

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE *TA 697* OF *1987*NAME OF THE PARTIES *Ram Shankar & 7 others*

Applicant

Versus

Union of India & 26 others Respondent

Part A, B & C

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2	<i>Judgment</i>	<i>A-4 to 9</i> ✓
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CERTIFICATE

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

*File B/C destroyed on 10.9.85-12.*Dated... *31.3.2011*

Counter Signed.....

Section Officer / In charge

Signature of the
Dealing Assistant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRAR FILE No. FA 697 of 1987 (T)

APPELLANT
APPLICANT

VERSUS

DEFENDANT
RESPONDENT

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

OR

Due to shortage of service stamps ordinary notices ^{may} be issued to the private respondents as 33 notices are to be issued in this case.

Planned
28/10/09
P.S. for Hon. VC.

No sitting held to 6.2.90
Applicant no. 1, 5, 4, 2, 6 are present &
Repld. No 11 & 23 are present.

L
21/11/09

No sitting held to 6.4.90

L
6/2

Hon. Justice, K. Nath, V.C.
Hon. K. J. Ramani, A.M.

The applicant Shri Ram Shankar Shri Chet Ram, Shri Shobh. Nath and Shri Laloo Prasad are present in person. Rest of the applicants are presumed to be served as notice issued by registered post has not been received back from them.

OR
This case has been read on 20.10.09
CA filed on behalf of 3, 5 & 10
12 to 20
22 to 27
R.A. filed
CA not filed on behalf of 1, 2, 4, 11, 21
Notices were issued on 20.10.09.
No answer has been received.

S. P. O.

(77)

10.9.90

Hon'ble Justice K. Math. v.c

" Mr. M. M. Singh AM.

Applicants in Person,

Their Counsel not Present,

84 Arjun Bhargava for Defendants
Put up tomorrow.

H H Lu

A M.

ll

v.c

11-9-90

Hon'ble Justice K. Math. v.c

Hon'ble Mr. M. M. Singh - AM.

Argument heard, Judgment
reserved.

H H Lu

A M.

ll

v.c

For and by
Ramesh
19/11/90

Re by

J. C. 10/11

(9)

(13)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH
LUCKNOW

T.A. 697/87 (T)

(Writ Petition No. 3051/80 of High Court of Judicature
Allahabad, Lucknow Bench, Lucknow.)

Ram Shankar & 7 others

..Petitioners.

versus

Union of India & 26 others

..Respondents.

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

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

(By Hon. Mr. Justice K. Nath, V.C.).

The Writ Petition described above is before this Tribunal under section 29 of the Administrative Tribunals Act, 1985 for a writ of certiorari to quash the order dated 16.10.1980 (Annexure -4) whereby the respondents 3 to 27 were appointed to the post of Assistant Compiler in the Census Department of respondent No.2. There is also a prayer to direct the respondent No.2 to consider the petitioners' case for promotion or direct recruitment to that post.

2. Petitioner No. 7 Ch-unnilal was a Chowkidar whereas the remaining 7 petitioners were peons, all in Class IV (now Group 'D') in the Census Department under respondent No. 2 working since different dates between 1.7.69 and 25.2.75. When the Writ Petition was filed on 27.10.1980, their age was between 26 and 30 years. They claim to be recruited to the post of Assistant Compiler, a Class III ~~post~~ (now Group 'C') post, in that very department and have challenged the selection and appointment of Respondents 3 to 27 by order dated 16.10.1980, Annexure 4 on the ground that the petitioners have been wrongly excluded from the selection Examination held for the purpose.

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3. The respondents' case is that the petitioners were not eligible because they did not possess the requisite speed in English Typing, for which an internal test was held, nor possessed proficiency in operating the concerned calculating machines as the alternative criterion.

4. We have heard Shri B.C. Saxena for the applicants and Dr. Dinesh Chandra for the respondents and have gone through the record. It is necessary to appreciate the applicable Rules.

5. Annexure I contains the "Office of the Director of Census Operations & Ex Officio Superintendent of Census Operations U.P. (Class III and Class IV posts) Recruitment Rules, 1974" (for short 'Rules'). The classification, criteria of eligibility, method of recruitment etc. are set out in the Schedule annexed to the Rules. Col. No. 10 provides only for the method of "Direct Recruitment"; there can be no promotion from class IV.

6. The prescribed maximum age of recruitment, according to Column 6 is 21 years. The essential qualification required is passing of Matriculation or Equivalent examination plus Proficiency in Operating Calculating Machines or Experience in Coding and Punching in an office or firm having Mechanical Tabulation. By an Amendment dated 24.11.78 contained in Annexure III the Direct Recruitment Quota was fixed at 75% of the vacancies occurring in the year of which 10% was to be filled from those Group 'D' employees who fulfill the educational qualifications set out in Col. 7, have 5 years or more of service and not more than 45 years of age (50 years for Scheduled Caste/Scheduled Tribes employees). Remaining 25% vacancies were to be filled by transfer, failing which by Direct Recruitment."

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7. The last amendment, relevant for the purposes of this case, is dated 2.2.79 contained in Ann. II. By this amendment the educational qualifications set out in Col. 7 of Annexure I were amended. Passing of Matriculation or equivalent Examination was retained. A minimum typing speed of 30 words per minutes in English was inserted, and in alternative thereof proficiency in operating Calculating Machines etc. or experience in Coding in an office or firm having mechanical Tabulation equipment was stipulated.

8. Before the first amendment, the Govt. of India issued certain instructions. Annexed to Annexure V is a general policy letter dated 14.11.1975 of the Govt. which referred to an earlier decision contained in letter dated 26.12.1962 and recorded a revised decision that "there should be no objection to departmental candidates being considered along with nominees of the Employment Exchange for posts filled by Direct Recruitment in the same department in which the employees are working.....provided they fulfil the prescribed age, educational qualifications prescribed for the posts in question and no other preferential treatment is given to such departmental candidates."

9. Then came the 2nd instruction in Govt. of India letter dated 20.7.1976 annexed to letter dated 26.12.1976 Annexure 8. This is also a general policy decision which says that for direct recruitment in Group 'C' and 'D' posts/service the upper age limit will be relaxable upto the age of 35 years in respect of persons who are working in posts which are in the same line or allied cadres etc., provided that person has rendered not less than 3 years continuous service in the same department.

10. It will be seen that in course of time the above measures brought about relaxations in the eligibility criteria

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of departmental Group 'D' employees for the purpose of appointment to Group 'C' posts. The Govt's. power to make relaxation is specifically reserved by Rule 7 which says that the Central Govt. may "for reasons to be recorded in writing relax any of the provisions of these Rules with respect to any class or category of persons or posts".

11. The scheme of the Rules considered as a whole, thus, is that departmental Group D candidates were eligible at the time of the impugned recruitment, for recruitment to Group 'C' posts if they had rendered not less than 3 years of service, had not attained the age of 35 years and possessed pass qualification of Matriculation or equivalent together with a minimum typing speed of 30 words per minutes in English or in the alternative thereof proficiency in operating Calculating Machines etc. or experience in Coding in an office or firm having mechanical tabulation equipment.

12. The petitioners claim that they fulfilled all these criteria, hence they were wrongly excluded from the recruitment. The respondents contend that an internal typing test was taken and all the applicants were found deficient as detailed in para 4 of the Counter, hence they were not eligible. The applicants' learned counsel rightly contends that that test was not a part of the recruitment process, and that in any case the alternative qualification of proficiency in operating Calculating Machines etc. was still at the applicants' option for which they did possess experience on the department's own machines.

13. According to para 4 of the counter affidavit, the internal typing test was held on 17.7.1980 whereas the actual recruitment examination, on the names being sponsored by the Employment Exchange was held later on. We are of the opinion that the typing speed test should have been a contemporaneous test with the candidates sponsored by the Employment Exchange. The test dated 17.7.1980 can't

be treated to be a test in the course of recruitment process. Even if it be assumed that the departmental candidates could be screened by means of an internal test, the requirement of typing was not the only qualification requisite for appointment as Assistant Compiler. It was open to the departmental candidates to be proficient either in typing or in operating Calculating Machines ^{had} or experience in Coding as set out in Annexure-2. The applicant's case is that they had the occasion of operating these Machines etc. in the office itself, and therefore, they had proficiency in that respect.

It is clear, therefore, that even if the applicants failed in the internal screening test of typing held on 17.7.80 they could claim that they had proficiency in operating Machine or experience in Coding in an office or firm having Mechanical Tabulation equipment. Respondent No.2 did not examine that aspect of the applicants' eligibility and therefore, we hold that the exclusion xxxxx of the applicants from the examination was incorrect.

14. The only question which now remains, relates to the nature of relief which the applicants may be suitably awarded. The impugned order of appointment of respondents 3 to 27 by Annexure 4 dated 16.10.1980 never became effective because the appointment was made only upto 28.2.1981 and its operation was stayed by order dated 30.10.80, which was modified by an order dated 18.11.1980 authorising the respondents 1 and 2 to appoint 17 out of respondents 3 to 27 and to keep 8 posts in reserve for the petitioners. The Hon'ble Court further directed that any appointment shall be subject to the ultimate result of the writ petition. In the situation, none of the respondents 3 to 27 could actually be appointed as Assistant Compiler. Their appointment being only for the limited period upto 28.2.1981 also came to an end. In this situation the relief for quashing the appointment

(9)

order (Annexure 4) has become infructuous.

15. The second relief requiring the respondents 1 and 2 to consider the petitioner's case for promotion cannot be accepted because, the rules do not provide for appointment of Assistant Compilers by promotion; the entire appointment is to be made by direct recruitment vide column 10 of the Schedule to the rules (Annexure -1).

16. The applicants' alternative prayer to be considered for direct recruitment has substance if they are found eligible in accordance with the requirement of typing speed or the alternative requirement of proficiency in operating Calculating Machines or experience in Coding in an office or firm having Mechanical Tabulation equipment. The applicants will be entitled in the light provided a process of recruitment is taken in hand and they are also found to satisfy the requirement of age limits.

17. This petition is accordingly disposed of in terms of the observations made in paras 13, 14, 15 and 16 above. Parties to bear their own costs.

H. H. Singh
ADM. MEMBER.


VICE CHAIRMAN.

LUCKNOW DATED Nov 15, 1990.

CIVIL

CRIMINAL

SIDE

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case..... W.P. 3051-80

Name of parties..... Ram Sharan vs. Union of India

Date of institution..... 29-10-80

Date of decision.....

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
					Rs. P.			
			1					
			30	11	102 -			
			1	2	5 -			
3	5-	2 M A 619) (@) 80	3	2	5 -			
1-	6	Center official	11	2	2 -			
	7	Power	1	2	5 -			
	8	Center official	12	1	2 -			
3	9	BT Rajah official	12		2 00			
	10	Supplementary official	8		2 00			

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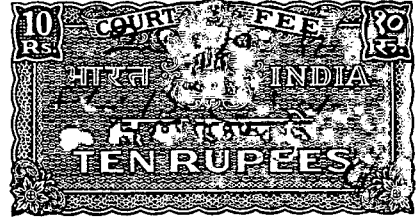
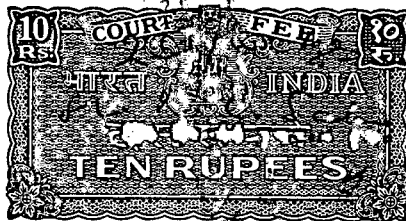
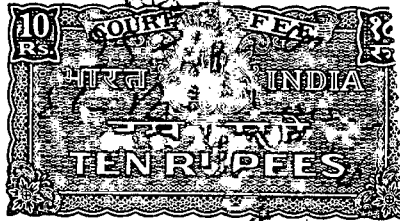
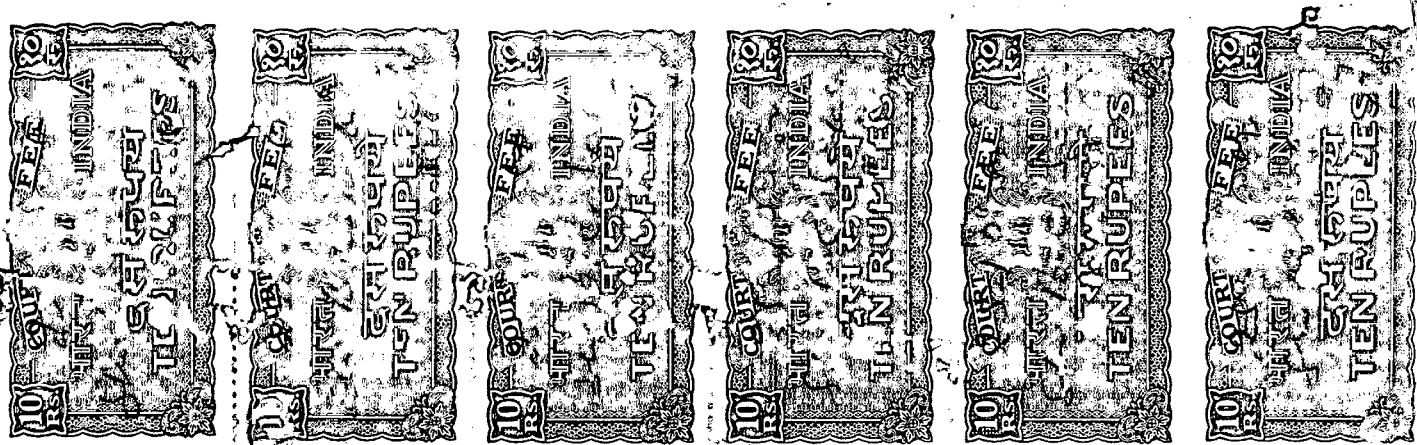
examined

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

Date.....

Munsarim

Clerk



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

Petition under Article 226 of the Constitution
of India

Petition No. _____ of 1930

1. Ram Prasad, aged about 30 years, son of
Sri Kant Ram
2. Shri Kant Singh, aged about 29 years, son of Sri Babu Lal
3. Babu Kant, aged about 28 years, son of Sri
~~Jaganath Prasad~~ Mishri Lal
4. Babu Nath, aged about 27 years, son of Sri
Jaganath Prasad
5. Ayodhya Prasad, aged about 30 years, son of Sri
B.L. Nath
6. Laloo Prasad, aged about 29 years, son of Sri
Baju Prasad
7. Channa Lal, aged about 29 years, son of Sri
Nathu
8. Govind Prasad, aged about 26 years, son of Sri

all at present working as Peons in the office
of the District, Census Operations, 6, Park Road,
Lucknow

5/11/30
Ram Shankar

13

26. Madan Prasad

27. Parashram

Maid's, Father's name not known

C/o The Director of Census Operations Uttar Pradesh, Lucknow, 6 Park Road Lucknow.

Opp-posites

This humble petition on behalf of the petitioners above-named most respectfully sheweth:-

1. That the petitioners are at present working as clerks in the office of the Director, Census Operations, U.P., Lucknow. The petitioners academic qualification is articulation and they have proficiency in operating calculating machines viz., electrically operated calculating machines, hand operated comptometer and have also experience in coding in mechanical tabulation equipment. The petitioner also know typing in English.

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Ram Shanker

2. That the President of India in exercise of powers conferred by the proviso to article 309 of the Constitution of India had framed rules regulating the method of recruitment to the Class III and Class IV posts in the office of the Director of Census Operations and ex-officio Superintendent of Census Operations, Uttar Pradesh. The said rules have been published in the Government of India Gazette dated 20.10.1974 part II section 3(1) at page 2672. The said rules are

called the Officer of the Director of Census Operation and ex-Officio Superintendent of Census Operations, Uttar Pradesh, (Class III and Class IV posts) Recruitment Rules, 1974.

3. That the post of Assistant Compiler has been classified as Central Civil Service Class III, non-gazetted, non-ministerial in the pay scale of Rs. 110-180 now equated to Rs. 260-400. The minimum age qualification for the said post is 21 years and the method of recruitment indicated in the said rules for the said post is direct recruitment. A true copy of the relevant extract of the said rules is being annexed as Annexure No. 1 to this petition.

4. That the said rules have been amended by means of a notification dated 2.2.1979 published in the Government of India Gazette Part II section 3 sub-section 1) dated 2.2.1979. The said amendment substitutes the educational and other qualifications laid down in the 1974 rules for the post of Assistant Compiler. At present the requisite qualification for the said post is as follows:-

Essential:

1. Matriculation or equivalent
2. Minimum speed of 30 words per minute in type-writing in English

or

Proficiency in operating calculating machines, viz., electrically operated calculating machines, and model in computer

or

Experience in coding in an office or firm having mechanical tabulation equipment

Ram Shanker

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A true copy of the said notification dated 2.2.1979 is being annexed as Annexure no.2 to this petition.

5. That the said recruitment rules 1974 were further amended by means of notification dated 24.11.1978 which rules are called the Office of the Director of Census Operations and Ex-officio Superintendent of Census Operations Uttar Pradesh (Group C and Group D Posts) Recruitment (Amendment) Rules, 1978. A true copy of the said notification is being annexed as Annexure no. 3 to this petition.

6. That the classification of the posts as Class III and Class IV was modified and changed to classification of Group C and Group D respectively. Posts which theretofore were classified as Class IV posts have been classified as Group 'D' posts. The post of a person was classified as a class IV post and is at present being classified as Group D post. The respective dates of regular appointment of the petitioners against Group D posts in the office of opposite-party no.2 are being given hereinafter below:

Petitioner no.	Date of regular appointment against group D post.
1	1.7.1969
2	1.3.1972
3	1.3.1972
4	25.2.1975
5	1.3.1972
6	1.3.1972
7	24.7.1972
8	24.5.1973

Thus the petitioners have more than five years of service in group 'D' to their credit.

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Ram Shanker

7. That by an order dated 16.10.1980 bearing no. I-83-30/ DCO-UP/A-3790 opposite-party no.2 has passed orders for appointment of opposite-parties nos. 3 to 27 on the post of Assistant Compiler grade Rs. 260-400 on adhoc and temporary capacity for the period 1-11-1980 to 28.2.1981. The said order of appointment has been issued without considering the claim of the petitioners for appointment to the post of Assistant Compiler. A true copy of the said order dated 16.10.1980 is being annexed as Annexure no.4 to this petition.

8. That opposite-parties nos. 3 to 27 are rank outsiders whose names were sent by the Employment Exchange, Lucknow in response to a requisition from the office of opposite-party no.2. The said opposite-parties nos. 3 to 27 were subjected to an interview. The petitioners were not called at the said interview nor their case for promotion against the said post of Assistant Compiler has been considered.

9. That by means of letter no. A-7066-/ SDO-UP/23-74-(36)/68 dated 7.1.1976 issued from the office of opposite-party no.2 a copy of Department of Personnel and Administrative Reforms O.M.no.14024/2/75 Estt(D) ^{14.11.1975} on the subject of appointment of departmental candidates against the posts in the said department which are to be filled by direct recruitment was circulated. A true copy of the said office memorandum dated 14.11.1975 as also the said letter dated 7.1.1976 is being annexed as Annexure no. 5 to this petition.

Ram Shanker

(16)

(Signature)

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

Writ Petition No. _____ of 1980
Ram Shankar and others.....Petitioners.
Versus
Union of India and others.....Opposite Parties.

Annexure No. 1.

(Office of the Registrar General, India)
New Delhi, the 7th October, 1974.

G.S.R. 1142 - In exercise of the powers conferred by the proviso to article 309 of the Constitution, the ~~Prime~~ President hereby makes the following rules regulating the method of recruitment to the Class III and Class IV posts in the Office of the Director of Census Operations and ex-officio Superintendent of Census Operations, Uttar Pradesh, namely:-

2. Short title and commencement.--(1) These rules may be called the Office of the Director of Census Operations and ex-Officio Superintendent of Census Operations, Uttar Pradesh (Class III and Class IV posts) Recruitment Rules, 1974.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Application.--These rules shall apply to the posts specified in column 1 of the Schedule annexed hereto.

3. Number of posts, classification and scale of pay.--The number of the said posts, their classi-

Ram Shankar

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fication and the scale of pay attached thereto, shall be as specified in columns 2 to 4 of the said Schedule.

4. Method of Recruitment, age & limit and other qualifications etc.-- The methods of recruitment, age limit, qualifications and other matters relating to the said posts, shall be as specified in columns 5 to 13 of the Schedule aforesaid.

5. Disqualifications.--No person,--

(a) who has entered into, or contracted, a marriage with a person having a spouse living, or

(b) who, having a spouse living, has entered into, or contracted a marriage with any person, shall be eligible for appointment to any of the said posts:

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and there are other ~~social~~ ~~categories of persons in accordance with the orders issued by the Central Government from time to time in regard to~~ grounds for so doing, exempt any person from the operation of this rule.

6. Saving.--Nothing to these rules shall affect reservations and other concessions required to be provided for the members of the Scheduled Castes, the Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

7. Power to relax.--Where the Central Government is of opinion that it is necessary or expedient to do so, it may, by order, for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons of posts.

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Ram Shanker

19 Assistant Compiler 18

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Essential:

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P.T.O.

Circumstances in which UPSC is to be consulted in making recruitment.

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Not applicable

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Dean Shanker

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against item 19 relating to the post of Assistant compiler the following shall be substituted, namely:-

Essential:-

1. Matriculation or equivalent
2. Minimum speed of 30 words per minute in typewriting in English

or

✓ Proficiency in operating calculating machines, viz. electrically operated calculated machines, hand model or comptometer

or

Experience in coding in an office or firm having mechanical tabulation equipment.

Sd. P. Padmanabha
Registrar General, India

The Manager,
Government of India Press
Mayapuri (Ring Road)
New Delhi

No. 3/9/78-Ad.1 New Delhi 110011

copy to:-

1. Directorate of Census Operations, U.P.
2. Department of Personnel and A.R. Estt (RR) Section North Block, New Delhi with reference to their D.O. No.4596/73-Estt (RR) dated 25.11.1978
3. Ministry of Law (Legislative Section) New Delhi with reference to their U.O. no. 5010/73-ERO dated 13.12.1978
4. Cdr. file

Sd. V.P. Pandey
Deputy Registrar General, India.

Ram Shanker

28/10

इन दि आनरबुल हाई कोर्ट आफ जुडीकेवर एट इलाहाबाद
लखनऊ बेंच, लखनऊ ।

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(Signature)

रिट पिटीशन नं०

सन् १९८० ।

राम शंकर आदि

-- पिटीशनर्स

बनाम

यूनियन आफ इण्डिया आदि

-- अपोपार्टीज़

अनंकर नं० ४

पत्रांक ए० ई० ८३-८०।डी०सी०बी०-यू०पी०।ए-३७६०

भारत सरकार

गृह मंत्रालय

कार्यालय निदेशक जनगणना परिचालन, उ० प्र०

। प्रशासनिक अनुभाग ।

६ पार्क रोड

लखनऊ : २२६००१

दिनांक: अक्टूबर १६, १९८०

आ द श

निम्नलिखित अभ्यर्थियों को सहायक संकलनकर्ता के पद वेतनमान
रू० २६०-६-२६०-८० री०-६-३३६-८-३६६-८० री०-८-३६०-१०-४०० एवं
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तिथि की जायेगी ।

Ram Shanker

क्रम संख्या

नाम

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सर्व श्री

। सामान्य श्रेणी ।

१-

सुन्दर सिंह कुशवाहा

२-

केलाश चन्द्र पाठक

३-

कु० सरिता जैन

४-

हरीश चन्द प्रसाद

५-

मिथलेश सिंह

६-

राम बिलास

७-

ए० डब्लू० सादिक

८-

अवधेश कुमार बाजपेई

९-

मु० इकबाल सिद्दीकी

१०-

रमा शंकर

११-

शुक देव प्रसाद

१२-

नजीमुद्दीन

१३-

रजनीश कुमार

१४-

राजिन्द्र सिन्हा

१५-

राजिन्द्र प्रसाद श्रीवास्तव

१६-

सुरेश चन्द्र सिंह

१७-

रूप किशोर निगम

१८-

गोपाल सिंह

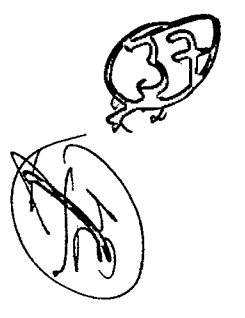
१९-

नगिन्द्र कुमार सिंह

२०-

कु० गौरी बोंस

Ram Shankar



21 - संजय सनवाला

आरक्षित श्रेणी

22 - सत्य प्रकाश

23 - राम अवतार वर्मा

24 - माधो प्रसाद

25 - परशु राम

2 - उपरोक्त अभ्यार्थियों को उक्त पद पर नियुक्ति

की अवधि बढ़ाये जाने या ह्रस्व सेवा पर रहने का कोई अधिकार नहीं होगा, उनकी तदर्थ आधार पर की गई सेवाओं को न तो नियमित नियुक्ति के लिये जीड़ा जायेगा और न ही उच्च पद पर वरिष्ठता हेतु जोड़ी जायेगी।

अन्य सेवा सम्बन्धी शर्तें समय समय पर लागू होने वाले नियमों व आदेशों से अधिनियमित होगी।

ह0 - अष्टनीय।
॥ रवीन्द्र गुप्त ॥
निदेशक।

पत्रांक र्ड / 83 - 80. / डीसीओ - यू0पी0 / ए - 3790॥ तददिनांक -

प्रतिलिपि निम्न को सूचनार्थ एवं आवश्यक कार्यवाही

हेतु प्रेषित : -

- 1 - सम्बन्धी अभ्यार्थियों को उनके आवास के पते पर।
- 2 - वेतन एवं लेखा अधिकारी जनगणना ॥ ए जी सी आर डब्लू एण्ड एस बिल्डिंग, नई दिल्ली।
- 3 - समस्त उप निदेशक/ सहायक निदेशक जनगणना निदेशालय।
- 4 - लेखाकार को अतिरिक्त प्रतियों सहित।
- 5 - प्र. व. लि. ॥ स्थापना ॥ 30 अतिरिक्त प्रतियों सहित।
- 6 - का. अ./ म. सहा./ वरि. लेखाकार।

Ram Shankar

इन दि आनरेबुल हाई कोर्ट आफ जुडीकेवर एट इलाहाबाद,
लखनऊ बेंच, लखनऊ ।

(41)

रिट पिटीशन नं०

सन् १९८० ।

राम शंकर आदि

-- पिटीशनर

बनाम

यूनियन आफ इण्डिया आदि

-- अपो०पार्टीज

अनंकर नं० ६

स्थापित: १९७७

फोन : २६३७६

उ० प्र० जनगणना चतुर्थी श्रेणी कर्मचारी संगठन

लखनऊ

पत्र संख्या-५/७८

८५ विधान सभा मार्ग

लखनऊ

सेवा में

दिनांक: १६-८-८०

श्रीमान निदेशक महोदय,
जनगणना निदेशालय उत्तर प्रदेश,
लखनऊ ।

विषय:- हाई स्कूल पास गुप डी० कर्मचारी को पदोन्नति से वंचित करने पर

महोदय,

सविनय निवेदन है कि आपका ध्यान भारत सरकार गृह मंत्रालय द्वारा डिपार्टमेंट आफ पर्सनल एडमिनिस्ट्रेटिव आफ रिफायस डी० स्म० नवम्बर १४०२४।७९ दिनांक १४-११-७५ एवं निदेशालय जनगणना उ० प्र० लखनऊ द्वारा ७ जनवरी १९७६ को उप निदेशक प्रशासन द्वारा जारी किये गये सरकुलर की ओर आकषित कराना चाहता है । जिसकी की तक पर रख कर हमारे इस विभाग के वे गुप डी० कर्मचारियों को जो हाई स्कूल पास हैं और जो भारत सरकार के आदेशानुसार वरीयता के आधार पर सहायक संकलनकर्ता के रिक्त पदों पर कार्यालय द्वारा बेहिवक पदोन्नति के अधिकारी हैं । आपके प्रशासन द्वारा उनकी मायूसी का शिकार होना पड़ रहा है

Ram Shankar

और विभाग में खुले आम भाई भतीजा बाद की नियुक्ति पत्र जारी हो रहे हैं। जो कि गुप डी० कर्मचारियों के समक्ष यह एक अशोभनीय कार्य है। उदाहरण के तौर पर दिनांक ५-८-८० को कार्यालय द्वारा जारी किये गये नियुक्ति पत्र एक ताजी मिसाल है जो कि बिल्कुल गलत है। इस कार्यवाही से समस्त गुप डी० कर्मचारियों में असन्तोष व्याप्त है।

इसलिये आपसे अनुरोध है कि दिनांक ५-८-८० को कार्यालय द्वारा जारी किये गये भाई भतीजा वादों की नियुक्ति पत्र को निरस्त करने की कृपा करें।

समस्त गुप डी० कर्मचारों आप से न्याय पाने के अधिकारी है और आशा करते हैं कि आप इस मंत्र पर ध्यान देकर उचित एवं अविलम्ब कार्यवाही करने की कृपा करेंगे।

आप का आभारी रहूंगा।

भवदीय,

ह० अपठनीय
१६-८-८०
। अमर. केश।
महा मंत्री

जनगणना चतुर्थ श्रेणी कर्मचारी संगठन उत्तर प्रदेश ल०

- १- प्रतिलिपि महापंजी-कार भारत के महापंजी कार कार्यालय रा.ए. मान सिंह रोड नई दिल्ली।
- २- श्री एन० एस० मदीरियां महासचिव अखिल भारतीय जनगणना कर्मचारी महासंघ चन्डीगढ़।

महा मंत्री
उत्तर प्रदेश जनगणना
चतुर्थ श्रेणी कर्मचारी संगठन
लखनऊ।

सत्य-प्रतिलिपि

Ram Shanker

23/10

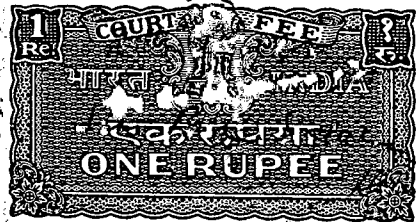
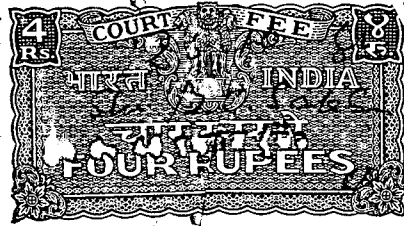
In the Honble High Court of Judicature at Allahabad
ब अदालत श्रीमान
Setting at Decree now. महोदय

वादी अपीलान्त

का

प्रतिवादी रेषान्डेन्ट

वकालतनामा



Two
as
23/4

Ram Shanker & others

(वादी मुद्दै)

Union of India & others

बनाम

प्रतिवादी (मुद्दा अलेह)

न० मुकद्दमा

सन् १६

पेशी को न्ना०

१६

ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Shri B. C. Saklora

एडवोकेट

महोदय

वकील

को पना 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 करें या अन्य कोई कागज दाखिल क या नोटावें या हमारी ओर से डिगरी जारी करावें और रुपया मूल करें या मुलहनामा या इकबाल दाबा तथा अपील व निगरानी मारी ओर से हमारे न्ना अपने हस्ताक्षर से दाखिल करें और दसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त [दस्तखति] रसीद से लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको स्वयं स्वीकार है और होगी मैं 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।

Accepted
B. C. Saklora
25/10/16
हस्ताक्षर

राम शंकर

वकील

साक्षी [गवाह]

राजेश कुमार

साक्षी [गवाह]

गोविन्द प्रसाद

असहज प्रसाद

दिनांक

महीना

गोविन्द प्रसाद

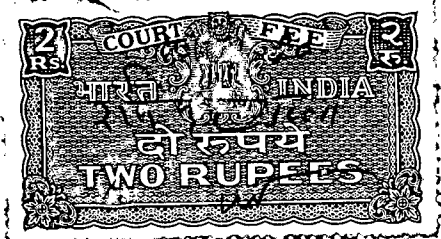
१६

आर० बी० सिन्हा
ल. दार : कलेक्टरी लखनऊ

गोविन्द प्रसाद
वापरा

B(44)
18/11

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



Counter affidavit to oppose admission of Writ Petition No. 3051 of 1980 and the stay Application.

Ram Shanker and others Petitioners

Versus

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

I, Ravindra Gupta, Director of Census

Operations, U.P. 6, Park Road, Lucknow do hereby

solemnly affirm and state on oath as under:-

1. That the deponent is the Director of Census Operations, U.P. and is well acquainted with the facts deposed to hereunder.

2. That petitioners Nos. 1 to 6 and 8 are working as peon and petitioner No. 7 as Chowkidar in the office of the deponent. The prescribed qualification for the post of peon is VIII class and IV class for chowkidar. The petitioners have passed High School Examination. Uptodate only the following 10 group 'D' employees of this Directorate including the petitioners have passed the High school Examination.

contd.2

43
10
K

1. Ram Shanker	(Petitioner No. 1)
2. Chet Ram	(" " 2)
3. Baburam	(" " 3)
4. Channi Lal	(" " 7)
5. Sheo Dutt Singh	
6. Govind Prasad	(" " 8)
7. Ayodhya Prasad	(" " 5)
8. Sheo Kumar	
9. Laloo Prasad	(" " 6)
10. Shobh Nath	(" " 4)

The above Group 'D' employees including the petitioners do not possess any proficiency in operating calculating machine, hand operated or electrically operated and have no experience of coding in any office or firm having mechanical tabulation equipment. None of them has the requisite speed in English typewriting.



3. That the recruitment rules for class III and IV employees of the office of the Director of Census Operations came into effect on 26.10.74. These Rules so far as they pertain to the Group 'C' posts of Assistant Compiler did not provide for any reservation of vacancy for Group 'D' employees, till the amendment were made in column 10 against item 19 of the Schedule by the modification No.3/13/77

contd.....3

28/8/74

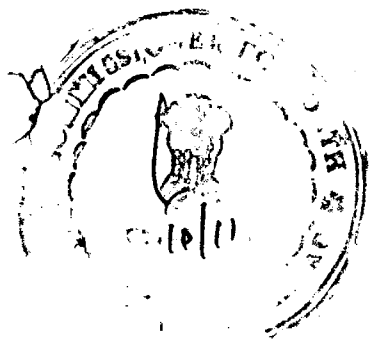
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18

-3-

(1) dated 24.11.1978(Annexure 3 to the writ petition) by means of which promotional avenue has been provided to Group 'D' employees of this Directorate in Group 'C' posts of Assistant Compiler by reserving 10% of vacancies for them. After coming of these statutory rules into force the recruitment to Group 'C' and 'D' posts in this Directorate is governed by these Recruitment Rules.

4. That it is submitted that in terms of the statutory Recruitment Rules read with amendments dated 24.11.78 and 2.2.79 which are Annexures 2 and 3 to the writ petition, the minimum speed of 30 words per minute in typewriting in English is one of the essential requirements for the Group 'C' posts of Assistant Compiler (Rs.260-400) and the lower Division clerk (Rs.260-400). The Group 'D' employees of this Directorate having this speed are eligible for consideration of promotion against 10% vacancies reserved for them in Group 'C' posts of Assistant Compiler and Lower Division Clerk. With a view to test the suitability of Group 'D' employees of this Directorate in typewriting

contd. ...4



28/8/80

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a test was held in the very same month on 17th July, 1980 before holding the selections for Group 'C' post of Assistant Compiler on 22.7.1980. At this test held on 17th July, 1980, the following peon and chowkidar including the petitioners appeared. Their performance in terms of per minute speed in English and Hindi typewriting is indicated below against each:

Name of Group 'D' employee	Speed in words per minute	
	English typing	Hindi typing
1. Bajrang Singh(Peon)	15.0	10.0
2. Sheo Dutt Singh (Peon)	13.6	10.6
3. Ram Shanker(Peon)(Petitioner No1)	10.2	10.0
4. Govind Prasad(Peon) " " 8)	10.0	8.0
5. Baboo Ram (Peon) (" "3)	8.8	9.0
6. Chet Ram(Peon) (" "2)	8.6	8.0
7. Chunni Lal(chowkidar) " "7)	6.6	3.0
8. Sobh Nath(Peon) (" "4)	6.0	8.0
9. Ayodhya Prasad) (" "5)	6.0	4.8

In view of their poor performance in typewriting test held on 17.7.1980, the group 'D' employees including the petitioners, had no case for appointment to Group 'C' posts, selection of which was held on 22.7.80. The petitioners are seeking promotion by means of writ petition. Promotion is subject

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to work and conduct of a Government servant. It can not be claimed as a matter of right, specially when the petitioner's case had already been considered on 17th of July, 1980 in the typewriting test arranged for the group 'D' employees of the office of the deponent. It is stated that the character Roll of a Government servant is the yard-stick for assessing his performance throughout his service career. When character rolls of the petitioners were available before the Selection Committee there was no point in calling them for interview. This is alright for the strangers who are sent by the Employment Exchange and not for the Government servant serving in the same office.

5. That petitioner No.6 passed the High School Examination of 1980 as per the Marksheet dated 6.8.1980 submitted by him to deponent's office on 23.8.1980. He was not eligible for ~~promotion~~ consideration when the test in typewriting was held on 17.7.1980 or on 22.7.1980 when selection for the Group 'C' post of Asstt. Compiler was held.

49

6. That the petitioners have based their case on the Office Memorandum NO.14024/2/75-Estt(D) dated 14.11.75 which is Annexure 5 to the writ petition. In terms of these instructions they were over-age having crossed the ^{age} limit of 21 years. To cover up this infirmity the petitioners have by means of a supplementary affidavit dated 4.11.1980 filed copy of U.M.No. F.4/4/74-Estt(D) dated 20.7.76 which suggests relaxation upto age of 35 years. It is stated that the maximum age limit for Group 'D' employees of this Directorate for appointment in Group 'C' post of Assistant Compiler has been relaxed to 45 years vide amendment notification of 28.11.78 in the Recruitment Rules(Annexure 3 to the writ petition). After the ^{Recruitment} statutory Rules of Group 'C' and 'D' posts of the office of the deponent have come into force, these office memorandums of a prior date, have no applicability to the posts recruitment of which is governed by statutory Rules.



7. That to cope with the increasing volume of work in connection with the 1981 Census Operations a number of posts in Group B and C have been created

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-7-

in the Census Directorate. As a result of promotions of officials made to different grades, vacancies in Group 'C' posts of Assistant Compiler occurred. The vacancies were notified to the Employment Exchange Lucknow on 16.7.1980 requesting them to sponsor suitable candidates with proficiency in operating calculating machines or punching or English typewriting. The Employment Exchange forwarded a list of 86 candidates. The selection was held on 22.7.1980 and the Merit List of 25 successful candidates was displayed on the office Notice Board on 30.7.1980. The successful 25 candidates ~~was~~ were ~~disappeared~~ given offer of appointment on 5.8.1980 and required, to intimate their acceptance and submit certificate of medical fitness from the Chief Medical Officer and other documents. On submission of their acceptance and the required documents the letter of appointment which is Annexure 4 of the writ petition was issued to them on 16.10.1980, requiring them to report for duty on 1.11.1980. ~~to 23.11.1980 and did not attend any class~~
~~on the appointment for continuance or reappointment~~



[Handwritten signature]

contd.8

(51)
V/R

Their appointment was on a purely temporary and on adhoc basis effective from 1.11.1980 to 28.2.1981 and did not bestow any claim on the appointees for continuance or regularisation in the post of Assistant Compiler. It is stated that no objection was made by the petitioners at the time when the merit list was displayed on 30.7.80 on the Notice Board of the deponent's office nor when offers of appointment was issued to the selected candidates on 5.8.1980. But now when the candidates (opposite party Nos. 3 to 27) had to perform their duties as Assistant Compiler on 1.11.80 the petitioners have approached this Hon'ble High Court at the eleventh hour. It is also stated that there has been no illegality or non-compliance of statutory Rules in appointing the opposite party Nos. 3 to 27 through the Employment Exchange on the Group 'C' post of Assistant Compiler. It is further stated that all the vacancies occurring in 1980 have not been ~~filled~~ filled. There are still 3 vacancies which remain to be filled up.

8. In view of the stay order of the Hon'ble

contd.9

(52) (1/1/80)

-9-

High Court the selected candidates (opposite parties Nos. 3 to 27) have not been taken on duty on 1.11.80.

It is stated that Census is a time-bound operation.

The calender of Census work for the two phases i.e.

1. House listing operation and 2. Population count

operation are ^{annexed} ~~attached~~ with this Counter Affidavit

as Annexures No. 1 and 2. It is stated that the

period from 1.11.80 onwards till 31.3.1981 is the

most crucial period in the Census Operations as

would be evident from calenders. The stay of the

operation of the order of appointment (Annexure 4 of

the writ petition) has adversely effected the work-

ing of the department. The petitioners can not be

allowed to bring the departmental machinery to a

standstill on untenable grounds. It is also stated

that the petitioners ~~have not exhausted~~ have not

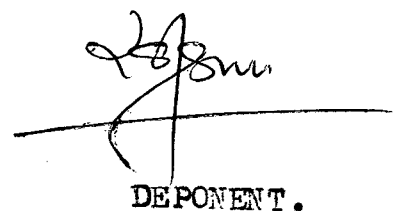
exhausted the departmental channel of redressal of

their grievance. The writ petition being premature

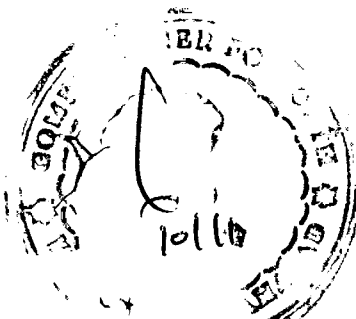
is not maintainable.

Dated: Lucknow the,

November 10, 1980.


DEPONENT.

contd. ...10



53

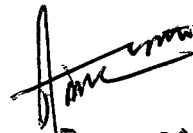
VERIFICATION.

I, the deponent above named do hereby verify that the contents of para 1 of this affidavit are true to my own knowledge, those of paras 2, 4 to 7 are believed to be true on the basis of information derived from perusal of office records and those of paras 3 and 8 are true to my belief on the advice of the counsel. No part of it is false and nothing material has been concealed; so help me God.

Dated: Lucknow the,
November 10, 1980.


DEPONENT.

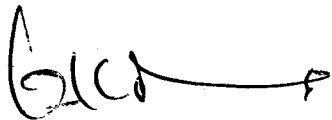
I identify the deponent who has signed in my presence.



(Nirankar Prasad)

Clerk to Shri B.L.Shukla, Advocate, High Court Allahabad, Lucknow Bench, Lucknow.

Solemnly affirmed before me on 10-11-80 at 8.20 a.m./p.m. by Shri Ravindra Gupta, the deponent who is identified by Shri Nirankar Prasad, clerk, to Shri B.L.Shukla, Advocate, High Court Allahabad, Lucknow Bench, Lucknow.



Commissioner

2092-80
10-11-80

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

In the Honble High Court of Judicature at Allahabad
Indenore Bank vs Union

(57)



W P No 3051 of 80

Ram Shanker vs ——— Petitioners

vs

Union of India vs ——— respondents

Annexure No 1.



[Signature]

Amexue No. 1

(55) 12

जनगणना तुरन्त

जनगणना परिपत्र संख्या- 25
मकानसूचीकरण का परिवर्तित कलेण्डर

अ० शा० पत्रांक पी० सी०-507/डी० सी०ओ०-यू० पी०/48-79

भारत सरकार

गृह मंत्रालय

निदेशक जनगणना परिचालन, उत्तर प्रदेश,

(नियोजन एवं समन्वय अनुभाग)

6, पार्क रोड

लखनऊ-226001

दिनांक : मार्च 22, 1980

रवीन्द्र गुप्त

प्रिय बन्धु,

पूर्व घोषित कार्यक्रम के अनुसार मकानसूचीकरण का कार्य अप्रैल 11, 1980 से प्रारम्भ किया जाना था परन्तु निकट भविष्य में विधान सभा के मध्यावधि चुनावों की सम्भावनाओं को ध्यान में रखते हुए मकानसूचीकरण के कार्यक्रम में परिवर्तन करना आवश्यक हो गया है। यह निश्चय किया गया है कि मकानसूचीकरण का कार्य सितम्बर 25, 1980 से प्रारम्भ किया जाय। मकानसूचीकरण के कार्यक्रम का परिवर्तित जनगणना कलेण्डर संलग्न है। उत्तर प्रदेश के कुछ पर्वतीय क्षेत्रों में मकानसूचीकरण का कार्य जून 1, 1980 से प्रारम्भ किया जायेगा। इसके लिए तैयार किया गया जनगणना कलेण्डर भी संलग्न है।

2-इस समय चार्ज स्तर पर प्रगणकों एवं सुपरवाइजरों के प्रशिक्षण का कार्य सम्पूर्ण प्रदेश में चल रहा है। प्रशिक्षण प्रभावी तभी होता है जबकि इसे कार्य प्रारम्भ होने से ठीक पहले दिया जाय। अतः प्रशिक्षण कार्य तुरन्त रोक दिया जाय एवं प्रगणकों एवं सुपरवाइजरों से अनुदेश पुस्तिकाएँ और प्रशिक्षण सामग्री को वापस

In the Honble High Court of Judicature at Allahabad
Munow Benish Munow

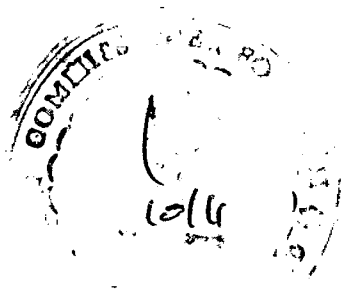
W.P.N. 3057 of 80

Ram Shanker v/s ——— Reliance

b.

Union of India v/s ——— opposites.

Annexure No B 2



[Signature]

(33)

A6/1

(H/R)

CA/10

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

Counter Affidavit on behalf of Respondents
No. 3, 5 to 10, 12 to 20 and 22 to 27

In Re:

Writ Petition no. of 1980

Ram Shanker and others

...Petitioners

Versus

Union of India and others

...Opp. Parties.

Km. Sarita Jain, aged about 21
years, d/o Sri Ram Jain

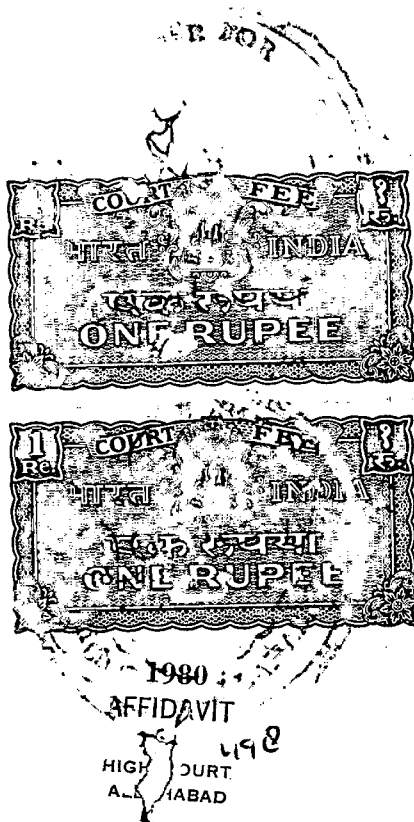
resident of Bara Barwa, Kanpur Road,
Lucknow-5

...Deponent

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

2. That the deponent is the Respondent no. 5
and is the Pairokar of the other Respondents mentioned
above and have been authorised by them to file this
Counter Affidavit on their behalf and the deponent has
read the writ petition alongwith its annexures and is
fully conversant with the facts stated in this counter
affidavit.

2(i) That in reply to the contents of paragraph



106/498

R. J. Jankar
Adv.
6/11/80

m/s Jain

(2)

1 of the writ petition only this much is admitted that the petitioners 1 to 6 and 8 are working as peons and the petitioner no.7 is working as the Chowkidar in the office of the Respondent no.2.

2(ii) That it is denied that the academic qualification of the petitioners is matriculate or they possess or have any proficiency in operating and calculating machines or have any experience in English type writing.

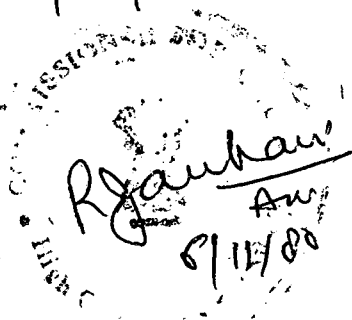
2(iii) That the petitioners have not placed on record any material to substantiate the allegations made in paragraph 1 of the writ petition and as such the same are not admitted.

3. That the contents of paragraph 2 of the writ petition are not disputed.

4. That in reply to the contents of paragraph 3 of the writ petition it is stated that, as would be apparent from the perusal of Annexure no.1 to the writ petition, the post of Assistant Compillor was to be filled in by direct Recruitment and it was not a promotion post. At the time of the commencement of the Recruitment Rules on 26.10.1974 there was no provision for any reservation of the vacancies for Class IV employees.

5. That the contents of paragraphs 4 and 5 of the writ petition are not disputed. In reply it is further stated that by means of the notification dated 24.11.1978 it was for the first time that a provision

106/490

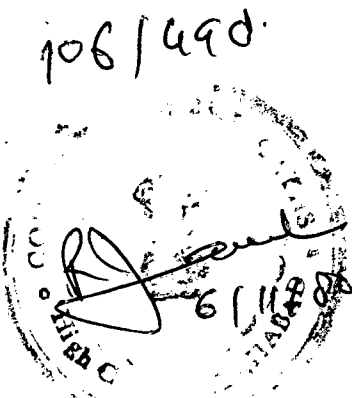


Sarla Jain

(3)

was made for the Group D employees to be considered for the post of Assistant Compiler. It is further stated that consequent to the amendments made by the notification dated 24th November, 1974 contained in Annexure no.3 to the writ petition 75 % of the total vacancies were to be filled by direct recruitment and 10% thereafter, were reserved for being filled up by Group D employees who fulfilled the conditions prescribed in column no.7 in the schedule appended to Annexure no.1 and it was further required that the maximum age limit would be 45 years and 50 years for Scheduled Castes and Scheduled Tribes candidates. The other condition imposed for the eligibility was that atleast 5 years of service in Group D would be essential. It is stated that by the amendments made in the Recruitment Rules by the notification contained in Annexure no.2 minimum speed of 30 w.p.m. in type writing in English was also made an essential qualification.

6. That in reply to the contents of paragraph 6 of the writ petition only this much is not disputed that the classification of the post as Class III and IV was modified and changed as Group C and Group D respectively and it is not disputed that basis which were classified as Group D post and that the post of peon was classified as a class IV post and is at present is a Group D post. The rest of the contents of paragraph



Sanila Jain

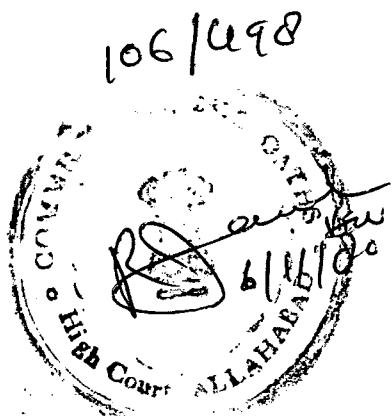
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(4)

under reply are denied. The petitioners have not substantiated the alleged dates of their appointments by any document nor have they shown by any document that they have put in more than 5 years service in Group D and as such these allegations are denied.

7. That in reply to the contents of paragraph 7 of the writ petition it is stated that the petitioners are not eligible for appointment alongwith the Respondents to the post of Assistant Compiler nor do the petitioners have any claim to be considered alongwith the answering Respondents who have been appointed by direct Recruitment as provided in the Recruitment Rules. The deponent has come to know that there are still vacancies for which, if the petitioners fulfilled the qualifications and are eligible may be considered.

8. That in reply to the contents of paragraph 8 of the writ petition it is stated that the Respondents no. 3 to 27 were unemployed and had got themselves registered for employment in the Employment Exchange and in pursuance of the direction received from the Employment Exchange the Respondents appeared on 22.7.80 for a Selection. It is pertinent to mention that in all 86 candidates appeared for interview out of which a merit list of 25 candidates was prepared and the Respondents no. 3 to 27 were placed in accordance with their merit as adjudged by the Authorities. It is stated

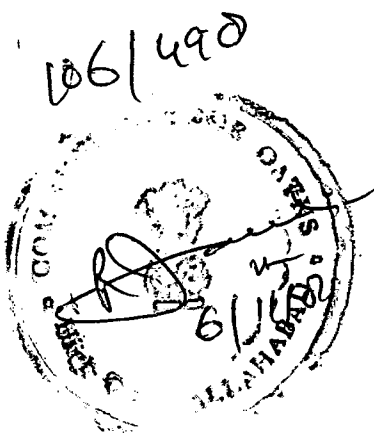


Sarla Jain

(5)

that the merit list was displayed on the Notice Board on 30.7.1980 and thereafter offers of appointment were made to the Respondents 3 to 27 and thereafter on 5th August, 1980 the offers of appointment were ^{made} ~~xxxxxx~~ to the Respondents no. 3 to 27 and the successful candidates were called upon to give their acceptance to the conditions mentioned in the said offer. The successful candidates having accepted the offers, the appointment orders contained in Annexure no.4 was issued on 16th October, 1980. The deponent is filing as Annexure no.C-1 to this counter affidavit a chart showing the position in the merit list of the Respondents their educational qualifications and their additional qualifications and a perusal of which shall show that the Respondents 3 to 27 possess all the qualifications which are requisite for appointment to the post of Assistant Compiler. It is further stated that the Respondents 3 to 27 had to join as Assistant Compiler in the office of the Respondents no. 2 on 1.11.1980 but have been denied the opportunity of getting an employment for 4 months only on account of the Interim Orders passed by this Hon'ble Court.

9. That in reply to the contents of paragraph 9 of the writ petition it is stated that the Office Memorandum dated 14.11.1975 does not apply to the posts of Assistant Compilers where as separate and a



Sanku Jain



(6)

definite reservation of 10% of the vacancies has been made in favour of the Departmental candidates. It is further stated that the Office Memorandum dated 14.11.75 would not alter or amend the clear and specific provisions of the Recruitment Rules framed by the President of India in exercise of the powers conferred upon him by the proviso to Article 309 of the Constitution. It is stated that the O.M. dated 14.11.1975 does not have any statutory force and does not have the effect of amending or altering the Recruitment Rules or the method or procedure for Recruitment. It is pertinent to mention that prior to 24.11.1978 the only mode of filling up the posts of Assistant Compilers was by Direct Recruitment And the Recruitment Rules having been amended by Annexure no.3 making a provision of reservation of 10% for the departmental candidates the O.M. dated 14.11.1975, assuming that it applied to the post of Assistant Compilers ceased to have any application after the amendments were made in the Recruitment Rules as contained in Annexure no.3 to the writ petition. It is stated that the Department candidates are not entitled to be considered along with the direct recruits at the time when the vacancies are to be filled in by the direct recruits.

10. That in reply to the contents of paragraph

10 of the writ petition it is stated that as far as the deponent knows none of the petitioners appeared

Sanika Jain

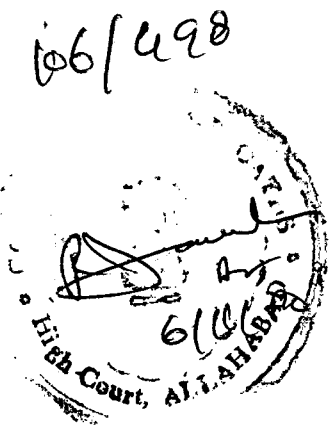
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(7)

for the interview. Rest of the contents of paragraph do not call for reply from the answering respondents. It is however, stated that the petitioners have not shown as to how they are eligible to be considered for appointment to the post of Assistant Compilers. It is denied that the appointments of the answering Respondents have in any manner prejudiced the alleged claim of the petitioner ²⁰ ~~21~~ being considered for appointment provided the petitioners are eligible in accordance with the Recruitment Rules.

11. That the contents of paragraph 11 of the writ petition it is stated that a perusal of Annexure no.4 to the writ petition would show that it had been clarified by the Respondent no.2 that the Respondents 3 to 23 would have no claim to have their appointments extended beyond 28.2.1981 or to claim regular appointment etc.

12. That in reply to the contents of paragraph 12 of the writ petition it is denied that there has been any nepotism as alleged in annexure no.6 to the writ petition. It is denied that the petitioners were entitled to be considered along with the Respondents 3 to 27 in pursuance of the office memorandum dated 14.11.1975.

13. That in reply to the contents of paragraph 13 of the writ petition it is denied that the



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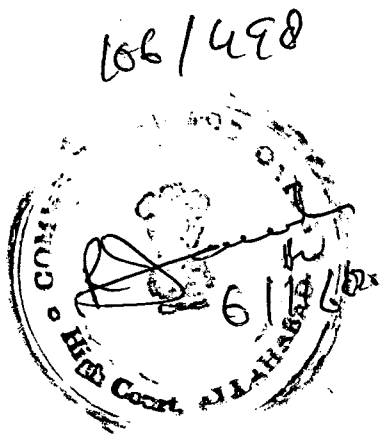
(8)

that the appointments of the Respondents 3 to 27 are in any manner illegal or are not in conformity of the Recruitment Rules.

14. That in reply to the contents of paragraph 14 of the writ petition it is stated that the sanctioned number of Group C posts of Assistant Compiler in the Office of the Respondent no. 2 is 186 and there are 117 Assistant Compilers who are working and as such there were 69 vacancies which were to be filled in and out of which only 25 vacancies have been filled in by direct recruitment by appointing the Respondents 3 to 27. It is denied that in any injury muchless, irreparable would be caused to the petitioners in event the Answering Respondents are allowed to join their duties and take up employment in pursuance of the orders contained in Annexure no. 4 to the writ petition.

15. That the contents of paragraph 15 of the writ petition are denied. It is denied that the petitioners are entitled to have their candidature considered alongwith the direct Recruits. It is also denied that O.M. dated 14.11.1975 is any application in the instant case and it is further denied that there has been any violation of the provisions of Article 14 and 16 of the Constitution or of any law.

16. That the petitioners are not entitled to the reliefs claimed and the grounds taken by the



Sanita Jain

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(9)

petitioners are untenable in law, writ petition lacks merit and is liable to be dismissed with costs to the answering Respondents.

17. That the answering Respondents were unemployed and were offered an opportunity for employment for a period of 4 months only which has been denied at the instance of the petitioners and the answering Respondents have been put to irreparable loss and injury and had been deprived of ² their legal right to take up employment in pursuance of the orders contained in Annexure no.4 to the writ petition.

18. That the petitioners are working in the office of the Respondent no.2 and are earning their livelihood where as the answering Respondents have been deprived off their right to earn their livelihood.

19. That no loss or injury is being caused to the petitioners if the answering respondents are allowed to work and are paid their salaries.

20. That it is expedient in the ends of justice and equity and in view of the facts stated that the Interim Order granted by this Hon'ble Court are vacated and the answering Respondents are allowed to work as the Assistant Compilers in pursuance of the orders contained in Annexure no.4 to the writ petition.

6/6/490

6/6/80
COURT, ALLAHABAD

Smita Jain

21. That the writ petition is not maintainable and is liable to be dismissed on the ground of laches inasmuch as the petitioners have approached this Hon'ble Court at the moment when the answering respondents were to take up their employment on 1.10.1980, since the averments made in the writ petition would show that the petitioners have knowledge of the interview having taken place on 22.7.1980 and the merit list having been displaced on 30.7.1980 and the offers of appointment having been issued to the Respondents 3 to 27 on 5.8.1980 and also about the appointment orders dated 16th October, 1980 and yet without explaining any reasons ~~xxxx~~ ~~xxx~~ ~~xxxxxxxxxxxx~~ for not approaching this Hon'ble Court earlier the petitioners have filed the writ petition on 29th October, 1980 and as such are not entitled to invoke the discretion ~~xxxx~~ of this Hon'ble Court under Article 226 of the Constitution.

Lucknow:
November: 6, 1980

Smita Jain
Deponent

I, the deponent abovenamed do hereby verify that the contents of paragraphs 1, 2, 3, 8, 10, 11, 18 of the affidavit are true to my personal knowledge and the contents of paragraphs 2(ii), 2(iii), 4, 6, 7, 12, 14, 17, 19, 20 of the affidavit are true to my information ~~xxxxxx~~ ~~xxxx~~ ~~xxx~~ ~~xxxx~~ believed by me and the contents of paragraphs 9, 13, 15, 16, 21 of the affidavit




(11)

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

Lucknow:
November: 6, 1980

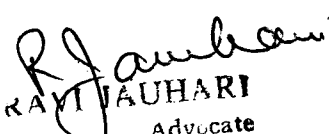
Sarita Jain
Deponent

I identify the deponent who has signed before me.


Advocate

Solemnly affirmed before me on 6.11.80

at 2.05 a.m./p.m. by Sarita Jain, the deponent who is identified by Sri ~~G.~~ C. Sharma. Advocate, High Court, Allahabad, Lucknow. I have satisfied myself by examining the deponent that she understands the contents of affidavit which has been read out and explained by me.


Advocate
DATA COMMISSIONER
High Court Allahabad
Lucknow
No. 106/488...
Date... 6.11.80

(23)

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

Writ Petition no. of 1980

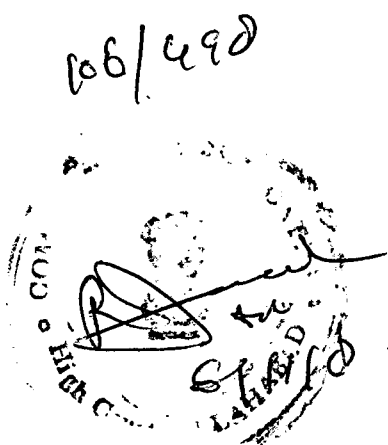
Ram Shanker and others ...Petitioners

Versus

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

Annexure No. C-1.

Position in Merit list.	Name of respondents	Educational qualificat- ion.	Additional Qualificat ions.
S/Sri			
1. Sunder Singh Kushwaha		M.Com II	Typewriting in Hindi & English
2. K.C.Pathak		B.Com II	Key Punching
3. Km. Sarita Jain		B.A. II	Shorthand Typewriting in English.
4. Harish Chandra Pd.		B.A. II	Typewriting in English
5. Mithlesh Singh		Intermediate II	Hindi & Engl. Typing & Key Punching.
6. Ram Bilas		B.A. III	Key Punching & Typing Eng
7. A.W. Sadiq		Intermediate II	Punching key
8. A.K. Bajpai		"	"
9. Mohd. Iqbal Siddiqui		" III	"
10. Ram Shanker		" II	"
11. Sukh Deo Prasad		B.A. II	"
12. Narisuddin		" III	"
13. Rajnesh Kumar		Intermediate III	" & Typing
14. Rajendra Sinha		"	"
15. R.P. Srivastava		"	"



Smile Jain

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(II)

16.S.C.Singh	Intermediate	III	Keypunching & Typing
17.Roop Kishore Nigam	"		ditto.
18.Gopal Singh Banola	"	II	Key punching
19.Nagendra Kumar Singh	B.A.	III	"
20.Km.Gauri Bose	High School	III	"
21.Sanjai Sanwal	"		"
22.Satya Prakash (S.C)	B.A.	III	Hindi & English Typing
23.Ram Autar Verma "	High School	I	Key punching and typing
24.Madho Prasad "	Intermediate	III	Key Punching
25.Rarush Ram "	"		"
			(Supplementary)

(TRUE COPY)

Sankar Jain

106/498

6/11/00

RAVI LAUHARI
Advocate

DAT

106/498
6.11.00

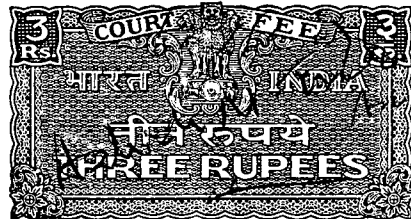
Hon'ble High Court of Judicature
व अदालत श्रीमान at Allahabad B.H. Org. at महोदय
अज्ञात

बादी मुद्दाई कम सार

प्रतिवादी (मुद्दालेह) 1 to 22 का

वकालतनामा

W.P.No 311 of 1980



Sri Ram Shanker and others

वादी (मुद्दाई)
(अपीलान्ट)

बनाम

Union of India and others प्रतिवादी [मुद्दालेह]
(रेस्पॉण्डेंट)

ने मुकद्दमा सन् १६ पेशी की ता० १६ ई०
ऊपर लिखे मुकद्दमा में अपनी ओर से श्री ASHISH N. TRIVEDI

Advocate

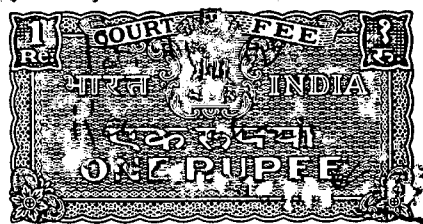
एडवोकेट
वकील महोदय

नाम अदालत
नं० मुकद्दमा
नाम फरीकन

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 विपक्षी [फरीकसानी] का दाखिल किया रुपया अपने या हमारे हस्ताक्षर युक्त [दस्तखती] रसीद में लेवें या पेच नियुक्त करें। वकील महोदय द्वारा की गई वह सब कार्यवाही हमको स्वयं स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदय पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी। इसलिये यह वकालतनामा दिया कि प्रमाण रहे और समय पर काम आवे।

- Accepted
Ashish N. Trivedi
Adv
1. Mittlesh Singh
 2. Sonni Bose
 3. Gopal Singh
 4. Ram aurar. Urmia
 5. Sanjay Samal
 6. Suresh Chandra Singh
 7. नरसिंह दीन
 8. Ram Shanker dal
 9. परशु राम
 10. अर्जुन प्रसाद
 11. मधुसूदन
 12. नागेश
 13. माधु प्रसाद
 14. राजेश कुमार
 15. सुन्दर सिंह
 16. Satyendra Prakash
 17. Rajendra Prasad Sinha

17. Harishchandra Pr.
 18. Rupa Kishore Nigam
 19. Kam Bilal
 20. Ram W.
 21. Rajendra Sinha
 22. Sanjay Jain
- दिनांक 10 माह 11 सन् १९८० ई०



1980
AFFIDAVIT
83
HIGH COURT
ALLAHABAD

RA/H



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

--
Rejoinder-affidavit

in

Writ Petition no. 3051 of 1980

Ram Shanker and others

--Petitioners

versus

Union of India and others

--Opp-parties.

I, Ram Shanker, aged about 30 years, son of Sri Sant Ram, at present working as Class IV employee in the office of the Director, Census Operations, U.P., 6, Park Road, Lucknow, do hereby solemnly take oath and affirm as under:-

1. That I am petitioner no.1 in the above-noted writ petition and I am fully acquainted with the facts of the case. I have perused the counter-affidavit sworn by Km. Sarita Jain opposite-party no.5 on behalf of a few other opposite-parties and I have understood the contents of the same. I have been authorised by the co-petitioners to file this rejoinder-affidavit on their behalf as well.

2. That with regard to the contents of paras 2(i) to 2(iii) it is stated that the denial of the assertions

Ram Shanker

made in para 1 of the petition is wholly baseless . In fact except for petitioner no.7 all the petitioners are Matriculates. Petitioner no.7 is a Graduate. The said academic qualifications are contained in their service record and are also indicated in the provisional seniority list issued from time to time by the department. The denial of the assertions made in para 1 by the opposite-parties whose counter-affidavit is being replied to is wholly baseless and untenable. The assertions made in para 1 of the writ petition are reiterated.

3. That the contents of para 3 do not call for ~~any~~ any reply.

4. That with regard to the contents of para 4 it is stated that by virtue of the provisions contained in annexure 5 to the writ petition as also in annexure 8 to the supplementary affidavit departmental candidates were clearly eligible to compete with the nominees of the Employment Exchange for the posts filled by direct recruitment in the office of the opposite-party no. 2. The post of Assistant Compiler being such a post which was to be filled up by direct recruitment, the petitioners, who are departmental candidates were clearly eligible to have been given a chance and to be allowed to compete with opposite-parties nos. 3 to 27 who are nominees of the Employment Exchange .

5. That the contents of para 5 in so far as they do not dispute the assertions made in paras 4 and 5 of the

Ram Shanker

writ petition need no reply. The plea that by means of the notification dated 24.11.1978 it was for the first time that the provision was made for the Group D employees to be considered for the post of Assistant Compiler is legally untenable and is denied. The right of the departmental candidates to be considered along with the nominees of the Employment Exchange for posts required to be filled by direct recruitment was provided for by office, memo. annexure 5 to the writ petition as also annexure 8 to the supplementary affidavit. The pleas in so far as they are borne out from the provisions contained in annexures 2 and 3 to the writ petition do not call for any reply. Anything to the contrary is denied.

6. That the contents of para 6 in so far as they admit the assertions made in the corresponding para 6 of the petition do not call for any reply. The denial of the dates of regular appointment of the petitioners against Group 'D' posts in the office of opposite-party no.2 has clearly been made without any basis. Nevertheless, the ~~said~~ assertions made in para 6 of the writ petition are reiterated.

7. That the plea in para 7 that the petitioners have no claim to be considered along with the said respondents is wholly baseless and ~~is~~ legally untenable. On the basis of the office memos. contained in annexures 5 and 8 to the writ petition and the supplementary affidavit as also the relevant rules contained in annexures 1 to 3, the petitioners are clearly entitled to have their

Ram Shankar

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case for appointment to the post of Assistant Compiler considered by opposite-parties nos. 1 and 2 along with the said opposite-parties who are nominees of the Employment Exchange .

8- That with regard to the contents of para 8, it is denied that the said opposite-parties appeared at a "selection " on 22.7.1980 . No written test or practical test to judge their proficiency in type-writing or in operating calculating machines or experience in coding on a mechanical tabulation equipment was held. It is stated that most of the opposite-parties nos. 3 to 27 are very near relations of officials and officers working in the office of the Director, Census Operations, U.P., Lucknow. A chart indicating the names of the persons to whom the said opposite-parties are related is being annexed as Annexure no. 9 to this rejoinder-affidavit. The relationship given in the said chart may be treated as part of the pleadings. Opposite-parties nos. 3 to 27 are being put to strict proof of the allegation that they had appeared at a selection and their merit in terms of the academic qualification and experience provided for in the rules was adjudged. The rest of the contents of para 8 are denied for want of knowledge except that offer of appointment was made to opposite-parties nos. 3 to 27 on 5.8.1980. The details given in the charge enclosed as Annexure CA-1 are denied for want of knowledge. It is pointed out that the said opposite-parties have not placed any material to bear out the educational qualifications

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Ram Shanker

or additional qualifications in respect of each of the said opposite-parties/^{nos. 3 to 27}as given therein. From the information which the petitioners have been able to gather it is stated that none of the said opposite-parties had any experience in Coding in office or firm having mechanical tabulation equipment. It is stated that the key punching is a method of coding on mechanical tabulation equipment. The opposite-parties have not indicated the name of such office or the firm where they could have gained experience in coding.

9. That the plea in para 9 is legally untenable and is, therefore, denied. The said plea is argumentative and states no facts reply to which is not required in this rejoinder-affidavit. It is stated that the ^{by the} said/amendment brought out by notification containing annexure 3 to the writ petition departmental candidates working in the office of opposite-party no. 2 on group D posts were clearly entitled to be called to appear and compete with the nominees of the Employment Exchange for the post of Assistant Compiler, a C post. The effect of the amendment made by notification dated 24.11.1978 is that the departmental candidates are entitled to be called to complete the nominees of the Employment Exchange only a per cent of direct recruitment quota on the basis of the qualifications laid down in the notification annexure 5 to the writ petition and annexure 8 supplementary affidavit. They were also at the time entitled to be considered against 10 per cent of the vacancies only when they fulfil the co

Ram Shanker

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laid down in the said notification dated 24.11.1978. It is further relevant to point out that except for five departmental candidates the rest of the persons working as Assistant Compilers in the office of opposite-party no.2 are nominees of the Employment Exchange and were not departmental candidates.

in reply to
10. That/the contents of para 10 the assertions made in the corresponding para of the petition are reiterated. It is stated that the writ petition was taken up for hearing on 25.10.1980. It was directed to come up again on 29.10.1980. On 29.10.1980 it was heard at some length in post lunch period when on behalf of the petitioners attention was invited to the provisions of the notification copy of which has been filed as annexure 8 to the supplementary affidavit. The counsel for the opposite-parties was heard and their Lordships constituting the Division Bench being satisfied of the merits of the case were pleased to admit the writ petition and grant the interim order.

11. That the contents of para 11 do not in any manner controvert the specific assertions made in the corresponding para of the petition. Nevertheless the said assertions are hereinagain reiterated.

12. That with regard to the contents of para 12 it is stated that the averments made in annexure 6 to the writ petition that appointment to the post of Assistant Compiler in favour of opposite-parties nos. 3 to 27 has been made on Bhai Bhatija Bad is amply proved from the chart filed as annexure 9 to this rejoinder-affidavit. It is reiterated that opposite-

Ram Shan Ker

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parties nos. 3 to 27 have been given offer of appointment solely on the basis of their relationship with the officers and officials working in the office of the opposite-party 2 and not on a fair and proper assessment of their merit in relation to the qualification and experience laid down in the rules. The plea in the last part of para 12 is repetitive reply to which has already been given . The same is hereinagain reiterated.

13. That the contents of para 13 are denied and the assertions made in the corresponding para of the petition are reiterated.

14. That with regard to the contents of para 14 it is stated that on verification the petitioners have come to know that there are a total number of 186 posts which have been sanctioned for the office of opposite-party no.2. Out of the said 186 posts, 177 are permanent posts and at present 119 persons are working as Assistant Compilers, thus leaving the sanctioned strength of 67 posts . Approval for filling up only 25 posts out of the said remaining 67 posts has been accorded and the balance number of posts viz., 42 cannot be filled up unless the concurrence of the Finance Ministry is obtained for the reason that the said posts have remained unfilled for a period of more than one year. It is further stated that the office of opposite-party no.2 had moved the Registrar General, India , the Head of Department , to seek the said concurrence of the Ministry for Finance for filling up the remaining 42 posts. The said Registrar General, India

12/11
Ram Shanker

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has intimated opposite -party no. 2 that the said concurrence is not being obtained and the said posts are not to be filled up. The plea in the last part of para 14 is legally untenable and is denied. On the basis of the facts stated in the writ petition which have not been controverted, it is amply proved that the petitioners have been able to establish a clear infringement of their rights to be considered for appointment to the post of Assistant Compiler.

15. That the plea in para 15 is merely repetitive reply to which has already been given. The said plea is once denied as being legally untenable.

16. That the plea in paragraph 16 is legally untenable and is denied.

17. That with regard to the contents of paras 17, 18, 19, and 20 it is stated that the Division Bench of this Hon'ble Court being satisfied that the gross illegality from which the order annexure suffers was pleased to admit the writ petition and grant an interim order of stay. The petitioners legal right ~~for~~ to be considered for appointment to the post of Assistant Compiler both by reason of the rules as also by reason of the office memorandums annexures 5 and 8 to the writ petition and the supplementary affidavit has been denied by issuance of the order contained in annexure 4. On the basis of the facts stated in the writ petition and this rejoinder-affidavit it is

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Ram Shanker

amply proved that the appointment of respondents nos. 3 to 27 has been made on extraneous considerations and in infringement of the rights of the petitioners.

18. That the plea in para 21 is legally untenable and is, therefore, denied. It is stated that the petitioner had no cause of action prior to the issuance of the order impugned in the writ petition. The said order is also bad for the reason that despite the Class IV Employees Union of the Census Operations having invited attention of the opposite-party no.2 to the fact that the case for promotion of Group D employees had not been considered for the post of Assistant Compiler and effect may not be given to the offer of appointment made to opposite-parties nos. 3 to 27, at first it appears that opposite-party no.2 was satisfied that the said illegality had taken place but under duress or on extraneous considerations and further the consideration that opposite-parties nos. 3 to 27 are related to ~~officials~~ various officials and officers of the office of opposite-party no.2 passed the order of appointment of the opposite-parties nos. 3 to 27. There has been no delay or laches on the part of the petitioners.

Ram Shanker
Deponent

Dated Lucknow

~~10.10.1980~~

13.11.80

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I, the deponent named above, do hereby that contents of paras 1 to 18 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed; so help me God.

Ram Shankar
Deponent

Dated Lucknow

~~10.10.1980~~

13.11.80

I identify the deponent who has signed in my presence.

G. S. Saxena
(Clerk to Sri B.C. Saxena, Advocate)

Solemnly affirmed before me on 13.11.80 at 8.5 a.m./p.m. by Ram Shankar the deponent who is identified by Sri G. S. Saxena clerk to Sri B.C. Saxena, Advocate, High Court, Allahabad. 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.

With Comm.
High Court, Allah.
Lucknow Bench

2123-2
13.11.80

9/11

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, L u c k n o w.

Writ Petition No. 3051 of 1980

Ram Shankar and Others.....Petitioners

Versus

Union of India and Others.....Opp.Parties

A N N E X U R E NO.9

Sl. No. Name of Opp. Party and his relationship with
Officers/Officials of the Office of Opp. Party 2.

Sarvasri

1. Sundar Singh Kushwaha = nearest relation of Shri Ram Kumar Asstt. Compiler;
2. K.E. Pathak = real brother of Shri G.N. Pathak, U.D.C.
3. Mithilesh Singh = real brother of Shri K.S. Chauhan, Assistant.
4. Ram Bilas = real brother of Sri Ram Das, Jn. Steno.
5. A.U. Sadiq = real brother of Smt. Naseem Siddiqui, Sn. Steno.
6. A.K. Bajpai = nearest relation of Shri Dhani Ram Tewari, Computer.
7. Mohd. Iqbal Siddiqui = real brothers-in-law of Smt. Naseem Siddiqui, Sn. Steno.
8. Ram Shankar = nearest relation of Shri R.N. Lal Asstt. Compiler.

Ram Shankar



93/1/13
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S1. Name of Opp. Party and his relationship with
No. Officers/Officials of the office of Opp. Party 2.

9. Sukhdeo Prasad = nearest relation of Sri R.D. Tewari, Driver.
10. Nariruddin = nearest relation of Sri M.B. Khan, Computer.
11. Rajendra Sinha = son of Shri V. Kumar, Office Superintendent.
12. R.P. Srivastava = real brother of Shri R.N. Lal, Asstt. Compiler.
13. S.C. Singh = near relation of Sri Vindhyachal Singh, Tabulation Officer.
14. Roop Kishor Nigam = real brother of Shri N.E. Nigam, Accountant.
15. Nagendra Kumar Singh = Nephew of Sri Y.N. Singh, Head Assistant.
16. Km. Gauri Bose = real sister of Shri N.C. Bose, Draughtsman.
17. Sanjai Bansal, = Nephew of Sri M.C. Padalia, Asstt. ~~Compiler~~ Director.
18. Satya Prakash (S.C.) = nearest relation of Shri Brijendra Singh, Asstt. Compiler.
19. Ram Autar Verma = Nearest relation of Shri J.J. Ram, Jatav, Computer.
20. near
Madho Prasad = /Relation of Shri S.L. Verma, Asstt. Compiler.
21. Parush Ram = near relation of Shri Ram Kumar, Asstt. Compiler.

Ram Shanker

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12/10/80

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

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10/1/80

Supplementary Affidavit
in
Writ Petition no. 3051 of 1980

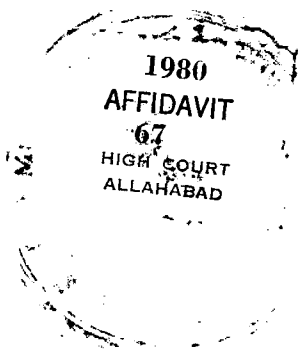
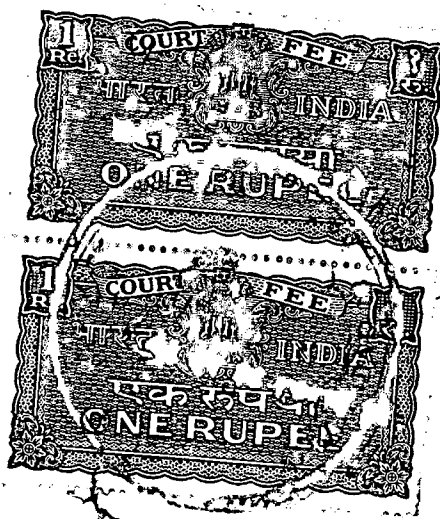
Ram Shanker and others

Petitioners
-Applicants

versus

Union of India and others

-Opp-parties



I, Ram Shanker, aged about 30 years, son of Sri Sant Ram at present working as Class IV employee in the office of the Director, Census Operations, U.P., 6, Park Road, Lucknow. do hereby solemnly take oath and affirm as under:-

1. That the deponent is the petitioner no.1 in the above-noted writ petition and is fully acquainted with the facts of the case.

2. That the deponent on 1.11.1980 furnished 25 copies of the writ petition and application for stay in the office of opposite-party no.2 for purposes of service on opposite-parties nos. 3 to 27. The Despatcher of the office of opposite-party no.2 in token of receipt of the said duplicates of the writ petition and the stay application for opposite-parties nos. 3 to 27 has given an acknowledgment which is being annexed as Annexure no.7 to this affidavit.



Ram Shanker

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10/2

-2-

3. That since the addresses of the opposite-parties 3 to 27 were not known , they were impleaded in the writ petition to be served through opposite-party no.2 and the petitioners have taken the necessary steps.

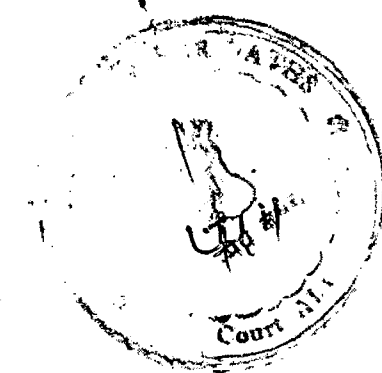
4. That opposite-parties nos. 3 to 27 had attended the office of opposite-party no.1 on 1.11.1980 and were available in the said office during the course of the day and were also present in the said office on 3.11.1980. The said opposite-parties may by now have been served with copies of the writ petition and the stay application by the office of opposite-party no.2.

5. That at the hearing of the writ petition on 29.10.1980 on behalf of the petitioners copy of office memorandum no.F.4/4/74-Estt (D) dated 20.7.1976 of the Department of Personnel and Administrative Reforms, Cabinet Secretariat, Government of India was shown along with copy of letter no.10/47/79-Ad.1 dated 26th December, 1979 issued from the office of the Registrar General, India, Ministry of Home Affairs, Government of India and addressed to all Directors of Census Operations and Assistant Registrar General . A true copy of the said letter dated 26th December, 1979 along with its enclosure , the office memo. dated 20.7.1976 is being annexed as Annexure no. 8 to this affidavit.

Dated Lucknow

4.11.1980

Ram Shanker
Deponent



Ram Shanker

(7/3) 3

I, the deponent named above do hereby verify that contents of paras 1 to 5 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed; so help me God.

Dated Lucknow
4.11.1980

Ram Shanker
Deponent

I identify the deponent who has signed in my presence. *G. S. Saxena*
(Clerk to Sri B.C. Saxena, Advocate)

Solemnly affirmed before me on 4.11.80 at 8.30 a.m./p.m. by *Ram Shanker* the deponent who is identified by Sri *G. S. Saxena* clerk to Sri *B.C. Saxena* Advocate, High Court, Allahabad. 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.

G. S. Saxena

<p>Onth Commissioner High Court, Allahabad Lucknow Bench</p> <p>No. 2067-80 Dated 4.11.80</p>

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इन दि आनरेबुल हाई कोर्ट आफ मुडी केवर स्ट इलाहाबाद,

लखनऊ बेंच, लखनऊ।

(Handwritten signature/initials)

रिट पिटीशन नं 3051 आफ 1980

राम शंकर आदि ----- पिटीशनर्स

बनाम

यूनियन आफ इण्डिया आदि ----- अपोजीट - पार्टीज

अमेन्डर नं 7

रिट पिटीशन एवं स्टेट अपोजीटिशन
की 25 व्यापी प्राल की।

चरित्र

1-11-80 At 11-30 A.M.

रिजिस्टर,

पुनर्गणना विभाग

सं. 6, पार्स 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000



Ram Shanker

P.T.O.

रिजिस्ट्रेशन नं 3051 आदि 1980.

102

रामशंकर बनाम युनियन आफ इंडिया और आदि।

रिजिस्ट्रेशन एवं स्ट्रेच अपीलेशन की काफी अपीलें
पार्टी नं 3 से 27 तक के लिए 25 व्यक्तियों के
लिए जो कम संख्या 3 से 27 तक है, दे रहा
हूँ। इसका जोरिख काफी सम्बन्धित व्यक्तियों के
के हैं।



1. The Union of India through the Secretary, Ministry of Home Affairs, Government of India, New Delhi.

2. The Director, Census Operations, Uttar Pradesh, 6 Park Road, Lucknow.

3. Sunder Singh Kushwaha

4. Kailash Chandra Pathak

5. Km. Sarita Jain

6. Harish Chandra Prasad

7. Mithlesh Singh

8. Ram Bilas

9. A.W. Sadiq

10. Avadhesh Kumar Bajpai

11. Mohammad Iqbal Siddiqui

12. Rama Shanker

13. Sukhdeo Prasad

14. Nasimuddin

15. Rajnish Kumar

16. Rajendra Sinha

17. Rajendra Prasad Srivastava

18. Suresh Chandra Singh

19. Roop Kishore Nigam

20. Gopal Singh

21. Nagendra Kumar Singh

22. Kumari Gouri Bose

23. Sanjai Sanwal

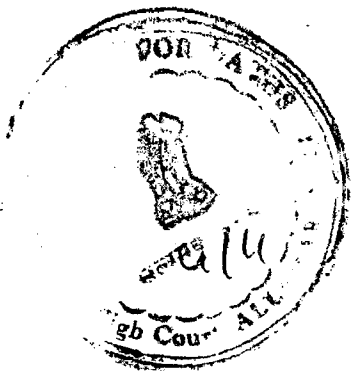
24. Satya Prakash

25. Ram Autar Verma

26. Madho Prasad

27. Parashu Ram,

Adults fathers name not known
care of the Director of Census Operations, Uttar Pradesh, 6, Park Road, Lucknow.



Ram Shanker



19/6

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

Writ Petition no. 3051 of 1980

Ram Shanker and others

-Petitioners

versus

Union of India and others

.Opp-parties

Annexure no. 8

No. 10/47p79-Ad.I

Government of India
Ministry of Home Affairs

Office of the Registrar General, India

2/A, Mansingh Road,

New Delhi 26 Dec., 1979.

To

All Directors of Census Operations and
Assistant Registrar General (Lang).

Subject: Relaxation of upper age limit for departmental
candidates for appointment to Group C and D
posts in their own department.

Sir,

In continuation of this office letter of even
number dated December 18, 1979, I am directed to forward
a copy of the Department of Personnel and A.R. O.M.
no. F./4/4/74-Estt (D) dated 20th July, 1976 for
your information and future guidance.

Yours faithfully,
Sd. O.P. Sharma
Assistant Director

No. 10/47/79-Ad.I New Delhi

Copy forwarded to:-

1. All Heads of Divisions/Sections in Registrar General's office.
2. R.G.'s personal Section with five spare copies.
3. Deputy Director (Shri Rajagopalan)
4. Assistant Director (Shri Bhatia).
5. Shri M.P. Dinkar, Ad.I Section.
6. Order file.

Sd. O.P. Sharma
Asstt. Director



Ram Shanker

No.F.4/4/74-Estt (D)

Government of India/Bharat Sarkar
Cabinet Secretariat/ Mantrimandal Sachivalaya
Department of Personnel and Administrative Reforms
(Karmik Aur Prashasanik Sudhar Vibhag)

New Delhi dated the 20th July, 1976

Office memorandum

Subject: Relaxation of upper age limit for departmental candidates for appointment to Group 'C' and 'D' posts in their own department.

The undersigned is directed to say that the staff side of the National Council (JCM) had suggested that the departmental candidates who possess the prescribed qualifications may be allowed to compete with relaxed age limit with the nominees of employment exchange/open market candidates for higher posts which are to be filled by direct recruitment in any offices in the same department.

2. The request made by the staff side of the National Council (JCM) has now been examined and it has been decided that for direct recruitment in Groups (C) and (D) posts/services, the upper age limit will be relaxable up to the age of 35 years in respect of persons who are working in posts which are in the same line or allied cadres and when a relationship could be established that service rendered in the department will be useful for efficient discharge of the duties. In other categories of posts in the same department. The age concession will be admissible only where ^{an} ~~the~~ employee has rendered not less than three years continuous service in the same department. The question of determining the same lines or allied cadres is, however, left to be decided by each Ministry/Department.

Ram Shanker

and the age relaxation will be available for the posts under the control of the same Ministry/Department.

3. The existing age concessions available to Group D employees for appointment to Group 'C' posts and to clerk for appointment as stenographers in the Central Secretariat Stenographers service, and any other existing concessions shall continue.

4. The Ministry of Finance etc. are requested to bring the above decision to the notice of all the attached and subordinate offices under them for their guidance.

Sd. TG. Gothi
Under Secretary to the Government of India

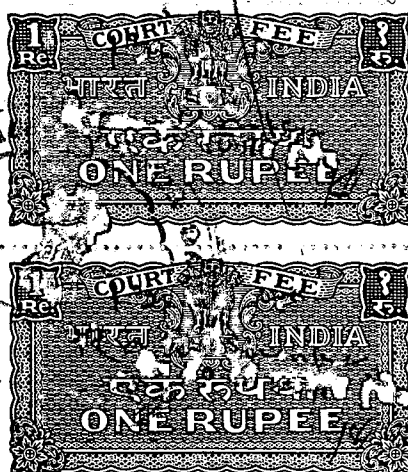
To

All the Ministries/Departments of the Govt. of India
CAG (Shri R.P. Kookhar, A.O.)

Ram Shanker



1980
AFFIDAVIT
84
HIGH COURT
ALLAHABAD



11/10/80
A/2

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

--

Rejoinder-affidavit in reply to the counter-
affidavit of opposite-party no.2.

in

Writ Petition No. 3051 of 1980

Ram Shanker and others

-Petitioners

versus

Union of India and others

-Opp-parties

--

I, Ram Shanker, aged about 30 years, son of
Sri Sant Ram, at present working as Group D employee
in the office of the Director, Census Operations,
U.P., 6 Park Road, Lucknow, do hereby solemnly take
oath and affirm as under:-

1. That I am petitioner no.1 in the above-noted
writ petition and I am fully acquainted with the
facts of the case. I have perused the counter-affidavit
filed by Sri Ravindra Gupta and I have understood the
contents of the same. I have been authorised by
the co-petitioners to file this rejoinder-affidavit
on their behalf as well.

2. That with regard to the contents of para 1 it is
not disputed that Sri Ravindra Gupta is at present
posted as Director, Census Operations, U.P.,

Lucknow.

Ram Shanker



3. That with regard to the contents of para 2 it is stated that the petitioners 1 to 6 and 8 are at present working as peons which is a group D post and petitioner no. 7 is working as Chaukidar, also a group D post in the office of opposite-party no.2. The petitioners being Matriculates clearly possess qualifications higher than those prescribed for peons and chaukidars. In fact petitioner no. 7 is a Graduate and was previously employed in the office of opposite-party no.2 as an Assistant Compiler some time in the year 1973. Due to shrinkage in the cadre and retrenchment, the said petitioner was appointed and posted as a chaukidar in the same office, viz., of opposite-party no.2. It is stated that besides the ten persons whose names are given in para 2 of the counter-affidavit two other persons viz., S rvsri Dinesh Chandra Kukreti and Naim Siddiqui possess matriculation qualification or more. The allegation in the last part of para 2 is wholly baseless and untenable. It is stated that the petitioners have never been subjected or given an opportunity to appear at any test for the post of Assistant Compiler. The opposite-party no.2 or the relevant authority had no occasion to adjudge their proficiency in operating calculating machine, hand operated and electrically operated and further to adjudge their experience in coding. The allegation is, therefore, wholly unfounded. It is stated that in the office of opposite-party no.2 calculating machines manufactured and sold under the trade name Facit are available which are hand-

Ram Shanker

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-3-

operated. The petitioners are fully conversant and proficient in operating the said calculating machines. The averments made in para 1 of the petition are reiterated.

4. That with regard to the contents of para 3 it is stated that besides the statutory rules for recruitment copies of which have been filed as annexures 1 to 3 to the writ petition, there have been other notifications providing for a right to the departmental candidates to compete with the nominees of the Employment Exchange for posts filled by direct recruitment in that office. It is stated that under the recruitment rules the post of Assistant Compiler was required to be filled in by direct recruitment initially to the extent of 100 per cent and later to the extent of 75 per cent 75 per cent and consequently departmental candidates in the office of opposite-party no. 2 including the petitioners were entitled to compete along with the nominees of the Employment Exchange. The said office memorandums have been filed as annexure 5 to the writ petition and annexure 8 to the supplementary affidavit. It is stated that the said office memorandums also are applicable besides the recruitment rules and the petitioners were entitled to have been called along with opposite-parties nos. 3 to 27 and other nominees of the Employment Exchange.

12/11

Ram Shanker

5. That with regard to the contents of para 4, it

it is stated that a perusal of the recruitment rules filed as annexures 1 to 3 to the writ petition would show that for the post of Assistant Compiler the essential qualification is minimum speed of 30 words per minutes in English type-writing or proficiency in operating calculating machines viz., electrically operate calculating machines, hand model or comptometer or experience in coding in an office or firm having mechanical tabulation equipment besides matriculation or equivalent. It is, therefore, wholly wrong to say that type-writing in English is one of the essential requirements. The disjunct 'or' is therein in item no.2 of the essential qualifications. It is stated that the petitioners were called to appear for a selection for the post of Lower Division Clerks on 17.7.1980 and they were subjected to a typing test for the said post. The result of the said test was not notified and the petitioners have not been communicated the result of their performance at the said test. It is further stated that Bajrang Singh whose name finds place at serial no.1 of the list given in para 4 of the counter-affidavit was stated to have been selected for appointment to the post of Lower Division Clerks and an order appointing him on adhoc basis was issued on 1.8.1980 bearing no. AE/83-80/DCO-UP /A-2669 ~~dated~~ issued by opposite-party no.2. A true copy of the said order is being annexed as Annexure no.10 to this ~~petition~~ rejoinder-affidavit. It may be stated that all the candidates selected at the test held on 17.7.1980 for the post of Lower Division Clerk

Ram Shanker

(X/130) (130)
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-5-

have been given appointment on terms identical to those contained in the said order dated 1.8.1980. Regular selection to the posts of Lower Division Clerks and Assistant Compiler is made by the Subordinate Selection Board which is located at Allahabad .

The allegation in para 4 that the selection for the post of Assistant Compiler Group C post was held on 22.7.1980 is factually incorrect and baseless. It is stated that opposite-parties nos. 3 to 27 or for that matter other nominees of the Employment Exchange were not subjected to any practical test either in operating calculating machines or demonstrating experience in coding on a mechanical tabulation equipment or even in typewriting in English. The further plea that in view of the alleged poor performance in type-writing test held on 17.7.1980 the petitioners had no case for appointment to Group C post of Assistant Compiler is legally untenable and baseless. The plea in the later part of para 4 is also legally untenable and is, therefore denied. It is stated that in view of the qualifications prescribed for the post of Assistant Compiler the allegation in the later part of para 4 , though untrue, is also legally untenable and cannot be construed as giving an opportunity to the petitioners to compete with the nominees of the Employment Exchange for the post of Assistant Compiler. It is stated that the petitioners have at no time been communicated any adverse entry whatsoever and therefore their character rolls are wholly unblemished. It is further stated that

Ram Shanker

opposite-party no.2 has failed to indicate in what manner the character rolls of the petitioners would have indicated their proficiency in type-writing in English, coding and punching and in hand-operated calculating machines when the said character rolls relate to the posts of peon and chaukidar.

It is further stated that opposite-parties 3 to 27 have been approved for appointment as Assistant Compilers not on the basis of their proficiency in operating calculating machines, their experience in coding in any office or firm having mechanical tabulation equipment nor because of their speed in typewriting in English. Orders for their appointment have been issued on extraneous considerations, one of them being that they are closely related to one or the other officers/officials of the office of opposite-party no.2. A chart indicating the said relationship of many of the said opposite-parties nos. 3 to 27 is being annexed as Annexure no.11 to this rejoinder-affidavit. The petitioners have been able to gather the relationship of the remaining opposite-parties but from the information available to them the remaining opposite-parties are also closely related to one or the other officers/officials of the office of opposite-party no.2. The said information would be furnished in due course. Opposite-party no.2 is put to strict proof of the allegation that a selection was held on 22.7.1980 in respect of opposite-parties nos. 3 to 27 and other nominees of the Employment Exchange for the post of Assistant

Ram Ghan Kar

Compiler by producing the original record containing the proceedings of the said selection with the marks, if any, given to each of the said opposite-parties nos. 3 to 27 against any of the three items of essential qualifications enumerated in the Recruitment rules.

6. That with regard to the contents of para 5 it is stated that since none of the petitioners including petitioner no. 6 had been given any information about the holding of a selection/interview for filling up the vacancies in the post of Assistant Compiler, the petitioner no. 6 was prevented from intimating the office of opposite-party no.2 that he had qualified at the 1980 High School Examination. The High School Examination result was published in June 1980. The mark-sheet was made available to him in August 1980.

7. That with regard to the contents of para 6 it is stated that besides annexure 5 to the writ petition the petitioners have also placed on record by way of annexure 8 to the supplementary affidavit copy of the office memorandum no. F.4/4/74 dated 20.7.1976 of the department of Personnel and Administrative Reforms, Cabinet Secretariat, Government of India which was forwarded from the office of the Registrar, General India, Ministry of Home Affairs by letter dated 26.12.1979. Copy of the said office memorandum was placed for the consideration of this Hon'ble Court 29.10.1980 in the present of the counsel for opposite-party no.2 at the time of the hearing of

Ram Shankar

13/11

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Writ petition for purpose of admission . The said office memorandum prescribes for a relaxation of the upper age limit up to the age of 35 years in respect of departmental candidates for appointment from group D posts to group C posts. The petitioners did not have copy of office memorandum dated 20.7.1976 at the time the writ petition was drafted. In fact in fairness to this Hon'ble Court opposite-parties nos. 1 and 2 should have themselves placed the said office memorandum . The plea in the later part of para 6 is legally untenable and is, therefore, denied. The office memorandum was filed as annexure 8 to the supplementary affidavit and was circulated by the Registrar General, India , a superior officer to opposite-party no.2 by his letter dated 26.12.1979 much after the amendment of the recruitment rules. It is stated that besides the recruitment rules the office memorandums annexures 5 and 8 also govern the points raised in the writ petition and the rights of the petitioners who are departmental candidates to have been allowed and called to compete with the nominees of the Employment Exchange at the time the post of Assistant Compiler was sought to be filled up irrespective of and beyond ten percent reservation made under the rules for the departmental candidates.

Ram Shanker

8. That the allegation in the earlier part of para 7 is wholly baseless and incorrect. The truth of the matter is that the total number of sanctioned posts of Assistant Compilers in the office of opposite-party no.2 at present is 186. Out of the said 186

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posts , 177 are permanent posts and at present 119 persons are working as Assistant Compilers, thus leaving unfilled a sanctioned strength of 67 posts . Approval for filling up only 25 out of the said remaining 67 posts has been accorded and the balance number of posts viz., 42 are not being filled up for want of necessary authorisation from the Registrar General, India, Ministry of Home Affairs who is the head of the Census Department. The vacancies against which opposite-parties nos. 3 to 27 are being appointed have, therefore, not occurred as a result of promotion of officials made to different trades. As stated in the preceding paragraphs no selection was held on 22.7.1980 and opposite-parties nos. 3 to 27 as also other nominees of the Employment Exchange were not subjected to any practical test so as to judge their proficiency in operating calculating machines or to adjudge their experience in coding or to judge the requisite speed in English type-writing. No merit list was displayed on the office notice board on 30.7.1980. The names of opposite-parties nos. 3 to 27 were only indicated in the said list which did not contain any indication that it is a merit list of successful candidates. The so-called selection of opposite-parties 3 to 27 without affording any opportunity to the petitioners to compete with them since they were all eligible, vitiates the said selection as also the offer of appointment or order of appointment passed in favour of opposite-parties nos. 3 to 27. It is once again reiterated that the offer of appointment to opposite-parties nos. 3 to 27 is a clearly illustration of what is go be known

Ram Shanker

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Shai Bhatija Bad. The terms and conditions can be fathered from annexure 4 to the writ petition and therefore, the allegations in para 7 of the counter-affidavit wherein reference has been made to the said conditions do not call for any reply. It is, however, stated that the specific assertions made in para 11 of the writ petition have not been controverted by opposite-party no. 2. With regard to the rest of the contents of para 7 it is pointed out that Class IV Employees Union of which the petitioners are members had taken up the matter in a representation which was made on 16.8.1980, annexure 6 to the writ petition. The members of the Executive Committee of the Union were given to understand by opposite-party no. 2 that there was justification in their said representation. Since no orders for appointment were issued in favour of opposite-parties nos. 3 to 27 for two months, the petitioners or any other member of the Union had no occasion to believe that the appointment orders would be issued to opposite-parties nos. 3 to 27 and thus no cause of action accrued earlier than 16.10.1980. The plea in the later part of para 7 is, therefore, legally untenable and is, therefore, denied. The allegation in the last part of para 7 that there are three vacancies which remain to be filled up is factually baseless and incorrect and is, therefore, denied. Besides 25 vacancies for the filling of which the impugned orders have been issued no other vacancy in the post of Assistant Compiler in the office of opposite-party no. 2 remains to be filled up at present.

Ram Shanker

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9. That with regard to the contents of para 8 it is stated that to meet the time bound census operations opposite-party no.2 by an order contained in his letter no. AE/83-80/DCO-UP/A-3963 dated 29.10.1980 has made fresh appointments of 241 persons as Tabulators and 19 persons as Checkers by letter no. A- 83-80/DCO-UP /A-3962 dated 29.10.1980. The said appointments are made on fixed pay basis and are not covered by the Recruitment Rules. Separate sanction for posts to carry out the time bound census operations is made apart from regular cadre strength of the office of the Director of Census Operations. The appointment of opposite-parties 3 to 27 has not been made under the time bound operation programme. The plea in para 8, is, therefore, legally untenable and is based on wrong assumption of facts.

Ram Shanker

Dated Lucknow

Deponent

13.11.1980

I, the deponent named above do hereby verify that contents of paras 1 to 9 are true to my own knowledge. No part of it is false and nothing material has been concealed; so help me God.

Ram Shanker
Deponent

Dated Lucknow
13.11.1980

I identify the deponent who has signed in my presence.

(Clerk to Sri B.C. Saksena, Advocate)

Solemnly affirmed before me on 13.11.80 at 9 a.m/p.m by the deponent who is identified by Sri B.C. Saksena, Advocate, High Court, Allahabad; 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.

Oath Commissioner
High Court, Allahabad
Lucknow Bench

No. 2124-DB
Date 13.11.80

~~117~~ 117
13

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

Writ Petition No. 3051 of 1980

Ram Shankar and others.....Petitioners.

Versus

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

Annexure No. 10

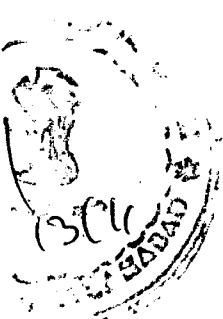
No. AE/83-80/DCO-UP/A-2669, Dated 1.8.1980.

ORDER

Without prejudice to the claims of others,
Shri Bajrang Singh Peon is hereby selected for
appointment to the post of L.D.C. in the purely
temporary capacity and on ad-hoc basis in the pay
scale of Rs. 260-6-290-B-6-326-8-366-B-8-390-10-400
(plus other allowances admissible under rules from
time to time) with immediate effect, upto 28.2.81
or till these posts filled on regular basis, which-
ever is earlier, on the terms and conditions
mentioned in paragraph 2 below.

2. He is liable to be reverted at any time
without notice and without assigning any reason
thereafter and he will have no claim for continuation
or extension on the post of L.D.C. The ad-hoc
service rendered by him on the post of L.D.C. without
count for seniority in the grade nor will it bestow

Ram Shankar



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14

any claim for regular appointment.

3. All other terms and conditions of his service will be governed by rules and orders from time to time.

Sd/-Illegible
(Ravindra Gupta)
Director

No. AE/83-80/DCO-UP/A-2669 of date.

Copy forwarded for information and necessary action to:-

1. Official concerned.
2. Deputy Director (U.P.).
3. Accountant of this office with one spare copy.
4. Pay and Accounts Officer (Census), CONW & M. Building, New Delhi.
5. UDC (E)/UDC(HA)/HA/GS/Nasir.

Ram Shanker

Sd/-Illegible
(R.C.Y. LAVANIA)
Deputy Director.

TRUE COPY

12
14

119
15

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

Writ Petition No. 3051 of 1980

Ram Shanker and others.....Petitioners.

Versus

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

Annexure No. 11

Sl. No. Name of Opp. Party and his relationship with
Officers/Officials of the Office of Opp. Party
No. 2.

Sarvasri

1. Under Singh Kushwaha - nearest relation of
Shri Ram Kumar Asstt. Compiler;
2. A.C. Pathak - real brother of Shri G.N. Pathak,
U.D.C.
3. Mithilesh Singh - real brother of Shri K.S.
Chauhan, Assistant.
4. Ram Bilas - real brother of Sri Ram Das, Jn.
Steno.
5. A.U. Sadiq - real brother of Smt. Naseem
Siddiqui, Sn. Steno.
6. A.K. Bajpai - xx nearest relation of Shri Dhani
Ram Tewari, Computer.
7. Mohd. Iqbal Siddiqui - real brother-in-law of
Smt. Naseem Siddiqui, Sn. Steno.
8. Ram Shanker - nearest relation of Shri R.N. Lal
Asstt. Compiler.
9. Sukhdeo Prasad - nearest relation of Sri
R.D. Tewari, Driver.

Ram Shanker

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Sl. No. Name of Opp. Party and his relationship with
No. of officers/Officials of the office of Opp. Party 2.

10. Nariruddin - nearest relation of Sri M.B.Khan, Computer.
11. Rajendra Singh - son of Shri V.Kumar, Office Superintendent.
12. R.P.Srivastava - real brother of Shri R.N.Lal, Asstt. Compiler.
13. S.C.Singh - near relation of Sri Vinayachal Singh, Tabulation Officer.
14. Kooop Nishor Nigam - real brother of Shri N.N.Nigam, Accountant.
15. Nagendra Kumar Singh - Nephew of Sri Y.N.Singh, Head Assistant.
16. Km.Gauri Bose - real sister of Shri N.C.Bose, Draughtsman.
17. Sanjai Bansal - Nephew of Sri M.C.Padalia, Asstt. Director.
18. Satya Prakash (S.C.) - nearest relation of Shri Brijendra Singh, Asstt. Compiler.
19. Ram Autar Verma - Nearest relation of Shri J.J.Ram, Jatav,, Computer.
20. Lachho Prasad - x near relation of Shri S.L. Verma, Asstt. Compiler.
21. Parush Ram - near relation of Shri Ram Kumar, Asstt. Compiler.

Ram Shanker

17/4

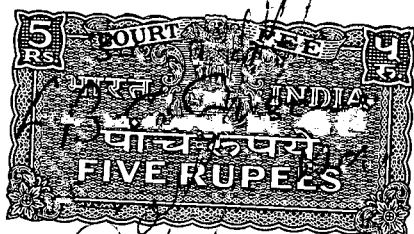
In the Hon'ble High Court of Judicature at Allahabad :

Lucknow Bench, Lucknow.

C.M. Appn. No. 11,323 (u) of 1985.

in re :

M.P. No. 3051 of 1980.



38 Ram Shanker and others.

.....Petitioners.

Vs.

Union of India and others.

.....Opp. Parties.

Application for Condonation of Delay
in filing the process for Opp. Parties
no. 4, 11 and 21.

It is most humbly submitted :-

1. That due to inadvertance the file of the above noted case was misplaced in the office of the counsel hence being oversight the steps could not be taken against the opposite parties 4, 11 & 21 in the above noted case.

2. That now the process fee is being filed and the ~~same~~ same may be accepted. and the delay filing the process fee may kindly be condoned.

wherefore it is respectfully prayed that the Hon'ble Court be pleased to ~~condone~~ condone the delay in filing the process fee and the same may be accepted as in time.

Lucknow, dated..

Sept. 30, , 1985.

R. Saksena
Counsel for the petitioner.

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13/1

①

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No. 3051 of 1980
Ram Shander & son vs. Union of India

L	Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
	1	2	3
H.O.	27.10.80	Hon. H.S.J. Hon. K.S.V.J.	
		—	
		Put up on 29.10.1980	
		f	
H.O.	29.10.80	<u>Order on W.P.</u> Hon. T.S.M.J. Hon. K.N. Saxena	
		Put up to-morrow.	
		f	

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Date	Note of progress of proceedings and routine orders	Date to which case is adjourned	
1	2	3	
	<p>are before this court. The grievance is that they were entitled to be considered for promotion to Grade -C. Therefore without jeopardizing the functioning of the Government and also keeping in mind the legal right of the petitioners I deem it just and proper to keep eight posts in reserve and for which I would like to issue a direction that in case opposite parties 1 and 2 wish to fill these eight posts they will provide an opportunity to the petitioners along with the recommendees of the Employment Exchange. After observing the above procedure they shall be at liberty to fill those eight posts. But till that time eight vacancies shall not be filled up and they shall remain in reserve. Therefore, amongst the candidates mentioned in Annexure 4 appointment will be made by opposite parties 1 and 2/only 17 candidates and that shall be filled in accordance with the order of preference secured by them and proportionate posts in this number will be provided to the candidates belonging to Schedule Caste and Schedule Tribes etc. I would further like to observe that these appointments shall be subject to the ultimate decision of the writ petition and</p>		

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13/3

(3)

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. _____ of 197

vs. _____

Date	Note of progress of proceedings and routine ordrs	Date to which case is adjourned
1	2	3
	<p>this order shall not confer any rights on the persons given appointment from the list of candidates contained in Annexure 4 for future retention in service. This appointment of 17 persons shall remain in effect only till 28.2.1981 as indicated in the order. If the intention of opposite parties 1 and 2 is to continue the appointments then the adopted procedure which has given rise to this petition will not be observed.</p>	
	<p>SK/-</p> <p>18.11.1980</p>	
	<p>PROCESS FEE REPORT in W.P. No. 6197/80</p> <p>C. M. Appln. No. 6197/80</p> <p>The Counsel for Petitioner/applicant has not taken steps for service of O. P. Nos. 3 to 2 within time allowed under Rules of Court.</p> <p>SUBMITTED</p> <p>20-11-81 for order</p>	

How. S.M. J.
How. K.S.V. J.
M. K. J.

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 3051

of 1989.

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
5.10.82	<p>Filed in office court etc.</p> <p>22.9.82 for orders.</p> <p>Hable K.S. vs.</p> <p>Prabhu S. A.</p> <p>Adjourned ab this illness slip of S. B. C.</p> <p>Exemption</p> <p>Plunk</p> <p>S. X. D.</p>	21.8
11.10.82	<p>11/11/82</p> <p>Hable S. vs.</p> <p>Hable S. A.</p>	
	<p>Stand on</p> <p>Boole</p> <p>11/11/82</p>	
12/11/82	<p>Filed in office court etc. 22.9.82</p> <p>for orders.</p> <p>Hable S. vs.</p> <p>Hable S. A.</p>	<p>Hand</p> <p>Plunk</p>

(134)

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. _____ of 198

(3)

vs. _____

	Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
	1	2	3
✓	7.8.85	Hon B. Kumar J. Hon G. B. S. S. Stand out Bo ete 8/10/85	
✓	14/10/85	MO B. Kumar J. MO B. Kumar J. Stand out Bo ete 8/14/10/85	
✓	26.8.85 2.9.85	Fixed in P.R. dated 10.5.85 for over	Prof Bench
✓	2/9/85	Hon. S. S. A. J. Hon. B. Kumar, J.	
	9/9/85	Fixed in P.R. dt 10/5/85 for over 10.8.85 HO B. Kumar J.	

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C
1987

ब अदालत श्रीमान्
[वादी अपीलान्त]
प्रतिवादी [रेंस्पाडेन्ट]

महोदय

The District Administration Tribunal
Civil Bench, Lucknow

वकालतनामा

1/2/87

टिकट

वादी (अपीलान्त)

Ram Shankar & others बनाम Munir Ghader & others प्रतिवादी (रेस्पाडेन्ट)

नं० मुकद्दमा T.A. 697/ सन् 1987. पेशी की ता० 22-8- 1989 ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री... Dr. Dinesh Chandra...
... Addl. Gen. Govt. Standing Counsel, High Court... वकील
... महोदय
... एडवोकेट
Lucknow

नाम अदालत
मुकद्दमा नं०
नाम फरीकन
बनाम

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 जवाब देही व प्रश्नोत्तर करे या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अवबे या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वेथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने परोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

Signature

Verinder Kumar

हस्ताक्षर... (VIDEENDRA KUMAR)
Director, Census Operations
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दनांक ... महिना ... सन् 1989 ई०

स्वीकृत

व अदालत श्रीमान्

Civil Administration Tribunal
Civil Bench: Lucknow

महोदय

(वादी) अपीलान्त

प्रतिवादी [रेस्पाडेंट]

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Ram Shankar

T.A. 691/81

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बनाम Unigsh प्रतिवादी (रेस्पाडेंट)

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ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

D. Dinesh Chandra

वकील

महोदय

Add. Standing Counsel for Civil Bench

पुडवोकेट

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

हस्ताक्षर

Virendra Kumar

(Virendra Kumar)

Asst. Director Census Operations

N. P. LUCKNOW.

साक्षी (गवाह)

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