

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET

T.A. NO. 682/87 A.P. 2023/80

CAUSE TITLE OF

NAME OF THE PARTIES..... V.P. Saxena

.....Applicant

Versus

..... C.O.F. Govt. Respondent

Part A, B & C

Sl. No.	Description of documents	Page
1	Index sheets	A1 to A2-A3
2	order sheets	A4 to A7
3	Copy of petition/affidavit	A8 to A26
4	Answer	A27
5	stay application	A28
6	Reply	A29 to A37
7		
8		
9		
10		
11		
12		
13		

CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

Decided and

Dated..... 3/8/12

Counter Signed.....

B/f.c. destroyed on 09-5-12

Section Officer / In charge

an
Signature of the
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

FORM OF INDEX

O.A./T.A./R.A./C.C.P./ No. 684/87
(W.P. 2023/80)

PART - I

V.P. SAXENA

-VS

U.O.D.

1.	Index Papers	:-	1 ✓
2.	Order Sheet	:-	2 to 5
3.	Any other orders	:-	Nil
4.	Judgement order all	:-	6
5.	S.L.P.	:-	19-2-90 Nil

D.Y. Registrat
D.Y. Registrat

Supervising Officer
Supervising Officer

Dealing Clerk
Dealing Clerk

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

Nil
Nil

Dealing Clerk
Dealing Clerk

V.K. Mishra

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case W.L. 2023-10

Name of parties V. P. Sarker v. Union of India

Date of institution 25-2-80

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	Ground.	20	11	102	Rs.	P.	
B	2	Power.	1	2	05			
	3	Crt. how Ls. 0/- for 8/-	1	2	05	Rs.	P.	
	4	Order Sheet	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.

Munsarim.

Clerk.

Date _____

(U)

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

INDEX SHEET

CAUSE TITLE

682/821G OF 198

Name of the Parties

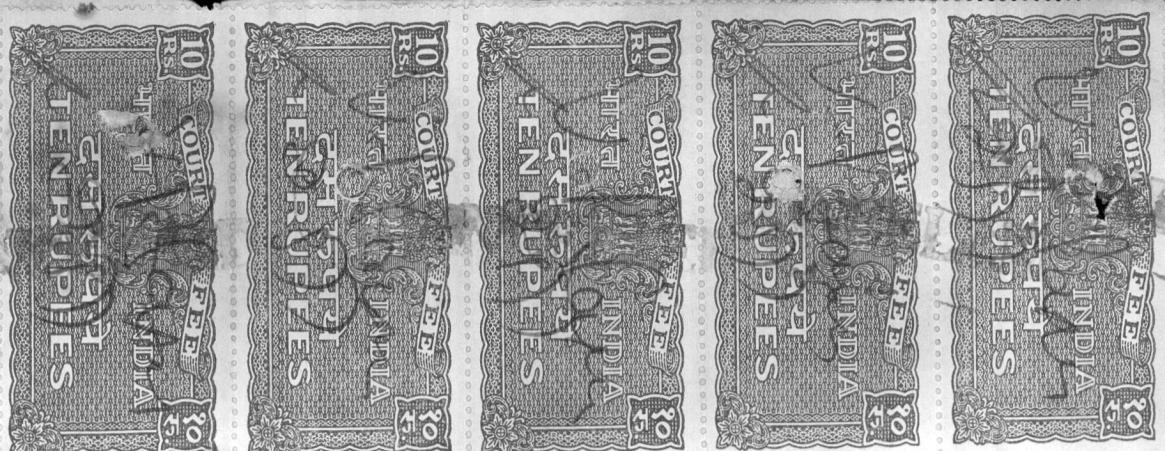
V. P. Sarker

Versus

Union of India

Part A, B and C

Sl. No.	DESCRIPTION OF DOCUMENTS	PAGE
A-1	Index	12
A-2	order Sheet	12
A-3	Writ Petition	10
A-4	Annexures	10
A-5	counter	9
A-6	Power	1
B-1	Petition	14
B-2	counter	9
C-1	Power	
	Notice	
	order	10
C-2	Application	9
C-3	counter	



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH LUCKNOW.



WRIT PETITION NO. OF 1980

(Writ Petition Under Article 226 of the
Constitution of India.)

V.P.Saxena aged about 41 years son of Late Sri Ram
Narain Vidyarthi, LD53G Loco Shed Colony Alambagh.

.....Petitioner

-versus-

1-Union of India through the Secretary, Ministry of Railway, Railway Board, New Delhi.

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

3-The Senior Divisional Personal Officer, Northern Railway, D.R.M., Lucknow.

4-Sri Abdul Haq son of not known H.S.Turner T.N.325 Loco Running Shed(N.R.)Alambagh Lucknow.

.....Respondents.

The above named petitioner most respectfully submit as under :-

1- That the petitioner was appointed on 17.5.54 as a Trade Apprantine after having successfully completed 5 years Apprenticeship and was posted as Turner in the prescribed Scale of Rs.60-130 since revised to Rs.110-180/- with effect from 1.7.1959.

Virendra Sataap
Saxena.



(3)

(2)

✓ Impressed Adhesive = Re 1.00 - c.p.
Ten Adhesive = Re 1.00 - c.p.
Total Re 1.00 - c.p.

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

In time up to

~~Papers filed. Copy of~~ ~~RE~~
~~should also be filed.~~

11 - Month

Unsigned order (A.M) dt.

11-7-80

Recd
25/7/80

Hans D. N. Jha, T.
Hans K. S. Mehta, P.

Admit. Issue
notice.

KS 19
25-7-1980

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 1

2023

of 197

30 (3)

A-2

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Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
25.8.82	In service report	25.8.82
	J.R.	
	of. nos 1 to 4 are sufficiently served under chapter VIII rule 12 of the Rules of Court. Proceed.	
		4/1
		25.8.82
	B1C	✓
23.5.84	Fixed in court house to	file
	for disposal.	
	Hon. K. Nath	g.
	S.D.	
	23.5.84	
16.11.84	fixed in court house to for disposal	clearly
	Hon. S.C.N. S.	
	no counter affidavit has	
	been filed to oppose this application.	
	Accordingly the interim order dated	
	25.7.1980 is confirmed.	

DMP

16.11.1984

Bm

R/V
(S)13/9/89 Hon. Justice K. Nath, V.C.
Hon. K. J. Ramam, A.M.

a. 51

RE F.R. 207/89
11-7-89 at 10.30 AM
& 3.30 PM
RE Calcutta
Bharat Bhawan
Bengal Sahayata Gram
T.D. 81
G.R. 100000 & 100001
from other 10000
estd
12/9

DR
A.M.R
VC.a. 2
Notice issued
18/9/89

R.R.

Reply filed today

27/9/89
Notice of applicant has been return back.Notices were issued on
10/9/89.

Notice of applicant has been return back with postal remarks.

Reply filed on behalf of repeat but not duly served on the applicant.

Submitted for order.

L
26/9R
VC.a. 2
Notice issued
18/9/89

R.R.

No sitting Adj. to 19.2.90
Counsel for repeat is presentL
13/12

8R
Notice was issued to Smt-S.C. Misra, Adm
to Smt-S.C. Misra
No record of Smt-S.C. Misra
Counsel has been return back with summary order
and as yet no reply received
S.P. - order

L
10/12

19/2/90.

Hon. Justice K. Rath, V.C.

Hon. L. Obayya, A.M.

Case has been called. No one is present on behalf of the applicant. Sri Prashant Mathur is present for O.P. 1 A.O. 3. The writ petition was filed in the H. C. Court on 25/7/80 and relief sought was to quash an order transferring O.P. 4 from Pratapgarh to Lucknow vice petition and further transferring the applicant from Lucknow to Pratapgarh vice O.P. No. 4. An interim order was passed on that very date staying the first part of the order contained in the impugned transfor order, Annexure-5. In other words, the transfer of O.P. 4 from Pratapgarh to Lucknow had been stayed by the H. C. Court; but the transfer of the applicant from Lucknow to Pratapgarh had not been stayed.

Efforts were made to serve the applicant by this Tribunal by registered post on the address given in the petition. The notice despatched was returned by the Post Office with the remark that Sri V. P. Saxena had left. Another notice was served to the applicant's counsel by registered post and it has been received back with the report that the counsel can not be traced out. It is plain enough that the case, having been remained pending for so many years, there is an action on the part of the applicant while appearance is made on behalf of opposite parties. In the circumstances, this petition is dismissed for non prosecution.

Q.C.
V.C.

A.M.

P-3
2

2- That the petitioner on account of his good work and conduct was promoted as Turner Grade II in the scale of Rs. 330-480/- ^{1 w.e.f 2/8/75}. All along during his service as Turner Grade II there was never any cause or complaint and the work of the petitioner was appreciated by his superiors.

3- That the petitioner was offered a promotion by an order dated 31.1.1979 as a Highly Turner Grade I in the scale of Rs.380-560- and was required to proceed on transfer as a Highly Skilled Turner, Grade I to Faizabad. The true copy of the said order dated 31.1.1979 is being annexed as Annexure no. I to this writ petition.



4- That it is pertinent to mention that only those persons could be promoted to the post of Highly Skilled Turner Grade-I, who had successfully passed the suitability test conducted by the Senior Divisional Mechanical Engineer. The petitioner having successfully competed in the suitability test conducted by the ~~xxix~~ Senior Divisional Mechanical Engineer was offered the promotion as contained in Annexure No.1.

5- That on account of illness of the petitioner's wife he had no other alternative but to request the authorities not to transfer him as his wife required the petitioner's personal attendance at Lucknow. The petitioner however, undertook that he shall have no objection if persons junior to him are promoted. The true copy of the petitioner's request dated 5.5.1979 addressed to the Divisional Railway Ministry is being annexed as Annexure No.2 to this writ petition.

Virendra Bihari
Saxena

Group 14 ka (E) (H)

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

217

Case No. 8-80

A-1

2

539)

Writ Petition No. 2023 of 1980

V.P.Saxena Petitioner

Revs -

The Union of India and others Opp-parties.

I N D E X.

SL.NO.	PARTICULARS	PAGE NO.
1.	Writ Petition	1 to
2.	Annexure No. 1 (order Dt. 31.1.79)	
3.	Annexure No. 2 (copy of Refusal Dt. 5.5.79)	
4.	Annexure No. 3 (order dt. 10/12.Dec.79)	
5.	Annexure No. 4 (copy of promotion order dt. 16.5.80)	
6.	Annexure No. 5 (Copy of order dt. 11.7.80)	
7.	Annexure No. 6 (copy of direction dt. 17.8.78)	
8.	Annexure No. 7 (Letter dated 26.4.79)	
9.	Affidavit	
10.	Power of the Counsel	

Dated, Lucknow:

July , 1980.

25/7/80.

Saxena

Advocate

Counsel for the petitioner.

6- That it may be stated that the effect of the refusal of promotion on transfer was that the petitioner was not entitled to claim promotion as a High Skilled Turner Grade-I for a period of one year from the date of refusal as provided by the Railway Board's letter No.E(NG)64 TMI/66 dated 10.1.1966.

7- That the period till which the petitioner could be superseded by his junior came to an end on 4.5.1980. During this period only one promotion took place against the reserved vacancy of a Highly Skilled Turner Grade I which for a Scheduled Caste/Scheduled Tribe candidates. This vacancy arose at Faizabad and was filled in by Sri Ram Kumar a Scheduled Case candidate in the year, 1979.

8- That the respondent no. 4 was also offered a promotion by an order dated 10/12.12.1979 as a Highly Skilled Turner Grade I and was required to proceed on transfer to Pratapgarh but it appears that he did not join there. As during the period the petitioner was posted at Lucknow the Respondent no. 4 was on duty and remained on medical leave for about 2 months but even after the resumption of his duties, some time in February, 1980, the Respondent no. 4 even thereafter did not proceed on transfer to Pratapgarh and it appears that he refused promotion. It is pertinent to mention that the Respondent no. 4 continued to work as a Turner Grade II even after the resumption of the duties at Lucknow after the lapse of the medical leave. Copy of which is annexed herewith as Annexure No. 3.

9- That as stated above the petitioner was to be

Virendra Patel
Sarla

be superseded by Junior persons only till 4.5.1980 and thereafter the petitioner was once again offered a promotion as a Highly Skilled Turner Grade I at Lucknow. This vacancy of Highly Skilled Turner Grade I arose on account of fact that Sri Mohd. Tahir Highly Skilled Turner Grade I who was working at Lucknow was temporarily appointed to officiate as Turner Mistry in a clear vacancy and was posted at Lucknow. The petitioner consequently was promoted with effect from a Highly Skilled Truner Grade I and was appointed temporarily to officiate with effect from 16.5.1980. The true copy of the promotion order dated 16.5.80 passed by the Respondent no. 2 is being annexed as Annexure No. 4 to this writ petition.



- 10- That in prusuance of the aforesaid order contained in Annexure no. 3 the petitioner resumed his duties as Highly Skilled Turner Grade I with effect from 16.5.1980.
- 11- That the petitioner continued to work as a High Skilled Turner Grade I since the date of his promotion to the said post and was paid his salary admissible to the said post.
- 12- That on account of certain personal domestic work ~~was~~ the petitioner applied for leave on 14.7.80 for 3 days and thereafter extended the said leave for another ~~10~~ 9 days. The leave for the entire period mentioned above had already been granted by Loco Foreman who is the Competent Authority to sanction leave.

*Virendra Lal
Sarkar*

13- That while the petitioner was on leave duly sanctioned by the competent authority he has come to know through his friends Sri Dharam Pal and Ram Lubhaya, that the opposite party no. 3 will ask the petitioner to join at Pratapgarh and on the vacancy on which the petitioner is working the junior to the petitioner viz respondent no. 4 will be posted in utter violation of the Rly. Board Order's referred to above. The true copy of the order dated 11.7.1980 is being Annexued as ANNEXURE NO. 5 to this writ petition.



14- That from the perusal of the order dated 11.7.1980 contained in Annexure no. 5 to the writ petition it appears that the earlier order dated 10-12-December 1979 contained in Annexure no. 3 had been superseded by the Respondent no. 2 and the respondent no. 3 in prusuance of the earlier transfer order dated 10/12 December 1979/ordered to be promoted at Lucknow and the petitioner has been ordered to proceed on transfer to Pratapgarh.

15 That the respondent no. 3 has absolutely no jurisdiction whatsoever to pass the impugned order dated 11.7.1980 in as much as the petitioner having completed the period during which he could be superseded by a junior, it was not open to the respondent no. 3 to displace the petitioner so as to accommodate the respondent no. 4 at Lucknow. More so when the respondent no. 4 had not proceeded on transfer to the promoted post at Pratapgarh in pursuance of the order dt. 10/12 December 1979.

*Virendra Lalit
Saxena*

16- That it is further stated that the Respondent No.4 is junior to the petitioner and petitioner is senior to the Respondent no. 4, both as a Turner Grade II and a Highly Skilled Turner Grade I. This fact is evident from the Annexure no. 1 and 3 to the writ petition which are the transfer orders dated 31.1.1979 and 10/12.December79 and which clearly go to show that the petitioner was offered a promotion in January 1979 being senior to the Respondent no.4 who was offered promotion in December 1979.

17- That the respondent no. 2 had directed all Divisional Superintendents and instructed all Extra Divisional Officers by the letter dated 17th.August, 1978 to fill up Headquarters Controlled post of Division on the basis of the directions contained in the said letter a true copy of the said letter dated 17th.August, 1978 is being annexed as Annexure No.6 to this writ petition. A perusal of paragraphs 2 and 3 of the said letter would show that it was provided that a person eligible for transfer does not come on transfer by the stipulated date then it will be treated as a case of refusal entitling baring him for promotion for one year. The respondent no. 4 obviously did not proceed on transfer in pursuance of the order dated 10/12.December1979 and consequently he was debarred to be promoted to the post of Highly Skilled Turner Grade I at least till 10/12.Dec.1980.

Virendra Nath
Saxena

18- That the Respondent no. 3 had no jurisdiction to promote the respondent no. 4 as a Highly Skilled Turner Grade I and order for his posting at Lucknow and displace the petitioner who admittedly being senior was entitled to be promoted and posted at Lucknow.

19- That the Respondent no. 2 by another letter dated 26th April, 1979 provided that the senior eligible employee would be considered for promotion only at the existing place against the next vacancy occurring and as such the Respondent no. 3 in compliance with the said instructions ~~containing~~ contained in letter dated 26th April, 1979 offered first vacancy arose at Lucknow to the petitioner, recognising the petitioner to be senior than of other employees employed as Turner Grade II including the Respondent no. 4. The true copy of the letter dated 26th April 1979 is being as Annexure No. 7 to this writ petition.

20- ~~xxxix~~ That it may be stated that even after the issuance of the impugned order dated 11.7.1980 ^{been issued} the petitioner has not received and which is also evident from the fact that the petitioner has been sanctioned leave with effect from 14.7.1980.

21- ~~xxix~~ That the Respondent no. 4 is junior to the petitioner and he is not entitled to be promoted a Highly Skilled Turner Grade I till 12.12.80 and consequently the promotion of the petitioner to the High Skilled Turner Grade I is wholly illegal invalid and is without jurisdiction.

Virendra Patel
Saxena

22- That the petitioner being aggrieved by the impugned order dated 11.7.1980 contained in Annexure 5 ~~xxx~~ to the writ petition and having no equally efficacious and alternative remedy begs to prefer this writ petition to this Hon'ble Court on the following amongst other :

G R O U N D S.

I- BECAUSE the respondent no. 3 has absolutely no jurisdiction whatsoever to pass the impugned order dated 11.7.80 inasmuch as the petitioner having completed the period during which he could be superseeded by a junior, it was not open to the respondent no. 3 to displace the petitioner so as to accommodate the respondent no. 4 at Lucknow more so when the respondent no. 4 had no proceeded on transfer to the promoted post at pratapgarh in pursuance of the order dated 10/12/1979.

II- BECAUSE the impugned order of transfer and promotion of the respondent no. 4 is wholly illegal, invalid and without jurisdiction inasmuch as the same is in contravention of the instructions contained in annexures No. 6 and 7 into the writ petitioner.

III- BECAUSE the respondent no. 3 had no jurisdiction to promote the respondent no. 4 as a Highly Skilled Trainer Grade I and ~~xxx~~ order for his posting at Lucknow and displace the petitioner who admittedly being senior was entitled to be promoted and posted at Lucknow.

Scwr

Iv- BECAUSE the respondent no. 2 by another letter dated 26th April, 1979 provided that the senior eligible employee would be considered for promotion only at the existing place against the next vacancy occurring and as such the respondent no. 3 in compliance with the said instructions contained in letter dated 26th April, 1979 offered first vacancy arose at Lucknow to the petitioner, recognising the petitioner to be senior than of other employees employed as Turner Grade II including the respondent no. 4.

V- BECAUSE the impugned order dated 11.7.80 have been passed by the Respondent no. 3 without applying his kind to the facts of the case and the instructions contained in Annexures no. 6 and 7 to the writ petition.

VI- BECAUSE the impugned order dated 11.7.80 is arbitrary, illegal and violative of Article 14 and 16 of the Constitution of India.

Wherefore, it is most respectfully prayed that this Hon'ble Court may be pleased to :-

Scars

- A) issue a writ, order or direction in the nature of certiorari ^{Writely} and quash the order dated 11.7.80 contained in Annexure 5.
- B) issue a writ, order or direction in the nature of mandamus commanding the respondents no. 1 to 3 not to permit the respondent no. 4 as a Highly Skilled Turner Grade I till 12.12.1980 and he further pleased to command the respondents 1 to 3 not to cimpell the petitioner to proceed on transfer from Lucknow to Pratapgarh.
- C) issue a writ, order or direction in the nature of Mandamus commanding the respondents 1 to 3 not to

interfere with the rights duties of the petitioner
as Highly Skilled Turner Grade I at Lucknow,

D) issue any other writ, order or direction which
this Hon'ble Court deems fit and proper in the
circumstances of the case.

E) Award costs of the petition to the petitioner
against the respondents,

Dated, Lucknow

25/7/80

S. Chaurasia

Advocate

Counsel for the petitioner.

There is no defect in the writ petition.

S. Chaurasia

इन दि आनरेबुल हाई कोर्ट आफ जूडिकेयर ऐट इलाहाबाद

लखनऊ बेन्च, लखनऊ

रिट पिटीजन नं०

आफ 1980

वी० पी० सक्सेना

... पिटीज नर

बनाम

यूनियन आफ इण्डिया व अन्य.....

... अपोजिट पार्टीज

अनेकजर नं० ।

सं०- 758 ई०/१०-६५३० कु० टर्नर

कायलिय
मण्डल अधीक्षक लखनऊ
दि० ३१.१०.१९७९

सूचना

निम्नाकिंत उ० कु० टर्नर ग्र० II १३३० •४८० । जिन्होने उ० कु० ब्टर्नर ग्र० । की देड परीक्षा पास कर ली है पदोन्नति करके ग्र० ३८० •५६० में उनके तमुच्च दिये स्थानों पर लगाये जाते ही क्र० सं० । की पदोन्नति अनुसूचित जाति के कोटे के अधीन है ।



क्र० सं०	नाम	वर्तमान छ पद / स्थान	पदोन्नति पद/ स्थान
1-	सीताराम SIC	उ० कु० अर्नर ग्र० II /लखनऊ	उ० कु० ब्टर्नर ग्र० । /लखनऊ
2-	मूलचन्द्र	३३० •४८०	३८० •५६०
3-	मो० रफीक	--	"
4-	हस्स रमेश चन्द्र	वाराणसी	वाराणसी
5-	शिव नारायण	बुद्धपाल लखनऊ	बुद्धपाल लखनऊ
6-	राम लुभाया	लखनऊ	लखनऊ
7-	वी०पी० सक्सेना	कैबिनेट	फैजाबाद

उपरोक्त उन्मान रेल मंत्रालय के पास्त्रक १०७६ सी० स्स० दि० २४-८-७८ के अनसार लागू किया गया है ।
परिवर्तन की सूचना शीघ्र भेजें ।

चन्द्र लाल

कृते मण्डल अधी०/ लखनऊ

प्रतिलिपि :५

- ल०० फोर मैन लखनऊ, वाराणसी
- र०० रम० ई० / लखनऊ
- सीनियर डी० र०० औ० / लखनऊ

V. R. - R. S.
मुख्य प्रतिलिपि संग्रह

R/2
X
X

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

Writ Petition No. of 1980

V.P. Saxena Petitioner.

-vs-

Union of India and others Opp-parties.

ANNEXURE NO. 2

To
The D.R.M./NR/LKO

Ref: Refusal of promotion.

R/Sir,

I beg to request you that my wife is ill and requires my attendance at Lucknow, So I am unable to move on transfer and promotion.

I, therefore, refuse my promotion to the extent rules. I ~~have~~ ^{have} no objection that juniors are promoted.

Virendra Nath Saxena
Yours faithfully

Sd. V.P. Saxena

SDPO/LKO

Dt. 5.5.1979 H.S.Turner

forwarded for disposal

Gr. II/LKO.

Sc/LF/LKO.

True Copy

*Virendra Nath
Saxena*

13/12/1980
R/3
X/3

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

Writ Petition No. of 1980

V.P. Saxena Petitioner.

-vs-

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

Annexure No. 3

No. 758-HSI-6/HS Turner

Office of The Divisional
Rly Manager Lucknow.

Dt. 10/12-12-79

NOTICE.

1. Shri Abdul Huq, HS Turner Gr.II/LKO is temporarily appointed officiate as H.S Turner gr.I Scale Rs.380-560(Rs) and posted at PBH vice Item 2 below.
2. Shri Saghir Husain Officiating as HS Turner gr.I PBH is reverted as HS Turner gr.II and transferred to Lko vice Item No.1 above.

Changes may be advised properly.



Copy to:

(Chadoo Lal)

For Divisional Rly Lucknow.

1. LF 1 LKO

2. LF 1 PBH

True copy

*Virinder Singh
Saxena*

V.V.P
R.M.
F.29

-2xx-

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

Writ Petition No. of 1980
V.P.Saxena Petitioner.

-vs-

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

Annexure No. 4

Divl Office, Lucknow.

N1.220E/I-6/Turner Mistry
Dated 116.5.1980.

NOTICE.


Shri Mohd. Tahir, H.S.Turner gr. I (Rs.380-560Rs)
LKO is temporarily appointed to officiate as Turner
Mistry grade Rs. 380-560 with immidiate effect and
posted at Lucknow.

Shri V.P.Saxena, H.S.Turner gr II (Rs.330-480Rs)
LKO is temporarily appointed to officiate as H.S .
Turners grade I (Rs.380-560Rs) Vice item I

The Changes may be advised promptly

Divisional Personnel Officer
N.Rlyp Lucknow.

Copy to :-

- (1) Ame/B/LKO.
- (2)LF/LKO.

True copy

Visweswaran
Saxena

R/S
16/8
16/8

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

Writ Petition No. of 1980.

v.P.Saxena Petitioner.

-vs-

The Unaion of India. Opp-parties.

ANNEXURE NO. 5

N.R.

No. 7586E/I-6/HS-gr. I

Divil. Rly Manager Office
LKO. Dt. 11.7.80

NOTICE

1- In parts ~~Supersession~~ ^{Supersession} of this office notice of even number dated 10/12-12-79 Sri Abdul Haq H.S.Terner gr. II under of promotion as H.S.Terner gr.I in gr. Rs. 330-560(Rs) at PBH is now retained at Lucknow vice Shri v.P.Saxena item 2 below.

2- Shri v.P.Saxena H.S.Turner Gr.I under LF/~~MEMO~~ LKO being relieved by Shri Haq is transferred and posted to PBH vice item no.1. Movements be advised by this office at once.

Sd. Divisional Personal Officer
Copy to Lucknow.

1. LF/LKO
2. Sri DAO/LKO.

True copy.

*Virendra Pratap
Saxena*

P
16
1/2

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

Writ Petition No. of 1980.

V.P. Saxena Petitioner.

-vs-

The Union of India and others Opp-parties.

ANNEXURE NO. 6
NORTHERN RAILWAY

No. 831-E/63/2-XI-(EIV)

Headquarters office,
Baroda House, New Delhi.

Dated: 17th August 78

S.No. 7068A

All Divisional Supdts. and Extra Divisional Offices:

Sub:- Filling up of Headquarters controlled posts

on Divisions.


It has been experienced that a number of Headquarters controlled posts on the Divisions, remain unfilled for considerable periods, because the senior-most eligible staff who are posted on transfer, neither move promptly nor give their refusal (inwriting) for promotion and as a result there is available and serious delay in filling these vacancies.

In order to ensure prompt filling up of the vacancies and, side by side, ensure the protection of the legitimate rights of the senior eligible employees it has been decided to adopt the following procedure with immediate effect.

2.1 In the Headquarters will be taken say one month before the occurrence of a regular vacancy, to issue the posting orders of the seniormost eligible employee. A copy of this order will be sent in a D.O. cover to the D.P.O. of the Division where the employee is then working who will get it noted by the concerned employee for ensuring compliance.

2.2 The senior eligible employee under orders of transfer on promotion, if he so desires, can request

*Virendra Patel
Saxena*

in writing for his retention on the Division in the same grade and consideration of his case on occurrence of a ~~gradexand~~ vacancy on his Division without being treated as a case of 'refusal' and debarred from promotion for one year under the normal rules. However, he will be considered for promotion only against the next vacancy occurring on his Division and not on any other Division.

2.3 If the senior eligible staff under orders of transfer on promotion, does not make any such request (in writing) and also does not go on transfer by the stipulated date, then it will be treated as a case of 'refusal' entitling debarring him from promotion for one year.

3.0 In regard to 'un-foreseen' vacancies, the Division will immediately make local 'ad-hoc' officiating arrangements from amongst the senior most eligible staff on the Division and advise the cased to Headquarters office for giving post facto approval.

3.1 In case the un-foreseen vacancy is likely to be of a long duration i.e. of more than 60 days and is of a 'quasi-permanent' nature, then the D.P.O. of the Division will advise through a D.O. letter, the concerned S.P.O. in Headquarters immediately on occurrence of such a vacancy for issue of posting orders of the regular incumbent but till such time as the regular incumbent reports for duty, the local 'ad-hoc' arrangement will be continued.

4.0 In regard to regular vacancies, where the posting orders have been issued by the Headquarters, and the senior eligible employee who has to go on transfer from another Division, Unit, does not report on the date on which the post falls vacant, the Division will ensure immediate manning of the post by posting the senior-most eligible employee on the Division in an 'ad-hoc' and local arrangement, but this 'ad-hoc' local arrangement will be continued only till such time, a regular incumbent reports and takes over charge of the post.

Sd/- H.S.Chatta
16.8.78

*Virendra Pathak
Sarkar*
for General Manager (P)

3-

Northern Railway
Headquarters office,
Baroda House, New Delhi.

No.831E/63/2-XI(Eiv)
Dated 30.5.1979

All Divl Rly Managers,
Divl. Supdt. Bikaner
and
Extra Divl. Officers.

Sub:- Filling up of vacancies in headquarter and
also divisional controlled posts.

1- With the issue of the instructions contained in
this office letter of even number date 26.4.79(P.S.No.
7269/A) it has further been decided in consultation
with the recognised Unions that the vacancies in
higher grades at a particular station/Division shall
be filled in as under :-

- (i) The first vacancy will go to the person who is
due next promotion and is to be posted at the
same station.
- (ii) The second vacancy to the person who had gone
out earlier on promotion but with earlier reque-
st to be posted back to the Station when the
next vacancy falls.

This procedure will continue in the above order and
the request once made shall remain valid for a period
of 2 years, on expiry of which a fresh request for
renewal from the employee who has gone away on transfer
and had earlier made request for posting back to
that station will be necessary.

2. In order to limit the period of relaxation given
to the headquarters controlled employees in terms of
P.S.No.7068A of Aug.75 and further extended to the
divisional controlled posts vide P.S.No.7259/A it was
decided that an employee will either have to move out
or stand debarred, if he cannot be accommodated at the
same stn. for the third year.

(R.P .Ahuja)
for General Manager(P)

Copy to:- The general Secy.NRMU, 12, Chelmsford Road
New Delhi for information.

The General Secy.URMU, 166/2 Penchkuin Road,
New Delhi for information.

True Copy.

Virendra Singh
Saxena

In the Hon'ble High Court of Judicature of Allahabad
Mewar Bench, Varanasi

ANNEXURE-7

W.P. No. 0480

V. P. Saxena ~~vs~~ The Union of India & others

Northern Railway

No. 831-E/63/2-XI-(HIV)

Headquarters Office
Baroda House, New Delhi
New Delhi. Dt. 26th. April 1979

All Divl. Railway Managers, N.Rly.
Divisional Supdt./N.Rly. Bikapuer
Extra Divl. Offices/N.Rly.

Sub:- Filling up of vacancies in Headquarters and also
Divisional Controlled posts.

Please refer to this office circular letter of
even number Date 17th. August, 1978:-

2. It has been decided that the instructions contained in the above mentioned Circular for filling up of Headquarters controlled posts should further be extended to filling up of the Divisional controlled posts as well. This may please be given wide publicity for the benefit of the staff.

3. It has also been decided that the application of instructions contained in para 2.2, permitting the senior eligible employees under orders of transfer on promotion, to be considered for promotion only at the existing place against the next vacancy occurring, will be done after meeting any pending registered requests for transfer to that station. Therefore, while registering the request of a senior eligible employee under orders of transfer on promotion, it should be specifically made clear to him in writing whether there are any pending registered requests so that the employee knows of his chances of promotion.

Please acknowledge receipt.

H.S. Chatta

For General Manager (Personal)

2. In order to limit the period of examination given to the Headquarters controlled employees occurring from 1st Oct. 1968 to 31st March 1979, it is further extended to the divisional controlled posts vide P.S.O. No. 7260/14, dated 26th August 1978, it is decided that an employee will either have to move or stand debarred, if he is not promoted to the post at the same station for the next year.

(xxxxxx)

For General Secy, N.H. 12, Chelmsford Road

New Delhi for information.

The General Secy, U.P.W. 166/2, Raeburn Road
New Delhi for information.

True Copy
Virendra Patel
Saxena

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



AFFIDAVIT.

in

Writ petition No. of 1980.

v.P. Saxena Petitioner

-vs-

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

I, V.P.S. ^axena aged about 41 years son of Late Sri Ram Narain Vidyarthi LD-53G Loco Shed Colony Alambagh, do hereby solemnly affirm as under :-

1- That the deponent is the petitioner in the above noted case and such is well acquainted with the facts of the case.

2- That the paragraphs 1 to of the writ petition are true to my own knowledge.

3- That the deponent, himself has compared the Annexure no. 1 to 7 either with the copies maintained by him, or served upon him, ~~or~~ they are their true copies.

Dated, Lucknow:

July 25, 1980.

Virendra Sataap
Deponent. *Saxena*

Verification.

I, the above named deponent do hereby verify that the contents of paras 1 to 3 of the affidavit are true to my knowledge and nothing material has been concealed so help me God.

Dated, Lucknow
July 25, 1980.

Virendra Sataap
Deponent. *Saxena*

-2-

-2-

I identify the deponent who has
signed before me.

Saxena
Advocate.

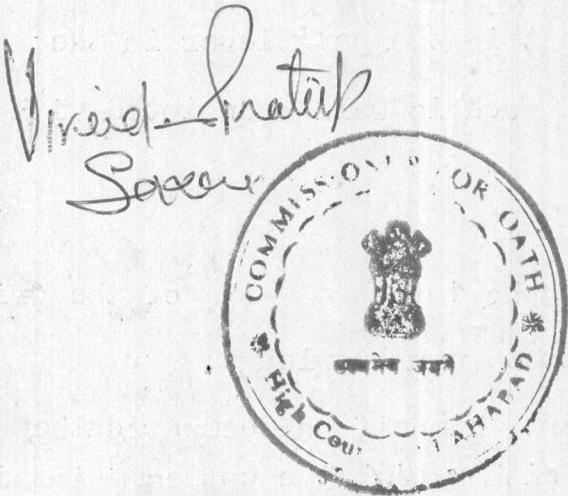
Solemnly affirmed before me on 25-7-80

at 9-a.m/p.m by Shri V.P.Saxena
the deponent, who is identified by

Sri S. C. Misra

Advocate, High Court Allahabad,
Lucknow Bench, Lucknow.

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



S. K. Singh

OATH COMMISSIONER

High Court, Allahabad

Lucknow Bench

No. 569432

Date 25/7/80

Pratikrami High Court of Andhra Pradesh at
Alahabad Lucknow

ब अदालत श्रामान

महोदय

वादी (मुद्दे)

का
प्रतिवादा (मुद्दालेह)

वकालतनामा



V. P. Saxena

Two
25th
July 1977

वादी (मुद्दे)

बनाम

The Union of India

प्रतिवादी (मुद्दालेह)

With Plea in

नं० मुकदमा सन १९८० वेशी की ता० १६ ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

Satish Ch. Misra Adv.

एडवोकेट महोदय

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा इकरार करता हूँ और लिखे देता हूँ इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या काई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरो जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकदमा उठावें या काई रुपया जमा करें या हमारा विपक्षी (फरीकमानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तबती) रसोद से लेवें या षंव नियुक्त करें वकील महोदय द्वारा को गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिये यह वकालत नामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

W. P. Saxena

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

१६ ई०

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



Civil Misc. Application No. 4045-80
of 1980.

in

Writ Petition No. of 1980

V.P. Saxena Petitioner.

-versus-

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

APPLICATION FOR STAY.

The applicant respectfully submits as under :-

That for the facts and circumstances stated in the accompanying writ petition it is most respectfully prayed that this Hon'ble Court may be graciously pleased to suspend the operation of the impugned order dated 11.7.1980 contained in ANNEXURE NO. 5 and restrain the respondents no. 1 to 3 not to compell the petitioner to proceed on transfer as a Highly Skilled Turner Grade I to Pratapgarh from Lucknow and in the meanwhile an interim exparts order to the same effect may kindly be passed. Such other order which may be deemed fit and proper to the circumstances of the case be also passed.

Dated, Lucknow :

July 25, 1980

S. C. Misra
(S.C. Misra)
Advocate
Counsel for the petitioner

Hons D.N. Jha, P.
Hons K.S. Varma, P.

Same notice returnable
at an early date. In the
meantime, operation of the
first part of the order contained in
Annexure 5 passing opposite
party no. 4 as Tiers, Grade P, at Lucknow
shall remain stayed.

K.S. Jha.

25.7.1980,

SA

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH AT LUCKNOW.

R E P L Y

On behalf of Respondent No. 1 to 3.

IN

Registration No. 682 of 1987 (T)

V.P.Saxena ... Applicant

Versus

Union of India & others ... Respondents

(ARISING OUT OF WRIT PETITION NO.2023 of 1980)

High Court of Judicature Allahabad Bench
at Lucknow.

District-Lucknow.

I, D.N. Srivastava S/o aged about
..... is presently posted as Asstt. Divisional Officer
in the office of Divisional Railway Manager, Northern Railway,

Most respectfully showeth as under.

1. That I have gone through the contents of the writ petition filed before the High Court at Judicature Allahabad Bench at Lucknow under writ petition No. 2023 of 1980 which has been transferred to this Hon'ble Tribunal under registration No. 682 of 1987 (T) by virtue of section 29 of the Central Administrative Tribunal Act XIII of 1985, alongwith the annexures and as such in a position to reply the same.

2. That in the contents of para 1 of the writ petition are not admitted in the form they stand. In reply there to it is submitted that the applicant/petitioner V.P.Saxena

DS was appointed as Trade Apprentice on Rs. 35/- w.e.f. 17.5.54

RECEIVED
CIRCUIT BENCH
CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

for a period of five years. He was posted as turner on
Rs. 60/- in the scale of Rs. 60-130(PS) which was revised
to Rs 110-180 AS w.e.f. 1.7.59 and further revised to
Rs. 260-400 (RS) w.e.f. 1.1.73.

3. That the contents of para 2 of the writ petition are not admitted and are denied as the applicant is required to put strict prof of the averments made there in. It is further submitted that the applicant/petitioner was promoted as highly skilled Turner grade II w.e.f. 2.8.75 in the grade of Rs. 330-480(RS).

4. That the contents of para 3 of the petition are not admitted in the form they stand. In reply there to it is submitted that on the basis of his seniority position the applicant was temporarily promoted as highly skilled Turner grade I in grade Rs. 380-560 and posted against the vacancy at Faizabad.

5. That in reply to the contents of para 4 of the Writ
billion the contents of para 4 of the counter are re-iterated.

6. That the contents of para 5 of the writ petition are not admitted in the form they stand and the applicant is required to put strict proof of the averments made in the instant paragraphs. However it is admitted that the applicant had made a request on 5.5.79 to the Divisional Railway Manager.

7. That the contents of para 6 of the writ petition

See ~~प्रायक नाम अधिकारी~~
प्रायक नाम अधिकारी
कार नेवे, युरो
are as far as the same relates to the Railway Boards letter

are concerned are admitted with a submission that the specific rules on the subject of refusal of promotion have for consequential representation against the delinquent employee i.e.

(i) The refusal will be for a period of one year.

(ii) The applicant will rank junior to those promoted as high skilled Turner Grade I in the scale of Rs.380-560(RS) during the course of one year.

(iii) The applicant will be promoted as high skilled Turner grade 380-560(RS) against the post if any falling vacant after completion of one year of refusal.

8. That the contents of para 7 of the writ petition are not admitted in the form they stand. In reply thereto it is submitted that Shri Ram Kumar high skilled Turner grade II/ Lucknow was promoted and posted as high skilled Turner grade I in the grade of Rs. 380-560(RS). He was posted at Faizabad against short fall of SC/ST quota.

It is further submitted that one Shri Gaya Prasad high skilled Turner grade II Lucknow was also promoted and was posted at Pratapgarh but he refused his promotion as such Shri Saghir Hussain high skilled Turner grade II Lucknow was temporarily put to officiate as Turner grade I at Pratapgarh.

9. That the contents of para 8 of the writ petition are not admitted in the form they stand. In reply thereto a bare perusal of Annexure III to the petition will show that

Sri Abdul Haq the respondent No. 4 was temporarily appointed to officiate in grade I and was posted at Pratapgarh and thus a reversion order of Shri Saghir Hassan who was officiating in temporary capacity of high skill Turner grade I Pratapgarh was reverted to his substantive post of high skill Turner grade II.

It is further submitted that Shri Abdul Haq did not join his duty at Pratapgarh in terms of the above orders on some administrative grounds. Therefore it is emphatically denied that he refused to go on transfer to Pratapgarh. On the contrary, he was not spared by the controlling officer to effect his promotion, as high skill Turner grade I in the grade of Rs. 380-560(RS) on transfer to Pratapgarh later on.

10. That the contents of para 9,10,11 of the writ petition are admitted with a submission that the applicant Sri V.P. Saxena was promoted as high skill Turner grade I from grade II from Lucknow itself vice Shri Mohd. Tahir w.e.f.16.5.80 and accordingly the applicant received his pay and allowances as admissible under the relevant rules, in the capacity of high skill Turner grade I w.e.f. 16.5.80 i.e. the date of his promotion.

That the contents of para 12 of the writ petition are not admitted. The applicant is required to put strict proof of the averments made in the instant paragraph. It will not be out of place to mention that the applicant avoided to receive the copy of his posting orders as high skill Turner grade I for Pratapgarh, particularly when the

DMS
राज्य नियन्त्रित
सरकारी अधिकारी

applicant had performed his duties right from 11.7.80 to 13.7.80 at Lucknow.

12. That the contents of paragraph 13,14 and 15 of the writ petition are vague and misconceived. Hence are not admitted and are emphatically denied. In reply there to a bare perusal of Annexure V to the petition will show that the order dated 11.7.80 had been passed in supercession of an earlier order dated 10/12-12-79 was made on the administrative grounds viz. had Shri Abdul Haq been allowed to carry out his transfer to Pratapgarh on promotion as high skill Turner grade I he would have ranked senior to the applicant Shri V.P.Saxena, because he was promoted during the period of Shri Saxena's refusal i.e. prior to 4.5.80.

Since the respondent No. 4 Shri Abdul Haq, high skill Turner grade I at Lucknow Division was given promotion to the post of high skill Turner grade I at Pratapgarh during the period of refusal of promotion of Shri V.P.Saxena and retained at Lucknow on administrative grounds. Hence he has been assigned seniority over Shri V.P.Saxena the applicant.

Further the contents of para 9 of the counter are reitreated. Any allegations to the submissions made above are not admitted and are denied.

13. That the contents of para 16 of the writ petition are not admitted in the form they stand. In reply to the contents of para 12 of the counter are reiterated with the submission that since Shri Abdul Haq the respondent No.4 was given promotion to the post of high skill Turner grade

I. Further the contents of para 7 of the counter are reiterated.

14. That the contents of para 17 of the writ petition are vague and misconceived, hence are emphatically denied. In reply there to the contents of para 7, 9 and 12 of the counter are reiterated with a submission that the circular referred by the petitioner which is marked as Annexure 6 to the petition pertains to the post controlled by the Head Quarters office, New Delhi. Where as the post of high skilled Turner grade I is a Divisional Controlled Post in which written and unequivocal refusals are required in case the staff is unwilling to accept promotion or transfer to another station. But in the present case, the respondent No. 4 Shri Abdul Haq never refused to go on transfer. Any allegation contrary to the submission made above are not admitted and are denied.

15. That in reply to the contents of para 18 of the writ petition the contents of para 12 and 14 of the counter are reiterated with a submission that the applicant was retained as /er ex-/arte stay order granted by Hon'ble High Court at judicature Bench at Lucknow vide order dated 14.8.80. The typed copy of order dated 14.8.80 is enclosed herewith is enclosed herewith the counter and is marked at annexure 1 to the counter.

It is evidently clear from the preceding paragraphs that the applicant was retained at Lucknow only as per directions of the Hon'ble Court for which he is not at all

SD/
 राज अधिकारी, उत्तर प्रदेश

entitled, hence the ex-parte stay order dated 25.7.80 is liable to be vacated and the petition is liable to be dismissed.

16. That the contents of para 19 are vague and misconceived as the instructions contained in the referred letter dated 26.4.1979 do not apply in the present context. However the contents of para 12,14 and 15 are reiterated with a submission that the applicant and the respondent No.4 have been retained at their old stations viz. Lucknow.

17. That the contents of para 20 of the petition are vague and misconceived and are emphatically denied. In reply thereto it is submitted that the petitioner was on leave from 14.7.80 to 25.7.80 and the writ petition was filed by him on 25.7.80. Hence under the circumstances stated above the question of relieving the applicant did not arise at all.

18. That the contents of para 21 and 22 of the writ petition are vague and misconceived and are emphatically denied. In reply thereto the contents of para 12,14,15,16 of the counter reiterated. Any allegations contrary to the submission made above are not admitted and are denied.

19. That on the facts and circumstances stated above none of the grounds taken by the applicant in the instant writ petition are tenable under the law and the present application is devoid of any merits. The order dated 11.7.80 passed by the respondents are well within their jurisdiction and competency and had been passed in accordance with the relevant rules on the subject. Hence the same can not be turned as arbitrary illegal and the against the constitutional

guarantee inshrined under article 14 and 16 of Indian constitution.

It is further submitted that the applicant had failed to come forth with any cogent legal grounds for the interference of the Hon'ble Court and the petition is liable to be dismissed and the applicant can not derive any benefits out of the ex-parte stay order dated 25.7.80 issued in favour of the applicant.

20. On the facts and circumstances stated above the applicant is not at all entitled for the relief as claimed in the instant petition and the present writ petition is liable to be dismissed with special cost to the respondents.

Verification

I the deponent named above do hereby verify that the contents of para 1 to 20.... are true to my personal knowledge and the contents of para to ... are based on the records available with the answering respondents and the contents of para 21. to 20.... are based on legal advice, which I believe to be true.

Signed and verified at Lucknow on 6/9/89

Prashant Mathur
Advocate
2-B, Muir Road,
Allahabad.

Depoent: Prashant Mathur
सहायक वकील, अधिकारी
प्रशांत मथुर, वकील

C O P Y

Divisional Office

Lucknow Dt. 14.8.80

758-E/1-6/HS Turner

NOTICE

The post of HS Turner grade I at PBH Shed may be operated at LKO and in lieu one post of HS Turner gr II/LKO may be operated at PBH till vacation of the stay order No. I 530 of 25.7.80 issued by the Hon'ble High Court, Lucknow Bench, Lucknow.

Accordingly Shri V.P.Saxena, HS Turner-Gr.I is allowed to continue at LKO in supersession to this office letter of even no. dated 11.7.80 against the aforesaid post of HS Turner gr. I.

Order regarding filling up the post of HS Turner gr II to be operated at PBH will follow.

Sd/ Raghoo Ram
for Divl.Rly.Manager
Lucknow.

Copy to :-

1. LF/LKO, PBH.
2. AME/4/LKO in reference to his letter no. EG/3/80/Pro dt. 27.7.80.