was tested for the post of Typist by the Divisional Railway Manager in December, 1970 and was declared successful, due to

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some office manipulations, the Petitioner number 3 was deprived of his due promotion to the post of typist in the year 1971. However, he was again tested for the post of Typist and was promoted to the post of the Typist under the establishment of the Opposite Party number 2, with effect from 15th December, 1980 and since then he continued on the said post of Typist till now.

9. That the Petitioner number 1 and 3 also appeared in the test for promotion to the post of Clerk and passed the same in the year 1977, however, that is the matter of litigation, pending before this Hon'ble High Court.

10. That on qualifying the typing test the Petitioners were promoted to the various posts of typists on respective dates in the establishment of the Opposite Party number 2,

11. That there are ten posts of typists under the Opposite Party number 2, out of them three were held by the promotees from the Class IV cadre, those are the Petitioners, if the reversion of the Petitioners is effected, there will be no promotee on the post of the Typist.

12. That the impugned reversion of the Petitioners have been ordered in order to accommodate the direct recruits, though this reason is also baseless, through an order dated 24th December, 1982, passed by the Opposite Party Number 2, reversion of the Petitioner Number 1 and 2 has been ordered, a copy of the same is Annexed as Annexure Number 2 to this Writ Petition.

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13. That the Petitioner number 3 was reverted through an order dated 20th November, 1982, a copy of which is annexed as Annexure Number 3 to this Writ Petition. The reason of the reversion of the Petitioner number 3 as disclosed in the order, itself, is that one temporary post of typist has been surrendered, this was not the bonafide reason for the reversion of the Petitioner number 3, as on one of the posts of typist in the Stores establishment, one Shri R. C. Pandey, is working on loan, though he had lien under the Deputy Chief Mechanical Engineer, Charbagh, Lucknow, which is the separate and different cadre, and he could be easily repatriated, but instead the reversion of the Petitioner number 3 was ordered. It was not a bonafide reversion.

14. That the Petitioner number 3 is eligible for his promotion since 1970 from Class IV post to Class III post, on one pretext or the other his promotion was blocked for ten years, and now he is being reverted on a false pretext which is wholly arbitrary. The post was surrendered on the wrong and incorrect information for which he cannot be penalised by way of his reversion.

15. That all the Petitioners have completed more than 18 months on the promoted posts of Typists in Class III, their suitability has already been adjudged and their performance on the promoted post too have been good, so they could not be reverted on the pretext of new direct recruits or for the paucity of posts.

Madan Kumar Lal

16. That the Petitioners having completed eighteen months of the higher post of typists, they cannot be reverted on the lower posts on any pretext. Moreover, they are within the quota fixed for the promotees and they also cannot be reverted on this ground.

17. That the so-called direct recruits mentioned in the order of reversion (Annexure No. 2) of the Petitioner number 1 and 2 are not direct in that sense, they were already working on the posts of the Clerks, since March, 1982, on the basis of their selection they could opt within five years either the post of typist or clerk and they were posted as clerks with their own consent, now only with a view to oust the Petitioner number 1 and 2 from the posts of the typists they are shifted from the posts of the clerks to that of the typists. This shifting is not warranted by any administrative exigency or the public interest in any manner.

18. That the reversion of the Petitioner number 1 and 3 2 is wholly arbitrary and discriminatory, it violates the quota rule as well as the 18 months rule. It is also discriminatory and arbitrary.

19. That the Petitioners have been left without any other equally effective remedy, but to evoke the jurisdiction of this Hon'ble High Court, among others on the following -

GROUND S :-

(A) Because, the Petitioners are being reverted in an arbitrary manner without any public interest of the administrative exigency in any manner.

Madankam lal

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(B) Because, the reversions of the Petitioners are in utter violation of the quota rule for the promotees.

(C) Because, the impugned reversions of the Petitioners are in utter violation of the EIGHTEEN MONTHS rule.

(D) Because, the impugned reversions of the Petitioners are penal in nature and violates the provisions of Articles 14, 16 and 311 of the Constitution of India.

THEREFORE, it is most humbly prayed that this Hon'ble High Court may be pleased to issue a Writ, Order and directions in the nature of Certiorari, quashing the impugned orders of reversions contained in Annexure Number 2 and 3, after summoning their originals from the records of the Opposite Parties. May be further pleased to issue a Writ, Order or Command in the nature of Mandamus, commanding the Opposite Parties to allow the Petitioners to continue on the posts of the Typists held by them with all consequential benefits arising thereof in respect of salary, allowances, increments, back wages, seniority, continuity etc. Any other Writ, Order or Direction deemed proper, To waive off the notice to the Opposite Parties as the matter is MOST URGENT and allow the Writ Petition with costs.

DATED: LUCKNOW:

3. 1. 83

A. Mannan
Counsel for the
Petitioners.

There is no defect in
this w. P.

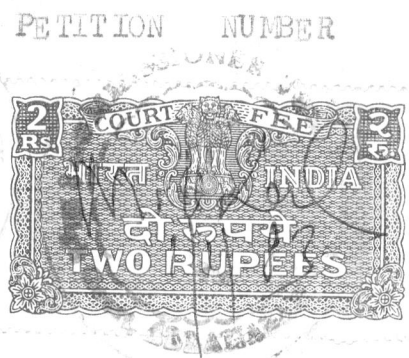
A. Mannan

Madankumar Lal

- : 8 : -

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



WRET PETITION NUMBER OF 1983.

Madan Kumar Lal and 2 others. Petitioners.

Versus.

Union of India and another. Opposite Parties.

A F F I D A V I T.

I, Madan Kumar Lal, aged about 43 years, Son of Shri Jagat Narain Lal, Resident of MEHDI KHERA, Post Office - MANIK NAGAR, Lucknow, states on oath as under :-

1. That the deponent is the Petitioner number 1, he is doing 'Pairvi' on behalf of other Petitioners, as such he is fully conversant with the facts and the circumstances stated in the said Writ Petition.
2. That the contents of paragraph number 1 to 18 of the Writ Petition are true to my own knowledge.
3. That the deponent, himself, has compared the Annexure Number 1 to 3, either with the copies maintained by the Petitioners, or served upon them or as could be fetched by them and they are their true copies.

DATED: LUCKNOW:

1/11/83

Madan Kumar Lal
(Madan Kumar Lal)
Deponent.

- : 9 : -

VERIFICATION.

I, the above named deponent do hereby verify that the contents of paragraph number 1, 2 and 3 of this affidavit are true to my own knowledge. Nothing in it is wrong and nothing material has been concealed, so help me GOD.

DATED: LUCKNOW:

11/1/83

Madan Kumar Lal
(Madan Kumar Lal)
Deponent.

I know the deponent, identify him, who has signed before me.


DATED: LUCKNOW:

11/1/83

D. N. Tewari
Clerk to Shri Abdul Mannan, Advocate
Counsel for the Petitioners.

Solemnly affirmed before me on this the 1st day of January, 1983, at 9-10 a.m./p.m., by Shri Madan Kumar Lal, the deponent, who has been identified by the Clerk to Shri Abdul Mannan, Advocate, Allahabad High Court, Lucknow Bench, Lucknow.

I have satisfied myself by examining the deponent that he fully understands the contents of this affidavit, which has been read out and explained by me.


JUDGE COMMISARY
High Court, Allahabad
Lucknow Bench

11/9/83

11/1/83

A/12

- : 10 : -

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

WRIT PETITION NUMBER OF 1983.

Madan Kumar Lal and 2 Others. Petitioners.

Versus.

Union of India and another. ... Opposite Parties.

ANNEXURE NUMBER - 1.

NORTHERN RAILWAY.

Office Order No. E/25.

DATED: 20.1.1978.

Shri M.K.Lal, Peon, Dieself Depot, Moghalsarai Depot is appointed to officiate as typist on pay Rs.260/- permonth in grade Rs. 260-400 (RS) and posted at E.T. Depot, CNB vice Sri Ram Gulam reported sick. The appointment of Sri M.K.Lal as typist is purely temporary and adhoc arrangement and will take effect from the date he report for duty at E.T.Depot, CNB.

for Deputy Controller of
Stores, Lucknow.

Copy forwarded to:-

1. The Deputy Chief Accounts Officer (Works)/ AMW.
2. The ACOS/VYN, He will please spare sri M.K.Lal with the instructions to report for duty at E.T.Depot/CNB under intimation to this office.
3. The ACOS/CNB. He will please intimate the date of resumption of duty of Shri M.K.Lal.
4. HC/Bills and leave,
5. Shri M.K.Lal, Peon, MGS Depot.

Deputy Controller of Stores,
Alambagh, Lucknow.

Madan Kumar Lal



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- : 11 : -

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

WRIT PETITION NUMBER OF 1982.

Madan Kumar Lal and 2 others. ... Petitioners.
Versus.

Union of India and another. ... Opposite Parties.

ANNEXURE NUMBER - 2.

NORTHERN RAILWAY.

Office Order No. E/306. DATED: 24.12.1982.

The following arrangements are ordered with
immediate effect (24.12.82):-

1. Shri Ayodhya Prasad Yadav, working as Typist on ad-hoc basis under SSL Depot, Charbagh, Depot is reverted as Stores Mazdoor on pay Rs. 240/- in grade Rs. 200-240(RS) and posted in General Gang/Alambagh Depot. He is allotted T.No. 804.
2. Shri Ahsanullah Ansari Typist who was retained as Clerk at CB Depot in Grade Rs. 260-400 (RS) is posted as Typist vice Shri A.P.Yadav under ACCS/DSL/CB/Lucknow.
3. Shri M.K.Lal, Working as Typist in Ad-Hoc basis at Alambagh Depot is reverted to substantive post of Peon and posted at Alambagh Depot temporarily on pay Rs. 232/- in grade Rs. 196-232 (RS) against the existing vacancy at Alambagh.



Madan Kumar Lal

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4. Shri Shyam Behari, Typist who was retained as Clerk at Alambagh Depot is posted as Typist vice Shri M.K.Lal at Alambagh Depot.

Sd/- Illegible.
for Deputy Controller of Stores,
Alambagh, Lucknow.

Copy forwarded to :-

1. SAC(W)/AMV,
2. SAC(W)/CB,
3. DCCS/CB/LKO,
4. HC/Bills/ Pass/ Leave,
5. ACCS/DSL/CB,
6. Parties concerned.

.....

Madeen Kumar Lal

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NORTHER RAILWAY.

Due to surrender of one temporary post of typi-

Deputy Controller of Stores,
Northern Railway, Alambagh,
Lucknow.

Maak een leef

- Deputy Controller of Stores,
Northern Railway, Alambagh,
Lucknow.

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

LUCKNOW BENCH, LUCKNOW.

Civil Misc. Application No. 200 (W) of 1983:

In Re :

WRIT PETITION NUMBER 13 OF 1983.



Madan Kumar Lal and 2 Others. Petitioners / Applicants.

Versus.

Union of India and another. Opposite Parties.

AN APPLICATION FOR THE INTERIM RELIEF.

The above named Petitioners - Applicants most respectfully submit as under :-

1. That the above mentioned Writ Petition has been filed against the impugned orders of reversions, contained in Annexure Number 2 and 3, and their validity has been challenged, the applicants will suffer irreparable loss, if the reversion orders are allowed to operate, they have every hope of success in their writ Petition.

THEREFORE, it is most humbly prayed that for the reasons already disclosed in the Writ Petition and the affidavit, the operation of the orders of reversion contained in Annexure No. 2 and 3, may kindly be stayed pending the disposal of the Writ Petition, in the interest of justice.

DATED: LUCKNOW:

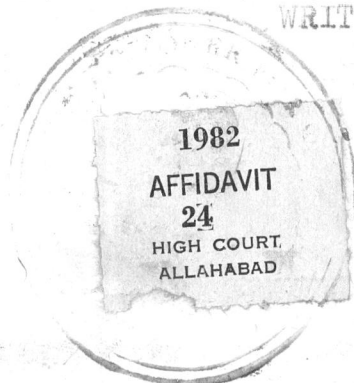
A. Mannan
Counsel for the Petitioners/
Applicants.

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

WRIT PETITION NUMBER 13 OF 1983.



Madan Kumar Lal and 2 others. ... Petitioners.

Versus.

Union of India and another. Opposite Parties.

AN AFFIDAVIT OF SERVICE.

24/29/83

I, Madan Kumar Lal, aged about 43 years, Son of Shri Jagat Narain Lal, Resident of Mehdi Khera, Post Office - MANIK NAGAR, District - Lucknow, states on oath as under :-

1. That the deponent is the Petitioner No. 1, in the above mentioned Writ Petition, he is also doing 'Pairvi' on behalf of other Petitioners, as such he is fully aware of the facts and the circumstances stated hereinafter.
2. That in compliance of the orders of this Hon'ble High Court, the deponent has effected the service of the Notices of this Hon'ble High Court alongwith the duplicates of the Memorandum of the Writ Petition, Affidavit, Annexures and the stay application, on the Opposite Party number 2, in his office on 4th January, 1983.

DATED: LUCKNOW:
JANUARY 9th, 1983.

Madan Kumar Lal
(Madan Kumar Lal)
Deponent.

VERIFICATION.

I, the above named deponent do hereby verify that the contents of paragraph number 1 and 2, of this affidavit are true to my own knowledge. Nothing in it is wrong and nothing material has been concealed, so help me GOD.

DATED: LUCKNOW:
JANUARY 9th, 1983.

Madan Kumar Lal
(Madan Kumar Lal)
Deponent.

I know the deponent, identify him, who has signed before me.

DATED: LUCKNOW:
JANUARY 9th, 1983. Clerk to Shri Abdul Mannan, Advocate,
Counsel for the Petitioners.

D.N. Tewari

Solemnly affirmed before me on this the th day of January, 1983, at a.m./p.m., by Shri Madan Kumar Lal, the deponent, who has been identified by the Clerk to Shri Abdul Mannan, Advocate, Allahabad High Court, Lucknow Bench, Lucknow.

I have satisfied, myself, by examining the deponent that he fully understands the contents of this affidavit, which has been read out and explained by me.

Signature 9/1/83

NAYAB HASAN	
Comm. Secy. for Path	
High Court, LUCKNOW.	
No.....	24/295/83.....
Date.....	9/1/83.....



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(57)

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

Try. Form No. 385

(F. 2334) (P)

B

RECEIPT FOR PAYMENT TO GOVERNMENT

(Form No. I, Chapter III, Paragraph 26, Financial
Handbook, Volume V, Part I)

101889

Receipt No. _____

Place _____

Date _____

Department and office _____

Received from _____

the sum of Rupees _____

on account of _____

Signature and Registration Fees
Signature of Government Servant.
granting the receipt

Cashier or Accountant. _____

Designation _____

Madan Kumar Lal ..

.. Petitioner.

Versus

Union of India and another ..

.. Opp. Parties.

I, Gyan Singh, aged about 29 years,
son of Sri Durjan Singh, Assistant
Controller of Stores, Northern Railway,
Alambagh, Lucknow, do hereby solemnly affirm
and state on oath as follows:-

1. That the deponent is Assistant Controller
of Stores, Northern Railway, Alambagh, Lucknow and
he is fully acquainted with the facts of the case.

2. That the deponent has been authorised
to file counter affidavit in reply to show cause
notice in the abovementioned writ petition which has

and on adhoc basis. There was no regular selection for this vacancy as required by rules and regulations.

7. That the statement made in para 7 of the writ petition is not correct as such therefore not admitted as such. There was no regular test as required by rules and regulations because there were not sufficient vacancies for that. Sri Ayodhya Prasad, petitioner 2 was promoted to the post of typist with effect from 20.9.78 but the promotion was purely temporary and on adhoc basis.

8. That the statement made in para 8 of the petition is incorrect as such therefore not admitted. It is wrong to say that the petitioner was deprived of his any right due to manipulation. The petitioner no.3 Sri Raj Kumar was transferred and posted as temporary typist under Deputy Chief Mechanical Engineer, Carriage and Wagon shop, Alambagh, Lucknow by Divisional Personal Officer, Lucknow letter ~~no~~ no.940-E/B(E-VI)/3 (typist) dated 26.12.70 against purely in local adhoc arrangement but he was not considered to be taken as typist by Deputy Chief ~~Mechanical~~ Mechanical Engineer as such on return he was posted as Khalasi with effect

post of typist on 16.12.80 against the newly sanctioned post for typist in Diesel Depot, Charbagh, Lucknow purely temporary, adhoc and local arrangement under the control of opposite party no. 2.

9. That the statement made in para 9 of the petition is incorrect as such therefore not admitted. Petitioners 1 to 3 appeared in selection for the post of Clerks Grade Rs.260-400 revised scale in 1977 but were not declared successful. No case against the result of the selection board for the promotion of clerks against ~~XXX~~ 33-1/3 % vacancies is pending in the court of law. The petitioners are trying to confuse the issue.

10. That in reply to the statement made in para 10 of the writ petition, it is stated that no regular test as required by Extent Rules and procedure was ever held to fill up the ~~XXX~~ 33-1/3 % vacancies of the typist for promotion of class IV employees. All the three persons were promoted as typist on ^{a dates} different ~~test~~ under the administrative control of Deputy Controller of Stores, Alambagh after preliminary ^{and a} test purely on temporary local ad-hoc basis and not selected by properly ~~a~~ constituted Selection Board against 33-1/3 % of the total vacancies from class IV to Class III.

11. That the statement made in para 11 of the petition is not correct as such therefore denied. The reservation of 33-1/3% of vacancies in the unit and not of the total number of posts which is clear from the circular (Annexure no. A-1) to this counter Affidavit. At no point of time there was sufficient vacancies to hold a selection as required by Extant

Rules. After 1.10.75 up to this time only two regular vacancies have occurred, third was temporary which was surrendered subsequently for want of sanction later on.

12. That the statement made in para 12 of the petition are not correct as such therefore are not admitted. The promotions of the petitioner no. 1 and 2 were made purely on adhoc basis against the vacancies which were to be filled up by Railway Service Commission candidates as such on availability of the selected candidates they were reverted. The promotion of the petitioner no. 3 was also made purely on adhoc basis against newly created post and due to not availability of the sanctioned posts of typists the petitioner no. 3 was reverted to his substantive post of class IV.

13. That the statement made in para 13 of the petition is incorrect therefore denied. It is wrong to say that it is not a bonafide reversion. The petitioner 3 was reverted to his

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substantive Class IV post due to shrinkage of establishment i.e. non availability of sanctioned post. The accounts department did not agree with the proposal therefore the department had not alternative ~~in~~ but to surrender the post. No one can hold the post without sanction. Under these circumstances the allegation of the petitioner are without any foundation.

14. That the statement made in para 14 of the petition are not correct as such therefore denied. The petitioner no. 3 Raj Kumar could not pass the selection for the promotion to the post of Clerk or typist against 25% ^{or} ~~of~~ 33-1/3 % of the total vacancies. The petitioner was promoted ^{Locally} ~~legally~~ on purely temporary and on adhoc ~~and~~ basis and his reversion on shrinkage of establishment is totally correct.

15. That the statement made in para 15 of ~~the~~ the petition is not correct as such therefore denied. All the three ~~XXXXXX~~ petitioners were promoted after preliminary test purely temporary and on adhoc basis and not selected through a properly constituted selection board. The contention of the petitioner that after completion of 18 months service no one

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can be reverted is not correct. ~~This~~ rule does not ~~xx~~ apply in cases of ad-hoc, temporary and local promotions as no claim for promotion ~~xxx xxx~~ ~~x~~ for the post held by them is given in such cases~~xx~~ including the shrinkage of the establishment.

16. That the statement made in para 17 of the petition is not correct therefore is denied. The local and adhoc promotions cannot be claimed as a matter of right and can be terminated at any stage on availability of paneled candidates. In the case of petitioner no. 3 reversion was due to shrinkage of establishment i.e. non availability of sanctioned post.

17. That the statement made in para 17 of the petition is not correct therefore not admitted. The petitioner no. 1 and 2 have been reverted on the availability of selected candidates by Railway Service Commission as typist and petitioner no.3 on Shrinkage of establishment. Sri Ahsan Ulla Ansari and Shyam Behari posted vice petitioner no. 1 and 2 who are selected as typist by the Railway Service Commission. ~~Therefore~~ Their selection will not become null and void because ^{fa} working as clerk due to shortage of clerks.

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18. That statement made in para 18 of the petition is not correct as such therefore denied. The rule of 18 months does not apply in purely adhoc arrangement and shrinkage of establishment. So far quota is concerned it is against the vacancies and not against the posts. There had never been sufficient vacancies of ~~typists~~ typists to hold the selection against 33-1/3 % quota from class IV to III.

19. That ~~in reply to~~ the statement made in para 19 of the petition, ~~it is~~ is incorrect therefore denied. Petitioner ²1 and 3 have been reverted rightly to their substantive posts and no injustice have been done to them as the promotions were purely temporary, local and on adhoc basis which confer no right.

20. That the petition is misconceived and deserves dismissal with costs.

Lucknow : Dated :

January 24, 1983.


Deponent.

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Verification.

I, the abovenamed deponent do hereby verify
that the contents of ~~this~~ paras 1, 2, 4 and 6/19

of this affidavit are true to my personal knowledge,
those of paras 5-----

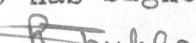
----- of the affidavit are true
to my information derived from the records which are
believed to be true by me and those of paras 3-----

----- of the affidavit
are based on legal advice. No part of it is false and
nothing material has been concealed. So help ~~me~~ me
God.

Lucknow.: Dated :

January 24, 1983.


Deponent.

I identify the deponent who has signed
before me. 


R. Thakla
Rly. Admn.
24/1/83

Solemnly affirmed before me on 24/1/83 at 30 a.m./p.m.

by Sri Gagan Singh the deponent who is identified

by Sh. R. K. Shukla . I have satisfied myself

by examining the deponent that he understands the
contents of this affidavit which have been read out
and explained by me.


High Court, Allahabad
Lucknow Bench

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24/1/83

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

Writ Petition No.13 of 1983.

Madan Kumar Lal ...

Vs... Union of India & others.

Annexure No.A-1

Copy of Rly. Bd's letter No.E(NGO175 CFP/28
dated 27/30.9.75

Sub:-Promotion from Class IV to Class III Service.

Reference Bd's letter No.E(NG)67 CFP/6 dated 10/8/67.
The question of raising the limit of 25% prescribed
therein for promotion of Class IV ~~xxxxxx~~ staff to
Class to Class III posts listed in their letter
No.E(NG)58 CFP/8 dated 24/1/62 has been engaging the
attention of the Bd. for some time and they have
decided that the percentage for promotion may be
increased to $22\frac{1}{3}$ % of the vacancies in respect
of the following categories with effect from 1/10/75.

- 1) Comml. Clerks. 2) Ticket Collectors 3) Train Clerks,
Number Takers, 4) Time keepers 5) Fuel Checkers 6)
Office Clerks in Departments other than A/Cs.
- 7) Office categories of Clerks such as Store Clerks
etc.

The promotion quota in the A/Cs Deptt. will, however,
continue to remain at 25%.

The promotions will be made in accordance with the
extant rules and procedure and training should be
imparted to the promotees where considered necessary.

Signature

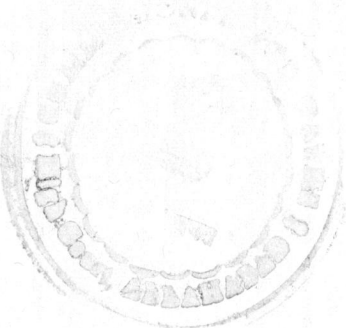
Signature

High Court, Allahabad
Lucknow Bench

No.

Date

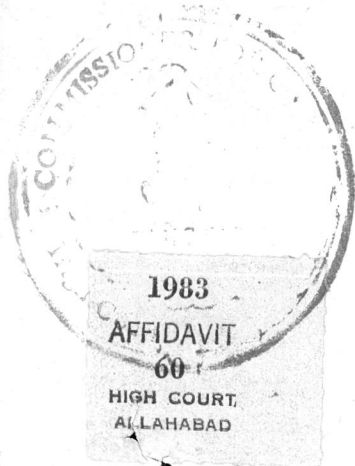
68/201/83
24/11/83



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

WRIT PETITION NUMBER 13 OF 1983.



Madan Kumar Lal and 2 Others. ... Petitioners.

Versus.

Union of India and Others. ... Opposite Parties.

Rejoinder Affidavit to the Counter Affidavit
furnished on behalf of the Opposite Parties,
sworn by Shri Gyan Singh, Asstt. Controller of
Stores, dated 24.01.1983, received on 27.01.1983.

I, Madan Kumar Lal, aged about 43 years, Son of
Shri Jagat Narain Lal, Resident of MEHDI KHERA, Post Office
MANIK NAGAR, District - Lucknow, states on oath as under :

Madan Kumar Lal

1. That the deponent is the Petitioner number 1 in
the above mentioned Writ Petition, he is also doing
'Pairvi' on behalf of the remaining two Petitioners, he
has read the Counter Affidavit, dated 24th January, 1983,
understood the contents thereof and is fully conversant
with the facts and the circumstances stated hereinafter.
2. That the contents of paragraph number 1, 2 and
4 of the Counter Affidavit need no reply.
3. That the contents of paragraph number 3 of the
Counter Affidavit are denied.



2/3

4. That the contents of paragraph number 5 of the Counter Affidavit are denied and the contents of paragraph number 3, 4 and 5 of the Writ Petition are reiterated as correct. There is a fixed quota of Class IV employees for their promotion to the Class III posts, the circular referred therein will vindicate the position. The Petitioners were promoted to the posts of the Typists after due test. Moreover, after EIGHTEEN MONTHS of the officiation the Petitioners could not be reverted.

5. That the contents of paragraph number 6 and 7 of the Counter Affidavit are not admitted as framed. It may be pointed out that on the present posts the Petitioners were promoted after due test by the Deputy Controller of Stores, who has been duly authorised to take such tests and make promotions.

6. That the contents of paragraph number 8 of the Counter Affidavit are denied and the contents of paragraph number 8 of the Writ Petition are reiterated as correct. It may be further pointed out that on the present posting the Petitioners were promoted after due test and that too by the competent authority.

7. That the contents of paragraph number 9 of the Counter Affidavit are denied and the contents of paragraph number 9 of the Writ Petition are reiterated as correct.

8. That the contents of paragraph number 10 and 11 of the Counter Affidavit are denied, and the contents of paragraph number 10 and 11 of the Writ Petition are reiterated as correct. It may be further pointed out that

Madan Kaur Lal



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the circular contained as Annexure 'A-1' will vindicate the stand taken by the Petitioners.

9. That the contents of paragraph number 12 and 13 of the Counter Affidavit are denied and the contents of paragraph number 12 and 13 of the Writ Petition are reiterated as correct. It may be further pointed out that the Petitioners were duly tested before their promotion in question, about the post of the Petitioner number 3 it may be pointed out that his post was wrongly surrendered, and due to wrong information and that too of the Accounts Department the sanction was not sought for, it could be done even subsequently.

10. That the contents of paragraph number 14 of the Counter Affidavit are denied and the contents of paragraph number 14 of the Writ Petition are reiterated as correct.

11. That the contents of paragraph number 15 of the Counter Affidavit are denied and the contents of paragraph number 15 of the Writ Petition are reiterated as correct. The eighteen months rule will apply upon the Petitioners and they could not be reverted.

12. That the contents of paragraph number 16 and 17 of the Counter Affidavit are denied and the contents of paragraph number 16 and 17 of the Writ Petition are reiterated as correct. It may be further pointed out that the directly recruited candidates could not be brought against the quota reserved for the promotees, this virtually defeated the quota rules.

13. That the contents of paragraph number 18, 19 and

Madan Kumar



12/3/83

20 of the Counter Affidavit are denied and the contents of paragraph number 18 and 19 of the Writ Petition are reiterated as correct.

Madan Kumar Lal

DATED: LUCKNOW:
JANUARY ² 29, 1983.

(Madan Kumar Lal)
Deponent.

VERIFICATION.

I, the above named deponent do hereby verify that the contents of paragraph number ² 18 ² 13 of this Rejoinder Affidavit are true to my own knowledge, while those of paragraph number _____ are believed by me to be true. Nothing in it is wrong and nothing material has been concealed, so help me GOD.

DATED: LUCKNOW:
JANUARY 29, 1983.

Madan Kumar Lal
(Madan Kumar Lal)
Deponent.

I know the deponent, identify him, who has signed before me.

DATED: LUCKNOW:
JANUARY 29 1983. Clerk to Shri Abdul Mannan, Advocate
Counsel for the Petitioners.

D. N. Tewari

Solemnly affirmed before me on this the 29th day of January, 1983, at 7.30 a.m./p.m., by Shri Madan Kumar Lal, the deponent, who has been identified by the Clerk to Shri Abdul Mannan, Advocate, Allahabad High Court, Lucknow Bench, Lucknow.

I have satisfied, myself, by examining the deponent that he fully understands the contents of this Rejoinder Affidavit, which has been read out and explained by me.



M. RAJESH K. HAQUE
JATH COMMISSIONER
Allahabad High Court, Lucknow Bench

No. 60/206
Date 29/1/83

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

LUCKNOW BENCH, LUCKNOW.

Civil Misc. Application No. 3594 (W) of 1983:

In Re :

WRIT PETITION NUMBER 13 OF 1983.



Madan Kumar Lal and 2 others. . Petitioners/ Applicants.

Versus.

The Union of India and another. Opposite Parties.

AN APPLICATION FOR THE RESTORATION.

The above named Petitioners - Applicants most respectfully submit as under :-

1. That the above mentioned Writ Petition was dismissed in default by the Division Bench of this Hon'ble High Court, consisting of Mr. T.S. Misra and Mr. Justice D.N. Jha, on 14th March, 1983,

THEREFORE, it is most humbly prayed that for the reasons already disclosed in the accompanying affidavit, the above mentioned Writ Petition may kindly be restored to its original number and order and the order dated 14th March, 1983, may be recalled in the interest of justice.

DATED: LU-CKNOW:
MARCH , 1983.

18
A. Manuall
Counsel for the Petitioners/
Applicants.

(19)

Hon K. N. Goyal T

Hon R. C. D. Sharma T

put up before the
Bench concerned with
the record.

✓ K

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21.3.1983

Recd copy
~~R. N. Misra~~
18/3/83

Honible T. S. Misra, J.
Honible D. N. Jha, J.

Cause shown is sufficient.
The order dated 14th March, 1983
is recalled and set aside. The
writ petition is restored to its original
number.

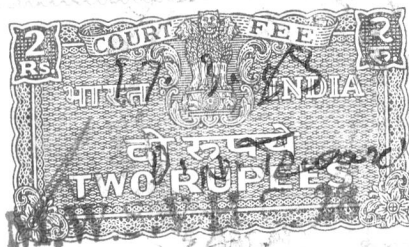
MHS/-

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

WRIT PETITION NUMBER 13 OF 1983.



Madan Kumar Lal and 2 others. Petitioners.

Versus.

Union of India and another. ... Opposite Parties.

AN AFFIDAVIT IN SUPPORT OF AN APPLICATION FOR THE
RESTORATION.

I, Deo Narain Tiwari, aged about 39 years, Son of late Shri B. P. Tiwari, Resident of Katra Bijeh Bag, Lucknow, states on oath as under :-

1. That the deponent is the Clerk to Shri Abdul Mannan, Advocate, As such he is fully conversant with the facts and the circumstances stated hereinafter.

2. That the above mentioned Writ Petition was listed for hearing on 14th March, 1983, in the Bench, consisting of Mr. Justice T.S. Misra and Mr. Justice D. N. Jha, the Counsel for the Petitioner, Shri Abdul Mannan, Advocate was occupied in Court Number 4, and an engagement slip was sent in this Bench, however, the list was revised and the Counsel for the Petitioners could not know about the said revision of the list and the said Writ Petition was dismissed in default. The fault on the part of the Petitioner is not intentional as such it is liable to be condoned.

DATED: LUCKNOW:
MARCH 17, 1983.

Deo Narain Tiwari
(Deo Narain Tiwari)
Deponent.

1983
AFFIDAVIT
FR 52
HIGH COURT
ALLAHABAD



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VERIFICATION.

I, the above named deponent, do hereby verify that the contents of paragraph number 1 and 2 of this affidavit are true to my own knowledge. Nothing in it is wrong and nothing material has been concealed, so help me GOD.

DATED: LUCKNOW:
MARCH 17, 1983.

Deo Narain Tiwari
(Deo Narain Tiwari)
Deponent.

I know the deponent, identify him, who has signed before me.

DATED: LUCKNOW:
MARCH 17, 1983.

Sumran

Advocate.



Solemnly affirmed before me on this the 17th day of March, 1983, at 7.30 a.m./p.m., by Shri Deo Narain Tiwari, the deponent, who has been identified by Shri S.K. Sivas ^{have} Advocate, Allahabad High Court, Lucknow Bench, Lucknow.

I have satisfied, myself, by examining the deponent that he fully understands the contents of this affidavit which has been read out and explained by me.

17/3/83
52/294
17/3/83

W.P. NO: 13/8341

To The Addl Registrar
High Court,
Lucknow.



Madan Kumar Lal & others.....Petitioners

V/s.

Union of India and others.....Opposite-
parties.

Applicants submit as under :-

1. That the above noted Writ Petition is directed against the reversion of the petitioners. The writ petition has been admitted and an order for final disposal is there, but it has not been listed for hearing since long.

Therefore, it is prayed that the Writ Petition may be kindly ordered to be listed for final hearing as early as possible in the interest of justice.

Lucknow/Dated :
12th September, 1983

A. Anand
Counsel for the
Petitioners.

So (Writ)

Pl. Report.

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The petition was once decided. It was now restored to its original number vide Court's order dated 2-5-83. As such it is ready for hearing.

Submitted

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14/9/83

then

his before Hon'ble Justice

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

LUCKNOW BENCH, LUCKNOW.

Civil Misc. Application Number 861 (W) of 1983

IN RE :

WRIT PETITION NUMBER 13 OF 1983.



Madan Kumar Lal and two others. Petitioners/Applicants.

Versus.

Union of India and Others. ... Opposite Parties.

AN APPLICATION FOR THE EARLY HEARING.

The above named Petitioners / Applicants most respectfully submit as under :-

1. That through the above mentioned Writ Petition, the applicants have challenged the validity of their reversion, they are suffering irreparable loss and have every hope of the success in their writ petition.

THEREFORE, it is most humbly prayed that for the reasons already disclosed in the writ petition, as well as stated in the accompanying affidavit, the above mentioned writ petition may kindly be heard at the earliest, the affidavits between the parties have been exchanged, in the interest of justice.

DATED: LUCKNOW:
DECEMBER 12, 1983.

A. Chandra
Counsel for the Petitioners/
Applicants.

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

WRIT PETITION NUMBER 13 OF 1983.



Madan Kumar Lal and two others. ... Petitioners.

Versus.

Union of India and another. Opposite Parties.

AN AFFIDAVIT IN SUPPORT OF THE EARLY APPLICATION

I, Madan Kumar Lal, aged about 44^{1/2} years, Son of Shri Jagat Narain Lal, Resident of Mehendi Khara, Post Office - MANIK NAGAR, Lucknow, states on oath as under :-

1. That the deponent is the Petitioner number 1 in the above mentioned Writ Petition, he is also doing 'Pairvi' on behalf of the remaining two Petitioners, as such he is fully conversant with the facts and the circumstances stated in the said Writ Petition, as well as stated hereinafter.

2. That the above mentioned Writ Petition is directed against the reversions of the Petitioners, they are suffering irreparable loss, so it is expedient in the interest of justice that the matter may be heard at the earliest.

DATED: LUCKNOW
DECEMBER 12, 1983.

Madan Lal
(Madan Kumar Lal)
Deponent.



VERIFICATION.

I, the above named deponent do hereby verify that the contents of paragraph number 1 and 2 of this affidavit are true to my own knowledge. Nothing in it is wrong and nothing material has been concealed, so help me GOD.

DATED: LUCKNOW:
DECEMBER 12, 1983.

Madan Lal
(Madan Kumar Lal)
Deponent.

I know the deponent, identify him, who has signed before me.

DATED: LUCKNOW:
DECEMBER 12, 1983. Clerk to Shri Abdul Mannan, Advocate,
Counsel for the Petitioners.

D. N. Tewari

Solemnly affirmed before me on this the 12th day of December, 1983, at 8.15^{a.m./p.m.}, by Shri Madan Kumar Lal, the deponent, who has been identified by the Clerk to Shri Abdul Mannan, Advocate, Allahabad High Court, Lucknow Bench, Lucknow.

I have satisfied, myself, by examining the deponent that he fully understands the contents of this affidavit, which has been read out and explained by me.



M. N. Jain
OATH COMMISSIONER
High Court, Allahabad
Lucknow Bench
No. 101/1082
Date 12-12-83

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Xub

In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench, Lucknow.

C.M. Application No. 12,417 (ca) of, 1984

Union of India & others .. Applicants

In re:

Writ Petition No.13 of 1983

M.K.Lal .. Petitioner

Versus

Union of India & others .. Opp. parties.



Application for condonation of delay

The applicants above named most respectfully
beg to submit as under:-

13406

That in the above noted case some delay took
place in filing the counter affidavit as enquiries
had to be made from different places and verification
of record had also to be done. Therefore, there was
unavoidable delay in filing the counter affidavit.

It is, therefore, prayed that the delay may
kindly be condoned and the counter affidavit may be
taken on record.

Lucknow:

Dated: July 30, 1984

C.A. Basir
(C.A. Basir),
Advocate

Counsel for the applicants

A/47
46 ✓

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

LUCKNOW BENCH, LUCKNOW

WRIT PETITION NUMBER 13 OF 1983

1983
AFFIDAVIT
77
HIGH COURT
ALLAHABAD



Madan Kumar Lal and 2 others. ... Petitioners.

Versus.

Union of India and Others. ... Opposite Parties.

Supplementary Counter- AFFIDAVIT

IN

REPLY TO REJOINDER AFFIDAVIT

IN WRIT PETITION NO 13 OF 1983.

I, Gyan Singh, aged about 29 years, son of Sri Durjan Singh, Assistant Controller of Stores, Northern Railway, Alambagh, Lucknow, do hereby solemnly affirm and state on oath as follows :-

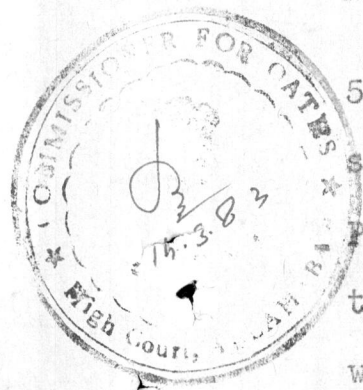
1. That the deponent is Assistant Controller of Stores, Northern Railway, Alambagh, Lucknow and he is fully acquainted with the facts of the case.
2. That the deponent has been authorised to file affidavit in reply to rejoinder affidavit in above mentioned writ petition.

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3) That the petitioners have brought certain new allegations in rejoinder affidavit and certain instructions regarding applicability of 18 months rules which were not available at the time of filing counter affidavit which is available now and attached with this affidavit as annexure I which may be taken on record in the interest of justice.

4) That the post of typist in grade Rs 260-400 (RS) is a selection post for Class IV employees and petitioners were not empanelled by the Selection Board comprising of 3 Senior Scale Officers following same procedure as prescribed for selection posts in higher grade in terms of section XIV Para 28 I (IV) and IIIB(ii) of Hand book " Procedure for holding Selections and rules Regulating promotion to selection and Non selection posts " which is attached as Annexure II.

5) That it is wrong to say that sanction was not sought for and it could be done subsequently as alleged in para 9 of the rejoinder affidavit . The true facts are that the proposal of the extension of the temporary post of typists was not concurred by the Accounts Department which is clear from the letter of Senior Accounts Officer (W) N.Rly/AMV/Lucknow attached with this affidavit as annexure III. The allegations including wrong surrender and wrong information as alleged in para 9 are wrong and emphatically denied.



[Handwritten signature]

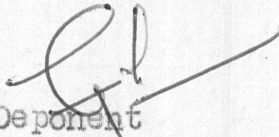
Dated Lucknow
14 -3-1983.
2

[Handwritten signature]
(Gyan Singh)
Deponent.

VERIFICATION.

I, the abovenamed deponent do hereby verify that the contents of paras 1, 2, 3 Partly, 5 Partly of this affidavit are true to my personal knowledge, those of paras 3 Partly, 4, 5 Partly of the affidavit are true to my information derived from the records which are believed to be true by me and those of para... of the affidavit are based on legal advice. No part of it is false and nothing material has been concealed. So help me God.

Lucknow : Dated
March 14th, 1983.

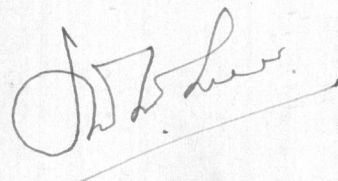

Deponent

I identify the deponent who has signed before me.

R. Mukla
Advocate High Court

Solemnly affirmed before me on 14.3.83 at 9.30 a.m./p.m.

by Sri Gyane Adv the deponent who is identified by Shri R.K. Shukla, Adv. I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read out and explained by me.


(MADAN MOHAN)
OATH COMMISSIONER
High Court, Allahabad
Lucknow Bench
No. 77/203
Date 14.3.83

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

WRIT Petition No 13 of 1983.

Madan Kumar Lal... Vs... Union of India & others.

ANNEXURE I.

Northern Railway

Headquarters Office,
Baroda House,
New Delhi.

Confidential
No.E-142/0/3-II.

All Divisional Superintendents &
Extra Divisional Officers,
Northern Railway,
V.O./E.O./Secretary/S.P O.III
C/- All Heads of Departments.

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

Reference this office letter of even number dated 14th July 1965, wherein it has, inter alia, been stated 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 and Appeal Rules. A question has been raised whether this safeguard applies to persons who are officiating on 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 applied to only those employees who have acquired a 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 mistakes in seniority etc.

(Authority Railway Board's confidential letter No.E(D&A)65RG6-24 dt. 15.1.1966).

Sd/. H.P.Gupta
for General Manager (P)

Certified that the above is the True copy of the Original and Original is in possession of the Railway Administration U/S 139 of the Indian Railways Act.



[Handwritten signature]

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

WRIT Petition No. 13 of 1983.

Madan Kumar Lal.&.others... .. Applicants/Petitioners

V/S.

Union of India & others... .. Opposite Parties/

Annexure No.II

Procedure for holding selections and Rules Regulating Promotion
to Selections and Non Selection Posts.

SECTION X IV

28. Promotion of Class IV Staff to Class III Posts.

1. The following procedure should be adopted for promotion of Class IV staff and Class III Staff in junior grades to Class III posts. Viz. Office Clerks, Comml. Clerks, Ticket Collectors, Trains Clerks and Typists against 33.1/3 % vacancies reserved for them.
 - i)
 - ii)
 - iii)
 - iv) The written examination referred to above will be treated as corresponding to " Professional ability test " for the purpose of selection and, therefore, the qualifying marks, will be 60 % Staff who qualify in the written examination, irrespective of their being more or less than four times the number, should be examined by a Selection Board comprising of 3 Senior Scale Officers following the same procedure as prescribed for selection posts in the higher grades except that the names of staff who qualify in the selection should be placed on the panel in the order of seniority without giving any weightage to those securing over 80 % marks in the aggregate.

,...2.)

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Not 1 Since this will be a sort of recruitment Selection, the
Personnel Officer on this Selection Board will continue to be
a Senior Scale Officer.

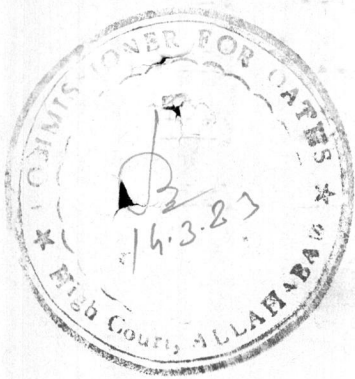
2. Class IV employees working in the office of the

3. (a) -----

(b) -----

Note:-(i) -----

(ii) For the purpose of Promotion of Class IV Staff & Class III
Staff in grade 105-135(AS) as Typists against 33.1/3 % vacancies
in the cadre of typists, such staff should first be given type
writting test and only such persons as pass the same with a
minimum speed of 30 Words per minute should be allowed to appear
for the written test. Those who also qualify in the written test
will then be examined for selection.



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

WRIT Petition No. 13 of 1983

Madan Kumar Lal & others... .. Applicants/Petitioners.

V/S.

Union of India & others.. .. Opposite Parties/Petitioners

Annexure III

Office of the
Sr. Accounts Officer (W),
N.Rly., Alambagh, Lucknow.

Bo.75F/B/31/Diesel

Dated: 13, Dec. '82.

The F.A. & C.A.O. (F/E)
Northern Railway,
Baroda House,
New Delhi.

Sub: - Extension of 16 temp.posts of Diesel Depot
Charbagh, Lucknow.

Posts concurred

Ref: Your No.79/FE/C/367 Dated: 10.12.1982.

DSKP =550-750=1
WK =425-700=7
M/Clerk =260-400=7
Clerk =260-400=6
Typist 260-400 =1
Sr.Clerk 330-560 =1
Tindal 210-270 =1
SS Crp. 210-290 =1
Khallasi=196-232 =14
S/Wala =196-232 =1
40

The marginally noted posts have been concurred in upto 31.3.'82 by this office for obtaining sanction from competent authority vide this office letter of even no. dt. 13.10.82.

The under noted posts have not been concurred in by this office and DY.COS/AMV. vide his letter No.803/DSL C B/Justification dt. 223.11.82 has advised this office that the seven posts of Diesel Depot CB have been surrendered w.e.f. 15.11.82

1. W.K.	425-700	=1
2. Clerk	260-400	=2
3. Typist	260-400	=1
4. Tindal	210-270	=1
5. Khallasi	196-232	=2
		<u>7</u>

Out of above seven posts surrendered the post of tindal was not operated.

The Dy. COS/AMV. has already been asked to regularise the infructuous expenditure incurred so far vide letter of even No. Dt. 13.10.82. Senior Accounts Officer(W)/CB is the accounting officer, he may be asked to take suitable action to get the un-sanctioned expenditure regularised. In this connection this office letter of even no. dt. 25.11.82 (copy enclosed) to SAO(W)/CB is referred to.

...2...)



(..2..)

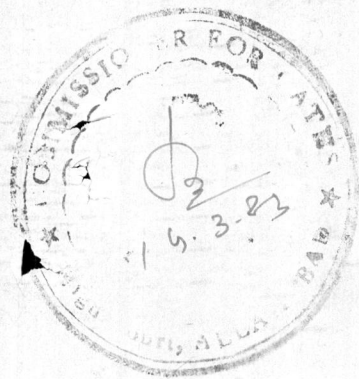
Sd/-

Senior Accounts Officer (W),
N.Rly., Lambagh, Lucknow.

Copy to: Dy. COS/AMV for information & obtaining sanction of 40 Ty. Posts concurred by this office as well as regularising un-sanctioned expenditure from competent authority.

Copy to: Sr. A/Cs. Officer (W) CB Please confirm that 7 Posts mentioned have been surrendered WEF 15.11.82 & action may be taken to get the un-sanctioned expenditure regularised.

Sr. Accounts Officer (W)
N.Rly., Lambagh/Lucknow.



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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
LUCKNOW CIRCUIT BENCH

Registration T.A. No.1106 of 1987 (L)

Madan Kumar Lal & Others Applicants

Versus

Union of India & Others Respondents

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

Hon.Mr. A.B.Gorthi, Member (A)

(By Hon.Mr.Justice U.C.Srivastava)

This application which was initially filed Writ Petition before the Lucknow Bench of the Allahabad High Court has been transferred to this Tribunal for adjudication. The applicants (three in numbers) ^{I have} ~~has~~ challenged the orders of reversion passed on different dates from a post to their original post of Peon, Store Mazdoor and Khalasi respectively. The applicant Nos 1 & 2 were appointed as Khalasi in class IV category under the Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow with effect from 1.5.58 and 6.10.56 respectively. The applicant No.3 was originally appointed as Khalasi on 3.9.58 but was transferred to the Stores Department in the year 1961 in the same capacity. The next promotional post for the applicants was Clerk-typist which was in class III category. According to the applicants, 33.3% of posts of class 'C' category were reserved from class IV by way of promotion and the applicants were eligible for the same and that is why they were appointed as such. The applicant No.1 was appointed as typist

W

in the year 1976, and in the year 1977 he worked on some other post but in 1978 he was promoted temporarily to the post of typist and since then he continued to hold the post till the order of reversion. The applicant No.2 also was promoted to the post of typist with effect from 20.9.1978 and continued to hold the post till the order of his reversion. Applicant No.3 was tested for the post of typist in December, 1970 but he could get his promotion only in the year 1971. He was tested again for the said post and was appointed on 15.12.1980 and since then he continued ^{work against} to the said post. The applicants were reverted on 20.1.78, 24.12.82 and 20.11.82 respectively. According to the applicants they also appeared for the test to the post of Clerk and passed the same in 1977 but the litigation in respect of the same is still pending in the Hon'ble High Court. ^{But} According to the respondents they could not succeed in the said examination. The applicants have challenged the order of reversion mainly on the ground that in view of the facts that they have worked for 18 months continuously, ~~and~~ they cannot be reverted. According to applicant No.3, in order to accommodate the direct recruits, he has been reverted. The circular on which they rely i.e. the benefit of 18 months has been appended alongwith the affidavit filed by the respondents in reply to the rejoinder affidavit. The Circular of the Railway Board dated 15.1.66 on

which reliance has been placed by the applicants regarding "reversion on grounds of general unsuitability of staff officiating in a higher grade or post". Now the relevant portion of the same reads as under :-

" A question has been raised whether this safeguard applies to persons who are officiating on promotion as a stop gap measures 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 applied to only those employees who have acquired a 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 mistakes in seniority etc."


The procedure for holding selection and rules regulating promotion to selection and non-selection post against 33.3% vacancies reserved referred to earlier which has also been filed with the said Affidavit provides that for a "written examination referred to above will be treated as corresponding to "Professional ability test" for the purpose of selection and, therefore, the qualifying marks, will be 60%. Staff who qualify in the written examination, irrespective of their being more or less than four times the number, should be examined by a Selection

Board comprising of three Senior Scale Officers following the same procedure as prescribed for selection posts in the higher grades except that the names of staff who qualify in the selection should be placed on the panel in the order of seniority without giving any weightage to those securing over 80% marks in the aggregate."

2. In the Counter Affidavit filed by the respondents, it is apparent that the applicants did not undergo the process of selection as is provided but they were only tested ^{and the} that tests undergone by them is not analogous to the selection as provided. It is also apparent that their promotion was only adhoc in nature as may be awaiting the regular examination which is pre-requisite for such appointments. The position of the applicants was thus that they were holding the post of typist as a stop gap arrangement though the arrangement continued for more than one year, but the arrangement will not confer any rights on them. The adhoc appointment which was not in accordance with the rules ⁱⁿ provides ^{for} the manner in which regular appointment was to be made could not confer upon them any rights to claim the post. The respondents reduction of a post ^{is} ~~are~~ the reason why this reversion has been made after giving an opportunity to the applicants as has been explained in the Counter Affidavit. There is no mala fide in the reversion order which has been passed in the normal course. The benefit of the Railway Board's circular is not available to the applicant in view

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of the fact that they have not yet undergone the process of selection, that is, the promotional test in which they appeared cannot be equated with the selection contemplated under the Rules referred to above. As such the applicants have no right to the post as their reversion in no manner is against any Rules. We are ~~justified~~^{fortified} in our decision by a Full Bench Judge^{met in} of Central Administrative Tribunal (Shri Jethanand and Others Versus Union of India & Others T.A. No.849 of 1986) decided on 5.5.89. This application is bound to fail and the application is accordingly dismissed with the direction that two opportunities will be granted to clear the selection test and in case they succeed they will be promoted. In case any other applicant is still working against the post from which he was reverted under any order, he will not be reverted till then. In the circumstances of the case parties will bear their own costs.


Member (A)


Vice Chairman.

Dated the 8 March, 1991.

In the Hon'ble High Court of Judicature at
Allahabad, U.P.

VAKALATNAMA

G.V. 3

N.R.

Before
In the Court of

M.P. No. 13 A-1983.



Plaintiff
Defendant

Madan Kumar Up.

Claimant
Appellant
Petitioner

Versus

Defendant
Plaintiff

Union of India

Respondent

The President of India do hereby appoint and authorise Shri.

RAM KRISHNA SHUKLA

ADVOCATE

to appear, act, apply, plead in and prosecute the above described suit/appeal/proceedings 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/proceedings 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 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 prejudicial to the interest of the Government of India and said Pleader/Advocate of 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 agrees to ratify all acts done by the aforesaid Shri.

R. K. Shukla

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the 10/11/83.

Accepted

R. Shukla

Dated 10/11/83 1983

10/11/83

Designation of the Executive Officer

प्रवर मुख्य कामिक अधिकारी

प्रधान कार्यालय, उत्तर रेलवे,

नयी दिल्ली

N.R.

1909

VAKALATNAMA

N. P. No 13 of 1983



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Before The Honble the High Court of Judicature at Allahabad
In the Court of

H. K. Lal

Plaintiff
Defendant

Claimant
Appellant
Petitioner

Versus

Defendant
Plaintiff

Respondent

Union of India

The President of India do hereby appoint and authorise Shri. C. A. BASIR, Advocate

to appear, act, apply, plead in and prosecute the above described suit/appeal/proceedings 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/proceedings 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 prejudicial to the interest of the Government of India and said Pleader/Advocate of 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 agrees to ratify all acts done by the aforesaid Shri. C. A. Basir, Advocate

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the 8th day of Sept. 1983

Accepted
C. A. Basir

Dated 1983

N.R.—149/1—June, 1981—75,00 F.

Designation of the Executive Officer

Asst. Chief Personnel Officer,
Northern Railway, New Delhi

N.R.

VAKALATNAMA

G.V. 3

Before The Central Administrative Tribunal,
In the Court of Circuit Bench, Lucknow

TA No 1106/87(T)

Plaintiff Madan Kumar Lal
Defendant
Claimant
Appellant
Petitioner

Versus

Defendant Union of India & others.
Plaintiff
Respondent

The President of India do hereby appoint and authorise Shri Anil Srivastava, Advocate
B-9, Sector H, Aliganj, Lucknow.

to appear, act, apply, plead in and prosecute the above described suit/appeal/proceedings 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 Council, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceedings against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or Compromise where by 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 prejudicial to the interest of the Government of India and said Pleader/Advocate of Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjust 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 agrees to ratify all acts done by the aforesaid Shri Anil Srivastava
Aliganj, Lucknow.
in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of Indian this the 19

Accepted
Anil Srivastava
21/4/90 Adv
Dated 5/3/90 198

Counter Signature

Dr. Controller of Stores
Northern Railway,
LUCKNOW.

Designation of the Executive Officer
Dr. Controller of Stores
Northern Railway,
LUCKNOW.

In the High Court of Judicature at Allahabad, June 22, 1983

N.R.

VAKALATNAM



G.V. 3

A/C

Before
In the Court of

WP No. 13 of 1983

Plaintiff
Defendant

Madankumar Lal

Claimant
Appellant
Petitioner

Versus

Defendant
Plaintiff

Union of India

Respondent

The President of India do hereby appoint and authorise Shri.

RAM KRISHNA SHUKLA

Advocate

to appear, act, apply, plead in and prosecute the above described suit/appeal/proceedings 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/proceedings 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 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 entirely prejudicial to the interest of the Government of India and said Pleader/Advocate of Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer special reasons for entering into the agreement, settlement or compromise.

The President hereby agrees to ratify all acts done by the aforesaid Shri.

R. K. Shukla

pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the.....19.....

Accepted.

R. K. Shukla

10/1/83

Manu Singh

Dy. Controller of Stores

Genl. Stores, N. Rly

Alambagan, Lucknow

Designation of the Executive Officer

ब अदालत श्रीमान

आदी अपीलान्त]

प्रतिवादी [रेस्पाडेन्ट]

Central Adm. ... महोदय

Petition No. 18212

श्री

का

वकालतनामा

O. A N-1106/87 (C)



वादी (अपीलान्त)

Madan Kuma

बनाम

प्रतिवादी (रेस्पाडेन्ट)

नं० मुकद्दमा

सन्

पेशी की ता०

१६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

J. P. Mathur Advocate

व ... Km. S. B. Siddiqui Advocate ... वकील

महोदय

Civil Comr., ... एडवोकेट

नाम अदालत
मुकद्दमा नं०
नाम फरीकत

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 जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया लसूब करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करे या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होमा मैं यह भी स्वीकार करता हूं कि 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 ।

Accepted
S. B. Siddiqui Advocate

हस्ताक्षर ...

साक्षी (गवाह) ... साक्षी (गवाह) ...

दिनांक ... महीना — 3 — सन् १९९० ई०

स्वीकृत

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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
LUCKNOW CIRCUIT BENCH

Registration T.A. No.1106 of 1987 (L)

Madan Kumar Lal & Others Applicants

Versus

Union of India & Others Respondents

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

Hon.Mr. A.B.Gorthi, Member (A)

(By Hon.Mr.Justice U.C.Srivastava)

This application which was initially filed Writ Petition before the Lucknow Bench of the Allahabad High Court has been transferred to this Tribunal for adjudication. The applicants (three in numbers) ^{have} ~~has~~ challenged the orders of reversion passed on different dates from a post to their original post of Peon, Store Mazdoor and Khalasi respectively. The applicant Nos 1 & 2 were appointed as Khalasi in class IV category under the Deputy Controller of Stores, Northern Railway, Alambagh, Lucknow with effect from 1.5.58 and 6.10.56 respectively. The applicant No.3 was originally appointed as Khalasi on 3.9.58 but was transferred to the Stores Department in the year 1961 in the same capacity. The next promotional post for the applicants was Clerk-typist which was in class III category. According to the applicants, 33.3% of posts of class 'C' category were reserved from class IV by way of promotion and the applicants were eligible for the same and that is why they were appointed as such. The applicant No.1 was appointed as typist

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in the year 1976, and in the year 1977 he worked on some other post but in 1978 he was promoted temporarily to the post of typist and since then he continued to hold the post till the order of reversion. The applicant No.2 also was promoted to the post of typist with effect from 20.9.1978 and continued to hold the post till the order of his reversion. Applicant No.3 was tested for the post of typist in December, 1970 but he could get his promotion only in the year 1971. He was tested again for the said post and was appointed on 15.12.1980 and since then he continued ^{work against} to the said post. The applicants were reverted on 20.1.78, 24.12.82 and 20.11.82 respectively. According to the applicants they also appeared for the test to the post of Clerk and passed the same in 1977 but the litigation in respect of the same is still pending in the Hon'ble High Court. ^{B-1} According to the respondents they could not succeed in the said examination. The applicants have challenged the order of reversion mainly on the ground that in view of the facts that they have worked for 18 months continuously, ~~and~~ they cannot be reverted. According to applicant No.3, in order to accommodate the direct recruits, he has been reverted. The circular on which they rely i.e. the benefit of 18 months has been appended alongwith the affidavit filed by the respondents in reply to the rejoinder affidavit. The Circular of the Railway Board dated 15.1.66 on

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which reliance has been placed by the applicants regarding "reversion on grounds of general unsuitability of staff officiating in a higher grade or post". Now the relevant portion of the same reads as under :-

" A question has been raised whether this safeguard applies to persons who are officiating on promotion as a stop gap measures 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 applied to only those employees who have acquired a 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 mistakes in seniority etc."

The procedure for holding selection and rules regulating promotion to selection and non-selection post against 33.3% vacancies reserved referred to earlier which has also been filed with the said Affidavit provides that for a "written examination referred to above will be treated as corresponding to "Professional ability test" for the purpose of selection and, therefore, the qualifying marks, will be 60%. Staff who qualify in the written examination, irrespective of their being more or less than four times the number, should be examined by a Selection

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Board comprising of three Senior Scale Officers following the same procedure as prescribed for selection posts in the higher grades except that the names of staff who qualify in the selection should be placed on the panel in the order of seniority without giving any weightage to those securing over 80% marks in the aggregate."

2. In the Counter Affidavit filed by the respondents, it is apparent that the applicants did not undergo the process of selection as is provided but they were only tested ^{and} that ^{the} tests undergone by them is not analogous to the selection as provided. It is also apparent that their promotion was only adhoc in nature as may be awaiting the regular examination which is pre-requisite for such appointments. The position of the applicants was thus that they were holding the post of typist as a stop gap arrangement though the arrangement continued for more than one year, but the arrangement will not confer any rights on them. The adhoc appointment which was not in accordance with the rules ^{providing} for the manner in which regular appointment was to be made could not confer upon them any rights to claim the post. The respondents reduction of a post ^{is} ~~are~~ the reason why this reversion has been made after giving an opportunity to the applicants as has been explained in the Counter Affidavit. There is no mala fide in the reversion order which has been passed in the normal course. The benefit of the Railway Board's circular is not available to the applicant in view

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of the fact that they have not yet undergone the process of selection, that is, the promotional test in which they appeared cannot be equated with the selection contemplated under the Rules referred to above. As such the applicants have no right to the post as their reversion in no manner is against any Rules. We are ~~justified~~^{justified} in our decision by a Full Bench Judge ^{not in} of Central Administrative Tribunal (Shri Jethanand and Others Versus Union of India & Others T.A. No.849 of 1986) decided on 5.5.89. This application is bound to fail and the application is accordingly dismissed with the direction that two opportunities will be granted to clear the selection test and in case they succeed they will be promoted. In case any other applicant is still working against the post from which he was reverted under any order, he will not be reverted till then. In the circumstances of the case parties will bear their own costs.


Member (A)


Vice Chairman.

Dated the 8 March, 1991.