

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE. T.A 1913/87  
W.P. NO. 3712/85 OF .....

NAME OF THE PARTIES ..... *Seiden* ..... Applicant

Versus

*O.P. J. Sons* ..... 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)

*This file received from record room  
checked on Dated 24.5.1991. without Barta.*

Counter Signed.....

*Rajesh 14/5/2011*

Section Officer/In charge

*Mr.*  
Signature of the  
Dealing Assistant

## CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

## FORM OF INDEX

C.A.T.A./R.A.T.C.C.P.T. No. 1913 1982

Sunder vs. U.O.I&amp;S and

PART - I

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4.	Judgement	:-	15 (28.2.80) C.A.T.C.B.L.K.
5.	S.L.P.	:-	—

D.Y. Registrat

Supervising Officer

Dealing Clerk

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

Nil

Dealing Clerk

V.K. Mishra

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

1/2

INDEX SHEET

CAUSE TITLE

1913  
Sunder of 1987 (T).

NAME OF THE PARTIES

B. Sunder

Applicant

Versus

Union of India

Respondent

Part A, B & C

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

APPLICATION No. \_\_\_\_\_ of 19

TRANSFER APPLICATION No. \_\_\_\_\_ of 19

OLD WRIT PETITION No. : \_\_\_\_\_ of

CERTIFICATE

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

Dated :

COUNTER SIGNED :

Signature of the  
dealing Assistant

Section Officer/Court Officer

\*\*\*\*\*

CIVIL

SIDE  
CRIMINAL

## GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

3  
1/2

Nature and number of case

W.P. 3712 - 85

A-1

Name of parties

Sunder v. Union of India

Date of institution

1-8-85

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 affidavit and Answer.	8.		10/- 00			
2.		Row	1-		5/- 00			
3.		C.M.A. 8260(w) of 85 for S.C. 6.P.	1-		5/- 00			
4.		Appeal for P.C.	1-		- -			
5.		C.M.A. 9037(w) of 85 for S.C. 6.P.	2		7/- 00			
6.		C.M.A. 10162(w) of 85 with R.P.	4.		7/- 00			
7.		Contra affidavit 9.			2/- 00			
8.		Row	1-		5/- 00			
9.		C.M.A. 11602(w) 85	2		7/- 00			
10.		Supplementary C.A.	8.		2/- 00			

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

C. MISC. APPL NO 8760 (W) 85  
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH : LUCKNOW

WRIT PETITION NO. 3712 OF 1985



(A14)

3

CIVIL MISC. APPLICATION NO. OF 1985

in re

Sunder, aged about 27 years, son of Pyarey Lal  
resident of Village Sahni, P.O. Rozagan, P.S.  
Rudauli, District Barabanki.

... Applicant

versus

1. The Union of India through the Divisional Railway Manager, Hazratganj, Lucknow.
2. The senior Engineer, Northern Railway, Charbagh, Lucknow.

.... Opp. Parties.

APPLICATION FOR INTERIM RELIEF

For the facts, reasons and circumstances stated in the accompanying writ petition duly supported with an affidavit, it is most respectfully prayed that this Hon'ble Court may be pleased to issue a direction that the petitioner may be allowed to continue as Mate till the final disposal of this writ petition. Any other order which this Hon'ble Court may deem proper in the circumstances of the case be also passed.

*G. H. Naqvi*  
(G. H. Naqvi )

Advocate

Counsel for the Petitioner

Dated: Lucknow

31.7.1985

(7) (A 88) 12

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W. R. No. 3712 of 1985

VS.

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
1-8-85	Hon' K. S. V. J Hon' S. S. Ahmad J The petition	
	fixing 6th August 1985	
1-8-85	C. M. Moton no 3760 (contd) Hon' K. S. V. J Hon' S. S. A. J Put up along with the cont petition.	
	Sd. K. S. V. J Sd. S. S. A.	1-8-85
	6-8-85 from Inter adjournance of fixing 6th August 1985 (contd) Op. No. 1 B 3 through several fault petitions	1-8-85
6-8-85	Hon' K. S. V. J Hon' S. S. A. S	1-8-85

Sd/ Am J

(10)

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
7-8-85	<p>Hon. K. S. Naqvi, Hon. S. S. Ahmad, dis. (his) petition for orders on 16-8-85 The petitioner will serve opposite parties Draft notices for 16-8-85</p> <p><i>OKS</i></p> <p>7-8-85</p>	<p>2nd Sess 16-8-85</p> <p><i>OKS</i></p> <p>16-8-85</p>
16-8-85	<p>16-8-85 fix for orders on cause No. 1 to 6 in 1st &amp; 2nd in 3rd on 8-26-85 by Dashi.</p> <p><i>OKS</i></p> <p>16-8-85</p> <p>Hon. K. S. Naqvi Hon. S. S. Ahmad</p> <p>Complaint - affidavit has been filed on behalf of opposite parties. Mr. Naqvi has prayed for and is allowed ten days time to file rejoinder affidavit. List thereafter. Hereafter the name of Sri C. A. Beshant will be mentioned in the cause list as counsel for the opposite parties.</p> <p><i>OKS</i></p>	<p>16-8-85</p>

## ORDER SHEET

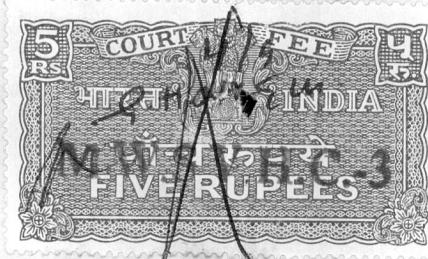
IN THE HIGH COURT lwp No. JUDICATURE AT ALLAHABAD  
3712 of 1985

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
	<p>on APP. 10, 162 (w) Ds.</p> <p><u>Hon. K. S. Mathew</u>  <u>Hon. P. B. Singh</u></p> <p>Put up week. The record immediately after one week.</p>	<p>for Bench</p>
16.9.85	<p>fixed for hearing</p> <p>Hon. S. C. M. S</p> <p>Hon. G. B. S. S</p> <p>SD</p> <p>Ride</p> <p>16/9/85</p>	<p>for Bench</p> <p>(By ct)</p>
21.10.85.	<p>on APP. 11, 602 (W) Ds - for stay.</p> <p>Hon. S. C. Mathew J.</p> <p>Hon. G. B. Singh J.</p> <p>Joint with previous paper in the next week</p> <p>2nd. S. C. Mathew</p> <p>S. J. P. B. Singh</p> <p>21.10.85</p>	<p>for Bench</p>

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
17.10.85. 31/10/85	H.C. 5 H.G.B.S	T.B.I. next court
	list in the next week.	L
	R.H.	S1.10.85
8-11-85	H.C. 5 H.C.B.K. 5	T.B.I. next court
	S.P. L 11/11	L

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

Case No 10, 16 2085  
Writ Petition No. 3712 of 1985



Sunder .....Petitioner

versus

Union of India and Others.....Opp. Parties.

MISCELLANEOUS APPLICATION

The applicant Sunder begs to submit as under :-

11742

- (1) That the applicant is skilled Mate and he has not yet taken over as Mali. The petitioner does not know Mali work and the proposed appointment as a Mali is by way of punishment.
- (2) That the facts and circumstances are given in the writ petition and the Rejoinder Affidavit after service is also being filed herewith.

It is, therefore, prayed that the writ petition, counter-affidavit, and rejoinder-affidavit be considered and a necessary stay order may kindly be issued to the effect that the applicant be not transferred as Mali. Such other orders as this Hon'ble Court deems proper may be passed.

*summar*

Lucknow/Dt. 5 /8/1985/

( G.H. Naqvi )  
Advocate,  
Counsel for the Petitioner.

15  
C.MISC. APPN No 11, 602 (W)-8  
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW: BENCH LUCKNOW.

W.P. No. 3712 of 1985

9/1  
A48

Sunder

..... Petitioner

Versus

Union of India and another. ..... Opp. Party.

CIVIL MISC APPLICATION

For the facts and circumstances mentioned in the accompanying affidavit, it is humbly prayed that the impugned order may not be given effect to and the operation be stayed. Such other orders as this Hon'ble Court deems just and proper may kindly be passed.

*Ummat*

Lucknow.

(G.H. NAQVI)

Advocate.

Dated: 3/10/1985. Counsel for Petitioner.

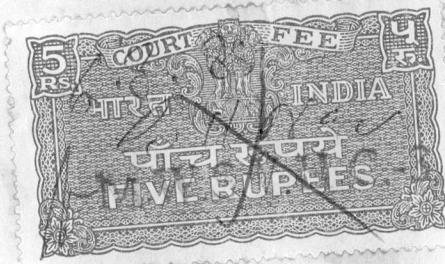
5-15-1985  
10/10/85

12320

C. M. S. A. No. 9037 (W)-85  
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH : LUCKNOW

WRIT PETITION NO. 3712 OF 1985



1 C.P.S. 5/85  
5/1

(A/12)

Sunder . . . . . Applicant

versus

Union of India . . . . . Opp. Parties  
& others

*10009*  
The applicant respectfully begs to submit that some other date be given for the service on the opposite party outside the court. This Hon'ble Court was pleased to direct on 1/8/85 that the opposite parties be served by dusti summons. Dusti summons were applied for on 2/8/85 and the same could be available on 3/8/85. It was a closed holiday. 4/8/85 was Sunday. Only 5th August remained, but the opposite parties could not be available and hence they could not be served. The applicant however has so far been released. He is still a mate and he will remain so upto 15/8/85.

Dated: Lucknow  
6.8. 1985

*Chunnu*  
Counsel for the petitioner

N. B. The Counsel regrets that this affidavit could not be taken by the Court as it was beyond 11 AM on 6/8/85.

*Chunnu*  
7/8/85

22  
1913/67/10  
2  
A4 14Serial  
number  
of  
order  
and dateBrief Order, Mentioning Reference  
if necessaryHow complied  
with and  
date of  
compliance  
~~✓~~

20/12/89

Hon' Mr. Justice Kamleshwar Nath, V.C.  
Hon' Mr. K. Obayya, A.M.

Shri G.H. Naqvi counsel for the applicant  
is present. Shri Arjun Bhargava, counsel  
takes notice on behalf of Opp.Ps.  
List this case for admission on 31-1-90.

A.M.

V.C.

(sns)

31.1.90

Hon. Justice K. Nath, V.C.  
Hon. K. J. Raman, A.M.

No one is present on  
behalf of the applicant. List  
for admission on 28-2-90.

W.R.

S.R.

A.M.

V.C.

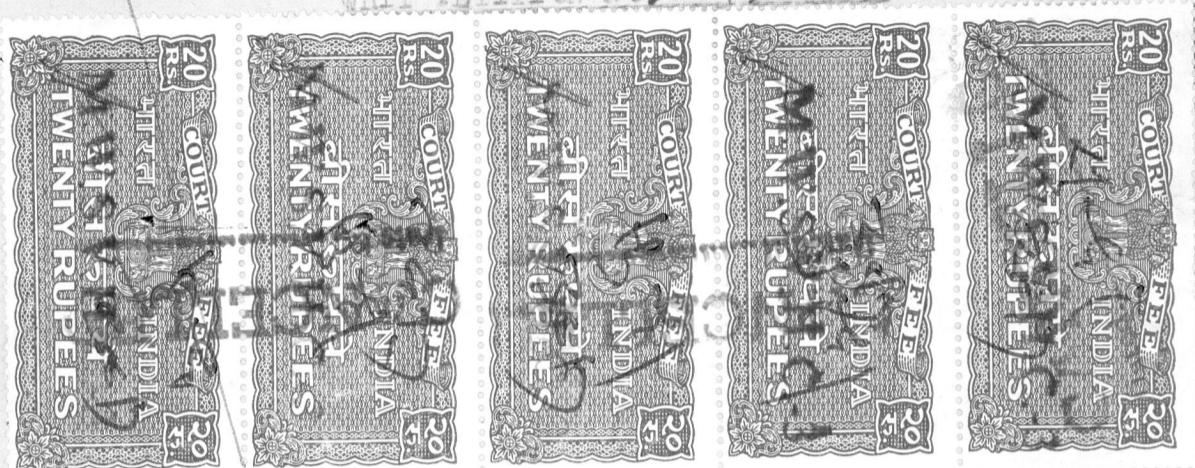
Dinesh/

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

WRIT PETITION NO. 3712 OF 1985

46



sunnder, aged about 27 years, son of Pyarey Lal  
resident of Village sahni, P.O. Rozagaon, P.S.  
Rudauli, District Barabanki.

56-107  
av  
30.7.88

..... Applicant

versus

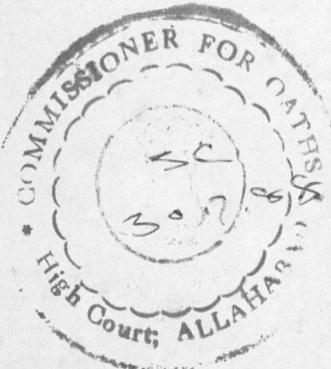
1. The Union of India through the Divisional Railway Manager, Hazratganj, Lucknow.
2. The senior Engineer, Northern Railway, Charbagh, Lucknow.
3. Inspector of works Alambagh N.R. Lucknow  
..... Opp. Parties.

WRIT PETITION UNDER ARTICLE 226 OF THE  
CONSTITUTION OF INDIA

The petitioner named above respectfully begs to submit as under:-

1. That the petitioner is an honest youth from the interior of the village and he does not indulge in activities of the Union. He is obliged to pay the Union Fee. without doubt the Union in every department does not allow it to work normally. The disturbance caused is to be born by the Department itself. The petitioner has nothing more to say against Union or anybody.

1626 CTC



7. That the petitioner is still working under Inspector of Works & I, but he will have to join as a Mali on the 1st of August 1985. The representation submitted has been turned down and in spite of the requests, the petitioner has not been given an opportunity of being heard. The petitioner has not joined as Mali upto this time.

8. That there being no equally efficacious remedy available, this writ petition is being filed as this is the order to ~~be~~ a mate to join as a Mali is demotion by way of punishment:-

GRUNDS

1. That the order to join as a Mali, is no order in the eye of law.

2. That the order is against the principles of natural justice

3. That the ordering the applicant to who is a Mate to join as Mali amounts to demotion.

4. That in spite of the request no opportunity was given to hear the petitioner.

wherefore it is respectfully  
prayed that :-

(a) A writ order, or direction in the nature of certiorary quashing the order if any after summoning the same from the opposite Parties.

(b) a writ, direction or order in the

*Answer.*



(P10) 12

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW BENCH : LUCKNOW  
WRIT PETITION NO. OF 1985

Sunder . . . . . Petitioner  
versus  
Union of India and another....Opp. Parties.

ANNEXURE NO.1

UNDER CERTIFICATE OF POSTING

ONE ENV.

To,

One Env. The Divisional Railway Manager

N.R. HazratGanj Lucknow.

One Env. The ~~Executive~~ senior Engineer, charbagh

N.R. Lucknow.

Two Env.



(A12) 1/2

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW BENCH : LUCKNOW  
WRIT PETITION NO. OF 1985

sunder . . . . . Petitioner  
versus

Union of India and another . . . Opp. Parties

AFFIDAVIT

I, sunder, aged about 27 years, son of Pyarey Lal, resident of Village Sahni, P.O. Rozagaon, P.S. Rudauli, District Barabanki, do hereby solemnly affirm and state as under:-

1. That the deponent is the petitioner in the abovenoted case and as such he is fully conversant with the facts of the case.
2. That the contents of paras 1 to 8 of the attached writ petition are true to my knowledge.
3. That the annexures No. 1 and 2 are true copies.

Dated: Lucknow

30.7.1985

*affidavit*

Deponent.

VERIFICATION

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

Dated: Lucknow

30.7.1985

*affidavit*

Deponent.

I identify the deponent who has signed before me.

*M. Naqvi*  
Advocate 30.7.85

4. 35 solemnly affirmed before me on 30.7.85 by the deponent who is identified by Shri G. H. Naqvi Advocate, High Court, Lucknow. I have satisfied by examining the deponent who understands its contents which have been readout and explained by me.

*Sh. Naqvi*

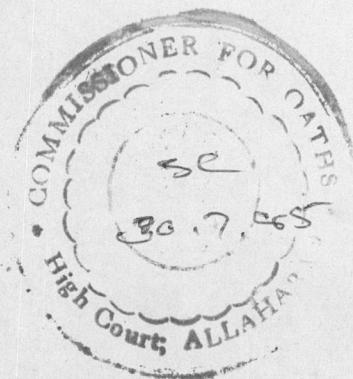
*S. Bhushan*

Advocate Oath Commissioner

Allahabad High Court,  
Lucknow Bench, Lucknow.

No. 60/278/85-

Date 30.7.85



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW BENCH : LUCKNOW  
WRIT PETITION NO. 3712 OF 1985

## versus

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

AFFIDAVIT

I, Sunder, aged about 27 years, son of Pyarey Lal, resident of Village Sahai, P.O. Rozagaon, P.S. Rudauli, District Barabanki, do hereby solemnly affirm and state as under:-

1. That the deponent is the petitioner in the above mentioned case and as such he is fully conversant with the facts of the case.

2. That the Dasti summons were available on 3/8/85. It was a closed holiday. 4/8/85 was Sunday. On 5th August efforts were made but the opposite parties were could not be available.

3. That the deponent is still working as a Mate and he is to be released immediately after the 15th August, 1985. 3/11/85

Dated: Lucknow

**Deponent.**

6.7 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 knowledge. No part of it is false and nothing material has been concealed. so help me God. 

Dated: Lucknow

1985

I identify the deponent who is  
signed before me. *John C. C.*

Advocate

(A29) K

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

Counter Affidavit  
In

Writ Petition No.3712 of 1985

Sunder .. Petitioner

Versus

Union of India & others .. Opp. parties.



I, V.P.Arya, aged about 49 years, son of Late Dr. Prabhu Dayal, at present working as Chief Inspector of Works, Alambagh, Lucknow do hereby solemnly affirm and state on oath as under:-

1. That the deponent is opposite party No.3 in the above noted writ petition as such is fully conversant with the facts of the case.
2. That the deponent has read the writ petition, understood its contents and has been authorised by the other opposite parties to file this counter affidavit on their behalf.
3. That the averments made in para 1 of the writ petition are not admitted.



72  
A730

4. That the averments made in para 2 of the writ petition are categorically denied.

5. That the averments made in para 3 of the writ petition are admitted to this extent that as per available records the date of birth of the petitioner is 10.10.1946 and the date of engagement as Casual Labour is 15.9.1970. It is admitted that the petitioner was put on the panel in 1973 after screening at Sr. No. 159 with Roll No. 669. It is incorrect that he was engaged in 1959 as in 1959 the petitioner was only of 13 years age and the question of engagement does not arise.

6. That the averments made in para 4 of the writ petition are partially admitted. It is correct that the petitioner on due turn was posted against a permanent post as Mali under I.O.W.(Estate) in scale of Rs. 196-232(RS) in terms of Senior Engineer, Northern Railway letter No.4/E/Panel 1/73 dated 4.7.85

Annexure A-1



(Vide Annexure A-1 to this counter affidavit) which was served on him on 18.7.1985. The above posting from temporary status of Casual Mali to permanent Mali was done on his due turn only as a result of his name being borne on the screened panel during 1973 which was a combined panel for Class IV staff, Khalasis/Malies etc, under the then Assistant Engineer I Lucknow, presently under Senior Engineer, Charbagh, Lucknow. It is stated here that this was a combined panel of Class IV staff for all posts of Class IV viz. Mali, Khalasies, Chainman etc. This is not correct that the Mali has no channel of promotion as can be

Urasharge

(A31)

seen from the different grades shown below. Channel of promotion is as under:-

- (a) Mali Rs.196-232(RS)
- (b) Mali upgraded Rs.200-250(RS)
- (c) Mate Rs.210-270(RS)
- (d) Mistri Horticulture Rs.380-560(RS)

7. That the contents of para 5 of the writ petition need no comments.

8. That in reply to the averments made in para 6 of the writ petition it is stated that the appeal dated 18.7.1985 of the petitioner has been turned down by the competent authority viz. Senior Engineer Charbagh, Lucknow and this fact has been brought to the knowledge of the petitioner as well on

Annexure A-2 8.8.1985 vide Annexure A-2 to this counter affidavit.

Consequent upon noting the facts by the petitioner he was spared by this office to report to the Inspector of Works(Estate), Northern Railway, Lucknow on 9.8.1985 A.N. vide this office letter No. 4/E/AMV-85 dated 8/9.8.1985 which was received by the petitioner on 9.8.1985 (Vide Annexure A-3 to this counter affidavit).

✓ q- The petition has no merits ✓

Urushcharge

Lucknow:

Deponent

Dated: August 16 1985

Verification

I, the above named deponent do hereby

(A32)

28

34

verify that the contents of paras 1 & 2 are true to my personal knowledge, those of paras 3 to 8 are based on records hence are believed by me to be true and those of para 9 are based on legal advice.

UmaShankar

Lucknow:

Deponent

Dated: August 16 1985

I identify the deponent who has signed before me.

C. A. Basir  
Advocate.

Solemnly affirmed before me on 16/8/85  
at 9 a.m./p.m. by the deponent  
who is identified by Sri C.A.Basir,  
Advocate, High Court, Lucknow Bench,  
Lucknow.

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

Ravi Shankar

OATH COMMISSIONER

High Court, Allahbad,

(Lucknow Bench)

No. 24/181

Date.....

16/8/85



(A33)

75

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

Writ Petition No.3712 of 1985

Sunder .. Petitioner

Versus

Union of India & others .. Opp. parties.

Annexure A-1

Northern Railway

No.4/E/Panel 1/73 Office of Sr.Engineer

Lucknow: Dt. 4.7.85

The IOWS/CB(Estate)/AMV  
N.Rly. Lucknow.

Sub:- Posting of Malies against existing  
vacancies under you.

Ref:- IOW/Estate/Lko letter No.9E/C 105  
dated 25.6.85.

....

Being empanelled in the panel 73 of this  
sub-Division, the under noted staff is hereby posted  
with immediate effect against existing permanent  
vacancies under IOW/Estate.

Necessary intimation giving 15 days time  
may please be given on their home addresses to this  
effect. Moreover certificate of age and medical  
fitness of the staff concerned should also be ensured  
before posting

Panel No. Subordinate under  
whom posted.

1.	Shri Sunder S/o Shri Pearey Lal	159	IOW/E
2.	Shri Chheda s/o Shri Maikoo	160	IOW/E



Urauohar

(A34)

76

- 2 -

Sd/- Illegible  
Senior Engineer,  
Northern Railway,  
Lucknow.

C/- DPO/LKO for information please.

Urpharsus

....



ਲਾਹੌਰ ਵੇਨਚ੍ਛੂ ਲਾਹੌਰ,

(A35)

रिट पिटोइन नं 3712 आप, 1985

सन्दर्भ

## -पिटोशानर

ବନାମ

यन्नियन आप, इन्हिया तथा अन्य ————— अमौजिट मार्टीज

अनेकजर नं०-ए-- २

श्रीमान्, वरिष्ठ अभियन्ता  
बक्से न०१०लालनगर,

संवाद में

सविनय निवेदन है कि ग्राथी का स्थानान्तरण कार्य निरीक्षक स्टेट के अधीन स्थायी मालों के पद पर हुआ था परन्तु ग्राथी मालों पद पर नहीं जाना चाहता है क्योंकि उसमें कोई भी उन्नति का अवसर ग्राथी को नहीं मिल पायेगा ।

अतः आपसे अनुरोध है कि प्राथीं का स्थानान्तरण स्थानयोगी माली के पद हेतु रोक दिया जाये । मु० कार्य निरीक्षक चारबाग अथवा आलमबाग में स्थायी छालासी पद रिक्त होने पर प्राथीं को छालासी पद पर भौजने की कृता करें जिससे प्राथीं को भाविष्य में उचित उन्नति का अवसर प्राप्त होने में बाधा

Uraecharji

क०प०उ०--2

(A 36)

7/8

न मँडे । इसके लिये प्राथमिक आपका आजीवन कृतज्ञ रहेगा ।

आपको बहुत धन्यवाद ,

आपका प्राथमिक

ह० सुन्दर लाल भेट

१ सुन्दर लाल पत्र श्री धारेलाल

भेटूसी गी सी

18-7-85

१२ वरिष्ठ अभियन्ता

३ श्री सुन्दर कृष्णा नोट करें

ह० अमृनीय

कृष्णा इनके आवेदन पत्र पर सहानु-तृतीय

पूर्वक विचार करने को कृता करें ।

7-8-85

उचित आदेश हेतु अग्रेषित ।

४ नोट किया

सुन्दर लाल

ह० वेद शुकाशा आर्य

18-7-85

सी आई जो डब्लू/ए एम वी/लघानउ,

(2) Ch. I O W / AMV

The order issued earlier should be followed otherwise his name will be struck off from the panel.

Sd/- illigible

5-8-85

Noted please.

Sd/ illigible

Ch. I O W / AMV.

True copy.

Urcasharg



(A37)

79

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

Writ Petition No.3712 of 1985

Sunder ..

Petitioner

Versus

Union of India & others ..

Opp. parties.

Annexure A-3

Northern Railway

No.4/E/AMV-85

Dt. 8/9-8-1985

From

To

The Chief Inspector  
of Works, Northern  
Railway AMV, Lko.

The Inspector of  
Works (Estate), N.Rly.  
Lucknow.

Sub:- Posting of Malies against existing vacancies  
under you.

Reg: SEN/Lko's letter No.4/E/Panel 73 dt.4.7.85

On resuming duty today, Sri Sunder Lal, ~~spared~~  
Mate temporary status is hereby ~~served~~ on date AN  
to report for duty as Mali against an existing  
vacancy. His service particulars are as under:-

(1) DOA 15.6.77 in ~~Ty. Status~~  
(2) PF A/c No. 535012/3P-37783  
(3) Rate of pay 238/- p.m. charged upto 14.8.8  
(4) 2 days C.L. is due during year 1985.  
(5) Two set passes and Four set PTO's are due  
during year 1985.  
(6) Rupees 75/- outstanding against him as  
Festival Advance.  
(7) Rupees 800/- outstanding against him as  
P.F. Loan.

DA/- O Fit memo No.51  
dt 4.2.78

Sd/- Illegible  
Chief Inspector of Work  
N.Rly. AMV, Lucknow.

Uttamcharya

Copy to SEN/LKO in reference to his above cited  
letter.

Sd/- I.OW, LKO.

Bench copy

(A38)

✓

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

Counter Affidavit  
In

Writ Petition No.3712 of 1985

Sunder

..

Petitioner

Versus

Union of India & others ..

Opp. parties.

Counter Affidavit on behalf  
of opposite parties.

I, V.P.Arya, aged about 49 years, son  
of Late Dr. Prabhu Dayal, at present working as  
Chief Inspector of Works, Alambagh, Lucknow do  
hereby solemnly affirm and state on oath as under:-

1. That the deponent is opposite party No.3  
in the above noted writ petition as such is fully  
conversant with the facts of the case.
2. That the deponent has read the writ  
petition, understood its contents and has been  
authorised by the other opposite parties to file  
this counter affidavit on their behalf.
3. That the averments made in para 1 of the  
writ petition are not admitted.

A39

A39

4. That the averments made in para 2 of the writ petition are categorically denied.

5. That the averments made in para 3 of the writ petition are admitted to this extent that as per available records the date of birth of the petitioner is 10.10.1946 and the date of engagement as Casual Labour is 15.9.1970. It is admitted that the petitioner was put on the panel in 1973 after screening at Sr. No. 159 with Roll No. 669. It is incorrect that he was engaged in 1959 as in 1959 the petitioner was only of 13 years age and the question of engagement does not arise.

6. That the averments made in para 4 of the writ petition are partially admitted. It is correct that the petitioner on due turn was posted against a permanent post as Mali under I.O.W.(Estate) in scale of Rs. 196-232(RS) in terms of Senior Engineer, Northern Railway letter No. 4/E/Panel 1/73 dated 4.7.85

Annexure A-1 (Vide Annexure A-1 to this counter affidavit) which was served on him on 18.7.1985. The above posting from temporary status of Casual Mali to permanent Mali was done on his due turn only as a result of his name being borne on the screened panel during 1973 which was a combined panel for Class IV staff, Khalasis/Malies etc, under the then Assistant Engineer I Lucknow, presently under Senior Engineer, Charbagh, Lucknow. It is stated here that this was a combined panel of Class IV staff for all posts of Class IV viz. Mali, Khalasies, Chainman etc. This is not correct that the Mali has no channel of promotion as can be

seen from the different grades shown below. Channel of promotion is as under:-

- (a) Mali Rs.196-232(RS)
- (b) Mali upgraded Rs.200-250(RS)
- (c) Mate Rs.210-270(RS)
- (d) Mistri Horticulture Rs.380-560(RS)

7. That the contents of para 5 of the writ petition need no comments.

8. That in reply to the averments made in para 6 of the writ petition it is stated that the appeal dated 18.7.1985 of the petitioner has been turned down by the competent authority viz. Senior Engineer Charbagh, Lucknow and this fact has been brought to the knowledge of the petitioner as well on

Annexure A-2 8.8.1985 vide Annexure A-2 to this counter affidavit.

Consequent upon noting the facts by the petitioner he was spared by this office to report to the Inspector of Works(Estate), Northern Railway, Lucknow on 9.8.1985 A.N. vide this office letter No. 4/E/AMV-85 dated 8/9.8.1985 which was received by the petitioner on 9.8.1985 (Vide Annexure A-3 to this counter affidavit).

9. The petition has no merits.

### Lucknow:

**Deponent**

Dated:August 1985

### Verification

I, the above named deponent do hereby

(A41)

33

verify that the contents of paras 1 & 2 are true to my personal knowledge, those of paras 3 to 8 are based on records hence are believed by me to be true and those of para 9 are based on legal advise.

Lucknow:

Deponent

Dated: August 1985

I identify the deponent who has signed before me.

Advocate.

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

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

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

Writ Petition No.3712 of 1985

### Sunder

2

**Petitioner**

## Versus

Union of India & others ..

Opp. parties.

### Annexure A-1

### Northern Railway

No. 4/E/Part 1/73

Office of Sr.Engineer

Lucknow: Dt. 4.7.85

The IOWS/CB(Estate)/AMV  
N.Rly, Lucknow.

Sub:- Posting of Malies against existing vacancies under you.

Ref:- New Estate/Lko letter No.9E/C 105  
dated 25.6.85.

• • •

Being empanelled in the panel 73 of this sub-Division, the under noted staff is hereby posted with immediate effect against existing permanent vacancies under IOW/Estate.

Necessary intimation giving 15 days time may please be given on their home addresses to this effect. Moreover certificate of age and medical fitness of the staff concerned should also be ensured before posting

Panel No. Subordinate under whom posted.

1.	Shri Sunder S/o Shri Pearey Lal	159	IOW/E
2.	Shri Chheda s/o Shri Maikoo	160	IOW/E

(A 64)

४४

इन दि जानेबुल हाईकोर्ट आर जुडोकेवर एट इलाहाबाद  
४ लघानउ वेन्चू लघानउ

रिट मिटोरान नो---3712 बाप, 1985

सुन्दर

मिटोरानर

बनाम

यूनियन आफ इन्डिया तथा अन्य ----- अमीजिट ग्राटोर

अमीबजर नं०-ए-२

=====

श्रीमान • वर्षिठ अभियन्ता

कक्ष १०१० लघानउ

=====

सेवा भू,

सविन्य निर्देश है कि ग्राथी का स्थानान्तरण कार्य  
निरीक्षक स्टेट के छातीन स्थायी माली के नद पर हुआ था  
मरन्तु ग्राथी माली नद पर नहीं जाना चाहता है क्योंकि उसमें  
कोई भी उन्नति का ज्वसर ग्राथी को नहीं मिल गयेगा ।

अतः आसे अनुरोध है कि ग्राथी का स्थानान्तरण  
स्थायी माली के नद हेतु रोक दिया जाये । मु० कार्य निरीक्षक  
चारबाग अथवा आलमबाग में स्थायी छालासी नद रिक्त होने  
पर ग्राथी को छालासी नद पर भौजने की कृत करें जिससे ग्राथी  
को भाविष्य में उचित उन्नति का अवसर ग्राप्त होने में बाधा

४००००--२

(A45)

४१

- 2 -

न छै । इसके लिये पूर्वार्थी आपका आजीवन कृतज्ञ रहेगा ।

आपको बहुत धन्यवाद ,

आपका पूर्वार्थी

ह० सुन्दर लाल भेट

॥ सुन्दर लाल नव श्री यारेलाल ॥

मेट्टूसी नी सो ॥

18-7-85

॥ ११ वरिष्ठ अभियन्ता

॥ ३१ श्री सुन्दर कृष्ण नोट करें

=====

ह० अरठनीय

कृष्ण इनके आवैदन नव पर सहानु-कूट

7-8-85

दृष्टिक विचार करने की कृता करें ।

॥ ४१ नोट किया

उचित आदेश देतु अनुमेषित ।

सुन्दर लाल

ह० वैद प्रकाश आर्य

18-7-85

सो आई ओ डल्लू/ए एम बी/लडानउँ

(2) Ch.I O W / AMV

The order issued earlier should be followed otherwise his name will be struck off from the panel.

Sd/- illigible

5-8-85

Noted please.

Sd/ illigible

Ch.I O W / AMV.

True copy.

(A46) A 46

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

Writ Petition No.3712 of 1985

Sunder

..

Petitioner

Versus

Union of India & others ..

Opp. parties.

Annexure A-3

Northern Railway

No.4/E/AMV-85

Dt. 8/9-8-1985

From

To

The Chief Inspector  
of Works, Northern  
Railway AMV, Lko.

The Inspector of  
Works(Estate), N.Rly.  
Lucknow.

Sub:- Posting of Malies against existing vacancies  
under you.

Reg: SEN/Lko's letter No.4/E/Panel 73 dt.4.7.85

On resuming duty today, Sri Sunder Lal, Mali  
Mate temporary status is hereby served on date AN  
to report for duty as Mali against an existing  
vacancy. His service particulars are as under:-

- (1) DOA 15.6.77 in
- (2) PF A/c No. 535012/3P-37783
- (3) Rate of pay 238/- p.m. charged upto 14.8.85
- (4) 2 days C.L.is due during year 1985.
- (5) Two set passes and Four set PTO's are due  
during year 1985.
- (6) Rupees 75/- outstanding against him as  
Festival Advance.
- (7) Rupees 800/- outstanding against him as  
P.F. Loan.

DA/- 0 Fit memo No.51  
dt 4.2.78

Sd/- Illegible  
Chief Inspector of Works,  
N.Rly. AMV, Lucknow.

Copy to SEN/LKO in reference to his above cited  
letter.

Sd/- I.OW, LKO.

(A47) 8/1

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

अदालत श्रीमान -



महोदय

W. P. no. 3712/1985

16.8.85

Sunder

वादी/अपीलन

बातम

Union of India, etc. प्रतिवादी/रेस्टाकेन्ट

संघीय मुकदमा

सब

पेशी फी रा 10

अधिकारी मुकदमा में अपना और से श्री . . . . .  
अधिकारी मुकदमा में अपना वफील बियुक्त फरफे ॥ इफरारा ॥ फरता हूँ  
अधिकारी मुकदमा में अपना वफील महोदय संवय अथवा अन्य वफील  
द्वारा अपना वफील विवाह व प्रश्नोत्तर फरें या फोई फाग दाखिल फरें  
या लौटावा या हमारी और से डिगरी जारी फरावें और स्पष्ट वसूल फरें  
या अपने हस्ताक्षर से दाखिल फरें अौर तस्कीफ या मुकदमा उठावें  
हमारे या अपने हस्ताक्षर से दाखिल फरें अौर तस्कीफ या मुकदमा उठावें  
या फोई स्पष्ट जमा फरें या हमारी विवाही ॥ करीफताबी ॥ फा दाखिल  
फिया हुआ स्पष्ट अपने या हमारे हस्ताक्षर सुपत्त ॥ दस्तखती ॥ रसोद से लेबे फा  
पैच बियुक्त फरें . . . . . वफील महोदय द्वारा फी नहीं वह  
तब फार्वाही हमारी सर्वथा स्वीकार है और हेमी इसालिये यह वकालता

Accepted on  
behalf of Plaintiff  
Opposite C. Arya

ब्राह्मण  
C. P. ARYA हस्ताक्षर ॥

14/8  
Divisional Railway Manager,  
Northern Railway,  
LUCK. सावी गवाही

वादी गवाही . . . . .  
दिनांक . . . . . महोदय . . . . .  
सब 19. . . . . ५० ।

A/42  
6/2

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

WRIT PETITION NO. 3712 OF 1985

(A22)

Sunder.....Petitioner

versus

Union of India and Others.....Opp. Parties.

**REJOINDER AFFIDAVIT**

=====

I, SUNDER, aged about 39 years, son of Pyarey Lal, resident of Village : Sahni, P.O. Roza Gaon, P.S. Rudauli, District : Barabanki, do hereby solemnly affirm and state on oath as under :-

(1) That the contents of paras 1 and 2 of the Counter-Affidavit need no reply.

(2) That the contents of paras 3 and 4 of the Counter-Affidavit are denied so far as the same are contrary to the stand taken by the deponent in the writ petition.

(3) That the contents of para 5 of the counter-affidavit are not denied inasmuch as the deponent was born on 10.10.1946 and he was casual labour in September 1970. The mistake about the age is regretted.

(4) That the contents of para 6 of the Counter Affidavit it is submitted that the appointment of the deponent against the permanent post is by way of punishment. In

X/3  
A23  
b3

(2)

the screened panel the deponent be taken as a Khalasi where there were various avenues open. The stand taken in the counter affidavit is not correct and is detrimental to the interest of the deponent and it is only by way of punishment. Mali will get Rs.196/-232, and Mali upgraded will get Rs.200-250 as indicated in the counter affidavit. The Khalasi will get Rs.196-232 but upgraded Khalasi would get Rs.210-290. Moreover the deponent is drawing Rs.238/- at the moment. The deponent does not know Mali work and he is being sent by way of punishment ; because his brother Bahadur was not liked by Sri V.P. Arya and

P he has been sent as a Mali. The deponent is at No. 159 but P Cheda at No. 160 has been sent to running shed and is drawing P 260-400. He is not in the estate as alleged.

(5) That to send the deponent as a Mali means he will get Rs.196/- at the moment. The opp. parties refused to pay Rs.238/- which the deponent is drawing at the moment.

(6) That regarding para 7 the deponent has nothing to say  
(7) That in reply to para 8, the deponent submits that the information that the appeal has been turned down has not been sent to the deponent. The counter-affidavit indicates that the deponent filed Annexure-A-2 dt.8.8.1985, detailed reply will be submitted.

(8) That the deponent has been ordered to join but he has not yet joined as a Mali.

(9) That regarding Annexure-A-2, it is submitted that on 5.8.1985 the counsel went to the office of Sri V.P.Arya to search the notice. Sri V.P.Arya refused to take the notice saying that the same may come by registered post and through Senior Engineer. Immediately after Sri Arya told the counsel that Sunder was his man and he will remain

(3)

A251

A 251 64

as a Mate or a Khalasi on the same scale, he will not be sent as a Mali. On 5.8.1985 Sri Arya dictated to a Khalasi Radhey Kunwar the application Annexure-A-2, and the deponent was asked to sign. Sri Arya can not be allowed

to take advantage of his position in this connection. Danti Lal, Medhai, Ram Pyarey and Guddoo were promoted and I&W Charbagh had these vacancies in 1984 but by way of punishment the case of the deponent was not considered.

(10) That the person who is sent as a Mali has to get C-1 Certificate from the Medical Man but ~~he~~ since the deponent passed B-1 he was sure to be appointed as a permanent Khalasi so that he may be sent to all other works on promotion if and when such exigency arises.

That the Senior Engineer is not the appointing authority. The transfer of Bahadur as Mali was done by way of punishment and now the deponent the brother of Bahadur is being shunted as a Mali by way of punishment.

25/8/85

Lucknow/Dt. 17/8/1985/

Deponent.

Verification

I, the deponent above named do hereby verify that the contents of paras 1 to 10 above of this Rejoinder Affidavit are true to my knowledge. No part of it is false and nothing material has been concealed, so help me God.

25/8/85

Deponent.

17/8/85

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

Sunder  
Advocate.

17/8/85

Solemnly affirmed before me on 17-8-85  
at 12.50 A.M./P.M. by the Deponent Sri Sunder,

who is identified by Sri G.H.Naqvi, Advocate, Hon'ble High Court of Judicature at Allahabad (Lucknow Bench) Lucknow.

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

JUDICIAL COMMISSION  
High Court, Allahabad  
Lokmanya Tilak Marg

35/216

No.

Date 17-8-85

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

Writ Petition No. 3712 of 1985

A25

Sunder .....Petitioner

versus

Union of India and Others.....Opp. Parties.

MISCELLANEOUS APPLICATION

The applicant Sunder begs to submit as under :-

(1) That the applicant is skilled Mate and he has not yet taken over as Mali. The petitioner does not know Mali work and the proposed appointment as a Mali is by way of punishment.

(2) That the facts and circumstances are given in the writ petition and the Rejoinder Affidavit after service is also being filed herewith.

It is, therefore, prayed that the writ petition, counter-affidavit, and rejoinder-affidavit be considered and a necessary stay order may kindly be issued to the effect that the applicant be not transferred as Mali. Such other orders as this Hon'ble Court deems proper may be passed.

Lucknow/Dt. 5/4/1985/

( G.H. Naqvi )  
Advocate,  
Counsel for the Petitioner.

1. *Chlorophytum comosum* (L.) Willd. (Liliaceae)

\* 60 \* 1946 11月

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3013.3.9

• 2913-187.q. .... VISIONS DES ALMAS DE LOS MUERTOS

卷之三十一

11  
12  
13

and the only air temperature in the first half year (S) is given in table 1. The mean temperature in the first half year is given in table 2.

THE LITERATURE

卷之三

卷之三

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

WRIT PETITION NO. 3712 OF 1986

(A26)

Sunder.....Petitioner

versus

.....of India and Others.....Opp. Parties.

REJOINDER AFFIDAVIT

.....

I, SUNDER, aged about 39 years, son of Pyarey Lal,  
Resident of Village : Shahni, P.O. Roza Gaon, P.S. Kudauli,  
District : Bareilly, do hereby solemnly affirm and state  
on oath as under : -

- (1) That the contents of paras 1 and 2 of the Counter-Affidavit need no reply.
- (2) That the contents of paras 3 and 4 of the Counter-Affidavit are denied so far as the same are contrary to the stand taken by the deponent in the writ petition.
- (3) That the contents of para 5 of the counter-affidavit are not denied inasmuch as the deponent was born on 10.10.1946 and he was casual labour in September 1970. The mistake about the age is regretted.
- (4) That the contents of para 6 of the Counter Affidavit it is submitted that the appointment of the deponent against the permanent post is by way of punishment. In

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

W.P. NO. 3712 of 1985

*Alia*

Sunder . . . . . Petitioner

versus

Union of India and other . . . . . Opp. Parties

AFFIDAVIT

I, Sunder aged about 39 years son of Pyarey Lal resident of Village Sahni P.O. Roza Gaon P.S. Rudauli District Bara Banki do hereby solemnly affirm and state on oath as under:-

1. That in the above noted writ petition necessary affidavits have been exchanged between the parties.
2. That the deponent is not being given pay and he was on the verge of starvation.
3. That if stay order is not issued the deponent and his family would suffer irreparable loss. Nand Lal s/o Dina, 172/580, a junior has been taken as Blacksmith at 260-400.

*Lucknow.*  
Dated: 3/10/1985.

*Alia*  
Deponent

Verification

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

I identify the deponent personally  
who has signed before me.

*Alia*  
Deponent.

Advocate.

Solemnly affirmed before me on 3/10/85  
at 10.20 am/pm by the Deponent Sunder  
who is identified by Sri G.H. Naqvi  
Advocate High Court.

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

*Alia*  
OATH COMMISSIONER  
High Court, Lucknow Bench  
LUCKNOW  
No. .... 56/1044  
Date ..... 3/10/85

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW: BENCH LUCKNOW.

W.P. No. 3712 of 1985

ASO  
VS

Sunder

..... Petitioner

Versus

Union of India and another. .... Opp. Party.

CIVIL MISCELLANEOUS APPLICATION

For the facts and circumstances mentioned in the accompanying affidavit, it is humbly prayed that the impugned order may not be given effect to and the operation be stayed, such other orders as this Hon'ble Court deems just and proper may kindly be passed.

Lucknow.

(G.H. NAQVI)

Advocate.

Dated: 3/10/1985. Counsel for Petitioner.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH LUCKNOW.

W.P. NO. 3712 of 1985

(ASD)

Sunder

..... Petitioner

Versus

Union of India and other ..... Opp. Parties

AFFIDAVIT

, Sunder aged about 39 years son of Pyarey Lal resident of Village sahni P.O. Roza Gaon P.S. Rudaul District Kira Banki do hereby solemnly affirm and state on oath & under:-

1. has in the above noted writ petition necessary affidavits have been exchanged between the parties.
2. at the deponent is not being given pay and he was on the verge of starvation.
3. that if stay order is not issued the deponent and his family would suffer irreparable loss.

S/o Dina / 880, a Junior has been taken as blacksmith  
Al- 260-

Lucknow.  
Dated: 3/1985.

Deponent

Verification

the deponent above named do hereby verify that the contents of paras 1 to 3 above of this affidavit are true to my knowledge. No Part of it is false and no material has been concealed so help me God.

I identify the deponent personally  
who signed before me.

Deponent.

Advocate.

affirmed before me on  
10/1/85 by the Deponent Sunder  
at \_\_\_\_\_ who is identified by Sri G.H. Naqvi  
Advocate High Court.

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

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

W.P. No. 3712 of 1985

Ku9

(AS2)

Sunder . . . . . Petitioner

Versus

Union of India and another. . . . . Opp. Party.

CIVIL MISC APPLICATION

For the facts and circumstances mentioned in the accompanying affidavit, it is humbly prayed that the impugned order may not be given effect to and the operation be stayed. Such other orders as this Hon'ble Court deems just and proper may kindly be passed.

*W.N.A.Q.*

Lucknow.

(G. H. NAQVI)

Advocate.

Dated: 3/10/1985. Counsel for Petitioner.

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

W.P. NO. 3712 of 1985

(AS3)

Sunder . . . . . Petitioner

versus

Union of India and other . . . . . Opp. Parties

AFFIDAVIT

I, Sunder aged about 39 years son of Pyarey Lal resident of Village Sahni P.O. Roza Gaon P.S. Rudauli District Bara Banki do hereby solemnly affirm and state on oath as under:-

1. That in the above noted writ petition necessary affidavits have been exchanged between the parties.
2. That the deponent is not being given pay and he was on the verge of starvation.
3. That if stay order is not issued the deponent and his family would suffer irreparable loss. Nand Lal s/o Dina, 172/580, a junior has been taken as Blacksmith at 260-400.

Lucknow.

Dated: 3/10/1985.

Deponent

Verification

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

I identify the deponent personally  
who has signed before me.

Deponent.

Advocate.

Solemnly affirmed before me on  
at am/pm by the Deponent Sunder  
who is identified by Sri G.H. Naqvi  
Advocate High Court.

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

TG  
Lal

X5✓

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

(A54)

Supplementary Counter Affidavit  
In

Writ Petition No.3712 of 1985

Sunder

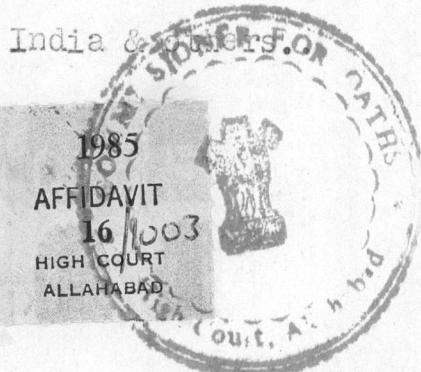
..

Petitioner

Versus

Union of India & others.

Opp. parties.



Supplementary Counter Affidavit  
to the Rejoinder Affidavit filed  
by the petitioner, on behalf of Opp. parties

I, V.P.Arya, aged about 49 years, son of  
Late Dr.Prabhu Dayal, at present working as Chief  
Inspector of Works, Alambagh, Lucknow do hereby solemnly  
affirm and state on oath as under:-

1. That the deponent is opposite party No.3 in the above noted writ petition as such is fully conversant with the facts of the case.
2. That the deponent has read the Rejoinder affidavit filed by the petitioner and has understood its contents and has been authorised by the opposite parties to file this supplementary counter affidavit on their behalf.

UmaShankar

(A55)

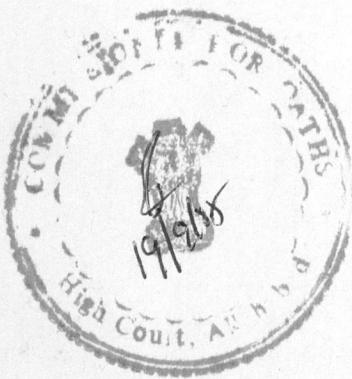
10/3  
A/53

3. That the contents of paras 1 to 3 of the Rejoinder affidavit do not call for any reply.

4. That the averments made in para 4 of the rejoinder affidavit are not admitted. In terms of para 2511-b of Indian Railway Establishment Manual, all casual labour, having more than 120 days continuous service shall have to, in case they want to come on the regular establishment of the Railway, invariably go through a screening test conducted by the regular selection boards for class IV staff, to have them <sup>being</sup> empanelled subject to their ~~and~~ suitable.

The petitioner's case is a similar case who, after getting empanelled on the combined panel of Class IV staff, which includes Khallasies, Malies etc. under the Assistant Engineer I, Lucknow presently Sr. Engineer, Charbagh, Lucknow framed during the year 1973, while working as a temporary status casual labour mate, was spared by this office on 9.8.1985 A.N. to join the regular establishment of the Railway as Mali under Inspector of Works (Estate), Northern Railway, Lucknow, on his due turn in grade Rs.196-232 (RS) in compliance of the Senior Engineer, Northern Railway, Charbagh, Lucknow vide his letter No.4/E/Panel/73 dated 4.7.85 (Annexure A-1 of counter Affidavit).

So far as the grades are concerned, it is clarified herewith that the initial grade of class IV post to which the petitioner is entitled is Rs.196-232 (RS) only irrespective of his posting as Mali/Khali. Likewise, it may kindly be noted that the grade of Mate viz. Rs.210-270 (RS) too is common to both the categories



Uradhange

(ASB)

70  
11  
84

irrespective of slight difference in the grades of posts of Mali(upgraded) and Khallasi Helper, which are Rs.200-250(RS) and Rs.210-290(RS) respectively.

This obviously means that the petitioner on joining duty as Mali under Inspector of Works(Estate), Lucknow in grade Rs.196-232(RS) or as Khallasi in the same grade, in any other office, as per the petitioners' appeal to the Senior Engineer/Charbagh dated 18.7.85 (Annexure A-2 to the counter Affidavit) hardly makes any difference.

Posting orders of Sri Bahadur son of Shri Pyarey Lal too as Mali on his due turn under similar conditions were issued by the competent authority viz. Senior Engineer, Northern Railway, Charbagh, Lucknow vide his letter No.4/E/79-80/Panel 73 dated 9.8.1984 which were implemented on 1.10.1984 fore-noon without any pre-judice.

5. That in reply to the averments made in para 5 of the rejoinder affidavit it is clarified that the petitioner who was a temporary status casual mate and whose services were purely of casual nature, though in grade Rs.210-270(RS), will on joining as mali in grade Rs.196-232(RS) after complying with the administrative instructions on account of his posting due to empanelment shall come on the regular establishment of the railway, and shall thereby enjoy all other benefits including avenues for promotions on his due turn. This is not admitted that he would draw initial basic pay of Rs.196/- in case he joins as Mali or Khallasi contrarily he will be initially fixed up at a higher



Urareshwarya

(ASZ)

10/55  
VS

basic pay, by giving due weightage to his length of service, as temporary status casual labour/mate w.e.f. 15.6.77 i.e. Rs.196/- added with annual increments for the period he rendered services as casual labour.

6. That the averments made in para 7 of the rejoinder affidavit are not admitted on the grounds that the petitioner was clearly made to understand on 8.8.1985 regarding rejection of his appeal dated 18.7.1985 by the competent authority viz. Senior Engineer Charbagh, Lucknow and he noted the same on the application dated 18.7.1985 in original, under his own dated signatures, in token of his accepting the factual position(Annexure A-2 of the counter affidavit).

7. That the averments made in para 8 of the rejoinder affidavit need no comments except that the petitioner stands spared w.e.f. 9.8.1985 AN from the post of Temporary Status Casual <sup>Male</sup> ~~Male~~ of this office in terms of this office letter No.4/E/AMV-85 dated 8/9.8.1985 acknowledged by him on 9.8.1985(Annexure A-3 to the counter affidavit) and his further whereabouts are not known since then.

8. That the averments made in para 9 of the rejoinder affidavit are admitted to the extent that the ~~examination~~ counsel of the petitioner accompanied with the petitioner contacted the deponent in his office on Saturday ~~xxviii~~ 3.8.1985 and not on 5.8.1985 and desired to serve some papers not addressed to him, which were not accepted by the deponent on the plea that the same should instead be either served directly



Urareshwary

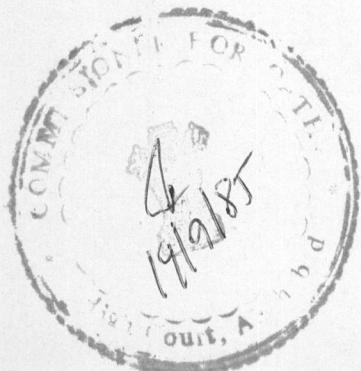
AS8

10/50  
10/10

to the addressees, alternatively by postal service, which the learned counsel agreed to in view of closure of all Central Govt. Offices on that day being Saturday.

The petitioner in presence of his counsel and others admitted that he had a personal interview with the Senior Engineer, Charbagh, Lucknow regarding his results of his appeal dated 18.7.1985 but the Senior Engineer, Charbagh, Lucknow clearly informed the petitioner that his request cannot be accepted as such and that he should without any further delay, comply with the orders dated 4.7.1985, failing which the administration will be left with no alternative except to go ahead as per extant rulings, which may result in irreparable loss to the petitioner on this account.

As regards with the application at the Annexure A-2 of the counter affidavit, it may kindly be observed that the petitioner's appeal is of date 18.7.1985 and not of 5.8.1985 as alleged by the counsel of the petitioner, who, in reply to his query was also informed that in case the petitioner is not inclined to comply with the administrative orders by joining as a Mali under Inspector of Works/Estate/ Lucknow, in view of his empanelment to combined panel of Class IV staff formed during the year 1973, within a reasonable and specified time, his name may be struck off from the panel and posting of next empanelled man, would be done in lieu of the petitioner, as Government work cannot be allowed to paralyse on any account. The petitioner may be allowed to continue on his ~~the~~ post as a temporary status casual Mate at this office.



Urashary

(459)

X 10  
1/2

subject to availability of sanction in case he gives his unconditional written refusal to join as a regular Mali under Inspector of Works/Estate/Lucknow and wants <sup>✓ continue ✓</sup> to ~~conue~~ as a temporary status casual Mate at this Office, though in such an event the petitioner is bound to loose his empanelment according to extant rulings.

The petitioner thereupon was advised by his counsel himself in presence of the deponent to once again personally approach the Senior Engineer/Charbagh, Lucknow to seek redressal of his grievances on his appeal dated 18.7.1985 instead of pursuing his case.

The petitioner again met the deponent in his office on 8.8.1985, and desired to be spared for joining as regular Mali under Inspector of Works(Estate) Lucknow as the Senior Engineer, Lucknow had already confirmed his earlier stand in writing on 5.8.1985 and even the rejection of his appeal too was noted by him <sup>✓ 8.8-1985 ✓</sup> in office on ~~9.8.1985~~ <sup>✓</sup> (vide Annexure A-2 of the counter affidavit) as he, in no case, was interested to have his name struck off from the panel, as was informed by the Senior Engineer, Charbagh, Lucknow on his appeal dated 18.7.1985.

9. That the averments made in para 10 of the rejoinder affidavit are denied on the plea that the criteria for the petitioner's medical examination in category B-1, which is a superior category than C-1, was on account of his then services as casual labour/ Mate, which does not in any way comes in the way of his absorption as regular Mali, for which the minimum prescribed category of medical is C-1.



Uraohanga

(A 60)

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✓

It is not admitted that the appointing authority for class IV staff is not the Senior/Assistant Engineer.

As regards the posting of Shri Bahadur alleged to be brother of the petitioner, it was merely a chance that a vacancy of Mali arose on his due turn too under Inspector of Works/Estate/Lucknow and he was posted vice that and not that he was posted as Mali on account of any other reason by the Senior Engineer/Lucknow.

Uraoharye

Lucknow:

Deponent

Dated: Sept. 19 1985

Verification

I, the above named deponent do hereby verify that the contents of paras 1 and 2 are true to my personal knowledge, those of paras 3 to 9 are based on records hence are believed by me to be true. No part of it is false and nothing material has been concealed in it so help me God.

Uraoharye

Lucknow:

Deponent

Dated: Sept. 19 1985

I identify the deponent who has signed before me.

C. A. Bani  
Advocate.

(A61)

159

10/6

Solemnly affirmed before me  
on 19/9/85 at 9 a.m./p.m.  
by the deponent who is iden-  
tified by Sri C.A.Basir, Advocate,  
High Court, Lucknow Bench, Lucknow.

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

*Ramchandra*  
OATH COMMISSIONER

High Court, Allahbad,  
(Lucknow Bench)

No. 161003  
Date 19/9/85

(A-62) A/60 11

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

WRIT PETITION NO. 3712 of 1985

Sunder ~~versus~~ . . . . . Petitioner

versus

Union of India & others . . . . . Opp. Parties

AFFIDAVIT

I, Sunder, aged about 27 years, son of Pyarey Lal, resident of Village sahā, P.O. Rozagaon, P.S. Rudauli, District Barabanki, do hereby solemnly affirm and state as under:-

1. That the deponent is the petitioner in the above noted case and as such he is fully conversant with the facts of the case.
2. That Annexure No. 1 and 2 are the summons received by the office of the Divisional Railway Manager, Hazratganj, Lucknow. Annexure No. 3 and 4 are the summons indicating that Senior Engineer received a copy of the writ petition and stay order.
3. That sri Ved Prakash Arya is the Chief Inspector of works. On 13/8/85 he refused to take the summons saying that the same should be sent by registered post and that the same should be through the Senior Engineer.

Dated: Lucknow

16.8.1985

*✓* Deponent.

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

Dated: Lucknow

16.8.1985

*✓* Deponent.

I identify the deponent who has signed before me.

*✓* S. H. Nagu  
Advocate.

Solemnly affirmed before me on 16/8/85  
am/pm by the deponent who is  
identified by shri S. H. Nagu  
Advocate, High Court, Lucknow.  
I have satisfied by examining  
the deponent who understands its contents  
which have been readout and explained by me.

OATH COMMISSIONER  
High Court, Lucknow Bench

16/8/85

16/8/85

(A63)

11  
✓  
A63

# हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

( अध्याव १२, नियम १ और ७ )

लोकानी विभाग

प्रकोणांक ( मतफर्रिक ) प्रार्थना पत्र संख्या ..... सन १६ ई०

W. S. 3712 सन १६ ई० मे

का लिखे गये नाम  
का लिखे गये प्रार्थना पत्र  
का लिखे गये नियमावली  
का लिखे गये नियमावली

वृक्ष ऊपर लिखे गये प्रार्थना पत्र में इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में

के नाम ..... के लिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक १० माह ८ सन १६ ई०  
को या उससे पूर्व उपस्थित होकर कारण बतलाये कि प्रार्थना-पत्र क्यों न स्वीकार कर  
लिया जाय। उक्त प्रार्थना-पत्र को सुनवाई उसके बाद नियमानुसार विज्ञप्ति कियी जोर  
दिन होगी।

विदित हो कि आप ऊपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी  
एडवोकेट या ऐसे व्यक्ति द्वारा, जो आपको जोर से काया करने के लिए कानूनन अधिकृत  
हों उपस्थित न होंगे तो उस प्रार्थना-पत्र को सुनवाई और निर्णय आपको अनुपस्थिति  
में हो जायेगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक ८ माह १९ सन १६ ई०  
को बारी किया गया।

S. D. N. Nagi के एडवोकेट



8/8/80

Iqbal Ahmad

डिप्लो एजिस्ट्रार  
इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की नियमावली के अध्याव ३७ नियम १ के अधीन प्राप्त  
तिलबाना मिल गया।

तिलबाना प्राप्त करने वाले कलक्ष के हस्ताक्षर

(A64)

11

8/62

# हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

( अध्याय १२, नियम १ और ७ )

शोधानी विभाग

प्रकोणांक (मुतफरिक) प्रार्थना - पत्र संख्या ..... सन १६ १०

W.P. 3712

रु. २० सन १६ १० मे

Sunder

प्रार्थी

After leaving the Union of India, Rule, <sup>प्रति</sup> <sup>प्रत्यार्थी</sup>  
 Annex II to the Union of India through the  
 International Railway Manager.  
 Mysore, 8th June 1970. <sup>प्रत्यार्थी</sup>

चूंकि उपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में  
 के नाम ..... के लिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक १६ माह १९८५ सन १६ १०  
 को या उससे पूर्व उपस्थित होकर काटण बतलाये कि प्रार्थना-पत्र क्यों न स्वीकार कर  
 लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति कियी जोर  
 दिन होगी।

विदित हो कि आप उपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी  
 एडवोकेट या ऐसे व्यक्ति द्वारा, जो आपकी ओर से काया करने के लिए कानूनन अधिकृत  
 हों उपस्थित न होंगे तो उस प्रार्थना-पत्र की सुनवाई और निर्णय आपकी अनुपस्थिति  
 में हो जायेंगे।

मेरे हस्ताक्षर और न्यायालय को मोहर से आज दिनांक ८ माह १९८५ सन १९  
 को जारी किया गया।

S. C. Magu

के एडवोकेट



8-6-85

Ishan Khan

छप्टी रविस्तार  
इलाहाबाद/लखनऊ

16/85

सूचना—इस न्यायालय की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त  
 तलबाना मिल गया।

लक्ष्माना प्राप्त करने वाले कलक्ता के हस्ताक्षर

(A65)

# इंडिकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

( अध्याय १२, नियम १ और ७ )

लोकानी विभाग

प्रकोणांक ( मुतफर्क ) प्रार्थना - पत्र संख्या ..... सन १६ ई०

८/८३

W. R. ..... ३७१२ ..... सन १६ ई० ने

Summer

प्रार्थी

प्रति  
After the Union of India's Rule  
Leave Senior Engineer Northern  
Railway, Chaurbagh.  
Ann 11

प्रत्यार्थी

चूंकि उपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में  
के नाम ..... के लिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक १६ माह सन १६८५  
को या उससे पूर्व उपस्थित होकर कारण बताये कि प्रार्थना-पत्र क्यों न स्वीकार कर  
लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञापित कियी जो र  
दिन होगी।

विदित हो कि आप उपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी  
एडवोकेट या ऐसे व्यक्ति द्वारा, जो आपको और से काय करने के लिए कानूनन अधिकृत  
हों उपस्थित न होंगे तो उस प्रार्थना-पत्र की सुनवाई और निर्णय आपको अनुपस्थिति  
में हो जायेंगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक १६ माह सन १९  
को ज्ञारौ लिया गया।

S. R. H. Nagi. .... के एडवोकेट

EDWARD H. NAGI  
SENIOR ENGINEER  
N. Rly., Lucknow.



38-82

J. H. Akbar  
डिप्टी रजिस्ट्रार  
इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १८८५ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त  
तलवाना मिल गया।

तलवाना प्राप्त करने वाले कलक्क के हस्ताक्षर

(A6)

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

( अध्याय १२, नियम १ और ७ )

तेलवाना विमान

प्रकोणांक (मूतफरिक) प्रार्थना - पत्र संख्या ..... सन १६ ४०

W. .... संख्या ३७१२

सन १६ ४० म

A/64

Funeral ..... प्रार्थी

The Union of India <sup>प्रति</sup>  
The Senior Engineer Northern <sup>प्रत्यार्थी</sup>  
Railway Charbagh.  
Area Headmowd.  
Area

प्रत्यार्थी

चूंकि उपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में  
उपर लिखे प्रार्थी के नाम ..... के लिये प्रार्थनापत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक १६ माह ४ सन १६ ४०  
को या उससे पूर्व उपस्थित होकर कारण बताये कि प्रार्थनापत्र क्यों न स्वीकार कर  
लिया जाय। उक्त प्रार्थनापत्र को सुनवाई उसके बाद नियमानुसार विज्ञप्ति कियी और  
दिन होगी।

विदित हो कि आप उपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी  
एडवोकेट या ऐसे व्यक्ति द्वारा, जो आपकी ओर से काय करने के लिए कानून अधिकृत  
हों उपस्थित न होंगे तो उस प्रार्थनापत्र को सुनवाई और निर्णय आपकी अनुस्थिति  
में हो जायेंगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक ४ माह सन १६  
को तारीख लिया गया।

S. G. H. Nag

के एडवोकेट

Sam. 12/8/85  
SENIOR ENGINEER,  
N. Rly., Lucknow.



3/1-10

Iqbal Ahmad

हिन्दू रमिस्ट्रार  
इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १९४७ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त  
तलवाना मिल गया।

तलवाना प्राप्त करने वाले कल्प के हस्ताक्षर

No. 567

11/6  
A/65

# हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

( अध्याद १२, नियम १ और ७ )

लोकानी विभाग

प्रकोणांक ( मुतफरिक ) प्रार्थना - पत्र संख्या ..... सन १६ अ०

रा० ३७१२ सन १६ अ० अ० मे

Sumder

प्रार्थी

The Union of India & Others प्रति  
Chief Inspector of Works प्रत्यार्थी

N.R. Chauhan, Hamid Khan  
In & Elmo

प्रार्थार्थी

चूंकि अपर लिले, प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में  
के नाम ..... के लिये प्रार्थना-पत्र

हिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक १६ माह सन १६ अ०  
को या उससे पूर्व उपस्थित होकर कारण बतलाये कि प्रार्थना-पत्र क्यों न स्वीकार कर  
लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति कियी और  
दिन होगी।

विदित हो कि आप अपर लिले दिनांक पर या उससे पहले स्वयं अथवा किसी  
एडवोकेट या ऐसे व्यक्ति द्वारा, जो आपकी ओर से कार्य करने के लिये कानूनन अधिकृत  
हों उपस्थित न होंगे तो उस प्रार्थना-पत्र की सुनवाई और निर्णय आपको अनुपस्थिति  
में हो जायेगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक ८ माह सन १६ अ०  
को बारे किया गया।

S. G. H. Naqvi के एडवोकेट



3/8/85

Iqbal Ahmad

जिप्टी रविस्तार  
इलाहाबाद/लखनऊ

3/8

सूचना—इस न्यायालय की नियमावली के अध्याद ३७ नियम २ के अधीन प्राप्त  
पत्राना मिल गया।

प्राप्ताना प्राप्त करने वाले कालके के हस्ताक्षर

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

( अध्याद १२, नियम १ और ७ )

दोषानन्द विमान

प्रकोणांक ( मुतफरिक ) प्रार्थना - पत्र संख्या ..... दन १६ फू०

W. R. 3712

रु० १६ दू० मे

Sunder

प्रार्थी

the Union of India, <sup>प्रति</sup> <sup>प्रार्थी</sup>  
Chief Inspector of Works <sup>प्रार्थी</sup>

N R Chembat <sup>प्रार्थी</sup> Alamkhan

प्रार्थी

चूंकि उपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में

के नाम ..... के लिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक १६ माह ८ दन १६ फू० को या उससे पूर्व उपस्थित होकर कारण बतलाये कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति कियी जोर दिन होगी।

विदित हो कि आप उपर लिखे दिनांक पर या उससे पहले स्वयं अधिकार किसी एडवोकेट या ऐसे व्यक्ति द्वारा, जो आपकी ओर से काया करने के लिए कानूनन अधिकृत हों उपस्थित न होंगे तो उस प्रार्थना-पत्र की सुनवाई जोर निर्णय आपकी अनुपस्थिति में हो जायेगी।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक ८ माह ८ दन १६ फू० को बारो किया गया।

S. G. H. Nagi

के एडवोकेट



3-8-86

Ishan Ahmad

डिप्टी रजिस्ट्रार  
इलाहाबाद/लखनऊ

319

सूचना—इस न्यायालय की नियमावली के अध्याद ३७ नियम १ के अधीन प्राप्त तिलबाना मिल गया।

प्रकाशना प्राप्त करने वाले कलक्क के हस्ताक्षर

No 868 A68

11/8

# हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

( अध्याय १२, नियम १ और ७ )

होमानी विभाग

प्रकोणांक ( मतफर्रिक ) प्रार्थना - पत्र संख्या ..... सन १६ ई०

W. P. ..... ३७१२ ..... सन १६ ई० मे

Suborder.

8/8

प्रार्थी

The Union of India & <sup>प्रति</sup> प्रार्थी  
Chief Inspector of WORKS <sup>प्रार्थी</sup>

Chandbagh N.R. Almora

Lucknow

प्रार्थी

चूंकि उपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में

के नाम ..... के लिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक १६ माह सन १६८५ को या उससे पूर्व उपस्थित होकर कारण बतलाये कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना-पत्र को सुनवाई उसके बाद नियमानुसार विज्ञप्ति कियी और दिन होगी।

विदित हो कि आप उपर लिखे दिनांक पर या उससे पहले स्वयं अधिका किसी एडवोकेट या ऐसे व्यक्ति द्वारा, जो आपकी ओर से कार्य करने के लिए कानूनन अधिकृत हों उपस्थित न होंगे तो उस प्रार्थना-पत्र को सुनवाई और निर्णय आपकी अनुष्ठिति में हो जायेगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक ८ माह सन १९

को जारी किया गया।

S. R. H. M.

के एडवोकेट



8-8-85

Sohar Ahmad

डिप्टी रजिस्ट्रार

इलाहाबाद/लखनऊ

No 34

सूचना—इस न्यायालय को १९८२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त तलवाना मिल गया।

तलवाना प्राप्त करने वाले कल्पक के हस्ताक्षर

(A69)

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

( अध्याय १२, नियम १ और ७ )

होकारी विभाग

प्रकोणांक (मतफरिक) प्रार्थना - पत्र संख्या C.M.B. 8760 (W) 21 सन १६ १०

८/६८

W. P. No. 3712 सन १६ १० मे

Summons : प्रार्थी

The Union of India's Posts  
प्रार्थी

Chief Inspector of Posts

Chandigarh N.R. Hamid

लखनऊ

प्रार्थी

चूंकि छपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में  
के नाम के लिये प्रार्थनापत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक १६ माह सन १६ ८५  
को या उससे पूर्व उपस्थित होकर कारण बतलाये कि प्रार्थनापत्र क्यों न स्वीकार कर  
लिया जाय। उक्त प्रार्थनापत्र को सुनवाई उसके बाद नियमानुसार विज्ञप्ति कियी और  
दिन होगी।

विद्वित हो कि आप छपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी  
एडवोकेट या ऐसे व्यक्ति हारा, जो आपकी ओर से कायां करने के लिए कानूनन अधिकृत  
हों उपस्थित न होंगे तो उस प्रार्थनापत्र को सुनवाई और निर्णय आपको अनुपस्थिति  
में हो जायेंगे।

मेरे हस्ताक्षर और न्यायालय को मोहर से आज दिनांक ८८ सन १९  
को वारी किया गया।

D. H. Naqvi

के एडवोकेट



तिथि ८/८/८५

J. S. Thomas

डिप्टी रजिस्ट्रार  
इलाहाबाद/लखनऊ

सूचना—इस न्यायालय १९५१ को नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त  
तलवाना मिल गया।

तलवाना प्राप्त करने वाले कलक्ष के हस्ताक्षर

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW BENCH: LUCKNOW  
WIT PETITION NO. 1985

(A70)

A  
89

under \* \* \* \* \* Petitioner

versus

The Union of India and another

\* \* \* Opp. Parties.

INDEX

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6.	Power	

(G.H. NAQVI )

Advocate

Counsel for the petitioner

Dated: Lucknow  
1985

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

WRIT PETITION NO. OF 1985

A 70  
A 71

Sunder, aged about 27 years, son of Pyarey Lal  
resident of Village Gehni, P.O. Rognagan, P.S.  
Rudauli, District Barabanki.

..... Applicant

versus

1. The Union of India through the Divisional Railway Manager, Hazratganj, Lucknow.
2. The senior Engineer, Northern Railway, Charbagh, Lucknow. *Plam Bells*
3. Inspector of Works I Charbagh Lucknow. *Opp. Parties.*

WRIT PETITION UNDER ARTICLE 226 OF THE  
CONSTITUTION OF INDIA

The petitioner named above respectfully begs to submit as under:-

1. That the petitioner is an honest youth from the interior of the village and he does not indulge in activities of the Union. He obliged to pay the Union Fee, without doubt the Union in every department does not allow it to work normally. The disturbance caused is to be born by the Department itself. The petitioner has nothing more to say against Union or anybody.

2. That at the moment the Union is over the Head of the Officers and they insist that the C.P.C. scale i.e. employees not on the panel may be absorbed in the regular line and those on the panel may be shunted to ~~same~~ such places where there is no scope of any promotion.

3. That in 1959 the petitioner was taken as casual Labour. The petitioner worked throughout to the satisfaction of all concerned subsequently there was screening, the applicant was declared successful and he was put on the panel in 1973, at sl. No. 159 with Roll No. 669.

4. That the petitioner has been promoted as a Mate and he is drawing Rs. 30/- more per month. On 18/7/85, the Inspector of Works No. 1 of the petitioner is asked the petitioner to work as Mali. Mali is a Casual Labour. Mali is inferior to Mate. If one goes as Mali no chance of promotion is open to him. Once a Mali, always a Mali and this should be given to those who are not on the panel.

5. That the petitioner submitted an application and sent the same under certificate of posting on 18/7/85 to the Senior Engineer Northern Railway, Charbagh, Lucknow. The copy of the Certificate of posting is Annexure No. 1 and the copy of the representation is Annexure-2.

6. That no reply has been received so far and it appears that the request of the petitioner has been rejected without hearing the petitioner.

7. That the petitioner is still working under Inspector of Works #1, but he will have to join as a Mali on the 1st of August 1985. The representation submitted has been turned down and in spite of the requests, the petitioner has not been given an opportunity of being heard. The petitioner has not joined as Mali upto this time.

8. That there being no equally efficacious remedy available, this writ petition is being filed as this is the order to ~~be~~ a mate to join as a Mali is demotion by way of punishment. -

GROUND

1. That the order to join as a Mali, is no order in the eye of law.

2. That the order is against the principles of natural justice

3. That the ordering the applicant to who is a Mate to join as Mali amounts to demotion.

4. That in spite of the request no opportunity was given to hear the petitioner.

Wherefore it is respectfully  
prayed that :-

(a) A writ order, or direction in the nature of certiorari quashing the order if any after summoning the same from the Opposite Parties.

(b) a writ, direction or order in the

(A24)

nature mandamus commanding the opposite parties  
to allow the petitioner to work as Mate and not  
to shift him as Mali.

(c) The petition be allowed with costs.

Dated: Lucknow  
1985

(G. H. Naqvi )  
Advocate  
Counsel for the Petitioner

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

WRIT PETITION NO. OF 1985

8/73

sunder . . . . . Petitioner

versus

Union of India and another . . . Opp. Parties

AFFIDAVIT

I, Sunder, aged about 27 years, son of Pyarey Lal, resident of Village Sahni, P.O. Rozgaon, P.S. Rudeuli, District Barabanki, do hereby solemnly affirm and state as under:-

1. That the deponent is the petitioner in the abovenoted case and as such he is fully convergent with the facts of the case.

2. That the contents of paras 1 to 8 of the attached writ petition are true to my knowledge.

3. That the annexures No. 1 and 2 are true copies.

Dated: Lucknow  
1985

Deponent.

VERIFICATION

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

Dated: Lucknow  
1985

Deponent.

I identify the deponent who has signed before me,

Advocate

solemnly affirmed before me on am/pm by the deponent who is identified by Shri Advocate, High Court, Lucknow. I have satisfied by examining the deponent who understands its contents which have been readout and explained by me.

IN THE HON'BLR HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH : LUCKNOW

W<sup>RT</sup>IT STITION NO. OF 1985

(A76)

(A75)

Sunder . . . . . Petitioner

Versus

Union of India and another . . . Opp. Parties

ANNEXURE NO.2

UNDER CERTIFICATE OF POSTING

From: Sunder, son of Pyarey Lal,  
Panel No. 159/669 working under  
Inspector of works, Northern Railway, Lucknow.

To

1. The Divisional Railway Manager,  
Northern Railway, Hazratganj, Lucknow.
2. Senior Engineer, Northern Railway,  
Charbagh, Lucknow.

sir,

Respectfully I beg to submit that I was taken as a casual Labour in 1959. I worked very hard and when the screening took place I was selected on the panel. My No. 159/669. I have been working as a casual Labour and thereafter I have been promoted as Mate where I get Rs.30/- more every month. As luck would have it the people of the Union have influence in the Department with the result that persons outside the panel are sought to regularised and persons on the panel are being sent to as Mali. This is demotion and this order may not be given effect to. I humbly request that the order to send my as a Mali may kindly be revoked and in case the order is being given effect to I may be heard in person before confirming the order. This order is only by way of punishment and hence this request.

If no reply is received within 10 days of this letter I shall be obliged to seek my remedy elsewhere, for the redress of my grievances.

Dated: 18/7/1985

Yours faithfully,  
Sd/- Sunder

A77

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW BENCH : LUCKNOW  
WRIT PETITION NO. OF 1985

X  
H

CIVIL MISC. APPLICATION NO. OF 1985

in re

Sundar, aged about 27 years, son of Pyarey Lal  
resident of Village Sahni, P.O. Rozaganj, P.S.  
Rudavli, District Barabanki.

... Applicant

versus

1. The Union of India through the Divisional  
Railway Manager, Hazratganj, Lucknow.
2. The Senior Engineer, Northern Railway,  
Charbagh, Lucknow.
3. The Inspector of Works  
Alam Joseph U... Opp. Parties.

APPLICATION FOR INTERIM RELIEF

For the facts, reasons and circumstances  
stated in the accompanying writ petition duly  
supported with an affidavit, it is most respectfully  
prayed that this Hon'ble Court may be pleased  
to issue a direction that the petitioner may be  
allowed to continue as Mate till the final  
disposal of this writ petition. Any other order  
which this Hon'ble Court may deem  
proper in the circumstances of the case be also  
passed.

(G. H. Waqvi )

Advocate

Dated: Lucknow  
1985

Counsel for the Petitioner

11/28  
A 20

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

WRIT PETITION NO. 3712 of 1985

K  
xx

Sunder XXXXX . . . . . Petitioner

versus

Union of India & others . . . . . Opp. Parties

AFFIDAVIT

I, Sunder, aged about 27 years, son of Pyarey Lal, resident of Village sahi, P.O. Rozagaon, P.S. Rudauli, District Barabanki, do hereby solemnly affirm and state as under:-

1. That the deponent is the petitioner in the above noted case and as such he is fully conversant with the facts of the case.

2. That Annexure No. 1 and 2 are the summons received by the office of the Divisional Railway Manager, Hazratganj, Lucknow. Annexure No. 3 and 4 are the summons indicating that Senior Engineer received a copy of the writ petition and stay order.

3. That Sri Ved Prakash Arya is the Chief Inspector of Works. On 13/8/85 he refused to take the summons saying that the same should be sent by registered post and that the same should be through the Senior Engineer.

Dated: Lucknow  
1985

Deponent.

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

Dated: Lucknow  
1985

Deponent.

I identify the deponent who has signed before me.

Advocate.

Solemnly affirmed before me on  
am/pm by the deponent who is  
identified by Sri  
Advocate, High Court, Lucknow.  
I have satisfied by examining  
the deponent who understands its contents  
which have been read out and explained by me.

(A79)

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

WRIT PETITION NO. 3712 of 1985

A/8

Sunder Naik . . . . . Petitioner  
versus  
Union of India & others . . . . . Opp. Parties

AFFIDAVIT

I, Sunder, aged about 27 years, son of Pyarey Lal, resident of Village Sahi, P.O. Rozagan, P.S. Rudeuli, District Barabanki, do hereby solemnly affirm and state as under:-

1. That the deponent is the petitioner in the above noted case and as such he is fully conversant with the facts of the case.

2. That Annexure No. 1 and 2 are the summons received by the office of the Divisional Railway Manager, Hazratganj, Lucknow. Annexure No. 3 and 4 are the summons indicating that Senior Engineer received a copy of the writ petition and stay order.

3. That Sri Ved Prakash Arya is the Chief Inspector of works. On 13/8/85 he refused to take the summons saying that the same should be sent by registered post and that the same should be through the Senior Engineer.

Dated: Lucknow  
1985

Deponent.

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

Dated: Lucknow  
1985

Deponent.

I identify the deponent who has signed before me.

Advocate.

solemnly affirmed before me on  
am/pm by the deponent who is  
identified by Shri  
Advocate, High Court, Lucknow.  
I have satisfied by examining  
the deponent who understands its contents  
which have been readout and explained by me.

( Bench copy )

(A 80)

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

Supplementary Counter Affidavit  
In

Writ Petition No.3712 of 1985

Sunder

..

Petitioner

Versus

Union of India & others..

Opp. parties.

Supplementary Counter Affidavit  
to the Rejoinder Affidavit filed  
by the petitioner, on behalf of Opp. parties

I, V.P.Arya, aged about 49 years, son of  
Late Dr.Prabhu Dayal, at present working as Chief  
Inspector of Works, Alambagh, Lucknow do hereby solemnly  
affirm and state on oath as under:-

1. That the deponent is opposite party No.3  
in the above noted writ petition as such is fully  
conversant with the facts of the case.

2. That the deponent has read the Rejoinder  
affidavit filed by the petitioner and has understood  
its contents and has been authorised by the opposite  
parties to file this supplementary counter affidavit  
on their behalf.

(AB)

- 2 -

3. That the contents of paras 1 to 3 of the Rejoinder affidavit do not call for any reply.

4. That the averments made in para 4 of the rejoinder affidavit are not admitted. In terms of para 2511-b of Indian Railway Establishment Manual, all casual labour, having more than 120 days continuous service shall have to, in case they want to come on the regular establishment of the Railway, invariably go through a screening test conducted by the regular selection boards for class IV staff, to have them <sup>being</sup> empanelled subject to their <sup>being</sup> suitable.

The petitioner's case is a similar case who, after getting empanelled on the combined panel of Class IV staff, which includes Khallasies, Malies etc. under the Assistant Engineer I, Lucknow presently Sr. Engineer, Charbagh, Lucknow framed during the year 1973, while working as a temporary status casual inmate, was spared by this office on 9.8.1985 A.N. to join the regular establishment of the Railway as Mali under Inspector of Works(Estate), Northern Railway, Lucknow, on his due turn in grade Rs.196-232(RS) in compliance of the Senior Engineer, Northern Railway, Charbagh, Lucknow vide his letter No.4/E/Panel/73 dated 4.7.85(Annexure A-1 of counter Affidavit).

So far as the grades are concerned, it is clarified herewith that the initial grade of class IV post to which the petitioner is entitled is Rs.196-232 (RS) only irrespective of his posting as Mali/Khallasi. Likewise, it may kindly be noted that the grade of Mate viz. Rs.210-270(RS) too is common to both the categories

irrespective of slight difference in the grades of posts of Mali(upgraded) and Khallasi Helper, which are Rs.200-250(RS) and Rs.210-290(RS) respectively. This obviously means that the petitioner on joining duty as Mali under Inspector of Works(Estate), Lucknow in grade Rs.196-232(RS) or as Khallasi in the same grade, in any other office, as per the petitioners' appeal to the Senior Engineer/Charbagh dated 18.7.85 (Annexure A-2 to the counter Affidavit) hardly makes any difference.

Posting orders of Sri Bahadur son of Shri Pyarey Lal too as Mali on his due turn under similar conditions were issued by the competent authority viz. Senior Engineer, Northern Railway, Charbagh, Lucknow vide his letter No.4/E/79-80/Panel 73 dated 9.8.1984 which were implemented on 1.10.1984 fore-noon without any pre-judice.

5. That in reply to the averments made in para 5 of the rejoinder affidavit it is clarified that the petitioner who was a temporary status casual mate and whose services were purely of casual nature, though in grade Rs.210-270(RS), will on joining as mali in grade Rs.196-232(RS) after complying with the administrative instructions on account of his posting due to empanelment shall come on the regular establishment of the railway, and shall thereby enjoy all other benefits including avenues for promotions on his due turn. This is not admitted that he would draw initial basic pay of Rs.196/- in case he joins as Mali or Khallesi contrarily he will be initially fixed up at a higher

basic pay, by giving due weightage to his length of service, as temporary status casual labour/mali w.e.f. 15.6.77 i.e. Rs.196/- added with annual increments for the period he rendered services as casual labour.

6. That the averments made in para 7 of the rejoinder affidavit are not admitted on the grounds that the petitioner was clearly made to understand on 8.8.1985 regarding rejection of his appeal dated 18.7.1985 by the competent authority viz. Senior Engineer Charbagh, Lucknow and he noted the same on the application dated 18.7.1985 in original, under his own dated signatures, in token of his accepting the factual position(Annexure A-2 of the counter affidavit).

7. That the averments made in para 8 of the rejoinder affidavit need no comments except that the petitioner stands spared w.e.f. 9.8.1985 AN from the post of Temporary Status Casual <sup>Male</sup> Mali of this office in terms of this office letter No.4/E/AMV-85 dated 8/9.8.1985 acknowledged by him on 9.8.1985(Annexure A-3 to the counter affidavit) and his further whereabouts are not known since then.

8. That the averments made in para 9 of the rejoinder affidavit are admitted to the extent that the ~~examination~~ counsel of the petitioner accompanied with the petitioner contacted the deponent in his office on Saturday ~~xxix~~ 3.8.1985 and not on 5.8.1985 and desired to serve some papers not addressed to him, which were not accepted by the deponent on the plea that the same should instead be either served directly

(A84)

to the addressees, alternatively by postal service, which the learned counsel agreed to in view of closure of all Central Govt. Offices on that day being Saturday.

The petitioner in presence of his counsel and others admitted that he had a personal interview with the Senior Engineer, Charbagh, Lucknow regarding his results of his appeal dated 18.7.1985 but the Senior Engineer, Charbagh, Lucknow clearly informed the petitioner that his request cannot be accepted as such and that he should without any further delay, comply with the orders dated 4.7.1985, failing which the administration will be left with no alternative except to go ahead as per extant rulings, which may result in irreparable loss to the petitioner on this account.

As regards with the application at the Annexure A-2 of the counter affidavit, it may kindly be observed that the petitioner's appeal is of date 18.7.1985 and not of 5.8.1985 as alleged by the counsel of the petitioner, who, in reply to his query was also informed that in case the petitioner is not inclined to comply with the administrative orders by joining as a Mali under Inspector of Works/Estate/Lucknow, in view of his empanelment to combined panel of Class IV staff formed during the year 1973, within a reasonable and specified time, his name may be struck off from the panel and posting of next empanelled man, would be done in lieu of the petitioner, as Government work cannot be allowed to paralyse on any account. The petitioner may be allowed to continue on his the post as a temporary status casual Male at this office

ADS

subject to availability of sanction in case he gives his unconditional written refusal to join as a regular Mali under Inspector of Works/Estate/Lucknow and wants <sup>Continue</sup> to ~~continue~~ as a temporary status casual Mate at this Office, though in such an event the petitioner is bound to loose his empanelment according to extant rulings.

The petitioner thereupon was advised by his counsel himself in presence of the deponent to once again personally approach the Senior Engineer/Charbagh, Lucknow to seek redressal of his grievances on his appeal dated 18.7.1985 instead of pursuing his case.

The petitioner again met the deponent in his office on 8.8.1985, and desired to be spared for joining as regular Mali under Inspector of Works(Estate) Lucknow as the Senior Engineer, Lucknow had already confirmed his earlier stand in writing on 5.8.1985 and even the rejection of his appeal too was noted by him in office on 8-8-1985 in office on 9.8.1985, (vide Annexure A-2 of the counter affidavit) as he, in no case, was interested to have his name struck off from the panel, as was informed by the Senior Engineer, Charbagh, Lucknow on his appeal dated 18.7.1985.

9. That the averments made in para 10 of the rejoinder affidavit are denied on the plea that the criteria for the petitioner's medical examination in category B-1, which is a superior category than C-1, was on account of his then services as casual labour/ Mate, which does not in any way comes in the way of his absorption as regular Mali, for which the minimum prescribed category of medical is C-1.

It is not admitted that the appointing authority for class IV staff is not the Senior/Assistant Engineer.

As regards the posting of Shri Bahadur alleged to be brother of the petitioner, it was merely a chance that a vacancy of Mali arose on his due turn too under Inspector of Works/Estate/Lucknow and he was posted vice that and not that he was posted as Mali on account of any other reason by the senior Engineer/Lucknow.

Lucknow:

Deponent

Dated: Sept. 1985

Verification

I, the above named deponent do hereby verify that the contents of paras 1 and 2 are true to my personal knowledge, those of paras 3 to 9 are based on records hence are believed by me to be true. No part of it is false and nothing material has been concealed in it so help me God.

Lucknow:

Deponent

Dated: Sept. 1985

I identify the deponent who has signed before me.

Advocate.

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

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

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH : LUCKNOW

WRIT PETITION NO. 3712 OF 1985

1/82

(A19)

Sunder \* \* \* \* \* Applicant

versus

Union of India \* \* \* \* \* Opp. Parties  
& others

The applicant respectfully begs to submit that some other date be given for the service on the opposite party outside the court. This Hon'ble Court was pleased to direct on 1/8/85 that the opposite parties be served by dusti summons. Dusti summons were applied for on 2/8/85 and the same could be available on 3/8/85. It was a closed holiday. 4/8/85 was sunday. Only 5th August remained, but the opposite parties could not be available and hence they could not be served. The applicant however has so far been released. He is still a mate and he will remain so upto 15/8/85.

Dated: Lucknow  
1985

Counsel for the petitioner

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH : LUCKNOW

WRIT PETITION NO. 3712 OF 1985.

A/83

(A20)

Sunder \* \* \* \* \* Applicant

VERSUS

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

AFFIDAVIT

I, Sunder, aged about 27 years, son of Pyarey Lal, resident of Village Sahai, P.O. Rozagan, P.S. Rudauli, District Barabanki, do hereby solemnly affirm and state as under:-

1. That the deponent is the petitioner in the above mentioned case and as such he is fully conversant with the facts of the case.
2. That the lasti summons were available on 3/8/85. It was a closed holiday. 4/8/85 was Sunday. On 5th August efforts were made but the opposite parties were could not be available.
3. That the deponent is still working as a Mate and he is to be released immediately after the 15th August, 1985.

Dated: Lucknow  
1985

Deponent.

VERIFICATION

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

Dated: Lucknow  
1985

Deponent.

I identify the deponent who

In The Honourable High Court of Judicature At  
Allahabad before Bench  
Lucknow.

W.P. No. — 1985

ब अदालत श्रीमान्

[ वादी ] अपीलान्ट

श्री

प्रतिवादी [ रेस्पाडेन्ट ]

Sunder.

vs

The Union of India and others

बनाम

नं० मुकद्दमा

सन्

पेशी की ता० १६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Shabihul Hassan

A. H. Siddiqui

वकील

महोदय

एडवोकेट



महोदय

## वकालतनामा

16/1/1985  
A/13

वादी (अपीलान्ट)

बनाम  
नं० मुकद्दमा फरीकेत  
नाम अदालत

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गयी वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ (मेरे खिल्लफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और सभी पैर काम आवे।

हस्ताक्षर सुन्दरलाल

साक्षी (गवाह)

दिनांक 29

स्वीकृत

साक्षी (गवाह)

महीना 7

सन् १६ ई०

(B2)

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

WRIT PETITION NO. 1985

Sunder, aged about 27 years, son of Pyarey Lal  
resident of Village Sahni, P.O. Rozagaon, P.S.  
Rudauli, District Barabanki.

..... Applicant

Versus

1. The Union of India through the Divisional Railway Manager, Hazratganj, Lucknow.
2. The senior Engineer, Northern Railway, Charbagh, Lucknow.

..... Opp. Parties.

WRIT PETITION UNDER ARTICLE 226 OF THE  
CONSTITUTION OF INDIA

The petitioner named above respectfully begs to submit as under:-

1. That the petitioner is an honest youth from the interior of the village and he does not indulge in activities of the Union. He is obliged to pay the Union Fee. without doubt the Union in every department does not allow it to work normally. The disturbance caused is to be born by the department itself. The petitioner has nothing more to say against Union or anybody.

(B3)

-2-

2. That at the moment the Union is over the Head of the Officers and they insist that the C.P.C. scale i.e. employees not on the panel may be absorbed in the regular line and those on the panel may be shunted to ~~any~~ such places where there is no scope of any promotion.

3. That in 1959 the petitioner was taken as casual Labour. The petitioner worked throughout to the satisfaction of all concerned subsequently there was screening, the applicant was declared successful and he was put on the panel in 1973, at sl.No. 159 with Roll No.669.

4. That the petitioner has been promoted as a Mate and he is drawing Rs. 30/- more per month. On 18/7/85, the Inspector of works No.1 of the petitioner is asked the petitioner to work as Mali. Mali is a Casual Labour. Mali is inferior to Mate. If one goes as Mali no chance of promotion is open to him. Once a Mali, always a Mali and this should be given to those who are not on the panel.

5. That the petitioner submitted an application and sent the same under certificate of posting on 18/7/85 to the senior Engineer Northern Railway, Charbagh, Lucknow. The copy of the Certificate of posting is Annexure No.1 and the copy of the representation is Annexure-2.

6. That no reply has been received so far and it appears that the request of the petitioner has been rejected without hearing the petitioner.

7. That the petitioner is still working under Inspector of Works & I, but he will have to join as a Mali on the 1st of August 1985. The representation submitted has been turned down and in spite of the requests, the petitioner has not been given an opportunity of being heard. The petitioner has not joined as Mali upto this time.

8. That there being no equally efficacious remedy available, this writ petition is being filed as this is the order to be a mate to join as a Mali is demotion by way of punishment:-

GROUNDs

1. That the order to join as a Mali, is no order in the eye of law.

2. That the order is against the principles of natural justice

3. That the ordering the applicant to who is a Mate to join as Mali amounts to demotion.

4. That in spite of the request no opportunity was given to hear the petitioner.

Wherefore it is respectfully  
prayed that :-

(a) A writ order, or direction in the nature of certiorary quashing the order if any after summoning the same from the Opposite Parties.

(b) a writ, direction or order in the

(B5)

- 4 -

nature mandamus commanding the opposite parties  
to allow the petitioner to work as Mate and not  
to shift him as Mali.

(c) The petition be allowed with costs.

Dated: Lucknow  
1985

(G. H. Naqvi )  
Advocate  
Counsel for the Petitioner

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW BENCH : LUCKNOW  
WRIT PETITION NO. 1985

sunder . . . . . . . . . Petitioner

versus

Union of India and another . . . . . Opp. Parties.

ANNEXURE NO. 1

UNDER CERTIFICATE OF POSTING

MR. M.V.

To,

One Env.

The Divisional Railway Manager

N.R. HazratGanj Lucknow.

One Env.

Senior Executive Engineer, charbagh

N.R. Lucknow.

Two Env.



(B7)

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW BENCH : LUCKNOW  
W<sup>RT</sup> E<sup>TITI</sup>ON NO. OF 1985

Sunder . . . . . Petitioner

versus

Union of India and another . . . Opp. Parties

ANNEXURE No.2

UNDER CERTIFICATE OF POSTING

From: Sunder, son of Pyarey Lal,  
Panel No. 159/669 working under  
Inspector of Works, Northern Railway, Lucknow.

To

1. The Divisional Railway Manager,  
Northern Railway, Hazratganj, Lucknow.
2. Senior Engineer, Northern Railway,  
Charbagh, Lucknow.

sir,

Respectfully I beg to submit that I was taken as a Casual Labour in 1959. I worked very hard and when the screening took place I was selected on the panel. My No. 159/669. I have been working as a Casual Labour and thereafter I have been promoted as Mate where I get Rs.30/- more every month. As luck would have it the people of the Union have influence in the Department with the result that persons outside the panel are sought to regularised and persons on the panel are being sent to as Mali. This is demotion and this order may not be given effect to. I humbly request that the order to send my as a Mali may kindly be revoked and in case the order is being given effect to I may be heard in person before confirming the order. This order is only by way of punishment and hence this request.

If no reply is received within 10 days of this letter I shall be obliged to seek my remedy elsewhere, for the redress of my grievances.

Dated: 18/7/1985

Yours faithfully,  
Sd/- Sunder

(B 8)

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH : LUCKNOW

WRIT PETITION NO. OF 1985

sunder . . . . . Petitioner

versus

Union of India and another . . . Opp. Parties

AFFIDAVIT

I, Sunder, aged about 27 years, son of Pyarey Lal, resident of Village Sahni, P.O. Rozagaon, P.S. Rudauli, District Barabanki, do hereby solemnly affirm and state as under:-

1. That the deponent is the petitioner in the abovenoted case and as such he is fully conversant with the facts of the case.

2. That the contents of paras 1 to 8 of the attached writ petition are true to my knowledge.

3. That the annexures No. 1 and 2 are true copies.

Dated: Lucknow  
1985

Deponent.

VERIFICATION

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

Dated: Lucknow  
1985

Deponent.

I identify the deponent who has signed before me.

Advocate

Solemnly affirmed before me on  
am/pm by the deponent who is  
identified by Shri  
Advocate, High Court, Lucknow.  
I have satisfied by examining the  
deponent who understands its contents  
which have been readout and explained by me.

(B9)

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW BENCH : LUCKNOW  
WRIT PETITION NO. OF 1985

CIVIL MISC. APPLICATION NO. OF 1985.

in re

Sunder, aged about 27 years, son of Pyarey Lal  
resident of Village Sahni, P.O. Rozagao, P.S.  
Rudauli, District Barabanki.

... Applicant

versus

1. The Union of India through the Divisional  
Railway Manager, Hazratganj, Lucknow.
2. The senior Engineer, Northern Railway,  
Charbagh, Lucknow.

.... Opp. Parties.

APPLICATION FOR INTERIM RELIEF

For the facts, reasons and circumstances  
stated in the accompanying writ petition duly  
supported with an affidavit, it is most respectfully  
prayed that this Hon'ble Court may be pleased  
to issue a direction that the petitioner may be  
allowed to continue as Mate till the final  
disposal of this writ petition. Any other order  
which this Hon'ble Court may deem  
proper in the circumstances of the case be also  
passed.

(G. H. Naqvi )

Advocate

Counsel for the Petitioner

Dated: Lucknow  
1985

(B16)

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW BENCH, LUCKNOW  
WRIT PETITION NO. 1986

under \* \* \* \* \* Petitioner  
versus  
The Union of India and another  
\* \* \* Opp. Parties.

IN DIA

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(G.H. NAVI )  
Advocate  
Counsel for the petitioner  
Pat. No. Lucknow  
1986

2. That at the moment the Union is over the Head of the Officers and they insist that the C.P.C. scale i.e. employees not on the panel may be absorbed in the regular line and those on the panel may be shunted to some such places where there is no scope of any promotion.

3. That in 1959 the petitioner was taken as casual Labour. The petitioner worked throughout to the satisfaction of all concerned subsequently there was screening, the applicant was declared successful and he was put on the panel in 1973, at sl.No. 159 with Roll No.669.

4. That the petitioner has been promoted as a Mate and he is drawing Rs. 30/- more per month. On 18/7/85, the Inspector of Works No.1 of the petitioner asked the petitioner to work as Mali. Mali is a casual Labour. Mali is inferior to Mate. If one goes as Mali no chance of promotion is open to him. Once a Mali, always a Mali and this should be given to those who are not on the panel.

5. That the petitioner submitted an application and sent the same under certificate of posting on 18/7/85 to the senior Engineer Northern Railway, Charbagh, Lucknow. The copy of the Certificate of posting is Annexure No.1 and the copy of the representation is Annexure-2.

6. That no reply has been received so far and it appears that the request of the petitioner has been rejected without hearing the petitioner.

7. That the petitioner is still working under Inspector of Works #1, but he will have to join as a Mali on the 1st of August 1985. The representation submitted has been turned down and in spite of the requests, the petitioner has not been given an opportunity of being heard. The petitioner has not joined as Mali upto this time.

8. that there being no equally efficacious remedy available, this writ petition is being filed as this is the order to be a mate to join as a Mali is demotion by way of punishment:-

GRUNDS

1. That the order to join as a Mali, is no order in the eye of law.

2. That the order is against the principles of natural justice

3. That the ordering the applicant to who is a Mate to join as Mali amounts to demotion.

4. That in spite of the request no opportunity was given to hear the petitioner.

wherefore it is respectfully  
prayed that :-

(a) A writ order, or direction in the nature of certiorary quashing the order if any after summoning the same from the Opposite Parties.

(b) a writ, direction or order in the

(BJS)

IN THE HON'BLE HIGH COURT OF UTTAR PRADESH AT ALLAHABAD  
LUCKNOW BENCH : LUCKNOW  
WRIT PETITION NO. 1985

Sunder . . . . . Petitioner

Versus

Union of India and another . . . . . Opp. Parties

ANNEXURE NO. 2

UNDER CERTIFICATE OF POSTING

From: Sunder, son of Pyarey Lal,  
Panel No. 159/669 working under  
Inspector of works, Northern Railway, Lucknow.

To

1. The Divisional Railway Manager,  
Northern Railway, Hazratganj, Lucknow.
2. Senior Engineer, Northern Railway,  
Charbagh, Lucknow.

sir,

Respectfully I beg to submit that I was taken as a Casual Labour in 1959. I worked very hard and when the screening took place I was selected on the panel. My No. 159/669. I have been working as a Casual Labour and thereafter I have been promoted as Mate where I get Rs.30/- more every month. As luck would have it the people of the Union have influence in the Department with the result that persons outside the panel are sought to regularised and persons on the panel are being sent to as Mali. This is demotion and this order may not be given effect to. I humbly request that the order to send me as a Mali may kindly be revoked and in case the order is being given effect to I may be heard in person before confirming the order. This order is only by way of punishment and hence this request.

If no reply is received within 10 days of this letter I shall be obliged to seek my remedy elsewhere, for the redress of my grievances.

Dated: 18/7/1975

Yours faithfully,  
Sd/- Sunder



3949 088  
BT2

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

T.A. NO. 1913 of 1987 (T)  
(W.P. NO. 3712 of 1985)

Sunder ..... Applicant.  
Versus  
Union of India & Others..... Respondents.

28.2.1990

Hon'ble Justice K. Nath, V.C.

Hon'ble Mr. K.J. Raman, A.M.

Case called twice. List has been revised. Shri Arjun Bhargava is present on behalf of the opposite parties. The petition is dismissed for default of the applicant.



Sd/-

A.M.

Sd/-

V.C.

// True Copy //

rim/

*Rees 13/20*

Deputy Registrar  
Central Administrative Tribunal  
Lucknow Bench,  
Lucknow

*Cheeked 8/13*

WORLDS MOST STYLISH

(1) 7821 1/2 81.00 1/2  
(2) 7821 1/2 81.00 1/2

100% COTTON

250 HRS

STYLISH

WORLDS MOST STYLISH

100% COTTON

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