

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

INDEX SHEET

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

Name of the parties Madan Kumar Lal

.....Applicant.

Versus.

Union of India and othersRespondents

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 T.A. 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 be taken and that the case is fit for consignment to the record room (decided)

Dated 4/4/2011

Counter Signed.....

Section Officer / In charge


Signature of the
Dealing Assistant

CIVIL
SIDE
CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

A
1

Nature and number of case W.P. Mo. 13-83

Name of Parties Madan Kumar Lal. vs. 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
1		W.P. with affidavit and answer	13-	-	Rs. 302.00			
2.		Power	1-	-	5.00			
3.		Com. 20 W 83 posting	3-	-	7.00			
4.		Power	1-	-	5.00			
5.		Contd. of affidavit	11	-	2.00			
6.		Power	1-	-	5.00			
7.		Rej. of affidavit	1-	-	7.00			
8.		order. Steel.	2.	-	-			
9.		Com. 3594 (W) 0283	3-	-	7.00			
10.		Com. 10234 (W) 0283	1-	-	5.00			
11.		Com. 861 (W) 0284	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

Date _____

Clerk

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
12		Power	1-	-	5-00			
13		Comat. 12417(4) of 861 with Supplying C.A.	9-	-	7-00			
14.		Arch Sheet	1-	-				
15		Barsh 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

PSUP--AP. 25 Uch Nyayalay--2-12-81--(2862)--1982--10,000 (R).

ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

b/w P.

No. 13

of 1983.

vs.

14

1/2

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
21/3/83	<p>cmr. 3594 (w) 13 for restoration <u>Non R.C.S</u> <u>Non R.C.D.S</u></p> <p>Put up before the Bench concerned w.r.t. record.</p> <p>Non. R.C.S Non. R.C.D.S 21/3/83</p>	
25/3	<p>5-4-83 fixed in encl 3594 (w) 13 for orders</p>	<p>15/3/83 Non. D.N. D.S.T.</p>
6-4-83	<p>cmr. 3594 (w) - 83 for orders.</p>	
	<p>Non. T.S. Mehta Non. D.N. D.S.T. Non. S.K.D.S</p> <p>wrongly listed. Stand off.</p>	
		<p>6-4-1983.</p>
28/4	<p>28-4-83 fixed in encl 3594 (w) 13 for orders</p>	<p>15/3/83 Non. D.N. D.S.T.</p>
2-5-83	<p>Non. T.S. Mehta Non. D.N. D.S.T.</p>	
	<p>6-5-83. is restored in original numbers.</p>	

Back

15703

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
10-5-83	10-5-83 fixed for hearing	Bench
15-9-83	✓ comr 10234 (W7/83) for early debt Addl. Registration	
	list before Hon. Senior Judge Smt. Malika Agarwal	
10-12-83	comr 881 (W7/83) for calendar 2-3-84 fixed in case 861 (W7/83)	
10-8-84	10234 (W7/83) for orders	T. 6 mon 8.8
	comr	
	Re Sh. J. Because of huge backlog of expedited cases, the application is rejected.	
	8/8 10-5-84	
	fixed B/e	
10-12-85	comr 861 (W7/84) for early hearing	T. 6 mon 8.7

85

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>Mr. S. C. Mathur Mr. S. S. Ahmad</p> <p>Int. Issue notice to O.S. 1 & 2 requiring them to show cause why learned Counsel in relation to effect service on O.S. 1 on 10.1.83. The office shall issue notice to the learned Counsel to effect service on O.S. 2 on the date fixed the affidavit of service may be filed.</p> <p>Cal. A. 1020 (W) - 83.</p> <p>Put up with the O.S. S. C. Mathur S. S. Ahmad</p> <p>10.1.83 fixed for return of documents and for filing C.R. in O.S. No. 1 & 2 by Dasti Notices prepared and handed over to the Clerks of Mr. Mathur Advocate</p> <p>10.1.83</p> <p>10.1.83 fixed with C. M. T. 20.1.83 for admission</p>			
				Received Notices and affidavits for service on O.S. No. 2 Mathur et al. dated 10.1.83 by court

House. Secy
Ho. Secy

Date	Note of progress of proceedings and routine orders	Dated which case is adjourned
1	2	3
	<p>Hon. S. C. Malhotra J <u>Mr. S. S. Ahmad J</u> Appearance of service has been filed on behalf of the petitioner. List on 14-1-83 The case must be published in the cause list.</p>	
	<p>10/10/83 <u>285</u></p>	<p>C V <u>John</u></p>
14/11/83	<p>14-1-83 fixed with const. 20/11/83 for hearing</p>	<p>By court <u>Hon. T. S. M.</u> <u>Hon. D. N. Thar.</u> <u>benet</u></p>
20/11/83	<p>Application No. 20783 made</p>	<p>Hon. S. C. M. <u>Hon. S. S. A.</u> stand out 20/11/83</p>
28/11/83	<p>Hon. S. C. M.</p>	

PSUP—A.P. 30 Uch Nyalaya—25-1-82—(3516)—1982—50,000 (E)

Hon. S. S. A.
 Put up on 31-1-83. John ✓
 28-1-83

2

ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 13

of 1983.

vs.

AH
4/3

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	<p>Itm. S.C. Mathur, J Itm SS Ahmad, J</p> <p>Parties have exchanged their affidavits.</p> <p>List for hearing in - the week commencing 21st Feb. 1983.</p> <p style="text-align: right;">S. J.</p> <p>28/3/83 125</p> <p>21/2/83 21-2-83 fixed for hearing</p> <p>by counsel Bench</p> <p>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.</p> <p>It may be listed before the Hearing Bench.</p> <p style="text-align: right;">S. J.</p> <p>28/2/83 125</p>	

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
29/2/83	2-3-83 fixed for hearing.	early Bonal by com
	Hoib Keng fix 12/3/83	
8/3/83 10/3/83	Fixed for hearing Hoib Keng fix 12/3/83	
	None appear - Dismissed	B A 10/3/83

7A 1106/17(7)

D.G.

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
1-12-87	<p>No sitting. Ady. to 5-3-90.</p> <p>This case has been received on transfer.</p> <p>Notice were issued to the counsels by the Office at Allahabad. None is present for the parties.</p> <p>Let notice be issued again to the parties as directed by Hon'ble Mr. D.K. Agarwal, J.M.</p>	<p>Our notice issued S 19/2/90</p>
5-3-90	<p>Hon. J.P. Sharma, J.M</p> <p>Rm. S B. Siddique files his ^{his} revalatname brief holder of Mr. J. P. Malheron ^{on behalf of attorney} is present & files revalatname. None is present to the septs. List for admission on 24/90.</p>	<p>OR Case has been heard on 20-3-90. Case is not admitted</p>
2-4-90	<p>Hon. Justicek Nath - V.C. Hon. Justice K. J. Raman - J.M.</p> <p>On the request of the applicant the case is adj. to 16-4-90.</p>	<p>Case was deferred on 14-3-90 & restored on 25-3-90.</p> <p>CA/RA filed Notices were issued on 19/2/90. No unsworn reply. Case has been set down before.</p> <p>S.F.A h 2/5/90</p>
16/2/90	<p>Hon. Mrs. D.K. Agarwal, J.M. Hon. Mr. P.S. Habib Mohamed, Q.M.</p> <p>The Counsel for the applicant is ill. Shri A. Srivastava, for the respondent is present. The pleadings are complete.</p> <p>List it for hearing on 8/3/90.</p>	<p>Dr L 20/3 Shri A. Srivastava files power today on behalf of 162 L 2/5</p>

Dinosh

St

W.W
A.M.

DR
J.G.

1108/07/17

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

7-11-90

Hon. Mr. M.Y. Patelkar A.M.
Hon. Mr. D.K. Agrawal P.M.

Due to resolution of Bar
Association case is adj.
to 7-12-90

7-12-90

No sitting Adj. to 11-1-91.

⑩ B.O.E

11-1-91

No sitting Adj. to 4-3-91.

OR S.F.Y

22/2/91

Recd copy of Judgment
R.S. Patel
14/3/91

Recd copy of Judgment
J. Malhotra
18/3/91

Front PA-14 (b)

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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.

I N D E X.

Particulars.

Page Numbers.

1. Writ Petition.

1 to 7

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

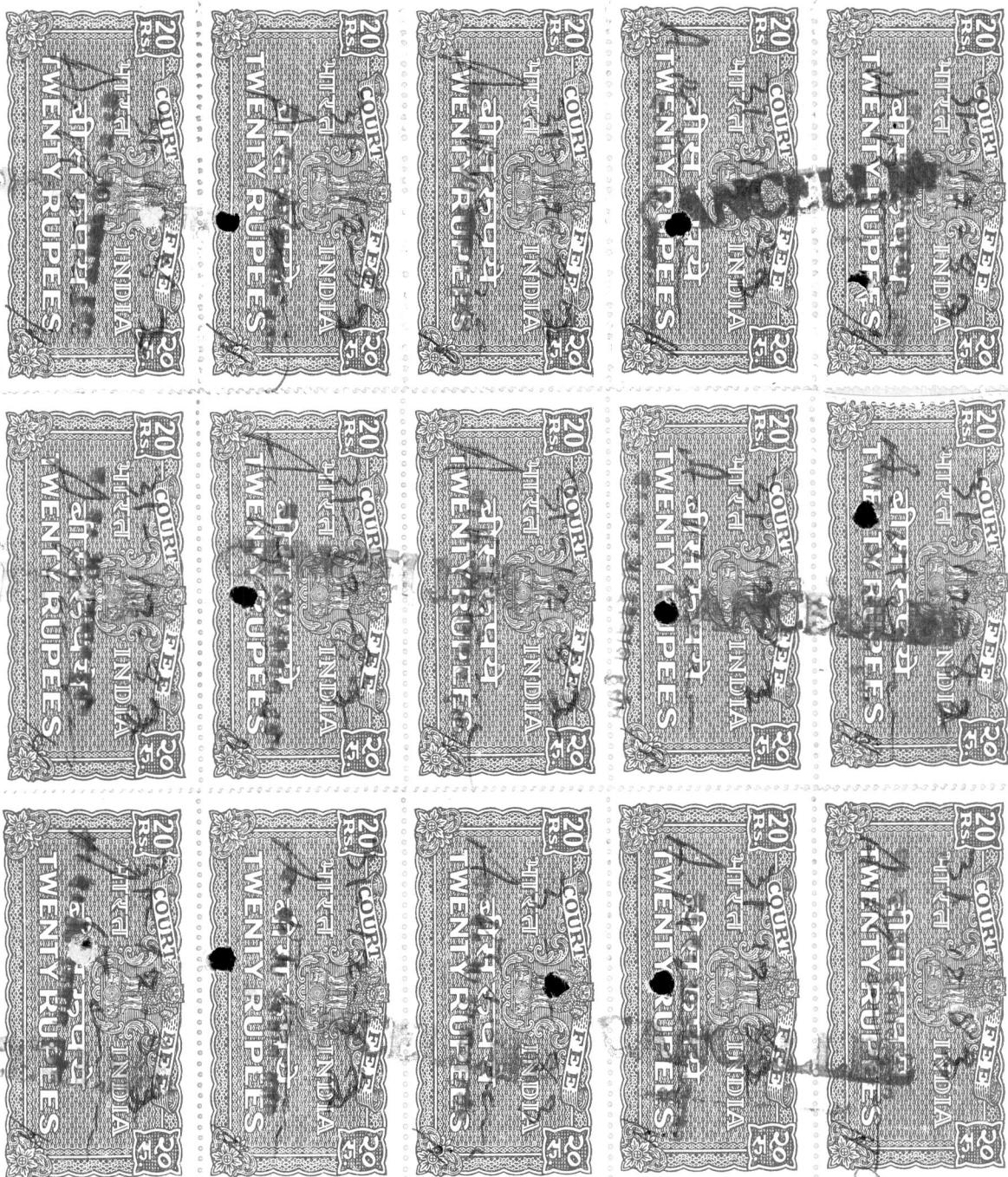
5. Annexure No. 3 (Copy of reversion order) 13 to 13

• • • • •

DATED: LUCKNOW:

3-1-83

A. Narayan
Counsel for the
Petitioners.



In the Bawali Idi in East of Indi Cather at Almahak
Signed Berth Sullend

15 of 2000
11/183

WP No 13

19 B

Madan kumar Lalda

Beihüüs

Union Carbide
Chemical
Company
St. Louis, Mo.

Apparls-

A. Manzanares
counselor of the Petitioners

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 Khera, Post Office - MANIK NAGAR, Lucknow;
2. Ayodhya Prasad, aged about 46 years, Son of Shri Kallu Ram, Resident of Mehdi Khera, 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

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for the petitioner
undertakes to effect
service upon the
opp. parties. First
on 10th January 1983.

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

11
11/1/83

Hon. S. C. Mathur. J.

Hon. 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.

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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



Madan Kumar

Hon-T. S. Muria I
Hon-D. N. Thakur I

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

Attn: Dr

swt

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 ~~as~~ 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 -

G R O U N D S :-

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

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

(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 therefrom 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.

Madan Kumar Lal
DATED: LUCKNOW:

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A. Chamaran
Counsel for the
Petitioners.
There is no defect in
this w. P.

A. Chamaran

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



Medan Kumar Lal and 2 others.

Petitioners.

Versus.

Union of India and another. Opposite Parties.

A F F I D A V I T.

I, Medan Kumar Lal, aged about 43 years, Son of Shri Jagat Narain Lal, Resident of Ψ 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:

11/1/83

Madan Kumar Lal
(Madan Kumar Lal)
Deponent.

- : 9 : -

16

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:

11/11/83

Madan Kumar Lal

(Madan Kumar Lal)
Deponent.

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

DATED: LUCKNOW:

11/11/83

D. N. Tewari

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

Solemnly affirmed before me on this the 18th day of November, 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.

Shri Abdul Mannan
High Court, Allahabad
Lucknow Bench

11/9/83

11/11/83

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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)/ AMV.
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

- : 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 vide 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.

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Maddan bawali

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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 - 3.

NORTHERN RAILWAY.

Office Order No. E/284. DATED 20.11.1982.

Due to surrender of one temporary post of typist Grade Rs. 260-400 (RS) vide Office Order No. E/281, dated 19.11.1982, Shri Raj Kumar, Junior most typist working on ad-hoc basis is reverted to his substantive post of Khalasi on pay Rs. 232/- permonth and posted in General Gang, with effect from 15.11.1982 AN. He is allotted T. No. 593.

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

Copy to the following for information and necessary action:-

1. SAO(W)/AMV/& CB.
2. DCOS/CB.
3. ACOS/DSL/CB.
4. Leave Clerk, AMV (Lab.) & SE.,
5. Pass Clerk / AMV.
6. Party concerned.

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

Madan Kumar Lal

A/20 3

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

LUCKNOW BENCH, LUCKNOW.

Civil Misc. Application No. 29 (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:

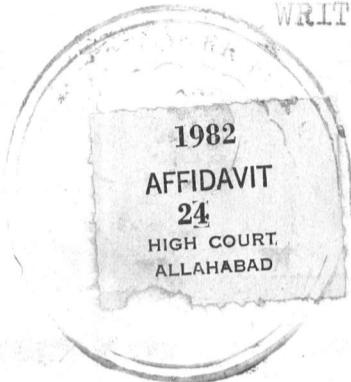
3.10.83

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.

24/1/83
AN AFFIDAVIT OF SERVICE.

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 9, 1983.

Madan Kumar Lal
(Madan Kumar Lal)
Deponent.

- : 2 : -

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.

Solemnly affirmed before me on this the 9th day of January, 1983, at 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.

Subroto

NAYAB HASAN	
Commissioner for Oath	
High Court, LUCKNOW.	
No. 24/293/83	
Date. 9/1/83	

A/24
A/23 5/1

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

Filed
27.12.83

Try. Form No. 385

(A. 2334) (P)

RECEIPT FOR PAYMENT TO GOVERNMENT

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

101889

B

Place

Receipt No.

Department and office

Date

Received from

High Court of Judicature at

the sum of Rupees 21- (Rs Two Only)

25.12.83

on account of

0-50

JKS and Registration Fees
Signature of Government Servant
granting the receipt

Cashier or Accountant.

Designation

Madan Kumar Das ..

.. 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

JKS

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.940-E/B(E-VI)/3 (typew) dated 26.12.70 against purely in local adhoc arrangement but he was not considered to be taken as typist by Deputy Chief ~~Mechanic~~ 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 date* different test under the administrative control of Deputy Controller of Stores, Alambagh after preliminary test purely on temporary local ad-hoc basis and not selected by properly ~~x~~ 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 upto this time only two ¹ ~~1~~ ² ~~2~~ ³ ~~3~~ ⁴ ~~4~~ ⁵ ~~5~~ ⁶ ~~6~~ ⁷ ~~7~~ ⁸ ~~8~~ ⁹ ~~9~~ ¹⁰ ~~10~~ ¹¹ ~~11~~ ¹² ~~12~~ ¹³ ~~13~~ ¹⁴ ~~14~~ ¹⁵ ~~15~~ ¹⁶ ~~16~~ ¹⁷ ~~17~~ ¹⁸ ~~18~~ ¹⁹ ~~19~~ ²⁰ ~~20~~ ²¹ ~~21~~ ²² ~~22~~ ²³ ~~23~~ ²⁴ ~~24~~ ²⁵ ~~25~~ ²⁶ ~~26~~ ²⁷ ~~27~~ ²⁸ ~~28~~ ²⁹ ~~29~~ ³⁰ ~~30~~ ³¹ ~~31~~ ³² ~~32~~ ³³ ~~33~~ ³⁴ ~~34~~ ³⁵ ~~35~~ ³⁶ ~~36~~ ³⁷ ~~37~~ ³⁸ ~~38~~ ³⁹ ~~39~~ ⁴⁰ ~~40~~ ⁴¹ ~~41~~ ⁴² ~~42~~ ⁴³ ~~43~~ ⁴⁴ ~~44~~ ⁴⁵ ~~45~~ ⁴⁶ ~~46~~ ⁴⁷ ~~47~~ ⁴⁸ ~~48~~ ⁴⁹ ~~49~~ ⁵⁰ ~~50~~ ⁵¹ ~~51~~ ⁵² ~~52~~ ⁵³ ~~53~~ ⁵⁴ ~~54~~ ⁵⁵ ~~55~~ ⁵⁶ ~~56~~ ⁵⁷ ~~57~~ ⁵⁸ ~~58~~ ⁵⁹ ~~59~~ ⁶⁰ ~~60~~ ⁶¹ ~~61~~ ⁶² ~~62~~ ⁶³ ~~63~~ ⁶⁴ ~~64~~ ⁶⁵ ~~65~~ ⁶⁶ ~~66~~ ⁶⁷ ~~67~~ ⁶⁸ ~~68~~ ⁶⁹ ~~69~~ ⁷⁰ ~~70~~ ⁷¹ ~~71~~ ⁷² ~~72~~ ⁷³ ~~73~~ ⁷⁴ ~~74~~ ⁷⁵ ~~75~~ ⁷⁶ ~~76~~ ⁷⁷ ~~77~~ ⁷⁸ ~~78~~ ⁷⁹ ~~79~~ ⁸⁰ ~~80~~ ⁸¹ ~~81~~ ⁸² ~~82~~ ⁸³ ~~83~~ ⁸⁴ ~~84~~ ⁸⁵ ~~85~~ ⁸⁶ ~~86~~ ⁸⁷ ~~87~~ ⁸⁸ ~~88~~ ⁸⁹ ~~89~~ ⁹⁰ ~~90~~ ⁹¹ ~~91~~ ⁹² ~~92~~ ⁹³ ~~93~~ ⁹⁴ ~~94~~ ⁹⁵ ~~95~~ ⁹⁶ ~~96~~ ⁹⁷ ~~97~~ ⁹⁸ ~~98~~ 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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 no alternative ~~to~~ 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 ~~xxx~~ basis and his reversion on shrinkage of establishment is totally correct.

15. That the statement made in para 15 of 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

can be reverted is not correct. These 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 ^{of a} 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 ~~is rapidly~~ ~~the~~ statement made in para 19 of the petition, ~~is~~ ~~xxx~~ is incorrect therefore denied. Petitioner 1² 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.

verification.

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

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

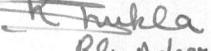
----- of the affidavit are true
to my information derived from the records which are
believed to be true by me and those of paras 3 -----

----- 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.

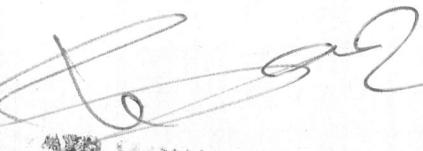
Lucknow : Dated :

January 24, 1983.


Deponent.

I identify the deponent who has signed
before me. 
R. Mukherjee
Rly Advise

24/1/83


Solemnly affirmed before me on 24/1/83 at 30 a.m./p.m.
by Sri Gyan Singh the deponent who is identified
by Shri R. K. Mukherjee. 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

68/201/83
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(NG0175 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 ~~excessed~~ 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~~33/3 % 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.

High Court, Allahabad
Lucknow Bench

No. 68201183
Date 26/11/83

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

WRIT PETITION NUMBER 13 OF 1983.



1983
AFFIDAVIT
60
HIGH COURT
ALLAHABAD

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.



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 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



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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

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D.K.L.

- : 4 : -

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

DATED: LUCKNOW:
JANUARY 29, 1983.

Madan Kumar Lal
(Madan Kumar Lal)
Deponent.

VERIFICATION.

I, the above named deponent do hereby verify that the contents of paragraph number 16/13 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 sign
-ed before me.

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

Solemnly affirmed before me on this the 29 th
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 depon
-ent that he fully understands the contents of this Rejo
-inder Affidavit, which has been read out and explained
by me.



M. A. I. T. D. I. T. H. Q. U. E.
WITH COMM. FOR OATHS
High Court, Allahabad
Lucknow Bench
60/26
Date 29/1/83

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 it's original number and order and the order dated 14th March, 1983, may be reckoned in the interest of justice.

DATED: LUCKNOW:
MARCH , 1983.

A. Mawall
Counsel for the Petitioners/
Applicants.

(19)

Item K. N. Goyal P

Item R. C. D. Sharma

put up before the
Bench concerned with
the record.

S. K.

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21.3.1983

True Copy
~~S. K. Misra~~
10/3/83

Hon'ble T. S. Misra, J.
Hon'ble D. N. Jha, J.

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

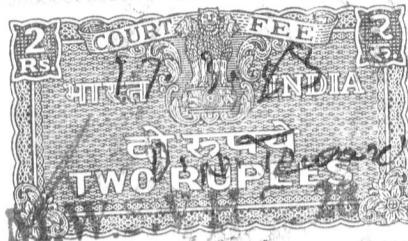
MHS/-

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

WRIT PETITION NUMBER 13 OF 1983.



1983
AFFIDAVIT
No. 52
HIGH COURT
ALLAHABAD

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 Bijen Bagh,
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.

- 2 -

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 12, 1983.

Emerson
Advocate.

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. Sines ^{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.

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भारत इंडिया
FIVE RUPEES

IN THE HON'BLE HIGH COURT OF JUDICATURE AT

LUCKNOW BENCH LUCKNOW.

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. Channan
Counsel for the
Petitioners.

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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.



14/12/83.

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. H. M. M. A.
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.

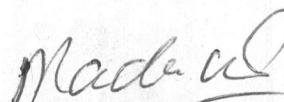
AN AFFIDAVIT IN SUPPORT OF THE EARLY APPLICATION

I, Madan Kumar Lal, aged about 44 years, Son of Shri Jagat Narain Lal, Resident of Mehandi Khera, 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 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.

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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,
*12
m* Counsel for the Petitioners.

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.



Mufasir
OATH COMMISSIONER
High Court, Allahabad
Lucknow Bench
No. 1011082
Date 12-12-83

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

C.M. Application No. 12,417 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:-

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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, 1983

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

Counsel for the applicants

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.

Supplementary Counter-AFFIDAVIT

IN

REPLY TO REJOINEDER 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.

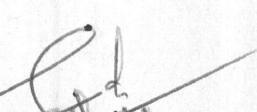
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3) That the petitioners have brought certain new allegations in rejoinder affidavit and certain instructions regarding applicability of 18 months rules which were not available at the time of filing counter affidavit which is available now and attached 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.


Dated Lucknow
14-3-1983.
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(Gyan Singh)
Deponent.

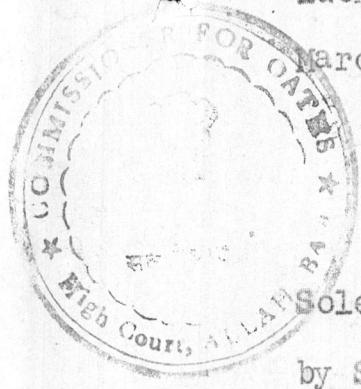
VERIFICATION.

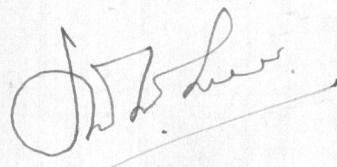
I, the abovenamed deponent do hereby verify
that the contents of paras 1, 2, 3, Partly, 5, Partly
.....
of this affidavit are true to my personal knowledge,
those of paras 3, Partly, 4, 5, Partly.....
of the affidavit are true to my information derived from the
records which are believed to be true by 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 14, 1983.


Deponent

I identify the deponent who has signed
before me. R. Mukherjee
Advocate High Court


Solemnly affirmed before me on 14-3-83 at 9.30 a.m./p.m.
by Sri Gyanee as the deponent who is identified
by Sri R.K. Shukla, Advocate. 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.

l
(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.

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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, Comm'l. 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.



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Note:-11 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.

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

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. 22.11.82 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
			7

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

The Dy. COS/AMV. has already been asked to regularise
the infractuous 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...)



[Signature]

(..2..)

A
53

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/Luvknoe.



Gh

A/55
D/501

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. Gorathi, 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} challenged the orders of reversion passed on different dates from ~~as~~ 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

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 to ^{work against} 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. 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} 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 step 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 provides ^{ing 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 ~~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

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~~
^{fully} in our decision by a Full Bench Judge 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.

Amulya K
Member (A)

L
Vice Chairman.

Dated the 8 March, 1991.

In the High Court of Judicature at
Allahabad, Queen Bench,
VAKALATNAMA Queen. A
39 G.V. 3

N.R.

13

Before
In the Court of

W.P. No. 13 A 1983.



Plaintiff
Defendant

Claimant
Appellant
Petitioner

Versus

Defendant Plaintiff Respondent
Union of India.

RAM KRISHNA SHUKLA.

The President of India do hereby appoint and authorise Shri.

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 a 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 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 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 10th day of June, 1983. 19

Accepted:

R. Shukla

J. J. Dhamija

Dated 10-1-1983.

10/1/83

Designation of the Executive Officer

प्रधान कार्यालय कामिक संघिकारी

प्रधान कार्यालय, उत्तर रेलवे

नयी दिल्ली



N.R.

1404

VAKALATNAMA

W.P. no 13 of 1983

8/61

A 12
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Before the Hon'ble the High Court of Jurisdiction Attached or Subordinate.
In the Court of

H. K. Lal

Plaintiff
Defendant

Claimant
Appellant
Petitioner

Defendant
Plaintiff

Versus
Respondent

Comm 2/1983 1025

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 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.

T. K. Lal
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..... 198.....

A. J. D. 2

Designation of the Executive Officer

N.R.—149/1—June, 1981—75.00 F.

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

T A No 1106/87(T)

Plaintiff
Defendant

Madan Kumar Lal

Claimant
Appellant
Petitioner

versus

Defendant
Plaintiff

Union of India & others.

Respondent

The President of India do hereby appoint and authorise Shri..... Anil Srivastava, Advocate

B-9, Sector H, Aligarh, 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 Compromis 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.

File No. 1/167
The President hereby agrees to ratify all acts done by the aforesaid Shri..... Anil Srivastava
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

counter signature

Dated..... 21/3/90..... 198

By Controller of Stores
Northern Railway,
LUCKNOW.

Designation of the Executive Officer
By Controller of Stores
Northern Railway
LUCKNOW

In the High Court of Judicature at
Allahabad, from Benaras.

N.R.

VAKALATNAM



G.V. 3

6
A
6

Before
In the Court of

W.P. No. 13 of 1983

Plaintiff Madan Krishna Lal
Defendant

Claimant
Appellant
Petitioner

Versus

Defendant Union of India Respondent
Plaintiff

The President of India do hereby appoint and authorise Shri.

Ram Krishna Shukla

A. D. V. C. A. T.

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 manifestly prejudicial 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 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. Shukla

10/1/83

Manohar Singh

Dy. Controller of Stores

Genl. Stores 1, N. Rly

Alambagh, Lucknow

Designation of the Executive Officer

ब अदालत श्रीमान

वादी अपीलान्ट

प्रतिवादी [रेस्पाडेन्ट]

Central Adalat Shri Mahomed Ali

Letter No. 14247

महोदय

का वकालतनामा

O. A. N. 1106/07(T)



वादी (अपीलान्ट)

Madan Kuma

बनाम

प्रतिवादी (रेस्पाडेन्ट)

न० मुकद्दमा

सन्

पेशी की ता०

१६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री J. P. Mallum Advocate

वकील
Kum. S. B. Siddiqui Advocate
Civil Court, Dehli
वकील महोदय एडवोकेट

प्रतिवादी का नाम
मुकद्दमा का नाम
मुकद्दमा का नाम

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ 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 रूपया लूपव 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 रूपया जमा करे या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रूपया 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 हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूँगा 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

साक्षी (गवाह)
दिनांक ५ महीना - ३ सन् १९४९ ई०
स्वीकृत

हस्ताक्षर *Madan*

रु. ५० पा० यादव
राजनीति

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X/S

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} 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

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. 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} 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 provides ^{ing} 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} 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

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~~^{faulted} in our decision by a Full Bench Judge 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.

Amarsi
Member (A)

U
Vice Chairman.

Dated the 8th March, 1991.