

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE *TA 1756/87*
col. no 2476/85 OF

NAME OF THE PARTIES *Mohd Rafi* Applicant

Versus

D. A. I. Govt Respondent

Part A.

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18		

CERTIFICATE

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

Remark as Dated *28-9-11*.....

Counter Signed.....

Rajan
30/05/11
Section Officer/In charge

CM
Signature of the
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

FORM OF INDEX

Q.A./T.A./R.A./C.C.P./ No. ~~14574~~ 1984

Mend. S. J.

PART - I

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21/10/84
DY. Registrar

K.P.
Supervising Officer
(K. K. B. S.)

5/10
Dealing Clerk
(A. K. B. S.)

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

5/10
Dealing Clerk
(A. K. B. S.)

9
AIN

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE TA 1754 of 1987 (T)

Name of the parties _____

Mohd. Shafi

Applicant.

- Versus -

Union of India

Respondents.

Part A.B.C.

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Bench copy
C file

R/C

B1 - B65
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CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW.

Application No. _____ of 19

Transfer Application No _____ of 19

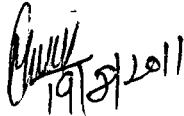
Old Writ Petition No. _____ of 19

C E R T I F I C A T E

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

Date :

Countersigned


Signature of the
Dealing Assistant.

Section Officer/ Court Officer.

.....

CIVIL
CRIMINAL

SIDE

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

A13

1/3

Nature and number of case... W.P. 2476-55

Name of parties... Mohd. Sabirif vs. Union of India

Date of institution... 30.5.85

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-	w.p. with affidavits and Annexures	20		102-00			
	2-	Power	2-		10-00			
	3-	Comd-6708(w) 85 for 84-	2-		5-00			
	4-	arch. Stamps	1-		-			
	5-	Best Copy.	1-		-			

I have this day of 198 , examined

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

Date.....

Munsarim
Clerk

(45)
(9) 1/6

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

2476
Writ Petition No. of 1985

Mohd. Shafi, son of Late Mohd. Yaqub,
aged about 40 years working as Fitter
Railway Manning Shed, Northern Railway,
Lucknow.

.. Petitioner

Versus

1. Union of India through General Manager,
Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern
Railway, Hazratganj, Lucknow.
3. Senior Divisional Mechanical Engineer,
Northern Railway, Hazratganj, Lucknow.

.. Opposite parties.

Writ Petition under Article 226
of the Constitution of India.

To

The Hon'ble Chief Justice and
his Hon'ble Justices of High
Court of Judicature at Allahabad
sitting at Lucknow.

The petitioner, above named, most respectfully submits as under:-

AKC
C
↓

1. That the petitioner was appointed in Indian Ordnance & Clothing Factories Govt. Amnass and Saddalary Factory Rampur in the year 1951 at the age of 14 years in a Scheme circulated by the Government to the effect that the young boys should be trained in a particular trade as such while the petitioner was working there he was given the training of fitter on the Factory itself.

encouraged to

2. That it may also be clarified here that while the petitioner was working in Indian Ordnance and Clothing Factories Government Amnass and Saddalary Factory Rampur as a Machine Boy he was also given the training of Fitter.

3. That in the year 1956 certain labourers and staff of the Factory became surplus and as such the petitioner too became surplus hence his name was sent for appointment in the Indian Railways on the basis of his experience as Machine Boy and training of Fitter where he was appointed in the year 1956 after giving him preference of his past services rendered in the above Government Factory and was appointed as Khalasi and was posted at Lucknow Division, Lucknow.

Declaration of age was not taken from the petitioner by the then Railway authorities.

4. That it may also be pointed out here that the petitioner is an illiterate person and cannot even read and understand any language except writing his name in Urdu which too he has learnt during his tenure as Fitter in the Railways.

71
(2)

That applicants younger brother Abdul Rah. Mannan
 who is younger to the applicant is also in service
 in Northern Railway. He has testified on oath
 by a sworn affidavit about his being younger
 brother of the applicant and has also testified
 about the applicants date of birth being 4.1.37.
 Abdul Rah. Mannan younger brother has also testified
 about the details of date of birth, retirement etc.
 He has also stated and in fact when the applicants were
 born self there were two sisters. The applicants
 mother now - Ghansha has also filed an affidavit about
 the date of birth of the applicant - being 4.1.37 vide Annex A1
 and A2.

(U)

Hari SPT.

Adm. Appearance
 on behalf of the opposite
 parties has been put
 in by Sri Siddharth
 Vasna, who prays for
 and is allowed for
 weeks' time to file
 counter-affidavit. If
 counter-affidavit is
 filed the learned
 counsel for the
 petitioner shall have
 a week's time
 thereafter to file
 rejoinder - affidavit.
 The petition shall be
 listed for final
 hearing in the week
 commencing on 15th
 July 1985.

(Signature)
 6-6-85
 2

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W. P. No. 2476 of 198

vs.

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
31.5.85	<p align="center">Hon. S S A S</p> <p>Put up tomorrow learned Counsel for the petition, undertake to serve opposite parties 2 and 3 out side Court. The office shall issue writs which of shall be mentioned in the petition shall be taken up for orders tomorrow.</p> <p align="right">Sd/- SSA 30.5.85</p>	
31.5.85	<p align="center">Hon. B. Kumar S</p> <p>Put up on 3.6.85</p> <p align="right">Hon. B. Kumar S</p>	
3.6.85	<p align="center">Hon. B. Kumar S</p> <p>Put up on 6.6.85</p> <p align="right">Hon. B. Kumar S</p>	
6.6.85	<p align="center">Hon. S S A S</p> <p>Admit absence of both sides of the opposite parties - - - The petition</p>	

Order Sheet

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 ADDITIONAL BENCH ALLAHABAD

No. 1754 of 1987 (T)

VS.

(A)
 (A)
 10
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Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	Office report 2	3
<p>(1)</p> <p>(2)</p> <p>19.07.88</p> <p>Inform the Council ✓</p>	<p>An application has been filed in this Tribunal for transferring the case No. 1754 of 87 to the Circuit Bench, Lucknow. If approved, 23rd May, 1988 may kindly be fixed for hearing at Circuit Bench Lucknow. In this regard the notices may be sent to the parties concerned.</p> <p><u>DRSN</u> List this case before D.R.S. on 23rd May 1988 at Circuit Bench Lko.</p> <p><u>DR J:</u> on the request of a counsel for Applicant list this case on 19-7-88.</p> <p><u>Registrar</u> Inform Counsel for the applicant fixing 24/8/88 for further directions.</p> <p><u>DR J:</u></p> <p><u>Registrar</u></p>	

OR

It appears from the record that counter affidavit has not been filed by the opposite parties. However rejoinder had been filed along with an application No. 66/09 (C) for repudying supplementary statement of claim.

The case is submitted before D.R (5) for further order on 10.4.09.

Jish
7/4/09

(1)

Applicant Sri C. A. Bashir is present. It appears from the records that No. C.A. has been filed. Sri Bashir is directed to file two copies of C.A. and complete the file. List thereafter before court on 29.5.89 for orders.

10/4/89
+ Registrar

No sitting. Adjourned
to 7/7/89 for orders

B.O.C.

OR
No counter reply filed by the learned counsel for the opposite as directed by the order of S.O. No. 10.4.09. The learned counsel for the applicant has filed C.M. No. 66/09 (C) submitted for orders.

OR
No. C.A. has been filed so far as directed by 10.4.89 by Registrar. Submitted for orders.

(9) 29/5

Hon. Mr. Justice K. Nath, V.C.
Hon. Mr. K. J. Roman, J.M.

(10) (11)

(10) 7/7/89

Shri Sidhant Varma, learned counsel for the opposite parties files counter affidavit on behalf of Op Ps Nos. 1, 2-3, which he says ~~that~~ ^{or} was to be submitted in High Court. Copy has been delivered to learned counsel for the applicant. Rejoinder has already been filed.

Learned counsel for the applicant has also filed a supplementary affidavit of claims. It appears that since filing of the case, the applicant has retired, therefore, the supplementary statement concerns the consequences of the retirement. The applicant will apply for amendment of the application suitably within two weeks. List this case for orders on amendment application, if made,

on 16-^{Aug.}8-89.

[Signature]
A.M.

[Signature]
V.C.

(SHS)

C.M. An. No. 197/89
filed by LCA learned
for amendment.

OR
The learned counsel for the applicant has filed an amendment application & condonation of delay submitted for order

(16)

C.M.App.No.197/89

In

T.A. No. 1754 of 87(T)

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

16/8/89 Shri C.A. Bashir Learned counsel for the applicant and Shri S. Varma L/C for respondents are present and heard.
Amendment application No. 197 of 89 is allowed. Let the amendment be incorporated today itself. Let the counter affidavit, if any, be filed within four weeks to which the applicant may file rejoinder, if any, within two weeks thereafter. List this case on 22-11-89 for hearing.

J.M.
J.M.

Amendment made today 26/9

(sns)

22-11-07

No Sctny. Adj. to 25-1-90. Applicant is present.

L
23/11

22/11 was holiday for election.

26/1/89

No Sctny Adj to 20/2/90.

L
S. P. Heddy
19/12

20/2

Hon. K Obayya AM
Hon Mr S P Sharma JM

Put up names

J.M.
J.M.

21.2.90

Hon Mr. K. Obayya AM
Hon Mr. J. P. Sharma J.M.

On the request of both parties OK is adjourn to 23-2-90
J.M.

4-3-71

319

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

C.M. Application No.

of 1985

6708(u) A

Mohd. Shafi

Applicant

In re:

Writ Petition No.

of 1985

2476

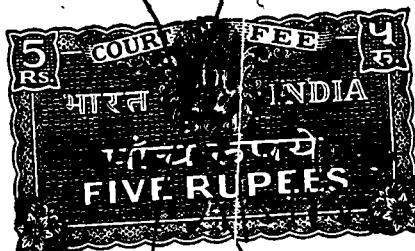
Mohd. Shafi

Petitioner

Versus

Union of India & others ..

Opp. parties.



Stay Application

W.A.
30/5/85

The applicant, above named, most respectfully
submits as under:-

That for the facts and reasons disclosed
in the accompanying affidavit and writ petition
it is most respectfully prayed that this Hon'ble
Court may graciously be pleased to stay the imple-
mentation of the order contained in Annexure-3
to this petition and not to treat the petitioner
retired after 31.5.1985 till the pendency of this
writ petition.

(12)

Hon. B. Kumar, J.

Put up on 6.6.1985

BS
27/6/85

Bhau
3.6.1985

Hon. S.S. Ahmad, J.

Put up along
with the writ
petition.

BS

Sethi
30-5-85

Hon. S.S.

Put up along
with the writ petition

Bhau
6.6.85

Hon. Brijesh Kumar, J.

Put up along with the
writ petition on 3.6.1985

BS
31.5.85

Bhau
31.5.1985

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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH LUCKNOW.

Registration T.A. No.1754 of 1987 (I)

(W.P. No.2476 of 1983)

Mohd. Shafi Applicant

Versus

Union of India & Others Respondents.

Hon.Mr. J.P.Sharma, J.M.

This Writ Petition has been transferred to this Tribunal under Section 29 of the Administrative Tribunals Act, 1985 for disposal.

2. The applicant, Mohd. Shafi in the Writ Petition claimed the relief of a direction in the form of writ of certiorari quashing the retirement order of the applicant on superannuation on 31.5.85 in the event the order is passed and alternatively a direction in the nature of mandamus commanding the opposite parties not to retire the applicant on 31.5.85. Secondly, a writ or direction in the nature of mandamus commanding the opposite parties to correct the date of birth of the applicant to 4.1.37 which has been wrongly shown as 5.5.27 in the service record.

3. The facts of the case are that the applicant was appointed in the Indian Ordnance and Clothing Factory/ Govt. Harness and Saddlery Factory, Kanpur in the year 1951 at the age of 14 years in a Scheme circulated by the Govt. to the effect that the young boys should be encouraged to work for a certain time and thereafter, they were trained in a particular trade. The applicant was given the training of Fitter in the Factory itself.

4. That in the year 1956, the applicant was declared surplus and he was sent to Indian Railways for absorption and as such he was appointed there in 1956 as Khalasi and posted at Lucknow Division, Northern Railway. The applicant is illiterate and cannot understand or write any language except writing his name in Urdu. The entries in the service 'A' Card were made by the Railway Authorities on their own accord. The applicant was subsequently posted as a Fitter and continued in that appointment till the time of his retirement.

5. The applicant to his utter surprise, learnt in 1984, when he stood surety to one of his co-employees for taking loan from Railway Cooperative Society and the applicant was not allowed, as he was to retire in 1985; and at that time, the applicant learnt that his date of birth has been wrongly shown while he was born on 4.1.37 while in the record it is only mentioned as 5.5.27. The applicant made a representation to General Manager, Northern Railway for correction of his date of birth and alongwith the representation attached a photo stat copy of Cantt. Board indicating the date of birth as 4.1.37. The same was rejected by the Railways. Earlier to it, the applicant was never intimated about his date of birth or date of retirement by the opposite parties as per extant rules nor he has filled in pension papers and other formalities as required under the Rules.

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6. Being unsuccessful in the Department, he filed Writ Petition and in support of his contention filed the certificate of birth entered in the Cantt. Record Kanpur (Annexure-II); Affidavit of his late mother Noorjahan testifying the date of birth of the applicant (Annexure-A); Affidavit of his younger brother Abdul Rahman (Annexure-A1); there was two sisters born between the period of his birth and that of his younger brother (Annexures-A3 and A4).

7. The respondents contested the application and took the plea that at the time of date of appointment in the Ordnance Factory Kanpur in 1951 his date of birth was 5.5.27. It was also contended that the applicant was not illiterate. It was also contended that the entry of birth of a son to Mohd. Yaqub, his father, does not co-relate that the applicant, was the same son, was born to Mohd. Yaqub and that has not been established by any other evidence oral or documentary. It was further contended that the date of birth of the applicant was entered on the basis of the record forwarded by Ordnance Factory Kanpur. The respondents in support of their contention alongwith a Counter Affidavit of Shri S.C. Banerjee filed the letter sent by Ordnance Factory, Kanpur showing the date of birth of the applicant as 5.5.27(Annexure-C1) on the service record. From the service record the date of birth, according to the knowledge of the applicant, has been recorded as 5.5.27(Annexure-CII).

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(46) 18 A/B

A seniority list was circulated by the respondents in the year 1983 and in the seniority list at Sl.No.48 the name of the applicant is shown in front of which the date of birth 5.5.27 has also been shown and also the date of appointment and date of promotion as Fitter (Annexure-CIII). That the applicant on 10.4.85 received the forms of pension under his clear acknowledgement vide Annexure-CIV in which the date of retirement is shown as 31.5.85. That the Senior Labour Welfare Inspector Shri V.P.Srivastava contacted the applicant to get the pension papers filled up but he always avoided service and a true copy of the report of the said Inspector is Annexure-CV. It is further contended that the certificate, Annexure-2 filed with the Writ Petition is forged document inasmuch as it does not relate to the applicant.

8. On 24.7.89 the applicant moved an amendment application of the Writ Petition and added para 3A and 7A contending that the age of recruitment in the Govt. Ordnance Factory was between 14 to 17 years and that practice is still prevalent and in para 7A a reference has been made to the affidavit of Abdul Rahman, his younger brother, in support of this contention raised in para 3A and 7A besides the affidavits of Abdul Rahman (Annexure-A1), Noorjahan (Annexure-A2), the applicant has also relied on the memo of recruitment of Trade Apprentices dated 24.9.84 in which the age of entry is between 14 - 15 years (Annexures - A3 and A4).

9. I heard the learned counsel at length. Annexure is the representation made by the applicant for correcti

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the entry of his date of birth in February, 1985. While making representation to General Manager, Northern Railway the applicant filed an entry of a birth of a son to his father, Mohd. Yaqub, on 6.1.37 (Annexure-A2). The Annexure-A2 by itself does not show that it relates to the applicant. The General Manager Northern Railway considered this evidence on 16.2.85 and rejected the same on the ground that his date of birth as recorded in the Ordnance Factory was 5.5.27 and after such a long period there is no justification to correct the date of birth.

10. The grievance of the applicant is that he was illiterate and the declaration taken by him was not read over to him in 1956, when he was appointed as Khalasi in the Railways. The emphasis of the learned counsel for the applicant is that getting the correction of the date of birth is a precious right of the applicant as held in 1971(1) SLR 495 V. Rahmatullah Vs. State of J & K. In this, authority itself the Hon'ble High Court held that there should be authentic proof relating to correct age and the Govt. has to make an enquiry into the correct age. Further reasonable opportunity should be afforded to the person to substantiate his age in order that he may get necessary relief. In this reported case original character roll of the petitioner got burnt in 1957 and the new one had been constructed from the long roll which, too, was not authentic. However the

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fact remains, that the applicant was given an opportunity of making representation and the evidence adduced by him before the General Manager, Northern Railway was taken into account by the rejection order of February, 1985 (Annexure-A3). The learned counsel for the applicant further assailed the order of rejection by the General Manager, Northern Railway relying on the authority of Jagannath Sharma Vs. Union of India, a decision of C.A.T. Chandigarh reported in 1987(1) SLR 410. In this reported case also the facts were totally different. In that particular case, the request was rejected because it was made sufficiently late, and the matter was remanded for taking the evidence in proof of the correct age of the applicant. However in the present case the applicant has filed photo stat copy alongwith representation of a son born to his father in 1937 evidenced by entry of birth in the records of Cantt. Board Kanpur (Annexure-A2). This evidence has been considered. Further even on the face of it, it cannot relate to the present applicant unless the birth of all the sons of Mohd. Yaqub alive or dead would have been filed and each birth entry could have been successfully co-related with each of such sons surviving or dead including the applicant and that had not been done.

11. The learned counsel for the applicant has placed reliance on Manek Chand Vaidya Vs. Himachal Pradesh (DB) reported in 1976(1) SLR 402. The facts

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of this case are totally different. In the reported case the Writ could not be dismissed as infructuous as the applicant had already attained the age of superannuation at the time of hearing of the petition. Further it was also laid down that there is no estoppel in moving for correction of erroneous date of birth. In this reported case the Matriculation certificate of the applicant was corrected by Punjab University and the Department did not correct the date of birth according to the corrected Matriculation certificate. So it was said that the executive order was not correct.

12. The learned counsel further placed reliance on 1985 LIC 1615 D.N. Banjola Vs. State of J & K. Here too the facts are different because if Govt. fixes the date of birth without an enquiry, not accepting the date of birth stated by the employee, then it is arbitrary and hit by Article 14 of the Constitution. In this reported case no enquiry was held but in the present case the applicant was discharged as surplus from the Ordnance Factory Kanpur and brought a certificate for being given an employment in the Railways and in that letter (Annexure-C1) the date of birth is 5.5.27 and when the applicant joined in Railways on 24.9.56 under his own signature his date of birth is written as 5.5.27. Further in the seniority list issued in 1983 the date of birth is 5.5.27 so the entry of date of birth

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therefore cannot be said to be without any subsisting substantive evidence.

13. The learned counsel for the applicant laid more stress that the Railways should have got a medical examination of the applicant ^{to}ascertaining his age. Firstly, the applicant approached only on the verge of retirement in February, 1985 and he himself did not get himself medically examined to substantiate the fact about his correct age. Moreover after the age of 45 years, the medical examination too cannot be so much specific as to pin point the age of a person and everything can be said by guess work and experience of the person performing medical

~~examination~~ examination, which may differ, from physician to physician. The applicant has to prove his own case before the departmental authorities and had he not been given a chance of representation or he would have been deprived of getting further evidence in support of his claim then in that event the executive order could have been said to be discriminatory, but when the applicant was satisfied by furnishing relevant documents and those ~~are~~ were considered, then the applicant cannot have a grouse against the rejection of his representation by the General Manager, Northern Railway (Annexure-A3).

14. The learned counsel for the respondents referred to the various documents filed with the Counter Affidavit (Annexure-C1, to CV). The content has been that there is no convincing, clinching and

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genuine evidence to show that the applicant was born on 4.1.37. Even taking the case of the applicant, he should be of 14 years of age in 1951 while according to the recorded date of birth he would have been 24 years of age. If the case of the applicant is that only teens were allowed to enter as Apprentice Trainees then a person selecting him would have clearly marked the difference of 10 years in age, as even, a layman can decipher a lad of 14 years from a growing robust man of 24 years.

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facts and evidence
15. Thus in view of the above / there is no sufficient material to substantiate the claim of the applicant to show that his correct date of birth is 4.1.37 and not what has been recorded in service records i.e. 5.5.27.

16. The application/Writ Petition is devoid of merits and the applicant is not entitled to any relief asked for. The application/Writ Petition is dismissed with costs on parties.

J. P. Sharma
(J.P.Sharma) 5/3/90
Member (Judicial)

Dated the 5th March, 1990.

RKM

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

2476
Writ Petition No. of 1985

Mohd. Shafi Petitioner

Versus

Union of India & others.. .. . Opp. parties.

I N D E X

7363

Sl. No.	Particulars	Pages
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7.	Stay application (Separately)	

Amate

(Abdul Azeem),
Advocate,
Counsel for the petitioner.

Lucknow:

Dated: May 29, 1985

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In the Honble High Court of Judicature at Allahabad.
Lucknow Bench Lucknow.

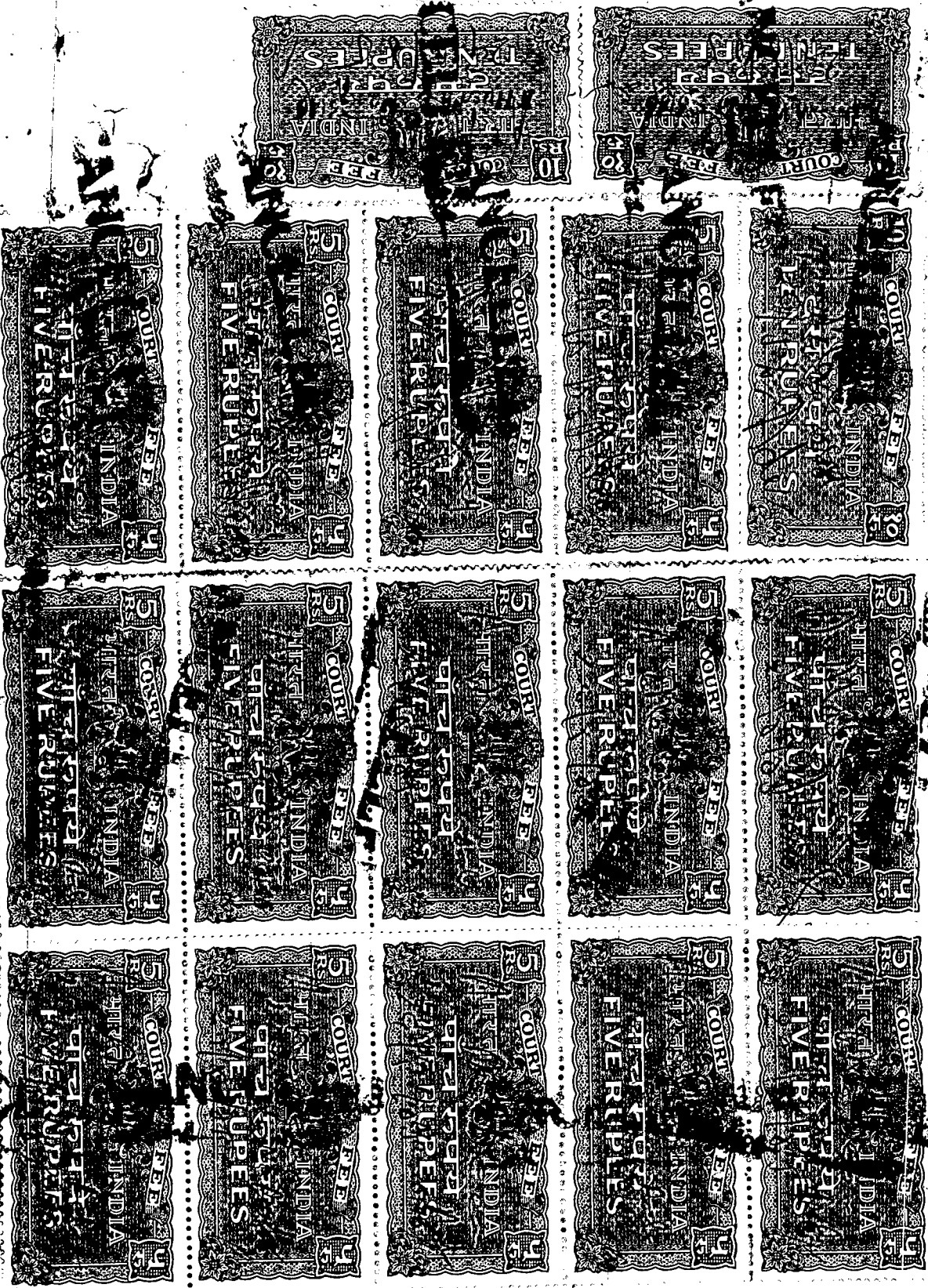
ALV
25

Mohd Shafi

Petitioner

Union of India others

opp parties



AWC
22/5/62

AA 26

5. That seeing the experience of the petitioner on the post of Fitter i.e. the past services rendered by the petitioner in the Factory as Machine-man the opposite parties promoted the petitioner on the post of Fitter and since then the petitioner is continuing on the post of Fitter.

6. That in the year 1984 the petitioner ^{✓ had ✓} given the surety to one of his co-employee for taking loan from Railway Cooperative Society and that very application was refused by the society on the ground that since the petitioner is going to retire in the year 1985 hence his surety has got no nuxus and value.

7. That the petitioner was quite surprised to know that how he is going to retire in the year 1985 while the petitioner's date of birth as told by his father and mother and as well as according to the records of Municipality and even Kanpur Contonement Board where the date of birth of a newly born child was then recorded is recorded as 4.1.1937.



XX 7 A

8. That the petitioner as soon as he came to know that he will be retired in the month of May, 1985 immediately made an appeal to the General Manager, Northern Railway, Baroda House, New Delhi through proper channel, a photostat copy of which is being filed herewith as Annexure-1 to this writ petition.

Annexure-1

9. That the petitioner also annexed with his

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appeal the photostat copy of the counter foil report book(of births), Kanpur Contonment Board which was issued by the Cantt Executive Officer showing that the date of birth of the petitioner is 4.1.1937, a true copy of the birth report of the petitioner issued by the Cantt Executive Officer, Kanpur is being filed herewith as Annexure-2 to this petition.

Annexure-2

10. That the appeal of the petitioner for correction of date of birth contained in Annexure-1 to this petition was rejected by the opposite party No.1 on 16.2.1985 but as it has come to the knowledge of the petitioner only when he went to Max Baroda House, New Delhi to enquire about the result of his appeal on which he was informed there that his appeal has been rejected and the copy of the rejection order of the appeal will be sent to the petitioner by post.

11. That on 25.5.1985 the petitioner received the rejection order of the appeal, a photostat copy of which is being filed herewith as Annexure-3 to this petition.

Annexure-3

12. That after great efforts the petitioner was made to know the result of his appeal.

13. That it may also be pointed out here that upto date the petitioner was never informed of his date of birth recorded in his service book neither he was shown his service book nor even quite surprisingly upto date the petitioner has been asked to fill in his pension paper or either to complete

29/5/85

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- 5 -

other formalities which before retirement an employee has to complete as such the petitioner has been kept in total darkness that he will be retiring on 31.5.85.

14. That as it will be clearly revealed from Annexure-2 to this petition that the date of birth of the petitioner as recorded in Kanpur Contonement Board, which is recorded at the time of birth of a child, clearly goes to show that the date of birth of the petitioner is 4.1.1985 and according to which the petitioner cannot be retired before 31.1.1995.

15. That it will also be clear from Annexure-2 to this petition itself that the date of birth of the petitioner recorded at Sl.No.2234 which was given by the father of the petitioner Late Sri Mohd.Yaqub on 6.1.1937 is certified by the Contonement Executive Officer, Kanpur as such the petitioner has got every right to hold the post of Fitter upto 31.1.1995.

16. That the opposite party No.1 without giving weightage to the birth certificate issued by the Competent Authority relied upon the date of birth wrongly given as 5.5.1927 as such it is malafide, against the provisions of law and the records.

17. That the action of opposite party No.1 while rejecting the appeal of the petitioner will effect the financial interest of the petitioner and is likely to cause serious financial set back to the petitioner and his dependants.

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18. That having no other efficacious and alternative remedy the petitioner begs to file this writ petition on the following amongst other grounds:-

G_R_O_U_N_D_S

- a) Because the petitioner has not attained the age of superannuation (53 years) on the basis of his date of birth recorded in the Contonement Board, Kanpur records as it will be revealed from Annexure-2 to this petition cannot be retired from service on the ground that he has attained the age of superannuation.
- b) Because the opposite parties appear to have committed an apparent mathematical error in calculating the age of the petitioner which is unconstitutional, against the provisions of law and natural justice.
- c) Because the petitioner's age after being verified by the competent authority i.e. Cantt Executive Officer, Kanpur who is competent and has authority to issue the certificate regarding date of birth according to the records of the Board, the opposite parties have committed a grave error of law by taking the action of retiring the petitioner before attaining the age of superannuation i.e. 58 years is unconstitutional, against the provisions of law and natural justice.

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- d) Because the opposite party No.1 after going through the report and the certificate issued by the Executive Officer, Contonement Board, Kanpur atleast should have given the opportunity to the petitioner by verifying his age through Chief Medical Officer and not doing so is unconstitutional, against the provisions of law and natural justice.
- e) Because without affording any opportunity to the petitioner before retiring the petitioner atleast 10 years prior to the date of superannuation is unconstitutional, against the provisions of law and natural justice ^{and} *that too without any declaration what so ever given by the petitioner regarding his age.*
- f) Because the opposite parties cannot ignore the certificate issued by the competent authority contained in Annexure-2 to this petition and in any case they cannot retire the petitioner before 31.1.1995 ¹⁹⁹⁵ ~~1995~~ and retiring the petitioner before this date without affording any opportunity is unconstitutional, against the provisions of law and natural justice *and when no declaration regarding petitioner's age was ever taken by railway authorities at any stage even up till date.*

Amata

P_H_A_Y_E_R

Wherefore, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to issue:-

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- i) a writ, order or direction in the nature of certiorari quashing the retirement order of the petitioner if any issued by the opposite parties retiring the petitioner before the date of superannuation i.e. on 31.5.1985 after summoning the original from the records of the opposite parties;
- ii) a writ, order or direction in the nature of mandamus commanding the opposite parties not to retire the petitioner on 31.5.1985;
- iii) a writ, order or direction in the nature of mandamus commanding the opposite parties to correct the date of birth of the petitioner according to the certificate issued by the Executive Officer, Kanpur Contonement Board contained in Annexure-2 to this petition;
- iv) a writ, order or direction in the nature of mandamus commanding the opposite parties to atleast verify the age of the petitioner by Medical Examination through Chief Medical Officer or any other authority appropriate for verifying the correct age of the petitioner.
- v) any other writ, order or direction which this Hon'ble Court deems just and proper in the circumstances of the case be passed

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in favour of the petitioner and against the opposite parties;

vi) to allow the cost of the petition throughout.

(Abdul Mateen),
Advocate,
Counsel for the petitioner.

Lucknow:

Dated: May 29, 1985

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

Affidavit

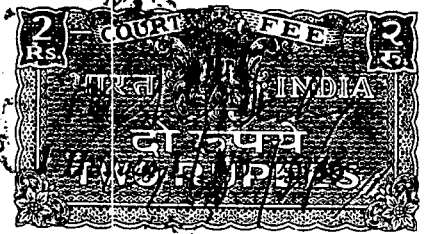
In

Writ Petition No. of 1985

Mohd. Shafi .. Petitioner

Versus

Union of India & others .. Opp. parties.



A F F I D A V I T

I, Mohd. Shafi, son of Late Sri Mohd. Yaqub, aged about 48 years working as Fitter in Railway Running Shed, Northern Railway, Lucknow do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the petitioner himself in the above noted writ petition as such he is fully conversant with the facts of the case deposed to hereinbelow:

2. That the contents of paras 1 to 18 of the accompanying writ petition are true to my personal knowledge except the legal averments which are based

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29/5/85

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on legal advice.

3. Annexures No.1 to 3 have been compared and are the true copies of the originals.



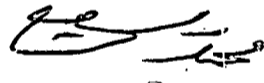
Lucknow:

Deponent

Dated: May 29, 1985

Verification

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

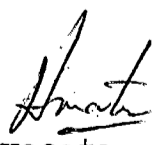


Lucknow:

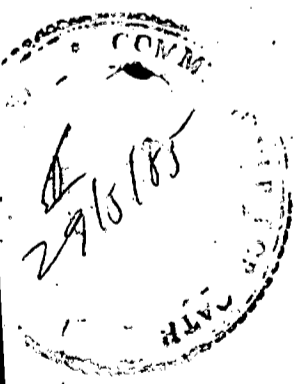
Deponent

Dated: May 29, 1985

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



Advocate.



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Solemnly affirmed before me on 29/5/85
at 9 a.m./p.m. by the deponent
who is identified by Sri Abdul Mateen,
Advocate, High Court, Lucknow Bench,
Lucknow.

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

29/5/85

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Received
DATH MO...
High Court, Lucknow,
(Lucknow Bench)
No. 35/181
Date 29/5/85

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

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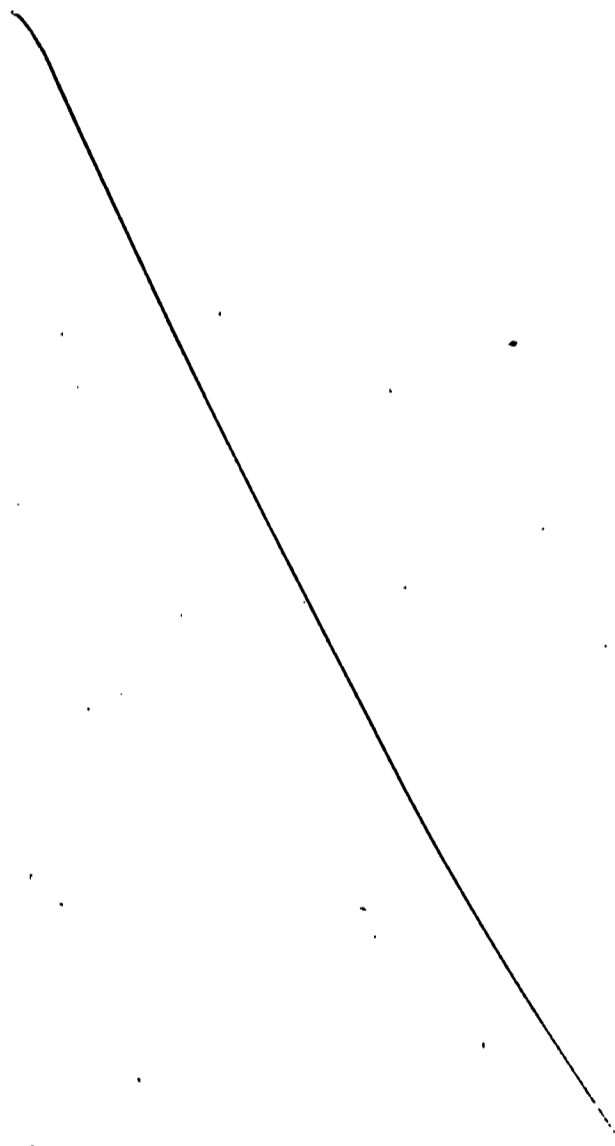
Writ Petition No. of 1985

Mohd. Shafi .. Petitioner

Versus

Union of India & others .. Opp. parties.

Annexure No.1



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29/5/85

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TO,

The General Manager,
Northern Railway,
Baroda House,
New Delhi.

Through :- Proper Channel.

Sir,

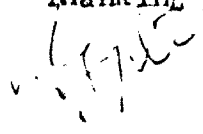
Re :- CORRECTION OF DATE OF BIRTH.

With due respects and humble submissions I beg to state the following few lines for your kind consideration and favourable orders please:-

1. That the date of birth has been wrongly entered in my Service Documents as ~~04/05/27~~.
2. That my correct date of birth as per the Certificate is 04/01/1937. The Birth Certificate has been issued by the Cantt. Board, Kanpur. A Photostat copy of the said Certificate is attached herewith for ready reference.
3. That I am illiterate staff.

Therefore, it is requested that my date of birth may kindly be corrected as per the railway Board's Letter NO: ERB NO. E(M.G) 11/78/Br/12 or 25/10/78, M.pty.SG NO: 7236.

Thanking you.



Yours faithfully,

(Signature)
Name
Designation

Dated :- 13/11/78

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

Writ Petition No. of 1985

Mohd. Shafi .. Petitioner

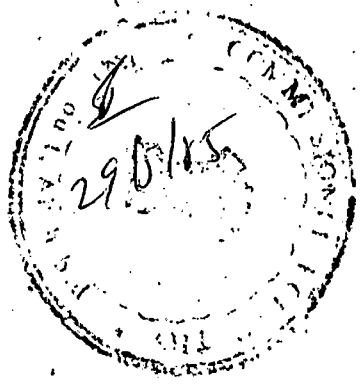
Versus

Union of India & others.. Opp. parties.

Annexure No.2

[A long diagonal line is drawn across the page, likely indicating a redaction or a placeholder for content.]

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

Writ Petition No. of 1985

19

Mohd. Shafi ..

Petitioner

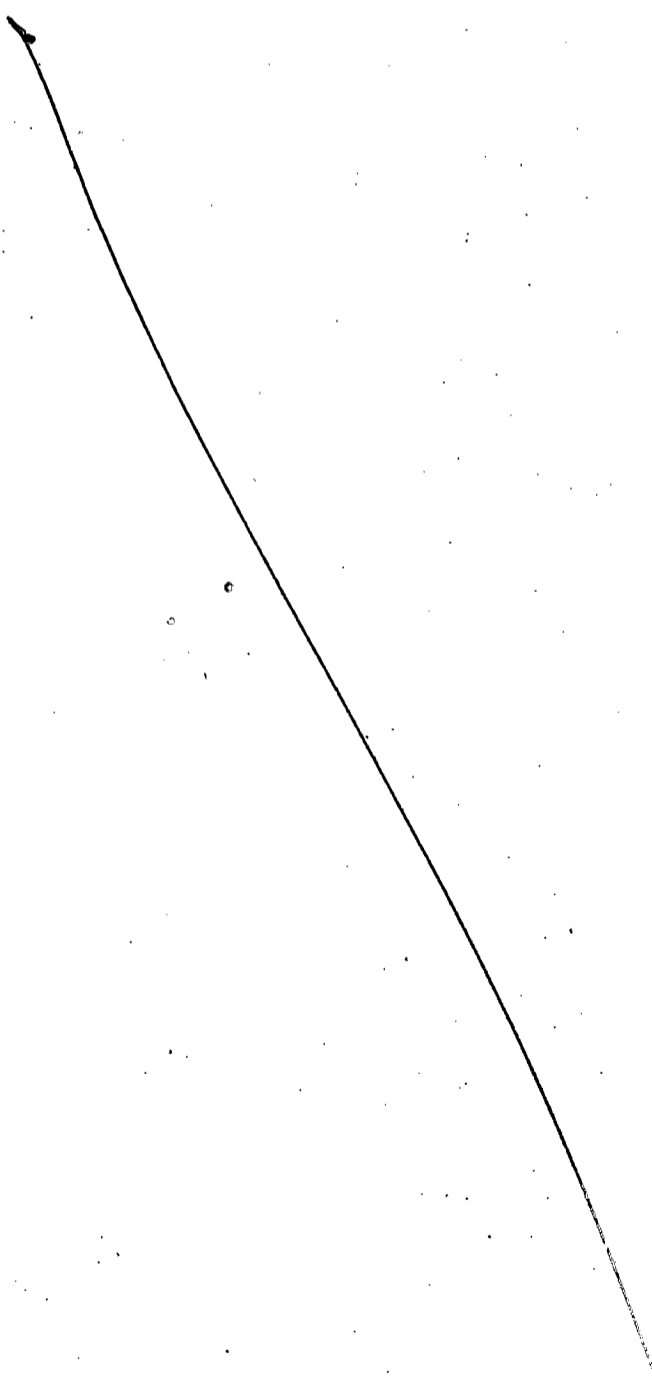
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Versus

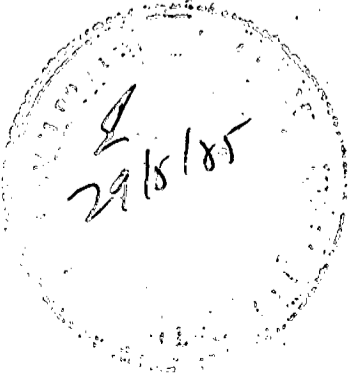
Union of India & others ..

Opp. parties.

Annexure No. 3



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NORTHERN RAILWAY

HEADQUARTERS OFFICE
BARODA HOUSE
NEW DELHI.

No. 93E/1045/(Rlc)

Dated; -16.8.1985

The Secretary, Establishment,
Railway Board.
New Delhi.

Subj; - Change in date of Birth. Rep of Shri Mohd. Shafi,
fitter, Railway Running Shed Lucknow.

Ref; - Railway Board's letter No. E(Rsp)III/84/EP/16-13
dated 13.9.84.

.....

The date of birth of Shri Mohd. Shafi s/o Shri Mohd. Yakub was entered as 5.5.1927 at the time of appointment on the basis of discharge certificate produced by him from Indian Ordnance & Clothing Factories Govt. Harness and Saddlery Factory, Kanpur being its ex-employee. After going into the merits of the case change in date of birth at such a distant date has not been accorded to by the chief Personnel Officer.

The representation of Shri Mohd. Shafi received under Board's letter cited above is returned herewith in original along with its enclosures as desired.

Da/As above.

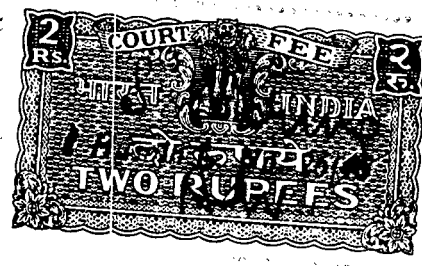
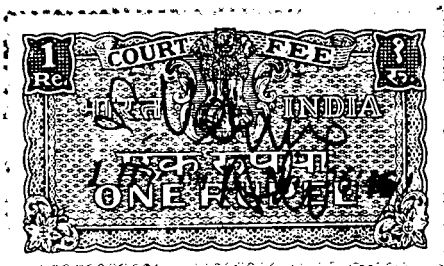
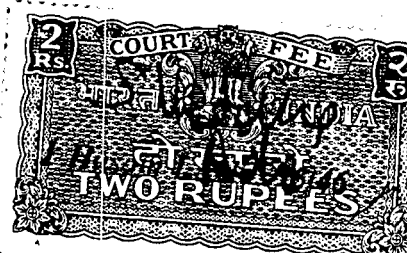
For General Manager.

Copy to:

Shri H. M. Khare, DPO/LKO in reference to his office D.O. letter No. 272/E/1-7/misc/84 dated 8.10.84 for information and necessary action. Please instruct staff of his division to collect Service Record of above named employee on his next visit.

43

Honble High Court of Andhra Pradesh at Allahabad
 अदालत श्रीमती (Cauchoo Bench) Lucknow



Alabd Shafi

वकील/अपीलेंट Petitioner

बगम

Union of India & Ors

प्रतिवादी/रेस्पॉण्डेंट Oppanits

Writ Petition No 2476 of 1985

संख्या मुकदमा W.P. No 2476 of 1985

पेशी की त्तो

उपर मुकदमा में अपना और से श्री Sidharth Verma, Advocate

बगम

एडवोकेट/वकील महोदय को अपना वकील नियुक्त करके इफ्तार करता हूँ और लिखे देता हूँ कि मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब व प्ररनोत्तर करें या कोई कागज दाखिल करें या लौटावा या हमारी ओर से डिगरी जारी करावे और स्वयं वसूल करें या चुकनामा या इक्वान दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करे या मुकदमा उठावे या कोई स्वयं जमा करें या हमारी विपक्षी परीक्षाणी का दाखिल किया हुआ स्वयं या हमारे हस्ताक्षर मुफ्त इस्तखती रसीद से लेने का पंय नियुक्त करें वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिये यह वकालत

Sidharth

हस्ताक्षर/Br. Divisional Mechanical Engg. N.R., Lucknow O.P. No-3

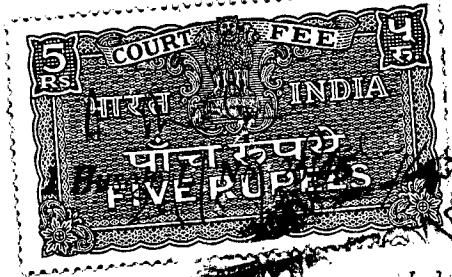
साक्षी/गवाह साक्षी/गवाह

दिनांक महीना

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Accepted
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 (Sidharth Verma) 31/5/85
 Advocate

वादी
प्रतिवादी



W.P.No.

of 85

Mohd. Shafi

Petitioner

बनाम

Union of India & others

Opp. parties.

ऊपर लिखे मुकदमा में अपनी ओर से श्री **ABDUL MATEEN, Advocate**
152, Ghasyari Mandi, LUCKNOW-226001.

RAVI SHIVASTAVA, ADVOCATE.

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 जवाब देही व प्रश्नोत्तर करें या कोई कागज दखिल करें या लौटावें या
हमारी ओर डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या
इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने
हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकदमा उठावें या कोई रुपया
जमा करें या हमारी या विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया
अपने या अपने हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें
वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है
और होगी इसलिये यह वकालत नामा लिख दिया कि प्रमाण रहे और
समय पर काम आवे ।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

१६

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Accepted

Counsel For.....

Amateen
Petitioner

Accepted
Ravi Shivastava
Adv

नाम अदालत
नं० मुकदमा
नाम फरीकन

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TO,
The General Manager,
Northern Railway,
Baroda House,
New Delhi.

Through :- Proper Channel.

Sir,

Re :- CONNECTION OF DATE OF BIRTH.

With due respects and humble submissions I beg to state the following few lines for your kind consideration and favourable orders please:-

1. That the date of birth has been wrongly entered in my Service Documents as ~~06/03/27~~.
2. That my correct date of birth as per the Certificate is 06/01/1937. The Birth Certificate has been issued by the Cantt. Board, Kanpur. A Photostat copy of the said Certificate is attached herewith for your reference.
3. In my illiterate staff.

Therefore, it is requested that my date of birth may kindly be corrected as per the Railway Board's Letter NO: RMB NO. B(M.G) 11/78/BR/12 or 25/10/78, D. No. 26 NO: 7235.

Thanking you,

[Handwritten Signature]

Yours Faithfully,

(Name) *[Signature]*
PASSER: P.NO: 200.
Loc. Workshop, N.Rly.
LUCKNOW:

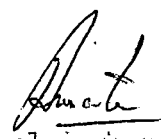
Dated 30 Feb, 1983.

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Any other order or orders which this Hon'ble Court deems just and proper in the circumstances of the case may kindly be passed in favour of the petitioner and against the opposite parties.



(Abdul Latif),
Advocate.

Counsel for the applicant.

Lucknow:

Dated: May 29, 1905

(49)

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

Writ Pet.No. 2476 of 1985.



Sri Mohammad Shafi.

-----Petitioner

Versus

Union of India & others.

-----Opp-parties

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

I, ^h S. C. Banerjee, aged about 40 years, son of Sri ^h T. C. Banerjee, presently working as Assistant Personnel Officer (A) in the Office of the Divisional Railway Manager, Northern Railway, Lucknow, do hereby affirm and state on oath as under :-

1. That the deponent is presently working as Assistant Personnel Officer (A) in the Office of the Divisional Railway Manager, Northern Railway, Lucknow, and has been authorised by the opposite parties No.1 to 3 to file this writ petition. The deponent had read and understood the present writ petition and is well conversant with the facts deposed hereunder.

2. That the contents of paragraph 1 of the writ petition are denied except the fact that as per

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certificate issued by the Indian Ordinance Clothing Factories Government Harness and Saddlery Factory, Kanpur, the petition^{er}/was employed in the said factory with effect from 16.11.1951 and his date of birth was shown as 5.5.1927. A true copy of the certificate is being annexed herewith as Annexure No.C-1 to this counter affidavit. X
UM

3. That the contents of paragraph 2 of the writ petition are denied in view of the fact that there is nothing on record to prove the averments made in this paragraph. Thus the averments contained in this paragraph are unsubstantiated.

4. That the contents of paragraph 3 of the writ petition are admitted only to the extent that the petitioner was declared surplus in the Ordinance Factory and he was absorbed as Khallasi in the Railways on the basis of the certificate issued by the Indian Ordinance Factory, Kanpur, which is reproduced as Annexure No,C-I to this counter affidavit. It would be clear from this certificate that the petitioner was previously employed as Labourer B, his date of birth as 5.5.1927, date of appointment was 16.11.1951, rate of pay was Rs.32/- per month, the scale of pay was Rs.30-1/2-35, date of release was 5.9.56 and other particulars regarding the petitioner were mentioned.

5. That the contents of paragraph 4 of the writ petition are denied. It is denied that the petitioner is illeterate. It would be evident from

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the particulars of service of the petitioner, a photostat copy of which is being annexed herewith as Annexure No.C-II, that the petitioner, as a token of correctness of the entries made in the said proforma has signed his name in Urdu language which has been witnessed by another employee of the Railway.

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WS

6. That the contents of paragraph 5 of the writ petition are denied. The petitioner was promoted as Fitter only when his promotion became due to him on the basis of seniority etc.

7. That the contents of paragraph 6 of the writ petition are denied. It is most respectfully submitted that since the petitioner has not mentioned the exact date of loan for which the petitioner has alleged to have stood surety for his co-employee (incidentally, the name of the employee for whom he stood surety has also not been mentioned), the averment to the effect that he came to know only in the year 1984, that he was going to retire on 31.5.1985, appears to be concocted and fabricated one and is based on afterthought only to cover up the delay in moving application for correction of his date of birth. It is most respectfully submitted that the petitioner knew about his date of birth as entered in his service record since the very beginning. It is pertinent to note that on 22.11.83, a seniority list of Loco-Fitters Grade Rs.260-400 (Revised Scale) was circulated in which the name of the petitioner was shown at serial no.48. The said seniority list showed his date of birth 5.5.27. By the said list,

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[Signature]

(52)
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the objections were invited from the employees concerned in respect of their seniority and the particulars contained therein. It is interesting to note that even at this stage, the petitioner did not object so far his date of birth was concerned. The relevant portion of the said seniority list is being annexed herewith as Annexure No.C-III to this counter affidavit.

From the above submissions, it is abundantly clear that the petitioner has not approached this Hon'ble Court with clean hands.

8. That the contents of paragraph 7 of the writ petition are denied. It is most respectfully submitted that the so called birth certificate of the petitioner issued by the Cantonment Authority, reproduced in Annexure No.2 of the writ petition, does not at all indicate that it relates only to the ~~xxx~~ petitioner and not to some other son of Mohammad Yaqub. Moreover, the ~~xxxx~~ petitioner had given his residential address to the Railway Authorities at the time of initial appointment as Village Bharansa, P.O. Kamalganj, Distt.Farukhabad. It is also very important to mention here that the petitioner at the time of his initial appointment had given his place of birth as Bharansa in District Farukhabad and not at Kanpur. Thus, the contention of the petitioner that he was born at Kanpur is belied by his own statement given at the time of his initial appointment, and therefore, is not worthy of credence. Under these circumstances, these called birth certificate of the petitioner reproduced as Annexure No.2 of the writ petition appears to

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be a forged document in as much as it does not relate to the petitioner.

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9. That the contents of the paragraph 8 of the writ petition are admitted only to the extent that the petitioner preferred a representation to the General Manager for correction of his date of birth. This representation was considered by the Competent Authority, and the same was rejected.

10. That the contents of paragraph 9 of the writ petition are strongly denied.

11. That the contents of paragraph 10 of the writ petition are admitted only to the extent that the representation of the petitioner was rejected by the General Manager on 16.2.1985. A true copy of the order rejecting the representation of the petitioner is annexed as Annexure No.3 to the writ petition.

12. That the contents of paragraphs 11 and 12 of the writ petition, as stated, are denied.

13. That the contents of paragraph 13 of the writ petition are absolutely incorrect, baseless and fabricated one. The fact is that the petitioner was fully aware of his date of birth as entered in his service record. The contention of the petitioner that he was not asked to fill up his pension papers is contrary to the facts available on record. It is most respectfully submitted that on 10.4.1985, the petitioner received all

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forms for his pension under his clear acknowledgement in English at his quarter No.LD/34. A true copy of the acknowledgement of the petitioner having received his pension form is being annexed herewith as ^{A. 1/18} Annexure No.C-IV to this counter affidavit. Further, Sri V.P.Srivastava, Senior Welfare Labour Inspector, Lucknow, was deputed to contact the petitioner and assist him to get the said forms filled up by the petitioner. Sri V.P.Srivastava tried to contact the petitioner in the office of Loco Foreman and also at his residence, but all the time, the petitioner evaded to get his pension forms filled. ⁱⁿ Having been failed in all his attempts to get the petitioner filled in his pension forms, Sri V.P. Srivastava, Senior Welfare Labour Inspector submitted his report on 22.5.1985, a true copy of which is being annexed herewith as Annexure No.C-V.

14. That the contents of paragraph 14 of the writ petition are denied. It is pertinent to note that the petitioner has stated his date of birth as 4.1.1985.

15. That in view of the submissions already made in the foregoing paragraph 8 of this counter-affidavit, the birth certificate reproduced in Annexure No.2 to the present writ petition is not an authentic document and is not the final proof of the date of birth of the petitioner especially when the petitioner has signed his service particulars as a token of correctness of the entries made therein, which is also supported by the certificate issued by his previous employer.

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16. That the contents of paragraph 16 of the writ petition are denied. It is most respectfully submitted that the Competent Authority, after having considered all the facts and circumstances, rightly rejected the representation of the petitioner regarding change of his date of birth in his service record.

17. That the contents of paragraph 17 of the writ petition are vague and hence denied. It is most respectfully submitted that the petitioner has been retired on 31.5.1985 after having attained his age of superannuation. The representation of the petitioner for change of his date of birth has been rightly rejected by the Competent Authority and is in accordance with the rules on the subject.

18. That in view of the submissions already made in the foregoing paragraphs of this counter affidavit, the deponent is advised to state that the petitioner has no case and the grounds enumerated from (a) to (f) in this paragraph are untenable in the eye of law and the petitioner is not entitled for any of the reliefs claimed by him. This writ petition is liable to be dismissed with cost.

Lucknow, dated,
23.7.85

[Signature]
Deponent.

Verification

I, the deponent above named do hereby verify that the contents of paragraph 1 of this affidavit

[Signature]

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are true to my personal knowledge and those of paragraphs 2 to 17 are based on the knowledge derived from the record available to the deponent and the same are believed to be true. The contents of paragraph 18 of this affidavit are based on legal advice and the same is believed to be true. That no part of this affidavit is wrong and nothing material has been concealed. So help me God.

A/S

Lucknow, dated,
23 .7.85

Deponent.

I identify the deponent who has signed before me.

Siddharth Verma
(Siddharth Verma)
Advocate.

Solemnly affirmed before me on 23/7/85
at 9-10 a.m./p.m. by S.C. Banerjee
the deponent who is identified by
~~Shri~~
Clerk to *Shri S. Verma*
Advocate High Court Allahabad.

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

[Signature]
High Court, Allahabad
Lucknow Bench.
29/12/85
23/7/85

(SF) (AM)

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

Writ Pet.No. 2476 of 1985. 8/51

Sri Mohammad Shafi.

-----Petitioner

Versus

Union of India & others.

-----Opp-parties.

Annexure No.C-I

Tele: Grams: Harness.
Phone: 2159.

No. E-93/LB.

Indian Ordinance & Clothing Factories
Govt. Harness & Saddlery Factory
Kanpur. The 18th September, '56.

The A.P.O., Hd. QRS.
Northern Railway,
Camp Kanpur.

Sub: Absorption of surplus staff
of H & S Factory, Kanpur.

Ref: Your letter No. 220E/375/E-11/C
dt. 17.9.56.

The bearer hereof Shri Mohd. Shafi 1 No. 175-WD
s/o Mohd. Yaqoob of this factory has accepted the
appointment of Khalasi in pay scale 30-1/2-35 on the
terms and conditions noted in your above quoted letter.

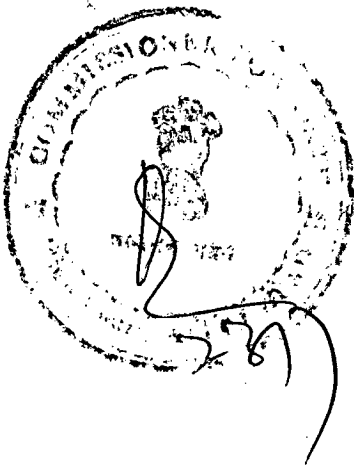
Particulars of his service are as under :-

1. Designation .. Labourer B
2. Date of birth .. 5.5.27
3. Date of apptt. .. 16.11.51
4. Rate of Pay in
H & S. Factory .. Rs. 321/-
5. Scale of Pay .. 630 - 351
6. Date of release .. 15.9.56 (A.N.)
7. Marks of Identifi-
cation .. Mole on the rt. cheek.
8. Whether belonging
to Scheduled Caste .. No.

Sd. Illegible.
(S. Basu)
for Superintendent.

True-copy.


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Bay



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Particulars of Service.

El / A-G/1

Left thumb impression.	Signature	<u>[Signature]</u>
	Date	<u>24-9-56</u>
Witnessed <u>M. Singh</u>	Name (in full)	<u>Mohd Shafi</u>
Designation <u>Clk 'A' Secy</u>	Nationality or Caste	<u>Muslim</u>
Date <u>24-9-56</u>	Father's Name	<u>Mohd. Yaqub</u>
Accepted	Residence (in full)	<u>Village, Bharanua.</u>
Date	P.O.	<u>Kamalgarh Dist. Faizabad.</u>
Health Examinations.	Date of appointment	<u>25-9-1956.</u>
Date	Place "	<u>U.S. Shad.</u>
Initials	Capacity on appointment	<u>Box Porter</u>
<u>19-9-56</u>	Pay	<u>Rs. 206/-</u>
<u>AS</u>	Date of birth	<u>5-5-1927</u>
	Place of birth	<u>Bharanua.</u>
	Height	<u>5 ft. 6 in.</u>
	Date of joining Provident Fund	<u>25-9-57</u>
	Provident Fund Account No.	<u>1510226</u>
	Distinguishing marks	<u>Scar mark</u>
		<u>on right hand.</u>
	Special qualifications	<u>Y</u>
Termination of service.	Health Certificate	<u>AS</u> Class.
Reasons	Verifying Officer	<u>Sharma</u>
	Designation	<u>AS. Personnel Officer</u>
	Date	<u>[Signature]</u>
Initials	Departmental Examinations (show failures in red).	
GRATUITY	Description.	Date ; Initials.
Ordinary/Compassionate passed.		
Date		
Amount		
Abstract No.		
Accounts Officer.		

Commendations

In the Honble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow

W.P.No. 2476 of 1985

Annexure No. C-II

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उत्तर रेतवे

महानगर कार्यलय

तखतक दिनांक 22.1.83

पत्र संख्या 847ई/ई/1-ए/ फिटर ग्रेड रू 260-400 (रू)

सीओ फेरमीस तखतक, फिजाबाद, प्रतापगढ़ तथा वाराणसी रोडमीस हायवरेली

विषय:- फिटर ग्रेड रू 260-400 (रू) की वरीयता सूची (प्रतिजनल)

म.प.प.प.प.

फिटर ग्रेड रू 260-400 (रू 0) की वरीयता सूची संलग्न की जा रही है।

कृपया इसके सम्बन्धित कार्यवाहियों की बात देखें व लोट करा दें। जो नई कर्मचारी

अनुसूचित जाति। अनुसूचित जलवर्गित के हैं इसके बाकी के आगे इसे प्रदर्शित कर दिया गया है।

यदि किसी कर्मचारी की उपरोक्त जातियाँ लिखी न गई हो तो आवश्यक प्रमाण पत्र सहित अपने

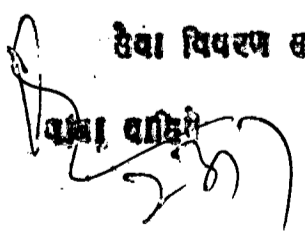
प्रत्यवेदन दे सकते हैं।


यदि किसी एत अवधि एक महीने के अंदर उपरोक्त वरीयता सूची के सम्बन्ध में कोई प्रत्यवेदन

नहीं वापिस किये गये तो यह समझा लिया जायेगा कि सूची अपरिचित रहित तथा किसी उपरोक्त

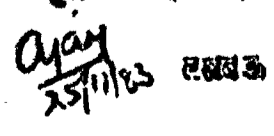
की आवश्यकता नहीं है।

देवा विवरण सूची यदि कोई भी गुत्रि पाई जाये तो इस कार्यलय को आवस्य सूचित किया

पता वापिस


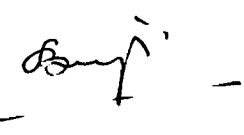

(बी० डी० सि०)

एत वरिष्ठ महानगर कार्यलय अधिकारी


सखतक

प्रतिलिपि :- महानगर मंत्री एम० आर० एम० यू० तखतक

महानगर मंत्री यू० आर० एम० यू० तखतक



Final Seniority List of Loc. Fitters Grade B.260-400 (BS) on the division.

S. No.	Name & Father's Name	Post ing. Stn.	Date of birth.	Date of apptt.	Date of promoti on as fitter.	Pension or not.	SC/ST Cr.	Date of confirmation as fitter.
1.	2.	3.	4.	5.	6.	7.	8.	9.
1.	Mool Baj	s/o						
2.	Mohd. Shah	IKO	1.8.28	1.8.44	1.8.45	Pen.	SC	7.12.57
3.	Makrand Pd.	"	18.1.27	22.1.45	1.10.47	"	No	7.12.51
4.	Mohd. Yaqub	SIN	20.3.28	20.3.45	1.10.47	No	No	7.12.51
5.	Abdul Hamid	IKO	3.10.30	3.10.47	18.3.53	No	No	1.1.55
6.	Ram Harakh	IKO	7.10.30	7.10.47	6.7.53	No	No	1.1.55
7.	Jai Ram	RBL	1.10.31	1.4.48	21.X.53	Pen.	No	1.1.55
8.	Kaloo	FB	14.8.28	14.8.50	28.12.70	"	No	1.1.72.
9.	S.C.Nandi	IKO	17.5.26	17.5.48	2.8.71	"	No	1.1.72
10.	Shyan Sunder	"	18.8.29	22.8.53	17.1.71	No	No	4.4.72
	Tevari.	"	16.1.28	16.1.47	11.7.71	Pen.	No	18.5.75
11.	Mehar Lal	BSB	2.X.29	2.X.47	22.1.71	-	No	22.1.73
12.	V. Martin	IKO	9.9.27	9.9.47	23.5.72	Pen	No	23.5.75
13.	Habibullah	"	7.9.26	7.9.46	1.6.72	Pen	No	1.6.73
14.	Mohd. Ishaq	"	12.2.26	12.2.46	2.7.72	Pen	No	
15.	Ran pal	"	14.9.26	14.9.46	5.6.72	Pen	No	
16.	L.K. Mughan	FD	9.10.28	9.10.47	3.10.72	No	No	
17.	Hari Kishan	IKO	19.8.33	29.8.53	29.X.72	Pen	No	
18.	Khusiadir	"	25.6.28	25.6.46	11.9.73	Pen	No	
19.	Ran Pd.	"	16.9.28	16.9.46	04.12.73	"	SC	23.7.69
20.	Sheo Pd.	"	1.1.41	17.2.58	5.12.63	No	SC	
21.	Inayat Hussain	Buniyad Hussain	25.7.26	25.4.45	16.8.74	Pen	No	
22.	Maikoo	"	15.5.27	15.5.47	16.8.74	Pen	No	
23.	Nankoo	"	2.10.29	2.10.47	16.8.74	"	No	
24.	Mohd. Umar	RBL	1.10.27	1.10.47	14.8.74	"	No	13.9.74
25.	Durga Pd.	IKO	1.10.27	1.10.47	20.8.74	"	No	
26.	Lakurii	PBH	1.9.26	7.10.47	20.8.74	"	SC	13.9.74
27.	Jagdish Pd.	RBL	22.4.27	22.4.47	31.8.74	-	No	13.9.74
28.	Ram Dularey	BSB	9.10.27	9.10.47			No	

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1.	2.	3.	4.	5.	6.	7.	8.	9.
29.	Chandra Shekhar	Bamanand	BSB					
30.	Kishan	Dwarika Pd.	BSB	6.10.34	6.X.53	15.8.53	Pen	No. 13.9.74
31.	Kanta Pd.	Kunjar	FIG	11.11.31	27.4.54	20.8.74	-	No. 13.9.74
32.	Hira Lal	Ram Charan	IKO	2.10.29	2.X.47	22.8.74	Pen	SC
33.	Uma Sharan	R.N.Pandey	IKO	25.10.26	25.X.49	30.8.74	Pen	No
34.	Ram Lakhon	Achabir	SIN	9.10.29	1.9.49	23.2.78	"	No
35.	Sukhdeo	Ramchar	PHH	1.7.27	1.6.48	20.5.75	"	No
36.	R.N.Srivastav	Lalji	IKO	10.1.33	16.4.53	26.5.75	"	No
37.	Chotey Lal	Srivastava	PBH	18.6.36	24.2.56	27.2.78	-	SC
38.	Ram Sewak	Behari	"	18.5.37	13.5.56	27.2.78	-	SC
39.	Sri Kishan	Ram Bharosey	IKO	19.3.36	16.6.56	23.2.78	Pen	No.
40.	Ayadhaya Pd.	Khub Chand	IKO	21.3.35	1.7.56	23.2.78	"	No
41.	Ram Deo	Chandrika Pd.	FD					
42.	Ram Srey	Chandrika Pd.	PHH					
43.	Biraj	PHH	PHH					
44.	Jag Mohrain	Sefri	IKO	19.11.28	19.11.48	25.7.78	Pen	SC
45.	Mot Lal	Ram Akhil	PHH	29.9.29	29.9.47	22.7.78	Pen	No
46.	Zheer Ali	Mewa Lal	IKO	27.8.52	16.9.53	23.7.78	Pen	SC
47.	Raj Raj	Abdullah	IKO	8.12.25	13.8.56	22.7.78	Pen	No
48.	Mohd. Shafi	Ramjiwan	"	20.X.35	23.9.56	22.7.78	No	No
49.	Rodriddin	Mohd. Yakub	"	5.5.21	25.9.56	22.7.78	Pen	No
50.	R.L.Gosawami	Ali Euz	"	19.X.26	2.X.56	22.7.78	"	No
51.	Raj Bahadur Singh	Mc Juvami	BSB	1.10.31	2.X.56	28.7.78	"	No
52.	Mawa Lal	Bhoop Singh	IKO	14.2.33	6.3.56	22.7.78	No	No
53.	Durga Charan	Badloo Ram	"	12.2.28	21.3.57	22.7.78	Pen	SC
54.	Virendra Bir Pd.	Badri Pd.	"	21.2.30	22.3.57	22.7.78	No	No
55.	Ghuroc	Kandhai	"	18.2.22	3.4.57	22.7.78	-	No
56.	Jalal Din	Raman Lal	"	11.3.37	23.4.57	23.7.78	No	No
57.	Gauri Shanker	Hira Lal	"	29.3.34	14.5.57	22.7.78	-	No
58.	Mohd. Jamil	Nandey	"	23.2.32	20.5.57	22.7.78	-	SC
59.	Del Bhadur Singh	Gurdin	PHH	21.2.32	20.5.57	23.7.78	-	SC
60.	Prakash Chand	Mohd. Islam	PBH	23.2.38	25.5.57	22.7.78	Pen	No
61.	Ram Lakhon	Chandra Bali	RBL	1.6.36	5.5.56	29.X.78	-	No
62.	Shanker Lal	Shanker Lal	IKO	23.6.50	20.8.55	21.X.78	Pen	No
	Ram Pd.	Ram Pd.	FD	24.4.37	24.6.56	21.X.78	-	No

contd..

Banjha

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

Writ Pet.No. 2476 of 1985.

AS

Sri Mohammad Shafi.

-----Petitioner

Versus

Union of India & others.

-----Opp-parties.

Annexure No.C-IV

Recd. blank pension form and commutation application along with No Claim Certificate of Sri Mohd.Safiq s/o Mohd. Yakub B/HS Fitter-II under L.F. Lko., retiring on 31.5.85.

LD/34

Sig. of employee

LD/34 Rg.

Sd/-

Shed Colony

Attested true copy.

Alambagh

Lucknow.

Sd. Illegible.
APO/Lko. 3.7.85

True-copy.

Safiq

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(62) ASZ

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

Writ Pet.No. 2476 of 1985.

1/56

Sri Mohammad Shafi.

----Petitioner

Versus

Union of India & others.

----Opp-parties.

Annexure No.C-V

Reg: Shri Mohd.Shafi, Fitter LF/Lko. Retd.
on 31.5.85.

I have contacted thrice at his residence at Rly.Quarter No.LD/34, LD Colony, Lucknow, and he promised to submit the settlement forms on 22.5.85 in LF Office & refused to give me the same. The form was directly recd. by him from settlement section.

Today at 8/30 hrs. I visited LF/Lko., where I came to know that Shri Mohd. Shafi has not yet submitted his form in the LF Office.

On being called by the Time Keeper he did not come to office while going to LF/AME's Office, Shri Mohd. Shafi saw me but he paid no attention nor he liked to talk to me about the settlement form. Shri Chunni Lal Divl.President/URMU & Shri Sharma, Time Keeper/LF/LKO are witness for this in attention of Shri Mohd. Shafi on date.

Sd/-
(V.P.Srivastava)
SWLI/LKO.
Dated: 22.5.85

Attested true copy.
Sd/-Illegible
APO/LKO. 3/7/85



True-copy.

Handwritten signature

63 A 54

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL:

ALLAHABAD:LUCKNOW BENCH.

CAT Case No. 1754/87

KEY

In re:

CA

Mohd. ShafiApplicant

Vs.

Union of India

& OthersOpposite Parties

Written arguments

In this case, the applicant filed WP No. 2476/85 in the Hon'ble High Court, Allahabad, Lucknow Bench, On 29-5-85, praying for quashing of order of his retirement issued by the opposite parties, retiring the applicant with effect from 31-5-85 by issuing writ of mandamus and ~~also~~ also to issue direction or order to correct his date of birth according to the certificate of date of birth issued by the Executive Officer, Kanpur Cantonment Board, contained in Annexure **II of the petition and to issue direction ~~for~~ or order to the opposite party to verify the age of the petitioner by medical examination through Chief Medical Officer or any other appropriate authority. This petition was admitted on 6-6-85. It has come on transfer after formation of CAT to the Hon'ble Court.

CA

64 (ASS)

Counter was filed by the opposite parties and rejoinder has been filed by the applicant who has also moved an application for amendment of application along with an affidavit. No reply has been filed by the Railway Administration so far on amendment application or supplementary counter in reply to the amendment application and rejoinder.

8/58

Briefly stated, the facts are that the applicant was appointed in Indian Ordnance and Clothing Factory/Government Ordnance and Saddlery Factory, Kanpur, in the year ¹⁹⁵¹~~1954~~ at the age of 14 in a scheme circulated by the Government to the effect that the young boys should be encouraged to work for a certain time and thereafter, they were to be trained in a particular trade and as such while the applicant was working there, he was given the training of fitter on the factory itself vide Annexures A ³~~III~~ and A ⁴~~IV~~ (Even now, the scheme is the same but the stipend has now been increased)

That in 1956, certain labour staff of the factory became surplus and the applicant was one of them and his name was sent for appointment on the Indian Railways on the basis of his experience as a machine man and training of fitter, where he was appointed in 1956. He was given

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preference of his past services rendered in government factory and he was appointed as a 'Khalasi' and posted at Lucknow Division, Northern Railway. No declaration of age was taken from the applicant by Railway authorities or any declaration for the purpose of age on the service card. The applicant is illiterate and cannot read and understand or write any language except writing his name in Urdu, which he learnt while working as a fitter in Railway. Entries in the service ⁴ card were perhaps made by the Railway authorities on their own accord. The applicant after sometime was posted as a fitter from the post of Khalasi and was continuing in 1985 as a fitter when he was retired.

15/9

That in 1984, the applicant gave his name as surety to one of his co employees for taking loan from Railway co-operative society and this application was refused on the ground that surety, that is, the applicant was going to retire in 1985. The applicant was shocked and surprised to hear this as he was born on 4-1-37 and the entry of his date of birth is duly recorded in the Kanpur Cantonment Board-photo copy of the

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same may please be perused at Annexure II. This was duly corroborated by the applicant's mother and younger brother vide Annexures A 3 and A 4 of the application. The applicant therefore immediately submitted an appeal to GM, N.Rly. Baroda House, New Delhi through proper channel for correction of applicant's date of birth vide Annexure I to the petition. A photo copy of birth certificate of applicant issued by Cantt. Board indicating date as 4-1-37 was also enclosed vide Annexure II. The applicant received the order of rejection of appeal - photo copy of the same is at Annexure III. It may also be stated here that the applicant was never intimated about his date of birth or date of retirement by the opposite parties as per extant rules nor he has filled in pension papers and other formalities as required under rules.

That the fact of his date of birth being 4-1-37 is established by :

- a) Certificate of birth entry in Kanpur Cantt. Records - photo copy available on Railway records vide Annexure II
- b) Affidavit of his late mother, Noorjahan testifying about the date of ~~birth~~ birth of the applicant being 4-1-37. Annex A - 2
- c) Affidavit of his younger brother, Abdul Rehman, vide Annex A - 3

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who not only gives the applicant's date of birth ^{A/B}
but also the fact that there were two sisters
of the applicant in between, vide Annexures A-3
and A-4, and ~~corroborating~~ corroborating the
factum of applicant's date of birth being 4-1-37.
Application of the applicant to the Superintendent,
Government Factory, Kanpur showing date of ~~xxxx~~
birth as being 4-1-37.

That opposite parties in their counter
have admitted that the date of appointment in the
factory is 1951 and also the fact that the
applicant after being declared surplus was
absorbed as Khalasi on the ~~xxxx~~ basis of records
of the ordinance factory. They have ~~also~~ also
disputed that the applicant was not illiterate.
The date of birth certificate of the applicant
issued by the Cantt. Board, Kanpur has been disputed
According to opposite parties, it does not indicate
if it relates to the petitioner or to the other
son of applicant's father, Mohd. Yaqoob. The opposite
party as per their counter, it is clear, prepared
service record on the basis of entries of their
certificate issued by the ordinance factory. (Para
2 of the Counter Affidavit) and the applicant
being illiterate signed on dotted lines. Acceptance
of particulars column is blank vide Annexure C X II.

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As boys between the age of 14 to 19 only were selected in ordinance factory it is manifestly clear that applicant could never have been employed if his date of birth is taken as 5-5-27 because he would have been of 24 years of age on 16-11-51 vide Annexure A 3. That ordinance factory rules of recruitment then in force which are in force even now show the age of recruitment as 14-19 years and ordinance factory has also testified as correct the fact stated in their application about date of birth being 4-1-37 vide Annexures A 1, 2, 3 and 4.

That the disposal of appeal regarding correction of date of birth of the applicant and the orders issued by SM ~~GM~~ while rejecting the appeal show lack of application of mind and illegal for reasons set forth below: (a) That applicant's having produced Cantt. Board's Registered Extract of date of birth, and authentic document was enclosed with the application to the GM, who while considering the same has not considered the same as it finds no mention in the order of rejection of appeal. (b) That order of GM indicates that there was no application of mind as the order assigns no reasons for discarding birth certificate. It is violation of rules of natural justice. (c) That the correction of date of birth is an important

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legal right of the applicant and it cannot be rejected summarily.

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The contention of the opposite parties regarding ~~stoppel~~ estoppel against the applicant by signing the date of birth in the service card has no force because it has been held in 1987(2) SLR. page 319, CAT, Delhi-Hiralal Vs. Union of India that mere signing service record mentioning date of birth cannot operate as estoppel. Thus, the applicant having given date of birth as ~~xxxx~~ recorded in Cantt. Board Records, the entry being authentic, cannot be disputed because it stands corroborated also by the applicant's mother and brother. Administration should have given due consideration to ~~the~~ applicant's prayer for change of date of birth and should not have rejected the prayers summarily.

It has been held in the case of Jagannath Sharma Vs. Union of India in 1987(1) ~~SK~~ SLR page 410 that request for ~~change~~ change of date of birth.....department cannot reject representation without considering the new records. Date of birth is a ~~valuable~~ valuable right. Authority not considering the document and rejecting the prayer for ~~date~~ correction of date of birth- rejection of prayer in violation of principles

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of natural justice-order rejecting prayer quashed
Constitution of India Article 162 and 311,
Administrative Tribunals Act 1985-Section 14-
Date of birth-correction of-legal right not to
be denied merely on the basis of Administrative
Instruction vide 1987(1) SLR page 744.

It may also be stated that it has
been held in Manakchand Vs. State of Himachal
Pradesh-1976 (1) SLR 402. "A government servant is
entitled to show that the entry made in his
service record does not represent the date of
birth. That is the right which flows from his
right to continue in service until he reaches
the age of superannuation." *"With petition is allowed
petitioner is entitled to an order directing the Rspdt to consider
his application for correction of his age in his service record. . . ."*

Hon'ble R. S. Pathak CJ
cc Thakur J.

The applicant has already stated that
he is illiterate and therefore the plea of
signature on service record cannot operate as
estoppel.

The order of GM disposing off of appeal
of applicant by a non speaking order adducing no
reasons on the documents filed as to why the date
of birth is not being corrected, has not been
accepted. Thus the order of the Railway Administration
is a nullity being a non speaking order giving

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no reasons for discarding the prayer and the document vide AIR 1986 SC 1173.

It has also been held that the order of quasi judicial authority shall contain not only its decision but an adequate disclosure of the material on which the decision is based so as to justify ^{the} ~~and~~ inference that there has been judicial consideration of the case of the applicant. - GM, SE Railway Vs. Ajit Kumar , 1973/2 Delhi ILR 714.

It has been held in another case in re Jivan Kishore Vs. Delhi Transport Corporation and another in 1980(2) SLR Case 513 that when there are flagrantly conflicting dates in the 2 records regarding date of birth-in view of conflict, Medical Board appointed to fix the age - scientific fixation of age by the Medical Board not to be ignored. The applicant requested the administration for medically examining him to determine the correct date in view of the disparity, but it was not accepted. Attention is invited to para 4 ~~of~~ of the prayer at page 8 of the writ petition that an order or direction in the nature of mandamus commanding the opposite parties to at least verify the age of the petitioner by Medical Examination through Chief Medical Officer or any other authority ~~was~~ appropriate for verifying the correct age of the petitioner was reiterated but neither the opposite parties passed any order on this but the order of rejection of appeal contains no mention about the same.

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In yet another case, D.N. Banjola Vs. State
page 1615
of J & K, 1985, Labour and Industrial Cases, Jammu

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High Court has held as under on page 1615:

" Fixation of date of birth of government servent-date stated by employee not acceptable to government - government fixing date without any enquiry - arbitrary fixation is violative of Article 14 of the Constitution." It was further observed in this case by the Hon'ble Judge that " it is well settled that an order passed by the State to the prejudice of an employee and in derogation of his rights is to be passed only in accordance with the basic rules of justice and fair playit was the duty on the respondents to hold an enquiry to ascertain the date of birth of the petitioner and in such an enquiry, the petitioner was to be associated and allow to controvert by adducing such evidence which was in his possession. The petitioner was also entitled to know the material of evidence which was sought to be used against him as regards fixation of his date of birth by the respondents.....it is one of the fundamental rules of our constitution that every citizen is protected against exercise of arbitrary exercise of authority of the state or his officer. It is implicit in every enquiry of this nature that rules of natural justice are strictly observed which in other words would mean that the person

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affected is to be afforded an opportunity of being heard and is allowed to controvert for associating him in the enquiry any material that ~~is~~ is brought against him. This has not been done in the present case in an arbitrary manner, the authorities have chosen to inform the petitioner-.....at their sweet will.

What was the basis thereof, even this Court has not been taken into confidence about their whimsical decision". In this case the Court has also relied in the decision of the Supreme Court in re State of Orissa Vs. Doctor (Miss) Bina Pani Devi AIR, 1967 Supreme Court, 1269. In this case, the ^{Court} report held that if the essentials of justice be ignored and an order to the prejudice of a person is made, the order is a nullity i.e. basic concept of the rule of law and importance thereof transcends the significance of a decision in a particular case. The petitioners case was allowed.

In another case in re 1989 LIC 650 Sadan Nandan Sen Vs. State of West Bengal, the Hon'ble Calcutta High Court has held "no reason for turning down representation -petitioner had little education and such an error is not very uncommon. It is now a settled law that in absence of any counter affidavit, the High Court has to accept statements made on oath by the petitioner in support of his case. It was further held (Para 6 of the judgement) that it is immaterial if one makes representation for ~~correction~~ correction of age after receiving the notice of

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superannuation on the basis of authentic documents.

The age can be corrected at any time at any stage.

For reasons stated, it is humbly & prayed that the applicant has not attained the age of superannuation on the basis of date of birth as recorded in the Cantt. Board Records, Kanpur, duly corroborated by his brother and ~~mother~~ mother in affidavits, the same not having been challenged, The applicant's retirement is thus illegal. Therefore, for detailed reasons and the case law mentioned above, the order of applicant's retirement 10 years in advance without affording opportunity and without considering his case properly ignoring the documentary evidence on record and without passing any speaking order in the case speaks of lack of application of mind and the rejection of appeal being thus a nullity. The applicant therefore is entitled to the reliefs prayed and prays for the grant of reliefs prayed for.

Respectfully submitted.


(C. A. Basir)

Advocate for the applicant.

In the Central Administrative Tribunal,
Additional Bench, Lucknow.

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C A T Case No. 1754 of 1987.

Mohd. Shafi ... Applicant

Versus

Union of India and Others ... Respondents.

Rejoinder to the counter affidavit filed by
opposite parties no. 1 and 2.

I, Mohd. Shafi, aged about 51 years, son
of Late Shri Mohd. Yaqoob, employed as fitter in
the Railways Running Shed of Northern Railway,
Lucknow do hereby reply to the counter of opposite
parties and do respectfully submit as under:

1. That averments made in para 2 of the
counter ~~of~~ are admitted to this extent that
employment of the applicant in the Indian
Ordinance Factory is admitted, but the date of
birth as entered in Annexure C 1 is incorrect.
The correct date is 4.1.37, which has been
certified by the Cantonment birth certificate and
certificate of the factory authorities. Annexures ~~U~~
A 1, A 2, A 3 and A 4 of the supplementary statement
2. That averments made in para 3 of the
petition are reiterated as correct and those in
para 3 of the counter are denied.

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3. That in reply to averments made in para 4 of the counter, it is stated that the date of birth given in the ordinance factory was incorrect. The correct date is 4.1.37 vide Annexure ^A ii

4. That averments made in para 5 of the counter are incorrect and those given by the applicant in para 4 of the petition are correct. The applicant can only ~~sign~~ sign in Urdu. He did not receive any schooling in any educational institution.

5. That para 6 of the counter needs no reply.

6. That in reply to averments made in para 7 of the counter it is stated that seniority list is ~~xxxx~~ never circulated to individual employees and the opposite parties cannot and have not shown any acknowledgement of the applicant in this regard. Besides, it was incumbent on the part on the part of the opposite parties to ensure that illiterate ^{staff} are explained and told about their seniority positions, which was not done by the opposite parties. The correct date of birth gives a right to the government servant to continue in service till he attains the age of superannuation. This being an important legal right cannot be discarded or ignored. The order of the railway authorities in rejecting the prayer for change of date of birth does not assign any reason for rejecting the applicant's

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of the petition are reiterated as correct.

11. That averments made in para 13 of the counter are not admitted. Writ petition was filed on 29.5.85 and admitted on 6.6.85. In this petition under challenge was the date of birth entered in railway records and as such, the applicant was perfectly justified in agitating before the High Court for his rights which are fundamental rights. This is a right which flows from his right to continue in service unless he reaches the age of superannuation.

12. That averments made in para 14 of the counter are denied. Due to typing error, the date of ~~birth~~ birth was typed as 4.1.85 ~~ix~~ instead of 4.1.37.

13. That averments made in para 15 of the counter are denied. It is respectfully submitted that mere signature of an illiterate person at the time of entering railway service on service card does not and cannot operate as estoppel against him so as to take away his right to get the erroneous entry as to date of birth corrected. Birth certificate of the cantonment board being authentic along ^{with} its corroboration by affidavits of the applicant's mother and younger brother about the applicant's date of birth being 4.1.37 and ^{nd-} 4.1.27. Previous employer

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has also endorsed to the fact that the date of birth is 4.1.37. As such, the applicant is fully entitled to hold the post till 31.1.95.

14. That averments made in paras 16 and 17 of the counter are denied. The authority who considered the appeal failed to consider the birth certificate of the cantonment board and rejected the appeal summarily. Thus, rejection of appeal is in violation of the principles of natural justice. Correction of date of birth is a legal right which cannot be denied without the application of mind and rejected summarily. In view of the documentary evidence furnished, the applicant has right to continue ~~xx~~ till 31.1.95. The order of rejection of appeal giving no reasons ~~isthus xx~~ without any speaking order or application of mind is a nullity as it does not conform to the principles of natural justice.

In view of the ^{Submissions} ~~sumations~~ made above, premature retirement of the applicant illegally has badly effected his financial interests.

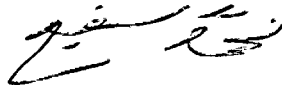
15. That in reply to para 18 of the counter, it is submitted that averments made in this para are categorically denied and those made in para 18 of the petition are reiterated as correct.

Applicant

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VERIFICATION

I, Mohd. Shafi, son of Late Mohd. Yaqoob, aged about 51 years do hereby verify that the contents of paras 1 to 15 of the rejoinder ~~affidavit~~ are true to my own knowledge. No part of it is false and nothing material has been concealed.



Applicant.

Dated at Lucknow

this 31st day of Dec., 1988.

(81) (A23)

In the Central Administrative Tribunal, Additional

Bench, Lucknow.
C M. An. No 66/89 (L)
C A T Case No. 1754 of 1987.

14/15

Mohd. Shafi Applicant

Versus

Union of India Respondents

and Others.

Application for condonation of delay.

The applicants above named most respectfully,
submits as under:-

That for the facts and reasons disclosed
in the supplementary statement, it is most respectfully
prayed that in the interest of justice and for
arriving at ~~justiciable~~ justiciable conclusions, the
Hon'ble Court may graciously be pleased to accept the
supplementary statement and delay in filing the same
which was mainly due to the transfer of the case
to the Hon'ble Tribunal from the High Court and then
transfer to the additional bench at Lucknow, may
kindly be condoned and supplementary statement may
kindly be taken on record and may kindly be read
along with the writ petition.

Applicant.


(Mohd. Shafi)

Lucknow dated 31 Dec., 1988

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In the Central Administrative Tribunal,
Additional Bench, Lucknow.

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C A T Case No. 1754 of 1987

Mohd. Shafi ... Applicant

Versus

Union of India and Others ... Respondents

Supplementary Statement of Claim.

I, Mohd. Shafi, aged about 51 years, son of Late Shri Mohd. Yaqoob, employed as fitter in Railway Running Shed, N. Rly., Lucknow do hereby solemnly affirm and state as under:

1. That the applicant had filed writ petition no. 2476 of 1985 in the Hon'ble High Court, Allahabad, Lucknow Bench on 29.5.85 seeking reliefs of certiorary and mandamus against the respondents for quashing the order of retirement, if any and commanding the opposite parties not to retire the petitioner, ~~fix~~ from service. This petition was admitted on 6.6.85.

2. That meanwhile, the Central Administrative ^{Tribunal} Act came into force and all cases pertaining to service matters of the Central Government employees, ^{were ordered} to ~~be~~ kept pending and to be transferred to the Tribunal when it starts functioning by the Hon'ble High Court.

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3. That it may also be brought to the notice of the Hon'ble Court that applicant's A/77
~~younger brother, Shri Abdul Rehman~~ XXXXXXXXXXXXXXXXXXXXXXXXXXXX
 younger brother, Shri Abdul Rehman, who is younger to the applicant is also in service in Northern Railway. He has testified on oath through an affidavit about his being real younger brother of the applicant and has also testified about the applicant's date of birth as 4.1.37. The younger brother has also given his age and date of retirement viz 2005 A.D. and has also testified about the entry of the date of birth in the Municipal records maintained at Kanpur. He has also stated that in between the applicant and himself, there were two sisters. (vide Annex A-1)

4. That the applicants mother, Smt. Noorjahan has also stated on oath through an affidavit about the applicant's date of birth as 4.1.37 vide Annexure A-2

5. That the applicant was appointed in the Government Ordinance factory at the age of 14 years on 16.11.51 and the date of birth was recorded there as 4.1.37. But inadvertently, the intimation sent to the Railway gave the date of birth as 5.5.27. The age of ~~xxxxxx~~ recruitment there being 14 to 17 years which has been

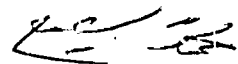
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corroborated and supported by the officers of the ordinance factory. It is also clear that even today, the age of recruitment in the ordinance factory is still 14 to 17 years vide Annexures A 3 and A 4.

6. That the fact of entry of applicant's date of birth having been recorded by my father in Municipal Records in the register of births along with certified copies of the entry recorded and issued, was duly produced by the applicant while submitting appeal to the Railway Administration but the order of the Railway authorities while rejecting the appeal omitted to consider this document. The rejection of appeal nowhere mentions in the order that why this evidence was ignored. The rejection of appeal is therefore a clear violation of principles of natural justice and is also illegal being a non speaking order.

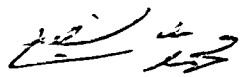
7. That correction of date of birth is an important legal right which cannot be denied arbitrarily and the absence of assigning any reason by the Railway authorities makes the order invalid and illegal.



Applicant.

Verification

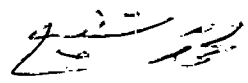
I, Mohd. Shafi, son of Late Shri Mohd.



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Yaqoob, aged about 51 years, do hereby verify that contents of paras 1 to 7 of the supplementary statement of the applicant are true to my own knowledge. No part of it is false and nothing material has been concealed.



Applicant.

Dated at Lucknow

23.1.88
on ~~31 Dec.~~, 1988
27.1.88



उमर :- श्रीमान सीनियर इलेक्ट्रिक प्लेसमेंट ऑफिस,
कानपुर नगर।



नामा मिनजानिब अब्दुल रहमान, वालिग वल्द स्व० श्री मोहम्मद याकूब,
वासी 180, मीरपुर छाकी, कानपुरनगर— रापकर्ता

में उपरोक्त शपकर्ता बहलफ निम्न बयान करता हूँ कि:-

- 1:- यहकि शपकर्ता के पिता का नाम स्व० मोहम्मद याकूब तथा माता का नाम स्व० श्रीमती नूरजहाँ है।
- 2:- यहकि शपकर्ता के बड़े भाई मोहम्मद शाफी की जन्म तिथि 4-1-37ई है और शपकर्ता की जन्म तिथि 6-8-1947 ई० हो जो कि नियमानुसार कानपुर केन्ट के अभिलेखों यानी कि जीक मृत्युअभिलेखों में दर्ज है।
- 3:- यहकि शपकर्ता अपने बड़े भाई मो० शाफी से दस साल छोटा है और शपकर्ता की सेवा निवृत्ति तिथि सन2005 ई० है।
- 4:- यहकि शपकर्ता सीनियर इलेक्ट्रिक प्लेसमेंट ऑफिस में पम्प इलेक्ट्रिक ड्राइवर के पद पर कार्यरत है।
- 5:- यहकि शपकर्ता को 10 वर्ष पूर्व ही सेवा निवृत्त कर दिया गया है और शपकर्ता उपरोक्त आशय का शपपत्र प्रस्तुत कर रहा है जिसका कि स्वीकार किया जाना न्याय संगत है।

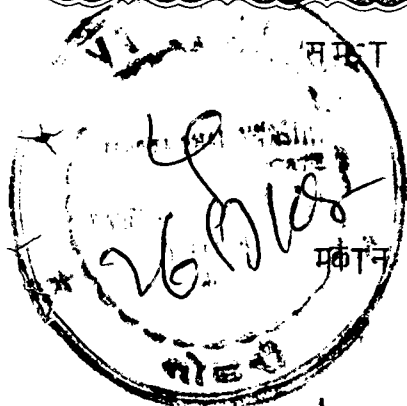
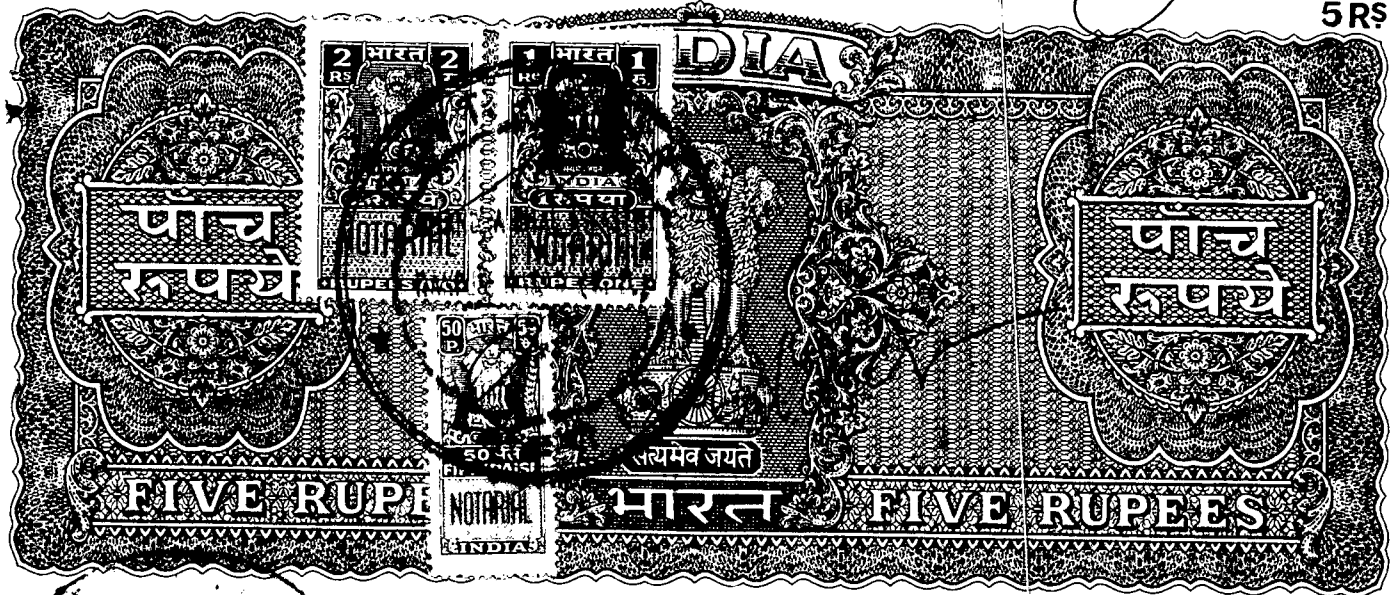
शपकर्ता:- *[Signature]*

में, उपरोक्त शपकर्ता बहलफ सत्यापित करता हूँ कि मजमून शपपत्र हाजा की लिखित दफ्तत। लगायत 5 सभी मेरी जातिय इल्म में सब सब व सही है कुछ भी असत्य नहीं है और न ही कुछछिपायागया है। अतः खुदा मेरी मदद करे। इसकी तसदीक आज दिनांक 18-10-88ई० को बमुकाम अन्दद अहाता कानपुर क्वेहरी में करता हूँ।

शपकर्ता:- *[Signature]*

[Signature]
R. S. Sharma
18/10/88

शपपत्र:-
The is duly identified
Contents read over to
and found correct.
HENCE ATTESTED
[Signature]



समाप्ति :-

Lucknow

उच्च न्यायालय, लखनऊ ।

हलफनामा मिनजानिब नूरजहां पत्नी मोहम्मद याकूब साकिन
मकान नम्बर कानपुर क्लब बंगला नं० 33, कानपुर ----- शपथकर्ता

मैं शपथकर्ता उपरोक्त बहलफ निम्न बयान करती हूँ :-

- 1- यहाँक शपथकर्ता उपरोक्त पते की निवासिनी है तथा 70 वर्ष की महिला है ।
- 2- यहाँक शपथकर्ता का पुत्र मुहम्मद शफी जो रेलवे का कर्मचारी है और मौजूदा समय में लखनऊ आलमबाग रनिंग शोड में है ।
- 3- यहाँक शपथकर्ता को अपने पुत्र मुहम्मद शफी की पैदाइश के बारे में पूरा ध्यान है कि मुहम्मद शफी का जन्म दिनांक 4 जनवरी सन् 1937 को रात्रि में हुआ था ।
- 4- यहाँक शपथकर्ता अपने पुत्र का नाम मुहम्मद शफी रखा था जो आज भी चल रहा है तथा शपथकर्ता को अपने बेटे की पैदाइश की उक्त तारीख़ा अच्छी तरह याद है । तथा शपथकर्ता के पुत्र का जन्म कानपुर क्लब बंगला में हुआ था ।

शपथकर्ता :-

तसदीक :-

मैं शपथकर्ता उपरोक्त बहलफ तसदीक करती हूँ कि मजमून हलफनामा में लिखित दफात । लगायत 4 मेरी निजी जानकारी में सब सच व सही है न ही कुछ छिपाया गया है और न ही इसका कोई भी भाग असत्य है । अतः डांदा मेरी मदद करे ।

यह तसदीक आज दिनांक 26 जुलाई सन् 1985 को बपुकाम कानपुर कचेहरी में की गयी ।

sworn Before me this day at Kanpur Court by Shree Chandri Noor Jahan who is duly identified.

Chandra Bhal Awasthi
Advocate & Govt. Notary
KANPUR NAGAR

शपथकर्ता :-
R. C. Sharma
who has R.F.D. before me,
R. C. Sharma
26/7/85

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(88) (Asc)

RESTRICTED

ORDNANCE EQUIPMENT FACTORY, KANPUR
FACTORY ORDER PART I.

BY

SHRI A.S. BHATTACHERJEE, IOFS, GENERAL MANAGER, DATED 24 SEPT. 1984.

No. 309

SUB:- RECRUITMENT OF TRADE APPRENTICES AT
ORDNANCE AND ORDNANCE EQUIPMENT FACTORIES.

Draft advertisement on the above subject released for publication to D.A.V.P., New Delhi is re-produced below for information of all concerned :-

"Applications are invited from Indian Citizens who are un-married for Trade Apprenticeship in Ordnance Equipment Factory, Kanpur and Ordnance Parachute Factory, Kanpur. Particulars of Training and requirements are given below :-

A G E :- Between 14 to 19 years as on 18-3-1985. Upper age limit is relaxable by (i) 5 years in case of Scheduled Caste/Scheduled Tribes candidates and (ii) in case of ITI/ITC passed candidates by period of training underwent by them in ITI/ITC in the respective Trade.

QUALIFICATION : Intending candidates should have passed Matriculation/SSLC or equivalent examination with Mathematics as one of the subjects and should have secured minimum 40% marks in Mathematics and 45% in Aggregate.

The prescribed qualifications are minimum and mere possession of the same does not entitle candidates to be called for written Test/Interview. Where the number of applications received in response to advertisement is large and where it will not be convenient or possible for O.F. Board/Factories to call all the eligible candidates for written test/interview, the O.F. Board/General Manager of the Factories may restrict the number of candidates for written Test/Interview to a reasonable limit on the basis of qualifications and or experience higher than those prescribed in the advertisement.

STANDARD OF PHYSICAL FITNESS : Must be in good mental and bodily health and must be free from any physical deformation.

PERIOD OF TRAINING : Three years or as may be fixed for certain Trades under Apprentices Act 1961.

<u>STIPEND</u> : During the 1st. year of Training	--	Rs	230/-	P.M.
During the 2nd. year of Training	--	Rs	260/-	P.M.
During the 3rd. year of Training	--	Rs	300/-	P.M.
During the 4th. year of Training	--	Rs	350/-	P.M.

OTHER ALLOWANCES : No other allowances will be paid during the entire period of Apprenticeship Training. However, in case Ex. ITI/ITC candidates, period of Training already undergone by them will be considered for the purpose of determining of the stipend.

Contd.....2/-

Allister

TRADES IN WHICH TRAINING WILL
BE IMPARTED TO THE TRAINEE

1. Tailor
2. Finish Leather Maker
3. Footwear Maker
4. Mechanic Motor Vehicle.

Certain posts will be reserved for Scheduled Caste/
Scheduled Tribe candidates. If suitable candidates in these cate-
gories are not available, these vacancies will be treated as
UN-RESERVED

SELECTION OF CANDIDATES :

Selection of candidates will be made on the basis of
(a) Written test to be held (Date to be intimated later
on) to test knowledge of English, Mathematics, Science
& Free hand Drawing and (2) Interview and Medical
Examination at the Factories.

TERMS : The selected candidates will have to execute a contract
if minor, by his guardian. The Apprentices will not be
provided with any quarters/Hostel accommodation in the
Factories. During the Training the Apprentices are
entitled for free medical treatment.

OFFER AND ACCEPTANCE OF: It shall not be obligatory on the part of
EMPLOYMENT/ the Employer to offer any employment to
any Apprentice after completion of Training, nor shall it
be obligatory for the Apprentices to accept any employment
if offered by the Training Factory. The candidates are
required to get themselves familiarised with the rules
and regulations under the Apprentices Act 1961.

Prescribed application Form can be had on written request
by the candidates, enclosing self-addressed envelope 25 Cms. x 12
Cms. approximately and indicating educational qualification, date
of birth and also the extent which age relaxation as detailed
above is applicable to him, if any from the General Manager,
Ordnance Equipment Factory, Kanpur.

Request for Application Form received on or after
8-10-1984 by post will not entertained and no reply will also be
given in such case. Form will be distributed from 16-9-84 to
8-10-84.

The last date of receipt of application in prescribed form
with requisite enclosures by the General Manager, Ordnance Equipm-
ent Factory, Kanpur is 15-10-1984. Two pass port size (5 Cms. x
6 Cms.) photographs and crossed postal order worth Rs 2/- (0.50 Paise
for Scheduled Castes/Tribes candidates) will be required to be
submitted alongwith the prescribed application form duly filled
in by the candidates. Training will commence ~~from~~ w.e.f. 18-3-
18-3-1985.

In-complete application/applications received after the
due date will automatically be rejected and no correspondence in
this regard will be entertained."

Case No. LB/1

(A. S. BHATTACHERJEE)
GENERAL MANAGER

(MAHESH GUPTA)
WORKS MANAGER/ADMIN.
FOR GENERAL MANAGER.

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IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD, LUCKNOW BENCH.

C. A. T. Case No. 1754/87

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Mohammad Shafi --- Applicant

Versus

Union of India & Others --- Respondents



Affidavit

I, Mohammad Shafi, aged about 52 years,
s/o Late Shri Mohammad Yakub, employed as fitter in
Railway Running Shed, Northern Railway, Lucknow do
hereby ~~solemnly~~ solemnly affirm and state on oath
as under:



1. That the deponent is applicant in the
above noted case and he is fully conversant with the
facts of the case deposed to herein below.

2. That the deponent is filing supplementary
statement of claim along with an applicant for ~~condoning~~
condoning of delay for filing the same.

3. That the delay in filing the same was
mainly due to transfer of the case from Hon'ble High

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Court to Hon'ble Tribunal at Allahabad and then to Lucknow.

4. That in the interest of Justice and ~~for~~ for arriving at justiciable conclusions, the Hon'ble Tribunal may kindly condone the delay.

A/86

5. That Annexure A-1 to A-4 are originals and photo copies and true copies of the same and have been compared.

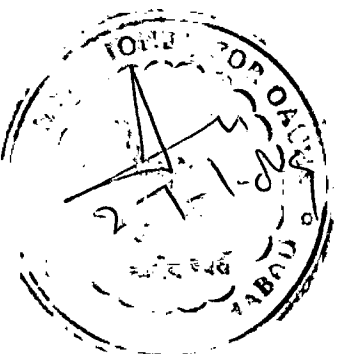
Lucknow, dated on

27-1-89

Deponent.

Verification

I, the above named deponent do hereby verify that the contents of para 1 to 5 of the affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed, in it, so help me God.



27-1-89

Deponent

I declare that I am satisfied by the perusal of the records and other details of the case

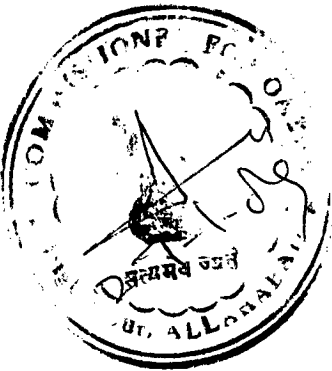
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narrated to me by the person alleging himself to be Shri Mohammad Shafi, is that person.

Ravi Srivastava
Advocate.

~~Solemnly~~

Solemnly affirmed before me on 2-7-1-85
at 11-45 am/pm by the deponent ^{Mohammad Shafi} who is identified
by Shri Ravi Srivastava, Advocate, High Court,
Lucknow Bench, Lucknow.



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

A. N. Khanam
A. N. KHANAM
OATH COMMISSIONER
High Court
Lucknow Bench Lucknow
No. 24/11-7-85
Date 2-7-1-85