

# CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH, LUCKNOW

## INDEX SHEET

CAUSE TITLE TA. 1207/87 ..... of 19W.P. No. 6362/83Name of the parties Narain Chandra Datta .....

.....Applicant.

Versus.

Commission of India Inders ..... Respondents

## Part A

### Description of documents

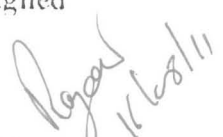
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## CERTIFICATE

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

Date : 28-7-11

Countersigned

  
Section officer/Court officer.

Recheck  
min m  
Signature of the  
Dealing Assistant.

CENTRAL ADMINISTRATIVE TRIBUNAL  
Circuit Bench, Lucknow  
Opp. Residency, Gandhi Bhawan, Lucknow  
\*\*\*\*\*

INDEX SHEETCAUSE TITLE 1207 of 1987

NAME OF THE PARTIES \_\_\_\_\_

N.C. Dutt

Applicant

Versus

D.C.T.

&amp; Respondent

Part A, B & C

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CENTRAL ADMINISTRATIVE TRIBUNAL  
Circuit Bench, Lucknow  
Opp. Residency, Gandhi Bhawan, Lucknow  
\*\*\*\*\*

APPLICATION No. 120 of 1987

TRANSFER APPLICATION No. \_\_\_\_\_ of 19

OLD WRIT PETITION No.: 6262 of 83

CERTIFICATE

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

Dated :

COUNTER SIGNED :

21/2/88  
3-12-91

Signature of the  
dealing Assistant

Section Officer/Court Officer

\*\*\*\*\*

1207/1990 (7) ~~2~~ 5  
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1

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
11/12/90	<p>No S. # 1 Adj to 28.1.90</p> <p>This case has been received on transfer. Notice were issued to the counsels by the Office at Allahabad. <del>None is present. Reports is present.</del> Let notice be issued again to the parties as directed by Hon'ble Mr. D.K. Agarwal, J.M.</p>	<p>OR Notice issued 17/11/90</p>
29/11/90	<p>Hon Justice K. Nath, V.C. Hon K. J. Raman, Am.</p> <p>Notices issued to the applicant has been returned on the ground that the applicant was not found. Notices be issued now to the applicant's Counsel by name and list for orders on 1/3/90.</p> <p>Am. VC.</p>	<p>OF Notices were issued on 17-1-90. Notice of applicant has been return back with postal remark "Not received yet" etc. etc. No undelivered uppd cover have been return back on behalf of other reports.</p> <p>Cases not admitted. Stay is granted. CA/RA filed. Submitted for admission/ords.</p> <p>27/2/90</p>
1.3.1990	<p>Hon Justice K. Nath, V.C. Hon. K. J. Raman, A.M.</p> <p>Notice could not be issued by the office in compliance to the order dated 29.1.1990 for certain unavoidable reasons. Notice may be re-issued and the case be listed for further orders on 20.4.1990.</p> <p>sd. A.M. V.C.</p> <p>20.4.90 No sitting adj to 5.11.90</p>	<p>OR Notice issued 2/12/90</p>

Dinesh

Notice was issued on 6.3.90. No unserved uppd cover has been return back. S. 60



1207/03/17

6

5.11.90

Hon'ble Mr. D.K. Agrawal: J.M.

" Mr. M.Y. Pralok: - P.M.

Due to resolution of  
bar Association case is  
Adj to 5.12.90.

5.12.90

No setting Adj to 21.1.91

20  
B.C.

21.1.91

No setting adj to 20.1.91

28/91

No setting Adj to 5.2.91

OR

No unserved  
rep. comm. been  
set. been.  
CA/RA. filed  
S.F.O

L  
4/4/91

# ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No. 6363 of 198 83

vs. /

(3) (A/2)

8

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
30-11-83	<p>Mem K.N.G., 7</p> <p>Mem SS A, 7</p> <p>list along with</p> <p>the W.P. no 5962 of 83 on</p> <p>8-12-83</p> <p>the petitions</p> <p>Sd. K.N.G.</p> <p>Sd. SSA</p> <p>30-11-83</p> <p>CM Ann 213482 @ 83</p>	
30-11-83	<p>Mem K.N.G., 7</p> <p>Mem SS A, 7</p> <p>put up along with</p> <p>the W.P.</p> <p>Sd. K.N.G.</p> <p>Sd. SSA</p> <p>30-11-83</p>	
	<p>0.12-83 fixed W. P. in</p> <p>CHM 13488 CW 83 for</p> <p>Har Jha J</p> <p>Har KSV S</p>	<p>For</p> <p>Bench</p> <p>Byel</p> <p>mt 962-83</p> <p>(Sharma)</p>

For Bench



(4)

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
20.3.1984	Fixed in column 2134 (with) and 13400 (with) 13 with WJ Jadhav  H. D. N. H. J. R. D. S. J.	for Bench T. D. J. H. D. N. H. J. R. D. S. J.
20.3.1983	<p>The controversy in this case has boiled down to a very narrow ambit. The contention of the petitioner's counsel is that there was approval of the ad hoc appointment by the Railway Board. The learned counsel for the Railways is not in a position to make a categorical statement today. We direct him to file an affidavit indicating whether the Railway Board had approved the ad hoc appointment of the petitioner thereby making it a regular appointment. Two weeks' time as prayed is allowed to Sri Randhawa to file an affidavit. List thereafter for orders.</p> <p>A rejoinder affidavit has been filed against the counter affidavit filed by the learned counsel for the opposite parties. Keep it on record.</p> <p style="text-align: right;">Gupta/ 20.3.1984.</p>	
	21-12-84 fixed in column 2134 (with) and 13400 (with) 13 for order	T. D. J. H. D. N. H. J. R. D. S. J.

CIVIL

-SIDE

## CRIMINAL

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(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case ..... *W.P. 6362-83*

Name of parties ... N. Mani... Chandu... Datta is. Chief Ind. CR

Date of institution ..... 30.11.83.

Date of decision.....

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
					Rs.	P.		
	1.	W. with Amoy and affidavit	22	-	102	00		
	2.	Power	1-	-	5	00		
	3.	Cmt. 13458 (w) 1883 & 84	1	-	5	00		
	4.	Cmt. affidavit	12	-	2	00		
	5.	Rej. ash affidavit	11	-	2	00		
	6.	Power	1-	-	5	00		
	7.	Cmt. 2134 (w) 84	4-	-	2	00		
	8.	ack sheet	1-	-				
	9.	Book copy	1-	-				

I have this                      day of                      198 ,                      examined  
the record and compared the entries on this sheet with the papers on the record. I have made all neces-  
sary 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.





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- 2 -

was initially appointed as Senior Research Assistant in scale of Rs: 325-525 in the Chittaranjan branch of the R.D.S.O. The petitioner worked on this post for about 2 years i.e., upto 1967.

2. That in the year 1967 petitioner was selected as ~~xxxxxx~~ Chief Research Assistant/Senior Inspector (Pet.), hereinafter to be referred as C.R.A./S.I. in the scale of Rs. 450-575 and on this post the petitioner worked upto September, 1981. In this scale the petitioner stagnated at the maximum of the scale for about 2 years.

3. That both the posts i.e., of S.R.A and C.R.A./S.I. are Class III posts from which departmental promotion to Class II post is made on the basis of a formal test.

4. That the petitioner was transferred from Chittaranjan branch of the R.D.S.O. to its main branch at Lucknow in Class II as A.R.O. in the scale of 650-1200 and joined his duties on 16-9-1981. It is worth mentioning here that the petitioner's promotion to his present post was with the concurrence of the Railway Board. A true copy of the Staff Posting Order no. 112 of 1981 dated 7-9-1981 is annexed herewith as annexure no. 1 to this writ petition. Since then the petitioner had been working in his present post non-fortituously without break. ~~xxxxxx~~

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28.11.83

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5. That the petitioner had also been allowed

to cross the efficiency bar in this scale. A true copy of the letter no. EII/EB/0/3 dated 15-10-1983 is annexed herewith as Annexure no. 2 to this writ petition.

6. That the petitioner is at present, having crossed the last efficiency bar in the present scale is drawing Rs. 1120/- P.M. as his basic salary.

7. That the petitioner while working here in Class II, has almost for more than a year been asked to look after the work of Deputy Director (Met. Inspection) at Chittaranjan, which is a Class I post and the petitioner has discharged his additional assignment efficiently and to the complete satisfaction of his superior bosses. The petitioner since the year 1976 onwards, has carried out additional work e.g., <sup>at</sup> Steel Foundry/CLW, Loco side/CLW, I.I.S.CO/Kulti and compiling monthly, quarterly and annual progress reports. This amounts to doing double the work than his allotted duties.

8. That promotion from Class III to Class II post is made on the basis of a formal test which according to the Railway Board's orders is to be held at least after every two years. In the absence of test promotions on seniority-cum-suitability are made on ad hoc basis.

9. That the last test for promotion to Class II from Class III in M & C Directorate was held in the year 1969 and after that no test could be held for

BVP  
26-11-83  
Ruth  
L. R.



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Hon. K. N. Gopal. J.  
Hon. S. S. Alur. J.

Let it along with the writ petition no 5862 of 83 on 8-12-83.

Sri Ramchandra states that he will give copy of the counter affidavit to the petitioner's counsel by 3.12.83 so that petitions in both the cases may file rejoinder affidavit by 8.12.83 when we propose to dispose of both the petitions.

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R29

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5-2-81 Hon. Mr. Justice K. Madhava,  
Hon. Mr. K. Jaggeswar A. M.

Case called. More present for the applicant. Notices were issued initially to the applicant by Regd. Post but have returned with the remark Postal remark that the applicant could not be found at the given address. Notices were then issued by Regd. Post to the learned Counsel for applicant. Those were presumed served, it has not been received yet. T.A. is dismissed for ~~want~~ default of the applicant.

to AM

VC

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the reasons best known to the authorities of the R.D.S.O. However, it is manifestly clear that the postponement of test was in gross violation of the Railway Board's orders.

10. That suddenly in August, 1983 respondent no. 2 woke up from his deep slumber and a test for promotion to Class II was announced by Staff Notice No. EII/ES/OP/M&C dated 14-6-83 and it was in pursuance of this notice that a test was held on August 27 which was followed by interview on 30th August, 1983. The petitioner appeared in the test and qualified in the written test. For only those candidates are called for interview who qualify in the written test which is held to test the professional ability of the incumbent. The petitioner's being called for interview makes it manifestly clear that he passed in the professional ability test. According to the Rly. Board's letter no. 75E/3CT/15/48 dt. 9-12-75 circulated vide their office letter No.E(NG/4-75-PMI/264 dt. 23-1-76, an employee who has been working quite satisfactorily on ad hoc basis should not be declared unsuitable in the interview. A true copy of the letter referred to above is Annexure No. 2-A to this writ petition.

11. That as a result of the test mentioned in the preceding para, 11 candidates were empanelled for promotion to Class II. To the utter surprise and dismay of the petitioner his name does not find a place in the panel though it contains names of six persons who are junior to him. Out of these six juniors there are 4 who had never officiated in Class II. A true copy of Staff Notice dt. 30-9-83 is Annexure no. 3 to this petition.

12. That the respondent no.2 has been postponing the test for a long period of 14 years probably because R & P Rules were proposed to be revised.

BVP  
26-11-83

Auth.  
[Signature]



It is really surprising how and under what circumstances was the present test held by respondent no. 2; for according to his own admission vide Staff Notice dated III/S/OP/M&C -LKO dated 2-11-83 through which the panel which was earlier said to be final (annexure no. 3) has been made to be provisional and subject to the final notification of R & P Rules . This makes it amply clear that R & P Rules have not been notified so far. A true copy of the Staff Notice dated 2-11-1983 is annexed herewith as Annexure no. 4 to this writ petition.

13. That the petitioner because of his name not finding his name in the panel faces reversion to Class III post. His reversion to Class III post amounts to reduction in rank. A true copy of the Officers' Posting Order no. 120 of 1983 dated 8-11-83 is annexed herewith as Annexure no. 5 to this writ petition.

14. That the petitioner immediately after the announcement of the panel represented to respondent no. 2 for considering his case and for the empanelment of his name so that he may not face reversion but the same has not been replied so far. A true copy of the petitioner's representation dated 1-10-1983 is annexed as Annexure no. 6 to this writ petition.

15. That the petitioner again represented his case on 20-10-1983 but no action has been taken so far.

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20-11-83

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A true copy of the petitioner's second representation is annexed herewith as Annexure no. 7 to this writ petition.

16. That the petitioner's appointment which is non-fortituous for about two years is not ad-hoc.

xxxxx Even if it is ad-hoc it can not be terminated without following the proceedings under D & A Rules which is clear beyond a shadow of doubt vide Railway Board's letter no. E(NG)1-82-PM1-204 dated 27-6-1983. The relevant portion of the letter is worth quoting here:

" Instructions have been issued from the Railway Board from time to time that ad hoc appointments and promotions should be avoided and should be resorted to only with the personal approval of the Chief Personnel Officer where it is considered essential. Last instructions issued vide Adviser (Industrial Relations)'s D.O. No. E(NG)III-81-RE1-1 dated 1-4-1981 cases are, however, coming to Board's notice that ad hoc promotions have been continued on Railways for years. Subsequently when selections are conducted and the incumbents fail to get through in the selections, they have to face reversion. In such a situation, they resort to filing petitions in the High Courts and although the position of rules is clear that such adhoc promotees have to undergo selection, the Courts have been giving to the benefit of instructions

BSP  
26-11-83

*[Signature]*

contained in Board's letter No. E(NG)65-RG 6-24 dated 9-6-1965 as clarified vide Board's instructions of 15-1-1960, according to which the persons who have officiated for more than 18 months after regular selection can be reverted only after following the DAR proceedings.

2. In one of the cases, efforts were made to have the final ruling from the Supreme Court but the SLP was not admitted. The Ministry of Railways, therefore, are left with no alternative but to reiterate that selection should be conducted regularly and ad hoc promotions should be resorted to only sparingly with the approval of Chief Personnel Officer. Any default in following the selection should be viewed seriously and responsibility fixed. "

17. That the letter of the Railway Board referred to in the above para makes it clear that a person who has officiated for more than 18 months as ad hoc cannot be reverted without formal proceedings under D & A Rules.

18. That the ~~xxxxxx~~ position of ad hoc promotees is also made very clear in Railway Board's letter No. E/332/7 dated 23-6-1983 marked confidential, which clearly laid down the procedure at different stages which is to be followed for reverting persons who have officiated for 18 months. This letter of the Railway

BD  
28-11-83

*[Handwritten signature]*



General Manager is in pursuance of the Railway Board's letter no. Confidential E(D & A) 51-RG-S-36 dated 30-11-1961. A copy of the aforesaid letter is being annexed as Annexure no. 8 to this writ petition.

19. That respondent no. 2 had been postponing selection in complete disregard of the Railway Board's circulars circulated from time to time. Under the circumstances, necessity of the work compelled respondent no. 2 to make ad hoc promotions. When such promotion has been approved by the Railway Board it does not lie now in the power of the respondents to revert the person whose working has been satisfactory unless obligations under Article 32 311 of the Constitution are complied with for it has been repeatedly stressed by the Hon'ble Supreme Court in various decisions that even in simple administrative action the administration cannot be allowed to play fast and loose.

20. That the petitioner's work has always been not only upto the mark but good and satisfying to the officers. His character Roll has been unblemished so far as nothing adverse has been communicated to the petitioner so far.

21. That petitioner's reversion amounts to a clear reduction in rank and pay as well. This will clearly mean a stigma on his service record and as such it cannot be sustained.

22. That in reverting the petitioner to a lower

BVD  
28-11-83

Butt  
[Signature]

rank respondent no. 2 has not only acted arbitrarily, irrationally but also violated the principles of natural justice. Not only this, he has acted against the Railway Board's different circulars.

23. That the petitioner has exhausted all remedies available to him and has failed to get his genuine grievance redressed.

24. That the petitioner having failed to get justice approaches this Hon'ble Court and begs most respectfully to invoke its extra-ordinary jurisdiction under Article 226 of the Constitution of India.

25. That a writ petition no. 5962 of 1983 - B.N. Lal Vs. Union of India and others has been moved before this Hon'ble Court . A division Bench consisting of Hon'ble Mr. Justice D.N. Jha and Hon'ble Mr. Justice R.C. Deb Sharma, has been pleased to admit the writ and stay the operation of the impugned order which forms annexure no. 6 to that writ petition. This petition is also being filed against the same order which is being impugned as Annexure no. 5 to the present writ petition.

BND  
26-11-83

The grounds on which the present petition is being moved are as under :-

Grounds:

- A) Because in view of the Railway Board's letter
- [Signature]*

clearly indicating that persons who have officiated for more than 18 months cannot be reverted without proceedings under D & A Rules, the petitioner's reversion is wrong and not tenable for he has officiated for about 2 years.

B) Because the petitioner having been allowed to cross the efficiency bar has proved his suitability and efficiency to hold the post he is holding.

C) Because the petitioner's reversion amounts to reduction in rank which is hit by Article 311 of the Constitution of India and it cannot be done unless proceedings under D & A Rules are taken.

D) Because the test on the basis of which the petitioner has been reverted is itself wrong according to respondent no. 2's own admission. The petitioner's reversion due to a provisional panel is wrong.

E) Because the petitioner's reversion resulting in reduction of his rank is hit by Article 311 of the Constitution of India and cannot be sustained.

F) Because petitioner's reversion is also bad in the eyes of law for his promotion was approved by the Railway Board an authority higher in rank to authority ordering reversion.

G) Because the petitioner having looked after the work of Class I Officer for about a year has proved his worth and efficiency to hold the post he

*[Signature]*



is holding at present.

H) Because the petitioner's reversion reversion is arbitrary, irrational, unjust and completely violates the principles of natural justice.

Wherefore the petitioner most respectfully prayeth :-

- i) that this Hon'ble Court be pleased to quash the impugned order reverting the petitioner to a lower rank and annexed as Annexure no. 5 to the writ petition by issuing a writ of certiorari,
- ii) by issuing a writ of mandamus direct respondent no. 2 not to interfere with the petitioner's services in Class II during the pendency of the writ petition,
- iii) to issue any other writ, direction or order that this Hon'ble Court deems fit in the circumstances of the case,
- iv) to award cost of the writ petition to the petitioner.

Lucknow, dated :

26-11-1983.

  
(S.N. Shukla)

Advocate,

Counsel for the petitioner.





Group A-14 (F)

$\frac{\Delta}{2}$   $\frac{A}{5}$  9635

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

Writ Petition No. 6362 of 1983.

Naresh Chandra Datta

.. Petitioner.

Versus

Union of India and others.

.. Opp. Parties.

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3. Annexure no. 2 - Copy of letter  
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15-10-1983. 13, 13a

4. Annexure no. 3 - Copy of Staff  
Notice dated 30-9-83  
Staff Office Notice 14

5. Annexure no. 4 - Copy of ~~posting~~  
~~Order~~ no. 120 ~~dated~~ 1983  
dated 2-11-1983.

6. Annexure no. 5 - Copy of Officers'  
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7. Annexure no. 6 - Copy of peti-  
tioner's representation  
dated 1-10-1983. 16

8. Annexure no. 7- Petitioner's  
second representation dated  
20-10-1983. 17

9. Annexure no. 9- Copy of Ry. Bd's  
letter dated 30-11-61. 19-20

10. Affidavit vide R. Mangalika et al. 21-22

11. Power. 23, 24

Lucknow, dated :

26-11-1983.

S. N. Shukla  
Advocate,  
Counsel for the petitioner.

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3 / 16

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

Writ Petition No. 6362 of 1983.



5/12/83  
29/11/83

Naresh Chandra Datta, aged about  
51 years, son of late Sri B.N.Datta,  
resident of No. C-51/2 Manak Nagar,  
R.D.S.O., Lucknow.

.. Petitioner.

Versus

1. Union of India through the  
Secretary Railway Board,  
Rail Bhawan, New Delhi.
2. The Director General, R.D.S.O.,  
Manak Nagar, Alambagh, Lucknow.
3. The Director, M & C Directorate,  
R.D.S.O., Manak Nagar, Alambagh,  
Lucknow.

.. Opposite parties

Writ Petition under Article 226 of the  
Constitution of India.

BU  
26-11-83  
The above named petitioner most respectfully  
begs to submit as under :-

1. That the petitioner who at present is working  
Assistant Research Officer, hereinafter referred to  
as A.R.O., in the R.D.S.O. Manak Nagar, Lucknow,

Butt.

Xerox for 29-11-83

Received Copy for 15/3

Dr. S. S. Rao

(D. S. RANDHAWA)  
Advocate  
Senior Standing Counsel,  
Central Govt.

28-11-83

cc.

Alambagh,

.. Oppost

Write Petition under Article 32

Constitution of India

The above named petitioner

is to submit as under :-

That the petitioner

is Research Officer

in the R.



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14

In the Honble High Court of Judicature at All

Lko Bench Lko

W.P. No

of 1983

Naresh Chandra Datta

Petitioner

The union of India and others

vs

Ans No

1

Government of India  
Ministry of Railways  
Research Designs and Standards Organisation  
OFFICERS POSTING ORDER NO 112 OF 1981

Pending Railway Board's approval, Sh. N.C. Dutta, Sr. Inspector, RDSO/Chittaranjan will look after the duties of the post of Asstt. Res. Officer/Met vice Sh. J. Pawar, ARO/Met presently absent from duty. The date on which Sh. N.C. Dutta takes over charge of the post of ARO/Met at RDSO/Lko may be advised to EII sending 4 copies of the letter of intimation.

(Auth: DG's orders dt. 4.9.81 in file No. EPB/331  
(Pt)

File No. EPB/331  
Lucknow-11 Dt. 7.9.81

(B.R. Sharma)  
for Director General

Dir(M&C), SO(M&C), DDI/Met, RDSO/CRJ, JDF, SO(EIII)-2 copies  
SO(EIV), DDA, SO(Pass), Confidential section, P&A/Adtl. Dir(P&A)  
Secy to DG, ADE(Tele), Secy RDSO Officers Club, Estate Sup  
Notice Board, Sh. NC Dutta, Sr. Inspt(Met), RDSO/CRJ

In the Honble High Court of Judicature at Allahabad  
4th Bench Hks  
of 1983  
W.P. No  
Narek Chandra Satta - Petitioner  
The Union of India and others vs. O.A.s  
Amr No (7)

The Director General,  
RMSO/Lucknow-11.

(Through Proper channel).

Sir,

Sub: Empanelment for the post of Asstt. Research  
Officer (Met.).

Ref: My appeal dated 01.10.1983.

Reference above and in view of my passing the  
written test held on 27.8.83 for the post of Asstt. Research  
Officer (Metallurgy), crossing the 2nd & 3rd final efficiency  
bar in class II in the scale of Rs. 650-12000 (RS) from due date  
vide Dy. Dir. / Mett. - II's note no. EII/EB/O/3 dated 15.10.83 and  
efficiency for more than 18 months as Asstt. Research Officer  
without any adverse report vide Railway Board's letter No. R(ME)1-  
82-FRI-204 dated 27.6.83 (copy enclosed), I pray to your good-  
self to kindly include my name in the panel declared on  
20.9.83 wherein my juniors have been included.

It will not be out of place to mention here, for  
your sympathy that earlier once I have been deprived of the  
benefit of promotion to the post of Adhoc Asstt. Research  
Officer (Met) in the year 1980. The post was given to a far  
junior candidate violating the zone of consideration of 2  
40 point roster and I failed to draw your kindness and sympathy  
towards my genuine right instead of repeated spurious appeals.

Hope, I will not be deprived of your graceful  
justice for the second time considering the above and my 14 year  
long and continuous service with sincerity and stagnation  
over 6 years as Chief Inspector (Met).

Thanking you,

Yours faithfully,

DAI As above.

(N.C. DATTA)  
ARO (Met.) - 111/Adhoc  
M&C Dto.

DMT-JII (L)

ENC

A/15

13

In the Honble High Court of Judicature at Allahabad  
 Lko Bench Lko  
 W.P. No of 1983  
 Naresh Chandra Datta - Petitioner  
 The Union of India and others vs  
Ans No (2)

RESEARCH DESIGNS & STANDARDS ORGANISATION  
 MA NAK NAGAR, LUCKNOW.  
 111-...-

No. EII/EB/O/3

Dated: -10-83.

Sub: Efficiency bar at the stage of Rs.1000/-  
 class II in scale of Rs.650-1200(RS).

Shri N.C. Datta, Asstt. Research Officer (M&C) -ad hoc  
 has been declared fit by the competent authority to cross the  
 2nd efficiency bar placed at the stage of Rs.1000/- in class II  
 in the scale of Rs.650-1200(RS) from the due date. It is  
 requested that the revised pay slip may please be issued in  
 favour of Sh.N.C. Datta, ARO (M&C) at an early date.

Sd/-

DA: Nil.

( P.N. KAPOOR )  
 Dy. Director/Esit-II 15.10.83

JDF/ADSC/LKO.

copy to: 1) SO(E)-III 2) Sh.N.C. Datta, ARO (M&C),  
 ADSC/LKO. 3) P/File of Sh.N.C. Datta.

*h*

28-11-83

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2A  
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16

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

Writ Petition No. of 1983.

Naresh Chandra Datta .. Petitioner.

Versus

Union of India and others. .. Opp. Parties.

Annexure No. 2-1.

Northern Railway.  
No. 831E/63/2K(E-iv) Hq. Office, Baroda House  
New Delhi.

To

All D.Ss and Extra D.Ss  
Copy: All Heads of Deptt., SPO(RP) and SPO(HQ)  
Sub: Record note of the meeting of the Dy. Minister  
for Railways and the Rly. Board with the Hq. of  
the Personnel Departments of the Railway Adminis-  
tration held in New Delhi on 27-11-1975.

A copy of an extract from the record note circulated  
vide Board's letter no. 75E(SCT)/15/48 dated 9-12-75 as  
received vide their office letter no. E(NG)L-75 PML/264  
dated 25-1-76 is reproduced below:-

" 2.2 - Panels should be formed for selection posts  
in time to avoid ad hoc promotions. Care should be  
taken to see while forming panels that employees who  
have been working in the posts on ad hoc basis quite  
satisfactorily are not declared unsuitable in the  
interview. In particular any employee reaching the  
field of consideration should be saved from harassment."

In this connection the G.M. has observed as under :-

" Long term ad hoc arrangements should be made strictly  
according to the seniority and suitability to avoid  
embarrassment."

Please ensure strict compliance of this decision  
particularly in respect of schedule castes and Schedule  
Tribes candidates.

Encl: Nil.

Sd/-

General Manager.

B. H.  
26-11-83



In the Honble High Court of Judicature  
 110 Bench 110  
 of 1903  
 W.P. No  
 Narek Chandra Satta - Petitioner  
 The Union of India and others vs  
 Amnu (3)

RESEARCH DESIGNS & STANDARDS ORGANISATION

Mapak Nagar, Lucknow-41

STAFF NOTICE

Ref: This office Staff Notice No.  
 BII/RS/OP/M.O dt. 14.6.83 and  
 Memorandum No. BII/RS/OP/M.O  
 dt. 16.9.83.

As a result of selection held on 27th, 29th and  
 30th August 1983 and supplementary selection held on 26th  
 and 27th September 1983, and the recommendations made by  
 the Departmental Promotion Committee, Director General  
 has approved of the following eleven departmental  
 candidates being placed on panel for promotion to  
 Class II (Tech.) posts in the MAC Directorate of R.D.S.O.  
 in the order given below:

1. Shri J.K. Verma
2. " I.B. Som
3. " J.L. Sharma
4. " N.K. Sarkar
5. " A.K. Chaudhury
6. " S.K. Kumar
7. " B.S. Bhadoria
8. " K.R. Mahadeviah
9. " A.C. Raha
10. " B.J. Nirala
11. " A. Venkatachalam.

The above panel is final and will be current  
 upto 28.9.1983.

File No. BII/RS/OP/MAC  
 dated 30.9.1983.

(P.N. Kapoor)  
 for Director General.

Copy forwarded to:

1. Director (MAC)
2. Director Stis. (Carr.)
3. Sr. Dy. DG
4. J.D.P.
5. DDE-I
6. DDE-II
7. SO/C-III
8. SO/C-III
9. SO/C-IV
10. SO/MAC
11. SPA/MC.

12. Shri J.K. Verma, RO/Met. id-hoc
13. " I.B. Som, RO/Chem. "
14. " J.L. Sharma, RO/Chem. "
15. " N.K. Sarkar, RO/Met. "
16. " A.K. Chaudhury, RO/Met. "
17. " S.K. Kumar, CI (Met.) -  
 Presently working in N.Rly.
18. " B.S. Bhadoria, RO/Chem. id-hoc
19. " K.R. Mahadeviah, CR./CHEM.
20. " A.C. Raha, CRA/Chem.
21. " J.L. Nirala, CRA/Met.
22. " A. Venkatachalam, CI/Met.
23. Notice board

Ann. building Annex II.

6/10. 57/700

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18

15

In the Honble High Court of Judicature at Allahabad

U/o Bench U/o

W.P. No

of 1983

Naresh Chandra Satta - Petitioner

The Union of India<sup>vs</sup> and others O/s

Amr No 4

Staff notice

File No E 11/ES/OP/MRC

Lucknow - 11

Dt 2-11-83

The class II panel announced vide this office staff notice no E 11/ES/OP/MRC dt 30.9.83 may please be treated as "provisional". Accordingly the word "final" appearing in para 2 of the <sup>said</sup> staff notice may be read as "provisional" and the panel will be final subject to final the final notification of R & P rules.

*(Signature)*

Sd

2/11

(P.N. Kapoor)



BV

26.11.83

*(Signature)*

In the Honble High Court of Judicature at Allahabad  
 16  
 W.P. No. 19  
 Naresh Chandra Satta - Petitioner  
 The Union of India and others - Respondents  
 A.M.N.U. (5)

OFFICERS' POSTING ORDER NO. 120 OF 1983.

2. As a result of Selection held in August/September, 1983 for Class-II (Technical) post, the following postings are ordered in the M&C Directorate of R.D.S.O./Lucknow on provisional basis, subject to finalisation of the R&P Rules:-

- (1) Shri J.K. Verma, Offg. as ARO/Met.-1 on adhoc basis, is allowed to continue to officiate as ARO/Met.-1.
- (2) Shri I.B. Som, Offg. as ARO/Chem.-1 on adhoc basis, is posted as ARO/Met.-3.
- (3) Shri B.L. Sharma, Offg. as ARO/Chem.-2 on adhoc basis, is posted as ARO/Met.-2.
- (4) Shri N.K. Sarkar, Offg. as ARO/Met.-5 on adhoc basis, is posted as ARO/Chem.-3.
- (5) Shri A.K. Chaudhury, Offg. as ARO/Met.-2 on adhoc basis, is posted as ARO/Met.-5.
- (6) Shri B.S. Bhadoria, Offg. as ARO/Chem.-4 on adhoc basis, is allowed to continue to officiate as ARO/Chem.-4.
- (7) Shri B.L. Nirala, CRA (Met.) is promoted and posted as ARO/Met.-4.
- (8) Shri A. Venkatachalam, Chief Inspector (Met.), RDSO at ICF/Madras is transferred to RDSO/Lucknow and posted as ARO/Chem.-1.
- (9) Shri K.R. Mahadeviah, CRA/Chem. is promoted and posted as ARO/Chem.-2. Shri Mahadeviah should note that he is liable to be reverted to Class-III post on return of his senior (Shri S.K. Kumar), who is at present on deputation to Northern Railway.

to RDSO,

In consequence of above postings, the following Class-II adhoc promotees are reverted to Class-III post with immediate effect, whose names have not been placed on the panel :-

- (1) Shri B.N. Lal, Offg. as ARO Met.-4 on adhoc basis.
  - (ii) " N.C. Dutta, Offg. as ARO (Met.-3) on adhoc basis.
  - (iii) " A.K. Saha, Offg. as ARO (Chem.-3) on adhoc basis.
- This is in supersession of Officers Posting Order NO. 97 of 1983.

3. The charge reports may be forwarded to Estt.-II/Confidential Sections.

Authority:- DG/RDSO's orders dated 1.11.1983 in file NO.DG/CRP-77/M&C.

(Hindi version will follow).

DA: M.  
 Lucknow-226011.  
 Dated: 1.11.1983.  
 File NO.DG/CRP-77/M&C.

(S. BH/TL)  
 For Director General.

P.T.O.

In the Honble High Court of Judicature at Lucknow  
A Bench of 1983  
W.P. No. 17  
Naresh Chandra Datta - Petitioner  
The Union of India and others - Respondents  
Am No. 6

To,

The Director General,  
RDSO/Lucknow-11.

Sir,

( Through Proper channel )

Sub: Selection anomaly for the post of ARO in the  
M&C Dte.

With due respect and humble submission, I beg to draw your kind attention on the anomalies and indifferent attitude shown to me in the above mentioned selection based on the facts as under:-

1. Though I have been working as ARO (Met) since Sept. 1981 on adhoc basis and qualified in the written test of the last selection held on 27.8.83 but have not been empanelled. This exclusion is contrary to my service performance in respect of sincerity and integrity.

This reminds me of the fact that in the year 1980, I was deprived of my due promotion as ARO and the promotion was given to some other far junior candidate beyond the zone of consideration against 40 point roster. In spite of my repeated appeals, I was not helped with clarifications asked for.

However, subsequently, I was given an opportunity for next post in Sept. 81. Since then, I have been working and my increment of pay has not been given i.e. increments due in Sept. 82 and Sept. 83 have not been drawn. Also, I have not been fixed up in a pay protecting me at par with my junior colleague drawing Rs. 1080/-.

In view of the above circumstances, and prevailing facts, I hope you will excuse me if I am occupied with the idea that I have not been considered in a justified manner by the Selection Board and pray your goodself to kindly review the framing of the panel considering my seniority position and relieve me of the disheartened position that now I bear by your liberal and sympathetic attitude of consideration.

Thanking you,

Yours faithfully,

( N.C. DATTA )  
ARO (MET)-III (on adhoc)  
M&C Dte.

BY  
26-11-83



CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH

FORM OF INDEX

~~B.A./T.A./R.A./C.C.P./~~ No. 1207/1987  
M.C. Duttla vs 201.

PART - I

- |    |                  |    |                                    |
|----|------------------|----|------------------------------------|
| 1. | Index Papers     | :- | 1-2.                               |
| 2. | Order Sheet      | :- | 3-6                                |
| 3. | Any other orders | :- | Nil                                |
| 4. | Judgement        | :- | 7. (D.F.D) on 5-2-81 at Lko Bench. |
| 5. | S.L.P.           | :- | Nil                                |

22/1/89  
DY. Registrar

Supervising Officer  
(Chakrabarti R.H.)

Dealing Clerk  
(H.K. Res)

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

Nil.

Dealing Clerk  
(A.K. Rai)

V.K. Mishra

In the Honble High Court of Judicature at Calcutta

the Bench of

: 1903

W.P. No  
Naresh Chandra Saha - Petitioner

The Union of India and others - Respondents

Am No 8

-2-

inefficient working from a selection post, his name will be automatically deleted from the panel. For re-promotion he will have to appear before a selection Board afresh where an employee is reverted for inefficiency from a non-selection post his case should be reviewed at intervals of six months and if he is considered fit for promotion, he should be re-promoted against the next vacancy.

6. If it is proposed to revert an employee who has completed more than 18 months of officiating period rather than by following the D.A.R. procedure, the personal sanction of a Head of Department must be obtained in the case of Class IV employees and General Manager's personal sanction must be obtained in the case of class III staff.

7. Since no officiating individual whose working is unsatisfactory could have been allowed to continue beyond 18 months except under very special circumstances, confirmation must be made after 2 years of officiating period has been completed subject to permanent post being available for the purpose. In the case of staff with satisfactory reports, confirmation against available vacancies can be ordered after one year. If it is proposed to defer the confirmation of an individual after 2 years General Manager's prior sanction should be obtained.

8. If an employee is not confirmed in higher grade post for want of permanent post vacancy, he can not be reverted after he has completed 18 months of officiating period on the charge of unsatisfactory working except after following the D.A.R. procedure, the procedure being same for a confirmed employee or an officiating employee.

9. The assessment reports referred to above should be marked 'Confidential' and a proper record kept of these communications. The Establishment section should watch the case of each employee and initiate action when the employee completes 6 months of officiating period by putting a note to Executive Officer for the purpose.

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

Please acknowledge receipt.

Encl/Nil.

Sd:-  
for General Manager

(20)  
In the Honble High Court of Judicature at Madras  
H/o Bench H/o  
of 1903  
W.P. No  
Nares Chandra Datta - Petitioner  
The Union of India and others vs  
A.M. No

CONFIDENTIAL

North Eastern Railway

Office of General Manager,  
(Personnel Branch),  
Gorakhpur, Dt. 23.6.1964.

No. E/332/7

All officers as per list 'B'

Sub:- Reversion of Employees officiating in  
higher grades.

Under this office letter No. E(SS) 19-71 Pt. Vc(c) dated 6.2.63 a copy of Board's Confidential letter No. E(D&A) 51 RG S-36 dated 30.11.1961 as sent to all officers. As per Board's direction, efforts are to be made to confirm staff officiating in higher grades in clear vacancies, if they are found suitable, after trial, over a reasonable period not exceeding 18 months. It is, however, observed that in practice no proper system is being followed in this respect with the result that staff continue to officiate in higher grades for long periods and in several cases staff who have officiated for a number of years have been reverted on account of inefficient working. Such reversions are contrary to the extent orders.

2. With a view to ensure that a proper assessment of the working of staff officiating in higher grades is made and action to revert such employees; as are found to be satisfactory in work in the higher grade, is taken in time, the following procedure is being introduced for strict compliance by all concerned.

3. Whenever an employee is put to officiate in a higher post, which may be a selection post or a non-selection post his immediate superior should send an Assessment report as soon as the employee has completed 6 months of officiating period. If this report is unsatisfactory a similar further report should be sent 3 months later i.e. at the end of 9 months officiating period and again 3 months later i.e. at the end of 12 months officiating period. If the first report is satisfactory further reports need not be sent unless the employee deteriorates in the subsequent months.

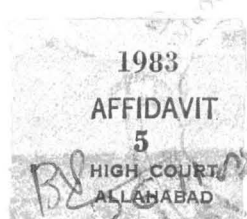
4. These assessment reports should be sent on to the authority who had ordered the promotion. In the case of the first and/or ordered the promotion. In the case of the first and/or second report being unsatisfactory, the employee should be warned that the report on his working has been unsatisfactory and unless he makes a substantial improvement he will be liable to be reverted.

5. If the third report, at the end of 12 months period is also unsatisfactory, he should be promptly reverted and if he is to be given a further chance even after the third unsatisfactory report, the personal sanction of a senior scale officer in the case of class IV employees, and of a head of Department in the case of Class III employees should be obtained. Even after such sanction has been obtained and the opportunity given to the employee is of no avail, he must be promptly reverted before completing 18 months of officiating period. Orders for reversion in such cases should not be passed by an authority lower than the authority who had ordered the promotion. When an employee is reverted for

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(21) <sup>A</sup>/<sub>26</sub>

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

Writ Petition No. of 1983.



Naresh Chandra Datta

.. Petitioner.

Versus

Union of India and others.

.. Opp. Parties.

Affidavit.

I, the above named deponent, ~~do hereby verify~~  
Naresh Chandra Datta, aged about 51 years, son of  
late Sri B.N. Datta, resident of C-51/2, Manak  
Nagar, R.D.S.O., Lucknow, do hereby solemnly affirm  
and state as under :-

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

2. That the contents of paras 1 to 21, 23 to 25  
of the accompanying writ petition are  
true to my own knowledge and the contents of 22  
paras 22 are believed by me to be true on the basis of legal  
advice.

B8  
26-11-83

Butt.

3. That Annexures nos.

to the

accompanying writ petition have been compared with their originals and it is certified that they are true copies of their respective originals whereas Annexures no. 1 5 8 are photostat copies of their originals.

Lucknow, dated :

26-11-1983.

Deponent.

Verification.

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

Lucknow, dated :

26-11-1983.

Deponent

I identify the deponent who has signed before me.

Advocate.

Solemnly affirmed before me on 26-11-83 at 9.20 a.m./p.m. by Sri Naresh Chandra Datta, the deponent, who is identified by Sri Advocate, High Court, Lucknow.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read over and explained to him by me.

BV  
Bv. H. C. T.

On  
Court, Allahabad,  
Judge.

No. (077) S  
26-11-83.



A/25

In the Honble High Court of Judicature at Allahabad  
 Ld. Bench Lko  
 W.P. No. 100 of 1983  
 Naresh Chandra Datta, Petitioner  
 vs  
 The Union of India and others  
 O/s  
Amr No

Government of India  
 Ministry of Railways  
 Research Designs and Standards Organisation  
OFFICERS POSTING ORDER NO. 112 OF 1981

Pending Railway Board's approval, Sh. N.C. Dutta, Sr. Inspector, RDSO/Chittaranjan will look after the duties of the post of Asstt. Res. Officer/Met vice Sh. J. Pawar, ARO/Met presently absent from duty. The date on which Sh. N.C. Dutta takes over charge of the post of ARO/Met at RDSO/Lko may be advised to EII sending 4 copies of the letter of intimation.

(Auth: DG's orders dt. 4.9.81 in file No. EPB/391 (It))

File No. EPB/391  
 Lucknow-11 Dt. 7.9.81

*(Signature)*  
 (B.R. Sharma)  
 for Director General

Dir(L&C), SO(M&C), DDI/Met, RDSO/CRJ, JDF, SO(EIII)-2 copies  
 SO(EIV), DDA, SO(Pass), Confidential section, P./Addl. Dir(P&A)  
 Secy to DG, ADE(Tele), Secy RDSO Officers Club, Estate Sup  
 Notice Board, Sh. NC Dutta, Sr. Inspt(Met), RDSO/CRJ

In the Honble High Court of Judicature at  
Allahabad Bench  
of 1903  
W.P. No  
Naresh Chandra Satta - Petitioner

The Union of India and others vs  
AmrNU

RESEARCH DESIGNS & STANDARDS ORGANISATION

Manak Nagar, Lucknow-41

STAFF NOTICE

Ref: This office Staff Notice No.  
BII/PS/OP/M&C dt. 14.6.83 and  
Memorandum No. BII/PS/OP/M&C  
dt. 16.9.83.

As a result of selection held on 27th, 29th and 30th August 1983 and supplementary selection held on 26th and 27th September 1983, and the recommendations made by the Departmental Promotion Committee, Director General has approved of the following eleven departmental candidates being placed on panel for promotion to Class II (Tech.) posts in the M&C Directorate of R.D.S.O. in the order given below:

1. Shri J.K. Verma
2. " I.B. Som
3. " J.L. Sharma
4. " N.K. Sarkar
5. " A.K. Chaudhury
6. " S.K. Kumar
7. " B.S. Bhadoria
8. " K.R. Mahadeviah
9. " A.C. Raha
10. " B.L. Nirala
11. " A. Venkatachalam.

2 The above panel is final and will be current upto 28.9.1983.

File No. BII/PS/OP/M&C  
dated 30.9.1983.

(P.N. Kapoor) 30.9.83  
for Director General.

Copy forwarded to:

1. Director (M&C)
2. Director Stds. (Carr.)
3. Sr. Dy. DG
4. J.D.F.
5. DDE-I
6. DDE-II
7. SO/Conf.
8. SO/3-III
9. SO/3-IV
10. SO/M&C
11. SPA/M&C.
12. Shri J.K. Verma, ARO/Met. ad-hoc
13. " I.B. Som, ARO/Chem. "
14. " J.L. Sharma, ARO/Chem. "
15. " N.K. Sarkar, ARO/Met. "
16. " A.K. Chaudhury, ARO/Met. "
17. " S.K. Kumar, CI (Met.) - Presently working in N.Rly
18. " B.S. Bhadoria ARO/Chem. ad-hoc
19. " K.R. Mahadeviah, CRA/CHEM.
20. " A.C. Raha, CRA/Chem.
21. " B.L. Nirala, CRA/Met.
22. " A. Venkatachalam, CI/Met.
23. Notice Board

Admin. Building/Annexe II.

\* C/o. SP/PMC

A/29

In the Honble High Court of Judicature at Allahabad  
 11th Bench 11th  
 of 1983  
 W.P. No. 11111  
 Naresh Chandra Datta Petitioner  
 The Union of India and others vs. Officers  
AMNU

Staff notice  
 File No E11/ES/OP/M&C  
 Lucknow-11  
 Dt 2-11-83

The class II panel announced vide this office staff notice no E11/ES/OP/M&C dt 30.9.83 may please be treated as "provisional". Accordingly the word "final" appearing in para 2 of the said staff notice may be read as "provisional" and the panel will be final subject to final the final notification of R.P. rules.

Sd/- 2/11  
 (PN. Kapoor.)

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In the Honble High Court of Judicature at Allahabad  
1st Bench  
of 1983  
W.P. No  
Naresh Chandra Datta - Petitioner  
The Union of India and others vs. O.S.  
Amr No

The Director General,  
RDSO/Lucknow-11.

(Through Proper channel).

Sir,

Sub: Empanelment for the post of Asstt. Research Officer (Met.).

Ref: My appeal dated 01.10.1983.

Reference above and in view of my passing the written test held on 27.8.83 for the post of Asstt. Research Officer (Metallurgy), crossing the 2nd & 3rd final efficiency bar in class II in the scale of Rs. 650-12000 (RS) from due date vide Dy. Dir./Estt.-II's note no. EII/EB/O/3 dated 15.10.83 and officiating for more than 18 months as Asstt. Research Officer without any adverse report vide Railway Board's letter No. R(MG)1-82-PMI-204 dated 27.6.83 (copy enclosed), I pray to your goodness to kindly include my name in the panel declared on 30.9.83 wherein my juniors have been included.

It will not be out of place to mention here, for your sympathy that earlier once I have been deprived of the benefit of promotion to the post of Adhoc Asstt. Research Officer (Met) in the year 1980. The post was given to a far junior candidate violating the zone of consideration of 40 point roster and I failed to draw your kindness and sympathy towards my genuine right instead of repeated ~~unfruitful~~ appeals.

Hope, I will not be deprived of your graceful justice for the second time considering the above and my 14 years long and continuous service with sincerity and stagnation over 6 years as Chief Inspector (Met).

Thanking you,

Yours faithfully,

Dat: As above.

( N.C. DATTA )  
ARC (Met)-III/Adhoc  
M&C Dte.

DMT-III (L)

DMC

In the Honble High Court of Judicature at Calcutta

40 Bench No

: of 1983

W.P. No

Naresh Chandra Satta

Petitioner

The Union of India and others

Ans No

-2-

inefficient working from a selection post, his name will be automatically deleted from the panel. For re-promotion he will have to appear before a selection Board afresh where an employee is reverted for inefficiency from a non-selection post his case should be reviewed at intervals of six months and if he is considered fit for promotion, he should be re-promoted against the next vacancy.

6. If it is proposed to revert an employee who has completed more than 18 months of officiating period rather than by following the D.A.R. procedure, the personal sanction of a Head of Department must be obtained in the case of Class IV employees and General Manager's personal sanction must be obtained in the case of class III staff.

7. Since no officiating individual whose working is unsatisfactory could have been allowed to continue beyond 18 months except under very special circumstances, confirmation must be made after 2 years of officiating period has been completed subject to permanent post being available for the purpose. In the case of staff with satisfactory reports, confirmation against available vacancies can be ordered after one year. If it is proposed to defer the confirmation of an individual after 2 years General Manager's prior sanction should be obtained.

8. If an employee is not confirmed in higher grade post for want of permanent post vacancy, he can not be reverted after he has completed 18 months of officiating period on the charge of unsatisfactory working except after following the D.A.R. procedure, the procedure being same for a confirmed employee or an officiating employee.

9. The assessment reports referred to above should be marked 'Confidential' and a proper record kept of these communications. The Establishment section should watch the case of each employee and initiate action when the employee completes 6 months of officiating period by putting a note to Executive Officer for the purpose.

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

Please acknowledge receipt.

Encl/Nil.

For General Manager



A/35

In the Honble High Court of Judicature at Calcutta  
140 Bench No  
of 1983  
W.P. No  
Naresh Chandra Datta - Petitioner A/31  
The Union of India and others - Respondents  
Ain No

CONFIDENTIAL

VIII

North Eastern Railway

No.E/332/7

Office of General Manager,  
(Personnel Branch),  
Gorakhpur, Dt. 23.6.1964.

All officers as per list 'B'

Sub:- Reversion of Employees officiating in  
higher grades.

Under this office letter No.E(SS) 19-71 Pt.Vc(c) dated 6.2.63 a copy of Board's Confidential letter No.E(D&A) 51 RG S-36 dated 30.11.1961 as sent to all officers. As per Board's direction, efforts are to be made to confirm staff officiating in higher grades in clear vacancies, if they are found suitable, after trial, over a reasonable period not exceeding 18 months. It is, however, observed that in practice no proper system is being followed in this respect with the result that staff continue to officiate in higher grades for long periods and in several cases staff who have officiated for a number of years have been reverted on account of inefficient working. Such reversions are contrary to the extant orders.

2. With a view to ensure that a proper assessment of the working of staff officiating in higher grades is made and action to revert such employees, as are found to be unsatisfactory in work in the higher grade, is taken in time, the following procedure is being introduced for strict compliance by all concerned.

3. Whenever an employee is put to officiate in a higher post, which may be a selection post or a non-selection post his immediate superior should send an Assessment Report as soon as the employee has completed 6 months of officiating period. If this report is unsatisfactory a similar further report should be sent 3 months later i.e. at the end of 9 months officiating period and again 3 months later i.e. at the end of 12 months officiating period. If the first report is satisfactory further reports need not be sent unless the employee deteriorates in the subsequent months.

4. These assessment reports should be sent on to the authority who had ordered the promotion. In the case of the first and/or ordered the promotion. In the case of the first and/or second report being unsatisfactory, the employee should be warned that the report on his working has been unsatisfactory and unless he makes a substantial improvement he will be liable to be reverted.

5. If the third report, at the end of 12 months period is also unsatisfactory, he should be promptly reverted and if he is to be given a further chance even after the third unsatisfactory report, the personal sanction of a senior scale officer in the case of class IV employees, and of a head of Department in the case of Class III employees should be obtained. Even after such sanction has been obtained and the opportunity given to the employee is of no avail, he must be promptly reverted before completing 18 months of officiating period. Orders for reversion in such cases should not be passed by an authority lower than the authority who had ordered the promotion. When an employee is reverted for

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In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

C.M. Application No. 134 of 1983.

In re :

Writ Petition No. 6362 of 1983.



A/36

Naresh Chandra Datta

.. Applicant/  
Petitioner.

Versus

Union of India and others.

.. Opposite parties

Application for stay.

The above named applicant/petitioner most respectfully begs to submit as under :-

That for the facts and reasons narrated in the accompanying writ petition which is supported by an affidavit it is most respectfully prayed that the Hon'ble Court may graciously be pleased to stay the operation of the order dated 8-11-1983 reverting the petitioner and impugned as Annexure no. 5 to the accompanying writ petition.

Lucknow, dated :

26-11-1983.

(S.N. Shukla)

Advocate,

Counsel for the applicant/  
petitioner.

Revised copy.

Q. Ahmad  
- Adrak.

28-11-83.

Hon. K. N. Gopal & S  
Hon. S. S. Ahmad.

Put up along with  
the writ petition.

~~Q. Ahmad~~ for

28.11.83

FLS

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH LUCKNOW

Writ Petition No. 6362 of 1983.

Naresh Chandra Datta ... Petitioner

Versus

Union of India and others ... Opp. Parties.

Counter Affidavit on behalf of Opposite Parties 1 to 3

I, P.N. Kapoor, aged about ..52.. years son of Late. Sh. Anar. Nath. Kapoor..... resident of C-8/2, Manaknagar, Lucknow-11 do hereby solemnly affirm and state as under :-

1. That the deponent is a Deputy Director (Establishment ) posted in the office of the Director General, Research, Designs and Standards Organisation, Lucknow and is fully competent to affirm this Counter-affidavit on behalf of Opposite parties Nos. 1 to 3.
2. That the deponent has read and understood the contents of the Writ Petition and he is well acquainted with the facts of the case deposed hereinafter.
3. That the contents of Para 1 of the Writ Petition are not denied except that the Petitioner who was promoted to officiate as Assistant Research Officer was reverted to class III post in terms of Officers' Posting Order No.120 of 1983, a true copy of which has been filed as Annexure No.5 of the Writ Petition.
4. That the contents of Para 2 of the Writ Petition are not denied.
5. That in reply to the contents of Para 3 of the Writ Petition, it is stated that it is wrong to say that only Senior Research Assistants and Chief Research Assistants are eligible for departmental promotion to Class II post. In this connection it may be mentioned that as per Recruitment and Promotion Rules, the staff holding the posts in the grades, the minimum of which is Rs. 425/- or above in the Revised scale on a regular basis and

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having reached the stage of Rs.560/-, provided they have rendered a minimum of three years non-fortuitous service are eligible for consideration for promotion to Class II post. Incidentally it is pointed out that out of eligible staff only those who were within the field of consideration were called to appear in the selection. In the selection held in August and September, 1983, no Senior Research Assistant was found within the field of consideration.

6. That the contents of Para 4 of the Writ Petition are not denied except that the Petitioner was only asked to look-after the duties of the post of Assistant Research Officer (Metallurgical) in terms of Officers' Posting Order No.112 of 1981, a true copy of which has been filed as Annexure No.1 of the Writ Petition. A perusal of the said Officers' Posting Order will reveal that the Petitioner was not even promoted on adhoc basis but was asked to lookafter the duties of the said post. Subsequently he was promoted as Assistant Research Officer only on adhoc basis. It is wrong to say that the petitioner was working in Class II non-fortuitously. Since his promotion was ad-hoc and was subject to replacement by regularly selected person, after a positive act of regular selection.

7. That the contents of Paras 5 and 6 of the Writ Petition are not denied. It may be mentioned that crossing of Efficiency Bar does not entitle the petitioner for regular promotion for which he has to pass the Written and Viva-Voce tests as per Rules. Incidentally it may be mentioned that the petitioner appeared for the Written Examination in August, 1983 and could not qualify. Since he has not succeeded in the examination, he has filed this petition.

8. That in reply to the contents of Para 7 of the Writ Petition, it is stated that the Petitioner's statement that while he was working in Class II post at Lucknow, he almost for more than a year had been asked to lookafter the work of Deputy



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Director (Metallurgical)/Inspection at Chittaranjan which is a Class I post, is not correct. He and some of other Assistant Research Officers (Metallurgical), Class II, working on ad-hoc basis, were deputed to visit Chittaranjan off and on only to look after the routine Inspection activities of Metallurgical Inspection Cell at Chittaranjan.

9. That the contents of Para 8 of the Writ Petition are not denied except that pending the holding of regular selections, the promotions from Class III to Class II are made on the basis of seniority-cum-suitability subject to filling the vacancies by selected candidates after regular selection. However, it is not correct to say that promotions from Class III to Class II are made on the basis of a formal test. In fact eligible candidates have to appear in a Written Examination followed by Viva-Voce test. Only those candidates who secure at least 60% marks in the Written examination are called for Viva-Voce test and the candidates who secure the highest marks are placed on the panel in order of merit in accordance with the prescribed Rules.

10. That in reply to the contents of Para 9 of the Writ Petition, it is stated that in the past the selections for filling the Class II posts on Railways including the posts of Research, Designs and Standards Organisation were being controlled by the Railway Board and the posts were filled from a combined panel drawn by the Railway Board from out of the eligible Class III staff working on Railways, Production Units and Research, Designs and Standards Organisation as per R&P rules notified in 1965. The Railway Board vide their letter No.E(GP)77/2/34 dated 13.10.77, however, decided to decentralise the selection for the posts of Assistant Chemist & Metallurgists on Railways and authorised all concerned to form their own Class II panels on the basis of separate selection conducted by each Zonal Railway/Production Unit, Research, Designs and Standards Organisation, in respect of the vacancies of their respective Railways/Organisation. The



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selections against Class II posts in the Metallurgical and Chemical Directorate could not be held as in the Writ Petition No.226 of 1973 - C.D.Dixit Vs Union of India and others, it was decided by the Hon'ble High Court that the 1965 Recruitment and Promotion Rules are not applicable to Research, Designs and Standards Organisation. Accordingly the Rules were drafted and forwarded to the Railway Board for notification in consultation with Union Public Service Commission and these Rules are pending with the Union Public Service Commission. Although the Rules have not yet been notified, this Class II selection has been conducted on the basis of these Rules as the delay in holding Class II selection could put the Research, Designs and Standards Organisation Class II Officers at a dis-advantageous position vis-a-vis Class II Officers of the Metallurgical and Chemical Department of Railways, as promotion to senior-scale posts in Research, Designs and Standards Organisation and Railways are common as per these R&P Rules. In this connection attention is invited to this Hon'ble High Court's observation in Writ Petition No.226 of 1973 which is as under :-

"Even if this position is accepted, it will mean that there are so far no statutory rules governing recruitment to Class II posts of Assistant Directors and Sectional Officers of the Chemical and Metallurgical Wing of the Research, Designs and Standards Organisation. So, appointments on these posts have to be made under Article 77 of the Constitution on some fair and equitable basis so long as statutory rules are not framed."

11. That in reply to the contents of Para 10 of the Writ Petition, it is stated that the comments given in Para 10 of this counter-affidavit will hold good for this para also. In this connection it may be mentioned that for regular promotion to Class II post one has to qualify the written examination and viva-voce test. There is no doubt that the petitioner qualified



*[Handwritten signature]*

in the Written test but failed in the Viva-Voce test. Since the petitioner did not qualify in the Viva-Voce test, he could not be placed on the panel. The Instructions contained in Railway Board's letter dated 25.1.76 quoted by the petitioner in this Para have been clarified by the Railway Board vide their letter No.E(NG)1-82-PMI-132 dated 9.8.1982. The Railway Board in this letter has clarified that the intention of the instructions conveyed in the Railway Board's letter was not to by-pass or supersede in any manner the normal rules of selection contained in the Indian Railways Establishment Manual and other orders issued from time to time but only to serve as a broad guidelines for Departmental Promotion Committee. There was no intention to confer any right on the employee officiating on ad-hoc basis in higher posts to be selected and included in the panels for these posts. A copy of Railway Board's letter No.E(NG)1-82-PMI-132 dated 9.8.82 is filed therewith as Annexure C-1.

12. That the contents of Para 11 of the Writ Petition are not denied except that 11 persons were placed on the panel. The petitioner was not placed on the panel merely because he failed to qualify in the test. The question of seniority raised by the petitioner is irrelevant.

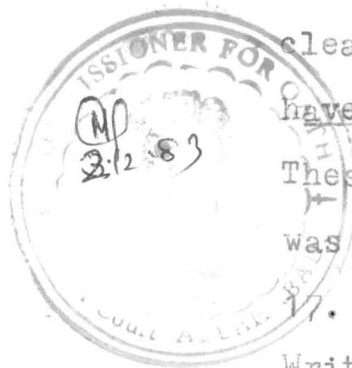
13. That in reply to the contents of Para 12 of the Writ Petition, it is stated that the replies given in Paras 7 and 10 of this counter-affidavit will hold good for this para also.

14. That in reply to the contents of Para 13 of the Writ Petition, it is stated that since the petitioner failed in the Viva-Voce test, he had to face reversion to Class III post and his reversion is legal and valid.

15. That in reply to the contents of Paras 14 and 15 of the Writ Petition, it is stated that once the petitioner failed in the test, there was no occasion to reconsider his request for placing him on the panel. Once the panel has been formed the promotions will have to be made only from the panel. Therefore, his request for placing him on the panel could not be acceded to .

16. That in reply to the contents of Paras 16 and 17 of the Writ Petition, it is stated that it is wrong to say that the petitioner has been working in Class II non-fortuitously. His promotion was <sup>by</sup> only ad-hoc and he was to be replaced by a regularly selected person after a positive act of regular selection. A selection was held in Aug<sup>st</sup>/September, 1983 to select suitable candidates to fill up the Class II posts. The petitioner also appeared in the selection test and since he could not succeed in the selection test, he has filed this Writ Petition. Incidentally it is pointed out that the letter dated 27.6.1983 makes it abundantly clear that these instructions protect only those persons who have officiated for more than 18 months after regular selection. These instructions in no way help the petitioner because he was only an ad-hoc promotee.

17. That in reply to the contents of Para 18 of the Writ Petition, it is stated that the circular letter containing the instructions has been issued by the General Manager of the North Eastern Railway for the employees of North Eastern Railway and as such these instructions are not applicable to the employees of Research, Designs and Standards Organisation including the petitioner. It is significant to point out that the Confidential letter No.E/332/7 mentioned as dated "23.6.83" is in fact the letter dated 23.6.64 issued



by the General Manager  
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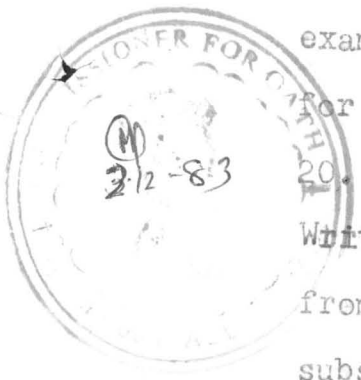
by the General Manager of North Eastern Railway and not Railway Board. Further it is stated that even subsequent to the Railway Board's letter dated 30.11.61, further letters containing instructions in the matter have been issued.

18. That in reply to the contents of Para 19 of the Writ Petition, the averments already made in Para 10 of this counter-affidavit are reiterated and it is emphatically stated that the petitioner's promotion being purely on adhoc basis without a regular selection, the provisions of Article 311 (2) are not at all attracted in this case.

19. That in reply to the contents of Para 20 of the Writ Petition, it is stated that as already explained above, the petitioner was promoted purely on ad-hoc basis pending posting of a regularly selected candidate. Ad-hoc promotion does not confer any right on the petitioner for his regular promotion unless he proves his worth through written examination and viva-voce test and he is placed on the panel for regular posting.

20. That in reply to the contents of Para 21 of the Writ Petition, it is stated that the petitioner's reversion from the post on which he was working on ad-hoc basis to his substantive post does not in any way amount to reduction in rank and as such it also does not cost any stigma on him.

21. That in reply to the contents of Para 22 of the Writ Petition, it is stated that it is wrong to say that the respondent No.2 has acted arbitrarily, irrationally and has violated the principles of the natural justice. The reversion of the petitioner is direct consequence of his failure to qualify in the Class II selection and it is certainly in accordance with the Railway Board's instructions issued from time to time.



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22. That the contents of Para 23 of the Writ Petition are denied.

23. That the contents of Para 24 of the Writ Petition need no reply except that no injustice has been done to the petitioner.

24. That the contents of Para 25 ~~are~~ of the Writ Petition are not denied. However, it is stated that all the selected candidates were promoted and posted vide Officers' Posting Order No.120 of 1983 except one Shri A. Venkatachalam who had been selected while he was working in Research, Designs and Standards Organisation at Madras but he did not join his post of promotion at Lucknow immediately. But <sup>he</sup> ~~has~~ has arrived and joined his duties of the new post on 30.11.1983. Now this will result in the reversion of the junior-most man, who was promoted on the basis of regular selection. Thus the 9 regular promotees as selected on the basis of the selection test held in August/September, 1983 are already working on the respective posts of their promotions. It is added that the post which was then vacant due to non-arrival of Sh.A.Venkatachalam, has since then been filled up by the petitioner, Sh.B.N.Lal in compliance with the interim order dated 11.11.1983 passed by this Hon'ble Court. Now the present position on one hand has caused embarrassment to the Research, Designs and Standards Organisation Administration and on the other hand it has caused grave injustice to the selected candidates who has to face reversion if the aforesaid Interim Order passed by this Hon'ble Court is allowed to continue further. In view of the averments made in the foregoing Paragraphs of this Counter-affidavit, the Interim Order dated 11.11.1983 passed by this Hon'ble Court is liable to be vacated.

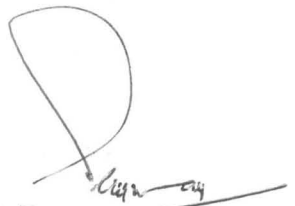


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25. That the deponent has been advised to state that the grounds taken by the petitioner are not sustainable in law and the Writ Petition lacks any merit and it is liable to be dismissed with costs.

Lucknow, dt. 2.12-83

  
Deponent


Verification

I, the above named deponent do hereby verify that the contents of Paras 1, 2 of this affidavit are true to my knowledge, the contents of Paras 3 to 24 of this affidavit are true to my knowledge derived from the office records and the contents of Para 25 of this affidavit are true to my knowledge based on legal advice. No part of this affidavit is false and nothing material has been concealed. So help me God.



Lucknow

Dated: 2-12-1983.

  
Deponent

I identify the deponent who has signed before me.

  
Advocate

Solemnly affirmed before me on 2.12.83.. at 9.30.....a.m./p.m. by Sh.P.N.Kapoor, the deponent who is identified by Sri D.S. Ramphawa.....Advocate.

I have satisfied myself by examining the deponent that he understands the contents of this counter-affidavit which have been read over and explained to him by me.

Meena Pandey  
J.A. & COMMISSIONER  
Court, Lucknow Bench  
LUCKNOW  
2.12.83

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

Writ Petition No. of 1983

PARTIES

Naresh Chandra Datta ... Petitioner

Versus

Union of India and others ... Opposite parties

Counter-affidavit on behalf of Opposite parties 1 to 3

Annexure No.C-1



Government of India  
Ministry of Railways  
( Railway Board )

New Delhi, dated 9-8-1982.

NO. E(NG)I-82-PMI-132

The General Managers,  
All Indian Railways,  
CLW, DM & TCR.

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

The Principal, Railway Staff College, Baroda.

The Principal, Indian Railways Institute of Adv. Track  
Technology, Pune.

The Principal, Indian Railways Institute of Sig. Engg. &  
Telecommunication, Secunderabad.

The Principal, Indian Railways Institute of Mech. & Elec.  
Engg., Meerapur.

The Chairman, Railway Service Commission, Allahabad, Bombay,  
Calcutta, Madras, Muzaffarpur, Patna, Gauhati, Bangalore,  
Secunderabad.

The General Manager, Metro Railways, Jawaharlal Nehru Road,  
Calcutta - 700071.

The CAG, MTP(R) Delhi, Bombay and Madras.

The Railway Liaison Officer, New Delhi.

The General Manager, Wheel & Axle Plant, 18, Millers Road,  
Bangalore - 46.

The General Secretary, I.R.C.A., New Delhi.

The Secretary, Railway Rates Tribunal, Madras.

The C.O., Central Organisation for the modernisation of  
Workshops, 1, Eastern Avenue, Maharani Bagh, New Delhi.

Subject : Selection for promotion of Class III  
staff - Ad hoc promotees.

An extract of the record note of a meeting held by the then Deputy Minister for Railways and the Railway Board with the Heads of the Personnel Departments of the Railways Administrations on 27th November 1975 was sent to the Railways, Production Units and RDSO vide Board's letter NO. E(NG)I-75-PMI-264 dated 25-1-1976. It was also stated in this letter that instructions should be issued to all concerned for strict compliance of the decision as contained in the extract of the minutes referred to above, particularly in regard to persons belonging to Scheduled Castes and Scheduled Tribes. The extract of the record note is reproduced below for ready reference:-

2.2. Panels should be formed for selection posts in time to avoid ad hoc promotions. Care should be taken to see while forming panels that employees who have been working in the posts on ad hoc basis quite satisfactorily are not declared unsuitable in the interview. In



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particular any employee reaching the field of consideration should be saved from harassment."

2. It would appear that the instructions referred to above have led to the normal rules and procedure of selection as contained in the Indian Railway Establishment Manual and other cognate orders issued from time to time not being followed in some cases. With a view to ensuring that such departures do not take place, it is hereby clarified that the intention of the instructions conveyed in the Board's letter of 25-1-1976 referred to above was not to bypass or supersede in any manner, the normal rules of selection as contained in the Indian Railway Establishment Manual and other orders issued from time to time but only to serve as a broad guideline for the Departmental Promotion Committees and the authorities who are required to consider and approve employees for promotion. In any case, there was no intention to confer any right on employees officiating on ad hoc basis in higher posts to be selected and included in the panels for these posts. You are requested to issue instructions to all concerned accordingly.

3. The instructions contained herein will also apply to all selections which are pending finalisation as on the date of issue of this letter and also to the selections to be held in the future. They will, however, not have the effect of prejudicing any orders already passed by competent courts in individual cases based on the court's interpretation of the provisions contained in the letter of 25-1-1976 referred to above.

( D.D. AGGARWAL )  
JOINT DIRECTOR ESTABLISHMENT  
RAILWAY BOARD

New Delhi, dated 4-4-1982.

NO. E(NG)I-82-PMI-132

Copy to:-

- i) The General Secretary, A.I.R.F., 4, State Entry Road, New Delhi. (with 25 spares).
- ii) The General Secretary, N.F.I.R., 3, Chelmsford Road, New Delhi. (with 25 spares).
- iii) All Staff Side Members, Departmental Council/National Council.
- iv) The Secretary, Staff Side, National Council, 15-5, Ferozeshah Road, New Delhi.

For Secretary, Railway Board

Keena Pandey

JATH COMMISSIONER

High Court, Lucknow Bench

NO. 82/677

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posting vide Staff Posting Order No. 112 of 1981 it is submitted respectfully with great regret that the deponent of the counter affidavit has tried to confuse the matter. The fact is that the deponent was asked to look after the duties of the Assistant Research Officer / Mech. but later on the deponent was promoted on regular basis with effect from the same date from which he was asked to look after the duties of the post of the A.R.O. This promotion was made with the concurrence of the Railway Board which is clear from Officers' Posting Order No. 22 of 1982. It is necessary to add here that contrary to the practice of mentioning in the letter of ad-hoc appointees that their services could be terminated at any time on the availability of selected persons, Staff Posting Order No. 22 of 1982 does not envisage anything of the kind. This clearly indicates that deponent/petitioner's appointment was on a permanent basis and clears mist created by the deponent of the counter affidavit beyond a shadow of doubt.

7. That the contents of para 7 of the counter affidavit are not denied to the extent that it relates to admission of the contents of paras 5 and 6 of the writ petition. Regarding the rest it is stated that passing the efficiency test could only mean that the incumbent is efficiently discharging the duties of the post he is holding. The deponent is not aware if any other meaning could be given to the word efficiency. It is denied that the

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deponent/petitioner did not qualify in the test. The fact is that he qualified in the proficiency test held in October, 1983, for it is only those, who qualify in the written test are called for viva-voce. The deponent's having been called for viva-voce is a clear proof that he qualified in the written test. It was only in the interview that he was declared 'failed'. This could not be done in view of the Railway Board's clear instructions that officers who are working on ad-hoc basis and who qualify in the Professional Ability Test should not be declared unsuccessful in the interview. The word '~~Proficiency~~ Proficiency Test' stands for professional ability in which a candidate has to get 60 % marks to qualify for the viva-voce test.

8. That the contents of para 8 of the counter affidavit are denied, and the contents of para 7 of the writ petition are re-stressed with greater emphasis. An extract of the diary maintained by the deponent/petitioner regarding his work as Class I officer is annexed as Annexure no. A-2 to this rejoinder affidavit.

9. That the contents of para 9 of the counter affidavit are not denied. However, it is made clear that the deponent/petitioner's appointment on ad-hoc basis did not envisage any such condition that it was subject to his replacement by selected person. Contrary to this approval of his promotion was taken by the Railway Board. It is evidently clear that

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S. P.

the deponent/petitioner's promotion was on a regular basis

10. That the contents of para 10 of the counter affidavit which are in reply to para 9 of the writ petition are only a detailed jugglery of words giving interpretation to the rules for selection to Class II promotion which is not of much importance. However, the most important admission by the respondents that R & P Rules have not been received by them for M & C Directorate till the date of signing the counter affidavit. It is not clear why the respondents who waited for 14 long years and postponed the test for want of R & P Rules, held the test in the absence of the same. The reference to the observation of this Hon'ble Court in writ petition no. 226 of 1973 is a peculiar one. This petition was decided in the year 1979 and the respondents took 4 years to act on this observation of the Hon'ble Court. This delay of 14 years and then extraordinary hurry in holding the test smells fishy and clearly indicates that the only intention of the respondents in holding the test to oust some and to oblige their favourites.

11. That the contents of para 11 of the counter affidavit which is in reply to para 10 of the writ petition are not admitted. However, a detailed reply has been given in the preceding para which will hold good for this para also. It is stressed

R.H.  
S.H.



that the Railway Board's clear instructions that officers who have officiated for more than 18 months should not be rejected in the interview if they have passed the professional ability test and work satisfactorily is based clearly on the principle of natural justice

12. That the contents of para 12 of the counter affidavit are not denied. However, it is submitted that the petitioner having qualified in the professional ability test could not be failed in the interview.

13. That the contents of para 13 of the counter affidavit are not denied. The replies given to para 7 and 10 of the counter affidavit will hold good for the contents of this para also.

14. That in reply to para 14 of the counter affidavit the contents of para 13 of the writ petition are re-stressed with greater emphasis and it is submitted that the deponent/petitioner's reversion is illegal, irrational and against the orders of the Railway Board.

15. That regarding the contents of para 15 of the counter affidavit it is submitted that it is the right of every employee to get a reply and decision on his representations even if it is irrelevant. By not replying to the deponent/petitioner's representation the respondents have violated the principles of natural justice and failed

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No. E(NG) 65- RG 6-24 dated 9-6-1965 as clarified vide Board's instructions of 15-1-1960, according to which the persons who have officiated for more than 18 months after regular selection can be reverted only after following the D & R proceedings."

In this context the ~~were~~ sentence, " ~~The courts have been giving~~ Subsequently when selections are conducted and the incumbents fail" is important. This falsifies the myth of the deponent of the counter affidavit that by regular selection it is meant only those candidates who have passed in the selection test. For officiating after passing the test does not need any further test, and after selection there is no ad-hoc appointment also.

17. That the contents of Para 17 of the counter affidavit are not admitted. It is deeply regretted that the deponent of the counter affidavit has tried to mislead the Hon'ble Court by asserting that letter marked 'Confidential' dated 23-6-1964 has been issued by the General Manager, North Eastern Railway and as such is not applicable to the R.D.S.O. In the very first para of the said letter it is stated, " ~~As per Board's direction efforts were to be made to confirm staff officiating in higher grades in clear vacancies, if they are found suitable, after trial, over a reasonable period not exceeding 18 months~~

" Under this office letter No. E(SS) 19-71 Pt.Vc(c) dated 6-2-83 a copy of Board's

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Confidential letter No. E(D&A) 51 RG S-36  
dated 30-11-1961 as sent to all officers."

This clearly ~~xx~~ indicates that the General Manager, N.E. Railway has only circulated the Railway Board's letter and stresses on its compliance strictly to avoid complications. In this last line of this para the deponent of the counter affidavit has talked of, "further letters containing instructions have been issued." In the absence of annexure no reply can be given to this vague assertion.

18. That the contents of para 18 of the counter affidavit are denied and the contentions of para 19 of the writ petition are re-stressed. It is again averred that the respondents have not only violated the principles of article 311 (2) but also the instructions of the Railway Board as well.

19. That the contents of para 19 of the counter affidavit are not admitted and the contents of para 20 of the writ petition is stressed with greater emphasis.

20. That the contents of para 20 of the counter affidavit are not admitted and the contents of para 21 of the writ petition are re-iterated. It is again submitted that the petitioner's appointment, which has been approved by the Railway Board was regular and not ad-hoc.

21. That the contents of para 21 of the



affidavit are not admitted and the contents of para 22 of the writ petition are re-stressed. It is again submitted that in reverting the deponent/petitioner, respondent no. 2 has acted arbitrarily, irrationally and violated all the known and unknown principles of natural justice.

22. That the contents of paras 22 and 23 of the counter affidavit are not admitted and the contents of paras 23 and 24 of the writ petition are restressed. It is submitted respectfully that by reverting the petitioner, respondent no. 2 has done the greatest injustice that could be thought of and misused the authority and power vested in him by virtue of the post he holds.

23. That the contents of para 24 of the counter affidavit are not admitted. If it is proved that injustice has been done to the deponent/petitioner by reverting him and lowering him in rank, the Hon'ble Court has to do justice to the deponent/petitioner. The process of doing justice involves the undoing of injustice and in this process of doing and undoing someone has to suffer, no matter who is he. Naturally, the deponent/petitioner's continuation in Class II may mean reversion of somebody. It is also possible that the deponent/petitioner may be adjusted without reverting anyone within the scope of railway ruling. However this is the job of the administration and not of the Hon'ble Court.

62  
23/12/83


24. That the contents of para 25 of the counter

B. H. M. A.

affidavit are not admitted . The petition is maintainable, full of merit and is liable to be allowed with cost.

Lucknow, dated :

23-12-1983.

  
Deponent.

Verification.

I, the above named deponent do hereby verify that the contents of paras 1 to 21 of this affidavit are true to my own knowledge and the contents of paras 22, 23, 24 are believed by me to be true on the basis of legal advice, that no part of it is false and nothing material has been concealed, so help me God.

Lucknow, dated :

23-12-1983.


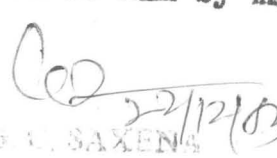
  
Advocate.

I identify the deponent who has signed before me.

  
Advocate.

Solemnly affirmed before me on 23/12/83 at 9.30 a.m/p.m. by Sri Nareesh Chandra Datta, the deponent, who is identified by Sri Sacha Nand Shukla Advocate, High Court, Lucknow.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read over and explained to him by me.

  
  
G. C. SAXENA  
JUDGE (COMMISSIONER)  
High Court (Lucknow Bench)  
No 74/1826  
Date 22/12/83

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

C.M. Application No. 2/3462 of 1984.

In re :

Writ Petition No. 6362 of 1983.



1st - 15/7-  
11/11/83

Naresh Chandra Datta.

.. Applicant/  
petitioner.

Versus

Union of India and others.

.. Opp. Parties.

ordering implementation of  
Application for ~~impugning~~ the interim relief  
order dated 11-11-83 passed by Hon'ble Mr. Justice  
D.N. Jha and Hon'ble Mr. Justice R.C. Deo Sharma in  
writ petition No. 5962 of 1983 in case of writ  
petition No. 6362 of 1983.

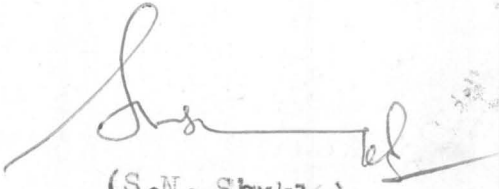
(9)  
2506

The above named applicant /petitioner most  
respectfully begs to submit as under :-

That for the facts and circumstances mentioned  
in the accompanying affidavit it is respectfully prayed  
that the ~~impugned~~ interim relief order dated 11-11-83  
passed in writ petition no. 5962 of 1983 may kindly be  
made available and order to be implemented in case of  
writ petition No. 6362 of 1983.

Lucknow, dated :

16-2-1984.

  
(S.N. Shukla)  
Advocate,

Counsel for the applicant/  
petitioner.

for



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59  
A  
521

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

C.M. Application No. 2134/84 of 1984.

In re :

Writ Petition No. 6362 of 1983.



1st = 1557  
17/1/84

Naresh Chandra Datta.

.. Applicant/  
petitioner.

Versus

Union of India and others.

.. Opp. Parties.

ordering implementation of  
Application for/impugning the interim relief  
order dated 11-11-83 passed by Hon'ble Mr. Justice  
D.N. Jha and Hon'ble Mr. Justice R.C. Deo Sharma in  
writ petition No. 5962 of 1983 in case of writ  
petition No. 6362 of 1983.

(9)  
2506

The above named applicant /petitioner most  
respectfully begs to submit as under :-

That for the facts and circumstances mentioned  
in the accompanying affidavit it is respectfully prayed  
that the ~~impugned~~ interim relief order dated 11-11-83  
passed in writ petition no. 5962 of 1983 may kindly be  
made available and order to be implemented in case of  
writ petition No. 6362 of 1983.

Lucknow, dated :

16-2-1984.

(S.N. Shukla)  
Advocate,

Counsel for the applicant/  
petitioner.

16/2/84

Recd Cops

Dr. Randhawa Advt.

( D.S. RANDHAWA )

Senior Staff General  
Central Govt.

16-2-84

Hon. R.C. Deo Sharma J

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List early before the  
Bench concerned.



17.2.1984



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writ petition i.e., 5962 of 1983. This writ is admitted and the impugned order stayed. The interim order passed by the Hon'ble Court - Division Bench consisting of Hon'ble Mr. Justice D.N. Jha and Hon'ble Mr. Justice R.C. Deo Sharma dated 11-11-1983 reads as under:-

" Hon'ble D.N. Jha, J.

Hon'ble R.C. Deo Sharma, J.

Issue notice.

Two weeks time as prayed for by the learned standing counsel appearing for opposite parties nos. 1 to 3 is allowed to file a counter affidavit serving a copy of the same outside the court on the learned counsel for the petitioner who may, if he so chooses, file a rejoinder affidavit within a further period of four days. List this application for further order thereafter.

In the meantime the reversion order contained in Annexure no. 6 to the writ petition remains stayed.

Sd/- D.N. Jha.

11-11-1983.

Sd/- R.C. Deo Sharma. "

4. That for all practical purposes the reversion portion portion of the impugned annexure -Staff Posting Order 120 dated 8-11-1983, impugned as annexure no. 6 in writ petition no. 5962 of 1983 and annexure no. 5 to writ petition No. 6362 of 1983, stands stayed vide aforesaid order dated 11-11-1983 in the preceding para and it is only the question



Butt.

is to make it operative in case of the writ petition no. 6362 of 1983.

5. That the deponent will suffer rather is suffering irreparable loss because of non-implementation of the interim order in his case.

Lucknow, dated :

16-2-1984.

AB

Deponent. *[Signature]*

Verification.

I, the above named deponent, do hereby verify that the contents of paras 1 to 3 and 5 of this affidavit are true to my own knowledge and the contents of para 4 are believed by me to be true on the basis of legal advice, that no part of it is false and nothing material has been concealed, so help me God.

Lucknow, dated :

16-2-1984.

AB

Deponent. *[Signature]*

I identify the deponent who has signed before me.

*[Signature]*  
Advocate.

Solemnly affirmed before me on 16-2-84 at 9 a.m/p.m. by Sri Naresh Chandra Datta, the deponent, who is identified by Sri S.N. Shukla, Advocate, High Court, Lucknow.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read over and explained to him by me.

*[Signature]*  
Sanjiv K. Mishra  
OATH COMMISSIONER  
High Court, Allahabad  
Lucknow Bench.  
No. 3 of 1985  
Date 16-2-84

In the Honble High Court of Judicature  
at Allahabad

व अदालत श्रीमान

महोदय

वादी (मुद्दे)  
प्रतिवादी (मुद्दालेह)

का वकालतनामा



Narish chand & valla

10/5/83  
29/11/83

वादी (मुद्दे)

बनाम

The Union of India  
प्रतिवादी (मुद्दालेह)

नं० मुकद्दमा सन् १९८३ पेशी की ता० १९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Sadanand Shukla Bar 210/8 एडवोकेट  
Kishor Ashram, Chashki Khera

हस्ताक्षर वकील  
Lal Chand S. S. Husein, Billaal  
Lune Badli

महोदय

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

हस्ताक्षर.....

साक्षी (गवाह).....साक्षी (गवाह).....

दिनांक.....महीना



In The Hon'ble High Court of Judicature  
at Allahabad - Bench - Lucknow.

ब अदालत श्रीमान

महोदय

वादी अपीलान्त

का

प्रतिवादी रेस्पान्डेंट

वकालतनामा



B. N. Lal

vs.

Union of India & others

(वादी मुद्दे)

बनाम

प्रतिवाद मुद्दाअलेह

नं० मुकद्दमा

सन् १६

पेशी की ता०

१६

ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Mr. Dwain Singh Sandhu

एडवोकेट

Senior Standing Counsel,  
Central Government.

महोदय

वकील

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

हस्ताक्षर

Sr. Dy. Director General,

साक्षी [गवाह]

साक्षी [गवाह] Ministry of P.W.D.,  
LUCKNOW-5

दिनांक

महीना

सन्

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आरो आरो मिश्रा

ल. दार : कलेक्ट्री लखनऊ।

नाम अदालत

नं० मुकद्दमा

नाम फरिक्ती

Receipt

Sandhu

Adm.

8-12-83