

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE TA. 807/82 W.D. No 1062/81 OF .....

NAME OF THE PARTIES Brig Bhargava Applicant

Versus

UOI 208 Respondent

Part A.

Sl.No.	Description of documents	Page
1	Index sheet	A1 to A2
2	order sheet H.C.	A3 to A6
3	order sheet CAT	A7
4	Writ Petition / procedure	A8 to A224
5	affidavit	A25 to A26
6	C.M. No 6787/81 appli.	A27 to
7	Counter Affidavit	A28 to A28
8	Rejoinder affidavit	A29 to A42
9	Supplementary Affidavit S. Counter	A43 to A51
10	Judgment order dt 06-3-1990	A52 to A53
11	lawyer	A54 to A56
12	any paper	
13		
14		
15		
16		
17		
18		

CERTIFICATE

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

Dated 8-9-11.....

Counter Signed.....

*[Signature]*  
15/6/11

Section Officer/In charge

*[Signature]*  
Signature of the  
Dealing Assistant

## ANNEXURE -A

CAT

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

## INDEX SHEET

CAUSE TITLE 807 of 1987

NAME OF THE PARTIES \_\_\_\_\_

Priy. P. S. Chandra Applicant

Versus

V. O. T. & RespondentPart A, B & C

Sl. No.	Description of documents	PAGE
1-	H. e. Index	A-1
2-	H. e. order sheet.	A-2 to A5
3-	order sheet.	A 6
4-	Petition	A 7 to A 23
5-	Application	A 24
6-	Affidavit	A 25 to A 27
7-	Counter	A 28 to A 35
8-	Application	A 36 to A 39
9-	Supp. Affidavit	A 40 to A 41
10-	Supp. Counter	A 42 to A 48
11-	Interp.	A 49 to A 50
12-	Power	A 51 to A 53
13-	P. N. M. N.	C 64 to C 66

CIVIL

SIDE

## GENERAL INDEX

CRIMINAL

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case..... W.D. 1062-81

Name of parties..... Braj Bhushan..... 18. G.M. N.E.R.

Date of institution..... 6-3-81

Date of decision.....

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
A	1	Final decree	1		Rs. P.			
	2	<del>Order sheet</del>						
	3	Writ Pet. attached	17	6	102			
B	4	Decree	1	2	8			
	5	GA 6787/64 881 folio -	4		7.00			
	6	Contn. affidavit	12	-	2.00			
	7	Contn. 115/16 (W) 881 with supplementary affidavit	3		7.00			
	8	Supplementary C.A.	3	-	-			
	9	Contn. affidavit in reply	4	-	-			

I have this

day of

198

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 papers 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

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2

11/1

K/3

ORDER SHEET  
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No. 1062 of 1978/1  
vs. \_\_\_\_\_

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
6/3/81	<p>Hon. K.S. Varma J. Hon. S.C. Mehta J.</p> <p>Put up after a week to enable the learned Counsel for N.E. Railway to obtain instructions, their petitions shall be listed along with Writ petitions No 623 of 1977.</p> <p>Sd. K.S.V. Sd. S.C.M. 6/3/81</p>	
10.3.81	<p>18.3-81 fixed for oral.</p> <p>de l. v. J. de m. v. J. Comp 10.3.81</p>	<p><u>Beal</u> de.</p>
26.3.81	<p>fixed for oral:-</p> <p>Hon. G. S. S. J. Hon. M. Singh J. Hon. D. N. Jha J. Hon. K. N. Mishra J.</p> <p>Sd. ✓</p>	

**ORDER SHEET**  
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 1062

of 198 1

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
4-5-81	<p>4-5-81 <i>frad for ad</i></p> <p><i>de T-SMT</i></p> <p><i>de SCMT</i></p> <p><i>Adm. Issue notice</i></p> <p><i>4/8/81</i></p> <p><b>PROCESS FEE REPORT in W. D.</b></p> <p><b>G.M. Appia. No. ....</b></p> <p>The Counsel for petitioner/applicant has not taken steps for compliance of Order Nos. .... <i>5</i> ..... time allowed under Rules of Court.</p> <p><b>SUBMITTED</b></p> <p><i>13/7/81</i></p> <p><i>filed in PR</i></p> <p><i>dt 13-7-81 for</i></p>	<p><i>Bent</i></p> <p><i>MO</i></p> <p><i>02</i></p> <p><i>6/8/81</i></p>
7-8-81	<p>C.M. No 6787 (as 81 for <i>ad</i>)</p> <p><i>inter-relief</i></p> <p><i>Hon. K.S.V.J.</i></p> <p><i>Hon. R.C.D.S.J.</i></p> <p><i>Put-up inter-relief record.</i></p> <p><i>2</i></p> <p><i>14.8.81 free - con</i></p> <p><i>6787 as 14</i></p>	<p><i>Bent</i></p> <p><i>R</i></p> <p><i>Put</i></p>

A  
4

11/3

**ORDER SHEET**  
**IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD**

W.P. No. 1062 of 1981

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
1.9.1981	<p><u>Hon. K.N. Goyal, J.</u></p> <p>Put up tomorrow as unlisted case.</p> <p><u>Rep</u> 1.9.1981</p>	
2-9-81	<p><u>Hon. K.N. G. J.</u></p> <p>List on 17th September, 1981.</p> <p>In the meantime, the petitioner shall also file reply.</p> <p>Petitioner's Counsel has stated that if the petitioner can be re-employed even at the stage he will be content and would not claim any reinstatement with retrospective effect or any back wages.</p> <p>Sri Robin Mitré wants him to ask instructions. He may do so by the date fixed.</p> <p>2/9/81</p>	

# ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No.

1012

of 1981

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
8-9-82	Shree Vaid	
9	<p>The application for writ relief was filed on 7th August, 81. No return was made on the application. In case the Reliance succeeds he will get back the sale and embezzlement will be open to the opposite parties to attack the petition after taking into consideration the conduct of Seniority of other casual labourers before discharging. In case Seniority are still working or have been taken back in service under the order of this case there appears to be no reason why the petitioners will not be allowed to do duty even at this stage.</p> <p>Report</p>	
17-9-82	<p>AMPS 1, 155 and 7 are represented by Sh. Umesh Chandra Advocate.</p> <p>Court and Registrar affidavits are on file. No report has been</p>	

21/9/82

7A:807/117(7)

A/6

Serial number of order and date

Brief Order, Mentioning Reference if necessary

How complied with and date of compliance

20/11/07

No Sitting Adj to S-290

This case has been recd. on transfer. Notice were issued to the counsels by the office at A114. None is present for the parties. Let notice be issued again to the parties as directed by Hon'ble Sn. D.K. Agamdas

A/7

oor  
notice issued  
11/11/07

S-290

No Sitting Adj to B-390

20/11/07

L

OR

Can have been recd. on 20/11/07  
Case is admitted  
GA/RA & S. CA  
filed.

S. F.

Notice issued on 14/11/07

No counsel  
replied. case has been  
return back

S. F. order

(5)

Decided  
W.K.K. Datta  
9/3/08

Dinesh



S.No. 1923

Group (A) & 14(A)

4/3

24/11

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

..... 1062  
WRIT PETITION NO. OF 1981

Braj Bhushan ... Petitioner

Versus

The General Manager, N.E. Railway

Gorakhpur & others. ... Opp. Parties.

INDEX

Sl.No.	Description of papers	Page No.
1.	Memo of Writ Petition	1 to 10
2.	Annexure No.1	11
3.	Annexure No.2	13-14
4.	Annexure No.3	15
5.	Affidavit	16-17
6.	Power (Vakalatnama)	18

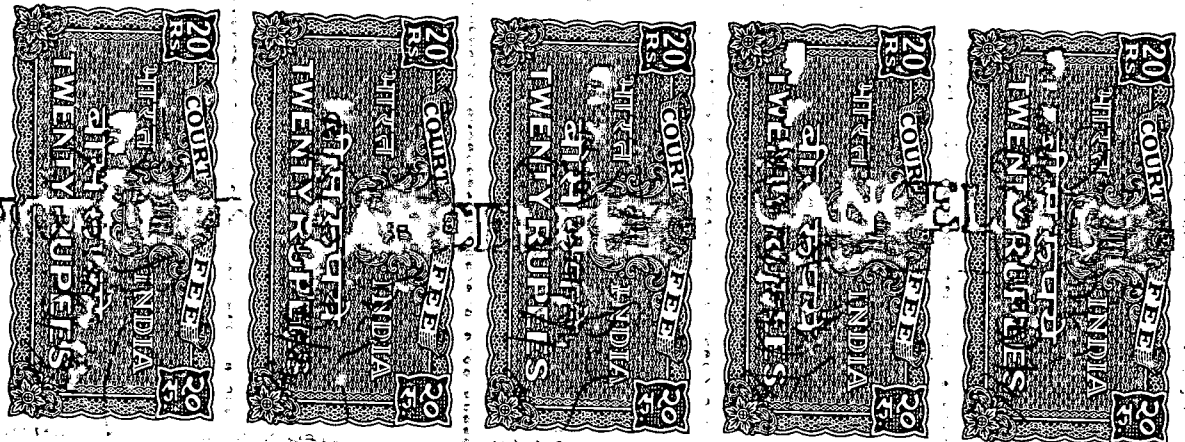
LUCKNOW DATED:

March ~~FEBRUARY~~ 6, 1981.

J.K. Sinha  
(JAI KRISHNA SINHA)  
ADVOCATE  
COUNSEL FOR THE PETITIONER.

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

..... 1062  
WRIT PETITION NO. OF 1981

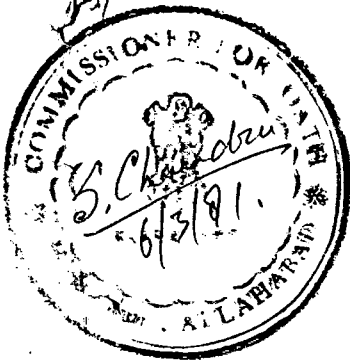


Sec 2100 - 00  
6.3.81

Braj Bhushan s/o Sri Ram Nain resident of Narainpur  
Bujurg P.O. Kashwapur, Tahsil Bansgaon, District  
Gorakhpur. ... Petitioner.

Versus

1. The General Manager, N.E.Rly., Gorakhpur.
2. The Executive Engineer (Bridges) B.G. Constructions.  
N.E. Railway Gorakhpur.
3. Assistant Bridge Engineer (Constructions) N.E.Rly.  
Gonda.
4. Bridge Inspector (Constructions) ., N.E.Rly, Gonda.
5. Divisional Personnel Officer, N.E.Rly. Lucknow.
6. ~~Sri Ramesh Chandra Deputy Chief Engineer Planning  
and Bridges (Constructions), N.E.Rly, Gorakhpur.~~
7. Union of India through Rly Board, Rail Bhawan,  
New Delhi. ... Opp. Parties.



वृत्त मुखर  
The opposite party  
no 6 is sum of the  
delivered by him  
order K.H. Govil  
dated 1.9.01  
The Sub  
1.9.01

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF  
INDIA.

To,

The Hon'ble Chief Justice and his Companion  
Judges of the aforesaid Court.

....

The humble petition of the abovenamed petitioner most respectfully sheweth as under:-

1. That the petitioner was appointed as a casual labourer (khalasi) in the engineering department (Bridges) ~~by~~<sup>for</sup> broadgauge (Constructions) N.E. Railway Gorakhpur.

2. That the petitioner was appointed as a casual labour on 21.5.76 and till the date of the order of termination through a notification the petitioner worked on the post of casual labour. A certified certificate is being filed as Annexure No.1 to this Writ Petition.

3. That after completing ~~in~~<sup>for</sup> 4 months of services as casual labourers according to Railway Board's letter No.E(NG)11-738B/14 dated 6.3.74, the petitioner became regular employee and became entitled to other benefit of the temporary employees of the N.E. Railways. A true copy of the Railway Board's letter No.E(NG)11-738B/14 dated 6.3.74 is attached herewith this Writ Petition as Annexure No.2.

4. That the petitioner continued to work till ~~xxxx~~<sup>sc</sup> 15.1.77 and all of sudden the petitioner was shocked when he was told that his services have been terminated w.e.f.16.1.77 alongwith various persons who were working as a casual labourers. No any notice according to rule 149 of Indian Railways



पूज्यभूषण

Establishment Code and according to Industrial disputes Act and rules (Central) have been given and served on the petitioner. The petitioner came to know that an order has been passed by the respondent no.3. A true copy of which is filed herewith as Annexure No.3 to this Writ Petition.

5. That there are no allegation or charges against the petitioner and only the respondent no.6 due to his mala fide intention to victimize the petitioner alongwith others his <sup>u</sup>services have been terminated. The petitioner was told by the respondent no.6 that to create a gap of few days in the services of the petitioner and other co-labourers, their services were being terminated so that the petitioner and other labourers might not be appointed again as casual labourers without any scale and benefits of the temporary Railway servants. To convert the petitioner and others into casual labourers the petitioner and others are being victimized by the respondent no.6 and their scale will be half if they are fresh appointed as casual labourers and the petitioner alongwith other co-labourers will also loose all the benefits of temporary Railway servants. It may also be stated that the work in the bridges till that time was continuing and only 1/8 work had been done and as such the allegation in alleged notice that work has finished, was wholly incorrect due to mala fide reasons.



वृत्तमूर्तरा

6. That although on the one hand the petitioner's services have illegally been terminated

on the other hand the respondent were recruiting similar new hands without any reason or justification.

7. That before the petitioner was appointed as temporary railway servant the petitioner worked as casual labour for a number of year on his respective post. The petitioner was given regular scale and temporary appointment there was permanent need of the posts held by the petitioner and other co-labourers. It is even difficulty imagine that the posts held by the petitioner alongwith others continued for number of years when they were casual labourers, but there was no need for the same after the petitioner alongwith others was given scale and was appointed temporary on those posts.



वृजभूषण

8. That the petitioner after his temporary appointment on his respective post acquired a right on these posts and the same cannot be taken away by the impugned order of termination under rule 149 of the Indian Railway Establishment Code without giving the petitioner an opportunity of being heard and also without complying with the provisions of Article 311 of Constitution of India.

9. That as for as the provisions of rule 149 of Indian Railway Establishment Code Volume 1 relates termination due to expiry of sanction of the posts is concerned it is submitted that the same is ultra-vires and offends article 14, 16 and 311 of the Constitution of India and the law declared by the Supreme

Court and other High Courts. The impugned provision of the Rule 149 does not lay down any principle of policy for guiding the description by the authority. Arbitrary and uncontrolled powers is left in the authority to select at its will any person against whom action will be taken. The impugned provision is thus discriminatory.

10. That the impugned provisions of rule 149 of Indian Railway Establishment Code is in conflict with rule 5 of the Central Service (Temporary service) rules, 1949 which provides for notice before termination of services of temporary servants. Further in view of the latter rule the former is arbitrary and violative of Article 14 of the Constitution of India in as much as the former is less advantageous to the petitioner than the latter.

11. That according to law it was incumbent to maintain a categorywise seniority of all the units in the division but in the present case it has not been done.

12. That the respondents did not comply with the mandatory provisions relating to termination before the petitioner's services were terminated by the impugned orders.

13. That no notice under the prescribed form was given by the authorities concerned before terminating the services of the petitioner. Any compensation



whatsoever before his service was terminated.

14. That the petitioner have not been paid retrenchment allowance in terms of the Industrial disputes Act as circulated by the Railway Board vide letter No.E(LL)73/80/IB/1-70 dated 10.1.72 and E(LL)IB/1-12 dated 28.5.73 circulated by General Manager (P) N.E.Railway Gorakhpur Vide No.E/528/V dated 4.8.73 and 20.4.74.

15. That in similar cases this Hon'ble Court has been pleased to allow the Writ Petition No.42 of 1975 by its order and judgment dated 17.11.75. An other Similar Writ Petition No.7552 of 1974 has also been admitted by this Hon'ble Court. That this Hon'ble High Court has been pleased to allow the Writ Petition No.623 of 1977 by its order dated 15.2.80 which was filed by number of persons who were affected with the same order against whom the petitioner is filing this Writ Petition.



वृजभूषण

16. That after receiving the order the petitioner alongwith other co-labourers managed to challenge the said order through filing a writ Petition in this Hon'ble High Court. The petitioner alongwith other more than hundred person collected the amount ~~xxxxxxx~~ which was required for filing the Writ Petition and handed over that amount to the pairokar Keshav Prasad s/o Ram Jatan who was also a co-labourer and effected with that order. The petitioner also handed over a vakalatnama bearing his signature to the pairokar

The petition was filed by that ~~xx~~ <sup>4</sup> pairokar on behalf of more than hundred persons. The petitioner was told by his pairokar that the petitioner's name has also been arrayed as petitioner in that writ Petition. The petitioner was under impression that his petition is pending in this Hon'ble Court. Because the petitioner is a poor man and affording the livelihood of six persons of his family, was doing service as night guard in a private Firm of Calcutta. Unfortunately no information regarding to the orders of the writ Petition was sent by the pairokar, when on 28.2.81 the petitioner came to his house, he came to know one of his co-labourer about the order of the writ Petition, but when the petitioner received a copy of the order he came to know that his name ~~xx~~ <sup>4</sup> has not been mentioned in the name of the petitioners.



17. That it is in the interest of justice the petitioner's writ petition may be also allowed otherwise the petitioner shall suffer an irreparable injury which cannot be compensated in terms of the money.

वृजभूषण

18. That having no other efficacious <sup>4</sup> alternative remedy the petitioner is filing this Writ Petition Under Article 226 of the Constitution of India following amongst other:-

#### GROUND S

1. Because rule 149 of the Indian Railway Establishment Code Vol. I is violative of article 14, 16 and 311 of the Constitution of India.



(B) Because there is a conflict between the provisions of Rule 149 of the Indian Railway Establishment Code and Rule 5 of the Central Civil Service (Temporary Services) Rule and the former being violative of Article 14 of the Constitution of India.

(C) Because the impugned orders of termination are bad and illegal inasmuch as the required notice of one month has not been given.

(D) Because the impugned order of termination are also discriminatory and violative of Article 14 of the Constitution of India.

(E) Because the impugned orders are violative of Article 14 of the Constitution of India in as much as the petitioners have been denied equity.

(F) Because the impugned orders are illegal and violative of Article 311 of the Constitution of India.

(G) Because the petitioner has acquired a right on the posts held by them and the impugned orders which deprived the petitioner of this right and also the various benefits which have accrued to them cannot be taken away by the impugned order of termination and thus the orders of termination are nothing but punishment.

- (H) Because the impugned orders are also violative of principles of natural justice and have been passed without giving any reasons.
- (I) Because the impugned orders are bad and illegal in as much as employees junior to them have been retained and new hands are being recruited.
- (J) Because the impugned orders are malafide under the colourable exercise of powers.
- (K) Because the respondent no.3 while passing these orders have taken irrelevant things into consideration and have not taken relevant things into consideration.
- (L) Because the impugned orders are in violative of Chapter V-I of the Industrial Dispute Act of 1947.
- (M) Because the respondents violated the provisions of Rule 77 of Industrial Disputes (Central Rule) 1947.
- (N) Because the impugned orders are in violation of the provisions of Disciplinary Rules applicable to the Railway servants.
- (O) Because the respondents have violated para 2511 of Chapter 2A of the Indian Railway Establishment Code Vol.II Edition.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may be graciously pleased to issue:

(i) an order, direction or writ quashing the impugned notice (Annexure 2) terminating the petitioner's services.

(ii) an order, direction or writ directing the respondents to treat the petitioner in service continuously and no interfere with their services in the N.E. Railway.

(iii) any other suitable order, direction or writ which this Hon'ble Court may fit and proper in the circumstances of the case.

(iv) Award costs to the petitioner.

✓ Lucknow Dated:

March ~~February~~ 6, 1981.

Jk. Sinha  
(Jai Krishna Sinha)  
Advocate  
Counsel for the Petitioner.

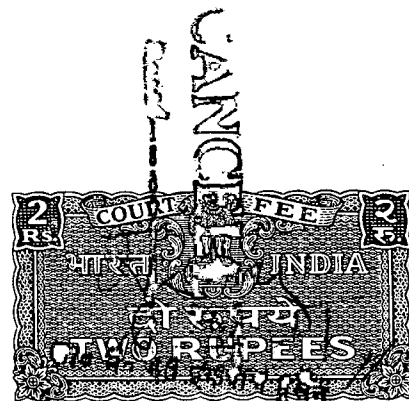
Certified that Shri Braj Bhoosan s/o Shri Ram Nain has worked  
as a Casual Khalasi from 21.5.76 to 15.1.77 in B.G. Organisation.

Dated 1.3.81

*S. Mishra*

Bridge Inspector (Con)  
N.E.Rly., Gonda.

मुख्य कालसी (15 मई 1977 लाइन)  
गुप्तार रेलवे, गोंडा



$$\frac{A}{B} \quad \frac{x}{y}$$

.....

Braj Bhushan                      ...                      ...                      Petitioner

The General Manager, N.E.Railway,  
Gorakhpur & others.                      ...                      ...                      Opp.Parties.

Certified that Shri Braj Bhoosan s/o Shri Ram Nain has worked as a Casual Khalasi from 21.5.76 to 15.1.77 in B.G.Organisation.

Sd/- Illeigble  
Bridge Inspector (Gon)  
N.E.Rly., Gonda.

A circular stamp from the 'COMMISSIONER FOR OATH' is stamped over the bottom of the document. The stamp features a central emblem of a building. Overlaid on the stamp is the handwritten text 'S.C. 10/3/81' and a signature that appears to be 'S. C. 10/3/81'. The stamp is partially cut off at the bottom.

The Suck

A  
19 1/2

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

....

WRIT PETITION NO.        OF 1981

Braj Bhushan        ...        Petitioner

Versus

The General Manager, N.E. Railway,

Gorakhpur & others.        ...        Opp. Parties.

ANNEXURE NO.2

COPY OF BOARD'S LETTER DT.6.3.74

Copy of Board's letter No. E(NG) 11-738B/14  
dated 6.3.74 addressed to the General Managers, All  
Indian Railways and others.

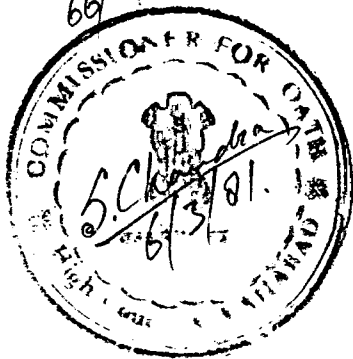
...

Subject:- Temporary status on substitutes reduction  
of period from six months to four months.

....

The existing order relating to engagement  
of substitutes and grant of temporary status to them as  
contained in Board's letter No. E(NG) 65 LRL-1 dated  
1st September 1965 provided that they should be afforded  
the rights of privileges are admissible to temporary  
servants on completion of six months continuous service.  
The orders also provide that substitute school teachers  
should be afforded this benefit after they have put  
in continuous service of three months.

2.        The Board have now decided that the  
benefits of temporary railway service to substitutes  
may hence forth be granted on completion of four



*Dr. S. S. Sanyal*

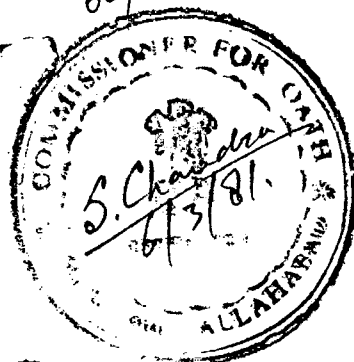
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months' continuous service instead of six months continuous service. The period of three months for attaining temporary status for school teachers will, however, continue unchanged.

Sd/- R.D.Lakhanpal

Asstt. Director of Establishment,  
Railway Board.



TRUE COPY

The Smt

4  
21 12/11

इन दि बानरेकुल हाई कोर्ट आफ जुडीकेचर रेट छाहाबाद  
उखनऊ बेन्च, उखनऊ ।

-----

रिट पिटीशन नं० आफ १६८१

बृज भूषण

---

---

पिटीशनर

अनाम

दि जनरल मैनेजर एन०ई०आर०, गोरखपुर

एण्ड अदर्स

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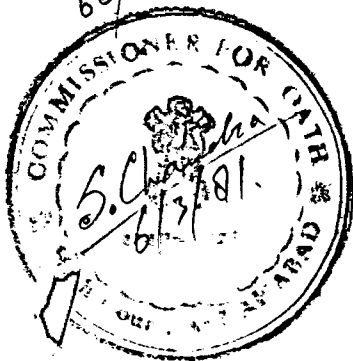
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अपो०पाटीज़ि

अनवजर नं० ३

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66/111



पुल निरीदाक (निमणि) गोण्डा के अधीन सभी  
सामयिक कर्मचारियों को सूचित किया जाता है कि सेतु कार्य  
बंद हो जाने के कारण तारीख १६-१-७७ से वे कार्य से हटा  
दिया जायेंगे ।

सहायक पुल अभियन्ता

(निमणि) पू००००००००

गोण्डा ।

सत्य-प्रतिष्ठिपि

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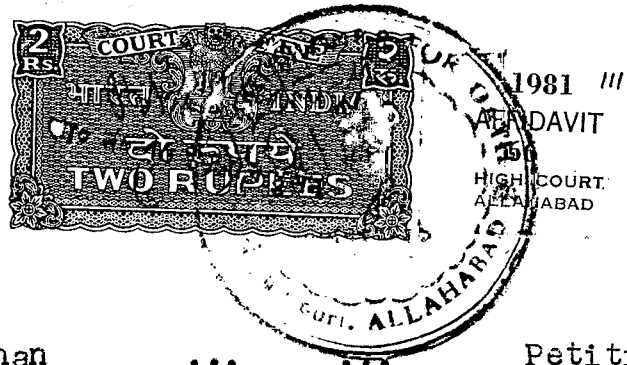
*Signature*



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A/5

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

.....  
WRIT PETITION NO. OF 1981



Braj Bhushan

Petitioner

Versus

The General Manager, N.E.Rly.

Gorakhpur & others. ... Opp. Parties.

AFFIDAVIT



बृजभूषण

I, Braj Bhushan aged about 35<sup>sc.</sup> years,  
son of Sri Ram Nain, resident of Narainpur Bujurg,  
P.O. Keshwapur, Tahsil Bansgaon, District Gorakhpur,  
the deponent, do hereby solemnly affirm and state  
on oath as under:-

1. That the deponent is petitioner in the  
above Writ Petition and as such he is fully conversant  
with the facts of the case.

2. That Annexures 1 to 3 are true copies  
which have been compared with their respective  
originals by the deponent's advocate.

3. That the contents of paragraphs are true to own knowledge, those of paragraphs of this ~~affidavit~~ Writ Petition are believed to be true by the deponent.

Lucknow Dated:  
~~February~~ <sup>5<sup>th</sup></sup> March <sup>5<sup>th</sup></sup> 6, 1981.

वृजभूषण  
Deponent.

VERIFICATION

I, the deponent named above, do hereby verify that the contents of paragraphs 1 to 3 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.

Lucknow Dated:  
~~February~~ <sup>5<sup>th</sup></sup> March <sup>5<sup>th</sup></sup> 6, 1981.

वृजभूषण  
Deponent.

I identify the deponent, who has signed before me.

वृ.भू.  
Advocate.

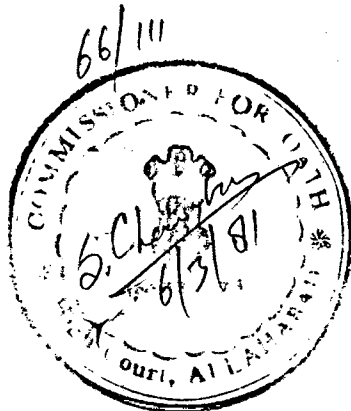
Solemnly affirmed before me on 6-3-81. at 8.25 a.m./p.m. by Sri Braj Bhushan the deponent, who is identified by Sri Jai Krishna Sinha Advocate, High Court, Allahabad.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been compared by me.

S. C. Chandra

OATH COMMISSIONED  
High Court, Allahabad  
Lucknow Bench

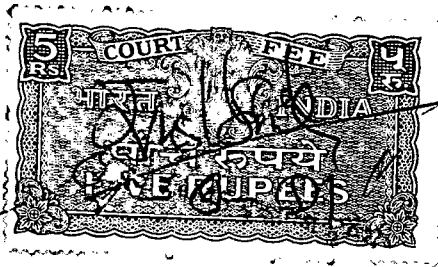
No. 66/111  
Date 6-3-81



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW.

.....6707(w)  
C.M.An.No. 1062 (w) of 1981  
In re:  
Writ Petition No. 1062 of 1981



1 CF = 125/2

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7/8/81

Brij Bhushan s/o Ram Nain ... Applicant

In re:

Brij Bhushan ... Petitioner

Versus

N.E.Railway & others. ... Opp. Parties.

APPLICATION FOR INTERIM RELIEF

For the facts and reasons given in the accompanying affidavit, it is most respectfully prayed that this Hon'ble Court may be pleased to direct <sup>the</sup> this opposite party no. 1-6 to take work to the petitioner on the post on which he was working prior to his termination, till the disposal of this Writ Petition.

Lucknow Dated:

August 6, 1981.

7

*J.K. Sinha*

(J.K. Sinha)

Advocate

Counsel for the Applicant.

A S ✓

88

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

....  
C.M.An.No. (w) of 1981  
In re:  
WRIT PETITION NO. 1062 OF 1981



1981  
AFFIDAVIT  
95  
HIGH COURT  
ALLAHABAD

Brij Bhushan s/o Ram Nain ... .. Applicant  
In re:  
Brij Bhushan ... .. Petitioner  
Versus  
N.E.Railway & others. ... .. Opp.Parties.

AFFIDAVIT

I, Brij Bhushan aged about 30 years, s/o  
Sri Ram Nain resident of Narainpur Bajurg, Tahsil  
Bansgaon, District Gorakhpur, the deponent, do hereby  
solemnly affirm and state on oath as under:-

1. That the deponent is petitioner in the  
abovenoted Writ Petition and as such he is fully  
conversant with the facts of the case deposed  
hereinafter.

6/8

2. That this Writ Petition have been admitted by the Hon'ble Justice Mr. T.S.Misra and Hon'ble Justice Mr. Zahir Husain of this Hon'ble Court.

3. That a similar writ petition against the same order (Writ Petition No.623 of 1977) has been allowed on dated 15.2.1980 by Hon'ble Justice Mr. Hari Swaroop and Hon'ble Justice Mr. S.C.Mathur, that Writ Petition was filed by one hundred and three petitioners. All the petitioners have joined and working on their services, only the petitioner is left.

4. That no counter affidavit has been filed by opposite parties till now.

5. That the work of the Bridge construction will ~~xxxxxxx~~ come to an end only after few months, and if the petitioner will not be given any interim relief the petitioner will suffer much loss and injury and the Writ Petition will also become infructuous.

Lucknow Dated:  
August 6 8, 1981

बृजभूषण  
Deponent.

VERIFICATION

I, the deponent named above, do hereby verify that the contents of paragraphs 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.

Lucknow Dated:

August 6, 1981.

श्री ब्रिज भूषण

Deponent.

I identify the deponent, who has signed before me.

Advocate.

Solemnly affirmed before me on 6.8.81

at 9.30 a.m./p.m. by Sri Brij Bhushan

the deponent, who is identified by Sri J.K.Sinha, Advocate, High Court, Allahabad.

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

A. C. SRIVASTAVA  
Oath Commissioner  
High Court, Allahabad  
Lucknow Branch

No. ....

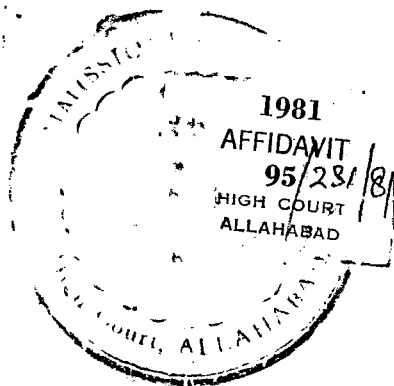
Date 6/8/81

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ~~LUCKNOW~~

LUCKNOW

WRIT PETITION NO. 1062 of 1981



Brij Bhushan . . . . . Petitioner.

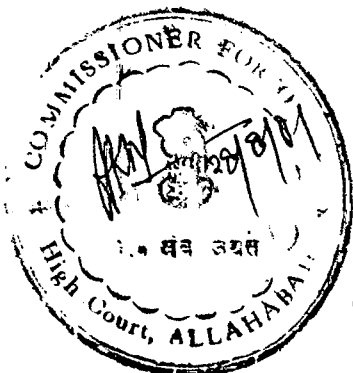
versus

General Manager N.E.Rly & Ors.....Opp. Parties-

COUNTER AFFIDAVIT ON BEHALF OF THE OPPOSITE PARTIES.

I, Kashi Nath , aged about 41 yrs., son of Jawahar Ram resident of Railway colony Gonda, presently employed as Asst. Bridge Engineer ( Construction ) N.E. Rly. Gonda, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the Asstt. Bridge Engineer ( Con ) in the North Eastern Railway and as such is fully conversant with the facts and circumstances of the case and has read the petition and has under-stood the contents therein.
2. That the contents of paras 1 & 2 of the writ petition are admitted.
3. That the contents of para 3 of the writ petition are incorrect and are denied. It is further stated that the Board's letter no. E(NG)/11-738-B/14 dt.6.3.74 relied upon by the petitioner is not applicable to his case as he was never appointed as a substitute. It is herein further stated that the petitioner was casual labourer and his services were governed by the Railway Board's letter no. PC-72/RLT/69-3 dt.12.6.74 and letter no. E(NG)11/76/cl/116 dt 21.3.77 the true copies of



Kashi Nath

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which are annexed herewith as annexure A-I and Annexure A-II to this counter-affidavit.

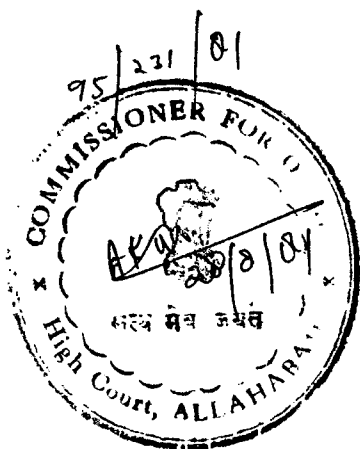
4. that the contents of para 4 of the writ petition are denied. It is further stated that no notice to the petitioner was required to be given to the petitioner as stated by him, as the petitioner had not acquired temporary status. It is also stated that no notice was required to be given to the petitioner under the Industrial Disputes Act And the Industrial Disputes Rule ( Central) as he had not been in ~~survive~~ continuous service ~~for~~ for 12 calendar months.

5. That the contents of paras 5 & 6 of the writ petition are incorrect and are denied.

6. That the contents of para 7 of the writ petition are also denied being incorrect. It is hereby further stated that ~~the~~ the petitioner was never appointed as a temporary Railway servant. The date of the first appointment of the petitioner as a casual labourer is 21.5.76 which is borne out by the averments made out by the petitioner himself in paragraph no.2 of the writ petition.

7. That ~~the~~ in reply to para 6 of the writ petition the contents of para 3 of this counter-affidavit are reiterated.

8. That with regard to paras 9 & 10 of the writ petition it is stated that the Rule 149 of the Railway Establishment Code Vol.I is legal and is not violative of the provision of Articles 14, 16 and 311 of the Constitution of India.



Kashi Nath



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It is further stated that Rule 149 of the Railway Establishment Code Vol. I is statutory and has nothing to do with the central service rules. It is also stated that that Rule 149 is not applicable to the case of the petitioner.

9. That in reply to para 11 of the writ petition it is stated that no violation of any rule, statute or law was done by the opposite parties. The seniority list as required under the law are always maintained.

10. That the contents of paras 12 & 13 of the writ petition are denied. It is further stated that since the total period of <sup>continuous</sup> service of the petitioner was less than 12 ~~xx~~ calendar months, notice for termination of service and payment of retrenchment ~~xxxxxxxx~~ compensation etc., as alleged by the petitioner in his petition was not required in his case.

11. That in reply to para 14 of the writ petition the reply given ~~xxxxx~~ in paragraphs 4 & 10 of this counter-affidavit are reiterated.

12. That the contents of para 15 of the writ ~~xx~~ petition ~~xxx xxxxx~~ needs not reply as it is matter of record. However it is submitted that each petition ~~xxxxxxxx~~ which is filed in this Hon'ble Court is decided on its own merits and it has no bearing on the case of the petitioner.

13. That the contents of para 16 of the writ petition needs no reply.



Kashi Nath

A/31      6/4      A/34

( 4 )

14. That in reply to para 17 of the writ petition it is stated that the petitioner had an equally effective remedy which he failed to avail and as such the petition is liable to be dismissed as premature.

15. That in reply to para 18 of the writ petition it is stated that this writ petition is not maintainable and is liable to be dismissed with costs to the opposite parties

Lucknow, dated,  
28.th August, 1981

Kashi Nath  
Deponent

Verification

I, the above named deponent, do hereby verify that the contents of para 1 of the counter affidavit is true to my personal knowledge and contents of para 2 to 13 of this affidavit are based on information derived from the records of the administration and the contents of para 14 are based on legal advice. No part of it is false and nothing material has been concealed, so help me God.

Lucknow dated  
28th, August 1981

Kashi Nath  
Deponent.

I identify the deponent who has signed in my presence

Robin Mitra  
Advocate.

Solemnly affirmed before me on. 28.8.81  
at 3.30 am/pm. by Shri Kashi Nath, the deponent who is identified by Sri Robin Mitra, Advocate, High Court, Lucknow.

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

Robin Mitra  
JATH COMMISSIONER  
High Court, Allahabad.  
Lucknow Bench

No. 95/231/81  
Date 28/8/81



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

W.P. NO. 1062 of 1981

Brij Bhushan . . . . . Petitioner.

Versus.

General Manager , N.E. Rly. & ors ..... Opposite Parties.

Annexure A-I

copy of the Railway Board's Letter no. PC-72/RLT/69-3 dated 12.6.74 addressed to the General Manager. All Indian Railways and others.

.....

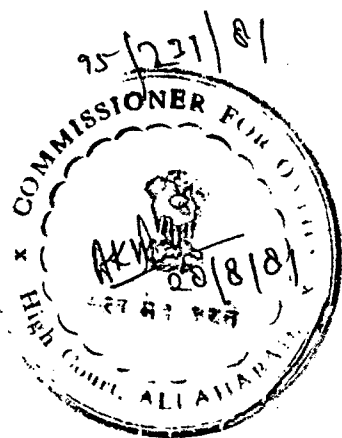
Sub :- Wages of Casual Labour employed on Railway "Projects"- Railway Labour Tribunal, 1969.

.....

The Railway Labour Tribunal, 1969 has inter alia recorded the following decision in respect of issue relating to wages of casual labour employed on Railway projects under the terms of reference no. 3 viz- payment of wages to casual labour :-

" 4.26 (6)- The provision contained in the Manual in regard to project casual labour ~~will~~ should be so amended as to provide that such casual labour will also be paid the scale rates if ~~the~~ the same happens to be higher than the project casual labour is employed for a continuous local rates, if the/period of six months in the same ~~type~~ type of work. It may be clarified that, as a result of this decision, a project casual labour will not acquire the status of temporary servant. nor will he have the benefit of any further increments."

( ..... Continued 2 )



Koshi Nath

( 2 )

2. The Government has accepted the above recommendation. ~~fixing~~ Accordingly it has been decided by the Rly Board, in modification of the provisions contained in para 2502 of the Indian Railway Establishment Manual as introduced vide their letter No. E(NG) 60-CL-13 dated 22.8.62 that casual labour employed in the Railway projects will be paid 1/30th of the appropriate scale rate i.e., the minimum of the appropriate revised scale plus dearness allowance, if the same happens to be higher than the local market rate of daily wages in respect of such casual labour. On completion of six months of continuous service in the same type of work with effect from 1.6.74 or on the dates from which the six months service is completed whichever ever is latter.

3. Casual labour on schedule employments who are governed by the provisions of the Minimum Wages Act (Central) and who are normally paid the minimum wages fixed under the Minimum Wages Act, will also be paid 1/30th of the appropriate revised scale plus dearness allowance, if the same happens to be higher than the minimum wages fixed under the said Act, subject however, to their ~~fixing~~ fulfilling the conditions laid down in para 2 above.

4. It has also been decided that the casual labour employed on 'projects' paid on the basis of 1/30th of the scale rate will not be entitled to rights and privileges as admissible to temporary employees or to such of those casual who acquire temporary status on completion of 4 months service in terms of Board's letter No. PC-72/RLT-69/3(i) dated 12.7.1973

5. These orders will take effect from 1.6.1974.

6. Railway Administration should meet the increased cost of project casual labour from within the sanctioned budget allocation for 1974-75. They should, however, work out ~~the~~ an estimate of the additional expenditure involved under each works grant, plan/head/allocation-wise and furnish the figures to the board by 30.6.1974 certain.

Sd/-

( O.D. Sharma )  
Deputy Director Estt. (RLT)

Railway Board

True Copy

\*\*\*\*\*

OFFICIAL COMMISSIONER  
High Court Allahabad  
L. No. 1000

No. 95/221/81

Date 28/8/81

Kachi wakh



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

W.P.No 1062 of 1981

A/57

Brij Bhushan . . . . . Petitioner.

Versus

Gen.Manager, N.E.Rly & Ors . . . . .Opp. Parties.

Annexure A -II

Copy of the Board's Letter No. E (NG)II/76/CL/116  
dated 21.3.77 addressed to the General Managers.  
All Indian Railways and others

. . . . .

Sub - Conditions of Service of Casual Labours

. . . . .

The subject ' conditions of service applicable to casual labourers on Railways' has been repeatedly raised by the staff side in the JCM Departmental Council Meetings. The main points raised have been leave weekly rest, hours of work and conditkons for attaining temporary status. After the matter was discussed at length final decisions have been taken at the Departmental Council meeting held on 8/9.11.1976. The positions emerging as a result of these decisions is as follows:-

1. In regard to leave for casual labourers, temporary staff are entitled to practically the same leave facilities as permanent staff. The Mia-Bhai Tribunal's recommendations have been accepted by the Govt. and order issued that casual labourers on open line after 4 months of continuous service. becomes entitled to the benefits of the temporary status including leave. As regards casual labourers on projects, the Mia-Bhai Tribunal has held that it would not be practicable to give temporary status to them and such their interest in regard to wages should be protected by giving them

(.....Contd 2 )



Kashi Nath

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1/30th of the scale rate when they complete six months of service, this has been done but such casual labourers are not eligible for leave.

2. As for weekly rest, para 2509 of the Indian Railways Establishment Manual lays down that all casual labourers irrespective of whether they are governed by the minimum wages Act or not, will be given periodic rest with pay in terms of the provisions contained in minimum wages Act or the hours of employment Regulations as the case maybe.

3. As regards hours of work and overtime allowance, para 2509(a)(b) of the Indian Railways Establishment Manual provides that their classification would follow the category in which they are employed and their hours of work periods of rest & overtime allowance, etc. will be regulated accordingly under the hours of employment regulations. However such of them as are governed by the Minimum wages Act, will continue to be governed in these matters by the provisions contained in that act.

4. During discussion of the staff side demand for more days of authorised leave, it was agreed that casual labourers who have not attained temporary status would be eligible for 20 days of authorised absence for the purpose of continuity of service as against the present provisions of 15 days.

The Ministry of Railways desire that all concerned may be advised about the above decision increasing the days of authorised absence to 20, which takes effect from the date of issue of this letter.

Sd/-  
( A. Anantachari )

Deputy Director Establishment,  
Railway Board.

True Copy

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er m h  
ORTH COMMISSIO  
High Court Allahabad  
Lucknow Bench

No. 95/231/81  
Date 28/8/51

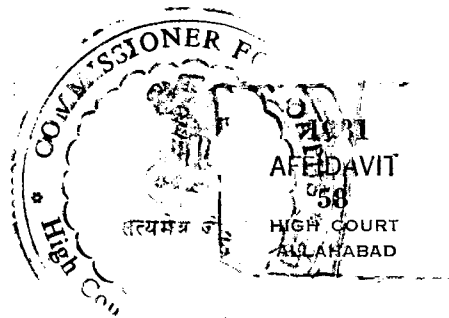
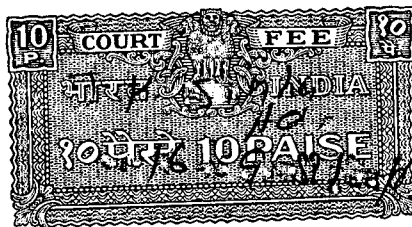
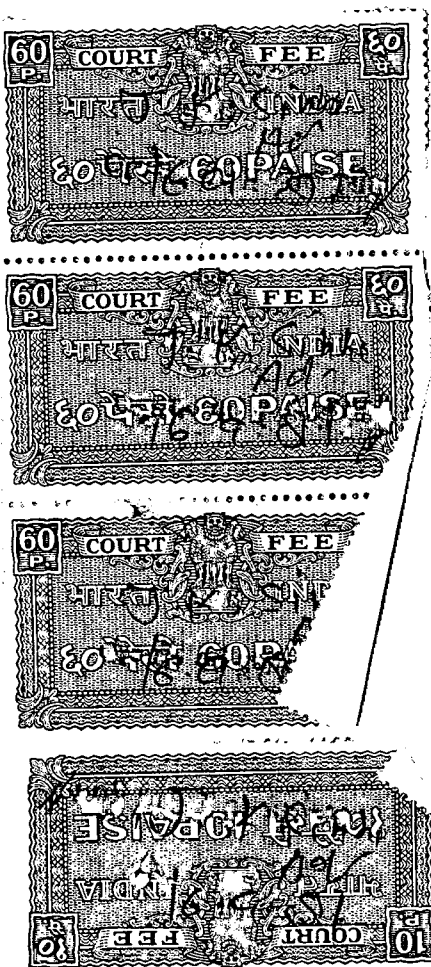
Kashi Nank

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

....  
REJOINDER AFFIDAVIT

Inre:  
WRIT PETITION NO.1062 of 1981



Brij Bhushan ... .. Petitioners

Versus

General Manager N.E.Rly and  
others. ... ..

Opp. Parties.

I, Brij Bhushan aged about 30 years, s/o  
Sri Ram Nain r/o Narainpur Bujurg Tehsil Bansgaon  
District Gorakhpur, the deponent, do hereby solemnly  
affirm and state on oath as ~~made~~ under:-

1. That the deponent is the petitioner in the  
abovenoted case and as such he is fully conversant  
with the facts of the case. The counter affidavit  
has been read over and explained before the deponent  
and after understanding he is giving reply parawise.

2. That the contents of para 1 of the counter  
affidavit need no comment.

3. That the contents of para no.2 of the



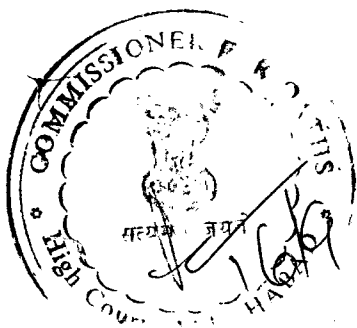
बृजभूषण राय

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A/40

-2-

counter affidavit also need no comment.

4. That the contents of para no. 2 of the counter affidavit are denied. It is further stated that the petitioner's case is the same as the case of earlier 103 petitioner's whose Writ Petition has been allowed by this Hon'ble High Court. The earlier Writ Petition named as Sri Ram Bachan and others Versus the General Manager N.E.Rly, and the number of Writ Petition is 623 of 1976. In that Writ Petition the same allegation ~~was~~ were made but same were disbelieved by this Hon'ble High Court. It is further stated the Rly Board letter dated 12.9.1974 is wholly inapplicable to the petitioner as much as he was not project casual labour. It has been admitted in para 2 of the counter affidavit that the petitioner was appointed as Casual labour in the Engineering ~~Dept~~ Department (Bridges) Broad gauge (construction) N.E.Rly. Gorakhpur. The aforesaid Rly Board Letter dated 6.3.1974 has not been superseded by 1274. Apart from this the rules in the regard can also be found in Rly establishment manual.



गुज गुरा

5. That the contents of para 4 of the counter affidavit are denied, It is further stated that this allegation is vague that the petitioner was not having a temporary status and the notice to the petitioner before termination was must. Moreover it may be noted that the impugned order of termination does not bear any date of issue of the said



order.

6. That the contents of para 5 of the counter affidavit are also denied.

7. That the contents of para 6 of the counter affidavit are denied. It is not only false but also absurd to say that the petitioner was not appointed as Rly servant.

8. That the petitioner was appointed as a casual labour on 21.5.76 along with others whose termination order has already been quashed by this Hon'ble High Court.

9. That the contents of para 7 of the counter affidavit are denied.

10. That the contents of para 8 to 10, of the counter affidavit are denied. It is further stated that the same allegations were made in earlier Writ Petition which were found incorrect by this Hon'ble Court.

11. That it is noteworthy that the Rly. administration was bound to maintain a list of seniority as provided under rules framed under the industrial dispute Act (Central) and under the said rule the seniority list has to be maintained division-wise and



बृजभूषण

not inspector-wise.

12. That the contents of para 13 of the counter affidavit are denied as the case of the petitioner is quite similar with the petitioners in 623 of 1977 which has been allowed by this Hon'ble High Court vide his order dated 15.2.80. Lucknow Dated:

September 16, 1981.

बृजभूषण  
Deponent.

VERIFICATION

I, the deponent named above, do hereby verify that the contents of paragraphs 1 to 12 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.

Lucknow Dated:

September 16, 1981.

बृजभूषण  
Deponent.

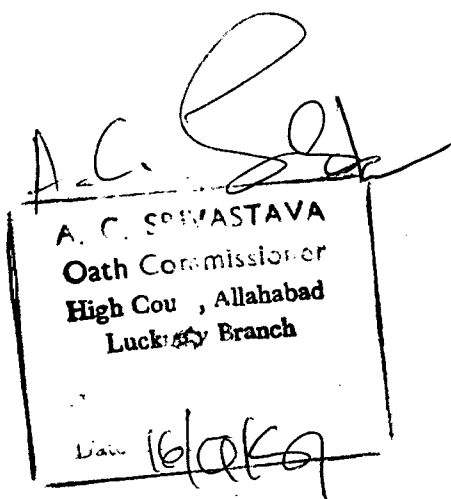
I identify the deponent, who has signed before me.

J.K. Sinha  
Advocate.

Solely affirmed before me on 16.9.81  
at 7.38 a.m./p.m. by Sri Brij Bhushan

the deponent, who is identified by Sri J.K. Sinha, Advocate, High Court, Allahabad.

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



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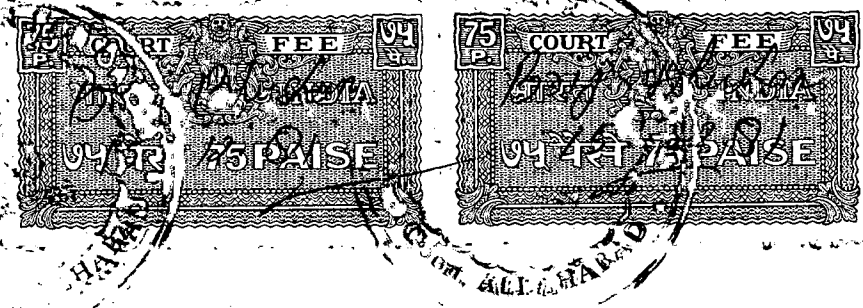
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
SITTING AT LUCKNOW.

A/43

.....

WRIT PETITION NO.1062 of 1981

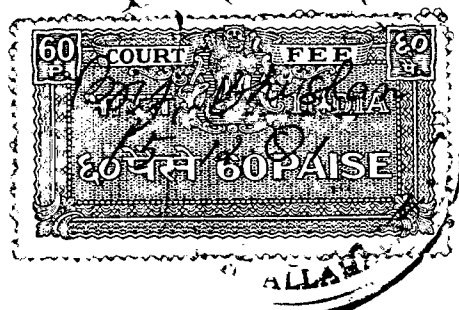
1981  
AFFIDAVIT  
65  
HIGH COURT  
ALLAHABAD



Brij Bhushan ... .. Petitioner

Versus

N.E.uly and others. ... .. Opp.Parties.



SUPPLEMENTARY AFFIDAVIT IN SUPPORT OF THE  
APPLICATION FOR INTERIM RELIEF.

I, Brij Bhushan aged about 35 years, s/o  
Ram Narain r/o Narainpur Bujurg P.O.Keshwapur, Tahsil  
Bansgaon District Gorakhpur, do hereby solemnly  
affirm and state on oath as under:-

1. That the deponent is petitioner in the  
abovenoted Writ Petition, as such he is fully conver-  
sant with the facts of the case.

2. That the petitioner was appointed on dated  
~~21.5.76~~ 21.5.1976, as Casual Labourer and on the same  
date one Tai Ram Tiwari s/o Changur Tiwari r/o of  
Gorakhpur was also appointed in the same cadre, who  
is still working on his post. One more Sant Raj Yadav  
s/o Dikki Yadav who is junior to the petitioner as he  
was appointed on 16.6.1976, is also still working on  
his substantial post and has not been retrenched,  
therefore this allegation of opposite parties that even

FOR  
16/13  
ALLAHABAD

वृजभूषण

seniors to the petitioner have been retrenched from services, is incorrect.

3. That the petitioner is liable to be reinstated on his substantial post, as even juniors are working on their posts, he is also entitled for all the benefits in accordance with the provision of rules.

Lucknow Dated:  
December 16, 1981.

बृजभूषण रा  
Deponent.

VERIFICATION

I, the deponent named above, do hereby verify that the ~~own~~ contents of paragraphs 1 to 3 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.

Lucknow Dated:  
December 16, 1981.

बृजभूषण रा  
Deponent.

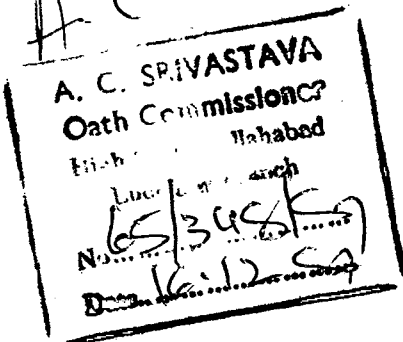
I identify the deponent, who has signed before me.

JK Sinha  
Advocate.

Solemnly affirmed before me. on 16.12.81  
at 7.40 a.m./p.m. by Sri Brij Bhushan

the deponent, who is identified by Sri J.K. Sinha, Advocate, High Court, at Allahabad, Lucknow Bench, Lucknow.

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



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K/5

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

Writ-Petition No. 1062 of 1981.

1982  
AFFIDAVIT  
17  
HIGH COURT  
ALLAHABAD

Brij Bhushan

---Petitioner

Versus

G.M./N.E.Rly., and others

---Opp-Parties

SUPPLEMENTARY COUNTER AFFIDAVIT IN REPLY OF THE  
SUPPLEMENTARY AFFIDAVIT.

I, Kashi Nath aged about 43 years son of  
Sri Jawahir Ram , resident of Assistant Bridge  
Engineer, N.E. Railway, Gorakhpur, the deponent do  
hereby solemnly affirm and state on oath as under :-

1. That the deponent is working as the Assistant  
Bridge Engineer, N.E. Railway, Gorakhpur and is fully  
conversant with the facts of the case. He has  
read the contents of the Supplementary Affidavit  
and has understood the same.

2. That the contents of paragraph-1 of the  
Supplementary Affidavit need no reply.

(Contd.2.)

Kashi Nath  
20/7/82

3. That in reply to paragraph-2 of the Supplementary Affidavit , it is stated that Shri Brij Bhushan, petitioner was engaged as casual labour on 21.5.1976 and Shri Sant Raj Yadav son of Sri Dikki Yadav was engaged as casual labour on 6.6.1976, Shri Sant Raj Yadav was also retrenched along with the petitioner but he was re-engaged in view of the judgment of the Hon'ble High Court(Lucknow Bench) Lucknow in writ petition No. 623 of 1977. Ram Bachan and others .....Versus.....U.O.I. & others in which he was one of the petitioners. Shri Brij Bhushan could not be engaged as he was not a party in the writ petition referred above and also when engagement was being made of retrenched casual labour he was not available. Shri Brij Bhushan has himself stated in paragraph-16 of his writ petition that he had been at that time working at Calcutta after termination of his services.

4. That in reply to paragraph-3 of the affidavit, it is stated that the claim made by the petitioner is denied being devoid of substance. A casual labour is engaged against the post of casual nature and for short term and paid for the day the works and they have no ~~right~~ right to hold the post substantively.

Lucknow dated,  
July 29 , 1982.

Kashi Nath  
20/7/82  
Deponent.

(contd.3.)

Kashi Nath  
20/7/82



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8/3

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:: 3 ::

Verification :-

I, the deponent named above, do hereby verify that the contents of paragraph-1 of this affidavit is true to my own knowledge and those of paragraphs 2 to 4 are based on the informations derived from the record. No part of it is false and nothing material has been concealed so help me God.

Lucknow dated,  
July, 20, 1982.

Kashi Nath  
20/7/82  
Deponent.

I identify the deponent who has signed before me.

Advocate.

solemnly affirmed before me on 20-7-82

at 9.15 AM/PM by Sri Kashi Nath, the deponent, who is identified by Sri Rabin Mitra

Clerk to Sri  
Lucknow /Allahabad.

Advocate, High Court

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.

Oath Commissioner.

Kashi Nath  
20/7/82

A. N. Sanyal  
Oath Commissioner  
High Court, Allahabad  
Lucknow Bench  
No. 124328  
Date 20/7/82

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48

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

W.P. No. 1062 of 1981 .

1982  
AFFIDAVIT  
16  
HIGH COURT  
ALLAHABAD

Brij Bhushan

---Petitioner

Versus

G.M./N.E.Railway and others

---Opp-Parties

Counter-affidavit in reply to the Rejoinder-Affidavit.

I, Kashi Nath aged about 43 years son of  
Sri Jawahir Ram, resident of Assistant Bridge  
Engineer, N.E.Railway, Gorakhpur, the deponent do  
hereby solemnly affirm and state on oath as under :-

1. That the deponent is working as the Assistant  
Bridge Engineer, N.E.Railway, Gorakhpur and is fully  
conversant with the facts of the case. He has read the  
contents of the Rejoinder-Affidavit and has understood  
the same.

2. That in reply to the contents of paragraph-4  
of the rejoinder affidavit reply given in paragraph-3  
of the counter affidavit is re-iterated. The petitioner  
was not appointed as a substitute and as such the  
Board's letter No.E(NG)/II-738-B/14, dated 6.3.1974  
is not applicable in his case. The question of  
supersession of Board's letter No.E(NG)/II-738-B/14,



Kashi Nath  
20/7/82

Contd. 2.



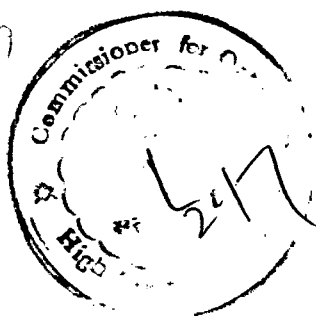
dated 6.3.1974 by Board's letter No.PC-72/RLT/69-3, dated 12.6.74 does not arise as the two letters formulate rules for two different and independent subject. The petitioner was a project Casual Labour, and is his case Board's letter No.PC-72/RLT/69-3, dated 12.6.74 and No.R(NG) Pt.II/76/CL/116, dated 21.3.77 are applicable. The judgment of the writ petition referred is a matter of record. It is, however, submitted that the case of the petitioner is not similar to the petitioner in the writ petition no. 623 of 1977 referred by the petitioner. Statements contrary to it are denied.

3. That in reply to the contents of paragraph-5 of the rejoinder affidavit, reply in paragraph- 4 of the counter affidavit is re-iterated. The statements contrary to it are denied.

4. That in reply to paragraph-6 of the rejoinder affidavit reply given in paragraph-5 of the counter affidavit are re-iterated.

5. That in reply to paragraph-7 of the rejoinder affidavit reply given in paragraph-6 of the counter affidavit are reiterated.

6. That in reply to the contents of paragraph-8 of the rejoinder affidavit, it is stated that the petitioner was appointed as Casual Labour on 21.5.1976. The petitioner has not given the details of the other persons whose orders of termination have been quashed and as such specific reply can not be given.



Kashi Nath  
20/7/82

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However, it is stated that the orders passed by this Hon'ble High Court in a particular writ petition are applicable to the petitioners in that writ petition and the same can not be extended to the ~~par~~ petitioner in this writ-petition.

7. That in reply to paragraphs 9 and 10 of the rejoinder affidavit reply given in paragraphs 7 a to 10 of the counter-affidavit are reiterated.

8. That in reply to paragraphs 11 and 12 of the rejoinder affidavit reply given in paragraphs 9 and 10 of the counter-affidavit is reiterated. It is however, further stated that subordinate unit wise seniority was formerly maintained at the time of retrenchment which was later on revised to the Executive Engineer unit wise and maintained now. Further had the seniority been maintained category-wise and division wise as stated by the petitioner even then there was no chance of retention of petitioner in service as he was very junior amongst the Casual Labour, ~~or~~ Executive Engineer unit wise seniority.

Lucknow dated,  
July 20, 1982.

Kashi Nath  
20/7/82  
Deponent.

Verification  
.....

I, the deponent named above, do hereby verify that the contents of paragraphs 1 to 2 of this

Kashi Nath  
20/7/82

Contd. 4.

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affidavit are true to my own knowledge and those of paragraphs 3 to 8 are based on the knowledge described from the records. No part of it is false and nothing material has been concealed, so help me God.

Lucknow dated,  
July 20, 1982.

Kashi Nath  
20/7/82  
Deponent.  
Deponent.

I identify the deponent who has signed before me.

Advocate.

Solemnly affirmed before me on 20-7-82  
at 9.10 AM/PM by Sri Kashi Nath,  
the deponent, who is identified by  
Sri Rohan Mitra.

Clerk to Sri

Advocate, High Court, Allahabad, Lucknow Bench Lucknow.

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

Kashi Nath

A. N. Sankar  
Oath Commissioner  
High Court, Allahabad  
Lucknow Bench

No. 16/378

Date

20/7/82

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49

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD  
LUCKNOW CIRCUIT BENCH

---

Writ Petition: No. 623/77

T.A. No. 807/87

K/S

Brij Bhushan	.....	Applicant.
	Versus	
Union of India & others	.....	Opposite Party.

Hon. J.P. Sharma, J.M.

Shri Brij Bhushan, the applicant, who is not present today, filed a writ petition before the Hon'ble High Court Lucknow Bench, 1062/81 which was ordered to be put up, by the Hon'ble High Court, along with the writ petition No. 623/77.

This writ petition 1062/81 has been transferred to the Tribunal under Section 29 of A.T. Act, 1985 for disposal.

The respondent<sup>is</sup> represented by Shri A. Srivastava advocate. An application has been moved today by the learned counsel which is dated as 2.2.1990 and signed by Hon. K. Nath. In this application it is contended that the applicant/ Petitioner has been taken into service with effect from 21.2.1983 and Annexure- 1 attached to this application is an order dated 21.2.1983. to this effect.

The learned counsel contended that the representation writ petition has become infructuous.

The applicant/ Petitioner pray<sup>ed</sup> in the writ petition that -- the notice of termination be quash<sup>ed</sup> and the petitioner be deemed to be in service by implication. <sup>As</sup> the applicant is said to have joined by virtue of orders dated 21.2.1983, so the writ petition as originally filed has become infructuous.

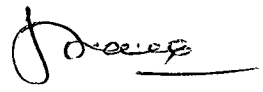
The applicant Shri Brij Bhushan nor his counsel is present.

On the show<sup>ing</sup> of the respondent, it is evident, that the applicant has been taken into service from February, 1983 and so the applicant has no grievance to be redress<sup>ed</sup> or remedied by this Tribunal.

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The application/ writ petition is disposed of accordingly as infructuous and be consigned. However, parties to bear their own cost.



J.M.

Date: 6.3.1990

## वकालतनामा

..... Before Central Administrative Tribunal Circuit Bench ..... के समक्ष  
At Lucknow ..... के न्यायालय में  
Reg. No. 807/89 (T)

वादी Brāj Bhushan  
प्रतिवादी

दावेदार  
अपीलायी

प्रतिवादी Union of India and others.  
वादी

अर्जीदार  
प्रत्यापी

भारत के राष्ट्रपति इसके द्वारा श्री Sri. Anil Srivastha Railway Advocate  
Lucknow

को उपर्युक्त वाद/अपील/कार्यवाही में भारत संघ की ओर से उपसंज्ञात होने, कार्य करने, आवेदन करने, अभिवचन करने और आगे कार्यवाही करने के लिए दस्तावेज दाखिल करने और वापस लेने, न्यायालय की आदेशिका स्वीकार करने, काउन्सेल, अधिवक्ता या प्लीडर नियुक्त करने और उन्हें अनुदेश देने, रपता वापस लेने और उसका निक्षेप करने तथा उपर्युक्त वाद/अपील/कार्यवाही में भारत सरकार का साधारण तिनिधित्व करने और भारत संघ के लिए इस प्रकार उपसंज्ञात होने, कार्य करने, आवेदन करने, अभिवचन करने और आगे कार्यवाही करने की अनुषांगिक सभी बातें करने के लिए नियुक्त और प्राधिकृत करते हैं। किन्तु यह इस शर्त के अधीन रहते हुए होगा कि जब तक भारत सरकार के समुचित प्राधिकारी से उस तिनिधित्व पहले ही स्पष्ट प्राधिकार प्राप्त नहीं कर लिया गया है, तब तक उक्त काउन्सेल/अधिवक्ता/प्लीडर या उसके द्वारा नियुक्त काउन्सेल/अधिवक्ता/प्लीडर सभी या किसी प्रतिवादी/प्रत्यापी/अपीलायी/वादी/विरोधी पक्षकार के विरुद्ध उस वाद/अपील/दावा/प्रतिरक्षा/कार्यवाही को पूर्णतः या भागतः न तो वापस लेगा, न उसका अधिस्त्यजन करेगा, न ऐसा कोई करार करेगा या समझौता करेगा जिसके द्वारा वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित की जाए और न उससे उद्भूत या उसमें विवादग्रस्त सभी या किसी विषय को मध्यस्थ को निर्देशित करेगा, परन्तु आपवादिक परिस्थितियों में जब भारत सरकार के समुचित प्राधिकारी से परामर्श करने के लिए पर्याप्त समय नहीं है और वाद में समझौता करने में लोप करना निश्चित रूप से भारत सरकार के हित के प्रतिकूल होगा तो उक्त प्लीडर/अधिवक्ता/काउन्सेल ऐसा कोई करार या समझौता कर सकेगा जिसके द्वारा उक्त वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित हो जाय और ऐसे प्रत्येक मामले में काउन्सेल/अधिवक्ता/प्लीडर करार या समझौता करने के विशेष कारण बताते हुए उक्त अधिकारी को तत्काल संसूचित करेगा।

राष्ट्रपति इस प्राधिकार के अनुक्रम में श्री Sri. Anil Srivastha Railway Advocate  
Lucknow

द्वारा किए गए सभी कार्यों का अनुसमर्थन करने को सहमत हैं।

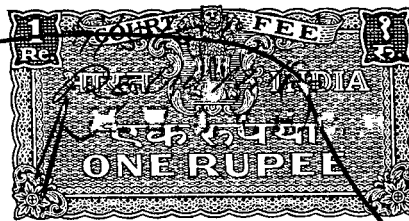
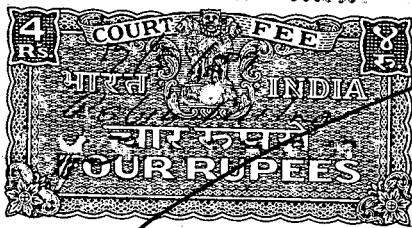
इसके साक्ष्यस्वरूप भारत के राष्ट्रपति के लिए और उनकी ओर से इस विलेख को आज तारीख 31-1-90 को सम्यक् रूप से निष्पादित किया जाता है।

तारीख 31-1-90 19

NER-84850400-8000-4784

Accepted  
Anil Srivastha  
Adv

Anil Singh  
H.K.  
(R.K. Singh)  
निष्पादन करने वाले अधिकारी का पदनाम  
Dy Chief Engineer/cen  
N.E. Railway.  
Gorakhpur.



NS/CCS  
64

## VAKALATNAMA

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

WRIT PETITION NO. 1062 of 1981.

Plaintiff  
Defendant

Braj Bhushan

Claimant  
Appellant  
Petitioner

Versus

Defendant  
Plaintiff

The General Manager, N.E.Rly.  
and others.

Respondent

The President of India do hereby appoint and authorise Shri. Robin Mitra,  
Railway Advocate, Lucknow.

..... to appear, act, apply, plead in and prosecute the above described suit/appeal/proceeding on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying, Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceeding against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agree to ratify all acts done by the aforesaid Shri. Robin Mitra,  
Railway Advocate, Lucknow.

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of

India this the ..... day of April 1981.

Dated ..... 198

(P.C. Maulik) 13.4.81  
By, Chief Personnel Officer,

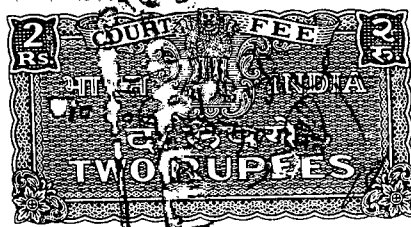
N.E. Railway,  
Gorakhpur. Designation of the Executive Officer.

व अदालत श्रीमान

वादी अपीलान्त

प्रतिवादी रेस्पान्डेन्ट

का वकालतनामा



Braj Bhoosau

वादी (मुद्दे)

बनाम

The General Manager, N.E. Railway  
Gorakhpur

प्रतिवादी [मुद्दालेह]

नं० मुकदमा सन् १६ पेशी की ता० १६ ई०  
ऊपर लिखे मुकदमा में अपनी ओर से श्री

J. K. SINHA एडवोकेट

महोदय  
वकील

को अपना वकील नियुक्त करके प्रतिज्ञा [इकरार] करता हूँ और लिखे देता हूँ इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व 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 इक्वाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष [फरीकसानी] का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त [दस्तखती] रसीद से लेवें या पंच नियुक्त करें - वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को भेजता रहूँगा अगर मुकदमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर १ वृजभूषण २

३

साक्षी (गवाह) साक्षी (गवाह)

दिनांक माह सन् १९ ई०

W. Singh  
W. Singh



In the Honble High Court of Judicature at  
Allahabad sitting at Lucknow



Com Application No 11516 (Ad)  
of 1981

VJ 54

12/5/81  
8/2/1981

7/1/81

Brij Bhushan

Petitioner

vs.

1062-21  
W.D.

N. E. Rly & others.

opposite Parties

10137

Application for condonation of  
delay in filing supplementary  
affidavit.

The supplementary affidavit could not  
be filed within its time because of illness  
of the applicant.

Wherefore it is most  
respectfully prayed that this Honble  
Court may be pleased to condone  
the delay in filing supplementary affidavit.

Q/A

J. K. SINHA  
counsel  
Advocate for the  
Petitioner/Plaintiff

Dated

17.12.81  
24

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54

In the Central Administrative Tribunal  
Circuit Bench at Lucknow.

Application on behalf of Respondent.

IN

Registration No. T.A. 807 of 1989.

Bráj Bhushan                      ...                      ...                      Applicant.

V/S

Union of India & others                      ...                      ...                      Opposite Party.

I, Kashi Nath aged about 50 years son of  
Shri Jawahir Ram presently posted as Executive  
Engineers/Construction/Bridge, North Eastern Railway  
Gorakhpur most respectfully sheweth as under:-

1. That I am respondent No. 2 in aforementioned  
case and have been duly authorised on behalf of the  
respondents to file the instant application.

I have carefully perused the relevant records  
relating to the instant case and am thus fully  
acquainted with the facts of the case deposed below:-

2. That petitioner had filed a writ petition  
No.1062 of 1981 in the High Court of Judicature at  
Allahabad (Lucknow Bench) Lucknow against his  
retrenchment order dated 15.1.77. Now the case has  
been transferred to this Hon'ble Tribunal for  
adjudication.

....2.

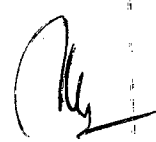
C/63

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3. That in the instant case is counter affidavit has already been filed by the respondent.

4. That in year 1983 the case of the petitioner was reviewed by the administration, and the competent authority have decided to re-engage the petitioner as his juniors were working and accordingly the petitioner Draj Bhushan Tiwari S/O Ram Narain Tiwari has been re-engaged with effect from 21 Feb. 1983. True copy of the said office order is enclosed herewith and marked as annexure 1.

That the petitioner is not entitled to any relief and the petition is liable to be dismissed with cost.

  
For Respondent.

Verification

जयपालक इ. 10/पुल  
खुर्वाचर तार 1983

I, Kashi Nath, Executive Engineer/Construction/Bridges/E.F. Railway, Gorakhpur do hereby verify that content of para 1 is true to my personal knowledge and that of para 2 to 4 are based on knowledge derived from perusal of records relating to the instant case kept in official custody of the answering respondent. Nothing material has been concealed.

Verified on 2nd day  
of Feb. '90.

( Kashi Nath )  
Executive Engineer/Con/Br.N.E.Rly..

जयपालक इ. 10/पुल  
खुर्वाचर तार 1983

c/64 1/60

OFFICE ORDER

In compliance to Judgment Ct.3.9.02 of Hon'ble High Court of Judicature, Allahabad, Lucknow Bench, Lucknow in writ petition No.1062 of 1981 Sri Prif Bhawan Vrs. R.S.Rly & others, Sri Prif Bhawan Towari S/O Sri Ram Harain Towari is hereby allowed to join as Casual Mahant immediately and posted under PRT/CON/Conda.

Sd/-  
EXECUTIVE ENGINEER/CON.

No.1/267/CS/Con/Pr./Dist/1 (Looce)/262. Dt.Feb.'21,1903.

Copy forwarded for information and necessary action to the :-

1. CM/Prs,R.S.Rly./CMP, in reference to his note at 15/A to 17/A in case No.C/78/Pris/1363/Agg./LKO/61.
2. Chief Engineer/Con. R.S.Rly./CMP. This is in reference to AGS/AGS's Order dt.19.2.03 at 18/A in CM/Prs/CMP's case No.C/78/Pris/1363/Agg./LKO/61.
3. TA & CAO/CON,R.S.Rly./CMP.
4. PRT/CON/R.S.Rly./Conda.  
CMP.
5. PRT/CON/R.S.Rly./Conda. He is requested that the staff concerned may be posted at your end immediately when he reports for duty.
6. PRT/CON/Pr./Dist/R.S.Rly./CMP.
7. Sri Prif Bhawan Towari S/O Sri Ram Harain Towari.

Village - Kachhwar Pajury.

Station -

P.O.- Kachhwar Pajury.

Station - Lucknow.

Distt.- Gorakhpur. He is requested to report to PRT/CON/Conda immediately for further duty.



जयपालक इंजीनियर/नि०/पुल  
पूर्वोत्तर रेलवे/गोरखपुर

Sd/-  
EXECUTIVE ENGINEER/CON.  
TRUNKS (1ST) GORAKHPUR.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
23-A Thornhill Road, Allahabad-211 001

\*\*\*\*\*  
No. CAT/ALLD/100/TA 807/87 Dated the : 14/5  
603171010

Bray Bhushan APPLICANT'S  
VERSUS

G A N E Rty & Co RESPONDENT'S

- ① Shri Jai Krishna Sinha, Advocate, Lucknow High Court  
Lucknow  
② 1. Umesh Chandra, Advocate, Lucknow High Court  
Lucknow.

Whereas the marginally noted cases has been transferred by Lucknow High Court Under Section the provision of the Administrative Tribunal Act XIII of 1985 and registered in this Tribunal as above.

Writ Petition No. 1062  
of 198  
of the Court of Lucknow High Court  
arising out of order  
dated \_\_\_\_\_  
passed by \_\_\_\_\_ in

The Tribunal has fixed date of 20-11-89 for the hearing of the matter. at Gandhi Bhawan Lucknow (Opp. State Bank)  
on your behalf by your some one duly authorised to Act and plead on your behalf

the matter will be heard and decided in your absence.

Given under my hand seal of the Tribunal this  
day of \_\_\_\_\_ 1989.

dinesh/

J. P. R.  
DEPUTY REGISTRAR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH, LUCKNOW

Gandhi Bhawan, Opp. Residency

No. CAT/LKO/Jud/CB/ 252/10-2527 Dated the 14/12

T.A.No. of 807 1989 (T)

Biraj Bhushan

APPLICANT'S

Versus

Union of India

RESPONDENT'S

To

Biraj Bhushan S/o Kam Narain - 76 Narainpur  
Pajung - P.O. Khashwambur Taluk Barisganj  
Distt. - Gorakhpur

Whereas the marginally noted cases has been transferred by

H.C. LKO

Under the provision of the Administrative Tribunal Act 13 of 1985 and registered in this Tribunal as above.

Writ Petition No. 1062/11

of 198

of the Court of

H.C. LKO

arising out

of Order dated

passed by

The Tribunal has fixed date of  
5.9.90 1989. The hearing  
of the matter.

If no appearance is made  
on your behalf by your some  
one duly authorised to Act  
and plead on your behalf

the matter will be heard and decided in your absence.

Given under my hand seal of the Tribunal this

27 day of 11 1989.

dinesh/

DEPUTY REGISTRAR

Com. N.E. Rly. Gorakhpur

Excise & Engineering (B) B. Y. Central  
N.E. Rly. Gorakhpur

Asstt. Bridge Engineer (C) N.E. Rly.

Grounds N.E. Rly. LKO  
B.P.O. N.E. Rly. LKO  
Union of India through Govt. Secy. P.O.  
Ministry of Railways