

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH

Mohd. Ismail Khan

- VS -

U O J & Co.

FORM OF INDEX

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

1565

1987

in  
WP No. 1978/84

PART - I

|    |                  |    |               |
|----|------------------|----|---------------|
| 1. | Index Papers     | :- | 01 to 03      |
| 2. | Order Sheet      | :- | 04 to 09      |
| 3. | Any other orders | :- | NIL           |
| 4. | Judgement        | :- | 10 to 13 + 14 |
| 5. | S.L.P.           | :- | NIL           |

|   |                     |            |
|---|---------------------|------------|
| ① | Petition / Annexure | A15 to A37 |
| ② | Lawyer              | A38        |
| ③ | Counter Affidavit   | A39 to A49 |
| ④ | Rejoinder Affidavit | A50 to A56 |
| ⑤ | Office order        | A57 to A58 |
| ⑥ | Any other           | A59        |

Dy. Registrar

Supervising Officer

Dealing Clerk

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

NIL

Dealing Clerk

Recheck  
on 22-2-12.  
m

5057

V.K. Mishra

— 1 —

Annexure - A  
CAT- 82

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH, LUCKNOW  
\*\*\*\*\*

INDEX - SHEET

CAUSE TITLE T.A. 1565/87 OF 198

Name of the Parties Mohammad Taimil Khan

Versus

Union of India & ors.

Part A, B and C

| Sl. No. | DESCRIPTION OF DOCUMENTS               | PAGE |
|---------|--|------|
| A       | General Index.                         | 1    |
| A       | Order Sheet                            | 3    |
| A2      | Judgement - dt 28-4-89.<br>(Dismissed) | 5.   |
| A3      | High Court original Record<br>Petition | -    |
| A4      | Counter Affidavit with<br>Annexure     | 10   |
| A5      | Rejoinder Affidavit                    | 13   |
| B       | Vakalatnama. (Power)                   | 1    |
| B2      | Misc Application                       | 2    |
| B3      | Notice                                 | 2    |
|         | File Bench-Copy.                       |      |

16/5/88

-2-

Annexure- YBY

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD /  
CIRCUIT BENCH, LUCKNOW

\*\*\*\*\*

Application No. \_\_\_\_\_ 198 .

Transfer Application No. \_\_\_\_\_

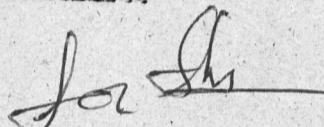
Old Writ Petition No. \_\_\_\_\_

CERTIFICATE

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

Date: \_\_\_\_\_

Countersigned \_\_\_\_\_

  
Signature of the  
Dealing Assistant.

Section Officer/Court Officer.

.....

Amit/

CIVIL SIDE  
CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case ..... W.P. 1978-84  
Name of parties ..... M/s. Ismail Khan v. Union of India  
Date of institution ..... 16.4.84 ..... Date of decision.....

| File no. | Serial no. of paper | Description of paper             | Number of sheets | Court-fee        |       | Date of admission of paper to record | Condition of document | Remarks including date of destruction of paper, if any |
|----------|---------------------|----------------------------------|------------------|------------------|-------|--------------------------------------|-----------------------|--|
|          |                     |                                  |                  | Number of stamps | Value |                                      |                       |  |
| 1        | 2                   | 3                                | 4                | 5                | 6     | 7                                    | 8                     | 9  |
|          |                     |                                  |                  |                  | Rs.   | P.                                   |                       |  |
|          | 1                   | Writ with affidavit and Annexure | 24               | -                | 102   | 00                                   |                       |  |
|          | 2                   | Power                            | 1                | -                | 5     | 00                                   |                       |  |
|          | 3                   | Emm 4362(W) 0884,                | 2                | -                | 5     | 00                                   |                       |  |
|          | 4                   | Emm 622(W) 0885 with AA          | 12               | -                | 7     | 00                                   |                       |  |
|          | 5                   | Arch sheet                       | 1                | -                | -     | -                                    |                       |  |
|          | 6                   | Back entry                       | 1                | -                | -     | -                                    |                       |  |

K.A. 1565/87

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.

Munsarim  
Clerk

Date.....

| File no. | Serial no. of paper | Description of paper | Number of sheets | Court-fee        |        | Date of admission of paper to record | Condition of document | Remarks including date of destruction of paper, if any |
|----------|---------------------|----------------------|------------------|------------------|--------|--------------------------------------|-----------------------|--|
|          |                     |                      |                  | Number of stamps | Value  |                                      |                       |  |
| 1        | 2                   | 3                    | 4                | 5                | 6      | 7                                    | 8                     | 9  |
|          |                     |                      |                  |                  | Rs. P. |                                      |                       |  |

I have this \_\_\_\_\_ day of \_\_\_\_\_ 198\_\_\_\_, examined the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that they bear Court-fee stamps of the aggregate value of Rs. \_\_\_\_\_ that all orders have been carried out, and that the record is complete and in order up to the date of the certificate.

Date.....

Munsarim

Clerk.

3/1

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



Application for interim relief

C.M. Application No. 4362 (w) of 1984

Writ Petition No. 1920 of 1984

Mohammad Ismail Khan, aged about 49 years, son of  
Sri Azam Ali Khan, at present working as Guard,  
N.E. Railway, Gonda

Petitioner-  
applicant

versus

1. The Union of India through the General Manager,  
N.E. Railway, Gorakhpur
2. The General Manager (Personnel), N.E. Railway,  
Gorakhpur
3. The Divisional Railway Manager (Personnel),  
N.E. Railway, Lucknow
4. Manzoor Ahmad, aged about 46 years, at present  
working as Guard at Gorakhpur care of Station  
Superintendent, Gorakhpur

Opp-parties

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

Boo

Lead duplicate

Chunck  
124.84 AS

Mr. ANTHONY.

Mr. SAT.

Issue where. Learned Counsel appearing for opposite parties nos. 1 to 3 prays for and is allowed three weeks time to obtain instructions and file a counter-affidavit. A copy of the counter-affidavit shall be served outside court on the learned counsel for the petitioners who may, if he so chooses, file a rejoinder affidavit within a further period of one week. In the meantime

- 2 -

the operation of the orders dated 23.2.84 and 24.2.84 shall remain stayed. This petition immediately after the expiry of the aforesaid period shall be listed for further orders before a learned single Judge.

Shu.  
16.4.84

149  
2

28

Received duplicate copies  
Grant  
C/o Mr. Umesh Chandra Adv.  
16.1.82

Hon. S.S. Ahmed, J.

Hon. B.K.umar, J.

Delay condoned.

Placed  
10.1.82

6/11

RA

AB

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

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Application for condonation of delay in  
filing rejoinder-affidavit

--

C.M. Application No. 622 (w) of 1985

Writ Petition No. 1978 of 1984

Mohammad Ismail Khan

--Petitioner-  
applicant

versus

Union of India and others

--Opp-parties

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

1. That a copy of the counter-affidavit was served  
on the petitioners counsel who on its receipt informed  
the petitioner about the same and the necessity to  
file a rejoinder-affidavit.

2. That to meet the allegations contained in the  
counter-affidavit it was necessary to ~~me~~ obtain some  
documents and certain information which has taken  
some time; hence the delay in filing the rejoinder-  
affidavit.

Boz



14/1/85  
18-1-85

763

SR  
SP  
9/2/84

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

O.A./T.A. No. 1565 1987

Mohd Ismail Khan Applicant(s)

Versus

Union of India (N.E. Rly) Respondent(s)  
2 nos.

| Sr. No. | DATE   | Orders   |
|---------|--------|--|
|         | 8/7/08 | <p>Office report</p> <p>W.P. No. 7918/04 has been received on transfer from Hon'ble High Court Lko.</p> <p>W.P. is admitted on 16.4.04.</p> <p>Stay is continued in this W.P.</p> <p>Rejoinder affidavit has been filed and is on record.</p> <p>but C.A. <del>has</del> <sup>is not</sup> on record.</p> <p>Notices of Union of India has been given to Sri G. P. Agrawal and files his vakalatnama.</p> <p>Notice of petitioner has been sent by Regd post.</p> <p>No unserved regd post has been return back.</p> <p>Submitted for orders.</p> <p><u>JCS</u><br/>8/7/08</p> |

(A/2)

— 8 —

| Sr. No. | Date    | Orders  |
|---------|---------|---|
|         | 11.9.00 | Regr<br>no more appearance for<br>the <del>next</del> applicant.<br>Send fresh notice to<br>the applicant as well as to<br>the counsel for the prosecution.<br>By order has already<br>been put but counter is not<br>on file. Let the certified<br>copy of counter be put by<br>the <del>marshal</del> <sup>20.9.00</sup> . Applicant is<br>present in person. Applicant has<br>also moved an application <del>for</del><br>for transfer to Lucknow.<br>Regr |
|         | 24.1.88 | Counter copy not<br>filed today. The<br>21. 11.88.<br>Regr  |
| 2111    |         | No Sitting. Adjourned to<br>23.1.09. for final reply.<br>at the request of counsel for respite.   |

24.1.88

from  
21/11

9

(A/B)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH AT LUCKNOW.

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O.A./T.A. No. 1565 1987 (4)

M. I. Khan

Applicant(s)

Versus

U O A

Respondent(s)

| Sr. No.         | Date        | Orders   |
|-----------------|-------------|--|
| <u>23-10-89</u> | <u>OR</u>   | <p>No reply filed. Reply can be filed by 24-2-89.</p> <p style="text-align: right;"><u>OR</u></p>  |
| <u>24-2-89</u>  | <u>D.R.</u> | <p>counter affidavit filed today. The case is adjourned to 31/3/89 for hearing. And the counsel for applicant is present.</p> <p style="text-align: right;"><u>D.R.</u></p>  |
| <u>31/3/89</u>  |             | <p>Hon' Mr. D.S. Misra, A.M.<br/>Hon' Mr. D.K. Agrawal, J.M.</p> <p>None is present for the applicant.<br/>Shri G.P. Agrawal, learned counsel for the respondents is present and heard.<br/>Order reserved.</p> <p style="text-align: center;">J.M.                      A.M.</p> <p style="text-align: center;">(Sd/-)<br/>Read me copy<br/>Sd/-<br/>23/3/89</p> <p style="text-align: center;">①</p> |

10 -

(12/1)

CENTRAL ADMINISTRATIVE TRIBUNAL  
Circuit Bench at Lucknow

...

Gandhi Bhawan, Lucknow

APRIL 27, 1989

Registration No. T.A.No. 1565 of 1987 (TL)

Mohammad Ismail Khan ..... Petitioner

Vs.

Union of India and ors ..... Respondents

Hon' Mr. D.S. Misra, A.M.

Hon' Mr. D.K. Agrawal, J.M.

( By Hon' Mr. D.S. Misra, A.M.)

This is a writ petition which has come on transfer under section 29 of the Administrative Tribunals Act. 1985. The petitioner has prayed for quashing the order dated 23-2-1984 contained in Annexure No. 5, order dated 21-2-1984 contained in Annexure No. 3 and the order dated 3-8-1983 contained in Annexure No. 4, to the writ petition <sup>and for</sup> making a change in the seniority of the petitioner in the Cadre of Guard, North Eastern Railway, Lucknow Division.

2. The brief facts of the case are that the petitioner, while working as Trains Clerk in Samastipur District of N.E. Railway was ordered to be transferred to Gonda District by the Chief Operating Superintendent, Gorakhpur, vide letter dated 19/21-7-1965. The petitioner joined his duties at Gonda on 24-10-1965. The petitioner was promoted as Guard Grade 'C' vide an order dated 12-11-1968.

H/W

...2/-

The District Operating Superintendent, Gonda, passed an order by which the petitioner and the opposite party No. 4 Shri Manzoor Ahmad were promoted to the post of Guard Grade 'C' under office order dated 12-11-1968. The petitioner resumed duty of Guard with effect from 13-11-1968, whereas, Shri Manzoor Ahmad joined the post of Guard on 28-11-1968. A provisional seniority list of Guard Grade 'C' of the Lucknow Division of N.E. Railway was published on 1-5-1972 and in that list the name of the petitioner was shown at serial No. 151, while, that of Opp. Party No. 4 was shown at Sl.No. 155. However, in the seniority list of Guard Grade 'C' as on 1-5-1978, which was circulated by letter dated 21-2-1979, inter-se seniority position between the said Opp. Party No. 4 and petitioner was disturbed and the petitioner was shown junior to the said Opp. Party No. 4.

3. The petitioner preferred a representation which was decided in his favour by the General Manager, who, by his letter dated 19-8-1980, decided that since the petitioner was senior to Opp. Party No. 4, in the Cadre of Trains Clerk, the petitioner be treated as senior to the Opp. Party No. 4, in the Cadre of Guard Grade 'C' also. The Divisional Railway Manager issued a corrigendum to the seniority list published on 21-2-1979 for the Cadre of Guard Grade 'C' and the petitioner's name was placed at Sl.No. 78-A, above Opp. Party No. 4, whose name in the said seniority list was shown at Sl.No. 79 (Copy Annexure No. 2). In the seniority list of Guard

12/3

12

:: 3 ::

Grade 'C' as on 1-5-1981, the petitioners name was shown at Sl.No. 71 and that of the Opp. Party No. 4 at Sl. No. 72. However, by a letter dated 21-2-1984 issued by the Divisional Railway Manager(P), it was intimated that in terms of General Manager's (P), Gorakhpur's letter dated 3-8-1983, on a reconsideration of matter of seniority of Opp. Party No. 4, it has been decided that the petitioner would be treated as Junior to Opp. Party No. 4, on the basis that the Opp. Party No. 4 was already working as Guard Grade 'C', when the petitioner joined his Cadre of Trains Clerk at Gonda on 24-10-1965 (copy Annexure-No.3). The grievance of the petitioner is that the order dated 3-8-1983 (copy Annexure-No.4) and subsequent order dated 21-2-1984 (Copy Annexure No. 3) have been issued without the petitioner being given an opportunity to explain his case.

4. By the impugned order dated 23-2-1984, the petitioner has been assigned seniority at Sl. No. 109-A below that Opp. Party No. 4 (copy Annexure-No.4). In the reply filed by the respondents, it is stated that although the length of service of Shri Manzoor Ahmed Opp. Party No. 4 as Trains Clerk is less than that of the petitioner, yet the two persons being borne on seniority unit of two different districts, the same is not comparable and is not relevant in the instant case. It is also stated that Shri Manzoor Ahmed was deemed to have been promoted as Guard Grade 'C' with effect from 2-8-1965, prior to the joining of the petitioner at Gonda District on 24-10-1965 as Trains Clerk.

*[Signature]*

...4/-

It is further stated that Shri Manzoor Ahmed, Opp. No. 4 was allowed proforma seniority below to Shri I.P. Singh at Sl.No. 108 of the seniority list showing the position as on 3-8-1965 under District Operating Superintendent, Gonda letter dated 7-2-1973 ( copy Annexure-CA-I). The respondents have further stated that the decision contained in General Manager's, Gorakhpur letter dated 19-8-80 giving seniority to the petitioner above Opp. Party No.4 was considered in the Permanent Negotiating Machinery Meeting with Divisional Railway Manager and the matter was referred to the General Manager, who desired that the case be reviewed. As a follow up action, the case was reviewed and the General Manager under (P) / his letter dated 3/8/1983, revised the position and decided that the Opp. Party No. 4, having been promoted as a regular Guard prior to the posting of the petitioner on transfer to Gonda District as Trains Clerk, the petitioner could be treated as junior to Opp.Party No. 4 as Guard on promotion post from Trains Clerk. Accordingly the seniority position has been revised vide orders dated 21-2-1984 and 23-2-84.

5. We have heard the learned counsel for the parties and carefully perused the documents on record. The petitioner's case is based on his contention that he had put in longer years of service as Trains Clerk than Opp. Party No. 4 and he, as well as, Opp. No. 4 were promoted to the post of Guard Grade 'C' in November, 1968, and, therefore, he should be treated senior to Opp. Party No. 4. However, it is noticed that on a representation made by Opp. Party No. 4 on

a subsequent date, the competent authority decided to treat him as having been promoted as Guard Grade 'C' on regular basis with effect from 2-8-1965, whereas, the petitioner was promoted as Guard Grade 'C' on regular basis, only in November, 1968. Thus, the date of regular promotion of Opp. Party No. 4, as Guard Grade 'C', is earlier than the date, on which the applicant joined as Trains Clerk at Gonda on 24-10-1965, on transfer from Samastipur District. We have considered the matter, and we are of the opinion that the impugned orders have been passed by the competent authority, in exercise of their powers, and in accordance with the rules of seniority, and there is no infirmity or illegality in these orders.

6. For the reasons mentioned above, there is no merit in the petition, and the petition is dismissed without any order as to cost.

*[Signature]*  
28.4.89

MEMBER (J )

*[Signature]*

MEMBER (A)

(sns)

Lucknow,

APRIL 28, 1989.

3155

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Group A 19(e)

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

4

Writ Petition no. 1970 of 1984

Mohammad Ismail Khan

--Petitioner

versus

Union of India and others

--Opp-parties

5329

Index

Sl. Description of paper  
no.

Annex. page  
no.

|                                |         |
|--------------------------------|---------|
| 1. Writ Petition               | 1-13    |
| 2. Affidavit                   | 14-15   |
| 3. Memo. dated 17.10.1965      | 1 16-17 |
| 4. Corrigendum dated 7.10.1980 | 2 18-19 |
| 5. 2k.Letter dated 21.2.1984   | 3 20-21 |
| 6. Order dated 3.8.1983        | 4 22    |
| 7. Corrigendum dated 23.2.1984 | 5 23-24 |
| Vakalatnama                    | 25      |

*B.C. Saksena*

(B.C. Saksena,)  
Advocate

1. That the petitioner was initially appointed as Trains Clerk in the N.E. Railway on 4.2.1956 and was posted in the then Samastipur District of the N.E. Railway.

2. That by office Order bearing no. E/IX/210/4/ID/TNC dated 19/21-7-1965 passed by the then Chief Operating Superintendent, Gorakhpur the petitioner was ordered to be transferred in his existing scale and pay and posted to Gonda district against an existing vacancy on administrative grounds.

3. That the petitioner, however, was not relieved from the Samastipur District till 17.10.1965 and the petitioner after availing joining time and transit leave as admissible under the rules joined as Trains Clerk in the Gonda District of the N.E. Railway under the District Operating Superintendent, Gonda on 24.10.1965.

The District Operating Superintendent, Samastipur by an office Order dated 30.8.1965 passed in terms of COPS, (P)/ Gorakhpur's office order dated 21.7.1965 indicated to the petitioner that he was being transferred under the District Operating Superintendent, <sup>Gonda</sup> on administrative ground. The Station Master Narkatiaganj where the petitioner was posted as Trains Clerk, however, by an order bearing no. SM/E/TNC/65 dated 17.10.1965 spared the petitioner from the post of Trains Clerk,

Narkatiaganj to join on transfer to Gonda District .  
A true copy of the Memo. dated 17.10.1965 is being  
annexed as Annexure no.1 to this petition.

4. That opposite-party no.4 was initially appointed  
on the post of Trains Clerk on 7.7.1956 in the  
Gonda District and was junior to the petitioner in  
the cadre of Trains Clerk since the petitioner had  
longer length of service in the said cadre than  
the said opposite-party no.4.

5. That an order, <sup>at 3.8.1965</sup> promoting the said opposite-  
party no.4 in an officiating capacity as Guard Gr.  
C scale Rs. 130-225 was passed by the District  
Operating Superintendent, Gonda and the said  
opposite-party no.4 joined as Guard Fr.'C' . It  
is stated that in the event of the petitioner  
having been relieved immediately on the passing  
of the order for his transfer from Samastipur to  
the Gonda District viz., the order dated 21.7.1965  
the order for the promotion of opposite-party  
no.4 as officiating Guard Gr.'C' could not have been  
passed and instead an order for the petitioners  
promotion would have been passed. The petitioner  
was detained in the interest of administration at  
Samastipur despite an order for his transfer  
having been passed <sup>on</sup> ~~during the period~~ 21.7.1965 ~~to~~  
~~the period~~.

6. That the said opposite-party no.4 by an order  
contained in District Operating Superintendent ,

Gonda's letter no. E/ Misc./145/Guard/65 dated 12.10.1965 was reverted to the post of Trains Clerk.

7. That subsequently ~~with~~ the petitioner ~~and the~~ ~~opposite party no.4~~ was promoted to officiate as temporary Guards by an order dated 16.11.1965 and subsequently by an order passed by the District Operating Superintendent Gonda bearing no. E/ Misc./145/Guard/ 66 dated 2.6.1966 the petitioner and the said opposite-party no.4 were reverted to their substantive post of Trains Clerks.

8. That a seniority list of the cadre of Trains Clerk as on 1.4.1967 was issued by the District Operating Superintendent, Gonda by means of his letter no. E/ SNY/TNC/68 dated 28.6.1968. In the said seniority list the petitioners name was shown at serial no. 42 while the name of opposite-party no.4 was shown at serial no. 46.

9. That in accordance with the seniority position in the cadre of Trains Clerks the petitioner was promoted on the post of Guard Grade 'C' against a clear and substantive vacancy on 12.11.1968 while opposite-party no.4 was promoted against a clear and substantive vacancy of a Guard in accordance with his seniority position subsequently on 25.11.1968.

10. That a provisional seniority list of Guards Grade 'C' of the Lucknow Division of the N.E.



*S. V. V. V.*

✓ Railway as on 1.5.1972 was also published . In the said seniority list the petitioners name was shown at serial no. 151 while the name of opposite-party no.4 was shown at serial no. 155. In the said seniority list the petitioners date of promotion in the cadre of Guards Grade 'C' was shown as 13.11.1968 and of opposite-party no.4 as 28.11.1968, the dates on which they were promoted in a regular capacity on the post of Guards Grade 'C' as indicated above.

✓ in the ✓  
11. That A seniority list of Guards Grade 'C' as on 1.5.1978 which was circulated by letter dated 21.2.1979 the inter se seniority position between the petitioner and the said opposite-party no.4 was disturbed and the petitioner was shown junior to the said opposite-party no.4.

12. That aggrieved by the change in the seniority position the petitioner preferred a representation which was ultimately decided in his favour by the General Manager (Personnel), N.E.Railway, Gorakhpur. The decision of the General Manager (P) was communicated by letter dated 19.8.1980 addressed to the Divisional Railway Manager (Personnel), Lucknow. It was decided that since the petitioner was senior to opposite-party no.4 in the cadre of Trains Clerks, the petitioner be treated as senior to the opposite-party no.4 in the cadre of Guards Grade 'C' also.



*Several*

13. That in terms of the decision contained in General Manager (P), Gorakhpur's letter dated 19.8.1980 the Divisional Railway Manager (P) issued a corrigendum to the said seniority list and indicated therein that in the seniority list published on 21.2.1979 for the cadre of Guards Gr. 'C' the petitioners name would be placed at serial no. 78A above opposite-party no.4 whose name in the said seniority list was shown at serial no. 79. A true copy of the said corrigendum dated 7.10.1980 is being annexed as Annexure no. 2 to this petition.

14. That a seniority list of Guards Grade 'C' scale Rs. 330-530 as on 1.5.1981 was issued in which the petitioners name was shown at serial no. 71 and that of opposite-party no.4 at serial no. 72.

15. That it appears that opposite-party no.4 preferred some representation against the seniority position assigned to him in the seniority list issued in the year 1981. The petitioner was not apprised of the facts on which the said opposite-party no.4 may have stated in his representation to claim seniority over the petitioner nor was the petitioner furnished with a copy of the representation so as to enable him to place his point of view in the matter. Even so, by a letter dated 21.2.1984 issued by the Divisional Railway Manager (P), N.E. Railway, Lucknow it was intimated that in terms of General Manager (P), Gorakhpur's letter dated 3.8.1983 on a reconsideration of the matter of seniority of opposite-party



*Ismael*

no.4 it has been decided that the petitioner would be treated as junior to the said opposite-party no.4 on the basis that the said opposite-party no.4 was working as Guard Grade 'C' when the petitioner joined the cadre of Trains Clerk at Gonda on 24.10.1965 . It has also been decided that the petitioner would be entitled to his seniority as Guard Grade 'C' from the date of his promotion viz., 12.11.1968. Copy of the letter dated 21.2.1984 as served upon the petitioner is being annexed as Annexure no. 3 to this petition. It may be stated that the date indicated in the said order as 24.10.1975 appears to be a typing error for 24.10.1965. As stated above it was on the said date that the petitioner after being relieved from Samastipur had joined the post of Trains Clerk at Gonda. The petitioner has not been furnished with a copy of the order dated 3.8.1983 stated to have been passed by the General Manager(Personnel), N.E.Railway, Gorakhpur . However, a true copy of the said order dated 3.8.1983 is being annexed as Annexure no.4 to this petition. A perusal of the said order would show that it has ignored and failed to take into consideration the circumstance that the said opposite-party no.4 had been reverted twice after his having been promoted to officiate as Guard Grade 'C' on 3.8.1965 . The said two dates on which opposite-party no. 4 was reverted as indicated in the earlier paragraphs are 12.10.1965 and 2.6.1966. The said order further ignores the circumstance that the petitioners regular promotion to the post of Guard Grade 'C' in



*Isuwal*

accordance with the seniority position between him and opposite-party no.4 in the cadre of Trains Clerks was passed earlier on 12.11.1968 while opposite-party no. 4 in accordance with seniority was given regular promotion as Guard Grade 'C' subsequently on 25.11.1968.

16. That in terms of the decision of the Divisional Railway Manager (P), N.E.Railway, Lucknow' contained in his letter dated 21.2.1984 as also in terms of the letter of the General Manager (P), N.E.Railway, Gorakhpur in his letter dated 3.8.1983 the Divisional Railway Manager (P), N.E.Railway, Lucknow had issued a corrigendum letter indicating that in the seniority list of the cadre of Guards Grade 'C' as on 1.5.1981 the petitioner would be assigned seniority at serial no.109-A instead of serial no. 71 as assigned in the said seniority list . As shown above opposite-party no.4 in the said seniority list had been assigned seniority at serial no.72 while the petitioner had been assigned seniority at serial no. 71. The said inter se seniority position is sought to be altered to the petitioner's detriment on the basis of the decisions contained in the aforesaid two letters. A copy of the said corrigendum dated 23.2.1984 is being annexed as Annexure no.5 to this petition.



Singh

17. That a perusal of the letter dated 3.8.1983 passed by the General Manager (P), N.E.Railway, Gorakhpur would show that opposite-party no.4 was stated to have worked in a regular capacity as a Guard Grade 'C' between the period 25.2.1965 and 20.10.1965 when the person junior to the said ~~ex~~ opposite-party no.4 had been promoted on 25.2.1965. The dated 25.2.1965 is erroneous. It is stated that by office order dated 18.8.1965 one Sri N.S.Varma who was working as Brakesman at Gonda and had qualified in Guards duties was temporarily promoted to officiate as Guard Grade 'C' in scale Rs. 130-225 with headquarters at Gonda Station. The said Sri N.S.Varma was the immediate junior to opposite-party no.4. A true copy of the said order dated 18.8.1965 is being annexed as Annexure no.6 to this petition. It is further stated that opposite-party no.4 was for the first time promoted to officiate as Guard Grade 'C' by an order dated 3.8.1965. He at no time was promoted on 25.2.1965 as wrongly alleged in the said order dated 3.8.1983.

18. That the petitioner and opposite-party no.4 are presently working as Guard Grade 'B' scale Rs.330-560 as a consequence of restructuring of certain posts in the Indian Railways and the post of Guard Grade 'C' having been upgraded. Due to the said restructuring promotion to the next higher post of Guard Gr. A is likely to be made in the near future since certain vacancies in the said grade would arise.



*Sd/-*

Promotion to the said post has to be made on the principle of seniority subject to the rejection of unfit and by reason of the impugned orders the petitioners chances of promotion to the post of Guard Gr. 'A' scale Rs. 425-600 would be prejudicially affected and marred.

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

GROUNDS:

(a) Because the reason assigned for treating opposite-party no.4 as senior to the petitioner in General Manager (P)/Gorakhpur's letter dated 3.8.1983 as also in the consequential orders passed by the Divisional Railway Manager by his letters dated 21.2.1984 and 23.2.1984 is wholly untenable and ignores the fact and circumstance that the said opposite-party no.4 had been reverted twice after having been promoted to officiate as Guard Grade 'C' on 3.8-1965.

(b) Because the assumption in the impugned orders that opposite-party no.4 was entitled to be treated as having been promoted on 25.2.1965 being contrary to facts, for reasons stated in para 17 of the writ petition, the decision to treat opposite-

for

party no.4 as senior to the petitioner is clearly vitiated.

(c) Because by reason of the fact that the promotion of opposite-party no.4 was made at a time when the petitioner, though having been ordered to be transferred to Gonda District, in administrative interest could not join on his not being spared is clearly held to be a fortuitious promotion and no advantage of the said promotion could be given to opposite-party no.4 in view of the fact that thereafter he was reverted twice to the post of Trains Clerk and in accordance with the seniority position in the cadre of Trains Clerk was promoted subsequently in a regular capacity as Guard Grade 'C' than the petitioner and that being so, the impugned orders are clearly illegal.

(d) Because in view of the fact that the petitioner was senior to opposite-party no.4 in the cadre of Trains Clerk and having been promoted in a regular

Per

capacity earlier than opposite-party no. 4 is entitled to seniority over opposite-party no.4. A decision to the contrary in the impugned orders is clearly illegal.

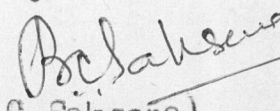
(e) Because, in any case, inasmuch the petitioner was not given any opportunity to show cause or apprised of the representation stated to have been made by opposite-party no.4 on a consideration of which the impugned orders were passed, there has been gross violation of the principles of natural justice and the impugned orders deserve to be quashed.

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

(i) to issue a writ of certiorari or a writ, order or direction in the nature of certiorari to quash the order dated 23.2.1984 contained in Annexure no.5, order dated 21.2.1984 contained in annexure 3 and the order dated 3.8.1983 contained in Annexure no.4 to the writ petition.

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

Dated Lucknow  
11.4.1983

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

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

1984  
AFFIDAVIT  
48  
HIGH COURT  
ALLAHABAD

--

Affidavit

in

Petition under Article 226 of the Constitution of  
India

--

Writ Petition No.

of 1984

Mohammad Ismail Khan

--Petitioner

versus

Union of India and others

--Opp-parties

--

I, Mohammad Ismail Khan, aged about 49 years, son  
of Sri Azam Ali Khan, at present working as Guard,  
N.E. Railway, Gonda,, do hereby solemnly take oath and  
affirm as under:-

1. That the deponent is the petitioner in the above-  
noted writ petition and is fully acquainted with the  
facts of the case.
2. That contents of paras 1 to <sup>18</sup> of the accompanying  
petition are true to my own knowledge.
3. That Annexures 1,2,4,5 and 6 have been compared and  
are certified to be true copies.

Dated Lucknow

Deponent

28.3.1984



15

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

Dated Lucknow  
28.3.1984

*[Signature]*  
Deponent

I identify the deponent who has signed in my presence.

*[Signature]*  
(R.K. Srivastava)

Clerk to Sri B.C. Saxena, Advocate

Solemnly affirmed before me on 28-3-84  
at 8-15 a.m./p.m. by *[Signature]*  
the deponent who is identified by Sri *[Signature]*  
clerk to Sri B.C. Saxena,

Advocate, High Court, Allahabad. I have satisfied myself by examining the deponent that he understands the contents of the affidavit which has been read out and explained by me.

*[Signature]*  
28-3-84

S. K. SHANURA  
SHIVASTAVA  
OATH COMMISSIONER  
High Court, Allahabad;  
Lucknow Bench,  
No. 1454/84  
Date 28-3-84



16 29

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

Writ Petition No. of 1984  
Mohammad Ismail Khan.....Petitioner  
versus  
Union of India and others.....Opp. parties

Annexure No. 1

North Eastern Railway,

From  
Office of the Station Master,  
N.E. Railway,  
Narkatiaganj

No. SM/E/TNC/65 17.10.65 dated

To

Sri Mohammad Ismail Khan  
Trains clerk (Qualified in Guardship)  
N.E. Railway,  
Narkatiaganj (SPJ Distt.)

Subject-Sparing Letter.

In obedience to the DOS/SPJ's office  
order no. E/635/IDT/65 dated 30.8.65 and  
in term of COPS(P)/GKP's office order No.  
E/IX/210/4/ID/TNC dated 19/21.7.65 you are  
hereby spared from 17.10.65 A.N. on transfer to  
Gonda Distt in your existing scale of pay  
(Rs. 110-180) and posted in Gonda Distt. under  
DOS/Gonda on Administrative Ground.

You are advised to report yourself to  
DOS/Gonda for duty with the following particulars:

1. Date of Birth.....1.7.1935
2. Date of Appointment... 4.2.1956
3. Date of confirmation. 4.2.1957
4. Date of pay at present. Rs. 139/- P.M.
5. Last increment sanctioned vide -DOS/SPJ's letter  
No. E/INC/Cptg/INC/65 dt. 7.4.65 from 20.2.64 to  
20.2.65.
6. Next Increment due on ....20.2.1966

*Handwritten signature*

17 (3)

7. Date of last P.M.E. with category. 19.4.1965 in A2 by AMO/SPJ for Guard's duties.

8. Date of next PME due 19.4.68.

9. Winter uniform for the year 1965-66. Due.

10. Qualified in Guard's duties.

(Attended ZTS/MFP on 20.4.65 for Guard's (P) training and passed the above training vide F.N. Gazette no. 15 dated 1.8.65).

11. No charge-sheet pending and no punishment.

12. 3 days C.L. due.

You are allowed to avail yourself of 6 days transit leave from the date of spare from this District as admissible under rule.

Sd/- Illegible  
Shanti Ranjan Nandi  
Station Master  
N.E. Railway, Narkatiaganj.  
Narkatiyaganj

Copy forwarded to:-

1. The Distt. OPTG. Supdt/SPJ in reference to his above quoted letter for information.

2. The Distt. Optg. Supdt./Gonda for information and to please complete the records.

(S.R. Nandi)  
Station Master,  
Narkatiaganj/N.E. Rly.  
Samastipur Distt.

True copy

*Swamy*

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18 32

इन दि आनखुल हाइकोर्ट आफ जूडीकेवर स्ट इलाहाबाद

लखानऊ बेन्च लखानऊ

रिट पिटीशन नं जाफ 1984

मोहम्मद इस्माइल खान------पिटीशनर

बनाम

यूनियन आफ इण्डिया तथा अन्य-----जॉयजिटपार्टी

संकेत नं 2--

पूर्वोत्तर रेलवे

शुद्धि पत्र

महाप्रबन्धक (का0)/गोरखपुर के पत्रांक का /255/4/15/गार्ड/  
क दिनांक 19-8-80 के अनुसार चूंकि श्री मोहम्मद इस्माइल खान,  
गार्ड (सी) /गोडा (330-530) गाडी लिपिक के वर्ग में श्री मंजूर  
अहमद, गार्ड (सी), गोरखपुर (330-530) से वारिफ्त थे, अतः  
श्री मोहम्मद इस्माइल खान गार्ड (सी) के वर्ग में भी श्री मंजूर  
अहमद से वारिफ्त होंगे। इसलिए श्री मोहम्मद इस्माइल खान,  
गार्ड (सी) / गोडा की प्रोफार्मा वरीयता श्री मंजूर अहमद गार्ड (सी)  
/गोरखपुर से ऊपर निर्धारित की जाती है।

इसके फलस्वरूप श्री मोहम्मद इस्माइल खान, गार्ड (सी)/गोडा  
की वरीयता इस कार्यालय के पत्रांक ई/11/255/4/गार्ड/70 दिनांक 21-  
2-79 द्वारा प्रकाशित 1-5-78 की तिथि में गार्ड (सी) की  
वरीयता सूची में क्रम संख्या 78 श्री इन्द्रपाल सिंह के नीचे तथा 90

सं० 79 श्री मंजूर अहमद के ऊपर क्रम सं० 70 (ए) पर  
निधारित की जाती है।

ह० अपठनीय

7/10/80

कृते मंडल रेलवे प्रबन्धक (का०)/लखनऊ

सं० ई/11/255/4/गार्ड दिनांक 7-10-80

प्रतिलिपि सूचनाएं एवं कमेंटारियों को सूचित करने हेतु प्रेषित :-

- 1) महाप्रबन्धक (का)/गोरखपुर।
- 2) स्टेशन अधीक्षक /गोडा, गोरखपुर लखनऊ जं० रेशवाग।
- 3) मुख्य यार्ड मास्टर /गोडा, गोरखपुर।
- 4) स्टेशन मास्टर/मैलानी, सीतापुर, कानपुर अनवरगंज जानकपुर
- 5) श्री मोहम्मद इस्माइल खान / गार्ड (सी) /गोडा (द्वारा  
ह० अधी०/गोडा)

ह० अपठनीय

7-10-80

कृते मंडल रेलवे प्रबन्धक (का०)/लखनऊ

सत्य प्रतिलिपि

*Swal*

इन दि आनरेबुल हाईकोर्ट आफ जूडीकेयर एट इलाहाबाद

लखनऊ बेंच लखनऊ

रिट पिटीशन नं आफ 1984

मोहम्मद इस्माइल खान-----पिटीशनर

बनाम

यूनियन आफ इमिग्रंट तथा अन्य-----अपोजिट पार्टीज

एनेक्जर नं - 3-----

पूर्वोत्तर रेलवे

कार्यालय आदेश

महा प्रबन्धक (का) गोरखपुर के पत्र सं० ई/255/4/15/गार्ड/1/1 दिनांक 3-8-83 द्वारा सूचित किया गया है कि श्री मोहम्मद इस्माइल खान गार्ड के मामले में पुनर्विचार किया गया है। जब श्री मोहम्मद इस्माइल खान दिनांक 24-10-75 को ही एम सी के स में स्थानान्तरण होकर आये उस दिन श्री मंजूर जहमद नियमित गार्ड माने गये है इसलिये श्री मोहम्मद इस्माइल खान श्री मंजूर से जूनियर माने जायेंगे। तदनुसार श्री मोहम्मद इस्माइल खान को गार्ड सी 330-530 में वरीयता उनके नियमित गार्ड सी (330-530) में पदोन्नति की तिथि अर्थात् 12-11-68 से माना जायगा।

कृते मख्त रेल प्रबन्धक (का)  
लखनऊ।

सं० ई/11/255/4/गार्ड दिनांक 21-2-84

प्रतिलिपि सूचना र्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

1- महा प्रबन्धक (का)/गोरखपुर।

2) सेशन अधीक्षक गौड़।

21

(24)

-2-

31 सम्बन्धित कर्मचारी द्वारा स्टे० अर्थात् गोडा ।

ह० अपठनीय

कृते मल्ल रेल प्रबन्धक (का)

लखनऊ ।

स्वयं प्रतिलिपि

*Swat*



इन दि आनरेबल हाईकोर्ट आफ जूडिकेयर एट इलाहाबाद

लखनऊ बेंच लखनऊ

रिट पिटीशन नं आफ 1984

मोहम्मद इस्माइल खान------पिटीशनर

बनाम

यूनियन आफ इण्डिया तथा अन्य-----अपोजिट पार्टीज

एनेक्सर नं ---4---

सं/255/4/15/गार्ड/6

3-8-83

जोरूम/पी/ए/ए

डी जार एम/पी/ए/ए

श्री मु० इस्माइल खान गार्ड सी० गौडा के प्रोफार्मा

वरीयता के सम्बन्ध में ।

सन्दर्भ : संका० ११ का अस पत्रांक शून्य दिनांक 9/10-5-83

एवं पूर्ण काशी का अस पत्रांक ३/11/255/4/गार्ड

10/15-6-83 ।

सन्दर्भित पत्र में उल्लिखित श्री मु० इस्माइल खान गार्ड के मामले में पुनर्विचार किया गया चूंकि श्री मंजूर अहमद से जूनियर गार्ड 25-2-65 से 20-10-65 की बीच में नियमित स से गार्ड के पद पर कार्यरत रहे थे इसलिये मंजूर को प्रोफार्मा पदोन्नति तिथि भी 25/2/65 होगी तथा मु० इस्माइल खान दिनांक 24-10-65 को टोपनसो के स में आये और इस दिन श्री मंजूर अहमद नियमित गार्ड माने गये है इसलिये श्री मु० इस्माइल श्री मंजूर से जूनियर माने जायेंगे ।

ह०  
जोरूम/पी/ए/ए  
2/8/83  
-----555-3/8/83

इन दि आनरेबल हाइकोर्ट आफ जूडीकेयर एट इलाहाबाद

लखानऊ बेन्च लखानऊ

रिट पिटीशन नं. जाप 1984

मोहम्मद इस्माइल खां-----पिटीशनर

बनाम

यूनियन आफ इण्डिया तथा अन्य-----अपोजिट पार्टी

एनेक्सर नं. 5

शुद्धि पत्र

महाप्रबन्धक (का)/गोरखापुर के पत्र सं० ई/255/4/15/गार्ड/1/1 दिनांक 3-8-83 तथा इस कार्यालय के कार्यालय आदेश सं० ई/11/255/4/गार्ड दि० 21-2-84 द्वारा यह निर्णय लिया गया है कि श्री मोहम्मद इस्माइल खां गार्ड को गार्ड (सी) 330-530 में वरीयता दिनांक 12-11-68 से मान्य होगी तदनुसार दिनांक 1-5-81 को प्रकाशित गार्ड सी (330-530) की वरीयता सूची में श्री मोहम्मद इस्माइल खां का स्थान निम्न प्रकार से निधारित किया जाता है।

गार्ड सी 330-560 को दि० 1-5-81 की वरीयता सूची

| नाम | पदस्थान | वरीयता सूची को वर्तमान क्र० सं० | संशोधित क्र० सं० | स्थान-निर्धारण |
|-----|---------|---------------------------------|------------------|----------------|
|-----|---------|---------------------------------|------------------|----------------|

श्री मोहम्मद गार्डसी/गोडा 71  
इस्माइल खां

109(अ) श्री एस०डी०एल के नीचे तथा अब्दुल जब्बार के ऊपर।

गार्ड बी (330-560) में श्री मो० इस्माइल खां को  
पदोन्नति दि० 1-6-81 स्व० श्री एस० डी० सिंह और अब्दुल जब्बार  
के साथ दिया गया है अतः गार्ड बी में भी इनकी वरीयता इसी  
प्रकार श्री एस० डी० सिंह और अब्दुल जब्बार गार्ड बी के बीच  
निधारित की जाती है ।

कृ० मं० रेल प्रबन्धक (का०)

लखनऊ ।

सं०ई/11/255/4/गार्ड/भागा

दिनांक 23/2/84

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

- 1) महाप्रबन्धक (का०) गोरखपुर ।
- 2) स्टेशन अधीक्षक गौडा ।
- 3) सम्बन्धित कर्मचारी । द्वारा स्टेशन अधीक्षक गौडा

कृ० मं० रेल प्रबन्धक (का०)  
लखनऊ ।

सत्य प्रतिलिपि

On the Honble High Court of Judicature at Allahabad  
ब अदालत श्रीमान

वादी (मुद्दै) *for Plaintiff* का वकालतनामा  
प्रतिवादी (मुद्दालेह)



*Noted Remail Khos*

वादी (मुद्दै)

बनाम *Union of India & others*

प्रतिवादी (मुद्दालेह)

नं० मुकद्दमा सन् १९४५ पेशी की ता० १६ ई०  
ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

*for B. C. Lawrence Advocate* एडवोकेट महोदय  
वकील

नाम अदालत  
नं० मुकद्दमा  
नाम फरीकैन

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

*Accepted* *for Plaintiff*

हस्ताक्षर *for Plaintiff*

साक्षी (गवाह) ..... साक्षी (गवाह) .....

दिनांक ..... महीना

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

Writ Petition no. of 1934

Mohammad Ismail Khan

--Petitioner

versus

Union of India and others

--Opp-parties

Index

Sl. Description of paper  
no.

Annex. page  
no.

1. Writ Petition

2. Affidavit

3. Memo. dated 17.10.1933

1

4. Corrigendum dated 7.10.1933

2

5. Ex.Letter dated 21.2.1934

3

6. Order dated 3.2.1934

4

7. Corrigendum dated 23.2.1934

5

(R. S. Saxena,  
Advocate)

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

Petition under Article 226 of the Constitution  
of India

Writ Petition No. of 1984

Mohammad Ismail Khan, aged about 49 years, son of  
Sri Azam Ali Khan, at present working as Guard,  
N.E. Railway, Gorakhpur

Petitioner

versus

1. The Union of India through the General Manager,  
N.E. Railway, Gorakhpur
2. The General Manager (Personnel), N.E. Railway,  
Gorakhpur
3. The Divisional Railway Manager (Personnel),  
N.E. Railway, Lucknow
4. Manzoor Ahmad, aged about 46 years, at present  
working as Guard at Gorakhpur care of Station  
Superintendent, Gorakhpur

Opp-parties

This humble petition on behalf of the  
petitioner above-said most respectfully sheweth:-

4. That opposite-party no.4 was initially appointed on the post of Train Clerk on 7.7.1956 in the Gond District and was junior to the petitioner in the cadre of Train Clerk since the petitioner had longer length of service in the said cadre than the said opposite-party no.4.

5. That an order promoting the said opposite-party no.4 in an officiating capacity as Guard G-  
C scale Rs. 130-225 was passed by the District  
Operating Superintendent, Gonda and the said  
opposite-party no.4 joined as Guard G-'C'. It  
is stated that in the event of the petitioner  
having been relieved immediately on the passing  
of the order for his transfer from Sonastipur to  
the Gonda District viz., the order dated 21.7.1965  
the order for the promotion of opposite-party  
no.4 as officiating Guard G-'C' could not have been  
passed and instead an order for the petitioner's  
promotion could have been passed. The petitioner  
was detained in the interest of administration at  
Sonastipur despite an order for his transfer  
having been passed <sup>on</sup> ~~21.7.1965~~ ~~21.7.1965~~ 21.7.1965

6. That the said opposite-party no.4 by an order contained in District Operating Superintendent

1. That the petitioner was initially appointed as Trains Clerk in the W.S. Railway on 4.2.1956 and was posted in the then Samastipur District of the W.S. Railway.

2. That by office Order bearing no. 34 IX/210/4/10/TWC dated 19/21-7-1965 passed by the then Chief Operating Super-intendant, Gorakhpur the petitioner was ordered to be transferred in his existing scale and pay and posted to Gonda district against an existing vacancy on administrative grounds.

3. That the petitioner, however, was not relieved from the Samastipur District till 17.10.1965 and the petitioner after availing joining time and transit leave as admissible under the rules joined as Trains Clerk in the Gonda District of the W.S. Railway under the District Operating Super-intendant, Gonda on 24.10.1965.

The District Operating Super-intendant, Samastipur by an office Order dated 30.8.1965 passed in terms of COPS.(P)/Gorakhpur's office order dated 21.7.1965 indicated to the petitioner that he was being transferred under the District Operating Super-intendant <sup>Gonda</sup> on administrative ground. & The Station Master Markatiaganj where the petitioner was posted as Trains Clerk, however, by an order bearing no. 34/5/TWC/65 dated 17.10.1965 spared the petitioner from the post of Trains Clerk,

Gonda's letter no. E/ Misc./145/Guard/65 dated 12.10.1965 was reverted to the post of Trains Clerk.

7. That subsequently ~~the~~ the petitioner ~~was~~ promoted to officiate as temporary Guards by an order dated 16.11.1965 and subsequently by an order passed by the District Operating Superintendent Gonda bearing no. E/ Misc./145/Guard/ 66 dated 2.6.1966 the petitioner and the said opposite-party no.4 were reverted to their substantive post of Trains Clerks.

8. That a seniority list of the cadre of Trains Clerk as on 1.4.1967 was issued by the District Operating Superintendent, Gonda by means of his letter no. E/ SWI/TNQ/68 dated 26.6.1968. In the said seniority list the petitioner's name was shown at serial no. 42 while the name of opposite-party no.4 was shown at serial no. 46.

9. That in accordance with the seniority position in the cadre of Trains Clerks the petitioner was promoted on the post of Guard Grade 'C' against a clear and substantive vacancy on 12.11.1968 while opposite-party no.4 was promoted against a clear and substantive vacancy of a Guard in accordance with his seniority position subsequently on 25.11.1968.

10. That a provisional seniority list of Guards Grade 'C' of the Lucknow Division of the N.E.

1. In the seniority list published on 1.5.1972 as also published. In the said seniority list the petitioner's name was shown at serial no. 151 while the name of opposite-party no.4 was shown at serial no. 155. In the said seniority list the petitioner's date of promotion in the cadre of Guards Grade 'C' was shown as 13.11.1968 and of opposite-party no.4 as 28.11.1968. The dates on which they were promoted in a regular capacity on the post of Guards Grade 'C' as indicated above.

11. That in the seniority list of Guards Grade 'C' as on 1.5.1978 which was circulated by letter dated 21.2.1979 the inter se seniority position between the petitioner and the said opposite-party no.4 was disturbed and the petitioner was shown junior to the said opposite-party no.4.

12. That aggrieved by the change in the seniority position the petitioner preferred a representation which was ultimately decided in his favour by the General Manager (Personnel), N.E. Railway, Gorakhpur. The decision of the General Manager (P) was communicated by letter dated 19.8.1980 addressed to the Divisional Railway Manager (Personnel), Lucknow. It was decided that since the petitioner was senior to opposite-party no.4 in the cadre of Trains Clerks, the petitioner be treated as senior to the opposite-party no.4 in the cadre of Guards Grade 'C' also.

13. That in terms of the decision contained in General Manager (P), Gorakhpur's letter dated 19.3.1980 the Divisional Railway Manager (P) issued a corrigendum to the said seniority list and indicated therein that in the seniority list published on 21.2.1979 for the cadre of Guards G-1, 'C' the petitioner's name could be placed at serial no. 78A above opposite-party no.4 whose name in the said seniority list was shown at serial no. 79. A true copy of the said corrigendum dated 7.10.1980 is being annexed as Annexure no. 2 to this petition.

14. That a seniority list of Guards Grade 'C' scale A. 330-530 as on 1.3.1981 was issued in which the petitioner's name was shown at serial no. 71 and that of opposite-party no.4 at serial no. 72.

15. That it appears that opposite-party no.4 preferred some representation against the seniority position assigned to him in the seniority list issued in the year 1981. The petitioner was not apprised of the facts on which the said opposite-party no.4 may have stated in his representation to claim seniority over the petitioner nor was the petitioner furnished with a copy of the representation so as to enable him to place his point of view in the matter. Even so by a letter dated 21.2.1984 issued by the Divisional Railway Manager (P), B.E. Railway, Lucknow it was intimated that in terms of General Manager (P), Gorakhpur's letter dated 3.3.1983 on a reconsideration of the matter of seniority of opposite-party

no.4 it has been decided that the petitioner would be treated as junior to the said opposite-party no.4 on the basis that the said opposite-party no.4 was working as Guard Grade 'C' when the petitioner joined the cadre of Train Clerk at Gonda on 24.10.1965 . It has also been decided that the petitioner would be entitled to his seniority as Guard Grade 'C' from the date of his promotion viz., 12.11.1963. Copy of the letter dated 21.2.1964 as served upon the petitioner is being annexed as Annexure No. 3 to this petition. It may be stated that the date indicated in the said order as 24.10.1965 appears to be a typing error for 24.10.1963. As stated above it was on the said date that the petitioner after being relieved from Samastipur had joined the post of Train Clerk at Gonda. The petitioner has not been furnished with a copy of the order dated 3.3.1963 stated to have been passed by the General Manager (Personnel), U.P. Railway, Gorakhpur . However, a true copy of the said order dated 3.3.1963 is being annexed as Annexure No. 4 to this petition. A perusal of the said order would show that it has ignored and failed to take into consideration the circumstance that the said opposite-party no.4 had been reverted twice after his having been promoted to officiate as Guard Grade 'C' on 3.3.1965 . The said two dates on which opposite-party no. 4 was reverted as indicated in the earlier paragraphs are 12.10.1965 and 2.4.1966. The said order further ignores the circumstance that the petitioner's regular promotion to the post of Guard Grade 'C' in

accordance with the seniority position between him and opposite-party no.4 in the cadre of Train Clerks was passed earlier on 12.11.1968 while opposite-party no. 4 in accordance with seniority was given regular promotion as Guard Grade 'C' subsequently on 25.11.1968.

16. That in terms of the decision of the Divisional Railway Manager (P), N.E. Railway, Lucknow contained in his letter dated 21.2.1984 as also in terms of the letter of the General Manager (P), N.E. Railway, Gorakhpur in his letter dated 3.3.1983 the Divisional Railway Manager (P), N.E. Railway, Lucknow had issued a corrigendum letter indicating that in the seniority list of the cadre of Guard Grade 'C' as on 1.5.1981 the petitioner would be assigned seniority at serial no.109-A instead of serial no. 71 as assigned in the said seniority list. As shown above opposite-party no.4 in the said seniority list had been assigned seniority at serial no.72 while the petitioner had been assigned seniority at serial no. 71. The said inter se seniority position is sought to be altered to the petitioner's detriment on the basis of the decisions contained in the aforesaid two letters. A copy of the said corrigendum dated 23.2.1984 is being annexed as Annexure no.5 to this petition.

17. That a perusal of the letter dated 3.8.1963 passed by the General Manager (P), N.E. Railway, Gorakhpur would show that opposite-party no.4 was stated to have worked in a regular capacity as a Guard Grade 'C' between the period 25.2.1965 and 20.10.1965 when the person junior to the said opposite-party no.4 had been promoted on 25.2.1965. The dated 25.2.1965 is erroneous. It is stated that by office order dated 19.3.1965 one S-i N.S. Varma who was working as Brakeman at Gonda and had qualified in Guards duties was temporarily promoted to officiate as Guard Grade 'C' in scale Rs. 130-225 with headquarters at Gonda Station. The said S-i N.S. Varma was the immediate junior to opposite-party no.4. A true copy of the said order dated 19.3.1965 is being annexed as Annexure no.6 to this petition. It is further stated that opposite-party no.4 was for the first time promoted to officiate as Guard Grade 'C' by an order dated 3.8.1965. He at no time was promoted on 25.2.1965 as wrongly alleged in the said order dated 3.8.1963.

18. That the petitioner and opposite-party no.4 are presently working as Guard Grade 'B' scale Rs. 330-550 as a consequence of restructuring of certain posts in the Indian Railways and the post of Guard Grade 'C' having been upgraded due to the said restructuring promotion to the next higher post of Guard Gr. B is likely to be made in the near future since certain vacancies in the said grade would arise.

Promotion to the said post has to be made on the principles of seniority subject to the rejection of unfit and by reason of the impugned orders the petitioner's chances of promotion to the post of Guard Gr. 'A' scale Rs. 425-500 would be prejudicially affected and marred.

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

GROUND:

(a) Because the reason assigned for treating opposite-party no.4 as senior to the petitioner in General Manager (P)/Corakapur's letter dated 3.8.1983 as also in the consequential orders passed by the Divisional Railway Manager by his letters dated 21.2.1984 and 23.2.1984 is wholly untenable and ignores the fact and circumstance that the said opposite-party no.4 had been reverted twice after having been promoted to officiate as Guard Grade 'C' on 3.8-1983.

(b) Because the assumption in the impugned orders that opposite-party no.4 was entitled to be treated as having been promoted on 25.2.1985 being contrary to facts, for reasons stated in para 17 of the writ petition, the decision to treat opposite-

party no.4 as senior to the petitioner is clearly vitiated.

(c) Because by reason of the fact that the promotion of opposite-party no.4 was made at a time when the petitioner, though having been ordered to be transferred to Londa District, in administrative interest could not join as his not being spared is clearly held to be a fortuitous promotion and no advantage of the said promotion could be given to opposite-party no.4 in view of the fact that thereafter he was reverted twice to the post of Trains Clerk and in accordance with the seniority position in the cadre of Trains Clerk was promoted subsequently in a regular capacity as Guard Grade 'C' than the petitioner and that being so, the impugned orders are clearly illegal.

(d) Because in view of the fact that the petitioner was senior to opposite-party no.4 in the cadre of Trains Clerk and having been promoted in a regular

capacity earlier than opposite-party no. 4 is entitled to seniority over opposite-party no. 4. decision to the contrary in the impugned orders is clearly illegal.

(e) Because, in any case, inasmuch the petitioner was not given any opportunity to show cause or apprised of the representation stated to have been made by opposite-party no. 4 on a consideration of which the impugned orders were passed, there has been gross violation of the principles of natural justice and the impugned orders deserve to be quashed.

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

(i) to issue a writ of certiorari or a writ, order or direction in the nature of certiorari to quash the order dated 23.2.1984 contained in Annexure no. 5, order dated 21.2.1984 contained in annexure 3 and the order dated 3.3.1983 contained in Annexure no. 4 to the writ petition.

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

Dated Lucknow  
11.4.1983

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

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

--

Affidavit

in

Petition under Article 226 of the Constitution of  
India

--

Writ Petition No.

of 1984

Mohammad Ismail Khan

--Petitioner

versus

Union of India and others

--Opp-parties

--

I, Mohammad Ismail Khan, aged about 49 years, son  
of Sri Azam Ali Khan, at present working as Guard,  
N.E. Railway, Gorakhpur, do hereby solemnly take oath and  
affirm as under:-

1. That the deponent is the petitioner in the above-  
noted writ petition and is fully acquainted with the  
facts of the case.
2. That contents of paras 1 to...<sup>12</sup> of the accompanying  
petition are true to my own knowledge.
3. That Annexures 1, 2, 4, 5 and 6 have been compared and  
are certified to be true copies.

Dated Lucknow

Deponent

23.3.1984

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

Dated Lucknow

deponent

28.3.1964

I identify the deponent who has signed in my presence.

(D.K. Brivastava)

Clerk to S-i B.C. Saksena, Advocate

Solemnly affirmed before me on

at a.m/p.m by

the deponent who is identified by S-i  
Clerk to S-i

Advocate, High Court, Allahabad. I have satisfied myself by examining the deponent that he understands the contents of the affidavit which has been read out and explained by me.

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

Writ Petition No.                      of 1964  
Mohammad Ismail Khan.... Petitioner  
Versus  
Union of India and another.....Opp. parties  
Amixture No. 1

North Eastern Railway.

From  
Office of the Station Master,  
N.E. Railway,  
Barkatiaganj

No. SM/E/TSC/65      17.10.65 dated

To

Sri Mohammad Ismail Khan  
Trainee clerk (qualified in Guardianship)  
N.E. Railway,  
Barkatiaganj (G.P. Distt.)

Subject-Sparing letter.

In obedience to the JGS/SPJ's office  
order no. 1/635/IT/65 dated 30.8.65 and  
in term of GOS(P)/GRT's office order no.  
E/IX/210/4/11/ISC dated 19/21.7.65 you are  
hereby spared from 17.10.65 on transfer to  
Gonda Distt in your existing scale of pay  
(Rs. 110-180) and posted in Gonda Distt. under  
JGS/Gonda on Administrative Ground.

You are advised to report yourself to  
JGS/Gonda for duty with the following particulars

1. Date of Birth..... 1.7.1935
2. Date of Appointment... 4.2.1956
3. Date of confirmation. 4.2.1957
4. Rate of pay at present. Rs. 139/- P.M.
5. Last increment sanctioned vide - JGS/SPJ's lett  
No. E/ISC/946/INC/65 dt. 7.4.65 from 20.2.64 to  
20.2.65.
6. Next increment due on .... 20.2.1966

7. Date of last P.M.S. with leave,

by AMO/SPS for Guard's duties.

8. Date of next P.M.S. due 19.4.66.

9. Winter uniform for the year 1965-66. Due.

10. Qualified in Guard's duties.

(Attended STS/MFP on 20.4.65 for Guard's (F) training and passed the above training vide F.M. Gazette no. 15 dated 1.8.65).

11. No charge-sheet pending and no punishment.

12. 3 days O.L. due.

You are allowed to avail yourself of 6 days transit leave from the date of spare from his District as admissible under rule.

Sd/- illegible  
Shant' Nanjan Nandi  
Station Master  
N.E. Railway, Harkatiaganj.  
Harkatiaganj

Copy forwarded to:-

1. The Distt. Optg. Supdt./SPJ in reference to his above quoted letter for information.

2. The Distt. Optg. Supdt./Sonde for information and to please complete the records.

(S. P. Nandi)  
Station Master,  
Harkatiaganj/N.E. Ry.  
Samastipur Distt.

True copy

मैम वि आनरेबल हाइकोर्ट आफ बुडोकेनर एट इलाहाबाद

उद्दानउ, बेन्ग उद्दानउ

रिट पिटोशन नं आफ 1984

मोहम्मद इस्माइल खान-----पिटोशनर

बनाम

यूनिपन आफ इण्डिया तथा अन्य-----जोबिलिटाटि

एनेक्टर नं 2---

यूजोरर सेवे

शुद्धि पत्र

महाप्रबन्धक (का0)/गोरखपुर के पत्रांक का /255/4/19/नाई/ 6 दिनांक 19-8-80 के अनुसार दूक श्री मोहम्मद इस्माइल खान, नाई (सी) /गोडा (330-530) गाडी लिफ्ट के बर्न में श्री मीर अहमद, नाई (सी), गोरखपुर (330-530) से वारंट जो, जहाँ श्री मोहम्मद इस्माइल खान नाई (सी) के बर्न में श्री मीर अहमद से वारंट होमें । इसलिए श्री मोहम्मद इस्माइल खान, नाई (सी) / गोडा की प्रोपर्टी बरीयत श्री मीर अहमद नाई (सी) /गोरखपुर से ऊपर निर्धारित की जाती है ।

इसके फलस्वरूप श्री मोहम्मद इस्माइल खान, नाई (सी)/गोडा की बरीयत इस कार्यालय के पत्रांक ई/11/255/4/नाई/70 दिनांक 21-2-79 द्वारा प्रकाशित 1-5-78 का लिफ्ट में नाई (सी) की बरीयत सुना में, इस लिफ्ट 78 की सम्पत्ति लिफ्ट के गोडे तथा 90

श्री 79 श्री मंगूर जलपद के ऊपर श्री 70 (र) पर  
निर्धारित की जाती है ।

श्री अउनीय

7/10/80

श्री मंगूर रेलवे प्रबंधक (आ०)/आनक

श्री ई/11/255/4/आनक दिनांक 7-10-80

प्रतिनिधि सुचनाएं एवं व्यवस्थाओं को सुनिश्चित करने हेतु प्रेषित :-

- 1) महाप्रबंधक (आ०)/गोरखपुर ।
- 2) सैरान अधीक्षक /गोडा , गोरखपुर आनक श्री रेशमान ।
- 3) मुख्य आनक मास्टर /गोडा , गोरखपुर ।
- 4) सैरान मास्टर/नैशानी, गोरखपुर, जम्मूर जलपद आनक
- 5) श्री मंगूर जलपद आनक / आनक (श्री) /गोडा ( रक्षक  
श्री अधी०/गोडा )

श्री अउनीय

7-10-80

श्री मंगूर रेलवे प्रबंधक (आ०)/आनक

श्री प्रतिनिधि

इन दि जानरेबुल चाइकोर्ट आफ न्यू डीकेवर एट उतावावा

सहानक केनर सहानक

रिट पिटीशन नं जाफ 1984

मोहम्मद इल्हाजत जाफ-----पिटीशनर

अनाम

युनिज जाफ हाइड्रा सपा अफ-----अपीकट पाटी

रनेकर नं 3-----

पूबोत्तर लेदे

कापांड 4 कादेश

महा प्रबन्धक (का) गोरहापुर के पत्र सं 8/255/4/12/मांड/  
1/11/दिनांक 28-83 द्वारा युनिज बिपा ममा है 12 का मोहम्मद  
इल्हाजत जाफ मांड के मामले में पुनर्बिचार किया गया है। अब भी  
मोहम्मद इल्हाजत जाफ दिनांक 24-10-75 को जो एक हो के स में  
स्थानान्तरण होकर जाये उस दिन जो नौर अफम निवाक मांड  
माने गये है इहाजिये जो मोहम्मद इल्हाजत जाफ जो नौर के युनिज  
माने जाये। तदनुसार जो मोहम्मद इल्हाजत जाफ को मांड जो  
320-530 में बरीकता ऊहे निवाक मांड जो (320-530) में  
पबोन्मति को बिजि अफा 12-11-68 के माना जायगा।

कुं ममा ले प्रबन्धक (का)  
सहानक।

सं/11/255/4/मांड दिनांक 21-2-84

प्रतिनिधि वृत्तान्त एवं आवश्यक कार्यवाही हेतु देा गत :-

1- महा प्रबन्धक (का)/गोरहापुर।

2) करान अफोहाक मोटा।

31. सम्बन्धित कर्मचारी द्वारा दिये गये नोट ।

60. सम्बन्धित

द्वारा दिये गये प्रमाण (अ)

कानून ।

द्वारा प्रमाणित

इन दि आलेखु लॉन्गोट आफ बुडोकेवर एड उलावाव

छात्र के व छात्र

रिड मिटीशन व बाप 1984

मोहम्मद इ लावक छात्र-----पिटीरफर

बनाम

पुनियन आफ इपिटा हना अफ-----लॉन्गोट वोटन

लेखर व 4-----

0/255/4/15/गार्ड/0

3-8-83

ऑफिस/पटी/4/8/83

डो जार ल/पटी/ल/ल L574

डो पु0 इलावक छात्र गार्ड सी0पी0 व प्रोपगर्न

वरीयता के इन्वन्श में ।

संदर्भ : ऑफिस/पटी/4/8/83 का उद्यम वार्ड दिनांक 9/10-5-83

एवं पुना काशी का उद्यम वार्ड 2/11/255/व/गार्ड

10/15-5-83 ।

एवंमिल पत्र में उल्लिखित डो पु0 इलावक छात्र गार्ड के मा  
में पुनर्विचार किया गया वृकि डो मंदूर अलाव के पुनियन गार्ड 25-2  
के 20-10-65 को पी0 व में नियमित छ डे गार्ड के पत्र कार्दर ।  
डो इलिये मंदूर व प्रोपगर्न परोन्नाडि लिनि डो 25/2/65  
सोनी हना पु0 इलावक छात्र दिनांक 24-10-65 को डीकरी के  
छ में वाये जोर इव दिन डो मंदूर अलाव नियमित गार्ड माने गये ।  
इलिये डो पु0 इलावक डो मंदूर के पुनियन माने वाये ।

60  
बील /पटी/ल/ल  
2/8/83  
-----2552/8/83

इन दि जानरेवुल हाईकोर्ट आफ बुडोलेवर इट इलाहाबाद

कमान्ड केन्स कमान्ड

रिट विटोशन नं

आप 1584

मोहम्मद इलाहउल्लाह हाईकोर्ट-----विटोशनर

कमान

पुनिकन आफ इटोला रणा बन्द-----अप्रीजिट पाटी

रैकनर नं 5

रुटि पत्र

महाप्रबन्धक (का)/गोरखपुर के पत्र 60 ई/255/4/15/पाटी

1/1 दिनांक 3-8-83 रणा इट कावोले के कावोलेन आवेश 60  
ई/11/ 255/4/पाटी दि 21-2-84 द्वारा यह निर्णय किया गया  
है कि जो मोहम्मद इलाहउल्लाह हाईकोर्ट को माई (सी) 230-530 में  
बरीका दिनांक 12-11-66 से माई हीमो समुदाय दिनांक 1-5-  
को प्रकाशित माई सी (230-530) को बरीका हुती में जो  
मोहम्मद इलाहउल्लाह हाईकोर्ट का स्थान निम्न प्रकार से निर्धारित कि  
जाता है ।

माई सी 230-560 को दि 1-5-81 को बरीका हुती

-----

| नाम   | पदावधान | बरीका हुती<br>को कमान 90<br>60 | रैकोजिट<br>90 60 | स्थान<br>निर्णय |
|-------|---------|--------------------------------|------------------|-----------------|
| ----- | -----   | -----                          | -----            | -----           |

जो मोहम्मद माईसी/गोरख 71 109(र) को दफ्तरी  
इलाहउल्लाह हाईकोर्ट के माई का  
बन्धुन बन्धन  
जाता है ।

गाहें को (330-560) में जो नौ उल्लास छाँ को  
 पवोन्नति दि० 1-6-81 को एललीटीस और कन्दु बन्धार  
 के छाँ दिवा गया है जल गाहें को में जो उल्लास वरीयता उल्ला  
 प्रकार में एललीटीस और कन्दु बन्धार गाहें को के जोन  
 विधानाति की वाचो है ।

कुँ मँक ले प्रदण (का०)  
 337-13 ।

दी०/11/255/4/गाहें/गाहें दिनांक 23/2/84

प्राप्तिवि सुमाना एव आवश्यक वाचनाता ले देनात :-

- 1) महाप्रदण (का०) मोरलापुर ।
- 2) रेशन अजीला मोल ।
- 3) सम्बन्धित अजीला । वारा रेशन अजीला मोल

कुँ मँक ले प्रदण (का०)  
 337-13 ।

सत्य प्रसिद्धि

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

---  
Application for interim relief  
---

C.R. Application No. (w) of 1984

Writ Petition No. of 1984

Mohammad Ismail Khan, aged about 43 years, son of  
Sri Azam Ali Khan, at present working as Guard,  
M.E. Railway, Banda

Petitioner-  
applicant

VERSUS

1. The Union of India through the General Manager,  
M.E. Railway, Gorakhpur
2. The General Manager (Personnel), M.E. Railway,  
Gorakhpur
3. The Divisional Railway Manager (Personnel),  
M.E. Railway, Lucknow
4. Mazdoor Ashad, aged about 43 years, at present  
working as guard at Gorakhpur care of Station  
Superintendent, Gorakhpur

Opp-parties

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

that on the basis of the facts stated and grounds raised in the accompanying petition the applicant prays that this Hon'ble Court be pleased to:-

(i) to stay the operation of the orders dated 23.2.1984 contained in Annexure No. 5, order dated 21.2.1984 contained in Annexure 3 and the order dated 3.8.1983 contained in Annexure no. 4 to the writ petition.

(ii) to pass such other order as in the circumstances of the case this Hon'ble Court may deem just and proper.

Dated Lucknow  
11.4.1984

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

AK

In the High Court of Judicature at Allahabad.

Sitting at Lucknow.

Writ Petition No. 1878 of 1984

Mohd. Ismail Khan

..... Petitioner

Versus

Union of India & others

.....Opposite Parties.

---

Counter Affidavit on behalf of Opposite  
Parties No. 1 to 3.

-----

I, Sheo Murti, S/o Sri Avadh Bihari, aged  
about 49 years, Assistant Personal Officer, North  
Eastern Railway, Lucknow, do hereby solemnly affirm  
and state an oath as under :-

1. That the deponent is working as Assistant  
Personnel Officer, North Eastern Railway, Lucknow and  
is conversant with the facts of the case.
2. That the deponent has read the contents of the  
writ petition and has understood the same.
3. That the contents of paragraphs 1 and 2 of  
the writ petition are admitted.
4. That in reply to the contents of paragraph 3  
of the writ petition it is stated that the petitioner  
was transferred for posting in Gonda District and

True copy

सहायक निदेशक अधिकारी /  
पूर्वोत्तर रेलवे, लखनऊ

attested.

True copy

प्रसाद कुमार  
एडवोकेट  
लखनऊ

although he was spared to carry out the transfer order in time he did not join Gonda district immediately and applied to Distt. Operating Superintendent/Samastipur for 30 days leave on the grounds of sickness of his wife. The Distt. Operating Superintendent/ Samastipur had told the petitioner to proceed on transfer to Gonda and take leave after joining at Gonda but the petitioner remained on leave from 26.8.65 to 11.9.65. Even thereafter he sought extension of leave from Distt. Operating Superintendent/Samastipur on the grounds of sickness of his wife and also requested for postponing his transfer for two months. He joined Gonda District on 24.10.65. Thus it is clear that the petitioner of his own accord joined Gonda District on transfer on administrative ground only on 24.10.65 although he was spared earlier but remained at Samastipur, of his own accord.

5. That in reply to the contents of paragraph 4 of the writ petition, it is stated that although the length of service of Sri Manzoor Ahmad, Opp.party No.4 as Trains Clerk, ~~xxx~~ ~~the~~ is less then that of the petitioner as Trains Clerk, yet the two persons being borne on seniority unit of two different districts, the same is not comparable and is not relevant in the instant case. Besides Sri Manzoor Ahmad was already officiating as Guard/Grade 'C' in scale Rs. 130-225 w.e.f. 2.8.65, prior to the joining of the petitioner at Gonda Distt. on 24.10.65 as Trains Clerk.

6. That the contents of paragraph 5 of the writ petition as stated by the petitioner are not admitted.

True copy  
*[Signature]*  
सहायक प्रमुख अधिकारी  
पूर्वोत्तर रेलवे, लखनऊ

*[Signature]*  
श्री प्रसाद अग्रवाल  
उपकावे  
लखनऊ

The opposite party No.4 Sri Manzoor Ahmad was promoted as Guard in Gonda district w.e.f. 2.8.65 prior to the joining of the petitioner on transfer from Samastipur district on 24.10.65. The petitioner although was transferred on administrative grounds from Samastipur to Gonda district yet he did not join Gonda district on transfer immediately and remained in Samastipur Distt. of his own accord by taking leave on his private account.

7. That the contents of paragraphs 6, 7 and 8 of the writ petition are admitted.

8. That the contents of paragraph 9 of the writ petition as stated by the petitioner are not admitted. The petitioner and the opposite party No.4 Sri Manzoor Ahmad were promoted to the post of Guard/Grade 'C' under Office Order No. E/Misc./145/Guard/68 dated 12.11.68 by Distt. Operating Superintendent/Gonda and in pursuance of the same the petitioner resumed duty of Guard w.e.f. 13.11.68 and Sri Manzoor Ahmad joined the post of Guard on 28.11.68.

9. That the contents of paragraphs 10 and 11 of the writ petition are admitted. It is, however, submitted further that Sri Manzoor Ahmad, Opposite Party No.4 was allowed proforma seniority below Sri I.P. Singh at Sl. No. 108 of the seniority list showing position as on 3.8.65 under Distt. Operating Supdt/Gonda's letter No. E/MA/Guard/73 dated 7.2.73. A true copy of letter dated 7.2.73 is being annexed herewith as Annexure No. A-1 to this counter affidavit. Thus the seniority position shown as stated by the

True copy  
*[Signature]*  
अध्यक्ष प्रमाणिक अधिकारी  
पूर्वांचल रेलवे, लखनऊ

*[Signature]*  
जगत प्रसाद  
एडवाइजर  
इ. उ. च. प्र. डी. ६-१६-७३

petitioner stood modified. Accordingly in the seniority list showing position of Guard as on 1.5.78 the position of the opposite party No.4 Sri Manzoor Ahmad was shown higher to that of the petitioner correctly.

10.7 That the contents of paragraphs 12, 13 and 14 of the writ petition are admitted.

11. That the contents of paragraphs 15 and 16 of the writ petition as stated by the petitioner are not admitted. It is, however, submitted that consequent upon revision of the seniority position of the petitioner in the seniority list showing position as on 1.5.81 as a result of the decision contained in General Manager (Personnel) Gorakhpur's letter dated 19.8.80, the two Unions of the Railway Administration i.e. North Eastern Railway Mazdoor Union and Purvottar Railway Karamchari sangh represented in the Permanent Negotiating Machinery meeting with Divisional Railway Manager and the matter was referred to the General Manager, who desired the case to be reviewed. The case was reviewed and the General Manager (Personnel) under his letter No. E/285/4/15/Guard/VI dated 3.8.83 revised the position and decided that Sri Manzoor Ahmad, Opposite Party No.4 has since been promoted as regular guard prior to the posting of the petitioner on transfer in Conda Distt. as Trains Clerk, the petitioner would be treated as junior to the opposite party No.4 as Guard, a promotion post from Trains Clerk. Accordingly, the seniority position had been revised and the corrigendum to the seniority list was issued as contained in

True copy

सहायक कार्यालय अधिकारी  
पूर्वोत्तर रेलवे, लखनऊ

अ. प्रसाद अग्रवाल  
एडमो. ट.  
इ. उ. कामेंडी

Office order No. E/II/255/4/Guard dated 21.2.84 and corrigendum dated 23.2.84. A true copies thereof dated 21.2.84 and 23.2.84 <sup>are</sup> and annexed herewith as Annexure No. A-2 and A-3 to this counter affidavit. This would reveal that the matter was considered and decision was correctly arrived at by the Railway Administration in determining the correct seniority of the petitioner vis-a-vis the opposite party No.4, Sri Manzoor Ahmad in the facts and circumstances of the case and there is no illegality in the same.

12. That in reply to the contents of paragraph 17 of the writ petition it is stated that the date of promotion of Sri N.S. Verma is 25.8.65 and not 25.2.65 which appears to be a typographical mistake in the seniority list of Guard 'C' showing position as on 1.5.81. Sri Manzoor Ahmad, Opposite Party No.4 was allowed proforma seniority w.e.f. 3.8.65 by virtue of his promotion and given position below Sri I.P. Singh. As the petitioner has been allowed regular promotion as Guard w.e.f. 12.11.68 and his seniority has been correctly decided by the General Manager (Personnel under his letter dated 3.8.83, the question of the date of promotion of Sri N.S. Verma <sup>or</sup> Sri Manzoor Ahmad has no relevance, as he has to take his position at the appropriate place as decided by the competent authority after considering the facts and circumstance of the case case of the petitioner and that of Sri Manzoor Ahmad.

13. That in reply to the contents of paragraph 1 of the writ petition only this much is admitted that

True copy  
*[Signature]*  
अहायक प्रमुख अधिकारी  
पूर्वोत्तर रेलवे, लखनऊ

*[Signature]*  
अहायक प्रमुख अधिकारी  
पूर्वोत्तर रेलवे, लखनऊ

petitioner and Sri Manzoor Ahmad, Opposite Party No. 4 have been promoted and are working as Guard/Grade 'B' in scale Rs. 330-560 w.e.f. 1.6.81. Rest of the contents of paragraph are not admitted. It is, however, further mentioned that the promotion to higher grade post would be done in accordance with the rules and on the basis of seniority position already maintained by the Railway administration.

14. That the contents of paragraph 19 of the writ petition are not admitted. The petitioner had alternative remedy of representing his case to the Railway administration if he was aggrieved with the decision of the General Manager (P) dated 3.8.83, which he has not resorted to. The petition is, therefore, not maintainable.

15. That the grounds taken by the petitioner are not tenable in law.

16- That the petitioner is not entitled for the direction prayed for from this Hon'ble Court as there is no violation of the procedure and rules and the decision in fixing the seniority of the petitioner has been taken by the competent authority.

17- That the writ petition is liable to be dismissed.

Lucknow: Dated:

Deponent.

.1984.

Verification

I, the deponent named above, do hereby verify that the contents of paragraphs

True copy

*[Signature]*  
सहायक कोषी अधिकारी  
पूर्वोत्तर रेलवे, लखनऊ

*[Signature]*  
मोना प्रसाद अग्रवाल  
एडवोकेट  
इलाहाबाद

of this counter affidavit  
are true to my own knowledge and that of paragraphs  
are based on information  
derived from the records of the Railway and that of  
paragraphs are based on legal advice.

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

Lucknow:

Dated:

.1984.

Deponent.

I identify that deponent who has signed  
before me.

Advocate.

Solemnly affirmed before me on

at a.m./p.m. by Sri Sheo Murti, the deponent,  
who is identified by Sri Krishna Chandra, Advocate,  
High Court, Lucknow Bench, Lucknow.

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

*True copy*  
*[Signature]*

हायड कॉपी  
पूर्वोत्तर रेलवे, लखनऊ

गंगा प्रसाद अग्रवाल  
एडवोकेट  
इ इलाहाबाद हाईकोर्ट

(AY)  
46

In the High Court of Judicature at Allahabad.

Sitting at Lucknow.

Writ Petition No. of 1984

Mohd. Ismail Khan ..... Petitioner.

Versus

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

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ANNEXURE NO. A-1

NORTH EASTERN RAILWAY

OFFICE OF THE  
DIVIL. SUPDT. (P) LUCKNOW.

No. E/MA/Guard/73

Dated: February 7, 1973.

The S.S./OKP  
N.E. Railway

Sub: Seniority of Shri Manzoor Ahmad Guard/GKP.

The above named was reverted to the post of INC on quota adjustment under the Office order of ex-DOS/GD No. E/Misc./145/Guard/65 dated 13.10.65 hence he is also given the benefit of proforma seniority as allowed to S/Sri R.M.Sharma and I.P. Singh. Accordingly seniority of Sri Manzoor Ahmad is fixed below the name of Sri I.P.Singh as previously shown in the provisional seniority list of Guards as on 1.5.69.

Sd/-

/DIVISIONAL SUPDT. (P) LJM

TRUE COPY.

महायुक्त कार्यालय  
पूर्वोत्तर रेलवे, लखनऊ  
दिनांक १६ फरवरी १९७३

True copy  
*[Signature]*  
महायुक्त कार्यालय अधिकारी  
पूर्वोत्तर रेलवे, लखनऊ

14/a

147

इन दि हाई कोर्ट आफ जूडिकेचर ऐट इलाहाबाद ।

लखनऊ बेंच, लखनऊ

रिट पिटीशन नं०

/84

मोहम्मद इसमैल खां

- पिटीशनर

बनाम

यूनियन आफ इंडिया एण्ड अदर्स

- अपो० पार्टीज

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अनेक्चर नं० ए-2

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पूर्वोत्तर रेलवे

कायलिय आदेश

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महाप्रबन्धक का० गोरखपुर के पत्र सं० ई/255/4/15xगार्ड/1/1

दिनांक 3-8-83 द्वारा सूचित किया गया है कि श्री मोहम्मद इसमाइल खां गार्ड के मामले में पुनर्विचार किया गया है । जब श्री मोहम्मद इसमाइल खां दिनांक 24-10-65 को टी एन सी के रूप में स्थानान्तरण होकर आये उस दिन श्री मंजूर अहमद नियमित गार्ड माने गये हैं इसलिये श्री मोहम्मद इसमाइल खां श्री मंजूर से जूनियर माने जायेंगे । तदनुसार श्री मोहम्मद इसमाइल खां को गार्ड सी 330-530 में वरीयता उसे नियमित गार्ड सी 330-530 में पदोन्नति की तिथि अर्थात् 12-12-68 से मानी जायेगी ।

ह०

कृते मंडल रेल प्रबन्धक का०

लखनऊ

सं० ई/11/255/4xगार्ड दि० 21-2-84

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

- 1- महाप्रबन्धक का० गोरखपुर
- 2- स्टेशन अधीक्षक गोंडा
- 3- सम्बन्धित कर्मचारी, द्वारा स्टे० अधी० गोंडा
- 4- कायलिय अधीक्षक, यूनियन

ह०

कृते मंडल रेल प्रबन्धक का०

लखनऊ

True copy

सहायक कायलिय अधिकारी  
पूर्वोत्तर रेलवे, लखनऊ

आदेश  
इलाहाबाद  
एडवोकेट  
इलाहाबाद

18/10

48

इन दि हाईकोर्ट आफ जूडिकेचर एट इलाहाबाद

लखनऊ बेंच लखनऊ

रिट पिटीशन नं०

/84

मो० इसमाइल खां

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पिटीशनर

यूनियन आफ इण्डिया एण्ड अदर्स

----- अपो०पार्टीज

एनेक्चर ए/3

शुद्धि पत्र

महाप्रबन्धक ॥का०॥ गोरखपुर के पत्र सं०ई/255/4/15/गार्ड/1/1 दि० 3-8-83 तथा इस कार्यालय के कार्यालय आदेश सं० ई०/11/255/4/गार्ड दि० 21-2-84 द्वारा यह निर्णय लिया गया है कि श्री मोहम्मद इसमाइल खां गार्ड की गार्ड ॥सी॥ 330-530 में वरीयता दि० 12-11-68 से मान्य होगी तदनुसार दिनांक 1-5-81 को प्रकाशित गार्ड "सी" ॥330-530॥ की वरीयता सूची में श्री मोहम्मद इसमाइल खां का स्थान निम्न प्रकार से निर्धारित किया जाता है ।

गार्ड सी 300-530 को दिनांक 1-5-81 की वरीयता सूची

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| नाम | पद स्थान | वरीयता सूची | संशोधित क्र० | स्थान    |
|-----|----------|-------------|--------------|----------|
|     |          | की वर्तमान  | सं०          | निर्धारण |

|  |    |  |
|--|----|--|
| श्री मोहम्मद इसमाइल खां गार्ड "सी" /गोडा | 71 | 109॥अ॥ श्री एस०डी० सिंह के नीचे तथा अब्दुल जब्बार के ऊपर |
|--|----|--|

गार्ड बी ॥330-560॥ में श्री मो० इसमाइल खां की पदोन्नति दि० 1-6-81 सर्वश्री एस०डी०सिंह और अब्दुल जब्बार के साथ दिया गया है अतः गार्ड बी में भी इनकी वरीयता इसी प्रकार श्री एस०डी० सिंह और अब्दुल जब्बार गार्ड बी के बीच निर्धारित की जाती है ।

हा० कृते मण्डल रेल प्रबन्धक  
॥कार्मिक॥ लखनऊ

स० ई/11/255/4/गार्ड/भाग-1 दि० 23-2-84

प्रतिलिपि सुनवर्धि आवश्यक कार्यवाही हेतु प्रेषित

संसाधन विभाग  
एडमो० 2  
हउचामंडी

महा प्रबन्धक ॥का०॥/गोरखपुर 2- स्टेशन अधीक्षक/गोण्डा  
सम्बन्धित कर्मचारी 4- कार्यालय अधीक्षक ॥यूनियन

ह० कृते मण्डल रेल प्रबन्धक

True copy

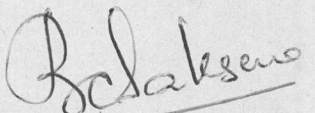
अध्यायक कार्यालय  
पूर्वोत्तर रेलवे, लखनऊ

3. That the delay in filing the rejoinder-affidavit has not occasioned any adjournment of the hearing of the petition.

Wherefore, it is respectfully prayed that this Hon'ble Court be pleased to condone the delay in filing the rejoinder-affidavit and direct that the same which accompanies this application be brought on record.

Dated Lucknow

16.1.1985

  
(B.C. Saxena)  
Advocate

Counsel for the applicant

4/3 (A/50)

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

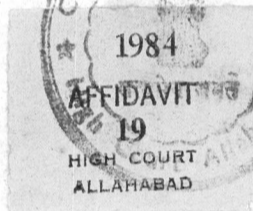
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Rejoinder-affidavit in reply to the counter-  
affidavit of opposite-parties nos. 1 to 3

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Writ Petition No. 1978 of 1984



Mohammad Ismail Khan

--Petitioner

versus

Union of India and others

--Opp-parties

--

I, Mohammad Ismail Khan, aged about 49 years,  
son of Sri Azam Ali Khan, at present working as Guard,  
Nax N.E.Railway, Gonda, do hereby solemnly take  
oath and affirm as under:-

1. That the deponent is the petitioner in the above-  
noted writ petition and is fully acquainted with  
the facts of the case. He has perused the counter-  
affidavit filed on behalf of opposite-parties nos.  
1 to 3 and has understood the contents thereof.

2. That the contents of paras 1 to 3 do not call  
for any reply.

*16-7-84*  
*Mohd Ismail Khan*

3. That the contents of para 4 in so far as they are contrary to the assertions made in para 3 of the writ petition are denied and the said assertions are hereinagain reiterated. It is stated that the petitioner admittedly had proceeded on leave on 26.8.1965 on the ground of the illness of his wife and remained on leave till 11.9.1965. The petitioner then was apprised of the office order dated 30.8.1965 passed by the District Operating Superintendent, Samastipur . The petitioner in view of the ill-health of his wife requested for extension of his leave for a further period of two months. The petitioner reported for duty and was thereafter by an order contained in Annexure 1 to the writ petition spared for the first time on 17.10.1965 from the post of Trains Clerk, Narkatiaganj to join on transfer to Gonda District. The allegation in para 4 that the petitioner was spared to carry out transfer order in time is wholly baseless and is factually incorrect. Besides the order contained in Annexure 1 no spare memo or no order sparing the petitioner from Narkatiaganj had been passed. It is stated that since prior to the passing of the order by the District Operating Superintendent, Samastipur , viz 30.8.1965 orders for promotion of opposite-party no.4 had been passed, the petitioners continuance on leave from 26.8.1965 has without relevance been detailed in the counter-affidavit. It is moot to state that the petitioner could at best have been spared to join in Gonda on 30.8.1965 or any date thereafter only. By that



Md. Jemal Khan

time order for promotion of opposite-party no. 4 had been passed. Due to administrative lapse between 21st July 1965 and 30.8.1965 no action to spare the petitioner had been taken and admittedly the petitioner was working during the said period from 21.7.1965 to 26.8.1965. No delay in the circumstances can be attributed to the petitioner in not joining. The petitioner having been spared only on 17.10.1965 to join on administrative grounds should in no manner be made to suffer and that is exactly the grievance in the writ petition.

4. That the contents of para 5 do not in any manner controvert the specific assertions made in para 4 of the writ petition. Nevertheless, the said assertions are herein again reiterated. Admittedly an order for opposite-party no. 4's promotion was passed on 3.8.1965. The order for the petitioners transfer though passed by the COPS on 21.7.1965 was acted upon by the District Operating Superintendent, Samastipur when he passed the order dated 30.8.1965. The said delay has resulted in undue advantage to opposite-party no. 4 who admittedly has lesser length of service in the cadre of Trains Clerks.

5. That the non-admission of the assertions made in para 5 of the writ petition is wholly baseless. The contents of para 6 do not in any manner controvert the specific assertions made in para 5 of the writ petition. The allegations in the last part of para 6 are repetitive reply to which has already been



Mohd Zameer

given. The assertions in reply thereto are herein-again reiterated.

6. That the contents of para 7 do not call for any reply since the assertions made in paras 6, 7 and 8 of the writ petition have been admitted.

7. That in reply to the contents of para 8 it is stated that even if it be that opposite-party no.4 came to the promoted to the post of Guard grade 'C' by an order dated 12.11.1968, the admitted fact is that the petitioner had joined the said post on 13.11.1968 and the said opposite-party no.4 had joined the said post on 28.11.1968. For purposes of reckoning their seniority on the post of Guard Grade 'C' since the length of service on the post is the relevant criteria, the date of joining on the post of Guard Gr. 'C' becomes the starting point.

8. That the contents of para 9 in so far as they admit the assertions made in paras 10 and 11 call for no reply. It is stated that in the seniority list of Guards Grade 'C' as on 1.5.1969 the petitioner's name was shown below opposite-party no.4 on the specious basis that opposite-party no.4's date of joining the post of Guard Gr. 'C' was 4.8.1965. The said seniority list lost its relevance since admittedly <sup>another</sup> ~~in the~~ seniority list as on 1.5.1972 was published and the petitioner was shown at serial no. 151 while opposite-party no.4 was shown at serial no. 155 thereof. It is stated that by an



*Pls. Serial Khan*

office order dated 2.6.1966 the petitioner as also opposite-party no.4 and Sri Ram Murat Sharma and Sri Indra Pal Singh were ordered to be reverted from the post of Guard Gr.'C'. Sarvsri Ram Murat Sharma and Indra Pal Singh were, however, allowed to continue temporarily by the said order. Opposite-party no.4 it appears made a representation behind the petitioner's back as a consequence of which Annexure A-1 dated 7.2.1973 appears to have been passed. It is stated that the petitioner was not apprised at any time of the said representation and order. It is further stated that since a revised seniority list as on 1.5.1972 had already been published and the petitioner after the reversion by order dated 2.6.1966 as also opposite-party no.4 came to be promoted to the post of Guard Grade 'C' with effect from 13.11.1968 and 28.11.1968 respectively, there was no warrant to give opposite-party no.4 the benefit of his seniority position in the already superseded seniority list of Guards Grade 'C' as on 1.5.1969 by means of Annexure A-1 dated 7.2.1973. It is stated that between 2.6.1966 and 28.11.1968 opposite-party no.4 continued on the post of Trains Clerk and not on the post of Guard Grade 'C'. Thus there was no warrant to pass the order dated 7.2.1973 contained in Annexure A-1. A true copy of the relevant extract of the office order dated 2.6.1966 is being annexed as Annexure no. 6 to this rejoinder-affidavit. It is further pointed out that in view of the admitted position that opposite-party no.4 had been reverted from the post of Guard Grade 'C' by an order dated 12.10.1965 his promotion as made by



After Serial 144

order dated 3.8.1965 also loses its relevance and no benefit of that promotion can be given to opposite-party no.4. Further it is relevant to point out that opposite-party no.4 some time after the order for his reversion dated 12.10.1965 came to be promoted as Guard Grade 'C' in cane season and was subsequently again reverted by an order dated 2.6.1966. This fact shows that the order dated 7.2.1973 was passed without any valid basis. The last promotion order of opposite-party no.4 to Guard Grade 'C' which was subsisting when the said order came to be passed was only with effect from 28.11.1968 while the petitioners promotion was with effect from 13.11.1968. The plea that the seniority position stood modified is wholly baseless and the seniority position indicated in the seniority list as on 1.5.1978 was clearly on untenable grounds.

9. That the contents of para 10 do not call for any reply.

10. That the contents of para 11 seek to reproduce the contents of the order dated 3.8.1983. The same in so far as they are contrary to the assertions made in paras 15 and 16 of the writ petition are denied and the said assertions are hereinagain reiterated. For the reasons already detailed above and on the basis of the facts admitted evidently the circumstance that opposite-party no.4 was promoted on 3.8.1965 as Guard Grade 'C' was wholly irrelevant. The only surviving circumstance was that the petitioner's date of promotion and continuance on that post of Guard Grade 'C' was earlier than opposite-party no.4,



*Howe Jemal 16-1-85*

viz., 13.11.1968 and of opposite-party no. 4 is 28.11.1968. In view of the said facts the petitioner craves indulgence of this Hon'ble Court to determine the tenability of the order impugned in the writ petition and respectfully submits that the same is based on incorrect appreciation of the relevant facts and deliberate ignorance of the relevant circumstances.

11. That the contents of para 12 in so far as they admit that the date of promotion of Sri N.S.Verma is not 25.2.1965 as indicated in the impugned order but is 25.8.1965 call for no reply. The justification given on the admitted facts of the case is clearly untenable and baseless. The assertions made in para 17 of the writ petition are hereinagain reiterated and anything contrary thereto in para 12 is denied.

12. That in reply to the contents of para 13 it is stated that the assertions made in para 18 of the writ petition have not been controverted. The order placing the petitioner above opposite-party no.4 in the cadre of Guards Grade 'B' scale Rs. 330-560 with effect from 1.6.1981 shows the petitioners name at a serial higher than opposite-party no.4. The assertions made in para 18 of the writ petition are hereinagain reiterated.

13. That the pleas in paras 14, 15, 16 and 17 are legally untenable and are, therefore, denied.

Dated Lucknow  
16.1.1984.

Mohd Zameer Khan

Deponent



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

Dated Lucknow

Deponent

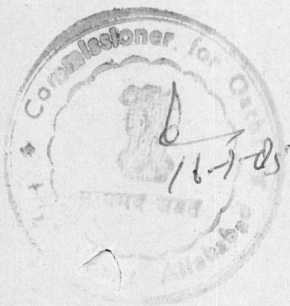
16.1.1985

I identify the deponent who has signed in my presence.

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

Solemnly affirmed before me on 16-1-85  
at 9-30 a.m/p.m by *Sri Mohd Ismail Khan*  
the deponent who is identified by Sri *R.K. Srivastava*  
clerk to Sri B.C. Saxena

Advocate, High Court, Allahabad. I have satisfied  
myself by examining the deponent that he understands  
the contents of the affidavit which has been read  
out and explained by me.



*A. K. Prasad*  
A. K. PRASAD  
OATH COMMISSIONER  
High Court, Allahabad  
Lucknow Bench

No...129/907.....

Date...16-1-1985.....

(A4/12) 11

In the Hon'ble High Court of Judicature at Allahabad  
Lucknow Bench, Lucknow. (A4/12)

Writ petition No. of 1984

Mohammad Ismail Khan .... .Petitioner  
versus

Union of India and anothers.....Opp.parties  
Annexure No. 6

NORTH EASTERN RAILWAY  
OFFICE ORDER.

On expiry of the cane season the following  
reversions, promotions and transfers are ordered  
to take immediate effect.

1. Sri Ram Asrey Offg, cane season Guard/MUR is  
reverted to his substantive post of TNC and posted  
to Mankapur.
2. Sri Abdul Jabbar, Offg. cane season Guard/GD is  
reverted to his substantive post of TNC and posted  
to Gorakhpur.
3. Sri Indra Deo Pandey, Offg. cane season Guard/  
GD is reverted to his substantive post of TNC and  
posted to Gorakhpur.
4. Sri Mohd. Ismail Khan, Offg. cane season Guard/  
Gonda is reverted to his substantive post of TNC  
and posted to Gonda.
5. Sri Manzoor Ahjad , Offg. cane season Guard/  
ANDN is reverted to his substantive post of TNC  
and posted to Gorakhpur.
6. Sri Mohd. Amir Hasan, Offg. Cane Season Guard/  
Gonda is reverted to his substantive post of TNC  
and posted to Gorakhpur.



*Pls. forward to*

The following offg. Guards also are/  
reverted to their substantive post of TNCs and  
posted at Stations noted against each name.

7. Sri Ram Murat Sharma as TNC/Gonda.

8. Sri Indra Pal Singh as TNC/Gonda.

Sarvashri Ram Murat Sharma and Indra Pal Singh are however allowed to continue temporarily as Guards against temporary vacancies of Guards Sri M.Z. Ansari II failed in Guards Refresher course and Sri Shambhoo Pd. on long sickness on whose vacancy Sri R.T. Pandey Guard under orders of transfer to SPJ district was allowed to work upto 27/5/66.

Changes when carried out should be  
advised by letter.

Sd/ B.P. Singh)  
Office of Distt. Optg. Supdt Distt. Operating Supdt./  
Gonda. Dated 2/6/66. Gonda.

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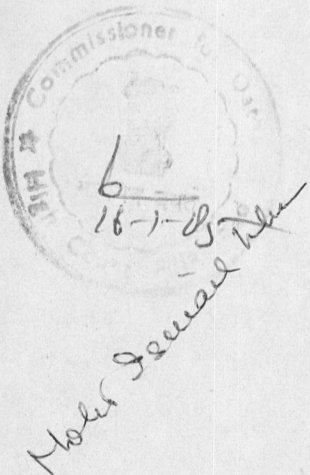
No.E/Misc./145/Guard /66. Gonda Dt. 2/6/66

Copy forwarded for information and necessary  
action to:

1. Sms GD, MUR, ANDN, DIP/TIR for immediate compliance of the orders as the cane season has since been over.
2. HC/Bill, G & S of the Office.
3. HC/Class IV of the Office.
4. Folder and relief clerk of the office.
5. Sr. Clerks dealing with class IV staff and ASM Category.

Sd/- Illegible  
Distt. Operating Supdt./Gonda

True copy



That on the basis of the facts stated and grounds raised in the accompanying petition the applicant prays that this Hon'ble Court be pleased to

(i) to stay the operation of the orders dated 23.2.1984 contained in Annexure no.5, order dated 21.2.1984 contained in Annexure 3 and the order dated 3.8.1983 contained in Annexure no.4 to the writ petition.

(ii) to pass such other order as in the circumstances of the case this Hon'ble Court may deem just and proper.

Dated Lucknow

11.4.1984

*B.C. Sakseena*  
(B.C. Sakseena)  
Advocate  
Counsel for the applicant