

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE. TA 321/87
WP No 2511/78 OF

NAME OF THE PARTIES Kripal Singh son Applicant

Versus

U.P. Govt Respondent

Part A.

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6	any paper, notice of trial, power	A34
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CERTIFICATE

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

Checked on Dated 01-11-11

Counter Signed.....

Rajesh
17/12/2011

Section Officer/In charge

or
Signature of the
Dealing Assistant

GENERAL INDEX

Nature and number of case..... W.P. No. 2510 of 1978

Name of parties.....

Date of institution... 27-X-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
					Rs.	P.		
	1.	Title	1	—	—	—		
	2.	Index	1	—	—	—		
	3.	Petition	14	3	100	—		
	4.	Affidavit	2	1	2	—		
	5.	Annexures	6	—	—	—		
	6.	Power	1	1	5	—		
	7.	Stay application	2	1	5	—		
	8.	Power -	1	—	5	00		
	9.	order sheet	2	—	—	—		
	10.	Banded Copy	1	—	—	—		

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.

Munsarim

Clerk

Date

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

FORM OF INDEX

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

321

1987

Kripal Singh & Co. vs. U.O.I. am.

(W.P. 2511/75)

PART - I

- | | | |
|----|------------------|------------|
| 1. | Index Papers | :- 1 to 2 |
| 2. | Order Sheet | :- 3 to 12 |
| 3. | Any other orders | :- — |
| 4. | Judgement | :- — 8/10 |
| 5. | S.L.P. | :- — |

Dy. Registrar

Supervising Officer

Dealing Clerk

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

WIL

Dealing Clerk

K. Mishra

21/7

1

A1
1Annexure - A
CAT - 32CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD-BENCH, ALLAHABAD

hukukow

8/11

INDEX-SHEETCAUSE TITLE Reg. T.A. 321 OF 1937. (T)Name of the Parties Kripal Singh & others

Versus

Union of India & othersPart A, B & C

S.No.	DESCRIPTION OF DOCUMENTS	PAGE
A1	General Index - - - - -	1
A2	Order sheet - - - - -	4
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B1	Vakalatnama - (Pamer) -	1
B2	Notice - - - - -	5
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	{ (W.P. No 2511/70) }	

2

Annexure- B

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Application No. _____ of 198 .

Transfer Application No. _____

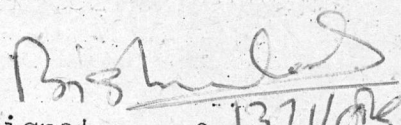
Old Writ Petition No. _____

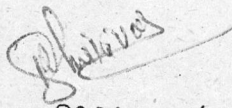
CERTIFICATE

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

Dated: 13/1/89

Countersigned _____


Signature of the
Dealing Assistant.

For 
Section Officer/Court Officer.

.....

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

Ref NO. 321 (7) OF 198

VS.

SL NO of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
	5.9.88	No. sitting Adj to 29.8.88	
	29.8.88	No. sitting Adj to 14.9.88.	mls
	14.9.88	No. sitting Adj to 4.10.88	mls
4 ¹⁰ / ₈₈		Hon. K. S. Puttaswamy, v.c. Hon. A. Johri, A.M.	
		<p>Case called. The applicant and the learned counsel are absent. Respondents by Sri N. B. Singh. This case has been transferred by the Lucknow Bench of the Allahabad High Court. We consider it proper to call this case for further orders at Lucknow in our next sitting.</p> <p>Call this case at Lucknow on 6.10.88.</p> <p>2 ✓ A.M.</p> <p>✓ v.c.</p>	
	6.10.88	None is present for the parties. The case is adjourned for 20.10.88 and inform the parties.	B.O.C.
		Done 6.10.88	

Notice issued to the parties.

msb
ak

(4)

SL. NO. of order	Date of Order	ORDER WITH SIGNATURE	Office notes as to action (if any) taken on order
	20/x/80	<p>Hen. D. S. Misses, Am.</p> <p>Hen. G. S. Sharma, Im.</p> <hr/> <p>For orders see our orders of date passed on the main petition.</p> <p>Jm.</p>	<p>by</p> <p>Am.</p>

16/8

आदेश पत्रक
ORDER SHEET

(A2/3)

6 8/6

अपील
निर्देश आवेदन

No. in Reference Application Register
Appeal

T.A. No. 321/87 (T)

W.P. 2511-78

Kripal Singh & ors.
vs.

Union of India & ors.

अपील अतिकरण
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 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

Office report.

W.P. No. 2511-78 has
been received on transfer from the
Hon'ble High Court Uo.

At the time of transfer
W.P. is admitted, C.A and R.A
has not been filed.

Petition regarding promotion
and seniority.

Notices issued to both
the parties by regd post fixing 2.9.87.

No undelivered regd
cover have been return back.

Submitted

for
31/8/87

7

आदेश की क्रम संख्या
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

2/9/87

Registrar

None present for the parties
Issue fresh notice to the parties
through Counsel appearing on behalf of
them in High Court fixing 12/10/87

Office report
fresh notices
issued to the parties
through his
counsel appearing
on behalf of them
in High Court like
by Rego post,
Jen

5/9/87

12/10/87 DR

Put up with fresh service
report on 2/11/87.

Registrar

No undelivered
regd covers have
been returned
back

Jen
6/10

DR(J)

Office report
No undelivered
regd covers have
been returned
back

2/11/87 Registrar

None present for the parties.
Put up with fresh service report
on 30/11/87.

Office report
No undelivered
regd covers
have been
returned
back

Jen
29/11

30-11-87 Registrar

None present for applicant. One
official of court present. Issue fresh
notice through Counsel to the applicant
fixing 24/12/87. Reply can be filed by that date.

DR(J) Registrar

Jen
26/11/87

Notice issued to the applicant

Registrar

24/12/87 Jen
3/12

22/1/88
16.2.88

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

Order No 29 of 1987

.....No.....of 198 ..

TA 321 Q 8757

.....Vs.....

Sl.No. of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any taken on order
	<i>16-2-88</i>	<p><i>Deputy Registrar</i></p> <p>No one is present on behalf of applicant. Reply has also not been filed by the respondents. Issue fresh notices to the applicant as well as to his counsel appearing in the High Court. Put up on 25-3-88</p> <p><i>DR. J.</i></p>	
	<i>25-3-88</i>	<p><i>DR. J.</i></p> <p>Notice issued to the applicant through their Counsel fixing 23.3.88 day rege post.</p> <p><i>DR. J.</i></p> <p>Put up on 12.4.88 whether notices sent have been returned or not.</p> <p><i>DR. J.</i></p> <p>Office report</p> <p>No undelivered rege cover has been return back. No one is appeared to the postbox.</p> <p><i>DR. J.</i></p>	

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

Petition under Article 226 of the Constitution
of India

Writ Petition No. 2511 of 1978

1. Kripal Singh, aged about 52 years, son of late S. Hukum Singh, resident of Hukum Nivas, Bahadur Khera, Singarnagar, Lucknow-5
2. S. Gurbachan Singh, aged about 52 years, son of late S. Bhagat Singh, resident of 114/3, Chandra Nagar, Alambagh, Lucknow
3. Ved Prakash Tewari, aged about 51 years, son of late Dr. Dharam Chand Tewari, resident of Quarter no. H-2/5, Balda Road Colony, Nishatganj, Lucknow,
4. Shyamji Varma, aged about 40 years, son of Sri Mangla Prasad Varma, resident of C-45/6, Paper



Kripal Singh

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

Runo 29 of 1987

.....No.....of 198 .

TA 321 Q 87.17

.....Vs.....

Sl.No. of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any taken on order
	<i>16-2-88</i>	<p><i>Deputy Registrar Sir</i></p> <p><i>No one is present on behalf of applicant. Reply has also not been filed by the respondents. Issue fresh notices to the applicant as well as to his counsel appearing in the High Court. Put up on 25-3-88</i></p> <p><i>DR. J.</i></p>	
	<i>25-3-88</i>	<p><i>Notice sent to the applicant through their Counsel fixing 25.3.88 day next post.</i></p> <p><i>JSV</i></p> <p><i>10/12</i></p> <p><i>DR</i></p> <p><i>Put up on 12-4-88 unless notices sent have been returned or not.</i></p> <p><i>Office report</i></p> <p><i>No undelivered regd cover has been return back. No one is appearing to the postbox.</i></p> <p><i>JSV</i></p> <p><i>21/4/88</i></p>	

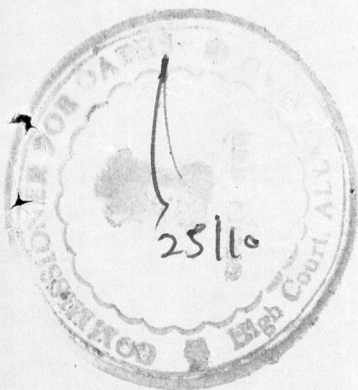
Sl.No.of order	Date of order	ORDER WITH SIGNATURE	Office notes as to action (if any) taken on order
	12.4.00	<p>DR.</p> <p>Notices have not been returned although notices to the applicant are well as though the counsel have been used.</p> <p>Put up in 4.5.00 probate with office report - whether the notices have been returned or not - after service. Counter may be filed in the meantime.</p> <p><i>[Signature]</i></p> <p>C/R.</p> <p>In compliance of Hon. Tribunal's order dt. 12.4.00 It is Submitted that the notices which were issued to the applicant and his Counsel have not been returned back so far.</p> <p>It is also to add that the Counter affidavit has also not been filed so far.</p> <p><i>[Signature]</i> 29/4</p>	
4500	DR.	<p>No one is appearing since its transfer from Lucknow Bench despite several notices issued Service on applicant held sufficient.</p> <p>No counter has been filed, but the case is set for hearing on 5.7.00. Counter if any may be filed in the meantime.</p> <p><i>[Signature]</i></p>	

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

Petition under Article 226 of the Constitution
of India

--- 2511
Writ Petition No. of 1978

1. Kripal Singh, aged about 52 years, son of late S. Hukum Singh, resident of Hukum Nivas, Bahadur Khera, Singarnagar, Lucknow-5
2. S. Gurbachan Singh, aged about 52 years, son of late S. Bhagat Singh, resident of 114/3, Chandra Nagar, Alambagh, Lucknow
3. Ved Prakash Tewari, aged about 51 years, son of late Dr. Dharam Chand Tewari, resident of Quarter no. H-2/5, Balda Road Colony, Nishatganj, Lucknow,
4. Shyamji Varma, aged about 40 years, son of Sri Mangla Prasad Varma, resident of C-45/6, Paper



Kripal Singh



124-21351-2
m
27/1/78

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

Application for interim relief

5582
C.M. Application No. (w) of 1978

Writ Petition No. 2511 of 1978.

Kripal Singh ~~and others~~, aged about 52 years, son of
late S. Hukum Singh, resident of Hukum Nivas, Bahadur
Khera, Singarnagar, Lucknow-5

2. S. Gurbachan Singh, aged about 52 years, son
of late S. Bhagat Singh, resident of 114/3, Chandra
Nagar, Alambagh, Lucknow.

3. Ved Prakash Tewari, aged about 51 years,
son of late Dr. Dharam Chnd Tewari, resident
of Quarter no. H-2/5, Balda Road Colony, Nishatganj,
Lucknow.

4. Shyamji Varma, aged about 40 years, son of
Sri Mangla Prasad Varma, resident of C-45/6, Paper
Mill Colony, Lucknow.

5. Deo Narain Tripathi, aged about 46 years, son
of Sri Sheo Shanker Tripathi, resident of 554/37-G/26,

Bar

Mill Colony, Lucknow

5. Deo Narain Tripathi, aged about 46 years, son
of Sri Sheo Shanker Tripathi, resident of 554/37-G/26
Pava Puri, Alambagh, Lucknow

Petitioners

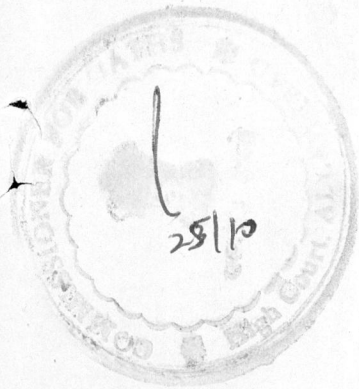
Versus

1. The Union of India through the Secretary, Ministry
of Defence, Government of India, New Delhi
2. The Director of Medical Services, Army Headquarters,
Defence Headquarters post office, New Delhi
3. The Officer Incharge Records, Army Medical
Corps , Lucknow - 2
4. Chandrapal, aged about 39 years, at present
working as Upper Division Clerk, Record Office,
Army Medical Corps, Lucknow

Opp-parties

This humble petition of the petitioners above-
named most respectfully sheweth:-

1. That the petitioners and the opposite-party no.4
are at present working as Upper Division Clerks
in the Records Office, Army Medical Corps, Lucknow.
2. That the respective dates of appointment as
Lower Division Clerk and the date of promotion as



Kripal Singh

232248

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

--
Writ Petition No. 2511 of 1978

Kripal Singh and others

--Petitioners

versus

Union of India and others

--Opp-parties

10710

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2.	Affidavit in support of the petition		14-15
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4.	Panel dated 31.8.1978	2	21
5.	Power		22

B.C. Saksena
(B.C. Saksena)
Advocate

INDIA COURT FEE

40Rs.



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

Writ Petition no. 2511 of 1978.

Kripal Singh & others - Petitioners

vs
Union of India & others - Opp. parties.

Kripal Singh

as Upper Division Clerk of the petitioner as also of opposite-party no.4 are being given hereunder:-

Petitioner no.1	Date of appointment as Lower Division Clerk	Date of promo- tion as Upper Division Clerk
1	9.12.1942	26.8.1964
2	20.1.1947	26.8.1964
3	6.12.1948	26.8.1964
4	2.5.1960	1.12.1969
5	7.5.1960	1.12.1969
Opp-party no.4	8-3-1961	28.12.1971

3. That the opposite-party no.4 is very much junior to the petitioners in the cadre of Upper Division Clerks and was also junior to them in the cadre of Lower Division Clerks, seniority in both the cadres being assigned on the basis of the date of appointment/promotion.

4. That in the seniority list of Upper Division clerks of the Army Medical Corps (Records), Lucknow, the seniority position of the petitioners and the opposite-party no.4 is as follows:-

Petitioner no.	Seniority position serial no.
1	1
2	3
3	6
4	15
5	16
Opp-party no.4	23

K. P. Singh



Upper Division Clerks above the petitioner no.1 have already been promoted to the post of Office Superintendent Grade II which is the next above post to that of Upper Division Clerks. One Sri Satyapal who ranked just above the petitioner no.1 in the seniority list of Upper Division clerks of the said office has been promoted to the said post of Office Superintendent, Grade II with effect from 26.5.1978.

5. That as indicated in the earlier part of the petition the next above post to that of Upper Division Clerk is that of Office Superintendent, Gr. II. In exercise of powers conferred by proviso to Article 309 of the constitution of India the President of India made rules called the Ministry of Defence Group 'C' (Office Superintendent Grade I and Office Superintendent Grade II Posts) Recruitment Rules, 1977 and the said rules came into force on 25.6.1977, the date of their publication in the Gazette of India. In the said rules the post of Office Superintendent Gr. II has been classified as Civilians in Defence Services Group 'C' Non-Gazetted Ministerial in the pay scale of Rs. 425-700. The said post has been shown as a selection post, selection to which is required to be made by Group 'C' Departmental Promotion Committee. The rules do not provide for direct recruitment to the said post. On the contrary, the method of recruitment indicated in the said rules is by



Kapal Singh

promotion. It may be stated that the post of Upper Division Clerks in Army Medical Corps (Records) is a post in the 'lower formations'. In the said rules relevant for purposes of the present petition there is provision that Upper Division Clerks with five years regular service in the grade would be eligible. A true copy of the relevant extract of the said rules is being annexed as Annexure no.1 to this petition.

6. That rule 4 of the said rules provides ~~xxx for~~ that the method of recruitment to the said posts, age limit, qualifications and other matters connected therewith shall be as specified in columns 5 to 13 of the schedule appended to the rules. It is relevant to state that in none of the said columns a quota for reservation is contemplated or provided for. On the contrary, as stated above, in column 11 thereof it has been laid down that all Upper Division Clerks with five years regular service in the grade would be eligible.

7. That the petitioners have put in more than five years of service in the grade of the Upper Division Clerks and were thus eligible to be considered for promotion to the next above post of Office Superintendent, Grade. II..

8. That due to sudden demise on 30.4.1978 of one

K. J. Singh

Sri T.R.Bhatia who was working as Office Superintendent Gr. I, one vacancy occurred in the post of Office Superintendent. Another vacancy is scheduled to fall vacant on 31.10.1978 due to the retirement of Sri R.N.Takru on attaining the age of superannuation. It may be relevant to state that a further vacancy in the said post due to attainment of age of superannuation would occur on 1.11.1983 when one Sri N.D. Razzaq at present working as Office Superintendent would attain the age of superannuation.

9. That the petitioner no.1 ~~w~~^{is} according to the date of birth recorded in the service record would attain the age of superannuation on 1.7.1984, petitioner no.2 would attain the age of superannuation on 1.11.1984 and petitioner no.3 would attain the age of superannuation on 1.7.1985.

10. That the petitioners on 23.10.1978 gained knowledge that a panel for promotion to the post of Office Superintendent Gr. II has been drawn up and only two persons were shown as having been empanelled. At serial no.1 of the panel the name of one Sri Satyapal has been shown while at serial no.2 the name of the opposite-party no.4 has been shown. The said Sri Satyapal, as stated in the earlier part of the petition, has already been promoted as Office Superintendent Gr. II in the vacancy caused due to the death of

Kripal Singh

Sri T.R.Bhatia. The intimation about the panel finds place in a copy of a letter dated 31.8.1978 addressed to the Officer Incharge, Records Army Medical Corps and issued under the signatures of Deputy Director of Medical Services, Headquarters Central Command, Lucknow. A true copy of the said letter is being annexed as Annexure no.2 to this petition.

11. That the opposite-party no.4 belongs to the scheduled caste and his name has been placed on the panel ~~unreported~~ presumably on the basis of reservation quota made in favour of scheduled caste candidates to the extent of 15 per cent of the posts.

12. That the provision for reservation in favour of scheduled caste and scheduled tribe candidates in promotion posts including Class III posts is contained in Ministry of Home Affairs, Government of India's various office memorandums issued from time to time. In this context reference is being made to Ministry of Home Affairs Office memorandums no. 27/2/71-Estt(SCT) dated 27.11.1972, Office Memorandum no. 27/25/68-Estt. (SCT) dated 25.3.1970 and Office Memorandum no. 1/12/67-Estt (C) dated 11.7.1968 . It may be stated that reservation to the extent of 12½ per cent of vacancies was provided for in Office Memorandum dated 11.7.1968 for scheduled caste candidates

Kripal Singh

The said percentage was increased to 15 per cent by Office Memorandum dated 25.3.1970.

The petitioners respectfully submit that the said Office Memorandums are mere executive orders and have not been issued in exercise of any statutory power.

13. That by Ministry of Home Affairs Office Memorandum no. 1/12/67-Estt (C) dated 11.7.1968 two different methods ~~for~~ have been laid down in respect of promotion by selection to Class I and Class II posts in the first place and to Class III and Class IV posts in the second place. While in the matter of promotion by selection to Class I and Class II posts it has been laid down that Scheduled Caste candidates who fall within the zone of consideration alone would be considered, in respect of selection to Class III and Class IV posts it has been laid down that S/cheduled Caste candidates would be adjudged separately even if they do not fall within the normal zone of consideration.

14. That as indicated above though in the rules framed in exercise of power under Article 309 of the Constitution of India the field of eligibility for the next above post of Office Superintendent Gr. II extends to all Upper Division Clerks who have put in five years of service in the grade, yet because of the aforementioned administrative orders

K. J. Padung

the ~~field~~ of eligibility is curtailed and in fact results in non-consideration of the case for promotion of all general candidates who fall within the normal zone of consideration. In the instant case, as shown above, in the recruitment year 1977-78 two vacancies in the post of Office Superintendent Gr. II have occurred. All the ~~said~~ 22 Upper Division Clerks who are senior to opposite-party no.4, besides other Upper Division Clerks shown as junior to the opposite-party no.4, would be eligible for consideration. Only one post being assigned for the general candidates, the case for promotion of 21 general candidates has not been considered and the case for promotion of opposite-party no.4 who is very much junior to the said 22 persons including the petitioners has been considered.

15. That no reasonable nexus or differentia is discernable in providing for two different methods for making selection to promotion posts in respect of Class I and Class II on the one hand and Class III and Class IV posts on the other. The petitioners respectfully submit that if the criteria provided for in respect of selection to Class I and Class II posts is adopted in respect of Class III and Class IV posts, there being no reasonable differential, the opposite-party no.4's

K. P. Singh

4/28

-10-

case for promotion could not have been considered .

16. That the forty point roster required to be drawn up for purposes of filling up the vacancies reserved in favour of Scheduled Caste and Scheduled Tribe candidates is available with the opposite parties nos. 1 to 3 . On the basis of the information available with the petitioners they verily believe that the second vacancy which is scheduled to occur on 31.10.1978 consequent to the attainment of the age of superannuation by Sri R.N.Takru is not a reserved point vacancy according to the said roster.

17. That in the circumstances detailed above and having no other equally effective and speedy alternative remedy the petitioners seek to prefer this petition to impugn the place of opposite party no.4 in the panel for the post of Office ^{A.M.C. Records Lucknow} Superintendent Gr. II/ as intimated by means of letter dated 31.8.1978 annexure 2 to the writ petition and sets forth the following, amongst, others,

GROUND:

(a) Because the provisions laying down reservation in favour of scheduled caste candidates being contained in administrative orders cannot legally supersede or run counter to the provisions in the rules framed in exercise of power under proviso

Bob

to Article 309 of the Constitution of India.

(b) Because all the provisions contained in the impugned Ministry of Home Affairs Office Memorandums by which it has been provided that in respect of promotion to selection posts in Class III scheduled caste candidates who do not fall within the normal zone of consideration would still be liable to be considered separately run counter to the provisions in the statutory rules laying down the field of eligibility to the extent of all Upper Division Clerks who have put in five years of service and in effect restricts the field of eligibility and as such, the provisions in the said administrative orders are ultra vires the provisions of the said rules.

(c) Because the adoption of two different methods with regard to consideration of scheduled caste candidates as against Class I and Class II posts on the one hand and Class III and Class IV posts on the other is clearly discriminatory and there being no reasonable nexus or differentia with the object to be achieved, the same are discriminatory and violative of Articles 14 and 16 of the Constitution of India.

(d) Because the reservation in favour of scheduled caste candidates and scheduled tribe candidates as made in the impugned Ministry of Home Affairs

Boer

Office Memorandum have not taken into consideration the requirements of Article 335 of the Constitution of India and as such are liable to be struck down .

(e) Because the vacancy scheduled to occur on 31.10.1978 being not a vacancy reserved for scheduled caste candidates , according to the point in the roster maintained for filling up reserved vacancies, the placing of the opposite-party no.4 in the panel for purposes of promotion against the said vacancy is wholly illegal and inoperative.

Wherefore, it is respectfully prayed that this Hon'ble Court be pleased ⁽ⁱ⁾ to call upon the opposite-parties 1 to 3 to produce the original of ministry of Home Affairs Office Memorandum nos. 1/12/67-Estt.(C) dated 11.7.1968, No. 27/25/68-Estt. (SCT) dated 25.3.1970 and no. 27/2/71-Estt(SCT) dated 27.11.1972 and quash the same by a writ of certiorari or a writ , order or direction in the nature of certiorari;

(ii) issue a writ of certiorari or a writ , order or direction in the nature of certiorari to quash the panel for promotion to the post of Office Superintendent Grade II as intimated by letter dated 31.8.1978 contained in annexure no.2 to the writ petition.

(iii) issue a writ of mandamus or a writ, or order

Ror

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-13-

or direction in the nature of certiorari commanding the opposite-parties nos. 1 to 3 to fill the vacancies in the post of Office Superintendent Gr. II in the light of the observations of this Hon'ble Court and in accordance with law.

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

B.C. Saksena

(B.C. Saksena)
Advocate

Counsel for the petitioner

Dated Lucknow
25.10.1978

(14)

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



--
Affidavit

in

Petition under Article 226 of the Constitution
of India

Writ Petition No. of 1978

Kripal Singh and others

--Petitioners

versus

Union of India and others

--Opp-parties

I, Kripal Singh, aged about 52 years, son
of late S. Hukum Singh, resident of Hukum Nivas,
Bahadur Khera, Singarnagar, Lucknow-5, do hereby
solemnly take oath and affirm as under:-

1. That the deponent is the petitioner no.1 in the
above-noted writ petition and is fully acquainted
with the facts of the case.
2. That the contents of paras 1 to 16 of the
accompanying petition are true to my own knowledge.
3. That annexures 1 and 2 have been compared and
are certified to be true copies.

Dated Lucknow

25.10.1978

Kripal Singh
Deponent

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

Kripal Singh
Deponent

Dated Lucknow

25.10.1978

I identify the deponent who has signed in my presence.

G. S. Srivastava

(Clerk to Sri B.C. Saksena, Advocate)

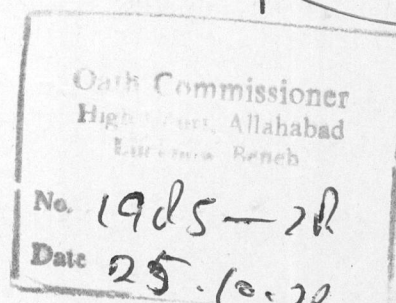
Solemnly affirmed before me on ^{25.10.78} at 9.10

A.M./P.M. by *Kripal Singh*

the deponent who is identified by Sri *G. S. Srivastava*
clerk to Sri *B. C. Saksena*

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

Gole



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

Writ Petition No. _____ of 1978
Kripal Singh.....Petitioner.
Versus
Union of India and others.....Opposite-Parties.

Annexure No. 1

TO BE PUBLISHED IN PART I 2 SECTION 4 SUB SECTION I
OF THE GAZETTE OF INDIA

Ministry of Defence

New Delhi, the 25 June, 1977.

Notification

S.R.O. 235. In exercise of the powers conferred by the provision to Article 309 of the Constitution, and in supersession of the Ministry of Defence (Class III posts) Recruitment Rules, 1969, in so far as they apply to the post of Office Superintendent in the lower formations in the Defence Services, and the Military Engineer Services (Non-Industrial Class III and Class IV posts) Recruitment Rules, 1971, in so far as they apply to the post of Office Superintendent (Ordinary Grade), the President hereby makes the following rules for the Group 'C' posts of Office Superintendent Grade I and Office Superintendent Grade II in the lower formations of the Ministry of Defence, namely:-

1. Short title and commencement:-

- (i) These rules may be called the Ministry of Defence Group 'C' (Office Superintendent Grade I and Office Superintendent Grade II Posts) Recruitment Rules, 1977.

Kripal Singh

(ii) They shall come into force on the date of their publication in the Official Gazette.

2. Application:-

These rules shall apply to the posts specified in Column I of the Schedule annexed hereto.

3. Number of posts, classifications and scales of pay:

The number of the said posts, their classification and the scales of pay attached thereto, shall be as specified in columns 2 to 4 of the said Schedule.

4. Method of Recruitment, Age limit and other qualifications:-

The method of recruitment to the said posts, age limit, qualifications and other matters connected therewith shall be as specified in columns 5 to 13 of the Schedule aforesaid.

5. Disqualification - No person,

- (a) who has entered into or contracted a marriage with a person having a spouse living, or
- (b) who having a spouse living, has entered into or contracted a marriage with any person shall be eligible for appointment to any of the said post. Provided that the Central Government may, if satisfied that such marriage is ~~permitted~~ permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, except any person from the operation of this rule.

K. P. Singh

6. Power to Relax:

Where the Central Government is of opinion that it is necessary or expedient so to do, it may, by order, and for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons or posts.

7. Saving:-

Nothing in these rules shall affect reservations and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

True Copy

Rajpal Singh

25/10

The Schedule

Name of Post.	No. of posts	Classification	Scale of Pay	Whether selection post or non selection post.	Age limit for direct recruits	Educational and other qualifications required for direct recruits.	Whether age and educational qualifications prescribed for direct recruits will apply in the case of processes	Period of probation, if any.
1	2	3	4	5	6	7	8	9
Office Superintendent Grade II.	1516	Civilians in Defence Services Group 'C' Non-Gazetted Minis-terial.	Rs. 425-15-500-EB-15-560--20-700.	Selection	Not applicable.	Not applicable	Not applicable	Two years.

62110

... Continued.

K. P. S. Singh

Continued:

Method of recruitment, whether by direct, or by promotion or transfer and percentage of the vacancies to be filled by various methods.

If case of recruitment by promotion, transfer grades from which promotion to be made.

If a DPC exists, what is its composition.

Circumstances in which UPSC is to be consulted in making recruitment.

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By promotion

I. For the ML&C Dte's lower formations

Technical Assistant failing which: Upper Division Clerks (50%) and Stenographer Grade III (50%) with 5 years' regular service in the grade respectively.

II. For MES/CME/Engineer Centres:

- (a) 90% from Upper Division Clerks with 5 years' service in the grade.
- (b) 10% from Stenographers with 7 years' regular service and who have not opted for P.As cadre.

III. For the other lower formations:

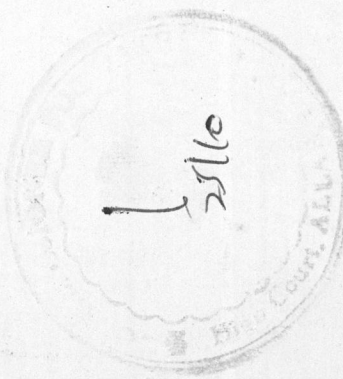
Upper Division Clerks with 5 years' regular service in the grade.

Note: Item III will apply only to the services not covered by items I and II above.

Not applicable.

Group & 'C' Departmental Promotion Committee consisting of,

- (i) Appointing authority of his nominee-Chairman.
- (ii) Senior Administrative Officer/Establishment Officer concerned.
- (iii) Civilian Gazetted Officer/Commissioned Officer of an unconnected department.



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

Writ Petition No. of 1978
Kripal Singh and others -Petitioners
versus
Union of India and others -Opp-parties

Annexure no. 2

Telephone no. 335 Headquarters
Central Command
Lucknow
31.8.1978

336401/3/M 3 (B)

CIC Records AMC

WELFARE - CIVILIANS

1. Refer to your letter no. 702213/LA/3 dated
04 Aug 78.

2. The under-mentioned UDCs of your office are at
present on the panel for promotion to the post
of Office Superintendent:-

(a) Shri Satya Pal Since Promoted

(b) Shri Chander Pal (SC)

Aurth: Army HQ Letter no. 33550/11/DMS 3(B) dated
24 Aug 78)

Sd. xxx

(BP Sahay)

Col. ADMSx

Deputy Director of Medical Services

Copy to:

Commandant, AMC Centre and School.

True copy

Kripal Singh

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

2511 No. 2511 of 1978

15.

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
27.X.78	Hon. U.C.S., J. Hon. K.N.G., J. Sri B.L. Shukla, Standing Counsel --- --- of this court. Sd. K.N.G. Sd. U.C.S. 27-X-78.	
-Do-	C.M. An. 5582 (W)-78 for Stay.	
	fixed court	13/10.
	5582 (W)-78 for orders	By order 10.11.78
9.11.78	Went with C.M. An. 5582 (W)-78 for orders! Hon. U.C.S. Hon. V.C.S.	
	Adjourned at the request of Sri B.C. Saxena Advocate	
		B.D. sh - M 9/11/78

P. 7. etc. for service on op. 4
filed (one copy) Repd. Our work Rs. 375
notices + duplicate)

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned	
1	2	3	
28-2-79	Writ with C.M.A. 5582 5582 (WJ-78) for orders Hon. H.S.G. Hon. Jha G. S.D. HJ		
3-4-79	Writ with C.M.A. 5582 5582 (WJ-78) for orders Hon. H.S.G. Hon. Jha G. S.D. HJ		
13-4-79	Writ with C.M.A. 5582 (WJ-78) for orders Hon. H.S.G. Hon. Mathur G. S.D. HJ		
24-4-79	Writ with C.M.A. 5582 (WJ-78) for orders: Hon. H.S.G. Hon. Mathur, J. Admit. Issue notices Boele R. 24/4/79		
	N.9 to O.P. no. 4 in W.P. through Regd. post. taking 10.5.79 for filing C.A. etc.		

9/2

of 197

 νS

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	<p>Service report in writ</p> <p><u>Am N.C.M. Don. 5582 (102) 28</u></p> <p>OPS. 1 to 3 :- Represented through Counsel (Power wanting)</p> <p>O.P. no. 4 :- Regd. Cover not received back as yet.</p>	
10.9.79.	<p><u>Joint legs.</u> Submitted</p> <p>1 to 3 represented.</p> <p>Service on O.P. Koh held</p> <p>Sufficient under Ch. 10 Rules of the Rules of the Court office to proceed.</p> <p>fixed O/C</p>	<p>by 25.8.79</p> <p>JR</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

23-A, Thornhill Road, Allahabad- 211001

No. CAT/Alld/Jud/

Dated the &

T.A.No.

Of 1987.(T)

Kripal Singh & others Applicant's

Versus
Union of India & others Respondent's

To

Shri B. C. Saxena, Advocate
High Court Lucknow.
Lucknow.

for applicant

Whereas the marginally noted cases has been transferred by
High Court-Lko. under the provision of the Administrative
Tribunal Act (No. 13 of 1985) and registered in this Tribunal as
above.

Writ Petition No. 2511
Of 1988. Of the
Court of High Court-Lko. arising out
of Order dated ----- passed by
----- in -----
3-4

the matter will be heard and decided in your absence .

The Tribunal has fixed date
of 25-3- 1988. The
hearing of the matter.

If no appearance is
made on your behalf by your
some one duly authorised to
to Act and pled on your behalf

Given under my hand seal of the Tribunal this -----
day of 18/3/ 1988.

Deputy Registrar

DEPUTY REGISTRAR

Deputy Registrar

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CENTRAL ADMINISTRATIVE TRIBUNAL
(ALLAHABAD BENCH)
(ALLAHABAD)

23-A, Thornhill Road, Allahabad.

No. CAT/ALLD. Reg. No. 321 (T) 198

DATED 28/8/87

Kripal Singh & others

APPLICANT

Union of India and others (Defence)

RESPONDENTS

1. Kripal Singh, 2. S. Gur bachan Singh, 3. Ked Bakesh
Tewari, 4. Shyamji Verma, 5. Deo Narain Tripathi
Through Sri B. C. Saxena, Advocate, High Court
Lucknow.

2. Union of India through Secretary Ministry of Defence @
High Court Lko.

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

Writ Petition No. 2511 of 1987

High Court Lko.

The Tribunal has fixed the
date of _____ 1987

of the Court of _____
arising out of the order dated

_____ passed by _____
in _____

for the hearing of the matter.

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

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

3/9/87 Given under my hand and seal of the Tribunal
this _____ day of _____ 1987

① Govt of India New Delhi, B- Director
of Medical Services Army Headquarters, Defence Head Quarters
Post Office New Delhi - ② Officer Incharge Records, Army
Medical Corps, Lko-2.
All through Sri Ashish N. Trivedi, Addl S.C.
High Court, Lucknow.

③ Chandrapal, U.D.C. Record Office, Army Medical
Corps, Lucknow.

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CENTRAL ADMINISTRATIVE TRIBUNAL
(ALLAHABAD BENCH)
(ALLAHABAD)

23-A, Thornhill Road, Allahabad.

No. CAT/ALLD. Reg-No. 321 (T) 1987

DATED _____

Koipal Singh & 4 others

APPLICANT

VERSUS

Union of India and others (Defence)

RESPONDENTS

① To 1. Koipal Singh, 2. S. Gurbachan Singh, 3. Ved Prakesh
Tewari, 4. Shyamji Verma, 5. Deo Narain Tripathi
through Sri B. C. Saxena, Advocate, High Court
Lucknow.

② Union of India through Secretary Ministry of Defence ④

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

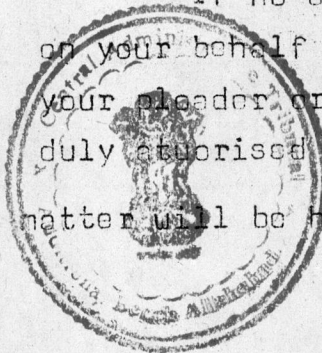
Writ Petition No. 2511 of 1978
of the Court of High Court Lko.

arising out of the order dated
_____ passed by _____
in _____

The Tribunal has fixed the
date of 12-10-1987
for the hearing of the matter.

If no appearance is made
on your behalf by yourself,
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 3/9/87 dat of _____ 1987

② G. D. Jha, New Delhi, B - Director, DEPUTY REGISTRAR,
of Medical Services Army Headquarters, Defence Head Quarters,
Post Office, New Delhi - ③ Officer Incharge, Records, Army
Medical Corps, Lko-2.

④ Through Sri Ashish N. Trivedi, Addl. S.C.
High Court, Lucknow.

③ Chandrapal, V.D.C., Record Office, Army Medical
Corps, Lucknow.

K.S.
3/9/87

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

No. CAT/ALLD.

DATED

17/12/87

Transfer Application No. 321 of 1987 (T)

Kripal Singh & others

APPLICANT

VERSUS
Union of India & others

RESPONDENT

To,

Sri B. C. Saxena, Advocate
High Court Lucknow.
Lucknow.

(for applicant.)

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 this Tribunal as above.

Writ Petition No. 2511 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 24-12-1987 for the hearing of the matter. If no appearance is made on your behalf by you or someone duly authorised to

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

Given under my hand seal of the Tribunal this 31/12/87 day of 1987

DEPUTY REG.

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Registered

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

No. CAT/CB/LKO/

36270 320

Dated the

11/1

Registration T.A.No. 321 of 193 (T)

Applicant's

Versus

Respondent's

To

1

2

3

Whereas the marginally noted cases has been
Transferred by _____ under the provision of the
Administrative Tribunal Act 13 of 1985 and registered in this
Tribunal as above.

Writ Petition No. 2511/70
_____ of 198 of the High Court
Court at Lko
of _____ arising out
order dated _____ passed by _____
_____ in _____

The Tribunal has fixed
Date of 20.10 1988
The hearing of the matter.
If no appearance is made
on your behalf by your some one
duly authorised to Act and

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

Given under my hand and seal of the Tribunal
this 11 day of 2 1988.

dinesh/

h
For Deputy Registrar(J)
Deputy Registrar
Central Administrative Tribunal
Circuit Bench
Lucknow

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अभिभाषक पत्र (तकालतनामा)

सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिबुनल, एडिशनल बेंच, इलाहाबाद

RNO

मुकदमा नं०

321

सन १९८८

Principal Singh

अपीलान्ट

बनाम

Union

रेस्पान्डेन्ट

मैं
हम

कि

उपरोक्त प्रकरण (मुकदमा) में मैं अपना पक्ष समर्थन हेतु

श्री रन० बी० सिंह

सीनियर स्टैंडिंग कौंसिल

४, लिडिल रोड, जाज टाउन, इलाहाबाद

को कानूनी शुल्क (मेहनताना) नियत करके अपना/हमारा अभिभाषक (वकील) नियुक्त करता हूँ और यह स्वीकार करता हूँ

करता हूँ कि उक्त सज्जन हमारी ओर से वाद-पत्र (अर्जीदावा), प्रतिवाद-पत्र (बयान तहरीरी), बाद स्वीकार पत्र, विवाद पत्र, पुनरवलोकन एवं पुनर्निर्णय प्रार्थना-पत्र (दखवास्त), शापथिक कथन (हलफनामा), प्रवर्तन-पत्र (दखवास्त इजराय), मुजबात अपील, निगरानी इत्यादि हर प्रकार के अन्य प्रार्थना पत्रादि एवं लेखादि की प्रतिलिपियां अपने हस्ताक्षर करके न्यायालय में प्रस्तुत करें अथवा किसी पत्र पर आवश्यकतानुसार शापथिक पुष्टीकरण करें और आवश्यक सवाल जबाब करें और लेखादि की प्रतिलिपियां एवं हमारे प्राप्य धन को अपने हस्ताक्षरी पावती देकर प्राप्त करें, हमारी ओर से किसी को मध्यस्थ तथा साक्षी (गवाह) मानें और उससे सम्बन्धित प्रार्थना-पत्र प्रस्तुत करें तथा उसका समर्थन करें तथा तसदीक करें, वाद-पत्र उठावे छोड़ें अथवा समझौता करें तथा सुलहनामा दाखिल करें तथा उसके सम्बन्ध में प्रार्थना-पत्र दाखिल करके उनका समर्थन करें अर्थात् प्रकरण से सम्बन्ध रखने वाली कुल कार्यवाही डिग्री के भर पाई होने के समय तक स्वतः या संयुक्त करें। आवश्यकता होने पर किसी अन्य वकील महोदय को वकील करें।

उक्त सभी कार्यवाही जो उक्त सज्जन करेंगे प्रत्येक दशा में अपने किये की भांति हम को सर्वथा स्वीकार मुझ को

होगी। अगर मैं कानूनी शुल्क तथा विशेष शुल्क आखिरी वहस के वक्त उक्त सज्जन को न दूँ/देँ तो उनको अधिकार होगा कि वह हमारी ओर से मुकदमा की पैरवी न करें। उपरोक्त दशा में उक्त सज्जन का कोई उत्तरदायित्व न रहेगा।

अतएव यह अभिभाषक पत्र लिख दिया कि प्रमाण रूप से समय पर काम आये।

तिथि

माह

सं०



दौवानी विभाग

हाईकोर्ट, इलाहाबाद

(अध्याय १२, नियम १ और ७)

प्रकीर्णक (मुतफरिफ) प्रार्थना-पत्र सं०

C. M.

सन् १९७८ ई०

W. P.

सं०

सन् १९७८ ई० में

Kripal Singh & Others

प्रार्थी

Union of India & Others प्रति

प्रत्याक्षी

Chandrapal, at present working as

Upper division clerk, Record Office

Army Medical Corps, Lucknow.

प्रत्यार्थी के नाम

चूंकि ऊपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकद्दमे के सम्बन्ध में

के लिये प्रार्थना-पत्र दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक

माह

सन् १९

को या उससे पहले उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय । उक्त-प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञापित किसी और दिन होगी ।

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

प्रार्थना-पत्र और प्रार्थि द्वारा दिये गये शपथ-पत्र की एक-एक प्रतिलिपि इसी के साथ लगी है ।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक

मास

वर्ष १९

को जारी किया गया

Shri B. C. Sakseena

के एडवोकेट

तिथि

27.10.78

डिप्टी रजिस्ट्रार

इलाहाबाद/लखनऊ

सूचना—इस न्यायालय को १९५२ की नियमावली के अध्याय ३७, नियम २ के अर्थ न प्राप्त तलबाना मिल गया ।

तलबाना पाने वाले वक्ता के हस्ताक्षर

(विक्रेय आकार-पत्र)

मूल्य प्रति कापी ०५ नया पैसा

Pava Puri, Alamnagh, Lucknow

Applicants

Versus

1. The Union of India through the Secretary, Ministry of Defence, Government of India, New Delhi
2. The Director of Medical Services, Army Headquarters Defence Headquarters Post Office, New Delhi.
3. The Officer Incharges, Records, Army Medical Corps, Lucknow- 2
4. Chandrapal, aged about 39 years, at present working as Upper Division Clerk, Record Office, Army Medical Corps, Lucknow

Opp-parties

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

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

- (i) to issue an interim order staying the operation of the panel as contained in annexure no.3 for the post of Office SuperintendentGr. II in so far as it concerns opposite-party no.4 and restrain opposite-parties nos. 1 to 3 from acting infurtherance of the said panel during the pendency of the writ petition.
- (ii) to pass such other order as in the circumstances of the case this Hon'ble Court may deem just and proper.

Dated Lucknow
25.10.1978

B. C. Saksena
(B.C.Saksena)
Counsel for the applicants

2310
In the Hon'ble High Court of Judicature at
Allahabad sitting at Lucknow.

9/11
In the Court of _____

W.P. No 2511 of 78



1c. FR 5/-
15/11/78

Sri Kripal Singh

Appellant

Petitioner

Plaintiff

Applicant
Complainant

VERSUS

Union of India and others

Defendant
Respondent

Opposite Party
Accused

Original Suit

First

Civil Appeal W.P.

2nd

Civil Case

No. 2511 1978

Fixed for _____ 197

as Advt (C.A) S.C.

In the above mentioned Case I appear for the Respondent No 1, 2 and 3
Appeal

having been instructed by Union of India and Respondent to appear
No 2 and 3

and plead on his their behalf

LUCKNOW

Dated 13-11-78

15

Ashish N. Trivedi
Counsel for _____

Ashish N. Trivedi
Advocate