

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

SK. Chaturvedi - vs - U.O. 1 20th

FORM OF INDEX

~~D.A./T.A./R.A./C.C.P./~~ No.

1921/87

wp. 406/85

PART - I

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3.	Any other orders	:-	—	nil	
4.	Judgement	:-	4	—	13 to 16
5.	S.L.P.	:-	—	nil	

DY. Registrar

Supervising Officer

Dealing Clerk

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

nil

Dealing Clerk

~~Previous order sent 4th~~
Pe Cheer
on 15/8/12
m

Rejoinder
50/50

V.K. Mishra

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

INDEX SHEET

CAUSE TITLE 1921/82 (T) 19W.P. 406-85NAME OF THE PARTIES S. C. Chaturvedi

Applicant

Versus

Union of India

Respondent

Part A, B & C

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6.	Affidavit.	A 41 to 42
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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P.

No.

4061

of 198

85.

23.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
17-8-85	<p>Mem K-S.V. 7</p> <p>Mem SSA, 7</p> <p>Admit. Issue</p> <p>notice</p> <p>Sel. K-S.V.</p> <p>Sel. SSA.</p> <p>17-8-85.</p> <p>C.M. An N 09456 W 85</p>	
17-8-85	<p>Mem K-S.V. 7</p> <p>Mem SSA, 5</p> <p>Issue notice.</p> <p>of - It will be open to the</p> <p>op. parties - - -</p> <p>be promoted.</p> <p>Sel. K-S.V</p> <p>Sel SSA.</p> <p>17-8-85.</p>	
19.9.85	<p>C.M. 10764 (whor - for stay vacat.</p> <p>Mem K-S. Varma, J</p> <p>Put up for orders in the week</p> <p>commencing 30.9.85.</p> <p>Sel. K.S. Varma</p> <p>19.9.85</p>	

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned	
1	2	3	
4.10.85	<p>Fixed: C.M. No 9456(W) & 10764(W) & for order</p> <p>Moncey</p> <p>80 or</p>	<p>C.M. / Syl</p> <p>Syl</p>	<p>10.9.85</p>
<p>10</p> <p>11/11</p>	<p>C.M. No 9456/85 / 10764/85</p> <p>10/3/85</p> <p>For J. H. S.</p> <p>Sitting in bench, adjourned</p> <p>11/11/85</p>		
1-11-85	<p>C.M. No 9456(W), 10764(W) of 85.</p> <p>Hon. K.S. Venkat</p> <p>Put up this case on 5-11-85.</p> <p>Ks</p> <p>1-11-85</p>	<p>C.M. / Syl</p>	<p>By AP</p>
5-11-85	<p>Hon. K.S. Venkat</p> <p>Cpy of the petition has been received by Mr. C. A. Bashir. He may file counter-affidavit within three weeks. Rejoinder-affidavit may be filed within one week (i.e. of) last thereafter.</p>		

835

1921/AD(T)

Date (6)	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
23.5.88	<p><u>Case</u></p> <p>Applicant.</p> <p>No counter af has been filed by respondent nos 1 to 4. While counter on behalf of respondent nos 5 has already been filed but the counter on behalf of respondent no 1 to 4. may be filed by 12.7.88</p> <p style="text-align: right;">✓ L.S.</p>	
12.7.88	<p><u>DR</u></p> <p>No one appears put up on 29.8.88</p> <p><u>Office report</u></p> <p style="text-align: right;">DR</p>	<p><u>W.S. FLD (3000)</u> on 7.9.88. <u>JSN</u> 7/9/88</p>
20.9.88	<p><u>DR.</u></p> <p>Anil Srivastava, Counsel for the respondent files his answer today. As prayed by counsel for applicant, rejoinder can be filed by 25.10.88</p> <p style="text-align: right;">L.S.</p>	
	<p>28/10/88 Case called out. Rejoinder not filed. Fix 21.11.88 for rejoinder. In Anil Srivastava Advocate + respondents present. L.S. 28/10/88</p>	

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

D.A./T.A. No. 1921 1987 (T)

S. K. Chattervedi

Applicant(s)

Versus

U.O.2

Respondent(s)

Sr. No.	Date	Orders
21/11/88		No sitting - C.M. An. No. 20 of 88 (U) filed by respondent for dismissing the petition. The case is adjourned to 19.12.88 for orders on C.M. An. No. 20 of 88 (U).
19/12/88		No sitting. Adjourned to 25-1-89 for order. J.S.B. 21/11
23/2/89		Now D.S. Misra, Am. Now G.S. Sharma, Jm. Shri M. Dubey for respondent No 5 is present and has filed an objection in reply to a supplementary application for dismissal of claim petition filed on behalf of respondents Nos. 1 to 4. No one is present for the applicant. The learned counsel for respondent Nos. 5 and 1 to 4 have been heard. Order reserved.
		Jm. Am.

8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

AB

C.M. An No
C.A./T.A. No. 20 198 8
in

TA. 192/07

Applicant(s)

Versus

Respondent(s)

Sr. No.	Date	Orders
---------	------	--------

25/1/09.

Hon. J. S. Misra, Am.
Hon. G. S. Sharma, J.M.

No one is present for the applicant.
On the request of the learned
Counsel for the respondents.
Shri Anil Srivastava the case
is adjourned to 23/2/09.

J.M.

Am.

Am.

(9)

18

(118)

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

Petition under Article 226 of the Constitution
of India

Writ Petition No. 4061 of 1985

S.K.Chaturvedi, aged about 57 years, son of late
Sri K.K.Chaturvedi, resident of H 5/3, Paper Mill Colony,
Lucknow

Petitioner

versus

1. The Union of India through the Secretary,
Ministry of Railways, ex-officio Chairman, Railway
Board New Delhi
2. The Additional Director, Establishment (Reservation)
Railway Board, Rail Bhawan, New Delhi
3. The General Manager (P), Northern Railway,
Headquarters Office, Baroda House, New Delhi
4. The Additional Chief Mechanical Engineer, Northern
Railway, Charbagh, Lucknow
5. Banarsi Ram, aged about 53 years, son of Late
Sri. Balkrishna Ram, Assistant Superintendent, Time Office,



स.के.चतुर्वेदी १६/११/८५

9

MEMO

~~Impressed~~

20 Adhesive Rs 100/-
T tal

Correct but final Court fee report
will be made on receipt of lower
Court record

In time up to

Papers filed. Copy of F.O.
Should also be filed.

Sir - Bench

last assigned Amersonna 3

= D. 8-25

and for issue of writ of Habeas

16885

Mr. Kero

Mr. 8845

Admit. Issue

notice.

17.2.25

3

(10)

(143)

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



Application for interim relief

C.M. Application no. 9456(a) (w) of 1985

Writ Petition No. 406 of 1985

S.K. Chaturvedi, aged about 57 years, son of late
Sri K.K. Chaturvedi, resident of H 5/3, Paper Mill
Colony, Lucknow

Petitioner-applicant

versus

1. The Union of India through the Secretary, Ministry of Railways, ex-officio Chairman, Railway Board, New Delhi
2. The Additional Director, Establishment (Reservation) Railway Board, Rail Bhawan, New Delhi
3. The General Manager (P), Northern Railway, Headquarters Office, Baroda House, New Delhi
4. The Additional Chief Mechanical Engineer, Northern Railway, Charbagh, Lucknow
5. Banarsi Ram, aged about 53 years, son of late Sri Bal Krishna Ram, Assistant Superintendent, Time Office, Loco Workshop, Charbagh, Lucknow

Opp-parties

This application on behalf of the applicant above-named most respectfully sheweth:-

for

(10)

Hm 1200
Hm. 1200

Issue where it
will be open to the opposite
party to file a counter-
affidavit within two
weeks and regarding
affidavit may be
filed within a week
thereafter. The application
shall be listed for
orders before the learned
single Judge.

We direct as an
interim measure that
till further orders the
Court if the quota
reserved for Scheduled
Castes and Scheduled
Tribes is likely to be
exhausted the Candidate
who is sought to be
promoted by means
of Annexure nos. 3 and 4,
i.e. opposite party no. 5,
shall not be promoted.

1/8
17-8-85
d

In The Hon'ble High Court Of Judicature At Allahabad ,

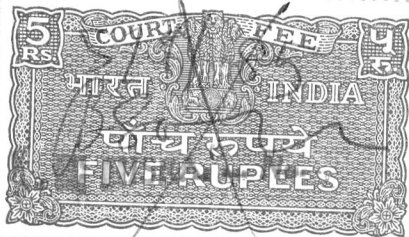
(Lucknow Bench) , Lucknow

C.M. Application No

10, 164 (a)
of 1985

In

W.P. No. 4061 of 1985



ic R R S
S.K. Chaturvedi
19/9

.. Petitioner

Versus

Union Of India & Others

.. Opp. Parties .

The Opposite Party No 5 submits as under ; -

- 11270
1. That for the reasons detailed in the accompanying counter affidavit , it is most respectfully prayed that the adinterim order staying the promotion of the applicant to the post of office superintendent be vacated .

Lucknow

19.9.1985


Counsel

For Opposite Party No 5

NW
22/9/85
MR
23883

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

C.M. Appln. No. 12,793(u) (W) of 1985.

In

W.P. No. 4061 of 1985.



Banarsi Ram

Applicant

In re

S.K. Chaturvedi

Petitioner

Versus

Union of India and 4 others.

Opposite Parties

APPLICATION FOR INTERIM RELIEF.

That for reasons detailed in the accompanying affidavit the interim order dated 17.8.1985 be vacated.

Lucknow, Dated:
November 6, 1985.

[Signature]
Advocate,
Counsel for applicant.

13063

13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

A8

O.A.No. 1921 1987.
T.A.No.

DATE OF DECISION March 1989

S.K. Chatterjee Petitioner

Sh. B.C. Saxena Advocate for the Petitioner(s)

Versus

U.O.I. & others Respondent

S/S. B.C. Saxena & M. Dubey Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. D.S. Misra, A.M.

The Hon'ble Mr. L.S. Sharma, Jm.

- ✓ 1. Whether Reporters of local papers may be allowed to see the Judgement ?
- ✓ 2. To be referred to the Reporter or not ?
- † 3. Whether their Lordships wish to see the fair copy of the Judgement ?
- ✓ 4. Whether to be circulated to other Benches ?

Dinesh/

(14)

(A9)

RESERVED.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.
Circuit Bench at Lucknow.

Registration (T.A.) No. 1921 of 1987

S.K. Chaturvedi	Petitioner
	Versus	
Union of India & others	Respondents.

Hon'ble D.S. Misra, A.M.
Hon'ble G.S. Sharma, J.M.

(Delivered by Hon. D.S. Misra, A.M.)

This Writ Petition No.4061 of 1985, which was pending in the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow, has been received on transfer under Section 29 of the Administrative Tribunals Act XIII of 1985. In this petition the petitioner had prayed for quashing of the letter dated 8.8.1985 contained in Annexure '3' to the writ petition as also for quashing the instructions contained in the Railway Board's letter dated 26.2.85, contained in Annexure '4' to the writ petition. On a separate application an interim order was passed on 17.8.1985 by the Lucknow Bench of the High Court of Judicature at Allahabad that "till further orders of the Court if the quota reserved for Scheduled Castes and Scheduled Tribes is likely to be exhausted, the candidate, who is sought to be promoted by means of Annexures no. 3 and 4, i.e. opposite party no.5, shall not be promoted." This interim order is continuing.

2. The main grievance of the petitioner is that by virtue of his seniority in the cadre of Assistant Superintendent (AS) he should be promoted to the vacant post of Office Superintendent (OS). His apprehension is that respondents no.1 to 4 are going to deprive him of this promotion and they are going to promote, Benarasi Ram, respondent no.5, who is a Scheduled Caste (SC) candidate.

bl

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910

-: 2 :-

3. In the reply filed on behalf of respondents no.1 to 4 it has been admitted that respondent no.5, Benarasi Ram, was promoted to higher grades against reserved points and that he superseded several senior clerks on the basis of general seniority due to implementation of 40 point roster in his appointment as Head Clerk with effect from 1.3.1979; that prior to 1.1.1984 there were four posts in OS cadre and the number of posts were raised to 8 with effect from 1.1.1984; that on the basis of 15% (percent) reservation for SCs, the number of posts of OS on the basis of 15% reservation would come to one post only for SC candidates; that two persons were already working as OS and no further promotions were to be made and one SC candidate working as OS in excess of their reservation quota was to be adjusted against vacancies in terms of P.S.No. 8446/A; that two vacancies of OS occurred with effect from 1.8.1985 and 1.9.1985 and one S.K. Biswas was promoted against the first vacancy with effect from 1.8.1985 and the petitioner was promoted against the second vacancy with effect from 1.10.1985.

4. In the reply filed on behalf of respondent no.5 it is stated that he has been promoted to various posts on his turn and not out of turn; that he does not claim his promotion to the post of OS as a SC candidate; that he is entitled to be promoted on the basis of his seniority in the cadre of AS; that he was entitled to be promoted as OS with effect from 1.1.1984, which was denied to him; and that this mistake has now been rectified and he is due to be appointed as OS, but due^{to}/the interim order passed in this case his promotion is held up.

5. An application has been filed on behalf of respondents no. 1 to 4 in which it is stated that the petitioner, S.K. Chaturvedi, has already retired from service after attaining the age of superannuation with effect from 30.11.1986 and that the present claim

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16

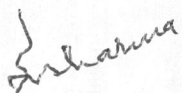
11


-: 3 :-

petition has become infructuous and is fit to be dismissed as infructuous. No one, on behalf of the petitioner, has appeared before us since the transfer of the case file to this Tribunal. Sri M. Dubey, learned counsel for respondent no.5, has opposed the application filed on behalf of respondents no. 1 to 4 alleging that the Railway Administration did not file their counter affidavit for a long time due to the connivance with the petitioner; and that respondent no.5 is entitled to promotion with effect from 1.1.1984 with all its consequences.

6. We have heard the learned counsel for respondents no.1 to 4 and Sri M. Dubey, learned counsel for respondent no.5 and have also carefully perused the documents on record. On the facts and circumstances of the case, we are of the opinion that in disposing of this petition it will not be possible to grant relief sought by respondent no.5 regarding his promotion with effect from 1.1.1984. In our opinion, this is entirely a separate matter which has to be agitated by respondent no.5 by a separate application. In so far as the present petition is concerned, no one has appeared on behalf of the petitioner before us and it appears that the petitioner is not keen to pursue the matter. The petitioner has retired from service with effect from 30.11.1986 and in the meantime respondent no.5, against whom the interim order was passed, has also been promoted. In this way there is no matter pending for adjudication in this case at present.

7. In view of above, the petition has become infructuous and accordingly we dismiss the same without any order as to costs.


MEMBER (J).


MEMBER (A).

Dated: March 28, 1989.

PG.

9
2

(A5)

No. 4061 of 1985
Vs. _____

[illegible]

CIVIL
SIDE
CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case W.P. 4081-85

Name of parties S.K. Chatterjee vs. B. Chandra

Date of institution 17-8-85

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 annex and affidavit	19		12.00			
	2-	Power	1-		5.00			
	3-	Cmd. 9456 (W) of 85 for stay	2		5.00			
	4-	Power	1-		5.00			
	5-	Appdt dt 17.8.85	1-		-			
	6-	Cmd. 10764 (W) of 85 with Gfr	18		7.00			
	7-	Power	1-		5.00			
	8-	Cmd. 12793 (W) of 85 for stay	4		7.00			
	9-	arch sheet	2		-			
	10-	Back Copy	1		-			

I have this day of 198 , examined the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that they bear Court-fee stamps of the aggregate value of Rs. that all orders have been carried out, and that the record is complete and in order up to the date of the certificate.

Date.....

Munsarim

Clerk

Registered

9/c

(A7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLEAHABAD
CIRCUIT BENCH, GANDHI BHAWAN
LUCKNOW

No. CAT/CB/LKO/

1066 to 1067

Dated : 29.3.89

OFFICE - MEMO

Registration No. O.A. 1921 of 193 T.A. 7

Applicant's

Versus

Respondent's

A copy of the Tribunal's Order/Judgement dated 29.3.89 in the abovenoted case is forwarded for necessary action.

For DEPUTY REGISTRAR (I)

Central Administrative Tribunal

Encl : Copy of Order/Judgement dated Lucknow Bench, Lucknow

To.

Shri B. C. Sarin Adv C/A

Shri Anil Sarin Adv C/A

Recd
30-3-89
[Signature]

Recd
M. D. [Signature]
dinesh
30/3/89

Registered

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH, GANDHI BHAWAN
LUCKNOW

(A12)

No. CAT/CB/LKO/

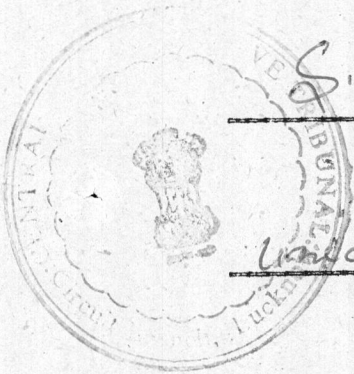
1066

Dated :

29.3.89

OFFICE - MEMO

Registration No. G.A. 1921 of 193 7
T.A.



S. K. Chaturvedi

Applicant's

Versus

Union of Godra and others

Respondent's

A copy of the Tribunal's Order/Judgement
dated 29.3.89 in the abovenoted case is forwarded
for necessary action.

Mahawdhra
For DEPUTY REGISTRAR (H)
Central Administrative Tribunal

Encl : Copy of Order/Judgement dated 29.3.89
Lucknow Bench,
Lucknow

To.

① Shri B. C. Saxeena Adv C/A

② Shri M. Dubey Adv C/R

dinesh/

A13

RESERVED.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.
Circuit Bench at Lucknow.

Registration (T.A.) No. 1921 of 1987

S.K. Chaturvedi	Petitioner
	Versus	
Union of India & others	Respondents.

Hon'ble D.S. Misra, A.M.
Hon'ble G.S. Sharma, J.M.

(Delivered by Hon. D.S. Misra, A.M.)

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2. The main grievance of the petitioner is that by virtue of his seniority in the cadre of Assistant Superintendent (AS) he should be promoted to the vacant post of Office Superintendent (OS). His apprehension is that respondents no.1 to 4 are going to deprive him of this promotion and they are going to promote, Benarasi Ram, respondent no.5, who is a Scheduled Caste (SC) candidate.

h

(A14)

-: 2 :-

3. In the reply filed on behalf of respondents no.1 to 4 it has been admitted that respondent no.5, Benarasi Ram, was promoted to higher grades against reserved points and that he superseded several senior clerks on the basis of general seniority due to implementation of 40 point roster in his appointment as Head Clerk with effect from 1.3.1979; that prior to 1.1.1984 there were four posts in OS cadre and the number of posts were raised to 8 with effect from 1.1.1984; that on the basis of 15% (percent) reservation for SCs, the number of posts of OS on the basis of 15% reservation would come to one post only for SC candidates; that two persons were already working as OS and no further promotions were to be made and one SC candidate working as OS in excess of their reservation quota was to be adjusted against vacancies in terms of P.S.No. 8446/A; that two vacancies of OS occurred with effect from 1.8.1985 and 1.9.1985 and one S.K. Biswas was promoted against the first vacancy with effect from 1.8.1985 and the petitioner was promoted against the second vacancy with effect from 1.10.1985.



4. In the reply filed on behalf of respondent no.5 it is stated that he has been promoted to various posts on his turn and not out of turn; that he does not claim his promotion to the post of OS as a SC candidate; that he is entitled to be promoted on the basis of his seniority in the cadre of AS; that he was entitled to be promoted as OS with effect from 1.1.1984, which was denied to him; and that this mistake has now been rectified and he is due to be appointed as OS, but due/the interim order passed in this case his promotion is held up.

5. An application has been filed on behalf of respondents no. 1 to 4 in which it is stated that the petitioner, S.K. Chaturvedi, has already retired from service after attaining the age of superannuation with effect from 30.11.1986 and that the present claim

12

-: 3 :-

(A15)

petition has become infructuous and is fit to be dismissed as infructuous. No one, on behalf of the petitioner, has appeared before us since the transfer of the case file to this Tribunal. Sri M. Dubey, learned counsel for respondent no.5, has opposed the application filed on behalf of respondents no. 1 to 4 alleging that the Railway Administration did not file their counter affidavit for a long time due to the connivance with the petitioner; and that respondent no.5 is entitled to promotion with effect from 1.1.1984 with all its consequences.

6. We have heard the learned counsel for respondents no.1 to 4 and Sri M. Dubey, learned counsel for respondent no.5 and have also carefully perused the documents on record. On the facts and circumstances of the case, we are of the opinion that in disposing of this petition it will not be possible to grant relief sought by respondent no.5 regarding his promotion with effect from 1.1.1984. In our opinion, this is entirely a separate matter which has to be agitated by respondent no.5 by a separate application. In so far as the present petition is concerned, no one has appeared on behalf of the petitioner before us and it appears that the petitioner is not keen to pursue the matter. The petitioner has retired from service with effect from 30.11.1986 and in the meantime respondent no.5, against whom the interim order was passed, has also been promoted. In this way there is no matter pending for adjudication in this case at present.

7. In view of above, the petition has become infructuous and accordingly we dismiss the same without order *as to cost*.

MEMBER (A).

Dated: March 28, 1989.

PG.

Maharaj
Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow

6362

A16

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

Writ Petition No. 4061 of 1985

S.K.Chaturvedi

-Petitioner

versus

Union of India and others

-Opp-parties

Index

Sl. Description of paper
no.

Annex. page
no.

1. Writ Petition

1-13

2. Order dated 20.12.1984 passed by this
Hon'ble Court

1 14-16

3. Letter dated 3.7.1985

2 17-18

4. Letter dated 8.8.1985


3 19

5. Letter dated 26.2.1985

4 20-23

6. Affidavit

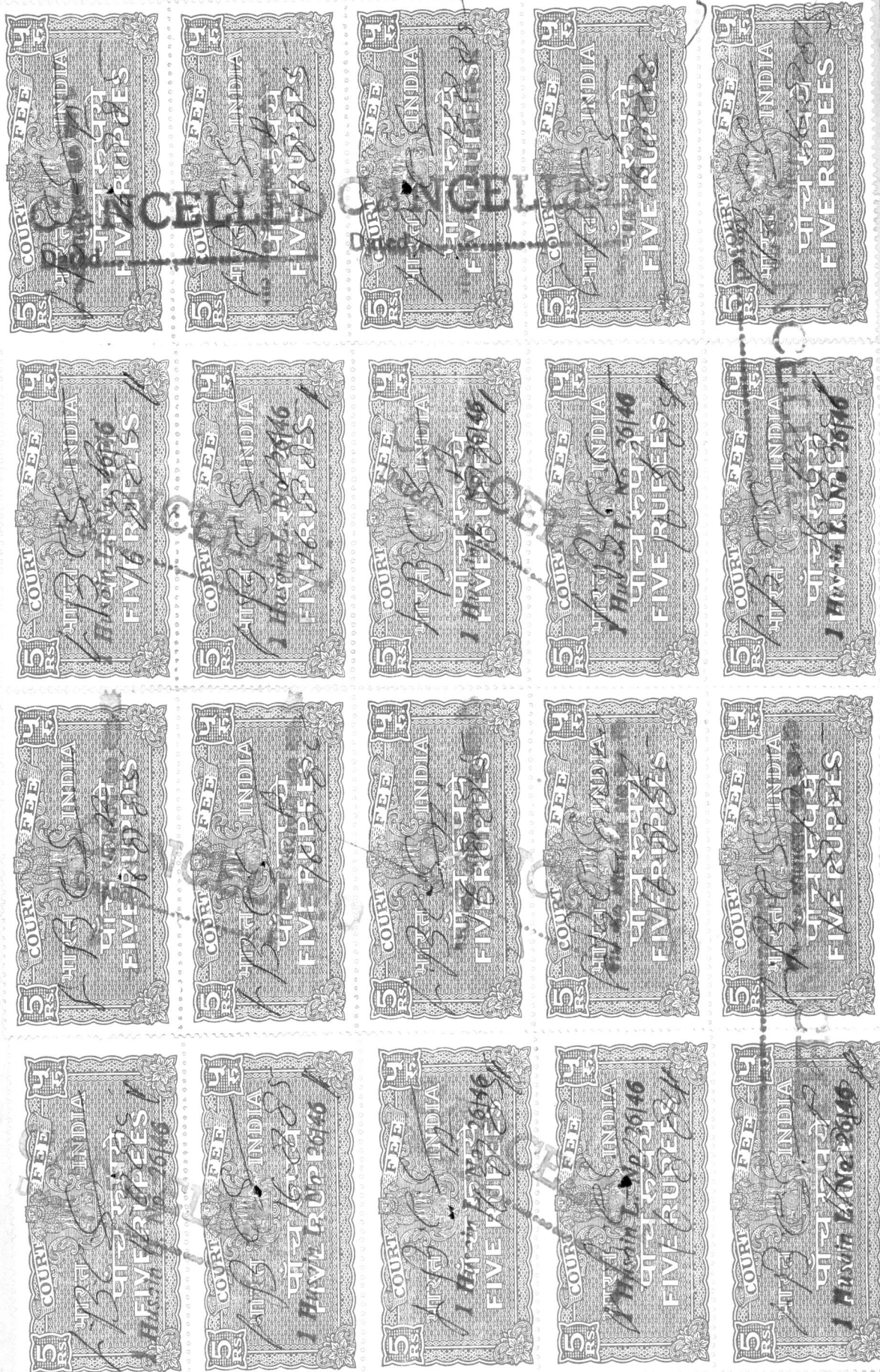
24-25


(B.C. Saxena)
Advocate

And the Honble High Court of Judicature at
Allahabad Lucknow Bench C. KO

20

X 1857



20 x 5 = 100/-
16885/-

L. S. K. Chaturvedi -

Petitioner

25

Amir of India 10/11 -

Loco Workshop, Charbagh, Lucknow

Opp-parties

This humble petition on behalf of the petitioner above-named most respectfully sheweth:-

1. That the petitioner was initially appointed on 1.10.1947 on the post of a Junior Clerk and was confirmed on the said post on 23.11.1955. Thereafter the petitioner gained his promotions on the next higher posts, viz., Senior Clerk, Head Clerk and is presently working in the post of Assistant Superintendent grade Rs. 550-750 having been promoted as Assistant Superintendent on 1.1.1984.

2. That opposite-party no. 5 was initially appointed on 8.7.1959 on the post of Junior Clerk and was confirmed on the said post on 2.12.1964. The said opposite-party no. 5 is Chamar by caste and thus is a member of the Scheduled Caste. He was promoted to the posts of Senior Clerk, Head Clerk and Assistant Superintendent out of turn in his seniority position. On the basis of his being a member of the Scheduled Castes the said promotions were purportedly made against reserved quota for members of the Scheduled Castes. The dates of promotions are as follows:-

Date	Name of post
1.6.1977	Senior Clerk
1.1.1979	Head Clerk
1.10.1980	Asstt. Superintendent



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(A20)

3. That in support of the assertions made above that opposite-party no. 5 was promoted to the posts Senior Clerk, Head Clerk and Assistant Superintendent out of turn of his seniority position solely by reason of his being a member of the Scheduled Caste, it is stated that amongst junior clerks one Sri S.B.Pathak whose date of appointment on the said post is immediately earlier than opposite-party no.5 and is 21.4.1959 was promoted on the post of senior clerk on 1.7.1978 whereas opposite-party no.5 whose date of appointment on the post of junior clerk is 8.7.1959 was promoted on 1.6.1977 as Senior Clerk.

4. That in the cadre of Senior Clerks by reason of opposite-party no.5 superseding several junior clerks who were general candidates he was assigned seniority below one Sri M.L.Sharma whose date of promotion as Senior Clerk is 18.10.1976 and whose date of initial appointment as junior clerk is 1.8.1959. Opposite-party no.5 superseded 13 persons by gaining out of turn promotion to the cadre of Senior Clerks.

Subsequently in the cadre of Head Clerks by reason of his being a member of Scheduled Caste opposite-party no.5 was promoted on 1.3.1979 superseding 40 general candidates and was assigned seniority in the cadre of Head Clerks just below Sri R.P. Upreti whose ^{initial} date of appointment as Senior Clerk is 20.2.1960 and date of promotion as Head Clerk is 1.1.1979. Opposite-party no.5 was promoted to the post of Head Clerk on 1.3.1979.



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5. That the said Sri R.P. Upreti was promoted to the post of Assistant Superintendent on 1.10.1980 and ^{promoted} and opposite -party no.5 was also on the said date by ~~reason~~ on the basis of the roster point as a result of upgradation of posts. It is stated that at the time promotion of the said opposite-party no.5 to the post of Assistant Superintendent, ^{was made} the cadre of Assistant Superintendents had the total strength of 11 posts. As per various letters of the Railway Board reservation for Scheduled Caste candidates for promotion post is only to the extent of 15 per cent. It is stated that the Scheduled Caste quota taking the total cadre strength of 11 posts would be only two posts and the said quota had already been filled up by promotion of two Scheduled Caste candidates, viz., Sarvsri Bhim Sen and Roop Narain. The promotion of opposite-party no.5 was in excess of the Scheduled Caste quota in the cadre of Assistant Superintendents.



प्रति ज्ञात करने के लिए

6. That the next higher post to the post of Asstt. Superintendent is that of Office Superintendent and presently the total number of posts in the cadre of Office Superintendents is 8 out of which reserved quota for Scheduled Castes would be only two posts and six for general candidates. The reserved quota in the cadre of Office Superintendents has already been filled up and two Scheduled Caste candidates, viz., S/Sri B.L. Saroj and Bhim Sen are already working .

7. That the promotion of opposite-party no.5 to the

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post of Assistant Superintendent was made on the basis of roster point erroneously taking into consideration that the reservation provided for is against vacancies in a given post and not against the posts.

6. That the circulars of the Railway Board providing for reservation for members of the Scheduled Castes came up for consideration by this Hon'ble Court at Allahabad in a writ petition (No. 1309 of 1972) re: J.C.Malik and others versus The Union of India and others. A Division Bench of this Hon'ble Court consisting of Hon'ble Mr. Justice K.N.Singh and Hon'ble Mr. Justice S.D.Agarwal by a judgment dated 9.12.1977 repelled the contention advanced on behalf of the railway administration that percentage of reservation provided for Scheduled Caste candidates relates to the vacancies and not to the posts and held that " we are of the opinion that the Railway Boards circular dated 20.4.1970 made reservation to the extent of 15% in favour of Scheduled Castes in respect of appointment to the posts and not to the vacancies which may occur in the cadre of posts."

7. That the Railway administration aggrieved by the said decision preferred special leave petition and an appeal in the Hon'ble Supreme Court. Their Lordships of the Supreme Court passed an interim order on 24.2.1984 . The clarification of the said order was sought by the Union of India and their Lordships ^{on 24.9.1984} were pleased to pass the following order



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by way of clarification of the earlier order dated 24.2.1984:-

"We clarify our order dated February 24, 1984 by directing that the promotions which may be made hereafter will be strictly in accordance with the judgment of the High Court and such promotions will be subject to the result of the appeal. If any promotions have been made after 24.2.1984 otherwise than in accordance with the judgment of the High Court, such promotions shall be adjusted against the future vacancies. Civil Misc. Petition is disposed of accordingly."



सुप्रीम कोर्ट नई दिल्ली

8. That despite the said clarification by the Hon'ble Supreme Court the Northern Railway administration persisted in giving promotions to Scheduled Castes candidates treating the reservation to have been provided for against the vacancies and not against the posts in the cadre. Consequently a writ petition under Article 32 of the Constitution of India was filed by certain Northern Railway employees who were general candidates. The said writ petition were numbered as Civil Writ Petition nos. 17386 to 16393 (1984), the leading writ petition being Girdhari Lal Kohli and others versus Union of India and others. On an application for stay moved in the said writ petitions, the Hon'ble Supreme Court was pleased to pass an order identical as the order passed earlier by it in S.L.P. moved by the Union of India against the judgment of this Hon'ble Court in J.C. Malik's case. An interim

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order in Girdhari Lal Kohli and other writ petitions was passed on 21.12.1984 . The said order reads as under:-

"Pending notice, the promotions which may be made hereafter will be strictly in accordance with the judgment of the High Court in Civil Writ Petition no. 1809 of 1972 and if any such promotions have been made otherwise than in accordance with the judgment of the High Court, such promotions shall be adjusted against the future vacancies."

9. That being aggrieved by persistent attitude of the Northern Railway administration including the present opposite-party no. 4 in pursuing the policy of treating reservation having been made for Scheduled Castes candidates against the vacancies in a particular year and not against the posts in a cadre a few employees of the Northern Railway, Lucknow filed a writ petition in this Hon'ble Court which was numbered as Writ Petition no. 6151 of 1984. On an application for interim relief a Division Bench of this Hon'ble Court consisting of Hon'ble Mr. Justice S.S. Ahmad and Hon'ble Mr. Justice Brijesh Kumar was pleased to pass the following interim order on 27.12.1984:-

"Putup on 4th January, 1985 for orders.

Learned counsel for the petitioner has stated that the petitioner will serve the opposite-parties outside the Court. The office shall give to the learned counsel for the petitioner the notices of the petition for service on the



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o pposite-parties. Till 4th January, 1985 the interim order passed on 20.12.1984 in Writ Petition no. 5999 of 1984 shall be available to the petitioners in this case as well."

A true copy of the interim order passed on 20.12.1984 passed in Writ Petition no. 5999 of 1984 referred to therein is being annexed as Annexure no. 1 to this petition.

10. ^{though} That/as shown above, the reservation quota in the post of Office Superintendent grade Rs.700-900 has beenfilled up, the General Manager (P), Northern Railway had taken up the question of granting promotion to opposite-party no.5 on the post of Office Superintendent grade Rs. 700-900. In that connection the said General Manager (P) , Northern Railway issued a letter dated 3.7.1985 to opposite-party no.4 a true copy of which is being annexed as Annexure no.2 to this petition.



It is stated that after implementation of the restructuring of the ministerial cadre a vacancy in the post of the Office Superintendent in the office of opposite-party no.4 arose on 1.8.1985 against which one Sri S.K.Biswas has been promoted. Another vacancy would arise with effect from 1.9.1985 and the petitioner by reason of his seniority amongst the Assistant Superintendents is eligible to be promoted against the said vacancy but in view of the orders indicated hereinafter the petitioner apprehends that an order for promotion of opposite-party no.5 against

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the said vacancy may be passed any day hereafter.

11. That in response to the letter dated 3.7.1985 opposite-party no.4 appears to have sent letter dated 15.7.1985 and on a consideration of the said letter the General Manager (P), Northern Railway, (Opp-party no. 3) has issued a letter dated 8.8.1985 directing opposite-party no.4 to promote opposite-party no.5 since he allegedly has become eligible for promotion as Office Superintendent on the basis of his general seniority in Assistant Superintendent grade. The said direction has been given purportedly in pursuance of the Railway Boards letter dated 26.2.1985 .

A true copy of the letter dated 8.8.1985 is being annexed as Annexure no.3 to this petition while a true copy of the Railway Boards letter dated 26.2.1985 is being annexed as Annexure no.4 to this petition.



12. That a perusal of the Railway Boards said letter dated 26.2.1985 would show that in its opinion the interim order of Hon'ble the Supreme Court dated 21.12.1984 in the case of Girdhari Lal Kohli and others would apply only to promotions to implement restructuring in the categories and grades covered in Railway Boards letter dated 16.11.1984. In all other promotions the extant rules and orders in regard to reservation for Scheduled Castes and Scheduled Tribes will continue to apply. The Railway Board has also directed that the Scheduled Castes and Scheduled Tribes employees who are in turn for promotion in this upgradation scheme by virtue of their general seniority should be promoted irrespective of the

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A27

fact whether the prescribed quota of 15 % and 7.1/2 % for Scheduled Castes and Scheduled Tribes respectively in the categories has already been achieved or not.

13. That the assumption in the letter dated 8.8.1985 (Annexure 3 to the writ petition) that opposite-party no.5 has become eligible for promotion as Office Superintendent on the basis of general seniority in Assistant Superintendents grade ignores the circumstance that the promotion of the said opposite-party no.5 in the said Assistant Superintendent cadre was in excess of the quota prescribed for Scheduled Castes candidates.



14. That Special Leave Petition preferred before the Hon'ble Supreme Court against the judgment of this Hon'ble Court viz., Writ Petition no. 1809 of 1972- J.C.Malik vs. Union of India - is still pending and the interim orders passed by Hon'ble the Supreme Court are also extant.

15. That order for the promotion of opposite-party no. 5 may be passed any day hereafter and in that event the petitioner will suffer irreparable loss in the matter of promotion to the post of Office Superintendent.

16. That in the circumstances detailed above and having no other equally effective and speedy alternative remedy the petitioner seeks to prefer this writ petition and sets forth the following, amongst others,

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GROUNDS:

(a) Because the direction in the Railway Boards letter dated 26.2.1985 (Annexure 4 to the writ petition) that the Scheduled Caste candidate should be promoted irrespective of the fact whether the prescribed quota of 15 per cent has already been achieved or not on the basis of his/^{general}seniority is violative of Articles 14 and 16 of the Constitution of India, and ignores the position that Scheduled Caste candidates, if so promoted, would be in excess of the reservation quota made for them.

(b) Because the said direction contained in Annexure 4 also ignores the circumstance that Scheduled Castes candidates gain promotion out of turn by reason of the reservation provided for them and consequently the normal rule of seniority viz., the date of entry into service would give them a double advantage and completely mar the chances of promotion of general candidates.

(c) Because the Scheduled Castes candidates cannot be permitted to take benefit of the reservation quota for purposes of out of turn promotion and at the same time of gaining such promotion to steal a march over the general candidate on the basis of their general seniority in a particular grade.

(d) Because the State has to provide for reservation keeping in view the rights of the general candidates as well. If reservation to the extent of 15 per cent has been provided then it carves out a special quota

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for Scheduled Castes candidates and thus for no reason the percentage of the quota in a cadre should be permitted to be exceeded. If that be permitted to be done then the sanctity of fixation of percentage for reservation would be nullified.

(e) Because in view of the decision of this Hon'ble Court in J.C.Malik's case the reservation provided for Scheduled Castes candidates is ^{to} the extent of 15 per cent of the total number of posts in a cadre and not against the vacancies in the said ~~gran~~ cadre. That being so, opposite-party no.5 has no right to be promoted to the post of Office Superintendent since the quota for the Scheduled Caste candidates calculated on the basis of number of posts in the said cadre already stands filled up and promotion of opposite-party no.5, if made, would exceed the said quota.

Wherefore, it is respectfully prayed that this Hon'ble Court be pleased:


(i) to issue a writ of certiorari or a writ, order or direction in the nature of certiorari to quash the letter dated 8.8.1985 contained in Annexure 3 to the writ petition as also the direction in the Railway Boards letter dated 26.2.1985 Annexure 4 to the writ petition whereby the Scheduled Castes employees have been directed to be promoted by virtue of their general seniority irrespective of the fact whether the prescribed quota of 15 per cent and 7. 1/2 per cent for Scheduled Castes and Scheduled Tribes respectively has already been ~~xxx~~ achieved or not.

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(ii) to issue a writ of mandamus or a writ, order or direction in the nature of mandamus commanding opposite-parties nos. 1 to 4 to desist from acting in furtherance of the orders contained in Annexures 3 and 4 to the writ petition and in passing an order of promotion of opposite-party no.5 to the post of Office Superintendent.

(iii) to issue such other writ, direction or order, including an order as to costs, which in the circumstances of the case this Hon'ble Court may consider just and proper.

Dated Lucknow
August 16, 1985


(B.C. Saxena)
Advocate
Counsel for the petitioner

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(14)

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

Writ Petition No. of 1985
S.K. Chaturvedi..... ...Petitioner
versus

Union of India and others... ...Opp. parties
Annexure no. 1

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

C.M. Application No. of 1984
In re

Writ Petition No. 5999 of 1984.

Ram Shanker Misra and others.....Petitioners
versus
Union of India through the C.M. Northern Railway,
Paroda House, New Delhi and others.....Opp. parties.

Application for stay
Lucknow Dated 20.12.1984.

Hon'ble Mr. Justice K.N. Goyal.

Hon'ble Mr. Justice B. Kumar.

Heard learned counsel for the petitioners and
also Sri M.P. Sharma appearing for opposite parties 4 &
to 6 impleaded at their own request. Petitioner's
counsel relies on a decision of J.C. Malik vs.
Union of India (1978(1) S.L.R. 844. In paragraph 4 of
this judgment it has been held that the reservation
of 15% and 7½% in favour of S.C. and S.T. candidates
respectively should be with reference to the total
number of posts and not with reference to number of
vacancies in any year. This decision was challenged
on appeal by the Union of India before Hon'ble the
Supreme Court. Hon'ble the Supreme Court on 24.2.84
directed that any promotion made during the pendency
of the appeal would be subject to the result of the
appeal.



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appeal. However, on 24.9.84 vide annexure 10 to the petition they clarified their order dt. 24.2.84 by directing that the promotions which will be made hereafter will be strictly in accordance with the judgment of the High Court and such promotions will be subject to the result of the appeal. That case related to guards. Now another petition has been filed at Allahabad in respect of posts which are the subject matter of the present petition. The division bench at Allahabad has passed an interim order which is annexure -8. Learned counsel for the opposite parties Sri M.P. Sharma invited our attention to Akhil Bhartiya Shoshit Karmchhari Samh (Railway) vs. Union of India and others (A.I.R. 1981 S.C. 298, paragraphs 89 and 90) In that decision they have referred to the forty point roster and have observed that reservation of vacancies in any year upto 50% would be in order. However, according to the petitioner the implementation of the 40% roster is being made in such manner that in certain years the SC/ST candidates are getting 100% reservation and moreover some posts the 22% reservation has ahead been reached.

Considering all these facts we direct that until the matter is further dealt with by the learned single judge after exchange of affidavits, the

respondents may make promotions from among the S.C. and S.T. candidates in such a manner that in respect of higher posts on which 15% plus 7½% quota for SC/ST has not yet been attained in respect of the total number of posts then out of the vacancies available at a particular time upto 50% may be filled in from amongst S.C. and S.T. This order applies to promotion posts as per restructuring

ordered by the Railway Board Circular dated 16.11.84

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(A33)

vide annexure-11. However, in respect of posts in which 15% plus 7½% has already been reached then reservation only upto 15 and 7½% respectively shall be made against the total number of posts of that cadre and not against the vacancies for a particular year. A copy of this order may be issued by tomorrow, if possible, on payment of necessary charges.

S. K. N. Goyal,
sd. B. Kumar.
20.12.1984.

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(A34)

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

Writ Petition No.	of 1985
S.K. Chaturvedi	-Petitioner
versus	
Union of India and others	-Opp-parties

Annexure no. 2

Northern Railway

Headquarters office,
Baroda House,
New Delhi

No. 135-E/C/44581/IO/RB/SSB Dated 3.7.1985

The Additional Chief Mech. Engineer, Workshop,
Charbagh, Lucknow

Sub:- Promotion case of Shri Banarsi Ram

Ref: Your office letter no. 18-E/OG/84-85 dated
26.5.1985

Railway Board desired to see the relevant papers in connection with the promotion of Shri Banarsi Ram in Grade 700-900. Therefore, your office Superintendent and an officer from this office discussed the matter with Joint Director/ Est. (R-1), Railway Board on 2.7.1985.

The Joint Director, Railway Board considered the case and suggested that instructions already contained in Board's letter no. 85-E/SCT/49-2 dated 26.2.1985 regarding promotions be implemented after restructuring of ministerial cadre. In face of these directives you may kindly review the position of promotion and posting of Superintendent Grade Rs. 700-900



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and advise the correction position of Shri Banarsi Ram to this office for onward communication to Railway Board within seven days.

It may be mentioned that the Board have taken very seriously the lapse of non-implementation of the instructions contained in their above-mentioned letter and have desired that its implementation be done in letter and spirit.

This may please be treated as most urgent.

Sd. Ram Singh

(Ram Singh)

For General Manager (P).

सूचक क्रमांक ५१



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

Writ Petition No. _____ of 1985

S.K.Chaturvedi -Petitioner

versus

Union of India and others -Opp-parites

Annexure no. 3

Northern Railway

Headquarters office
Baroda House,
New Delhi

No. 135-E/0/44581/LO/RB/SSB Dated 8.8.1985

The Additional Chief. Mech. Engineer,
Charbagh Workshop,
Lucknow

Sub: Promotion case of Shri Banarsi Ram

Ref: Your Office D.O. letter no. 18-E/46/84-95 dated
15.7.1985

Please refer to your office D.O. letter
dated 15.7.1985 under reference regarding promotion
of Shri Banarsi Ram, S.C.candidate against the post of
O.S. Grade Rs. 700-900 (RS) in implementation of
restructuring orders of Railway Board.

In terms of Railway Boards letter dated 26.2.1985
circulated vide this office P.S. no. 8688 Shri Banarsi
Ram has become eligible for promotion as O.S. on the
basis of his general seniority in AS grade, he should
be given promotion as such and advise this office for
onward submission to Railway Board.

Sd. Ram Singh
(Ram Singh)
For General Manager (P).



फिलेड १६/८/८५

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(A37)

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

Writ Petition No. of 1985

S.K. Chaturvedi

-Petitioner

versus

Union of India and others

-Opp-parties

Annexure no. 4

Government of India
Ministry of Railways,
(Railway Board)

No. 85- E (SCT) 49/2 New Delhi dated 26.2.1985

~~At~~

The General Managers,
Northern Railway, New Delhi

Sub: Reservation orders for Scheduled Castes and
Scheduled Tribes application of to vacancies or
posts Supreme Court, interim order dated
21.12.1984 in WP Nos. 17386- 17393 of 1984-
CMP nos. 41986- 42003 of 1984- Girdhari Lal
Kohli and others vs. Union of India and others

Ref: Your letter no. 1144 to 1151- SC/WP/84 Legal
Cell (P) dated 9/10-1-1985



सुरेज कुमार चतुर्वेदी

The matter has been examined in this office in consultation with Legal Adviser. The interim order of the Supreme Court of India dated 21.12.1984 in the case of Girdhari Lal Kohli and others vs. Union of India and others would apply only to promotions to implement restructuring in the categories and grades covered in Boards letter no. PG- III/84/UPG/9 dated 16.11.1984. In all other promotions the extant rules and orders in regard to reservation for Scheduled Castes and Scheduled Tribes will continue to apply.

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While implementing the interim order of the Supreme Court, the total number of posts prior to restructuring in every grade in each category should be worked out. The number of reserved community candidates actually available as on 1.1.1984 and the number required to achieve percentages of 15% and 7. 1/2 % for SCs and STs respectively based on the total number of posts after restructuring should also be computed for each grade in each category. If the actual number of SCs and STs before restructuring is less than the required number of SCs and STs after restructuring, the number of upgraded posts equal to shortfall should be treated as reserved for SCs and STs, subject to the total reservations being not more than 50% of the posts to be filled ^{up} by promotion due to upgradation. The question of carry forward or exchange of posts between SCs and STs communities should not arise since the orders of the Supreme Court are being implemented only in relation to the restructuring scheme covered by Boards letter no. PC-III/84/UPG/9 dated 16.11.1984. Those cases where promotions relating to the relevant restructuring have already been implemented as per extant rules, the principle enunciated in the interim order should be taken into account while filling up future vacancies. In other words, any additional posts treated as reserved in favour of SCs and STs should be adjusted against subsequent reserved roster points.



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SC and ST employees who are in turn for promotion in this upgradation Scheme by virtue of

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their general seniority should be promoted irrespective of the fact whether the prescribed quota of 15% and 7. 1/2 % for SCs and STs respectively in the categories has already been achieved or not.

All promotions should be deemed as provisional and subject to the final disposal of the writ petition by the Supreme Court.

Arrear payments from 1.1.1984 to the date of promotion should not be paid ~~by~~ where not paid so far. However, proforma fixation of pay may be allowed provisionally from 1.1. 1984 subject to the final disposal of the case.

Please acknowledge receipt.

DA/ NIL Sd. (D.N. Nigah)
Addl. Director, Estt. (R) Railway Board.

No. 85-E(SCT) 49/2 New Delhi dated 26.2.1985

Copy together with a copy of the writ petitions referred to above as also a copy of the interim orders of the Supreme Court dated 24.2.1984, 24.9.1984 and 21.12.1984 along with a copy of the Allahabad High Court judgment dated 9.12.1977 in Writ Petition no. 1809 of 1972 is forwarded to the General Managers, All Indian Railways (except Northern Railway), CLW D.L.W. and ICF for similar action. They are requested to please acknowledge receipt of this letter.

DA/ As above Sd (D.S. Nigah)
Addl. Director, Estt. (R) Railway Board

No. 85-E/SCT /49/2

Copy along with enclosures referred to above is forwarded to the Department of Personnel and



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Administrative Reforms, North Block, New Delhi. They are requested to kindly examine the indications of the said interim orders of the Supreme Court and confirm the action taken by the Ministry of Railways as per this letter.

Sd. (D.S. Nigah)
Addl. Direction Establishment
Railway Board

Copy to ADPC Railway Board for information.

Sd. (D.S. Nigah)
Addl. Director Estt.
Railway Board.

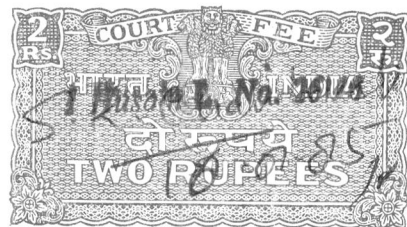
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सरोजकुमार मुंशी

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

Affidavit
in

Petition under Article 226 of the Constitution
of India

Writ Petition No. of 1985

S.K. Chaturvedi

-Petitioner

versus

Union of India and others

-Opp-parties

I, S.K. Chaturvedi, aged about 57 years, son of late Sri K.K. Chaturvedi, resident of H 5/3, Paper Mill Colony, Lucknow, do hereby solemnly take oath and affirm as under:-

1. That I am the petitioner in the above-noted writ petition and am fully acquainted with the facts of the case.

2. That contents of paras 1 to 15 of the accompanying petition are true to my own knowledge.

3. That Annexures 1 to 4 have been compared with copies thereof as have been made available to the petitioner or are available with the petitioner and are certified to be true copies.

Dated Lucknow

16.8.1985

सोज कुमार चतुर्वेदी
Deponent



सोज कुमार चतुर्वेदी

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

Dated Lucknow

16.8.1985

Deponent

I identify the deponent who has signed in my presence.

(R.K. Srivastava)

Clerk to Sri B.C. Saxena, Advocate

Solemnly affirmed before me on 16.8.85

at 9.10 a.m/p.m by S.K. Chaturvedi

the deponent who is identified by Sri

clerk to Sri B.C. Saxena

Advocate, High Court, Allahabad. I have satisfied myself by examining the deponent that he understands the contents of the affidavit which has been read out and explained by me.

V. K. PANDEY

OATH COMMISSIONER

High Court, Allahabad

1st Law Bench

No. 194-85

Date 16.8.85




Ann

That on the basis of the facts stated and grounds raised in the accompanying petition the applicant prays that this Hon'ble Court be pleased:

(i) to pass an ad interim order staying the further operation of the letters dated 8.8.1985 and 26.2.1985 contained in Annexures 3 and 4 respectively to the writ petition and restrain opposite-parties 1 to 4 from acting in furtherance thereof .

(ii) to pass such other order as in the circumstances of the case this Hon'ble Court may consider just and proper.

Dated Lucknow
16.8.1985


(B.C. Saxena)
Advocate
Counsel for the applicant

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD,

(LUCKNOW BENCH) LUCKNOW

W.P. NO. 4061 of 1985

1985
AFFIDAVIT
73/237
HIGH COURT
ALLAHABAD



Handwritten marks: 'A' in a circle, '46' in a circle, and a checkmark.

COUNTER AFFIDAVIT OF OPPOSITE PARTY NO. 5.

IN RE:

S.K. Chaturvedi... .. Petitioner

Versus

Union of India and 4 others... .. Opp. parties

I, Banarsi Ram, aged about 53 years, son of late Sri Bal Kishan Ram, resident of II-69-B, Sleeper Hut, Railway Colony, P.S. Krishnagar, Lucknow, do hereby state on oath as under:-

1. That the deponent has been arrayed as opposite party No. 5 in the above writ petition and he is fully conversant with the facts of the case deposed to in this affidavit.
2. That the deponent has read the writ petition and has fully understood its contents and is replying to the same.
3. That in reply to the contents of para 1 of the writ petition, it is admitted that the petitioner is at present working as Assistant Superintendent. Rest of the contents of the para under reply are denied for want of knowledge. The petitioner has not filed the various orders referred to in para 1 under reply.
4. That in reply to contents of para 2 of the writ petition it is admitted that the deponent belongs to Scheduled caste and is working as Assistant Superintendent from 1.10.1980. It is denied that the deponent is holding



Banarsi Ram

6/3

2...../-
(AUF)

the post of Asstt. Supdt. out of turn. No post has been held by the deponent out of turn. The deponent has been promoted to various posts on his turn as indicated in the seniority list. The allegation in para under reply is unhappily worded and deserves serious notice by this court.

5. That in reply to para 3 of the writ petition, only the dates mentioned therein are admitted and rest of the contents are denied. The allegation in the para under reply are arguments which can better be replied by argument at the time of hearing. However, it is denied that the deponent was ever posted or promoted out of turn. After his initial appointment as Junior Clerk the deponent qualified first in the qualifying examination for promotion to the post of Senior clerk and was accordingly promoted on 1.6.77 as senior clerk. Sri S.B. Pathak passed the qualifying examination much after the deponent and for this reason he was promoted on 1.7.78 as senior clerk. Seniority alone was *in Seniority - cum - suitability was the basis for promotion to senior clerk and* not the criteria for promotion to senior clerk, *and* for suitability it was necessary to pass the written examination. After his promotion as senior clerk, the deponent was promoted to various posts on the basis of his seniority declared from time to time. The last seniority list was declared on 25.8.83 in which the deponent was placed at serial No. 6 in *the cadre and* the ~~order~~ of Assistant Superintendent. This number 6 now stands reduced to No. 2 as three persons have retired and the fourth has been promoted to a higher post. The name of the petitioner figures at serial No. 9 in the cadre of Head Clerk. The petitioner did not question the seniority list. The deponent is now due to be promoted as Supdt. being the senior most confirmed Assistant Supdt.



Bavani Ram

6. That the contents of para 4 of the writ petition are
Contd.2

6/4-3.....x-

ALD

denied. The allegation is vague and indefinite. The deponent became senior clerk on the basis of his passing the qualifying examination and seniority. Persons who were senior to the deponent in the cadre of junior clerk passed the qualifying examination afterwards. It is incorrect that the deponent was assigned seniority below Sri M.L. Sharma in the cadre of senior clerks. Sri M.L.Sharma was promoted as senior clerk on 1.9.77 as he passed the qualifying examination after the deponent. The deponent was promoted as Head Clerk on 1.1.1979 and not on 1.3.1979 as stated. It is admitted that Shri R.P. Upreti was senior to the deponent in the cadre of Head Clerk. The various dates mentioned in the para under reply have not been correctly shown.

7. That in reply to contents of para 5 of the writ petition it is admitted that the deponent was promoted on 1.10.1980 as Assistant Supdt. on the basis of seniority. The petitioner has confused the strength of a cadre and the number of vacancies in the cadre in a particular year. The vacancies are filled in, in terms of roster and the strength of scheduled caste candidates in such vacancies is permissible up to 50%. The argument developed by the petitioner in the para under reply is fallacious and is denied. The deponent was promoted on 1.10.1980 on the basis of his seniority in the Head Clerk cadre, which was never questioned at any stage by the petitioner or any other person. The promotion of the deponent as Assistant Supdt. can not now be questioned. The seniority list dated 25.6.83 has not been challenged and without disturbing the seniority list, the petitioner can not succeed in his claim. It is pointed out that according to seniority, the deponent comes



Banwari Ram

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at serial No. 2 and he was entitled to be promoted as office Superintendent w.e.f. 1.1.1984 on the restructuring of the cadre, but the Railway Department wrongly and illegally bypassed the deponent and promoted 9 junior persons as office Supdt. who were not entitled to hold the

said post by staff order No. 51 dated 19.1.1985. ^{de} ~~The~~ ^{de} ~~deponent had earlier represented on 18.1.1985.~~ The deponent had earlier represented on 18.1.1985 against the proposed re-structuring ignoring the name of the deponent. The representation was repeated by the deponent on 9.2.1985 and 14.3.1985. As a result of the representations of the deponent the General Manager by order dated 3.7.1985 upheld the contention of the deponent and desired the papers of the deponent to be sent immediately for onward transmission to the Board. Thereafter, by letter dated 8.8.1985, issued by the General Manager, it was directed that the deponent be promoted as office Supdt. on the basis of general Seniority in the cadre of the Assistant Supdt. It may be pointed out that the promotion to the post of office Supdt. was done on the basis of seniority in the Assistant Supdt. cadre. The interested persons got the seniority disturbed in the name of re-structuring and indicated the name of the deponent at SI. No. 23 in the staff order No. 51 dated 19.1.1985 which should have been immediately below Shri R.P. ^{de} Upreti. This re-structuring order was maliciously designed to exclude the deponent and this mistake was corrected by the Railway Board by order dated 8.8.1985. It may be noted here that the cadre for the purpose of promotion to the post of office Supdt. is that of Assistant Supdt. and on the basis of seniority in this cadre, the promotion was available to the general as well as reserved candidates.



Banori Ram

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It is clarified that the promotion of the deponent as Head clerk and Assistant Supdt. was on the basis of general seniority in the cadre and not on the basis of his being a scheduled caste. The deponent does not claim his promotion to the post of office Supdt. as a Scheduled-Caste candidate. He is entitled to be promoted on the basis of his seniority in the cadre of Assistant Supdt. The appointment and promotion of the deponent as Head Clerk and Assistant Supdt. is not open to challenge in this writ petition.

8. That with regard to para 6 of the writ petition it is pointed out that on the basis of seniority the deponent is entitled to be promoted with effect from 1.1.1984 as Office Supdt. which was denied to him and juniors were promoted. This mistake has now been rectified and the deponent is due to be appointed as office Supdt. but for the interim order of this court, his promotion is held up.

9. That the contents of para 7 of the writ petition are denied as stated. The promotion of the deponent as Assistant Supdt. can not be called in question. This promotion was on the basis of general seniority of the deponent in the cadre of Head Clerk.

10. That contents of repeated para 6 of the writ petition relate to the judgment in writ petition No.1809 of 1972 and is applicable to the facts of that case. The petitioner has not filed the copy of the said judgment of the said writ petition and for this reason proper reply can not be given.



Banarsi Ram

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(AST)

11. That contents of repeated para 7 of the writ petition relate to the case which is not relevant for the purpose of present case. The petitioner has not given S.L.P. number and for this reason proper reply can-not be given. It is further pointed out that the deponent is not claiming promotion to the post of office Superintendent on the basis of reservation as ^h a member of Scheduled-caste. The promotion to the post of office Superintendent is on the basis of seniority subject to the rejection of unfit from the cadre ^{deputy h} Assistant Superintendent. The deponent being the senior most Assistant Superintendent after R.P. Upreti was entitled to be promoted with effect from 1.1.84. The facts of the present case are wholly different from the facts of the case of J.C. Malik.

12. That with regard to contents of para 8 of the writ petition the deponent states that the same is not relevant for the purpose of the present case. As already stated the deponent is senior most Assistant Superintendent and he is being promoted on the same basis.

13. That contents of para 9 of the writ petition are denied as the same is not relevant. The order dated 20.12.1984 further stands modified by the order dated 4.2.85 passed in writ petition No.495 of 1985.

14. That in reply to contents of para 10 of the writ petition it is admitted that the General Manager (P) Northern Railway sent a letter dated 3.7.1985 and that the deponent is to be promoted with effect from 1.1.1984.

Contd.7



Banarsi Ram

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P52

Rest of the contents of the para under reply are denied. It is pointed out that the petitioner has not stated the relevant facts. The interested persons were exploiting the various interim orders passed by this court and the Supreme Court and they became successful in manipulating an order from the Additional Chief Mechanical Engineer, Loco, Charbagh, Lucknow. The promotion from senior clerk to Head Clerk was based on the seniority in the cadre of senior Clerks. The deponent being the senior most senior clerk having been promoted on 1.6.1977, was promoted as Head Clerk on the basis of his general seniority on 1.1.1979. Similarly the deponent being the senior most Head clerk was promoted to Assistant Superintendent on 1.10.1980 on the basis of general seniority. The deponent restates that all the promotions were based on the general seniority and not as a member of Scheduled Caste. The deponent learnt that in the garb of proposed re-structuring of the organisation the deponent was being ignored. He therefore made a representation on 18.1.1985 to the Additional Chief Mechanical Engineer. A true copy of this representation is C-1. Before any reply could be given to the deponent on his representation dated 18.1.1985, the Additional Chief Mechanical Engineer issued a staff order No. 51 dated 19.1.1985 wrongly and maliciously showing the deponent at serial no. 23. In this order U.S.Sinha, S.P.Sharma, Y.P. Yadav, I.A. Ansari, Lallan Prasad, S.P. Kohli, B.D.Sharma all juniors to the deponent were wrongly shown promoted to the post of office Superintendent with effect from 1.1.84. These junior persons were wrongly shown to have been promoted on the basis of their seniority in the cadre of Assistant Superintendent. It is pointed out that the

Contd.8



Banarsi Ram

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deponent was promoted as Assistant Superintendent on 1.10.1980 and was confirmed and ^{du}empanelled on 4/5.12.1981 for promotion to the post of office Superintendent. The deponent was wrongly shown at serial No.23 as Assistant Superintendent as Scheduled-Caste. As already stated the deponent could not gain the promotion as Assistant Supdt. on the basis of his being a member of Scheduled Caste. The benefit of being a member of Scheduled caste was given to the deponent only once at the initial stage. The deponent along with others made a representation on 9.2.1985 against the order dated 19.1.1985. The case of the deponent is contained in para 2 of the said representation. A true copy of this representation is annexure C-2. The Railway Board issued an order dated 26.2.1985 clarifying that in case of restructuring scheduled caste and scheduled tribe employees who were in turn for promotion in the upgradation scheme by virtue of their seniority should be promoted irrespective of the fact whether the prescribed quota of 15% and 7.5% of scheduled caste and scheduled tribe respectively in the cadre has already been achieved or not. This has been annexed as annexure 4 to the writ petition. The deponent did not get any reply to the representation already made and another representation dated 14.3.1985 was given. A true copy of the representation is annexure C-3. Thereafter General Manager, Northern Railway issued a letter dated 3.7.1985. It may be pointed out that the papers of the deponent were withheld maliciously for the purpose of his promotion to office Superintendent. This letter took a serious view of the matter and required that the papers of the deponent be sent immediately which is annexure 2 to the writ petition. It was clarified by



Banwarilal Ram

letter dated 8.8.85 issued by the Head Quarters that the deponent is liable to be promoted on the basis of his general seniority. A true copy of this letter is annexure No. 3 to the writ petition. The orders for the promotion of the deponent for the post of office Superintendent on the basis of his general seniority were to be issued but the same could not be issued on the basis of the interim order obtained by the petitioner by making the wrong statement of facts.

15. That contents of para 11 need no reply.

16. That the arguments developed in para 12 of the writ petition are denied. The approach of the petitioner is misconceived.

17. That in reply to contents of para 13 of the writ petition ^{the} deponent states that this promotion as Assistant Superintendent was on the basis of his general seniority and not as a member of scheduled caste. The pleas raised in the para under reply are misconceived.

18. That contents of para 14 are not relevant.

19. That in reply to contents of para 15 it is denied that the petitioner would suffer an irreparable loss. The petitioner is much junior to the deponent who was junior only to R.P. Upreti as admitted by the petitioner himself.

20. That contents of para 16 are denied. None of the grounds is tenable.



Bamarni Ram

6/11
ASS
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21. That the writ petition is liable to be dismissed with cost.
22. That the verification of the petition is defective.
23. That the petitioner has suppressed material facts.
24. That the writ petition is ill-advised and is liable to be dismissed with special cost.

Lucknow:

Dated: 3-9-85

Banarri Ram
Deponent

I identify the deponent who has signed in my presence.

Ayaz
Advocate.



VERIFICATION

I, the deponent named above do hereby verify that the contents of paras 1 to 19 and 23 are true to my own knowledge and the contents of paras 20 to 22 and 24 are believed by me to be true. No part of it is false and nothing material has been concealed. So help me God.

Lucknow:

Dated: 3-9-85

Banarri Ram
Deponent

Contd.11

11...../-

ASb 6/12

Solemnly affirmed before me on this 3rd^{du}
day of September, 1985 at 7.30 pm^{du}
P.M./A.M. by Sri Banarsi Ram, the deponent,
who is identified by Shri R. K. Yadav^{du}
Advocate, High Court, Lucknow, Bench, Lucknow
I have satisfied myself by examining the
deponent that he understands the contents
of this affidavit which has been read over
and explained to him.



Zafar Mahmud
ZAFAR MAHMUD

Advocate

OATH COMMISSIONER

High Court, Allahabad

(Lucknow Bench) Lucknow

No. 73/234
Dte. 03-9-85

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

W.P. No. 4061 of 1985.

(A57)

6/13

S.K. Chaturvedi

Petitioner

Versus

Union of India and others.

Opp. Parties.

ANNEXURE No. C-1.

To

The Addl. Chief Mech. Engineer (W),
N. Rly. Locoshop Charbagh, Lucknow.

Sir,

Sub: Promotion as Office Supt. in grade Rs.700-900 (RS).

With due respect and humble submission I beg to prefer as appeal for my promotion as office Supdt. in these works against the recent restructuring of Ministerial cadre effective from 1.1.1984.

Ground of appeal:

That I am the Sr. Asstt. Supdt. in Grade Rs.550-750 (RS) in these works and I stand in IInd position in the seniority of emplanneled and confirm A/Supdt. in Grade Rs.550-750 (RS) and as there are four more vacancies of Office Supdts. in Grade Rs.700-900/- (RS) likely to be filled in with effect from 1.1.1984. My promotion become due on seniority basis, but it is learned that my promotion is being ignored (without guide line received from H/Qrs office and Rly. Board) on basis of interim order granted by the Hon'ble Supreme Court of India against the quota reserved for S.C. & S.T. employees in promotional cases.

In case, my name is not included in the promotion, it will deprive me from the natural justice of Senior persons due promotion in higher grade and the seniority rules may be violated.



Banarasi Ram

AST 14

Prayer:

It is, therefore requested to kindly administer the justice in my case as it will infringe the fundamental rights of an employee to get promotion on seniority basis.

Yours faithfully,

Sd/- Banarsi Ram,
A/Supdt. Time Office Loco
N. Rly. Loco Charbagh, Lucknow.

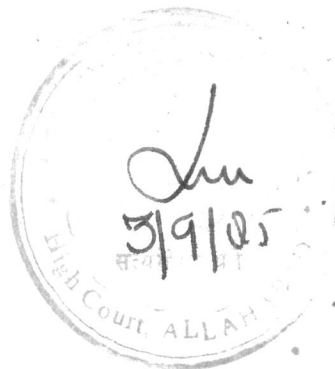
Dated 18.1.1985.

Copy to :

1. G.M. (P) N. Rly. Baroda House, New Delhi.
2. The Secretary SC/ST Association Rly. employee Loco.
3. Minister for Rly. Govt. of India Rail Bhawan, New Delhi.
through Sri Raj Kumar Rai M.P. Azamgarh, U.P.

TRUE COPY.

Banarsi Ram



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

W.P. No. 4061 of 1985.

ASS 6/15

S.K. Chaturvedi

Petitioner

Versus

Union of India and others

Opposite Parties

Annexure No. C-2.

To

The Addl. Chief Mechl. Engineer (W),
Loco Works, Charbagh, Lucknow.

Sub: Wrong promotion order issued vide S.O. No. 51 & 52
dated 19.1.1985 in terms of writ petition pending
in Supreme Court.

Respected Sir,

With due respect and humble submission, we the undersigned beg to lay down the following few lines for your kind consideration and favourable orders please.

1. That the seniority of the S/C and S/T, who were promoted in their respective posts and grades in terms of Rules laid down by the Hd. Qrs. Office as well as Rly. Bd's, have been totally ignored in promotions made as a result of upgrading.
2. That the senior most scheduled caste candidate i.e. Sri Banarsi Ram having IInd position in seniority list of Non-'P' group issued vide letter No. 50E/3/Pt.II dated 25.8.83 empaneled and confirmed w.e.f 1.12.81 vide S.O. No. 854 & 508 dated 15.12.81 and 19.8.83 respectively in grade Rs-550/- - 750/- has not been promoted as Office. Supt. in grade Rs.700/- - 900/- (RS) whereas juniors to him i.e. S/Sri U.S. Sinha, S.P. Sharma, Y.P. Yadav, I.A. Ansari even un-empanelled like Sri Lallan Prasad in grade Rs.550-750 (RS) have been promoted as office Supdt. in grade 700-900 (RS). Moreover in subsequent seniority list he has been placed at S.No. 23, below to his juniors in grade



Banarsi Ram

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6/16

Rs.550-750 (RS). It is also not out of point to mention here that Sri Banarsi Ram who has already empanelled in Gr. 550-750 (RS) has been shown as promoted on adhoc basis pending ~~at~~ selection.

3. That another Sr. most scheduled caste candidate pay Rs. 590/- in grade Rs.550-750 (RS) in 'P' Group Smt. Purnima Bannerjee who was due her promotion as Office Sudpt. E in grade Rs.700-900 (RS) from 1.1.84 has been reverted to her substantive post of Head Clerk in grade Rs.425-700 (RS) and her pay fixed on Rs.455/-. Her seniority position in grade Rs.550-750 (RS) has been revised and she has now been placed at S. No. 23 whereas she was sholding Ist position earlier. Now the candidates who were junior to her, have now been became senior.

4. That in personnel Branch, 7 post of As/E grade Rs.550-750(RS) occurs w.e.f. 1.1.1984 but no SC candidate has been promoted although one ~~SC~~ SC candidate should have been promoted against 15% quota as per instruction contain in Stay Order issued by supreme Court.

5. That 21 posts of Head Clerks grade Rs.425-700(RS) exists in Estt. Section w.e.f. 1.1.84 and on the prescribed quota for SC, 3 post of Head Clerks grade Rs.425-700 (RS) ~~g~~ should be filled in by SC candidate but only two SC candidate ~~has~~ have been adjusted and one post meant for SC is still to be filled by SC candidate.

6. That one Sri Kodai Ram being senior most head clerk was put to officiate as SWLI in grade 550-750 (RS) w.e.f. 1.12.83 and who was due for promotion on the basis of general seniority as As/E w.e.f. 1.1.84 has not been promoted. On other hand he has been assigned seniority below his juniors who were promoted even ~~after~~ after two or three years later.



Banarsi Ram

(A 61)

6/17

7. That another SC candidate Sri Bhagwan Dass who was due his promotion as As/M in grade Rs.550-750(RS) w.e.f.

1.1.84 has not been promoted and further to this his seniority like other SC candidate has been reassigned below his junior.

8. That in 17 posts of AS/M grade Rs.550-750 (RS) in Non-personnel group exist w.e.f. 1.1.84, 3 SC candidate should have been promoted but only two SC candidate should have been promoted but only two SC candidates were adjusted. It clearly indicates that there is violation of orders issued by the Supreme Court.

9. That most no. of SC candidate in non-personnel group S/Sri Ram Gopal, Gurnu Dayal, Babu Lal etc. who were due their promotion as Head Clerk w.e.f. 1.1.1984 have been debarred from promotion.

From the above, it appears that at the time of issue of promotion orders, extant rules on the subject have been ignored resulting injustice to the scheduled caste employees and their genuine claims have been denied.

It is, therefore, requested that office machinery may kindly be geared up to review the position with a view to awarding justice to SC/ST employees.

Hoping justice at an early date.

Yours faithfully,

Dated: 9.2.85.

Sd/- 1 to 14.

Copy for information and necessary action to :

1. The Prime Minister of India, O.M., Niwas, Barakhamba Road, New Delhi.
2. The General Manager, Baroda House, New Delhi.
3. The Minister of Railway, Rail Bhawan, New Delhi.
4. The Chairman, Railway Board, Rail Bhawan, New Delhi.
5. The Director, Reservation Cell, Rail Bhawan, N.D.
6. The General Secy., All India SC/ST Rly Employees Association, Head Qrt. Office, New Delhi.
7. Sri Ram Kumar Rai, Member of Parliament, House No. 312, M.P.s Hosrel, External Affairs, Gopal Ghar, New Delhi.

Banarsi Ram

TRUE COPY

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

W.P. No. 4061 of 1985.

6/18
A62

S.K. Chaturvedi

Petitioner

Versus

Union of India and 4 others.

Opposite Parties

Annexure No. C-3

To

The Addl. Chief Mechanical Engineer (W)
Loco Charbagh, Lucknow.

Sub: Promotion against the Addl. posts of OS/M resulting of
re-structuring of Minitial Cadre.

Ref: My application dated 18.1.1985 and joint representation
dated 9.2.1985 and 26.2.1985.

Respected Sir,

With due respect and humble submission I beg to
say that I have submitted one individual and two joint
representation (copy enclosed for ready reference) regarding
wrong promotion order issued by your office vide S.O. No. 51
and 52 of 1985 but neither any reply nor any justice has
been done in my case.

It is therefore, requested to kindly look into the
matter personally and administer the justice in my case as
it will imbride the fundamental rights of an employee is
get promotion on seniority basis.

If I may not be given justice interim of
instructions received from G.N.(P)/NDIS vide their letter
No. 831-E/63-2-XII (Eliw dated 20.2.1985 (8674B) copy enclosed
I shall be bound to knocked the door of higher authorities
after this kind of harassment of S6 and S1 employees are
debaring for their promotions by the local administra-
tion and after that I shall not be responsible to
brought the matter to your kind notice. Thanks.

Yours faithfully,

Sd/- Banarsi Ram,

A/Supdt. Time Office Loco, N.Rly.
Charbagh, Lucknow.

Dated 14.3.1985.

TRUE COPY.

Banarsi Ram



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

C.M. Appln. No. of 1985. (764)

In

W.P. No 4061 of 1985.



1985
AFFIDAVIT
3/11/85
HIGH COURT
ALLAHABAD

Banarsi Ram

Applicant

In re

S.K. Chaturvedi

Petitioner

Versus

Union of India and others.

Opposite Parties

AFFIDAVIT IN SUPPORT OF INTERIM RELIEF APPLICATION.

I, Banarsi Ram, aged about 53 years, son of late Sri Bal Krishna Ram, resident of quarter No. II-60-B Sleeper Hut, Railway Colony, P.S. Krishna Nagar, Lucknow, do hereby state on oath as under -

1. That the deponent is the opposite party No. 5 in the above writ petition.

2. That the petitioner had obtained interim order dated 17.8.1985 by suppression of facts which had the effect of staying the promotion of the deponent to the post of office superintendent. The criteria for promotion to the said post of the Office Superintendent is seniority from amongst the Assistant Superintendent. The deponent is the senior most Office Superintendent.

~~The deponent is the senior most.~~ The deponent filed his counter affidavit and prayed for vacation of the interim order.

3. That the application for interim order was got shifted by the petitioner and the application was disposed of within two weeks next after the service of the copy of the application on the counsel for the

L.I.J.
B. Ram.

Banarsi Ram

(A65) 8/3

petitioner. The case was last listed on 1.11.1985 when the counsel for the petitioner made a request for further time to file the rejoinder affidavit but the Hon'ble Court did not grant any time and fixed the matter for November 5, 1985. On 5.11.1985 the counsel for opposite parties No. 1 to 4 made a request for granting him time to file a counter affidavit and on his request he was granted 3 weeks time to file counter affidavit and the petitioner was thereafter permitted to file rejoinder affidavit within one week and the case was adjourned without disposing of the deponent's application for vacating the interim stay order dated 17.8.1985. In this way the disposal of the deponent's application was collusively avoided by the petitioner.

4. That on account of stay order the deponent is suffering an irreparable loss. The promotion which the deponent was entitled to get to the post of office superintendent has been wrongly obtained by the petitioner during the pendency of this application and a further promotion order is to be issued on 7.11.1985. The deponent would not be able to get the said promotion on account of the stay order.

5. That the matter sought to be agitated in the writ petition is concluded by a judgment of this court in writ petition No. 15679/84 pronounced on 14.5.1985.

6. That immediate orders vacating the stay order dated 17.8.1985 is necessary in the interest of justice.

Lucknow, Dated:
November 6, 1985.

Banarsi Ram
Deponent.

VERIFICATION L.T.J.
B. Ram.

I, the deponent named above, do hereby verify that the contents of paras 1 to 5 of the affidavit are true to my own knowledge and contents of para 6 thereof are believed to be true. Nothing material has been



Banarsi Ram

3.

concealed and no part of it is false.

So help me God.

Lucknow, Dated:
November 6, 1985.

Banarsi Ram
Deponent.

L. S. J. B. Ram

I identify the deponent
who has signed before me.

R. h. Yadav
Advocate.

Solemnly affirmed before me on this 6 day
of November 1985, at 7 A.M./P.M. by Sri Banarsi
Ram, the deponent, who is identified by Sri
R. h. Yadav Advocate, High Court, Lucknow
Bench, Lucknow.

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

Mahmud
MAFAR MAHMUD
Advocate

OATH COMMISSIONER
High Court, Allahabad
(Lucknow Bench) Lucknow

No. 03/1041

Date 6-11-85.



AGB

In

3. Signature of Applicant.

Union of India & others. - - - Opposite parties.

1. That I am serving as *Asstt. personnel officer* Northern Railway Lucknow and have been deputed to file this Written Statement on behalf of opposite parties Nos. 1 to 4 and as such I am fully acquainted with the facts deposed to below.

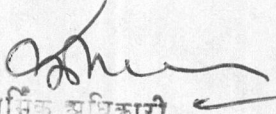
3. That the averments made in para 1 of the

सहायक अधिकारी
४० रे० इंजन कारो० राग लखनऊ
Assst. Engineer
N. Ry. Locomotive Workshop - B. Lko.

Neither applicant
nor his counsel
available
re w/7 re
DC fax
Re Administrative
7/2/88

petition are not disputed. It is further clarified that the petitioner was initially appointed as Junior clerk on 1.10.47 and was subsequently promoted as Senior clerk w.e.f. 14.6.1963 and as Head clerk w.e.f. 1.10.1980. He was confirmed as Senior clerk on 16.6.86 and as Head clerk on 5.12.1981.

4. That the averments made in para 2 of the petition are admitted. It is, however clarified that Shri Banarsi Ram, Opp.party No.5 was initially appointed as Junior clerk w.e.f. 8.7.1959 and confirmed on 2.12.1964 and subsequently he was promoted as Senior clerk w.e.f. 1.6.77, confirmed in this grade w.e.f. 1.3.79. He was promoted as Head clerk w.e.f. 1.3.79 and not on 1.1.1979 as ~~stated~~ stated in para 2 of the petition.


सहायक कार्मिक अधिकारी
४० रो इंजन कारो, राधाग लखनऊ
Asstt. Personnel Officer
M. Rly. Locomotive W Shop C.B. Lko.

5. That para 3 of the petition is admitted. Shri Banarsi Ram was promoted to Higher grades against reserved points.

6. That averments made in para 4 of the petition are admitted. It is further stated that he superseded. Several Senior clerks on

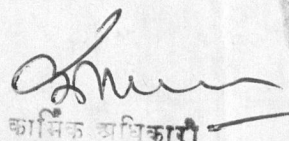
AB
p69

-3-

the basis of general seniority due to ~~implementation~~
implementation of 40 point roster and was promoted
as Head clerk W.e.f. 1.3.1979.

7. That para 5 of the petition is admitted.
It is however necessary to point out that he was
promoted as per existing rules according to 40
point Roaster. then enforced.

8. That in reply to para 6 of the petition
it is stated that prior to 1.1.34 there were 4
posts in O.S. Cadre. On 1.1.1934 the number of
posts of O.S. were raised to 8 on the basis of
15% reservation of S.C. the posts of O.S. worked
out to $8 \times 15 = 1-20 = 1$ only. Since two staff
were already working as O.S. no further promotions
were to be made. In fact one O.S. already working
in excess was to be adjusted against vacancies
in terms of P.S.No. 3446/A.



सहायक कार्यालय अधिकारी
कोरो इंजन कारो न. राग लखनऊ
Asstt. Personnel Officer
M. Rly. Locomotive W Shop CB. Lko.

9. That in reply to para 7 of the petition
it is stated that 40 points roster was implemented
as per existing instructions in vogue at the time

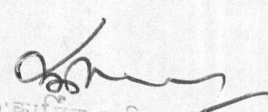
A66
A70

and the promotion was made accordingly.

10. That the averments made in paras 8, & 9, 10 & 11 relate to legal position and as such no comments are needed. However necessary and suitable reply will be given at the time of arguments.

11. That in reply to para 12 of the petition it is stated that 2 vacancies of O.S. occurred w.e.f. 1.8.1985 & 1.9.85 Shri S.K.Biswas was promoted against the earlier vacancy w.e.f. 1.8.85 and Shri S.K.Chaturvedi against IInd vacancy w.e.f. 1.9.85

12. That the averments made in paras 13 & 14 of the petition are not disputed.


सहायक निदेशक अधिकारी
कोरो इंजन कारोखाना जलन
Asst. Personnel Officer
M. Ry. Locomotive W. Shop CB. Lko.

13. That in reply to para 15 of the petition, it is stated that G.M.(P)'s letter referred to Annexure-3, was received and action was to be taken by the office accordingly.

~~A 67~~
A 71

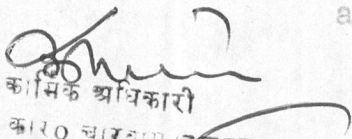
14. That para 16 of the petition needs no comments.

15. That in reply to para 17 of the petition, it is stated that the petitioner has already been promoted as O.S. w.e.f. 1.10.1935 vide S.O.No.654 dated 17.10.1935.

16. That para 13 of the petition needs no reply.

17. That in view of the facts & circumstances stated above the petition is not maintainable and is devoid of merits.

18. That the petition is not maintainable and merits dismissal.


सहायक कार्मिक अधिकारी
उ० र० इंजन कारो चारबाग लखनऊ
Asstt. Personnel Officer
N. Ry. Locomotive Workshop C.B. Lko.

Verification

I, Shri. Bahu Ram Tewari

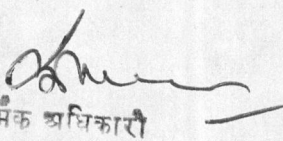
Serving as A. P. O.

Northern Railway, Loco Workshop Charbagh, Lucknow
do hereby verify that contents of para 1 & 2

A 72

-6-

of this Written Statement are true to my
personal knowledge, paras 3 to 14 are verified
from record and paras 15 & 16 are verified
from legal advice.


सहायक कार्मिक अधिकारी
हो रो इंजन कारो चारवाग लखनऊ
Asst. Personnel Officer
Rly. Locomotive W. Shop C.B. Lko.

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Lucknow
27/7/88