

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

Sunder Lal
V.T.

FORM OF INDEX

O.A./T.A./B.A./C.C.P./ No. 1512/87 (T)
W.P. No. 2711/84

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Dr. Registrat

Supervising Officer

Dealing Clerk

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

Dealing Clerk 30/12/90

File B/C weeded out

S.O. (S)

V.K. Mishra

ANNEXURE - A

CAT

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

INDEX SHEET

CAUSE TITLE T.A 1512 of of 1987

NAME OF THE PARTIES _____

Sunfor Lal

Applicant

Versus

V.O.I

Respondent

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210-83

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A

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P.

No.

2911

of 198

84.

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
14-6-84	Dear R.C.D.S., Admit and Commit Issue notices to the opp. parties. sd. R.C.D.S. 14-6-84.	
	C.M. No 6315 (w) 84.	
14-6-84	Dear R.C.D.S., Issue notices to the opposite parties. List in July August, 1984. Implemented. sd. R.C.D.S. 14-6-84.	
	8-8-84 Fixed for affidavits and for trialing C-4 of W.P. and C-1-4. No. 6315 (w) 84 A. 1 to 0. P. No. 1, 2 and 3 by R.P.	
		<u>B</u> 27-1-84
	26.8.84	

6315 (w) 84

Revd
in August 1984

A/12

IN THE HONOURABLE HIGH COURT OF JUDICATURE ~~AT~~ ALLAHABAD

LUCKNOW BANCH, LUCKNOW.

WRIT PETITION NO. 12911 OF 1984



Sunder Lal Son of Late Sri Rikhai Ram,
aged about 44 years,
Head Ticket Collector, N.Rly Barabanki
resident of Railway Quarter No.M-6-A,
South Railway Colony,
Police Station Kotwali Barabanki.

*Sunder Lal
11/6/87*

..... PETITIONER.

VERSUS

- 1. ✓ Union of India, through the General Manager Northern Railway, Baroda, House, New Delhi.
- 2. ✓ Divisional Railway Manager, Northern Railway Hazratganj, Lucknow.
- 3. Divisional Personnel Officer, DRM Office Northern Railway, Hazratganj, Lucknow.

... OPP. PARTIES.

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

(SST)
9/6/1987

The humble petitioner most respectfully sheweth as under:-

- 1- That the petitioner is a confirmed Travelling Ticket Examiner in grade Rs.330-560(RS) in the employ of Opp. Parties 1 to 3 and is at present posted as a Head Ticket Collector in grade Rs.425-640(RS) at Barabanki.

Contd...2/.

X/2

ORDER SHEET

IN THE HIGH COURT JUDICATURE AT ALLAHABAD

No. 2011 of 1984

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
8/10/84	<p style="text-align: center;"><u>for SMT.</u></p> <p>Leave leave for the opposite party to pay for and is allowed for weeks time to file Courts affidavit. The item order shall continue to be operative w.e.f. <u>vacation</u>.</p>	
		<u>8/10/84</u>
12.11.84	<p style="text-align: center;"><u>fixed in C.R.</u></p> <p>6315 (1) P.L., 11105 10 M</p> <p>C.M. An no 11105 @ 84 for payment of Salary</p>	<u>C.R. 1105</u>
23.10.84	<p style="text-align: center;">on D.N. Jha,</p> <p>left with the record.</p>	<u>Scd. D.N. Jha</u>
		<u>23.10.84</u>

A/676/

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

C.M. Application No. 121501 (w) of 1984

Union of India & others ... Applicants

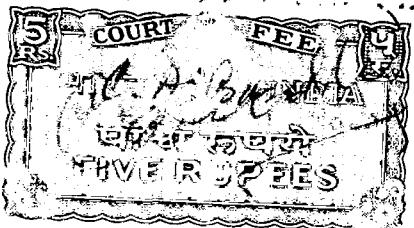
In re:

Writ Petition No. 2911 of 1984

Sunder Lal .. Petitioner

Versus

Union of India & others .. Opp. parties



Application for condonation of delay

12/12/84
The applicants, above named, most respectfully
beg to submit as under:-

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

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

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

Lucknow:

Counsel for the applicant.

Dated: Dec. 7 1984

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

1091 (C)

C.M. Application No.

of 1985

W/14

Sunder Lal

--- Applicant

In-re:

Writ Petition No. 2911 of 1984

Sunder Lal

--- Petitioner

Versus

Union of India & others

--- Opp. parties

1333

Application for condonation of delay in filing rejoinder
J-14/14/1985

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

That due to inadvertence, the Rejoinder Affidavit on behalf of the petitioner could not be filed within time which is now being filed and this Hon'ble Court may kindly be pleased to condone the delay and the Rejoinder Affidavit may be taken on record.

14/14/1985
(VINAY SHANKER)
Advocate
Counsel for the applicant.

Lucknow:

Dated: January 28, 1985

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

TA 1512 /89

REGISTRATION NO. _____ of 198 .

APPELLANT
APPLICANT

Sunder Lal

DEFENDANT
RESPONDENT

VERSUS

U.C.)

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
3/11/89	<p>Hon' Mr D.K. Agarwal, J.M.</p>	<p>This Writ received a from Lucknow Court in Sing with the W. In the W. transfer W.C. and file. A copy was operating.</p>
2.	<p>Shri Dinesh Shankar counsel for the applicant is present. Pleadings are complete. List this case on 4-1-90 for hearing</p>	<p>Def J.M.</p>
	<p>(sns)</p>	<p>Transferred to this office but no. the. any copy not copy and file. A copy received back and sent for return</p>
4/1/90	<p>Hon' Mr Justice Kamleshwar Nath, V.C. Hon' Mr K. Obayya, A.M.</p>	<p>CR Case is submitted to learn gills</p>
	<p>On the request of Shri V. Shankar counsel for the applicant, list this case <u>for hearing</u> <u>on 1-3-90.</u></p>	<p>R V.C.</p>
	<p>A.M.</p>	<p>CM 4/1/90 is filed today</p>
	<p>(sns)</p>	<p>CR 19/1/90 L/c for the applicant was filed C.M. on 4/3/90 (s) for permission to file the supplemental application</p>

B. for order

8/2

10/12/90

A-A

Per Mr. Justice K. N. Venkatachalam
Per Mr. K. Obayya, AM

Shri Vinay Shanker for the applicant
and Shri ~~and~~ Sishchartha Verma for
the respondents are present. The
respondents' counsel requests
for and is allowed three
weeks time to file a reply
to which the applicant
may file a rejoinder within
a week thereof. List
for final hearing on 28/1/91.

AM

VG

Recd. Order
by rule
Date 14/12/90
Shankar

Recd
18/1/90

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

LUCKNOW CIRCUIT BENCH

Registration P.A. No. 1512 of 1987

(W.P.No.2911 of 1984 of the Hon'ble High Court)
(of Judicature at Allahabad, Lucknow Bench, LKO)

Sunder Lal Petitioner

Versus

Union of India & Others Respondents

Hon. Mr. Justice Kamleshwar Nath, V.C.

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

(By Hon. Justice K.Nath, V.C.)

The Writ Petition described above is before us under Section 29 of the Administrative Tribunals Act, 1985 for quashing an order dated 21.5.84, Annexure-XIII by which the petitioner was reverted from the post of Head T.C. to the post of Ticket Collector.

2. Counter and Rejoinder have been exchanged and we have heard Shri Vinay Shanker for the petitioner and Shri Arjun Bhargava for the respondents.

3. The facts material for the purposes of this case are short and may be stated. The petitioner was initially appointed as a Ticket Collector. On 10.4.76 he was given an adhoc promotion to the post of Head Ticket Collector. The post of the Head Ticket Collector is a selection post. For constituting a panel for the post of Head Ticket Collector a test was held in which the petitioner appeared but having failed his name was not included in the panel dated 2.12.82. By the impugned order dated 21.5.84, Annexure-XIII the

petitioner was reverted. He filed the Writ Petition on 14.6.84; the order of reversion was stayed by the Hon'ble High Court which stay has continued to be in force.

4. The case of the petitioner is that since he was promoted as Head Ticket Collector even though in adhoc capacity in 1976 he had continuously worked on that post till the impugned reversion order was passed in 1984. It is urged that according to a policy of the Railway Administration contained in the Railway Board's Circular dated 29.7.85, Annexure - S1, the petitioner was entitled to be regularised on the post of Head Ticket Collector without facing any selection test.

5. The case of the respondents is that since the petitioner had actually taken a chance at the selection test and had failed on account of which his name was not brought on the panel framed on 2.12.82, he could not be entitled to the benefits of the policy in question. It was further said that on 23.12.82 the petitioner had been ordered to be reverted as TTE at Lucknow in consequence of his failure in the selection test, but since one S.K.Tripathi who had been promoted as Head Ticket Collector at Barabanki as a successful candidate on the panel had refused the promotion, an order dated 7.2.83, Annexure-XI was passed requiring the petitioner to continue to work as Head Ticket Collector at Barabanki in place of S.K.Tripathi. Shri Bhargava says that the order of reversion, Annexure-A1 has not been questioned in this petition and therefore it continues to be effective.

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6. In the first place, we are of the opinion that the reversion order dated 23.12.82 contained in Annexure-A1 remained no more than a paper transaction because it was never given effect to. The fact remains that the petitioner who was working on the post of Head Ticket Collector before the issue of those orders continued to hold that assignment even subsequently although, according to the respondents, under orders dated 7.2.83, Annexure-A2 on the refusal of S.K.Tripathi to proceed to the promotion post. We are of the view that these two orders i.e. Annexures A1 and A2 do not stand in the way of the established fact that the petitioner had continued to work as adhoc Head Ticket Collector right from 1976 till the filing of the Writ Petition which assignment was protected by the stay order of the Hon'ble High Court. It was not necessary for the petitioner in these circumstances to have the order dated 23.12.83, Annexure-A1 quashed.

7. As pointed out by Shri Arjun Bhargava, it is true that the policy of regularisation of certain category of persons holding a promotion post was brought into being by Annexure-S1 dated 29.7.85 but its benefit was extended to those who had worked between 1979 to 1984 and had completed 18 months continuous service on the promotion post; the circular required such persons to be regularised with effect from completing 18 months' service on the promotion post. The idea is that in any case the petitioner having worked as Adhoc Head Ticket Collector from 1976 upto December, 1982 when the panel was drawn, he had completed 18 months' continuous

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service in that capacity since after 1979 till the constitution of the panel. The up shot is that the entitlement to be regularised had already matured before the panel was constituted and therefore the mere failure in the selection test leading to the constitution of the panel on 23.12.82 cannot stand in the way of the petitioner's regularisation as Head Ticket Collector.

8. Shri Bhargava laid emphasis upon the date of the circular i.e. 29.7.85 and said that it can apply only prospectively and not retrospectively. We are unable to agree. In terms, circular brings benefit to the persons who had worked between 1979 to 1984. It is wholly immaterial that the decision to give the benefit was taken later on.

9. In this connection, the learned counsel for the petitioner has invited our attention to a decision dated 24.10.89 in I.A. No.1105 of 1985 Dinesh Chandra Misra Vs. Union of India & Others where reliance was placed upon this very circular and it was held that among others Head Ticket Collectors who had worked on adhoc basis between 1979 and 31.12.83 pending finalisation of selection/suitability test might be regularised from the date of their completing 18 months adhoc service against regular post for the purposes of their seniority for promotion to the next higher grade. We have no reason to depart from the view taken in the said case for the purposes of the present case. Since the petitioner had completed 18 months of continuous service on the post of Head Ticket Collector even in adhoc

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capacity long before the selection for constituting the panel was made, the petitioner is certainly entitled to be regularised as Head Ticket Collector and the order of reversion from that post to the post of Ticket Collector by Annexure-XIII cannot be sustained.

10. The petition is allowed and the order of petitioner's reversion contained in Annexure-XIII dated 21.5.84 is quashed. The respondents are directed to regularise the services of the petitioner as Head Ticket Collector in the light of the observations contained above; they shall also grant him such consequential benefits as may be admissible to the petitioner in accordance with law. The respondents shall comply with these directions within three months from the date of receipt of a copy of this judgement. Parties shall bear their costs.

Twijeng
Member (A)

Q
Vice Chairman

Dated the 12th Dec., 1990.

RKM

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW BENCH LUCKNOW
WRIT PETITION NO. 2911
OF 1984.

Sunder Lal

.. Petitioner.

Versus

Union of India & others.

.. Opp. Parties.

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Vinay Shanker
(VINAY SHANKER) Advocate

LUCKNOW: DATED: 11.6.84

COUNSEL FOR THE PETITIONER.

2- That in February, 1976 the petitioner was given promotion to the post of Head Ticket Collector in grade Rs.425-640(RS) by virtue of his option for the post and being a senior-most suitable Schedule Caste candidate within the field of consideration, vide letter No.757E6/8-7TE dated 25.2.76, which is also clear from the certificate at A.P.C. dated 27.4.76, which is annexed herewith as Annexure No. 1.....

3. That the orders of the promotion of the petitioner were made against a clear, permanent, non- fortuitous and a reserved vacancy to make good the shortfall of Scheduled Caste candidates in accordance with the points reserved for Scheduled Castes under provisions of Railway Board's letter No. E(SCT)70CM15/10 dated 29.4.1970 (N.R. S.N. 5022) as a result of which one Sri M.D. Gupta, Head Ticket Collector, Lucknow who was an expaselled and selected candidate of other community, was reverted to the post of a Travelling Ticket Examiner.

4- That the petitioner, before being promoted to the post of Head Ticket Collector, was required to qualify in promotional-course(P-6-A) from Zonal Training School, Chandausi which is an essential qualificatin for the post of Head Ticket Collector. The petitioner passed the said course and obtained first position in the order of merit amongst 29 candidates from different divisions.

5. That the petitioner shouldered the duties and responsibilities of the post of Head Ticket Collector on and from 11.4.1976 in a regular manner and has been continuously working ~~in~~ in the post quite satisfactorily hitherto and thus he attained a permanent ~~status~~ ^{status} of Head Ticket Collector and is entitled for his confirmation as Head Ticket Collector in grade Rs.425-640(RS) as per Railway Board's letter No.F dated 5.2.72, which provides that

Contd....3/.

Reserve

15/6/76

if any staff has completed 18 months continuous officiating service in higher grade then he will be deemed to be confirmed on the said post. A true copy of the same is enclosed herewith as Annexure No. 2....

6. That after a considerable lapse of time, the petitioner was asked to appear at a viva-voce test for selection to the post of Head Ticket Collector on 18.3.1980 and 16.6.1980 by letter No. 181E6/8-III dated 10.3.1980 and letter of even number dated 11th of June, 1980 which he attended but without assigning any reason both the viva-voce test were postponed by the authorities in violation of Headquarter Office, New Delhi letter No. 851-E/65/2-X(EIV) dated 20.2.1976. (NR. S.N. 6474)

7. That again the petitioner was required to appear at a written-test for selection to the post of Head Ticket Collector on 20.2.1982 by a letter No. 757E6/8-Hd.TC dated 2.7.1982 for filling up 20 posts of Head Ticket Collector. The petitioner was ill on 20.7.1982 and under treatment of Assistant Divisional Medical Officer, Barabanki vide R.M.C. No. 053469 and he could not attend the selection on account of his sickness. A true copy of the sick certificate of Railway Doctor is enclosed herewith as Annexure No. 3....

8. That thereafter the petitioner learnt that another written-test for selection was also held on 1.8.1982 of which no intimation was given to the petitioner by ~~pppp~~ opposite parties 1 to 3.

9. That by letter No. 757E6/8-Hd.TC dated 19.10.1982 the result of the written-test was circulated and the staff mentioned therein was directed to appear at a viva-voce test on 3.11.1982. The petitioner was not called to appear at the said viva-voce test for selection.

Contd...4/.

TS

9/6/84

Received

10. That the selection for the post of Head Ticket Collector was confirmed to one category of staff for filling upgraded posts alongwith existing regular vacancies and as such written-test had to be dispensed with in accordance with the instructions issued by Chief Personal Officer, Northern Railway, New Delhi vide his D.O. letter No. 561E/255-98 Gen.(PC) Pt. 1 dated 25.4.1979. Therefore, the petitioner, who could not attend written-test due to the reasons beyond his control, should have been called to appear at the viva-
voce test for consideration of his selection to the post of Head Ticket Collector.

11. That opposite parties 2 to 3 completed the selection ignoring the seniority and eligibility of the petitioner and selected 16 persons as Head Ticket Collectors in grade Rs. ~~330-560~~ by the same order issued vide letter No. 757E6/8-Hd.TC dated 23.12.1982. A true copy of the same is filed herewith as Annexure No. IV....

12- That the petitioner was quite eligible for his appointment to Selection-Grade for having completed 14 years of service in the ordinary grade inclusive of service both ~~under~~ ⁱⁿ the revised and pre-revised scales of that grade under provision of Railway Board's letter No.PCIII/78/SG/8 dated 13.2.1981. A true copy of the same is filed herewith a Annexure No. V...

13. That the Railway administration in holding the selection also ignored the relevant provisions of Railway Establishment Manual regarding procedure for selection under authority of Railway Board's letter No.E(NG)I-76/PM1/168 of 3.9.1976(W.R. S.N. 6618) according to which eligible staff to be called for written-test and/or viva-voce test should be Contd. 5.

upto 3 times the number of existing and anticipated vacancies. Even though 16 persons were selected and only 36 persons had been called for appearing at the selection against the sanctioned strength of 20 posts of Head Ticket Collector. A Photostate copy of the same is filed herewith a Annexure No.6.

14. That the select list of 16 persons has been issued ignoring 40 points roster maintained by the Railway Administration and points reserved therein for Scheduled Castes and Scheduled Tribes which is applicable to posts where the minimum of the Scale is Rs. 425/- or above. The said roster is to be followed for posts filed on promotion vide Railway Board's letter No. E(SCT) 70CM15/10 dated 29.4.1970 (N.R.S.N. 5022) in which points 1, 8, 14, 22, 20 and 36 are reserved for Scheduled Castes and points 4, 17 and 31 for Scheduled Tribes. A true copy of the same is filed herewith as Annexure No.7.

15. That 2 persons namely Sri B.B. Mukherji Head T.C. Varanasi and Sri. K.K. Verma Head T.C. Jaunpur who had been declared disqualified in the selection were allowed to continue in their posts. Moreover, Sri. S.P. Srivastava, Head T.C. Faizabad and Sri. T.N. Srivastava, Head T.C. Prayag were allowed to work as Head T.C. without being put to selection, but the petitioner being a senior most and Scheduled Caste candidate promoted against reserved ^{vacancy}, was ordered for reversion.

16. That S/ Sri J.P.N. Upadhyay and Sri Arun Sapru who are not even qualified in the initial trainee-course(T.6) of Ticket Collectors grade Rs. 260-400 from Zonal Training School, Chandusi, but have been considered for promotion to the post of Head Ticket Collector in grade Rs. 425-640 (RS).

Contd....6/-

Received

(S)
9/6/74

17. That according to extant orders only those who are qualified in promotional- course(P-6-A) can be called for selection for appointment to the post of Head Ticket Collector

18. That none of the candidates except the petitioner is qualified in the said course.

19. That it is noteworthy to mention here that the written test was held twice on 20.7.82, & 1-8-82 and the paper which was given on earlier date i.e. 20.7.82 was again given in 1.8.82 which was illegal and on this score ~~above~~ ^{valence} the entire selection is null & void. This fact can be ascertained by summoning both the paper from the opp. parties.

20. That for the reasons aforesaid, the selection held for the post of Head Ticket Collector is wholly illegal and without effect and the promotions ordered ~~for~~ ^{by} the aforesaid, selection is illegal and liable to be quashed.

21. That in ordering promotion of 16 persons and reversion of 4 persons including the petitioner the Rly administration has ignored the fact that ^{some} ~~none~~ of ^{the} ~~selected~~ candidates are neither qualified nor have been selected at the aforesaid selection are still continuing as Head Ticket Colletors in grade Rs. 425-640 whereas the petitioner, who is senior to all of them & being promoted against an earlier point of the roster against permanent reserved vacancy, has been reverted to the post of Travelling Ticket Examiner in grade Rs. 330-560 without any justifications.

22. That the petitioner has also been denied the protection given to Scheduled Castes and Scheduled Tribes at the time of reversion under provisions of Railway Board's letters No. E(SCT) 65CM/15/6.

Reserve

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dated 21.10.1965 and No. 82E(SCT) 15/6 dated 22.5.1982 (N.R. S.N. 8104).

23. That the petitioner was not given any understanding that the promotion will not give him any right for regular promotion.
24. That the order of reversion of the petitioner has been passed in an arbitrary manner and being discriminatory is liable to be set aside.
25. That the select list is also illegal and invalid for the reason that the authorities have appointed only two Scheduled Caste candidates whereas according to the prescribed roster a minimum of three Scheduled Caste candidates should have been appointed and unless the vacancy is de-reserved which has not been done, the Railway Administration could not appoint an other caste person against a point reserved for Scheduled Caste/Tribes. A true copy of Rly Board's letter dt 5th August 1974 is enclosed herewith on Annexure no VII
26. That the selection is malafide and illegal as the Railway administration filled up the vacancy reserved for Scheduled Castes/Tribes without following the procedure as per instructions contained in Railway Board's letter No. E(SCT)74CM15/19 dated 5.8.1974.
27. That the selection is malafide as it was held after a considerable lapse of time for about 9 years and claims of the seniors had not been given fully consideration despite the instructions issued vide Railway Board's letter No.(i) E(NG)I-69PM1/200 dated 4.11.1970 (N.R.S.N. 5153) and No.(ii)E(NG)I68PM1/118

Sealed

9/6/84

✓
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dated. 30.7.1968 (N.R. S.N. 4456).

28. That the selection was made on the basis of both the written test and viva-voce test whereas only ~~viva-voce~~ test would have been adopted to judge the suitability of eligible staff for holding the post and ~~as~~ such the selection held is illegal and liable to be quashed.

29. That the against the order of the reversion the petitioner preferred an appeal to the Opposite parties on. 14.1.83. ~~following~~ followed by letter dt. 17.1.83. challenging the validity & legality of the selection ~~and~~ also on the ground that ~~he~~ was never informed about the written test. A copy of same is filed herewith as Annexure No. ~~X~~ ~~X~~.

30. That in the meantime Sr. S.K. Tripathi has given his refusal for promotion and on that basis he was debarred for promotion for the post of Head Ticket Collector for future by the opp. party vide their letter dt. 7.2.83 and the petitioner was allowed to continue on his post of Head Ticket Collector without any break ~~in~~ service. A true copy of the same is filed herewith as Annexure No. ~~X~~.

31. That the said order was accepted by the petitioner under protest vide his representation dt. 14.2.83 seeking clarification that whether his appeal dt. 14.1.83. has been disposed off or not, but no response was ever given by the opposite party. A true copy of the same is filed herewith as Annexure No. ~~X~~.

(S)

9/6/83

Reeves

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32. That the petitioner has proceeded on leave with permission for Station leave w.e.f. 22/5/84 ~~and~~ and is still on leave on the ground of ill health and while he was on leave he was informed that his reversion order from the post of Head Ticket Collector to the ~~—~~ post of T.T.E. has been passed by the opposite party No. 3 vide letter dt. 21/5/84 and ~~the~~ Sri S.K. Tripathi has been ordered to be posted at his place. A true copy of the same is filed herewith as Annexure No. XVII

33. That being disappointed by the long silence of the authorities on his appeal the petitioner again on 21-4-84 ~~had~~ preferred another appeal to the Opp. No. 2 (D.R.M.) but again no response was ever given to the petitioner by the opposite party no.2 A true copy of the same is enclosed herewith as Annexure No. XIX

34. That the said reversion order is totally illegal & also against the various Rly Board's circulars which ~~provides~~ ^{provisions} protection of reversion of the Schedule cast candidates promoted against their reserved post, as the case of the petitioner as he was promoted service 1976 against permanent reserved post.

35. That it is not out of place to mention here that Sri. S.K. Tripathi who was debarred for promotion ~~on~~ in view of his own request has been promoted in place of the petitioner on the ~~reserve~~ post which is not permissible as per Rly Board's circulars, but the opposites ~~had~~ violated the Railway Boards circulars by reverting the petitioner working on reserved post and promoting an ~~journal~~ ^{General} candidate on the reserved post of the petitioner.

(S)
16/11/84

Ramachandran

-49-

to the

36. That the ~~exp~~ Junior petitioner has not been reverted but the petitioner being senior most has been reverted in violation of Article 14 & 16 constitution of India, thus the impugned order of reverations is bad in law.

37. That the opposite parties have reverted the petitioner without dispensing his various appeals and representation, and thus the order of reversion of the petitioner is totally based on ~~non~~ consideration of his claim, and the said order is totally illegal and unsustainable in the ~~of~~ of law.

38. That the said impugned order is passed against the set principle of ~~40~~ ^{point} roster programme relating to the promotion of Schedule cast / Schedule Tribe against their quota.

39. That the impugned order of reversion of the petitioner is totally illegal as the same is based on the so called written ^{test} in which the petitioner was never called.

40. That the petitioner is on Medical leave and is holding the charge of his post of ~~fixed~~ Head Ticket Collector Barabanki, and if the operation. of the impugned order dated 21.5.84 is not stayed the petitioner will suffer and irreparable loss and injury.

41. That on the same facts and circumstances on ^u writ petition No. 10 of 1983 in:re Dinesh Chandra ~~Missra~~ Versus ~~xxxxxx~~ Union of India is pending in this

(15)

9/6/84



Hon'ble Court against the reversion order of Head Ticket Collector passed on basis of the alleged written test for the post of Head Ticket Collector, and the said reversion order is stayed by this Hon'ble Court.

42. That the petitioner is thus left with no other alternative except to invoke the extra-ordinary jurisdiction of this Hon'ble Court, to challenge his illegal reversion by way of writ petition on the following among other:-

GROUND

a) because the impugned reversion order is illegal as the petitioner has completed 8 years continuous service on the post of Head Ticket Collector and as per Rly. Board's circular dt. 5/2/72 the petitioner has ~~again~~ ~~as~~ acquired the status of a confirmed employee on the said post and thus without any reason he cannot be reverted, but by reverting the petitioner the Railway Administration has acted against the spirit of the said circular.

b) Because the Railway Administration has committed illegality and also against the principles of nature justice by reverting the petitioner without deciding his appeal & representations.

c) Because the impugned reversion order is unsustainable and pervers as the same has been passed without complying with the rules regulations and instructions issued by the Railway Administration.

d) because the Railway Administration has committed illegality in reverting the petitioner without considering various circul~~ars~~ relating to the schedule Caste Community, which provides that once promoted against the reserved post no Schedule Caste candidate will be reverted.

e) because the reversion order of the petitioner has been passed in violation of Articles 14 & 16 of the constitution of India as Juniors to the petitioners have not been reverted.

f) because Railway Administration has committed ~~the~~ illegality in promoting a ^{General} ~~Journal~~ candidate against the reserved post of Schedule Caste, which is not permissible.

g) because the opposite parties have deprived the petitioner for his valuable right to appear in the written test by not informing or calling the petitioner in the said test.

h) because the written test held by the Railway Administration is in utter violation of the Railway Boards instructions which provides that for selection to the higher post the number of candidates should be three times to the number of existing and anticipated vacancies but in the instant case this procedure has not been followed, as such the entire written test becomes ~~illegal~~ illegal.

i) because the said written test is completely becomes null and void as the said test was held twice and the question paper were same.



j). because the Railway Administration has committed manifest error of law in not following the procedure of 40 point roster programme in promotion to the post of Head Ticket Collector which is illegal and arbitrary.

k) because the impugned reversion order of the petitioner is totally based on nonconsideration and guide lines given by the Railway Administration for the benefit of the Schedule Caste community and as such the same is illegal & unjust and is bad in law.

P_R_A_Y_E_R

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

1). issue a writ, order or direction in the nature of ~~Certiorari~~ to quash the impugned order of reversion dt. 21/5/84 contained in Annexure No. ~~XIV~~ so for it relates to the petitioner after ~~summoning~~ its original from the opposite parties.

ii) issue a writ order or direction in the nature of mandamus directing the opposite parties no.2 & 3 to ~~not~~ allow the petitioner to work at his present post of Head Ticket Collector.

iii) issue a writ order or direction in the nature of ~~Certiorari~~ declaring the written test held on 20-7-82 & 1-8-82 as null & void.

iv) to issue such other writ or direction as may be deemed fit & proper in the circumstances of the case and,

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-14-

v) to award cost of the writ petition to the petitioner.

V. Shanker
(Vinay Shanker)

Advocate

Lucknow:

Dated:- 11.6.84.

COUNSEL FOR THE PETITIONER.

A/26

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUC NOW BEING LUCKNOW
WRIT PETITION NO. DD 1984.

Sunder Lala .. Petitioner.
Versus
Union of India & others. .. Opp. Parties.

Annexure No. 1

ECCS/ Lucknow Loan Applications dated 26.4.76
Road on 27.4.76 as per LA No. 2661
For Rs. 2500/- LA/C No. 5530/50
Advanced on 8.5.76
for Rs. 2034.50 paise

Certified that Sri Sunder Lal is afficiating
as a Head TC. in grade Rs. 425-640(RS) and there is
no likalihood of his reversions in near future.

(SEAL)

Sd/- Raghoo Ram
27.4.76

Asstt. Personnal Officer
N.Rly Lucknow.

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27/6/76

Raghoo Ram

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

WRIT PETITION OF 1984.

Sunder Lal .. Petitioner.

Versus
Union of India & others. .. Opp. Parties.

Annexure No. II

Northern Railway
Headquarter's Office
Baroda House,
New Delhi.

No. 83IE/25-IV(EIV)

Dated:- 3.3.1972.

All Divisional Superintendents and
Extra Divisional Officers Northern Railway,

F.A. & C.A.O.(C) Chief Auditor,
Baroda House New Delhi.

Copy to S.P.S. (H.) Serial No. 5586

Subject:- Confirmation of Staff Officiali
in higher grades.

1st
9/6/72

A copy of Railway Board's letter No.E(NG)I-69CH-5
I dated 5.2.72 is forwarded for information and
necessary action. The Board's letter dated 12.8.71
referred to therein was circulated vide this office

letter No. 83IE/25/IV(EIV) dated 20.9.71(SL No. 5433)

DA/as above.

Sd/- Rajesh Bahadur,
for General Manager(P)

Copy to General Secretary URMU, I06-I, Rly Bunglow Punchkhian
Road New Delhi.

2. The Genl Secretary NRMU, II5-E Badar Road New
Delhi.

3. Shri Ganeshi Lal Sharma Asstt. Genl. Secy URMU,
Rly Qr. No.R/35-A, South Colony Maradabad.

4. Shri J.P. Chaube President URMU Building 25,26 Naka
Hindola Arya Nagar Lucknow.

Copy of Rly Board's letter No. E9NGCI-65CN5/31dt.5.2.72
from Sri Dwarka Dass Asstt. Director Establishment)Rly
Board to the General Managers, All Indian Railways & others.

Subject:- CONFIRMATION OF STAFF OFFICIATING IN
HIGHER GRADES.

In continuation of the instructions contained in letter of even no. dated. 12.8.71 the board desires that the cases of staff who have been promoted on regular basis should be reviewed after completion of one year's continuous officiating service even if a permanent vacancy does not exist with a view to determining their suitability for retention in the grade. The review should be completed early and a decision to continue the employee in the officiating post or revert him taken, and implemented, within a period of 18 months of officiating service. Having followed this procedure

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9/6/71

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procedure, there should be no question of denying the benefit of confirmation to an employee on completion of 02 years officiating service in a clear permanent vacancy for the reason that he is not fit for confirmation.

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Researched

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH LUCKNOW

WRIT PETITION NO.

OF 1984.

SUNDER LAL

..PETITIONER.

VER VS

UNION OF INDIA & OTHERS.

..OPP. PARTIES.

ANNEXURE NO. III

(15)
9/6/84
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Reeves

Northam Railway.

This is to certify that Sri Sunder Lal, Head T.C. Barabanki was sick and remained under my treatment from 19-7-82 (A/H) to 23-7-82 under R.M.C. No. 053469 and thereafter from 30-7-82 (A/H) to 6-8-82 under R.M.C. No. 053499.

He was advised to confine to bed and take complete rest during both the above periods of his sickness.

Sd/-

Dr. (P.S. S. ALUJ.)

(Rubber Seal) Asstt. Divisional Medical Officer
Dated : 17-1-1983.

A.Rly. Barabanki.

(S)
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Received

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH LUCKNOW

WRIT PETITION NO.

OF 1984.

SUNDER LAL

.. PETITIONER.

VERSUS

UNION OF INDIA & OTHERS.

.. OPP PARTIES.

ANNEXURE NO. V

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NORTHERN RAILWAY.

57 B 6/8-Hd. T.C.

Divisional Office,
Lucknow, Dt/-2 Dec'1982.

Not A.C.C.

The following changes are hereby ordered to have immediate effect :-

I. The undernoted staff Offtg. on Ad-hoc basis as Hd. T.Cs in Cr. C. 425-640 (RS) are reverted to their substantive post of T.T.P. Dealo B. 330-560 (RS) and posted at Lucknow.

Sl. No.	Designation.	Station	Posting on Reversion at
<u>By S.M.R.</u>			
1. V.S. Misra.	Offtg. Hd. T.C.	PBH	
2. Smt. Suchila Devi.	-do-	LKO	Lucknow.
3. Shri Sunder Lal.	-do-	BBK	
4. D.C. Misra.	-do-	LKO	

II. The undernoted staff who has been selected for the post of Hd. T.C. Dealo B. 425-640 (RS) are temporary appointed to officiate as Hd. T.C. and posted at the stations noted against each :-

Sl. No.	Designation.	Station.	Posted at	Remarks.
1. U.R. Tewari.	Offtg. Hd. T.C.	KEI	KEI	-
2. Mohd. Moin.	-do-	FD	FD	-
3. B.S. Ahluwalia.	-do-	BSB	BSB	-
4. Puran Lal.	TTE.	LKO	LKO	Against an existing vacancy.
5. H.R. Kevdi S/C	Offtg. Hd. T.C.	FD	FD	-
6. S.K.L. Trivedi.	TTE.	LKO	LKO	Against an existing vacancy.
7. A.P. Singh.	Offtg. Hd. T.C.	SEG	SEG	-
8. R.P. Singh.	TTE.	LKO	LKO	Vice Smt. Suchila Devi reverted as TTE.
9. B.P. Dubey.	TTE.	LKO	LKO	Vice Sri D.C. Misra reverted as TTE.
10. R.K. Singh.	Offtg. Hd. T.C.	RBL	RBL	-
11. M.H. Anwar.	TTE.	LKO	ON	Vice Sri B.D. Tewari Retired.
12. H. Kajuwar (ST).	Offtg. Hd. T.C.	BSB	BSB	-
13. S.K. Tripathi.	TTE.	FD	BBK	Vice Sri Sunderlal reverted as TTE.
14. Prem Dass S/C	Offtg. Hd. T.C.	LKO	LKO	-
15. J.P. H. Upadhyay.	TTE	FD	BS	Against an existing vacancy.
16. Arun Sapru.	TTE	FD	PBH	Vice Shri V.S. Misra reverted as TTE.

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH LUCKNOW

WRIT PETITION NO

OF 1984.

Sunder Lal

.. Petitioner.

Versus

Union of India & others.

.. Opp. Parties.

Annexure No. E

Clarification regarding Introduction of Selection Grade in
Group 'C' & 'D' Cadres.

Copy of Railway Board's letter NO. PC III/78/SG/8 dated
13.2.1981.

In respect of Selection Grades to Group 'C' & 'D' posts any employee who has either completed 14 years of service in the ordinary grade inclusive of service both in the revised and pre-revised scales of that grade or has reached a stage represented by the 3/4th of the span of the revised scale of the ordinary grade becomes eligible for appointment to the Selection Grade. This may in certain circumstances, reader employees junior in the seniority list of the ordinary grade, eligible for grant of selection grade prior to some seniors. It is clarified that the eligibility for grant to selection grade in Group 'C' & 'D' will be determined with reference to the criterion mentioned above, irrespective

(Signature)

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of the position in the seniority list. Such eligibility will be determined initially on the date on which the selection grade is deemed to take effect, for example on 1.8.76 on the date on which a selection Grade post becomes vacant for appointment and any employee not eligible on the crucial date will not be included in the list of eligible employees for the relevant panel even in cases where some of the employees left out are actually senior in the seniority list. The panel will be prepared on the basis of rejection of unfit and appointments to the selection grade made accordingly.

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW BENCH LUCKNOW
WRIT PETITION NO. OF 1984

SUNDER LAL

... PETITIONER.

VRS US

UNION OF INDIA & OTHERS.

.. OPP. PARTIES

ANEXUAL NO. VI

1/6/84
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Northern Railway
Divisional Supdt.'s Office,
Lucknow. Dated: 10-76.

No: 672-E/63-2-Pt.III(E-3-1)

All Concerned on Lucknow Division.

P.S.NO:6618

Re: - Selection Procedure.

A copy of G.M.(P)N.Railway Baroda House, New Delhi letter No: 831-a/63-2-X(EIV) dated 13.9.76 P.S.No.6618 together with a copy of its enclosure is sent herewith for information guidance and necessary action.

*for Divisional Personnel Officer,
Lucknow.*

Copy of the letter as referred to above.

Sub:- As above.

A copy of Railway Board's letter No.E(NG)I-76PMI/168 dated: 3.9.76 is reproduced below for information and guidance.

The contents of the concluding two paras should be carefully noted to ensure that necessary action as suggested therein is taken accordingly.

Copy of letter No.E(NG)I-76-PMI/168 dated 3.9.76 from Dwarika Dass, Dy. Director, Establishment, Railway Board, New Delhi to General Managers, All Indian Railways and other, copy to Director General, RDSO Lucknow and others.

Sub:- Selection Procedure.

In terms of para 216(d) of Chapter II, Section 'B' of the Indian Railway Establishment Manual, the existing procedure is that for selection to non-gazetted categories the field of eligibility is 4 times the number of existing and anticipated vacancies plus 25% thereof for unforeseen vacancies. If the requisite number cannot be obtained from the grade immediately below the selection grade, the Administration is authorised to call staff in lower grades up to the third lower grade.

The above procedure has been carefully reviewed and the Ministry of Railways have decided that henceforth the number of candidates to be called for Class III selections need normally be only three times the number to be empanelled. They have also decided that normally only staff in the grade immediately below the selection grade should be considered; if the requisite number cannot be found in that grade, it would be permissible to go down to the second grade below but in no case should any candidates in a grade lower than the second grade

Contd. 2/..



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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW BENCH LUCKNOW
WRIT PETITION NO. OF 1984.

Sunder Lal .. Petitioner.
Versus
Union of India & others. .. Opp. Parties.

Annexure No. VI

Railway Board's letter No. 3(SCT)79CM 15/10 dated 29.4.1970

ANNEXURE I

Model Roster for posts filled by direct recruitment on All-India basis by open competition

Points in the Roster

for Scheduled Castes:- 1, 8, 14, 22, 28, 36,

Points in the Roster

for Scheduled Tribes:- 4, 17, 31

Note:- If there are only two vacancies to be filled in a particular year, not more than one may be treated as reserved and if there be only one vacancy, it should be treated as unreserved. If on this account, a reserved point is treated as unreserved, the reservation may be carried forward to the subsequent three recruitment years.,

Review of cases of supersession-Selection posts:- The cases of those Scheduled Castes and Scheduled Tribes employees falling within the zone of consideration, i

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Class II services in the case of promotion to Class I junior scale/ Senior Scale posts and those in the eligible grades in the case of promotion to Class II posts and within Class II, who do not get selected and where their junior get selected for being placed on the panel their junior/juniors get selected for being placed on the panel should be put pp to the Board/ General Manager through the Senior Personnel Officer(Reserved Post) in the case of posts controlled by Head quarters to the Divisional Superintendent in the case of posts controlled by the Division and to the higher workshop authority in the particular workshop in the case of workshop controlled posts.

(Letters No. (i) E(SCT) 74CH15/35 dated 27.8.1974 and (ii) E(SCT) 70CH 15/9 dated 5.8.1972).

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

WRIT PETITION NO.

OF 1984.

Sunder Lal

... Petitioner.

Versus

Union of India & others.

... Opp. Parties.

Annexure No. VII

Extract from Railway Board's letter No. E(SCT)74CM15/29
dated 5th August 1974.

Sub:- De-reservation of reserved vacancies.

Ref:- Board's letter No.(1) E(NG)57CM1/25 dated 20.8.19
(2) E(SCT)62CM15/12 dated 18.9.1962; (3) E(SCT) 70
CM 15/10 dated 20.4.1970 (4) E(SCT) 63CM15/6 dated
2.7.63.

There is widespread misunderstanding on the Railway about the term 'De-reservation'. This has been interpreted differently on ~~fix~~ different Railways. As the Railways are aware the question of De-reservation arises when a suitable person from the community in whose favour a vacancy has been reserved is not available to fill the same. In such a contingency we have to take a decision that the vacancy in first year of the occurrence should temporarily be filled by a person for whom the vacancy is not reserved i.e. by a candidate belonging to the 'Others'. It may be clarified that this decision itself is called "De-reservation".

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De-reservation of a particular vacancy can be made only after following the procedure prescribed in para 5 of the Ministry of Home Affairs Office Memorandum No. 42/21/49-NGS dated 28th January 1952 circulated with Railway Board's letter No. E50CM1/7/3 dated 18th June 1953.

No reserved vacancy can be filled by a person belonging ' Others" before ~~it~~ it is de-reserved. In order to justify the statement that since the required number of suitable candidate(s) belonging to Scheduled Caste and Scheduled Tribes is/are not available, and therefore the vacancy/ vacancies should be treated as unreserved it is essential that all possible steps are taken to fill the reserved vacancies by the reserved community candidates before a reserved vacancy is de-reserved.

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

rit Petition No. of 1984.

Sundar Lal .. Petitioner.

Versus

The Union of India & others. .. Opp. parties.

Pla ture No. IX

To

The Provincial Commercial
Superintendent,
Nizam Railway, Lucknow.

Through : The Station Master, Bareilly.

Honourable Sir,

Subject : Apical file review of the orders of
revision.

Having come to undersigned of the orders of his
revision from the post of Head I.C. in scale
Rs. 425-640 (Rs) to the post of T.I.C. in ~~scale~~ scale
Rs. 330-560 (Rs) passed vido notice no. 757E6/8 H.S. TC
dated 23-12-82, the appellant, undersigned, most respect-
fully begs to prefer his humble appeal for review of
the same on the following grounds :-

1. That by virtue of his option and being a senior-
most suitable Scheduled Caste candidate, the appellant
was promoted on ad-hoc basis in accordance with the
points reserved for Scheduled castes in the roster
against a permanent vacancy of a Head I.C. in scale
Rs. 425-640 (Rs) at Lucknow with the specific object
of making good the shortfall of Scheduled Caste

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employees as a result of which one Sri M.D. Gupta head T.C. (an empanelled and unreserved candidate vide notice no. 75736/8-4 dated 16-8-83) was reverted to the post of T.T.C. at Lucknow. Later on the appellant was transferred from Lucknow and posted at Patna banki at his own request on the basis of the instructions contained in Railway Board's letter no. 2(SCT)74CM15/58 dated 14-1-75 (copy enclosed herewith is Annexure-4).

2. That before being promoted to the post of Head T.C., the appellant was booked to attend and qualify in the promotional course (P-6-4) from 15-2-76 to 8-4-76 at Zonal Training School, Chandauli which is an essential qualification for promotion to selection posts. The appellant passed the aforesaid course and obtained first position in the order of merit-list of 29 candidates from different divisions.

3. That the appellant attended the selection (viva-voce test) for the post of Head T.C. fixed for 18-3-80 and 16-6-80 but the said selection was postponed with the dates. Unfortunately, on the occasion of the selection (written-test) held on 20-7-82, the appellant was sick and under the treatment of Dr. R. K. Ray, Patna banki vide R.M.C. No. 05346 hence he could not attend the same. It is learnt that another date of selection was thereafter fixed for 1-8-82 of which no intimation was given to the appellant. The appellant is, therefore, entitled to an opportunity to be considered for the post of Head T.C. instead of being promoted to the post of T.T.C.

(B)
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4. That the appellant has been continuously

working on the post of Head A.C. quite satisfactorily w.e.f 11-4-76 and as such he happens to be a semi-most suitable scheduled caste candidate within the field of consideration and likely to be considered for regular arrangement in accordance with the instructions contained in Railway Board's letter no. L(RG)17541/264 dated 25-1-76 circulated vide Headquarters Office letter no. 8316/63/2-X(LIV) dated 19-3-76 (copy enclosed herewith as Annexure -B).

5. That according to the instructions issued by the C.o.o./New Delhi vide R.M. 30/3/76 no. 5624/255-98 Gen.(PC) P. I dated 25-4-76, the test is to be dispensed with for filling up upgraded posts alongwith existing regular vacancies if any, for which said vacancies are confined to the cadre of the staff (only vacancies herewith as Annexure -C). In view of the letter referred above and for having qualified in P-6-1 course, the appellant claims be exempted from written test and thereafter be called for viva-voce test to be held on 3-11-82.

6. That the confirmation of the following unexercised Offerings Head A.Cs, who all happen to be the appellants in the cadre (coming on merit on ad-hoc basis on a later stage from the appellant's regular promotion in April 1976), may be cited as precedent; in preference to the above para, as under:-

(S) *optb/My*

- 1) That S/JM 1... Srivastava, Offer. H.A.C/RG and S.o.P. Srivastava, Offer. H.A.C/RD were both required to be called in viva-voce test as in viva-voce test. It is noted that Sri Srivastava was formerly required to attend for selection (viva-voce

Received

on 18-3-80 and 16-6-80.

(ii) That S/ Shri K.L. Verma, Offtg. Hr. TC/JNU and B.B. Lukarji, Offtg. Hr. TC/DSB were called in written test on 20-7-82 but could not qualify in the same vide notice no. 75746/8-Hr. TC dated 19-10-82.

(iii) That Sri Mhd. Ali, Offtg. Hr. TC/FT who has neither qualified in written test (vide notice no. 75746/8-Hr. TC dated 19-10-82) nor called for viv-voce test on 3-11-82 (vide notice referred above and subsequent WR vide no. 75746/8-Hr. TC dated 20-10-82) but he has been selected for the post of Head T.C. vide notice no. 75746/8-Hr. TC dated 23-12-82.

7. That the above said of the appellant appears to have been treated without examining his appointment made against a permanent reserved vacancy according to an earlier point in the roster. Thus the appellant has been denied the protection given to Scheduled Castes and Scheduled Tribes at the time of reversion as contained in Railway Board's letter No. E(SCT)65 CM 15/6 dated 21-10-65 read with para 3 of Chapter IX of the Brochure on Reservation for Scheduled Castes and Scheduled Tribes in Railway Services (copy enclosed herewith as Annexure-D).

8. That the reversion of the appellant also appears to have been treated without considering 40 points in the post of 40 points reserved for Scheduled Castes and Scheduled Tribes vide Railway Board's letter no. E(SCI)70G15/10 dated 29-4-70 read with para 2 Chapter II of the Brochure on Reservation for Scheduled

affidavit

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Castes and Scheduled Tribes in Railway Service (copy enclosed herewith as Annexure-S1 and S2). It shall not be oblivious to mention here that, out of a total strength of 20 posts of Head T.Cs, only 2 Scheduled Castes ~~and~~ candidates namely S/Sri M.R. Kovid and from Tias and 1 Scheduled Tribe candidate Sri M.Kujuan have been appointed as officiate as Head T.Cs whereas a total number of 5 candidates would have been appointed according to points 1, 8 & 14 for Scheduled Castes and points 4 & 7 for Scheduled Tribes.

9. That under statutory provisions of Railway Board's letter nos. E(SCT)68C.15/12 dated 16-4-74, No. E(SCT)74C.15/20 dated 12-7-76, the case of the appellant should have been given a specific consideration for his retention as a Head T.C. at Parabanki (copies enclosed herewith as Annexures-F, G and H).

It is, therefore, humbly prayed that the orders of removal of the appellant passed vide notice No. 75736/8-HR.TC dated 28-12-82 may kindly be reviewed and set aside and the appellant be allowed to continue as a Head T.C. in scale Rs. 425-640 (R3) at Parabanki which is his home town.

The appellant would like to reiterate here that he was posted as Head T.C. at Parabanki at his own request on the basis of instructions contained in Railway Board's letter No. E(SCT)74C.15/58 dated 14-1-75 being a Scheduled Caste employee. It is, therefore, imperative that the appellant should have been retained at Parabanki in view of the letter

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referred above (copy enclosed herewith is annexed).
A.D.V.

For this act of kindness, the appellant shall remain ever grateful to your honour.

Appellant,

SD/

Dated : 14-1-1983.

(Sunder Lal)

Head Ticket Collector,
Northern Railway,
Bilaspur.

Copy for information and necessary action to :-

1. The Divisional Commercial Officer,
Northern Railway, Lucknow.
2. The Senior Commercial Officer (RP),
Northern Railway, Laxmi House, New Delhi.

Reeves

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9/6/83

AS

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

Writ Petition No. of 1984.

Sunder Lal

.. Petitioner.

Versus

The Union of India and others.

.. Opp. Parties.

Annexure no. X

To

The Divisional Commercial Superintendent,
Northern Railway, Lucknow.

Through : The Station Master, Barabanki.

Honourable Sir,

In support of his contention of para 3 of his appeal dated 14-1-83, the appellant most respectfully begs to submit the following for a sympathetic consideration :-

1. The genuine case of sickness of the appellant at the time of his selection for the post of Head T.C. is simply a matter of chance which should not be termed as an act of illegal evasion from the selection.

A copy of certificate from RMO/NE/BSK is being enclosed herewith for your kind perusal please.

2. The fact, that no intimation was communicated to the appellant regarding selection for the post of Head T.C. in 1-6-82, may please be ascertained from the records of the Station Master, Barabanki as recorded in a memo.

Whereas, it is prayed that the appellant may kindly be given an opportunity for selection for

⑤
9/4/84

Sealed

the post of Head T.C. particularly as a matter of
Scheduled Caste person.

Appellant,

DA/As above.

sd/-

(Sunder Lal)

17/1

Dated : 17-1-1983.

Head Ticket Collector,
Northern Railway, Bareilly.

Copy forwarded for information and necessary action
to the Divisional Personnel Officer, Northern Railway,
Lucknow.

Forwarded with remark that after a careful
examination of relevant records, it is confirmed that
the information regarding selection for the post of
Head T.C. on 1-8-82 was neither received nor com-
municated to Sri Sunder Lal As. 10/DSK by my predecessor.

sd/-

17/1

 rubber seal (Station Master,

of Bareilly (Northern Railway, Bareilly.

Received

32
150

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW BENCH LUCKNOW
WRIT PETITION NO. OF 1984.

Sunder Lal

.. Petitioner.

Versus

Union of India & others.

.. Opp. Parties.

Annexure No. XI

No. 757E6/8Hd TC

Divisional Office

Northern Railway

Lucknow

Dated 7, February 83.

NOTICE

1. The refusal of Shri S.K. Tripathi Offtg. Hd. TC/BBK grade Rs. 425-640(RS) for the post of Hd. TC is hereby accepted and reverted to his substantive post of TTE grade Rs. 330-560(RS) and posted at Faizabad at his own request. He is debarred from promotion from the date of his application i.e. 4.2.83. During this period the juniors thus promoted will rank senior to him.

2. Shri Sunder Lal Offtg. Hd. TC/BBK grade Rs. 425-640(RS) who has been reverted as TTE grade Rs. 330-560(RS) and posted at Lucknow vide this office notice of even number dated 23.12.82 is temporarily promoted to afficiate as Hd. TC grade Rs. 425-640(RS) on Ad-hoc basis and posted at BBK vice Shri S.K. Tripathi item no.1 above.

This issues with the approval of DPO(II)/Lucknow.

Advise movements.

Sd/-
Divl Personnel Officer, Lko.

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

With Petition No. of 1984.

Surfer Lal .. Petitioner.

Versus

The Union of India & Others. .. Opp. Parties.

Annexure A. XII

To

The Divisional Personnel
Officer (II)
Northern Railway, Lucknow.

Through

The Station Master, Barabanki.

Sir,

Most respectfully I beg to submit that the contents of para 2 of your notice No. 75746/8-HR-IC dated 7th February, 83 are not admissible due to being quite prevaricating and rather misleading. It is, therefore, imperative that clarification of the following points may kindly be made in the interest of natural justice :-

1. Whether my claim for retention in the post of Head T.C. grade Rs. 425-640 (Rs) preferred in my appeal dated 14-1-83 has been accepted and as a result of which I have been allowed to continue as a Head T.C. at Barabanki ?
2. Whether the order of my reversion from the post of Head T.C. grade Rs. 425-640 (Rs) to the post of T.A.M. grade Rs. 330-560 (Rs) vise your notice No. 75746/8-HR-IC dated 23-12-82 were issued due to

(1st)
9/6/84

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Administrative error and have, therefore, been set aside?

3. Whether my appeal dated 14-1-83 has been given due consideration and finally disposed off?

It is further prayed that a quick and prompt action will be taken in your office in view of article 335 of Constitution of India and in my Board's letters no. 8(SCR)700115/12 dated 15-1-70 and of even number dated 25-1-72 failing which I will be compelled to resort to legal proceedings in a competent court of law.

Submitted.

Yours faithfully,

JF/-

Dated : 14-2-83.

14/2
(Signature)

Mad Nickel Collection,
National Railway,
Bhopal.

Reet

(15)
JF/-

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW BENCH LUCKNOW
W.RIT PETITION NO. OF 1984.

Sunder Lal

... Petitioner.

Versus

Union of India & others.

..Opp. Parties.

Annexure No. XII

15
7/6/03

Received

शो.पत्र. 19/G.L. 19
राज्य 29-32/Genl. 99-Large

शहर रेलवे/NORTHERN RAILWAY

No. 757-E/6-8/Hd. TC.

Divisional Office,
Lucknow: Dt. 21 / 4 / 84.

NOTICE

The following orders are hereby issued :-

Shri S.K. Tripathi, TTE/FD, scale Rs.330-560(RS)
(Selected Hd. TC) is temporarily promoted as Hd. TC in
grade Rs.425-640(RS) and posted at BBK vice Shri Sunder
Lal reverted.

Shri Sunder Lal (SC) who was tempy. officiating
in local ad-hoc arrangement as Hd. TC, is reverted to his
substantive post as TTE scale Rs.330-560(RS) and posted at
Faizabad vice Shri Tripathi.

The orders must be carried out strictly and
advise movement.

Effrasad
for Divil. Personnel Officer,
Lucknow.

Copy to:-

1. SS/FD & BBK.
2. Sr. WO/LKO.
3. AE(PB)/LKO.

Secretary

(15)
7/6/84

A/55

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

With Petition No. 1084.

Sunver Lal

.. Petitioner.

Versus

Union of India and others.

.. Opponents.

Annexure No. XLY

To

the Divisional Railway Manager,
Northern Railway,
Lucknow.

Through : Proper Channel.

Honorable Sir,

Sub: Selection for inspection ticket grade Rs. 700-900.

Having reliance upon your merciful dispensation and judicious nature, the humble applicant most respectfully begs to submit the following few words of sympathetic consideration :-

1. That by your office letter no. 1814/6-8-IV dated 12-4-84 staff working in grade Is. 425-640 have been directed to appear in the selection/viva-voce test for the post of Inspector ticket in grade Rs. 700-900 on 26-4-84 to 28-4-84 but unfortunately the applicant has not been called for appearing in the said selection.

2. That the applicant is a permanent employee and he belongs to Scheduled Caste community. He was promoted as a Head P.C. in grade Is. 425-640 from 11-4-76 against a clear, permanent, non-fortuitous and a reserved vacancy to make good the shortfall of Scheduled Caste quota by converting one S.M. emp.

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Received

Head T.C. to the post of a T.O.S. in grade Rs. 330-560 although he was an empanelled and selected candidate for the post of Head T.C. vide your office notice no. 75726/8-4 dated 16-8-73.

3. That the applicant has been continuously working in grade Rs. 425-640 as a Head T.C. from 11-4-76 and performing the duties attached to the post quite satisfactorily. At present the applicant has been drawing basic pay @ Rs. 530/- p.m. and as such he has acquired a right to be considered for his promotion even in Class II services.
4. That the eligibility and seniority of the applicant has been ignored for consideration of his promotion to the post of Inspector Ticket in grade Rs. 700-900 without assigning any reason while a large number of persons who are far junior to the applicant have been called upon to appear in the said selection/viva-voce test.
5. That it is to note that the promotion of the applicant to the post of Head T.C. in grade Rs. 425-640 has been treated to be a temporary arrangement on ad-hoc basis in view of D.O/L.I.O notice no. 75726/8-HD-T.C dated 7-2-83 against which the applicant has already recorded his protest through his application dated 14-2-83.
6. That as regards the factual position, the applicant while working as a Head T.C. was asked to appear at a viva-voce test for selection to the post held by him on 18-3-80 and 16-6-80 by letter no. 18146/8-HD dated 10-3-80 and letter of even number do re-

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Copy

Received

nil of June, 80 which he attended but without assigning any reason both the v.v.voc tests were postponed by the authorities.

7. That again the applicant was required to appear in a written test for selection to the post held by him on 20th July, 82 by a letter no. 75726/8-H.C.TC dated 2-7-82. Since the applicant was ill and under the treatment of Dr. A. M. Khan for a 10-7-82 to 20-7-82 vide R.O.C. No. 053469, he could not attend the written test on 20-7-82 due to his serious condition caused by illness. It is learnt that an alternative date for written test was fixed for 1-8-82 on which an intimation was given to the applicant.

8. That the Railway administration complies the aforesaid selection letter on the eligibility and seniority of the applicants of selected 16 persons as Head T.C. grade Rs. 425-640 and promoted 4 persons including the applicant for the post of T.C.C. Grade Rs. 330-560 by the same orders issued vide letter no. 75726/8-H.C.TC dated 28-12-82.

9. That being aggrieved of unjust & unfair orders of reversion, the applicant approached his Head T.C.C. and T.C.C. for redress thereof. After hearing the applicant both the officers assured him that his case was deserving one and reversion could be made set aside on receipt of an appeal.

(S)
9/6/83

10. That the applicant, therefore, submitted his appeal dated 14-1-83 for review of the orders of reversion to both the officers. The applicant was reassured that he could also be given a chance of

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selection and inclusion in the panel on furnishing the proof of non-communication of information to him regarding the written test held on 1-8-82. The applicant, thereupon submitted an additional appeal dated 17-1-83 fulfilling requirement to that effect.

11. That neither submission of appeals nor frequent visits of the applicant to honourable D.C.S. and T.P.O. did bear any fruitful result because the learned T.P.O. instead of setting aside orders of reversion and thereby retaining the applicant as Head T.C., passed orders of fresh promotion of the applicant to officiate temporarily as a Head T.C. on ad-hoc basis vice Sri S.N. Tripathi who had refused his promotion for the post of Head T.C.

12. That the aforesaid orders passed vide notice no. 757E6/8-Hd.T.C dated 7-2-83 were quite undesirable because the applicant was already holding the post of Head T.C. and his promotion to the post of T.T.C. did not materialize at all. Moreover, a vacancy already existed due to retirement of Sri R. Kujur, Head T.C. Varanasi to the post of C.I.I. and there was a short in the quota reserved for SCs and STs. The applicant had, therefore, objected the same vide his application dated 14-2-83 with the request for finalization of his appeals at an early date.

13. That due to non-finalization of appeals dated 14-1-83 and 17-1-83 the applicant is being overlooked for promotion in higher grade while Sri Rosh. M. Joshi who could also not attend the selection is fit for the

16/My

Locality

post of Head P.C. due to certain circumstances, was given a chance to appear in a supplementary selection on his appeal and he has since been empanelled and called to appear in the selection for the post of Inspector Ticket grade Rs. 700-900.

14. That the cases of these Scheduled Castes employees who do not get selected and where their juniors get selected for being placed on the panel should be put up to Divisional Railway Manager and such cases should be reviewed personally by him but the similar case of the applicant does not appear to have been placed before your honour at the time of ordering selection for the post of Inspector Ticket.

15. That the selection of Inspector Ticket is being held for filling up 22 vacancies out of which 6 vacancies ought to have been reserved in favour of Scheduled Castes candidates (including 2 anticipated vacancies on account of non-availability of Scheduled Tribes candidates). It is noteworthy that only a total number of 10 candidates belonging to Scheduled Castes have been called to appear in the above selection while a requisite number of 18 candidates i.e., 12(S/Cs) + 6(S/Is) = 18 should have been called for consideration of their promotion against reservation quota by going down upon 3 grades below the grade of selection.

16. That the applicant is second-most suitable Scheduled Caste candidate falling within the zone of consideration for selection in the post of Inspector Ticket in grade Rs. 700-900.

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It is, therefore, prayed that your honour shall very kindly look into the matter personally and grant an opportunity of appearing in the selection for the post of Inspector Ticket as in the quota reserved for Scheduled Castes/Scheduled Tribes.

For this act of kindness, the applicant shall remain ever grateful to your honour.

Applicant

Sd/-

Dated : 21-4-1984

(Sunder Lal)
Head Ticket Collector,
Northern Railway,
Bambari.

Forwarded.

Sd/-

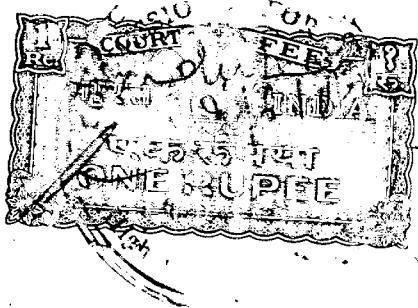
23-4-84
Section Asstt.
Uttar Railway, Bambari.

(X)
Army

Deputy

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOWBENCH LUCNOW



WRIT PETITION NO.

OF 1984.



1984
AFFIDAVIT
85/237
HIGH COURT
ALLAHABAD

Sunder Lal

... petitioner.

Versus

Union of India & others.

.. Opp. Parties.

AFFIDAVIT

I, Sunder Lal aged about 44 years S/O Late Rikhai Ram R/O M-6-A South Railway Colony P.S. Kotwali Distt. Barabanki do hereby solemnly affirmed state as under:-

1. That the deponent is himself the petitioner is fully in the above noted writ petition and as such he be is fully conversant with the facts of the case.
2. That the contents of paras 1 to 42 of the accompanying writ petition are true to my own knowledge and the contents of paras _____ are believed by me to be true on the basis of the legal advise.

LUCKNOW:


DEPONENT

Dated:- 9/6/1984.

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4/6/84

VERIFICATION

I, the above named deponent do hereby verify that the contents of paras 1 & 2 of this affidavit are true to my own knowledge, but no part of it is

-2-

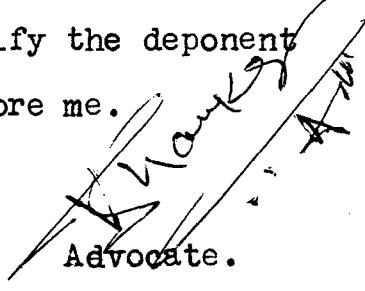
false and nothing material has been concealed
So help me God.

Lucknow:


Deponent

Dated: 9-6-1984.

I identify the deponent
who has signed before me.


Advocate.

Solemnly affirmed before me on 9-6-84
at 12th a.m./p.m. by
Sri Sunder Lal the deponent who is
identified by Sri Vinay Shanker, Advocate,
High Court Lucknow.

I have satisfied myself by examining the
deponent that he understand the contents of
this affidavit which ~~haven't~~ have been
read out and explained by me.

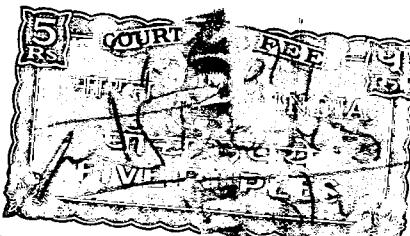

Commissioner
Uttar Pradesh High Court
Lucknow Bench
Date 25/3/84
2-6-84

ब अदालत श्रीमान

High Court Lucknow महोदय
लखनऊ

वादी अपीलान्ट
प्रतिवादी रेस्पन्डेन्ट

वकालतनामा



Sunday 11.10.84

वादी (मुद्रई)

बनाम
Union of India & Others

प्रतिवादी (मुद्राअलेह)

न० मुकद्दमा

सन् १९

पेशी की ता०

१९

ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री विनय शंकर श्रीवास्तव एडवोकेट

टी-४१/बी, हैदर कैनाल कालोनी, चारबाग, लखनऊ

महोदय

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 अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया बसूल करें या सुलहनामा व इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखत) रसीद से लेवें या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अद्यम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी। इसलिए यह वकालतनामा लिख

स्वीकार किया

Accept

भारतीय क्रिया के प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

9

महीना

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

C.M. Application No.

6315/84
of 1984.

Sunder Lal S/O Late Sri Rikhai Ram
aged about 44 years Head Ticket Collector
Northern Railway Barabanki R/O M-6-A south
Railway Colony P.S. Kotwali Barabanki.

.....APPLICANT

In: re 29/1
WRIT PETITION NO. 29/1
of 1984.

Sunder Lal ... Petitioner.

Versus

Union of India & others. ... Opp. Parties.

APPLICATION FOR STAY

The abovenamed applicant most respectfully
begs to submit as under:-

That on the basis of the facts & Circumstances
stated in the accompanying writ petition and affidavit the
applicant prays that this Hon'ble Court may be pleased to:

I). pass an interim order staying the operation of the
reversion order dt. 21/5/84 contained in
Annexure No. XII to the Writ petition. So far it
relates to the applicant till the disposal of the
writ petition.

II). pass such other order or direction as the

Hon'ble Court deems fit in the
circumstances of the case.

Vinay Shanker
(Vinay Shanker)

LUCKNOW:

Advocate ,

Dated:- 11/6/ 1984.

COUNSEL FOR THE APPLICANT

१९
३६०६-६५५ ४५६

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

(अध्याय १२, नियम १ और ७)

शीवानी विभाग

प्रकौणक (मुतफर्क) प्रार्थना - पत्र संख्या सन १९८४ ई०

..... २५/..... सन १९८४ ई० मे

..... Sunder Lal प्रार्थी

..... Unr. of India, 23rd Oct प्रत्याधी

..... १९८२ Divisional Railway Manager, North Indian Railway

..... High Court, Lucknow

..... Lucknow प्रत्याधी

चूंकि उपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में

..... केलिये प्रार्थना-पत्र

..... नांक १ माह १ सन १९८४

प्रार्थना-पत्र क्यों न स्वीकार कर
नियमानुसार विज्ञप्ति कियी और

..... Curzon P. 184
Officer, D.K. 3606
Lucknow

5.८५

1. उससे पहले क्यां अधिका किसी
या करने के लिए कानून अधिकृत
और निर्णय अस्तिकी अनुपस्थित

..... नांक २ माह ६ सन १९८४

तिथि

छिप्टी राजस्थान
इलाहाबाद/लखनऊ

सुनना—इस न्यायालय की १९८२ की नियमावली के अध्याय ३७ नियम ६ के अधीन प्राप्त तछवाना मिल गया।

तछवाना प्राप्त करने वाले कल्पक के हरभास

हाईकोर्ट इलाहाबाद लखनऊ बैन्च, लखनऊ

(अध्याय १२, नियम १ और ७)

दीवानी विभाग

प्रक्रीणक (मुतफरिक) प्रार्थना - पत्र संख्या सम १६ ई०

W.P. No. 291/ सन १६ ई० में

Sunder Lal प्रार्थी

Union of India & Others प्रत्याधी

OP No. 2 Divisional Railway Manager

Northam Railway, Hazratganj

LUCKNOW प्रत्याधी

घूंक उपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में
के नाम के लिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक २५ माह सन १९८४
को या उससे पूर्व उपस्थित होकर कारण बतायें कि प्रार्थना-पत्र क्यों न स्वीकार कर
लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञापित कियी और
दिन होगी।

विदित हो कि आप उपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी
राडिकोकेट या ऐसे व्यक्ति होता, 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 जायेगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक २५ माह सन १९८४
को जारी किया गया।

के राडिकोकेट

तिथि

डिप्टी रजिस्ट्रार
इलाहाबाद/लखनऊ

सुचना—इस न्यायालय की १९८२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त
तलवाना मिल गया।

तलवाना प्राप्त करने वाले कल्कि के हस्ताक्षर

30-6-84

3601

467

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

(अध्याय १२, नियम १ और ७)

स्वीकारी विभाग

प्रकोणांक (मुतफर्क) प्रार्थना - पत्र संख्या सन १६८५ ई०

W.H. No. 2911 संख्या सन १६८५ ई० में

Sunder Lal

प्राधी

Union of India प्रति प्रत्याधी

Civil Union of India

Through General Manager Northern Railway
Benzeele House प्रत्याधी
New Delhi

चूंकि उपर लिखे प्राधी ने इस न्यायालय में उपग्रेड कर मुकदमे के सम्बन्ध में

को नाम के लिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप हिनांक माह सन १६८५ ई० को या उससे पूर्व उपस्थित होकर कारण बतायें कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति कियी और दिन होगी।

११३०

R. P.-51 (a)

Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Posts and Telegraphs Stamp Guide on which no acknowledgment is due. Date

Received a V. registered

addressed to

NP

21/6/84

1 पहले स्वयं अधिकारी किसी ने के लिए कानूनन अधिकृत निर्णय आपकी अनुपस्थित

2 माह सन १६८५ ई०

*Write here "letter", "parcel" or "railway receipt" signature of Receiving Officer with the word "insured" before it when required.

To be filled in only when the article is to be insured: otherwise

to be crossed out by means of two diagonal lines.

Insured for Rs. (in figures) (in words)

weight } rates

(in words) } Grams

Insurance for Rs. P.

छिट्ठी रजिस्ट्रार

इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १६८५ की नियमावली के अध्याय द्वितीय नियम ६ के अधीन प्राप्त लक्षणा मिल गया।

लक्षणा प्राप्त करने वाले धनकों के

५/६५

हाई कोर्ट इलाहाबाद, लखनऊ बैच लखनऊ
(अध्याय १२, नियम १ और ०)

दीवानी विभाग

प्रैकौणिक (मुक्तफर्किक) प्रार्थना सं..... सन् १९..... ई०
विधान सं..... २४/१९४५ सन् १९..... ई० में

Index Case

प्रार्थी

प्रति

Union of India

प्रत्यार्थी

Re

Union of India

Through Central Northern Railway
Bangalore..... प्रत्यार्थी

चूंकि ऊपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त लिखे मुकदमे के सम्बन्ध में
लिये प्रार्थना-पत्र दिया है अतः आपको आदेश दिया जाता है कि
आप दिनांक माह सन् १९४५ ई० को या उससे
पहले उपस्थित होकर कारण बतायें कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय उक्त प्रार्थना
पत्र की सुनवाई उसके बाद नियमानुसार विज्ञति किसी और दिन होगी।

विद्यित हो कि यदि आप ऊपर लिखे दिनांक पर या उससे पहले स्वयं अधिकार किसी पहचाने दे
या ऐसे व्यक्ति द्वारा जो आपकी ओर से कार्य करने के लिए कानून अधिकृत हों, उपस्थित न होंगे
तो उस प्रार्थना-पत्र की सुनवाई और निर्णय आपकी अनुपस्थित में हो जायगा।

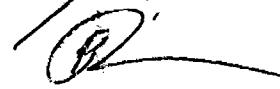
हस्ताक्षर और न्यायालय की मोहर से आज दिनांक माह

सन् १९..... को जारी किया गया।

के एडवोकेट

तिथि.....

दिल्ली रजिस्ट्रार
इलाहाबाद/लखनऊ



मूलना—इस न्यायालय की १९५२ की नियमावली के अध्याय ३७, नियम २ के आधीन प्राप्त तलबाना
मिल गया।

तलबाना पाने वाले कलर्क के हस्ताक्षर

6
APR 10

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

Writ Petition No. 2911 of 1984

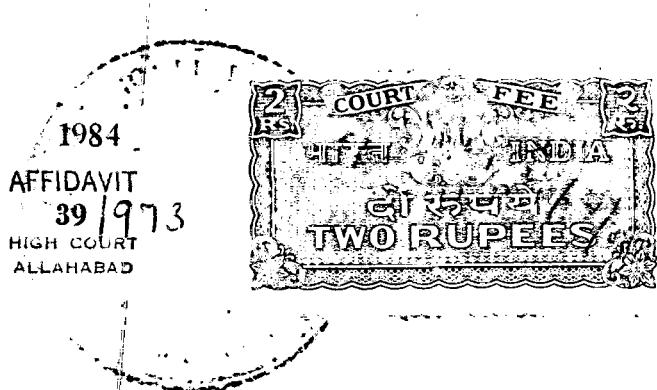
Sunder Lal

Petitioner

Versus

Union of India & others ..

Opp. parties.



Counter Affidavit on behalf
of opposite parties.

I, Sheo Pujan, aged about 40 years son
of Late Sri Harijan, working as Assistant Personnel
Officer, Northern Railway, Hazratganj, Lucknow
do hereby solemnly affirm and state on oath as
under:-

2. That the deponent is working as Assistant
Personnel Officer, Northern Railway, Hazratganj,
Lucknow as such he is fully conversant with the
facts of the ~~the~~ case deposed to hereinbelow.

3. That the deponent has read the writ
petition and has understood its contents and
has been authorised by the opposite parties to
file this counter affidavit on their behalf..

S. Pujan

4. That the contents of para 1 of the writ petition as stated are denied. The fact is that the petitioner is Travelling Ticket Examiner in grade Rs.330-560(RS) and is posted at Faizabad.

5. That the contents of para 2 of the writ petition as stated are denied. The fact is that the petitioner while working as Travelling Ticket Examiner grade 330-560 was promoted as Hd.T.C. grade 425-640 (RS) temporarily, on adhoc basis pending selection w.e.f. 10.4.76. The post of Hd.T.C. grade 425-640 (RS) is a selection post and after conducting selection to fill up the vacancies of Hd.Ticket Collector grade 425-640(RS) as a regular measure. A panel was formed on 2.12.1982 in which the petitioner could not qualify. As such the petitioner was ordered reversion to the post of Travelling Ticket Examiner grade 330-560 (RS) and Sri S.K.Tripathi who having qualified the selection and having been placed on panel was promoted to the post of Hd.Ticket Collector grade Rs.425-640 and ordered posting at Barabanki vice ~~SRI~~ petitioner vide notice No.757E/6-8/Hd.T.C. dated 23.12.1982, a true copy of which is filed herewith as Annexure A-1 to this counter affidavit

24/11/84

Annexure A-1

6. That Sri S.K.Tripathi vide his refusal dated 4.2.1983 refused his promotion as Head Ticket Collector grade 425-640(RS) to work at Barabanki and as such he was reverted as Travelling Ticket Examiner grade 330-560(RS) posting him back at Faizabad simultaneously promoting the petitioner, Travelling Ticket Examiner grade 330-560 as Hd.Ticket Collector grade 425-640(RS) at Barabanki in a purely temporary

Effyarsad

adhoc arrangement vide Notice No.757E/6-8/Hd.TC dated 7.2.1983, as empanelled staff for promotion to the selection post of Hd.Ticket Collector grade 425-640 (RS) were not available. It is also submitted that the petitioner is a scheduled caste employee. A true copy of letter No.757E/6-8/Hd.TC dated 7.2.83 is filed herewith as Annexure A-2 to this counter affidavit.

Annexure A-2

7. That the contents of para 3 of the writ petition as stated are denied and the averments made in preceding paras are reiterated.

8. That the contents of para 4 of the writ petition as stated are denied. The fact is that the post of Hd.Ticket Collector grade 425-640 is a selection post against which the staff who qualify by positive act of selection and are placed on the panel are only entitled to be promoted as a regular measure. P.6A promotional course is a pre-requisite for working on the post of Hd.Ticket Collector grade 425-640(RS) both as a regular measure as well as in stop-gap adhoc arrangement. In order to meet with requirement of Hd.Ticket Collectors grade 425-640 the staff eligible for consideration for promotion to the post of Hd.Ticket Collector grade 425-640(RS) even on purely temporarily adhoc arrangement are booked for qualifying P.6A promotional course from Zonal Training School Chandausi and accordingly petitioner was also booked for P.6A training course which he qualified. Mere qualifying in P.6A promotional course neither exempted him from qualifying the prescribed selection for promotion to post of Hd.Ticket Collector grade 425-640(RS) as a regular measure nor it was a guarantee

H. Ahmad

for placing him on the panel of Head Ticket Collectors grade 425-640(RS) even on his failure in the prescribed selection.

9. That the contents of para 5 of the writ petition as stated are denied. The fact is as stated in paras 5 & 6 of this counter affidavit as above. The petitioner was neither ever borne on any panel formed for filling up the post of Hd.Ticket Collector grade 425-640(RS) as a regular measure nor was ever promoted as Hd.Ticket Collector grade 425-640(RS) on regular basis. He was no doubt promoted as Head Ticket Collector grade 425-640 (RS) as a stop gap local adhoc arrangement due to non-availability of panelled staff twice i.e. w.e.f. 10.4.76 to 22.12.1982 and again w.e.f. 7.2.83 to 30.5.84 and he was reverted to his substantive post to the grade of Rs.330-560 (RS) as a result of promotion of Shri S.K.Tripathi an empanelled employee, due promotion to the post of Head Ticket Collector grade 425-640(RS) as a regular measure. Railway Board's letter dated 5.2.1972 filed as Annexure-2 of writ petition deals with the staff promoted on a post on regular basis as clearly mentioned in its very opening sentence and not the staff promoted on adhoc local arrangement basis.

27/11/84

10. That the contents of para 6 of the writ petition as stated are denied. The fact is that the selection for the post of Head Ticket Collector grade 425-640(RS) fixed to be held with the issue of letters No.181.E/6-8/III dated 25.2.1980 and 10.3.1980 and 7.6.1980 could not be held on administrative grounds. There is no violation of the instructions issued by

Alwarad

Headquarters office as stated in para 6 of the writ petition.

11. That the averments made in para 7 & 8 of the writ petition as stated are denied. The fact remains that the petitioner was called to appear in the selection for the post of Head Ticket Collector grade 425-640(Rs) held on 20.7.1982 and again giving a second chance in the supplementary selection held on 1.8.1982 vide letter No.757E/6-8/Hd.TC dated 2.7.1982 and a telegraphic message dated 24.7.1982 and message No.757E/6-8/Hd.TC dated 26.7.1982, (the true copies of which are filed herewith as Annexure A-3/A-4/A-5 to this counter affidavit) but he neither appeared in the selection on 20.7.1982 and 1.8.1982 nor intimated the division reasons for his non attendance.

12. That the averments made in para 9 of the writ petition as stated are denied. The fact is that the staff who qualified in the written test for the post of Hd.Ticket Collector grade 425-640 in the selection held on 20.7.1982 and 1.8.1982 were only entitled to be called in the viva voce test on 3.11.82 and accordingly they were called vide letter No.757E/6-8/Hd.T.C. dated 19.10.1982, the petitioner did not appear in the written test and as such the question for calling him in the viva voce test did not arise.

13. That the averments made in para 10 of the writ petition as stated are denied. The fact is that the selection for the post of Hd.Ticket Collector grade



Abbas Ali

Annexure A-6

425-640(RS) on 20.7.1982 and 1.8.1982 was a selection held as per normal rules for which the anticipated vacancies due to occur in future were also included to meet the incoming requirement of regular empanelled staff for the post of Hd.Ticket Collector grade Rs. 425-640(RS) and as such the said selection in question was held in accordance with the instructions contained in para 4 of D.O.No.561.E/255-98/Genl.(TC.1) dated 25.4.1979, a true copy of which is filed herewith as Annexure A-6 to this counter affidavit, as cited by the petitioner in para 10 of the writ petition.

14. That the averments made in para 11 of the writ petition as stated are denied. The fact is that the staff who qualified in the selection held for the post of Hd.Ticket Collector grade 425-640(RS) and placed on the panel were promoted as Hd.T.C. grade 425-640(RS) vide Notice No.757E/6-8/Hd.T.C. dated 23.12.1982 by being entitled therefor. Since the petitioner evaded to appear in the selection held on 20.7.1982 and 1.8.1982 giving him two chances to appear in the selection he has no claim for promotion as Hd.Ticket Collector grade 425-640(RS) as a regular measure or to continue even on local adhoc arrangement promotion in preference to the qualified empanelled staff.

15. That the averments made in para 12 of the writ petition as stated are denied. The fact is that the petitioner has tried to mislead the Hon'ble Court through this para as the subject dealt with within the orbit of Railway Board's letter No.PC.III/78/SC/

liberal

dated 13.2.1981 is not at all concerned with the cadre of Ticket Checking branch on the Indian Railways.

16. That the averments made in para 13 of the writ petition as stated are denied. That fact is that hereto the petitioner has mis-represented the fact to mislead the Hon'ble Court in as much as he is comparing the sanctioned strength of the cadre of Hd.T.C. with that of existing and anticipated vacancies for which the selection was held and also that limit of three times and number of vacancies is applied to only for the purpose of holding a written test in connection with a selection comprising of both written test followed by viva voce test wherein a selection only- viva voce test is prescribed, the condition of calling candidates three times to the vacancies as applied.

17. That the averments made in para 14 of the writ petition as stated are denied. The fact is that irrespective of provisions of roster to regular promotion of scheduled castes/ST against the points earmarked for promotion of SC & ST employees they (scheduled castes) have to qualify prescribed selection/test, a pre-requisite for promotion of Railway employees for one post to another and roster does not exempt the SC/ST employees from qualifying the prescribed selection/test for promotion to higher grades. Since the petitioner never qualified the prescribed selection to post of Hd.Ticket Collector grade 425-640(RS) rather evaded to appear in the selection the question of continuing him in post grade i.e. Head Ticket Collector in scale of

26/11/84

M. A. Khan

425-640(RS) did not arise.

18. That the contents of para 15 of the writ petition as stated are denied. The fact is that on availability of empanelled staff for promotion to the post of Head Ticket Collector grade 425-640(RS) the adhoc promotees had to be reverted in order of seniority i.e. starting from junior most. The petitioner being junior to S/Shri B.B.Mukherjee, K.K.Verma had to be reverted to accomodate the empanelled employees namely Shri S.K.Tripathi. As regards S.P.Srivastava he was absorbed direct as Head Ticket Collector on his medical de categorisation and after having been declared qualified to hold the post of Head Ticket Collector by screening committee of three officers as per rules to regulate the absorption of medically de categorised staff provided alternative job and Shri T.R.Srivastava is a very very old empanelled Head Ticket Collector.

24/11/84
19. That the contents of para 16 of the writ petition as stated are denied. The fact remains that both S/Shri J.P.N.Upadhyay and Arun Sapru on qualifying the selection for the post of Head Ticket Collector grade 425-640(RS) were placed on the panel and promoted as such accordingly. There is however no record to corroborate the contention of the petitioner that they have not qualified initial pre-requisite training for appointment as Ticket Collector grade 260-400.

Subbarao 20. That the contents of paras 17 and 18 of the writ petition are denied as stated.

21. That the averments made in para 19 and 20 of the writ petition as stated are denied.

22. That the averments made in para 21 of the writ petition as stated are denied and the averments made in paras 17 and 18 of this counter affidavit are reiterated.

23. That the averments made in para 22 of the writ petition as stated are denied. Since the petitioner was never promoted against the roster points earmarked for Scheduled Castes, the provisions of the Board's letter referred to in this para are not attracted for reversion of an adhoc promotee i.e. petitioner. The petitioner was promoted on adhoc basis on the basis of seniority and reverted on the basis of seniority.

24. That the averments made in para 23 of the writ petition are denied.

25. That the averments made in para 24 of the writ petition are categorically denied. The reversion of the petitioner is as per rules.

26. That the contents of para 25 of the writ petition as stated are denied. The fact is that the selection was to be held for 18 posts of Hd.Ticket Collectors grade 425-640(RS) (19 Genl.+3 SC+1 ST) but due to non availability of selected staff only 16 candidates were empanelled i.e. 23 Genl., 2 SC and 1 ST and no candidate was selected against reserved roster point as stated by the petitioner.

Edharad

24/11/84

27. That the contents of para 26 of the writ petition are denied. The averments made in previous paras clarify the issue.

28. That the averments made in para 27 of the writ petition as stated are denied. The fact is that irrespective of seniority and lag between two selections, the staff falling within the zone of eligibility and consideration for selection of the above post have to qualify the prescribed selection. As regards the petitioner he had no bonafide say against the selection in which he having been called to appear and he failed to appear rather evaded to appear.

29. That the averments made in para 28 of the writ petition as stated are denied and the averments made in para 13 of this counter affidavit are reiterated.

30. That the averments made in para 29 of the writ petition as stated are denied and the averments made in para 10 of this counter affidavit are reiterated.

31. That the contents of para 30 of the writ petition are denied.

32. That the averments made in para 31 of the writ petition as stated are denied. No appeal lies against natural reversion and adhoc promotees in order of seniority to accommodate an empanelled staff.

33. That the contents of para 32 of the writ petition as stated are denied. The fact is that the orders for reversion of the petitioner were issued on

Subbarao

21.5.1984 vide Annexure 13 of the writ petition. The petitioner was absent from duty from 28.5.1984 and his reliever Sri S.K.Tripathi had resumed at Barabanki on 30.5.1984 and taken over charge for the post of Hd.Ticket Collector at Barabanki from Station Supdt. Barabanki because the whereabouts of the petitioner were not known to the administration. The petitioner had not informed the administration about his ill-health upto 20.6.1984 which he should have done under rules. The petitioner had resumed duty on 21.6.1984. He produced the stay order dated 14.6.1984, of Hon'ble High Court, Lucknow Bench, Lucknow alongwith the private medical certificate for the period from 28.5.1984 to 20.6.1984. Order dated 21.5.1984 stood implemented on 30.5.1984 i.e. 16 days before the issue of stay order granted by the Hon'ble Court.

34. That the contents of para 33 of the writ petition are not admitted.

35. That the averments made in paras 34 to 36 of the writ petition are denied.

36. That the contents of para 37 of the writ petition are not admitted.

37. That the contents of para 38 of the writ petition are denied.

38. That the contents of para 39 of the writ petition as stated are denied and the averments in para 11 of this counter affidavit are reiterated.

Gulzar Ali

39. That the averments made in para 40 of the writ petition as stated are denied. The fact is that the petitioner has been spared from Barabanki to resume new job at Faizabad but he again reported sick from 25.6.1984 and not yet joined duty.

40. That the averments made in para 41 of the writ petition are admitted.

41. That the petitioner is not entitled to reliefs claimed and the petition merits dismissal in limini.

Lucknow:

Dated: Nov. 24th 1984

Alifur Rahman
Deponent

Verification

I, the above named deponent do hereby verify that the contents of paras 1 to 3 of this counter affidavit are true to my personal knowledge, those of paras 4 to 40 are based on records hence are believed to be true by me and those para 41 are based on legal advice. No part of it is false and nothing material has been concealed in it so help me God.

Lucknow:

Dated: Nov. 24th 1984

Alifur Rahman
Deponent

I declare that ~~in~~ I am satisfied by the perusal of the records, papers and other details of the case narrated to me by the person

alleging himself to be Sri Sheo
Pujan is that person.

C. A. Bix
Advocate

Solemnly affirmed before me on 24/11/84
at 9 a.m./p.m. by the deponent
who is identified by Sri C.A.Basir,
Advocate, High Court, Lucknow Bench,
Lucknow.

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

X/6
15

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

Writ Petition No.2911 of 1984

Sunder Lal .. Petitioner

Versus

Union of India & others .. Opp. parties.

Annexure No. A-1

Northern Railway

No.757E6/8.Hd.TC

Divl. Office,

Lucknow: dt. 23 Dec. 82

Notice

The following changes are hereby ordered
to have immediate effect:-

1. The undernoted staff ofg.on adhoc basis as
Hd.T.C. in grade Rs.425-640(RS) are hereby reverted
to their substantive post of H.T.T.E. scale Rs.330-
560(RS) and posted at Lucknow.

Sl. No. Name Designation Station Posting on
reversion at

S/Sri

1. V.S.Misra. Offtg.Hd.TC PBH)
2. Smt.Sushila Devi -do- LKO } Lucknow.
3. Sunder Lal SC -do- BBK }
4. D.C.Misra -do- LKO)

The undernoted staff who has been selected
for the post of H.TC scale Rs.425-640(RS) are tempo-
rarily appointed to officiate as Hd.T.C. and posted
at the stations noted against each:-

Sl. No. Name Designation Station Posted at Remarks
S/Sri

1. U.R.Tewari Offtg.Hd.TC KEI KEI

S/Sri

- 2 -

2. Mohd.Moin	Offg.Hd.T.C.	FD	FD
3. R.S.Ahluwalia	-do-	BSB	BSB
4. Puran Lal	xxxx TTE	LKO	LKO Against an existing vacancy.
5. M.R.Kovid	SC Offg.Hd.T.C.	FD	FD
6. S.K.L.Trivedi	T.T.E.	LKO	LKO -do-
7. A.P.Singh	Offg.Hd.T.C.	SHG	SHG
8. R.P.Singh	T.T.E.	LKO	LKO Vice Smt.Sushila Devi reverted as TTE
9. R.N.Dubey	T.T.E.	LKO	LKO Vice Sri D.C.Misra reverted as TTE.
10. R.K.Singh	Offg.Hd.TC	RBL	RBL
11. M.H.Anwar	T.T.E.	LKO	ON Vice Sri B.D.Tewari reverted.
12. M.Kauour(ST)	Offg.Hd.TC	BSB	BSB
13. S.K.Tripathi	TTE	FD	BBK Vice Sri Sunder Lal reverted as TTE.
14. Prem Das	SO Offg.Hd.TC	LKO	LKO
15. J.P.N.Upadhyaya	T.T.E.	FD	BSB Against an existing vacancy.
16. Arun Sapru	T.T.E.	FD	PHB Vice Sri V.S.Misra reverted as TTE.

N.B.

S/Sri M.B.Anwar J.P.N.Upadhyaya TTEs have been
transferred at their own request. They are not entit-
led for transfer allow transfer pass and joining leave
etc.

This has the approval of DPO LKO.

Advise movements

Sd/- K.K.Mehta,
for Divl.Personnel Officer,
Lucknow.

Copy to:-

1. The Station Supdt. LKO.BSB PBH & FD.
2. The station Master BBK KFI SHG ON & RBL
3. The Sr.DAO Lucknow.
4. The Supdt.Pay Bill Section.
5. The Divl.CIT LKO.
6. The AS Commercial Section.
7. Dealer E6/8 TTE.

for information and necessary action.

Subhraman

...

X 17

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

Writ Petition No.2911 of 1984

Sunder Lal .. Petitioner
Versus
Union of India & others .. Opp. parties.

Annexure No.A-2

No.757E6/8-Hd.T.C. Divl. Office,
Northern Railway,
Lucknow.

Dated 7 Feb. 83.

Notice

1. The refusal of Shri S.K.Tripathi, offtg. Hd.TC BBK grade Rs.425-640(RS) for the post of Hd.TC is hereby accepted and reverted to his substantive post of TTE grade Rs.330-560(RS) and posted at Faizabad at his own request. He is debarred from promotion for one year from the date of his application i.e. 4.2.83. During this period the juniors thus promoted will rank senior to him.

2. Shri Sunder Lal offtg. Hd.T.C. BBK grade Rs.425-640(RS) who has been reverted as TTE grade Rs.330-560(RS) and posted at Lucknow vide this office notice of even number dated 23.12.82 is temporarily promoted to officiate as Hd.TC grade Rs.425-640(RS) on adhoc basis and posted at BBK vice Sri S.K. Tripathi item No.1 above.

21/11/84

This issues with the approval of DPOII Lucknow.

Advise movements.

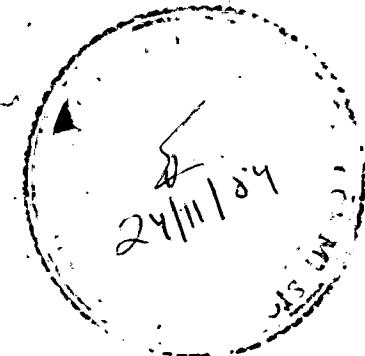
Sd/- K.K.Mehta,
for Divl.Personnel Officer,
Lucknow.

Allahabad

Copy forwarded to:-

1. The Station Supdt. Lucknow & FD.
2. The Station Master, BBK.
3. Sr.DAO LKO.
4. The Supdt. Pay Bill Sec.
5. The A.S.(Commr.) for information and necessary action.

Elphinstone



A/B/91

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

Writ Petition 2911 of 1984

Sunder Lal ..	Petitioner
Versus	
Union of India & others ..	Opp. parties.

Annexure No. A-3

Northern Railway	
No. 757E/6.8 Hd.TC	Divl. Office
	Lucknow Dt. 2.7.1982
The SS LKO BSB FD & PBH	
The SMs ON RBL SHG BBK RBL JNU	
The DCIT & CIT LKO	
The CIT & Hd.TC Varanasi	

Reg: Selection for the post of Hd.Ticket
Collector scale Rs.425-640(RS).

.....

It has been decided to hold a selection
(Written test) for the post of Hd.TC scale 425-640
(RS) on tuesday the 20th July, 1982 at 10 hrs. in
Divl. Office, Lucknow.

24/11/84

The undernoted staff who have opted for the
post of Hd.TC may be directed to appear in the
selection for the written test on the date and time
mentioned above.

<u>Sl.No.</u>	<u>Name</u>	<u>Designation & Station.</u>
	S/Sri	
1.	B.D.Tewari	Offg.Hd.T.C. ON.
2.	H.L.Pandey	T.T.F.LKO.
3.	Kewal Kishan	T.T.F. FD.

Allahabad

Ans/
6/20

S/Sri

4.	U.R.Tewari	Offg.Hd.TC KEI.
5.	B.B.Mukherjee	Hd.T.C.BSB
6.	K.N.Singh	TTE BSB
7.	Mohd.Moin	Offg.Hd.TC FD.
8.	G.Ramnathan	TTE BSB
9.	J.B.Bhardwaj	PI BSB
10.	R.S.Ahluwalia	Offg.Hd.TC BSB
11.	Mohd.Alim Khan.	T.T.E.LKO.
12.	Puran Lal	T.T.E. LKO.
13.	Mewa Lal	T.T.E.LKO.
14.	M.R.Kovid	Offg.Hd.T.C.FD.
15.	K.K.Verma.	" " " JNU
16.	S.K.L.Trivedi	T.T.E.LKO.
17.	Smt.S.B.Srivastava.	Hd.T.C. LKO.
18.	A.P.Singh	Hd.T.C.SHG.
19.	R.P.Singh	TTE LKO.
20.	Sunder Lal SC	Offg.Hd.TC BBK.
21.	R.N.Dubey	T.T.E. LKO.
22.	R.K.Singh.	Hd.T.C.RBL.
23.	D.C.Misra.	Hd.T.C.LKO.
24.	Abdul Basi	TTE BSB
25.	M.H.Anwar	TTE LKO.
26.	M.Kujur	Hd.T.C.BSB
27.	V.J.Singh	TTE LKO.
28.	S.K.Tripathi	T.T.E. FD.
29.	K.D.Singh Sondhi	Hd.T.C.LKO.
30.	Smt.Vimla Gupta.	T.T.E. LKO.
31.	M.Haq	T.T.E.LKO.
32.	M.R.Zaidi	T.T.E.LKO.
33.	Prem Das SC	Hd.T.C.LKO.
34.	J.P.N.Upadhyaya	T.T.E. FD.
35.	Arum Sapru	T.T.E. FD.

24/11/84

Gharrasad

S/Sri

36. Smt.Darsh Jetly T.T.E. LKO.
37. Smt.Neelma Pandey T.T.E. LKO.

All senior subordinate will please personally ensure that above is notified and got noted from the staff under clear signature so that there is no complaint from staff that he was not advised about the written test.

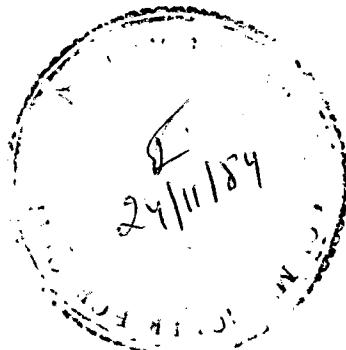
A copy of the circular should also be displayed at the notice board of your office.

Sd/-
for DPO LKO

Copy to OS LKO. He will please book the committee room for written test and also depute one waterman and daftry on the above date.

Hillstrand

≈ 1



X/9
6/52

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

Writ Petition No.2911 of 1984

Sunder Lal .. Petitioner

Versus

Union of India & others .. Opposite parties.

Annexure No.A-4

Te le gram

From LKO

To 24.7.82

SS LKO BSB & FD
SMs ON & BBK
C/-Divl.CIT LKO CIT BSB

No.757E/6-8/Hd.TC aaa FKNERY even 2nd instt.aaa direct
Kewal Krishna, S.K.Tripathi, JPN Upadhy, TTE FD Mohd.
Moin and MR Kovid offtg.Hd.TC FD, B.D.Tewari Hd.TC
ON, BB Mukherjee, R.S.Ahluwalia, Hd.TC BSB, K.N.Singh
C Ramnathan, Abdul Baqi, TTE BSB, J.P.Bhardwaj offtg.
PI BSB, Sunder Lal Hd.TC BBK and V.J.Singh and Smt.
Vimla Devi Gupta and Neelma Pandey TTE LKO to attend
supp.selection(written test) on 1.8.82 at 10.00 hrs.
positively aaa No further date will be fixed aaa
Reasons for their absence on 20.7.82 be also advised
aaa Staff should not be detained on administration
ground aaa ENS IIE aaa

DPO I LKO.

24/11/84

Chhawat

14/92
23

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

Writ Petition 2911 of 1984

Sunder Lal

..

Petitioner

Versus

Union of India & others ..

Opp. parties.

Annexure No.A-5

Northern Railway

No.757E6/8.Hd.TC

dated 26.7.82

The Commercial Controller,
Lucknow(in office).

Sub:- Supp.selection for the post of Hd.TC on 1.8.82

Ref:- This Office Xr.wire No.757E6/8 Hd.TC dt.24.7.82

The following staff did not attend in the written test for the post of Hd.TC on 20.7.82. They are required to attend the supp.selection written test on 1.8.82 at 10.00 hrs. with the reasons of their absence on 20.7.82. SS LKO BSB FD SMs ON BBK Divl.CIT LKO & CIT BSB be advised accordingly to spare the staff concerned. This is extremely most urgent.

1.	Shri Kewal Krishan	TTE FD.
2.	" S.K.Tripathi	TTE FD.
3.	" J.P.N.Upadhyay	TTE FD.
4.	" Mohd.Moin	Hd.TC FD.
5.	" M.R.Kovid	Hd.TC FD.
6.	" B.D.Tewari	Hd.TC ON.
7.	" B.B.Mukherjee	Hd.TC BSB.
8.	" R.S.Ahluwalia	Hd.TC BSB.
9.	" K.N.Singh.	TTE BSB
10.	" G.Ramnathban.	TTE BSB
11.	" Abdul Baqi	TTE BSB
12.	" J.P.Mukherjee Bhardwaj	Offg.PI BSB
13.	" Sunder Lal	Hd.TC BBK BBK.
14.	" V.J.Singh.	TTE LKO.
15.	Smt. Vimla Devi Gupta	TTE LKO
16.	" Neelma Pandey.	TTE LKO.

Chhavani

Sd/- for DPO/LKO.

Mai 6/29

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

Writ Petition 2911 of 1984

Sunder Lal .. Petitioner

Versus

Union of India & others .. Opp. parties.

Annexure No.A-6

A. Jauhari
Chief Personnel Officer.

Hd. Qrs. Office,
Baroda House,
Northern Railway,
New Delhi.

D.O.No.561E/255-98 Genl.(PCO Pt.I) Dated 25.4.79.

My dear

Sub: Filling of upgraded posts as a result of
directive recently received from the Rly. Board

.....

With a view to ensure that Rly. Bd's instruc-
tions recently received for upgradation of various
selection posts wef 1.1.79 as a therefore are expedi-
tiously implemented, it has been decided that-

24/11/84
1. Written test is to be dispensed with only in
the case of selection for filling up upgraded post
alongwith existing regular vacancies, if any, for
which selection is with the specific object of x
avoiding delay in the implementation of upgradation
scheme and not to be cited as precedent. This should
be made clear to all concerned.

2. In the case for selections where staff from
different categories are eligible, will have to be

Elaborated

held.

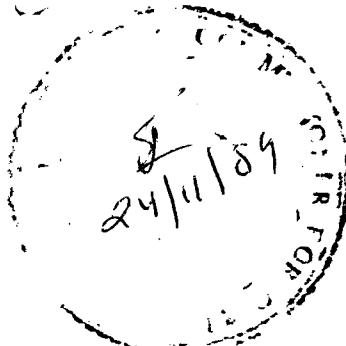
3. In the case of selections held in connection with the upgradation scheme the ban on holding selection within six months of the previous selection will not apply and also the candidates who failed in earlier selection will be eligible for the selection now proposed.

4. Selections to fill up only regular posts now as well as future will however continue to be held as per normal rules.

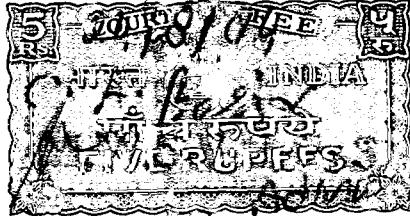
5. I would again emphasise that special efforts should be made to fill up the upgraded posts on top priority basis and monthly progress report sent to this office without delay for further transmission to the Railway Board.

Jauhari

Yours sincerely,
Sd/- A. Jauhari.



1985
24.8.84



1984

N.R.

VAKALATNAMA

J.V. 3

N.P. no. 2911 2 1984

Before The Hon'ble The High Court of Judicature Allahabad at Lucknow
In the Court of

Sunder Lal

Plaintiff
Defendant

Claimant
Appellant
Petitioner

Versus

Defendant
Plaintiff

Respondent

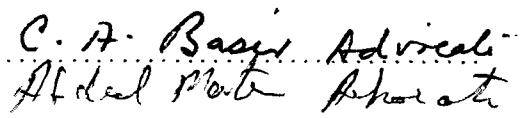
Union of India & others

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



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

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

C. A. Basir Advocate


in pursuance of this authority.

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

~~Accepted on behalf of party no 1
for D.P.I.A. dated 20.8.1984
C. A. Basir~~

Dated 20/8/1984.

Designation of the Executive Officer

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

Writ Petition No. 2911 of 1984

A/952

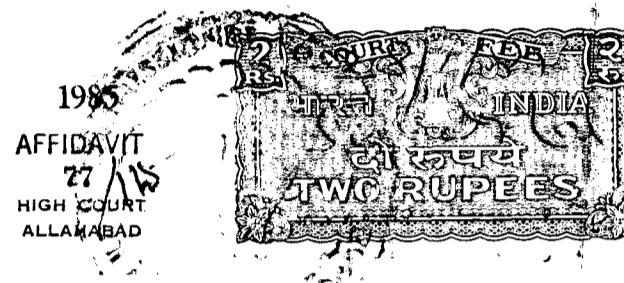
Sunder Lal

----- Petitioner

Versus

Union of India & others

----- Opp.. parties



Rejoinder Affidavit on behalf
of the petitioner.

I, Sunder Lal, aged about 45 years son of late Sri Rikhai Ram, Head Ticket Collector (under suspension) Northern Railway, Barabanki resident of Railway Quarter No. M-6-A, South Railway Colony, Police Station Kotwali, District Barabanki do hereby solemnly affirm and state on oath as under :-

1. That the deponent is himself the petitioner in the above noted petition, as such he is fully conversant of the case deposed to herein below.
2. That the contents of para 4 of the counter affidavit under reply, are denied and the averments made in para 1 of the writ petition are reiterated. The petitioner is at present under the state of suspension as Head Ticket Collector, Barabanki vide letter No. C/111-13-84-VK dated 24-7-1984.
3. That the contents of para 5 of the counter affidavit as stated are denied. The fact is that the petitioner was given promotion as a Head Ticket Collector grade Rs. 425-640(RS) on the basis of his seniority and option for the post after refusal of Sri M.R. Kovid against reserved quota w.e.f. 11-4-1976. His promotion was neither subject to pending selection nor any other understanding. He was promoted with the specific object of making good the shortfall of Scheduled Caste quota in view of Railway Board's letter No. E(SCT)74CM15/34 dated 31-8-1974. His pay was, therefore, fixed in grade Rs. 425-640(RS). He was never paid officiating allowance for working on the post of Head Ticket Collector. He is still continuing in the grade Rs. 425-640(RS) and has earned 8 increments by which his basic pay now reached

28/8/85



@ Rs. 545/- p.m. It is not correct that the petitioner could not qualify the selection. The fact is that he was not given second chance for his selection as admissible under rules. As regards letter No. 757E6/8-Hd.TC dated 23-12-1982, reversion of the petitioner was made indiscriminately without assigning any reason. Being aggrieved of his unwarranted reversion, the petitioner had preferred an appeal dated 14-1-1983 followed by an additional appeal dated 17-1-1983 against the same which are already on record as Annexures No. 9 & 10 (IX & X) of the writ petition.

4. That the contents of para 6 of the counter affidavit as stated are denied. The fact remains that Sri S.K. Tripathi was debarred from promotion in future vide notice No. 757E6/8-Hd.TC dated 7-2-1983. Annexure A-2 of the counter affidavit filed by the opposite party has been tampered with adding 3 more words "for one year" after the word "promotion" in line No. 5 and before the word "from" in line No. 6 of the aforesaid notice. True copy of the original order is already on record as Annexure XI of the writ petition. Moreover, promotion of Sri S.K. Tripathi against reserved post in preference to the Scheduled Caste petitioner, is also not justified.

5. That the contents of para 7 of the counter affidavit are denied and averments made in para 3 of the writ petition are reiterated. The fact is that the petitioner was promoted against a clear, permanent, non-fortuitous and a reserved vacancy in order to make good the shortfall of Scheduled Caste quota by reverting Sri M.D. Gupta, Head Ticket Collector, Lucknow who was a selected and empanelled as a Head Ticket Collector vide notice No. 757E6/8-4 dated 16-8-1973. It is noteworthy that at the same time of simultaneous promotion of the petitioner and reversion of Sri M.D. Gupta, there were 3 persons namely S/Sri B.D. Tripathi, S.C. Gideon and B.D. Tewari who were neither selected nor panelled but officiating temporarily as Head Ticket Collectors on ad-hoc basis purely as a local arrangement and they were retained as Head Ticket Collectors in preference to Sri M.D. Gupta selected. Besides this, S/Sri K.L. Srivastava, J.P. Shukla and T.N. Srivastava who having qualified the selection and having been placed on panel alongwith Sri M.D. Gupta vide notice No. 757E6/8-4 dated 16-8-1973 were also not considered for promotion as Head Ticket Collectors in place of unselected staff officiating temporarily on ad-hoc basis purely as a local arrangement. Surprising is the fact that S/Sri B.D. Tripathi, S.C. Gideon and B.D. Tewari were never reverted despite availability of selected and panelled staff and they retired as Head Ticket Collectors grade Rs. 425-640(RS).

*Received
1/2/85*

6. That the contents of para 8 of the counter affidavit as stated are denied and the averments made in para 4 of the writ petition are reiterated. The fact is that none of the staff, except the petitioner, working on the post of Head Ticket Collector has qualified P-6-A promotional course as yet while the opposite party has admitted that the said course is pre-requisite for working on the post of Head Ticket Collector both as a regular measure and as well as in ad-hoc arrangement.

7. That the contents of para 9 of the counter affidavit as stated are denied and the averments made in para 5 of the writ petition are reiterated. It is not correct that the petitioner was promoted as a Head Ticket Collector grade Rs. 425-640(RS) as a stop gap local ad-hoc arrangement due to non availability of panelled staff. The fact is that the petitioner was promoted against a permanent reserved vacancy by reverting a selected and panelled Head Ticket Collector Sri M.D. Gupta and 3 more panelled staff S/Sri K.L. Srivastava, J.P. Shukla and T.N. Srivastava were also available at the time of promotion of the petitioner. The fact is as stated in para 3 & 5 of this rejoinder affidavit. The petitioner has been continuously working as a Head Ticket Collector grade Rs. 425-640(RS) w.e.f. 11-4-1976. In fact, his reversion order passed vide notice No. 757E6/8-Hd.TC dated 23-12-1982 and again vide notice No. 757 E/6-8/Hd.TC dated 21-5-1984 never stood implemented. At present, the petitioner is under the state of suspension as Head Ticket Collector, Barabanki vide letter No. C/111-13-84-VK dated 24-7-1984. The ad-hoc arrangement of the petitioner, as alleged, should have not been continued beyond six months as per rules. In their letter No. E(SCT)74CM15/34 dated 31-8-1974, the Railway Board had directed that if in a selection, required number of Scheduled Caste/Tribe candidates do not qualify, the best amongst such candidates should be promoted on ad-hoc basis for six months to the extent vacancies reserved for them and that their promotion should be regularised if their performance during six months is found to be satisfactory. The petitioner has been continuing as Head Ticket Collector satisfactorily for more than 8 years on regular basis and as such he is entitled for his confirmation in view of Railway Board's letter No. E(NG)I-69CM5/31 dated 5-2-1972 which is on record as Annexure II of the writ petition.

8. That the contents of para 10 of the counter affidavit as stated are denied and the averments made in para 6 of the writ petition are reiterated.

9. That the contents of para 11 of the counter affidavit

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as stated are denied and the averments made in para 7 & 8 of the writ petition are reiterated. The fact is that the petitioner was called to appear in the selection for the post of Head Ticket Collector held on 20-7-1982 but he could not attend the same due to being sick under RMC No. 053469. The petitioner was not given second chance for his selection in the supplementary selection held on 1-8-1982. The fact may please be ascertained from the remarks of the Station Master, Barabanki recorded on Annexure X of the writ petition. The fact is that the petitioner was neither communicated telegraphic message dated 24-7-1982 nor Control Phone message dated 26-7-1982 copies of which have been filed as Annexure No. A/4 and A/5 of the counter affidavit by the opposite party. It is also remarkable that one Sri Mohd. Moin, who could not attend selections held on 20-7-1982 and 1-8-1982, was given third chance for his selection and empanelled as Head Ticket Collector while only two chances are to be given as per extant rules. It is evident from records that Sri Mohd. Moin neither qualified selection (written test) held on 20-7-1982 & 1-8-1982 nor called for via-voce test on 3-11-1982 but he was declared as selected and posted as Head Ticket Collector at Faizabad vide notice No. 757E6/8-Hd.TC dated 23-12-1982.

10. That the averments made in para 12 of the counter affidavit as stated are denied and the averments made in para 9 of the writ petition are reiterated.

11. That the contents of para 13 of the counter affidavit as stated are denied and the averments made in para 10 of the writ petition are reiterated. The fact is that selections held for the post of Head Ticket Collector on 20-7-1982 & 1-8-1982 were confined to only one category of staff for filling up upgraded posts alongwith existing regular vacancies and as such written test had to be dispensed with as per instructions contained in para 1 of the D.O. letter No. 561E/255-98/Genl.(PC) Pt. I dated 25-4-1979. The opposite party has tried to mislead the Hon'ble Court by referring para 4 of the aforesaid letter. It shall not be irrelevant to mention here that written tests were completely dispensed with in holding selections for the post of Conductors and Special Ticket Examiners grade Rs. 425-640(RS) on basis of the same letter a true copy of which is enclosed herewith as Annexure R-I of this rejoinder affidavit.

12. That the contents of para 14 of the counter affidavit as stated are denied and the averments made in para 11 of the writ petition are reiterated. The fact is that the selection for the post of Head Ticket Collector was completed without giving the petitioner a second chance as admissible under rules whereas one



Sri Mohd. Moin was given a third chance for his selection in violation of extant rules. The fact is stated in para 9 of this rejoinder affidavit. It is also not correct that the petitioner had no claim for his regular promotion or even to continue on ad-hoc basis. The fact is that the petitioner being a Scheduled Caste candidate within the field of consideration had a legitimate claim for his promotion against reserved quota on regular basis even if promoted on ad-hoc basis in view of Railway Board's letters No. E(SCT)74CM15/34 dated 31-8-1974 and No. E(SCT)74CM 15/35 dated 25-3-1976. The petitioner had also a legitimate claim for his promotion even on ad-hoc basis in view of Railway Board's letters No. E(SCT)68CM15/12 dated 10-2-1971 and even number dated 16-3-1974. It is reiterated that the petitioner was promoted as Head Ticket Collector w.e.f. 11-4-1976 against a reserved vacancy in preference to the qualified and panelled staff. The fact is stated in para 5 of this rejoinder affidavit.

13. That the contents of para 15 of the counter affidavit as stated are denied and the everments made in para 12 of the writ petition are reiterated.

14. That the contents of para 16 of the counter affidavit as stated are denied and the everments made in para 13 of the writ petition are reiterated.

15. That the contents of para 17 of the counter affidavit as stated are denied and the everments made in para 14 of the writ petition are reiterated. The fact is that the petitioner had to be retained as Head Ticket Collector against reserved quota which remained unfilled even after the selection. It is evident from letter No. 757-E/6-8/CIT dated 23-7-1984 that junior-most Scheduled Castes/Tribes staff working in grade Rs. 330-560(RS) have been given promotions in accordance with the points ^W ~~XXXXXX~~ reserved for them in higher grade of Rs. 550-750(RS) without having qualified in selection grade of Rs. 425-640(RS).

16. That the contents of para 18 of the counter affidavit as stated are denied. The fact is that the petitioner is the senior-most person in the cadre of Head Ticket Collectors being promoted from 11-4-1976 and all the Head Ticket Collectors mentioned in para 15 of the writ petition were promoted on later dates. According to the prescribed roster of Head Ticket Collectors, maintained by the Railway administration, promotees had to be reverted in the inverse order of the roster starting from junior-most on the rule of length of service but this was not done. The question of reversion of the petitioner did not arise due to being promoted against an earlier point of the roster and also being a

Scheduled Caste candidate because reserved quota remained unfilled in the category of Head Ticket Collector. Moreover, the petitioner has been denied protection given to Scheduled Castes/Tribes at the time of reversion as contained in Railway Board's letter No. E(SCT)65CM15/6 dated 21-11-1965 and para 3 of Chapter IX of the Brochure on Reservation for Scheduled Caste and Scheduled Tribes in Railway Services. It is incorrect that Sri S.P. Srivastava was absorbed direct as Head Ticket Collector on his medical decategorisation. In fact, he was appointed as Ticket Collector grade Rs. 260-400 (RS) and posted at Faizabad. He also worked as Ticket Collector Grade-I and Travelling Ticket Examiner in grade Rs. 330-560(RS) at Faizabad. He was promoted to officiate as a Head Ticket Collector grade Rs. 425-640(RS) and posted at Sultanpur vide letter No. 181E6/8-TC(i) dated 25-2-1982. While working as Travelling Ticket Examiner at Faizabad, Sri S.P. Srivastava was also required to appear in the selection for the post of Head Ticket Collector grade Rs. 425-640(RS) vide letters No. 181E6/8-iii dated 10-3-1980 and No. 181E6/8-III dated nil, June 1980 to which he attended alongwith the petitioner. As regards Sri T.N. Srivastava, his panel stood exhausted on 15-8-1975. As per Railway Board's letter No. E(NG)62PM1/91 dated 10-7-1964, the currency of panel for non-gazetted selection posts should be two years from the date of approval of the same by the competent authority or till exhausted whichever is earlier. The fact is that Sri T.N. Srivastava was promoted as a Head Ticket Collector temporarily on ad-hoc basis and purely as a local arrangement vide letter No. 181E6/8-TC dated 28-2-1977.

17. That the contents of para 19 of the counter affidavit as stated are denied. The fact is that S/Sri J.P.N. Upadhyay and Arun Sapru were directly appointed as Ticket Collector grade Rs. 260-400(RS) and posted at Faizabad w.e.f. 16-1-1976 at the behest of then Railway Minister, Hon'ble Sri Kamla Pati Tripathi without approval of Railway Service Commission under "Railway Minister's Quota". It is reiterated that both the above persons have not yet qualified in the initial pre-requisite trainee course from Zonal Training School, Chandausi which is essential for continuance as Ticket Collector grade Rs. 260-400(RS). They were also promoted as Travelling Ticket Examiner grade Rs. 330-560(RS) on ad-hoc basis vide letter No. 181E6/8-TC(i) dated 7-8-1981 and being thus promoted, they should have not been considered for promotion as Head Ticket Collector grade Rs. 425-640(RS).

18. That the contents of para 20 of the counter affidavit as stated are denied and averments made in para 17 & 18 of the writ petition are reiterated. The fact is as stated in para 6 of this rejoinder affidavit.

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 19. That the contents of para 21 of the counter affidavit as stated are denied and the everments made in para 19 & 20 of the writ petition are reiterated.

20. That the contents of para 22 of the counter affidavit as stated are denied and the everments made in para 21 of the writ petition are reiterated. The fact remains that unselected and disqualified staff of "other" community are still continuing as Head Ticket Collectors against reserved vacancies despite availability of "reserved" community candidates like the petitioner. The fact is as stated in para 16 of this rejoinder affidavit.

21. That the contents of para 23 of the counter affidavit as stated are denied and the everments made in para 22 of the writ petition are reiterated. The fact is that the petitioner was promoted against the roster points earmarked for Scheduled Castes by way of reverting a selected and empanelled staff of "other" community Sri M.D. Gupta. Therefore, the provisions of the Railway Board's letters referred to in para 22 of the writ petition are attracted for reversion of the petitioner.

22. That the contents of para 24 of the counter affidavit as stated are denied and the everments made in para 23 of the writ petition are reiterated.

23. That the contents of para 25 of the counter affidavit as stated are denied and the everments made in para 24 of the writ petition are reiterated. The fact is that the reversion of the petitioner is not as per rules. The reversion of the petitioner has been made by way of punishment on complaint dated 25-4-1984 from the Station Superintendent, Barabanki without giving chance of defence. Notes and orders regarding reversion of the petitioner on original file may kindly be summoned by the Hon'ble Court in order to test the bonafides of the opposite party.

24. That the contents of para 26 of the counter affidavit as stated are denied and the everments made in para 25 of the writ petition are reiterated. The opposite party has admitted 3 posts to be reserved in favour of Scheduled Castes whereas only 2 Scheduled castes candidates namely S/Sri M.R. Kovid and Prem Dass had been promoted against reserved quota. Therefore, the petitioner should have been retained as Head Ticket Collector against 3rd reserved vacancy because there should be no deficiency particularly when reserved community candidate is available and he should be promoted ad-hoc against reserved quota and the case




of such ad-hoc promotee should be submitted to the General Manager for review after six months of his working for inclusion or otherwise of such candidate in the panel vide Railway Board's letter No. E(SCT)74CM15/35 dated 25-3-1976. Moreover, 156 posts in grade Rs. 425-640(RS), 48 posts in grade Rs. 550-750(RS) and 27 posts in grade Rs. 700-900(RS) had also been sanctioned as a result of upgrading w.e.f. 1-1-1984. Due to the above upgrading, staff junior to the petitioner as well as staff working in grade Rs. 330-560(RS) as Travelling Ticket Examiners like S/Sri Ghanshyam Dass and Ram Saran have been promoted in grade Rs. 550-750(RS) vide letter No. 757-E/6-8/CIT dated 23-7-1984 to which the petitioner has already protested vide his representation dated 6-8-1984. The reversion of the petitioner was not the least justified in view of the sanction of 156 posts in grade Rs. 425-640(RS) as a result of upgrading w.e.f. 1-1-1984. It is reiterated that reserved vacancy can not be filled by "others" unless it is dereserved in terms of Railway Board's letter No. E(SCT)74CM15/29 dated 5-8-1974. The opposite party admits reserved quota of 3 Scheduled Castes candidates for the post of Head Ticket Collector but only 2 Scheduled Castes candidates namely S/Sri M.R. Kovid and Prem Dass were promoted vide letter No. 757E6/8-Hd.TC dated 23-12-1982 despite availability of Scheduled Gaste petitioner against 3rd reserved vacancy which has been filled by "other" community candidate without following proper procedure as laid down in Railway Board's letter referred to above in this para.

25. That the contents of para 27 of the counter affidavit as stated are denied and the averments made in para 26 of the writ petition are reiterated.

26. That the contents of para 28 of the counter affidavit as stated are denied and the averments made in para 27 of the writ petition are reiterated. The fact is that the petitioner was not called to appear in the selection for the second time on 1-8-1982 while Sri Mohd. Moin was given third chance for his selection in violation of extant rules.

27. That the contents of para 29 of the counter affidavit as stated are denied and the averments made in para 11 of this rejoinder affidavit are reiterated.

28. That the contents of para 30 of the counter affidavit as stated are denied and the averments made in para 29 of the writ petition are reiterated.

29. That the contents of para 31 of the counter affidavit as stated are denied and the averments made in para 30 of the writ



[Handwritten signature]

petition are reiterated.

30. That the contents of para 32 of the counter affidavit as stated are denied and the averments made in para 31 of the writ petition are reiterated. The petitioner was reverted indiscriminately without good and sufficient justification. The fact is as stated in para 23 & 24 of this rejoinder affidavit.

31. That the contents of para 33 of the counter affidavit are denied. The fact is that the petitioner was sanctioned leave from 22-5-1984 to 27-5-1984 with permission to leave headquarters. He was sick from 28-5-1984 and Station Supdt., Barabanki was duly informed of the same through an application dated 30-5-1984 alongwith "Sick" certificate as well as address. Sri S.K. Tripathi reported for duty on 30-5-1984 while the petitioner was holding charge of post and office of Head Ticket Collector, Barabanki. The contention of the opposite party that Sri S.K. Tripathi took over charge for the post of Head Ticket Collector at Barabanki from Station Supdt., Barabanki because the whereabouts of the petitioner were not known to the administration is baseless. The petitioner reported for duty to Station Supdt., Barabanki on 18-6-1984 alongwith "Fit" certificate and also handed over copy of stay order dated 14-6-1984 passed by this Hon'ble Court. He was required to see A.D.M.O., Barabanki for medical check-up and fitness and he was declared fit to resume duties from 21-6-1984. The petitioner resumed and performed duty as Head Ticket Collector, Barabanki on 21-6-1984. He was ordered by Station Supdt., Barabanki vide letter No. SS/TC/E-6/84/BBK dated 21-6-1984 to see Sr. D.C.S., Lucknow on 22-6-1984 alongwith the copy of stay order for further orders. The petitioner complied with the orders and handed over copy of stay order to Supdt. (Commercial), N. Rly., Lucknow on 22-6-1984. The petitioner performed his duties as Head Ticket Collector, Barabanki on 23rd & 24th June, 1984. He remained sick from 25-6-1984 to 22-7-1984 vide RMC No. 453178 under treatment of A.D.M.O., Barabanki. The petitioner resumed his duties as Head Ticket Collector, Barabanki on 23-7-1984. He was ordered by Station Supdt., Barabanki vide letter No. SS/TC/E-7/84/BBK dated 23-7-1984 to see D.C.S., Lucknow on 24-7-1984. The petitioner again complied with the orders and this time he was suddenly placed under suspension by an order No. C/111-13-84-VK dated 24-7-1984. He was also detained in Divisional Office at Lucknow from 24-7-1984 to 26-7-1984. On return from Divisional Office, he apprised Station Supdt., Barabanki of all the events. The petitioner was directed by Station Supdt., Barabanki not to mark his daily attendance in the muster-roll till revocation of his suspension. He was again required to see Sr. D.C.S., Lucknow on 30-7-1984 and when he



Ramachand

attended Divisional Office, he was served with a Memorandum No. C/111-13-84 MH dated 30-7-1984 signed by Sr. D.C.S., Lucknow and spared back to Barabanki. It is significant to mention here that the petitioner was suspended and issued Memorandum on basis of the same complaint dated 25-4-1984 from Station Supdt., Barabanki upon which he was already reverted as a punitive measure without giving chance of defence vide notice No. 757E/6-8/Hd.TC dated 21-5-1984 against which this Hon'ble Court had granted stay order dated 14-6-1984. Under the circumstances before-mentioned, the question of implementation of reversion order dated 21-5-1984 does not arise at all. The petitioner is still holding the post of Head Ticket Collector grade Rs. 425-640(RS) at Barabanki. He has been placed under suspension as Head Ticket Collector, Barabanki w.e.f. 24th July, 1984 vide letter No. C/111-13-84-VK dated 24-7-1984 and also issued Memorandum No. C/111-13-84 MH dated ¹30-7-1984 as Head Ticket Collector, Barabanki.

32. That the averments made in para 33 of the writ petition are reiterated.

33. That the averments made in paras 35 to 37 of the counter affidavit are denied and the averments made in paras 34 to 38 ~~xxx~~ of the writ petition are reiterated.

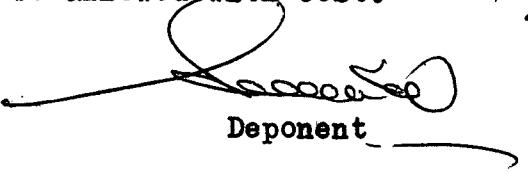
34. That the contents of para 38 of the counter affidavit as stated are denied and the averments made in para 9 of this rejoinder affidavit are reiterated.

35. That the averments made in para 39 of the counter affidavit are denied. The fact is that the opposite party has tried to mislead the Hon'ble Court through this para by not mentioning the date of sparing of the petitioner from Barabanki to resume new job at Faizabad. The fact remains that the petitioner is under the state of suspension as Head Ticket Collector, Barabanki w.e.f. 24-7-1984 and his suspension has not been revoked as yet. During his suspension period, the petitioner has been treated as spared on and from 10-8-1984 to Faizabad without following proper procedure by Station Supdt., Barabanki i.e. 56 days after the issue of stay order granted by this Hon'ble Court. As per extant rules, no reversion or transfer order could be effective during the suspension period of an employee.

36. That the averments made in para 41 of the counter affidavit are denied. The petitioner is entitled to reliefs claimed and the writ petition deserves to be allowed with cost.

Lucknow:

Dated: January 28, 1985.


Deponent

Verification

I, the above named deponent do hereby verify that the contents of paras 1 & 2 of this rejoinder affidavit are true to my personal knowledge and those of paras 3 to 35 are based on my own knowledge hence are believed to be true by me and those of para 36 are based on legal advice. No part of it is false and nothing material has been concealed in it so help me God.



Lucknow:

Dated: January 28, 1985.

Deponent

I identify the deponent
who has signed before me.



Solemnly affirmed before me on 28.1.85
at 11.00 a.m./p.m. by the deponent Sunder Lal
who is identified by Sri Vinay Shanker,
Advocate, High Court, Lucknow Bench, Lucknow.

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

Venus Raman
OATH COMMISSIONER
High Court, Allahabad
Panchayat Bhawan
Date 27/1/85
Date 28.1.85

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

Writ Petition No. 2911 of 1984.

Sunder Lal

----- Petitioner

Versus

Union of India & others

----- Opp. Parties

Annexure No. R-I

Northern Railway,
Headquarter Office,
Baroda House, New Delhi.

A. Jauhari,
C.P.O.

D.O. No. 561E/255-98 Gen. (PC) Pt. I dated 25-4-1979.

My dear

Subject: Filling up of upgraded posts as a result
of directives recently received from
Railway Board.

With a view to ensure that the Railway Board's instruc-
tions recently received for ~~the~~ upgradation of various selection
posts with effect from 1-1-79 and thereafter are expeditiously
implemented, it has been decided that:-

1. Written test is to be dispensed with only in case of
selections for filling up upgraded posts alongwith existing regular
vacancies if any, for which selections are confined to one category
of staff. This decision is with the specific object of avoiding
delay in the implementation of upgradation ~~XXXXXX~~ scheme and not to
be cited as a precedent. This should be made clear to all concerned.
2. In the case of selections, the staff from different
categories are eligible, a written test will ~~XXXXXX~~ be however have
to be held.
3. In case of selections held in connection with the
upgradation scheme, the ban on holding a selection within six
months of the previous selection will not apply and also the
candidates who failed in the earlier selection will be eligible
for the selection now proposed.
4. Selections to fill up only regular posts now as well as
in future will however continue to be held as per normal rules.

Received
I would again emphasise that special efforts should be
made to fill up upgraded posts on top priority basis and monthly
~~XXXXXX~~ progress report sent to this office without delay for
further transmission to the Railway Board.

Yours sincerely,
Sd/- A. Jauhari.

TRUE COPY.

P/HOT

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW BENCH: LUCKNOW

Civil. M. C. Application No. 11,105 (W).

of 1984.



Sunder Lal, S/C Late Sri Rikhari Ram,
aged about 44 years, head Ticket Collector,
North rn Railway, Barabanki, R/C Railway quarter
No. K-6-A Railway Colony, S. Kotawali, Barabanki.

----- Applicant.

15545
In re:

.....rit petition No. 2911 of 1984

Versus

Union of India & others. ... Opp. Parties.

APPLICATION FOR PAYMENT OF SALARY

12/11/84
The above named applicant most respectfully begs to submit as under:-

In view of the facts and circumstances stated the accompanying affidavit, it is most respectfully prayed that the opposite parties No. 283 may be directed to pay the salary of the petitioner/ applicant alongwith other employees everyone in month.

Lucknow:
Dated:- 19. 10. 1984.

Vinay Shanker

COUNSEL FOR THE APPLICANT

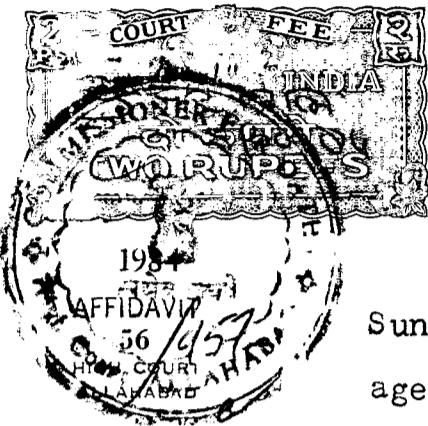
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4/2

IN THE HON'BL. HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH: LUCKNOW

Civil Misc. Application No. of 1984.



Sunder Lal, S/O Late Sri Rikhai Ram,
aged about 44 years, Head Ticket Collector,
Northern Railway, Barabanki, R/O Railway
quarter No. M-6-A South Railway Colony, P.S.
Kotawali, Barabanki.

... Applicant

In re:

Writ petition No. 2911 of 1984.

Versus

Union of India & others. ... Opp. Parties.

AFFIDAVIT IN SUPPORT OF APPLICATION FOR PAYMENT OF SALARY

56/157
Sunder Lal, aged about 44 years, S/O Late Sri Rikhai Ram, Head Ticket Collector Northern Railway, Barabanki, R/O Rly. Quarter No. M-6-A South Rly. Colony Police Station, Kotawali Distt. Barabanki, do hereby solemnly affirms as under:-

1. That the deponent is himself petitioner in the above noted writ petition and as such fully conversant with the facts of the case.
2. That the deponent had filed the aforesaid petition challenging his order of reversion dated 21.5.1984 passed by Opposite party No. 3, divisional personal officer from the post of Head Ticket Collector, Barabanki to the post of travelling Ticket Examiner, Faizabad, vide Annexure No. 13 to the writ petition and this Hon'ble Court was pleased to admit the writ petition and styaed the implementation of the ~~implementation of the~~ ²

Sunder Lal

-2-

impugned reversion order of the applicant/ petitioner vide its order dated. 14.6.1984.

3. That the deponent was ~~xx~~ under treatment ~~and was~~ under Rly. Dr. and was declared fit on ~~21st~~ June 1984. The deponent reported to the duty to the station ~~adhishak~~, Barabanki alongwith stay order of this Hon'ble Court and resumed his duties on the same date as Head Ticket Collector Barabanki and was directed to see the opposite party no.3 alongwith the stay order. The deponent attended the office of the opposite party no.2 and handedover him the copy of stay order passed by this Hon'ble Court on 22.6.84. Then he was told by the opposite parties ~~that~~ go and wait for further order at Barabanki.

4. That the deponent when he was on duty, he was directed by the station Superintendent Barabanki viae his letter dated 23.7.1984 to attend the office of the Divisional Commercial Superintendent on 24.7.1984 for further orders.

5. That the deponent attended the/opposite party no. 2 ~~xx~~ on 24.7.1984 and on same day he was served with a ~~suspension order~~ ~~chargesheet memo~~ as Head T.C. Barabanki and subsequently on 30.7.84 he was served with a memorandum of chargesheet as Head T.C. Barabanki and since then the deponent is under suspension as Head T.C. Barabanki.

6. That ~~xx~~ inspite of the stay order of this Hon'ble Court prior to his suspension neither he is paid his salary ~~since~~ ^{since} ~~substance~~ June 84 nor any ~~substantial~~ allowance on the ground that he has been reverted and posted at Faizabad and he can get his salary only at Faizabad or from the Court who has passed stay order in his favour and they will not pay him anything.



-3-

7. That it will be not out of place to mention here that before passing the stay ^{order} ~~by~~ this Hon'ble Court, neither the deponent was ever asked by the opposite parties to handover the charge of his office nor ~~any~~ any spare memo was issued to him for his reverted post by the opposite parties no.2 & 3 and subsequently after receiving the st. y order of this Hon'ble Court they have placed the deponent under suspension as Head T.C. Barabanki, which clearly indicates that still the petitioner is holding the post of the Head T.C. Barabanki, but not getting his pay since June 1984.

8. That without salary the deponent and other ~~his~~ family member^s ~~are~~ hard pressed as he is only earning member of his family.

9. That it is expedient in the interest of Justice that the deponent may get his duty and salary from the opposite parties no. 2 & 3 regularly in future and his back wages ^{since June 84} may be paid by the opposite parties No. 2 & 3.

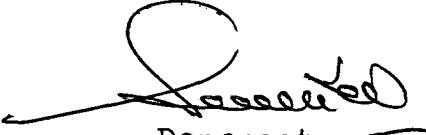
Lucknow:
Dated:- 10.10.1984.


Deponent.

VERIFICATION

I, the above named deponent do hereby verify that the contents of para 1 to 9 of this affidavit are true to my own knowledge and no part of it is false. So Help me God.

Lucknow:
Dated:- 10.10.1984.


Deponent.

I, identify the deponent who deposed himself Sunder Lal, who has signed before me.


(Vinay Shanker) V/V

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD SECTOR
23-A Thornhill Road, Allahabad-211 001

4206
AC

No.CAT/All/2012/No. 1512 of the 20/9/2012

4050

APPLICANT(S)

Under the

VERSUS

RESPONDENT(S)

Under the

TO

1. Mr. M. V. Jaiswal, Advocate, Lucknow High Court, Lucknow.

2. Mr. S. S. Chaudhary, Advocate, Lucknow High Court, Lucknow.

Whereas the marginally noted cases has been transferred by
Under the provision of the
Administrative Tribunal Act XIII of 1985 and registered in this Tribunal
as above.

Writ Petition No. 2012
of 1989
of the Lucknow High Court, Lucknow

The Tribunal has fixed date of
19/10/1989, The
hearing of the matter at Gandhi
Shawan, Opp. Residency, Lucknow.
If no appearance is made on your
behalf by your name one duly authorised to
act and plead on your behalf

The matter will be heard and decided in your absence.

Given under my hand seal of the Tribunal this
day of 1989.

inesh/

DEPUTY REGISTRAR

ब्रह्मालत श्रीमान

वादो शुद्धकर्मी

प्रतिवादी शुद्धालय का बकालत नामा

वादो शुद्धदड़ी

प्रतिवादी शुद्धालय

बनाम

३० शुक्रदमा सन १९ पेशी को तारीख
उमर लिखे शुक्रदमे में अपनी ओर से ली

१९

३०

स्टॉकेट

महोदय

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा ब्रह्मकरार करता है। लिख देता है। इस मुकदमे में वकील महोदय रहना अथवा अन्य वकील द्वारा जो पैरवी व जवाब देही व प्रश्न करेगा अन्य वकील द्वारा विवाह करे या तौटा दें उमारी ओर से दीक्षित री जारी होने वाले रहे, याथा वहां दरेगा उत्तराता हलबाल दावा अपील व निगरानी हमारी ओर से होते हुए या अपने हस्तांशर से दाखिल करे और तस्वीर करे या शुक्रदमा उत्तरों पर लोरी ले जा दें या हमारी या विवाह प्राप्तीलहानी का दाखिल किया समय अपने या इसारे हस्तांशर द्वारा दृष्टि द से देखा एवं वियुक्त करे वकील श्वोटश द्वारा की गई वह कर्यवाही इसका तर्का रक्षा रक्षा है और होयो जै भी यह कहता है तो वै हर पेशी स्वेच्छा या विवाह अपने बोकार लो भेजता रहेगा अगर शुक्रदमा अद्य शुद्धी में एक तरफा ऐसे लेलाया देखा हो जाता है तो इसकी उपेहारी ऐसी वकील पर न होगी।

इस लिखे यह बकालतनामा लिख दिया कि प्रमाण रहे और समय पर तास आये।

तारी शुगवाड़ी

पिंडल

महीना

हस्तांशर

हाथी शुगवाड़ी

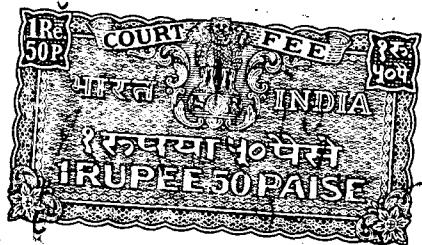
तास अदालत

३० मुकदमा

नाम यकीनन

C/208

HARDWARE & CO. LTD. V. I. I. I. T. TRIBUNAL,
LUCKNOW, LUCKNOW, LUCKNOW.
C.M. Am No 45/86
I.A. No. 1512 of 1986



Sunder Lal.. Petitioner.

VERSUS

Union of India and others Opp. Parties.

FF 113/90 F 4

APPLICATION FOR PERMISSION TO FILE THE
SUPPLEMENTARY AFFIDAVIT.

The applicant-petitioner, named above, respectfully prays as under :-

That due to non-availability of one circular issued by the Head Quarter Office, Northern Railway, Baroda House, New Delhi dated 29.7.1985 could not be filed by the applicant-petitioner earlier and now the same has been traced out by the applicant which is filed alongwith the accompanying affidavit.

Prayer

WHEREFORE, it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to take the supplementary affidavit on record for proper adjudication of the case.

Lucknow: Dated:
Jan. 1990.


(Vinay Shanker)
Advocate.
Counsel for the Petitioner.

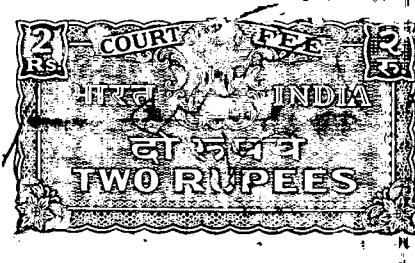
1209

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BANCH, LUCKNOW.

T.A. No. 1512 of 1988

1290
MR. DAVID
35 IM
DIST. COURT
48.

17/1/90



Sunder Lal Petitioner.

Versus

Union of India and others Opp. Parties.

SUPPLEMENTARY AFFIDAVIT

I, Sunder Lal aged about 51 years son of late Sri Rikhai Ram resident of 554/37/4-Ga/11-A, Pawan Puri, P.S. Alambagh, Lucknow City, Lucknow, the deponent, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the petitioner himself in the above noted claim petition, and as such is fully conversant with the facts of the case deposed herein.

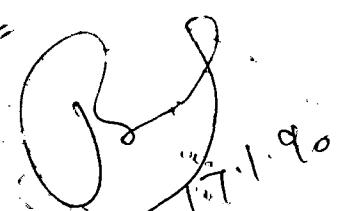
2. That the present claim petition is directed against the reversion order of the deponent which is stayed by the Hon'ble High Court.

3. That the petitioner was promoted to the post of Head Picket Collector on 11.4.1976 and till then he is working on the said post.

Sunder Lal

4. That at the time of filing of the present claim petition and also the rejoinder affidavit, one most relevant circular issued by the Head Quarter Office, Northern Railway, Baroda House, New Delhi dated 29.7.1985 was not available with the deponent and for that the same could not be filed earlier.

5. That the said circular provides that staff of the Ticket Checking Categories viz. Head Ticket Collector, S.T's and Conductors in Rs. 425-640 who worked on ad-hoc basis against the regular vacancies during the period of 1979-to 31st December, 1983 pending finalisation of the selection /suitability test may be regularised from the date of their completing 18 months ad-hoc service against a regular post for the purposes of their seniority and for the promotion of their next higher post/scale and this circular is directly applicable in the present case of the deponent, and as such it is filing in the present claim petition for proper adjudication of the case as very relevant material, which is being filed herewith along with this supplementary affidavit as Annexure No. S-1 and the same be treated as a part of the claim petition.



6. That the deponent also wants to file one letter of station Master, Barabanki under whom control the deponent was working at the time of his reversion under challenge, which clearly shows that the deponent was ~~never~~ informed for the date of the second test held by the Railway Administration which is itself clear from the endorsement made by the Station



C/21

on the application of the document dated 17.1.1983,
 a photo copy of which is filed herewith as Annexure
 No. 8-II to this affidavit.

Lucknow: Dated:
 Jan. 17, 1990.


 Deponent.

Verification

I, the deponent, named above, do hereby verify that the contents of paras 1 to 6 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.

Signed and verified this on 17 th day of January, 1990 at Lucknow.


 Deponent.

I identify the deponent who has signed before me.

Vinay Chauhan
 Advocate
 Counsel for the petitioner.

C.P. 355M

10.20 A.M.
 Vinay Chauhan
 Advocate
 Counsel for the petitioner.

JY

17/1/90

2000 4
C/202

NORTHERN RAILWAY

HEADQUARTERS OFFICE
NEW DELHI

NO: 522-5/85 (EIC) loose.
Dated: 07-07-1985.

The Divisional Railway Managers,
Northern Railway,
ALD, DELI, LFO, FZR, M3, BKN & JU, 30 JUL 1985

Sub: Implementation of cadre restructuring
in the Ticket Checking staff.

Ref: This office circular letter of even number
dated 25.6.1985 addressed to DRM/ALD and copy
to all other DRMs.

In this office circular letter under reference, it was decided that
all those SIs in grade Rs. 425-640/RS who had worked on adhoc basis
during 1979 to 1984 in the absence of finalisation of selection
may be regularised after they had completed 18 months service
against regular vacancies from the date of their completing 18 months.

Against the decision issued in this office circular letter under
reference, the General Secretary/IRMU represented that there had been
similar cases in the categories of Hd. TCRs and Conductors, grade
Rs. 425-640/RS as well where either selections had not been completed
in the case of Hd. TCRs, grade Rs. 425-640/RS or suitability through
viva-voce test in the case of Conductors, grade Rs. 425-640/RS for
sufficient long time with the result that the staff of these categories ***

The matter has again been examined and it has been decided that the
staff of all the above mentioned three categories viz. Hd. TCRs, SIs
and Conductors, grade Rs. 425-640/RS who work on adhoc basis against
regular vacancies during the period 1979 to 31.12.1983 pending
finalisation of the selection/suitability test through viva-voce
may be regularised from the date of their completing 13 months adhoc
service against regular posts for the purpose of their seniority
for promotion to a next higher grade.

*** also continued to work against
regular vacancies on adhoc basis.

(RAGHUNAND DASS)

for General Manager(P)

Copy for information to Dy.C.P.C.(Union), Baroda House,
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