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

INDEX SHEET

CAUSE TITLE 421 of 1987 (w)
WP No. 256-79

NAME OF THE PARTIES _____

Amrood Hasan Applicant

Versus

Union of India & Respondent

Part A, B & C

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CIVIL
CRIMINAL SIDE

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

(A)

(2)

Nature and number of case W.P. 236-79

Name of parties Amarendra Hasan v. S. Luman & S. L. a co. 288

Date of institution 2-2-79 Date of decision

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
	1.	Ground	34		Rs. 162.00			
	2.	Power	7					
	2.	C.M. No. 70129 July	5		7.00			
	3.	Power	1		5.00			
	4.	Court affidavit	20		2.00			
	5.	Rejoinder affidavit	21		2.00			
	6.	C.M. 5211 (W) 79 with affidavit	20		12.00			
	7.	C.M. 7842 (W) 79 for Amendment with supplementary affidavit	14		9.00			
	8.	Exhibits	1					
	9.	Power	1		5.00			
	10.							

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

Munsarim.

Clerk.

(A2A)

(3,

12/1

U. P.

No.

இதன்

of 1979

Trans. Hase.

25.

Illustration of *Laelia* and *Orchid*

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	<p>For U.C.S.J.</p> <p>For K.N. Goyal J</p> <p>Adm. - issue notice --</p> <p>--</p> <p>- for order on 15-2-79 Time</p> <p>Relatives undersigned labors</p> <p>steps within 24 hours through</p> <p>Regd Post.</p> <p>Sd. P.C.S.</p> <p>Sd. K.N. Goyal</p> <p>C.M. Am No. 701 (U) 79</p> <p>For H.S.J</p> <p>For K.N. Goyal J</p> <p>for order see --</p> <p>- court Petition</p> <p>Sd. H.S.</p> <p>Sd. K.N. Goyal</p> <p>22-2-79</p>	
5-2-79	<p>15-2-79 fix in court</p> <p>701(U)-79 for am</p> <p>✓</p> <p>Notice issued to O.Ps. 1 to 10 by</p> <p>Regd. Post fixing 15-2-79 in a.p.</p> <p>and stay apha. for filing CA.</p>	<p>By M/c</p> <p>By cl /</p>

2
57229

4

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. _____ of 197

25.

[illegible]

A2F

12/

⑤

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
12-10-79	C.M.A. 5211 (W)-79 for orders. Hon. Mathew J.	
	for Saginaw County, Michigan to have the court report made by the court reporter at \$10.00 per hour to be paid by the parties. The court has ordered that the costs of the report shall be borne equally by the parties. Dated: December 10, 1979 at Detroit, Michigan.	
	H 12-10-79	
	25-10-1979 fixed inc m. Am 5211 (w)-79 for orders	
25-10-79	CMA 5211 (W) 79 pr c sds Hon Mathew J A Court Report was made on 12-10-79 at the cost of \$10.00 per hour for 4 hours = \$40.00 The cost of the report shall be borne equally by the parties. Dated: December 25, 1979 at Detroit, Michigan.	

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. _____ of 197

vs. _____

Dated of
which
case is
adjourned

Date

Note of progress of proceedings and routine orders

1

2

3

20-11-79

P m m - 5211 (W) - 79, for order

re 1st H. 11. 11. 79

It is not clear whether
after 1971 petitions had
continued to be filed as
material clerk till the
closing of the newspaper
order. Learned counsel
for the respondents wants
a week time to show
whether he was working
continuously or only off and
on when the leave vacancy
occurred. List after a
week.

20-11-79

11-12-79 filed in Court. The

NO. 5211 (W) - 79 for order

11-12-79

P. M. A. - 5211 (W) - 79 for order.

H. 11. 11. 79

for order. 11. 11. 79

for order. 11. 11. 79

27-11-79

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W. P. No. 256

of 1974

28.

Dated of
which
case is
adj. urned

Date

Note of progress of proceedings and routine order

1

2

3

17.12.79

C.M. No. 5211 (W)-79 for order.

Hon. Mathur, J.

S. G.

B. C.

17.12.79

C.M. No. 7842 (W)-79/12/18
Hon. C. Mathur, J.
last with the case.

10.1.80

fixed in C.M. No.
and 7842 (W)-79
No. 5211 (W)-79 for order.

10.1.80

C.M. No. 5211 (W)-79 & 7842
(W)-79 for order.

Hon. V. C. S.

Hon. C. Mathur, J. 7842 (W)-79

along with C.M. No. 5211 (W)-79

some time in the week.

10.1.1980

R.

17.1.80 fixed in C.M. No.

5211 (W)-79 and 7842 (W)-79

for order.

17.1.80

C.M. No. 5211 (W)-79 & 7842 (W)-79
for order.

Hon. V. C. S.

Order on the bench of J. Mathur.

No. 5211 (W)-79.

B. C.

28.12.79

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 256

of 1977

(8)

12/10

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
✓	9.10. NVR received from 5.2.78	
8.8.83	Ad Rep Submitt been report dated 5.8.83 O's 1 and 2 are reported to be represented by their Counsel. Besides, O6 is also represented by Counsel. Service on O's. 4, 7, 9 and 10 deemed sufficient under ch. VIII rule 12 of Rules of Court. O's. 3, 5 and 8 have not been served by registered post. The petitioner will now take steps to serve on them by substituted means by moving in the purpose within two weeks by	5/8/83 8.8.83

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD
 WP No. 256 of 198 1979
 vs.

A3A

9

Dated of which case is adjourned

Date

Note of progress of proceedings and routine orders

1

2

3

of the Court against un-served
 opposite parties No. 3-5 and 8 and
 interim order, if any, operating
 against the said opposite parties
 shall also stand discharged.

18-10-83

92 L

9-12-83

Fixed for
 attendance and
 for filing C.A. in
 W.P.

N. 1 to O.P. No. 3, 4
 and 5 by R.P.

B

26-10-83

17-X-84

Service Reports

~~18-10-83~~

of 3 and 5. Regd. Cover return back
 with remark "Avoid to take
 delivery"

of B. Not received since 26-X-83.

cont

A3C

12/8

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 256 of 1987

10

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
5.12.85	<p>Ref. to Bench</p> <p>10.12.85</p> <p>U.O. Bk. No. 7</p> <p>Slips taken</p> <p>Office to proceed.</p> <p>17.12.85</p> <p>In 4.85 fees for attendance for filing CA in C.O.</p> <p>M-9. to O.P. No. 3 and 5</p> <p>by R.P.</p> <p>12.12.85</p>	<p>steps on</p> <p>12.12.85</p>
2.9.85	<p>Service Report</p> <p>OP's Regd. Court return back with</p> <p>Gumma "Aviso to take delivery."</p> <p>OP's Regd. Court not receive back</p> <p>Since 12.2.85</p>	
10.10.85	<p>Ad Regd</p> <p>See above Office report Subj. to this</p> <p>Service on 6.5 in 12.12.85</p> <p>Subj. to this on 10.10.85</p> <p>of Rules of Court.</p> <p>Send back notice to 3</p> <p>In the next 3rd. Fixing date for the</p> <p>first week of December 1985.</p>	

In case slips are not taken within time by the parties before court consequences at own risk.

12

(A 4A)

CAT II/II

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD
NEW DELHI

(11)

W.A.T.A. No. 421 1987

Anwarul Hasan Applicant(s)

Versus

Union of India & Ors. Respondent(s)

Sr. No.	Date	Orders
	16.10.87	<p><u>Office report.</u></p> <p>- Writ Petition No. 256/79 has been received on 16.10.87 for Hon'ble Judge in Court H.O. Counter and Rejoinder affidavit both have been filed.</p> <p>Writ Petition is against the Doctrine of Seniority.</p> <p>Notices served to both the parties fixing 21.10.87 by registered post.</p> <p>Not delivered registered cover has been return back.</p> <p>Writ Petition is pending for hearing.</p> <p>Submitted for orders.</p> <p>Seen - 16.10.87</p>

OFFICE ORDER

AUC

An application has been filed in this
 Tribunal for transferring the case No. 421/87(T)
 of _____ to Circuit Bench, Lucknow.
 If approved, ²⁹ April 1988 may
 kindly be fixed for hearing at Circuit Bench
 Lucknow. In this regard the notices may be sent
 to the parties concerned.

(12)

Jen

List this case on 29th April
 1988 before Circuit Bench,
 Lucknow for hearing

D.R.

29-4-88

Hon. S. Zaker Husain, VC.
 Hon. Ajay Tolm, J.

Shri S. P. Sinha for ^{applicant} ~~respondents~~

Shri Anil Srivastava for respondents

Shri Srivastava

should make the documents,
 summoned from the respondents,
 available on the next date
 of hearing. Put up on

25-5-88.

Raj

32
Raj.W.
VC.

421/07(T)

(AUE)

24-11-00

Hon. D. S. Mishra, Am.
Hon. S. S. Sharma, J.M.

(13)

On the request of the learned
counsel for the applicant
Shri S. P. Sinha the case
is adjourned to 23-12-00.

J. M.

Am.

10/12

23/12/88

No sitting, Adjourned to 27/1/89
for hearing.

Am

23/12

27/1/89

No sitting, Adjourned to 30-3-89
for hearing.

Am

27/1

Hon. Mr. D. S. Mishra, Am.

Hon. Mr. V. K. Agrawal, J.M.

30/3/89

Shri S. P. Sinha, learned counsel for the applicant
and Shri Shri Bhanuwar learned counsel for
the respondents are present. On the request
of learned counsel for the respondents the
case is adjourned to 4-4-89.

J. M.

Am.

APK
AUG

NO. 421/87 (V)

Kp

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

Hon' Mr. K. Obayya, A.M.

16/10/89 Shri H.P. Srivastava, Advocate appears on behalf of the applicant and Shri Anil Srivastava, Counsel appears on behalf of the respondents.
Arguments in the case, almost concluded.
Shri Anil Srivastava, Counsel for the respondents, when questioned by the Bench, as to why the pay sheet has not been produced, stated that the same was not summoned. Let it be produced tomorrow for the perusal of the Tribunal.
If the pay sheet is not produced, ~~necessary~~ adverse inference will be drawn.
Copy of this order be given to the counsel for the respondents.


A.M.


J.M.

(sns)

Hon' Mr D.K. Agrawal, J.M.
Hon' Mr K. Obayya, AM

17-10-89 Shri H.P. Srivastava and Shri S.P. Sinha Counsel for the applicant and Shri Anil Srivastava Counsel for the respondents are present.
Arguments concluded. Judgment reserved.


A.M.


J.M.

①

Shri K (SNS)
Srivastava

②
Recd copy of judgment
Shri Sinha
Adv
22/10/89

(AS)

(15)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

...

Registration T.A. No. 421 of 1987 (T)

Anwarul Hasan Applicant

Vs.

Union of India & ors Respondents

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

Hon' Mr. K. Obayya, A.M.

(By Hon' Mr. D.K. Agrawal, J.M.)

The above case was registered on transfer of the record of the writ petition No. 256 of 1979, from High Court of Judicature, Lucknow Bench, Lucknow under the provisions of section 29 of the Administrative Tribunals' Act, 1985.

2. The facts are that the petitioner namely, Anwarul Hasan was appointed as Boiler Washer Mate on 19.5.56 in the scale of Rs.30/- 1/2 - 35 on Rs.30/- per month and confirmed with effect from 19.6.57. The post of Boiler Washer Mate was later designated as Boiler Maker Khallasi. The petitioner was thereafter promoted on ad-hoc/stop gap basis by an order dated 30.8.63 (Annexure-I to the petition) as Telephone Attendant cum Booking Clerk in the scale of Rs.105 - 135, on Rs.105/- per month w.e.f. 18.9.63 and continued to remain posted in the above said grade on one or the other post carrying said grade available in the Department till the writ petition was filed in the High Court of Judicature, Lucknow Bench, Lucknow on 2.2.1979 except for a short period in February, 1966. According to the petitioner, he was wrongfully reverted to the post of Boiler Maker Khallasi on 3-2-1966

Dr. Agrawal

....2/-

and after 3 days, transferred as leave reserved Khalasi on 6.2.1966. The petitioner, it is alleged represented against his wrongful reversion. He was then put back to work as Tool Checker in the same grade i.e. Rs.105 - 135 w.e.f. 12.2.1966 and continued to to work as such till writ petition was filed in the High Court on 2.2.1979. The contention of the respondents is that the petitioner on his own opted to be reverted to the post of leave reserve Khallasi in order to be utilised against the leave vacancies of Jr. Clerks/Store Issuers/ Tool Checkers etc. in the scale of Rs.105 - 125 w.e.f. 3.2.1966. No document has however been placed before us to arrive at a finding as to whether the option was exercised by the petitioner as alleged by the respondents. However, it remains a fact that the petitioner continued to work in the grade of Jr. Clerk i.e. Rs.105 - 135 without any objection on his part and therefore, we can infer that the petitioner was a consenting party. The respondents have further alleged that the petitioner was made to appear in the test held on 9.4.72 for empanelment in the grade of Rs.105 - 135, but he failed to qualify. Thereafter, he never appeared and as such was not empanelled for regularisation in class III post in the grade of Rs.105-135. However, it is also a fact borne out from record that despite being unsuccessful at the test, the department did not revert him till 22.12.78 when the impugned order (Annexure-5 to the petition) was passed. The petitioner, by means of the above said impugned order dated 22.12.78 was reverted to the post of Boiler Maker Khallasi. Therefore, he filed the above said writ petition on 2.2.79 and made an application for stay of the operation of the impugned order. A Division Bench of

[Signature]

....3/-

the High Court (Lucknow Bench) passed an order on 2.2.79 staying the operation of the impugned order dated 22.12.78 for a period of 2 weeks which continues to remain in force. An ex-parte order was further passed by the High Court on 17.1.80 directing the respondents to pay the salary of Material Clerk to the petitioner w.e.f. 30.12.78 and the respondents consequently passed orders for payment of the upgraded grade of Material Clerk i.e. Rs.260 - 400 to the petitioner in pursuance of the orders of the High Court.

3. The petitioner claims that notwithstanding the fact that he failed to be empanelled in the grade of Rs.105 - 135, he was entitled to be placed in the grade of Rs.110 - 180 and assigned seniority qua respondents 3 to 10 who were junior to him at the time of substantive appointment in the grade of Rs. 30 - 1/2 - 35. The petitioner also claims that in pursuance of the Railway Board Circular dated 9.6.65 he cannot be reverted back to his substantive post because he has completed the officiation period of 18 months as contemplated in the aforesaid circular of Railway Board. The petitioner has also claimed confirmation and seniority as against the respondents 3 to 10.

4. The respondents have pleaded that the petitioner holds the substantive appointment of Boiler Maker Khallasi; that ^{he} failed to pass the Trade test and; that therefore, he was not promoted to the post of B.T. Boiler, Skilled Boiler or Highly Skilled Boiler. The respondents have further pleaded that two distinct categories existed at the relevant time, one was that of Boiler Maker Khallasi and the other was that of leave

Dr. Ag...4/-

reserve Khallasi; that the petitioner having opted for leave reserve Khallasi on 3.2.66, forfeited his claim for promotion in the category of Boiler Maker Khallasi. The respondents further pleaded that as regards the promotion of the petitioner from the post of leave reserve Khallasi to the post of Junior Clerk/ Store Issuer/Tool Checker etc, the same was subject to his empanelment on the basis of test, but that since he was not successful in the test in the year 1972, he was not empanelled. The respondents also pleaded that the post of leave reserve Khallasi was surrendered some time in the year, 1978 and therefore, in the circumstances, there was no option but to pass the impugned order reverting the petitioner to the post of Boiler Maker Khallasi which was his substantive post. The respondents further pleaded that the grade of Junior Clerk i.e. Rs. 105 - 135 was upgraded to Rs.110 - 180, but that the promotion to the upgraded grade was not to be done in a routine manner that only those employees who were already empanelled as a result of being successful in the test were placed in the grade of Rs.110 - 180. The respondents have placed before us the proceedings of the Meeting of Permanent negotiating machinery held on 19.4.73 and 7.5.73 to indicate that the upgrading of leave reserve Khallasi from the grade of Rs.70 - 85 to the grade of Rs.105 - 135 was a matter of routine but the placement in the grade of Rs.110 - 180 was not a routine matter.

5. Before we proceed further, it may be mentioned that the grade of Rs.105 - 135 was revised to Rs.225 - 308 by the Third Pay Commission and Rs.825 - 1200 by the Fourth Pay Commission. The grade of Rs. 110 - 180 was revised

Dr. Agrawal

to Rs. 260 - 400 by the Third Pay Commission and Rs. 950 - 1500 by the Fourth Pay Commission.

6. In view of the pleadings of the parties, the following points arise for consideration in this case;

If a class IV employee in the railway administration has continuously worked on ad-hoc/stop gap basis for a period of 18 months or more in a class III post:

- (a) Does he acquire any right?
- (b) Is any test mandatory before he is regularised?
- (c) Is he entitled to be regularised in Class III service without passing the test on the sole ground that his work has been satisfactory?
- (d) What is the effect if, he appeared in the test and failed?
- (e) Is he entitled to be given a further opportunity to sit in the test?
- (f) When can he be reverted to Class IV post?
- (g) Is the applicant entitled to officiate in the grade of Rs.110 - 180 because his juniors have already been promoted to the said grade?

7. It presents no difficulty to us to answer the above points or issues arising in the case. The reason is that a full Bench of the Tribunal by its judgment dated 5-5-89 in the case of Jetha Nand and ors Vs. Union of India and ors reported in 'Full Bench Judgments of C.A.T. (1986 - 1989) page 353', has held that railway servant should first be qualified and found suitable by a test, to be empanelled for appointment to the promotional post. It is only then that he acquires a prescriptive right to hold the post. Such a person

Dr. Aggarwal

acquires a further right when he completes 18 months officiation in the promotional post and that is why, he cannot be reverted without following the procedure under Discipline and Appeal Rules. The views expressed by various Benches of the Tribunal in the past few years on this matter were taken into account. The four circulars of the Railway Board dated 9.6.65, 15.1.66, 5.12.84 and 20.4.85 were also taken into account. The principle of law laid-down by Hon'ble Supreme Court in the case of Narendra Chaddha was also considered carefully. It was then ruled that a test is mandatory before class IV employee can be regularised in a class III post held by him on ad-hoc basis for number of years and that mere officiation of 18 months, if he has failed to qualify at the test, will not confer any advantage on him. However, the Hon'ble Judges of the larger Bench also laid-down that class IV employees who are holding ad-hoc class III posts should be provided several opportunities to qualify and be reverted only if they do not qualify after repeated opportunities. In view of the principles laid-down in the case of 'Jetha Nand(Supra), the applicant cannot be regularised in Class III post, unless he qualifies at the test meant for promotion to such a post under the rules of railway administration. Therefore, the points (a) to ((g) stands answered accordingly.

8. As regards the claim of the applicant to officiating promotion in the grade of Rs.110 - 180 like his juniors (Respondent nos. 3 to 10), the applicant was not entitled for the same for the simple reason that he failed to qualify at the examination for regularisation of class III posts in the grade of Rs.105 - 135 while the respondents 3 to 10

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were already empanelled on the basis of test for a class III post in the Grade of Rs. 105 - 135. Therefore, the applicant cannot be equated with them nor entitled to the officiating promotion in the grade of Rs.110 - 180 like his juniors (respondent nos. 3 to 10).

9. As a result of the above discussion, we hold that the appointment of the applicant in class III post in the grade of Rs.105 - 135 (revised to Rs.225 - 308) (further revised to Rs. 825 - 1200) cannot be regularised, unless he qualifies at the test ment for holding such a post. However, we consider it expedient that the applicant be not reverted ^{unless} he finally fails to successfully pass the test despite repeated opportunities as held in Jethanand's case (supra), we consider that he should be aforded three chances to appear at the test. In case, he fails at such tests, the competent authority can proceed to implement the impugned order of reversion (Annexure - 5 to the petition). In the event he successfully completes the test, the competent authority will consider the question of his confirmation and seniority qua respondent nos. 3 to 10 inaccordance with the rules on the subject. There will be no order as to costs.

MEMBER (A)

MEMBER (J)

(sns)

October 20, 1989

Lucknow.

(22)

1. Mr. [unclear]
2. Mr. [unclear]

3. Mr. [unclear]
4. Mr. [unclear]
5. Mr. [unclear]

2/2/79
for [unclear]

No counter affidavit
has been filed. The
interim order dated
2nd February, 1979 shall
continue to remain in
operation until further orders.

2V
1-3-79
R

Writ Petition No. 256 of 1979.

Anwarul Hasan

Petitioner

Versus

Union of India and others

Opp. Parties

	Pages;
1. Writ Petition	1 to 20
2. Annexure No. I	21 to 22
3. Annexure No. II	23 to 24
4. Annexure No. III	24 to 25
5. Annexure No. IV	26 to 27
6. Annexure No. V	28 —
7. Annexure No. VI	29 to 31
8. Annexure No. VII	32 —
9. Affidavit to writ petition	33 to 34
10. Stay application	35 to 38
11. Affidavit to stay application	39
12. Vakalatnama	40

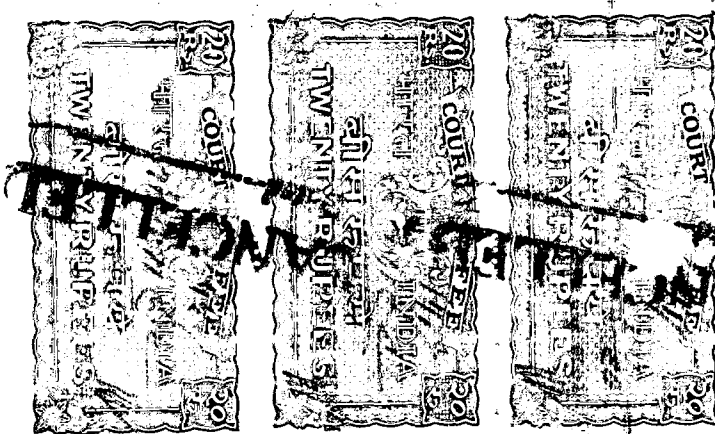
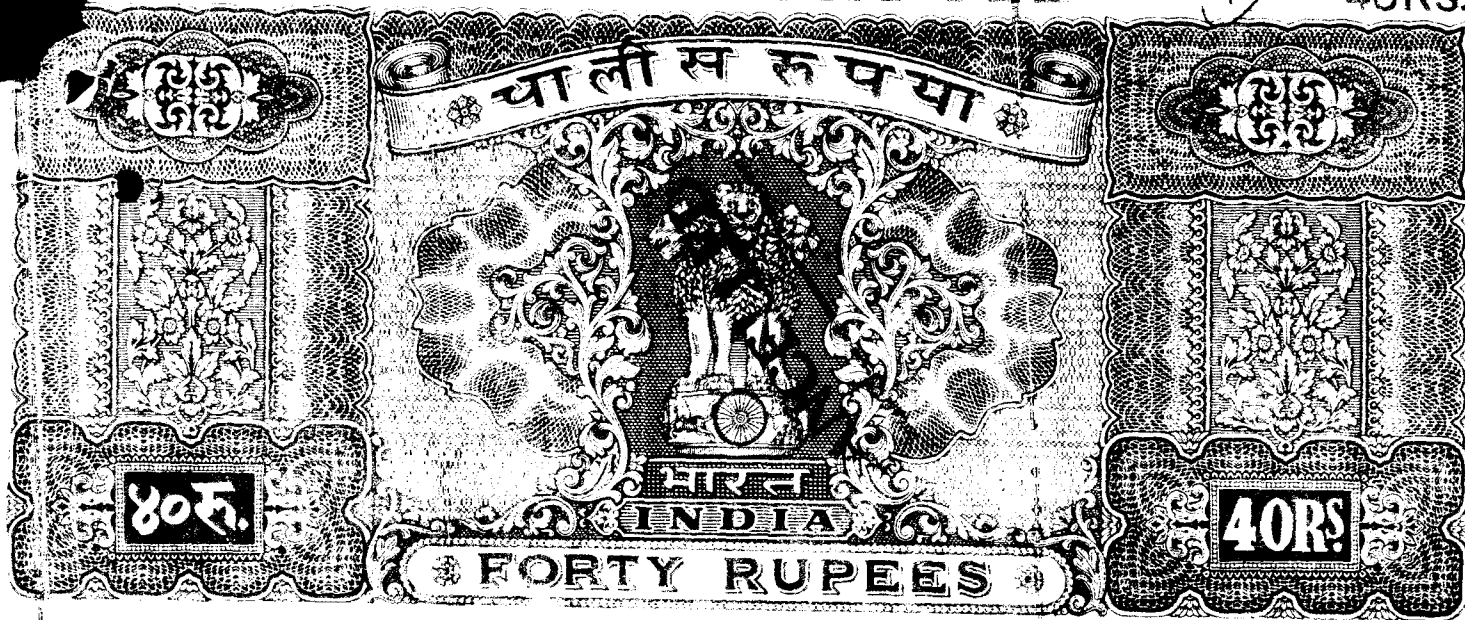
Lucknow, Dated:
January 1979
February 2, 1979

Anwarul Hasan
Petitioner.

Ashok Nigam
Advocate

INDIA COURT FEE

40RS.



In the Honble High Court of Judicature
at Allahabad (Civil Branch)
this 1st day of

For Plaintiff / Petitioner

Union of ... Parties

with Petitioner under the
Constitution of India

Amrout Hans

A14

Boiler Maker, who was subsequently designated as Boiler Maker Khallesi, on 10.2.1956 in the Free Running Shop, Mawla Sh, Madhura, in the scale of Rs. 100-125 (Rs.), now promoted to scale Rs. 125-150 (Rs.). He was confirmed in that post on 10.2.1957.

2. That the petitioner passed B.T. Boiler Maker Test in 1959 and therefore he was to be promoted as B.T. Boiler Maker in 1960 in the Free Running Shop at Bantargacha. After the war was over he was again reverted back to his old post of Boiler Maker Khallesi in January 1960.

3. That the petitioner was promoted to the post of Telephone Assistant Bookbinding Clerk on 10.2.1963 in the scale of Rs. 105-135 (Rs.), and received to Rs. 260-100 (Rs.) with District Police Office letter No. 2207/41 W/Madurai, dated 20.2.1963. A true copy of the said letter is enclosed as Annexure No. 1 to the writ petition.

4. That the petitioner has been continuously working in the scale of Rs. 105-135 (Rs.) in the post of Junior clerk in the said office. The scale of Junior clerk was increased to the scale of Rs. 260-100 (Rs.) and he was promoted to that scale in January 1973. Accordingly the petitioner also became Material Clerk and that he has been working in the said capacity of Material Clerk till 29.1.1973 without break since 1963.

5. That the petitioner was promoted on 22.6.1973 as Boiler Maker Khallesi in the scale of Rs. 210-230 (Rs.) and he was promoted to that post on 22.6.1973. He was subsequently promoted to B.T. Boiler Maker on 11.3.1985 in the scale of Rs. 275-300 (Rs.) and he was promoted to Rs. 310-330 (Rs.)

Answered Hasan

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79



2-79

Amruti Hasan

9. That on 21st April 1960, the petitioner was promoted to the post of Deputy Commissioner (D.C.) on 21.4.1960 in Grade of Commissioner (C.A.) and on 1st June 1960, the petitioner was posted to the post of Deputy Commissioner (D.C.) in the District of ...

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as B.T. Boiler Maker on 1.6.67, 3.6.65 and 1.10.65 respectively in the scale of Rs. 125-130 (d.s.). The petitioner was, however, promoted Telephone-cum-Booking clerk in the scale of Rs. 130-135 (d.s.) on administrative grounds ^{on} ~~and~~ his post on deputation with a view to his original post of Boiler Maker Khallesh. In this way also the petitioner was senior to opposite parties 3 to 5 in grade as well as priority for promotion.

10. That the petitioner was asked to continue working in the later scale of Junior clerk in scale of Rs. 135-140 (d.s.), and later it was subsequently upgraded and revised to scale of Rs. 200-210 (d.s.) under the name of Material clerk in the scale of Junior clerk ~~the name of Junior clerk~~ in different capacities mentioned in para 1 above on administrative grounds by the opposite parties 1 and 2. But as his postings in the said cadre of the job were made by his officials on administrative grounds without first obtaining the petitioner's opinion or choice, the petitioner's lien and seniority remained unaffected, while opposite parties Nos. 3 to 5 continued as junior to the petitioner all the time. In fact as he had already been working since his appointment in his original cadre of Boiler Maker and had already passed the Trade Test of B.T. Boiler Maker the cadre he could not be denied the benefits of the service in that particular line, not without ending his regular working in different capacities under the orders of the opposite parties 1 & 2.

11. That the petitioner has not known that the opposite parties 3 to 5 were promoted B.T. Boiler Maker and a trade test was held in the scale of Boiler Maker in grade Rs. 200-210 (d.s.) and that the opposite parties Nos. 3 to 5 were asked to appear in that trade test and were promoted to the post of Boiler Maker on

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27.5.73, 3.5.73 and 14.5.73 respectively in the same scale, whereas the petitioner was neither informed of the holding of the said Trade Test nor was he called to appear in it along with opposite parties nos. 3 to 5, although the petitioner was senior to all of them, and also fulfilled all the requisite qualifications for the Trade Test, and as such was entitled to be called to appear in the said Trade Test alongwith them. In this way he was illegally discriminated by the opposite party No. 2 against the opposite parties 3 to 5 (and other similarly placed candidates) in not confirming him on the post of B.T. Boiler-Maker prior to them and in the matter of providing an opportunity to appear in the Trade Test and as a consequence to it, in promotion, in his own line.

12. That on upgradation of 15 % posts of all artisan staff including Boiler-Maker the petitioner was entitled to be considered for the trade test for the post of highly skilled Boiler-Maker, Grade II, in grade of Rs. 330-480 (R.S.) class, but he has again been ignored and thus deprived of equal opportunity for promotion alongwith opposite parties Nos. 3 to 5 and has thus again been discriminated.

13. That in this way the petitioner has been repeatedly discriminated from his colleagues and juniors, and has been illegally deprived of the opportunities of promotion to the posts of B.T. Boiler-Maker, Boiler-Maker and opportunity to appear in trade test for Highly skilled Boiler-Maker grade II as the petitioner was a Boiler-Maker Khollasi and had passed the Trade of B.T. Boiler-Maker and had also qualified as B.T. Boiler-Maker in Arch Math Hall in 1960, and therefore had acquired better experience and skill over the post of B.T. Boiler-maker than the opposite parties 3 to 5.

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had no such experience and had passed the necessary test after the petitioner besides being ^{junior} junior to him in other respects as well.

14. That the opposite party No. 2 has on 6.11.1978 issued an order ~~dated~~ ^{under} No. 220 P/T 3/1 (32-1/3) which is impugned here, through which opposite party No. 6 and 7, who figure on serial No. 1 and 14 in the list respectively have been promoted from their ^{existing} existing post of Store Khalsi (Now Fardan, Lucknow) to the post of Material Clerk, on which the petitioner is working, from some alleged panel for promotion to class III created vide their letter dated 12.10.1978, which is also impugned here. A true copy of the order dated 6.11.1978 is being enclosed herewith as Annexure III.

15. That this order of the opposite party No. 2 (Annexure III) is illegal, null and void, because it has sought to illegally promote the opposite parties 6 and 7, who are junior to the petitioner in all respects, over above the petitioner.

16. That opposite parties 6 and 7 are junior to the petitioner is evident from the order itself, which gives their present designation till the date of the issuance of the impugned order dated 6.11.1978, as Store Khalsi, while the petitioner had been promoted to officiate on the post of Material clerk almost 15 years earlier to them, in 1963 by virtue of his seniority.

17. That no general panel for promotion of class IV employees to class III under 2201/3 is being formed either of opposite parties 8 to 10, or the petitioner, as alleged under the impugned order has even been formed to the knowledge of the class IV employees. However, if such a panel was to be formed

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the alleged promotions by the opposite parties No. 1 and 2, it should have been forced strictly on the basis of seniority, in which the petitioner being senior to the opposite parties 6 and 7 should have been placed at the top. In fact the petitioner should have been confirmed long ago on the post of Material Clerk by virtue of his total length of service of 19 years working in that capacity since 1960, as per his seniority to his promotion as Bailan-Maharaj as per the rules and seniority, and only after his confirmation the fixing of his seniority on the post of Material Clerk, should the opposite party No. 1 and 2 have been promoted his (Petitioner's) junior to the post of Material Clerk. Even if the opposite party No. 1 has formed a panel of alleged under the rules, it is illegally made and discriminatory in violation of all the principles of natural justice, and in violation of established law as well as Articles 14 and 16 of Constitution in so far as it fails to give the petitioner his due seniority and to place him, in the list, above and above the opposite parties 6 and 7 in the list.

That in fact a panel for 1960-61, for post for Material Clerk, was constituted by the opposite party No. 2, as per the order No. W 2/3/70, dated 27.8.1970, issued by the Northern Railway, Lucknow, to the District Officer, II, Northern Railway, Lucknow, regarding formation of panel for the post of Material Clerk in grade Rs. 230-400 (R.S.), a time copy of which is filed along with the petition as Annexure No. IV. It is clear that the panel alleged to have been formed for promotion of class IV to class III under 33-1/3 % quota by the opposite party No. 2 under the order No. W 2/3/70 (Annexure No. IV) was actually filed on

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the basis of this letter (Paragraph IV), as it became the sole reference point (L.A. 2/7-3/1(38.1/3) as the original order (Paragraph III). But it is also evident from this letter that the panel contemplated to be formed was for office clerks and that the applications were invited for the post of panel for office clerks, and that the public who had actually applied for office clerks. As such the opposite party No. 2 could have got a panel out of those applications only. Such promotions to the posts of office clerks, and that their panel could, in no case, be utilized for promotions to the posts of Material Clerk.

19. That the posts of Material Clerk and office clerks are different jobs, both in terms of the nature of the job and exercise of promotion. While Material Clerk is a traditional job, office clerk is novel, a clerical job. Therefore persons, who had applied for and were selected against office clerk panel cannot be later forth promoted to the job of Material Clerk, and therefore action of opposite parties 1 and 2 in promoting Material Clerk panel to the posts of Material Clerk, which was already held by the petitioner, was illegal and without any legal authority and against law.

20. That the selection of opposite parties 6 and 7 to the panel of office clerk does not mean that they had actually become office clerk, they remained Store Khalsas only until the original order for their promotion to Material Clerk (Paragraph III), was passed by the opposite party No. 2.

21. That is a general panel is contemplated to be formed out of the panel. The panel, which opposite

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parties No. 1 and 2 in 1960 and 1961. According to the seniority and the Petitioner was not required to put any special application for the same. However, if opposite parties 1 and 2 wanted to form such a panel after receiving applications from applicants desirous of promotion for Material Clerk, they should have properly advertised or notified their intentions to do so, and should have duly invited applications giving full opportunities for consideration of the case of those persons who possessed the requisite qualifications and the experience and who were willing to be considered for the same.

A special consideration and preference should have been given to those class IV employees who were already working in class III in temporary or officiating capacity, such as the petitioner, who had been officiating in class III since 1960, and who had acquired a lot of experience of working on the post of Material Clerk and who therefore was well suited for the job than those, including opposite party No. 6 and 7, who had no such experience. Besides, petitioner's work record had been excellent, to the extent that not even a single explanation was ever called from him during the entire length of his service of 16 ¹/₂ years. Opposite party 1 and 2's action to the contrary is totally illegal, unjustified, biased and discriminative.

22. That petitioner did not apply for being considered for the panel of Office Clerk also because he had already been working as Material Clerk in the same scale (Rs. 560-100 R.S.) from before. Besides, Petitioner being a technical man, was not interested in going for a clerical job leaving a technical job in the same scale. Therefore petitioner's not applying

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22. Office Clerk did not give any right to the petitioner
petitioner 1 and 2 to join him and not considering him
for promotion to class III.

However, as the petitioner parties 1 and 2 had
been asked for application for promotion to class III
generally or to the post of Material Clerk, the
petitioners must have applied for the same.

23. That instead of confirming the Petitioner on
either the post of Boiler Maker as indicated in para 11, a
or on the post of Material Clerk as an alternative
the opposite party No. 3 has recently issued an illegal
order No. 847.E/1.9, dated 22.12.1979, which is
impugned here and a true copy of which is being filed
here as Annexure No. V, allegedly 'transferring'
petitioner from the post of Material Clerk to the post
of Boiler Maker Khalasi, i.e. from the scale of
Rs. 240-400 (B.1) to Rs. 100-200 (B.3).

24. That this is actually not a case of transfer but
of reversion, as the order of Material Clerk is two
ladder higher than the Boiler Maker Khalasi.

25. That this reversion, in the guise of alleged
'transfer', is totally $\frac{1}{2}$ illegal, discriminatory and
unwarranted as the posts and grade of Material Clerk,
on which the Petitioner has been working for the last
16 years still exists and no retrenchment has been made.
It is also unfair, because it is being done to make
room for the favourite persons of opposite parties 1 and 2
such as opposite party No. 3 and 7, who are inimical
to the petitioner in all respects and have no working
experience of the job.

26. That, in case, and as an alternative to his
promotions in the Boiler Maker side the petitioner,
who had been working in the cadre of junior clerk and

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after its promotion and upgradation is mentioned in
 para 4 above, in the grade of Material Clerk since
~~under 18.9.63~~ under deposit order arrangement, he ^{must be} ~~was a~~
~~deemed to have been~~ confirmed in the said grade of Junior Clerk/Material
 Clerk after the expiry of 18 months from the date of his
 officiating on it as per Railway Board's own decision
 vide its confidential D.O. No. E 55 RG 6-26, New Delhi
 dated 21st May 1956, circulated with its letter
 No. E 56 RG 6-26, New Delhi dated 22.5.1956, a true
 copy of which is filed herewith as Annexure VI.

This letter of 29th May, 1956, clearly states
 "..... Normally, the additional posts created would
 be permanent, and the officiating employees would - if
^{at} ~~though~~ their services had been considered to be
 satisfactory - be confirmed very much earlier. Such
 persons could not, therefore, have been reverted to
 lower grades without following the procedure prescribed
 for promotion in rank. The Board ^{and} consider that the
 existence in the higher grades of an appreciable proportion
 of temporary posts, should not deprive Railway servants
 of protection that they would otherwise have obtained...."
 and further in its concluding sentence of para 3 that
 ".....Any person who is permitted to continue to
 officiate beyond 18 months cannot in future be reverted
 for unsatisfactory work without following the procedure
 prescribed in the Discipline & Appeal Rules". However,
 petitioner's work was never considered unsatisfactory
 and because of his excellent work he has been asked to
~~continue to perform~~ ^{continue to} work on the higher grade for 18
 years last. In any case if his work would have been
 unsatisfactory, he should have been removed from the
 officiating capacity before the period of 18 months and
 as soon as he completed his 18 months of service in
 officiating capacity on the higher grade of Junior Clerk/

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Material Clerk, he had become permanent in this grade. And now after the expiry of the said probation period, the petitioner can in no case be reverted to his original post of Boiler Maker Khalesi without following the procedure laid down in the Discipline and Appeal Rules for Railway Servants.

27. That the promotion of opposite parties 6 and 7 to the posts of Material Clerk vide order dated 3.11.79 (Annexure No. III) has also resulted in reversion of the petitioner to the post of Boiler Maker Khalesi (vide order dated 22.12.78, Annexure IV), and therefore it is an unjust ^{order as} and is an encroachment upon legal rights of the petitioner.

28. That the opposite party No. 8, who was appointed as cleaner and was working on that post in grade of Rs.30-35 (R3), later on revised to scale of Rs.196-222 (R4) was promoted to officiate as Fuel Issuer for the first time against the existing vacancy from 9.7.70 vide office order No. 12, dated 9.10.77 (Annexure No. VII) in the grade of Junior Clerk now converted into Material Clerk grade 280-400 (R3) while the petitioner was promoted to officiate in this grade much earlier to him, i.e. on 22.8.68 (Annexure No. I). Thus the petitioner by virtue of his promotion to the same grade seven years prior to opposite party no. 8 and by virtue of his working on that grade since 1968, is senior to opposite party no. 8 as far as their claim to this higher grade of Material Clerk is concerned. But while opposite party no. 8 continues to work as Material Clerk, the petitioner has been ordered to revert back to the post of Boiler Maker under the impugned order No. 247-F-III-9 dated 22.12.78 (Annexure No. IV). The order is, therefore, unlawful and discriminatory and is in violation of the

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High Quality is Assured in our Constitution
under Article 11 and 10.

20. That the opposite party No. 3 was appointed as
person collecting goods on B.L. Concession (B.L.) much later
than the petitioner and was temporarily promoted to
Assistant on the post of Material Officer on 1.8.1977.
Similarly the 4th opposite party No. 4 was appointed
on 17.8.1977 as person in the grade of Assistant,
revised to Rs. 100-332 (A.L.), and was promoted to
post on 31.8.1978 only. He was appointed as Assistant
to officiate on the post of Material Officer on
27.11.1978 vide D.O. No. 100/100000, dated
21.11.1978 (Serial No. 100 of File No. 22,7,1978).

That both the appeals Nos. 9 and 10 are
as much junior to the petition in No. 11 as to
date of appointment, certain that the petition is
the grant of Material Cloth. But this appeal
Nos. 9 and 10 cloth as to the grant of
Material Cloth, the petition is being ordered
to be heard and decided from the point of view of
the impugned order, therefore, the petition
the petition against appeals Nos. 9 and 10 is
in violation of the Articles 14 and 13 of the
Constitution of India and principles of natural justice.

30. That the opposite parties No. 3 to 10 are
separate persons of $\frac{1}{2}$ own party No. 2 and
petitioner's immediate family, who are entitled to
3 to 7 shares each in the property of and in the
petitioner, ignoring his child 10, a constant
and a friend, who is called Mary and who is
petitioner's wife. The opposite parties 3 to 10
are like in the separate persons of petitioner's 3 to 10
and opposite party No. 2 and that is why, on the 10th
last day of 1910 on the date of the said deed with

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the petitioner, who is much senior to them, is being ordered to revert back to the lowest post in the Department, i.e. of Boiler Maker Khalasi. Both petitioner's reversion or alleged transfer to the post of Boiler Maker Khalasi vide order dated 22.11.1978 (Annexure V) and promotion and confirmation of opposite party 3 to 5 to the posts of Boiler Maker and promotion of opposite party no. 6 and 7 to Material Clerk is therefore malafide, discriminative, incorrect, unjust, illegal and void ab initio.

31. That the alleged 'Transfer' under the impugned order dated 22.12.1978 (Annexure V) would in effect amount to the reversion and punishment of the petitioner without any just cause and valid reasons whatsoever and without following the due process of law prescribed under Article 311 of the Constitution of India and without following the procedure as laid down under Discipline and Appeal Rules of Railway Servants. The impugned order (Annexure V) therefore, is in contravention of the provisions of Article 311 of the Constitution and of Discipline and Appeal Rules as per interpretation put forth by the Railway Board itself vide their letter dated 21/28 May 1956 (Annexure VI).

32. That so far the petitioner has not received the impugned order dated 22.12.1978 "transferring" (actually reverting) him back to the much junior grade of Boiler Maker Khalasi (Annexure V), and no effect has been given to it till now. But the opposite party No. 2 is bent upon implementing this impugned order within a day or two.

33. That if the opposite parties carry out the above plan through the manoeuvring of the office staff and opposite parties 3 to 7, the petitioner shall suffer irreparable loss and lose his future prospects as he

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will be reverted to such junior cadre of Rs. 196-232 and will have to work as an ordinary labourer.

34. That it is, therefore, necessary to file this writ petition to stop the above mentioned activities of opposite parties and office staff for getting the proper relief as no other suitable and equally effective remedy is available to the petitioner.

G R O U N D S.

(A) Because the opposite parties 1 and 2 have illegally discriminated the petitioner in matter of promotion and seniority and opportunities for future prospects in violation of Article 14 and 16 of the Constitution of India at various stages and against other equally placed fellow-employees including opposite party 3 to 10.

(B) Because as the petitioner is senior to opposite parties 3 to 5, in the Boiler Maker side and had already passed the Basic Trade Test in 1959 before the opposite parties 3 to 5, he should be deemed to have been promoted to the post of B.T. Boiler Maker, (scale Rs. 210-290 R.S.) and Boiler Maker (scale Rs. 260-400 R.S.) prior to opposite parties 3 to 5 and is now entitled for an opportunity to appear in the trade test for Highly skilled Boiler Maker grade II (scale Rs. 330-480 R.S.) and if found fit, he be promoted to the post of Highly skilled Boiler Maker with a seniority over opposite parties 3 to 5 at all stages.

(C) Because the opposite parties 1 and 2 have so far deprived the petitioner all due promotions and benefits in the Boiler Maker side enumerated in ground (B).

(D) Because the opposite parties 1 and 2 have, in collaboration with the office staff and opposite parties 3 to 5, discriminated him in not promoting to the post

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of Boiler Maker prior to opposite parties 3 to 5 and are continuing to deny him the benefits of those promotions to the detriment of his future prospects.

(F) Because the petitioner has been illegally deprived of the opportunity to appear in the trade test for the post of highly skilled grade III Boiler Maker, which carries the grade of Rs. 320-480 (1.5).

(F) Because the opposite parties 1 and 2 have violated Departmental Rules by not confirming him on his present post of Material Clerk or in his present grade and cadre to which they themselves put the petitioner to work on administrative grounds since 1963 as an alternative to his promotion to the post of Boiler Maker after expiry of 18 months of his service in the officiating capacity i.e. in 1964 itself.

(G) Because the petitioner has been deprived of his due promotions and benefits of seniority equivalent to those which would have been his, ~~had he been his~~, had he been working in his original cadre, as an alternative to his sending him back to his cadre with all benefits and seniority above the opposite parties 3 to 5 at all stages.

(H) Because the opposite parties No. 2's impugned order dated 6.11.1978 (Annexure IV) promoting opposite parties 6 and 7, who are much junior to petitioner in all respects and have no work experience of the post whatsoever, from the post of Store Khalesi to the post of Material Clerk without considering the confirmation of the petitioner over and above them against those posts and without fixing his seniority and lien in the cadre is illegal, arbitrary and discriminative in contravention of Article 14 and 16 of the Constitution of India.

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(I) Because opposite party No. 1 and 2's act of constituting any alleged panel for promotion of class IV employees to class III under 33-1/3 % quota without following the rules of seniority is illegal and malafide done with a view to provide undue preference to their favourite persons such as opposite party No. 6 and 7

(J) Because Opposite Party 2's action of promoting opposite party 6 and 7 from the panel of Office Clerk to the post of Material Clerk is illegal and without any legal authority.

(K) Because the illegal promotion of the opposite party 6 and 7 to the post of Material Clerk vide the impugned order dated 6.11.78 (Annexure IV) has also resulted in the reversion of the petitioner to the much junior post of Boiler Maker Khalasi and therefore it is a totally unjust encroachment upon the legal rights of the petitioner.

(L) Because opposite parties 1 and 2's order to illegally revert the petitioner back to the post of Boiler Maker Khalasi after his fully satisfactory work on the same post for many years post is malafide and has been passed with a view to make room for his favourite persons, opposite parties 6 and 7 etc.

(M) Because the reversion of the petitioner from the post of Material Clerk, grade Rs.260.400 (R.S) to the post of Boiler Maker Khalasi, grade Rs.196.232 (R.S) under the garb of alleged transfer by the opposite party No. 1 and 2, is altogether unjustified, illegally discriminatory and amounts to inflicting of punishment without any fault of the petitioner and without any just basis.

(N) Because the petitioner should be deemed to have been confirmed in the post of Junior Clerk/Material clerk

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In the year 1965, i.e. after expiry of 18 months of his services in officiating capacity on the said post as per Departmental Rules conveyed through Railway Board's letter dated 28.5.56 (Annexure III), and cannot be reverted back to any post lower than the Material Clerk, much less ~~to~~ to his original post of Boiler Maker Khalasi.

(C) Because opposite party 2's impugned order dated 22.12.1978 (Annexure VI) asking the petitioner to go back on the post of Boiler Maker Khalasi is in the nature of punishment which cannot be inflicted upon the petitioner without following the due process of law as provided under Article 312 of the Constitution of India and under Discipline and Appeal Rules of Railway Servants.

(D) As no such process has been followed in the case of petitioner the impugned order is void for being in contravention with Article 312 and Discipline and Appeal Rules.

(E) Because petitioner's reversion to the post of Boiler Maker Khalasi under the name of 'Transfer' violates Railway Board's Instructions dated 21.5.56 (Annexure III) and therefore is illegal and devoid of any legal sanction behind it.

(F) Because the impugned 'transfer order' dated 22.12.78 (Annexure VI) discriminates the petitioner against opposite parties Nos. 8 to 10 without any just reason whatsoever.

While the petitioner is being asked to revert back to his original post of Boiler Maker Khalasi opposite parties 8 to 10, who are junior to him in all respect and who have no work experience whatsoever are being retained on the same post unaffected. The impugned order therefore is in violation of Article 14 and 16 of the Constitution of India.

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WHEREFORE IT IS HUMBLY PRAYED that :

1. By writ of certiorari or any other suitable writ or order the opposite party no. 1 and 2 be ordered to produce in original before the Hon'ble Court the impugned orders promoting and confirming the opposite parties no. 3 to 5 on the post of B.T. Boiler Maker and Boiler Maker (Annexure No. II) and impugned orders promoting opposite party No. 6 and 7 (Annexure No. IV) to the post of Material Clerk and the impugned order of opposite party No. 2 dated 22.12.1978 (Annexure VI) 'transferring' the petitioner back to much junior post of Boiler Maker Khalasi and to quash all these impugned orders forthwith.

2. By a ^{writ of} mandamus or any other suitable writ or order, the opposite parties 1 and 2 be ordered to confirm the petitioner on the post of Boiler Maker with a seniority over opposite parties 3 to 5, and to provide to the petitioner all opportunities to appear in the trade test for the post of highly skilled grade II Boiler Maker and if found successful then to appoint him as such.

3. Alternatively, the opposite parties 1 and 2 be directed to confirm the petitioner on the post of Material clerk with the seniority due to him by virtue of his total length of service alongwith all benefits of a continuous service treating him as confirmed in the cadre of Junior Clerk/Material Clerk since 1965 and in any case, place him above the opposite parties 6 and 7 etc. by issuing a ^{writ of} mandamus to them.

4. By a writ of mandamus the opposite parties 1 and 2 be restrained from giving effect to their impugned order dated 22.12.1978, taking any action in pursuance of that order in case of the petitioner and to further direct them not to disturb the petitioner from working on his present post of Material Clerk.

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any way till the disposal of this writ petition as an alternative to the promotion of the petitioner as Boiler Maker.

5. Any other suitable writ or order as this Hon'ble Court may deem fit be passed in favour of the Petitioner in order to give him full and proper relief in view of the above submissions.

6. Costs be awarded as the Hon'ble Court may deem fit.

Lucknow, Dated:
~~January 25, 1979.~~ ✓
February 2, 1979

Amwarul Hasan.
Petitioner.

Ashok Nigam
Advocate

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
(JUDGMENT BOOK) JUDGMENT.

No. of 1978

Anwarul Hasan

Petitioner

Versus

Union of India and others

Opp. Parties.

ANNEXURE No. 1.

(copy of order No. 220E/II H/Telo Att. Dt. 30.8.63)

No. 220 E/II H/Telo Att.

Divl Supdt's Officer
Lucknow D/- 30.8.63.

Notice No. 21.

The following promotion and transfer orders
are hereby issued to have immediate effect :

(1) Shri Anwarul Hasan, Boiler Maker Khalasi,
T.No. 790 of Eco-Shed is temporarily promoted as
Telephone Attendant cum Booking clerk in scale 105-135 AS
on Rs.105/- P.M. with usual allowances permissible under
IE/ESP against one of the four permanent posts sanctioned
recently.

(2) Shri Rameshwar Prasad IIInd ,
FD PF No. T 331311 is temporarily promoted as Telephone
Attendant cum Booking clerk in scale Rs.105-135 AS on Rs.
Rs.105.00 P.M. with usual allowances as permissible under
the rules and transferred and posted under IE/ESP of
one of the newly created posts.

(3) Shri Kunwar Jagdish Prasad IInd F/Man/F.A.
P.F. No. T 330519 is temporarily promoted as Tele Attendant
cum Booking Clerk in scale Rs.105-135 AS on Rs.105 P.M.
with usual allowances as permissible under the rules and

transferred and posted under IF/B2B against one of the newly created posts.

(4) Sri Ram Dulevey Singh, Hind F/Man, FD P.F. No. T 331277 is temporarily promoted as Tele Attendant cum Booking Clerk in scale Rs.105-125 15 on Rs.105 P.M. with usual allowances as permissible under the rules and transferred and posted under IF/B2B against one of the newly created posts.

This is purely temporary local arrangements pending selection for the post and will not confer any right to the above named staff for seniority or future promotion to the post.

Sd/- Illegible

for Divl. Personal Officer,
Lucknow.

Copy to the :

The IF/LKO)
The IF/FD)
The IF/B2B)

for information

*True Copy
Amrind Har...*

TRUE COPY.

Handwritten signature

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No. of 1979,

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Anwarul Hasan

Petitioner

Versus

The Union of India and others

Opp. Parties

ANNEXURE NO. II.

No. 847-1-6(E) Seniority

Divl. Supt. Office
Lucknow dated December '75

Notice.

The following Boiler Maker in scale Rs. 260-400 (R.S) are hereby provisionally confirmed in their grades as Boiler Maker from the dates noted against each

1. Jag Prashad	B/Maker	Lko	3.2.72
2. Deen Dayal	do	Lko	4.2.72
3. Lekh Raj	do	PEB	5.2.72
4. Wali Mohd.	do	PEB	6.2.72
5. Gauri Shankar	do	LKO	13.2.72
6. Jait Singh	do	PEB	9.3.73
7. Mangoo Lall	do	PEB	3.5.74
8. Bhagwan Deen	do	Lko	13.5.74
9. Mustafa Khan	do	LKO	14.5.74
10. Ram Isrey	do	LKO	27.5.74

31/12/75

Assistant Personnel Officer, Lucknow

Copy to IF/LKO, PEB, PE and Varanasi, for information and necessary action.

RKI/26.11.75

TRUE COPY.

Anwarul Hasan

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IN THE COURT OF THE JUDGE IN CHARGE OF THE DISTRICT COURT AT LUCKNOW

Case No. 220 E/E.6/1 (33-1/3 J.)

Anwarul Hasan

Respondent

Versus

The Union of India and others

Opp. Parties.

ANNEXURE NO. III.

Northern Railway,
Divl. Supdt.'s office,
Lucknow. Dated 6.11.78.

Letter No. 220 E/E.6/1 (33-1/3 J.).

NOTICE.

33-1/37 क्लास-4 प्रमोशन कोटे के अर्न्तगत जो लोग तृतीय श्रेणी के पैनल पर इस कार्यालय के सम संख्या पत्र दिनांक 19-10-78 द्वारा रखे गये है उनकी पदोन्नति अस्थायी रूप से उनके सामने लिखे स्टेशनों / यूनिट में की जाती है ।

No.	Name of staff	Present designation and station	Present designation and station	Present designation and station
1.	A.K.Pandey c/o Shri C.P. Pandey	Tempy clerk under AMN/PM	M/Clerk	1/1/79
2.	Lalta Prasad	M/C under PM Spl.PSB	M/C	1/1/79
3.	Thakur Singh	M/C under HI/ED	M/C	1/1/79
4.	B.P. Tirpathi	Store Kh. LF/LKO	M/C	1/1/79
5.	Rajjan Lall (S. Caste)	M/C under CWO/ED	M/C	1/1/79
6.	B.N. Pandey.	M/C LF/LKO	M/C	1/1/79
7.	Tilak Chari Mourya	C.Kh. under EDN/AMN/LKO	Clerk	1/1/79
8.	Rama Shankar Sharma	M/C under PM Spl.PSB	M/C	1/1/79

Anwarul Hasan

9. Jhabbo Lall (S.C.)	Chaudhary in D.I. office LKO	Clerk	Oftg. A/cs
10. Tej Narain Singh	M/C under SAC SI/AMV/LKO.	Clerk	P (BRANCH
11. Sarjoo Pd. (S.C.)	Kh. under TI/SLN	Clerk	AFN/SLN
12. Mand Lall	MC under Sr. RLE/BSB	M/C	GFO/MCS
13. Mata Badal Yadav	MC under SI/ Const/LKO	M/C	LF/LKO
14. Har Bhajan Singh	Store Kh. under M/C LE/LKO		LF/LKO
15. Tara Chand	M/C under HTXR/ ELECT/CB/LKO	Clerk	Oftg. A/cs
16. Shyam Lall s/o Hari Nandan	MC under HTXR/ FLEC/BSB	M/C	LF/LKO
17. Shambhoo Nath Gagan.	MC under SI/ ACBR/LKO	M/C	LF/LKO
18. Ranjeet Bahadur	MC under IOM/FD	Clerk appointed on compassionate grounds	
19. Manik Chand Yadav	MC under GELC FD	M/C	LF/LKO
20. S.D. Dubey	MC under IRI/ LKO	Clerk	DSTE/LKO
21. Rajendra Kumar	MC under SIC/ JUN	M/C	PII/FD
22. T.N. Singh	MC under Sr. FLEC/RBA	M/C	LF/FD
23. Shyam Lall	MC under SAC RDL.	M/C	LF/FD

(RAGHOO RAM)
For Sr. Divl. Personal Officer
Lucknow.

Copy forwarded for information :-

1. AFN-PBH, AFN-SLN, BSB, EN (Spl) BSB, AFN-E & II/LKO,
AFN/FD.
2. PII/SPL.) BSB
3. HI/CB/LKO, CHI/CB/LKO.
4. LF-LKO, PBH, BSB, FD.
5. IOM/AMV/LKO, IOM/FD, PII/FD, and
others concerned.

666

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Amrind Hasan

256
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2-2-79

M.P. No. of 1978.

Anwarul Hasan

Petitioner

Versus

The Union of India and others

Opp. Parties

ANNEXURE IV

No. EG/3/78

Dated 29-3-1978

From:

Loco Foreman,
N.R. Lucknow.

To:

The Asstt. Personnel Officer - II,
N. Rly., Lucknow.

Re: ~~XXXXXXXXXXXX~~ Formation of panel for the post
of office clerks in Grade 260-400 (R.3).

Ref: Your letter No. 220E/E-6/1(22-1/31) dated 4.3.1978.

Please find herewith the applications of the
under noted staff for the above post :

Sl. No.	Name	Father's name	Designation
1.	Shri. Surendra Bahadur	T. B. Srivastava	Cleaner
2.	" Moti Lal Sharma	Radhey Lal Sharma	F/Kh.
3.	" Laloo Ram Sharma	Kate Pd. Sharma	Cleaner.
4.	" Har Bhajan Singh	Hardit Singh	S/Kh
5.	" Gyan Prakash	Manohar Lal	Callman
6.	" Rajesh Kumar Shukla	Chotey Lal Shukla	M.S.Kh.
7.	" Radhey Shyam Misra		F/Kh.
8.	" Putto Lal	Nihal	Cleaner
9.	" Shyam Lal Bhatia	Har Dayal Bhatia	Callman
10.	" Shyamal Kumar Das	Nagendra Nath Dass	F/Kh
11.	" Sant Lal	Pyare Lal	F/Kh.

Anwarul Hasan

12.	Shri Ram Vishkarma	Mathura Pd. Vishkarma	F/Kh.
13.	" Ram Khilwan Dal	Lukh Ram Dal	Cleaner
14.	" Shriram		Callman
15.	" Sangram Singh		Callman
16.	" Shekarendra Mukerjee	Late Hehorendu Shekhar Mukerjee	F/Kh.
17.	" Lallo Singh II	Puttoo Singh	II F/Man
18.	" Raj Kishore Pandey	Ram Surat Pandey	II/F/Man
19.	" Hriday Nagan Shukla		Cleaner
20.	" Brij Kishore Pandey	R.S. Pandey	R.R. Branch
21.	" Ram Dass Sharma		Box Porter Cleaner
22.	" Krishna Nand Srivastava		XXXXXXXXXX
23.	" Kishan Yadav		R.R. Branch.
24.	" Ansan Chand	Jengali	Callman
25.	" Raghvendra Prasad Tripathi		Callman
26.	" Ram Singh VI	Behari Lal	II F/Man.
27.	" Narendra Nath Pandey	Ram Gagan Pandey	Cleaner
28.	" Ram Narsin Tripathi	Kancher Lal	Store Kh.
29.	" Srinath	Mathura Pd.	II F/Man.
29.	" Tulsi Ram	Jagoo Ram	Store Kh.
31.	" Patridi Solotar		F/Kh.
32.	" Gaya Pd.		M/Clerk
33.	" Bhairon Pd. Tripathi		Store Kha.

Sd/- Illegible, 30.3.78
Loco Foreman,
N. Rly., Lucknow.

TRUE COPY.
Anwarul Hasan

[Signature]
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2 : 2 : 29

इन दी हानरेबिल हाई कोर्ट आफ जूडिचर एट इलाहाबाद

लखनऊ बेंच ॥ लखनऊ

दि पिटिशन न०

आफ 1979

अनवारुल हसन

पिटिशनर

बनाम

द्वि यूनियन आफ इन्डिया एंड अदरस

अपोजिट पार्टी

एनेक्जर न० 5

उत्तर रेलवे,
मण्डल अधीक्षक कार्यालय,
लखनऊ दिनांक 22/12/79

पत्रांक न० 847-ई /1-9

आदेश :

इस कार्यलय के पत्रांक 803/ई०/ई 9/ 1 एम० सी० ॥ 78,
दिनांक 8-8-78 के अनुसार --- -- -- -- -- -- -- -- -- -- -- -- -- -- -- --
निम्न- --
लोको शोड लखनऊ ---
वैतनमान 196/232/ लोकोशोड फैजाबाद, ---
वैतनमान 196/232 /

अतः निम्नलिखित- --
सम्पुल स्थानों तथा उनके वर्तमान स्थिति में तुरन्त स्थानान्तरण
किये जाते हैं ।

- | | |
|-------------------------------|-----------------|
| 1- श्री अनवारुल हसन, लखनऊ | बो० एम० खलासी ✓ |
| 2- बाबू ताल फैजाबाद | फिटर खलासी |
| 3- श्री सहदेव बक्श सिंह, लखनऊ | फिटर खलासी |

ह०/-
म० अधीक्षक,
लखनऊ

TRUE COPY
Anwar Hussain

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2-2-79

IN THE HONORABLE JUSTICE HIGH COURT OF ALLAHABAD
(LUCKNOW Bench) Lucknow

Anwarul Hasan

Petitioner

Versus

The Union of India and others.

Opp. Parties.

ANNEXURE NO. VI

GOVERNMENT OF INDIA, MINISTRY OF RAILWAYS
(RAILWAY BOARD)

CONFIDENTIAL

No. E56RG6-26.

New Delhi, dated 28-5-1956.

To

- (1) The Chief Design Engineer-in-Charge,
C.S.O. for Railways.
- (2) The Director,
Railway Testing & Research Centre, Lucknow.
- (3) The Director,
Rail Movement, Calcutta.
- (4) The Dy. Director,
Rail Movement, Mogalsarai.
- (5) The Chairman,
Railway Service Commission,
Bombay/Calcutta/Madras/Allahabad.
- (6) The Principal,
Railway Staff College, Baroda.
- (7) The Railway Liaison Officer, New Delhi.
- (8) The Tank Wagon Controller, Bombay.
- (9) The Secretary,
Railway Rates Tribunal, Madras.
- (10) The Inspector General,
Railway Protection Force, Allahabad.
- (11) The General Secretary,
Indian Railway Conference Association.

Re: Discipline and Appeals Rules-Reversion of employees
officialing in higher posts.

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2-2-79

Mineral House

A copy of Railway Board's D.O. letter No. F56RG6-26, dated the 21st May 1956 addressed to the General Managers of Indian Railways on the above subject, is sent herewith for information and guidance.

Ed/- Kunwar Behadur
Asstt. Director, Establishment,
Railway Board.

DA: One.

Copy to P.O., P. II, P. III, and P. A. Branches of the Board's Office, together with a copy of the D.O. letter referred to.

CONFIDENTIAL

GOVERNMENT OF INDIA - MINISTRY OF RAILWAYS
(RAILWAY BOARD)

D.O. No. F55RG6-26

New Delhi, 21st May, 1956.

My dear

You will remember that the Railway Board, in their letter No. 544PM12-Pt. dated 22.11.50, intimated that reversion of an employee from an officiating appointment to his substantive post or to a lower officiating appointment, did not constitute a penalty. It was further clarified in para 3(b) of Board's Action Secret letter No. F52RG6-12 dated 16-12-54 that such reversion on grounds of unsuitability will not attract the provision of Article 311 of the Constitution. Reversion in such circumstances would not constitute a penalty and would not necessitate the application of the procedure required by law and statutory rules.

2. The Railway Board have given further thought to the matter. With the existence of a large number of temporary posts, continuing over long periods, cases are not unusual of persons having to officiate in higher grades for several years without being confirmed. Normally, the additional posts created would be permanent, and the officiating employees would - if their service had been considered to be satisfactory - be confirmed very much earlier. Such persons could not, therefore, have been reverted to lower grades without following the procedure prescribed for reduction in rank. The

Board consider that the retention of a higher grade of an appreciable proportion of Railway posts, should not deprive Railway servants of the protection that they would otherwise have obtained. On the other hand, it is necessary that every Railway servant must understand that his continued retention in a higher grade is dependent on satisfactory performance of his duties.

3. The Board, therefore, desire that, with immediate effect, the performance of every Railway servant officiating in a higher grade should be ~~repeatedly~~ adjudged by the competent office before the expiry of 12 months of total officiating service, and if the performance is not quite satisfactory, but that he is being permitted to draw his increment in the expectation that his performance will improve during the next six months for which he will continue to be under observation. At the end of the extended period of six months, i.e., of a total officiating service of 18 months either the person should be declared suitable for retention in the grade or should be reverted because he is unsuitable. Any person who is permitted to continue to officiate beyond 18 months cannot in future be reverted for unsatisfactory work without following the procedure prescribed in the Discipline & Appeal Rules.

4. The final assessment of the performance of each Railway servant officiating in higher grades at present, for a total period of over 12 months, should be made within the next six months, and action taken as indicated in the previous para. in respect of Railway servants officiating in higher grade for 18 months.

Yours sincerely,

DA:Nil.

Sd/- M. Manohakera Rao.

TRUE COPY.

Arumant Haem

[Signature]
25/12/2009
2009

IN THE MATTER OF THE PETITION FOR WRIT OF HABEAS CORPUS
(UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA)

U.F. No. of 1979.

(A 44)

Anwarul Hasan

Petitioner

Versus

The Union of India and others.

Opp. Parties.

ANNEXURE No. VII.

OFFICE ORDER No. 48.

In terms of D2/LKO letter No. 941-E/11 H/70 dated 8.10.70 the following officiating arrangement has been approved;

1. Shri Jagat Narain Sinha cleaner has been promoted to officiate as F/I against the existing vacancy from 9.7.70.
2. Shri Sahdeo Dux Singh and Shri Anwarul Hasan CR Kh has been promoted to officiate as T/C against the existing vacancy.
3. S/Shri Dukh Haran Pd. and Moti Lall Sharma F/Kh have been put to officiate against the leave vacancy of Junior clerk against item no. 2.
4. As result of change of designation of two T/Kh against item No. 3 the following impanelled senior post sub. C/Labour are put to work as permanent substitute against the clear vacancy with immediate effect

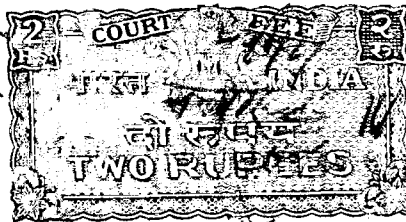
1. Shri Jai Kumar Panel 2 No. 1.
2. S/o Ram Mall.
3. Ram Das s/o Hari Lal Panel 3, No. 5.

Sd/- Joco Foreman MR
Lucknow, 10.10.78.

TRUE COPY

Anwarul Hasan

1979
AFFIDAVIT
12



Anwarul Hassan

Petitioner

versus

Union of India and others.

Opp. parties.

AFFIDAVIT TO WRIT PETITION
UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

I, Anwarul Hassan, aged about 43 years, son of late Sri Shariful Hasan, resident of Railway Quarter No. LD 59 J, Terhi Pulia, P.S. and Ward Alambagh, Lucknow, do hereby solemnly affirm and state as under:

1. That the deponent is the petitioner in the above noted writ petition and is fully conversant with the facts of the case.
2. That the contents of paras 1 to 14, 16, 17, 19, 22, 23, 27 to 30 of the accompanying petition are true to my own knowledge and those of paras 15, 18, 20, 21, 24 to 26 & 33 are partly true to my own knowledge and partly believed to be true on the advice of my counsel and rest of the paras 31 & 34 are believed to be true on the advice of my counsel.
3. That annexures No. I to VII of the writ petition have been compared with its original. They are certified to be true copies.

Lucknow, Dated:
January 25, 1979
February 2, 1979

Anwarul Hassan
Deponent.

VERIFICATION

VERIFICATION

(P. 46)

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

Lucknow, Dated:
~~January 25, 1979.~~
February 2, 1979

Anwarul Hasan
 Deponent.

I identify the deponent who has signed before me.

Ashok Nigam
 Advocate.

Solemnly affirm before me on 2.2.79
 at 10.30 P.M./A.M. by the Deponent *Sri Anwarul Hasan*
 who is identified by *Sri Ashok Nigam* Advocate,
 High Court, Allahabad, Lucknow Bench, Lucknow.

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.

(Signature)
 256
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 2.2.79

4. That further, the opposite parties have recently inducted opposite parties 6 and 7, who are junior to the petitioner in all respects and have got no work experience, illegally to the post of Material Clerk, which is at present occupied by the petitioner, to the detriment of the petitioner and the petitioner is being discriminated in his present job also by the opposite parties 1 and 2 in contravention of the provisions of the Article 14 and 16 of the Constitution of India.

5. That the applicant has been thus repeatedly discriminated in contravention of Articles 14 and 16 of the Constitution of India.

6. That the opposite parties No. 2 has passed an order dated 22.12.1978 (Annexure V) which is impugned in the petition, reverting the petitioner from his present post of Material Clerk, on which he has been officiating since 1963, back to his original much junior post of Boiler Maker Khelasi in the scale of Rs.196-232 (R.S).

7. That the petitioner has so far not received the impugned order of transfer (Annexure V) which is in fact a reversion order, and no effect has been given to it till now. However, as the order has already been issued, the opposite parties 1 and 2 are likely to implement it ^{within} a day or two.

8. That the impugned order is in the nature of punishment inflicted upon the petitioner without any just basis whatsoever and without following any process of law in contravention of Article 311 of the Constitution and of Statutory Discipline and Appeal Rules governing the services of the petitioner.

9. That by virtue of his officiating on the post of Junior Clerk/Material Clerk since 1963, the petitioner

Amrind Harn

(Aug)

has been confirmed on the said post since 1955 itself, i.e. after the expiry of 18 months of his service in officiating capacity as per Railway Board's own instructions, as contained in their letter dated 21/23 May 1956, (Annexure VI) and as such he can not be reverted back from that post.

10. That in case, as an alternative to his promotion in the Boiler Maker side mentioned in para 4 above, the applicant is entitled to continue as a confirmed Material Clerk in the grade of Rs. 260-400 (R.S) in terms of Railway Boards instructions (Annexure VI).

11. That the impugned order referred to ⁱⁿ para 6 above is in violation of Article 14 and 16 of the Constitution also because it discriminates illegally and without any just ground the petitioner with the opposite parties 8 to 10, who are though junior to petitioner, are not being reverted back to their original posts alongwith the petitioner.

12. That if the opposite parties 1 and 2 revert the applicant as contemplated by them then in the name of 'transfer' the applicant would suffer irreparable loss in losing his seniority and future prospects when the opposite parties 3 to 7 who are juniors to the applicant are being promoted and confirmed higher and higher and opposite parties 8 to 10 are being retained as Material Clerk. He will further have to work on much junior post than on which he is working and to which he is entitled also. The nature of work on the post of Boiler maker khelasi on which opposite party No. 2 wants him to work after reversion is that of an ordinary labourer.

WHEREFORE it is prayed that to prevent the highhandedness of opposite parties 1 and 2 and to avoid irreparable loss to the applicant, the opposite party no. 2

Amrinder Singh

be ordered and restrained from reverting the applicant from the post of Material Clerk in grade Rs.260-400 (R2E) under the impugned order (Annexure No.V) and it is further prayed that the promotions of opposite parties 6 and 7 to the post of Material Clerk from their post of store khalasi be stayed till the disposal of the writ petition as well as the promotions of opposite parties 3 to 5 to the posts of B.T. Boiler Maker and Boiler Maker or any future promotions, if any, be made subject to the final order by the Hon'ble Court in the present writ petition.

Lucknow, Dated:
~~January 25, 1979.~~ ✓
February 3, 1979

Anwarul Hasan
Applicant.

Abulok Nigam
Advocate

(AS)

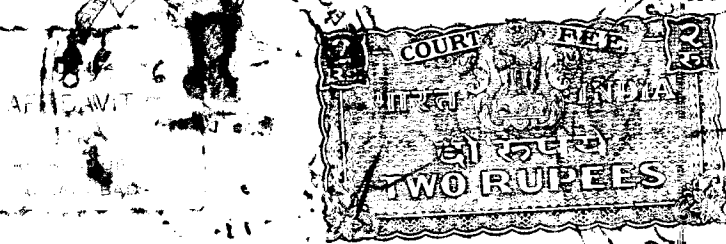
2/5

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

Civil Miscellaneous Application No.....(w) of 1979.

In re:

Writ Petition No.....of 1979



Anwarul Hasan Petitioner

Versus

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

AFFIDAVIT TO STAY APPLICATION.

I, Anwarul Hasan, aged about 43 years, son
of Late Sri Shariful Hasan, resident of Railway Quarter
No.LD 59 J, Terhi Pulia, P.S. and Ward Alambagh,
Lucknow, do hereby solemnly affirm and state on oath as
under:-

1. That the deponent is the petitioner in the above
noted stay application and is fully conversant with the
facts of the case.
2. That the contents of paras 1 to 12 of the stay
application are true to my own knowledge.

Lucknow Dated,
February 2, 1979.

Anwarul Hasan
Deponent.

VERIFICATION.

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

Lucknow Dated,
February 2, 1979.

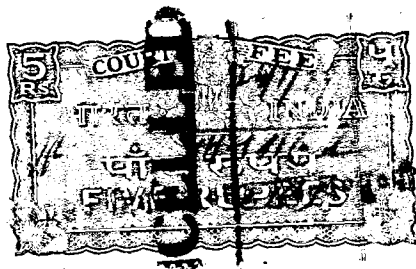
Anwarul Hasan
Deponent.

I identify the deponent who has
signed before me.

Asif Ali Khan
Advocate.

ब अदालत श्रीमान in the Honble Magistrate Court महोदय

(वादी) अपोलान्त श्री Shri Anwarul Hasan का वकालतनामा
प्रतिवादी (रिस्पान्डेंट)



3
1.
2/2/79

Shri Anwarul Hasan - Rebbar
वादी (अपोलान्त)

बनोम

Union of India

प्रतिवादी (रिस्पान्डेंट)

नं० मुकद्दमा सन १९ पेशी की ता० १९ ई०

ऊपर मुकद्दमा में अपनी ओर से श्री Shri A.B. Nigam Advocate

Shri Ashok Nigam Advocate - एडवोकेट महोदय
210 Ganga Rd. Road Lucknow वकील

को अपना वकाल 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 करे या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिग्री जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा शर्त व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें वा कोई रुपया जमा करें या हमारी विपक्षी (फरोकस्तानी) 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।

Anwarul Hasan
हस्ताक्षर

साक्षी (गवाह) Shri साक्षी (गवाह)

दिनांक 25/1/79 महीना जन सन १९७९ ई०

Accepted
Ashok Nigam
25-1-79

दिनांक 15 महीना 2 मा 9 1979 ई०

मास (गणित) मास (गणित)

हस्ताक्षर 19/11/79

Handwritten signature

हस्ताक्षर यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आये।
महोदय द्वारा की गई यह सब कायदाही हमका सबका स्वाभाव है और हम
या हमारे हस्ताक्षर एक (दस्तावेजी) रसीद से लेवे या पत्र लिख कर—वकाल
जमा करे या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ कपड़ा हमसे
हस्ताक्षर से दाखिल करे और वसूली करे या मुकदमा उठावे या कोई कपड़ा
या हकबाल दावा तथा अपील व नियतनी हमारी और से हमारे या अपने
या हमारी और से डिगरी जारी करावे तथा कपड़ा वसूल करे या सुलहने
दरवां व बवाबदेही व प्रतीतिर करे या कोई कागज दाखिल करे या ली
कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो
को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ

मास वकालतनामा
नं० मुकदमा
नाम फरीकना

अपर मुकदमा में अपनी और से श्री
एडवोकेट महोदय वकील

नं० मुकदमा 1979
सम 98
प्रमाण की तारीख 98
प्रतिवादी (रैफाइन)

Union of India & others

वकील

Inwarul Hasam

प्रादी (अपोजिट)



16/11

प्रमाण और नाम
प्रतिवादी (रैफाइन) श्री
वकालतनामा का

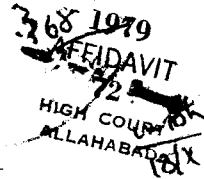
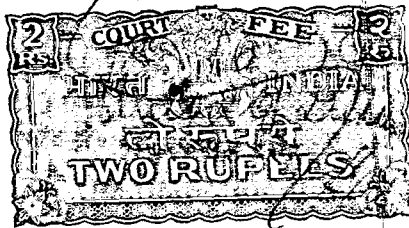
1979

(PSS) 18.8.79
Place on record

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

25.8.79

4/1



Counter affidavit on behalf
of opposite parties nos. 1 & 2

Inre:

Writ Petition no. 256 of 1979

Anwarul Hasan

..... (Petitioner)

Versus

The Divisional Railway Manager,
Northern Railway and others.

..... (Opp. Parties)

I, Chandulal, aged
about 55 years, son of Sri Gitar Chaudhary
Asst. Personnel Officer DRM Officer N.R.

Lucknow do hereby solemnly affirm and state as follows:-

- 1) That the deponent is working as Asst Personnel
Officer N.R. Lucknow and is fully conversant with the
facts deposed to herein.
- 2) That the deponent has read the writ petition
filed by the petitioner and has understood the contents
thereof.
- 3) That the contents of para I of the writ petition
are admitted that the petitioner was appointed as Boiler
- Chandulal
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- 18/8

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Washer mate on 19.5.56 in scale Rs.30- $\frac{1}{2}$ -35(PG) on Rs.30/-P.M and was thereafter confirmed w.e.f. 19.6.1957.

It is admitted that the post of Boiler Washer mate has been designated as Boiler Maker Khallasi.

4. That the contents of para 2 of the writ petition are not admitted, as he was never trade tested for the post of B.T. Boiler maker, nor promoted in 1960 in A.K.Mela/1960 and, therefore, there was no question of his reversion as alleged.

5. That only this much of para 3 of the petition is admitted that he was put to officiate as Telephone attendant on 18.9.1963 on Rs.105/-P.M. in the scale Rs.105-135(AS) as purely temporary local arrangement from the post of B.M Khallasi in Grade Rs.70-85(AS) and on reversion he was accommodated in his substantive grade viz. 70-85(AS) in the capacity of Leave reserve Khallasi at his own accord to be utilised against the leave vacancies of Junior Clerks/Store Issuers/Tool Checker etc. (Scale Rs.105-135 AS) from 3.2.66. The rest of the contents are denied as the grade 105-135 (AS) was revised to Rs.225-300⁴⁴(RS) and not 260-400(RS) w.e.f. 1.1.1973 as a result of III Pay Commissions Recommendations. It may be stated that the post of Leave Reserve Khallasi is a post of a different cadre than that of Boiler Maker Khallasi and thus the seniority lists of both the cadres are maintained separately. He was already confirmed hand in the same ⁴⁴Grade and, therefore, when he joined as Leave Reserve Khallasi at his own accord he was treated as a confirmed Leave Reserve Khallasi and his seniority was determined in this cadre accordingly.

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ASS

6) That the contents of para 4 of the writ petition are not admitted, as the petitioner has not been continuously working in the scale of Rs.105-135(AS) since 19.8.63. He worked of and on against leave vacancies of the staff in grade Rs.105-135(AS) in various capacities i.e. Junior Clerk, Store Issuer, Tool Checker and was paid only officiating pay for such periods of leave arrangements. As regards upgradation of posts of Grade Rs.105-135(AS) to grade Rs.260-400(RS) it is submitted that only those Material Checkers Store Issuers etc. who~~ere~~ were empanelled for grade ⁴⁴⁵105-135(AS)/225-308(RS) were appointed as Material Clerk in grade Rs.110-180(AS)/260-400(RS).

It may be stated that the petitioner while working as Leave Reserve Khallasi in grade Rs.70-85(AS) applied for the post of MC grade 105-135(AS) as per his application dated 13.10.69 received through Loco Foreman under his letter no. EG/6/69 dated 14.10.69. In reference to notice no. 755E/I-6(JC) dated 18.12.69 for calling applications for formation of the panel for the post of Junior Clerks Gr.105-135 (AS) the name of the petitioner was also advised by the Loco Foreman vide his letter no. EG/6/69 dated 26.12.69 along with others. The petitioner was also called for the Selection vide letter no. 755-E/I-6/GC dated 28.9.71 and again vide letter no. same dated 14.2.72. The petitioner appeared in the selection held on 9.4.72 vide LF/LKO's letter no. EG/6/72 dated 9.4.72 but he failed in the written Test. This panel was declared on 20.12.72.

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It may also be added that there are still some posts of Material Clerks in Grade Rs.105-135(AS) /225-308(RS) in existence on worth of charge on the division and according to prescribed percentage of leave reserve, no leave reserve for them is admissible. As regards, the leave reserves for Material Clerks posts in Grade Rs.260-400 the LRs are provided in the same grade and not in the category of Khallasis in the grade 196-232 (RS) and accordingly all the posts of Leave Reserve Khallasis in grade 196-232(RS) have been surrendered vide letter no.803E/E-6/I(MC)78 dated 8.8.1978 a copy of which is annexed herewith as Annexure A-^{u/u}~~1~~2 to this counter affidavit and the staff including the petitioner thus rendered surplus have already been accommodated in their substantive cadre and grade vide letter no. 847-E/I-9, dated 22.12.78, a true copy of the same is annexed herewith as Annexure A-^{u/u}~~1~~2 to this counter affidavit.

7) That the contents of paras 6 to 7 of the writ petition are admitted with the submission that the petitioner was already working in higher grade than ^{u/u}~~u/u~~ 75-110(AS) to which party nos. 3,4, and 5 were promoted in the year 1965. He was not eligible for the B.T. ^{u/u}~~u/u~~ Grade Test as he has already been transferred as Leave Reserve Khallasi at his own accord as stated earlier.

8. That only this much of para 8 of the writ petition is admitted that the petitioner was senior to opposite parties n s. 3,4, and 5 in his substantive cadre but he left the same on 3.2.66 at his own accord as already stated in the above para. and had no claim on his promotion in that channel.

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9) That in reply to the contents of para 9 of the writ petition, only this much is admitted that the petitioner was put to officiate as Telephone attendant in Grade Rs.105-135(AS) which is higher than Rs. ¹⁴⁴75-110 (AS) to which opposite parties nos. 3 and 5 were promoted. The post of Telephone attendant was an Ex-Cadre post and the petitioner on his reversion ¹⁴⁴ from the post of Telephone attendant was accommodated as Leave Reserve Khallasi of Junior Clerks etc. at his own accord as said above on 3.2.66 (and thus the question of retaining his lien in the cadre of Boiler Maker Khallasi did not arise).

10) That the contents of para 10 of the writ petition are denied with the submission that the petitioner did not qualify the Competitive Examination for the post of M.C. grade 105-135(AS) and thus he had no right for his promotion as Material Clerk grade 260-400(RS). As regards his promotion as B.T. Boiler Maker in Grade 75-110(AS)/210-290(RS), he was never trade tested as he left the cadre of Boiler Maker Khallasi on 3.2.66 at his own accord as already stated in the preceding para, foregoing all the benefits or further advancement in the category of B.M. Khallasi.

II) That the contents of para 11 of the writ petition are not admitted. The fact is that he left the cadre of Boiler Maker Khallasi since 3.2.66 when he chose to be designated as Leave Reserve Khallasi and thus lost all the benefits of further advancement and confirmation in the cadre of Boiler Maker side vide B.T. Boiler Maker and Boiler Maker.

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I2) That the contents of para I2 of the writ petition are denied as mentioned in the preceding paragraph. moreover, the promotion of Artisan Categories is subject to passing the requisite trade tests. (Therefore, the question of considering his promotion in grade Rs.330-480(RS) does not arise)

I3) That the contents of para I3 of the writ petition are denied for the facts stated above. The petitioner was never trade tested and promoted as B.T.Boiler Maker. He has not been discriminated amongst his colleagues. u/v

I4) That the contents of para I4 of the writ petition are denied .it is stated that 33 I/3% posts of Material Clerks in grade Rs. ^{u/v}260-400(RS) were filled by conducting the Competetive Examination amongst the Class IV employees who applied for the same against the prescribed reserved quota(33 I/3%) for promotion to class III Service. The petitioner did not apply for the same when the application to fill up that quota were called for and also he did not make any representation what soever against the said Competitive Examination. The opposite parties nos.6 and 7 had applied for the said competitive examination and being selected and placed on the panel, were promoted according to their panel position.

I5) That the contents of para I5 of the writ petition are denied. The opposite parties nos. 6 and 7

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were promoted after being declared selected on the panel.

I6. That the contents of para I6 of the writ petition are denied. The candidates who applied for the said Competitive examination ~~for~~^{as} and ~~those~~^{all} those who were selected were promoted according to their merit. The petitioner did not apply for the competitive Examination as already stated.

I7. That the contents of para I7 of the writ petition are denied. The applications were called for by proper notice circulated to all concerned and the candidates who applied ^{and} were given the opportunity to appear in the Competitive Examination. The opposite parties nos. 6 and 7 being selected were promoted. As regards the petitioners confirmation in the cadre of Material Clerk Grade Rs.260-400(RS) (the question of the same does not arise because he was never promoted against a regular non-fortuituous post.)He being the Leave Reserve Khallasi in Gr.I96-232(RS) was paid the officiating allowance in grade IO5-308(AS) whenever he was put to officiate as such.

I8. That the contents of para I8 of the writ petition are not admitted as the panel was duly formed for the post of M.C Grade IO5-I35(AS) and was declared on 20.12.1972, but the petitioner could not complete even in the written test. The posts of MC/Store Issuer/Fuel Issuer etc. Gr.IO5-I35(AS) were subsequently upgraded to the post of Material Clerks grade IIO-I80

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(A-1)/260-400 (A-1) is a request for promotion
of postal staff made under the 100-135 (A-1) in vari-
ous categories. July 1978, under the code of
1-110-180 (A-1)-260-400 (A-1), vide L/100/113/1-6 (A-1) dated
25/27-1-73, a file copy of the same is filed
herein as Annexure A-3 to this counter-affidavit.

19. That the contents of para 15 of the writ petition
are not admitted. It is submitted that both the categories
are ministerial and the nature of work of both of
them is similar to some extent. In the order, avenue of
promotion of Sr. 260-400 (A-1) and Office clerk
260-400 (A-1) is one and same according to combined
seniority-cum-suitability.

20. That the contents of para 20 of the writ petition
are denied as the opposite parties Nos. 6 and 7 became
office clerk or being promoted as such after their
empanelment as a result of competition. More Khallasi
have got avenue of promotion to the ministerial cadre
(i.e. Office clerk and ministerial clerk).

21. That the contents of para 21 of the writ petition
are denied as the panel was formed competitively by
inviting application vide letter No. 2201/3-6/1 (331/33)
dated 4-3-78 from all eligible candidates desired to
appear in the competitive examination for the post of
office clerk under Sr. 260-400 (A-1) against 73 1/3% quota.
The petitioner did not apply for the same and hence
not thus considered for the competition. The
conduct of the panel of interview is not the concern
of the petitioner and he is not entitled to the competition. A copy
of the afore said letter dated 4-3-78 is being filed
herein as Annexure-A/4 to this counter-affidavit.

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22. That the contents of para 22 of the writ petition are denied as stated. It is submitted that the petitioner never worked in Grade Rs.260-400 (RS). He worked only as a leave Reserve against leave vacancies, in grade Rs.225-308(RS) from time to time. As regards his claim of being a technical hand, it is pointed out that since he was accommodated as Leave Reserve Khallasi at his own accord on and from 3.2.66 and never claimed for the technical job, he no longer remained a technical hand. He was afforded opportunity for selection to post of M.C Gr.225-308(RS), but he failed in the written test.

23. That in reply to the contents of para 23 of the writ petition, it is stated that on creation of 13 posts of Material Clerks in Grade 260-400(RS), the posts of all the leave Reserve Khallasias in Grade 196-232(RS) were surrendered (vide L/No.803E/E-6/I(MC) dated 8.8.77. Consequently, all the Leave Reserve Khallasias including the petitioner in grade Rs.196-232 (RS) were accommodated in the cadre where they were initially appointed and confirmed prior to their transfer as Leave Reserve Khallasi keeping their seniority in tact vide letter no.84/E/I-9, dt. 22.12.78. The contention of the petitioner is not admitted, as he was not the substantive holder of the post of Material Clerk in Grade 260-400, but he was being allowed to work grade 225-308 against leave vacancies from time to time.

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24. That the contents of para 24 of the writ petition are not admitted. It is stated that this is the case of transfer in similar grade and not reversion as has been clarified earlier.

25. That the contents of para 25 of the writ petition are not admitted. It is submitted that this was only as a result of surrendere^{ux} of the posts of Leave Reserve Khallasis in Grade Rs.196-232 on which the petitioner was working.

26. That the contents of para 26 of the writ petition are not admitted. It is stated that the petitioner was working as Leave Reserve Khallasi and not a Material Clerk only to give relief to the Junior Clerks/Store Issuers etc. in Grade I05-I35(AS)/225-308(RS) during their leave etc. for which the post of Leave Reserve Khallais were ment. (Hence the question of confirmation in the higher Grade post does not arise).

27. That the contents of para 27 of the writ petition are not admitted. It is submitted that the petitioner was not reverted but absorbed in the category of B.M.^{ux} Khallasi when he was confirmed on surrender of the post held by him.

28. That in reply to the contents of paras 28 and 29 of the writ petition, it is stated that while Sri Anwarul Hasan working on the post of Leave Reserve Khallasi

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were abolished vide notice no.803E/E-6/I(M.C)78, dated 8.8.1978 is consequence of which he was absorbed in alternative post of B.M.Khallasi Gr.Rs.196-332(RS) vide notice no.847E/I-9, dated 22.12.78. Sri J.N.Sinha with initial date of appointment as 20.5.54 while working as Cleaner Grade Rs.70-85/(AS)equated to grade Rs.196-232 (RS)was put to officiate as Junior Clerk Gr.Rs.¹⁰⁵135 (AS)equated to grade Rs.225-308(RS)and not grade Rs.260-400(RS)with effect from 11.7.72.As regards promotion of Sri Gaya Prasad, Peon, grade Rs.196-232(RS), he having direct avenue of advancement to the ministerial posts in terms of GM(P)'s P.S.no.2415 was put to officiate as material Clerk Gr.Rs.225-308(RS)with effect from 10.8.1977 purely temporarily as a local arrangement till panelled staff to man the post become available. The petitioner by virtue of being holder of post of Boiler Maker Khallasi Gr.Rs.196-232(RS)/70-85(AS)has no avenue of promotion to the ministerial posts in terms of GM(P)'s P.S.no.2415.

29. That the contents of para 30 of the writ petition are not admitted, as he remained Boiler Maker Khallasi from 19.6.1956 to 18.9.63 during which he never passed trade test nor he could get success in the selection for the post of M.CGr.105-135(AS)in the better carrier of his service as Leave Reserve Khallasi. On surrendering the post of Leave Reserve Khallasi he has been transferred to the post of Boiler Maker Khallasi in the same grade and not reverted to any lower grade vide L/no.847-E/I-9 dated 22.12.78.

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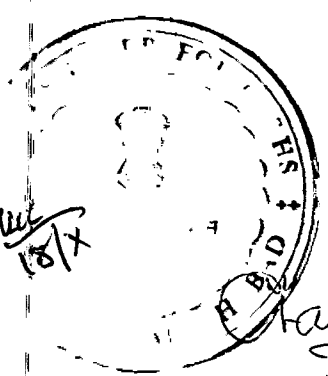
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30. That the contents of para 31 of the writ petition are not admitted. The petitioner was never reverted but he was transferred from the post of Leave Reserve Khallasi to the post of Boiler Maker Khallasi where he was confirmed keeping his seniority in tact. This does not involve reversion as stated by the petitioner.

31. That the contents of para 32 of the writ petition are denied. It is submitted that the petitioner is in the know of his transfer orders dt. 22.12.78, as this writ petition is based on the same knowledge.

32. That the contents of para 33 of the writ petition are not admitted. It is stated that the petitioner has been given his original seniority in the cadre of Boiler Maker Khallasi and the prospect of rising to the status of those who were appointed with him as Boiler Maker Khallasi by passing requisite trade tests is open to him and he too can be promoted on passing the trade Tests and his original seniority even in the promotional cadre will be maintained as per rules.

33. That the impugned order passed on 22.12.78 by means of which the petitioner was brought on his original post of Boiler Maker Khallasi. This was sought to be served by Loco Foreman, Lucknow on the petitioner on 30.12.78. But the petitioner refused to acknowledge the said order and did not put his signature thereon and disappeared. The petitioner was, however, spared from



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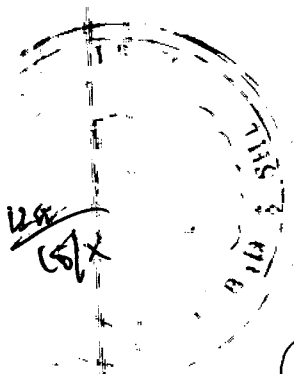
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the post of Leave Reserve Khallasi on the same date and information to this effect was conveyed to the Senior ^{my} ~~Personnel~~ ^{my} Divisional Officer, Lucknow by Loco Foreman vide letter no. EG2/III/78 dt. 30.12.78, of which a copy is being filed herewith as Annexure A-3 to this counter affidavit.

34. That it has already been submitted above that on the upgradation of post, the post which was held by the petitioner as Leave Reserve Khallasi along with two other similar posts, was surrendered and the petitioner had to be sent back to his substantive post of Boiler Maker Khallasi. The position, therefore, on the date of which the present writ petition was filed, was that the petitioner stood spared from the post of Leave Reserve Khallasi, which had been surrendered. The petitioner had not brought to the notice ^{of} ~~of~~ this Hon'ble court that the post in question has already been surrendered and that he has already been spared when he had refused to acknowledge the impugned order, which was sought to be served on him. The interim order of stay ~~by means of~~ ^{by} which was obtained by the petitioner by concealment of the above facts and by means of which the operation of the impugned order has been stayed by this Hon'ble court, could not be possibly given effect to by the answering opposite parties, as the post in question had already been surrendered before passing of the interim order of stay.

35. That it has already been mentioned in the impugned order that the petitioner's seniority will

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not be disturbed and the protection of his seniority has been assured to him. It has already been indicated in the present counter affidavit that the petitioner can be promoted to the higher grades on which the other opposite parties have been promoted on his passing of requisite Trade Test and even at the promotional stage and his seniority as per rules shall be maintained. In this situation, the answering opposite parties respectfully submit that the petitioner will not be put to suffer any irreparable loss.

36. That the deponent is advised to state that the grounds set out in para 34 of the petition by the petitioner are not tenable in law, the writ petition has no merits, and the same is liable to be dismissed with costs.

37. That the deponent has compared Annexures A-1 to A-3 with their originals and certifies them to be true copies thereof.

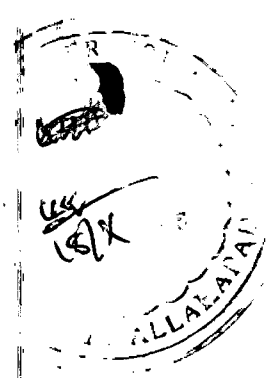
Chandrasekhar

Lucanow Dated:

Deponent

Oct. 18, 1979

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I, the above named deponent, do hereby verify that the contents of paras 1, 2, and 37 are true to my own knowledge, those of paras 3 to 9 except bracketed portion, 10, 11, 12 except bracketed portion, 13 to 16, 17 except bracketed portion, 18 to 25, 26 except bracketed portion,

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27 to 32,33,and 34 are true to my information based on record, which are believed to be true by me, those of bracketed portions of paras 9,12,17,26 and para 35 are true to my belief, and those of para 36 are based on legal advice. No part of it is false and nothing material has been concealed, so help me God.

Chandulab

Deponent

Lucknow Dated:

Oct. 18, 1979

all

I identify the deponent who has signed before me.

Abul Muteen

Advocate

Solemnly affirmed before me on 18/10/79

at 4-15 ^{*all*} a.m./p.m by Sri Chandulab *all*

the deponent who is identified by

all Sri Abul Muteen Advocate *all*

all Clerk of

High Court Allahabad, Lucknow Bench, Lucknow.

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.

all

CLERK OF
COURT

368/72

18-10-79

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

...

Writ Petition no.256 of 1979

Anwarul Hasan

..Petitioner

vs.

The Divisional Railway Manager,
and others.

...Opp.Parties

...

Northern Railway

Northern Railway

Divil.Supdt.'s office,
Lucknow

No.803E/E-6/I(M.C)78,
Dated 8-8-1978

NOTICE

Divil.Supdt./Lucknow with the concurrence of Sr.Divil.
Accounts Officer has accorded sanction to the creation
of 13 posts of Material Clerks in Grade Rs.260-400(RS)
as Leave Reserves in the category of Material Clerk of
Mechanical Branch on this division with simultaneous
surrender of existing 3 posts of leave Reserve Khallasis
in grade Rs.196-232(RS).

This has been included in the sanction register of
group E/6 against item no.79.

Sd.Illigible
Sr.Divil.Accounts Officer,
Lucknow.

Sd.Illigible
Sr.Divil.Personal Officer,
Lucknow.

Copy for information and necessary actions:-

- 1.Sr.DAO/LKO
- 2.Sr.D&E/LKO
- 3.AS(P&B)/LKO.
- 4.D/C-E/I-9.
- 5.D/C-E/6-I(M).

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Chandulati

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इन दि आनरेबुल हाई कोर्ट आफ जुडोक चर स्ट इलाहाबाद,
लखनऊ बेन्च, लखनऊ।

स्टि पिटीशन नं 256 आफ 1979.

अनवारुल हसन

— पिटीशनर

ब नम

जि डि वीज न्त रेलवे मैनेजर आदि

— अपो- पार्टीज

अनैम्बर नं 0 - २०- 2

उत्तर रेलवे,
मण्डल अधीक्षक कार्यालय,
लखनऊ : दिनांक - 22.12.78.

पत्रांक 847- ई०/ 1- 9.

अ र दे र

इस कार्यालय के पत्रांक 803- ई०/ ई- 6/1 (एम सी०) 78 दिनांक

8.8.78. के अनुसार अवकाश दाता छलासियों के निम्न पद समाप्त होगये

हैं :

लोको शेड	लखनऊ	-	2	वेतन मान	रु० 196-232
..	कैजाबाद	-	1

अतः निम्नीलखित अवकाश दाता छलासियों को उनके सम्बुद्ध लिखे स्थानों तथा पद पर उनकी वर्तमान स्थिति में तुरन्त स्थानान्तरण किये जाते हैं :

- 1- श्री अनवारुल हुसैन अवकाश दाता रु० 196- 232 ब्यालर मेकर छलासी
छलासी लोको
शेड, लखनऊ
- 2- श्री बाबू लाल .. कैजाबाद ..
पिटर छलासी
लोको शेड,
कैजाबाद।
- 3- श्रीसहदेव बक्स सिंह .. लखनऊ ..
पिटर छलासी, लोको
शेड, लखनऊ।

उपरोक्त पद परिवर्तित प्रशासन के हित में है। अतः उपरोक्त कर्मचारियों को वरोधता पर कोई प्रभाव नहीं पड़ेगा।

हस्ता०-

सहायक कार्मिक अधिकारी,
लखनऊ।

प्रतिलिपि वीरठ मण्डल लेखा अधिकारी, वीरठ मण्डल यांत्रिक अभियन्ता, लोको
फोरमैन सम्बन्धित लिपिक ई०/6-1, ई०/1- 8, ई०/1- 6

ह०- अपठनीय। 22.12.78.

सहायक कार्मिक अधिकारी, लखनऊ।

सत्य प्रतिलिपि

470
4/18

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

Writ Petition no.256 of 1979

Anwarul Hasan Petitioner

Versus

The Divisional Railway Manager,
Northern Railway and others.

... Opp.Parties

Annexure A-3

Northern Railway

No.EG2/3/78

Dated 30.12.78

From Loco Foreman
Lucknow

/ The Sr. D.P.O.
LKO

Ref: Transfer to B.M/Kh.

Ref: DS/LKO letter no.847E/I-9 dt.22.12.78

Sri Anwarul Hasan a LrR.Kh. was asked to note down the orders of his transfer to the post of B/M Kh. in the same grade keeping the seniority intact in terms of your above quoted letter but he did not initialed on your said letter and disappeared after refusing.

However, he has been spared from the post of L.R.Kh . on date on transfer to the post of B/M Kh.

This is for your information.

Sd.Illigible
Loco Foreman
LKO

u2
T.C
Sd.Illigible
30/12
Chandrab

(43)

In the ... of ... at ...
...

4/19

... 256 ... 1979.

... ..

...

The
and others:

ANNEXURE - 4

... ..

... ..
...

No. 2203/E-6/1 (33 1/3 %) ... 1.3.78.

ALL

Reg: Formation of ... for the post of office
clerks scale A-260-400 (w) from the follow-
ing categories of staff:-

1. All class IV staff employed in the offices i.e. Khallasis of all types, watermen, scribe, safaiwalas, Janghars, Daftarkars, Gestetner operators, record sorters etc., with 3 years service in class IV post as on 29.2.1978 (irrespective of the scale held by them).
2. Record Sorters / ... scale A-225-308 (RS).
3. Free service clerks / Despatchers grade A-225-303 (R).
4. Material Checkers grade A-225-303 (R).
5. Return Checkers grade A-225-308 (R).
6. Messengers of
7. Store Inspectors.
8. Store Khallasis.
9. Special messenger.

1/12

1/12

Chandulal Applications to the enclosed proforma (Annexure -

'A') together with attested copies of the test results and certificates submitted by the eligible staff should be forwarded to this office under a Special Cover addressed to Shri. Rajoo Mani, Assistant Personnel Officer, II, Port Blair Jail, Lucknow so as to reach in this office latest by 30.3.1978. Applications received after this date will not be considered.

3. - Class IV staff officiating as office clerk Grade II. 260-400 (S) in the local arrangement who by virtue of their employment in the cadre prior to their local appointment have been considered to be eligible for the consideration for promotion as office clerk grade II. 260-400 (S) should also apply for such consideration they would have a right for automatic consideration for promotion as office clerk as a regular measure or continuance even in their local officiating capacity.

S/- Rajoo Mani
For Divisional Personnel Officer,
Lucknow.

Copy to:

The under secretary (2) Rly B. P. O. to request that he will please send the eligible staff of the Board's office (other than being considered for promotion to the post of office clerks Gr. II. 260-400 (S) latest by 30.3.78.

acc 18/X
T/c Chandulab

(A73)

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUGANOW SECTION) LUGANOW.

REJOINER AFFIDAVIT

In re

5/1

C.P. No. 256 of 1979.

1979
AFFIDAVIT
65
HIGH COURT
ALLAHABAD



12/11/79
29/11

Inwarul Hasan

Petitioner

Versus

Union of India and others

Opp. Parties.

File
B.P. No.
29/11/79

Rejoinder Affidavit to the Counter-Affidavit filed by C.P. No. 1 & 2.

I, Inwarul Hasan, aged about 44 years, son of Late Sri Saifuddin Khan, resident of Railway Quarter No. DD 59 J, Pehli Pul, Police Station and Ward Lambagh, Lucknow, do hereby solemnly affirm and state as under:

(99/309/60)
COMMISSIONER FOR OATHS
19.11.79

1. That the contents of parts 1 to 3 of the counter affidavit are correct and true.
2. That the contents of part 4 of the counter-affidavit are correct and true.

The fact that the petitioner/deponent was appointed for the post of B.I. Boiler Maker and had passed his examination proved if the result-sheet of the examination held in year 1959 including the results of the opposite parties Nos. 3 to 5 and one Babu Lal son of Bhai, P.No. 773, who is now a...

Inwarul Hasan
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Maker grade II at Lucknow Loco Running Shed, are
produced before the Hon'ble Court by the answering
opposite parties. It may be pointed out here that the
deponent was trade-tested in the year 1969 alongwith
the above mentioned persons at Loco Workshop, Charbagh,
Lucknow, by Abdul Majid Khan, the then Testing Foreman,
in practical tests while the viva voce examination was
taken by one Sri. [unclear], who was an Asst. Mechanical
Engineer, II, for Lucknow Division. To mention
specifically, Sri Babu Lal and the deponent were in
the same batch.

The deponent begs to re-affirm that he was
promoted to officiate as B.I. Boiler Maker at Pratapgarh
Loco Shed in January 1960 during the Grah Kumbh Mela
under Sri Rafiz Ullah, the then Boiler Maker Chargeman
in that shed because of his having passed the above
mentioned test. The Attendance Register of Loco
Foreman, Pratapgarh, for the month of January 1960,
the Attendance Register of the Boiler Maker Chargeman,
Loco Shed, Pratapgarh, for January 1960, both pertaining
to B.I. Boiler Maker's category and attendance register
for the months of December 1959 and January 1960, of
the Line Officer, Loco Running Shed, Charbagh, Lucknow,
belonging to the class of L.I. L.I. Iies, and the
Pay Sheet of the deponent for the months of January
and February 1960 paid in February and March 1960, if
produced would confirm the deponent's contention in
this regard.

3. That as regards para 5 of the counter-affidavit
the deponent reiterates the contents made in para 5 of
the written statement and denies the verities of the
opposite parties in this respect to the extent they are
contrary to his own declarations.

As far as the deponent's reversion in 1966 from

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the post of Telephone Material-cum-booking clerk in the grade of Junior Clerk (105-135 A.S) is concerned, the opposite parties did illegally and wrongfully reverted him back firstly to the post of Boiler Maker Khalasi on 3.2.1966 and after 3 days transferred him as Leave Reserve Khalasi on 6.2.1966. The opposite parties had transferred him to Leave Reserve Khalasi on their own accord and not on the behest of the deponent as alleged.

In fact the deponent had immediately represented against his wrongful reversion and accepting the genuineness of his grievance the deponent was put back to work as cool checker in the grade of Junior Clerk (105-135 A.S) within a week of his transfer and since then he is continuously working in the grade of Junior Clerk/Material Clerk (As.105-135 A.S./110-180 A.S./260-400 A.S) without any break.

As both the above mentioned acts of opposite parties viz. the reversion of the deponent from the grade of post of Junior Clerk on which he was promoted to officiate on 18.9.63 and on which he had become confirmed after expiry of 18 months in terms of the Railway Board's order dated 28.5.63 (Annexure 6 to the writ petition), to the post of Boiler Maker Khalasi and Leave Reserve Khalasi on 3.2.1966 and 6.2.1966 respectively were illegal and discriminatory since not only they reduced him in rank and resulted in the loss of pay and allowances without any justification or following due process of law, but also placed him below his juniors, the opposite parties 3 to 5, who were in the meantime (in 1965) promoted to B.F. Boiler Maker in the grade equivalent to that of Junior Clerk, they are considered to be non-existent in the eyes of law and the deponent considers him to be continuously working in the grade of Junior Clerk/Material Clerk

(A76)

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since 18.9.1963 without any break.

As far as the revision and upgradation of the post of Junior Clerk is concerned, the deponent re-states that the category of Tool Checker/Fuel Issuer which was called Junior Clerk also, was upgraded to the scale of Rs.110-180 (R.S), vide A.O. letter No. 561 E/183-132/Pt. III, dated 30/31.10.72. This G.O. letter is in the possession of the opposite parties which if produced would confirm the deponent's contention. Later on, this scale of Rs.105-135 was revised to the scale of Rs.260-400 (R.S) in the name of Material Clerk. This fact enough admitted here, has been admitted by the opposite parties in para 18 of the Counter-Affidavit.

As far as the question of Leave Reserve B.M. Khailasi being a post of different cadre than that of B.M. Khailasi is concerned, the opposite parties Nos. 1 and 2's statement in this regard are unreliable being full of contradictions. They have said that Leave Reserve Khailasi was a separate (and permanent) cadre by itself, if so, it could not have been abolished lawfully by the opposite parties at their whim. However if the posts of Leave Reserve Khailasi were surrendered by him in order to obtain new posts of Material Clerks against him in lieu of them, as alleged by them, the deponent should have been automatically absorbed against the newly obtained posts of Material Clerk and could not have been lawfully and quietly reverted back to the post of his initial appointment, i.e. of B.M. Khailasi, after more than 13 years service as Material Clerk and thereby reducing him in rank and emoluments substantially.

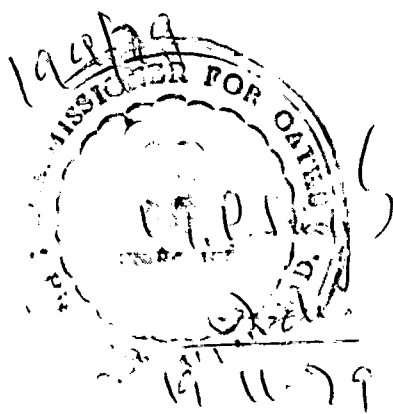
The opposite parties 1 and 2 have further sought to justify the deponent's alleged "transfer" to the post of B.M. Khailasi on the grounds that B.M. Khailasi

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and leave Reserve Khaliassi or identical and interchangeable. If so, the opposite parties 1 and 2 ought to have ordered the deponent at the proper time.

4. That the contents of para 6 of the counter-affidavit are denied. The deponent was promoted to office in the grade of Junior Clerk on 18.9.1963 (Annexure No. 1 to the petition) on the post of Telephone Accountant-cum-Booking Clerk against "one of the permanent posts sanctioned recently" and should have become confirmed after the expiry of 18 months as per departmental rules contained in Annexure 6 to the writ petition. It is admitted, however, that he was wrongfully reverted back to the post of P.M. Khaliassi as stated above in para 3, but on representation from the deponent he was restored back in the same grade and scale from 12.2.1966. Since his restoration back to the grade and scale of Junior Clerk from 12.2.1966, undoing the wrongful reversion, he has continuously worked in this grade which was upgraded to Rs.110-180 (R.S) in 1972 (vide letter No. 561 E/85-132/P+III dated 30/31.10.1972) and was afterwards revised to Rs.260-400 (R.S) under the name of Material Clerk till the passing of an impugned order dated 22.12.1978 (Annexure 5 to the writ petition) and was never put to work in the Khaliassi grade even for a single day. The opposite parties No. 1 and 2 have very cleverly avoided to state in which capacity he specifically was the deponent worked as Khaliassi (i.e. in grade 70-85 (R.S), now revised to Rs.196-232 (R.S) as alleged by them. The facts are that the deponent has always been working in different capacities but in the same grade of Junior Clerk/Material Clerk till 1978. The opposite parties have failed to produce any record or documents which substantiate any thing contrary to it and this goes to show beyond doubt that the deponent's



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convention is correct in this regard. It is also not accepted that any distinction was made in appointing the Book Checker, Full Issuer and Store Issuers etc. to the grade of Material Clerks in scale of Rs.260-400 (R.S.).

It is, however, admitted that the deponent had applied in 1969 for being appointed as permanent Material Clerk but the request in para is denied.

As far as opposite parties' contentions with regard to the Leave Reserve against the posts of Material Clerk is concerned, they are self-contradictory and absurd. If the deponent has been actually working in different capacities in the grade of Material Clerk whatever in the grade of Rs.225-308 (R.S) as admitted by the opposite parties or in the scale 260-400 (R.S) as claimed by the deponent, it can in no case be said that the deponent was actually Khaliassi as opposite parties themselves say that the Khaliassies can not and do not work in such posts.

However, in the concluding part of this para, the opposite parties have said that they have been some posts of Leave Reserve Khaliassies in grade Rs.196-232 (R.S) and on their surrender they have been able to obtain posts of Material Clerks to form a Leave Reserve in that same grade. This merely establishes the co-relation between the two posts and the deponent who has been drawing a basic pay of Rs.284.00 per month minus increments, which is much above the highest limit permissible to a Khaliassi, should have automatically been absorbed in the grade of Rs.260-400 (R.S), i.e., Material Clerk, and not have been reduced in rank etc by sending back the post of Material Clerk to him in the scale of Rs.196-232 (R.S), i.e., P.M. Khaliassi.

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Moreover, according to the orders of the Railway Boards order dated 28.5.66 (annexure 6 to the writ petition) after the expiry of 18 months from the date of officiating on higher post, the deponent is deemed to have obtained that higher post himself. As such, the deponent has become Junior Clerk in the year 1968 itself. In any case the order No. 48 of 8.10.1970 (annexure 7 to the petition) and, though very late, clearly 'approved' deponent's promotion to officiate as fool checker, i.e. as Material Clerk "against the existing vacancy", and therefore after continuous working for 18 months in the same capacity, the deponent has become confirmed in the grade of Material Clerk in the year 1972 itself if not earlier. No order has ever been passed diverting from that post (had it been such an order, the opposite parties would have filed it in support of their averment) and as such, even according to the position taken by the opposite parties the deponent was working as Material Clerk on the date of passing of the impugned reversion order dated 22.12.1978. His reversion to the post of B.M. Khallasi therefore constituted a reduction in rank and amount to punishment inflicted on him without any just ground. Moreover, without any fault of the deponent and without following the due process of law and their law, is in contravention of the Article 311 of the Constitution of India.

5. That in paras 7, 8 and 9 of the counter-affidavit the opposite parties 1 and 2 have again made a statement which is contradictory to their own made in para 5 of the same. If the deponent's promotion to the post of Telephone Line and Cum-Booking clerk was "purely temporary local arrangement confirming no rights whatsoever on the deponent" as alleged in para 5 of

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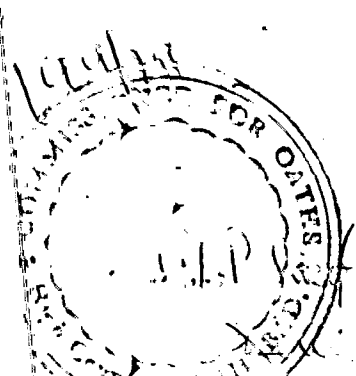
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the counter-affidavit, and in the post was only an ex-cadre post as stated in para 9 of the counter-affidavit. The deponent then substantively remained a Boiler Maker until according to the opposite parties' own version and in the situation the opposite parties' contention that he was not eligible for B.F. Trade test even in before 1965 becomes wholly untenable.

Further more, the opposite parties 3 to 5 were also B.M. Khalisias and were admitted to be junior to the deponent in the grade by the opposite parties 3 to 5 themselves, in para 8 of the counter-affidavit. It is also stated by the opposite parties 1 and 2 in para 7 of the counter-affidavit that the opposite parties 3 to 5 were promoted as B.F. Boiler Maker in the year 1965 after being trade tested. If these versions and admissions made by opposite parties 1 and 2 are correct then why they did not trade-tested the deponent before and above the opposite parties 3 to 5 who were admittedly junior to him (para 8 of the counter-affidavit)? The factual and correct position, however, is that the deponent was actually trade tested for B.F. Boiler Maker and had been successful in it as averred in para 2 above and this was precisely the reason for his promotion over and above the opposite parties 3 to 5 to the post of Junior Clerk. However, the opposite parties cannot be allowed to take two contradictory stands. If they maintain that the deponent was not trade tested then they must accept the position that they had discriminated the deponent over his juniors viz., the opposite parties 3 to 5. Or is they must accept the deponent's contention is correct in this respect.

6. That the contents of para 10 of the counter-affidavit are correct and those of para 10 of the writ



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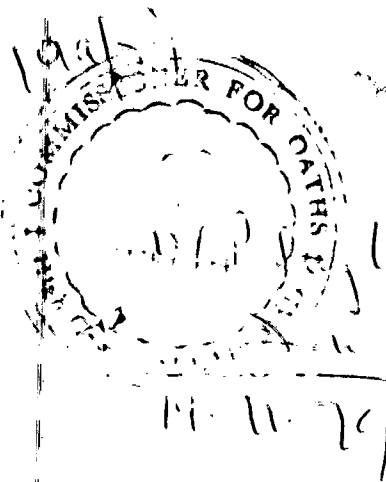
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position are reiterated. The deponent's position regarding the alleged qualifying examination has already been stated above in para 4.

In fact there was no need for the deponent to sit in the competitive examination said to have been held on 9.4.1972, as he had his pay become confirmed in the grade of Material Clerk by then at that time by virtue of officiating as an acting Material Clerk for more than 18 months as per departmental rules (Annexure 6 to the petition). Had the opposite parties' story as to the failure of the deponent in 1972 been correct, why he was not reverted back to his alleged substantive position? The fact that the deponent continued to work in grade of Material Clerk without break till December 1978 is in itself a proof of correctness of his aversions in this regard.

Even if the position taken by the opposite parties would have been correct, which is not the fact, the deponent's working on the post of Material Clerk after the alleged failure of the deponent in 1972 should have been taken as a re-appointment or re-promotion to that grade and after completing 18 months in the year 1974/1975 in the capacity, the deponent should have been deemed to have been confirmed by the opposite parties on the said post by their own logic.

As to the alleged description of the deponent as of the category of Junior Mr-K R K. In any case, in favour of an equal grade and promotional avenues is concerned, it is both untenable and factually incorrect. The opposite parties however cannot lawfully take two contradictory stands simultaneously, viz., treating the deponent to be substantively of the same grade and class as of



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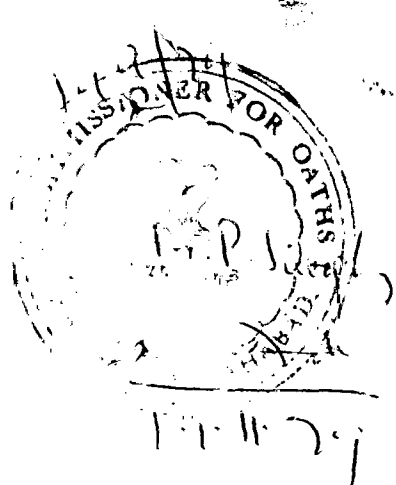
B.M. KHALILSI and thereby claiming to revert him back to the post of B.M. Khalilasi after 13 years of working as Junior Clerk/Material Clerk, and maintaining at the same time that he could not be given benefits of seniority in the very same cadre of B.M. Khalilasi for his alleged accommodation in a "different" cadre (para 5 of the Counter-affidavit).

7. That the contents of para 11 of the counter-affidavit are denied and those of the para 11 of the writ petition are reiterated. The correctness of the deponent's statement can will be measured from the facts mentioned above.

8. That the contents of para 12 of the counter-affidavit are denied and those of the writ petition are reiterated. As far as the question of passing the requisite grade is concerned, if the so called category of the Reserve Khalilasi is in itself an ad-hoc cadre and if the opposite parties 1 and 2 considered deponent's working on the post of Junior Clerk/Material Clerk as a purely temporary measure and his services liable to be reversed back to his alleged substantive post of B.M. Khalilasi, it was the duty of the opposite parties to call him for the intervening time as they did in the case of opposite parties 3 to 5. The deponent has always been prepared to appear in those cases as an alternative to his working on the post of ~~XXX~~ Material Clerk, and if he was not so served, it was totally the fault of the opposite parties 1 and 2 and the deponent cannot be lawfully made to suffer for that.

9. That as regards para 13 of the counter-affidavit the contents are denied and those of para 13 of the writ petition are reiterated.

10. That the contents of para 14 of the counter-

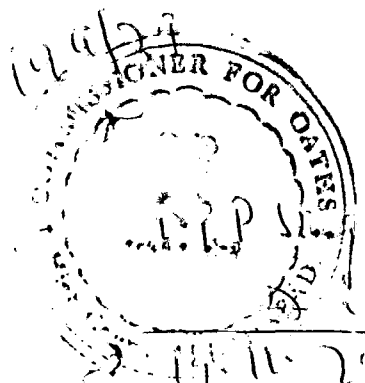


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affidavit are denied and the para 14 of the writ petition are reiterated. It may again be emphasised here that the competitive examination and selection etc. referred to in this para was held for the post of office-clerk and not of Material Clerk as is evident from annexure A-4 filed by the opposite parties themselves and from annexure 4 filed by the deponent. The opposite parties 6 and 7 had applied for the post of office clerk and not for the Material clerk is also clear from annexure 4 of the petition, but they were being made Material Clerks illegally as is evident from annexure 3 to the writ petition. The question of deponent's applying against the 11th notification (annexure A-4 to the counter affidavit) inviting applications for the post of office-clerk does not arise at all since the deponent was already working as a Material Clerk in the same grade as of office clerk and had already become confirmed over a long before as narrated above. Moreover, the deponent being a technical hand, preferred to remain on the post of Material Clerk, which is a technical post, and going to the cadre of office-clerk which is non-technical cadre. Thus the promotion of opposite parties 6 and 7 was done in clearly a discriminatory manner.

11. That the contents of para 15 of the counter-affidavit are denied and the writ petition is re-affirmed.

12. That the contents of para 16 of the counter-affidavit are incorrect and are denied. The averments made in para 16 of the writ petition are re-affirmed. In the circumstances set out in para 10 above, the question of deponent applying for the competitive examination of the office clerk does not arise.



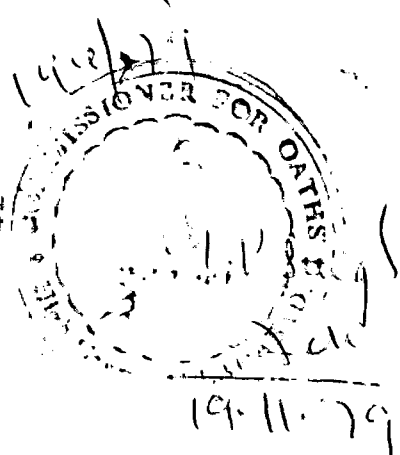
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13. That the contents of para 17 of the counter-affidavit are denied and those of para 17 of the writ petition are reiterated. As stated above the so-called applications were ¹²invited for the posts of Office Clerks and not of Material Clerks and the panel formed on the basis of such a notification (annexure 4-4) could not have given any right to the opposite parties No. 1 and 2 to promote the opposite parties 6 and 7 to the post of Material Clerk. As regards the confirmation of the deponent on the post of Material Clerk, it may again be emphasised that in the Railway Board's order of 28.5.66 (Annexure no. 6 to the writ petition) does not provide for any such conditions for the confirmation other than the continuous officiating for 18 months as the opposite parties 1 and 2 are trying to import to it. It may further be pointed out that the order of 30.8.63 promoting the deponent temporarily to the post of Telephone Attendant-cum-booking clerk clearly states in the grade of Junior Clerk/Material Clerk clearly states it to be "against one of the four permanent posts specified hereby" (Annexure 1 to the writ petition). Similarly the promotion order dated 6.10.70 (Annexure 7 to the writ petition) clearly states that "the following officiating arrangements have been approved" and then, on item no. 2 mentions in its continuation that the deponent "has been promoted to officiate as P.C. (Book Clerk) against the existing vacancy". In light of the clear and unambiguous terms of promotion orders clearly, the opposite parties' statement to the contrary as contained in para 17 of the counter-affidavit cannot be sustained.

14. That the contents of para 18 of the counter-affidavit are not accepted to the extent they are repugnant to para 18 of the writ petition. Further



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more, the contents of this para are contradictory to those of para 6 of the counter-affidavit also in so far as para 6 states that the up-gradation of post of M.C./Store Issuer/Mat. Issuer i.e., Junior Clerks grade 105-135 (A.S.) to 110-180 (A.S.)/260-400 (R.S.). It may also be pointed out that the averrations made by the opposite parties 1 and 2 would have been correct, the deponent would not have been allowed to work continuously in the grade of Material Clerk by them ~~the~~ afterwards.

It may be noted here that the annexure A-3 as filed along with the counter-affidavit is not of the same description, and the alleged order dated 26/27.1.1973 has not been filed at all. The deponent is therefore unable to comment on that.

15. That the contents of para 19 of the counter-affidavit are incorrect as is clear from the clever way the opposite parties 1 and 2 choose to define the alleged similarity of the two posts. The mere saying that both categories are "ministerial and nature of both of them is similar to some extent" does not mean that both the posts/grades are identical, in fact it is an admission of the fact by the opposite parties 1 and 2 that the two grades are largely and not slightly different. The opposite parties 1 and 2 have failed to give any evidence, rule or regulation to substantiate the obvious fact of the two grades being different, the post of Material Clerk being a clerical post.

16. That the contents of para 20 of the counter-affidavit are correct and those of para 20 of the writ petition are false. The opposite parties 1 and 2 have also failed to file or refer any substantive rule, regulation or document relating



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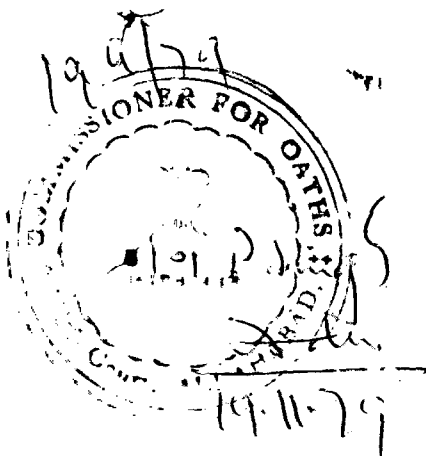
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the process to be accepted in promotion from class IV to class III etc., which may support their arbitrary administrative actions in this regard. The opposite parties 1 and 2 have also failed to cite any rule providing for any such condition for the promotion of the class IV staff to class III staff under 33 1/3 % promotion quota other than seniority-cum-suitability.

17. That the contents of para 21 of the counter-affidavit are denied and those of the writ petition are re-stated. As stated above in para 10 above, the letter referred to (annexure A-4 of counter affidavit) in the para under reply was Officer Clerk and not for Material Clerk and as such reference of it is irrelevant in case of the promotion of opposite parties 6 and 7.

18. That the contents of para 22 of the counter-affidavit are denied and those of para 22 of the writ petition are re-affirmed. It is submitted that deponent has been receiving basic pay of Rs.284.00 at the time of filing of the writ petition without adding increments which is much below the highest pay admissible to a Khailasi. It is also pointed out that the posts on which the deponent has been working since 1963 have been mostly of a technical nature, e.g. the posts of Book Checker or Fuel Issuer, etc., and he remained a technical hand throughout his service period.

19. That in reply to para 23 of the counter-affidavit the facts narrated in para 23 of the writ petition are re-stated. The deponent has been confirmed in view of Railway Board's order (dated 1966) of the writ petition) at the post of Material Clerk and was not a Khailasi at the time of his wrongful reversion and opposite parties 1 and 2 averrations contrary to it are denied. As to the question of surrendering of xx



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certain posts of Leave Reserve. Khallasi is concerned, the deponent is not concerned with it.

However, the opposite parties 1 and 2 have failed to indicate any need necessitating such a surrender in view of the aversions made by them that it was a separate cadre, that the deponent was confirmed ^{working in it} in this grade and that he was/for more than 12 years in permanent capacity and that a separate seniority list was maintained for the cadre. If with the opposite parties' contention would now be correct, which they are not, the deponent's transfer from the grade of Rs.260-400 (R.S) and with a basic pay of Rs.284.00 per month last drawn to the post of B.M. Khallasi in grade of Rs.196-232 (R.S) could not be termed as 'transfer' as averred in the impugned order (annexure No. 5 to the writ petition).

It is certainly a reversion and amounts to a punishment inflicted upon the deponent without any fault of his. It results in substantive reduction in rank and emoluments. Moreover the nature of the post of Material Clerk on which the deponent has been working for last 16 years is of skill job and is much above the post of B.M. Khallasi. As far as the deponent is concerned, the deponent was informed of the order as given by the ~~competent authority~~ ^{competent authority} in annexure 1 of the petition by colleagues and not of the one now being filed by the opposite parties as annexure A-2 to the counter-affidavit. The deponent sought to be given by the opposite parties to keep the deponent's seniority intact has no meaning, in fact it is only an eye-wash, concocted afterwards in view of the fact that the deponent's juniors viz. opposite parties 3 to 7 are already working in the higher grades while the deponent is being asked to go



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19.11.79

back at the starting point, which was lowest in the ladder after 16 years of his actual promotion.

20. That the contents of paras 24, 25 and 26 of the counter-affidavit read and those of writ petition are re-stated. As discussed above, the deponent has become Material Clerk and his alleged transfer is a reversion from the grade of Rs.260-400 (R.3) to the grade of Rs.196-232 (R.5).

21. That the contents of para 27 of the counter affidavit are read and those of the writ petition are re-stated. Furthermore, the opposite parties' contention that he was absorbed in the category of B.M. Khalasi is in contradiction of their own orders dated 22.12.78 (Annexure 1-2). This order states that the deponent was being transferred to his 'present' position, while the 'present position' of the deponent at the time was that of Material Clerk and in no case that of a Boiler Maker Khalasi. The opposite parties had never actually reverted him back from the post of Junior Clerk/Material Clerk after his wrongful reversion in 1966 which was also effected by them within a few days as narrated in para 3 above. Instead, as is clear from Annexure 7 to the writ petition, the deponent's promotion was approved by the undersigned opposite parties themselves in 1970 at any rate, and since then the opposite parties have passed no order reversing him back even to his alleged substantive and fixed post of Leave Reserve Khalasi.

22. That the contents of para 28 of the counter-affidavit are read and those of paras 28 and 29 of the writ petition are reiterated. The post of B.M. Khalasi is not an alternative post to the post on which the deponent was working, viz. of Material Clerk.

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FOR
P.P. Singh
19.11.79

Amrinder Hasin -
19.11.79

As regards to Mr. J.M. Sinha, opposite party No. 8, he has been admitted by opposite parties 1 and 2 to be promoted to officiate as Junior Clerk grade 105-135 (L.S)/225-308 (R.S) from 11.7.72 only, while the deponent was, according to them, promoted to officiate in the same grade for the first time in 1963 and thus according to the version of opposite parties 1 and 2 on themselves, the opposite party No. 8 becomes much junior to the deponent in the grade of Junior Clerk/Magari Clerk Rs.105-135 (L.S)/225-308 (R.S). But the opposite party No. 8 is being retained in that grade while the deponent is being reverted to a lower grade. Therefore even from the facts admitted by the opposite parties 1 and 2, the deponent has been discriminated against the opposite party No. 8.

As regards the opposite party No. 9, the opposite parties 1 and 2 have not admitted the fact that he is though much junior to the deponent and though put to officiate as Junior Clerk grade 225-308 (R.S) with effect from 10.1.77 only, is still continuing in that grade while the deponent is being reverted back, which is clearly a discriminative act.

Moreover, the concluding part of opposite parties' statement is in contradiction of their own statement made in preceding paras, specially that of para 20 of the counter-affidavit. The alleged letter of G.M. (P) P.S. No. 2415 has not been filed by the opposite parties neither for it is not possible to comment on its contents.

23. That the contents of paras 29 and 30 of the counter-affidavit are contradictory and ~~misleading~~ ^{misleading} and the facts stated above as well as in paras 30 and 31 of the writ petition are re-affirmed.

19/11/79
19.11.79
Hassan

A90

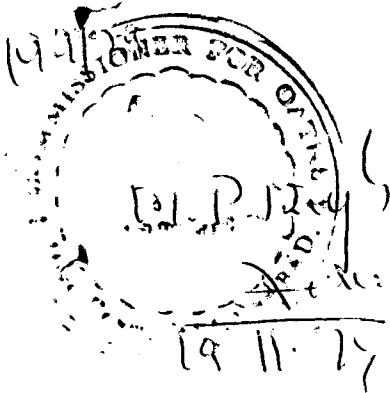
5/18

24. That the contents of para 31 of the counter-affidavit are denied and those of para 31 and 32 of the writ petition are affirmed. The deponent was informed of the contents of the impugned 'transfer order' dated 22.12.78 (annexure 5 to the writ petition) by the other colleagues of mine and was never asked to note down the contents of the said order by the Local Forum or any other officer as alleged in annexure 1-3 of the counter-affidavit.

25. That the contents of para 32 of the counter-affidavit are denied and those of paras 32 and 33 of the writ petition are affirmed as discussed above specially in para 20 of this affidavit. The assurance of maintaining his original seniority becomes ridiculous in the face of deponent's revision to the lowest grade of an ordinary labourer which has to carry load on his head and his juniors (oopsite paras 3 to 5) are promoted to Bellar Maker grade 260-400 (R.S) and even upwards. The position with regards to passing of the Trade Test has already been stated in paras 5 and 8 above of the affidavit.

26. That the contents of para 33 of the counter-affidavit are denied as it is all a fabricated story. The real fact has already been stated in para 24 above.

27. That the contents of para 34 of the counter-affidavit are denied. As stated in para 21 above the deponent's position on the day of passing the impugned order dated 22.12.78 was that of Material Clerk and even according to the admissions of the opposite parties the deponent was at least an officiating Material Clerk. In fact the contents of the impugned order themselves vary, as indicated in paras 19 & 21 above which are contrary to the factual position and



Harvendra Hasam
19.11.79

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ther fore incapable of implementation. The deponent could not have been actually reversed or 'transferred' against such a self contradictory and illegal order. As stated in para 24 also, it is totally wrong to say that the deponent was asked by the Loco Foreman to take down the impugned order or that he ever refused to acknowledge it, factually speaking it was never sought to be served on him till the filing of the writ petition. In fact the deponent worked as a Fuel Issuer (Dios 1), which is Material Clerk grade post on 28.12.78 at Charbagh Station, platform No. 4 (west end), and on 29th he was availing the 'Due Rest' in his village home at Bilawernagar and on 30.12.78 when he was due to report for duty again, he fell sick for which he sent a P.M.C. from his above mentioned village home and he remained so even after the court stayed the operation of the impugned order on 2.2.79. This fact can be proved from the attendance register itself in the possession of the opposite parties.

1.1.11.79

The annexure A-3, filed by opposite parties now in support of their contentions, has been concocted afterwards, or else the opposite parties could have replied accordingly much earlier in face of persistent notices sent to them by the deponent. The said letter cleverly mentions no date at which the Loco Foreman is alleged to have asked to take down the impugned order on the deponent. But it states that the deponent "has been spared from the post of M.C.A.H. on date on (sic) transfer to the post of M.C.A.H." If he is to be believed, the date of sparing the deponent could be the 22.12.78, while the deponent actually attended his duty in the post of Material Clerk till 28.12.78. No relevant fact has ever been concealed by the deponent from this Hon'ble Court. It is also not correct that on 2.2.79 the stay order

Amrinder Singh
19.11.79

89 (A92)

5/29

of the Court could not be given effect to by the answering opposite parties even if the post of Leave Reserve An in situ was surrendered by the Opposite party No. 2, there was nothing to forbid them from asking the deponent to continue in the same capacity, viz. as Material Clerk in pursuance of it at least as a temporary measure. In fact they have deliberately and willfully disobeyed the orders of the Hon'ble court by not giving to the deponent any duty whatsoever and by refusing to pay him even a penny towards his salary for the last 10 months forcing him and his family thereby practically to starve.

28. That in reply to para 35 of the counter-affidavit it has already been stated that the assurance of maintaining the deponent's seniority is meaningless if he is removed from the post of Material Clerk to that of a labourer as Boiler Maker Khallasi and from one grade of Rs.260-400 (R.S) to 196-232 (R.S) when his juniors are enjoying superior grades. It may however be submitted that the deponent is willing to work as Boiler Maker as an alternative to his similar grade possessing of Material Clerk and would not shirk from appearing in the grade test for the same if and when asked by the opposite parties 1 and 2 to do so. He has already passed B.F. Boiler Maker test and is prepared to appear into test for Boiler Maker and Boiler Maker grade II, provided he is ~~asked~~^{allowed} allowed to work in the same grade on which he was working on the day of passing of the impugned order during his appearance in the test. The result of which is declared. But if the deponent is made to work as Boiler Maker Khallasi, he will surely be put to irreparable loss as pointed out above.

29. That the contents of para 36 of the counter-

19-11-79
19-11-79

Amrind Hamir
19-11-79

1293

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affidavit are denied and the grounds taken in the writ petition are re-affirmed.

Lucknow, Dated:
November 17, 1979.

Anwarul Hasan
Deponent.
19.11.79

VERIFICATION.

I, the deponent named above, do hereby verify that the contents of paras 1 to 28 of the rejoinder affidavit are true to my own knowledge and I believe the correctness of the correctness of contents of para 29 of the affidavit.

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

Lucknow, Dated:
November 19, 1979.

Anwarul Hasan
Deponent. 19.11.79

I identify the deponent who has signed before me.

*Subramaniam
Advocate
19.11.79*

Solemnly affirmed before me on this 19 day of November 1979, at Lucknow, who is identified by *Advocate High Court* Lucknow Bench, Lucknow.

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

19.11.79
JATH COMMISSIONER
High Court Bench, Lucknow
No. 1293
Date 19.11.79

*Ashok Nigam
Adv.
20.11.79*

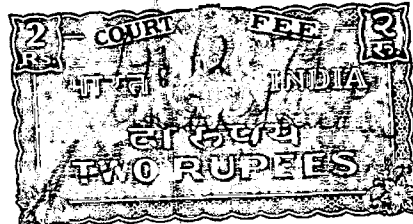


A94

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

Supplementary counter affidavit.

1979
AFFIDAVIT
51
HIGH COURT
ALLAHABAD



In re:

Writ Petition No. 256 of 1979.

Anwarul Hasan

..... Petitioner.

Verfus

The Divisional Railway Manager,

Northern Railways and others. Cop-parties.

SUPPLEMENTARY COUNTER AFFIDAVIT.

I, Gopal, aged about 55 years, son of Sri Jitai Choudhry, Assistant Personnel Officer, Northern Railways, DRP Office, Hazratganj, Lucknow, do hereby solemnly affirm and state as under:-

1. That the petitioner had officiated on the post of Tools Checker from 5.11.1970 to 13.10.1973 and he was utilised on this post because he was Leave Reserve Khallas i. His scale of pay as leave Reserve Khallas i was Rs. 70-85 which was revised to Rs. 128-232. The post of Tools Checker on which he officiated carried a pay scale of Rs. 105-135 which was revised to Rs. 225-300 and his officiating pay during the period was Rs. 284.00 per month.

Sum
16.12.79
Alamdar
16/12/79

495

- 2 -

2. That the petitioner in his capacity as leave reserve Khallasi was utilised to officiate on the post of Junior clerk (scale Rs. 225-308) from 19.10.73 to 31.12.77 and during this period he got Rs. 284/- per month as officiating pay.

3. That the petitioner was again utilised as junior clerk (scale Rs. 225-308) from 31.12.77 to 28.12.1978 against leave vacancies and vacancies and during this period he got Rs. 284/- per month as officiating pay. It may be stated that the petitioner in his capacity as Leave Reserve Khallasi had not officiated on one particular post but on different posts during the periods mentioned above. It may be further submitted that the 18th months' Rule on which the petitioner has placed reliance does not apply where the person concerned has to be put back on his original post on administrative grounds as will be evident from a perusal of the Head Quarter Officer's letter confidential No. L-42/C/3-II dated 9.2.1966 based on Railway Board's Confidential letter No. E(D & A) 65 R G 6-24 D/15.1.66 ^{which} of which a copy is filed herewith as annexure 3-5.

4. That the stay order in this case was issued in February 1979 by ^{this} Hon'ble Court, Lucknow. In this context it is submitted that the petitioner (Anwarul Hasan), was on sick leave of a private Doctor from 30.12.78 to 3.3.1979. He appeared in the office of Loco Abaman on 3.3.79 with the medical certificate issued by the private doctor. He was directed to Railway Doctor on the same very day for fitness before passing him back on duty, but Sri Anwarul

16.12.79

14/12/79

A96

Hasan remained on sick list of Railway Doctor from 7.3.79 to 17.3.79 and was declared fit for duty from 18.3.79. On 18.3.79 Shri Anwarul Hasan submitted the fitness certificate in the office of Loco Foreman Lucknow and went away and has not turned up for duty. Thus he is absenting himself from 18.3.79 till date continuously without any authority.

Lucknow, dated:
December 16, 1979.

Anwarul Hasan
16/12/79
Deponent.

I, the above named deponent do hereby verify that the contents of paragraphs ¹ to ¹ are true to my own knowledge, while those of paras 1 ² to 4 ² are believed by me to be true based on the information derived from the official records. No part of it is false, nothing material has been concealed. So help me God.

December 16, 1979.

Anwarul Hasan
16/12/79
Deponent.

I identify the deponent who has signed before me.

Sri A. Lateen
(S. Lateen)
Advocate
December 16 1979.

Solemnly affirmed before me on this 16th day of December, 1979. at 4.10 a.m./p.m. by Sri C. Lal the deponent who is identified by Sri A. Lateen, advocate, High Court, Allahabad, sitting at Lucknow.

Ans
16.12.79

R. S. M. Singh
Oath Commissioner,
H.C. Allahabad,
16.12.79

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.

(A97)

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

Writ Petition No. 236 of 1979.

Anwarul Hasan Petitioner.
Versus
The Divisional Railway Manager
and others. Opp-parties.

Annexure No. 1-5.

NORTHERN RAILWAY

CONFIDENTIAL
No. L-142/0/3-II

Headquarters Office,
Barod House,
New Delhi.
Dated: 9th February 1936.

All Divl. Supdts. &
Ldng Divl. Officers,
N. Ry.
V.O./P.O./Secretary/CPD III
C/ All Heads of Departments.

Sub: reversion on grounds of general unsuitability
of staff officiating in a higher grade or post

C. Chandrasekhar
16/12/79

Reference this office letter of even no dated
14th July, 1935, wherein it has, inter alia, been
stated that, in future, any person who is permitted
to officiate beyond 18 months cannot be reverted for
unsatisfactory work without following the procedure
prescribed in the D&R Rules. A question has been
raised whether this safeguard applies to persons who
are officiating on promotion as a stop-gap measure
and not after empanelment (in the case of selection
posts) and after passing the suitability test (in the
case of non-selection posts). It is clarified that
the safeguard applies to only those employees who
have acquired a prescriptive right to the officiating

16.12.79

AGS

posts by virtue of their empanelment or having been declared suitable by the competent authorities. It does not apply to those officiating on promotion as a stop-gap measure and also to those cases where an employee duly selected, has to be reverted after a lapse of 18 months because of cancellation of Selection Board proceedings or due to a change in the panel position consequent to rectification of mistakes in seniority etc.

(Authority: Rly.Bd.'s confidential letter No.
E(D&I)85RG6-24 dt. 15.1.1986)

Sd/- H.P.Gupta
for General Manager (P).

True copy.

Chandrasekhar
16/12/79

CONFIDENTIAL

Ans
16.12.79

सरकारी कार्यालय (1)

न्यायालय कोर्ट ऑफ ट्रिब्यूनल
सरकार के वरिष्ठ अधिकारी
लखनऊ

रजि. नं. 421 स. 87 (7)

Ammanur H. H. V. U. O. U.

महोदय,
उपरोक्त वादों के
विषयी जो अधिवक्ता एकात्मिक
में इलाह बाद ट्रिब्यूनल के
व्यक्त हैं, इस लिए न्यायालय
में उपस्थित होने में असमर्थ
हैं।

अतएव निवेदन है
कि उपरोक्त वाद आज
के लिए रुक गित जाएँ
जावे, और अगली तारीख
12-10-89 निर्दिष्ट जाएँ
जावे। अनुरोध है।

दिनांक 18-9-89

(ए. ए. गोड)
सेल एडो

(C2) 105
/Copy/

Copy of letter No.561.E/85-132-Pt.III (E11D) dated 18.8.64 from the General Manager(P), Northern Railway, Bafana House, New Delhi to the Divisional Supt., N.Rly., Lucknow & others.

Sub:- Duties of Material Checkers and material clerks in all departments.

In enclosing herewith a copy of Railway Board's letter No. PC-62/PS-5/SS-2, dated 30.5.64 on the above subject for information and necessary action, it is requested that all posts in scale Rs 55-85 (Pres)/105-135 (auth.), carrying different designations under you may please be reviewed in the light of the duties laid down for "Material Checkers" and "Material Clerks". Your Recommendations to allot the appropriate scales of pay and also for a standardised nomenclature on the basis of the nature of duties performed by the incumbents of the posts duly vetted by your accounts officer alongwith a statement of financial implications involved and copy of the actual duties performed by each category of staff may please be furnished to this office on the proforma attached so as to reach this office not later than 15th Sept., 64. Copies of Railway Board's letter No. PC-62/PS-5/SS-1 dated 27.9.63 and No. PC-62/PS-6/SS/2 dated 20.2.64 referred to in Board's letter ibid were circulated under this office letter No. 561.E/5-132 Pt.III (E11D) dt. 7.10.63 and letter No. 756E/27 (E11F) dated 18th July, 1964 respectively (copies enclosed for ready reference).

This may please be given urgent attention.

The receipt of this letter alongwith its enclosures may please be acknowledged.

Copy of Railway Board's letter No. PC/62/PS-5-SS-2 dated 30.5.64 addressed to the Managers, All Indian Railways, and others.

Reference Board's letters bearing No. PC-62/PS-5/SS-1 dated 27.9.63 and No. PC-62/PS-5/SS-2 dated 20.2.64 on the above subject. It is clarified that you may review all posts in scale Rs 55-85 (Pres.)/105-135 (Auth.) carrying different designations on your Railway, in the light of the duties laid down for "Material Checkers" and "Material Clerks" and allot the appropriate scales of pay, standardising the nomenclature to the extent possible on the basis of the nature of duties performed by the incumbents of the posts.

Please acknowledge receipt of this letter.

(C3) 105
/ Copy/

Copy of letter No.561/85-132/Pt.III/KII dt. 30.12.10.72 from from the General Manager(P), Northern Railway, Baroda House, New Delhi to the Divisional Supt.s, DLI, FZR, BKN, JU, MB, LKO and copy to others.

- - -

Sub:- Scales of Pay of Fuel Issuers, Coal Checkers, Material Checking Clerks, Tool Checkers, Stores Issuers etc.

- - -

A copy of Railway Board's letter No.PC69/PE4/1 dated 24/26.10.72 on the subject referred to above is forwarded herewith for information and necessary action.

The implementation of the above orders may please be intimated to this office by 1.12.72 certain. The Railway Board's letter No.PC-62/PS-5/58-1 dated 27.9.63, referred to in the Board's letter cited above was circulated under this office letters of even no. dated 7.10.63 and 18.8.64.

- - -

Copy of Railway Board's letter No.PC-69/PE4/1 dated 24.10.72 to the GMs, All Indian Railways.

- - -

Sub:- As above:

- - -

Reference Railway Board's letter No. PC/62/PS5/SS-1 dated 27.9.63.

✓ At the last meeting of the Departmental Council under the Joint Consultative Machinery, the criterion for determining the scale of pay of staff dealing with stores matters in departments other than Stores, variously designated as Material Checkers, Stores Issuers, Fuel Issuers, Tool Issuers/ Clerk, Coal Issuers/ Clerks etc. was reviewed. Accordingly Board have decided that staff of the above categories performing any two of the seven ~~types~~ ^{types} of duties listed in paragraph 1 (iv) of Board's letter quoted above, should be placed in the grade B 110-180, wherever they have hitherto been allotted only B 105-135.

These orders take effect from 1.10.72.

- - -

Misra/

for 1.1.73
for 1-1-73 260.42

THE NORTHERN RAILWAY

Certified that Shri Anwarul Hasan
has been working as a Clerk under Loco Foreman,
Northern Railway, Lucknow. He bears a good
moral character. His working is satisfactory
and he does not belongs to any Political
parties.

His specimen signature is appended
below.

Anwarul Hasan

Asstt. Mech. Engineer
LOCO SHED

LUCKNOW
Asstt. Mech. Engineer (P),
Northern Railway,
Lucknow.

Signature attested.

1/11 AME, Loco, N.R.
W. B. Lucknow

Dated: 15.3.1988.

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(15)

RESOLUTION

WORKING COMMITTEE MEETING OF A. I. R. F. HELD AT NEW DELHI ON 23 TO 24 SEPTEMBER, 86

This meeting of the Working Committee of A. I. R. F. held at New Delhi on 23rd and 24th September 1986 notes with dis-appointment that the 4th Central Pay Commission has rejected the demand for parity in wages, although it has calculated the existing difference only on the plea that the working in Central Government and Public Sector Undertakings are not comparable. While the Pay Commission has rejected the demand for parity in wages with Public Sector Undertakings at the lowest and lower levels, it has very well agreed for the same for fat-salaries officials even by increasing the ratio between the minimum and maximum in contrary to the provisions contained in the Directive principles of the State policy. To add insult to the injury, the C. P. C. has gone out its terms of reference, and has recommended for increase in the working hours in the offices of the Central Government. This decision, along with some other retrograde recommendations of the C.P.C. are without jurisdiction, and as such needed to be rejected. But instead of rejection, the Government has issued order increasing working hours in Central Government offices by $2\frac{1}{2}$ hours per week.

The Report of the 4th C. P. C. has done serious injustice to many categories of staff and in fact nullified the bi-lateral decisions arrived at in the Cadre Re-structuring Committee in respect of Loco and Traffic Running Staff, Engineering Gang Staff, Accounts Staff etc. and also decision of Joint Committee for re-classification of artisan staff in respect of Khalasi Helpers.

This Working Committee also notes with concern the anti-labour steps of the Ministry of Transport (Deptt. of Rlys) in respect of working hours. Extra work-load has been thrust upon the railwaymen by way of de-classification of staff mainly employed for traffic operation, from 'Intensive' to 'Continuous' or 'Continuous' to 'Essentially Intermittent' in spite of the fact that the volume of traffic has been increased. Both the Loco and Traffic Running Staff have been compelled to work beyond 10 hours at a stretch, jeopardising the individual safety and safety of the travelling public.

This Working Committee further notes the present policy of the Government of India, particularly in introducing automation and mechanisation throwing away thousands of people from their existing places of employment simultaneously denying employment to unemployed persons who have been looking for their employment and thus creating serious frustration amongst the unemployed youths, which ultimately will retard the peace and progress of the Country. Absorption of Casual labours against regular posts are denied or delayed and more and more regular works are being 'off-loaded' to the Contractors to compel

(26)

ADMINISTRATIVE TRIBUNALS CASES VOLUME 3 1987 CODE OF CITATION (1987) 3 ACT.

(1987)

Three (3) Administrative Tribunals Cases 617.
Central Administrative Tribunal, Outback Bench
(Before B.R. Patel, Vice Chair man and L.R. Acharya, Judicial
Member).

Kush Ram HARADY and others

Petitioners;

Versus

Union of India and others

Respondents

Transferred application No. 210 of 1986 arising out of O.A. No. 3088 of
1980, decided on January 30, 1987.

Regularization - Railway Board's circular issued in 1986 and 1985 -
Railway employees officiating in grade III post for over 10 months - such
employees held, entitled to regularization without appearing at a test for
that purpose - Circular of 1985, being prospecting, held not applicable -
Regularization - Railways. (Para IV)

See Chandra Pradhan vs. Union of India, (1983), 13 D.L.J. 55;
Raj Kishore vs. Union of India, (1983) 49 D.L.J. 501, 502, 503, vs. Union
of India, (1985), 55 C.I.T. 240; Civil No. 1237 of 1981, decided on 24.8.81
(), relied on.

Application allowed

1/1/87

Advocate who appeared for this case;

Chak. Datta, Advocate for the petitioners;

Ambar Mohanty, Advocate (for railway board) who appeared for the
Respondents.

The judgment of the Bench was delivered by V.R. Acharya, Judicial
Member - This case has been transferred under section 29 of the Administrative
Tribunals Act 1985 for disposal according to law.

(2) The petitioners, three in number, joined the Signal and Telecom
Department of Murda Road Division under South Eastern Railway and impoures
on that the petitioners were promoted as Telecom Inspectors Grade III, vide
Annexure 3, 4 & 5 respectively. According to the petitioners, they have

Contd.....2

(C7)

- 2 -

continuously officiated in the said promotional post for about nine years. Since their promotions were not regularised, they have made representations to the higher authorities for regularising the promotion. Higher authorities called upon the petitioners to appear at a written test. Being aggrieved by this order, the petitioners invoked the extra-ordinary jurisdiction of the Hon'ble High Court of Orissa by filing an application under Article 226 of the constitution praying therein to command the respondents that the petitioners have a right to the post in accordance with the letter issued by the Railway Board stating that no body could be deputed from the promotional post if he has worked for 18 months and such deputation is permissible provided that the procedure envisaged under the Disciplinary, Appeal and Control rules is followed for unsatisfactory work.

(3) In their counter, the respondents - opposite parties maintained that no illegality has been committed by the competent authorities in asking the petitioners to qualify themselves in the test and therefore, the impugned order should not be unsettled and the petition is liable to be dismissed.

(4) We have heard Mr. Dora, learned counsel for the petitioners and Mr. Ashok Mohanty, learned Counsel appearing for the Railway Administration at some length. In the mean while, in several other cases, we have taken a view that once a particular employee has been given promotional post and he has worked in the said post for 18 months, reversion is not permissible without a disciplinary proceeding having been initiated against the incumbent concerned for an unsatisfactory service. This view has been taken by us in several cases accepting the view of the Hon'ble High Court of Orissa laid down in several judgements in Ram Chandra Pradhan V. Union of India; S.K. Mohanty, V. Union of India and D.B. Pema V. Union of India. Incidentally it may be mentioned here that the view taken by the Hon'ble High Court of Orissa has been confirmed by the Hon'ble Supreme Court in S.L. No. 7493 of 1980 dated 24.8.1980 confirming the judgement passed by the Hon'ble Court of Orissa in the case of S.K. Mohanty V. Union of India. The fact that the Hon'ble Supreme Court has confirmed the view of the Hon'ble High Court of Orissa would appear in the judgement of the High Court of Orissa reported in the case of D.B. Pema V. Union of India. In the case disposed of by us accepting the view taken by the Hon'ble High Court of Orissa and confirmed by the Hon'ble Supreme Court, - we have also assigned reasons for rejecting the argument advanced by Mr. Ashok Mohanty, learned Counsel appearing for the Railway Administration in the judgements which we have already delivered. To repeat them succinctly, it may be stated that the circular relating to the year 1966

Contd.....3

(C2)

issued by the Railway Board has fullest application to the facts of the present case and the circular issued by the Railway Board in the year 1965 over which reliance was sought to be placed by Mr. Mohanty has no application to the facts of the present case because it can not have retrospective operation. In the cases in which judgements have already been pronounced by this Bench on this subject, we have rejected the argument advanced by Mr. Mohanty are the ground that circular of 1965 will have no application to the facts of the present case because it can have no retrospective operation and therefore we accepted the view taken by the Hon'ble High Court of Orissa. We would apply the same reasons to the present case while rejecting the same arguments of Mr. Mohanty advanced in this case. At this stage, we may also say that in one case we have already accepted the view of the Hon'ble High Court of Orissa that in view of the circular of the Board issued in the year 1966 no employee could be called upon to appear at a test also applies in full force to the facts of the present case and therefore, we would hold that the order passed by the competent authorities calling upon the petitioners to appear at a test is unsustainable, we would, therefore, quash the order of the competent authorities calling upon the petitioners to appear at the test and would further direct that the services of the petitioners in the promotional post be immediately regularized.

(5) Thus, the application stands allowed leaving the parties to bear their own costs.

(6) B.R. PATEL, Vice Chairman - I agree.

(Advance Copy to Sr.D.P.O./Lucknow)

39

To

The Divisional Railway Manager,
Northern Railway,
Lucknow.

Through Proper Channel.

Re: Non-payment of due annual Increment since 1979.

....

Sir,

Most respectfully I beg to draw your attention to your Office ~~xxxx~~ Notice No.124-E/1-6/Tool Checker dated 29.9.1980 under which the D.P.O./Lucknow had passed orders that I am due to get arrears of Salary in Grade Rs.260-400 (RS) with effect from 30.12.78 and accordingly my pay was charged @ Rs.320/- P.M. (RS).

I regret very much to state here that my due increments have not been charged in this Scale for which I am entitled to get my due increments from 1979 as I had got my last increment in 1978.

Therefore, it is requested that I may please be given my due increments in the Pay Scale of Rs.260-400 (RS) from the year 1979 upto date and the arrears may also be paid to me at an early date for which I am entitled. I may mention here that no punishment has been imposed on me for withholding of increments etc.

Yours faithfully,

Dated: 28.1.87.

Anwarul Hasan

DA/ One copy of the
Notice referred above.

(Anwarul Hasan)
Material Clerk,
Loco Shed, Lucknow.

(C10)

Rogal

जी० एल० 19/G.L. 18.
9-बडा/Class 98 Large

उत्तर रेलवे/NORTHERN RAILWAY

No. 124-¹²⁴ E/1-6/Tool checker

Divisional office
Lucknow, Dt 29.9.80

NOTICE

In terms of High Court's order dated 2.2.79, 1.3.79 and 17.1.80, Shri Anwarul Hassan already transferred as Tool checker to PBM is posted as Material clerk at the same station and he will get his arrears of salary in grade Rs 260-000 (Rs) with effect from 30.12.78 and shall continue to be paid in that grade every month untill further orders.

This supercedes the earlier order No. 124-E/1-6/Tool checker dated 12/15-3-80

Yours

Divisional Personnel Officer
N. Ray, Lucknow.

Copy for information and necessary action to:-

- (1) Local Manager Lucknow - He will draw arrears as per supp. order already issued.
- (2) Local Manager / Material Officer - He will draw arrears of salary of Rs 260-000 (Rs) in grade Rs 260-000 (Rs).
- (3) Divisional Manager, Lucknow - He will get the arrears of salary of Rs 260-000 (Rs) from the Local Manager, Lucknow.

Commission has given certain relief to applications being received after the last date from Bihar on account of strike by Railway Mail Service under those areas and since they have entertained the application beyond time, refusal to entertain the petitioner's application tantamounts to discrimination. He also contended that Union Public Service Commission has given a different date for certain other States of the Union and therefore, the date which has been fixed for other States should be kept as the only date by which the applications should have been received from all the States of Union. We have gone through the application at Annexure III of the petition. This is a letter from Union Public Service Commission to the petitioner dated 20-4-1987 rejecting his candidature on receipt of his application on 2-2-1987 instead of on 27-1-1987. In this annexure, an extract of the Employment News special supplement dated 13-12-86 has also been produced and it lays down that complete application forms must reach the Secretary Union Public Service Commission, New Delhi by post or by personal delivery at the counter on or before 27-1-87. A date 10-2-1987 has also been indicated, in the case of candidates who reside in Assam, Meghalaya and Sikkim etc. The extract also lays down that the application which are received after the prescribed date will not be considered. We are not convinced that fixing of different dates in different States in any way leads to discrimination and is against the spirit of Articles 14 and 16 of the Constitution. The petitioner had ample opportunity to send his application in times. He does not fall in the same category such as candidates belonging to other States for which different date has been fixed and as such we do not consider that he has a case for condonation of late submission of application even on same grounds as in the case of candidates who were given relaxation on account of Railway Mail Service strike.

3. In the result, we find no merit in this petition and therefore, the same is rejected at admission stage.

Petition dismissed

[UPLBEC (Tri) 140]

S. ZAHEER HASAN (V. C.) AND AJAY JOHRI (A. M.)

Registration No. 646 of 1986 (T), decided on March 24, 1987

J. B. L. Srivastava and others

Plaintiffs

Versus

Union of India

Defendants

(A) Service—Ministry of Railway's instructions containing "18 months officiating Rule"—Applicability—It is not applicable to employees officiating on promotion as a stop gap measure.

It is clear that, the plaintiffs were promoted on *ad hoc* basis as a purely temporary measure on the post of chargeman Grade 'B' on account of non-availability of direct recruits and intermediate apprentices. In view of this fact, the questions of their being called for selection which consists of a written test and *viva voce* did not arise as the vacancies against which they were officiating were either meant for direct recruits or Intermediate Apprentices. It was due to non-availability of this category of employees that the plaintiffs who are highly skilled Artisans were promoted to look after the work of the Chargeman grade 'B' on *ad hoc* basis pending their replacement by regularly recruited and selected persons according to the quotas meant for them.

[Para 4]

As far as 18 months officiating Rule is concerned, the Ministry of Railway's instructions on the subject are very clear. The protection afforded against reversion on general grounds of unsuitability of staff officiating in a higher grade or post applies to persons who are officiating on promotion after empanelment or after passing the suitability test by virtue of which they came to acquire a prescriptive right to the officiating post. This safeguard does not apply to those who are officiating on promotion as a stop gap measure and also to those cases where an employee duly selected has to be reverted after a lapse of 18 months because of cancellation of Selection Board proceedings or due to a change in the penal position consequent to the rectification of mistaken seniority. [Para 5]

The plaintiffs had been promoted only on an *ad hoc* measure. They were not duly selected and therefore the protection available under this proviso of the Railway Board's letter against which they are seeking their own protection does not apply to them and their contention on this score is not accepted. [Para 5]

(B) Service—Railway Board's letter dated 18-2-1986—Instruction contained therein—Applicability—These instructions are applicable also to general employees and not only to ST/SC employees.

Case-law.—AIR 1985 Orissa 149—Discussed.

(C) Service—Employees of Railway—Allowed to officiate on promotion post as a stop-gap measure—Continued to serve for more than 6 years and found satisfactorily working—Cannot be allowed to suffer—Necessary directions—Given.

It is true that the rules provide for holding or written test and viva before a promotion can be regularly made and since the plaintiffs have not been subjected to this selection test they cannot be considered to have been regularly promoted. [Para 6]

There is force in the defendants contention that since the petitioners have been promoted *ad hoc* against the quota meant for direct recruits and Intermediate Apprentices and therefore they have no right to continue on these posts. But on the other side those who have been working satisfactorily on *ad hoc* basis for such long time i. e. 6 to 7 years in certain cases and in the full knowledge of the defendants, it may be debatable whether there would be any purpose served to subject them to these examinations. The Railway Board's instructions on *ad hoc* appointments and formation of penals have in this case been followed in breach only. The penal should have been formed in due time to avoid such long *ad hoc* arrangement. Presently the plaintiffs have reached the field of considerations also. This has not been denied by the defendants. The very fact that they have been working for such long time and are working even at present will go to indicate that the quota system has failed. The defendants have utilized the plaintiffs to ensure that their work does not suffer in the absence of direct recruits and intermediate Apprentices needed to fill their quota. The plaintiffs thus cannot be allowed to suffer because of the failure of the quota system. [Para 6]

Ad hoc arrangement if they are continued for over 4 months period or so need approval of the higher authorities. But normally they should not be continued and regularly selected persons should be made to occupy the posts meant for them. There is also provision that rules could be relaxed and it is not the defendants' case that they have never resorted to such action. The defendants' contention that the plaintiffs cannot be continued on the posts because they are occupying the posts meant for somebody also and they are not regularly selected, will therefore under the above circumstances act harshly on the plaintiffs who have come to acquire certain aspirations after having continuously worked on the higher grade post for such a long time. [Para 7]

Continuing

[Para 8]

Therefore, those who have been officiating continuously for more than 3 years should now be considered for regular absorption as Chargeman grade 'B'. If posts are not available for them in the promotional quota and they have been continued because direct recruits and Intermediate Apprentices are not available to fill such posts they should be absorbed against the quotas meant for direct recruits and Intermediate Apprentices. The defendants should, therefore, immediately carry out an exercise to check that the plaintiffs' work has been satisfactory and regularized them against the posts without subjecting them to written examination which should have been waived under the powers available to the defendants.

[Para 8]

As regards the other plaintiffs who are not found 'long officiating' the defendants will be at liberty to subject them to the normal test or to revert them to their substantive posts but if it is decided to continue them they will also be subjected to the same treatment as other except that may be subjected to the written and viva examinations.

[Para 8]

It is left to the defendants to carry out this exercise.

[Para 8]

Case-law.—1. 1983 (2) S. L. J. 28 (Orissa) (DB) and 2. AIR 1985 Orissa 149 —Referred.

Counsel.—R. K. Nigam and H. P. Chaturvedi for the plaintiffs; P. N. Katju, Railway Counsel, for the defendants.

JUDGMENT

Ajay Johri, A. M.—Suit No. 165 of 1985 has been received on transfer from the Court of Civil Judge, Jhauasi under Section 29 of the Administrative Tribunals Act XIII of 1985. Shri B. B. L. Srivastava and 10 others are plaintiffs in this case. They were originally appointed as skilled Artisans and over the years came to hold the post of highly skilled Artisans grade I. According to the plaintiffs they were therefore screened and posted as Chargeman grade 'B' in the Pay scale of Rs. 425-700 w. e. f. various dates which are shown in Annexure-I of their petition and they have been working as Chargeman grade 'B' drawing annual increments, crossing Efficiency Bar etc. The plaintiffs have claimed that they have officiated for more than 18 months, they acquired a lien to the post and they should be given automatic employment on the basis of Railway Board's letter of 18-2-1976 which says that care should be taken to see while forming panels that employees who have been working in the posts on *ad hoc* basis quite satisfactorily are not declared unsuitable in the interview. In regard to their automatic confirmation they have relied on the Orissa High Court judgment in Code number No. 2107 of 1980 *K. C. Mohanti v. Union of India and others* preceded by a similar ruling in *D. B. Jena v. Union of India and others*, O. J. C. No. 916 of 1979. Both these cases have been reported in S. L. J. 1983 Orissa 28 and AIR 1985 Orissa (DB) 49. They have also relied on the Bombay High Court judgment in *Ramavtar Dukey v. Union of India*, petition No. 168 of 1981 and on SLP No. 2365 of 1981—*Union of India v. Ramavtar Dubey*, filed in the Supreme Court where principle of 18 months officiating has been upheld by the Hon'ble Supreme Court. According to the plaintiffs there are requisite number of vacancies available and the plaintiffs are also within the field of considerations. Plaintiffs 5 and 6 were also subjected to written tests and they or successfully cleared the same but they were sent to Zimbabwe from October 81 to September, 1984, meanwhile their juniors were promoted and the promotion of plaintiffs 5 and 6 was held in obedience purely on account of the deputation outside India. They have, thus, been deprived of their

suffer and they should be considered for promotion from the date of their promotion. The plaintiffs have claimed that they have now been placed in the seniority list of Chargeman grade 'B' and they are also due for promotion as Chargeman grade 'A'. They cannot now be reverted unless the first and Appeal Rules are followed and their promotion not being against any vacancies or for short gap measure they cannot be reverted now and cannot be subjected to any written test. According to the plaintiffs the defendants No. 2 is adamant to resile from the service conditions already determined and in spite of the ratio and the principle laid down by the various High Courts and Supreme Court judgments. They are not inviting the plaintiffs for the *viva voce* test but on the other hand they are threatening them to face reversion without any charge sheet. The defendants are, thus, abusing the administrative power and therefore the plaintiffs have prayed that the defendants be restrained from reverting the plaintiffs from their present post of Junior Chargeman in the Diesel Shed at Jhansi to any inferior post whatsoever except under disciplinary rules and they may be directed to invite the plaintiffs for *viva voce* test to confirm them.

2. The case of the defendants' is that some of the plaintiffs are working as *ad hoc* Junior Chargeman in the grade Rs. 425-700 while some are working as Diesel Mechanic Grade I in the scale Rs. 380-560 as shown in Annexure 'A' to their written statement. The plaintiffs were originally holders of the post of highly skilled Artisans grade I in the grade Rs. 380-560. They were given chance to officiate on an *ad hoc* basis against the quota meant for direct recruits and intermediate Apprentices. The drawal of the increments or crossing of the Efficiency Bar are not criteria to ascertain regular or temporary posting. The posts of Junior-Chargeman are re-filled 50% by direct recruitment 25% by Intermediate Apprentices and the balance 25% by departmental promotees holding the post of skilled Artisans. The rule of 18 months officiating does not apply to those who are officiating on purely stop gap measure and the Railway Board's letter cited by the plaintiffs is in regard to formation of panels and is not relevant to the case. It also does not give a right for automatic confirmation. The defendants have further said that whatever vacancies were there in various quotas have been filled by *ad hoc* arrangement and some of the applicants are working against these vacancies due to non-availability of direct recruits and Intermediate Apprentices. However on availability of proper incumbents *ad hoc* arrangements will stand terminated. The plaintiffs 5 and 6 who succeeded in the written test have not appeared in the *viva voce* on their own accord and preferred to go on deputation to Zimbabwe. They have been given a chance to appear in the *viva voce* test whenever a panel has been formed to Junior Chargeman against the departmental quota. As the plaintiffs are working on *ad hoc* basis they also do not have any prescriptive right to be continued until and unless they passed the selection consisting of written test and *viva voce*. According to the defendants the suit is not maintainable in this Tribunal since the plaintiff No. 2 has been absorbed in the D. C. W. Shed at Patiala besides the posts of the plaintiffs are spread over.

3. In their rejoinder the plaintiffs have given the places of their postings. They have indicated that plaintiff No. 2 is posted at Patiala, plaintiff No. 7 is posted in the R. D. S. O. at Lucknow and the plaintiffs 4 and 5 were reverted as Highly Skilled Grade I but they have been repromoted w. e. f. 4-2-1987.

4. We have heard the learned counsel for both parties. The learned counsel for the defendants had denied that the plaintiffs were duly selected for promotion as Chargeman Grade 'B'. According to the defendants they had been promoted on an *ad hoc* basis as a purely temporary measure on account of non-availability of direct recruits and Intermediate Apprentices. The plaintiffs have not been able to show any order indicating that they have been regularly selected

and empanelled and thereafter promoted against the vacancies. The contention of the learned counsel for the defendants that they were promoted on an *ad hoc* basis as a temporary measure has not been rebutted. Therefore the fact remains that the plaintiffs had been working on *ad hoc* basis and the questions of their being called for selection which consists of a written test and *viva* did not arise as the vacancies against which they were officiating were either meant for direct recruits or Intermediate Apprentices. It was due to non-availability of this category of employees that the plaintiffs who are highly skilled Artisans were promoted to take after the work of the Chageman grade 'B' on *ad hoc* basis pending their replacement by regularly recruited and selected persons according to the quotas meant for them. We therefore do not accept the contention of the plaintiffs that they have been regularly promoted.

5. As far as 18 months officiating Rule is concerned, the Ministry of Railway's instructions on the subject are very clear. The protection afforded against reversion on general grounds of unsuitability of staff officiating in a higher grade or post applies to persons who are officiating on promotion after empanelment or after passing the suitability test by virtue of which they come to acquire a prescriptive right of officiating post. This safeguard does not apply to those who are officiating on promotion as a stop gap measure and also to those cases where an employee duly selected has to be reverted after a lapse of 18 months because of cancellation of Selection Board Proceedings or due to a change in the panel position consequent to the rectification of mistaken seniority. The plaintiffs had been promoted only on an *ad hoc* measure. They were not duly selected and therefore the protection available under this proviso of the Railway Board's letter against which they are seeking their own protection does not apply to them and their contention on this score is not accepted.

6. The plaintiffs have placed their reliance on the Railway Board's letter of 18-2-1976 which says that the panels should be formed for selection posts in time to avoid *ad hoc* promotions and that while forming panels employees who have been working on the posts on *ad hoc* basis quite satisfactorily are not declared unsuitable in the interview and they should be saved from harassment. The Board had desired that these instructions should be issued to all concerned for strict compliance of the decisions particularly in regard to SC/ST persons. The defendants have repelled the application of the guidelines laid down in the Board's letter on the plea that they were meant for SC/ST persons and they were not for general applications. The Board's instructions were for strict compliance. They have further clarified that these instructions should be particularly followed in regard to SC/ST persons. We cannot agree to the contention of the defendants that these instructions will only apply to the reserved community candidates. Reliance has been placed by the defendants in *K. C. Mohanty v. Union of India and others*, AIR 1985 Orissa 149 a judgment of the Division Bench of the Orissa High Court delivered on 31-1-1985. In this case the petitioner was appointed as Assistant Station Master in 1962. In 1971 he was promoted as Assistant Transport Inspector. There were three opposite parties in this case also. The next higher promotional posts for them were the post of junior D. T. I/T. I Grade III. Being senior to opposite parties the petitioner was promoted on *ad hoc* basis in 1977. In 1979 the Union of India decided to hold a written examination and a *viva* to draw up a panel of 4 staff, 3 unreserved and one SC for regular promotion. The petitioner was not included in the panel though he had reached the field of consideration and had worked satisfactorily in the promotional post for more than 3 years. The Hon'ble High Court of Orissa held that the *viva voce* test to which the petitioner was called should have been taken strictly in accordance with the instructions issued by the Railway Board in 1976. These instructions were not meant to be observed in their violation. Therefore it was held that the petitioner was entitled to be empanelled from 1980 the date on which the

have no right to continue on these posts. There is a lot of force in what the defendants say. But on the other side those who have been working satisfactorily on *ad hoc* basis for such long time i. e. 6 and 7 years in certain cases and in the full knowledge of the defendants, it may be debatable whether there would be any purpose served to subject them to these examinations. The Railway Board's instruction on *ad hoc* appointments and formation of panels have in this case been followed in breach only. The panel should have been formed in due time to avoid such long *ad hoc* arrangement. Presently the plaintiffs have reached the field of considerations also. This has not been denied by the defendants. The very fact that they have been working for such long time and are working even at present will go to indicate that the quota system has failed. The defendants have utilized the plaintiffs to ensure that their work does not suffer in the absence of direct recruits and intermediate apprentices needed to fill their quota. The plaintiffs thus cannot be allowed to suffer because of the failure of the quota system.

7. The plaintiffs have relied on another judgment of the Hon'ble Orissa High Court *D. B. Jena v. Union of India*, [SLJ 1983 (2) 28] wherein the Hon'ble High Court had applied the 18 months protection rule even to the case of the *ad hoc* promotees who continued to officiate as a stop gap arrangement for more than six years, who draw seven increments and who had no adverse remarks during the period and who were found fit to cross Efficiency Bar. Para 8 of this judgment is reproduced below :—

“Further, in *Ram Chandra Pradhan and others v. Union of India and others*, 42 (1980) CLT 266 B. Jagannath Rao and another v. Union of India and another, OJC No. 1721 of 1978-D/17-3-1982 and *Harihar Samantra and another v. Union of India and others*, OJC No. 125 of 1978-D/17-3-1982 the protection of the 18 months rule, as contained in Annexure-5, was made available to the petitioners who had continued to hold the promotional posts for more than eighteen months. In view of the Bench decisions of this Court referred to above, the Patna decision reported in *P. N. Sinha v. Union of India and others*, must be held to be confined to its own facts. In the present case, the petitioner has been allowed to serve in the promotional post for more than six years and during this period there has been no adverse remarks against him. On the contrary, he has received about seven increments and has also been found fit to cross the Efficiency Bar. Therefore, the appointment of the petitioner as Health Inspector, Grade III, though initially stated to be stop gap, cannot be taken to be a stop-gap-arrangement in view of the petitioner's continued service for more than six years. The petitioner must be held to be entitled to the protection of the 18 months rule contained in Annexure-5.

The Hon'ble Supreme Court in *Narendra Chadha and others v. Union of India and others*, AIR 1986-57 have made the following observations :

“.....The appointments are made in the name of the President by the competent authority. They have been continuously holding these posts. They are being paid all along the salary and allowances payable to incumbents of such posts. They have not been asked to go back to the posts from which they were promoted at any time since the dates of their appointment. The orders of promotion issued in cases show that they are promoted in the direct line of their promotion. It is expressly admitted that the petitioners have been allowed to hold posts included in Grade IV of the aforesaid

opposite parties 3 and 4 were empanelled. The plaintiffs have been promoted on different dates. According to the defendants as shown in Annexure-'A' of their written statement the position is as follows :—

Shri J. B. L. Srivastava	:	7-6-1979
" Rishipal Singh	:	6-10-1980
" S. K. Goswami	:	1-2-1983
" Babu Lal Beranlal Solanki (SC)	:	27-3-1980
" Devendra Kumar Rajput	:	18-2-1983
" Ran Narain Sharma	:	23-10-1963*
" Dashrath Dass	:	20-4-1983
" Sohanlal Srivastava	:	2-5-1983
" J. Balasubramanian	:	23-10-1984
" Harish Chand Gupta	:	14-6-1984
" Ram Prasad Thakur (ST)	:	28-2-1984

This case was instituted by the plaintiffs in 1985. From the dates indicated above it will be seen that except for item 1 who has officiated from 1979, in items 2 and 4 who have officiated from 1980, and in item 6 where date of officiation as claimed by the plaintiff is 1977 but as shown by the defendants is 1963, the others have officiated only for a very short period and have not been even completed 18 months of officiating on the date of institution of the suit as alleged by them while seeking protection against the 18 months rule. In their rejoinder submitted on 8-3-1987 the plaintiffs have shown that except for H. C. Gupta and J. Balasubramanian the others are continuing to work as Chairman grade 'B' without any break. These facts have not been controverted by the learned counsel for the defendants and therefore except for plaintiffs 4 and 5 who have been promoted from 4-2-1987 the others have continued to work for a periods of over 4 years and more. They have continued to work not on account of any Court injunction but by proper authorization by the defendants who had perfect liberty to revert them as they were *ad hoc* promotees only. The very fact that the defendants have not chosen to revert the plaintiffs except plaintiffs 4 and 5 to their substantive post of highly skilled fitter grade I would indicate that their working has been satisfactory, that there was still shortage of qualified persons against the direct recruitment and Intermediate Apprentices quota and that the plaintiffs have been able to meet the requirements of the posts of Chageman grade 'B' to the satisfaction of the defendants. We therefore feel that under the circumstances the ratio of the judgment of the Hon'ble High Court of Orissa cited above could apply equally well in the case of the plaintiffs. In this case the petitioners have worked for long periods in the promotional post and their work has not been found unsatisfactory. However one thing is very clear, the plaintiffs were promoted on a temporary *ad hoc* basis. It is another matter that this arrangement continued for such a long time. The plaintiffs have not been also to show any documents to indicate that they were duly selected before their *ad hoc* promotion. The defendants have argued that rules provided for holding of written test and viva before a promotion can be regularly made and since the plaintiffs have not been subjected to this selection test they cannot be considered to have been regularly promoted. The defendants have gone on to stress that the plaintiffs will have to be subjected to this process and this will be done only when vacancies are available in the promotee quota. They have been promoted *ad hoc* against the quota meant for direct recruits and intermediate Apprentices and therefore they

services, though on an *ad hoc* basis. (See para 21 of the counter-affidavit filed by Shri P. G. Lala, Deputy Secretary, Department of Personnel and Administrative Reforms). It is, therefore, idle to contend that the petitioners are not holding the posts in Grade IV of the two Services in question. It is significant that neither the Government has issued order of reversion to their former posts nor has anybody so far questioned the right of the petitioners to continue in the posts which they are now holding. It would be unjust to hold at this distance of time that on the facts and in the circumstances of this case the petitioners are not holding the posts in Grade IV. The above contention is therefore without substance. But we, however, make it clear that it is not our view that whenever a person is appointed in a post without following the Rules prescribed for appointment to that post, he should be treated as a person regularly appointed to that post. Such a person may be reverted from that post. But in a case of the kind before us where persons have been allowed to function in higher posts for 15 to 20 years with due deliberation it would be certainly unjust to hold that they have no sort of claim to such posts and could be reverted unceremoniously or treated as persons not belonging to the Service at all, particularly where the Government is endowed with the power to relax the Rules to avoid unjust results. In the instant case the Government has also not expressed its willingness to continue them in the said posts....."

The plaintiffs' case has already been discussed above. They were promoted *ad hoc* without being subjected to any selection and they continued to work not by any order of any Court but in the knowledge and by the sweet will of the defendants who found themselves unable to make alternative arrangements in time. The Hon'ble Supreme Court's observation that "it is not our view that whenever a person is appointed in a post without following the rules prescribed for appointment to that post he should be treated as a person regularly appointed in that post. Such a person may be reverted from that post" cannot be lost sight of. The plaintiffs could be reverted by the defendants and we again reiterate that we are not advocating that they should be regularized though they have not been regularly selected but in the case of the plaintiffs they have been allowed to function in the higher posts for long time and some of them also been promoted as Assistant Loco Foreman. In *Narenjar Chadha's* case the plaintiffs had functioned in the higher post for 15 to 20 years and the Hon'ble Supreme Court observed that "it would be certainly unjust to hold that they have no sort of claim for such posts". In the case of the plaintiffs some of them have worked for over six years. We consider it to be a sufficiently long period. *Ad hoc* arrangements if they are continued for over 4 months period or so need approval of the higher authorities. But normally they should not be continued and regularly selected persons should be made to occupy the posts meant for them. There is also provision that rules could be relaxed and it is not the defendants' case that they have never resorted to such action. The defendants' contention that the plaintiffs cannot be continued on the posts because they are occupying the posts meant for somebody else and they are not regularly selected, will therefore under the above circumstances act harshly on the plaintiffs who have now come to acquire certain aspirations after having continuously worked on the higher grade post for such a long time.

8. We also found that all the plaintiffs are not on similar footing. Some were reverted and were promoted in 1987. Some were promoted in 1984. Some others were promoted from a much earlier date. Thus not all of them have been able to qualify themselves for "long officiating." We consider that those who

have been officiating continuously for more than 3 years should now be considered for regular absorption as Chargeman Grade 'B'. If posts are not available for them in the promotional quota and they have been continued because direct recruits and Intermediate Apprentices are not available to fill such posts they should be absorbed against the quotas meant for direct recruits and Intermediate Apprentices. The defendants should therefore immediately carry out an exercise to check that the plaintiffs' work has been satisfactory and regularized them against the posts without subjecting them to written examination which should have been waived under the powers available to the defendants but which we are waiving at this stage on account of the long officiating of some of the plaintiffs. For others who do not qualify for "long officiating" the defendants will be at liberty to subject them to the normal test or to revert them to their substantive posts but if it is decided to continue them they will also be subjected to the same treatment as others except that they may be subjected to the written and viva examinations. We leave it to the defendants to carry out this exercise.

9. We dispose of this petition accordingly in terms of the considerations that have found favour with us and that we have observed in the paras supra. Parties will bear their own costs.

Decided accordingly.

[1987 UPLBEC (Tri) 148]

S. ZAHEER HASAN (V. C.) AND AJAY JOHRI (A. M.)

Registration (O. A.) No. 81 of 1987, decided on September 16, 1987

Sangam Lal

Applicant

Versus

Union of India and others

Respondents

Service—Promotion—Denied on ground of adverse entry—Entire record show that applicant was not informed about that adverse entry prior to date of promotion—In this view of the fact, direction given for reconsideration of promotion—However, adverse entry not quashed—Applicant advised to seek departmental redressal against adverse entry. [Paras 4 to 8]

Case law—Referred in the judgment.

Counsel—Dr. R. G. Padia and K. K. Misra for the applicant ; Shekher Srivastava for the respondents.

JUDGMENT.

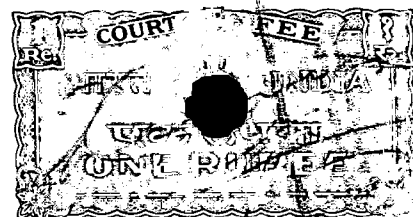
Ajay Johri, (A.M.).—This is an application under Section 19 of the Administrative Tribunals Act XIII of 1985. By this application the applicant has challenged the orders dated 13-6-1986 and 1-9-86 passed by the Senior Divisional Personnel

020

... Northern Railway, Allahabad, according to which respondent No. 4 has been promoted as Chief TXR ignoring the applicant, who is senior to him. The applicant is working as Head TXR having been promoted to that post on 13-6-1986. As a result of restructuring of the cadre of Train Examiners new posts were created and for reasons not known to the applicant respondent No. 4, who is junior to the applicant, was promoted as Chief TXR by an order dated 1-9-1986. The applicant's case is that he made several representations but he was informed on 1-9-1986 that his representations have been dismissed and that he could not be promoted on account of the fact that his confidential reports are not proper. According to the applicant the award of adverse entry in his confidential report in the year 1984-85 was illegal as no reasonable opportunity has been given to him to file his representation against the same and since adverse entries cannot be considered and the promotion on their basis cannot be decided unless they have been communicated to the employee concerned and his representation has been considered. The denial of promotion to him was unreasonable and unfair and violative of Articles 14, 16 and 311 of the Constitution of India. According to the applicant the adverse entry for the year 1984-85 was communicated to him only on 19-1-1987, i.e. after about a period of two years but in the meantime his promotion has been denied. He has, therefore sought relief that the entry in respect of 1984-85 report be quashed and the respondents be directed not to take any steps in pursuance of the same against the applicant and he has also prayed for quashing of the order of his representation dated 1-9-1986 as well as the original order dated 13-6-1986 promoting respondent No. 4.

2. The Government respondents' case is that the applicant even when he was a TXR was awarded punishment in 1982, thereafter when he was promoted as Head TXR he was awarded two punishments in 1985 and the third punishment also in 1985 withholding his increments for six months with effect from 1-1-1986. According to the Government respondents, respondent No. 4, Basant Lal, though, junior to the applicant was promoted only on *ad hoc* basis and in a purely temporary arrangement because the confidential report of the applicant was not satisfactory which was an essential requirement for promotion and also because the applicant was undergoing punishment for withholding increments from 1-1-1986 to 30-6-1986. According to the Government respondents the applicant was advised that the order dated 1-9-1986 rejecting his representation was perfectly legal and valid and since the applicant was intimated regarding his adverse confidential report for the year, 1984-85 by a letter dated 16-6-1986 and he did not prefer any representation or appeal against the adverse remarks, he thus acquiesced to the adverse report submitted against him and since the adverse remarks were duly communicated, his promotion was rightly withheld. They have further said that during the year 1984-85 the applicant was served with three charge-sheets for his inefficient supervision and negligence. In

(C21)



APPLICATION FOR INSPECTION

To,
The Deputy Registrar,
High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Please allow inspection of the paper passed below. The application is urgent/
ordinary. The applicant is ~~not~~ a party to the case.

Full Description of case	Whether case pending or decided	Full particulars papers of which Inspection is required	Name of person who will inspect record	If applicant is not a party reason for inspection.	Office report and order
with P. 26 in no 256 of 79 Bharat Singh vs. ... D. ...		Full	Office Report Order for Inspection Deputy Registrar Date

Date 12/6/78

Signature of applicant or his Advocate

Inspection commenced at

19

Inspection concluded at

Inspection fee paid by the applicant

Additional fee if any

Name turned up.
Inspection has not been made.

20/2/05
at 3-30/06

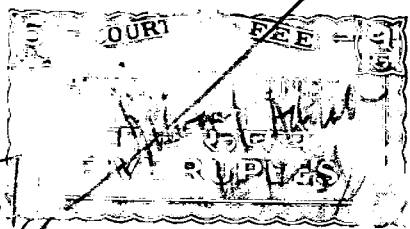
N.R. 301

VAKALATNAMA

G.V.B.

Before

In the Court of

In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench, LucknowPlaintiff
DefendantAnwarul Hasan
Material Clerk
VersusClaimant
Appellant
PetitionerDefendant
Plaintiff

Union of India

Respondent

The President of India do hereby appoint and authorise Shri. L.R. Acharya

Senior Advocate, S.P. Swaroop, Advocate, 4 South Avenue, LKO

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

The President hereby agrees to ratify all acts done by the aforesaid Shri. L.R. Acharya Senior Advocate, S.P. Swaroop, Advocate..... in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the..... day of 19 ..

Dated.....197 ..

Accepted
S.P. Swaroop
16/2/81

Designation of the Executing Officer

R.P.P. Delhi-19/9-1/153-7500 F

R.P.P. Delhi-19/9-1/153-7500 F

Note: Sri L.R. Acharya, Senior Advocate will appear in this case on behalf of opposite parties.

अवकाश, कायालय
बनौ दिल्ली

In the Honble High Court of Judicature
at Allahabad Lucknow.
Bench Lucknow.

w.p. No. 256 of 79
listed on 18.10.83.

In the above noted w.p. 12 notices,
Three envelopes with Postal Stamps
worth Rs. 5/- each are filed
herewith. Duplicate of w.p. and
c.m. application is already in
record. It is with in time as
per orders of the Court dated 18-10-83.

Atish Nigam

Adv.

Counsel for Petitioner

18/10/83
19

(८५)

हाईकोर्ट इलाहाबाद, लखनऊ बेंच, लखनऊ

7781

(अध्याय १२, नियम १ और ७)

दीवानी विभाग

प्रकीर्णक (मृतफरिंक) प्रार्थना - पत्र संख्या सन १९ ई०

W.P. सं० 256 779 ई० में

Anwarul Hasan

प्रार्थी

Union of India ^{प्रति} others

प्रत्यार्थी

Shri Jagat Narain Sinha Matrimonial Clerk

Through Loco Running shed, N. Rly. Lucknow

Divisional Railway Manager

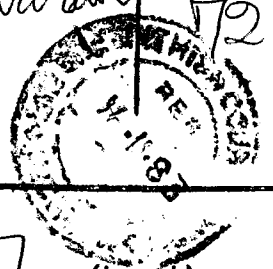
Northern Railway D.R.M. Office, Hazratganj ^{प्रत्यार्थी} Lucknow

1468

R. P.-51 (a)

Stamps affixed except in case of unusu-Rs. P. red letters of not more than the initial Date-Stamp weight prescribed in the Post and Telegraph Guide on which no acknowledgment is due.

Received a V. P. Registered* addressed to Jagat Narain



S. nature of Receiving Officer

Insured for Rs. (in figures)

57

(in words)

Insurance fee Rs. P.

weight rates (in words) grams

में उपर्युक्त मुकदमें के सम्बन्ध में

के लिये प्रार्थना-पत्र

दिनांक 9 माह 12 सन १९८३

कि प्रार्थना-पत्र क्यों न स्वीकार कर

बाद नियमानुसार विज्ञप्ति किसी ओर

या उससे पहले स्वयं अथवा किसी से कार्य करने के लिए कानूनन अधिकृत

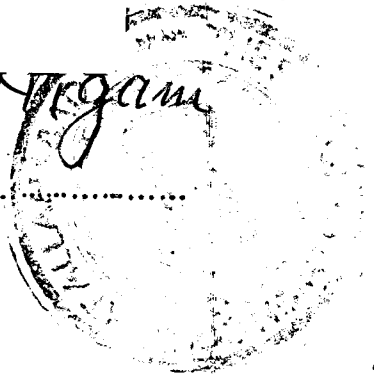
नवाई और निर्णय आपकी अनुपस्थित

दिनांक 21 माह 10 सन ८३

Ashok Nigam

के वकील

तिथि



दिष्टी रजिस्टार

इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १९५२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त तलबाना मिल गया।

तलबाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

(257)

7281

हाईकोर्ट इलाहाबाद, लखनऊ बेंच, लखनऊ
(अध्याय १२, नियम १ और ७)

दीवानी विभाग

प्रकीर्णांक (मुतफरिफ) प्रार्थना-पत्र संख्या 701 (W) 1979 सन १६ ई०

W.R. 256 1779 सन १६ ई० में

— Anwarul Hasam — प्राथी

— Union of India at Allah — प्रत्याथी

Shri Jagat Narain Sinha, Material Clerk
Through Jeeo Running Sherd N. Rly. Lucknow
Divisional Railway Manager, Northern Rly,
D.R.M. Office, Hazratganj, Lucknow. प्रत्याथी

चूंकि ऊपर लिखे प्राथी ने इस न्यायालय में उपयुक्त मुकदमें के सम्बन्ध में

के नाम केलिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक 4 माह 12 सन १६83 को या उससे पूर्व उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति किशो और दिन होगी।

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

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 2 माह 10 सन १६83 को जारी किया गया।

Shri Ashok Mishra के एडवोकेट

तिथि 10/10/83

डिप्टी रजिस्ट्रार-
इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १६५२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त तलवाना मिल गया।

तलवाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

(c2b) 7285

हाईकोर्ट इलाहाबाद, लखनऊ बेंच, लखनऊ
(अध्याय १२, नियम १ और ७)

दीवानी विभाग

प्रकीर्णक (मुतफरिफ) प्रार्थना-पत्र संख्या सन १६ ई०
..... 256 879 सन १६ ई० में

— Anwarul Hasan — प्राथी

— Union of India & Others — प्रत्याथी

Shri Ram Arrey - T. No. 781, Boiler Maker
2000 Running Shed, N. Rly, Alambagh
Divisional Railway Manager, Northern Railway
D. R. M. office, Hazratganj, Lucknow.

1467 Stamps affix
red letters of
weight prescribed in
Guide on which no
Received a V. P. Registered
addressed to Ram f

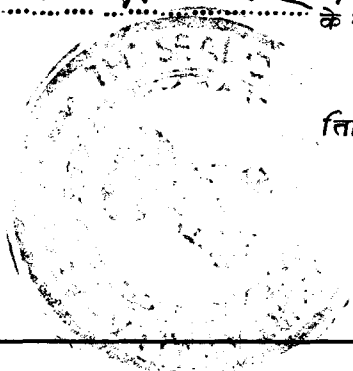
Signature of Receiving Officer

Insured for Rs. (in figures)

Insurance fee Rs. P.

No. ने इस न्यायालय में उपयुक्त मुकदमें के सम्बन्ध में
Name and address of Sender के नाम के लिये प्रार्थना-पत्र
Amount जाता है कि आप दिनांक 9 माह 12 सन १६ 83
र कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर
No., Name, issue and M. O. की सुनवाई उसके बाद नियमानुसार विज्ञप्ति किशो और
that the ed und
initials of लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी
examin of any आपकी ओर से कार्य करने के लिए कानूनन अधिकृत
issued प्रार्थना-पत्र की सुनवाई और निर्णय आपकी अनुपस्थित

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 26 माह 10 सन १६ 83
को जारी किया गया
Sh. Ashok Nigam के रजिस्ट्रार



तिथि 18/10/83

डिप्टी रजिस्ट्रार
इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १६५२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त
तलवना मिल गया।

तलवना प्राप्त करने वाले क्लर्क के हस्ताक्षर

हाईकोर्ट इलाहाबाद, लखनऊ बेंच, लखनऊ
(अध्याय १२, नियम १ और ७)

दीवानी विभाग

प्रकीर्णक (मुतफर्रिक) प्रार्थना - पत्र संख्या 701 (LW) 1979 सन १६ ई०

..... 256 779 ' ई० में

— Awwamul Hasan — प्राथी

— Union of India & others — प्रत्याथी

Shri Ram Arrey T. No. 701, Boiler Maker
Loco Running Shed, N. Rly. Harnambagh
Divisional Railway Manager Northern Railway
D.R.M. Office, Hazratganj Lucknow

चूंकि ऊपर लिखे प्राथी ने इस न्यायालय में उपयुक्त मुकदमें के सम्बन्ध में

..... के नाम केलिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक 7 माह 12 सन १६०3 को या उससे पूर्व उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति किशी और दिन होगी।

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

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 26 माह 10 सन १६०3 को जारी किया गया।

Sh. Ashok Nigam
..... के एडवोकेट

तिथि 18/10/03



डिप्टी रजिस्ट्रार
इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १६५२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त तलवाना मिल गया।

तलवाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

(027)

7273

हाईकोर्ट इलाहाबाद, लखनऊ बेंच, लखनऊ

(अध्याय १२, नियम १ और ७)

दीवानी बिभाग

प्रकीर्णक (मृतफरिंक) प्रार्थना - पत्र संख्या सन १९ ई०

..... W.P. 256 of 1983 सन १९ ई० में

Anwarul Hasan

प्रार्थी

Union of India vs. Others

प्रत्यार्थी

Shri Mustafa Khan, T. No. 713, Border Market,
Doo Running Shd., N. Rly., Alambagh,
Ducknow.
Deputy Manager, N. Rly.,
Ducknow.
M. Office, Hazratganj,
Ducknow.

1466

weigh
Guide

Received a V.
addressed to

No.

Name and full
address of
Sender.

प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमें के सम्बन्ध में
..... के नाम के लिये प्रार्थना-पत्र

Amount to be दिया जाता है कि आप दिनांक 9 माह 12 सन १९८३

No., Name of the होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर
issue and date M. O. issued प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति किसी और
that the article ed undelivered

Initials of post
examination
of any reference
issued

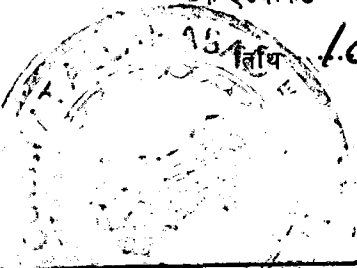
पर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी
....., जो आपकी ओर से कार्य करने के लिए कानूनन अधिकृत
हो उनका मत न हूँ तो उस प्रार्थना-पत्र की सुनवाई और निर्णय आपकी अनुपस्थिति
में हो जायेंगे।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 26 माह 12 सन १९८३

को जारी किया गया।

Sh. Ashok Nigam

के एडवोकेट



1.07.14.83

डिप्टी रजिस्टार

इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १९८३ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त
तलबाना मिल गया।

तलबाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

हाईकोर्ट इलाहाबाद, लखनऊ बेंच, लखनऊ

(अध्याय १२, नियम १ और ७)

दीवानी विभाग

प्रकीर्णांक

(मृतफरिफ)

प्रार्थना - पत्र संख्या

70/10/79

सन १९

ई०

सं०

सन

१९

ई० में

Amrinder Singh

प्रार्थी

Union of India

प्रति

प्रत्यार्थी

The Union of India, P.O. No. 113, Delhi

Deo Prising Singh, P.O. No. 113, Delhi

Deo Prising Singh, P.O. No. 113, Delhi

Deo Prising Singh, P.O. No. 113, Delhi

प्रत्यार्थी

Deo Prising Singh

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

के नाम

के लिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक 9 माह 12 सन 1983

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

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

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 24 माह 10 सन 1983 को जारी किया गया।

के एडवोकेट



10/10/83

डिप्टी रजिस्ट्रार

इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १९५२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त तलबाना मिल गया।

तलबाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

(C29)
1924

हाईकोर्ट इलाहाबाद, लखनऊ बेंच, लखनऊ

(अध्याय १२, नियम १ और ७)

दीवानी विभाग

प्रकीर्णक (मृतफरिफ) प्रार्थना - पत्र संख्या सन १९ ई०

..... १० स० २५.६ सुन ७१९ ई० में

..... Amrullah Hasan प्रार्थी

..... Union of India & Others प्रति प्रत्यार्थी

..... British India Assurance Co. Ltd., 701, Boiler Maker
2000 Running Shed, N. Ry. Alambayli
Lucknow
D.R.M. Officer, Manager, Northern Railway
Lucknow प्रत्यार्थी

चूँकि ऊपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमें के सम्बन्ध में
..... के नाम के लिये प्रार्थना-पत्र
दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक १ माह १२ सन १९८३
को या उससे पूर्व उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर
लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति किसी और
दिन होगी।

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

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक २६ माह १० सन १९८३
को जारी किया गया।

Ashok Nigam
..... के एडवोकेट

तिथि १७/११/८३

डिप्टी रजिस्टार
इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १९५२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त
तलबाना मिल गया।

तलबाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

Registered

7779

R-1466-76

Shri Mustafa Khan

Ticket No. 713

W. P. 256-79

Boiler water, ~~used for~~
Rimming ~~Sheet~~

New Machine

Relining Alambagh

ducken

9-12

Delius and

Relining Alambagh

2nd floor

Hydrogen

ducken



हाईकोर्ट इलाहाबाद, लखनऊ बेंच, लखनऊ

(अध्याय १२, नियम १ और ७)

दीवानी विभाग

प्रकीर्णक

(मृतफरिफ)

प्रार्थना - पत्र संख्या

701 (65) 1975 ई०

सं०

सन १९

ई० में

Amrinder Hans

प्रार्थी

प्रति

प्रत्यार्थी

प्रत्यार्थी

चूँकि ऊपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमें के सम्बन्ध में
के नाम के लिये प्रार्थना-पत्र
दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक 9/12/75 माह 12 सन १९ 83
को या उससे पूर्व उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर
लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति किसी और
दिन होगी।

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

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 26/10/75 माह 10 सन १९ 83
को जारी किया गया।

के एडवोकेट

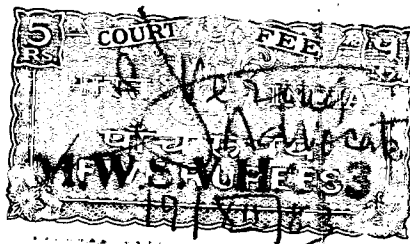
तिथि

डिप्टी रजिस्ट्रार

इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १९५२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त
तलबाना मिल गया।

तलबाना प्राप्त करने वाले क्लर्क के हस्ताक्षर



(C31)

9/12

In the Hon'ble High Court of Judicature at Allahabad
व. अदालत की अदालत हाइकोर्ट
(Circuit Bench) Circuit Bench.

Anwarul Hasan

वक्ता

~~अपीलकर्ता~~ Petitioner

~~अपीलकर्ता~~

Union of Indira & others

Opp. Parties

Writ Petition

सं. 256

दि. 19/12/83

दि. 19/12/83

अब अदालत में आवी और से श्री Siddharth Verma, Advocate.

एकदो/वकील महोदय को अपना वकील नियुक्त करने के लिये कहता हूँ और लिखे देता हूँ कि अदालत में वकील महोदय स्वयं अपना मुख्य वकील बनकर जो कुछ पैरवी व व्यवसाय देही व प्रस्तावित करे या कोई कामकाज वांछित करें या लौटा दें या हमारी ओर से लिखें वारदात करा दें और स्वयं दसूत करें या मुहल्लाना या हज्जत दावा तथा अमीन व निगरानी हमारी ओर से करावे या उनके हस्ताक्षर से वांछित करें और न्यायिक रक या मुकदमा उठावें या कोई स्वयं दावा करें या हमारी विषयी किसी भी कामकाज में वांछित बात हुआ अपना मोहोदा हमारे हस्ताक्षर मुक्त दिवस तक जारी रखें कि वह वांछित बातें वकील महोदय द्वारा जो कई वह जो आवश्यकता होगी सर्वथा स्वीकार है और होनी इसलिये यह कानूननमत मिले बिना कि प्रमाण रहे और समय पर काम आये

SEATER Union of Indira through
Sema

अपीलकर्ता अपीलकर्ता
विरोधी विरोधी
दि. 19/12/83

ACCEPTED

Siddharth

(SIDDHARTH VERMA)
ADVOCATE

9/12/83

11/2
24/1/84

(33)

7279

हाईकोर्ट इलाहाबाद, लखनऊ बेंच, लखनऊ

(अध्याय १२, नियम १ और ७)

दीवानी विभाग

प्रकीर्णक (मृतफरिंक) प्रार्थना - पत्र संख्या सन १९ ई०

W.P. 256 of 79

सं. सन १९ ई० में

Amirul Hasan

प्रार्थी

Union of India & Others

प्रत्यार्थी

Sh. Mustafa Khan, T. No 713, Boiler Maker,

1000 Running Shed, N. Ry. Alambagh

Prayagrah

Divisional Railway Manager, N. Ry.

D.R.M. Office, Huzratgaj

Ducknow.

प्रत्यार्थी

चूंकि ऊपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमें के सम्बन्ध में के नाम के लिये प्रार्थना-पत्र दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक ९ माह १२ सन १९८३ को या उससे पूर्व उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय । उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति किसी और दिन होगी ।

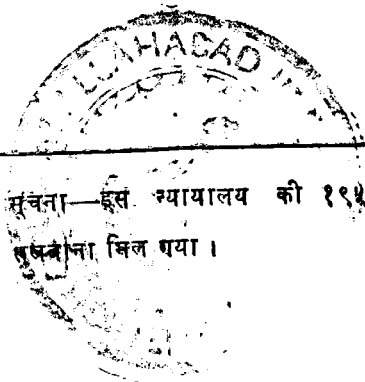
विदित हो कि आप ऊपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी एडवोकेट या ऐसे व्यक्ति द्वारा, जो आपकी ओर से कार्य करने के लिए कानूनन अधिकृत हो उपस्थित न होंगे तो उस प्रार्थना-पत्र की सुनवाई और निर्णय आपकी अनुपस्थिति में हो जायेंगे ।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक २६ माह १० सन १९८३ को जारी किया गया ।

Sh. Ashok Migam

के एडवोकेट

तिथि 10/10/83



डिप्टी रजिस्ट्रार
इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १९५२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त प्रार्थना मिल गया ।

तलबाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

८३३

7279

हाईकोर्ट इलाहाबाद, लखनऊ बेंच, लखनऊ

(अध्याय १२, नियम १ और ७)

दीवानी विभाग

प्रकीर्णक (मृतफरिफ) प्रार्थना - पत्र संख्या 201 (15) 29 ई. सन १९८३

सं. ३९६ ३७७ ई. सन १९८३

..... प्रार्थी

..... प्रति

..... प्रत्यार्थी

.....

..... प्रत्यार्थी

चूँकि ऊपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त सुकदमें के सम्बन्ध में के नाम के लिये प्रार्थना-पत्र दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक ७ माह १२ सन १९८३ को या उससे पूर्व उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय । उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार बिज्ञप्ति किसी और दिन होगी ।

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

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 26 माह 10 सन १९८३ को जारी किया गया ।

..... एडवोकेट



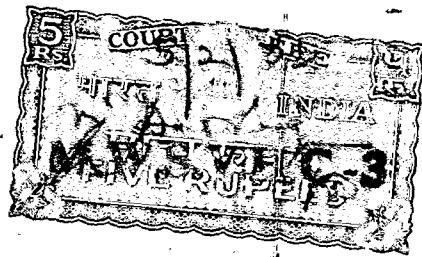
डिप्टी रजिस्टार
इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १९८३ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त तलबाना मिल गया ।

तलबाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench, Lucknow. (C32)

Writ Petition No. 256 of 1979.



Rs 5/-
9/2/85

Anwarul Hasan

- Petitioner

Union of India & ors

vs

- Opp. Parties

Application for condonation of delay
in filing process

The petitioner begs to submit as under:

1/ That the process was filed earlier for service upon the opposite parties.

2/ That it has been reported that Opp. Parties 3 and 5 have avoided to take the delivery of the registered notices. In view of this report, the petitioner is filing fresh Registered envelopes and notices for service upon OPs 3 & 5. Duplicates are already on the record.

3/ That steps could not be taken earlier due to rush of work and delay in filing the process is liable to be condoned.

P R A Y E R

It is, therefore, most respectfully prayed that the delay in filing the process for service upon OPs 3 & 5 may kindly be condoned and process be accepted.

Dt. 5/2/85.

Abdur Nigam

Advocate
Counsel for Petitioner.

(C35)

N
903
16-2-85

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ
(अध्याय १२, नियम १ और ७)

दीवानी विभाग

प्रकीर्णक (भुतफरिंक) प्रार्थना-पत्र संख्या सन १९८०

..... 256 सन १९७९ ई० में

..... प्राथी

..... प्रति
..... प्रत्याथी

..... 2nd Law Agent 7, no 751, Bile Mark

..... 4th Law Agent N. K. K. Alam Singh

..... प्रत्याथी

चूंकि ऊपर लिखे प्राथी ने इस न्यायालय में उपयुक्त मुकदमें के सम्बन्ध में

..... के नाम केलिये प्रार्थना-पत्र

हैं कि आप दिनांक 1 माह 6 सन १९८०

No.
Name and full
address of
sender

ण बतलाये कि प्रार्थना-पत्र क्यों न स्वीकार का
मवाई उसके बाद नियमानुसार विज्ञप्ति किशो ओर

Amount to be remitted to
No. of the office of
of V. P.
or a note
is return-
ed uncovered.

दिनांक पर या उससे पहले स्वयं अथवा किसी
माफकी ओर से कार्य करने के लिए कानूनन अधिकृत
प्राप्य की सुनवाई और निर्णय आपकी अनुपस्थित

Initials of the master after we
examination or No. and
of any reference or remin
issued.

मोहर से आज दिनांक 12 माह 2 सन १९८०

Ashok K. Singh
A.C.L.

तिथि

Ru. 29
बिप्टी रजिस्ट्रार
इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १९५९ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त
लखनऊ मिल गया।

लखनऊ प्राप्त करने वाले कलक के हुस्ताहर

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

(अध्याय १२, नियम १ और ७)

दीर्घ नी विभाग

प्रकीर्णांक (भूतकर्मिक) प्रार्थना - पत्र संख्या..... सन १९ ई० .

.....सि० सन १९७० में

प्राची

प्रति

प्रस्थायो

प्रत्याथी

चूंकि ऊपर लिखे प्राप्ति ने इस न्यायालय में उपयुक्त सुकदमें के सम्बन्ध में

.....के नाम कहिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक १६/०५/२०२० तक या उससे पूर्व उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार का किया जाय। उक्त प्रार्थना-पत्र की सूत्राई उसके बाद नियमानुसार विज्ञप्ति किशो और दिन होगी।

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

मैंने हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 12 माह 2 सन 1881 को जारी किया गया।

के सङ्कोक

सिद्धि

छिप्टी - रजिस्ट्रार

इकाहानाद/कथनक

सुचना—इस न्यायालय की १९५२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त आवेदन मिल गया।

मलबाना प्राप्त करने वाले कलक के हस्ताक्षर

(८३९)

N
१०५

16-2-85

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ .

(अध्याय १२, नियम १ और ७)

होवानो विभाग

प्रकीर्णक (मुनफारिक) प्रार्थना - पत्र संख्या सन १९ ई०

..... स० सन १९ ई० में

..... प्राची

..... प्रति प्रत्याची

.....

.....

..... प्रत्याची

Insurance for Rs. P. (in words) grams

R.P-51 (a)

No. 1607 Stamps affixed except in case of unisu-Rs. P. red letters of not more than the initial weight not affixed in the Posts and Telegraphs Stamp Guide on which no acknowledgment is due. Date

Received a V. P. registered addressed to Sni M. K. Khan

Luxknow

१०५.

Signature of Receiving Officer

Insured for Rs. (in figures) S-00 (in words) rates

Insured for Rs. P. (in words) weight grams

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक १६ मार्च सन १९८५ को जारी किया गया।

..... के सदस्य

निधि

R. S.

बिजली-रजिस्ट्रार

इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १९५२ की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्ति प्रदाना मिल गया।

प्रदाना प्राप्त करने वाले कर्क के हस्ताक्षर

(C 38)

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

(अध्याय १२, नियम १ और ७)

रीजनी विभाग

प्रकीर्णक (सुनवाई) प्रार्थना-पत्र संख्या..... सन १६ ई०

..... सन १६ ई० में

..... प्राथी

..... प्रति
..... प्रत्याथी

..... 71

.....

..... प्रत्याथी

.....

चूंकि ऊपर लिखे प्राथी ने इस न्यायालय में उपर्युक्त मुकदमें के सम्बन्ध में

..... के नाम कहिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक माह सन १६ ई० को या उससे पूर्व उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति किशो और दिन होगी।

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

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक माह सन १६ ई० को जारी किया गया।

..... के एडवोकेट

लिपि.....

Ra. 3
डिप्टी रजिस्ट्रार
हाईकोर्ट इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १६ ई० की नियमावली के अध्याय ३७ नियम २ के अधीन प्राप्त लखनऊ में किया गया।

लखनऊ प्राप्ति करने वाले कलक के हस्ताक्षर

हाईकोर्ट इलाहाबाद लखनऊ बेंच, लखनऊ

(अध्याय १२, नियम १ और ७)

होतानो विभाग

प्रकीर्णक (मुतफरिफ) प्रार्थना - पत्र संख्या सन १६ ई०

..... सं० सन १६ ई० में

..... प्राची

..... प्रत्याची

.....

.....

..... प्रत्याची

चूंकि ऊपर लिखे प्राची ने इस न्यायालय में उपर्युक्त मुकदमें के सम्बन्ध में

..... के नाम केलिये प्रार्थना-पत्र

दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक ११ माह सन १६ ई० को या उससे पूर्व उपस्थित होकर कारण बतलाये कि प्रार्थना-पत्र क्यों न स्वीकार का किया जाय। उक्त प्रार्थना-पत्र को सुनवाई उसके बाद नियमानुसार विज्ञप्ति किशो और दिन होंगे।

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

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक १२ माह सन १६ ई० को जारी किया गया।

..... के एडवोकेट

तिथि

.....

किष्टी रजिस्ट्रार

इलाहाबाद/लखनऊ

सूचना—इस न्यायालय की १९५१ की निर्णयों के अध्याय ३७ नियम २ के अधीन प्राप्त प्रार्थना मिल गया।
प्रार्थना करने वाले कलक के हस्ताक्षर

For Govt. Use.

(५१)

Before the Central Police Tribunal

Regn No 421 of 1987 (T) महोदय

AD

~~Anwarul Hussain~~ Applicant

AK-187

Union of India

वादी (मुद्दत)

वनाम

Pratap Nath

प्रतिवादी (मुद्दतलेह)

पेशी की ता०

19 ई०

में अपना ओर से

श्री

एडवोकेट

S. A. K. Jain

महोदय

वकील

वकील नियुक्त करके प्रतिष्ठा (इकरार) करता हूँ। और लिखें देता हूँ। इस
वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व
करवा अन्य कोई कागज दाखिल करें या लौटा देय हमारी ओर से डिगरी जारी
करावें और रुपया वसूल करेगा सुलहनामा इकबाल दावा अपील व निगरानी हमारी
ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीककरे मुद्दमा उठावें या
कोर्ट में जमा करें या हमारी या विपक्षी (फरीकसानी) का दहिजल किया रुपया अपने या
हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवेगा पंच नियुक्त करें वकील महोदय
द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं भी यह
करता हूँ। कि मैं हर पेशी स्वयं या किसी अपने पराकार को भोजता रहूंगा अगर
मुद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी
मेरी वकील पर न होगी। इसलिए यहवकालतनामा लिखादिया कि प्रमाण रहें और समय
पर काम आवें।

साक्षी (गवाह)

दिनांक महीना

हस्ताक्षर.

साक्षी (गवाह)

नाम अदालत

बो मुकदमा

नाम परीकन

(अध्याय १२, नियम १ और ७)

प्रकाश (मृतक रिक्त) प्रार्थना-पत्र सं ५७८५२ सन् १९७७ ई० में
 with petition सं २५६ सन् १९७७ ई० में
 श्री Anwarul Hasan. प्राथी

उति

Union of India & others

प्रत्यर्थी

To --- Mr. Jagat Rai Singh
 Attorney General
 Government of India

प्रतिवादी के बाद

चूंकि ऊपर लिखे प्राथी ने इस न्यायालय में उपर्युक्त मुकदमें के सम्बन्ध में --- Sl. No. 1 --- के --- --- --- लिए प्रार्थना पत्र दिया है। अतः आपको आदेश दिया जाता है कि आप दिनांक --- 15 --- मास --- July --- सन् १९७७ --- को ~~यहां उम्मेद करते~~ उपस्थित होकर बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना पत्र की सुनवाई उसके ~~बन्द निष्पत्तिनुसार विज्ञापित किसी और दिन होने~~ उपरोक्त तिथि को होगी

विधित हो कि यदि आप ऊपर लिखे दिनांक पर या उसके पहले स्वयं अथवा किसी एडवोकेट या ऐसे व्यक्ति द्वारा जो आपको और से काम लाने के लिए कानूनन अधिकृत हों, उपस्थित न होंगे तो उस प्रार्थना पत्र की सुनवाई और निर्णय आपकी अनुपस्थिति में ही लायेंगे।

प्रार्थना पत्र और प्राथी द्वारा दिये गए शपथ पत्र की एक प्रतिलिपि इसी के साथ लगी है।

मेरे हस्ताक्षर और न्यायालय की मोहर में आज दिनांक --- २ --- मास --- 2 --- सन् १९७७ को जारी किया गया।

--- के एडवोकेट
 तिथि: ---



डिप्टी रजिस्ट्रार

इलाहाबाद। लनऊ

रखना इस न्यायालय को १९५२ की नियमावली के अध्याय ३०, नियम २ के अधीन प्राप्त तलवाना मिल गया।

तलवाना देने वाले क्लर्क के हस्ताक्षर

Anwarul Hasan

हाईकोर्ट इलाहाबाद

(अध्याय १२, नियम १ और ७)

प्रकीर्ण (मूतफरिक्) प्रार्थना-पत्र सं 77(4) सन् १९७७ ई० में
सं 256 सन् १९७७ ई० में
Dr. Anwarul Hasan प्राथी

Union of India & others
प्रति
प्रतिवादी के नाव

72-1
S. S. 10/10/77
प्रतिवादी के नाव

चूंकि ऊपर लिखे प्राथी ने इस न्यायालय में उपर्युक्त मुकदमें के सम्बन्ध में 77(4) के लिए प्रार्थना पत्र दिया है। अतः आपको आदेश दिया जाता है कि आप दिनांक 15-7-77 मास - 7-7-77 सन् १९७७ को या उससे पहले उपस्थित होकर बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना पत्र की सुनवाई उसके बाद निष्पत्ति के अनुसार विवक्षित किया और दिन होने पर उसे जारी किया जायेगा।

विवक्षित है कि यदि आप ऊपर लिखे दिनांक पर या उसके पहले स्वयं या किसी एडवोकेट या ऐसे व्यक्ति द्वारा जो आपको और वे काम करने के लिए कानूनन अधिकृत हों, उपस्थित न होंगे तो उस प्रार्थना पत्र की सुनवाई और निर्णय आपकी अनुपस्थिति में ही जायेंगे।

प्रार्थना पत्र और प्राथी द्वारा दिये गए समय पत्र की एक प्रतिलिपि इसी के साथ लगी है।

मेरे हस्ताक्षर और न्यायालय की मोहर ने आज दिनांक 5-7-77 मास - 5-7-77 सन् १९७७ को जारी किया गया।
के एडवोकेट
तिथि:-

डिप्टी रजिस्ट्रार
इलाहाबाद। लरनऊ।

सूचना इस न्यायालय की १९५३ की नियमावली के अध्याय ३७, नियम २ के अधीन प्राप्त तलवाना मिल गया।

तलवाना पाने वाले क्लर्क के हस्ताक्षर

Am-1112

In the Honble High Court of Judicature at
Allahabad
Lucknow.
7/4/79

2/

2/79

Sri Anwarul Hasan - - - - - petitioner
v
Union of India & others - - - - - opp. parties,
writ petition no 79.

Ten registered covers of Rs. 4/- each with
(20) notices & (10) copies of writ petition with
stay application to opp. parties are filed
herein as per order of this Honble High Court
dated 2.2.79.

Lucknow,
25/3/79.

Atk 1/1/79
-
petitioner.
2/5/79.

वेभाग हाईकोर्ट इलाहाबाद

1786 (245)

प्रकीर्ण (मृतपरिच) प्रार्थना-पत्र No 16769 सन् १६-79 ई० 60/4
with Petition No 257 सन् 1879 ई० में
Amwara Hasan प्रार्थी

प्रति
Union of India & others
To - The Divisional Magistrate, N. R. Rly.
D. S. Office
H. S. J. G. J. L. S. S. S.

प्रतिवादी के बाद

चूंकि ऊपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमें के सम्बन्ध में delay in work के लिए प्रार्थना पत्र दिया है। अतः आपको आदेश दिया जाता है कि आप दिनांक 18-1-1980 मास - Feb-1- सन् १६-79 को ~~या उससे पहले~~ उपस्थित होकर बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना पत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति किमी और दिन होंगे। उपरोक्त तिथि को हाजिर

नियम नौ कि यदि आप ऊपर लिखे दिनांक पर या उसके पहले स्वयं या ऐसे व्यक्ति द्वारा जो आपको और से काम करने के हैं, उपस्थित न होंगे तो उस प्रार्थना पत्र की सुनवाई और न में हां जायेंगे।

प्रार्थी द्वारा दिये गए शपथ पत्र की एक प्रतिलिपि इसी

न्यायालय की मोहर में आज दिनांक - 5-1-80 को जारी किया गया।

के रजिस्ट्रार

डिप्टी रजिस्ट्रार

इलाहाबाद।

रखना इस न्यायालय के १६५२ की नियमावली के अध्याय ३०, नियम २ के अधीन।
पुप्त तलवाना मिल गया।

तलवाना गाने वाले कलक के हस्ताक्षर

21/11/79

व अदालत श्री मात. Administrative Tribunal at Allahabad
वादी मुद्दा By. No 421 787(T)
प्रतिवादी मुद्दा का वकालतनामा

Amrurul Hasan

वादी मुद्दा

W.P. No. 256 of 1979 Union of India
नं० मुकदमा सब। 9 पेशी की तह

प्रतिवादी मुद्दा
19 ई०

ऊपर लिखे मुकदमा में अपनी ओर से

श्री

एडवोकेट

Sn. A. K. Gaur, Rly. Advocate

महोदय

वकील 5 Thornhill Road
Puchaud

1 को अपना वकील नियुक्त करके प्रतिज्ञा [इकरार] करता हूँ। लिखें देता हूँ। इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पेशी व जवाब देती व प्रश्न करेगा अन्य कोई कागज दाखिल करें या लौटा देय हमारी ओर से डिमरी जारी करावें और रुपया वसूल करेगा मुलहनामा इकबाल दावा अपील व विनयानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोर्ट में जमा करें या हमारी या विपक्ष [परिक्शा] का दाखिल किया रुपया अपने या हमारे हस्ताक्षर युक्त [दस्तखाती] रसीद से लेवेगा एवं नियुक्त करें वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्व एता स्वीकार है और होगी मैं भी यह कहता हूँ। कि मैं हर पेशी स्वयं या डिमरी अपने फराकार को भोजता रहूंगा अगर मुकदमा अदम पेशी में एक तरफ नरे डिमलाफ फैला हो जाता है उसकी जिम्मेदारी मेरी वकील पर न होगी। इसलिए यह वकालतनामा लिखा दिया कि प्रमाण रहें और समय पर काज आवें।

साथी [गवाह]

दिनांक महीना

हस्ताक्षर
[Signature]
Sr. Divisional Personnel Officer

साथी [गवाह]

नाम अदालत

नं० मुकदमा

नाम फरीकन

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
(ALLAHABAD BENCH)

23-A Thornhill Road, Allahabad-211001.

REGD.

At Lucknow
/CAT/ALLD/ Gandhi Bhawan Lucknow Dated 29/11/1987

Transfer Application No. 29456 to 407 of 1987 (T) 29/11

APPLICANT

VERSUS

RESPONDENT(S)

To,

Sinha

WHEREAS the marginally noted case has been transferred

by _____ under the
provisions of the Administrative Tribunal Act (No.13 of 1985) and
registered in this Tribunal as above.

No. _____ of 1987
of the Court of High Court
arising out of the order dated _____
passed by _____

The Tribunal has fixed the
date of 29/11/87 for
the hearing of the matter.

If no appearance is made on your
behalf by yourself, your pleader
or by someone duly authorised to
act and plead on your behalf;
the matter will be heard and decided in your absence.

Given under my hand and seal of the Tribunal on
the _____ day of _____ 1987.

DEPUTY REGISTRAR.

13

(257)
Before the Central Administrative Tribunal
Allahabad & at Lucknow

Registration no. 421(T)/09.1987

in
with Petition no. 256/1979
F.F. 21.4.1988

Sh. Anwarul Hasan _____ Petitioner

v.s.
Union of India and others _____ Respondents

Application for transfer of
above noted case from
Allahabad Bench to Lucknow

Sir,

With due regard, I beg to submit as
under :-

- 1 - That the above noted case is under
trial in the court of Central Administrative
Tribunal Allahabad.
- 2 - That the above noted case pertains to
Lucknow district as such the same
can be trial at Lucknow Bench.
- 3 - That I am the counsel in the above
noted case as it will be convenient to
attend the case at Lucknow

Therefore, it is requested that the above
noted case may kindly be ^{transferred from Allahabad} heard at
Lucknow Bench

Thanks

Yours faithfully

S. L. Sinha

Counsel
in the above noted
21.3.88 ^{editin}

(CS)

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

T.A. No.421 of 1987 (T)

(W.P.No.256 of 1979)

Anwarul Hasan

.....

Applicant.

Versus

Union of India & ers

.....

Respondents.

18.9.1989

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

Shri S.P. Sinha counsel for the applicant and Shri Anil Srivastava counsel for the respondents are present.

Heard the learned counsel for the parties. Pleadings are complete. It is a writ petition of 1979. A stay order operates favour of the applicant. Therefore, final hearing should take place as early as possible.

The present controversy is about an application dated 25.1.88 filed by the applicant for a direction to the respondents to file certain documents. Unfortunately, the said application has not yet been disposed off. An application has been filed today on behalf of respondents furnishing information as to which documents are available and which are not available with them. It is a matter of regret that the respondents are not ready even today for filing the documents. Let the documents which are available with them be filed within two weeks hereof, failing which an adverse inference shall be drawn against them and as well, they will expose themselves to such action as warranted by law.

List this case on 16.10.1989 for final hearing. A copy of this order be given to the counsel for the respondents as desired.

Sd/-

Sd/-

J.M.

fish
// True Copy //

(rrm)

CENTRAL ADMINISTRATIVE TRIBUNAL
(ALLAHABAD BENCH)
(ALLAHABAD)

23. A, Thornhill Road, Allahabad.

No. CAT/ALLD T.A.No--421/87

DATED 28/5/87

Anwarul Hasan

APPLICANT

VERSUS

Union of India

RESPONDENTS

- To
- (1) Anwarul Hasan, S/o Late Shafiqul Hasan, N/o Railway Quarter No. LC593, Mohel pulia, Alambagh, P.S. and Ward Alambagh, Lucknow.
 - (2) The Union of India through the General Manager, Northern Railway Headquarters Office, Baroda House, New Delhi.
 - (3) The Divl. Supdt., Northern Railway Civil Sdtd., Office, Hazratganj, Lucknow.

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

I.F. No. 256 of 1979 The Tribunal has fixed the date of 21-10-1987 for the hearing of the matter.

passed by

in

If no appearance is made on your behalf by yourself, your pleader or by someone duly authorised to act and plead on your behalf, the matter will be heard and decided in your absence.

Given under hand and seal of the Tribunal this
date of 26.05.1987

Sd/- Ram Arora, T.A. 731, Loco Running shed, Northern Railway, Alambagh Under Divl. Sdtd., Lucknow
Sd/- Mangoo Lal, Sdtd. M.A.C., Loco Running shed, N. Ry. Barabanki Under Divl. Sdtd., M.R. Lucknow
DEPUTY REGISTRAR.

72 (C 60)

CENTRAL ADMINISTRATIVE TRIBUNAL
(ALLAHABAD BENCH)
(ALLAHABAD)

23-A, Thornhill Road, Allahabad.

No. CAT/ALLD

21/07

DATED

31/11/07

Amr-Allahabad

APPLICANT

VERSUS

Union of India & others

RESPONDENTS

C.F. 3

1. Ram A. Singh, T No 731, Boiler Maker Loco
Running Shed, Northern Railway, Alambagh, Lko.
C/O Did Subd. N. Rly Lucknow

C.F. 4

2. Sri Mangal Lal, Boiler Maker, Loco Running Shed,
N. Rly Patna

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

No. 256/77 of 19
of the Court of High Court
arising out of the order dated
passed by
in

The Tribunal has fixed the date of 12/11/1987 for the hearing of the matter.

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

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

Given under my hand and seal of the Tribunal this

date of 26/10/87 198

3. Sri Mustafa Khan T No 713

Boiler Maker, Loco Running Shed, N. Rly, Alambagh, Lko.

DEPUTY REGISTRAR.

for N. Rly, Lucknow

P. J. C.

OP 3607
of 8-channels
of 9+10 peon.

Para 292
Counter

Date of birth: 19.6.26 (61)
30.6.1926

Series Master Khallase
70-85 (Trade Test) 59

B.T. Bales 75-110 =

skilled Bales

Highly skilled Bales

1963-78

260-600
950-1500

105-135
225

Page 2+54 = 225
reprints.

260

Material check / Tool checker

3rd
4th

1.1.73
1.1.86

Annex I.

① 18/9/63 - Telephone attendance 105/135

18.9.65 -

② reversed as Khallase upto Feb 66 70/85

③ 12.2.66 / Tool checker 105/135
6.11.66

④ 10.11.66 H.P. Clerk 105/135
17.2.67

⑤ 25.2.67
11.6.67

105/135

⑥

CCZ

Amrik Singh v. Union of India

S. C. 1447

AIR 1980 SUPREME COURT 1447

= 1980 Lab. I. C. 735

(From: 1979 Lab IC NOC 121 (Him Pra))

V. R. KRISHNA IYER AND

O. CHINNAPPA REDDY, JJ.

Civil Appeal No. 2112 of 1979, D/-
11-4-1980.

Amrik Singh and others, Appellants v.
Union of India and others, Respondents.

(A) Indian Police Service (Regulation of Seniority) Rules (1954), Rr. 3 (iii) (b), 7, 8, 9 — Indian Police Service — Promotee — Year of allotment — Fixation of — Administrative lapses — No injustice however to officers senior to promotee — Relaxation also granted — Promotion, held, could not be challenged on ground of lapses — (All India Services Act (1951), S. 3 (4) — All India Services (Conditions of Service-Residuary Matters) Rules (1960), R. 3).

A Deputy Superintendent of Police serving under a State Government was brought in the Select List in 1965 and was later appointed Superintendent of Police and was continued as such up to January 1971 and then was appointed to the I.P.S. and confirmed. At first his year of allotment was fixed as 1965. He approached the High Court claiming that his year of allotment should be 1961. The same was upheld and the Central Government reconsidered the matter and fixed 1961 as his year of allotment.

Held his year of allotment as 1961 could not be challenged (i) firstly on the ground that an officer senior to him was holding ex-cadre post in C.B.I. and therefore the latter's officiation in cadre post was not legal and regular and therefore had to be ignored for the purposes of continuity of officiating service. (ii) secondly, the continuation of a non-cadre officer in a cadre post beyond 3 months required the State concerned to report to the Central Government this fact and the Central Government in return had to consult and go by the opinion of the Union Public Service Commission. In the instant case he was allowed to officiate in the cadre post without obtaining such approval which was irregular.

If there was any administrative lapse the concerned employee could not be victimized. Then the Central Government has power under R. 3 of the All India Services (Conditions of Service-Residuary

Acquisition Act vis-a-vis quantification of compensation is the non-payment of solatium in the former case because of the provision in S. 34 (1) that the Act of the Land Acquisition Act shall have no application. Thus, to achieve the principle of equality and to eliminate the element of inequality what is needed is the deletion of S. 25 of the Land Acquisition Act from S. 34 (1) of the Town Planning Act. The whole of S. 34 (1) does not need to be struck down. Once we delete the discriminatory and therefore unconstitutional part in Sec. 34 (1) of the Act, equality is restored. The owner will then be entitled to the same compensation, including solatium, that he may be eligible to under the Land Acquisition Act. What is rendered void by Art. 13 is only 'to the extent of the contravention' of Article 14. The function of the Court may be to delete the offending words and restore to the constitutional health the rest of the provision.

We hold that exclusion of S. 25 of the Land Acquisition Act from S. 34 of the Town Planning Act is unconstitutional but it is severable and we sever it. The necessary consequence is that S. 34 (1) will be read without the words 'and S. 25'. What follows then? Section 32 obligates the State to pay compensation under the Land Acquisition Act. We have struck down that part which excludes Sec. 25 of the Land Acquisition Act and so, the 'modification' no longer applies to S. 25. It continues to apply to the acquisition of property under the Town Planning Act. Section 34 (2) provides for compensation exactly like S. 25 (1) of the Land Acquisition Act and in the light of what we have just decided S. 25 (2) also applies and "in addition to the market value of the land as above provided the court shall in every case award a sum of fifteen per centum on such market value in consideration of the compulsory nature of the acquisition."

The upshot of this litigation thus is that the appeal must be allowed except to the extent that solatium shall be payable under the Land Acquisition Act. Since the State has always been liable to pay that component and has done so that offer even before us right from the beginning, we direct the parties to bear their respective costs.

Appeal partly allowed.

FX/GX/C205/80/DVT

CCB

1448 S.C.

Amrik Singh v. Union of India

A. I. R.

Matters) Rules (1960) to relax rules and regulations, which was done in the instant case by passing appropriate order. 1979 Lab IC (NOC) 121 (Him Pra), Affirmed. (Paras 8, 9, 11)

(B) All India Services (Conditions of Service-Residuary Matters) Rules (1960), R. 3 — Validity — Rule is not arbitrary — Contains guidelines — Compliance with rules of natural justice is implicit — (i) Constitution of India, Arts. 14, 16, 226 — (ii) Natural justice — (iii) Administrative Law — Right to hearing).

Rule 3 is not arbitrary. The Rule contains guidelines. Government must be satisfied, not subjectively but objectively, that any rule or regulation affecting the conditions of service of a member of the All India Services causes undue hardship, then the iniquitous consequence thereof may be relieved against by relaxation of the concerned Rule or Regulation. There must be undue hardship and, further the relaxation must promote the dealing with the case "in a just and equitable manner". These are perfectly sensible guidelines. What is more, there is implicit in the Rule, the compliance with natural justice so that nobody may be adversely affected even by administrative action without a hearing. There is nothing unreasonable, capricious or deprivatory of the rights of anyone in this residuary power vested in the Central Government. (Para 11)

Mr. R. K. Garg, Sr. Advocate (Mr. B. P. Singh, Advocate with him), for Appellants; Mr. V. M. Tarkunde, Sr. Advocate (Mr. P. P. Juneja, Advocate with him), (for No. 4) and Mukul Mudgal, Advocate (for No. 13), for Respondents; Mr. M. M. Abdul Khader, Sr. Advocate (Miss A. Subhashini, Advocate with him), for Union of India.

KRISHNA IYER, J.:— Competitive claims to seniority, dependent on the year of allotment in the Indian Police Service, fall for consideration in this appeal by special leave. We have expedited the hearing of the case since keeping officers in an unsettled state may be a factor which impairs their efficiency.

2. One Shri Ahluwalia, a senior member of the Indian Police Service, sought to quash the decision of the Union of India dated 26-6-1976, whereby his year of allotment was fixed as 1965. According to his case, the correct year of allotment should have been 1961. If his plea were granted, the present appellants would be affected by being made junior

to him. The rival contentions revolve round a few facts, which we will set out, and a few rules framed under the All India Services Act, 1951, which we will construe. First a rush through the relevant calendar of dates. Concerned, as we are, with the year of allotment of Shri Ahluwalia (respondent No. 4), let us focus on the chronology of events with special reference to him. If his claim were untenable, the appeal must be allowed and vice versa.

3. The 4th respondent (Ahluwalia) became a Deputy Superintendent of Police in Himachal Pradesh (which was then a Union Territory) by the end of 1956. In 1962, the Central Government constituted a common police service for the Union Territory of Delhi and Himachal Pradesh called the Delhi and Himachal Pradesh Police Service and later, in 1964, respondent No. 4 was absorbed into that service on a regular basis. The usual avenue of promotion for a Deputy Superintendent of Police is the post of Superintendent of Police, but Superintendents of Police are borne on the cadre of the Indian Police Service and the exercise which results in the inclusion in the Indian Police Service is governed by the Indian Police Service (Appointment by Promotion) Regulations, 1955 framed under Section 3 (4) of the All India Services Act, 1951. The first step is to prepare a Select List from among eligible officers of the State concerned, in the present case, the Union Territories of Delhi and Himachal Pradesh. Sometimes, it happens that although the post of a Superintendent of Police is a cadre post, if no hands are readily available for being posted from the I.P.S., Deputy Superintendent of Police from the Select List is promoted provisionally subject to certain formalities which we will presently consider. The 4th respondent (Ahluwalia) was brought into the Select List in 1965 and later appointed Superintendent of Police in October, 1965 and he worked as Superintendent of Police in one place or other, until December, 1967, and, even thereafter, he continued as Superintendent of Police right down to January 1971 when on January 30, 1971, he was appointed to the I.P.S. and confirmed as such. The year of allotment was fixed as 1965 but the 4th respondent had a case that the law and justice of the case entitled him to 1961 as year of allotment. So he challenged the order of the Central Government allotting him the year 1965. The High Court considered

the matter with reference to the relevant rules and came to the conclusion that there was merit in the 4th respondent's contention. (He was the petitioner before the High Court). The learned Judges wound up thus:

"It is, therefore, evident that the period of officiation of the petitioner during 1-8-1968 to 12-10-1969 could not be considered to be invalid or irregular on any such ground."

We, therefore, conclude that the Government of India wrongly decided that the officiation of the petitioner between the period 1-1-1968 and 12-1-1971 or during the period 1-8-1968 to 12-10-1969 could not be considered valid officiation. Rather he was continuously holding a cadre post throughout this period, and the benefit regarding seniority will have to be given for the entire period. The decision being wrong and invalid under the very Rules and Regulations applied by the Government, was subsequently set right by them under Annexure Y.

The upshot of all that we have stated above is that the petitioner shall be given the benefit of his continuous officiation against a senior post of the entire period from 11-11-1965 to the date of his appointment in the Indian Police Service. His year of allotment shall be determined under Rule 3 (3) (h) of the Seniority Rules keeping in view that he started his continuous officiation from 11-11-1965. In consequence, Annexure N is quashed to the extent the said Annexure held a view contrary to our decision. It is declared that the petitioner continued and should be deemed to have continued to officiate in a senior duty post of the Indian Police Service with effect from 11-11-1965 without any break up to his confirmation in the Indian Police Service. The petitioner's seniority shall be determined accordingly and all consequential benefits of seniority shall be granted to him by respondents Nos. 1 and 2. The respondent No. 1 shall determine the seniority of the petitioner in accordance with our observations made above without three months."

The Central Govt. reconsidered the matter even earlier, and, by its order dated 27-7-1979, refixed the seniority of the 4th respondent by assigning 1961 as year of allotment. Aggrieved by this development, the appellants have come to this court and contested the reasoning and conclusion of the High Court.

1. A few more facts about the career of the appellant and the developments in

the Indian Police Service may be narrated before we set out and consider the Rules and Regulations and their implications. The appellant, (4th respondent) Ahluwalia, as stated earlier, was Superintendent of Police from 1965 to 1967, followed by a short period of earned leave, which ended on 25-3-68. From March 26, 1968, he again continued as Superintendent of Police. Meanwhile, an event beyond the control of the parties took place which has a bearing on the ultimate view we take, although only indirectly. On November 1, 1966, the reorganisation of the Punjab State took place which resulted in some areas of Punjab being transferred to the Union Territory of Himachal Pradesh. Consequently, certain officers, including one Shri P. C. Sahney and Shri K. S. Dhaliwal, were brought over from Punjab to Himachal Pradesh. Admittedly, both these officers, Sahney and Dhaliwal, were senior to Ahluwalia, but a key circumstance, which, in the submission of the appellants is decisive in their favour deserves mention. It is this: Shri Sahney, a senior of Ahluwalia, was holding an ex-cadre post of Superintendent of Police, C.B.I. under the Ministry of Home Affairs between 7-12-1964 and 6-10-1969. The Joint Select List of the Union Territories of Delhi and Himachal Pradesh Police Service, prepared on 29-4-1967, included the names of Ahluwalia, Sahney and Dhaliwal, the last two being above Ahluwalia. On January 1, 1968, the Central Government created single cadre for all the Union Territories in India and, as a follow-up action, prepared a common Select List for the IPS Cadre on 13-1-1971. Ahluwalia was in the Select List of the Union Territories Cadre so prepared. The story of the Cadre continued in the sense that on 25-1-1971, when Himachal Pradesh acquired full-fledged Statehood Ahluwalia was allocated, along with others, to that State. The Himachal Pradesh State came to have its own Cadre of I.P.S. Officers, in which Ahluwalia became a Member. Thereafter, the question was mooted before Government as to what should be the year of allotment for the 4th respondent (Ahluwalia).

5. Two factors having relevancy to the determination of the issue before us, were highlighted by Shri R. K. Garg, appearing for the appellant. He stated that so long as Shri Sahney was holding an ex-cadre post and was senior to

Ahluwalia, the officiation of the latter was not legal and regular and therefore had to be ignored for the purposes of continuity of officiating service. This break was material in fixing the year of allotment. Secondly, he urged that the continuation of a non-cadre officer in a Cadre post beyond 3 months required the State concerned to report to the Central Government this fact and the Central Government in return had to consult and go by the opinion of the Union Public Service Commission. In the present case, Ahluwalia had continued in the Cadre post of Superintendent of Police, without this necessary exercise by the State and the Central Government and without the approval of the Union Public Service Commission. Thus, the two reasons, briefly, stated above, were lethal to the claims of Ahluwalia and he was bound to be pushed to the year 1965 and could not claim the earlier year of allotment of 1961 awarded to him by the Central Government and the High Court. If the contentions put forward by Shri Garg were sound, the conclusion would be inevitable and the appeal must inescapably be allowed. Thus, we are thrown back to an examination of the relevant rules in their application to the facts present in this case. Of course, before launching on that essay, we must also mention that the Central Government has a residuary power, in cases of equity and justice, to exempt an officer from the rigour of any rule or regulation.

6. The Rules may now be reproduced before scanning the submissions of either side. It may be treated as common case that not only was Sahney (now retired) senior to Ahluwalia but he was holding an ex-cadre post during the period 1-8-1968 to 12-10-1969. If this period were to be excluded from Ahluwalia's officiation he must fail. It is also beyond dispute that there was no consultation with the U.P.S.C. for the period of officiation beyond 6 months of Shri Ahluwalia in a cadre post. The Union of India had, at one stage, agreed tentatively with Ahluwalia's case but changed its mind and came to the conclusion that there was a break in service between 1-8-1968 and 12-10-1969 for Ahluwalia and, therefore, the benefit of officiation during that period could not be given in fixing the year of allotment under Rule 3 (3) (h) of the Regulation of Seniority Rules, 1954. Again Government veered round to

the view that 1961 was the correct year of allotment.

7. Now the Statutory Provisions:

"7. Select List

(1) The Commission shall consider the list prepared by the committee along with the other documents received from the State Government and, unless it considers any change necessary, approve the list.

(2)

(3) The list as finally approved by the Commission shall form the Select List of the members of the State Police Service."

Under this Rule a Select List was prepared where Ahluwalia was appointed against a Cadre post with effect from 11-11-1965. Regulation 8 may also be read:

"8. Appointments to Cadre post from Select List.— Appointments of members of the State Police Service from the Select List to posts borne on the State Cadre or the joint cadre of a group of States, as the case may be, shall be made in accordance with the provisions of Rule 9 of the Cadre Rules. In making such appointments, the State Government shall follow the order in which the names of such officers appear in the Select List.

..... From this, it is clear, Rule 9 of the Cadre Rules has governing force and so we must excerpt Rule 9 also:

"9. Temporary appointment of non-cadre officers to cadre posts.—

(1) A cadre post in a State may be filled by a person who is not a cadre officer if the State Government is satisfied,

(a) that the vacancy is not likely to last for more than three months; or

(b) that there is no suitable cadre officer available for filling the vacancy.

(2) Where in any State, a person other than a cadre officer is appointed to a cadre post for a period exceeding three months the State Government shall forthwith report the fact to the Central Government together with the reasons for making the appointment.

(3) On receipt of a report under sub-rule (2) or otherwise, the Central Government may direct that the State Government shall terminate the appointment of such person and appoint thereto a cadre officer and where any direction is so issued, the State Government shall accordingly give effect thereto.

(4) Where a cadre post is likely to be filled by a person who is not a cadre officer for a period exceeding six months, the Central Government shall report the full facts to the Union Public Service Commission with the REASONS for holding that no suitable officer is available for filling the post and may be in the light of the advice given by the Union Public Service Commission give suitable directions to the State Government concerned.

The critical rule regarding the assignment of year of allotment is Rule 3, which we may now reproduce.

"3. Assignment of year of allotment:

(1) Every officer shall be assigned a year of allotment in accordance with the provisions hereinafter contained in this rule.

(2)

(3) The year of allotment of an officer appointed to the service after the commencement of these rules, shall be

(a)

(b) Where the Officer is appointed to the Service by Promotion in accordance with Rule 9 of the Recruitment Rules, the year of allotment of the juniormost among the officers recruited to the service in accordance with Rule 7 of these Rules who officiated continuously in a senior post from a date earlier than the date of commencement of such officiation by the former;

.....

Explanation: 1. In respect of an officer appointed to the Service by promotion in accordance with sub-rule (1) of R. 9 of the Recruitment Rules, the period of his continuous officiation in a senior post shall, for the purpose of determination of his seniority, count only from the date of the inclusion of his name in the Select List, or from the date of his official appointment to such senior post whichever is later.

Provided that where the name of a Police Service Officer was included in the Select List in force immediately before the reorganisation of a State and he was included in the first Select List prepared subsequent to the date of such reorganisation, the name of such officer shall be deemed to have been continuous in the Select List with effect from the date of inclusion in the first mentioned Select List.

.....

Explanation 4. An officer appointed to the Service in accordance with sub-rule (1) of Rule 9 of the Recruitment Rules shall be treated as having officiated in a senior post during any period of appointment to a non-cadre post if the State Government has certified within three months of his appointment to the non-cadre post that he would have so officiated but for his appointment, for a period not exceeding one year, and, with the approval of the Central Government, for a further period not exceeding two years, to a non-cadre post under a State Government or the Central Government in a time-scale identical to the time-scale in a senior post.

.....

There is one more Rule which can play a heroic role in a crisis between equity and legalism. That is, contained in R. 3 of the All India Services (Conditions of Service-Residuary Matters) Rules, 1960:

"3. Power to relax rules and regulations in certain cases:— Where the Central Government is satisfied that the operation of—

(i) any rule made or deemed to have been made under the All India Services Act, 1951 (61 of 1951), or

(ii) any regulation made under any such rule, regulating the conditions of service of persons appointed to an All India Service causes undue hardship in any particular case, it may, by order, dispense with or relax the requirements of that rule or regulation, as the case may be, to such extent and subject to such exceptions and conditions as it may consider necessary for dealing with the case in a just and equitable manner."

8. In the perspective of the Act and Rules, we may proceed to analyse the submissions and assess their worth. We are not disposed to launch on a prolix investigation or delve into minute details because we are impressed with the justice of the conclusion reached by the High Court and the Central Government in giving to Ahluwalia 1961 as the year of his allotment. It is indubitable that, as a fact, there was continuous officiation by him in a cadre post right down to 1971. There was no fault on his part. There was no illegality so far as we can gather. There was no outwitting at the instance of Ahluwalia, of the claims of any other candidate. The two technical infirmities powerfully pressed, with characteristic vigour, by Shri R. K. Garg

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do not in the least detract from the effective officiation as Superintendent of Police by Shri Ahluwalia.

9. Let us assume for a moment that the State Government had not reported to the Central Government and that the consultation with the Union Public Service Commission had not been made by the Central Government. Let us further assume that, in a strict view, that was needed. Even so, the Union Territories of Himachal Pradesh and Delhi should have formally told the Home Ministry about the officiation beyond three months by Ahluwalia in a cadre post. This was not done. The real line of distinction between a State and the Union of India might well be blurred a little when it is a Union Territory. Moreover, there is the circumstance that the entire service was in the melting pot for a few years because the All India Services were being switched from Himachal Pradesh and Delhi into all the Union Territories. Even more; since uncertainty prevailed while the question of a part of Punjab being tacked on to Himachal Pradesh came to engage the Administration. Amidst these fluctuating factors, the solecism committed by the Union Territory of Himachal Pradesh in not having reported to the Central Government about continuing Ahluwalia, beyond 3 months, in a cadre post, was a venial sin for which the candidate was free from blame. Secondly, the argument, based on Sahney, a senior to Ahluwalia, being in a ex-cadre post and therefore, Ahluwalia's service during that period not being regular, also cannot be exaggerated out of proportion. Technically, the C.B.I. posts are ex-cadre posts, but it is a Central Government Department and nothing is suggested that there was something suspicious in Sahney being kept in the C.B.I. to facilitate Ahluwalia's continuance in a Cadre post. Everything in this case is straightforward and, therefore, if there was any administrative lapse, Ahluwalia could not be victimized. Indeed, an unwitting hardship inflicted on a member of the Service under such circumstances can be relieved against by exercise of the residuary power of Central Government under Rule 3 extracted above. They passed the Order (Annexure X) which we reproduce:

"Annexure 'X'

No. 24/16/71-Pars. II (IPS)

Government of India/Bharat Sarkar

Ministry of Home Affairs/Grih Mantralaya

MEMORANDUM

S/Shri P. C. Sahney, K. S. Dhaliwal and V. K. Ahluwalia were appointed to the Indian Police Service by Promotion from the State Police Service on 30th January, 1971 and allocated to the Himachal Pradesh Cadre of Service.

2. Prior to their appointment to the Indian Police Service, these officers were holding the following posts.

.....
In accordance with regulation 8 of IPC (Appointment by Promotion) Regulations, 1955 the Select List Officers are to be appointed to the Cadre Post in the order in which their names appear in the Select List. As such in cases where a senior select list officer was not holding a cadre post, the officiation in a cadre post of a junior officer in the Select List was not approved by the Central Government because the appointment of Junior Select List Officer to a cadre post was violative of the provisions of Regulation 8 of the Promotion Regulations.

.....
Accordingly, it was decided that the rules may be relaxed to count the period of officiation against ex-cadre posts so as to give benefit of the service rendered by the junior officers in the cadre post for the purpose of seniority. Applying the ratio of the case of U. T. Cadre, the Government of India has come to the conclusion that the appointment of Shri P. C. Sahney in the C.B.I. on deputation basis from 7-12-1964 to 6-10-1969 was made by the Central Government in public interest since Shri Sahney belonged to the U. T. Cadre which was managed by the Central Government. It can, therefore, be said that the question of misuse of provisions of rules and regulations by the State Government in this case does not arise. The certificates that but for his appointment to ex-cadre post in the C.B.I., Shri Sahney would have continued against a cadre post, was to be issued by the Ministry of Home Affairs and the fault, if any, lies with the Central Government and not with any State Government. It has, therefore, been tentatively decided to count the ex-cadre officiation of Shri P. C. Sahney from 7-12-1964 to 6-10-1969 for the purpose of seniority in relaxation of the provisions of the I.P.S. (Regulation of Seniority) Rules, 1954.

.....
In view of the counting of ex-cadre officiation of Shri P. C. Sahney for the

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period 7-12-64 to 6-10-1969, the cadre officiation of S/Shri K. S. Dhaliwal and V. K. Ahluwalia prior to 13-10-1969 will not be violative of the provisions of Regulation 8 of I.P.S. (Appointment by Promotion) Regulations, 1955. It is, therefore, prepared to count the entire cadre officiation of S/Shri K. S. Dhaliwal and V. K. Ahluwalia for the purpose of their seniority. Accordingly, the crucial date in respect of S/Shri K. S. Dhaliwal and V. K. Ahluwalia shall be 28-3-1965 and 11-11-1965 respectively.

.....

Sd/- A. Jayaraman

Under Secretary to the Government of India."

10. After full and second consideration, the Central Government passed Annexure 'Y' dated 1-12-1978, whereby Ahluwalia was given the benefit of 1961 as the year of the allotment. The period of officiation of Ahluwalia between 1-8-1968 and 19-10-1969 was approved by the Central Government after consultation with the U.P.S.C. This retrospectively cured the infirmity that existed in Ahluwalia's officiation, beyond 3 months or 6 months, in a cadre post without consultation with the U.P.S.C. The contravention of Regulation 8 was, thus, relieved against.

11. Regulation 7, earlier reproduced, has reference to the Select List, received from the State, being approved by the Commission. Ahluwalia was in this list and by virtue of that inclusion in the Select List, was posted against a Cadre post with effect from 11-11-1965. Regulation 8 authorises such appointment of the members of the State Police Service. However, Rule 9 of the Indian Police Service (Cadre) Rules 1954 has a crucial impact in regard to temporary appointments of non-cadre officers to Cadre posts. We have earlier extracted the Rule, but in substance, the exercise prescribed by the Rule is that, when the Cadre post is vacant and no Cadre Officer is available a non-cadre officer may fill the vacancy for a period beyond three months if the State Government reports to the Central Government the reasons therefor and it is not ordered to be terminated. The Central Government may permit a non-cadre Officer to fill Cadre post for a period exceeding six months provided it reports the full facts to the S.C. and acts responsibly in the light of the advice of the Commission. In the

present case, no such report by the State Government to the Central Government was sent, no consultation by the Central Government with the Commission was done. We are agreed that by-passing the Public Service Commission bespeaks prima facie impropriety, but we are not inclined to consider this grievance as destructive of the officiation of Ahluwalia in the special conspectus of facts present here. For one thing, Ahluwalia has nothing to do with the error, for another, no senior of Ahluwalia suffered, thirdly, the Central Government, in exercise of its power to relax the Rules, in good faith and, indeed in equity, did relieve the officer against this violation. That power to relax exists is admitted, although a feeble challenge to its vires was made in passing. When we consider the year of allotment what looms large is Rule 3 (iii) (b). Continuous officiation is the decisive factor. Assuming that what is needed is regular officiation and not physical officiation, it is perfectly open for the Central Government to relax any irregularity by relaxing any particular rule or regulation. We have earlier indicated the scope of this power and reproduced the Rule itself. It is not arbitrary because the Rule contains guidelines, Government must be satisfied, not subjectively but objectively, that any rule or regulation affecting the conditions of service of a member of the All India Services causes undue hardship, then the iniquitous consequence thereof may be relieved against by relaxation of the concerned Rule or Regulation. There must be undue hardship and, further the relaxation must promote the dealing with the case "in a just and equitable manner". These are perfectly sensible guidelines. What is more, there is implicit in the Rule, the compliance with natural justice so that nobody may be adversely affected even by administrative action without a hearing. We are unable to see anything unreasonable, capricious or deprivatory of the rights of anyone in this residuary power vested in the Central Government. Indeed, the present case is an excellent illustration of the proper exercise of the power. We are, therefore, satisfied that the Central Government was right in invoking its power to relax and regularize the spell of officiation, which was impugned as irregular or illegal. The consequence inevitably follows that the

1454 S. C. Workmen, Jorehaut Tea Co. v. Its Management

A. I. R.

officer Ahluwalia was rightly assigned 1961 as the year of allotment.

12. The appeal fails and is dismissed, Appeal dismissed.

AIR 1980 SUPREME COURT 1454

= 1980 Lab. I. C. 742

(From: 1971 Lab IC 1459 (Assam & Nagaland))

V. R. KRISHNA IYER AND O. CHINNAPPA REDDY, JJ.

Civil Appeals Nos. 1303 of 1972 and 1538 of 1971, D/- 1-5-1980.

Workmen of Sudder Workshop of Jorehaut Tea Co. Ltd., Appellant v. The Management of Jorehaut Tea Co. Ltd., Respondent and vice versa.

(A) Constitution of India, Art. 136 — New plea — Plea based on facts neither pleaded nor proved before tribunal and also not permitted to be raised in the High Court — Tenability of such plea, held, could not be decided in special leave appeal. (Para 3)

(B) Industrial Disputes Act (1947), Section 25G — "Last come first go" — Not an inflexible rule — Departure from rule — Valid and justifiable grounds must be proved by management.

The rule is that the employer shall retrench the workman who came last, first, popularly known as 'last come first go'. Of course, it is not inflexible rule and extraordinary situations may justify variations. For instance, a junior recruit who has a special qualification needed by the employer may be retained even though another who is one up is retrenched. There must be a valid reason for this deviation, and, obviously, the burden is on the Management to substantiate the special ground for departure from the rule. Absence of mala fides by itself is no absolution from the rule in S. 25G. Affirmatively, some valid and justifiable grounds must be proved by the Management to be exonerated from the 'last come first go' principle. AIR 1966 SC 1657, Rel. on. (Paras 6)

(C) Industrial Disputes Act (1947), Section 25G — Question whether workmen fall in same category — Determination of — Relevant circumstances.

S. 25G insists on the rule of "Last come first go" being applied category-wise. That is to say, those who fall in the same category shall suffer retrenchment

EX/GX/C392/80/CWM

only in accordance with the principle of last come first go. Where the seniority list of particular workmen is the same, there is a telling circumstance to show that they fell in the same category. Grading for purposes of scales of pay and like considerations will not create new categorisation. It is a confusion or unwarranted circumvention to contend that within the same category if grades for scales of pay, based on length of service etc., are evolved, that process amounts to creation of separate categories.

(Para 7)

Cases Referred: Chronological Paras AIR 1966 SC 1657: 1966 Supp SCR 74 6

Mr. M. N. Phadke, Sr. Advocate (Mr. S. N. Choudhury, Advocate with him), for Appellant in C. A. No. 1538 of 1971 and for Respondent in C. A. No. 1303 of 1972; Mr. P. R. Mridul, Sr. Advocate (Mr. K. P. Gupta, Advocate with him), for Respondent No. 1 in C. A. No. 1538 of 1971 and for Appellant in C. A. No. 1303 of 1972.

KRISHNA IYER, J.:— These two appeals, turning on the validity of the retrenchment of 23 workmen way back in 1966, are amenable to common disposal. Mr. Phadke, appearing for the Management, argued straight to the point, so did Shri Mridul, with the result that we could get the hang of the case without much wrestling with time or getting paper-logged. Since, in substance, we are inclined to leave undisturbed the Award of the Industrial Tribunal, affirmed, as it were, by the High Court, both these appeals will be given short shrift with brief reasons.

2. The facts, to the extent necessary to appreciate the issues canvassed, are brief. The Management of a tea plantation by name Jorehaut Tea Co. Ltd., retrenched 23 workmen, 16 of whom were paid retrenchment compensation allegedly in terms of Section 25F of the Industrial Disputes Act (for short, the Act) and in the order of 'last come, first go', while the services of the other seven were terminated, although on payment of retrenchment compensation, allegedly in breach of S. 25G of the Act, i. e. out of turn. The dispute that was raised was decided by the Tribunal who upheld the validity of the retrenchment of the 16 but set aside the termination of the other 7. Consequently it directed their reinstatement with some back wages. The Award granted the following relief:

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW.

W.P. No.

Q 1987

(C 70)

Northern Railway Adm.

vs. Union of India & ors.

Annexure No. 15

W.P. No. 1987, JUD
F.P. No. 1987, JUD/CR.
D.C.W./LKO
LKO/1987/1001/1001(11)
AC. (1)(11)APC(1)(11)(111)
C. 1987, JUD/CR.
DEL, DCO, MS/LKO.
Sr. Divl. Accounts Officer (11)(111)
Asst. Principal Trg. Centre, Lucknow.
CAO/PA-DKI, LKO/TA.
PA & CAO/Adm/Earoda House, New Delhi.

Sub:- Weeding out of old records
barred by him on or after 31.12.82.

The old and time barred records of this office as per annexure 'A' will be due for destruction on or after 31.12.82 in terms of Para 121A and Appendix IX of Indian Rly. Code for Accounts Department as modified by Rly. Board letter No. 74/AD/CR/Misc/ACS dt. 10.6.77 under FA & CAO, N.Rly. Earoda House, New Delhi letter No. 77/B/VIIG/Record dt. 30.6.77. It is therefore requested to kindly let this office know before 31.12.82 if any of the records mentioned in Annexure 'A' is required to be preserved if so full particulars viz. voucher number, AD No. date amount, office and period for which required may please be intimated to enable this office to preserve the same.

In case no reply is received upto 31.12.82 the requirement of your office will be treated as nil and further action for destruction of records will be taken without further reference.

Sr. Divl. Accounts Officer,
N.Rly., Lucknow.

Annexure 'A'

Sl. No.	Particulars of records.	Perservation age.	Already destroyed upto	Now proposed to be destroyed.
1.	Salary Bills	10 years	30.6.72	31.12.72
2.	Abstract of the bill passed.	10 years	30.6.72	31.12.72
3.	Allocation Register	10 years	30.6.72	31.12.72
4.	Unpaid wages lists	6 years	30.6.76	31.12.76
5.	Contractor Bills	6 years	30.6.76	31.12.76
6.	DA & Contg. Bills & Misc.	5 years	30.6.75	31.12.77
7.	Paid vouchers	5 years	30.6.77	31.12.77
8.	Master Sheets	5 years	30.6.77	31.12.77
9.	Monthly Cash Books	5 years	30.6.77	31.12.77
10.	Rev. and Cap. Trs	5 years	30.6.77	31.12.77
11.	Bank Challans	5 years	30.6.77	31.12.77
12.	Sub. nse Registers	5 years	30.6.77	31.12.77
13.	File files	3 years	30.6.79	31.12.79
14.	Registers	3 years	30.6.79	31.12.79
15.	Registers	16 years	30.6.72	31.12.72

Sr. Divl. Accounts Officer

File No 33

C71

Before Mr C. A. T. Hloholo

कालतनामा

अदालत

Regd 421

नम्बर मुकदमा

सन् १९८७ ई० (T)

नम्बर भाषा

सन् १९८७ ई०

Brij Lal Mangal hoon मुद्दा अपालाभ

बनाम

Union of Lho of the मुद्दालय रेस्पान्डेंट

बी/हम निवासी

Brij Lal 810 Ram Gulan 810 material
Cheshi loco running out 4 rly
reason

Pradeep Kumar Kishya एडवोकेट को

808, mullugangy Hloholo

उपरोक्त मुकदमे को पेशी के लिए मेहनताना अदा करने का वचन देकर
मे अपना वकील नियुक्त करता हूँ/करते हैं उक्त वकील महोदय को मैं/हम
यह अधिकार देता हूँ/देते हैं कि इस मुकदमे में वह मेरी ओर से पेशी करें
आवश्यक सबाल पुछे, जवाब दे और वहस करे दस्तावेज व कागजात अदालत
में दाखिल करे, व वापस लेवे बिनामा उपस्थित करे, पंच नियुक्त करे यदि
आवश्यकता हो तो पंच निर्णय करे, विज्ञापित करे सुलहनामा दाखिल करे,
दावा स्वीकार करे या उदा लेवे और डिप्री प्राउ हो जाय तो उसे जारी करावे,
डिप्री का रफा व खर्ची, हजाना का रफा या किसी दूसरी तरह का रफा जो
अदालत में मुझे/हमें मिलने वाला हो वसूल करे मेरी/हमारा ओर से अदालत
दाखिल करे, कोर्ट फीस व स्टाम्प लेवे या वापस लेवे रफाद ले लेवे, प्रमाणित करे,
नकल प्राप्त करे, अदालत को अनुति मिलित का मुअयाना करे आवश्यकता होने
पर मुकदमा स्थापित करावे इस मुद्दे के सम्बन्ध में दूसरे काम का जखरो समझे
करे पेशी के लिए अपनी ओर से कोई दूसरे वकील नियुक्त करे यदि आवश्यकता
हो तो अशोल या विपशानो दायर करे और अशोल निपशानो को अदालत में
पेशी करे।

इस अधिकार पत्र के अनुसार उक्त वकील महोदय इस मुकदमे के सम्बन्ध
में जो कुछ काम करेंगे वह सब अदालत में स्वयं मेरी/हमारा किया हुआ समझा
जायगा और वह मुझे/हमें सबेरा ने हो डिप्री के प्रसार सुनिश्चि मार्य हाव।

तारीख

माह

सन् १९८७ ई०

स्वीकार है

हस्ताक्षर

21/10/87

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पत्रादि

पत्रादि

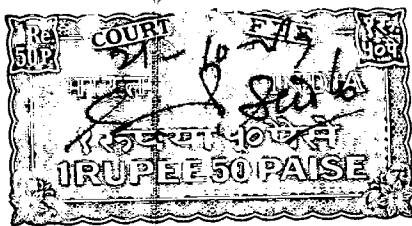
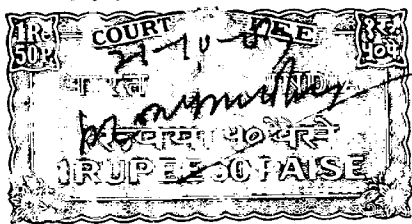
अदालत मुकदमा नं० बनाम पृष्ठ १२

872

श्रीमान [वादी] अपोलान्ट
In the Central Ad. District Court at Allahabad महोदय
Anwarul Hassan का

वकालतनामा

प्रतिवादी [रैस्पॉन्डेंट] U. Om of India



Anwarul Hassan

बनाम

Union of India and others

प्रतिब...

मा 421 सन 1907 पेशी की ता 21/10 1907 ई 0

वे मुकदमा में अपनी ओर से श्री Saraju Prasad Sinha, Advocate एडवोकेट

557/25, Guwahati, Assam, India

महोदय

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकदमा में वकील महोदय वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देही व प्रश्नोत्तर करें या कोई कागज़ दाखिल करें या लौटावें या हमारी ओर से डिमरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अधील निगसनी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकदमा उठावें या कोई रुपया जमा करें या हमारी विपक्षी (दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर से रसीद से लें या पंच नियुक्त करें--वकील महोदय व सब कार्यवाही हमको सर्वथा स्वीकार है और होना मैं स कर्ता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैसेक खर्चा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिल जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे

हस्ताक्षर नि 0 अ 0 Anwarul Hassan

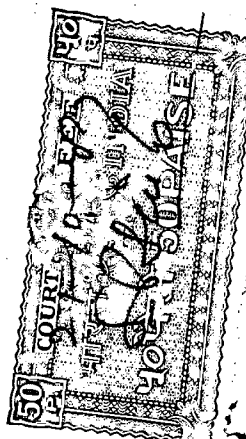
(गवाह) - साक्षी (गवाह)

21

महीना

10

सन 1907 ई 0



Before the Central Administrative Tribunal
(Civil Bench Lucknow) (C73)
T.A. Case No. 421 (A) 1987

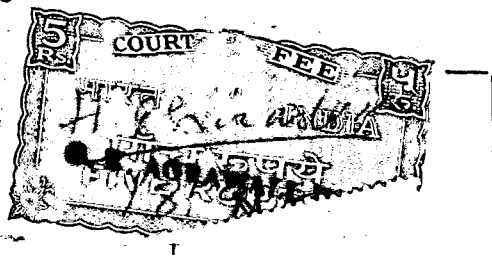
ब अदालत भीमान

महोदय

[गदी] अपीलान्त

प्रतिवादी [रेषाडेन्ट]

वकालतनामा



गदी (अपीलान्त)

Armanul Hasan

बनाम

प्रतिवादी (रेखाडेन्ट)

Union of India & others

नं० मुकद्दमा

सन्

पेशी की ता०

१२ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री HARENDRA PRAKASH SRIVASTAVA, Advocate, Sr. Advocate, Lucknow, 22601 कोल

महोदय

एडवोकेट

नाम अदालत	नाम
मुकद्दमा नं०	
नाम फरीकन	

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

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १९८७ ई०

स्वीकृत

Before the Central Administrative Tribunal,
At Allahabad.

Application
in

Registration No. 421 (T) of 1987.

in

Writ petition No. 256/1979.

F.F. 25.1.80

F.F. 27.4.80

Anwarul Hassan

: petitioner.

Vrs.

Union of India and others

: Respondents.

Hon'ble sir,

The humble application on behalf of the applicant
is as under :-

1. That the enclosed papers are very much material
for the purposes of the adjudication of the case
which are under the power and possession of the
opposite party. A list of the paper required by the
Government is attached herewith.

Prayer

It is, therefore, prayed that the papers which
are in the custody of the Government be summoned for
the adjudication of the case in the ends of justice.

(S.P. S.M.A.)

COUNSEL FOR THE PETITIONER.

DATED: 25.1.1980

gauru These are the

The Hon'ble Member has on 28.1.80
in order to the Court will
be heard at 10.30 AM on 28.1.80
I have signed the order and
will forward the same to the
Counsel for the petitioner.

20

(C75)

Before the central Administrative Tribunal ,
At Allahabad.

Registration No.421(T) of 1987.

in
Writ petition No.256 of 1979.

Anwarul Hassan : ...petitioner.

Vis.

Union of India and others : ...Respondents.

Application for summoning the
documents

List of papers required from the Government
(Respondents)

1. seniority list of Boiler maker Khalilassis from
~~1956~~ ¹⁹⁵⁶ to 1987.
2. seniority list of ~~B.K.K.~~ B.P.K. Boiler Maker from
1953 to 1987.
3. seniority list of skilled Boiler maker from 1960
to 1987.
4. seniority list of Highly skilled grade II Boiler
maker from 1976 to 1987.
5. seniority list of Highly skilled grade I Boiler
maker from 1978 to 1987.

~~Bx~~ The above seniority lists will prove
where the name of the petitioner stands at present.

6. channel of promotion chart of telephone attendant
-cum-booking clerk applicable in the year 1963.

It will prove how the posts of Telephone
attendants- cum-Booking ^{clerk} ~~clerk~~ were/are being
filled in.

(C 92)

2.

7. The seniority list of Telephone attendant -cum- booking clerk from 1960 to 1970 .

It will prove that the petitioner worked in the said category more than 3 years.

8. seniority list ^{of the} material clerk grade Rs.105-135 and Rs.260-400 from 1970 to 1987.

It will prove that the petitioner was promoted as Material clerk in 1970 and since then he is working in the said category from 1970 to date continuously.

9. since record with leave amount of the petitioner Shri Anwarul Hassan.

It will prove that he was promoted as B.T.M.Boiler maker in the year 1960th, and Telephone attendant-cum-booking clerk in 1963th and thereafter as Junior clerk, further the petitioner promoted as Material clerk in 1970 and since then he is working as such continuously without any break.

10. channel of promotion chart of Boiler make Khallasi

It will prove that the petitioner utilized as Junior clerk (55-85) and Material clerk (110-180) but not consider for promotion in his channel.

S.P. Sinha
(S.P. SINHA)

COUNSEL FOR PETITIONER.

Dated: 16-12-02
25.11.07

Continued on page 3 & 4 for
additional documents. *S.P. Sinha*
25.11.07
Counsel for petitioner

Page 3

11. Service Records of opposite parties nos. 3 to 10 and office order to declare opposite parties as P.T.M. Boiler Maker of opposite parties nos. 3 to 5 and one Sri B. Bahadur Lal T.No. 776 S/o SAI Dahi.

These documents will prove the seniority of the applicant and the petitioner passed the trade Test of P.T.M. Boiler Maker alongwith the opposite parties nos. 3 to 5 and one Sri Bahadur Lal T.No. 776.

12. Attendance Register for January 1960 of P.T.M. Boiler Maker maintained in the office of Loco Foreman's Office Pratapgarh under Boiler Maker Charhara.

It will prove that the petitioner worked under Boiler Maker Charhara in the month of Jan 1960,

13. Attendance Register for December 1959, Jan 60 Feb 60 of Boiler Maker Khallasi maintained in the office of the Loco Foreman's Office, Northern Railway Alambagh-Lucknow.

These documents will prove that the petitioner transferred and promoted as P.T.M. Boiler Maker at Pratapgarh and reverted as Boiler Maker Khallasi and posted in Loco Shed Alambagh, Lucknow.

-2-

14. Pay sheets for the month of December 59, Jan 60
and Feb 1960 paid in Jan 60, Feb 60 and March 60

These documents are most essential to prove
the promotion and reversion of petitioner.

15. General Manager (p)/New Delhi's letter no.561-1/183-132
Pt.III dated 30/31.12.1971.

It will prove that the grade of Fuel Issuer,
Tool Checker Junior clerks, Telephone attendant-
cum-Booking clerk revised from Pt. 105-135(AS) to
Pt.112-180(AS) and thereafter Pt.130-400(AS)

S. D. Sinha
(S. D. Sinha) 25/1/77

Counsel for the Petitioner.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
SITTING AT LUCKNOW.

Civil Misc. Application No. of 1989.

Registration No. 421 of 1987 (T)

(W.P.No. 256 of 1979)

B E T W E E N
=====

Anwarul Hasan.Applicant.

Versus

Union of India.Respondants.

FIXED FOR: 19.7.89

Objection to the application for summoning
the documents file by the applicant.
=====

I, J. N. Srivastava working as
Assistant Personnel Officer in the office of Divisional
Railway Manager, Northern Railway, Hajratganj,
Lucknow, do hereby solemnly affirm and state as
under :-

1. That the official above named is fully conversent
with the facts of the case and has read the
application for sommoning the documents filed by

applicant, and has been authorised by the
respondents to file ^{this} ~~their~~ objection on their
behalf.

2. That at the very outset it may be stated that by the aforesaid application the applicant has sought to summon innumerable documents, some of which are as old as pertaining to the year 1956.
3. That it may also be stated that the present Writ Petition which was subsequently transferred to this Hon'able Tribunal was filed in the year 1979 and after 10 years i.e. in the year 1988, the applicant has preferred this application.
4. That in the said application for summoning the documents the applicant has also not shown the relevancy or why they are so suddenly ~~had~~ needed for the adjudication of the case.
5. That most of the documents are very old and most of them were weeded out as per rules/circulars. Some of the documents are also not available in the records.
6. That the documents sought for, which are available in the records of the answering respondents are

as below-

7. That in respect of item Nos. 1 to 5 of the application, the seniority list of the years 1984 and 1987 are available but rest of the seniority list are not available.
8. That in respect of item No. 6 of the application it is stated that no such documents are maintained by the respondents hence the production of the same does not arise.
9. That in respect of item Nos. 7 and 8 of the application, the documents are not available.
10. That the documents mention in item No. 9 of the application are available.
11. That in respect of item No 10 of the application it is stated that no such documents are maintained by the respondents hence the production of the same does not arise.
12. That in respect of item No. 11 of the application the service records of respondents opposite parties Nos.3,4,5 and 10 are available. The rest of documents are not traceable at this stage.

13. That ⁱⁿ ~~the~~ respect of item Nos. 12, 13 and 14 of the application, the documents are not available, being too old.
14. That the documents mentioned in item No. 15 of the application is available.
15. That the service records of the applicant is available . and only which is the most important and authentic document for the proper adjudication of the case and the aforesaid documents sought by the applicant are not at all necessary for the same purpose.

Wherefore, it is most respectfully prayed that unless the applicant specifically shows the relevency of the documents for proper adjudication of the case, the answering respondents may not be directed to produce the same.

Lucknow:

Dated: 12.9.89



VERIFICATION
=====

I, the official above named do hereby verify that the contents of para 1 of this objection is true to my personal knowledge and those of paras

C83

- 5 -

2 to 15 are true on basis of records and legal advice.

Lucknow:

Dated: 18.9.89

[Signature]

[Signature]

[Signature]

(55)

IN THE CENTRAL ADMINISTRATIVE TRIBUNA

SITTING AT LUCKNOW.

Civil Misc. Application No. of 1989.

Registration No. 421 of 1987 (T)

(W.P.No. 256 of 1979)

B E T W E E N
=====

Anwarul Hasan.

.....Applicant.

Versus

Union of India.

.....Respondants.

FIXED FOR: 18.9.89

Objection to the application for summoning
the documents file by the applicant.
=====

I, J. N. Srivastava, working as
Asst Personnel Officer in the office of Divisional
Railway Manager, Northern Railway, Hajratganj,
Lucknow, do hereby solemnly affirm and state as
under :-

1. That the official above named is fully conversent
with the facts of the case and has read the
application for summoning the documents filed by

applicant, and has been authorised by the
this
respondents to file ~~their~~ objection on their
behalf.

2. That at the very outset it may be stated that by the aforesaid application the applicant has sought to summon innumerable documents, some of which are as old as pertaining to the year 1956.
3. That it may also be stated that the present Writ Petition which was subsequently transferred to this Hon'able Tribunal was filed in the year 1979 and after 10 years i.e. in the year 1988, the applicant has preferred this application.
4. That in the said application for summoning the documents the applicant has also not shown the relevancy or why they are so suddenly ~~had~~ needed for the adjudication of the case.
5. That most of the documents are very old and most of them were weeded out as per rules/circulars. Some of the documents are also not available in the records.
6. That the documents sought for, which are available in the records of the answering respondents are

as below-

7. That in respect of item Nos. 1 to 5 of the application, the seniority list of the years 1984 and 1987 are available but rest of the seniority list are not available.
8. That in respect of item No. 6 of the application it is stated that no such documents are maintained by the respondents hence the production of the same does not arise.
9. That in respect of item Nos. 7 and 8 of the application, the documents are not available.
10. That the documents mention in item No. 9 of the application are available.
11. That in respect of item No 10 of the application it is stated that no such documents are maintained by the respondents hence the production of the same does not arise.
12. That in respect of item No. 11 of the application the service records of respondents opposite parties Nos.3,4,5 and 10 are available. The rest of documents are not traceable at this stage.

13. That ⁱⁿ ~~the~~ respect of item Nos. 12, 13 and 14 of the application, the documents are not available, being too old.
14. That the documents mentioned in item No. 15 of the application is available.
15. That the service records of the applicant is available *1 and only which is the most important and authentic document for the proper adjudication of the case and the aforesaid documents sought by the applicant are not at all necessary for the same purpose.

Wherefore, it is most respectfully prayed that unless the applicant specifically shows the relevancy of the documents for proper adjudication of the case, the answering respondents may not be directed to produce the same.

Lucknow:

Dated: 18.9.89



VERIFICATION

I, the official above named do hereby verify that the contents of para 1 of this objection is true to my personal knowledge and those of paras

C88

- 5 -

2 to 15 are true on basis of records and legal advice.

Lucknow:

Dated: 18-9-89

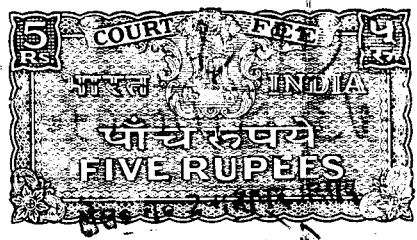


सहायक सचिव, सचिवालय
18-9-89

At Amritsar
At. No. 10.1.82

(C89)
2/1

In the High Court of Punjab and Haryana
(Civil Division), Amritsar.
S.M. App. No. 7842 of 1979
In
C.P. No. 256 of 1978.



ANDREW HARRIS
Versus
The Union of India and others
Petitioner,
Applicant.
Opp. Parties

APPLICATION FOR PERMISSION TO FILE A WRIT PETITION

The petitioner/applicant respectfully submits as under:

1. That certain typing errors in the annexes Nos. I, VI and VII filed along with the writ petition escaped notice of the applicant at the time of filing the petition and he has been unable to replace them with the corrected copies of the original documents.
2. That the applicant has not given any copy of the impugned order No. 247-1/1-9, dated 22.12.1978 by the opposite parties, as he has relied only upon a copy of the order supplied to him by his colleague who had asked him to do so. He has taken down the exact contents of the impugned order from the copy supplied by him as the true copy. He has given the said order as a copy along with this petition under No. V to the.
3. That the applicant has filed Nos. I and II of the writ petition and a copy of the said petition dated 22.12.1978 under No. 247-1/1-9 of the opposite parties.

Amritsar
17/12/79

C90
7/2

-2-

order as to the position of the opposite parties Nos. 1 and 2, and as the copies slightly differ from each other, the copy of the order filed by the opposite parties Nos. 1 and 2 is not authentic and according to the order of the court No. V of the petition filed by the applicant through a order dated 12.12.1979 is shown as Annexures 1-5 of the counter affidavit of the opposite parties Nos. 1 and 2.

It is for the court to decide in light of the submissions made by the parties and the documents may kindly be permitted to the applicant to file a petition. —

Annexures Nos. I, V, VI and VII filed with the petition be expunged and they be substituted by annexures No. I, V, VI and VII filed by the applicant.

Lucknow, Dated:
December 17, 1979.

Amrinder Singh
Applicant.

Atul Nigam
Advocate

291 7/3

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
(CIVIL APPEALS) JUDGE.

V
D.P. No. 256 of 1979.

Anwarul Hasan

Petitioner

Versus

Union of India and others

Opp. Parties.

Memorandum No. 1.

(COPY OF ORDER No. 220/II E/11 dt. 30.8.63)

No. 220 E/II E/11 dt. Civil App. No. 11 of 1963, dt. 30.8.63.

Notice No. 1.

The following petition and transfer orders
are hereby issued to be carried into effect:

(1) Shri Anwarul Hasan, Lohar Bazar Khalesi,
P.O. 790 of Lko-shed is presently employed as Telephone
Attendance-cum-booking clerk on scale Rs.105-135 ⁷AS on
Rs.105.00 p.m. with usual allowances as permissible under
the rules and transferred to post under M/B.S.B
against one of the four permanent posts created
recently.

(2) Shri Ramshankar Prasad II, Lohar Bazar Khalesi
P.O. 790 of Lko-shed is presently employed as Telephone
Attendance-cum-booking clerk on scale Rs.105-135 AS
on Rs.105/- p.m. with usual allowances as permissible
under the rules and transferred to post under M/B.S.B
against one of the four permanent posts created recently.



Anwarul Hasan
12/11/79

(292) 7/4

(3) Sri Anand Singh, P.O. No. 1100519 is a temporary appointment as P.O. cum Booking Clerk in scale Rs. 200-235 as on Rs. 105.00 p.m. with usual allowances as per rules and transferred to post under P.O. against one of the newly created posts.

(4) Sri Ram Suresh Singh, P.O. No. 301277 is a temporary appointment as P.O. cum Booking Clerk in scale Rs. 105-135 as on Rs. 105/- p.m. with usual allowances as per rules and transferred to post under P.O. against one of the newly created posts.

This is purely a temporary appointment pending selection for the post and will not confer any right to the above named staff for seniority or future promotion to the post.

S/- Illegible
For Div. Personal Officer,
Lucknow.

Copy to - Mr. P.O.)
Mr. P.O.)
Mr. P.O.) For information
(

TRUE COPY.

Harshad Hans 17/12/79



Harsha
THE COMMISSIONER
High Court, Allahabad,
Lucknow Bench.

No. 32/41
Date 12/12/79

(८९३)

१५

इन दि आनरेबल हाई कोर्ट आफ जूडिकियर स्ट कला हाबाद,
लखनऊ बन्व, लखनऊ ।

रिट पिटीशन नं० २५६ आफ १९७६ ।

अनवारूल हसन

-- पिटीशनर

बनाम

दि डिवीजनल रेलवे मैनेजर आदि

-- अपोपार्टीज़ि

अनैकज़र नं० ५

उत्तर रेलवे
मण्डल अधीक्षाक कार्यालय,
लखनऊ : दिनांक : २२-१२-७८

पत्रांक ८४७-ई०। १-६

आदेश

इस कार्यालय के पत्रांक ८०३-ई०। ई-६। १। एम० सी०। दिनांक ७८ के अनुसार अवकाश दाता खलासियों के निम्न पद समाप्त हो गये हैं ।

लोको शेड	लखनऊ	-	२	वर्तमान	ह० १९६-२३२
॥	फाँजाबाद	-	१	॥	॥

अतः निम्नलिखित अवकाश दाता खलासियों को उनके सम्मुख लिख स्थानी तथा पद पर उनकी वर्तमान स्थिति में तुरन्त स्थानांतरण किये जाते हैं :

१-	श्री अनवारूल हसन	अवकाश दाता	ह० १९६-२३२	व्यालर मेकर	खलासी
		खलासी लोको			
		शेड, लखनऊ			
२-	श्री बाबू लाल	॥	फाँजाबाद	॥	फिटर खलासी
			लखनऊ		लोको शेड
					फाँजाबाद ।
३-	श्री सहदेव बक्स सिंह	॥	लखनऊ	॥	फिटर खलासी, लोको
					शेड, लखनऊ

उपरोक्त पद परिवर्तित प्रशासन के हित में है। अतः उपरोक्त कर्मचारियों की वरीयता पर कोई प्रभाव नहीं पड़ेगा ।

हस्ता ०--
सहायक कामिक अधिकारी,
लखनऊ ।

प्रतिलिपि वरिष्ठ मण्डल सेवा अधिकारी, वरिष्ठ मण्डल यांत्रिक अभियन्ता
लोको फोरमन सम्बन्धित लिपिक ६०।६-१, ६०।१-८, ६०।१-६

ह० अपठनीय । २२-१२-७८
सहायक कामिक अधिकारी, लखनऊ ।



True Copy
Amrind Hans
17/12/79

(c94) E/K

IN THE HON'BLE HIGH COURT OF JUDICATURE AT MUMBAI
(ORIGINAL JURISDICTION)

N.P. No. 256 of 1979.

Anwarul Hasan

Plaintiff

Versus

The Union of India and others.

Opp. Parties.

For the Plaintiff, VI.

Dr. Anwarul Hasan, M.L.A. of RAILWAYS,
(MUMBAI)

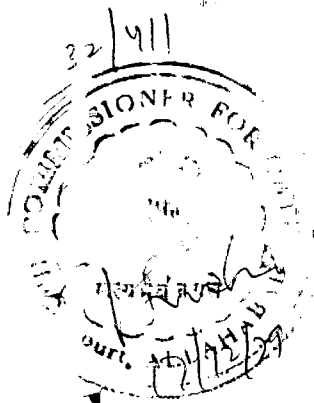
CONFIDENTIAL

No. 256RG6-26.

Dated 28-5-1956.

To

- (1) The Chief Engineer-in-charge,
C.S.C. of Railways.
- (2) The Chief Engineer,
Railway Research & Research Centre,
Lucknow.
- (3) The Director,
Railway Research, Lucknow.
- (4) The Dy. Director,
Railway Research, Lucknow.
- (5) The Chairman,
Railway Service Commission,
Bombay/Cuttack/Ahmedabad.
- (6) The General Manager,
Railway Research, Lucknow.
- (7) The Railway Section Officer,
New Delhi.
- (8) The Tank Section Controller,
Bombay.
- (9) The Chief Engineer,
Railway Research, Lucknow.



Handwritten signature and date: 17/11/79

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27

- (10) The Inspector-General,
Railway Protection Force,
Allahabad.
- (11) The General Secretary,
Indian Railway Conference Association.

At: Discipline and Appeals Rules -
Reversion of employees officiating
in higher posts.

A copy of Railway Board's D.O. Letter No. 456RG
6-26, dated the 21st May 1956 addressed to the General
Managers of Indian Railways on the above subject, is
sent herewith for information and guidance.

Ad/- (Munwar Bahadur)
Assoc. Dir. Genl., Establishment,
Railway Board.

Encl. One.

Copy to S.I., S.II, S.III, & S.IV Branches of the
Board's Office, together with a copy of the D.O. Letter
referred to.



CONFIDENTIAL

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

....

D.O. No. 456RG6-26 Dated 21st May, 1956.
My dear

You will have seen from Railway Board, in
their letter No. 444M12-28, dated 22-11-50, intimated
that reversion of an employee from a officiating
appointment to his substantive post or to lower officia-
ting appointment, did not constitute a penalty. It was
further clarified in para 3 (b) of Board's letter
No. 452RG6-12 dated 16-12-54 that such a reversion on
grounds of unsatisfactory work did not constitute a
penalty. It was also stated that reversion in such
circumstances would not constitute a penalty. It was
also stated that application of the procedure
required by the Railway Board's Rules.

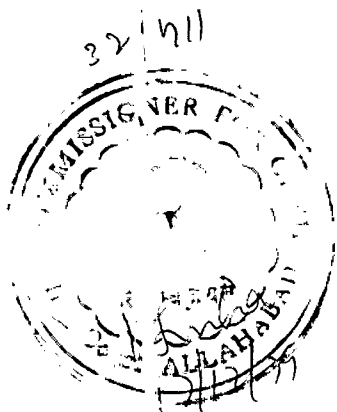
2. The Railway Board's letter dated 21st May 1956

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17/11/79

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to be... of a large number... cases... confirmed. Normally, ... permanent, ... services had been ... confirmed very much ... have been ... following the procedure ... The Board consider ... appreciable ... should not deprive ... they would otherwise have obtained. On the other hand, it is necessary that ... continued ... satisfactory performance of his duties.

3. The Board, therefore, order that, with immediate effect, the performance of every Railway servant officiating in a higher grade should be adjudged by the competent officer before the expiry of 12 months of total officiating service, and if the performance is not satisfactory, then the Railway servant may be reverted on the grounds of unsuitability, or may be warned that his work is not satisfactory, but that he is being permitted to continue in the higher grade on the condition that his performance will be reviewed at the end of 12 months for which he will continue to officiate in the higher grade. At the end of the 12 months, if the performance is not satisfactory, the servant should be reverted to his original grade or should be given a certificate of unsuitability. Any person who is permitted to officiate in a higher grade should be given a future opportunity for unsatisfactory work.



Amul Hasan
17/12/79

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79

proceedings in disciplinary appeal rules.

4. The final assessment of the performance of the Railway servants in the higher grades as present, for a period of 12 months, should be made within the next six months, the action taken is recorded in the previous part of the report of Railway servants of existing in higher grades for 18 months.

Yours sincerely,

En:111.

cc/- M. Kamalakara Rao

Enclosed true copy,

1/- 11/11/11

cc/- M. Kamalakara Rao (2-I),
Ministry of Railways,
A.S.S.C.



TRUE COPY.

Amr. Hare
12/12/79

1/11/11
CHIEF COMMISSIONER
High Court,
Allahabad
No. 32/11
Date 12/12/79

(298)
7/10

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

Writ Petition No. 256 of 1979.

Anwarul Hasan Petitioner

Versus

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

ANNEXURE No. VII.

OFFICE ORDER NO. 48.

In terms of DS/LKO letter No. 941-E/11 H/70,
1-6
dated 8.10.70 the following officiating arrangements
have been approved.

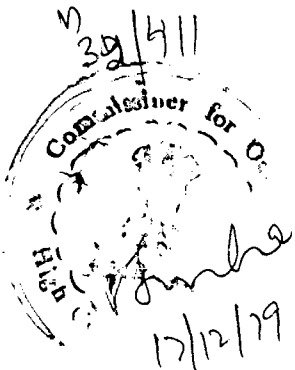
1. Shri Jagat Narain Sinha cleaner has been promoted to officiate as F/I against the existing vacancy from 9.7.70.
2. Shri Sahdeo Bux Singh and Shri Anwarul Hasan LR/KH have been promoted to officiate as F/C against the existing vacancy.
3. S/Shri Dukh Haran, Pd. and Moti Lall Sharma F/KH have been put to officiate against the leave vacancy of junior Clerk against item No. 2.
4. As a result of change of designation of two F/Kh against item no. 3 the following empanelled senior most Sub.C/Labour are put to work as permanent substitute against the clear vacancy with immediate effect.

1. Shri Jai Kumar Panel S.No. 1 s/o Ram Lall
2. Shri Ram Das s/o Hari Lal Panel S.No. 6

Sd/- Loco Foreman NR *P*
Lucknow, 10.10.70.

TRUE COPY

Anwarul Hasan
17/12/79



Anwarul Hasan
17/12/79

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7/11

IN THE HONORABLE HIGH COURT OF JUDICATURE AT ALLAHABAD
(MUNICIPAL) JUDICIAL

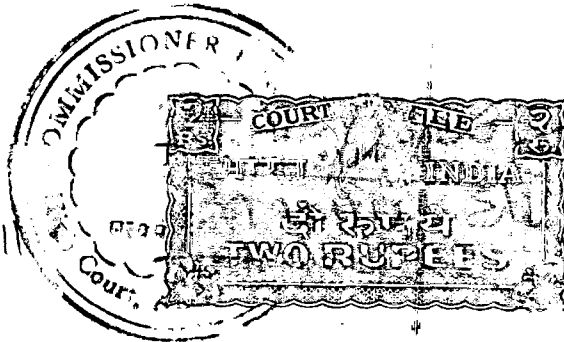
Civil Appeal No. 1-

(1) of 1979

In re

Civil No. 256 of 1979.

1979
AFFIDAVIT
32 H
HIGH COURT
ALLAHABAD



Answerer Hasan

Petitioner

V. vs.

The Union of India and others

Opp. Parties.

AFFIDAVIT in support of application.

I, Answerer Hasan, aged about 44 years, son of Late Mr. Amirul Hasan, residing at Railway Quarters no. 2039 J, Main Road, near Ward Bahadur, Lucknow, do hereby solemnly affirm and state as under:

1. That on or about 17/12/79 I incurred expenses for the printing of the petition No. I, VI and VII and a copy of the petition was deposited with the Court of Sessions, Allahabad, for filing of the petition and it was necessary to copy of the petition in the Court of Sessions of the original documents.

2. That on or about 17/12/79 I was given my copy of the petition No. 847-79, dated 22.12.1979 by the opposite parties, and I was not able to rely upon a copy of the petition supplied to me by the opposite parties and I was not able to rely upon a copy of the petition supplied by him was not a true copy. I was not able to rely upon a copy of the petition supplied by him was not a true copy. I was not able to rely upon a copy of the petition supplied by him was not a true copy.

Hasan 17/12/79



(C100)
7/12

have filed a true copy of the said order of 22.12.1978 as annexure No. A-V of their counter affidavit. As the original order is in the possession of the opposite parties No. 1 and 2, and as the two copies slightly differ from each other, the deponent presumes the copy filed by the opposite parties 1 and 2 as more authentic and accordingly wishes to copy of annexure No. V to the petition which the true copy of the impugned order dated 22.12.1978 is obtained from annexure A-5 of the counter affidavit of the opposite parties No. 1 and 2.

Lucknow, Dated:
December 17th, 1979.

Amrind Hasan
Deponent.

VERIFICATION.

I, the deponent named above, do hereby verify that the contents of paras 1, 2 and 3 of the affidavit are true to my personal knowledge. No part of it is false and nothing material has been concealed.

So help me God.

Lucknow, Dated:
December 17th, 1979.

Amrind Hasan
Deponent.

I certify the deponent who has signed before me.

Ashok Misra
Advocate.

Solemnly affirmed before me by ^{the deponent} *Amrind Hasan* on this 17th day of December, 1979, at 11.30 A.M./P.M. who is assisted by undersigned Advocate, High Court, Lucknow Bench, Lucknow.

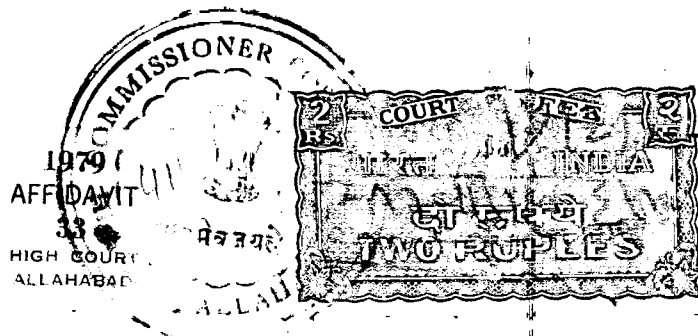
I have satisfied myself by examining the deponent and by the contents of this affidavit which has been read over and explained to him.

V. Sinha
Commissioner
High Court, Allahabad,
Lucknow Bench

32/111
17/12/79



256/1979.



Anwarul Hasan

Plaintiff

Versus

The Union of India and others

Opp. Parties.

SUPPLEMENTARY AFFIDAVIT TO AFFIDAVIT

I, Anwarul Hasan, aged about 44 years, son of late Sri Shariful Hasan, residing at Railway Quarter No. 1059 J. Tehri Pura, P.O. and Ward Lambagh, Lucknow, do hereby solemnly affirm and state as under:

1. That the deponent has been working as Fuel Issuer for Diesel locomotive at Diesel installation, Charbagh Railway Station, Northern Railway, Lucknow, which is Material Grade post (scale Rs.260-400/-) since 18.8.1977 till 28.12.78, i.e.,/six days after the passing of the impugned order No. 847-E/I-9, dated 22.12.78 (A-V to the Counter Affidavit filed by the opposing parties Nos. 1 and 2).

Before that, he had been working as Material Clerk for Running Ropes (Running Rope caretaker) between 15.9.75 and 17.8.77 in the same grade and scale.

2. That the deponent has been receiving Rs.455.00 (approximately) bonus collections and on account of Provident Fund, Loans, and electric charges etc., subject to the variation in P.M. etc., as salary per month.

Anwarul Hasan
12/12/79

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(102)
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-2-

for an entire period from 28.12.1977 and 28.12.1978.

3. That the deponent has tried to ascertain the exact monthwise amount of his salary up to paise from the Accounts Section of the Divisional Railway Manager Office, Nazratgunj, Lucknow, by making a request to the Officer-in-charge, but he has refused to give the requisite information. The opposite party should be now directed by this Hon'ble Court to submit the monthwise statement of salary paid to the deponent in the years 1977-1978.

Lucknow, Dated:
December 17th, 1979.

Anwar Hussain
Deponent.

Verification

I, the deponent herein below, do hereby verify that the contents of parts 1, 2 and 3 are true to my personal knowledge. No part of it is false and nothing material has been concealed. So help me God.

Lucknow, Dated:
December 17th, 1979.

Anwar Hussain
Deponent.

I identify the deponent who has signed before me.

Abul Kalam
Advocate.

and I have affirmed before me on 17th day of December 1979 by Shri Anwar Hussain at 11.30 A.M./P.M. who is identified by aforesaid Advocate, High Court, Lucknow, Lucknow.

I have also visited his residence and the deponent has shown me the original of this affidavit which he has signed over me and kept it in his possession.



Sinha
COMMISSIONER OF POLICE
Lucknow
17/12/79

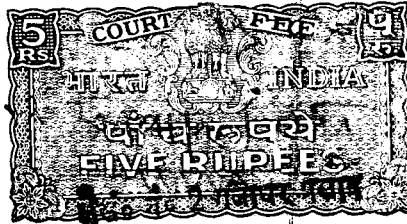
(103)

In THE HON'BLE HIGH COURT OF JUDICATURE AT ALLEAHABAD
(LUCKNOW BENCH) LUCKNOW.

Civil Misc. Appln. No. 5211 (W) of 1979

In re

N.P. No. 256 of 1979



Anwarul Hasan

Applicant

Versus

The Divisional Railway Manager
Northern Railway, Lucknow Division,
Lucknow and others.

Opp. Parties.

APPLICATION.

The applicant respectfully submits as under:

1. That the applicant has filed a writ petition in this Hon'ble High Court on 2.2.1979 which was admitted and numbered as N.P. No. 256 of 1979 by this Hon'ble Court.
2. That the applicant had, by means of the said writ petition, challenged the validity of an order passed by the Divisional Railway Manager, the opposite party No. 1, on 22.12.78 (copy of which is filed herewith as annexure No. 1) allegedly transferring the applicant from his present duties of Material clerk to the post of Boiler Maker Khallasi, besides other orders of him promoting his junior colleagues over and above him without any valid reasons. The applicant

Anwarul Hasan

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applicant has also filed an application No. C.M. 701 (W) of 1979 before the Hon'ble High Court praying for a stay of the impugned order passed by the opposite party No. 1² dated 22.12.78 (Annexure No. 1) till the disposal of the writ petition on the same date i.e. 2.2.79. The impugned order in fact is in the nature of the punishment without any valid reason and has been issued without following the due process of law, and is discriminative, mala fide and void ab initio.

3. That the Hon'ble High Court was pleased to grant an stay against the impugned order in the following terms:

"Admit. Issue notice. In the meantime operation of the order dated 22.12.78, a copy of which has been annexed as annexure-5 to the petition, so far as the petitioner is concerned, shall remain stayed for a period of two weeks. List this application on 15th February 79. In the meantime the petitioner will service opposite parties intimating that the stay application will come up for order on 15.2.79. The petitioner undertakes to take steps within 24 hours through registered post."

a true copy of the same is filed herewith as annexure No. 2.

4. That notices were duly received by opposite parties No. 1 and 2 to file their reply to the interim order of the ~~mag~~ court by 15.2.1979, the fixed for orders on ^{the} ~~under~~ said application.

5. That on 15.2.1979, Sri Sagir Ahmad, Railway Advocate, appeared before the court on behalf of the opposite parties No. 1 and 2 and prayed for a time of 2 weeks more to file his objections, if any. The court was therefore pleased to fix 1.3.1979 for disposal of the application and the opposite parties were ordered to file objections before that date.

6. That no objection, whatsoever, was filed by the opposite parties till the hearing the application on 1.3.1979. Thereupon the Hon'ble Court was pleased to

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confirm its interim order dated 2.2.1979 till further orders in the following terms :

"No counter affidavit has been filed.
The interim order dated 2nd February, 1979 shall, therefore remain in operation until further orders."

a true copy of the said order is filed herewith as annexure No. 3.

7. That the opposite parties paid no heed to the Hon'ble Court's order and instead from the very begining was made clear when the applicant reported to his office i.e. the Time Office of the Loco Shed, Alambagh, Lucknow, on 18.3.1979 for duty at 8 A.M. the time keeper informed him that his office had not received any instructions from the opposite party No. 1 that the operation of his impugned order dated 22.12.1978 allegedly transferring the applicant from his present capacity of Matetial Clerk to Boiler Maker Khallasi had been stayed or that the applicant was to be continued in his previous capacity and in the same grade i.e. of Material clerk, as on before passing the said order and as such he refused to give him duty on his position prior to the passing of the impugned order of opposite party No. 1 dated 22.12.1978. Instead he insisted that the applicant should comply with the impugned order by joining as Boiler Maker Khallasi.

8. That the applicant was also informed by the Loco Shed that his name was not included in the salary bills for the foregoing months of January and February 1979 and that opposite party No. 1 had ordered that the applicant should neither be given any salary nor any duty except the one envisaged in the impugned order viz. that of Boiler Maker Khallasi.

9. That the applicant filed a representation through proper channel on the same date against the

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deliberate disobedience of the Hon'ble High Court's order dated 1.2.79 and 1.3.1979 respectively, requesting him to give duty on the position on which the applicant was working before passing of the impugned order dated 22.12.1978. The application was also accompanied with the photostate copy of the court's order dated 1.3.1979 and the true copy of order dated 2.2.1979 and a copy of it was filed with the despatch section of the Loco Shed, Alambagh, Lucknow. A copy of the same was sent to the opposite parties No. 1 and 2 and Sri Sagir Ahmad, Northern Railway Advocate, counsel for the opposite parties in the said writ petition through his counsel Sri Ashok Nigam, Advocate, alongwith a covering letter from the counsel dated 18.3.79 by registered post reminding the opposite parties their legal duty to give the applicant his duty in terms of the Hon'ble Court's interim orders and requesting them to do so immediately and to give him his back salaries. A copy of this covering letter alongwith the representations to the opposite parties is enclosed herewith as annexure No. 4. This was received by them on 20.8.1979.

10. That despite the receipt of the said application and the copies of the Hon'ble Court's interim order directly also, the opposite parties 1 and 2 continued their contemptuous disregard of Hon'ble Court's interim order by not issuing any instructions to the applicant's office to stay the implementation of the impugned order dated 22.12.1978 till this date.

11. That the applicant used to report on duty daily since 18.3.1979 but he was informed by the time office and the Assistant Mechanical Engineer, Loco Shed, Lucknow, that they were unable to give him any duty other than the Boiler Maker Khallasi as per impugned order of the opposite party No. 1. They also informed

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him that they have been specially instructed by the opposite party No. 2 not to receive any application from the applicant or not to allow him to report on duty and not to include his name in the pay bill and not to give him any salary.

12. That as a result of the deliberate failure of the opposite parties to comply with the Hon'ble Court's interim order and their instructions to harass the applicant and not to give him a humanitarian treatment or even to receive his joining report the applicant could not join his duties till today despite his going to his office daily and sitting over there for the entire duty period. Further the applicant has not been given even a single pie of his salary from 30.12.1978 inspite of repeated requestes.

13. That on 12.4.1979, applicants counsel Sri Ashok Nigam, Advocate, sent a registered notice to both the opposite parties No. 1 and 2 warning them against their deleberate and malafide disobedience of the Hon'ble High Court's interim order and requested them to comply with the same by giving the applicant his duty on the position on which he was working before passing of the impugned order of 22.12.1978 (a true copy of it is filed herewith as annexure No. 5). In it he had also drawn attention of the opposite parties towards the sorrowful plight of the applicant who holds a big family without any ^{other} ~~other~~ means of subsistence hence who was suffering untold miseries due to non-payment of his salaries since 30.12.1978. The applicant's counsel had also made it clear to the opposite parties that if they failed to ²implement the Hon'ble High Court's order any more, the applicant would be compelled to take legal proceedings against opposite parties for the contempt of the court. This notice was duly received by both

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the opposite parties on 16.4.1979.

14. That on 12.4.1979 the applicant also tried to give an applicatio-n to the Divisional Railway Manager through the Loco Shed Office, Alambagh, Lucknow, but this application was also refused to be received by any of the person concerned in the said office. Under the circumstances the applicant was again compelled to ~~and~~ send his application through Regd. A.D. to the opposite party No. 1 which was also duly received by him on 16.4.1979.

15. That inspite of the repeated requestes and written communications by the applicant and his counsel to the opposite parties No. 1 and 2, both of them have deliberately refused to obey the Hon'ble Court's interim order of 2.2.1979 and 1.3.1979 respectively. They have even not replied any of these communications till this date. Instead the opposite party No. 2 has chosen to frustrate the Hon'ble Court's direction by neither giving the applicant any duty nor the salaries for the last seven months.

16. That the opposite parties have every intention to punish and harass the applicant for moving to this Hon'ble Court and by refusing him to give duty and salary for the last 7 months they want to compel the applicant not to contest his petition for want of subsistence mon

17. That the applicant is very poor person with a large family depending on him. He has no other source of income than this service and opposite parties refusal to pay him his due salary had placed him on the brink of starvation.

18. That the opposite parties' disobedience and contempt of this court's orders is obvious from the

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facts narrated above and the applicant believes that even if he wins the case the opposite parties will not grant him his 1 salary for the intervening period or give him duty.

WHEREFORE it is prayed that the opposite party No. 2 be directed to restore the applicant on his old post as Material Clerk and give him duty on that very same post and to pay him the arrears of salaries for the entire period between 30.12.1978 to this and to keep on paying him his salary which he was receiving before the passing of the impugned order till final decision in the case. If necessary, the stay order of 2nd February, 1979 be suitably amended so as to incorporate this prayer also.

Lucknow, Dated:
August 13, 1979.

Anwarul Hasan
Applicant. 13/8/79

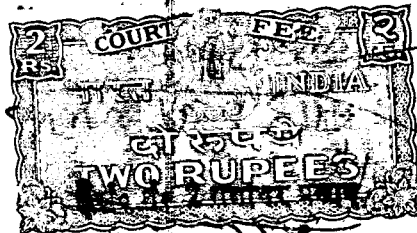
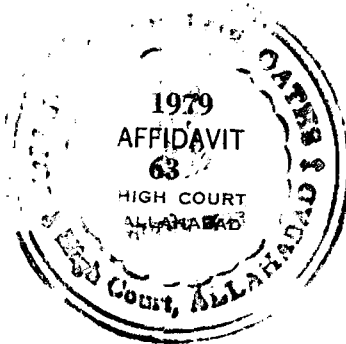
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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUCKNOW BENCH) LUCKNOW.

Civil Misc. Appln. No. (W) of 1979

In re

M.P. No. 256 of 1979.



Anwarul Hasan

Applicant

Versus

The Divisional Railway Manager,
Northern Railway, Lucknow Division,
Lucknow, and others.

Opp. Parties.

AFFIDAVIT

I, Anwarul Hasan, aged about 43 years, son of
Late Shri Shariful Hasan, resident of Railway Quarter
No. L.D. 59 (1) Terhi Pulia, Lambagh, Lucknow, do
hereby solemnly affirm and state as under:

1. That the contents of paras 1 to 18 are true
to my own knowledge.
2. That I have compared the annexures with their
originals and they are the true copies.

Lucknow, Dated:
August 12, 1979.

S 12

Anwarul Hasan
Deponent. 12/8/79

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VERIFICATION.

I the deponent named above do hereby verify
that the contents of paras 1 and 2 are true to my own

knowledge. Nothing material has been concealed and no part of it is false. So help me God.

Lucknow, Dated:
August 12, 1979.

2

Amramul Hasan

Deponent.

12.8.79

I identify the deponent who has signed before me.

Subramaniam Clerk
Advocate.

12.8.79.

Solemnly affirmed before me on this
(13th) day of August 1979, at 8.15 A.M./P.M.
who is identified by aforesaid *Subramaniam*,
Advocate, High Court, Lucknow Bench,
Lucknow.

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



Subramaniam
High Court, Lucknow Bench.

Subramaniam
Advocate, High Court, Lucknow Bench.

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

No. of 1979.

(912)
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Anwarul Hasan

Applicant

Versus

Divl. Railway Manager,
Northern Railway and
another

Opp. Party.

ANNEXURE 1.

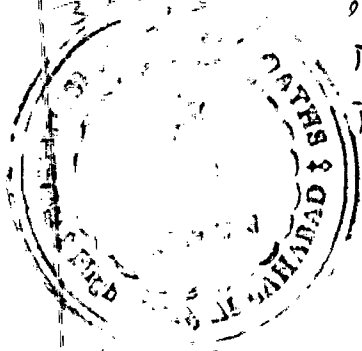
(Copy of order dated 22.12.1978)

उत्तर दिखाने के लिए - श्री कलम का कागज प्रमाण दिनांक 22-12-67 ई.
पत्रांक नं. 246-ई/१-१
कोर्ट के अंतर्गत कागज के पत्रांक ई/ई/१/१ (अन-सी/६८
दिनांक ८-८-६८ के अनुसार) - - - - - रवशर्मा के
निम्न - - - - - लोको से ड. व. र. नं. २
वेलन नं. १०६/-२३२/- लोको से ड. व. र. नं. २
वेलन नं. १०६/-२३२/-
अतः निम्न लिखित - - - - - रवशर्मा के उक्त
सम्भार दिने स्वामी तब तक उनसे बर्तमान दिवस के तुरन्त
स्वामित्व दिने जाते हैं।

- १- श्री अनवरुल हसन सरवन्त की - अन-रवशर्मा ।
 - २- श्री बाबू लाल फैजाबाद फि. र. रवशर्मा ।
 - ३- श्री सहदेव बज्जाली ई. रवशर्मा फि. र. रवशर्मा ।
- ह. म. ड. अ. ध. क.
सरवन्त ।

1171

Anwarul Hasan



(113)

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

No. of 1979.

6/11

Anwarul Hasan

Applicant

Versus

Divl. Railway Manager,
Northern Railway, Lucknow,
and another.

Opp. Parties.

ANNEXURE No. 2.

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

C.M. An. No..701 (79) (W)
in re
W.P. No. 256 of 1979

Anwarul Hasan

Applicant

Versus

The Union of India and others.

Opposite parties

Application for Stay.
(order passed on Writ Petition)

Lucknow Dated: 2.2.1979

Hon. U.C. Srivastava, J
Hon. K.N. Goyal, J.

Admit. Issue notice. In the meantime operation of the order dated 22.12.78, a copy of which has been annexed as annexure-5 to the petition, so far as the petitioner is concerned, shall remain stayed for a period of two weeks. List this application on 15th February '79. In the meantime the petitioner will serve opposite parties intimating that stay application will come up for orders on 15.2.79. The petitioner undertakes to take steps within 24 hours through registered post.

Sd/- U.C. Srivastava,
Sd/- K.N. Goyal.
2.2.1979.

TRUE COPY.

Anwarul Hasan

(C114)

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

No. of 1979

6/12

Anwarul Hasan

Applicant

Versus

Sri Prakash Narain,
Div. Railway Manager, Northern Railway,
Lucknow and another.

Opp. Parties.

ANNEXURE NO. 3.

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

C.M. An. No. 701 (W) of 1979.

Anwarul Hasan

Petitioner

Versus

Union of India and others

Opp. Parties.

APPLICATION FOR STAY.

Lucknow dated: 1.3.1979.

Hon'ble T.S. Misra, J.

No counter affidavit has been filed. The
interim order dated 2nd February 1979, shall, therefore
remain in operation until further orders.

Sd/- T.S. Misra.
1.3.1979.

TRUE COPY.

4

Anwarul Hasan



(C-115)

6/13

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

No. of 1979.

Anwarul Hasan

Applicant

Versus

Divl. Railway Manager,
Northern Railway, Lucknow
and others.

Opp. Parties.

ANNEXURE No. 4.

To

1. The Divisional Manager,
Northern Railway,
Lucknow Division,
Lucknow.
2. The General Manager,
Northern Railway Head Quarters Office,
Baroda House,
New Delhi.

Reference: Writ Petition No. 256 of 1979 - Anwarul Hasan
versus UOI and others.

Dear Sir,

342/63

Please find enclosed herewith a copy of the application which was proposed to be sent to you through proper channel by my client on 18.3.1979 (Annexure 1) alongwith a true Photostate copy of the order passed by the Hon'ble Court, Lucknow Bench, Lucknow, on 1.3.1979 in the above mentioned case (Annexure 2) instructing you not to give effect to the impugned order of the Division Superintendent/Divisional Railway Manager dated 22.12.1978, allegedly 'transferring' my client from his post of Material Clerk to the post of Boiler Maker Khallasi. As Sri Lal Bahadur, the time Keeper of the time office, Loco Running Shed, Northern Railway, Lucknow, wherefrom my client is to be given duty, pleaded ignorance of the High Court's orders and asserts that

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his office has not received any instructions from you staying the implementation of your above mentioned order dated 22.12.1978 and as ~~he refused to give~~ he refused to give my client duty on his old position as stipulated under the orders of the Hon'ble High Court and so he refuses even to receive my client's application to you (annexure 1 and 2) so I am giving you this notice along with my client's application (Annexure 1 and 2) for being forwarded to you through proper channel, under the instructions of my client that he has already reported for duty on 17.3.1979 and refusal to restore him back in his position as on before 22.12.1978 and instead asking him to work as Boiler Maker Khallasi in accordance with your impugned order, is not only illegal but a clear cut disobedience of the Hon'ble Court's order.

Wherefore you are requested to issue proper instructions to the Time Office, Loco Running Shed, Lucknow, restoring my client back to his old working position, i.e. for Material Clerk, and to give him salary and allowances in that very grade for the month of January and February 1979, as prayed in the accompanying application, a copy of which has been refused by the Time Office, Loco Running Shed for being forwarded to you.

However, if you failed to issue proper orders within the frame work of the Hon'ble High Court's order and insist on my client's working as Boiler Maker Khallasi my client will be at liberty not to do so and to take proper legal proceeding for implementation of the Court's order. Meanwhile my client considers himself on duty on the post of Material Clerk in its grade and will be entitled for all allowances and salary of Material Clerk.

Yours faithfully,

Sd/- Ashok Nigam
Advocate,

Dated March 18, 1979.

210, Ganga Pd. Road, Lucknow.

Copy to Sri Saghir Ahmad, Advocate, for M. Rly.,
111, Golagunj, Lucknow, 226001, for information and
necessary action.

Ashok Nigam

P.T.O.

(Copy of the application referred to above)

The Divisional Manager,
Northern Railway,
Lucknow Division, Lucknow.

6/15

Through

Proper Channel.

Sir,

I want to draw your kind and urgent attention towards the following facts:

1. That I have been working on the post of Material Clerk, Loco Running Shed, Northern Railway, Alambagh, Lucknow, and was getting salary of Rs.284.00 (R.S) per month
2. That I performed my duties as Material clerk till 28.12.78 after which I went to my house in village, Dilawarnagar, District Lucknow, on DUE REST. Unfortunately I fell seriously ill there and therefore I sent an application for grant of medical leave alongwith the Medical Certificate of Dr. A.H. Siddiqui, to the Loco Shed Time Office through my son on 2.1.1979.
3. That in the meantime I came to know that an order was passed by you on 22.1.1978 allegedly 'transferring' me from the post of Material clerk to that of Boiler Maker Khallasi.
4. That in fact this was not a transfer but this order amounted to reduction in rank and a punishment without any fault of mine and it was passed without following due process of law.
5. That feeling aggrieved I filed a Writ Petition against you and the General Manager in the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow, on 2.2.1979 for quashing of the said order and other reliefs and also applied for staying the implementation of your above order.
6. That the Hon'ble High Court admitted my writ petition on 2.2.1979 and ordered stay of implementation of your above order till 15.2.1979. Notices were duly

Amwal Hasan

(c/nos) 6/16

served on you and the General Manager and Sri Sagheer Ahmad, Northern Railway Advocate, appeared in the Hon'ble High Court on 15.2.79 on your behalf and prayed for a fortnight's time to file objections. The Hon'ble Judge allowed the request and fixed 1.3.1979 for the disposal of the objections if any and extended the stay order till that day.

7. That on 1.3.1979 the Hon'ble Judge confirmed the stay of the implementation of your transfer order dated 22.12.1978 till further orders. A true photostate copy of which is enclosed herewith as annexure 1.

8. That I am now cured of the illness and have obtained fitness certificate from the Railway Doctor. I have already filed the said ~~fitness~~ fitness certificate from the ~~Railway Doctor~~ ~~Exh~~ in the Time Office of Loco Shed, Alambagh, Lucknow, on 17.3.1979 for 18.3.1979. I reported on duty to Sri Lal Bahadur, Time Keeper at Time Office, Loco Shed on 18.3.1979 at 8 A.M. and requested him to give duty but the time keeper informed him that the time office of the ~~Loco~~ Loco Shed has not received any instructions from the Divl. Manager, Northern Railway, Lucknow, that the operation of his impugned order dated 22/12/1978 allegedly transferring the applicant from his present capacity to Boiler Maker Khallasi has been stayed or that the applicant should now be continued in the same capacity and in the ~~A~~ same grade, i.e. of Material Clerk as on before passing of the said order.

Therefore, in absence of any such order or instructions from the Divl. Manager, the time keeper expressed his inability to give him duty on his old position. Instead he insist that I can join only as a Boiler Maker Khallasi as per impugned order dated 22.12.78.

9. That this application is being given to you to remind you the above mentioned order of the Hon'ble High Court instructing you not to give effect your

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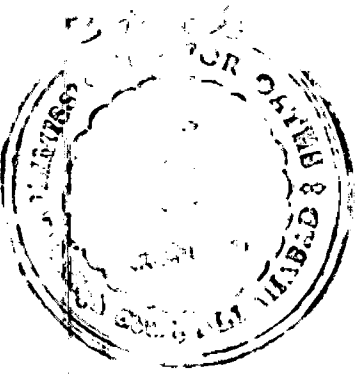
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impugned transfer order dated 22.12.1978 and allow me to work as Material Clerk in the same capacity in which I was working before passing of your said impugned order dated 22.12.1978 till further order of the Court.

10. That I have also been informed by the Loco Running Shed that my name is not included in the Salary Bill for the months of January and February 1979. So you are hereby requested to order payment of my salary with all the allowances for the month of January and February 1979 at the same rate as I was drawing till 28.12.1978 and that I should be allowed my salary at the same rate in future also.

11. I may submit that it is only in this way that the stay order passed by the Hon'ble High Court would be implemented and if I am not allowed to work as Material clerk then it would amount to the disobedience of the order of the Hon'ble High Court.

I hope that you will kindly be pleased to issue immediately necessary instructions to the concerned authority for implementation of the Stay Order passed by the Hon'ble High court (Annexure 1).



I may again point out that I have duly reported to duty at the time office and am prepared to work according to the instructions of the Department provided they do not violate the specific orders of the Hon'ble High Court. As far as Time Office's instructions to work as Hoiler Maker Khallasi are concerned I consider it illegal and therefore the responsibility of not giving me duty lies with the Department and not with me.

Yours faithfully,

Sd/- Anwarul Hasan,
Material Clerk, T.No. 675, Loco
Running Shed, Alambagh,
Lucknow.

Dated March 18, 1979.

Anwarul Hasan

(Copy of the stay order dated 1.3.79 and 2.2.79 referred to above as annexure No. 1).

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

C.M. No. 701 of 1979.

Anwarul Hasan

Petitioner

Versus

Union of India and others

Opp. Parties.

APPLICATION FOR STAY.

Lucknow Dated: 1.3.1979

Hon'ble T.S. Misra, J.

No counter affidavit has been filed. The interim order dated 2nd February, 1979, shall, therefore remain in operation until further orders.

Sd/- T.S. Misra.
1.3.79.

Lucknow dated 2.2.1979.

Hon. U.C. Srivastava, J
Hon. K.N. Goel, J

Admit. Issue notice. In the meantime operation of the order dated 22.12.78, a copy of which has been annexed as annexure-5 to the petition, so far as the petitioner is concerned, shall remain stayed for a period of two weeks. List this application on 11th Feb. 1979. In the meantime the petitioner will serve opposite parties intimating that the stay application will come up for orders on 15.2.79. The petitioner undertakes to take steps within 24 hours through registered post.

Sd/- U.C. Srivastava.
Sd/- K.N. Goyal.
2.2.1979.

Anwarul Hasan



(C/121)

HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD (LUCKNOW
BENCH) LUCKNOW.

C.M. APPLN. No. of 1979.
In re
W.P. No. 256 of 1979

6/19

Anwarul Hasan

Applicant

Versus

Divl. Railway Manager
and others.

Opp. Parties.

Annexure No. 5.

REGISTERED A.D.

To

Sri S.S. Sachdeva,
General Manager, Northern Railway,
Baroda House,
New Delhi.

Sri Prakash Narain,
Divisional Railway Manager,
Northern Railway, Lucknow Division,
Lucknow.

Reference: W.P. No. 256 of 1979 - Anwarul Hasan, Material
Clerk, Loco Running Shed, Alambagh, versus
Union of India and others.

Dear Sir,

I had sent you a registered notice dated 18.3.79
and copy thereof was sent to Sri Sagir Ahmad, Northern
Railway Advocate, Lucknow, on behalf of my client Sri
Anwarul Hasan, Material Clerk, Loco Running Shed,
Alambagh, Lucknow. All the notices were duly received
by the address s soon after.

My client has been going daily to the Loco
Running Shed Office, Alambagh, Lucknow, and presenting
applications for being given duty as Material Clerk
as per order of the Hon'ble High Court mentioned in my
previous letter. But the Despatch and Receipt clerk

Anwarul Hasan

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refused to take his applications saying that his officers have asked him not to receive my application of my client and when he reported the matter to the Time Keeper and the Head Time Keeper they said that under orders of the Divisional Manager, he can not accept any such application nor they can give me the duty of Material Clerk. Being disappointed there my client returns back daily after waiting there during duty hours. 6/20

Please also note that my client has not been paid his salary of the post of Material Clerk since 30.12.78 ~~xxxx~~ in spite of repeated requests. Please issue necessary orders for payment of my client's salary from 30.12.78 till now because the non-payment of the salary has put my client to great loss and he is undergoing ^{miseries} untold ~~miseries~~ on account of that.

This notice, is therefore, being sent to you to inform you that in spite of the fact that all attempts to persuade you to issue necessary orders to the concerned office of the Loco Running Shed, Alambagh, Lucknow, to give my client the duty of Material Clerk according to the Hon'ble High Court's order have failed and it appears that you are bent upon in not complying with the Hon'ble High Court's orders.

Under the aforesaid circumstances my client would be compelled to take proper legal action against you for disobeying the orders of the Hon'ble High Court and thus committing contempt of the court's orders.

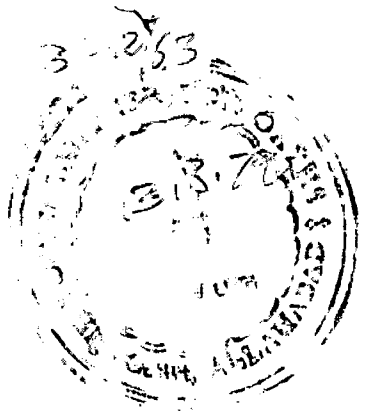
Please treat this as last warning.

Yours faithfully,

Sd/- Ashok Nigam,
Advocate,
210, Ganga Pd. Road, Lucknow.

Lucknow, Dated:
April 12, 1979.

Arman Halim



Before the Central Administrative Tribunal Allahabad,
Circuit Bench, Lucknow.

U.A.No.38 of 1988.

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Shyam Kumar and others.	-----Applicants
Versus	
Union of India and others.	-----Respondents
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The applicants most respectfully beg to state :-

1. That the applicants were successful in written test for selection on the post of Material Clerk on which they had been working on temporary basis since 9.2.1981. They were required to appear in viva-voce on 10.8.1982. The viva-voce test was however postponed.
2. That thereafter without holding viva-voce test number of persons were promoted as Material Clerks on the basis of written test to the laclusion of applicants. Many persons subsequently appointed as Material Clerks were also promoted to the next higher post to the detriment of the applicants.
3. That the applicants were subsequently promoted as Material Clerks during the pendency of the above

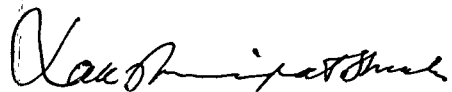
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application. They are therefore entitled to all consequential benefits of seniority, proforma promotion and arrears of salary and allowance on the basis of their continuous officiation since 9.2.1981 and proforma promotion and arrears of salary and allowance from the date their juniors were promoted.

Wherefore, it is prayed that the applicants may be allowed to withdraw the above application and file a fresh application on the basis of their subsequent promotion and regularisation as Material Clerks.

Lucknow, dated,
18.10.89


Advocate.
Counsel for the applicants.