

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

INDEX SHEET

CAUSE TITLE T.A NO. 691 of 1987 (T)

NAME OF THE PARTIES _____

M. D. Somkar

Applicant

Versus

Union of India & ors

Respondent

Part A, B & C

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46	<u>C file</u>	C 1 - A

Certified that no further action is required to be taken and that the case is fit for
 being referred to the record room. (2)

Recheck
 01/01-2/12
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Secy. (T)

PART I

Central Administrative Tribunal
Lucknow Bench

FORM OF INDEX

O.A./T.A./C.C.P./No. ----- 691 1998. 1987

M. D. S. Applicant.

Versus

U.C.I. Respondents.

- 1. Index papers : 1 to 2
- 2. Order Sheet : 3 to 22
- 3. Any other orders " X
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31/12/98
Dy. Registrar

31/12/98
Supervising Officer

Dealing Clerk

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

Nil

Dealing Clerk

31/12

RN)

Amended Copy of Writ

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

Mata Deen Sonker aged about 40 years S/O Late M R Sonker
residence of Mangal Pandey Road, Sonker Bandhu Ka Ahata
Lucknow-2

Versus

1. Union of India, Through the Secretary Govt of India
Ministry of Defence, New Delhi.
2. Chikitsa Nideshalaya, Adjutant General Shakha Thal
Sena Mukhyalaya, Medical Directorate, Adjutant General's
Branch, Army Headquarters, D. B. Q. P. O. NEW DELHI-110011.
3. Commandant Mukhyalaya, Sena Chikitsa Corps Centre
and School, Lucknow-2
4. Shri U S Shukla, Office Supdt, Office of the Deputy
Director of Medical Services HQ Central Command Lucknow-2.
..... Opposite Parties.

Petition under article 226 of the Constitution
of India

The petitioner most humbly and respectfully begs to
submit as under:-

1. That the petitioner was working as Civilian employee
under the jurisdiction and control of Opposite Parties
1 to 3 in Administrative Battalion Army Medical Corps
Centre and School Lucknow as Upper Division Clerk till
19 Jun 1980.
2. That the petitioner is a Scheduled Caste known as
'Khatik' in the State of Uttar Pradesh and is registered as
Scheduled Caste with the Opposite parties No 1 to 3.

File
M

remanded to custody of writ Petitioner
as per order

(10)

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

SP
9-10-80

Writ Petition No 2533 of 1980

Mata Deen Sonker Petitioner

V/S

Union of India * Others Opposite parties.

I N D E X

(1)	Petition	.....	Pages 1 to 9
(2)	Annexure (I)	.....	Page 10
(3)	Annexure (II)	.....	Page 12
(4)	Annexure (III)	.....	Page 13
(5)	Registered address of petitioner ....	.....	Page. 14
(6)	Vakalatname	.....	Page. 15

[Signature]
Counsel for the Petitioner

3. That there is reservation of vacancies for scheduled caste/scheduled tribes for the post of Office Superintendent and the vacancies are filled in accordance with 40 point roster, so that there may not occur injustice to scheduled caste/scheduled tribes in the matter of filling the vacancies. The 40 points roster is annexure (I) to this petition.

4. That Shri B B Gaikwad was promoted against the scheduled caste vacancy. The said scheduled caste incumbent declined to assume the charge of that post with the result that it fell vacant. The petitioner was a suitable candidate for the said post but the petitioner was not promoted to the said post and this said post of Office Superintendent was kept vacant. There occurred another vacancy of Office Superintendent on 1st June 1980 so that there became two posts of Office Superintendent i.e one which was already existing as scheduled ~~caste~~ caste vacancy and the other on 1st June 1980.

5. That after Shri B B Gaikwad declined to assume the charge of Office Superintendent the petitioner who was declared fit by the competent authority i.e Departmental Promotion Committee in the Selection, was not offered and promoted so that existing vacancy of Office Superintendent was allowed to remain vacant till 19 June 1980. In keeping the post of Office Superintendent as vacant the intention of the opposite parties No 1 to 3 was that the petitioner may not become Office Superintendent for all time as that vacancy was a clear vacancy. The second vacancy of Office Superintendent which fell vacant on 1st June 1980 was to be allotted to general candidate under rule.

3 of
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5. By keeping the Office Superintendent posts vacant till 19 June 80 the Opposite Parties No 1 to 3 had the mala fide intention of promoting the petitioner after general candidate so that in case of reduction which was well known to the Opposite Parties No 1 to 3, the petitioner being Junior may be reverted to his post of Upper Division Clerk. Since the reserved vacancy was existing from the date of refusal of assumption of post of Office Superintendent by Shri B B Caikwad, therefore the petitioner ought to have been promoted within the period from Jan to 31 May 80 and if promoted on 20 June 80 he ought to have been promoted 1st vis-a-vis Shri U S Shukla should have been categorised as Junior to petitioner.

6. That there is clear mala fide intention in promoting the petitioner next to Shri U S Shukla when Shri U S Shukla was promoted against the vacancy that occurred on 1st June 1980 and the promotion of the petitioner was against the reserved vacancy which was existing prior to 1979.

7. That the petitioner was promoted as Office Superintendent vide letter No 1502/64/Civ dated 20 June 80 wherein the petitioner has been shown as Junior to Shri U S Shukla. The true copy of the said promotion order is Annexure (II) to this petition.

8. That before promotion order was issued it was very much known in the department that there will take place reduction of Clerical strength and consequently one post of Office Superintendent. The Clerical strength of 62 Clerks has been reduced to 46 and as such one Office Superintendent has to be reverted in keeping with the view of the strength of Clerks.

9. That for this reason the petitioner was promoted to the post of Office Superintendent with definite malafide intention and design that the promotion of the petitioner is just an eye-wash and that the petitioner would be reverted within a short time.

10. That the petitioner came to know on 09 Sep 80 that the petitioner is being reverted to his post of Upper Division Clerk from the post of Office Superintendent. The order is likely to be issued within a couple of days and the department has been made ready to make alternative arrangements pending the communication of reversion order of the petitioner.

11. That because of the malafide intention of the Opposite Parties No 1 to 3 that Scheduled Caste should not be promoted to the post of Office Superintendent, not a single Scheduled Caste/Scheduled Tribes has been appointed as Office Superintendent since 1960 who has worked as Office Superintendent for a day even, when the authorised strength of Office Superintendent was 5.

12. That in order to deprive Scheduled Caste/Scheduled Tribes candidates from their right of being promoted to the post of Office Superintendent. The Opposite Parties No 1 to 3 amalgamated the seniority roster of Record Office and Army Medical Corps Centre and School when both are distinct and separate units and the roster for reservation of Scheduled Caste/Scheduled Tribes of each should have been separate and distinct.

13. That there is standing rule through circular regulating the surplus declaration of staff in regard to Scheduled Caste/Scheduled Tribes which is contained in Ministry of Home Affairs, circular dated 1 Jan 67 whereby it is contemplated that no Scheduled Caste and Scheduled Tribes shall be declared surplus unless the quota of such candidates has reach the minimum prescribed. The said circular is Annexure (III) to this petition.

14. That the prescribed quota for Scheduled Caste and Scheduled Tribes is 15% and 6% respectively of the total number of posts.

15. There are 5 Office Superintendents working under the Opposite Parties No 1 to 3 and there is only petitioner who belongs to Scheduled Caste. Then there is none from among the Scheduled Tribes. That all the four are of general caste.

16. That as within a couple of days the charge of Office Superintendent is likely to be taken from the petitioner as arrangements are in progress in the department, hence the petitioner against contemplated reversion of the petitioner inter-alia on the following grounds:-

(a) Because the contemplated order of reversion is ~~in~~ against the provision of circular Annexure (VI).

(b) Because ~~the~~ the promotion of the petitioner was malafide with definite intention to revert him from the post of Office Superintendent and his promotion was only a camouflage.

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- 6
- (c) Because the petitioner was entitled to promotion immediately after the refusal of Shri B B Gaikwad a Scheduled Caste candidate declining to assume the charge of Office Superintendent but the petitioner was not promoted till 19 June 1980 which is malafide and illegal.
- (d) Because the promotion of the petitioner next to Shri U S Shukla is illegal and malafide as the petitioner was to be promoted against the existing reserved vacancy and the said Shri U S Shukla was promoted against the general vacancy occurred on 1st June 1980.
- (e) Because the petitioner can not be reverted as there is only one Scheduled Caste and Scheduled Tribes - i.e the petitioner as Office Superintendent out of five.
- (f) Because the amalgamation of seniority list of record AMC and AMC Centre and School is illegal as it should have been separate and distinct.
- (g) Because the contemplated reversion of the petitioner is illegal and malafide.

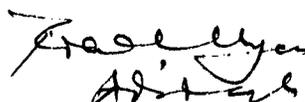
The petitioner, therefore, prays for the following reliefs :-

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- (i) This Hon'ble Court be pleased to issue writ of mandamus directing the Opposite Parties No 1 to 3 not to revert the petitioner from the post of Office Superintendent to the post of Upper Division Clerk.
- (i)(a) This Hon'ble Court be pleased to issue writ of certiorari quashing Annexure (V).

(Prayer Contd)

- (ii) That it be declared by a suitable writ direction or order that petitioner stood promoted from Jan 80 or soon thereafter when Shri B B Gaikwad declined to assume the Office of the Office Superintendent of reserve seat.
- (iii) That if relief(ii) is not possible for any reason then it be declared by a suitable writ, directions, or order that petitioner is senior to Shri U S Shukla and stood promoted before him for the post of Office Superintendent.
- (iv) Any other suitable writ direction or order which in the circumstances of the case may be just and proper.


Petitioner


Advocate
Council for
The Petitioner

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

Mata Deen Sonker Petitioner

Versus

1. Union of India, Through the Secretary Govt of India
Ministry of Defence, New Delhi.
2. Chikitsa Nideshalaya, Adjutant General Shakha Thal
Sena Mukhyalaya, Medical Directorate, Adjutant General's
Branch, Army Headquarters, D.H.Q P.O New Delhi - 11.
3. Commandant Mukhyalaya, Sena Chikitsa Corps Centre
and School, Lucknow -2.
4. Shri U S Shukla, Office Superintendent, Office of
the Deputy Director Medical Services HQ Central Command
Lucknow -2.

..... Opposite Parties

Writ Petition No 2533 of 1980.

I, Mata Deen Sonker aged 40 years Son of Late
M R Sonker resident of Mangal Pandey Road Sonker Bandhu Ka
Ahata Lucknow-2 do hereby solemnly affirm as under :-

1. That the petitioner is the deponent and is well
conversant with the facts of the case deposed herein
the writ petition.
2. That the contents of paras 1 to 16 are true to my
personal knowledge.
3. That the Annexure I to III are true copy of the
original and have been compared with the original.

Deponent

-/-

I, the above named deponent do hereby verify that the contents of para 1 to 16 are true to my personal knowledge, and no part of it is false and nothing has been concealed, so help me God.

Deponent

Solemnly affirmed before me on 11 Sep 80 at a.m/p.m by the deponent who is identified by Siri Mohd. Elyas advocate High Court of Allahabad, Lucknow Bench.

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

(10/A)

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

10

(LUCKNOW BENCH) LUCKNOW

ANNEXURE 31

Writ Petition No of 1980

Shri Mata Deen Sonker Petitioner

v/s

Union of India & others Opposite Parties

ANNEXURE-1

Model Roster for posts filled by promotion on All India basis otherwise then by open competition.

<u>Point in the Roster</u>	<u>Whether un-reserved or reserved</u>	<u>Point in the Roster</u>	<u>Whether un-reserved or reserved</u>
1	Scheduled Caste	21	Unreserved
2	Unreserved	22	Reserved (SC)
3	Unreserved	23	Unreserved
4	Scheduled Tribes	24	Unreserved
5	Unreserved	25	Unreserved
6	Unreserved	26	Unreserved
7	Unreserved	27	Unreserved
8	Scheduled-Caste	28	Scheduled Caste
9	Unreserved	29	Unreserved
10	Unreserved	30	Scheduled Caste
11	Unreserved	31	Scheduled Tribes
12	Unreserved	32	Unreserved
13	Unreserved	33	Unreserved
14	Scheduled Caste	34	Unreserved
15	Unreserved	35	Unreserved
16	Unreserved	36	Unreserved
17	Scheduled Tribes	37	Unreserved

File

(111)
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<u>Point in the Roster</u>	<u>Whether unreserved or reserved</u>	<u>Point in the Roster</u>	<u>Whether unreserved or reserved</u>
18	Unreserved	38	Unreserved
19	Unreserved	39	Unreserved
20	Unreserved	40	Unreserved

Note: (1) - If there are only two vacancies to be filled in a particular year not more than one may be treated as reserved and if there be only one vacancy, it would be treated as unreserved. If on this account a reserve point treated as unreserved, the reservation may be carried forward to the subsequent three recruitment years.

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In the Hon'ble High Court of Judicature at Allahabad

(Lucknow Bench) Lucknow

Annexure II

Writ Petition No of 1980

Mata Deen Sonker Petitioner

v/s

Union of India & Others Opposite Parties

Tele : 275

Mukhyalaya
Sena Chikitsa Corps Centre Aur School
Lucknow-2

1602/64/Civ

20 Jun 80

UDC Shri M D SONKER,
C/O Adm Bn
AMC Centre and School
Lucknow-2

Promotion: Clerks

1. You have been promoted as Office Supdt Gde II in Offg capacity wef 20 Jun 80 (FN) in the scale of Rs 425-15-500-EB-15-560-20-700 against an existing vacancy. You will be on probation for a period of two years from the date of promotion.

(Authy: Army HQ letter No 135550/II/DMS 3 (B) dated 17 Jun 80

2. Please ack.

Sd/ x x x x x

(R S Rather)
Major
Adm Officer
for Commandant

Recd
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Annexure -III

In the Hon'ble High Court of Judicature at Allahabad

(Lucknow Bench) Lucknow

Annexure - III

Writ Petition No of 1980
Mate Deen Sonker Petitioner

v/s

Union of India & Others Opposite Parties

.....
" According to Para 11 (iii) of Annexure I to Ministry of Home Affairs M. No 5/17/65-CS II dated 25 .1.66 the surplus staff as a result of staff Assessment studies etc., has to be surrendered to the Central (Surplus Staff) cell of the Department of personnel against reduced cadre strength strictly in the reverse order of seniority in the affected. However while declaring surplus in a particular grade in a cadre the Scheduled Caste and Scheduled Tribe candidates should not be included as long as the total number of Scheduled Caste/Scheduled Tribes candidates in that grade has not reached the prescribed percentage of reservation for Scheduled Caste/Scheduled Tribes respectively in the concerned grade in a cadre."

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In the Hon^{ble} High Court of Judicature at Allahabad

(Lucknow Bench) Lucknow

Mata Deen Sonker aged about 40 years S/O Late M R Sonker resident
of Mangal Pandey Road Sonker Bandhu Ka Ahata Lucknow-2

..... Petitioner

Versus

1. Union of India, and others Opp Parties

SUPPLEMENTARY AFFIDAVIT

I, Mata Deen Sonker S/O Late Shri M R Sonker aged about 40 years
resident of Mangal Pandey Road Sonker Bandhu Ka Ahata, Lucknow-2
do hereby solemnly affirm as under:-

1. That Shri U S Shukla, Opposite Party No 4 is attached
with DMS Hq Central Command Lucknow for the last 10 years as
Upper Division Clerk. Subsequent to promotion on 20 Jun 80 as
Office Superintendent Grade II Shri U S Shukla, continued to work
with DMS Hq Central Command Lucknow, even after promotion as office
Superintendent Grade II. As per existing rules, he was required
to physically come to AMC Centre and School Lucknow to assume the
post of Office Superintendent Gd. II as the post of Office Supdt.
is only authorised in AMC Centre & School, Lucknow against which
the promotions of office Supdt Gde- II have been made, whereas the
petitioner is working as Upper Division Clerk at Adm En, AMC Centre
School Lucknow prior to his promotion as Office Supdt, Grade II
w.e.f. 20 Jun 80 and is continuing to work as office Supdt Grade II

in A DI Ba ZMC Centre & School, Lucknow where the post of Office Supdt. is authorised.

2. The true copy of the promotion letter no 13550/II/DMS 3(B) Dt 17 Jun 80 is Annexure IV to this supplementary Affidavit.

3. The reversion order which is likely to be served on the petitioner is Annexure V to this Supplementary Affidavit.

Lucknow

Deponent

Dated 15 Sep 80

VERIFICATION

I, the abovenamed deponent is hereby verify that the contents of Para 1 to 3 are true to my personal knowledge and no part of it is false, nothing material has been concealed, so help me God.

True
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Deponent

Solemnly affirmed before me on

at a.m./p.m. by the deponent who is identified by Sri Mohd. Ilyas Advocate High Court of Allahabad, Lucknow Bench.

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

16

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

Mata Deen Sonker Petitioner

Vs.

Union of India, and others Opposite Parties.

Annexure IV

Telephone 371701

Chikitsa Nideshalaya (DMS 3-B)
Adjutant General Shakha
Thal Sena Mukhyalaya
Medical Directorate (DMS 3-B)
Adjutant General's Branch
Army Headquarters
DEQ PO New Delhi -110011

13550/II/DMS 3(B)

17 Jun 80

The DDMS
Headquarters
Central Command

PROMOTION - OFFICE SUPDTS

- File*
1. Shri Partap Singh, Pt, UDC/Ty Office Supdt, Gde II of AMC Centre and School, Lucknow, is promoted as Office Supdt, Gde I in ~~the~~ situ in an officiating capacity vice Shri KP Achutan Nair superannuated. His promotion will take effect from the date ~~of~~ he assumes charge of the appointment.
 2. Shri U S Shukla, Pt UDC of AMC Centre and School Lucknow is promoted as Office Supdt Gde II in situ in an officiating capacity against an existing vacancy. His promotion will take effect from the date he assumes charge of the appointment.
 3. Shri M D Sonekar, Pt LDC/Ty UDC of AMC Centre and School, Lucknow is promoted as Office Supdt, Gde II in situ in an officiating capacity vice Shri Partap Singh promoted. His promotion will take effect from the date he assumes charge of the appointment vacated by the latter.
 4. The above mentioned individual will be on probation for a period of two years from the date of their promotion.
 5. Please acknowledge.

Sd/ x x x x x xx
(C. Das Gupta)
Lt Col
Chikitsa Seva Sahyak Nideshak (ADMS(O))
Kritey Chikitsa Seva Nideshak
for Director of Medical Services.

Copy to :-

The ADMS Headquarters
UP Area

The Commandant
AMC Centre and School
Lucknow -2.

In the Hon'ble High Court of Judicature at Allahabad 197

(Lucknow Bench) Lucknow.

Answer ↓

Writ Petition No 2533 of 1980.

Mate Deen Senker Petitioner.

V/S

Union of India & Others Opposite Parties.

Tele 275

Priority

Mukhlaya
Sena Chikitsa Corps Centre &
School

Lucknow.

1602/95/Civ

9 Sep 80

Amn En

Reduction in Establishment : AIC Centre
Lucknow

*Recd
Ad*
1. Consequent upon the reduction of clerical establishment in AIC Centre & School, Lucknow Shri M D Senker, Office Supdt Grade II of this Centre is reverted to the post of Upper Division Clerk wef 1st Sep 80.

2. Please inform the individual accordingly.

(Authority : Army Headquarters letter no 13550/II/DMS
3(B) dt. 31.8.80).

Sd/ x x x x
(D M Sakharkar)
Lt Col
Amn Officer
for Commandant

Copy to:

Part II Order section.

Service documents of the individual.

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

(Lucknow Bench) Lucknow.

Writ Petition No 2533 of 1980.

Mata Deen Sonker Petitioner

V/S

1. Union of India, through the Secretary of Govt of India Ministry of Defence, New Delhi.
2. Chikitsa Nideshalaya, Adjutant General Shakya Thal Sena Mukhyalaya, Medical Directorate, Adjutant General's Branch, Army Headquarters, D.H.Q. P.O. New Delhi- 110011.
3. Commandant Mukhyalaya, Sena Chikitsa Corps Centre and School Lucknow-2
4. Shri U S Shukla, Office Supdt Gde II, Office of the Deputy Director Medical Services HQ Central Command Lucknow-2

..... Opposite Parties.

SECOND
SUPPLEMENTRY AFFIDAVIT

I, Mata Deen Sonker S/O Late Shri M R Sonker aged about 40 years residence of Mangal Pandey Road, Sonker Bandhu Ka Ahata Lucknow-2 do hereby solemnly affirm as under:-

1. That there has occurred mistake in number and date of Annexure-III. The true copy of Ministry of Home Affairs Om No 1/1/67 CC, dated 30 Jan 67 to all Ministries etc., for Central (Surplus Staff) Cell- Surrender of surplus staff - Protection to Scheduled Castes and Scheduled Tribes Employees is contained in Annexure VI to this supplementary Affidavit. The said ministry of Home Affairs Om 1/1/67 CC,

dt 30 Jan 67 is binding on respondents No 1 to 3 and duty is cast on them to affect the reversion or declaration of surplus in accordance therewith.

Lucknow

Deponent

Dated 22 Sep 1980

VERIFICATION

I, the abovesigned deponent do hereby verify that the contents of para 1 are true to my personal knowledge and no part of it is false, nothing material has been concealed, so help me God.

Deponent

Solemnly affirmed before me on 22 Sep 80

at a.m./p.m. by the deponent ~~xxx~~ who is identified by Shri MOHD ILYAS Advocate High Court of Allahabad, Lucknow bench.

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

Handwritten initials

In the Hon'ble High Court of Judicature at Allahabad *1/20*

(Lucknow Bench) Lucknow.

Annexure VI

Writ Petition No 2533 of 1966.

Mata Deen Sonker Petitioner.

V/S

Union of India & Others Opposite Parties.

Ministry of Home Affairs C.M. No 1/1/67 CC, dated 30 Jan 1967
to all Ministries etc.

Subject :- Central (Surplus Staff) Cell - Surrender of
surplus staff - Protection to the Scheduled
Castes and Scheduled Tribes employees.

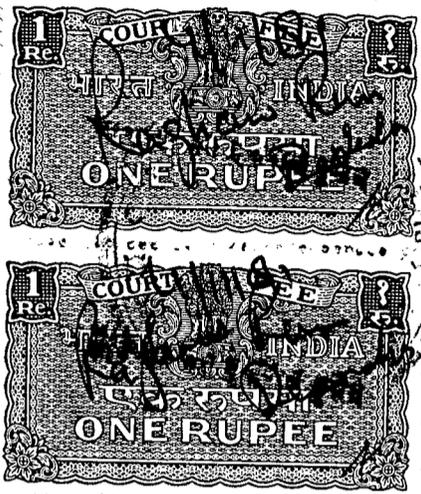
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The undersigned is directed to refer to para II (iii) of Annexure I to the Ministry of Home Affairs C.M. No 3/27/65-CC-II, dated 25 Feb 66 according to which the surplus staff has to be surrendered to the Central (Surplus Staff) Cell against reduced cadre strength strictly in the reverse order of seniority in the cadre affected. The question regarding protection to be given to the Scheduled Castes and Scheduled Tribes candidates while surrendering the surplus staff to the Cell has been examined and it has now been decided that while declaring surplus in a particular grade in cadre the Scheduled Castes and Scheduled Tribes candidates in that grade should not be included so long as the total number of Scheduled Castes / Scheduled Tribes candidates in that grade has not reached the prescribed percentage of reservation of Scheduled Castes/Scheduled Tribes respectively in the concerned grade in a cadre.

The above decision may be communicated to all concerned.
~~Past~~ cases otherwise decided may not be reopened.

In the Hon'ble High Court of Judicature at Allahabad

Sitting at Lucknow.

Writ Petition No.1487 of 1981



1981
AFFIDAVIT
36
HIGH COURT
ALLAHABAD

Raghaw Ram DwivediPetitioner

Versus

Distt.Insp.of School & OthersOpp. Parties

Rejoinder to the Supplementary Affidavit

Filed on behalf of Opposite Party No.2

I, Raghaw Ram Dwivedi, aged about 40 years Son of Sri Bhagwat Prasad Dwivedi Resident of Bakshi Ka Talab Lucknow do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the petitioner himself in the above noted case & is thus thoroughly conversent with the facts stated hereinafter. The deponent has gone through the supplementary counter affidavit filed on behalf of Opposite Party no.2 & has understood the same.
2. That para 1 of the supplementary counter affidavit calls for no reply.

रघु राम द्विवेदी

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3. That the averments of para 2 of the said affidavit are denied as wholly untrue. The document Annexure B-4 is a fictitious document. It is specifically denied that the said document, contains anything in the handwriting of the deponent. The petitioner had passed his M.A. in Sanskrit in the year 1971 and M.A. in Hindi subsequently in the year 1975 Annexure -B-4 purports to have been signed by Sri G.P. Shukla as acting principal on 6.1.76. The deponent is annexing a photostat copy of the application made by the deponent for the cash reward for achieving better qualifications under the relevant regulations, as Annexure P-1 This form was signed by same Sri G.P. Shukla on 6.1.76 itself. In this application, it was clearly shown by the deponent that he had passed M.A. in Sanskrit in 1971 & M.A. in Hindi in 1975 & that he had taught Sanskrit in 10th class. under the circumstances, there was no question of the petitioner refraining from mentioning his M.A. (Sanskrit) degree in any paper. The photostat copy of the deponent's marks sheet for M.A. final (Sanskrit) of Agra University is also being annexed with this affidavit as Annexure P-2. This is the photocopy of the true copy of the deponent's marksheet which was attested by the aforesaid acting Principal Sri G.P. Shukla on 13.5.74 i.e. much earlier than Annexure B-4. It may also be mentioned that a copy of the said marksheet has been attached with the petitioner's service book maintained at

For
4/11/81

राधेशम डिप्टी

in the college which may be summoned & perused. The M.A.(Sanskrit) & M.A.(Hindi) qualification has also been mentioned in the service book it may also be stated that the permission for appearing in the examination of M.A.(Sanskrit) was also obtained by the deponent from the college on 12.8.68.

4. That the averments of para 3 are emphatically denied. No such chart was prepared nor any such information as alleged in para 3 was ever filled in by the deponent.

5. That Annexure P-2 being filed herewith answers the averments of para 4 of the affidavit. As stated above the petitioner was granted permission to appear in M.A.Sanskrit in the year 1968 He passed M.A. previous in 1969 and final in 1971. The deponent did not appear in the final in 1970. Hence he appeared & passed M.A. final in 1971 from Agra University. Annexure P-3 is the photo copy of the letter granting the permission in favour of the deponent to appear in M.A. previous.

6. The averments of para 5 of the affidavit are denied as the same are ~~denied~~ [✓] of truth.

7. That Annexure P-4 is the ~~photostat~~ copy of the letter dated 17.9.73 issued by the D.I.O.S Lucknow approving the appointment of Opposite Party No. 2 with effect from that date under the circumstances, he was not

Ans
4/11/81

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at all eligible to be promoted on the post in question.

Lucknow

Dated 4/11/81

राधवर राम द्विवेदी
Deponent.

Verification

I the above named deponent do hereby verify that the contents of paras 1^M to 6^K are true to my own knowledge NO part of it is false and nothing material has been concealed So help me God.

Lucknow

Dated 4/11/81

राधवर राम द्विवेदी
Deponent.

I identify the deponent who has signed before me.

Advocate.

Solemnly affirmed before me on 4/11/81 at 9-00 A.M. by Raghav Ram Dwivedi the deponent who is identified by Sri S.P. Sunkin Advocate High Court Lucknow.

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

ABISHAKHIN
36/335
No.....
Date 4/11/81

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

W.P. N. 1487 of 1981

Raghav Ram Dwivedi --- Petitioner.

vs.

Dist. Insp. of School and others --- Opp. parties.

Annexure N. P-1



राघव राम द्विवेदी

प्रमाणित विद्यालयों के विद्यार्थी के लिए कौशल विकास कार्यक्रमों में प्रमाणित किया गया है।

10- किसी का नाम:-

10- विद्यालय का नाम तथा पता:-

10- अध्यापक का नाम (पूरा) तथा पद (सहायक अध्यापक पदका प्रमाण)

10- विद्यालय में अधिस्त स्तर में कार्य करने की तिथि:-

10- स्वीकीकरण की तिथि :- (डी०एस०पी० या पी०एस०पी० द्वारा अनुमोदित या प्रमाणित)

10- वर्ष 1994 के पूर्व की सफल शैक्षणिक योग्यताएँ:-

शैक्षणिक संकेत	वर्ष	वर्गीकृत	परीक्षा श्रेणी
हाईस्कूल	1986	उत्तीर्ण	द्वितीय
एण्ट्रीएग्जामिन	1988		प्रथम
बी०ए०	1989		द्वितीय
बी०ए०	1989		द्वितीय
एम०ए० (संस्कृत)	1989		द्वितीय

10- अध्यापक के द्वारा वर्ष 1994 में उत्तीर्ण परीक्षा का नाम तथा श्रेणी (प्रमाणित प्रतिलिपि समस्तान्न की जाय)

10- उत्तीर्ण परीक्षा में सम्पूर्ण प्राप्तिक पूर्णक

10- यदि अध्यापक वर्ष 1994 के पूर्व भी किसी विषय में एम०ए० का बुका ही तथा वर्ष 1994 में भी किसी विषय में एम०ए० किया ही तो इसका उल्लेख की जाय।

10- अध्यापक द्वारा विद्यालय में पढाए गए समस्त विषयों तथा छात्रों का वर्ष 1998-99 में परीक्षाफल का विवरण:-

वर्ष	वि विषय	परीक्षा फल	प्रतिशत
1988-90	हिन्दी	20%	
1989-90	हिन्दी	24%	
1992-90	संस्कृत	25%	

10- परीक्षा की तैयारी के लिए किसी विद्यालय तक भ्रमण किया गया है।

प्रमाणित किया जाता है कि कोई तथ्य लिखा नहीं गया है।

10- अध्यापक के कार्य एवं वास्तविकता तथा प्रमाणित किया गया है कि कोई तथ्य लिखा नहीं गया है।

राधवनाम द्विवेदी

अध्यक्ष

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

Sitting at Lucknow.

W.P. N. 1487 of 1981

Raghav Ram Dwivedi - - - Petitioner.

v.
Distt. Inst. of School and others - - - Opp. parties.

Annexure N. P. 2.



राघव राम द्विवेदी

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

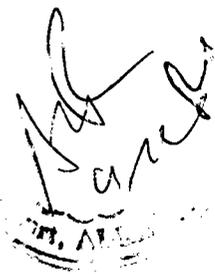
W.P. N. 1487 of 1981.

Raghu Ram Devivedi ----- Petitioners

VS.

Distt. Insp. of School and others --- Opp. parties.

Annexure N. P-3

A handwritten signature in dark ink is written over a circular stamp. The signature is cursive and appears to be 'Raghu Ram Devivedi'. The stamp is partially obscured by the signature.

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

W.P. N. 1489 of 1981

3/1/81
#

Raghav Ram Devivedi --- Petitioner.

v.
Dist. Insp. of School and others. - Opp. parties.

Annexure N. P-4

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राघव राम देविवेदी

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प्रेषक,

जिला विद्यालय निरीक्षक,
लखनऊ ।

सेवा में,

प्रबन्धक,
बकसी का तालाब इकाई, लखनऊ ।

पत्रांक :- एन०एल०/ 3065/ 73-74 दिनांक 17.9.73

विषय :- अध्यापकों को नियुक्ति का अनुमोदन ।

महोदय,

उपरोक्त विषयक आपके पत्र सं० 342, 343, 344 दिनांक
28.8.73 के सन्दर्भ में निम्नवत सूचित किया जाता है ।

कक्षा 12 में उप विभाग की स्वीकृत

कक्षा 12 में एक अतिरिक्त उप विभाग खोलने की अनुमति
प्रदान की जाती है ।

अतिरिक्त अध्यापकों के पद सृजन करने के सम्बन्ध में

निम्नलिखित पदों का सृजन किया जाता है ।

- | | |
|--------------------------|-------|
| 1- प्रवक्ता हिन्दी एक पद | ए०जे० |
| 2- प्रवक्ता इतिहास एक पद | ए०जे० |
| 3- एल०टी० विज्ञान एक पद | ए०जे० |

अतिरिक्त लिपिकों के पद सृजन करने के सम्बन्ध में

दिनांक 1.9.73 को विद्यालय में विद्यमान छात्र संख्या
प्रमाणित करके भेजी जाय ।

राधावशम द्विवेदी

..... 2

नियुक्तियों का अनुमोदन

33-11
13

आप द्वारा कृपया प्रस्तावित अध्यापकों की नियुक्तियों का अनुमोदन निम्नवत् प्रदान किया जाता है ।

क्रम सं०	अध्यापक का नाम	पद	अनुमोदन का प्रकार	विवरण
1-	गोविन्द लाल मिश्रा	एल०टी०	स्थायी	अपूच्छ
2-	श्री विपिन बिहारी अग्रवाल	2/3 एल०टी०	अस्थायी	अपूच्छ

सी०टी० पद :-

इस पद पर भूतपूर्व अध्यापक की सुविधाओं की समाप्त सम्बन्धी प्रस्ताव का अनुमोदन इस कार्यालय से नहीं लिया गया है ।

3-6-73

अतः स्थायी नियुक्ति का अनुमोदन देने का प्रश्न नहीं उठता ।
इतिहास प्रवक्ता :- पद सृजन के बाद एक्ट के अनुसार वयन की कार्यवाही पूर्व की जाय । पद सृजन के पूर्व की कार्यवाही अधिकृत नहीं है ।

लिमान्सट्रेटर रसायन विज्ञान

इस पद पर नियुक्ति का अनुमोदन सम्भव नहीं है ।

भवदीय
ह० / अपठनीय
जिला विद्यालय निरीक्षक
लखनऊ

प०स० एस० एम० / ता दिनांक

प्रतिलिपि अधिसूचना सहायक कार्यालय जिला विद्यालय निरीक्षक लखनऊ को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित ।

जिला विद्यालय निरीक्षक, लखनऊ ।

बाघवराज द्विवेदी

3. That the averments of para 2 of the said affidavit are denied as wholly untrue. The document Annexure B-4 is a fictitious document. It is specifically denied that the said document, contains anything in the handwriting of the deponent. The petitioner had passed his M.A. in Sanskrit in the year 1971 and M.A. in Hindi subsequently in the year 1975. Annexure -B-4 purports to have been signed by Sri G.P. Shukla as acting principal on 6.1.76. The deponent is annexing a photostat copy of the application made by the deponent for the cash reward for achieving better qualifications under the relevant regulations, as Annexure P-1. This form was signed by same Sri G.P. Shukla on 6.1.76 itself. In this application, it was clearly shown by the deponent that he had passed M.A. in Sanskrit in 1971 & M.A. in Hindi in 1975 & that he had taught Sanskrit in 10th class. under the circumstances, there was no question of the petitioner repairing from mentioning his M.A. (Sanskrit) degree in any paper. The photostat copy of the deponent's marks sheet for M.A. final (Sanskrit) of Agra University is also being annexed with this affidavit as Annexure P-2. This is the photocopy of the true copy of the deponent's marksheet which was attested by the aforesaid acting Principal Sri G.P. Shukla on 13.5.74 i.e. much earlier than Annexure B-4. It may also be mentioned that a copy of the said marksheet has been attached with the petitioner's service book maintained

in the college which may be summoned & perused. The M.A.(Sanskrit) & M.A.(Hindi) qualification has also been mentioned in the service book it may also be stated that the permission for appearing in the examination of M.A.(Sanskrit) was also obtained by the deponent from the college on 12.8.68.

4. That the averments of para 3 are emphatically denied. No such charge was prepared nor any such information as alleged in para 3 was ever filled in by the deponent.

5. That Annexure P-2 being filed herewith answers the averments of para 4 of the affidavit. As stated above the petitioner was granted permission to appear in M.A. Sanskrit in the year 1968. He passed M.A. previous in 1969 and final in 1971. The deponent did not appear in the final in 1970. Hence he appeared & passed M.A. final in 1971 from Agra University. Annexure P-3 is the photo copy of the letter granting the permission in favour of the deponent to appear in M.A. previous.

6. The averments of para 5 of the affidavit are denied as the same are denied of truth.

7. That Annexure P-4 is the photostat copy of the letter dated 17.9.73 issued by the D.I.O.S Lucknow approving the appointment of Opposite Party No. 1 with effect from that date under the circumstances, he was not

at all eligible to be promoted on the post in question.

Lucknow

Dated

Deponent.

Verification

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

Lucknow

Dated

Deponent.

I identify the deponent who has signed before me.

Advocate.

Solemnly affirmed before me on
by the deponent who is
identified by Sri
Advocate High Court Lucknow.

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

1971
AGRA UNIVERSITY

(All entries except those of Roll No. and marks obtained are to be filled in by the candidate)
Please put down your address (to which you want this marksheet to be sent) on the reverse
very legibly.

COPY OF MARKS OF M.A. (Final) EXAMINATION, 1971

Roll No 489 Name Bhagava Ram Subject Sanskrit

Groups / Subjects Papers offered	Marks obtained							Total of Papers	Sessional	Practical	Total
	Paper I	Paper II	Paper III	Paper IV	Paper V	Paper VI	Paper VII				
Sanskrit Group A											
(1) V Sanskrit Essay and Grammar											85
(2) Group B. VI Poetics and Prosody											46
(3) VII Drama and Dramaturgy											43
(4) VIII Prose Mahabhyasa and Champu											80
Viva Voce											
Thesis											
Practical											

Marks in General Hindi / General English (for B.A., B.Sc.) respectively Total 202

Note (1) Minimum Pass Marks in General Hindi are 60/100
i.e. out of 50 ; marks obtained in this paper are not added to grand total The marks obtained in Paper I of Previous Examination 201

(2) The date of the University convocation will not be notified individually to the candidates but in may be ascertained from the University officer some time towards end of September of 1971 Grand Total 403

In the case of B.Com Part I Examination :- Candidates are required to obtain 20% minimum pass marks in each paper and 50% in the aggregate.

Note B. & O.B. :- The marks as entered the University Marks register shall be final in case of any discrepancy between the marks sheet issued and the marks Register in the University.

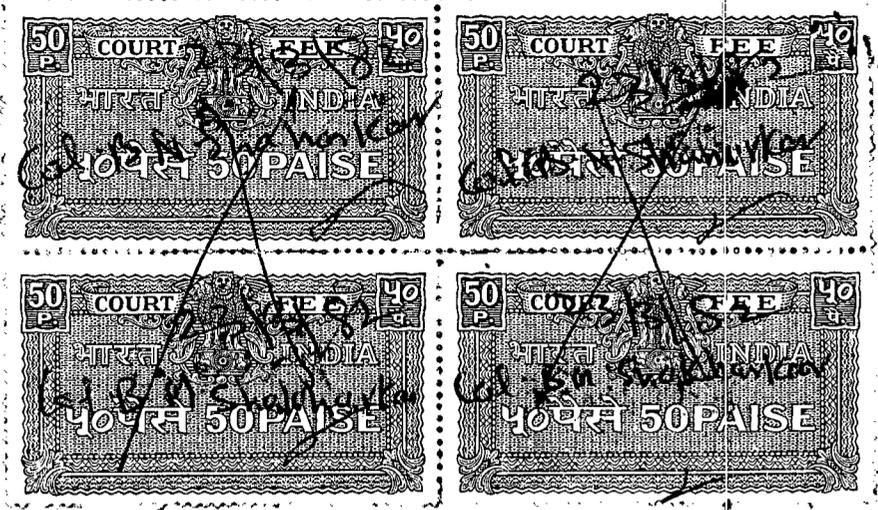
Result :- Passed Second Division (Sd/ Illegible) Sd/ Illegible Registrar, Agra University
Write (Full Name Sd/ Illegible) Checker (Full Name Sd/ Illegible)

The copy attached

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TRUE COPY

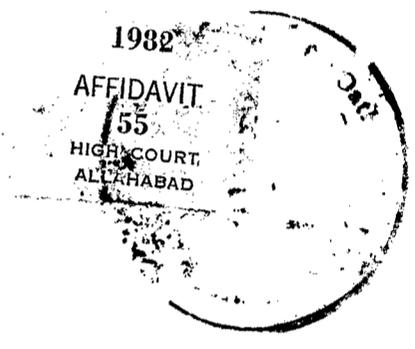
Sl. No 43



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Filed today
88/4182

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



Counter Affidavit on behalf of
Opposite parties 1,2 and3

In re

Writ Petition no.2533 of 1980

Sri Mata Din SonkerPetitioner
Versus
Union of India and others ...Opp. Parties.

Col. B. M. Shakharkar, aged
about 44 years, son of
Marut Rao Shakharkar,
Administrative Officer,
A.M.C. Centre and School
Administrative Battalion
Lucknow-226002.

...Deponent

I, the deponent abovenamed do hereby solemnly
affirm and state as under:

1. That the deponent is the Administrative
Officer, AMC Centre and School, Administrative Battalion
Lucknow and is fully conversant with the facts deposed
to herein.

2. That the deponent has read the writ petition
filed by the petitioner and has understood the contents
thereof.



[Handwritten signature]

Benech copy along here
with attached

received copy

Dr
Elisoi A. Mammam
Adv.

30.3.82

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3. That before giving a perawise reply to the averments made in the writ petition, certain facts which are relevant are being stated hereunder.

4. That as per old peace Establishment, AMC Centre and School, Lucknow was authorised for 5 Superintendents (One Superintendent per 12 clerks) and the following office Superintendents were on the posted strength of the centre:-

- (i) Sri S.M.Razi
- (ii) Sri K.F.Achutan Mair
- (iii) Sri Pratap Singh
- (iv) Sri K.A.Ram Dass
- (v) Sri I.B.Dua

5. That Sri S.M.Razi retired from service on 1.11.1977. The appointment of Sri B.Krishnan of MH Golconda was ordered to the post of officiating Office Superintendent on the plea that the post was reserved for Schedule Caste but the promotion was deferred upto June 1978 vide Army HQ NO. 13550/DMS 3(B) dated 23rd February, 1978.

6. That Army HQ promoted Sri D.N.Nayar as a office Superintendent Grade II Vide their no. 13550/DMS 3(B) dated 23rd February 1978 in short term vacancy. Sri Mohakar of SHQ Davlali was promoted as office Superintendent Grade II and posted to AMC Centre and School Lucknow vide no. 13550/DMS 3(B) dated 26th May, 1978 but he requested for postponement of his promotion for one year vide SHQ Davlali no. 101/F/SCM dated 8 June, 1978. Army HQ permitted him to forego promotion vide no. 13550/DMS 3(B) dated 19th June, 1978.



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7. That thereafter promotion of UDC BB Gaikward was ordered vide no. 13550/DMS 3(B) dated 2 Aug 78, Sri BB Gaikward reported in the office of the AMC Centre and School Lucknow on 26th August 78 but proceeded on leave with effect from 29.8.1979 without relieving Sri D.N. Nayar and from Home Town he requested for reversion to UDC post. Army Headquarters permitted him vide their no. 13550/DMS 3(B) dated 25th September 1979. Then promotion order of Sri Amir Chand of SHC Jan Nagar was issued vide their no. 13550/DMS 3(B) dated 27/30 October 1979.

8. That Army Headquarters issued a signal bearing no. 357101/DMS 3(B) withholding his move. This was probably due to filling a case in the court of Munsif Hawali Lucknow by Sri D.N. Nayar. He then withdrew his case and filed the writ petition in the Allahabad High Court, Lucknow Bench. The stay order given by the Munsif court was vacated and D.N. Nayar was reverted to the post of UDC.

9. That Sri K.P. Achuthan Nair retired on 1st March 1980 and thus there became two vacancies of office Superintendent. Sri U.S. Shukla and M.D. Sonkar the UDCs of the AMC Centre and School, Lucknow were promoted to officiating office Superintendent Grade II on 2 years probation with effect from 20th June, 1980 vide Army HQ no. 13550/DMS 3(B) dated 17th June, 1980. The two posts of Office Superintendent were thus filled.

10. That with the reduction in authorised strength of clerks in the new Personnel Establishment Sri Mata Debn Sonkar has been reverted to the rank of UDC vide no. 13550/II/DMS 3(B) dated 31st August/1 September, 1980. The individual had been informed and casualty published



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the individual withdrew his petition from the court. By that time Sri U.S. Gaikwad again gave an option for promotion. He was accordingly offered the post on 31st August, 1979 but he was again permitted to forego promotion at his own request on 16th January, 1980.

13. That the next panel for promotion to office Superintendent was drawn in June, 1980 after the receipt of Annual Confidential Reports for the year 1979 of all the eligible UDCs. By that time another vacancy of office Superintendent had become available with effect from 1.5.1980. Out of the two available vacancies one was reserved for Scheduled Caste and one for general candidates. Accordingly the undermentioned individuals were approved by Departmental Promotion Committee in separate sittings:-

<u>Name</u>	<u>Vacancy</u>	<u>Date of DPC</u>
(a) Sri U.S. Shukla	for general vacancy	5.6.1980
(b) Sri M.D. Sonkar	For Scheduled caste reserved vacancy	13.6.1980

14. That in reply to the contents of paragraph 7 of the writ petition it is stated that Sri Mata Deen Sonkar was junior to Sri U.S. Shukla in both UDC grade and date of appointment. As such he ranked junior to him in the select panel for promotion to office Superintendent.

15. That in reply to the contents of paragraphs 8 and 9 of the writ petition it is stated that the promotions are not withheld in view of the impending reduction for which the effective date is not known. The date from which reduction of clerks in BPC Centre and School, Lucknow was to be made effective was not known. Hence, no mala fide intention is ~~available~~ involved. On the other hand Sri Mata



Subhash

6.

Deen Sonkar has been given the opportunity of promotion even though for a short period.

16. That in reply to the contents of paragraph 11 of the writ petition it is stated that one of the eligibility conditions for promotion to the post of Office Superintendent grade II is at least 5 years service in the UDC Grade. The senior most Schedule caste UDC Sri Bal Krishna completed 5 years in UDC grade on 21.6.1973 only. His candidature was considered against the first vacancy of office Superintendent Grade II which became available thereafter on 1.11.1978. Further position with regard to filling of the vacancy by a Schedule Caste Candidate is explained against paragraphs 3 to 5 above. Promotions/ reservations have been ordered in accordance with the provisions of the Government Orders on the subject and no mala fide intention is involved. The petitioner is trying to raise the bogies of casteism to suit his interest.

17. That in reply to the contents of paragraph 12 of the writ petition it is stated that the maintenance of a common recruitment roster for the post of office Superintendent Grade II in AMC Centre and School Lucknow and that in AMC Records does not alter the reservation position of respective offices in any way. There were 4 posts of reduction. At present there are 3 posts of Office Superintendent Grade II and one of Office Superintendent Grade I, out of 3 posts of Office Superintendents Grade II in AMC Centre and School Lucknow only one post is reserved for Scheduled Caste candidates and the same position is maintained even in the combined recruitment roster. The representation of Scheduled Caste is now being worked out separately



S. Sankar

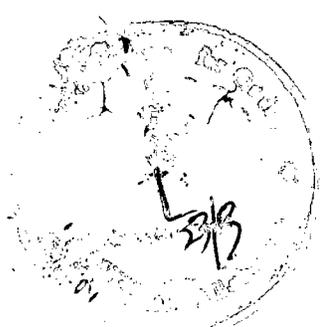
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in Part II order.

11. That in reply to the contents of paragraph 3 of the writ petition it is stated that the copy of 40 point roster annexed to the writ petition is not correctly reproduced in that point no. 30 is unreserved and point no. 35 is reserved for Scheduled Castes.

12. That in reply to the contents of paragraphs 4 to 6 of the writ petition it is stated that a vacancy of office Superintendent became available in AHC Centre and School, Lucknow on superannuation of Sri S.M. Rezi with effect from 1st November, 1977. It was proposed to fill up the vacancy by promotion of a Scheduled Caste UDC against a brought forward reserved quota. Accordingly the senior most eligible and approved Scheduled Caste candidate Sri B. Krishnan was offered the post. He first sought deferment of his promotion by six months and subsequently for an indefinite period. Accordingly his promotion orders were cancelled and the post was offered to the next Scheduled Caste candidate Sri M.C. Mohekar on 26th May, 1978 but he refused to take up the appointment. It was then offered to the next Scheduled Caste UDC Sri B. B. Gaikwad on 2nd August, 1978. He reported at AHC Centre and School, Lucknow for taking up the appointment on 26th August, 1978. He was permitted to forego promotion at his own request. The post was then offered to the next Scheduled Caste UDC Sri A.C. Balmiki on 27th October, 1978. But in the meantime Sri Dina Nath Nayar had filed a writ petition in the court which had ordered stay in the matter of further promotions. Hence move of Sri A.C. Balmiki was withheld. The stay order issued by the court at the instance of a writ petition filed by Sri Dina Nath Nayar was vacated in August 1979 when



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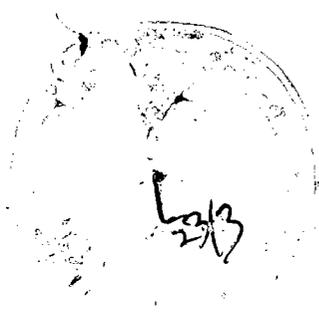
7.

for each grade/cadre. Establishment of AMC Records has since been taken over by Mtg 8(I of R) with effect from 1.2.1982 and is no longer controlled by DMS (Army).

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18. That in reply to paragraph 13 of the writ petition it is stated that according to Ministry of Home Affairs OM NO. 1/1/6766 dated 30th January 1967 as cited by the petitioner and other Government orders on the subject while declaring surpluses in a particular grade in a cadre the Scheduled Caste and Scheduled Tribe candidates are not to be retrenched/reverted till the total number of Scheduled Caste/Scheduled Tribe candidates in that grade reaches the prescribed percentage of reservation for Scheduled Caste/ Scheduled Tribe respectively in the concerned grade in a cadre. The prescribed percentage of reservation is 15 in the instant case.

19. That according to Department of Personnel and AR OM no. 8/1/74-Estt (SCT) dated 20th December 1974 in the case of posts filled by promotion the reservation orders are to be applied to each grade or post filled by promotion separately. In AMC Centre and School, Kucknow there are 3 posts of office Superintendent grade II and one of office Superintendent Grade I. 15 percent of 3 posts works out to 45 which has to be ignored being even less than half. As such the protection for Scheduled Caste/Scheduled Tribe employees as envisaged in Ministry of Home Affairs OM NO. 1/1/67 CC dated 30th January 1967 is not applicable in the case of Sri Mata Deen Sonekar.



20. That the contents of paragraph 14 of the writ petition need no comments.

21. That in reply to the contents of paragraph 15 of the writ petition it is stated that prior to the

M. Sabarwal

12/8 AD

8.

reduction in establishment there were only 4 posts of office Superintendent Grade II and one of Office Superintendent Grade I in AMC Centre and School Lucknow. The position stated by the petitioner is not factually correct. The number of posts now authorised there is 3 and 1 respectively.

22. That in reply to the contents of paragraph 16 of the writ petition it is stated that the petitioner filed a writ petition after absenting himself from duty when he came to know that his reversion orders had been received by the Unit. Renunciation of charge on reversion in such cases is automatic and does not involve handing over/taking over of any material or stores. His reversion orders were thus issued on 1 September, 1980 effective from the same date.

23. That the grounds taken by the petitioner are untenable in law, writ, petition lacks merit and is liable to be dismissed with costs.

Lucknow: March 22, 1982

In Samant
Deponent

23/3

I, the deponent abovenamed do hereby verify that the contents of paragraphs 1 to 3 of the affidavit are true to my personal knowledge and the contents of paragraphs 4 to 22

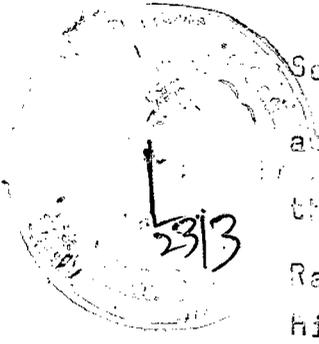
I identify the deponent of the affidavit as true to my information derived from who has signed before me. the records which are believed by me to be true and the

(Raja Ram)
Clerk to Sri Ashish
N. Trivedi, Advocate.

contents of paragraphs 23 of the affidavit are based on legal advice. No part of it is false and nothing material has been concealed. So help me God.

Lucknow: March 23, 1982

In Samant
Deponent



Solemnly affirmed before me on 23-3-82

at 4.00 ~~a.m.~~/p.m. by B.M. Shankar

the deponent who is identified by Sri Raja Ram Clerk to Sri Ashish N. Trivedi, Advocate, High Court, Allahabad, Lucknow Bench, Lucknow.

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

[Handwritten signature]

A. N. Sarker
~~C. E. YADAV~~
Oath Commissioner
High Court Allahabad
Lucknow Bench
No. 55/297
Date: 23/3/82

2.

Officer Superintendent occurred in 1975, according to the cycle contained in Annexur No.1 the one of it ought to have gone to a scheduled caste candidate. The two vacancies in 1975 occurred due to the reversion of Sri K.A. Ramdas and Sri U.S. Shukla in compliance of the judgement of the Hon'ble High Court in the writ Petition no.2450 of 1971 at Allahabad. It may be further pointed that the vacancy occurred in Nov.1977 due to the retirement of Sri S.M. Razi was deliberately kept vacant for long time and thereafter it was ultimately filled in June, 1980. When another vacancy of the Office Superintendent occurred, due to the retirement of K.P.A. Nayir and the deponent was promoted, actually the deponent ought to have been promoted against the vacancy of 1979, occurred due to the retirement of Shri S.M. Razi, but this fraud on record was played in order to make the deponent junior and harm him. According to the roster the deponent was entitled for the 1977 vacancy, even if the two posts were filled together by promotion, the first ought to have been reserved and should have been filled by a candidate of reserved category.



(Handwritten signature)

4. That in view of the submissions made above, the contents of paragraph number 6 of the Counter Affidavit are denied.

5. That the contents of paragraph number 7 of the Counter Affidavit are also not admitted as framed.

6. That the contents of para number 8 & 9 of the Counter Affidavit are denied. It may be pointed out that the second vacancy occurred on 1st May, 1980 and not 1st March, 1980, in any case, if both the vacancies were to be filled, the earlier vacancy should ~~be~~ fall in the reservation quota and should have been filled by the deponent. It may also be pointed out that the deponent was entitled for the vacancy of 1977 but his promotion was deliberately delayed in order to make him junior to the others in the grade of Office Superintendent, and it was wholly malafied and arbitrary.

7. That the contents of para number 10 of the Counter Affidavit are denied, in the sense that instead of the deponent, Shri Shukla being against the later vacancy ought to have been reserved. Here it may be clarified that the promotion of Sri Shukla on 17.6.80 was itself malafied, it was known to the authorities who had issued the promotion order that the strength is going to be reduced of the posts of the clerks and accordingly the strength of the office superintendent will be reduced by one at Lucknow. inspite of that Shri Shukla was promoted only to harm the deponent by making promotion of the deponent and Sri Shukla on one and the same date. When the strength was going to be reduced the later vacancy should not have been filled and Sri Shukla should not have been promoted.

8. That the contents of para 11 of the counter affidavit needs no comments.



H. D. Sharma

52
4.

~~pointed out that in the roaster point number 36 is reserve.~~

9. That the contents of paragraph number 12 of the Counter Affidavit are not admitted as framed. It may be pointed out that in any case the deponent ought to have been promoted against the vacancy of 1977 that is of Mr. Razi when finally Mr. ^{Gaikwad} Guwad refused and deponent ought to have been promoted against that vacancy on 16th January, 1980 and naturally Shri Shukla ought to have been against the next vacancy which occurred on 1st May, 1980, so he could not be earlier than that and ought to be junior to the deponent and ought to have been reverted in case of reduction of the strength of office- superintendent,

10. That the contents of paragraph number 13 and 14 of the Counter Affidavit are denied it may be further pointed out that between the deponent and Mr. Shukla, the seniority of the Upper Division clerk is irrelevant as the deponent is in the reservation quota the seniority has to be taken among the reserved category candidates.

11. That the contents of paragraph number 15 & 16 of the Counter Affidavit are denied, and the contents of paragraph number 9, 10 and 11 of the writ Petition are reiterated as correct. The Opposite parties have deliberately tried to create the confusion.



[Handwritten signature]

5.

12. That the contents of para graph number 17,18,19, 21,22,23 of the Counter Affidavit are vehementally denied in order to help Shri Shukla and in order to damage the deponent the Opposite parties have played fraud upon the record and deliberately in common promotion order which ought not to be, the deponent's name has been placed after Shri Shukla, which is wholly illegal, arbitrary, rather malafide. The deponent is entitled for the maintenance of the interim order.

Dated: Lucknow.

M.D. Sonkar

Dated: 28-9.1989

MATA DIN SONKAR)
Deponent.

Verification.:

I, the above named deponent do hereby verify that the contents of paragraph number 1 to 12 of this Rejoinder Affidavit are true to my own knowledge while those of paragraph number - are believed by me to be true. Nothing in it is wrong and nothing material has been concealed, so help me God. *Signd and Verified to day this 25th Sep 1989 at Lucknow*

Dated: 25-9.1989

(MATA DIN SONKAR)
Deponent.

I know the deponent, identify him, who has signed before me.

P.N. Bajpai
(P.N. Bajpai)
Advocate.

solemnly affirmed before me on this the 25th of Sep. 1989 at 10-07 A.M./P.M. by Shri Mata Din Sonkar, the deponent, who has been identified by Sri P.N. Bajpai, Advocate, High Court of Judicature at Allahabad (Lucknow Bench). 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.



P.N. Bajpai
High Court, Allahabad
Full-time Bench
NO. 6417-S
Date 25-9-89

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

W.P. 2533

Writ Petition No. of 1980

Sri. Naveen Sinker : Petitioner

v/s

Union of India & Others : Opposite Parties

I N D E X

- (1) Petition page 1 to 9
- (2) Annexure (I) page 10
- (3) Annexure (II) page 12
- (4) Annexure (III) Page 13
- (5) Registered Address of petitioner ..page 14
- (6) vakalatname Page 15

5,6

(2)

8823

Alk
19/9/83

Counsel for the Petitioner

14/9/83

A211 56

In the Honorable High Court of Judicature
at Allahabad (Law Bench)

[Handwritten signature]

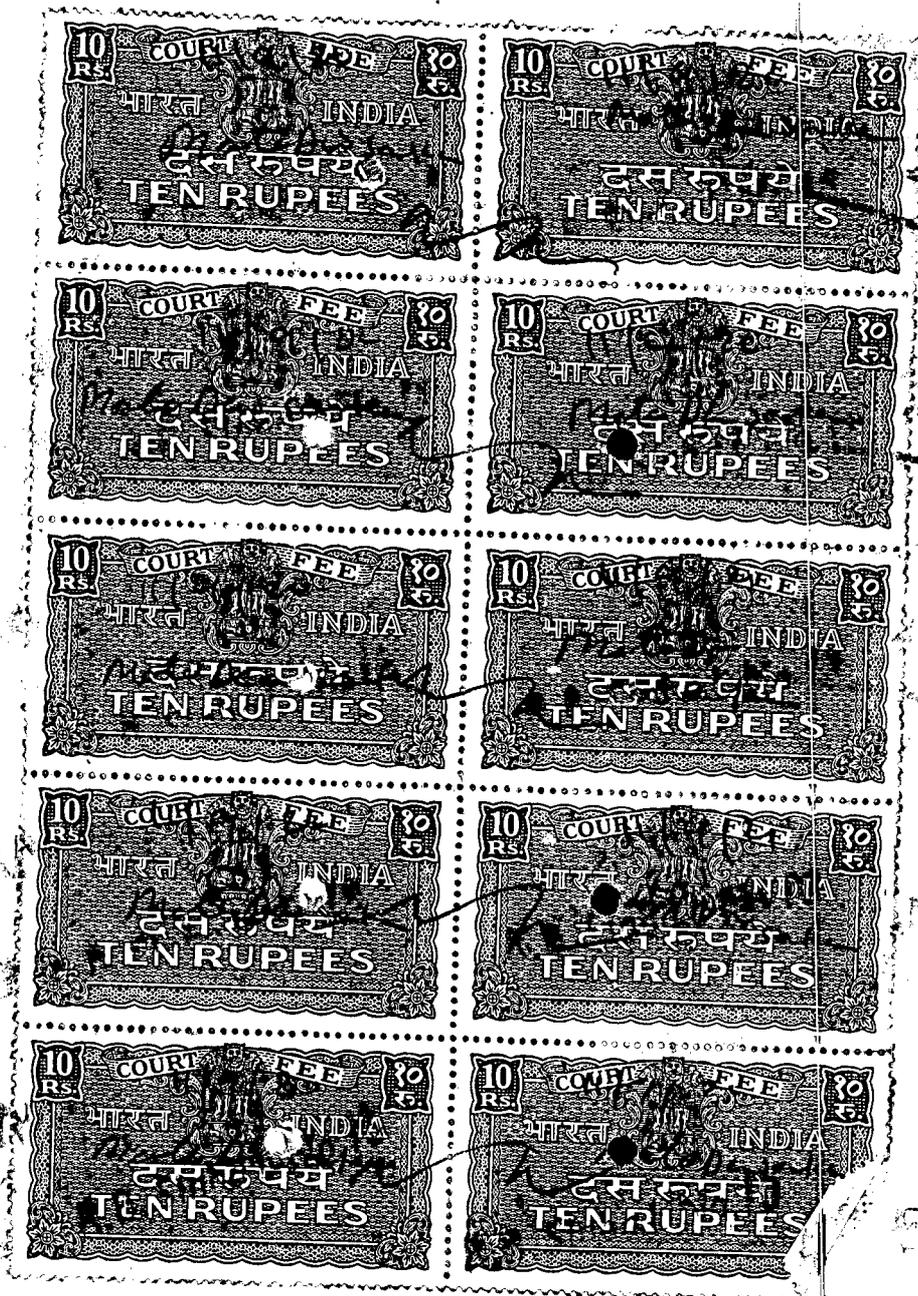
Mata Jeen Sankar —

Petitioner

vs

Union of India & others —

op. parties



ACP-2/100...
M
11-9-56

CAK

[Handwritten signature]
Petitioner

~~...~~
Total
Correct by ~~...~~
Will be made on receipt of letter
Court see
in time
Paper filed
11-9-80

Writ of Mandamus

11-9-80

Received copy for OP's 163 for presentation on 12-9-80
11-9-80

3. That there is reservation of vacancies for Scheduled Caste/Scheduled Tribes for the post of Office Superintendent and the vacancies are filled in accordance with 40 point roster, so that there may not occur injustice to scheduled caste/Scheduled Tribes in the matter of filling the vacancies. The 40 points roster is annexure (I) to this petition.
4. That Shri B B Gaikwad was promoted against the Scheduled Caste vacancy. The said Scheduled Caste incumbent declined to assume the charge of that post with the result it fell vacant. The petitioner was a suitable candidate for the said post but the petitioner was not promoted to the said post and this said post of Office Superintendent was kept vacant. There occurred another vacancy of Office Superintendent on 1st June 1980 so that there became two posts of Office Superintendents i.e one which was already existing as Scheduled Caste vacancy and the other on 1st June 1980.
5. That after Shri B B Gaikwad declined to assume the charge of Office Superintendent the petitioner who was declared fit by the competent authority i.e Departmental Promotion Committee in the Selection, was not offered and promoted, so that existing vacancy of Office Superintendent ~~and it~~ was allowed to remain vacant till 19 June 80. In keeping the post of Office Superintendent as vacant the intention of the Opposite Parties No 1 to 3 was that the petitioner may not become Office Superintendent for all time as that vacancy was a clear vacancy. The second vacancy of Office Superintendent which fell vacant on 1st June 80 was to be allotted to general candidate under rule.



Pl. Mrs.

CONT'D

5. By keeping the Office Superintendent posts vacant till ~~20~~ 19 June 80 the Opposite Parties No 1 to 3 had the malafide intention of promoting the petitioner after general candidate so that in case of reduction which was ~~well~~ well known to the Opposite Parties No 1 to 3, the petitioner being Junior may be reverted to his post of Upper Division Clerk. Since the reserved vacancy was existing from the date of refusal of assumption of post of Office Superintendent by Shri B B Gaikwad therefore the petitioner ought to have been promoted within the period from Jan to 31 May 80 and if promoted on 20 June 80 he ought to have been promoted ^{first} vis-a-vis Shri U S Shukla, who ^{would} ~~should~~ have been categorised as Junior to petitioner.
6. That there is clear malafide intention in promoting the petitioner next to Shri U S Shukla when Shri U S Shukla was promoted against the vacancy that occurred on 1st June 80 and the promotion of the petitioner was against the reserved vacancy which was existing prior to 1979.
7. That the petitioner was promoted as Office Superintendent vide letter No 1602/64/Civ dated 20 June 80 wherein the petitioner has been shown as Junior to Shri U S Shukla. The true copy of the said promotion order is Annexure (11) to this petition.
8. That before promotion order was issued it was very much known in the department that there will take place reduction of Clerical strength and consequently one post of Office Superintendent. The Clerical strength of 62 Clerks has been reduced to 46 and as such one Office Superintendent has to be reverted in ~~keeping with the~~ view of the strength of Clerks.

file
11-9-80

Q. Suresh

9. That for this reason the petitioner was promoted to the post of Office Superintendent with definite mala fide intention and design that the promotion of the petitioner is just a eye-wash and that the petitioner would be reverted within a short time.
10. That the petitioner came to know on 9 Sep 80 that the petitioner is being reverted to his post of Upper Division Clerk from the post of Office Superintendent. The order is likely to be issued within a couple days and the department has been made ready to make alternative arrangements pending the communication of reversion order of the petitioner.
11. That because of the mala fide intention of the Opposite parties No 1 to 3 that Scheduled Caste should not be promoted to the post of Office Superintendent, not a single Scheduled Caste/Scheduled Tribes has been appointed as Office Superintendent since 1968 who has worked as Office Superintendent for a days even, when the authorised strength of Office Superintendent was 5.
12. That in order to deprive Scheduled Caste/Scheduled Tribes candidates from their right of being promoted to the post of Office Superintendent. The Opposite Parties No 1 to 3 ^{amalgamated} ~~amalgamated~~ the seniority roster of Record Office and Army Medical Corps Centre and School when both are distinct and separate units and the Roster for reservation of Scheduled Caste/Scheduled Tribes of each should have been separate and distinct.

file
11.9.82

Prakash

13. That there is standing rule through circular regulating the surplus declaration of staff in regard to Scheduled Caste/Scheduled Tribes which is contained in Ministry of Home Affairs, circular dated 1 Jan 67 whereby it is contemplated that no scheduled Caste and Scheduled Tribes shall be declared surplus unless the quota of such candidates has reach the minimum prescribed. The said circular is annexure (iii) to this petition.
14. That the prescribed quota for Scheduled Caste and Scheduled Tribes is 15% of ~~XXX~~ and 6% respectively of the total number of posts.
15. There are 5 Office Superintendents working under the Opposite Parties No 1 to 3 and there is only petitioner who belongs to Scheduled Caste. Then there is none from amongst the Scheduled Tribe. That all the four are of general caste.
16. That as within a couple of days the charge of Office Superintendent is likely to be taken from the petitioner as arrangements are in progress in the department, hence ^{the matter is very urgent and therefore} the petitioner ~~is~~ against contemplated reversion of the petitioner inter alia on the following grounds:-
- (a) Because the contemplated order of reversion is against the provision of circular Annexure (iii).
 - (b) Because the promotion of the petitioner was malafide with definite intention to revert him from the post of Office Superintendent and his promotion was only a camouflage.

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U.S. 20

[Signature]

- (c) Because the petitioner was entitled to promotion immediately after the refusal of Shri B B Gaikwad a Scheduled Caste candidate declining to assume the charge of Office Superintendent but the petitioner was not promoted till 19 June 80 which is malafide and illegal.
- (d) Because the promotion of the petitioner next to Shri U S Shukla is illegal and malafide as the petitioner was to be promoted against the existing reserved vacancy and the said Shri U S Shukla was promoted against the general vacancy occurred on 1st June 80
- (e) Because the petitioner can not be reverted as there is only one Scheduled Caste and Scheduled Tribes - i.e., the petitioner as Office Superintendent out of five.
- (f) Because the amalgamation of seniority list of Record AMC and AMC Centre and School is illegal ^{and} it should have been separate and distinct.
- (g) Because the contemplated reversion of the petitioner is illegal and malafide.

The petitioner, therefore, prays for the following reliefs :-

- (i) This Hon'ble Court be pleased to issue writ of mandamus directing the Opposite Parties No 1 to 3 not to revert the petitioner from the post of Office Superintendent to the post of Upper Division Clerk.
- (ii) That it be declared by a suitable writ direction or order that petitioner stood promoted from Jan 80 or soon thereafter when Shri BB Gaikwad declined to assume the Office of Office Superintendent of reserve seat.

11/1/80
 [Signature]

(iii) That if relief(ii) is not possible for any reason then it be declared by a suitable writ, directions, or order that petitioner is senior to Shri U S Shukla and stood promoted before him for the post of Office Superintendent.

(iv) Any other suitable writ direction or order which in the circumstances of the case may be just and proper.

~~to file~~
Feb

M. Shukla

Petitioner

*For the copy
to be
sent to
the petitioner*

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

Mata Deen Senker Petitioner
Versus

1. Union of India, Through the Secretary Govt of India Ministry of Defence, New Delhi.
2. Chikitsa Nideshalaya, Adjutant General Shakha Thal Sena Mukhyalaya, Medical Directorate, Adjutant General's Branch, Army Headquarters, D.H.Q P.O New Delhi - 110011.
3. Commandant Mukhyalaya, Sena Chikitsa Corps Centre and School, Lucknow - 2.
4. Shri U S Shukla, Office Supdt, Office of the Deputy Director Medical Services HQ Central Command Lucknow - 2.

Opposite Parties

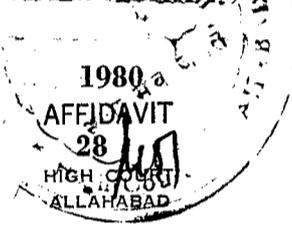
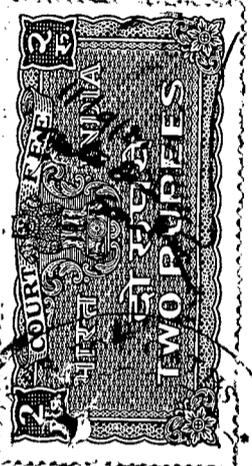
writ Petition No. of 1980

I, Mata Deen Senker aged above 40 years Son of Late M R Senker residents of Mangal Pandey Road Senkar Bandhu Ka Anata Lucknow - 2 do hereby solemnly affirm as under :-

1. That the petitioner is the deponent and is well conversant with the facts of the case deposed herein the writ petition.
2. That the contents of paras 1 to 16 are true to my personal knowledge.
3. That the annexures I to III are true copy of the original and have been compared with the original.

M. Deen

Deponent



I, the above named deponent do hereby verify that the contents of paras 1 to 16 are true to my personal knowledge, and no part of it is false and nothing has been concealed, so help me God.

[Signature]

Deponent

I know the deponent who has signed before me

* *Rahman*
Advocate
11/9/80

Solemnly affirmed before me on *11.9.80*
Meta Deen Senkar

at *2.00* a.m/p.m. by the deponent who is identified by *Hafizur Rahman*
Sri Mohd. Ilyas advocate High Court of Allahabad, Lucknow Bench.

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



[Signature]
OATH COMMISSIONER
High Court, Allahabad
L. J. W. C.
No. *20/45* ...
Dated.. *11-9-80*

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUCKNOW BEANCH)

Writ Petition No ----- of 1980

Shri Mata Doen Senker : Petitioner

v/s

Union of India & others ----- opposite parties.

ANNEXURE (1)

[Signature]
Counsel for the Petitioner



(10)
67

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

ANNEXURE - I

Writ Petition No. ----- of 1980
Shri Mata Din sonker : Petitioner
V/s
Union of India & others : Opposite Parties.

ANNEXURE - I

Model Roster for posts filled by promotion on
All India basis otherwise then by open competition.

<u>Point in the Roster</u>	<u>Whether un-reserved or reserved</u>	<u>Point in the Roster</u>	<u>Whether un-reserved or reserved.</u>
1	Scheduled Caste	21	Unreserved
2	Unreserved	22	Reserved (SC)
3	Unreserved	23	Unreserved
4	Scheduled Tribes	24	Unreserved
5	Unreserved	25	Unreserved
6	Unreserved	26	Unreserved
7	Unreserved	27	Unreserved
8	Scheduled Caste	28	Scheduled Caste
9	Unreserved	29	Unreserved
10	Unreserved	30	Scheduled Caste
11	Unreserved	31	Scheduled Tribes
12	Unreserved	32	Unreserved
13	Unreserved	33	Unreserved



Signature

(11)
84

<u>Point in the Roster</u>	<u>Whether un-reserved or reserved</u>	<u>Point in the Roster</u>	<u>Whether un-reserved or reserved</u>
14	Scheduled Caste	34	Unreserved
15	Unreserved	35	Unreserved
16	Unreserved	36	Unreserved
17	Scheduled Tribes	37	Unreserved
18	Unreserved	38	Unreserved
19	Unreserved	39	Unreserved
20	Unreserved	40	unreserved

Note : (1) If there are only two vacancies to be filled in a particular year not more than one may be treated as reserved and if there be only one vacancy, it should be treated as unreserved. If on this account a reserved point treated as unreserved, the reservation may be carried forward to the subsequent three recruitment years.

M. S. Rao



M. S. Rao
 JATH COMMISSIONER
 High Court, Hyderabad
 No. 20/257
 Dated 11-9-20

12
69

Writ Petition No ----- of 1980

Shri Mata Deen Sonker / : Petitioner

v/s

Union of India ' others ----- opposite parties.

ANNEXURE (2)

Rohit

Counsel for the Petitioner



(12/1)

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

ANNEXURE - II

Writ Petition No. _____ of 1980

Shri Mata Deen Sonker :Petitioner

V/s

Union of India & Others :Opposite Parties

Tele : 275

Mukhyalaya
Sena Chikitsa Corps Centre Aur
School
Lucknow - 2
20 Jun 80

1602/64/Civ

UDC Shri M D Sonker,
C/O Adm Bn
AMC Centre and School
Lucknow - 2

PROMOTION : CLERKS

1. You have been promoted as Office Supdt Gde II in Offg capacity wef 20 Jun 80 (FN) in the scale of Rs. 425-15-500EB-15-560-20-700 against an existing vacancy. You will be on probation for a period of two years from the date of promotion.

(Authy : Army HQ letter No 13550/11/DMS 3 (B) dated 17 Jun 80)

2. Please ack.

Sd/- x x x x x x x
(R S Rathee)
Major
Adm Officer
for Commandant

[Handwritten signature]

file 11-5-80

Decided
JATH COMMISSIONER
High Court of Allahabad

No. *20/457...*
Dated *11-5-80...*

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUCKNO BEENCH)

n/

Writ Petition No ----- of 1980

Shri Kato Deon Senhor

: Petitioner

V/S

Union of India & others -----

opposite parties.

ANNEXURE (3)

R. S. Singh

Counsel for the Petitioner



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

H2

ANNEXURE - III

writ Petition No. _____ of 1980

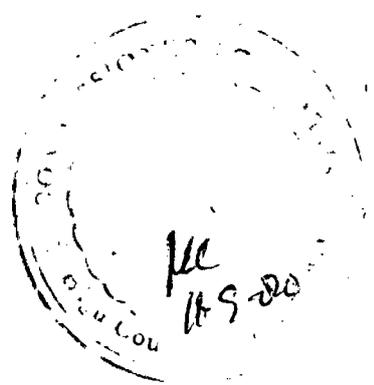
Shri Mata Deen Sonker : Petitioner

V/s

Union of India & Others : Opposite Parties

" according to Para 11 (iii) of annexure I to Ministry of Home Affairs M.No. 5/17/65-CS II dated 25.1.66 the surplus staff as a result of staff ceasement studies etc., has to be surrendered to the Central (Surplus Staff) Cell of the Department of personnel against reduced cadre strength strictly in the reverse order of seniority in the cadre affected. However while declaring surplus in a particular grade in a cadre the Schedule Caste and Scheduled Tribe candidates should not be included as long as the total number of Scheduled Caste/Scheduled Tribes candidates in that grade has not reached the prescribed percentage of reservation for Scheduled Caste/Scheduled Tribes respectively in the concerned grade in a cadre.

[Handwritten signature]



OFFICIAL
JUDICIAL COMMISSIONER
High Court Allahabad
No. 207/457
Dated 11-5-80

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

Writ Petition No. ----- of 1980.

Shri Mata Deen Sonker : Petitioner

v/s

Union of India & others : Opposite Parties

REGISTERED ADDRESS OF THE PETITIONER

MATA DEEN SONKER S/O LATE M R SONKER
R/O MANGAL PANDEY ROAD, SONKER BANDHU KA AHATA
LUCKNOW - 2.



M. S. Sonker
Counsel for the Petitioner

ब अदालत श्रीमान

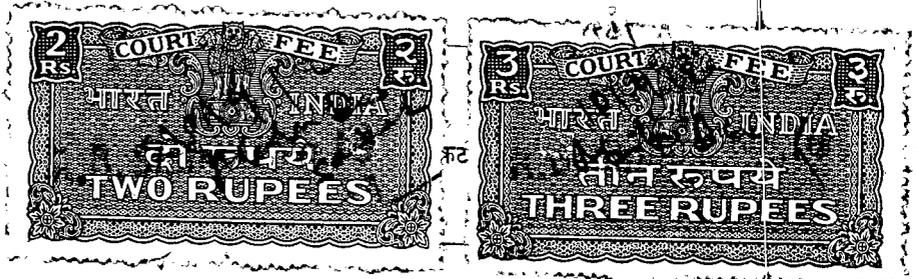
Hon'ble High Court of Judicature
at Allahabad महोदय
(Circuit Bench)

वादी अपीलान्त

वकालतनामा

प्रतिवादी रेस्पान्डेंट

3811



Mata Deben Sankar
20/9/50

वादी (मुद्दई)

Union of India
11/9/50 बनाम

प्रतिवादी (मुद्दाअलेह)

न० मुकद्दमा सन १९

पेशी की ता०

१९

ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Shri Hafizur-Rahman
Advocate

एडवोकेट

S. R. K. Bora

महोदय

वकील

नाम अदालत
न० मुकद्दमा
नाम फरिक्तेन

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

हस्ताक्षर

साक्षी [गवाह]

साक्षी [गवाह]

दिनांक

10

महीना

9

सन्

1950

आर० बी० सिन्हा

नं. दार : कलेक्ट्री लखनऊ

Accepted
10/9/50

C.O.N. 51336R

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

W.P. 2533-80

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4/11

AS

Mata Deen Senker aged about 40 years S/O Late M R Senker
residence of Mangal Pandey Road Senker Bandhu Ka Ahata
Lucknow - 2
Petitioner

Versus

1. Union of India, Through the Secretary of Govt of India
Ministry of Defence, New Delhi.
2. Chikitsa Nideshalaya, Adjutant General Shakha Thal
Sena Mukhyalaya, Medical Directorate, Adjutant General's
Branch, Army Headquarters, D.H.Q P.O New Delhi - 110011.
3. Commandant Mukhyalaya, Sena Chikitsa Corps Centre
and School, Lucknow - 2.
4. Shri U S Shukla, Office Supdt, Office of the Deputy
Director Medical Services HQ Central Command Lucknow - 2.

Opposite Parties.

Application for Stay

It is most humbly and respectfully submitted as under :-

1. That the petitioner is filing the writ petition herewith.
2. That the petitioner has not been reverted by now and no
order of reversion has been served on him.
3. That the reversion order is ~~not~~ likely to be made within
a couple of days.
4. That in case the stay of reversion is not granted the
filing of appeal will become useless.

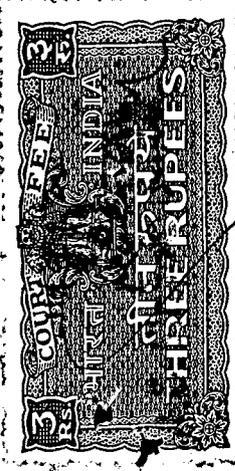
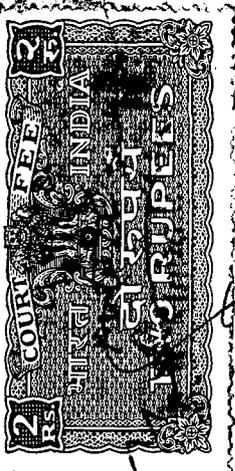
Therefore it is respectfully prayer that reversion order
may kindly be stayed pending the disposal of the writ petition.

R. S. Chakraborty

Counsel for the petitioner

12/7/80

12/7/80



Hon'ble T.S. Misra, J.
Hon'ble K.S. Varma, J.

Issue notice.

Shri Mannan learned
counsel for the
petitioner states that
the petitioner has not
yet handed over charge
of the post of office
Superintendent Grade II.
In view of the above
statement, it is
ordered that the
petitioner shall not be
called upon to hand
over charge of the
said post until
further orders.

WS
Smy 24.10.1980

Hon. K.S. Varma J
Hon. K.N. Goyal J

Put up with
 writ Petition

KS
12/9/110

A-76
A42

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

Mata Deen Sonker aged about 40 years S/O Late M R Sonker
resident of Mangal Pandey Road Sonker Bandhu Ka Ahata
Lucknow - 2.

Petitioner

Versus

1. Union of India, Through the Secretary of Govt of India
Ministry of Defence, New Delhi.
2. Chikitsa Nideshalaya, Adjutant General Shakha Thal
Sena Mukhyalaya, Medical Directorate, Adjutant General's
Branch, Army Headquarters, D.H.Q P.O New Delhi - 110011.
3. Commandant Mukhyalaya, Sena Chikitsa Corps Centre and
School, Lucknow - 2.
4. Shri U S Shukla, Office Supdt, Office of the Deputy
Director Medical Services HQ Central Command Lucknow - 2.

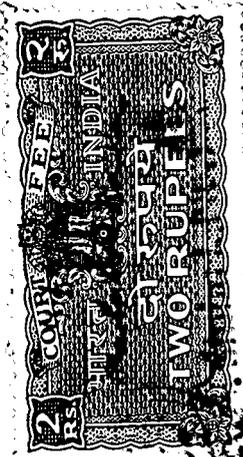
Opposite Parties.

Affidavit in support of application for Stay

I, Mata Deen Sonker aged about 40 years S/O Late M R Sonker
resident of Mangal Pandey Road Sonker Bandhu Ka Ahata Lucknow - 2
do hereby solemnly affirm as under :-

1. That the petitioner is filing the writ petition herewith.
2. That the petitioner has not been reverted by now and no
order of reversion has been served on him.
3. That the reversion order is likely to be made within
a couple of days.
4. That in case the stay of reversion is not granted the
filing of appeal will become useless.


Deponent



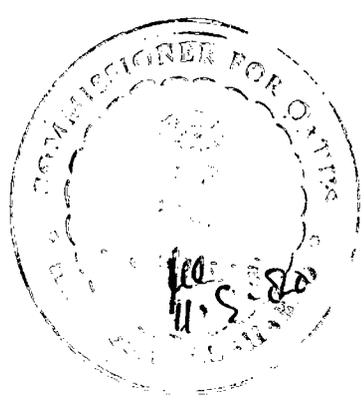
I, the above named deponent do hereby verify that the contents of para 1 to 2 are true to my personal knowledge and those of para 3 and 4 are believed by me to ~~the~~ be true, no part of it is false, nothing material has been concealed, so help me God.

[Signature]
Deponent

Solemnly affirmed before me on 11.9.80
Mata Deen Seetha
 at 9.15 a.m/p.m. by the deponent who is identified by
Sri. Hafizurrahman
~~Sri Mohd. Ilyas~~ Advocate High Court of Allahabad, Lucknow ~~Bench~~.
 Bench.

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

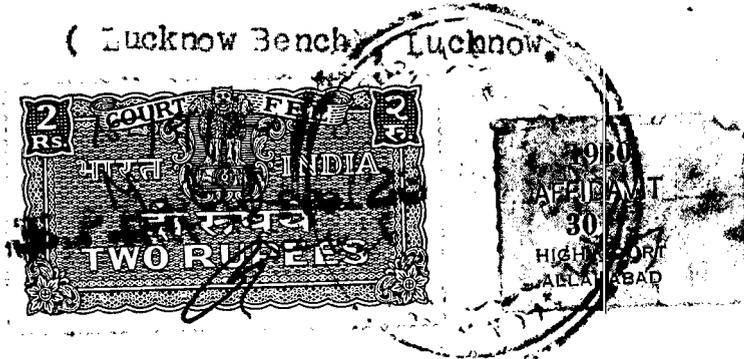
*I know this affidavit
 who has signed
 before me
 Hafizurrahman
 Adv.
 11/9/80*



Rohail
 OATH COMMISSIONER
 High Court, Allahabad
 No. 29/187
 Dated 11.9.80

A-78

In the Hon'ble High Court of Judicature at Allahabad, 45/1
(Lucknow Bench) Lucknow.



AT

Mata Deen Sonker aged about 40 years s/o late M.R. Sonker
resident of Mangal Pandey Road Sonkar Bandhu Ka Ahata
Lucknow -2

... Petitioner

Versus

1. Union of India, and others Opp. Parties

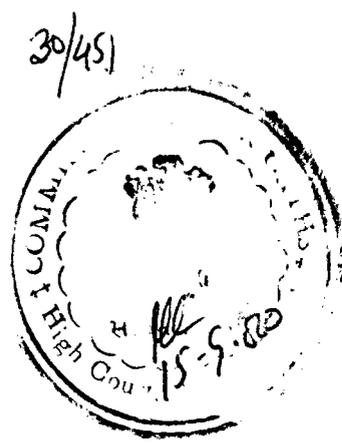
SUPPLEMENTARY AFFIDAVIT
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

I, Mata Deen Sonkar, s/o Late Shri M.R. Sonkar
aged about 40 years resident of Mangal Pandey Road Sonkar
Bandhu Ka Ahata, Lucknow-2 do hereby solemnly affirm as
under :-

1. That Shri U.S. Chukla, Opposite Party No 4 is
attached with DDMS Hq. Central Command Lucknow for the
last about 10 years as upper Division Clerk. Subsequent
to promotion on 20 Jun 80 as Office Superintendent Grade
II Shri U.S. Chukla, continued to work with DDMS Hq.
Central Command Lucknow, even after promotion as Office
Superintendent Grade II. As per existing rules, he was
required to physically come to MC Centre and School
Lucknow to assume the post of Office Superintendent Gd. II
as the post of Office Supdt. is only authorised in MC
Centre & School, Lucknow against which the promotions
of Office Supdt. Gde-II have been made, whereas the
petitioner is working as Upper Division Clerk at Adm.
Bn. MC Centre School, Lucknow prior to his promotion
as Office Supdt. Grade II w.e.f. 20 June '80 and is

....2

Hon T.S.M.T
for M.S.I
Keep on the record.
16.9.80



Handwritten signature

A 19 (2)

continuing to work as Office Supt. Grade II in ADM Bn. AMG. Centre & School, Lucknow where the post of Office Supt. is authorised.

2. The true copy of the promotion letter no 13550/II/DMS 3(B) dt. 17 June '80 is Annexure IV to this supplementary Affidavit.

3. The reversion order which is likely to be served on the petitioner is Annexure V to this Supplementary Affidavit.

Lucknow:
 Dated 15. Sep. 1980

M. Saad
Deponent

VERIFICATION

I, the abovenamed deponent is hereby verify that the contents of Para 1 to 3 are true to my personal knowledge and no part of it is false, nothing material has been concealed, So help me God.

I know the deponent & who has signed before me. True & correct. 15/9/80.

M. Saad
Deponent

Solemnly affirmed before me on 15-9-80

at 4.00 a.m. / P.m by the deponent Mata Deen Sankar who is identify by Sri Mohd. Ilyas Advocate High Court of Allahabad, Lucknow Bench.

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



V. K. Bhargava
Advocate
CIVIL COMMISSIONER
High Court, Allahabad,
Lucknow Bench
Serial No 20/45/1000
Date 15-9-80

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

Writ petition No. of 1980
Shri Mata Deen Sonker Petitioner
Vs.
Union of India & others Opp. Parties

Annexure (IV)

R. G. G. G.
Counsel for the petitioner

8)

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

Mata Deen Sonkar Petitioner

Vs.

Union of India, and others ... Opp. Parties.

Annexure IV

Telephone 371701

Chikitsa Nideshalaya (DMS 3-B)
Adjutant General Shakha
Bhal Sena Mukhyalaya
Medical Directorate (DMS 3-B)
Adjutant General's Branch
Army Headquarters
DHQ PO New Delhi-110011

1355/II/DMS 3(B)

17 Jun '80

The DMS
Headquarters
Central Command

PROMOTION - OFFICE SUPD s

1. Shri Partap Singh, Pt. UDC/ly Office Supdt. Gde II of AMC Centre & School, Lucknow, is promoted as Office Supdt. Gde I in situ in an officiating capacity vice Shri IP Akuthan Nair superannuated. His promotion will take effect from the date he assumes charge of the appointment.

2. Shri US Shukla, Pt. UDC of AMC Centre and School Lucknow is promoted as Office Supdt Gde II in situ in an officiating capacity against an existing vacancy. His promotion will take effect from the date he assumes charge of the appointment.

3. Shri MD Sonkar, Pt. LDC/ly UDC of AMC Centre and School, Lucknow, is promoted as Office Supdt. Gde II in situ in an officiating capacity vice Shri Partap Singh promoted. His promotion will take effect from the date he assumes charge of the appointment vacated by the latter.

4. The above mentioned individuals will be on probation for period of two years from the date of their promotion.

Please acknowledge.

Sd/ - xx xx
(C. Das Gupta)
Lt Col.
Chikitsa Seva Sahyak Nideshak
ADMS(o)
Britey Chikitsa Seva Nideshak
for Director of Medical
Services

Copy to:-

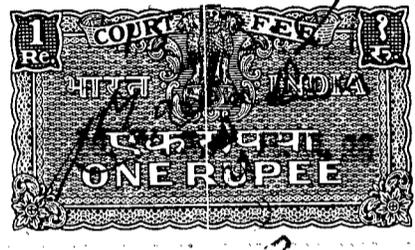
The ADMS, Headquarters,
UP Area.
The Comdt., AMC Centre and
School, Lucknow.

30/451
15-5-80

62/812

IN THE HONOURABLE HIGH COURT OF JUDICATURE, AT ALLAHABAD:
LACHMAN SINGH, PLAINTIFF.

WRIT PETITION NO. 2533 OF 1980.



Mrs. Deen Sonker. ... Petitioner.

Versus.

Union of India and Others. ... Opposite Parties.

AN AFFIDAVIT IN SUPPORT OF WRIT PETITION FOR WRIT OF HABEAS CORPUS.

I, Mrs. Deen Sonker, aged about 41 years, Son of Smt (late) M. R. Sonker, Resident of Sonker Bandhu K. Mahal, Kanchi Pandey Road, Lucknow, states on oath as under :-

1. That the deponent is the petitioner in the above mentioned writ petition, as such he is fully conversant with the facts and the circumstances stated hereinafter.
2. That in the above mentioned writ petition, which has been admitted, the deponent's reversion from the post of Office Superintendent Grade II was stayed by this Hon'ble High Court through an order dated 24th October, 1980.
3. That the Opposite Parties did not implement the interim orders and the deponent is being paid salary in the lower scale.
4. That the deponent several times demanded from the Opposite Parties for the implementation of the interim



M. Deen

82 (5)

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

Writ petition No. of 1980

Shri Mata Deen Sonker Petitioner

Vs.

Union of India & others Opp. Parties

Annexure (V)

Rohit Singh

Counsel for the petitioner

183 (6)

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

Mata Deenanker Petitioner
Vs.

Union of India, and others Opp. Parties.

Annexure No. 7

Tele 275

Priority

Mukhlaya
Bena Chikishi Centre Centre
School
Lucknow.

1602/85/Civ

dt. 9 Sep 80

in Bn.

Reduction in Establishment: B.C. Centre School
Lucknow.

1. Consequent upon the reduction of clerical establishment in B.C. Centre School, Lucknow (ri H.O. Tanker office subdt. Grade II of this Centre is reverted to the post of Junior Division Clerk w.e.f. 1st Sept. 80

2. Please inform the individual accordingly.

(Authority: Army Head Quarters letter No 13550/II / DMS 3 (3) dt. 31.8.80.

Ed/ mxx
(D.L. Sakherkar)
Lt. Col.
dt. Officer
for Commandant

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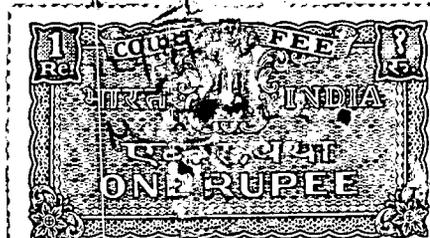
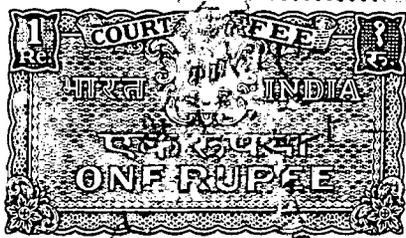
Part II order section
service documents of the individual.

15-9 80

(Handwritten signature)

(Handwritten signature)

30/45/
15.7.80



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

Writ Petition 2533 of 1980.

Mata Deen Sonker aged about 40 years S/O Late M R Sonker
residence of Mangal Pansey Marg Sonker Bandhu Ka Ahata
Lucknow-2

..... Petitioner

V/S

1. Union of India, through the Secretary of Govt. of India Ministry of Defence, New Delhi.
2. Chikitsa Nideshalaya, Adjutant General Shakha Thal Sena Mukhyalaya, Medical Directorate, Adjutant General's Branch, Army Headquarters, D.H.Q.P.O. New Delhi-110011.
3. Commandant Mukhyalaya, Sena Chikitsa Corps Centre and School, Lucknow-2.
4. Shri U S Shukla, Office Supdt Gde II, Office of the Deputy Director Medical Services, HQ Central Command Lucknow-2.

..... Opposite Parties.

Application for Amendment of Writ Petition

The petitioner most humbly begs to submit as under :-

1. That since the order of reversion has been passed and as such it is essential to challenge the reversion order Annexure V as without it no effective relief can be granted to the petitioner. The copy of the said order could be secured by the petitioner after filing of the Writ petition, hence it was not challenged.

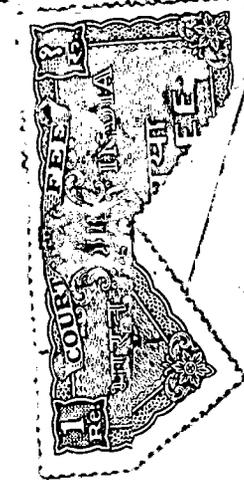
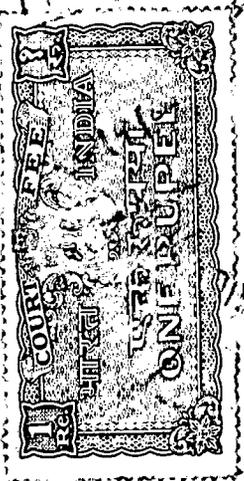
(Signature)

507352
22/9/80
2519/80
11/5/80

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6/8A

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Hon. T. S. Muria J.
Hon. K. S. Varma J.

Put up with the record

^{As} h
22.9.80

PS-



FOR 04980
AFFIDAVIT
46
HIG COURT
ALLAHABAD

86

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

6/3

Writ Petition No 2533 of 1980.

Shri Mata Deen Senker Petitioner.

V/S

1. Union of India, Through the Secretary of Govt of India, Ministry of Defence, New Delhi.
2. Chikitsa Nideshalaya, Adjutant General Shakha Thal Sena Mukhyalaya, Medical Directorate, Adjutant General's Branch, Army Headquarters, D.H.Q.P.O. New Delhi-110011.
3. Commandant Mukhyalaya, Sena Chikitsa Corps Centre and School, Lucknow-2
4. Shri U S Shukla, Office Supdt, Office of the Deputy Director Medical Services HQ Central Command Lucknow-2

..... Opposite Parties.

Affidavit in support of application for amendment of writ petition

I, Mata Deen Senker aged about 40 years S/O Late M R Senker residence of Mangal Pandey Road Senker Bandhu Ka Ahata Lucknow-2 do hereby solemnly affirm as under :-

1. That since the order of reversion has been passed and as such it is essential to challenge the reversion order Annexure V as without it no effective relief can be granted to the petitioner. The copy of the said order could be secured by the petitioner after filling of the Writ petition. Hence it was not challenged. ~~That~~

~~in para 16 (c) in place of Annexure III, Annexure VI may please be allowed to be substituted.~~

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Handwritten marks and signatures

87

b/u

2. That the following addition in Writ petition in Relief para is essential by way of (i) (a):-

(i) " This Hon'ble Court be pleased to issue writ of ~~Certiorari~~ ^{Certiorari} quashing Annexure-V" .

3. That in para 16 (a) in place of words "Annexure-III" the words "Annexure VI" may be allowed to be substituted.

Lucknow
22.9.00

[Signature]
Deponent

I, the above named deponent do hereby verify that the contents of para 1 are true to my personal knowledge and those of para 2 & 3 are believed by me to be true, no part of it is false, nothing material has been concealed, so help me God.

[Signature]
Deponent

Solemnly affirmed before me on 22.9.00 at 10.30 a.m./p.m. by the deponent who is identified by Shri Mohd Ilyas Advocate High Court of Allahabad, Lucknow Bench.

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

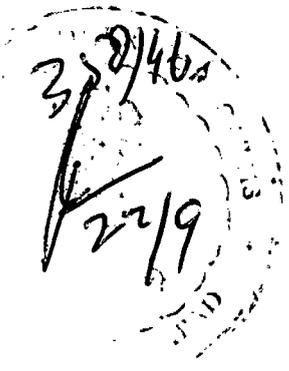
I know the deponent who has signed before me.

Mohd. Ilyas
Advocate
22/9/00

[Signature]
22/9

JUDGE COMMISSIONER
High Court, Allahabad
Lucknow Bench

No. 352/46
22/9/00



4

From T. S. Muria J.
From K. S. Varma J.

Keep on the
record, B.....

Rs
22.9.80

B

8^o ✓
2 ✓

binding
on respondents No 1 to 3 and duty is cast on ~~the respondents~~ *them*
to affect the revision or declaration of surplus in
accordance therewith.

[Signature]
Deponent

Lucknow
Dated *22/9/80* 1980

VERIFICATION

I, the abovenamed deponent *do* hereby verify that the contents of para 1 are true to my personal knowledge and and no part of it is false, nothing material has been concealed, so help me God.

[Signature]
Deponent



Solemnly affirmed before me on *22-9-80*
at *10/5* a.m. ~~pm~~ by the deponent who is identified by Shri Mohd Ilyas Advocate High Court of Allahabad, Lucknow bench.

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

[Signature]
22/9

Ad. COMMISSIONER
High Court, A
Lucknow

I know the deponent who has signed before me.

[Signature]
22/9/80

S. No. *350/45*
Date *22/9/80*

90 2/3

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

ANNEXURE - VI

Writ Petition No 2533 of 1980.

Shri Mata Deen Sonker Petitioner.

V/S

Union of India & Others Opposite Parties.

Ministry of Home Affairs O.M. No 1/1/67 CC, dated 30 January 1967 to all Ministries etc.

Subject:- (Central (Surplus Staff) Cell- Surrender of
of surplus staff- Protection to the Scheduled
Castes and Scheduled Tribes employees.

The undersigned is directed to refer to para II(iii) of Annexure I to Ministry of Home Affairs O.M. No 3/27/65-CS-II, dated 25.2.66 according to which the surplus staff has to be surrendered to the Central (Surplus Staff) Cell against reduced cadre strength strictly in the reverse order of seniority in the cadre affected. The question regarding protection to be given to the Scheduled Castes and Scheduled Tribes candidates while surrendering the surplus staff to the Cell has been examined and it has now been decided that while declaring surplus in a particular grade in cadre the Scheduled Castes and Scheduled Tribes candidates in that grade should not be included so long as the total number of S.C./S.T. candidates in that grade has not reached the prescribed percentage of reservations for S.C./S.T. respectively in the concerned grade in a cadre.

The above decision may be communicated to all concerned. Past cases, otherwise decided may not be reopened.


Kam Prasad Chaturvedi
Kam Prasad Chaturvedi
Advocate
SOUTH COMMISSIONER
High Court, Allahabad
Lucknow Bench
No. 258/45
Date 22/9/80

True copy.
Prabhat Chandra
Advocate

A211A

(1)

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

Mata Deen Senkar aged about 40 years S/O Late M R Senkar
residence of Mangal Pandey Road Senkar Bandhu Ka Ahata
Lucknow - 2.

Versus

- ✓ 1. Union of India, Through the Secretary Govt of India
Ministry of Defence, New Delhi.
- ✓ 2. Chikitsa Nideshalaya, Adjutant General Shakhha Thal
Sena Mukhyalaya, Medical Directorate, Adjutant General's
Branch, Army Headquarters, D.H.Q P.O New Delhi - 110011.
- ✓ 3. Commandant Mukhyalaya, Sena Chikitsa Corps Centre
and School, Lucknow-2.
- ✓ 4. Shri U S Shukla, Office Supdt, Office of the Deputy
Director Medical Services HQ Central Command Lucknow- 2.

Opposite Parties.

Petition under article 226 of the constitution
of India:

The petitioner most humbly and respectfully begs to
submit as under :-

1. That the petitioner was working as Civilian employee
under the jurisdiction and control of Opposite Party
No 1 to 3 in administrative Battalion Army Medical
Corps Centre and School Lucknow as Upper Division
Clerk till 19 June 1980.
2. That the petitioner is a Scheduled Caste known as
"Khatik" in the State of Uttar Pradesh and is
registered as Scheduled Caste with the Opposite parties
No 1 to 3.

COMMISSIONER
11-9-80
H. S. S. S.
H. S. S. S.

Hon. K.S. Varma J
Hon. K.N. Goyal J

Put up this petition
for order on 16.9.1910.

In the meantime, the
learned Standing Counsel
to obtain instructions.

RS
12/9/10
L2

Hon. T.S. Misra J
Hon. M.S. J.

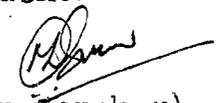
At the request of the
learned counsel for the
petitioner's side after two days

16.9.1910

93
8/3

orders and the deponent never handed over the charge of the post of the Office-Superintendent Grade II, he has been compelled to take the salary of the lower grade though he signed as Office- Superintendent.

DATED: LUCKNOW:
MARCH 15, 1981.


(Mata Deen Sonekar)
Deponent.

VERIFICATION.

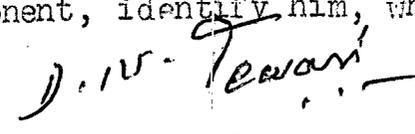
I, the above named deponent do hereby verify that the contents of paragraph number 1 to 4 of this affidavit are true to my own knowledge. Nothing in it is wrong and nothing material has been concealed, so help me GOD.

DATED: LUCKNOW:
MARCH 15, 1981.


(Mata Deen Sonekar)
Deponent.

I know the deponent, identify him, who has signed before me.

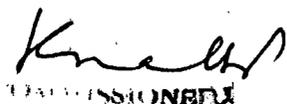
DATED: LUCKNOW:
MARCH 15, 1981.


Clerk to Shri Abdul Mannan, Advocate,
Counsel for the Petitioner.

Solemnly affirmed before me on this the 15th day of March, 1981, at 6:30 a.m./p.m., by Shri Mata Deen Sonekar, the deponent, who has been identified by the Clerk to Shri Abdul Mannan, Advocate, Allahabad High Court, 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.




OATH COMMISSIONER
High Court, Allahabad,
Lucknow Bench
No. 434 of 1981
Date 15-3-1981



94

IN THE HONORABLE HIGH COURT OF JUDICATURE, AT ALLAHABAD:
LUCKNOW BENCH, LUCKNOW.

WRIT PETITION NO. 2533 OF 1900.

Mata Deen Senekar. Petitioner.

Versus.

Union of India and Others. Opposite Parties.

AN AFFIDAVIT IN SUPPORT OF THE SECOND STAY
APPLICATION.

I, Mata Deen Senekar, aged about 41 years, Son of Shri (late) M. R. Senekar, Resident of Senekar Bandhu Ka Akhata, Mangal Pandey Road, Lucknow, states on oath as under :-

1. That the deponent is the Petitioner in the above mentioned writ Petition, as such he is fully conversant with the facts and the circumstances stated hereinafter.

2. That in the above mentioned writ Petition, which has been admitted, the deponent's reversion from the post of Office Superintendent Grade II was stayed by this Hon'ble High Court through an order dated 24th October, 1900.

3. That the Opposite Parties did not implement the interim orders and the deponent is being paid salary in the lower scale.

4. That the deponent several times demanded from the Opposite Parties for the implementation of the interim

1536

ब अदालत श्रीमान
वादी मुद्दई
प्रतिवादी (मुद्दालेह)

Handwritten High Court
महोदय

वकालतनामा

w.p. No 2533/80



Mata Deen Sarker

वादी (मुद्दई)
(अपीलान्ट)

बनाम

Union of India प्रतिवादी [मुद्दालेह]

ने मुकद्दमा सन् १६ पेशी की ता० १६ ई०

उपर लिखे मुकद्दमा में अपनी और से श्री A. A. Manu

एडवोकेट

महोदय

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा [इकरार] करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपत्ती [फरीकसानी] का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त [दस्तखती] रसीद में लेवें या पेश नियुक्त करें। वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने परमकार को भेजता रहूँगा अगर मुकद्दमा अदय पैरवी में एक तरफ़ा मेरे खिलाफ़ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी। इसलिए यह वकालतनामा दिया कि प्रमाण रहे और समय पर काम आवे।

अदालत
नं० मुकद्दमा
नाम फरीकैन

25/11/80
25/11/80

Accepted

A. Manu

हस्ताक्षर

हस्ताक्षर १ *[Signature]* For Petitioner

सही

साक्षी (गवाह) साक्षी (गवाह)

दिनांक 21 माह 10 सन् १९ 80 ई०

* / 96

Ans · Reversion due to reduction of clinical establishment in
9-9-80 AMC. Canteen & School. — Appl revert for OS add
to
UDC 1-9.80.

- Appl admits reduction
- Appl claims privilege of being a/c.
- RA US Shukla ought to have reverted instead of the appl.

OS add full vacancy in 1977. It was advertised on 5/12/77 & CA 1/18
it was to be filled up by OPC ^{B.F. Quota} candidate: 1.11.77 : B Krishnan was
offered the post, who
refused - Appld cancelled
26.5.78 : M.C. Mohanlal appld,
who also refused.

(A) | 2.8.78 : B.B. Gaikar was
appld & was
prepared to forego
the post.

27.10.78 : A.C. Balmiki
appld — stayed
under the supervision

August 79 = stay vacated.

31.8.79 - Gaikar (A) was
again offered promotion, he
again declined —

Para 18/19.

13-6-80 OPC for SC etc.
5-6-80 OPC for Gen

June 80 Next selection — Appl selection.

In the meantime another vacancy occurred
after which OPC was selected. But
in the results appeared OPC (April 1977)

reverts para in 1984

11-5-84 OPC — 16.11.84 — appl at us & among vacancy & appl after 1980 post.
IC application
A.C. Balmiki
for Senior
Mosh. &
he was selected.

Oct 1980 - Reversion of staff — Appl
reverted + US Shukla
reverted.

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No. 2533 of 1980

vs.

40/1
13
A/1/1

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
12.7.80	<p>Hon. J. S. J.</p> <p>Hon. J. S. J.</p> <p>Put up on 16.9.80.</p> <p>C.M. A.O. 15133-80</p> <p>Put up with the W.P.</p> <p>Sd/ J. S. J.</p> <p>Sd/ J. S. J.</p>	
16.9.80	<p>Hon. Misra J.</p> <p>Hon. M.S. J.</p> <p>List after two days.</p> <p>C Sd/ Misra J.</p> <p>Sd/ M.S. J.</p> <p>16/9/80.</p>	
19.9.80	<p>Wait for orders.</p> <p>Hon. Misra, J.</p> <p>Hon. Mishra, J.</p>	

5

Date	Note of progress of proceedings and routine order	Date to which case is adjourned
1	2	
19.9.80	<p>Hon. T.S. Misra, J. Hon. S.C. Mathur, J.</p>	
	<p>Challenging this order, the learned counsel for the petitioner states that the petitioner shall move an amendment application challenging the order of 9th September 1980 by which he has been reverted.</p> <p>List this petition after three days.</p> <p style="text-align: right;">L 19.9.80 MA</p>	
	25.9.80 for	b
25.9.80	<p>Cont. for orders.</p> <p>Hon. Misra, J. Hon. Venka, J. - Adyoin 25.9.80</p>	
	7.10.80 has made Ben	

A/98

9

12/11

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

w/p

No.

2533

of 1980

25.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
7-10-80	<p>Writ for orders</p> <p>Mr. Varma C</p> <p>Mr. Goyal C</p> <p>The amendment is allowed The petitioner is directed to file an amended copy of the writ petition within three days. A copy of the amended petition shall be served on the Counsel for the Union of India. With this petition for orders after three days. The Misc Application shall be listed along with the writ petition.</p> <p>by Ks 21. 10. 80</p>	<p>7/10/80</p> <p>102</p>
10.10.80	<p>Writ with em No. 51330.</p> <p>- 20 for orders.</p> <p>Mr. Mishra J</p> <p>Mr. Mathur J</p>	

Handwritten signature and initials at the bottom right of the page.

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
24.10.82	<p>Writ with em. No. 5133 (W) for order</p> <p>Mr. Mubray Mr. Verma Admt. gme notice on stay, order passed</p>	24.10.82
23/2/84	<p>Filed for the date X 2. to o.p. X 4. The R.P. for filing of A. etc.</p>	24/11/81
C.M. on 24/29 @ 81.	<p>Am. K.N. Goyal S</p>	23/2/84
<p>Put up with record.</p>	<p>30 - K.N. Goyal 25-3-81</p>	
4.5.81	<p>4-5-81 had ud CM on 24/29 @ 81 of S</p>	
	<p>Mr. K.N. Goyal J.</p>	
	<p>list in the next week also to be in the next week.</p>	

4/5/81

12

4/99

2833

12/99

ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 2833

of 1982

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
12-5-81	<p>12-5-81 fixed in cur. an. 2429 (w) 81</p> <p>Hon. Coyal J.</p> <p>No time left. Adjourned.</p> <p>Boodi</p> <p>8</p> <p>14/81</p>	<p>10/81</p> <p>10/81</p> <p>8/81</p>
18-5-81	<p>Fixed in cur. an. 2429 (w) 81</p> <p>Hon. D. N. Singh</p>	
7-8-81	<p>7-8-81 fixed in cur. an. 2429 (w) 81</p> <p>Hon. Coel, J.</p> <p>Sri Bishish Nathani's Trivedi prays for and is allowed two weeks' time for counter affidavit to his application and also the counter affidavit to his writ petition. Petitioner may file rejoinder within a week (working) date immediately thereafter.</p>	

7/10/81

13

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned	
1	2	3	
28-8-81	28-8-81		
28-8-81	28-8-81 2429 CW 81	cl	1A
	Hon. Groel, J.		
	Stand out		
	Bo. etc		
	28/8/81		
	Fixed in C.M. No. 2429-81		
3-9-81	Hon. Groel, J.		
	Stand out		
	Bo. etc		
	3/9/81		
	25.9.81	cl	1A
25-9-81	Hon. Mathur, J.		
	S.O. 25-9-81		
	1-10-81		
1-10-81	Hon. Mathur, J.		
	S.O. 1.10.81		
15-10-81	Hon. Groel, J.		
	Case shall stand out		
	on the request of Sri A.N. Trivedi		
	who is on leave.		

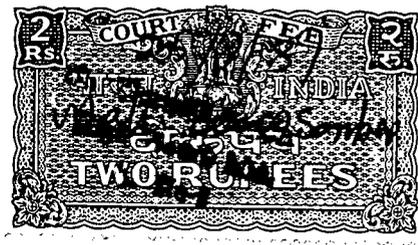
MHS/-
20-11-81 cl/m cl 1A

In the Central Administrative Tribunal

Additional Bench - Allahabad

Circuit Bench - Lucknow.

99
~~Q.A. No. 761/87 (A) M~~
~~of 1989 (C)~~
W.P.A. N. 691/87 W
W.P.R. 26-10-89 W



Mata Deen Sonakar

... Petitioner

Vs

Union of India & Others

...Opp. parties.

*Filed today
12/11/89*

REJOINDER AFFIDAVIT TO THE COUNTER-AFFIDAVIT
FILED BY OPPOSITE PARTIES NO.1,2 AND 3.

I, Mata Deen Sonkar, aged about 49 years, son of Sri Late) M.R. Sonkar, resident of sonkar Bandhu Ka Hata, Mangal Pandey Road, Lucknow state on oath as under.

1. That the contents of para 1 of the counter affidavit are not admitted as framed, the deponent of the counter- affidavit is only a Lt. Colonel and not Colonel.

2. That the contents of paras 2,3 and 20 of the counter- affidavit need no reply.

3. That the contents of paras 4 and 5 of the Counter -Affidavit are not admitted as framed the correct position of the vacancies of the Office Superintendents for Scheduled Caste candidates under reservation quota have not been shown, the two vacancies of the post of



(Signature)

14

A/100
12/3/4

ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No.

of 198

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
20.11.81	<p>In Mallow's.</p> <p>Shri A. M. Trivedi, learned counsel for the Union of India, states that he has received instructions from the Department concerned according to which the petitioner was not required to hand over charge in respect of the post for which he has been reverted so as to give effect to the order of reversion. The learned counsel therefore prays that the interim order dated 20th Oct, 1981 passed by this Court is of no avail to the petitioner. In the present application no averment has been made that the petitioner continues to work on the higher post in spite of order of reversion. In view of this prays for and is allowed 24 hours time to file supplementary affidavit.</p>	

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	<p>in support of this has application. Copy of this supplementary affidavit shall be served upon Si A. H. Jived. who may file counter affidavit within one week. List immediately thereafter.</p>	
	<p>↓ 20-11-81 e</p>	
	15.12.81	cl 12
15.12.81	<p>Cum An-2429 (W) 81 for Hon. Gopal J. No sitting. Adjourned Boudé $\frac{8}{15/12/81}$</p>	
	29.1.82	
2/3/82	<p>3-3-82 from Court 2429 (W) 81 Honble U.C.S.J.</p>	<p>cl 12 cl</p>
	<p>Although time was granted</p>	

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A/101
13/8

ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 2833

of 198 0

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	<p>on 29.11.01 to file an affidavit but no affidavit has been filed as yet. Sri Trivedi prays for and is allowed three days time to file the affidavit. No further time shall be allowed.</p> <p>list on 15.2.1902.</p> <p style="text-align: right;">3.3.1902</p>	
15-3-82	<p>Com An. 2429 (1981) for order.</p> <p>Hon. U.C.S.J.</p> <p style="text-align: right;">So</p>	
1/4/82	<p>J.4.02</p> <p>26.3.82 for ~</p> <p>Com 2429 (1981)</p> <p><u>House ques. 7.</u></p> <p style="text-align: right;">So</p>	et ha
8/4/82	<p>fixed in com An NO 2429-81</p> <p><u>House ques. 7.</u></p> <p>Learned counsel for the petitioner states that the counter affidavit has been received only this</p>	

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	<p>weeks and prays for one weeks time to file rejoinder affidavit, Time prayed for is granted, list immediately after one week,</p> <p style="text-align: right;">✓</p> <p style="text-align: right;">3-2-82</p>	
20-4-82	<p>Learned counsel for the petitioner prays for one week's time to file rejoinder affidavit. Time prayed for is granted. list it after one week,</p> <p style="text-align: right;">✓</p> <p style="text-align: right;">20-4-82</p>	
28-5-82	<p>Learned counsel for the petitioner prays for one week's time to file rejoinder affidavit. Time prayed for is granted. list it after one week,</p> <p style="text-align: right;">✓</p> <p style="text-align: right;">28-5-82</p>	

18

A/102
13/6

ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P.

No. 2533

of 1980.

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1.	2.	3.
28.5.82	fixed c.m. No 24 29/5 of 82 for orders H.M. V.C. S.J.	
12.8.82	Fixed c.v. No 2429/10 of 82 for orders H.M. V.C. S.J.	C.A. Singh
	<p>The Court while allowing the writ petition passed a qualifying order in para 22 of the Court order. It has been stated that the order passed in the writ and resumption of charge on resumption in such cases is automatic and does not involve handing over / taking over of any material or stores. It is not in dispute that the petitioner may not be ^{not disputed that} as ^{is not not working} as an officer Superintendent and salary of lower post ^{is being} may ^{will} be ^{be} given to him. If the petitioner ^{succeeds} is entitled ^{he may get} to the post of Superintendent and salary of the said post including of the period of ⁱⁿ the ^{the} interim ^{interim} there is no ^{there is no} question of any relief ^{question of any relief} as claimed in ^{as claimed in} his application. This application is quashed ^{quashed}.</p>	
	11-8-82	

S.R.
21/8/82

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
21.8.02	<p><u>Report</u></p> <p>OMPS 163 are represented by Sri Ashish N. Trivedi. Adversely, police request to opposition party has not been received back since 21.11.01.</p>	
	<p><u>Bill</u> 21.8.02</p>	
25.8.02	<p><u>Bill</u></p> <p>See the session report dated 21.8.02. Opponent parties are 163 are represented through Chief Standing Counsel (Central). Session agenda suspended upon opponent parties only under Chapter VII rule 12 of Rules of Court. Dis/offer is directed to proceed</p>	
	<p><u>Bill</u> 25.8.02</p>	

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 691 of 1987 (T)

APPELLANT
APPLICANT

Shri M. D. Shankar Sonkan

VERSUS

DEFENDANT
RESPONDENT

Govt

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
7/9/89	<p>Non. Justice K. Nath, VC. Non. K. D. Roman, Am.</p> <p>Sri T. N. Bajpai makes appearance on behalf of the applicant and requests for adjournment. No one is present on behalf of the opposite parties and list for orders on 26-10-89. Since this case has been received from Allahabad Bench, we direct that fresh notices be issued to the opposite parties from this office.</p> <p>VC Am.</p>	<p>OR This case has been read from C.A. filed on 11.7.87. C.P. is Admitted. Stay continue. R.A. has been filed on behalf of C.P. No. 1 to 3. No reply has filed on behalf of C.P. No. 4.</p> <p>Notices issued from Allah. C.A. attached.</p> <p>order submitted for h/ 6/3</p> <p>OR Notice issued 11/9/89</p> <p>OR Notices were issued on 11-9-87 No undelivered copy. Cover has been returned back. No R.A. has been submitted for order h/ 25/2</p>

A/103

TA 691/07/17

22/11/89

Hon. Justice K. Nath, VC

Fresh notices were issued to the opposite parties by registered post on 11/9/89 but nobody has made appearance on their behalf. The applicant's learned counsel has filed rejoinders. The case be listed for final hearing on 14/12/89.

VC

13/14-12/89

No sitting Adj. to 2-1-90
Both the parties are present

14/12

Hon' Mr Justice Kamleshwar Nath, V.C.
Hon' Mr K. Obayya, A.M.

Submitted for hearing

2/1/90

On the request of the parties, the case is listed for final hearing on 28-2-90.

A.M.

VC

5-8 hearing

(SNS)

28/2/90

Hon. Justice K. Nath, VC
Hon. K. J. Ramani, J.

Shri. P. M. Bajpai for the applicant and Shri. V. K. Chanchary for the opposite parties are present. On their request the case be adjourned & listed for hearing on 20/4/90. The opposite parties' counsel will keep ready for perusal of the Tribunal, if necessary, the minutes of the meeting of the DPC along with the hotpoint roster considered by the DPC on the matter of reduction of strength and consequential reversion of the applicant.

VC

VC

F.A. 671/87 (1)

22 A/104

20490.

Applicant is present.
No sitting case is adjourned to 26-6-90.

R

S.F.H
h
25/5

26/6/90

Honble Mr. Justice K. Nath, V.C.
Honble Mr. K. Obbaya, A.M.

on the Adjournment prayed from Shri
P.N. Baij Pai for the applicant the case is adjourned
for final hearing on 24/7/1990. No ~~for~~ the
further adjournment.

Sd


A.M.


V.C.

24-7-90

~~#~~ Put up tomorrow.

By 
B.O.C.


S.F.H
h
25/7

Received copy of
Judgement


9/8/90 Ag

Received copy for V.K. Chandra!
O/o 
21-8-90
(G.M. Pandey)

Central Administrative Tribunal, Circuit Bench, Lucknow.

Transfer application no. 691 of 1987 (T)
(Writ petition No. 2533 of 1980 of the High Court
of Judicature at Allahabad (Lucknow Bench) Lucknow)

M.D. Sonkar ... Petitioner

Vs.

Union of India & others ... Opp. Parties

Hon'ble M r. Justice K. Nath, VC,
Hon'ble Mr. K. Obayya, AM

Writ petition No. 2533 of 1980 is before us on transfer under Section 29 of the Administrative Tribunals Act, 1985, for quashing Annexure-5 dated 9-9-1980, whereby the petitioner, Mata Din Sonkar, working as Office Superintendent, Grade-II was reverted to the post of Upper Division Clerk w.e.f. 1st September, 1980. There is a consequential prayer for treating the applicant to be promoted as Office Superintendent in the reserved category vacancy on the refusal of B.B. Gaikwad to assume charge of that post.

2. The material facts of the case are not in dispute. Among the vacancies of Office Superintendent, Grade-II which existed in 1977, there was one vacancy for Scheduled Caste which had been brought forward from the reserved category quota. On 1-11-1977, B. Krishnan, a Scheduled Caste employee was offered the post; on his declining, the appointment was cancelled. The same thing happened in respect of M.C. Mohakar, who was appointed on 26-5-1978 and B.B. Gaikwad, who was appointed on 2-8-1978.

Ultimately A.C. Balmiki was appointed on 27-10-1978,

OP

but the said appointment appears to have been stayed under the orders of the Hon'ble High Court in some other case which stay was vacated.

3. After the stay order had been vacated, B.B. Gaikwad was again appointed on 31-8-1979, but again he declined.

4. The next selection took place in June 1980. In the meantime another vacancy of general category accrued from 1-5-1980. As a result of the selection, both the petitioner and respondent no. 4/ US Chukla were appointed as Office Superintendent, Grade-II. In the combined gradation list, US Chukla was senior to the applicant. Consequently, US Chukla was appointed against the vacancy of 1977 which initially was brought forward vacancy of reserved quota, whereas the applicant was appointed against the general category post which fell on 1-5-1980.

5. In October 1980, there was reduction of staff and at that time respondent no. 4/US Chukla was occupying the earlier vacancy, whereas the applicant was occupying the later vacancy with the result that on reduction of the staff, the applicant was reverted, whereas the respondent no. 4/ US Chukla was retained. This writ petition was filed in the Hon'ble High Court on 12-9-80 - before the orders of reversion were passed and that is why the first relief was to direct the respondents not to revert the petitioner from the post of Office Superintendent, Grade-II. However, the reversion did take place by order dated 9-9-1980 which has been impugned in the aforesaid case.

82

6. The grievance of the petitioner is that belonging to the Scheduled Caste category, he was entitled to be selected and posted against the brought forward Scheduled Caste category post from 1977 and the new vacancy which accrued in May 1980 could alone have been placed at the disposal of respondent no. 4/US Shukla. If that was done, he would have ranked senior to respondent no. 4/US Shukla and on reduction of strength, it is the respondent no. 4/US Shukla who had gone and not the petitioner.

7. The substance of the reply of respondents is that when the appointment to the post of Office Superintendent, Grade-II was taken up, there were four posts of Office Superintendent, Grade-II of which one was to go to reserved category candidate and the respondent no. 4 being senior to the petitioner in the combined gradation list of Upper Division Clerks, promotion was given for the senior post to respondent no. 4 and the petitioner was given promotion subsequent to the promotion of respondent no. 4. The Departmental Promotion Committee for the reserved category candidates took place on 13-6-1980 and approved the petitioner's promotion. The Departmental Promotion Committee for the general candidate took place on 5-6-1980 and the respondent no. 4 was selected. On these selections, one promotion order was passed on one day and that is how respondent no. 4 being senior to the petitioner was placed at a higher position than the petitioner. It is next said that when the reduction in staff took place in October 1980, there were only three posts of Scheduled Caste candidates. There

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could not have been a reservation quota against amongst those three posts and, therefore, as also for the reason of higher placement in the seniority, the respondent no. 4 was retained, whereas the petitioner was reverted.

8. We have heard the learned counsel for the petitioner Sri P.N. Bajpai, Advocate and Sri V.K. Chaudhary for the respondents and have gone through the counter affidavit/rejoinder affidavit etc. We are of the opinion that the department fell in a fundamental error in appreciating the ^{true} ~~two~~ nature of reservation requirement when the appointment was made in June 1980. On the admitted facts that a reservation category vacancy was being brought forward from the past and was in existence in 1977 and also in the subsequent years alongwith the general category post which either existed or reduced later on, there can be no manner of doubt that on selection to this post as soon as a reserved category candidate is selected, he must have been given an appointment against the reserved category post which had been brought forward. It is well settled that the brought forward vacancy must be filled first in a recruitment and thereafter the general category vacancy. The erstwhile seniority in the general gradation list is of no relevance; the senior general category candidate must give way to the junior reserved category candidate against the vacancy which is meant for the reserved category candidate: See, Akhil Bhartiya Shoshit Karmchari Sangh Vs; Union of India, 1981 S.C. 298 at p. 319.

L.

9. We hold, therefore, that while making selection in June 1980, the respondents ought not to have posted respondent no. 4 against the vacancy of 1977 which admittedly was being brought forward as a reserved category post; the respondent no. 4 ought to have been placed in the next lower general category vacancy and the petitioner must have been posted in the reserved category post in 1977. That being so, the petitioner should have been treated to be senior in the gradation list of Office Superintendent, Grade-II to respondent no. 4. The result is that when the reduction in staff took place in October 1980, it is the respondent no. 4, who should have gone and not the petitioner. The respondents' contention that when the reduction of the staff took place, there were only three vacancies, so there could be no reservation point for a reserved category candidate among the general category candidates, is wholly misconceived. If the petitioner was entitled to be appointed in June 1980, it must be deemed that he was appointed as such and when it is deemed that he was accorded appointment, the subsequent reduction of vacancy in October 1980 is not concerned with him at all.

10. The learned counsel for the respondents, Sri V.K. Chaudhary says that respondent no. 4 retired in 1984 and on account of that retirement the petitioner would not be entitled to be posted as Office Superintendent, Grade-II. It is not possible for us to hazard any opinion upon this point because it is not subject-matter of dispute in this writ petition. So far as the present case is concerned, the petitioner must be given reliefs to be declared

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Office Superintendent, Grade-II from June 1980 and the reversion order dated 9-9-1980 (Annexure-5) must be quashed.

11. The petition is allowed and the impugned reversion order dated 9-9-1980 (Annexure-5) is quashed. It is declared that the petitioner shall be deemed to have continued to hold the post of Office Superintendent, Grade-II from June 1980. He shall also be entitled to back wages of the post of Office Superintendent, Grade-II from the date of impugned order of reversion, i.e. 9-9-1980, and shall be paid the difference admissible in that light. He shall also be considered for such other benefits as may have been admissible to him in his service career as Office Superintendent, Grade-II or other post to which he may be entitled in accordance with the applicable law and rules.

12. The respondents are directed to implement this decision within a period of four months from the date of receipt of a copy of this judgment. Parties shall bear their own costs.


(A.M.)


(V.C.)

Dated : Lucknow

July 26 , 1990.

ENAM/