

Mr. Hargi Dev Sahoo
S/o S.
C.O.
CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

FORM OF INDEX

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

PART - 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 petitions A16 to A23
- 2 - E. M. Second Edition - A24 to A33
- 3 - Affidavit / Affid. for May A34 to A35
- 4 - P.D. ✓ A36.
- 5 - Affid. for Amendment A37 to A54
- 6 - Notice H.C. A55 to A60.
- 7 - C.A. A61 to A70 H.
- 8 - R.A. A72 to A74

2/3/90
D.Y. Registrat

4/12/90
Supervising Officer

31/12/90
Dealing Clerk

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

NIL

1
31/12/90

This file is fit for weeding. Dealing Clerk

Regd
S.O.S.

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

(1)

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

INDEX SHEET

CAUSE TITLE T.A. 430 / 87 (Pf 19 87 4)

NAME OF THE PARTIES _____

Shri Mahraj Singh _____ Applicant

Versus

Permanent way Inspector _____ Respondent

Part A, B & C

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1	General Index	A2
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6	Application for stay	A28
7	Power	A29
8	Application for amendment	A30
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CIVIL
— SIDE
CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

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

Name of parties *Maharaj Dev and others vs. Government of Inspector*

Date of institution *23-2-79* Date of decision *.....*

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of adm s- ession 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	—	—	—	—	—
A	2	order sheet	1	—	—	—	—	—
A	3	alibi with affidavit and expenses	20	6	102	—	—	—
B	4	Power	1	1	5	—	—	—
B	5	C.M. Ad. 1131-79	1	1	5	—	—	—
B	6	C.M. Ad. 1540-79	5	2	5	—	—	—
	7.	Contra. 3493 (W)-80 dt 7-2-80.	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.

W.

6/1/79

Impressed _____
five Adhesives Re. 100.00/-
Total Re. 100.00/-

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

In time up to

Papers filed. Copy of P.C.
Should also be filed.

Copy - Bench

~~Leave - informed and~~

(Ans) - 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.

C.H.

23-2-79

ans/

(2)

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
1-3-29	20-3-79. to with C.M. 1131(w)-79 1131(w)-29 for orders S.	open 2 weeks i.e. 15-3-79 B/R
20-3-29	W.M. with C.M. 1131(w)-79 for orders!- S. H-S J. S. Mathur, J. Put up tomorrow. L. H 20/3/79 on	X
21-3-29	with C.M. 1131(w)-9am 1540(w)-29 for orders S. H-S J. S. Mathur, J. S. O.	1540(w)-29
1-4-29.	W.M. with C.M. 1131(w)-79 and 1540(w)-79 for orders!- S. H-S J. S. Mathur, J.	

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No.

of 197 }

3

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	Hon. Prem Prakash Hon. U.C. Srivastava 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 adjournment	

Lee

17.4.79

PS-

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No.

433 of 1979

25.

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 orders. Hon. H.S.J. Hon. M.S.J.	
2	S. O.	
5-8-79	Writ with C.M.A. 1131 (W)-79 & 1540 (W)-79 for orders. Hon. H.S.J. Hon. M.S.J.	
3	Issue notice of Amended Writ Petition.	
4	Order C.D. on 1540 (W)-79 for Amended Petition allowed.	
5	Process fee report in W.P. with C.M.A. 1131 (W) of 78 & 1540 (W)-79	
6	Learned counsel for the petitioner has not taken steps for service of notice within time.	
7	Submitted.	
8	26-8-79	

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

—No.— 433

—of 1989,

✓
3

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	<p><i>J.H.</i> See service report dt 12.X.81. service on Opp's 1 to 3 deemed sufficient under chapter VII rule 12, the rules of the court- office to proceed.</p>	
2		<p><i>W</i> 13.X.81.</p>
	<p><i>Fixed BS</i> 26.10.81</p>	

IN THE CENTRAL ADMINISTRATIVE TRNAL

CAT /II

~~ALL MURKED
MANUFACTURED~~

(6)

OA/T.A. No. 430 1987

P. No 433/79

Maharaj Deen and others App(s)

Versus

Permanent way Inspector Resp(s)
2033

Sr. No.	Date	Orders
		<p><u>Officer/Post</u></p> <p>Writ Petition No 433 has been received on transfer from & High Court Lucknow W.P. is ^{not} admitted.</p> <p>Writ Petition against order of Termination from the Petitioner.</p> <p>Notices issued to both sides (ppg 26.10.87) by post.</p> <p>No undelivered return has been return back.</p> <p>Petition is pending consideration.</p> <p>Submitted for order.</p> <p><i>Scrn</i> 26/10/87</p>
	26/10/87	<p><u>DR</u> None present for the same. Put up with fresh service report and D. Reply can be filed by that date</p> <p>(7)</p>

CAT, Circuit Bench acknowledge

Order-Sheet

TA No. 430/88

(7)

20.7.88

Hon. A. Johri, A.M.

In response to order dated
23.5.88 by Smt. G. H. Naqvi behalf
of the applicant, file application
requesting for scheduling, 27 applicants
and retention of 7 counts. He is
allowed to carry
list this for final
hearing on 19.9

A.M.

m

Agreed most re to do

22.07.88



19.9.88.

No sitting adjourned to 25-10
for hearing.

25.10.88

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

22.12.88

No sitting & adjourned
24.2.89 for hearing.

2/K

TA 430/AN/4

24/2/05

Hon D.S. Misra, A.M.

Hon G.S. Sharma, A.M.

(8)

On the request of
the learned Counsel for
the applicant, the case is
adjourned to 19/4/05
for admissions

be

for

100 days and 10 days

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

19-4-89 Hon'ble Mr. D.S. Mishra, A.M.

(9)

Shri Anil Srinivasan, 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 application and supplementary affidavits, to Shri Anil Srinivasan, within a week.

Heard. Admit.

~~Opp. Party~~ 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.

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

(10)

DEFENDANT
RESPONDENT

Union of India & Others

INDEX
of order
and date

Brief Order, Mentioning Reference
if necessary

How complied
with and date
of compliance

19.4.89.

Hon'ble Mr. Kamleshwar Nath, V.C.,
Hon'ble Mr. D.S. Misra, A.M.,

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.

Heard. Admitt.

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 26.6.1989.

A.M.

V.C.

Mr. Justice K. Nath, Hon'V.C.
Mr. K.J. Raman, Hon' A.M.

OK As directed by the
Court's order dt. 19.4.89
Shri Anil Srivastava takes
notices on behalf of the
parties but no reply have been
filed so far in the office
submitted for orders

26/6/89
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
orders on 29/6/89.

km
A.M.

(A)
V.C.

(sns)

OK
Shri G.H. Naqvi,
Counsel for applicant
has not filed any
application for leave
granted to implead
Union of India as stated
at 6/6/89.

Leave to file application

28/6/89

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

TA 430-87

REGISTRATION No. _____ of 198

APPELLANT
APPLICANT

DEFENDANT
RESPONDENT

P.W.I VERSUS
Lars

trial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
3/11/89	Hon' Mr. D.K. Agrawal, J.M. 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 <u>hearing</u> / <u>ex-parte hearing on 24-1-90</u> . 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.	OK

J.M.

(sns)

25/1
No sitting adj. to 7-2-90
Both the counsel are present
L

7 2/4

No sitting adj. to 15-3-90
Both the counsel are present

OA No. 430/87 (J)
No sitting adj. to 15-3-90
L

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

OK
No CA filed
S.F. ex-parte
hearing
L

145
No CA filed
S.F.H
L

ESPM

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

21/11/90

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

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

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

by
AM.

AM
V.C.

OR
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.
Naqui case is adjourned to

21/11/90

M. M. S.
A.M.

AM
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 - 1st. the case on 23.11.90
immediately after the admission cases.

M. M. S.
A.M.

AM
V.C.

11/90

Hon. Mr. Justice K. Nath, V.C.
Hon. Mr. M. M. Singh A.M.

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

M. M. S.
A.M.

AM
V.C.

*Supplemental
Proceedings
26/11/90*

R
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, ~~24~~²⁴, 16, 22, ~~27~~²⁷ 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.

R. h. J.

14
A
14
74

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. J.

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 respondent's 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 ~~circumstances~~ ^{grounds} 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.

M. M. L.
Adm. Member.

J. R.
Vice Chairman.

Lucknow Dt. 28 Nov., 1990.

A-1B 1051

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench: Lucknow.

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	
7.	stay application	19
8.	Power	21
		22

Dated: 23/2/1979

Counsel for the Petitioners

10. Mahesh aged about 29 years son of Bhagwan Din
resident of Village Sadipur Kotwapure Kanchar
Post Dhee District.

11. Ram Dayal aged about 22 years son of Chedi
Village Rupa Nach pure Jan Ka Purwa Post Rupa Mao
District Rai Berailly.

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

13. Ram Bagan aged about 21 years son of Singh
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 Rai Berailly.

15. Bhagti aged about 24 years son of Lalla
resident of Village Rupa Mao post Rupa Mao Dist.
Rai Berailly.

16. Mata Prasad aged about 21 years son of Mori
resident of Village Bhadaiya Post Phusatganj,
District Rai Berailly.

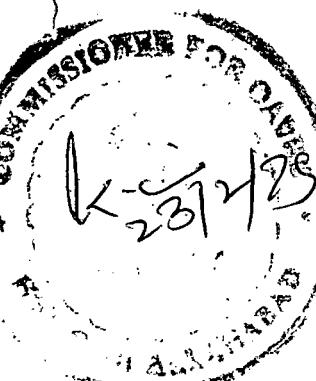
17. Shiv Kumar aged about 20 years son of Sheetla
in village Udaipur Post Rahi Dist. Rai Berailly.

18. Sunder (S.C) aged about 23 years son of Ram Autar
Resident of Village Bhagya post Phusatganj,
District Rai Berailly.

19. Binda Bin aged about 21 years son of Brij Nath
resident of Village Rupa Mao Purai Kueer Post Rupa
Mao District Rai Berailly.

20. Ghirao aged about 24 years son of Mathura
resident of Village Sarwanpura Hindu post Sandee
District Rai Berailly.

21. Bishram aged about 24 years son of Pollar
Village Bhagya pure Thaman Post Phusatganj, District
Rai Berailly.



versus

1. Permanent way Inspector, Northern Railway, Raisenailly.

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

3. ~~Divisional Superintendent, Northern Railway,~~

loc Lucknow.

concerned

23/6/95
Opp. Parties.

Amended copy

filed 2 August 1995
writ petition under article 226 of the
Constitution of India.

for O.P. also
filed 23/6/95

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

16/7/95

1. That the petitioners 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 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 a loyal citizen of the country the
petitioners continued to promote efficient working
of the railways in Raisenailly 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

HELD

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 ~~working~~ ^{harrying} 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 ~~1978~~ August 1978 the Divisional Superintendent Opposite party No. 3 visited Rupa Mau Railway station. The petitioners placed their difficulties ^{before} to the Bivisional 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.

K-
28/2/79

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. per P.M. and the AENP did not want the petitioners to continue in service.

11. That the petitioners sent a representation to the Opposite party No. 3 ~~on~~ ^{on} 1/2/1979. They also sent copies of the same to opposite party No. 1 and 2. The opposite party ~~on~~ No. 1 and 2 were requested to allow the petitioners C.P.C. Grade 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} ~~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 ~~told~~ ^{again} 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 would not be given in writing. It would be noted down that the petitioners had left the work themselves. Copy of the representation ~~submitted~~ ^{submitted} to the Divisional Superintendent dated 1/2/1979 is Annexure-3.
14. ^{in consideration of} That after due ~~dates~~ 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~~ ^{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 except by the authorities named in Rule 2514

of the same manuel which confers 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 pursuance 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~~s~~ 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.

h-2872125

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 ~~more than~~ 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

15/15/14/19

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 ~~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~~ 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.

- (c) Because the threatened action of the Opposite 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. and pay scale to enforce rules.

Prayer

wherefore the petitioners respectfully pray that :-

- of prohibition*
- i) an appropriate writ 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 rescinded from the date of the same be quashed by law of certiori Petitioner HESLISUNG

Dated: 23/2/1979

*Ullu na Zeeb
Court for Petition*

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD,
Lucknow Bench, Lucknow.

Writ Petition No: of '79.

MAHARAJDIN & 32 others Petitioners,

Versus

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

ANNEXURE I.

Vasy

APPENDIX

Government of India

Ministry of Railways,
(Railway Board)

Indian Railway Establishment Manual (Second Edition)

Absorption of Casual Labour in regular Vacancies.

1. Casual labour who acquires temporary status as a result of having worked on other than projects for more than 6 months or who have worked for more than 6 months, shall be considered for regular employment without having to go through Employment Exchange. Other Casual Labour who have not completed six months, will, of course, be required to get themselves registered in the relevant Exchange's before they are considered by the Selection Boards. They will have a prior claim over outsiders. In order to ensure this, the names of all casual labour, wherever employed, should be entered in the registers maintained by Divisions or Districts or by any other convenient

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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 ~~excess~~ 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 (1) 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)

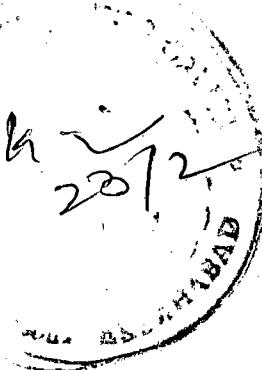
(ii)

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.

Keen a/ee



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD,
Lucknow Bench, Lucknow.

Writ Petition No: 79.

MAHARAJDIN & 32 Others Petitioners,

Versus

13
Permanent Way Inspector,
Northern Railway, Raebareli
& others, Opposite parties.

ANNEXURE II.

UGX

Annexure.

GOVERNMENT OF INDIA,
MINISTRY OF RAILWAYS
(RAILWAY BOARD).

INDIAN RAILWAY

ESTABLISHMENT MANUAL
(Second Edition)

Retrenchment benefits to Casual Labour :

(a)(i) Casual labour employed on Railways, Railway Projects and in Railway Factories come within the purview of the term 'workman' under Section 2(8) of the Industrial Disputes Act. Such labour employed on purely construction works or projects on the railways would also be included, by the provisions of sub-section (2) of Section 25-FFF of the such works may generally be carried on under a separate set-up on Railways would make no difference as regards the labour employed on such works being

Page 1

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

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

(iii) 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.

(iv) 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 days 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).

23/2

(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)

(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.

(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.

K-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,

(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.

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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

letter
Copy of ~~order~~ 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 PWI not to harass us. It was
so done at Rupamao station in August 1978. Since then
PWI and AEN are unhappy with us.

- la-c
23/2*
2. That some of us were given CPC Scale but
without assigning any reason the scales were with-
held by the PWI. We are not able to pay Rs. 5.00 P.M.
to Union as desired by the PWI. ~~xxx~~ We are being
harassed ^{which} and cannot be described. Suffice it to say
that the harrassment 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

of us

each put in more than 6 months. When requested the PWI said he would not give any dismissal ^{order} in writing.

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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. Therefore I therefore approach you with the request that the PWI Raiberailly may be directed to give us C.P.C. Scale as was promised at Rupamau, Railway station. In case PWI is going to dismiss us ^{from} 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/-
Maharaj din. no 112953

Copy forwarded for information and necessary action to:

1. The Permanent Way Inspector, Northern Railway Raiberailly.
2. AEN, Northern Railway Raiberailly.

A
19 (8/2)

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.

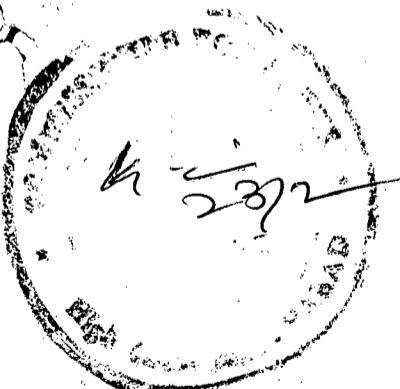
3 (three) encelopes.

(seal of the Post Office
Lucknow)

(seal)
Dt. 2.2.79.

True Copy

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In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench: Lucknow.

Writ Petition No. of 1979

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20
Maharaj Din and others . . . Petitioners

Versus

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

Affidavit.

I, Maharaj Din aged about 23 years son of Saddhu Resident of Moza Sarwan Purai Kali Bux P.O. Phursatganj, District Rai Bareilly 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 knowledge of the deponent.
3. That annexures No. 1 to 4 are compared with the originals and are certified to be true copies.

ME2151419

Dated: 23/2/1979

Depoent

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.

ME2151419

Dated: 23/2/1979

Depoent.

56/29
23/2/79
I identify the deponent who has signed before me.

Deenazar
Advocate.

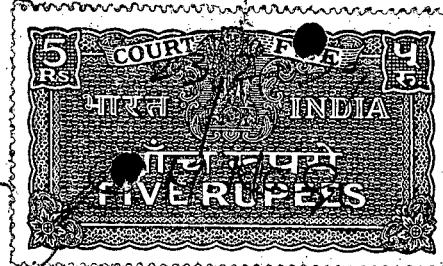
23-2-79
at 9.35 am/pm by the deponent who Maharaj Din is identified by Shri C.H. Stegmu, Advocate, High Court, Lucknow. I have satisfied by examining the deponent who understands its contents which have been readout and explained by me.

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

C.P. No 1131 @ 79

21

12/1/79
M. J. M.



Maharaj Din and 33 others v/s. 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 thrown out of employment on 25/2/1979.
3. That if the petitioners are thrown out of employment, ~~and~~ their dependents would die of starvation.
4. That if the proposed action to throw the petitioners from service is not stayed the petitioners would suffer irreparable 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.

Alman

Dated: 23/2/1979

Counsel for the petitioner

ब अदालत श्रीमान
वादी (मुद्दई)
प्रतिवादी (मुद्दाअलेह) का

Honble High Court Allahabād

महोदय
Sir H. H. Lucknow,
वकालतनामा

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वकालतनामा

Mahraj bin & Others

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P.W.L. M.R. Raft 20th

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8/23/17

बनास

वादी (मुद्दई)

प्रतिवादी (मुहाअलेह)

नं० मुकदमा सन् १९७ पेशी की ता० १९७
 ऊपर लिखे मुकदमा में अपनी ओर से श्री— S. Gulam

Hasnain Nagvi, S. Kajrin Raja, Kajri, एडवोकेट महोदय, वकील

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रूपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकदमा उठावें या कोई रूपया जमा करें या हमारी या विपक्ष

(फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताच्चर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें वकील महोदय द्वासुलु^{खेले} की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिये यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे ।

C.M. No 1540 @ 199

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

Writ Petition No. 435 of 1979.

433



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 you~~ as existed on 23/2/1979 be restored. It is so prayed in the interest of justice.

lunay

Dated: 19/3/79

Counsel for the applicants.

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 Pura Kali Bux, P.O. Fursatganj, District Rae Bareli, 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~~ 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.

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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 80~~8~~ 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.

HEK/15/61/7

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. Nayer

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,

8/4/

S.K.

Advocate

MISSIONARY

High Court, Allahabad

Lucknow Bench, Lucknow.

25/2/79

16/3/79

इन दि आनरेबुल हाई कोर्ट आफ जुडीकेचर एवं इलाहाबाद,
लघन ऊ बेन्च, लघनऊ।

रिट प्रिटोशन नं० 435 सन् 1979.

दोन
महराज/आदे - - - - - प्रिटोशनर्स
बनाम
परमानेट वे इन्सपेक्टर आदे - - - - - अपो० पार्टीज

अनैजर - 5

क्रम सं०	नाम प्रिटोशनर	साल	काम के दिन
1.	2.	3.	4.
1-	महराज दोन	1974	1563
2-	गुरचरन	1976	441
3-	शोतला प्रसाद	1974	1125
4-	जगेश्वर	1974	851
5-	श्रीपाल	1974	1310
6-	शिव कुमार	1974	1168
7-	रथुबर	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 रत्न	1974	492
14-	राम सजोवन	1974	518
15-	भगौतो	1974	752
16-	माता प्रसाद	1975	722
17-	शिव कुमार	1974	812
18-	सुन्दर	1974	529

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10/10/79
नी

क्रम सं०	नाम पिटोष्टनर	साल	काम के दिन
1.	2.	3.	4.
19	बिन्दा दोन	1974	842
20-	धेराऊ	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-	बिशराम	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 अधार	1974	1768

विपक्षी सं० । व 2 ने इन 34 प्रार्थीगण के बहुत से आदायियों को सो० पो० सो० रुपये दिया और जब चाहा फिर हटा दिया और क्युअल लेबर कर दिया। ये प्रार्थीगण मुस्तकिल नैकर होगये और फिर क्युअल लेबर करने से उनको जो अधिकार मिले वह सब गैर कानूनी तौर पर छोन लिये और उनको नुकसान पहुँचाया।

26/5/79
16/3/79

16/3/79
16/3/79

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

Writ Petition No. 437 of 1979

Maharajdin 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

(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
A/43
writ Petition No. 433 of 1979

Maharaj Min and 33 others Petitioners

Versus

Permanent way Inspector and others.

...Opp. parties.

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4.	Annexure No. 2	13-16
5.	Annexure No. 3	17-18
6.	Annexure No. 4	19
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8.	Power	22

Dated: 23/2/1979

counsel for the petitioners

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

1. Mahajin aged about 23 years son of
Saddhu, Resident of Moza Sarwan Purai Kali Bux
P.O. Phurbatganj, District Raibareilly.
2. Gurcharan aged about 25 years son of Saddhu
resident of Moza Sarwan Purai Kali Bux P.O.
Phurbatganj, District Raibareilly
3. ~~Shettla 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,
District Raibareilly.
6. Shiv Kumar aged about 23 years son of Satya
Narain resident of village Mahavani Ka Purwa
Post Jagatpur, District Raibareilly.
7. Raghuwar (S.C) aged about 23 years son of
Gooli jin resident of Village Rupa Mao Post
Rupa Mao.
8. ~~Gardar aged about 26 years son of Ramautar
Village Bhadaya Post Phursatganj, District Raibareilly.~~
9. Shatruhan aged about 22 years son of Medai
Village Mohaya Purai Bhaman Post Phursatganj,
District Raibareilly.

10. Mahesh aged about 29 years son of Bhagwan Din
resident of Village Sadipur Kotwepure Kanchar
Post gher District.
11. Ram payal aged about 22 years son of Gheddi
Village Rupa Mach Pure Ban Ka Purwa Post Rupa Mao
District Raibareilly.
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 Hindha
resident of Village Sarwanpure Hindu Post Bandee Rai
Bareilly.
14. Ram Sajeewan aged about 22 years son of
Ram Achha resident of village Rupa Mao post Rupa
Mao, District Raibareilly.
15. Bhagoti aged about 24 years son of Lalla
resident of Village Rupa Mao Post Rupa Mao Distt.
Raibareilly.
16. Mata Prasad aged about 21 years son of Auri
resident of Village Bhadaiya Post Phugatganj,
District Raibareilly.
17. Shiv Kumar aged about 20 years son of Sheetla
in village Udaipur Post Rahi Distt. Raibareilly.
18. Sunder (s.c.) aged about 23 years son of Ram
Autar Resident of Village Bhadaya Post Phugatganj,
District Raibareilly.
19. Bindu din aged about 21 years son of Baij Nath
resident of Village Rupa Mao Purai Kueer Post Rupa
Mao District Raibareilly.
20. Cheirao aged about 24 years son of Mathura
resident of Village Sarwanpurai Hindu Post Bandai
District Raibareilly.
21. Bhirane aged about 24 years son of polar
Village Mohaeya Pure Bhaman Post Phugatganj,
District Raibareilly.

22. Ram Dhanvi 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 Jhawa Mao Post Baraith, District Raibareilly.
24. Ram Jiawan aged about 25 years son of Kandhai resident of Jhawa Mao Post Baritha District Raibareilly.
25. Shyam Lal aged about 22 years son of Subba village Gauri Lakhnipur Bajrangi Jating Post Bhaw District Raibareilly.
26. Bhagoti aged about 23 years son of Ausan resident of village Udaipur Post Rahi District Raibareilly.
27. Shiv Charan aged about 22 years son of Budhai resident of village Gulreshapure Bala Taikai Post Bhaw District Raibareilly.
28. Bish Ram aged about 29 years son of Mangal resident of village Balipur pure in Vill Parigapur District Raibareilly.
29. Ram Prasad aged about 23 years son of Mangal resident of village Tarooma pure Bharoosi Post Phursatganj, Lucknow.
30. Ram Ratan aged about 21 years son of Mangal village Sarwanpura Kali Bux Post Phursatganj.
31. Ram Bhagur aged about 23 years son of Bishoo resident of village Samainpuru Bhinda, Post Puratganj.
32. Ram Bhagur aged about 22 years son of Rampal village Rampur Baghail pure Bhanjan Post Rahi.
33. Ram Narash aged about 23 years son of Suraj village Rampur Baghulpure Bhanjan Post Rahi, District Raibareilly.
34. Ram Acher aged about 22 years son of Suraj resident of Moza Rampur Baghail purai Turi P.O. Rahi

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
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

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were found suitable for regular absorption as ~~as~~ ^A 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 year. 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 harrassing without any prescribed procedure, when the petitioners were being harrassed 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 Mao 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 Mao 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 ~~amended~~

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-c1/25 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 series 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 determine to employ outsiders and other persons who have not put in 6 months service.
22. That the causal 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

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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.

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 before 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. A/53
- (b) Because the opposite parties ignored the rights of the petitioners indicated in the Annexures.
- (c) Because the threatened action of the Opposited 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 of the nature of certiorari.

Dated:

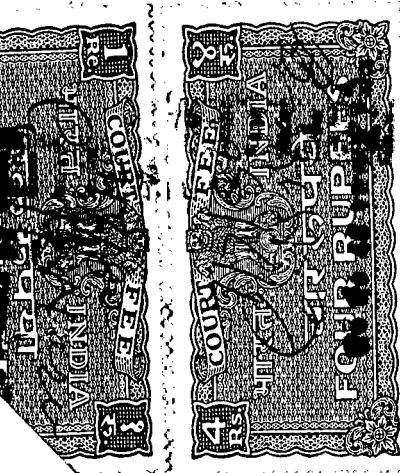
Petitioners

cmr 7453 lug 80

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW.

Writ Petition No. 433 of 1979



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 order was 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

Amended W.P. No. 433 879

हाई कोर्ट व्हाइवाद

(अध्याय १२, नियम १ और ७)

दिनांक (मुक्तादिक) प्रार्थना-पत्र संख्या - - - १३१-८२-२
W.P. No 433 879

सं० - - - - - सन १९ - - - - - ६० में

Maharaj - आई २५/८५ - - - - - ११

J.S. Rly./KCO
Permanent Way Inspector

J.S. Rly.

Rai Bareilly

प्रत्यक्षी के ५००

बूँदि ऊपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुद्रामें के सम्बन्ध में ले लिये प्रार्थना-पत्र दिया है, कि आप दिनांक - - - - - पास - - - - - सन १९६० में उपर्युक्त दिनांक पर इसके बाद व्हाइवाद नियमानुसार विचारित कियी जाए, कि विदित हो कि यदि आप ऊपर लिखे दिनांक पर वा उसके पहले स्वर्य में इसी एडवॉकेट वा ऐसे व्यक्ति द्वारा, जो आपकी ओर लिखाये करने के लिए आवश्यक हो, उपर्युक्त न होतो उक्त प्रार्थना पत्र की सुनवाई और नियम व्हाइवाद मुपस्थिति में हो जायें।

प्रार्थना पत्र और प्रार्थी द्वारा दिए गए शपथ-पत्र की एक-एक पात्रिलिपि उसी के साथ होती है।

प्रेर हस्ताक्षर और न्यायालय की दौहर विधान दिनांक - - - - - सन १९ को जारी किया गया।

के एडवॉकेट

नियम - - - - -

R. B. Ray

डिप्टी एजिस्ट्रार

हाईकोर्ट व्हाइवाद। लखनऊ।

स्वर्य - इस न्यायालय की १९५२ की नियमावली के अध्याय ३६, नियम २ के अनुसार लिया गया। तत्वाना मिल गया। तत्वाना पाने वाले कल्की के हस्ताक्षर

Amended w.p. 433879

नियमानुसार

हाई-कोर्ट लू. हावाद
(अध्याय १२; नियम १ और ११)

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दिनांक (मुकाफातिक) प्रार्थना-पत्र संख्या

W.P. 433879

----- ३० ----- सूत १६ ----- ५० -----

Mahenji - Dm 27th

प्रति

D.S. N.R.L./Sw. Hemaji Murthy

& R.H.S.

Hemaji - D.S. N.R.L.

Ltu

प्रत्यक्षी के लिए

कुकी ऊपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में

ले लिये प्रार्थना-पत्र दिया है, अतः आपको यह जिस जाता है कि आप दिनांक - २२ - पात्र - ७ - सन १० को

पहले उपस्थित होकर कारण बतलाव कि प्रार्थना-पत्र कर्ता न स्वीकार दिया जाए तो प्रार्थना-पत्र को सुनवाई उसके बाद नियमानुसार विज्ञापित किसी और दिन

विदित हो कि यदि आप ऊपर लिखे दिनांक पर या उसके पहले समय में जिसी एडवॉकेट वा ऐसे व्यक्ति द्वारा जो आपको और से कार्य करने के लिए

जीर्णीय जाए

क्रमांक/No. 310,

4749

लौग. गा. डाक टिकट का मूल्य रु. ३.००

Amount of stamp affixed Rs. 3.00

एक रुपयी बीमा* प्राप्त किया Date-stamp

Received a Registered Insurance Date-stamp

पानेवाले का नाम.....

Addressed to

बोगे की नवाम (अंग्रेजी) N. Rhy (अंग्रेजी में)

Insured for Rs. (in figures) ३.०० (in words)

बामा गत्तक रु. ३.०० वजन (अंग्रेजी में)

Insurance fee ०० Weight (in words)

भेजनेवाले का नाम व पता.....

Name and address of sender

हावाद नियमानुसारी गई

शर्तों के अनुसार

Issued subject to terms and conditions in P. O. Guide

पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

प्रतिलिपि उसी के साथ

1 - 28 - १९४८

लौग. गा. डाक

हावाद

W.P. 433879

सूचना - इस न्यायालय को १९४२ की नियमावली के अध्याय ३६, नियम २ के अनुसार संस्कार मिल गया।

तत्पाना पाने वाले कर्ता के हस्ताक्षर

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दीनांक विभाग

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

४४

प्रक्रियांक (मुतफ रिक) प्रार्थना-पत्र संख्या - - - १३१-८५ - सन १६७९

OP सं. - ४३३ - - - सन १६७९ हॉम

Maharaj - Dr. J. S. - - - - - प्रार्थना

प्रति

DS. N. R. R. L. C. C. Chaudhury ^{प्रत्यक्ष}

Div. Hon. Super. Compt.

Mr. Secy.

Lucknow

प्रत्यक्षी के नाम

वृंदकि ऊपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में
ले लिये प्रार्थना-पत्र दिया है, अतः आपको सुनित
किया जाता है कि आप दिनांक - २२ पास - १६७९ सन १६७९ को या उसे
पहले उपस्थित होकर कारण बतायें कि प्रार्थना-पत्र क्या न स्वोकार लिया जाय
उक्त प्रार्थना-पत्र की सुनवाई उसके बाद नियमानुसार विज्ञापित विसी और दिन इसे
विदित हो कि यदि आप ऊपर लिखे दिनांक पर या उसके पहले स्वयं अकड़ा
विसी एडवॉकेट या ऐसे व्यक्ति द्वारा, जो आपकी ओर से कार्य करने के लिए कानून
जाधिकृत हो, उपस्थित न होगी तो उक्त प्रार्थना पत्र को सुनवाई और निर्णय आपको
अनुपस्थिति में हो जायें ।

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

भेरे हस्ताक्षर और न्यायालय की पीहर सेवाज दिनांक - २८ - बाल २

सन १६७९ को जारी किया गया ।

के एडवॉकेट

P. R. Bhagat

तिथि - - - - -

डिप्टी रजिस्ट्रार

इलाहाबाद । रुद्रनाथ

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

तत्वाना पाने वाले ऋक के हस्ताक्षर

W 46 (53/5)

ज्ञानो विद्यालय

हाई कोर्ट छत्तीसगढ़

(अध्याय १२, नियम २ वाँ १७)

नियम (मुक्तपरिक) प्राधीना-पत्र संख्या - १२ - सन १९६६
W.P. no 433/74

सं० - सन १९६६ ६० मे

Maharaj Am 20/3

प्रति

S. & Rly. 1/41 Ministry of Railways

Bhopal Divisional Superintendent

M. Rly. 1/41

प्रत्ययों के बारे

बूँदी कापर लिखे प्राधीना ने इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में ले लिये प्राधीना-पत्र दिया है, जहाँ जापकी बूँदी कापर जाता है कि जाप दिनांक - २२ - मास - ८ - सन १९६६ को पहले उपस्थित होकर कारण कलार्य कि प्राधीना-पत्र कर्त्ता न स्वोकार लिया जाए उस प्राधीना-पत्र की सुनवाह उसके बाद नियमानुसार विज्ञापित किसी और विविधित हो कि यदि जाप कापर लिखे दिनांक पर या उसके पहले समय में करने के लिए जाप की नियमीय विधि के तिलिपि उसी के साथ

W 46/No. 0240

लगाए गए डाक दिनांक का मूल्य रु.....

/ value of Stamps affixed Rs.

ए न के दस्ता वीमा*

Received a Registered Letter

पानेवाल का नाम.....

Addressed to

बीमा का रकम (अंकों में).....

Insured for Rs. (In figures)

बीमा रकम रु.....

Insurance fee Rs.

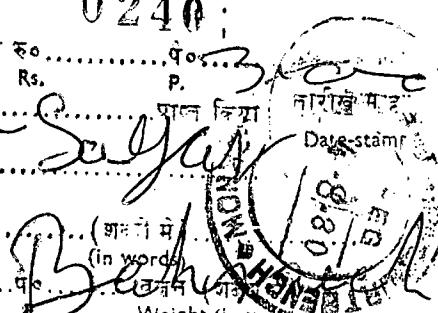
शेष रकम रु.....

Name and address of sender

डाकघर तिर्देशिका में दी गई

गतों अधीन जारी की गई

Issued subject to terms and conditions in P. O. guide

पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving OfficerD. R. D.

राजिस्ट्रार

बाबू लक्ष्मण

V.K.

सूचना - इस न्यायालय को १६प्र० का अन्यमावला का जल्दाच ३६, नियम २ के बारे में अधिकतर जानना मिल गया।

तत्काल पाने वाले क्रलक के दस्तावेज़

PK/16

दीनानी विभाग

हाई कोर्ट इलाहाबाद

(अध्याय १२, नियम ६ और ७)

प्रक्रीणक (मुतकरिंग) प्रार्थना-पत्र संख्या - - - - - सन १६ दि.

433 सं १६/८८ दि. १६ मं

Mahoraj. Dr. J. S. - - - - - प्रार्थी

D. S. N. Reg. No. Minst प्रत्यधि
ASH Engineer /

H. Reg. Rei. Bencidley

प्रत्यधि के नाम

वृंदि ऊपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त मुकदमे के सम्बन्ध में

ले लिये प्रार्थना-पत्र दिया है, वह: आपको सूचित किया जाता है कि आप दिनांक - - २२- मास - - ८ सन १६ को या उसके पहले उपस्थित होकर कारण बतलाये कि प्रार्थना-पत्र क्यों न स्वोकार लिया जाय। उक्त प्रार्थना-पत्र को सुनवाई उसके बाद नियमानुसार विज्ञापित कियी और दिन हो विदित हो कि यदि आप ऊपर लिखे दिनांक पर या उसके पहले स्वयं अपने किसी रुक्मिणी या ऐसे व्यक्ति द्वारा, जो आपकी ओर से कार्य करने के लिए कानून अधिकृत हो, उपस्थित न होगीतो उक्त प्रार्थना पत्र को सुनवाई और निर्णय आपको अनुपस्थिति में हो जायेगा।

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

भेर हस्ताक्षार और न्यायालय की ओहर जाज दिनांक - - ८ सन १६

को जारी किया गया

के रुक्मिणी

तिथि - - - - -

डिप्टी रजिस्ट्रार

इलाहाबाद। लक्ष्मज.

सूचना - इस न्यायालय की १९४२ की नियमावली के अध्याय ३६, नियम २ के जावें परापूर्त तत्वाना मिल गया।

तत्वाना पाने वाले कर्लक के हस्ताक्षार

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH, LUCKNOW.

Civil Misc. Application No. 293 of 1990, 15
IN RE:

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

(W. P.) No. 437 of 1979 16

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
(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. Shir Poonan working as Assitt Personal
in the office of Divisional Railway Manager. .

Northern Railway, Hazaribagh, Ranchi 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 outset 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

एकादश अधिकारी
लखनऊ रेलवे लखनऊ

Cont.....2...

i.e. petitioner Nos. 2, 14, 16, 22, 24, 27 and 28

only and they did not want to pursue the case in respect of other petitioners as they have already been employed and borne 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. Gurucharan 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 Sajwan 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

Elvarad of working. Even after 14.3.79, he was given
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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^s 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 ~~one~~ month ending on 14.4.78. He worked for 10 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

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he turned up for work. He worked for 85 days
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only during a span of 15 months.

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

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subjected to any test as assigned, reasons best

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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 borne 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.

Z. Varad 5. That reply to the contents of para 2 of W.P. have
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उत्तर रेलवे, लखनऊ
Cont..... 6...

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already been given in the preceding paragraph. 67

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 petitioners 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 to 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 Manual, 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 ~~is~~ in the records of Opposite Parties. The petitioners

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

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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~~
~~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

~~कालिकारिक अ~~ completed their requisite days of continuous service
उत्तर रेलवे, घटना
and accordingly they were given revised scales

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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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घरर रेलवे सरकार

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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

M. Albrash
राष्ट्रीय कानूनी संशोधनकारी
कानूनी विवेद विभाग
उत्तर प्रदेश, 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

M. Albrash
राष्ट्रीय कानूनी संशोधनकारी
कानूनी विवेद विभाग
उत्तर प्रदेश, लखनऊ



In the Central Administrative Tribunal,
Circuit Bench, Lucknow.

Regn. O.A. No. 430 of 1987(T)

Unit Petition No. 432 of 1979



Maharaj Din and others ...

Petitioners/applicants

Versus

Union of India and others...

Opp. Parties/Respondants

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 Bareli, Petitioner No.28 for self and on behalf of 6 others do hereby solemnly affirm and state as under : -

- Reed duplicate
Bishram
14/5/90*
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 Rd.(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 para 1 to 19 are denied so far as the same



L.T. 1/1/1990

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 adverse 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 ages were correctly given in their affidavits. It is surprising to note that Mata Prasad, Shiv Charan and Bisram although eligible for appearing before the screening committee, they were denied the right discriminated.
6. That each one of the applicants were given a copy



LTI Bishan

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 summed 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 ruled 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

LTR
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

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

Advocate.

Javaid Ali Khan
OATH COMMISSIONER
High Court, Allahabad

Lucknow Bench,
No: 7711231
Date: 12-5-90