

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE All India Loco Running of 19
Staff Association, Lucknow Bench And others
TA-1568/82 W.P. No. 2138/84

Name of the parties

Applicant.

Versus.

Union of India & ors.

Respondents

Part A

Description of documents

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| 2. <u>order sheet</u> | <u>A4 to A10</u> |
| 3. <u>Judgment dt. 11-4-90</u> | <u>A11 to A12</u> |
| 4. <u>Petition with Annexure</u> | <u>A13 to A29</u> |
| 5. <u>affidavit</u> | <u>A30 to A31</u> |
| 6. <u>Vakalatnama</u> | <u>A32</u> |
| 7. <u>Counter affidavit</u> | <u>A33 to A32</u> |
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| 10. <u>Transfer application with Vakalatnama</u> | <u>A 49 + 1 =</u> |
| | <u>A-50</u> |

CERTIFICATE

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

Date :

Countersigned

Section officer/Court officer.

De Cheeky

Signature of the
Dealing Assistant.

(5) (31)

In The Court of Central District
Lucknow

Heera Loco Rung Staff Association
Appellant Applicant
Plaintiff Complainant

VERSUS

h. o. d.

Defendent-Opposite Party
Respondent Accused

Original Suit
First
— Civil Appeal
2nd
Civil Case

TA No. 1568 19 87

Fixed for— 14/5/89

in ten above mentioned Case I appear for the opp party
Appeal

having been Instructed by DRM to appear

and plead on ^{his} their behalf

LUCKNOW.

Dated— 16/5 —19 89

Arjun Dargava
Counsel for Opp parties
(ARJUN DHARGAVA)
AD

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1

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

A.I.L.R.S.A.Ho

- VS -

U O D & as


FORM OF INDEX


✓
~~O.A./T.A./R.A./C.C.P./~~ No. 1568 19 07 in WP No 2130
TA

PART - I

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3.	Any other orders	: - NIL
4.	Judgement	: - 12 to 13
5.	S.L.P.	: - NIL


Dy. Registrar


Supervising Officer


Dealing Clerk 21.4.58

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


Dealing Clerk 21.4.58

V.K. Mishra

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

INDEX SHEET

CAUSE TITLE TA 1568/87 of 19 87

NAME OF THE PARTIES

All India Running Loco Staff Association Applicant

Versus

Union of Indis Respondent

Part A, B & C

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2-	Order Sheet	A2 to A5
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CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench, Lucknow
Opp. Residency, Gandhi Bhawan, Lucknow

APPLICATION No. _____ of 19

TRANSFER APPLICATION No. _____ of 19

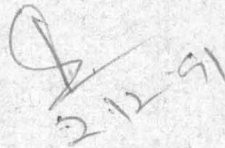
OLD WRIT PETITION No. : _____ of

CERTIFICATE

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

Dated :

COUNTER SIGNED :


212/91

Signature of the
dealing Assistant

Section Officer/Court Officer

CIVIL SIDE
CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case

W.P. 2138-84

Name of parties

All India Loco Running Club Association vs 409

Date of institution

24-4-84

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	W.P. with Annexure and affidavit	20	-	102.00			
	2	Power	1	-	5.00			
	3	Exh 4767 (W) 0884 fshy	1	-	5.00			
	4	Power	1	-	5.00			
	5	Exh 12413 (W) 0885 with CA	6	-	7.00			
	6	Arch Sheet	1	-	-			
	7	Back Entry	1	-	-			

I have his 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



1 CIE P57-
3807
24/4/84

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

C.M. Application No. 4767/84 of 1984

In 2/30

Writ Petition No. of 1984

All India Loco Running Staff Association
& another. Petitioners/
Applicants

Versus

Union of India & another Opp. Parties

Stay application

The applicants most respectfully beg to submit
as under :-

That for the facts and circumstances stated in
the accompanying writ petition it is most respectfully
prayed that further proceedings for selection to the
posts of Diesel Assistants in the Lucknow Division of
Northern Railway be stayed pending disposal of the writ
petition.

Dated Lucknow:
April 16, 1984.

L.P. Shukla
(L.P. Shukla)
Advocate,
Counsel for the applicants.

15

Hon. D.N. Jha, J.

Hon. K. Nath, J.

Issue notice to the
opposite parties to show
cause why the petition
be not admitted returnable
by 15th of May, 1984. The
petitioners are directed
to take immediate steps
list on 16th of May, 1984.

In the

24.4.1984

By

15-5-84 for attendance
for filing CA or W.P.
CM An noh767/cas 84
N.D. to OPMol 22
by R.P.

R

25.5.84

members including Drivers, Shunters, Firemen, Diesel Assistants, in the Lucknow Division. Petitioner no.2 is fireman Grade 'B' in the loco running shed, Lucknow. He is entitled to weightage by way of reservation on account of belonging to scheduled caste. His recorded date of birth as relevant for the purpose of the present writ petition is 10.2.1940. The Petitioner No.2 is a member of Petitioner No.1.

2. That by means of Railway Board's Circular No. PC-III/79/PS-3/17 dated 17.7.1981 as circulated by the letter of the General Manager, Northern Railway, dated 25.7.1981, a restructuring of the cadre of the running staff was effected with a view to improving the avenues of promotion available for them in consultation with the concerned unions. According to the circular relating to fireman in addition to existing firemen Grade 'A' all firemen in Grade 'B' working on goods and passengers trains were upgraded to the scale of Rs.290-350 which is the existing scale of fireman Grade 'A'. Thus the distinction between fireman Grade 'A' and fireman Grade 'B' working on goods and passenger trains was removed and the latter were upgraded automatically to fireman Grade 'A' in the scale of Rs.290-350.

3. That the existing fireman Grade 'C' were required to discharge the duties of shunting engines and/or acting as assistant to fireman in the trains on open line. By the aforesaid circular those who were shunting engines were designated as fireman Grade 'B' while those working as assistants to fireman in the trains on open line continued as firemen Grade 'C'. A true copy of the letter dated 25.7.1981 containing the Railway Board's



K N Prinsla

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No. 2138 of 1984

25.

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
24-4-84	<p>Hon. D.N. Jha, J.</p> <p>Hon. K.N. Math, J.</p> <p>give notice to the opp. parties</p> <p>wt on 16th of May 1984.</p> <p>Sd. D.N. Jha</p> <p>Sd. K.N. Math</p> <p>24-4-84.</p> <p>C.M. An no 4767 @ 84.</p>	
24-4-84	<p>Hon. D.N. Jha, J.</p> <p>Hon. K.N. Math, J.</p> <p>list along with the w.p.</p> <p>Sd. D.N. Jha</p> <p>Sd. K.N. Math</p> <p>24-4-84.</p> <p>16.5 Mr Be</p> <p>Pay 1</p>	
16/5/84	<p>Wait with C.M. An no 4767 (a) of 84 for orders.</p> <p>Hon. D.N. Jha, J.</p> <p>Hon. S.S. A, J.</p>	

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

12, 413 (a)
C.M.Application No. of 1985

In re:
Writ Petition No. 2138 of 1984
All India Loco Running Staff
Association & another .. Petitioners

Versus

Union of India & others .. Opp. parties.



Application for condonation of delay.

The opposite parties, above named, submit
as under:-

13411
fo B,
That in the above noted case enquiries had
to be made from different places and verification of
record had also to be done as such there was some
delay in filing the counter affidavit which was
unavoidable.

Wherefore, it is most respectfully prayed
that the delay in filing the counter affidavit may
be condoned and the counter affidavit may be taken
on record.

Lucknow:

C.A. Basir
(C.A. Basir),
Advocate,
Counsel for the opp. parties.

Dated: 30 1985

741

A/8

WISCONSIN

Impressed

For Adhesive No 1001,

Total

Correct but final Court fee report
will be made on receipt of lower
Court record.

In time up to

Papers filed, Copy of P, C

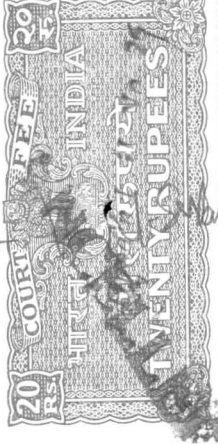
~~Should also be filed~~

W. J. R. - Hannan.

Court of entrance request.
Rly. Board's Circular No. 11-8-81 as also his
proceedings started for
Sullivan in the basis of
which issued on 20-11-83

Began 20 days by 5 days
on 23/4/80.

Indemnity
23/4/80
22/4



5 Sept 1984
2/38

2/38

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

Writ Petition No. 2/38 of 1984

1. All India Loco Running Staff Association Lucknow Branch through the Secretary, K.N. Srivastava, 549/198 Bara Barha, Alambagh, Lucknow.
2. Chhotey Lal V, aged 44 years, son of Gaya Din, resident of LD 10 C Running Shed Colony, Alambagh, Lucknow.

..... Petitioners

Versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.

..... Opp. Parties

Writ petition under Article 226
of the Constitution of India.

The petitioners most respectfully beg to submit
as under :-

1. That the petitioner no.1, All India Loco Running Staff Association Lucknow Branch is the registered Union of loco running staff representing the interests of its

21/9/DRJ.

 $\frac{7}{9}$

All Sachia Loco Running Staff Applicant(s)
Association Hk branch, Hk 2018
Versus

N.R. Union of India & N.R. Respondent (s)

Sr. No.	DATE	Orders
1098	1.9.08	Office report W.P. No. 2138-04 + received on transfer from Hon'ble Court, Lko. <u>W.P. is not admitted</u> Issue notice to the Respondents. <u>C.A. has been filed</u> Case. W.P. against the Board Selection proceedings for the of Diesel Assistant and of the order dt. 11.6.07 Annexure An application has received in this tribunal for the Case to Lko Circuit Bench by the petitioner. In the interest notice has been sent to both parties fixing 21.9.08 for <u>interim orders</u> <u>and final orders</u> <u>on the merits of the case</u> before it Submitted for 11/9/08

Revised copy of Judgment
~~11/11~~
and

22/5/92 L.R. Shuck A

Done
10/10/92

~~1/20/00~~

1560/97(7)

Sr. No.	Date	Orders
		List this case before Court at Circuit Bench Welcomes on 21-9-88 DR
21900	<u>D.R</u>	As prayed by counsel for applicant, rejoinder can be filed by 26.10.00. DR
		Rejoinder not filed today. L. KN. Sma has applicant's papers in 24.11.88 + rejoinder lee 26/11/88
24-11-88	<u>DR 21</u>	As prayed the rejoinder can be filed by 23-1-89. lee DR (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LOS ANGELES

~~O.A.~~/T.A. No. 15607 198 7(4)

Applicant(s)

Versus

Respondent(s)

Sr. No.	Date	Orders
<u>23/1/89</u>	<u>OR</u>	No one is present. The case is adjourned to 23/2/89 before D.R(3) <u>D.R</u>
<u>23-2-89</u>	<u>D.R</u>	As prayed the rejoinder can be filed by 10-3-89. <u>D.R</u>
<u>10/3/89</u>	<u>D.R</u>	Applicant counsel is present. Time for R.A is allowed for 11/4/89
<u>11.4.89</u>	<u>D.R</u>	<u>D.R</u> counsel for the applicant is present. As prayed by the applicant. He is allowed first chance for filing R.A. The case is adjourned to 17/5/89. <u>D.R</u>

TD 1560/07(v)

Hon^r Mr. K.J. Raman, A.M.

17/5/89

Shri Arjun Bhargava, learned counsel ~~for~~
is filing Vakalatnama on behalf of the respondents.
The applicants are represented by the Secretary of the
Association All India Running Loco Staff. He states
that the rejoinder is getting ready. Rejoinder may be
filed within one week. The case be listed for final
hearing on 21.8.89.

[Signature]
A.M.

(sns)

21.8.89

No Sitting. Adj. to 29.11.89.
Counsel for respondents in present.

[Signature]
No rejoinder filed
submitted for
hearing.
18/8

L
B.O.C

29.11.89

No Sitting. Adj. to 8.2.90.
Both the Counsel are present.

L
29.11.89

8.2.90

No Sitting Adj. to 10.4.90

10.4.90

Now 18. Habeeb Mohd. A.M.
JP Shree J.M.

Put up tomorrow as
first case of hearing.
[Signature]
J.M.

No RA filed
S.F.H

L
5/4

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

CIRCUIT BENCH, LUCKNOW.

T.A. 1568/87(T)

(W.P. No. 2138/84)

All India Loco Running
Staff Association, Lucknow
Branch and another

...Applicants.

versus

Union of India & others

...Respondents.

HON. MR. P.S. HABEEB MOHAMMAD, A.M.
HON. MR. J.P. SHARMA, J.M.

(Hon. J.P. Sharma, J.M.)

All India Loco Running Staff Association, Lucknow branch filed a petition alongwith one Chhotey Lal as beneficiary representing members of the said Union including Drivers, Shunters, Firemen, Diesel Assistant in Lucknow Division. The applicant No. xxxxx 2 is Fireman grade B in the Loco Running Shed Lucknow.

2. Union, as well as the applicant No. 2 forwarded certain grievances with respect to Board's circular No. PC -III/79/PS -3/17 dated 17.7.81 and filed the present Writ petition for issue of a writ of certiorari quashing the selection proceedings for the post of Diesel Assistant and a writ of mandamus commanding the respondents/ opposite parties to call Senior Fireman for Conversion Training Course for the post of Diesel Assistant.

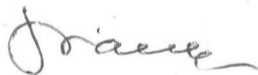
3. The respondents contested the representation and filed counter and rejoinder has also been filed by Shri K.N. Srivastava for the applicant before this Tribunal as the Writ Petition stood transferred under section 29 of the Administrative Tribunals Act, 1985 to this Tribunal.

4. The hearing was commenced yesterday when the learned counsel for the applicant Shri L.P. Sharma representing the applicant pressed his claim and the opposite party was represented by Shri A.Bhargava, counsel for the railways.

5. Today when hearing was commenced, the learned counsel for the applicant pointed out that by lapse of time the Writ Petition/T.A. has become infructuous as relief desired ~~was~~ by the applicant Union and applicant No. 2 stood granted to them by the passage of time. In view of this fact nothing further is to go on merits.

6. The learned counsel for the respondents could not enlighten the Bench whether the information given by the learned counsel for the applicant is correct or not. In any case, the relief now stands allowed to the applicant as given out by the learned counsel for the applicant.

7. The writ petition/T.A. is therefore, dismissed as infructuous with costs on parties.



JUDL.MEMBER.


11/4/1990
ADM.MEMBER.

Dated April 11, 1990.

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3392

4/10

Group A-14(c)

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Writ Petition No. 2138 of 1984

All India Loco Running Staff Association
Lucknow Branch & another Petitioners

Versus

Union of India & another Opp. Parties

I N D E X

Pages

1. Writ petition.	..1 to 9
2. Annexure No.1- Letter dt. 25.7.1981 containing Rly. Board's Circular dt. 17.7.1981.	..10 to 12
3. Annexure No.2- Railway Board's circular dt. 11.8.1981.	..13 & 14
4. Annexure No.3- Notice dt. 6.1.1984 for the supplementary written test.	..15 & 16
5. Annexure No.4- Representation dt. 8.2.1984.	..17 & 18
6. Affidavit.	..19 & 20
7. Vakalatnama.	.. 21
8. Stay application. (separate)

....

Lakshmipat Shukla

Lakshmipat Shukla
Advocate

Circular dated 17.7.1981 is filed as Annexure No.1 to this writ petition.

4. That on account of dieselisation and electrification on the Indian Railway the recruitment to the posts of diesel assistants and assistant drivers (electrical) was being made from among firemen Grade 'A' and 'B' who were working on main line trains by sending senior persons for technical training at Diesel Training School Mughalsarai or Tuglakabad. So far as recruitment as Assistant Drivers (Electrical) is concerned, it does not apply to the Lucknow division.

5. That by means of a Railway Board's Circular dated 11.8.1981 the mode of selection for the aforesaid posts of Diesel Assistants and Assistant Drivers (Electrical) was laid down by which (a) 50% of the posts were to be filled from amongst Firemen 'B' who have studied upto VIIIth class and are below 45 years of age and (b) the remaining 50% by departmental examination held amongst firemen 'B' and 'C' who are matriculates and have 3 years' railway service. If the departmental examination for recruitment from the latter category failed to provide enough matriculates, direct recruitment is to be made through Railway Service Commission. A true copy of the Railway Board's circular dated 11.8.1981 is filed as Annexure No.2 to this writ petition.

6. That the aforesaid Railway Board's circular dated 11.8.1981 laying down the method of selection, whereby 50% of the posts are to be filled up from amongst Firemen 'B' who have studied upto VIIIth class and are below



K. S. Srinivasan

45 years age, is in contravention of the earlier circular of the Railway Board dated 17.7.1981 (Annexure No.1) whereby the distinction between firemen 'A' and 'B' had been removed and the then existing firemen 'B' working on goods and passenger trains were upgraded as firemen 'A' in the scale of Rs.290-350. The condition imposed by the subsequent circular of the Railway Board dated 11.8.1981 by continuing to treat these upgraded firemen as firemen grade 'B' and further imposing a condition that they should have studied upto VIIIth class and should be below 45 years of age is completely arbitrary and amounts to discrimination as no such condition having been imposed on others who, before the earlier circular dated 17.7.1981, were working as firemen 'A'. The classification therefore, having no rational basis amounts to hostile discrimination in the same category of firemen. Moreover, the circular is completely silent about the mode of recruitment of firemen 'A' whether they are eligible or not.

7. That the restriction of age is also unreasonable inasmuch as the selection procedure till the date of the circular was that the senior firemen grade 'A' and 'B' from the steam side were imparted necessary conversion training and were then posted as Diesel Assistants. The restriction of age, that is, below 45 years, was not applicable in their case as most of the firemen had by that time attained the age of 45 years. The nature of work of a Diesel Assistant being less strenuous than that of a fireman, the restriction of age is irrational and has no nexus with the nature and object of the duties of a Diesel Assistant.



K.N. Divsian

8. That by means of notice dated 28.11.1983 issued from the office of the Divisional Railway Manager, Lucknow, ~~"application was"~~ a list of persons eligible for the post of Diesel Assistants to appear in the written test to the posts of Diesel Assistants scheduled for 11.12.1983 and 18.12.1983 was announced. The aforesaid list was in accordance with the Railway Board's circular dated 11.8.1981..

9. That petitioner no.2, although eligible to appear in the selection test for the post of Diesel Assistant in accordance with the Railway Board's circular dated 11.8.1981 was not included in the aforesaid list although he had applied for the same. The list also specifically excluded persons who had crossed the age of 45 years and had thus become ineligible in accordance with the circular dated 11.8.1981.

10. That by means of a notice dated 6.1.1984 those candidates who could not be spared for the written test held on 11.12.1983 and 18.12.1983 on administrative grounds were required to appear for the supplementary written test on 22.1.1984. This notice, however, clearly mentioned that those firemen grade 'B' who are already qualified in training course for Diesel Assistant and who are undergoing training should not be directed to appear in the test. This again amounts to discrimination in violation of the Railway Board's circular dated 11.8.1981 laying down the condition for holding selection for the post of Diesel Assistant as the persons have to undergo training at Tuglakabad or Mugalsarai for only 3 months to be eligible for the post of Diesel Assistant.



K.N. Divakaran

It is thus apparent that those persons were sent for training after the said circular dated 11.8.1981 which was brought into effect immediately. This shows that the appointment to the post of Diesel Assistant is being made in an arbitrary manner on the basis of pick and choose some to the exclusion of others contrary to the norms laid down by the Railway Board and amounting to discrimination. A true copy of the notice dated 6.1.1984 for the supplementary written test is filed as Annexure No.3 to this writ petition.

11. That petitioner no.1 had made a representation to the Railway Minister against the Railway Board's circular dated 11.8.1981 pointing out the aforesaid anomalies in the mode of selection for the post of Diesel Assistant by laying down the condition for eligibility amongst firemen 'B' and also the fact that it was discriminatory and in violation of the earlier circular of the Railway Board dated 17.7.1981. No reply to the aforesaid representation has been received.

12. That another representation was made by the Divisional Secretary on behalf of petitioner no.1 on 8.2.1984 regarding the exclusion of senior firemen from selection to the posts of Diesel Assistants in the most discriminatory and arbitrary manner. The said representation is also in respect of the drivers but the representation regarding firemen is relevant for the purpose of the present writ petition. A true copy of the representation dated 8.2.1984 is filed as Annexure No.4 to this writ petition.

13. That the selection for the posts of Diesel Assis-



K. N. Divsakar

tants has not been finalised as no viva-voce on the basis of the written test has been held. No reply to the aforesaid representations made by the petitioner no.1 on behalf of the loco running staff relating to the firemen has been received so far, nor any action to rectify the illegality in making selection for the posts of Diesel Assistants has been taken by the opposite parties.

14. That aggrieved by the procedure for selection to the posts of Diesel Assistants in a most arbitrary and discriminatory manner and in violation of the circular of the Railway Board dated 17.7.1981 and having no alternative and speedy remedy, the petitioners have preferred this writ petition on the following amongst other grounds:-

G R O U N D S

- (A) Because the restriction of age, that is, 45 years for selection from firemen grade 'B' to the post of Diesel Assistant is illegal and arbitrary and amounts to discrimination in violation of Articles 14 and 16 of the Constitution.
- (B) Because the restriction of age has no nexus with the nature of duties required for the post of Diesel Assistant.
- (C) Because the procedure for selection to the post of Diesel Assistants hereto followed did not put any restriction on the ground of age and senior firemen, although above 45 years, were selected for appointment and training to the post of Diesel Assistants.



KN Divs/ans

Sakthipath Shukla

- (D) Because the classification as firemen 'B' of persons who had already been upgraded by the Railway Board's circular dated 17.7.1981 is arbitrary and amounts to discrimination.
- (E) Because there is no uniform policy for selection to the post of Diesel Assistant and the same is being made on pick and choose basis contrary to the directions given by the Railway Board through its circulars dated 17.7.1981 and 11.8.1981.
- (F) Because petitioner no.2 has been illegally excluded from selection for appointment to the post of Diesel Assistant although he fulfills the requisite qualifications.

P R A Y E R


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

- (i) issue a writ , direction or order in the nature of certiorari quashing the Railway Board's circular dated 11.8.1981 (Annexure No.2) ;
- (ii) issue a writ, direction or order in the nature of certiorari quashing the selection proceedings for the post of Diesel Assistant in accordance with the aforesaid circular dated 11.8.1981 after summoning the record from the custody of the opposite party no.2;

Santhosh Kumar

- (iii) issue a writ, direction or order in the nature of mandamus commanding the opposite parties to call senior firemen for conversion training course for the posts of Diesel Assistants in accordance with the established procedure prior to the Railway Board's Circular dated 11.8.1981 (Annexure No.2);
- (iv) issue any other writ, direction or order as deemed just and proper in the circumstances of the case;
- (v) award the costs of the writ petition to the petitioners.

Dated Lucknow:
April 17, 1984.


(L.P. Shukla)
Advocate,
Counsel for the petitioners.

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

Writ Petition No. of 1984

All India Loco Running Staff Association
Lucknow Branch & another Petitioners

Versus

Union of India & another Opp. Parties

Annexure No.1

Northern Railway.

Headquarters Office,
Baroda House, New Delhi.

No.561E/225. 98/Genl.(PC)Pt.III Dated 25.7.1981

The Divisional Railway Managers,
Northern Railway,
DLI FZR MB LKO ALD BKN & JU.

The Divl. Accounts Officers,
DLI FZR MB LKO ALD BKN & JU

The F.A. & C.A.O. Baroda House , New Delhi.

The S.P.O.(T&C))
The S.P.O.(M)) Baroda House, New Delhi.

Sub:- Re-structuring of the cadre of running staff.

A copy of the Railway Board's letter No.P.C.-III/79/PS-3/17 dated 17.7.81 is forwarded for necessary action and guidance.

It is requested that immediate steps may be taken to ensure early implementation of Railway Board's orders keeping in view of the instructions mentioned therein.

A report of the progress made in implementing the upgradation orders of the cadre of running staff may please be sent to this office by 5th Sept. 1981 for further transmission to Railway Board.

Sd/- H.L. Bhatia
for General Manager (P)

DA/- As above.



-3-

N.B:- Goods Drivers at present in the scale of Rs.425-640 working trains of Ghat/Graded sections will be continued to be in this grade and will not be upgraded to Rs.550-700.

- | | | | |
|----|--|---------|---|
| 5. | Firemen 'A'/DSL
Asstts./Asstt.
Electric Drivers. | 290-350 | No change, In addition to the existing Firemen 'A' etc. all Firemen 'B' working on goods and passenger trains will also be upgraded to this scale of Rs. 290-350. |
| 6. | Fireman 'B' | 250-350 | For shunting engine. |

II. Traffic Running Staff:-

- | | | | |
|----|-------------------------------|--------------------|--|
| 7. | Passenger Guards
Grade 'A' | 425-640 | To be attached to all superfast, Mail & Express Trains. |
| 8. | Passenger Guards
Grade 'B' | 425-640 | For passenger trains irrespective of the distance (the existing passenger service Guards in scale of Rs.330-560 will be upgraded to this scale). |
| 9. | Goods Guards
Grade (C) | 330-560
330-530 | The Guards working goods trains will be distributed in the proportion of 40:60 40% of the posts being in the scale of Rs.330-560 and 60% of the posts in scale Rs. 330-560 respectively. |

2. The Ministry of Railways desire that upgradation of posts of Loco and traffic running staff as per the above restructuring should be immediately taken in hand and promotion of eligible staff ordered in accordance with the prescribed procedure. The arrears of pay and allowance due to the staff on this account should be paid with effect from 1.6.81 as early as possible.

3. A report on the action taken may please be sent to this office by 15th Sept. 1981.

4. Hindi version will follow.

Hlg

17-4-81



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Writ Petition No. of 1984

All India Loco Running Staff Association
Lucknow Branch & another. Petitioners

Versus

Union of India & another Opp. Parties

Annexure No.2.

Government of India
Ministry of Railways
Railway Board

No.E(NG)III-75/RC1/69 New Delhi, dated 11.8.81

The General Managers,
All Indian Railways.

Sub: Method of recruitment to the posts of
Diesel Asstt. and Asstt. Driver (Elect).

At present the posts of Diesel Asstt. and Asstt. Driver (Elect.) on the Railway are filled by posting of staff from the steam side who are imparted necessary conversion training before such posting. In the context of increasing dieselisation and electrification on the Indian Railway and the consequent need to ensure proper manning of trains in these traction by staff, who are reasonably qualified and have the necessary aptitude for handling diesel and electrical locos, the Board have been considering the question of laying down appropriate recruitment rules and qualification for the posts of Diesel Asstts. and Asstt. Drivers (Elect.).

2. It may recalled that orders were issued in 1977 vide Board's letter No.E(NG)III-75/RC1/69 dated 24th June, 1977 laying down certain method of filling up vacancies of fireman 'A'. The Board have decided that the provisions contained in item (iii) of that letter should be adopted for filling up vacancies of Diesel Assts. and Asstts. Drivers (Elect.) hereafter. In other words, vacancies in those posts will be filled as follows:-

- a) 50% by the usual selection procedure from amongst fireman 'B' who have studied upto 8th class and are below 45 years of age;
- b) 50% by Departmental examination held amongst firemen 'B' & 'C' who are matriculates and have 3 years of railway service;



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c) If the departmental examination referred to in (b) fails to provide enough matriculates for the 50% quota, direct recruitment should be made through the Railway Service Commission.

3. The Board desires that the above procedure should be brought into effect immediately.

(Hindi version will follow).

Sd/-
(D.D. Aggarwal)
Jt. Director Estt.(N)
Railway Board.

Copy to :

E. Traction/J.D. Traction for information.

KN Arslan



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

Writ Petition No. of 1984

All India Loco Running Staff Association
Lucknow Branch & another. Petitioners

Versus

Union of India & another Opp. Parties

Annexure No.3

NORTHERN RAILWAY

No.755E/1-4/DSL/83

Divl. Office,
Lucknow dt. 6.1.1984.

NOTICE

1. Loco Foreman, LKO RSB FD PBH
2. Shedman RBL JNU Prayag Chat SLN
3. SLO LKO.

The undernoted F/M 'B' and F/M 'C' did not attend the written examination for the post of DSL Asstt. (Training) on the previous dates i.e. 11.12.83 and 18.12.83. If they could not be spared by the LFs concerned on administrative grounds then only they should be spared to appear for the supplementary written test for the post of DSL Asstt. (Training) on 22.1.84 at 9.00 hrs. in DRM office Lucknow. While directing them to this office LFs will endorse a certificate on the letter that previously they were not booked due to administrative reasons.

If any one will absent himself from the written test he will not be given any further chance and will be debarred.

Those F/M 'B' who are already qualified in DSL Training course (P.2 or P.4) and who are undergoing DSL Training at TKD/MGS should not be directed but an information be sent to this office regarding above and their names given.

S/Shri

1. Ab. Quddus
2. Ibadur Rahman
3. Raj Kishore Pandey
4. Ram Anzore s/o Mohan
5. Shamsul Arfin
6. Harish Chandra Gaur
7. Ashok Kumar III
8. V.D. Yadav
9. K.P. Singh Yadav

F/M 'B' LKO

-do-

-do-

-do-

-do-

-do-

F/M 'C' LKO

F/M 'B' BSB

-do-



10. Jeet Lal Mishra	F/M 'B' BSB
11. Khun Khun Ram	-do-
12. Asharfi Manghi	-do-
13. Sri Kishan Jee	F/M 'C' BSB
14. Ram Palat Prajapati	-do-
15. Shanker Prasad	-do-
16. Rama Kant	-do-
17. Mukut Behari Patel	-do-
18. S.M. Saxena	F/M 'B' FD
19. Ram Om Lal	-do-
20. Udai Raj Singh	F/M 'C' FD
21. S.N. Saxena	F/M 'B' PBH
22. B.B.Lal Srivastava	F/M 'B' SLN
23. K.P. Dwivedi	F/M 'B' JNU

Only twenty three.

K.P. Dwivedi

Sd/- Illegible
Divl. Personnel Officer,
Lucknow.



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Writ Petition No. of 1984

All India Loco Running Staff Association
Lucknow Branch & another. Petitioners

Versus

Union of India & another Opp. Parties

Annexure No.4

To

The Divisional Railway Manager,
Northern Railway
Lucknow.

Sub: Notice

Dear Sir,

Serious resentment is prevailing amongst the Loco Running Staff particularly in the cadres of Drivers and Firemen for the reasons mentioned below:

AMONGST SENIOR FIREMEN: Due to selection of Fire-men Grade 'A' and of Diesel Assistant as the Senior Fireman who have attained the age of 45 years are declared unsuitable for the selection of Diesel Assistants whereas Junior most Firemen 'B' and 'C' or Matriculates with only 3 years Railway Service are declared as suitable to appear in the selection.

In the same way selection of Firemen 'A' amongst from Firemen 'B' and 'C' is nothing but to cheat Senior Firemen 'B' as the grade, risk, responsibilities, physical and mental labour, and duties performed by Firemen 'A' and 'B' are the same.

It is therefore requested that Selection of Diesel Assistants and Firemen Grade 'A' should be cancelled and Senior Firemen Grade 'B' who have spoiled their youth in steaming up the boilers of Steam Locos should be sent for Diesel Conversion course so that they may be absorbed as Diesel Assistants.

AMONGST DRIVERS: At present about 100 posts of Driver Grade 'A' are lying vacant for last 2 to 3 years and the Goods drivers are being forced to work on passenger and express trains. This cycle of officiating on higher grade goes upto the entry grade, i.e., Engine cleaner and thus staff is being deprived of their legitimate right of getting promotion. They are forced to lose their pay and allowances, shoulder higher responsibilities and more risk for little gain, suffer heavy recurring loss in pension and other retiring benefits. The staff is not only exploited financially but have to face crushing attitude of the authorities in case of mishap. All these sufferings are the result of wrong policies of the big bosses.



1/24 Divislan

-2-

No prompt and suitable action to stop resentment amongst staff and to stop officiating on higher grade will bring BITTER result such as sick-en-masse, mass leave or refusal en-masse to officiate.

We have always been on the first row in the performance of the railway and we are not still behind. We will be first to co-operate for better performance of Railways and first to fight for our rights despite of severe victimisation which is still prevailing and therefore it is for the information of the Railway and Civil authorities that if selection for Firemen Grade 'A' and Diesel Assistant based on wrong policies is not cancelled and all the vacancies of Driver Grade 'A' are not filled upto 20.2.1984 ~~xx~~ we will be forced to launch agitation on some suitable date which need not be notified.

The Organisation hope that you will spare time to consider the hardships of hard working loco running staff and will not force to agitate causing disturbances in normal life of the citizens.

With ward regards,

Yours faithfully,

(SUGRIVE SINGH)

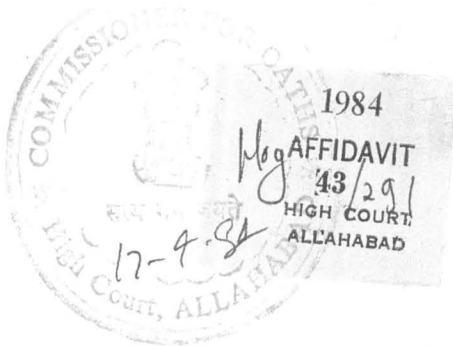
Divisional Secretary
All India Loco Running Staff
Association
Northern Railway, Lucknow.

Dated : Feb.8, 1984.

Copy to all concerned.

Ken. Dinkal





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

Affidavit

In

Writ Petition No. of 1984

All India Loco Running Staff Association
Lucknow Branch & another. Petitioners

Versus

Union of India & anotherOpp. Parties

A F F I D A V I T

I, K.N. Srivastava, aged 44 years, son of late Sadgur Saran, resident of 549/198 Bara Barha, Alambagh, Lucknow, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the Secretary of All India Loco Running Staff Association Lucknow Branch and as such is fully conversant with the facts deposed to herein. He has been duly instructed by petitioner No.2 to file this affidavit.

2. That the deponent has read the accompanying writ petition along with the annexures, the contents of which he has fully understood.



K.N. Srivastava

3. That the contents of paragraphs 1 to 13 of the writ petition are true to my own knowledge.

4. That Annexures Nos. 1 to 4 to the writ petition are the true copies duly compared from their duplicates and originals.

K.N. Srivastava

Dated Lucknow:

Deponent.

April 17, 1984.

Verification

I, the above-named deponent, do verify that the contents of paragraphs 1 to 4 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:

K.N. Srivastava
Deponent.

April 17, 1984.

I identify the above-named deponent who has signed before me.

Vaughan J. Patil
Advocate.

Solemnly affirmed before me on 17.4.1984
at 3.30 ~~am~~/p.m. by Sri K.N. Srivastava
the deponent who is identified by
Sri L. P. Shukla

~~Advocate, High Court, Allahabad.~~

Advocate, High Court, Allahabad.

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



Kuldeepak Nag
KULDEEPAK NAG
OATH COMMISSIONER
High Court, Allahabad
Lucknow, Bench

No 43/29/
Date 17-4-84

In The Hon'ble High Court of Judicature At Allahabad
 व अदालत श्रीमान sitting at Lucknow महोदय

वादी (मुद्दी)
 प्रतिवादी (मुद्दालेह)

का वकालतनामा



All India Loco Running Staff Association
 Lucknow Branch & another

वादी (मुद्दी)

बनाम

Union of India & another

प्रतिवादी (मुद्दालेह)

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

L.P. Shukla & K.D. NAG

एडवोकेट

महोदय

Advocate

Advro

C-700, Mahanagar, Lucknow
 Ph - 74175

वकील

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 (फरीकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करे - वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को 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।

हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना

नाम अदालत

नं० मुकद्दमा

नाम फरीकन

Accepted
 Vaidhyanathan

Accepted
 Kuldip Singh

8/33 - 5/2/84

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

Counter Affidavit
In

Writ Petition No. 2138 of 1984

All India Loco Running Staff
Association. & another .. Petitioners

Versus

Union of India & others .. Respondents.



Counter Affidavit on behalf
of opposite parties

I, S. C. Banerji ✓ aged about 48 ✓ years
son of Sri K. C. Banerji ✓ working as Assistant
Personnel Officer, Northern Railway, Hazratganj,
Lucknow do hereby solemnly affirm and state on oath
as under:-

2. That the deponent is working as Assistant
Personnel Officer in the office of Divisional Railway
Manager, Northern Railway, Hazratganj, Lucknow as such
is fully conversant with the facts of the case.

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



4. That the averments made in para 1 of the writ petition are admitted to the extent that the petitioner No.1, All India Loco Running Staff Association, is not a recognised Union but is an association, whether it is registered or not, is not known to the administration and petitioner No.2 was a Fireman 'B' in the Loco Running shed Lucknow and has since been promoted as Fireman 'A' w.e.f. 1.6.1981 after allowing weightage by way of reservation on account of belonging to scheduled caste. His date of birth as recorded in his service record is 10.2.1940.

5. That the averments made in para 2 of the writ petition are admitted to this extent that in terms of Railway Board's letter No.PC-III/79/PS.3/17 dated 17.7.1981, circulated by General Manager(P), Northern Railway under his letter No.561-E/225-98/Genl.P-III dated 25.7.1981, All the post of Fireman 'B' grade Rs.260-350(RS) of goods and passenger trains were upgraded in the grade of Rs. 290-350(RS) w.e.f. 1.6.1981 with the consultation of NFIR and AILF (recognised Unions) removing the distinction between Fireman 'B' and Fireman 'A'.

6. That the averments made in para 3 of the writ petition are admitted to this extent that vide General Manager(P)'s letter No.561E/255-98/Genl.(PC) Pt.III dated 25.7.1981 Fireman 'B' grade Rs. 260-350(RS) are put to work on shunting engines and not Fireman 'C'.

7. That the averments made in para 4 of the writ

petition are admitted to this extent that Fireman 'A' and Fireman 'B' after undergoing training for DSL are put to work as DSL Asstt. according to seniority being an old policy.

8. That the averments made in para 5 of the writ petition are admitted. The case has already been processed for finalization of the selection of DSL Asstt. according to new policy.

9. That the averments made in para 6 of the writ petition are admitted. The matter was referred to the Headquarters Office, Northern Railway, New Delhi vide No.561E/1-1/Upgrading dated 22.2.1984 under para 2 and the reply has been received vide letter No.755E/205 EIC dated 30.5.1984. According to this, selection of DSL asstt. is under process.

10. That the averments made in para 7 of the writ petition are accepted, but now the post of DSL.Asstt. has been declared selection post vide No.752E/205 (Eic) dated 29.8.1981 and to be filled by 50% by the usual selection procedure from amongst Fireman 'B' who have studied upto 8th class and are below 45 years of age and 50% by departmental examination held amongst Fireman 'B' and Fireman 'C' who are matriculate and have 3 years of railway service according to Railway Board No.E(NG)III.75/RCI/69 dated 11.8.1981- Annexure-2 of the writ petition.

11. That the averments made in para 8 of the writ petition need no comments.



A/30
A/37
5/5

12. That the averments made in para 9 of the writ petition are not accepted. All those Fireman 'B' who had applied and were below 45 years of age will be called in order of seniority for the screening (viva voce test) for the post of DSL Asstt.

13. That the averments made in para 10 of the writ petition are not accepted. The old practice for appointment of DSL Asstt. was followed till the revised orders were received vide Railway Board's No.E(NG) III.75 LCI/69 dated 11.3.1981.

14. That the averments made in paras 11 and 12 of the writ petition need no comments in view of what has been stated in preceding paras.

15. That the averments made in para 13 of the writ petition are not accepted. The matter is under process.

16. That in reply to the averments made in para 14 of the writ petition it is stated that the procedure for selection being according to rules framed by Railway Board, it is stated that candidates, who had applied for the post of DSL Asstt. and fulfilled all the conditions laid down in Railway Board's circular, will be called for (viva voce test) in usual selection procedure according to their seniority

Lucknow:

Dated: ^{see - w} Jan. 16, 1985

Depoent



12. That the averments made in para 9 of the writ petition are not accepted. All those Firemen 'B' who had applied and were below 45 years of age will be called in order of seniority for the screening (viva voce test) for the post of DSL Asstt.

13. That the averments made in para 10 of the writ petition are not accepted. The old practice for appointment of DSL Asstt. was followed till the revised orders were received vide Railway Board's No.E(NG) III.75 LCI/69 dated 11.8.1981.

14. That the averments made in paras 11 and 12 of the writ petition need no comments in view of what has been stated in preceding paras.

15. That the averments made in para 13 of the writ petition are not accepted. The matter is under process.

16. That in reply to the averments made in para 14 of the writ petition it is stated that the procedure for selection being according to rules framed by Railway Board, it is stated that candidates who had applied for the post of DSL Asstt. and fulfilled all the conditions laid down in Railway Board's circular, will be called for (viva voce test) in usual selection procedure according to their seniority

Lucknow:

Dated: Jan. 16, 1985

Deponent

Verification

I, the above named deponent do hereby verify that the contents of para 1 to 3 are true to my personal knowledge, those of paras 4-15 are based on record hence are believed by me to be true and those of paras 16 are partly based on records and partly on legal advice. No part of it is false and nothing material has been concealed in it so help me God.

Lucknow:

Dated: ^{o.c.} Jan. 16, 1985

✓ *Singh*
Deponent

I declare that I am satisfied by the perusal of the records and details of the case narrated to me by the person alleging himself to be Sri S.C. Banerji is that person.

P. D. Basu
Advocate.

Solemnly affirmed before me on 16/10/85 at 9⁴⁵ a.m./p.m. by the deponent who is identified by Sri C.A. Basir, Advocate, High Court, Lucknow Bench, Lucknow.

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

Ravi Kumar
OATH COMMISSIONER
High Court, A.P. Bench,
(Lucknow Bench)

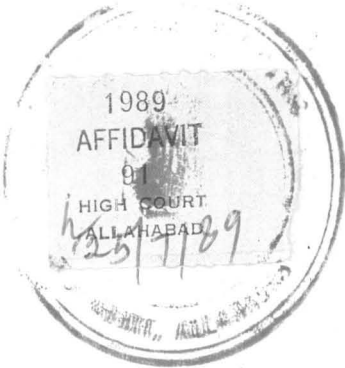
No. 30/1003

Date 16/10/85



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

T.A. No. 1568 of 1987
(Writ petition No. 2138 of 1984)

All India Loco Running Staff
Association & another Petitioners

Versus

Union of India & another Opp. Parties

Rejoinder affidavit on behalf of
petitioners.

I, K.N. Srivastava, Secretary, All India Loco Running Staff Association, aged about 48 years, son of late Sri Sadgur Saran, Resident of 549/198 Ka Bara Barha, Alambagh, Lucknow, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the Secretary of the All India Loco Running Staff Association Petitioner No.1. He has been duly authorised to file this rejoinder affidavit on behalf of Petitioner No.2. He has read over and understood the contents of the counter affidavit. He is fully conversant with the facts deposed to herein.

2. That paragraphs 1 to 3 of the counter affidavit need no reply.

3. That in reply to para 4 of the counter affidavit averments made in para 1 of the writ petition

are reiterated.



Filed Total
10/9/90

S. S. Nigam

9. That in reply to para 10 of the counter affidavit averments made in para 7 of the writ petition are reiterated. It is, however, stated that before finalising selection of Firemen 'A' diesel assistant from the serving Firemen and working out vacancies for recruitment of Fireman/Diesel Assistant has been made by opposite parties and training has been imparted. It is, therefore, apprehended that these new recruits will be declared senior to serving firemen. Upto this time no selection has been made from serving firemen for the post of Fireman A/Diesel Assistant.

10. That para 11 of the counter affidavit needs no reply.

11. That para 12 of the counter affidavit as stated is denied and the averments made in para 9 of the writ petition are reiterated. The averments made in para under reply contradictory ^{to} ~~those~~ in para 5 of the counter affidavit. In the said para 5 of the counter affidavit the removal of distinction between fireman B and A has been admitted. But despite this firemen A are not being sent for diesel training. Thus senior firemen, who wasted best part of their life in steaming up loco boilers, are being deprived of their due right of promotion on diesel locos.

12. That para 13 of the counter affidavit as stated is denied and the averments made in para 10 of the writ petition are reiterated. It is reiterated that in the appointment of diesel assistants the policy of pick chose was followed.



4. That in reply to para 5 of the counter affidavit averments made in para 2 of the writ petition are reiterated. It is , however, submitted that promoted staff were not allowed to enjoy the rights and facilities. They were deprived of getting training on diesel traction and as such were denied promotion as diesel assistants whereas juniors to them were sent for diesel training.

5. That in reply to para 6 of the counter affidavit averments made in para 3 of the writ petition are reiterated.

6. That in reply to para 7 of the counter affidavit averments made in para 4 of the writ petition are reiterated.

7. That in reply to para 8 of the counter affidavit averments made in para 5 of the writ petition are reiterated. It is stated that the petitioner No.2 was promoted as Fireman 'A' and not sent for diesel training and as such could not get the promotion of diesel assistant and experience of working on diesel traction whereas juniors were sent for diesel training.

8. That in reply to para 9 averments made in para 6 of the writ petition are reiterated. It is, however, stated that the selection policy, as stated in paragraphs 8 and 9 of the counter affidavit, has not been specified and as such no reply in this regard is possible.



13. That in reply to para 14 of the counter affidavit averments made in paragraphs 11 and 12 of the writ petition are reiterated. It is reiterated that the DRM, Northern Railway, Lucknow, did not pay any heed to the memorandum submitted by the Divisional Secretary of the Association, petitioner No.1.

14. That para 15 of the counter affidavit is denied and the averments made in para 13 of the writ petition are reiterated. It is stated that the designation of serving fireman A and B has been abolished and re-designation as I fireman has been made. Fireman C has been re-designated as II fireman during the pendency of the above petition. New recruitment on the post of fireman A/Diesel Assistant has been made and training has been imparted. In the aforesaid circumstances the rights of senior fireman for promotion have been jeopardised.

15. That para 16 of the counter affidavit is denied and the averments made in para 14 of the writ petition are reiterated. The rules are being twisted and manipulated by opposite party No.1 from time to time to the detriment of senior firemen by jeopardising their chances of promotion. Contrary averments made in para under reply are, therefore, denied.

Lucknow Dated:

July
May 25, 1989.

Deponent.

Verification

I, the above-named deponent, do verify that the contents of paragraphs 1 to 15 of this affidavit

are true to my own knowledge and those of paragraphs xx
of this affidavit are believed to be true by the deponent.
No part of it is false and nothing material has been
concealed. So help me God.

K.N. Srivastava

Deponent.

Lucknow Dated:

^{in July}
May 25, 1989.

I identify the above-named deponent who
has signed before me.

[Signature]
Advocate.



Solemnly affirmed before me on 25.7.1989

at 10.40 a.m./p.m. by Sri K.N. Srivastava

the deponent who is identified by

Sri C.P. Asthana ^{Advocate}

Clerk to Sri L.P. Shukla ^{Advocate}

Advocate, High Court, Allahabad.

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

S.S. Nigam

SATYA SUMAN NIGAM
OATH COMMISSIONER

High Court, Lucknow Bench Lucknow.

No. 91/199 Date 25/7/89

(Bench copy)

1/13

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

C.M. Application No. of 1985

In re:

Writ Petition No. 2138 of 1984

All India Loco Running Staff
Association & another

..

Petitioners

Versus

Union of India & others

..

Opp. parties.

Application for condonation of delay.

The opposite parties, above named, submit
as under:-

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

Wherefore, it is most respectfully prayed
that the delay in filing the counter affidavit may
be condoned and the counter affidavit may be taken
on record.

Lucknow:

Dated:

1985

(C.A. Basir),
Advocate,
Counsel for the opp. parties.

A/44

1/6

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

Counter Affidavit
In

Writ Petition No. 2138 of 1984

All India Loco Running Staff
Association. .. Petitioners

Versus

Union of India & others .. Respondents.

Counter Affidavit on behalf
of opposite parties

I, S. C. Banerji aged about 40 years
son of Sri K. C. Banerji working as Assistant
Personnel Officer, Northern Railway, Hazratganj,
Lucknow do hereby solemnly affirm and state on oath
as under:-

2. That the deponent is working as Assistant
Personnel Officer in the office of Divisional Railway
Manager, Northern Railway, Hazratganj, Lucknow as such
is fully conversant with the facts of the case.

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

4. That the averments made in para 1 of the writ petition are admitted to the extent that the petitioner No.1, All India Loco Running Staff Association, is not a recognised Union but is an association, whether it is registered or not, is not known to the administration and petitioner No.2 was a Fireman 'B' in the Loco Running shed Lucknow and has since been promoted as Fireman 'A' w.e.f. 1.6.1981 after allowing weightage by way of reservation on account of belonging to scheduled caste. His date of birth as recorded in his service record is 10.2.1940.

5. That the averments made in para 2 of the writ petition are admitted to this extent that in terms of Railway Board's letter No.PC-III/79/PS.3/17 dated 17.7.1981, circulated by General Manager(P), Northern Railway under his letter No.561-E/225-98/Genl.P-III dated 25.7.1981. All the post of Fireman 'B' grade Rs.260-350(RS) of goods and passenger trains were upgraded in the grade of Rs. 290-350(RS) w.e.f. 1.6.1981 with the consultation of NFIR and AIRF (recognised Unions) removing the distinction between Fireman 'B' and Fireman 'A'.

6. That the averments made in para 3 of the writ petition are admitted to this extent that vide General Manager(P)'s letter No.561E/255-98/Genl.(PC) Pt.III dated 25.7.1981 Fireman 'B' grade Rs. 260-350(RS) are put to work on shunting engines and not Fireman 'C'.

7. That the averments made in para 4 of the writ

petition are admitted to this extent that Fireman 'A' and Fireman 'B' after undergoing training for DSL are put to work as DSL Asstt. according to seniority being an old policy.

8. That the averments made in para 5 of the writ petition are admitted. The case has already been processed for finalization of the selection of DSL Asstt. according to new policy.

9. That the averments made in para 6 of the writ petition are admitted. The matter was referred to the Headquarters Office, Northern Railway, New Delhi vide No.561E/1-1/Upgrading dated 22.2.1984 under para 2 and the reply has been received vide letter No.755E/205 E.I.C dated 30.5.1984. According to this selection of DSL asstt. is under process.

10. That the averments made in para 7 of the writ petition are accepted, but now the post of DSL.Asstt. has been declared selection post vide No.752E/205 (E.I.C) dated 29.8.1981 and to be filled by 50% by the usual selection procedure from amongst Fireman 'B' who have studied upto 8th class and are below 45 years of age and 50% by departmental examination held amongst Fireman 'B' and Fireman 'C' who are matriculate and have 3 years of railway service according to Railway Board No.E(NG)III.75/RCI/69 dated 11.8.1981- Annexure-2 of the writ petition.

11. That the averments made in para 8 of the writ petition need no comments.

12. That the averments made in para 9 of the writ petition are not accepted. All those Fireman 'B' who had applied and were below 45 years of age will be called in order of seniority for the screening (viva voce test) for the post of DSL Asstt.

13. That the averments made in para 10 of the writ petition are not accepted. The old practice for appointment of DSL Asstt. was followed till the revised orders were received vide Railway Board's No.E(NG) III.75 PCI/69 dated 11.8.1981.

14. That the averments made in paras 11 and 12 of the writ petition need no comments in view of what has been stated in preceding paras.

15. That the averments made in para 13 of the writ petition are not accepted. The matter is under process.

16. That in reply to the averments made in para 14 of the writ petition it is stated that the procedure for selection being according to rules framed by Railway Board, it is stated that candidates who had applied for the post of DSL Asstt. and fulfilled all the conditions laid down in Railway Board's circular will be called for (viva voce test) in usual selection procedure according to their seniority

Lucknow:

Dated: Jan. 1985

Deponent

Verification

I, the above named deponent do hereby verify that the contents of para 1 to 3 are true to my personal knowledge, those of paras 4-15 are based on record hence are believed by me to be true and those of paras 16 are partly based on records and partly on legal advice. No part of it is false and nothing material has been concealed in it so help me God.

Lucknow:

Deponent

Dated: Jan. 1985

I declare that I am satisfied by the perusal of the records and details of the case narrated to me by the person alleging himself to be Sri is that person.

Advocate.

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

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

14/49
T.A. 1568/87
N. Pray.
9/5

The Registrar,
Central Administrative Tribunal,
Thornhill Road,
ALLAHABAD.

Circuit Bench at Lucknow.

21389/1984 T.A. 1568/87
sub: Transfer of Writ Petition No.
from Lucknow High Court to Central Administrative
Tribunal, Allahabad.

sir,

Respectfully I beg to say that my above
noted case is lying unheard since long at Allahabad.
I will have to incur heavy expenditure for my lawyer
from Lucknow to Allahabad or engage a fresh lawyer
to attend my case at Allahabad. Since the Central
Administrative Tribunal has started functioning at
Lucknow so it is requested that the Writ Petition
number cited above may very kindly be transferred to
Central Administrative Tribunal, Lucknow and oblige.

With regards.

Yours faithfully,

K. N. Srivastava

(K.N. SRIVASTAVA)
Secretary,

All India Loco Running Staff Assn
549/198, Bara Barha, Alambagh,
LUCKNOW-226005.

20 (T)

Subap with
file

Noted & issued
for 21.9.88
J.K.M.
1.9.88

26/2



N.R.

VAKALATNAMA

no 1568/83
H. P. No. 2138/84

G.V. 3

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

All India Des Staff Running Association
and another

Plaintiff
Defendant

Claimant
Appellant
Petitioner

vs

an

Versus

Defendant
Plaintiff

Respondent

Union of India & another

The President of India do hereby appoint and authorise Shri C. A. BASIR ADVOCATE

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

The President hereby agrees to ratify all acts done by the aforesaid Shri C. A. BASIR Advocate in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the 23/5/1984

Dated 23/5/1984

N.R.P./Pb. Bagh Delhi-35-2,064/17-06-1983-6,000 F.

Designation of the Executive Officer
Dy. General Manager (G)
N. Rly. Hd. Qrs. Office
Baroda House,
New Delhi.

Accepted on
behalf of
party no. 1
C. A. BASIR
Adv.

के समक्ष
के न्यायालय में

वादी
प्रतिवादी
प्रतिवादी
वादी

बनाम

दावेदार
अपीलार्थी
अर्जीदार
प्रत्यार्थी

भारत के राष्ट्रपति इसके द्वारा श्री.....

को उपर्युक्त वाद/अपील/कार्यवाही में भारत संघ की ओर से उपसंजात होने, कार्य करने, आवेदन करने, अभिवचन करने और आगे कार्यवाही करने के लिए दस्तावेज दाखिल करने और वापस लेने, न्यायालय की आदेशिका स्वीकार करने काउंसेल, अधिवक्ता या प्लीडर नियुक्त करने और उन्हें अनुदेश देने, रुपया वापिस लेने और उसका निक्षेप करने तथा उपर्युक्त वाद/अपील/कार्यवाही में भारत सरकार का साधारण प्रतिनिधित्व करने और भारत संघ के लिए इस प्रकार उपसंजात होने, कार्य करने, आवेदन करने, अभिवचन करने और आगे कार्यवाही करने की आनुषंगिक सभी बातें करने के लिए नियुक्त और प्राधिकृत करते हैं। किन्तु यह इस शर्त के अधीन रहते हुए होगा कि जब तक भारत सरकार के समुचित प्राधिकारी से उस निमित्त पहले ही स्पष्ट प्राधिकार प्राप्त नहीं कर लिया गया है, तब तक उक्त काउंसेल/अधिवक्ता/प्लीडर या उसके द्वारा नियुक्त काउंसेल/अधिवक्ता/प्लीडर सभी या किसी प्रतिवादी/प्रत्यार्थी/अपीलार्थी/वादी/विरोधी पक्षकार के विरुद्ध उस वाद/अपील/दावा/प्रतिरक्षा/कार्यवाही को पूर्णतः या भागतः न तो वापस लेगा, न उसका अधित्यजन करेगा, न ऐसा कोई करार करेगा या समझौता करेगा जिसके द्वारा वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित की जाये और न उससे उद्भूत या उसमें विवादग्रस्त सभी या किसी विषय को मध्यस्थ को निर्देशित करेगा, परन्तु आपवादिक परिस्थितियों में जब भारत सरकार के समुचित प्राधिकारी से परामर्श करने के लिए पर्याप्त समय नहीं है और वाद में समझौता करने में लोप करना निश्चित रूप से भारत सरकार के हित के प्रतिकूल होगा तो उक्त प्लीडर/अधिवक्ता/काउंसेल ऐसा कोई करार या समझौता कर सकेगा जिसके द्वारा उक्त वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित हो जाएं और ऐसे प्रत्येक मामले में उक्त काउंसेल/अधिवक्ता/प्लीडर करार या समझौता करने के विशेष कारण बताते हुए उक्त अधिकारी को तत्काल संसूचित करेगा।

राष्ट्रपति इस प्राधिकार के अनुक्रम में श्री.....

द्वारा किए गए सभी कार्यों का अनुसमर्थन करने को सहमत है।

इसके साक्ष्यस्वरूप भारत के राष्ट्रपति के लिए और उनकी ओर से इस विलेख की आज तारीख..... को सम्यक रूप से निष्पादित किया जाता है।