

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE *T.A. 819/87*
W.P. No 2211/81 OF

NAME OF THE PARTIES *Sri Bhimsen* Applicant

Versus

UOI & S. Respondent

Part A.

Sl.No.	Description of documents	Page
1	Index sheet	A1 to A2
2	order sheet H.C	A3 to A4
3	CAT order sheet dt. 20-5-91	A5 to A6
4	Writ Petition with Annexure	A7 to A28
5	Process	A29
6	Counters Affidavit	A29 to A54
7	any paper	A55 to A60
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		

CERTIFICATE

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

The case file received from record room without
check on *Borta*

Dated *28-8-11*.....

Counter Signed.....

Raj Kishan

Section Officer/In charge

[Signature]
Signature of the
Dealing Assistant

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

INDEX SHEET

CAUSE TITLE T.A. 819/87 of 19

NAME OF THE PARTIES

Bhim Sen

Applicant

Versus

Union of India

Respondent

Part A, B & C

Sl.No.	Description of documents	PAGE
1	General Index	A1 to A2
2	Order Sheet	A3 to A4
3	Petition copy	A8 to A14
4	Affidavit	A15 to A24
5	Power	A25
6	Two Extra Petition copy Per	
7	counter opposite parties	
8	Judgment	A26 to A51
	Order Sheet (H.C.)	(A51-A)
	(B)	A52 to A53
	Bench copy	
	(C)	B54 to B73
		C74 to C75

A/c b/c 4/9

ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

(ed. D)

No. 2211

of 1981

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
5-5-81	<p>Hon. T.S. Mishra J. Hon. Zahed Ham J. List for admission in the ordinary course. Sd. T.S.M. Sd. Z.H. 5-5-81</p> <p>fixed for order</p>	
24/11/81	<p>fixed for order Honble. C.J. Honble. Mathur J. Hend counsel. Adm. Issue notice.</p>	<u>Bench</u>
18-1-82	<p>Fixed w.p. for Attendance Issue Notice to O.P. No. 1,2,3,4 through R.P.</p>	
		<p>Pring 5/12/81</p>

4/5

of 198 /

-ys.

Date	Note of progress of proceedings and routine order s	Dated of which case is adjourned
1	2	3
4.12.02	ADD Regr.	
	Seen the "Comis report" dated 23.11.1982	
	Opposition party no 2 is represented through	
	Council & Combr Affidavit has been filed in	
	of opposition party no 1 & 2 23.	
	This office is directed to proceed.	
4.12.02		4.12.02

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 819 of 1987 (T)

APPELLANT
APPLICANT

Bhim Sen

VERSUS

DEFENDANT
RESPONDENT

004

Trial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
<p>5.9.89</p> <p>referred for</p> <p>2/11/89</p> <p>2/11/89</p> <p>Notified</p> <p>Slaves</p> <p>5/9/89</p>	<p>Hon. Justice K. N. A. V. C.</p> <p>Hon. K. J. Raman, A.M.</p> <p>The case is ready for hearing. List this case for final hearing on 2-11-89. Enjoin the parties' counsel.</p> <p>10/11/89</p> <p>A.M.</p> <p>Hon. Mr. D.K. Agrawal, J.M.</p>	<p>OR</p> <p>This case has been recd. from filed on 19.7.07.</p> <p>C.P. is admitted. Counter has been filed on 10.8.07 of C.P. No 1 to 10.</p> <p>Rejoinder has not been filed.</p> <p>Notices under both the parties from filed.</p> <p>Case is submitted for order.</p>
<p>(2)</p> <p>2/11/89</p>	<p>No. Division Bench is sitting. Adjourn to 4-1-90 for hearing.</p> <p>10/11/89</p> <p>J.M.</p>	<p>As directed by the court under act 5-9-89. Both the parties have noted date.</p> <p>No rejoinder filed.</p> <p>Submitted for hearing.</p>
<p>(3)</p> <p>4-1-90</p>	<p>(S.M.)</p> <p>Case not reached. Put up for tomorrow.</p> <p>10/11/89</p> <p>B.O.C.</p>	<p>Submitted for hearing.</p> <p>No R.A. filed. Submitted for hearing.</p> <p>3/11/90</p>

(A/
SLA)

019-0317

3 copy

A/
b

20.5.1991

20.5.1991

Hon'ble Mr. Justice, V.C. Srivastava, V.C.
HON'ble Mr. A.B. Gorthi, A.M.

Sri Siddhartha Verma appears on behalf of the Railway Administration states that Sri Bhimsen, applicant has died in the month of November 1990, as per instructions received by him, No one appears for the applicant in view of the above statement and of the fact that more than three months have expired this application is ^{(Co-A) abated} ~~awaited~~ and is accordingly dismissed as such.


A.M.


V.C.

(ss)

4/5

A/5

Central Administrative Tribunal
Circuit Bench, Lucknow.

T.A. NO. 819 of 1987

Sri Bhim Sen

..... Applicant

Union of India (N.Rly.)

VERSUS

..... Respondent.

Hon'ble Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. A.B. Gorthi, A.M.

DATED : 20-05-1991.

Sri Siddhartha Verma appears on behalf of the
Railway ~~XXX~~ Administration states that Sri Bhim Sen,
applicant has died in the month of November 1990,
as per instructions received by him. No one appears
for the applicant in view of the ~~of the~~ above
statement X and of the fact that more than three
months have expired this application (O.A.) is
abated and is accordingly dismissed as such.

Sd/

A.M.

Sd/

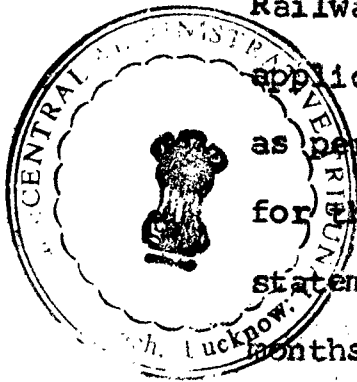
V.C.

//True Copy//

[Signature]

Section Officer
Central Administrative Tribunal
Circuit Bench
LUCKNOW

Checked by
[Signature]



C.P. No 2211

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

Writ Petition No. ~~2211~~ of 1981

Bhim Sen

--Petitioner

versus

Union of India and others

--Opp-parties

IndexSl. Description of paper
no.Annex. page
no.

1. Writ Petition

1- 9

10- 11

2. Affidavit in support of the petition

3. Staff Order dated 10 .7.1979

1 12- 13

4. Staff order dated 27.7.1979

2 14- 15

5. Staff order dated 21.2.1981

3 16- 17

6 . Recorded note

4 18- 19

Bachchan
Adv

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

1. That the petitioner was initially appointed as Lower Division Clerk on 17.4.1958. Thereafter the petitioner by means of staff order no. 807 dated 19.11.1958 was posted as a clerk in the Time Office in the then scale of Rs. 60-130. The petitioner by means of staff order no. 155 dated 18.4.1963 was confirmed in grade Rs. 110-180.

2. That subsequently the petitioner appeared at a suitability test and on being found suitable was promoted to the post of Senior Clerk in scale Rs. 330-560 by means of staff Order no. 65 dated 22.1.1976. The petitioner as a consequence of his having been suitable at the said suitability test was appointed to officiate as Senior Clerk by means of Staff Order no. 141 dated 23.2.1976. The petitioners pay was directed to be fixed at Rs. 392/- in scale Rs. 330-560 with effect from 3.2.1976.

3. That thereafter the petitioner appeared at a written test for purposes of promotion to the next higher post of Head Clerk in scale Rs. 425-700. The result of the said written test was declared by means of office order dated 31.5.1977 bearing no. 422 and the petitioner was declared as having qualified at the said written test. As a consequence of the same, the petitioner was promoted to officiate as



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Head Clerk (scale Rs. 425-700) against a vacancy in the reserved quota for scheduled caste by means of Staff Order no. 509 dated 21.6.1977. It may be stated the petitioner is a member of the scheduled caste.

4. That subsequently the petitioner was provisionally confirmed in scale Rs. 330-560 with effect from 1.7.1977 and was also provisionally confirmed on the post of Head Clerk in scale Rs. 425-700 with effect from 1.7.1978 by means of Staff Order no. 615 dated 31.7.1978.

5. That the petitioner by reason of his seniority was promoted against a leave vacancy caused in the next higher post of Assistant Superintendent in the Time Office of the Northern Railway Locomotive Workshop, Charbagh, Lucknow. The said order is contained in Staff Order no. 611 dated 10.7.1979 a true copy of which is being annexed as Annexure no.1 to this petition.

6. That by Staff Order no. 668 dated 27.7.1979 issued by opposite-party no.3 the petitioner along with other five Head Clerks who were seniormost on the basis of the combined seniority of establishment and non-establishment groups was promoted to officiate as Assistant Superintendent scale Rs. 550-750 pending selection as a temporary arrangement. A true copy of the said Staff Order dated 27.7.1979 is being annexed as annexure no.2



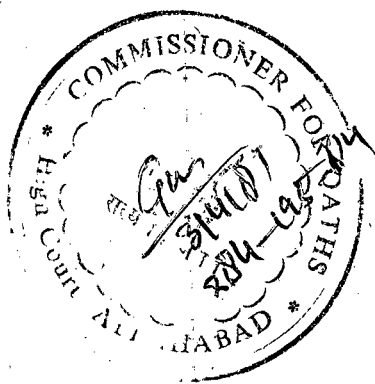
Mm

to this petition.

7. That opposite-party no.4 was initially appointed on 27.1.1959 in scale Rs. 60-130. He was promoted to the post of Senior Clerk with effect from 8.12.1976 and subsequently on passing a written test for the post of Head Clerk was promoted to the same with effect from 13.9.1977. The said opposite-party was provisionally confirmed as Head Clerk in grade Rs. 425-700 with effect from 1.3.1979 by staff order no. 557 dated 26.6.1979. It is stated that opposite-party no.4 is junior to the petitioner.

8. That a provisional seniority list of clerks was as on 1.6.1979 of non-establishment group of the Locomotive Workshop Charbagh, Lucknow as circulated by means of letter no. 50-E/3/Pt.IV dated 7.11.1979 issued by opposite-party no.3. In the said list the petitioner's name was shown at serial no.6 while the name of opposite-party no.4 was shown at serial no. 10 in the category of Head Clerks scale Rs.425-700 which is the next below post to that of Assistant Superintendent.

9. That the Railway Board issued instructions for upgradation of various selection posts with effect from 1.1.1979 and 1.6.1979. As a consequence of the same eight vacancies of Assistant Superintendent grade Rs. 550-750 became available in the Locomotive Workshop Charbagh, Lucknow. With a view to fill the said posts interview was held for which eligible candidates to the extent of 4 times of number of



12/11/79

vacancies were called to appear at the interview. It may be stated that according to 40 point roster with regard to reserved posts for Scheduled Castes and Scheduled Tribes out of the said posts, two vacancies at serials 6 and 8 fell ⁱⁿ for the said reserved quota. Candidates eligible to appear for the reserved vacancies were Sri P.L. Dhanvi, the petitioner and opposite-party no.4 Roop Narain. P.L.Dhanvi was senior to the petitioner and opposite-party no.4 as stated earlier was junior to the petitioner.

10. That by Staff Order no. 732 dated 6th September, 1980 a panel of seven names was circulated. The panel for the 8th ~~re~~ vacancy which was a reserved vacancy according to the forty point roster could not declared in deference to the interim order passed by Hon'ble the Supreme Court in a writ petition challenging the roster system for purposes of promotion. Promotion on the basis of reservation to the extent of 15 per cent for Scheduled Caste candidates and 7½ per cent for Scheduled Tribes candidates was, however, made permissible and therefore in the first seven names on the panel P.L. Dhanvi was shown as selected candidate at serial no. 6.



11. That the Supreme Court ultimately in its final judgment upheld the reservation of the forty-point roster system and consequently the interim order stood vacated and thereafter by means of Staff order no.162 dated 21.2.1981 the final panel of 8 persons was declared. Opposite-party no.4 was

shown as an approved candidate at serial no. 8 below the first seven whose panel was declared earlier on 6.9.1980. A true copy of the said staff order no. 162 dated 21.2.1981 is being annexed as annexure no. 3 to this petition.

12. That at a meeting of the Deputy Minister for Railways and Railway Board with the Headquarters of the Personnel Department of the Railway Administration held in New Delhi on 27.11.1975 a decision was taken which was circulated by the Railway Board through its letter no. 75E(SCT)15/48 dated 9.12.1975. Extract of the said recorded note as received by the office of the General Manager, Northern Railway, New Delhi has been printed in the Personnel Branch Gazette at serial no. 6494. ^{true} A copy of the said recorded note is being annexed as Annexure no.4 to this petition. A perusal of the said note would show that therein it was inter alia enjoined that care should be taken to see while forming panels that employees who have been working in the post on adhoc basis quite satisfactorily are not declared unsuitable in the interview. In particular any employee reaching the field of consideration should be saved from harassment. The General Manager of the Northern Railway while forwarding the said note also directed that strict compliance of the said decision be made particularly in respect of scheduled castes and scheduled tribe candidates.

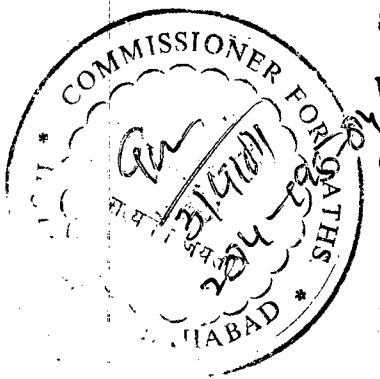


13. That a perusal of annexure 1 to the petition

82
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would show that the petitioner had been promoted to officiate as Assistant Superintendent with effect from 1.6.1979. He continued to officiate on the said post when by a subsequent order contained in annexure 2 the petitioner was allowed to continue to officiate and thus the petitioner had been officiating as Assistant Superintendent with effect from 1.6.1979. Opposite-party no.4 at the time of the selection was not put to officiate on the post of Assistant Superintendent. An order for his appointment to officiate as Assistant Superintendent with effect from 1.11.1980 was passed and is contained in staff order no. 1036 dated 23.12.1980 which was later modified ^{to operate} with effect from 1.10.1980.

14. That the petitioner's work in the post of Asstt. Superintendent on officiating basis has been wholly satisfactory. He has not been given any adverse entry whatsoever. It is further stated that the petitioner's entire service career is wholly unblemished so much so that he has at no time been awarded any punishment major or minor whatsoever. The working reports in respect of the petitioner's work and conduct on the post of Assistant Superintendent since after 1.6.1979 have also been good and satisfactory which have been intermittently submitted and it is respectfully submitted that the petitioner was clearly entitled to have been declared suitable as a consequence of interview.



15. That in the circumstances detailed above and having no other equally effective and speedy alternative remedy the petitioner seek to prefer this writ petition to impugn ~~imp~~ empanelment of opposite-party no.4 against the reserved vacancy and sets forth the following, amongst others,

GROUNDS:

- (a) Because in view of the principle laid down in annexure 4 to the petition, the empanelment of opposite-party no.4 who admittedly is junior to the petitioner is wholly illegal. The petitioner's work in the post of Asstt. Superintendent being satisfactory, he should not have been declared unsuitable at the interview.
- (b) Because while form panel the guidelines contained in annexure 4 to the petition have obviously not been followed.
- (c) Because by reason of the fact that the petitioner's work in the post of Assistant Superintendent on officiating basis has been wholly satisfactory as evidenced from the working reports submitted from time to time, there was no material basis for declaring the petitioner unsuitable only when the selection was by interview method.

Wherefore, it is respectfully prayed that this


Hon'ble Court be pleased:

(i) to issue a writ of certiorari or a writ, order or direction in the nature of certiorari to quash the panel contained in staff order no.162 dated 21.2.1981 contained in annexure 3 to the petition in so far as it concerns empanelment of opposite-party no.4 against the reserved vacancy for scheduled caste and excludes the name of the petitioner.

(ii) to issue a writ of mandamus or a writ, order or direction in the nature of mandamus commanding opposite-parties nos. 1 to 3 to reconsider the petitioners case for empanelment in the light of the directions contained in annexure 4 to the petition.

(iii) to issue such other writ, direction or order, including an order as to costs which in the circumstances of the case this Hon'ble Court deems just and proper.

Dated Lucknow
2.4.1981


(B.C. Saxena)
Advocate
Counsel for the petitioner



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

--
Affidavit
in

Petition under Article 226 of the Constitution
of India

1981
AFFIDAVIT
84
HIGH COURT
ALLAHABAD

--
Writ Petition No.

of 1981

Bhim Sen

-Petitioners

versus

Union of India and others


-Opp-parties

--
I, Bhim Sen, aged about 47 years, son of Sri
Angad Prasad, resident of C-28, Tilak Nagar Colony,
Aishbagh, Lucknow, do hereby solemnly take oath and
affirm as under:-

1. That I am the petitioner in the above-noted writ
petition and I am fully acquainted with the facts of
the case.
2. That contents of paras 1 to 14 of the accompanying
petition are true to my own knowledge.
3. That annexures 1 to 4 have been compared and are
certified to be true copies.

Dated Lucknow

2.4.1981


Deponent

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-2-

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

Dated Lucknow

2.4.1981

M. S. Mehta
Deponent

I identify the deponent who has signed in my presence.

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

Solemnly affirmed before me on 3-4-81 at 9.25 a.m/p.m by *Sri Bhim Sen* the deponent who is identified by Sri *G. S. Srinivasan* clerk to Sri *B. C. Saksena* Advocate, High Court, Allahabad. I have satisfied myself by examining the deponent that he understands the contents of the affidavit which has been read out and explained by me.

G. S. Srinivasan

CHIEF CLERK, HIGH COURT, ALLAHABAD	
CA. H. C. No. 12345	
High Court, Allahabad,	
District of Allahabad	
No. 204-195-81	Date 3-4-81



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

Writ Petition No. of 1981
BhimSen --Petitioner
versus
Union of India and others --Opp-parties

Annexure no.1

Northern Railway Locomotive Works, Charbagh,
Lucknow

S.O. No. 611 dated 10.7.1979

Shri A.U.Khan Offg. AS/T'O in grade Rs.550-750
(RS) who reports sick w.e.f. 1.6.1979 has been
granted leave up to 15.10.1979.

Consequently Shri Bhim Sen, offg. HC/ TD pay
Rs.455/- in grade Rs. 425-700(RS) is appointed to
officiate as AS/TO on pay Rs. 550/- in Gr. Rs.550-750
(RS) vice Shri A.U.Khan with effect from 1.6.1979.

S/Shri A.H. Kumar, Sr. Clerk TO and K.M.Dixit
clerk T.O. are already officiating as Head Clerk
and Sr. Clerk in grade Rs. 425-700 (RS) and
330-560 (RS) vide item (2) of S.O. No. 532 dated
18.6.1979.

S/Shri Bhim sen, A.H. Kumar and K.M. Dixit must
however understand that this is purely sectional
and temporary arrangement and will not confer upon
them any prescriptive right for similar promotion



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-2-

against future vacancies.

Sd.

Dy. Chief Mechanical Engineer (W)
N. Railway, CB/ LKO

Copy to CTK, HC/PB, SAO(W), CB, LKO for information
and necessary action.

Sd.

For Dy. Chief Mech. Engineer (W),
Loco Shop CB., Lucknow

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8/22

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

--

Writ Petition No. of 1981

BhimSen

--Petitioner

versus

Union of India and others

--Opp-parties

Annexure no.2

Northern Railway Locomotive Works, Charbagh, Lucknow

S.O. no. 668
Dated 27.7.1979

The following Head Clerks Grade Rs. 425-700(RS) who are senior most on the basis of combined seniority of Estt and non-establishment groups are pending selection appointed to officiate purely as a temporary arrangement on adhoc basis, as Asstt. Superintendents in Gr. Rs. 550-750 (RS) shown against each:

1. Shri P.L.Dhanvi (s/c HC PB) section pay Rs. 600/- in grade Rs. 425-700 (RS) to officiate as A.S. on pay Rs. 630/- in grade Rs. 550-750 (RS) w.e.f. 1.1.1979 vice Shri D.P.Srivastava offg. as Superintendent in Gr. Rs. 700-900 (RS).
2. Shri H.S.Srivastava HC/RS pay Rs. 620 in Gr. Rs. 425-700 to officiate as Asstt. Superintendent on pay Rs. 650/- in Gr. Rs. 550-750 (RS) w.e.f. 1.6.1979 vice Shri M.R.Sarkar offg. as Superintendent in Gr. 700-900(RS)
3. Shri Raj Kumar HC/ Prod pay Rs. 640/- in Gr. Rs. 425-700 (RS) to officiate as Asstt. Superintendent on pay



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Rs.675/- in grade Rs. 550-750(RS) with effect from 1.6.1979 vice Shri B.L.Saroj officiating as Supdt. in Gr. Rs. 700-900(RS).

4. Shri T.Sahai HC/Estt. Pay Rs. 620/- in Gr Rs.425-700 (RS) to officiate as Asstt. Superintendent on pay Rs. 650/- in Gr. Rs. 550-750 (RS) with effect from 1-6-1979 against an upgraded post in Estt. Group.

5. Sri Ganesh Prasad HC/ Pay Bill pay Rs. 620/- in Gr. Rs. 425-700(RS) to officiate as Asstt. Supdt. on pay Rs. 650/- in Gr. Rs. 550-750 (RS) with effect from 1.6.1979 against one of the two upgraded posts in non-establishment group.

6. Shri Bhim Sen S/C H.C. (T) pay Rs. 435/- in Gr. Rs. 425-700 (RS) to officiate as Assistant Superintendent on pay Rs. 550/- in Gr. Rs. 550-750(RS) with effect from 1.6.1979 against the other upgraded post in non Estt. group.

Arrears may be paid accordingly.

These persons will continue in their present section office till further orders.

Dy. Chief Mechanical Engineer (W),
NR/CB/Lucknow

Copy to: CTK HC/PV, SAO(W)/CB, PPS and HC/BS for information and necessary action.

Dy. Chief Mechl. Engineer (W),
NR, Locoshops, CB, Lucknow



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

Writ Petition No. of 1981

Bhim Sen

-Petitioner

versus

Union of India and another

-Opp-parties

Annexure no.3

NORTHERN RAILWAY LOCOMOTIVE WORKS CHARBAGH LUCKNOW
S.O. No. 162 dated 20/21-2-1981

As advised by SPO/(M) , Headquarters office New Delhi the name of Sri Rup Narain (S/C) is to be added as item(8) in the panel of Asstt. Superintendent (Mech) Gr. Rs. 550-750(RS) for this office as declared vide S.O. No. 752 dated 6.9.1980.

The final position of the said panel is now, therefore as under:-

- | | |
|--------------------------|-----------|
| 1. Shri M.S. Hussain | As/ T.O. |
| 2. Shri K.M.Verma | AS/ Estt. |
| 3. Shri Raj Kumar | AS/Prod. |
| 4. Shri Ganesh Prasad | AS/PB |
| 5. Shri Ram Nath | AS/Budget |
| 6. Shri P.K.Dhanvi (S/C) | " " |
| 7. Shri D.C.Saxena | HC/ Prod. |
| 8. Shri Rup Narain (S/C) | HC/Genl. |

This has been approved by the Chief W/Shop Engineer,
N.Railway, New Delhi

The above staff are, however , warned that the retention



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of their names on the panel of A.S.(mech) Gr. Rs. 550- 750 (RS) is dependant on their work remaining satisfactory during the currency of the panel.

Sd. Illegible

Addl. Chief Mechl. Engr. (W),
N. Railway, Charbagh, Lucknow

Copy to AS/T.O. PB, Production, Budget, Estt/ Genl,
SAO(w)/CB/ LKO for information and necessary action.

Sd. Illegible

Addl. Chief Mechl. Engr. (W),
N. Railway, Charbagh, Lucknow.

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

--

Writ Petition No. of 1981
Bhim Sen --Petitioner
versus
Union of India and others --Opp-parties

Annexure no.4

Copy of GM(P)'s letter no. 831E/63/2-X(Eiv) dated
19.3.1976 addressed to All Divd. Superintendents and
Extra Divisional Officers.

Printed serial no. 6494

Subject: Record note of the meeting of Dy. Minister for
Railways and Railway Board with the Headquarters
of the Personnel Department of the Railway
administrations held in New Delhi on 23.11.1975

A copy of an extract from the record note circulated vide
Boards letter no. 75E(SCT)15/48 dated 9.12.1975 as
received vide their office letter no. E(NG)I-75PMI/624,
dated 25.1.1976 reproduced below:-

* 2.2. Panels should be formed for selection posts in
time to avoid adhoc promotions. Care should be
taken to see while forming panels that employees who
have been working in the post on adhoc basis quite
satisfactorily are not declared unsuitable in the
interview. In particular any employee reaching the
filed of consideration should be saved from harassment.
In this connection, the General Manager has observed as
under:-



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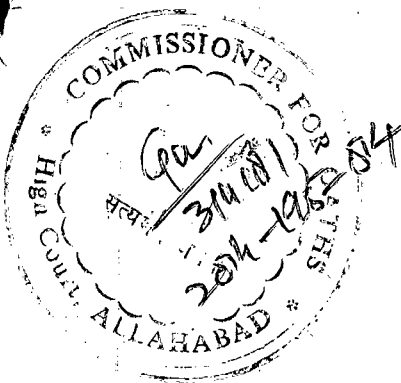
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"Long term adhoc arrangements should be made strictly according to the seniority and suitability to avoid embarrassment."

Please ensure strict compliance of this decision particularly in respect of S/castes and Scheduled Tribe candidates.

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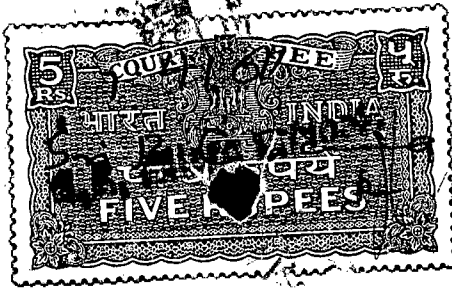
In The Hon'ble High Court of Judicature at Allahabad
(Lucknow Bench) Lucknow

ब अदालत श्रीमान

महोदय

वादी(मुद्दे) For Petitioner
प्रतिवादी (मुद्दाअलेह) &

का वकालतनामा



Bhim Sen

वादी (मुद्दे)

बनाम

Union of India and others.

प्रतिवादी (मुद्दाअलेह)

नं० मुकद्दमा सन् १९८१ पेशी की ता० १६ ई०
उपर लिखे मुकद्दमा में अपनी ओर से श्री

Shri B. C. Saxena

एडवोकेट

महोदय

—वकील—

को अपना वकील नियुक्त करके प्रतिज्ञा [इकरार] करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारो करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी [फरीकसानी] का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त [दस्तखती] रसीद से लेवें या पंच नियुक्त करें - वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे ।

Accepted

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

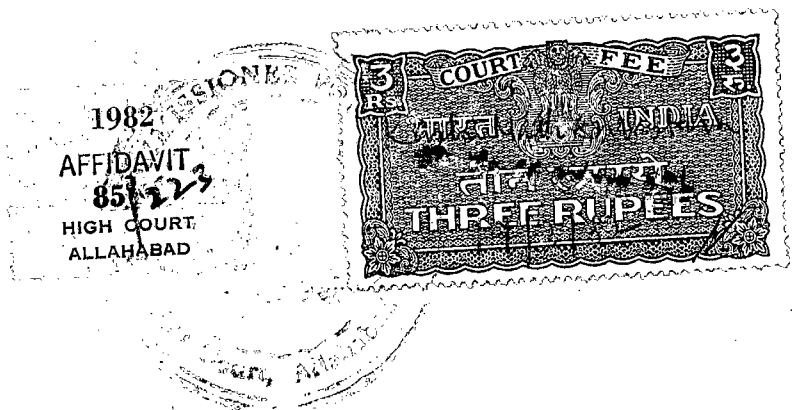
दिनांक

महीना

5/1 2/28

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

Writ Petition No. 2211 of 1981. A
2/21



Sri Bhim Sen

-----Petitioner

Versus

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

Counter Affidavit on behalf of
opposite parties No. 1, 2 & 3.

I, Kashi Nath Srivastava, aged about 57
years, son of late Sri K.B. Srivastava, r/o 77,
Astable Yahiaganj, Lucknow, do hereby solemnly
affirm and state on oath as under:-

1. That the deponent is working as Asstt.
Superintendent in the Northern Railway- Locomotive
Works, Charbagh, Lucknow, and as such he is
well conversant with the facts of the case.

2. That the contents of paragraph 1 of the
writ petition, as stated, are not admitted.
It is most respectfully submitted that the
petitioner was appointed as a clerk in the
Northern Railway Headquarters' Office, New Delhi,
with effect from 17.4.1953 and was subsequently



Kashi Nath Srivastava

transferred to the Northern Railway- Locomotive Works, Charbagh, Lucknow, in mutual exchange on 5.11.1958. Later on the petitioner was confirmed as clerk with effect from 3.5.1962.

3. That in reference to the contents of paragraph 2 of the writ petition, it is most respectfully submitted that the petitioner, on being found suitable for the post of Senior Clerk in the grade Rs.330-560 (Revised Scale) vide S.O. No.65 of 27.1.1976, was promoted with effect from 3.2.1976 (Vide S.O.No.141 of 23.2.1976) on the said post.

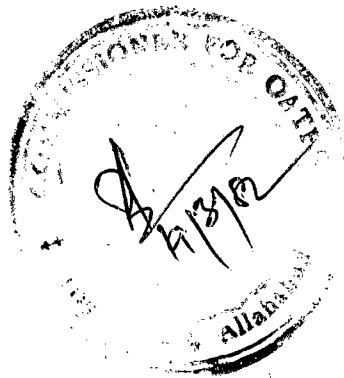
4. That the contents of paragraph 3, 4 and 5 of the writ petition are admitted.

5. That the contents of paragraph 6 of the writ petition are admitted. It is, however, most respectfully submitted that the officiating arrangement was ordered purely on ad-hoc basis and pending selection.

6 . That the contents of paragraph 7 are admitted. It is most respectfully submitted that the opposite party no.4, Sri Rup Narain also belongs to the S.C. Community.

7. That the contents of paragraph 8 of the writ petition are admitted.

Kashin Nath Givaskar



8/30

A/31

8. That the contents of paragraph 9 of the writ petition are admitted. It is, however, most respectfully submitted that in order to fill in certain upgraded posts of Assistant Superintendents in Grade Rs. 550-750 (Revised Scale) which are classified as "Selection Posts" and are to be filled in by a positive act of selection by a duly constituted Selection Board, a selection was held in this office to fill in ~~* eight~~ posts of Assistant Superintendent. For this purpose 24 candidates (three times of the number of actual vacancies) including the petitioner and the opposite party no. 4 were called according to the seniority of Head Clerks in the grade Rs. 425-700 (Revised Scale) i.e. the grade just below to that of Assistant Superintendents for which the selection was held.



9. That the contents of paragraphs 10 and 11 of the writ petition are admitted. It is most respectfully submitted that originally, a panel of 7 empanelled candidates was announced provisionally and subsequently the name of eighth empanelled candidate, Sri Rup Narain, the opposite party no. 4, was also announced and the panel was treated to be final. As per roster fixed for the purpose, only two vacancies were reserved for Scheduled Caste candidates and this quota was maintained i.e. Sri P.L. Dhanvi and Sri Rup Narain, the opposite party no. 4 (both belonging to Scheduled Caste category)

Asst. Secy. Srinivasan

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22

were selected. The petitioner, however, was not selected by the Selection Board.

10. That the contents of paragraph 12, as stated, are denied. It is most respectfully submitted that normally, the selection comprises of two parts, viz. (i) Written Test; and (ii) Interview, but the selections which were held on 2.5.1980 and 19.7.1980 (in which the petitioner also appeared) was held on the basis of interview only as per instructions issued by the Headquarters' Office, New Delhi vide its letter No. 561E/255-98 Genl. (PC) Pt. I dated 25.4.1979. A true copy of this letter is being enclosed herewith as Annexure C-1 Printed Serial No. 6494 referred to by the petitioner does not lay any binding that a person officiating on any post must be selected for such post even if he is not considered suitable by the Selection Board.



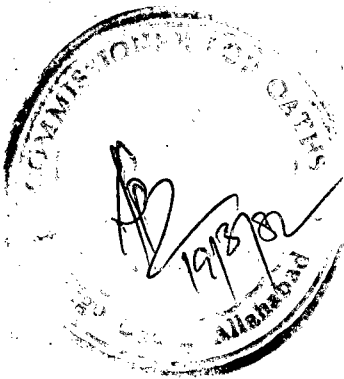
11. That the contents of paragraph 13 of the writ petition are admitted. It is admitted that the petitioner was put to officiate as Assistant Superintendent with effect from 1.6.1979, which was purely a temporary arrangement on ad-hoc basis pending selection. The selection for the posts of Assistant Superintendent was held on 2.5.1980 and 19.7.1980 and the result was declared provisionally on 6.9.1980 and finally on 21.2.1981. It also submitted that Sri Rup Narain, the opposite party no. 4, who was

Kashin Nath Srivastava

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junior to the petitioner, was put to officiate as Assistant Superintendent pending selection on ad-hoc basis with effect from 1.11.1980 (subsequently revised to 1.10.1980) vide orders issued on 23.12.1980.

12. That the contents of paragraph 14 of the writ petition, as stated, are denied. It is most respectfully submitted that even though the petitioner had not been awarded any punishment nor any adverse entry was made in his service record and his work and conduct as Asstt. Suptd. in officiating capacity has been satisfactory, the petitioner cannot claim his selection on the selection post of Assistant Superintendent as a matter of right, all the petitioner could claim was his right to be considered for selection on the 'selection post' of Assistant Superintendent. The petitioner was considered for this selection and he appeared before a duly constituted Selection Board but was not considered upto the mark and suitable by the Selection Board. The members of the Selection Board have applied their judicious mind in making selections on the said post and the recommendations of the Selection Board cannot be challenged nor it should be justiciable or subject to judicial review.



Asstt. N. N. Bivastava

13. That the contents of paragraph 15 are denied.

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A/34

14. That the contents of paragraphs (a), (b) and (c) of the grounds are denied. It is most respectfully submitted that selection is just to select the best from amongst the eligible candidates by judging their comparative merit and there is always a positive merit for selection. The mere fact that there was nothing adverse on record against the petitioner or he was senior enough does not entitle him to be selected. It is also submitted that there is no binding that only senior most persons should be selected on the selection post. Had there been this criteria only then there would have been no need for selection for the post of Assistant Superintendent.

The quota of reserved community candidate is however, always to be maintained, which was done in this case also. It may be mentioned that as per para 314 of the Indian Railway Establishment Manual, the employee selected in earlier panel will be considered senior to those borne on subsequent panel even though the latter may be continuously officiating in the selection post as a local arrangement from a date prior to the date of promotion of the former or the latter may be substantively senior to the former. A true copy of the Rule No. 314 of Indian Railway Establishment Manual is being annexed herewith as Annexure C-II.



15. That in view of the submissions made above, it is most respectfully prayed that the petitioner

Asli Natar Prasad

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is not entitled to the reliefs as claimed by him in paragraphs (i) to (iii) of the prayers and the writ petition is liable to be dismissed with costs.

Lucknow, dated,
19.3.1982

Kashi Nath Srivastava
Deponent.

I, the abovenamed deponent do hereby verify that the contents of paragraph 1 are true to my personal knowledge, those of paragraphs 2 to 11 are based on records and are believed by me to be true, the contents of paragraph 13 are believed by me to be true and the contents of paragraphs 12, 14 and 15 are based on legal advice and the same are believed by me to be true. That no part of it is false and nothing material has been concealed so help me God.

Lucknow, dated,
19.3.1982

Kashi Nath Srivastava
Deponent.

I identify the deponent who has signed before me.

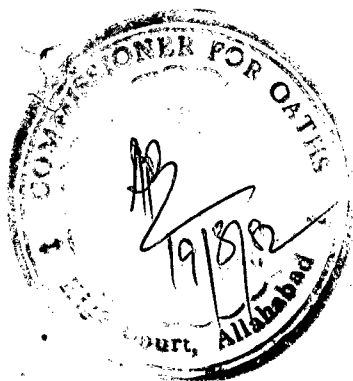
Siddharth Verma
(SIDDHARTH VERMA)
Advocate.

solemnly affirmed before me on 19-3-82 at 2-15 A.M./P.M. by the deponent Sri Kashi Nath Srivastava who is identified by Sri Siddharth Verma Advocate Clerk to Sri

Advocate High Lucknow Bench, Lucknow.

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

Adv.



OATH COMMISSIONER
High Court, Lucknow Bench
LUCKNOW

No. 85/223/82
Date 19/3/82

5/18 A/36

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

Writ Petition No. 2211 of 1981.

Sri Bhim Sen

-----Petitioner

Versus

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

Annexure No. C-I

A. Johri
Chief Personnel
Officer.

Northern Railway
Headquarters Office
Baroda House
New Delhi.

D.O. No. 561E/255-89. Genl. (A.C) Pt. I.

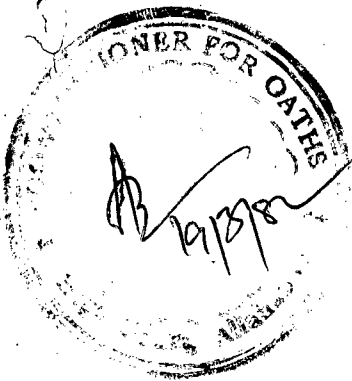
Dated : 25.4.1979.

My dear Mathur,

Sub: Filling up of upgraded posts as a result
of directives recently received from
the Railway Board.

With a view to ensure that Railway Board's
instructions recently received for upgradation of
various selection posts with effect from 1.1.79
and thereafter, are expeditiously implemented,
it has been decided that:-

1. Written test is to be dispensed with only in
the case of Selections for filling up upgraded
posts alongwith existing regular vacancies if any
for which selections are confined to one category
of staff. This decision is with the specific
object of avoiding delay in the implementation
of upgradation scheme and not to be cited as a
precedent. This should be made clear to
all concerned.



Handwritten signature: Kashi Nath Srivastava

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A/37

2. In the case of selections where staff from different categories are eligible, a written test will, however, have to be held.
3. In the case of selections held in connection with the upgradation scheme, the ban on holding a selection within six months of the previous selection will not apply and also the candidates who failed in earlier selection will be eligible for the selection now proposed.
4. Selections to fill up only regular posts now as well as in future will however continue to be held as per normal rules.

I would again emphasise that special efforts should be made to fill up the upgraded posts on top priority basis and monthly progress report sent to this office without delay for further transmission to the Railway Board.



Yours faithfully,

Sd./-

(A. Johri)

True-copy.

Kashi Nath Srinivasan

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38

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

Writ Petition No. 2211 of 1981.

Sri Bhim Sen

-----Petitioner

Versus

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

Annexure No. C-II

Copy of Rule No. 314 of Indian Railway
Establishment Manual.

314. Seniority in Selection Posts:-

The seniority of two or more officiating railway servants selected at different selections for a particular selection post should be fixed with reference to the date of selection, that is to say, railway servants borne on an earlier panel shall be senior to those selected later even though the latter may be continuously officiating in the selection posts as a local arrangement from a date prior to the date of promotion of the former or the latter may be substantively senior to the former.

True-copy.

Kashi Nath Srinivasa

Adh

JOINT COMMISSIONER
High Court, (Lucknow Bench)
LUCKNOW

No. 85/223
Date 19/3/82

P/28

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

A
39

Writ Petition No. 2211 of 1981.

Sri Bhim Sen

-----Petitioner

Versus

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

Counter Affidavit on behalf of
opposite parties No. 1, 2 & 3.

I, Kashi Nath Srivastava, aged about 57
years, son of late Sri K.B. Srivastava, r/o 77,
Astable Yahiaganj, Lucknow, do hereby solemnly
affirm and state on oath as under:-

1. That the deponent is working as Asstt.
Superintendent in the Northern Railway- Locomotive
Works, Charbagh, Lucknow, and as such he is
well conversant with the facts of the case.
2. That the contents of paragraph 1 of the
writ petition, as stated, are not admitted.
It is most respectfully submitted that the
petitioner was appointed as a clerk in the
Northern Railway Headquarters' Office, New Delhi,
with effect from 17.4.1958 and was subsequently

transferred to the Northern Railway- Locomotive Works, Charbagh, Lucknow, in mutual exchange on 5.11.1958. Later on the petitioner was confirmed as clerk with effect from 3.5.1962.

3. That in reference to the contents of paragraph 2 of the writ petition, it is most respectfully submitted that the petitioner, on being found suitable for the post of Senior Clerk in the grade Rs.330-560 (Revised Scale) vide S.O. No.65 of 27.1.1976, was promoted with effect from 3.2.1976 (Vide S.O.No.141 of 23.2.1976) on the said post.

4. That the contents of paragraph 3, 4 and 5 of the writ petition are admitted.

5. That the contents of paragraph 6 of the writ petition are admitted. It is, however, most respectfully submitted that the officiating arrangement was ordered purely on ad-hoc basis and pending selection.

6. That the contents of paragraph 7 are admitted. It is most respectfully submitted that the opposite party no.4, Sri Rup Narain also belongs to the S.C. community.

7. That the contents of paragraph 8 of the writ petition are admitted.

P/36

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8. That the contents of paragraph 9 of the writ petition are admitted. It is, however, most respectfully submitted that in order to fill in certain upgraded posts of Assistant Superintendents in grade Rs. 550-750 (Revised scale) which are classified as "Selection Posts" and are to be filled in by a positive act of selection by a duly constituted selection Board, a selection was held in this office to fill in eight posts of Assistant Superintendent. For this purpose 24 candidates (three times of the number of actual vacancies) including the petitioner and the opposite party no. 4 were called according to the seniority of Head Clerks in the grade Rs. 425-700 (Revised Scale) i.e. the grade just below to that of Assistant Superintendents for which the selection was held.

9. That the contents of paragraphs 10 and 11 of the writ petition are admitted. It is most respectfully submitted that originally, a panel of 7 empanelled candidates was announced provisionally and subsequently the name of eighth empanelled candidate, Sri Rup Narain, the opposite party no. 4, was also announced and the panel was treated to be final. As per roster fixed for the purpose, only two vacancies were reserved for Scheduled Caste candidates and this quota was maintained i.e. Sri P.L. Dhanvi and Sri Rup Narain, the opposite party no. 4 (both belonging to Scheduled Caste category)

8/12/39

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

Writ petition No. 2211 of 1931. A
4/2

Sri Shim Sen

-----Petitioner

Versus

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

Counter Affidavit on behalf of
opposite parties No. 1, 2 & 3.

I, Kashi Nath Srivastava, aged about 57
years, son of late Sri K.B. Srivastava, r/o 77,
Astable Yshiaganj, Lucknow, do hereby solemnly
affirm and state on oath as under:-

1. That the deponent is working as Asstt.
Superintendent in the Northern Railway- Locomotive
Works, Charbagh, Lucknow, and as such he is
well conversant with the facts of the case.
2. That the contents of paragraph 1 of the
writ petition, as stated, are not admitted.
It is most respectfully submitted that the
petitioner was appointed as a clerk in the
Northern Railway Headquarters' Office, New Delhi,
with effect from 17.4.1939 and was subsequently

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8. That the contents of paragraph 9 of the writ petition are admitted. It is, however, most respectfully submitted that in order to fill in certain upgraded posts of Assistant Superintendents in grade B. 550-750 (revised scale) which are classified as "selection posts" and are to be filled in by a positive act of selection by a duly constituted selection Board, a selection was held in this office to fill in eight posts of Assistant Superintendent. For this purpose 24 candidates (three times of the number of actual vacancies) including the petitioner and the opposite party no. 4 were called according to the seniority of Head Clerks in the grade B. 425-700 (revised scale) i.e. the grade just below to that of Assistant Superintendents for which the selection was held.

9. That the contents of paragraphs 10 and 11 of the writ petition are admitted. It is most respectfully submitted that originally, a panel of 7 empanelled candidates was announced provisionally and subsequently the name of eighth empanelled candidate, Sri Rup Narain, the opposite party no. 4, was also announced and the panel was treated to be final. As per roster fixed for the purpose, only two vacancies were reserved for scheduled Caste candidates and this quota was maintained i.e. Sri P.L. Pharvi and Sri Rup Narain, the opposite party no. 4 (both belonging to scheduled Caste category)

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junior to the petitioner, was put to officiate as Assistant Superintendent pending selection on ad-hoc basis with effect from 1.11.1980 (subsequently revised to 1.12.1980) vide orders issued on 23.11.1980.

12. That the contents of paragraph 14 of the writ petition, as stated, are denied. It is most respectfully submitted that even though the petitioner had not been awarded any punishment nor any adverse entry was made in his service record and his work and conduct as Asstt. Suptd. in officiating capacity has been satisfactory, the petitioner cannot claim his selection on the selection post of Assistant Superintendent as a matter of right, all the petitioner could claim was his right to be considered for selection on the 'selection post' of Assistant Superintendent. The petitioner was considered for this selection and he appeared before a duly constituted selection Board but was not considered upto the mark and suitable by the Selection Board. The members of the Selection Board have applied their judicious mind in making selections on the said post and the recommendations of the selection board cannot be challenged nor it should be justiciable or subject to judicial review.

13. That the contents of paragraph 15 are denied.

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is not entitled to the reliefs as claimed by him in paragraphs (i) to (iii) of the prayers and the writ petition is liable to be dismissed with costs.

Lucknow, dated,
.3.1982

Deponent,

I, the abovesigned deponent do hereby verify that the contents of paragraph 1 are true to my personal knowledge, those of paragraphs 2 to 11 are based on records and are believed by me to be true, the contents of paragraph 13 are believed by me to be true and the contents of paragraphs 12, 14 and 15 are based on legal advice and the same are believed by me to be true. That no part of it is false and nothing material has been concealed so help me God.

Lucknow, dated,
.3.1982

Deponent,

I identify the deponent who has signed before me.

Advocate,

Solemnly affirmed before me on

at A.M./P.M. by the deponent

who is identified by Sri

clerk to Sri

Advocate High Lucknow Bench, Lucknow.

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

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46

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

Writ Petition No. 2211 of 1981.

Sri Bhim Sen

-----Petitioner

Versus

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

Annexure No. C-1

A. Jochri
Chief Personnel
Officer.

Northern Railway
Headquarters Office
Baroda House
New Delhi.

D.O. No. 5612/255-89. Genl. (PC) Pt. I.

Dated : 25.4.1979.

My dear Mathur,

sub: Filling up of upgraded posts as a result
of directives recently received from
the Railway Board.

With a view to ensure that Railway Board's
instructions recently received for upgradation of
various selection posts with effect from 1.1.79
and thereafter, are expeditiously implemented,
it has been decided that:-

1. Written test is to be dispensed with only in
the case of selections for filling up upgraded
posts alongwith existing regular vacancies if any
for which selections are confined to one category
of staff. This decision is with the specific
object of avoiding delay in the implementation
of upgradation scheme and not to be cited as a
precedent. This should be made clear to
all concerned.

A/ 47

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

Writ Petition No. 2211 of 1981.

Shri Bhim Sen

-----Petitioner

Versus

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

Annexure No. C-II

Copy of Rule No. 314 of Indian Railway
Establishment Manual.

314. Seniority in selection posts:-

The seniority of two or more officiating railway servants selected at different selections for a particular selection post should be fixed with reference to the date of selection, that is to say, railway servants borne on an earlier panel shall be senior to those selected later even though the latter may be continuously officiating in the selection posts as a local arrangement from a date prior to the date of promotion of the former or the latter may be substantively senior to the former.

True-copy.

were selected. The petitioner, however, was not selected by the Selection Board.

10. That the contents of paragraph 12, as stated, are denied. It is most respectfully submitted that normally, the selection comprises of two parts, viz. (i) Written Test; and (ii) Interview, but the selections which were held on 2.5.1980 and 19.7.1980 (in which the petitioner also appeared) was held on the basis of interview only as per instructions issued by the Headquarters' Office, New Delhi vide its letter No. 561E/255-98 Genl. (PC) Pt. I dated 25.4.1979. A true copy of this letter is being enclosed herewith as Annexure C-1 Printed Serial No. 6494 referred to by the petitioner does not lay any binding that a person officiating on any post must be selected for such post even if he is not considered suitable by the Selection Board.

11. That the contents of paragraph 13 of the writ petition are admitted. It is admitted that the petitioner was put to officiate as Assistant Superintendent with effect from 1.6.1979, which was purely a temporary arrangement on ad-hoc basis pending selection. The selection for the posts of Assistant Superintendent was held on 2.5.1980 and 19.7.1980 and the result was declared provisionally on 6.9.1980 and finally on 21.2.1981. It also submitted that Sri Rup Narain, the opposite party no. 4, who was

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A/49

junior to the petitioner, was put to officiate as Assistant Superintendent pending selection on ad-hoc basis with effect from 1.11.1980 (subsequently revised to 1.10.1980) vide orders issued on 23.12.1980.

12. That the contents of paragraph 14 of the writ petition, as stated, are denied. It is most respectfully submitted that even though the petitioner had not been awarded any punishment nor any adverse entry was made in his service record and his work and conduct as Asstt. Suptd. in officiating capacity has been satisfactory, the petitioner cannot claim his selection on the selection post of Assistant Superintendent as a matter of right, all the petitioner could claim was his right to be considered for selection on the 'selection post' of Assistant Superintendent. The petitioner was considered for this selection and he appeared before a duly constituted Selection Board but was not considered upto the mark and suitable by the Selection Board. The members of the Selection Board have applied their judicious mind in making selections on the said post and the recommendations of the Selection Board cannot be challenged nor it should be justiciable or subject to judicial review.

13. That the contents of paragraph 15 are denied.

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14. That the contents of paragraphs (a), (b) and (c) of the grounds are denied. It is most respectfully submitted that selection is just to select the best from amongst the eligible candidates by judging their comparative merit and there is always a positive merit for selection. The mere fact that there was nothing adverse on record against the petitioner or he was senior enough does not entitle him to be selected. It is also submitted that there is no binding that only senior most persons should be selected on the selection post. Had there been this criteria only then there would have been no need for selection for the post of Assistant Superintendent.

The quota of reserved community candidate is however, always to be maintained, which was done in this case also. It may be mentioned that as per para 314 of the Indian Railway Establishment Manual, the employee selected in earlier panel will be considered senior to those borne on subsequent panel even though the latter may be continuously officiating in the selection post as a local arrangement from a date prior to the date of promotion of the former or the latter may be substantively senior to the former. A true copy of the Rule No. 314 of Indian Railway Establishment Manual is being annexed herewith as Annexure C-II.

15. That in view of the submissions made above, it is most respectfully prayed that the petitioner

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52

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

Writ Petition No. 2211 of 1981.

Sri Bhim Sen

-----Petitioner

Versus

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

Annexure No. C-I

A. Johri
Chief Personnel
Officer.

Northern Railway
Headquarters Office
Baroda House
New Delhi.

D.O. No. 561E/255-89. Genl. (PC) Pt. I.

Dated : 25.4.1979.

My dear Mathur,

sub: filling up of upgraded posts as a result
of directives recently received from
the Railway Board.

With a view to ensure that Railway Board's
instructions recently received for upgradation of
various selection posts with effect from 1.1.79
and thereafter, are expeditiously implemented,
it has been decided that:-

1. Written test is to be dispensed with only in
the case of selections for filling up upgraded
posts alongwith existing regular vacancies if any
for which selections are confined to one category
of staff. This decision is with the specific
object of avoiding delay in the implementation
of upgradation scheme and not to be cited as a
precedent. This should be made clear to
all concerned.

8/10
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83

2. In the case of selections where staff from different categories are eligible, a written test will, however, have to be held.
3. In the case of selections held in connection with the upgradation scheme, the ban on holding a selection within six months of the previous selection will not apply and also the candidates who failed in earlier selection will be eligible for the selection now proposed.
4. Selections to fill up only regular posts now as well as in future will however continue to be held as per normal rules.

I would again emphasise that special efforts should be made to fill up the upgraded posts on top priority basis and monthly progress report sent to this office without delay for further transmission to the Railway Board.

Yours faithfully,

sd./-

(A. Johri)

True-copy.

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54

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

Writ Petition No. 2211 of 1981.

Sri Bhim Sen

-----Petitioner

Versus

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

—
Annexure No. C-II

Copy of Rule No. 314 of Indian Railway
Establishment Manual.

314. seniority in selection Posts:-

The seniority of two or more officiating railway servants selected at different selections for a particular selection post should be fixed with reference to the date of selection, that is to say, railway servants borne on an earlier panel shall be senior to those selected later even though the latter may be continuously officiating in the selection posts as a local arrangement from a date prior to the date of promotion of the former or the latter may be substantively senior to the former.

True-copy.

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हाई कोर्ट इलाहाबाद, लखनऊ बेंच लखनऊ
(अध्याय १२, नियम १ और ७)

दीवानी विभाग

प्रकीर्णक (मुतफर्रिक) प्रार्थना पत्र सं० ----- सन १९----- ई०

~~100~~ सं० ~~2211~~ सन १९~~81~~ ई० में

~~Bhim Sen~~ ----- प्रार्थी

प्रति

~~The Hon. Secy of India Govt~~ ----- प्रत्यर्थी

~~The Chief Workshop Engineer~~

~~Northern Railway Alwar~~

~~Delhi~~

प्रत्यर्थी

चूंकि ऊपर लिखे प्रार्थी ने इस न्यायाल में उपर्युक्त लिखे मुकदमें के सम्बन्ध में -----

----- के लिये प्रार्थनापत्र दिया है, अतः आपको आदेश दिया जाता है कि आप दिनांक 18 माह 1 सन १९ 82 ई० ----- को या उससे

पहले उपस्थित होकर कारण बतलायें कि प्रार्थनापत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थनापत्र की सुनवाई उसके बाद नियमानुसार विज्ञप्ति किसी और दिन होगी।

विदित हो कि यदि आप ऊपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी एडवोकेट या ऐसे व्यक्ति द्वारा, जो आपकी ओर से कार्य करने के लिए कानूनन अधिकृत हो, उपस्थित न होंगे तो उस प्रार्थनापत्र की सुनवाई और निर्णय आपकी अनुपस्थिति में हो जायगा।

मेरे हस्ताक्षर और न्यायालय की मोहर से दिनांक 8 माह 12 -----

सन १९ 81 ----- को जारी किया गया।

Mr B. C. Lawrence. के एडवोकेट

तिथि -----



डिप्टी रजिस्ट्रार
इलाहाबाद / लखनऊ

सूचना— इस न्यायालय की १९८२ की क्रियाशाली के अध्याय ३७, नियम २ के आधीन प्राप्त तलबाना मिल गया।

तलबाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

11/12

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A/57

हाई कोर्ट इलाहाबाद, लखनऊ बेंच लखनऊ
(अध्याय १२, नियम १ और ७)

4266

दीवानी विभाग

प्रकीर्णक (मुतफरिफ) प्रार्थना पत्र सं० _____ सन १९____ ई०
WP सं० 2211 _____ सन १९84 _____ ई० में
Bhim Sen _____ प्रार्थी

प्रति
The Union of India & others _____ प्रत्यार्थी
The Chief Workshop Engineer
Northern Railway New Delhi
Delhi _____ प्रत्यार्थी

चूंकि ऊपर लिखे प्रार्थी ने इस न्यायाल में उपर्युक्त लिखे मुकदमें के सम्बन्ध में _____
_____ के लिये प्रार्थनापत्र दिया है, अतः आपको आदेश दिया जाता है कि
आप दिनांक 18 _____ माह _____ सन १९82 ई० _____ को या उससे
पहले उपस्थित होकर कारण बतलायें कि प्रार्थनापत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थनापत्र
की सुनवाई उसके बाद नियमानुसार विज्ञप्ति किसी और दिन होगी।

विदित हो कि यदि आप ऊपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी एडवोकेट
या ऐसे व्यक्ति द्वारा, जो आपकी ओर से कार्य करने के लिए कानूनन अधिकृत हो, उपस्थित न होंगे
तो उस प्रार्थनापत्र की सुनवाई और निर्णय आपकी अनुपस्थिति में हो जायगा।

स्ताक्षर और न्यायालय की मोहर से दिनांक 8 _____ माह 12 _____
_____ को जारी किया गया।



डिप्टी रजिस्टार
इलाहाबाद / लखनऊ

की नियमावली के अध्याय ३७, नियम २ के अधीन प्राप्त तलवाना
तलवाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

Handwritten notes and signatures on a separate sheet of paper, including 'JSCN', '9/11/84', and 'nil'.

हाई कोर्ट इलाहाबाद, लखनऊ वेन्च लखनऊ
(अध्याय १२, नियम १ और ७)

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दीवानी विभाग

प्रकीर्णक (मुतफरिफ) प्रार्थना पत्र सं० ————— सन १९ ————— ई०
WP सं० 2241 सन १९८४ ई० में
Bhim Seen ————— प्रार्थी

प्रति
The Union of India Others ————— प्रत्यर्थी
The Additional Chief Mechanical Engineer (W)
Northern Railway Chazbagh Lucknow

चूंकि ऊपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त लिखे मुकदमें के सम्बन्ध में —————
के लिये प्रार्थनापत्र दिया है, अतः आपको आदेश दिया जाता है कि
आप दिनांक — 18 — माह — 1 — सन १९ 82 ई० ————— को या उससे
पहले उपस्थित होकर कारण बतलायें कि प्रार्थनापत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थनापत्र
की सुनवाई उसके बाद नियमानुसार विज्ञप्ति किसी और दिन होगी।

विदित हो कि यदि आप ऊपर लिखे दिनांक पर या उससे पहले स्वयं अथवा किसी एडवोकेट
या ऐसे तन्त्रि —————, उपस्थित न होंगे

Stamp affixed except in case of airmail. Rs. 7.
No. 1651. Stamps of not more than the initial Date stamp
weight prescribed in the Post and Telegraph
Guide on which no acknowledgment is due.

Received a V.P. registered
addressed to —————
Addl. Ch. Engineer

Write here "letter", "parcel", "valuable" or "other"
in presence of Receiving Officer with the word "insured" before, when necessary.
To be filled in only when the article is to be insured, other
wise to be crossed out by means of two diagonal lines.
Insured for Rs. (in figures) ————— (in words) —————

Insurance fee Rs. ————— P. ————— (in words) —————
weight ————— rates —————
grams —————

रजिस्टार
द/लखनऊ

सूचना— इस न्यायालय की १९५२ की नियमावली के अध्याय ३७, नियम २ के आधीन प्राप्त तलवाना
मिल गया।

तलवाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

हाई कोर्ट इलाहाबाद, लखनऊ बेंच लखनऊ
(अध्याय १२, नियम १ और ७)

दीवानी विभाग

प्रकीर्णक (मुतफरिफ) प्रार्थना पत्र सं० ————— सन १९ ————— ई०
WP सं० 2211 ————— सन १९०४ ————— ई० में
Bhim Sen ————— प्रार्थी

प्रति

The Union of India others ————— प्रत्यार्थी

U. Rao Narain aged about 47 years s/o Sri Lal Bahadur Shastri.
At Present Working as Assistant Superintendent
in the office of opp. Party No 3 ————— प्रत्यार्थी

चूंकि ऊपर लिखे प्रार्थी ने इस न्यायालय में उपर्युक्त लिखे मुकदमें के सम्बन्ध में —————
के लिये प्रार्थनापत्र दिया है, अतः आपको आदेश दिया जाता है कि
आप दिनांक 18 ————— माह ————— 1 ————— सन १९ 82 ई० ————— को या उससे
लिया जाय। उक्त प्रार्थनापत्र

No. 1417 R. P. 51 (a)
Stamp attached except in case of unimpaired Rs. P.
red letters of not more than the initial Date stamp
to be prescribed in the Post and Telegraph
Guide on which no acknowledgment is due.
Received a V. P. registered
addressed to

Signature of Receiving Office

Insured for Rs. (in figures)

(in words)

Weight rates

वयं अथवा किसी एडवोकेट
धिकृत हो, उपस्थित न होंगे
॥

डिप्टी रजिस्ट्रार
इलाहाबाद / लखनऊ

सूचना— इस न्यायालय की १९५२ की नियमावली के अध्याय ३७, नियम २ के अधीन प्राप्त तलबाना
मिल गया।

तलबाना प्राप्त करने वाले क्लर्क के हस्ताक्षर

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

Writ Petition No. 2211 of 1981.

A/60

(278)

AS

19/3/82

Sri Bhim Sen

Petitioner

Versus

Union of India and others

Opposite Parties

It is most respectfully submitted as under-

1. That in the above mentioned writ petition, the counter affidavit on behalf of opposite parties Nos. 1, 2 & 3 is being filed herewith within time. Copy of the same has already been served to Sh. B. C. Saxena, Advocate, Counsel for petitioner on 19.3.1982.

2. That it is requested that this counter affidavit on behalf of opposite parties Nos 1, 2 & 3 may kindly be taken on record.

Lucknow

Dated : 19.3.1982

Sherine

(SIDDHARTH VERMA)

ADVOCATE

COUNSEL FOR O.P. Nos 1, 2 & 3

24/11/81

C/74

Central Administrative Tribunal
Circuit Bench, Lucknow.

T.A. NO. 819 of 1987

Sri Bhim Sen

..... Applicant

Union of India (N.Rly.)

VERSUS

..... Respondent.

Hon'ble Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. A.B. Gorthi, A.M.

DATED : 20-05-1991.

Sri Siddhartha Verma appears on behalf of the
Railway Administration states that Sri Bhim Sen,
applicant has died in the month of November 1990,
per instructions received by him. No one appears
for the applicant in view of the of the above
statement and of the fact that more than three
months have expired this application (O.A.) is
abated and is accordingly dismissed as such.

Sd/

Sd/

A.M.

V.C.

//True Copy//

AR
Section Officer

Central Administrative Tribunal
Circuit Bench
LUCKNOW

Checked by
26-6-91

2- The Union of India through the
General Manager, Northern Railway.
Baroda House, New Delhi.

3- The Chief Work Shop Engineer
Northern Railway
New Delhi.

4- The Additional Chief Mechanical
Engineer (W), Northern Railway
Charbagh - Lucknow.

5- Roop Narain, S/O. Sri Lalta Prasad
at present working As Assistant
Superintendent in the
office of opposite Party No. 3.