

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

L. Khurshed Ali - vs. U.O.I. & Or.

FORM OF INDEX

O.A./T.A./R.A./C.C.P./ No. 1231-1987
w.p. 6815/83

PART - I

- 1. Index Papers :- 1 to 3.
- 2. Order Sheet :- 4 to 9.
- 3. Any other orders :- (10-11) n.p. 8396/84 (Delay condoned)
(12-13) n.p. 10,703/84 (Delay condoned).
- 4. Judgement :- (14 to 18) Judgement of C.A.T. Lucknow
Bench. dt. 05-8-1991.
- 5. S.L.P. :-

[Signature]
31/12/88
DY. Registrar

[Signature]
20/12/88
Supervising Officer

[Signature]
20/12/88
Dealing Clerk

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

[Signature]
20/12/88
Dealing Clerk

Check ans
30-1-89

V.K. Mishra

[Signature]
20/12/88

1

ANNEXURE - A

CAT

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

INDEX SHEET

CAUSE TITLE TA-1231/ST(A) of 19

NAME OF THE PARTIES _____

Sh. Khurshed Ali Applicant.

Versus

Union of Indig & Respondent

Part A, B & C

Sl. No.	Description of documents	PAGE
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(B)

B1 to B66

(C)

C.2

3

CIVIL SIDE
CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case W.P. No. 6815-83
Name of parties Churshed Ali vs. Union of India
Date of institution 21-12-83 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.P. with affidavits and Annex	30	-	102	00		
	2	Power	3	-	15	00		
	3	Power Court 8396/4 B.S.Y. with CA	16	-	7	00		
	4	Order 10783/4 B.S.Y. with RA	17	-	7	00		
	5	Order Sheet	1	-				
	6	Buck City	1	-				

I have this _____ day of _____ 198 , examined

the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that 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.....

Munsarlm
Clerk

④

ORDER SHEET

5/2

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

w.p. No. 6815 of 198 83

25.

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
21.12.83	Hon. K.N.G. J Hon. S.S.A. J writ in the above weeks of January 1984. Sel. K.N.G. Sel. S.S.A. 21.12.83	
17.1.84	17.1.84 Writ for Writ for Hon. K.N.G. J. Hon. S.S.A. J	For Bench 17.1.84
24.1.84	Fixed Hon. K.N.G. J Hon. S.S.A. J	
2.4.84	Fixed writ for orders Hon. R.C.D.S. J Hon. S.S.A. J [Signature]	
12.12.84	Fixed for a d Hon. K.N.G. J Hon. S.S.A. J [Signature]	

[Signature]

(4) (6)

my

Expressed
 The Adhesive to 100%
 Total
 Correct but final Court fee receipt
 will be made on receipt of lower
 Court record.
 In time up to
 Papers filed. Copy of F. 2
 should also be filed
 State - Bureau

Last days order No 1214-1083
 over dictation

Quinton
 12-11-83

12/17/83

Houlihan K.S. Vaswa, J.
 Houlihan K.H. Royal, J.

Issue notice
 to the opposite
 parties to show
 cause why the
 petitionary be not
 admitted.

13-2-84

Hon. K.H. Vaswa
 Hon. S.A. J.

Link in the third week of
 January 84.

Link
 21-1-84

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 1231 of 1987

APPELLANT
APPLICANT

K. A. I.

VERSUS

DEFENDANT
RESPONDENT

OO.

Serial
number
of order
and date

Brief Order, Mentioning Reference
if necessary

How complied
with and date
of compliance

8.12.89

Hon. Justice K. Nath, v.c.
Hon. K. J. Rawan, A.M.

A request for adjournment is made on behalf of Sri R. C. Saxena, learned counsel for the applicant. Sri A. B. Kapoor makes appearance on behalf of respondents 1 to 3. A counter affidavit has been filed on their behalf, to which rejoinder affidavit is also on record.

Issue notice to respondent no. 4 to file a counter affidavit within four weeks. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

List this case for orders

on 19.1.90.

[Signature]

[Signature]

A.M.

V.C.

Hon. J. P. Sharma, JM

Applicant is present in person.
None is present for the respondents.
Adjourned to: 03.90

JM

OR

Case has been received a 20.12.89 from CAT, Alid.

Case is not admitted.

Counter & Rejoinder filed on behalf of 1 to 3.

Notices were issued from Alid. Of 4 attached.

Submitted to order

7/11

OR
Notice issued

[Signature]

OR
Notice was issued on 5.1.90

No unclerical return has been submitted for

order

10/1/90

(9)

T.A. 1231/83 J
C.W.P. 6815/83

23.1.91

No sitting Adj to 25.3.91

A
4

25.3.91

No sitting Adj to 10.4.91

18.4.91

No sitting Adj to 5.8.91

A

Received
Copy
of
Judgment

~~Alia~~
Alia

17/9/91

Alia
19/9/91

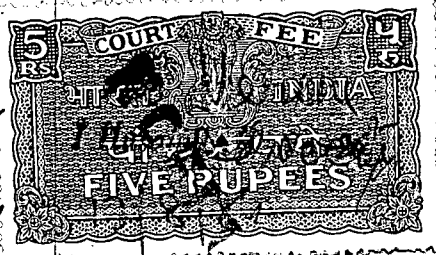
10

3

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

Civil Misc. Application No. **8396** (W) of 1984.

In re :
Writ Petition No. 6815 of 1983



14/8/84
MB

Sri Khurshid Ali

... Petitioner

Versus

Union of India and others

... Opposite parties

12/0/

APPLICATION ON BEHALF OF OPPOSITE PARTIES NO.1 TO 3 FOR
CONDONATION OF DELAY IN FILING COUNTER AFFIDAVIT.

This application on behalf of opposite parties No.1 to 3 most respectfully showeth :-

1. That counter affidavit in the above mentioned writ petition could not be filed within time because of want of instructions and inadvertence.
2. That this delay in filing counter affidavit has not caused any adjournment of hearing of the above mentioned writ petition.

WHEREFORE, it is most respectfully prayed that in interest of justice, this Hon'ble Court may be pleased to condone the delay in filing counter affidavit and the same which accompanies this application may be directed to be brought on record.

Lucknow, dated
13.8.84

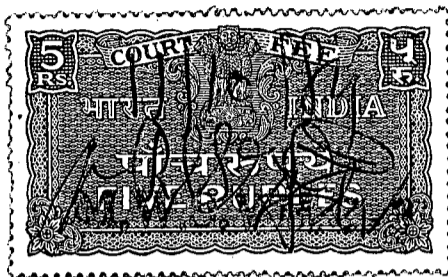
Siddharth Verma
(Siddharth Verma)
Advocate,
Counsel for O.P.No.1 to 3/Applicants.

(18) (12)

(18)

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IN THE HON'BLE HIGH COURT OF JDDICATURE AT ALLAHABAD
(LUCKNOW BENCH) : LUCKNOW :
C.M. Application No. 10783 (W) of 1984



Khurshid Ali ... Applicant.

Inre:

Writ Petition No. 6815 of 1983

Khurshid Ali ... Petitioner.

Versus

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

15034

Application for condonation of delay in
filing Rejoinder Affidavit.

That due to inadvertance the rejoinder
affidavit could not be filed within time. However,
now the same is ready and being filed herewith which
may kindly be accepted and brought on record after
condoning the delay in question.

Lucknow:

Dated: 11-10-84
15

Handwritten signature of R.C. Saxena
(R.C. Saxena)
Advocate,
Counsel for Petitioner.

3

12 14

13/10

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH, LUCKNOW

Registration T.A. 1231/1987

(Writ Petition No. 6815/83)

Khurshed Ali

Applicant/Petitioner.

versus

Union of India & others

Respondents/Opp. Parties.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Admn. Member.

(Hon. Mr. Justice U.C. Srivastava, VC)

Respondent No. 4, according to the applicant was promoted to the post of Senior Clerk grade 330-560 ignoring the claim of the applicant, who claims seniority ^{order} to respondent No. 4. The applicant approached the High Court through the Writ Petition, which under section 29 of the Administrative Tribunals Act, 1985 stood transferred to this Tribunal. The applicant's contention is that he was wrongly deprived the pay scale and he has been representing against the same, but his grievance was not redressed inspite of agitations. The respondents, are thus, making him junior in the matter of promotion. Before narrating the facts it will be appropriate to make reference to certain documents which would rather solve the dispute.

2. According to the applicant although he was a Challandar but in fact he was performing the duties of Material Clerk and he was entitled to ^{the} the grade which was admissible to those persons which was given to the other Challandars.

3. The Railway Board- vide letter dated 30.5.64

W

2

specified the duties of material checkers and material clerks, in all the departments, and this was with reference to Board's earlier letter dated 20.2.1964. The Board clarified that all the posts in scale Rs 55-85(Pers)/105-135 (Auth) carrying different designations on all Railways in the light of the duties laid down for Material Clerks and Material Checkers and allot the appropriate scale of pay, standardising the nomenclature to the extent possible on the basis of the nature of duties performed by the incumbents of the posts. The Railway Board in its earlier letter dated 27.9.63 specified the duties of Material Checkers in Departments other than the stores for staff dealing with stores matters. Only two designation shall be used, namely, the Material Checkers and Material Clerks, on the basis of duties performed by them. The Material Checkers scale was specified Rs 105-135 and Material Clerks scale was Rs 110-180. The Railway Board, vide letter dated 24/26 October, 1972, which was forwarded to all the officials concerned by the Northern Railway Headquarters and in the said letter the scales of pay of Fuel issuers, Coal Checkers, Material Checking Clerks, Tool Checkers, Stores issuers etc. have been given and it has been directed that the order of the Railway Board dated 26.10.72 be implemented and intimated by 1.12.72. Reference was made to the Railway Board's letter dated letter dated 27.9.63. In the Railway Board's letter dated 27.9.63 reference was made to the meeting of the Departmental Council under the Joint Consultative Machinery and criteria for determining the scale of pay of staff dealing with stores matters in departments other than stores, variously designated as Material

Checkers, Store Issuers, Fuel Issuers, Tool Issuers/ Clerk/Coal Issuers/Clerks etc. The Board decided that the staff of above categories performing all the duties listed in Board's letters referred to above, should be placed in the grade of 110-180, wherever they have hitherto been allotted only Rs 105-135, and these orders were to take effect from 1.10.1972. It will be relevant to point out that the applicant exactly claims the same benefit. In the extract from serial No. 6036 G-Circular No. 561-E/255-93-II PC dated 1.8.1974 a reference to which has been made by the respondents, the revision of pay scale in all the departments (except the security Department) in the following authorised scales was mentioned and it was as Rs 80-1-85-2-95-EB-3-110 revised to Rs 210-4-250-EB-5-270 in respect of Store Laskar, Challandar, record supplier, Insect Collector, Vaccinator, Laboratory Attendant Gr. I and Water Softening Attendant.

4. It appears that as a result of the decision of the Railway Board ~~vide letter dated 1.10.73~~, on a reference made by Shop Superintendent ^{Meerut Post Plant} Superintendent Creosoting Plant N.R. Dhilwan informed him that one Gurba Singh Challandar was given the pay scale of Rs 260-400(revised) with effect from 1.1.73

5. The Asstt. Engineer, Butt Welding Plant, Meerut Cantt, vide letter dated 5.6.79 made reference regarding Challandar telling him that there was one post of ^{six} Challandar sanctioned on the basis of monthly T.L.A. basis. The duties of Challandar was specified and in addition to the duties performed by them it was mentioned that ~~there~~ they were performing other duties also which too were specified. It was mentioned in his letter that

W

the post was similar to the post of Challandars provided at Creosoting Plant and Sleeper Depot and all the Challandars are performing almost similar duties in the grade of Rs 105-135(A/S) now Rs 260-400 and thus these posts were upgraded. The applicant requested that he ~~is~~ had been working in the grade of Rs 260-400, as such he should be allowed the grade of Rs 260-400 with effect from 17.6.75 but no action was taken .

6. Precisely, this is the case of the applicant that although he was placed in the grade revised by the respondents and recommendations were made for several persons but the same grade not given to him notwithstanding the fact that he was performing the duties of Material Clerk which was obvious from the duties performed by him.

7. The Railway, Administration has ~~found~~ refuted the claim of the applicant by stating that the applicant started his service Career as Khalasi in the year 1971 in the grade of Rs 196-232 and promoted to the post of Challandar in the grade of Rs 210-270 with effect from 17.6.1975, purely on temporary and adhoc basis against Temporary Labour Application sanction According to the Railway Board letter dated 30.5.64 all posts carrying different designations in the light of duties laid down for 'Material Checkers' and Material Clerks. A reference has been made to the Railway Board's letter referred to above stating that the letter does not refer anywhere the category of Chalandar. The category of Chalandar was in the grade of Rs 80-110(AS) and not in the grade of Rs 105-135(A.S.) in which the petitioner was working, as such he is not entitled to the scale. Consequently his representation has already been rejected on 19.4.80 regarding which

intimation was given to him and the second representation was also similiary disposed of.

8. Regarding the applicant it has been stated that he joined the services on 19.10.71. He was in the junior grade and that he was promoted. The applicant had accepted his permanent grade and that is why he was promoted later on. He had not appeared in the suitability test for promotion to the grade of Rs 260-400.

9. The plea of the respondents makes it clear that the applicant has been refused the pay scale to which he was entitled. Applicant's case in the rejoinder is that as a matter of fact he was performing the duties of material Clerk, which according to the respondents has nothing to do with the same, which was given by the Railway Administration and that the officers not only recognised the same but also made recommendations in his favour and the Railway Administration deprived him of his right from the very beginning. We have considered the reliefs prayed for and the pleadings of the parties. In our opinion that facts stated above make it clear that the applicant's claim has not been considered by the Railway Administration, ~~are true~~. The Railway Administration failed to implement its own circulars and violated the same issued in the years 1963, 1964 and 1972. Accordingly, the applicant was entitled to higher scale of Rs 260-400. Instead of allowing the application, we again give an opportunity to the Railway Administration to decide the case of the applicant in the light of observations within two months of the communication of this order and in case the applicant is entitled

to the said pay scale, the same pay scale be given to him from the very beginning, he is entitled to . Seniority of the applicant will also be re-adjudged and case for further promotion, if any. Whatever order be passed, should be a speaking order.


Adm. Member.


Vice Chairman.

Lucknow Dated: 5.8.91

Group No A-14-(a)

100-13.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW

Writ Petition No. 6015 of 1983

Khurshid Ali ... Petitioner

Versus

Union of India and others ... Opposite Parties

I N D E X

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1.	Writ Petition under Article 226 of the Constitution of India.	1-8
2.	Affidavit	9-10
3.	Annexure No.1 - Promotion order.	11-12
4.	Annexure No.2 - Railway Board's letter dated 30.5.64.	13-15
5.	Annexure No.3 - G.M. (P), New Delhi's letter dt. 18.8.64.	16-17
6.	Annexure No.4 - Railway Board's letter dated 24.10.72.	18-19
7.	Annexure No.5 - Letter dated 12.2.77 issued by Supdt., Creosoting Plant, N.R., Dhilwan.	20-00
8.	Annexure No.6 - A.E.N.'s letter dated 5.6.79.	21-22
9.	Annexure No.7 - Result of suitability and promotion order.	23-00
10.	Annexure No.8 - Promotion order dated 25.1.82.	24-00
11.	Annexure No.9.- Representation dated 2.7.83	25-30

R.C. Saxena
(R.C. SAXENA)
Advocate,

Luck now : Dated
November 30, 1983

Counsel for the Petitioner

plant, Meerut Cantt. under the Executive Engineer, Track Relaying, Headquarters Office, Northern Railway, Baroda House, New Delhi.

3. That the petitioner was promoted to the post of Challandar with effect from 17.6.75 and he joined the said post on the same day at Meerut Cantt. under Assistant Engineer, Flush Butt Welding Plant, Northern Railway, Meerut Cantt.

4. That the post of Challandar initially carried the pay scale of Rs.105-135 (AS) but in view of Railway Board's order dated 30.5.64, 18.8.64 and 24.10.72, the said post was upgraded and it was provided that a review may be made and all posts in scale Rs. 105-135 carrying different designations in Railways in the light of the duties laid down for "Material Checkers and Material Clerks, etc." may be upgraded and the staff performing any two of the seven items of duties listed in paragraph 1(iv) of Board's letter dated 27.9.63 should be placed in the grade Rs.110-180 (AS) wherever they have hitherto been allotted only Rs.105-135. A true copy of relevant orders dated 30.5.64 containing the copy of Railway Board's letter dated 27.9.63, copy of General Manager (P), New Delhi letter dated 18.8.64 and Railway Board's letter dated 24.10.72 circulated vide Headquarters Office letter dated 1.12.72 are filed herewith as Annexures No.2, 3 and 4, respectively, to this Writ Petition.

5. That the case of the petitioner, who was holding the post of Challandar in scale 105-135 (AS) and was performing the duties similar to those of the Material Clerks of grade 260-400, was fully covered by the orders of the Railway Board referred to above and he was entitled to be placed in grade Rs. 260-400.

W. S. Chaudhary

6. That the Assistant Engineer/W, Butt Welding Plant, Northern Railway, Meerut Cantt., under whom the petitioner was working, made a reference to the Superintendent, Creosoting Plant, Northern Railway, Dhilwan and requested him to confirm as to whether the Challandars working in that depot were given and being paid the salary in the pay scale Rs.260-400.

7. That in response to the letter dated 31.1.77 sent by the Assistant Engineer referred to above, it was intimated vide letter dated 12.2.77 that the Challandars working in that depot were in the scale of Rs.260-400. A true copy of the letter dated 12.2.77 is filed herewith as Annexure No.5 to this Writ Petition.

8. That the Assistant Engineer vide his letter dated 5.6.79 certifying that the petitioner who was performing the duties as mentioned in Railway Board's letter dated 30.5.64 (Annexure-2) sought for an approval to grant the scale of Rs.260-400 to the petitioner. A true copy of letter dated 5.6.79 written by Assistant Engineer for approval is filed herewith as Annexure No.6 to this Writ Petition.

9. That a perusal of Annexure No.6 further reveals that a reference to the G.M. (P) New Delhi was also made for grant of approval for giving the grade of Rs.260-400 to the petitioner but was returned with the orders that the case of the petitioner may be dealt with by the authorities concerned in the light of Railway Board's letter dated 30.5.64 and 24.10.72.

10. That it is respectfully submitted that despite Railway Board's clear orders referred to above, the petitioner was not given the scale of Rs.260-400, instead

contd..4

Abundant Sh.

he was granted the scale of Rs.210-270 with effect from 17.6.75 and continued to pay the salary in the same scale till 14.4.78, whereafter the petitioner vide order dated 15.4.78 was granted the scale of Rs.225-308 and continued to pay the salary to the petitioner in the same scale till 24.1.82.

11. That in January 1982 a suitability test for the post of Material Clerk grade Rs.260-400 was held in which the petitioner duly appeared and was declared suitable.

12. That the petitioner vide order dated 25.1.82 in pursuance to orders dated 23.1.82 was promoted to the post of Material Check Clerk grade 260-400. A true copy of order dated 23.1.82 and order dated 25.1.82 are filed herewith as Annexures No.7 and 8 to this Writ Petition.

13. That the petitioner vide his representation reminders has been continuously requesting the higher authorities for grant of scale of Rs.260-400 with effect from 17.6.75, the date from which he had been performing the duties as mentioned in Railway Board's letter dated 30.5.64, but on his representation he was not paid his salary in scale of Rs.260-400. Even with effect from 15.4.78 the petitioner was granted the pay scale of Rs.225-308 and not the scale of Rs.260-400 which was legally required to be given to him in view of Railway Board's letters mentioned above. A true copy of the last representation dated 2.7.83 submitted to the opposite parties is filed herewith as Annexure No.9 to this Writ Petition.

14. That it would be relevant to point out here that the opposite parties never rejected the case of the petitioner for grant of pay scale of Rs.260-400 by any

Abhishek Sh.


order passed and communicated to the petitioner.

15. That a perusal of Annexure No.9 indicates that the petitioner clearly stated that he should be paid the difference of pay for the period from 17.6.75 to 24.1.82 when he was given the grade of Rs.260-400 and promotion to the post of Material Checking Clerk, as a result of his representation and he further requested that his services with effect from 17.6.75 may be counted for the purpose of determining his seniority in the pay scale of Rs.260-400 along with other employees belonging to the seniority unit to which the petitioner belong.

16. That despite clear representation referred to above, the Railway authorities did not pay the petitioner his due salary legally admissible to him under the Railway Board's orders nor they published any seniority list.

17. That the Railway authorities vide letter dated 14.10.83 contained in Annexure No.1 have promoted a junior person to the post of senior clerk grade 330-560, totally ignoring to consider the case of the petitioner who is senior to him in service. A true copy of letter dated 14.10.83 promoting Opposite Party No.4 already forms part as Annexure No.1 to this Writ Petition.

18. That it is respectfully submitted that the petitioner who has been holding the post of Challandar grade Rs.105-135, which was upgraded to Rs.260-400 in terms of Railway Board's orders, contained in Annexures Nos.2, 3 and 4, is entitled to get his seniority in scale of Rs.260-400 with effect from 17.6.75, the date he was promoted to the post of Challandar.


Abanindranath Ghosh

19. That the opposite party no.4 was appointed as clerk on 29.11.80 in scale of Rs.260-400 and he cannot be considered senior in any case to the petitioner.

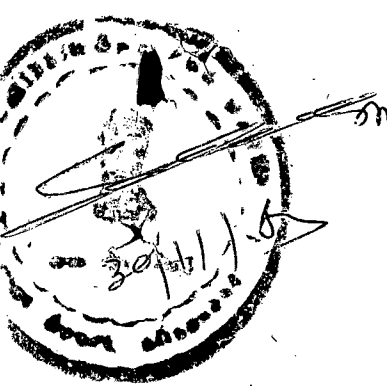
20. That the criterion for determination of seniority as laid down in Indian Railways Establishment Manuel is the length of service in a particular grade and the petitioner having rendered more service in grade Rs.260-400 is liable to be considered senior to O.P. No.4, who was appointed much after the promotion of the petitioner to grade Rs.260-400.

21. That the petitioner being senior in service had a preferential claim for being considered for promotion to the post of senior clerk grade 330-560 with reference to opposite party no.4 who is junior to him, the criterion for promotion being seniority subject to rejection of unfit.

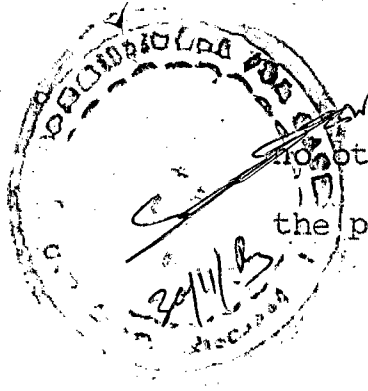
22. That it is respectfully submitted that the entire service record of the petitioner is wholly unblemished and he has never been communicated even any adverse entry. No punishment was ever imposed against the petitioner during his entire service.

23. That there is no adverse material available on record on the basis of which the petitioner can be adjudged unfit for promotion to the post of senior clerk.

24. That the Railway authorities acted illegally in promoting opposite party no.4 without first considering and rejecting the case of the petitioner and this arbitrary action on the part of Railway authorities is not only contrary to the rules but also hit by the provision of Article 16 of the Constitution of India.



Abhishek Sh



That the petitioner feeling aggrieved and having no other alternative efficacious remedy begs to prefer the present Writ Petition on the following amongst other -

G R O U N D S

1. Because the petitioner is senior to opposite party no.4 and has a preferential claim for being considered for promotion to the post of senior clerk in grade Rs.330-560.
2. Because the opposite parties acted arbitrarily and discriminately in considering and promoting the opposite party no.4 without first considering and rejecting the case of the petitioner.
3. Because there is no adverse material available on record on the basis of which the petitioner can be adjudged unfit for promotion to the said post.
4. Because the arbitrary promotion of opposite party no.4 illegally superseding the petitioner amounts to discrimination within the meaning of Article 16 of the Constitution of India.
5. Because the petitioner, who has been holding the post of Challandar with effect from 17.6.75 in view of Railway Board's orders contained in Annexures No.2, 3 and 4, is entitled to get the scale of pay of Rs.260-400 with effect from 17.6.75 and also the benefit of seniority in that grade since the same date.
6. Because the opposite parties have acted illegally in not granting the pay scale of Rs.260-400 with effect from 17.6.75 till 25.1.82 during which the petitioner had been performing the duties as mentioned in Railway Board's order dated 27.9.63 and the opposite parties have further acted illegally in not making the payment of arrears due to the petitioner.

Advocate

(8)

WHEREFORE, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to :-

(a) Issue a writ, direction or order in the nature of certiorari quashing the impugned order dated 14.10.83 passed by opposite party no.2 contained in Annexure No.1 after summoning the original order from the opposite parties.

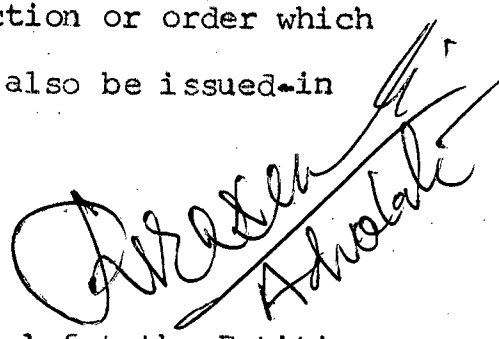
(b) Issue a writ, direction or order in the nature of mandamus commanding the opposite parties to consider the case of the petitioner for his promotion to the post of senior clerk in grade 330-560.

(c) Issue a further writ, direction or order in the nature of mandamus to grant the scale of Rs.260-400 with effect from 17.6.75 to the petitioner in terms of Railway Board's orders contained in Annexures No.2, 3 and 4 and pay the petitioner arrears legally admissible to him and further direct them to count his services in grade 260-400 with effect from 17.6.75 for the purpose of determination of his seniority in the category of clerks grade 260-400.

(d) Any other writ direction or order which may be deemed fit and proper may also be issued in favour of the petitioner.

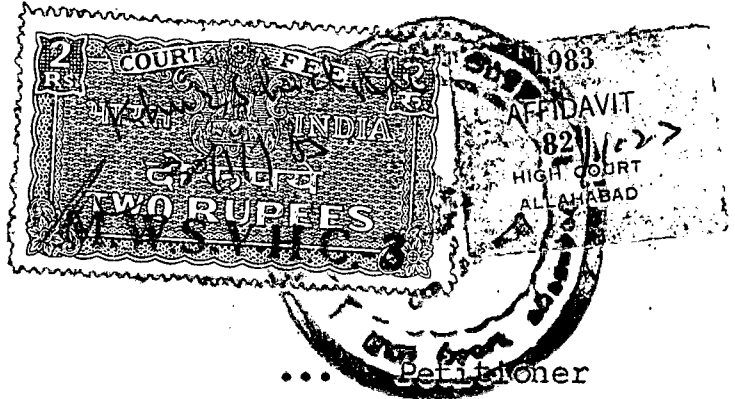
Lucknow :

Dated 30.11.83


Counsel for the Petitioner
(R.C. SAXENA)
ADVOCATE

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

Writ Petition No. of 1983



Khurshid Ali

... Petitioner

V/s

Union of India and others

... Opposite Parties

A F F I D A V I T

I, Khurshid Ali, aged about 36 years, S/o Sri Fazal Husain, R/o Gulzar Nagar, Lucknow, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the Petitioner in the above noted writ petition and is fully conversant with the facts of the case deposed to hereunder.
2. That the contents of paras 1 to 24 of the Writ Petition are true to my own knowledge.
3. That Annexures No.1 to 9 are the true copies and the deponent has compared them with their originals.



Khurshid Ali

Deponent

Lucknow : Dated
November 30, 1983

VERIFICATION

I, the deponent named above, do hereby verify that the contents of paras 1 to 3 of this Affidavit are true to my own knowledge.

No part of it is false and nothing material has been concealed, so help me God.

Khurshid Ali

Lucknow : Dated

Deponent

November 30, 1983

I identify the deponent who has signed before me.

R.C. Saxena
Advocate
30.11.83

Solemnly affirmed before me on November 30, 1983, at 3.00 A.M./P.M. by Sri Khurshid Ali, the deponent, who is identified by Sri R.C. Saxena, Advocate, High Court, Lucknow Bench, Lucknow.

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



[Signature]
OFFICE OF COMMISSIONER
High Court, (Lucknow Bench)
LUCKNOW
32/10/83
30/11/83

(2)

by the upgrading the post of Sr. Clerk Grade Rs.330-560 (R/S) sanctioned vide G.M. (Engg.) letter No.319-W/46 (Establishment) dated 28.7.80 which was temporarily down graded.

This has the approval of Dy.CE/CSP/ALD

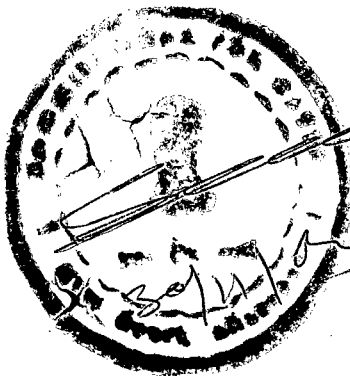
sd/-

Dy. Chief Engineer/CSP
Subedarganj/Allahabad

1. SAO/CSP/ALD.
2. Cadre Register

TRUE COPY

Abinash Shrivastava



5/18

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

Writ Petition No. of 1983

Khurshid Ali ... Petitioner

Versus

Union of India and others ... Opposite Parties

ANNEXURE NO. 2

Copy of Railway Board's letter No. PC-62/PS-5/SS-2 dated 30.5.64 addressed to the Managers, All Indian Railways & others.

Sub:- Duties of Material Checkers & Material Clerks in all departments

Reference Board's letters bearing No. PC-62/PS-5/SS-1 dated 27.9.1963 and No. PC-62/PS-5/SS-2 dated 20.2.64 on the above subject. It is clarified that you may review all posts in scale Rs.55-85 (Pres)/105-135 (Auth) carrying different designations on your Railways in the light of the duties laid down for "Material Checkers" and "Material Clerks" and allot the appropriate scale of pay, standardising the nomenclature to the extent possible on the basis of the nature of duties performed by the incumbents of the posts.



3. Please acknowledge receipt of this letter.

Copy of Railway Board's letter No. PC-62/PS-5/SS-1 dated 27.9.63 addressed to the G.Ms. All Indian Railways and others.

Sub:- Duties of Material Checkers in Deptts. other than the stores.

The Board have had under consideration for sometime past question of standardising the duties of staff dealing

contd..2

Khurshid Ali

- 14 -

4/9

(2)

with matters connected with stores in departments other than the stores on the Railways have decided as under :-

1. In departments other than stores, for staff dealing with stores matters only two designation shall be used namely Material Checkers and Material Clerks, depending on the duties performed by them.
2. Material Checkers shall be in the authorised scale of Rs.105-135 and Material Clerks shall be in the authorised scale of Rs.110-180.
3. The duties to entrusted to the Material Checkers are indicated below :
 - (i) Checking and chasing the outgoing and incoming materials.
 - (ii) Issuing and taking delivery of materials.
 - (iii) Preparation of gate passes for the materials issued.
 - (iv) To go to the shops, sheds and parcel offices for handling over and bringing back materials.
 - (v) Keeping simple tally books pertaining to materials handled by them.

(IV) The duties to be entrusted to the material clerks are indicated below:-

In addition to the duties laid down for Material Checkers. Material Clerks may perform the following duties:-

- (i) Checking of attendance of staff under them and preparing their pay sheets.
- (ii) Correspondence regarding materials.
- (iii) Responsible for verification of materials.
- (iv) Responsible for labour, transport, cranes etc. when put under their charge.
- (v) Elaborate account-keeping work.
- (vi) Submission of returns; and
- (vii) Any other allied ministerial duties.

contd..3



Abdul Ali



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

Writ Petition No. of 1983

Khurshid Ali ... Petitioner

Versus

Union of India and others ... Opposite Parties

ANNEXURE NO.3

Copy of letter No.561-E/85-132/Pt.III(EIID) dated 18.8.64 from General Manager/P, Baroda House, New Delhi to All DS's and extra Divl. Officers, Northern Railway.

Sub:- Duties of Material Checkers &
Material Clerks in all departments

In enclosing herewith a copy of Railway Board's letter No.PC-62/PS- 5/SS-2, dated 30.5.64 on the above subject for information necessary action it is requested that all posts in scale Rs.55-85 (Press)/105-135 (Auth) carrying different designations under you may please be reviewed in the light of duties laid down for "Material Checkers" and "Material Clerks". Your recommendations to allot the appropriate scales of pay and also for a standardised nomenclature on the basis of the nature of duties performed by the incumbents of the posts duly vetted by your accounts officer alongwith a statement of financial implications involved and copy of the actual duties performed by each category of staff may please be furnished to this office on the proforma attached so as to reach this office not later than 15th Sept. 64. Copies of Railway Board's letter No.PC-62/PS-5/SS-1 dated 27.9.63 and No.PC-62/PS-5/SS-2 dated 20.2.64 referred to in Board's letter ibid were circulated under this office letter



Khurshid Ali



(2)

No.561-E/85-132/Pt.III (EiiD) dated 7.10.63 and letter
No.756E/27 (EiiE) dated 18th July, 1964 respectively
(Copies enclosed for ready reference).

This may please be given urgent attention.

The receipt of this letter alongwith its
enclosures may please be acknowledged.

TRUE COPY

Abdul Ali





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

Writ Petition No. of 1983

Khurshid Ali ... Petitioner
Versus
Union of India and others ... Opposite Parties

ANNEXURE NO.4

NORTHERN RAILWAY
HEADQUARTERS OFFICE
BARODA HOUSE, NEW DELHI

to be replied by 1.12.72
positively.

No.561-E/85-132/Pt.III/EIID
Dated: 30.10.72

- The DSs DLI FZR BKN JU MB LKO & ALD
- The DCOS JU SSB & AMV LKO
- The WM BKN, Dy.CME ASR JUDW, JU, AMV LKO & CB LKO
- The WM Signal Shop GZB
- The Principal OGS/Jharipani
- The Principal STS/CB-LKO
- The Principal ZTS/CH
- The WEE/LKO
- The DEE(W) BKN

- The APO (HO) X
- The SEN (Br.) & W.S.) X Headquarters office,
- The TSO X Baroda House, New Delhi
- The CSO & SME (WS) X

Sub:- Scales of pay of Fuel issuers, Coal Checkers,
Material Checking Clerks, Tool Checkers, Store
issuers etc.

A copy of Railway Board's letter No.P069/FE4/1
dated 24/26-10-72 on the subject referred to above is
forwarded herewith for information and necessary action.

The implementation of the above orders may please
be intimated to this office by 1.12.72 certain. The Rly.
Board's letter No.PC-62/PS.5/SS.1 dated 27.9.63 referred
to in the Board's letter cited above was circulated under
this office letter of even number dated 7.10.63 and 18.8.64.

D.A./As above
Sd/-
For General Manager (P)

Khurshid Ali



- 19 -

(2)

(19/72)

Copy of Railway Board's letter No. PC-69/FE-4/1
dated 24.10.72 to G. Ms. all Indian Railways.

Sub:- Scales of pay of Fuel Insuers, Coal Checkers,
Material Checking Clerks, Tool Checkers, Stores
Issuers etc.

Reference Railway Board's letter No. PC62/PS5/SS-1 dated
27.9.63.

At the last meeting of the Departmental Council under the joint consultative machinery, the criterion for determining the scale of pay of staff dealing with stores matters in departments other than stores, variously designated as Material Checkers, Store Issuers, Fuel Issuers, Tool Issuers/Clerk Coal Issuers/Clerks etc. was reviewed. Accordingly Board have decided that staff of the above categories performing any two of the seven items of duties listed in paragraph 1 (iv) of Board's letter quoted above should be placed in the grade Rs.110-180, wherever they have hitherto been allotted only Rs.105-135.

These orders take effect from 1.10.72.

TRUE COPY

W. M. S. S. S.





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

Writ Petition No. of 1983

Khurshid Ali ... Petitioner

Versus

Union of India and others ... Opposite Parties

ANNEXURE NO.5

No.3-E

Dated: 12.2.1977

From

The Supdt.,
Creosoting Plant,
Northern Railway,
DHILWAN.

To

The Assistant Engineer/W,
Butt Welding Plant,
Northern Railway,
MEERUT CANTT.

Subject:- GRADE OF CHALLANDAR

Reference:- Your letter No.E-35/BWP-loose/
Challandar dated 31.1.77 received
here on 7.2.77.

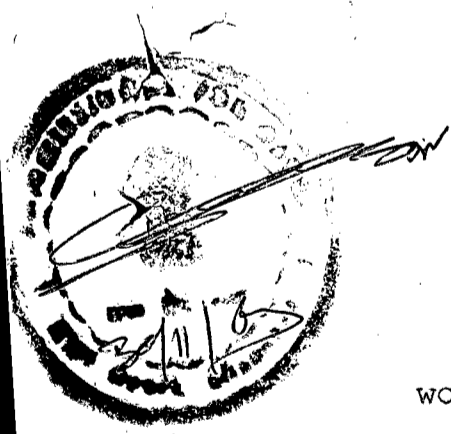
Reference above it is intimated that Challendar
working in this depot is in the scale of 260-400 'RS).

Sd/-

Supdt., Creosoting Plant
Northern Railway,
DHILWAN

TRUE COPY

Khurshid Ali



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

Writ Petition No. of 1983

Khurshid Ali ... Petitioner

Versus

Union of India and others ... Opposite Parties

ANNEXURE NO.6

Butt Welding Plant,
Meerut Cantt.

No. E-35/BWP(loose)-79

Dated: 5-6-79

The Sr. Civil Engineer/T.R.
Northern Railway Headquarters Office,
Baroda House,
New Delhi.

Subject:- Grade of Challandar posted in BWP-MUT.

There is one post of Challandar in BWP/MUT sanctioned on the basis of 6 monthly T.L.A. He is performing the following duties as mentioned in Board's letter No. PC-62/P6-5/SS-2 dated 30.5.64.



1. Checking and chasing the outgoing and incoming store materials.
2. Issuing and taking delivery of material incoming from Bhilai by BFRs and outgoing to PWIs by BFRs or DMTs.
3. Preparation of Gate Passes for issue of materials.
4. To go to Goods Shed for taking delivery of BFRs etc.
5. Keeping simple note book pertaining to materials handled by him.

In addition to the duties detailed above, he is performing following duties :-

1. Preparing Pay sheets of staff working here. There are about 160 men working under Shop Supdt./BWP and he can prepare muster sheets independently.

Khurshid Ali

(2)

2. Doing correspondence regarding receipt and supply of material.
3. He is making weekly progress reports which are submitted to Hd. Qrs. Office every week.

In reference to the letter mentioned above and keeping in view the duties mentioned therein a review on the Railway was made and all categories in scale Rs.105-135 (A/S) upgraded to scale Rs.110-180 (A/S) now Rs.260-400 (R/S). In this connection a reference was made to Supdt. Creosoting Plant, Northern Railway, Dhilwan to intimate this office the grade of the Challendar working in that depot. The Superintendent, Dhilwan depot has informed vide his letter No.3-E/ dated 12.2.77 that the Challendar^{is} in the scale of Rs.260-400 (R/S).

In this connection a reference was made to the G.M. (P)/NDLS to send the approval of the competent authority before giving him grade of Rs.260-400 (R/S) instead of Rs.225-308 (R/S) as at present.

The case has been returned by the dealing clerk with the verbal remarks that this may be dealt with by the authority who sanctions the T.L.A. in the light of the Board's letter dated 30.5.64 and 24.10.72. It is, therefore, requested to kindly look into this case and accord your approval to grant the scale of Rs.260-400 (R/S) to shri Khurshid Ali, Challendar.

Sd/-

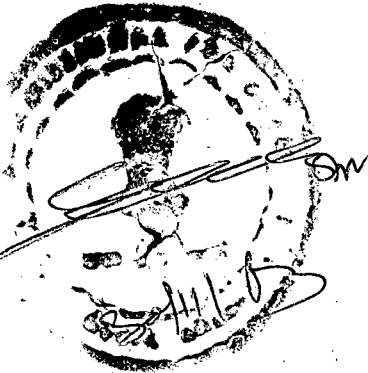
5/6/79

Asstt. Engineer/W,
Butt Welding Plant,
N.Rly., Meerut Cantt.

D.A/4.

TRUE COPY

Khurshid Ali





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

Writ Petition No. of 1983

Khurshid Ali ... Petitioner
Versus
Union of India and others ... Opposite Parties

ANNEXURE NO.7

NORTHERN RAILWAY

Office Order No.21/82
Dated 23.1.82

Concrete Sleeper Plant
Subedarganj
P.O. Pipal Gaon,
Allahabad.

On being found suitable by AEN/TPP/LKO, the following staff working under AEN/TPP/LKO as M.C. grade Rs.225-308 (RS) are hereby promoted to officiate as M.C.C. grade Rs.260-400 (RS) on purely temporary, local, adhoc and stop-gap arrangements and confined only to TPP organisation. These promotion will not confer upon them any right to claim similar seniority over their seniors either in open line or in this organisation.

This has the approval of Dy.CE.

1. Sh. K.N. Pandey S/o Sh. R.S. Pandey.
2. Sh. Khurshid Ali S/o Sh. Fazal Husain

Sd/-

Sr. Engineer (CSP),
Subedarganj

No.TPP/ALD/E-10(196)

Dated: 23/1/1982

Copy to the following for information and necessary action :-

1. AEN/TPP/LKO.
2. SAO/CSP/SFG
3. Sh. K.N. Pandey and
4. Cadre Register

TRUE COPY

Khurshid Ali



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

Writ Petition No. of 1983

Khurshid Ali ... Petitioner

Versus

Union of India and others ... Opposite Parties

ANNEXURE NO.8

NORTHERN RAILWAY

OFFICE OF THE AEN(TPP) LKO

No. TPP/NR/E
Dt. 25.1.82

Shop Supdt./TPP
N. Rly.,
Lucknow.

Sub:- Promotion of Staff

Ref:- Dy/CE/CSP/ALD's office order No. 21/82
dated 23.1.82, and L/No. TPP/ALD-E/10 (196)
dated 23.1.82.

The following staff is promoted from today F.N.
in grade 260-400 (RS), as M.C.C. :-

1. Shri K.N. Pandey, S/o Shri R.S. Pandey.
2. Shri Khurshid Ali, S/o Shri Fazal Husain.

Sd/-

Asstt. Engineer/TPP/LKO

cc :

1. SEN/CSP/ALD for information please.
2. SAO/NR/CSP/ A/D
3. Shri K.N. Pandey
4. Shri Khurshid Ali

TRUE COPY

Khurshid Ali



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

Writ Petition No. of 1983

Khurshid Ali ... Petitioner
Versus
Union of India and others ... Opposite Parties

ANNEXURE NO.9

From

Khurshid Ali, S/o Shri Fazal Hussain, Material Chasing Clerk, posted in the Office of Assistant Engineer, Thermit Portion Plant, Northern Railway, Charbagh, Lucknow.

To

1. The Union of India, through the General Manager, Northern Railway Hd. Qrs. Office, Baroda House, New Delhi.
2. The Executive Engineer/Track Relaying, N.Rly., Hd. Qrs. Office, Baroda House, New Delhi.
3. The Asstt. Engineer/Thermit Portion Plant, Northern Railway, Charbagh, Lucknow.

Sub:- Representation for payment of arrears of salary and for determination of seniority

Sir,

Most respectfully I beg to submit the following facts for your kind consideration and favourable orders :-

1. That I was appointed as khalasi in scale Rs.70-85 (Rs.196-232(RS) w.e.f. 29/10/1971 in the Engineering Department of N.Rly. and was posted to work as such in the Flash Butt Welding Plant, Meerut Cantt. under the Executive Engineer, Track Relaying Hd. Qrs. Office, N.Rly., Baroda House, New Delhi.
2. That I was promoted to the post of Challandar w.e.f. 17.6.1975. I joined the post of Challandar on the same day i.e. on 17.6.75 at Meerut Cantt. under Asstt. Engineer, Flash Butt Welding Plant, N.Rly., Meerut Cantt.

Khurshid Ali

contd..2



(2)

3. That the post of challandar initially carried the pay scale of Rs.105-135 (AS) and subsequently the scale of Rs.105-135 was raised to Rs.118-180 (AS) w.e.f. 1.1.1964 in pursuance of Railway Board's order dated 30.5.64. All the challandars were given the scale of Rs.110-180 (AS) all over Indian Railways and the said scale was subsequently raised to Rs.260-400 (RS) with effect from 1.1.1973.

4. That the duties entrusted to the challandars were similar to the duties performed by the Material Clerks who were working in scale Rs.260-400 (RS).

5. That it is respectfully submitted that the duties which were entrusted to me while I was promoted to the post of challandar w.e.f. 17.6.1975 were similar and identical to the duties which are assigned to the Material Clerks.

6. That it would not be out of place to mention here that I always performed the duties of the post of challandar with utmost honesty and devotion and there has never been any complaint whatsoever against me in performance of my duties.

7. That the Railway Board vide circular letter No. PC-62/PS-5/SS-2 dated 30.5.64 and vide circular letter No. PC-69/FE-4/1 dated 24.10.72 addressed to the General Managers of all Indian Railways specifically provided that the Railway employees designated with various designations dealing with the stores work on Railways in departments other than the stores performing duties of Material Clerks or at least performing any two of the seven items of duties listed in paragraph 1(iv) of Board's circular letter No. PC-62/PS-5/SS-1 dated 27.9.63 may be provided the pay scale of Rs.110-180 (AS)/260-400 (RS).

Abunishad Ali



(3)

8. That the Assistant Engineer/W, Butt Welding Plant, Northern Railway, Meerut Cantt. vide his letter No.E-35/BWP/MUT dated 25.2.78 and vide letter No.E-35/BWP/MUT(losses)-79 dated 5.6.79, certified that I had been performing the requisite duties as mentioned in Railway Board's circular letter No.PC-62/PS-5/SS-1 dated 27.9.63 to the entire satisfaction of all concerned.

9. That it is painful to submit that although all the challandars on Indian Railways were given the pay scale of Rs.110-180 (AS) and besides the above my case was fully covered by the aforesaid Railway Board's circular letters under which I was entitled to get the scale of Rs.110-180 (Rs.260-400 (RS)), the Railway authorities acted illegally and arbitrarily granted the pay scale of Rs.210-270 w.e.f. 17.6.1975 and continued to pay the salary in the same pay scale till 14.4.1978 instead of giving salary in the pay scale of Rs.260-400 (RS).

10. That w.e.f. 15.4.78 the Railway authorities started paying salary in the pay scale of Rs.225-308 (RS) and continued to pay in the same scale till 24.1.1982.

11. That in the month of January 1982, the suitability test was taken for the posts of Material Chasing Clerk grade Rs.260-400 (RS) in which I was found suitable vide office order No.21/82 dated 21.1.82 issued by Senior Engineer (CSP) Subedarganj, Northern Railway, Allahabad, and in persuance to that I was promoted to the post of Material Chasing Clerk vide Office order No.TPP/NR/E dated 25.1.82 issued by Assistant Engineer/TPP/N.Rly/Lucknow.

12. That I joined the post of Material Chasing Clerk grade Rs.260-400 w.e.f. 27.1.82 and since then I am being paid my salary in the pay scale of Rs.260-400 (RS).

Khemchand Singh

contd..4



(4)

13. That during the period from 17.6.75 to 24.1.82 the Railway authorities have illegally paid me salary in the pay scale of Rs.210-270 and 225-308 (RS) as mentioned in paragraphs 9 and 10 above although I was entitled to get my salary in the pay scale of Rs.260-400 (RS) as per Railway Board's circulars issued on the subject and also on the basis of the fact that all other challandars on all Indian Railways were being paid salary in the pay scale of Rs.260-400 (RS).

14. That the aforesaid action of the Railway authorities was wholly illegal, arbitrary and discriminatory violating the provisions of not only Railway Board's orders but also the provisions of Articles 16 of the Constitution of India.

15. That it would be in the fitness of the things to mention here that on representations made by me the matter was put up and approved by the Personnel Department for the grant of pay scale of Rs.260-400 (RS) to me as my case was similar to the other challandars of the Railway Department who were performing the same duties which were being performed by me. Even otherwise also the Personnel Department accorded approval for grant of pay scale of Rs.260-400 as my case was fully covered by the Railway Board's circular letters dated 27.9.63, 30.5.64 and 24.10.72.

16. That I have been constantly representing my case for grant of pay scale of Rs.260-400 (RS) w.e.f. 17.6.75 and onwards till 24.1.1982 by giving various representations, but instead of giving pay scale of Rs.260-400 w.e.f. 17.6.75 the Railway authorities granted the pay scale of Rs.210-270 w.e.f. the date of promotion, i.e., 17.6.75 till 14.4.78 and from 15.4.78 the pay scale of Rs.225-308 till 24.4.82 when I was given the pay scale of Rs.260-400 (RS) vide order dated 25.1.82.

Subscribed Sh.

contd..5



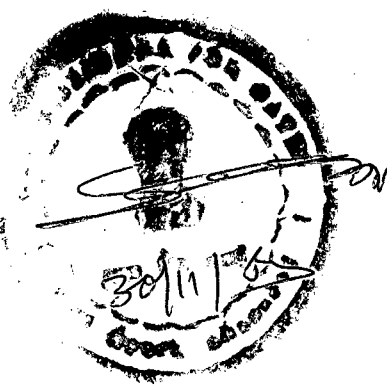
(5)

17. That so far as the grievances regarding the grant of pay scale of Rs.260-400 (RS) is concerned the same has been accepted and granted to me w.e.f. 25.1.1982 but despite repeated representations the difference of pay for the period from 17.6.75 to 24.1.1982 has still not been paid to me. The Railway authorities at no stage of time ever intimated to me regarding the rejection of my claim for the payment of arrears admissible to me as stated above.

18. That I am legally entitled to get the arrears on account of loss payment of salary made to me during the period from 17.6.75 till 24.1.1982 in view of the facts stated hereinbefore and the Railway authorities concerned are under legal obligation to pay the same to me.

19. That I am further entitled for the benefit of counting my entire services towards the seniority in grade Rs.260-400 (RS) w.e.f. 17.6.1975 and the Railway authorities are duty bound in law to give the said benefit to me while determining my seniority in scale Rs.260-400 (RS) along with other employees belonging to the seniority unit to which I belong.

It is, therefore, most respectfully prayed that I may be paid the difference of salary for the period from 17.6.1975 to 24.1.1982 calculating the salary in the pay scale of Rs.260-400 after deducting the salary which has been actually paid to me during the aforesaid period. It is further prayed that my entire services w.e.f. 17.6.75 and onwards may be counted for the purpose of determining my seniority in the pay scale of Rs.260-400 alongwith other employees belonging to the seniority unit to which I belong.



contd..6

Kishor Sh.

(6)

In case my request for payment of difference of pay and arrears accrued to me as stated above and for determination of my seniority is not acceded to, I would be compelled to seek the legal recourse available to me in law at the risk and cost of the Railway authorities mentioned above.

Yours faithfully,

sd/-

(KHURSHID ALI)

Dated: 02/7/83

TRUE COPY

Khurshid Ali



NEC
COMMISSIONER
Gen. Secy, Lucknow
30/7/83
82/1022

In the Honble High Court of Judicature at A.P.
ब अदालत श्रीमान (Anwar Beg), J.C. महोदय

वादी अपीलान्त Khurshid Ali

प्रतिवादी रेस्पान्डेन्ट

का

वकालतनामा



Khurshid Ali

(वादी मुद्दी)

बनाम

Union of India & others प्रतिवाद मुद्दा अलेह

न० मुकद्दमा सन् १९ पेशी की ता० १९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

R. C. Saxena

Advocate High Court एडवोकेट

महोदय

वकील

नाम अदालत.....
न० मुकद्दमा.....
नाम फरिक्तेन.....

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्व कोई कागज दाखिल करें वा 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 दसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त [दस्तखति] 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 हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा 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।

Khurshid Ali

हस्ताक्षर

साक्षी [गवाह]

साक्षी [गवाह]

दिनांक 30

महीना 11 सन् १९

आर० आर० मिश्रा
ल. दार : कलेक्ट्री लखनऊ।

Accepted
Anwar Beg
Advocate

Extra Copy

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW

Writ Petition No. of 1983

Kharshid Ali

...

Petitioner

Versus

Union of India and others

...

Opposite Parties

I N D E X

S.N o.	Description of Papers	Page Nos.
1.	Writ Petition under Article 226 of the Constitution of India.	
2.	Affidavit	
3.	Annexure No.1 - Promotion order.	
4.	Annexure No.2 - Railway Board's letter dated 30.5.64.	
5.	Annexure No.3 - G.M. (P), New Delhi's letter dt. 18.8.64.	
6.	Annexure No.4 - Railway Board's letter dated 24.10.72.	
7.	Annexure No.5 - Letter dated 12.2.77 issued by Supdt., Creosoting Plant, N.9., Dhillwan.	
8.	Annexure No.6 - A.S.M.'s letter dated 5.6.79.	
9.	Annexure No.7 - Result of suitability and promotion order.	
10.	Annexure No.8 - Promotion order dated 25.1.82.	
11.	Annexure No.9 - Representation dated 2.7.83	

True Copy
Advocate

(R.C. SAXENA)
Advocate,

Counsel for the Petitioner

Luck now & Dated

November 30, 1983

plant, ... under the Executive Engineer,
Elect. Relaying, Headquarters Office, Northern Railway,
Durgam Chouse, New Delhi.

3. That the petitioner was promoted to the post
of Challenger with effect from 17.6.75 and he joined
the said post on the same day at ... under
Assistant Engineer, ...

4. That the post of Challenger initially carried
the pay scale of Rs. 105-135 (1) but in view of Railway
Board's order dated 30.9.64, 18.6.64 and 24.12.72, the
said post was upgraded and it was provided that a review
may be made and all posts in scale Rs. 105-135 carrying
different designations in Railways in the light of the
Orders laid down for "Material Officers and Material
 clerks, etc." may be upgraded and the staff performing
any two of the seven items of duties listed in paragraph
1(iv) of Board's letter dated 7.9.69 should be placed
in the grade Rs. 110-135 (1) wherever they have hitherto
been allotted only Rs. 105-135. A true copy of relevant
orders dated 30.9.64 containing the copy of Railway
Board's letter dated 37.9.61, copy of General Manager (N),
New Delhi letter dated 18.2.66 and Railway Board's letter
dated 24.12.72 circulated vide Headquarters Office letter
dated 1.12.72 are filed herewith as ANNEXURE No. 2, 3 and
4, respectively, to this writ petition.

5. That the case of the petitioner, who was holding
the post of Challenger in scale 105-135 (1) and was
performing the duties similar to those of the ...
scale of grade 200-400, was fully covered by the orders
of the Railway Board referred to above and he was entitled
to be placed in grade Rs. 200-400.

6. That the Assistant Engineer, with the rank of Assistant, Northern Railway, Surat 3000, under whom the petitioner was working, made a reference to the Superintendent, Crossing Plant, Northern Railway, Bilwan and requested him to confirm as to whether the Challengers working in that Depot were given and being paid the salary in the pay scale Rs. 260-400.

7. That in response to the letter dated 31.1.77 sent by the Assistant Engineer referred to above, it was intimated vide letter dated 12.2.77 that the Challengers working in that Depot were in the scale of Rs. 200-400. A true copy of the letter dated 12.2.77 is filed herewith as Annexure No.5 to this writ petition.

8. That the Assistant Engineer vide his letter dated 5.6.79 certifying that the petitioner who was performing the duties as mentioned in Railway Board's letter dated 30.5.64 (Annexure-2) sought for an approval to grant the scale of Rs. 260-400 to the petitioner. A true copy of letter dated 5.6.79 written by Assistant Engineer for approval is filed herewith as Annexure No.6 to this writ petition.

9. That a perusal of Annexure No.6 further reveals that a reference to the G.O. (3) New Delhi was also made for grant of approval for giving the grade of Rs. 260-400 to the petitioner but was returned with the orders that the case of the petitioner may be dealt with by the authorities concerned in the light of Railway Board's letter dated 30.5.64 and 24.10.72.

10. That it is respectfully submitted that despite Railway Board's clear orders referred to above, the petitioner was not given the scale of Rs. 260-400, instead

he was granted the scale of Rs. 210-270 with effect from 17.6.75 and continued to pay the salary in the same scale till 14.4.76, whereafter the petitioner vide order dated 25.4.78 was granted the scale of Rs. 225-300 and continued to pay the salary to the petitioner in the same scale till 24.1.82.

11. That in January 1982 a suitability test for the post of Material Clerk grade Rs. 250-410 was held in which the petitioner duly appeared and was declared suitable.

12. That the petitioner vide order dated 25.1.82 in pursuance to orders dated 23.1.82 was promoted to the post of Material Clerk grade 250-410. A true copy of order dated 23.1.82 and order dated 25.1.82 are filed herewith as para para Nos. 7 and 8 to this writ petition.

13. That the petitioner vide his representation/ memoranda has been continuously requesting the higher authorities for grant of scale of Rs. 250-410 with effect from 17.6.75, the date from which he had been performing the duties as mentioned in Railway Board's letter dated 30.3.66, but on his representation he was not paid his salary in scale of Rs. 250-410. Even with effect from 15.4.78 the petitioner was granted the pay scale of Rs. 225-300 and not the scale of Rs. 250-410 which was legally required to be given to him in view of Railway Board's letters mentioned above. A true copy of the last representation dated 2.7.83 submitted to the opposite parties is filed herewith as para para No. 9 to this writ petition.

14. That it would be relevant to point out here that the opposite parties never rejected the case of the petitioner for grant of pay scale of Rs. 250-410 by any

order passed and communicated to the petitioner.

15. That a perusal of Annexure No.9 indicates that the petitioner clearly stated that he should be paid the difference of pay for the period from 17.6.73 to 24.1.83 when he was given the grade of Rs.260-430 and promotion to the post of Material Checking Clerk as a result of his representation and he further requested that his services with effect from 17.6.73 may be counted for the purpose of determining his seniority in the pay scale of Rs.260-430 along with other employees belonging to the seniority unit to which the petitioner belongs.

16. That despite clear representation referred to above, the Railway authorities did not pay the petitioner his due salary legally admissible to him under the Railway Board's orders nor they published any seniority list.

17. That the Railway authorities vide letter dated 16.10.83 contained in Annexure No.1 have promoted a junior person to the post of senior clerk grade 330-530, totally ignoring to consider the case of the petitioner who is senior to him in review. A true copy of letter dated 16.10.83 promoting opposite party No.3 already forms part of Annexure No.1 to this writ petition.

18. That it is respectfully submitted that the petitioner who has been holding the post of Material grade Rs.105-135, which was upgraded to Rs.260-430 in terms of Railway Board's orders, contained in Annexures Nos.2, 3 and 6, is entitled to get his seniority in scale of Rs.260-430 with effect from 17.6.73, the date he was promoted to the post of Material.

That the petitioner feeling aggrieved and having no other alternative efficacious remedy begs to prefer the present writ petition on the following amongst other -

GROUND S

1. Because the petitioner is senior to opposite party no.4 and has a preferential claim for being considered for promotion to the post of senior clerk in grade Rs-330-560.
2. Because the opposite parties acted arbitrarily and discriminately in considering and promoting the opposite party no.4 without first considering and rejecting the case of the petitioner.
3. Because there is no adverse material available on record on the basis of which the petitioner can be adjudged unfit for promotion to the said post.
4. Because the arbitrary promotion of opposite party no.4 illegally superseding the petitioner amounts to discrimination within the meaning of Article 16 of the Constitution of India.
5. Because the petitioner, who has been holding the post of Challandar with effect from 17.6.75 in view of Railway Board's orders contained in Annexures No-2, 3 and 4, is entitled to get the scale of pay of Rs.260-400 with effect from 17.6.75 and also the benefit of seniority in that grade since the same date.
6. Because the opposite parties have acted illegally in not granting the pay scale of Rs.260-400 with effect from 17.6.75 till 25.1.82 during which the petitioner had been performing the duties as mentioned in Railway Board's order dated 27.9.63 and the opposite parties have further acted illegally in not making the payment of arrears due to the petitioner.

nature of a writ quashing the impugned order dated 14.10.83 passed by opposite party no.2 contained in Annexure No.1 after summoning the original order from the opposite parties.

(b) Issue a writ, direction or order in the nature of mandamus commanding the opposite parties to consider the case of the petitioner for his promotion to the post of senior clerk in grade 330-560.

(c) Issue a further writ, direction or order in the nature of mandamus to grant the scale of Rs.260-400 with effect from 17.6.75 to the petitioner in terms of Railway Board's orders contained in Annexures No.2, 3 and 4 and pay the petitioner arrears legally admissible to him and further direct them to count his services in grade 260-400 with effect from 17.6.75 for the purpose of determination of his seniority in the category of clerks grade 260-400.

(d) Any other writ direction or order which may be deemed fit and proper may also be issued in favour of the petitioner.

Lucknow :

Dated 30/11/83

Counsel for the Petitioner
(R.C. JAIN)

VERIFICATION

I, the deponent named above, do hereby verify that the contents of paras 1 to 9 of this Affidavit are true to my own knowledge.

No part of it is false and nothing material has been concealed, so help me God.

Lucknow : Dated

Deponent

November 30, 1983

I identify the deponent who has signed before me.

Advocate

Solemnly affirmed before me on November 30, 1983, at

A.M./P.M. by Sri Khurshid Ali, the deponent, who is identified by Sri R.C. Saxena, Advocate, High Court, Lucknow Bench, Lucknow.

I have satisfied myself by examining the deponent that he understands the contents of this Affidavit which have

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALJAHABAD
(LUCKNOW BENCH) LUCKNOW.

Writ Petition No. of 1983

Murshid Ali ... Petitioner
Versus
Union of India and others ... Opposite Parties

ANNEXURE NO.1

No. TPP/NR/E

OFFICE OF THE
SEN/TPP/NR/LKO

Dt. 14-10-83

To

The Shop Superintendent,
Thermit Portion Plant,
Northern Railway,
Lucknow.

Sub: PROMOTION OF STAFF

A copy of Dy. CE/CSP/NR/AD letter No. CSP/AD-E-10
(2099) and office order No. 70/83 dated 13-10-83 is
reproduced below for your further necessary action please.

sd/-

Sr. Civil Engineer
TPP/NR/LKO

With immediate effect Shri Devi Pd., Clerk
Rs. 350-400 (R/S) working in TPP/Lko is hereby pro-
to officiate as Sr. Clerk Grade Rs. 330-560 (R/S)
local temporary adhoc and stop-gap arrangement
confined only to TPP organisation.

This promotion will not confirm up
to claim similar seniority over his senior
open line or in this organisation. He is

(2)

by the upgrading the post of Sr. Clerk Grade Rs.330-560 (R/S) sanctioned vide G.O. (Engg.) letter No.319-W/46 (Establishment) dated 28.7.80 which was temporarily down graded.

This has the approval of Dy. CE/CSP/A.

sd/-

Dy. Chief Engineer/CSP
Subdarganj/Allahabad

1. SAG/CSP/ALD.
2. Cadre Register

TRUE COPY

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALDAHABAD

(LUCKNOW BENCH) LUCKNOW.

Writ Petition No. of 1963

Kharshid Ali

... Petitioner

Versus

Union of India and others

... Opposite Parties

ANNEXURE NO. 2

Copy of Railway Board's letter No. PC-62/PS-5/SS-2 dated 30.5.64 addressed to the Managers, All Indian Railways & others.

Sub- Duties of Material Checkers & Material Clerks in all departments

Reference Board's letters bearing No. PC-62/PS-5/SS-1 dated 27.9.1963 and No. PC-62/PS-5/SS-2 dated 20.2.64 on the above subject. It is clarified that you may review all posts in scale Rs. 55-85 (Pres)/105-135 (Auth) carrying different designations on your Railways in the light of the duties laid down for "Material Checkers" and "Material Clerks" and allot the appropriate scale of pay, standardising the nomenclature to the extent possible on the basis of the nature of duties performed by the incumbents of the posts.

3. Please acknowledge receipt of this letter.

Copy of Railway Board's letter No. PC-62/PS-5/SS-1 dated 27.9.63 addressed to the G.Ms. All Indian Railways and others.

Sub- Duties of Material Checkers in Depots other than the stores.

The Board have had under consideration for sometime past question of standardising the duties of staff dealing

contd..2

with matters connected with stores in departments other than the stores in the Railways have decided as under :-

1. In departments other than stores, for staff dealing with stores matters only two designations shall be used namely Material Checkers and Material Clerks, depending on the duties performed by them.
2. Material Checkers shall be in the authorized scale of Rs-108-135 and Material Clerks shall be in the authorized scale of Rs-110-133.
3. The duties to be entrusted to the Material Checkers are indicated below :

- (i) Checking and chasing the outgoing and incoming materials.
- (ii) Issuing and taking delivery of materials.
- (iii) Preparation of gate passes for the materials issued.
- (iv) To go to the engine, sheds and parcel offices for handing over and bringing back materials.
- (v) Keeping simple tally books pertaining to materials handled by them.

- (iv) The duties to be entrusted to the material clerks are indicated below:-

In addition to the duties laid down for Material Checkers, Material Clerks may perform the following duties:-

- (i) Checking of attendance of staff under them and preparing their pay sheets.
- (ii) Correspondence regarding materials.
- (iii) Responsible for verification of materials.
- (iv) Responsible for labour, transport, cranes etc. when put under their charge.
- (v) Elaborate account-keeping work.
- (vi) Submission of returns and
- (vii) Any other allied ministerial duties.

2. The Board desire that a review may be conducted in consultation with your No. 330 of the titles of all staff dealing with stores work on your Railway in departments other than the stores and such of them as are performing duties of Material Clerks may be allotted the authorized scale Rs.110-180 w.e.f. 1.1.64 if it is not possible to reduce their duties to those of Material Checkers. However, in order to avoid large scale upgrading of posts at present in scale Rs.135-185 to the scale Rs.110-180, re-distribution of work may be done wherever possible.

3. 80 per cent of vacancies in the cadre of Material Clerks in authorized scale Rs.110-180 occurring on and after 1.1.1964 will be filled by direct recruitment through the Railway Service Commission from among candidates possessing qualifications as in the case of other ministerial posts of office clerks and the remaining 20 percent of vacancies by promotion of Material Checkers as per instructions contained in Board's letter bearing No.130 037/e dated 30.6.1959 and No.B(23)88372/8 dated 24.1.1962.

4. To implement the aforesaid orders w.e.f. 1.1.64 the review must be completed by 15.12.63 and necessary order issued to the subordinate offices in time.

5. A report indicating the existing number of posts of Material Checkers, the number of posts upgraded to the scale of Rs.110-180 w.e.f. 1.1.1964 and the financial implications involved, may be sent to the Board in due course.

6. Please acknowledge receipt of this letter.

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

Writ Petition No. of 1983

Kharshid Ali ... Petitioner
Versus
Union of India and others ... Opposite Parties

ANNEXURE NO. 2

Copy of letter No. 561-E/85-132/Pt. III (MID) dated 18.8.64 from General Manager/2, Baroda House, New Delhi to All DS's and extra Divl. Officers, Northern Railway.

Sub:- Duties of Material Checkers &
Material Clerks in all departments

In enclosing herewith a copy of Railway Board's letter No. PC-62/PS- 5/SS-2, dated 30.5.64 on the above subject for information necessary action it is requested that all posts in scale Rs.55-85 (Press)/105-135 (Auth) carrying different designations under you may please be reviewed in the light of duties laid down for "Material Checkers" and "Material Clerks". Your recommendations to allot the appropriate scales of pay and also for a standardized nomenclature on the basis of the nature of duties performed by the incumbents of the posts duly vetted by your accounts officer alongwith a statement of financial implications involved and copy of the actual duties performed by each category of staff may please be furnished to this office on the proforma attached so as to reach this office not later than 15th Sept. 64. Copies of Railway Board's letter No. PC-62/PS-5/SS-1 dated 27.9.63 and No. PC-62/PS-5/SS-2 dated 20.2.64 referred to in Board's letter *ibid* were circulated under this office letter

IN THE HON'BLE \ /A COURT OF JUDICATURE AT ALGAHABAD

(LUCKNOW BENCH) LUCKNOW.

Writ Petition No. of 1983

Kharshid Ali ... Petitioner

Versus

Union of India and others ... Opposite Parties

ANNEXURE NO.4

NORTHERN RAILWAY
HEADQUARTERS OFFICE
BARODA HOUSE, NEW DELHI

to be replied by 1.12.72
positively.

No.561-Z/85-132/Pt.III/EIID
Dated: 30.10.72

The DSE DLI FZR BKN JU MB LKO & ALD
The DCOS JU SSB & AMW LKO
The WM BKN, Dy.CME ASR JUDW, JU, AMW LKO & CB LKO
The WM Signal Shop GZB
The Principal OGE/Jharipani
The Principal STS/CB-LKO
The Principal STS/CH
The WEE/LKO
The DSE(W) BKN

The APO (HO) X
The SEN (Br.) & W.S.) X Headquarters office,
The TSO X Baroda House, New Delhi
The CEO & SME (WS) X

Subj- Scales of pay of Fuel issuers, Coal Checkers,
Material Checking Clerks, Tool Checkers, Store
issuers etc.

A copy of Railway Board's letter No.P069/PE4/1
dated 24/26-10-72 on the subject referred to above is
forwarded herewith for information and necessary action.

The implementation of the above orders may please
be intimated to this office by 1.12.72 certain. The Rly.
Board's letter No.PC-62/PS.5/SS-1 dated 27.9.63 referred
to in the Board's letter cited above was circulated under
this office letter of even number dated 7.10.63 and 18.8.64.

D.No./As above

Sd/-

For General Manager (P)

Copy of Railway Board's letter No. PC-62/SE-4/1

Dated 24-10-72 to G.Os. all Indian Railways.

Sub:- Scales of pay of Fuel Issuers, Coal Checkers, Material Checking Clerks, Tool Checkers, Stores Issuers etc.

Reference Railway Board's letter No. PC62/PS5/SS-1 dated 27-9-63.

At the last meeting of the Departmental Council under the joint consultative machinery, the criterion for determining the scale of pay of staff dealing with stores matters in departments other than stores, variously designated as Material Checkers, Store Issuers, Fuel Issuers, Tool Issuers/Clerk Coal Issuers/Clerks etc. was reviewed. Accordingly Board have decided that staff of the above categories performing any two of the seven items of duties listed in paragraph 1 (iv) of Board's letter quoted above should be placed in the grade Rs.110-180, wherever they have hitherto been allotted only Rs.105-135.

These orders take effect from 1-10-72.

TRUE COPY

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

Writ Petition No. of 1983

Khurshid Ali ... Petitioner
Versus
Union of India and others ... Opposite Parties

ANNEXURE NO.5

No.3-E

Dated: 12.2.1977

From

The Supdt.,
Creosoting Plant,
Northern Railway,
DHILWAN.

To

The Assistant Engineer/W,
Butt Welding Plant,
Northern Railway,
MEERUT CANT.

Subject:- GRADE OF CHALLENGER

Reference:- Your letter No.E-35/BWP-loose/
Challendar dated 31.1.77 received
here on 7.2.77.

Reference above it is intimated that Challendar
working in this depot is in the scale of 260-400 (RC).

sd/-

Supdt., Creosoting Plant
Northern Railway,
DHILWAN

TRUE COPY

2. Doing correspondence regarding receipt and supply of material.
3. He is making weekly progress reports which are submitted to Hd. Qrs. Office every week.

In reference to the letter mentioned above and keeping in view the duties mentioned therein a review on the Railway was made and all categories in scale Rs-105-135 (A/S) upgraded to scale Rs-110-180 (A/S) now Rs-260-400 (R/S). In this connection a reference was made to Suptd. Creosoting Plant, Northern Railway, Dhilwan to intimate this office the grade of the Challenger working in that Depot. The Superintendent, Dhilwan Depot has informed vide his letter No.3-3/ dated 12.2.77 that the Challenger^{is} in the scale of Rs-260-400 (R/S).

In this connection a reference was made to the G.M. (P)/NDLS to send the approval of the competent authority before giving him grade of Rs-260-400 (R/S) instead of Rs-225-308 (R/S) as at present.

The case has been returned by the dealing clerk with the verbal remarks that this may be dealt with by the authority who sanctions the T.L.A. in the light of the Board's letter dated 20.5.64 and 24.10.72. It is, therefore, requested to kindly look into this case and accord your approval to grant the scale of Rs-260-400 (R/S) to Shri Khurshid Ali, Challenger.

D.A/4.

Sd/-
5/6/79
Asstt. Engineer/A,
Burr Welding Plant,
N.Ply., Meerut Cantt.

TRUE COPY

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCNOW BENCH) LUCKNOW.

Writ Petition No. of 1983

Khurshid Ali

...

Petitioner

Versus

Union of India and others

...

Opposite Parties

ANNEXURE NO.6

Butt Welding Plant,
Meerut Cantt.

No. B-35/BWP (loose)-79

Dated: 5-6-79

The Sr. Civil Engineer/T.9.
Northern Railway Headquarters Office,
Baroda House,
New Delhi.

subject:- Grade of Challenger posted in BWP-MJT.

There is one post of Challenger in BWP/MJT sanctioned on the basis of 5 monthly P.L.O. He is performing the following duties as mentioned in Board's letter No. PC-62/D6-5/SS-2 dated 30.5.64.

1. Checking and chasing the outgoing and incoming store materials.
2. Issuing and taking delivery of material incoming from Bhilai by BFRs and outgoing to JHs by BFRs or DMFs.
3. Preparation of Gate Passes for issue of materials.
4. To go to Goods Shed for taking delivery of BFRs etc.
5. Keeping simple note book pertaining to materials handled by him.

In addition to the duties detailed above, he is performing following duties :-

1. Preparing Pay sheets of staff working here. There are about 160 men working under Shop Supt./BWP and he can prepare master sheets independently.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

Writ Petition No. of 1982

Khurshid Ali

... Petitioner

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... Opposite Parties

ANNEXURE NO.7

NORTHERN RAILWAY

Office Order No.21/82
Dated 23.1.82

Concrete Sleeper Plant
Subedarganj
P.O. Pipal Gaon,
Allahabad.

On being found suitable by AEN/TPP/LKO, the following staff working under AEN/TPP/LKO as M.C. grade Rs.225-305 (RS) are hereby promoted to officials as M.C.C. grade Rs.260-400 (RS) on purely temporary, local, adhoc and stop-gap arrangements and confined only to TPP organisation. These promotion will not confer upon them any right to claim similar seniority over their seniors either in open line or in this organisation.

This has the approval of Dy-CE.

1. Sh. K.N. Pandey S/o Sh. R.S. Pandey.
2. Sh. Khurshid Ali S/o Sh. Kamal Hussain

sd/-

Pr. Engineer (CSP)
Subedarganj

No.TPP/ALD/E-10(198)

Dated: 23/1/1982

Copy to the following for information and necessary action :-

1. AEN/TPP/LKO.
2. SAO/CSP/STG
3. Sh. K.N. Pandey and
4. Cadre Register

TRUE COPY

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALGAHABAD

(LUCKNOW BENCH) LUCKNOW.

Writ Petition No. of 1983

Khurshid Ali ... Petitioner

Versus

Union of India and others ... Opposite Parties

ANNEXURE NO. B

NORTHERN RAILWAY

OFFICE OF THE AEN(TPP) LKO

No. TPP/NR/E
Dt. 25.1.82

Shop Supdt./TPP
N. Ry.,
Lucknow.

Sub:- Promotion of Staff

Ref:- Dy/CE/CSP/ALD's office order No. 21/82
dated 23.1.82, and L/No. TPP/ALD-E/10 (196)
dated 23.1.82.

The following staff is promoted from today P.L.
in grade 260-400 (R), as M.C.C. :-

1. Shri K.N. Pandey, S/o Shri R.S. Pandey.
2. Shri Khurshid Ali, S/o Shri Fazal Husein.

Sd/-

Asstt. Engineer/TPP/LKO

cc :

1. SEN/CSP/ALD for information please.
2. SAG/NR/CSP/ALD
3. Shri K.N. Pandey
4. Shri Khurshid Ali

TRUE COPY

Writ Petition No. of 1978

Murshid Ali ... Petitioner
Versus
Union of India and others ... Opposite Parties

AFFIDAVIT

From

Murshid Ali, C/o Mrs Parul Kaur, Director
Charing Cross, posted in the Office of Assistant
Engineer, Thermal Power Plant, Northern Railway,
Gurgaon, Haryana.

To

1. The Union of India, through the General Manager,
Northern Railway H.O. Office, Baroda House,
New Delhi.
2. The Executive Engineer/Track Relaying, H.O.,
H.O. Office, Baroda House, New Delhi.
3. The Asst. Engineer/Thermal Power Plant, Northern
Railway, Gurgaon, Haryana.

Subj: Representation for payment of arrears of salary
and for determination of pensionary

Re,

That respectfully I beg to submit the following
facts for your kind consideration and favourable orders :-

1. That I was appointed as Analyst in scale no. 70-03
(No. 195-232(B) S.O. 29/10/1971 in the Engineering
Department of H.O. and was posted to work as such in the
Pleah Bute Holding Plant, Meerut Cantt. under the Executive
Engineer, Track Relaying H.O. Office, H.O., Baroda House,
New Delhi.
2. That I was promoted to the post of Challenger S.O. 17.6.1975. I joined the post of Challenger on the same day
i.e. on 17.6.75 at Meerut Cantt. under Asst. Engineer,
Pleah Bute Holding Plant, H.O., Meerut Cantt.

3. That the post of challandar initially carried the pay scale of Rs-105-135 (AS) and subsequently the scale of Rs-105-135 was raised to Rs-118-180 (AS) w.e.f. 1.1.1964 in pursuance of Railway Board's order dated 30.5.64. All the challanders were given the scale of Rs-110-180 (AS) all over Indian Railways and the said scale was subsequently raised to Rs-260-400 (RS) with effect from 1.1.1973.

4. That the duties entrusted to the challanders were similar to the duties performed by the Material Clerks who were working in scale Rs-260-400 (RS).

5. That it is respectfully submitted that the duties which were entrusted to me while I was promoted to the post of challandar w.e.f. 17.6.1975 were similar and identical to the duties which are assigned to the Material Clerks.

6. That it would not be out of place to mention here that I always performed the duties of the post of challandar with utmost honesty and devotion and there has never been any complaint whatsoever against me in performance of my duties.

7. That the Railway Board vide circular letter No.PC-62/PS-5/SS-2 dated 30.5.64 and vide circular letter No.PC-69/PS-4/1 dated 24.10.72 addressed to the General Managers of all Indian Railways specifically provided that the Railway employees designated with various designations dealing with the stores work on Railways in departments other than the stores performing duties of Material Clerks or at least performing any two of the seven items of duties listed in paragraph 1(iv) of Board's circular letter No.PC-62/PS-5/SS-1 dated 27.9.63 may be provided the pay scale of Rs-110-180 (AS)/260-400 (RS).

8. That the Assistant Engineer/W, Butt Welding Plant, Northern Railway, Meerut Cantt. vide his letter No.E-35/BWP/MJT dated 25.2.78 and vide letter No.E-35/BWP/MJT(losses)-79 dated 5.6.79, certified that I had been performing the requisite duties as mentioned in Railway Board's circular letter No.PC-62/PS-5/ES-1 dated 27.9.63 to the entire satisfaction of all concerned.

9. That it is painful to submit that although all the challengers on Indian Railways were given the pay scale of Rs.110-130 (RS) and besides the above my case was fully covered by the aforesaid Railway Board's circular letters under which I was entitled to get the scale of Rs.110-100 (Rs.260-400 (RS)), the Railway authorities acted illegally and arbitrarily granted the pay scale of Rs.210-270 w.e.f. 17.6.1975 and continued to pay the salary in the same pay scale till 14.4.1978 instead of giving salary in the pay scale of Rs.260-400 (RS).

10. That w.e.f. 15.4.78 the Railway authorities started paying salary in the pay scale of Rs.225-308 (RS) and continued to pay in the same scale till 24.1.1982.

11. That in the month of January 1982, the suitability test was taken for the posts of Material Chasing Clerk grade Rs.260-400 (RS) in which I was found suitable vide office order No.21/82 dated 21.1.82 issued by Senior Engineer (TSP) Subdarganj, Northern Railway, Allahabad, and in pursuance to that I was promoted to the post of Material Chasing Clerk vide Office order No.TSP/NR/E dated 25.1.82 issued by Assistant Engineer/TSP/N.Rly/Lucknow.

12. That I joined the post of Material Chasing Clerk grade Rs.260-400 w.e.f. 27.1.82 and since then I am being paid my salary in the pay scale of Rs.260-400 (RS).

13. That during the period from 17.6.75 to 24.1.82 the Railway authorities have illegally paid me salary in the pay scale of Rs.210-270 and 225-308 (RS) as mentioned in paragraphs 9 and 10 above although I was entitled to get my salary in the pay scale of Rs.260-400 (RS) as per Railway Board's circulars issued on the subject and also on the basis of the fact that all other challandars on all Indian Railways were being paid salary in the pay scale of Rs.260-400 (RS).

14. That the aforesaid action of the Railway authorities was wholly illegal, arbitrary and discriminatory violating the provisions of not only Railway Board's orders but also the provisions of Articles 16 of the Constitution of India.

15. That it would be in the fitness of the things to mention here that on representations made by me the matter was put up and approved by the Personnel Department for the grant of pay scale of Rs.260-400 (RS) to me as my case was similar to the other challandars of the Railway Department who were performing the same duties which were being performed by me. Even otherwise also the Personnel Department accorded approval for grant of pay scale of Rs.260-400 as my case was fully covered by the Railway Board's circular letters dated 27.9.63, 30.5.64 and 24.10.72.

16. That I have been constantly representing my case for grant of pay scale of Rs.260-400 (RS) w.e.f. 17.6.75 and onwards till 24.1.1982 by giving various representations, but instead of giving pay scale of Rs.260-400 w.e.f. 17.6.75, the Railway authorities granted the pay scale of Rs.210-270 w.e.f. the date of promotion, i.e., 17.6.75 till 14.4.78 and from 15.4.78 the pay scale of Rs.225-308 till 24.4.82 when I was given the pay scale of Rs.260-400 (RS) vide order dated 25.1.82.

17. That so far as the grievances regarding the grant of pay scale of Rs.260-400 (Rs) is concerned the same has been accepted and granted to me w.e.f. 25.1.1982 but despite repeated representations the difference of pay for the period from 17.6.75 to 24.1.1982 has still not been paid to me. The Railway authorities at no stage of time ever intimated to me regarding the rejection of my claim for the payment of arrears admissible to me as stated above.

18. That I am legally entitled to get the arrears on account of loss payment of salary made to me during the period from 17.6.75 till 24.1.1982 in view of the facts stated hereinbefore and the Railway authorities concerned are under legal obligation to pay the same to me.

19. That I am further entitled for the benefit of counting my entire services towards the seniority in grade Rs.260-400 (Rs) w.e.f. 17.6.1975 and the Railway authorities are duty bound in law to give the said benefit to me while determining my seniority in scale Rs.260-400 (Rs) along with other employees belonging to the seniority unit to which I belong.

It is, therefore, most respectfully prayed that I may be paid the difference of salary for the period from 17.6.1975 to 24.1.1982 calculating the salary in the pay scale of Rs.260-400 after deducting the salary which has been actually paid to me during the aforesaid period. It is further prayed that my entire services w.e.f. 17.6.75 and onwards may be counted for the purpose of determining my seniority in the pay scale of Rs.260-400 alongwith other employees belonging to the seniority unit to which I belong.

(6)

In case my request for payment of difference of pay and arrears accrued to me as stated above and for determination of my seniority is not acceded to, I would be compelled to seek the legal recourse available to me in law at the risk and cost of the Railway authorities mentioned above.

Yours faithfully,

sd/-

Dated: 02/7/83

(KHURSHID ALI)

TRUE COPY

1359

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

(अध्याय १२, नियम १ और ७)

दीवानी विभाग

प्रकीर्णांक (मुतफरिंक) प्रार्थना - पत्र संख्या सन १९ ई०
W.P.No 6815 of 1983
..... सन १९ ई० में
Khurshid Ali

..... प्राथी
Union of India & Ors.
..... प्रत्याथी
301 Devi Prasad
Senior Clerk
Thermit Portion Plant
Northern Railway
..... प्रत्याथी
Ludhiana

लगाये गये डाक चिहनों का मू.
Amount of Stamps affixed

एक रजिस्ट्री
Received & Registered
धानेवाले का
Address to
1359

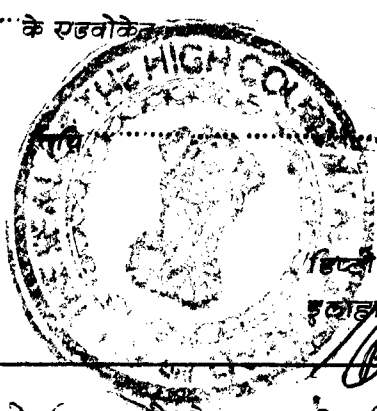
शालय में उपयुक्त मुकदमें के सम्बन्ध में

..... देखिये प्रार्थना-पत्र

आप दिनांक 16 माह 4 सन १९84
गये कि प्रार्थना-पत्र क्यों न स्वीकार कर
सके बाद नियमानुसार विज्ञप्ति किशी और

विदित हो कि आप ऊपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी
एडवोकेट या ऐसे व्यक्ति द्वारा, जो आपकी ओर से कार्य करने के लिए कानूनन अधिकृत
हों उपस्थित न होंगे तो उस प्रार्थना-पत्र की सुनवाई और निर्णय आपकी अनुपस्थित
में हो जायेंगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 6 माह 3 सन १९84
को जारी किया गया।



हिप्पी रजिस्ट्रार
इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १९५२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त
तलवाना मिल गया।

तलवाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

1358

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

(अध्याय ११, नियम १ और ७)

दीवानी विभाग

प्रकीर्णक (मुतफरिफ) प्रार्थना - पत्र संख्या सन १९ ३०

WP No 6815 of 1983

Khurshid Ali

Union of India & others

Senior Civil Engineer
Track Relaying

बंसा नहीं NOT INSURED

लगाये गये डाक टिकटों का मूल्य रु० ५/-
Amount of Stamps affixed Re.

क्रमांक/No. 0628

तारीख मोहर
Date Stamp

एक रजिस्टर्ड

Received a Registered

पानेवाले का

Address to

1358 N.P. N. Delhi

हस्ताक्षर
Signature of Receiving Officer

Office प्रत्याधी
Delhi

इमें के सम्बन्ध में

वे लिये प्रार्थना-पत्र

ह ५ सन १९८५

क्यों न स्वीकार कर

लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति किसी और दिन होगी।

विदित हो कि आप ऊपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी एडवोकेट या ऐसे व्यक्ति द्वारा, जो आपकी ओर से कार्य करने के लिए कानूनन अधिकृत हों उपस्थित न होंगे तो उस प्रार्थना-पत्र की सुनवाई और निर्णय आपकी अनुपस्थिति में हो जायेंगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक ६ माह ३ सन १९८५ को जारी किया गया।



Released

डिप्टी रजिस्ट्रार
इलाहाबाद लखनऊ

सूचना—इस न्यायालय की १९५२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त तलवाना मिल गया।

तलवाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

1357

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

(अध्याय १२, नियम १ और ७)

दोवानी विभाग

प्रकीर्णांक (मुतफरिफ) प्रार्थना - पत्र संख्या सन १९ ई०
W.P.No 6015 of 1983
Khusheed Ali प्राधी

Union of India & others
Senior Civil Engineer
Thermit Poston Plant
Northern Railway
प्रत्याधी

बिमा नहीं NOT INSURED

लगाये गये डाक टिकटों का मूल्य रु.
Amount of Stamps affixed Rs. 5/-

क्रमांक/No. 16271

3.1
इदमें के सम्बन्ध में

एक रजिस्ट्री प्राप्त किया
Received a Registered

तारीख मोहर
Date Stamp

वे लिये प्रार्थना-पत्र

पानेवाले का नाम
Addressed to

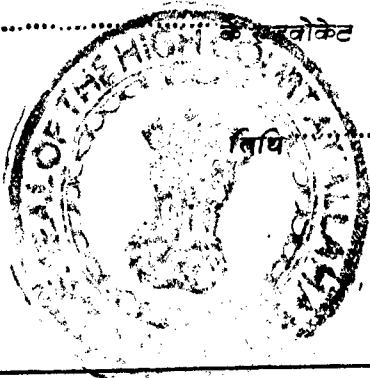
Senior Civil
Engineer
Poston Plant

14 सन १९८४
इयों न स्वीकार कर
विज्ञप्ति किशों और

1357 N/A - 40 पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

विदित हो कि आप ऊपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी
रहस्योकेट या ऐसे व्यक्ति द्वारा, जो आपको ओर से कार्य करने के लिए कानूनन अधिकृत
हों उपस्थित न होंगे तो उस प्रार्थना-पत्र की सुनवाई और निर्णय आपको अनुपस्थित
में हो जायेंगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 6 माह 3 सन १९८४
को जारी किया गया।



Released

डिप्टी रजिस्ट्रार
इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १९५२ की नियमावली के अध्याय ३० नियम २ के अधीन प्राप्त
तलवाना मिल गया।

तलवाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

1356

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

दीवानी विभाग

प्रकीर्णक (मुत्तफर्रिक) प्रार्थना सं० _____ सन १९ _____ ई०

WPNO 6815 सं० _____ सन १९ 83 ई० में

Khurshid Ali _____ प्राथी

Union of India and others _____ प्रत्यार्थी

Union of India through
the General Manager
Northern Railway
Baroda House

1356

में में _____
आदेश दिया जाता है कि
ये या उससे पहले उपस्थित
नाथ । उक्त प्रार्थना-पत्र की

बीमा नहीं NOT INSURED

लगाये गये डाक टिकटों का मूल्य रु० _____
Amount of Stamps affixed Rs.

क्रमांक/No. 0626

तारीख मोहर _____
Date Stamp

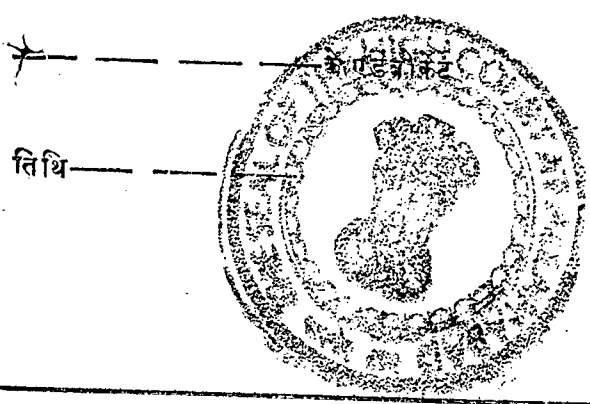
एक रजिस्ट्री* Union of India प्रात नियम _____
Received a Registered

पानेवाले का नाम R.M. _____
Addressed to

N. Debnath के हस्ताक्षर
Signature of Receiving Officer

यं अथवा किसी एडवोकेट
स प्रार्थना-पत्र की सुनवाई

2 - माह - 3 - 04



तिथि _____

Receives

डिप्टी रजिस्ट्रार
इलाहाबाद/लखनऊ

[Signature]

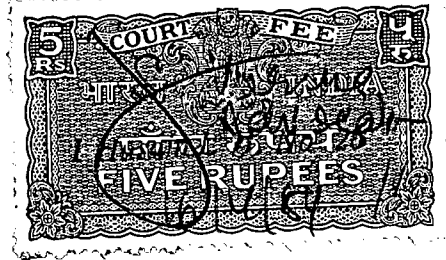
सूचना—इस न्यायालय की १९५२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त तलबाना मिल गया ।

तलबाना प्राप्त करने वाले बल्लूक के हस्ताक्षर

N.R.

675

VAKALATNAMA



837

Before
In the Court of

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

Writ Petition No. 6815 of 1983.

Sri Khurshid Ali

Plaintiff
Defendant

Claimant
Appellant
Petitioner

Versus

Union of India and others
Defendant
Plaintiff

Respondent
Opposite Parties

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

C-16, K- Road, Mahanagar, Extension, Lucknow

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

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

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the 5th of April, 1984.

Dated 5-4-1984

Accepted

Siddharth Verma

(SIDDHARTH VERMA)
ADVOCATE

Mam
Sub

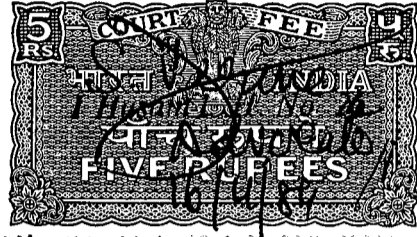
Designation of the Executive Officer

4/22

In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench, Lucknow
ब अदालत श्रीमान महोदय

वादी (मुद्दे) का वकालतनामा
प्रतिवादी (मुद्दालेह)

672



Writ Petition No. 6815 of 1983

Sri Khurshid Ali

वादी (मुद्दे)

बनाम

Union of India and others

प्रतिवादी (मुद्दालेह)

Writ Petition No. 6815 of 1983

नं० मुकद्दमा सन् १९८३ पेशी की ता० 16-4-१९८४ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से

श्री

एडवोकेट

Siddharth Verma, Advocate

महोदय

वकील

नाम अदालत
नं० मुकद्दमा
नाम फरीकान

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 इकवाल 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 रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करे - वकील महोदय द्वारा की गई वह कार्यावाही 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 मेरे 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।

Accepted
Siddharth Verma
(Siddharth Verma)
Advocate

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

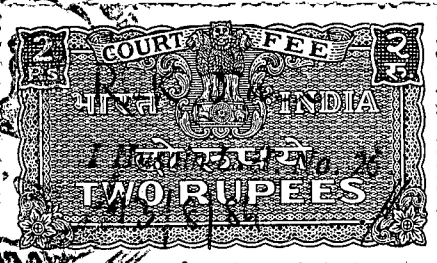
दिनांक महीना

Sybil B. Bhatnagar
Permit Pordon Plan
G. Ry., Charbagh
LUCKNOW

32 (P/12)

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

1984
AFFIDAVIT
94
HIGH COURT
ALLAHABAD



In re:

Writ Petition No. 68~~4~~⁵ of 1983.

Sri Khurshid Ali

----Petitioner.

Versus

Union of India and others

----Opp-parties.

Counter-affidavit on behalf of
opposite-parties no.1 to 3.

1, R.K.Jain, aged about 52 years, son of late Sri G.R.Jain, resident of L-15, Alambagh, Road, Charbagh, Lucknow, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is presently working as Senior Engineer/Thermit ^{Portion} ~~Power~~ Plant in the office of N.Rly., Lucknow and has been authorised by opposite-parties no.1 to 3 to file this counter-affidavit on their behalf. The deponent has read and understood the writ petition and is well conversant with the facts deposed hereunder.

2. That the contents of paragraph 1 of the

Rajani

3/3

writ petition are denied. It is most respectfully submitted that the petitioner is not the senior most man as claimed by him and his right of promotion has been considered while making promotion of the opposite-party no. 4.

3. That in reply to the paragraph 2 of the writ petition it is most respectfully submitted that the petitioner was appointed as Khalasi in Grade Rs 196-252 (Revised Scale, hereinafter referred as R.S.) with effect from 19.10.1971, in the Flash Butt Welding Plant, Meerut Cantt. in Northern Railway.

4. That in reply to the paragraph 3 of the writ petition it is most respectfully submitted that the petitioner Sri Khurshid Ali was promoted as Challandar in Grade Rs 210-270 (R.S.) with effect from 17.6.1975 at Meerut Cantt. under the Assistant Engineer, Flash Butt Welding Plant, Northern Railway, Meerut Cantt. on purely temporary and ad hoc basis against temporary labour application sanction (hereinafter referred to as T.L.A.) and it was specifically mentioned in his promotion order that he will have no claim over his seniors. A true copy of the promotion order of the petitioner is being annexed herewith as Annexure No. 3-1.



5. That in reply to the contents of paragraph 4 of the writ petition it is most respectfully submitted that from the Railway Board's letter No. PC-62/PS-5/65-2 dated 30.9.64, it is clear that all posts in the scale Rs 105-155 (Authorised Scale, hereinafter

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30/11/74

referred as A.S.) carrying different designations may be reviewed in the light of duties laid down for 'Material Checkers' and 'Material Clerk' and should be placed in Grade Rs 110-180(A.S.).

A true copy of this letter is being annexed herewith as Annexure no.C-II to this counter-affidavit.

6. That the contents of paragraph 5 of the writ petition, as stated, are denied. It is pertinent to note that the Board's said letter does not refer anywhere the category of Chalandar. Moreover, the category of Chalandar was in Grade Rs 80-110(A.S.) and not in Grade Rs 105-135(A.S.) as mentioned in the Railway Board's letter No. PC-III/73/Schedules/32/UC dated 1.8.74, which was circulated under General Manager(P), New Delhi Printed Serial No.6036-G. A true copy of the extract of Printed Serial No.6836-G is being annexed herewith as Annexure No.C-III to this counter-affidavit.



It is further submitted that Sri Khurshid Ali the present petitioner was working as Chalandar in Grade Rs 80-110(A.S.), later revised as Grade Rs 210-270(R.S.) and not in scale as 105-135(A.S.). He was assisting the Senior Clerk in performing his official duties.

7. That in reply to the contents of paragraph 6 of the writ petition it is admitted that a reference was made.

Rajan

3/5 (A/B)

8. That the contents of paragraph 7 of the writ petition are admitted.

9. That in reply to paragraph 8 of the writ petition it is most respectfully submitted that the letter under reference contained in Annexure no.6 of the writ petition or other papers concerning thereto are not traceable in the office of the Senior Civil Engineer/TR, Northern Railway, Head Quarters' Office, New Delhi, but it is admitted that a loose case bearing No.E/35/BMP/Loose-80, was moved to the accounts department, and the same was returned in view of the General Manager(P), Northern Railway, New Delhi Printed Serial No.6036-G, as given in Annexure No.C-III to this counter-affidavit.

10. That the contents of paragraph 9 of the writ petition are denied in view of the fact that no papers regarding reference to the Senior Civil Engineer/TR, Northern Railway, Head Quarters' Office, New Delhi are available in the said office.

11. That the contents of paragraph 10 of the writ petition are denied. It is most respectfully submitted that the petitioner Sri Khursnid Ali was correctly placed in the Grade of Rs 210-270 (R.S.) in terms of the Railway Board's letter No.PC-111/73/Schedules/52/UC dated 1.8.74 as contained in Printed Serial No. 6036-G, an extract of which is reproduced in Annexure No.C-III of this counter-affidavit. Later on the petitioner was promoted to the next grade Rs 225-308(R.S.) with effect from 15.4.78.



R. Rajan

36 (A/C)

12. That the contents of paragraphs 11 and 12 of the writ petition are admitted.

13. That the contents of paragraph 13 of the writ petition are denied. It is most respectfully submitted that the said letter of the Railway Board No. PC-62-5/65-2 dated 30.5.64, covers all posts in Grade Rs 105-135 (A.S.) and not Grade Rs 80-110 (A.S.) / Rs 210-270 (R.S.). The petitioner's case was covered by the Printed Serial No. 6036-G (Annexure No. C-III to this counter-affidavit) and in consequence thereof he was given Grade Rs 210-270 (R.S.).

14. That the contents of paragraph 14 of the writ petition as stated, are denied. It is most respectfully submitted that the petitioner Sri Khurshid Ali's case was rejected vide letter No. E-35/BWP/80 dated 19.4.80, the same was acknowledged by Sri Khurshid Ali on 26.4.80 (Photostat copy enclosed) and again vide letter of even No. dated 16.6.81 in reference to his appeal dated 24/5/81. This case was also pleaded by a Union (Item No. 488 of the agenda) and in its reply to the said representation of Union, it was said that it was not possible to place the petitioner in Grade Rs 260-400 (R.S.). A true copy of this order is being annexed herewith as Annexure No. C-IV.

15. That in reply to paragraph 15 of the writ petition it is admitted that the petitioner, Sri Khurshid had submitted his representation



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dated 2.7.83, as contained in Annexure No.9 to the writ petition. But in reply to the said representation, vide letter of Assistant Engineer Butt Welding Plant, Meerut, he was replied that there was no question of any arrears payable to him as in terms of Printed Serial No.6836-G (Annexure No.C-III of this counter-affidavit) his scale of pay was Rs 210-270(R.S.) and not Rs 260-400 (R.S.) as claimed by him.

16. That in view of submissions already made in the foregoing paragraphs, the contents of paragraph 16 of the writ petition are denied.

17. That the contents of paragraph 17 of the writ petition are denied. It is most respectfully submitted that the petitioner, Sri Khurshid Ali joined the office of opposite-party no. 2 on 22.12.80 at his own request in Grade Rs 225-308(R.S.) as Material Checker accepting bottom most seniority. Even if, for the sake of arguments, it is assumed that he be allowed the benefit of the Grade Rs 260-400, as claimed by him from 17.6.75, he stands junior to the opposite-party no.4, who joined the office of opposite-party no. 2 on 4.12.80, and thus stands senior to the petitioner.

18. That the contents of paragraph 18 of the writ petition are denied. It is most respectfully stated that the contention of the petitioner that he was promoted as Chalandar Grade Rs 105-135(A.S.),



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later upgraded as Grade Rs 260-400 (R.S.), instead he was promoted as Chalandar Grade Rs 210-270(R.S.) against temporary labour application sanction on ad hoc basis with effect from 17.6.75, and again promoted to the next higher grade Rs 225-308(R.S.) with effect from 15.4.78.

19. That the contents of paragraph 19 of the writ petition, as stated, are denied in view of the submissions made in the foregoing paragraphs.


However, it is admitted that the opp-party no.4, was appointed in Grade Rs260-400(R.S.) on 29.11.80, but it is quite wrong to say that the opposite-party no.4 is junior to the petitioner.

Because the petitioner joined the office of opposite-party no.2 on 22.12.80 in Grade Rs225-308 (R.S.) while the opp-party no. 4 joined the office of opposite-party no. 2 on 4.12.80 in Grade Rs 260-400(R.S.).

Moreover, the petitioner, Sri Kaurshid Ali joined the office of opposite-party no.2 at his own request accepting bottom most seniority in lower grade than opposite-party no.4. Thus the opp-party/^{no.4}stands senior to the petitioner.

20. That the contents of paragraph 20 of the writ petition are denied in view of the submission made in the foregoing paragraph 19 above.

21. That the contents of paragraph 21 of the writ petition are denied. It is most respectfully submitted that the petitioner was in Grade Rs225-308(S.R.)


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3/9 (8/89)

when he joined the office of opposite-party no.2 on 22.12.80 while the opp-party no.4, who joined the office of opposite-party no. 2, on 4.12.80, in higher grade of Rs 260-400 (R.S.). Thus the petitioner was in a junior grade when he joined the office of opposite-party no.2, and later appeared for a suitability test for promotion to grade Rs260-400(R.S.) in January, 1982, in which he was declared suitable as A.C.S.in Grade Rs 260-400 (R.S.) on ad hoc basis, and promoted on 27.1.82. This clearly shows that the petitioner had accepted his permanent grade as Rs 225-308(R.S.) and later ^{applied and} appeared in the suitability test for Grade Rs 260-400(R.S.) willingly, in which he was allowed to appear and later promoted. He had not appeared in the suitability test for promotion to Grade Rs260-400 (R.S.) under protest.

22. That the contents of paragraphs 22 and 23 of the writ petition are admitted.

23. That in view of the submissions made in the foregoing paragraphs, the contents of paragraph 24 of the writ petition are denied. It is specifically denied that the Railway authorities acted illegally in promoting opposite-party no.4 without considering and/or rejecting the case of the petitioner. In fact, the petitioner's claim for promotion duly considered but since he stands junior to the opp-party no.4, he could not be promoted to Grade Rs 330-560(RS) in preference to the opposite-party no.4.



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(5/11) 3/11

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

Writ Pet.No. 6815 of 1983.

Sri Khurshid Ali

----Petitioner.

Versus

Union of India and others

----Opp-parties.

Annexure C-I.

Northern Railway.

Notice.

Shri Khurshid Ali-Ty.Khalasi grade K196-232(R/S) working at present under Supdt.Welding is now promoted to officiate as Chalandar in grade K 210-270(R/S) w.e.f. 17.5.75. This is a purely temporary promotion & he will have no claim upon his seniors.

No.E/35/B.F.

Dated 16.6.75.

Forwarded to the S.E.N/TR N.Rly.Hq.Qrs.Office,
Baroda House, New Delhi for information please.

C/- to F.A. & C.A.O.(E) Hd.Qrs.Office, Baroda
House, New Delhi for information please.

Sd.Brat Pal,
Asstt.Engineer,
Butt Welding Plant,
N.Rly.Meerut Cantt.

True copy.

Rajan



(P/57)

3/12

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

Writ Pet. No. 6815 of 1983.

Sri Khurshid Ali -----Petitioner.

Versus

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

Annexure C-II.

Northern Railway.

Copy of letter no. 561-E/85-132/Pt. III (EIID)
dated 18.8.64, from General Manager (P), Baroda House,
New Delhi to all DSS and extra Divl. offices, Northern
Railway.

Sub: Duties of Material Checkers and Material
Clerks in all Departments.

In enclosing herewith a copy of Railway
Board's letter No. PC-62/PS-5/SS-2, dated 30.5.64, on
the above subject for information necessary action
it is requested that all posts in scale Rs 55-85 (Pres)/
105-135 (A.S) carrying different designations under
you may please be reviewed in the light of the duties
laid down for 'Material Checkers' and 'Material
Clerks'. Your recommendations to allot the appropriate
scales of pay and also for a standardised nomenclature
on the basis of the nature of duties performed by
the incumbents of the posts duly vetted by your
accounts officer along with a statement of financial
implications involved and copy of the actual duties
performed by each category of staff may please be



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(A/5) 3/13

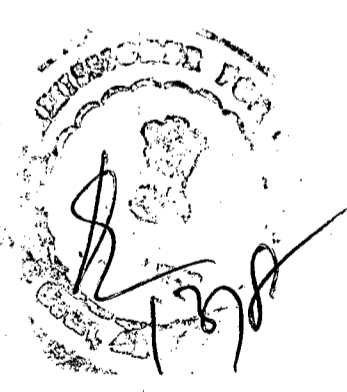
furnished to this office on the proforma attached so as to reach this office not later than 15th. Sept.64. Copies of Rly. Board's letter No.PC-62/PS-5/SS-5/SS-1 dated 27.9.63, and No.PC-62/PS-5/SS-2 dated 20.2.64, referred to in Board's letter ibis were circulated under this office letter no. 561-E/85-132/Pt.III(EIID) dated 7.10.63 and letter no. 756E/27(EIIE) dated 18th,July, 1964, respectively (copies enclosed for ready reference).

This may please be given urgent attention.

The receipt of this letter along with its enclosures may please be acknowledged.

Copy of the above is forwarded for information.

1. F.A. & C.A.O.(F), ADM), Estate, New Delhi.



Copy of Railway Board's letter No.PC-62/PS-5/SS-2, dated 30.5.64, addressed to the General Managers, All Indian Railways & others.

Sub: Duties of material Checkers & material Clerks in all department.

Reference Board's letter bearing No.PC-62/PS-5-SS-1 dated 27.9.63, and No.PC-62/PS-5/SS-2, dated 20.2.64, on the above subject. It is clarified that you may review all posts in scale Rs 55-85(Pre)/105-135(A.S.) carrying

Rajain

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different designations on your Rlys, in the light of the duties laid down for 'Material Checkers' and material Clerks' and allot the appropriate scales of Pay, standardising the nomenclature to the extent possible on the basis of the nature of duties performed by the incumbents of the posts.

3. Please acknowledge receipt of this letter.

Copy of Rly. Board's Letter No. PC-62/PS-5/SS-1 dated 27.9.63, addressed to the G.Ms all Indian Rlys. and others.

Sub: Duties of Material Checkers in Deptts. other than the stores.

The Board have had under consideration for sometime past the question of standardising the duties of staff dealing with matters connected with stores in Deptt., other than the stores on the Rly. have decided as under:-

1. In departments other than stores, for staff dealing with stores matters only two designation shall be used, namely Material Checkers and material clerks, depending on the duties performed by them.
2. Material Checkers shall be in the authorised scale of Rs 105-135 and Material Clerk shall be in the authorised scale of Rs 110-180.

Rajain



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-4-

3. The duties to be entrusted to be the Material Checkers are indicated below:-

- i) Checking and chasing the out-going and incoming materials.
- ii) Issuing and taking delivery of Materials issued.
- iii) Preparation of gate passes for the materials issued.
- iv) To go to the shops, sheds & parcel offices for handling over and bringing back materials.
- v) Keeping simple tally books pertaining to materials handled by them.
- vi) The duties to be entrusted to the material clerks are indicated below:-

In addition to the duties laid down for material checkers, material clerks may perform the following duties:-

- i) Checking of attendance of staff under them and preparing their pay sheets.
- ii) Correspondance regarding materials.
- iii) Responsible for verification of materials.
- iv) Responsible for labour, transport, cranes etc. when put under their charge.

Rajni

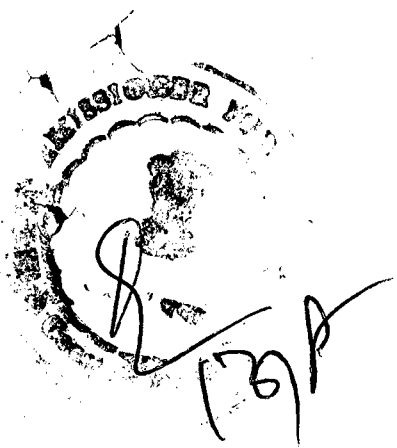


8/5/62

- v) Elaborate account-keeping work.
- vi) Submission of returns and
- vii) Any other allied ministerial duties.

2. The Board desire that a review may be conducted in consultation with your P.A. and C.A.O. of the duties of all staff dealing with stores work on your Railway in departments other than the stores and such of them as are performing duties of Material Clerks may be allotted the Authorised scale Rs 110-180, w.e.f. 1.1.1964 if it is not possible to reduce their duties to those of material checkers; However in order to avoid large scale upgrading of posts at present in scale Rs 105-135 to the scale Rs 110-180, re-distribution of work may be done wherever possible.

3. 80 per cent of vacancies in the cadre of Material Clerks in authorised scale Rs 110-180 occurring on and after 1.1.1964 will be filled by direct recruitment through the Railway Service Commissioner from among candidates possessing qualifications as in the case of other ministerial posts of office clerks and the remaining 20 per cent of vacancies by promotion of material checkers as per instructions contained in Board's letter bearing No. E58 Q F/8 dt. 30.6.1959 and No. E(NG)580 F/8 dt. 24.1.1962.



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4. To implement the aforesaid orders with effect from 1.1.64, the review must be completed by 15.12.63, and necessary order issued to the subordinate offices in time.

5. A report indicating the existing number of posts of material Checkers, the number of posts upgraded to the scales 110-180 with effect from 1.1.1964 and the financial implications involved, may be sent to the Board in due course.

6. Please acknowledge receipt of this letter.

True-copy.

Rajan



8/30

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

Writ Pet.No.6815 of 1983.

Sri Knurshid Ali -----Petitioner.

Versus

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

Annexure C-III.

Northern Railway.

Extract from Serial No. 6036-G-Circular Ni.561-E/255-92³⁻
-II PC dated 1.8.1974.

In continuation of this office letter of even
No.dated -8-74, Schedule showing the Revised Scales
of pay in respect of Class IV staff in all Departments
(except Security Department) in the following Authori-
sed Scales is sent herewith for information and ne-
cessary action:-

- 1. Rs 80-110
- 2. 75-100
- 3. Rs75-79
- 4. 75-89

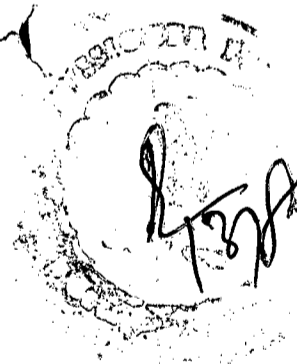
(Authority-Railway Board's letter No.PC-III/73/
Schedules/32/UC.dated 1/8/1974).

Class-IV
(ALL DEPARTMENTS EXCEPT SECURITY)

Designation of post.	Authorised scale of Pay(Rs)	Revised Scale of Pay(Rs)
Store Laskar, Challandar, Record Supplier, Insect Collector, Vaccinator, Laboratory Attendant Gr.I Water Softening Attendant,	} } 80-1-85-2-95- EB-3-110.	210-4-250-EB- 5-270.

True-copy.

[Signature]



A/S 16

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

Writ Pet.No.6815 of 1983.

Sri Khurshid Ali -----Petitioner.

Versus

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

Annexure CIV.

Northern Railway.

Butt Welding Plant,
Meerut Cantt.
No.E/35/BWP-80

Dated 19.4.80

Shri Khurshid Ali,
Chalandar, BWP/MUT.

Ref: Your application dated 15.4.80.

A post of Chalandar in Gr.(210-270 (B/S) was created on T.L.A. and you were given out of turn promotion from a knalasi Gr.196-232(R.S), purely on ad hoc basis. This T.L.A. was again revised and the post was upgraded to Rs 225-308(R/S) on T.L.A.w.e.f. 15.4.78, and you were again given chance against this post. The post of the grade of Rs 260-400(R/S) is a regular clerical cadre post and cannot be created on T.L.A. under the rules and hence your version in para 2 of your application is not acceptable. You have already met me in this connection and the position was made quite clear to you please.

(Braj Pal) 21.4.80
Sr.Civil Engineer,
Flash Butt Welding
Plant, Meerut Cantt.

True-copy.

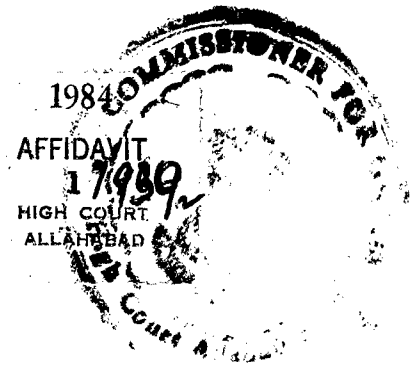
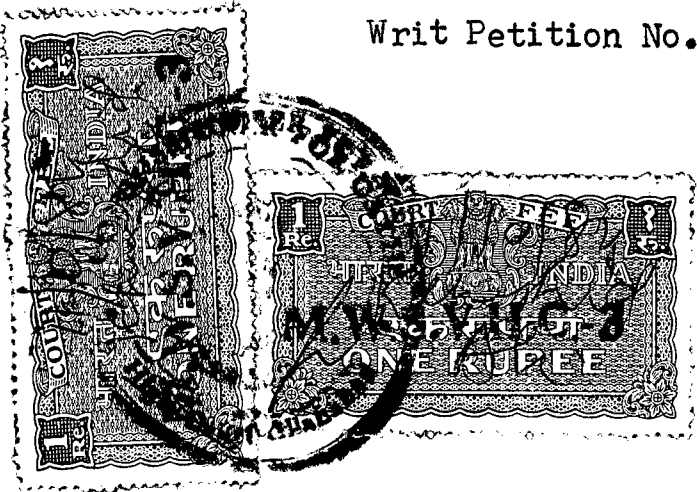
Brajain

10

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) : LUCKNOW :

Writ Petition No. 6815 of 1983.



Khurshid Ali

... Petitioner.

Versus

Union of India and others

... Opposite Parties.

Rejoinder Affidavit

I, Khurshid Ali, aged about 36 years, S/o Sri Fazal Husain, R/o Gulzar Nager, Lucknow, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the petitioner in the above noted writ petition and he is well conversant with the facts deposed to hereunder.

2. That the contents of para 1 of the counter affidavit are denied and while reiterating the contents of para 1 of the writ petition it is respectfully submitted that the deponent is senior to opposite party No. 4 with reference to the date of entry into grade and also with reference to the total length of service rendered in Grade Rs.260-400. The opposite parties did not consider actually the case of the deponent and have wrongly asserted that the case of the deponent for promotion was considered while considering the case of



Khurshid Ali

10/10/84

opposite party No. 4. The deponent is senior to the opposite party No. 4 and has a preferential claim for promotion vis-a-vis opposite party No. 4. Even otherwise also there is no material worth mentioned on the basis of which he could be adjudged unfit. The entire service record of the deponent is wholly unblemished. Even any adverse entry was not awarded to him during his ~~entire~~ entire service period. The deponent's ~~super~~ supersession while promoting the opposite party No. 4 to the post of Senior Clerk Grade Rs.330-560 vide impugned order dated 13/14.10.83 is wholly illegal and arbitrary.

3. That with reference to the contents of para 3 of the counter affidavit it is stated that the opposite parties illegally given the scale of pay Rs.80-110 (revised scale Rs.210-270) while promoting the deponent to the post of Challandar vide Annexure No. C-1 whereas the scale pay admissible for the post of Challandar was Rs.110-180 (revised Rs.260-400). The persons holding the posts of Challandar performing the similar duties at creosotering Plant. Northern Railway Dhillwan and Sleeper Depot Collector-buck-ganj, Northern Railway were allowed the pay scale Rs.260-400 w.e.f. 1.1.1973. This fact on enquiry was certified vide Annexure No. 5 to the writ petition and also vide letter dated 13.3.78 issued from the Superintendent Ereosoting Plant, No-thern Railway Dhillwan to Shop Supdt- Butt. Welding Plant Meerut Cantt. where the deponent was then posted. The grant of pay scale Rs.80-110 (Revised scale Rs.210-270) .w.e.f. 17.6.75 after the promotion of the deponent to the post of Challandar was wholly illegal and arbitrary and was discriminatory in as much as the deponent who was performing the similar duties like the other Challandars could not have been singled out for

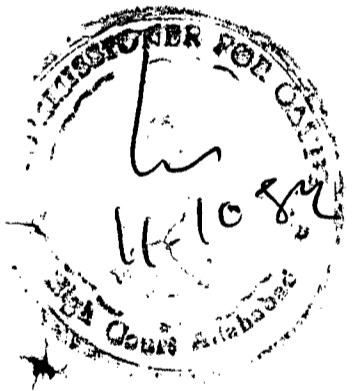
10/10/84

W. S. Chandra

the purpose of giving different pay scale.

4. That with reference to the contents of para 5 of the counter affidavit it is stated that the copy of letter dated 18.8.64 issued by the General Manager (P) Baroda, House, New Delhi filed as Annexure No. C-II by the opposite parties is the letter which has been issued in pursuance to Railway Board's letter dated 30.5.64 contained in Annexure No. 2 to the writ petition. The Railway Board's letter dated 30.5.64 further refers letter dated 27.9.63 which lays down that in departments other than Stores for staff dealing with Stores matters only two designations shall be used ~~namely~~ namely Material Checkers and Material Clerks depending on the duties performed by them and it further lays down that the Material Checkers shall be in the authorised scale of Rs.105-135 and Material Clerks shall be in the authorised scale of Rs.110-180. The letter dated 27.9.63 further provides the duties for the post of Material Checkers and Material Clerks. Para 2 of the said Circular clearly provides that a review may be conducted in consultation with the F.A. & C.A.O. of the duties of all Staff dealing with Stores work in departments other than the Stores and such of them as are performing duties of Material Clerks may be allotted the authorised scale Rs.110-180 w.e.f. 1.1.64 if it was not possible to reduce their duties to those of Material Checkers.

From the above it is abundantly clear that ~~determining~~ determining criteria for change of designation and grant of pay scale Rs 105-135 (Material Checkers) or Rs.110-180 (Material Clerks) was the duties performed by the Staff. The staff variously designated dealing with Stores Work in ~~departments~~ departments other than the Stores performing duties of Material Clerks was made



Chandhiel Sh.

(P/AY)
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entitled to be given by scale of Rs.110-180 (Revised Scale Rs.260-400). The Railway Board vide its letter dated 30.10.72 (Annexure No. 4) clearly directed that even the staff ~~per~~ performing any two of the seven items of duties listed in para 1 (IV) of Board's letter dated ~~27.9.63~~ 27.9.63 (Annexure No. 2) should be placed in the grade Rs.110-180 (Revised Rs.260-400).

The deponent has all along been performing ~~more~~ more than two duties of the post of Material Clerk besides the duties for the post of Material Checker since 17.6.1975. This fact can be verified from the contents of letter dated 5.6.79 (Annexure No. 6) to the Writ Petition and letter dated 25/27.2.78 written by A.E.N. Butt Welding Plant, Meerut Cantt. a true copy of which is filed herewith as Annexure No. R-II to this Rejoinder Affidavit.

After issuing of Railway Board's letter dated 27.9.63 referred to in letter dated 30.5.64 (Annexure No. 2) and letter dated 24.10.72 contained in Annexure No. 4 actually the deponent's designation ought to have been changed in the light of duties performed by him and since he was performing the duties of Material Clerk besides the duties for the post of Material Checker since 18.6.75 as is established from letter dated 5.6.79 (Annexure No. 6) and letter dated 25/27.2.78 (Annexure No. R-II) he was entitled to be designated as Material Clerk instead of Challandar and was further entitled for pay scale Rs.110-180 (Revised Rs.260-400) w.e.f. 17.6.1975. The action of opposite parties designating the deponent as Challandar w.e.f. 17.6.75 and allowing him pay scale Rs.80-110 (Revised Rs.210-270) is the gross abuse of powers and is contrary to the aims and spirit of Railway Board's



Chanderpal Singh

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circular letters contained in Annexure No. 2 and 4. The deponent will be deemed to have ~~maintained~~ continued as Material Clerk Grade Rs.260-400 w.e.f. 17.6.75 for all purposes and he cannot be deprived of the benefits which are legally admissible to him in law. The deponent having entered the grade Rs.260-400 and being entitled to be designated as Material Clerk ranks senior in service vis-a-vis opposite party No. 4 who entered into service as Junior Clerk Grade Rs.260-400 w.e.f. 29.11.80.

5. That the contents of para 6 of the counter affidavit are denied and those of para 5 of the writ petition are reaffirmed as correct. No doubt in the Railway Board's circular letter dated 27.9.63 referred to in circular letter dated 30.5.64 (Annexure No. 2) the category of Challandar dealing with Stores work has not been mentioned but it has been provided that the staff dealing with matters connected with Stores in departments other than Stores on the Railways will be designated either as Material Checkers or Material Clerks depending on the duties performed by them. The designation carried by the Staff was immaterial. The duties performed by the Staff had to be taken into account for the purpose of designating the staff either as Material Checker or Material Clerk. The grade Rs.80-110 (Revised to Rs.210-270) was to be given to those who performed the duties for the post of Challandar only and the said grade was not to be given to those Challandars who used to perform the duties of the material checkers and besides that any of two items the seven duties of the post of Material Clerk as mentioned in Railway Board's letter dated 27.9.63 (Annexure No. 2). The letter dated 1.8.74 (Annexure No. C-III) does not apply to the deponent.



W. S. Chaudhary

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His case is concerned by Railway Board's circular letter dated 27.9.63 (Annexure No. 2). Regarding the duties performed by the deponent Annexure No. 6 and Annexure No. R-II may kindly be perused and contrary contention of the opposite parties is false and denied.

6. That with reference to the contents of para 9 of the counter affidavit the contents of para 8 of the writ petition are reaffirmed as correct. The contention of opposite parties that the loose case bearing No. E/35/BWP/Loose-80 moved to the Accounts Department was returned in view of G.M. (P) Northern Railway, New ~~Delhi~~ Delhi's printed Serial No. 6836-G (Annexure No. C-III) is wholly false and denied. The letter filed as Annexure No. C-III is not applicable to the deponent's case. It applies to those Challandars who simply performs the duties of the post of Challandar alone and not to those Challandars who perform the duties of the material Clerk besides the duties for the post of Material Checker. The deponent has alalong been performing the duties for the post of Material Clerk besides the duties for the post of Material Checker w.e.f. 17.6.1975. This fact is evident from Annexure No. 6 to the writ petition as well as Annexure No. R-II to the Rejoinder Affidavit. The case of the deponent is ~~not~~ covered by the ~~circ~~ Circular letters issued by the Railway Board contained in Annexure No. 2 and 4 to the writ petition. The deponent ought to have ^{be} allowed the pay scale of Rs.110-180 (Revised Rs.260-400) w.e.f. 17.6.1975. The deponent represented his matter before the departmental authorities but they did not allow the said scale of pay (Rs.260-400) w.e.f. 17.6.1975 instead the scale of pay Rs.105-135 (Regised Rs.225-308) was allowed to the deponent w.e.f. 15.4.1978 when the deponent was promoted

Stamp: MEMBER FOR CATER
11-10-84

Handwritten signature: Chandrasekhar

(A/B) M/S

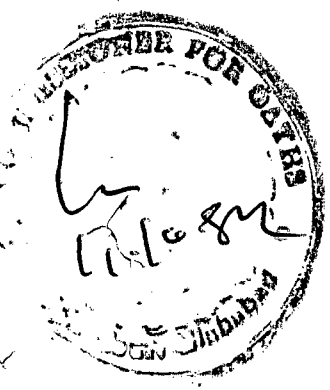
was promoted to the post of Material Checker. The deponent ought to have been designated as Material Clerk as he was performing the duties for the said post and his case was fully covered by the Circular letters issued by the Railway Board contained in Annexure No. 2 and 4 to the writ petition.

So far as the contention of the opposite parties that the Accounts Department returned the file of the deponent with the letter contained in Annexure C-III, is totally false, The deponent files herewith the correct copy of the office note dated 6.2.80 submitted to the Accounts Department by A.E.N./U.S.F.D. Butt. Welding Plant, Meerut Cantt. duly forwarded by Senior Civil Engineer on 8.2.80 and the orders passed by Accounts Officer Establishment dated 13.3.1980 as Annexure No. R-III to this Rejoinder Affidavit in order to prove that the opposite parties did not allow the scale Rs.260-400 even after clear orders passed by the Accounts department.

7. That the contents of para 10 of the counter affidavit are false and denied and those of para 9 of the writ petition are reaffirmed as correct. The persons responsible for misplacing the deponent's file can be dealt with according to the procedure prescribed in Discipline & Appeal Rules in case the department wants to punish them for their misconduct and neglect of duty. However, the deponent cannot be penalised for the faults of the opposite parties or their subordinate officials. He is entitled for the arrears w.e.f. 17.6.1975 after deducting the amount already paid.

Chunhiel H.

8. That the contents of para 11 of the counter affidavit are not correct as stated and are denied and in reply the contents of para 10 of the writ petition



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are reaffirmed as correct. The deponent is entitled for the grade Rs.260-400 w.e.f. 17.6.75 and he ought to have been designated as Material Clerk w.e.f. the said date. The printed serial contained in Annexure No. C-III to the counter affidavit is not applicable in the present case.

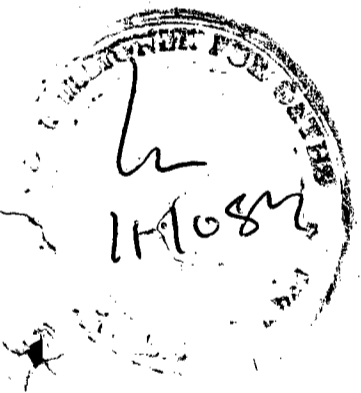
9. That the contents of para 13 of the counter affidavit are denied and those of para 13 of the writ petition are reaffirmed as correct. The submission in this regard already made in foregoing paragraphs may also be perused.

10. That with reference to the contents of para 14 of the counter affidavit it is stated that the case of the deponent was illegally rejected. He is entitled for grant of scale Rs.260-400 w.e.f. 17.6.75 in view of Annexure No. 2 and 4 to the writ petition. The alleged Annexure No. C-III is not applicable in the present case.

11. That with reference to the paragraph 15 of the counter affidavit it is stated that the representation contained in Annexure No. 9 was illegally rejected by the opposite parties. The alleged Annexure No. C-3 is not applicable in deponent's case.

12. That the contents of paragraph 16 of the counter affidavit are denied and those of para 16 of the writ petition are reaffirmed as correct.

13. That the contents of paragraph 17 of the counter affidavit are denied and those of para 17 of the writ petition are reaffirmed as correct. The deponent is senior to opposite party No. 4. The date of joining in the office is not material for determination of



Chunilal

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dered for promotion to the post of Senior Clerk in preference to opposite party No. 4. It is wrong to say that the case of the deponent was considered. The deponent's service record having been admitted to be unblemished, he could not have been held to be unfit to hold the post in question. As a matter of fact the opposite parties considering the opposite party No. 4 as senior to the deponent considered only his case and illegally superseded the deponent. The impugned order of promotion contained in Annexure No. 1 is arbitrary and is hit by the provision of Article 16 of the Constitution of India and deserves to be passed and the writ petition is liable to be allowed.

Lucknow:

Dated: 11-10-84 ✓

Khurshid Ali
Deponent.

Verification

I, the deponent named above, do hereby verify that the contents of paras 1 to 17 of this rejoinder affidavit are true to my own knowledge.

No part of it is false and nothing material has been concealed, so help me God.

Lucknow:

Dated: 11-10-84 ✓

Khurshid Ali
Deponent.

I identify the deponent who has signed before me.

R.C. Saxena
Advocate, Lucknow Bench

Solemnly affirmed before me on 11-10-84 at 9:40 am by Sri Khurshid Ali, the deponent, who is identified by Sri R.C. Saxena, Advocate, High Court, Lucknow Bench.

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



Ham
High Court, Lucknow Bench
No. 1/939
Date: 11-10-84

(R/12)
M
12

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW BENCH : LUCKNOW :
WRIT PETITION NO? 6815 of 1983

Khurshid Ali ... Petitioner.
Versus
Union of India & Others. ... Opposite Parties.

ANNEXURE NO. R-I

No. 3/E

Dated: 13.3.78

From

B.S. Goraya
SCP/Dhilwan.

To

Sh. R.K. Narang,
Shop Supdt./BWP/MUT.

Sub: Grade of Challandar working in
Creosoting Plant, Dhilwan.

This is intimated that Shri Gurbux Singh
Challandar, Dhilwan was given (AS) 110-180 w.e.f.
1.10.72 and revised scale Rs.260-400 w.e.from 1.1.73
please.

This disposes off your letter No. Nil dated
8.3.78.

Sd/-

Supdt. Creosoting Plant
N.Rly., Dhilwan.

TRUE COPY

Khurshid Ali



(A/S) 14

BFRs etc.

V. Keeping simple note book pertaining to materials handled by him.

In addition to the duties detailed above he is performing following duties:-

- i) Preparing Pay sheets of staff working here. There are about 160 men working in the Plant and he can prepare muster sheets indipendently.
- ii) Doing correspondence regarding receipt and supply of material.
- iii) He is making weekly progress reports of work done in BWP/MUT which is submitted to HD.Qrs. Office very week.

This post is similar to the post of Challandars provided in Creosoting Plant Dhilwan and Sleeper Depot CBJ. and all these Challandars are performing ~~xxxxx~~ almost similar duties. The Challandar at Dhilwan and CBJ were formerly in the grade of Rs.105-135 (AS) Equivalent to Rs.225-308 (R.S.) But Challandar in BWP/ Meerut Cantt. has been so far allowed grade of Rs.75-110 (A.S.) equivalent to Rs.210-270 (R.S.).

It may be mentioned here that Challandars in DIW & CBJ have since along been provided with higher scale of Rs.110-180 (A.S.)/Rs. 260-400 (R.S.) as these posts were upgraded from scale 105-135 (A.S.) to 110-180 (A.S.) under Railway Board orders circulated vide their letter No. PC-62/PS-5/SS-2 dated 30.6.64 addressed to all GM's which were further circulated under GM(P)/NDLS letter No. 561-E/85-132/Pt-III(E-11/D) dated 18.8.64. According to these orders posts of Challandars in DIW & CBJ have since been upgraded from 105-135 (A.S.) 225-308 (R.S.) to scale 110-180 (A.S.)/



U. S. 11-10-82

14/10/84

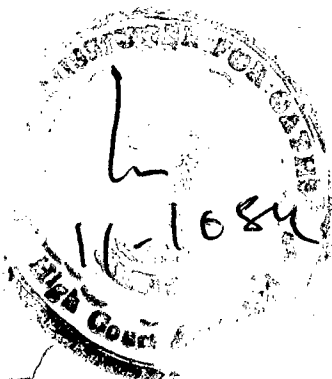
260-400 (R.S.). This has been confirmed in writing by SCP/DIW letter No. 3-E dated 12.2.77 (copy attached herewith for ready reference please).

In view of the above it is requested that Challandar in BWP/MUT who is at present in the grade Rs.210-270 (R.S.) may kindly be permitted a scale of Rs.225-308 (R.S.) so that he is brought in level with the original grade of Challandars.

The matter may kindly be perused sympathetically and revised TLA (attached herewith) in the scale of 225-308 (R.S.) may please be sanctioned so that the incumbent can be allowed the proper scale due to the post.

Sd/-
27.2.78

Asstt. Engineer / W,
Butt Welding Plant,
Meerut Cantt.



TRUE COPY

Chandhi

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH : LUCKNOW :

Writ Petition No. 6815 of 1983

Khurshid Ali ... Petitioner.
Versus
Union of India and others ... Opposite Parties.

ANNEXURE NO. R-III

Reg:- Fixation of Pay ~~xx~~ of Shri Khurshid Ali
Challandar.

In terms of Railway Board's letter No. PC-62/PS-5/SS1 dated 27.9.63 read with their letter No. PC-62/PS-5/SS-2 dated 30.5.64 the review of the post of Material Checker conducted. Keeping in view the duties standardised vide above letter dated 27.9.63 and the scale be allotted Rs.105-135 (A.S.) subsequently modified to Rs.110-180 (A.S.) w.e.f. 1.10.72.

As a result of IIIrd Pay Commission the scale Rs.105-135 (A.S.) & 110-180 (A.S.) were merged in one grade Rs.260-400 (R.S.) w.e.f. ~~xx~~ 1.1.73.

Shri Khurshid Ali appointed as Challandar w.e.f. 17.6.75 which was already merged with Material Checker/Clerk but was wrongly continued to be paid in the grade of Rs.210-270 (R/S) raised to Rs.225-308 (R/S) w.e.f. 15.4.78. But Shri Khurshid Ali since performing all the duties as mentioned in letter No. E-35/BWP (loose)-79 dated 5.6.79, as such he should be allotted the grade Rs.260-400 (R/S) w.e.f. 17.6.75 and be fixed as under:-

17.6.75 Rs. 260-00 instead of Rs. 210.00



Khurshid Ali

8/16
17

- 1.6.76 Rs. 266.00 instead of Rs. 214.00
- 1.6.77 Rs. 272.00 instead of Rs. 218.00
- 1.6.78 Rs. 278.00 instead of Rs. 225.00 (w.e.f. 15.4.78)
- 1.6.79 Rs. 284.00 instead of Rs. 230.00 (w.e.f. 1.4.79)

SEN/BWP-MUT is requested to kindly approve the above fixation after the same is vetted by A.O./E-Hd. Qrs. Office-N.Rly. and this is with in your competency as advised by A.P.O./E vide his noting at P.P.-8.

Submitted please.

SEN/FBWP

Sd/-
AEN/USFD
BWP/MUT
6.2.80

Forwarded to A.O./E for vetting please.

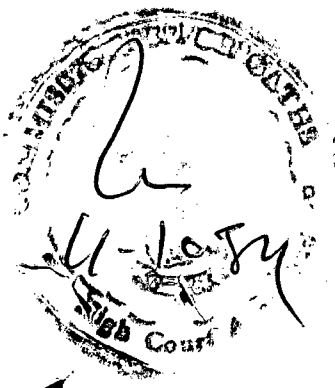
A.O./E

Sd/-
8.2.80
SEN/FBWP

From the AEN/Meerut letter placed at Sl.No. 1 of this loose file it is observed that the duties assigned to the category of Challandar are similar to the duties assigned to M.C.'s who are in scale Rs.260-400 (R/S). It is not clear as to how the post of Challandar has been ~~xxx~~ created in scale Rs.225-308. In case the duties of M.C.'s and Challandar are identical his case for allotment of the grade Rs.260-400 (R/S) may please be processed at your end.

SEN/BWP

Sd/-
13.3.80
S.O./E
for A.O./E



Handwritten signature
OATH COMMISSIONER
High Court, Lucknow Bench
KNOW
No. 11939
Date 11.10.84

TRUE COPY

Handwritten signature