

(A 16) (22)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

LUCKNOW CIRCUIT BENCH

Registration T. A. No. 410 of 1987
(W.P. No. 3436 of 1979 of the High Court)
(of Judicature at Allahabad, Lucknow Bench)
Lucknow.

H.N.Dixit Applicants
and two others

Versus

Deputy Chief Mechanical Engineer (W)
Northern Railway and Others. ... Opposite Parties.

Hon. Justice Kamleshwar Nath, V.C.

Hon. Mr. K.J. Raman, A.M.

(By Hon. Justice Kamleshwar Nath, V.C.)

The Writ Petition described above is before this Tribunal under Section 29 of the Administrative Tribunals Act, 1985 for quashing a decision contained in letter dated 19.11.79, Annexure-5 whereby the applicants called for appearing at an interview for selection as Intermediate Apprentice Mechanic was cancelled.

2. It is stated in para 6 of the petition that Intermediate Apprentice Mechanic Post is a selection post for which the process of selection includes a written test and a viva voce. The applicants and several others appeared at the selection test. Annexure-1 dated 15.3.78 is the list of the persons including the applicants who were called for the test. Annexure-3 dated 4.9.79 is a list of 9 persons who were called for interview on the result of the written test; the list includes the three applicants.

3. It appears to have transpired later that the applicants had not obtained the minimum qualifying marks prescribed for the written test. On that basis, the impugned orders contained in Annexure-5 were issued stating that the applicant had failed to obtain minimum qualifying marks prescribed for the written test and that they were erroneously included in the list, Annexure-3 of persons called for interview. The names of the three applicants, therefore, were ordered to be cancelled.

4. The case in the petition is that no minimum qualifying marks had been prescribed for a written test. The reply in paragraphs 12 and 14 of the two Counter Affidavits is that it was inconceivable that no minimum marks were prescribed for written test otherwise written test would be meaningless.

5. We have heard Shri M.P.Sharma for the applicant and Shri Arjun Bhargava for the opposite parties and have been taken through the record. It is pointed out by Shri Arjun Bhargava that the Railway Board have issued directions through different letters regarding the manner in which the examination for the purposes of selection posts are to be conducted. Printed Serial No. 831E/321 (E3-1) dated 16.10.69 contains Railway Board's letter dated 18.6.69 with reference to the original letter dated 5.10.64 and mentions that in respect of the item of professional ability for selection maximum posts there would be 50 marks of which 30 would be

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qualifying marks. The Railway Board's letter dated 5.10.64 was clarified by letter dated 12.12.73 in so far it concerns the item of professional ability of 50 marks. This letter mentions that out of 50 marks for professional ability 35 marks are earmarked for written test and that minimum qualifying marks for written test ~~must~~ be 60% thereof. This signifies 21 marks out of 35. It is not correct therefore for the applicant to contend that minimum qualifying marks for written test were not prescribed.

6. The learned counsel for the applicant referred to para 216(e) of the Indian Railway Establishment Manual to suggest that selection procedure is of two types; (i) consisting entirely of interview, and (ii) consisting of written test and interview. The contention is that the item of professional ability concerns interview alone. That is not correct. Para 216 says that in selection post it is desirable to hold both interview and written test. It appears that the expression 'professional ability' given in para 216 is elucidated in the Railway Board's letter referred to above. While Printed Serial dated 16.10.69 referred to the letter dated 18.9.69, speaks of 'professional ability' item to carry 50 maximum marks the detail of the expression 'professional ability' is clarified in the Railway Board's letter dated 12.12.73. There, it is clearly mentioned that out of 50 maximum marks for 'professional ability' the written test item would have 35 marks. It is not therefore correct that professional ability item is confined to interview.

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- 4 -

It clearly takes within its ambit, the written test. As already indicated the minimum qualifying marks for the written test are 60%.

7. Shri Arjun Bhargava has produced before us the original Answer Books of the written test taken by the applicants on 10.11.78. The marks assigned to each of the applicants in the written test are clearly less than 60%. It must be held therefore that the applicants had not qualified in the written test in order to be eligible for ~~called~~ interview. The decision contained in the impugned Annexure-5 therefore cancelling their call contained in Annexure-3 is correct and the petition must fail. The petition is dismissed. Parties shall bear their costs.

Manaw

Member (A)

Ph

Vice Chairman

Dated the 2nd March, 1990.

RKM

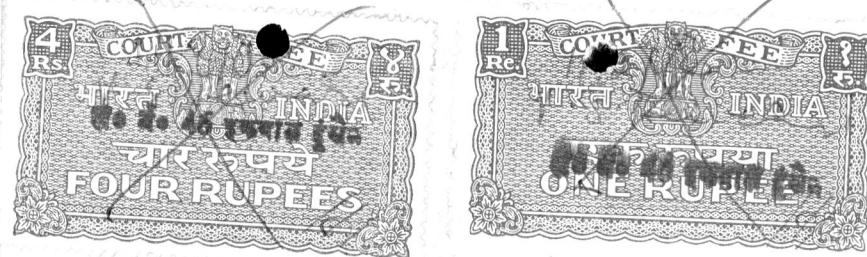
C153

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

LUCKNOW BENCH, LUCKNOW.

Civil Misc. An. No.

766 (W) of 1979.



207-51

11/2/80

1. K.D. Dixit, Ticket No. 79 K, Carriage and Wagon Workshop, Alambagh, Lucknow.
2. V.S. Tewari, Ticket No. 67 H/40 M, Carriage and Wagon Workshop, Alambagh, Lucknow.
3. O.S. Srivastava, Ticket No. 141 A/62 M, Carriage and Wagon Workshop, Alambagh, Lucknow.
4. A.R. Siddiqui, Ticket No. 52 G, Carriage and Wagon Workshop, Alambagh, Lucknow.

Applicants.

In re:

Writ Petition No. 3436 of 1979.

H.N. Dixit and others. -- -- Petitioners.

Versus

Deputy Chief Mechanical Engineer (Works),
Carriage and Wagon Shops, Alambagh, Lucknow,
and others. -- -- Opposite-Parties.

The applicants opposite parties 4 to 7 respectfully shew:-

That on filing of the aforesaid writ petition the hon'ble bench order the petitioners to get the opposite parties served who may file their counter-affidavit by the 10th Dec. 79 on which date writ petition & stay application were to be considered.

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

INDEX SHEET

T.A.

CAUSE TITLE 410 of 1981 TNAME OF THE PARTIES H. N. Dixit& others

Applicant

Versus

Deputy Chief Mechanical engineer (W.) Respondent
& others.

Part A, B & C

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CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

FORM OF INDEX

O.A./T.A./R.A./C.C.P.I. No. 410-1987

H.N. Dixit vs. D.Y. Chief Mechanical Engineer
PART-I (W.P. No. 3436/79),
C.O.

1.	Index Papers	:- 1 to 2 ✓
2.	Order Sheet	:- 3 to 21 ✓
3.	Any other orders	:- —
4.	Judgement	:- 22 to 25 ✓
5.	S.L.P.	:- —

D.Y. Registrar

Supervising Officer

Dealing Clerk

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

This file is for ready at

Dealing Clerk

Recd
S.O.C.

File B/C destroyed on 09-05-12.

V.K. Mishra

MEMO.

One Impressed Rs 100/-
Adhesive

Total

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

In time up to

Papers filed. Copy of P. should also be filed.
Single - Bench

(3)

last unapugned order

Annexure 5 = 19.11.79

Ms
4.12.79

Presented today dy

Mr. R. N. Misra I

an advocate of this Court

tion: T. S. Misra - D

Non, K. S. Varma - D

List on 10th December,
1979 along with the stay
application.

Mr. T. S. Misra - J.

Mr. K. S. Varma - J.

The opposite parties
are presented by the
counsel who accepted
the notice of the petition.

The petition is
admitted. ✓

The learned counsel
for the petitioners is allowed
to take Dasti summons to
effect service on the opposite
parties. The office shall furnish
the necessary copies stating in
the notice that the writ
petition shall be put up on 10th
December, 1979 for the purpose
of adjournment. ✓

14-12-79

MS
5-12-79

A22

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW

Writ Petition No. 3436 of 1979

In the matter of Constitution of India

AND

In the matter of Article 226 of the Constitution of India

And in the matter of

1. Hriday Narain Dixit, aged about 38 years, son of Ayodhya Prasad Dixit, Highly Skilled Grade II Mill Wright Fitter (Ticket No.234-F) Carriage & Wagon Workshop, Northern Railway, Alambagh, Lucknow.
2. Ram Lakhan Gupta, aged about 38 years, son of Beni Prasad, Inspector Welder (Ticket No.67-M) Carriage and Wagon Workshop, Northern Railway, Alambagh, Lucknow.
3. Anil Kumar Srivastava, aged about 31 years, son of S.L.Srivastava, Skilled Fitter, Tool Room (Ticket No.117-L) Carriage and Wagon Workshop, Alambagh, Lucknow.

... Petitioners

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

W.P. No. 3436 of '79



b10(21)79.

10/11/79

H. N. Dixit and others

--- Petitioners

Versus

Deputy Chief Mechanical Engineer (Works), Carriage and Wagon Shops, Alambagh, Lucknow. & others.

-- Opposite-Parties.

COUNTER AFFIDAVIT ON BEHALF OF OPPOSITE PARTIES

Nos. 4 to 7.

I, V.S. Tewari, aged about 38 years, son of Sri S.N. Tewari, resident of 145, Nayagaon, Lucknow, do hereby solemnly affirm and state on oath as under:-

1. That paras 1 to 6 of the writ petition are not denied.
2. That the contents of para 7 of the writ petition are not denied, but it may be added that the answering opposite parties were also entitled to apply for the post of Intermediate Apprentice Mechanic and consequently they also applied in response to the notice mentioned in para 7 of the writ petition.
3. That in reply to para 8 of the writ petition it may be mentioned that answering opposite parties are also mentioned in Annexure No. 1.
4. That para 9 of the writ petition is not denied.

V.S. Tewari

10/12

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW

C.M.Application No. 7586^(C) of 1979



✓ 8.82
A
5.12.79

Hridaya Narain Dixit and two others ... Applications

In re.

Writ Petition No. 3436 of 1979

1. Hridaya Narain Dixit, aged about 38 years, son of Ayodhya Prasad Dixit, Highly Skilled Grade II Mill Wright Fitter (Ticket No. 234-F) Carriage and Wagon Workshop, Northern Railway, Alambagh, Lucknow.
2. Ram Lakhan Gupta, aged about 38 years, son of Beni Prasad, Inspector Welder (Ticket No. 67-M) Carriage and Wagon Workshop, Northern Railway, Alambagh, Lucknow.
3. Anil Kumar Srivastava, aged about 31 years, son of S. L. Srivastava, Skilled Fitter, Tool Room (Ticket No. 117-L) Carriage and Wagon Workshop, Alambagh, Lucknow.

... Petitioners

Versus

1. Deputy Chief Mechanical Engineer (W), Carriage and Wagon Workshop, Northern Railway, Alambagh, Lucknow.
2. Union of India, through the Secretary, Railway Board, Baroda House, New Delhi.

Presented today by
Shri R.N. Jivani Ji
an Advocate of this Court

Hon'ble T.S. Misra, I
Hon'ble K.S. Varma, I

put up along with
the writ petition.

KR
5/12/79
19

(3)

Hon'ble T.S. Misra, I
Hon'ble K.S. Varma, I

John T.S. Misra, I
John K.S. Varma, I

There appears to be
no ground for grant of
interim relief as
prayed. The application
is rejected.

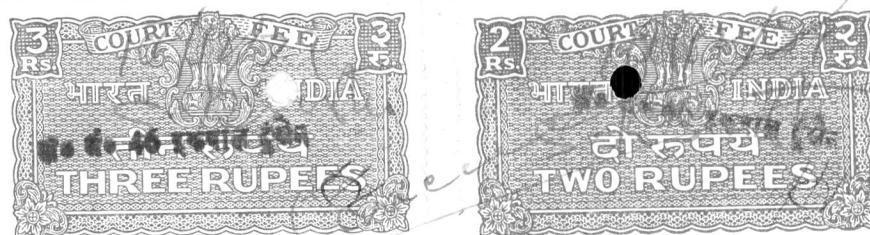
Before the above
order could be signed,
Shri R.N. Jivani appears
and states that he
will file rejoinder
affidavit within three
days. The above order
is accordingly recalled.
and the rejoinder affidavit
may be filed within three
days. After the application
thereafter on 20th December
1979 for further orders.

14-12-79

KR
14-12-79

Cl. An. 20.12.71
by ct
Hon. Hon. H.S. J.
S.No. 42

C 160



3078

2 b.s.
18.11.72

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

(2)

S.No 42
Hon. H.S.J.

Civil Misc. An. No. 7853 (w) of 1979.

1. K.D. Dixit, Ticket No. 79 K, Carriage and Wagon Workshop, Alambagh, Lucknow.
2. V.S. Tewari, Ticket No. 67 H/40 M, Carriage and Wagon Workshop, Alambagh, Lucknow.
3. O.S. Srivastava, Ticket No. 141 A/62 M, Carriage and Wagon Workshop, Alambagh, Lucknow.
4. A.R. Siddiqi, Ticket No. 52 G, Carriage and Wagon Workshop, Alambagh, Lucknow.

... . . Applicants.

In re

Writ Petition No. 3436 of 1979.

H.N. Dixit and others. Petitioners.

Versus

Deputy Chief Mechanical Engineer (Works),
Carriage and Wagon Shops, Alambagh, Lucknow
and others. Opposite-Parties.

The above-named applicants respectfully shew :

1. That the applicants are opposite-parties No. 4 to 7 in the aforesaid writ petition.
2. That on the filing of the Writ Petition the Hon'ble Bench ordered counter-affidavits to be filed before admission of the Writ Petition which was fixed for 10th instant.

✓

⑥

Received copy
Enclosure
for signature
18-12-79

Hon. U.C. Srivastava

Jm. T. S. Misra, I
Jm. K. S. Varma, I

Put up with record
on 90th December, 1979.

✓

15

18-12-79

List this
application along with
Civil Misc. application
(u) 79 before the
Bench concerned.

✓

11-2-1980
10

①

Hon. T. S. M. J.
Hon. R. S. R. J.

The learned
counsel states that
the application is
not pressed. It is
so.

Res. Ch
P. S.
1/2

Hon. M. C. Sivastava

=
Lest this application along
with C.M. Au. No. 7853(a) - 79 before
the Bench concerned.

W

11. 2. 80

Hon. T. S. M. J.
Hon. R. S. R. J.

The learned counsel
states that the
application is not
pressed. It is accordingly
rejected.

19.2.80
R.

: 2 :

3. Principal, Systems Technical School, Northern Charbagh, Lucknow.
4. K. D. Dixit, Ticket No. 79-K, C. & W. Workshop, Lucknow
5. V. S. Tewari, Ticket No. 67 E/40M, Carriage and Wagon Workshop, Alambagh, Lucknow.
6. U. S. Srivastava, Ticket No. 141A/62M Carriage and Wagon Workshop, Alambagh, Lucknow.
7. A. R. Siddiqi, Ticket No. 520, Carriage and Wagon Workshop, Alambagh, Lucknow.

... Respondents

APPLICATION FOR INTERIM RELIEF

The petitioner applicants above named most respectfully submit as under :

1. That the petitioners are filing a writ petition in this Hon'ble Court challenging the validity of the action taken by Respondents No. 1 to 3 in not calling the petitioners for interview for the post of Intermediate Apprentice Mechanic, even though they had selected the petitioners earlier for interview along with others; but postponed the interview fixed earlier to exclude the petitioners from appearing in the said interview.
2. That the petitioners have successfully completed the written test conducted by the Respondent No. 3 and they were duly selected for interview along with others vide notice dated September 4, 1979 (Annexure No. 3).
3. That the Respondents Nos. 1 to 3 fixed 10.9.1979 for interview for the post of Intermediate Apprentice Mechanic on the basis of the written test and required the petitioners to appear in the interview on the aforesaid date but before the petitioners could appear

Hon. T. S. M. J.
Hon. R. S. V. J.

list it before a
learned single judge.

18/2
19-2-80

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8

Hon. M. C. Srivastava S

Sri M. C. Srivastava learned
counsel for the petitioner states
that permissions have been
obtained and the persons selected
already have been sent to undergo
training as such the application has been rejected
so obtained would be subject
to the final order passed
in this writ petition.
With this observation
this application is rejected.

18/2
28-2-80

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A³ 9 12/1

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 3436 of 1979

Date	Note of progress of proceedings and routine order	Dated of which case is adjourned
1	2	3
	Hu. Micro. J Hon. Barr	
	List on 10th. Oct. 1979	
	Com 7586 (W) 79 for	
	Recd up.	
	10.12.79 fixed F.O. with C.M. Am. 7586 (W) - 79 by ct.	
	<u>u/s</u>	
10-12-79	Wait for orders with 6.12.79	
	C.M. Am. 7586 (W) - 79	feed counter affidavits of opposite parties to Mgh. in close A.N.T. in due course 7.12.79
	Hon. Goyal J. Hon. Pathan J.	
	Counter affidavit has been filed on behalf of opposite parties 4 to 7 today. The petitioners may file rejoinder affidavit within ³ days week. List thereafter for admission on 14.12.79.	
	<u>u/s</u> <u>u/s</u>	
	10.12.79 <u>u/s</u>	
	14.12.1979 fixed F.O. with C.M. Am. No. 7586 (W) - 79 by ct	
	<u>u/s</u>	
		10.12.79

74

10

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
14-12-79	Writ for orders with C.M.A. 7586 (W)-79 Hon. Misra Hon. Varma Admit. & issue notice stay rejected order recalled. 1st stay on 20.12.79 B.P. 14.12.79	Power of Subhaw Misra Admitted in court today B.P. 14-12-79
20-12-79	fixed in C.M.A. No. 7586 (W)-79 by T	
20-12-79	Writ for orders with C.M.A. 7586 (W)-79 Hon. Agarwal Hon. Mathur	
20-12-79	C. M. A. No. 7586 (W)-79 for orders Hon. P. P. T	
	S. D.	
24.1.80		
15.1.80	fixed in C. M. A. No. 7586 (W)-79 and C.M.A. 7853 (W)-79 for orders	
29-1-80	fixed in C.M.A. 7586 (W)-79 C.M.A. 2853 (W)-79 for orders	
29-1-80	C.M.A. 7586 (W)-79 & C.M.A. 2853 (W)-79 at OCSJ	M/B P.M. Thas

PSUP-A.P.-65 Uchh Nyayalya. -2737-1976 - 50,000 (E).

S.O. at request of Sri R.N. Banerjee.

BSC

28/8/81

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 3476

of 1979

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(11)

11/2

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1.	2	3
22.2.80	0.2.80 fixed in cmr 7586 (w)-75 & cmr 7853 (v)-28 & cmr	N.B. H- D.N.
8.2.80	Cmr m-7586 (w)-78 & cmr 7853 (w)-29 & mrs. In Vess	
	Do. be listed before Bench concerned along with application filed today.	
		Box 8872
	C.M. An No. 706 (v) 29 Hon. U.C. Sivaram list this application along with C.M. An No. 7053 (v) 29 before the Bench concerned. sd: U.C. Sivaram	
	11.2.80	
12.2.80	19.2.80 fixed in cmr cmr 7586 (v)-75, 7853 (v)-78 & cmr 706 (v)-29 & mrs	C.M. An / Box T.B H TSM HS

R6

12

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
19-2-80	<p>C.M. Am. 7586 (W)-29, 7853 (W) -29 & C.M. Am. 786 (W) 80 for orders.</p> <p>Hon. Justice J. Hon. Justice J.</p> <p>The learned counsel stated that the applications are not passed. They are orders passed on the above applications today.</p> <p><u>By</u> <u>19-2-80</u></p>	cm n 7853- & cm n 786 (W) adjourned to 20th cm n 15-2
22-2-80	28-2-80 fixed in cm Am 7586 (W)-29 for orders	By/and 28-2-80
28-2-80	Cm n 7586 (W)-29 for orders in UEST Rejected.	28-2-80
2-7-81	<p>Service Report now</p> <p>of No 144 - Papers filed</p> <p>of No 247 - Papers filed</p> <p>Libation</p>	2-7-81

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

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3436

—No.

—of 1989

—vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
17-1-57	<p><u>DR</u></p> <p>Obs 1 to 5 and 5 to 7 are now reported to be represented by counsel.</p> <p>Agree to proceed.</p> <p><u>DR</u></p> <p>B/c</p>	<p><u>DR</u></p> <p>on 17-1-57</p>

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CAT /J/11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD
NEW DELHI

W.O.A./T.A. No. 410 1987

H.N. Dixit & others Applicant(s)

Versus

Deputy Chief Mechanical Respondent(s)
Engineer (W) and others.

Sr. No.	Date	Orders
	12/10/87	<p>Office report.</p> <p>W.P. No. 3436/79 has been received On transfer from Hon'ble High Court L.R.O. W.P. is admitted.</p> <p>✓ Counter and Rejoinder Affidavit both have been filed.</p> <p>Writ petition regarding promotion of the petitioners.</p> <p>Notices issued to both the parties fixing 15.10.87 by registered post.</p> <p>No undelivered regd cover has been returned back.</p> <p>Petition is pending for hearing. Submitted.</p> <p>DR 12/10/87</p>
1	15.10.87	<p>Sri A.K. Gaur filed his appearance today. Prayed Time for Addl. W.L. if any, allowed, he may file the same by 20.11.87.</p> <p>Applicants not present, issue fresh notices to them through counsel.</p> <p>DR</p>

Office report
In compliance
of Ct's order
Dt. 15.10.87
not issued
to the Petitioners
through his
counsel applying
in High Court L.R.O.
by registered post
on 26.10.87

(A-2)

(15)

Sr. No.	Date	Orders
⑦	20-11-88 DR	Shri AK Gaur for verpolts. None present for the applicant. Put up with fresh service report on 21/12/88.
⑧	21/12/88 Registrar	None present for the applicant. Put up with fresh service report on 25/1/89.
⑨	25-1-89 Registrar	None present for the applicant. Put up with fresh service report on 17-2-89.
⑩	17-2-89 DR	None is present for applicant. Issue fresh notice to applicant and his Counsel fixing 28-3-89 and put up with fresh service report.
⑪	28-3-89 DR(S)	Notice issued to the applicants concerned fixing 28-3-89 by registered post.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

.....No. 410 of 1987.

.....Vs.....

Sl. No. of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any taken on order)
6	20.3.87 D.L	<p>Put up as P.L.D.L wrote office report - whether the notices send to applicant, have been returned or not.</p> <p>DR</p> <p>Office report</p> <p>Sir A. K. Gaur Counsel for respondent and none is present for in this Tribunal for applicant. Sir R. N. Pativedi was counsel for applicant in High Court, Lko. Kart</p> <p>DR</p>	
7	12.4.87 D.L.	<p>Send fresh notice again to the applicant as well as to his counsel fixing 23.5.87</p> <p>DR</p> <p>Notices send to the applicant and their Counsel fixing 23.5.87.</p> <p>DR</p>	
			15/5

Sl.No. of order	Date of order	ORDER WITH SIGNATURE	Office notes as to action (if any) taken on order
(8)	23.5.00 30/5/00	<p><i>lgr</i></p> <p>Put up an RTI Act with application report whether notices, name, have been received or not</p> <p><u>Office report</u></p> <p>In Compliance of Ct's order dt. 12.4.00 notices has already been sent to the applicant and his Counsel fix 9-5-00 by regd post but no envelope and regd cover has been returned back.</p> <p><i>JKS</i> 30/5/00</p>	
(9)	6.7.00 20/7/00	<p><u>sd.</u></p> <p>no one appear for the applicant. Sent full notice again to the applicant and also through their counsel fix 9-8-00</p> <p><u>Office report</u></p> <p>Notice issued to the applicant and his Counsel fix 9-8-00 by regd post.</p> <p><i>JKS</i> 20/7/00</p> <p><u>Office report</u></p> <p>No unclaimed regd cover has been returned back</p>	<p><i>DR</i></p>
			<p><i>JKS</i> 21/7/00</p>

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ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

..... TA No. 410 of 1987

..... Vs

Sl. No. of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
(10)	9.9.88	<p><u>OD</u></p> <p>This is the withdrawal of 1979. In this case applicant is not appearing since the transfer to the Tribunal. Notice to the applicant as well as through the counsel were issued in many times.</p> <p>Service on applicant is deemed to be sufficient.</p> <p>Next hearing court for hearing on 4.10.88</p> <p><i>[Signature]</i></p>	<p>Case transferred to Bureau.</p>

(C19) (A13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LEGNO.

C.A./T.A. No. 410 1987(T)

H. N. Dixit

Applicant(s)

Versus

V.O.2

Respondent(s)

Sr. No.	Date	Orders
(11)	24.1.89 <i>Subjourned</i>	<u>D.R</u>
		<p>This case was ready in 20/1/89. So the case is fixed not on 24.1.89. Before the D.R (s)</p>
		<p>No one is present. The case is adjourned to 30.3.89.</p> <p style="text-align: right;"><u>D.R</u></p>
(12)	<u>30-3-89</u>	<u>D.R</u>
		<p>Shri A.K. Gaur for Railway is present. No one is present on behalf of applicant. Fix for 1.5.89. Send fresh notice to the applicant.</p>
		<p><i>markandu</i> 30/3/89 for D.R</p>
	3/4	<p><u>OR</u> Notice issued to the applicant, through Regd. Post.</p>
		<p><i>1</i> 2/4/89 <u>OR</u></p>
		<p><i>Case is ready</i> for hearing but no one has represented so far on behalf of applicant.</p>
		<p><i>Le. Smith S for Orders.</i></p>
		<p><i>Alay</i> 30/4</p>

D-5

410/07 (i)

(20)

Hon' Mr. Justice K. Nath, V.C.

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

1/5/1989

Shri M.P. Shama, learned counsel makes appearance on behalf of the applicant. Shri A.K. Gaur, learned counsel for the respondents is present. In this case counter and rejoinder have been exchanged. As requested by both the parties, the case is listed for final hearing on 1-6-89.

A.M.

V.C.

(sns)

1/6/89

No Sitting. Adjourne d to
20/7/89 for Hearing.

✓
B.O.C.

OR

Case was adj.
to 20.7.89 for
hearing.
Submitted for
hearing.

20.7.

No Sitting. Adj. to 22.8.89.

✓
22/8

22.8.89

No Sitting. Adj. to 11-10-89
Counsel for respds. Shri A. Bhagwane
is present.

✓
B.O.C.

11-8-89

No Sitting. Adj. to 1-12-89.
Both the counsels are present.

L

OR
Case is submitted
for hearing.

✓
5/10

1-12-89

No Sitting. Adj. to 10-1-90.
Counsel for respds. is present.

✓
10/1/90

10/1/90

No Sitting of D/B. Adj. to 31-1-90.
Applicant in person & Shri A.
Bhagwane LC for the respds. are
present.

✓
B.O.C.

31-1-90

Case not reached. Adj. to
22/8/90

✓
B.O.C.

4/0/1974

:: 2 ::

21

(A1b)

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
---	---	---

2-2-90 Hon. Justice K. Nath. V.C.
Hon. Mr. K. J. Ramu D.M.

On the request of both the
parties case is adjourned to:

22-2-90

AM
A.M.OR
V.C.

22/2/90 Hon. Justice K. Nath. V.C.
Hon. K. Obayya A.M.

On the request of Shri M.P. Sharma,
the learned counsel for the
appellant list for hearing

tomorrow:

OR
AM

V.C.

23-2-90 Hon. Justice K. Nath. V.C.
Hon. Mr. K. Obayya A.M.

On the request of both the
parties case is adjourned to 1-3-90
for P.H.

OR
AMOR
V.C.

OR

S.F. hearing

L
10/12

Dinesh

L
1/3/79

B.O.C.

Ran
G.M.

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case w.f. 3436-79.....

Name of parties H.N. Dixit B. D. Ch. mechanical engineer

Date of institution 5-12-79..... Date of decision

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of adm s- sion 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			31	2	102/-			
2		Power	1	1	05/-			
3		ca 17586(7) 79	3	1	05/-			
4		Counter affidavit	5		2.00			
5		Power	2		10/-			
6		Counter affidavit Obs. N. N. Mukhi	15-	-	2-00			
7		Affidavit	3-		2.00			
8		Rejection affidavit	4,		2.00			
9.		R.A. of 8th April Kiran Singh	5-		2.00			
10.		ca 17853(10) 79.	6-		2.00			

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.

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
11.	CMD. 706 (W)	of 80	2-	-	7.00			
12.	order & sent.		3-	-	-			
13.	Bust. 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.

Date.....

Munsarim.

Clerk.

6
Group A(14) K.

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW

2729
Writ Petition No. 3436 of 1979

H.N. Dixit and others ... Petitioners

Versus

Deputy Chief Mechanical
Engineer (W) and others ... Respondents

INDEX

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Dated, Lucknow
December , 1979

COUNSEL FOR THE PETITIONERS

A-21
100 Rs.



In The Hon'ble High court of Judicature at Allahabad
one Rupee
Rs 100. ~
sitting at Lucknow.

Writ Petition no 3436 of 1979

H. N. Dixit and others

versus

... Petitioners

Deputy chief Mechanical
Engineer (w) and others

... Respondent



R. K. Bhawar

: 2 :

Versus

1. Deputy Chief Mechanical Engineer (W),
Carriage and Wagon Workshop, Northern Railway,
Alambagh, Lucknow.
2. Union of India, through the Secretary, Railway
Board, Baroda House, New Delhi.
3. Principal, Systems Technical School, Northern
Railway, Charbagh, Lucknow.
4. K.D.Dixit, Ticket No.79K, Carriage and Wagon
Workshop, Alambagh, Lucknow.
5. V.S.Tewari, Ticket No.67E/40M, Carriage and Wagon
Workshop, Almbagh, Lucknow.
6. U.S.Srivastava, Ticket No.141A/62M, Carriage and
Wagon Workshop, Alambagh, Lucknow.
7. A.R.Siddiqi, Ticket No.52G, Carriage and Wagon
Workshop, Alambagh, Lucknow.

... Respondents

Hon'ble the Chief Justice and
His Companion Judges of the aforesaid Court.

The petitioners above named most respectfully
beg to submit as under :

1. That the petitioners are the employees
of the Carriage and Wagon Workshop, Northern Railway,
Alambagh, Lucknow, working on various technical posts
under the Deputy Chief Mechanical Engineer (W) C.& W.
Workshop, Respondent No.1. They joined the said

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Habib

Hon. V. C. Srivastava - I

Sri M. A. Trivedi
Learned counsel for the
petitioner states that
permissions have been
made and the persons
selected have already
been sent to the training
and the permission would
be subject to the final
order passed in this writ
petition. With this observation
this writ petition is
rejected.

Workshop on the dates given below as Trade Apprentice/
Skilled Fitter: -

<u>Petitioner</u> <u>No.</u>	<u>Name</u>	<u>Date of</u> <u>joining</u> <u>the C.&W.</u> <u>Workshop</u>	
1.	Hriday Narain Dixit	23.9.1959	As Trade Apprentice
2.	Ram Lakhman Gupta	24.9.1959	As Trade Apprentice
3.	Anil Kumar Srivastava	18.6.1969	As Skilled Fitter

2. That after completing the requisite apprenticeship course, the petitioner No.1 and 2 were appointed to the post of Mill Wright Fitter and Skilled Welder respectively in 1963. The petitioner No.3 was initially appointed as Skilled Fitter in 1969.
3. That the petitioner No.1 was promoted to the post of Highly Skilled Grade II Mill Wright Fitter in 1979; Petitioner No.2 was promoted to the post of Highly Skilled Grade II Welder on 18.11.1977 and again promoted to the post of Highly Skilled Grade I on 1.8.1978 and is working as Inspector Welder which is equivalent to the H.S. Grade I post. Petitioner No.3 continues as Skilled Fitter.
4. That the next higher post for which the petitioners could be considered for promotion is the post of Highly Skilled Grade I Fitter/Mistri, on which promotion is made from amongst the H.S. Grade II on the basis of seniority-cum-suitability.
5. That the petitioner No.2 was appointed to the

A25

post of Highly Skilled Grade I on 1.8.1978, and is working as Inspector Welder.

6. That the post of Intermediate Apprentice Mechanic is a selection post to which the petitioners could be considered for promotion. The petitioners were all eligible for being considered for promotion to the said post of Intermediate Apprentice Mechanic.

7. That in 1977 the Respondent No.1 by notice invited applications from the skilled staff for the post of Intermediate Apprentice Mechanics. In response thereto the petitioners applied for the said post of Intermediate Apprentice Mechanic.

8. That on receipt of various applications for the said post of Intermediate Apprentice Mechanic, Respondent No.1 issued a notice on 15.3.1978, addressed to the Principal, System Technical School, Northern Railway, Charbagh, Lucknow, Respondent No.3, for circulation amongst the skilled staff. By this notice a list of eligible candidates who could appear at the test to be held by Respondent No.3 for recruitment to the post of Intermediate Apprentice Mechanic, for vacancies up to 1980-81, was notified. In this list the names of petitioner No.1, 2 and 3 appear at Sl.No.32, 62 and 49 respectively. A true copy of the aforesaid notice dated 15.3.1978 containing the list of eligible persons including the petitioners, is annexed as ANNEXURE NO.1 hereto

9. That by the aforesaid notice the Respondent No.1



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required Respondent No.3 to fix up dates for the written test for recruitment to the post of Intermediate Apprentice Mechanic and to inform the eligible staff members whose names were notified in the aforesaid list as per notice dated 15.3.78 (Annexure No.1).

10. That in pursuance of the aforesaid notice dated 15.3.1978 the Respondent No.3 circulated the aforesaid notice amongst the staff and a written test was held on 10.11.1978 in which all the petitioners inter alia also appeared.

11. That on 25.11.1978 the Respondent No.1 issued a notice containing the list of candidates who appeared at the aforesaid written test held on 10.11.1978 for recruitment to the post of Intermediate Apprentice Mechanic. In this list the name of the petitioner No.1 finds place at sl.no.17; that of petitioner No.2 at sl. no. 31 and of petitioner No.3 at sl. 26. A true copy of the said notice dated 25.11.1978 is annexed herewith as ANNEXURE NO.2.

12. That on the basis of the aforesaid written test held on 10.11.1978 inter alia the petitioners were selected and called for interview to be held on 10.9.1979 vide notice dated Sept.4, 1979 issued by Respondent No.1. By means of this notice the petitioners and six others were required to appear for an interview "at 10.30 Hrs sharp on 10.9.1979 in PE/AMV's Room positively". In this list of 9 candidates called for interview as given in the aforesaid notice,



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the name of petitioner No.1 finds place at sl.no.1, that of petitioner No.2 at sl. 2 and that of petitioner No.3 at sl. no. 2. A true copy of the said notice dated September 4, 1979, requiring the petitioners to appear before the interview to be held on 10.9.1979 is annexed as ANNEXURE NO.3 to this writ petition.

13. That, however, on 10.9.1979 the interview was not held and by notice dated 10.9.1979 it was informed that the interview had been postponed till further orders. No future date of interview was indicated in the said notice. A true copy of the said notice dated 10.9.1979 postponing the said interview is annexed as ANNEXURE NO.4.

14. That while the petitioners were awaiting the next date of interview, the Respondent No.1 by notice dated 19.11.1979 called for interview on 26.11.1979 only four persons i.e. Respondents Nos. 4 to 7, out of the 9 persons originally selected for interview; and excluded the rest five including the petitioners, from appearing in the interview. In the said notice it was further mentioned that "the names of the remaining ~~the~~ five candidates which were erroneously advised vide this office notice of even No. dated 4.9.1979 may be treated as cancelled as they had failed to obtain the minimum qualifying marks prescribed for the written test." It has not been made clear that when the petitioners had failed to obtain the minimum qualifying marks, how could their name be placed at the top of the list of 9 candidates originally selected for interview. A true copy of the said notice dated 19.11.1979 is annexed herewith as ANNEXURE NO.5 to this writ petition,

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15. That accordingly an interview was held on 26.11.1979 in the office of Respondent No.3 in which only Respondent Nos. 4 to 7 were allowed to appear and the petitioners having been deprived of their chance were not allowed.

16. That it would thus appear that the petitioners though having been selected earlier for interview and even having secured the top position in the list of selected candidates on the basis of the written test, have been arbitrarily and illegally deprived of their legitimate right to appear in the interview for which they have already been found eligible, on the alleged ground of their having not obtained the minimum qualifying marks in the written test.

17. That aggrieved by the said arbitrary action of Respondent No.1 in not calling the petitioners for interview, the petitioners on 23.11.1979 wrote a letter to Respondent No.1 requesting him to intimate the petitioners what were the minimum qualifying marks for passing the written test, fixed by the respondents and how many persons could be called for interview for one post. A true copy of the said application of the petitioners is annexed as ANNEXURE NO.6 to this petition. The petitioners have not been given any reply to their application so far.

18. That the petitioners then made enquiries from respondents and have come to know that there are four vacancies of Intermediate Apprentice Mechanic

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which are to be filled up from amongst the skilled staff on the basis of marks obtained by each candidate in the written test.

19. That no minimum qualifying marks have been prescribed for the said post of Intermediate Apprentice Mechanic, in as much as the Respondent No.1 has not given any reply to the petitioners' application asking about the same.

20. That the Railway Board Circular dated 3.9.1976 provides that the number of candidates to be called for Class III selections should be three times the number to be empanelled. A true copy of the said circular of the Railway Board dated 3.9.1976 is annexed as ANNEXURE NO.7 to this writ petition.

21. That in view of the directions contained in the aforesaid circular of the Railway Board dated 3.9.1976, at least 12 persons should have been called for interview against the 4 vacancies existing. It is submitted that if 12 persons were called for interview, the petitioners' names were surely there according to merit which is evident from the notice dated September 10, 1979 (Annexure No.4).

22. That Respondent No.1 has called only four persons for interview against four vacancies which is in violation of the directions contained in the Railway Board's circular referred to above, and the petitioners are thus being deprived of their right of being considered for promotion in an illegal manner.

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23. That the respondents Nos. 1 to 3 are going to make postings of the persons selected for appointment to the post of Intermediate Apprentice Mechanic, in pursuance of the interview held on 26.11.1979 and the petitioners would suffer irreparable loss and injury in case the respondents are not restrained from making any posting/appointment on the basis of the interview held on 26.11.1979.
24. That the petitioners are entitled to be considered for promotion and the interview held on 26.11.1979, in which only respondents Nos. 4 to 7 were called and the petitioners were left even though they had earlier been found fit for interview, is arbitrary and illegal and as such it deserves to be declared illegal and proceedings in pursuance of the said interview are liable to be quashed.
25. That feeling aggrieved by the action of the Respondents No.1 to 3 in not calling the petitioners for interview in pursuance of the second notice dated Sept.10, 1979 (Annexure No.4) although they were initially called for interview, and having no adequately efficacious remedy, the petitioners seek to invoke the extra-ordinary jurisdiction under Article 226 of the Constitution of India, on the following amongst -

GROUND

- I. Because the petitioners had successfully completed the written test held on 10.11.1978 for selection to the post of Intermediate Apprentice Mechanic.

: 10 :

- II. Because in pursuance of the petitioners having been found fit for interview, they ought to have been called for interview.
- III. Because the said interview held on 26.11.1979 without calling the petitioners, even though they had earlier been called for interview which was postponed, was illegal.
- IV. Because the interview which was notified to be held on 10.9.1979 was illegally postponed by the respondent Nos.1 to 3.
- V. Because the exclusion of the petitioners' names from the list of persons selected for interview to be held on 10.9.1979, by the respondents Nos.1 to 3 by postponing the interview, is arbitrary, illegal and without jurisdiction.
- VI. Because the respondent Nos.1 to 3 ought to have called the petitioners also for interview after its initial postponement.
- VII. Because the plea advanced by Respondent No.1 for not calling the remaining five persons out of the 9 persons originally selected for interview, is without any basis in as much as

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times the number to be empanelled.

- IX. Because the respondents Nos.1 to 3 called for interview only four persons against four vacancies in contravention to the directions given in the circular dated 3.9.76 of the Railway Board.
- X. Because the action of the respondents in not calling the petitioners for interview is against the provisions of rules and in violation of Article 14 and 16 of the Constitution of India.
- XI. Because the impugned order dated November 19, 1979 passed by Respondent No.1 (Annexure No.5) calling only four persons for interview and leaving the petitioners after having selected them for interview earlier, is illegal and without jurisdiction.

PRAYER

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

- (i) Issue a writ, order or direction in the nature of certiorari quashing the order dated November 19, 1979, (Annexure No.5);
- (ii) Issue a writ, order or direction in the nature of certiorari quashing the proceedings of the interview held by respondents on 26.11.1979;

(A33)

(iii) Issue a writ, order or direction in the nature of prohibition, prohibiting the respondents Nos. 1 to 3 from making any promotion in pursuance of the interview held in pursuance of the impugned order dated November 19, 1979 (Annexure 5).

(iv) Issue a writ, order or direction in the nature of mandamus commanding respondents to make fresh selection after calling the petitioners, in accordance with law.

(v) Issue such other writ, order or direction as may be deemed just and proper in the circumstances of the case;

AND

(vi) To allow this writ petition with costs.

There is no defect in this writ petition

ADVOCATE
COUNSEL FOR THE PETITIONERS

R. Khan

Dated, Lucknow :

December , 1979

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW

Writ Petition No. of 1979

H.N.Dixit and others ... Petitioners
Versus
Dy. Chief Mechanical Engineer,
(W) Carriage and Wagon Workshop,
Lucknow and others ... Respondents

ANNEXURE NO.1

NORTHERN RAILWAY

Office of the Deputy Chief Mechanical Engineer (W)
Carriage and Wagon Shops, Alambagh,
Lucknow.

No. 974-E/DCME/23/App.Mech. Dated, Lucknow
15.3.1978

The Principal,
S.T.S./N.Riy. Charbagh, Lucknow.

Subject : Selection of Intermediate Apprentices
Mechanics.

The requirement of the Intermediate App.Mechs.
upto 1980-81 had been worked out and the same is
C.& W.Fitter = 3 and B.S.H.T. = 1 = Total = 4.
Accordingly the applications were invited from the
Skilled staff. The under-noted employees are eligible
to appear in the test. The dates are to be notified
by you for the examination.

The list is given below.

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: 2 :

<u>Sl. No.</u>	<u>Name</u>	<u>T.No.</u>	<u>Trade</u>	<u>If S.C.</u>
1.	Shri R. K. Das	Tracer	Machinist	
2.	" Mahesh Kumar	56B	C. & W. Fitter	
3.	" Shyam Lal	81A	Skd. Carpenter	SC
4.	" Mirza Zawar Husain	102A	" "	
5.	" R. N. Khare	325A	" "	
6.	" Sukh Sagar Lal	378A	" "	
7.	" Khem Chandra	467A	" "	SC
8.	" B. P. Verma	531A	" Fitter	
9.	" Shiv Ram Pal	580A	" "	
10.	" B. L. Gupta	606A	" "	
11.	" Ajit Kumar Srivasta	620A	" "	
12.	" Om Prakash	634A	" "	
13.	" K. K. Sharma	622A	" "	
14.	" Abbas Hussain	657A	" "	
15.	" R. B. Prasad	897A	" "	SC
16.	" Ganga Ram	1056A	" Carp.	SC
17.	" M. P. Mathur	1059A	"	SC
18.	" Ramesh Bahadur	51B	C&W Fitter	
19.	" Sty Pal Lakhan Pal	355B	" "	
20.	" Santosh Kumar	363B	" "	
21.	" Matroo Lal	380B	HS Fitter II	SC
22.	" K. L. Pandey	623B	Fitter	
23.	" Ram Kumar	625B	" "	SC
24.	" R. C. Srivastava	654B	"	
25.	" Kamta Prasad	703B	"	
26.	" V. S. Nigam	66E	B/Smith Gr. II	
27.	" Ram Sewak	37F	Skd. Fitter	
28.	" Ram Karan Singh	64F	MW Fitter	
29.	" Pooran Chand	80F	MW Fitter	



Hindi

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A36/15

: 3 :

Sl.No.	Name	T.N.O.	Trade	If SC
30.	Chhedi Lal	116F	Skd. fitter	
31.	Prati Pal Singh	208F	MW Fitter	
32.	H.N. Dixit ✓	234F	MW Fitter	
33.	Inter Prakash Misra	247F	" "	
34.	Abdul Rashid Siddiqi	52G	Mechanist	
35.	S.N. Tewari	656G	"	
36.	Sri Ram Trivedi	68G	"	
37.	H.K. Tewari	70G	"	
38.	P.C. Chaturvedi	97G	"	
39.	K.N. Awasthi	124G	"	
40.	Babu Ram	248G	"	SC
41.	M.R. Das	261G	"	
42.	S.K. Chakravarty	268G	"	
43.	Rameshwar Singh			
	(Officiating C/Man)	Shop K.		
44.	R.N. Maurya	40K	Skd. Welder	
45.	B.M. Yadav	68K	"	
46.	K.P. Dixit	79K	" Gr.II	
47.	Om Prakash	38H/38K	Mistry	SC
48.	Chandra Mohan Gupta	85L	Tool Maker	
49.	Anik Kumar Srivastava ✓	417L	Tool Maker	
50.	Ashok Kumar Gupta	57L	Tool Maker	
51.	Sant Ram	118L	Skd. Fitter	
52.	S.B. Ram Sharma	102L/98L	M/Man	
53.	Rameshwar Prasad	92M/122A	Art Inspector.	
54.	Uma Shankar Srivastava	141A/62M	O. & W. Fitter	
55.	N.K. Dixit	42K/68M	Sk. HS Fitter Gr.II	
56.	Raja Ram	57M/594A	Art. Insp.	

• 4 •

57. Ajodhya Pd. Shukla	65M/688A	Art. Insp.
58. Daya Shankar	444B/78M	Wagon Shop Art.
59. Om Saran Lal Srivastava	76M/185A	Carp.
60. Gur Charan Singh	74M/369B	Sk. Fitter
61. R.C. Chowdhey	113M/107B	"
62. Ram Lakan Gupta	60K/67M	Welder Gr. II
63. V.B. Saxena	114M/165MA	Carp.
64. Vidya Sagar Tewari	67E/40M	Insp. Art.

Sd.

15.3.78
For Dy. C.M.E (W)

C. & W. Shops Alambagh, Lucknow.

Copy to :

All Shop Superintendents, C. & W. Shops, AMV LKO
for information. He is requested to get the same
noted by the staff concerned. The staff concerned
should remain ready for the examination.

—
TRUE COPY

5/12

Untrait.

Hasan.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW

Writ Petition No. of 1979

H.N. Dixit and others ... Petitioners

Versus

Dy. Chief Mechanical Engineer (W)
and others ... Respondents

ANNEXURE NO. 2

NORTHERN RAILWAY

Office of the
Deputy Chief Mechanical Engineer (W)
C. & W. Shops / Amv. Lucknow.

No. 974E/DCME/23 APP. Mech.
Dated Nov. 25, 1978

The Shop Superintendents,
'A' 'B' 'C' 'C' 'F' 'G' 'L' 'M'
C/- to CTK/Amv.

The under noted staff who attended the written
test on 10.11.1978 in the Principal System Technical
School, Charbagh, Lucknow be treated as on duty :

1. Sri R. K. Dass Tacer
2. Sham Lal, T. No. 55B
3. Mirza Jawwar Hussain 102/A
4. R. N. Khare, 325/A
5. Khem Chandar 467/A
6. Shiv Ram Pal 580/A
7. B. L. Gupta 606A
8. A. K. Srivastava 620/A
9. O. M. Prakash 634/A
10. K. K. Pra Sharma 622/A



Habibit
Habibit

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: 2 :

11. Abbas Hussain 657A
12. R. B. Prasad 897/A
13. Ganga Ram 1056/A
14. M. P. Mathur 1059/A
15. R. C. Srivastava 654/B
16. V. S. Nigam 66/B
17. H. N. Dixit 234/F
18. A. R. Siddiqi 52/G
19. S. N. Tewari 65/G
20. P. C. Chaturvedi 97/G
21. K. N. Awasthi 124/G
22. N. R. Dass 261/G
23. S. K. Chakravarty 268/G
24. K. D. Dixit 79/K
25. C. M. Gupta 85/L
26. Anil Kumar Srivastava 117/L
27. S. B. Ram Sharma 102/L.
28. Uma Shankar Srivastava 62/M
29. N. K. Dixit 68/M
30. O. S. Lal Srivastava 184A
31. Ram Lakan Gupta 67/M

Sd.

For Dy. Chief Mechanical Engineer (W) Amv
R/22 XI

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW

Writ Petition No. of 1979

H.N. Dixit and others ... Petitioners
Versus
Deputy Chief Mechanical Engineer
(W) and others ... Respondents

ANNEXURE NO. 3

NORTHERN RAILWAY
OFFICE OF THE DEPUTY CHIEF MECHANICAL ENGINEER (W)
C.& W. Shops, Amv. Lucknow.

5/12
No. 974E/DCME/23 App. Mech. Pt. I Dated Sept. 4, 1979

SS/Carriage, M.W. B/Smith, Welding
Inspection and Machine, ASS/TL C& W Shops Amv. Lko.

Sub: Interview for Intermediate App. Mech.

Hubert
The undersigned staff may kindly be directed
to appear in the above interview at 10.30 Hrs. sharp
on 10.9.1979 in P.E./AMv's room positively.

S/Sh.

1. H.N. Dixit ✓ 234F
2. A.K. Srivastava ✓ 117L

20
A41

: 2 :

3. Mr. Shri A.R. Siddiqi 52G

4. U.S. Srivastava 141A/62M

5. M.P. Mathur 1059A

6. K.D. Dixit 79K

7. R.L. Gupta 60K/67M

8. V.B. Saxena 114M

9. V.S. Tewari 67E/40M

Signatures of the above staff for attending
the above interview may please be obtained and this
office be intimated accordingly.

For Dy. C.M.E./Amv. Lucknow

Copy to PSTS /CB / LKO for information pl.

G/ 3.9.79

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW

Writ Petition No. of 1979

H.N. Dixit and others ... Petitioners

Versus

Deputy Chief Mechanical
Engineer (W) and others ... Respondents

ANNEXURE NO. 4

NORTHERN RAILWAY

Office of the Deputy Chief Mechanical Engineer (W)
C&W Shops /Amv. Lucknow.

No. 974E/DCME/23 App.Mech.Pt.I

Dated Sept. 10, 1979

The SS/Carriage MW B/Smith,
Welding, Inspection, and Machine
ASS/TL/C&W/Amv. Lucknow.

Sub: Interview for Intermediate Apprentice Mechanic

Ref: This Office letter No. 974E/DCME/23App.Mech.
Mech.Mpt.I Dated 4.9.1979

The interview which was due to be held on
10.9.1979 at 10.30 hrs. vide this Office letter
under reference is hereby postponed.

The undernoted staff may please be intimated
accordingly:-

: 2 :

1. Shri H.N.Dixit 234/F
2. Shri A.K.Srivastava 117/L
3. Shri A.R.Siddiqi 52/G
4. Shri U.S.Srivastava, 141A/62M
5. Shri M.P.Mathur 1059/A
6. Shri K.D.Dixit 79/K
7. Shri R.L.Gupta, 60K/67M
8. Shri V.B.Saxena 114M
9. Shri V.S.Tewari, 67E/40M

For Deputy Chief Mechanical Engineer (W)/Amv.

R/10 9

C/- to PSTS/CB/LKO for information.

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW

Writ Petition No. of 1979

H.N. Dixit and others ... Petitioners

Versus

Dy. Chief Mechanical Engineer (W)
and others ... Respondents

ANNEXURE NO. 5

NORTHERN RAILWAY

Office of the Deputy Chief Mechanical Engineer (W)
C & W Shops / Alambagh,
Lucknow.

No. 97A4E/DCME/25 App.Mech.Pt.I Dated November 19, 1979

512
The SS/Carriage, MW, B/Smith, Welding, Inspection
and Machine, ASS/TL/C&W/AMV Lucknow

Sub: Interview for Intermediate Apprentice
Mechanic.

In part supersession of this office notice
of even No. dated 4.9.1979 the under-noted four
employees only may be directed to appear in the
interview at 10.00 Hrs. on 23.11.1979 in the room
of Principal, System Technical School, Charbagh,
Lucknow.

: 2 :

1. Sri K.D.Dixit T/No.79K
2. Sri V.S.Tewari T/No.67E/40M
3. Sri U.S.Srivastava T/No.141A/62M
4. Sri A.R.Siddiqi T/No.52G

The names of the remaining five candidates which were erroneously advised vide this office Notice of even No. dated 4.9.79 may be treated as cancelled as they had failed to obtain the minimum qualifying marks prescribed for the written test.

For Deputy Chief Mechanical Engineer (W)Alambagh,
Copy to PSTS/CN/Lucknow for information.

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इन दिशा नरेविल हाई कोर्ट ब्राफ़ बुडीकोवर रेट सताहाबाद

सिटिंग रेट लखनऊ

रिट पेटिशननं०

ब्राफ़ १६७६

एच० रन० दिवित वैरह

--- पेटिशनर

बनाम

डिपटी चीफ भेनेजिल हन्जीनियर वैरह

--- रेस्पान्डेन्स

अनेकज्ञर संस्था ६

श्री मान, उप मुख्य योग्यिक अभियन्ता,
सवारी रेवं माल छिक्का कारखाना
आतम बाग लखनऊ।

सन्दर्भ : पत्र संख्या ६७४६। दीसीएम्ही। २३ रप सम रफ सी० रच० पी० टी० १
दिनांक नवम्बर १६, १६७६

महोदय, निवेदन है कि उपरोक्त सन्दर्भ में हम लोगों को इन्टरमीडिएट अपरेन्टिस
भेनेक की सिसित परीक्षा में अनुकूल घोषित किया गया है।

अतः आप से अनुरोध है कि हम लोगों को उच्च न्यायालय में प्रस्तुत
करने के लिये निम्न विवरण प्रदान करने की कृपा करें :

(१) लिखित परीक्षा पास करने के लिये निम्नतम श्रंक (क्वालिफाइंग
मार्क्स क्या निर्धारित है ?

(२) साक्षात्कार में रक स्थान के लिये बुलाये जाने वाले उम्मीदवारों
की संख्या क्या निर्धारित की गई है।

धन्यवाद।

प्राधीनिक

१. अनिल कुमार श्रीवास्तव, ११७ रुप्त

२. इव्य नारायण दीक्षित २३४ रुप्त

३. राम लखन मुप्ता ६० कौर्द्धा रुप्त

४. वीरेन्द्र बहादुर सर्सोना ११४ रुप्त

दिनांक २३.११.७६

सत्य प्रतिलिपि

A47 26

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW

Writ Petition No. of 1979

H. N. Dixit and others ... Petitioners

Versus

Dy. Chief Mechanical Engineer (W) and others ... Respondents

ANNEXURE NO.7

NORTHERN RAILWAY

Headquarters Office :

Baroda House, New Delhi 1

No. 831-E/63-X(EIV) Dated 13.9.1976

1. All Divisional Superintendents and Extra Divisional Offices.
2. FA & CAO(C) Chief Auditor
3. Dy. FA/Supt. Budget.
4. C/All HODs

All SPOs and APOs. Sl. No. 6618

Sub : Selection Procedure :

A copy of Railway Board's letter No. E(NG)I-76MI/168 dated 3.9.76 is reproduced below for information and guidance.

The contents of the concluding two paras should be carefully noted to ensure that necessary action as suggested therein is taken accordingly.

(B.R. Mehta)
For General Manager(P)

Copy to :-

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: 2 :

1. General Secretary URMU 166-2, Railway Bungalow
Punchkuian Road, New Delhi
2. The General Secretary URMU 115E, Babar Road,
New Delhi.
3. Sri Ganesh Lal Sharma, Assistant General Secretary
URMU Rly. Quarter T.35A, South Colony, Moradabad.
4. Shri J.P. Chaubey, C/o Division Secretary Northern
Railwayment's Unions Office Near Guard's Running
Room, Charbagh, Lucknow.

Copy of letter No.E(NG)I-76PMI/168 dated
3.9.1976 from Dwarka Dass, Deputy Director, Establishment,
RDSO Railway Board, New Delhi to General Managers, All
Indian Railways, and other, copy to Director General,
RDSO Lucknow and others

Sub: Selection procedure :

In terms of para 216(d) of Chapter II Section 'B' of the Indian Railway Establishment Manual, the existing procedure is that for selection to non-gazetted categories the field of eligibility is 4 times the number of existing and anticipated vacancies plus 25% thereof for unforeseen vacancies. If the requisite number cannot be obtained from the grade immediately below the selection grade, the Administration is authorised to call staff in lower grades up to the third lower grade.

The above procedure has been carefully reviewed and the Ministry of Railways have decided that henceforth

: 3 :

the number of candidates to be called for Class III selections need normally be only three times the number to be empanelled. They have also decided that normally only staff in the grade immediately below the selection grade should be considered; if the requisite number cannot be found in that grade, it would be permissible to go down to the second grade below but in no case should any candidates in a grade lower than the second grade below be considered. If the number of candidates thus available is short of 3 times the number to be empanelled, a reference should be made to the Board.

The number of SC/ST candidates to be considered for selection should be determined on the same lines in relation to the number of posts reserved for such candidates. The number called would therefore be normally 3 times the number of reserved posts, subject to the condition that consideration does not extend to staff beyond two grades below the grade for which the selection is held.

V3112
The Ministry of Railways have also decided that selection ~~panels~~ panels should not cater for unforeseen vacancies. In other words, the number of candidates considered should normally be equal to 3 times the number of existing and anticipated vacancies.

Abbot
Allin
Finally, not more than one supplementary selection should be held; once the system of giving advance notices (as referred to below) is introduced, the incidence of absenceesm and therefore the need for supplementary selections would come down.

: 4 :

The above procedure may be followed with immediate effect. Necessary corrections in the Indian Railway Establishment Manual will be included in the new edition which is being compiled.

The Ministry of Railways have also decided that in future the programme of selections to be held in a year should be notified in advance around July of the preceding year. The programme for should be notified within the next two months. To avoid difficulties in sparing running staff, selections for such categories should be programmed during the slack season.

It is observed that Class III selections are not being held at regular intervals. The Ministry of Railways desire that all such selections should be held annually at least from 1979 onwards. In the meantime, the periodicity should be at least one selection every two years.

2. Hindi version will follow :

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Amritsar

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW

Writ Petition No. of 1979



H.N. Dixit and two others ... Petitioners

Versus

Deputy Chief Mechanical Engineers
(W) and others ... Respondents

AFFIDAVIT

L 3/12
I, Hriday Narain Dixit, aged about 38 years, son of Ayodhya Prasad Dixit, Highly Skilled Grade II Mill Wright Fitter (Ticket No. 234-F) Carriage and Wagon Workshop, Northern Railway, Alambagh, Lucknow, the deponent, 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 as such he is well conversant with the facts of the case.
2. That contents of para 1 to 22 of the accompanying writ petition are true to my own knowledge and my knowledge based on records and believed by me to be true, while the rest are believed by me to be true on the basis of legal advice.

: 2 :

3. That Annexures Nos. 1 to 7 to the accompanying writ petition are true copies of their originals.

Habib

DEPONENT

Dated, Lucknow :

3.12. 1979

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

Habib

DEPONENT

Dated, Lucknow

3.12. 1979

I identify the deponent who has signed before me.

*Mohd Naem do Sri R.N. Tripathi
Advocate*

Solemnly affirmed before me on 3.12.79 at 11.50 AM/PM by Sri H.N. Dixit, the deponent who is identified by *Mohd Naem do Sri R.N. Tripathi
Advocate, High Court, Lucknow.*

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

AN Saifan

*Deputy Commissioner
Habibullah*

No. 97/403

Date 3/14/79

5. In reply to para 10 of the writ petition it is submitted that the answering opposite parties also appeared in the examination.
6. In reply to para 11 of the writ petition it is submitted that answering opposite parties 4, 6 and 7 are also mentioned in Annexure 2 and answering opposite-party no. 5, was also held eligible for the examination vide a supplementary list as will appear from Annexure No. 1. (The department does not supplies the lists which are only shown to the candidates concerned for their information, it is not known how the petitioners managed to get the lists.
7. In reply to para 12, and 13 it is submitted that the names of the petitioners along with two others namely M.P. Mathur and V.B. Saxena were by mistake mentioned in Annexure No. 3, because they had actually not qualified in the written test and thus were not eligible for the interview and this mistake was discovered by the Board appointed for the interview, and that is why the Interview was postponed. It may also be mentioned here that this mistake was notified as an errata in Annexure No. 5 which mentions only the answering opposite parties to be eligible for the Interview. The aforesaid M.P. Mathur and V.B. Saxena accepted the decision of the department and have not joined the writ petition.

so they were not invited for the Interview, as shown in Annexure No. 5.

9. In reply to para 15 it is submitted that the petitioners were not allowed to appear in the Interview, because they had not qualified themselves for the same in the written test as mentioned above.
10. In reply to para 16, it may be mentioned that the names of the candidates mentioned in Annexure No. 3 were not in order of merit. The petitioners have by mistake treated Annexure 3 to be a list on merit and the writ petition is filed.
11. That the answering opposite parties have no knowledge about the contents of paras 17 and 18 of the writ petition and so the paras are denied.
12. In reply to para 19, it is inconceivable that no minimum marks were prescribed in the written test for qualifying to the Interview, because otherwise the written test will be meaningless.
13. In reply to para 20, it is submitted that Annexure 7, does not apply to the present selection in dispute, because that was held under a special notice containing the terms of qualification which was shown to the answering opposite parties and the notice is in possession of the department, thus the allegation of the petitioners that annexure 7 applies for the present case are denied. Annexure 7 is meant for rank promotion and the present selection was open ~~14x~~ competition from employees of various trades for the post of Chargemen.
14. That para 21 of the writ petition is denied vide



V S Tewari

✓ ~~14x~~

the preceding paragraph of the counter affidavit. It may also be mentioned that had the contention of the petitioners been true then Annexure 3, mentioning only 9 persons would also be invalid, which is accepted and relied upon by the petitioners.

15. That para 22 is denied vide para 9 of the present counter affidavit.
16. In reply to para 23, it is submitted that it is true that the answering opposite parties are to be sent for their training as they have qualified themselves and the petitioners being unsuccessful for the Interview and training are preventing the answering opposite parties from joining the training to the great detriment of the answering opposite parties.
17. That para 24 is denied. The present selection proceedings were conducted under a special notice mentioned in para of this counter affidavit, and the petitioners having not obtained the minimum marks for the Interview were rightly not allowed to appear in the Interview as mentioned above and thus they have no claim for being allowed in the Interview.
18. In reply to para 25 of the writ petition it is denied for reasons given in the present counter affidavit.

FURTHER PLEAS

19. } That for the reasons given in the present counter-affidavit the answering opposite parties are advised to state that annexures 1 to 7 being only instructions have no force of law, thus the writ



V. S. Telwani

(A51)

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petition is liable to be dismissed and at least there is no case made out against the answering opposite-parties and so ~~therefore~~ ^{their} they being sent for training may not be stayed. It may also be mentioned here that the special notification under which the present selection proceeding were conducted had also given the maximum age for the candidates, and the answering opposite parties ~~overage~~ will be ^{average} if any subsequent selection is held.

Lucknow, dated;
December 10, 1979.

Vidya Sagar Tewari
Deponent.

I, the above named deponent do hereby verify that the contents of para 1 to 18, are true to my personal knowledge and that of para 19 are believed by me to be true. No part of it is false and nothing material has been concealed; so help me God.

Vidya Sagar Tewari
Deponent.

I identify the deponent who has signed before me.

M. S. Mehta
Advocate.

Solemnly affirmed before me on 10.12.79,
at 10 a.m./p.m. by Sri V.S. Tewari
the deponent who is identified by
Shri H. L. Tewari & Trivedi
Clerk to Shri
Advocate, High Court, Allahabad, at Lucknow.

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

K. A. RASBAG
OATH COMMISSIONER

High Court, Allahabad
Lucknow, India

No. 460/21/79.
Date: 10.12.79



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

Counter-Affidavit on behalf of
Opposite-Parties No. 1 to 3.

In re

Writ Petition No. 3436 of 1979.

H.N. Dixit and others. Petitioners.

Versus

Deputy Chief Mechanical Engineer (Works),
Carriage and Wagon Shops, Alambagh, Lucknow
and others. Opposite-Parties.

610/49
I, Narendra Nath Mukerji, aged about 56 years, son
of Late R.K. Mukerji, resident of Bara Chandganj, Lucknow,
do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the Assistant Superintendent in
the office of Deputy Chief Mechanical Engineer (Works)/
Alambagh, Lucknow and has full knowledge of the facts
concerning the present writ petition.
2. That paras 1 to 6 of the writ petition are not denied.
3. That the contents of para 7 of the writ petition are
not denied, but it may be added that the answering
opposite-parties were also entitled to apply for the
post of Intermediate Apprentice Mechanic and consequently
they also applied in response to the notice mentioned
in para 7 of the writ petition.
4. That in reply to para 8 of the writ petition it may
be mentioned that the answering opposite-parties

Narendra Nath Mukerji

19-12-79

are also mentioned in Annexure No. 1.

5. That para 9 of the writ petition is not denied.
6. That in reply to para 10 of the writ petition it is submitted that the answering opposite-parties also appeared in the examination.
7. That in reply to para 11 of the writ petition it is submitted that opposite-parties no. 4, 6 and 7 are also mentioned in Annexure 2 and opposite-party no. 5 was also held eligible for the examination vide a supplementary list as will appear from Annexure No. 1. (The department does not supplies the lists which are only shown to the candidates concerned for their information, it is not known how the petitioners managed to get the lists.).
8. That in reply to paras 12 and 13 of the writ petition it is submitted that the names of the petitioners along with two others namely M.P. Mathur and V.B. Saxena were by mistake mentioned in Annexure No. 3 because they had actually not qualified in the written test and thus were not eligible for the interview and this mistake was discovered by the Board appointed for the interview, and that is why the interview was postponed. It may also be mentioned that this mistake was notified as an errata in Annexure No. 5 which mentions only the answering opposite-parties to be eligible for the interview. The aforesaid M.P. Mathur and V.B. Saxena accepted the decision of the department and have not joined the writ petition.



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9. That in reply to para 14 of the writ petition it is submitted that on finding the fact that the petitioners had obtained marks below the qualifying numbers for the interview so they were not invited for the interview, as shown in Annexure No. 5.
10. That in reply to para 15 of the writ petition it is submitted that the petitioners were not allowed to appear in the interview, because they had not qualified themselves for the same in the written test as mentioned above.
11. That in reply to para 16 of the writ petition it may be mentioned that the names of the candidates mentioned in Annexure No. 3 were not in order of merit. The petitioners have by mistake treated Annexure No. 3 to be a list on merit and the writ petition is filed.
12. That in reply to para 17 of the writ petition it is submitted that the matter of actual marks obtained by the petitioners is a confidential matter and the fact that the petitioners had not secured qualifying marks for the interview ^{was given} ~~to that~~ vide Annexure no. 5 and thus no reply was needed.
13. That in reply to para 18 of the writ petition it is submitted that the petitioners made no enquiries from the answering opposite-parties.
14. That in reply to para 19 of the writ petition it is inconceivable that no minimum marks were prescribed in the written test for qualifying to the interview, because otherwise the written test will be meaningless.
15. That in reply to para 20 of the writ petition it is



AGI

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submitted that Annexure no. 7 does not apply to the present selection in dispute, because that was held under a special notice containing the terms of qualification which was shown to the answering opposite-parties and the notice is in possession of the department, thus the allegations of the petitioners that Annexure No. 7 applies for the present case are denied. Annexure No. 7 is meant for rank promotion and the present selection was open competition from employees of various trades for the post of Chargemen.

16. That para 21 of the writ petition is denied vide the preceding paragraph of the counter-affidavit. It may also be mentioned that had the contention of the petitioners been true then Annexure no. 3, mentioning only 9 persons would also be ~~invalid~~ invalid which is accepted and relied upon by the petitioners.

17. That para 22 of the writ petition is denied vide para 10 of the present counter-affidavit.

18. That in reply to para 23 of the writ petition it is submitted that it is true that the answering opposite-parties are to be sent for their training as they have qualified themselves and the petitioners being unsuccessful for the interview and training are preventing the answering opposite-parties from joining the training to the great detriment of the answering opposite-parties.

19. That para 24 of the writ petition is denied. The present selection proceedings were conducted under a special notice mentioned in para 15 of this counter-affidavit, and the petitioners having not

Monckton

obtained the minimum marks for the interview were rightly not allowed to appear in the interview as mentioned above and thus they have no claim for being allowed in the interview.

20. That in reply to para 25 of the writ petition it is denied ~~xxxx~~ for reasons given in the present counter-affidavit.

Further Pleas

21. That for the reasons given in the present counter-affidavit the answering opposite-parties are advised to state that Annexures No. 1 to 7 being only instructions have no force of law, thus the ~~writ~~ petition is liable to be dismissed and at least there is no case made out against the answering opposite-parties and so their being sent for training may not be stayed. It may also be mentioned ~~xxx~~ here that the special notification under which the present selection proceedings were conducted had also given the maximum age for the candidates, and the answering opposite-parties will be overage if any subsequent ~~xx~~ selection is ~~w~~ held.

22. That a copy of the notice according to which applications for competitions were invited is made Annexure A 1.

Annexure A 1.

Lucknow dated
December 19, 1979.


Deponent.

I, the above-named deponent do hereby verify that the contents of paras 1 to 20 and 22 of this counter-affidavit are true to my own knowledge and the contents of

para 21 of this counter-affidavit are believed by me to be true and no part of it is false and nothing material has been concealed, so help me God.

Lucknow dated
December 19th, 1979.

A. K. Mukherjee
Deponent.

I identify the deponent who has signed in my presence.



A. K. Mukherjee
Advocate 19/12/79

Solemnly affirmed before me on 19.12.79
at 12.45 a.m./p.m. by Sri Narendra Nath Mukerji,
the deponent who is identified by
Sri *A. K. Verma*.

Clerk to Sri

Advocate High Court, Allahabad, Lucknow Bench, Lucknow.

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

Le-Sr. Verma

OATH COMMISSIONER	
High Court, Allahabad,	
Lucknow Bench.	
No. 410/49	
Date. 19.12.79	

ABU

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

Counter-Affidavit on behalf of Opposite-Parties No. 1 to 3.

In re

Writ Petition No. 3436 of 1979.

H.N. Dixit and others. Petitioners.

Versus

Deputy Chief Mechanical Engineer (Works) Carriage
and Wagon Shops, Alambagh, Lucknow and others.

... ... Opposite-Parties.

ANNEXURE No. A 1.

Sub:- Selection of Intermediate Apprentice Mechanics
for Alambagh Workshops.

The date of interview for the ~~xxxxx~~ selection of those candidates who have qualified in the written test was fixed on 10-9-79. S.M.(W) has, on date, ordered the change in the Selection Board which is to consist of P.S.T.S./CB, P.E./CB and A.P.O.(W)/AMV. Before starting the interview, it was observed that even those candidates have been called for interview who have obtained less than the minimum prescribed ~~xxxxx~~ marks i.e. less than 60% in the written test. The candidates have been called in accordance with Sl. No. 5070 dated 15-9-70 but it has been observed that further ~~xxxx~~ circular has been issued by the Board vide Sl. No. 6054 in which the minimum qualifying marks to be called in interview has been fixed as 60% in the written test.

In fact, only 4 candidates have obtained 60% marks and above in the written test and only ~~they~~ are eligible to be called for the Viva-voce test. Since this error has been detected in time, the Selection Board proposes to issue an amendment to the previous letter wherein 9 candidates have been called for the viva-voce test. This proposal of Selection Board may kindly be agreed so that an amendment may be made and only 4 candidates who have obtained 60% marks and above may be called for the viva-voce test to be fixed on another date in future.

Sd/- K.L. Chatterji

P.S.T.S./CB/LKØ

Sd/- Pradeep Kumar

Prod. Engineer/CB-LKO

Sd/- G.D. Chaturvedi

A.P.O.(W) Alambagh, LKO

10-9-1979.



Alambagh

t.t. 80
15.1.80

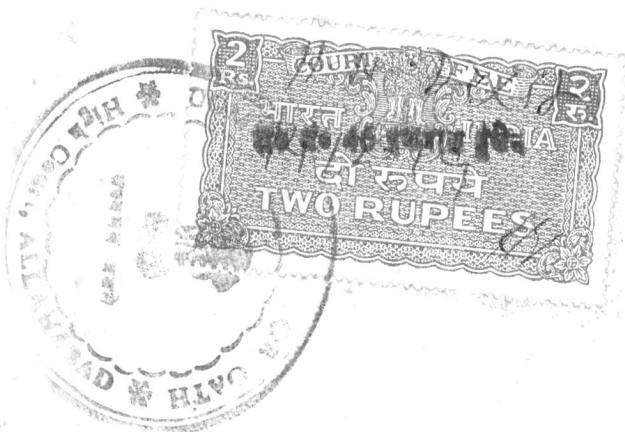
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IN THE HO N'BLE HIGH CO URT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW

Writ Petition No. 3436 of 1979

Dixit
B. v. al
28/12



H.N. Dixit & others

... Petitioners

versus

Deputy Chief Mechanical Engineers
(Works) Carriage & Wagon Shops,
Alambagh & others

... Opp. Parties

Rejoinder affidavit to the Counter
Affidavit filed on behalf of Resp. 4-7

I, Hriday Narain Dixit, aged about 38 years
son of Ayodhya Prasad Dixit, Highly skilled Grade II
Mill Wright Fitter (Ticket No.234-F) Carriage &
Wagon Workshop, Northern Railway, Alambagh,
Lucknow, do hereby solemnly affirm as under:

Dixit

1. That the deponent is petitioner No.1 in
the aforesaid writ petition and he is fully con-
versant with the facts deposed to hereinafter.
2. That the deponent has read copy of the



4/2
A66

-2-

counter affidavit filed on behalf of opposite parties
4 to 7 and he has understood the contents thereof.

3. That the contents of para 1 need no
comment.

4. That ~~the~~ ^{as} in reply to the contents of
para 2 of the counter affidavit, the contents of
para 7 of the writ petition are reiterated to be
correct.

5. That with respect to the contents of para
3 of the counter affidavit, the contents of para 8
of the writ petition are reiterated.

6. That the contents of para 4 of the counter
affidavit need no comment.

7. That with respect to the contents of para 5
¹⁶ ~~10~~ and ~~11~~, the averments made in paragraph 10 and
11 of the writ petition are reiterated.

8. That with respect to the contents of para
7 of the counter affidavit, the averments made in
paragraph 12 and 13 are reiterated. It is further
stated that there was no mistake in calling the
petitioner for the interview as they had qualified.
The test held was a competitive test and the
petitioner had successfully competed and as such
they were rightly called for interview. The interview
was wrongly postponed. The alleged errata, Annexure 5
was illegal and without jurisdiction.

14/11
HMS/



A67

8/3

-3-

9. That with respect to the contents of para 8 of the counter affidavit it is stated that no qualifying marks had been fixed. The test was a competitive test and the administration was under an obligation to call three times of the number of vacancies for interview. Since there were 4 vacancies 12 persons should have been called.

10. That the contents of paragraph 9, 10 and 11 of the counter affidavit are denied and those of paragraphs 15, 16 and 17 of the writ petition are reiterated to be correct.

11. That with respect to the contents of para 12 of the counter affidavit it is stated that no qualifications have been fixed. The test was a competitive test at which inter alia the petitioners had succeeded and they should have been called for interview.

12. That the contents of paragraphs 13, 14, 15, 16, 17, 18 and 19 of the counter affidavit are denied and those of paragraphs 22, 23, 24 and 25 of the writ petition are reiterated to be correct.

14. That it is stated that non-calling of the petitioners is illegal. The appointment made, if any, in pursuance of the impugned interview is also illegal and without jurisdiction.



Hubert
DEPONENT

Dated: Lucknow

December 14, 1979

ACB

8/V

-4-

Verifications

I, the above named deponent, do hereby verify that the contents of paragraphs 1 to 8, 10, 11, 12 are true to my knowledge and those of para 9 and 13 are believed by me to be true. No part of this affidavit is false and nothing material has been concealed. So help me God.



Deponent

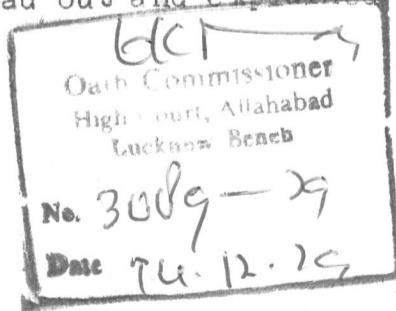
Dated: Lucknow

December 14, 1979


I identify the deponent
who has signed before me
Mohd. Naeem Chishti
Q.N.T. Mulla
Advocate

Solemnly affirmed before me on 14.12.79
at 8.50 am/pm by Shri H.N. Dixit
who is identified by Mohd Naeem Chishti
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 and explained by me.



11.00
15.1.89

AG9

9/



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

Writ Petition No. 3436 of 1979.

1979
AFFIDAVIT
76
HIGH COURT
ALLAHABAD

H.N. Dixit and others. . . . Petitioners.

Versus

Dy. Chief Mechanical Engineer, Works Carriage and
Wagon Shop, Alambagh, Lucknow and others.

. . . Respondents.

REJOINDER-AFFIDAVIT TO THE COUNTER-AFFIDAVIT
FILED BY THE OPPOSITE PARTIES 1 -3.

I, Anil Kumar Srivastava, aged about 31 years, son of Shyam Lal Srivastava, skilled Grade Fitter (Ticket No. 117/L) Carriage & Wagon Workshop, Northern Railway, Alambagh, Lucknow do hereby solemnly affirm and state as under:-

1. That the deponent is petitioner No. 3 in the above writ petition and he is fully conversant with the facts deposed to hereinafter.
2. That the deponent has read copy of the counter-affidavit filed by Sri Harendra Nath Mukerji on behalf of the Opp. parties 1 to 3 and he has understood the

the contents thereof.

3. That the contents of paragraphs 1 to 6 of the counter affidavit need no comment.

4. That with respect to para 7 of the counter affidavit it is stated that the contents of Annexure 2 will appear from a perusal thereof.

5. That with respect to para 8 of the counter affidavit it is stated that the names of petitioners were included not by mistake but because they had passed in the written test and were therefore eligible for being considered for interview.

6. That with respect to para 9 of the counter affidavit it is stated that no qualifying marks were prescribed and the petitioners had succeeded in the written test and were rightly called for interview.

7. That the contents of para 10 of the counter affidavit are denied. The petitioners had qualified. There was no qualifying marks prescribed for the test, the test being competitive. The deponent further learn that the qualifying marks previously fixed for the examination were subsequently said to be altered. The petitioners craves leave of this Hon'ble Court to direct to respondents to produce the relevant documents to show that the qualifying marks were prescribed before the examination was conducted.

8. That the contents of para 11 of the counter affidavit are denied. The names given in Annexure 3 were arranged in order of merits.

Arvadawia

5/12

9. That with respect to para 12 of the counter affidavit it is stated that the petitioners are entitled to know the qualifying marks initially fixed and the marks in fact obtained by them before they could be disentitled for being called for interview. It is stated that respondents 1 and 2 are under an ~~10.xx~~ ~~That with respect to~~ obligation to disclose the qualifying marks fixed initially and the marks obtained by the petitioners. The petitioners do not admit that there was any qualifying marks prescribed for any such examination, it being competitive in nature.

10. That the contents of para 13 of the counter affidavit are denied and those of para 18 of the writ petition are reiterated.

11. That with respect to para 14 of the counter affidavit it is stated that in fact no one was ever told that the examination was being conducted was qualifying examination nor the ~~nor~~ respondents have now disclosed the qualifying marks alleged to have been prescribed initially before the examination started.

12. That the contents of paragraphs 15, 16 and 17 of the counter affidavit are denied and those of paragraphs 20, 21 and 22 of the writ petition are reiterated.

13. That with respect to para 18 of the counter affidavit it is stated that respondents 4 to 7 cannot be sent for training without the claim of the petitioners.

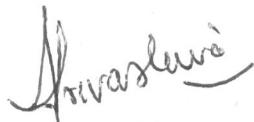
-4-

being considered in accordance with law. The petitioners do not want to prevent respondents 4 to 7 from training if they are otherwise eligible but certainly not at the cost of the petitioners who have been wrongly eliminated from consideration for promotion.

14. That the contents of para 19 of the counter affidavit are denied and those of para 20 ~~etc~~ of the writ petition are reiterated.

15. That the contents of para 20 and 21 of the counter affidavit are denied.

16. That with respect to para 22 of the counter affidavit it is stated that the selection process had started on 15.3.1978 when notices were issued for the test. The test was in fact held on 10.11.78 abd as such the order dated 10.9.1979 is not applicable in the present case.


Deponent

Dated: Lucknow

December 20, 1979

Verifications

I, the above named deponent, do hereby verify that the contents of paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 14, 15 are true to my knowledge and those of paragraphs 9, 13, 16 are believed by me to be true. No part of this

-5-

affidavit is false and nothing material has been concealed. So help me God.

M. Wardeh
Deponent

Dated: Lucknow
December 10, 1979

I identify the deponent
who has signed before me

Nirad Kishore
Adv. Sri R.N. Dixit
Adv.

Solemnly affirmed before me on 20/12/79
at 11 am/pm by Shri ~~H.N. Dixit~~, who is
identified by Shri ~~A.K. Saverlaikar~~ Nirad Kishore Charn.
Advocate, High Court, Lucknow.

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

D. Bhattacharya
Oath Commissioner
High Court of Judicature
of the State of Bengal
No. 76 (W)

Date.... 20/12/79



W.P. No. 3436 of 1979

9 VAKALATNAMA A74



Court of

H. N. Dixit & Ors. Plaintiff
Defendant

Deputy chief Mechanical Plaintiff
Engineer (works) & Ors.

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

John M. R. Roy, Advocate, A. V. M. Roy, Advocate, A. V. M. Roy, Advocate

to appear, act, apply, plead in and prosecute the above described suit/appeal/proceedings 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/proceedings 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 the 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 agrees to ratify all acts done by the aforesaid Shri..... 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..... 19.....

Dated 16th Dec 1979.

N.R.—273/2—Nov., 1976—5,000 F.

भारत मुख्य कार्मिक अधिकारी

प्रधान कायलिय

नया दिल्ली

Designation of the
Executing Officer

John M. R. Roy
16/12/79

ब अदालत श्रीमान्

वादी (मुहर्ई)

प्रतिवादा (मुद्दाअलेह) का

वकालतनामा

महोदय

વિકાલ્યતનામા



H. N. Dixit and others

वादी (मुहर्ई)

वसाम

वनाम
By Chief Mechanical Engineer (25)
and others.

प्रतिवादी (मुद्दाअलेह)

$$10^{\circ} = 5 \cdot \pi$$

नं० मुकदमा सन १८ पेशी की ता० १८ ई०
क्षेत्र लिखे मुकदमा में अपनी ओर से श्री Sri R. N. Mishra

एडवोकेट महोदय वकील

को अपना बकील नियुक्त करके प्रतिज्ञा इकरार करता हूँ और खिलौ देता हूँ इस मुकदमा में बकील महोदय स्वयं अथवा अन्य बकील द्वारा जो कुछ पैरवी व जबाब देहो व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर डिगरी जारी करावें और रूपया वसूल करें या सुलहनामा या इकबाल दावा तथा अधीक्षा व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकदमा उठावें या कोई रूपया जमा करें या हमारी या विपक्षी (फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखतो) रसोद से लेवें या पंच नियुक्त करें बकील महोदय द्वारा को गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिये यह बकालत नामा खिलौ दिया कि प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

हिन्दूका-

3

महीना

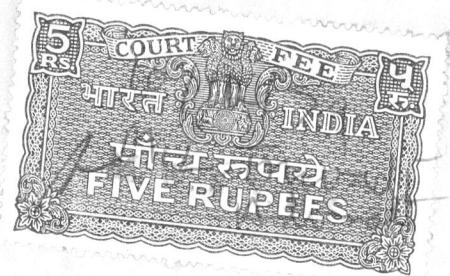
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In the Hon'ble High Court of Judicature
ब अदालत श्रीमान At Aligarh महोदय
Lokmane Bench, Lucknow.

(वादी) अपोलान्ट श्री Respondent No 467 का वकालतनामा
प्रतिवादा (रेस्पान्डेन्ट)



Sri H. N. Dixit and others

वादी (अपील ट)

By e M. E. (W) e. 8w shops Aligarh,
Unknown place

प्रतिवादी (रेस्पान्डेन्ट)

W. P. No. 3436
नं० मुकदमा सन १९७९ पेशी की ता० १०/१३ १९७९ ई०

ऊपर मुकदमा में अपनी ओर से श्री Manohar Lal Privali

एडवोकेट
महोदय
वकील

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता है और लिखे देता है कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर कर या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी कराव और रूपया वसूल करें या सुलहनामा या इकबाल दावा तया ओर व निगरानी हमारी आर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसीक करें या मुकदमा उठावें या कोई रूपया जमा करें या हमारी विपक्षी (फैक्सारी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या या पंच नियुक्त-कर वकील महोदय द्वारा का गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

प्रबुल रवीद

कृष्ण दत्त दीप्ति

हस्ताक्षर ३ मार्च १९८१ अधिकारी

विद्यासागर अधिकारी

साक्षी (गवाह)

बद्रपाल पांडे

साक्षी (गवाह)

दिनांक

९

महीना

१२

सन १९७९ ई०

ब्र अदालत श्रीमान्

[वादी अपीलान्ट]

प्रतिवादी [रेस्पाडेन्ट]

श्री "अंगेल कुमार श्रीवाल्का

महोदय

वकालतनामा

ATI

Case No TANo 410/8)

NN Dink
Union of India



वादी (अपीलान्ट)

बनाम

प्रतिवादी (रेस्पाडेन्ट)

नं० मुकद्दमा

सन्

पेशी की ता०

१६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री "श्रीमान् श्रीमा"

Prerna Sharma

वकील

महोदय

एडवोकेट

अदालत
नं० मुकद्दमा फैसला
नाम

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया बसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हारी विष्क्री (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसांद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकर को भेजता रहूँगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

Accept
X M. S. Sharma

हस्ताक्षर... *Chaudhary*
Arburt ...

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना सन् १६ ई०

स्वीकृत *M. S. Sharma*