

## CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

Handwritten signature

U.P.

## FORM OF INDEX

D.A.T.A./R.A./C.C.P./ No.

1559/82.  
19

## PART -I

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2.	Order Sheet	:- 3 to 6
3.	Any other orders	:- NIL
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D.Y. Registrar

Supervising Officer

Dealing Clerk

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

- 1. Index sheets A1 to A3 NIL
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V.K. Mishra

Received  
on 21-3-12

Rej.

S.O.D.

30/12/98

File B/C destroyed on 9-5-12

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOWINDEX SHEET

CAUSE TITLE 1559/87 (O) 199

Name of the parties

Smt. Hamid Ali

Applicant.

Versus.

Union of India

Respondents.

Part A.B.C.

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CIVIL SIDE  
CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case .....

W.P. 2540 84

Name of parties .....

Hameel Ali vs. Union of India

Date of institution .....

1.7.584

Date of decision .....

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
		1. Writ with Answer and Affidavit	- 33		102/00			
		2. Power	1 -	-	5-00			
		3. And Shet	1 -	-	-			
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I have this

day of

198

examined

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

(8)

passed and he was allowed to draw the pay at the next stage of Rs. 223/- with effect from 1.1.19981 without passing any express orders. Ultimately, failing to get any relief from the department, the applicant filed a writ petition before the High Court which by operation of law transferred to this Tribunal. The applicant has prayed that his representations against the adverse ~~by~~ remarks may be disposed of and the applicants be allowed to cross the efficiency bar, ~~wrongly~~ @@@@ withheld on the basis of the adverse entries and command them to decide the applicant's representations on the examination conducted in 1979 with consequential non selection of the applicant and treat him as permanent employee entitled to all benefits.

2. The respondents, although disputed the claim of the applicant but admitted in a cryptic manner the filing of the representations. According to them the representations are not addressed to the proper authorities and that is why they were not forwarded or disposed of. In our view, such ~~filings~~ <sup>filings</sup> pleas should not have been taken by the departmental authorities. When a person files representation, it may not be addressed to the proper authorities, but the authority is not forbidden from sending it to the proper authorities. When a representation was made by the applicant, in respect of the particular matter, it became the duty of the authorities concerned, either to decide it or to send it to the proper authority.

3. Accordingly, the respondents are directed to forward the representations of the applicant, if it will

Order sheet  
TA no 1559 of 87  
Hannid Ali :: 2 :: vs. 2209

(A)

A  
6

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
		OK
		This W.P. no 2540/87 received on transfer from Lucknow High Court alongwith other W.P.s on May 10/87.
		On the date of transfer the case was not admitted.
		Transfer notices issued by Addl. office but neither any reply nor any undelivered cover received back submitted for order.
		3/11/89
6/11/89	<p>Hon' Mr. D.K. Agrawal, J.M. Hon' Mr. K. Obayya, A.M.</p> <p>None appears for the Respondents.</p> <p>Shri M. Dubey counsel for the petitioner is present. This writ petition was filed in 1984 and now received on transfer from Allahabad. It has not been admitted. List this case on 5-1-90 for hearing on <u>admission</u>.</p>	<p>(A.M.)</p> <p>J.M.</p>
	<p>5-1-90</p> <p>See original order on this main Petition</p> <p>Hon. Justice K. Naths, V.C Hon. Mr. K. Obayya, A.M.</p>	<p>Case referred for admission</p> <p>4/1</p>
	<p><u>Admit</u></p> <p>list for further order on 19.2.90</p>	<p>Notices u/s 30-1-90 Neither any reply nor any undelivered cover has been received back.</p>
19.2.90	<p>A.M. V.C</p> <p>19.2.90 J.D. Sonone (J.M.)</p>	<p>1. For order</p>
	<p>The Counsel for the applicant Shri M. Dubey came in yesterday period but not present now. The Report. have not filed. Counsel Shri K. Chaudhary, Addl. Standing Counsel who is. Let the Spouse copy of W.P. be given when come in 5 weeks &amp; respond 4 day after a week.</p>	<p>16</p>

W/  
Dinesh

Fee 16.4.90

OK  
No. certified  
S. F.O.

11/4

8/10

A  
10

⑨

- 3 -

not be forwarded earlier to the proper authorities and all these representations, a reference to which find place shall be disposed of by the proper authorities within a period of 3 months from the date of communication of this order by means of speaking order and the respondents shall also within this period consider the case of the applicant from grant of the efficiency bar w.e.f. the due date regarding which complaint has been made by the applicant. The application is disposed of with the above observations. Parties to bear their own costs.

*Member (A)*  
Member (A)

*by*  
Vice-Chairman

Dated: 29.1.1992

(n.u.)

15-59/87①

(6)

A

(6)

7.12.90

No sitting Adjud to 18.1.91.

(6)

18.1.91

No sitting Adjud to 15.4.91.

(6)

15.4.91

No sitting Adjud to 15.7.91

de

CR

MP 607/904

filed by the Adjud to the applicant along with counter affidavit.

No RA filed

S P DR

147

15.7.91

D.R.

Rygoinder has not been filed yet so far. Applicant to file it.

by 1/8/91. No appears for the O.P.

1.8.91  
D.R.

Counsel for the applicant is present. He desires to file Rygoinder by 20/9/91. O.P. is absent.

Order sheet

TA no 1559 of 8)

Hamid Ali :: 2 vs. U.D.S

(A)

A

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
		OR
		(5)
	Hon' Mr. D.K. Agrawal, J.M. Hon' Mr. K. Obayya, A.M.	
6/11/89	<p>None appears for the Respondents.</p> <p>Shri M. Dubey counsel for the petitioner is present. This writ petition was filed in 1984 and now received on transfer from Allahabad. It has not been admitted. List this case on <u>5-1-90</u> for hearing on <u>admission</u>.</p> <p style="text-align: center;">A.M. <span style="margin-left: 100px;">J.M.</span></p> <p>(sns)</p> <p>Hon. Justice K. Nalini, V.C Hon' Mr. K. Obayya, A.M.</p>	<p>This W.P.no 2540/84 received on transfer from Lucknow High Court along with other W.P.s in May 87.</p> <p>As the date of transfer the case was not admitted.</p> <p>Transfer notices issued by Addl office but neither any reply nor any undelivered copy received back submitted for order</p> <p style="text-align: right;">3/11/89</p> <p>Admit List for further order on 19.2.90</p> <p style="text-align: center;">A.M. V.C</p> <p>19.2.90 J.S. Sonone (J.M)</p> <p>The Counsel for the applicant.</p> <p>Sri M. Dubey came in the last period but not present now. The resp. have not filed Counter. Sri V.K. Chaudhary, Addl Standing Counsel takes notice. Let the Oppn. Copy of W.P. be given to him. Date on 5 weeks + 14 days after a week.</p>
19.2.90		<p>Notices on 30.1.90</p> <p>Neither nor any written reply has been received.</p> <p>S. for order</p>
Dinesh		

Fee 16.4.90

OR

No. C. filed  
S. F.O

11/4

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH LUCKNOW.

Registration T.A. No. 1559 of 1987  
( W.P. No. 2540 of 1984 )

Hemid Ali ... ... ... Applicant.

## Versus

Union of India  
and others ... ... ... Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. A.B. Gorthi, Member (A)

( By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was a permanent employee in the cadre of Class-IV and posted as worker (Mazdoor) at Circle Telegraph Store Department Talkatora Road, Lucknow. He was confirmed against the said sanctioned post vide order dated 31.10.1973 w.e.f. 1.3.1973 by letter dated 4.2.1974 issued by the respondent no.6. The applicant was given adverse remarks without any ~~foundation~~ foundation in his CR for the year 1974-75 and 1975-76 on 29.6.1976 and also for the year 1976-77. The applicant submitted his representations to the respondents against these adverse entries but no reply was given to him. In the meantime, the promotion from the cadre of Mazdoor is to the cadre of Packer, carpenter, Tindal, Weighmen and Marker, on the basis of 50% seniority-cum-fitness, the applicant was not promoted. The applicant was considered fit to work as Tindal in preference to some of his seniors also. Latter on again an examination took place but the applicant was not promoted. He made a representation against the same but his representation was not decided. In the meantime, the applicant was entitled to cross the efficiency bar in the year 1981 but no orders were

The humble petitioner respectfully submits as  
under ; -

1. That the petitioner is a permanent employee in the cadre of class IV and posted as worker , (Mazdeer) under Opposite party No 6 at Circle Telegraph Store-Department , Talkatora Road , Lucknew , in the scale of Rs 196/232 . He has put in about 17 years of satisfactory and unblemished service .
2. That the petitioner joined his service in the Telegraph Department on 14.2.67 and placed in the grade of Rs 196/232 from the same date , while S/S Bharat , Ram Prasad , Thakur Prasad , Raham Ali , Munna , Mahesh Prasad , Ram Gopal , Ram Narain , and Sri Ram joined the department on 16.2.67 , 16.2.67 , 16.2.67 , 16.2.67 , 14.2.67 , 5.10.68 , 27.4.70 , 30.4.70 and 1.7.71 respectively and they are all junior to the petitioner according to the length of service and age as laid down in the recruitment Rules relating to Industrial Establishment in the circle Store Department . A true copy of the relevant rule is Annexure 1 and a true copy of the service particulars of different employees in the cadre of Mazdeer as prepared by Opposite Party No 6 is Annexure 2 .
3. That the petitioner was confirmed against the post of Mazdeer sanctioned under P.M.G. U.P. Lucknew no Est B/XN-202 dated the 31.10.73 w.e.f. 1.3.73 , by letter no E-6/ch II340 dated the 4.2.74 issued

*11/2/74  
C*



Group A-15 (e)

In the Hon'ble High Court of Judicature At allahabad ,  
Lucknew Bench , Lucknew .  
Writ Petition No. 4000 of 1984.

2940

4000

A/1

Hamid Ali

.. Petitioner .

Versus

Union of India & Others

.. Opposite Parties .

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Lucknow

May  
April 15, 1984

R. Solanay

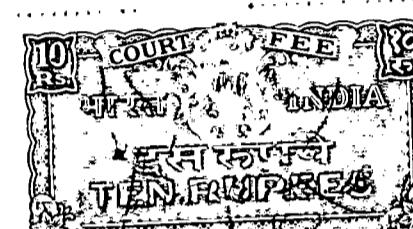
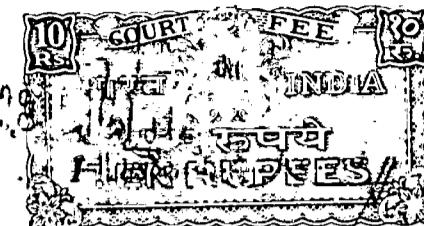
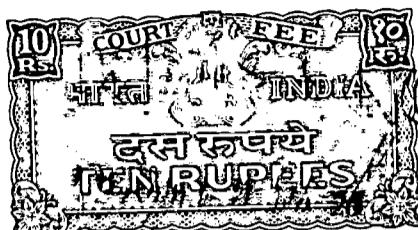
Counsel

For Petitioner.

In the Hon'ble High Court of Judicature At Allahabad ,

Lucknow Bench , Lucknow

Writ Petition No 2540 of 1984 . A



Hamid Aliaged about 38 years S/O

Muazzam Ali R/O Mehalli Bansi -

Ka-Hata , Purana Tikaitganj Ward

Saadatganj , P.S. Khala Bazar ,

Lucknow .

Petitioner .

Versus

1. Union of India , through Secretary

to the Ministry of Communication ,

Govt of India , New Delhi .

2. The Director General , P & T ,

New Delhi .

3. The General Manager , Telecommunication ,

U.P. Circle Lucknow .

4. The Director Telecommunication

Central Lucknow .

5. The Divisional Engineer Telegraph

Lucknow .

6. The Assistant Engineer Circle

Telegraph Store Department , Talkatora

Road Lucknow .

. . . Opposite Parties .

Writ Petition under Article 226 of Constitution of

India .

by the Opposite Party No 6 . A/3

4. That the Opposite Party No 6 having been prejudiced ~~as~~ against the petitioner recorded adverse entries without any foundation in his CR for the year 1974 -75 and 1975-76 on 29.6.76 and also for the year 1976-77 without any specific instance and basis , in a general manner. These entries were not recorded in terms of rules nor communicated year wise. True copies of these entries are Annexures 3 and 4 .

5. That the petitioner submitted a number of representations to the opposite parties Nos 5,4,3 and 2 , against the adverse entries but no reply was ~~never~~ given to him . A ~~copy~~ true copy of the representations dated 14.12.79 preferred to the opposite party no 2 and 3 is Annexure no 5. The petitioner has not been made aware of the fate of his representations .

6. That the petitioner had been discharging his duties diligently and devotedly and his work, conduct and behaviour were appreciated by Shri D.P. Srivastava , the then Asstt Engineer , Circle Telegraph Stores, Talkatora Road Lucknow, who issued a certificate to this effect on 27.4.1978 . A true copy of this certificate ~~is attached hereto~~ dated 27.4.1978 is Annexure 6 to this writ petition .

7. That the next promotion from the cadre of Mazdeer is to the cadre of Packer, carpenter, Tindal weighmen and Marker, on the basis of 50% by seniority cum

*21/4/80*

✓ by seniority ~~or~~ fitness, fitness being adjudged by a qualifying test <sup>and</sup> 50% by a selection from those with not less than 10 years service in the category and found fit by the qualifying test and that the qualifying test will include an oral test and a practical test conducted ~~by~~ by a Board consisting of the controller of Telegraph Stores, Assistant Engineer, and the welfare officer of the Store Depot or work charge <sup>or</sup> circle <sup>of</sup> the Telephone District who ever is available in that order. The test will carry 100 marks ( practical 60, oral 40 ) and the minimum qualifying marks will be 40% in each and 50% in the aggregate. The tests will cover the duties specified for each cadre in selection. These rules are contained in Annexure 1. No written test is prescribed.

8. That the petitioner is a literate person and has a satisfactory record of over 17 years service. He was allowed to work as a Tindal in casual vacancies and also in a regular vacancy caused by the retirement of Shri Semaru Ram w.e.f. 31.1.1979 as he was considered fit to work as a Tindal even in preference of some of his seniors i.e. S/S Jageshwar and Ram Swaroop and the work and conduct of the petitioner as a Tindal was satisfactory without any complaint, whatever. 9. That the last test for promotion to the cadre of Tindal was held on 1.3.1979 in an illegal and unfair

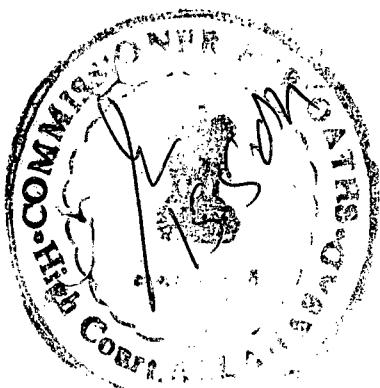
A  
15

manner, so much so that the controller of Telegraph  
Services was not ~~written~~ in the Board and written  
question papers were set against the rules which  
prescribe only oral and practical tests and the hand  
written paper given to the examinees were <sup>were</sup> ~~were~~ already  
made known to the favourite candidates for ulterior  
motives. The petitioner lodged a complaint immediat-  
ily after coming to know about it to the Assistant  
Director (Welfare) O/O the Opposite Party No 3 by  
name on 14.4.1979 before the results were made known.

A true copy of this complaint is Annexure no 7.

10. That S/S Ram Prasad, Thakur Prasad Raham Ali, Munna,  
Mahesh Prasad, Ram Gopal, Ram Narain and Sri Ram who  
were all junior to the petitioner as stated in para 2 above  
were promoted to the higher cadres in preference and  
to the prejudice of the petitioner. The petitioner  
submitted representations regarding arbitrary and  
malafide promotion to the cadre of Tindal and exclu-  
sion of his name to the Opposite Party No 3, who vide  
his letter no Staff/M-4-49/6/79/12 dated 19.9.79  
intimated that the petitioner's case regarding non-  
promotion as Tindal would be examined by the DTC  
Lucknow. Getting no redressal of his grievance, the  
petitioner preferred a representation dated the 14.12  
1979 to the Opposite Party No 2, a true copy of  
which is Annexure no 8. The petitioner has not received  
any decision so far.

*SC 114576*



It is further pointed out that no promotion of an illiterate Mazdeor can be done. Among the list of successful candidates S/S Munna and Ram Gopal have also been included who are not literate. It is also to be noted that Ram Gopal has been promoted as carpenter where as he does not know any work of carpentry. In fact the petitioner has prepared a wooden box which was wrongly shown to have been prepared by Shri Ram Gopal.

11. That the petitioner having been already confirmed in the cadre of Mazdeor w.e.f. 1.3.73 as stated in para 3 above, is still being shown as temporary without any rhyme or reason. The action of Opposite Party No 6, in so doing, is arbitrary, malicious, and malafide. The petitioner submitted his representation dated the 15.12.79 to the Opposite Party No 3 but no action appears to have been taken by him. A true copy of this representation dated 15.12.79 is Annexure 9.

12. That the petitioner was entitled to cross the Efficiency Bar in the scale of Rs 196-3-220 EB 3-232 w.e.f. 1.1.1981 but the Opposite Party No 6 maliciously and prejudiciously did not pass any orders prior to 1.1.1981 and consequently the petitioner was not allowed to draw pay at the next stage of Rs 223/- w.e.f. 1.1.1981 without passing any express orders. The rules relating to Efficiency Bar lay down that " A work man who is not con-

*21/12/80  
21/12/80*



sidered fit to cross the E.B. should be served with a memorandum of charges shewing the grounds on which it is proposed to stop him at the stage of the bar and he should be asked to furnish his representation within 16 days of date of memorandum against the action proposed. On receipt of the representation the case should be reviewed and the findings of the appointing authority recorded in form of a memorandum of proceedings. A copy of the memorandum should be furnished to the workman concerned". But this mandatory provisions of law were not observed by opposite party no 6 and he arbitrarily stopped the petitioner at the E.B. stage causing harassment, financial loss and mental vexation to the petitioner.

13. That the petitioner represented the matter to the opposite Party No 6 immediately after 1.1.1981 and he in his letter no E-1/Jam/319 dated 4.2.1981 informed the petitioner that he could not be allowed to cross the E.B. as there were adverse entries in his C.R., copy of which had been given to him (petitioner). A true copy of this letter dated 4.2.1981 is Annexure 10.

14. That the petitioner being not satisfied with the reply given by Opposite Party No 6 stated above, submitted a representation to Opposite Party No 5 stating that the consideration of Opposite Party No 6 having been based on the C.R. entries made

*21 July 1981*



several years before, which too were under appeal was erroneous. The petitioners work and conduct had been satisfactory for the last four years, apart from the prior adverse entries being under appeal and there was no reason or occasion to withhold his E.B. w.e.f. 1.1.1981. A true copy of the representation dated 23.2.1981 is Annexure 11. The opposite party no 5 did not apply his mind judiciously to the facts of the representation dated 23.2.81 and perfunctorily informed the petitioner that his appeal dated 23.2.81 could not be considered in his favour. His decision is not a speaking order. A copy of this decision No X-7/Stores dated 29.4.1981 is annexed as Annexure 12. No decision has yet been taken on petitioner's representations against the adverse entries.

15. That the petitioner besides giving reminders to Opposite parties numbers 3 to 6, submitted his last representation to opposite party no 2 on 5.3.84 to have his claims settled but no reply has so far been received. A copy of the last representation dated 5.3.84 is annexed as Annexure no 13.
16. That the petitioner is a poor employee of class IV in the category of Maxdeer in the scale of Rs 196/232 and he has been maliciously, prejudicially and malafidely harassed and oppressed by not allowing him his due seniority, promotion to Tindal grade and crossing of E.B. due on 1.1.1981. His various and repeated representations to opposite parties no 2,3,4 and 5 have failed to fetch any useful result.
17. That the petitioner having exhausted all avenues for the redressal of his grievances and having failed to get

justice has no alternative left but to approach this

Hon'ble Court on the following amongst other ; -

Grounds

1. Because the adverse entries for the year 1974-75 and 1975-76 and 1976-77 were recorded baselessly and against rules and not communicated year wise in time . They are malicious and illegal and liable to be quashed .
2. Because the decision has been taken on the petitioner's representations submitted to the opposite parties .
3. Because the work, conduct and behaviour of the petitioner were satisfactory and appreciated in view of Annexure 6.
4. Because the promotion was wrongly , prejudiciously and maliciously denied to the petitioner .
5. Because the petitioner is being illegally and maliciously treated temporary despite of his having been confirmed w.e.f. 1.3.73 .
6. Because the provisions of rules have not been followed in not promoting the petitioner.
7. Because the junior officials have been promoted in violation of the provisions of the rules and right of the petitioner for promotion.
8. Because the opposite parties have acted arbitrarily prejudicially and maliciously in ignoring the claim of the petitioner in not promoting him.
9. Because the petitioner has been withheld at the Efficiency bar without any authority of law.
- 100 Because the representations made to the opposite parties

for allowing the petitioner to cross the Efficiency bar w.e.f. 1.1.1981 and for his promotion as Tindal have remained in cold storage.

11. Because Annexures 3,4,10 and 12 are prejudicial, malicious, arbitrary, and illegal .
12. Because the petition has a right and claim to be treated as permanent employee w.e.f. 1.3.73, to be promoted as Tindal on his turn w.e.f. 31.1.1979 and to have crossed the Efficiency Bar w.e.f. 1.1.1981.
13. Because the petitioner will suffer irreparable loss if the orders contained in Annexure 3,4,10 and 12 which are wrong, perverse and illegal are given effect and the petitioner is not allowed to cross the Efficiency Bar and his due promotion .

It is, therefore most respectfully prayed that this Hon'ble Court be pleased to issue a writ of Mandamus Commanding the opposite parties to decide the petitioner's representations against adverse remarks in his confidential record on merits after giving an opportunity of hearing and further command them to allow the petitioner to cross the Efficiency bar wrongly withheld on the basis of adverse entries and command them to decide the petitioner's representations on the examination conducted in 1979 with consequential non selection of the petitioner and treat the petitioner as permanent employee entitled to all benefits in that capacity and allow this writ with cost .

B. Golam

Counsel

For Petitioner.

Lucknow

Dated 15- 5- 1984

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

Lucknow Bench, Lucknow.

Writ Petition No. 11 of 1984.

Hamid Ali

.. Petitioner.

Versus

Union of India and Others

.. Opposite Parties.

Annexure 1

Extract from Recruitment Rules to Industrial Establishment in the main and Branch Store Depot.

Sources of recruitment.

Rule 2

Recruitment to the higher cadres will normally be made by promotion from the lower cadres as detailed in para 4. When suitable candidates are not available for reasons to be recorded in writing recruitment may be made for the vacancies to be filled, on the result of a competitive test, both oral and practical, in accordance with section 2, from among workers of the next lower categories, with not less than 10 years continuous service in those categories.

Rule 4

To the category of	from the category of	on the basis of
(4)	(20)	(3)
semi-skilled	the skilled	50% by seniority
(pay scale Rs. 750-110)	pay scale Rs. 70-85	50% by fitness
Packer Grade II		
carpenter Grade II	Mazdoor	being a judged
Weighman	40	by a qualifying
Tindal		test. 50% by self
Marker		ection from those
		with not less than
		10 years service in
		the category of
		and found fit by
		the qualifying
		test.

Rule 5

All officials holding posts in the lower category in column 2 will be eligible for any of the posts in

corresponding column 1. The period of service ~~or~~ prescribed in column 3 will be continuous in the lower categories specified on 1st January or 1st July of the year according as the recruitment is made in January or July of the year. The minimum period of service for eligibility may be released in special cases with the prior approval of chief Controller of Telegraph stores .

Qualifying tests and appointments.

Rule 1

Candidates should have completed the minimum prescribed period of continuous ~~know~~ service on 1st January or 1st July of ten year of recruitment as the ~~or~~ case may be in the cadres in column 2, and possess a good record of work and conduct, to become eligible in the test.

" Candidates with a bad record of work and conduct during the ~~previous~~ 3years shall not be admitted to the test".

All candidate having the same length of service as the ~~or~~ last candidate admitted, shall also be admitted, not with standing such restriction subject to provision of rule 2(1).

Rule 2.

The test will include an oral test and a practical test.

Rule 3.

The oral and practical tests will be conducted by a Board consisting of the controller of Telegraph Stores , Assistant Engineer in the Store Depot and the Welfare Officer of the store Depot or workshops or the Circle or the Telephone District, whoever is available in that order . The test will carry 100 marks (practical 60, oral 40) and the minimum qualifying marks will be 40% in each and 50% in the aggregate. The test will cover the duties specified for each cadre in selection. The test will be conducted not more than twice in a year in January and July of the year to fill vacancies actually existing or

26/1/1970

arising by retirement within 6 months from 1st January or 1st July as the case may be. The number of candidates selected will not exceed the vacancies available or resulting from retirements within subsequent six months and no waiting list will be maintained.

Efficiency Bar.

Rule 1.

On completion of approved service for one year, a workman will be granted an increment in the scale of pay in which he has been appointed. An Efficiency Bar where prescribed cannot, however, be crossed by a workman without the specific orders of the appointing authority.

Rule 2.

The Asstt. Engineer of the depot in which the workman is employed will examine the record of work and conduct of the workmen and record a certificate, in respect of each workman, to the effect that he is fit to cross the E.B. unless in his opinion the work of the workman has been such as to render him unfit for crossing the E.B. and pass orders permitting his to cross the Efficiency Bar.

Rule 3.

A workman who is not considered fit to cross the E.B. should be served with a memorandum of charges showing the grounds on which it is proposed to stop him at the stage of the bar and he should be asked to furnish his representation within 16 days of date of memorandum against the action proposed.

Rule 4.

On receipt of the representation, the case should be reviewed and the findings of the appointing authority recorded in form of a memorandum of proceedings. A copy of the memorandum should be furnished to the workman concerned.

Te.

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

(14)

W.P. No.

of 1984

Hamid Ali ----- Petitioner

Vs.

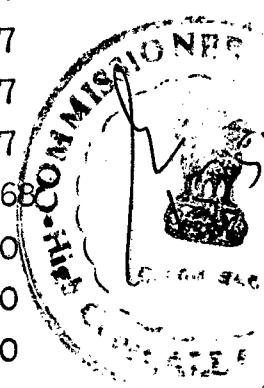
Union of India and others.....opposite parties

Annexure No. 2

क्रम सं	नाम सर्की	कैडर Cadre	जन्मतिथि	मजदूर			विवरण
				विभाग में आने की तिथि	गेड में आने की तिथि	गेड में स्थाई होने की तिथि	
1-	सूरजपाल		4-1-1915	13-5-46	13-5-46	1-3-65	बड़दू
2-	जागेवर		2-2-40	25-4-62	25-4-62	1-3-67	-
3-	रामस्वरम		31-5-43	4-6-65	5-6-65	1-3-67	-
4-	सत्ती प्रसाद		1-1-36	4-3-66	4-3-66	1-3-67	कार्यरत टिप्पेल
5-	शिव नारायण		13-9-43	5-6-65	5-6-65	1-3-67	
6-	राजदेव राम		24-7-45	18-12-64	18-12-64	1-3-67	का०२०
7-	उदय चन्द्र		13-2-42	1-2-62	1-2-62	11-1-68	--
8-	ओ०पीओग्रावाल		17-1-44	16-2-67	16-2-67	18-9-68	पैकर
9-	हरी नारायण		19-8-46	1-2-67	1-2-67	30-12-71	-
10-	साहिब सरन		19-12-46	1-2-67	1-2-67	1-3-73	-
11-	छोटे ताल		13-4-43	16-2-67	16-2-67	1-3-73	-
12-	सुख्ताली		15-10-48	1-2-67	1-2-67	1-3-73	मार्कर
13-	भारत		8-8-43	16-2-67	16-2-67	1-3-73	
14-	राम प्रसाद		8-6-44	16-2-67	16-2-67	1-3-73	
15-	राम लाल		11-9-44	1-2-67	1-2-67	1-3-73	
16-	मुख्तार		16-2-44	1-2-67	1-2-67	1-3-73	
17-	ठाकुर प्रसाद		10-7-43	16-2-67	16-2-67	1-3-73	
18-	रहम अली		31-12-44	16-2-67	16-2-67	1-3-73	
19-	हामिद अली		11-10-46	14-2-67	14-2-67		
20-	राम प्पारे		4-2-43	16-2-67	16-2-67		
21-	मुन्ना		14-11-45	14-2-67	14-2-67		
22-	राम सुख 11-7-44		11-7-44	16-2-67	16-2-67		
23-	गंगा प्रसाद		12-1-43	16-2-67	16-2-67		
24-	केशवराम		4-1-45	23-8-67	23-8-67		
25-	मद्दा प्रसाद		1-1-46	5-10-68	5-10-68		
26-	राम गोपाल		1-11-47	27-4-70	27-4-70		
27-	राम नारायण			30-4-70	30-4-70		
28-	जगदीशराम		1-10-45	22-5-70	22-5-70		
29-	ए०ए०मिश्ना		15-8-48	1-7-71	1-7-71		
30-	श्रीराम		22-4-49	1-7-71	1-7-71		

क्रमसं: ---2/-

१८५३८



31-	सत्यनारायण यादव	5-1-47	1-7-71	1-7-71
32-	सन्तोष कुमार	15-8-52	16-7-71	16-7-71
33-	बद्री प्रसाद	20-7-47	1-7-71	1-7-71
34-	माजीद अली	3-7-48	5-8-71	5-8-71
35-	लाहौरी	15-10-47	5-8-71	5-8-71
36-	नरसिंह	25-10-47	5-8-71	5-8-71
37-	मोहन लीफ	2-9-48	5-8-71	5-8-71
38-	शाकिर अली	10-11-50	5-8-71	5-8-71
39-	हरिकृष्ण	1-7-53	20-8-71	30-8-71

Sd/- Illegible  
Assistant Engineer  
I.C. Circle Telegraph Store  
Talukatora Road, Lucknow.



A  
16

In the Hon'ble High court of ~~काशीकांत खण्ड~~ Judicature at  
Allahabad, Lucknow Bench, Lucknow.

W.P. No.

of 1984

Hamid Ali ----- Petitioner

Vs.

Union of India and others ----- Opposite parties

Annexure No. 3

भारतीय डाक-तार विभाग

प्रेषक,

Assistant Engineer,  
I/C. Circle Telegraph Stores  
Depot, Talkatora Road,  
Lucknow.

सेवा में,

श्री हमिद अली मजदूर तार सामग्री भंडा  
लखनऊ।

लखनऊ 29-6-76

पत्र संख्या : क्यू एफ-95/24

आपको सूचित किया जाता है कि आपके गोपनीय पंजिका में सन् 1974-75 एवं 1975-  
76 में निम्नलिखित प्रविष्टियाँ अंकित की गई हैं जिसका संवीक्षण निम्न है।

1974-75

1975-76

1- अनुशासन के प्रति उत्तरदायित्व

१। उच्चाधिकारियों की अधीनता न  
मानना

२। कार्य में बाधा उत्पन्न करना

३। वरिष्ठों को धमकी देना

४। अपने साथियों के साथ असह्योग

2- ईमानदारी तथा सत्यनिष्ठा अपरियाप्त

3- सम्मनिष्ठा-अपरियाप्त

4- कर्तव्य के प्रति अनुराग-बिल्कुल नहीं।

अपनी इच्छा अनुसार कार्य करता है।

6- अन्य कोई श्रेष्ठ उपलब्धि

१। वर्गीकरण एवं उग्रवाद में  
विश्वास करता है।

कृपया पत्र की पावती स्वीकार करें।

ह.0 के ०८० वर्तुवेदी

प्रतिलिपि प्राप्त की

Assistant Engineer  
I/C. Circle Telegraph Stores Depot  
Talkatora Road, Lucknow-4



17

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

W.P. No.

of 1984

Hamid Ali.....Petitioner

Vs.

Union of India and others-----Opposite parties

Annexure No-----4

Assistant Engineer  
I/C. Circle Telegraph Store  
Depot, Talkatora Road  
Lucknow-4

प्रेषित -

सहायक अभियन्ता,  
केन्द्रीय तार सामग्री भड़ार  
तालकटोरा रोड, लखनऊ ।  
श्री हामिद अली, मजदूर लखनऊ ।

क्यू स्व 95/

9/5/77

आपको सूचित किया जाता है कि आपके गोपनीय पंजिका में सन् 1976-77 में निम्न-  
लिखित प्रविष्टियां अंकित की गई हैं जिसका संवीक्षण निम्न है ।

1976-77

अनुशासन के प्रति उत्तरदायित्व  
विशेष उच्चाधिकारियों  
के प्रति व्यवहार एवं कर्मवारियों  
के साथ सम्बन्ध ।

ईमानदारी और सत्यनिष्ठा  
कर्तव्य के प्रति अनुराग

उच्चाधिकारियों की अधीनता न  
माना कर्मवारियों के साथ जगड़ा  
करना, वर्गीकरण में विश्वास-करना और  
काम को टोलना  
सन्देहजनक  
बिल्कुल नहीं । सन्देहजनक

आशा है आप अपने व्यवहार में सुधार करके भविष्य में प्रविष्टियां पाण्ये  
में सक्षम होंगे । कृपया उसकी पावती स्वीकार करें । हो केसी ० शुक्रा

Assistant Engineer  
I/C. Circle Telegraph Stores Depot  
Talkatora Road, Lucknow-4



11/16/77

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

(18)

W.P. No.

of 1984

Hamid Ali ----- Petitioner  
Vs.

Union of India and others..... Opposite Parties

Annexure ~~Annexure~~ No. .... 5

To,

(1) D.G.  
P&T.  
New Delhi  
(2) Shri N.K. Mathur  
G.M.T. U.P.  
Lucknow.

Sir,

Sub : Non expunction of malafide adverse C.R.  
entries of 74-75 & 75-76.

I most respectfully submit to your goodself that the A.E. Stores, Lucknow had made adverse entries in my C.R. for 74-75 & 75-76 on 29.6.76 ( Copy of entries attached at Annexure I ).

That I represented against the entries to the A.E. Stores Lucknow and made an appeal against the said entries to the D.E.T. Lucknow, Director, Telegraphs, Lucknow but my all ~~pathetic~~ ~~cases~~ have gone to wilderness.

That copies of appeals preferred to D.E.T. Lucknow and Director, Telegraph, Lucknow are annexed as Annexure II and III.

That I have requested the Dy. G.M.T. Lucknow also for early decision to my appeal of Annexure IV.

That being disappointed from all the above I approach your goodself to intervene in the matter for do justice as " delay in justice" is actually denial of justice.

Yours faithfully

Encls : four only.

( HAMID ALI )  
Mazdoor,  
C/o A.E. Stores, Lucknow.

Dated: 11/12/1979

4/11/79  
Mazdoor



19

W.P. No.

of 1984

Hamid Ali-----Petitioner  
Vs.

Union of India ~~xxx~~ and others.....Opposite parties

Annexure No. .... 6

WHOMSOEVER IT MAY CONCERN

Certified that Shri Hamid Ali, Mazdoor Circle Telegraphs Stores Depot, Talkatora Road Lucknow during the period of my stay in this depot has worked laboriously. His work in connection with installation of iron frame works for the all the three godowns and yard has been satisfactory.

He is very intelligent and hard working. His behaviour towards his colleagues is helpful. He is obedient to his superiors.

I Wish him every success in his future life.

( D.P. SRIVASTAVA )  
Sd/- Illegible,  
ASSTT. ENGINEER  
CIRCLE TELEGRAPHHS STORE, TALKATORA RD  
LUCKNOW.

Dt. 27.4.78

A black and white photograph of a white envelope. The envelope features handwritten text in black ink. At the top right, it says "MILTON 312". In the center, it has "J. J. GARDNER". Along the bottom edge, it says "POSTAGE PAID". A circular postmark is visible on the left side, with "U.S. POSTAGE" at the top, "PAID" in the center, and "1900" at the bottom. There is also a large, dark, curved mark, possibly a signature or a stamp, across the middle of the envelope.

In the Hon'ble High Court of Judicature At Allahabad ,

Lucknow Bench , Lucknow . 26

Writ Petition No. 1984.

19

Hamid Ali

Petitioner .

Versus

Union Of India & Others

Opposite Parties .

Annexure 7

II Reminder

To ,

Shri Mewa Lal ,  
Assistant Director (Welfare)  
Office of the G.M.T., U.P. ,  
Lucknow.

Sir ,

I most respectfully submit to your goodself that I am a confirmed Mazdeer, according to the gradation list circulated under the A.E. Stores Lucknow Letter No. E-6/Ch 11/44 dated 19.8.74.

That my position amongst the confirmed mazdeers who appeared in the departmental examination for the promotion of Tindal as given below:-

1. Shri Jageshwar.
2. Shri Ram Swaroop
3. Shri Bharat
4. Shri Raham Ali
5. Shri Hamid Ali

That I have been working as Tindal since the retirement of Shri Somaru Ram who retired from Government since on 31.1.1979 and none of the aforesaid seniors have even worked as Tindal.

That except one of the above four seniors, none of them is literate except Shri Raham Ali.

That since the time of my taking over the charge of my work has been to the satisfaction of my immediate superior.

That in the written examination for the promotion which took place on 1.3.79 the hand written paper given to us has already been told to the favorit candidates .

candidates .

That I have come to know that some juniers other than the above five candidates are bidding for the premotion and it is so heard that the highest bedder is to get the promotion.

That these candidates are neither literatrate, nor they have ever worked as Tindal nor they are senior to.

That I understand that the post of Tindal is to be filled in on seniority on fitness basis and the officers are going to act in contravention to the Departmental rules and norms of justice .

That I therefore request you kindly to arragge the post perment of the result till the proper enquiry in the matter is not made.

That for this justice I shall remain grateful to you and pray for your long life and prosperity.

With regards,

Dated: 14.4.1979

Yours faithfully ,

Dated: 19.4.1979

Sd/ Signature

( Hamid Ali )

Officiating Tindal,

Central Telegraph Stores Depo

Talkatere Road ,  
Lucknew.



A 22 A

In the Hon'ble High Court of Judicature At Allahabad

Lucknow Bench , Lucknow .

Writ Petition No 1984

Hamid Ali

.. . Petitioner .

Versus

Union of India & Others

.. . Opposite Parties .

Annexure 8

To ,

The Director General  
Post and Telegraphs,  
New Delhi.

Subject:- Non-promotion as Tindal.

\*\*\*\*

Respected Sir ,

As per departmental recruitment rules of Industrial workers the recruitment to the promotional posts is to be made 50% by seniority-cum-fitness and 50% by selection . The extract of the rules is enclosed:-

1. But in the examination for promotion which took place on 1.3.1979 the above laid down procedure of the Department has not been followed.
2. I have worked as a Tindal in the leave vacancy and I have been officiating as Tindal in the clear vacancy caused due to the retirement of Somaru Ram Tindal .
3. My suitability regarding work can be judged by virtue of having officiated in the post in comparison to those candidates who have never worked as Tindal. Another criteria of suitability in the position in the gradation list. According to that I am senior also in the gradation list to the candidate who has been promoted .
4. As regards the actual work done in the field a certificate given by the then A.E. Stores is attached which is self explanatory.
5. The officers having vested interest have determined the criteria for the selection in the examination of 1.3.1979 having obtained more marks for the promotion to the post is not correct. Moreover the candidate promoted is less literate in comparison to me . Again more



Q 1984

marks have been given to him by changing his copy except the covering first page duly written on the rest changed pages of the examination copy.

6. Except one Sri Raham Ali out of my four seniors viz. Jageshwar, Ram Swarup, Bharat, Raham Ali, no one is literate. So even before the announcement of the result of the examination I had represented to the Welfare Officer of the G.M.T. Office on 14.4.1979 get the result of Tindal be postponed and examine the recruitment of Tindal in the light of the latest departmental rules. The Welfare Officer was also informed that a demand of Rs. 1000/- was put before me by A.E. Stores Lucknow for getting promotion, but as the same could not be agraced to by me and Munna the candidate who offered the above sum in full on payment was assured for his promotion, which he had told me.

7. I also represented to G.M.T.U.P. Lucknow by name on 30.7.1979 and the then Dy. G.M.T. Lucknow Sri S.K. Pande to intervened the matter.

That now on 19.9.1979 vide G.M.T. Lucknow letter No. Staff/M-449/6/79/12 dated 19.9.1979 I have been responded that my case regarding non-promotion as Tindal will be examined by the D.T.C. Lucknow and the candidate promoted has been allowed to officiate.

In view of the fact stated above I am to request you to very kindly intervene in the matter and arrange for my immediate promotion orders.

Enc-Tow Only

Yours faithfully

Dated 14.12.79

SD/ Signature

( Hamid Ali )

Mazdoor

O/O A.E. Stores Lucknow.

Copy to the Hon'ble Minister of Communication for information and necessary action.

Extract of Recruitment Rules to the Industrial Establishment in the Circle Stores Depots 1969, issued under the authority of Chief Controller of Telegraphs Stores, Calcutta-13.

Selection I (Item 4) (a)

To the category of From the category of on the Basis of

Tindal

Pay scale 70/85

Seniority-cum-fitness, fitness being adjudged by a qualifying test.

In column(3) against both paras 4(a) and 4(b) substitute for following in place of the existing one:

" 50% by seniority-cum-fitness, fitness being adjudged by a qualifying test, 50% by selection from those with not less than 2 years service in the category and found fit by the qualifying test."

( Correction slip No.2 dated 30.6.71 )

In the Hon'ble High Court of Judicature At Allahabad ,  
Lucknew Bench , Lucknew . 24  
Writ Petition No. of 1984 .

Hamid Ali

.. Petitioner .

Versus

Union of India & Others

.. Opposite Parties .

Anne xure 9.

To :

The A.G.M.(Planning) II  
O/O the G.M.Telcom. U.P.  
Lucknew.

Subject:- Seniority and confirmation of Mazdeers.  
\*\*\*\*\*

Sir,

Humbly and most respectfully I beg to state that I was confirmed and made permanent as Mazdeer vide A.E. stores Lucknew letter No. E-6/ch.II/40 dated 4.2.1974 w.e.f. 1.3.1973 against one of the permanent posts of Mazdeers sanctioned under P.M.G.U.P.Lucknew No. Est.B/EN -202 dated 31.10.1973.

The above orders of confirmation were modified vide A.E. Stores Lucknew under No. E-6/ch.II/66 dated 20.8.1975 without any reasons as no representation for any discrepancy of the orders dated 4.2.1974 was received and since then I am being shown temporary without any rhyme or reasons, while 26 other junior mazdeers to me have been made permanent on three different occasions viz. vide A.E. Stores Lucknew letters No. E-6/ch.II/66 dated 20.8.1975, E-6/ch.II/89 dated 2.6.1976 and No. E-6/ch.II/2 dated 31.8.1979.

In view of the facts narrated above I most earnestly request your goodself to very kindly arrange to issue necessary orders to A.E. Stores Lucknew for correction of orders giving me the original confirmed position particularly when no representation against confirmation orders of A.E. Stores Lucknew dated 4.2.1974 was received within six months as stipulated in the rules.

Thanks.

Dated:- 16.12.1979

Yours faithfully ,  
Sd/ Signature  
( Hamid Ali )

Copy to:-

1. The Director Central Lucknew O/O A.E?Stores Lucknow
2. The G.M.Telcom.U.P.Circle Lucknew.

Ex for information and necessary action.

(25) 1/2

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

W.P. No. of 1984

Hamid Ali Petitioner

Vs.

Union of India and others Opposite parties.

Annexure No. 10

सहायक अभियन्ता प्रभारी,  
केन्द्रीय तार सामग्री भण्डार  
ताल कटोरा रोड  
लखनऊ ।

नं० ई-१८८/३१९  
दिनांक ४/२/८१

श्री हामीद अली  
मजदूर

कार्यालय सहायक अभियन्ता  
तार सामग्री भण्डार, लखनऊ ।

विषय :- दक्षतारोक के सम्बन्ध में ।

स्वेच्छा सुचित किया जाता है कि इस सम्बन्ध में आपको दक्षतारोक  
नहीं प्रदान किया जा सकता है। क्योंकि आपकी गोपनीय पंजिका में प्रतिकूल  
प्रविष्टियां हैं। जिसकी प्रतिलिपि आपको प्रदान की जा चुकी है।

ह०/-

सहायक अभियन्ता प्रभारी  
केन्द्रीय तार सामग्री भण्डार  
ताल कटोरा रोड  
लखनऊ ।

T.C.



11/14/81

26

In the Hon'ble High Court Of Judicature At Allahabad

Lucknew Bench , Lucknew .

Writ Petition No. 1984 .

Hamid Ali

Petitioner .

Versus

Union of India & Others

. . . Opposite Parties .

Annexure No 11.

To ,

Sri R.K. Bhargawa ,

E.E. Telegraphs.

Lucknow.

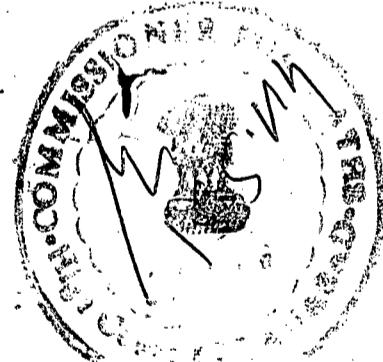
Subject:- Net-allowing to cross the E.B.

\*\*\*\*

Respected Sir ,

Humbly and most respect I beg to state that the A.E.I/C Circle Teleg. Store Depot Lucknow vide his letter No.16-1/June/319 dated 4.2.1981 has informed that E.B. cannot be granted for the reasons of adverse entry in the C.R.file. In this connection I am to inform you that no adverse remarks have been communicated to me for the last four years. If however the A.E. Stores Lucknow mean for the adverse remarks communicated to me during 74-75, 75-76 that ground perhaps is not genuine for non-allowing to cross E.B. particularly when I have preferred appeal vide my letter dated 16.12.1974 and subsequent reminders dated 5.8.1976 27.4.1978, 11.9.1979 and 15.12.1979 which the administration has failed to decide so far .

Under the circumstances I am to request you to very kindly direct the A.E. Stores Lucknow to allow



*Hamid Ali*

the E.B.

Thanks.

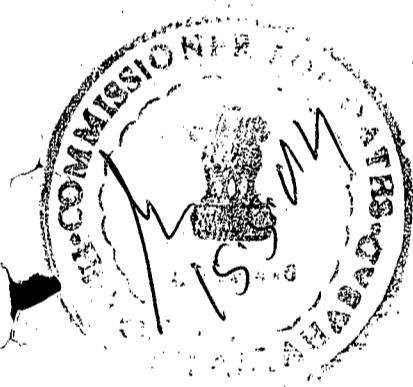
Yours faithfully

( Hamid Ali )

Mazdeer

Dated: 23/2/1981 O/O A.E. Stores Lucknow.

*Hamid Ali*



In the Hon'ble High Court Of Judicature At Allahabad ,

Lucknow Bench , Lucknow 28

Writ Petition No. 1984 .

Hamid Ali

.. . Petitioner .

Versus

Union of India & Others

.. . Opposite Parties

Annexure 12

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

Office of the Divisional Engineer Telegraphs  
Bhopal House, Lalbagh, Lucknow-226001 .

To ,

Shri Hamid Ali, Mazdeer,  
Office of A.E. Stores, Lucknow

No.X-7/Stores/ Dated at LW, the 29-4-1981.

Sub :- Crossing of Efficiency Bar.

Ref :- Your appeal dated 23/2/1981 on the  
above subject .

\*\*\*\*

After going through your appeal dated 23.2.81  
and personal records . I have come to the conclusion  
that your E.B. stepping by A.E. Stores, Lucknow has been  
done correctly .

I regret to inform you that your appeal dated  
23.2.81 could not be considered in your favour.

Please acknowledge receipt .

( R.K. Bhargava )

D.E. Telegraphs , Lucknow .

*S. K. Bhargava*

In the Hon'ble High Court of Judicature At Allahabad ,

Lucknow Bench , Lucknow .

Writ Petition No. of 1984.

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Hamid Ali

.. Petitioner .

Versus

Union of India & Others

.. Opposite Parties.

Annexure No 13

To ,

The Director General

P & T

New Delhi.

Through:- Proper Channel

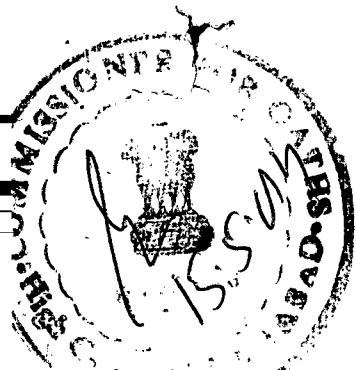
Subject:- Regarding seniority , Promotion , confirmation  
and crossing of E.B.

Respected Sir,

With due deference and humble submission the petitioner Hamid Ali S/O Muazzam Ali employed as Mazdeer under the Assistant Engineer Circle Telegraph Store Depot, Talkatora Road Lucknow begs to submit following for favour of your kind indulgence and immediate necessary action :-

1. That the applicant was confirmed w.e.f. 1.3.73 by letter no E-6/ch II/40 dated the 4.2.74 issued by the Assistant Engineer Circle Telegraph Stores Lucknow but he is being treated as temporary employee without assigning any reason. His various representations and reminders addressed to the said Assistant Engineer, D.E.T. Lucknow and General Manager Telecommunication have failed to bring any result .

2. That adverse remarks were recorded in the G.R. of the petitioner for the years 1974-75 and 1975-76 on 29.6.76 and also for the year 1976-77 without any specific



*RECEIVED*

instance or basis. The petitioner submitted a number of representations to the D.E.T. Lucknow, Director Telecom (Central) Lucknow General Manager Telecom U.P. Circle Lucknow and also to you but no decision has yet been taken.

3. That the petitioner's promotion to the cadre of Tindal has been held up and his juniors have been promoted in violation of rules and the petitioner's claim. The petitioner's conduct and services were appreciated by Shri D.P.Srivastava the then Assistant Engineer, Circle Telegraph Stores by his certificate dated 27.4.78 and yet he was not promoted on the basis of examination held on 1.3.1979. On his representations, the General Manager Telecom, U.P.Circle Lucknow intimated by his letter dated 19.9.79 that the petitioner's case regarding non-promotion as Tindal would be examined by the Director Telecom(Central) but nothing has been done thereafter and the petitioner's subsequent representations have provedxx of no avail.

4. That the petitioner was due to cross the E.B. in the scale of Rs 196-3-220 EB 232 w.e.f. 1.1.1981 but no orders were passed prior to 1.1.1981 which was against the mandatory provisions of the rules which by ~~im~~laydown that the workman who is not considered fit to cross E.B. should be served with a memo of charges showing the grounds on which it is proposed to stop him at the stage of the bar and he should be asked to furnish his representation within 16 days against the action proposed and on receipt of the representation the case should be reviewed and the finding of the appointing authority recorded in the form of a memo of proceeding and a copy of the memo should be furnished to the workman concerned. The E.B. was stopped arbitrarily maliciously and prejudicially and the representations made in this regards were not considered.

It is, therefore, requested that the petitioner's grievances may kindly be sympathetically considered and immediate action be taken to remedy the same.

The petitioner shall ever remain grateful for  
favour of your just and judicious consideration.

Lucknow

5.3.1984

Yours faithfully

( Hamid Ali )



In the High Hon'ble High Court of Judicature At Allahabad

Lucknow Bench , Lucknow (22)

Writ Petition No. 1984. (22)



Hamid Ali

... Petitioner .

Versus

Union of India & Others

... Opposite Parties .

Affidavit

I Hamid Ali aged about 38 years S/O Muzzam Ali R/O  
Mohalla Bansi Ka Hata, Purana Tikaitganj, Ward Saadatganj,  
P.S. Khala Bazar, Lucknow do hereby state on oath as  
under :-

1. That the deponent is the petitioner in the above noted case and he is fully conversant with the facts deposed to in the accompanying writ petition.
2. That the contents of paras 1 to 16 are true to the deponent's knowledge and those of para 17 are believed to be true.
3. That the true copies of the Annexures to the writ petition have been compared by the deponent with their originals and they are found to be correct .

Lucknow

April 15, 1984

Hamid Ali  
Deponent.

Verification

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

Lucknow  
April 15, 1984  
Hamid Ali

Hamid Ali  
Deponent.

I identify the deponent who has signed before me.

*M. Dubey*  
( M. Dubey )

Advocate.

Solemnly affirmed before me on this 15<sup>th</sup> day of  
May 9.20 <sup>in the presence of</sup> Shri Hanif Ali ✓  
April 1984 at Am/PM who is identified by Shri M. Dubey  
Advocate aforesaid, Advocate High Court, Lucknow, Lucknow  
Bench Lucknow.

I have satisfied my self by examining the deponent  
that he under stands the contents of this affidavit .  
Which has been read over and explained to him .

*H. S. Mukherjee*

Oath Commissioner  
High Court, Allahabad  
Lucknow Bench

No. 28/20  
Date 15.5.1984

8-10-90

दीमा नहीं/NOT INSURED

लगाये जन डाक टिकटों का मूल्य Re. 1/-

Amount of stamps affixed Re. 1/-

एक रजिस्टर्ड प्राइवेट लिमिटेड

Received a Registered P. S. Seethamur

गोपनीय वाले का नाम A. H. Court

Addressed to C/o

प्राप्ति-No.

47291

तारीख/Date

10-10-90

मुद्रा/Stamp

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प्राप्ति वाले विधिकारी के हस्ताक्षर  
Signature of Receiving Officer

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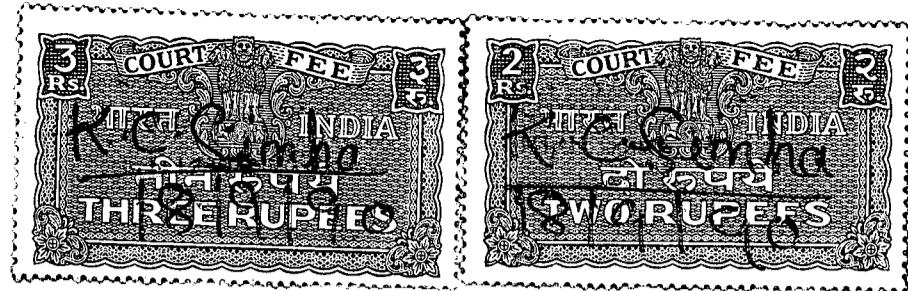
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of Judicature at Allahabad, Lucknow Bench, Lucknow, and the said petition was transferred after the enactment of the Central Administrative Tribunal Act, 1985.

2. THAT inadvertently no counter affidavit could be filed before the High Court on behalf of the respondents and after the case has been transferred to this Tribunal, the aforesaid case escaped the notice of the respondents and the file of the aforesaid case was mixed up with certain other papers and which could not be traced out earlier.

3. THAT the delay in filing of the counter affidavit was not deliberate but it was inadvertent and only by mistake.

4. THAT in fact in the aforesaid



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applicant shall suffer irreparable  
loss and injury.

P R A Y E R

It is, therefore, Most Respectfully  
Prayed that this Hon'ble Court may graciously  
be pleased that the exparte order may  
kindly be recalled and the case may be  
heard decided after hearing both the parties  
and accompanying counter affidavit may be  
taken as part of the record; otherwise  
the applicants/respondents shall suffer  
irreparable loss.

September 18<sup>th</sup>, 90

( K.C. SINHA )  
ADDL STANDING COUNSEL  
CENTRAL GOVT.

COUNSEL FOR THE APPLICANTS/RESPONDENTS

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petition this Hon'ble Tribunal has passed an order for ex-parte hearing which will be taken up on 18-9-90.

5. THAT it is expedient in the interest of justice that in view of the facts and circumstances stated above, this Hon'ble Court may be pleased to permit the respondents to file counter affidavit which may kindly be accepted as the part of the record of the case. and after hearing both the parties, the case may be decided on merit.

6. THAT in the interest of justice this Hon'ble Court may be pleased to recall the ex-parte hearing order passed by this Hon'ble Tribunal in the aforesaid case and the case may be decided after hearing both the parties and the accompanying counter affidavit may kindly be accepted as part of the record, otherwise the



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applicant shall suffer irreparable  
loss and injury.

P R A Y E R

It is, therefore, Most Respectfully  
Prayed that this Hon'ble Court may graciously  
be pleased that the ex parte order may  
kindly be recalled and the case may be  
heard decided after hearing both the parties  
and accompanying counter affidavit may be  
taken as part of the record; otherwise  
the applicants/respondents shall suffer  
irreparable loss.

September 18<sup>th</sup>, 90

( K.C. SINHA )  
ADDL STANDING COUNSEL  
CENTRAL GOVT.

COUNSEL FOR THE APPLICANTS/RESPONDENTS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

CIRCUIT BENCH LUCKNOW

.....

AFFIDAVIT

In

MISC. APPLICATION NO. \_\_\_\_\_ OF \*1990

In

Registration T.A. No. 1559 of 1987

Hamid Ali ... Applicant/Petitioner

vs

Union of India and others... Respondents

Affidavit of Shri O.P. DeHARE

aged about 45 years son of Shri  
R.B. Lal working as t  
+ A.G. I/c C.T.S.D. Lucknow

(Deponent)



I, the deponent above named do

hereby solemnly affirm on oath and state  
as under:

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1. THAT the deponent above named  
is A.E. 2/c CTS 2 in the Office of  
the respondents and as such he is fully  
conversant with the facts of the case  
deposed to hereinafter.

2. THAT the deponent has been authorised  
to file this affidavit on behalf of the  
respondents, and the deponent has read over  
the contents of the application filed by the  
petitioner.

3. THAT the aforesaid Writ petition  
was filed under Article 226 of the Constitu-  
tion of India before the Hon'ble High  
Court of Judicature at Allahabad, Lucknow  
Bench, Lucknow, and the said petition was  
transferred after the enactment of the  
Central Administrative Tribunals Act, 1985.

4. THAT in-advertently no counter  
affidavit could be filed before the High

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Court on behalf of the respondents and after the case has been transferred to this Tribunal, the aforesaid case escaped the notice of the respondents and the file of the aforesaid case was mixed up with certain other papers and which could not be traced out earlier.

5. THAT the delay in filing of the counter affidavit was not deliberate but it was inadvertent and only by mistake.

6. THAT in fact in the aforesaid petition this Hon'ble Tribunal has passed on an order for ex parte hearing which will be taken up on 18-9-90.

7. THAT it is expedient in the interest of justice that in view of the facts and circumstances stated above, this Hon'ble Court may be pleased to permit the



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respondents to file counter affidavit which may kindly be accepted as the part of the record of the case. and after hearing both the parties, the case may be decided on merit.

8. THAT in the interest of justice this Hon'ble Court may be pleased to recall the ex-parte hearing order passed by this Hon'ble Tribunal in the aforesaid case and the case may be decided after hearing both the parties and the accompanying counter affidavit may kindly be accepted as part of the record , othewrwise the respondents/ applicants may suffer irreparable loss.



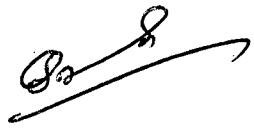
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I, the deponent above named do hereby verify and declare that the contents of paragraph nos. 1, 2, 3, 4, 5, 6, 7, and 8 of this affidavit are true to my personal knowledge and that no

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part of this affidavit are false and  
nothing material has been concealed  
in it.

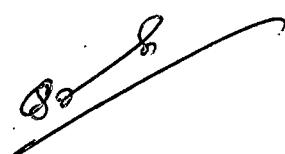
So help me God.

  
Deponent.



I, D.S. Chaubey Clerk to Shri  
K.C. Sinha, Addl Standing Counsel,  
Central Government do hereby verify and  
identify that the person alleging himself  
to be the deponent is known to me from  
the perusal of records in his possession  
and I am satisfied that he is the same  
person.

  
D.S. Chaubey  
Clerk.



22/10/1990

Solemnly affirmed before me on 18.8.90  
this day (10 of September, 1990 at 12.30 a.m./p.m.  
by the deponent, who is identified by the  
aforesaid Clerk. *Dr. D. K. Sharma, H. C. Oath Commissioner*

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



*Signature*  
OATH COMMISSIONER

Harikesh Sharma  
OATH COMMISSIONER  
High Court, Allahabad  
Lucknow Bench

No. C.N.A  
Date 10.9.90



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

CIRCUIT BENCH LUCKNOW

....

COUNTER-AFFIDAVIT

On behalf of the respondents

In

Registration T.A. No. 1559 of 1987

Hamid Ali ... Petitioner

vs

Union of India and others ... Respondents

Affidavit of Shri O. P. DOHARE

aged about 45 years, son of

Shri R.B. Lal working as  
+ 50% crs & Lucknow

(Deponent)



I, the deponent abovenamed do  
hereby solemnly affirm and state on oath  
as under:

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1. THAT the deponent is a 45% crs & in the office of the respondents and he has

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been authorised to file this counter  
affidavit on behalf of the respondents  
as such the deponent is fully conversant  
with the facts of the case.

2. THAT the deponent has read over  
the contents of the aforesaid writ petition,  
and he has understood the same and is in a  
position to reply the same.

3. THAT in reply to the contents of  
paragraph 1 of the writ petition only this  
much is admitted that the petitioner is an  
Industrial worker employed as Temporary  
Max-door in Circle Telegraph Stores Depot  
Lucknow and working under the administrative  
control of the respondent no.6 in the scale  
of pay of Rs.196 - 232. The petitioner is  
not having a satisfactory records of service  
as alleged. His contention that he is a  
class IV employee is wrong and as such is

B. D.

S. S.

denied. It is added that the Services of the petitioner are governed by the Certified standing orders for P & T. Stores Organisation issued under the authority of Chief Labour Commissioner (Central) and Appellate Authority.

4. THAT the contents of paragraph 2 of the petition are admitted to the extent that the petitioner was appointed as a Temporary Mazdoor with effect from 14-2-67 in the old scale of pay of Rs.70/85, revised subsequently as Rs.196-232 w.e.f. 1-1-73. The petitioner is not senior to S/Shri Bharat, Ram prasad, Thakur Prasad, Munna, Mahesh Prasad, Ram Gopal, Ram Narain and Shri Ram I as alleged. The averments made to the contrary are wrong and as such are denied.

5. THAT the contents of para 3 of

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the writ petition are not admitted as stated therein. It is wrong to say that the petitioner was confirmed vide letter No.E-6/Ch-II 340 dated 4-2-74 issued by the respondent No.6. In fact no such letter as alleged was ever issued. However, a letter No.E-6/Ch-II/40 dated 4-2-74 was issued but the same was withdrawn and fresh provisional permanency (Confirmation) orders were issued vide letter No.E-6/Ch-II 41 dated 3/74 with a provision of making representation by the staff, if any, within 6 months against the orders. As no representation was received in spite of vide circulation and passing the sufficient time, the same orders were confirmed vide letter No.E-6/Ch-II/66 dated 20-8-75. The petitioner was due for permanency and was also considered but ~~he~~ he could not be recommended for permanency on account of his unsatisfactory record of service.

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6. THAT in reply to the contents of paragraph 4 of the writ petition it is stated that the petitioner is not a sincere and disciplined worker. He has been functioning in his own fashion without the least responsibility to his job. He was cautioned number of times for his undesirable activities, wilful creation of hindrance in performance of the Govt work, misbehaviour with his superiors etc. with the advice to improve himself but he failed to make any improvement in his working and behaviour. The said act of the petitioner thus warranted adverse entries in his C.R.s which were made on the basis of his actual performance, during the year 1974-75, 1975-76 and 1976-77 duly backed by records. The allegation of prejudice has no basis rather altogether false and baseless. There is no substance in the contention of the petitioner that the adverse remarks were not recorded in

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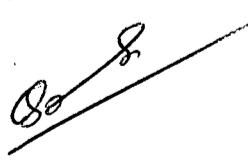
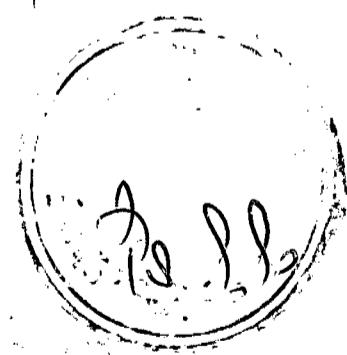
terms of rules. In fact the adverse remarks were recorded correctly based on the act and action of the petitioner during the years and within the pruview of the rules and the regulations, which clearly permits to indict such a person if the facts and circumstances warrants it.

7. THAT the contents of para 5 of the writ petition are misleading and misconceived. It is stated that no such representation dated 14-12-79 as alleged was ever submitted by the petitioner. He submitted a representation dated 11-12-79 a copy of which has been annexed as Annexure-5 to the writ petition, but he did not send it through proper channel. Even other representations as alleged by the petitioner were not routed through proper channel and the said act of the petitioner itself leaves a question mark on the authenticity of his statement

of having made the representations.

8. THAT the reply to the contents of para 6 of the writ petition it is stated that the confidential reports are written based on the close observation of performance of a Government servant during the year.

Though the petitioner managed to get a certificate dated 27-4-78 from the then Assistant Engineer Shri D.P. Srivastava, who issued it beyond the official procedure, but it does not extend any support to the contention of the petitioner as it testifies his performance only for a specific period during 1978. It is pertinent to mention here that the said officer, Shri D.P. Srivastava had himself warned the petitioner vide letter No.Q-92/285 dated 20-4-78 for failure of devotion to duty, during his short stay as Assistant Engineer Incharge Circle Telegraph Stores Depot Lucknow for about three months. The



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clouding state of circumstances under which such a certificate dated 27-4-78 was managed after 6 days of the warning to the petitioner automatically ceases to extend any moral support to the claim of the petitioner that he was a diligent worker and as a result of which his services were appreciated. Moreover, the said certificate dated 27-4-78 cannot have any relevancy with the performance of the petitioner of other years. The adverse entries actually pertain to the years 1974-75, 1975-76 and 1976-77 and these happened to be made only as a result of performance of the petitioner during the aforesaid years. A true copy of the letter dated 20-4-78 is being annexed herewith and marked as Annexure-CA-I to this counter affidavit.

ANNEXURE NO.CA-I.

9. THAT in reply to the contents of para 7 of the writ petition it is stated  
thatxxxpxxxthx

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that as per the Recruitment Rules to  
Industrial establishment in Circle  
Store Depot, 1969, as amended from time to  
time, issued under the authority of Chief  
Controller of Telegraph Stores, Calcutta,  
now designated as General Manager  
Telecom. Stores, Calcutta, the recruitment  
to the category of Semi-skilled industrial  
workmen is 100% by promotion from the  
category of unskilled workmen but the mode  
of promotion will be 50% on the basis of  
seniority - cum-fitness and 50% by selection  
on merit from those with not less than 10  
years service keeping in view the provisions  
of reservation for SC/ST . The said rules  
further provide for Oral and Practical  
tests to be conducted by a duly constituted  
Board consisting of the Controller of Teleg-  
raph Stores, Assistant, Engineer in the  
Store Deptt and the Welfare Officer of the

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Store Depot, or Workshops or the Circle or the Telephone District who-ever is available in that order, for adjudging the suitability /fitness of an unskilled workman for promotion. The test will carry 100 marks (Practical 60, Oral 40) and the minimum qualifying marks will be 40% in each and 50% in the aggregate. The tests will cover the duties specified for each cadre in section. The selection of a candidate who succeeds in the qualifying test depends on further consideration and approval of his candidature by the Board based on his record of work and conduct during the previous five years. Thus the candidates who are found fit in order of seniority on the basis of common seniority list in the eligible cadres drawn after passing the qualifying tests, are selected for appointment to the extent of Vacancies to be filled up by seniority cum-fitness

D.P.B.  
S.S.

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and thereafter selection is made from amongst the remaining candidates strictly in order of merit against 50% selection quota of Vacancies. The averments made to the contrary are wrong and as such are denied.

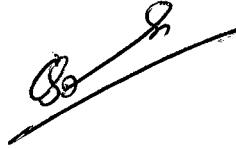
10. THAT the contents of para 8 of the writ petition are not admitted as stated. It is submitted that the petitioner was simply allowed to work casually in the exigencies of service. He was never allowed to work on long term basis. It is only on the said account that the petitioner was not allowed the benefit of his casual performance otherwise he would have been entitled for it and allowed as per rules. The question of his fitness etc. as alleged are immaterial and have no relevancy. It is only the duly constituted Board which decide the fitness of a person for promotion or otherwise as per the provisions

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in the rules of recruitment as enumerated  
in above.

11. THAT the contents of para 9 of the writ petition are not admitted. It is stated that the test was conducted by the Board constituted under the Chairmanship of the Divisional Engineer Telegraphs, Lucknow and the Controller of Telegraph Store as per the provisions in rules. The tests were conducted by the Board strictly as per the instructions and guide-lines contained in the Recruitment Rules to Industrial establishment as referred above. It is pertinent to mention here that as per the said recruitment rules one of the essential qualification for the semi-skilled workman Viz Tindel, Marker, Packer Grade II, Carpenter Grade II of Circle Telegraph Store Depot, Lucknow, being their job assignment, i.e the nature of work which they perform during the course of their duty,



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and keeping in view the above, it has been laid down that they should be literate enough in English/Regional language so as to perform their work smoothly. With the above, it was thus necessary to judge the literacy of the candidates prior to their selection being a pre requisite qualification for the post. Accordingly the candidates were put to practical writing and reading. As there was no other way to judge such a literacy, the said practical test, as such, should have not been termed or taken otherwise when the provision for a practical test exist in the rules of recruitment itself. The allegation of the petitioner that the hand written paper were made known to the favourite candidates is absolutely false and base-less. As a matter of fact the petitioner was not hopeful of his selection in view of his poor performance and unsatisfactory records of service and



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finding no way he has come forward with  
a concocted story just to justify his  
stand any how and gain a favour from this  
Hon'ble Tribunal.

12. THAT the contents of para 10 of the writ petition are misconceived and as such are denied. It is stated that the selection was made by a duly constituted Board strictly as per the prescribed rules of recruitment. The Board after conducting the oral and practical tests, made final selection of the candidates based on their record of work and conduct during the previous five years, and those who were found fit and selected by the Board, were promoted. As the petitioner was not found fit and recommended for promotion by the Board, the question of his promotion as alleged did not arise. The selection thus made was in no way arbitrary rather perfectly correct

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just, fair, legal and strictly as per the provisions in rules. It is also wrong to allege that S/Shri Ram Prasad, Thakur Prasad and others who were promoted are junior to the petitioner in face of the facts enumerated in para 2 above. Morevoer as the petitioner was found unfit for promotion by the Board, the question of seniority is immaterial, having no relevancy with the petitioner.

It is further submitted that the representations made by the petitioner were based altogether on wrong presumption having no specific ground for consideration. As a matter of fact the petitioner was fully aware of the position, who did not make any effort to bring improvement in his working and behaviour in spite of repeated counsellings and acted at his own risk which warranted unhealthy remarks in his CRs. He also failed to give proper

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performance due to lack of knowledge and education. There is also no force in the contention of the petitioner that S/Shri Munna and Ram Gopal who were selected and promoted are illiterate and inefficient whereas the ~~the~~ fact remains that the petitioner himself is not literate. It is stated that both the above persons who could deserve for promotion on the basis of their overall performance were selected by the duly constituted Board correctly and in conformity with the rules enforced. Both the selected persons have been discharging their duties smoothly with the entire satisfaction of their superiors after their promotion. Hence the allegations made by the petitioner are totally false and baseless. The rest of the averments made in para under reply are wrong and as such are denied.

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13. The the contents of para 11 of the writ petition are not admitted. It is

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entirely wrong to say that the petitioner was confirmed as Mazdoor with effect from 1-3-1973. The petitioner was never confirmed as alleged. His work and conduct all along been unsatisfactory, which did not entitle him for confirmation as enumerated in the proceeding paragraphs.

14. THAT in reply to the contents of para 12 of the writ petition it is stated that the petitioner was due to cross E.B. from 1.1.81 but he was not considered fit for crossing the E B from the said date due to unsatisfactory records of service. He was allowed to cross EB with effect from 1.1.82. The ruling referred to by the petitioner is ~~fact~~ fictitious. The correct procedure of crossing EB is the satisfactory records of service of an official only. No memo of charges is at all necessary as alleged. The allegation of harassment and financial



• 18 •

loss has no validity to stand.

15. THAT the contents of para 13  
of the writ petition are admitted to the  
extent that the petitioner was informed  
to the effect that he could not be allowed  
to cross E.B. due to adverse entries  
recorded in his C.Rs. which were duly  
communicated to the petitioner.

16. THAT in reply to the contents of para 14 of the writ petition it is stated that a detailed reply has already been given in the preceding paragraphs, hence need not to be repeated again. It is further submitted that the representation made by the petitioner was duly considered by the respondent no.5 but he did not find any reason to interfere with the decision taken by the respondent no.6, and rejected the representation. The respondent no.5, acted correctly and judiciously in taking a decision on the representation of the

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petitioner keeping in view the grounds and reasoning adduced in support of his contention. As a matter of fact the petitioner is found to be very much particular to his claim but not to his work and duty.

17. THAT in reply to the contents of para 15 of the writ petition it is stated that the petitioner has no claim for consideration, in view of the facts that the appellate authority has already taken a decision and informed the petitioner. Petitioner has no right to approach the Respondent no.2 and reply from the said authority.



18. THAT the contents of para 16 of the writ wrx petition are incorrect and as such are denied. A detailed reply has already been furnished in the foregoing paragraphs, hence need not to be repeated again.

*Go S*

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para 17 of the writ petition it is stated that the grounds No. 1 to 13 taken by the petitioner, all are misconceived and not tenable in the eyes of Law. The petitioner does not stand for any claim in as much as he is guilty of his own conduct as enumerated in the preceding paragraphs. In fact no case has been made out by the petitioner to invoke the jurisdiction of this Hon'ble Tribunal.

20. THAT in view of the facts and circumstances as stated in the foregoing paragraphs, the petitioner is not entitled for any relief. The petition is devoid of merit and is liable to be dismissed with cost.

I, the deponent do hereby solemnly affirm and verify and declare that the contents of paragraph nos. 1 and 3

of this affidavit are true to my personal knowledge, and the contents of paragraph

8/82  
A  
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:: 21 ::

nos. 4 to 20

of this counter affidavit are based on  
perusal of records and the contents of  
paragraph nos. 4 to 20, 22 to

of this affidavit are based on legal advice,  
to which in all the deponent believes to  
be true and that no part of this affidavit  
is false and nothing material has been concealed  
in it.

So help me God.

  
So  
(Deponent)

I, D.S. Chaubey, Clerk to  
Shri K.C. Sinha, Addl. Standing Counsel,  
Central Govt. do hereby verify and identify  
that the person alleging himself to be the  
deponent is known to me from the perusal of  
record ~~which~~ and I am satisfied that he is  
the same person.

Reddy  
Clerk.

10/22

Solemnly affirmed before me on 10  
this day of September, 1990 at 12<sup>40</sup> a.m./p.m.  
by the deponent, who is identified by the  
aforesaid Clerk.

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

H. S. Singh  
OATH COMMISSIONER

Harish Singh  
OATH COMMISSIONER  
High Court, Allahabad  
Lucknow Bench  
(31322)



Annexure-ct I

आजवीर एवं व लेख क्रमांक

मा क्रम-१२१२४५ दिनांक २०-५-७४

श्री-दामीद अली अजदुर

तार सामाजी गांव, लखनऊ

प्रियजन! - आखिर आप इवं क्रमांक  
पर वार्षि न लागें।

आप के प्राचीन प्रभ दिनांक  
१०१५/७४ के संदर्भ में बताचेत किया  
जाता है कि आप तो तक निराला  
साथ से वे इवं राजनीति से प्रतिरूप  
कर्याली थाह आप के साथ ही तो आप  
कर्तृतोर्यावर सकात ही तो आप  
के अन्दर इनी शृगता कर्या नहीं है।

मात्र, इस विषय में आप की  
चेतावनी की जाती है कि आप भावितव्य  
में लापरवाई से वार्षि न करें।  
इवं पूर्व अजदुरा वा तरह वरी  
नियका इवं भेदनत वा इत्य सरकारी  
वार्षि संस्पन वारे।

दा० प्र० अविलम्ब  
२०/५

Ass't. Engineer/  
circle, Telegraph  
store Dep't  
Talkatora, Road,  
Lucknow-4

True copy  
attested

संवाद  
३१/१०

सहायक अभियन्ता प्रभारी  
सर्किल टेलीकाम स्टोर डिपो  
तालकटोरा रोड, लखनऊ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

CIRCUIT BRANCH, LUCKNOW.

T.A. No. 1559 of 1987

(W.P No. 2540 of 1984 )

Hamid Ali .. .. Applicant/Petitioner.

Versus.

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

Fixed for 15.4.1991.  
20.9.91

REJOINDER AFFIDAVIT.

I, Hamid Ali aged about 44 years son of Muazzam Ali, resident of Mohalla, Bansi ka Hata, Purana Tikaitgai Ward Saadatganj, P.S. Khala Bazar, do hereby state on oath as under:-

1. That the deponent is the petitioner in the above named case and he is fully conversant with the facts of the case deposed to in this rejoinder affidavit. The deponent <sup>having</sup> ~~has~~ been read over the contents of Counter Affidavit, explained the same in Hindi, which he has fully understood and is replying to the same.

2. That the copy of the Counter Affidavit supplied to the deponent does not contain the name and the particulars of the person swearing in, nor any authority has been furnished for furnishing the reply on behalf of all the respondents. The Counter Affidavit therefore appears to be incompetent and it is liable to be ignored being ~~not~~ in violation with rule 12 of the

20/9/91

20/9/91

A.T. Act.

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3. That the contents of paras 1 and 2 of the Counter Affidavit are vague and unsustainable as they do not disclose the name, designation and authority of the person furnishing the reply and for want of that the reply is liable to be ignored being not in accordance with rules.

4. That in reply to the contents of para 3 of the Counter Affidavit it is denied that the deponent is a temporary worker and not having a satisfactory record of service. It is also denied that the deponent is not a class IV employee. In the Counter Affidavit it has not been mentioned to which class of employee the deponent belongs. Normally there are four classes in government establishments i.e. Class I, Class II, Class III and class IV. If the deponent is not a class IV employee as asserted by him and denied in the Counter Affidavit then it is obligatory for the respondents to state as to which class the deponent belongs. The rest of the contents contrary to the contents of para 1 of the petition are denied and those of para 1 of the petition are reasserted.

5. That in reply to the contents of para 4 of the Counter Affidavit it is stated that the service particularly furnished by the deponent vide Annexure I of the Writ Petition in respect of S/Shri Bharat, Ram Prasad, Thakur Prasad, Munna, Mahesh Prasad, Ram Gopal, Ram Narain and Sri Ram have not been disputed in the Counter Affidavit. These persons were appointed after the deponent and as such they are junior to the deponent as asserted in the Writ Petition on the basis of the length of service.

*Copy Recd*

The averments made to the contrary in the Counter Affidavit are wrong and prejudicial and as such they are denied and the contents of para 2 are restated.

6. That in reply to para 5 of the Counter Affidavit it is stated that no where it has been said by the deponent regarding the issue of letter No. E-6/Ch.III/340 dated 4.2.74. The deponent has been confirmed vide letter No. E-6/Ch.II/40 dated 4.2.74.

\* A person once confirmed cannot be deconfirmed. Also there is no provision for provisional confirmation in the Departmental rules, hence the contents of para 5 of the Counter Affidavit are apparently intended to misguide the lordships. It is incorrect to say that the service record of ~~if~~ the deponent was unsatisfactory. There was no question of recommending the deponent for permanency. The contents of para 3 are restated.

7. That in reply to para 6 of the Counter Affidavit it is stated that the respondents are totally silent on the issue of communication of adverse remarks in the C.R of the deponent. The reply given is vague, indefinite and irrelevant and more of a sweeping nature which cannot be sustained. The contents of para 4 of the Writ petition are reiterated.

8. That in reply to para 7 of the Counter Affidavit it is stated that the admission of the respondents regarding sending the representations by the deponent is enough and needs no further comments except that the respondents did not pass any order on the said representations. The contents of para 5 of the

*→ mgm*

Writ Petition are reasserted.

9. That in reply to para 8 of the Counter Affidavit it is stated that the respondents have mentioned regarding the warning dated 20.4.78 by the then A.E.I/C without viewing the context and copy of the deponents application referred to therein. However the subsequent certificate issued by the same Officer effaces the warning. When the A.E.I/C later on observed the capacity, calibre, seniority, devotion to duty, work and conduct of the deponent, his past misunderstanding was removed and he was pleased to grant the certificate dated 27.4.78 on his sweet will. The certificate is meaningful and carries weight in the yearly assessment of work and conduct. It is absolutely incorrect rather ridiculous to say that the deponent managed to get it from the A.E.I/C.

10. That in reply to para 9 of the Counter Affidavit it is stated that Rule 4(b) of the rules for recruitment to Industrial establishment in the main or Branch Store Depot 1869 provides that the post of Tindal comes in semi-skilled category of workers. The promotion to the post of Tindal is to be done from regular mazdoors/workmen coming in unskilled category 50% by seniority cum fitnesses being judged by the qualifying test and 50% by selection from those having not less than 5 years service in this category found fit by qualifying test.

*22 May 87*

The respondents in para 9 are quite silent with regard to the promotion to the specific post of Tindal, hence the averments by them are misconceived. There is no provision for written test as maliciously, prejudicially and illegally done by the respondents. That the contents of para under reply are denied as stated.

11. The contents of para 10 of the Counter Affidavit are absolutely false. The deponent is not working on casual basis. He is a salaried workman. He was allowed to officiate as Tindal in casual as well as regular vacancies having been found fit for the post. Hence his legitimate claims of promotion as Tindal can in no way be denied in the interest of justice. The fitness for the post is quite material as well as relevant. He could not be deprived of the promotion for the post on which he had successfully worked on having been appointed on promotion in casual and regular vacancies. The contents of para 8 of the petition are reasserted.

12. In reply to para 11 of the Counter Affidavit it is stated that the Board never consists of only two authorities DET Lucknow and A.E.I/C as stated by the respondents. The job requirement for the Tindal is to direct and control mazdoor to carry out manual work. Regarding qualification he should be literate enough to maintain in the regional language a record of daily work done by mazdoors. He should be able to add and subtract figures and count up to 500 fluently. He should have the energy and enthusiasm and capacity to direct and control the work of a group of upto 20 mazdoor. Therefore the contents of para under reply

21/4/3/60

are far away from truth and is intended to misguide the Hon'ble Tribunal are denied and that of para 4 of the petition are reiterated. It may be stated ~~that~~ that the respondents did not give any reply to the deponent in his representation dated 14.4.79(Annexure No.7) . The written examination was contrary to rules and a device to favour the favourites and cause prejudice to the deponent.

13. That the contents of para 12 of the Counter Affidavit are totally false . The Board does not consist of only two members as already stated in reply to para 11 of the Counter Affidavit of the respondents. The rules envisage "Candidates with a bad record of work and conduct during the previous (03) years shall not be admitted to the test" This is clearly specified for qualifying test and appointment, in the recruitment rules to the Industrial establishment 1869 hence examining past five(05) years service-record is itself deviation from the prescribed rules and hence prejudicial and illegal. As a matter of a fact there was nothing adverse against the deponent. It was after thought and manipulation which has been done in order to debar the deponent from the legitimate claim and favour the 'Yes men' favourites of the then Incharge viz. S/Shri Ram Prasad and Thakur Prasad, who are junior to the deponent in the seniority list which has been admitted by the respondents. The respondent admit the fact of making the representations by the deponent, but they are silent in respect of their

*Aug 7/78*

reply before this Hon'ble Tribunal. In fact they did not give any reply to the deponent. The job of the respondents is either to admit or to deny the facts. They are supposed to explain the cause of denial as well. Instead they are passing useless remarks without their competence and jurisdiction which is enough to substantiate their arbitrary action. The rest of the contents of para are reasserted.

14. In reply to para 13 of the Counter Affidavit as already submitted that it has already been stated in para 6 that the deponent was confirmed vide letter No. E-6/Ch.II/40 dated 4.2.74 and a person once confirmed cannot be deconfirmed. The contents of para under reply are denied and those of para 11 of the petition reasserted.

15. That in reply to para 14 of the Counter Affidavit it is stated that the respondents have simply said that the ruling referred to by the deponent is fictitious, but they have not specified the position as would be correct according to them and whether they could allow or stop the deponent at the E/B at their sweet will without passing any order. Their reply is wrong besides being vague and indefinite. The contents of para under reply are denied and thereof para 12 of the petition reasserted.

16. That in reply to para 15 of the Counter Affidavit it is pertinent to point out that no order preventing him from crossing E/B were passed either before the appointed date or shortly thereafter by the competent authority as required under the rules. It

In my view

was intimated only by the appellate authority on appeal by a criptic order without any specification. The contents of para under reply contrary to the contents of para 13 of the petition are denied and those of para 13 are re stated.

17. That the respondants reply to para 14 of the Writ Petition in para 16 of the Counter Affidavit it is silent on the point of erroneous method and speaking order both. It is evasive and vague and absolutely irrelevant and as such the contents of para 16 of the Counter Affidavit are denied and those of para 14 of the petition are reiterated.

18. That the respondants in para 17 of the Counter Affidavit have not mentioned the grounds on which the deponent has no claim for consideration. It is to mention here that the arbitrary decision of the appellate authority against rules can be challanged to higher authority .The respondants have neither any right to suspend the fundamental rights of the deponent nor they are competent to enforce ban on them. The contents of para 17 of the Counter Affidavit are denied and those of para 15 of the petition are reasserted.

19. That the contents of para 18 of the Counter Affidavit are denied and those of para 16 of the petition are reiterated.

20. That the contents of para 19 of the Counter Affidavit are denied and those of para 17 of the petition reasserted. In view of the facts and the

21/11/2011

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circumstances stated in the Writ Petition and above the case of the deponent is sound and the grounds taken by him are cogent and sustainable in the eye of law. The rest of the contents of para under reply are denied. The deponent has a just and genuine case to be adjudicated by this Hon'ble Tribunal.

21. That the contents of para 20 of the Counter are denied as stated. On the facts and circumstances of the case as detailed in the Writ petition and averments made above, the deponent is fully entitled to the reliefs claimed by him and the petition is liable to be allowed with costs.

→ JMS/MJ

Deponent.

Dated 11 - 8 - 1991

Lucknow.

Verification.

I, the above named deponent do hereby verify that the contents of paras 1 to 19 are true to my knowledge and those of paras 20 and 21 are believed to be true. Nothing material has been suppressed and no part of it is false, so help me God.

→ JMS/MJ

Deponent.

Dated 11 - 8 - 1991

ब अदालत भ्रामाण

High Court of Judicature at Allahabad  
Mehow Bench, Lucknow

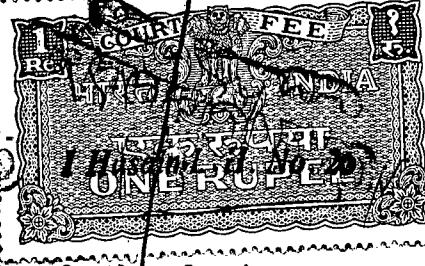
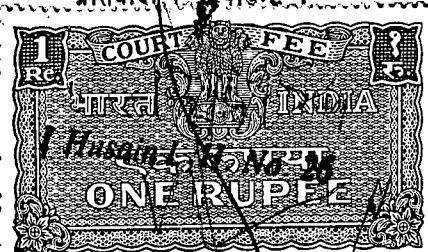
महोदय

[ वादी ] अपीलान्ट

Shri - Hamid Ali

वकालतनामा

प्रतिवादी ( रेस्पांडेन्ट )



नं० मुकदमा १७१२५ सन् १९५२

बनाम

प्रतिवादी ( रेस्पांडेन्ट )

ऊपर लिखे मुकदमा में अपनी ओर से श्री

पेशी की ता०

R. Solomon M.A.

१६. ई०

कोल्काता  
महोदय  
एडवोकेट

M. Dubeey M.A.

को अपना वकील नियुक्त करके प्रतिज्ञा ( इकरार ) करता हूं और लिखे देता हूं इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोंतर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रूपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रूपया जमा करें या हमारी विपक्षी ( फरीकसानी ) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त ( दर्तखती ) रसीद से लेवे या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार दृष्टा हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर

१७/१५५४१८

साक्षी ( गवाह )

साक्षी ( गवाह )

दिनांक

१५-

महीना

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सन् १९५२ ई०

C-161  
CK

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH  
Gandhi Bhawan, Opp. Residency, (S/No. 107)

No. C.A.T/Allied/Transfer/ 3068 1073 - 30/1/90  
Dated the \_\_\_\_\_  
Hamed Al- \_\_\_\_\_

APPLICANT'S

Union <sup>VERSUS</sup> India.

① Union of India through Secretary, Ministry of Communications, Court of India, New Delhi  
② To the Director General, P.S.T. New Delhi  
③ The General Manager, Telecommunications, LIP Circle, LKO  
④ The Director Telecommunication, Central LKO

Whereas the marginally noted cases has been transferred by \_\_\_\_\_ under the provision of the Administrative Tribunal Act XIII of 1995 and registered in this Tribunal as abc 25/40989

Writ Petition No. \_\_\_\_\_ 19/2890 The Tribunal has fixed date of 1990. Of the Court of \_\_\_\_\_ 1990. The hearing of the matter. If no appearance is made on your behalf by some one duly authorized to Act and plead on your behalf in \_\_\_\_\_

The matter will be heard and decided in your absence. Given under my hand seal of the Tribunal this \_\_\_\_\_ day of \_\_\_\_\_ 1990.

⑤ <sup>dinesh/</sup> The Divisional Engineer, DEPTT. REGISTRAR  
LKO  
⑥ The Asstt. Engineer Circle, Telegraph  
Store Jodhpur, Talkatora Road  
LKO

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

No.CAT/Alld/Jud T.A. No. 1559 of 1987 dated the

Dec 815

APPLICANT(S) 41094

41066

VERSUS

Union of India & others

RESPONDENT(S)

TO

1. Shri D. Solomon, Advocate, Lucknow High Court, Lucknow.

2. " D. S. Rendhau, Advocate, Lucknow High Court, Lucknow.

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

Writ Petition No. 2540

of 1984

of the Lucknow High Court, Lucknow

The Tribunal has fixed date of

5.11.89

1989. The  
hearing of the matter at Gandhi  
Bhawan, 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.

dinesh/

DEPUTY REGISTRAR