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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH,
LUCKNOW

T.A. 1692/87(T)
(Writ Petition No. 121 of 1985)

Smt. Renu Nigam ...Petitioner.

versus

Union of India & others ...Respondents.

HON. MR. P.S. HABEEB MOHAMMAD, ADM. MEMBER.
HON. MR. J.P. SHARMA, JUDICIAL MEMBER.

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

Smt. Renu Nigam impleading, Officer Commanding, Central Command, Signal Regiment, Cantt. Lucknow and Officer In-charge Commanding, Signals Records, Jabalpur filed the writ petition (No. 121/85) in the Hon'ble High Court, Lucknow Bench with the prayer for issuing a direction in the form of writ of certiorari quashing the order of termination from service dated 10.12.1984 and also praying for consequential benefits. She also sought a direction regarding the declaration of her status as Quasi Permanent under C.C.S (Temporary Services) Rules, 1965.

2. The writ petition stood transferred to the Central Administrative Tribunal, Allahabad Bench under section 29 of the Administrative Tribunals Act, 1985.

3. The facts of the case are that the applicant got employment as an Operator in a temporary capacity with effect from 26.2.1979 with the opposite parties Nos. 2 & 3 in Central Command, Signal Regiment, Lucknow. The applicant is M.A. in Hindi and her name was sponsored by the Employment Exchange and after interview on the scrutiny of educational

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certificantes from the stage of High School onwards, she was given the aforesaid appointment, in which she has been working continuously.

(Ann. 2)

4. However, subsequently, on 12.8.83 a letter was issued to her as to whether she had passed the High School with English as one of its subjects or not, to which the applicant gave a reply on 20.8.82 that she had not passed the High School with English as one of its subjects. By the order dated 29.12.1984 (Annexure 4) the applicant was served with a termination order said to be under sub rule 1 of Rule 5 of Central Civil Services (Temporary Services) Rules, 1965 and her services were to be terminated with effect from 28.1.1985. Thereafter, the applicant had come to the Hon'ble High Court and filed the above writ petition for the reliefs referred to above.

5. The Hon'ble High Court granted an interim stay and the termination order was suspended as a result of which the applicant is working since then without break.

6. The respondents contested the writ petition and denied the contentions of the applicant that she had acquired the Quasi Permanent Status and further that the applicant did not possess the minimum educational qualification having not passed the High School Examination with English as one of its subjects. So she could not have been allowed to join ~~for~~ the post and it was overlooked; in fact that she did not have the minimum educational qualification. So, when the correct facts were discovered, a notice was given to the applicant to give details of having passed High School with English as one of its subjects. The applicant failed to give the same and so her services were terminated under sub rule 1 of Rule 5 of C.C.S. (Temporary Services) Rules, 1965.

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The respondents further contended
7. /that the applicant is not entitled to any relief and the appointment is ab initio void. The applicant was a temporary servant and so her services were terminated without any stigma attached to that by the impugned order after serving one month's notice. In view of this the applicant is not entitled to any relief.

8. We have heard the learned counsel for both the parties at length. Firstly, the termination order, which is said to have been passed under sub rule 1 of Rule 5 of C.C.S. (Temporary Servies) Rules, 1965, is in itself an order which h s been passed not according to the precedent^s on the subject. The applicant had been in service since 1979 and she continued till December, 1984, so even if there was some irregularity in her appointment then the time taken by the respondents to find out the correct facts, cannot be said to be based on reasonable basis. By keeping the applicant in service and allowing her to do the work to the entire satisfaction of the respondents, cannot make non passing of High School with English as one of the subjects totally unfit for the job. Even at the time of arguments it is conceded by the learned counsel for the respondents Shri Dhawan that now she has also passed High School examination with English as one of the subjects.

9. It is not the case of the respondents that the applicant did not discharge her duties properly. No remarks adverse to her working, though lacking the intial qualification, had been brought to the notice of the Tribunal in the Counter affidavit. In such case, it has been pointed out by the learned counsel for the applicant that long standing services cannot be terminated without satisfactory reason. There is some substance in this argument.

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10. The learned counsel for the applicant has relied on the authorities mentioned below:

A.I.R. 1970

- 1) R.N. Bora vs. Union of India (Supreme Court 470)
- 2) Bachan B. Das vs. State of Orissa (1973 (2) SLR page 499)

In fact both the above authorities support the case of the applicant. It has been held that continuing in service, though initial qualification may not be up to the mark, and even the applicant continues to the satisfaction of the employer, then the termination order of services shall be against the principles of natural justice and equity.

11. Further, there is obviously another point in favour of the applicant that she still continues to work from 1979 to 1990 and now she has become much overage to go elsewhere for service and as such she is entitled to a reasonable sympathetic consideration on this account also. In view of the matter that there is nothing against her during all these years of service in the same post, it cannot be said that she is not competent to discharge the duties effectively and efficiently.

at the decision

12. The respondents have arrived to terminate the services of a temporary employee as per provisions of sub rule 1 of the aforesaid Rules but at the same time, if a post is continued for a number of years, and still ^{is} there a vacancy to be so caused, then the termination order, by itself will lose its significance as innocuous order. The Court has, however, ^{the} right to look behind and find out the real fact which led to the passing of the termination order. Mere inaction by the respondents'

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Department was discovered five years after and that too, that the applicant had not taken English as one of the subjects in High School. In fact, High School certificate has been filed both to show the educational qualification as well as the date of birth and in this situation it cannot be said that the applicant has committed any cheating or defrauded the respondents.

13. In view of the above discussion, we find that the termination order dated 10.12.1984 (Annexure -4) cannot be sustained and is liable to be quashed and the applicant shall be deemed in service for all purposes and shall be entitled to all consequential benefits. ~~However~~, The writ petition/T.A. is allowed, but the parties shall bear their own costs.


JUDGE MEMBER.


ADM. MEMBER.

18/4/1990

Dated the 1st of April, 1990.

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE TA 1692/82 OF

NAME OF THE PARTIES Rance Nigam Applicant

Versus

CSE ch Respondent

Part A.

Sl.No.	Description of documents	Page
1		
2	INDEX	1 to 3
3	Order sheet	4 to 12
4	Order Judgment 10.4.90	14 to 18.
5	Writ petition	1 to 19
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7	Counter	
8	R.D.	
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CERTIFICATE

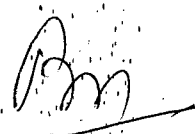
Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

File B/C decided and destroyed

Dated

Counter Signed.....

Section Officer/In charge


Signature of the
Dealing Assistant

CIVIL
SIDE
CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case *Case 121-85*
Name of parties..... *Sgt. Rene Nigon - vs Unionfonda*
Date of institution *8-1-85* Date of decision

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
					Rs. P.			
	1.	<i>in Petition into Annexures and Affidavit.</i>	<i>20</i>		<i>102-00</i>			
	2.	<i>Lower.</i>	<i>1-</i>		<i>5-00</i>			
	3.	<i>Cmdr. 293 (w) - 85 for stay</i>	<i>3-</i>		<i>5-00</i>			
	4.	<i>Cmdr. 10329 (w) - 86 for vacating duty order</i>	<i>5-</i>		<i>7-00</i>			
	5.	<i>Memorandum of Stenography Council.</i>	<i>1-</i>	<i>-</i>	<i>-</i>			
	6.	<i>Order Sheet.</i>	<i>2-</i>	<i>-</i>	<i>-</i>			
	7.	<i>Back Copy</i>	<i>-</i>	<i>-</i>	<i>-</i>			

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.

Munsarim.
Clerk.

二、



against a permanent-
(post with no body, etc. holding any her
(against the same

1- That the educational qualification of the petitioner is B.A. in Hindi. She has also undergone the training for Telephone Operator in the P. & T. Department as outside candidate and has also passed the Certificate Course in the year 1976 & after which she was

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P.

No.

121

of 1985

25

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
21-85	<p>Sc. SS Ahmed, ?</p> <p>Sc. B Kumar, ?</p> <p>Notice of this petition</p> <p>list of 21/1/85 for a decision</p> <p>Sc. SS Ahmed</p> <p>Sc. B Kumar</p> <p>21-85</p> <p>C.M. No. 293 (W) 85</p>	
21-85	<p>Sc. SS Ahmed, ?</p> <p>Sc. B Kumar, ?</p> <p>list entry with the w.p. for ex parte</p> <p>Sc. SS Ahmed</p> <p>Sc. B Kumar</p> <p>21-85</p>	
21-1-85	<p>fixed with C.M. No. 293 (W) 85 - for ex</p> <p>Sc. SS Ahmed</p> <p>Sc. B Kumar</p> <p>but up tomorrow</p>	<p>By Ct</p> <p>Bank fixed</p>

21-1-85

ORDER SHEET

IN THE HIGH COURT JUDICATURE AT ALLAHABAD

No. _____ of 198

25

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
	<p>was also considered at the higher level but it was decided that it was not possible to give any relaxation to the petitioner. Looking, however, to the fact that the petitioner has worked on the post in question for the last six years and, prima facie, appears to have attained the status of a quasi-permanent employee, we direct that the petitioner shall be allowed to continue on the post in question with further orders.</p> <p>A copy of this order shall be given to the learned Counsel for the petitioner today, if possible.</p> <p>D/98.185 1785</p>	<p>Blumar</p> <p>25/1/85</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

.....

O.A./T.A. No. 1692 1987

Smt. Renu Nigam Applicant(s)

Versus

Union of India & ors. Defence Respondent(s)

Sr. No.	DATE	Orders
	20.8.88	<p><u>Officer report</u></p> <p>An application has been filed in this case for transferring the case to Circuit Bench Var.</p> <p>If approved 19th September 1988 may be fixed for orders before D.R.J. at Circuit Bench Var. In this regard, notices may be issued to the parties. W.P. against Termination order. Submitted for orders.</p> <p><u>J.S.</u> 30/8/88. <u>D.R.(1)</u></p> <p>List this case before Circuit Bench for orders before D.R.(1) on 19-9-88.</p> <p><u>J.S.</u> D.R.(1)</p>
	23.9.88	<p><u>D.R.</u></p> <p>None is present. The case is adjourned to 28.10.88.</p> <p><u>J.S.</u></p>

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

8/8/89

No sitting of Division Bench, let this case be listed on 24/10/89 for hearing.

De J.M.

(sns)

on
Case is submitted for hearing

No Sitting of D/B Adj. to 14-12-89.

24.12.89

19-12-89

No Sitting Adj. to 1.1-90.
Applicant is present.

h
B.O.C

OR Submitted for hearing

h
14/11

h
23/11

Hon' Mr. Justice Kamleshwar Nath, V.C.

Hon' Mr K. Obayya, A.M.

1/1/90

On the request of counsel for the parties, the case is listed for final hearing on 7-2-90.

A.M.

h
V.C.

(sns)

$7\frac{2}{90}$

No Sitting Adj to 9-4-90
Applicant is present

$9\frac{4}{90}$

Hon. P.S. Habibul Mohammad, AM -
Hon. J.P. Sharma, JM.

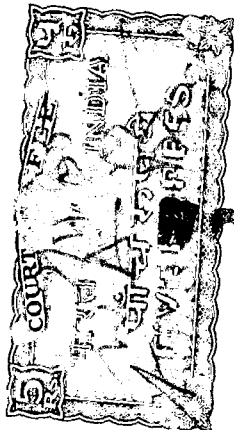
OR S.P.H
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Arguments heard. Judgment reserved.

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JM

h
AM



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(M)

re

Petition No. 12 of 1935.

10/11/35

Pat. Mena Nigan, aged about 18 years wife
of Mena Nigan, resident of C/o Gur
Prasad Nigan, District Head at Levi Junior Nigan
Sera, the Nigan, Nigan.

(Petitioner.

Versus

1- Union of India, Secretary, Ministry
of Defence, Government of India, New Delhi.

Minister of Defence, Government of India,
New Delhi, India.

2- Ministry of Defence, Government of India,
New Delhi, India.

(Respondent.

and

and

10/11/35

Sever (Central)

H. C. J. Form No. 88, Part I

HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUCKNOW BENCH), LUCKNOW

CIVIL SIDE

ORIGINAL JURISDICTION

1692/87 (T)

WRIT PETITION NO. 131 OF 198

85

UNDER

Smt. K. Nigam

Petitioner.

VERSUS

Union of India & others

Opposite-Party

Date of institution

8/85

Counsel for Petitioner

S. A. Nigam

Counsel for Opposite-Party

S. H. N. Talwar, S. U. R. Dignon

Date and result of petition

Group 13(a)

1/15/53

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...	Particulars	...
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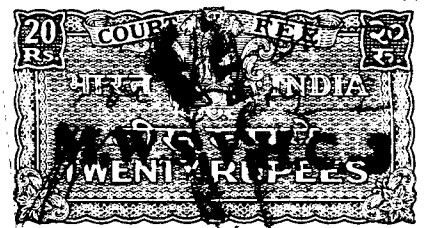
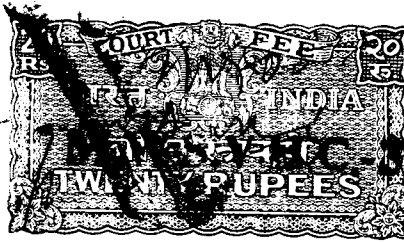
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Ho. Sec. Nigam

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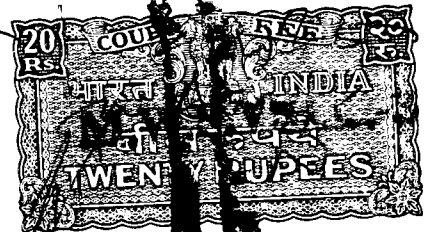
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IN THE HON'BLE HIGH COURT OF JUDICATURE AT
BOMBAY, DISTRICT COURT.

12/2

Writ Petition No. 17-1 of 1935.



50/15/1001.
C2
7/1/35

1. Shri. Renu Nigam, aged about 18 years - wife of
Shri. Dayanji Nigam, resident of C/1 Gur Prasad
Nigam, behind D.A. at Deva Junior High School,
Thane Road, Thane.

..... Petitioner.

Various

- 1- Union of India through Secretary, Ministry
of Defence, Government of India, New Delhi.
- 2- Officer Commanding, Central Command, Muzrai
Regiment, Cantt. Madras.
- 3- Officer in Charge Commanding, Signals Regiment,
Jabalpur.

Renu Nigam.

..... Opposite Parties.

(3)

granted the due certificate. There-after she got herself enrolled in the employment exchange as a candidate for suitable appointment. There-after she also worked as Telephone Operator for 930 days in the Telephone exchange, Kaiserbagh Lucknow, itself.

3- That in the year 1978, the petitioner received an intimation from the employment exchange, Lucknow, to the effect that she has been found eligible for the vacancy of Civilian Switch Board Operator in the Military Exchange, Lucknow, and that she has to appear for an interview at Central Command Signal Regiment, Lucknow on 13-1-1979, with original certificates. The petitioner appeared before the Interview Board and submitted all her educational certificates including High School certificate in original, which were duly perused by the Interview Board. The interviewing officers asked the petitioner to submit all those certificates with them which she complied with. All the certificates remained in the custody of the opposite parties till few months before.

4- That the opposite party no. 2 found the performance of the petitioner satisfactory

Renu Nigam

(1)

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and also found her copy of appointment.
there-after an appointment letter dated 26-1-1979
was issued by the Officer Commanding Central
Command Signal Regiment, Mysore. A true copy
of the appointment letter dated 26-1-1979 is
being filed herewith as Annexure no.1. According
to the terms of the appointment letter, the
petitioner was appointed on the post of Civilian
Switch Board Operator in a temporary capacity
with effect from 26-1-1979 until further orders.

5- That the petitioner has been working
since the beginning of her service till date
with utmost honesty, integrity and efficiency
and to the full satisfaction of her employer.
No explanation has ever been called from her
and no show cause notice has been issued to her
nor has she been ever communicated with any
adverse entry during the past about six years
of her service. The petitioner, therefore,
averages that her work and conduct has been
adjudged as satisfactory by her employers.
She has been receiving yearly increments
without any let or hindrance.

6- That in August, 1984 i.e., after
completing almost five years of her service,
Renu Nigam.

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(5)

The petitioner received a letter dated 20-8-1932 informing her that according to her High School Certificate which has been in the custody of the opposite parties, English was not one of her subjects in the High School Examination. She was asked whether she has passed English subject separately and if so she should inform about the exact position by 13-9-1933. A true copy of the said letter is being filed herewith as Annexure No. 2.

7- That the petitioner in reply to the said letter informed back the opposite parties that English was not her subject in the High School nor has she passed it separately. She also enquired as to what was the relevance of this query because she had, at no point of time, professed to have passed High School in English either before the employment exchange or before the opposite parties or even before the Interview Board. Her testimonials were only presented before the Interview Board and all the subjects taken by the petitioner in the High School were clearly mentioned in the certificate which remained in the custody of the opposite parties themselves. She was not even aware

Renu Nigam

(6)

that there was any necessity of her having passed high school in English. The reply of the petitioner as submitted before the opposite parties in response to the query dated 20-8-1983 (Annexure no. 3) is being filed herewith as Annexure no. 5.

3- That after her reply no further query was made from the petitioner by the opposite parties nor any explanation was called from her nor any notice was served on her that it was necessary for her to have passed High School in English. It would be relevant to point out here that the opposite parties have not notified their vacancies in the News Papers. They had simply asked for the names from the Employment Exchange and the Employment Exchange itself has never communicated to the petitioner that any qualification other than possessed by her was required for the job against which her name was forwarded by the Employment Exchange. It can fairly be presumed that the opposite parties had not informed the Employment Exchange that passing of English at high school level was an essential qualification for appointment to the post of Civilian Section Board Operator or else the Employment Exchange would not

Renu Nigam.

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(7)

have forwarded the petitioner's name. In any case, once the petitioner's name was forwarded by the Employment Exchange to the opposite parties and the opposite parties themselves interviewed thoroughly the petitioner and perused her testimonials including High School Certificate and after doing all the orduous exercise issued an appointment letter to her without mentioning any condition of having the qualification of High School in English, they are now estopped from raising it as a plea to challenge the validity of her appointment after six years of service.

9- That to the great surprise and shock the petitioner all of a sudden received an order of termination dated 29-12-1984. A true copy of the said order is being filed herewith as Annexure no. 4. The said order states that her services would stand terminated after one month of service of the order of her in pursuance of of sub-rule (1) of rule 5 of the Central Civil Services (Temporary Services) Rules, 1935 i.e., according to the said order, the petitioner's services would stand terminated on 28-1-1985.

10- That as stated in the fore-going paragraphs the petitioner has not been given any reason for termination of her services. And her colleagues

Renu Nigam

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(a)

and juniors are still working on the said post. No retrenchment has taken place. The petitioner is at a loss, to understand as to why her services are being sought to be terminated without any rhyme or reason. In the circumstances the impugned termination order is most arbitrary and discriminatory in character, hence in contravention with Articles 14 and 16 of the Constitution of India.

11- That the order which appears to be termination simpliciter, is, in fact, an order of dismissal or removal from service without taking due process of law or given any opportunity of defending herself or without showing any cause, hence it is in fact an order of punishment passed without following due process of law in contravention with the provisions of Article 311 of the Constitution of India.

12- That the petitioner has put in almost six years of continuous service without any break. According to Rule 2 of the Central Civil Services (Temporary Services) Rules 1955 the petitioner has become entitled for a quasi-permanent status after the completion of three

Renu Nigam

years of service itself. The opposite parties have arbitrarily and wrongfully not declared her to be quasi permanent for the reasons of their own which is an discriminative act on their part. This act of omission on the part of opposite parties, however, cannot extinguish the right of the petitioner to have become quasi permanent in the year 1982 itself and in law she will be deemed to have been entitled to the said status. In that view of the situation also her ^{services} ~~signature~~ could not be terminated like a temporary servant in the manner they are being sought to be done.

10- That the petitioner would suffer irreparable loss and injury if the impugned termination order is allowed to be implemented with effect from 23-1-1985 as the petitioner would be rendered jobless after six years of meritorious and satisfactory service without any valid reason and in contravention with the principles of natural justice, equity and good conscience. On the other hand, the opposite parties would suffer no loss or injury if the order is stayed as the post against which the petitioner has been working is a permanent post with nobody holding lien against the same and no selection against the same has been made

Renu Nigam

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(10)

time date. Balance of convenience, therefore, is also in favour of the petitioner and in staying the operation of the impugned termination order till disposal of the writ petition.

11- That the petitioner has submitted a representation before her immediate boss against the impugned termination order but she has been frankly told that the opposite parties are not going to reconsider the said termination order.

12- That feeling aggrieved and having no other equally efficacious remedy available, the petitioner invokes the writ jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India on the following amongst other grounds:

G R O U N D S

(1) Because the impugned termination order is ultra vires of the Constitution of India.

(ii) Because the impugned termination order is, in fact, dismissal order inflicting

Renu Nigam

(11)

punishment on the petitioner without any valid reason and without following the due process of law.

(iii) Because the impugned termination order is against the principles of natural justice, equity and good conscience and is in contravention with the Articles 14 and 16 of the Constitution of India.

(iv) Because the impugned termination order is discriminative, arbitrary and passed in colourable exercise of power hence void.

(v) Because the impugned termination order is contrary to the provisions of Article 311 of the Constitution of India hence is liable to be quashed by this Hon'ble Court.

(vi) Because petitioner has become entitled to quasi permanent status in the year 1982 & the opposite parties ought to have declared her

C. R. A. A. A. A.

Therefore, it is humbly prayed that this Hon'ble Court may be pleased to:

(A) Issue an order, direction or writ in the nature of Certiorari quashing the

Renu Nigam

(12)

10/12/84

impugned termination order dated 19-12-1984
(Annexure No.4) after summoning its original.

(B) Issue an order, direction or writ in the nature of Mandamus directing the opposite parties not to implement the impugned termination order in any way or to interfere in the due discharge of her duties as Civilian switch board operator under the opposite parties as heretofore.

(C) to issue any other order, direction or writ in favour of the petitioner which this Hon'ble Court may deem fit in the circumstances of the case, and further to direct the opposite parties to grant the petitioner quasi permanent status as per normal rules & practice.

(D) award costs of this petition to the petitioner.

As per Wigram

ADVOCATE

COUNSELLOR FOR THE PETITIONER

ACKNOWLEDGED: Dated
January 25th 1985.

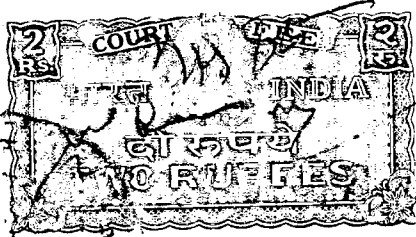
Renu Wigram

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1/14 (12)

In the Hon'ble High Court of Judicature at Allahabad

Writ Petition No. _____ of 1935



Writ Petition No. _____

of 1935

1984
AFFIDAVIT
92-
HIGH COURT
ALLAHABAD

Smt. Renu Nigam, Petitioner.

Versus

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

A F F I D A V I T

I, Renu Nigam, aged about 28 years,
wife of Smt. Bhyanji Nigam, resident of C/o
Gur Prasad Nigam, Behind Dargahat Devi Junior
High School Bhawanipatna, Lucknow, the deponent
do hereby solemnly affirm and state on oath
as under:

1- That the deponent is the petitioner
in the above-noted writ petition and as such
she is fully conversant with the facts of the
case deposed to hereunder.

2- That the contents of paragraphs 1 to 11
of the accompanying writ petition are true to
my personal knowledge, those of paragraphs 12 to 14
are believed to be true on the basis of record
and those of paragraphs 15 to 17 are also believed
to be true on the basis of legal advice.

Renu Nigam

(2)

14
1/15
c- That Annexures no. 1 to 4 are the true copies of their originals. They have duly been compared with their original and they are correct copies.

Witness: Dated
JANUARY 7th 1935.

Renu Niigam.
Deponent

Vin. P. Chatterjee

6/11
I, the above-named witness do hereby verify that the contents of paragraphs 20, 21 & 22 of this affidavit are true to my personal knowledge, no part of it is false and nothing material has been concealed. So help me God.

Witness: Dated
JANUARY 7th 1935.

Renu Niigam.
Deponent

I declare the deponent has signed before me.

A. K. Nigam
(ASAD NIGAM)
Advocate

15

1/76

(3)

Solemnly affirmed before me on 7-1-55
at 910 A.M./P.M. by the deponent Smt. Ramu Algam,
who is identified by Smt. Asoka Algam, Advocate,
High Court Bench, Lucknow.

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

H. M. S. 10/1
C. S. 10/1
H. M. S. 10/1
No. 921/55
7/1/55

hll

16

17/1/78

THE GOVERNMENT OF INDIA

MINISTRY OF DEFENCE

DEFENCE NO. OF 1965

Sgt. Renu Nigam

Verdict

Union of India and others... ..

ADMINISTRATIVE NO. 1

10.8.67

... ..
... ..
... ..

1634/A-1/A-1/177

10 Dec. 78

... ..

ADMINISTRATIVE NO. 1

1. The Chief Signal Officer Headquarters
Central Command, Lucknow hereby appoints Renu Nigam
... ..
... ..
... ..
... ..
... ..
... ..

Authority: Army Headquarters (Assistant General's
Office), Lucknow, 1634/A-1/A-1/177 4(Civ)
(D) of 10 Sep. 78
75 Jan 8 Jan 78

... ..
... ..
... ..

Copy to: Chief Signal Officer's Office, Headquarters
Central Command Lucknow.

File copy
Renu Nigam

इन दि आनरेबु ल हाई कोर्ट आफ जुडीकेचर एट इलाहाबाद

लखनऊ बेंच लखनऊ

रिटपिटिशन नं.

आफ 1985

श्रीमती रेनु निगम..

वादी

बनाम

यूनियन आफ इंडिया तथा अन्य...

अपो. पार्टीज

अनेक्जर नं. 2

दूरभाष:- 670

मध्य कमकान सिगनल रेजिमेंट
लखनऊ-226002

1658/एडम/ए-3/76

अगस्त 83,

श्रीमती रेनु निगम
सी.एस.बी.ओ.
मिलिटरी एक्सचेंज,
मध्य कमकान सिगनल रेजिमेंट,
लखनऊ-2

स्थायीवत

1-आपके हाई स्कूल की परीक्षा सन् 1967 के अनुसार आपका अंग्रेजी का विषय नहीं है। अगर आपने अंग्रेजी अलग से पास किया है तो इस कार्यालय में यह सूचना 13 अगस्त 83 तक प्रमाण पत्र के साथ भेजने का कष्ट करें

2- अगर आप ने कोई भी प्रमाण पत्र प्रेश नहीं किया तो यह समझा जायेगा कि आपने हाई स्कूल की परीक्षा बिना अंग्रेजी के पास किया तदनुसार यह सूचना सिगनल अभिलेख को भेजा जायेगा।

॥ एम. डी. सुगहव्यम् ॥
कमान अधिनारी,
कृत कमान अफसर ।

True copy
Renu Nigam.

(18)

1/19

(19)

IN THE DISTRICT COURT OF DISCIPLINE AT A ...

Discipline of ...

... 1938.

S. B. Renu Nigam, ...

Verdict

... of India and ...

... No. 3

The ... Officer,

C.O. ...

Ref: Your No. 1655/AC/A-3/76 No. 10/3/32 recd.
on 17-5-32.

With reference to the above, I beg to
say that my original High School Certificate
is in your office. I have also ...
separately. I have ...

I ...
... my ...
... Civil Exchange and
its original certificate ...
... office.

Yours,

...

17-5-32

...

C.O. ...
C.O. ...

7th copy
Renu Nigam

19

20 8/8 12

IN THE COURT OF THE DISTRICT JUDGE, JABALPUR

IN THE MATTER OF

AND IN MATTER OF OF 1935.

Smt. Renu Nigam, Plaintiff.

Versus

Union of India and others, Defendants.

ANNEXURE NO. 1

NOTICE OF TERMINATION OF SERVICE UNDER
ARTICLE 3(1) OF THE CENTRAL CIVIL SERVICES (TEMPORARY)
ACT, 1935

In pursuance of sub-rule (1) of rule 5
of the Central Civil Services (Temporary Service)
Rules, 1935 I hereby, given notice to Smt. Renu
Nigam that her services shall stand terminated
with effect from the date of expiry of a period
of one month from the date on which this notice
is served on her, as her case may be tendered to
her

Y/-
(S. C. Garza)
Sd/-
S.C. Signals Records

Place: Jabalpur
Date: 10 Dec 54

RECEIVED

I hereby, acknowledge the receipt on this date
of the notice of termination from service.

Place: Y/- (Smt. Renu Nigam)
Sd/- Grace II

Date: 12-1-54.

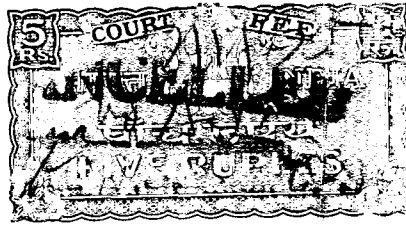
Translating
Renu Nigam

ब अदालत श्रीमान् उच्च न्यायालय इलाहाबाद महोदय

Luxman
Bench
Luxman

वादी(मुद्दै) for petition
प्रतिवादी(मुद्दामलेह)

वकालतनामा



19/11/85
7/11/85

Smt Renu Nigam

वादी (मुद्दै)

Union of India & others
प्रतिवादी (मुद्दालेह)

नाम अदालत	नाम मुकदमा	नाम फरीकन
-----------	------------	-----------

नं० मुकदमा W.P. सन् १९८५ पेशी की ता० १९ ई०
उपर लिखे मुकदमा में अपनी ओर से श्री अशोक निगम
एडवोकेट, २१० गंगाप्रसाद रोड, लखनऊ महोदय
को अपना वकील नियुक्त करके प्रतिज्ञा [इकरार] करता हूँ और
लिखे देता हूँ इस मुकदमा में वकील महोदय स्वयं अथवा अन्य
वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य
कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी
जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल
दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने
हस्ताक्षर से दाखिल करें तथा तसदीक करें या मुकदमा उठावें
या कोई रुपया जमा करें या हमारी या विपक्षी [फरीकसानी] का
दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त [दस्तखती]
रसीद से लेवें या पं० नियुक्त करें - वकील महोदय द्वारा की
गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिए
यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर
काम आवे ।

Accepted
for petitioners

Ashok Nigam
Attorney

7.1.84

साक्षी (गवाह)

दिनांक

7/11/85

महीना

हस्ताक्षर

Renu Nigam

7/11/85

साक्षी [गवाह]

(2)

3/

1- That the petitioner has filed the accompanying writ petition supported by an affidavit challenging the validity of the impugned termination notice dated 19-1-1984 as contained in Annexure 13.4 to the writ petition on various grounds mentioned in the petition and is confident that this Hon'ble Court would be pleased to grant the same.

2- That as stated in the accompanying writ petition the petitioner would suffer irreparable loss and injury if the impugned termination notice/order as contained in Annexure 13.4 is not stayed.

P R A Y E R

Therefore, it is humbly prayed that this Hon'ble Court, in view of the facts and circumstances stated above and as in the accompanying writ petition supported by an affidavit, may be pleased to stay the operation of the impugned termination notice/order dated 19-1-1984 as contained in Annexure 13.4.

Atul Nigam

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(m)

(2)

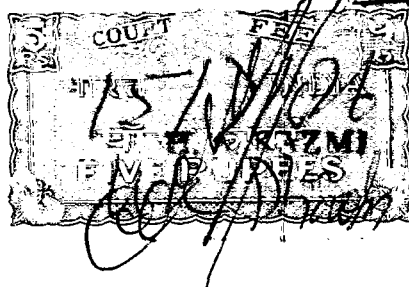
of the writ petition that the dismissal of the
writ petition and to direct the opposite parties
to treat the petitioner in continuation service
of the opposite parties.

Aswini Nigam
(Aswini Nigam)

Advocate
Counsel for the applicant
petitioner.

Witness: Dated
January 7/1935.

S/B
38/



PCF = Rs 1/-
38/14/07/86

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

(14/7/86)

Civil Misc. An. No. 10329 (w) of 1986.

Union of India. ;... Applicant.

In re

Writ Petition No. 121 of 1985.

Srimati Renu Nigam. Petitioner.

Versus

Union of India and others. Respondents.

1163C

Application for Vacation of the
Ex-parte Stay Order.

For the facts and reasons given in the
accompanying counter-affidavit it is most respectfully
prayed that the ex-parte stay order passed in the
instant writ petition may kindly be vacated.

Dhan

Lucknow dated

July 15, 1986.

14-07-86

(U.K. DHAN)
Additional Standing Counsel
Central Government
Counsel for the Applicant.

4/2

(S/M)

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

COUNTER-AFFIDAVIT ON BEHALF OF RESPONDENTS.

In re

Writ Petition No. 121 of 1985.

Srimati Renu Nigam. Petitioner.

Versus

Union of India and others. Respondents.

1, Colonel MAK. Niazi, aged about 45 years, son of Shri Masud Ahmad Khan Niazi, Officer Commanding Central Command Signal Regiment, Cantonment, Lucknow, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is Officer Commanding Central Command, Signal Regiment, Cantonment, Lucknow respondent no. 2 and is competent to swear the affidavit on behalf of respondents no. 1 and 3 in the instant writ petition. The contents of the writ petition have been read over and explained to the deponent who has understood the same and its parawise reply is as follows.
2. That with respect to the contents of para 1 of the writ petition it is submitted that the petitioner was appointed in a temporary capacity as Civilian Switch Board Operator in Central Command Signal Regiment, Lucknow, the minimum qualification for which was Matriculation with English as a compulsory subject.
3. That the contents of para 2 of the writ petition need no comments.

Reseman
Ce

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(Signature)

4. That with respect to the contents of para 3 of the writ petition it is submitted that subsequent to the appointment of the petitioner ~~it~~ it was discovered that she did not possess the requisite qualification and as such her appointment was ~~it~~ found irregular.
5. That ~~the~~ with respect to the contents of para 4 of the writ petition only this much is admitted that the appointment letter contained in Annexure No. 1 was issued to the petitioner. Rest of the contents of this para are denied.
6. That the contents of para 5 of the writ petition need no comments.
7. That with respect to the contents ~~of~~ of para 6 of the writ petition only this much is admitted that the show-cause notice dated August 13, 1983 contained in Annexure No. 2 was issued to the petitioner. Rest of the contents of this para are denied.
8. That with respect to the contents of para 7 of the writ petition only this much is ~~a~~ admitted that a reply contained in Annexure No. 3 to the writ petition was submitted by the petitioner. Rest of the contents of this para are denied.
9. That the contents of para 8 of the writ petition as stated are denied. It is further submitted ~~that~~ that the minimum qualifications for the post of Civilian Switch Board Operator was Matriculation or ~~e~~ equivalent examination with English as a compulsory subject and when the papers of the petitioner were checked up it was found that the petitioner did not possess the required qualification and hence a show-cause notice

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was issued to her.

10. That the contents of para 9 of the writ petition are not disputed. The termination order was served upon the petitioner.
11. That the contents of para 10 of the writ petition as stated are denied. It is further submitted that the petitioner did not possess the requisite qualification. Hence her appointment to the said post was void and irregular and accordingly her services were terminated by the order dated December 29, 1984. (The order of termination is neither arbitrary nor discriminatory and is a valid one and does not contravene the provisions of Articles 14 and 16 of the Constitution of India).
12. That the contents of para 11 of the writ petition as stated are denied. The order of termination was passed after giving an opportunity[✓] of ~~b~~ ^x being heard to the petitioner as a show-cause notice was given to the petitioner before passing the termination order (and as such it is not in contravention of the provisions of Article 311 of the Constitution of India).
13. That the contents of para 12 of the writ petition as stated are denied. It is further submitted that the petitioner was not Matriculate with[✓] English as a compulsory subject and her very appointment was irregular and void and as such the question of quasi-permanency of her ~~service~~[✓] service did not arise.
14. That the contents of para 13 of the writ petition as stated are denied.

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— Ce

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157-86

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(157-86)

15. That the contents of para 14 of the writ petition ~~are~~ need no comments.

16. That ~~the~~ with respect to the contents of para 15 of the writ petition it is submitted that the grounds taken in the writ petition are untenable. The writ petition has no merits and deserves to be dismissed with costs.

Lucknow dated
July '15', 1986.

Deponent
Deponent.

Verification

I, the above-named deponent do hereby affirm that the contents of paras 1 to 15 except portion within brackets in paras 11 and 12 of this counter-affidavit are true to my own knowledge from the perusal of the relevant records and the contents of portion within brackets in paras 11 and 12 and para 16 of this counter-affidavit are believed by me to be true on the legal advice tendered and no part of it is false and nothing material has been concealed, so help me God.

Lucknow dated
July '15', 1986.

Deponent
Deponent.

I identify the deponent who has signed and put his left thumb impression in my presence. *He is personally known to me.*

(Mohan Lal)
Clerk to Sri U.K. Dhaon
Additional Standing Counsel
Central Government.

Solemnly affirmed before me on 15.7.86
at 3.0 a.m./p.m. by ~~Sri~~ Col. NAK. Niazi,

the deponent who is identified by Sri Mohan Lal,
Clerk to Sri U.K. Dhaon, Additional Standing
Counsel, Central Government.

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

DATE
Hich

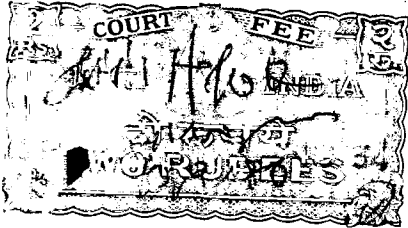
51/116

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6
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

Circuit-
LUCKNOW BENCH LUCKNOW

(7/3)



Writ Petition No. 121 of 1985.

Smt. Renu Nigam ... Petitioner

1986
AFFIDAVIT
86
HIGH COURT
ALLAHABAD

Vs.

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

Rejoinder-Affidavit to the counter-
Affidavit filed by Colonel A. K. Niazi,
aged about 45 years S/o Shri Masud Ahmad
Khan Niazi, Officer Commanding Central
Command Signal Regiment, Cantonment,
Lucknow.

I, Renu Nigam aged about 29 years wife of
Shri Shyamji Nigam, Resident of C/o Shri G. P.
Nigam, behind Daulat Devi Junior High School,
Thakurganj, Lucknow, the deponent hereby solemnly
affirm and state on oath as under :

1. That the deponent is petitioner in the above
noted writ petition and as such she is fully con-
versant with the facts of the case deposed here-

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10-9-86
Renu Nigam.

(X) 64

under. She has read and understood the contents of the counter-affidavit.

2. That at the very outset the contents of the counter-affidavit are denied to the extent they are in contravention with the averments made in the writ petition and the contents of the writ petition are reiterated as correct, and to the extent they may be specifically admitted in the following paragraphs.

3. That the contents of paragraph (1) of the counter-affidavit need no comments.

3. That in reply to paragraph 2 of the counter-affidavit it is stated that its contents are incorrect, hence denied and the contents of paragraph 1 of the writ petition are reiterated as correct. It is further submitted that the alleged minimum qualification of matriculation with English as a compulsory subject was never communicated to the candidates, hence it is denied that there was any such minimum qualification. Whatever legibility might have been prescribed by the opposite parties, they might have been sent to the Employment exchange. The deponent was called through the Employment exchange and the Employment exchange had forwarded deponent's name for the interview, finding her qualifications to be enough and she was called for interview only after she was found eligible. As already submitted in the writ petition, the deponent has submitted her original certificates including that of the Matriculation (High School) before the Interview Board which clearly laid down her subjects in the high school which did not include English as compulsory subject. Had there been any eligibi-

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159-85

Remu Nigam

lity condition to that effect, it was open to the opposite parties to have rejected the deponent's case or asked her whether she is matriculated in English, but the same was not done and her qualifications were found satisfactory by the interview-board. Her performance was also found above the mark and that is ^Rwhy she was selected and appointed. It is therefore now not open for the opposite parties to challenge the validity of her appointment itself after five and a half years of continuous service and deponent's acquiring quasi-permanent status.

4. That the contents of para 3 of the counter-affidavit need no comments.

5. That the contents of paragraph 4 and 5 of the counter-affidavit are incorrect, hence denied and those of paragraphs 3 and 4 of the writ petition are reiterated as correct. The opposite parties have not disclosed as to how they discovered that the deponent did not possess the requisite qualifications and found her appointment irregular. They have also not given the relevant rules. The real facts in this regard have already been stated in the foregoing paragraphs.

6. That the contents of paragraph 6 of the counter-affidavit need no comments.

7. That the contents of paragraph 7 and 8 of the counter-affidavit are incorrect^R, hence denied and those of the corresponding paragraph 6

^R
10.9.86

and 7 of the writ petition are reiterated as correct. It is specifically submitted that the alleged show-cause notice referred to in the latter paragraph did not at all disclose any reasons or basis for the termination order. It did not say that English was compulsory ^R and deponent's appointment was irregular and no explanation was sought from the deponent on this score either.

8. That in reply to the contents of paragraph 8 of the counter-affidavit it is stated that its contents are incorrect, hence denied and those of paragraph 7 of the writ-petition are reiterated as correct and the denials of the opposite parties are vehemently denied, as incorrect.

9. That the contents of paragraph 9 of the counter-affidavit are incorrect, hence denied and those of the corresponding paragraph 3 of the writ-petition are reiterated as correct. There is no statutory provision to the knowledge of the deponent which places a bar in appointment of a person who is not a matriculate in English. In any case even if this was a precondition, it was the duty of the opposite parties to have advertised the same and rejected the case of the deponent at the very outset. It is too late in the light of the day to enforce the eligibility condition with retrospective effect. As submitted in the writ petition also, the case is not that the depo-

R
10.9.86

Renu Nigam.

(15)

- 6 -

12. That the contents of paragraph 12 of the counter-affidavit are incorrect, hence denied and those of paragraph 11 of the writ petition are reiterated as correct. The deponent was never asked to explain or show cause on the specific issue of termination for want of matriculation examination certificate in English. In any case for the facts and the reasons stated in the foregoing paragraphs as well as in the writ petition, the termination is void ab-initio and barred by the principles of promisory estoppel. It is also bad because the deponent has already acquired the quasi-permanent status under the rules and her services cannot be terminated now without following the procedures laid down for termination of quasi-permanent employees.

13. That the contents of paragraph 13 of the counter-affidavit are denied as incorrect and those of the corresponding paragraph 12 of the writ-petition are reiterated as correct. The real facts have already been stated in the foregoing paragraphs as well as the writ-petition.

14. That the contents of para 14 ^{R of the counter affidavit contains} and bald denials of the opposite parties ^{and R} are denied as incorrect and those of paragraph 13 of the writ-petition are reiterated as correct.

15. That paragraph 15 of the counter-affidavit needs no comments.

16. That the contents of paragraph 16 of the counter-affidavit are incorrect, hence denied and those

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10-9-86

Renu Nigam

(129)

of paragraph 15 of the writ petition are reiterated as correct.

17- That the deponent has compared Annexure No. 5 with its original and the same is true photocopy of the original.

Lucknow:

Dated, S-ept. 10th, 1986.

Renu Nigam.

DEPONENT

VERIFICATION

I, the deponent above named do hereby verify that the contents of paragraphs 1 to 16 of this affidavit are true to my own knowledge, those of paragraphs X are believed to be true on records and those of paragraphs X are believed to be true on the basis of legal advice. No part of it is false and nothing material has been concealed. So help me God. Verified on this
th day of September, 1986, at the High Court of Judicature, Lucknow Bench, Lucknow.

Lucknow:

Dated, September 10th, 1986.

Renu Nigam.

DEPONENT

I identify and personally know the deponent who has signed before me.

Ashok Nigam

(Ashok Nigam)

Advocate

High Court, Lucknow
Bench, Lucknow.

Solemnly affirmed before me on 10th Septr., 1986, at 9.06 AM, Smt. Renu Nigam, the deponent who is identified by Shri Ashok Nigam, Advocate, High Court, Lucknow Bench, Lucknow. I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read out explained by me to him.

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10-9-86

R.
10-9-86

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

(M)

Write Petition No 121/85

Smt Renu Nigam - - - - - Petitioner

vs

The Union of India and others - Opposite

For appearance

for

Renu Nigam

R
10-1-88