

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

T.A. 807/82

CAUSE TITLE. W.D. NO 1062/81 OF

NAME OF THE PARTIES ... *Brij Bhusan*, Applicant

Versus

U.O.F. Dar

Respondent

Part A.

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16		
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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)

Dated 8-9-11.....

Counter Signed.....

Rajesh Kumar

Section Officer/In charge

.....
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 1983

NAME OF THE PARTIES

Parvij Parvij Singh

Applicant

Versus

V.O.T

Respondent

Part A, B & C

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CIVIL

SIDE

CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

W.P. 1062-81

Nature and number of case.....

Name of parties..... Brij 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	General order	1		Rs. P.			
	2	order sheet						
	3	Writ Pet. or affidavit	17	6	102	—		
B	4	Power	1	2	8-	—		
	5	W.P. No. 6787(2)4 of 81 for affidavit			7.00			
	6	Contra affidavit	12	—	2.00			
	7	C.M. No. 11516 (W) of 81 with affidavit	3		2.00			
	8	Supply C.A.	3	—	—			
	9	Contra affidavit in reply to case P. 2	4	—	—			

I have this

day of

198

examined

I have 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

ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No. 1062 of 1978/

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. Mitter 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 merit petition No. 623 of 1977.</p> <p>Sd: K. S. V.</p> <p>Sd: S. C. M.</p>	
6/3/81		
18.3.81	18.3.81 filed foras.	Baru P.
	<p>for ICS V.J.</p> <p>for Maitreyi</p> <p>for</p>	
26.3.81	<p>fixed for orders.</p> <p>Hon. G. C. S. T. —></p> <p>Hon. M. Singh T. —></p> <p>Hon. D. N. Dua, P</p> <p>Hon. K. N. Misra, P</p>	

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

-No

- vs.

-of 198

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
4-5-81	4-5-81 from fax ad dr T-SM- dencms Advis. Issue noted. Re - 4/81/81	<u>Bank</u> MD Q2 6/98
7-8-81	PROCESS FEE REPORT in W.D. C.M. Appl. No. The Counsel for claimant/applicant has not taken steps in course of W.D. Nos. S time allowed under Rules of Court.	
	SUBMITTED 4/4/81 3/7/81	
7-8-81	fixed in PR dr 13-7-81 fax ad C.M. No. 6787 (as 81 for 81) intern relief Hon. K.S.V.J Hon. R.C.D.S.J Put up in the record.	
14-8-81	free. com 6287 as 14	<u>Bank</u> R Part

A
4
11/3
X/5
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>Hon. K. N. Goyal, J.</p> <p>Put up tomorrow as unlisted case.</p>	
	(Raj)	1.9.1981
2-9-81	<p>Hon. K. N. G. J</p> <p>List on 17th September, 1981.</p> <p>In the meantime, the petitioner shall also file report.</p> <p>Petitioner's case it 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 Nitre wants line of each instruction. It may do so by the date fixed.</p>	
		2/9/81

ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 1862 of 1982

vs.

4/5

11/4

10/6

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
8-9-82	<u>Three week</u>	
	<p>The application for writ relief was filed on 7th August, 82. No writ order was passed on this application. In case the relator succeeds he might get back the date and cause to issue. It will be open to the opposite parties to oppose the relator's application with reasonable cause. In case he is successful in his application of other casual labourers before dying, no man can be permitted to be still working. In case labourers are still working or have been taken back in service under the order of the court, there appears to be no reason why the relator cannot be allowed to do duty even at the stage.</p>	
		8-9-82
	<u>Report</u>	
17.9.82		
	<p>Opps 165 and 7 are represented by Ss. Umesh Chandra Adcock.</p> <p>Court and Registrar affidavits are on record.</p> <p>Opps 165 and 7 has been</p>	

11/4
10/6

7A:807/117(7)

4/6

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance.
20/11/09	<p>No Sitting Adj. to S.2.90.</p> <p>This case has been recd. on transfer. Notice were issued to the counsels by the Office at Adq. None is present for the parties. Let notice be issued again to the parties. As directed by Hon'ble Mr. D. K. Agarwal, a</p>	<p>✓ 002 Notice issued 14/11/09</p>
S.2.9	<p>No Sitting Adj. to S.3.90.</p> <p>20/11/09</p> <p>✓</p> <p>Case has been recd. on 20/11/09 Case is admitted S.A/R.A & S.C.A filed.</p> <p>✓ Notice issued 14/11/09</p> <p>No answer recd. Case has been return back.</p> <p>S. if order (S)</p> <p>✓</p> <p>Decd S/K K.Dan q/3/09</p>	<p>✓ OK</p>

Dinesh

S. N. 1923

Group (A) & 14 (A)

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

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

Bray Bhushan ... Petitioner

Versus

The General Manager, N.E. Railway

Gorakhpur & others. ... Opp. Parties.

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4.	Annexure No.3	15
5.	Affidavit	16-17
6.	Power (Vakalatnama)	18

LUCKNOW DATED:

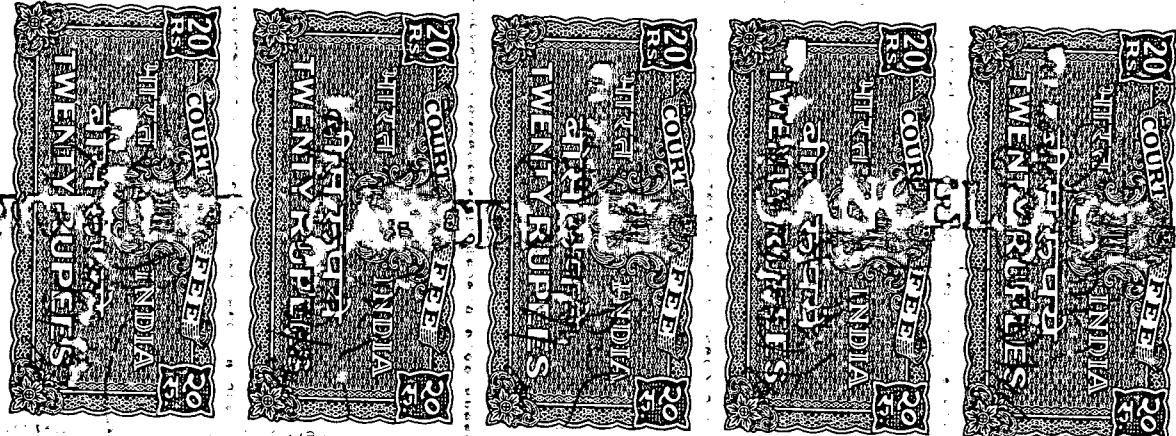
March 6, 1981.

J.K. Singh
(JAI KRISHNA SINGH)
ADVOCATE
COUNSEL FOR THE PETITIONER.

A 3

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

WIT PETITION NO. 1062 OF 1981



scf = 100 -
Mr
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 Ranesh Chandra Deputy Chief Business Planning
and Bridges (Constructions), N.E.Rly, Gorakhpur.
7. Union of India through Rly Board, Rail Bhawan,
New Delhi. ... Opp. Parties.

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF
INDIA.

To,

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

....



मुमुक्षु
ने 6 अक्टूबर
दिन
दिल्ली विलय
कर्ता के द्वारा
नियुक्त किया
जाना चाहिए
दिनांक 1.9.81
कानूनी दिन
दिनांक 1.9.81

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) ~~as~~ broadgauze (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 ~~is~~ 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 ~~xxx~~ 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



१७१२८२१

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 malafide intention to victimize the petitioner alongwith others his 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 malafide reasons.

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



15/11/81

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.



लुटायू भरती

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 descretion 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.



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 ~~₹ 10000/-~~ ^{₹ 500/-} which was required for filing the Writ Petition and handed over that amount to the pairokar Keshav Prasad s/o Ram Jaten 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~~ 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~~ 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.

અધ્યક્ષ

18. That having no other efficacious ~~xx~~ alternative remedy the petitioner is filing this Writ Petition Under Article 226 of the Constitution of India following amongst other:-

G R O U N D S

A. 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 junion 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 2611 of Chapter 24 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 (Annexe 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:

Mon. February 6, 1981.

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

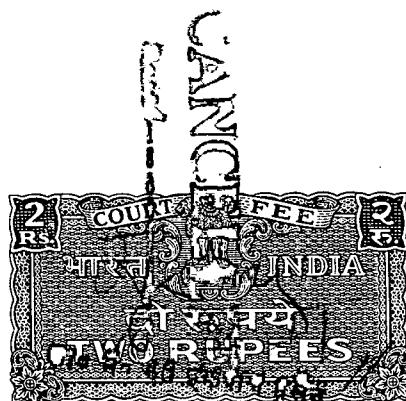
Certified that Shri Braj Bhoosan s/o Shri Ram Nain has worked
as a Casual Khalasi from 21.5.76 to 15.1.77 in B.G. Organisation.

Dated 1.3.81

S. B. Mishra

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

पुल नियंत्रक (बी. ए. रेलवे लाइन)
गुन्डार रेलप्यौ, गोदा



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

.....

WRIT PETITION NO. OF 1981

Braj Bhooshan Petitioner
Versus
The General Manager, N.E.Railway,
Gorakhpur & others. Opp. Parties.

ANNEXURE NO.1

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:

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

TRUE COPY



Dr. Singh

A
13 4/2

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. B(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. B(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



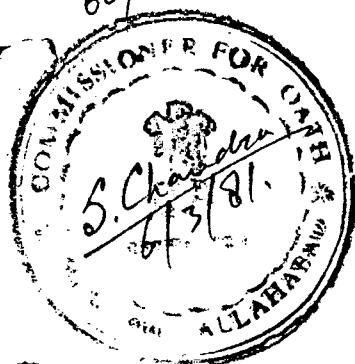
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- 2 -

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

Dr. Singh

ਇਨ ਦਿ ਲਾਨੇਕੂਝ ਹਾਈ ਕੌਟੰ ਲਾਫ਼ ਯੂਨੀਕੋਨਰ ਏਟ ਲਾਹਿਬਾਦ
ਲਖਨਾਂ ਬੇਚ, ਲਖਨਾਂ ।

रिट पिटीशन नं० बाफ १६८१

बज मुण्डा --- --- पिटीशनर

सनाम

दि जनरु मैनेजर सन०५४४२०, गोखपुर

ऐड अदसी --- --- अप०४०४८८८७

अनेक्षर नं० ३

फुल निरीक्षक (निमणि) गोण्डा के अधीन सभी सामयिक कर्मचारियों को सूचित किया जाता है कि सत्रु कार्य बंद हो जाने के कारण तारीख १६-१-७७ से वे कार्य से हटा दिया जायें।

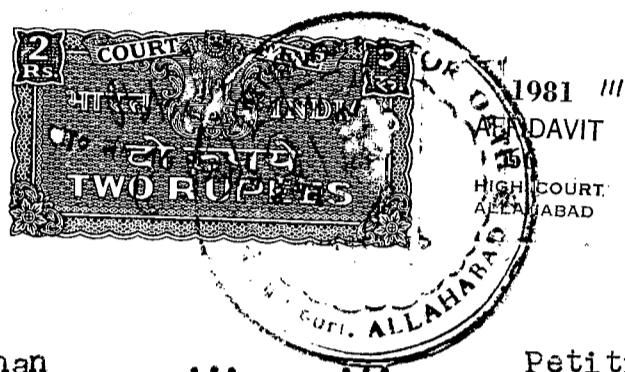
सहायक पुल अभियन्ता
(निमणि) पूळ०५५५५
गोण्डा ।

सत्य-प्रतिष्ठिपि

The Smiley

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.

766/111
AFFIDAVIT



I, Braj Bhushan aged about 35 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:-

मैंने यह दावा किया है

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. (B)

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:
~~March~~ st ~~February~~ st
~~February~~ 6, 1981.

मृजमुखर्ता

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:
~~March~~ st ~~February~~ st
~~February~~ 6, 1981.

मृजमुखर्ता
Deponent.

I identify the deponent, who has signed before me.

JK. SK
Advocate.

Solemnly affirmed before me on 6-3-81, at 9.15 a.m./p.m. by Sri Braj Bhushan the deponent, who is identified by Sri Jai Krishna Sinh, 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. Chandra

OATH COMMISSIONED

High Court, Allahabad

Lucknow Bench

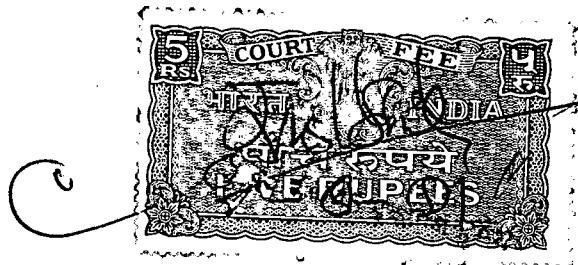
No. 66/111

Date..... 6-3-81

24 5
27

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

..... 6707(6) 27
C.M. An. No. 1062 (w) of 1981
In re:
Writ Petition No. 1062 of 1981



1 C.R. = 125/-

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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 accompanying affidavit, it is most respectfully prayed that this Hon'ble Court may be pleased to direct ^{the} 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.

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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. 1662 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.Particles.

AFFIDAVIT

16/8
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.

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 ~~xxxxxx~~ 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, 1981

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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:

२५/८/८१

August 6, 1981.

Deponent.

I identify the deponent, who has signed
before me.

Sri Brij Bhushan
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. SRI ASTHAVA
Oath Commissioner
High Court, Allahabad
Lucknow Branch

No.....

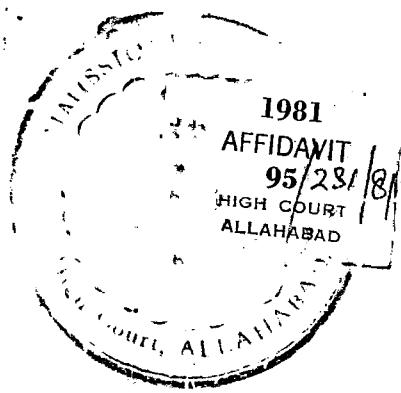
6/8/81

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

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.

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INDIA 75 PAISE
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INDIA 75 PAISE
75 COURT FEE 75
INDIA 75 PAISE

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 understood 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 causal 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/c1/116 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 ~~service~~ continuous service for 12 calender 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 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 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



(Contd 3)

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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.

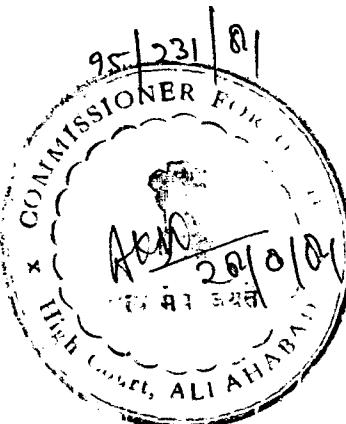
10. That the contents of paras 12 & 13 of the writ petition are denied. It is further stated that since the total period of service of the petitioner was less than 12 ~~xx~~ calender months, notice for termination of service and payment of retrenchment ~~xxxxxx~~ compensation etc., as alleged by the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

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

12. That the contents of para 15 of the writ petition ~~xxx~~ needs no reply as it is matter of record. However it is submitted that each petition ~~xxx~~ 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



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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,
28th 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 8.30 am/pm. by Shri Kashi Nath, the deponent who
is identified by Sri Robin Mitra, Advocate, High Court,
Lucknow.

I have satisfied myself 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
SRI ROBIN MITRA
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 ~~sixty~~
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



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2. The Government has accepted the above recommendation. 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 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 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 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

MINISTRY OF RAILWAYS
COMMISSIONER

High Court Attn. No. 1000

L. A. C. P. 1000

True Copy

No. 95/234/81

Date 28/8/81

Kachi Nath

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

W.P. No 1062 of 1981

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/CH/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 conditions 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 Ma-Bhai Tribunal's recommendations have been accepted by the Govt. and order issued that casual labourers on open line after ^{continuous} 4 months of service. becomes entitled to the benefits of the temporary status including leave. As regards casual labourers on projects, the Ma-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



Kashi Nath

(..... Contd 2)

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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 themas 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.



Kachi Naik

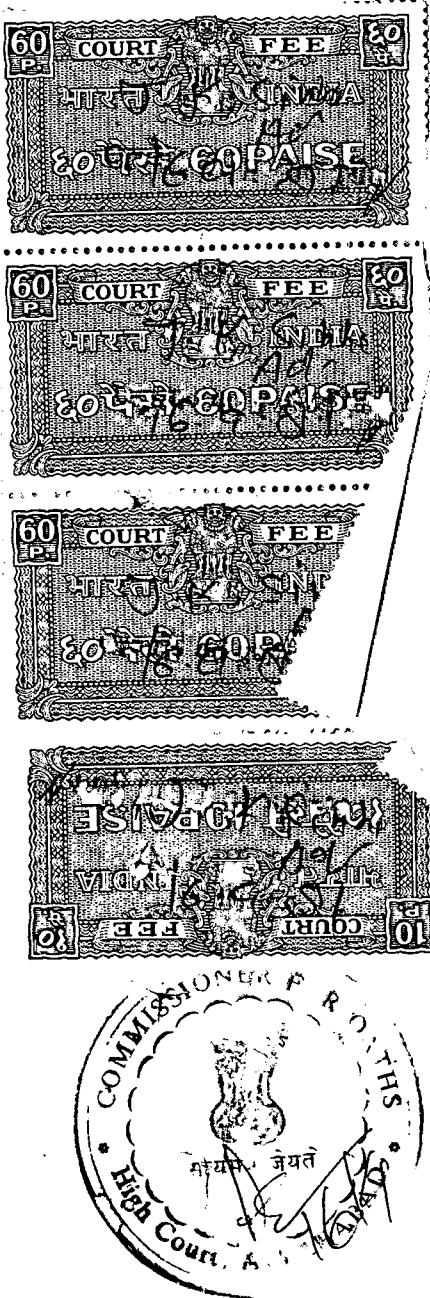
True Copy

OATH COMMISSIONER
High Court Allahabad
Lucknow Bench

No. 95/1231/81
Date 28/10/81

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



REJOINDER AFFIDAVIT
In re:
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

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counter affidavit also need no comment.

4. That the contents of para no. 3 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 ~~in~~ were made but same were disbeliefed by this Hon'ble High Court. It is further stated the Rly Board letter dated 12.9.1974 is wholly in applicable 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~~ has not been supercised by 1274. Apart from this the rules in the regard can also be found in Rly establishment manual.



12/10/74

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 (General) and under the said rule the seniority list has to be maintained division-wise and

not inspector-wise.

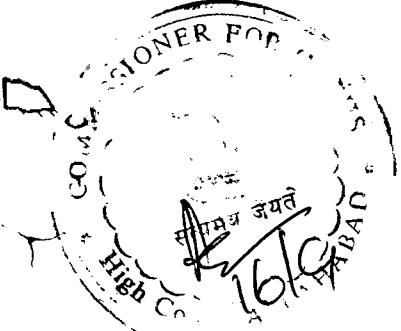
12. That the contents of para 13 of the counter affidavit are denied as the case of the petitioner is quite similar with the petitioners in 623 of 1977 which has been allowed by this Hon'ble High Court vide his order dated 15.2.80.
Lucknow Dated:

September 16, 1981.

बृजनाथराम

Deponent.

VERIFICATION

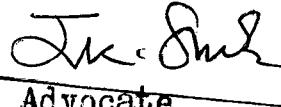

I, the deponent named above, do hereby verify that the contents of paragraphs 1 to 12 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed. So help me God.

Lucknow Dated:

September 16, 1981.

बृजनाथराम
Deponent.

I identify the deponent, who has signed before me.


J.K. Sinha
Advocate.

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

16/9/81

Solemnly 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.

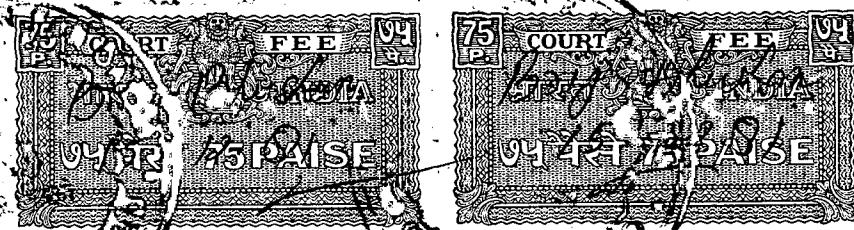
I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read over and explained by me.

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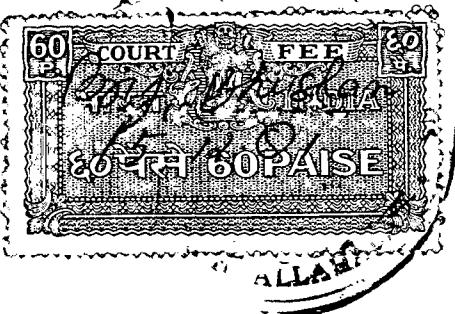
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW.

.....
WIT PETITION NO.1062 of 1981

1981
AFFIDAVIT
65
HIGH COURT
ALLAHABAD



Brij Bhushan Petitioner
Versus
N.E.aly 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 21.5.1976, as Casual Labourer and on the same date one Tai Ram Jiwari s/o Changer Jiwari 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

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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.

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Deponent.

VERIFICATION

I, the deponent named above, do hereby verify that the ~~xxx~~ 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.

अृजन्म १८

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.

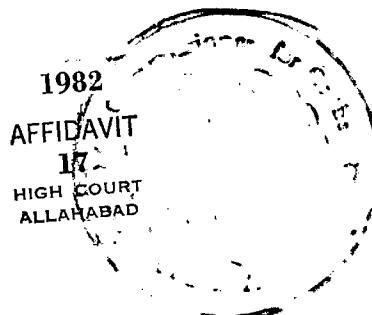
A. C. S. IVASTAVA
Oath Commissioner
High Court
Allahabad
Date 16.12.81

16/12/81
Date 16.12.81

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

Writ Petition No. 1062 of 1981.



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.

Kashi Nath
20/7/82

(Contd. 2.)

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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 othersversus.....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.

Kashi Nath
20/7/82

(contd.3.)

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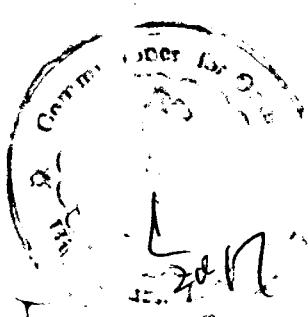
Verification :-

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 AM/PM by Sri Kashi Nath, the deponent, who is
identified by Sri Raben Nath.
Clerk to Sri [Signature] - - - - - Advocate, High Court
Lucknow /Allahabad.

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.

Kashi Nath
20/7/82

Oath Commissioner.

A. H. Sarker
Oath Commissioner
High Court, Allahabad
Lucknow Branch
No. 17/328
Date 20/7/82

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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.

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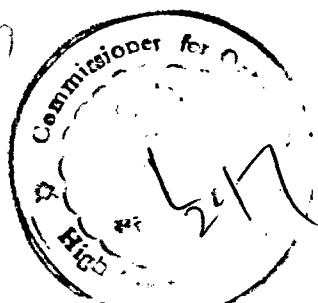
dated 6.3.1974 by Board's letter No. PC-72/RLT/69-3, dated 12.6.74 does not arise as the two letters formulate rules for two different and independent subject. The petitioner was a project Casual Labour, and in his case Board's letter No. PC-72/RLT/69-3, dated 12.6.74 and No. E(NG) Pt.II/76/CL/116, dated 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.



Keshiwall
20/7/82

(contd. 3.)

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:: 3 ::

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 ~~max~~ petitioner in this writ-petition.

7. That in reply to paragraphs 9 and 10 of the rejoinder affidavit reply given in paragraphs 7 & 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 21-7-82
at 9.00 AM/PM by Sri Kashi Nath,
the deponent, who is identified by
Sri Rakesh Mitra -

Clerk to Sri
Advocate, High Court, Allahabad, Lucknow Bench Lucknow.

I ~~do~~ 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. Sardar
A. N. Sardar
Oath Commissioner
High Court, Allahabad
Lucknow Bench
No. 16/378
Date 20/7/82

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4/19

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHAPAD
LUCKNOW CIRCUIT BENCH

Writ Petition: No. 623/77
T.A. No. 807/87

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/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/in the writ petition that -- the notice of termination be quash^{ed}/and the petitioner be deemed to be in service by implication. As 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 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^{ed}/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

J.M.

वकालतनामा

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51K
54Before Central Administrative Tribunal, Circuit Bench... के समक्ष
At Lucknow... के न्यायालय में

Req. No. 807/89(T)

वादी Brij Bhushan
प्रतिवादीदावेदार
अधीलार्यीप्रतिवादी Union of India and others.
वादीअर्जीदार
प्रत्यार्थीभारत के राष्ट्रपति इसके द्वारा श्री... के लिए Anil Srivastava, Railway Advocate
Lucknow

को उपर्युक्त वाद/अपील/कार्यवाही में भारत संघ को ओर से उपसंजात होने, कार्य करने, आवेदन करने, अभिवचन करने और आमे 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, रूपया वापस लेने और उसका निशेप करने तथा उपर्युक्त वाद/अपील/कार्यवाही में भारत सरकार का साधारण तिनिधित्व करने और भारत संघ के लिए इस प्रकार उपसंजात होने, कार्य करने, आवेदन करने, अभिवचन करने और आगे कार्यवाही करने की अनुर्धागिक 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 तिमित पहले ही स्पष्ट प्राधिकार प्राप्त नहीं कर लिया गया है, तब तक उक्त काउन्सेल/प्रधिवक्ता/प्लीडर या उसके द्वारा नियुक्त काउन्सेल/प्रधिवक्ता/प्लीडर सभी या किसी प्रतिवादी/प्रत्यासी/अपीलार्थी/वादी/विरोधी पक्षकार के विश्वदृष्ट उस वाद/अपील/दावा/प्रतिरक्षा/कार्यवाही को पूर्णतः या भागतः न तो वापस लेगा, न उसका अधिवेशन करेगा, त एसा 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/प्रधिवक्ता/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/प्रधिवक्ता/प्लीडर करार या समझौता करने के विशेष कारण बताते हुए उक्त प्रधिकारी को तकाल संसूचित करेगा।

राष्ट्रपति इस प्राधिकार के अनुक्रम में श्री... के लिए Anil Srivastava, Railway Advocate
Lucknow

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

इसके साक्ष्यस्वरूप भारत के राष्ट्रपति के लिए और उनकी ओर से इस विलेख को आज तारीख... ३१-१-१९९०... को सम्पूर्ण रूप से निष्पादित किया जाता है।

तारीख... ३१-१-१९९०... 19

NER-84850400-8000- 4784

Accepted
Anil Srivastava
Adv.

Ch. I.C. Singh

M.K.

(R.K. Singh)

निष्पादन करने वाले प्रधिकारी का पदनाम

Dy. Chief Engineer / Cm

N.E. Railway.

Gorakhpur.

NS/CCS
64

VAKALATNAMA

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

WRIT PETITION NO. 1062 of 1981.

Plaintiff
Defendant

Braj Bhushan

**Claimant
Appellant
Petitioner**

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.** Afzal Khan or Venkaiah Achre

.....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 19.01. 

Date: 198

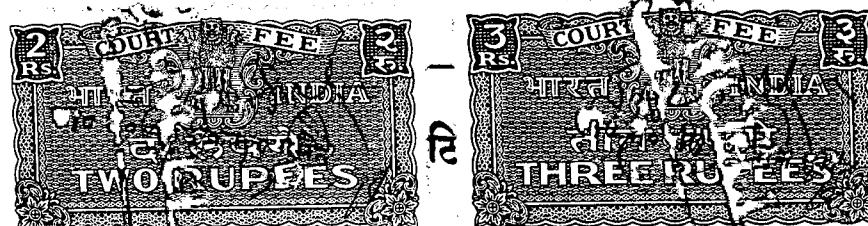
Shameer C.A.
(P.C. Maulik) 13.4.81
Dy. Chief Personnel Officer,
N.E. Railway,
Gorakhpur Designation of the Executive
Officer.

NE8-2930146 2000 Eng 31 7 80

A/53

ब्रज भूषण लालतनामा
वादी अपीलान्ट का वकालतनामा
प्रतिवादी रेस्पान्डेन्ट

A/56



Braj Bhoosan

वादी (मुद्दा)

बनाम

The General Manager, N. E. Railways
Gorakhpur प्रतिवादी [मुद्दालेह]

नं० मुकदमा सन् १९ पेशी की ता० १९ ई०
उपर 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 इवं अथवा इन्यु
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 रूपया दस्तूर करें या सुलहनामा या इकबाल
दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने
हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें
या कोई रूपया जमा करें या हमारी या विपक्ष [फरीकसानी] का
दाखिल किया रूपया अपने या हमारे हस्ताक्षर-युद्ध [दरतरती]।
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 इवं या किसी अपने
पैरोकार को भेजता रहूँगा अगर मुकदमा अदम पैरवी में एक
तरफा और खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे
वकील पर नहीं होगी। इसलिए यह वकालतनामा लिख दिया
कि प्रभाग रहे और समय पर काम आवे।

हस्ताक्षर १ वृजभूषण २

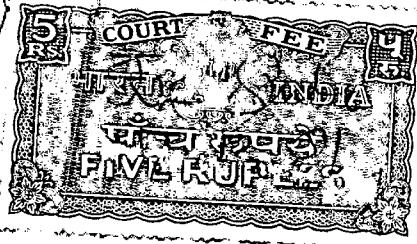
३ ४

साही (गवाह) साही (गवाह)

दिनांक माह सन् १९ ई०

Mr. Singh
Mr. Singh

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



On Application No. 115/6 (Ad) of 1981

54
VJ

12-5-81
24/12/81

Barry Bhushan

Petitioner

No.

1062-81
w/

N. E. Rly & others.

opposite Parties

10137
Application for coordination of
Delay in filing supplementary
affidavit.

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

Where it is most
respectfully prayed that this Hon'ble
Court may be pleased to condone
the delay in filing supplementary affidavit

J. K. SINHA
Advocate for the
Petitioner/Adlicant

Date

27.12.81
24

62

In the Central Administrative Tribunal
Circuit Bench at Lucknow.

Application on behalf of Respondent.

IN

Registration No. P.A. 807 of 1989.

Braj 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
Engineer/Construction/Bridge, North Eastern Railway
Corakhpur most respectfully showeth 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
retirement order dated 15.1.77. Now the case has
been transferred to this Hon'ble Tribunal for
adjudication.

C/69

A/59

3. That in the instant case its 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 जार्यपालक इ. १०/पुल
रुद्रोचर राज्य रेल्यूर

I, Kashi Nath, Executive Engineer/Construction/Bridges/E.E. Railway, Gorakhpur do hereby verify that content of para 1 is true to my personal knowledge and those 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.Uly.,
Gorakhpur


राज्य रेल्यूर/नियोग
प्राप्ति देखेंगे।

OFFICER

C/60

On reference to Judgment C.3.9.02 of Com'tee M.C.P.
Court of Subsidiary, Allahabad, Lucknow in the
Petition No. 1032 of 1981 Sri Prayag Bhushan VRS. R.R.D.Rly
& others, Sri Prayag Bhushan Tewari S/o Sri Ram Tewari
is hereby allowed to join as Casual Minalas immediately
and posted under E.R./C.R./Com'd.

S/-
MR/COM/PR/DR/CR/CRP.

15.12.2013/3/Com/PR./DR/1 (2000)/242. Dc. Dtd. 21.12.1983.

Copy forwarded for information and necessary action
to the :-

1. C/Secy, R.R.D.Rly./CRP. in reference to his note at 15/A
to 17/12 in case D.C/78/DR/1343/Engg./EKO/81.
2. Chief Engineer/Com. R.R.D.Rly./CRP. This is in reference
to D.C/78/DR/1343/Engg./EKO/81.
3. D/o C/Secy, R.R.D.Rly./CRP.
4. MR/Com/PR/R.R.D.Rly./CRP.
CRP.
5. MR/Com/R.R.D.Rly./Com'da. It is requested that the staff
concerned may be posted at your end immediately when
he reports for duty.
6. PRY/Com/PR./DR/1/R.R.D.Rly./CRP.
7. Sri Prayag Bhushan Tewari S/o Sri Ram Tewari Tewari.

Village - Bhaktapur Dujuri.

Address

P.O. - Kachinapar.

Dist - Ranchi.

Dist. - Ranchi. He is requested to report to PRY/Com/
Com'da immediately for further duty.

S/-
EXECUTIVE ENGINEER/COM.
PRESIDENT (DRS) COMMISSIONER.


प्रायोगिक इंजीनियर/निंदा
मूर्खचर रेलवे/पोरब्बपुर

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

Regd.

No. CAT/Alld/Quo

TH 807/87

Dated the

14/5
1987

Bray Bhushan

APPLICANT'S

VERSUS

GM NE Ry. Los

RESPONDENT'S

① Shri Jai Krishna Singh, Advocate, Lucknow High Court
Lucknow
②. 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
Const. arising out of order
dated _____
passed by _____ in _____

The Tribunal has fixed date of 20-4-89 for the hearing of the matter at Gandhi Bhawan Lucknow (Opp. State Bank of India) 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 R
DEPUTY REGISTRAR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

Gandhi Bhawan, Opp. Residency

Lucknow -

No. CAT/LKO/Jud/CB/ 254 to 2529 Dated the : 14/12

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

Brij Bhushan

AFFILIANT'S

VERSUS
Umesh Singh

RESPONDENT'S

To

Brij Bhushan etc. Kasi Nauhar etc. November
Praying - P.C. Khashwah etc. etc. Barisgarh
H.S.H. - Gajendran

Whereas the marginally noted cases has been transferred by
H.C. 110 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. 110

arising out

of Order dated

passed by

The Tribunal has fixed date of
5-9-89 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

Mr. M. T. Rly. Gajendran

Mr. Dinesh Singh (D.S.) B.T. Centraled
Rly. Gajendran

Mr. Brij Bhushan (C.J. N.E.Rly.)

D.P.O. M.T. Rly. H.C. 110
Name of Fisher Wright Rail Board
Dated - 14/12/89