

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE *GP No 6197/85 in* *75A No 1960/87* OF .....

NAME OF THE PARTIES *Ram Naras* Applicant

Versus

*C. G. Lohar Court, Kalyanpur, Cus.* Respondent

Part A.

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CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)  
*this file received from record room without, Boster,*

*checked on* Dated *01-11-11*

Counter Signed.....

*Rg*  
*14/12/11*  
Section Officer/In charge

*Dr*  
Signature of the  
Deputy Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH

FORM OF INDEX


O.A./T.A./R.A./C.C.P./ No.


1960/1907

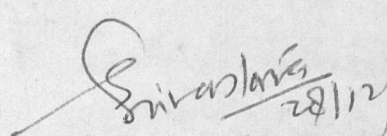
Ram Das vs OOI

PART - I

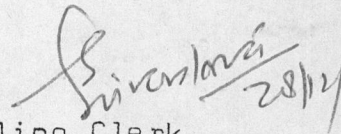
- |    |                  |    |                      |
|----|------------------|----|----------------------|
| 1. | Index Papers     | :- | 1                    |
| 2. | Order Sheet      | :- | 2 to 8               |
| 3. | Any other orders | :- | Nil                  |
| 4. | Judgement        | :- | 9 to 14 dt. 20/11/92 |
| 5. | S.L.P.           | :- | Nil                  |

  
DY. Registrar

  
Supervising Officer  
(Kulbir Singh)

  
Dealing Clerk  
(Girish Srivastava)

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

  
Dealing Clerk  
(Girish Srivastava)

V.K. Mishra



In the Hon'ble High Court of Judicature at Alld.,

Lucknow Bench, Lucknow.

Writ Petition No.

of 1985

( Under Article 226 of the Constitution of  
( India )



5cf = Rs. 100/-

25/11/85

Ram Daras son of Sri Ram Dharaka,  
resident of 554/151, Kailashpuri, Chhota Barha,  
Alambagh, Lucknow City, District Lucknow

..... P e t i t i o n e r

Vs.

1. Central Government Labour Court, Kanpur,
2. Additional Chief Mechanical Engineer,  
Loco ~~xxxx~~ Workshop, Northern Railway, ~~Charbagh~~  
Lucknow.
3. General Manager, Northern Railway, Baroda  
House, New Delhi.....Opposite Parties



2181 9251

(2)

MEMO

~~Expressed~~

5 Adhesive 2 Rs. 100/-

~~Collectors Sign out for report~~

~~Made on receipt of lower~~

~~2-1-85~~

~~10 lines up to~~

Papers filed. Copy of F. O.

~~Should also be filed.~~

Single-Beach

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(127)  $\frac{1000}{25/11/85}$  25/11/85

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notice,

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25-11-85



(4) (3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 1960 of 1987. (7)  
W.D. 8/57/145

APPELLANT  
APPLICANT

Ram Dadas

VERSUS

DEFENDANT  
RESPONDENT

U.O.L.

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
26/5/09	<u>Hon. Justice K. Nath, VC.</u> No one is present on behalf of the applicant whose Counsel Shri I. N. Tewari is reported to be dead. Issue notice to both the parties for further orders on 5/12/09. In the meantime opposite parties may file their counter.	OR Case has been recd. from CAT, Alid. on 14.9.09. Case is admitted. No CA/RA filed. Baz was filed from CAT, Alid. but it was not attached. Submitted for order on 25/12.
5/12/09	<u>Hon. Justice K. Nath, VC.</u> <u>Hon. K. J. Ramani, Jm.</u> No one is present on behalf of the parties. Notice dated 27/10/09 was issued to the applicant by registered post on 6/11/09. That is presumed served. The case was filed in the Hon'ble High Court against the Labour Court's refusal to award computation of money claimed in respect of payments for certain periods. The case is dismissed for default of the applicant.	OR Notices were issued on 6-11-09. Neither reply nor any witness mtd. Case has been returned back so far. Submitted for order on 4/12.

Am

VC.



8.2.90

No. Siling App. to 10.4.90

(2) (4)

TA 260/87(7)

10/6/90

Hon. Mr. P. S. Habib Mohammed, AM  
Hon. Mr. J. P. Sharma, J.M.

This case was  
dismissed for default  
on 5.12.84

Heard learned counsel  
for applicant, Shri Upendra Singh.  
In the Civil Misc. Appl No. 46/90

The L.C. for the  
applicant has filed  
C.M. No. 46/90/11  
for restoration

a prayer has been made that  
the order passed on 5/12/84

This application has  
been filed on 22.1.90  
in written form  
R.F.S.

ex parte dismissing the T.A. No 1960/87/  
W.Pet No 6197/85. The writ petition is  
be set aside on the ground detailed  
in the application dated 22/1/90.  
We have gone through the matter  
and in the interest of natural  
justice and equity, the applicant  
is allowed ~~some~~ time for prove  
his claim on merits and so the  
impugned order passed ex parte on  
5/12/84 is set aside & the W.Pet No  
T.A. is restored to its original No.

Notice has been taken  
by Shri A. Bhargava for <sup>the</sup> respondents  
The copy of the W. Petition is  
given to the learned counsel for the applicant  
and counter to be filed within 2 weeks  
thereafter.

Put up for orders on 3/9/90.

J.M.

A.M.



T.A. 1960/07 IT

3.9.90

No sitting. Adjourn to 8.10.90

4/5

8.10.90

No sitting Adj to 23.11.90

23.11.90

case not reached, case is (u)

Adjourned to 5.2.91 for order.

5.2.91

Hon Mr Justice K Mahd, VC.

Hon Mr K Bhargava, AM.

Shri Upendra Singh  
for applicant

Shri Arjun Bhargava for  
the respondents

OR

4c for the applicant  
has filed M.P 46/90s  
for Restriction on 22/1/90

This case was dismissed  
B.O.C on default on 5.12.04.  
This application is  
time barred.  
S PO

4/2

Shri Bhargava requests  
and is allowed last opportunity  
to file counts within 2 weeks,  
to which the applicant may file  
reply within 2 weeks thereafter.

and the case may be listed  
for final hearing on 14-3-91.

In case counts is not filed  
the case may be taken up ex parte  
for final disposal.

M.P 46/90 has already been  
disposed of.

to

A M.

to

VC.

(4) (6)

14.3.91

NO Stamp Adp to 25.4.91  
g.

OR  
No stamp  
12/4/91

25.4.91  
D.R.

Shri Upendra Singh Id.  
counsel for the applicant  
is present. O.P. is absent &  
Respondent to file counter  
by 17/7/91. ✓

17.7.91  
D.R.

counter has not been  
filed till today. Both  
the parties are present.

O.P. is directed to  
file counter by 24/9/91. ✓

24.9.91  
D.R.

counsel for the applicant  
is present. Respondent  
to file counter by  
15/11/91. ✓



⑦

⑤

T.A. 1960/87

15.11.91

D.R.

X/6

Department's side  
is present. Respondent  
to file counter by  
28/1/92.

28.1.92

D.R.

Both the parties  
are absent. Respondent  
to file counter by  
9/4/92

9.4.92

D.R.

Both the parties are  
absent. Respondent  
to file counter by  
31.7.92.

31.7.92

D.R.

Applicant is present  
in person. He has filed  
an application for final  
disposal of the case on  
20/5/92. Counter has  
not been filed. Case  
is listed for orders on  
19/8/92 before the Hon.  
Bench.

(6) (5)

19-8-92 Mr. Srinivasan

26-8-92

26-8-92

Case not reached.

Adj. to 16/9/92

R

OK  
Reply on behalf of  
op. No 2 & 3 have  
been filed  
8/9/92  
258-52

Dated: 16.9.92

Hon'ble Mr. Justice U.C. Srivastava, VC  
Hon'ble Mr. K. Obayya, Member (A)

The learned counsel for the applicant prays  
two weeks time to file rejoinder-affidavit.  
The time prayed for is granted to him for the  
same. List this case for hearing on admission  
on 20.11.1992.

Case is

J. F. A.

8

18/11/92

3/11/92  
A.M.

3/11/92  
V.C.

20/11/92

Hon. Mr. S.N. Prasad, J.M.

Sri Upendra Singh, L.C. for the  
applicant is present. Sh. A. Bhargava  
L.C. for the respondent is also present.  
R.A. has been filed by the L.C. for  
the applicant, a copy whereof  
has been received by the L.C.  
for the respondent.

Hear'd Ld. Counsel for both the  
Parties.

Judgement dictated separately.

SM.



(8)

THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH  
LUCKNOW

W.P. No. 6197/85  
in  
(T.A. No. 1960/87)

Rām Daras ... Petitioner

Vs.

Central Government Labour Court, ... Respondents  
Kanpur and others (Opposite parties)

Hon. Mr. S.N. Prasad, J.M.

This Writ Petition No. 6197/85 which was filed in the High Court of Judicature at Allahabad (Lucknow Bench) has been received here by way of transfer under Section 29 of the Administrative Tribunals Act, 1985, and has been numbered as T.A. No. 1960/87.

2. In the above Writ Petition, the petitioner has prayed for quashing the impugned order dated 23.5.85 (Annexure-6); and for directing the respondents (opposite parties) not to make any deduction from the petitioner's salary and to treat the petitioner on duty for 176 days and to pay him the entire salary for the said period; and for further directing the respondents to pay a sum of Rs. 5,661/- which is due to the petitioner by way of the amount lying at his credit in his Provident Fund.

3. Succinctly, the facts of the above case, inter alia, are that the petitioner whose date of birth is 12.1.1925, but due to certain inadvertence and mis-understanding, the petitioner was prematurely retired deeming his date of birth as 1.8.1920 and against that premature retirement, he represented <sup>2</sup> ~~that~~

the matter to the authorities concerned and eventually deeming his date of birth as 12.1.1925, the petitioner was reinstated by the respondents No.2 and 3.

4. But, the main grievance of the petitioner appears to be that despite his reinstatement deeming his date of birth as 12.1.1925, the intervening period i.e. from the aforesaid premature retirement of the petitioner to the date of his <sup>reinstatement</sup> retirement i.e. from 1.8.78 (F.N.) to 23.1.79 (A.N.), as the petitioner was reinstated on 24.1.1979, the petitioner should have been paid for all these 176 days. However, by the respondents No.2 and 3, the petitioner has been given full pay by way of leave for 28 days i.e. from 1.8.78 to 28.8.78, but for the rest of the days i.e. for 37 days (from 29.8.78 to 4.10.78), the petitioner has been granted half pay by way of L.H.P.; and for rest of the 111 days i.e. (from 5.10.78 to 23.1.79), the petitioner has been treated as L.W.P. and as such has prayed for allowing him full pay on the aforesaid remaining 148 days.

5. As regards the claim for the amount lying at the credit of the petitioner by way of his P.F. amount to the tune of Rs. 5,661/-, the petitioner has alleged that a total sum of Rs. 11,000/- was to be paid to the petitioner as the petitioner has retired on 31.1.83 and out of this amount, the petitioner was only paid Rs. 5,339/- and as such for the rest he has prayed that the amount of Rs. 5,661/- be also paid to him.

6. The respondents in their counter reply have resisted the claim of the petitioner with the

(11)

contentions inter alia, that the petitioner on the verge of his retirement represented the matter regarding correction of his date of birth from 1.8.1920 to 12.1.1925. The petitioner was reinstated on 24.1.79 and as such the intervening period of 176 days has been adjusted keeping in view his L.A.P. standing at his credit and since there was no other kind of leave and that is why 111 days were treated as L.W.P. as detailed in Annexure-I. It has further been contended that at the time of retirement of the petitioner, the balance of P.F. lying outstanding at his credit was only to the tune of Rs. 5,339/- and payment thereof was made to the petitioner and as such no balance is lying outstanding at the credit of the petitioner by way of Provident Fund. It has, further, been contended that since the petitioner stood retired on the basis of his recorded date of birth and thereafter as per decision and <sup>~ correction ~</sup> ~~contention~~ of date of birth if reinstated, the petitioner can not claim the intervening period spent on duty and the said period of 176 days has been treated according to rules and as such the petitioner is not entitled the reliefs sought for.

7. Rejoinder Affidavit has been filed by the petitioner wherein almost he has stated all these points and grounds as set out in the main petition as mentioned above.

8. I have heard the learned counsel for the parties and have gone through the records of the case.

9. Learned Counsel for the petitioner while adverting to the contents of petition and the



counter reply filed by the respondents and the papers annexed thereto and while reiterating the view-points as set out in the ~~application~~ and the rejoinder affidavit, has stressed that from the perusal of the entire material on record, it is apparent that before passing the order dated 14.2.1979 (Annexure-I) regarding treatment and adjustment of the intervening period of 176 days as detailed therein, the petitioner was not afforded any opportunity or no show-cause notice was shown to the petitioner regarding adjustment of the above intervening period and it is also obvious that no application for treating the aforesaid intervening period as leave was moved by the petitioner and as such there is violation of the principles of natural justice and in support of his arguments, has placed reliance on the rulings reported in 1990 (8) LCD Page 329-300 Vinod Kumar Mittal (Petitioner) Vs. U.O.I. (Respondent) where it has been enunciated that:-

"Principles of Natural Justice - well settled that even administrative actions effecting rights of citizen require compliance of the principles of natural justice - Held, principle requires providing opportunity of hearing before taking adverse action."

10. Learned Counsel for the respondents while reiterating the contentions as set out in the counter reply, has stressed that the above order dated 14.2.79 (Annexure-I) was passed legally and properly and intervening periods of 176 days were adjusted properly in accordance with the rules as detailed in Annexure-I, and has further argued that the petitioner is not entitled for full wages for the aforesaid period of 148 days as there was no fault of the respondents, but it was fault of the petitioner himself.

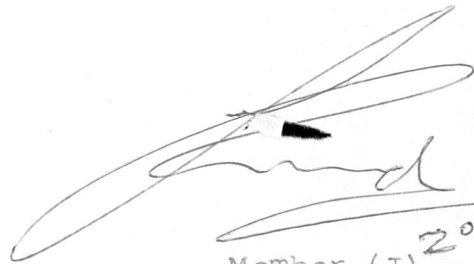
11. This is noteworthy that from the scrutiny of the entire material on record, it becomes obvious that the mistake which was initially committed by the respondents by prematurely retiring the petitioner deeming his date of birth as 1.8.1920 was later on corrected on the representation made by the petitioner and the petitioner was reinstated in service with effect from 24.1.79. No doubt the petitioner submitted his representation at late stage, but since his date of birth was corrected by the respondents No.2 and 3 deeming his correct date of birth as 12.1.1925, the petitioner can not be made solely liable and responsible for non-performance of the duties by him during the said intervening period as he was prevented from discharging his duties not willfully and voluntarily, but by the order passed by the respondents No.2 and 3 retiring him prematurely wrongly on 31.7.1978.

12. This is also important to point out that from the perusal of the material on record and Annexure-4, alongwith its enclosures, shows that certain deductions were made by the department concerned from the salary bill of the petitioner towards the loan taken by the petitioner from his Provident Fund and according to the petitioner the above deductions from his salary bill towards payment of temporary advance have not been accounted for.

13. Thus, from the above discussions and from the scrutiny of entire material on record, I find ~~it expedient~~ keeping in view the principles of law as enunciated in the ruling ~~that there is no violation~~

that there is <sup>as before</sup> violation of the principles of natural justice treating the aforesaid 148 days, (37 days as L.H.P. and 111 days Leave without Pay) the petitioner was not afforded any opportunity of being heard and as such I find it expedient that ends of justice would be served if the respondents No.2 and 3 are directed to consider the matter of treatment and adjustment of the above intervening period of 148 days from proper perspective by reasoned and speaking order in accordance with law, extant rules and regulations after affording reasonable opportunity to the petitioner of being heard, within a period of 3 months from the date of the receipt of the copy of this judgement, and also to consider the matter regarding the propriety and admissibility of the claim of the petitioner for the amount of RS. 5,661/- by reasoned and speaking order after verifying relevant records and various deductions made from the salary bills of the petitioner as deductions towards payment of instalments of the temporary advance/loans taken by the petitioner, within the said period of 3 months from the date of the receipt of the copy of this judgement; and I order accordingly.

14. The above Writ Petition No. 6197/85 of the petitioner is disposed of as above without any order as to costs.

  
Member (J)

20.11.92

Lucknow  
dt. 20.11.92  
/smc/



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

Writ Petition No. 6197 of 1985

Ram Daras

Vs.

Central Govt. Labour  
Court, Kanpur & Ors.

I N D E X

<u>Sl. No.</u>	<u>P a r t i c u l a r s</u>	<u>Pages</u>
1.	Writ Petition	1 to 14
2.	Annexure No.1: True copy of order dated 14.2.1979. — — — — —	17-18
3.	Annexure No.2: True copy of representation dt.2.4.1979. — — — — —	19-2
4.	Annexure No.3: True copy of claim petition. 22-2	
5.	Annexure No.4: True copy of affidavit giving details of payments as temporary withdrawal. — — — — —	27-3
6.	Annexure No.5: <del>True</del> <sup>photo stat</sup> copy of deduction of provident fund accounts made by petitioner. — — — — —	31-34
7.	Annexure No.6: Certified copy of impugned order dt.23.5.1985. — — — — —	35-38
8.	Affidavit. — — — — —	15-16
9.	Vakalatnama.	

14896

INDIWAR

Lucknow/Dated  
November , 1985

Advocate,  
Counsel for petitioner.

The humble petition of the petitioner, named above, most respectfully sheweth as under:-

1. That the instant writ petition arises out against the order dated 23. 5. 1985 passed by opposite party No.1 rejecting the claim of the petitioner.

2. That the petitioner was under the employment of Northern Railways and was posted as Workman in the Locoworkshop <sup>Charan Singh Lucknow</sup> (highly skilled Grade I ). The petitioner was appointed sometime in the year 1944.

3. That the date of birth of the petitioner is 12th January, 1925 which was disclosed by the petitioner at the time of his appointment but because of some clerical mistake as it seems, the date of birth of the petitioner was noted as 1.8.1920.

4. That on the basis of the incorrect date of birth i.e. 1. 8. 1920, the petitioner was ~~xxxx~~ <sup>pre-</sup> maturely retired by the then Deputy Chief Mechanical Engineer by the order of opposite party No.2 with effect from 31. 7. 1978.



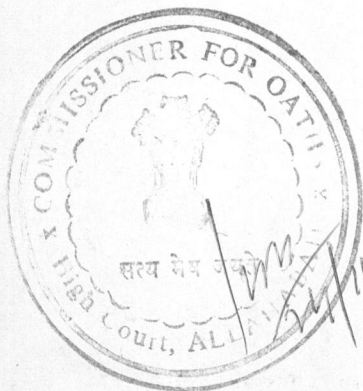
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5. That against the pre-mature retirement the petitioner went in appeal before opposite party No.3 which was turned down whereafter the petitioner sent representation to the Hon'ble Minister for Railways, who referred the matter to the General Manager for considering the matter again.

6. That the @ General Manager by order dated @ 4.1.1979 found that the date of birth of the petitioner was recorded incorrectly as 1.8.1920 and it should have been 12.1.1925 which was also evidenced from the school certificate of the petitioner and accordingly, the date of birth of the petitioner was changed from 1.8.1920 to 12.1.1925.

7. That the petitioner was accordingly reinstated in service on the same pay and grade. However, while reinstating the petitioner it was provided that since 176 days ( five months and 23 days ), had intervened between the order of reinstatement and the date of pre-mature retirement, opposite party No.3 provided that 28 days will be treated as leave with full pay, 37 days' leave on half pay, and 111 days' leave without pay. Thus total 176 days were adjusted - the period intervening



2181 4221

between the pre-mature retirement and the date of reinstatement. A true copy of the order dated 14.2.1979 is being annexed as Annexure No.1 to the writ petition.

8. That the petitioner respectfully submits that when because of the mistake on the part of the officials of the railway department, the date of birth of the petitioner was incorrectly recorded and subsequently it was found that his date of birth was recorded incorrectly which was corrected, the intervening period which the petitioner was made idle ~~xxxx~~ for no fault ~~of~~ on the part of the petitioner, the petitioner was entitled to be reinstated with full pay and emoluments.

9. That the petitioner also would not have suffered in case the entire period would have been treated as leave period with full pay. The deductions made from the petitioner's salary and emoluments as a result of treating 37 days as leave at half pay and 111 days leave without pay has thus caused substantial injury and also pecuniary injury to the petitioner.

10. That the petitioner never applied for leave for this period of 176 days; nor the



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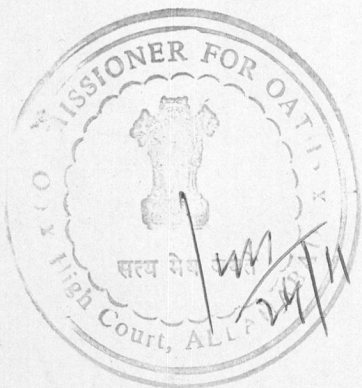
petitioner ever consented with this period of 176 days to be treated as has been indicated in the order contained in Annexure 1 to the writ petition.

11. That the petitioner made representation to the General Manager, Northern Railways making prayer that this period of 176 days be regularised and the petitioner be provided full salary for this period which intervened because of the fault of the officials of the railway department. A true copy of the representation dated 2.4.1979 submitted by the petitioner is being annexed as Annexure No. 2 to the writ petition.

12. That no decision has yet been taken on the representation contained in Annexure No. 2 to the writ petition which results in its rejection.

13. That the other grievance of the petitioner was, which still subsists, that the total sum of Rs. 11,000/- was to be paid towards Provident Fund to the petitioner ~~six~~ since the petitioner has retired on 31.1.1983. Out of this amount the petitioner was only paid Rs. 5339/- Thus he was not paid a sum of Rs. 5661/-.

14. That the petitioner feeling aggrieved by



राष्ट्रदर

by the conduct of the railway authorities, preferred his claim before opposite party No.1 a true copy of which ( claim petition ) is being annexed herewith as Annexure No.3 to the writ petition.

15. That the petitioner also filed an affidavit giving out the details of the payments made to the petitioner as temporary withdrawal of Provident Fund and a true copy of which is being annexed herewith as Annexure No.4 to the writ petition.

16. That the procedure provided relating to the payment of Provident Fund is that where a temporary withdrawal of Provident Fund is made, the same is regularly deducted from the salary in instalments and there is no recovery relating to final withdrawal of the Provident Fund.

17. That the petitioner's contention was that the <sup>1- amounts</sup> ~~amounts~~ which were withdrawn from the Provident Funds as a temporary measure were recovered by the railway authorities by regular deductions from the salary, and, as such, the case of opposite parties that the amount withdrawn as temporary measure from the Provident Fund account was not repaid by the



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petitioner could not be established by any evidence.

15. That the account towards reimbursement of the provident fund amount deducted from the salary of the petitioner was placed on the record by the petitioner before opposite party No.1, a photostat copy of which is being annexed as Annexure No.5 to this writ petition.

16. That opposite party No.1 without considering the materials on record and without considering the facts, rejected the petitioner's claim petition by the order dated 23.5.1985, a certified copy of which is being placed herewith as Annexure No.6 to the writ petition.

17. That opposite party No.1 did not consider the accounts relating to withdrawals by deductions from the petitioner's salary. Even the railway administration did not produce the original records and the salary account and the provident funds account before opposite party No.1 in order to rebut the averments made by the petitioner. The aforesaid original documents were in the possession of railway administration and the facts could have been well judged by a perusal of the relevant documents referred to



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hereinabove.

18. That the opposite party No.1 has thus not considered the dues which the petitioner contended and which the petitioner was entitled to be paid from his provident fund account.

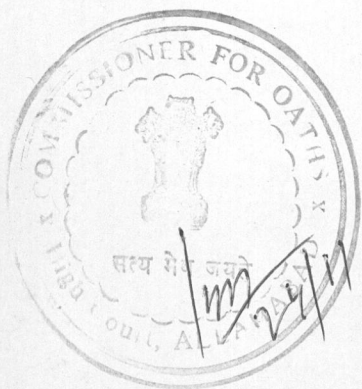
19. That with respect to the question of salary which railway administration forcibly treated the period as leave for no fault of the petitioner but for the clear negligence of the officials of the railway ~~administration~~ administration by incorrectly recording the date of birth of the petitioner, opposite party No.1 did not consider rule 2044 ( F.R. 54) of the Establishment Rules, which is being reproduced as below:-

"2044 ( F.R.54):- Pay after-reinstatement:-  
When the suspension of a railway servant is held to have been unjustifiable or not wholly justifiable; or

when a railway servant who has been dismissed, removed or suspended is ~~ix~~ reinstated;

the revising or appellate authority may grant to him for the period of his absence from duty -

(a) if he is honourably acquitted, the full pay to which he would have been entitled if he had not been dismissed, removed



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...Contd

or suspended, and by an order to be separately recorded, any allowance of which he was in receipt prior to his dismissal, removal or suspension; or

(b) if otherwise, such proportion of such pay and allowances as the revising or appellate authority may prescribe.

In a case falling under clause (a) the period of absence from duty will be treated as a period spent on duty. In a case falling under clause (b), it will not be treated as a period spent on duty unless the revising or appellate authority so direct."

20. That the same principles apply to pre-mature retirements which in substance amounts to discontinuance from service and according to the aforesaid principle when after removal or termination an employee is reinstated, the period of absence from duty will be treated as a period spent on duty.

216. That no person can be asked to forced leave and particularly where a person is found entitled to have continued in service but because of the incorrect records prepared by the railway authorities which were found to be incorrect by the own findings of railway authorities, the



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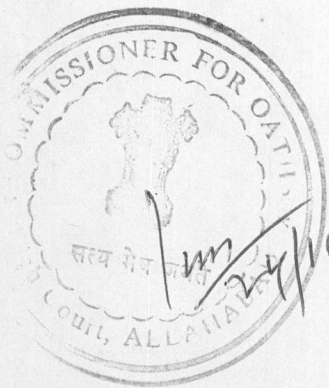


petitioner could not be damaged by placing the petitioner to remain on leave nor payment of salary on the pretext that the period will be treated as leave without pay and leave with half pay as also leave with full pay although leave with full pay ~~may~~ may not amount any financial loss.

22. That thus the petitioner is entitled to a sum of Rs.6090.00 as salary with effect from <sup>1-8-78</sup> ~~31.7.1975~~ to <sup>23-1-1979</sup> ~~24.7.1979~~ and a sum of Rs.5661.00 towards balance amount remaining unpaid from the Provident Fund account to the petitioner- totalling amount Rs.11,751.00.

23. That the findings recorded by opposite party No.1 are thus based on no evidence and are perverse and contrary to materials on record.

24. That the petitioner respectfully submits that there could not be any legal or factual justification for opposite parties 2 and 3 that after the reinstatement of the petitioner and holding that retirement of the petitioner was pre-mature and also after holding that the records were incorrectly prepared by officials of railway administration, the period spent after the pre-mature retirement and the date of reinstatement could be treated as leave without pay for some period and thereafter leave with half pay as indicated herebinabove.



2181 3227



25. That although the order was passed on 23.5.1985. no date for order was fixed and the petitioner was waiting for the communication of the order. Neither the officials of the Labour Court gave any intimation about the order nor the representative of the petitioner intimated the order. The petitioner after waiting for about three months went to the office of the Labour Court and after making the due inquiries on 26.8.1985 applied for copies which was provided to the petitioner on 26.8.1985. The petitioner after obtaining the copy of the order on 26.8.85 contacted his counsel who required the relevant documents to enable him to prepare the writ petition which the petitioner could not procure in spite of due diligence since the relevant papers were misplaced in the hands of the representative of the petitioner and the petitioner could get the relevant documents after great persuation only on 23.11.1985 and it is then on 24.11.1985 the petitioner contacted his counsel and got the writ petition prepared. The laches in filing the writ petition have not occasioned deliberately but in the aforesaid circumstances and, therefore, deserve to be condoned in the interest of justice, and in case the laches and delay are not condoned, the petitioner will suffer manifest and substantial injury.



21/11/85

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26. That having no other equal, efficacious, alternative adequate and speedy remedy, the petitioner is filing the instant writ petition in this Hon'ble court on the following amongst other



GROUND S

(i) Because opposite party No.1 has committed manifest error of law in not considering the material evidence relating to the payment of salary and provident fund account, and the findings ~~xxxixix~~ recorded by opposite party No.1 are based on no evidence.

(ii) Because opposite parties have committed manifest error of law in treating the petitioner to be on forced leave without pay for some period and on leave for some period on half pay, which was contrary to the law and the deductions could not be made from the petitioner's salary because of the fault of the railway authorities in making pre-mature retirement of the petitioner.

(iii) Because once having been found that the pre-mature retirement of the petitioner was only because of the fault of the railway authorities, no deduction could be made from the petitioner's salary and the petitioner was entitled to

218/5227

INDIVIDUAL

full salary for that period and the opposite parties in not granting the petitioner full salary have committed manifest error of law.

(iv) Because the temporary withdrawal from the provident fund account having been reimbursed from the deductions of the petitioner's salary and the same having been established, the opposite parties committed manifest error of law in not paying the entire amount credited towards provident fund.

(v) Because the findings recorded by opposite party No.1 are perverse and contrary to materials on record.

(vi) Because there being no evidence on record to rebut the averments and evidence placed on record by the petitioner, opposite party No.1 has committed manifest error of law in not considering the same.

IMPUGNARI

WHEREFORE, the petitioner respectfully begs to submit that the Hon'ble Court be pleased to issue:-

(a) a writ of certiorari, or a writ, order or direction in the nature of certiorari quashing the impugned order dated 23rd May, 1985 contained in Annexure No.6,

2181 4247



passed by opposite party No.1;

- (b) a writ of mandamus commanding the opposite parties not to make any deductions from the petitioner's salary and to treat the petitioner on duty for 176 days and to pay the entire salary of the petitioner for the said period and further to direct opposite parties to pay a sum of Rs.5661/- which is due towards provident fund to the petitioner.
- (c) Any other writ, order or direction which in the circumstances of the case the Hon'ble Court deems just and proper; and
- (d) costs of the petition may be paid to the petitioner.

Lucknow/Dated  
November ,1985

INPITWARI  
Advocate,  
Counsel for petitioner.

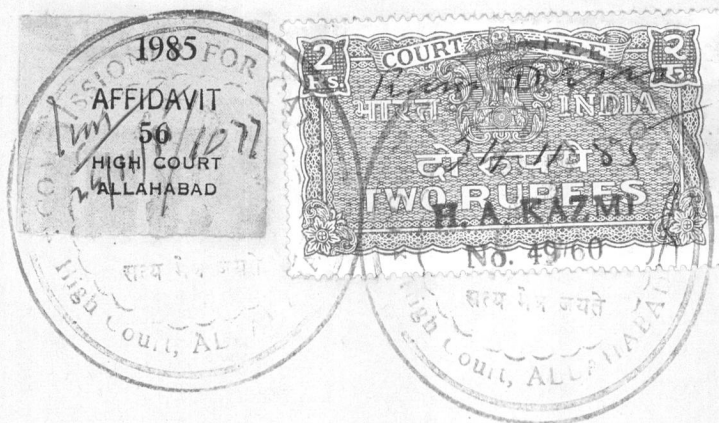
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In the Hon'ble High Court of Judicature at Allahabad,  
Lucknow Bench, Lucknow.

---

Writ Petition No.                      of 1985  
( Under Article 226 of the Constitution of India )



Ram Daras..... Vs.....Central Govt. Labour Court  
Kanpur, & Ors.

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A F F I D A V I T

I, Ram Daras, aged about 61 years, son of  
Sri Ram Dharaka, resident of 554/151, Kailashpuri  
Chhota Barha, Alambagh, Lucknow, do hereby solemnly  
affirm and state on oath as under:-

1. That the deponent is petitioner in the above writ petition and is fully conversant with the facts of the case deposed to hereunder.
2. That the contents of the accompanying writ petitioner have been fully read over and explained to the deponent who has fully understood the same.



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3. That the contents of paras 1 to 25 of the accompanying writ petition are true to my personal knowledge and those of para 26 thereof are true to my belief being based on legal advice.

4. That Annexures No 1 to 4 are the true & correct copies of their originals. 17

24.11.85

218 7721  
Deponent

### Verification

I, the deponent named above, do hereby verify that the contents of paras 1 to 3 of this affidavit are true to my personal knowledge.

Nothing material has been concealed or is untrue so help me God.

24.11.85

218 7721  
Deponent

### Identification

I identify the deponent who has verified and signed/~~thumb~~ marked, before me, and is personally known to me.

V.D. Shukla, Clerk to  
Sri H.S. Sahai, Adv.

Solemnly affirmed before me on 24.11.85 at 6.30 a.m./p.m. by the deponent who is identified by Sri V.D. Shukla, Clerk to Sri H.S. Sahai, Adv. High Court, Lucknow Bench, Lucknow.

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

K. N. Srivastava  
Kashi Nath Srivastava

Advocate Oath Commissioner  
High Court, Allahabad  
Lucknow Bench, Lucknow.

No. 56/1077

24.11.85





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In the Hon(ble High Court of Judicature At Allahabad  
Sitting at Lucknow.

Writ Petition No1 of 1985.

Ram Daras

.... Petitioner

Versus

Central Govt. Labour Court Kanpur

& others

..... Opp.parties.

Annexure No. 1  
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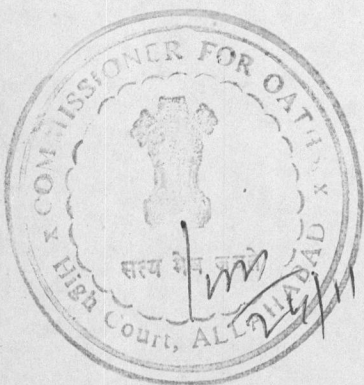
Northern Railway

Locomotive Works Charbagh, LKO

S.O.No. 157

Dated 14.2.1979.

In terms of G.M. (P) 's letter No. 93 E/2-  
CB/RD/Eliw-L dated 4.1.79 the date of birth of  
Shri Ram Daras Ex. BSS-13 has been changed from  
1.8.20 to 12.1.1925 as recorded in his school  
certificate. As such he is reinstated in service  
on and from 24.1.79 (FN) as Sr. Blacksmith on the  
same pay and grade.



He will work against his old T.No. i.e.  
BSS -13 . The intervening period from the date  
of retirement to the date of reinstatement i.e.

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from 1.8.78 (FN) to 23.1.79 (AN) treated as leave  
as noted below.

From 1.8.78 to 28.8.78 = 28 days LHP  
" 29.8.78 to 4.10.78 = 37 days LHP  
" 5.10.78 to 1-23-1-79 = 111 days LHP.

Arrear if any may be paid to him  
accordingly.

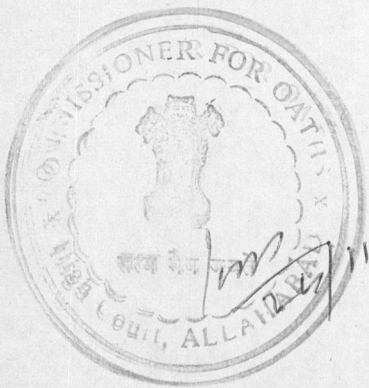
Sd/- Illegible  
for Dy. Chief Mech. Engineer  
(W)  
N.Rly. CB/Lko.

Copy to G.M. (P) N.Rly. Baroda House,  
New Delhi for information in reference to his  
letter noted above.

Copy to CLK, HC/PB, Pass, Genl.SS/BSS,  
RF, SA O/CB and Manager ECCS IKO for information  
and necessary action please.

Sd/- Illegible  
for Dy. Chief Mech. Engineer (W)  
N.Rly. CB/Lucknow.

True copy  
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राष्ट्र १२२७



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8/27

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

Writ Petition No. of 1985.

Ram Daras

..... Petitioner

Versus

Central Govt. Labour Tribunal

and others

..... Opp. parties.

Annexure No. 2  
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Appeal  
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To,

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

Ref: Your Office letter No. 93-E/2-CB/RD/

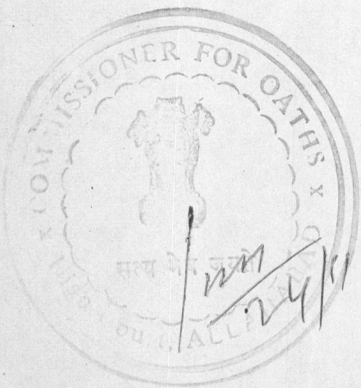
BiW-L- dated 4.1.79.  
-----

Sir,

With due regards and humble submission

I have to state as under : -

1. That vide above letter my date of birth has been altered from 1.8.20. to 12-1-1925 and I have been reinstated from 24.1.79 (FN) as SK.Blacksmith on same pay & grade.



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2- That the intervening period from the date of retirement to the date of reinstatement i.e. from 1.8.78 (FN) to 23.1.79 has been ordered to be treated as leave due as noted below : -

From 1.8.78 to 28.8.78 = 28 days LAP

" 29.8.78 to 4.10.78 = 37 ,, LHP

" 5.10.78 to 23.1.79 = 111 ,, LHP

3. That very recently a theft was committed at my home and the thieves have taken away all my valuables and money putting me to a great monetary loss.

4. Sir, I was wrongly retired on 31st July, 78. It was only due to negligence of the administration that my service could not be continued and I have been put to suffer for the above period.

Under humanitarian grounds I would request your honour to kindly consider my pitiable condition and regularise the above noted period with full pay and save the poor employee to suffer any more .

Thanking you,

Yours faithfully,

Sd/- Ram Daras

Dated: 2.4.1979.

(Ram Daras) T.N.BSS-13,  
Charbagh, Workshop,  
Lucknow.



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1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024 2025 2026 2027 2028 2029 2030 2031 2032 2033 2034 2035 2036 2037 2038 2039 2040 2041 2042 2043 2044 2045 2046 2047 2048 2049 2050 2051 2052 2053 2054 2055 2056 2057 2058 2059 2060 2061 2062 2063 2064 2065 2066 2067 2068 2069 2070 2071 2072 2073 2074 2075 2076 2077 2078 2079 2080 2081 2082 2083 2084 2085 2086 2087 2088 2089 2090 2091 2092 2093 2094 2095 2096 2097 2098 2099 2100 2101 2102 2103 2104 2105 2106 2107 2108 2109 2110 2111 2112 2113 2114 2115 2116 2117 2118 2119 2120 2121 2122 2123 2124 2125 2126 2127 2128 2129 2130 2131 2132 2133 2134 2135 2136 2137 2138 2139 2140 2141 2142 2143 2144 2145 2146 2147 2148 2149 2150 2151 2152 2153 2154 2155 2156 2157 2158 2159 2160 2161 2162 2163 2164 2165 2166 2167 2168 2169 2170 2171 2172 2173 2174 2175 2176 2177 2178 2179 2180 2181 2182 2183 2184 2185 2186 2187 2188 2189 2190 2191 2192 2193 2194 2195 2196 2197 2198 2199 2200 2201 2202 2203 2204 2205 2206 2207 2208 2209 2210 2211 2212 2213 2214 2215 2216 2217 2218 2219 2220 2221 2222 2223 2224 2225 2226 2227 2228 2229 2230 2231 2232 2233 2234 2235 2236 2237 2238 2239 2240 2241 2242 2243 2244 2245 2246 2247 2248 2249 2250 2251 2252 2253 2254 2255 2256 2257 2258 2259 2260 2261 2262 2263 2264 2265 2266 2267 2268 2269 2270 2271 2272 2273 2274 2275 2276 2277 2278 2279 2280 2281 2282 2283 2284 2285 2286 2287 2288 2289 2290 2291 2292 2293 2294 2295 2296 2297 2298 2299 2300 2301 2302 2303 2304 2305 2306 2307 2308 2309 2310 2311 2312 2313 2314 2315 2316 2317 2318 2319 2320 2321 2322 2323 2324 2325 2326 2327 2328 2329 2330 2331 2332 2333 2334 2335 2336 2337 2338 2339 2340 2341 2342 2343 2344 2345 2346 2347 2348 2349 2350 2351 2352 2353 2354 2355 2356 2357 2358 2359 2360 2361 2362 2363 2364 2365 2366 2367 2368 2369 2370 2371 2372 2373 2374 2375 2376 2377 2378 2379 2380 2381 2382 2383 2384 2385 2386 2387 2388 2389 2390 2391 2392 2393 2394 2395 2396 2397 2398 2399 2400 2401 2402 2403 2404 2405 2406 2407 2408 2409 2410 2411 2412 2413 2414 2415 2416 2417 2418 2419 2420 2421 2422 2423 2424 2425 2426 2427 2428 2429 2430 2431 2432 2433 2434 2435 2436 2437 2438 2439 2440 2441 2442 2443 2444 2445 2446 2447 2448 2449 2450 2451 2452 2453 2454 2455 2456 2457 2458 2459 2460 2461 2462 2463 2464 2465 2466 2467 2468 2469 2470 2471 2472 2473 2474 2475 2476 2477 2478 2479 2480 2481 2482 2483 2484 2485 2486 2487 2488 2489 2490 2491 2492 2493 2494 2495 2496 2497 2498 2499 2500 2501 2502 2503 2504 2505 2506 2507 2508 2509 2510 2511 2512 2513 2514 2515 2516 2517 2518 2519 2520 2521 2522 2523 2524 2525 2526 2527 2528 2529 2530 2531 2532 2533 2534 2535 2536 2537 2538 2539 2540 2541 2542 2543 2544 2545 2546 2547 2548 2549 2550 2551 2552 2553 2554 2555 2556 2557 2558 2559 2560 2561 2562 2563 2564 2565 2566 2567 2568 2569 2570 2571 2572 2573 2574 2575 2576 2577 2578 2579 2580 2581 2582 2583 2584 2585 2586 2587 2588 2589 2590 2591 2592 2593 2594 2595 2596 2597 2598 2599 2600 2601 2602 2603 2604 2605 2606 2607 2608 2609 2610 2611 2612 2613 2614 2615 2616 2617 2618 2619 2620 2621 2622 2623 2624 2625 2626 2627 2628 2629 2630 2631 2632 2633 2634 2635 2636 2637 2638 2639 2640 2641 2642 2643 2644 2645 2646 2647 2648 2649 2650 2651 2652 2653 2654 2655 2656 2657 2658 2659 2660 2661 2662 2663 2664 2665 2666 2667 2668 2669 2670 2671 2672 2673 2674 2675 2676 2677 2678 2679 2680 2681 2682 2683 2684 2685 2686 2687 2688 2689 2690 2691 2692 2693 2694 2695 2696 2697 2698 2699 2700 2701 2702 2703 2704 2705 2706 2707 2708 2709 2710 2711 2712 2713 2714 2715 2716 2717 2718 2719 2720 2721 2722 2723 2724 2725 2726 2727 2728 2729 2730 2731 2732 2733 2734 2735 2736 2737 2738 2739 2740 2741 2742 2743 2744 2745 2746 2747 2748 2749 2750 2751 2752 2753 2754 2755 2756 2757 2758 2759 2760 2761 2762 2763 2764 2765 2766 2767 2768 2769 2770 2771 2772 2773 2774 2775 2776 2777 2778 2779 2780 2781 2782 2783 2784 2785 2786 2787 2788 2789 2790 2791 2792 2793 2794 2795 2796 2797 2798 2799 2800 2801 2802 2803 2804 2805 2806 2807 2808



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A/34 (22)  
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In the Hon'ble High Court of Judicature at Allahabad  
Sitting at Lucknow.

Writ Petition No. of 1985.

Ram Daras

..... Petitioner

Versus

Central Govt. Labour Court Kanpur  
and others

.... Opp. parties.

Annexure No. 3  
-----

In the Court of Shri R.B. Srivastava,  
Presiding Officer, Central Labour Court  
No. 2.

Sarvodaya Nagar - Kanpur

Misc. Case No. of 1982.

Ram Daras S/o Ram Dhadaka aged about 55 years  
R/o House No. 554/151, Kallashpuri, Chhota Barha,  
P.S. Alambagh, Lucknow.

At present working as Black Smith Gr. I T. No.  
BSS/13 in Loco Shop Charbagh, Lucknow.

..... Applicant.

Versus

Addl. Chief Mechanical Engineer. Workshop  
Loco Charbagh, Lucknow.

.... Opp. party.



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Application U/s 33(C-2) of the  
I.D. Act, 1947.  
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The applicant aforementioned begs to submit  
as follows : -

1. That the applicant is a workman in N.Rly. Industry, Loco Workshop, Charbagh, Lucknow working as Blacksmith (Highly skilled Gr.I) with Ticket No.BSS/13 for last 5 years, his date of appointment being in the year 1944.
2. That the applicant, while working as Blacksmith Gr.I in the said workshop was prematurely retired by the then Dy.Chief Mechanical Engineer, Workshops Loco shop, Charbagh, Lucknow. with effect from 31.7.1978.
3. That the applicant preferred appeal on which he was reinstated by the said Dy. CME(W) Loco Charbagh, Lucknow, with effect from 24.1.1979.
4. That the Dy.C.M.E.(W) Loco Charbagh, Lucknow did not record a ruling under Rule 2044 on reinstatement of the applicant ,



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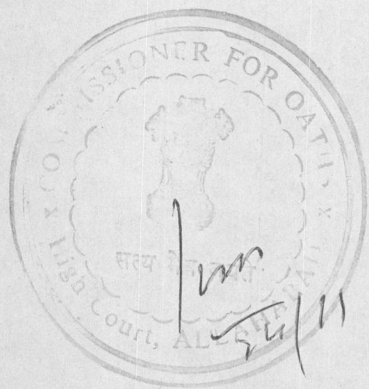
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yet did not pay salary of the intervening period to him.

5. That the provision of Rule 2044 is that if the Rly. Authorities do not want to pay salary of the intervening period to a delinquent or to a prematurely retired (or suspended) Railway employee, it has to issue a show cause notice and on receipt of employees' representation, if any, has to record reasons for non payment after providing a personal hearing to the employee. In absence of his due process deduction of wages becomes unauthorized and worth recovery under S/33 (C-2) of the I.D.Act 1947.

- 6- In view of the above mentioned mandatory provision and on basis of the case law on this subject, the applicant is entitled to receive salary of the intervening period from 31.7.78 to 24.1.1979 at the rate of Rs.1050/-P.M. for 5 months and 24 days amounting to Rs.6,990/- only. This is the applicant's money due against the opposit te parties.

7. That the applicants P.F. dues were calculated at the time of his premature retirement at Rs.3066.50 only while



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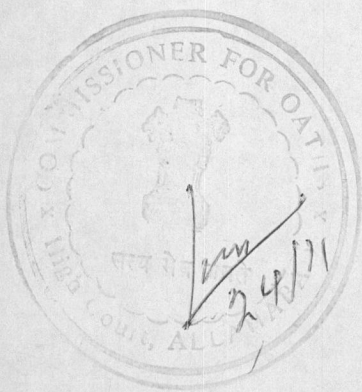
applicant is a permanent Railway employee of 38 years service and his P.F. dues can not be less than Rs.15,000/- ad- minimum.

8. That the applicant's this money due is worth recovery u/s 33 (C-2) of the I.D. Act 1947, because on applicant's representation and Unions repeated letters the opposite parties have failed to give any response as yet. A copy each of the two select representations and letters dated 29.1.82 and 30.10.82 and the Union's letter dated 21.8.82 and 18.11.82 are here, with enclosed in token of the efforts for conciliation having been made from the side of the applicant.

Prayer  
-----

The applicant aforementioned respectfully begs to pray this honourable court as under : -

1. That the applicant's money due amounting to Rs.6090/- as per 6th para of this application and his withheld P.F. dues amounting to Rs.11,000/- ad-minimum may be computed as such by this honourable court and may be awarded to the applicant.



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2. That the applicant may also be awarded such interest and compensation thereon as this honourable court may deem fit and expedient.
3. Costs may be awarded.

Sd/- Ram Daras

(Ram Daras)

Applicant.

C/o Shri B.D. Tewari, 96/196

Roshan Bajaj Lane, Ganeshganj

Lko.

Lucknow.

Dt. Dec. 12, 82.

Verification

I, Ram Daras, applicant in this case hereby verify that the facts as stated in paras 1 to 8 of this application are true to my knowledge. Nothing material has been concealed by me. So help me God.

Sd/- Ram Daras

(Ram Daras)

Applicant.

C/o Shri B.D. Tewari,  
96/196, Roshan Bajaj Lane,

Lucknow.

Lucknow:

Dt. Dec. 12, 1982.

True copy  
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In the Hon'ble High Court of Judicature at Allahabad  
Sitting at Lucknow.

Writ Petition No.                      of 1985.

Ram Daras                                      .... Petitioner

Versus

Central Govt. Labour Court,  
Kanpur & others.

... Opp. parties.

Annexure No. 4  
-----

In the Court of Shri R.B. Shrivastava, Presiding  
Officer.

Central Labour Court No. 2, Kanpur.

Misc. Case No. 194 of 1982.

Ram Daras                                      ..... Applicant.

Vs.

Adal. C.M.S. (Workshops)  
Loco Charbagh, Lucknow.

... Opposite  
Party.

Affidavit incorporating statement of the  
Applicant.  
-----



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I, Ram Daras S/o Ram Dhadaka aged about  
58 years, R/o 554/151 Kailash Puri, Chhota Barha



P.S. Alambagh , Lucknow, do hereby depose and solemnly affirm on oath as under : -

(1) That the deponent is the applicant in this case. He is well conversant with the facts thereof.

(2) That the deponent was prematurely retired by the opposite party on 31.7.78 (Designated then as by CMB).

(3) That the deponent preferred appeal against the same on which he was reinstated on 24.1.1979.

(4) That while reinstating deponent proper ruling under 2044 of the Rly. Est. Code Volume II was not issued and no show cause notice was issued to obtain representation on the same before withholding payment of the intervening period and treating intervening period as leave due. Deponent did not apply for treatment of the period as leave due . A copy of the said ruling is herewith enclosed as Annexure I.

5- That the deponent submitted several applications to opposite party for payment of wages



2181 3227

of the intervening period, last of which were dated 29.1.82 and 30.10.82. Deponent approached Union from where a letter dt. 18.11.82 was addressed to the ACME copy of which has also been filed with the application.

(6) That the deponent affirms on oath that all these documents filed with this application dt. 12.12.82 are true copies of the original papers.

(7) That the deponents wages amounting to Rs.6090 at monthly rate of 1050 for 5 months from 31.7.78 to 24.1.79 are due against the opposite parties minus 28 days LAP i.e. Rs.945/- only.

(8) That the applicants PF amounting to Rs.15000/- has been under paid, that is only Rs.3066.50/- were held due which were not actually paid to him at the time of his premature retirement and at the time of his superannuation, only Rs.5339.00 have been paid to him. Thus Rs.9661 of the PF are also due against the opposite parties.

(9) That the deponent is filing a copy each of the list of deductions, and statement of PF receipts upto the year 1977 beyond which receipts in possession of the opposite parties. These



21/11/82



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lists are Annexures II & III and are correct to the best of the record available with the deponent.

Deponent.

Verification

I, Ram Daras, do hereby verify that the facts as contained in paras 1 to 9 of this affidavit are true to the best of my knowledge and belief. Nothing material has been concealed. So help me God.

(Ram Daras)

Deponent.

Signed and sworn before me on in this open court compound and is identified by Sri R.Chandra Advocate.

Advocate.

Dated: -----

True copy



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NAME RAM DARAS

SUMMARY OF PF ADVANCE.

S.No.	Month	Year	Deduction of PF Advance		S.No.	Month	Year	Deduction of P.F. Advance	
			Rs.	P				Rs.	P
1	December	1982	100.00		52	November,	1977	25-00	
2	October	1982	100.00		53	October,	1977	25-00	
3	September	1982	100.00		54	September	1977	25-00	
4	August	1982	100.00		55	August	1977	25-00	
5	July	1982	100.00		56	July	1977	25-00	
6	June	1982	100.00		57	June,	1977	25-00	
7	May	1982	100.00		58	May,	1977	25-00	
8	April	1982	100.00		59	April,	1977	25-00	
9	March	1982	100.00		60	March,	1977	25-00	
10	February	1982	100.00		61	February	1977	25-00	
11	January	1982	100.00		62	January	1977	25-00	
12	December,	1981	100.00		63	December,	1976	25-00	
13	November	1981	100.00		64	November	1976	25-00	
14	October,	1981	100.00		65	October,	1976	25-00	
15	September,	1981	100.00		66	September	1976	25-00	
16	August,	1981	100.00		67	July,	1976	25-00	
17	July,	1981	100.00		68	June	1976	25-00	
18	June.	1981	100.00		69	April,	1976	25-00	
19	May	1981	100.00		70	March,	1976	25-00	
20	April	1981	100.00		71	February	1976	25-00	
21	March,	1981	100.00		72	January,	1976	25-00	
22	February,	1981	100.00		73	December,	1975	25-00	
23	January	1981	100.00		74	November,	1975	25-00	
24	December	1980	100.00		75	October	1975	25-00	
25	November	1980	100.00		76	September	1975	25-00	
26	October	1980	100.00		77	August	1975	25-00	
27	September	1980	100.00		78	July,	1975	25-00	
28	August	1980	100.00		79	June	1975	25-00	
29	July,	1980			80	May,	1975	25-00	
30	June,	1980			81	Jan.	1975	25-00	
31	April	1980			82	December	1974	25-00	
32	March	1980			83	November,	1974	25-00	
33	February	1980			84	October,	1974	25-00	
34	January	1980			85	September,	1974	25-00	
35	December	1979			86	August,	1974	25-00	
36	November	1979			87	July,	1974	40-00	
37	October	1979			88	June,	1974	40-00	
38	September	1979			89	May,			
39	August	1979	25.00		90	April	1974	40-00	
40	July	1979	25.00		91	March	1974	40-00	
41	June	1979	25.00		92	February	1974	40-00	
42	May	1979	25.00		93	January,	1974	40-00	
43	April	1979	25.00		94	December,	1973	40-00	
44	March,	1979	25.00		95	November	1973	40-00	
45	February,	1979	25.00		96	October,	1973	40-00	
46	June,	1978	25.00		97	September,	1973	40-00	
47	May,	1978	25.00		98	August,	1973	40-00	
48	April,	1978	25.00		99	July,	1973	40-00	
49	March,	1978	25.00		100	June,	1973	40-00	
50	February	1978	25.00		101	May,	1973	40-00	
51	January	1978	25.00		102	April	1973	40-00	
					103	March,	1973	40-00	
					104	February,	1973	40-00	
					105	January,	1973	40-00	



2181 9751



S.No. Month Year Deduction of S.No. Month Year Deduction of  
P.F. Advance. P.F. Advance.  
B. P. B. P.

106	December	1972	40-00	158	December,	1967	-	-
107	November	1972	40-00	159	November	1967	-	-
108	October	1972	40-00	160	October	1967	-	-
109	September	1972	40-00	161	September	1967	-	-
110	July,	1972	40-00	162	August	1967	-	-
111	May	1972	50-00	163	July,	1967	-	-
112	April	1972	30-00	164	June	1967	-	-
113	March	1972	30-00	165	May	1967	-	-
114	February	1972	30-00	166	April	1967	-	-
115	January,	1972	30-00	167	March	1967	25-00	-
116	December,	1971	30-00	168	January	1967	-	-
117	November	1971	30-00	169	December,	1966	-	-
118	October,	1971	30-00	170	November	1966	-	-
119	September	1971	30-00	171	September	1966	-	-
120	July,	1971	30-00	172	August	1966	-	-
121	June	1971	30-00	173	June	1966	-	-
122	May	1971	30-00	174	April	1966	-	-
123	April	1971	30-00	175	March	1966	-	-
124	March	1971	30-00	76	January	1966	-	-
125	February	1971	30-00	177	December,	1965	-	-
126	November,	1970	30-00	178	October,	1965	-	-
127	October,	1970	30-00	179	September	1965	-	-
128	September	1970	30-00	180	August	1965	-	-
129	August	1970	30-00	181	July	1965	18-00	-
130	July,	1970	30-00	182	June	1965	-	-
131	June	1970	30-00	183	May	1965	-	-
132	May	1970	30-00	184	April	1965	-	-
133	April	1970	30-00	185	March	1965	-	-
134	January	1970	30-00	186	February	1965	-	-
135	December,	1969	30-00	187	January	1965	-	-
136	November	1969	30-00	188	December	1964	-	-
137	October	1969	30-00	189	November	1964	-	-
138	September	1969	30-00	190	October,	1964	-	-
139	August	1969	30-00	191	September	1964	-	-
140	July	1969	30-00	192	July	1964	-	-
141	June	1969	30-00	193	June	1964	18-00	-
142	April	1969	30-00	194	May	1964	18-00	-
143	May	1969	30-00	195	April	1964	-	-
144	March	1969	30-00	196	March	1964	-	-
145	February	1969	30-00	197	February	1964	-	-
146	December	1968	30-00	198	January	1964	-	-
147	November,	1968	30-00	199	December	1963	-	-
148	October	1968	30-00	200	November	1963	-	-
149	September	1968	30-00	201	October	1963	-	-
150	August	1968	30-00	202	September	1963	-	-
151	July	1968	30-00	203	August	1963	-	-
152	June	1968	30-00	204	July,	1963	-	-
153	May	1968	30-00	205	June	1963	-	-
154	April	1968	-	206	May	1963	-	-
155	March	1968	-	207	March	1963	-	-
156	February	1968	-	208	January	1963	-	-
157	January,	1968	-	209	December	1962	-	-
				210	October	1962	-	-
				211	September	1962	-	-
				212	July	1962	-	-
				213	June	1962	-	-
				214	March	1962	-	-
				215	Feb.	1962	-	-

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S.No. Month Year Deduction of  
P.F. Advance.  
Rs. P

216	January	1962	-	-
217	November	1961	-	-
218	May	1961	-	-
219	Feb.	1961	-	-
220	Nov.	1960	-	-
221	June	1960	-	-
222	May	1960	-	-
223	April	1960	-	-
224	May	1959	-	-
225	April	1959	16-00	-
226	March	1959	-	-
227	May	1958	16-00	-
228	March	1955	-	-
229	November	1954	-	-
230	September	1954	-	-
231	October	1954	-	-
232	August	1954	-	-
233	April	1954	-	-
234	March	1959	-	-
235	November	1952	-	-
236	October		-	-

2181 5227





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Hambur High Court of Judicature at  
Allahabad Unknown Bench Unknown

W.P. No 41985

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35

Ram Dorees

vs  
Central Govt. of Labour Commr

Amendment No - 6



218 8221



36

A/S

BEFORE SHRI R B SRIVASTAVA PRESIDING OFFICER  
CENTRAL GOVERNMENT LABOUR COURT KANPUR.

L C A NO 194/1982

RAM DARAS

...

WORKMAN

Versus

CHIEF MACHINICAL ENGINEER LOCO SHED  
NORTHERN RAILWAY LUCKNOW

MANAGEMENT

O R D E R

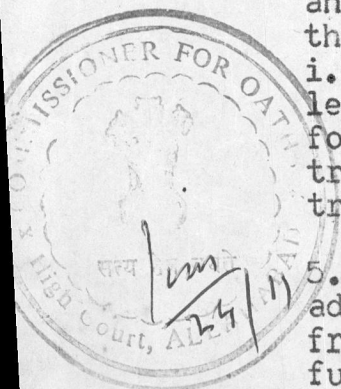
1. Applicant Shri Ram Daras moved an application under section 33(C-2) I.D. Act for computation of Rs.6090/- as salary for 31.7.78 to 24.1.79 at the rate of Rs.1050/- per month and also for computation of Rs.11000/- as provident fund with-held by the management. The applicant has further prayed for interest and compensation.

2. The case of the applicant is that he was a workman under the management Northern Railway in Loco Shed Charbagh Lucknow and was retired on 31.7.78 on the basis of his recorded date of birth. The applicant was later re-instated by Deputy Chief Mechanical Engineer w.e.f.24.1.79 vide office order dt.14.2.79. According to the applicant in view of rule 2044, the reinstatement authority did not record a ruling as required under the said rule and yet did not pay the salary for the intervening period. Further no cause of action and show cause notice as required under the said section was given to the workman and on the representation of the workman did not give reasons for non payments after providing the workman an opportunity of being heard. Thus the applicant is entitled to the amount claimed in the application.

3. The opposite party management contested the case of the applicant on the ground that the intervening period i.e. from the date of retirement to the date of reinstatement had been regularised as leave due and the same reinstatement order is dated 14.2.79. It is further averred that at the time of his retirement the provident fund amount at his credit was Rs.3067/- and thus there was nothing due against the opposite party.

4. In support of his contention the applicant has filed order annexure I alongwith his affidavit evidence. In that very reinstatement order the General Manager changed his date of birth 1.8.20 to 12.1.1935, as recorded in his school certificate and he was ordered to be reinstated on the same pay and grade. Regarding the intervening period from the date of retirement to the date of reinstatement i.e. 1.8.78 to 23.1.79 the applicant was treated as leave due. The applicant was treated on full pay for 28 days, for another 37 days the applicant was treated on half pay and lastly for 111 days he was treated as leave without pay.

5. In his cross examination the applicant has admitted that he received the amount of Rs. 5339/- from the opposite party management as provident fund. The management opposite party examined Shri Ram Prakash Head Clerk, as his witness on affidavit.





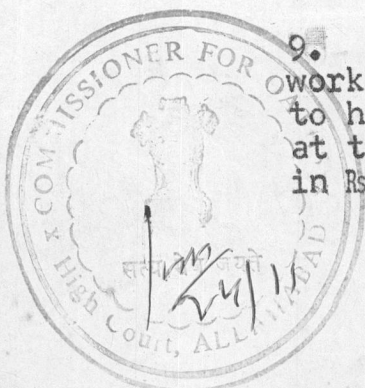
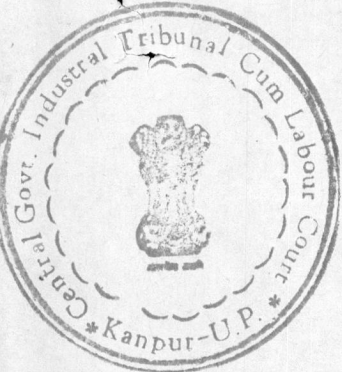
According to this witness the reinstatement was granted by the General Manager, and the intermediate period was ordered to be treated as leave due. The office calculated the leave due which is paper no.2 of the management and according to that 28 days was granted to the workman as leave on full pay, 37 days was treated as leave on half pay and rest 111 days were treated as leave without pay in favour of the workman. This witness has further deposed that at the time of his first retirement, the provident fund at his credit was Rs.3067/-. He, however, filed annexure I alongwith his affidavit as particulars of the provident fund.

6. The management witness in his cross examination has deposed that the order of the General Manager that the period when the workman was not on duty will be treated as leave due and this was the ruling recorded by the authorities. He has however, admitted that the workman has not filed any application to treat his intervening period as leave. This witness has further admitted that the workman was paid Rs.3067 as provident fund which the workman refused. He has explained that in his affidavit in annexure I in debit column word T is entered for temporary withdrawals and word F was written for final withdrawals and the temporary withdrawals are recoverable. He has also admitted that no receipt of Rs.3067 has been filed on the record which was paid to the applicant.

7. A perusal of the provident fund ledger shows filed as annexure I alongwith his affidavit evidence. clinches the issue to a great extent. page 1 of the said ledger shows that pending balance in the financial year 1972-73 monthly deduction in the entire year and refund of withdrawals. Further there is temporary withdrawals of Rs.1600/- was taken by the workman in the month of april. Similarly the workman in the next financial year 1973 finally withdrawal Rs.1800/- and the pending balance was carried forward for the next financial year. In the financial year 1974 in the month of July. the workman again took temporary finance of Rs. 1000/-. In the next financial year Rs.1600/- was again taken by the workman. No withdrawals were taken for the next two years. It was again in the financial year 1978-79 that the workman was retired on 31.7.78 hence in the month of July, a credit of Rs. 2980/- was standing in the account of the workman, on which interest of Rs. 87/- was allowed to the workman and thus the total was Rs.3067/-

8. On being re-instated compulsory deduction and refunds started in the year 1979-80. The amount of his provident fund Rs.2980/- and interest Rs.87/- was added to the amount due at the end of the the financial year 79-80 and the total amount comes to Rs.3935/-

9. There is nothing on record to show that the workman has been paid Rs.3067/- The workman has admitted to have received Rs.5339/- and this amount of Rs.3935/- at the end of financial year 1980 must have added in Rs.5339/- till the date of retirement.



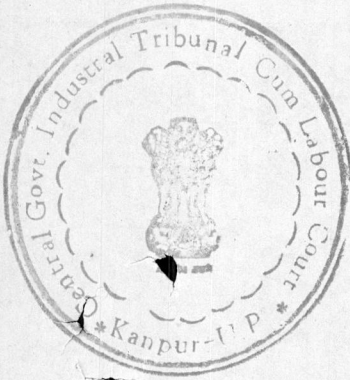


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Thus there is nothing due to the applicant on account of provident fund.

10. As regards Rs. 11000/- for the period he was out of employment the authority giving reinstatement recorded ruling as to how the payments will be made to him during the period he was out of employment. paper no.2 filed by the management show that he was paid full wages for 28 days, half pay was paid to him for 37 days and rest period is treated as leave without pay.

11. Thus from the discussion made above I am of the opinion that the applicant is not entitled for computation of the money claimed in the application and the application is accordingly rejected.



CERTIFIED COPY

S. S. Sharma 26.8.85

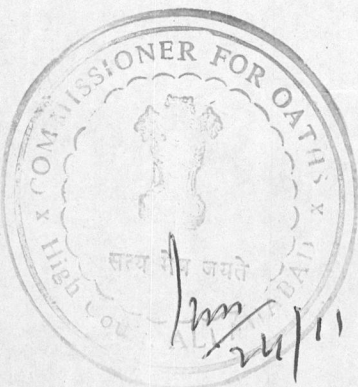
(S. S. SHARMA)

Secretary

Central Government Industrial Tribunal  
- Cum-Labour Court-Kanpur

Sd/- 23.5.85

(R B SRIVASTAVA)  
Presiding Officer  
Central Govt. Labour  
Court, Kanpur.





6/5  
139

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

Writ Petition No.                      of 1985  
Ram Daras.....Vs.....Central Govt. Labour Court,  
Kanpur and 2 others.

ANNEXURE NO.6

Before Sri R.B.Srivastava, Presiding Officer,  
Central Government Labour Court, Kanpur.

L C A No.194/1982

Ram Daras                      ..                      Workman  
Versus  
Chief Machinical Engineer Loco Shed  
Northern Railway, Lucknow.....Management

ORDER

1.       Applicant Shri Ram Daras moved an application under Section 33 (C-2) I.D.Act for computation of Rs.6090/- as salary for 31.7.1978 to 24.1.79 at the rate of Rs.1050/- per month and also for computation of Rs.11000/- as provident fund withheld by the management. The applicant has further prayed for interest and compensation.

2.       The case of the applicant is that he was a workman under the management Northern Railway in Loco-shed Charbagh, Lucknow and was retired on 31.7.78 on the basis of his recorded date of birth. The applicant was later re-instated by Deputy

Chief Mechanical Engineer w.e.f. 24.1.79, vide office order dated 14.2.79. According to the applicant in view of rule 2044, the reinstatement authority did not record a ruling as required under the said rule and yet did not pay the salary for the intervening period. Further no cause of action and show cause notice was required under the said section was given to the workman and on the representation of the workman did not give reasons for non-payment after providing the workman an opportunity of being heard. Thus the applicant is entitled to the amount claimed in the application.

3. The opposite party management contested the case of the applicant on the ground that the intervening period i.e. from the date of retirement to the date of reinstatement ~~xxx~~ had been regularised as leave due and the same reinstatement order is dated, 14.2.1979. It is further averred that at the time of his retirement the provident fund amount at his credit was Rs. 3067/- and thus ~~xxxx~~ there was nothing due against the opposite party.

4. In support of his contention the applicant has filed order annexure 1, along with his affidavit evidence. In that very reinstatement order the General Manager changed his date of birth 1.8.20 to 12.1.22 1925, as recorded his date of birth ~~1x8x20~~ in his school certificate and he was ordered to be



reinstated on the same pay and grade. Regarding the intervening period from the date of reinstatement to the date of reinstatement i.e. 1.8.78 to 23.1.79 the applicant was treated as leave due. The applicant was treated on full pay for 28 days, for another 37 days the applicant was treated on half pay and lastly for 111 days he was treated as leave without pay.

5. In his cross-examination the applicant has admitted that he received the amount of Rs.5339/- from the opposite party management as provident fund. The management opposite party examined Shri Ram Prakash Head Clerk, as his witness on affidavit. According to this witness the reinstatement was @. granted by the General Manager and the intermediate period was ordered to be treated as leave due. The office calculated the leave due which is paper No.2 of the management and according to that 28 days was granted to the workman as leave on full pay, 37 days was treated ~~xxxx~~ as leave on half pay and rest 111 days were treated as leave without pay in favour of the workman. This witness has further deposed that at the time of his first retirement, the provident fund at his credit was Rs.3067.00. He, however, filed annexure 1 along with his affidavit as particulars of the provident fund.

6. The management witness in his cross-examination has deposed that the order of the General Manager that the period when the workman was not on

on duty will be treated as leave due and this was the ruling recorded by the authorities. He has, however, admitted the workman has not filed any application to treat his intervening period as leave. This witness has further admitted that the workman was paid Rs.3067.00 as provident fund which the workman refused. He has explained that in his affidavit in annexure 1 in debit column word T is entered for temporary withdrawals and word F was written for final withdrawals and the temporary withdrawals are recoverable. He has also admitted that no receipt of Rs.3067.00 has been filed on the record which was paid to the applicant.

7. A perusal of the provident fund ledger shows filed as Annexure 1, along with his affidavit evidence clinches the issue to a great extent. Page 1 of the said ledger shows that pending balance in the financial year 1972-73 monthly deduction in the entire year and refund of withdrawals. Further there is temporary withdrawals of Rs.1600/- was taken by the workman in the month of April. Similarly, the workman in the next financial year 1973 finally withdrawal Rs. 1800/- and the pending balance was carried forward for the next financial year. In the financial year 1974 in the month of July., the workman again took temporary finance of Rs.1000/-. In the next financial year Rs-1600/- was again taken by the workman. No withdrawals were taken for the next two years. It was



again in the financial year 1978-79 that the workman was retired on 31.7.1978 hence in the month of July, a credit of Rs.2980/- was standing in the account of the workman, on which interest of Rs.87/- was allowed to the workman and thus the total was Rs.3067/-.

8. On being reinstated compulsory deduction and refunds started in the year 1979-80. The amount of his provident fund Rs.2980/- and interest Rs.87/- was added to the amount due at the end of the financial year 1979-80 and the total amount comes to Rs.3935.00.

9. There is nothing on record to show that the workman has been paid Rs.3067/- The workman has admitted to have received Rs.5339/- and this amount of Rs.3935/- at the end of financial year 1980 must have added in Rs.5339.00 till the date of retirement. Thus there is nothing due to the applicant on account of provident fund.

10. As regards Rs.11000/- for the period he was out of employment the authority giving reinstatement recorded ruling as to how the payments will be made to him during the period he was out of employment. Paper No.2 filed by the management show that he was paid full wages for 28 days., half pay was paid to him for 37 days and rest period is treated as leave without pay.

11. Thus from the discussions made above,  
I am of the opinion that the applicant is not entitled  
for computation of the money claimed in the  
application and the application is accordingly  
rejected.

Sd/ 23.5.1985

( R.B.Srivastava )  
Presiding Officer, Central  
Government Labour Court,  
Kanpur.

Seal.



## स्वीकृत



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58

In the Central Administrative Tribunal, Circuit Bench  
Lucknow.

TA/1960/87

(Writ Petition No. 6197 of 1985)

Ram Daaras

.....

Applicant

Versus

~~Union of India~~

Central Government Labour Court and others

Opposite Party

Reply on behalf of the opposite party No. 2 and 3

Para 1: That in reply to the contents of paragraph 1 of writ petition, only this much is not denied that order dated 23.5.1985 was passed by the opposite party no.1 whereby the claim of the applicant was rejected. It is however submitted that the writ petition is not maintainable against the respondents, without impleading Union of India which is a necessary party.

Para 2:

That the contents of paragraph 2 of the writ petition are not denied.

Para 3: That the contents of paragraph 3 of the writ petition are not admitted. It is submitted that the date of birth was recorded in terms of evidence produced at the time of appointment as 1.8.1920 and not 12.1.1925 as later on stated by him. Just before the retirement the applicant had represented that his date of birth should be corrected as 12.1.1925 and the case was referred to competent authority (CPO) but before the decision could be arrived at, he was retired on the basis of recorded date of birth. Subsequently

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Q  
19/8/92  
उ. प्र. प्रशासनिक अभियन्ता  
उ. प्र. प्रशासन कारखाना  
य. प्र. प्रशासन (W)  
N. I. / loco / C.B. / Lko.



A/59

- 2 -

after decision had been taken by the competent authority to correct the date of birth, he was re-instated in service on 24.1.1979 vide letter dated 4.1.1979 .

Para 4: That in reply to the contents of paragraph 4 of the writ petition, it is submitted that he was retired on basis of the recorded date of birth, which cannot be termed as premature retirement. The date of birth recorded at the time of appointment was in terms of evidence produced by him at that time and cannot be called as incorrect date.

Para 5: That the contents of paragraph 5 of the writ petition needs no reply.

Para 6: That in reply to the contents of paragraph 6 of the writ petition, only this much is not denied that of the General Manager vide order dated 4.1.1979/ the date of birth of the applicant was changed from 1.8.1920 to 12.1.1925 as recorded in his school certificate; which is evidenced by the letter dated 14.2.1979 as contained in Annexure No.1 to the petition. The alteration was made on the new evidence produced by the applicant, which was not submitted earlier.

Para 7: That in reply to the contents of paragraph 7 of the writ petition, it is submitted that this was done as per decision of the competent authority.

Para 8: That the contents of paragraph 8 of the writ petition are not admitted. It is submitted that the date of birth was recorded as per evidence

मह्य यौक्तिक अभियन्ता  
उत्तरे रे इ न कारखाना  
चारवाग, लखनऊ  
1y / M.F. (W)  
N / oco/C.B./Lko.

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produced by the applicant at the time of his appointment, hence the question of mistake on the part of the administration does not arise. This is the duty of the employee to submit authentic evidence of his date of birth, the administration records the date of birth on such basis. The administration considered the representation placed by the applicant just before his retirement and agreed to alter the date of birth on basis of new evidence in shape of school certificate, which was not submitted earlier. In these circumstances the fault lay with the applicant and not upon the administration. It is also submitted that for correction of date of birth the administration had been giving chances, but the applicant did not avail of the same. The applicant was thus not entitled to be re-instated with full pay and emoluments and he was rightly paid what has been mentioned in the Annexure no.1. The said order was not challenged in any court of law.

Para 9: That in reply to the contents of paragraph 9 of the petition, it is submitted that the applicant was retired on the basis of recorded date of birth and re-instated after alteration was accepted on the new evidence produced just before the retirement. The applicant did not work for his own fault from 31.7.1978 to 14.1.1979. The decision contained in Annexure No.1 is correct and valid.

ॐ नमो भगवते वासुदेवाय  
३० रे रेल्वे कारखाना  
चारवाग, लखनऊ  
By C.M.F (W)  
N.R./Loco/C.B./Lko.



Para 10: That in reply to the contents of paragraph 10 of the writ petition, it is submitted that the period was regularised as leave due as per existing rules. Even other wise, it is submitted that the applicant did not work for the said period due to his own fault in not approaching the competent authority for alteration of date of birth when the employees were called upon from time to time to get the correction done, but in the present case the alteration was sought for just before the retirement.

Para 11: That in reply to the contents of paragraph 11 of the petition, only the submission of representation as contained in Annexure No. 2 is not denied.

Para 12:-That in reply to the contents of paragraph 12 of the petition, it is submitted that no consideration was required as he did not challenge the order contained in Annexure No.1 but only requested for regularising the period as full pay on humanitarian consideration.

Para 13: That in reply to the contents of paragraph 13 of the petition, it is submitted that claiming a figure of Rs. 11,000/- towards PF is not correct. At the time of retirement the standing balance to the credit of the applicant was Rs. 5,339/- and the payment was arranged for the said amount and received by the applicant. As per the office record there is no outstanding claim of the applicant towards PF. The same has also been rightly held by the opposite party no.1 in its judgment dated 23.5.1985.

उपस्थित अधिकारी अभियन्ता  
नं. १ रेंडर कारखाना  
चण्डीगढ़  
by C.M.H. (W)  
N.B./Loco/C.B./Lko.



Para 14: That in reply to the contents of paragraph 14 of the petition, the submission of petition u/s 33-Q(2) as contained in Annexure No.3 before the opposite party is not denied.

Para 15: That in reply to the contents of paragraph 15 of the writ petition, the filing of an affidavit by the applicant before the opposite party no.1 is not denied. It is submitted that an affidavit was also filed by and on behalf of the administration. The applicant and the witness of the management were both cross examined by either of the parties. The administration had also filed Ledger containing the PF account.

Para 16: Needs no reply.

Para 17: That in reply to the contents of paragraph 17 of the petition, it is submitted that it is only a presumption of the applicant that he had taken temporary withdrawal from P.F. and recovery of the same have been made. There is no evidence that he had taken temporary withdrawal. Copy of ledger PF was filed as Annexure before opposite party No.1.

Para 18: That the contents of paragraph 18 of the writ petition are denied. It is submitted that the order dated 23.5.1985 passed by opposite party no.1 is a well considered order and suffers from no error. Allegations contrary to this are incorrect. The opposite party No.1 has come to a clear conclusion

that nothing remained due in PF account.

30.05.86

चारवाग, लखनऊ

By C.M.F (W)

N.K./Loco/C.B./Lko.



Para 19: That in reply to the contents of paragraph 19 of the petition, the extract as regard to Rule 2044 as produced in the pra under reply are correct. Rest of the contents being argumentative will be met at the time of arguments.

Para 20: That the contents of paragraph 20 (wrongly numbered as 15) of the petition are denied. The proposition laid therein is not acceptable.

Para 21: That in reply to the contents of paragraph 21 (wrongly mentioned as para 16) of the petition, it is submitted that the date of birth recorded at the time of appointment is always on the basis of the own declaration of the employee as well as evidence produced at that time. In the present case, the applicant did not avail of the various opportunities given from time to time to get the date of birth corrected, but instead applies for altertation just before the retirment and before the decision is taken, he stands retired on the basis of recorded date of birth and then after the decision he is again reinstated, the employee cannot claim the period to be spent on duty. The period has been treated according to rules as well as no work done for fault of the applicant himself, in coming at fag end of the retirement to get the alteration done on basis of new evidence, not produced earlier. It cannot be called a case of incorrect records made by the adminstration.

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Para 22: That the contents of paragraph 22 of the petition are not admitted. It is submitted that the applicant is not entitled to any amount from the respondent no. 2 and 3.

Para 23: That the contents of paragraph 23 of the petition are denied. The findings recorded by the opposite party no.1 are based on evidence and cannot be termed as perverse or contrary to the material on record.

Para 24: That the contents of paragraph 24 of the petition are not admitted. It is specifically denied that at any stage the answering respondent ever treated the retirement as premature or they have ever admitted that official record of the administration is incorrectly prepared. It is submitted that it is not the mistake of the administration, but of the employee in giving the date of birth as 1-8-1920 at the time of his appointment and just before the retirement, coming forward with the request of alteration in the recorded date of birth by producing new evidence not produced earlier. The decision always takes time and cannot be done at a stroke and if on the basis of recorded he is retired and reinstated after the decision to allow alteration in the date of birth, the fault lies on the applicant and for no work done, he cannot claim full pay or can ask for being treated on duty. The competent authority treated the period as leave due, but since the applicant was

उपस्थित अधिकारी अभियन्ता  
उ.रे. रेलवे न. कारखाना  
चरखाना, लखनऊ  
By C.M.E. (W)  
N.R./Loco/C.B./Lko.



not due much leave which could therefore be regularised as LAP, the period was decided as under:-

From 1-8-78 to 28-8-'78 28 days LAP  
From 29.8.'78 to 4-10-78 37 days LHAP  
From 5-10-'78 to 23- 1-79 111 days LWP

Para 25: That the contents of paragraph 25 of the petition are denied. The applicant has not been able to explain his latches and the delay cannot be condoned.

Para 26: That the contents of paragraph 26 of the petition are denied. None of the grounds are tenable under law, in view of the fact that the order passed by opposite party is correct and legal. The applicant is not entitled to any relief and the petition is liable to be dismissed with costs.

Lucknow

dated: 21.5.1992

प्रमुख यांत्रिक अभियन्ता

उ.रे. रेल इन्जन कारखाना

चारवाग, लखनऊ

Respondent No. (W) and 3  
N.R./Loco/C.B./Lko.

Verification.

I, ANOOP KUMAR working as Dy. CME (W) in the office of Loco Workshop, competent and duly authorised to sign and verify this reply, do hereby verify that the contents of paragraphs 1 to 26 of the reply are based on information derived from record and legal advice received which is believed by me to be true and correct. Signed and verified this 15<sup>th</sup> day of May 1992 at Lucknow.

प्रमुख यांत्रिक अभियन्ता

उ.रे. रेल इन्जन कारखाना

चारवाग, लखनऊ

y ME. (W)

N.R./Loco/C.B./Lko.

18/8

Before Central Administrative Tribunal, Circuit Bench,

Lucknow.

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M. P. 449/92

T. A. No. 1960/87 (T)

(W. P. No. 6197 of 1985).

3.7.92

Ram Daras. ... Applicant.

In re;

Ram Daras. ... Petitioner.  
applicant.

Vs.

Union of India and others. ... Respondents.

\*\*\*

Application for Final Disposal of the aforesaid  
case.

1. That the aforesaid case was initially filed in the Hon'ble High Court of Judicature at Allahabad Bench Lucknow thereafter, it is transferred before the Hon'ble Tribunal. *in the year 1987.*

2. That since 1987 the several dates has been fixed for filing the counter-affidavit by the opp. parties but the same could not be filed till today and the case is pending before the Registrar for filing the same.

3. That the several dates has been given on the request of the learned counsel for the respondents but he did not file the same.

*It is most respectfully prayed that*  
Wherefore, the aforesaid case may be disposed

... 2/-

*Filed today*

*20/5/92*



off finally without the counter-affidavit in the interest of justice otherwise the petitioner will suffer an irreparable loss and injury.

Fur-ther it is respectfully prayed that the petitioner has been retired and not getting the total benefits of the pension and gratuity etc.

Lucknow; Dated  
16.4.1992.

*U Singh* Adv.  
( Upendra Singh )  
Advocate,

Counsel for the Petitioner.

Before the Central Administrative Tribunal,  
Circuit Bench, Lucknow.

C M An 46/90 CG

T.A.No. 1960/87 (T)

( W.P.No. 6197/85 )

Ram Daras ... Applicant

versus

Union of India & others... Opp. Parties

APPLICATION FOR RESTORATION OF THE  
PETITION.

That the applicant most respect-  
-fully begs to submit and state as under :-

1. That the notice dated 5-12-89  
of the Hon'ble Tribunal received by the  
applicant only then he came to know that  
his case has been dismissed in default.  
The petitioner immediately rushed to  
Lucknow and inspected the file through  
a counsel.

2. That after inspection of the  
file it came to his knowledge that his  
previous counsel has died so a fresh notice

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Noted for  
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was issued to him. But as a matter of fact the previous notice dated 6-11-89 which was issued to the petitioner was neither received by the petitioner nor it was returned to the office till the date of inspection.

3. That due to the death of the counsel for the petitioner and in the absence of any information of the issuance of notice, the case was listed and due to the reasons aforementioned the same was dismissed in default for no fault of the petitioner or his counsel. It was a sheer coincidence that the notice issued from the office of this Tribunal could not be served upon the petitioner. That in case if the case is not restored the applicant/petitioner will suffer manifest and substantial injury.

WHEREFORE, it is most respectfully prayed that in the aforesaid circumstances the Tribunal may kindly be pleased to restore the case on its original number failing which the petitioner will suffer an irreparable loss.

Ucknow

Dated 22.1.1990

Upendra Singh  
Upndra Singh  
Advocate  
Counsel for the

Applicant

( Ram Daras )

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A/30

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBINAL  
CIRCUIT BENCH LUCKNOW.

T. A. / 1960 / 87

(writ petition no. 6197 of 1985)

Ram Darash ----- Petitioner.

Versus

Central Government labour court and others.

----- Opposite parties.

REPLY OF THE REPLICATION MOVED BY THE OPPOSITE  
PARTY NO. 2 AND 3 .

1- That the contents of the paragraph 1 of the replication is admitted to the extent of the order dated 23-5-85 rest of the contents are denied . However the union of India is not a necessary party because the order of the central Government labour court is chalanged.



(2)

2- That the contents of the paragraph 2 of the replication need no comments.

3- That the contents of the paragraph 3 of the replication are not admitted and the certificat regarding the date of birth in which <sup>as mentioned</sup> 12-1-1925 only due to this the date of birth of the petitioner was corrected by the compitent authority and he was ~~revised~~ted.

4- That the contents of the paragraph 4 of the replication are not admitted as the petitioner was forced to go on premature retirement due to the mistake of the department as the date of birth of the petitioner was wrongly noted. Although the certificat which was produced at the time of entering in the service , the date of birty 12-1-1925 was on the certificate.

5- That the contents of paragraph 5 of the replication need no comments .

6- That the contents of the paragraph 6 of the replication are admitted to the correction of the date of birth rest of the contents of this

very paragraph are denied and the new evidence was not produced, before the Genreal Manager and the same evidence was produced at the time of ~~entring~~ in the service.

7- That the contents of the paragraph 7 of the replication need no comments.

8- That the contents of the paragraph 8 of the replication are not admitted and the paragraph 8 of the claim petition is reitrat~~ed~~ and no opportunity of correcting ~~the~~ the date of birth ~~was~~ was given during the service and the petitioner knew about the wrong intry of the date of birth in the service record wh~~an~~ he received notice of the premature retirement.

9- That the contents of the paragraph 9 of the replication are not admitted that the petitioner was retired prem~~eture~~ly due to the wrong intry of the date of birth by the ~~deponent~~ department although the correct date of birth was given by the petitioner and he never produced the new ev~~ide~~nce as it is being repeat~~idly~~ mentioned. in the replication .



10- That the contents of the paragraph 10 of the replication are not admitted and the paragraph 10 of the claim petition is reitrated.

11- That the contents of the paragraph 11 of the replication are not admitted and the paragraph 11 of the claim petition is reitrated .

12- That the contents of the paragraph 12 of the replication is not admitted and the annexure No. 1 has been merged in the annexure No.6 which is the final order.

13- That the contents of the paragraph 14 of the replication are not admitted and the paragraph 13 of the claim petition reitrated.

14- That the contents of the paragraph 14 of the replication need no comments.

15- That the contents of the paragraph 15 of the replication is not admitted and the paragraph 15 of the claim petition is reitrated.

16- That the contents of the paragraph 16

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of the replication need no comments.

17- That the contents of the paragraph 17 of the replication are denied and paragraph 17 of the claim petition is reitrated .

18 - That the contents of the paragraph 18 of the replication is denied and the para~~graph~~ 18 of the ~~ix~~ claim petition is reitrated.

19- That the contents of the paragraph 19 is not admitted.

20- That the contents of the paragraph 20 of the replication are not admitted and paragraph 20 of claim petition is reitrated.

21. That the contents of the paragraph 21 of the replication are not admitted and the petitioner never committed mistake in producing the evidence regarding the date of birth and before the notice of the premature ~~retu~~ment no appor~~tunty~~ of correct~~y~~ the date of birth was afforded to the petitioner and he never com~~itted~~ any fault and the ~~en~~tervening time between the



premature retirement and ~~reinstatement~~ is wrongly adjusted by the department.

22- That the contents of the paragraph 22 of the replication is not admitted and petitioner is entitled for the full amount from the opposite party No. 2 and 3.

23- That the contents of the paragraph 23 of the replication are not admitted and the paragraph 23 of the claim petition is reiterated.

24- That the contents of the paragraph 24 of the replication are not admitted and the petitioner was retired prematurely by the department and wrongly adjusted the intervening period of premature retirement and reinstatement .

25- That the contents of the paragraph 25 of the replication are not admitted and the petition was filed well within time and the cause of action is ~~recurring~~.

26- That the contents of the paragraph 26 of the replication are not admitted and the same

is desereves to be dismissed as none of the grounds  
are mentioned on which the reliance can be placed.

Lucknow, 20-11-92

*U Singh*  
( Upendra Singh)

Advocate

Counsel for the petitioner.



व अदालत श्री मात केन्द्रीय प्रशासनिक अधिकारी २५०९ पीठ लखनऊ

महोदय

वादी अपीलान्ट श्री

बनाम

प्रतिवादी रेस्पान्डेन्ट राम दरस

भारतसंघ

बनाम

वादी अपीलान्ट

प्रतिवादी रेस्पान्डेन्ट

सं० मुकदमा W.P.No-6197/85

सं० मुकदमा T.A.No-1960

सं० 1984 (1)

पेशी की ता० 5.12.1984 ई०

ऊपर मुकदमा में अपनी ओर से श्री

मो० लखनऊ

मर्जुन भार्गव, रेल्व अधिकारी, जे जावाद

एगडवोकेट/वकील महोदय को अपना वकील नियुक्त करके इकरार करता हूँ और  
बिछे देता हूँ कि मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ  
पैरवी व जवाब दे ही व प्रश्नोत्तर करे या कोई कागज दाखिल करे या लौटाये  
या हमारी ओर से डिग्री जारी करावे आर रुपयां सबूत करें या सुलहनामा  
या इकबाल दावा तथा अपील व लिखराती हाजिरी आर हमारे या अपने हस्ताक्षर  
से दाखिल करें आर तसदीक करें य मुकदमा उठावे या कोई रुपया जमा करें या हमारी  
विपक्षी उपरीकसाली का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर मुक्त  
इस्तफती रसीद से लेवे का पंच नियुक्त करें .....  
वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है आर होगी  
इसलिए यह वकालत नाम लिख दिय कि प्रमाण रहे आर समय पर काम आवे ।

Filed  
5.2.91

हस्ताक्षर

By: Chief Mech. Engineer (W)  
N. Rly. Locomotive Works  
Charbagh, Lucknow

साक्षी गवाह

दिनांक-.....महीना.....सं० 19...ई०

नाम अदालत

सं० मुकदमा

नाम फरी कैल.....बनाम.....

मुकदमा/21488

25-4-88

*[Signature]*



Before the Central Administrative Tribunal  
Circuit Bench, Lucknow.

ब व अदालत श्रीमान

T.A. No 1960/82 T

महोदय

(C.P. No 6197/85)

वादी (महोदय)

का

वकालतनामा

प्रतिवादी (मुदाअलेह)



Ram Das

Applicant/Petitioner

वादी (मुदई)

Union of India & others

बनाम

प्रतिवादी (मुदाअलेह)

नं० मुकद्दमा

सन् १६

पेशी की ता०

१६

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ऊपर लिखे मुकद्दमा में अपनी ओर से

एडवोकेट

Upendra Singh Advocate  
behalf of Petitioner - Applicant

महोदय

वकील

को अपना वकील नियुक्त करके प्रतीक्षा (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिग्री जारी करावें और रुपया बसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानो हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखतों) रसीद से लेवें या पंज नियुक्त करें - वकील महोदय द्वारा की गई यह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने पैरकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरी वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया है कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

साक्षी (गवाह).....साक्षी (गवाह).....

दिनांक .....महीना .....सन्.....