

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE T.A. No. 1961/87  
w.e.f. No. 6601/85 OF .....

NAME OF THE PARTIES D.R.M. H.Rly Lucknow Applicant

Versus

Ram Chandra Adalt Respondent

Part A.

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15		
16		
17		
18		

CERTIFICATE

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

Dated 28/9/11.....

Counter Signed.....

  
Section Officer/In charge

  
Signature of the  
Dealing Assistant

CIVIL

SIDE

CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case

W.P. 6601-85

Name of parties

Divisional Railway Manager vs. Ram Chandra

Date of institution

17.12.85

Date of decision

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
1		1- C.R. with Answer and Affidavit	23		Rs. 102.00			
2		Form	1	-	-			
3		C.R. No 14465 (W) of 85 for	1	-	-			
4		order sheet	1	-	-			

I have this day of 198<sup>1</sup> examined the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that they bear Court-fee stamps of the aggregate value of Rs. 102.00 that all orders have been carried out, and that the record is complete and in order up to the date of the certificate.

Date .....

Munsarim

Clerk

1961/07/11

(2)

B.2.50

No. 511/1961/10/11

12

13

10/4/90

Hon. Mr. D.S. Habib Mohammed, A.M.  
Hon Mr. J. P. Sharma, J.M

Notice issued to the  
respondents have returned  
unreserved.

Let notice be again  
issued to the respondent.

Put up for orders  
on 20/9/90.

J.M.

A.M.

Notice given  
on 11.9.90

(P.M.)

20/9/90

No sitting Adli to 31.10.90

(W)

31.10.90

Due to Holiday case is  
adjourned to 17.12.90.

17.12.90

No sitting Adli to 1.2.91.

(D)

1.2.91

No sitting Adli to 19.3.91.

(D)

19.3.91

No sitting adj to 16.5.91.

(D)

16.5.91

No sitting Adli to 27.6.91

(D)

Another case  
was on 11.4.90  
Neither adj nor  
any adjourned  
has been done  
Case 100

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 1916 of 1987 (T).

APPELLANT  
APPLICANT

D. R. M

DEFENDANT  
RESPONDENT

VERSUS

Ram Chander

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
26/10/89.	Hon. Justice K. Nath, V.C.  No one is present for the applicant. The case is yet to be admitted. Issue notice to the applicant and list for admission on 12/12/89.	OR This case has been recd. from CAT, ADD on 14/9/89. Case is not admitted. CA/R/R not filed. Date was fixed from CAT, ADD but CPC was not attached. Submitted for order.
12/11/89	Mr. Ghay. Adm. to 3.1.90 None is present	OR Notices were issued on 11/11/89. No written or verbal order has been given. Listed for same on 12/11/89.
3.1.1990	Hon'ble Mr. Justice K. Nath, V.C. Hon'ble Mr. K. Obayya, A.M.  Admit.  Issue notice to opposite parties to file reply within four weeks to which the applicant may file rejoinder within two weeks thereafter.  In the matter of interim relief issue notice & list for orders on 8.2.1990.	OR Notice of hearing 14/11/90

A.M.

V.C.

T.A 1961/87 T

27.6.91

Hebl. Mr. Jasbir K. Nallu. Vc  
Hebl. Mr. K. Obayya A.M

(A2)

On the request - (1) Learned  
Counsel & the respondent - Mr.  
K. C. John. Case is adjourned to

28.8.91 after hearing

2

A.M

Vc

28.8.91

No sitting adj. to 14.10.91

2

14.10.91

No sitting adj. to 5.12.91

5.12.91

No sitting adj. to 6.1.92

2

6.1.92

No sitting adj. to 5.2.92

2

5.2.92

No sitting adj. to 1.4.92

2

1.4.92

No sitting adj. to 25.5.92

2

~~Committee of  
Sitting  
hearing  
SPH  
22/5~~

(P3)

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

T.A. No. 1961/87

(Writ Petition No. 6601/85)

Divisional Railway Manager,  
Northern Railway, Lucknow

Petitioner.

versus

Ram Chandra and others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon. Mr. A.B. Gorathi, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

This writ petition has been transferred from High Court under section 29 of the Administrative Tribunals Act, 1985, which was filed in the year 1985 with the prayer for issue of a direction or command in the nature of certiorari directing the opposite party No. 4 to produce the records in original quashing the award embodied in Annexure No. 6, and for a direction to the opposite party ~~to~~ No. parties not to execute the award.

2. Although the time was granted to file reply but no reply has been filed so far. The respondents approached the Central Government Industrial Tribunal cum Labour Court, Nirmal Tower, New Delhi and their claim

was that they worked under Loco Workshop Charbagh, Lucknow, Northern Railway and were for all purposes under Senior Civil Engineer, Northern Railway, Lucknow but the opposite parties 1 to 3 intentionally did not array them as parties. According to the opposite parties intentionally avoided to mention that they were appointed for certain project and they were retrenched one after another. Applications filed by them were consolidated by the Industrial Court and according to the applicant they had no information to the effect that the case has been transferred. The Presiding Officer, Industrial Tribunal <sup>award</sup> passed the <sup>award</sup> /ex parte. Order does not indicate that on 16.11.84 notices were sent. Further details were not received from the award. It appears that notices were sent but none appeared and the Tribunal passed the award <sup>award</sup> ex parte. It has not been stated by the applicant why no application for setting aside ex parte award was not given. It is not stated in what manner they learnt about this and on what date they procured the award. No explanation has been given, as such this application

Group. A 14 (K)

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

W.P. No. 660 of 1985.

Divisional Railway Manager, Northern Railway,  
Lucknow. --- Petitioner  
Versus  
Ram Chandra and others. --- Opposite Parties.

I N D E X

S.No.	Description	Pages
1.	Writ Petition	1 - 5
2.	Annexure No.1 (True copy of summons)	6 - 7
3.	Annexure No.2 (True copy of claim petition).	8 - 10
4.	Annexure No.3 (True copy of Order-sheet)	11 - 12
5.	Annexures Nos.4 (True copies of affidavits filed by Ram Chandra and Safiq Ahmad respectively)	13 - 15 16 - 18
6.	Annexure No.6 (True copy of Award)	19 - 20
7.	Affidavit	21 - 22
8.	Stay application	
9.	Power	

Lucknow; Dated:

December , 1985.

in area  
( K.C. Jauhari )  
Advocate  
Counsel for the petitioner

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

LUCKNOW BENCH, LUCKNOW.

WRIT PETITION NO.

OF 1985



Divisional Railway Manager, Northern Railway,

Lucknow.

---

Petitioner

Versus

1. Ram Chandra adult son of Sri Baboo Lal.

2. Safiq Ahmad adult son of Sri Habid Khan.

3. Umesh Chandra adult son of

through Sri B.D.Tewari Zonal Manager, U.R.K.U.,

lucknow.

4. Presiding Officer Central Government Industrial  
Tribunal, Kanpur.

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Opposite Parties.

WRIT PETITION UNDER ARTICLE 226 OF THE

CONSTITUTION OF INDIA.

The above-named petitioner respectfully states  
as under :-

1. That the present writ petition arises against the  
award dated nil and passed by the opposite party No.4

Alahbad

3/1/90

Non. Justice K. Mathur  
Non. K. Obayya, Atm.

Admit.

Issue notice to  
opposite parties to file  
replies within four  
weeks to which the  
applicant may  
file rejoinder  
within three weeks  
thereafter.

In the matter  
of interim relief  
issue notice &  
list for orders  
on 8/2/90.

Am

V.C.

Re

**MEMO**

Impressed  
adhesive - Rs 100/-

Total 100/-

object but first Court fee report

is to be made on receipt of lower

order

and upto

copy of E.O.

and also be filed.

Simple Bepch

Last 2 pages after Am. & dated (not seen)

Kanpur Lucknow

~~13 March 82~~

(67)

Not seen

Letter for

Admission in the

Preliminary cause,

W

17-12-85

2

on the industrial disputes between the petitioner and opposite parties nos. 1 to 3 referred to opposite party No.4 under Section 10 of the Industrial Disputes Act.

2. That the petitioner received summons from the court of Central Government Industrial Tribunal - cum Labour Court, Nirmal Tower, New Delhi, the true copy of which is marked as Annexure No.1 to this writ petition.

3. That according to the versions of the opposite parties nos. 1 to 3 worked as Khalasis under Inspector of Works, Loco Workshop, Charbagh, Lucknow and were for all purposes under Senior Civil Engineer Northern Railway, Charbagh, Lucknow but the opposite parties nos. 1 to 3 intentionally did not array them as parties (The petitioner is advised to state that the claim under this only account is liable to be thrown out).

4. That the opposite parties nos. 1 to 3 intentionally avoided to mention that they were appointed only for certain project.

5. That according to the versions of the opposite parties nos. 1 to 3 the opposite party No.1 was retrenched on 14.1.1975, the opposite party No.2 on

Qulahmud

31.8.77 and the opposite party No.3 on 15.10.1977.

The true copy of the claim petition filed is marked as Annexure No.2 to this writ petition.

6. That the all the three cases were consolidated.

7. That the petitioner was not informed about the transfer of the case to the opposite party No.4. The true copy of the order sheet is marked as Annexure No.3 to this writ petition.

8. That the opposite party No.4 proceeded against the petition ex parte and permitted the opposite parties nos. 1 to 3 to file affidavit the copies of affidavits filed by Sri Ram Chandra and Safiq Ahmad are marked as Annexures Nos. 4 and 5 respectively.

9. That the petitioner was neither informed of the award nor he was given the copy of award. Any how the official was sent who could get the copy of the award, the true copy of which is marked as Annexure No. 6 to this writ petition.

10. That being aggrieved of the aforesaid award and there being no other alternate remedy left the petitioner prefers this writ petition on the following amongst grounds.

*Qurabud*

G R O U N D S

A) Because the learned opposite party No.4

committed an illegality in proceeding ex parte  
against the petitioner which is manifestedly  
apparent on the face of the record.

B) Because the learned opposite party No.4 committed  
an illegality in not considering the fact that  
the opposite parties Nos. 1 to 3 being appointed  
for certain project can not claim for the notice  
and compensation etc.

C) Because the learned opposite party No.4  
committed an illegality whether the opposite  
parties nos. 1 to 3 are entitled for the rights.

D) Because the judgment and order are illegal and  
its findings are perverse.

Wherefore the petitioner prays for the following  
reliefs :-

i) that a writ, order, direction or command  
in the nature of certiorari be issued  
directing the opposite party No.4 to  
produce the records in original quashing  
the award embodied in Annexure No.6.

ii) that a writ, order, direction or command  
in the nature of mandamus be issued

directing the opposite parties not to ~~A/3~~  
execute the impugned award (Annexure No.6).

iii) Any other relief which the Hon'ble Court  
deems just and proper.

iv) Entire cost of the writ petition be  
awarded to the petitioner.

Lucknow: Dated:

December , 1985

in area  
( K.C. Jauhari )  
Advocate  
Counsel for the petitioner

(6) (AS)

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

LUCKNOW BENCH, LUCKNOW.

W.P. No.

of 1985.

Divisional Railway Manager, Northern -

Railway, Lucknow.

---

Petitioner

Versus

Ram Chandra and others. ---

Opposite Parties.

ANNEXURE NO. 1

GOVERNMENT OF INDIA

MINISTRY OF LABOUR

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL

TRIBUNAL-CUM-LABOUR COURT: NEW DELHI.

6th FLOOR: NIRMAL TOWER

26- BARAKHAMBA ROAD, NEW DELHI.

In the matter of a Reference under section 10 of the  
Industrial Dispute Act. 1947 (XIV of 1947)

Reference No. I-41012 (32)/83 II B of 1984

Case No.

Ram Chander

WORKMAN

Versus

Northern Railway

EMPLOYER.

WHEREAS an Industrial Dispute between the parties above  
named, has been referred to this Tribunal-cum-Labour  
Court or adjudication under Section 10 of the Industrial  
Dispute Act 1947.

Allahabad

YOU are, therefore hereby summoned to appear before this Tribunal-cum-Labour Court in person on the 4th day of May 1984 at 11.00 A.M. to answer all material questions relating to the said dispute and.

YOU ARE ALSO DIRECTED and requested to produce on that all the books papers and other documents evidence and things in your possession or under your control in any way relating to the matter under investigation and adjudication by this Tribunal-cum- Labour Court.

IF you fail to attend or to be represented on the above date of hearing the above mentioned reference may be disposed of in your absence and the Tribunal-cum-Labour Court may proceed ex parte as if you duly attended or had been represented.

GIVEN UNDER MY HAND SEAL OF THIS TRIBUNAL-CUM-LABOUR COURT THIS THE 30th DAY OF MARCH 1984.

Sd/- B.R. Yadav

Secretary

Central Govt. Industrial Tribunal-cum-  
Labour Court, New Delhi.

The Divisional Rly. Manager,  
Northern Railway, Hazratganj,  
Lucknow.

*Alamud* True Copy

(45)

(8)

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

LUCKNOW BENCH, LUCKNOW.

W.P. No.

of 1985.

Divisional Railway Manager, Northern Railway,

Lucknow.

---

Petitioner

Versus

Ram Chandra and others.

---

Opposite Parties.

ANNEXURE NO. 2

In the Court of Sri O.P. Singhala,

Presiding Officer

Central Labour Tribunal Barakhamba Road,

New Delhi.

I.D. No. 4 of 1984.

Between

S/Sri Ram Chander, Safiq Ahmad and Umesh Chandra through

URKU/IKO./Workmen.

AND

Northern Railway Administration --- Employer.

CLAIM STATEMENT OF THE UNION ON THE ABOVE CASES.

*(P-12/15)*  
S/Shri Ram Chander s/o Sri Baboo Lal, Safiq Ahmad  
S/o Sri Habib Khan, and Umesh Chander s/o Late Sri Bechulal  
were working as Khallasis under Inspector of Works, Loco  
Workshop, Charbagh, Lucknow, and were for all purposes  
under the Senior Civil Engineer N.Rly., Charbagh, Lucknow.

Sri Ram Chander had worked from 2.1.74 to 14.1.75 (349 days)

*Qurahmed* from ~~2.12.72~~ 2.12.73 to 31.12.73 (378 days) and from

9

-2-

10

1.7.71 to 1.7.72 (365 days). He was retrenched on 14.1.1975. Sri Safiq Ahmad was appointed on 10.1.1976 and worked upto 31.8.1977. He was shunted out on 31.8.77 A.N. Sri Umesh Chand was appointed on 9.9.76 and worked upto 18.10.1977. He was told not to come on duty from 18.10.1977 A.N. All the three workmen had completed more than 240 days in a calendar year preceding date of their retrenchment. Their termination was made without notice. Notice pay and retrenchment compensation i.e. without compliance of Section 25F of the I.D. Act 1947.

Under case law of Section 25F retrenchment without compliance of the mandatory pre-conditions, in ab initio void and non-existent, hence the workmen aforesaid are entitled to reinstatement with back wages and all consequent benefits.

The workmen are entitled to receive Rs.425/- p.m. entitled to benefits of passes, P.T.O's, leave, medical facilities, quarter etc. which in each case comes to following amounts :-

1. Rs.46,325/- at the rate of Rs.425/- p.m. upto 14.2.84 in case of Sri Ram Chandra.

2. Rs.32,725/- at the rate of Rs.425/- p.m. upto 31.1.84 in case of Sri Safiq Ahmad.

Amalnud

3. Rs. 32,300/- at the rate of Rs.425/- p.m. upto  
15.2.84 in case of Sri Umesh Chandra.

The workmen are further entitled to benefits of  
passes, P.T.O's, leave, medical facilities, quarter etc.  
which in each case comes to following amounts.

(i) Rs.27,000/- in case of Sri Ram Chandra.

(ii) Rs.19,500/- in case of Sri Safiq Ahmad.

(iii) Rs.18,000/- in case of Sri Umesh Chandra at the  
rate of minimum Rs.3000/- per year.

During the course of conciliation proceedings  
railway administration did not have courage to contradict  
the contentions of a workman. In case of Sri Umesh Chandra  
Sri Ranbir Singh I.O.W. Locoshop Charbagh Lucknow  
attended the office of the Conciliation Officer. In  
case of Sri Safiq Ahmad and Ram Chandra, Sri Nigam Office  
Superintendent of XEN, Office Charbagh, Lucknow attended  
office of the IEO ( ) Lucknow, Rly. Administration  
did not contravert either number of working days or claim  
of the workmen, either by documents or by evidence.

Prayer

It is, therefore prayed that the workmen aforesaid  
may please be ordered to be reinstated with back wages and  
all consequent benefits as mentioned above costs of the  
litigation may also be awarded to workmen.

Dated: 24.9.84.

( B.D.Tewari )  
Zonal Resident  
URKU Lucknow.

Qulahmed

True Copy

(A18)  
11  
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD,  
LUCKNOW BENCH, LUCKNOW.

A  
10  
W.P. No. of 1985.

Divisional Railway Manager Northern

Railway, Lucknow. --- Petitioner

Versus

Ram Chandra and others. --- Opposite Parties.

ANNEXURE NO.3

I.D. No. 3/84 120/84

Ram Chandra Vs. N.Rly.

ORDER SHEET

Filed on 16.1.84 at Delhi

30-3 Mr. Ram for workman none for the  
management for 44/5.

4-5 Case is adjourned for 9-7

9-7 Rakesh Manjul for management case is  
transferred 24-9.

24.9.84 Statement of claim filed issue notice to  
management to file W.S. on 16-11-84.

16.11.84 Sri B.D.Tewari for the workmen none for the  
management. Issue regd notice. Fixed  
14.12.84 for filing W.S.  
notice issued.

Quashed

-2-

14.12.84 Sri B.D.Tewari for workman none for the notice issued. management Fix 4.12.85 for filing W.S.

4.1.85 Sri B.D. Tewari to the workman none for the management despite notice case to proceed ex parte workman filed affidavit with annexure. Fix 30.1.85 for arguments.

30.1.85 Consolidated with I.D. No. 4/84. put up on 1.3.85 for arg.

1.3.85 Sri B.D. Tewari for workman none for the management Argument heard. reserved for ex parte award.

*Arif Hussain*

True Copy

13-12-85

(13) (14)

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

W.P. No. of 1985.

Divisional Railway Manager Northern  
Railway, Lucknow. ---

Petitioner

Versus

Ram Chandra and others. ---

Opposite Parties.

ANNEXURE NO. 4

IN THE COURT OF THE R.B. SRIVASTAVA : PRESIDING OFFICER  
CENTRAL GOVTS. INDUSTRIAL TRIBUNAL

KANPUR.

I.D.CASE NO. 3 OF 1984

Ram Chandra through U R K U

Lucknow. --- Workman

Versus

Northern Railway Administration  
through D R M - IKO. ---

Employer.

AFFIDAVIT INCORPORATING STATEMENT OF THE APPLICANT

I, Ram Chandra son of Baboolal aged about 35 years  
resident of Village & Post Raipatti P.S. Khandasa Distt.  
Faizabad, then working as Khallasi under Inspector of  
Works Charbagh, Lucknow, do hereby depose and solemnly  
affirm on oath as under :-

1. That the deponent is the workman concerned in this  
*Awadh*

case and is well conversant with the facts of his retrenchment case.

2. That the deponent was recruited as a Casual Labour on 2.1.1974.
3. That he was retrenched i.e. his services were terminated by the N.Rly. Administration with effect from 14.1.75 A.N.
4. That the deponent worked for 349 days continuously in the intervening period in immediate precedence of the date of termination of his service.
5. That the deponent was not given any retrenchment compensation or (notice) Notice Pay at the time of his retrenchment.
6. That the deponent is enclosing photostat copies of his casual labour Card in support of his working period.
7. That the deponent was never given authorised scales of pay, even after competing 120 days service. The amounts due between the casual labour rate of Rs.165/- per month and Rs.425/- authorised scale of Class IV initial recruitment staff amounted to Rs.260/- per month. Total dues thus coming to Rs.3120/-.
8. That the deponent's pay from 14.1.75 to 14.11.1984 at the rate of Rs.425/- per month amount to

Allah mud

(13-12-85)

Rs. 50,150/- which added by Rs. 3120/- as mentioned in para 7 above comes to Rs. 53,270/-.

9. That the deponent this money due together with his benefits of Passes, P T O, uniform, medical facilities, quarter, leave etc. computed in terms of more amounting to Rs. 27,000/- are all fit to be received by the deponent from the Opposite parties.

10. That the amounts mentioned in paras 8 and 9 above are accurate to the best of the deponent's calculation.

Lucknow:

Dated:

Deponent

### Verification

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

Lucknow:

Dated :

Deponent

Signed and Sworn before me on this day of November, 1984 in this Court Compound. Deponent's identified by.....

Alamud True Copy

(16) (23) 17

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

W.P. No. of 1985.

Divisional Railway Manager Northern Railway,

Lucknow. --- Petitioner  
Versus  
Ram Chandra and others. --- Opposite Parties.

ANNEXURE NO.5

IN THE COURT OF SHRI R.B.SRIVASTAVA, PRESIDING OFFICER,  
CENTRAL GOVTS. INDUSTRIAL TRIBUNAL,

KANPUR.

I.D. No. 4 of 1984

Between

S/Sri Ram Chander, Safiq Ahmed, and  
Umesh Chandra through U.R.K.U./Lucknow --- Workmen

Versus

Northern Railway and others. --- Employer

*(13-12-85)*  
Affidavit incorporating statement of the workman:

I, Safiq Ahmed S/o Shri Habid Khan, R/o Fateli Talab,  
L-31-B-Grange Road, Lucknow do hereby depose and solemnly  
affirm on oath as under :-

1. That the deponent is the workman concerned in this case and well conversant with the facts thereof.

*Allahabad*

2. That the deponent was working as Khallasi under inspector of works/loco Workshop, Charbagh, Lucknow.
3. That the deponent was appointed on 10.1.76 and worked upto 31-8-77. He was turned out on 31-8-77.
4. That the deponent worked for 600 days continuously in the intervening period in immediate precedence of the date of termination of his service.
5. That the deponent was terminated without notice, notice pay and retrenchment compensation.
6. That the deponent is enclosing photostat copies of his casual labour card in support of his working period.
7. That the deponent was never given authorized seals of pay, even after completing 120 days service. The amounts due between the casual labour rate of Rs.165/- per month and Rs.425/- authorised scale of class IV initial recruitment staff amounted to Rs.260/- per month, total due thus coming to Rs.3120/-.
8. That the deponents pay from 31.8.1977 to 14.11.1984 at the rate of Rs.425/- per month amounts to Rs.32725/- which added by Rs.3120/- as mentioned in para 7 above comes to Rs.35845/-.
9. That the deponent's this money due together with his benefits of passes, P.T.O. Uniform, Medical facilities

*Subj*

quarter, leave etc., computed in terms of money amounting to Rs. 19,500/- are all fit to be received with reinstatement on duty from the opposite parties.

10. That the amounts mentioned in paras 8 and 9 above are accurate to the best of deponents calculation.

Date : 8.12.84

Sd/- Safiq Ahmed

( Safiq Ahmed )  
Deponent

VERIFICATION

I, Safiq Ahmed do hereby verify that the facts as stated in para 1 to 10 of this affidavit are true to the best of my knowledge and belief. Nothing material has been concealed. So help me God.

Date: 8.12.84

Sd/- Safiq Ahmed

( Safiq Ahmed )  
Deponent

Amuland

True Copy

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

W.P. No. of 1985  
Divisional Rly. Manager, N.Rly, Lucknow. --- Petitioner  
Vs.

Ram Chandra and others ---

ANNEXURE NO.6

Opposite Parties.

BEFORE SHRI R.B. SRIVASTAVA, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CIVIL LABOUR COURT, KANPUR,  
I.D.'s Nos. 3, 4 and 10 of 1984.

Re the matter of dispute between :-

1. Shri Ram Chandra,
2. Shri Saifi Ahmed, &
3. Shri Uresh Chandra.

Through 1. B.D. Tewari, 86/196 Roshan Bagh Lane, Ganeshgopal, Lucknow.  
And

The Divisional Manager, Northern Railway, Lucknow. Management.

Shri B.D. Tewari representative for the petitioner.

Shri U.P. Chatterjee representative for the management.

ALLEGED

The Central Govt. Ministry of Labour vide order no. I-41-11/33/69-D & II-C-13.7.1. Order no. I-41/33/69-D-1, II-B, dt. 7.1.74 and order no. 44/1974/13.7.1. dt. 21st January, 1974 referred the following

1. Whether the action of the Railway Administration in relation to Shri Ram Chandra, Shri Saifi Ahmed and Shri Uresh Chandra in terminating the services of Shri Ram Chandra S/o Shri B.D. Tewari, 86/196 Roshan Bagh Lane, Lucknow, if not, to what relief if any, is the workman concerned entitled?
2. Whether the action of the Railway Administration in relation to the Divisional Engineer, Engineer-II, Northern Railway Lucknow in terminating the services of Shri Ram Chandra S/o Shri B.D. Tewari, 86/196 Roshan Bagh Lane, Lucknow, if not, to what relief if any is the workman concerned entitled?
3. Whether the action of the Northern Railway Administration in relation to the Divisional Railway Manager, Lucknow is justified in terminating the services of Shri Uresh Chandra S/o Shri U.P. Chatterjee, 86/79, casual labour under I.O.W. Locoworkshop Charbagh, Lucknow S/o S. F. 15.10.77? If not, to what relief the concerned workman is entitled?

The above three cases were consolidated on the request of the representative for the workmen as common question of fact and law arose in them and I.D. No. 4/84 was made the leading case.

The case of workman Shafiq Ahmed is that he was recruited as casual labour on 2.12.72 and worked continuously upto 31.12.73. His services thereafter were terminated without compensation of Sec. 25(f) of the I.D. Act even though he had worked for 178 days.

Similarly workman Ram Chandra of the I.D. No. 3/84 worked under Civil Engineer Charbagh as casual labour from 20.1.74 and continued till 14.1.76 when his services were terminated without paying retrenchment compensation though in fact he had worked continuously for 349 days.

Lastly in the case of Shri Uresh Chandra workman I.D. No. 10/84 the workman was appointed on 3.9.77 and worked upto 16.10.77 continuously. He was told not to come on duty on 16.10.77. At the time of termination he was not paid retrenchment compensation though he had completed 240 days of continuous service in one calendar year.

The management despite notice of the cases did not file written statement or adduced any evidence to contest the case, consequently the case against the management proceeded ex parte. Shafiq Ahmed, Ram Chandra and Uresh Chandra have filed affidavits in support of their case. Ram Chandra has filed photocopy of his casual labour card which corroborate his case that he from 21.2.73 to 14.1.76 which substantiate that he worked for more than 340 days in one continuous year counting back from 14.1.73.

Witness Shri Shafiq Ahmed has supported his claim statement by affidavit and has filed Annexure A record of service as casual labour which on calculation comes to 360 days in one continuous

2009

For monthly basis from the date of termination i.e., 31.12.2011.

Before we can get a notion of a trenchant battle we must be acquainted with the defence which should be held. In continuing service for not less than 12 months under any circumstances, and not retrenched from service, together the Sec. 25 (1) provides a situation which is in the frequent case where a recruit, not immediately absent for a period of 12 months, may be discharged from service. A recruit for a period of 240 days will in the period of 12 months not be trenchant, and counting backwards from the recruit, i.e. the date of

In Robert W. Ford's Va. Executive 11, index, Southern rail way and most of S. C. days (145) page 121, it was all right in form 12 lines.

7/1 project is a small project completed in the mid 1970's for the U.S. Army Corps of Engineers. It is part of the 300(3)(1) from a project with the same name. It will be correlated to a following project in which the wall is treated as workcharged. Construction unit is a regular unit all over lifetimes. It is a permanent unit and cannot be equated to project.

It was lastly observed in paragraph 22 as follows:

"Even assuming that he was a daily rated worker once he has rendered uninterrupted continuous service for a period of one year or more within the meaning of Sec. 25(F) of the Act and his services is terminated for any reason whatsoever, the case does not fall in any of the accepted category (of sec. 27(a)) of the I.D. Act notwithstanding the fact that rule 2003 would be attracted would have to be read subject to the provision of the Act. Accordingly the termination of the service in this case would constitute retrenchment and for not complying with the precondition to valid retrenchment, the order of termination would be illegal and invalid."

In the instant case the workmen were casual labour of the construction division of railway and had worked more than 140 days in one continuous year. Thus they were temporary workmen of the Railway and retrenchment without paying retrenchment compensation, notice pay etc. as required under Sec.25(f) of the Act, the retrenchment is valid ab initio.

The result is that the workmen are entitled to be reinstated in service with all back wages and full benefits.

With the discussion made above, I hold that the action of the management in terminating the services of the workmen are not justified and the workmen are entitled to be reinstated with full backwages and all benefits.

I, therefore, give my A.W.A.R.D accordingly.

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(A. R. SHIVASWAMY)  
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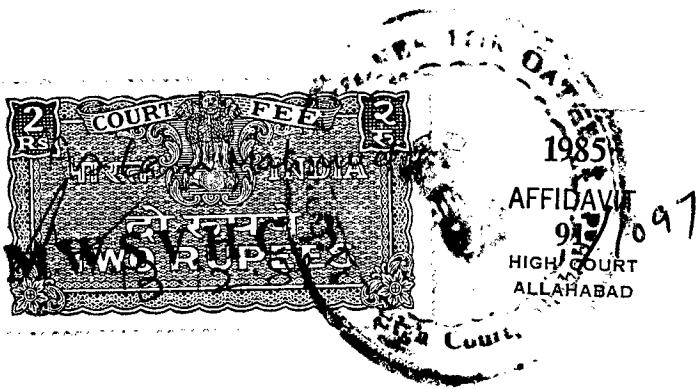
Let 6 copies of this AWARD be sent to the Government for publication.

83°

(21) (A23)

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

W.P. No. of 1985.



Divisional Railway Manager, Northern Railway,

Lucknow.

Petitioner

Versus

Ram Chandra and others.

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Opposite Parties.

AFFIDAVIT

9, Aslam Mahmud aged about 44 years son of  
Shri N. Mahmud working as Sr Divisional Personal Officer in the  
office of Divisional Railway Manager, M-Rly Lucknow, do  
hereby solemnly affirm and swear on oath as under:

1. That the deponent is the petitioner/patrokar and is fully conversant with the facts of the case.
2. That the contents of accompanying writ petition paragraphs 1 to 9 are true to my knowledge and that of para 10 are believed by me to be true.
3. That annexures nos. 1 to 5 are true copies of their originals. Annexure No 6 is Photostate copy of its original.

Lucknow; Dated:

December 13, 1985.

Allahmud  
Deponent  
Verification  
I, the above-named deponent

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

Lucknow; Dated:

December 13, 1985.

Aslam  
Deponent

I identify the deponent who has signed before me. He is personally known to me.

Rajendra Srivastava  
Advocate.

Solemnly affirmed before me on 13-12-85  
at 11.45 a.m. /~~pm~~ by Aslam Mahmud.  
the deponent who is identified by  
Shri Rajendra Srivastava  
Clerk to Shri K.C. Jauhari  
Advocate, High Court, Allahabad.

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

Meena Sanjay  
DATE COMMISSIONER  
High Court, (Delhi Bench)  
No. .... 91/1097  
Date 13.12.85

(X35)  
21

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

व अदालत श्रीमान ————— महोदय  
वादी (मुद्रह)  
प्रतिवादी (मुद्रदालेह) वा वक्ता लतगामा

Divisional Railway Manager, N Ply. वादी (मुद्रह)  
बगाम

Ram Chandra & others प्रतिवादी (मुद्रदालेह)

बौ० मुकदमा सब० 19 पेशी की ता० 19 रु०  
छपर लिखे मुकदमा में अपनी ओर से श्री

En. I.C. Tamboli, Rly. Advocate एडवोकेट

Prem-A-Lee Amir Nejat Lee महोदय  
वकील

दो अपना वकील नियुक्त छरके प्रतिबंध (इकरार) करता हूँ और लिखे देताहूँ इस  
मुकदमा में वकील महोदय स्वर्य अथवा अव्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्न  
करेया अव्य कोई ठांग दाखिल करें या लैटा देया हमारी ओर से डिगरी जारी करावें और  
उपया वसूल करेया सुलहबामायगा इक्काल दाखा तथा अमी ल व निगरानी हमारी ओर से  
हमारे या अपने हस्ताक्षर से दाखिलकरें और तसदीक करें या मुठदहमा रखें या कोई चाहा  
जमा करें या हमारी या विपक्ष (फरीकसाती) को दाखिल किया उपया अपने या हमारे हस्ताक्षर  
युक्त (दस्तखाती) रसीद से लेवेया पैर नियुक्त करे वकील महोदय द्वारा की गई वह  
कार्यवाही हमको कर्त्ता स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ किमैं हर  
पेशी स्वर्य या किसी अपने पैरोंका रेको भेजता रहूँगा अगर मुकदमा अद्यम पैरवी मैं एक तरफ  
मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरी वकील पर न होगी । इसलिए  
यह वकालतदामा लिख दिया कि प्रमाण रहे और समय पर दाया आये ।

हस्ताक्षर — Alka Lata

साक्षी (गवाह) — — — — — साक्षी (गवाह) — — — — —  
दिलक्षण — — — — महीना

(A3)

C. MISC. APP. NO. 14, 465 (a) 80  
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD,  
LUCKNOW BENCH, LUCKNOW.

660  
W.P. No. 660 of 1985

Divisional Railway Manager, Northern Railway,

Lucknow.

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Petitioner

Versus

Ram Chandra and others. ---

Opposite Parties.

STAY APPLICATION

In the above-noted petition the petitioner respectfully states as under :-

1. That the petitioner has challenged the exparte award (Annexure No.6) which is pending in the Hon'ble Court and the petitioner is hopeful of his success.
2. That the petitioner would suffer an irreparable loss execution of if the/exparte impugned award (Annexure No.6) is not stayed.
3. That the balance of convenience lies in favour of the petitioner.

It is therefore prayed that the execution of exparte impugned award (Annexure No.6) be kindly stayed till the pendency of the aforesaid writ petition in the Hon'ble Court.

Lucknow; Dated:

December 7, 1985.

in answer  
( K.C. Jauhari )  
Advocate  
Counsel for the petitioner

## ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P.

-No.-

~~6681~~

—of 1963

-VS.-

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
17/2/25	Decn 10 (S)	
	Let it for admission in the ordinary circuit Sd/ C. S.	
	17/2/25 C.M. 4th No 14465 and 85-	
17/2/25	Decn 10 (S) Put up along with	
	the w/p.	
	Sd/ C. S. 17/2/25	