

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE 15141 OF 87

NAME OF THE PARTIES Mohammed Haider Applicant

Versus

Union of India Respondent

Part A.

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CERTIFICATE

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

File A/C Weeded out / Destroyed

Dated

Counter Signed.....



Section Officer/In charge


Signature of the
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

Mohai Harnef

FORM OF INDEX

C.C. No. - O.A./T.A./R.A./E.C.P./ No. 1514-1937

P A R T - I

W.P. No. 3726/84

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2.	Order Sheet	:-	03 to 11
3.	Any other orders	:-	Nil
4.	Judgement	:-	12
5.	S.L.P.	:-	Nil

D.Y. Registrat

Supervising Officer

Dealing Clerk

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

Dealing Clerk

V.K. Mishra

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUC NO. .

INDEX SHEET

CAUSE TITLE T.A. 1514 of 1987

Name of the parties _____

Mohd. Hanif

Applicant.

Versus.

union of India

Respondents.

Part A.B.C.

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A - file

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3. Affidavit - - - - - A16 - A17
4. Annexures - - - - - A18 - A31
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C - file

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Group A/14(CC)

To the Hon'ble High Court of Judicature at Allahabad,
(Lucknow Division), Lucknow

Petition No. 3920 of 1984

Donald Tajif

--Petition by

versus

Union of India and Another

--Opp-Parties

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B. B. Saksena

(B.B. Saksena)
Advocate

3

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



8153
Civil Misc. Application No. (W) of 1984

In
Writ Petition No. 3920 of 1984

Mohammad Hanif..... Petitioner-
Applicant

versus

UNION of India and others..... opp. parties

Stay application

The petitioner-applicant most respectfully begs to state
as under:

On the basis of the facts stated and grounds raised
in the accompanying writ petition this Hon'ble Court be
pleased to pass an interim order staying the further
operation of Annexure No.1 to this writ petition
requiring the petitioner to demit office on 30.6.1984,
and be further pleased to direct the opposite parties to
treat the petitioner as continuing in service till he
attains the age of 60 years viz 30.6.86.

B.C.Saksena

Lucknow Dated 8.8.1984

(B.C.Saksena)
Advocate
Counsel for the petitioner

— 4 —

(A1) 5

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W. P.

No. 3720

of 1981

Manohar Lal vs. Union of India & Ors.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
8.8.81	Hon. K. H. Patel, J. Hon. S. C. Malhotra	
	Recd. - Issue notice	
	Recd. K. H. Patel	
	Recd. S. C. M.	
	8.8.81	
	C. M. & H. No. 8153 (w) &c.	
	(Hon. K. H. Patel, J.)	
	Hon. S. C. M., J.	
	Issue notice	
	Recd. K. H. Patel	
	Recd. S. C. M.	
	8.8.81	
	30-10-81	13/8
	Fixed for attendance and for filing C. M. in w. p.	
	and C. M. No. 8153 (w) 81	
	Recd. N. I. T. O. C. P. No. 1 and 2	
	Recd. R. P.	

Banks
4-9-81

—5—

(38)

MEMO

~~expressed~~
Five addrs: R1100. —

1st

c. final Court fee report

c. cert of lower

2nd

c. cert of lower

~~and also be filed.~~

St. J. Beach

last n/pique in Annexure 3

= 9.4.84

District: hukums

hukums

8884

for R. N. S. J.

for S. C. M. J.

Admit. / see

note

1. 1/1

10/11/14

stamps

14.8.84

6

Order Sheet

A2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH ALLAHABAD

T.A. No. 1514 of 1987.

Mohd Hanif vs. Union of India.

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	<p><u>Copies for</u></p> <p>W.P. No 3920/84 has been received on transfer from Allahabad High Court L.R.</p> <p>C.P. to admitted.</p> <p>C.A. not filed.</p> <p>Adv. D. C. Saxena is represented on behalf of Union of India.</p> <p>NOT issued to both the parties from 23-3-88 by regd post.</p> <p>Not delivered as yet. Copy have been returned.</p> <p>Submitted for orders.</p> <p style="text-align: right;">1988 1985</p>	2

---+--- (B)

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

T.A. 1514/87
..... NO. OF 198
..... Mohd. Hameef vs. Union of India & Ors.

No. of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
	13-6-88	<p><u>Office Notes</u></p> <p>An application has been filed in this Tribunal for transferring the case No. 1514/87 to the Circuit Bench, Lucknow. It is approved, 18th July 1988. 18th July 1988 may kindly be fixed for hearing at Circuit Bench, Lucknow. In this regard the notices may be sent to the parties concerned.</p> <p><u>1376</u></p> <p>Non-objection.</p> <p>Shri Atmajit Bhargava is present for respondents. He wants time to file reply. The same is allowed. Notice may be served on the applicant's counsel; Shri B.C. Saxena is allowed ten days time to file rejoinder. The case is listed for final hearing on 23-7-88.</p> <p><u>By Post</u> 1518 18/6/88</p> <p><u>1376</u></p> <p><u>Non-objection</u></p>	
	18-7-88		

FC

AU

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT DELHI NO.

C.A./T.A. NO. 1514 198

Applicant(s)

versus

Respondent(s)

S.	Date	Orders
	<u>29-3-89</u>	<u>DR</u>
		<p>Counsel for the respondent wants further time to file reply. He is allowed to do so. Fix for 9-5-89.</p> <p style="text-align: right;">Brahmadyut</p>
9.5.89		<p>Mr. G. S. Sharma, JM Mr. K. J. Roman, AM</p> <p>None is present for the Applicant. Sri A. Bhargava, learned Counsel is present to the Respondent and he repeats the old request for time to file reply. This is a writ petition of 1984 and in case no reply is filed within a month, the case shall proceed ex-parte. In case the reply is filed, re-judgment may be filed within 2 weeks thereafter.</p> <p>List it for hearing on 25.7.89.</p> <p style="text-align: right;">JM</p>
25/7		<p>152</p> <p>JM</p> <p>9.5.89</p> <p>25/7</p> <p>No setting Adj. to 17/10/89</p>

No reply filed
Submitted to ex-parte hearing

h
16/10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,
CIRCUIT BENCH, LUCKNOW.

T.A. No. 1514/87 (T)
(W.P. No. 3820/84)

Mohammad Hanif Petitioner.

-Vs-

Union of India Respondent.

Hon. Mr. P.S. Habib Mohammad, A.M.
Hon. Mr. J.P. Sharma, J.M.

(By Hon. J.P. SHARMA.)

Mohammad Hanif filed writ petition before the Hon'ble High Court while he was in service and posted in the Railway Protection Force. According to the averments made in the writ petition, the applicant/petitioner detailed at the bottom of the writ petition ^{he has prayed for} petition for quashing the retirement order No. 786, dated 15.11.83 and an order in the form of mandamus to continue to work in service till he attains the age of 60 years i.e. 30.6.1986. It appears that an interim stay was granted to the applicant by the Hon'ble High Court and even on attaining the age of 60 years the applicant stands retired from service. Thus, the prayer in the writ petition, by itself, has become infructuous.

We have heard the learned counsel for the respondents Sri Arjun Bhargva. He also has the same view regarding the relief desired by the applicant that the prayer of the applicant stands granted by lapse of time during the pendency of the matter before the Hon'ble High Court. This matter was transferred under section 29 of the Administrative Tribunal Act, 1985 to the Tribunal for decision.

When the matter was taken up today, it was found the writ petition/T.A. has become infructuous. In view of the facts narrated above the T.A./writ petition is, therefore dismissed as infructuous with costs to parties.

J.P. Sharma
J.M.
11.4.91

H.M.
A.M.

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

Mohai. Hanif

VS.

(C) 2.23. O.A./T.A./R.A./C.C.P./ No. 437-1990

P A R T - I

FORM OF INDEX

in w.p.no
7A 1514/87 (I) 3720/87

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3.	Any other orders	:-	NIL
4.	Judgement	:-	03
5.	S.L.P.	:-	NIL

28/12/98

Dr. Registrat

Supervising Officer

28/12/98
Dealing Clerk

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

28/12/98
Dealing Clerk

V.K. Mishra

- 1 -

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCI NO. . .

INDEX SHEET

CAUSE TITLE Review 437 of 1990
in 1514 of 87 (T)

Name of the parties _____

Mohd. Hanif _____ Applicant.

Versus.

Union of India _____ Respondents.

Part A.B.C.

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B-File

B1 — B8

- 2 -

Review Appl. No. 437/90(C)
8m

T. A. No 1514/87(T)

(A)

Or:

C.M. Review Appl. No.
437/90(C) has been filed
in T.A. No. 1514/87

on 20/7/90.

The case bearing T.A. was
decided by the Bench
of Hon. Mr. P.C. Jain (A.M.)
and Hon. Mr. J.P. Sharma
J.M. on 29/5/90.

The Author of the
Judgment is Hon.
Mr. J.P. Sharma, J.M.

S.f. O.

SSP
20/7

Review Petition
be sent to
the Honorable
members with
file.
26.10.90.

C.P.S.
Bawali

— 3 —

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH : LUCKNOW

A2

R.A. NO.437/90 (L)
IN T.A. NO.1514/87 (T)

Date of
Decision 9-1-91

Mohd. Hanif

... Review Applicant

Vs.

Union of India & Ors

... Respondents

CORAM : HON'BLE MR. P. S. HABEEB MOHAMED, MEMBER (A)
HON'BLE MR. J. P. SHARMA, MEMBER (J)

C R D E R

- - - - -

Hon'ble Shri J. P. Sharma, Member (J) :

The present review application has been filed by the applicant (petitioner in writ petition No. 3920/84) for reviewing the judgment dated 11.3.1990 under Section 22 of the Administrative Tribunals Act, 1985 read with Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987. The impugned order was passed by the Circuit Bench at Lucknow consisting of myself and Hon'ble Shri P. S. Habeeb Mohamed, Administrative Member (now Administrative Member at the Bangalore Bench of the Tribunal). The order has been passed ex-parte without hearing the applicant and not on merits of the case. The proper remedy available to the applicant is under Rule 15 (2) of the C.A.T. (Procedure) Rules, 1987 which is reproduced below :

"(2) Where an application has been dismissed for default and the applicant files an application within thirty days from the date of dismissal and satisfies the Tribunal and there was sufficient cause for his non-appearance when the application was called for hearing, the Tribunal shall make an order setting aside the order dismissing the application and restore the same :

Provided, however, where the case was disposed of on merits the decision shall not be reopened except by way of review."

2. In view of the above, the present R.A. is misconceived and is, therefore, dismissed by circulation.

J. P. Sharma.

(J. P. Sharma)
Member (J)

P. S. Habeeb Mohamed

Member (A)

Service (Central)

H. C. J. Form No. 88, Part I

HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUCKNOW BENCH), LUCKNOW

CIVIL SIDE

ORIGINAL JURISDICTION

WRIT PETITION NO. 3920 OF 1984

UNDER

Mohd. Heini

Petitioner.

VERSUS

The Union of India & Ors.

Opposite-Party

Date of institution

8-7-84

Counsel for Petitioner

QBC Lawyer

Counsel for Opposite-Party

Date and result of petition

(A3)

In the Central Administrative Tribunal,
Circuit Bench, Lucknow

Review Petition arising out of judgment
dated 11.4.1990 in T.A. no. 1514 of 1987(T)
(Writ Petition no. 3920 of 1984)

Review Application No. 437/90(L),
In
T. A. No. 1514/87(T)

Re:

Mohammed Hanif, aged about 64 years Son of Mr
Nazeer Ahmad care of Sri Israr Ahmad, Railway
quarters no. V.G. 58A, V.G. Colony, Alambagh
Lucknow. --Petitioner-
applicant
versus

1. The Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi
2. The Additional Chief Mechanical Engineer (U)
Loco, Charbagh, Northern Railway, Lucknow

Respondents-
opp.-parties

This application on behalf of the
applicant above-named most respectfully sheweth:

*Filed today
SHE
20/7/90*

1. That the applicant had filed the writ
petition before the High Court of Judicature at
Allahabad, Lucknow Bench, Lucknow which was
numbered as Writ Petition no. 3920 of 1984.
The same was subsequently transferred under
section 29 of the Administrative Tribunals Act,
1985 to this Hon'ble Tribunal.

2. That on 10.4.1990 the case was taken up for
hearing before this Hon'ble Tribunal and an

M. Hanif

~~xxx4x1990~~ order was pronounced on 11.4.1990. A photostat copy of the said order dated 11.4.1990 is being annexed as Annexure no. 1 to the affidavit accompanying this application.

3. That a perusal of the said order would show that this Hon'ble Tribunal was pleased to take the view that in view of grant of interim order by the Hon'ble High Court the writ petition / T.A. has become infructuous.

4. That it could not be pointed out to this Hon'ble Hon'ble Tribunal that though the/High Court had granted the stay order on 8.8.1984, the respondents did not honour the said interim order and consequently the applicant was not allowed to work and was not paid salary, for the period 1.7.1984 to 30.7.1986.

5. That since the writ petition / T.A. has not been decided on merits and the retirement order dated 15.11.1983 bearing no. 786 has not been interfered with, the consequence is that the respondents are ^{not} in a mood to pay to the applicant arrears of salary for the period 1.7.1984 to 30.6.1986.

6. That in the circumstances it is necessary in the interest of justice that this Hon'ble Tribunal be pleased to decide the legality or otherwise of the impugned notice of retirement.

M. Jaffar

AS

-3-

as also the issue raised in the writ petition, viz., what is the age of superannuation of the petitioner. The reliefs prayed for in view of the facts indicated hereinabove need to be adjudicated.

Wherefore, it is respectfully prayed that this Hon'ble Court be pleased to review its judgment dated 11.4.1990 and hear and decide the T.A&W Writ Petition on merits and grant the reliefs prayed for in the writ petition.


(B.C. Saksena)
Advocate
Counsel for the applicant

Lucknow Dated

July , 1990



AB

In the Central Administrative Tribunal,
Circuit Bench, Lucknow

Affidavit

in

Review petition arising out of judgment
dated 11.4.1990 in W.P. no. 1514 of 1987(T)/
Writ Petition no. 3920 of 1984



1990
AFFIDAVIT
85/1293
HIGH COURT
ALLAHABAD

Re:

Mohammad Hanif

--Petitioner-
applicant

versus

Union of India and another

--Respondents-
opp-parties

I, Mohammad Hanif, aged about 64 years,
son of Sri Nazir Ahmad, care of Sri Israr Ahmad,
Railway Quarter no. V.G. 58-A, V.G. Colony, Alambagh,
Lucknow, do hereby solemnly take oath and affirm
as under:-

1. That I am the applicant in the above- noted case
and I am fully acquainted with the facts of the
case.

2. That the applicant had filed the writ
petition before the High Court of Judicature at
Allahabad, Lucknow Bench, Lucknow which was
numbered as Writ Petition no. 3920 of 1984.
The same was subsequently transferred under

M Hanif

-2-

section 29 of the Administrative Tribunals Act, 1985 to this Hon'ble Tribunal.

3. That on 10.4.1990 the case was taken up for hearing before this Hon'ble Tribunal and an order was pronounced on 11th April, 1990. A photostat copy of the said order dated 11.4.1990 is being annexed as Annexure no.1 to this affidavit.

4. That a perusal of the said order would show that this Hon'ble Tribunal was pleased to take the view that in view of the grant of interim order by the Hon'ble High Court, the writ petition / T.A. has become infructuous.

5. That it could not be pointed out to this Hon'ble Tribunal that though the Hon'ble High Court had granted the stay order on 8.8.1984, the respondents did not honour the said interim order and consequently the applicant was not allowed to work and was not paid salary for the period 1.7.1984 to 30.7.1986.

6. That since the writ petition / T.A. has not been decided on merits and the reitrement order dated 15.11.1983 bearing no. 786 has not been interfered with, the consequence is that the respondents are not in a mood to pay to the applicant arrears of salary for the period ¹ 1.7.1984 to 30.6.1986.

7. That in the circumstances it is necessary

-3-

in the interest of justice that this Hon'ble Tribunal be pleased to decide the legality or otherwise of the impugned notice of retirement as also the issue raised in the writ petition, viz., what is the age of superannuation of the petitioner. The reliefs prayed for in view of the facts indicated hereinabove need to be adjudicated.

M. Hanif

Deponent

Lucknow Dated
July 19 1990

I, the deponent named above do hereby verify that contents of paras 1 to 7 are true to my own knowledge. No part of it is false and nothing material has been concealed; so help me God.

M. Hanif
Deponent

Lucknow Dated
July 19 1990

I identify the deponent who has signed in my presence.

R.K. Srivastava
(R.K. Srivastava)
Clerk to Sri B.C. Saksena, Advocate

Solemnly affirmed before me on 17-7-93
at 1-05 a.m/p.m by *M. Hanif*
the deponent who is identified by Sri *B.C. Saksena*
clerk to Sri *B.C. Saksena*
Advocate, High Court, Allahabad. I have satisfied
myself by examining the deponent that he understands
the contents of the affidavit which has been read
out and explained by me.

A. A. D.

- 8511293

17-7-93

(49)

In the Central Administrative Tribunal

Circuit Bench, Lucknow

T.A. no. 1514 of 1987 (Writ Petition no.
3920 of 1983)

Mohammed Hanif

-Petitioner-
applicant

versus

Union of India and another

-Opp-parties

Annexure no. 1

M. Hanif

17-7-80

AP

4510

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW,
CIRCUIT BENCH, LUCKNOW.

T.A. No. 1514/57 (T)
(W.P. No. 3820/86)

Mohammad Hanif Petitioner.

Union of India Respondent.

Mr. P.S. Habib Mohammad, A.M.
Hon. Mr. J.P. Sharma, J.A.

(By Hon. J.P. SHARMA.)

Mohammed Hanif filed writ petition before the Hon'ble High Court while he was in service and posted in the Railway Protection Force. According to the statement made in the writ petition, the applicant/petitioner detailed at the bottom of the writ petitionor quashing the retirement order No. 756, dated 15.11.83 and an order in the form of mandamus to continue to work in service till he attains the age of 60 years i.e. 30.6.1986. It appears that an interim stay was granted to the applicant by the Hon'ble High Court and even on attaining the age of 60 years the applicant stands retired from service. Thus, the prayer in the writ petition, in itself, has become infructuous.

We have heard the learned counsel for the respondents Sri Arjun Bharya. He also has the same view regarding the relief desired by the applicant that the prayer of the applicant stands granted by lapse of time during the pendency of the matter before the Hon'ble High Court. This matter was transferred under section 28 of the Administrative Tribunal Act, 1985 to the Tribunal for decision.

When the matter was taken up today, it was found the writ petition/T.A. has become infructuous. In view of the facts narrated above the T.A./writ petition is, therefore dismissed infructuous with costs to parties.

J.M. 11.6.86

A.M.

DRS/1196
Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow

97280

411

4510

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,
CIRCUIT BENCH, LUCKNOW.

T.A. No. 1514/87(T)
(W.P. No. 3820/84)

Mohammed Banif Petitioner.

..... Union of India Respondent.

Hon. Mr. P.S. Habib Mohammad, A.M.
Hon. Mr. J.P. Sharma, J.M.

(By Hon. J.P. SHARMA.)

Mohammed Banif filed writ petition before the Hon'ble High Court while he was in service and posted in the Railway Protection Force. According to the statements made in the writ petition, the applicant/petitioner detailed at the bottom of the writ petition, including the original order No. 100, dated 15.11.83 and an order in the form of memorandum to continue to work in service till he attains the age of 60 years i.e. 30.6.1986. It appears that an interim order was granted to the applicant by the Hon'ble High Court and even on attaining the age of 60 years the applicant stands retired from service. Thus, the prayer in the writ petition, by itself, has become infructuous.

We have heard the learned counsel for the respondents Sri Arjun Bhargava. He also has the same view regarding the relief desired by the applicant that the prayer of the applicant stands granted by lapse of time during the pendency of the matter before Hon'ble High Court. This matter was transferred under section 29 of the Administrative Tribunal Act, 1985 to the Tribunal for decision.

When the matter was taken up today, it was found the writ petition/T.A. has become infructuous. In view of the facts narrated above the T.A / writ petition is, therefore dismissed as infructuous with costs to parties.

J.M. 11.4.84

A.M.

Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow

97-78

1. That the petitioner was initially appointed in the erstwhile Watch and Guard Department in the Central Railway as a Jainik on 16.6.1953. The petitioner's badge number as a Jainik was 3938. Subsequently ~~on~~ ^{was} the said Watch and Guard Department ~~being~~ reorganised and called the Railway Security Force. Subsequently on the enactment of the Railway Protection Force Act (Act 23 of 1957) the said Railway Security Force was reorganised and was called the Railway Protection Force. Under the provisions of section 6 of the said Act the petitioner came to be appointed as a Rakshak in the Railway Protection Force. His Railway Protection Force Badge no. was 400.
2. That after putting in 12 years service in the Railway Protection Force the petitioner was declared medically unfit and was alternatively absorbed on the post of a peon in the office of the Chief Commercial Superintendent, Central Railway, Bombay U.T. in the year 1963.
3. That the petitioner subsequently sought his transfer to the Loco Workshop, Charbagh, Northern Railway, Lucknow and was so transferred on 15.10.1979 and continued on the post of a peon in the office of opposite party no. 2 till 30.6.1984 when he was required to demit office.
4. That the petitioner's date of birth as recorded in the service record and also factually is 9.6.1926. By Staff Order no. 786 dated 15.11.1983 a list of

staff who were to attain the age of superannuation during the years 1984-85 on the various dates indicated against their names was published by opposite-party no.2. In the list of staff retiring in 1984-85 the petitioners name as shown at serial no. 40. as a ministerial staff who would be retiring on 30.6.1984. A true copy of the relevant extract of the said staff order no. 786 dated 15.11.1983 is being annexed as Annexure no. 1 to this petition.

5. That the petitioner was subsequently informed that he will have to datum offices on attaining the age of 58 years on 30.6.1984 and a circular indicating his name amongst those who have to retire in the year 1984 referred to earlier had been published. The petitioner thereupon on 9.4.1984 submitted a representation to opposite-party no.2 and indicated therein that since he belonged to inferior category in Class IV post under the provisions of rule 2046(7) of the Indian Railway Establishment Code Volume II his age of superannuation should be taken to be 60 years. With a view to place on record the facts stated and the plea raised by the petitioner in the said representation, a true copy of the same is being annexed as Annexure no. 2 to this petition.

M. J. Hanif
15.6.84

6. That in response to the petitioners said representation dated 9.4.1984 he was informed by means of letter no. 823 dated 25.4.1984 issued by the Assistant Personnel Officer for action behalf of opposite-party no.2 and addressed to the Office Superintendent (Electro-
t. on) Loco Shcr, Chhota Nagpur, Ranchi 834003, Jharkhand.

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-4-

that no railway servant could be retained in service beyond the age of 58 years either on extension or on re-employment and in support thereof reference was made to letter no. PC-67/SL-1/46 dated 25.11.1968.

A true copy of the said communication dated 25.4.1984 is being annexed as Annexure no.3 to this petition while a true copy of the Railway Board's letter dated 25.11.1968 is being annexed as Annexure no.4 to this petition.

7. That since the petitioner had not sought either extension or re-employment and, therefore, the provisions of the said Railway Board's letter dated 25.11.1968 were not attracted to the claim made by him, the petitioner by means of a representation dated 22.5.1984 addressed to the General Manager (P), Railway indicated the said circumstance. A true copy of the said representation dated 22.5.1984 is being annexed as Annexure no. 5 to this petition.

8. That the relevant provisions governing the age of superannuation and retirement are contained in rule 2046 (r.a.56) of the Indian Railway Establishment Code Volume II. Clause (a) of rule 2046 reads as under:-

" Except as otherwise provided in this rule every railway servant shall retire on the day he attains the age of fifty-eight years."

Several exceptions are indicated in various sub-rules. Sub-rule (e) relates to railway servants in class IV

services and roads as under:-

"(c) Railway servants in Class IV service or post who prior to 1st December, 1962, were entitled to serve up to the age of sixty years including the new entrants to those categories shall continue to serve up to the age of sixty years."

In Appendix A of the said Volume II a compendium of rulings on various provisions in the Indian Railway Establishment under Volume II have been given. In respect of rule 2046 a Railway Boards letter no. F(P) 58/PR-1/7 dated 10.4.1958 has been reproduced. The same reads as under:-

" Railway Board's orders.- (1) In the case of Class IV servants and labourers including workshop employees who were permanent railway servants on 31st July, 1940, the then existing practice will continue in regard to the age of compulsory retirement of such employees. Class IV railway servants and labourers including workshop employees who entered railway service on or after 1st August, 1940, or who were temporary railway servants on that date, will be required to retire on attaining the age of 55 years.

The above orders do not apply to Class IV railway servants born over from the six-States railways and who are governed by their pre-absorption terms and conditions, and are eligible to retire or attaining certain other specified

age or to Class IV pensionable railway servants employed in the Office of the Railway Board and such of the Class IV staff employed in the Research, Designs and Standardization office as are governed by rule 9 of the Pensionable Inferior Railway Servants (Gratuity, Pension and Retirement) Rules, Prescribed in Appendix AII.

(Railway Board's letter no. F(P) 58/ PN-1/7, dated 10.4.1958)"

9. That the provisions of the Railway Board's letter dated 10.4.1958 explains the ambit of the provisions of clause (a) of rule 2046. In other words, the intention is that in case of Class IV servants and labourers including workshop employees who were permanent railway servants on 31.7.1940 the then existing practice in regard to their age of compulsory retirement viz., 60 years ~~which was~~ was to continue. Further, Class IV railway servants taken over from the Ex-States railways and who are governed by their pre-absorption terms and conditions and are eligible to retire on attaining certain other specified age or to Class IV pensionable railway servants employed in the office of the Railway Board and such of the Class IV staff employed in the Research, Designs and Standardization office as are governed by rule 9 of the Pensionable Inferior Railway Servants (Gratuity, Pension and Retirement) Rules, prescribed in Appendix AII are not be governed by the condition of their age of retirement being 58 years. They were to continue in service till attaining the age of 60 years.

M. H. A. M.

10. That the provisions of clause (c) of rule 2046 so much incorporated being discriminatory with regard to Class IV employes as other than those covered by Ex-Company rules or Ex-State railway rules or rules of former Provincial Governments and inferior railway servants of the Railway Board, a writ petition was filed in this Hon'ble Court by one Mohammad Habib which was numbered as Writ Petition no. 963 of 1978. The said writ petition was by judgment dated 1.4.1983 allowed by a Division Bench of this Hon'ble Court consisting of Hon'ble Mr. Justice T.S. Misra and Hon'ble Mr. Justice D.N. Jha. A true copy of the said judgment is being annexed as Annexure no. 6 to this petition.

11. That despite the fact that the Punjab High Court in the case of Karoo vs. Assistant Engineer, Eastern Railway, Jalandhar and others ^{had} held that the words "who prior to 1-12-1962 were entitled to serve up to the age of sixty years" occurring in clause (c) of the said rule are violative of Articles 14 and 16 of the Constitution of India, the said provision continues to be the same and has not been amended. In other words, the off ruling part of clause (c) of rule 2046 is being given effect to by the railway administration despite the aforesaid two judgments including the decision of this Hon'ble Court and since the petitioner does not answer the description of Class IV employes detailed in Railway Board's letter dated 10.4.1953, he has been superannuated erroneously on his attaining the age of 58 years.

M. Haniff

12. That the petitioners representation dated 22.5.1984 must be taken to have been rejected since the petitioner was forced to quit office on 30.6.1984.

13. That in the circumstances detailed above and having no other equally effective and speedy alternative ready the petitioner seems to prefer this petition and sets forth the following, amongst others,

CAUSES:

(a) Because the provisions of clause (a) of rule 2046 in so far as they discriminate in the matter of age of retirement between two categories of railway servants of Class IV service or post are discriminatory and violative of articles 14 and 16 of the Constitution of India on the basis of the reasons laid down in the decision of this Hon'ble Court in Writ Petition No. 963 of 1978 contained in Annexure no.6 to this writ petition.

(b) Because the action of the opposite parties in relying upon the provisions of clause (a) of rule 2046 of the Indian Railways Establishment Sods Volume II including the offending words "who prior to 1.12.1962 were entitled to serve up to the age of sixty years" therein is a clear act of gross contempt of this Hon'ble Court and, besides, is based on no authority of law.

(c) Because the judgment rendered by this Hon'ble

Court in writ Petition no. 963 of 1973 since a judgment in same is binding on the opposite parties and they could not have relied on the provisions of clause (i) of rule 2046 aforesaid even though the same has been struck down by this Hon'ble Court. The said provisions must be taken to have been struck off the statutes.

(i) Because the decision rejecting the petitioner's representation by opposite-party no.2 by his letter dated 25.4.1984 clearly ignores the circumstance that the petitioner did not seek extension of re-employment after the age of 53 years but on the contrary claimed that he being a class IV employee was entitled to treat his age of superannuation as 60 years and not claim office to be let him attains the age of 60 years.

Therefore, it is respectfully prayed that this Hon'ble Court be pleased :

(i) to issue a writ of certiorari or a writ order or direction in the nature of certiorari to quash the Staff Order no. 736 dated 15.11.1933 in so far as it relates to the petitioner as also the decision of opposite-party no.2 contained in annexure no.2 to the writ petition.

(ii) to issue a writ of mandamus or a writ, order or direction in the nature of mandamus commanding the opposite-party to treat the petitioner as having

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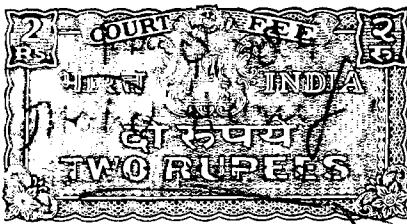
-10-

continued in service till he attains the age of 60 years, viz., 30.6.1986 and to pay him the arrears of salary and allowances which accrues due accordingly and to fix his post-retirement benefits accordingly.

(iii) to issue such other writ, direction or order, including an order as to costs which in the circumstances of the case this Hon'ble Court may deem just and proper.

Dated Lucknow
31.7.1984


(B.C. Saksena)
Advocate
Counsel for the petitioner



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

affidavit

in

Petition under Article 226 of the Constitution
of India

1984

AFFIDAVIT

32/96
HIGH COURT
ALLAHABAD

Writ Petition No.

of 1984

M. Shahzad Hanif

--Petitioner

versus

Union of India and another

--Opp-parties

I, Shahzad Hanif, aged about 58 years, son
of Sri Nazir Ahmad, care of Sri Israr Ahmad, Railway
Quarter no. V.G. 53-A, V.G. Colony, Alambagh, Lucknow,
do hereby solemnly take oath and affirm as under:-

1. That I am the petitioner in the above-noted writ petition and am fully acquainted with the facts of the case.
2. That contents of paras 1 to 12 of the accompanying petition are true to my own knowledge.
3. That annexures 1 to 6 have been compared and are certified to be true copies.

Dated Lucknow

31.3.1984

M. Shahzad Hanif
Opponent

ARK

-2-

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

Attd Lucknow
Al. B. 1984

M. H. Singh
Deponent

I identify the deponent who has signed in my presence.

M. H. Singh
(A. A. Srivastava)
Clark to Sri B. C. Sarker, Advocate
solemnly affirmed before me on 1.8.84
at 1.30 a.m/p.m by Mohd. Hanif
the deponent who is identified by Sri R. K. Sarker
clerk to Sri B. C. Sarker
Advocates, High Court, Allahabad. I have satisfied myself
by examining the deponent that he understands the
contents of the affidavit which has been read out and
explained by me.

R. K. Sarker
Bench
32/906
1.8.84

(A/3)

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

Writ Petition No. of 1984

Mohd. Hanif..... Petitioner

versus

Union of India and others..... opp. parties

Annexure No. 5

S.O. No. 786

Dated 15.11.83

The staff as shown in the attached lists will attain the age of superannuation during the years 1984 & 85, or the dates noted against each and therefore they will retire under age limit on these dates.

They should be clear on account off before settlement.

Copy together with a copy of list is forwarded for information and necessary action to

SAO(W)/CB, OS/PB.TO, General Sec. Estt. Production, PSTS/CJ

C.M/CB, SS/DS, ELB, RF, CI, LD, TR, MTS, FDI, BSS, BS, EMS, TTS,

CC/D&T.C/Main Brg. Office, SS/MJ, ES, LS, SPM, OS/Budget,

LI, SLI, HC/Pass, & Settlement Loco shops/CB/LKO. Secretar;

/URMU & NRMU/CS/LKO for inf. please and copy to sec.

All India Sos/STS Railway Employee Association Loco/ oB/LKO.

For Addl. Chief Mech. Engineer(W.)

NR/Loco Shops/CB/LKO.

LIST of Staff Retiring In 1984/85.

S.No.	Name	Design.	D.O.S.	D.D.A.	D.P.A.	F.F.No.	PF or Pension
-------	------	---------	--------	--------	--------	---------	---------------

1	2	3	4	5	6	7	8
---	---	---	---	---	---	---	---

1 to 34 not typed

34. Ministerial Staff Retiring in 1984

34 to 39 not typed

(A19)

14

-2-

1 2 3 4 5 6 7 8

40. Md. Hanif Peon/P 9;6.26 16.6.53 30.6.84

41 to 304 not typed .

M. Hanif

16.6.53

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

Writ Petition No. of 1984

Md. Hanif..... Petitioner
versus

Union of India and others..... opp. parties

Annexure No. 2

To

The Addl.C.M.E(W)
Loco CB LKO.

R/Sir,

With due respect I beg to state as under:

That I have been appointed as watch ward on 16.6.1953
in Central Railway.

That after serving so many years as watch & war
my designation was changed as Office peon on medical
grounds and since then I am continuing on class IV
post without getting any chance of promotion
to any class III post.

That my date of birth is recorded as 9.6.1926
and according to which I have been served a retirement
notice vide SC No. 786 dt. 15.11.83 in which my
retirement has been shown on 30.6.84 taking into
account 58 years of age.

That I belonged to inferior category in class IV
for which the Railway Board vide Rule 2046(E) has
fixed minimum retirement age 60 years and according
to this my retirement fall on 30.6.86.

It is therefore requested to please look
into the matter and order to ~~do to~~ ^{delete} my name from the
retirement list of 1984. Yours faithfully
date 9.4.84 Thanking you. Md. Hanif
Peon

(22)

16

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

Writ Petition No. of 1984

Mohd. Hanif..... Petitioner

versus

Union of India and others..... opp. parties

Annexure No. 3

Northern Railway

No. 82E
dated 25.4.84

The Office Supdt. Production
Loco shop CB.LKO.

Sub: Retaintion in service beyond the age of 58
years?

Ref. Application of Shri Mohd Hanif Peon Production
set dt. 9.4.84.

With reference to his application dated 9.4.84
Sri Mohd. Hanif Peon Pred. Sec. may please be informed
that no Railway servant should be retained in
service beyond the age of 58 years either on exten-
tion or on re-employment under any circumstances
(PsNo. 4514)
in terms of Rly. Board" latter No. PG-67/En-1/46 dt.
25.11.68 his request for deletion of name from
the retirement list of 1984 is therefore not tenable.

Sd/- by A.P.O.
For Addl.CME(1)
CB.LKO.

True copy

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17

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

Fit Petition No.

of 1934

Mohammed Harif

--Petitioner

versus

Union of India and another

--Opp-Parties

Amendment No. 4

Serial no. 4514- Circular no. 331-S/9-VI (SIV), dated
2.12.1968

Sub: Grant of extension of service/re-employment to
railway servants on their attaining the age
of superannuation.

A copy of Railway Board's letter no. PU-67/BU-1/46
dated 25.11.1968 on the above subject is forwarded for
information and guidance. The Board's letter dated
1.3.1968 referred to therein was circulated vide
this office letter of even number dated 14.3.1968
(Printed serial no. 4247).

Sub: As above

Assurance Board's letter of even number dated
1.3.1968. In supersession of the orders contained
in para 3 and 6 thereof the Railway Board have now
decided that no extension of service/re-employment
should be granted to any railway servant beyond the
age of 58 years.

Board desires to make it clear that no railway
servant should be retained in service beyond the age

APB

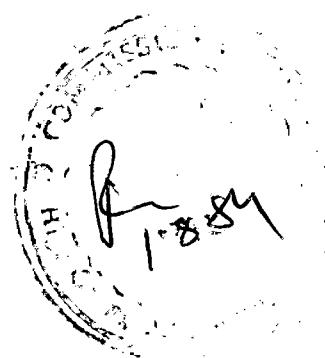
18

-2-

of 58 years either on extension or on re-employment under any circumstances except in regard to persons in respect of whom sanction for extension/ re-employment has already been granted by competent authority. In such cases, the period for which extension/ re-employment has been granted may be allowed to be completed.

This has the sanction of the President

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(A24)

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

Writ Petition No. of 1984

Mohd. Hanif..... Petitioner
versus

Union of India and others..... opp. parties

Annexure No. 5

To The General Manager (P),
Northern Railway, Baroda House,
New Delhi.

Through Proper Channel

R/Sri,

Sub:- Retirement under age limit.

Ref. Addl. G.M.E. (W) Loco shop GH-LKC letter No.
82E dated 25.4.1984.

.....

With due respect I beg to lay down the following
few lines for your kind consideration and favourable
orders.

That I have been appointed as watch & ward on
16.6.53 in Central Railway.

Thatafter serving so many years as watch & ward
my designation was changed as office peon on medical
ground in the year 1963 and since then I am working
on Class II post without getting any chance of
promotion to any class-III post.

That my date of birth is recorded as 9.6.1926
and according to which I have been served a
retirement notice vide B.O. No. 786 dt. 15.11.83 in
which my retirement has been shown on 30.6.84
taking into account

A25

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58 years of age.

That on 9.4.84 I had submitted one representation to AGME(W) Loco Charbagh Lucknow for change of my retirement date from 30.6.84 to 30.6.86 as a Class IV Railway Servant is entitled to serve upto the age of 60 years in terms of Rule 2046E-II(FR56.).

That my appeal has been turned down vide AGME(W)'s letter cited above in which he has informed me that no Railway servant should be retained in service beyond the age of 58 years either on extension or on re-employment in terms of Railway Board's letter No. PC-6/II-1/46 dt. 21.11.68 (PCNo. 4514

That my case does not fall under Rly. Bd's letter referred to therein as I am not requesting for extension or re-employment beyond the age of superannuation. I have only requested to change my date of retirement from 30.6.84 to 30.6.86 i.e. till I attain the age of sixty years as per Rule 2046E as I belongs to inferior staff and continuously working in class I^Y since 1953.

Under the above circumstances and Rule 2046E, my date of retirement should be on 30.6.86 instead of 30.6.84 which has been wrongly shown by Addl. CME (W)/CB-LKO vide his S.O. No. 786 dt. 15.11.83.

I, therefore request your honour to kindly direct AGME(W) to delete my name from the retirement list issued vide above said S.O. and allow me to serve upto 30.6.86 i.e. till I attain the age of 60 years.

I shall be highly obliged for your kind and sympathetic consideration. Yours faithfully
Dated 22.5.1984

sd/- Illegible
(Mohd. Hanif) Peon
AGME(W) Office GB-KKO

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

Writ Petition No. of 1984

Mohd Hanif..... Petitioner
versus

Union of India and others... opp. parties
Annexure No. 6 —

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

Writ Petition No. 963 of 1978

Mohd. Habib,..... Petitioner
versus

Union of India through the Secretary Ministry of
Railways ex-office Chairman, Railway Board, Rail Bhawan
New Delhi and others..... opp. parties
petition under Article 226 of the Constitution
of India.

Lucknow dated 18th April, 1983

Present Hon'ble T.S. Misra J,

Hon'ble D.N. Jha. J.

(Delivered by Hon. T.S. Misra, J.

The facts set out in the petition are these.
The petitioner was appointed on 29th March, 1943
as Trade apprentice in the erstwhile East Indian
Railway, a state-owned railway. He continued in
service till September, 1947. On the Independence
of this country the Central Government employees
including the employees of the railways were asked
to exercise their choice for service in India or
Pakistan. The petitioner provisionally opted for
service in Pakistan and was separated on 30.9.1947
from the post of Fitter to which post he had been
promoted in the year 1948. He was released on

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transfer to Pakistan by the Divisional Superintendent, E.I.Railway, Lucknow vide his letter dated 27th September, 1947. The petitioner, however, within the prescribed time changed his provisional option and finally opted for service in India but, according to him, was not put back to duty. He agitated against the same and finally his efforts succeeded and he was ordered to be re-instated as a Fitter Khalasi vide letter dated 23rd May, 1960, Annexure 1 to the writ petition. He contends that his year of birth is 1926. He is at present working under Fitter Incharge outdoor weighbridge and pump, N.Railway, Charbagh, Lucknow. He was sent for medical examination in March 1960 prior to his being re-appointed on the post of Khalasi. He was given a medical memo. in which his age was indicated as 34 years. The age of the petitioner in the medical certificate was endorsed 1920. The petitioner came to know of this fact in May 1976. Then he submitted a representation on 12th May, 1976 a copy of which is Annexure 3 to the petition. He sent another representation on 21st December, 1976 by way of reminder and the third representation on 16th February, 1977 but to no avail. He again submitted his representation 20th June, 1977 before opposite party no. 4, vide Annexure 4 and another representation to the General Manager (P) N.Railway on 29th August, 1977 vide Annexure 5. The petitioner contends that he had not been ~~inform~~ informed of any decision taken on his various representations seeking alteration in the date of birth. The petitioner was, however, informed that he would have to demit office on 30th April, 1978 on attaining the age of 58 years treating the month of his birth as April 1920. The case of the petitioner is

-3-

that his case is governed by clause(c) of rule 2046 of the Indian Railway Establishment Code Volume of the Indian Railway Establishment code volume 11, hence he says that, according to the date of birth recorded in the service record prepared at the time of initial appointment in the year 1943, he would attain the age of 58 years in the year 1984 and would attain the age of 60 years in 1986 and as he is being called upon to retire, the petitioner has prayed for the quashing of the order contained in the letter dated 13th March, 1978, Annexure 6 to the petition. The petition has been opposed.

The learned counsel for the petitioner has submitted that even if the petitioner's date of birth is taken to be April 1920 the petitioner would have retired on 30th April, 1980 and not on 30th April, 1978 as has been alleged in Annexure 6 to the petition. This contention is based on the provisions of clause (c) of rule 2046 aforesaid. It has thus not been seriously contended before us that the year of birth of the petitioner is 1926 and not 1920. We therefore, take it that the petitioner was born in April 1920. The sole question which now survives for consideration is either the petitioner would have retired on the completion of his 58 years of life or on completing 60 years as is contended by the petitioner. Clause (c) of rule 2046 reads as follows:-

"(e) Railway servants in Class IV service or post prior to 1st December, 1962, were entitled to serve up to the age of sixty years including the new entrants to those categories shall

continue to serve up to the age of sixty years". It is not disputed that the petitioner was a railway servant in class IV service. He had taken employment in the railways prior to 1st December, 1962. The question is whether he was entitled to serve upto the age of 60 years or not. Clause(e) or rule 2046 came up for consideration before the Patna High Court in Karoo Vs. Assistant Engineer, Eastern Railway pur and others (19746.L.W.R.420). In that case it was observed:-

"It is manifest from the rule that it fixes age of retirement at 60 not only for those railway servants in class IV service or post who prior to 1st December, 1962 were entitled to serve upto the age of 60 years but also for the new entrants to those categories. If the new entrants to these categories are entitled to be in service upto the age of 60 years, other railway servants in class IV service or post who prior to 1st December, 1962 were not entitled to serve upto to the age of 60 years including the new entrants to those other categories should also be allowed to continue to serve up to the age of 60 years".

In that case it was urged on behalf of the railways that except the inferior railway servants of the Railway Board, only those railway servants of class IV who were governed by the ex-company rules or ex-state railway rules or rules of former provincial Governments form the categories which are entitled to the benefit of rule 2046(e) as it stands at present after amendment.

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Repelling this contention it was observed that if that interpretation be given to this rule, then the respondents will be discriminating between class IV railway servants who were ex-company employees, ex-state railway employees and former provincial Governments railway employees on the one hand and other class IV railway employees on the other. Relying on the Railway Board and another vs. A. Pitchumani (A.I.R. 1978 Supreme Court, 508) and Navnit Lal Mani Lal Bhat vs. Union of India and others (1973 Labour Law Journal, Vol. 1, 428) it was observed that though there might be a reasonable classification of Railway servants as ex-company employees and others, there is no nexus or relation between the classification and the object sought to be achieved and the rule, therefore, to that extent will be ultravires.

The Supreme Court in A. Pitchumani (supre) had struck down the words "if the rules of the company or the state had a provision similar to clause (B) above" in the note appended to rule 2046 clause (b) on the ground that this part of the note was discriminatory and violative of article 14 of the constitution.

For the same reasons the Patna High Court in the above noted case struck down the words which prior to 1st December, 1962 were entitled to serve up to the age of sixty years. " we are in respectful agreement with the view expressed by the Patna High Court in that case. That being the position, the provisions of clause (e) of rule 2046 aforesaid would apply to the case of the petitioner also. The petitioner was, therefore entitled to serve up to the

M. Hanif

-6-

age of 60 years. The order requiring him to retire on 30.4.1978 was, therefore violative of clause(e) of rule 2046 aforesaid.

In the res lt, the petition is allowed in part with costs. The order contained in the letter dated 13th March, 1978 a copy of which is Annexure 6 to the petition requiring the petitioner to retire on 30th April, 1978 is quashed. The petitioner would hence be entitled to emoluments according due to him in accordance with rules upto 30th April, 1980 and would also be entitled to post-retirement benefits according to the rules.

Sd/-T.S.Misra,

Sd/- D.N.Jha, J

Ist April , 1983



A handwritten signature in black ink, appearing to read 'T.S. Misra'.

(A32-)

In the Mombli High Court of Judicature at Allahabad Lucknow
ब अदालत श्रीमान Bench Lucknow महोदय

वादी (मुद्रा) *Forfeiture*
प्रतिवादी (मुद्रालेह) X का वकालतनामा



Mohd Hanif

वादी (मुद्रा)

1457

भानाम
Central of India to him.

प्रतिवादी (मुद्रालेह)

6883

मा नं० मुकद्दमा सन् १९४४ पेशी की ता० १९ ई०
ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

S. J. C. Sawarna Advocate एडवोकेट महोदय

वकील

अदालत
नाम
नं० मुकद्दमा
फर्मेंट
नाम

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

*Accepted
B. C. Sawarna - हस्ताक्षर*

साक्षी (गवाह)..... साक्षी (गवाह).....

दिनांक..... महीना

In the Central Administrative Tribunal Allahabad

Circuit Bench Lucknow.

T.A. 1514 (T) of 1987

Mohad Hanif

..... Applicant

Versus

The Union of India and others.

..... Opp. Parties.

Reply on behalf of the opposite parties:-

Para 1: That the contents of paragraph 1 of the writ petition are not denied except that the date of appointment is 16.6.'53 instead of 15.6.'53 as alleged.

Para 2: In reply, it is submitted that the applicant was declared medically unfit and alternatively absorbed as Hammal in grade Es. 70-85 (AS) in the office of Chief Commercial Superintendant Central Railway Bombay.

Para 3: That in reply to the contents of paragraph 3 of the writ petition, it is submitted that the transfer made on 14.10.'79 was mutually arranged with another employee by the applicant and was posted as peon, continuing in same position till retirement.

Para 4: That in reply, only the issue of staff order No. 786 dated 15.11.1983 as contained in Annexure No. 1 to the petition is not denied. His date of birth being 9.6.23 is not denied. Rest of the allegations are verifiable from the staff order itself.

filed today
10/4/90

Para 5. That in reply to the contents of paragraph 5 of the writ petition, only the issue of retirement notice to the applicant is not denied. It is also not denied that a representation as contained in Annexure No. 2 to the petition was received in the office of opposite party No. 2, which was duly replied by office order No. 82E dated 25.4.1984. Rest of the allegations contained in the para under reply are verifiable from the annexure itself. It is however specifically denied that the applicant was entitled to continue in service till the age of 60 years, as alleged. It is also specifically denied that the applicant belonged to inferior category as alleged. It is submitted that the applicant was appointed on 16.6.1953 Lainik in the Railway Security Force and the date of retirement at the time of appointment in the Railway Security Force was 58 years.

Para 6: That the contents of paragraph 6 of the petition are not denied.

Para 7: That in reply to the contents of paragraph 7 of the petition, only the receipt of representation dated 22.5.'84 addressed to the General Manager as contained in Annexure No. 3 is not denied. For other facts the letter itself may kindly be referred to. It is however submitted that as per the provisions contained in Railway Security Force Act, every employee was liable to be relieved at the completion of the

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age 58 years. Since the applicant was appointed as watch and ward under the said Act, he was to retire at the age of 58 years.

Para 8: That only the provisions quoted in the paragraph 8 of the application are not denied. Rest is denied. It is submitted that since the applicant was initially appointed under the provisions of Railway Security Force Act, the age retirement at 58 years would apply. The absorption of the applicant would not change the retirement age of 58 years. The provisions quoted are not attracted in the present case.

Para 9: In reply it is submitted that the contents of paragraph 9 of the petition are not applicable to the applicant. It is submitted that the applicant was initially appointed on 15.6.53 under the provisions of Railway Security Force Act. As such the age retirement at 58 ~~mark~~ would apply. Moreover the para relates to interpretation, and the same will be further replied at the time of argument.

Para 10: That the decision quoted in paragraph 10 of petition is not applicable to the facts of the present case, hence denied. Moreover the same will be met at the time of argument,

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Para 11: In reply , it is submitted that neither of the judgements are applicable to the facts of the applicant. It is submitted that since the applicant was appointed initially as Lainik on 16.6.'53 in the Railway Security Force, the applicant is governed by Railway Security Force Act and as per the provisions contained in the said Act, every employee was to retire at the age of 58 years. The absorption of the applicant would not change the retirement age of 58 years. The applicant has been correctly retired on the attaining of the age of 58 years and there is no violation of either Article 14 or 16 of the Constitution of India ,as alleged. Rest of the argument put in the para under reply , will be duly met at the time the case is argued before the Hon'ble Tribunal.

Para 12: In reply, only this much is not denied that the applicant retired on 30.6.'84 from the service after he attained the age of super-annuation.

Para 13. Not admitted, None of the grounds are tenable under law.

The applicant is not entitled to any relief claimed and the petition is liable to be dismissed with costs.

Para 14. On the facts and circumstances stated above, the petition is liable to be dismissed with costs to

ABT

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the opposite parties.

Lucknow

Dated: 16.10.89

J. N. Amba

19/10/89

Opp. Parties.

Amritsar,
F.O. Lucknow

Verification.

I, S.N. Amba serving as Works Manager
in the Northern Railway Loco Workshop Lucknow do hereby
verify that the contents of paragraph 1 to 14 of this
reply are based on information derived from record and
legal advice which is believed to be true.

J. N. Amba

19/10/89
Works Manager (),

N.R.L., Lucknow.