

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET

T.A. No. 1202/82 - C.R.P. 5183/83

CAUSE TITLE ..... OF .....

NAME OF THE PARTIES..... Majibul Haq Amin .....

Applicant

Versus

C.O. E. Zark

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)

weeded out

Dated 3/5/12 .....

Counter Signed.....

C/C destroyed on 9-5-12

Section Officer / In charge

Signature of the  
Dealing Assistant

## CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

## FORM OF INDEX

O.A./T.A./R.A./C.C.P. No. 1202-1987

W.P. 5187/83

Nazibul Haq -vs- U.O.G. P A R T - I

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D.Y. Registrat

Supervising Officer

Dealing Clerk

Note :- If any original document is on record - Details.

NWL

Dealing Clerk 30/2/88

V.K. Mishra

(1) 8/

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, MOTI MAHAL, LUCKNOW.

T-A 1701202/87 DATED: 24/11/94  
Case Title 19  
Name of Parties. W.P. 5187/83

Najibul Haq Ansor Applicant

versus  
U.O. I & Ors Respondents.

PART -A

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1-	Check List	—
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PART -B

B 78 —

B148

On this date having considered the documents produced in this case, it is certified that no further action is required. The case is fit for consignment to record room.

Part -C

Certified that no further action is required. The case is fit for consignment to record room.

Section Officer

Court Officer

Incharge

24/11/94

Signature of Dealing  
Assistant.

24/11/94

37

8/3

RECORDED.

~~Impressed~~  
Fire Adhesive Rs. 100/-  
Total

Correct but final Court fee note  
will be made on receipt of law  
Court record.

In time up to

Papers filed. Copy of P. C.  
Should also be filed.

1/1 - Bench.

Writ of mandamus.

District - Lucknow.

Group no. should be mentioned.

Group A(14)(e)  
Substantiating  
Advocate

Handover  
29/8/03  
Recd  
29/8/03

Hon. R. N. Goyal, J  
Hon. S. S. Ahmed, J

Some notice to  
opposite parties  
to show cause  
why the writ  
petition be not  
admitted. Steps  
have already been  
taken. Office will  
know ten whas.

Df 27.1.84  
P 85

C  
Gaur

Hon. HCS  
Hon. HVR & J

No one present.  
List in the order  
Convict

k k  
29/9/03

AM Page 3  
GROUP A(14)(e) 2

Before the Hon'ble High court of Judicature at Allahabad  
(Luck now Bench) Luck now.



Writ petition No. 5/09 of 1983.

Under Article 226 of the Constitution

Origin Luck now



Najibul Haq Ansari aged about 53 years son of Late

Sri Muhammad Ahmad resident of quarter No. 102/Type III

Talkatora Road, Alambagh, Lucknow, at present posted as

Ward Keeper at Northern Railway, Charbagh, Office of the

District Controller of Stores, Charbagh, Lucknow, under the

Deputy Controller of Stores, Alambagh, Luck now.

..... petitioner

Versus

1. ✓ The Union of India through the General Manager

Railway Board, Railwal Bhawan, New Delhi.

2. ✓ The Deputy Controller of Stores, Northern Railway

Office of the Deputy Controller of Stores at  
Alambagh, Luck now.

... opposite parties

Najibul Haq Ansari



Order Sheet

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH ALLAHABAD

(B) A

T.A. No. 1202 of 1987.

Hajibul <sup>VS</sup> Union of India & ors.  
Hag

Date

Note of progress of proceedings and routine orders

Date to which case  
is adjourned

1

2

3

5.4.88

Office report -

W.P. NO 5189-83 has been received on transfer from Hon'ble High Court Lucknow.

W.P. is not admitted.

Notices of opposite party has been given to Sri G.P. Agrawal Counsel for Union of India and notice of Petitioner has been sent by speed post fixing 8.4.88.

One unsealed envelope covering sole Petitioner has been sent back with postal remark 'Wrong address'.

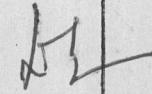
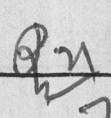
Published for orders.

Drawn  
5/4/88

8.4.88

~~SRI S.N. Bhattacharya for application  
SRI G.P. Agrawal for report  
Court appearance of any  
may be fixed by 7.6.88~~

②

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
26.06	<p>81.</p> <p>S. S-N Bhattacharya for applicant &amp; S. S. Agarwal for respondent.</p> <p>2nd before court for advice on 2.6.88. In the meantime counter if any may be filed.</p> <p></p>	
2.6.88	<p>Hon. D. S. Misra, A.M. Hon. G. S. Sharma, J.M.</p> <p>Let the record of this case be sent to the Circuit Bench at Lucknow fixing 21.7.88 for admission.</p> <p></p>	
27.6.88	<p><u>W.M.</u> J.M.</p> <p>Notices issued for 21.7.88 to the Circuit Bench has been filed on 27.6.88 by Regd post.</p>	A.M.
21-07-88	<p><u>27/6/88</u></p> <p><u>27/6/88</u></p> <p>None responds. Registered notices were issued to the Respondent's Counsel for filing reply but nothing has been done despite the service of notices. List this case for admission on 25.8.88.</p> <p></p>	Right at

ORDER SHEET

③

TA 1202 (67) (7)

28.11.88 Fixed for Admision. 1/5 (3)

Hon'ble John A.M.  
28.8.88 Hon'ble S. K. Sharma, J.M.

No one is present for the parties.  
Case is adjourned to 21.11.88

X / {  
A.M. J.M.  
Aug 28/88

21/11/88 No Sitting Adjourned to 22.12.88  
for admission. finish 21/11

22/12/88 No sitting Adjourned to 20-2-89.  
for admission.

20-2-89 No sitting. Adjourned to 21/3/89. From 22/12  
for admission. From 20/2

8/3/89. Hon. Justice Kamleshwar Mehta, V.C.  
Hon. Ajay Dalmi, Adv.

The learned Counsel for the respondents undertakes to send a copy of the reply to the applicant's Counsel within twenty four hours.  
The case be listed for orders on 29-3-89 on which date the applicant may file rejoinder, if any.

3 /  
Adv.

R.B.

8 /  
V.C.

Hon' Mr. D.S. Mishra, A.M.

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

29/3/89 None is present for the respondents. The learned counsel for the applicant files vakalatnama on behalf of the applicant and requests for the adjournment of the case. In this case no rejoinder has been filed, in spite of the opportunity given to the applicant to do so. On the request of the learned counsel for the applicant, he is given one more opportunity to file rejoinder within two weeks. List the case for final hearing on 24-4-1989.

(sns) *D* J.M. A.M.

13/4/89 *OR*

Rejoinder filed today

h  
13/4

OR

Counsel for applicant has filed rejoinder on 13.4.89 and a copy of which has been sent to Sh. G. P. Agarwal, Counsel for respondents by reg. post.

*Case is submitted for hearing.*

*Copy of Counter* ~~Reply~~  
*Reply is not placed on the file.*

*Submitted for Orders*

24/4/89

The counter reply which was not available on record, has been filed today. The record is now complete. The rejoinder has already been filed on behalf of the applicant. List this case for final hearing on 26-6-89.

*D* J.M.

*D* A.M.

(sns)

*OR*  
*Case was adjourned to 26.6.89. for hearing.*

Hon' Mr. Justice K. Nath, V.C.

Hon' Mr. K.J. Raman, A.M.

26/6/89

On the request of learned counsel for both the parties this case is listed for final hearing on 28-6-89.

*KJR*

*PN*

A.M.

V.C.

(sns)

Hon' Mr. Justice K. Nath, V.C.

Hon' Mr. K.J. Raman, A.M.

of  
to

Case was adjourned  
to 28.6.89. for hearing  
submitted for hearing

*27/6*

28/6/89

Shri S.P. Sinha, learned counsel for the applicant is present.

Shri Arjun Bhargava, holding the brief of Mr. G.P. Agrawal, learned counsel for the respondents states that the respondents are not in a position to have the case argued today, as, their counsel Shri G.P. Agrawal has not come from Allahabad. It is stated that it has not been possible to contact Shri Agrawal.

Shri Bhargava states on behalf of Shri Agrawal that he is likely to be in Lucknow on 13/7/89 in connexion with some other cases. This case also be listed for final hearing on 13/7/89.

*KJR*

*PN*

A.M.

V.C.

(sns)

13-7-89

Hon. D.K. Agrawal, JM

of  
case is submitted  
for hearing  
*13/7*

Order Sheet  
TA no 1202 of 87

2  
Najibul Haq

6

8

JK

Serial  
number  
of  
order  
and date

Brief Order, Mentioning Reference  
if necessary

How complied  
with and  
date of  
compliance

A3

DR

Submitted for  
hearing  
7/11/89

8-11-89

Hon. Mr. D.K. Agrawal - JM  
Hon. Mr. K. Obayya - AM

On the adjournment application  
of Mr. GP Agrawal, Counsel for  
respondent, Mr. SP Sinha, Counsel  
for applicant has no objection. The  
case is adjourned to 11/1/90  
for hearing.

AM

DR  
JM

h

11-1-90

No sitting adj. to 6-3-90

h  
11/1/90

6-3-90

No sitting of Division Bench  
case adjourned to 2-5-90 for  
hearing

DR  
DR

2-5-90

Hon. Justice K. Nali, VC  
Hon. Mr. K. Obayya, AM

case adjourned to final hearing  
on 3-5-90

AM

DR  
VC

Dinesh

T. A. 1202/87

3-5-90 Hon. Mr. Justice K. Nall, & C.  
Hon Mr. K. Obayya, A.M.

The applicant may file an amendment application within 3 weeks with a copy to opposite parties, who may file objections, if any. Let the amendment application be put up for orders.

On 26-6-90. The case was not tied up to this Bench.

N.M.

DR

VC

26-6-90 Hon Mr. Justice K. Nall & C.  
Hon Mr. K. Obayya, A.M.

MP 396/90/L file  
today

L

4/6

No application has been filed to this application for amendment of the writ Petition. Amendment prayd for is allowed. The petitioners may incorporate the amendment within a fortnight and may also file an amended copy of the petition within that period with a copy to respondents, who may file supplementary returns within 4 weeks of the receipt of the copy of the amended petition. Petitioners may file rejoinder within 2 weeks thereafter and the case be put up for further orders on 28/8/90.

D.M.

DR  
VC

Amended copy filed  
today

DR

DR 4/6 for the applicant incorporated amendment & also filed amended copies duly served.

No supplementary C.R. file

28.8.90

(A)

(10)

T.A. 1202/87

8

Hon. Mr. D.K. Agrawal, J.M.  
Hon. Mr. K. Obayya, A.M.

A.W.

Shri S.P. Sinha for petitioner.

Shri B.N. Tripathi, Head Clerk, office of Deputy Controller of Stores, Northern Railway, Lucknow is present on behalf of Railway administration.

Order sheet dated 26.6.90 indicates that the amendment application was allowed. Shri S.P. Sinha counsel for the petitioner informs us that the ~~thek~~ amendment has been <sup>already</sup> incorporated already. He further informs us that the copy of the amended petition has been already handed over to Shri S. Verma Advocate on the understanding that he was representing respondents. Now, Shri G.P. Agrawal has filed objection ~~against proposed amendment~~ which has already been allowed. Therefore, the objections are redundant. Let the pairokar of the respondents obtain the copy of the amended petition from Shri S. Verma and file the Supplementary Counter Affidavit within 4 weeks failing which the respondents shall forfeit the right to file the same. Supplementary rejoinder may be filed within 2 weeks thereafter. List for hearing on 17.10.90. The order has been dictated in open court in presence of the above mentioned pairokar of the respondents who will be responsible for compliance of the orders passed hereinbefore.

A.M.

D.K. Agrawal  
J.M.

17.10.90

No sitting adj. to 6.11.90

6.11.90

Hon. Mr. M.Y. Puriokar. A.M.  
Hon. Mr. D. K. Agrawal. J.M.

Due to resolution of Bar Association  
Case is adj. to 17.12.90

17.12.90 -

No sitting adj. to 13.2.91

13.2.91 -

No sitting adj. to 14.5.91.

14.5.91

No sitting adj. to 18.7.91

(A)  
B.O.C.

(11)

(9)

1202-8717

18.7.91

Henn. Mr. Kanshi Lal K. V.  
Henn. Mr. D.K. Agarwal Jm.

OR

Sri. S. P. Singh Counsel for  
the applicant & Sri. S. P. AgarwalNo Supply. C.A  
filed.

Learned Counsel for the respondent -

S. F. H. &amp; per

not present. It is noticed respondent - Court's order dt.

filed no reply to amended application 20.8.90

Learned Counsel for the respondent -

Seeks time to file reply within

4 weeks rejoinder there affe<sup>with</sup> 2

Weeks list for hearing on 27.9.91 released from being

27.9.91. Miller is treated as

YPL- heard.

16/7/91

27.9.91

No sitting. Adi to 22.10.91.

No Supply. C.A filed

22.10.91

D.R.

counsel for the  
applicant is presentNo appears for the  
O.P. O.P. to file  
supplementary  
counter by 22/11/91

⑩

T.A. No. 1202/87

⑪

22.11.91

AS

D.R.

Both the parties  
are present. Respon-  
dent to file suppl.  
counter affidavit

by 6/2/93.

✓  
7/1

6.2.92

D.R.

counsel for the  
applicant is present  
no appears for the  
O.P. Respondent  
to file counter by

22/4/92.

22.4.92

D.R.

Applicant is present  
in person. Counter  
has not been  
filed. Respondent  
to file counter by  
17/7/92.

or  
M.P. 350/92  
filed for  
ext party  
S.P.D  
J

(10) (11)

17.7.92

D.R.

Both the parties are present. Applicant has already been filed an application for ~~Ex parte~~ hearing on 23/7/92.

Now this case is listed for orders on M.P. No. 350/92 on 20/8/92 before the Hon. Bench.

20.8.92

No. 350 of D.M.C. dly  
to 26.8.92

OR  
C.A.R.A have  
been exchanged  
SFTM  
R 25.8.92

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKN. BENCH : LUCKNOW

(16)  
AB

ORDER SHEET NO. \_\_\_\_\_

O.A./T.A. No. 1202/87(1)

OFFICE REPORT / DATE / ORDER

26-8-92

Hon. Mr. Justice U.C. Sinvastava - V.C.

Hon. Mr. K. Obayya - A.M.

(DPS)

15-10-92 for orders.

P  
A.M.

ur

V.C.

15-10-92

No 3.1mg of D.M. adj to

22-10-92

d

Case is  
s.f.o.

22-10-92

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

Hon. Mr. K. Obayya, A.M.

List this case on 19-11-92 for  
orders.

R.A. has been  
filed.

s.f.o.

P  
A.M.

ur  
V.C.

17/11/92 19.11.92 Case adj to 7.12.92

MANISH/-

S.F.O.

17/11/92

ur  
Date

(15)

Dated: 7.12.1992

Hon'ble Mr. Justice U.C.Srivastava, VC

Hon'ble Mr. K. Obayya, Member (A)

As the counsel has not been able to  
come being in curfew area. The case is  
adjourned to 11.1.1993.

A.M.

V.C.

(rka)

stlly 11.1.93

No. 311mg. of D.D. adj  
to 1.2.93

h

ON  
RAN  
SFH  
20/11/93

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH  
LUCKNOW

T. No. 1202 of 1987

1. N. ~~XXXXXXXXXX~~ 199 (L)

2. N. 199 (TL)

Date of Decession 1.2.93

N.H. Ansari - - - - - Petitioner.

Advocate for the  
Petitioner(s)

V E R S U S

Union of India & Others - - - - - Respondent.

Advocate for the  
Respondents

C O R A M

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

Hon'ble Mr. K. Obayya, Member (A)

1. Whether Reporter of local papers may be allowed to see the Judgment.
2. To be referred to the reporter or not ?
3. Whether their Lord Ships wish to see the fair copy of the Judgement ?
4. Whether to be circulated to other benches ?

*W*  
Vice-Chairman / Member

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Transferred Application No. 1202 of 1987

## Versus

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

Hon'ble Mr. K. Obayya, Member (A)

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

This application was filed before the High Court in the year 1983. The applicant who during the pendency of the case has retired from the service, has prayed that a mandamus may be issued to the respondents commanding them to draw up a seniority list with respect to posting of the applicant in the new cadre of Ward Keeper on the non-ministerial side allowing all other consequential benefits. According to the applicant, he has been discriminated with respect to his juniors and seniors and his service conditions have been seriously affected. The post of Ward Keeper is a promotional post and being a different post a different grade, a different cadre with different promotional avenues and the seniority list should have been drawn-up in accordance to promotion and posting as Ward Keeper and the juniors should not have been promoted over his head and the applicant could not be required to appear in the suitability test as any such requirement is against the service conditions. The applicant was not allowed to appear in the suitability test, although, he was entitled to the same whereas the others have been allowed, with the result, the applicant was deprived of from this promotional post.

2. The applicant joined the Railway Services in the year 1954, under the Deputy Controller of Stores at ALAMBAGH/Lucknow, and after undergoing the suitability

(17)

KA

:: 2 ::

test, he was promoted as a Clerk grade-I in the Ministerial side on 21.12.1970 and was confirmed in the year 1975. The clerks from Ministerial side were also given option to opt for non-ministerial side as this option is open for the ministerial side and vice-versa option is not open for the non-Ministerial side. The options were invited in the year 1972 from the senior clerks of Ministerial side for option on a different cadre and different grade on Non Ministerial side as Ward-Keeper. The applicant also gave option but the senior clerk did not prefer to opt for non-ministerial side. The suitability test was to be held on 3.7.1972. The grade of Ward-Keepers at this stage was Rs. 210/-320/- and ~~the grade~~ of senior clerk in the year 1972 was Rs. 130-300/-. As the requisite number of options for non-ministerial side was not received and the suitability test was cancelled, but the applicant continued to serve as Ward-Keeper from 5.6.72 and onwards, though, on adhoc basis. Later on about in the year 1974 the scales of Ministerial and Non-Ministerial were revised and the scale of senior clerk was revised in Ministerial scale ~~became~~ Rs. 330-12-560/- and the scale of Ward-Keeper of non-Ministerial side was fixed as Rs. 425-15-560-20-600/-. In the years 1972 to 1979 several suitability tests were held for the post of Ward-Keepers and seniors clerks and Store Delivery clerks opting for non-ministerial side several years after the option given by the applicant were allowed to appear in the said suitability test, but the applicant was not called, against which he protested and after protesting of the applicant, he was allowed to appear in the suitability test for Ward-Keeper in the year 1979 that is some eight years thereafter. According to the applicant, as he has been serving in the year 1972 and he was wrongly deprived of

(18) 7/3  
A9

:: 3 ::

to appear in the suitability test and the seniority was to be determined with reference to posting in the non-ministerial side.

2. According to the respondents, the designation of Ward-Keeper was ~~revised~~ w.e.f. 1.8.1983 on the seat of up-grading in the non-ministerial post. The applicant was promoted after depositing the money for local arrangement on the willingness for adhoc arrangement and he was only promoted as temporary on adhoc basis with a clear warning that appointment will not confer up-on him any claim for such promotion in future in preference to his seniors. Admittedly, according to the respondents that the seniors did not give their willingness to work on local arrangement, but merely because, they did not give their consent on local arrangement, there was no question of depriving them/to treat them juniors, in case they were promoted as the later date for promotion on their turn. The suitability test could not be held because of the certain reasons. After merger scale of S.D.C. and senior clerks, the options were called according to the seniority and after the suitability test the regular promotion were made according to the seniority on the basis of option, the employees were called in the seniority test. But as the applicant was working on adhoc basis as he was not eligible for consideration and that's why he was not allowed to appear in the suitability test and as whenever his turn came, in accordance with rules, he was allowed to appear. The seniority was determined on the basis of the combined seniority list in which the applicant was junior and he could not have been granted seniority by virtue of his adhoc promotion which was subject to his various conditions. There being dispute between the seniority of non-ministerial and

(W) ~~AK~~  
A10

Ministerial side, the matter was referred to the G.M. for clarification and after received ~~pt~~ of the clarification and assessing of the vacancy, the suitability test was held. In the year 1979, the applicant also appeared and those who were found suitable was declared fit for promotion to the post of Ward-Keeper. The simple question thus in this case is that although merely because the applicant was promoted on adhoc basis subject to the condition he is not entitled to claim whether the applicant could claim seniority on the basis of said appointment, as the appointment was adhoc and was subject to the certain conditions, the applicant was not entitled to the benefits of the said senior as it was not a regular promotion. The applicant got regular promotion later on. As there was a combined seniority and not ministerial or non ministerial side, those who were senior earlier and did not opt for suitable test and subsequently, they opted and by virtue of seniority they were allowed to appear in the suitability test and were made regular. The applicant who was at that time working only on adhoc basis could not claim seniority over those who were regularised earlier. Accordingly, the application is dismissed. No order as to costs.

  
Member (A)

  
Vice-Chairman

Lucknow Dated: 1.2.1993

(RKA)

## GENERAL INDEX

CIVIL  
CRIMINAL

SIDE

Chapter XLI, Rules 2, 9 and 15

W.P. 5189 - 83-

Nature and number of case

Name of parties

Date of institution

Date of decision

A1

85

A15

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.			
A	1	General Index	1	-	- -			
A	2	Order sheet	1	-	- -			
A	3	Writs with affidavits & annexes	49	-	102-00.			
B	3	Power	1	-	5			
	4	Order sheet	1	-	-			
	5	Brush copy	1	-	-			

I have this day of 197 , examined the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that they bear Court Fee Stamps of the aggregate value of Rs. , that all orders have been carried out, and that the record is complete and in order up to the date of the certificate.

Date \_\_\_\_\_

Munsarim  
Clerk

647

GROUP A(14)(e)

No notice

Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench), Lucknow.

Writ petition No. 5189 of 1983.

Under Article 226 of the Constitution.

M/s  
P. O. H.

21/9

Najibul Haq

...

Petitioner

Versus

v

The Union of India &amp; another .. Opposite parties.

16136

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2. ANNEXURE NO. II - Railway order dated 15.6.72 for option and promotion as Ward Keeper Page 27 & 28
3. ANNEXURE NO. III - Order dated 5.6.72 for appointment as Ward Keeper Page 29
4. ANNEXURE NO. 4 - Extract from Railway Establishment Rule Page 30 to 33
5. ANNEXURE NO. 5 - Order dated 20.4.79 declaring suitability result Page 34
6. ANNEXURE NO. 6 - Order Calling for written test for the Selection of DSK. III Order dated 21.9.81. Page 35 & 36.

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7. ANNEXURE NO.7 - Order calling for written test for DSK No. III  
Order dated 21.12.81

Page 37 &amp; 38.

8. ANNEXURE NO.8 - Representation of petitioner

Page 39

9. ANNEXURE NO.9 - Railway Board's letter dated 3.5.72

Page No. 40 &amp; 41

10. ANNEXURE NO.10 - Railway Board's letter dated 11.1.1983  
Regarding adhoc promotion

Page 42

11. Vakalatname

page 43

Luck now

Dated 29.8.1983

Najibul Haq Ansari

Petitioner.

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## Writ petition under Article 226 of the Constitution

It is humbly submitted:

Para 1 That the petitioner joined the Railway services on 16.1.1954 and was posted under the Deputy Controller of Stores at Alambagh, Lucknow, (Formerly known as District Controller of Stores) and is still posted at Lucknow, under the Deputy Controller of Stores at Alambagh, Lucknow. The appointment was through the Public Service Commission. The initial appointment was as a clerk on the ministerial side.

Para 2 That the petitioner qualified in the suitability test and was promoted as a clerk Grade First Ministerial side on 21.12.1970.

Para 3 - That the petitioner by order dated 21.11.75 was confirmed in his post as Senior Clerk Grade First Ministerial side with effect from 1.10.75. The seniority of the petitioner on the ministerial side is detailed by order dated 21.11.75, True copy of which is ANNEXURE NO. I

Para 4 - That the appointment of all clerks are to take place initially on the Ministerial side as Clerk with promotions as clerk grade I and thereafter as



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become D.S.K. II as upgraded. Copy of the said order could not be obtained and date of order is not known.

Para 5 - That the post of Ward Keeper on the non-ministerial side is that of custodian of stores to receive and issue the stores. It's function is that of Stores Keeper and the Ward Keeper is responsible for shortages and excess in stores.

Para 6 - That in the month of May 1972 the O.P. No. 2 (then known as District Controller of Stores) invited options from the senior clerks of Ministerial side for option on a different cadre and a different grade on Non Ministerial side as Ward Keepers. The grade of senior clerk and Ward Keeper in 1972 was slightly different but senior clerks had excess income in travelling allowances for performing the duties of Store Delivery Clerk from one Railway Station to another Railway station.

The senior clerks did not prefer to opt for non-ministerial side.

Para 7 - That the O.P. No. 2 (then known as District Controller of Stores) by order dated 15.6.72 called for option and suitability test was to be held on 3.7.72. True copy of the said order is ANNEXURE No. 2.

Najibul Haq Ansari



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By the said order Annexure No.2 (Para 2) all Stores

Delivery clerks have to seek promotion on non ministerial side as Ward Keeper.

Para(8) - That in pursuance to Annexure No.2 very few senior clerks opted for post of Ward Keeper on non ministerial side and most of the stores' Delivery Clerks who had no option on the ministerial side continued to serve on the ministerial side and did not join the post of Ward Keeper.

Para 9 - That the petitioner had opted for the non Ministerial side for the post of Ward Keeper in 1972 in the then grade of Rs. 210/- Rs. 320/-. The grade of senior clerk in 1972 was Rs. 130/- - 300/-.

Para 10 - That most of the staff of the Ministerial side and most of the store delivery clerks including the names listed at paras 26 and 27 <sup>below</sup> did not opt for non ministerial side and factually became debarred for non ministerial side. There were better emoluments in Travelling allowances on the ministerial side and the post of Ward Keeper as store-in-charge involved greater risk greater responsibilities and no extra emoluments with the problem of labour control.

Para 11 - That the petitioner had opted for the non ministerial side and was posted as Ward Keeper from

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5.6.72 by posting order True copy of which is Annexure No.3 and the petitioner is still serving as Ward Keeper from 5.6.72 till this date on the non ministerial side with blockage of all promotional avenues.

Para 12 - That as requisite number of options for non ministerial side in pursuance to Annexure No.2 was not available in 1972 the contemplated suitability test was scheduled on 3.7.72 was cancelled.

Para 13 - That in pursuance to posting order Annexure No.3 the petitioner continued to serve as Ward Keeper from 5.6.72 till this date. During this period of posting as Ward Keeper from 5.6.72 till this date the petitions had never been charge sheeted nor suspended and there was no complaint.

Para 14 - That the contemplated test mentioned in Annexure No.2 is suitability test from persons opting for non ministerial cadre. There was no contemplated written test nor selection test. Due to lack of sufficient persons opting for non ministerial cadre the contemplated suitability test fixed on 3.7.72 was cancelled and the petitioner continued to serve as Ward Keeper.

Para 15 - That under rule ad hoc posting could not

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be retained for period beyond six months and the petitioner was retained as Ward Keeper from 5.6.72 and for several years without holding any suitability test. Vide True copy of extract of Rules Annexure No.4. and G.O. Annexure

Para 16 - That in 1973 or 1974 the ~~scales~~ of Ministerial and non ministerial post were revised. The scales of senior clerk in Ministerial scales became Rs. 330/- - Rs. 12/- - Rs. 560/- and the scale of Ward Keeper is non ministerial cadre was fixed as Rs. 425/- - Rs. 15/- - Rs. 560/- - Rs. 20/- - Rs. 600/-.

Para 17 - That the pay revision in 1973 or 1974 giving higher scales with better promotional avenues in non ministerial cadre attracted various employees of the ministerial cadre to opt for non ministerial cadre.

Further on 1976 and onwards a large number of employees of the non ministerial cadre were about to retire which attracted various senior clerks of the ministerial cadre to opt for the non ministerial cadre as prospects of quick promotion were brighter in non ministerial cadre.

Para 18 - That consequent to revised pay scales and better promotional avenues senior clerks and Store Delivery

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Clerks from ministerial cadre opted for Ward Keeper in non ministerial cadre in 1976 and onwards in large numbers. The proposal inviting option by Annexure No.2 dated 15.6.72 had expired on 3.7.72 the date of contemplated suitability test. No other order requiring options analogous to Annexure No.2 was issued and option from ministerial cadre to non ministerial cadre accepted after expiry of period stated in Annexure No.2 was bad. As per Annexure No.2 all Store Delivery Clerks were under compulsion to join the non ministerial cadre and appear in suitability test contemplated on 3.7.72 but Store Delivery Clerks wrongly continued to work on the Ministerial side to earn benefits of travelling allowances and halting allowances and became debarred for consideration on non ministerial side.



Para 19 - That from 1972 to 1979 several suitability tests were held for the post of Ward Keepers and tests were held particularly on 7.2.77, 15.6.77, 19.7.77, 22.9.77, 15.10.77 and 31.8.78 and senior clerks and Store Delivery Clerks opting for non ministerial cadre several years after the option by petitioner were invited for suitability tests

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and were allowed to become Ward Keepers and enjoy promotional

avenues with promotions as detailed by paras 26 & 27 below,

The petitioner serving as Ward Keeper from 5.6.72 was not called for and was not allowed to appear in the suitability test in the above mentioned tests on grounds that the petitioner by rendering services as a Ward Keeper for years together without complaint has been deemed to be suitable for the post of Ward Keeper without suitability test. The service conditions of the Petitioner had been discriminated.

Para 20 . That the petitioner protested at the series of Ministerial staff opting for Ward Keeper long after posting of the petitioner as Ward Keeper and allowing others to qualify the suitability test and be made senior to the petitioner who was serving as Ward Keeper from 5.6.72 and was not allowed to appear in suitability test and continuously suffered by blockage of promotional avenues, with discrimination.

Para 21 - That at the continuous protest by the petitioner he was allowed to appear in the suitability test for Ward Keeper on 30.3.79 after having served as the Ward Keeper for nearly eight years without any complaint and the petitioner qualified the suitability test Vide

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Annexure No.5. The base of seniority of the petitioner was wrongly not considered from original posting as Ward Keeper in 1972.

Para 22 - That the petitioner opting for Ward Keeper in terms of Annexure No.2 and serving as Ward Keeper from 5.6.72 as per Annexure No.3 ought to have been placed through the suitability test in the first batch and retained maintaining seniority with all others that qualified in the suitability test after the first batch of suitability test wherein the petitioner ought to have been tested.

Para 23 - That on 21.9.81 True Copy Annexure No.6 and on 21.12.1981 True copy Annexure No.7 various Ward Keepers were offered to appear for written test for promotion to the post of Depot Store Keeper from the post of Ward Keeper. The petitioner was always prepared to appear in the written test which was not held. The name of the petitioner is at serial No.31 Annexures No. 6 & 7. The said list Annexures No. 6 & 7 had been drawn up without maintaining the seniority in joining in the non ministerial cadre as Ward Keeper. Various employees out of the said list Annexures No. 6 & 7 and various other staff who had joined as Ward Keeper much later to the petitioner and are



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junior to the petitioner in the post of Ward Keeper were arbitrarily promoted as D.S.K. Grade III and D.S.K. Grade II and the petitioner serving as Ward Keeper from 1.5.72 had been compelled to remain as Ward Keeper from 1.5.72 till this date inspite of passage of ten years.

Para 24 - That the petitioner joining and serving as Ward Keeper from 1.5.72 and was not allowed to appear in suitability test till March 1979 and the intervening period was utilised by taking suitability test of clerks and the Stores Delivery Clerks and they were posted as Ward Keeper and made senior to the petitioner though the petitioner is much senior to them in the post of Ward Keeper.

Para 25 - That seniority list has to be determined with reference to posting in the non ministerial side as Ward Keeper which is a different cadre a different grade with different promotional avenues from the clerical side of the ministerial side. The said list has not been drawn up by the opposite parties.

Para 26 - That staff from the ministerial side joining the non ministerial side long after the petitioner joining the non ministerial side had been made senior

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to the petitioner. Shri Bhagwati Prasad Misra, Shri Mira Singh (now retired) Shri B.N. Saxena, Shri K.L. Mandiratta, Shri Hari Shabkar Khare, Shri S.K. Panda now Retired were all store Delivery Clerks on 1.5.72 on the ministerial side when the petitioner joined ~~as~~ Ward Keeper (Vide Annexure No.3) and had opted for non ministerial side as Ward Keeper in 1977 and afterwards and were allowed to appear in suitability test and were made Ward Keepers in 1977 and after 1977 and they had received two promotions and had been promoted <sup>as</sup> D.S.K. IIIrd and subsequently promoted <sup>as</sup> D.S.K. IIInd which posts they are now holding and they are now senior to the petitioner by two steps. The said persons were also allowed to appear in written test for next promotion as D.S.K. IIInd. The petitioner serving as Ward Keeper from 1.6.72 was not allowed to sit in the suitability tests for nearly eight years and was kept stagnated as Ward Keeper. Shree Rasheed Ahmad had opted and was posted as Ward Keeper in May 1972 only a few days prior to the posting of the petitioner as Ward Keeper and was allowed to appear in the suitability test in the first batch and was promoted twice and is now D.S.K. II senior

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to the petitioner by two steps. Shree Rashid Ahmad ~~Khan~~

also enjoyed the promotional test written test for promotion as D.S.K. ~~IIIrd. without test.~~

Para 27 - That the petitioner opted for non-ministerial side and was posted as Ward Keeper from 1.6.72 and is still stagnated as Ward Keeper ~~even after ten~~ <sup>and for</sup> years. The post of Ward Keeper is a different cadre a different grade and has different promotional avenue and the petitioner opting for the said cadre on 1st June 1972 stands stagnated. Sri S.A. Nasim, Sri Brij Mohan Singh, Sri Radhey Shyam, Tewari, Sri M.L. Mal

Sri Mahadeo Rd. Misra, Sri N.C. Mukerji, Sri B.N. Singh,

Sri S.C. Saxena, Sri B.P. Bose, Sri C.R. Singh, Sri

Bhagwati Sahai Saxena, Sri Darshan Singh, Sri Radhey

Shyam Saxena, Sri K.C. Tandon, Sri K.K. Mehra, Sri

Jagdish Prasad, Sri Bishwanath Prasad Singh, Sri M.L.

Sahani now retired, Sri S.S.L. Saxena opted for Ward

Keeper on the Non Ministerial side several years after the

petitioner joining as Ward Keeper on 1st June 1972. The

said persons opted in 1977 and in subsequent years and

were placed in the suitability test in 1977 and onwards

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and were made Ward Keeper and were subsequently promoted to the post of DSK.III and are now senior to the petitioner by one step. The petitioner was serving as Ward Keeper from period prior to the opting and posting of the aforesaid staff as Ward Keeper and the petitioner was not allowed to appear in the suitability test for nearly eight years and was kept stagnated as Ward Keeper. Most of the above persons had been promoted to DSK.III with or without written test. Shree D.P. Buse failed in the written test and was promoted as DSK.III. The said written test was only held in 1978 prior to holding the suitability test of the petitioner as Ward Keeper in March 1979.

Para 28 - That there is no option to join the ministerial side from the non ministerial side. Sri Name Nath Jain joining as Ward Keeper long after the petitioner joining as Ward Keeper was wrongly allowed to revert back to the ministerial staff side and being junior to the petitioner as Ward Keeper had been given repeated promotions and has become Head Clerk much senior to the petitioner.

Para 29 - That the petitioner was not allowed to appear in the suitability test as Ward Keeper in the

Najibul Haq Ansari



first batch or in the various subsequent batches and was kept stagnated as Ward Keeper from 1.6.72 and the petitioner was debarred from the promotional avenues to DSK-III and DSK-II. The petitioner being aggrieved had also filed a representation before the opposite parties true copy of which is Annexure no.8 but the opposite parties have not considered the seniority of the petitioner.

Para 30 - That the post of Ward Keeper on the non ministerial side being a different post a different grade a different cadre with different promotional avenues from the Ministerial side and the post of Ward Keeper being based on option of the clerks of the Ministerial side, seniority is to be considered from date of joining as Ward Keeper on the non ministerial side. The petitioner joined as Ward Keeper on 1.6.72 and continues to serve as a Ward Keeper for years together without being allowed to appear in the suitability test. The opposite parties had the discretion to take the suitability test of the petitioner within six months from his ~~xxxx~~ joining as Ward Keeper, or in the alternative the opposite parties had the discretion to take the suitability test of the petitioner at the first batch in 1977 or in the alternative

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the opposite parties had the discretion to waive the suitability test of the petitioner on grounds that the petitioner having served as Ward Keeper without any complaint for years together has been deemed to be suitable by actual practical working or in the alternative the opposite parties had the discretion to send back the petitioner to the ministerial side as Clerk within six months from the date of posting as Ward Keeper from 1.6.72. But the opposite parties did not exercise any of the above dispositions and placed the petitioner at a disadvantage by stagnating the petitioner as a Ward Keeper by taking services for years together as Ward Keeper and by considering him unqualified as Ward Keeper as not having passed the suitability test which the petitioner was not allowed to appear. The petitioner was not allowed in the suitability test for years together and his promotional avenue was blocked. The petitioner could not avail the opportunity to appear in the written test which was held ~~earlier~~ in 1978 for promotion to DSK.III. and ministerial clerks detailed at paras 26 above joining long after the posting of the petitioner as Ward Keeper availed the opportunity of written test <sup>and</sup> ~~that~~ were promoted to DSK.III and were

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subsequently promoted as DSK.II and became senior to the petitioner by two steps. Ministerial clerks detailed at para 27 above similarly had an advantage over the petitioner. Clerks Ministerial staff mentioned by paras 26 and 27 above joined as Ward Keeper several years after joining the petitioner as Ward Keeper on 1.6.72 were allowed to appear in the suitability test and obtain the next promotion as DSK III. and DSK IIInd. but the petitioner was stagnated as Ward Keeper from 1.6.72 though he was first to opt for the post of Ward Keeper and the said stagnation had taken place by not allowing the petitioner in appearing in the suitability test for nearly eight years and allowing the petitioner to work as Ward Keeper without complaint from 1.6.72 and debarring the petitioner from appearing in subsequent promotional avenues, with discrimination of the petitioner.

Para 31 - That the petitioner is the senior most to all the parties mentioned by paras 26 & 27 above.

The petitioner was earliest to opt for non ministerial side as Ward Keeper on 1.6.72 and has been placed last by the opposite parties in promotional avenues of the petitioner. The opposite parties have not drawn up any seniority list considering the date of opting

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joining and posting in the non ministerial side. .

The change of cadre involved; drawing up a new seniority list of the changed cadre which has not been drawn up.

Annexures No. 2 & 3 speaks of promotion to non ministerial side and the guiding principles laid by Annexure No.4 and Annexure No.9 had been ignored. The petitioner had been discriminated and juniors to the petitioner have become seniors by several steps. As per Annexure No.9 petitioner ought to have been confirmed as Ward Keeper long ago and petitioner being of backward caste has been deprived of the benefits.

Para 32 - That the opposite parties have also ignored the representation of the petitioner being Annexure No.8 and aggrieved against which this writ petition is being preferred on the following amongst other grounds:-



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joining and posting in the non ministerial ~~aside~~ . .

The change of ~~cadre~~ involved; drawing up a new seniority list of the changed cadre which has not been drawn up.

Annexures No. 2 & 3 speaks of promotion to non ministerial side and the guiding principles laid by Annexure No. 4 and Annexure No. 9 had been ignored. The petitioner had been discriminated and juniors to the petitioner have become seniors by several steps. As per Annexure No. 9 petitioner ought to have been confirmed as Ward Keeper long ago and petitioner being of backward caste has been deprived of the benefits.

Para 32 - That the opposite parties have also ignored the representation of the petitioner being Annexure No. 8 and aggrieved against which this writ petition is being preferred on the following amongst other grounds:-

#### GROUND S

1. Because the petitioner has been discriminated with respect to his juniors and seniors and his service conditions have been seriously affected.

2. Because the post of Ward Keeper being a promotional post of different cadres different grade and with

Hajibul Haq Ansari



different promotional avenues the seniority list ought to have been drawn up in accordance with to promotion and posting as Ward Keeper which had not been drawn up.

3. Because various juniors to the petitioner had been made senior to the petitioner.

4. Because the service conditions of the petitioner had been seriously affected by not allowing the petitioner to appear in the suitability test for nearly eight years while keeping the petitioner posted and serving as Ward Keeper for over eight years without any complaint.

5. Because the petitioner was illegally held up and was not allowed to appear in the suitability test in the first batch and in various other subsequent batches wherein staff joining as Ward Keepers at a later stage than the petitioner were allowed to appear and become senior to the petitioner.

6. Because as per rule the petitioner ought not to be retained as Ward Keeper without suitability test for a period exceeding six months.

7. Because as per rules the petitioner ought to have been confirmed as a Ward Keeper within two years of his joining as Ward Keeper.

Najibul Haq Ansari

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8. Because staff from the ministerial side not having opted for post of Ward Keeper within the stipulated period was not entitled to be made Ward Keeper while keeping the petitioner without suitability to stand without promotional avenues.

9. Because the petitioner had been stagnated in the post of Ward Keeper by blockage of promotional avenues in the absence of any complaint in discharge of duties as a Ward Keeper for over ten years

Prayer

Respectfully prayed:-

That a writ of mandamus or suitable writ or direction befitting the circumstances of the case be please passed commanding the defendants to draw up a seniority list with respect to posting of the petitioner in the new cadre of Ward Keeper on the non Ministerial side allowing all other consequential benefits in salary and increment and the other emoluments and promotional avenues in accordance to the seniority of the petitioner who be made senior to all juniors who are not senior to the

Najibul Haq Ansari

petitioner in joining the new cadre.

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And cost of the proceedings be please awarded.

And such other suitable relief be please awarded

or passed as be deemed fit and proper in the circumstances of the case.

Najibul Haq Ansari

S. M. A. (H.M.)  
Khan

Luck now

Counsel for the petitioner.

Dated 22.8.1983

29/9/83

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} 29/9

Najibul Haq Ansari

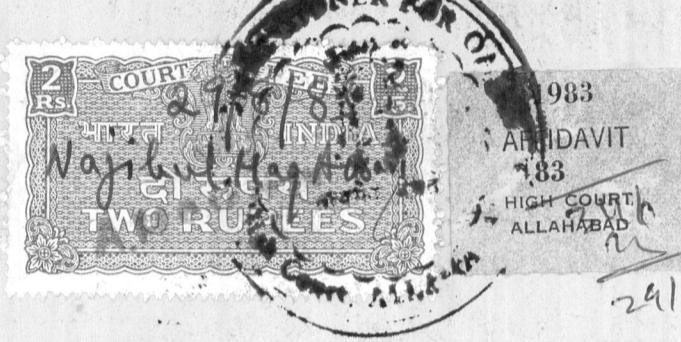
Before the Hon'ble High Court of Judicature at Allahabad.  
(Lucknow Bench), Lucknow.

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Writ petition No. of 1983

Under Article 226 of the Constitution

JUDGE IN LUCKNOW.



Najibul Haq Ansari

...

Petitioner.

Versus

The Union of India through the General Manager

Railway Board, Rail Bhawan New Delhi and

others

...

Opposite parties.

Affidavit

I, Najibul Haq Ansari aged about 53 years s/o late

Sri Mohd. Ahmad resident of quarter No. 102/Type III

Talkatora Road, Alambagh, Lucknow, at present posted as

Ward Keeper at Northern Railway, Charbagh, Office of the

District Controller of Stores, Charbagh, Lucknow, under

the Deputy Controller of Stores, Alambagh, Lucknow, do

hereby solemnly affirm and state on oath as under:-

1. That the contents of paras 1 to 32 of the annexed  
writ petition are true to my personal knowledge.

Najibul Haq Ansari

2. That the contents of annexures No. 1 to No. 10

annexed to the writ petition are true to my personal knowledge compared and verified from the original by the deponent.

Luck now

Dated 22.8.1983

Najibul Haq Ansari  
Deponent.

Verification

I the deponent above named do hereby solemnly verify that the contents of paras No.1 and 2 above are true to my personal knowledge, and no part of it is false and nothing material has been concealed. So help me God.

Signed and verified in the High Court compound at Luck now this 22nd day of August 1983.

Luck now dated 22.8.1983

Najibul Haq Ansari  
Deponent.

Najibul Haq Ansari

I identify the deponent  
who has signed before me  
Srinivasa Iyer

Advocate  
29/8/83



9:15

Solemnly affirmed before me on 29-8-83 AM/PM  
by the deponent Shree Majulul Haq Ansari  
who is identified by Shree S. M. Bhattacharya,  
Advocate of High Court Allahabad,

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

1085  
Oath Commissioner  
High Court, Allahabad  
Lucknow Branch

No. 83/346  
29/8/83

Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench) Luck now.

Writ petition No. *A70* of 1983

Najibul Haq Ansari ... Petitioner  
Versus  
The Union of India and others ... Opposite parties

ANNEXURE NO. I

NORTHERN RAILWAY  
DY. CONTROLLER OF STORE'S OFFICE, ALAMBAGH/LUCKNOW

Office Order No. E/262 Dated 21.11.1975

The following Provisional confirmations are ordered.

1. Shri Reoti Nath Shukla is confirmed as ADSK in grade Rs. 455-700 w.e. from 1.9.75
2. Shri A.R. Singh - do - 1.10.75
3. Shri C.D. Pandey - do - 1.11.75
4. Shri V.K. Srivastava Sr. Clerk 330-560 1.9.75
5. Shri Shri Najibul Haq - do - 1.10.75
6. Shri Bansi Lal - do - - do -
7. Shri Bali Ram Nath Tripathi - do - 1.11.75

Sd.  
for Dy. Controller of Stores  
N. Ry. Alambagh/Lucknow.

Copy to: the following for information

1. W.A.O./AMV
- 2) A.C.O./VYN
2. CIC/Bills
3. Parties concerned.

Sd.  
for Dy. Controller of Stores  
N. Ry. Alambagh, Lucknow.

True Copy  
Najibul Haq Ansari

Before the Hon'ble High Court of judicature at Allahabad  
(Lucknow Bench) Lucknow.

Writ petition No. A3Q of 1983

Najibul Haq Ansari ... Petitioner  
versus  
The Union of India & Others ... Opposite parties

ANNEXURE NO. 2

NORTHERN RAILWAY  
DISTRICT CONTROLLER OF STORES OFFICE,  
ALAMBAGH, LUCKNOW.

NOTICE NO. 360-E

Dated 15.6.72

In terms of para (iii) of Railway Board's letter No. E(NC)165 PMI-88 dated 22.9.69, clerks grade Rs.130-300 are required to exercise an option to seek their further avenue of promotion either on the non-ministerial side or on Ministerial side within one year of their promotion. The absorptions to Ministerial/Non-Ministerial side are to be made on the basis of the option. Further options are to be exercised on the specific understanding that the option once exercised will be final and no change will be permissible afterwards.

As regards Store Delivery Clerk grade Rs.130-280, they have no chance to opt for Ministerial cadre and have to seek promotion on Non-Ministerial side as Wardkeeper in grade Rs. 210-320.

It has been decided to hold a suitability test for the post of Wardkeeper in grade Rs.210-320 at 10.00 hours on 3.7.72. Lists of clerks grade Rs. 130-300 and S.D.Clerks grade Rs.130-280 have been made out. The persons who have already opted either for Ministerial or Non-Ministerial side have been shown in a separate list. The persons who are at present officiating as Wardkeeper without passing the test will also have to appear in the suitability test on 3.7.1972. Their list has also been prepared separately.

Therefore Senior Clerks grade Rs. 130-300 are required to submit option to Estt. by 23.6.72 for their future avenue of promotion in Non-Ministerial or Ministerial side by 23.6.72 as Ward Keeper or Head Clerk.

The persons who fail to submit their option for any reason by 23.6.72 will not be allowed to appear in the test of Wardkeeper going to be held on 3.7.72 and their juniors by virtue of their option and passing suitability test thereafter when promoted get as Wardkeeper will rank senior to them for future promotion in higher grade. It should be clearly understood that for seeking promotion in Non-Ministerial side or Ministerial side option is compulsory,  
S.d.

District Controller of Stores,  
Alambagh, Lucknow. 14.6.72.

True Copy  
Najibul Haq Ansari



B/2

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List of offg. Wardkeepers who are at present officiating as WK and are required to appear in the suitability test.

• • • •

S/Shri

Akshaibar Singh

P.N. Saxena

Rashied Ahmad

K.N. Singh Verma

R.N. Das

M.L. Mehta

M.M.L. Sahni

Najibul Haq.

True Copy

Najibul Haq Ansari



Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench) Lucknow.

Writ petition No. *140* of 1983

Najibul Haq Ansari	...	Petitioner
Versus		
The Union of India & others	...	Opposite parties

ANNEXURE NO. 3

Northern Railway  
Office Order No. E/125      Dated 3.6.72

With immediate effect, Shri Nazibul Haq Sr.Clerk/RR.Sec./AMV who has given his willingness for promotion to non-ministerial side and has also deposited security money in the shape of fidelity guaranteed bond is appointed to officiate as Ward Keeper on pay Rs. 184/- Plus 26/- (or) P.M. in scale Rs. 210-320(AS) and posted at E.T. Depot Kanpur vice Shri Raj Narain Saxena reported sick. The promotion of Shri Nazibul Haq is purely provisional and adhoc arrangement and local arrangement and will not confer upon him any claim for such promotion in future in preference to his seniors and qualified persons for the post of Ward Keepers.

Distt. Controller of Stores  
Alambagh, Lucknow

Copy to the following for information & necessary action.

1. S.A.O. (W) AMV-LKU.
2. A.C.O.S./E.T. Depot/Kanpur
3. D.S.K./I/AMV
4. H.C./Bills, Leave and Pass/AMV
5. Shri Nazibul Haq.

Sd.  
Distt. Controller of Stores  
Alambagh, Lucknow.

True Copy  
Najibul Haq Ansari



Before the hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench) Lucknow.

Writ petition No. of 1983

ANV

Najibul Haq Ansari ... petitioner  
Versus  
The Union of India and others opposite parties.

ANNEXURE No. 4.

Extract from Railway Establishment rules and Labour Laws  
by Sri B.S. Mainse at page 239 adhoc arrangement

• • • • •

Normally the empaneled employees should be appointed against the selection posts, but in case where no empaneled employee is available and it becomes inevitable to make local arrangement, it should be made for as short a period as possible, but not more than three months. For periods exceeding three months, it should be with C.P.O's/ Additional C.P.O's specific sanction. (R.B's No. E(NG)1-72-PMI/227 of 31.10.72, N.R. S.N. 5775) and E(NG) 1-72-PMI/227 of 31.10.72 R N.R. S.N. 6322. In making such adhoc arrangements, the claims of seniors should be given full consideration and it should be ensured that such adhoc promotees are comparatively senior men. The adhoc promotees must be from within the list of men in order of seniority. Comprising three times the number of adhoc promotees. The fact that such adhoc local arrangement has been made should be forthwith brought to the notice of the Head of Department and the Chief Personnel Officers who will bring it to the notice of the General Manager in the periodical Heads of the Department's meeting..

The senior most person available in the seniority

True Copy  
Najibul Haq Ansari



A.M.

unit should normally be promoted in the adhoc arrangements unless the authority ordering the promotion consider him unsuitable. Exceptions may be made in cases where change of station is involved and short term promotions involving transfer is not desirable. (R.B's No. E. (B.G) 1-73 PMI/222 of 23.2.74) (N.R. S.M. 6105).

Where transfers on promotion are not carried out for 3 months the authority next higher to that which issued the transfer orders should carry out a review. Such reviews should be made without fail and seniors are not put to a disadvantage vis-a-vis their juniors on account of delay in effecting transfer on promotion (R.B's No. E(NG) 1-77 PMI/117 of 10.10.77 (NR SN No. 6804).

All cases of 1 to 1 adhoc arrangement which are likely to continue beyond three months must be reviewed by the D.R.M.(H.C.D. in case of H.Q. controlled posts) personally and if any adhoc officiating arrangements in higher grades are continued for more than six months, the matter must be referred to H.Q. and will be put up to G.M. (N.R. Letter No. 831 E/63/2/XI (EIV) of 13.12.77) (S.M. 6884).

Even if the selection cannot be finalised for any reason, the adhoc promotees must be put through a selection with the first batch and retained in higher post only if they pass the written test and are considered suitable for the selection post so that there will be no occasion for replacing them by any junior men selected later. Adhoc promotees should not be retained in higher posts beyond 16 months, unless they have, in the meantime qualified in the tests. (R.B's No. E(BG) 1-69 PMI/200 of 4.11.70 (S.M. 5153).

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Najibul Haq Ansari



-3-

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While making adhoc promotions pending elections the duration of which is 45 days or more the reserved vacancies may be filled by senior most suitable scheduled Caste/Scheduled Tribe candidates who are within the field of consideration and are likely to be considered by the selection board when regular arrangements are finally made. (R.B's No. E(SCT) 68 CM 15/12 of 10.12.71) (N.R. S.N. 5517).

Similarly in the case of posts filled on the basis of seniority-cum-suitability whenever adhoc promotion is made the order regarding reservation of vacancies in favour of Scheduled castes and Scheduled Tribes should be observed (R.B's No. E(SCT) 68 CM 15/12 dated 8.12.74) (N.R SN 6101).

The adhoc promotions should not be made to fill up the class III posts against ~~excess~~ direct recruitment quota. In case the persons against direct recruitment quota are not forthcoming and the posts have to be filled up urgently, these should be filled up after holding regular selection out of class four staff.. In case such selection exceed the promotion quota, the Board may be approached giving full justification for filling up such posts in excess of the promotion quota (R.B's no. E (ENG) 1/81C/FR/1 dated 12.3.81 (N.R SN 7790-8)).

Page 242 (4) The promotion of an employee to a vacancy in a higher grade selection post according to his panel position whether against leave arrangement, deputation or temporary transfer of another employee vacating the post. Irrespective of the period involved should be treated as nonfortuitous and such an employee should not be required to reappear in a subsequent selection for the same post. It is therefore not

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Najibul Haq Ansari



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-4-

essential that he should have been promoted against a long term vacancy.

(5) If a junior person has officiated against a non fortuitous vacancy, he is also entitled to protection in case he happens to be the next rightful junior and not otherwise even though he is senior to him in the panel but not officiating also gets protection. On the other hand if the senior person has not officiated for reasons of his own this implies that he has refused promotion in such a case, next junior person is the rightful person to be promoted and there is no question of treating him as junior, (R.B's No. - (NG) 62 PMI/91 of 9.8.65) (N.R. - No. 311).

True Copy  
Najebul Haq Ansari



Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench), Luck now.

Writ petition No. 1983

Najibul Haq Ansari ... Petitioner  
Versus  
The Union of India & others ... Opposite parties

ANNEXURE NO. 5

Northern Railway

Office Order No. E/120

Dated 20-4-1979.

As a result of suitability test held on 30-3-79 for the post of Ward Keeper in Gr. Rs. 425-600 (RS) the following employees are declared suitable for promotion to the post of Ward Keeper in Grade Rs. 425-600.

1. Sri B.M. Singh	Sr.Clerk/AMV	(7) Sri M.M.L.Sahni	Offg.WK/AMV
2. Sri R.S. Swami	Offg.W.K.DSL/CB	(8) Sri G.G.Sanyal	Sr.Clerk AMV
3. Sri J.S. Pradhan	Sr.Clerk/AMV	(9) Sri Najibul Haq	Offg.WK/CNB
4. Sri R.N. Das	Offg.WK/CNB	(10) Sri Banshi Lal	Sr.Clerk/AMV
5. Sri M.L. Paul	Offg.WK/AMV	(11) Sri BRN Tripathi	SDV/AMV
6. Sri C.S. Saini	Offg.WK/DSL/CB	(12) Sri MPS Sagar	Sr.Clerk/AMV

They should submit their option for seeking advancement in the Ward keeper side (non ministerial Stores Keeping group) understanding fully that they will not be considered for promotion to ministerial side.

Sd. x x x  
Dy. Controller of Stores  
N. Rly. Alambagh, Luck now.

Copy to the following for information:-

(1) Dy. CA (W) / AMV / LKU (2) SA (W) CB / LKU  
(3) Re: s/ CB (4) AC-S/CNB / DPL/CB &  
S. Parties concerned. Vyasnagar.

Sd. x x x  
Dy. Controller of Stores.



True Copy.  
Najibul Haq Ansari

Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench) Lucknow.

Writ petition No. of 1983

Najibul Haq Ansari ... Petitioner  
versus  
The Union of India & Others ... Opposite parties.

ANNEXURE NO. 6

NORTHERN RAILWAY

No. 190

Dated 21.9.1981

To

Shri

1. Charan Das Behari Lal, Progress Inspector Railway Bhawan NDLS	SC. Candidate
2. Ahsan Ahmad Khan DSK/III/CB	Sh. M.P.S. Sagar Dffg.
3. B.N. Prasad Pravastava - do -	DSK/III/MV
4. Rira Singh	2. Sh. Phiram Lal sr. Clerk
5. B.N. Saxena	3. Sh. Ram Karan WK/AMV
6. K.D.S. Verma	4. Sh. Kishan WK/CB
7. S.D. Arrena	5. Sh. Ram Adhar WK/CB
8. M.P. Misra	6. Sh. R.C. Dhanuk WK/VYN
9. N.C. Mukerjee	7. Sh. Kalka Rd. WK/CB
10. B.C. Singh	8. Sh. Kawal Rd. WK/AMV
11. S.C. Saxena	
12. B.P. Bose	
13. Chandra Pal Singh	
14. B.S. Saxena	
15. K.L. Mandiratta	
16. Darshan Singh	
17. R.S. Saxena	
18. K.L. Tandon	
19. K.K. Mehra	
20. Jagdish Prakash	
21. S.C. Sarkar Dffg. DSK/III Rly.	
22. Elec. Allahabad, N.W. Jain	
23. S.C. Naseem	
24. S.C. Lal	
25. Brij Mohan Singh	
26. R.S. Tewari	
27. R.W. Das	
28. R.L. Paul	
29. S.C. Saini	
30. N.M.L. Sahani	
31. Najibul Haq	
32. Bansi Lal	
33. B.R.N. Tripathi	
34. H.S. Nagpal	
35. M.I. Qureshi	
36. M.L. Mehta	

WK/AMV

- do -
- do -
- do - CB
- WK/AMV
- WK/CNB
- WK/AMV
- WK/DSL/CB
- WK/AMV
- WK/CB
- WK/AMV
- WK/CB
- WK/DSL/CB
- do -
- WK/AMV

True Copy.

Najibul Haq Ansari



21.9

37. Raj Mangal Pd.	WK/DSL/CB
38. Ram Behari Ram	RE
39. Juddbir Pdm	WK/AMV
40. R.S. Chaudhary	WK/AMV
41. T.D. Misra	WK/CNB
42. Jantri Lal	WK/AMV
43. Moti Chand	WK/VYN
44. Gian Chand	WK/A.B.E./LKO

Sub. Selection for the post of DSK/III Gr. 455-700(RS)

That written test for the selection of DSK/III grade Rs.455-700(RS) scheduled to be held in this office on 27.7.81 was postponed and the same is now scheduled to be held on 19.10.81 at 10.00 hrs. in this office. You are therefore informed to appear in the test with your pen and pencil. The answer books will however be supplied by this office. In case you are not willing to appear in the selection, you should furnish your unconditional written refusal which should reach this office latest by 10.10.81.

You are required to acknowledge receipt of this letter on the form subjoined.

Sd:  
Dy. Controller of Stores  
Alanbagh, Lucknow.

Copy to the following:-

1. The Director (Stores) Room No. 114 (R.S.)-11 First Floor, Rail Bhawan, New Delhi. He will please arrange to spare Sh. Charan Das Behari Lal to enable him to appear in the above selection on 19.7.81.
2. The Chief Engg. (RE) Allahabad. He is requested to spare Sh. S.C. Sarkar as to enable him to attend the above selection in this office on 19.10.81.
3. The A.C.O./CB, DSL-CB, ETD-CNB & MGS & VYN Posts and all section incharges AMV. They are requested to spare the staff under them to enable them to attend the selection on 19.10.81.
4. The C.S. (G) AMV. He will make necessary seating arrangements for the selection and providing answer books.

Received letter No. 190-M dated 5.7.81 and 29.9.81



Signature of the Section Head      Signature of the employee

Name *Najibul Haq Ansari*

Dated

Dated

*True Copy*  
*Najibul Haq Ansari*

Before the Hon'ble High Court of Judicature at Allahabad  
(Luc now Bench) Lucknow.

Writ petition No. of 1983

Najibul Haq Ansari ... Petitioner  
versus  
The Union Bank of India & Others Opp. Parties

ANNEXURE NO. 7

NORTHERN RAILWAY

Office of the Dy.C.O.S/AMV/LKU

No. 190-V

Dated 21.12.1981.

To

S/ Shri

1. Charan Das Behari Lal, Progress Inspector Railway Bhawan  
NDLS.

2. Ahsan Ahmad Khan DSK/III/CB  
3. B.N.B. Srivastava - do-  
4. Hira Singh - do- AMV  
5. B.N.Saxena - do- CB  
6. K.D.S. Verma - do- AMV  
7. S.D.Arrena - do- DSL/CB  
8. M.R. Misra - do- AMV  
9. N.C.Mukerjee - do- AMV  
10. B.N. Singh WK/AMV  
11. S.C. Saxena - do-  
12. B.P. Bose DSK/III/CMB  
13. Chandra Pal Singh WK/AMV  
14. B.S.Saxena - do-  
15. K.L. Mandiratta - do-  
16. Darshan Singh - do-  
17. R.G. Saxena - do-  
18. K.L. Tandon - do-  
19. K.K. Mehra - do-  
20. Jagdish Prakash - do- (Offh. AYFO)  
21. S.C.Sarkar ffg. DSK//III Rly.  
22. Elec. Allahabad

WK/AMV

S.C. CANDIDATES

22. N.N. Jain - do-  
23. S.A.Naseem - do-  
24. S.C. Lal - do-  
25. Brij Mohan Singh - do-  
26. R.S. Tewari WK/AMV  
27. R.N. Das WK/CNB  
28. M.L. Paul WK/AMV  
29. C.S. Saini WK/DSL/CB  
30. M.M.L. Sahni WK/AMV  
31. Najibul Haq WK/CB  
32. Bansi Lal WK/AMV  
33. B.R.N. Tripathi WK/CB  
34. H.S. Bagga WK/DSL/CB  
35. M.I. Qureshi - do-  
36. CB Kalra Sr.Clerk AMV  
37. M.L. Mehta WK/AMV  
38. Raj Mangal Rd. WK/DSL/CB

1. M.R.S. Sagar ffh. DSK/III/AMV  
2. Shyam Lal Jr.Clerk/AMV  
3. Ram Karan WK/AMV  
4. Sri Krishna WK/AMV  
5. Ram Adhar WK/CB  
6. R.C. Dhanuk WK/VYN  
7. Kalka Rd. WK/CB  
8. Kewal Rd. WK/AMV  
9. Parneshwar Bin Jr.Clerk/AMV  
10. Mahindoo Das Jr.Clerk/AMV  
11. Labhan Lal "  
12. Satpal Singh Sr.Clerk/CB

True Copy  
Najibul Haq Ansari



PSV

AUG

39.	Ram Behari Ram	RE
40.	Jadubir Pd.	WK/AMV
41.	R.S. Chaubey	WK/AMV
42.	T.D. Misra	WK/CNB
43.	Jantri Lal	WK/AMV
44.	Muti Chand	WK/VYN
45.	Gian Chand	WK/A/B.E/LKO
46.	Asutosh Rai	WK/CB
47.	Shambhu Nath Verma	SDC/AMV
48.	S.S. Lal Saxena	SDC/AMV

Sub: Selection for the post of DSK/III Grade 455-700(RS.)

The written test for the selection of DSK/III Gr.455-700(RS) is ~~xxxx~~ scheduled to be held in this office on 29.12.81 at 10.00 hrs. in this office. You are therefore informed to appear in the test with your pen and pencil. The answer books will however be supplied by this office. In case you are not willing to appear in the selection you should furnish your unconditional written refusal which should reach this office latest by 26.12.81.

You are required to acknowledge receipt of this letter on the form subjoined.

Dy. Controller of Stores  
Alambagh, Lucknow.

Copy to the following:-

1. The Director (Store) Room No. 114 (RS) C.11 1st floor Rail Bhawan, New Delhi. He will please arrange to spare Sh. Charan Das Behari Lal to enable him to appear in the above selection on 29.12.81.
2. The Chief Engg. R(RE) Allahabad. He is requested to spare Sh. S.C. Sarkar as to enable him above selection in this office on 29.12.81.
3. The AC GS/CB, DSL/CB, ETD/CNB and MGS and VYN Depots and all Section incharges of Alambagh. They are requested to spare the staff under them to enable them to attend the selection on 29.12.81.
4. The JS (G) Alambagh. He will make necessary seating arrangement for the selection and provide answer books.

Received letter No. 190 dated 21.12.81

Signature of the employee

Name *Najibul Haq Ansari*

True Copy  
Dated  
Najibul Haq Ansari



Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench) Lucknow.

Writ petition No. of 1983

Najibul Haq Ansari ... Petitioner  
Versus  
The Union of India & Others Opposite party

ANNEXURE NO. 8

The Dy. Controller of Stores,  
Northern Railway, Alambagh,  
Lucknow.

Through Proper Channel

Sir,

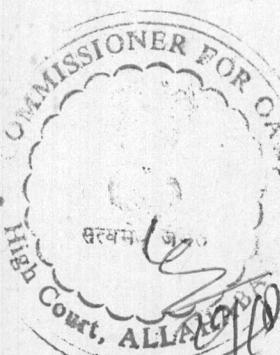
With due respect I beg to say as under:-

1. Before the revision of new scale of pay in 1974 none of the seniors of the clerical staff was willing to work as Ward Keeper in Grade Rs. 210-380, so the administration notified in May 1972 that senior clerks in Grade Rs. 180-300 willing to work as Ward Keeper may apply for the post of Ward Keeper in Grade 210-300. I applied for the same and I was posted as a Ward Keeper on adhoc basis from 1st June, 1972. Since then I am working as Ward Keeper continuously.
2. I was called for suitability test for VK in 1972, but the Administration postponed the test.
3. That the revision of new scale of pay of VK as Rs. 425-600 the administration ignored the rules and began to call for suitability test according to the clerical seniority though I should have been called for the test first as per para 5153 of Labour Law and Estt. Rules as I had already been deleted from the clerical cadre since the date I had been posted as VK.
4. Adhoc period should not exceed more than six months as per para 6494 of the Labour Law.
5. The administration called me for the test in 1979 and I qualified the test.
6. The staff posted as VK from 1976 to 1979 have been declared senior. They have been promoted as DSK III & DSK/II though I had been promoted as VK before them from June 1972.
7. Have I committed a sin to offer myself for such a risky and responsibility post like Ward Keeper in the critical time when no new Wardkeeper was available at AMV Depot.
8. Have the staff posted as VK after 1974 done good for the administration not to offer themselves for the post of VK before the revision of new scale when none of the senior clerical staff was willing to work as VK for which they have been awarded with the promotion as DSK/III and DSK/II.

Therefore I request your honour to look into the matter generously and do the justice for me. I shall be highly grateful to your honour.

Thanking you. Yours faithfully • Sd. Najibul Haq Ansari  
V.K./Stores CB/LKG. True Copy

Najibul Haq Ansari



Before the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

Writ petition No. of 1983  
Under Article 226 of the Constitution  
Origin Lucknow.

Najibul Haq Ansari ... Petitioner  
Versus  
The Union of India & others ... Opposite parties

ANNEXURE NO. 9

3.5.72  
NORTHERN RAILWAY

(5)

Head Quarters Office,  
Baroda House,  
New Delhi.

No. 831-E/25-IV(EIV)

Dated 3.3.72

All Divisional Superintendents, and  
Extra Divisional Officers,  
Northern Railway,

PA & CAO(C) } Baroda House, New Delhi  
Chief Auditor. }

Copy to SFO(HQ). Serial No. 5586.

Sub: Confirmation of staff officiating in higher grades.

A copy of Railway Board's letter No. E(NG)/I-69Cn5/31 dated 5.2.72 is forwarded for information and necessary action. The Board's letter dated 12.8.71 referred to therein was circulated vide this office letter No. 831-E/25-IV(EIV) dated 29.9.71 (Sl. No. 5433).

DA: As above.

Sd. Rajesh Bahadur  
for General Manager (P).

Copy to: 1. General Secretary URNU  
166-1 Railway Bungalow, Puhkuan Road,  
New Delhi.

2. The General Manager NRMU  
115- Babar Road,  
New Delhi.

3. Shri Ganesh Lal Sharma,  
Asstt. Genl. Secy. URNU Railway Mr. T-35A  
South Colony, Moradabad

True Copy

Najibul Haq Ansari



-2-

4. Shri Jor. Chaubey,  
President NRMU. Building 25-26, Naka Hindola,  
Nhyaganj, Lucknow.

.....

Copy of Ry. Board's letter No. E(NG)-I-69CN5/31 dated  
5.2.72 from Shri Dwarka Dass Asstt. Director, Estt. Ry.  
Board to The Genl. Managers, All Indian Railways, & Others,

Sub: Confirmation of staff officiating in higher grades

In continuation to the instructions contained in letter of  
even number dated 12.8.71 the Board desire that the cases  
of staff who have been promoted on regular basis should  
be reviewed after completion of one years continuous  
offg. service, even if a permanent vacancy does not exist  
with a view to determining their suitability for retention  
in the grade. The review should be completed early and a  
decision to continue the employee in the offg. post or  
revert him, taken and implemented within a period of 18  
months of offg. service. Having followed this procedure  
there should be no question of denying the benefits of  
confirmation to an employee on completion of 2 yrs. offg.  
service in a clear permanent vacancy for reason that he is  
not fit for confirmation.

Please acknowledge receipt.

True Copy,  
Najibul Haq Ansari



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

Writ petition No. of 1983

Under Article 226 of the Constitution

Origin Lucknow.

Najibul Haq Ansari...  
Versus  
Union of India and another

Plaintiff  
pp. Party

ANNEXURE NO. 10

No. NRMU/48-66/83

Dated 11th January 1983

All Branch/Divisional Secretaries,  
Central Office Bearers/NRMU

Sub: Adhoc promotions - procedure for

A copy of Railway Board's letter No. E(NG)1-82/  
80PMI/262 dated 27.12.1982 is reproduced below for  
information please.

Sd.  
for General Secretary

In the Ministry of Railways' letter No. E(NG)1-  
80PMI/185 dated 11.8.1980 instructions were issued that  
adhoc promotions should be discharged and when they  
became essential, only suitable senior most persons  
should be promoted and that senior's notice should  
be taken of continued promotions made for junior  
employees. Instances are still coming to Board's  
notice where the juniors are promoted and continued  
for long durations on adhoc basis without holding  
selections, leading to representations from the  
seniors. Ministry of Railways desire that the  
instructions on the subject should be strictly adhered  
to and there should not be any occasion where a  
junior has been promoted on adhoc basis when suitable  
senior persons were available.



True Copy  
Najibul Haq Ansari

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Hon'ble Court of Judicature  
at Allahabad महोदय  
नवाज बेच लग्न का वकालतनामा

ब अदालत श्रीमान

[ वादी ] अपीलान्ट

प्रतिवादी [ रेस्पाइंट ]

थ्री-



वादी ( अपीलान्ट )

Nazibul Haq Ansari प्रतिवादी (रेस्पाइंट)  
नं० मुकदमा उनियन ऑफ इंडिया १६ ई०  
ऊपर लिखे मुकदमा में अपनी ओर से श्री S.M. Akbari Advocate वकील  
... महोदय  
... एडवोकेट  
69, Cawnpur Road लग्न का वकालतनामा

ताम अदालतनामा  
मुकदमा नं० ...  
ताम फॉर्मेन्ट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरबी व जवाब देती व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रूपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रूपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लैवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पंथीकार को भेजता रहूंगा अगर मुकदमा अदम पैरबी 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।

Nazibul Haq Ansari

हस्ताक्षर

Signature

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १६ ई०

स्वीकृत

एडवोकेट

Accepted

Sunabarrachai

Advocate  
29/8/83  
29/9/83

Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench) Lucknow.

Case petition No. of 1961.

Under Article 226 of the Constitution  
origin Lucknow.

As Jibul Rao Ansari aged about 55 years son of Late  
Sri Muhammad Khan resident of quarter No. 1 Q/Type III  
Tolnagar Road, Almora, Lucknow, at present posted to  
ward keeper at Northern Railway, Charbagh, office of the  
District Controller of Stores, Charbagh, Lucknow under the  
Deputy Controller of Stores, Almora, Lucknow.

..... petitioner

versus

1. The Union of India through the General Manager  
Railway Board, Lalulal Bhawan, New Delhi.
2. The Deputy Controller of Stores, Northern Railway  
Office of the Deputy Controller of Stores of  
Almora, Lucknow.

- 2 -  
Urge petition under Article 256 of the Constitution  
\* \* \* \* \*

It is humbly submitted:

Para 1. That the petitioner joined the Railway services on 16.1.1954 and was posted under the Deputy Controller of Stores at Almabagh, Lucknow (Formerly known as District Controller of Stores) and is still posted at Lucknow, under the Deputy Controller of Stores at Almabagh, Lucknow. The appointment was through the Public Service Commission. The initial appointment was as a clerk on the ministerial side.

Para 2. That the petitioner qualified in the suitability test and was promoted as a clerk Grade First Ministerial side on 31.12.1970.

Para 3. That the petitioner by order dated 31.12.75 was confirmed in his post as Senior Clerk Grade First Ministerial side with effect from 1.10.75. The seniority of the petitioner on the ministerial side is detailed by order dated 31.12.75, true copy of which is ANNEXURE A.

Para 4. That the appointment of a 1. clerks was to take place initially on the Ministerial side as Clerk 1. 10 positions as clerk grade I and thereafter as

senior clerk grade First. Clerks from the Ministerial side can opt for non ministerial side but clerks from the non Ministerial side cannot opt for the ministerial side. The staff of the non ministerial side deals with materials. The Ministerial side and the non ministerial side are different grades and different grades and have different promotional avenues as under:

Ministerial

Senior Clerk

\* Stores Delivery Clerk

Head Clerk

Assistant Superintendent

Office Superintendent

Asstt. Controller of Stores

Non Ministerial

Store Keeper

Depot Store Keeper III

Depot Store Keeper II

Depot Store Keeper I

Senior Depot Store Keeper

Asstt. Controller of Stores

That two or three days ago an order has been passed融reasing Head Keeper as Assistant Stores Keeper with revised pay scale of Rs. 425/- - 16/- - 560/- 20/- - Rs. 700/- and the post of Dep. IIIrd has been abolished and juniors posted as Dep. III shall become Assistant Store Keeper and seniors O.L.K. 1st shall

becoming District Si as upgraded. Copy of the said order could not be obtained and date of order is not known.

para 5 - That the post of Ward Keeper on the non-ministerial side is that of controller of stores to receive and issue them to us. It's function is that of Store Keeper and the Ward Keeper is responsible for shortages and excess in stores.

para 6 - That in the month of May 1972 the G.O.M.R. (then known as District Controller of Stores) invited options from the senior ranks of Ministerial side for option on a different cadre and a different grade on Non Ministerial side as Ward Keepers. The grade of senior clerk and Ward Keeper in 1972 was slightly different but senior clerks had same allowances in travelling allowances for performing the duty of Stores Delivery Clerk from one Railway Station to another Railway station. The senior clerks did not prefer to opt for non-ministerial side.

para 7 - That the G.O.M.R. (then known as District Controller of Stores) by order dated 18.6.72 called for option and suitability to a us to be held on 27.7.72. True copy of the said order is as follows:-

By the said order Annexe No. 2 para 9 all stores

Delivery clerks have to seek promotion on non ministerial side as Ward Keeper.

Paras 8 - That in pursuance to Annexe No. 2,

very few senior clerks opted for post of Ward Keeper on non ministerial side and rest of the stores Delivery Clerks who had no option on the ministerial side wanted to serve on the ministerial side and did not join the post of Ward Keeper.

para 9 - That the petitioner had opted for the non ministerial side for the post of Ward Keeper in 1972 in the then grade of Rs. 210/- to Rs. 320/-. The grade of senior clerks in 1972 was Rs. 150/- - 300/-.

para 10 - That most of the staff of the ministerial side and rest of the store delivery clerks including the names listed at paras 26 and 27 did not opt for non ministerial side and factually became debarred for non ministerial side. There were better appointments in Travelling allowances on the ministerial side and the post of Ward Keeper as stores-in-charge.

para 11 - That the petitioner had opted for the non ministerial side and was posted as Ward Keeper from

6.6.72 by posting order True copy of which is annexure No.3 and the petit one is still serving as Ward Keeper from 6.6.72 till this date on the non ministerial side with blockage of all promotional avenues.

Para 12 - That no recruits number of options for non ministerial side in pursuance to ~~annexure No.2~~ was not available in 1972 the contemplated suitability test as scheduled on 3.7.72 was cancelled.

Para 13 - That in pursuance to posting order annexure No.3 the petitioner continued to serve as Ward Keeper from 6.6.72 till this date. During this period of posting as Ward Keeper from 6.6.72 till this date the petitioner had never been charge sheeted nor suspended and there was no complaint.

Para 14 - That the contemplated to it mentioned in annexure No.3 in suitability test for persons opting for non ministerial cadre. There was no contemplated written test nor selection test. Due to lack of sufficient persons opting for non ministerial cadre the contemplated suitability test fixed on 3.7.72 was cancelled and the petitioner continued to serve as Ward Keeper.

Para 15 - That under rule which posting could not

Senior Clerk cadre was not to be retained for periods beyond six months and the petitioner was retained as Ward Keeper from Feb.72 and for several months. The petitioner has been retained for several years without holding any suitability test. Viz. True statement of facts is reflected on page 16 of the affidavit and copy of extract of Rules Appendix B.

page 16 - That in 1973 or 1974 the scales of Ministerial and non ministerial post were revised. The scale of senior clerk in Ministerial cadre was fixed as Rs. 220/- - Rs. 15/- - Rs. 500/- and the scale of Ward Keeper in non ministerial cadre was fixed as Rs. 420/- - Rs. 15/- - Rs. 360/- - Rs. 20/- - Rs. 600/-.

page 17 - That the pay revision in 1973 or 1974 giving higher scales with better prospect and avenues in non ministerial cadre attracted various employees of the ministerial cadre to opt for non ministerial cadre.

further on 1976 and 1977 a large number of employees of the non ministerial cadre were about to retire which attracted various senior clerks of the ministerial cadre to opt for the non ministerial cadre as prospects of quick promotion were brighter in non ministerial cadre.

page 18 - The consequential revised pay scales and better promotional avenues senior clerks of non ministerial

Clerks from ministerial cadre opted for Yard Keeper in non ministerial cadre in 1976 and onwards in large numbers. The proposal inviting option by Annexure No.2 dated 18.6.72 had expired on 3.7.72 the date of contemplated suitability test. No other order requiring option analogous to Annexure No.1 was issued and option from ministerial cadre to non ministerial cadre accepted after expiry of period stated in Annexure No.2 was held. "a per Annexure No.1 all Store Delivery Clerks were under compulsion to join the non ministerial cadre and appear in suitability test contemplated on 3.7.72 but Store Delivery Clerks wrongly continued to work on the Ministerial side to earn benefits of travelling allowances and halting allowances and became debarred for consideration on non ministerial side."

Para 10 - That frpm 1972 to 1979 several suitability tests were held for the post of Yard Keepers and tests were held particularly on 7.1.77, 18.6.77, 19.7.77, 22.9.77, 18.10.77 and 31.1.78 and senior clerks on Store Delivery Clerks opting for non ministerial cadre several years after the option by minister were invited for suitability tests

and were allowed to become Ward Keepers and enjoy prompti-  
nances with promotions as detailed by parae 26 & 27.

The petitioner serving as Ward Keeper from 3.6.72 was not  
called for and was not allowed to appear in the suitability  
test in the above mentioned tests on grounds that the  
petitioner by rendering services as a Ward Keeper for  
years together without complaint has been deemed to be  
suitable for the post of Ward Keeper without suitability  
test.

Para 30 - That the petitioner protested at the  
series of Ministerial staff opting for Ward Keeper long  
after posting of the petitioner as Ward Keeper and  
allowing others to qualify the suitability test and be  
made senior to the petitioner who was serving as Ward  
Keeper from 3.6.72 and was not allowed to appear in suitability  
test and continuously suffered by blockage of pro-  
fessional avenues.

Para 31 - That at the continuous protest by the  
petitioner he was allowed to appear in the suitability test  
for Ward Keeper on 30.3.79 after having served as the  
Ward Keeper for nearly eight years without any complaint  
and the petitioner qualified the suitability test bica-

Annexure No.5. The case of seniority of the petitioner was wrongly not considered from original posting as Ward Keeper in 1972.

Para 32 - That the petitioner opting for Ward Keeper in terms of Annexure No.2 and serving as Ward Keeper from 5.6.72 as per Annexure No.2 ought to have been placed through the suitability test in the first batch and retained maintaining seniority with all others that qualified in the suitability test after the first batch of suitability test wherein the petitioner ought to have been tested.

Para 33 - That on 31.3.81 True Copy Annexure No.2 and on 31.10.1981 True copy Annexure no.7 various Ward Keepers were offered to appear for written test for promotion to the post of Depot Store Keeper from the post of Ward Keeper. The petitioner was always prepared to appear in the written test which was not held. The name of the petitioner is at serial No.31 Annexure No.6.2. The said list Annexure No.6.2 had been drawn up without maintaining the seniority in joining in the non ministerial posts as Ward Keepers. Various employees out of the said list Annexure No.6.2 and various other staff who had joined as Ward Keeper much later by the petitioner and who

junior to the petitioner in the post of Ward Keeper were arbitrarily promoted on 1.3.72 Grade III and 1.5.72 Grade II and the petitioner serving as Ward Keeper from 1.3.72 had been compelled to remain as "Ward Keeper from 1.3.72 till this date inspite of passage of ten years.

Para 14 - That the petitioner joining and serving as Ward Keeper from 1.3.72 and was not allowed to appear in suitability test till March 1979 and the intervening period was utilized by taking suitability test of clerks and the Store Delivery Clerks and they are posted as Ward Keeper and made senior to the petitioner though the petitioner is much senior to them in the post of Ward Keeper.

Para 15 - That seniority list has to be determined with reference to posting in the non ministerial side as Ward Keeper which is a different cadre, different grade with different promotional avenues from the clerical side or the ministerial side. The said list has not been drawn up by the opposite parties.

Para 16 - That staff from the ministerial side joining the non ministerial side long after the petitioner joining the non ministerial side and been made senior

to the petitioners. Shri Bhagwati Prasad Khare, Shri Hirachand Singh (now retired) Shri B.N. Venkates, Shri K.L. Ganeshram, Shri Brij Bhawan Khare, Shri C.K. Venkates now retired were all store delivery Clerks on 1.6.72 on the ministerial side when the petitioner joined as Ward Keeper (Vidhan Annexe No.3) and had opted for non ministerial side as Ward Keeper in 1977 and afterwards was allowed to appear in suitability test and was made Ward Keeper in 1977 and after 1977 and they had received two promotions and had been promoted D.O.M. II IInd and subsequently promoted D.O.M. IInd which posts they are now holding and they are now senior to the petitioner by two steps. The said persons were also allowed to appear in written test for next promotion as D.O.M. II IInd. The petitioner serving as Ward Keeper from 1.6.72 was not allowed to sit in the suitability tests for nearly eight years and was kept stagnated as Ward Keeper. Shree Raghuveer Ahmed had opted and was posted as Ward Keeper in May 1972 only a few days prior to the posting of the petitioner as Ward Keeper and was allowed to appear in the suitability test in the first batch and was promoted twice and is now D.O.M. II senior

to the petitioner by the steps. Three Rashid Ahang Khan also enjoyed the promotional ladder ten for promotion as D.G.C. tilld without test.

Page 27 - That the petitioner opted for non-ministerial side and was posted as Ward Keeper from 1.6.72 and is still stagnated as Ward Keeper after ten years. The post of Ward Keeper is a different cadre & different grade and has different promotional avenue and the petitioner opting for the said cadre on 1st June 1972 stands stagnated. Sri S.S. Basu, "Sri Uday Bihari Singh, Sri Radhey Shyam, Tewari, "Sri R.L. Lal Sri Bishnu Prasad Kher, "Sri R.C. Pukarji, Sri R.N. Singh, Sri R.C. Saxena, Sri R.P. Dass, Sri R.P. Singh, "Sri Bhagwati Sahai Saxena, "Sri Durshen Singh, "Sri Radhey Shyam Saxena, Sri R.C. Tandon, Sri R.M. Sahni, "Sri Jagdish Prasad, "Sri Bishwanath Prasad Singh, "Sri R.L. Sahani now retired, Sri S.S.L. Saxena opted for Ward Keeper on the Non Ministerial side several years after the petitioner joining as Ward Keeper on 1st June 1972. The said persons opted in 1977 and in subsequent years and were placed in the suitability test in 1977 and now are

and were made Ward Keeper and were subsequently promoted to the post of DSC.III and was but senior to the petitioner by one step. The petitioner was serving as Ward Keeper from period prior to the opting in of the new forensic staff as Ward Keeper and the petitioner was not allowed to appear in the suitability test for nearly eight years and was kept stagnated as Ward Keeper. Rest of the above persons had been promoted to DSC.III with or without written test. Three DSC. Was failed in the written test and two promoted as DSC.III. The said written test was only held in 1978 prior to holding the suitability test of the petitioner as Ward Keeper in March 1979.

Page 28 - That there is no option to join the ministerial side from the non ministerial side. "I" Name hath been joining as Ward Keeper long after the petitioner joining as Ward Keeper was wrongly allowed to revert back to the ministerial staff side and being junior to the petitioner as Ward Keeper had been given separate promotions and has been as Head Clerk much senior to the petitioner.

Page 29 - That the petitioner was not allowed to appear in the suitability test as Ward Keeper in the

first batch or in the various subsequent batches and was kept stagnated as Ward Keeper from 1.6.72 and the petitioner was debarred from the promotional avenues to DK.III and DK.II. The petit one being aggrieved had also filed a representation before the opposite parties true copy of which is Annexure No.1 but the opposite parties have not considered the seniority of the petitioner.

Para 30 - That the post of Ward Keeper on the non ministerial side being a different post & different grade & different cadre with different promotion avenues from the P.I. interior side and the post of Ward Keeper being based on option of the clerks of the Ministerial side, seniority has to be considered from date of joining as Ward Keeper on the non ministerial side. The petitioner joined as Ward Keeper on 1.6.72 and continues to serve as a Ward Keeper for years together without being allowed to appear in the suitability test. The opposite parties had the discretion to take the suitability test of the petitioner within six months from his name joining as Ward Keeper, or in the alternative the opposite parties had the discretion to take the suitability test of the petitioner at the first batch in 1977 or in the alternative

the opposite parties had the discretion to waive the suitability test of the petitioner on grounds that the petitioner having served as Ward Keeper without any complaint for years together has been deemed to be suitable by actual practical working or in the alternative the opposite parties had the discretion to send back the petitioner to the ministerial side as Clerk within six months from the date of posting as Ward Keeper from 1.6.78. "But the opposite parties did not exercise any of the above dispositions and placed the petitioner at a disadvantage by designating the petitioner as a Ward Keeper by taking service for years together as Ward Keeper and by considering his unqualified as Ward Keeper as not having passed the suitability test in which the petitioner was not allowed to appear. The petitioner was not allowed in the suitability test for years together and his professional avenues were blocked. The petitioner could not avail the opportunity to appear in the written test which was held unope in 1978 for promotion to DSC.III, and ministerial clerks got filled at parrot 16 above joining long after the posting of the petitioner as Ward Keeper availed the opportunity of written test that were promoted to DSC.III and were

subsequently promoted to DSA.III and became senior to the petitioner by two steps. Ministerial clerks detailed at para 37 above similarly had an advantage over the petitioner Clerks Ministerial staff mentioned by paras 16 and 17 above joined as Ward Keeper several years after joining the petitioner as Ward Keeper on 1.6.72 were allowed to appear in the suitability test and obtain the next promotion to DSA.III. and DSA.IInd. but the petitioner was stagnated as Ward Keeper from 1.6.72 though he was first to opt for the post of Wards Keeper and the said stagnation had taken place by not allowing the petitioner in appearing in the suitability test for nearly eight years and allowing the petitioner to work as Ward Keeper without complaint from 1.6.72 as caberring the petitioner from appearing in subsequent promotional avenues.

Para 31 - That the petitioner is the senior next to all the parties mentioned by paras 16 & 17 above. The petitioner was earliest to opt for non ministerial side as Ward Keeper on 1.6.72 and has been placed last by the opposite parties in promotional avenues of the petitioner. The opposite parties have not drawn up any seniority list considering the date of opting

joining and posting in the non ministerial service.

The change of cadre involved drawing up a new seniority

list of the changed cadre which has not been drawn up.

Annexure No. 2 & 3 speak of promotion to non ministerial

side as the guiding principle laid by Annexure No. 1

and Annexure No. 2 had been ignored. The petitioner

had been discriminated and juniors to the petitioner

have become seniors by several steps. As per Annexure

No. 2 petitioner ought to have been confirmed as Ward

Keeper long ago and petitioner being of back ward cadre

has been deprived of the benefits.

Para 32 - That the opposite parties have also

ignored the representation of the petitioner being

Annexure No. 2 and aggrieved against which this writ

petition is being preferred on the following amongst

other grounds:-

#### Grounds

1. Because the petitioner has been discriminated  
with respect to his juniors and seniors and his service  
conditions have been unfairly affected.

2. Because the post of Ward Keeper being a progres-  
sional post of different cadres different grades and with

different promotional avenues the seniority list ought to have been drawn up in accordance with the promotion and posting as Ward Keeper which had not been drawn up.

3. Because various juniors to the petitioner had been made senior to the petitioner.

4. Because the service conditions of the petitioner had been seriously affected by not allowing the petitioner to appear in the suitability test for nearly eight years while keeping the petitioner posted and serving as Ward Keeper for over eight years without any complaints.

5. Because the petitioner was illegally held up and was not allowed to appear in the suitability test in the first batch and in various other subsequent batches wherein staff joined as Ward Keepers at later stages than the petitioner were allowed to appear and become senior to the petitioner.

6. Because as per rule the petitioner ought not to be retained as Ward Keeper without suitability test for a period exceeding six months.

7. Because as per rule the petitioner ought to have been confirmed as a Ward Keeper within two years of his joining as Ward Keeper.

8. Because staff from the ministerial side not having opted for post of Ward Keeper within the stipulated period was not entitled to be made Ward Keeper while in spring the petitioner without suitability to sit on without promotional avenues.

9. Because the petitioner had been designated in the post of Ward Keeper by blockage of promotion eleven. In the absence of any complaint in discharge of duty as a Ward Keeper for over ten years

REMARKS

Respectfully pray-

That a writ of mandamus of suitable writ or direction befitting the circumstances of the case be please passed commanding the defendant to draw up a seniority list with respect to posting of the post in the new cadre of Ward Keeper on the non Ministerial side allowing all other consequential benefits in salary and increments and the other emoluments and promotional avenues in accordance to the seniority of the petitioner who is made senior to all juniors who are not senior to the

petitioner in joining the new code.

And cost of the proceedings be please awarded.

And such other suitable relief be please awarded  
or passed as be deemed fit and proper in the circum-  
stances of the case.

Yours now

Counsel for the petitioner.

Dated 27-3-1983

Before the Hon'ble High Court of Judicature at Allahabad,  
(Lucknow Bench), Lucknow.

Writ petition No. of 1950

Under Article 226 of the Constitution

origin Lucknow.

Majibul Haq Aasri \*\*\* Petitioner.

Versus

The Union of India through the General Manager

Railway Board, Rd. 1 Shaujanpuri New Delhi and

others \*\*\*

Opposite party.

Affidavit

I, Majibul Haq Aasri aged about 63 years s/o late  
Mr. Rohit, Ahmed resident of quarter No. 106/Type III  
Talukdars Road, Almora, Lucknow, at present posted as  
Ward Keeper at Northern Railway, Churagh, office of the  
District Controller of Stores, Churagh, Lucknow, under  
the Deputy Controller of Stores, Almora, Lucknow, do  
hereby solemnly affirm and state on oath as under :-

1. That the contents of para 1 to 32 of the annexed  
writ petition are true to my personal knowledge.

2. That the contents of annexure No. 1 to No. 9  
 annexed to the writ petition are true to my personal  
 knowledge compared and verified from the original by the  
 deponent.

Lucknow

Dated 22.8.1983

Deponent.

Swifification

I the deponent above named do hereby solemnly  
 verify that the contents of para No.1 and 2 above are  
 true to my personal knowledge, and no part of it is  
 false and nothing material has been concealed. So help  
 me God.

Signed and verified in the High Court of UP at  
 Lucknow this 22nd day of August 1983.

Lucknow dated 22.8.1983

Deponent.

Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench) Lucknow

writ petition No. of 1963

Rajibul Haq Ansari \*\*\* petitioner

Various

The Union of India and others \*\*\* Opposite party

ANNEXURE NO.1

NORTHERN RAILWAY  
BY-CONTROLLER OF STORES OFFICE, ALAMGANJ/LUCKNOW

Office Order No. 4/362 Dated 21.11.1975

The following provisional confirmations are ordered:

1. Shri Jagti Nath "Bunia" is confirmed as ADSE in grade No. 455-700 w.e.f. from 1.9.75
2. Shri A.N. Singh - do - 1.10.75
3. Shri C.D. Pandey - do - 1.11.75
4. Shri V.K. Srivastava Jr. Clerk 330-560 1.9.75
5. Shri Shri Rajibul Haq - do - 1.10.75
6. Shri Daud Lal - do - - do -
7. Shri B.L. Ram Nath Tripathi - do - 1.11.75

Sd.  
for By-Controller of Stores  
N. Rly. Almagh/Lucknow.

Copy to: the following for information

1. U.A.O./ARU
- 2) A.C.O./YTS
3. CIC/BSL
4. Parties concerned.

Sd.  
for By-Controller of Stores  
N. Rly. Almagh, Lucknow.

Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench) Lucknow.

Writ petition No. ....

of 1972

Nojibul Haq Ansari \*\*\* Petitioner  
Versus  
The Union of India & others \*\*\* Opposite party

ANSWER NO. 1

NORTHERN RAILWAY  
DISTRICT CONTROLLER OF STORES OFFICE,  
ALAMBAGH, LUCKNOW.

NOTICE NO. 300-C

Dated 15.6.72

.....

In terms of para (ii) of Railway Board's Letter No. 2165 Dated 21.3.72, those grade Rs.130-300 are required to exercise an option to seek their further avenue of promotion either on the non-ministerial side or on Ministerial side within one year of their promotion. The absorptions to Ministerial/Non-Ministerial side are to be made on the basis of the option. Further options are to be exercised on the specific understanding that the option once exercised will be final as no change will be permissible afterwards.

As regards Store Delivery Clerks grade Rs.130-300, they have no chance to opt for Ministerial sides and have to seek promotion on Non-Ministerial side as Ward-keeper in grade Rs. 310-300.

It has been decided to hold a suitability test for the post of Ward-keeper in grade Rs.310-300 at 10-00 hours on 3.7.72. Lists of clerks grade Rs. 130-300 and S.O. Clerks grade Rs.130-300 have been made out. The persons who have already opted either for Ministerial or Non-Ministerial sides have been shown in a separate list. The persons who are at present officiating as Ward-keeper without passing the test will also have to appear in the suitability test on 3.7.1972. Their list has also been prepared separately.

Therefore Senior Clerks grade Rs. 130-300 are required to submit option to test, action by 20.6.72 for their future avenue of promotion in Non-Ministerial or Ministerial side by 20.6.72 as Ward-keeper or Head Clerk.

The persons who fail to submit their option for any reason by 20.6.72 will not be allowed to appear in the test of Ward-keeper going to be held on 3.7.72 and their juniors by virtue of their option and passing suitability test thereafter when promoted get as Ward-keeper will rank senior to them for future promotion in higher grade. It should be clearly understood that for seeking promotion in Non-Ministerial side or Ministerial side option is compulsory.

Yours,

District Controller of Stores,  
Alambagh, Lucknow 14.6.72.

List of offg. Verdanspere who are at present officiating as  
UK and are required to appear in the suitability test.

\* \* \* \* \*

~~Names~~

Akshay Singh

P.L. Sodhi

Baghind Ahmed

R.M. Singh Verma

P.L. Das

P.L. Ralte

M.L. Gehnd

Naibul Rao

\* \* \* \* \*

Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench) Lucknow.

Writ petition No. of 1968

Najibul Haq Ansari	... various	Petitioner
The Union of India & others	...	Opposite parties

ANNUAL NO. 3

Northern Railways

Office Order No. L/1968

Dated 3.6.72

\*\*\*

With immediate effect, Shri Nasibul Haq Dr. Clerk/27/ANR who has given his willingness for promotion to non-ministerial cadre and has also deposited security money in the shape of officially guaranteed bond to be appointed to office as Ward Keeper on pay Rs. 184/- plus 20/- (or) P.M. in scale Rs. 810-300(A3) and posted at C.T. Depot Kanpur when Shri Raj Baisan was reported sick. The promotion of Shri Nasibul Haq is purely provisional and subject arrangement and local arrangement and will not confer upon him any claim for such promotion in future in preference to his seniors or qualified persons for the post of Ward Keeper.

Yours, Controller of Stores  
Almora, Lucknow

Copy to the following for information & necessary action.

1. Officer (U) ANV & AGO.
2. Collector/Ex. of Deputy Kanpur
3. D.O.C. & I/ANR
4. R.C. & Billing, Leave and Pass/ANR
5. Shri Nasibul Haq.

Sd.  
Yours, Controller of Stores  
Almora, Lucknow

Before the Hon'ble High Court of Judicature at Allahabad  
(the new Bench) the date

Writ petition No.

of 1952

Mujibul Haq Ansari ... Petitioner  
Versus  
The Union of India and others Opposite party

ANSWER No. 4

Extract from Radiant Establishment rules and labour laws  
by Sri G.S. Raina at page 109 also arranged

\*\*\*\*\*

Normally the suspended employee should be appointed  
against the selection posts, but in case there is no  
panelled employee is available or it becomes inevitable  
to make local arrangement, it should be made for as short  
a period as possible, but not more than three months.  
For periods exceeding three months, it should be with  
Central's "written or oral" specific sanction. (S.O.'s  
No. 5(8) 1-72-171/227 of 31.10.72, R.O. No. 8775) and  
5(8) 1-72-171/227 of 31.10.72 R.O. No. 8822. In making  
such other arrangements, the claims of seniority should be  
given full consideration and it should be ensured that such  
other promotees are comparatively senior men. The other  
promotees must be from within the list of men in order of  
seniority. Keeping this time the number of other  
promotees. The fact that such other local arrangement  
has been made should be forthwith brought to the notice of  
the Head of Department or the Chief Personnel Officers  
who will bring it to the notice of the Central Manager  
in the particular Heads of the department meeting.

The senior most person available in the post (1)

-2-

unit should normally be promoted in the above arrangements unless the authority ordering the promotion consider this unavoidable. Exceptions may be made in cases where change of station is involved and short term promotion involving transfer is not required e. (R.A.'s No. 4. (B.G.) 1-73 para 229 of 20.2.74 (R.A.'s No. 6105).

Where transfers on promotion are not carried out for 3 months the authority next higher to that which issued the transfer orders should carry out a review. Such review should be made without fail on account of not putting a disadvantageous position their juniors on account of delay in effecting transfer on promotion (R.A.'s No. 6105) 1-77 para 117 of 20.10.77 (R.A. No. 6106).

All cases of 1st 1 school arrangement which are likely to continue beyond three months must be reviewed by the D.O.M.S.(U.S.) (in case of R.A. controlled posts) personally and if any such offending arrangements in higher grades are continued for over the six months, the matter must be referred to R.A. and will be put up to S.M. (R.A. Letter No. 631 1/63/2/11 (CIV) of 13.12.77 (R.A. 6105)).

Even if the selection cannot be finalized for any reason, the above promoted must be put through a selection with the first batch are retained in higher post only if they pass the written test and are considered suitable for the selection post so that they will be no occasion for replacing them by any junior not selected later. The promoted should not be posted in higher posts beyond 18 months, unless they have, in the meantime qualified in the tests. (R.A.'s no. 1(65) 1-68 para 1/200 of 4.11.70 (R.A. 6105)).

While making other promotions pending elections the duration of which is 45 days or more the reserved vacancies may be filled by senior most suitable Schedule Caste/ Schedule Tribe candidates who are in ninth field of consideration and are likely to be considered by the selection board when regular arrangements are finally made. (R.O's no. 5101) as on 15/12 of 1962-71 (R.O. no. 5027) .

Similarly in the case of posts filled on the basis of seniority-suitability whenever other promotion is made the order regarding reservation of vacancies in favour of Schedule Caste and Schedule Tribes should be observed (R.O's no. 5101 as on 15/12 dated 6.12.71 as in 6101).

The other promotions should not be made to fill up the class III posts and not as direct recruitment posts. In case the persons against direct recruitment posts are not forthcoming and the posts have to be filled up urgently, these should be filled up after holding regular selection out of class four staffs. In case such selection exceed the promotion quota, the Board may be approached giving full justification for filling up such posts in excess of the promotion quota (R.O's no. 6 (Encl) 1/81C/71 as on 1.3.71 (R.R. no. 7790) .

Page 262 (4) The promotion of an employee to a vacancy in a higher grade selection post according to his panel position whether or not leaves arrangements, deputation or temporary transfer of another employee vacating the post. Irrespective of the period involved should be treated as consecutive and such an employee should not be required to reappear in a subsequent selection for the same post. It is therefore not

-4-

essential that he should have been promoted against a longer vacancy.

(5) If a junior person has officiated against a non-contiguous vacancy, he is also entitled to protection in case he happens to be the next rightful junior and not otherwise even though he is senior to him in the panel but not officiating also gets protection. On the other hand if the senior person has not officiated for reasons of his own this implies that he has refused promotion in such a case, next junior person is the rightful person to be promoted as there is no question of treating him as junior, (R.S.'s nos. "146" of 20/1/61 & 9.3.65) (R.R. "No. 311").

\*\*\*\*\*

Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench), Lucknow.

Unit petition No. 1000

Re Jibul Nag & others ... petitioner  
Various  
The Union of India & others ... opposite party

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### Architects' Library

Office order No. 4/180 Dated 25-4-1979.

As a result of suitability test held on 8/17/79 for the post of Ward Keeper in Grade No. 425-600 (R) the following employees are declared suitable for promotion to the post of Ward Keeper in Grade No. 425-600.

1. Sri B. S. Singh	Officer/ARV. (7)	Sri R. K. Singh	Officer/ARV.
2. Sri R. K. Gupta	Officer/ARV/CDL/CDL(1)	Sri C. S. Singh	Officer/ARV
3. Sri J. S. Tandon	Sri. Iyer/ARV (9)	Sri Hafizul Haq	Officer/CDL
4. Sri R. K. S. S.	Officer/ARV/CDL	(10) Sri Ranbir Lal	Officer/ARV
5. Sri R. L. Paul	Officer/ARV. (11)	Sri Sunil Tripathi	Officer/ARV
6. Sri C. S. Singh	Officer/ARV/CDL/CDL(12)	Sri R. S. Dagar	Officer/ARV

They should submit their option for seeking advancement in the ~~the~~ ~~other~~ side (non ministerial Party keeping group) understanding fully that they will not be welcomed for promotion to ministerial side.

Ed. M. R.  
By: Controller of Stores  
R. M. J. Almabagh, Lucknow

Copy to the following for information:

6. 评估工具：对数据的分析。

Mr. R. M. M.  
by Controller of Stamps.

37. Raj Bangle Pds.  
38. Ram Gehari Ram  
39. Sudhir Pds  
40. S. S. Chahay  
41. T. G. Daga  
42. Santal Lal  
43. Rattu Chand  
44. Gyan Chand

UK/DSL/CD  
RE.  
UK/ARV  
UK/ARV  
UK/CDR  
UK/ARV  
UK/VTB  
UK/ARV/CDR

Sub. Selection for the post of UK/III Grade 4,600-700(Rs.)

The written test for the selection of UK/III grade 4,600-700(Rs.) scheduled to be held in this office on 17.7.81 was postponed and the same is now rescheduled to be held on 19.10.81 at 10.00 hrs. in this office. You are therefore informed to appear in the test in your pen and pencil. The answer books will however be supplied by this office. In case you are not willing to appear in the selection, you should furnish your unconditional written refusal which should reach this office latest by 10.9.81.

You are required to acknowledge receipt of this letter on the form enclosed.

Sd/  
By, Controller of Stores  
Almora, Lucknow.

Copy to the following:-

1. The Director (Stores) Room No. 114 (R.S.C.) Almora, First Floor, Rail Bhawan, New Delhi. He will please arrange to send the Charan "or Gehari Lal" to enable him to appear in the above selection on 19.7.81.
2. The Chief Cooper(AC) Allahabad. He is requested to send Sh. S. S. Daga to enable him to attend the above selection in this office on 19.10.81.
3. The S.C.A./CDR, DSC/CDR, CT/CDR & all C.V.M. "posts and all section Incharge ARV. They are requested to send the staff under them to enable them to attend the selection on 19.10.81.
4. The S.A. (C) ARV. He will make necessary existing arrangements for the selection and provide answer books. Received letter Nos. 190-R dated 6.7.81 and 12.9.81.

Signature of the Section Head      Signature of the employee

Page

Dated

Dated

Shri J. C. Chaudhary,  
President NTR. Building No-26, Lake Road,  
Mysore, (Karnataka)

\*\*\*\*\*

Copy of My. Board's letter No. E(AD)-L-90246/31 dated  
6.1.72 from Shri Gurukha Dasa Asst. Director, Batt. Ry.  
Board to The Genl. Manager, "11 Indian Railways, & Others,

sub: Confirmation of staff officiating in higher grades

In continuation to the instructions contained in letter of  
even number dated 1.1.71 the Board desire that the cases  
of staff who have been promoted on regular basis should  
be reviewed after completion of one year's continuous  
offc. service, even if a permanent vacancy does not exist  
with a view to determining their suitability for retention  
in the grade. The review should be completed early and a  
decision to continue the employee in the offc. post or  
revert him, taken and implemented within a period of 18  
months of offc. service. Having followed this procedure  
there should be no question of denying the benefits of  
confirmation to an employee on completion of 2 yrs. offc.  
service in a clear permanent vacancy for reason that he is  
not fit for continuation.

Please acknowledge receipt.

Before the Hon'ble High Court  
of Judicature  
(at Allahabad)

— Lucknow Bench

— Lucknow  
W. P. 5189/83  
Filed



20407 ✓ B.S.  
Najibul Haq Ansari

— Petitioner

Union <sup>VS</sup> of India — O. P.

Humbly Submitted:

(1) That there being no standing  
counsel of N. R. copies could not  
be delivered. Four copies of w.p.  
and Two Regd envelopes. complete  
steps are filed herewith.

Prayer

Respectfully prayed  
that delay be please  
condoned and steps  
accepted

S. M. A. A. 4

Dt. 21/12/83

21/12/83

Najibul Haq Ansari

18-11-83

21-12-83

Before the Hon'ble High Court of Judicature at Allahabad  
(Luck now Benjh), Luck now.

Writ petition No. of 1983

Under Article 226 of the Constitution.

Najibul Haq \*\*\* Petitioner

Versus

The Union of India & another .. Opposite partie

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2. ANNEAURE NO. II , Railway Order dated 16.6.72 for option and promotion as Ward Keeper Page 27 & 28
3. ANNEAURE NO. III - Order dated 5.6.72 for appointment as Ward Keeper Page 29
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5. ANNEAURE NO. 5 - Order dated 20.4.79 declaring suitability result Page 34
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pet. no.

Before the Hon'ble High court of Judicature at Allahabad  
(Lucknow Bench) Lucknow.

First petition No.

of 1960.

Under Article 326 of the Constitution  
Origin Lucknow.

Nojibul Haq Ansari aged about 65 years son of Late  
Sri Mohamed Khan resident of quarter No. 1 of Type III  
Tinkora Road, Lucknow, Lucknow, at present posted as  
ward keeper at Northern Railway, Charbagh, Office of the  
District Controller of Stores, Charbagh, Lucknow, under the  
Deputy Controller of Stores, Almabagh, Lucknow.

..... petitioner

versus

1. The Union of India through the General Manager  
Railway Board, Lalul Shahn, Kharanah "G" Delhi.
2. The Deputy Controller of Stores, Northern Railway  
Office of the Deputy Controller of Stores at  
Almabagh, Lucknow.

... Opposite parties

-3-

Urge petition under Article 216 of the Constitution

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It is humbly submitted:

Para.1/ That the petitioner joined the Railway services on 16.1.1964 and was posted under the Deputy Controller of Stores at Almora, Lucknow, (Formerly known as District Controller of Stores) and is still posted at Lucknow, under the Deputy Controller of Stores at Almora, Lucknow. The appointment was through the Public Service Commission. The initial appointment was as a clerk on the ministerial side.

Para.2/ That the petitioner qualified in the suitability test and was promoted as a Clerk Grade First Ministerial side on 31.12.1970.

Para.3.- That the petitioner by order dated 31.12.1975 was confirmed in his post as Senior Clerk Grade First Ministerial side with effect from 1.10.75. The seniority of the petitioner on the ministerial side is detailed by order dated 31.12.1975, True copy of which is ANNEXURE NO.1.

Para.4.- That the appointment of 4 : clerks are to the places initially on the Ministerial side as Clerk and the positions as clerk grade I and II thereafter as

senior clerk grade I/II. Clerks from the Ministerial side can opt for non ministerial side but clerks from the non Ministerial side cannot opt for the ministerial side. The staff of the non ministerial side deals with materials. The Ministerial side and the non ministerial side are different classes and different grades and have different promotional avenues as under:-

<u>Ministerial</u>	<u>Non Ministerial</u>
Senior Clerk	Word Keeper
Store Delivery Clerk	Depot Store Keeper III
Head Clerk	Depot Store Keeper II
Assistant Superintendent	Depot Store Keeper I/II
Office Superintendent	Senior Depot Store Keeper
Asstt. Controller of Stores.	Asstt. Controller of Stores

Two or three days ago an order has been passed renaming Word Keepers as Assistant Store Keeper with revised pay scale of Rs. 400/- + 15/- + 550/- 80/- = Rs. 700/- and the post of D.S.K. IIIrd has been abolished and juniors posted as D.S.K. III shall become Assistant Store Keeper and seniors D.S.K. III shall

become D.C.W. II as upgraded. Copy of the said order could not be obtained and date of order is not known.

Para 5 - That the post of Ward Keeper on the non-ministerial side is that of supervisor of stores to receive and issue stores to us. Its function is that of Store Keeper and the Ward Keeper is responsible for shortages and excess in stores.

Para 6 - That in the month of May 1972 the D.C.W. (then known as District Controller of Stores) invited options from the senior clerks of Ministerial side for option on a different cadre and a different grade on Non Ministerial side as Ward Keeper. The grade of senior clerk and Ward Keeper in 1972 was slightly different but senior clerks had same allowances as travelling allowances for performing the duty of Stores Delivery Clerk from one Railway Station to another Railway station. The senior clerks did not prefer to opt for non-ministerial side.

Para 7 - That the D.C.W. "G-2 (then known as District Controller of Stores) by order dated 15.4.72 called for option and suitability bid. Bids to be held

By the said order Annexure No. 2 (Para 8) & 11 Stores

Delivery clerks have to seek promotion on non ministerial side as Ward Keeper.

Para 8 - That in pursuance to Annexure No. 2, very few senior clerks opted for post of Ward Keeper on non ministerial side and most of the stores Delivery Clerks who had no option on the ministerial side continued to serve on the ministerial side and did not join the post of Ward Keeper.

Para 9 - That the petitioner had opted for the non ministerial side for the post of Ward Keeper in 1972 in the then grade of Rs. 310/- to Rs. 320/-, The grade of senior clerk in 1972 was Rs. 130/- - 300/-.

Para 10 - That most of the staff of the ministerial side and most of the stores delivery clerks including the names listed at para 16 and 17 did not opt for non ministerial side and eventually became debarred for non ministerial side. There were better enclosures in Travelling allowances on the ministerial side on the post of Ward Keeper as store-in-charge.

Para 11 - That the petitioner has opted for the non ministerial side and was posted as Ward Keeper from

5.6.73 by posting order True copy of which is annexure No.3 and the petitioner is still serving as Ward Keeper from 5.6.73 till this date on the non ministerial cadre with blockage of all promotional avenues.

Para 12 - That no requisite number of options for non ministerial cadre in pursuance to ~~Annexure No.3~~ was not available in 1972 the contemplated suitability test as scheduled on 2.7.72 was cancelled.

Para 13 - That no pursuant to posting order Annexure No.3 the petitioner continued to serve as Guard Keeper from 5.6.73 till this date. During this period of posting as Ward Keeper from 5.6.73 till this date the petitioner had never been charge sheeted nor suspended and there was no complaint.

Para 14 - That the contemplated test mentioned in Annexure No.3 is suitability test for para no option for non ministerial cadre. There was no contemplated written test for selection test. Due to lack of sufficient para no option for non ministerial cadre the contemplated suitability test fixed on 2.7.72 was cancelled and the petitioner continued to serve as Ward Keeper.

Para 15 - That under rule which posting could not

be retained for period beyond six months and the petitioner  
was retained as Ward Keeper from 5.6.73 and for several  
years without holding any suitability test. Vice True  
copy of extract of Rules Annexure B.

para 16 - That in 1973 or 1974 the scales of  
ministerial and non ministerial post were revised. The  
scale of senior clerk in ministerial scale became  
Rs. 300/- - Rs. 15/- - Rs. 500/- and the scale of Ward  
Keeper in non ministerial cadre was fixed as Rs. 400/-  
- Rs. 15/- - Rs. 500/- - Rs. 20/- - Rs. 600/-

para 17 - That the pay revision in 1973 or 1974  
giving higher scales with better prospect and avenues  
in non ministerial cadre attracted various employees of the  
ministerial cadre to opt for non ministerial cadre.  
Further in 1976 and 1977 a large number of employees  
of the non ministerial cadre were about to retire which  
attracted various senior clerks of the ministerial cadre  
to opt for the non ministerial cadre as prospects of  
further promotion were brighter in non ministerial cadre.

para 18 - The consequential revised pay scales and  
better promotional avenues senior clerks of State deliver

Clerks from ministerial cadre opted for Ward Keeper in non ministerial cadre i.e 1976 and onwards in large numbers. The proposal inviting option by Anosaura Naik dated 16.6.72 had expired on 3.7.72 the date of contemplated suitability test. No other order requiring options analogous to Anosaura Naik was issued and option from ministerial cadre to non ministerial cadre accepted after expiry of period stated in Anosaura Naik was held. "As per Anosaura Naik all Stores Delivery Clerks were under compulsion to join the non ministerial cadre and appear in suitability test contemplated on 3.7.72 but Stores Delivery Clerks wrongly continued to work on the ministerial side to earn benefits of travelling allowances and halting allowances and became debarred for consideration on non ministerial side.

Para 19 - That from 1973 to 1979 several suitability tests were held for the post of Ward Keeper and tests were held particularly on 7.3.77, 16.6.77, 19.7.77, 26.9.77, 15.10.77 and 31.1.78 and senior clerks and Stores Delivery Clerks opting for non ministerial cadre several years after the option by Anosaura Naik were invited for suitability tests.

and were allowed to become Ward Keepers and enjoy prompt promotion with increments as detailed by para 26 & 27.

The petitioner serving as Ward Keeper from 8.6.72 was not called for and was not allowed to appear in the suitability test in the above mentioned tests on grounds that the petitioner by rendering services as a Ward Keeper for years together without complaint has been deemed to be suitable for the post of Ward Keeper without suitability test.

Para 20. - That the petitioner protested at the service of Ministerial staff opting for Ward Keeper long after posting of the petitioner as Ward Keeper and allowing others to qualify the suitability test and become senior to the petitioner who was serving as Ward Keeper from 8.6.72 and was not allowed to appear in suitability test and continuously suffered by blockage of promotional increments.

Para 21. - That at the continuous protest by the petitioner he was allowed to appear in the suitability test for Ward Keeper on 30.9.79 after having served as the Ward Keeper for nearly eight years without any complaint and the petitioner qualified the suitability test bico

Annexure No.5. The case of seniority of the petitioner was wrongly not considered from original posting as Ward Keeper in 1972.

Para 22 - That the petitioner opting for Ward Keeper in terms of Annexure No.2 and serving as Ward Keeper from 5.6.72 as per Annexure No.1 ought to have been placed through the suitability test in the first batch and retained maintaining seniority with all others that qualified in the suitability test after the first batch of suitability test wherein the petitioner ought to have been tested.

Para 23 - That on 21.3.81 True Copy Annexure No.1 and on 21.12.1981 True copy Annexure No.7 various Ward Keepers were offered to appear for written test for promotion to the post of Depot Stores Keeper from the post of Ward Keeper. The petitioner was always prepared to appear in the written test which was not held. The case of the petitioner is at serial No.31 Annexure No.6&7. The said list Annexure No.6&7 has been drawn up without maintaining the seniority in joining in the non ministerial cadre as Ward Keeper. Various employees out of the said list Annexure No.6&7 and various other staff who had joined as Ward Keeper much later to the petitioner and are

junior to the petitioner in the post of Yard Keeper were arbitrarily promoted as D.S.C. Grade III and D.S.C. Grade II and the petitioner serving as Yard Keeper from 1.3.72 had been compelled to remain as Yard Keeper from 1.3.72 till this date inspite of passage of ten years.

Para 14 - That the petitioner joining and serving as Yard Keeper from 1.3.72 and was not allowed to appear in suitability test till March 1979 and the intervening period was utilised by taking suitability test of clerks and the Store Delivery Clerks and they are posted as Yard Keepers and made senior to the petitioner though the petitioner is much senior to them in the post of Yard Keeper.

Para 20 - That seniority list has to be determined with reference to posting in the non ministerial side as Yard Keeper which is different cadre, different grade with different promotional avenues from the clerical side or the ministerial side. The said list has not been drawn up by the opposite parties.

Para 26 - That staff from the ministerial side joining the non ministerial side long after the petitioner joining the non ministerial side and been made senior

to the petitioner. Shri Bhagwati Rana, Shri Rana Lal Singh (now retired) Shri S.P. Saini, Shri K.L. Mandiratta, Shri Hari Thakur Khora, Shri P.K. Pande now retired were all store Delivery Clerks on 1.6.72 on the ministerial side when the petitioner joined as Ward Keeper (Vide Annexure No.3) and had opted for non ministerial side as Ward Keeper in 1977 and afterwards only were allowed to appear in suitability test and were made Ward Keepers in 1977 and after 1977 and they had received two promotions and had been promoted D.S.O. 111rd and subsequently promoted D.S.O. 111rd which posts they are now holding and they are now senior to the petitioner by two steps. The said persons were also allowed to appear in written test for next promotion as D.S.O. 111rd. The petitioner serving as Ward Keeper from 1.6.72 was not allowed to sit in the suitability tests for nearly eight years and was kept stagnated as Ward Keeper. Shree Rakesh Ahang had opted and was posted as Ward Keeper in May 1972 only a few days prior to the posting of the petitioner as Ward Keeper and was allowed to appear in the suitability test in the first batch and was promoted twice and is now D.S.O. 11 senior

to the partitions by the steps. Three Rashid Ahmad Khan also enjoyed the promotional testwritten test for promotion as D.G.K. tilld without test.

Page 27 - That the petitioner opted for non-ministerial cadre and was posted as Ward Keeper from 1.6.72 and is still stagnated as Ward Keeper after ten years. The post of Ward Keeper is a different cadre a different grade and has different promotional avenue and the petitioner opting for the said cadre on 1st June 1972 stands stagnated. Sri S.A. Nasim, "Sri Dr. Rajesh Kohli Singh, Sri Raghu Chyan, Tewari, "Sri R.L. Lal, Sri Bhagwan Singh, "Sri R.C. Pukarji, Sri S.N. Singh, Sri S.C. Saxena, Sri S.P. Dass, Sri C.W. Singh, "Sri Jagannath Singh, Sri Bhagwan Singh, "Sri R.C. Tandon, Sri K.N. Behre, "Sri Jagdish Prasad, "Sri Bishwanath Prasad Singh, "Sri R.L. Bahadur now retired, Sri S.B.L. Saxena opted for Ward Keeper on the Non Ministerial cadre several years after the petitioner joining as Ward Keeper on 1st June 1972. The said persons opted in 1977 and in subsequent years and were placed in the suitability test in 1977 and onward

and were made Ward Keeper and were subsequently promoted to the post of Clerk and are not senior to the petitioner by one step. The petitioner was serving as Ward Keeper from period prior to the option in respect of the forensic staff as Ward Keeper and the petitioner was not allowed to appear in the suitability test for nearly eight years and was kept stagnated as Ward Keeper. Most of the above persons had been promoted to Clerk either with or without written test. Three Mr. Dye failed in the written test and was promoted as Clerk. The said written test was only held in 1970 prior to holding the suitability test of the petitioner as Ward Keeper in March 1970.

Para 59 - That there is no option to join the ministerial side from the non ministerial side. The same with joining as Ward Keeper long after the petitioner joining as Ward Keeper was wrongly allowed to revert back to the ministerial staff side and being junior to the petitioner as Ward Keeper had been given repeated promotions and has been as Head Clerk much senior to the petitioner.

Para 60 - That the petitioner is not allowed to appear in the suitability test as Ward Keeper in the

first batch or in the various subsequent batches and was kept stagnated as Ward Keeper from 1972 and the petitioner was debarred from the promotional avenues to D.M.I.I and O.M.I.I. The petit one being aggrieved had also filed a representation before the opposite parties true copy of which is Annexure No.11 but the opposite parties have not considered the seniority of the petitioner.

Para 30 - That the post of Ward Keeper on the non ministerial side be on a different post & different grade & different cadre with different promotions avenues from the Ministerial side and the post of Ward Keeper being based on option of the choices of the Ministerial side, seniority has to be considered from date of joining as Ward Keeper on the non ministerial side. The petitioner joined as Ward Keeper on 1.6.72 and continue to serve as a Ward Keeper for years together without being allowed to appear in the suitability test. The opposite parties had the discretion to take the suitability test of the petitioner within six months from his name joining as Ward Keeper, or in the alternative the opposite parties had the discretion to take the suitability test of the petitioner at the first batch in 1977 or in the alternative

the opposite parties had the discretion to allow the suitability test of the petitioner on grounds that the petitioner having served as Ward Keeper without any complaint for years together has been deemed to be suitable by actual practical working or in the alternative the opposite parties had the discretion to send back the petitioner to the ministerial side as Clerk within six months from the date of posting as Ward Keeper from 1.6.78. But the opposite parties did not exercise any of the above dispositions and placed the petitioner at a disadvantage by designating the petitioner as a Ward Keeper by taking service for years together as Ward Keeper and by considering his unqualified as Ward Keeper as not having passed the suitability test in which the petitioner was not allowed to appear. The petitioner was not allowed in the suitability test for years together and his preferred avenue was blocked. The petitioner could not avail the opportunity to appear in the written test which was held unipos in 1978 for promotion to DK.III, and ministerial clerks got listed at paras 46 above joining long after the posting of the petitioner as Ward Keeper availed the opportunity of written test that were promoted to DK.III and were

subsequently promoted as well and became senior to the petitioner by two steps. Ministerial clerks detailed at para 27 above similarly had an advantage over the petitioner. Clerks Ministerial staff mentioned by para 26 and 27 above joined as Ward Keeper several years after joining the petitioner as Ward Keeper in 1.6.72 were allowed to appear in the suitability test and obtain the next promotion as DK 111. and DK 112. but the petitioner was stagnated as Ward Keeper from 1.6.72 though he was first to opt for the post of Ward Keeper and the said stagnation had taken place by not allowing the petitioner in appearing in the suitability test for nearly eight years and allowing the petitioner to work as Ward Keeper without complaint from 1.6.72 and barring the petitioner from appearing in subsequent promotional avenues.

Para 31 - That the petitioner is the senior next to 41 the parties mentioned by para 26 & 27 above. The petitioner was earliest to opt for non ministerial side as Ward Keeper on 1.6.72 and has been placed last by the opposite parties in promotional avenues of the petitioner. The opposite parties have not drawn up any conflicting list considering the date of opting

joining and posting in the non ministerial cadre.

The change of cadre involved drawing up a new seniority

list of the exchanged cadre which has not been drawn up.

Annexure No. 2 & 3 speak of promotion to non ministerial

cadre and the guiding principles laid by Annexure No. 2

and Annexure No. 3 had been ignored. The petitioner

had been discriminated and juniors to the petitioner

have been as seniors by several steps. As per Annexure

No. 2 petitioner ought to have been confirmed as Ward

Keeper long ago and petitioner being of back ward cadre

has been deprived of the benefits.

Para 32 - That the opposite parties have also

ignored the representation of the petit near being

Annexure No. 2 and aggrieved against which the said

petition is being preferred on the following amongst

other grounds:-

#### REASONS

1. Because the petitioner has been discriminated with respect to his juniors and seniors and his service conditions have been seriously affected.

2. Because the post of Ward Keeper being a permanent post of different cadres different grades and with

different promotional avenues the seniority list ought to have been drawn up in accordance with to promotion and posting as Ward Keeper which had not been drawn up.

5. Because various Juniors to the petitioner had been made senior to the petitioner.

6. Because the service conditions of the petitioner had been seriously affected by not allowing the petitioner to appear in the suitability test for nearly eight years while keeping the petitioner posted and serving as Ward Keeper for over eight years without any complaint.

6. Because the petitioner was illegally held up and was not allowed to appear in the suitability test in the first batch and in various other subsequent batches wherein staff joined as Ward Keeper at a later stage than the petitioner who allowed to appear and became senior to the petitioner.

6. Because as per rule the petitioner ought not to be retained as Ward Keeper without suitability test for a period exceeding six months.

7. Because as per rule the petitioner ought to have been confirmed as a Ward Keeper within two years of his joining as Ward Keeper.

8. Because staff from the ministerial side not having opted for post of Ward Keeper within the stipulated period was not entitled to be made Ward Keeper while bypassing the petitioner without suitability test and without promotional avenues.

9. Because the petitioner had been stagnated in the post of Ward Keeper by blocking of promotional avenues in the absence of any complaint in discharge of duties as a Ward Keeper for over ten years.

S.R.A.L.

Respectfully prayde

That a writ of mandamus of suitable writ or direction befitting the circumstances of the case be please passed commanding the defendant to draw up a seniority list with respect to posting of the petition and in the new cadre of Ward Keeper on the non Ministerial side claiming all other consequential benefits in salary and increments and the other emoluments and promotional avenues in accordance to the seniority of the petitioner who is made senior to all juniors who are not senior to the

petitioner in joining the new case.

And cost of the proceedings be please awarded.

And such other suitable relief be please awarded  
or passed as be deemed fit and proper in the circum-  
stances of the case.

Luks nov.

Counsel for the petitioner.

Dated 22.5.1953

Defence  
Petition No. 1063  
of 1963  
Under Article 226 of the Constitution  
origin LUCKNOW

Rejibul Haq Ansari \*\*\* Petitioner  
Versus

The Union of India through the General Manager  
Railway Board, No. 1 Bowen New Delhi and  
others \*\*\* Opposite party ::

Affidavit

I, Rejibul Haq Ansari aged about 63 years s/o late  
Sri Mohd. Ahmad resident of quarter No. 108/Type III  
Talkatora Road, Almagh, Lucknow at present posted as  
Ward Keeper at Northern Railway, Chiragh, Office of the  
District Controller of Stores, Chiragh, Lucknow, under  
the Deputy Controller of Stores, Almagh, Lucknow, do  
hereby solemnly affirm and state on oath as under :-

1. That the contents of Petition 1 to 30 of the  
Petition are true to the best of my knowledge

2. That the contents of annexures No. 1 to No. 9  
contained to the writ petition are true to my personal  
knowledge compared and written from the original by the  
deponent.

True now.

Dated 20.8.1963

Deponent.

Particulars

I the deponent above named do hereby solemnly  
verify that the contents of para No.1 and 2 above are  
true to my personal knowledge, and no part of it is  
false and nothing material has been concealed. So help  
me God.

Signed and verified in the High Court compound at  
Lucknow this 21st day of August 1963.

True now dated 20.8.1963

Deponent.

Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench) Lucknow.

Writ petition No. of 1980

Re: Jibul Haq Ansari ... Petitioner  
Various  
The Union of India and others ... Opposite party

ANNEXURE NO. 1

NORTHERN RAILWAY  
BY: CONTROLLER OF STORES OFFICE, ALAHABAD/LUCKNOW

Office Order No. 4/200 Dated 21.11.1976

The following provisional confirmations are  
ordered:

1. Shri Rati Nath "Bunia" is confirmed as  
ADSK in grade No. 455-700 w.e.f. from 1.9.76
2. Shri A.K. Singh - do - 1.10.76
3. Shri C.D. Pandey - do - 1.11.76
4. Shri V.D. Srivastava Sr. Clerk 830-860 1.9.76
5. Shri Shri Rejibul Haq - do - 1.10.76
6. Shri Ganesh Lal - do - - do -
7. Shri D.L. Das Nath Tripathi - do - 1.11.76

Sd.  
for By: Controller of Stores  
H. Hly. Allahabad/Lucknow.

Copy to: the following for information

1. U.O.O./ARU
- 2) A.C.O./PTB
3. CIC/PTB
4. Parties concerned.

Sd.  
for By: Controller of Stores  
H. Hly. Allahabad, Lucknow.

Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench) Luck now.

Writ petition No. ....

of 1972

Majibul Haq Ansari \*\*\* Petitioner  
versus  
The Union of India & others \*\*\* Opposite parties

ANNEXURE NO. 2

NORTHERN RAILWAY  
DISTRICT CONTROLLER OF STORES OFFICE,  
ALAHABAD, LUCKNOW.

NOTICE NO. 360-C

Dated 16.6.72

\*\*\*\*\*

In terms of para (11) of Railway Guard's letter No. E.C. 1165  
R.D.-38 dated 22.3.72, claims grade No. 100-300 are required  
to exercise an option to seek their further avenue of  
promotion either on the non-ministerial side or on  
Ministerial side within one year of their promotion. The  
subscriptions to Ministerial/Non-Ministerial side are to be  
made on the basis of the option. Further options are to be  
exercised on the specific understanding that the option  
once exercised will be final and no change will be permis-  
sible afterwards.

As regards Store Delivery Clerk grade No. 100-300, they have  
no chance to opt for Ministerial cadre and have to seek  
promotion on Non-Ministerial side as Ward keeper in grade  
No. 310-350.

It has been decided to hold a suitability test for the post  
of Ward keeper in grade No. 310-350 at 10.00 hours on 3.7.72  
List of clerks grade No. 100-300 and 1.0. Clerk grade  
No. 100-300 have been made out. The persons who have  
already opted either for Ministerial or Non-Ministerial  
side have been shown in a separate list. The persons who  
are at present officiating as Ward keeper & their posts  
the test will also have to appear in the suitability test  
on 3.7.1972. Their list has also been prepared separately.

Therefore, Senior Clerks grade No. 100-300 are required to  
submit option to "Off. " action by 30.6.72 for their future  
avenue of promotion in Non-Ministerial or Ministerial side  
by 31.6.72 as Ward keeper or Head Clerk.

The persons who fail to submit their option for any  
reason by 30.6.72 will not be allowed to appear in the test of  
Ward keeper going to be held on 3.7.72 and their junior  
by virtue of their option and passing suitability test  
thereafter when promoted get as Ward keeper will rank  
senior to those for future promotion in higher grade. It  
should be clearly understood that for securing promotion  
in Non-Ministerial side or Ministerial side option is  
compulsory.

"S.  
District Controller of Stores,  
Allahabad, Lucknow, 14.6.72.

list of offg. Verdsperre who are at present officiating as  
or and are required to appear in the suitability test.

\* \* \* \* \*

Arshad

Nehal Singh  
P.M. Sozam

Bagheed Ahmad  
G.D. Singh Verma  
R.D. Das  
R.L. Pahwa

R.S.L. Sabot  
Naibul Haq.

\* \* \* \* \*

Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench) Lucknow.

Writ petition No. of 1953

Sojibul Rao Agarai	***	Petitioner
The Union of India & others	Versus ***	Opposite parties

REASON No. 4

Northern Railway

Office Order No. 5/156

Dated 4.6.73

\*\*\*

With immediate effect, Shri Nasibul Rao Jr. Clerk/ANV who has given his willingness for promotion to non-technical side and has also deposited security money in the shape of liability guaranteed bond is appointed to officiate as Ward Keeper on pay Rs. 104/- Plus 20/- (Rs.) P.M. in scale Rs. 310-320/- and posted at C.I. Depot Kanpur vice Shri Raj Bagh Singh reported sick. The promotion of Shri Nasibul Rao is purely provisional and subject arrangement and local arrangement and will not confer upon him any claim for such promotion in future in preference to his seniors and qualified persons for the post of Ward Keeper.

Sd/-  
Suptt. Controller of Stores  
Almabagh, Lucknow

Copy to the following for information & necessary action.

1. Suptt. (V) ANV ALB.

2. Suptt. C.I. Depot/Kanpur

3. Suptt. C.I./ANV

4. R.C. Office, Leave and Pay/ANV

5. Shri Nasibul Rao.

Sd/-  
Suptt. Controller of Stores  
Almabagh, Lucknow

Before the Hon'ble High Court of Judicature at Allahabad  
(Lec. Law Bench) Lucknow.

Writ petition No. ....

of 1983

Hajibul Haq Ansari \*\*\* Petitioner  
versus  
The Union of India and others Opposite party.

Case No. .... 4

Extract from Railways Establishment rules and Labour laws  
by Sri S.S. Raina at page 100 after arrangement

\*\*\*\*\*

Normally the suspended employee should be appointed  
against the selection posts, but in case where no em-  
ployee is available and it becomes inevitable  
to make local arrangement, it should be made for as short  
a period as possible, but not more than three months.  
For periods exceeding three months, it should be with  
C.P.O's/ "Additional C. P. O's" specific sanction. (R.O's  
No. 5(86) 1-72-PR/197 of 31.10.78, R.O. No. 5775) and  
5(86) 1-72-PR/197 of 31.10.78 R.O. No. 6380. In making  
such adhoc arrangements, the claims of seniors should be  
given full consideration and it should be ensured that such  
ad hoc promotions are comparatively senior and. The ad hoc  
promotions must be free within the list of men in order of  
seniority. On or before this time the number of ad hoc  
promotions. The fact that such ad hoc local arrangement  
has been made should be forthwith brought to the notice of  
the Head of Department and the Chief Personnel Officer  
who will bring it to the notice of the General Manager  
in the periodic agenda of the Department's meetings.  
The senior most person available in the locality

units should normally be promoted in the above arrangements unless the authority ordering the promotion consider him unsuitable. Exceptions may be made in cases where change of station is involved and short term promotions involving transfer is not desirable. (R.D's No. 4, (2.6) 1-73 P.M/222 of 22.2.74)(n.o. 2.6. 6105/).

Where transfers on promotion are not carried out for 3 months the authority must higher to that which issued the transfer orders should carry out a review. Such review should be made without fail and seniors are not put to a disadvantage because their juniors on account of delay in effecting transfer on promotion (R.D's No. 4106) 1-77 P.M/117 of 10.10.77 (n.o. 6104/).

All cases of 1st 1 school arrangement which are likely to continue beyond three months must be reviewed by the D.O.M.(R.A.O. in case of R.A. controlled posts) personally and if any such affiliating arrangements in higher grades are continued for more than six months, the matter must be referred to R.A. and will be put up to S.R. (R.A. Letter No. 831 1/63/2/11 (LIV) of 13.12.77) (n.o. 6105/).

Even if the selection cannot be finalized for any reason, the above promotions must be put through a selection with the first batch and retained in higher post only if they pass the written test and are considered suitable for the selection post so that there will be no occasion for replacing them by any junior who selected later. The promotions should not be retrospective in higher posts beyond 16 months, unless they have, in the meantime qualified in the tests. (R.D's No. 4(85) 1-68 P.M 1/800 of 4.11.78 (n.o. 6105/).

While making adhoc promotions pending elections the duration of which is 45 days or more the reserved vacancies may be filled by senior most suitable unselected Caste/Scheduled Tribe candidates who are in the field of consideration and are likely to be considered by the selection board when regular arrangements are finally made. (R.O's no. 5(567) dt 09/12/22 or 10.12.71(G.O. S.O. 5517).

Similarly in the case of posts filled on the basis of seniority-with-suitability whenever such promotion are made the order regarding reservation of vacancies in favor of Scheduled castes and Scheduled Tribes should be observed (R.O's no. 5(567) dt 09/12/22 days or 10.12.71 dt 09/12/71).

The adhoc promotions should not be made to fill up the class III posts against any direct recruitment quota. In case the persons against direct recruitment quota are not forthcoming and the posts have to be filled up urgently, these should be filled up after holding regular selection out of class four staffs. In case such selection exceed the promotion quota, the Board may be approached giving full justification for filling up such posts in excess of the promotion quota (R.O's no. 5(567) 1/81C/1 dated 10.3.81 (no. 55 7793-2).

Page 262 (4) The promotion of an employee to a vacancy in a higher grade selection post according to his panel position whether against leave arrangements, deputation or temporary transfer of another employee vacant of the post. <sup>Irrespective of the period involved</sup> should be treated as a permanent and such an employee should not be required to reappear in a subsequent selection for the said post. It is therefore not

essential that he should have been promoted against a long term vacancy.

(5) If a junior person has officiated against a non virtuous vacancy, he is also entitled to protection in case he happens to be the next rightful junior and not otherwise even though the senior to him in the panel but not officiating also gets protection. On the other hand if the senior person has not officiated for reasons of health this will not be refused promotion. In such a case, next junior person is the rightful person to be promoted and there is no question of treating him as junior, (R.O's No. 4165) dated 21/3/51 or 9.3.50) (R.O. "No. 3111).

\*\*\*\*\*

Before the Hon'ble High Court of Judicature at Delhi,  
(Lokman Jetha), 10th June,

Writ petition No. 137103

Sajibul Haq Ansari \*\*\* Petitioner  
versus  
The Union of India & others \*\*\* Opposite parties

REASONS FOR PETITION

northern railway

Office letter No. 4/1970 dated 10-4-1970.

In a result of suitability test held on 10-4-1970 for the post of Head keeper in the Ansari Group, the following employees are declared suitable for promotion to the post of Head keeper in Grade No. 415-610.

1. Mr. S. S. Singh Off. Letter No. 17/1st. 1970 dated 07-4-1970  
2. Mr. S. S. Sardar Off. Letter No. 1/29/67 1st S. S. Sardar Executive and  
3. Mr. S. S. Prakash Off. Letter No. 101 1st S. S. Prakash Executive and  
4. Mr. K. K. Kapoor Off. Letter No. 101 1st K. K. Kapoor Executive and  
5. Mr. D. Lalwani Off. Letter No. 111 1st D. Lalwani Executive and  
6. Mr. S. S. Sardar Off. Letter No. 1/29/67 1st S. S. Sardar Executive and

They should submit their option for casting themselves in the Non Ministerial side (non ministerial Training group) understanding fully that they shall not be vindicated for promotion to ministerial side.

Yours S. S. S.  
By: Controller of Stores  
S. S. S. Mumbai, 10th June.

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Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench) Lucknow

Original petition No. 1083

Sajibul Haq Ansari \*\*\* Petitioner  
Various  
The Union of India & others \*\*\* Opposite party to

Application No. 6

PARTIES TO THE PETITION

Rs. 100

Dated 21.3.1981

To

Shri

1. Chazan Beg Bohari Lal, Progress Inspector Railway Shwan MHS	ARV	SC. Candidates
2. Shauq Abd Khan DSK/III/CS	CB	Sh. R. P. Singh DSS/Officer
3. P.A. Prasad *via steve -do-	ARV	DSK/III/ RV
4. Raja Singh	CB	Sh. *Yash Lal - SC/ARV
5. S.M. Meena	ARV	Sh. Ram Kishan SC/ARV
6. S.M. Verma	RV	Sh. Rishan UK/CD
7. S.M. Meena	DSK/ARV	Sh. Ram Kishan UK/CD
8. S.M. Raja	RV	Sh. R. P. Singh UK/CD
9. S.M. Raja	ARV	Sh. R. P. Singh UK/CD
10. S.M. Singh	UK/ARV	Sh. R. P. Singh UK/CD
11. S.M. Meena	ARV	Sh. R. P. Singh UK/CD
12. S.M. Doss	DSK/III/CD	Sh. R. P. Singh UK/CD
13. Chandra Pal Singh	ARV	Sh. R. P. Singh UK/CD
14. S.M. Meena	ARV	Sh. R. P. Singh UK/CD
15. S.M. Mandiratta	ARV	Sh. R. P. Singh UK/CD
16. Darenan Singh	ARV	Sh. R. P. Singh UK/CD
17. S.M. Meena	ARV	Sh. R. P. Singh UK/CD
18. S.M. Tandon	ARV	Sh. R. P. Singh UK/CD
19. S.M. Raja	ARV	Sh. R. P. Singh UK/CD
20. Jagdish Prakash	ARV (Officer - RV)	Sh. R. P. Singh UK/CD
21. S.M. Turner Offy. DSK/III RV.	ARV	Sh. R. P. Singh UK/CD
22. Class. Allahabad,	ARV	Sh. R. P. Singh UK/CD
23. S.M. Jain	ARV	Sh. R. P. Singh UK/CD
24. S.M. Meena	ARV	Sh. R. P. Singh UK/CD
25. S.M. Lal	ARV	Sh. R. P. Singh UK/CD
26. S.M. Mohan Singh	ARV	Sh. R. P. Singh UK/CD
27. S.M. Tandon	ARV	Sh. R. P. Singh UK/CD
28. S.M. Meena	ARV	Sh. R. P. Singh UK/CD
29. S.M. Meena	ARV	Sh. R. P. Singh UK/CD
30. S.M. Meena	ARV	Sh. R. P. Singh UK/CD
31. Sajibul Haq	ARV	Sh. R. P. Singh UK/CD
32. Sajib Lal	ARV	Sh. R. P. Singh UK/CD
33. S.M. Tripathi	ARV	Sh. R. P. Singh UK/CD
34. S.M. Bagyal	ARV	Sh. R. P. Singh UK/CD
35. S.M. Meena	ARV	Sh. R. P. Singh UK/CD
36. S.M. Mehta	ARV	Sh. R. P. Singh UK/CD

37. Raj Rungal Pd.  
 38. Ram Deburi Rao  
 39. Sudhir Pda  
 40. R. S. Chabey  
 41. T. D. Mora  
 42. Santu Lal  
 43. Santu Chund  
 44. Siam Chund

10/10/19  
RE-  
10/10/19  
10/10/19  
10/10/19  
10/10/19  
10/10/19  
10/10/19

Sub. Selection for the post of ~~SRK/III~~ Sr. 485-700(RS)

This written test for the selection of 200/111 grade  
2,400-700 (HS) scheduled to be held in view of file  
on 17.7.61 was postponed and the same is now rescheduled  
to be held on 19.10.61 at 10.00 hrs. in this office.  
You are therefore informed to appear in the test with your  
pen and pencil. The answer books will however be  
supplied by this office. In case you are not willing  
to appear in the selection you should furnish your un-  
conditional written refusal which should reach this  
office latest by 10.9.61.

You are required to acknowledge receipt of this letter  
on the form enclosed.

66.  
S. Controller of Stores  
Albion, Ind. Nov.

Answer to the following:

1. The Director (Stamps) Regd No. 114 (P.S.)-11  
Purat Bhukti, 5, All Bhawan, New Delhi. He will please arrange  
to send Sh. Gurcharan Singh Johar Lal to enable him to  
speak in the above selection on 10.7.81
2. The Chief Cmgs (RC) Allahabad. He is requested to  
inform Dr. S.C. Bagchi to enable him to attend the above  
selection in this office on 10.10.81.
3. The A.G. C./CD, OIL-CD, ETU-CMS & PPS & PTA "spoke and  
all section Incharge" AIV. They are requested to speak  
the staff under them to enable them to attend the  
selection on 10.10.81
4. The C.I.D. (C) AIV. He will make necessary arrangement  
of programmes for the selection and provide an answer book.  
Enclosed Letter Regd No. 100-R dated 8.7.81 and 10.8.81

Signature of the Section Head Signatures of the employee

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Before the Hon'ble High Court of Judicature at Allahabad  
(the new Bench) Lucknow,

Exit petition No. of 1983

Wajibul Haq Ansari	***	Petitioner
The Union Government of India & others	versus	Opp. Parties
	*	*

APPENDIX NO. 2

MARTLES RAILWAY

Office of the D.G.O.O.S/ARU/UD

No. 100-V

Dated 21.12.1981.

To

S/Thrd

1. Charan Das Gehri Lal, Progress Inspector Railway Shrawan  
Hill.

2. Khan Ahmad Khan D.R./III/CD

3. B.M.S. Arivdas - do - ARU

4. Bira Singh - do - ARU

5. B.M.S. Arivdas - do - CB

6. B.M.S. Arivdas - do - ARU

7. B.M.S. Arivdas - do - DEL/CD

8. B.M.S. Arivdas - do - ARU

9. B.M.S. Arivdas - do - ARU

10. B.M.S. Arivdas - do - ARU

11. B.M.S. Arivdas - do - ARU

12. B.M.S. Arivdas - do - ARU

13. B.M.S. Arivdas - do - ARU

14. B.M.S. Arivdas - do - ARU

15. B.M.S. Arivdas - do - ARU

16. B.M.S. Arivdas - do - ARU

17. B.M.S. Arivdas - do - ARU

18. B.M.S. Arivdas - do - ARU

19. B.M.S. Arivdas - do - ARU

20. B.M.S. Arivdas - do - (ORR, ARU)

21. D.G.O.O.S/ARU/UD/III/CD Rly.

22. D.G.O.O.S/ARU/UD/III/CD Rly.

23. B.M.S. Arivdas - do - ARU

24. B.M.S. Arivdas - do - ARU

25. B.M.S. Arivdas - do - ARU

26. B.M.S. Arivdas - do - ARU

27. B.M.S. Arivdas - do - ARU

28. B.M.S. Arivdas - do - ARU

29. B.M.S. Arivdas - do - ARU

30. B.M.S. Arivdas - do - ARU

31. B.M.S. Arivdas - do - ARU

32. B.M.S. Arivdas - do - ARU

33. B.M.S. Arivdas - do - ARU

34. B.M.S. Arivdas - do - ARU

35. B.M.S. Arivdas - do - ARU

36. B.M.S. Arivdas - do - ARU

37. B.M.S. Arivdas - do - ARU

38. B.M.S. Arivdas - do - ARU

S.C. CANDIDATES

1. R.M.S. Sagar D.R./III/CD

2. Raman Lal D.R./III/CD

3. Ram Kumar D.R./ARU

4. Sri S. Lalita D.R./ARU

5. R.M.S. Sagar D.R./CD

6. R.C. Chatur D.R./VTS

7. Lalita R.D. D.R./CD

8. Renu D.R. D.R./ARU

9. Narneeshwar Singh D.R./ARU

10. Rishabh Das D.R./ARU

11. Lalita Lal D.R./ARU

12. Rupendra Singh D.R./ARU

50. Ram Behari Das	DC
50. Jodubir Rd.	DC/ARU
51. B.C. Chubey	DC/ARU
52. T.D. Puro	DC/CAB
53. Dantri Lal	DC/ARU
54. Poti Choudhury	DC/VTB
55. Gauri Choudhury	DC/DC/ARU
56. Bapuji Rai	DC/CD
57. Bhambhu Seth Verma	DC/ARU
58. G.C. Lal Verma	DC/ARU

Sub: Selection for the post of DC/111 Grade 400-700(RS).  
 The written test for the selection of DC/111 "r.400-700(RS)" is fixed scheduled to be held in this office on 20.12.61 at 1.00 hrs. in this office. You are therefore informed to appear in the test. At your place on pencil. The book will however be supplied by this office. In case you are not willing to appear in the selection you should furnish your unconditional written refusal which should reach this office latest by 16.12.61.

You are requested to countersign receipt of this letter on the form subjoined.

By. Controller of Stores  
 Almora, Lucknow.

Copy to the following:-

1. The Director (Stores) Room No. 114 (1st) & 111 1st floor Hall Bhawan, New Delhi. He will please arrange to spare Mr. Charen Das Behari Lal to enable him to appear in the above selection on 20.12.61.
2. The Chief Comm. M.R.C. established. He is requested to spare Mr. S.C. Verma as to establish above selection in this office on 20.12.61.
3. The DC DC/CD, DC/ARU, DC/CAB and VTB "apart and all Section Incharges of Almora. They are requested to spare the staff under their charge to the time to attend the selection on 20.12.61.
4. The DC (C) Almora. He will make necessary seating arrangement for the selection on a private account basis.

Received letter no. 100 dated 01.12.61

Signature of the employee

Name

Dated

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

Writ petition No. of 1983  
Under Article 326 of the Constitution  
Origin Lucknow.

Mujibul Haq Ansari ... Petitioner  
versus  
The Union of India & others ... Opposite party

ANSWER NO. 6

3.3.72  
NORTHERN RAILWAY

(6)

Head Quarter Office,  
Baroda House,  
New Delhi.

No. 531-C/25-IV(LIV)

Dated 3.3.72

All Divisional Superintendents, and  
Extra Divisional Officers,  
Northern Railway,

PA & CAS(C) } Baroda House, New Delhi  
Chief Auditor. }

Copy to CGO(HQ). Serial No. 5326.

Sub : Confirmation of staff officiating in higher grades.

A copy of Railway Board's letter No. E(AC)/1-63CAB/31 dated 5.3.72 is forwarded for information and necessary action. The Board's letter dated 13.3.71 referred to therein was circulated via this office letter No. 531-C/25-IV(LIV) dated 21.3.71 (Sl. No. 5438).

DAS : As above.

Sd. Rajesh Sahdev  
for General Manager (P).

Copy to: 1. General Secretary UPAU  
160-1 Railway Bungalow, 7th Indian Road,  
New Delhi.

2. The General Manager UPAU  
115-1 Sector 5, Noida,  
New Delhi.

3. Shri Ganesh Lal Sharma,  
Asst. Com. Secy. UPAU Railway P. 1-304  
South Colony, Moradabad

4. Shri J. C. Chaudhary,  
President of B.R.B. Building 26-26, Anna Bindea,  
Mysore, India.

\*\*\*\*\*

Copy of My. Board's letter No. L(46)-Lappans/31 dated  
5.2.72 from Shri Bappa Dass Asstt. Director, Lett. My.  
Board to The Genl. Manager, All Indian Railways, & others,

Sub: Confirmation of staff officiating in higher grades

In continuation to the instructions contained in letter of  
even number dated 12.2.71 the Board desire that the cases  
of staff who have been promoted on regular basis should  
be reviewed after completion of one years continuous  
offg. service, even if a permanent vacancy does not exist  
with a view to determining their suitability for retention  
in the grade. The review should be completed early and a  
decision to continue the employee in the offg. post or  
revert him, taken and implemented within a period of 18  
months of offg. service. Having followed this procedure  
there should be no question of denying the benefit of  
confirmation to an employee on completion of 3 yrs. offg.  
service in a clear permanent vacancy for reason that he is  
not fit for confirmation.

Please acknowledge receipt.

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

Writ Petition No. of 1983  
Under Article 226 of the Constitution  
Origin Lucknow.

Najibul Haq "Anupriya...  
Versus  
Union of India and another

Petitioner  
"pp. Party

ANNEXURE NO. 10

No. NRRU/48-66/83

Dated 11th January 1983

All Branch/Divisional Secretaries,  
Central Office Bearers/NRRU

Sub: Adhoc promotions - proc dum for  
...  
- A copy of Railway Board's letter No. E(HG)I-82/  
PN1/262 dated 27.12.1982 is reproduced below for  
information please.

Sd.  
for General Secretary

In the Ministry of Railways' letter No. E(HG)I-  
80PN1/185 dated 11.8.1980 instructions were issued that  
adhoc promotions should be discharged and when they  
became essential, only suitable senior most persons  
should be promoted and that senior's notice should  
be taken of continued promotions as far as junior  
employees. Instances are still coming to Board's  
notice where the juniors are promoted and continued  
for long durations on a adhoc basis without holding  
selections, leading to representations from the  
seniors. Ministry of Railways desire that the  
instructions on the subject should be strictly adhered  
to and there should not be any occasion where a  
junior has been promoted on adhoc basis when suitable  
senior persons were available.

Before the Hon'ble High Court of Judicature at Allahabad  
(Luck now Bench), Luck now.

Writ petition No. of 1983

Under Article 226 of the Constitution.

Nojibul Haq ... Petitioner

versus

The Union of India & another .. Opposite parties

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4. ANEXURE NO. 4 - Extract from Railway Establishment Rule Page 30 to 33
5. ANEXURE NO. 5 - Order dated 20.4.79 declaring suitability result Page 34
6. ANEXURE NO. 6 . Order Calling for written test for the Selection of DSK. III Order dated 21.9.81. Page 35 to 36.

7. ANNEAUX No.7 - Order calling for  
written test for OMK No.III  
Order dated 21.12.81

Page 37 & 38.

8. ANNEAUX No.8 - Representation of  
Petitioner

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9. ANNEAUX No.9 - Railway Board's  
letter dated 3.5.72

Page No. 40 & 41

10. ANNEAUX No.10 - Railway Board's  
letter dated 11.1.1983  
regarding cadre promotion

Page 42-

Yours now

Dated 29.8.1983

Petitioner.

Before the Hon'ble High court of Judicature at Allahabad  
(Lucknow Bench) Lucknow

Writ petition No.

of 1960.

Under Article 226 of the Constitution  
Origin Lucknow.

Majid Ali Ansari aged about 55 years son of Late  
Sri Mohamed Ahmad resident of quarter No. 1 CR/Type III  
Talkatora Road, Alambagh, Lucknow, at present posted as  
Guard keeper at Northern Railway, Charbagh, Office of the  
District Controller of Stores, Charbagh, Lucknow under the  
Deputy Controller of Stores, Alambagh, Lucknow.

..... petitioners

versus

1. The Union of India through the General Manager

Railway Board, Lalulal Bhawan, New Delhi.

2. The Deputy Controller of Stores, Northern Railway

Office of the Deputy Controller of Stores at  
Alambagh, Lucknow.

... Opposite parties

Writ petition under Article 136 of the Constitution  
\* \* \* \* \*

It is humbly submitted:

Para 1. That the petitioner joined the railway services on 16.1.1954 and was posted under the Deputy Controller of Stores at Almora, Lucknow, (Formerly known as District Controller of Stores) and is still posted at Lucknow, under the Deputy Controller of Stores at Almora, Lucknow. The appointment was through the Public Service Commission. The initial appointment was as a clerk on the ministerial side.

Para 2. That the petitioner qualified in the suitability test and was promoted as a clerk Grade First Ministerial side on 31.12.1970.

Para 3. That the petitioner by order dated 21.11.75 was confirmed in his post as Senior Clerk Grade First Ministerial side with effect from 1.10.75. The seniority of the petitioner on the ministerial side is detailed by order dated 31.11.75, True copy of which is ANNEXURE A.

Para 4. That the appointment of a clerk was to take place initially on the ministerial side as Clerk and promotions as clerk grade I and so thereafter as

senior clerk grade first. Clerks from the Ministerial side can opt for non ministerial side but clerks from the non Ministerial side cannot opt for the ministerial side. The staff of the non ministerial side deals with materials. The Ministerial side and the non ministerial side are different grades and different grades and have different promotional avenues as under:-

Ministerial

Senior Clerk

Store Delivery Clerk

Head Clerk

Assistant Superintendent

Office Superintendent

Asstt. Controller of Stores.

Non Ministerial

Ward Keeper

Depot Store Keeper III

Depot Store Keeper II

Depot Store Keeper I

Senior Depot Store Keeper

Asstt. Controller of Stores

That two or three days ago an order has been passed regarding Ward Keepers & Assistant Store Keeper with revised pay scale of Rs. 450/- + 15/- = 565/- 80/- = Rs. 700/- and the post of D.S.K. IIIrd has been abolished and juniors posted as D.S.K. III shall become Assistant Store Keeper and seniors D.S.K. II shall

-4-

becoming District Li as upgraded. Copy of the said order could not be obtained and date of order is not known.

para 5 - That the post of Ward Keeper on the non-ministerial side is that of custodian of stores to receive and issue stores to the function is that of Stores Keeper and the Ward Keeper is responsible for shortages and excess in stores.

para 6 - That in the month of May 1972 the D.C. of S. (then known as District Controller of Stores) invited options from the senior clerks of Ministerial cadre for option on a different cadre and a different grade on Non Ministerial side as Ward Keeper. The grade of senior clerk and Ward Keeper in 1972 was slightly different but senior clerk had excess income in travelling allowances for performing the duties of Stores Delivery Clerk from one Railway Station to another Railway station. The senior clerks did not prefer to opt for non-ministerial side.

para 7 - That the D.C. & "D.C. 2 (then known as District Controller of Stores) by order dated 16.6.72 called for option and suitability test to be held on 24.7.72. True copy of the said order is enclosed in the

By the said order Annexe B (Para 8) all Stores

Delivery clerks have to seek promotion on non ministerial  
side as a Vard Keeper.

Para 8 - That in pursuance to Annexe B,  
very few senior clerks opted for post of Vard Keeper  
on non ministerial side and rest of the stores Delivery  
Clerks who had no option on the ministerial side continued  
to serve on the ministerial side and did not join the  
post of Vard Keeper.

Para 9 - That the petitioner had opted for the non  
ministerial side for the post of Vard Keeper in 1970  
in the then grade of Rs. 110/- Rs. 380/- . The grade of  
senior clerk in 1972 was Rs. 130/- - 300/-.

Para 10 - That most of the staff of the ministerial  
side and none of the stores delivery clerks including  
the names listed at para 16 and 17 did not opt for non  
ministerial side and eventually became debarred for non  
ministerial side. There were better emoluments in  
Travelling allowances on the ministerial side and the  
post of Vard Keeper as stores-in-charge.

Para 11 - That the petitioner had opted for the  
non ministerial side and was posted as Vard Keeper from

6.6.72 by posting order True copy of which is Annexure No.3 and the petit one is still serving as Ward Keeper from 6.6.72 till this date on the non ministerial side with blockage of all promotional avenues.

Para 12 - That no requisite number of options for non ministerial side in pursuance to Annexure No.2 was not available in 1972 the contemplated suitability test as scheduled on 3.7.72 was cancelled.

Para 13 - That in pursuance to posting order Annexure No.3 the petitioner continued to serve as Guard Keeper from 6.6.72 till this date. During this period of posting as Ward Keeper from 6.6.72 till this date the petitioner had never been charge sheeted nor suspended and there was no complaint.

Para 14 - That the contemplated to be mentioned in Annexure No.2 is suitability test from persons opting for non ministerial cadre. There was no contemplated written test nor probation test. Due to lack of sufficient persons opting for non ministerial cadre the contemplated suitability test fixed on 3.7.72 was cancelled and the petitioner continued to serve as Ward Keeper.

Para 15 - That under rule when posting could not

be retained for period beyond six months and the petitioner  
was retained as Ward Keeper from 3.6.72 and for several  
years without holding any suitability test. Vide True  
copy of extract of Rules Annexure B.

para 16 - That in 1973 or 1974 the scales of  
Ministerial and non ministerial post were revised. The  
scale of senior clerk in Ministerial scale became  
Rs. 320/- - Rs. 18/- - Rs. 560/- and the scale of Ward  
Keeper in non ministerial cadre was fixed as Rs. 420/-  
- Rs. 16/- - Rs. 560/- - Rs. 20/- - Rs. 600/-

para 17 - That the pay revision in 1973 or 1974  
giving higher scales with better prospect and availed  
to non ministerial cadre attracted various employees of the  
ministerial cadre to opt for non ministerial cadre.  
Further in 1976 and onwards a large number of employees  
of the non ministerial cadre were about to retire which  
attracted various senior clerks of the ministerial cadre  
to opt for the non ministerial cadre as prospects of  
quicker promotion were brighter in non ministerial cadre.

para 18 - The consequential revised pay scales and  
better promotional avenues senior clerks in Store delivery

Clerks from ministerial cadre opted for Ward Keeper in non ministerial cadre in 1976 and onwards in large numbers. The proposal inviting option by Annexe No.2 dated 16.6.72 had expired on 3.7.78 the date of contemplated suitability test. No other order regarding option analogous to Annexe No.2 was issued and option from ministerial cadre to non ministerial cadre accepted after expiry of period stated in Annexe No.2 was held. "a per Annexe No.2 all Store Delivery Clerks were under compulsion to join the non ministerial cadre and appear in suitability test contemplated on 3.7.78 but Store Delivery Clerks wrongly continued to work on the Ministerial side to earn benefits of travelling allowances and halting allowances and became sobered for consideration on non ministerial side.

Page 19 - That from 1978 to 1979 several suitability tests were held for the post of Ward Keepers and tests were held particularly on 7.2.77, 16.6.77, 19.7.77, 20.9.77, 15.10.77 and 31.12.78 and senior clerks and Store Delivery Clerks opting for non ministerial cadre several years after the option by ministerial were invited for suitability tests

-3-

and were allowed to become Ward Keepers and enjoy prompt professional avenues with promotions as detailed by para 26 & 27.

The petitioner serving as Ward Keeper from 5.6.72 was not called for and was not allowed to appear in the suitability test in the above mentioned tests on grounds that the petitioner by rendering services as a Ward Keeper for years together without complaint has been deemed to be suitable for the post of Ward Keeper without suitability test.

Para 20 - That the petitioner protested at the marks of Ministerial staff opting for Ward Keeper long after posting of the petitioner as Ward Keeper and allowing others to qualify the suitability test and be made senior to the petitioner who was serving as Ward Keeper from 5.6.72 and was not allowed to appear in suitability test and continuously suffered by blockage of professional avenues.

Para 21 - That at the continuous protest by the petitioner he was allowed to appear in the suitability test for Ward Keeper on 20.3.79 after having served as the Ward Keeper for nearly eight years without any complaint and the petitioner qualified the suitability test bids

Annexure No.5. The case of seniority of the petitioner was wrongly not considered from original posting as Ward Keeper in 1972.

Page 32 - That the petitioner opting for Ward Keeper in terms of Annexure No.3 and serving as Ward Keeper from 5.6.72 as per Annexure No.3 ought to have been placed through the suitability test in the first batch and retained maintaining seniority with all others that qualified in the suitability test after the first batch of suitability test wherein the petitioner ought to have been tested.

Page 33 - That on 21.9.81 True Copy Annexure No.5 and on 21.10.1981 True copy Annexure No.7 various Ward Keepers were offered to appear for written test for promotion to the post of Depot Store Keeper from the post of Ward Keeper. The petitioner was always prepared to appear in the written test which was not held. The name of the petitioner is at serial No.31 Annexure No. 6 & 2. The said list Annexure No. 6 & 2 had been drawn up without maintaining the seniority in joining in the non ministerial cadre as Ward Keeper. Various employees out of the said list Annexure No. 6 & 2 and various other staff who had joined as Ward Keeper much later to the petitioner and are

junior to the petitioner in the post of Ward Keeper were arbitrarily promoted as D.S.O. Grade III and D.S.O. Grade II and the petitioner serving as Ward Keeper from 1.8.72 has been compelled to remain as "Ward Keeper from 1.8.72 till this date inspite of passage of ten years.

Para 24 - That the petitioner joining and serving as Ward Keeper from 1.8.72 who was not allowed to appear in suitability test till March 1973 and the intervening period was utilised by taking suitability test of clerks and the Store Delivery Clerks and they are posted as Ward Keeper and made senior to the petitioner though the petitioner is much senior to them in the post of Ward Keeper.

Para 25 - That seniority list has to be determined with reference to posting in the non ministerial side as Ward Keeper which is different cadre, different grade with different promotional avenues from the clerical side of the ministerial side. The said list has not been drawn up by the opposite parties.

Para 26 - That staff from the ministerial side joining the non ministerial side long after the petitioner joining the non ministerial side and been made senior

to the petitioner. Shri Bhagwati Prasad Mora, Shri Kirs Lal Singh (now retired) Shri B.M. Kusum, Shri K.S. Mandiratta, Shri Keri Shuker Khare, Shri S.K. Pandu now retired were all others Delivery Clerks on 1.6.72 on the ministerial side when the petitioner joined as Ward Keeper (Vide Annexure No.3) and had opted for non ministerial side as Ward Keeper in 1977 and afterwards only were allowed to appear in suitability test and were made Ward Keepers in 1977 and after 1977 and they had received two promotions and had been promoted D.S.K. IIInd and subsequently promoted D.S.K. IInd which posts they are now holding and they are now senior to the petitioner by two steps. The said persons were also allowed to appear in written test for next promotion as D.S.K. IIInd. The petitioner serving as Ward Keeper from 1.6.72 was not allowed to sit in the suitability tests for nearly eight years and was kept stagnated as Ward Keeper. Shree Ragheed Ahmad had opted and was posted as Ward Keeper in May 1972 only a few days prior to the posting of the petitioner as Ward Keeper and was allowed to appear in the suitability test in the first batch and was promoted twice and is now D.S.K. II senior

to the petitioner by the steps. Shree Fazlul Ahmad Khan also enjoyed the promotional test written test for promotion as D.G.C. II Irc without test.

Page 27 - That the petitioner opted for non-ministerial side and was posted as Ward Keeper from 1.6.72 and is still stagnated as Ward Keeper even after ten years. The post of Ward Keeper is a different cadre & different grade and has different promotional avenue and the petitioner opting for the said cadre on 1st June 1972 stands stagnated. Sri S.A. Basu, Sri Gajj Rohan Singh, Sri Radhey Shyam, Tawari, Sri R.L. Lal, Sri Bahadur Singh Miers, Sri R.C. Mukerji, Sri G.N. Singh, Sri S.C. Sengar, Sri B.P. Dass, Sri C.R. Singh, Sri Bhagwati Sahai Sengar, Sri Darshan Singh, Sri Radhey Shyam Sengar, Sri R.C. Tandon, Sri R.K. Rohra, Sri Jagdish Prasad, Sri Bishwanath Prasad Singh, Sri R.L. Lal and now retired, Sri S.S.L. Sengar opted for Ward Keeper on the Non Ministerial side several years after the petitioner joining as Ward Keeper on 1st June 1972. The said person opted in 1977 and in subsequent years and were placed in the suitability test in 1977 and onwards

and were made Ward Keeper and were subsequently promoted to the post of DSA.III and are not senior to the petitioner by one step. The petitioner was serving as Ward Keeper from period prior to the opting in of the aforesaid staff as Ward Keeper and the petitioner was not allowed to appear in the suitability test for nearly eight years and was kept stagnated as Ward Keeper. Most of the above persons had been promoted to DSA.III with or without written test. Three D.S. None failed in the written test and was promoted as DSA.III. The said written test was only held in 1978 prior to holding the suitability test of the petitioner as Ward Keeper in March 1979.

para 28 - That there is no option to join the ministerial side from the non ministerial side. None both join joining as Ward Keeper long after the petitioner joining as Ward Keeper was wrongly allowed to revert back to the ministerial staff side and being junior to the petitioner as Ward Keeper had been given repeated promotions and has been Head Clerk much senior to the petitioner.

para 29 - That the petitioner was not allowed to appear in the suitability test as Ward Keeper in the

first batch or in the various subsequent batches and was kept stagnated as Ward Keeper from 1.6.72 and the petitioner was deprived from the promotional avenue to DK.III and DK.II. The petit one being aggrieved had also filed a representation before the opposite party's true copy of which is Annexure No.8 but the opposite party have not considered the seniority of the petitioner.

Para 30 - That the post of Ward Keeper on the non ministerial side be on a different post & different grade & different cadre with different promotional avenue from the R.I. Interior side and the post of Ward Keeper being based on option of the clerks of the Ministerial side, seniority is to be considered from date of joining as Ward Keeper on the non ministerial side. The petitioner joined as Ward Keeper on 1.6.72 and continues to serve as a Ward Keeper for years together without being allowed to appear in the suitability test. The opposite party had the discretion to take the suitability test of the petitioner within six months from his own joining as Ward Keeper, or in the alternative the opposite party had the discretion to take the suitability test of the petitioner at the first batch in 1977 or in the alternative

the opposite parties had the discretion to waive the suitability test of the petitioner on grounds that the petitioner having served as Ward Keeper without any complaint for years together has been deemed to be suitable by actual practical working or in the alternative the opposite parties had the discretion to send back the petitioner to the ministerial side as Clerk within six months from the date of posting as Ward Keeper from 1967. But the opposite parties did not exercise any of the above dispositions and placed the petitioner at a disadvantage by stagnating the petitioner as a Ward Keeper by taking services for years together as Ward Keeper and by considering his unqualified as Ward Keeper as not having passed the suitability test in which the petitioner was not allowed to appear. The petitioner was not allowed in the suitability test for years together and his promotion avenue was blocked. The petitioner could not avail the opportunity to appear in the written test which was held once in 1978 for promotion to D.S.K.I.I.I. and ministerial clerks catalogued at para 36 above joining long after the posting of the petitioner as Ward Keeper availed the opportunity of written test that were promoted to D.S.K.I.I.I. and were

subsequently promoted as GS.11 and became senior to the petitioner by two steps. Ministerial clerks detailed at para 27 above similarly had an advantage over the petitioner Clerks Ministerial staff mentioned by paras 26 and 27 above joined as "Ward Keeper" several years after joining the petitioner as Ward Keeper on 1.6.72 were allowed to appear in the suitability test and obtain the next promotion as GS.11, and GS.11 and but the petitioner was stagnated as Ward Keeper from 1.6.72 though he was first to opt for the post of Ward Keeper and the said stagnation had taken place by not allowing the petitioner in appearing in the suitability test for nearly eight years and allowing the petitioner to work as Ward Keeper without complaint from 1.6.72 and barring the petitioner from appearing in subsequent promotional avenues.

Para 31 - That the petitioner is the senior next to all the parties mentioned by paras 26 & 27 above. The petitioner was earliest to opt for non ministerial side as Ward Keeper on 1.6.72 and has been placed last by the opposite parties in promotional avenues of the petitioner. The opposite parties have not drawn up any merit list considering the date of opting

joining and posting in the non ministerial cadre. .

The change of cadre involved drawing up a new seniority

list of the changed cadre which has not been drawn up.

Annexure No. 2 & 3 speaks of promotion to non ministerial

cadre and the guiding principles laid by Annexure No.1

and Annexure No.2 had been ignored. The petitioner

had been discriminated and juniors to the petitioner

have become seniors by several steps. As per Annexure

No.2 petitioner ought to have been confirmed as Ward

Keeper long ago and petitioner being of backward caste

has been deprived of the benefits.

Para 32 - That the opposite party have also

ignored the representation of the petitioner being

Annexure No.3 and a grievance against which this writ

petition is being preferred on the following amongst

other grounds:-

#### G R O U N D S

1. Because the petitioner has been discriminated  
with respect to his juniors and seniors and his service  
conditions have been seriously affected.

2. Because the post of Ward Keeper being a profes-  
sional post of different cadre different grade and with

different promotional avenues the seniority list ought to have been drawn up in accordance with the promotion and posting as Ward Keeper which had not been drawn up.

3. Because various juniors to the petitioner had been made senior to the petitioner.
4. Because the service conditions of the petitioner had been unfairly affected by not allowing the petitioner to appear in the suitability test for nearly eight years while keeping the petitioner posted and serving as Ward Keeper for over eight years without any complaint.
5. Because the petitioner was illegally held up and was not allowed to appear in the suitability test in the first batch and in various other subsequent batches wherein staff joined as Ward Keeper at a later stage than the petitioner were allowed to appear and become senior to the petitioner.
6. Because as per rule the petitioner ought not to be retained as Ward Keeper without suitability test for a period exceeding six months.
7. Because as per rule the petitioner ought to have been confirmed as a Ward Keeper within two years of his joining as Ward Keeper.

8. Because staff from the ministerial side not having opted for post of Ward Keeper within the stipulated period was not entitled to be made Ward Keeper while in giving

the petitioner without suitability to sit and without promotional avenues.

9. Because the petitioner had been stagnated in the post of Ward Keeper by blockage of promotional avenues in the absence of any complaint in discharge or otherwise as a Ward Keeper for over ten years

P.T.O.Y.S.P.

Respectfully yours

That a writ of audience of suitable writ or direction befitting the circumstances of the case be please passed commanding the defendant to draw up a seniority list with respect to posting of the petit and in the new cadre of Ward Keeper on the non ministerial side allowing all other consequential benefits in salary and increment and the other emoluments and promotional avenues in accordance to the seniority of the petitioner who be made senior to all juniors who are not senior to the

petitioner in joining the new code.

And cost of the proceeding be please awarded.

And such other suitable relief be please awarded  
or passed as be deemed fit and proper in the circum-  
stances of the case.

Lucknow

Counsel for the petitioner.

Dated 22.8.1988

Before the Hon'ble High Court of Judicature at Allahabad.  
(Lucknow Bench), Lucknow.

Writ petition No. of 1963

Under Article 226 of the Constitution

Origin Lucknow.

Najibul Haq Ansari \*\*\* Petitioner.

Versus

The Union of India through the General Manager

Railway Board, Rail Bhawan New Delhi and

others \*\*\* Opposite party.

Affidavit.

I, Najibul Haq Ansari aged about 53 years s/o late  
Sri Rabi Ahmad resident of quarter No. 100/Type III  
Talkatora Road, Almora, Lucknow, at present posted as  
Ward Keeper at Northern Railway, Charki, office of the  
District Controller of Stores, Charki, Lucknow, under  
the Deputy Controller of Stores, Almora, Lucknow, do  
hereby solemnly affirm and state on oath as under :-

1. That the contents of para 1 to 32 of the annexed  
writ petition are true to my personal knowledge.

2. That the contents of annexures Nos. 1 to No. 9  
annexed to the writ petition are true to my personal  
knowledge compared and verified from the original by the  
deponent.

Luck now

Dated 22.8.1983

Deponent.

Swifitiation

I the deponent above named do hereby solemnly  
verify that the contents of paras No.1 and 2 above are  
true to my personal knowledge, and no part of it is  
false and nothing material has been concealed. So help  
me God.

Signed and verified in the High Court compound at  
Luck now this 22nd day of August 1983.

Luck now dated 22.8.1983

Deponent.

Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench) Lucknow.

Writ petition No. of 1963

Najibul Haq Ansari ... petitioner  
Versus  
The Union of India and others ... Opposite party

ANNEXURE NO.1

NORTHERN RAILWAY  
BY-CONTROLLER OF STORES OFFICE, ALAHABAD/LUCKNOW

Office Order No. 4/260 Dated 21.11.1975

The following provisional confirmations are ordered:

1.	Shri Rati Nath "Bhula" is confirmed as ASOK in grade No. 465-700 U.C. from	1.9.75
2.	Shri A.N. Singh - - -	1.10.75
3.	Shri C.D. Pandey - - -	1.11.75
4.	Shri V.K. Srivastava P., Clerk 330-600	1.9.75
5.	Shri Shri Najibul Haq - - -	1.10.75
6.	Shri Dinesh Lal - - -	- - -
7.	Shri B.L. Ram Nath Tripathi	1.11.75

Sd.  
for By. Controller of Stores  
H. Rly. Alahabagh/Lucknow.

Copy to: the following for information

1. U.O. 4/ARV
- 2) 4/6-4/76
3. CIC/2116
4. Parties concerned.

Sd.  
for By. Controller of Stores  
H. Rly. Alahabagh, Lucknow.

Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench) Lucknow

Writ petition No. of 1972

Najibul Haq Ansari \*\*\* Petitioner  
versus  
The Union of India & others \*\*\* Opposite parties

ANNEXURE NO. 2

NORTHERN RAILWAY  
DISTRICT CONTROLLER OF STORES OFFICE,  
ALAMBAGH, LUCKNOW.

NOTICE NO. 200-L

Dated 16.6.72

\*\*\*\*\*

In terms of para (11) of Railway Board's letter No. 2(LC)105  
MIL-33 dated 22.3.72, clark grade No. 130-300 are required  
to exercise an option to seek their further avenue of  
promotion either on the non-ministerial side or on  
Ministerial side within one year of their promotion. The  
absorptions to Ministerial/Non-Ministerial side are to be  
made on the basis of the option. Further options are to be  
exercised on the specific understanding that the option  
once exercised will be final and no change will be permis-  
sible afterwards.

As regards Store Delivery Clerks grade No. 130-300, they have  
no chance to opt for Ministerial cadre and have to seek  
promotion on Non-Ministerial side as Wardkeeper in grade  
Rs. 210-300.

It has been decided to hold a suitability test for the post  
of Wardkeeper in grade Rs. 210-300 at 10.00 hours on 24.7.72  
List of clark grade No. 130-300 and 1.0. Clerks grade  
Rs. 130-300 have been made out. The persons who have  
already opted either for Ministerial or Non-Ministerial  
side have been shown in a separate list. The persons who  
are at present officiating as Wardkeeper without passing  
the test will also have to appear in the suitability test  
on 24.7.1972. Their list has also been prepared separately.

Therefore a Senior Clerks grade No. 130-300 are required to  
submit option to Secy. "action by 23.6.72 for their future  
avenue of promotion in Non-Ministerial or Ministerial side  
by 24.6.72 as Wardkeeper or Head Clerk.

The persons who fail to submit their option for any  
reason by 23.6.72 will not be allowed to appear in the test  
of Wardkeeper going to be held on 24.7.72 and their juniors  
by virtue of their option and passing suitability test  
thereafter when promoted get as Wardkeeper will rank  
senior to them for future promotion in higher grade. It  
should be clearly understood that for seeking promotion  
in Non-Ministerial side or Ministerial side option is  
compulsory.

W.C.  
District Controller of Stores  
Alambagh, Lucknow, 14.6.72.

List of offg. Wardens who are at present officiating on  
UK and are required to appear in the suitability test.

\*\*\*

Khushbir Singh

P.W. Sodhi

Raghbir Singh

R.D. Singh Varma

R.D. Dog

R.L. Rehla

R.M.L. Behal

Naresh Kumar

\*\*\*

Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench) Lucknow.

Writ petition No. of 1963

Nojibul Haq Ansari \*\*\*  
Various  
The Union of India & others \*\*\*

Petitioner  
Opposite parties

ANNEXURE NO. 2

Northern Railways  
Office Order No. 1/196  
Dated 2.6.73

\*\*\*

with immediate effect, Shri Nojibul Haq Mr. Clerk/R.A.O./ANU who has given his willingness for promotion to non-technical side and has also deposited security money in the shape of liability guaranteed bond is appointed to officiate as Ward Keeper on pay Rs. 154/- plus 36/- (or) P.M. in scale Rs. 310-350(40) and posted at C.T. Depot Kanpur vice Shri Raj Narain Ansari reported sick. The promotion of Shri Nojibul Haq is purely provisional and subject arrangement and local arrangement and will not confer upon him any claim for such promotion in future in preference to his seniors no qualified persons for the post of Ward Keeper.

Distr. Controller of Stores  
Allahabad, Lucknow

Copy to the following for information & necessary action.

1. Distr. C.O. (U) ANV.ANU.
2. A.C.O.C.T/C.T. Depot/Kanpur
3. D.O.C.O.I/ANU
4. R.C./U.I.I.O., Leaves and Pass/ANU
5. Shri Nojibul Haq.

Sd/s  
Distr. Controller of Stores  
Allahabad, Lucknow

Before the Hon'ble High Court of Judicature of Allahabad  
(Lac. Law Bench) two now.

Writ petition No. of 1933

Najibul Haq Ansari ... petitioner  
Versus  
The Union of India and others opposite party

STRUCTURE NO. 4

Extract from Railways Establishment rules and labour laws  
by Sri B.S. Raina at page 100 after paragraph

\*\*\*\*\*

Normally the experienced employee should be appointed  
against the selection posts, but in case where no ex-  
perienced employee is available and it becomes inevitable  
to make local arrangement, it should be made for as short  
a period as possible, but not more than three months.  
For periods exceeding three months, it should be with  
Govt's/ "Additional Govt's specific sanction. (R.O.'s  
No. C(HC)1-72-r/81/227 of 31.10.72, R.R. No. 5775) and  
C(HC) 1-72-r/81/227 of 31.10.72 & R.R. No. 6302. In making  
such adhoc arrangements, the claims of seniors should be  
given full consideration and it should be ensured that such  
ad hoc promoters are comparatively senior men. The ad hoc  
promoters must be from within the list of men in order of  
seniority. Comprising thus time the number of ad hoc  
promoters. The fact that such ad hoc local arrangement  
has been made should be forthwith brought to the notice of  
the Head of Department and the Chief Personnel Officers  
who will bring it to the notice of the General Manager  
in the periodical Books of the Department's meetings.

The senior most person available in the seniority

unit should normally be presented in the ad hoc arrangements unless the authority overseeing the promotion consider him unsuitable. Exceptions may be made in cases where change of station is involved and short term promotions involving transfer is not demanded. (R.D's No. 4, (2.0) 1-73 PML/222 of 23.2.74)(u.s. No. 6168).

Where transfers on promotion are not carried out for 2 months the authority next higher to that which issued the transfer orders should carry out a review. Such review should be made without fail and senior officers not put in a disadvantage situation by their juniors on account of delay in effecting transfer on promotion. (R.D's No. 4, (2.0) 1-77 PML/117 of 10.10.77 (u.s. No. 6304)).

All cases of 1m 1 ad hoc arrangement which are likely to continue beyond three months must be reviewed by the D.O.I.(R.A.D. in case of R.A. controlled posts) personally and if any ad hoc affiliating arrangements in higher grades are continued for more than six months, the matter must be referred to R.A. and will be put up to S.R. (R.A. Letter No. 831 1/63/2/11 (CIV) of 13.12.77) (u.s. 6381).

Even if the selection cannot be finalised for any reason, the ad hoc promotions must be put through a selection with the first batch and retained in higher post only if they pass the written test and are considered suitable for the selection post so that there will be no occasion for replacing them by any junior non selected later. The promoted should not be retained in higher posts beyond 18 months, unless they have, in the meantime qualified in the tests. (R.D's No. 4(2.0) 1-69 P.M.L/200 of 4.11.70 (u.s. 6169)).

While making ad-hoc promotions pending elections the duration of which is 45 days or more the reserved vacancies may be filled by senior most suitable un-named Caste/tribe regulated Tribe candidates who are within the field of consideration and are likely to be considered by the selection board when regular arrangements are finally made. (R.O's no. 4(SCT) dated 15/12 of 10.12.71 (R.O. no. 5537).

Similarly in the case of posts filled on the basis of seniority-with-suitability whenever ad-hoc promotion is made the order regarding reservation of vacancies in favour of Scheduled Castes and Scheduled Tribes should be observed (R.O's no. 4(SCT) dated 15/12 of 10.12.71 (R.O. no. 5537)).

The ad-hoc promotions should not be made to fill up the class III posts against any direct recruitment quota. In case the persons against direct recruitment quota are not forthcoming and the posts have to be filled up urgently, these should be filled up after holding regular selection out of class four staffs. In case such selection exceed the promotion quota, the Board may be approached giving full justification for filling up such posts in excess of the promotion quota (R.O's no. 6 (Eng) 1/81/1/r/1 dated 1.3.81 (RR no. 7790-)).

Page 242 (4) The promotion of an employee to a vacancy in a higher grade selection post according to his panel position whether or not leave arrangement, deputation or temporary transfer of another employee vacates the post. <sup>In perspective</sup> the period involved should be treated as non-contiguous and such an employee should not be required to reappear in a subsequent selection for the same post. It is therefore not

-1-

essential that he should have been promoted against a long term vacancy.

(5) If a junior person has officiated against a non fortuitous vacancy, he is also entitled to protection in case he happens to be the next rightful junior and not otherwise even though the senior to him in the panel but not officiating also gets protection. On the other hand if the senior person has not officiated for reasons of illness this implies that he has refused promotion in such a case, next junior person is the rightful person to be promoted and there is no question of treating him as junior, (R.O.'s no. 4(HC) 63 701/91 of 9-3-86) (R.R. 2, Pg. 311).

\*\*\*\*\*

Before the Hon'ble High Court of Judicature at Allahabad  
(Lucious Bench), Lucknow

Civil petition No. 1053

Nojibul Haq Ansari \*\*\* Petitioner  
Various  
The Union of India & Others \*\*\* Opposite parties

ANNEXURE NO. 2

Northern Railway

Office order No. 6/180 Dated 20-4-1979.

As a result of suitability test held on 20-3-79 for the post of Ward Keeper in Cr. No. 405-603 (RST) Ch. following employees are declared suitable for promotion to the post of Ward Keeper in Grade No. 405-603.

1. SRA B. R. Singh	Mr. Chatur/ARV. (7)	SRA B. R. L. Johni	Officer/ARV
2. SRA R. K. Gujral	Officer/ARV/OL/CR(8)	SRA G. K. S. Nyal	Officer/ARV
3. SRA J. S. Pradhan	Mr. Lekha/ARV (9)	SRA Nojibul Haq	Officer/ARV
4. SRA R. N. Das	Officer/ARV/CRB (10)	SRA Banchi Lal	Officer/ARV
5. SRA N. K. Paul	Officer/ARV. (11)	SRA B. K. Tripathi	Officer/ARV
6. SRA C. Bhattachari	Officer/ARV/OL/CR(12)	SRA P. K. Dagar	Officer/ARV

They should submit their option for seeking advancement in the Non Ministerial Stores Keeping group understanding fully that they will not be considered for promotion to ministerial side.

Sd. R. K. K.  
Dy. Controller of Stores  
R. N. J. Lucknow, Lucknow.

Copy to the following for information:

1. 222008(1)/ARV/LR  
2. 222008(2)/ARV/LR  
(3) 222008(3)/ARV/LR &  
4. 222008(4)/ARV/LR &  
Vijaynagar.

S. Parties concerned.

Sd. R. K. K.  
Dy. Controller of Stores.

Before the Hon'ble High Court of Judicature at Allahabad  
(Lucknow Bench) Lucknow.

Joint petition No. 1000

Rajib Ray Ansari \*\*\* Petitioner  
versus  
The Union of India & others \*\*\* Opposite party

ADVENTURE NO. 3

1990-1991

No. 100

Page 112 of 202

To Shri		Progress Inspector Railway Shawan 2013	
1. Chetan Das Pahori Lal, Progress Inspector Railway Shawan 2013			
2. Bhag Singh Head Shan DISK/111/CB			
3. B.R. Progress Officer - CB			
4. B.L. Singh		-CB-	ARV
5. B.M. Banano		-CB-	CB
6. B.M. Verma		-CB-	ARV
7. B.M. Arora		-CB-	ARV
8. B.M. Misra		-CB-	ARV
9. B.C. Parkerjee		-CB-	ARV
10. B.M. Singh		-CB-	UK/ARV
11. B.C. Banano		-CB-	UK/ARV
12. B.M. Dube		DISK/111/CB	
13. Chandra Pal Singh		UK/ARV	UK/ARV
14. B.M. Banano		-CB-	7. Mr. Baldev Singh UK/CD
15. B.L. Mandiratta		-CB-	8. Mr. Bimal Lal UK/ARV
16. Darshan Singh		-CB-	
17. B.M. Banano		-CB-	
18. B.L. Tondon		-CB-	
19. B.L. Singh		-CB-	
20. Jagdish Prakash		-(Offg. 27/10)	
21. S.D. Barker Offg. DISK/111 Hly.			
22. C.I.C. Ali Shahbad,			
23. B.R. John		UK/ARV	
24. B.M. Banano		-CB-	
25. B.M. Lal		-CB-	
26. B.R. Mohan Singh		-CB-	CB
27. B.M. Tewari		UK/ARV	
28. B.M. Dube		UK/CB	
29. B.L. Paul		UK/ARV	
30. C.M. Singh		UK/254/CB	
31. G.M.L. Achani		UK/ARV	
32. G.Jibul Rao		UK/CD	
33. G.S. Lal		UK/ARV	
34. G.M.A. Tripathi		UK/CD	
35. H.S. Nagpal		UK/254/CB	
36. H.L. Verashi		-CB-	
37. H.L. Dheeta		UK/ARV	

27. Raj Bungal Pd.  
28. Ram Gehari Ram  
29. Durbir Pd.  
30. R.S. Chauhan  
31. T.D. Dinesh  
32. Santri Lal  
33. Rattu Chand  
34. Gyan Chand

UR/BSL/CD  
RL.  
UR/ARV  
UR/ARV  
UR/CNS  
UR/ARV  
UR/UR  
UR/ARV/LRD

Sub. Selection for the post of URK/III Grade-450-700(RD)

The written test for the selection of URK/III grade 450-700(RD) scheduled to be held in this office on 17.7.81 was postponed and the same is now deemed to be held on 19.10.81 at 10.00 hrs. in this office. You are therefore informed to appear in the test with your pen and pencil. The answer books will however be supplied by this office. In case you are not willing to appear in the selection, you should furnish your unconditional written refusal which should reach this office latest by 10.9.81.

You are required to acknowledge receipt of this letter on the form subjoined.

Sd/-  
By, Controller of Stores  
Almabagh, Lucknow

Copy to the following:-

1. The Director (Stores) Room No. 114 (R.D.)-all First Floor, Hall Bhawan, New Delhi. He will please arrange to send Sh. Charan Singh Gehari Lal to enable him to appear in the above selection on 19.7.81.
2. The Chief Engineer(RD) addressed. He is requested to send Sh. S.C. Sarker to enable him to attend the above selection in this office on 19.10.81.
3. The A.C.O./CD, BSL/CD, CNS/CD & all VVN "posts and all section Incharges ARV. They are requested to send the staff under them to enable them to attend the selection on 19.10.81.
4. The S.O. (G) ARV. He will make necessary seating arrangements for the selection and providing answer books.

Received letter Nos. 190-R dated 5.7.81 and 19.9.81

Signature of the Section Head      Signature of the employee

Ram

Dated

Dated

Before the Hon'ble High Court of Judicature at Allahabad  
(the new Bench) Lucknow.

Exit petition No. of 1983

Mujibul Haq Ansari \*\*\* Petitioner  
versus  
The Union Bank of India & others Opp. Parties

ANNEXURE NO. 7

RAILWAYS

Office of the D.G.C. & S/ARV/LRS

No. 190-V

Dated 21.10.1981.

To  
S/Chrl  
1. Charan Das Sehri Lal, Progress Inspector Railway Shrawan  
NDS.

2. Abus Ahmad Khan DSK/III/CD  
3. B.N.B. Srivastava - DGS  
4. Bira Singh - DGS-ARV  
5. B.M.S. Sena - DGS-CD  
6. K.D.S. Verma - DGS-ARV  
7. D.P. Prana - DGS-DSL-CD  
8. D.S. Misra - DGS-ARV  
9. D.L. Mukerjee - DGS-ARV  
10. D.M. Singh - UK/ARV  
11. D.S. Sena - DGS  
12. D.S.P. Basu - DSK/III/CD  
13. Chandra Lal Singh - UK/ARV  
14. D.L.S. Sena - DGS  
15. K.L. Pandiratna - DGS  
16. Darshan Singh - DGS  
17. D.S. Sena - DGS  
18. K.L. Tandon - DGS  
19. K.L. Behra - DGS  
20. Jagdish Prakash - DGS-(Officer ARV)  
21. S.C. Sekhri Offg. DSK/III Bly.  
22. Cllc. Allahabad

23. K.P. Jain - UK/ARV  
24. K.M. Majeed - DGS  
25. D.C. Lal - DGS  
26. Rajeshwar Singh - UK/ARV  
27. R.M. Das - UK/CD  
28. R.L. Paul - UK/ARV  
29. C.R. Jaini - UK/DSL/CD  
30. R.M.L. Gehra - UK/ARV  
31. Rajibul Haq - UK/CD  
32. Renu Lal UK/ARV  
33. R.S. M. Tripathi - UK/CD  
34. R.S. Singh - UK/DSL/CD  
35. R.S.L. Purush - DGS  
36. R.S. Ralra - Sr.Clerk ARV  
37. R.L. Pehla - UK/ARV  
38. Raj Kengal P.D. - UK/DSL/CD

S.C. Candidates  
1. R.M. S. Sekhri DSK/III/ARV  
2. Bhyan Lal "Sr.Clerk/ARV  
3. Ram Karen UK/ARV  
4. Sri R. Jhons UK/ARV  
5. Ram Chhaya UK/CD  
6. R.L. Phanu UK/ARV  
7. Kalho R.D. UK/CD  
8. Neel R.D. UK/ARV  
9. Rameshwar "An "Sr.Clerk/ARV  
10. R. Bingsoo Das Sr.Clerk/ARV  
11. L. L. Han Lal " " "  
12. Satpal Singh Sr.Clerk/CD

30. Ram Behari Ram	DC
40. Dabbar Rao	DC/ARV
41. R.S. Chauhan	DC/ARV
42. T.O. Sirohi	DC/CRB
43. Dantri Lal	DC/ARV
44. Rati Choudhary	DC/VTB
45. Giri Choudhary	DC/ARV/CR/DCB
46. Neotosh Rai	DC/CD
47. Chandhu Nath Verma	DC/ARV
48. S.S. Lal Verma	DC/ARV

Sub: Selection for the post of DC/DCS Grade 455-700/-.  
The written test for the selection of DC/DCS "T.455-700/-" is arranged to be held in this office on 20.12.81 at 10.00 hrs. in this office. You are therefore informed to appear in the test. If you prefer not to do so, the books will however be supplied by this office. In case you are not willing to appear in the selection you should furnish your unconditional written refusal which should reach this office latest by 16.12.81.

You are required to countersign a receipt of this letter on the form subjoined.

By, Controller of Stores  
Almabagh, Lucknow.

Copy to the following:-

1. The Director (Stores) Room No. 114 (HS) 4th floor Rail Bhawan, New Delhi. He will please arrange to spare Mr. Charan Lal Behari Lal to appear in the above-mentioned on 20.12.81.
2. The Chief Engg. (HS) Almabagh. He is requested to spare Mr. S.C. Kapoor to appear in the above-mentioned on 20.12.81.
3. The AC DC/CD, DC/CR, DC/VTB and DC/ARV. They are requested to spare the staff under them to the extent to attend the selection on 20.12.81.
4. The DC (S) Almabagh. He will make necessary seating arrangements for the selection on ground as under below:-

Received letter No. 180 dated 21.12.81

Signature of the employee

Name

Dated

4. Shri J. C. Chhabey,  
President NMM, Building 25-26, Naka Nindal,  
Phagwara, LUCKNOW.

\*\*\*\*\*

Copy of My. Board's letter No. E(16)-L-9806/31 dated  
5.2.72 from Shri Dwarika Doss "sett. Director, Latt. My.  
Board to The Genl. Manager, "11 Indian Railways, & Others,

Sub: Confirmation of staff officiating in higher grades

In continuation to the instructions contained in letter of  
even number dated 12.3.71 the Board desire that the cases  
of staff who have been promoted on regular basis should  
be reviewed after completion of one year continuous  
offc. service, even if a permanent vacancy does not exist  
with a view to determining their suitability for retention  
in the grade. The review should be completed early and a  
decision to continue the employee in the offc. post or  
revert him, taken and implemented within a period of 15  
months of offc. service. Having followed this procedure  
there should be no question of denying the benefit of  
confirmation to an employee on completion of 2 yrs. offc.  
service in a clear permanent vacancy for reason that he is  
not fit for confirmation.

Please acknowledge receipt.

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

Writ petition No. of 1983  
Under Article 226 of the Constitution  
Origin Lucknow

Najibul Haq Ansari...  
Versus  
Union of India and another

Petitioner  
"pp. Party

ANNEAUNG NO. 10

No. HARO/43-66/83

Dated 11th January 1983

All Branch/Divisional Secretaries,  
Central Office Bearers/MRPU

Sub: Adhoc promotions - procedure for  
\*\*\*  
A copy of Railway Board's letter No. C(RG)I-86/80/262 dated 27.12.1982 is reproduced below for  
information please.

Sd.  
for General Secretary

In the Ministry of Railways' letter No. C(RG)I-86/80/262 dated 11.5.1980 instructions were issued that adhoc promotions should be discharged and when they became essential, only suitable senior posts persons should be promoted and that serious notice should be taken of continued promotions made for junior employees. Instances are still coming to Board's notice where the juniors are promoted and continued for long durations on a adhoc basis without holding selections, leading to representations by the seniors. Ministry of Railways desire that the instructions on the subject should be strictly adhered to and there should not be any occasion where a junior has been promoted on adhoc basis when suitable senior persons were available.

N.R.

u 25/

VAKALATNAMA



13/2

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

WRIT PETITION No. 5189 OF 1983

Sri Najebul Haq, Ansari Plaintiff

Defendant

Claimant  
Appellant  
Petitioner

Union of India and others Defendant

Plaintiff

Respondent  
opp. parties

Versus

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

C-16, K-Road, Mahanagar Extension, 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 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 defendant 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. Siddharth Verma  
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 20th of March 1984

SP  
30.3.84  
J.W.  
29/3/84

Accepted

Sharma  
(Siddharth Verma)  
Advocate

mark

Designation of the Executive Officer

Dated 20.3.1984

N.R.—149/1—June, 1981—75,00 F.

Adm. Chief Personnel Officer  
Northern Railway, New Delhi

हाईकोर्ट इलाहाबाद, लखनऊ बेन्च, लखनऊ  
( अध्याय १२, नियम १ और ७ )

दीवानी विभाग

प्रकोण्डक ( मुतफरिक ) प्रार्थना - पत्र संख्या ..... सन १६ ई०

W P 5189/83

स्टॉ ..... सन १६ ई० में

Nazibul Haq Ausavi — प्रार्थी

प्रति

Union of India — प्रत्याधी

Deputy Controller of Stores

Northern Railway

Almora ( U.P. ) — प्रत्याधी

उपयुक्त मुकदमे के सम्बन्ध में

..... वेलिये प्रार्थना-पत्र

नांक ३० माह ३ सन १६८४

प्रार्थना-पत्र क्यों न स्वीकार कर  
नियमानुसार विहित किशी और

उससे पहले स्वयं अधवा किसी  
करने के लिए कानून अधिकृत  
और निर्णय आपको अनुपस्थित

नांक ३१ माह ३ सन १६८४

को जारी किया गया।

के राज्योकेट

तिथि

डिस्ट्री रजिस्ट्रार

इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १६५२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त  
तलवाना मिल गया।

तलवाना प्राप्त करने वाले कलर्क के हस्ताक्षर

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	<p>2</p> <p><u>30-3-84</u></p> <p>Fixed for attendance and for filing C-A in W.P.</p> <p>N°1 JTO O-P-No-1 and 2 by R-P-</p> <p><u>Bone</u> <u>31-3-84</u></p>	3

A/62  
A68

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

C.A.T. No. 1202/87 (T) -

Writ petition No. 5189 of 1983

Najibul Haq Ansari vs. Union of India & others

*filed today  
Aug 24/4*

COUNTER on behalf of the respondents is as under :-

- 1- That in reply to para 1 of the petition it is submitted that the petitioner was appointed by the District Controller of Stores as Clerk who is appointing authority. The post of Deputy Controller of Stores has been created later on. The applicant was appointed through Railway Service Commission and not through P.S.C. as mentioned in the petition. There is no bifurcation as ministerial or non ministerial from the post of clerk. Bifurcation of ministerial or non ministerial starts after the grade of 330-560 (RS) and not from the initial recruitment grade (Rs. 260-400) as stated by him. Separate channel of promotion starts after grade 330-560 (RS) and upto this grade seniority of staff is combined.
- 2- That para 2 of the petition is admitted to the extent that he was appointed as clerk grade I, from 21.12.70 and was reverted to his substantive post from 9.4.1971 and was again promoted from 15.7.71.
- 3- That in para 3 of the petition it is admitted that he was confirmed as senior clerk from 1.10.75. This confirmation is on the post of senior clerk only.
- 4- That in para 4 of the petition it is stated

HR forwarded  
सहायक कानूनी अधिकारी (भांडार)  
उत्तर रेलवे आवासान  
लकड़ा

that as already stated in para I it is stated that there is no separate seniority of ministerial or non ministerial upto 330-560 (RS) and after this grade there are two channels viz. Ministerial (425-600). It was from 1.8.83 that the designation of Wardkeeper and Asstt. Store and Depot Stores keeper and Senior Depot Store keeper, non ministerial cadre is changed as DSIC/III (425-700), DSK/II (550-750) and DSK/I (700-900).

- 5- That para 5 of the petition is admitted.
- 6- That in reply to para 6 of the petition it is admitted that in terms of Railway Boards letter No. E(NG) 165 PNI-88 dated 22.9.69 the clerks grade (I) (330-560) were required to exercise options for further promotion either on ministerial or non ministerial side and option once exercised were final. Later part of the para of the petition is based on his own thinking and is not covered by rules.
7. That para 7 of the petition is admitted.
- 8- That in para 8 of the petition it is submitted that options for the post of Ward keeper were asked but the suitability test could not be held and adhoc arrangements were made on the post of Ward keeper grade 425-600 (RS) in the year 1972.
- 9- That para 9 of the petition is admitted.
- 10- That para 10 of the petition is denied. The store delivery clerks at that time had no option to ministerial side and the channel towards Ward keeper and above was automatic.

HRD  
सहायता विधारी (प्रांती)  
उत्तर रेलवे बाबमवाला  
लहनऊ।

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11- That para 11 of the petition is admitted to the extent that he was appointed to officiate as Ward keeper from 5.6.72 purely on local and adhoc basis and he has given his willingness for the above promotion and in the order it was clearly stated that the promotion could not confer on him any claim for such promotion in future in preference to his qualified senior persons.

12- That in reply to para 12 of the petition it is submitted that due to dispute in seniority of ministerial and non ministerial the test was postponed and matter was referred to the General Manager (P) for clarification and decision.

13- That para 13 of the petition is admitted to the extent that his promotion was on adhoc basis from 5.6.72 to the date of passing suitability test in March 79 along with other staff.

14- That in reply to para 14 of the petition the suitability test was proposed for persons opting non ministerial side and was postponed due to administrative reasons. It is admitted that Shri Najibul Haq continued to work as Ward keeper on adhoc basis. The reason of postponement of suitability test has been stated in para 12.

15- That para 15 of the petition is denied. Adhoc promotion is adhoc for all purposes and cannot be treated as regular and his promotion was also not based on strict order of seniority.

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सहायक कार्यक अधिकारी (मंत्रालय)  
उत्तर रेलवे बालमंडी  
लखनऊ

16- That in reply to para 16 of the petition it is submitted that due to revision of pay scales by IIIrd pay commission from 1.1.73 the grade of senior clerk was fixed as Rs. 330-560 and that of Ward keeper as 425-600 (RS).

17- That para 17 of the petition is admitted to the extent that pay scales were revised, rest is denied as it is his own way of thinking. Prior to revision of scales the post of Ward keeper was in grade 210-320, which was already attractive for promotion of clerks grade 130-300.

18- That para 18 of the petition is denied. Since his promotion was local and adhoc without passing suitability test, his view as others senior to him in grade 330-560 could not have submitted options and could have not been called for the test of ward keeper, is baseless. Mere option on a previous date without passing suitability test could not form the basis of seniority. Clarification from head quarters was received in 1976 and thereafter after assessing the vacancies to be filled on regular basis, suitability tests of eligible staff were held and seniors were called. It was year 1979 in which Shri Wajibul Haq (petitioner) along with others appeared and who were suitable were declared fit for promotion to the post of Ward keeper. Since the matter of channel of promotion remained under reference and consideration between headquarters office and recognised federations from 1972 to 1976 and clarification received in 1976, his contention that those who could not be

HSW-10  
सहायक कामिक अधिकारी (प्राप्त)  
उत्तर रेलवे बालमवारा  
लखनऊ

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promoted on adhoc basis were debarred, is not correct as mere option and adhoc promotion are not basis of seniority and non-fortutious service.

19 and 20- That the contents of paras 19 and 20 of the petition are admitted. The tests were held and senior eligible staff were called for the test. Petitioner was junior enough on the basis of seniority hence he was not called for the test earlier than 1979 when his due term came..

21- That para 21 of the petition is denied. He was junior as per seniority of clerks/Store delivery clerks and his adhoc promotion as Ward keeper could not confer on him the right of seniority over his seniors as already contained in promotion order of 5.6.72 (Annexure 3 of the petition).

22- That para 22 of the petition is denied. His promotion to the post of Ward keeper in 1972 was without passing suitability test and not in strict order of seniority and he cannot claim seniority on the basis of adhoc and local promotion on the basis of option/willingness only.

23 and 24- That in paras 23 and 24 of the petition only this much is admitted that selection for the post of DSIC/III was to be held and eligible staff were called to appear in written test. He was junior to others on the basis of non-fortutious services hence his name was at serial no. 31 of list and persons placed on the panel of D.S.K./III were promoted. His claim of seniority from the date of

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सहायक कार्यक अधिकारी (पंडित)  
उत्तर रेलवे आवास वाप  
लालनगर

adhoc promotion to the post of Ward keeper is wrong.

25- That para 25 of the petition is denied. The seniority to the post of Ward keeper is reckoned from the date of passing suitability test of staff senior in grade 130-300 (RS) i.e. senior clerks and store delivery clerks.

26- That written test for the post of Ward keeper was held from time to time strictly in order of seniority of clerks and store delivery clerks. His claim of seniority on the basis of adhoc promotion as Ward keeper in preference to his senior is not acceptable.

27- That in reply to para 27 of the petition it is submitted that option and fortuitous service do not form the basis of seniority. The employees named in this para were senior to the petitioner on the basis of regular service as such his claim is not tenable.

28- That in reply to para 28 of the petition it is submitted that according to the channel of promotion of 1976 options for ministerial and non ministerial side were required from the staff in grade 330-560 (RS) after passing suitability test when due- Shri Jain was working as Ward keeper on adhoc basis and on his turn he was asked to furnish option as he opted for his promotion in ministerial side, which was allowed. This facility was open to him but he opted for non ministerial sides.

29 and 30. That the contents of paras 29 and 30 of the petition are denied. He was not due test in

H286 and -  
सहायक कानिक विधिकारी (मंडार)  
उत्तर रेली कानूनवाग  
मंडार

A74

1st and subsequent tests except in 1979 on the basis of seniority. His claim from 1.6.70 is not acceptable, being adhoc.

31- That para 31 of the petition is denied. He was not senior to persons mentioned. Moreover his contention of seniority and confirmation from the date of adhoc promotion is also wrong.

32- That representation does not bear date and as has no grounds for giving him seniority on the basis of adhoc promotion as Ward keeper from 1.6.72 in preference to his seniors.

#### GROUNDs.

The grounds advanced from paras 1 to 9 are baseless. No discriminatory action has been taken by this office. The post of Ward keeper is filled on the basis of seniority and suitability. His adhoc and fortutious promotion from 1.6.72 was on the basis of his willingness without passing test and as such this adhoc promotion and option has no basis for assigning seniority in this category and to declare him senior to his seniors. No Promotion is made on the ground that an employee is stagnated.

#### CASE FOR RAILWAY ADMINISTRATION.

33- That vide Railway Boards letter No. E(NG)/65. PNI-28 dated 22.9.69 Clerks grade 330-560 were required to exercise option for further promotion

HR&M  
महायक कामिक अधिकारी (पंडार)  
उत्तर रेलवे बलमवारा  
बलमवारा

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whether ministerial or non ministerial side once option is exercised it is final.

34- That the petitioner Sri Najibul Haq opted to non ministerial side. The petitioner was promoted on 5.6.72 as Ward keeper as per annexure 3 of the petition wherein it is expressly written that the adhoc promotion will not vest any right hence the relief as claimed on the basis of this annexure is dated. Contrary to the terms of promotion and claim.

35- That in the year 1976 and thereafter time to time suitability test was held strictly in accordance with combined seniority (senior clerks and Store delivery clerks) the senior persons in accordance with suitability test, have been promoted and the petitioner did not raise any objection on such promotions options reason was that the petitioner had no legal right for the said promotion.

36- That since the petitioner was junior to the persons till March 1979 he had no right.

37- That on 30.3.79 the petitioners promotion for the post of Ward keeper was adjudged by suitability test and on that date he was given the regular promotion.

38- That since 5.6.72 to 30.3.79 the petitioner lacked vested right, hence he has not been given

HRD  
सहायता कार्यकारी अधिकारी (भारत)  
उत्तर रेलवे आसनबाग  
लखनऊ

the benefit of regular promotion, i.e. seniority. In case the seniority is granted from 5.6.72 it means, brushing aside the pre-requisite the rule of qualification, it will also be serious discrimination against those persons who were seniors to have vested right.

39- That since that petitioner has no right,  
hence petition be rejected.

I, H.R.Sharma, Asstt. Personnel Officer  
(s) ANW/HC, do hereby verify that the contents of  
paras 1 to 39 of this counter are based on perusal  
of record and information which I believe to be true.  
Verified on this \_\_\_\_\_ day of \_\_\_\_\_ 1988.

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सहायक कार्यिक व्यक्तिकारी (भंडार)  
उत्तर रेलवे बालमवाग  
वर्ष १९८१।

Par 19 -

Several tests were held from 1972 to 1979

\* particularly in 2/77, 6/77, 7/77, 8/77, 10/77,  
+ 31.3.78.

~~no test was held~~  
~~between 1972 & 1976~~

Also para 20

Afterwards all called for & was

not all and to appear at these.

Surveillance tests - ~~Excluded~~

CA for 19-20 - Award: only  
persons senior to him were  
were called. However junior till  
1979 when his turn came & he  
was called.

- Par 21 Cdt. Henry Glavin as per  
Sugn of CDSR / Supt. Dealing Cdt.

They will rank junior to  
those who gather option  
earlier: R.B. 6th 27-15-6-72  
Ans 2: the persons who fail

to submit their option by 23-6-72  
will not be allowed to appear in  
in the 6th grade ~~31/7/72~~ &  
their junior by virtue of their option  
of being Surveillance test therefore when  
promoted will rank senior to them but  
below promotion in the higher grade.

Revised Par 18:

Par 18: Promotions  
as word keeper on 5-6-72 & this  
he was senior to Senior Clerk  
Dealing Clerk who had not exercised

their option for further outcome  
of promotion in non-must be  
group, although under R.B. 6th 27  
4.11.70 Ans R. In other  
branches must be promoted on  
Senior with in fresh batch &  
retain higher post.

filed today  
h  
13/4

PLA

Before the Central Administrative Tribunal, Allahabad  
Circuit Bench at Lucknow.

Re-application in Registration No.1202(T) of 1987.

In :

Writ Pet. No.5189 of 1983.

--

Pl. kept in the  
file. 13/4

Nazibul Haq Ansari.

-----Petitioner

Versus

Union of India and others.

-----Respondents.

--  
Rejoinder to the Counter reply of Sri H.R. Sharma, Assistant Personnel Officer, Deputy Controller of Stores Office, Northern Railway, Alambagh, Lucknow, filed on behalf of the opposite parties.

I, Najibul Haq Ansari, aged about 59 years, son of Late Mohammad Ahmad, resident of House No.551-K/425 A/3, Madhuban Nagar, Alambagh, Lucknow, the deponent do hereby solemnly affirm and state on oath as under. I, the above named petitioner seek the leave of your honour to admit this re-application filed in reply to written statement inter alia on the following grounds. The applicant was promoted as Sr.Clerk (Clerk grade-I) w.e.f. 15.7.71 and Ward Keeper Scale Rs.210-320 (AS) w.e.f. 5.6.1972 i.e. much earlier prior to implementation of third pay Commission Report.

Najibul Haq Ansari

AGB  
K/2

The respondents have submitted the counter based on  
frame w  
the rules and grades/ after the implementation of Third  
Pay Commission Report.

1. That in reply to para 1 of the counter, the contents of said para are admitted in regard to appointment of the petitioner and agency through which he was selected for the post of Clerk, the rest contents are denied. The clerks scale Rs.110-180( AS) had two avenue of promotion viz. Senior Clerks (Clerk grade-I) scale Rs.130-300 ( AS) and Store Delivery Clerks Scale Rs.130-280 ( AS). The promotion of Senior Clerks based on percentage basis but all the post of Store Delivery Clerks were filled in scale Rs.130-280 ( AS). The channel of promotion of Store Delivery Clerks was in two sides viz. Ministerial and non-Ministerial. The Senior Clerk (Clerk grade-I) had to exercise their option for further avenue of promotion either in Ministerial group or non-Ministerial group and option once exercise was final.

2. That in reply to paras 2 and 3 of the counter, it is stated that the contents of these paras of the counter are admitted. The contents of paras 2 and 3 of the petition are reiterated.

3. That in reply to para 4 of the counter, it is to state that the channel of promotion of clerks grade Rs.110-180 ( AS) in Store Department is laid down

Hajibul Haq Aman

✓ A51

in para 165, Chapter-I, Section 'B' of Indian Railway Establishment Manual. The posts of Store Delivery Clerks grade Rs.130-280 (AS) were filled in from the clerks grade Rs.110-180 (AS) and further the Store Delivery Clerk scale Rs.130-280 (AS) were promoted as Senior Clerks (Clerk Grade-I) in scale Rs.130-300. The avenue of promotion of Ministerial and non-Ministerial has already been given in para 4 of the petition. The date 1.8.83 as shown in the counter is incorrect as these orders were given effect from 1.8.82.

4. That in reply to para 5 of the counter, the contents of para 5 of the petition are reiterated.

5. That in reply to para 6 of the counter, it is submitted that in the year, 1969, the scale of clerks grade-I was Rs.130-300 (AS) and was not the scale Rs.330-560. On the implementation of Third Pay Commission Report from 1.1.73 the scales of Senior Clerks (Clerk Grade-I) was revised to Rs.330-560. Prior to implementation of Third Pay Commission Report, the Senior Clerk (Clerk Grade-I) scale Rs.130-300 (AS) had to exercise their option for further avenue of promotion either in Ministerial or non-ministerial group. The options once exercise were final. The petitioner had exercised his option in June, 1972 in terms of letter at Annexure-2 of the petition.

*Najibul Haq Ansari*

AS 2

The petitioner was working as a Ward Keeper in scale Rs.210-320 (AS) while the options were invited thus the petitioner had considered and exercised his option for non-ministerial group; The rest of the contents of para 6 of the petition are reiterated. The Store Delivery Clerks were getting advantage of Travelling, Over-time and Night duty allowances thus they were drawing more salary than the salary of Sr.Clerk (Clerk Grade-I) and Ward Keepers. Thus the Store Delivery Clerks did not prefer their posting as Senior Clerk.

6. That in reply to para 7 of the counter, the contents of para 7 of the petition are reiterated. The suitability test for the post of Ward Keeper was scheduled to be held on 3.7.1972 but could not be conducted as the respondent no.2 wants to favour some junior employees working as Store Delivery Clerks and some who had not exercised their options in terms of notice at Annexure no.2 of the petition. If the suitability test was conducted for the post of Ward Keeper, no anomalies arose later on.

7. That in reply to para 8 of the counter, it is stated that the respondents prefer to make the adhoc arrangements thus the suitability test for promotion to the post of Ward Keeper was not conducted only to give advantage to some junior employees. In the

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year 1972 the adhoc promotions to the post of Ward Keeper were made in scale Rs.210-320 (AS) and not in scale Rs.425-600 and was posted out of Lucknow.

8. That in reply to para 9 of the counter, the contents of para 9 of the petition are reiterated.

9. That in reply to para 10 of the counter, it is stated that the Store Delivery Clerk Scale Rs.130-280( AS) had to be promoted as Senior Clerk Scale Rs.130-300 ( AS) and on refusal they had to continue as Store Delivery Clerk. The incumbents were promoted as Senior Clerk Rs.130-300 ( AS) were become senior than those who refused their promotion; It is incorrect to say that the promotion of Store Delivery Clerk was automatic to the post of Ward Keeper. The scale of Store Delivery Clerk was lower than the scale of Senior Clerks thus the Store Delivery Clerks when promoted to the post of Senior Clerk were fixed under 2018(B)R-II(F.R.22-C).

10. That in reply to para 11 of the counter, it is submitted that the options were invited from the Senior Clerks Scale Rs.130-300 ( AS) for further avenue of promotion either in Ministerial or non-ministerial sides and the date for the suitability test was also fixed vide letter at Annexure-2 of the petition.

Petitioner was promoted as Ward Keeper Scale

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Rs.210-320 (AS) on pay Rs.184/- plus 26/- O.P. after depositing the cash security vide order at Annexure-3 of the petition. The petitioner had also exercised his option for further avenue of promotion in non-ministerial side in terms of notice at Annexure-2 of the petition.

11. That in reply to para 12 of the counter, it is submitted that there was no dispute in seniority, dispute was only created to give the benefit to Store Delivery Clerks who had not accepted the post of Senior Clerk. The scale of Store Delivery Clerks was lower than Senior Clerks thus the Clerks Grade Rs.110-180 (AS) were promoted as Senior Clerks prior to Store Delivery Clerks were senior than Store Delivery Clerks. The Third Pay Commission Report was published by the Government in December, 1973 but given effect from 1.1.73, <sup>but</sup> <sub>hence</sub> the petitioner was promoted prior to implementation of Third Pay Commission Report, thus he is entitled to get his seniority on the basis of rules applicable in 1972 as he was not allowed to change his option according to new instructions received in 1976. The petitioner, if allowed to change his option for ministerial side he would have been promoted as Office Supdt. Grade Rs.700-900 (AS)/ 2000-3200.

12. That in reply to para 13 of the counter, it is

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stated that petitioner was promoted on adhoc basis against a non-fortuitous vacancy as he was never reverted to his substantive post since the date of his promotion as Ward Keeper Grade Rs.210-320 (AS).

13. That in reply to para 14 of the counter, it is submitted that the reasons stated in para 12 of the counter are not authentic as the comments have not been supported with any rule. The respondents should act according to the instructions available in 1972 but it was not done due to malafide intention only to favour some junior persons. The petitioner had exercised his option for further avenue of promotion in non-ministerial side, suitability test was scheduled to be held on 3.7.72 but postponed. The petitioner was not allowed to change his option on the basis of the instructions received in 1976. The delay in holding the suitability test was attributable on the part of the respondents and the petitioner has suffered so much loss.

14. That in reply to para 15 of the counter, it is stated that as per instructions of the Railway Board the adhoc promotions should be made strickly on the basis of seniority and the promotions made should not be continued more than three months. In exceptional circumstances these adhoc promotion may be continued upto 6 months with the approval of Chief Personnel

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Officer/General Manager (P) of the concerning Railways.

15. That in reply to para 16 of the counter, the contents of para 16 of the petition are reiterated.

16. That in reply to para 17 of the counter, it is submitted that the contents of para 17 of the petition are reiterated. It cannot be said that the scale of Rs.210-320 (AS) was attractive for promotion of Clerks Grade Rs.130-300 (AS) as the petitioner had got the benefit of Rs.26/- in fixation of his pay in the Cadre of Ward Keeper.

17. That in reply to para 18 of the counter, the contents of para 18 of the petition are reiterated. The petitioner was promoted as Ward Keeper after depositing security money. The adhoc promotion was made strictly on the basis of seniority as per instructions laid down in Railway Board's Circulars. In case the respondents did not care about the seniority it was their~~s~~ fault to act having malafide intention. In the year 1977, the suitability test for promotion to the post of Ward Keeper was conducted but most of the employees did not exercise their option for further avenue of promotion in non-ministerial side, thus they had not been promoted as Ward Keeper. It is clear from the said instance that option was only the criteria for promotion as Ward Keeper and

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and suitability test had no meaning for promotion in non-ministerial group.

18. That in reply to paras 19 and 20 of the counter, the contents of paras 19 and 20 of the petition are reiterated. The petitioner was promoted as Ward Keeper w.e.f. 5.6.1972 i.e. prior to implementation of Third Pay Commission Report thus the petitioner was senior to the Senior Clerk and Store Delivery Clerks who had not exercised their option for further avenue of promotion in non-ministerial group. In terms of Railway Board's letter No.E(NG)1-69/PMI/200 dated 4.11.70, the adhoc promotees must be put through a selection with the first batch and retained in higher posts. Photostat copy enclosed and is marked as Annexure No.R-I.

19. That in reply to para 21 of the counter, the contents of para 21 of the petition are reiterated. The petitioner was senior at the time of adhoc promotions of Ward Keeper on the basis of seniority and option for further avenue of promotion in non-ministerial group. The contents of para 21 of the counter are baseless and denied.

20. That in reply to para 22 of the counter, the contents of para 22 of the petition are reiterated. The suitability test was not the criteria for promotion

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in non-ministerial group but the option was the main as the staff declare suitable for the post of Ward Keeper did not exercise their option for further avenue of promotion as Ward Keeper were not entitled for their posting in non-ministerial cadre thus the option is only the main criteria for promotion in non-ministerial group.

21. That in reply to paras 23 and 24 of the counter, the contents of paras 23 and 24 of the petition are reiterated. The scales of Senior Clerk and Store Delivery Clerks were not identical prior to implementation of Third Pay Commission Report. The scale of Store Delivery Clerks was lower than the scale of Senior Clerks. The Store Delivery Clerks while promoted as Senior Clerk their pay fixed under Rule 2018 (B)R-II thus the petitioner was senior than the Store Delivery Clerks.

22. That in reply to para 25 of the counter, the contents of para 25 of the petition are reiterated. In terms of para 212(a) of Indian Railway Establishment Manual, suitability of an employee may be judged either from the past records, performance in the work in which he is employed, confidential report or by holding a written departmental test. The petitioner was promoted as Ward Keeper w.e.f. 5.6.1972 and since then he was working efficiently i.e. more than 5 years thus his

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suitability to the working post was automatic on the basis of confidential report, past records and performance in work as Ward Keeper.

23. That in reply to para 26 of the counter, it is submitted that the petitioner was promoted on adhoc basis on 5.6.1972 against a non-fortuitous vacancy and the suitability test was conducted after 5 years i.e. after the implementation of Third Pay Commission Report but the petitioner was not called to appear in suitability test which violates the instructions of Railway Board's. The instructions which were in operation prior to 1.1.1973 had not adhered too thus the petitioner declared junior to Store Delivery Clerks.

24. That in reply to para 27 of the counter, the contents of para 27 of the petition are reiterated. The grounds for seniority and the promotion was against the non-fortuitous vacancy have already been narrated in forgoing paras. The most of the employees shown in para 27 were working either as Store Delivery Clerk in the year 1972 or had not exercised their option for further avenue of promotion in non-ministerial side in terms of notice at Annexure no.2 of the petition.

25. That in reply to para 28 of the counter, it is submitted that the petitioner was promoted as

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Ward Keeper on 5.6.1972, thus the policy framed in 1976 is not applicable in his case. The petitioner had exercised his option for further avenue of promotion in June 1972 and said option was treated as final because the petitioner was not given an opportunity to change his option according to policy framed in 1976 and the circumstances warranted for further avenue of promotion is Ministerial or non-ministerial group. The rest of the contents of para 28 of the petition are reiterated.

26. That in reply to paras 29 and 30 of the counter, the contents of paras 29 and 30 of the petition are re-iterated. The suitability test of the petitioner should have been conducted in 1972 as per notice at Annexure-2 of the petition as he exercised his option for further avenue of promotion in June 1972 but the delay was attributable on the part of respondent no.2. The petitioner is entitled to get the benefit of his seniority in non-ministerial cadre right from 5.6.1972 i.e. from the date of his promotion as Ward Keeper.

27. That in reply to para 31 of the counter, the contents of para 31 of the petition are reiterated. The petitioner was entitled for confirmation as Ward Keeper in terms of Northern Railway Printed Serial No.5586 in scale Rs.210-320(AS) from 5.6.1972 after completion of 2 years service.

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28. That in reply to para 32 of the counter, it is submitted that the issue will be discussed at the time of hearing. The petitioner is entitled to get his seniority from the date of promotion as Ward Keeper i.e. 5.6.1972 as nothing was adverse against him during the period of his working as Ward Keeper. The Ward Keepers are the custodian of the material stocked in their Ward and they are responsible for any shortage or excess and also punished, if any, irregularity happens thus the promotion against the post of Ward Keeper are made after depositing the seniority money as per codal procedure. The action of the respondent no.2 was discriminatory as such responsibility should not be shoulder without judging suitability. The petitioner hold higher responsibility than the employees who were promoted as Ward Keeper afterwards. There was no complaint about his work as Ward Keeper thus the petitioner would have consider suitable in terms <sup>of</sup> para 212 of Indian Railway Establishment Manual and he should be assigned seniority from the date of his promotion as Ward Keeper.

29. That in reply to para 33 of the counter, it is submitted that the contents of said para are incorrect as the scale of Senior Clerks during the year 1969 was Rs.130-300 (AS) and not Rs.330-560. The petitioner had exercised his option in <sup>the</sup> month of

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June, 1972 and the said option treated as final. He had not given opportunity to revise his option as per procedure and policy adopted in 1976. The clerk scale Rs.60-130(CPC)/110-180(AS), who were junior to the petitioner by virtue of appointment and exercise their option for further avenue of promotion as per policy framed in 1976, have been promoted as Depot Store Keeper Grade Rs.700-900/ 2000-3200 or Office Superintendent grade Rs.700-900/ 2000-3200 but the petitioner could get only the grade Rs.550-750/1600-2600. This resulted monetary loss in Pension, Death-cum-retirement-gratuity and Leave encashment, as well as in monthly salary.

30. That in reply to para 34 of the counter, it is submitted that the adhoc promotions should not be continued for more than six months thus the promotion ~~on adhoc basis~~ <sup>automatically</sup> should have been reversed but had not been done so thus in terms of para 212 of I.R.E.M., the petitioner automatically considered suitable as during the period of his working as Ward Keeper no adverse remarks were passed against him. Moreover the petitioner had not given opportunity to revise his option in the year 1976. As per policy framed in 1976, the options were called after being declared suitable for the post of Ward Keeper but in the case of petitioner, these instructions were not followed.

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31. That in reply to para 35 of the counter, it is submitted that the suitability test for the post of Ward Keeper on the basis of combined seniority of clerks Grade-I and Store Delivery Clerks were held after the implementations of Third Pay Commission Report because the scales of Store Delivery Clerks and Clerks Grade-I were identical but prior to implementation of Third Pay Commission Report the scales of Store Delivery Clerks and Senior Clerks (Clerks Grade-I) were not identical. The representations of the petitioner were not considered.

32. That in reply to para 36 of the counter, it is submitted that prior to implementation of Third Pay Commission Report the petitioner was senior but on the implementation of Third Pay Commission Report, the scales of Store Delivery Clerks and Senior Clerks were declared identical thus the petitioner was declared junior from the Store Delivery Clerks. The petitioner was promoted as Ward Keeper on 5.6.72 thus he is entitled to get his seniority from the date of his promotion as Ward Keeper.

33. That in reply to para 37 of the counter, it is submitted that contents of said para have not been supported with any rules. It will be discussed at the time of hearing of the case.

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34. That in reply to para 38 of the counter, it is submitted that the petitioner was senior at the time of promotion as Ward Keeper but declared junior afterwards on the implementation of Third Pay Commission Report. The adhoc promotions according to rules were made strictly on the basis of seniority. Rest will be discussed at the time of hearing of the case.

35. That in reply to para 39 of the counter, it is submitted that the petition is maintainable thus the same may kindly be admitted in view of the facts and circumstances stated above.

Lucknow, dated,  
11.4.89

*Najibul Haq Ansari*

Deponent/  
Applicant.

Verification.

I, Najibul Haq Ansari, the deponent do hereby solemnly affirm and verify the contents of paras 1 to 35 of this re-application are true to the best of my knowledge and belief. The facts stated above are based on the record available to the petitioner.

Lucknow, dated,  
11.4.89

*Najibul Haq Ansari*  
( Najibul Haq Ansari )  
Applicant.

Through: S.P.Sinha  
Advocate.

Counsel for the applicant/  
petitioner.

*Najibul Haq Ansari*

A/P  
MoS

ANNEXURE R-1

D.O. No. E(NG) I-69PM1/200

New Delhi, dated the 4th  
Nov., 1970

My dear Bery,

Sub:- Promotion to 'Selection Posts'

A standing complaint of Labour has been that Railway Administrations make ad-hoc arrangements for promotion to 'Selection Posts' for one reason or the other and that these persons are allowed to officiate for several years without being put to selection. It has also been represented that these ad-hoc promotees are comparatively junior men and the claims of seniors are not being considered. Another type of complaint has been that after officiating satisfactorily for even several years at a stretch, the persons are reverted as a result of selections held after a considerable lapse of time.

I find that instructions have been issued from this office from time to time vide letters No. E(NG)168PM1/64 dated 1.5.68, No. E(NG)168PM1/118, dated 30.7.68 and No. E(NG)168PM1/118, dated 25.9.69, copies enclosed herewith. It will be observed therefrom that there have been earlier instructions also to the ~~eff~~ same effect in previous years.

It is again emphasised that panels for 'Selection Posts' should ordinarily be available. The relaxation given in March, 1970, that the number of vacancies equivalent to the number of persons in the instant selection grade already empanelled for promotion to a grade higher than the grade for which selection is being made will give some more flexibility. If, however, it becomes inevitable to make ad-hoc arrangements, these should be made for as short a period as possible but not more than three months for periods exceeding this, it should be with General Manager's specific sanction. In making these ad-hoc promotions, the claims of seniors should be given full consideration and it should be ensured that such ad-hoc promotees are comparatively

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senior men. The ad-hoc promotees must be from within the list of men in order of seniority, comprising 4 times the number of ad-hoc promotees. The fact that such ad-hoc promotions have been made should be forthwith brought to the notice of the Head of Department and the Chief Personnel Officer who will bring it to the notice of General Manager in the periodical Heads of Departments meeting. In this connection, you will appreciate that it is absolutely essential that seniority list should be kept revised up-to-date so that necessary selections can be ordered without avoidable delay.

Even if the selection cannot be finalised for any reason, the ad-hoc promotees must be put through a selection with the first batch and retained in higher posts only if they pass the written test and are considered suitable for the selection post so that there will be no occasion for replacing them by any junior selected men later. Ad-hoc promotees should not be retained in higher posts beyond 6 months unless they have, in the meantime, qualified in the tests.

Yours sincerely,

sd/-

Shri M.N.Bery,  
General Manager,  
Northern Railway,  
New Delhi.

(B.S.D.BALIGA)

## अभिभाषक-पत्र

न्यायालय श्रीमान्

Central Administrative Trib  
Allahabad  
Circuit Bench at Lucknow

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हस्ताक्षर

वाद संख्या 1202 of 1907

Najibul Haq Ansari

Najibul Haq Ansari

Union of India and others

मेरे/हमेरे Najibul Haq Ansari, S/o. Md. Ahmad

उपरोक्त वाद की पैरवी हेतु पारिश्रमिक देकर तथा बचनबद्ध होकर  
श्रीमान् S. P. Sehgal, Advocate, 55/20  
Court Paper, Alambagh, Lucknow वकील/एडवोकेट

को अपना अधिवक्ता नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ। करते हैं और लिखे देता हूँ/देते हैं कि मेरी/हमारी ओर से वकील/एडवोकेट वाद प्रस्तुत करें/जवाबदावा प्रस्तुत करें वाद में पैरवी, शपथ-पत्र, प्रमाण पत्र दाखिल करें। मेरी/हमारी ओर से कोई फीस, स्टाम्प, कोर्टकीस टिकट, नकल टिकट व जनरल स्टाम्प अपने नाम/मेरे नाम से खरीद करके न्यायालय व कार्यालय में दाखिल करें। खजाने में वापस करें उसकी चेक प्राप्त करें चेक का रुपया बैंक से वसूल करें। इस्तावेज, खूरक गवाहान कार्यालय न्यायालय में दाखिल करें/वापस लेवें। मेरे/हमारे पक्ष में सन्धि पत्र दाखिल करें साक्षियों का बयान करावे विपक्ष के साक्ष्य से जिरह करें/बहस करें। मुकदमा एकपक्षीय डिग्री हो जाने पर उससे सम्बन्धित समस्त इजराय की कार्यवाही सम्पन्न करें मुकदमा अदावत पैरवी में निर्णीत हो जाने पर उसके पूर्णस्थापन का प्रार्थनापत्र प्रस्तुत करें कोई भी अंतरिम आदेश मेरे/हमारे विरुद्ध हो जाने पर उससी मुस्तकरिक अपील निगरानी आदि प्रस्तुत करें मुकदमा डिग्री हो जाने पर उसकी नकल, तज्जीज डिग्री आदि लेवें मुकदमा हार जाने पर उसकी अपील निगरानी सम्बन्धित न्यायालय में प्रस्तुत करें वाद/अपील/निगरानी में स्थगन प्रार्थना पत्र वाद प्रबन्ध कागजों के निरीक्षण आदि प्रार्थना पत्र प्रस्तुत करें मेरी/हमारी ओर से मेरे/हमारे विरुद्ध रूपयों की डिग्री हो जाने पर उक्त रुपया अदालत में जमा करें। और मेरी/हमारी डिग्री हो जाने पर अदालत में प्रार्थना पत्र, चिक न्यायालय में अपने हस्ताक्षर से प्रस्तुत करें। चिक प्राप्त करें उसका रुपया वसूल करें। सारांश यह है कि इस वाद से सम्बन्धित हर प्रकार की कार्यवाही करें अथवा अपनी ओर से वकील/एडवोकेट नियुक्त करें यह उनका समस्त क्षिया हुआ कार्य मेरा/हमारा किया हुआ समझा जायेगा। और मुझे/हमेरे हर प्रकार से मान्य होगा। लिहाजा यह अभिभाषक पत्र लिख दिया।

सन् १९०८ ई०

वादी

अभियोजक

प्रार्थी

अपीलार्थी

प्रतिवादी

अभियुक्त

प्रतिपक्षी

रेस्पान्डेन्ट

न्यायालय

वाद संख्या

पक्षकार

Power  
AcceptedS. P. Sehgal  
29/3/1909

Advocat.

दिनांक 29

मास

March

सन् १९०८ ई०