

Maharaj Din Mohan
15-
4-01

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

FORM OF INDEX

~~D.A./T.A./R.A./C.C.P./~~ No. T.A. 430/87

P A R T - I

1. Index Papers :- 1 to 2.
2. Order Sheet :- 1 to 12
3. Any other orders :- NIL
4. Judgement :- 13 to 15. (dt-28-11-90)
5. S.L.P. :- NIL

- 1 - Copy of Petition A16 to A23
- 2 - E.M. Second Edition. A24 to A33
- 3 Affidavit / Appli. for stay A34 to A35
- 4 Paid ✓ A36.
- 5 Appli. for amendment A37 to A54
- 6 - Notices H.C. A55 to A60.
- 7 - CA. A61 to A70 H.
- 8 - RA. A72 to A74

DY. Registrar

Supervising Officer

Dealing Clerk

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

NIL

This file is hit for ready ref.

Dealing Clerk

Recd
50(5).

File B/C destroyed on 09-5-12.

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

INDEX SHEET

CAUSE TITLE TA. 430/87 of 19 87 (7)

NAME OF THE PARTIES _____

Shri Mahraj D. in Applicant

Versus

Permanent way Inspector & RespondentPart A, B & C

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CIVIL
SIDE
CRIMINAL

GENERAL INDEX

(2)

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case *W.P. 433-79*

Name of parties *Maharaj and others vs Permanent way Inspector*

Date of institution *28-2-79* 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
A	1	general index	1	—	Rs. — P. —			
A	2	order sheet	1	—	—			
A	3	sheet with affidavit and annexure	20	6	102	—		
B	4	power	1	1	5	—		
B	5	C.M. No. 1131-79	1	1	5	—		
B	6	C.M. No. 1540-79	5	2	5	—		
	7	Comd. 3493 (W-80) dt 7-7-80	1		5.00			
	8	Notice	6	—	—			
	9	order sheet	4	—	—			
	10	Bench copy	1	—	—			

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

14.
K.M.M.

Impressed

Five Adhesives Re. 100.00 p
Total Re. 100.00 p

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

In time up to

Papers filed. Copy of P. O.

Should also be filed.

By/le - Bench

~~Case assigned over~~

(A-3) - 23-2-79. n

Recd
23/2/79

Hon'ble Hari Swarup, J.
Hon'ble Prem Prakash, J.

There is no allegation
as yet that the services of
the petitioners have been
terminated and there is also
no averment about the dates
on which the petitioners had
joined service. Learned
counsel may file supplementary
affidavit in these respects.
Put-up on March 1, 1979.

GH

23-2-79

ms/

(2)

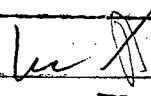
Date 1	Note of progress of proceedings and routine orders 2	Date to which case is adjourned 3	
1-3-79	20-3-79 fixed with C.M. 1131(w)-79 for orders L		apt 2 weeks ie 15-3-79 B/P
20-3-79	Wm with C.M. on 1131(w)-79 for orders:- then H-S J. then Mathur, J. Put up tomorrow. 20/3/79 on		
21-3-79	with C.M. on 1131(w)-79 and 1540(w)-79 for orders vi. H S J vi. Mathur J S.O.		1540(w)-79
21-4-79	Wm with C.M. on 1131(w)-79 and 1540(w)-79 for orders:- then P P J. then V C S J.		

ASc 9/11

ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 437 of 1978

3

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	Hon. Prem Prakash J. Hon. U.C. Saxena J.	
	The petitioners in para 20 of the writ petition have mentioned that the proposed termination of the services of the petitioners is in violation of the provisions of Industrial Dispute Act. There is a Division Bench Case of this Court in which it has been held that if there is an industrial dispute an alternative remedy to the petitioners - workmen lies under the Industrial Dispute Act. Learned Counsel for the petitioners wants to prepare himself on that point. He prays for and is given a week's time list thereafter for hearing as regards admission.	
	Per 	

17.4.79

PS-

ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD
W.D. No. 433 of 197 9
25

(A/5) 8/3
(4)

Date	Note of progress of proceedings and routine order	Dated of which case is adjourned
1	2	3
3-8-79	Writ with C.M.A. 1131 (W)-79 & 1540 (W)-79 for order. Hon. H.S.J. Hon. M.S.J. S.O.	
5-8-79	Writ with C.M.A. 1131 (W)-79 & 1540 (W)-79 for order. Hon. H.S.J. Hon. M.S.J. Issue notice of amended writ Petition. order in C.D. An 1540 (W)-79 for amended writ allowed. Process fee report in writ with C.M.A. 1131 (W) of 78 & 1540 (W) of 78. Learned counsel for the petitioner has not taken steps for service of o/p within time. Submitted.	

6.9.79

2-6-80

②

433

-of 1984

-vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	<p><i>J.P.</i> seen service report dt 12.10.01. service on off's 1 to 3 deemed sufficient under Chapter VIII rule 12, the rules of the court. office to proceed.</p> <p><i>W.</i> <i>W.</i> 13.10.01.</p> <p>fixed <u>B.S.</u> 24.10.01</p>	

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CAT (I)/II

~~ALL INDIA~~
~~NEW DELHI~~

6

O.A./T.A. No. 430 1987

P. No 433/79

Maharaj Deen and others App(s)

Versus

Permanent way Inspector Resp(s)
2015

Sr. No.	Date	Orders
		<p>Officer post</p> <p>writ Petition No 433 has been received on transfer from High Court Lucknow not W.P. is admitted. writ Petition against order of Termination from the Petitioner. Notices issued to both parties Filing 26.1.07 by both No undelivered replies have been returned by Petitioner is pending admission. Submitted for order</p> <p>26/1/87 <u>DK</u> None present for the is. Put up with fresh service report and Reply can be filed by that date</p> <p>(7)</p>

CAT, Circuit Bench checknow

Order-sheet

TA No. 430/87

(7)

A/G

20.7.88

Hon. A. John, A.M.

In response to order dated
23.5.88 S. G. H. Nagon behalf
of the applicant, filed application
requesting for deletion of names of
and retention of 27 applicants
allowed to carry the amendments.

List this for final
hearing on 19.9

A.M.

M

22.07.88

Amendment to be done



19.9.88

No sitting. Adjourned to 25.10
for hearing.

25.10.88

On the request of cotr
the applicant, the case
adjourned to 22.12.88

22.12.88

No sitting. Adjourned
24.2.89 for hearing.

2/K

TA 430/00(4)

24/2/04

Hon D.S. Mirra, A.M.

Hon G.S. Sharma, J.M.

(8)

On the request of
the learned counsel for
the applicant, the case is
adjourned to 19/4/04
for admission.

be

for admission to the J.M. of 19/4/04.

19-4-89

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

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

(9)

Shri Anil Srinastana, learned counsel for the respondents makes appearance on behalf of Opp. Parties and takes notice. The learned counsel for the applicant will furnish a copy of the petition, along with amendment applications and supplementary affidavits, to Shri Anil Srinastana, within a week.

Heard. Admit.

~~Issue Notice~~ The respondents are directed to file counter affidavit within four weeks to which the applicant may file rejoinder, if any, within two weeks thereafter. List the case for final hearing on 26-6-89.

A.M.

Dr
V.C.

(SNS)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

T.A. NO. 430/87 (T)

REGISTRATION No. _____ of 198 .

APPELLANT
APPLICANT

Maharaj Din

VERSUS

DEFENDANT
RESPONDENT

Union of India & Others

10

Order of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
19.4.89.	<p>Hon'ble Mr. Kamleshwar Nath, V.C., Hon'ble Mr. D.S. Misra, A.M.,</p> <p>Shri Anil Srivastava, learned counsel for the app respondents makes appearance on behalf of Opp. Parties and takes notices. The learned counsel for the applicant will furnish a copy of the petition, along with amendment application, and supplementary affidavit, to Shri Anil Srivastava, within a weeks.</p> <p>Heard. Admitt.</p> <p>The respondents are directed to file counter affidavit within four weeks to which the applicant may file rejoinder, if any, within two weeks thereafter. List the case for final hearing on <u>26.6.1989.</u></p> <p>A.M. V.C.</p> <p>Mr. Justice K. Nath, Hon' V.C. Mr. K.J. Raman, Hon' A.M.</p>	
26/6/89	<p>Shri G.H. Naqvi, learned counsel for the applicant says that he will apply for amendment to implead Union of India as Opposite Party. This may be done within 3 days and the application be put up for <u>orders on 29/6/89.</u></p> <p>hgm A.M. (sns)</p> <p>W V.C.</p>	<p>OR As directed by the Court's order dt. 19.4.89 Mr. Anil Srivastava takes notices on behalf of the but no reply has been filed so far in the office submitted for order</p> <p>OR Shri G.H. Naqvi, counsel for applicant has not filed any application for amendment to implead Union of India as stated at Bar. Subm. to S for order</p> <p>28/6/89</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

TA 430-87

REGISTRATION No. _____ of 198 .

Maharaj Din Ears

APPELLANT
APPLICANT

P.W. Ears VERSUS

DEFENDANT
RESPONDENT

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

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

3/11/89

None is present for the applicant.
Shri Anil Srivastava counsel for the respondents
is present. Counsel for the applicant has sought
adjournment. Allowed. List this case for hearing
/ex-parte hearing on 24-1-90. Meanwhile, the
respondents if, they so like, may file counter
reply within 6 weeks to which the applicant
may file rejoinder within 2 weeks thereafter.

J.M.
J.M.

(sns)

No Sitting Adj. to 7-2-90
Both the counsel are present
L

No Sitting. Adj. to 15-3-90
Both the counsel are present

O.A.N. 430/87 (T)

No sitting adj. to of D/B.

Adj. to 30-4-90 R B.O.C

OR
No CA filed
S.F. ex-parte
hearing
L
14b

No CA filed
S.F.
L
15b

T. A. No. 430/87 (1)
(W. P. 433/79)

(1/5)

(12)

12/11/90

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

Hon'ble Mr. M. Y. Pradkar, A.M.

On the request of Shri
Anil Srivastava Counsel for
respondents Adj. do. 19/11/90.

AM

V.C.

S.F.H

16/11/90

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

Hon. Mr. M. M. Singh A.M.

On the request of Shri G. M.
Naqvi Case is adjourned to

21.11.90.

M. M. L
A.M.

V.C.

21/11/90

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

Hon'ble Mr. M. M. Singh A.M.

Both parties Counsel are
present - List the case on 23.11.90
immediately after the admission cases.

M. M. L
A.M.

V.C.

11/11/90

Hon Mr Justice K. Nath V.C.

Hon. Mr. M. M. Singh A.M.

Argument heard Judgement reserved.
Judgement on 26/11/90.

M. M. L
A.M.

V.C.

Judgment -
pronounced
20/11/90
cl

A/13

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

13

T.A. No. 430/87(T)

(W.P. No. 433/79)

Maharaj Din & others

Petitioners.

versus

Permanent Way Inspector,

N.R. & others.

Respondents.

Hon. Mr. Justice K. Nath, Vice Chairman.

Hon. Mr. M.M. Singh, Adm. Member.

(Hon. Mr. M.M. Singh, A.M.)

This application filed as Writ Petition No. 433/79 in the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow was received on transfer under section 29 of the Administrative Tribunals Act, 1985 and numbered as T.A. No. 430 of 1987 in this Bench.

2. The number of the applicants was 34. The number was reduced to 7 only as 27 of the applicants had since been taken back in service and had no grievance left. The application was amended accordingly. The remaining applicants are at serial Nos. 2, 14, 16, 22, ²⁴27 and 28 with their names S/Shri Gurcharan, Ram Sajeewan, Mata Prasad, Ram Dhani, Ram Jiyawan, Shiv Charan and Bish Ram respectively, renumbered as 1 to 7. The petition was filed in the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow on 23.2.1979 with the following two reliefs with, of course, a third prayer for awarding of costs to the petitioners.

h. h. J.

14

14

i) an appropriate writ or prohibition direction or order be issued to the opposite parties to prohibit them from dismissing the petitioners from service as contemplated on 25.2.1979.

ii) By means of any other suitable writ, direction or order command the opposite parties not to throw the petitioners out of employment and the petitioners be allowed to remain in service as here-to-fore.

3. We have heard the learned counsel for the parties and perused the record.

4. The respondents filed counter reply dated 30.4.90 enclosing with it a chart showing the working days each of the 7 remaining applicants had put in every month since their first engagement on different dates. Applicant Gurcharan continued to be engaged upto March, 1981, Ram Sajewan upto April, 1981, Mata Prasad upto August, 1979, Ram Dhani upto June, 1980, Ram Jiyawan upto May, 1981, Shiv Charan upto April, 1979 and Bishram upto July, 1979. The respondents have, on the basis of this information averred that the applicant Shri Mata Prasad alone had completed 180 days of continuous service and the remaining six applicants had not completed 180 days of continuous work. As such, Shri Mata Prasad alone was eligible for time scale. But he discontinued his work on 14.4.1978 and put in less than the stipulated number of days after the time scale was allowed to him. He, therefore, was again brought back to the daily rated casual worker status. The information furnished by the respondents has been denied in the rejoinder affidavit filed by the applicant Bishram on behalf of "the remaining 7 petitioners". It is to be noticed that the rejoinder consists of an omnibus

M. M. D.


15

A
75

denial of "facts given in the counter reply from paras 1 to 19" and the reason furnished for denial is that "so far as the same are contrary to the stand taken in the writ petition." As the respondents diligently furnished the information about the number of days of engagement of each of the applicants every month since their initial engagement, we are unable to accept the denial of the same by the applicants as also the reasons for the same. The information furnished by the respondents impresses us as reliable compiled from their office records. The information has, therefore, to be taken as acceptable. With such information in the record of the file, it is obvious that the seven applicants were not dismissed from service on 25.2.1979 as contemplated which contemplated dismissal seems to have the background for the first relief. The first relief thus turns out to be without any basis and can, therefore, not be ordered. The respondents' alleged contemplation to dismiss the applicants from service from 25.2.79 did not materialise. The second relief, in so far as it seeks issue of direction to the respondents not to throw the petitioners out of employment has to be related to the action which the applicants feared would be taken from 25.2.1979. As the feared action was in fact not taken, there remained no ^{grounds} ~~circumstances~~ to warrant the issue of the direction prayed for in the second relief.

5. On the above reasoning, the application deserves to be dismissed. We hereby order accordingly. There are no orders as to costs.

4. 11 L
Adm. Member.


Vice Chairman.

Lucknow Dt. 28 Nov., 1990.

writ Petition No. 433 of 1979

Maharaj Din and 33 others . . . Petitioners

Versus

Permanent way Inspector and others.

... Opp. parties.

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6.	Annexure No. 4	19
7.	stay application	21
8.	Power	22

Dated: 23/2/1979

Counsel for the petitioners

10. Mahesh aged about 29 years son of Mahwan Din
resident of Village Sadipur Kotwarpure Kandhar
Post Dhee District.

11. Ram Dayal aged about 22 years son of Cheodi
Village Rupa Mao pure Kan Ka Purwa Post Rupa Mao
District Raiberailly.

12. Isha aged about 29 years son of Hunmat
resident of Village Panga pure Gujar Tola P.O.
Gauriganj, District Sultanpur.

13. Ram Eatan aged about 21 years son of Sincha
resident of Village Sarwanpure Hindu Post Sandee Rai
Berailly.

14. Ram Sajeewan aged about 22 years son of
Ram Adhara resident of village Rupa Mao post Rupa
Mao, District Raiberailly.

15. Bhagoti aged about 24 years son of Lalla
resident of Village Rupa Mao post Rupa Mao Pitt,
Raiberailly.

16. Mata Prasad aged about 21 years son of Mori
resident of Village Bhadaiya post phusatganj,
District Raiberailly.

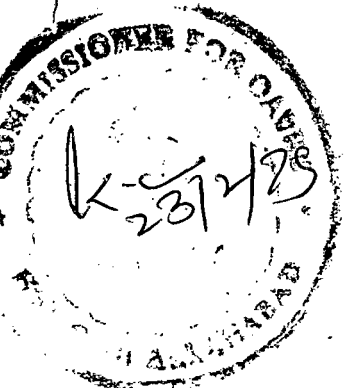
17. Shiv Kumar aged about 20 years son of Sheetla
Din village Udaapur Post Rahi Dist. Raiberailly.

18. Sunder (S.C.) aged about 23 years son of Ram Autar
Resident of Village Bhadaya post phursatganj,
District Raiberailly.

19. Minda Din aged about 21 years son of Baij Nath
resident of Village Rupa Mao Purai Kaeer Post Rupa
Mao District Raiberailly.

20. Ghairao aged about 24 years son of Mathura
resident of Village Sarwanpurai Hindu post Sandai
District Raiberailly.

21. Disrang aged about 24 years son of Pollar
Village Mohaya pure Chaman Post phursatganj, District
Raiberailly.



Versus

1. Permanent way Inspector, Northern Railway, Raiberailly.

2. A. E. N., Northern Railway, Raiberailly.

3. *Divisional Superintendent, Northern Railway, Lucknow.*

Opp. Parties.

Amended Copy

filed 2 amended copies

for O.P. also

writ petition under article 226 of the Constitution of India.

18/7/80
for writ under art 226

The petitioners named above most respectfully beg to state as follows:-

1. That the petitioners have been working as Casual labour for the Northern Railway for the last several years, some of them since 1964 to the entire satisfaction of those deputed to take work from the petitioners from time to time.

2. That on completion of work entrusted to the petitioners they used to be relieved with the promise to be recalled to duty when required. A complete record of services of casual labour was maintained in respect of each of the petitioners.

3. That as loyal citizen of the country the petitioners continued to promote efficient working of the railways in Raiberailly till some of them become over age for services in other departments of the benign Government.

4. That the petitioners worked under opposite party no. 1 as experienced work men and they were subjected to various tests including physical capacity and ability to lift and carry heavy weights.

5. That the petitioners were successful and each of them worked for more than 180 days and they

18/7/80

were found suitable for regular absorption as regular employees in the permanent service.

6. That Casual Service Labour Cards were issued and some of the petitioners were even given C.P.C. scale. The petitioners were called for duty on various tests, the period of their service was duly recorded in the Casual Labour Card issued. All the petitioners worked continuously ^{for several years} ~~from 1974~~ after some break they were all called to duty.

7. That the opposite party No. 1 was not the appointing authority but he has been for the last 8 months ^{harassing} ~~working~~ without any prescribed procedure. When the petitioners were being harassed by the opposite party No. 1 who was not the appointing authority the petitioners sent a representation to the Hon'ble Railway Minister.

8. That in ~~xxxx~~ August 1978 the Divisional Superintendent Opposite party No. 3 visited Rupa Mau Railway station. The petitioners placed their difficulties ^{before} ~~to~~ the Divisional superintendent. It was brought to his notice that each one of the petitioners had worked as casual labour for more than 180 days and that some of them were even given C.P.C. scale but opposite party No. 1 and 2 at times denied these benefits and without any notice asked them not to work.

9. That the opposite party No. 1 and 2 assured opposite party No. 3 at Rupa Mau that each one of the petitioners would be given C.P.C. scale and that none would be turned out from service.

10. On 20th January 1979 opposite party No. 1 on the pay day, told the petitioners that their services would come to a final close on the 25th February 1979. The petitioners sought the reason.

The opposite party No. 1 told the petitioners that they had not paid Union dues at Rs. 5.00 P.M. and the A.E.N. did not want the petitioners to continue in service.

11. That the petitioners sent a representation to the Opposite party No. 3 ^{by dated} 1/2/1979. They also sent copies of the same to opposite party No. 1 and 2.

The opposite party ~~xxxxxx~~ No. 1 and 2 were requested to allow the petitioners C.P.C. scale and in case they were determined to drop the petitioners from service they should give the same in writing so as to enable the petitioners to seek the redress

of their grievances in this Hon'ble Court. ^{The copy of the} petition is Annexure 3 and copy of certificate of posting is Annexure 4.

12. It was also requested in the representation that in case no reply was received within 15 days the petitioners would take it that they will be thrown out of employment on 25/2/1979.

13. That the petitioners were ^{again} ~~given~~ told by opposite party No. 1 on 20/2/1979 that they would be thrown out of employment on 25/2/1979 and that the dismissal ^{order} would not be given in writing. It would be noted that the petitioners had left the work themselves. Copy of the representation ^{is submitted} ~~submitted~~ to the Divisional Superintendent dated 1/2/1979 is Annexure-3.

14. That after due ^{consideration} ~~cases~~ the opposite party No. 1 and 2 have prepared a panel and Rule 2512 of the Railway Establishment Manual provides for employing the casual labour included in the panel and that a requirement ^{is} ~~is~~ from outside ^{from} the open market was forbidden.

15. That many of the co-workers have been turned out from service and opposite party No. 1 and 2 have recruited persons of their choice from the open market.

16. The list was not liable to be modified or cancelled except by the authorities named in Rule 2514

of the same mannuel which confests the said power on the General Manager who has to assign reasons for modification. A true copy of the rule 2514 is annexure-1.

17. That all the petitioners have worked for a period sufficient for confirmation and regular employment and their services, at times are terminated without law-ful cause and without giving them an opportunity of being heard.

18. That in persuance of the Railway Establishment Manual the petitioners after continued service of 6 months acquired the status of temporary employees of the Railways and the facilities and benefits of temporary railway employees were given to them and thereafter they were given the scale of pay as recommended by the Central pay Commission. They were also paid annual increments when they fell due. They were also allowed the benefits of paid casual leave, sick leave and earned leave.

19. That the Railway Board by its circular No. E (Eng) 64-CL/25 dated 19/1/1966 clarified that the continuity of the service of the casual labourers after acquiring temporary status would count for the purposes of post retirement basis and they were also allowed to carry forward the leave at their credit to any new post.

20. That the retrenchment of services of the petitioners and to appoint juniors has been prohibited according to Rule 2511 and 2412 of the Railway Establishment Manual. The petitioners having served for 6 months could be deprived of their appointment only under rule 149 after issue of show cause notice and proceedings under the Discipline and appeal

la-c
23/2/25

152151419

A3
8

A
16
A
22

Rules. That the proposed termination of the services of the petitioners is in violation of the provisions of Industrial Dispute Act.

21. That Opposite party No. 1 is determined to retrench the petitioners by way of punishment as they failed to pay the union dues and they are determined to employ outsiders and other persons who have not put in 6 months service.

22. That the Casual Labourer acquires temporary status has been indicated in Railway Board letter copy of which is annexure -2 and similarly a copy of retrenchment benefits is also enclosed as annexure-2

23. That 15 days notice have been expired and the direction given on 20/2/1979 by opposite party No. 1 the petitioners services are to be terminated on 25/2/1979, the petitioners have not been given a notice and in spite of request no written order has been issued to them.

24. That aggrieved by the ^{intended} ~~minent~~ deprivation of their legal rights the petitioners apply for a writ of prohibition to restrain the opposite parties from throwing out the petitioners ^{from} ~~from~~ out of employment.

25. That there being no equally efficacious remedy available the petitioners file this writ petition under article 226 of the Constitution of India on the following among other grounds:-

Grounds:-

(a) Because the legal rights of the petitioners are at stake without any notice to continue in service.

(b) Because the opposite parties ignored the

rights of the petitioner as indicated in the Annexures. *A*

(c) Because the threatened action of the Opposite party No. 1 and 2 is in violation of fundamental rights of the petitioners. *23*

(d) Because the threatened action is invalid in law.

(e) Because the opposite parties have rendered themselves liable to be allowed the petitioners C.P.C. pay scale ^{and} to enforce rules.

Prayer

wherefore the petitioners respectfully pray that :-

i) an appropriate writ ^{of prohibition} direction or order be issued to the opposite parties to prohibit them from dismissing the petitioners from service as contemplated on 25/2/1979.

ii) By means of any other suitable writ, direction or order command the opposite parties not to throw the petitioners out of employment and the petitioners be allowed to remain in service as here-to-fore.

iii) Costs of the petition be awarded to the petitioners.

IV The order of dismissal be set aside from the order of the same be quashed by the court
of prohibition
HE 2157419
Dated: 23/2/1979 Petitioner *Ali Nazim*
Council for Petitioners

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PERMANENT WAY INSPECTOR,
Northern Railway, Raebareli
and others, Opposite Parties.

~~XX~~
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Government of India

Indian Railway Establishment Manual
(Second Edition)

RECEIVED FOR OWNER

23/2

ALLAHABAD

- P.T.O.

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convenient....

unit of recruitment strictly in the order of their taking up casual appointment at the initial stage, and for the purposes of empanelment for regular class II posts, they should, as far as possible, be selected in the order maintained in the aforesaid registers. While showing preference to ~~xxxx~~ casual labour over other outsiders in the matter of recruitment to regular class IV establishment, due consideration and weightage should be given to the knowledge and experience gained by them, other conditions being equal, total length of service as casual labour, either continuous or broken periods, irrespective of whether they have attained the temporary status or not, should be taken into account so as to ensure that casual labour who are senior by virtue of longer service are not left out.

- (ii) Casual labour engaged in workcharged establishments of certain Departments who get promoted to semi-skilled, skilled and highly skilled categories due to non-availability of departmental candidates and continue to work as casual employees for a long period, shall straightaway be absorbed in regular vacancies in skilled grades provided they have passed the requisite test to the extent of 25 % of the vacancies reserved for departmental promotion from the unskilled and semi-skilled categories. These orders also apply to the casual labour who are recruited directly in the skilled categories in workcharged establishments after qualifying in the trade test.

- (iii) The casual labour referred to in items (i) and (ii) above who joined service before

(3)
before...

attaining the age of 25 years may be allowed relaxation of the maximum age-limit prescribed for class IV posts to the extent of their total service which may be either continuous or in broken periods.

2513. A casual labourer shall be given a card to be retained by himself in which the following particulars could be indicated by the supervisory official concerned, under his signature, affixing the office seal or designation:

1. Name of the employee (in Block letters)
2. Father's name.
3. Date of birth.
4. Age at initial casual employment.....
years.....Months.
5. Personal marks of identification:

(i)

(ii)

6. Date of engagement.
7. Date of termination.
8. Nature of job on each occasion.
9. Signature of Supervisor.
10. Name in full and designation of Supervisor

A specimen copy of the service-card for the casual labour is at Annexure 1.

TRUE COPY.

Deena Jee



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(2)
on such work being.....

governed by sub-section 2 of Section 25-FFF.

(ii) In the proviso to clause (a) of Section 25-F of the Act, it is provided that no notice of retrenchment shall be necessary if the retrenchment is under an agreement which specified a date for the termination of service. In accordance with this proviso, therefore, a direct written communication to the worker will be necessary, wherever he is appointed for a specific period.

(iii) For the purpose of Section 25-F, the period of 6 months mentioned in clause (b) of the said section should be related to half the number of days mentioned in Section 258, namely, 120 days. Thus, service rendered in excess of 6 months with a minimum of 121 working should entitle a worker compensation for the whole year. If he has rendered more than six months service but has not put in actual work for 120 days, he would not be entitled to any compensation for the period served by him over and above completed ~~year~~ year(s).

(iv) The total service rendered by a casual labour under different subordinates working under a District Officer-in-charge or a Divisional Personnel Officer or a Personnel Officer should be counted for purposes of giving the worker retrenchment benefits under Section 25-F or Section 25-FFF of the Industrial Disputes Act, as the case may be.

(3)

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(v)

A worker who is employed directly on a Railway as a casual labourer for more than 240 days in the preceding twelve calendar months on a construction work or a project which has been going on for a period of more than two years and who will be retrenched will be entitled to be paid compensation in respect of retrenchment at the prescribed rates for every completed year of service or any part thereof in excess of six months under Sub-Section (2) of Section 25-FFF of the Industrial Disputes Act, 1947, if he satisfies the other conditions laid down in that Act.

15

(vi)

A worker who is employed by the Railway Administration as a casual labour for more than 240 days in the preceding twelve calendar months on other than a construction work or a project and to whom the provisions of Section 25-FFF of the said Act do not apply, will be entitled to be paid necessary compensation for retrenchment for every completed year of service or any part thereof in excess of six months under Section 25-F of the Industrial Disputes Act, 1947, if he fulfills the other conditions laid down in that Act.

Handwritten notes and a circular stamp with the number 23/2.

(vii)

In terms of the provisions of Clause (2) of Section 5 of the Payment of Wages Act, 1936, read with the revised definition of 'Wages' in clause (iii) of Section 3 of the Payment of Wages (Amendment) Act, 1947,

P.T.O.

(4)

(Amendment) Act 1947.....

retrenchment compensation where due to a
worker under the Industrial Disputes Act
should be paid before the expiry of the
second working day from the day on which
his employment is terminated.

16

TRUE COPY.

Amended

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A3/17 (A/31)

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

Writ Petition No. of 1979

17

Maharaj Din and 33 others Petitioners

Versus

Permanent way Inspector and others..... Opp. Parties.

Annexure No. 3

Copy of ^{Letter} ~~notice~~ dated 1/2/1979 submitted to the
Opposite parties.

The Divisional Superintendent,
Northern Railway,
Lucknow.

Respected Sir,

Maharaj Din and 33 other persons have been working as casual labourer for the last several years. The P.W.I has been harassing us and you were ~~pleased~~ pleased to direct the P.W.I not to harass us. It was so done at Rupamao station in August 1978. Since ~~Then~~ P.W.I and AEN are unhappy with us.

la-2372

2. That some of us were given CPC scale but without assigning any reason the scales were withheld by the P.W.I. We are not able to pay Rs. 5.00 P.M. to Union as desired by the P.W.I. ~~xxx~~ We are being harassed ^{which} and cannot be described. Suffice it to say that the harassment is purposive.

3. That on 20/1/1979 ~~xxx~~ we were told by P.W. I that we would be turned out of employment on 25/2/1979.

4. P.W.I, did not give any notice to us ~~when~~

A3/18
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order 32
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each put in more than 6 months. When requested the PW* said he would not give any dismissal ^{order} ~~not~~ in writing.

5. That according to rules we have worked to the satisfaction of all concerned for the last several years. At the moment there is a threat to our service with the result that our families will starve.

6. ~~That~~ I therefore approach you with the request that the PWI Raiberalilly may be directed to give us C.P.C. scale as was promised at Rupamau, Railway station. In case PWI is going to ^{from} dismiss ~~us~~ services from 25/2/1979, he may be directed to give the same to us in writing so as to enable us to seek the redress of our grievances elsewhere.

7. If no reply is received to the undersigned by the 15th February 1979 it would be presumed that all the 34 employees are to be turned out on 25/2/1979 and such legal course which is open will be adopted.

8. ^{There is} we may be excused if any thing harsh in this representation but it is a matter of unemployment and starvation and hence this application.

A line in reply is solicited before 15/2/79.

Yours faithfully,

Sd/-
Meharaj din. no 112953

Copy forwarded for information and necessary action to:

1. The Permanent way Inspector, Northern Railway Raiberalilly.
2. AEW, Northern Railway Raiberalilly.

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19 (27)

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

.....
Writ Petition No.....of 1979.

19

Maharaj Deen & 33 others Petitioners

Versus

Permanent Way Inspector, Rae Bareilly.....Opp-Parties
and others

Annexure No. 4...

Copy of the Certificate of Posting dated 2.2.79

1. The D.S., N.Rly., Lucknow.
2. The A.E.N., N.Rly., Raebareli.
3. The P.W.I., N.Rly., Raebareli.

3 (three) encelopes.

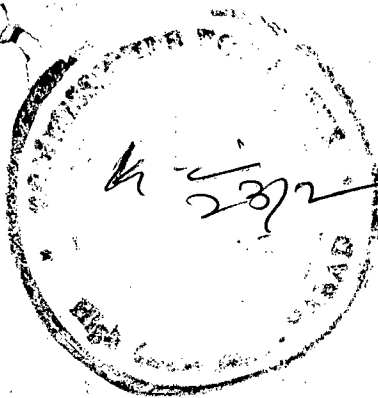
(seal of the Post Office
Lucknow)

(seal)
Dt. 2.2.79.

True Copy

.....

Munawar



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

Writ Petition No. _____ of 1979

Maharaj Din and others Petitioners

Versus

Permanent way Inspector and others . . . Opp. parties.

Affidavit.

I, Maharaj Din aged about 23 years son of Sadhu
President of Moza Sarwan purai Kali Bux P.O. Phursatganj,
District Raibareilly do hereby solemnly affirm and
state on oath as under:-

1. That the deponent is one of the petitioners in the
above noted case and as such he is fully conversant
with the facts and circumstances of the case.
2. That the contents of paras 1 to 25 of this affidavit
are true to ^h ~~my~~ ^{the} knowledge of the deponent.
3. That annexures No. 1 to 4 are compared with
the originals and are certified to be true copies.

Dated: 23/2/1979

HER151417
Deponent

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

Dated: 23/2/1979

HER151417
Deponent.

I identify the deponent who has signed
before me.

Advocate.
Advocate.

Solemnly affirmed before me on 23.2.79
at 9.35 am/pm by the deponent who Maharaj Din.
is identified by Shri C. H. Stojan
Advocate, High Court, Lucknow.
I have satisfied by examining the
deponent who understands its contents
which have been readout and explained by me.

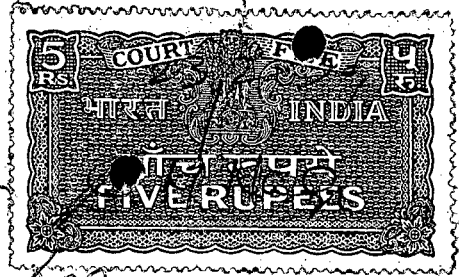
In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench: Lucknow

Writ Petition No. 433 of 1979

C.M. Am No 1131 @ 79

21



Maharaj Din and 33 others. Petitioners

Versus

Permanent Way Inspector and others ... Opp. Parties.

Application for stay

1. The petitioners have filed a writ petition under Article 226 of the Constitution of India.
2. That the petitioners reasonably apprehended that without notice they would be arbitrarily turned out of employment on 25/2/1979.
3. That if the petitioners are thrown out of employment, ~~xxx~~ their dependants would die of starvation.
4. That if the proposed action to throw the petitioners from service is not stayed the petitioners would suffer irriparable loss and the writ petition ~~would~~ become infructuous.
5. That the facts are given in the accompanying affidavit which is a part of this ~~writ~~ petition.

Wherefore it is respectfully prayed that the opposite parties may be directed not to turn out the petitioners from employment till the disposal of this writ petition.

Alunaru

Dated: 23/2/1979

Counsel for the petitioner

ब अदालत श्रीमान

वादी (मुद्दई)

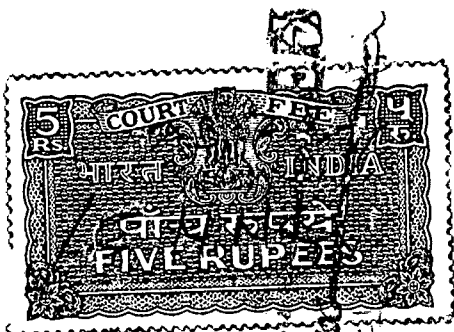
प्रतिवादी (मुद्दाअलेह) का

Honble High Court Allahabad

Sd/-y'ad Lucknow

वकालतनामा

1/20



Mahraj Bin 2 Othms

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P.W.1. Mr. R. S. 2 Othms

Qm 25/7

25/7

बनाम

वादी (मुद्दई)

Madan Lal Chandra

प्रतिवादी (मुद्दाअलेह)

नं० मुकदमा

सन् १९७

पेशी की ता० १९७

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ऊपर लिखे मुकदमा में अपनी ओर से श्री

SS. Gulam

Hasnain Nagvi, S. Karam Raza Karam

एडवोकेट वकील

महोदय

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

Ram Dayal
LT. Mahesh
नाम अदालत
नाम मुकदमा
नाम फरीकत
LT. Ram Ratan

Ramjiyawa

1 भागी 2 शत्रु 3 अज्ञ 4 हस्ताक्षर 5 गवाह 6 दस्तावेज 7 रामधारी 8 रजवार 9 शीतल 10 पता 11 महाराज 12

साक्षी [गवाह]

साक्षी [गवाह]

दिनांक

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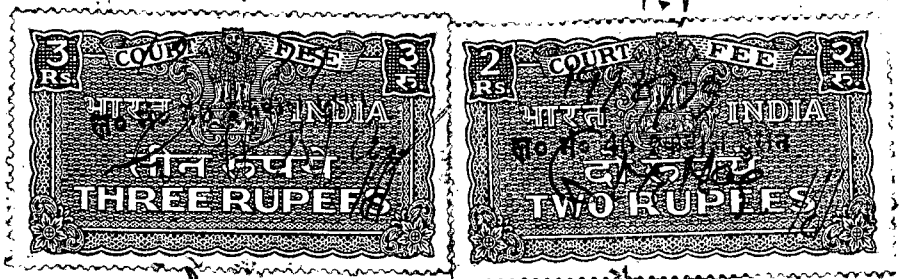
C.M. An No 1540 @ 1979

B/A 31

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

433

Writ Petition No. 435 of 1979



3001

Maharaj Din and 33 others Petitioners

Versus

Permanent way Inspectors and others.

... Opp. Parties.

Application under section 151 CPC for amendment.

The applicants respectfully beg to submit as under:-

1. That for the facts and circumstances mentioned in the accompanying affidavit the following amendments are absolutely necessary.

There are 3 opposite parties and in the IIIrd opposite party may be allowed to be written as Ministry of Railways through D.S., Northern Railway, Lucknow."

2. That paragraph 2 to 6 of the affidavit may be allowed to be put ^{and added after} at the end of para 25 of the writ petition and they may be numbered as 26, 27, 28, 29 and 30.

In the interest of justice, it is therefore prayed that the amendment application may please be allowed and the amendment sought for may be allowed to be incorporated.

~~The stay application may also be considered and the stay order may please be issued in favour of the petitioners to the effect that the status as existed on 23/2/1979 be restored. It is so prayed in the interest of justice.~~

Dated: 12/3/79

Counsel for the applicants.

Signature

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

Writ petition No. 435 of 1979.

Mahraj Din and 33 others.

.. Petitioners.

Versus

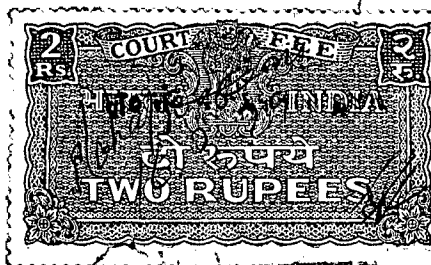
Permanent Way Inspector & others.

.. Opp. Parties.

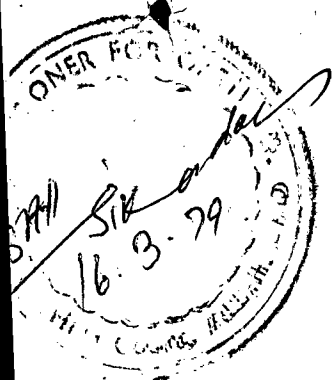
Affidavit in support of Amendment application.

I, Mahraj Din aged about 23 years, son of Saddhu resident of Mauza Sarwan Purai Kali Bux, P.O. Fursatganj, District Rae Bareilly, do hereby solemnly affirm and state on oath as under :-

1. That opposite party no. 3 may be written as under :-
" Ministry of Railways through D.S. Northern Railway, Lucknow. "
2. That applicant no. 2, 7, 11, 34 were removed from duty on 11-3-1979. Applicants no. 1, 3 to 6, 8, 12, 15 to 21, 26, 28 were removed from service after doing duty upto 12-3-1979. Applicants no. 9, 10, 13, 22 to 25, 27, 29 to 33 were removed from service after doing duty on 14th March, 1979.
3. That the petitioners and deponent requested for a written order of removal from service but opposite parties no. 1 and 2 refused to give the copy of any order of removal. They told the petitioners that the order of removal has been passed but no copy would be given as they had shown the petitioners that they left.
4. That the petitioners never left the service.



1979
AFFIDAVIT
26/3/79
HIGH COURT
ALLAHABAD



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5. That the opposite parties no. 1 and 2 had come to know that the present writ had been filed and that the proposed removal of the applicants from service on 25-2-79 had been made the subject of the writ petition. Opposite parties no. 1 and 2 gave out that since the writ had not been admitted and no stay order had been passed they would remove the petitioners on or about during the Holi festival. All the petitioners were removed from service between the 12th and the 15th March, 1979, ~~as indicated above.~~

6. That each petitioner worked for more than 1800 days as is indicated in the chart filed with this affidavit as Annexure - 5. The petitioners have been removed from service on account of Malafides and without hearing the petitioners or giving them an opportunity of being heard.

Lucknow, Dated:
16th March, 1979.

Deponent.

Verification.

I, the above named deponent, do hereby verify that the contents of paras 1 to 6 of this affidavit are true to my own knowledge, that no part of it is false and nothing material has been concealed, so help me God.

Lucknow, Dated :
16th March, 1979.

Deponent.

I identify the deponent who has signed before me.

Advocate.

Solemnly affirmed before me on 16.3.79 at 8 a.m/p.m. by Sri Mahraj Din, the deponent who has been identified by Sri G.H. Noque

Advocate, High Court, Lucknow.

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

8MH s.k.

COMMISSIONER

High Court, Allahabad

Lucknow Bench, Lucknow.

16/3/79

16/3/79



इ न दि आनरेबुल हाई कोर्ट आफ जूडिकेचर एंड इलाहाबाद,
लखनऊ बेन्च, लखनऊ।

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रिट पिटीशन नं० 435 सन 1979.

दीन
महाराज/आदि - - - - - पिटीशनर्स

बनाम
परमानेंट वे इन्स्पेक्टर आदि - - - - - अपोजीट पार्टीज

अनैजुर - 5

क्रम सं०	नाम पिटीशनर	साल	काम के दिन
1.	2.	3.	4.
1-	महाराज दीन	1974	1563
2-	गुरचरन	1976	441
3-	शीतला प्रसाद	1974	1125
4-	जागेश्वर	1974	851
5-	श्रीपाल	1974	1310
6-	शिव कुमार	1974	1168
7-	रघुबर	1974	1249
8-	सरदार	1974	1000
9-	शत्रुहन	1974	534
10-	महेश	1976	331
11-	राम दयाल	1974	711
12-	ईसा	1974	502
13-	राम रतन	1974	492
14-	राम सजोवन	1974	518
15-	भगौलो	1974	752
16-	माता प्रसाद	1975	722
17-	शिव कुमार	1974	812
18-	सुन्दर	1974	529

8/11/79
16-3-79

क्रम सं०	नाम पिछानर	साल	काम के दिन
1.	2.	3.	4.
19	बिन्दा दोन	1974	842
20-	वेर्राऊ	1974	663
21-	बिशराने	1974	708
22-	राम धनो	1974	697
23-	रघु राज	1975	692
24-	राम जियावन	1974	610
25-	श्याम लाल	1974	711
26-	भगौतो	1974	762
27-	शिव चरन	1974	531
28-	बिश्तराम	1974	803
29-	राम प्रसाद	1974	563
30-	राम रतन	1974	1643
31-	राम बहादुर	1974	528
32-	राम बहादुर	1974	914
33-	राम नरेश	1974	1585
34-	राम अघार	1974	1768

विपक्षी सं० 1 व 2 ने इन 34 प्रार्थीगण के बहुत से आदमियों को सो० पो० सो० खेल दिया और जब चाहा फिर हटा दिया और कैजुअल लेबर कर दिया। ये प्रार्थीगण मुस्तकिल नौकर होगये और फिर कैजुअल लेबर करने से उनको जो अधिकार मिले वह सब गैर कानूनी तौर पर छीन लिये और उनको नुकसान पहुँचाया।

SPH S. K. andas
16.3.79

SPH S. K. andas
26/5/79
16.3.79

17/5/79

1/36

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

Writ Petition No. 437 of 1979

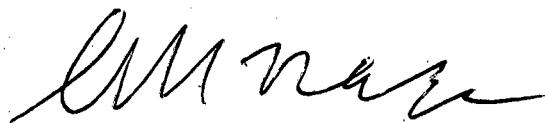
Maharajain and 33 others..... petitioners

versus

Permanent way Inspector and Others

...Opp. Parties.

Herewith please find 3 registered covers with amended writ petition for favour of services on the opposite parties duly stamped and also herewith find amended writ petition on water Marks for the perusal of the High Court Bench. The compliance is within time.



(G.H. Naqvi)
Advocate

Dated: 16 July, 80

Counsel for the petitioners.

In the Hon'ble High court of Judicature at Allahabad
Lucknow Bench, Lucknow
writ Petition No. 433 of 1979

Maharaj pin and 33 others Petitioners

Versus

Permanent way Inspector and others.

...Opp. Parties.

I n d e x

Sl.No.	Particulars	Page No.
1.	writ Petition	1-9
2.	Affidavit	20
3.	Annexure No. 1	10-12
4.	Annexure No. 2	13-16
5.	Annexure No. 3	17-18
6.	Annexure No. 4	19
7.	stay Application	21
8.	Power	22

dated: 23/2/1979

counsel for the petitioners

(A)
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44

In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench : Lucknow.
writ petition No. of 1979

- ~~1. Maharaj Din aged about 23 years son of
saddhu, Resident of Moza Sarwan Pura Kali Bux
P.O. Phurbatganj, District Raibareilly.~~
- ~~2. Gurcharan aged about 25 years son of saddhu
resident of Moza Sarwan Pura Kali Bux P.O.
Phurbatganj, District Raibareilly~~
- ~~3. Chaitla Prasad aged about 23 years son of
Hira Lal resident of Moza Rampur Baghailpure
Bhajan P.O. Rai District Raibareilly.~~
- ~~4. Jageshwar aged about 23 years son of Babu
resident of Moza Rampur Baghailpure Bhajan P.O.
Rahi, District Raibareilly.~~
- ~~5. Shripal aged about 25 years Gaya Din
resident of Kigunpur Kawai Pure Raj P.O. Bandey,
Distt. Raibareilly.~~
- ~~6. Shiv Kumar aged about 23 years son of Satya
Narain resident of village Maharani Ka Purwa
Post Jagatpur, District Raibareilly.~~
- ~~7. Raghuwar (S.C) aged about 23 years son of
Gooli Din resident of Village Rupa Mao Post
Rupa Mao.~~
- ~~8. Sardar aged about 28 years son of Ramautar
Village Bhadaya Post Phursatganj, District Raibareilly.~~
- ~~9. Shatruhan aged about 22 years son of Medai
Villager Mohaya Pura Bhaman Post Phursatganj,
District Raibareilly.~~

10. Mahesh aged about 29 years son of Bhagwan Din resident of Village Sadipur Kotwarpure Kandhar Post the District.

11. Ram Nayal aged about 22 years son of Cheddi Village Rupa Mao Pure Ban Ka Purwa Post Rupa Mao District Raiberailly.

12. Isha aged about 29 years son of Hanmat resident of Village Panga pure Gujar Tola P.O. Gauriganj, District Sultanpur.

13. Ram Ratan aged about 21 years son of Bindha resident of Village Sarwanpure Hindu Post Bandee Rai Bareilly.

14. Ram Sajeewan aged about 22 years son of Ram Achara resident of village Rupa Mao post Rupa Mao, District Raiberailly.

15. Bhagoti aged about 24 years son of Lalla resident of Village Rupa Mao post Rupa Mao Distt. Raiberailly.

16. Mata Prasad aged about 21 years son of Auri resident of Village Bhadaiya Post Phusatganj, District Raiberailly.

17. Shiv Kumar aged about 20 years son of Sheetla Din village Udaopur Post Rahi Distt. Raiberailly.

18. Sunder (S.C.) aged about 23 years son of Ram Autar Resident of Village Bhadaya Post Phursatganj, District Raiberailly.

19. Bindu Din aged about 21 years son of Baij Nath resident of Village Rupa Mao Purai Kueer Post Rupa Mao District Raiberailly.

20. Chetirao aged about 24 years son of Mathura resident of Village Sarwanpurai Hindu Post Bandai District Raiberailly.

21. Birane aged about 24 years son of Pollar Village Mohaaya Pure Bhaman Post Phursatganj, District Raiberailly.

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22. Ram Dhanu aged about 21 years son of Mangal resident of Moza Sarwanpura Kali Bux Post Bandai Rai Phursatganj, District.
23. Baghu Raj aged about 22 years son of Kandhai Village Bhawa Mao Post Baraith, District Raiberailly.
24. Ram Jiyawan aged about 25 years son of Kandhai resident of Bhawa Mao Post Baritha District Raiberailly.
25. Shyam Lal aged about 22 years son of Subba Village Gauri Lakhani pure Bajrangi Sing Post Bhaw District Raiberailly.
26. Bhagoti aged about 23 years son of Ausan resident of Village Udaipur Post Rahi District Raiberailly.
27. Shiv Charan aged about 22 years son of Budhai resident of Village Gulrahapure Bala Taikai Post Bhaw District Raiberailly.
28. Bish Ram aged about 29 years son of Mangal resident of Village Balipur pure Min Vill Parigapur District Raiberailly.
29. Ram Prasad aged about 23 years son of Mangal resident of Village Tarona pure Bharoosi Post Phursatganj, Lucknow.
30. Ram Ratan aged about 21 years son of Mangal Village Sarwanpure Kali Bux Post Phursatganj.
31. Ram Bhadur aged about 23 years son of Bhadoo resident of Village Samainpura Bhinda, Post Phursatganj.
32. Ram Bhagur aged about 22 years son of Rampal Village Rampur Baghail pure Bhanjan Post Rahi.
33. Ram Narain aged about 23 years son of Suraj Village Rampur Baghail pure Bhanjan Post Rahi, District Raiberailly.
34. Ram Acher aged about 22 years son of Suraj resident of Moza Rampur Baghail pura Turi P.O. Raiberailly.

versus

1. Permanent way Inspector, Northern Railway, Raibera-
illy.
2. A.E.N., Northern Railway, Raiberailly.
3. Ministry of Railways through divisional superin-
tendent, Northern Railway, Lucknow.

..Opp. Parties.

Writ petition under article 226 of the
constitution of India.

.. ..

The petitioners named above most respectfully beg
to state as follows:-

1. That the petitioner have been working as
casual labour for the Northern Railway for the last
several years, some of them since 1974 to the
entire satisfaction of those deputed to take work
from them petitioners from time to time.
2. That on completion of work entrusted to
the petitioners they used to be relieved with the
promise to be recalled to duty when required. A
complete record of services of casual labourer was
maintained in respect of each of the petitioners.
3. That as loyal citizen of the country the
petitioners continued to promote efficient working
of the railways in Raiberailly till some of them
became over age for services in other departments
of the benign Government.
4. That the petitioners worked under opposite
party No. 1 as experienced work men and they were
subjected to various tests including physical
capacity and ability to lift and carry heavy weights.
5. That the petitioners were successful and
each of them worked for more than 180 days and they

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were found suitable for regular absorption as regular employees in the permanent service.

6. That casual service labour cards were issued and some of the petitioners were even given C.P.C. scale. The petitioners were called for duty on various tests, the period of their service was duly recorded in the casual labour card issued. All the petitioners worked continuously to several years. After some break they were all called to duty.

7. That the opposite party No. 1 was not the appointing authority but he has been for the last 8 months harassing without any prescribed procedure, when the petitioners were being harassed by the opposite party No. 1 who was not the appointing authority the petitioners sent a representation to the Hon'ble Railway Minister.

8. That in August 1978 the divisional superintendent opposite party No. 3 visited Rupa Mau Railway station, the petitioners placed their difficulties before the divisional superintendent. It was brought to his notice that each one of the petitioners had worked as casual labour for more than 180 days and that some of them were even given C.P.C. scale but opposite party No. 1 and 2 at times denied these benefits and without any notice asked them not to work.

9. That the Opposite party No. 1 and 2 assured Opposite party No. 3 at Rupa Mau that each one of the petitioners would be given C.P.C. scale and that none would be turned out from service.

10. On 20th January 1979 opposite party No. 1 on the pay day, told the petitioners that their services would come to a final close on the 25th February 1979. The petitioners sought the reason.

The Opposite party No. 1 told the petitioners that they had not paid Union dues at Rs. 5.00 P.M. and the AEN ⁴⁹ did not want the petitioners to continue in service.

11. That the petitioners sent a representation to the Opposite party No. 3 on 1/2/1979. They also sent copies of the same to Opposite party No. 1 and 2. The opposite party No. 1 and 2 were requested to allow the petitioner C.P.C. scales and in case they were determined to drop the petitioners from service they should give the same in writing so as to enable the petitioners to seek the redress of their grievances in this Hon'ble court. The copy of the petition is Annexure 3 and copy of the posting is Annexure 4.

12. It was also requested in the representation that in case no reply was received within 15 days the petitioners would take it that they will be thrown out of employment on 25/2/1979.

13. That the petitioners were again told by opposite party No. 1 on 20/2/1979 that they would be thrown out of employment on 26/2/1979 and that the dismissal order would not be given in writing. It would be noted down that the petitioners had left the work themselves. copy of the representation submitted to the divisional superintendent dated 1/2/1979 is Annexure 3

14. That after due consideration the opposite party No. 1 and 2 have prepared a panel and Rule 2512 of the Railway Establishment Manual provides for employing the casual labour included in the panel and that a recruitment from outside from the open market was forbidden.

15. That many of the co-workers have been turned out from service and opposite party No. 1 and 2 have recruited persons of their choice from the open market.

16. The list was not liable to be modified or
~~cancelled~~

cancelled except by the authorities named in Rule 2514 of the same manual which confess the said power on the General Manager who has to assign reasons for modification. A true copy of the rule 2514 is Annexure-1 ^{A/50}

17. That all the petitioners have worked for a period sufficient for confirmation and regular employment and their services, at times are terminated without lawful cause and without giving them an opportunity of being heard.

18. That in pursuance of the Railway Establishment Manual the petitioners after continuous service of 6 months acquired the status of temporary employees of the railways and the facilities and benefits of temporary railway employees were given to them and thereafter they were given the scale of pay as recommended by the central pay commission. They were also paid annual increments when they fall due. They were also allowed the benefits of paid casual leave, sick leave and earned leave.

19. That the Railway Board by its circular No. 2 (Eng) 64-cl/25 dated 19/1/1966 clarified that the continuity of the service of the casual labourers after acquiring temporary status would count for the purposes of post retirement basis and they were also allowed to carry forward the leave at their credit to any new post.

20. That the retrenchment of services of the petitioners and to appoint juniors has been prohibited according to Rule 2511 and 2412 of the Railway Establishment Manual, the petitioners having served for more than 6 months could be deprived of their appointment only under rule 149 after issue of show cause notice and proceedings under the discipline and appeal

Rules. That the proposed termination of the services of the petitioners is in violation of the provisions of Industrial dispute Act.

21. That Opposite party No. 1 is determined to retrench the petitioners by way of punishment as they failed to pay the union dues and they are determined to employ outsiders and other persons who have not put in 6 months service.

22. That the casual Labourer acquires temporary status has been indicated in Railway Board letter copy of which is Annexure-2 and similarly a copy of retrenchment benefits is also enclosed as Annexure-2.

23. That 15 days notice have been expired and the direction given on 20/2/1979 by opposite party No.1 the petitioners services are to be terminated on 25/2/1979, the petitioners have not been given a notice and inspite of request no written order has been issued to them.

24. That aggrieved by the threat deprivation of their legal rights the petitioners apply for a writ of prohibition to restrain the opposite parties from throwing out the petitioners out of employment.

25. That there being no equally efficacious remedy available the petitioners file this writ petition under article 226 of the constitution of India on the following among other grounds.

26. That applicant no.2,7,11, 34 were removed from duty on 11-3-1979. Applicants No. 1,3 to 6,8,12,15

(X) 6
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52

to 21, 26, 28 were removed from service after doing duty upto 12.3.1979. Applicants no. 9, 10, 13, 22 to 26, 27, 29 to 33 were removed from service after doing duty on 14th March, 1979.

27. That the petitioners are requested for a written order of removal from service but opposite parties No. 1 and 2 refused to give the copy of any order of removal. They told the petitioners that the order of removal has been passed but no copy would be given as they had shown the petitioners that they left.

28. That the petitioners never left the service.

29. That the opposite parties No. 1 and 2 had come to know that the present writ had been filed and that the proposed removal of the applicants from service on 25-2-79 had been made the subject of the writ petition. Opposite parties No. 1 and 2 gave out that since the writ had not been admitted and no stay order had been passed they would remove the petitioners on or about during the Holi festival. All the petitioners were removed from service between the 12th and the 15th March, 1979, as indicated above.

30. That each petitioner worked for more than 800 days as is indicated in the chart filed with this affidavit as Annexure-5. The petitioners have been removed from service on account of Malafides and without hearing the petitioner giving them an opportunity of being heard.

Grounds

- (a) Because the legal rights of the petitioners are at stake without any notice to continue in service.
- (b) Because the opposite parties ignored the rights of the petitioners indicated in the Annexures.
- (c) Because the threatened action of the Opposition party No. 1 and 2 is in violation of fundamental rights of the petitioners.
- (d) Because the threatened action is invalid in law.
- (e) Because the opposite parties have rendered themselves liable to be allowed the petitioners C.P.C. pay scale and to enforce rules.

Prayer

Wherefore the petitioners respectfully pray that :-

- (i) An appropriate writ of prohibition, direction or order be issued to the opposite parties to prohibit them from dismissing the petitioners from service as contemplated on 25/2/1979.
- (ii) By means of any other suitable writ, direction or order command the opposite parties not to throw the petitioners out of employment and the petitioners be allowed to remain in service as heretofore.
- (iii) Costs of the petition be awarded to the petitioners.
- (iv) The order of dismissal be summoned from O.P. and the same be quashed by means of writ in the nature of certiorari.

Dated:

Petitioners

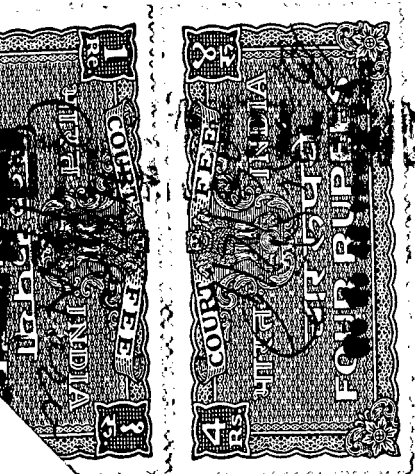
amt 74536280

(A)
2/54

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

Writ Petition No. 433 of 1979

2/1



Maharaj Din and others ***** Petitioners

Versus

P.W.I. and others ----- Opp-parties

MISC. APPLICATION No. _____ of 1980

The petitioners respectfully beg to submit as
under :-

1. That on 5-9-1979 amendment of the writ petition was allowed and an orders were passed to issue notice to the opposite parties.

2. That the daughter of the petitioner was seriously ill for more than 3 months, from August 1979. Twice efforts were made to amend but it could not be done for which the Counsel is extremely sorry.

3. That the amended petition would take some time to prepare and some further time would be necessary for the amendment in the parent file of this court.

It is therefore respectfully prayed that the mistake of the Counsel may be excused and ten days time be allowed to amend the writ petition and file the process fee, no further time will be taken in this case. It is so prayed in the interest of justice.

Lucknow-dated
July 7, 1980

G. H. NAQVI

(G. H. NAQVI)

Advocate

COUNSEL FOR THE PETITIONER

4732 8/1 35

दीवानी विभाग

हाई कोर्ट इलाहाबाद
(अध्याय १२, नियम १ और ७)

प्रकीर्णक (मुतफ रिंक) प्रार्थना-पत्र संख्या - - - - - सन १६

101-433- - - - - सन १६ 79 ई० में

Moharaj D. V. on - - - - - प्राची

प्रति
Permanent way Inspector,
Northern Railway, Rai Bareilly.

प्रत्यर्थी के नाम

चूंकि ऊपर लिखे प्राची ने इस न्यायालय में उपर्युक्त मुकदमें के सम्बन्ध में
- - - - - ले लिये प्रार्थना-पत्र दिया है, अतः आपको सूचित
किया जाता है कि आप दिनांक- - 22 - मास- - 01 - सन 1901 को या उसके
पहले उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार लिया जाय
उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञापित किसी और दिन होगा
पहले स्वयं अधिकारी

क्रमांक/No.

के लिए कानूनन
भणायें आपकी

प्रिंसी
अधिकृत
अनुप
प्रार्थना
लगा

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Amount of Stamp affixed Rs. 30750
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Received a Registered Insured
पानेवाले का नाम *
Addressed to
बोम की रकम (रुको में)
Insured for Rs. (in figures)
बोम का नाम *
Insured for Rs. (in words)
भेजनेवाले का नाम *
Name of the address under
हस्ताक्षर निदेशिका में दी गई
अर्थात् अर्पण जारी की गई
Issued subject to terms and
Conditions in P. O. guide

परमानंत वेय इंस्पेक्टर
Rai Bareilly
P. Weight (in words)
पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Office
R. D. Singh

। उसी के साथ
01 - मास 7

तिथि

डिप्टी रजिस्ट्रार
इलाहाबाद

सूचना - इस न्यायालय की १६५२ की नियमावली के अध्याय ३६, नियम २ के अनुसार
प्राप्त तत्वाना मिल गया।
तत्वाना पाने वाले क्लर्क के हस्ताक्षर

Amended W.P. No. 433 of 1979

8/2

निम्नलिखित विभाग

हाई कोर्ट इलाहाबाद
(अध्याय १२, नियम १ और ७)

दिनांक (सुनफारिंक) प्रार्थना-पत्र संख्या - - - 1131-45-2
W.P. No. 433 of 1979

--- सं० --- सन १६ --- ई० में

--- Maharej San 20/1/75 ---

--- S.S. Sanyal / L.K.S. ---
--- Permanent way Inspector ---
--- N. R. K. ---
--- Raibareilly ---

प्रत्यक्ष के माध्यम

चूंकि ऊपर लिखे प्रार्थना ने इस न्यायालय में उपर्युक्त मुद्दमें के सम्बन्ध में
--- ले लिये प्रार्थना-पत्र दिया है, अतः आपकी सूचना
--- जाता है कि आप दिनांक- --- पास- --- सन --- को
पहुँचे उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वाकार लिया जाय
उक्त प्रार्थना-पत्र की सुनवाई उसकी बाद नियमानुसार विजापित किसी तीर दिन

विदित हो कि यदि आप ऊपर लिखे दिनांक पर या उसके पहले स्वयं या
किसी एडवोकेट या ऐसे व्यक्ति द्वारा, जो आपकी ओर से कार्य करने के लिए नियुक्त
अधिकृत हो, उपस्थित न होंगे तो उक्त प्रार्थना पत्र को सुनवाई और न्याय आपकी
अनुपस्थिति में हो जायेंगे।

प्रार्थना पत्र और प्रार्थना द्वारा दिए गए शपथ-पत्र को एक-एक प्रातिलिपि उक्त के साथ
जायेंगे।

मेरे हस्ताक्षर और न्यायालय की मोहर के साथ दिनांक- ---
--- सन १६ --- को जारी किया गया।

--- के एडवोकेट ---

नियम ---

डिप्टी रजिस्ट्रार

इलाहाबाद। तत्काल

सूचना - इस न्यायालय को १६५२ की नियमावली के अध्याय ३६, नियम २ के अन्तर्गत
जिसका जखाना मिल गया है

तत्काल पाने वाले पक्ष के हस्ताक्षर

Amended WP. N 433/79

1749 (A/31) 8/3

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न्यायालय

हाई-कोर्ट इलाहाबाद
(अध्याय १२, नियम २ और ७)

दिनांक (सुनफारिक) प्रार्थना-पत्र संख्या

W.P. 433/79

सं०-

सन १९८०

दि०

Maharaj Dm 2/1/80

प्रति
D.S. N.Ry./Ltu Hon'ble Minshty
& Rys.
Hon'ble D.S. N.Ry.
Ltu

प्रत्यक्ष के माध्यम

चूंकि ऊपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमें के सम्बन्ध में
ले लिये प्रार्थना-पत्र दिया है, अतः आपकी सूचना
दिया जाता है कि आप दिनांक - 22 - मास - 07 - सन 80 को
पहले उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार लिया गया
उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञापित किसी और दिन
विहित हो कि यदि आप ऊपर लिखे दिनांक पर या उसके पहले स्वयं उपस्थित
नहीं रहवाते या ऐसे व्यक्ति द्वारा जो आपकी ओर से कार्य करने के लिए नियुक्त

जो निर्णय आपका

क्रमांक/No. 3101

4749

लगाए गए डाक टिकटों का मूल्य Rs. 3/- पं० 50

Amount of stamp affixed Rs. 3/- P. 50

एक पंजीकृत बोमा* प्राप्त किया Date-stamp

Received a Registered Insurance

पानेवाले का नाम Divisional Supdt

Addressed to

बोमा की रकम (अंकों में) Insured for Rs. (in figures) N. Rhy (शब्दों में)

बोमा का वजन (अंकों में) Insurance Weight (in words) Lucknow

भेजनेवाले का नाम व पता Name and address of sender

डाक बर निदेशिका जारी की गई

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पानेवाले अधिकारी के हस्ताक्षर Signature of Receiving Officer

प्रतिलिपि उसी के साथ

दि - 28 - मास - 07 - सन 80

हस्ताक्षर

इलाहाबाद। अज्ञात

सूचना - इस न्यायालय को १९५२ की नियमावली के अध्याय ३६, नियम २ के तहत
प्रारम्भिक सन्धान मिल गया।

तत्त्वज्ञान पाने वाले क्लर्क के हस्ताक्षर

A/32 8/4

A/58

कीमती विभाग

हाई कोर्ट इलाहाबाद
(अध्याय १२, नियम १ और ७)

प्रतीपक (मुतफरिफ) प्रार्थना-पत्र संख्या - - - 1131-(42) - सन १९७९

--- O.P. सं० - 433 - - - सन १९७९ इ० में

--- Maharaaj Di - - - - - प्राथी

प्रति

--- D.S. N.R. Ry. L. - - - - - प्रत्यक्षी

--- District Superintendent

N. P. Ry.

--- Lucknow

प्रत्यक्षी के नाम

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

--- ले लिये प्रार्थना-पत्र दिया है, अतः आपको सूचित किया जाता है कि आप दिनांक - - - 22 - - - मास - - - 8 - - - सन 80 को या उसके पहले उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार लिया जाय। उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञापित किसी और दिन होगी।

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

प्रार्थना पत्र और प्राथी द्वारा दिए गए शपथ-पत्र की एक-एक प्रतिलिपि उसी के साथ लगी है।

मेरे हस्ताक्षर और न्यायालय की मोहर सजाज दिनांक - - - 28 - - - मास 80

--- सन १९८० को जारी किया गया।

--- के एडवोकेट

P. R. B. Singh

तिथि - - - - -

डिप्टी रजिस्ट्रार
इलाहाबाद। कलन

सूचना - इस न्यायालय की १९५२ की नियमावली के अध्याय ३६, नियम २ के अन्वये प्राप्त तत्वाना मिल गया।

तत्वाना पाने वाले क्लर्क के हस्ताक्षर

A mendial W.P. N 433/74

4746 (15/8/5)

न्याय विभाग

हाई कोर्ट इलाहाबाद
(अध्याय १२, नियम २ और ७)

१५

दिनांक (सुनफारिक) प्रार्थना-पत्र संख्या - W.P. N 433/74

सं० - - - - - सं० १६ सं० १०

Maharaj Singh

प्रति

S.S. Rly. Ltd

Ministry of Railways

Home Division Superintendent

N.Ry. Ltd

प्रत्यर्थी के नाम

चूंकि ऊपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमें के सम्बन्ध में
ले लिखे प्रार्थना-पत्र दिया है, अतः आपकी सूचना
दिया जाता है कि आप दिनांक - 22 - मास - 8 - सन 1974
परहे उपस्थित होकर कारण कतलामें कि प्रार्थना-पत्र क्यों न स्वीकार लिया जाए
उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञापित किसी और दिनांक
विदित हो कि यदि आप ऊपर लिखे दिनांक पर या उसके पहले स्वयं उपस्थित

4046/No 0240

लगाया गए डाक टिकटों का मूल्य रु० पं०.....
/ value of Stamps affixed Rs. P.
एन सी आर बीमा* Received a Registered Insured
पानेवाले का नाम पाल किया तारीख मं. 2
Addressed to Date-stamp
बंमि रु० रु० (अंकां में) (शब्दों में)
Insured for Rs. (in figures) (in words)
बीमा मूल्य रु० पं०.....
Insurance for Rs. Weight (in words)
पानेवाले का नाम
Name and address of sender
डाकघर निर्देशिका में दी गई
जहाँ से अधीन जारी की गई
Issuer subject to terms and
conditions in P. O. guide
पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

पूरे काम के लिए जारी
जारी निर्णय आपके

तिलिपि उसी के साथ

25/8/74

Orkney

रजिस्ट्रार

बाद लतक
V K

सूचना - इस न्यायालय की १६५२ की नियमावली के अन्वये ३६, नियम २ के अन्वये

प्राप्त कृतवाना मिल गया।

तत्त्वाना पाने वाले क्लर्क के हस्ताक्षर

8/6
A/4

दीवानी विभाग

हाई कोर्ट इलाहाबाद
(अध्याय १२, नियम १ और ७)

प्रकीर्णक (मुतफरिफ) प्रार्थना-पत्र संख्या - - - - - सन १६

433 - - - - - सन १६ 75 ई० में
Maharaj Din Jais - - - - - प्राथी

प्रति
D. S. N. Rley. Cms. Minist of P
ASH Engineer
Rai Bareilly
प्रत्यर्थी के नाम

चूंकि ऊपर लिखे प्राथी ने इस न्यायालय में उपर्युक्त मुकदमें के सम्बन्ध में
ले लिये प्रार्थना-पत्र दिया है, अतः आपको सूचित
किया जाता है कि आप दिनांक - - - 22 - मास - - - 01 - सन 86 को या उस
पहले उपस्थित होकर कारण बतलायें कि प्रार्थना-पत्र क्यों न स्वीकार लिया जाय
उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञापित किसी और दिन हो

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

प्रार्थना पत्र और प्राथी द्वारा दिए गए शपथ-पत्र की एक-एक प्रतिलिपि उसी के साथ
लगी है।

मेरे हस्ताक्षर और न्यायालय की मोहर सजाज दिनांक - - - 20 - मास

सन १६ 86 को जारी किया गया
के एडवोकेट

तिथि - - - - -

डिप्टी रजिस्ट्रार

इलाहाबाद। लखनऊ

सूचना - इस न्यायालय की १६५२ की नियमावली के अध्याय ३६, नियम २ के अनुसार
प्राप्त तत्वाना मिल गया।

तत्वाना पाने वाले क्लर्क के हस्ताक्षर

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH, LUCKNOW.

Civil Misc. Application No. 293 of 1991,

IN RE:

Registration (T. A.) No. 430 of 1987(T)

(W. P.) No. 437 of 1979

Maharajdeen & Others.....Petitioners/Applicants

Versus

Union of India & Others.....Opposite Parties/
Respondents.

Fixed For: 30.04,1990

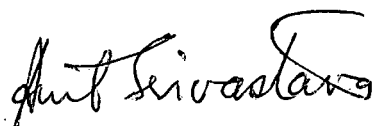
APPLICATION FOR CONDONATION OF DELAY IN FILING

COUNTER REPLY.

Wherefore, is it most respectfully
prayed that in the interest of justice the
delay in filing counter reply may kindly be
condoned and the Counter Reply may be taken
on record.

Lucknow.

Dated: 30.4.90


(ANIL SRIVASTAVA)
ADVOCATE

Counsel for Respondents.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW.

Registration (T.A.) No. 430 of 1987(T)
(W.P.) No. 437 of 1979)

Maharajdeen & Others.....Petioners/Applicants

Versus

Union of India & Others.....Opposite Parties/
Respondents.

Fixed For: 30.04.1990.

COUNTER REPLY ON BEHALF OF ALL THE OPPOSITE PARTIES/
RESPONDENTS.

I, *Shiv Poojan* working as *Asstt Personal*
officer
in the office of *Divisional Railway Manager*.
Northern Railway, *Hazratganj, Lucknow* do
hereby solemnly affirm and state as under:-

1. That the official above named is working under the respondents and has read the writ petition and understood its contents and having well conversant with the facts and circumstances of this case, has been authorised by the respondents to file this Counter Reply on their behalf.
2. That it may be stated at the very out set that the petitioners vide their affidavit dated 20.7.88 have themselves stated that this writ petition may be entertained in respect of only seven petitioners

Elhasan Ali
महामुख अधिकारी
उत्तर रेलवे, लखनऊ

Cont.....2...

(1)

i.e. petitioner Nos. 2, 14, 16, 22, 24, 27 and 28 only and they did not want to persue the case in respect of other petitioners as they have already been employed and bourne in the panel.

3. That these seven petitioners never completed 180 days continuous service for being eligible for empanelment and one who had completed 180 days continuous service did not continued further rather they did not turned up hence they could not be absorbed. The service details of these petitioners are given below:-

- i. Petitioner No. 2 i.e. Gurucharam S/o Sadhoo, worked for 300 days only upto 14.3.79 in broken periods, as and when he wished to work. He never completed 180 days continuous service. Even after 14.3.79 he was given chance to work and he worked for 213 days from 15.3.79 to 14.3.81, as and when he wished to work in a span of two years and thereafter he did not turned up at all for the reasons best known to him.
- ii. Petitioner No. 14 i.e. Ram Sajiwan S/o Ram Adhar, worked for 585 days upto 14.3.79 in broken period as and when he wished to work. He never worked for 180 days continuous During his entire period

of working. Even after 14.3.79, he was given
उत्तर देवे, ललनक

chance to work, as and when he turned up for work. He worked for 351 days from 15.3.79 to 14.4.81, but after that he never turned up for the reasons best known to him and the strength was also frozen.

iii. Petitioner No. 16 i.e. Mata Din S/o Ori, worked for 724 days upto 14.3.79 and completed 180 days continuous service on and from 14.3.78 and thereafter he was duly allowed time scale but again he discontinued during ~~the~~ month ending on 14.4.78. He worked for 19 days in next 30 days and 11 days during next 31 days hence since he worked for less than the stipulated days after gaining the revised scale, he was again brought to daily rated casual worker. After that he never completed 180 days continuous service till 14.8.79 i.e. till he last worked in the Railways because thereafter he did not turned up for work.

iv. Petitioner No. 22 i.e. Ram Dhani S/o Mangal, worked for 621 days upto 14.3.79 during broken periods and he never completed 180 days continuous service, required for granting revised scale. He was given further chance to work from 15.3.79 to 14.6.80, as and when

Signature
अधिकारी
उत्तर रेलवे, लखनऊ

he turned up for work. He worked for 85 days

8/3

only during a span of 15 months.

A/18

v. Petitioner No. 24 i.e. Ram Jiawan S/o Kandhai never worked in the sub-division. However one Ram Jiawan S/o Badloo has worked for 970 days upto 14.3.79 during broken spells and as and when he turned up,. He was further given chance to work, as and when he turned up on allotted dates for engagement, He worked for 377 days during 14.3.79 to 14.5.81 i.e. within 16 months time. He never completed requisite days of continuous service for grant of revised scale.

vi. Petitioners No. 27 i.e. Shio Charan S/o Budhai, worked for 546 days, in broken periods upto 14.3.79. He worked for further 26 days during 14.3.79 to 14.4.79 and thereafter he never turned up for work. He never completed 180 days continuous, required for grant of revised scale.

vii. Petitioner No. 28 i.e. Bishram S/o Mangal, worked for 548 days, in broken periods upto 14.3.79. He never completed 180 days continuous service to become eligible for revised scale. He was again given chance to work and he worked for 64 days from 15.3.79 to 14.7.79. Thereafter he never turned up for any further work for the

Elbrasa
सहायक सचिव, लखनऊ
उत्तर रेलवे, लखनऊ
~~subjected to any test as alleged.~~ reasons best

Cont.....5...

(P/64)

known to him. He never completed the requisite days of continuous service to become entitled for revised scale during his entire period of service.

A chart showing the service periods of these seven petitioners during which they actually worked is being filed herewith as Annexure No. C-1 to this reply.

4. That the contents of para 1 of W.P. are admitted to the extent that the petitioners did work from time to time. It further stated that those who completed the requisite days continuous service were granted revised scale and after screening they were even regularised also. Similarly petitioners no. 1, 3 to 13, 15, 17 to 21, 23, 25, 26, 29 to 34 are still working and they have duly been brone on the panel and the petitioners no. 5 and 8 even expired during duty. The rest of the seven petitioners never completed the requisite 180 days continuous service hence they could not be given even the revised scale except the petitioner No. 16 who for the reasons best known to him did not continued to work as such hence he was again treated as daily rated casual labour.

28/11/2014 5. That reply to the contents of para 2 of W.P. have
बहायक क्रामिक अधिकारी
उत्तर देलवे. लखनऊ

Cont.....6...

4/3

already been given in the preceeding paragraph. 4/3

A chart showing the service period of seven petitioners, who are contesting this case is ~~is~~ already annexed as Annexure No. C-1 to this reply.

6. That the contents of para 3 of W.P. are vague hence denied.
7. That the contents of para 4 of W.P. are categorically denied. The petitioner who are contesting this case were never subjected to any test as alleged.
8. That position in respect of paras 5 & 6 of W.P. has ~~is~~ already been explained in the previous paragraphs hereinabove.
9. That the contents of para 7 of W.P. are categorically denied. The petitioners be put ot strict proof for the allegations made in the para.
10. That the content of paras 8 to 10 of W.P. Are ~~is~~ categorically denied. However it is accepted that as per para 2501 (b) (iii) of the Railway Establishment Mannal, the eligible candidates were duly allowed CP.C. scale.
11. That the contents of paras 11 to 13 of W.P. are

categorically denied. No such representation is

उत्तर रेलवे, धनबाद

उत्तर रेलवे, धनबाद

in the records of Opposite Parties. The petitioners

(A/C)

petitioners be put to strict proof for the allegations made in the paras.

A/C

12. That the contents of para 14 of W.P. are not admitted as ~~is~~ alleged. Para 2512 of Railway Establishment Manual describes the system and method for absorption of casual labourers in regular vacancies for which panel is framed ~~consisting of three Assistant Officers panel is~~ ^M ~~framed~~ ^M consisting of three Assistant Officers on Divisional basis. The Opposite Party No. 1&2 have nothing to do with it individually.

13. That the contents of para 15 of W.P. are denied.

14. That the contents of para 16 of W.P. are denied.

The ~~p~~ list was never modified as alleged. The work was taken from the petitioner, as and when they turned up for duty during the sanctioned period for which they had prior information as they put their LTI on the relevant papers in acknowledgement thereof.

15. That the contents of para 17 of W.P. are categorically denied. The correct position has already been explained in paras 3 and 4 of this reply.

All the petitioners except these seven petitioners ~~and~~ completed their requisite days of continuous service and accordingly they were given revised scales

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उत्तर देलवे, सप्तमक

(1/6)

and after screening they were duly regularised in service but the said seven petitioners did not completed the requisite continuous service for more than 180 days hence they never become entitled for revised scale and thereafter for regularisation of service. The said seven petitioners were never screened as they never acquired the right to be screened.

16. That the contents of paras 18 to 20 of W.P. are denied. The said seven petitioners never acquired the status of a temporary employee as they never completed the requisite days of continuous service as stipulated in the Railway Establishment Manual. These petitioners did not turned up for further engagement to complete the requisite days of continuous service for the reasons best known to them. The other petitioners duly completed their requisite days of continuous service and they were accordingly, as per rules, regularised also and they are still working except petitioners No.5 and 8 who expired during duty.

17. That the contents of paras 21 to 30 of W.P. are denied. The correct position has already been explained in the preceding paragraphs herinabove.

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पहिले क्रमिक अधिकारी
सुपर रेजिडे सल्लनक

Cont.....9....

18. That the grounds taken in this case are baseless, vague, irrelevant, imaginary, illegal and not applicable to the instant case.
19. That in view of the facts and reasons stated hereinabove, the petitioners are not entitled to any relief rather this writ petition itself is liable to be dismissed with costs in favour of answering respondents.

Lucknow.

Dated: 30.4.90

Elbrad
सहायक क्रासिक अधिकारी
लखनऊ

VERIFICATION

I, the official abovenamed do hereby verify that the contents of para 1 of this Counter Reply is true to my personal knowledge and those of paras 2 to 19 of the Counter Reply are believed by me to be true on the basis of records and legal advice.

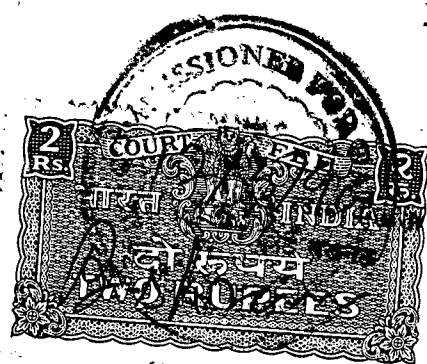
Lucknow.

Dated: 30.4.90

Elbrad
सहायक क्रासिक अधिकारी
लखनऊ

A/70

A/22



In The Central Administrative Tribunal,
Circuit Bench, Lucknow.

Regn. (O.A) No. 630 of 1987(T)

Writ Petition No.437 of 1979



Maharaj Din and others ...

Petitioners./applicants

Versus

Union of India and others...

Opp. Parties/Respondant-

F.F 29-5-90

REJOINDER AFFIDAVIT

On Behalf of the remaining 7 Petitioners.

I, Bishram, aged about 40 years son of Mangal r/o
Balipur P.O Kathghar, district Rae Bareilly, Petitioner
No.28 for self and on behalf of 6 others do hereby
solemnly affirm and state as under :-

Recd duplicate
19/5/90



1. That the facts mentioned in the Counter reply dated 30-4-90 have been heard and explained to the deponent (28) , Gur Charan (2) ; Mata Pd.(16), Ram Dhani (22), Shiv Charan (27), Ram Sajivan (14) and Ram Jiawan (24). The above named applicants have instructed the deponent to swear in the affidavit and to place the facts according to their instruction. The deponent according to the instructions gives the fact in this Rejoinder Affidavit.
2. That the facts given in the Counter reply of Shiv Pujan dated 30-4-90 have been explained to the deponent and the facts given in the counter reply from paras 1 to 19 are denied so far as the same

LT Bishram

11/11

-2-

are contrary to the stand taken in the Writ Petition.

3. That it has been admitted in the counter reply in para 3 (i to vii) that the petitioners worked for more than 180 days and this being the position they were entitled to get the position as a temporary Government servant.
4. That the difficulty lies in the fact that the authorities have treated the petitioners with discrimination and thus they have violated the principles of Article 14 and 16 of the Constitution of India. In the writ petition there number of applicants and if the record is summoned, none of them continuously worked for 180 days. The broken period has been added in this case and the same broken period has been considered adversely in the case of the 7 petitioners and it can easily be said that it was purposive. The authorities were not authorised to pick and choose in the circumstances of the case.
5. That out of the 7 applicants Gur Charan, Ram Dhani Ram Sajivan and Ram Jiawan were the persons who were appeared before the screening Committee and they filed even affidavits to show that they belong to schedule castes and their aged were correctly given in their affidavits. It is surprising to note that Mata Prasad, Shiv Charan and Bisram although although eligible for appearing before the screening committee, they were denied the right discriminatorily.

6. That each one of the applicants were given a copy



LTI Bishnu

A/52

A/24


wherein the working days have been noted down. The copies have been taken away by the authorities. If all the copies of the petitions and also of others who filed the writ petition are summoned and the matter would be clear that it is a case of clear discrimination and it is against the principles guaranteed against the constitution.

7. That the deponent submits that none of the petitioner were even called on duty and each one of them had been appearing before the concerned authorities on 15th of every English calendar month, but sometimes the signatures were allowed to be made, and sometimes it was not allowed to sign or put their thumb impressions. Under the rule, the broken period of service is taken into account, but the authorities considered this position in favour of some and against the petitioners. This is against the principles of natural justice.



Lucknow:

Dated : 12-5-90


 LTI
Bishram
Deponent

Verification

I, the above named deponent do hereby verify that the contents of paras 1 to 7 of this affidavit are true to my own knowledge. Nothing material has been concealed and no part of it is false. So help me God.

Lucknow:

Dated : 12-5-90


 LTI
Bishram
Deponent

Solemnly affirmed before me on 12-5-90 at 9-45 am/pm by the deponent Bishram, who is identified by Sri G.H. Naqvi, Advocate.

I identify the deponent who has signed before me.

Advocate.

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


OATH COMMISSIONER
High Court, Allahabad
Lucknow Bench
No: 77/1231
Date: 12-5-90