

CENTRAL ADMINISTRATIVE TRIBUNAL,  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE *TA No. 1609/82*  
*W.P. No 6152/84* OF .....

NAME OF THE PARTIES *Ahmed, 2018* ..... Applicant

Versus

..... *W.P. No 6152/84* ..... Respondent

Part A.

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CERTIFICATE

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

Dated *12/19/11* .....

Counter Signed.....

Section Officer/In charge

Signature of the  
Dealing Assistant

Central Administrative Tribunal

Lucknow Bench

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Cause Title 1603/07 of 1357

Name of the Parties Ahmad & case-----Applicant

Versus

V. O. J.

-----Respondents.

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C-file

Misc Papers.

C-1

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8.11.91

D.R.

Both the parties are  
present. Applicant to  
file Reply by  
5/2/92.

5.2.92

D.R.

Both the parties are  
present. Applicant  
promised to file Reply  
by 27/2/92.

27.2.92

D.R.

Both the parties are  
present. Reply  
has not been filed.  
Applicant to file  
Reply by 13/5/92.

13.5.92

D.R.

Both the parties are  
present. Applicant to  
file Reply by  
21/7/92.

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# ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No. 6152 of 198 84

25.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
21-12-84	Scd K.N. Goyal, ? Scd B. Kumar, ? 1985 ad. p. stayed. Scd K.N. Goyal. Scd B. Kumar 21-12-84	
20-1-85 4/12/85	fixed wait for order N.D. 8/8 M.D. 8/8	PO Bglt Bach. (S)

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## GENERAL INDEX

CIVIL  
SIDE  
CRIMINAL

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case

W.D. 6152 82

Name of parties

Ahmed vs - H. Union of India

Date of institution

21-12-84

Dated 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.D. Ahmed vs H. Union of India	25	102	00			
	2	Power	1	5	00			
	3	Prob. Sheet	1	-	-			
	4	Back copy	1	-	-			

I have this day of 197 , 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



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH  
LUCKNOW

J.A. NO \_\_\_\_\_ 199 (L)

A. NO 1607/87 199 (TL)

Date of Deceasion \_\_\_\_\_

Abdullah J. Khan - Petitioner.

C. P. Ghosh, Esq. - Advocate for the  
Petitioner(s)

V E R S U S

Union of India - Respondent.

Mr. B. K. Datta - Advocate for the  
Respondents

C B R A  
-----

Hon'ble Mr. Justice V. Ramaswami

Hon'ble Mr. K. S. Narayana

1. Whether Reporter of local papers may be allowed to see the Judgment . ✓
2. To be referred to the reporter or not ? ✓
3. Whether their Lord Ships wish to see the fair copy of the Judgement ? ✓
4. Whether to be circulated to other benches ? ✓

Vice-Chairman / Member

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A/6

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

Date of Order: 1.2.93.

Transferred Application No. 1609 of 1987

(Writ Petition No. 6152/84)

Ahmad and others

Petitioners.

versus

Union of India & others

Respondents.

Shri O.P. Srivastava Counsel for Applicants.

Shri B.K. Shukla Counsel for Respondents.

Coram:

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. K. Obayya, Adm. Member.

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

The applicant who was a casual labour and was thrown out from service, has filed this application praying that the respondents be directed to implement the order dated 27.12.1983 and to treat the petitioners as temporary railway servants with effect from 29.10.82 and treat them in continuous service by allowing them duty as temporary railway servants.

2. One of the applicants was engaged in the year 1964 and he continued as till 15.8.1978 and he was promoted as Casual Mate and he continued as such till 15.5.1982. The applicant No. 2 was appointed as Khalasi in the year 1977 and similarly he continued to work up to the year 1982 and he also claims to have attained temporary status and they were required for medical check up and they were to report before o.p. No. 3, but they were informed that necessary action was being taken and the petitioners would be given necessary papers

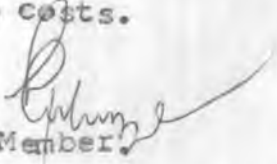
W

for posting as a temporary railway servants, but no report was given to them, and their names were sent for being posted as a temporary railway servant in the revised pay scale of Rs 196-232.

3. The respondents have stated that the applicants have been re-engaged in the year 1983 and since there is no question of continuity.

4. The applicants have been working from before and they are entitled to temporary status in view of the case of Inderpal Yadav decided by Hon'ble Supreme Court and scheme framed by the railway administration and in case the same has not been done, the same may be done and let it be done now.

5. Application stands disposed of as above. No order as to costs.

  
Adm. Member.

  
Vice Chairman.

Shakeel/-

Lucknow: Dated 1.2.93.



10/10/2

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GROUP NO. A 14 (K)

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

WRIT PETITION NO. 6182 OF 1984

Ahmad & another ..... Petitioners

Versus

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

I N D E X

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4.	<u>Annexure - 3</u> Reminder dated 21.7.1984.	- 15
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(O.P. SRIVASTAVA)  
ADVOCATE

COUNSEL FOR THE PETITIONERS

LUCKNOW DATED.  
DECEMBER 21, 1984.

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

A/10

WRIT PETITION NO. 6152 OF 1984



1. Ahmad, aged about 37 years, son of  
Sri Abdul Rehman, resident of  
Jugli Dhee, P.O. Mundela,  
district Gonda.

2. Ram Narain, aged about 33 years,  
son of Sri Jagan Nath, resident  
of Jugli Dhee, P.O. Mundela,  
district Gonda.

..... PETITIONERS

1092201021  
20/12  
VERSUS

1. Union of India through its  
General Manager, Northern  
Eastern Railway, Gorakhpur.

2. Senior Division Engineer (II),  
Divisional Railway Manager's  
Office, Hazratganj, Lucknow  
(CDEM/II/LJN).

3. Assistant Engineer (II),  
North Eastern Railway,  
Gonda.

4. Permanent Way Inspector,  
North Eastern Railway,  
Balampur.

.... CPP. PARTIES.

WRIT PETITION UNDER ARTICLE 226 OF THE  
CONSTITUTION OF INDIA.



To  
29/12/84  
The Hon'ble Chief Justice  
and his other companion Judges  
of the Aforesaid Court.

The humble petitioners named above most respectfully sheweth as under:-

1. That the petitioner No. 1 was initially appointed as a Casual Khalasi on 16.3.1964 and he continued as such with interruptions till 15.8.1978. That from 24.8.1978 the petitioner No. 1 was promoted to the higher post of Kasual Mate and he continued as such till 15.5.1982 in the North Eastern Railway, Lucknow Division. Thereafter right from 16.6.1982 the petitioner no. 1 started working under the Opposite Parties as Kasual Khalasi in the open line maintenance at Balrampur and continued as such without any interruption till 31st of October 1982.

2. That while the petitioner No. 1 was performing his duties to the entire satisfaction of his superiors on 15.11.1982 the petitioner was instructed by the then Permanent Way Inspector, Balrampur to contact the Assistant Engineer (II), North Eastern Railway, Gonda, Opposite Party No. 3 for getting necessary papers for medical examination as the petitioner no. 1 has completed more than 120 days of of continuous service in open line and has thus



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acquired the status of a temporary railway servant.

12/

3. That in the same manner the petitioner No. 2 was initially appointed as Kasual Khalasi on 17.10.1977 in the North Eastern Railway, Lucknow Division where he performed his duties in broken periods for about four years, and ultimately he was engaged under the Opposite Parties as Kasual Khalasi on 16.6.1982 <sup>he continued as such thereafter</sup> without any interruption.

4. That while the petitioner no. 2 was performing his duties as Casual Khalasi under the Opposite Parties to the entire satisfaction of his superiors on 15.11.1982 he was instructed by the then Permanent Way Inspector, North Eastern Railway, Balrampur to contact the Opposite Party No. 3 for getting necessary papers for medical examination as he had completed more than 120 days of continuous service and thus had acquired the status of a temporary railway servant under Rules.



37825

5. That when the petitioners contacted

...

the Opposite Party No. 3 they were informed that necessary action was being taking and the petitioners would be given the necessary papers and would be sent for the medical examination for posting as a temporary railway servant. On 15.11.1982 the petitioners were instructed by the then Permanent Way Inspector, North Eastern Railway, Balrampur to wait for further orders from the higher authorities for medical check up so that the posting orders in their favour may be released. The petitioners were not allowed to work on the pretext that they would be medically examined and were to be posted as a temporary railway servant.

6. That when the petitioners did not receive any thing in writing regarding their medical check up or further duties they again contacted the then Permanent Way Inspector who again directed the petitioners to contact the Opposite Party No. 3. The petitioners contacted the Opposite Party No. 3 for several times since then and every time the petitioners were assured that orders are awaited from the higher authorities regarding them. When the



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petitioners become very much perturbed and perplexed due to non payment of salary and starving position, the Opposite Party No. 3 gave the petitioners a photostat copy of the Letter No. E/30/III/P+IV, dated 27.12.1983 whereby the names of the petitioners were sent for being posted as a temporary railway servant in a revised pay scale of Rs.196-232. A true copy of the photostat copy of the said letter dated 27.12.1983 is being filed herewith as Annexure-1 to this Writ petition.

ANNEXURE -1

7. That although the petitioners were pacified by issuance of the aforesaid letter dated 27.12.1983 (Annexure-1) whereby their names had been sent to the higher authorities for their medical check up and posting, yet due to long lapse of time and non receipt of anything in writing the petitioners lost patience and made a representation to the ~~and made representation to the~~ Opposite Parties Nos. 2 and 3 requesting that the orders may be issued at the earliest as the petitioners were facing hardship and difficulties and in case it was not possible in near future they may be allowed to work as Casual Khalasi till the



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issuance of the orders for medical check up and posting. A true copy of the representation dated 10th April 1984 is being filed herewith as Annexure-2 to this Writ Petition.

ANNEXURE -2

8. That when the aforesaid representation could not be heeded to, the petitioners made several reminders but it too could not yield anything. A true copy of the last reminder dated July 21, 1984 is being filed herewith

ANNEXURE -3

as Annexure-3 to this Writ Petition.

9. That thereafter the succourless petitioners sent a legal notice dated 15th September, 1984 to the Opposite Parties asking about further progress in the matter. The petitioners received no reply whatsoever so far. A true copy of the aforesaid notice dated 15th September 1984 is being filed herewith as Annexure-4 to this Writ Petition.

10. That it is very surprising and astonishing that although the petitioner No. 1 has devoted and dedicated to the service of Indian Railways right from the year 1964 but he could not be given the status of temporary railway servant. It is noteworthy that although the petitioner No. 1 is serving the Indian Railways right from 1964 but due to



3/8nc

malafides and mal practices of the opposite Parties the petitioner is deprived from acquiring the status of a temporary Railway servant and other benefits on the ground of artificial breaks in their services.

11. That the petitioners have completed more than 120 days of continuous service in open line maintenance and not into any project and thus by virtue of the Railway Board's circular No. PC/72/R-T-69/3(1) dated 12.7.1973 the petitioners have acquired the status of a temporary railway servant after expiry of 120 days of their continuous and their service cannot be done away in any manner except as contemplated under Regulation 149 of the Indian Railway Establishment Code Vol. I read with the relevant provisions of the retrenchment and their benefits as stipulated in the Industrial Disputes Act 1947, Industrial Disputes (Central) Rules 1957. A true copy of the aforesaid Railway Board's letter dated 12.7.1973 is being filed herewith as Annexure-5 to this Writ Petition.

12. That the petitioners are very poor



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ANNEXURE -5

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14.

persons ~~had~~ and have no sufficient means to survive in these hard days. As such they could not approach this Hon'ble Court earlier. Moreover the petitioners were assured by the Opposite Parties that their matter was under consideration and the petitioners would be issued orders for medical check up and their posting, very soon. Hence the petitioners on this score too could not approach this Hon'ble Court earlier.

13. That the petitioners have virtually been defooled by the Opposite Parties as they have done away the services of the petitioners in most deceitful, illegal and arbitrary manner even without informing the petitioners the fact that they had been ousted from the employment.

14. That the Opposite Parties cannot done away the services of the petitioners in any manner without following the proper procedure of law and as such the petitioners are entitled for continuation of their services with the benefit of the temporary railway servants.

15. That the petitioners having no other



3036

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equally effective efficacious alternative remedy challenging the validity of the action of the opposite parties by ousting the petitioners from service illegally and arbitrarily in most despicable manner inter alia on the following amongst other:-

G R O U N D S

i) Because once the petitioners have ~~complet~~ completed more than 120 days of continuous service in open line maintenance, <sup>they acquired</sup> ~~without acquiring~~ the status of a temporary railway servant and their services can only be ~~done~~ away under the stipulated provisions of Regulation 149 of the Indian Railway Establishment Code, Vol. I read with the relevant provision of Industrial Disputes Act 1947 and Industrial Disputes (Central) Rules 1957.

*[Handwritten signature]*

ii) Because the opposite parties have mercilessly created artificial breaks in the service of the petitioners <sup>been</sup> otherwise they would have regularised much earlier on the basis of their long



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continuous service. Under the provisions of para 2501 of the Railway Establishment Manual such artificial breaks cannot be created with a view to deprive the petitioners from attaining the status of a temporary railway servant.

- iii) Because the Opposite Parties kept the petitioners in dark by not disclosing the real facts and the petitioner being the honest and devoted persons believed the sayings of the Opposite Parties and suffered loss for their no fault.
- iv) Because even after lapse of one year the Opposite Party No. 2 vide letter dated 27.12.1983 assured the petitioners that the necessary orders were to be issued in their favour for their medical checkup and posting as a temporary railway servant. This obviously shows that the Opposite Parties have also conceded the acquired status of the petitioners as a temporary railway servant which cannot be taken away in any way.
- v) Because the ousting of the petitioners from the employment in such a manner is not only malicious in the eye of law but amounts to

*Original  
no*

unfair labour practice and victimisation against the petitioner.

vi) Because & in any case the Opposite Parties cannot oust the petitioners from the employment without following the proper procedure of law.

vii) Because the petitioners completed 120 days of their continuous service into open line maintenance and not into any project, hence they acquire the status of a temporary railway servant by virtue of Railway Board's circular dated 12.7.1973, Annexure No. 5.

P R A Y E R

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

- a) to issue a writ, order or direction in the nature of mandamus directing and commanding the Opposite Parties to implement the order dated 27.12.1983 as contained in Annexure-1 to this Petition.
- b) to issue a writ, order of direction in

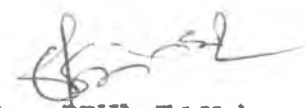
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the nature of mandamus directing and commanding the Opposite Parties to treat the petitioners as temporary railway servants with effect from 29.10.1982 and treat them in continuous service by allowing them duty as temporary railway servants.

- c) to issue any other writ, order or direction which this Hon'ble Court deems just and proper in the circumstances of the case.
- d) to allow the cost ~~of~~ to the petitioners.



LUCKNOW DATED.  
DECEMBER 1984.

  
(U.P. SRIVASTAVA)  
ADVOCATE  
COUNSEL FOR THE PETITIONERS.

31275

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

WRIT PETITION NO. OF 1984

Ahmad and another .... Petitioners Vs. Union of India and others

ANNEXURE - 1

on

The under noted casual labour working under PWI/BLP/ completion of 120 days continuous service detailed below is allowed revised scale of pay (196-232) through ELR with effect from 29.10.82 if they are medically fit.

SL. NO.	Name	Father's name	Divn.	Date of birth	Date of Appointment	Period of 4 months continuous service	Total No. of days worked continuous	Total no. of days worked.
1.	Shri Ahamad	Shri Abdul Rehman		-	16.3.1964	1.7.82 to 31.10.82	123	877
2.	Shri Ram Narain	Shri Jagan-nath	"	9.12.58	17.10.77	-do-	<u>123</u>	877

Sd/- Asstt. Engg. II/GD

No. E/30/III/P+IV dated 27.12.1983.

Copy forwarded for information and necessary action to:-

1. PWI/BLP. Please draw the arrears accordingly.
2. D.R.M.(P) LJN
3. Sr. D.R.M./ /LJN.

TRUE COPY of  
PHOTOSTAT COPY

Sd/-  
Asstt. Engineer II/GD



14 A-27  
K/3  
उस दि आनरेबल हाई कोर्ट आफ जूडीकेवरस्ट इलाहाबाद,  
लखनऊ बेंच, लखनऊ

रिट पिटीशन नं०-

आफ 1984.

अहमद आदि --

... पिटीशनर्स

बनाम

गवर्नमेन्ट आफ इण्डिया आदि--

...अपो. पार्टीज

अने गजर नम्बर- 2

सेवा मे,

ए. ई. एन. महोदय,  
पूर्वोत्तर रेलवे,  
गोण्डा

सविनय निवेदन है कि हम प्रार्थीगण कैब्रल लेबर है और हम लोगो को पी. डब्लू आई. साहब ने कहा कि हम लोगो का मेडिकल होना और पोस्टिंग होगी जिसके बारे में हम लोग आपसे मिले भी थे तो आपने भी वही कहा। मेडिकल का कागज अभी तक नहीं आया है और इसीलिये हम लोगो को छिप्टी नहीं करने की जा रही है जिससे तनखवाह न मिलने से हम लोग भूखो मर रहे है।

आपसे हमारी विनती है कि आप हम लोगो को छिप्टी पर ले लें और जब मेडिकल का कागज आयेगा तो हम लोग मेडिकल के लिये चले जावेगे। हम लोग बहुत गरीब आदमी है रोजी मिलने से आपको पुन्य होगा।

आपका आज्ञाकारी शिष्य,

ह०- अहमद,

निशानी अंगूठा

10.4.84

सत्य- प्रतिलिपि।

अहमद





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15

इनदि आनरेबुल हाई कोर्ट आफ जुडीकेचर सेट इलाहाबाद,

8/7/84

लखनऊ बेन्च, लखनऊ।

----

रिट पिटीशन नं०-

आफ 1984.

अहमद आदि --

..., पिटीशनर्स

बनाम

गवर्नमेन्ट आफ इण्डिया आदि--

..., अपो. पार्टीज

अनैग्नर नम्बर 3

सेवा में,

ए. ई. एन. महोदय,  
पूर्वोत्तर रेलवे,  
गोण्डा।

हम लोगों को अभी तक मेडिकल का कागज नहीं मिला है।

आपसे बिनती है कि हमारे उमर दया करके उचित कार्यवाही करने की  
कृपा करें।



आपका आज्ञाकारी,

ह०- अहमद,

नि. अंगूठा 27.7.84

सत्य- प्रतिलिपि।

अहमद

A 29/6/84

K/25

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

WRIT PETITION NO. \_\_\_\_\_ OF 1984

Ahmad and another ..... Petitioners

Versus

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

ANNEXURE - 4

O.P. Srivastava, 867, Old Mahanagar,  
Advocate (Near Fatima Hospital)  
Lucknow.

September 15, 1984.

REGISTERED A.D.

1. The Chief Engineer (Open Line),  
North Eastern Railway,  
Gorakhpur.
2. The Assistant Engineer (II),  
North Eastern Railway,  
Gonda.
3. The permanent Way Inspector,  
North Eastern Railway,  
Balrampur.

Dear Sir,

Under instructions of my clients Sarvasri  
Ahmad, son of Abdul Rehman, resident of Tuglidhee  
P.O. Mundela, district Gonda and Ram Narain, son  
of Sri Jagan Nath, resident of Juglidhee, P.O.  
Mundela, district Gonda, I am hereby giving you  
the notice as under:-

1. That my client Sri Ahmad entered into the  
the Northern Eastern Railway as Casual  
Khalasi on 16th March, 1964 initially and  
he continued as such with interruptions till  
15.8.1978 and thereafter again he was  
appointed on 24.8.1978 as a Casual Mate and  
continued as such till 15.5.1982. Under  
PWI (Con.I), Badshahnagar. Thereafter



from 16.6.82 my aforesaid client Sri Ahmad has again been re-engaged as a Casual Khalasi in Open Line Maintenance under the PWI (NER Balrampur) who is directly under the control of Assistant Engineer (II), North Eastern Railway, Gonda. On having completed more than 120 days of continuous service Sri Ahmad was recommended by the Assistant Engineer (II), Gonda for the benefits admissible to temporary Railway Servants as he had acquired the status of a temporary Railway Servant after completing 120 days of continuous service under Rules. The Asstt. Engineer (II) Gonda vide letter No. E/30/111/P-IV dated 27.12.1983 recommended Sri Ahmad for medical examination for being absorbed as a regular Railway Temporary Employee and he also remitted the information for necessary action to the Permanent Way Inspector, Balrampur and Divisional Railway Manager (Personnel) Lucknow Jn. and Senior Divisional Engineer (II), Lucknow Jn. Prior to it Sri Ahmad was asked on 15.11.1982 by the PWI, NER, Balrampur to contact the Assistant Engineer (II), Gonda for getting the necessary papers for medical examination. Sri Ahmad therefore contacted the Asstt. Engineer (II),



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Gonda several times where he was assured that the necessary ~~papers~~ action was being taken in the matter. Sri Ahmad was also given a photostat copy of the letter of Assistant Engineer (II) Gonda dated 27.12.1983 containing the said reference. When Sri Ahmad went back to the PWI, NER Balrampur he was not given duty and assured that as soon as the information is received from the higher officers Sri Ahmad will be sent for the medical examination and only thereafter he will be allowed to work. Since then Sri Ahmad has not been informed anything in spite of his several reminders and representations in this regard.

2. That in the same manner my another client Sri Ram Narain son of Jagan Nath who was initially appointed as Casual Khalasi on 17.10.1979 under the PWI NER, Gorakhpur was re-engaged on 16.6.1982 in Open Line Maintenance along with aforesaid Sri Ahmad under the same PWI. He too became entitled for the benefits of temporary railway servant and was also recommended along with Sri Ahmad for medical examination by the Assistant Engineer (II), Gonda vide his letter dated 27.12.1983. In the



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X/26

similar manner as the said Ahmad was assured he was also assured that he would be called for medical examination for posting as a temporary railway servant and was asked to wait for further information. Since then he has also not been communicated any information so far, inspite of his several representations/reminders.

3. That on having completed 120 days of continuous service my aforesaid clients have acquired the status of a temporary railway servant and they cannot be ousted from service in the garb of waiting for the medical examination and in case you are not able to absorb them further you can only retrench them as per the required procedure.

4. It is therefore requested kindly to indulge into the matter and inform my clients for the medical examination and give them duty or reply me in case the situation is otherwise within 30 days from the date of receipt of this notice, failing which it shall be presumed that you have ousted my aforesaid clients from the employment deceitfully and illegally and in those circumstances my clients will be at liberty



....



to knock the doors of law for seeking relief from the court totally at your cost and responsibility.

I hope that you will take this matter urgently and shall do the needful.

Yours faithfully,

Sd/- O.P. Srivastava

Copy for information and necessary to.-

1. Divisional Railway Manager (P),  
N.E.R., Lucknow Jn.
2. Senior Divisional Engineer (G)  
NER, Lucknow Jn.

TRUE COPY.

31/12/04



made the following recommendation in respect of issues relating to Casual Labour.

- 2 26(4) (A) - The period of maximum service for earning temporary status should be at four months instead of six.
- 4.26(4) (ii) - If casual labour is ~~changy~~ engaged on work which automatically expires on 31st March, the continuity of his service shall not be regarded as broken if sanction for that work is given subsequently and same Casual Labour is employed to finish the work provided further that no casual labour shall be prevented from working as such jobs, so as to deprive him of earning the status of temporary Railway worker".

2. The Government have accepted the above recommendation of the Tribunal and accordingly it has been decided by the Railway Board that Casual Labour other than those employees in PROJECTS should be treated as Temporary after the expiry of four months continuous employment instead of six months as at present laid down in Board's letter No.B(N.p) 60CL13 dated 23.6.1982 as amended from time to time and incorporated under para 2501(b) (i) and B(iii) of the Chapter XXV of the Indian Railways Establishment Manual.

3. It has also been decided that if a Casual Labour is engaged on works which automatically expire on 31st March, there should be no break in his service provided that sanction for that work is given subsequently and the same casual is employed to finish the work. It should also be ensured that no casual labourer is prevented from working ~~on~~ on a job so as to deprive him of



A 34

21 22

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

WRIT PETITION NO. OF 1984

Ahmad and another ..... Petitioners

Versus

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

ANNEXURE -5

NORTH EASTERN RAILWAYS

Sl.No.2907 Office of the General Manager  
S.A. NO.2882 (P) GORAKHPUR  
No.F/57/1(iv) Dated 4.8.1972.

All Heads of Department  
All Divl. Supdts.  
All Personnel Officers  
All Extra Divisions.  
North Eastern Railways.

Subject : EMPLOYMENT OF CASUAL LABOURERS  
IN RAILWAYS.

A copy of Railways Board's letter No.PC/72/R-T-69/3(1) dated 12.7.1973 is sent herewith for information and guidance.

Sd/-  
For General Manager (P).

Copy of Railways Board's letter No.PC/72/RL/T-69/3(1) dated 12.7.1973 addressed to the General Manager All Indian Railways and others.

Subject: EMPLOYMENT OF CASUAL LABOURS  
IN RAILWAYS.

The Railways labour Tribunal I-1965 which was appointed by Government under permanent negotiation Machinery deal in with demands in regard to which agreement could not be reached between the Railways Board and the Organised Labour has inter alia



316715

earning the status of temporary Railway servants.

4. Necessary correction slip to Chapter XXV of the Indian Railway Establishment Manual in accordance with the decisions contained in para 2 shall follow.

Dated Lucknow

No. WC/DES

27th September 1983

Copy to AEM/X&N/LJN. Stg.O.D./NNK and C/o for information and necessary action.

Copy to all Way Works subs. for information and necessary action.

DIVISIONAL SUPDT. (ENG.)  
LJN.

TRUE COPY.

37576



A-37  
24

A  
33

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

WRIT PETITION NO. \_\_\_\_\_ OF 1984



Ahmad and another ..... Petitioners

Versus

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

A F F I D A V I T

I, Ahmad, aged about 37 years, son of Sri Abdul Rehman, resident of Jugli Dhee, P.O. Mundela, district Gonda, do hereby solemnly affirm and state as under.

1. That the deponent is petitioner No. 1 in the above noted Writ Petition and is Pairokar for petitioner no. 2. The deponent is well conversant with the facts of the case.

2. That the contents of paras 1 to 15 of the accompanying Writ Petition and the Affidavit are true to my knowledge, except the legal averments which are believed to be true on the basis of legal advice.

3. That the Annexures to the accompanying

....

A-38

25

By

Writ Petition are true copies of the respective originals.

318 MC

Lucknow Dated.  
20-12-1984.

DEPONENT.

VERIFICATION

I, the above named deponent do hereby  
~~solemnly affirm~~<sup>R</sup> verify that the contents of  
paras 1 to 3 of this Affidavit are true to  
my knowledge. Nothing material has been  
concealed and no part of it is false. So  
help me God.

315 MC

Lucknow Dated,  
20-12-1984.

DEPONENT.

I identify the deponent on the  
basis of record produced before me and  
that he has signed before me.

By

ADVOCATE.

Solemnly affirmed before me on 20-12-84  
at 09.52 AM/PM by the deponent who  
is identified by Sri O.P. Srivastava,  
Advocate, Allahabad 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 to him explained by me.

By



IRADIPAL  
041-1-1111  
N 31995  
20-12-84



In The Honble High Court of Judicature at Allahabad  
Western Bench Under

ब अदालत श्रीमान

महोदय A-39

आ. २२२२२२

वादी (मुद्दे)

प्रतिवादी (मुद्दालेह)

का वकालतनामा



W.B. No

of 1984

19/12/84

1/35

Ahmed and another  
बनाम

वादी (मुद्दे)

Union of India & ors प्रतिवादी (मुद्दालेह)

नं० मुकद्दमा सन् १६ पेशी की ता० १६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

O.P. Srivastava Adv

एडवोकेट

महोदय

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 इशोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से लिखी 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 तस्दीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीक्सान्नी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें - 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 पैराकार को भेजता 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 इमाण रहे और समय पर काम जावे।

हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना

Ram Narain

A-40

NS/CCS  
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## वकालतनामा

11/50

.....Central Administrative Tribunal Circuit Bench Lucknow.....

के समक्ष

..... के न्यायालय में

TA No 1609/07 (T) / CAT / LKO  
(WP No 16520 of 1994)  
Ahmad and

वादी  
प्रतिवादी

Others

दावेदार  
अपीलाधी

बनाम

प्रतिवादी  
वादी

Union of India

अर्जोदार  
प्रत्यार्थी

भारत के राष्ट्रपति इसके द्वारा श्री.....B. K. Shukla.....Railway Adversale.....

को उपर्युक्त वाद/अपील/कार्यवाही में भारत संघ की ओर से उपसंजात होने, कार्य करने, आवेदन करने, अभिवदन करने और आगे कार्यवाही करने के लिए दस्तावेज दाखिल करने और वापस लेने, न्यायालय की आदेशिका स्वीकार करने, काउन्सेल, अधिवक्ता या प्लीडर नियुक्त करने और उन्हें अनुदेश देने, रुपया वापस लेने और उसका निशेप करने तथा उपर्युक्त वाद/अपील/कार्यवाही में भारत सरकार का साधारण तिनिधित्व करने और भारत संघ के लिए इस प्रकार उपसंजात होने, कार्य करने, आवेदन करने, अभिवदन करने और आगे कार्यवाही करने की अनुषांगिक 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 काउन्सेल/अधिवक्ता/प्लीडर या उसके द्वारा नियुक्त काउन्सेल/अधिवक्ता/प्लीडर सभी या किसी प्रतिवादी/प्रत्यासी/अपीलाधी/वादी/विरोधी पक्षकार के विरुद्ध उस वाद/अपील/दावा/प्रतिरक्षा/कार्यवाही को पूर्णतः या भागतः न तो वापस लेगा, न उसका अधिग्रहण करेगा, न ऐसा कोई करार करेगा या समझौता करेगा जिसके द्वारा वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित की जाए 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/काउन्सेल ऐसा कोई करार या समझौता कर सकेगा जिसके द्वारा उक्त वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित हो जाय और ऐसे प्रत्येक मामले में काउन्सेल/अधिवक्ता/प्लीडर करार या समझौता करने के विशेष कारण बताते हुए उक्त अधिकारी को तत्काल सूचित करेगा।

राष्ट्रपति इस प्राधिकार के अनुक्रम में श्री.....B. K. Shukla.....Railway Adversale.....

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

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

तारीख..... 19

NER-84850400-8000- 4 7 84

(...K. K. Shukla...)

निष्पादन करने वाले अधिकारी का पदनाम

Sr Divisional Personnel Officer  
NER Railway / Lucknow  
for Union of India

Accepted  
13.12.89

P.P.

7-41

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IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

Civil Miscellaneous Application No. 192 of 1990 (L)

On behalf of Respondents

IN RE

T.A. No. 1609 of 1987 (T)

139

Ahmad and another .....Petitioner

Versus

Union of India and Others..... Respondents

To

The Hon'ble Vice-Chairman & his Other Companion  
Members of the aforesaid Tribunal -

Humble Application on behalf of the Respondents is  
as under:

Filed today  
by  
26/3/90

1. That the aforesaid case is fixed for ex parte hearing on 26-3-90.
2. That the counter reply could not be filed within the time allowed by this Hon'ble Tribunal as informations regarding re-engagement of the petitioners were being collected from the concerned department.
3. That the delay that has been caused is not deliberate or intentional, but due to bona fide reasons.
4. That it is expedient in the ends of justice that the respondents be permitted to file their counter reply in


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-2-

this Hon'ble Tribunal, and the same be accepted on record,  
and the order for ex parte hearing be recalled.

It is, therefore, most respectfully prayed that <sup>A/20</sup>  
this Hon'ble Tribunal may graciously be pleased to recall  
the orders fixing the instant case for ex parte hearing  
on 26-3-90 and the Respondents be permitted to file  
their counter reply and the same be accepted on record.

LUCKNOW: DATED  
March 26, 1990

  
( B.K. SHUKLA )  
Advocate

Counsel for Respondents

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IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

T.A. No. 1609 of 1987

(W.P. No. of 19 )

39

Ahmad and another .....Petitioners

Vs.

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

COUNTER REPLY ON BEHALF OF OPPOSITE PARTIES

I. S. C. Dubey

son of <sup>late</sup> Sn C. S. Dubey

aged 55 yrs working as Asstt. Engineer in the  
office of Asstt. Engineer, NERly, Gonda, duly  
authorised by the Opposite Parties No. 1 to 4, do  
hereby solemnly affirm and state as under:

1. That with regard to contents of para 1 of  
the Writ Petition, it is stated that the petitioner  
No. 1 was appointed as a casual labour on daily  
wages on 16-3-1964, and worked in that capacity till  
15-8-1978 with break in service at intervals. It is  
wrong that the petitioner was promoted as mate. It

ASSISTANT ENGINEER  
N. E. RLY GONDA

ASSISTANT ENGINEER  
N. E. RLY GONDA

-2-

is absolutely incorrect that the petitioner worked continuously as casual labour from 24-8-1978 to 15-5-1982. The petitioner No. 1 again worked as casual labour from 16-6-1982 continuously upto 15-12-1982. Rest of the contents contrary to it are denied.

2. That with regard to contents of para No. 2 of the Writ Petition, it is stated that the petitioner No. 1 had though completed 120 days of continuous service on 29-10-1982 as casual labour, he could not be given the benefits of time scale of pay at that time as the sanction of the post had expired on 15-12-1982, and services of the petitioner automatically stood terminated. On further check, he was allowed benefit of scale of pay from 29-10-1982 to 15-12-1982 with post facto sanction granted by Assistant Engineer/ II N.E. Railway, Gonda, vide office order No. E/30/III/CPC, dated 1-10-1984. An extract of the order dated 1-10-1984 is being annexed with this counter reply, and is marked as Annexure No. R-1. Subsequently after 15-12-1982,

*A. E.*  
ASSISTANT ENGINEER  
N. E. RLY GONDA

the petitioner did not turn up for engagement



when sanction of post was received, and he was not in service on/or after 16-12-1982. The question of his continuity in service or grant of scale of pay on completion of 120 days afterwards thus did not arise. The statements contrary to it are denied.

3. That with regard to para 3 of the Writ Petition, it is stated that the same are not disputed.

4. That the contents of paras 4 and 5 of the Writ Petition as alleged are not admitted. The reply given in para 3 of this counter reply is reiterated for petitioner No. 2 also. He was also allowed difference of pay only of casual labour rate and time pay scale as contained in Annexure No. R-1 to this counter reply. The statements contrary to it are denied.

The petitioner No. 2 also did not turn up for further engagement/appointment after 15-12-1982 when the sanction of the post was received. Thus question of his continuing in service or sending him for medical examination did not arise.

5. That the contents of para 6 of the Writ Petition

as alleged are not admitted. There is no record to show that the petitioners as alleged contacted Opposite Party No. 3. The case of grant of difference of pay of casual labour rate and time scale of pay was under consideration for the eligible staff. Annexure No. 1 to the Writ Petition was favourably issued granting the difference of pay. Subsequently it was revised and annexure No. R-1 to this counter reply for 94 staff were issued on 1-10-1984.

6. That the contents of para 7 of the Writ Petition as alleged are not admitted. The petitioner did not turn up for duty/engagement after 15-12-1982 when sanction for the posts was received. As such the question of sending them for medical examination and appointment did not arise. The posts were filled up by other eligible staff who reported for duty-/engagement immediately after 15-12-1982 when sanction for the posts was received. Annexure No. 2 to Writ Petition is dated 10-4-1984, and it itself shows that petitioners did not turn up and contacted for duty on receipt of the sanction of the posts immediately after 15-12-1982. The contents of Annexure No. 2 to

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A/45

Writ Petition are thus an after thought.

7. That the contents of paras 8 and 9 of the Writ Petition are not admitted as alleged. The petitioners were allowed the difference of pay between the casual labour rate and time scale of pay as contained in Annexure No. 1 to the Writ Petition and Annexure No. R.-1 to this counter reply. The question of sending them for medical examination and continuing them in service and to pay time scale of pay after 15-12-1982 did not arise, as the petitioners on their own did not turn up for duty/engagement afterwards on receipt of the sanction of the posts after 15-12-1982. The Annexure No. 3 to the Writ Petition is not available on the records of the administration, therefore same is not admitted. The notice, Annexure No. 4 to the Writ Petition had no substance and ~~hence~~ was filed as the petitioners themselves did not turn up for engagement/duty after 15-12-1982 after receipt of the sanction of the post for which proper notice was made by pasting the same on the notice board as per practice.

8. That the contents of para 10 of the Writ Petition

*Acer*  
ASSISTANT ENGINEER  
N. E. RLY GONDA

-5-

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-6-

are not admitted as stated. The petitioners were allowed time scale of pay which was due to them for the period they worked viz. upto = 15-12-1982. Thereafter, they did not turn up for duty, and the question of allowing benefit of the temporary employees did not arise. The break in service is thus attributable to them and not to the administration. The statement contrary to it is denied.

9. That with regard to para 11 of the Writ Petition, it is stated that the facts deposed are not correct, and correct facts have been stated in earlier paras of this counter reply. The petitioners have not been retrenched from service by the Railway Administration. They themselves did not turn up for service immediately after 15-12-1982 when sanction of the posts was received and which was exhibited on the notice board at the place of work. The benefits of Railway Board letter annexure No. 5 to the Writ Petition has been allowed to the petitioner for the period it was due to them as it is evident from Annexure No. R-1 to this counter reply.

10. That the contents of paras 12 of the Writ

Acen  
ASSISTANT IN CHARGE  
M. B. RLY. GONDA

-7-

A-409  
A/45

Petition are denied. The petitioners were never assured for their posting and appointment when they themselves did not turn up at the proper time for engagement/duty on receipt of the sanction of the post after 15-12-1982. As regards other averments in the para under reply, the same are not admitted being not correct.

11. That the contents of paras 13 & 14 of the Writ Petition are incorrect and hence denied. The petitioners themselves did not turn up for engagement/duty at the proper time after 15-12-1982 when the sanction of the post was received. The services of the petitioners have not been done away by the Railway Administration rather they themselves relinquished the post of their own. There is no violation of any procedure or rule. The statements contrary to it are denied.

12. That the contents of para 15 of the Writ Petition read with the grounds thereunder are not admitted. It is further stated that the petition has no force, and is not based on correct facts and

hence not maintainable. The grounds taken by the petitioners are not tenable in the eyes of law. The petition is belated, and not maintainable. The petitioners are not entitled to the directions/relief sought from this Hon'ble Tribunal, as such the petition is liable to be dismissed.

13. That it is worth mentioning that the petitioners have been re-engaged w.e.f. 16-6-83, and are working under Executive Engineer (Construction) Rampur.

14. That this counter reply could not be filed within the time allowed by this Hon'ble Tribunal due to unavoidable circumstances. Therefore, it is prayed that the delay in filing counter reply may kindly be condoned.

Gonda

LUCKNOW: DATED

March 25, 1990

( *A. E. Rly. Gonda* )  
ASSISTANT ENGINEER  
N. E. RLY. GONDA

VERIFICATION

I,

S. C. S. Dubey do



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A/47

-9-

hereby verify that the contents of paras A  
of this counter reply are true to my personal  
knowledge, and those of paras 1 to 11 and 13 are  
true on the basis of record, and those of  
paras 12 and 14 of this counter reply are  
believed to be true on the basis of legal advice.  
The Annexure No. R-1 is true copy of its original,  
which has been duly compared by me. No part of it  
is wrong, and nothing material has been concealed.  
So help me God.

Gonda  
LUCKNOW: DATED  
March 25, 1990

( A. C. )  
ASSISTANT ENGINEER  
N. E. RLY GONDA

Through  
B. K. Shukla  
( B.K. SHUKLA )  
Railway Advocate  
Counsel for Opposite Parties

to the Honble Central Administrative Tribunal, Circuit Bench, Lucknow.

T.A. No. 1609 of 1987

Ahmed & another Vs Union of India & others

Annexure No. R-1

4/11

M.P. & P. 11/11/87

ANNEXURE - R-1  
Memorandum

Post Factor sanction of time scale of pay to the casual labourers worked for more than 120 days under P.W. for the period mentioned against each is hereby sanctioned.

This is purely post factor sanction which will not entitle employees to any claim and absorption except difference of wages for the period worked more than 120 days till expiry of L.M. on which they have worked.

Sl. No.	Name	Date of birth	Date of entry into service	Continuous service	Total no. of days worked	Date of which post factor sanction of revised scale granted	from	to
1.	Ashraf	15.3.55	Nov/62	16.10.80	15.2.81	123 days	13.2.81	15.4.81
2.	Ahmed	Abdul Rehman	1.7.82	31.10.82	123 days	29.10.82	15.12.82	
3.	Ram Kishan	5.12.58	17.10.77	1.8.82	31.10.82	123 days	9.10.82	15.12.82
4.	Ram Kishan	15.11.46	16.5.63	1.7.76	31.12.76	120 days	1.1.79	15.1.79

(94 items only)

60. 30/11/87

Copy forwarded for information & action to:-

1. P.W. (2) Secy. P.W. (3) Secy. P.W. (4) Secy. P.W.
2. Secy. P.W. (3) Secy. P.W. (4) Secy. P.W.
3. Secy. P.W. (3) Secy. P.W. (4) Secy. P.W.
4. Secy. P.W. (3) Secy. P.W. (4) Secy. P.W.

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