

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET

CAUSE TITLE TA 316/87 OF 10.12.87 NO 2303/78

NAME OF THE PARTIES... Nand Kishore

Applicant

Versus

OOI Barf.

Respondent

Part A, B & C

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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) Decided not destroyed

Dated... 26-3-12

Counter Signed.....

Section Officer / In charge

Signature of the  
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH

FORM OF INDEX

D.A./T.A./R.A./C.C.P./ No. 316-----1987  
inland Kishor & Son. vs. U.O.I. & Son. (W.P. No. 2303/88)

PART - I

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2. Order Sheet :- 3 to 16
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5. S.L.P. :- —

*31/12/87*  
DY. Registrar

*[Signature]*  
Supervising Officer

*[Signature]*  
Dealing Clerk

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

*all*

Dealing Clerk

V.K. Mishra

Annexure - A  
CAT- 02

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH, LUCKNOW

\*\*\*\*\*

INDEX - SHEET

CAUSE TITLE Reg. T.A. No 316 OF 1987

Name of the Parties Nand Kishore & others

Versus

Union of India & others

Part A, B and C

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A2	Order sheet - - - - -	5
A3	Judgment dated 13/4/89 -	2
A4	Rejoinder affidavit - -	17
A5	Application for dismissing dated 22/8/88.	2
B1	Vakalatnama (Lawyer)	5
B2	Letter No. CAT/ALLO/JUDL/ 29411 To 412 dt 15/4/88	1
B3	Misc Application dt 25/5/88 + 24/4/88 + 27/11/87 + 20/10/88	4
B4	Notice - - - - -	4
Original Record of High Court of Judicature At Allahabad. Writ Petition No 2363/78		

आदेश की क्रम संख्या और तारीख Serial Number of order and date	संक्षिप्त आदेश, निर्देश देते हुए, यदि आवश्यक हो Brief order, mentioning reference, if necessary	पालन कैसे हुआ और पालन करने की तारीख How complied with and date of compliance
---	--	---

17/8/87 DR  
Shri A Sthalekar for the respdt.  
None for the applicant present  
Issue fresh notice fixing 21/9/87  
for filing rejoinder-affidavit.

DR  
In compliance  
of Ct order  
dt. 17.8.87  
notice issued  
to the applicant  
through his  
counsel of Bar  
in High Court Ho.  
for filing RA.  
26/8/87

21-9-87 DR  
None present for applicant.  
Issue fresh notice through counsel  
to the applicant fixing 19/10/87.

DR (J)

Office report  
No RA has been  
filed. J.S.  
17/9/87  
Office report

19-10-87 DR  
None present for the applicant.  
Shri A Sthalekar present for respdt.  
Put up with fresh service report  
on 9-11-87.

DR (J)

Notice issued  
to the applicant's  
counsel appearing  
in High Court  
HCO fixing 19/10.  
J.S.  
9/10

9-11-87

DR  
Shri A Sthalekar files his vakalatnamah  
today. It has been filed in High Court.  
RA may be filed by 1-12-87.

DR (J)

Office report  
No undelivered  
regeed corner has  
been returned  
back.  
J.S.  
14/11  
Office report  
No undelivered  
regeed corner has  
been returned back.  
J.S.  
31/11

आदेश पत्रक  
ORDER SHEET

अपील  
निर्देश आवेदन रजिस्टर में सं०

316/87(T)

No. in Reference Application Register  
Appeal

अपील अधिकरण  
Appellate Tribunal

अपीलार्थी  
आवेदक

Appellant  
Applicant

अपीलार्थी  
आवेदक द्वारा

बनाम

प्रत्यर्थी

Appellant  
Applicant

Vs.

Respondent

प्रत्यर्थी द्वारा  
Respondent

आदेश की क्रम संख्या  
और तारीख  
Serial number of  
order and date

संक्षिप्त आदेश, निर्देश दते हुए, यदि आवश्यक हो  
Brief order, mentioning reference, if necessary

पालन कैसे हुआ और पालन  
करने की तारीख  
How complied with and  
date of compliance

1/12/87

Registrar

On the request of Counsel for applicant, he is allowed to file rejoinder by 21/12/87.

21/12/87 Registrar

On the request of Counsel for respondent-applicant, he is allowed to file rejoinder by 18/1/88.

Officer report  
rejoinder not  
filed. J.S.N.

14/1/88.

18/1/88 Registrar

Registrar

On the request of Counsel for applicant, he is allowed to file rejoinder by 10/2/88. No more time will be allowed.

RA not  
filed.  
J.S.N.  
21/1/88

Registrar

ORDER SHEET

OFFICE REPORT

An Application has been filed in this Tribunal for transferring the case No. 316-87(T) of — to the Circuit Bench Lucknow.

If approved, 26<sup>th</sup> April 1988 may kindly be fixed for hearing at Circuit Bench Lucknow. In this regard the notices may be sent to the parties counsel.

*J.S.M.* List this case on 26th April 1988 before Circuit Bench at Lucknow for hearing.

*lu*  
DR.

(8)

3/6/87

A2  
4

Circuit Bench at Lucknow

26-4-88

Hon. S. Zuber Hasan, VC.  
Hon. Ajay Johri, Mr.

Due to illness of the  
learned counsel for the applicant  
Sri R.C. Saxena the case  
is adjourned to 25/5/88.  
Inform Sri Amit Asthalekar  
Counsel for respondents at  
Allahabad.

Leave to the moved  
+ Amit Asthalekar  
11/5

Aj

VC.

16/5

25.5.88

Hon. Ajay Johri, Am  
Hon. G.S. Sharma, JM

Sri Sishankha Varma for the  
respondents is absent. On the  
request of counsel for the applicant  
the case is adjourned to 22.8.1988  
for hearing.

Aj

JM

25.5.88  
Kury

22.11.88 Fixed for Hearing

Hon. A. Johri: A.M.

22.8.88

On the request of counsel for  
the parties, case is adjourned  
to 28.10.88.

Aj

A.M.

(A/S)

T.A. No. 316

(10)

9 1987

24.11.1988

Hon. D.S. Shisda, Am  
Hon. G.S. Sharma, Jm

On the request of learned Counsel to the  
Petitioner, Sri R.C. Saxena, the case may be listed for hearing.  
Sri Anil Jhalakar Brief Holder to the learned  
Counsel to the respondents is present.

Jm

Am

24.11.88  
Kut

23/12/88 No sitting, Adjourned to 24/2/1989  
for Hearing.

Am  
23/12

24/2/89.

Hon. D.S. Shisda, Am.  
Hon. G.S. Sharma, Jm.

Sri R.C. Saxena for the applicant  
is present. On the request of  
Sri S. Varma for respondents  
the case is adjourned to  
0.3-89.

Jm

Am

Ne



12

Handwritten note: hand dict

Handwritten signature/initials

12/10/92

How we off

Put up before Hon

Senior, J. J. only,

12-10-92

Received copies of  
u.s. P's and story  
Application  
for O.P. 5/10/78

13

Ward (Chandra)  
(Chandra)  
Advocate  
4-10-78

Five Adhesives - Re. 100.00  
~~No C.P. required.~~ Total Re. 100.00  
In time up to  
Copy of judgment of  
the Court, A:  
Courts judgment  
Should be noted.  
Single - bench.

Recd  
5/10/78.

Hon. H.S.J.  
Hon. D.N. Sha.J.

List in 23/10/1978.

18/10/1978  
ms

19/10/78

(14)

Harab uss  
Harab K. W. Gayard

Admnd. Issue  
nahie k. W.  
27-10-78

C.M. An no. 5185 (w)-78

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

( LUCKNOW BENCH ) : LUCKNOW :

Writ Petition No. 2303 of 1978



1. Nand Kishore, aged about 24 years,  
S/o Sri Kashi Shah, Dhov-val, Post  
Musahari Bazar, District Gopalganj,  
Bihar.
2. Umrao Lal, aged about 30 years,  
S/o Sri Khagga, R/o Sarainya Seth,  
Post Ser, Distt. Sitapur.
3. Munabber aged about 23 years,  
S/o Sri Fakirey, R/o Sonsa, Post  
Bilauli Bazar, Distt. Sitapur.
4. Ashik Ali aged about 28 years,  
S/o Sri Khagga, R/o Mohraiya Khurd,  
Post Parsandy, Distt. Sitapur.
5. Sohan Lal, aged about 22 years,  
S/o Sri Sarjoo Prasad, R/o Mohraiya  
Khurd, Post Parsandy, Distt. Sitapur.
6. Devi Dayal, aged about 28 years,  
S/o Sri Khagga, R/o Mohraiya Khurd,  
Post Parsandy, Distt. Sitapur.
7. Kishori Lal, aged 27 years, S/o  
Sri Dhodhey, R/o Mahimapur, Post  
Tikra, Distt. Sitapur.

... Petitioners.

Versus

1. The Union of India through  
General Manager, North Eastern  
Railway, Gorakhpur.
2. The Divisional Superintendent,  
North Eastern Railway, Ashok Marg,  
Lucknow.

*Divaloti*

(Continued on page 2)

IN THE HIGH COURT OF JUDICATURE AT ALMAHABAD

SITTING AT LUCKNOW

C.Misc Application No. 4544 (W), 1984.



Union of India through General Manager N.E.Rly

...Applicant

In re:

Writ petition No.2303 of 1978

Nand Kishore & others.

...Petitioners.

Versus

Union of India and others.

-.. Opp. Parties

APPLICATION FOR CONDONATION OF DELAY IN  
FILING COUNTER AFFIDAVIT

... Applicant respectfully states as under:-

1. That in the abovementioned case Counter affidavit could not be filed on behalf of the Opp. Parties within time in this Hon'ble Court.
2. That the Counter affidavit could not be prepared in time as information were being collected from different offices of the Railway administration situated at different places.
3. That the filing of Counter affidavit is necessary and is being file herewith.
4. That the delay in filing counter affidavit is bonafide and not daihereto.

WHEREFORE it is respectfully prayed that the delay in filing Counter affidavit may kindly be condoned and the Counter affidavit may be brought on record.

Lucknow:

Dated ; April 18, 1984

*Chandra*  
Advocate  
Counsel for the applicant  
Opp. Party.

5422

Be  
Early

Registered

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

No. CAT/CB/LKO/

Dated : 13.4.89

OFFICE - MEMO

Registration No. O.A. 316 of 1937 (T)  
T.A.

Namul Kishore Applicant's

Versus

Union of India Respondent's

A copy of the Tribunal's Order/Judgement  
dated 13.4.89 in the abovenoted case is forwarded  
for necessary action.

13/4/89  
O/c For DEPUTY REGISTRAR (H)

Encl : Copy of Order/Judgement dated 13.4.89

To. ① Shri R. C. Saxena Adv. e/1.A.

② Shri S. Varman Adv. e/R-

dinesh/

\*\*\*\*\*

②

Received  
Sharma  
19/4/89

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.  
CIRCUIT BENCH AT LUCKNOW.

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Registration (T.A.) No. 316 of 1987

Nand Kishore & others ..... Petitioners.

Versus

Union of India & others ..... Respondents.

\*\*\*\*\*

Hon'ble Ajay Johri, A.M.  
Hon'ble D.K. Agrawal, J.M.

(Delivered by Hon. D.K. Agrawal, J.M.)

This application was registered under Section 29 of the Administrative Tribunals Act, 1985 on transfer of the pending Writ Petition No. 2303 of 1978, Nand Kishore & 6 others v. Union of India & 2 others, from the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow.

2. The brief facts in this case are that the petitioners, 7 in number, were appointed as Casual Labour between the years 1969 and 1974 at different times and dis-engaged according to exigencies of work. They were not provided regular appointments and, therefore, a writ petition was filed by them jointly seeking a writ, order or direction in the nature of certiorari quashing the termination orders on the ground that the petitioners <sup>have acquired</sup> ~~require~~ the status of temporary servant. The writ petition was admitted as early as on 27.10.1978 but it remained pending till it was transferred to this Tribunal in the year 1987. Though the counter affidavit was filed in the High Court, but the rejoinder affidavit was filed before the Tribunal only on 18.2.1988. Meanwhile, with the lapse of time it so happened that all the petitioners except

*D.K. Agrawal*

A/s (15) (A3/2)

-: 2 :-

Sohan Lal (petitioner no.5) were engaged. As regards Sohan Lal also the contention of the Railway Administration is that his name appears on the list for engagement as and when a vacancy is available in future.

3. We have heard the learned counsel for the parties and perused the record. The learned counsel for the respondents does not dispute that the petitioner, viz. Sohan Lal, is entitled to be engaged subject to availability of a post. The learned counsel for the petitioners contended that his client would be satisfied if an employment is provided to him. In the circumstances, it appears just and proper that a direction be issued to the respondents to provide employment to the petitioner, Sohan Lal, at an early date subject to availability of a post. Therefore, we direct the respondents to provide employment to the petitioner, viz. Sohan Lal, on the first available vacancy of Khalasi/Labour under the control of the Divisional Railway Manager, North-Eastern Railway, Ashok Marg, Lucknow.

4. The petition is accordingly disposed of without any order as to costs.

*Dr. G. S. Mehta*

MEMBER (J).

Dated: April 13<sup>th</sup>, 1989.

PG.

*Dr. J. N. Singh*

MEMBER (A).



CIVIL  
CRIMINAL SIDE

# GENERAL INDEX

(Chapter XLI, Rule 2, 9 and 15)

Nature and number of case... W.P. 2303-78

Name of parties... Nand Kishore 200 vs Union of India 200

Date of institution... 19.10.78

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	Index	1		Rs. P.			
	2	Copy of W.P.	1-10	5	100 -			
	3	Copy of affidavit	11-12	1	2 -			
	4	Copy of Affidavit no 1	13-16					
	5	do - no 2	17					
	6	Power	1	1	5 -			
	7	Copy of Stay Application	2	1	5 -			
	8	Comd. 4366(w)-79 with affidavit	4-		7.00			
	9	Comd. 10526(w) of 82 with affidavit			7.00			
	10	Comd. 4544(w) with CA.	20-		7.00			
	11	order sheet	4-	-	-			

I have this \_\_\_\_\_ day of \_\_\_\_\_ 197\_\_\_\_, examined the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that they bear Court-fee stamps of the aggregate value of Rs. \_\_\_\_\_ that all orders have been carried out, and that the record is complete and in order up to the date of the certificate.

Date.....

Munsarim

Clerk

Group A (8(a) 15

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALIAHA BAD( LUCKNOW BENCH ) : LUCKNOW :

Writ Petition No. 2303/ of 1978

\*\*\*\*\*

NAND KISHORE &amp; OTHERS.

... PETITIONER

VERSUS

UNION OF INDIA &amp; OTHERS.

... OPPOSITE PARTIES

\*\*\*\*\*

: I N D E X :

S: NO.	DESCRIPTION OF PAPERS	PAGE NUMBERS
1.	Writ Petition under Article 226 of the Constitution of India.	1 - 10
2.	A F F I D A V I T ...	11 - 12
3.	Annexure No. 1 ...	13 - 16
4.	Annexure No. 2 ...	17 - --
5.	Stay Application ...	18 - 19

LUCKNOW:

DATED: OCTOBER 4, 1978.

R.C. Saxena  
Advocate( R.C. SAXENA )  
ADVOCATE

COUNSEL FOR THE PETITIONER

Establishment Manual published by the Government of India, Ministry of Railways a casual labour acquires the status of a temporary Railway servant if he continues to do the work for which he was engaged or the other work of the same type for a period of more than 6 months without break. This period of 6 months has been reduced to 4 months by Railway Boards letter No.PC/72-RLT-69/3(1) dated 12.7.73 communicated vide circular letter No.E(ii)-57 Casual labour dated 18.8.73 with the result that a casual labour who has worked for a period of 4 months without any break on the post on which he was employed or on the post having the same type of work will acquire the status of a temporary Railway servant soon after the expiry of 4 months.

5. That it is respectfully submitted that all the petitioners have acquired the status of temporary Railway servant within the meaning of para 2501 referred to above on the dates shown in column No. 5 given below:

S.No.	Names of Petitioners	Date of Appointment	Date from which continuous service began	Date on which the petitioners acquired & the status of temporary Railway servant by rendering 4/6 months continuous service
1.	Nand Kishore	19.9.74	19.9.74	19.1.75
2.	Umrao Lal	16.10.70	16.10.70	16.4.71
3.	Munabber	22.12.74	22.12.74	22.4.75
4.	Ashik Ali	16.3.71	16.3.71	16.9.71
5.	Sohan Lal	6.9.71	23.11.75	23.3.76
6.	Devi Dayal	17.7.70	17.7.70	17.1.71
7.	Kishori Lal	16.12.69	16.12.69	16.6.70

6. That a casual labour who acquires the status of a

temporary Railway servant becomes entitled under para 2511 of the Railway Establishment Manual to all the rights and privileges admissible to him as laid down in Chapter 23 of the Indian Railway Establishment Manual. The petitioners having acquired the status of a temporary Railway servant are entitled to the benefits of all the rights and privileges laid down in Chapter 23 of the Indian Railway Establishment Manual.

7. That as the opposite parties have been depriving the petitioners from the benefits rights and privileges laid down in Chapter 23 of the Indian Railway Establishment Manual to which the petitioners were entitled having acquired the status of temporary Railway servant, they on 10.6.78 served a notice u/s 80 C.P.C. on the opposite parties requesting them to declare the petitioners having acquired the status of temporary Railway servant and to pay their full salary allowed to them as such and privileges as available under the Rules.

8. That after the service of the aforesaid notices on the opposite parties the Assistant Engineer, N.E. Railway Sitapur under whom the petitioners were working started harassing and threatening the petitioners to done away with their services in case they do not withdraw their notices.

9. That the petitioners thereafter on 27.7.78 sent an application to the opposite Party No. 2 complaining about the harassing attitude of the Assistant Engineer. A true copy of the said application dated 27.7.78 is filed herewith as Annexure No. 1 to this Writ Petition.

AB

10. That thereafter the petitioners were directed to work as casual khalasi under Permanent Way Inspector, Paliya Kalan w.e.f. from 17.8.78. The petitioners as such from 17.8.78 to 20.9.78 have been working and discharging their duties as casual khalasi at Paliya Kalan under opposite party No. 3.

11. That on 21st of September 1978 the petitioners were verbally informed by the opposite party No. 3 that their services have been terminated w.e.f. 21.9.78 as such they need not attend to their work.

12. That the petitioners thereafter requested the opposite party No. 3 to give them the termination orders or even to show the same to them but the opposite party No. 3 refused either to give or to show the termination orders.

13. That thereafter the petitioners on 23.9.78 moved an application to opposite party No. 2 complaining about the verbal termination order and requesting him to serve them with the termination orders, if any, but all invane. A true copy of the application dated 23.9.78 is filed herewith as Annexure No. 2 to this writ petition.

14. That it is respectfully submitted that the petitioners have not yet been served with the termination orders/notices and are not being allowed to work on their respective posts by the opposite parties since 21.9.78.

15. That under the facts and circumstances stated above the petitioners feel that no termination order terminating the services of the petitioners as casual

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पतिग 22

Khalasi have actually been passed by the opposite parties.

16. That in the absence of any legal termination order terminating the services of the petitioners, they respectfully submit that in law they will be deemed to be still in service having a right to work on their respective posts entitling them to their wages.

17. That as has been submitted earlier each of the petitioners having worked on their respective posts for a period of more than one year their services could not be terminated without complying with the provisions of Industrial Disputes Act 1947.

18. That notices as required under section 25-F of the Industrial Disputes Act 1947, have been served on the petitioners and one month's salary in lieu of notices as well as retrenchment compensation have not been paid to them.

19. That besides the above the procedure for retrenchment provided under Section 25-G of the Industrial Disputes Act 1947 has not been followed and the well known principle "Last come first go" has been totally disregarded in as much as several Casual Khalasi appointed after the appointment of the petitioners and junior to them have been retained while the services of the petitioners have been done away without any rhyme or reason.

20. That the opposite parties by verbally terminating the services of the petitioners and by retaining the junior persons not less than 35 in number, acted with pick and choose policy and

9/10

7-4-13 20

12/20

discriminated the petitioners in the matter of termination of services infringing fundamental right guaranteed under Article 16 of the Constitution of India.

21. That it is also not irrelevant to submit that for the purpose of implementing the principle of "First come last go" Rule 77 of the Industrial Disputes (Central) Rules 1957 prescribes for maintaining the seniority list of all Workmen in a particular category. In the present case the opposite parties have not yet prepared/published the seniority list of Casual Khalasi working under the respective Unit.

22. That apart from the provisions of Industrial Disputes Act 1947, the alleged termination of services of the petitioners (is illegal, void and inoperative in as much as 14 days notice as required under para 2302 of the Indian Railway Establishment Manual have not been served on them.)

23. That the petitioners have a legal right to work on their respective posts of Casual Khalasi till their services are not terminated according to Law and further have a right to get all the rights and privileges admissible to a temporary Railway Servant under chapter 23 of the Indian Railway Establishment Manual and the opposite parties have an obligation to allow the petitioners to work on their respective posts with the entire benefits admissible to the temporary Railway Servant.

24. That the petitioners have been trying to work on their respective posts and have been asking for the rights and privileges admissible to them

12/20

under Chapter 23 of the Indian Railway Establishment Manual but instead of allowing them of their legal rights and privileges, the opposite parties in a revengeful manner done away with the services of the petitioners in a most arbitrary manner.

25. That feeling aggrieved and having no other alternative efficacious remedy open to them the petitioners prefers this Writ Petition on the following amongst the other:-

: G\_R\_O\_U\_N\_D\_S :

(i) Because ~~not~~ no order/notice, as required under section 25-F of the Industrial Dispute Act 1947 or under para 2302 of the Indian Railway Establishment Manual, has ever been given/shown/served on the petitioners.

(ii) Because the principle of "Last come first go" provided under section 25-G of the Industrial Disputes Act 1947 has not been followed and no seniority list as required under Rule 77 of the Industrial Disputes (Central) Rules 1957 has ever been prepared or published by the opposite parties.

(iii) Because one month's salary as well as retrenchment compensation as required by section 25-F (b) of the Industrial Disputes Act of 1947 have not been paid to the petitioners.

(iv) Because the action of opposite party No. 3 by verbally terminating the services of the petitioners is arbitrary, malafide and is a result of colourable exercise of powers.

Reserve  
Award



(v) Because the opposite parties by dispensing with the services of the petitioners and retaining the juniors in service have acted by adopting a pick and choose policy infringing petitioners fundamental right guaranteed under Article 16 of the Constitution of India.

(vi) Because the petitioners having rendered more than 4/6 months continuous services acquired the status of a temporary Railway servant and are entitled to all the rights and privileges mentioned in Chapter 23 of Indian Railway Establishment Manual and the opposite parties are bound to allow them.

(vii) Because the services of the petitioners cannot be dispensed with or terminated in the manner in which it has been done.

*Devasena  
Advocate*

: P\_R\_A\_Y\_E\_R :

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

(a) direct the opposite parties to produce the termination orders terminating the services of the petitioners, if any, and thereafter issue a writ, direction or order in the nature of certiorary quashing all of them.

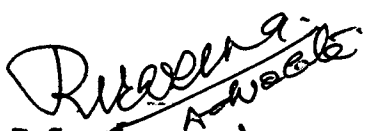
(b) issue writ direction or order in the nature of mandamus commanding the opposite parties to treat the petitioners still in service having acquired the status of a temporary Railway servant with the benefits of their entire salary since 21.9.78 and onward.

(c) issue writ, direction or order in the nature of mandamus commanding the opposite parties to allow the petitioners all rights and privileges mentioned in Chapter 23 of Indian Railway Establishment Manual with effect from the date when they acquired the status of temporary Railway servant.

(d) 14 days notice may kindly be waived.

Lucknow:

Dated 4.10.1978.

  
( R.C. Saxena )  
Advocate,  
Counsel for the Petitioner.

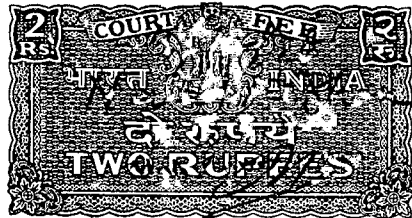
8/24

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

( LUCKNOW BENCH ) : LUCKNOW :

Writ Petition No.

of 1978



1975-76  
AFFIDAVIT  
4  
HIGH COURT  
ALLAHABAD

Nand Kishore and Others.

... PETITIONERS.

VERSUS

Union of India & Others.

... OPPOSITE PARTIES.

WRIT PETITION UNDER ARTICLE 226 OF CONSTITUTION OF INDIA

: A F F I D A V I T :

I, Nand Kishore, aged about 24 years, S/o Sri Kashi Shah, Dhov-val, Post Musahari Bazar, District Gopalganj, Bihar, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the Petitioner No. 1 in the above noted writ petition and is fully conversant with the facts of the case deposed in the writ petition.
2. That the contents of paras 1 to 25, except bracketed portion in para 22, are true to my own knowledge.
3. That the Annexure No. 1 and 2 are the true copies of the originals and the deponent has compared them with the originals.

Lucknow:

Dated: October 5, 1978.

DEPONENT.

1/5

VERIFICATION

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

DEPONENT.

Lucknow :

Dated: October 5, 1978.

I identify the deponent who has signed before me.

( R.C. Saxena )  
ADVOCATE.

Lucknow:

Dated: October 5, 1978.

Solemnly affirmed before me on October 5, 1978, at 9.10 a.m./p.m. by Sri Nand Kishore, the deponent, who is identified by Sri R.C. Saxena, Advocate, High Court.

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

6/11

1884-20  
5/10/78

-13-

A/20

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

Writ Petition No. of 1978

Nand Kishore & Others ... Petitioners.  
Versus  
Union of India & Others ... Opp. Parties.

-----  
ANNEXURE NO. 1

To  
The Divisional Superintendent,  
North Eastern Railway,  
Lucknow.

Through Proper Channel

Subject:- Victimisation and Harassment to the Casual Labours.

Reference:-Notices under section 80 C.P.C. on behalf of  
Nand Kishore, Kishori Lal, Sheo Balak, Sohan  
Lal, Devi Dayal Umrao Lal, Ashiq Ali and  
Munabbar Presently working under P.W.1  
Mailani.

Sir,

The above named casual labours beg to submit as  
under:-

1) That the above noted casual labours applicants  
had served notices under section 80 C.P.C. dated June 10,  
78 to the General Manager, North Eastern Railway on  
behalf of Union of India, the divisional Superintendent  
North Eastern Railway, Lucknow. The senior Divisional  
Engineer, North Eastern Railway Lucknow and the Permanent  
way Inspector, North Eastern Railways Biswan, praying  
for the grant of the status of a temporary Railway  
servant with full arrears of salary and all privileges  
and immunities as admissible under rules from the  
respective dates after completion of their four months  
continuous service in the department.

5/10

7/10/78

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2) That the notices referred to in the preceeding paragraph have been served on the authorities concerned and in pursuance of the said notices the assistant Engineer, Sitapur vide letter No. A/227/1/STP/785 dated 29.6.78 ordered the permanent way Inspector, Mailani to spare the above noted casual labours/applicants alongwith other casual labours for sparing them for their first Medical Examination in order to grant them Time scale etc. A true copy of letter dated 29.6.78 which was notified on the notices board is attached herewith as Annexure No.1 to this application.

3) That the P.W.1 Mailani any how, issued the medical mem<sup>d</sup> to only Nand Kishore, Umrao Lal, Munabbar Ali, Devi Dayal and Ashiq Ali and with great difficulties their medical examination have been done and have been declared fit.

4) That Sri Kishori Lal, Sheo Balak and Sohan Lal have not been issued medical memos for their medical examination deliberately by the P.W.1 Mailani in order to harass them despite their repeated requests.

5) That it is also respectfully submitted that the above noted casual labours/applicants are being compelled to withdraw the notices under section 80 C.P.C. which have been served on their behalf and if the said notices are not withdrawn, the Assistant Engineer, Sitapur and P.W. 1 Mailani have threatened the applicants for not giving them duty and ultimately to terminate their services.

6) That applicants are the poor casual labours hard pressed by circumstances one not in a position to resist with the illegal actions of the P.W.1 Mailani and Assistant Engineer, Sitapur.

3/10

महोदय

- 7) That the applicants are never interested the long drawn up litigation nor can they afford for the same unless their legal and legitimate rights are refused to be granted to them merely for the sake of their undue harassment.
- 8) That the applicants are ready to withdraw their notices in case the relief claimed by them is granted to them.
- 9) That without granting the relief claimed by the applicants, if they are being forced to withdraw the notices by threatening them to terminate their services, it is all illegal and the applicants respectfully submit that they will never withdraw the notices but will be compelled to seek the legal resource open to them.
- 10) That it is expedient in the interest of justice that the P.W. 1 Mailani and Assistant Engineer, Sitapur may kindly be directed not to misbehave and cause undue harassment to the applicants and they may be further directed that Sri Kishori Lal Sheo Balak and Sohan Lal whose names already find mention in letter dated 29.6.78 contained in A. No. 1 to this application be issued medical memoes and their medical examination be also got done without further delay. The services of the applicants be also not terminated as threatened by them.

Wherefore, it is prayed that your honour may be pleased to direct the P.W. 1 Mailani and the Assistant Engineer, Sitapur not to misbehave and cause undue harassment to the applicants and they may be further directed that Shri Kishori Lal, Sheo Balak and Sohan Lal whose names already find mention in the letter dated 29.6.78 contained in A. No. 1 to this application be

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issued medical memoes and their medical examination be also got done without further delay. The services of the applicants be also not terminated and they may be permitted to perform their duties.

Yours faithfully,

Sd/- 1. Nand Kishore

2. Umrao Lal

3. Munnawar

4. Kishori Lal

5. Sohan Lal

6. Sheo Balak

7. Thumb -Ashik Ali

8. Thumb- Devi Dayal

Lucknow:

Dated 27 July, 78.

Copy forwarded to:-

1. The Permanent way Inspector, North Eastern Railway Mailani for necessary action.
2. The Assistant Engineer North Eastern Railway, Sitapur, for necessary action.
3. The General Manager, North Eastern Railway, Gorakhpur for necessary action.

TRUE COPY

5/10/78

5/10



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

Writ Petition No. of 1978

Nand Kishore & others ... Petitioners.

Versus

Union of India & Others. ... Opp. Parties.

ANNEXURE NO. 2

सेवा में

श्री मान मंडल अधीक्षक,  
पूर्वोत्तर रेलवे,  
लखनऊ ।

विषय:- सेवा समाप्ति

संदर्भ :- प्रत्यावेदन दिनांक 27-7-78 व 17-8-78

महोदय,

निवेदन है कि उपरोक्त प्रत्यावेदन देने के पश्चात प्रार्थियों को रेलमार्ग निरीक्षक पलियाकला के अधीन स्थानान्तरित कर दिया गया और प्रार्थी वहाँ मेहनत व इमानदारी से कार्य करते रहे व किसी प्रकार की शिकायत प्रार्थियों के कार्य के सम्बन्ध में नहीं रही । छेद का विषय है कि दिनांक 21-9-78 से प्रार्थियों की सेवा समाप्त कर दी गई है । प्रार्थियों ने सेवा समाप्ति सम्बन्धी आदेश देने की रेलमार्ग निरीक्षक से मांग की तो उन्होंने कहा कि सहायक अभियन्ता सीतापुर के आदेशानुसार तुम्हारी सेवार्थें समाप्त की गई हैं, क्योंकि तुम लोगों से वे सख्त नाराज हैं । प्रार्थियों की सेवार्थें नितान्त गैरकानूनी ढंग से समाप्त की गई हैं । प्रार्थियों से जूनियरतमाम कर्मचारी भी भी कार्य कर रहे हैं ।

अतः श्रीमान जी से निवेदन है कि प्रार्थियों की सेवा समाप्त करने सम्बन्धी आदेश उन्हें प्रदान कराये जायें, क्योंकि किसी भी कर्मचारी को मौखिक आदेशों से नहीं निकाला जा सकता । यदि प्रार्थियों के इस प्रार्थनापत्र देने के पश्चात भी सेवा समाप्ति के आदेश प्रदान न किये गये तो विवश होकर प्रार्थियों को न्यायालय की शरण लेनी होगी ।

प्रार्थी गण

- 1- नन्द किशोर
- 2- उमराव लाल
- 3- अनवर
- 4- सोहन लाल
- 5- किशोरी लाल
- 6- अ० निशानी-आतीक अली
- 7- अ० निशानी-देवी दयाल
- 8-

ता० 23-9-78 ई०

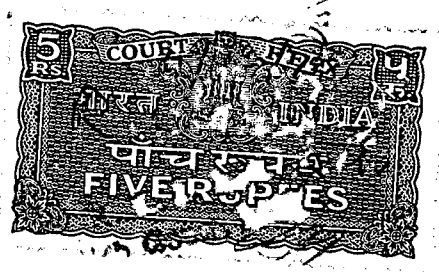
प्रतिलिपि सूचनार्थ व आवश्यक कार्यवाही हेतु प्रेषित:-

- 1- महाप्रबन्धक, पूर्वोत्तर रेलवे, गोरखपुर ।
- 2- सहायक अभियन्ता पूर्वोत्तर रेलवे, सीतापुर ।

सत्य प्रतिलिपि

7/10/78

ब अदालत श्रीमान Adalat का वकालतनामा  
 वादी मुद्दै Nand Kishore and others  
 प्रतिवादी (मुद्दाअलेह)



4/10  
 3/10

Nand Kishore and others

वादी (मुद्दै)

Union of India & others

प्रतिवादी (मुद्दाअलेह)

W.P.No.  
 ने मुद्दामा

सन् १९७८

पेशी की ता०

१९

ई०

R.C. Saxena

ऊपर लिखे मुद्दामा में अपनी ओर से श्री

Advocate, High Court, Dko.

एडवोकेट

महोदय  
 वकील

पास करीद्वय	नं० मुद्दामा	वास अदालत
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को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुद्दामा 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 डिगरी जारी करावें और रुपया वसूल करें या सुलहमामा वा इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुद्दामा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्रवाही हमको स्वीकार है और होगी इसलिख यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे

1. मुद्दाअलेह
2. उमराव लाल

हस्ताक्षर

3. मुनवर
4. सोहनलाल

साक्षी (गवाह)

साक्षी (गवाह)

5-

L.T. of Sd/-  
 Ashikali

दिनांक

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महीना

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1978 ई०

L.T. of Sd/-  
 Dayal

Stockist :- R. B. Srivastava (Munna)  
 Stamp Vendar Civil Court  
 Kundri Rakabganj, Lucknow-4

7 - किशोरी लाल

Accepted  
R.C. Saxena  
Advocate  
 4/10/78

3. The Permanent Way Inspector, North  
Eastern Railway, Paliya Kalan,  
District Mailani.

... Opposite Parties.


STAY APPLICATION

The applicant most respectfully begs to state  
as under:-

That for the facts and reasons given in the  
accompanying writ petition supported by an affidavit  
it is most respectfully prayed that the opposite  
parties may be directed to allow the petitioners to  
work on their respective posts of casual khalasi with  
wages during the pendency of the writ petition and an  
ad-interim order to that effect may kindly be passed.

Lucknow:

Dated 4.10.1978:

  
( R.C. Saxena )  
Advocate,  
Counsel for the petitioner.

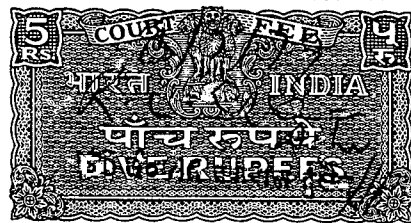
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD.

( LUCKNOW BENCH & LUCKNOW :

C.M. Application No. 4366(W) of 79

IN-RE:

Writ Petition No. 2303 of 78.



Nand Kishore & Others.

... Petitioners.

VERSUS

Union of India & Others.

... Opposite Parties.


APPLICATION FOR EXPEDITING THE LISTING/HEARING OF THE  
APPLICATION FOR INTERIM RELIEF

That for the detailed facts and the reasons stated in the accompanying affidavit it is most respectfully prayed that the listing/hearing of the application for interim relief may kindly be expedited.

Lucknow:

Dated: July 8, 1979.

13

  
( R.C. Saxena )  
Advocate,  
COUNSEL FOR PETITIONERS.

8/10

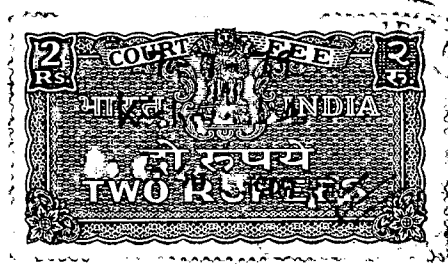
IN THE HON'BLE HIGH-COURT OF JUDICATURE AT ALLAHABAD

( LUCKNOW BENCH ) : LUCKNOW :

C.M. Application No. (W) of 1979 8

IN-RE:

Writ Petition No. 2303 of 78. 2



1979  
AFFIDAVIT  
66  
HIGH COURT,  
ALLAHABAD

Nand Kishore & Others.

... Applicants.

VERSUS

Union of India & Others.

...Opposite parties.

AFFIDAVIT IN SUPPORT OF EXPEDITE APPLICATION ~~FOR TIME~~

by

I, Kishore Lal, aged about 27 years, S/o  
Sri Dhondhey, R/o Mahimapur, Post Tikera, District  
Sitapur, do hereby solemnly affirm and state on oath  
as under:-

1. That the deponent is one of the petitioners  
in the above noted writ petition and he is well conver-  
sant with the facts deposed to hereunder.

2. That the petitioners filed the above noted  
writ petition on 27.10.78 and the Hon'ble Court has been  
pleased to admit the aforesaid writ petition on the  
same day.

by

3. That ~~it~~ alongwith the writ petition the  
petitioners also moved an stay application and on

by  
किशोरी लाल

by  
8.7.79

that application the Hon'ble Court has been pleased to issue notice.

4. That since then about 8 months have passed yet the stay application has not been listed for further orders.

5. That the petitioners are poor casual labours and as they are out of employment, it has become difficult for them to keep their body and soul together.

6. That the opposite parties have illegally terminated the services of the petitioners without complying with the statutory provisions of Indian Railway Establishment Manual and also the provisions of Industrial Disputes Act 1947 and the rules made there under.

7. That the petitioners have reached the stage of starvation and in case the hearing of the application for interim relief is not expedited, they would be put suffer irreparable loss.

~~That the petitioners are the~~

Lucknow:Dated:

July 8 , 1979.

निशोरी लाल  
DEPONENT.

VERIFICATION

I, the deponent named above, do hereby verify that the contents of paras 1 to 5 of this <sup>by</sup> ~~affid~~ affidavit are true to my own knowledge and those of paras 6 and 7 are believed by me to be true.

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

Lucknow:

Dated: July 8, 1979..

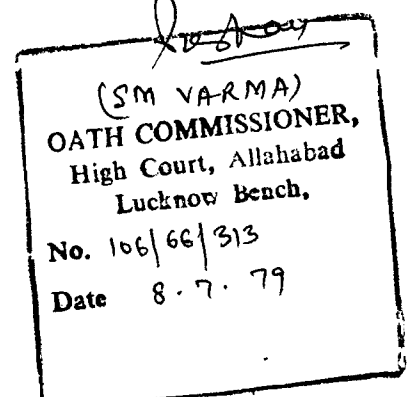
DEPONENT.

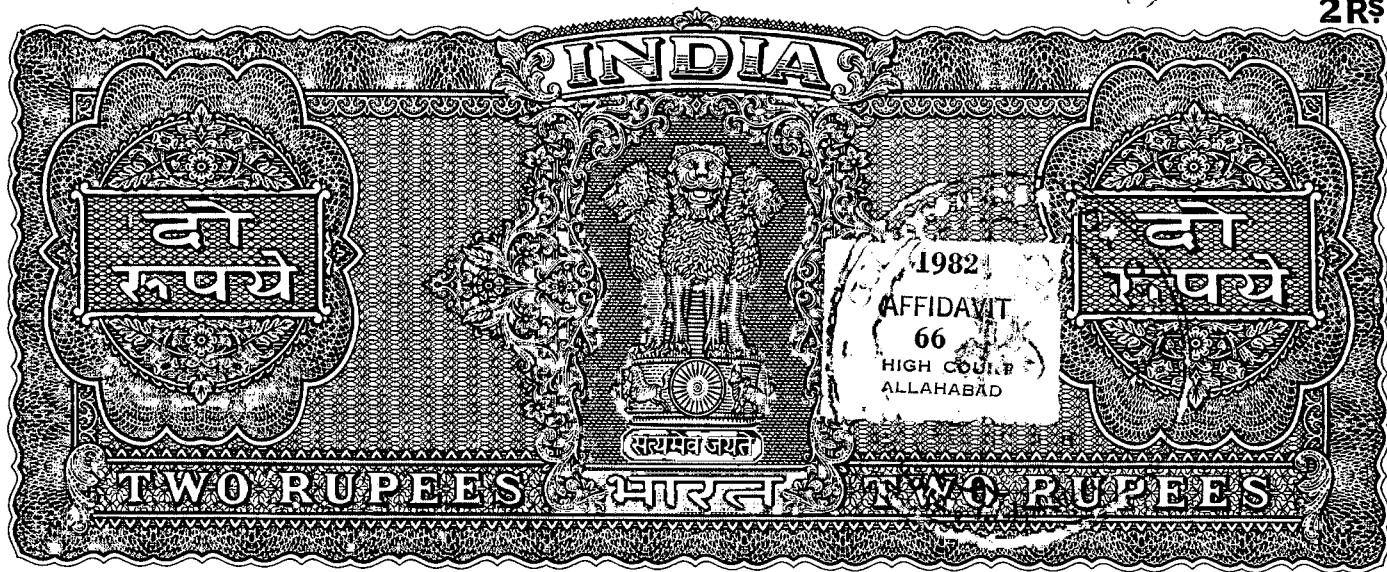
I identify the deponent who has signed before me.

*R.C. Saxena*  
( R.C. Saxena )  
ADVOCATE.

Solemnly affirmed before me on July 8<sup>th</sup>, 1979, at 7.15 a.m./p.m. by Sri Kishor Lal, the deponent, who is identified by Sri R.C. Saxena, Advocate, High Court of Allahabad, Lucknow Bench, Lucknow.

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





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

Writ Petition No. 2303 of 1978

Nand Kishore and others ... Petitioners.

Versus

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

----

Affidavit in support of Application for Expediting the  
hearing of the Case.

----

I, Kishori Lal, aged about ~~27~~ <sup>31</sup> years,  
S/o Sri Dhodhey, R/o Village Maḥmapur, Post Tikra, Distt.  
Sitapur, do hereby solemnly affirm and state on oath  
as under:-

1. That the deponent is the petitioner in the above  
noted case and is well conversant with the facts of the  
case deposed to hereunder.

2. That the deponent and other petitioners have  
filed the above noted Writ Petition challenging the  
arbitrary and illegal termination from service and have  
prayed for a writ of certiorari quashing the same. It has  
further been prayed that by means of a writ of mandamus



किशोरी लाल



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the opposite parties may be directed to treat the petitioners in continuous service having acquired the status of temporary Railway Servants with all other consequential benefits.

3. That the above noted Writ Petition was admitted on 27.10.78 and since then above 4 years time has ~~been~~ elapsed but the Railway authorities have not ~~been~~ filed the Counter Affidavit in the case.

4. That after the termination of petitioners' services a huge number of new Casual Labours have been engaged in the Railway but despite petitioners' all efforts the Railway authorities did not appoint them although under Rule 78 of Industrial Disputes (Central) Rules 1957, the petitioners were entitled for their appointment.

5. That the opposite parties have developed a feeling of ill-will against the petitioners due to filing of the aforesaid writ petition and they threaten the petitioners that ~~xx~~ even after winning of the case they will not allow the petitioners to work on their posts.

6. That the petitioners are facing unemployment since 1978 and it has become difficult for them to pull-on their life in absence of any source of earning in these hard days of time.

7. That it is expedient in the interest of justice that the hearing of the above noted writ petition may be expedited and the case may be heard and decided at an early date.

Lucknow:Dated:

October 12, 1982.

10/11/82  
Deponent.



2/4

2/4

Verification

I, the deponent named above, do hereby verify that the contents of paras 1 to 6 of this Affidavit are true to my own knowledge and those of para 7 are believed by me to be true.

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

Lucknow:

Dated: October 12, 1982.

अमरीश साहू

Deponent.

I identify the deponent ~~that~~ who has signed before me.

Advocate.



Solemnly affirmed before me on October 12, 1982, at 6.5 a.m./p.m. by Sri Kishor Lal, the deponent, who ~~has~~ is identified by Sri R.C. Saxena, Advocate, High Court, Lucknow.

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

L. N. Tewari  
OATH COMMISSIONER  
High Court, Allahabad  
Lecturer Bench

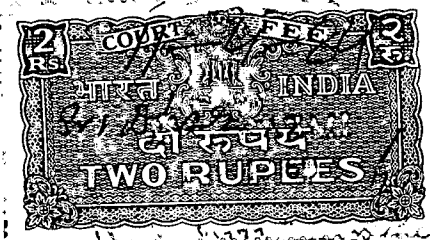
10.11.1982  
Date: 12-10-82

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH LUCKNOW

WRIT PETITION NO.2303 of 1984-78



1984  
AFFIDAVIT  
100/338  
HIGH COURT  
ALLAHABAD

Nand Kishore and others

..

Petitioners.

Versus

Union of India and others.

...

Opp. Parties.

COUNTER AFFIDAVIT ON BEHALF OPPOSITE PARTIES.

I, <sup>W</sup>Sridhar <sup>W</sup>S/O S. Prasad <sup>W</sup>aged  
about <sup>W</sup>42 years R/O <sup>W</sup>Railway Quarter  
<sup>W</sup>Permanent Way Inspector <sup>W</sup>Biswan, Dist. Station  
~~Asst. Personal Officer~~ N.E. Rly ~~Lucknow~~ do hereby

solemnly affirm and state as under:-

1. That the deponent is working as <sup>W</sup>Permanent Way Inspector ~~Asst. P.O.~~ N.E.Rly  
~~known~~ and is conversant with the facts of the case.

2. That the deponent has read the contents of writ petition & has understood the same.

3. That the contents of para 1 of Writ Petition are admitted except the date of appointment. The date of appointment of the petitioners are given as under:-

Sl. No.	Name of petitioners.	Dated of Appointment
1.	S/Sri Nand Kishore	19.9.74
2.	Umrao Lal	<sup>W</sup> 18.10.70
3.	Minabber	<sup>W</sup> 22.12.74
4.	Ashik Ali	16.5.71

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u

5. Shban Lal
6. Devi Dayal
7. Kishori Lal

✓ 6.9.71 ✓  
✓ 17.7.70 ✓  
✓ 16.12.69 ✓

4. That the contents of para 2 of the Writ petition as stated are not admitted but it is stated that they have worked in broken periods and in different type of work. It is denied that artificial gaps have been made in the service of some of the petitioners. This is all on account of not serving the Rly. during the gaps period of petitioners. It is fact that they have served more than one year as Casual Labour in gaps but it is further submitted that at no <sup>w</sup> occasion they have continuously worked for a year with authorised breaks.

5. That the contents of para 3 of writ petition are not relevent for the decision of the present Writ petition.

6. That in reply to the contents of para 4 of the Writ petition it is stated that the casual labour becomes entitled for the benifit of temporary Rly. servant if be continue to do the same work and not other work of the same type in one spell of 6 months contineous services and from 18.3.73 after completion of 4 months service.

7. That the contents of para 5 of the writ petition are not admitted in view of submission made in reply to para 4 of the writ petition. In order to substantiaete the averment made herein a complete chart of service particulars of the petitioners is filled as Annexure 'A' to the counter Affidavit.

8. That in reply to the contents of para 6 of the Writ petition it is submitted that Casual Labour after putting in 4 months continuous service become entitled for the benefit admissible to the temporary Railway servants. The present Petition have never completed 4 months continuous service therefore, their becoming entitled for benefit admissible to the temporary Rly. servant does not arise.

9. That in reply to the contents of paras 7 and 8 of the Writ petition it is admitted that the petitioners served notices U/S 80 C.P.C. for giving them temporary status but it is denied that the Assistant Engineer started harasing the petitioners with threat to done away with their services. It is submitted that as the petitioners have at no stage worked continuously for 4 months in one spell the question of giving them time scale or the benefit of temporary Railway Servant does not arise.

10. That in reply to the contents of para 9 of the Writ petition it is stated that the application as stated by the petitioner is not available on the records of the Railway Administration. However, it is further <sup>reinstated</sup> ~~reinstated~~ that any action on the application of the petitioners to be taken does not arise as the petitioners were never harassed by the AEN/Sitapur. The allegation of the petitioners is baseless and is denied.

11. That in reply to the contents of para 10 of the Writ petition it is submitted that as and when

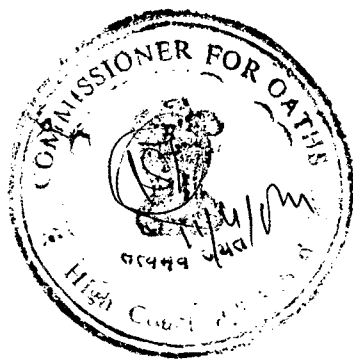
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there was requirement of Casual labours in the Assigned unit the petitioners were called for the works as the Rly. administration has all along been considered to the cause of the casual labours.

12. That in reply to the contents of para 11 to 16 of the writ petition it is stated that the engagement of the casual & labour is done on day to day basis and no appointment letters in such cases are required to be issued. Accordingly as and when there is no work., the casual & labours are advised not to ~~turn up~~ to work as there is no requirement. The petitioners submission that they are still continuing upon the post of casual labour is not correct and is denied. Their services stand terminated on <sup>w</sup> expiry of the sanction of the post and work and the petitioners were so advised that there was no work.



13. That in reply to the contents of para 17 of writ petition it is stated that the petitioners have at no stage completed required period of continuous services hence question of giving them Central Pay Commission (C.P.C.) scale or the benefits admissible to the temporary employees does not arise.

14. That in reply to the contents of para 18 of the writ petition it is stated that as the petitioners had not completed required period of continuous service at any spell the question of giving them one months notice or pay in lieu of it notice or any retrenchment compensation does not arise in their cases.

*[Handwritten signature]*

15. That in reply to the contents of para 19 of the writ petition; it is stated that according to the seniority position the Casual Labours are engaged and their services ~~is~~<sup>are</sup> terminated on last come first go basis on completion of the work and or expiry of the sanction of the post and work. The allegation of the petitioners that juniors to the petitioners have been retained in service is not correct and denied. The appointment of the casual & labours is ~~sporadic~~<sup>sporadic and intermittent</sup> in nature and for short terms and or for specified period.

16. That in reply to the contents of para 20 of writ petition it is stated that no ~~pick~~<sup>pick</sup> and choices formula was adopted as alleged. The petitioners themselves were not present and absented themselves at the relevant time engagement of casual labour and ~~such~~<sup>was</sup> the question of the engagement the petitioners did not arise.

17. That the contents of para 21 are not admitted as stated. It is submitted that the seniority of Casual labours is published once in a year and it was published in 1978 and posted at the notice board of the controlling Officer of the Casual Labours i.e. permanent was Inspectors at Mailani and Biswa etc.

18. That the contents of para 22 of the writ petition are denied. It is submitted that no notice was required to be given in the petitioners as the petitioners had not completed required period of service.

19. That in reply to the contents of para 23 of the writ petition it is submitted that the question raised did not arise as the petitioners themselves left the



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work of their own accord and did not turn at the required time.

20. That in reply to the contents of para 24 and 25 of the writ petition it is submitted that the petitioners never completed required period of continuous service, hence they could not be given benefit admissible to the temporary Railway servants as stated in reply in earlier paragraphs. The petitioners had left the work on their own accord.

21. That none of the grounds taken by the petitioners are maintainable and the writ petition is liable to be dismissed with cost.



Lucknow: ~  
Dated:- 11 April, 1984

*[Signature]*

DEPONENT.

Verification

I, above named deponent do hereby verify that the contents of paragraphs <sup>✓</sup>1 and 2 <sup>✓</sup>

of this ~~affidavit~~ Counter affidavit are true to my own knowledge. <sup>✓</sup> Those 9 paras 3 to 20 are based on records and that of para 21 on legal advice. No part of it is false and nothing material has been concealed so help me God.

*[Signature]*

LUCKNOW:  
Date:- 11 April 1984.

DEPONENT.

I identify the deponent

who has signed before me.

*[Signature]*  
OATH COMMISSIONER  
Lucknow District Court  
11/4/84

*[Signature]*  
Advocate. Sri Ram Chandra



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-7-

Solemnly affirmed before me on 11-4-04

at 4.40 a.m./p.m. by Sridhar

the deponent who has been identified by Sybal Ali.  
Advocate, High Court, Allahabad.

I have satisfied myself by examining the  
deponent that no understands the contents of  
this counteraffidavit which have been read out and  
explained by me.

.. (Signature) ..

CLERK OF THE COURT

High Court

Law Bench

No

100/330

Date

11/4/04

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITING AT LUCKNOW

WRIT PETITION NO2303 OF 1983

Nand Kishore and others

...Petitioner.

Versus

Union of India and others.

..Opp. Parties.

Annexure No. 'A'

Sri Nand Kishore S/O Kashi Shah Casual Khalasi

Under PWI/Biswan

Sl. No.	From	To	Name of work	Unauthorised Absence.	Remarks
1.	19.9.74	15.1.75	C/R	23 to 28, 31/10/73	
2.	16.1.75	15.2.75	Relaying		
3.	16.2.75	15.3.75	C.r. rail		
4.	16.3.75	21.3.75	Not working		
5.	22.3.75	15.4.75	C.R.Rail		
6.	16.4.75	28.4.75	Not working		
7.	29.4.75	15.6.75	C.R.Rail		
8.	16.6.75	15.7.75	Pulling Back of rail		
9.	16.7.75	15.9.75	C.R.Rail		
10.	16.9.75	21.10.75	Not working		
11.	22.10.75	15.11.75	Relaying S/Man		
12.	16.11.75	-	Not working		
13.	17.11.75	15.12.75	Ballast Unloading (R)		
14.	16.12.75	15.3.76	Shardha Sahak project work.	25 to 29.1.76	
15.	16.3.76	17.3.76	Not working		
16.	18.3.76	14.4.76	L. Tip	8, 10, 4, 76	
17.	15.4.76	-	Not working		
18.	16.4.76	15.5.76	Br. No 55		
19.	16.5.76	15.7.76	Holing Rail/Man		

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20.	16.7.76	15.8.76	-do-
21.	16.8.76	15.9.76	(-do-
22.	16.9.76	17.9.76	Not working
23.	18.9.76	15.10.76	Cushing
24.	16.9.76	-	Not working
25.	17.9.76	15.7.77	Cushing - 7to9/2/77, 28 to 30/4/77 1 to 5/5/77, 8, 6/5/77
26.	16.7.77	15.3.78	do Relaying 24 to 26/8/77, 4to7/10/77 9to11, 13, 20/11/77 27to29.11.78 6 to8/2/78, 17, 27, 28/2/78 2 to6, 8/3/78
27.	16.3.78	18.3.77	Not working
28.	18.3.77	15.4, 78	Reling ensling

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IN THE HING COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

WRIT PETITION 2303 of 1983.

Nand Kishore and others.

..petitioners

Versus

Union of India and others.

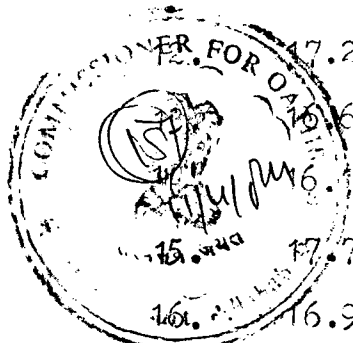
..Opp. Parties.

Annexure No: A'

Sri Umroo Lal S/O Khagga

Casual Khalaso Under PWI/BVN.

Sl. No.	From	To	Name of mark	Unauthorised absence	Remarks
1.	4.2.71	31.8.71	Relaying	25 to 27, 30/3/71 16 to 18, 29/4/71	
2.	1.9.71	30.9.71	Not working		
3.	1.10.71	31.12.71	Relaying		
4.	1.1.72	31.12.72	Not working		
5.	1.1.73	15.2.73	Loading unloading Ballast	16/1/73	
6.	16.2.73	31.3.73	Not working		
7.	25.8.73	31.10.73	Br. No. 44		
8.	1.11.73	17.11.73	Not working		
9.	18.11.73	15.12.73	Er. No. 22		
10.	16.12.73	15.2.74	Er. No. 22		
11.	16.2.74	-	Not working		
12.	17.2.74	15.6.74	Er. No. 53		
13.	16.6.74	15.7.74	Er. No. 34		
14.	16.7.74	-	Not working		
15.	17.7.74	15.9.74	Diploming Rails		
16.	16.9.74	15.10.74	L.U.M.		
17.	16.10.74	15.11.74	Relirement of curve		
18.	16.11.74	15.12.74	Relaying		
19.	16.12.74	-	Not working		
20.	17.12.74	15.2.75	Relaying	A 17/1/75 to 4,5,11/2/75	
21.	16.2.75	15.3.75	-do-		







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22.	16.3.75	15.4.75	Ballest unloodip	
23.	16.4.75	17.4.75	Not working	
25.	18.4.75	15.9.75	Relaying Ballest	
26.	16.9.75	15.10.75	Unloodip	
27.	16.10.75	15.2.76	Relaying Ballast unlooping	
28	16.2.76	15.5.76	Br. No.35	A 30/4/76
29.	16.5.76	15.6.76	Ballast unlooping	
30.	16.6.76	16.7.76	Not working.	
31.	17.7.76	15.10.76	Cushy	
32.	16.10.76	-	Not working	
33.	17.10.76	15.7.77	Cushy	A 25 10,17/1/77,25/4/77 16/5/77
34.	16.7.77	-	Not working	
35.	17.7.77	30.8.77	-do-	A 25,28,30/8/77
36.	31.8.77	15.10.77	Not working	A 21,23/10/77 14,21/11/77 A 26,28/2/78
37.	16.10.77	15.3.78	cushy	
38.	16.3.78	15.4.78	-do-	A 3,4,8,14/4/78

*[Handwritten signature]*



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IN THE HING COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

WRIT PETITION NO. 2303 of 1983.

Nand Kishore and others.

Petitioner

Versus

Union of Indian & others.

...opp. Parties.

Annexure No. A

Munawar S/O Fakirey

Casual Khalasi undr P.M./BVN.

Sl. No.	From	To	Name of work	Unauthorised absence	Remarks
1.	16.2.77	15.4.77	Ballast unloading		
2.	16.4.77	15.6.77	Not working		
3.	16.6.77	15.7.77	Ballast unloading		
4.	16.7.77	2.8.77	Not working		
5.	3.8.77	15.3.78	Cushining	A 16, 24, 29/8/77 8 to 11/12/77 A 17/2/78	



IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITING AT BUCKINGHAM

WRIT PETITION NO. 2303 of 1983.

Nand Kishore and others.

..Petitioners.

Versus

Union of Indian & others.

... Opp. Parties.

Annexure No. A

Sri Ashik Ali S/O Shabboo  
C.L. Khalasi Under P.M/BVN

Sl. NO.	From	To	Name of work	Unauthorised absence	Remarks
1.	16.5.77	22.8.71	Relaying work	A 17.7.71 A 6,15.8.71	
2.	23.8.71	28.2.72	Not working		
3.	1.3.72	30.4.72	Relaying work		
4.	1.5.72	31.12.72	Not working		
5.	1.1.73	15.2.73	Maintenance	A 23.1.73	
6.	16.2.73	17.3.73	Not working		
7.	18.3.73	15.7.73	Maintenance work		
8.	16.7.73	17.7.74	Not working		
9.	18.8.73	15.9.74	Relaying work Choukidar		
10.	16.9.74	15.10.74	Loading unloading	A 10.10.74	
11.	16.10.74	15.12.74	--do--	A 18.10.74, 29.11.74	
12.	16.12.74	-	Not working		
13.	17.12.74	15.1.75	Holidays lost	A 25.12.74.	
	16.1.75	15.2.75	Not working		
15.	16.2.75	15.3.75	Maintenance work	A 6.3.75,	
16.	16.3.75	15.4.75	--do--		
17.	6.4.75	21.5.75	Not work		
18.	22.5.75	15.7.75	Maintenance work	A 31.5.75	
19.	16.7.75	21.7.75	Not work		
20.	22.7.75	3.9.75	Maintenance work	A 22.8.75	
21.	4.9.75	20.10.75	Not working		



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22.	21.10.75	15.1.1.75	Relaying work
23.	16.11.75	<del>de</del>	Not worked
24.	17.11.75	14.3.76	Relying work A 13.1.76
25.	15.3.76	<del>de</del>	Not worked
26.	16.3.76	1.6.76	Maintenance work Br. No.55
27.	2.6.76	16.7.76	Not worked
28.	17.7.76	15.10.76	Relying work A 26.9.76 A 8 to 15.10.76
29.	16.10.76	<del>de</del>	Not worked
30.	17.10.76	15.11.76	Relying work A 26.1,13,19.12.76
31.	16.11.76	15.2.77	<del>de</del> A 10,19 to 24,30.1.77
32.	16.2.77	15.4.77	Handays lost A 7,28.4.77
33.	16.4.77	15.5.77	<del>de</del>
34.	16.5.77	<del>de</del>	Not worked
35.	17.5.77	3.7.77	Relying work
36.	4.7.77	2.8.77	Not worked
37.	3.8.77	15.10.77	Maintenance work A 16 to 29.8.77
38.	18.10.77	<del>de</del>	Not worked
39.	17.10.77	15.2.78	Maintenance work A 16 to 19,22,26 12.2.77
40.	16.2.78	19.2.78	Not worked A 7,13,.2.78
41.	20.2.78	15-3.78	Maintenance work A 4,5,10.3.78

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IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

WRIT PETITION NO. 2303 of 1983.

Nand Kishore and others.

Petitioner

Versus

Union of India and others.

Opp. Parties.

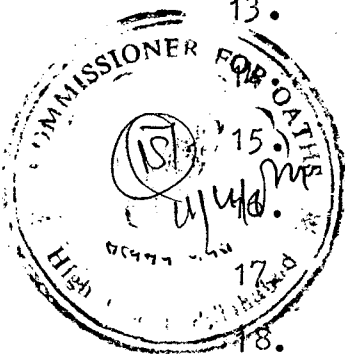
Annexure No. A

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Sri Shohan Lal S/O Srjoo Pd.

Casula Khalasi under PWI/BVN

Sl. No.	From	To	Name of work	Unauthorised absence	Remarks
1.	1.10.71	31.12.71	Relying work		
2.	1.1.72	31.12.72	Not working		
3.	1.1.73	31.1.73	Relying chaukidar at Psm		
4.	1.2.73	6.2.73	Not working		
5.	7.2.73	15.4.73	Relying work	10,11,2,73	
6.	16.4.73	22.6.73	Not working		
7.	23.6.73	30.7.73	Relying	A 26 .6.73	
8.	31.7.73	21-9.73	Not working		
9.	22.9.72	15.2.74	Bridge No.44	A 9/12/73,8.1.74	
10.	16.2.74	15.3.74	Not working		
11.	16.3.74	17.3.74	Br. No.34		
12.	18.3.74	15.7.74	Plautation at Psm		
13.	16.7.74	21.7.74	Not working		
	22.7.74	24.7.74	Br. No. 44		
15.	25.7.74	15.8.74	Not working		
	16.8.74	15.9.74	Br. No. 43		
	16.9.74	27.9.74	Not working		
18.	28.9.74	15.10.74	Relying Chaukidar At Rawpur Plautation		
19.	16.10.74	15.12.74			
20.	16.12.74	<del>do</del>	not working		
21.	17.12.74	15.1.75	Mandays lose		

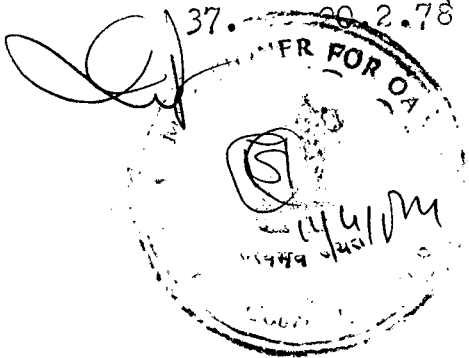


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22.	16.1.75	18.1.75	Not working
23.	19.1.75	15.4.75	Flatution Psm
24.	16.4.75	17.7.75	Not working
25.	18.7.75	3.9.75	Night patrolling
26.	4.9.75	22.11.75	Not working
27.	23.11.75	15.12.75	Br. No.34 A 26.11.75
28.	16.12.75	26.2.76	Shardha Sahaik Project work
29.	27.2.76	15.6.76	Br. No. 35 A26.5.76 5.6.76
30.	16.6.76	21.6.76	Not working
32.	22.6.76	21.7.76	Plautation
34	22.7.76	15.8.76	Not working
35.	16.8.76	20.8.76	
26	21.8.76	16.10.76	Eushing A 27,29.8.77
27.	16.10.76	-	Not working
28.	17.10.76	15.4.77	Cusluc. ing work 6,8,14,18,19,25.12.76 15,27,28.1.77,8.4.77
29.	16.4.77	15 5.77	cusling work A 30.4.77,9.5.77
30.	16.5.77	-	Not working
31.	17.5.77	15.7.77	cusling work 21,22,6.77,4.7.77
32.	16.7.76	-	Not working
33.	17.7.77	16.9.77	cusling renk 257,27,28.7.77,18 23,28,30,31.8.77
34.	17.9.77	16.10.77	Not working
35.	17.10.77	15.2.78	Over manling 13,19.11.77 16to19.12.77
36.	16.2.78	19.2.78	Not working
37.	20.2.78	15.3.78.	

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IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

WRIT PETITION NO . 2303 of 1983.

Nand Kishore and others.

...Petitioner

Versus

Union of India and others.

...Opp. Parties.

Annexure no. A

Devi Daya S/O Khagga

C.L. Khalasi under P.W./BVN

Sl. No.	From	To.	Name of work	Unauthorised absence	Remarks
1.	1.1.70	15.2.70	Bridge No.27A		
2.	16.2.70	28.1.71	Not working		
3.	29.1.71	15.11.71	Relaying work	A 1,6,12,13,15.71	
4.	16.11.71	15.2.72	-do- mate	A 2,3,14,2.72.	
5.	16.2.72	15.4.72	-do-		
6.	16.4.72	25.7.72	Not worked		
7.	26.7.72	15.11.73	Relaying work	A 7,14,19to26,29.8.72 A 18.8.73 20.9.73 A 5.10.73	
8.	16.11.73	15.2.74	Maintenance work	A 9.12.73 8.1.74.	
9.	16.2.74	-	Not worked		
10.	17.2.74	15.12.74	Bridge No.52		
11.	16.12.74	-	Not worked		
12.	17.12.74	15.2.75	Relaying work		
13.	16.3.75	15.4.75	-do-		
14.	16.4.75	17.4.75	Not worked		
15.	18.4.75	15.9.75	Ballast unloading	A 14,26,27.8.75	
16.	16.9.75	-	Not worked		
17.	17.9.75	15.10.75	Ballast unloading		
18.	16.10.75	15.1.76	-do-		

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19.	16.1.76	8.2.76	Maint. since
20.	9.2.76	28.2.76	Br. No. 55 Not worked
21.	29.2.76	15.6.76	Bridge No.55
22.	16.6.76	15.7.76	-do-
23.	16.7.76	-	Not worked
24.	17.7.76	15.10.76	Cushioning work
25.	16.10.76	-	Not worked
26.	17.10.76	15.4.77	Cushioning work A 10,15,.11.76. A 7,13,.3.77
27.	16.4.77	15.5.77	Handays lost
28.	16.5.77	-	not worked
29.	17.5.77	7.6.77	Cushioning workd A 19to23,25.5.77
30.	8.6.77	22.6.77	Not worked
31.	23.6.77	16.7.77	Cushioning work
32.	16.7.77	-	Not worked
33.	17.7.77	31.7.77	Cushioning work A 25 28,30.7.77
34.	1.8.77	15.10.77	Not worked
35.	16.10.77	15 3.78	Relaying work A 1.23.10.77 A 13,19,24,26,30,31.12.77 A 1.1.78



IN THE HONBLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

WRIT PETITION NO. 2303 of 1983

Nand Kishore and others ... Petitioners

Versus

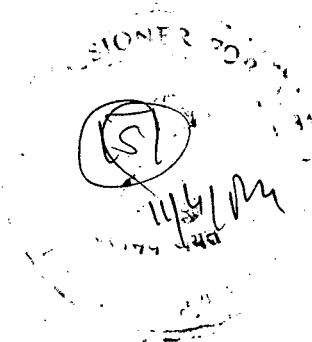
Union of India and others ... Opp. Parties.

ANNEXURE NO.-A

Shri Kishori Lal son of Sri Dhorey Casual

Labour under PWI/Biswan

Sl. No.	From	To	Name of work	Unauthorised absence	Remarks
1.	16.12.69	15.3.70	C.L.Kh(R)		
2.	16.3.70	15.4.70	-do-		
3.	18.3.74	15.6.74	-do-	7/4, 27/4, 28/4 2/5, 3/5, 5/5/74	
4.	16.6.74	15.7.74	Mate		
5.	16.7.74	15.4.75	Mate		
<del>18x4x75</del> 6.	18.4.75	-	Ballest	9/6/75	



# ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W P

No.

2303

of 1978

Nand Kishore vs. Union of India & or.

	Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
0	1		3
1	18.10.78	Hon' J. S. J Hon' D. N. Jha, J List on 23.10.78. Sd. H. S. Sd. D. N. Jha 18.10.78	
	18.10.78	C.M. An no. 5185(w)-78 for stay Hon' J. S. J Hon' D. N. Jha, J List on 23.10.78. Sd. H. S. Sd. D. N. Jha 18.10.78	
	19.7.28	23.10.78 fixed with cms 5185(w)-78 for stay	Received on 19.10.78 ms 19
	23.10.78	with writ C.M. An. 5185(w)-78 for stay	By order 23.10 B/B.

Vk. HSG.

Vk. K. S. Vamraj

Lo up

23.10.78

11/2

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No.

2303

of 198

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1.	2	3
25/1/83	Final for 2	Early Bye
25/1/83	Amended Amended 25/1/83	yet Lustace Dany
1/2/83	Meet for hearing Hoi KSMR Hoi KMMR Adjourned at the request of the learned counsel for the petitioners.	
	1-2-83	
7/2/83	Hoi KSMR Hoi KMMR 1-2-83	
18/2/83	Final for 2 Hoi KSMR Hoi KMMR	Early Bye



# ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. \_\_\_\_\_ of 198

25.

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
9.1.85	Wait for hearing Hon UCS J Hon SCM S So	
23-1-85	fixed for hearing Hon UCS J Hon SCM S So	Bpe enf
4.2.85	fixed for hearing Hon UCS J Hon SCM S So	Bpe enf
11.2.85	Wait for hearing Hon UCS J Hon SCM S So	
18.2.85 25.2.85	Wait for hearing Hon UCS J Hon SCM J So	

# ORDER SHEET 11/4

IN THE HIGH COURT JUDICATURE AT ALLAHABAD

W.P. No. 2303 of 1988

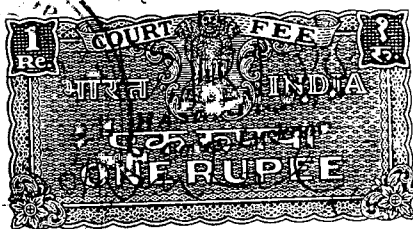
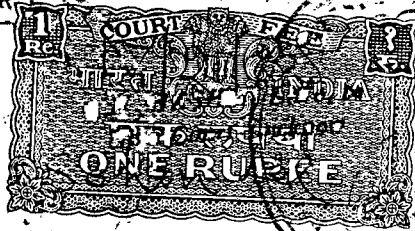
25.

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
8-1-85	Hon VCS S Hon SCN S So	
22-4-85	fixed for hearing	By
25/4/85	Hon K. N. M. J. Hon S. S. A. J.	ear
	Advocates on strike. No sitting	
	25/4/85	
15-8-85		
1-5-85	Wait for hearing Hon K. N. H. S Hon S. S. A. S	
	P.O.	
	17/5/85	
9-5-85	Wait for hearing Hon K. N. H. S Hon S. S. A. S	

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

T.A. NO. 316 OF 1987 (T)

1988  
AFFIDAVIT  
4  
HIGH COURT  
ALLAHABAD



Nand Kishore & Others ... .. Petitioners

Versus

Union of India and others ... .. Opposite Parties

REJOINDER AFFIDAVIT

I, Sohan Lal son of Sarju Prasad, aged about 31 years resident of village Khurda, P.O. Persaindi, District-Sitapur, do hereby solemnly affirm on oath as under :

1. That the deponent is the petitioner No.5 in the above noted case and he is well conversant with the facts deposed to hereunder.
2. That the contents of para 1 and 2 of the counter affidavit need no comments.
3. That the Contents of para 3 of the counter affidavit are not correct as stated and in reply the contents of para 1 of the Writ Petition are re-affirmed as correct.
4. That the contents of para 4 of the Counter Affidavit are denied and in reply the contents of para 2 of the writ petition are reaffirmed as correct. The petitioners have worked on some type of work and they have always been ready and willing to work in continuity <sup>but</sup> ~~that~~ the opposite parties deliberately caused few artificial breaks although the work was

Receives Copy  
Anil S. Thakur  
18.2.88



सोहन लाल

available so that they may not be able to get the status of a temporary Railway servants after completing four months continuous service as admissible under rules. Despite this unfair labour practice all the petitioners completed not only more than 4 months continuous service several times but also rendered more than one year continuous service without any break entitling them for the benefits/protections of the provisions of Industrial Disputes Act 1947. It is emphatically denied that the petitioners at no occasion continuously worked for a year with authorised breaks. Even from the details of services given by the Opposite Parties ~~is not~~ ~~proved~~. ~~If the particulars~~ in Annexure No.A to the Counter Affidavit, The contention of the opposite parties is not proved. If the particulars of the petitioners regarding their service are scrutinised it is proved that they not only continuously worked for a period of more than 4 months several times but they also completed more than one year continuous service within the meaning of Section 25(B) and 25(F) of the Industrial disputes Act, 1947. The fact that the petitioners completed more the requisite continuous service for grant of time scale and other benefits admissible to a casual labour on completion of requisite length of continuous service, is proved from the letter No.E/227/I/STP/PW1/MLIV dated 29.6.78 issued by the Assistant Engineer, Sitapur, directing the petitioners and several others ~~for~~ of their medical examinations so that the prescribed scale of pay ~~be~~ may given to them. A true copy of letter dated 29.6.78 is filed herewith as Annexure No.R-I to this Rejoinder Affidavit. Some of the petitioners' medical examination was done in pursuance to letter



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dated 29.6.78 but instead of giving them the status of Temporary Railway Servants their services were done away with arbitrarily due to malice in revengeful manner.

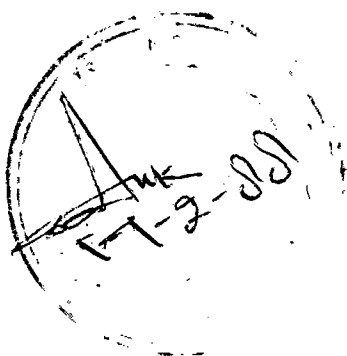
5. That the contents of para 5 of the counter affidavit are denied and those of para 3 of the writ petition are re-affirmed as correct.
6. That the contents of para 6 of the counter affidavit are emphatically denied to the extent that a casual labour does not become entitle for acquiring a status of Temporary Railway Servant if he continues to do other work of the same type in one spell of 6 months continuous service and from 18.3.73 after completion of 4 months service. Para 2501 (b) (1) specifically provides that such of those persons who contues to do the same work for which they were engaged or other work of the same type for more than 6 months without a break will be treated as temporary after the expiry of 6 months ( 4 months after 18.3.73) of contineuous employment. The statement of the Opposite Parties in para under reply being contrary to the provision of para 2501 (b) (1) of the Railway Establishment Manual is wholly unsustainable in law.
7. That the Contents of para 7 of the counter affidavit are false and denied and in reply the contents of para 5 of the writ petition are re-affirmed as correct The opposite Parties have nor admitter the contents of para 5 of the writ petition in view of their submission made in reply to para 4 of the writ petition. The reply of para 4 of the writ petition has been given by the opposite Parties in para 6 of the counter affidavit and the same is contrary.....

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to the provisions of para 2501(b) (1) of the Indian Railway establishment Manual as such the same is not sustainable. The Opposite Parties did not allow the privileges/benefits as admissible to the petitioners despite the fact that they completed more than 6/4 months continuous service several times. The services particulars given in the chart attached with Counter Affidavit as Annexure 'A' are not correct. The opposite parties have nowhere disclosed the authority/authenticity of the Service Particulars and in absence of the same they are not liable to be presumed as correct.

8. That the contents of para 8 of the Counter Affidavit are totally false to the extent that the present petitioners never completed 4 months continuous service and they did not become entitle for benefits admissible to the temporary Railway Servants. A perusal of even chart submitted by Opposite Parties contained in Annexure No.A to the Counter affidavit clearly proves that all the petitioners not only completed more than four months continuous service several times but also completed more than one year continuous service within the meaning of Section 25(B) and 25(E) of the Industrial Disputes Act, 1947. The letter dated 29.6.78 contained in Annexure No.R-I proves the contention of the petitioners that they completed more than the requisite length of continuous service for grant of prescribed scale and other benefits.

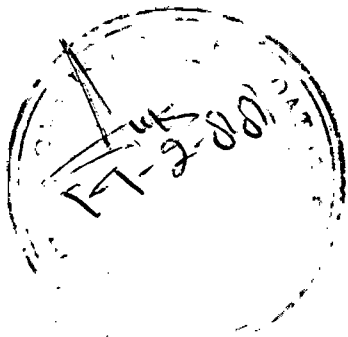
9. That with reference to the contents of para 9 of the counter affidavit it is emphatically denied that the petitioners at no stage worked continuously for 4 months in one spell as such they were not given the Time Scale or the benefits of temporary Railway



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Servant. The petitioners have already explained that they not only completed 4 months continuous service but also completed more than one year continuous service. The opposite parties acted arbitrarily in not giving the status of temporary Railway servants to the petitioners and malafidely denied them other benefits admissible to them under rules. After the notice on behalf of the petitioners under section 80 C.P.C. the Assistant Engineer Sitapur started harassing and threatening the petitioners to done away with their services in case they do not withdraw their notices.

10. That the contents of para 10 of the Counter Affidavit are false and denied and in reply the contents of para 9 of the Writ Petition are re-affirmed as correct Annexure No.1 to the Writ Petition is the true copy of Application dated 27.7.78 referred to in the Writ Petition and the same was sent to Opposite Party No.2 by Registered Post. The petitioners are in possession of Postal Receipt No.1628 dated 27.7.78 duly issued by the Post Office. The copies of the aforesaid application dated 27.7.78 were also sent to General Manager N.E. Railway, Gorakhpur, Assistant Engineer, N.E. Rly Sitapur and permanent way Inspector Mailani, by Registered Post vide Postal Receipt Nos.1629, 1630 and 1631 dated 27.7.78 and they are also still in possession of the petitioners. The petitioners also submitted representation dated 17.8.78 to the Opposite Party No.2 and forwarded the copies of the said representation to the General Manager, N.E. Railway, Gorakhpur and the Hon'ble Railway Minister but no action against the Authorities concerned was taken at all. The petitioners were also not given duty and pay for the period in question. A true copy of

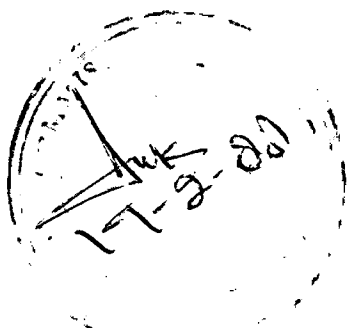


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representation dated 17.7.78 is filed herewith as Annexure No.R-II to this Rejoinder Affidavit.

11. That in reply to the contents of para 11 of the Counter Affidavit the contents of para 10 of the Writ Petition are re-affirmed as correct.
12. That with reference to the contents of para 12 of the Counter Affidavit, the contents of para 11 to 16 of the Writ Petition are re-affirmed as correct. The petitioner's services could not have been terminated in the manner in which they have been terminated. The petitioners had already completed more than one year continuous service and had acquired the status of Temporary Railway Servants and their services were not liable to be terminated without complying with the mandatory provisions of the Industrial Dispute Act 1947 and the Rules made thereunder. Annexure No.2 to the Writ Petition is the true copy of application dated 23.9.1978 sent by the petitioner to Opposite Party No.2 by Registered Post vide Post Office receipt No.2395 dated 23.9.78. The copies of said application were also sent to General Manager N.E. Railway, Gorakhpur and Assistant Engineer, Sitapur by Registered Post vide Postal Receipt No.2396 and 2397 dated 23.9.78. It is very much painful to submit that no action at all was taken by the concerned Railway Authorities on the applications of the petitioners contained in Annexure No.1 and 2 ~~of~~ to this Writ Petition and Representation dated 17.8.78 contained in Annexure No.R-2 to this Rejoinder Affidavit. It is quite wrong to say that the petitioners services ~~were~~ were terminated, there being no work available for them. In fact work was available

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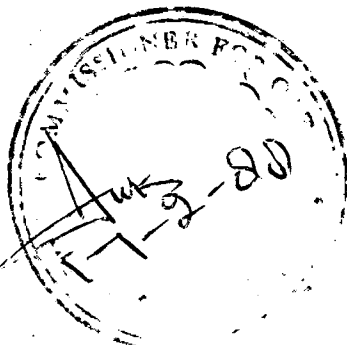




but their services were terminated arbitrarily and malafidely as the petitioners served the notices under 80 C.P.C. demanding the status of the temporary Railway Servants and claimed other benefits and Privileges admissible to them in law which caused annoyance against the petitioners resulting into termination of their Services.

13. That the contents of para 13 of the Counter Affidavit ~~of the~~ are denied in view of the submissions already made and the contents of para 17 of the Writ Petition are re-affirmed as correct. In case the petitioners would not have completed the requisite length of continuous service, they could not have been issued letter dated 29.6.78 contained in Annexure No.R-I to this Rejoinder Affidavit. The petitioners were not even served with the notices under section 25 of the Industrial Dispute Act 1947 which renders the retrenchment of the petitioner as void entitling them for payment of full wages for the period in question and also for reinstatement in service in continuity.

- 14- That the contents of para 14 of the Counter Affidavit are false and denied and the contents of para 18 of the Writ Petition are re-affirmed as correct. As already submitted all the petitioners had completed requisite continuous service and their services could not have been terminated without following the procedure prescribed under Industrial Disputes Act, 1947 and the rules made thereunder. It is respectfully submitted that the petitioners services were done away within the most arbitrary manner without complying with any provisions of the Industrial Disputes Act 1947 and the rules made thereunder. Their termination that the oral amounted to retrenchment with



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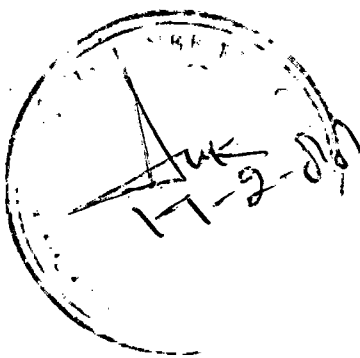
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the meaning of Section 2 (OO) of the Industrial Disputes Act, 1947 and is an unfare labour practice.

15. That the contents of para 15 of the Counter Affidavit are false and denied and in reply ~~to~~ the contents of para 19 of the Writ Petition are re-affirmed as correct. The Opposite Parties did not publish the seniority list before 7 days of the retrenchment as required under Rule 77 of the Industrial Disputes (Central) Rules 1957 in order to apply the Rule "First come last go" which is the essential requirement of Section 25-G of the Industrial Disputes Act, 1947. The petitioners were arbitrarily retrenched and persons junior to them were retained in service. The below noted persons who were appointed much after the petitioners under P.W. - 1, Biswan were retained in service and granted time scale in July 1978 while petitioners' services were terminated violating Article 14 and 16 of the Constitution of India.

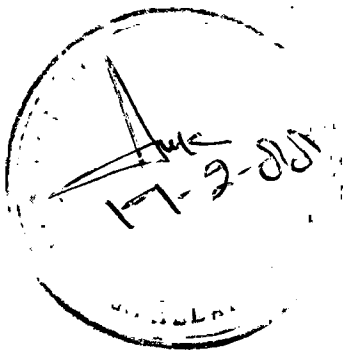
<u>Sl No.</u>	<u>Names of Junior Persons</u>
1.	Shri Ram Bilas son of Jagan Nath
2.	Shri Ram Gulam son of Not known
3.	Shri Shyam Lal son of Medai
4.	Shri Lalloo son of Bhagwan Din.
5.	Shri Raja Ram son of Nand Lal
6.	Shri Pauhani Yadava son of Mukhlal Yadava
7.	Shri Bishwa Nath son of Ram Bilas
8.	Jagat Narain son of Gopi Ram
9.	Shri Ram Sahai Son of not known
10.	Shri Kalloo Ram son of Baldev Prasad
11.	Shri Arjun son of not known
12.	Shri Bal Ram son Gaj Raj
13.	Shri Ram Swaroop son of Mahadin



29/12/78

14. Shri Nankau son of Ram Fal  
15. Shri Ram Brichcha son of Angnoo  
16. Shri FaujDar son of Mangroo  
17. Shri Ram Rekhey son of Munni Lal  
18. Shri Prakash Lal son of Piarey Lal  
19. Shri Mahesh son of Rameshwar  
20. Shri Ram Son of Muloo  
21. Shri Prakash Misra son of O.P. Misra  
22. Shri Jag Prasad son of Not known  
23. Shri Lal Bahadur son of not known  
24. Shri Mahmood son of not known  
25. Shri Mishri Lal son of Not known  
26. Shri Surendra Singh son of not known  
27. Shri Raghu Nath son of Not known  
28. Shri Satrohan son of Salik  
29. Shri Lalloo son of Bhagwandin  
30. Shri Bishambher Dayal son of Gokaran

16. That the contents of paragraph 16 of the Counter Affidavit are baseless and false and are denied and in reply to the contents of para 20 of the Writ Petition are re-affirmed as correct. The Opposite Parties have acted in the most arbitrary manner in terminating the services of the petitioners. They have taken different stands at different places in order to justify the illegal and arbitrary retrenchment. In the present para they have taken a plea that the petitioners themselves were not present and absented themselves at the relevant time which is absolutely a white lie on the face of Record which goes to prove that the petitioners have been moving applications after applications for giving them duty but the Opposite Parties or any other authorities of the Railway Department did not pay any head against the victimisation of



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of the petitioners for no fault of their own. In para 12 of the Counter Affidavit the stand of the Opposite Parties is that there was no work as such their services were terminated. In para 19 of the Counter Affidavit the Opposite parties have stated that the petitioners themselves left the work on their own accord and did not turnup at the required time. The self contradictory statements of the Opposite Parties make it abundantly clear that the service of the petitioners ~~was~~ terminated without following the requisite procedure as laid down under the statutory provisions of Industrial disputes Act, 1947 and the Rules made there-under rendering the termination/retranchment as nul and void.

17. That the contents of para 17 of the Counter Affidavit are false and denied and in reply the contents of para 21 of the writ petition are re-affirmed as correct. The seniority of the category of the workmen proposed to be retrenched is not required to be published once in a year but the same is required to be published before seven days of the retrenchment as and when the same is to be made. This requirement as laid down in Rule 77 of the Industrial Disputes (Central) Rules 1957 provides a safeguard to the workmen against arbitrary exercise of powers in causing retrenchments as the Opposite Parties have done in the present case.
18. That the contents of para 18 of the Counter Affidavit ~~are~~ denied and in reply the contents of para 22 of the Writ Petition are re-affirmed as correct.
19. That the contents of para 19 of the Counter Affidavit are totally false and are in contradiction

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of para 12 and 16 of the Counter Affidavit and are emphatically denied and <sup>in</sup> the reply of the contents para of/23 of the Writ Petition are re-affirmed as correct.

21. That the contents of para 21 of the Counter Affidavit are denied and it is stated that the Writ Petition ~~describes to be allowed~~ deserves to be allowed with cost against the Opposite Parties.
22. It is also worth mentioned that out of seven petitioners except petitioner no.5 i.e. Sohan Lal, the deponent, all others have been regularised in service and have been given regular scale of pay and other benefits and previledges which are admissible to permanent Railway Servants. The Deponent alone is still out of employment and is facing starvation although he was appointed in 1971 and continuously worked till the date of his termination. The deponent during the aforesaid period several times ~~meet~~ only completed 4 months continuous service but in the year 1972 he continuously worked w.e.f. 22.9.72 to 15.2.74 with only two authorised gaps on 9.12.73 and 8.1.74 and only this continuous working period comes to 512 days according to the chart submitted by the Opposite Parities themselves as Annexure A to the Counter Affidavit.
23. That according to numerous decisions of the Hon'ble Supreme Court such a casual labour who completed more than five hundred days continuous service in one spell cannot be deprived of being regularised in service.

Lucknow :

सोहन लाल  
Deponent

Dated : 17.02.1988

Verification

I, the above named deponent do hereby verify that the contents of para 1 to 23 of the Rejoinder Affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed. So help me God.

Lucknow :

श्री सोहन लाल  
Deponent

Dated : 17.02.1988

I identify the deponent who has signed in my presence. He is personally known to me.

RC Saxena  
(RC Saxena)  
Advocate

17-2-88  
Solemnly affirmed before me by Shri Sohan Lal, the deponent, on 17-2-88 day at 11-00 A.M./P.M. who is identified by Shri RC Saxena, Advocate High Court, Lucknow Bench, Lucknow.

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

Oath Commissioner  
A. N. Khanam  
A.N. KHANAM  
OATH COMMISSIONER  
High Court Bench  
Lucknow Bench Lucknow  
No. 4/1209...  
Date 17-2-88

8/5 (13)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

T.A. NO. 316 OF 1987 (T)

Nand Kishore & Others . . . . . Petitioners

Versus

Union of India & Others. . . . . Opp. Parties

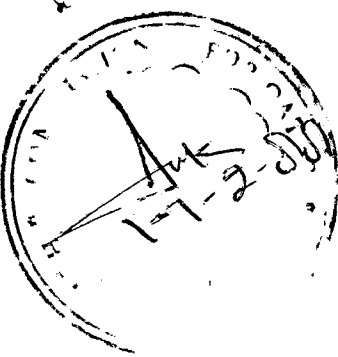
ANNEXURE NO.R-I

North Eastern Railway

NO.E/227/I/STP/PW 1/Mailani      Office of the  
Assistant Engineer  
Sitapur dated 29.6.78

Subject : First medical examination for grant of  
time scale etc.-----

Please direct the under noted casual labours who are working under your for first medical examination. So that they may be granted time scale. They will bring with them their C.L. Cards, original date of birth certificate, caste certificate in case of S.C. and S.T. etc. They will also be instructed to stay here more than two days. They will come here upto 10.7.78 positively otherwise they will loose their chance finally.

- 
1. Shri Sri Pal Son of Parbhoo
  2. Shri Mishree Lal S/o Chait Ram.
  3. Shri Nanwari Son of Bhagwan Deen
  4. Shri Lalloo son of Bhagwan Deen
  5. Shri Nand Kishore son of Kashi
  6. Shri Foojdar son of Mainroo
  7. Shri Bishambhar Dayal son of Badri Prasad
  8. Shri Umrao Lal son of Miggo.
  9. Shri Ram Sanehi son of Gays Prasad.
  10. Guru Prasad son of Ram Lal
  11. Munabbar son of Fakire.
  12. Shri Kishori Lal son of Dhondhey
- 21/5-12/14

13. Shri Devi Dayal son of Khagga
14. Shri Sheo Balak Son of Birju
15. Shri Sohan Lal son of Sarju
16. Shri Ashik Ali son of Jhabboo

Sd/- Assistant Engineer  
Sitapur

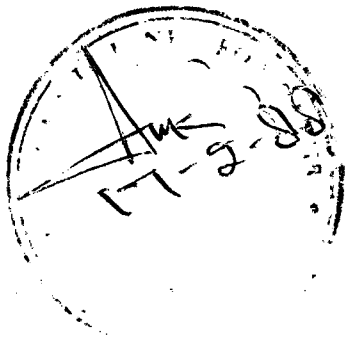
Copy to :

P.W.1/B.V.N. for information in continuation to this  
office letter No.E/227/I/STP/391 dated 17.5.78 and  
8.6.78

Spare copy for notice board.

Sd/-  
Assistant Engineer, Sitapur

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

T.A. NO.316 OF 1987 (T)

Nand Kishore & Others .. .. . Petitioners

Versus

Union of India & Others .. .. . Opp. Parties

ANNEXURE NO.R-II

To

The Division Superintendent  
North - Eastern Railway  
Ashok Marg,  
Lucknow

Subject : Victimisation and harassment of  
the Casual Labours

Reference : Our Representation dated July 27,  
1978

Sir,

We, 1) Nand Kishore, 2) Kishori Lal, 3) Sheo Balak,  
4) Sohan Lal, 5) Devi Dayal, 6) Umrao Lal, 7) Ashiq Ali  
and 8) Munabber the casual labours, working under P.W.I  
Mailani, most respectfully beg to state as under :-

1. That the applicants had served notices under Section  
80 C.P.C. dated June 10, 1978, praying for grant of the  
status of Temporary Railway Servant with full arrears  
of salary and all privileges and immunities from the  
respective dates as indicated in the notices aforesaid  
and the said notices have been duly served on all the  
concerning railway authorities.

2. That after the service of the notices the permanent  
Way Inspector, Mailani and Assistant Engineer, Sitapur,  
have adopted a revengeful attitude against the applicant  
as has already been stated in the representation of the  
applicants dated July 27, 1978, and the applicants are  
being forced to withdraw their notices failing which  
they have been threatened that their services will be  
terminated.



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3. That the applicants vide their representation dated July 27, 1978 sent by registered post very respectfully stated their difficulties but no action could be taken so far in that behalf by your honour.

4. That the P.W.I. Mailani and the Assistant Engineer Sitapur are not allowing the applicants to perform their duties even without serving any orders in writing on the applicants.

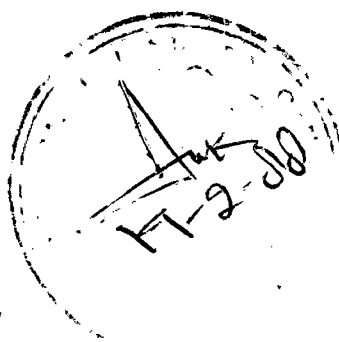
5. That the fact is that the applicants are always ready to work and approached the P.W.I. Mailani regularly to give them duty but without any orders in writing he is keeping the applicants away from duties and marking them absent.

6. That the applicants approached the P.W.I. Mailani and the Assistant Engineer Sitapur many times and requested that either the applicants may be given duty or if the same is not possible they should at least be informed of the reasons as to why they are not being allowed to perform their duties.

7. That the applicants' salary after July 8, 1978, have also not been paid to them nor they have been assigned any reasons therefor.

8. That the applicants having no other way out approached your honour yesterday i.e. on 16.8.78 and stated the facts and the difficulties whereupon your honour directed the applicants to see the Divisional Personnel Officer, Lucknow.

9. That as per your honour's orders the applicants met the D.P.O. then and there who instead of considering the difficulties rebuked, insulted and physically beaten the applicants out of the office premises with the aid



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of 10 to 15 men of his office who also had beaten the applicants.

10. That a written F.I.R. to the above effect was given to the S.O. Hazratganj, Lucknow but instead of writing actual F.I.R. of the applicants a different F.I.R. u/s 323/504 I.P.C. has been written in the Police Station.

11. That the applicant are the Railway employees having their legal rights and they have not to live at the mercy of the Railway authorities nor can they be dealt with as if they are their personal servants.

12. That keeping away the applicants from duty without any orders and not making the payment of their wages is an extreme example of victimisation and harassment to ~~be done~~ the applicants and the same cannot be allowed to be done at any rate in the present democratic set up of the Government.

13. That it is expedient under the aforesaid circumstances that either the applicants may be ordered to join their duties and paid their wages immediately or if the same is not possible and if their services have been terminated as threatened they may be served with the orders of termination so that they may proceed with the matter in the proper court of law.

Therefore it is prayed that either the applicants may be ordered to join their duties and they may be paid their full wages or if the same is not possible and if their services have been terminated as threatened they may proceed with the matter in the proper court of law.

Lucknow : Dated  
17.8.78

Applicants.

1. Sd/- Nand Kishore
2. Sd/- Keshore Lal
3. Sd/- Shiv Balat
4. Sd/- Sohan Lal
5. L.T.I. Devi Dayal
6. Sd/- Umrao Lal
7. Sd/-
8. Sd/-

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW.

--

TA No.316 OF 1987 (T)  
(WP No. 2303 OF 1978.)

Nand Kishore and others ..... APPLICANT.

V/S

Union of India and others. ... .. OPP. PARTIES.

Application for dismissing the petition.

I, K.R.Yadava aged about 49...s/o...*Shri R.E. Yadav*...

most respectfully showeth as under:-

1. That I am presently posted as Asstt.Engineer,N.E. Railway, Sitapur and have been duly authorised on behalf of the respondent to file the instant reply on behalf of the respondents. I have carefully perused the relevant records relating to the instant case and thus fully acquainted with the facts of the case deposed to below:-
2. That I have gone through the contents of the petition and have understood the contents thereof.
3. That the petitioners had filed the present case against what they term as "illegal termination" of their services on several grounds. It is, however, pertinent to note that the petitioners were working as Casual Labours in the Railways and were not either regular or confirmed employees of the Railways.
4. That against the case set-forth by the petitioners counter affidavit on behalf of answering opposite parties was filed in which the entire position and stand of the opposite parties was explained in detail.
5. That as a subsequent development all the petitioners except Shri Sohan Lal S/O Shri Sarju have been reengaged after availability of further sanction of posts and they are performing their duties without any grievances and as far as

Contd.....2

*a. 22*  
सहायक इंजीनियर  
रानीचर रोड, सीतापुर

A/8  
(A/8)

Shri Sohan Lal is concerned, since he did not turn up, the question of reengaging him does not arise.

6. That in view of the submissions made in the foregoing paragraphs, it would be evident that their grievances against "termination" of their services/appointments have been satisfactorily removed and the present T.A.No.316 (T) of 1987 has become infructuous and is liable to be dismissed as such.

7. That under the circumstances, the deponent, on the basis of legal advice rendered by his counsel begs to submit that it would be expedient in the interest of justice that the T.A. No.316 (T)/87 be dismissed as having become infructuous.

V E R I F I C A T I O N .

I, K.R.Yadava, do hereby verify that the contents of paragraph 1 and 2 of this application are true to my personal knowledge and those of paragraphs (3) to (6) are based on the record and the same is believed to be true. The contents of paragraph (7) are based on legal advice and the same are believed to be true and no part of it is false.

Sitapur  
Dated 22/8/88

DEPONENT  
पुष्पेश्वर रेलवे, सीतापुर

Verified this on.....at Lucknow.

Sitapur  
28/8/88  
SIGNATURE OF RAILWAY ADVOCATE.

(B)  
a

File  
NS/CCS  
64

# VAKALATNAMA

Before  
in the Court of

The Central Administrative Tribunal  
Allahabad Bench

9/11 Reg No. 316 of 1987 CT

Nand Kishore App.

Versus

Union of Indis 2 others - Resp.

1/Ws. A. Mittal, Div. Rly. Manager,  
NR Rly, Lucknow

I do hereby appoint and authorise Shri. Anil Sthalekar, advocate  
Allahabad

Railway Advocate. to appear, act apply and prosecute the above described Writ/Civil Revision/Case/Suit/Applicaion/Appcal on my/our behalf, to file and take back documents, to accept processes of the Court, to deposit moneys and generally to represent myself/ourselves in the above proceeding and to do all things incidental to such appearing, acting, applying, pleading and prosecuting for myself/ourselves.

I/We hereby agree to ratify all acts done by the aforesaid Shri. Anil Sthalekar  
Allahabad  
Railway Advocate,

in pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed by me/us this.

day of 1987

(A. Mittal)

Accepted  
Anil Sthalekar  
Counsel for Responder.

# VAKALATNAMA

Before  
In the Court of

The Central Administrative Tribunal  
Allahabad Bench

Reg. No. 316 of 1987

Nand Kishore

Versus

Union of India and others.

I/we Mohinder Singh, Permanent way  
Inspector, NER, Paliyakalan, Dist. Lakhimpur

do hereby appoint and authorise Shri. Anil Sthalekar

Railway Advocate. Allahabad to appear, act apply and prosecute the above described Writ/Civil Revision/Case/Suit/Applicaion/Appeal on my/our behalf, to file and take back documents, to accept processes of the Court, to deposit moneys and generally to represent myself/ourselves in the above proceeding and to do all things incidental to such appearing, acting, applying, pleading and prosecuting for myself/ourselves.

I/We hereby agree to ratify all acts done by the aforesaid Shri. Anil Sthalekar.

Railway Advocate, Allahabad.

in pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed by me/us this.....

day of.....198..

मि निर

C. Mohinder Singh

रेल पथ निरीक्षक

पूर्वोक्त रेलवे

पलिया कला

Accepted  
Anil Sthalekar  
Counsel for Respondent

वकालतनामा

..... The Central Administrative Tribunal ..... के समक्ष  
..... Allahabad Bench ..... के न्यायालय में  
Registration No. 316 of 1987 (T)

वादी Nand Kishore and others  
प्रतिवादी

दावेदार  
अपीलार्थी

तिवादी Union of India

वादी ① Divisional Rail Manager, NE Rly, Lucknow  
② Divisional Engineer NE Rly, Lucknow  
③ Permanent Way Inspector, NE Rly, Biswan

अपीलार्थी  
प्रत्यार्थी

भारत के राष्ट्रपति इसके द्वारा श्री. Anant S. Kalekar, Railway Advocate

32 Naya Mang, Allahabad

को उपर्युक्त वाद/अपील/कार्यवाही में भारत संघ की ओर से उपसंजात होने, कार्य करने, आवेदन करने, अभिवचन करने और आगे कार्यवाही करने के लिए दस्तावेज दाखिल करने और वापस लेने, न्यायालय की आदेशिका स्वीकार करने, काउन्सेल, अधिवक्ता या प्लीडर नियुक्त करने और उन्हें अनुदेश देने, रुपया वापस लेने और उसका निक्षेप करने तथा उपर्युक्त वाद/अपील/कार्यवाही में भारत सरकार का साधारण प्रतिनिधित्व करने और भारत संघ के लिए इस प्रकार उपसंजात होने, कार्य करने, आवेदन करने, अभिवचन करने और आगे कार्यवाही करने की अनुषांगिक सभी बात करने के लिए नियुक्त और प्राधिकृत करते हैं। किन्तु यह इस शर्त के अधीन रहते हुए होगा कि जब तक भारत सरकार के समुचित प्राधिकारी से उस निमित्त पहले ही स्पष्ट प्राधिकार प्राप्त नहीं कर लिया गया है, तब तक उक्त काउन्सेल/अधिवक्ता/प्लीडर या उसके द्वारा नियुक्त काउन्सेल/अधिवक्ता/प्लीडर सभी या किसी प्रतिवादी/प्रत्यार्थी/अपीलार्थी/वादी/विरोधी पक्षकार के विरुद्ध उस वाद/अपील/दावा/प्रतिरक्ष/कार्यवाही को पूर्णतः या भागतः न तो वापस लेगा, न उसका अधित्यजन करेगा, न ऐसा कोई करार करेगा या समझौता करेगा जिसके द्वारा वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित की जाए और न उससे उद्भूत या उसमें विवादग्रस्त सभी या किसी विषय को मध्यस्थ की निष्पत्ति करेगा, परन्तु आपवादिक परिस्थितियों में जब भारत सरकार के समुचित प्राधिकारी से परामर्श करने के लिए पर्याप्त समय नहीं है और वाद में समझौता करने में लोप करना निश्चित रूप से भारत सरकार के हित के प्रतिकूल होगा तो उक्त प्लीडर/अधिवक्ता/काउन्सेल ऐसा कोई करार या समझौता कर सकेगा जिसके द्वारा उक्त वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित हो जाय और ऐसे प्रत्येक मामले में काउन्सेल/अधिवक्ता/प्लीडर कसर या समझौता करने के विशेष कारण बताते हुए उक्त अधिकारी को तत्काल संसूचित करेगा।

राष्ट्रपति इस प्राधिकार के अनुक्रम में श्री. Anant S. Kalekar, 32, Naya Mang, Allahabad

द्वारा किए गए सभी कार्यों का अनुसमर्थन करने को सहमत हैं।

इसके साक्ष्यस्वरूप भारत के राष्ट्रपति के लिए और उनकी ओर से इस विलेख को आज तारीख 14.8.87 को सम्यक् रूप से निष्पादित किया जाता है।

तारीख 14.8.87 19

Accepted  
Anant S. Kalekar  
Counsel for Respondent

निष्पादन करने वाले अधिकारी का  
Genl. Dy. Engg.  
D. B. Rly. Lucknow



39  
B  
NS/CCS

# VAKALATNAMA

In the Central Administrative Tribunal  
(Allahabad Bench)  
Allahabad.

Before  
in the Court of

Registration No. 316 of 1987 (T),

~~Plaintiff~~  
~~Defendant~~

Sri. Nand Kishore

~~Claimant~~  
~~Appellant~~

Versus

~~Defendant~~  
~~Plaintiff~~

Union of India & others.

~~Petitioner~~  
~~Respondent~~

The President of India do hereby appoint and authorise Shri... A. Sthalaker

Ry Advocate Allahabad

.....to appear, act, apply, plead in and prosecute the above described suit/appeal/proceeding on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying, Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceeding against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agree to ratify all acts done by the aforesaid Shri... A. Sthalaker

Ry Advocate Allahabad

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the .....day of.....198 .

Dated .....198

VER-84850400-8000-4 7 84

Accepted  
Amit Sthalaker  
Counsel for Respondent.

(A. Pete)  
Designation of the Executive Officer,

Dy Chief Personnel Officer  
North Eastern Ry  
Gorakhpur

NS/CCS  
n4

# VAKALATNAMA

Before  
in the Court of

The Central Administrative Tribunal  
Civil Bench, Lucknow  
TA no. 316 of 1987 CD

Plaintiff  
Defendant

Nand Kishore & others

Claimant  
Appellant

Versus

Defendant  
Plaintiff

Union of India & others

Petitioner  
Respondent

The President of India do hereby appoint and authorise Shri. Siddharth Verma

Ry Advocate, Lucknow

to appear, act, apply, plead in and prosecute the above described suit/appeal/proceeding on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying, Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceeding against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agree to ratify all acts done by the aforesaid Shri. Siddharth Verma

Ry Advocate, Lucknow

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the ..... day of ..... 198 .

Dated ..... 198

Designation of the Officer,

NER-84850400-8000-4 7 84

Accepted

Shering

22/8/88

(Siddharth Verma)  
Advocate

51  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
Circuit (ALLAHABAD BENCH)  
23-A Thornhill Road, Allahabad-211001.

No. CAT/ALH UKO

Gandhi Bhawan, Lucknow

DATED 11/5/78

Transfer Application No. 24/80(TL) of 198 (T)

(316/87(T))

Nand Kishore & Sons

APPLICANT

Versus

Union of Andes and others

RESPONDENTS

To

Sri Anant Asthalekar

C. A. T.

Allahabad.

WHEREAS the marginally noted case has been transferred  
by High Court, UKO under the provisions of  
the Administrative Tribunal Act (No. 13 of 1985) and registered in  
this Tribunal as above.

L.P. No 2303 of 19 78  
of the Court of High Court  
arising out of the order dated     

Passed by       
in       
      
      
    

The Tribunal has fixed the  
date of 25/5/1988  
for the hearing of the  
matter.

If no appearance is  
made on your behalf by your-  
self, your pleader or by  
someone duly authorised to

act and plead on your behalf, the matter will be heard and  
decided in your absence.

Given under my hand and seal of the Tribunal this 11  
5 day of 18 MAY 198

11/5  
DEPUTY REGISTRAR.

Send to Hrough  
D. R. C. AT  
18/5/78

fish

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
(ALLAHABAD BENCH)

23-A Thornhill Road, Allahabad-211001.

CAT/ALLO

20599-00

DATED

18/7/07

Transfer Application No.

316

of 1987

(T)

A/69

Nand Kishore

APPLICANT

Versus

Union of India, through G. M. E. M. Rly and others

RESPONDENTS

1- Nand Kishore, S/o Sri Kishan, Dhorwal Post  
Mukshari Bazar, District Gopalganj, Behar.

2- Umrao Lal, S/o Sri Khagga, R/o Saranya Seth Post  
Ser. Distt, Sitapur.

WHEREAS the marginally noted case has been transferred  
by High Court Lucknow under the provisions of  
the Administrative Tribunal Act (No. 13 of 1985) and registered in  
this Tribunal as above.

No. 2203 of 1978

of the Court of Administrative Tribunal  
arising out of the order dated \_\_\_\_\_

Passed by \_\_\_\_\_

In \_\_\_\_\_

The Tribunal has fixed the

date of 17-8-1987

for the hearing of the  
matter.

If no appearance is  
made on your behalf by your-  
self, your pleader or by  
someone duly authorised to

act and plead on your behalf, the matter will be heard and  
decided in your absence.

Given under my hand and seal of the Tribunal, this 18th  
day of July 1987

3- Mumabber, S/o Sri Fakiray  
R/o Sonsa, Post Bilauli Bazar,  
Distt Sitapur.

[Signature]  
DEPUTY REGISTRAR.

4- Ashik Ali S/o Sri Khagga, R/o Mohraiya Khurd Post Parsandy,  
Distt, Sitapur.

5- Bahar Lal S/o Sri Sarjoo Prasad, R/o Mohraiya Khurd, Post  
Parsandy, Distt, Sitapur

6- Devi Dayal S/o Sri Khagga, R/o Mohraiya Khurd, Post ~~Parsandy~~  
Parsandy, Distt Sitapur.

(P.T. 02)

7  
7/10/90  
CENTRAL ADMINISTRATIVE TRIBUNAL  
(ALLAHABAD BENCH)  
ALLAHABAD

23756  
23-A, Thornhill Road, Allahabad.

No. CAT/ALLD. Reg-No. 316 (7) 107

DATED 13/10

Nand Kishore & others

APPLICANT

VERSUS

Union of India & others

RESPONDENT

Sri Nand Kishore and 6 others

C/o Sri R. C. Saxena, Advocate,  
High Court, Lucknow.

WHEREAS the marginally noted case has been transferred by High Court Lko. under the Provisions of the Administrative Tribunal Act (No. 13 of 1965) and registered in this Tribunal as above.

Writ Petition No. 2303 of 1978

of the Court of High Court Lko.

arising out of the order dated

passed by

in

the Tribunal has fixed the

date of 19-10-78

for the hearing of the matter

If no appearance is made

on your behalf by yourself,

your pleader or by someone

only authorised to

act and plead on your behalf, the matter will be heard and decided in your absence.

Given under my hand and seal of the Tribunal

this 5/10/87 dat of 1987

DEPUTY REGISTRAR

JKS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW. *Gandhi Bhawan Lucknow*

No. CAT/Allc/2411/ 29411 to 412 Dt. 15.4.88

T.A.No. 32C/87 (T)

Band Kichoro and others.

Applicant

Versus

Union of India and others.

Respondents.

To,

1. Shri R.C. Saxena, Advocate, High Court, Lucknow Bench Lucknow.

2. Shri. Ashok Kumar Advocate, C.A.T. Allahabad.

Whereas the marginally noted cases have been transferred by H.C. Lucknow under the provision of the Administrative Tribunal Act (NO. 13 of 1985) and registered in this Tribunal as above.

First Petition No. 2303/78  
of the Court of H.C. Lucknow.

The Tribunal has fixed date of 26.4.88. The hearing of the matter.

If no appearance is made on your behalf by your duly authorized to Act and plead on your behalf

the matter will be heard and decided in your absence.

Given under my hand and seal of the Tribunal this 15th day of April 1988

*[Signature]*  
Deputy Registrar.

Before the Administrative Tribunal  
(Circuit Bench), Allahabad.

T.A. No. 316 - 87 (T)

(B3)

Sl. No. 9

Nand Kishore & others — Applicants  
VS.

Union of Indus & others — O.P.s.  
Application for Adjournment

It is respectfully  
Submitted as under:

1. That as I shall remain out  
of station from tomorrow i.e.  
25.5.1988 I shall not be  
able to conduct cases  
listed before this Tribunal.

It is, therefore  
prayed that the hearing  
of the above noted case  
may kindly be adjourned  
to some other date  
after vacation.

Recd

For Sd/-  
Vasom 4/84

cc 522  
(5) 1/84  
22.8.88

5.

25/5/88  
25/5/88

Advocate

Counsel for  
Applicants

NO 1 Before the central Administrative Tribunal  
(2nd Bench), D.K.O. A/3  
T.A NO 316 of 1987 (63/2)

Kand Kishore — Applicant  
vs. and others

Union of India — of 5.  
and 2 others

Application For  
Adjournment

It is respectfully  
submitted as follows:

1- Since I am not feeling  
well I am unable to argue  
the above noted case  
today.

2- That it is expedient in  
the interest of justice to  
adjourn the case today.

It is therefore prayed  
that the above noted case  
may be adjourned today  
and may be fixed  
in the next court  
from 23.5.88.

D.K.O.  
26/4/88

Deputy  
Adv

Counsel for Applicant



24/12

Before the central Administrative  
Tribunal at Allahabad.

T.A NO 316-87 (T)

8/84

(B3/3)

Nand Kishore & others — Applicants  
vs.

Union of India & others — O/S

Application for time F.F. 1<sup>12</sup>/87

It is respectfully  
submitted as under —

1- That in the above noted  
case for want of certain  
documents / informations  
the rejoinder affidavit could  
not be prepared.

2- That filing of R.A.  
is necessary in the case  
and other informations are  
also necessary to be brought  
on record.

3- That it is expedient  
in the interest of justice  
that one month's time may  
be allowed to file R.A.  
in the case.

It is, therefore, prayed  
that the Tribunal may be  
pleased to allow one month's  
time to file R.A. in the  
above case. This case is similar  
to case no. T.A. 317-87(T) and  
may be fixed alongwith the same.

Allahabad.  
Dt. 27.11.87

Advocate  
Advocate

(R.C. Saxena)  
counsel for applicants

To  
The Deputy Registrar  
= A. T. I. Lucknow. ~~11/11~~

(B3/4)

Reg. certified copy of  
order dated 28.10.88  
passed in TA NO 316-87G  
Nand Kishore & others  
vs  
union of Jodis & others

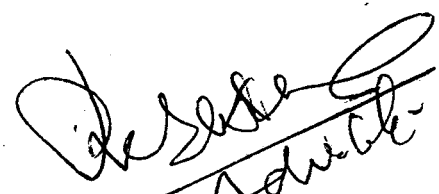
Sir,

In the above noted case  
the Hon'ble Bench has passed order  
dated 28.10.1988 for further steps  
to be taken by one of the petitioners  
Sri Sohan Lal

The copy of said order  
is urgently required as such it  
is prayed that the copy of  
order dated 28.10.88 may  
kindly be issued today.

Sri S.K. Srivastava  
for ms. pl.  
28/10/88

done  
28.10.88.

  
Deputy Registrar  
Court for petitions

11/10

Copy of order Dated 28.10.1988 Passed  
by the Bench consisting of Justice G. S. Sharma  
J. S. Mishra and G. S. Sharma.

Sri R. C. Saxena for Applicant,  
Sri S. Verma for Respondents.

An application has been filed on behalf of the respondents praying for dismissal of the ~~said~~ petition as infructuous with the allegation that all the applicants except Sri Sohan Lal have been taken back in service and Sri Sohan Lal could not be taken back because he did not turn up. The contention of the respondents is controverted by the learned counsel for the applicant who has agreed to inform his client to personally contact the Divisional Railway Manager, Dabra on 15.11.88 and if he is not satisfied he may file reply to the application filed by the respondents with in a week thereafter. List this case on 24.11.88.

Sd -  
J.M.

Sd -  
A.M.