

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

T.A. No. 1609/82

CAUSE TITLE L.P. No 6152/84 OF .....

NAME OF THE PARTIES ... *Ahmed, 2028* ....., Applicant

Versus

*PC 2028* ....., Respondent

Part A.

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*This file opens received from record room without  
CERTIFICATE (Bantoo)*

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

*Check on* Dated 12/9/11.....

Counter Signed.....

*B. J. 10/11*

Section Officer/In charge

*.....*  
Signature of the  
Dealing Assistant

Central Administrative Tribunal  
Lucknow Bench

INDEX SHEET

Cause Title 1603/07 of 1547

Name of the Parties Ahmed & Ors. ---Applicant

Versus

-----Respondents.

Bar. A. B. C.

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C-File

Misc Papers.

C-1

A-4

8.11.91

D.R.

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

5.2.92

D.R.

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

27.2.92

D.R.

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

13.5.92

D.R.

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

## ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD  
w.c.P. No. 6152 of 1988

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
21-12-82	Scd K.N. Goyal, ?	
	Scd B. Kumar, ?	
	- 1st in January	
	1985 ad. fixed -	
	Scd K.N. Goyal.	
	Scd B. Kumar	
	31-12-82	
20-1-83	fixed Work for order	
4/1/83	PO Bkt	
	N.D. B. Kumar	
	M.D. B. Kumar	
	Bench.	
	(S)	

## GENERAL INDEX

A 11

CIVIL

SIDE

CRIMINAL

(Chapter XL I, 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
				5	6	Value			
1	2	3	4	Rs.	P.				
1.		Writ with Answer 25 - And affidavit		102.00					
2.		Power	1-		50				
3.		Prob. Seal	1-						
4.		H. Burchell	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)

J.A. NO 160/87 199 (TL)

Date of Decession

Abdul J. Siddiqui - Petitioner.

G. S. Srinivasan - Advocate for the Petitioner(s)

VERSUS

Union of India - Respondent.

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

CORAM

Hon'ble Mr. Justice O. S. M. Jaffer

Hon'ble Mr. Justice A. M. Khan

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 ?

Whether to be circulated to other benches ?

Vice-Chairman / Member

## 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 &amp; others

Respondents.

Shri O.P. Srivastava Counsel for Applicants.

Shri B.K. Shukla Counsel for Respondents.

Cerams: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

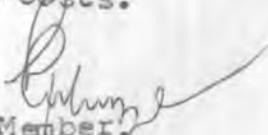
*Uu*

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

Ar 12

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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LUCKNOW DATED.  
DECEMBER 21, 1984.

*S. Srivastava*  
(O.P. SRIVASTAVA)  
ADVOCATE  
COUNSEL FOR THE PETITIONERS

Arb

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

W<sup>RT</sup> PETITION NO. 65 OF 1984

A/10



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.

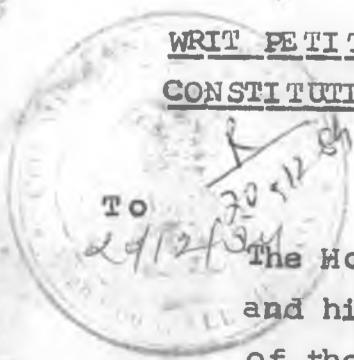
..... PETITIONERS

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.

W<sup>RT</sup> PETITION UNDER ARTICLE 226 OF THE  
CONSTITUTION OF INDIA.



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 continuous service in open line and has thus



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acquired the status of a temporary railway servant.

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 <sup>Re-confirmed as such thereafter</sup> 16.6.1982 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.

5. That when the petitioners contacted

31825

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

29/12/84

378ns

petitioners became very much perturbed and perplexed due to non payment of salary and ~~to consider the petitioners~~ 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 why 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.

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



STENS

issuance of the orders for medical check up and posting. A true copy of the representation dated 10th April 1984 is being filed

ANNE XURE -2 herewith as Annexure-2 to this Writ Petition.

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

ANNE XURE -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 petitioners 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



20/12/84

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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.

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ANNEXURE -5

12. That the petitioners are very poor

persons ~~mad~~ 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 befooled 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



*3898*

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 dasteful 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 <sup>my advised</sup> maintenance, ~~without acquiring~~ the status of a temporary railway servant and their services can only be ~~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.

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

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

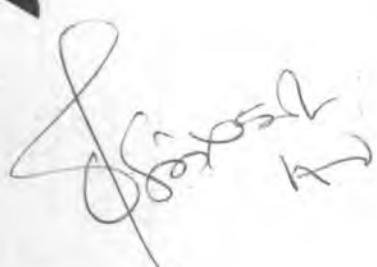
unfair labour practice and victimisation  
against the petitioner.

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 tempo-  
rary 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

A-245  
21

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.

*S. Srivastava*  
(U.P. SRIVASTAVA)  
ADVOCATE  
COUNSEL FOR THE PETITIONERS.

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A 26

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 & they are medically fit.

SL. NO.	Name	Father's name	Divn.	Date of birth	Date of Appointment	Period of 4 months conti- nuous service	Total No. of days worked continuous	Total no. of days worked.
1.	Shri Ahmad	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-	123	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) L.J.N
3. Sr. D.R.M./ L.J.N.

TRUE COPY OF  
PHOTOSTAT COPY

Sd/-  
Asstt. Engineer II/GD

38278



14 A-27  
अम दिन आनरेक्स इंड कोर्ट आफ यूटीकेपरसेट इलाहाबाद,  
लखनऊ बैच, लखनऊ

रिट पिटीशन नं०-

आफ १९८५।

अहमद आदि --

... पिटीशनस्तु

बनाम

गवर्नमेन्ट आफ इण्डिया आदि--

... अपो. पार्टीज

अन गुजरात नम्बर- 2

सेवा मे,

ए० ई० सन० महोदय,  
पूर्वोत्तर रेलवे,  
गोर्जडा

तविनय निवेदनहैर्कि हम प्रार्थीगण कैज़ुअल लेबर है और हम लोगों को पी० डब्ल्यू० आ० ताहब ने कठार्कि हम लोगों का मेडिकल होगा और पोस्टिंग होगी जिसके बारे मे हम लोग आपसे मिले भी थे तो आपने भी वही कहा। मेडिकल का कागज अभी तक नहीं आया है और इसीलिये हम लोगों को डिक्टी नहीं करने की जा रही है जिससे तनख्वाह न मिलने से हम लोग भूखों मर रहे हैं।

आपके हमारी विनती है कि आप हम लोगों को डिक्टी पर ले ले और जब मेडिकल का कागज आयेगा तो हम लोग मेडिकल के लिये वले जावेगे। हम लोग बहुत गरीब आदमी हैं रोजी मिलने से आपको पुन्य होगा।

आपका आश्वाकारी शिष्य,

४०- अहमद,

निशानी अंगूठा

१०.५.८५

सत्य- प्रतिलिपि।

अहमद



9-2-81  
15

ઇન્ડિયાનરેબુલ હાઉસ કોર્ટ આફ પુડીકેચર સેટ ઇલાહાબાદ,  
લખાંડુ બેન્ચ, લખાંડુ

રિટ પિટીશન નં- 1984.

અહમદ આદિ -- , , , પિટીશનસ

બનામ

ગવર્નમેન્ટ આફ ઇન્ડિયા આદિ-- , , , અપો. પાર્ટીય

અને ગુરુ નાના 3

સેવા મં,

સ. ડૉ. સન્ન. મહોદય,  
પૂરોત્તર રેલવે,  
ગોણડા।

હમ લોગો કો અભી તક મેડિકલ કા કાણ નદી મિલા હૈ।

આપણે બિનતી હૈ કે હમારે જીવ દયા કરકે ઉચિત કાર્યવાહી કર્ણે કો  
કૃપા કરો।

આપણા આજ્ઞાકારી,

દાદ- અહમદ,

નિ. અંગુઠા 27.7.84



તથા- પ્રતિલિપિ।

અંગુઠા

129 6/14

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

WRIT PETITION NO. 1984

Ahmad and another ..... Petitioners

Versus

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

ANNEXURE - 4

O.P. Srivastava,  
Advocate

867, Old Mahanagar,  
(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:-

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1. That my client Sri Ahmad entered into the  
th 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. 5/30/111/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),



37575

Gonda several times where he was assured that the necessary ~~paper~~ 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



similar manner as the said Ahmad was assured he wa  
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 conti-  
nuous 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 is  
in case you are not able to absorbe 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 decitfully and illegally and in  
those circumstances my clients will be at liberty



- 5 -

X/29

to knock the doors of law for ~~me~~ 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 (D)  
NER, Lucknow Jn.

TRUE COPY.

37675



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 ~~being~~ engaged on work which automatically expire 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 ~~as~~ 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.

A 34  
WRIT PETITION NO. OF 1984

Ahmad and another ..... Petitioners

Versus

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

ANNE XURE -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



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. Sto.G.D./NNK and C/o for information and necessary action.

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

DIVISIONAL SUPDT. (ENG.)  
LJN.

TRUE COPY.

37614



A-37  
24

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.

AFFIDAVIT

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 converant 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

....

Writ Petition are true copies of the respective originals.

318/16

Lucknow Dated.

DE PONENT.

20-12-1984.

VERIFICATION

I, the above named deponent do hereby  
*R*  
solemnly ~~affidavit~~ 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.

318/16

Lucknow Dated:

DE PONENT.

20-12-1984.



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

*R*  
ADVOCATE.

Solemnly affirmed before me on 20/12/84  
at 09.50 AM/PM by the deponent *Amad* 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.

*R*

TRAC. PAL  
O.P. SRI  
Advocate  
N  
Date 31/995  
20/12/84

In The High Court of Madras  
between Beni Mehta

ब अदालत श्रीमान

महोदय A-39

ADALAT

वादी (मुद्रई)

प्रतिवादी (मुशालेह)

का वकालतनामा



W.F. NO

1929/2012

of 1929

1929

Ahmed and another वादी (मुद्रई)

बनाम

Umang India & son प्रतिवादी (मुशालेह)

नै० मुकद्दमा सन् १९ पेशी की ता० १९ ई०  
ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

69 Sarosh As

एडवोकेट

महोदय

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा (इवरार) बरता है और  
लिखे देता है इस मुकद्दमा में वकील महोदय रवयं अथवा अन्य  
वकील द्वारा जो कुछ पैरवी व जवादेही व इश्नोहर करें या अन्य  
कोई कागज दाखिल करें या लौटावें या हमारी ओर से हिँगरी  
जारी करावें और स्पष्ट 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 उटावें  
या कोई स्पष्ट जमा करें या हमारी या विपक्ष (फरीकसानी) का  
दाखिल किया स्पष्ट अपने या हमारे हस्ताक्षर-सुदूर (दस्तखती)  
रसीद से लेवें या पंच नियुक्त करें - वकील महोदय द्वारा की  
मई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं  
यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी  
अपने पैराकार को भेजता रहूँगा अगर मुकद्दमा अदम पैरवी  
में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मे-  
दारी मेरी वकील पर न होगी । इसलिए यह वकालतनामा  
लिख दिया कि इमाण रहे और समय पर काम जावे ।

हस्ताक्षर

साची (गवाह)

साची (गवाह)

दिनांक महीना

Ram Naik

## वकालतनामा

K/50

Central Administrative Tribunal Circuit Bench Lucknow के समक्ष

TA No 1609/07(7) /CAT/LKO  
(W.P.No 165208/1984)  
Khanbad and

के न्यायालय में

वादी	Others	दावेदार
प्रतिवादी	बनाम	अपीलार्थी
वादी	Union of India	प्रर्जीदार

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

को उपर्युक्त वाद/अपील/कार्यवाही में भारत संघ को और से उपर्युक्त होने, कार्य करने, आवेदन करने, अभिवन करने और भारत 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, रूपया वापस लेने और उसका निश्चेप करने तथा उपर्युक्त वाद/अपील/कार्यवाही में भारत सरकार का साधारण तिनिधित्व करने और भारत संघ के लिए इस प्रकार उपर्युक्त होने, कार्य करने, आवेदन करने, अभिवन करने और आगे कार्यवाही करने की अनुवांशिक 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 न हो कर लिया गया है, तब तक उक्त काउन्सेल/अधिवक्ता/प्लीडर या उसके द्वारा नियुक्त काउन्सेल/अधिवक्ता/प्लीडर सभी या किसी प्रतिवादी/प्रत्यासी/अपीलार्थी/वादी/विरोधी पक्षकार के विशद्ध उस वाद/अपील/दावा/प्रतिरक्षा/कार्यवाही को पूर्णतः या भागतः न तो वापस लेगा, न उसका अधित्प्रजन करेगा, न एसा 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, उत्तर्नु आपादिक परिस्थितियों में जब भारत सरकार के समुचित प्राधिकारी से परामर्श करने के लिए पर्याप्त समय नहीं है और उदाद में समझौता करने में लौप करना निश्चित रूप से भारत सरकार के हित के प्रतिकूल होगा तो उक्त प्लीडर/अधिवक्ता/काउन्सेल एसा 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 संसूचित करेगा।

राष्ट्रपति इस प्राधिकार के अंतक्म में श्री B.K. Shukla Railway Advocate

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

इसके साध्यस्वरूप भारत के राष्ट्रपति के लिए और उनकी और से इस विलेख को अपने तारीख को सम्पूर्ण रूप से निष्पादित किया जाता है।

तारीख 19

NER-84850400-8000-4784

Accepted  
B.K. Shukla  
13.12.83

(B.K. Shukla, ...)  
निष्पादन करने वाले अधिकारी का पदनाम  
Sr. Divisional Personnel Officer  
NERailway, Lucknow  
for Union of India

P.R

7-41

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)

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  
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

-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  
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

A-43

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

T.A. No. 1609 of 1987

(W.P. No. of 19 )

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>bth</sup> S. C. Dubey

aged 55 yr 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

-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,

*Aer*  
ASSISTANT ENGINEER the petitioner did not turn up for engagement  
N. E. RLY GONDA

-3-

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

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

-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.

*Acer*  
ASSISTANT JR. JUDGE  
H. R. RLY. GONDA

10. That the contents of paras 12 of the Writ

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

-8-

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. C. Gonda*  
ASSISTANT ENGINEER  
N. E. RLY. GONDA

VERIFICATION

I, S. C. S. Dubey do

A-51

-9-

8/47

hereby verify that the contents of paras  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. G.* )  
ASSISTANT ENGINEER  
N. E. RLY GONDA

Through

*B. K. Shukla*  
( B. K. SHUKLA )

Railway Advocate

Counsel for Opposite Parties

to the Hon'ble Central Maritime Tribunal, Circuit Bench, Lucknow  
T. A. No. 1609 of 1987  
Ahmed & others vs. Union of India & others

THE AMERICAN  
ANTIQUE

is Post Factor sanction of time-scale of pay to the casual labour worked for 12 days under P.L./M.L. for the period mentioned against such is hereby sanctioned.

Soil Engineer/IL/CD

Lo. 9/2/11/25  
Copy forwarded for information & action to: -  
1. FBI/DOJ (2) FBI/DOJ (3) FBI/DOJ (4) Please copy to your office.  
2. FBI/DOJ.

ASSISTANT ENGR. CONS.  
ASSISTANT CONS.  
W. R. RLY.

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testit, engineer/IL/aid