

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, BENCH

OA/TA/PA/CP/MA/PT 420/82 of 20 08/11/79

B.K. Mishra Applicant(S)

Versus

O.O. I. Singh Respondent(S)

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Certified that the file is complete in all respects.

~~File No. 134 not found~~

Signature of S.O.

Signature of Deal. Hand

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

~~De A. No.~~
T.A.No. 420

1987

DATE OF DECISION ^{06 May}~~April~~, 1991

R.K. Mishra Petitioner

Shri L.P. Mishra Advocate for the Petitioner(s)

Versus

Union of India and ors Respondent

Shri Anil Srivastava Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr. A.B. Gorthi, J.M.

1. Whether Reporters of local papers may be allowed to see the judgment ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgment ? ✓
4. Whether to be circulated to all other Benches ? T

.....

Ghanshyam/

Ghanshyam

147
A16

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

(LUCKNOW BENCH)

Registration T.A. No. 420 of 1987

(Writ Petition No. 255 of 1979)

R.K. Misra

...

Petitioner

versus

Union of India through the General

Manager, Northern Railway, Baroda

House, New Delhi and ors Respondents

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

Hon'ble Mr A.B. Gorthi, A.M.

(By Hon'ble Mr A.B. Gorthi, A.M.)

Shri R.K. Misra aggrieved by his placement as a junior to Shri A.N. Srivastava (Respondent no. 4) and Shri Ram Chandra Dewan (Respondent no.5) in the grade of Wagon Movement Inspector (W.M.I. for short) filed writ petition No. 255 of 1979 which having been transferred to this Tribunal under section 29 of the Administrative Tribunals Act, 1985 is before us as T.A. No. 420 of 1987. Passage of 12 years has sufficiently narrowed down the original scope of the writ petition. The petitioner's seniority over respondent no. 4 was conceded by the authorities. Both respondents 4 and 5 have since retired; the respondent no. 4 died. The relief that remains for our consideration is the petitioner's seniority vis a vis Respondent No. 5, particularly, in the year 1978, when respondent no. 5 was promoted as Senior W.M.I. in the pay scale of Rs.700 - 900, while the petitioner remained as W.M.I. in the scale of Rs.550 - 750.

h. gorthi

2. The petitioner joined the Railway service on 26-6-1924⁵⁴ when he was appointed as a probational^{er} Assistant Station Master(A.S.M.). After completion of training, he was given independent charge on 29-6-55 in the scale of Rs.80 - 170 and later on put in the scale of Rs.130 - 225 w.e.f. 14-4-1962. He was appointed as W.M.I. in the pay scale of Rs.150 - 240 on 24-1-1968, having been duly selected for the said post. Thereafter, he was given pay scale of Rs.330 - 480 on 1-1-1973; Rs.455 - 700 on 30-6-1973 and Rs.550 - 750 on 16-1-1978. Although, he appeared^L appeared for a test and was successful thereat, he was denied the higher post of Senior W.M.I. which went to Respondent No.5.

3. As regards Respondent No. 5, he joined the Railway service as a Commercial Clerk on 14-10-1942 (Rs.60 - 150) and was promoted as a Guard Grade 'C' (Rs.80 - 170) on 4-6-1955. Subsequently his pay scale was raised to Rs.130 - 225 w.e.f. 11-6-1961. He was appointed as a W.M.I in the scale of pay of Rs.150- 240 on 26-9-68. His scale of pay was subsequently enhanced to Rs.330 - 480 on 1-1-1973, Rs.455 - 700 on 30-6-73, Rs.550 - 750 on 22-3-78 and finally Rs.700 - 900 on 4-8-78 when he became Senior W.M.I. On account of his longer length of service, his monthly emoluments were at all times higher than those of the petitioner.

4. The question of^L ~~inter~~ ^{senior} seniority arises from the time they were appointed to the same post of W.M.I. The petitioner became a W.M.I. on 24-1-68 in the grade of Rs.150 - 240 whereas, Respondent No. 5 picked up the said post and grade on 26-9-68.

1

:: 3 ::

At this stage, petitioner's pay was Rs.181 per month and that of Respondent NO. 5 was Rs.240 per month. The petitioner rendered about 13½ years service, while the Respondent no. 5 had about 26 years of service at that time. The Rules governing the seniority of non-gazetted staff are contained in Chapter III of the Indian Railway Establishment Manual, Rules 301 to 315. The relevant portion of Rule 302 reads thus:

" 302. Unless specifically stated otherwise the seniority among the incumbents of a post in a grade is governed by the date of appointment to the grade. The grant of pay higher than the initial pay should not, as a rule, confer on a railway servant seniority above those who are already appointed against regular posts. "

5. As per Rule 302, the seniority among the incumbents of the post of W.M.I. in the grade of Rs.150 - 240 is to be governed by the date of appointment to the grade. The petitioner who was appointed as W.M.I. in the scale of pay of Rs.150 - 240 on 24-1-68 should, therefore, rank senior to Respondent No. 5 who got the same post and grade on 26-9-68, notwithstanding the longer service he had or the higher monthly emoluments he was drawing.

6. There is yet another Rule which regulates the seniority on the basis of date of selection. Rules 306 and 309 are extracted below:

" 306. Candidates selected for appointment at an earlier selection shall be senior to those selected later irrespective of the date of posting except in the case covered by paragraph 305 above.

309. Seniority on promotion - Paragraph 306 above

A19

156
22

:: 4 ::

applies equally to seniority in promotion vacancies, due allowance being made for delay if any in joining the new posts in the exigencies of service. "

7. The case of the petitioner is that he appeared for a departmental test held in 1967 for assessment of the suitability of candidates for the post of W.M.I. and qualified there at. Annexure-I says that posting of staff as W.M.I. will be made on the basis of "seniority-cum-suitability". Respondent no.5 who was a ^{1. guard} grade 'C' w.e.f. 4-6-1955 did not take any such test but was appointed as W.M.I. There being no formal selection of Respondent No. 5 for the post of W.M.I., no definite conclusion can be arrived at on the basis of Rule 306 read with Rule 309.

8. The respondents filed a tabulated Annexure-C-I which shows in detail the relevant dates on which the petitioner and Respondent no.5 acquired various grades and scales of pay with a view to show that Respondent no.5 had always been senior to the applicant. A careful examination of Annexure-C-I brings out the following salient facts:

	<u>Applicant</u>	<u>Respondent¹ 5</u>
A. Date of joining service	26-06-54	14-10-42
B. Scale of pay Rs. 80 - 170	01-04-56	04-06-55
C. Scale of pay Rs.130 - 225	01-07-59	01-07-54 ¹
D. Scale of pay Rs.150-240	24-01-68	26-09-68
E. Scale of pay Rs.330-480	01-03-73	01-03-73
F. Scale of pay Rs.455-470	30-06-73	30-06-73

in-25

:: 5 ::

9. It will be useful at this stage to reproduce Rule 315.

" 315. Seniority when date of appointment to a grade is the same. Subject to what has been stated in paragraphs 302, 303, 304, 305 & 306, when the dates of appointment to the grade are the same, the dates of entry into the grade next below it shall determine seniority. If those dates also coincide, then the dates of entry into each of the lower grades in order down to the lowest grade in the channel of promotion shall determine seniority. If these dates are also identical, then the relative date of birth shall determine seniority, the older person being the senior. "

On the principle enunciated in Rule 315, we find that though the petitioner and Respondent no.5 acquired the last two grades on the same dates, it is the petitioner who secured the grade of Rs.150-240 earlier (on 24-1-68) than respondent no.5 who got it later (on 26-9-68). It is ^{therefore} ~~further~~ not ~~be~~ necessary to go beyond the period when they both were appointed to the post of W.M.I. in the year 1968. It is particularly so because what has to be determined is ^{their} ~~there, the~~ inter-se seniority, when they both held the same post of W.M.I. in the same scale of pay of Rs.150-240.

10. From all points of view, it is apparent that the petitioner was senior to Respondent no.5 notwithstanding the latter's length of service and the consequential higher monthly emoluments. he was drawing. In the result, the application is allowed. The respondents 1, 2 and 3 are hereby directed to treat the petitioner as senior to Respondent no.5, consider him for promotion to the post of Senior W.M.I. from a date not later than

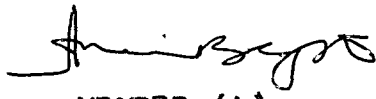
in sign

A 21

152
(24)

:: 6 ::

that on which Respondent no. 5 was promoted as senior W.M.I. and grant all other consequential benefits to which the petitioner becomes entitled on the basis of his revised seniority. Parties to bear their own costs.


MEMBER (A)


VICE CHAIRMAN

(sns)

May
April 06, 1991.

Allahabad.

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

FORM OF INDEX

O.A./T.A./R.A./C.C.P./ No. ¹¹²⁰-----1987

(W.P. 255/79)

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| 2. | Order Sheet | :- 2 No 17 |
| 3. | Any other orders | :- 10 |
| 4. | Judgement | :- 10 |
| 5. | S.L.P. | :- 1 |

3/12/87
DY. Registrar

4
Supervising Officer

30/12/87
Dealing Clerk

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

Dealing Clerk

V.K. Mishra

T

2

Annexure - A
CAT-82
CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

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CAUSE TITLE T. A. 420/87 OF 198

Name of the Parties

Versus

R. K. Mishra

Part A, B and C

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13	<u>B file</u> A154 A208	116
14	<u>C file</u> Application	

Signature

Hon'ble Hari Swarup, J.
Hon'ble S. C. Mathur, J.

Sri R. Mitra has appeared on behalf of the respondents and has made a statement that Sri R. C. Dewan has already taken over. He has also averred that the order contained in Annexure-20 to the writ-petition is an appellable order and can be challenged by the petitioner by way of an appeal to the General Manager. The petitioner has not yet filed any appeal against this order but intends to do so without delay. List this petition in the 1st week of May, 1979. On that day the learned counsel may intimate if he has already preferred an appeal.

12123.
From Addressee's Co. 100.00/-
Total Co. 100.00/-
Correct but final Court fee report
will be made on receipt of lower
Court record.
in time to
Papers filed. Copy of P. D.
should also be filed.
17-11-78

Letter signed by (21.21)

- 22-12-78.

Recd
29/1/79.

Her Mes,
Shri K. R. Gupta

For admission

Ar 19 in February 1979
The court has not yet decided
the petition for admission
within 24 hours.
2-2-79
K

MHS/-

19-2-79

Huble nest
Huble Ker. Gyner

Put up along
with the milk collection

by her
2-2-29
L

(11)

Lead duplicate.

2/11/79.
10/12/79.

Am T.S. Mirra J.
Am K.S. Varma J

Put up with the record.

h

Ks

13.12.1979

MB3

Hen. Hare Swamp
Hen S.C. Mathew
list along with the
2nd Petition.

15.2.79

Hen T.S.H.J.
Hen K.S.V.J.
Issue notice

MAB 3.4.1980

Hm T.S. Mirraij
Hm K.S. Varma

Admnl. Inuolice
Kg

168

3.4.1980

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CAT 13/11

~~ALLAHABAD~~
~~NEW DELHI~~

CA/T.A. No. 420 1987

R. K. Misra

Applicant(s)

Versus

Union of Jordan Lvs.

Respondent(s)

Sr. No.	Date	Orders
	16.10.87	<p><u>Office report.</u></p> <p>Writ Petition No 255/79 has been received in transfer from Hon'ble High Court Lucknow.</p> <p>Writ Petition is admitted. CA and RA both have not been filed.</p> <p>W.P. regarding seniority and Promotion.</p> <p>Notice issued to both the parties by regd. post 21.10.87 by regd post.</p> <p>Not delivered - as cover have been returned back.</p> <p>Petition is pending for orders.</p> <p>Submitted for a-ls.</p> <p>16.10.87</p>

(3)

OFFICE ORDER
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

.....No. 425 of 1987. (T)

R.K. Misra vs. Union of Magistrates

Sl.No. of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any taken on order)
	25-1-88	<u>Registration</u> Name present for the application, but with fresh service report given, 22-2-88. <u>Registration</u>	
	22-2-88	<u>Legation</u> no office report was put up vide order dt 25/1/88 Put up at 15-3-88 with service report. <u>Registration</u> <u>Office report/Service report not</u> Govt K. Gopal Counsel for respondent. One undelivered copy of Appeal to the Hon. Secy. Govt. Adm. has been return back with postal receipt (Not Mot). None is present for Respondents Nos. 425. <u>Submitter</u>	

13/90

3

Hon. Justice K. Nath, Jc.
Hon. K. J. Roman, Jc.

Sri L. P. ~~Sharma~~^{Mishra} for the applicant
addressed his arguments. When
Sri Anil Srivastava the learned
Counsel for the opposite parties
commenced the reply, it appeared
that certain specific facts are
necessary to be brought ^{out} in the
Court for determining the facts
with accuracy. Sri Anil Srivastava
requests for and is allowed three
weeks time to file a Supplementary
Court. It will be advisable to
scan through the relevant service
records of the applicant as well as
opposite parties 4 & 5 before submitting
a Supplementary Court. The applicant
may file Supplementary rejoinder within
two weeks thereafter and the case
be listed for final hearing on 12/4/90 when
2. ~~an op will also keep in some reforms ready prepared.~~
There will be no further time for
Court or for hearing. As requested
by Sri Anil Srivastava, a copy of
this order may be given to him
within twenty four hours. The
case may not be treated as
stied up ~~but if this Bench is~~
~~available on the date fixed.~~
and it will be taken up ~~on that~~
~~in date~~ by the Bench available on that date.

for
AM.

Sh
VC:

2 cc
for Sub-
man
13/90

12

12-4-90

420/17/77

(6)

13-7-89

Hon D K Agrawal - JM

ER
Notices have been
set back so far
No counter has been
filed so far
submitted
for order.

12/1

None appears. Notice
has already been issued to
the opposite parties. Put up
before the Division Bench
for passing necessary orders
as the parties are not taking
any steps to prosecute
the case. Put up on

17-8-89 for order.

Member (J)

Notice of applicant
has been retained
foral remain v. Ag.
to of applicant set of
34 40 40 4.1001
2
41

17-8-89 No Siding Ady to 30-8-89
Counsel for applicant is present

2
17/9

Hon'ble Mr. D.K. Agrawal, J.M.

30/10/89 The applicant appears in person.
Shri Anil Srivastava present in the
court appeared on behalf of respondent nos.
1 to 3 on 2-5-89. He, however, states that he
has not received any instruction from the respondents.
This is a writ petition of the year 1979.
List this case for hearing/ex-parte hearing on
9.1.90. The respondent nos. 1 to 3 may if, they so
like file counter affidavit within 6 weeks hereof.
In case the counter is filed, the applicant may file
rejoinder within 2 weeks thereafter. No further oppo
will be given to the respondents. Copy of this order
given to Shri Anil Srivastava as prayed for.

(Case is submitted)
for order.

27/11

(A13)

TA 420/87

12.4.90

Hon P.S. Habeeb Mohammed, AM.
Hon J.P. Sharma, JM.

The learned counsel for the respondent;
files the amendment application to
incorporate the same in the country.

Learned counsel for the applicant may
file objection if any within 2 weeks.
next for hearing on 1/5/90

[Signature]

JM.

[Signature]
JM.

15.5.90

Due to National Holiday
declared by Govt. of India
adjourned to 3.5.90.

[Signature]
1/5.

OR
As directed by
the Court's order of
12.4.90, the Lc has
reported has not incorporated
amendment.

No objection has
been filed by the Lc
for the applicant.

S.P.O

25/4/90

3/9/90

[Signature]
Ck not reached yet. up a
4.8.90 to be done
4.8.90

[Signature]
MOC

[Signature]
Amendment made
today

3/5

In terms of Hon'ble
Judge's Order dated 3/5/90,
the amendments sought for
have been incorporated by
me today. *[Signature]*
3/5/90
Counsel for Respondents.

(A15)

7.91

Hon. Mr. Justice R. Nath VC
Hon. Mr. A. B. Garthi BM

See L.P. Mising for the applicant and his wife for the
Argument heard. Judgement Respondents.

Reserved.

L
AM.

J
VC

Recd copy of judgement
on date (12.5.51).

[Signature]
Applicant.
16/5

Recd
copy of judgement
to the
16/5/51

AD 1000

255 No. 255 of 1979
1980 13. Union of India and ors

[illegible]

2102

9/2

4/2

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 207 of 1979

15

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
30.8.79	30.8.79 Went with C.M.A. No. 700 (W)-79 for orders. Hon. M.S.J. S.C.	15/9/80
30.8.79	Went with C.M.A. No. 700 (W)-79 for orders. Hon. M.S.J. S.C.	
11.9.79	11.9.79 Went with C.M.A. No. 700 (W)-79 for orders. Hon. M.S.J. S.C.	30.9.79
11.9.79	Went with C.M.A. No. 700 (W)-79 for orders. Hon. M.S.J. S.C.	
12.9.79	Went with C.M.A. No. 700 (W)-79 for orders. Hon. M.S.J. S.C.	

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. _____ of 197

15.

Date

Note of progress of proceedings and routine orders

Dated of which case is adjourned

1

2

3

Railways, Baroda House, New Delhi is directed to dispose of the appeal filed by the petitioner within six weeks. The learned counsel for the petitioner shall serve a copy of his memorandum of appeal on the learned counsel for opposite party no.4 as also on the learned counsel for opposite party no.5. The latter direction is made subject to the pleas that may be raised by the opposite parties nos.4 and 5 before the appellate authority as also before this Court.

List the writ petition on 21st of December, 1979.

/smv/

KS
October 31, 1979.

21/12/1979 granted F.C. with C.M. No. 700 L.J.-79

31/12/79

A106

9/1

3

ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD
 No. 255 of 1977
 15.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	<p>had directed the General Manager, Northern Railways, Baroda House, New Delhi to dispose of the said appeal within six weeks. The learned counsel for the Union of India shall intimate this Court on 30-1-1980 as to whether the said appeal was disposed of within the stipulated period or not whether it is still pending and if so, why it was not disposed of. The writ petition shall be listed on 30-1-1980.</p> <p style="text-align: right;">Sd/- 4.1.1980</p>	
	<p>30.1.1980 fixed F.D with C.M. No. 700 (W)-7a by a</p>	Blank

(2108) 9/5

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. _____ of 197
 _____ of 197

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
22.2.80	Hon. T.S.Misra, J. Hon. D.N.Jha, J.	
	Sri R.Mitra states that the appeal preferred by Sri R.K.Misra regarding assignment of seniority has been disposed of and he has been assigned seniority above Sri A.N.Srivastava and below Sri Ram Chandra Dewan and that the same has been noted by Sri R.K.Misra. He further states that the fact was communicated to Sri R.K.Misra vide office letter dated 10.1.1980. The learned counsel for the petitioner states that the appeal has not been disposed of by the General Manager and that it is wrong to state that the appeal has been decided. He, however, admits that some communication has been made to the petitioner with regard to the assignment of seniority vis-a-vis the opposite-parties nos. 4 and 5. The petitioner shall file the document by which that assignment of seniority has now been made within two days. The learned counsel representing the opposite-parties 1, 2 and 3 shall also file a copy of the order disposing of the appeal.	

8

ALLC
25 of 1989

255

-of 1989

-vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
22.7.57	<p>Fixed in PFR dt. 22.6.57 in W.P. & C.M. No. 700203-7 for order, Hon. T. S. M. B., Hon. R. S. B., w/ny list</p> <p style="text-align: right;">B. S. B. A. S. B. 2-171071</p>	

A2

(Chapter XLI, Rules 2, 9 and 15)

Date of decision.....

I have this day of 198 examined
the record and compared the entries on this sheet with the papers on the record. I have made all neces-
sary 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.

Clerk.

Office Clerk (Transportation) Branch in the scale of Rs. 60-130 w.e.f. 30.10.46. Thereafter A.M. Srivastava (Opp-party no. 4) was called to appear in the examination held for the selection of W.M.I. and was selected as such. A.M. Srivastava joined his duties as W.M.I. on 26.9.68. The examination by which A.M. Srivastava (Opp-party no. 4) was selected as W.M.I. was held subsequent to the examination which the petitioner passed.

4. That the Opp-party no. 5, Ram Chandra Dewan did not appear in any examination for his selection but, however, he was taken as such and joined his duties as W.M.I. on 26.9.68.

5. That as stated above, the petitioner passed the examination held for the selection of W.M.I.s prior to the passing of such an examination by the Opp-party no. 4 and the petitioner also joined his duties as W.M.I. about 8 months before the Opp-parties no. 4 and 5 joined their duties as W.M.I.

6. That one Mr. P.M. Johari, Divisional ^{operating} Office Superintendent, Northern Railway, Hazratganj, Lucknow was doing undue favour to the Opp-party no. 4 and as a result of his partisan attitude towards him, the Opp-party no. 4 was given a jump over the petitioner and was promoted in the scale of Rs. 205-280. Although A.M. Srivastava was junior to the petitioner and was also junior to Opp-party no. 5 even then he was given a higher scale of Rs. 205-280 w.e.f. 19.6.69 and the petitioner was ignored.

R.L. Misra

7. That the petitioner pleaded his cause and sent a representation to the Divisional Personnel Officer, Northern Railway, Lucknow claiming that he was senior to A.N. Srivastava (Opp-party no. 4) in service as the petitioner joined as W.M.I. on 24.1.68 whereas Sri A.N. Srivastava joined as W.M.I. on 26.9.68 and the petitioner was also working in higher grade to that of A.N. Srivastava at the time of his selection as W.M.I. and accordingly the petitioner respectfully prayed that the injustice done to him by over looking his cause and by giving undue advantage to A.N. Srivastava be cured and justice be restored to him. A true copy of the representation dated 24.7.69 is being annexed herewith as Annexure-2 to this writ petition.

8. That vide letter dated 1.9.69 the petitioner was informed that the seniority was determined taking into consideration of the grades at ~~para~~ par and length of service in the grade and, as such, A.N. Srivastava (Opp-party no. 4) was assigned seniority above the petitioner. A true copy of the letter dated 1.9.69 is being annexed herewith as Annexure-3 to this writ petition.

9. That again the petitioner wrote to the Divisional Personnel Officer, Northern Railway, Lucknow to re-consider the question of petitioner's seniority vis-a-vis A.N. Srivastava and to assign the petitioner a position above Mr. A.N. Srivastava as he was senior to Mr. Srivastava by virtue of following reasons :-

Q.1c Missa.

- a) The petitioner joined as M.I. on 24.1.68 whereas A.N. Srivastava joined as M.I. on 26.9.68.
- b) Before being selected as M.I., the petitioner was working as Assistant Station Master in the scale of Rs. 150-240 whereas A.N. Srivastava was working as Office Clerk (T) Branch in the scale of Rs. 60-130. (PS) i.e. Rs. 110/- 180/- (AS) from 11.7.59.
- c) The petitioner passed the examination for selection to the post of M.I. prior to the passing of the examination by A.N. Srivastava.

the
When ~~the~~ petitioner did not receive any reply from the opp-party no. 3, then he sent reminder dated 2.3.70 for consideration of the petitioner's appeal and again represented his case before the Divisional Superintendent, Northern Railway, Lucknow through the representation dated 1.7.70. A true copy of the appeal dated-12.12.69 is being annexed herewith as annexure-4 and a true copy of the representation dated 1.7.70 made to the Divisional Superintendent, Northern Railway, Lucknow is being annexed herewith as annexure-5 to this writ petition.

10. That thereafter the petitioner sent several reminders to the Divisional Superintendent, Northern Railway, Lucknow for considering his representation but no reply was given to the petitioner.

11. That the opp-party no. 4 was given the scale of Rs. 205-280 vide letter no. 2223/5/3 M.I. dated

Dr. K. Misra

March 9, 1971 and this promotion was regularised vide Notice No. 757-S/5/3 III/2 dated 29.4.1971, a true copy of which is being annexed herewith as annexure-6 to this writ petition.

12. That when the Divisional Superintendent, Northern Railway, Lucknow and the Divisional Personnel Officer, N.R. Lucknow failed to consider the petitioner's case and when the petitioner came to know that the order contained in Annexure-6 regularising the promotion of Opp-party no. 4 in the scale of Rs. 205-280 was passed then the petitioner again made a representation to the General Manager, Northern Railway, Baroda House, New Delhi through proper channel. A true copy of the said representation is being annexed herewith as Annexure-7 to this writ petition.

13. That instead of assigning the correct seniority and position to the petitioner, the authorities gave a further promotion to the Opp-party no. 4 by promoting him in the scale of Rs. 550-750 vide order dated 11.11.1976, a true copy of which is being annexed herewith as annexure-8 to this writ petition.

14. That again the Opp-party no. 4 was promoted in higher scale of Rs. 700-900 vide order dated 22.3.78, a true ^{copy} of which is being annexed herewith as annexure-9 to this writ petition.

15. That in giving promotions to the Opp-party no. 4 vide orders contained in Annexures No. 6, 8

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and 9, Mr. P.N. Johri, Divisional Operating Superintendent, Northern Railway, Lucknow was instrumental and it was because of his partisan attitude towards Mr. A.N. Srivastava and because of this undue favouring of Mr. Johari, the petitioner's case was successively ignored and the petitioner's several

representations remained lying undisposed off. Had Mr. P.N. Johri not shown undue favour and partisan attitude towards Mr. 4 in getting him promoted to his scale of Rs 257-289/-, Mr. 4 would not have superseded the petitioner any further.

16. That when the authorities did not decide the petitioner's representations and appeal and when instead of doing justice to the petitioner, the authorities continued their illegal act of assigning seniority to Mr. A.N. Srivastava over the petitioner then the petitioner approached the Northern Railway Men's Union (the body which pleads with the higher authorities for the just cause of the employees) and the union made a representation to the General Manager, Northern Railway, Headquarter Office, Baroda House, New Delhi demanding justice to be done to the petitioner. A true copy of the representation dated August 16, 1978 sent by the union is being annexed herewith as annexure-10 to this writ petition.

17. That the petitioner has not only been superseded by the Opp-party no. 4 but the authorities have also superseded him from the Opp-party no. 5 who have altogether been junior to the petitioner.

18. That as already stated, the petitioner joined his duties as A.M.I. on 24.1.68 and the Opp-party no. 5 joined his duties as A.M.I. on 26.9.68.

R.L. Mishra.

19. That both the petitioner and the Opp-party no.5 were promoted to the scale of Rs. 205-280 vide letter no. 222 E-5/3 MI dated 30.3.73 and the Opp-party no. 5 was kept below the petitioner. A true copy of the letter dated 30.3.73 is being annexed herewith as annexure-11 to this writ petition.

20. That both the petitioner and the Opp-party no. 5 were promoted to the scale of Rs. 455-700 vide letter No. 222 E/5/3 MI dated 22.7.77 and this time also the petitioner was placed above the Opp-party no. 5 and this promotion was made strictly in order of the seniority position. A true copy of this promotion letter dated 22.7.77 is being annexed herewith as annexure-12 to this writ petition.

21. That the promotion, which was made strictly in order of the seniority position, vide order contained in Annexure-12, was treated as final vide letter no. 222 E/5/3 MI dated 21.2.78, a true copy of which is being annexed herewith as annexure-13 to this writ petition.

22. That thereafter the petitioner was promoted to the scale of Rs. 550-750 vide letter No. 752 E/5/3 MI dated 16.1.78 and such a promotion was also given to the Opp-party no. 5 by the same letter. A perusal of this letter, which is being annexed herewith as annexure-14 to the writ petition, clearly reveals that the Opp-party no. 5 was ranked below the petitioner and was assigned the second position to the petitioner who was given the first position in order of seniority.

Q. L. Misra

23. That the Opp-party no. 4 was called to attend a written examination for selection to the post of Senior Wagon Movement Inspector (hereinafter referred to as S.W.M.I.) in the scale of Rs. 700-900 and the Opp-party no. 4 appeared in the said written examination but failed and could not succeed.

24. That the petitioner and the Opp-party no. 5 were also called to appear in the written examination for the post of S.W.M.I. in the scale of Rs. 700-900 along with one T.N. Verma vide letter No. 757-E/5/3 WMI/2 dated 7.9.78, a true copy of which is being annexed herewith as Annexure-15 to this writ petition.

25. That in pursuance of the letter dated 7.9.78 (contained in Annexure-15), the petitioner, Opp-party no. 5 and T.N. Verma appeared in the written examination on 17.9.78 at Baroda House, New Delhi. The petitioner and T.N. Verma were declared successful in this examination and Mr. Ram Chandra Dewan (Opp-party no. 5) could not succeed and was declared as having been failed in the examination.

26. That after being declared successful in the written examination held on 17.9.78, the petitioner was called for an interview which the petitioner attended on 9.1.79 at Headquarter's office, Baroda House, New Delhi. A true copy of the interview letter is being annexed herewith as Annexure-16 to this writ petition.

27. That the authorities could not remain contented

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with the petitioner's successive and repeated supersession to Opp-party no. 4 and they further superseded the petitioner from the Opp-party no. 5 also, who has been junior to him throughout, by promoting him to the post S.M.I. in the Scale of Rs. 700-900 vide Notice no. 757/1/5/3 M.I/2 dated 4.8.1978. A true copy of the letter dated 4.8.78 promoting the Opp-party no. 5 to the post of S.M.I. in the scale of Rs. 700-900 is being annexed herewith as Annexure-17 to this writ petition.

28. That when the petitioner was superseded from the Opp-party no. 5 also then he sent a representation to the Divisional Superintendent, Northern Railway, Lucknow through proper channel praying for justice and ~~bring~~ bringing to his notice that Ram Chandra Dewan who was junior to him, was wrongly promoted as S.M.I. in the scale of Rs. 700-900 and the petitioner was illegally and arbitrarily ignored. It was also brought to the notice of the Divisional Superintendent, N.R. Lucknow that Mr. A.H. Srivastava was also junior to the petitioner in service and was wrongly shown as senior to the petitioner. A true copy of this representation dated 7.8.78 is being annexed herewith as Annexure-18 to this writ petition.

29. That Ram Chandra Dewan (Opp-party no. 5) had also made a representation claiming himself as senior to the Opp-party no. 4 and while disposing of his representation, it was held that Ram Chandra Dewan (Opp-party no. 5) was senior to A.H. Srivastava

D.L. Mishra.

(Opp-party no. 4). A true copy of D.O. letter No. 7523/176-12(Eib)L dated 12.10.77 declaring the Opp-party no. 5 as senior to the Opp-party no. 4 is being annexed herewith as Annexure-19 to this writ petition.

30. That the facts and circumstances narrated above clearly reveal that the petitioner is senior to Ram Chandra Dewan who has been declared senior to A.N. Srivastava and in this view of the matter the petitioner being senior to Ram Chandra Dewan becomes automatically senior to A.N. Srivastava.

31. That instead of considering the petitioner's representation dated 7.8.78 (contained in Annexure-18 to the writ petition), the Railway Authorities have declared the Opp-party no. 5 as senior to the petitioner and have passed abruptly the orders dated 20.12.78 and 22.12.78 which are annexed herewith as Annexures No. 20 and 21 respectively to this writ petition.

32. That as ^{already} stated above, the written examination for the selection of S.L.A.I. in the scale of Rs. 700-900 was conducted on 17.9.78 and the petitioner and one T.L. Verma were declared successful in the said written examination and the Opp-parties No. 4 and 5 could not succeed in the said examination and were declared as having failed. After the passing of the written examination, the petitioner was called for interview and he appeared in the interview at the headquarter's office, Baroda House, New Delhi on ~~24.10.78~~ 9.1.79. In view of the orders contained in

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Amendures no. 20 and 21, the Railway Authorities are not intending to select the petitioner as S.W.M.I. only because he has been declared junior to Ram Chandra Dewan and A.M. Srivastava, Opp-parties no. 5 and 4 respectively. In case the petitioner is declared as senior to the Opp-parties 4 and 5, as he ought to be, the Railway Authorities will have no option but to select the petitioner for the post of S.W.M.I. The petitioner's record of service is excellent and he is senior also (and in case the result in pursuance of the interview held on 9.1.79 is allowed to be declared before the final adjudication regarding the petitioner's seniority then the petitioner will not be declared as successful selected candidate for S.W.M.I. and in that eventuality he will suffer an irreparable loss and injury being not compensable in terms of money.)

33. That Rule 20 of the Indian Railway Establishment Manual provides as under :-

20. Date of passing the departmental examination/test to regulate seniority -

(a) Except as provided for in sub-paragraph (b) below, seniority of two or more railway servants, who pass the departmental examination/test on different dates, not treated as one continuous examination, will be regulated entirely by the date of passing the examination or test.

(b) The seniority of Accounts Clerks, Grade I and Stock Verifiers is to be determined

D. L. Singh

with reference to their substantive or basic seniority in Grade-II irrespective of the dates they qualify for promotion as Clerks Grade I by passing the examination prescribed for the purpose. "

34. That the principle which have been followed by the authorities in considering the seniority of Ram Chandra Dewan in comparison to Sri A.N. Srivastava, are not being followed by the same authorities in case of the petitioner who has been declared junior to the Opp-party no. 5 who has been junior to the petitioner through out. The Opp-party no. 5 is junior to the petitioner is well established from the different promotion orders which have been jointly passed in regard to the petitioner and the Opp-party no. 5 and in all such orders, the petitioner has been placed above than the Opp-party no. 5.

35. That the record of the petitioner's service is unblemished throughout and the petitioner's work and conduct has always been found excellent and no adverse entry and remark has ever been communicated to him.

36. That by making the petitioner junior to the Opp-parties 4 and 5, the Railway Authorities are making the petitioner's chances of promotion few and far away.

37. That being aggrieved and having no alternate and efficacious remedy, the petitioner begs to

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prefer this writ petition on the following amongst other grounds :-

-: GROUND S :-

(i) Because the petitioner passed the examination for the selection of ...I. prior to the Opp-parties 4 and 5 and in view of Rule 20 of the Indian Railway Establishment Manual, the petitioner is senior to Opp-parties 4 and 5 and the Opp-parties 1 to 3 have illegally and arbitrarily declared the petitioner as junior to the Opp-parties 4 and 5.

(ii) Because the principles on which the Opp-party no. 5 has been declared senior to the Opp-party no. 4 vide letter contained in Annexure-19 is being violated in the petitioner's case and if the same principle is adhered to then the petitioner is senior to the Opp-parties 4 and 5 both.

(iii) Because the petitioner joined as ...I. on 24.1.68 whereas the Opp-parties 4 and 5 joined as such on 26.9.68 and in this view of the matter, no law of prudence can declare the Opp-parties 4 and 5 as senior to the petitioner.

(iv) Because the petitioner has never been declared unsuccessful in any test or examination and has also succeeded when called to appear in different test and examinations held for the purposes of promotion.

(v) Because the petitioner before being selected

Dr. Mishra.

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as M.I., was working in the grade of Rs. 130-250 ^{159-240/(As)}
whereas the Opp-party no. 4 was working in the
scale of Rs. 60-130 subsequently revised to Rs. 110-180
and, that being so, Opp-party no. 4 cannot be declared
as senior to the petitioner, particularly, when the
Opp-party no. 4 joined as M.I. 3 months after the
joining of the petitioner as such.

(vi) Because the orders contained in Annexures -20
and 21 to this writ petition declaring Ram Chandra
Dewan as senior to the petitioner and the orders
giving promotions to Opp-parties 4 and 5 overlooking
the case of the petitioner are arbitrary, mala fide
and have been passed capriciously and illegally.

(vii) Because by not following the same principle
and by blowing hot and cold at the same time from
the same mouth, the Opp-parties 1 to 3 are violating
the provisions contained in Articles 14, 16 and 19
of the constitution .

(viii) Because the Opp-parties 1 and 3 have declared
the Opp-parties 4 and 5 as senior to the petitioner
and have superseded the petitioner from them by viola-
ting the statutory provisions as contained in the
Indian Railway Establishment Manual.

(ix) Because the orders declaring the Opp-parties
4 and 5 as senior to the petitioner and the orders
of promotions passed in regard to them by ignoring
the case of the petitioner are not sustainable in

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the eyes of law and deserves to be set aside by this Hon'ble Court.

(x) Because the petitioner's record of service is excellent throughout and is unblemished and , that being so, the petitioner cannot be superseded from the Opp-parties 4 and 5 and such a supersession is violative of the fundamental rights of the petitioner.

(xi) Because the petitioner has been declared as successful in the written examination held for the selection of S...A.I. and after being declared successful, he has also attended the interview on 9.1.79 and he is not likely to be declared as not having been selected as S...A.I. only because he has been declared as junior to Opp-parties 4 and 5. In case the result is declared before the question of petitioner's seniority is judicially settled, then the petitioner would lose the chance of promotion which he legally deserves in view of his seniority and suitability.

-: P R A Y E R :-

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

(a) To issue a writ, order or direction in the nature of certiorari quashing :-

i) Notice no. 757-25/3/..I/2 dated 20.12.78 contained in Annexure-20.

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- ii) Letter dated 22.12.78 contained in Annexure-21 to the writ petition.
- iii) Notice No. 757-E/5/3 III/2 dated 4.3.78 contained in Annexure-17 to the writ petition.
- iv) Notice No. 757-E/5/3/III/2 dated 29.4.71 contained in Annexure-6 to the writ petition.
- (b) To issue a writ, order or direction in the nature of mandamus commanding the Opp-parties to declare the petitioner as senior to the Opp-parties 4 and 5.
- (c) To issue a writ, order or direction in the nature of mandamus commanding the Opp-parties not to give effect to the orders contained in Annexures no. 20 and 21 to the writ petition and not to supersede the petitioner from the Opp-parties 4 and 5.
- (d) To issue a writ, order or direction in the nature of mandamus commanding the Opp-parties 1 to 3 not to declare the result of the selection held for the post of S...M.I. in the scale of Rs. 700-900 during pendency of the writ petition.
- (e) To issue any other writ, order or direction which this Hon'ble Court deems fit in the circumstances of the case.

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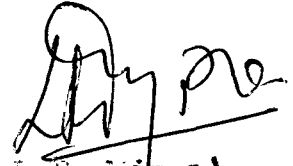
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(f) To award the cost of this petition in
favour of the petitioner.

Dated Lucknow:

January 29, 1979.



(Dr. L.P. Misra)

Counsel for the Petitioner.

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

Writ Petition No. of 1979.

R.K. Misra Petitioner
Versus
Union of India and others Opp-parties.

ANNEXURE-1

NORTHERN RAILWAYS

Divisional Supdt's Office,
Lucknow Dt. 1.2.1967.

1. S/Shri K.D. Jha, ASM/Shiupur.
2. B.P. Chakravarti, ASM/Shiupur.
3. R.K. Misra, ASM/Lohta.
4. S.P. Srivastava, ASM/Lambhua.
5. M.M. Johri, RASM/DS/LKO.
6. D.M. Varshney, RASM/DS/LKO.
7. R.A. Agarwal RASM/SS/LKO.
8. G.M. Saxena, Guard/Lucknow.

Sub: Suitability test for the post of
WMI in scale Rs. 150-240 (AS).

.....

Ref: Notice No. 757E/1-10/WMI dt. 12.12.66.

.....

A written suitability test for the post of W.M.I.
in scale Rs. 150-240 (AS) will be held in this office
on 16.2.67 at 10/- hrs. You are therefore required
to attend the office for the same.

Posting of staff as WMI in scale Rs. 150-240
(AS) will be made on the basis of seniority-cum-
suitability as also fulfilment of the conditions
notified vide notice quoted above. The above names
are given in order of seniority for guidance.

(2) LC misra.



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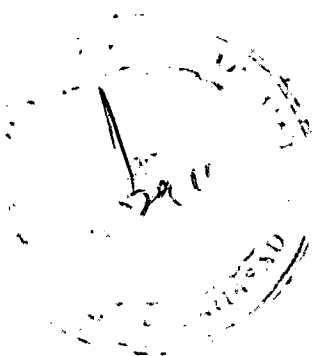
Sd. Illegible
1.2.67
for Divisional Superintendent,
Lucknow.

Copy forwarded for information, with the remarks that the above noted staff may please be relieved in time and directed to report to this office on the aforesaid date. The staff may also be instructed to bring with them, their own pen and ink and answer books will, however, be supplied by this office.

1. Stn. Supdt. Lucknow.
 2. SAs Shiupur, Lohta, Lambhua.
 3. Chief Controller, Lucknow.
 4. I/c Relief D.S. Office, Lucknow.
-

True copy.

R. C. Mishra



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

Writ Petition No. of 1979.

R.K. Misra Petitioner
Versus
Union of India and others Opp-parties.

Annexure-2

To

The Divisional Personal Officer,
Northern Railway,
Lucknow.

Sir,

Reg:- Seniority list of W.M.I.s grade 150-240
circulated under your letter no. ~~84~~ 847E/5/3/PMI
dated July 11, 1969.

In reference to the above I beg to put my
objections as under for favour of consideration and
necessary correction in the seniority list :-

1. That the post of WMI grade Rs. 150-240 is a seniority
cum suitability post.

2. That vide your notification no. 757E/1-10/WMI
dated 12.12.66 applications were invited for the post
of WMI in scale Rs. 150-240 from amongst the staff of
the under mentioned categories :-

- | | | |
|-----|-----------------------------|--------------|
| (a) | Clerks of optg branch | Rs. 110-180. |
| (b) | ASMS | Rs. 130-240 |
| (c) | Yard Masters & Yard Foreman | Rs. 130-225 |
| (d) | Guards | Rs. 130-225 |
| (e) | Train Clerks | Rs. 110-180 |

3. That accordingly the eight senior most persons

R.K. Misra,

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from amongst the staff who applied for the post were called for the suitability test vide your letter No. 757E/1-1C-WMI dated 1.2.67 and my name was third in above list. The name of Sri A.N. Srivastava Clerk "T" section, who is working as WMI at present, was not there.

4. That again about forty seven candidates were called for to appear in the suitability test vide your letter no. 757E/1-1C WMI dated 9.3.67 in which also my name stood at No. 3 while that of Sri A.N. Srivastava was at No. 24.

5. That as a result of the above suitability test I being senior most suitable man was promoted as WMI in scale Rs. 150-240 vide your office notice No. 757E/1-1C WMI dated 27.10.67 and I resumed duty as WMI on 24.1.68.

6. That Sri A.N. Srivastava Clerk 'T' branch was promoted as WMI much later than me vide your Office notice No. 757E-5/3/WMI dated 25.9.68 and he took over as such from 26.9.68.

R.L. Mohan-

7. That in light of the aforesaid facts I was senior to Sri A.N. Srivastava both in respect of service in grade and earlier promotion as WMI. But I am astonished to note from your letter under reference, where in the name of Sri A.N. Srivastava has been placed at No. 1 and my name has been placed below him, against all canons of justice. Further more, on the basis of the above wrong fixation of



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seniority, he has been promoted in the scale of Rs. 205-280 with effect from 19.6.69 against the vacancy of Sri R.L. Anand.

8. That the printed personal branch circular No. 1398 (No. 831E/202 III(E 4) dated 11.12.61) clearly lays down the procedure regarding determination of seniority for the post, where more than one categories of staff are eligible for promotion. It lays down as under :- "The combined seniority list should be based on the length of service in comparative grade without however disturbing inter-se-seniority of staff belonging to same category."

That in your notification dated 12.12.66 the Clerks of Rs. 110-180 belong to the lowest grade amongst all the categories of staff eligible for the post.

Keeping all the above facts in view I am sure that your honour would be convinced that great injustice has been done to me by declaring Sri A.N. Srivastava senior and by promoting him in scale Rs. 205-280, though locally, ignoring myself. I would therefore pray that the matter may kindly be examined afresh and necessary correction made in the seniority list and also that my promotion for grade Rs. 205-280 be issued by reverting Sri A.N. Srivastava in scale Rs. 150-240.

Thanking you Sir,

Yours faithfully,

Date: 24.7.69

Sd. R.K. Misra
WLI/Lucknow, E. Railway.

C/Sri R.K. Srivastava, WLI/Lucknow for information and necessary action with the request that my complaint may please be looked into.

R.K. Misra.



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

Writ Petition No. of 1979.

R.K. Misra Petitioner
Versus
Union of Indian and others Opp-parties.

ANNEXURE-3

Northern Railway.

Divl. Superintendent's Office,

Lucknow dt. 1.9.1969.

No. 847E5/3/WMI.

Shri R.K. Misra,
Offg. W.M.I.
Through CHC/Lucknow.

Sub: Provisional Seniority list of Wagon
Movement Inspector- Gr.Rs. 150-240.

Ref: Your representation dt. 24.7.1969.

Your representation has been examined in detail,
it is to inform you that before the suitability for
the post of W.M.I. was finalised, the revised ins-
tructions were received under General Manager's letter
No. 752E/176-III-A(Eib) dated 15.12.67 and seniority
was determined taking into consideration all the
grades at par and length of service in grade as such
Shri A.M. Srivastava has correctly been assigned
seniority above you.

Sd. Illegible
For Divl. Personnel Officer,
Northern Railway, Lucknow.

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R. K. Misra

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

Writ Petition No. of 1979.

R.K. Misra Petitioner
Versus
Union of India and others Opp-parties.

ANNEXURE-4

To

The Divisional Personal Officer,
Northern Railway,
Lucknow.

Sub: Fixing correct seniority with the reference
to my appeal dated 24.7.69.

Ref:- Your letter No. 847E5/3/WMI dated 1.9.1969.

Sir,

With reference to your above cited letter I may inform you that the procedure adopted by you regarding determination of my seniority under G.M's letter No. 752E/176 III-A(EIB) dated 15.12.67, but I regret to point out that my case has not been properly looked into due to following reasons :-

1. That I had joined as WMI from ASM category (in scale 130-240) on 24.1.1968 whereas Shri A.N. Srivastava had joined as WMI on 26-9-1968 i.e. 8 months later as such the question of deciding my case in reference to G.M's letter cited above does not arise at all.
2. That since I had joined much earlier as WMI from Gr. 130-240, the policy adopted by the Personal Branch in assigning my seniority below Shri A.N. Srivastava

R.K. Misra

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is not only clear violation of the fundamental principle and also against the natural justice viz man who had joined 8 months earlier is definitely senior because I on that date Shri A.M. Srivastava was not on the list of III category.

I, therefore, request, my case may kindly be looked into and injustice done to me be rectified forthwith.

Thanks,

Yours faithfully,

Sd.

Dated: 12-12-1969.

R.K. Misra
III/Lucknow.

True copy.

R.K. Misra



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

Writ Petition No. of 1979.

R.K. Misra Petitioner
Versus
Union of India and others Opp-parties.

ANNEXURE-5

To

The Divisional Superintendent,
Northern Railway, Lucknow.

Subject:- In correct fixation of seniority ignoring
fundamental rules.

Sir,

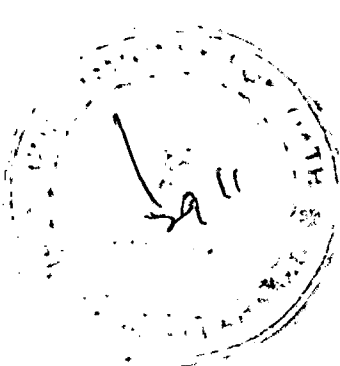
Most respectfully I beg to submit my grievance
as under :-

Brief History:

1. That I was an Assistant Station master confirmed in scale 150-240 (AS) and was considered suitable for the utilization as MII in the same scale of Rs. 150-240 (AS) vide your office letter No. 757 E/ 1-10/MMI dated 27.10.1967 and took over as MII on 24.1.68.

2. Shri A.N. Srivastava was selected from the scale of Rs. 110-180 (AS) as a clerk in Operating branch in the scale of Rs. 150-240 (AS) much later than me and took over as MII on 26.9.1968 vide your office notice no. 757E-5/3/MMI dated 25.9.1968.

3. That as per seniority list issued vide letter No. 847E/5/3/MMI dated 11.7.1969, I have been assigned seniority below Shri A.N. Srivastava, who had joined



R.K. Misra

as MI on 26.9.1968 i.e. 8 month later than me, and for this wrong seniority, I had preferred an appeal to DPO/Lko on 24.7.1969, but I regret to point^{out} that DPO/Lko has not considered my case and maintained vide his letter No. 84/E5/3/MI dated 1.9.1969, that the seniority of Shri A.M. Srivastava has been assigned in G.M.'s letter No. 752E/176-III-A(EIB) dated 15.12.1967, whereas this rule does not apply in my case because I had joined much earlier than Shri A.M. Srivastava when his name was not in the category of MI's.

4. That due to above incorrect fixation of seniority Shri A.M. Srivastava has also been locally promoted to officiate in scale Rs. 205-280, thereby depriving my legitimate claim has further created great dis-satisfaction to me.

I, therefore, request that my case may kindly be looked into personally by your honour and wrong done to me may kindly be rectified.

Thanking you,

Yours faithfully,

Sd.

R.K. Misra
W.M.I./Lucknow

Dated : 1.7.1970.

R.K. Misra

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

Writ Petition No. of 1979.

R.K. Misra Petitioner
Versus
Union of India and others Opp-parties.

ANNEXURE-6

Northern Railway

Divisional Superintendents Office,

Lucknow dated 29.4.1971 No. 757-E/5/3/MI/2

NOTICE

The local promotion and posting of Sri A.N. Srivastava offg. Wagon Movement Inspector, Lucknow in authorised scale Rs. 205-280 has been regularised, being empanelled, in terms of SPO's headquarters office letter no. 752E/176-VII(EIB) dated 22.3.1971.

Sd. Illegible

Divl. Personnel Officer,
Lucknow.

Copy forwarded for information and necessary action to :-

1. The Chief Controller, L.R., LKO
2. Hd. Clerk Pay bill
3. DAO/LKO
4. Two spare copies.

True copy.

R.K. Misra

AS2

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4/5

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

Writ Petition No. of 1979.

R.K. Misra Petitioner
Versus
Union of India and others Opp-parties.

Annexure-7

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

Through: PROPER CHANNEL.

Sub:- Incorrect assignment of seniority as Wagon
Movement Inspector in scale of Rs. 150-240 (AS)
causing erroneous promotion of Shri A.N.
Srivastava MI in scale Rs. 205-280 (AS) from
19.6.1969.

Sir,

Most respectfully, I approach your goodself
on the subject mentioned above, as under :-

1. That I was confirmed Assistant Station Master
in time scale pay of Rs. 150-240 (AS).

That I was considered suitable for the post of
Wagon Movement Inspector in the same scale pay of
Rs. 150-240 (AS) vide D.S. Office Notice No. 757E/1-10
MI dated 27.10.1967 and was spared from the post of
Assistant Station Master in scale pay of Rs. 150-240
(AS) and ~~joined as Wagon Movement Inspector on 24.1.68~~ took over on
24.1.68.

3. That Sri A.N. Srivastava, Clerk 'T' branch in
the time scale pay of Rs. 110-180 (AS) was promoted
as MI vide D.S. Office Notice No. 757W-5/3/MI dated



R.K. Misra,

ASB

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- 2 -

29.9.68 in a higher time scale pay of Rs. 150-240 (AS) and joined as III from 26.9.68.

4. That the seniority list (provisional) issued vide D.S. letter No. 84/E 5/3/III dated 11.7.1969, my name has been placed below Shri A.N. Srivastava who joined as III later than me vide D.S. letter number mentioned above.

5. That I had preferred an appeal to DPO/Lko against the incorrect assignment of seniority to Sri A.N. Srivastava on 24-7-1969, but regret to point out that my case was not properly considered and DPO/Lko vide his letter No. 84/E 5/3/III dated 1.9.69, intimated me that my seniority has been, decided correctly in ref. to G.A.'s letter No. 752E/176-III-A (EIB) dated 15.12.1967.

6. That on being not satisfied with the above decision, I had submitted an appeal to D.S./Lko on 1.7.1970 followed by reminders on 10.12.1970 and 10.3.71, but to my ill-luck I have not been favoured with any reply.

7. That Sri A.N. Srivastava has not only been assigned incorrect seniority over me but has also been given the benefit of Gr. Rs. 205-280 which is not only irregular but against the natural justice and has been causing mental worry and financial loss to me also.

8. I, therefore, hope your generous good self



D. K. Singh

ASY

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- 3 -

would do justice in terms of statutory rules on the subject and issue orders to D.S. Office establishment branch to act in terms of fundamental rule 2027A (FR31A) R II because Shri A.N. Srivastava has been promoted in scale of Rs. 205-280 (AS).

Yours most obedient Servant,

Sd.

Dt. 7th July, 1972.

R.K. Misra,

W.M. N. Railway,
Lucknow.

True copy.

R.K. Misra



ASG

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

33

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

Writ Petition No. of 1979.

R.K. Misra Petitioner

versus

Union of India and others Opp-parties.

ANNEXURE-8

NORTHERN RAILWAY

Lucknow Dt. 11.11.1976.

No. 752E/5/3(WMI)

NOTICE

Sri A.N. Srivastava WMI Lko Gr. Rs. 455-700/-
(RS) is temporarily appointed to officiate in Gr.
550-750 (RS) against upgraded post of WMI provided
on Lucknow Division.

Sd. Illegible

for Sr. J.P.O.

Q. K. Mishra

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

Writ Petition No. of 1979.

R.K. Misra Petitioner
Versus
Union of India and others Opp-parties.

ANNEXURE-9

NORTHERN RAILWAY

Divisional Supdt's Office
Lucknow.

No. 752-E5/3(MI) Dated 22.3.1978.

Notice.

The following or-ders are hereby issued to
take immediate effect :-

1. Sri A.M. Srivastava, MI scale Rs. 550-750 (RS) is appointed to officiate as S.MI Scale Rs. 700-900 (RS) at Lucknow purely temporary on local ad hoc assignment vice Sri K.N. Bar proceeding on L.P.R.
2. Sri Ram Chandra Officiating MI scale Rs. 455-700 (RS) under orders of transfer to DIB on promotion as MI Scale Rs. 550-750 (RS) issued vide this office Notice of even No. dt. 10.1.78 is posted at Lucknow vice Sri A.M. Srivastava.
3. Sri T.N. Verma, Offg. MI Scale Rs. 455-700 (RS) Lko is appointed to officiate as MI Scale Rs. 550-750 (RS) and posted at Lobpy/B & B against newly created post of MI Scale Rs. 550-750 (RS).

P.K. Mishra

AS 7

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The above promotions are purely temporary in local ad hoc arrangement and they may be replaced at any time of availability of staff posted by H.Q.'s Office. This issue with the approval of Divl. Superintendent Movements be advised promptly.

Sd. Illegible
for Sr. D.P.O. Lucknow.

Copy to :-

1. G.H.C, Lucknow.
 2. A.O.S. B&B.
 3. S.S.I. B & B.
 4. Sr. D.A.O. /Lko
 5. Asstt. Supdt. (PB).
 6. The G.M. (P) Hd. Qr. Office, Baroda House,
New Delhi for information and necessary action.
- Adhoc arrangement made by this office may kindly be approved and necessary arrangement for posting of staff ~~against~~ H.Q. controlled posts may be expedited.

True copy.

Ric men.



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Dated Aug. 16, 1978.

Dear Sir,

D. L. Smith,

DS9

- 2 -

and got ~~promotion~~ promoted before holding second suitability test should rank senior to those qualifying in the second and fresh suitability test.

On Lucknow Division Sri R.K. Misra, ASM grade Rs. 130-240 (AS) was promoted as MI grade Rs. 150-240 (AS) w.e.f. 24.1.68 on qualifying in the suitability test. Subsequently S/Shri R.C. Dewan, Guard Grade Rs. 130-225 (AS) and A.N. Srivastava, Office Clerk grade Rs. 110-180 (AS) having qualified in the fresh suitability test were also promoted as MIs grade Rs. 150-240 (AS) w.e.f. 26.9.68. Within the frame of extant rules as quoted in the foregoing paragraphs, Sri R.K. Misra MI should rank senior to S/Shri R.C. Dewan and A.N. Srivastava. The local administration of Lucknow Division has altered the seniority of Shri R.K. Misra MI so as to bring him below both S/Sri R.C. Dewan and A.N. Srivastava on an incorrect interpretation of your office directive contained in letter no. 561-E/255-98Genl(PC) dated 26.6.78 in the case of determination of seniority of Sri R.C. Dewan vis-a-vis A.N. Srivastava, MIS.

This Union demand that suitable clarification should be issued to DS/Lko so as to assign seniority of Shri R.K. Misra above S/Shri R.C. Dewan and A.N. Srivastava in the cadre of MIs.

Yours faithfully,

Sd. Illegible
General Secretary.

Copy to D/Secy/ A.R. Lko in ref. to his No.

NRMU/17/78 dt. 16.8.78.

True copy.
D. R. Misra,

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

Writ Petition No. of 1979.

R.K. Misra Petitioner
Versus
Union of India and others Opp-parties.

ANNEXURE-11

NORTHERN RAILWAY

No. 222 E5/3/MI Dated 30.3.1973.

Subject:- selection for the post of MI in (AS)
Rs. 205-280.

As a result of selection held on 1.2.73 for forming a panel for the post of MI in (AS) Rs. 205-280/- the following staff have been placed on the panel in order of merit :-

1. S.K.L. Srivastava.
2. R.K. Misra.
3. Ram Chandra.

The above staff may be informed that the retention of their names on the approved list of MI is dependent on their work having satisfaction during the currency of the panel. The mere fact that the names have been placed on the panel is no guarantee that they will be confirmed in the post for which they have been selected.

Sd. Illegible

J.P.O.

K. L. Mishra



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Divisional Supdt's Office

No. 222 E5/3 (LII)

The Chief Controller,
Northern Railway,
Lucknow.

Reg:- Selection to the post of W.M.I. Scale
Rs. 455-700 (RS).

After having qualified in the written test for the above post and declared suitable in the viva-voce held on 2.5.77, the following 3 staff are being placed on the panel of JMI Scale Rs. 455-700(RS) provisionally strictly in order of their seniority position :-

1. Sri R.K. Misra. /
2. Sri Ram Chandra. /
3. Sri T.N. Verma.

Sd.

(Raghao Ram)

for Sr. Divisional Personal Officer,
Lucknow.

True copy.

D. K. M. S.

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

Writ Petition No. of 1979.

R.K. Misra Petitioner
Versus
Union of India and others Opp-parties.

ANNEXURE-13

222E/5/3(WMI)

Dated 21.2.1978.

The D.S. Office,
Northern Railway,
Lucknow.

The Chief Controller
N. Rly. Lucknow.

Panel of WMI Scale Rs. 455-700 (RS).

The provisional panel to the post of
W.M.I. Scale Rs. 455-700 (RS) announced vide this
office letter no. of even no. dated 22.7.77 is
hereby treated as final.

Sd. Raghao Ram

For Sr. Divl. Personal Officer,
Lucknow.

Copy to :-

The Lobby Supervisor,
Northern Rly.

Sd. R.K. Misra

222E/5/3
WMI

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4/2

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

Writ Petition No. of 1979.

R.K. Misra Petitioner
Versus
Union of India and others Opp-parties.

ANNEXURE-14

NORTHERN RAILWAY

Divisional Supdt's Office

Lucknow.

No. 752 E5/3(RMI)

Dated 16.1.1978.

NOTICE

The following orders are hereby issued to
take immediate effect :-

1. Sri R.K. Misra, Offg. W.M.I. Scale Rs. 455-700 (RS) Lucknow having been placed on the panel of WMI Scale Rs. 455-700/- (RS) is appointed to officiate as WMI Scale Rs. 550-750 (RS) at Lucknow vice Sri S.K.L. Srivastava reverted to his former post of offg. WMI Scale Rs. 455-700 (RS) .

2. Sri Ram Chandra offg. W.M.I. Scale Rs. 455-700 (RS) Lucknow who is the next in order of seniority on the panel of W.M.I. Scale Rs. 455-700 (RS) is appointed to officiate as WMI Scale Rs. 550-750 (RS) and posted at Lobby BSB against a newly created post of W.M.I. Scale Rs. 550-750/- (RS).

Sr. K. Misra,

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Promotion of item 1 and 2 is purely temporary in local adhoc arrangement and they may be replaced any time on availability of staff posted by H.Q. Office.

This issues with the approval of D.S. Movement to be advised promptly.

Sd.

(Raghao Ram)

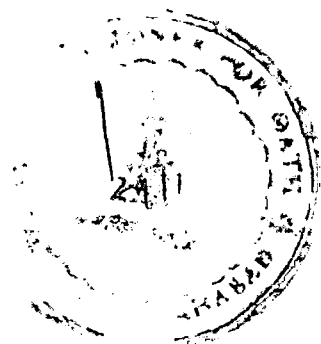
for Sr. D.P.O. /Lucknow.

Copy to :-

1. G.H.C, Lko.
2. ASI/BSB.
3. S.S. /BSB.
4. Sr. D.A.O./Lucknow.
5. Asstt. Supdt.(PB).
6. G.M. (P).

True copy.

D. C. Mishra



DGS

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

Writ Petition No. of 1979.

R.K. Misra Petitioner
Versus
Union of India and others Opp-parties.

ANNEXURE-15

Divl. Supdt's Office
Lucknow.

No. 757 E5/3/MI/2 Dated 7.9.78.

The Chief Controller,
Northern Railway,
Lucknow.

Reg:- Selection for the post of SMI Scale
Rs. 700-900/- (RS).

It has been decided to hold a supplementary
written test for the post of SMI Scale Rs. 700-900
(RS) in H.Q. Office in Room No. 341A on 17.9.78
at 10/00 hrs. The following MI may please be
directed to attend the same and they should also be
told that in clear terms that they this will be the
last chance for supplementary selection. It may be
ensured that none of the staff is detained on adminis-
trative reasons :-

1. Sri R.K. Misra, MI/Lucknow.
2. Sri Ram Chandra "
3. Sri T.N. Verma "

Sd. Raghao Ram
For Mr. J.P.O.

Copy to H.C.(A) J.S. Office Lko who is required to
send the upto date J.S. file of the above named MIS
to H.Q. Office immediately in reference to S.P.O.(T&C)
D.O.No.752E/176-XIV(EIB Dt. 1.9.78.

R.K. Misra
29/11

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

Writ Petition No. of 1979.

A.K. Misra Petitioner
Versus
Union of India and others Opp-parties.

ANNEXURE-16

No.

Lucknow: Dt. 8.1.1979.

Dy. COPS (Goods) informed me on phone
that a selection will be held for the post of WIs
grade 700-900 (AS) on 9-1-1979 in Headquarters Office
Baroda House, New Delhi.

Sarvashri R.K. Misra and T.N. Verma are spared
and directed to appear in the above selection.

Sd.

(M.C. Sharma)

Sr. D.O.S./LKO.

Shri R.K. Misra, MI/LKO.

Shri T.N. Verma, MI/LKO.

True copy.

R. K. Misra

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

Writ Petition No. of 1979.

R.K. Misra Petitioner
Versus
Union of India and others Opp-parties.

ANNEXURE-17

Divisional Supdt's Office
Lucknow.

No. 757 E5/3/MI/2 Dated 4.8.1978.

NOTICE.

Sri Ram Chandra, Offg. S.M.I. Scale Rs. 550-750
(RS) Lucknow is appointed to officiate as S.W.M.I.
Scale Rs. 700-900 (RS) at Lucknow against one of the
upgraded post of S.M.I./Scale Rs. 455-700.

/ allotted to
this Divn. in
lieu of one
post of S.M.I.

The promotion is purely temporary in temp.
local adhoc arrangement against H.Q. controlled ^{post}. He
may be replaced at any time on availability of
selected hand from H.Q. Office.

This issues with the approval of Divl.
Superintendent.

Sd. Raghao Ram
for Sr. D.P.O., LKO.

Copy to :-

1. CHC, Lko.
2. The Sr. D.O.S. in Office.
3. The Sr. D.A.O. Lko.
4. The Asstt. Supdt. (PB).
5. The General Manager (P) H.Q.'s Office Baroda House,
New Delhi in reference to his letter No. 561 E/
255-98 Genl (PC) Dated 26.6.78. The local Adhoc
arrangement made by the office may please be
confirmed and a regular man may be posted against
this post.

True copy.

D. L. Mishra

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

Writ Petition No. of 1979.

A.K. Misra Petitioner
Versus
Union of India and others Opp-parties.

ANNEXURE-18

To

The Divisional Superintendent,
Northern Railway,
Lucknow.

Through Proper Channel.

Sir,

Sub: appeal against the orders of Promotion
of Shri R.C. Dewan, ...I./Lucknow in
Scale Rs. 700-900 (RS).

Ref: J.S. Office letter No. 757-E-5/3/MI/2
dated 4.8.73.

With due regard I want to draw your kind
attention regarding the promotional letter and submit
my appeal against the same due to following reasons:-

(1) That I was selected as ...I. in Scale
Rs. 150-240 and joined as such on 24.1.68 whereas Sri
R.C. Dewan, W.M.I. and Shri A.K. Srivastava have
joined as W.M.I. on 26.9.68.

(2) That as per Selection and Panel Position of
W.M.Is. in Scale Rs. 455-700 issued by your office
vide letter No. 222-E-5/3(MI) dated 22.7.77 my name
was above Sri R.C. Dewan as the Panel Position was
under :-

1. Sri A.K. Misra



R.K. Misra

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- 2 -

2. Sri R.C. Dewan
3. Sri T.N. Verma.

(3) That from the above facts it would be evident that the promotion of Shri R.C. Dewan in Scale Rs. 700-900 is not only incorrect but also against all the canons of justice as junior man cannot be promoted ignoring his seniors.

I hope you will look into the matter and will safe guard the interest of the undersigned.

Thanking you.

Dated: 7.8.78.

Yours faithfully,

Sd.

(R.K. Misra)

W.M.I./Lucknow.

Copy to :-

1. The General Manager (P), Northern Railway, Baroda House, New Delhi for information and necessary action.
2. The Divisional Secretary, R.A.M.C., Lucknow for necessary action.

True copy.

R.K. Misra



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8/9

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

Writ Petition No. of 1979.

R.K. Misra Petitioner
Versus
Union of India and others Opp-parties.

ANNEXURE - 19

Northern Railway

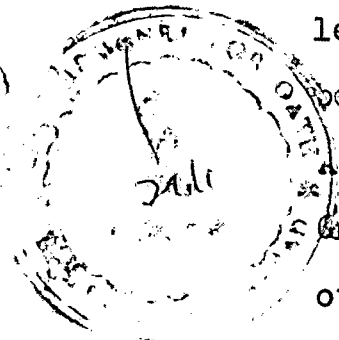
Lakhi Ram Headquarters Office
S.P.O. (T&C) Baroda House, New Delhi.

D.O. No. 752-E/176-12(Eib)2 Dated 12.10.1977.

Sub:- Correction fixation of seniority of WMI- Sri
R.C. Dewan.

Ref: Your D.O. letter No. 847-E/5/3/WMI dated
27.9.1977.

The case has been examined and it has been observed that instructions contained in this office letter no. 752-E/176(EI II) dated 13.3.1958 have not been followed in assigning seniority to Sri R.C. Dewan. According to the instructions contained in this letter Grade 60-130(PS) has been treated as lower one while other grades namely 80-170 (PS), 64-170(PS) and 80-160(PS) have been equated for the purpose of combining the seniority of staff eligible for the post of WMI grade 100-185 (PS).



R.K. Misra

Further, para 3 of P.S. 1398 states that the combined seniority list should be based on length of service in comparative grades without, however,

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disturbing the interse seniority of staff belonging to the same category.

In view of the above it is requested ~~the~~ to re-examine this case and assign proper seniority to Sri R.C. Dewan who, according to your D.O. letter referred to above was promoted as Guard Gr.'C' Rs.80-170 (PS) with effect from 4.6.1955 and he appeared as Guard along with Sri A.N. Srivastava in the suitability test.

This may please be treated as most urgent.

Yours sincerely,

Sd. Lakhi Ram.

Sri V.K. Agarwal,
Sr. D.P.O./N. Railway,
Lucknow.

T.C.

J.R. MoGy



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

Writ Petition No. of 1979.

R.K. Misra ... Petitioner
Versus
Union of India and others ... Opp-parties.

ANNEXURE-20

Northern Railway

Divisional Supdt.s office,
Lucknow.

Dated 20.12.1978.

No. 757-E5/3/MI/2

NOTICE

With reference to the representation of Sri
Ram Chand, MI and after hearing S/Shri A.N.Srivastava
and R.K. Misra MIs it has been decided that Shri
||Ram Chand ranks senior to these men as MI.

Consequent to the above change and as a result
of transfer of one post of SMI scale Rs.700-900(RS)
ex-Lucknow Division to BKN Division in lieu of
one post of MI scale Rs. 550-750 (RS) as per head-
quarters New Delhi notice no. 752E/176-XIII(E-IB)dated
28.9.1978 Shri A.N. Srivastava officiating SMI
scale Rs. 700-900 (RS) is reverted to his former
post of officiating MI scale Rs. 550-750(RS). The
above order may be effected with immediate effect,
advising this office.

Sd. R. Ram
For Sr. Divisional Personnel Officer,
Lucknow.

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- 2 -

Copy to :-

1. The Chief Controller, Lucknow.
2. The Sr. D.A.O./Lucknow.
3. The Asstt. Superintendent (PB).
4. The General Manager (P) NDLS for information and necessary action in reference to his notice dated 752-E/176-XIII (EIB) dated 28.9.1978.

True copy.

(H. L. M. E.)



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8/37

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

Writ Petition No. of 1979.

R.K. Misra Petitioner
Versus
Union of India and others Opp-parties.

ANNEXURE - 21

No. FC-23 CHC's Office,
Lucknow dated 22.12.1978.

Vide D.S./LKO's letter no. 757-E5/3/WMI/2 dated 20.12.1978, Shri Ram Chand WMI ranks senior to S/Sri A.M. Srivastava and R.K. Misra WMI's. Consequent of the above change and as a result of transfer of one post of SMI scale Rs. 700-900 (RS) ex-Lucknow Division to BKN Division in lieu of one post of WMI scale Rs. 550-750 (RS) Shri A.M. Srivastava officiating SMI scale Rs. 700-900 (RS) is reverted to his former post of officiating WMI's scale Rs. 550-750 (RS).

Sd. Illegible

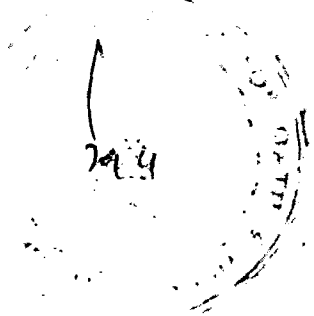
Chief Controller, Lucknow.

Copy to :-

1. Sri Ram Chand, SMI
2. Sri R.K. Misra WMI
3. Sri A.M. Srivastava WMI

P.C.

R.K. Misra



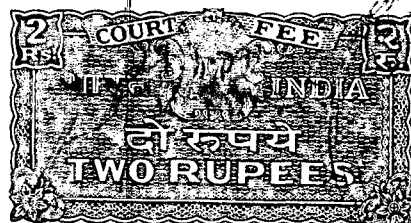
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A 71

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

AFFIDAVIT

in

Writ Petition No. of 1979.



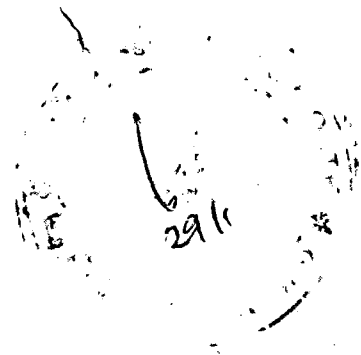
R.K. Misra ... Petitioner
Versus
Union of India and others Opp-parties.

I, R.K. Misra, aged about 44 years, son of Sri Sadanand Prasad Misra, resident of Oheda Khawas Purwa, Birhana, Lucknow, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the petitioner in the above noted writ petition and, as such, is fully conversant with the facts deposed to hereunder.

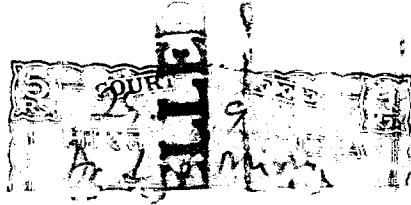
2. That the deponent has read the contents of the writ petition and has fully understood them.

3. That the contents of paragraphs 1 to 36 except the bracketed portions of the writ petition are true to the own knowledge of the deponent and those of bracketed portions are believed to be true.



R.K. Misra

ब अदालत श्रीमान ^{Honble High Court of Judicature at Allahabad} महोदय
बादी का वकालतनामा
प्रतिवादी



54

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- 2 -

4. That the annexures no. 1 to 21 to the writ petition are certified to be true copies of their originals.

Dated Lucknow:

R.K. Misra.

January 29, 1979.

Deponent

Verification

I, the above named deponent, do verify that the contents of paragraphs 1 to 4 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed, so help me God.

Dated Lucknow:

R.K. Misra.

January 29, 1979.

Deponent

I identify the above named deponent who has signed before me.

Advocate.

Solemnly affirmed before me on 29.1.79

at 9 to 2 a.m./p.m. by Sri R.K. Misra.

the deponent who is identified by

Sri Dr. H.P. Misra

Advocate, High Court, Allahabad.

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

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29.1.79

व अदालत श्रीमान

Honble High Court of Judicature at Allahabad

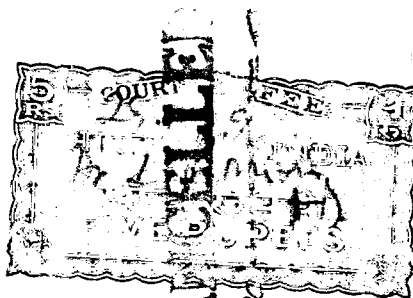
महोदय

बादी

का

वकालतनामा

प्रतिवादी



R. K. Misra

बादी

बनाम

Union of India & others

नं० मुकदमा

सन १९७७ पेशी की ता०

प्रतिवादी

१६ ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

and Sri R. K. Saxena

एडवोकेट

वकील

महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारे ओर से डिगरी जारी करावें और रुपया वसूल करें या मुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकदमा उठावें या रुपया जमा करें या हमारे या विपक्षी (फरीकसानो) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसोद से लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी इसीलिये यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

१९७७ ई०

A78

In the Honble High Court of Judicature at Allahabad

Sitting at Lucknow.

Writ Petition No. 255 (1979)

R. K. Misra

Petitioner

vs.

Union of India & others

Opp. Parties

In the above noted case the duplicate copies of the writ petition, along with the notice mentioned the date which is fixed by this Honble High Court on i.e. 19.2.79 has been sent to opposite parties No. 1 to 5. ~~The receipts~~ by registered post with acknowledgement due on 2.2.79. The receipts are being filed herewith.

Lucknow

Dt- 5.2.79.

[Signature]

(Dr. L. P. Misra)
Advocate
Counsel for the petitioner

A79 4
1

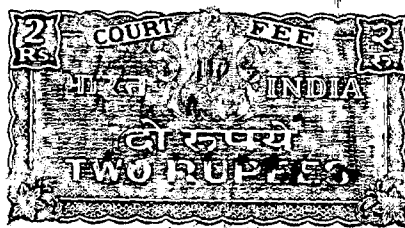
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITING AT LUCKNOW.

AFFIDAVIT

In Support of

Writ Petition No. of 1979.

1979
AFFIDAVIT
6
HIGH COURT
ALLAHABAD



12/12/79
M/
19/12/79

R.K. Misra

... ..

Petitioner

Versus

Union of India and others

... ..

Opp-parties.

1, R.K. Misra, aged about 44 years, son of Sadanand Prasad Misra, resident of Chheda Khawas Purwa, Birhana, Lucknow, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the petitioner in the above noted writ petition and, as such, is fully conversant with the facts deposed to hereunder.

2. That in pursuance of the order dated 2.2.79, the duplicates of the writ petition and the stay application have been sent to the Opp-parties 1 to 5 through the registered post with acknowledgement on 3.2.79 and the acknowledgements receipts have been received back and the Opp-parties 1 to 5 have been duly served. The intimation letter has also been

File
A. D. Misra
M/
19/12/79

R.K. Misra

sent to the Opp-parties 1 to 5 intimating them that the writ petition and the stay application has been ordered to be listed for orders on 19.2.79 before this Hon'ble Court.

Dated Lucknow:

Feb. 19, 1979.

R. K. Mishra

Deponent

Verification

I, the above named deponent, do verify that the contents of paragraphs 1 ~~and~~ and 2 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed, so help me God.

Dated Lucknow:

Feb. 19, 1979.

R. K. Mishra

Deponent

I identify the above named deponent who has signed before me.

Advocate

Advocate/Clerk of

Dr. L. P. Meena

Solemnly affirmed before me on

19.2.79

at 11.2 a.m./p.m. by Sri R. K. Mishra

the deponent who is identified by

Sri J. P. Swaraj

Clerk to Sri Dr. L. P. Meena

Advocate, High Court, Allahabad.

I have satisfied myself by examining the deponent

that he understands the contents of this affidavit

which have been read over and explained by me.

व अदाखत श्रीमान

महोदय

(वादी) अपोलान्ट

प्रतिवादी (रिस्पान्डेन्ट)

श्री

प. नं. 104

का

वकालतनामा



दीमा नहीं NOT INSURED
आपने पैसे डाक टिकटों का प्रत्यक्ष रूप से भेजे हैं।
Amount of Stamp affixed Rs. 1712
एक रजिस्टर्ड और रीकॉर्डेड लिटर ने प्राप्त किया है।
Received a Registered and Recorded Letter from you.
पैसे वाले का नाम
Addressed to
पैसे वाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer
क्रमांक/No. 1712

दीमा नहीं NOT INSURED
आपने पैसे डाक टिकटों का प्रत्यक्ष रूप से भेजे हैं।
Amount of Stamp affixed Rs. 1713
एक रजिस्टर्ड और रीकॉर्डेड लिटर ने प्राप्त किया है।
Received a Registered and Recorded Letter from you.
पैसे वाले का नाम
Addressed to
पैसे वाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer
क्रमांक/No. 1713

दीमा नहीं NOT INSURED
आपने पैसे डाक टिकटों का प्रत्यक्ष रूप से भेजे हैं।
Amount of Stamp affixed Rs. 1714
एक रजिस्टर्ड और रीकॉर्डेड लिटर ने प्राप्त किया है।
Received a Registered and Recorded Letter from you.
पैसे वाले का नाम
Addressed to
पैसे वाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer
क्रमांक/No. 1714

दीमा नहीं NOT INSURED
आपने पैसे डाक टिकटों का प्रत्यक्ष रूप से भेजे हैं।
Amount of Stamp affixed Rs. 1714
एक रजिस्टर्ड और रीकॉर्डेड लिटर ने प्राप्त किया है।
Received a Registered and Recorded Letter from you.
पैसे वाले का नाम
Addressed to
पैसे वाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer
क्रमांक/No. 1714

महोदय (इकरार) करता हूँ और लिखे देता हूँ

महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ
पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें
या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा
या इकबाल दावा तथा अपोल व निगरानी हमारी ओर से हमारे या अपने
हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया
जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने
या हमारे हस्ताक्षर युक्त (दस्तखती) रसोद 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।

Fee Recd.
19/2/79

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महोदय

सन १९७७

ई०

ब अदालत श्रीमान

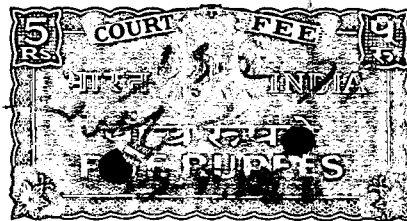
At the District Court of Jammu

महोदय

(वादी) अपीलान्त

प्रतिवादी (रेस्पान्डेंट) श्री

का वकालतनामा



R. K. Misra

वादी (अपीलान्त)

बनोम

Union of India & others

W.P. 255/79

प्रतिवादी (रेस्पान्डेंट)

नं० मुकद्दमा

सन १९७९

पेशी की ता०

१९

ई०

ऊपर मुकद्दमा में अपनी ओर से श्री

Shri B. C. Sharma

एडवोकेट

महोदय

G. S. L. Varma

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अर्पण या हमारे हस्ताक्षर युक्त (दस्तखती) रसोद 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।

Accepted

G. S. L. Varma

19/2/79

हस्ताक्षर

An Swastika

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

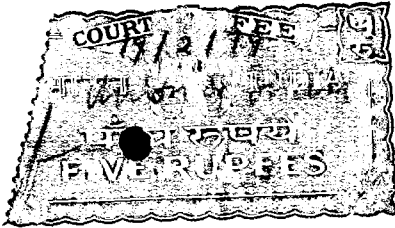
सन १९७९

ई०

A 82

5/2

In the Honble High Court of Judicature at Allahabad
 व अदालत श्रीमान (चुकीर बाई) चुकीर महोदय
 (वादी) अपीलान्ट श्री
 प्रतिवादी (रेस्पाण्डेंट) का वकालतनामा



12/35
 19/4/79

R. K. Mishra

वादी (अपीलान्ट)

बनाम

Union of Indralal others

प्रतिवादी (रेस्पाण्डेंट)

W.P सं० मुकदमा 235 सन् 1979 पेगो की ताल 10 ई०
 ऊपर मुकदमा में अपनी ओर से श्री Robin Chandra

एडवोकेट/वकील

महोदय को अपना वकील नियुक्त करके (इकरार) करता हूँ और निवेदित हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करे या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिग्री जारी करावें और रुपया वसूल करें या सुलहनामा या इकवाल दावा तथा अपील व बिगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तलाक़ करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी विपत्ती (फरीकसानों) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तावेजी) रसीद से लेवें का पंच नियुक्त करें — वकील महोदय द्वारा की गई वह सब कार्यवाही हमने स्वयं स्वीकार है और होगी इस लिये यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम जावे ।

As District Personnel Officer
 Northern Railway, Lucknow.

हस्ताक्षर — Divisional Superintendent
 N. R. L. Lucknow

सहरी — (गवाह) — सा नि (गवाह) —
 दिनांक — महीना — सन् 197 ई०

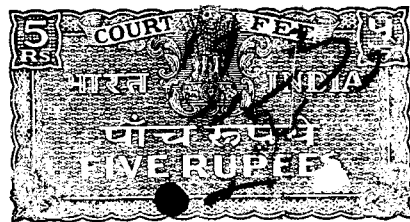
Received
 19/4/79

नाम अदालत-श्रीमान चुकीर बाई चुकीर महोदय
 सं० मुकदमा-235 सन् 1979
 नाम फरीकसानों- R. K. Mishra बनाम Union of Indralal others

19/4/79

व अदालत श्रीमान
वादी (मुद्दै)
प्रतिवादी (मुद्दाअलेह) का

महोदय
वकालतनामा



12 MS 2
15/2

W. P. No 255-479

P. K. Mirza

वादी (मुद्दै)

बनाम

Union of India & others

प्रतिवादी (मुद्दाअलेह)

नं० मुकदमा सन् १९७ पेशी की ता० १९७ ई०
ऊपर लिखे मुकदमा में अपनी ओर से श्री

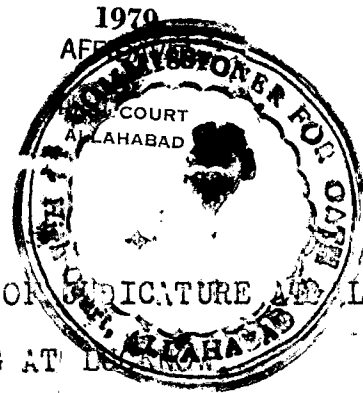
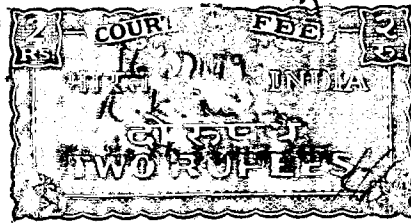
P. K. Mirza एडवोकेट महोदय
वकील

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रूपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील 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 विपक्ष (फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिये यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर P. K. Mirza (W. P. No 255)

साक्षी [गवाह] साक्षी [गवाह]

दिनांक 19 महीना 2 १९७ ई०



A-84
6/1

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

Supplementary Affidavit

In Re:

Writ Petition No.255 of 1979.

R.K. Misra ... Petitioner

Versus

The Union of India and others.. Opp. parties.

I, R.K. Misra, aged about 44 years, son of Sri Sadanand Misra, resident of Chheda Khawas Purwa, Birhana, Lucknow, working as Wagon Movement Inspector, Northern Railway, Lucknow, do hereby ~~xxx~~ solemnly affirm and state on oath as under:-

(1) That the deponent is the petitioner in Writ petition no.255 of 1979 and, as such, is fully conversant with the facts deposed to hereunder.

(2) That the deponent preferred Writ petition no.255 of 1979 in this Hon'ble Court challenging the orders contained in Annexures 6, 17, 20 and 21 in the Writ petition.

(3) That vide order dated 19.2.1979, a Division Bench of this Hon'ble Court desired that the petitioner should file an appeal before the General Manager, Northern Railway, and this Hon'ble further directed



R.K. Misra
File - 18/7/79

A85

6/2/79

-2-

that the Writ petition be listed after two months for further orders.

(4) That the petitioner preferred an appeal before the General Manager, Northern Railway, Baroda House, New Delhi, through proper channel and the said appeal was received in the first week of March, 1979 by the General Manager.

(5) That an advance copy of the appeal was also sent to the General Manager, Northern Railway, Baroda House, New Delhi through registered post on 27.2.1979 vide Postal Receipt no.407.

(6) That the copies of the appeal presented to the General Manager, Northern Railway, were also sent by the petitioner to the President of India and to the Chairman, Railway Board, New Delhi.

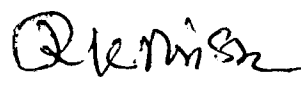


(7) That the Writ petition no.266 of 1979 and the said applications filed along with the Writ petition were listed for orders on 2.5.1979 and Mr. Robin Mittra, learned Counsel appearing for Opposite parties, proceeded on leave, and, therefore, this Hon'ble Court directed that the Writ petition and said application be listed for orders after vacations.

Quinis

(8) That thereafter the petitioner had also sent a reminder on 17.5.1979, through registered post, praying that the appeal be decided expeditiously. A true copy of the reminder sent through registered post with

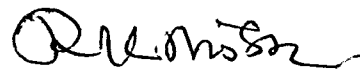
acknowledgement due is being annexed herewith as Annexure-22 . The acknowledgement receipt has also been received back by the petitioner.

A86
6/3/84

DEPONENT.

Dated, Lucknow,
July 16, 1979.

Verification.

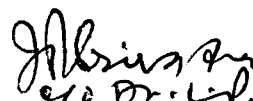
I, the above named deponent, do hereby verify that the contents of paras nos. 1, 2, 3, 4, 5, 6, 7 and 8 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed. So, help me God.


DEPONENT.

Dated, Lucknow,
July 16, 1979.



I identify the deponent, who has signed before me.


c/o Dr. L.P. Misra
(Dr. B.P. Misra) M.L.
Advocate.

6/16/79
Solemnly affirmed before me at 5:00 AM/PM on July 16, 1979 by Sri R.K. Misra, deponent, who has been identified by Dr. L.P. Misra, Advocate, High Court at 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 to him.

NOTARY COMMISSIONER.

P 87 6/1/79

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

Writ Petition No.255 of 1979.

R.K. Misra ... Petitioner
Versus
The Union of India and others ... Opp. parties.

ANNEXURE-22

(Advance Copy by Post).
Before the General Manager, Northern Railway,
Baroda House,
New Delhi.

Reminder in Appeal I.E/Appeals of 1979.
Through Proper Channel.

R.K. Misra, aged about 44 years, son of Sri Sada
Nand Pd. Misra, resident of Cheda Khawas Purwa, Birhana
Lucknow, working as Wagon Movement Inspector, Lucknow
... Appellant.

Versus.

- Qle m 82
1. Senior Divisional Personnel Officer,
Northern Railway, Hazratganj, Lucknow.
 2. Chief Controller, Northern Railway, Lucknow.
 3. A.M. Srivastava, son of Sri Ganga Pd., working
as Wagon Movement Inspector, C/o Chief Controller,
Northern Railway, Hazratganj, Lucknow.
 4. Ram Chandra, working as Wagon Movement Inspector,
C/o Chief Controller, Northern Railway, Hazratganj,
Lucknow.

... Respondents.

Respected Sir,

I submitted an appeal for the kind and ...2

considerate decision of your honour, regarding the fixation of my seniority vis-a-vis respondents 3 and 4. This appeal was submitted by me in the C.R. Section, D.S. Office, Hazratganj, Lucknow, duly received on 22.2.1979 under the signature of Sri N.D. Sharma.

It is noteworthy that I have filed a Writ petition before Hon'ble High Court, Allahabad at Lucknow Bench challenging orders dated 20.12.1978 and 22.12.1978 passed by respondents 1 and 2 respectively declaring respondents 3 and 4 senior to me.

The Hon'ble High Court vide order dated 19.2.1979 directed me to submit an appeal before your honour, without delay and the writ petition was ordered to be listed for orders in the 1st week of May, 1979, because it was reasonably expected that within that period of about two months, your honour would be able to decide my appeal.

The Writ petition was listened on 2.5.1979 and as Mr. Robin Moitra learned Council appearing for the Railway, was granted leave, the Writ petition and stay application has now been ordered by Hon'ble High Court to be listed in 1st week of July, 1979 after the Summer Vacation.

An advance copy of appeal was also sent through registered post on 22.2.1979 to your honour, but sorry to say, that my appeal has not been decided so far and I am being treated junior to respondents 3 and 4 who are

P89 6/6

actually junior to me.

The detailed facts and reason have been narrated in the body of appeal and through this reminder, I request your goodself to kindly do justice to me by deciding the appeal in accordance with the relevant rules of seniority and to redress my grievance.

Wherefore, it is most respectfully prayed that your honour may be pleased to decide my appeal, sent through proper channel on 22.2.19 followed by an advance copy.

Thanking you Sir,

Yours faithfully,

Sd/-R.K. Misra
WMI, Lucknow.

Wagon Movement Inspector,
Northern Railway,
Lucknow.

Dated 17.5.1979.

Copy to the President of India

Q. C. Master

1. That a person who has been convicted of a crime and
has been sentenced to a term of imprisonment in a State
prison, and who is not a citizen of the United States,
is not entitled to the benefits of the Federal Constitution.

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Rules, 1968 against the order dated 20.12.1978 passed by opposite-party no.1 and also the order dated 22.12.1978 passed by opposite-party no.2.

5. That the undersigned ~~has~~ on a comparative perusal of the present writ petition and the aforesaid departmental appeal preferred by the petitioner it is stated that the said appeal is a verbatim copy of the present writ petition.

6. That the applicant respectfully submits that the aforesaid departmental appeal is wholly misconceived and is not maintainable in view of the provisions of rule 18 of the Railway Servants (Discipline and Appeal) Rules, 1968 since the orders appealed against are not orders which are contemplated under the said rule 18.

7. That the appeal which the petitioner had preferred is dated 22.2.1979 and as stated in the preceding paragraphs is directed against the orders dated 20.12.1978 and 22.12.1978. The said appeal is clearly barred by limitation as provided by rule 20 of the said Railway Servants (Discipline and Appeal) Rules. The said rule provides that "no appeal preferred under this Part shall be entertained unless such appeal is preferred within a period of 45 days from the date on which a copy of the order appealed against is delivered to the appellant provided that the appellate authority may entertain an appeal after the expiry of the said period if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period."

P 95

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same for not preferring the appeal in time.
In the said departmental appeal the petitioner has
not indicated any sufficient reason for not preferring
the appeal within 45 days. The only reason indicated
is that the appeal is being preferred in pursuance of
the order passed by this Hon'ble Court on 19.2.1979.

8. That if this Hon'ble Court be satisfied that the
departmental appeal preferred by the petitioner is
maintainable under rule 18 of the DSA Rules, the
present writ petition which is a verbatim copy of the
said appeal may be dismissed on the ground that the
petitioner has already availed of an alternative
remedy.

Wherefore, the petitioner prays that this
Hon'ble Court be pleased to recall the order dated
19.2.1979 and the order dated 31.10.1979

Balaksene

(B. G. Saksona)
Advocate
Counsel for the applicant

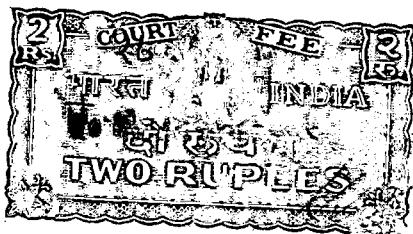
Dated Lucknow

22.11.1979

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



Affidavit

in

Application

A. N. Srivastava, son of Sri Sanga Prasad, resident of
Sattin Lane, Birhana, Lucknow

Applicant (Opp-party
no. 2)

1979
AFFIDAVIT
14
HIGH COURT
ALLAHABAD

Writ Petition No. 255 of 1979

R. K. Misra

--Petitioner

VERSUS

Union of India and others

--Opp-parties

I, A. N. Srivastava, aged about 53 years, son of Sri
Sanga Prasad, resident of Sattin Lane, Birhana,
Lucknow, the above-named applicant, do hereby solemnly
take oath and affirm as under:-

1. That in the above-captioned writ petition a Division
Bench consisting of Hon'ble Mr. Justice Hari
Omaram and Hon'ble Mr. Justice S. C. Mathur passed the
following order on 19.2.1979:-

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"Sri R. Mitra has appeared on behalf of the respondents and has made a statement that Sri A. G. Dewan has already taken over. He has also averred that this order contained in Annexure 20 to the writ petition is an appealable order and can be challenged by the petitioner by way of an appeal to the General Manager. The petitioner has not yet filed any appeal against this order but intends to do so without delay. List this petition in the first week of May 1979. On that day the learned counsel may intimate if he has already preferred an appeal."

2. That the said writ petition was thereafter taken up for admission on 30.10.1979 before a Division Bench consisting of Hon'ble Mr. Justice T. S. Misra and Hon'ble Mr. Justice K. S. Varma and it was pointed out on behalf of opposite parties nos. 1 to 3 that the petitioner has already preferred an appeal in terms of the aforesaid order dated 19.2.1979 passed by this Hon'ble Court. Since a copy of the appeal said to have been preferred by the petitioner was not available, it was stated by the counsel for the applicant that a copy of the same be directed to be made available to the applicant also. Their Lordships were pleased to grant the said request.

266

3. That intimation of the said division bench order was served on 8.11.1979 with a copy of

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the appeal preferred by the petitioner before the General Manager, Northern Railway, Baroda House, New Delhi.

4. That a perusal of the said appeal would show that it purports to have been preferred under rule 18 of the Railway Servants (Discipline and Appeal) Rules, 1968 against the order dated 20.12.1978 passed by opposite-party no.1 and also the order dated 22.12.1978 passed by opposite-party no.2.

5. That on a comparative perusal of the present writ petition and the aforementioned departmental appeal preferred by the petitioner it is stated that the said appeal is a verbatim copy of the present writ petition.

6. That the applicant respectfully submits that the aforesaid departmental appeal is wholly misconceived and is not maintainable in view of the provisions of rule 18 of the Railway Servants (Discipline and Appeal) Rules, 1968 since the orders appealed against are not orders which are contemplated under the said rule 18.

7. That the appeal which the petitioner had preferred is dated 22.2.1979 and as stated in the preceding paragraphs is directed against the orders dated 20.12.1978 and 22.12.1978. The said appeal is clearly barred by limitation as provided by rule 30 of the said Railway Servants (Discipline and Appeal) Rules. The said rule provides that "no appeal

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p 99

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AM

preferred under this Part shall be entertained unless such appeals preferred within a period of 45 days from the date on which a copy of the order appealed against is delivered to the appellant provided that the appellate authority may entertain an appeal after the expiry of the said period if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time. "

In the said departmental appeal the petitioner has not indicated any sufficient reason for not preferring the appeal within 45 days. The only reason indicated is that the appeal is being preferred in pursuance of the order passed by this Hon'ble Court on 19.2.1979.

8. That if this Hon'ble Court be satisfied that the departmental appeal preferred by the petitioner is maintainable under rule 18 of the DCA Rules, the present writ petition which is a verbatim copy of the said appeal may be dismissed on the ground that the petitioner has already availed of an alternative

made.
Dated Lucknow
November 26, 1979

AN Srinivasa
Deponent

I, the deponent above do hereby verify that contents of paras 1 to 5 and 7 to 8 are true to my own knowledge and those of para 6 are true on the advice of my counsel which I believe to be true. No part of it is false and nothing material has been concealed; no help or aid.

Dated Lucknow
November 26, 1979

AN Srinivasa
Deponent

I identify the deponent who has signed in my presence.

(Signature of B.C. Saxena Advocate)
solely affirmed before me on 26-11-79
at 4-58 PM by A.N. Saxena the deponent who
is identified by me as clerk to Mr. B.C. Saxena, Advocate. 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.

Calen

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26-11-79

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J. N. Gossard

Asstt. Person. Officer

Asstt. Personnel Officer
H. R. Lko.

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

Figure 1. The effect of the concentration of the *Agrobacterium* suspension on the transformation efficiency of *Agrobacterium* strains. The concentration of the *Agrobacterium* suspension was 10⁶ cells/ml (A), 10⁷ cells/ml (B), 10⁸ cells/ml (C), and 10⁹ cells/ml (D). The concentration of the *Agrobacterium* suspension was 10⁶ cells/ml (A), 10⁷ cells/ml (B), 10⁸ cells/ml (C), and 10⁹ cells/ml (D). The concentration of the *Agrobacterium* suspension was 10⁶ cells/ml (A), 10⁷ cells/ml (B), 10⁸ cells/ml (C), and 10⁹ cells/ml (D). The concentration of the *Agrobacterium* suspension was 10⁶ cells/ml (A), 10⁷ cells/ml (B), 10⁸ cells/ml (C), and 10⁹ cells/ml (D).

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Asstt. Personnel Officer
N. R. Lko.

A127

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
LUCKNOW.

T.A. No. 420 of 1987

(Writ Petition No. 255 of 1979.

BETWEEN

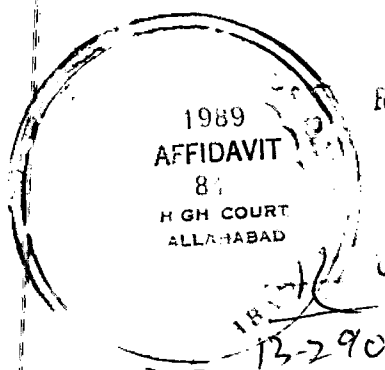
R.K. Misra

... Applicant/
Petitioner

Versus

Union of India and others

... Respondents

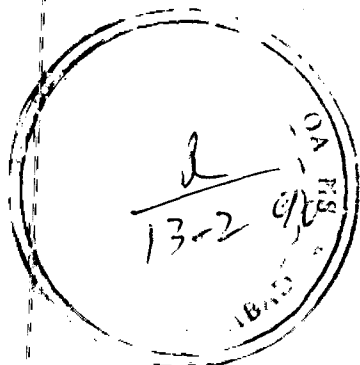


REJOINDER AFFIDAVIT TO THE COUNTER AFFIDAVIT FILED
ON BEHALF OF THE RESPONDENTS 1, 2 and 3.

I, R.K. Misra, aged about 56 years, son of
Sri Sada Nand Prasad Misra, ^{present} resident of 10 Ganeshpuri
colony, Khawaniganj, Lucknow, do hereby solemnly
affirm and state on oath as under :-

1. That the deponent is the applicant/petitioner
in the above noted case and he has gone through the
contents of the counter affidavit filed on behalf
of the respondents 1, 2 and 3 and after understanding
the same, is preferring a reply to the averments
made therein by way of this rejoinder affidavit.

2. That the contents of para 1 of the counter
affidavit need no reply.



R.K. Misra

- 2 -

3. That the contents as alleged in para 2 of the counter affidavit are denied. It is stated that the applicant was appointed as Asstt. Station Master w.e.f. 25.6.54 and he attended the training course at Zonal Training Centre, Chandausi from 25.6.54 to 30.4.55 and the training period is to be counted towards the seniority. It is, however, stated that the applicant/petitioner filed the writ petition claiming his seniority over and above the Opp-parties A.N. Srivastava and Sri R.C. Diwan and during pendency of the writ petition, an order dated 10.1.80 was passed assigning seniority to the petitioner over and above Sri A.N. Srivastava, the Opp-party no. 4, who died on 30.4.83 but under the said order Sri R.C. Diwan was treated as senior to the petitioner. It is noteworthy that Sri R.C. Diwan was initially appointed as Commercial Clerk which post does not fall within the field of eligibility for being considered for promotion to the post of M.M.I. Sri R.C. Diwan was promoted as Guard w.e.f. 4.6.55 and he completed Guard's training course at Zonal Training Centre, Chandausi during the period 27.6.56 to 9.8.56 whereas the applicant had completed the training at Chandausi on 30.4.55. It is worth-mentioning that for the purpose of reckoning seniority the petitioner's training period is being not counted towards his seniority whereas in the case of Sri R.C. Diwan the period of training has been allowed to be counted towards his seniority and accordingly the petitioner has been treated junior to Sri R.C. Diwan.



R. K. Misra

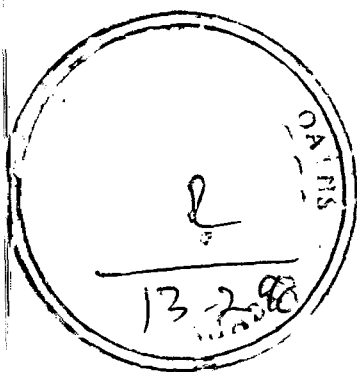
- 3 -

The detailed order resulting into passing of the order dated 10.1.80, the copy of which is being annexed herewith as Annexure-R(1) to this affidavit, clearly states that the petitioner was treated as junior to Sri R.C. Diwan by excluding the period spent by him in training. ~~The copy of this~~

~~detailed order is being annexed herewith as~~
~~Annexure-R(2) to this affidavit.~~ (The deponent is advised to state that it is shocking to conscience of justice on one hand that the petitioner's seniority is determined by excluding the training period whereas in the case of Sri R.C. Diwan, the training period has been allowed to be counted towards the seniority.) Undoubtedly both the petitioner and Sri R.C. Diwan belong to one and the same category known as Safety category being A.S.M. and Guard respectively. It is reiterated that the petitioner was appointed as A.S.M. w.e.f. 25.6.54 whereas Sri R.C. Diwan was appointed as Guard w.e.f. 4.6.55.

The petitioner completed the training at Chandausi on 30.4.55 and completed the line training on 29.6.55 whereas Sri R.C. Diwan completed the training at Chandausi on 9.8.56. Thus, from the date of appointment as well as from the date of completion of training the applicant is senior to Sri R.C. Diwan who was given promotion as senior ...I. w.e.f. 4.8.78 in the scale of Rs. 700-900/- whereas the petitioner has been given promotion to that post w.e.f. 2.3.82

4. That in reply to the contents as alleged



R.K. Misra

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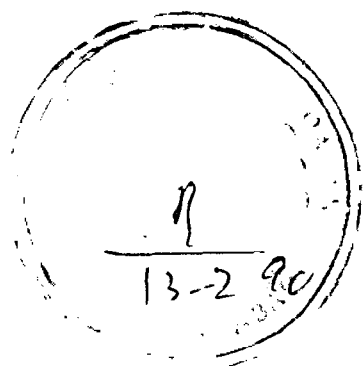
- 4 -

in para 3 of the counter affidavit, it is stated that the petitioner was promoted as W.I. after written examination and selection^{24.1.68} and the Opp-parties 4 and 5 were promoted as such w.e.f. 26.9.68.

5. That the contents of para 4 of the counter affidavit need no reply from the deponent.

6. That the contents of para 5 of the counter affidavit are denied. It is stated that the petitioner and Sri A.N. Srivastava were promoted as W.M.I. after passing written examination and facing interview. The Opp-party no. 5 was shown undue favour by Sri Jauhari and was promoted without undergoing the written examination. The ~~deponent~~ ^{separate} favour shown to the Opp-party no. 5 by Sri Jauhari shall be evident on perusal of the establishment file^{R no 757 E/I-C/WMI(I)/} pertaining to W.M.I. cadre particularly precis pages 35 to 39. The genuineness of the claim of the petitioner shall further be evident on perusal of the precis page no. 63 wherein as per belief of the petitioner, it has been recommended that the petitioner deserves to be treated as senior to Sri R. C. Diwan.

7. That in reply to the contents of para 6 of the counter affidavit, it is stated that the petitioner was selected as W.M.I. after written examination and interview and the initial appointment letter is issued showing that the promotion is on adhoc basis. The Opp-parties 4 and 5 who were promoted



R. K. Singh

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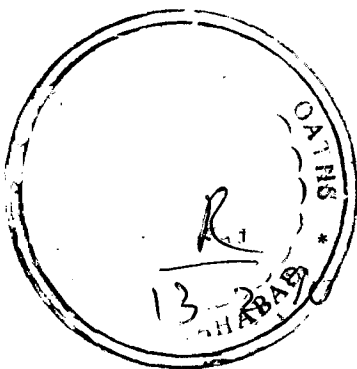
subsequent to the petitioner's promotion were also promoted on ad hoc basis.

8. That the contents of para 7 of the counter affidavit are denied. Sri A.N. Srivastava was junior to the petitioner and as a result of undue favour having been shown to him, he was treated and as senior and subsequently the mistake was corrected by issuing the order dated 10.1.80 and the petitioner was treated as senior to Sri A.N. Srivastava.

9. That the contents of paragraphs 8 and 9 of the counter affidavit need no reply from the deponent.

10. That in reply to the contents of para 10 of the counter affidavit, it is stated that the petitioner was promoted as W.M.I. prior to the promotion of Sri A.N. Srivastava and the petitioner was also working in higher grade than that of Sri A.N. Srivastava at the time of his promotion as W.M.I. However, it is stated that the dispute of seniority between the petitioner and Sri A.N. Srivastava is no more alive and Sri A.N. Srivastava has been treated as junior to the petitioner.

11. That the contents of paragraphs 11 and 12 of the counter affidavit are denied. The representations of the petitioner were kept pending and were not disposed of despite repeated reminders.



R. K. Mishra

12. That the contents of para 13 of the counter affidavit need no reply.

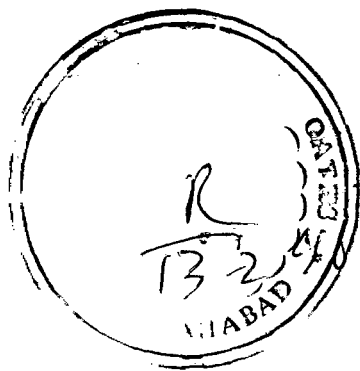
13. That ~~the~~ in reply to the contents of para 14 of the counter affidavit, the contents of para 12 of the petition are reiterated.

14. That in reply to the contents of para 15 of the counter affidavit, it is denied that the Opp-party no. 4 was senior to the petitioner. The mistake of treating the Opp-party no. 4 as senior to the petitioner has been corrected subsequently by treating the petitioner as senior to the said Opp-party.

15. That in reply to the contents as alleged in para 16 of the counter affidavit, it is stated that the petitioner being senior to Sri A.N. Srivastava deserves to be promoted as Senior Wagon Movement Inspector (WMI) in the grade of Rs. 700-900 w.e.f. 22.2.78 from which date Sri A.N. Srivastava, who is admittedly junior to the petitioner, was promoted.

16. That the contents of para 17 of the counter affidavit are denied and those of para 15 of the petition are reiterated.

17. That in reply to the contents of para 18 of the counter affidavit, the contents of para 16 of the writ petition are reiterated.



R. K. Singh

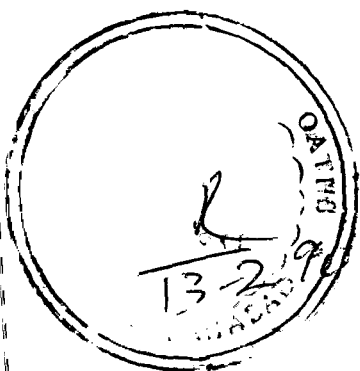
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18. That in reply to the contents of paragraphs 19 and 20 of the counter affidavit, it is stated that the supersession of the petitioner was illegal. Sri R.C. Diwan could not be treated as senior to the petitioner. The following details clearly speak that an arbitrary and discriminatory treatment in was given to the petitioner for treating him as junior to Sri R.C. Diwan :-

Name	Date of promotion as WII	Date of appointment in the eligible grade	Date of completion of training in the eligible cadre	The basis of determination of seniority given by the department as available in the file
Sri R.K. Misra	24.1.68	25.6.54	29.6.55	On the basis of his date of independent duty as A.S.M. viz., 29.6.55 after completion of training.
Sri R.C. Diwan	26.9.68	4.6.55	9.8.56	On the basis of his date of promotion as guard i.e. 4.6.55.



Q. h. 13/8/98

It is noteworthy that in the safety category the employees are given the independent charge only after completion of training and accordingly the petitioner was given the independent charge after completion of training i.e. with effect from 29.6.55 and Sri R.C. Diwan was given independent charge after completion of training on 9.8.56. The above details

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clearly speak that the training period was not counted while reckoning seniority of the petitioner whereas the training period of Sri R.C. Diwan was counted for the purpose of reckoning seniority as his seniority was taken w.e.f. the date of his promotion in the eligible cadre.

R
KXX In view of the above, it is manifestly evident that the petitioner's length of service in the comparative grades is more than that of Sri R.C. Diwan who has arbitrarily been treated as senior to the petitioner.

20. That in reply to the contents as alleged in paragraphs 21, 22 and 23 of the counter affidavit, it is stated that the Opp-party R.C. Diwan was placed below the petitioner in the impanelment which was to be treated strictly on the basis of the seniority.

21. That the contents of para 24 of the counter affidavit are denied. It is stated that the petitioner was not given any opportunity of hearing while considering the alleged representation of Sri R.C. Diwan and no explanation was called for from him. It is also stated that Sri R.C. Diwan could not be treated as senior to the petitioner, as detailed hereinabove.

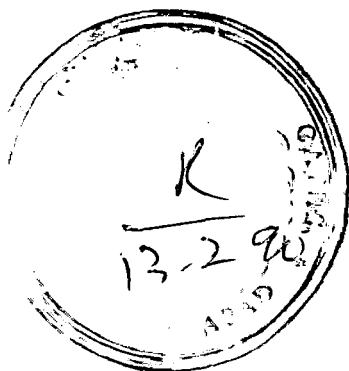
22. That the contents of paragraphs 25, 26 and 27 of the counter affidavit do not call for any reply



R. L. Diwan

from the deponent except that the deponent deserves to be given promotion w.e.f. the date from which the Opp-parties 4 and 5 were promoted as Senior Wagon Movement Inspector in the scale of Rs. 700-900/- The Opp-party no. 5 was promoted as Sr. W.M.I. w.e.f. 4.8.78 and the Opp-party no. 4 was promoted as such w.e.f. 22.2.78. The arbitrariness in the matter of promotion as Senior W.M.I. is evident from the very fact that Sri R.C. Diwan who has been determined as ~~xx~~ Junior to Sri A.N. Srivastava was promoted as Senior W.M.I. w.e.f. 4.8.78 where ^{-as 1} Sri A.N. Srivastava was promoted as such w.e.f. 22.2.78. It is stated that the petitioner is senior both to Sri A.N. Srivastava and Sri R.C. Diwan.

23. That in reply to the contents of para 28 of the counter affidavit, it is stated that it was the petitioner who ought to have been promoted instead of the Opp-parties 4 and 5 being promoted and only because of the wrong reckoning of seniority the petitioner has been deprived of the promotion. It is also stated that the petitioner had already passed the written examination of Sr. W.M.I. but he was deprived of the promotion merely because he was treated as junior to Opp-parties 4 and 5.



Dr. M. S. 23

24. That in reply to the contents of paragraphs ^{d/} 29, 30, 31, 32 and 33 of the counter affidavit, it is stated that the petitioner has wrongly been treated

as junior to Sri R.C. Diwan. The correct position has been detailed hereinabove and no repetition is called for.

25. That the contents of para 34 of the counter affidavit need no reply.

26. That the contents of paragraphs 35, 36, 37 and 38 of the ~~counter affidavit~~ counter affidavit are denied. It is stated that the petitioner is senior to Sri. R.C. Diwan from the date of promotion as W.M.I. as also from the date of completion of the training in the eligible cadre and the petitioner is also senior to Sri R. C. Diwan from the date of appointment in the eligible cadre. The necessary details have been given hereinabove and on perusal of the same it is more than evident that Sri R.C. Diwan was wrongly and arbitrarily treated as senior to the petitioner who has been deprived of the promotion as Senior Wagon Movement Inspector w.e.f. the date from which the persons junior to him i.e. Opp-parties 4 and 5 were promoted.

Dated Lucknow:

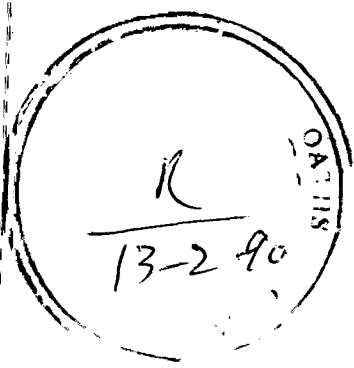
Feb. 13, 1990.

R. K. Mishra

Deponent

Verification

I, the above named deponent, do verify that the contents of paragraphs 1 to 26 of this affidavit except the bracketed portions are true to the own knowledge of the deponent and those of the bracketed



R. K. Mishra

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portions are believed to be true. No part of it is false and nothing material has been concealed, so help me God.

Dated Lucknow:

Feb. 13, 1990.

R. K. Mishra

Deponent

I identify the above named deponent who has signed before me.

Advocate's Clerk.

Solemnly affirmed before me on 13-2-90

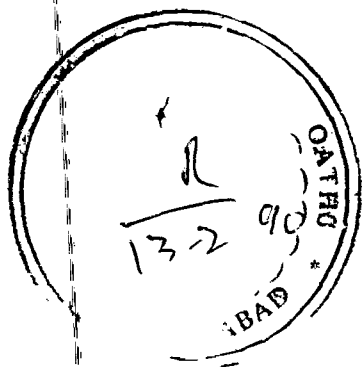
at 10.11 a.m./p.m. by Sri R. K. Mishra

the deponent who is identified by Sri J. P. Sonwala -

clerk to Sri L. P. Mishra

Advocate, High Court, Allahabad.

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



R. P. SONWALA

to Commissioner High Court, Allahabad
Lucknow Bench

C. No. 84

13-2-90

S. no 1970

In the Court of Central administrative Tribunal Lucknow.

Case No. P.A.(T)420 of 1987
Writ Petition No 233 of 1979.

R.K. Misra

V/s

Union of India and others

The applicant- petitioner submits as under:-

- i) It has come to the knowledge of the applicant
that the Hon'ble Court has decided the above
noted case, heard on 11/4/91 & 24/4/91
- ii) It is therefore prayed that the certified copy
of the judgement may kindly be delivered to the
applicant.

(R.K. Misra)

Applicant- R.K. Misra

Petitioner-----

LKO

Dated: 16/5/91

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
LUCKNOW.

T.A. No. ~~XX~~ 420 of 1987.

R.A. Misra

... Applicant

Versus

Union of India and others

... Opp-parties.

Annexure-No. 4(1)

No. 84/E5/3/MI

Dated 10.1.80

The Office of DM
Lucknow.

The Chief Controller,
H. Rly. Lucknow.

Reg:- Revised seniority of M.A.I.s

After giving an opportunity to the undernoted
MIs in connection with the above, it has been
decided to reassign their seniority in scale Rs. 425-640
(RS) which is as under :-

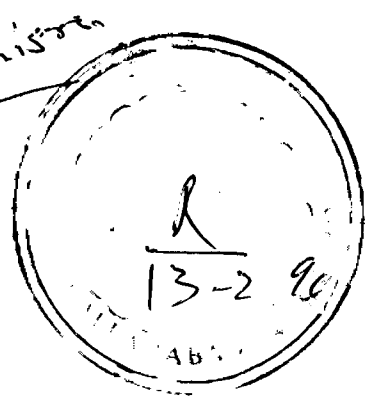
1. Sri Ram Chand.
2. Sri R.A. Misra.
3. Sri A.K. Srivastava.

This has the approval of Divl. Rly. Manager.

Sd./-

Sr. Divl. Personnel
Officer, Lko.

R.A. Misra



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW.

CIVIL MISC. APPLICATION NO. 243 OF 1990(L)

in Re :

Registration No.(T.A.) No. 420 of 1987 (T)

B E T W E E N

R.K. Mishra

.....Applicant

versus

Union of India & others

.....Respondents

APPLICATION FOR AMENDMENT OF COUNTER REPLY FILED

ON BEHALF OF RESPONDENTS NO. 1. to 3

That for the facts and reasons stated in the accompanying supplementary application it is most respectfully prayed that in the interest of Justice, the amendment sought for in the accompanying supplementary application may kindly be allowed to be incorporated in the body of counter reply filed on behalf of respondents no. 1 to 3 and ad-interim order to the said effect may also be passed.

Lucknow.

Anil Srivastava
(ANIL SRIVASTAVA)
ADVOCATE

Dated :- 12-4-90

Counsel for Respondent.

>

Received Official.
The case is now pending
by the Union of India
as a last resort, but
containing with no amendment
of the facts already stated
in the counter reply.
L.R.
12/4/90

7
Sd/-
12/4/90

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

Registration No. (T.A.) No. 420 of 1987 ()

B E T W E E N

R.K. MishraApplicant.

Versus

Union of India and othersRespondents.

Fixed For : 12.04.90.

SUPPLEMENTARY APPLICATION IN SUPPORT OF AMENDMENT
APPLICATION .

I, ~~M.K. Srinivasa~~ ^{JAIN} working as Assistant Personnel Officer, in the office of Divisional Railway Manager, Northern Railway, Varanasi, Lucknow do hereby solemnly affirm and state as under :-

1. That the official above named is fully conversant with the facts and circumstances of the case and has been authorised by Respondents 1 to 3 to file this supplementary application on their behalf.
2. That the amendment sought for hereinbelow do not change the nature of the case.
3. That the inadvertently certain facts were not stated in the counter reply and certain facts were

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defectively stated in the counter reply which needed to be rectified/clarified.

4. That when this case was taken up for final hearing on 01.03.90, this Hon'able Tribunal was also pleased to direct the counsel for the respondents to file supplementary counter, hence this supplementary application for seeking appropriate amendment in the body of counter reply is being preferred which in the interest of Justice, deserves to be allowed.

5. That the answering respondents seek following amendments to be incorporated in the body of counter reply.

A. That Para 2 of the counterreply may completely be deleted and following be read as para 2 of the counter reply.

2, " That with regard to the contents of para 1 of the writ petition, it is admitted that the petitioner of initially appointed a probationer A.S.M. at pay Rs. 55/= per month w.e.f. 25.06.54 He reported to Lucknow Division from Chandausi training school on 04.05.55 and he was put under practical training , which he passed on 13.06.55. After completion of theoretical and practical

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- 3 -

training and test, he was given independent duty w.e.f. 29.06.1955 and his pay was raised to Rs. 64/= per month. He was granted benefit of scale Rs. 80-170/= at pay Rs. 80/= per month w.e.f. 01.04.56 and his grade was revised to Rs. 130-225 at pay Rs. 142/= per month w.e.f. 01.07.59. The petitioner was promoted to scale Rs. 150-240 as enquiry clerk, Lucknow on Rs. 165/= per month and he was spared on transfer to Lohita to work as A.S.M. from enquiry and reservation clerk Lucknow w.e.f. 03.11.65. As per Headquarters letter no. 522/E64-IX-58(LIB) dated 23.06.79, the date of appointment of probationer A.S.M. is the date on which he takes over as A.S.M. after successful completion of training at J.T.S./CH and then on Division".

B. That after para 5 of counterreply, the following may be added :-

5. " It may be clarified here that the promotion of Ram Chandra Deewan i.e. Opposite party No. 5 to the post of wagon movement Inspector is not under dispute in the present writ petition but only his seniority in respect of the petitioner.

filed

Cont.....4/

The Opposite party no.5. was always senior to the petitioner and he always draw more pay than the petitioner. A comparative chart showing the service details of petitioner and opposite party no. 5 ~~is~~ in . . . cronological manner is being filed herewith as Annexure No. C-1 this counter reply.

C. That after para 20 of counter reply , the following may be added :-

20. " It may be further clarified here that the petitioner would be entitled for seniority from the date from which he is given independent duty of the post of A.S.M. after successfull completion of his theoretical and practical training i.e. w.e.f. 29.06.55 because he was directly recruited as Prob. A.S.M. while the date of seniority would be different in case of a departmental candidates. The departmental candidates get their seniority from the date, they are allowed to work/promoted on that post.

6. That these amendments are necessary for the proper adjudication of the case.

Lucknow

Dated :- 12-4-90

W. J. Singh
(S. S. SRIVASTAVA)
N. K. Singh
Cont.....5/=

VERIFICATION

I, the official above named do hereby verify
that the contents of para 1 of this application is true
to my personal knowledge and those of paras 2 to 6
of this application are believed by *me to be true on the basis of* records and
legal advice.

Lucknow

Dated: 12-4-90

Alpana
69th
Join
(M.K. SRINIVASTAVA)

AUG

Annexure No. C-1

A
128SERVICE DETAILS OF PETITIONER AND OPPOSITE PARTY NO. 5 IN CRONOLOGICAL MANNER

<u>PETITIONER</u>	<u>OPPOSITE PARTY NO. 5</u>
	14.10.42 Appointed as Commercial Clerk at pay Rs. 30/= per month.
	01.01.47 Pay fixed at Rs. 65/= per month in grade Rs. 60-150/=
	01.01.50 Pay raised to Rs. 80/= per month.
	01.01.54 Pay raised to Rs. 96/= per month.
26.06.54 Appointed as Prob. ASM pay Rs. 55/= p.m.	08.01.54 Temporarily promoted as Guard grade 'C' at pay Rs. 100/= p.m. in scale Rs. 80-170/=
04.05.55 Reported to Lucknow division from CH School pay Rs. 55/= p.m.	08.01.55 Pay raised to Rs. 104/= per month.
05.05.55 Capacity on appointment-ProbASM pay Rs. 55/=	22.02.55 Again reverted as Commercial clerk on pay Rs. 100/= p.m.
13.06.55 Put under practical training passed MTI & AOS.	30.03.55 Passed as Railway Clerk SS. Lucknow and sapred to work as Guard in scale Rs. 80-170/=
29.06.55 Independent duty at pay Rs. 64/= p.m.	04.06.55 Promoted to officiate as guard grade 'C' at pay Rs. 104/= per month in scale Rs. 80-170.
01.04.56 Pay Rs. 80/= per month in scale Rs. 80-170/=	21.04.56 Pay raised to Rs. 108/= per month
04.04.57 Pay raised to Rs. 84/= per month	06.12.56 Confirmed as guard grade 'C' in scale Rs. 80-170/=
04.04.58 Pay raised to Rs. 88/= per month.	21.04.57 Pay raised to Rs. 112/= per month.
04.04.59 Pay raised to Rs. 92/= per month.	21.04.58 Pay raised to Rs. 116/= per month.
01.07.59 Pay Rs. 142/= per month in scale Rs. 130-225/=	21.04.59 Pay raised to Rs. 120/= per month.
12.04.60 Pay raised to Rs. 146/= per month.	01.07.59 Pay raised to Rs. 170/= p.m. in scale Rs. 130-225/=
	11.06.60 Pay raised to Rs. 175/= per month.

W. J. Puri

- 14.04.61 Pay raised to Rs. 150/= p.m. in grade Rs. 130-225.
- 14.04.62 Pay raised to Rs 154/= p.m. in grade Rs.130-225/11.06.62 Pay raised to Rs. 185/= p.m.
- 09.09.63 Promoted to scale Rs. 150-240 at pay Rs. 165/= p.m. as Inquiry Clerk, Lucknow. 11.06.63 Pay raised to Rs. 190/=p.m.
- 01.04.64 Pay raised to Rs. 162/= p.m. in scale Rs. 130-240/= . 11.06.64 Pay raised to Rs. 195/= p.m.
- 09.03.65 Pay raised to Rs. 170/= p.m. 11.06.65 Pay raised to Rs. 200/= p.m.
- 03.11.65 Sapped on transfer to Lohita to work as ASM from Inquiry of reservation clerk, Lucknow.
- 23.08.66 Pay refixed in scale Rs. 130-240/=, at minimum start of Rs. 150/= p.m. 11.06.66 Pay raised to Rs. 205/= p.m.
- 01.04.67 Pay raised to Rs. 175/= p.m. 11.06.67 Pay raised to Rs. 210/= p.m.
- 24.01.68 Temporary promoted as WMI grade Rs. 150-240/ at pay Rs. 181/= p.m. on purely temporary arrangement. 11.06.68 Pay raised to Rs. 215/= p.m.
- 24.01.69 Pay raised to Rs. 187/= p.m., ASM & WMI declared identical. 20.09.68 Temporary appointed to officiate as WMI at pay Rs.240/= p.m. (maximum) in grade Rs. 150-240 on purely temporary arrangement.
- 14.04.69 Pay raised to Rs. 193/= p.m. 11.06.69 Sub. pay raised to Rs. 220/= p.m.
- 20.06.69 Confirmed WMI, scale Rs.150-240
- 14.04.70 Pay raised to Rs. 199/= p.m. 11.06.70 Sub. pay raised to Rs. 225/= p.m.
- 23.07.70 Passed P-14, WMI promotion course (training from 22.05.70 to 06.07.70) from training school.
- 06.01.71 Appointed to officiate locally as a temporary to measure at pay Rs. 212/= p.m. in scale Rs. 205-280 in Ardh Kumbh Mela. 06.01.71 Appointed to officiate locally as a temporary to measure at pay Rs. 240/= p.m. in scale Rs. 205-280 in Ardh Kumbh Mela.
- 05.03.71 205-280 in Ardh Kumbh Mela.

14.04.72 Sub. pay raised to Rs. 212/= p.m.

01.01.73 Sub.grade Rs. 330-480 at pay Rs. 430/= p.m.
officiating grade Rs. 425-640 at pay Rs.440/= per month.

14.04.73 Sub. pay Rs. 440/= in grade Rs.330-430

07.05.73 Selected WMI, promotion in grade Rs. 205-280/= regularised.

29.06.73 Appointed to officiate WMI in scale Rs. 250-380/= at pay Rs. 250/= p.m.

30.06.73 Appointed to officiate WMI in scale Rs. 455-700/= at pay Rs. 470/= p.m.

01.06.74 Officiating pay raised to Rs, 500/= p.m.

01.06.75 Officiating pay raised to Rs. 515/= p.m.

01.06.76 Officiating pay raised to Rs. 530/= p.m.

01.06.77 Officiating pay raised to Rs. 545/= p.m.

22.07.77 Placed on panel of WMI scale Rs. 455-700/=

16.01.78 Appointed to officiate as WMI scale Rs. 550-750/= (Rs.) at pay Rs. 570/= p.m. purely temporary in local ad-hoc arrangement.

01.01.79 Officiating pay raised to Rs. 590/= p.m.

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20.10.71 Passed P-14, WMI promotion course (training from 10.03.71 to 23.09.71) from training school.

01.01.73 Sub grade to Rs. 290-480 at pay Rs. 440/= p.m.
officiating grade ~~to~~ Rs. 330-480 at pay Rs. 460/= p.m.

22.03.73 Allowed officiating pay Rs. 280/= p.m. in grade Rs. 205-290/-
30.04.73 205-290/-

29.06.73 Appointed to officiate WMI in scale Rs. 250-330/= at pay Rs. 290/= p.m. + Rs. 11/= P.P.
30.06.73 Appointed to Officiate WMI in scale Rs. 455-700/= at pay Rs. 515/= p.m.

01.06.74 Officiating pay raised to Rs. 545/= p.m.

01.06.75 Officiating pay raised to Rs. 560/= p.m.

01.06.76 Officiating pay raised to Rs. 580/= p.m.

01.06.77 Officiating pay raised to Rs. 600/= p.m.

22.07.77 Selected for the post of WMI in scale Rs. 455-700/=

22.03.78 Appointed to officiate as WMI in scale Rs. 550-750/= (Rs.) at Lucknow on pay Rs. 625/= p.m. in temporary local ad-hoc arrangement.

04.08.78 Appointed to officiate as SWMI in scale Rs. 700-900/=(Rs.) at Lucknow in temporary local ad-hoc arrangement and allowed pay Rs. 700/= p.m.

01.03.79 Officiating pay raised to Rs. 730/= p.m.

01.01.80 Officiating pay raised Rs. 610/= p.m.

20.11.81 Vide Hd. Qrs. letter his name was incorporated between S/Sri Ram Chandra Deewam and A.N. Srivastava of the ~~provisional~~ provisional panel of SWMI in scale Rs. 700-900/= according pay refixed.

04.03.80 Proforma fixation in grade Rs. 700-900(Rs.) at pay Rs. 700/= p.m.

01-03.81 Proforma fixation in grade Rs. 700-900(Rs.) at pay Rs. 730/= p.m.

01.03.82 Proforma fixation in grade Rs. 700-900(Rs.) at pay Rs. 760/= p.m.

01.03.83 Pay raised to Rs. 795/= p.m.

01.03.84 Pay raised to Rs. 830/= p.m.

01.03.85 Pay raised to Rs. 865/= p.m.

01.03.86 Pay raised to Rs. 900/= p.m.

[Signature]

'01.08.80 Pay raised to Rs. 760/= p.m.

' 01.02.82 Pay raised to Rs. 795/= p.m.

28.02.82 Retired.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
LUCKNOW.

Registration No. (TA) No. 420/1987(T)

LETTER

R.N. Misra

... Applicant

Versus

Union of India and others

... Opp-parties./
respondents

SUPPLEMENTARY REJOINDER AFFIDAVIT TO THE AMENDED
PARAGRAPHS OF THE COUNTER AFFIDAVIT.

I, R.N. Misra, aged about 56 years, son
of Sri S.N. Misra, resident of 10-Caneshpuri Colony,
Dhawaniganj, Lucknow, do hereby solemnly affirm
and state on oath as under :-

1. That the contents of paragraphs 2, 5 and 20
of the counter affidavit earlier filed on behalf
of the respondents have sought to be amended and
hence the deponent who is the applicant in the
above noted case, is preferring a reply to the
avements sought to be made through the amended
paragraphs.

2. That in reply to the amended paragraph 2 of

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the counter affidavit, it is stated that the post of Assistant Station Master, Guard and Driver etc. are the posts falling within the 'Safety category' posts and for such posts the training from Zonal Training School, Chandausi is necessary. The applicant was appointed as Assistant Station Master prior to the appointment of Sri R.C. Diwan as Guard. Both these posts i.e. of Assistant Station Master and that of Guard constitute the field of eligibility for promotion to the post of Lagoon Movement Inspector. Both the posts of A.S.M. and Guard belonging to 'Safety category' posts, both the petitioner and Sri R.C. Diwan were subjected to undergo training course at Zonal Training School, Chandausi and the petitioner completed the training prior to the completion of such training by Sri R.C. Diwan. The relevant dates have already been given in the rejoinder affidavit earlier filed by the applicant. The quantum of 'pay' drawn by the applicant and Sri R.C. Diwan is of no relevance so far as the determination of inter-se seniority is concerned. It is worth-mentioning that Sri R.C. Diwan joined the Railway service as Commercial Clerk in the year 1942 whereas the applicant joined ^{the} Railway as Assistant Station Master in the year 1954. It is stated that on being promoted as Lagoon Movement Inspector,

a stationary post, from the post of Guard, a running cadre post, Sri R.C. Diwan became entitled to 40% additional pay and, therefore, his pay stood increased but the inter-se seniority between the applicant and Sri R.C. Diwan is not dependent on the fixation of pay.

3. That the contents as alleged in amended paragraph 5 of the counter affidavit are denied. The dispute in the claim petition relates to the supersession of the applicant from Sri A.N. Srivastava and from Sri R. C. Diwan arrayed as ~~XXX~~ Opp-parties 4 and 5 respectively and the dispute pertaining to this supersession arose when such Opp-parties junior to the petitioner were sought to be promoted as Senior Wagon Movement Inspector and when the question of allowing of senior scale of pay arose. The question of the petitioner/applicant's promotion in the higher scale of pay of Wagon Movement Inspector as also promotion to the post of Senior Wagon Movement Inspector in different scales of pay is admittedly involved in the petition. The averments made to the contrary are denied. It has wrongly been stated in the paragraph under reply that the Opp-party no. 5 was senior to the applicant. As a matter of fact the opp-party no. 5 was promoted as Guard subsequent to the appointment of the applicant as Asstt. Station Master and the said

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Opp-party also completed the training subsequent to the completion of such training by the applicant. Thus, the Opp-party no. 5 cannot be deemed as senior to the applicant.

4. That the contents as alleged in para 20 of the amended counter affidavit are denied. The correct position has been detailed hereinabove. However, it is stated that it has wrongly been stated in the paragraph under reply that the departmental candidate is to be given seniority from the date of allowing to work on the promotion post and a directly recruited candidate is to be given seniority after completion of the training. The training being the condition precedent for the appointment to the post falling within the safety category post, whether the seniority is to be reckoned from the date of appointment/promotion of both the categories either directly recruited or departmentally promoted or the date of seniority is to be reckoned from the date of completion of the training in regard to both the categories i.e. directly recruited and departmentally promoted, but in no circumstance training period can be included and counted towards the seniority of one type of persons and the same can be excluded from consideration for the other type of persons. In view of the facts and circumstances of the case,

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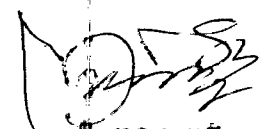
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it is manifestly evident that the applicant has been subjected to an arbitrary and discriminatory treatment all along.


Dated Lucknow:
May ,1990.


Deponent

Verification

I, the above named deponent, do verify that the contents of paragraphs 1 to 4 of this affidavit are true to the own knowledge of the deponent. No part of it is false and nothing material has been concealed, so help me God.

Dated Lucknow:
May ,1990.


Deponent

I identify the above named deponent who has signed before me.

Advocate's Clerk.

Solemnly affirmed before me on
at a.m./p.m. by Sri
the deponent who is identified by Sri
Clerk to Sri
Advocate, High Court, Allahabad.

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

