

20

(A1)

B/Y

Annexure - A  
CAT- 82

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH, LUCKNOW

INDEX - SHEET

CAUSE TITLE Reg. T.A. No 032 OF 1907 (T)

Name of the Parties R.K. Aggarwal and ors.

Versus

Union of India and ors.

Part A, B and C

Sr. No.	DESCRIPTION OF DOCUMENTS	PAGE
---------	--------------------------	------

A1	General Index - - -	1✓
A2	order sheet - - -	3✓
A3	Judgement dated 12/4/09	7✓
B1	Vakalatnama (Lawer) - -	2✓
B2	Application dated August 1980	1
B3	Notice of Motion dt 28/2/86	

Original Record of  
High Court of Judicature  
At Allahabad writt.  
Petition No 3880/81  
and.

Court find that no action further  
required to take and that the  
case is fit for consideration of the record  
now in.

Writted cert

chequed

Page 30-12-Cell

80(5)

2/12/12

B/c discharge dt 9-5-12

CAT/J/11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Sitting at Circuit Bench Lko.

(A2)

C.A./T.A. No. 832 1987

R.K. Agrawal 2003 Applicant(s)

DP

Versus

Union of India 2003 N.E. Ry Respondent(s)

Sr. No.

DATE

Orders

30.08.00 Office report

W.P. No 3808/01 has been received on transfer from Hon'ble High Court Lko.

W.P. is admitted.

C.A. has been filed in this case.

An application has also been filed in this case for transferring the case to Lko Circuit Bench, Lko.

Notices has been sent to both the parties fixing 19.9.00 by regd post.

W.P. against the order of

~~seniority~~ Seniority & promotion.

Submitted for order.

J.K.S.  
30/08/00

list this case before court at Circuit Bench Lucknow on 19-9-00. For order.

DR

T.A. No. 832/87(T)

C.W.D. No. 3882/81).

R.K. Agarwal

vs

Union of India.

22/2/89

No sitting. Ad Joured to  
for hearing.

Atm

22/2

That the applicant has moved  
an application for the change of date of  
hearing. That date 27.4.89 was fixed. Now  
that the said application has been  
fixed for hearing on 10.3.89.

~~The Notice of~~

h  
ab

10.3.89 Hon. Justice Kamleshwar Nath, V.C  
Hon. Mr. D. S. Misra, J.M.

On the request of the parties,  
the case is adjourned to 5.4.89  
for trial hearing.

g  
AM

h  
VC

5.4.89

Hon Justice K Nath -- VC  
Hon D. S. Misra -- AM

Shri AN Varma Adv. says that he  
learnt about the listing of this case  
only this morning and therefore is not  
ready. This is not quite satisfactory  
because the date was fixed on the  
request of the parties. However, the case  
be listed for hearing on 12-4-89.

h

AM

h  
VC

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

T.H. 832/87 Ti

REGISTRATION No. \_\_\_\_\_ of 198 .

A2/3

APPELLANT  
APPLICANT

VERSUS

DEFENDANT  
RESPONDENT

Sl  
No  
of  
order  
and date

Brief Order, Mentioning Reference  
if necessary

How complied  
with and date  
of compliance

12/4/89

Hon' Mr. Ajay Johri, A.M.

Hon' Mr. D.K. Agrawal, J.M.

Shri Rakesh Kumar, learned counsel for the  
applicant and Shri A.N. Vama, learned counsel  
for the respondents are present and heard.

Judgment reserved.

J.M.

A.M.

(sns)

OR  
Case is ready  
for hearing and  
is submitted for  
hearing as directed  
by Court.

12/4

Registered

87c

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD  
CIRCUIT BENCH, GANDHI BHAWAN  
LUCKNOW  
\*\*\*

No. CAT/CB/LKO/

Dated : 17-4-89

OFFICE - MEMO

Registration No. O.A. 032 of 193 (1)  
T.A.

R. K. Agarwal

Applicant's

Versus

U.O.E. & Co

Respondent's

A copy of the Tribunal's Order/Judgement  
dated 12-4-89 in the abovenoted case is forwarded  
for necessary action.

17/4/89  
For DEPUTY REGISTRAR (H)

Encl : Copy of Order/Judgement dated 12-4-89

To.

1. Sri R. K. Agarwal, — Applicant
2. Sri A. N. Varma, Adv — Repetts.

dinesh/

\*\*\*\*\*

Recd  
RK Agarwal  
17/4/89

Recd G.P. for work  
21/4/89

CENTRAL ADMINISTRATIVE TRIBUNAL

Circuit Bench at LUCKNOW

....

Gandhi Bhavan, Lucknow

APRIL 12, 1989

Registration No. T.A. No. 832 of 1987(T)

R.K. Agrawal and ors ..... Petitioners

Vs.

Union of India and ors .... Opp. Parties

Hon' Mr. Ajay Johri, A.M.

Hon' Mr. D.K. Agrawal, J.M.

( By Hon' Mr. Ajay Johri, A.M. )

This is a writ petition which has been received on transfer from the Allahabad High Court, Lucknow Bench, under section 29 of the Administrative Tribunal Act 1985. According to the information given by the learned counsel for the respondents, the petitioner No. 2 has since <sup>died</sup> ~~dead~~ and opposite parties No. 5 to 8 have retired, therefore, there are only two petitioners left, namely, Shri R.K. Agrawal and only O.Ps.No.4 Shri K.N.Saxena. and Shri J.P. Saxena. According to the petitioners, they, as well as, opposite parties No. 4 (Shri K.N. Saxena) are working in the Establishment Section of the Personnel Branch of the Divisional Railway Manager's Office, North East Railway, Lucknow. The dispute in this case relates to seniority amongst the two petitioners and Opposite Parties No. 4 now. By this petition a prayer has been made for quashing the Annexure Nos. 3, 5, 7, 9, 10, 11, 12 and 13 of the writ petition, and for issue of a direction to the Government respondent to fix the seniority of the petitioners according to the instructions contained

in Annexure No. 2 of the writ petition.

2. Briefly the facts of the case are that in 1957, when the North East Railway was bifurcated and a separate zone was created at Pandu, for the North East Frontier Railway, certain staff who were working <sup>in the</sup> at Regional Offices at Lucknow and Muzaffarpur, were absorbed in the new office created at Lucknow and Katihar. On 23-12-1957, the Government (Respondent) issued instructions in regard to the manner in which the absorption was to be made and the seniority was to be fixed. The petitioner No. 1 joined on transfer at his own request, accepting bottom seniority on 9-4-1956, <sup>and</sup> ~~on 1-12-1954~~, the petitioner No. 3 on 1-12-1954, <sup>also accepting bottom seniority</sup> at Lucknow. The opposite party No. 4, also accepted bottom seniority and joined the Lucknow Office, on 11-6-1956. Certain benefits of seniority were, however, given to the Opposite Parties No. 5 to 8 ( who have since retired) giving them one and half years benefit on their absorption in the Lucknow Office vide Order dated 18-1-1958. A provisional seniority list was published on September 11, 1958 of the Establishment Section, which is placed at Annexure No. 5, to the writ petition. Representations were made by the petitioners against this list, in which they had pointed out that the instructions contained in the General Manager's letter of 23-12-1957 (Annexure No. 2), have not been followed. However, the respondents gave parawise reply on 5-10-59, from which according to the petitioners, it is evident that the instructions given in Annexure No. 2 have not been followed. It is this dispute of seniority, which is before us now.

3. On behalf of the respondents, this petition has been opposed on the grounds that the petitioners

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:: 3 ::

were appointed as temporary clerks and they came on transfer on their own request accepting ~~the~~<sup>at</sup> bottom seniority and in terms of the rules as laid-down in para 5 (2) of the letter No. E(NG)55 SR 6-15, dated 30-6-1959, they were assigned seniority below all confirmed clerks in the office at Lucknow. Since Opposite Party No. 4 was already a confirmed clerk on the date of his transfer, he was placed above the petitioners who were not confirmed till then.

4. We have heard the learned counsel for the parties on the contentions raised before us. There ~~was~~<sup>is</sup> no dispute about the fact that the petitioners ~~have~~<sup>as well as</sup> ~~joined~~<sup>came on their</sup> the O.P. No. 4, who came to the Establishment Section of the Personnel Branch of the D.R.M's Office at Lucknow on transfer, on own request. It is also not disputed that O.P. No. 4 was a confirmed clerk, when he came on transfer, while the petitioners were only the temporary clerks at that particular time. The submission made by the learned counsel for the respondents was that in terms of para 5 (2) of the letter of June, 30, 1959, the transferees had to be given bottom seniority in the substantive grade, and in this background, the fixation of the seniority of the petitioners vis-a-vis. O.P. No. 4, has been correctly done.

5. In the counter reply filed by the O.Ps. Nos. 4 to 8, the stand taken, is the same i.e. that since they were confirmed on the post of clerk and the petitioners were temporary, ~~they~~<sup>the petitioners</sup> are not entitled to count their seniority from the date of their reporting, but they can only count it from the date of their confirmation.



6. In view of the above submissions, the question before us is as to how the seniority should be fixed in a case of transfer on request, when a person is a confirmed employee and when one is a temporary employee.

7. At Annexure-2 of the petition, is a letter issued by the N.E. Railway on December 23, 1957 at the time of wounding up of the Regional Offices at Muzaffarpur and Lucknow on the bifurcation of the Railways. Para 13 of this letter says that the transfer, outside the Department, <sup>3/</sup>as the same <sup>3/ or</sup> other station, will be deemed as <sup>2/</sup>on a transfer of the employee on his own request and the normal rule of bottom seniority will apply. However, in cases where an employee is absorbed purely on administrative ground in a department, other than his own, his seniority will be protected. Para 14 of this letter, further says that for the purposes of determining the seniority of the staff absorbed in open line, non ministerial categories, a partial benefit of services rendered as a Clerk, prior to the date of bifurcation will be allowed. O.P. Nos. 5 to 8 were allowed certain benefits on this ground by the application of para 14, while in the case of O.P. No. 4, this situation did not exist. Before us, is only now a question of the two petitioners and O.P. No. 4. In the case of transfer on request, the Indian Railway Establishment Code Vol. I paragraphs <sup>2/ 226</sup>~~12226~~, clearly spells out that persons who are transferred on request have to be placed below to all permanent and temporary staff of the new office, where a person is transferred to. There is also an extract of para 6 of the rules for determining the seniority of non gazetted staff, issued by the

N.E. Railway in July, 1954 which lays down that,

" In the case of transfer of an employee from one Department to another or from one category of a Department to another category in the same Department on grounds other than Administrative, he shall take his seniority at the bottom of the list in the grade in which he is absorbed. "

Similarly at Annexure-2 of the counter filed by O.P. Nos. 4 to 8, there is an extract of rules for determining the seniority and para 7 (2) of this extract says that on transfer on his own request, a person will be placed at the bottom of the concerned seniority list in the substantive grade. The extract of the Explanatory Note is as under :

" Bottom seniority in the case of permanent staff means seniority below all those confirmed in the same grade on the crucial date of transfer to another office and not below temporary or officiating employees on that date."

It is, this rule of seniority which has been issued by the N.E. Railway, and relied by the respondents, as well as O.P. No. 4.

3/ Para  
8. ~~Rule~~ 158 of the Indian Railway Establishment Code, Vol I, which gives powers to the General Managers to frame rules in respect of Class III and IV employees, clearly spells out that the rules framed, have to be in consonance with the rules framed by the Railway Board as long as they have <sup>3/</sup>no conflict <sup>3/</sup> with such rules which are framed by the Railway Board and are within the principles and para-meters laid-down by the Railway Board, the General Managers are empowered to frame rules. But, if a rule framed by the General Manager is not in <sup>3/</sup>consonance with the rules framed by the Railway Board

under Article 309 of the Constitution, such rules will not be able to stand the scrutiny legally.

9. Rule 312 of the Indian Railway Establishment Manual issued by the Government of India provides for transfer on request as follows,

" The seniority of railway servants transferred at their own request from the one railway to another should be allotted below that of the existing confirmed and officiating railway servants in the relevant grade in the promotion group in the new establishment irrespective of the date of confirmation or length of officiating service of the transferred railway servants."

In view of the fact that the General Managers of Indian Railways have full powers to make rules with regard to the non gazetted railway servants under their control provided they are not in consistence with any rules made by the President or the Railway Board, There is no doubt left in our mind that the rules made by the General Manager, North Eastern Railway, providing for the counting of the seniority on the basis of confirmation in cases of transfer on request would be inconsistent, not only with para 312 of the Indian Railway Establishment Manual, but also, para <sup>226</sup> ~~226~~ of the Indian Railway Establishment Code Vol.I.

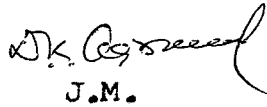
10. In view of the above, we reject the submission raised before us by the learned counsel for the opposite parties that the seniority of the opposite parties No. 4 was fixed correctly in terms of the General Manager's letter of 1959 which was ~~not~~ in-consistence with the principles laid-down by the Railway Board.

11. In the above view we allow this petition, and direct the respondents that the seniority of the

A3  
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:: 7 ::

petitioners will be fixed below all the permanent and temporary employees on the crucial date and seniority of the opposite party No. 4 who was transferred to Lucknow on 11-6-1956, will also be regulated in terms of <sup>the above & para 22b</sup> ~~para 22b~~ of the Indian Railway Establishment Code Vol.I. The respondents will take action to refix the seniority within two months from the date of the receipt of this letter. We leave the parties to bear their own cost.

  
J.M.

  
A.M.

(sns)

Lucknow

APRIL 12, 1989.

B1  
1

NS/CCS  
64

# VAKALATNAMA

Before The Central Administrative Tribunal  
In the Court of Circuit Bench, Lucknow

TA No. 832 of 1987 (CT)

R.K. Agarwal & others. — Applicant

Versus

General manager, NERly and others. — Respondent

I/We A. Mishra, Divl. Rly. Manager, NERly  
Lucknow

do hereby appoint and authorise Shri A.H. Verma

Railway Advocate Lucknow to appear, act apply and prosecute the above described Writ/Civil Revision/Case/Suit/Applicaion/Appcal on my/our behalf, to file and take back documents, to accept processes of the Court, to deposit moneys and generally to represent myself/ourselves in the above proceeding and to do all things incidental to such appearing, acting, applying, pleading and prosecuting for myself/ourselves.

I/We hereby agree to ratify all acts done by the aforesaid Shri A.H. Verma  
..... Railway Advocate, Lucknow  
..... in pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed by me/us this.....

..... day of..... 198..

A

23/1/89  
A. Mishra  
Divisional Railway Manager  
N.E. Railway-Lucknow

Accepted  
Advocate

B1/2

NS/CCS  
64

**VAKALATNAMA**  
**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**CIRCUIT BENCH LUCKNOW**

Before  
In the Court of

Doc No. 832 of 1987 (T)

.....**R.K. Agrawal & Ors**..... Applicants

*Versus*

.....**Union of India & Ors**..... Respondents

X/We. ....**GAURI SHANKER**, GENERAL MANAGER, NORTH EASTERN RAILWAY/GKP and  
**R.N. TEWARY**, CHIEF PERSONNEL OFFICER, NORTH EASTERN RAILWAY/GKP.

do hereby appoint and authorise Shri.....**A.N. Verma**

Railway Advocate.....**Lucknow**.....to appear, act apply and prosecute the above described Writ/Civil Revision/Case/Suit/Applicaion/Appcal on my/our behalf, to file and take back documents, to accept processes of the Court, to deposit moneys and generally to represent myself/ourselves in the above proceeding and to do all things incidental to such appearing, acting, applying, pleading and prosecuting for myself/ourselves.

A/We hereby agree to ratify all acts done by the aforesaid Shri.....**A.N. Verma**.....

..... Railway Advocate, .....**Lucknow**.....  
.....in pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed by me/us this.....

..... day of **27** **Dec.** 198**8**

.....(**R.N. Tewary**).....  
**Chief Personnel Officer**  
**North Eastern Railway**  
**Gorakhpur.**

.....(**Gauri Shanker**).....  
**General Manager**  
**North Eastern Railway,**  
**Gorakhpur.**

Accepted  
Advocate

T.A. 832-87



To,

The Registrar,  
Central Administrative Tribunal,  
ALLAHABAD.

Sub :- ~~Transfer of Case~~ <sup>w.p.</sup> No. 3888/81 R.K. Agarwal  
and J.P. Saxena Vs. Union of India, from  
Allahabad Bench to Lucknow Bench.

Sir,

The above noted case was transferred from High Court, Lucknow Bench to the Tribunal at Allahabad and since then it is pending there.

The applicants who had filed this case are employed at Lucknow and can conduct his case at Lucknow Bench easily.

It is therefore requested that the case mentioned above may kindly be transferred and decided at Lucknow circuit bench/Tribunal in the interest of justice.

Thanking you.

Dated August, 1988

Yours faithfully,

R.K. Agarwal  
Hcd,

DR H.O. Office N.E. Lucknow

J.P. Saxena  
Hcd

N.E. Rly Hcd.

19/9/88

(B3)  
✓

IN THE HON'BLE GENERAL ADMINISTRATIVE TRIBUNAL.

CIRCUIT BENCH, GANDHI BHAWAN, LUCKNOW.

R.K. Agarwal

.....

E.A. 832 of 87(T)

Applicant.

v  
s.

Union of India and others.

opp. parties.

NOTICE OF MOTION

1. That the applicant has moved an application for the change of date of hearing in the above noted petition.

That date 22.2.89 was fixed in original application petition.

2. That the said petition has been fixed for hearing on 10.3.89.

Kindly take the notice for 10.3.89 and you are requested to appear on 10.3.89 at 10.30 A.M. before the Hon'ble Tribunal, Circuit Bench, Lucknow.

Lucknow dated.

22.2.89

R.K. Agarwal  
( R.K. Agarwal )

Petitioner.

Deputy Registrar  
Central Administrative Tribunal  
Lucknow Bench,  
Lucknow



Received  
1-3-89

Copy to DR. H. K. R. Ly L. K. for information  
and info.  
28/2/89  
28/2/89  
for D. K. R. Ly L. K.  
28/2/89



CIVIL

SIDE

## GENERAL INDEX

CIVIL

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case... W.P. 388-81Name of parties... R. K. Agarwal & Son Vs. Union of India & Ors.Date of institution... 10-8-81

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			
	2	3	4	5	6	7	8	9
					Rs. P.			
A	1	General Index	1	-	-			
	2	General Index	1	-	-			
	3	W.P. 388-81	30	9	102			
	4	Power	1	1	5			
A	5	2nd An. No. 5903 (W) - 81 for stay	1	1	5			
	6	Power	1	-	5			
	7	Counter affidavit	27	-	200			
	8	C.M.A. 3883 (W) Obor	4	-	7.00			

I have this

day of

198

examined

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

Date.....

Munsarim

Clerk

5939

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

W.P.No. 3000 of 1981.

*Group A type*

R.K. Agarwal & Others. . . . . Petitioners  
Vs.

Union of India through:-

*9031*

The General Manager, North Eastern Railway,  
Gorakhpur & Others. . . . . Opposite Parties.

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6. <u>Annexure-5</u>	Copy of A.P.C.(Spl.) Lucknow's letter No.E/555/1(T)/LKO Dt. Sept.11,1958 on the subject of Provisional Seniority list of Establishment Clerks in scale Rs.60-130 as on 1.4.58.	15-18
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CO

<u>D.No.</u>	<u>C o n t e n t s .</u>	<u>P a g e</u>
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16.	Application for Interim Orders.	33
17.	Vakalatnama.	34

\*

Lucknow Dated  
28/7/81.

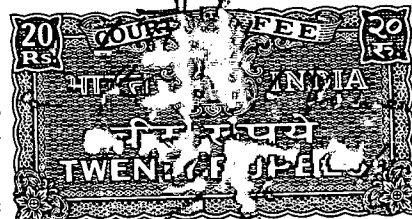
*Rabir Kumar*  
Counsel for Petitioners

(1)

A3

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

W.P.No. 3008 of 1981.



1. R.K. Agarwal S/O Shri B.D. Gupta.
2. S.M. Razi S/o Late Syed Imdad Hussain.
3. J.P. Saxena S/O Late B.L. Saxena.

All working as Senior Clerks in the office of the  
Divisional Railway Manager(P), N.E. Railway, Ashok Marg,  
Lucknow. ....Petitioners.

Vs.

Union of India through-

1. The General Manager, North Eastern Railway, Gorakhpur.
2. The Chief Personnel Officer, N.E. Railway, Gorakhpur.
3. The Divl. Railway Manager, N.E. Railway, Ashok Marg, Lucknow.
4. Sri K.N. Saxena S/O not known.
5. Sri Mohd. Yunus Khan S/o not known.
6. Sri R.K. Srivastava S/o not known.
7. Sri K.M. Sinha S/o not known.
8. Sri R.C. Srivastava S/o not known.

4 to 8 working as Head Clerks in the office of the  
Divisional Railway Manager(P), N.E. Railway, Ashok Marg, Lucknow.

.....Opposite Parties.

WRIT PETITION UNDER ART. 226 of  
THE CONSTITUTION OF INDIA.

XX The petitioners respectfully beg to state as follows:-

1. That the petitioners are working as Senior Clerks in the office of Opposite Party No. 3 and the Opp. Parties 4 to 8 are Head Clerks under Opp. Party No. 3 in Establishment Section (Personnel Branch).

Contd.....2



-2-

2. That in the present petition the dispute relates to seniority amongst the petitioners and Opp. Parties No. 4 to 8.
3. That in the year 1957, the bifurcation of N.E. Rly. took place and a separate Railway Zone with Hqrs. at Pandu was created and was to <sup>be</sup> known as North East Frontier Railway and the remaining jurisdiction of the N.E. Rly. whose Hd. Qrs. remained at Gorakhpur. A true copy of the extra-ordinary Gazette dated 26th Dec. 1957 is filed herewith as Annexure No. 1 to the Writ Petition.
4. That it was also provided in para-4 of the Annexure-1 that the staff absorbed in the Regional Offices at Lucknow & Muzaffarpur will be absorbed in the new District Offices that are being created at Lucknow and Katihar West.
5. That accordingly before bifurcation a letter No. E/XI/191/26, dt. 23.12.57 was issued by Opp. Party No. 1 inter-alia providing that how the staff of Lucknow & Muzaffarpur Regional Offices will be absorbed in the District Offices of the Lucknow and to the Hd. Qrs at Gorakhpur. A true copy of the letter dated 23.12.57 issued by the Opp. Party No. 1 is being filed herewith as Annexure-2 to the Writ Petition.
6. That accordingly the Regional Offices were abolished on 15.1.58 and the District Office started working on 16.1.58.
7. That thereafter the Distt. Office at Lucknow was re-designated as Divl. Supdt. and after that it was again re-designated as Divl. Railway Manager (Opp. Party No. 3)



R.K. Agarwal

Contd...3

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8. That the seniority of the Establishment Section staff at Lucknow and that of the staff at Gorakhpur are maintained separately.
9. That the petitioner No.1 joined on transfer at ~~his~~<sup>his</sup> own request accepting bottom seniority on 9.4.56 at Lucknow while petitioners No.2 and 3 joined on 1.10.54 and 1.12.54 respectively at Lucknow. The Opp.Party No.4 joined at Lucknow <sup>accepting bottom seniority</sup> on 11.6.56 and the Opp.Parties 5 to 8 joined in the Establishment side after 16.1.58 with benefit of seniority from 15.7.56.
10. That the Opp.Parties No.5 to 8 are Ex.RAO (Regional Accounts Office) staff, since the Opp.Parties came from the Department of Regional Accounts Office, to the Establishment Section and it was provided in Annexure-2 that how their seniority will be governed.
11. That on 18.1.58 an office order No.13/58 dated 18.1.58 was issued from the office of the Regional Accounts Office, Lucknow giving one and a half year partial benefit to Opp.Parties No.5 to 8 accordingly to Annexure-2 by which their (Opp.Parties 5 to 8) seniority in the new office will be counted. A true copy of the office order No.13/58 dt.18.1.58 is being filed herewith as Annexure-3 to the Writ Petition.
12. That the Opp.Parties No.4 was working in the Press Supdt. at Hd.Qrs. at Gorakhpur and he opted to join at Lucknow accepting bottom seniority vide office Order No.6(a) dt. 9.6.56 issued from the office of Press Supdt., Gorakhpur which is being filed herewith as Annexure-4 to the Writ Petition. Accordingly the Opp.party No.4 joined at Lucknow on 11.6.56.

Contd...4



R.K. Agarwal

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13. That on Sept. 11, 1958 a Provisional seniority list of Clerks of Establishment Section of Personal Branch of Opp. Party No. 3 was issued by the Asstt. Personnel Officer (Special) showing the inter-se-seniority of the Petitioners & Opp. Parties 4 to 8. The seniority list alongwith letter No. E/555/1(1)/LKO dated Sept. 11, 1958, is being filed herewith as Annexure-5 to the Writ Petition.
14. The said seniority list was published and circulated amongst the staff and <sup>joint m</sup> ~~several~~ representations were made by the petitioners <sup>(jointly)</sup> and other persons with the allegation, that the instruction as contained in General Manager, N.E. Rly. Gorakhpur's letter No. XI/191/26, dt. 23.12.57 which is Annexure-2 to the Writ Petition has not been followed. It was also asserted that the seniority of Opp. parties 5 to 8 is in violation of instructions contained in Annexure-2 to the Writ-Petition.
15. That on one of the representations against Annexure-5 the Opp. Party No. 2 gave parawise comments to the Assistant Personal Officer (Spl), Lucknow vide letter No. E/255/2/LKO/dt. 5.10.59 which is being filed herewith as Annexure-6 to the Writ Petition.
16. That from a perusal of Annexure-6 it will be evident vide para-II and V is that the A.P.O. (Spl) has not followed the instructions contained in Annexure-2 to the Writ Petition. It was also mentioned in para 5 of the comments of Annexure-6 that the seniority of items 17 to 21A (Opp. Parties No. 5 to 8) should have been determined according to instructions laid down in Para 13 and not as per Para-14 of Annexure-2 to the Writ Petition.

Contd. .5



R.K. Agarwal

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17. That according to Annexure-2 the names of Opp. Parties <sup>2</sup>5 to 8 should have been below S.No.45 of Annexure-5 to the Writ Petition.
18. That on 15.7.61 the Opp. Party No.2 wrote a letter No. <sup>2</sup>E/255/2/(LJN) to the Distt. Officer (Now Opp. Party No.3) that the Provisional Seniority List issued by the Assistant Personnel Officer (Spl.) vide Annexure-5 is final. The true <sup>copy</sup> of the same is being filed herewith as Annexure 7 to the Writ Petition.
19. That the letter dated 15.7.61, Annexure-7 was never circulated amongst the Petitioners, nor were they informed about it.
20. That a perusal of Annexure-7 it will be clear that the length of service is criterion for determining seniority in other offices or department inspite of the fact that an individual has been earlier confirmed in his parent department.
21. That the rules for determining seniority of the Non-gazetted staff of N.E. Rly. (Other than Accounts Deptt.) Published vide S.No.566 No. <sup>2</sup>E/255/5 dt. 29th June/2nd. July 1954 from the Office of Opp. Party No.1, an <sup>2</sup>extract of Para-6 of the Rules is being filed herewith as Annexure No.8 to the Writ Petition.
22. That a perusal of Annexure-8 would show that in the case of transfer of an employee from one Department to another or from one category in the same Deptt. on grounds other than Administrative, he shall take his seniority at the bottom.
23. That a seniority list is published every after 3 years, Similarly again a provisional seniority list for the year 1961 was issued by Opp. Party No.2 vide letter No. <sup>2</sup>E/255/2 (LJN-Clerk) dt. <sup>2</sup>13.3.1962. A true copy of

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R.K. Agarwal



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the Provisional Seniority list alongwith the letter issued by the Opp.Party No.2 is being filed herewith as Annexure-9 to the Writ Petition.

24. That as soon as Annexure-9 was circulated amongst the petitioner, they duly represented against the same <sup>within</sup> ~~time~~ that again the same mistake has been repeated and the seniority of Opp.Parties 4 to 8 as shown at S.No.7 to 13 should have been below S.No.28.
25. That after 19 years the Opp.Party No.1 rejected the representation of the Petitioners on 30.4.1981. The said rejection was circulated amongst the petitioners by Opp.Party No.3 by a composite order on 12.5.1981. A copy of order of rejection passed by Opp. Party 1 and informed by Opp.Party.3 is being filed herewith in Original as Annexure-10 to the Writ Petition.
26. That from a perusal of Annexure-10 it will be clear that the Opp.Partys No.1 and 2 ~~had~~ had not applied their mind to the representation of the Petitioners.
27. That while the representations of the petitioners were pending the Opp.Parties 4 to 8 were promoted to the post of Head Clerks. Although the Petitioners made representation to the Opp.Party No.3 that the promotion of Opp.Parties 4 to 8 should not be made. A true copy of the promoted ~~orders~~ orders of Opp.Parties 4 to 8 are being filed herewith as Annexure 11 to 13 to the Writ-Petition.
28. That the Opp.Parties No.5 to 8 are not entitled to be promoted as Head Clerks, being juniors to the petitioners.

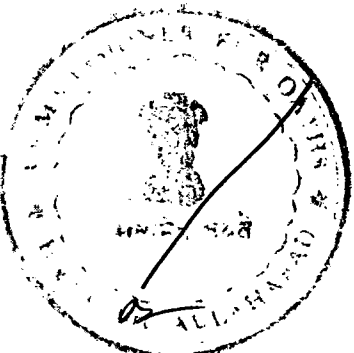


R.K. Agarwal

Contd.....7

29. That the order dated 18th Jan. 1958 Annexure-3 to the Writ Petition is also against the instructions contained in Annexure-2 to the Writ Petition.
30. That the Opp.Party No.4<sup>45</sup> has been called for the post of Office Supdt. and is likely to be promoted to the said post.
31. That left with no other equal, efficacious and alternative remedy, the Petitioners are filing the present petition amongst other on the following:-
- GROUND.
- (a) Because the Opp.Party 1 and 2 had not applied their mind in fixing seniority as instructions contained in Annexure-2 to the Writ Petition.
  - (b) Because by giving a partial benefit of one and half year to the Opp.Parties 5 to 8 wide Annexure-3 is against the instructions contained in Annexure-2 to the Writ Petition.
  - (c) Because the Opp.Parties 1 to 3 had not applied their mind in deciding the representations of the Petitioners.
  - (d) Because the Opp.Parties had adopted the method of Pick & choose, which is against the Policy and instructions contained in Annexure-2.
  - (e) Because treating the petitioners as junior to the Opp.Parties No.4 to 8 are in clear violation of instructions contained in Annexure-2 to the Writ Petition.
  - (f) Because the rejection of representations of the petitioner by a non-speaking order violates Art. 14 & 16 of the Constitution of India.

Contd.....8



R.K. Agarwal

- (g) Because the promotion of Opp. Parties 4 to 8 to the post of Head Clerk is illegal as they are junior to the Petitioners.
- (h) Because the Opp. Parties 1 to 2 had not applied their mind as it will be evident that the order Annexure-10 has been passed after 19 years of representation.
- (i) Because on the own showing of Opp. Party No.2 vide Annexure-6 that the seniority of Opp. Parties No. 4 to 8 had not been determined as per instructions laid down in Annexure-2 which supports the case of the petitioners.
- (j) Because the order contained in Annexure-7 is in clear violation of Annexure-6 to the Writ Petition.
- (k) Because the Opp. Parties No.4 to 8 had joined after the petitioner, they should not have been placed above the petitioners.

PRAYER

Wherefore, it is, respectfully prayed that this Hon'ble Court may be pleased,

- (i) to issue a writ of certiorari quashing Annexure-3, Annexure-5, Annexure-7, Annexure-9, Annexure-10 and Annexure-11 to 13 to the Writ Petition.
- (ii) to issue a writ of mandamus directing the Opp. Parties 1 to 3 to fix the seniority of the Petitioners as well as Opp. Parties No. 4 to 8- according to instructions contained in Annexure-2 to the Writ Petition.

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R.K. Agarwal

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(iii) to issue any other writ or direction as this Hon'ble Court may ~~deem~~ fit in the circumstances of the case.

(iv) to award cost.

*Rabishwar*

Lucknow Dated  
27-7-81.

COUNSEL FOR PETITIONERS.

Note:- This is to certify that there is no defect in the petition.

*Rabishwar*

COUNSEL FOR THE PETITIONERS.

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*R.K. Agarwal*

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

W.P. No. of 1981.

R.K. Agarwal & Others. - - - - - Petitioners.  
Vs.

General Manager, N.E. Rly.  
Gorakhpur & Others. - - - - - Opp. Parties.

Annexure No. 1

NORTH EASTERN RAILWAY  
Extra Ordinary Gazette.  
26th December, 1957.

FORMATION OF THE NEW N.E. RAILWAY.

- As the staff are aware the Government have decided to form a separate Railway Zone with Headquarters at Pandu and the jurisdiction of this new zone, to be known as the North East Frontier Railway, will be upto and inclusive of Katihar. The remaining portion will continue to be under the jurisdiction of the N.E. Railway whose Headquarters will also continue at Gorakhpur.
2. The Government have also decided that the new Railways should function on straight District system and as a result of this decision the existing Regional Offices at Muzaffarpur and Lucknow will cease to exist and the districts will deal direct with the Heads of Department.
  3. The Government have also decided to close down the existing offices of the present N.E. Railway at Calcutta other than the Stores Depot at BLST and that the work of these offices should be transferred to the Headquarters of the Two Railways, viz. Gorakhpur & Pandu. The staff who are now employed in these offices at Calcutta have always had the option to come to Gorakhpur or Pandu but since they are not willing they will all be absorbed on the Eastern/South Eastern Railways.
  4. As a result of this transfer of work from Calcutta to Gorakhpur and the transfer away of about 400 staff who have applied for transfer to the N.E. Railway, the overall requirement of a additional staff at Gorakhpur will be about 600. A considerable portion of staff now employed in the Regional Offices at Lucknow & Muzaffarpur will be absorbed in the new District offices that are being created at Lucknow & Katihar West. Some of the staff can also be absorbed in the existing vacancies in the various District Offices. The remaining staff specially accounts staff will be absorbed in the Headquarters offices at Gorakhpur. Where staff are keen as remaining in the existing AREA even in line posts and exercise a preference for posting to a direct recruitment post in open line categories like Trains Clerks, Ticket Collectors, Tally Clerks, Booking Clerks and even Assistant Station Masters (for staff with three years service only) they can also be absorbed there.
  5. It has also been decided that officiating status of all staff officiating in higher grades for six months or more in non-fortuitous vacancies on the date of bifurcation will be protected.
  6. The Administration assures all the staff that there will be NO RETRENCHMENT and that all the staff rendered surplus in the Regional Offices will be suitably absorbed.

RANJIT SINGH  
Dy. GENERAL MANAGER (P).

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R.K. Agarwal

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

W.P.No. of 1981.

R.K. Agarwal & Others.

Vs.

Petitioners

The General Manager, N.E.Rly.  
Gorakhpur & Others.

Opp. Parties.

Annexure No. 2

North Eastern Railway

No. E/x1/191/26

Office of the General Manager,  
(Personnel Branch)  
Gorakhpur, December 23, 1957.

The Regional Supdts.  
N.E.Rly. Lucknow/Muzaffarpur.

Reg:- Absorption of staff.

It has been decided that after the Regional Offices at Muzaffarpur & Lucknow are wound up simultaneously with the bifurcation of this Railway, the Regional Office staff should be absorbed in the following manner:

Lucknow Regional Office.

1. The following new offices will be formed at Lucknow.

DTS, DME, DEN, DEE & APC.

Staff required for these offices will be drawn from the respective branches of the existing regional office.

2. All staff of the regional office for the purpose of absorption in these offices will be considered in their substantive grade only, except that a person officiating in a non-fortuitous vacancy for more than six months prior to the date of bifurcation will be considered for absorption in the officiating grade.

3. Staff in higher grades may also be considered for absorption in lower grades on their written, unambiguous and unqualified request, if they so desire to continue in LKO and cannot otherwise be accommodated in Lucknow in their own substantive grade or the protected officiating status.

4. The offices of the DSTE & ASO(R) which are already in existence at LKO will continue to function, as at present. Besides, the office of the DEE will be established in place of the existing office of the AEE.

5. As far as staff of the Regional Accounts Office are concerned they may elect any one of the following:

(i) Transfer to Accounts Office, Gorakhpur.

(ii) Transfer to Accounts Office IZN to the extent of vacancies being available.

(iii)-(a) Go to the non-Accounts District Offices, (if vacancies permit),

(b) Go to a direct recruitment category as per para-11 below.

Regional Office, Muzaffarpur.

6. The office of DEN/SEE will be established at Muzaffarpur, for the time being, and staff required for this office will be drawn from the Engg. Branch of the Regional Supdt's Office.

7. The offices of DEE, DSTE, and ASO(R) will, for the time being, continue at Muzaffarpur.

8. The staff of the Traffic and Mechanical Branches of the Regional Office will be absorbed to the extent possible, in the new offices of the DTS & AME /Katihar West to be established at Katihar.

9. The surplus staff after meeting the above mentioned requirements, will be absorbed, as far as possible, in the various district offices in the regions, and the balance will be absorbed at Gorakhpur.

Contd..

02/11/81

D. K. Agarwal

10. In regard to the staff of the RAO/MFP, they may give their preference for one of the following:-

(a) Transfer to Accounts Office, Gorakhpur.

(b) Go to the other direct recruitment categories as per Para 11 below.

11. All staff of the Muzaffarpur and Lucknow Regional Offices working in grades higher than the minimum will, as far as possible, be fitted in similar grades when they come to Gorakhpur. All staff officiating in higher grades for more than six months on the date of the bifurcation in non-fortuitous vacancies will be accommodated in corresponding grades provided they go to station where similar grades are in existence in their department. Staff in the initial recruitment category of Rs 60-130 with less than three years service will be transferred according to the needs of the Administration while those with more than three years will be given facilities to:-

(a) go to other stations if vacancies permit,

(b) go to other direct recruitment categories, e.g. Trains Clerks, Ticket Collectors, Trolley Clerks, Booking Clerks, and A.S.Ms. Staff with less than three years service will also be given similar facilities except for A.S.Ms.

12. The transfer of surplus staff from Lucknow and Muzaffarpur to other stations in their present department will be treated as on Administrative grounds and will not affect their seniority.

13. Transfer outside the department at the same or other stations will be deemed as transfer on an employee's own request and the normal rules regarding bottom seniority etc. will apply. However, in cases where an employee is absorbed purely on administrative grounds in department other than his parent department, his seniority will be protected.

14. For the purpose of determining seniority of the staff absorbed in open line non ministerial categories as per para 11 above, a partial benefit of services rendered as a Clerk, prior to the date of bifurcation will be allowed as follows:-

For one completed years of service..... No Benefit.

For one to three completed years of service.

.....50% subject to a maximum of one year's benefit, inter-se-seniority of the existing Unit being maintained.

More than three years of completed service.

..... 1½ years.

15. The tentative purpose cadre of the new District Offices that will be set up at Lucknow, Muzaffarpur and Katihar (W) are given in the enclosure to this letter.

16. The staff of the Regional Offices at Lucknow and Muzaffarpur should be asked to indicate their presence for any of the alternatives mentioned above, if they so desire, with the instructions that these written requests, unambiguous and unqualified, should reach the District Personnel Officer (R), Lucknow/Muzaffarpur before the office closes on 28th Dec. 1957. Those who do not give any indication within the stipulated time, will be posted in the Head Qrs' Office at Gorakhpur.

17. This may be given widest possible publicity and for this purpose 500 spare copies are enclosed.

Please acknowledge receipt.

BA/One.

Sd/- Ranjit Singh  
For General Manager.



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

W.P.No. of 1981.

R.K. Agarwal & Others. - - - - - Petitioner;  
Vs.

General Manager, N.E.Rly.  
Gorakhpur & Others. - - - - - Opp. Parties.

Annexure No. 3

N.E.Rly.

Office of the  
Regional Accounts Office,  
Lucknow Dt. Jan, 18, '58.

Office Order No.13/58 dt. 18.1.58.

The under noted staff of the Regional Accounts Office, Lucknow having made over charge of their duties and having given their preference for absorption in Executive Offices at Lucknow on seniority as given in R.S. (P)'s Office Order No.12 of 15.1.58 are relieved of their duties on the after noon of 18.1.58 with instructions to report to the offices noted against each on 20.1.58. Their seniority in the new office will count from the date shown against each.

SNo;	Name.	Design.	Scale.	Office to which posted.	Date from which seniority will count in new office.
1.	Sri S.N.Chaube	Clerk/Gr.II/PF.	60-130	D.S.T.E.	15.7.56
2.	Sri R.K.Srivastava	" /XP.(WK)	60-130	Asstt.DTS	15.7.56
3.	Sri P.N.Chaddha	" /Books	60-130	D.E.E.	8.10.56
4.	Sri K.M.Sinha	" "	60-130	Estt.DEN	15.7.56
5.	Sri Gyan Dutt.	" PF	60-130	D.S.T.E.	15.7.56
6.	Sri Mohd.Yunus Khan	" PF	60-130	D.S.T.E.	15.7.56
7.	Sri Ravindra Pratap	" PF	60-130	D.S.T.E.	11.10.56
8.	Sri Banmali Sahai	" Books	60-130	D.E.E.	15.7.56
9.	Sri W.A.M. Mondi	" Books	60-130	D.S.T.E.	15.7.56

Sd/-  
Regional A/cs Officer.

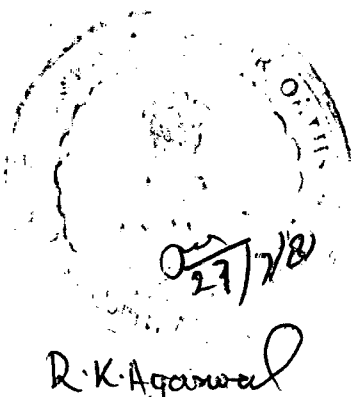
No.LKO/AD/57/BIFUR.Dt.18.1.58.

Copy of the foregoing is forwarded for information/compliance & necessary action to:-

1. Shri- - - - - RAO's Office.
2. DPO (R) N.E. Railway, Lucknow.
3. D.T.S./ DEE, DCS, DME, N.E.Rly. Gorakhpur.
4. F.A.&C.A.O. N.E.Rly. Gorakhpur.
5. Shri M.S.Gill, Dy. CAO (G) N.E.Rly. Gorakhpur.
6. Dy. GM (P) N.E.Rly. Gorakhpur.
7. Accountant Books, PF/XP, F&CAO's Office, Gorakhpur.
8. Personnel case Clerks, RAO's Office, Lucknow.

Sd/-  
Regional Accounts Officer.

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R.K. Agarwal



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

W.P.No. of 1981.

R.K. Agarwal & Others

Vs.

Petitioner.

General Manager, N.E.Rly.  
Gorakhpur & Others.

Opp. Parties.

Annexure No. 4

N.E.Rly.

Office order No. 6(a)

Press Supdt's Office,  
Dt. Gorakhpur  
the 9.6.56.

Shri Kamlesh Narain Saxena, Clerk, S.F. Sec.  
Printing & Stationery Branch, Pay Rs. 61/- Scale Rs. 55-130  
having been transferred to the Security Deptt. in the Office  
of the Asstt. Security Officer, N.E. Railway, Lucknow on his own  
request vide Dy. GM(P)'s letter No. E/283/6 dt. 1.6.56 is released  
from this office with effect from 9.6.1956 (A.N.).

Sd/-

PRESS SUPDT.

No. PS/SF/Estt. 8497 dated 9.6.56.

Copy to Shri Kamlesh Narain Saxena, Clerk, He will please note  
that he will be given bottom seniority in the office of A.S.O.  
Lucknow at his own request.

2. Asstt. Security Officer, N.E. Railway, Lucknow with the remarks  
that the employee has agreed to accept the bottom seniority. This  
is with reference to Dy. GM(P)'s No. E/283/6 dt. 1.6.56 addressed  
to this office.

3. Dy. GM(P) for information with reference to his No. E/283/6 dt.  
1.6.56. He will please arrange to send a clerk in his place  
immediately.

Sd/-

PRESS SUPDT.



R.K. Agarwal

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

C.P. No. of 1981

M. K. Agarwal & Others - - - - - Petitioners  
Vs.

The General Manager, N. E. Rly.  
Gorakhpur & Others. - - - - - Opp. Parties.

Annexure No. 5

N. E. Railway.

No. E/555/1(T)/LKO.

Office of the Distt. Traffic Supdt.  
Lucknow dt. Sept. 11, 1958.

All District Officers,  
N. E. Rly. Lucknow.

Sub:- Provisional seniority list of Estt. Clerk in scale  
60-130 as on 1.4.1958.

\*\*

The provisional seniority list/lists based on extent rules  
as on 1.4.1958 of the above category is/are sent herewith for  
circulation among the staff concerned.

This should be got noted by them as a token of acceptance  
of their relative position in the seniority list.

Any representation of staff regarding his position in the  
seniority list may please be sent to this office on or before one  
month from the date of issue.

No action will be taken on representations made by staff  
after expiry of the target date.

Please acknowledge receipt.

Sd/-

Asstt. Personnel Officer (Spl.)  
Lucknow.

Copy forwarded for information to:-

1. Dy. General Manager (P)/N. E. Rly. Gorakhpur.
2. Secy. Mazdoor Union, Lucknow Branch, Munney Lal Dharamshala,  
Charbagh, Lucknow.
3. The Asstt. Personnel Officer/Lucknow Jn.

Sd/-

Asstt. Personnel Officer (Spl.)  
Lucknow.

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

W.P.No. of 1981

R.K. Agarwal & Others

Petitioners

Vs.

General Manager, N.E.Rly.  
Gorakhpur & Others.

Opp. Parties.

Enclosure to ANNEXURE No. 5

NORTH EASTERN RAILWAY.

Category-Establishment Clerks.  
Department-Traffic.

Provisional Seniority List as on 1.4.1958.

Present Scale Rs.60-130.  
Unit Lucknow Distt.

S.No.	Name of employee.	Date of birth	Date of Apptt.	Date of Promotion.	Conf'd/or offg.	Remarks.
1.	2	3	4	5	6	7
S/ Shri.						

1.	N.C. Chatterjee	1.1.25	21.3.47	21.3.47	Conf'd.	Offg. Sr. Clerk w.e.f. 9.5.57
2.	Ved Paul Nijhawan	1.3.31	30.10.47	1.1.49	"	-do-
3.	S.P. Lahiri	1.12.30	15.3.49	15.3.49	"	-do-
4.	B.A. Paul	5.1.27	26.3.49	26.3.49	"	-do-
5.	P.L. Gahlate	6.5.17	6.5.42	1.6.49	"	Failed suitability test & IB Test.
6.	S. Sirkar	1.12.26	1.12.49	1.12.49	"	Offg. Sr. Clerk
7.	P.L. Singh	3.9.24	3.2.51	3.2.51	"	-do-
8.	Abdul Z. Aziz	1.1.27	5.2.51	5.2.51	"	-do-
9.	Moinul Hasain	29.12.27	19.6.51	19.6.51	"	-do-
10.	K.C. Chakarverty	1.2.31	16.11.51	16.11.51	"	-do-
11.	A.K. Bose	1.1.31	26.11.51	26.11.51	"	-do-
12.	B.L. Thakur	10.5.26	29.11.51	29.11.51	"	-do-
13.	S.M.H. Rizvi	2.6.33	15.2.54	15.2.54	"	-do-
14.	R.R. Tripathi	8.12.33	30.6.54	30.6.54	"	-do-
15.	S.L. Srivastava	8.12.33	10.9.54	10.9.54	"	-do-
16.	D.N. Tewari	10.10.34	19.8.55	19.8.55	"	-do-

Came transfer on Administrative grounds.

R.K. Agarwal

1	2	3	4	5	6	7
17. S/Shri K.N. Saxena	9.6.34	12.2.54	12.2.54	11.6.56	Conf'd.	Came on transfer from GKP on his own request accepting bottom seniority & joined on 11.6.56. Provisional seniority. Seniority subject to the adjustment on receipt of DGM (P)'s order vide office order No.E/555/1/Bif/Org. dt. May/1958.
18. Maqbool Ahmed	1.7.14	18.2.43	18.2.43	15.7.56	"	-do-
19. Mohd. Yunus Khan	11.8.26	14.9.46	14.9.46	15.7.56	"	-do-
20. R.K. Srivastava	15.7.26	28.4.48	28.4.48	15.7.56	"	-do-
21. K.M. Sinha	1.12.30	1.12.48	1.12.48	15.7.56	"	-do-
22. R.L. Srivastava	1.8.35	3.7.54	3.7.54	12.8.54	Tempy.	
23. Y.N. Singh	8.7.52	12.8.54	12.8.54	1.10.54	"	
24. S.M. Rezi	16.11.33	1.10.54	1.10.54	1.12.54	"	
25. J.P. Saxena	30.7.34	1.12.54	1.12.54	29.1.54	"	
26. S.R. Krishnani	14.4.32	29.1.54	29.1.54	4.12.54	"	
27. Ambika Pd. Srivastava	10.6.33	31.12.54	31.12.54	3.1.55	"	
28. C.B. Tripathi	1.3.30	3.1.55	3.1.55	13.8.54	"	
29. R.S. Awasthi	7.3.30	13.8.54	13.8.54	27.1.55	"	
30. S.C. Saxena	17.10.28	24.3.53	24.3.53	20.6.55	"	
31. T.B. Sen	1.3.33	27.7.54	27.7.54	20.7.56	"	
32. R.K. Agarwal	14.7.31	9.8.55	9.8.55	9.4.56	"	
33. P.R. Bixit	1.1.35	23.5.55	23.5.55	10.8.56	"	
34. Mahendra Singh	19.6.27	22.11.54	22.11.54	15.7.56	"	
35. B.R. Tripathi	7.6.31	10.9.56	10.9.56		"	



Came on transfer from GKP at his own request & joined on 4.12.54.

Came on transfer from GKP at his own request & joined on 27.1.55.

Came on transfer from DCOS Office, Rly. Jabalpur & joined on 20.6.55.

Came on transfer from DPO/PNO at his own request & joined on 20.1.56.

Came on transfer from GKP at his own request & joined on 9.4.56.

Came on transfer from DME/KIR at his own request and joined on 18.8.56.

Came on transfer from GKP on Mutual transfer.

R.K. Agarwal

1	2	3	4	5	6	7
<u>SK Shri.</u>						
36.	P.N.Chadda	4.7.30	2.7.55	2.7.55 8.10.56	Tempy.	Accounts staff. Seniority given w.e.f. 8.10.56.
37.	Ulfat Bai	1.3.35	4.1.56	4.1.56 8.10.56	"	Came on transfer from GKP at his own request & joined on 8.10.56.
38.	Kalika Prasad	25.7.33	5.7.55	5.7.55 10.10.56	"	Accounts staff. Seniority given w.e.f. 10.10.56.
39.	Ravendra Pratap Singh	3.5.36	7.7.55	7.7.55 11.10.56	"	-do- w.e.f. 11.10.56
40.	N.N.Khanna	25.3.35	15.11.56	15.11.56	"	Came on transfer from Dy.GM(B) GKP at his own request and joined on 10.12.56
41.	K.L.Srivastava	30.5.32	28.6.55	28.6.55 10.12.56	"	
42.	J.N.Chaturvedi	24.1.35	21.12.56	21.12.56	Tempy.	
43.	A.K.Hastacharjee	30.1.32	25.1.57	25.1.57	"	
44.	M.K.K.Yusufi	1.9.28	11.1.44	11.1.44	"	
45.	Udai Raj Tripathi	15.10.35	28.8.57	28.8.57	"	
46.	S.K.Srivastava	22.9.30	9.12.52	9.12.52	"	
47.	J.N.Singh	8.4.29	10.1.53	10.1.53	"	
48.	V.P.Dhawan	20.8.30	4.2.53	4.2.53	"	
49.	P.O.Kharey	10.7.37	6.3.54	6.3.54	"	
50.	M.S.Siddiqui	10.2.31	23.3.56	23.3.56	"	
51.	Sultan Ahmed Khan	8.7.36	21.10.55	21.10.55	"	

Came on transfer from GKP at his own request and joined on 6.5.58.

Came on transfer from GKP at his own request and joined on 4.7.58.

Sd/- Asstt. Personnel Officer (Special)  
Lucknow.

R.K. Agarwal



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

W.P. No. of 1981

R.K. Agarwal & Others.

. . . v. . . . . Petitioners

Vs.

General Manager, N.E.Rly.  
Gorakhpur, & Others.

----- Opp. Parties.

Annexure No. 6

N.E. Railway.

No.E/255/2/LKO.

Office of Chief Personnel Officer,  
Gorakhpur Dt. 5.10.59.

The Asstt. Personnel Officer,  
N.E. Railway,  
Lucknow.

Sub:- Fixation of seniority of Estt. Clerks.

Ref:- ASOR/LKO's letter No.P/E /LKO/SNY/58 dt. 14.7.59.

\*\*

Para-I.

No comment.

Para-II. From 13th April 1952 Board's instructions are that the total length of service to the grade is to be taken into consideration while fixing up the seniority of an employee. These instructions were not followed by APO (Spl)/LKO while preparing and publishing the seniority list of Clerk (L) (60-130) of Lucknow Unit under his No.E/555/1/(T) LKO dt. 11.9.58.

Para-III. As Para II.

Para .4.

As Sri D.N.Tewari came on transfer to LKO Unit on 13.5.58 his name should have not been included in the seniority list as on 1.4.58.

Para-5.

The seniority of items 19 to 21A should have been determined as per instructions laid down in para 13 and not as per para 14 of GM/GKP's letter No.E/XI/191/26 dt. 23.12.57.

Para-6.

The applicants seniority should have been fixed above item 15.

Sd/- L.N.Srivastava.  
for Chief Personnel Officer.

\*\*\*



R.K. Agarwal

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

W.P. No. of 1981.

R.K. Agarwal & Others. - - - - - Petitioner.

Vs.

General Manager, N.E.Rly.

Gorakhpur & Others. - - - - - Opp. Parties.

Annexure-No. 7

Copy of CPO's/GKP letter No.E/255/2(LJN) dt.15.7.61 addressed to All District Officer/LJN.

Sub:- Representations of Estt.Staff of LKO Unit against the Provisional seniority lists issued by APO(Spl.)/LJN vide his letter No.E/555/1(T)/LKO dt.14.10.58 and 11.9.58.

\*\*\*

1. Seniority of Regional Accounts Office staff absorbed in Estt.side:- The absorption of Regional Accounts Office staff in other offices was a peculiar issue and does not come under the category of (i) transfer to another department, on request of staff, or (ii) transfer to another department, purely in the interest of administration. Both aspects were kept in view and Regional Accounts Office staff were told how their seniority would be reckoned at the time of such absorption. Therefore, the seniority of Ex-Accounts Office staff fixed by APO(Spl)/LJN, vide his letter quoted above is treated as final.

2. Seniority of S/Shri S.L.Srivastava and Dr. N.Tewari Clerks now Sr.Clerks(Estt.).

The length of service is criterion for determining seniority in such cases instead of earlier confirmation in other office. The seniority of S/Shri S.L.Srivastava and D.N.Tewari will, therefore, be as under:-

1. Shri S.L.Srivastava...above S.No.24 (S.M.Razi) and below S.No.23/A (Sri C.B.Tripathi).

2. Shri D.N.Tewari Above S.No.31 (Sri T.P.Sen) and below S.No.29/A (Sri Atam Prakash).

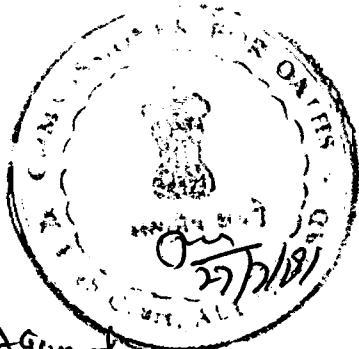
S/Shri S.L.Srivastava and D.N.Tewari have already been promoted as Sr.Clerk on the basis of their seniority originally assigned to them, will, however, not be reverted but future promotions should be regulated on the basis of revised seniority. A corrigendum is being issued separately.

3. Seniority of Shri S.P.Srivastava, Sr.Clerk(E) now Head Clerk(E).

The seniority given to Shri S.P.Srivastava by Ex.R.S./LJN is in order and will stand.

The representationists may be informed accordingly.

\*\*\*



R.K. Agarwal

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

W.P.No. of 1981

R.K. Agarwal & Others. - - - - - Petitioner  
Vs.

General Manager, N.E.Rly.  
Gorakhpur & Others. - - - - - Opp. Parties.

Annexure No. 8

Extract of para 6 of the Rules for Determining Seniority of Non-gazetted Staff of N.E. Railway (Other than Accounts Department Staff) Published vide S.No. 566 No.E/255/5, dated 29th June, 2nd July, 1954 from Office of the General Manager (Personnel) to All Heads of Departments, Regional Deputies, District Officers, N.E.Rly.

\*\*\*

Para-6. " In the case of transfer of an employee from one Department to another or from one category of a Department to another category in the same Department on grounds other than Administrative, he shall take his seniority at the bottom of the list in the grade in which he is absorbed."

\*\*



R.K. Agarwal



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

No. P. No. of 1981

A. K. Agarwal & Others.

- - - - - Petitioners  
Vs.

The General Manager, N. E. Rly.  
Gorakhpur & Others.

. . . . . Opp. Parties.

Annexure No. 9

N. E. Railway.

No. E/255/2(LJN-Clerk)

Office of the Chief Personnel  
Officer, Gorakhpur Lt. 13.3.1962.

The Distt. Traffic Supdt.

The Distt. Mech. Engineer.

The Distt. Engineer.

The Distt. Elec. Engineer.

The Distt. Signal & Tele-comm. Engineer.

The Distt. Signal & Telecomm. Engineer (Construction)

The Asstt. Security Officer,

N. E. Rly. Lucknow.

Sub:-Provisional seniority list of Jr. Clerk(E) in scale  
Rs. 110-180(AS) of LKO Unit as on 1.4.61.

\*\*\*

The provisional seniority list of Jr. Clerk (S) in scale  
Rs. 110-180(AS) of LKO Unit as on 1.4.61 based on total length  
of service in the grade maintaining their inter-se seniority  
is sent herewith for circulation amongst the staff concerned.

2. Any representation which the staff may desire to make regarding their position in the seniority list should reach this office within one month of the date of issue of the seniority list.
3. No action will be taken on representation made by the staff after the expiry of the said period.
4. Steps should be taken to ensure that the seniority list is noted by the staff concerned and their signature is obtained in token of acceptance of their relative position in the seniority list.
5. Please acknowledge receipt.

D./S above(In dup.)

Sd/-  
for Chief Personnel Officer

Copy forwarded to:-

1. The PO/LKO. 2. Individual concerned. 3. Steno to APO(C&R) for Master Fi.
4. The General Secy. N. E. Rly. Mazdoor Union/GKP.
5. The Genl. Secy. N. E. Rly. Employees Union(P&KS)/GKP.
6. The Genl. Secy. N. E. Rly. Employees Union(HQ/SEE)/GKP.

D./One S/List.

Sd/-  
for Chief Personnel Officer.

\*\*



R.K. Agarwal

L.P.No.

of 1981.

Petitioners

R.K. Agarwal &amp; Others.

Vs.

General Manager, N.E. Ry. Gorakhpur &amp; Others.

Opp. Parties.

Enclosure to annexure- 9

Category-Clerk(E).

Scale Rs. 110-180 (A)

PROVISIONAL SENIORITY AS ON 1.4.1961.

Classification-Zonal

Remarks.

Department-Personnel.  
SNO, Name of the employee (in order of merit, Under whom working at present, Date of birth, Date of app'tt., Date of promotion, Date of Confd/ or to Grade. ; to Grade. ; Offg. ; rules as on 1.4.61; seniority.

SNO	Name of the employee (in order of merit)	Under whom working at present	Date of birth	Date of app'tt.	Date of promotion	Date of Confd/ or to Grade	Confd/ or to Grade	Length of service in the grade de-; fined in N.E. Ry. ; rules as on 1.4.61; seniority.	Adjusted len-; gth of ser-; vice to ref-; lect interse ; seniority.	Remarks.
1.	S/Sri P.L. Ganote	DTS/LKO	6.5.17	6.5.42	1.6.49	Confd.	11	10	1	29 Offg. as Sr. Clerk(130-300).
2.	P.L. Singh	DM/LKO	3.9.24	3.2.51	3.2.51	"	9	4	16	3
3.	K.C. Chakraborty	DEE/LKO	1.2.31	10.11.51	10.11.51	"	9	4	16	3
4.	B.L. Thakur	DTS/KKO	10.5.26	29.11.51	29.11.51	"	7	1	7	7
5.	S.M.H. Azvi	DM/LKO	2.6.33	15.2.54	15.2.54	"	6	3	2	2
6.	K.N. Tripathi	DM/LKO	8.12.33	30.6.54	30.6.54	"	4	9	21	20
7.	K.N. Saxena	DTS/LKO	9.6.34	12.2.54	12.2.54	"	4	8	17	20 (Ex. RAO staff on sick list, Offg. as Sr. Clerk(130-300))
8.	Maqbool Ahmad	DTS/LKO	1.7.44	18.2.43	18.2.43	"	4	8	17	20
9.	Mohd. Yunus Khan	DTS/LKO	11.8.26	14.9.46	14.9.46	"	4	8	17	20
10.	R.K. Srivastava	DSTE/Con/LKO	15.7.26	28.4.48	28.4.48	"	4	8	17	20
11.	K.M. Sinha	DEM/LKO	1.12.30	1.12.48	1.12.48	"	4	8	17	20
12.	R.C. Srivastava	DM/LKO	20.7.27	27.4.51	27.4.51	"	4	6	25	20
13.	V.P. Kharbada	DSTE/LKO	25.5.31	29.1.54	29.1.54	"	6	7	20	20 Offg. Sr. Clerk (130-300)
14.	L. Srivastava	DM/LKO	1.8.35	3.7.54	3.7.54	"	6	7	20	20
15.	Y.N. Singh	DM/LKO	8.7.32	12.8.54	12.8.54	"	6	7	20	20
16.	C.B. Tripathi	DM/LKO	1.3.30	13.8.54	13.8.54	"	6	7	19	22
17.	S.L. Srivastava	DM/LKO	8.12.33	10.9.54	10.9.54	"	6	6	11	11
18.	S.M. RAZI	DM/LKO	16.11.33	1.10.54	1.10.54	"	6	4	7	7
19.	M. R. Beg	DM/LKO	3.10.35	25.11.54	25.11.54	"	6	6	4	1
20.	M. R. Beg	DM/LKO	30.7.34	1.12.54	1.12.54	"	6	4	1	1

1	2	3	4	5	6	7	8	9	10			
21. S/Sri S.R. Krishnan	DTS/LKO	14.4.32	29.1.54	29.1.54	Conf'd.	6	3	28	6	3	28	(Came on transfer accepting bottom seniority.)
22. A.P. Srivastava	DML/LKO	16.6.33	31.12.54	31.12.54	"	6	3	1	6	3	1	
23. R.S. Awasthi	DME/LKO	7.3.30	13.8.54	13.8.54	"	6	2	5	6	2	5	
24. Atam Prakash	DML/LKO	23.12.33	4.54	1.4.54	"	6	2	5	5	6	2	
25. S.C. Saxena.	DEN/LKO	17.10.28	4.3.53	27.1.55	"	5	9	12	5	9	12	
26. D.N. Tewari	ASOR/LKO	10.10.34	19.8.55	19.8.55	"	5	7	13	5	7	13	
27. T.P. Sen	DEN/LKO	1.3.33	27.7.54	27.7.54	"	5	2	12	5	2	12	
28. R.K. Agarwal	DEN/LKO	14.7.31	9.8.55	9.8.55	"	4	11	23	4	11	23	
29. Mahendra Singh	DTS/LKO	19.6.27	22.11.54	22.11.54	Tempy.	4	8	17	4	8	17	(Ex.R/O Staff Sny. given w.e.f.15.7.56)
30. P.R. Rakshit	DTS/LKO	1.1.35	23.5.55	23.5.55	Conf'd.	4	7	22	4	7	22	(Came on transfer accepting Bottom seniority.)
31. B.R. Tripathi	DEN/LKO	7.6.31	10.9.56	10.9.56	"	4	6	22	4	6	22	(Came on Mutual Transfer)
32. P.N. Chadha	DEN/LKO	4.7.30	2.7.55	2.7.55	"	4	5	24	4	5	24	(Ex.R/O staff Sny. given w.e.f. 8.10.56)
33. U. Srivastava	ASOR/LKO	1.3.35	4.1.56	4.1.56	"	4	5	24	4	5	24	(Came on transfer accepting Bottom seniority.)
34. Kalika Pd.	DEN/LKO	25.7.33	5.7.55	5.7.55	"	4	5	22	4	5	22	(Ex.R/O staff sny given w.e.f.10.10.56)
35. C. Srivastava	DSTL/LK (	1.3.2.29	7.4.54	7.4.54	"	6	11	25	4	5	22	(Came from general staff accepting bottom sny. below conf'd. staff)
36. P.N. Shukla	DT/LKO	5.8.33	6.7.55	6.7.55	"	5	8	26	4	5	22	(Ex.R/O staff sny. given w.e.f. 11.10.56)
37. R.P. Srivastava	DEN/LKO	3.5.36	7.7.56	7.7.56	Tempy	4	5	21	4	5	21	
38. N.M. Khanna	DME/LKO	25.3.35	15.11.56	15.11.56	Tempy	4	4	17	4	4	17	
39. K.E. Srivastava	DEN/LKO	30.5.32	28.6.55	28.6.55	"	4	3	12	4	3	12	
40. U.N. Chaturvedi	DML/LKO	24.1.35	21.12.56	21.12.56	"	3	10	4	3	10	4	
41. A.K. Bhattacharjee	DEN/LKO	30.1.32	25.1.57	25.1.57	"	4	2	7	4	2	7	
42. M.K.K. Yusufi	DEN/LKO	1.9.20	11.1.44	11.1.44	"	3	11	3	3	11	3	
43. U.R. Tripathi	ASOR/LKO	15.10.35	28.8.57	28.8.57	Tempy	3	7	4	3	7	4	
44. R.K. Srivastava	DSTL/Con/LKO	15.1.36	30.8.57	30.8.57	"	3	7	2	3	7	2	

(Came on transfer from E.Rly. accepting bottom seniority.)

(Came on transfer from DEN/GD on administrative grounds.)

1	2	3	4	5	6	7	8	9	10				
45. M.M. Khan	DSTE/LKO	28.3.32	25.9.50	25.9.50	16.11.57	Tempy.	3	4	16	3	4	16	(Came on Mutual Transfer)
46. S.K. Srivastava	DTS/LKO	22.9.30	9.12.52	9.12.52	15.1.58	"	3	2	17	3	2	17	(Cadre changed from typist to Clerk/Sny. given wef. 15.1.58).
47. J.N. Singh	DEN/LKO	8.4.29	10.1.53	10.1.53	15.1.58	Tempy	3	2	17	3	2	17	-30-
48. V.P. Dhawan	DME/LKO	20.8.30	4.2.54	4.2.53	15.1.58	"	3	2	17	3	2	17	-30-
49. P.C. Khare	DPS/LKO	10.7.36	6.3.54	6.3.54	15.1.58	"	3	2	17	3	2	17	-30-
50. M.S. Siddiqui	DSTE/LKO	10.2.31	23.3.56	23.3.56	6.5.58	"	2	10	26	2	10	26	(Came on transfer accepting Bottom seniority.)
51. Sultan Ahmad Khan	DME/LKO	8.7.36	21.10.55	21.10.55	4.7.58	"	2	8	28	2	8	28	-30-
52. S.H. Naqvi	DTS/LKO	10.7.38	9.7.58	9.7.58	10.9.56	"	2	8	23	2	8	23	(Came on transfer accepting bottom seniority.)
53. Ayaz Ali	DTS/LKO	10.9.37	10.9.56	10.9.56	1.9.58	"	2	7	0	2	7	0	-30-
54. V.P. Misra	DTS/LKO	8.2.32	6.7.55	6.7.55	22.9.58	"	2	6	10	2	6	10	(Came on transfer accepting bottom seniority.)
55. R.S. Maurya	ASOR/LKO	15.1.35	17.1.56	17.1.56	17.10.58	"	2	5	15	2	5	15	(Came on transfer accepting bottom seniority.)
56. Mohd. Amin	DNL/LKO	5.5.35	11.1.56	11.1.56	5.11.58	Conf'd.	2	4	27	2	4	27	(Came from General side accepting bottom sny.)
57. Mahadeo Singh	LTS/LKO	1.9.	1.9.56	1.9.56	17.11.58	Tempy	2	4	15	2	4	15	(Came on transfer accepting bottom sny.)
58. G.S. Awasthi	DEN/LKO	-	13.2.56	13.2.56	14.9.59	"	1	6	18	1	6	18	-30-
59. S.K. Seth	DTS/LKO	1.2.36	1.10.59	1.10.59	26.8.58	"	1	6	0	1	6	0	(Came on transfer accepting bottom seniority).
60. R.K. Misra	DTS/LKO	21.5.36	26.8.58	26.8.58	8.1.60	Tempy	1	2	24	1	2	24	-30-
61. H.L. Tewari	DTS/LKO	1.1.38	3.6.57	3.6.57	15.2.60	"	1	1	17	1	1	17	-30-
62. D.C. Dixit.	DEN/LKO	10.7.38	1.8.58	1.8.58	6.11.60	"	1	4	6	0	4	6	-30-

Sd/-S.P. Sinha.  
for Chief Personnel Officer.

In the Hon'ble High Court of Judicature  
Allahabad District Bench Lucknow

W.M. 8/1980

R.K. Agarwal & Co. ————— Patilwan

J.M.N.E. Rehman & Co. ————— Off. Parties

(Annex-10)



R.K. Agarwal

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

W.P.No. of 1981

R.K. Agarwal & Others. --- Petitioners  
Vs.

The General Manager, N.E.Rly. Gorakhpur  
& Others. --- Opp. Parties.

Annexure No. 11

कार्यालय मंडल रेल प्रबंधक  
पूर्वोत्तर रेलवे, लखनऊ।

कार्यालय आदेश  
=====

श्री के.एस.एस.सी.ना, प्रवर लिपिक वेतनमान 330-560 की श्री आर के गुप्ता,  
कार्यालय अधोक्षक/11 के रिक्त स्थान पर प्रधान लिपिक पद पर अस्थायी रूप से पदोन्नति  
किया जाता है। श्री एस.सी.ना का वेतन प्रधान लिपिक पद पर (425-700) रु 580/-  
निर्धारित किया जाता है।

यह आदेश प्रवर मंडल कार्मिक अधिकारी, लखनऊ के अनुमोदन से जारी किया  
जाता है।

ह  
कृत मंडल रेल प्रबंधक (कार्मिक)  
लखनऊ।

सं ई/11/210/1/5/भाग-5 लखनऊ दिनांक फरवरी 20, 1981

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाई हेतु:-

- 1- मंडल लेखाधिकारी-लखनऊ।
- 2- प्रधान लिपिक/बिल।
- 3- फोर्टर लिपिक
- 4- संबंधित कर्पनारी
- 5- अतिरिक्त प्रति पत्रावली हेतु।

ह  
कृत मंडल रेल प्रबंधक (कार्मिक),  
लखनऊ।

xxx

R-K Agarwal  
02/11/81

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

W.P.No. of 1981.

R.K. Agarwal & Others.

Vs.

G.M. N.E.Rly. Gorakhpur & Others

- - - - - Petitioners

- - - - - Opp. Parties.

पूर्वोक्त रेलवे

Annexure No. 12

कार्यालय आदेश

=====

निम्नलिखित प्रवर लिपिक 330-560 को प्रोन्नति प्रधान लिपिक वेतनमान 425-800

में इस कार्यालय के कार्यालय आदेश संख्या ई/205/पदो/लखनऊ दिनांक 7/3/81 के द्वारा हुई थी, का वेतन निर्धारण उनके नाम के सामने दी गई तिथि से प्रभाव होगा।

क्रमांक	नाम	प्रोन्नति की तिथि	वर्तमान वेतन	निर्धारित वेतन
1/	सर्वश्री मो० युनुस खाँ	1/10/80	560/- + 35/-	580/- + 15/- पो पो
2/	साहब जादा सिंह	6/1/81	वही	वही वही
3/	अमर सिंह	..	..	.. ..
4/	राम कृष्ण श्रीवास्तव	..	..	.. ..
5/	श्याम लाल (अ०ज)	..	370/-	425/- 6/1/81
6/	कै एम सिन्हा	20/2/81	560/- + 35/-	580/- + 15 पो पो

हस्ता

महल रेल प्रबंधक(कार्मिक)लखनऊ।

ई/205/पदो/लखनऊ

दिनांक 28/4/81

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

- 1/ महल लेखाधिकारी, लखनऊ।
- 2/ प्रधान लिपिक/बिल, (कार्मिक)
- 3/ फोर्टर लिपिक।
- 4/ संबंधित कर्मचारीगण।

हस्ता  
महल रेल प्रबंधक(कार्मिक)लखनऊ।



R.K. Agarwal

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

W.P.No. of 1981.

R.K. Agarwal & Others. - - - - - Petitioners.

Vs.

The General Manager, N.E.Rly.  
Gorakhpur & Others.

- - - - - Opp. Parties.

Annexure No. 13

कार्यालय मंडल रेल प्रबंधक,  
पूर्वोत्तर रेलवे, लखनऊ  
कार्यालय अदेश  
=====

श्री रामचन्द्र श्रीवास्तव प्रवर लिपिक (कार्मिक) 337-567 को प्रोन्नति  
प्रधान लिपिक वेतनमान 425-700 में अस्थाई रूप से स्थायी व्यवस्था में श्री के. सी चक्रवर्ती  
प्रधान लिपिक की अख्यता के फलस्वरूप रिक्त पद पर को जाती है।

यह व्यवस्था श्री के. सी चक्रवर्ती के डिप्युटी पर वापस आने पर स्वतः समाप्त  
हो जायेगी।

इनका वेतनमान 425-700 में रु. 587/- + 15/- (पोपो) निर्धारित  
किया जाता है।

यह प्रमोक्शि के अनुमोदन से निर्गमित किया जाता है।

ह  
मंडल रेल प्रबंधक (कार्मिक)  
लखनऊ।

सं ई/राप्र/प्रलि/81 लखनऊ दिनांक मई 25, 1981

प्रतिलिपि सूचनार्थ ए. आवश्यक कार्यवाई हेतु: -

- 1/ मंडल लेखाधिकारी, लखनऊ।
- 2/ प्रधान लिपिक/ बिल/ कार्यालय में।
- 3/ फोर्डर लिपिक/ कार्मिक।
- 4/ संबंधित कर्मचारी।

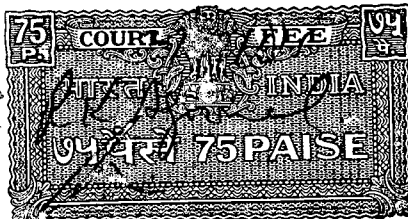
ह  
कृते मंडल रेल प्रबंधक (कार्मिक)  
लखनऊ।

02/11/81  
K. Agarwal



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

Writ Petition No. of 1981.



R.K. Agarwal & Others. - - - - - Petitioners

Vs.

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

AFFIDAVIT.

I, R.K. Agarwal aged about 49 years son of Shri B.D. Gupta, resident of Rail Bazar, Kanpur do hereby solemnly affirm and state an oath as under:-

- (1) That the deponent is petitioner No.1 in the above noted writ petition and hence is well acquainted with the facts of the case deposed heretounder.
- (2) That the contents of Paragraphs 1 to 31 are true to my own knowledge.
- (3) That Annexures 1 to 13 of the accompanying writ petition have been compared by the deponent with their originals and are true copies.

R.K. Agarwal  
DEPONENT

Dated Lucknow.

VERIFICATION.

I, the above named deponent, do hereby verify that the contents of paragraphs 1 to 33 are true to my own knowledge. No part of this affidavit is false and nothing material has been concealed. So help me God.

Dated Lucknow.

R.K. Agarwal  
DEPONENT

I identify the deponent who has signed before me.

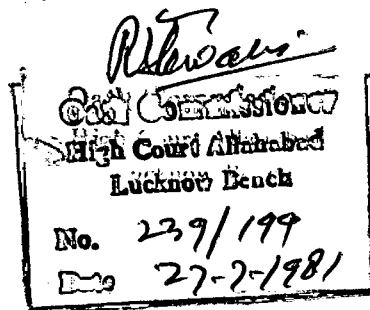
Vishwan Dayal C/s  
Advocate.

Solemnly affirmed before me <sup>a</sup> on 27.7.81  
 at <sup>n</sup> 9.30 AM/PM by Shri R.K. Agarwal  
 who is identified by Shri Vinay Dayal  
 Advocate, High Court, Lucknow.

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.



R.K. Agarwal



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

ब' अदालत नमान्

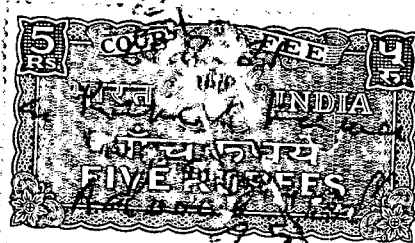
Lucknow Bench, Lucknow

महोदय

वादी [ मुद्दई ]

Petitioner वकालतनामा

प्रतिवादी [ मुद्दाअलेह ]



R. K. Agarwal & Co.

स्वनाम

वादी (मुद्दई)

1925

५४

NERLY  
G. M. & Co.

प्रतिवादी (मुद्दाअलेह)

नं० मुकद्दमा सन् १९ पेशी की ता० १९ ई०

ऊपर लिखे मुकदमे में अपनी ओर से श्री बृजेश कुमार,  
राकेश कुमार

२८९/३१५ मोतीनगर, लखनऊ एडवोकेट

महोदय को अपना वकील नियुक्त करके प्रतिज्ञा ( इकरार ) करता हूं और लिखें देता हूं इस मुकदमें में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी या जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या मुजहतामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से दाखिल करें और तसदीक या मुकद्दमा उठावें या कोई रुपया जमा करें हमारी या बिपत्ती (फरीकसानी) का दाखिल किया हुआ रुपया अपनी या हमारी हस्ताक्षर युक्त दस्तखती रसीद से लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी इस लिये यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे । ई०

हस्ताक्षर R. K. Agarwal, जे. पी. सक्सेना, S. M. Rishi

(गवाह) साक्षी (गवाह) V. Indragiri

दिनांक २७ महीना ७ सन् १९४१

स्वीकृत

Rakesh Kumar

(बृजेश कुमार, राकेश कुमार)

एडवोकेट

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

C.M. No. 6903 (W<sub>20</sub>) of 1981

In re :-

W.P.No. 3800 of 1981



12/2/81  
19/8/81

R.K. Agarwal & Others. . . . . PETITIONERS

Vs.

The General Manager, N.E.Rly.  
Gorakhpur & Others. . . . . Opp. Parties.

APPLICATION FOR INTERIM RELIEF.

The petitioners respectfully begs to state  
as follows:-

That for the reasons stated and facts disclosed  
in the accompanying writ Petition, it is respectfully  
prayed that during pendency of the Writ Petition the  
Opp. Parties No. 4 to 8 may not be confirmed on the post  
of Head Clerks and it is further prayed that the Opp.  
Parties No. 1 to 3 may be directed that not to promoted  
the ~~XXXXXXXXXX~~ Opp. Party No. 4 to the post of Office-  
Supdt.

Lucknow. Dated  
27/7/81

*Rabish Kumar*  
Counsel for Petitioner.

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

W.P No 3888 of 1981

R. K. Agarwal & Ors

----- Petitioners

vs

Union of India & Ors

----- Opp-Parties

In the abovesaid case  
I am filing process fee for OPs no 4 to 8  
with duplicate notices and duly stamped  
envelopes worth Rs 4.25 each.

Lucknow Dated  
17-8-81

Rakesh Kumar  
Counsel for Petitioners

हाईकोर्ट इलाहाबाद  
(अध्याय १२, नियम १ और ७)

दिवानी विभाग

प्रकीर्ण (मुतफरिफ) प्रार्थना पत्र सं०-

690304

3146

57

सं०- 3888 - - - - - सं० १६००

ई० में

R.K. Agarwal & Co.

प्राणी

प्रति

The G.M. & E. Railway for & Co.

प्रत्याशी

L. Mahammad Yusous Khan

Working as Head Clerk in the office of  
the Divisional Railway Manager N.E. Railway  
Lucknow

प्रतिवादी के दाव

चूंकि ऊपर लिखे प्राणी ने इस न्यायालय में उपरोक्त एकदमे के सम्बन्ध में Sdg. Officer

के लिए प्रार्थना पत्र

दिया है अतः आपको आदेश दिया जाता है कि आप दिनांक 29-9-1919  
पत्र तुम्हारे न स्वीकार कर लिया जाय। उक्त प्रार्थना पत्र की सुनवाई उसके बाद  
निर्णयानुसार विज्ञापित - किसी और दिन होगी।

विदित हो कि यदि आप ऊपर लिखे दिनांक पर या उसके पहले स्वयं  
अथवा किसी एडवोकेट या ऐसे व्यक्ति द्वारा जो आपकी ओर से काम करने के  
लिए कानून अधिवक्ता हों उपस्थित हों तो आप प्रार्थना पत्र की सुनवाई

आप, No. 37-0

आप का मूल्य ००  
Amount of Stamp  
उक्त पत्र का मूल्य  
Registered Insured  
दिया जाता है  
Name and address of sender  
आपका पता  
आपका नाम  
आपका पता  
आपका नाम  
आपका पता

आपका नाम  
आपका पता  
आपका नाम  
आपका पता  
आपका नाम  
आपका पता  
आपका नाम  
आपका पता

क प्रतिनिधि इसी

12-8-1919

रजिस्ट्रार

वि. लखनऊ

नियम २ के अधीन

तलबाना पत्र वापस करने के हस्ताक्षर

हाईकोर्ट इलाहाबाद  
(अध्याय २२ नियम १ और ७)

दिवानी विभाग

प्रकीर्ण (मुतफरिफ) प्रार्थना पत्र सं०- - - - - सं० १६- - -

- - - - - सं०- - - - - 3888 - - - - - सं० १६८१ - - - - - ई० में

- - - - - R.K. Agarwal & others - - - - - प्राथी

प्रति

- - - - - The G.M.N.E. Railway for & others - - - - - प्रत्याशी

S. Mohammad Yunus Khan

Working as Head Clerk in the office of the  
Divisional Railway Manager G.M.N.E. Railway  
Lucknow

प्रतिवादी के बाद

चूंकि ऊपर लिखे प्राथी ने इस न्यायालय में उपरोक्त मुकदमे के सम्बन्ध में

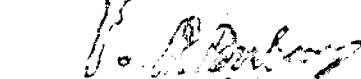
किसी प्रकार की प्रार्थना पत्र  
दिया है अतः आपको आदेश दिया जाता है कि आप दिनांक 29-9-19  
पत्र क्यों न स्वीकार कर लिया जाय: उक्त प्रार्थना पत्र की सुनवाई उसके बाद  
नियमानुसार विज्ञापित - - - - - इसी और दिन होगी।

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

प्रार्थना पत्र और प्राथी द्वारा दिये गए शपथ पत्र की एक प्रतिलिपि इसी  
के साथ लगी है।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक - 12-8-19  
माह - - - - - सं० १६ को जारी किया गया।

- - - - - के एडवोकेट  
दिनांक - - - - -

  
डिप्टी सेशन जज  
इलाहाबाद, लखनऊ

सूचना इस न्यायालय की १६५२ की विन्यासवली के अध्याय ३७, नियम २ के अधीन  
प्राप्त तलबाना मिल गया।

तलबाना पाने वाले क्लर्क के हस्ताक्षर

20-8-81 3146  
5

हाईकोर्ट इलाहाबाद  
(अध्याय १२, नियम २ और ७-)

दिवानी विभाग

प्रकीर्ण (मुतफरिफ) प्रार्थना पत्र सं०- - - - - सं० १६- - -  
- - - - - सं०- - - 3888 - - - सं० १६४/ - - - ई० में  
- - - RK Agarwal & others - - - - - प्राणी

प्रति  
The G. M. & F. Railway Goods for matters - - - - - प्रत्याशी  
in R. C. Court - - - - -  
Working Head Clerk in the office of the  
Deputy Commissioner (P. O.) of the Railway  
known  
प्रतिवादी के बाव

चूंकि ऊपर लिखे प्राणी में इस न्यायालय में उपरोक्त दृक्दमे के सम्बन्ध में WP  
क लिए प्रार्थना पत्र  
दिया है अतः आपको आदेश दिया जाता है कि आप दिनांक 24-9-81  
पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना पत्र की सुनवाई उसके बाद  
निष्पत्तानुसार विज्ञापित - - - किसी और दिन होगी।

विदित हो कि यदि आप ऊपर लिखे दिनांक पर या उसके पहले स्वयं  
अथवा किसी एडवोकेट या ऐसे व्यक्ति द्वारा जो आपकी ओर से काम करने के  
लिए कानूनन अधिकृत हो, उपस्थित न होंगे तो उस प्रार्थना पत्र की सुनवाई  
नहीं होगी अतः आपकी उपस्थिति अनिवार्य है।

3146 आंक/No.

के मा विमांक सूच

Amount of security affixed Rs. 100/-

Registered for sale

to R. C. Court

in the name of (in words) P. O.

and address of tender

subject to terms and conditions in P. O. guide

प्राप्त तलबाना मिल गया।



क प्रतिनिधि इसी  
12-8-1981  
R. C. Court  
रजिस्ट्रार  
द. लखनऊ

प्राप्त तलबाना के हस्ताक्षर  
Signature of Resolving Officer

, नियम २ के अधीन



तलबाना पाने वाले कर्तव्य के हस्ताक्षर



हाईकोर्ट इलाहाबाद  
(अध्याय १२, नियम : १ और ७)

दिवानी विभाग

प्रकीर्ण (मुतफरिफ) प्रार्थना पत्र सं०- - - 6903(4) - - - - - सन १८८७ -  
- - - - - सं०- - - 3888 - - - - - सन १८८१ ई० में  
- - - - - RK Agarwal & alls - - - - - प्राथी

प्रति  
The G.M.N.E. Railway Lok Sabha - - - - - प्रत्याशी  
in R.C. Saratow - - - - -  
Working as Head Clerk in the office of the  
Deputy Railway Manager (R) N.E. Railway  
Lucknow

प्रतिवादी के बाद 250

चूंकि ऊपर लिखे प्राथी ने इस न्यायालय में उपरोक्त मुकदमे के सम्बन्ध में  
- - - - - क लिए प्रार्थना पत्र  
दिया है अतः आपको आदेश दिया जाता है कि आप दिनांक 29-9-1907 माह  
पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना पत्र की सुनवायी उसके बाद  
नियमानुसार विज्ञापित - - - किसी और दिन होगी।

विदित हो कि यदि आप ऊपर लिखे दिनांक पर या उसके पहले स्वयं  
अथवा किसी एडवोकेट या ऐसे व्यक्ति द्वारा जो आपकी ओर से काम करने के  
लिए कानूनन अधिकृत हो, उपस्थित न होंगे तो उस प्रार्थना पत्र की सुनवायी  
और निर्णय आपकी अनुपस्थिति में ही जायेगा।

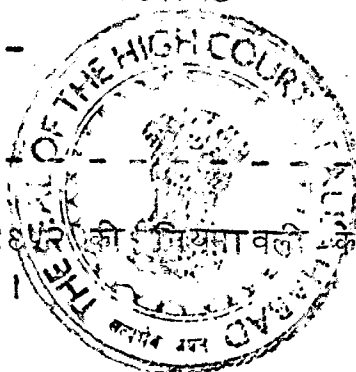
प्रार्थना पत्र और प्राथी द्वारा दिये गए शपथ पत्र की एक प्रतिलिपि इसी  
के साथ लगी है।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 12-10-07  
माह - - - - - सन १८ को जारी किया गया।

के एडवोकेट

दिनांक - - - - -

डिप्टी रजिस्ट्रार  
इलाहाबाद, लखनऊ



सूचना इस न्यायालय की १८८२ की नियमावली के अध्याय ३७, नियम २ के अधीन  
प्राप्त तलबाना मिल गया।

तलबाना पाने वाले कर्त्तक के हस्ताक्षर

20881 N  
3146  
3

3

सं- 3888 - सन १९८१ ई० में

The S. M. N. Railway Garo-Kh. p. n. d. l. t. s. - - - - - प्रत्याशी

2

क लिए प्रार्थना पत्र

29-9-97

Case No. 791-1

५०  
 Rs.  
 प्राप्त किया  
 \*Insured and insured\*  
 R. K. S. Vasth  
 (अंकों में) (शब्दों में)  
 (In figures) (In words)  
 ५० वजन (शब्दों में)  
 Insurance fee Rs. P. Weight (In words)  
 भेजनेवाले का नाम व पता  
 Name and address of sender  
 उपस्थित निर्देशिका में दी गई  
 शर्तों के अधीन जारी का है  
 Subject to terms and  
 conditions in P. O. guide  
 भेजनेवाले अधिकारी के हस्ताक्षर  
 Signature of Receiving Officer

319, नियम २ के अधीन

तत्त्वज्ञानात्मानं ज्ञानं कर्तव्यं च हस्त्याकार

हाईकोर्ट इलाहाबाद  
(अध्याय १२, नियम १ और ७)

दिवानी विभाग

प्रकीर्ण (मुत्फरिफ) प्रार्थना पत्र सं०- 69034 - - - - - सन १९४७ -  
- - - - - सं०- 3888 - - - - - सन १९४७ - - - - - ई० में  
- - - - - R.K. Agarwal & others - - - - - प्राथी

प्रति

- The G.M. N.E. Railway for and on behalf of - - - - - प्रत्याशी

R.K. Agarwal

working as Head Clerk in the office of the  
Divisional Railway Manager of

N.E. Railway, Lucknow

प्रतिवादी के नाम

चूंकि ऊपर लिखे प्राथी ने इस न्यायालय में उपरोक्त मुकदमे के सम्बन्ध में *stoppage*

क लिए प्रार्थना पत्र  
दिया है अतः आपकी आवेदना दिया जाता है कि आप दिनांक 29-9-47  
माह पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना पत्र की सुनवाई उसके बाद  
नियमानुसार विज्ञापित - - - - - किसी और दिन होगी।

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

प्रार्थना पत्र और प्राथी द्वारा दिये गए शपथ पत्र की एक प्रतिलिपि इसी  
के साथ लगी है।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 12-8-1947  
माह - - - - - सन १९४७ को जारी किया गया।

- - - - - के एडवोकेट

दिनांक - - - - -

डिप्टी रजिस्ट्रार

इलाहाबाद, लखनऊ

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

तलबाना पाने वाले कर्मी के हस्ताक्षर

हाईकोर्ट  
(अध्याय १२, निवादा)

20-8-81  
3146  
2

दिवानी विभाग

प्रकीर्ण (मुतफरिफ) प्रार्थना पत्र सं०-

सं०- 3888 - - - - - सन १९८१

R.K. Agarwal - - - - -

सन १९-

प्रति

The G.M. N.E. Railway Gorakhpur - - - - -

प्रत्याशी

R. K. M. Sarda - - - - -

working as Head Clerk in the office of  
The Divisional Railway Manager (P)  
N.E. Railway, Lucknow  
प्रतिवादी के बाव

चूंकि ऊपर लिखे प्रार्थी ने इस न्यायालय में उपरोक्त मुकदमे के सम्बन्ध में ~~अपली~~ <sup>अपली</sup>

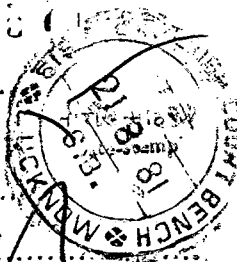
क लिए प्रार्थना पत्र  
दिया है अतः आपको आदेश दिया जाता है कि आप दिनांक 29-9-81 मास  
पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना पत्र की सुनवाई उसके बाद  
नियमानुसार विज्ञापित - किसी और दिन होगी।

विदित हो कि यदि आप ऊपर लिखे दिनांक पर या उसके पहले स्वयं

कोर्ट से काम करने के  
लिए पत्र की सुनवाई

में एक प्रतिलिपि इसी

उत्प्रेषण के लिए टिकटों का मूल्य ६० - - - - -  
Amount of Stamps annexed Rs. 60  
एक प्रतिलिपि बीम - - - - -  
Registered Insured\*  
आवेदक का नाम - - - - -  
Addressed to - - - - -  
बीम का रकम (अंकी में) - - - - - (शब्दी में)  
Insured for Rs. in figures (in words)  
नाम का रकम - - - - - वजन (शब्दी में)  
Insured for Rs. Weight (in words)  
आवेदक का नाम व पता - - - - -  
Name and address of sender  
आवेदक को प्रेषण में दी गई  
शर्तों का अधिन जारी की गई  
Issued subject to terms and  
conditions in P. O. Guide



नांक - 12-8-81  
नया।

होनाद लखनऊ

३७, नियम २ के अधीन

प्रातिवादी अधिकारी के हस्ताक्षर  
Signature of Responding Officer

तत्कालीन पक्षी जाने कर्तव्य के हस्ताक्षर

हाईकोर्ट इलाहाबाद  
(अध्याय २२, नियम १ और ७)

दिवानी विभाग

प्रकीर्ण (मुतफरिफ) प्रार्थना पत्र सं०-

6903 (4)

सन १९-11-

सं०- 3888

सन १९०१

ई० में

RK Agarwal & others

प्राथी

प्रति

The G.M.N.E. Railway Garachpur & others

प्रत्याशी

& K.M. Saini

working as Head Clerk in the office of

The Divisional Railway Manager (P)

N.E. Railway, Lucknow

प्रतिवादी के बाद

चूंकि ऊपर लिखे प्राथी ने इस न्यायालय में उपरोक्त मुकदमे के सम्बन्ध में

क लिए प्रार्थना पत्र

दिया है अतः आपको आदेश दिया जाता है कि आप दिनांक 29-11-19 माह

पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना पत्र की सुनवाई उसके बाद

नियमानुसार विज्ञापित किसी और दिन होगी।

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

प्रार्थना पत्र और प्राथी द्वारा दिये गए शपथ पत्र की एक प्रतिलिपि इसी  
के साथ लगी है।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 12-11-19  
माह - - - - - सन १९ को जारी किया गया।

- - - - - के एडवोकेट

दिनांक - - - - -

डिप्टी रजिस्ट्रार

इलाहाबाद, तलनऊ

सूचना इस न्यायालय की १९५३ की अध्याय ३७, नियम २ के अधीन  
प्राप्त तलबाना मिल गया।

तलबाना पाने वाले कर्मी के हस्ताक्षर

हाईकोर्ट इलाहाबाद  
(अध्याय १२, नियम : १ और ७)

3146-

दिवानी विभाग

प्रकीर्ण (मुतफरिफ) प्रार्थना पत्र सं०- - - - - संन १६- - -  
- - - - - सं०- - - - - 3888 - - - - - संन १६४/ ई० में  
- - - - - R.K. Agarwal & others - - - - - प्राथी

प्रति

The M. N. E. Railway Farakpur & others - - - - - प्रत्याशी

L. K. N. Saxena - - - - -

Working as Head Clerk in the office of the  
Divisional Railway Manager (P. N. E. Railway)

प्रतिवादी के बाँद

चूंकि ऊपर लिखे प्राथी ने इस न्यायालय में उपरोक्त मुकदमे के सम्बन्ध में अर्पित

क लिए प्रार्थना पत्र

दिया है अतः आपको आदेश दिया जाता है कि आप दिनांक 29-9-1987

पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना पत्र की सुनवाई उसके बाद

नियमानुसार विज्ञापित - किसी और दिन होगी।

विदित हो कि यदि आप ऊपर लिखे दिनांक पर या उसके पहले स्वयं  
अथवा किसी एडवोकेट या ऐसे व्यक्ति द्वारा जो आपकी ओर से काम करने के  
लिए कानूनन अधिकृत हो, उपस्थित न होंगे तो उस प्रार्थना पत्र की सुनवाई  
नहीं होगी।

3146 क्रमांक, No. 6756

प्रतिलिपि इसी

12-8-87

1

रजिस्ट्रार

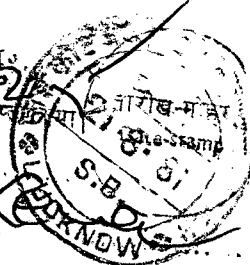
लखनऊ

9, नियम २ के अधीन

वाले क्लर्क के हस्ताक्षर

आप गए डाक स्टिकटों का मूल्य रु०  
Amount of Stamps affixed Rs.  
एक रजिस्ट्रार बोमा  
Received a Registered Insured  
प्राप्तियाँ का नाम  
Addressed to  
बीमे की रकम (अंकों में)  
Insured for Rs. (in figures)  
बीमा शुल्क रु०  
Insurance fee Rs.  
भेजनेवाले का नाम व पता  
Name and address of sender  
डाकवर निदेशिका में दी गई  
शर्तों के अधीन जारी की गई  
Issued subject to terms and  
conditions in P. O. guide

K. N. Saxena



Signature of Receiving

हाईकोर्ट इलाहाबाद  
(अध्याय २२, नियम १ और ७)

विभाग

प्रकीर्ण (मुतफरिफ) प्रार्थना पत्र सं०- 6903(9) - - - - - सन १९८७ -  
- - - - - सं०- 3888 - - - - - सन १९८७ ई० में  
- - - - - R.K. Agarwal & others - - - - - प्राणी

प्रति  
G.M.N.E. Railway Garachpur & others - - - - - प्रत्याशी  
S. K.N. Saksena S/- Not known  
working as Head Clerk in the office of the  
Deputy Railway Manager (P) N.E. Railway  
Lucknow

प्रतिवादी के बाद

चूंकि ऊपर लिखे प्राणी ने इस न्यायालय में उपरोक्त मुकदमे के सम्बन्ध में W/O  
- - - - - के लिए प्रार्थना पत्र  
दिया है अतः आपको आदेश दिया जाता है कि आप दिनांक 29-9-87 माह  
पत्र क्यों न स्वीकार कर लिया जाय। उक्त प्रार्थना पत्र की सुनवाई उसके बाद  
नियमानुसार विज्ञापित - - - - - किसी और दिन होगी।

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

प्रार्थना पत्र और प्राणी द्वारा दिये गए शपथ पत्र की एक प्रतिलिपि इसी  
के साथ लगी है।

मेरे हस्ताक्षर और न्यायालय की मोहर से आज दिनांक 12-8-1987  
माह - - - - - सन १९८७ को जारी किया गया।  
- - - - - के एडवोकेट  
दिनांक - - - - -

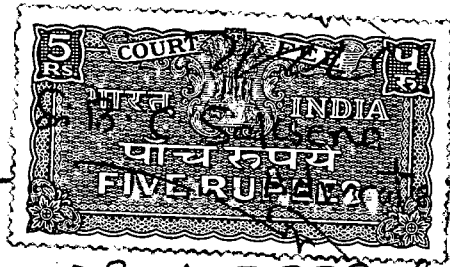
डिप्टी रजिस्ट्रार  
इलाहाबाद

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

तलबाना पाने वाले क्लर्क के हस्ताक्षर

उत्तम हॉनबल हाई कोर्ट ऑफ जूडिकेचर अट अल्लुहाबाद  
लुक्नो बेंच लुक्नो

1953



व अदालत श्रीमान

सहोदय

WP No 3888 of 1981

वादी (मुद्द) का

प्रतिवादी

(मुद्दाजलेह) of P. Posters No 4 to 8

वकालतनामा

R. K. Agarwal & others

वादी (मुद्द)

The General Manager N. E. Railway

बनाम

प्रतिवादी

(मुद्दाजलेह)

& others

नं मुकद्दमा 3888 सन १९८१ पेशी की ता १९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Sri B. C. Salasena Advocate

एडवोकेट

सहोदय

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील सहोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोंत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से दाखिल करें और तलबदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकसानो) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें या कोई वकील सहोदय द्वारा की गई यह सब कार्यवाही हमको हर्षदा स्वीकार है और होगी इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

Accepted

हस्ताक्षर Mohd Yunus Khan 2. Krishna Mohan Sinha

साक्षी (गवाह)

3. Ramkrishna Sinha 4. R. C. Sinha

साक्षी (गवाह)

5. K. N. Saxena

दिनांक

महीना

सन

१९ ई०

Bochalese Adv.

10/11/81

29/9/81



In the Honble High Court of Judicature at Allahabad  
Lucknow Bench Lucknow  
WP No 3888 of 1981

R. K. Agarwal & others - - - - - Petitioner  
vs

The General Manager N.E. Railway  
& others - - - - - opp. Parties

In the above noted case

I am filing Contor Affidavit

opp. Parties No 4- To 8 and

~~Not a part of the case~~ with in Time

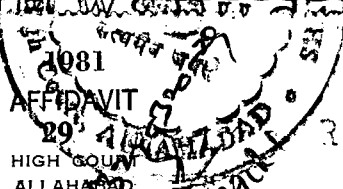
9/9/81  
29/9/81

P. Saksena  
29/9/81

Counsel for the opp. Parties.

~~Recorded~~

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



Counter-affidavit on behalf of  
opposite-parties nos. 4 to 8

Writ Petition no. 3838 of 1931

R.K. Agarwal and others

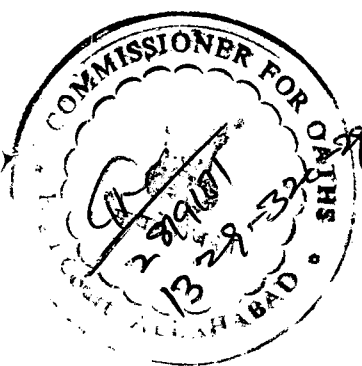
--Petitioners

versus

The General Manager, U.P. Railway  
and others

--Opp-parties

I, Mohammad Yunus Khan, aged about 55 years,  
son of Sri Ummed Khan at present working as Head Clerk  
in the office of the Divisional Railway Manager,  
Personnel Branch, U.P. Railway, Lucknow, do hereby  
solemnly take oath and affirm as under:-



Mohd Yunus Khan

1. That the deponent has been impleaded as opposite-  
party no.5 in the above-noted writ petition. He  
has perused the writ petition and has understood  
the contents of the same. He is fully acquainted  
with the facts of the case. He had been duly  
instructed and authorised to file this counter-  
affidavit on behalf of opposite-parties nos. 4 and  
6 to 8 as well.

2. That the contents of para 1 do not call for any reply.

3. That with regard to the contents of para 2 it is stated that the same do not call for any reply since the reliefs which the petitioners have sought can be gathered from a perusal of the relief clause.

4. That with regard to the contents of paras 3 and 4 it is not disputed that in the year 1957 the bifurcation of N.E. Railway took place and a separate railway zone with headquarters at Panau was created which was to be known as North East Frontier Railway and the remaining portion of the N.E. Railway continued to be under the Jurisdiction of the N.E. Railway whose headquarters remained at Gorakhpur. The rest of the contents of paras 3 and 4 in so far as they are borne out from the contents of annexure 1 to the writ petition do not call for any reply.

*Noted by undersigned*

5. That in reply to para 5 it is stated that the contents of the letter dated 23.12.1957 copy of which is annexure 2 to the writ petition are not disputed.

6. That the contents of paras 6 and 7 are not disputed.

7. That the contents of para 8 as stated are denied.



It is stated that the seniority of the staff of the establishment section is maintained as per seniority unit of each category. With a view to elaborate it is stated that the staff of the Establishment section of Lucknow is also posted at Gonda, Bahraich and Gorakhpur but since seniority unit pertains to Lucknow, they are assigned seniority in the seniority list of that seniority unit. Thus it is stated that seniority is not maintained on the basis of place of posting of a particular staff.

8. That with regard to the contents of para 9 it is not disputed that the answering opposite-parties nos. 5 to 8 had joined in the Establishment section in the new District Offices on 16.1.1958 while opposite-party no.4 had joined at Lucknow on 11.6.1956. The answering opposite-parties, prior to their joining at Lucknow, had been confirmed on the post of clerks while the petitioners had continued to be temporary and had not been confirmed on the post of clerk. It is stated that the petitioner no.1 had joined on 9.4.1956 in the office of the Regional Superintendent (Engineering) and had later joined the Establishment side of the office of the District Engineer on 16.1.1958 after the bifurcation. The said petitioner is guilty of suppression of material facts. Petitioner no.1 is not entitled to count his seniority in the seniority unit of Establishment section of the District Offices from 9.4.1956 but is entitled to count it only from 16.1.1958.

9. That the contents of para 10 are not disputed.

It is stated that in the matter of assignment of seniority opposite-parties nos. 5 to 8 were also governed by such other orders providing for determination of seniority reference to which other orders would be made in the following paragraphs.

10. That the contents of para 11 as stated are denied.

It is stated that opposite-parties 5 to 8 were absorbed in the District Offices by means of



4-

Regional Superintendent (P)/ LJM's office order no. 4/555/1/Bifurcation/Transfer dated 15.1.1958 as clerks against existing vacancies. A true copy of the said office order dated 15.1.1958 is being annexed as Annexure no. 04-1 to this counter-affidavit. It may be pointed out that the office order dated 13.1.1958 filed as annexure 3 to the writ petition was issued by the Regional Accounts Officer, Lucknow in compliance with the order dated 15.1.1958.

11. That with regard to the contents of para 12 it is not disputed that opposite-party no.4 was working in the office of the Press Superintendent at Gorakhpur and he opted to join at Lucknow accepting bottom seniority. The date of joining at Lucknow of the said opposite-party no.4 is also not disputed as being 11.6.1956. It is, however, stated that the said opposite-party no.4 had been confirmed as a clerk prior to his joining at Lucknow and in the matter of assignment of bottom seniority he was to be governed by the provisions of the N.E. Railway Seniority Rules which had been circulated under letter no. E/255/5 dated 29.6.1954/ 2nd July, 1954 of the office of the General Manager, N.E. Railway, Gorakhpur, specially the explanatory note appended to rule 7(2) of the said rules. Other opposite-parties 5 to 8 were also entitled to have their seniority determined in terms of the said provisions since they had been confirmed as clerks prior to their absorption in the new District Offices.

12. That the contents of para 13 are not disputed.

*Mohd Yunus Khan*



It is, however, relevant to point out that a perusal of the seniority list contained in annexure 5 to the writ petition would show that from serials 1 to 21 who were confirmed incumbents had been given their inter se seniority in their category while the temporary clerks were assigned seniority below them maintaining their inter se seniority. The assignment of seniority was by applying the provisions of the explanatory note to rule 7 of the circular letter dated 2.7.1954 referred to above. A true copy of the relevant extract of the said circular letter dated 2.7.1954 is being annexed as Annexure no. 8A-2 to this counter-affidavit. Annexure 8 to the writ petition is merely an extract of rule 7(6) of the said rules and does not give the correct picture.

13. That with regard to the contents of para 14, it is stated that the petitioners are put to strict proof of the representations alleged to have been made by them. It is, however, not disputed that some representations had been preferred by the Establishment staff of the Lucknow Unit against the provisional seniority list as would be evident from a perusal of annexure 7 to the writ petition. A perusal of para 1 thereof would also show that it was clearly indicated in the said order that the seniority of ex-accounts office staff fixed by APO (Special)/LJN by letter dated 14.10.1958 and 11.9.1958 was being treated as final.

It is further stated that by means of letter no.



no. E/255/2(LKO) dated 18.12.1961 the Chief Personnel Officer had again indicated that the decision communicated by letter dated 15.7.1961 (copy of which is annexure 7 to the writ petition) on the subject fixation of seniority of Clerks (E) of Lucknow Unit may be treated as final and no further correspondence in this respect will be entertained. A true copy of the said letter of the Chief Personnel Officer dated 13.12.1961 is being annexed as annexure no. CA-3 to this counter-affidavit. It may further be pointed out that eight clerks (E) of the Lucknow Unit, however, sought a discussion with the Dy. C.P.O. in connection with fixation of seniority of ex-regional Accounts Officer/ Lucknow staff seniority. A discussion was held on 30.4.1962 and with regard to the said discussion it was again indicated on behalf of the Chief Personnel Officer, N.E. Railway, Gorakhpur intimating that there are no grounds to alter the decision communicated by letter dated 15.7.1961. A true copy of the said letter dated 18/24-7.1962 is being annexed as annexure no. CA-4 to this counter-affidavit. A perusal of the ~~said letter~~ endorsement to the said letter dated 20.3.1962 made by the District Engineer, N.E. Railway, Lucknow Junction would show that a copy of the said decision was communicated to petitioner no.2 Sri S.M. Razi and he had endorsed on the office copy of the said letter his signatures on 25.8.1962 in token of having received a copy thereof.

Mahd Gurus Khan



It is denied that the seniority assigned to the answering opposite-parties 4 to 8 in the said seniority list was in any manner in violation of the instructions contained in annexure 2 to the writ petition. It is stated that the petitioners have ignored the position that the rules for determination of seniority of non-gazetted staff of M.C. Railway as circulated by staff notice dated 2.7.1954<sup>5</sup> were relevant and applicable.

14. That with regard to the contents of paras 15 and 16 it is stated that peroxide comments given by opposite-party no.2 have no relevance or sanctity. the matter having been decided at a higher level, that is to say, by the Chief Personnel Officer subsequent thereto as would be evident from the various documents which have been annexed to this counter-affidavit. It is stated that the suggestion <sup>✓</sup> to the A.P.O. (Special) that the answering opposite-parties were required to have been assigned seniority according to the instructions laid down in para 13 and not in para 14 of annexure 2 to the writ petition<sup>✓</sup> <sup>✓ if no consequence ✓</sup> It is stated that the answering opposite-parties had not been absorbed in open line non-ministerial category as per para 11 of annexure 2 to the writ petition and thus para 14 did not govern them. The case of the answering opposite-parties was governed by para 5(iii)(a). They had been absorbed against non-accounts district offices against existing vacancies as would be evident from a perusal of the Regional Superintendent (P)/ LHM's office order dated 15.1.1958 copy of

Mohd Yunus Khan





of which has been filed as annexure CA-1 to this affidavit and thus they were entitled to assignment of seniority according to the provisions of last part of para 13 of annexure 2 to the writ petition since their absorption was purely on administrative grounds in departments other than their parent department and they were entitled to protection of their seniority, that is to say, they were entitled to be assigned seniority from the date of their initial appointment but, however, the administration applied first part of para 13 of annexure 2 in the matter of assignment of seniority to the answering opposite-parties read with explanatory Note torule 7(2) of the rules for determination of seniority circulated by letter dated 2.8.54. The weightage of one and half years of past service was also given to the answering opposite-parties by reason of the provisions contained in the notice no.E/555/1/Bifurcation dated 10.1.1958 issued under the signature of the Regional Superintendent, N.E. Railway, Lucknow. A true copy of the said notice dated 10.1.1958 is being annexed as Annexure no. CA-5 to this counter-affidavit. The answering opposite-parties were admittedly absorbed against the said existing vacancies in the District Offices at Lucknow. It is further stated that against the said 50 vacancies even clerks who had not been confirmed in their parent departments had been absorbed in the newly created District Offices

15. That the plea in para 17 is, for the reasons indicated above, legally untenable and is, therefore, denied.

16. That the contents of paras 18 and 19 are not disputed. A perusal of annexure 7 would show that a copy of the said letter was addressed to all District Offices at Lucknow and the petitioners as also the answering opposite-parties at that time were working in the District Offices at Lucknow. It has already been shown that a copy of the decision had been communicated to petitioner no. 2 who had also in token of receipt thereof appended his signature. The answering opposite-parties, therefore,

*Md. Yunus Khan*



state that the remaining petitioners must also be taken to have been communicated the decision contained in annexure 7 to the writ petition.

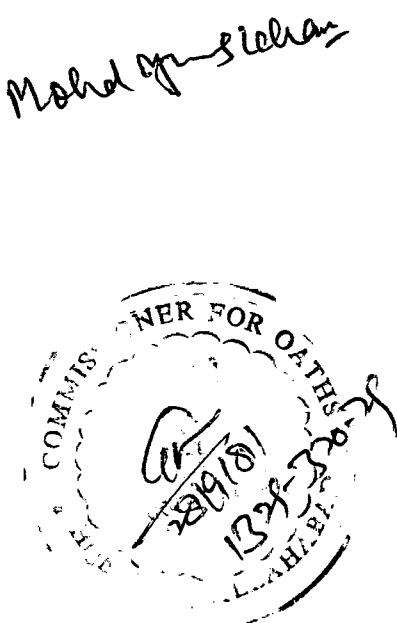
17. That with regard to the contents of para 20 the answering opposite-parties have been advised to state that annexure 7 does not have any statutory force and therefore the plea based on the opinion expressed in annexure 7 is irrelevant.

18. That with regard to the contents of para 21 it is stated that the petitioners are guilty of suppression of material facts having deliberately not filed a complete text of the rules for determination of seniority of the non-gazetted staff.

19. That the plea in para 22 is denied as being baseless. It is stated that provisions of the rule contained in annexure 8 are not applicable and do not govern the facts and circumstances of the instant case.

20. That the contents of para 23 are not disputed.

21. That with regard to the contents of para 24 it is stated that though it was indicated that the said seniority list was a provisional seniority list and representations had also been invited, it is obvious that the decision which had been taken on a consideration of the representations against an earlier seniority list was not required



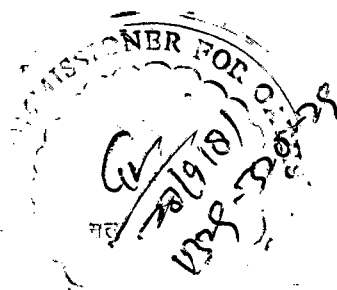
to be reopened after it was clearly indicated that the said decision was final. Such of the persons who were not covered by the earlier decision and amongst whom inter se seniority had not been finally determined were required to make representations and to that extent the seniority list issued in 1961 could be said to be a provisional list and the decision in respect of the other persons whose grievances had already been considered and finally disposed of in respect of the representations submitted by them against the earlier seniority list was not required to be reopened.

22. That the contents of para 25 as stated are denied. A perusal of annexure 10 to the writ petition ~~writ~~ specially enclosure thereto would show that it was indicated therein that the decision communicated by means of letters dated 15.7.1961 and 24.7.1962 call for no interference.

✓ ~~ix ix~~ ✓

It is further stated that by means of P.O. letter dated 26.10.1979 in reference to which the letter enclosed to annexure 10 was sent by the Chief Personnel Officer was in relation to a representation made by the petitioner n.3 dated 5.5.1979. A true copy of the said P.O. letter is being annexed as annexure no. 4A-6 to this counter-affidavit. By means of the other P.O. dated 8.11.1979 reference to which has been made to in the representation submitted by the opposing party had been forwarded. It is thus

Mahd Yous Khan



evident that the decision communicated by means of annexure 10 to the writ petition was in respect of the representation which had been preferred by the petitioner no.3 and that too in May 1979.

It is, therefore, wholly wrong to say that after 19 years the opposite-party 1 rejected the representation of the petitioners. The petitioners are put to strict proof of the said allegation by filing the representations which they allege to have been rejected by means of the communication contained in annexure 10 to the writ petition.

23. That the plea in para 26 is wholly baseless and is denied.

24. That with regard to the contents of para 27 it is stated that the petitioners unnecessarily and without valid reason had preferred representation against orders by which the answering opposite-parties were promoted to the post of Head Clerks. It is stated that in view of the fact that the petitioners had not initiated any legal proceedings to question the validity of the final decision contained in annexure 7 to the writ petition dated 15.7.1961, they were estopped from raising any grievance, if any order for promotion to the next higher post in respect of the answering opposite-parties or for the matter in respect of the other staff on the basis of the seniority position which had been finally decided upon and to which the petitioners by their conduct had acquiesced in and

*Mohd Juss Khan*

*CC*  
*27/10*  
*1328-30-29*

they allowed the said decision to become final and had not agitated the same in any other forum. ~~was~~ Continued representations, if any, though it is disputed, to the same authority would not give any fresh cause of action to the petitioners (and, as such, the answering opposite-parties are advised to state that the present writ petition is highly belated and the petitioners are guilty of laches and negligence as they have disentitled themselves to the reliefs claimed.)

25. That the plea in para 28 is based on factual inaccuracies and is, therefore, legally untenable. The answering opposite-parties had finally been determined to be senior to the petitioners as early as in the year 1961.

26. That the plea in para 29 is legally untenable and therefore denied.

27. That with regard to the contents of para 30 it is stated that the answering opposite-parties 4 and 5 on the basis of the seniority which has been finally determined and has continued to hold the field for more than 20 years by now are clearly entitled to be promoted on the basis of the said seniority to the next post of Office Superintendent and the petitioners who at present are only working as Senior Clerks have no locus standi to question the promotion of the said opposite-parties to the post of Office Superintendent.

Mohd Yusleha



to which only Head Clerks are eligible to be considered.

28. That the answering opposite-parties have further been advised to state that the writ petition as framed is not maintainable inasmuch as the Union of India has not been impleaded as an opposite-party and further persons to whose benefits the order is sought to be quashed ~~and~~ and who are thus ~~unnecessary~~ necessary parties have not been impleaded. The writ petition is also liable to be dismissed on the ground of non-joinder of necessary parties.

Mohd Yunus Khan  
Deponent

Dated Lucknow  
28.9.1981

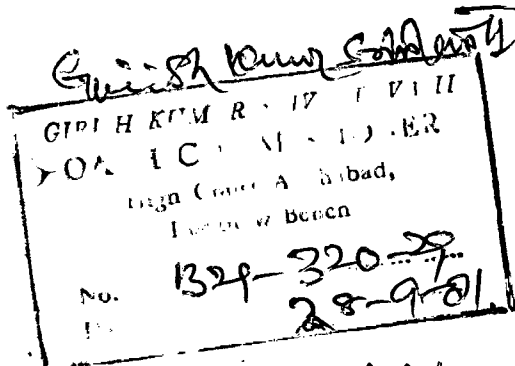
I, the deponent named above do hereby verify that contents of paras 1 to 27 except the portion within brackets are true to my own knowledge and those of portions within brackets and of para 28 are true on the basis of the legal advice received from my counsel which I believe to be true. No part of it is false and nothing material has been concealed to help me God.  
Dated Lucknow  
28.9.1981

Mohd Yunus Khan  
Deponent

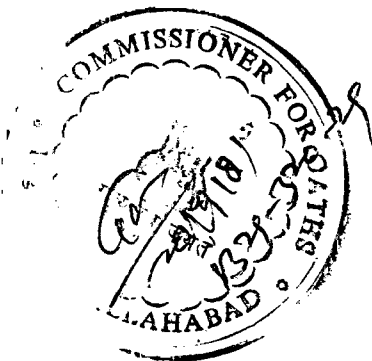
I identify the deponent who has signed in my presence.

R. K. Srivastava  
Clerk to Sri B.C. Saxena, Advocate

Solemnly affirmed before me on 20/9/01, at 9-45 a.m/p.m by ~~Sri Mohd Yunus Khan~~ the deponent who is identified by Sri R.K. Srivastava clerk to Sri B.C. Saxena, Advocate, High Court, Allahabad. I have satisfied myself by examining the deponent that he understands the contents of the affidavit which has been read out and explained by me.



Mohd Yunus Khan



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14

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

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Writ Petition No. 388 of 1981  
R.K. Agrawal and others.....Petitioners.  
Versus  
General Manager, North-Eastern  
Railway and others.....Opposite-Parties.

Annexure No. 1

North Eastern Railway

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Regional Office/Lucknow.  
Dated : 15th Jany., 1958.

Office Order No. 13

*Mahesh Kumar*

The following clerks in scale Rs.60-130 of the  
RAO's office/Lucknow who have applied for their  
absorption in the new Distt. Executive Offices at Luck  
Lucknow are posted as Clerks as shown below against  
each, against<sup>the</sup> existing vacancy.

S. No.	N a m e	Designat- -ion.	Scale	Office to which posted.	Date from which senio- rity will count in the new office.
1	2	3	4	5	6
1.	Sri Maqbool Ahmad,	Clerk	60-130	DSTE/LKO	15.7.56
2.	Banwari Sahai	"	"	DEE/LKO	15.7.56
3.	R.K. Srivastava	"(Estt)	"	DTS/LKO	15.7.56
4.	Mohd: Yunis Khan, Clerk	"	"	DSTE/LKO	15.7.56
5.	Cyril Loyal,	"	"	DEE/LKO	"
6.	K.M. Sinha,	" / Estt.	"	DEN/ "	"
7.	Suraj Nath	"	"	DSTE/ "	"

1	2	3	4	5	6
8.	Sri R.S.Nigam,	Clerk	60-130	DEE/LKO	15.7.56
9.	° Ram Chandra Srivastava,	°/Estt:	°	DME/ °	°
10.	° A.A.Mahmoodi,	°	°	DSTE/ °	°
11.	° B.P.Sharma	°	°	DEE/ °	°
12.	° Mohindar Singh,	°/Estt:	°	DTS/ °	°
13.	° Raja Ram,	°	°	DSTE/ °	°
14.	° P.N.Chodda,	°	°	DEE/ °	8.10.56
15.	° Kalka Prasad,	°/Estt:	°	DEN/ °	10.10.56
16.	° Gyan Dutt,	°	°	DSTE/ °	15.7.56
17.	° G.L.Nair,	°	°	DEE/ °	11.10.56
18.	° Ravinder Partap,	°/Estt:	°	DME/ °	11.10.56
19.	° Sahab Prasad,	°	°	DSTE/ °	7.12.56.

Sd. Illegible  
For Regional Superintendent (P).

No.E/555/1/Bifurcation/Transfer. Lucknow: 15th Jany., 1958.

Copy for information and necessary action to:-

1. RAO/LKO. He will please spare the staff concerned accordingly and also send their Personal cases, Service Folders, Leave accounts & LPCs to their respective offices.
2. DSTE/DEE/DTS/DEN/DME & APO - Lucknow.
3. F.A. & Chief Accounts Officer/N.F.Rly./Gorakhpur.
4. Dy: General Manager (P)/Gorakhpur.

Sd. Illegible  
For Regional Superintendent (P).

True Copy





1  
7/16

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

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Writ Petition No. 3888 of 1981

R.K. Agarwal and others.....Petitioners.

Versus

General Manager, North Eastern  
Railway and others.....Opposite-Parties.

Annexure No. 2

Rules for Determining Seniority of Non-Gazetted Staff  
of N.E. Railway (other than Accounts Department Staff):

(7) Seniority on Transfer:-

(1) When an employee borne on District or Regional list is transferred on administrative grounds from one District or Region to another, he shall take his seniority in the new District or Region, on the basis of his date of entry into the grade. Such transfers shall only be arranged under the personal orders of the competent authority.

(2) If, however, the transfer is at his own request, he shall be placed at the bottom of the concerned seniority list in the substantive grade and promotion to higher officiating post, if any, determined with reference to his substantive position in the new office.

"Explanatory Note:-Bottom seniority in the case of permanent staff means seniority below all those confirmed in the same grade on the crucial date of transfer to another office and not below temporary or officiating employees on that date."



(3) In the case of mutual transfer at the request of the employees, the senior of the two should be allotted the position vacated by the other man, the junior man being fitted into new seniority list below persons having the same seniority date or earlier.

(4) In the case of an employee rendered medically unfit in the existing grade and absorbed in another grade for which he is declared fit, he shall take his seniority in the grade in which he is absorbed with reference to his pay below all those staff in the grade in the absorbing department, when, however, he is re-promoted, his original seniority in the former grade shall be restored to him.

An employee declared unfit in a medical category, say A or B should be absorbed in a suitable grade in the lower medical category in the department to which he belongs. In special case, if it is desired to absorb him in a ministerial post in the Personnel Branch or in a department other than the one to which he belongs, the prior and personal approval of the Chief Personnel Officer or the Head of the Department to which he is to be absorbed should be obtained. Such absorption in a post in the lower medical category should, as far as possible be in the same promotion group.

Such staff should take their seniority below those who are in receipt of the same rate of pay in the grade on the date of their absorption and not below all those staff in the grade in the absorbing department.

Mohd Y. Suleh



Note:- Same rate of pay on the date of absorption should be the basis pay in the relevant grade exclusive of the element of the running allowance. However, for the purpose of the fixation of the pay in the case of running staff 50% of pay as representing the running allowance will continue to be allowed under the extant orders."

These orders will have retrospective effect from 22nd October, 1956.

(5) In the case of transfer on administrative grounds of an employee from one Department to another or from one category to another in a Department to another category in the same Department, his seniority in the grade in which he is absorbed shall be determined by the length of service in a comparable grade and in a higher grade, if any, rendered before such absorption, whether in an officiating or substantive capacity but excluding local or fortuitous promotion. If any difficulty or anomaly arises in fixing the seniority in accordance with this principle, the matter shall be referred to the General Manager with full particulars for decision.

(6) In the case of transfer of an employee from one Department to another or from one category of a Department to another category in the same Department on grounds other than Administrative, he shall take his seniority at the bottom of the list in the grade in which he is absorbed.

(7) In the case of mutual transfer at the request of the employees from one Department to another, senior of the two employees should be allotted the position vacated by the other man, the junior man being fitted

Mohd Yusuf Sahay



7/19

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into the new seniority list below persons having the same seniority date or earlier.

(8) Seniority shall not be affected by any advance increment, if granted, unless the General Manager decides otherwise.

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True Copy

*Mohd Yusof*



7/20

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

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Writ Petition No. 3888 of 1981

R.K. Agarwal and others.....Petitioners.

Versus

General Manager, North Eastern  
Railway and others.....Opposite-Parties.

Annexure No. 3

North Eastern Railway

Office of the  
Chief Personnel Officer.  
Gorakhpur ; Dt. 18.12.61.

No.E/255/2(IKO).

The DTS/DME/DEN/ST E/DEE/ASO(R)/APO,  
N.E. Railway, Lucknow.

Sub:-Fixation of seniority of clerks (E)  
of Lucknow Unit.

Ref:-DEN/LJP's DO No.E/W/Clerk/T-3 dated  
15.11.1961.

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*Mohd Y. Siddiqui*

Decision communicated vide this office letter  
of even number dated 15.7.1961 on the above subject  
may please be treated as final and no further  
correspondence in this respect will be entertained.

Sd. Illegible  
for Chief Personnel Officer

True Copy



7/21

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

Lucknow Bench : Lucknow.

---

Writ Petition No. 3887 of 1981

R.K. Agarwal and others.....Petitioners.

Versus

General Manager, North Eastern  
Railway and others.....Opposite-parties.

Annexure No. 4

North Eastern Railway

No. E/225/2(LKO).

Office of the  
Chief Personnel Officer,  
Gorakhpur.

Dated: 18/24.7.62.

The DTS/DME/DSTE/DEN/DASO  
DEE, N.E. Railway, Lucknow.

*Mohd Yusuf Khan*

Reg:- Discussion of Dy.OPO with 8 Clerks  
(Estt.) of LKO unit on 30.4.1962 in &  
connection with fixation of seniority  
of ex.RAO/LKO's staff and reversion  
of Sarvasri S.L. Srivastava & D.N. Tewari  
as Jr. Clerk.

---

Ref:- OOP's inspection note of 23.4.62.

....

The case has been carefully examined and there  
are no grounds to alter the decision already commu-  
-nicated vide this office letter of even number  
dated 15.7.61.

Sd/- Illegible  
For CPO/GKP.

...2.



2/22

No. E/225/1/SNY/LJN.

Dt. 20.8.1962.

Copy to Sarvatri S.C.Saxena, M.K.K.Yusufi,  
J.N.Singh and S.M.Razi, Clerks Estt. (in Office) for  
information.

Sa. Ille<sup>20/8</sup>ible  
For District Engineer/LJN.

True Copy

*Mohd Yusuf Khan*



7/23

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

Writ Petition No. 3388 of 1981

R.K. Agarwal and others --Petitioners

versus

The General Manager, N.E. Railway and others --Opp-parties

Annexure no. 5A-5

N.E. Railway

Notice.

no. E/555/I/Bifurcation Regional Office, Lucknow

Dated 10th January, 1958

It is notified for the information of the clerks in the accounts Office that it is expected that about 50 vacancies would be available in the new District Offices in Lucknow in the grade L.60-130. It is proposed to absorb clerks from the accounts Office against these vacancies. For the purpose of determining seniority of staff so absorbed a partial benefit for services rendered as a clerk prior to the date of bifurcation will be allowed as follows:-

For one completed year of service	No benefit
For one to three completed years of service	50% subject to a maximum of one years benefit; inter-se seniority of existing unit being maintained
More than three years of completed services	1-1/2 years

2. Those who wish to apply should do so immediately.

Mohd J. Sahar





7/24

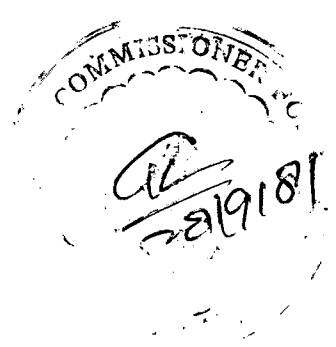
-2-

3. The staff who have already indicated their preference for other stations or for direct recruitment categories in terms of DGP's letter no. E/XI/191/26 dated 23.12.1957 will not be eligible for absorption in the above mentioned manner.

*Mohd Yunus Khan*

Sd.

Regional Superintendent,  
Lucknow



7/25

22

Office of the  
D.R.M. (P), Lucknow.

26.10.79.

Abdullah Khan

COMM. 113  
1918

At the time of abolition of Regional Offices, clerical staff of RAO's office were also rendered

surplus and they were given option to go to open line or to stay in the Distt. office at LUN. if they were not willing to go to GKP or IZN in Accounts Office. Vide Regional Supdt.'s letter No.E/555/1/Bifurcation dt. 10.1.58 it was decided that Accounts Staff will get the benefit of seniority on absorption in the Distt. office from 50% to 1 1/2 years' service depending on their length of service at the time of absorption.

According to this decision the undernoted Accounts Clerks who were absorbed in the "P" branch, were entitled seniority from the date indicated against each name:-

Name of the Accounts Clerks: <del>Clerks entitled</del>	Date of apptt. in A/c's office	Date from which benefit of seniority was to be given.
1. Sri Maqbool Ahmad (not in service)	18.2.43	15.7.56
2. Mord. Yunis Khan	14.9.46	15.7.56
3. R.K. Srivastava	28.4.48	15.7.56
4. K.M. Sinha	1.12.48	15.7.56
5. R.C. Srivastava	27.4.51	15.7.56.

But in the seniority list issued by APO(Spl)/LUN vide his No.E/255/1(T) LKO dated 11.9.58, the above named were allowed seniority from much earlier date instead of 15.7.56. Against this seniority list the aggrieved staff represented their cases and vide your office letter No.E/255/2/LUN dated 15.7.61 the orders were passed that the seniority of Accounts staff was correctly fixed by the APO(Spl)/LUN.

Under rules the ~~si~~ criterion for deciding the



7/27

seniority is the length of service in the grade according to which the above-named Accounts Staff were entitled for seniority from 15.7.56 only and those clerks of Personnel Branch who were already in service in LNJ Unit prior to 15.7.56 should rank senior to them.

I feel this aspect was not examined while passing orders vide your office letter No.E/255/2/LNJ dt. 15.7.61, No.E/255/2/LKO dt. 18.12.61 and No.E/255/2/LKO dt. 18/24.7.62.

Further S/Shri K.N.Saxena and U.P.Khanbhandla Clerks were transferred to LNJ unit on their own requests accepting bottom seniority and joined at LNJ. on 11.6.57 and 7.9.56 respectively. Therefore, they should get seniority from the date of joining in LNJ. unit and not before that.

The seniority of above-named staff may be modified at Divisional level but as the decision was earlier taken at your level as indicated above, it is requested that the cases of abovenamed may be reviewed in the light of facts mentioned in above paras or authorised the undersigned to review cases at Divisional level. I strongly feel that the points raised by Sri Saxena merit consideration. This is much impugned controversy which needs to be settled finally.

Yours sincerely,

Sd/-(Tej Bahadur Singh)

Encl: As above.

Sri T.U.Madhav,  
CPO/GKP.

True Copy

Mohd G. Saxena



In the month of March 1940, the following was received:  
March 1940 : 7000000

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(1) The following is a list of

(1) The following is a list of the following

(2) If, however, the following is a list of the following

Explanatory Note: The following is a list of the following

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22-010

General Manager, The City of London  
 Building and other ..... cryptographic information.

North Western Railway

70-7/23/8(U6).

Sub: Liquidation of Secularity of ok'sko (B)  
of Liquid. Unit.

Ref: - 17/1170 28 No. 17 / 1170/1-8 dated  
15.11.1951.

24. Illegible  
for 3486 Research Officer

NEW BODY

In the presence of the following witnesses:

Witnesses: LUCIANO

and

Witnesses: LUCIANO and LUCIANO

Witnesses: LUCIANO and LUCIANO

and

Witnesses: LUCIANO and LUCIANO

Witnesses: LUCIANO and LUCIANO

Witnesses: LUCIANO

Witnesses: LUCIANO

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Witnesses: LUCIANO and LUCIANO

Witnesses: LUCIANO and LUCIANO

Witnesses: LUCIANO and LUCIANO

Witnesses: LUCIANO and LUCIANO

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Witnesses: LUCIANO and LUCIANO

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Witnesses: LUCIANO and LUCIANO

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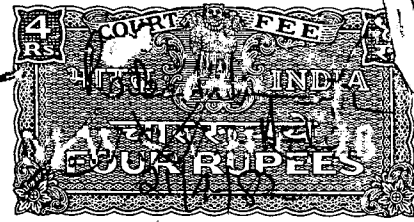
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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW BENCH, LUCKNOW

*5th 9th*  
*21/4/82*  
G.M. An. No. *3083(CD)* of 1982  
In re-  
Writ Petition No. 3888 of 1981

R.K. Agarwal & Others ..... Petitioners  
Vs.

Union of India & Others. .... Opposite Parties.

APPLICATION FOR EXPEDITING  
HEARING OF THE PETITION.

The petitioners respectfully beg to state  
as follows:-

That for the reasons disclosed and facts stated  
in the accompanying affidavit it is respectfully prayed  
that the hearing of the Writ Petition may kindly be  
expedited.

*Rakesh Kumar*  
COUNSEL FOR PETITIONERS

Lucknow Dated

*21-4-82*

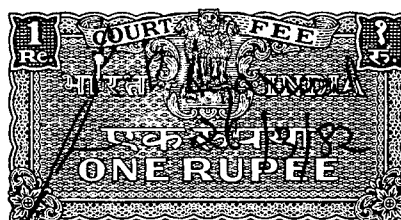
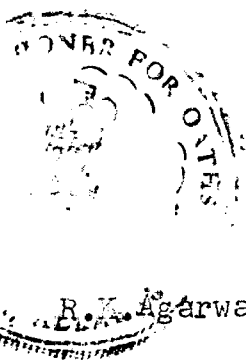
*13-4-82*

4/12

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

Writ Petition No. 3888 of 1981

1982  
AFFIDAVIT  
27  
HIGH COURT  
ALLAHABAD



R.K. Agarwal and others

...Petitioners.

Versus

Union of India and others

..Opp. Parties

A F F I D A V I T

I, R.K. Agarwal aged ~~4~~ about 50 years, son of Shri B.D. Gupta , Working as Senior Clerk in the Office of the Divisional ~~key~~ railway Manager (Personnel ) , N.E.Rly, Lucknow do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the petitioner no.1 in the above mentioned writ petition and hence is well acquainted with the facts of the case deposed hereunder.
2. That the above noted writ petition is directed against the interse seniority amongst the petitioner and opp. parties 4 to 8.
3. That the writ petition was admitted on 10.8.1982 and on stay application an order was passed for

R.K. Agarwal

notice to opposite parties which has not yet been listed although counter-affidavit was received on 29.9.1981.

4. That vide Annexure no.10 representation of the petitioners were rejected after 23 years.

5. That a similar writ petition no. 745 of 1969 was filed by certain employees which was decided on 11.10.1973 impugning Annexure -2 to this writ petition against the order dated 11.10.1973 a special appeal No. 49 of 1973 was preferred by the Union of India which was ultimately dismissed on 9.11.1976

6. That again the opposite parties no.1 is committing the same mistake.

7. That the petitioner who are senior to the opposite parties are suffering great loss as well as that of seniority and financial also.

8. That some of the petitioners as well as opposite parties are going to be retired in one or two years and the petition in its ordinary course will take about 4 years.

9. That the opposite parties no.2 and 3 have again promoted the opposite party no. 8 to the Head Clerk from senior clerk.

R.K. Agarwal

10. That it will be in the interest of justice that some early date may be fixed in the case so the justice may not be delayed.

Lucknow Dated  
March 26, 1982

R.K. Agarwal  
Deponent

V E R I F I C A T I O N

I, the above named deponent do hereby verify that the contents of paragraph 1 to 10 of this affidavit are true to my personal knowledge and no part of it is false and nothing material has been concealed. So help me God.

Lucknow Dated  
March 26, 1982

R.K. Agarwal  
Deponent

I identify the deponent who has signed before me.

Rakesh Kumar  
Advocate.

R.K. Agarwal

Solemnly affirmed before on 26th day of March, 82 at 4.20 a.m./p.m. by Sri R.K. Agarwal the deponent who is identified by Sri <sup>Rakesh Kumar</sup> ~~R.K. Agarwal~~, Advocate, High Court, Lucknow Bench, 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 me.

(J. K. EMARE)

CLERK  
Lucknow

227/201  
Date 26.3.1982

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

C.M. An. No. of 1982

In re-

Writ Petition No. 3888 of 1981

R.K. Agarwal & Others ..... Petitioners  
Vs.

Union of India & Others. .... Opposit Parties

APPLICATION FOR EXPEDITING  
HEARING OF THE PETITION.

The petitioners respectfully begs to state  
as follows:-

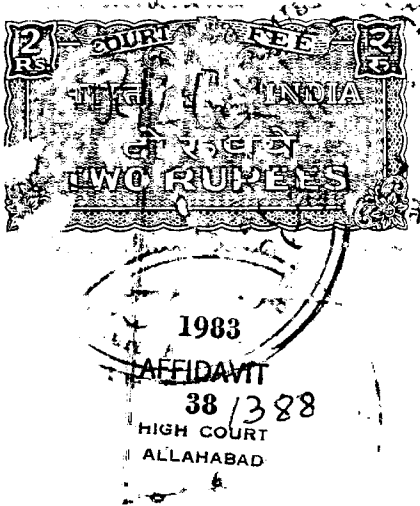
That for the reasons disclosed and facts stated  
in the accompanying affidavit it is respectfully prayed  
that the hearing of the Writ Petition may kindly be  
expedited.

COUNSEL FOR PETITIONERS

Lucknow Dated

(11)

Place in record  
31.8.84



In the Hon'ble High Court of Judicature At Lucknow  
W.P.No. \_\_\_\_\_ of 1981

R.K. Agarwal & others \_\_\_\_\_ Petitioner

Versus

Union of India & Others \_\_\_\_\_ Opp. parties

Counter Affidavit on behalf of the Opposite parties.

I, Miss Meena Shah Aged about 47 years

Wife of Mr. E. A. Shah resident of Kaichen bagh  
Lucknow, at present working as Asst.  
Personnel Officer in the North Eastern Railway

Lucknow, do hereby solemnly affirm as under:-

- 1)- That the deponents is Asst. Personnel Officer in the North Eastern Railway and as such is fully conversant with the fact and conversant of the case.
- 2)- That the deponent has read the above writ petition and has understood its contents and has in reply thereof deposes as under:
- 3)- That the contents of paras 1 to 8 of the writ petition are admitted.

(Contd... 2)

*[Signature]*

4)- That in reply to para 9 of the writ petition it is stated that, petitioner No. I was appointed as a temporary clerk on 9.8.55, in the Chief Engineer's Office, Gorakhpur. He came on transfer to Lucknow under RS/LJN on 9.4.56 on his own request, accepting the bottom seniority. Accordingly he was assigned seniority as per extant rules applicable. No E(NG) 55 ERG-15 dated 30.6.59 Para 5(2) Explains that A true copy of the Railway Board's/GM(P)/GKP's letter is annexed herewith as Annexure AI to this counter affidavit. Petitioner 2 + 3 have joined Railway as temporary clerks on 1-10-54 and 1/12/54 respectively. They were also assigned <sup>Seniority</sup> as per the extant seniority rules. The O.P. No. 4 was appointed on 12/2/54 as a clerk (in scale Rs. 55-130) and was confirmed from 17.11.54 as per office order issued by Press Supdt/GKP, a true copy of ~~writ~~ which is annexed as 4 Annexure A-II to this counter Affidavit. The opposite party No. 4 was transferred under Ex. ASO/Lucknow on 11/6/56 and was assigned seniority below all the confirmed staff on the crucial date i.e. 11/6/56 as per the rules applicable to the Permanent Railway employees in the year 1956. The petitioners have deliberately concealed the above facts. The O.P. No. 5 to 8 were confirmed staff of Ex. Regional Office Lucknow and were assigned seniority below all the permanent staff as per extant rules at the time of bifurcation. Their seniority was fixed in terms of GM(P)/GKP's letter which is Annexure 2 to the W.P.

5) That the contents of paras 10, 12, 13 and 11 are admitted and needs no reply.

6) That the contents of para 11 of the W.P. are denied and it is further stated that, O.P. No. 5 to 8 were absorbed in New Distt. Officers vide Regional Supdt., (P)/LJN's office order dt. 18/1/58 as clerks against existing vacancies. A true copy of the said letter dated 18/1/58 has been Annexured ~~in~~ with the W.P. as annexure 3.

7) That the contents of para 14 of the W.P. is <sup>denied</sup> ~~desired~~ and has further stated that the instructions contained in GM/NER/GKP letter No. E/XI/191/26 dt. 23/12/57 were strictly followed.

8) That in reply to para 15 of the W.P. it is stated that Annexure 6 to the W.P. ~~it~~ is an office letter issued by the S.P. No. 2 and it has nothing to do with the representation of petitioners, which was considered by the competent authority.

(Contd... 3)

93

9) That with regard to para 16 of the W.P. it is stated that the seniority of the O.P. Nos. 5 to 8 have been correctly fixed as per the extant rules and instructions.

10) That the contents of para 17 of the W.P. is denied.

11) That in reply to para 19 of the W.P. it is stated that the seniority list was circulated amongst the clerical staff of establishment Branch of the Distt. Office of Lucknow and the charges were incorporated in the seniority list issued by C.P.O./GKP as on 1/4/61 filed as Annexure 7 by the petitioners in their petition.

12) That the contents of para 20 of the W.P. are denied and it is further stated that seniority is determined on the basis of length of service and other factors and the O.P. Nos. 4 to 8. were senior to the petitioners.

13) That the contents of para 21 of the W.P. is admitted to the extent of Annexure 8 to the W.P. but it is further stated that the Annexure is incorrectly reproduced and filed in the petition, the true copy of the ruling correct on the subject is being filed as Annexure A-III to the contents Affidavit.

14) The contents of para 22 of the W.P. is denied as per explanatory Note below para 7 of the Annexure A-III to the C.A.

15) That the contents of para 23 is admitted and needs no reply.

16) That the contents of para 24 is denied.

17) That with regard to contents of para 25 of the W.P. it is stated that the representation made by the petitioners in the years 1958, 1959 and 1961 were decided by CPO/GKP and the decision was communicated to all concerned.

18) That the contents of para 26 of the W.P. is denied.

19) That the contents of para 27 of the petitioner are not admitted as stated the promotion order of opposite party No. 4 issued earlier was not pending but promotions of opposite parties No. 5 to 8, were pending till further decision was received on the representation from GM/GKP and after the receipt of GM(P)/GKP's ~~order~~ decision the promotion order opposite parties as 5 to 8 was also implemented.

(Contd... 4)

*Handwritten signature*

*Copy.*  
*16-8-83*



20)- That the contents of para 28 of the Writ petition are not admitted. The opposite parties No. 4 to 8 were promoted being ~~shown~~<sup>permitted</sup> to the petitioners.

21)- That ~~facts of~~ the contents of para 29 of W.P. is denied.

22)- That the contents of para 30 of the W.P. is admitted.

23)- That the W.P. is not maintainable in this Hon'ble court and is liable to be dismissed with costs.

Lucknow, Dated: 16 - August 1983.

*[Signature]*  
Deponent.

: VERIFICATION :

I, the deponent above named, do hereby verify that the contents of paras 1 to 19 of the affidavit are true to my own knowledge, those of paras 20 - 23 are based on records of the Administration believed to be true by me and those of paras        are based on legal advice. Nothing in it is false and nothing material has been concealed, So help me God.

LUCKNOW, DATED: 16th August-

*[Signature]*  
DEPONENT.

I identify the deponent who has signed before me.

Solemnly affirmed before me on 16.8.83 at 11.00 A.M. by His Meena Shah, 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 the affidavit which has been read out and explained by me.

*[Signature]*  
JATH COMMISSIONER

1046, ( 25.11.73 Bench )

38/388

16.8.83

In the Honble High Court of Judicature at Allahabad  
(Liaison Bench Lucknow)  
R.K. Agrawal & Co. W.P. No. - 21981 - Petitioners  
NORTH EASTERN RAILWAY  
Union of India & Ors. vs. O.P.S.  
(PERSONNEL POLICY CIRCULAR)

For reference quote:-

No. EPS-7, dated 3rd. August, 1959.

OFFICE OF THE  
GENERAL MANAGER,  
GORAKHPUR.

The following are published for information and guidance of all concerned:-

- (1) Copy of Railway Boards letter No.E(NG)59 SR6-15, dated 30th June, 1959.
- (2) Copy of Railway Boards letter No.E(NG)55 SR6-15 dated 14th March, 1951.
- (3) Copy of Railway Board's letter No.E59SR6/15/3(NG) dated 22nd October, 1958.
- (4) Copy of N.E. Railway Seniority Rules, Circulated under this office letter No.E/259/3 dated 29th. June, 1951/2nd July, 1954 through upto date.

H.P. VERMA  
for General Manager.

- 
- (1) Copy of Railway Board's letter No.E(NG)55SR6-15, dated 30-6-1959:

Subject:- Determination of seniority of medically unfitted staff absorbed in other Departments-Reference: Railway Board's letter Nos.E 59 SR6/15/3(NG), dated 22nd October, 1958 and E(NG) 65 SR6-15, dated 14th March, 1957. A question has been raised as to how seniority should be ~~determined~~ determined in a case in which an employee originally found medically unfit for his category, and absorbed in an alternative appointment is restored to his original appointment on being subsequently declared fit for the post. The restoration may be either as a result of his being found fit on appeal or as a result of his becoming fit after some treatment. The Board have decided that the persons who properly appeal within the time limit laid down for appeals or whose appeal is entertained in a reasonable period waiving the time limit and get declared fit, should not lose their seniority or their claims for consideration for promotion for which they were eligible in the original category in which they were employed. In regard to other persons whether they are those who prefer delayed appeals and are declared fit or are such as take treatment and consequently get declared fit, while they should be permitted to be reported to their original category, their seniority if they were formerly confirmed in the grades in which they were, would be affected to the extent of any persons who away have been confirmed before their reabsorption into the original category. If, however, they were only officiating in the original category, then their seniority on restoration should be below the staff confirmed till then, but need not be affected vis-a-vis their original juniors who happen to be still officiating.

(Contd... 2)

9/6

(2) Copy of Railway Board's letter No.E(NG)55 SR6-15 dated, 14th March 1957.

Subject: Determination of seniority of medically unfitted staff absorbed in other Departments.- Reference : Railway Board's letter No.E55 SR6/15/3(NG), dated 22nd October, 1956. This Board have considered the matter further and have decided that for the purpose of determining the seniority of the medically unfitted staff who are absorbed in other alternative posts whether in the same Department or other Departments, the term "the same rate of pay in the grade on the date of absorption" used in the above letter should be the basic pay in the relevant grade, exclusive of the element of running allowance. However, for the purpose of fixation of pay in the case of the running staff, 50% of pay as representing the running allowances will continue to be allowed, under the extant orders. These orders will have retrospective effect from 22nd October, 1956.

(This disposes of Western Railway's letter No. E 1030/22, dated 8th December 1956 and Northern Railway's letter No.831E/78-II(Loose) Eiv. dated 4th January, 1957.).

(3) Copy of Railway Board's letter No.E 55 SR6/15/3(NG) dated 22nd October, 1956.

Subject:- Determination of seniority of medically unfitted staff absorbed in other Departments.- Reference: Correspondence ending with your reply to Board's letter No.E 55 SR6/15/3 dated 8th November, 1955. The Board have considered the question about the determination of seniority of medically unfitted staff absorbed in other departments and have decided that such staff should take their seniority below those who are in receipt of the same rate of pay in the grade on the date of their absorption and not below all staff in the grade in the absorbing departments.

(1) Copy of N.E.Railway Seniority Rules Circulated under this office letter No.E/255/5, dated 29th June, 1954/2nd July 1954 (brought up to date).

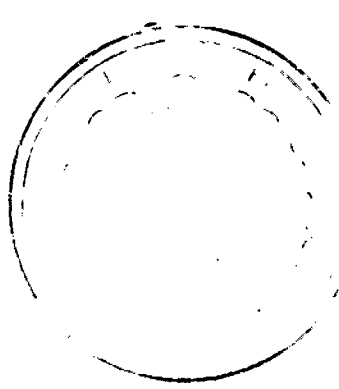
Rules for Determining Seniority of Non-Gazetted staff of N.E. Railway (other than Accounts Department staff).

(1) Application-These rules shall come into force with effect from 14th April, 1952, the date the N.E.Railway was formed. The seniority lists of staff shall be prepared in accordance with these rules after the initial relative seniority of staff on the integrating units on the date of formation of the regrouped N.E.Railway has been drawn up.

(2) Principles for Determining Seniority-The criterion for determining seniority of the staff shall be the total length of officiating and/or substantive service rendered by them in the grade:-

(Contd... 3)

*[Handwritten signature]*



- 9/7
- (i) Inter-se-Seniority on the intergrating units and the relative seniority of staff of the partitioned Railways viz. Ex.B.A. and Ex.N.W.Railways vis-a-vis other staff, shall not be disturbed.
  - (ii) Officiating services to an identical or higher grade which counts for increment in the particular grade in question will be counted for this purpose.
  - (iii) In reckoning the total length of service, purely fortuitous officiating service should be excluded officiating in local arrangement should be treated as fortuitous.
  - (iv) Periods of leave during which a persons would have continued to officiate had he not proceeded on leave, should not be excluded.
  - (v) Officiating in post outside the cadre such as in the Grainshops etc. or against work charged posts, should not be counted in fixing seniority in the cadre except to the extent that staff concerned would have officiated in their parent cadre but for being away in the ex-cadre or work-charged, posts.

NOTE:- Promotion to posts outside the normal cadre shall not necessarily be made according to seniority in the regular cadre as these posts are filled with due regard to the interest of Railway work both in the regular department as well as in the Ex-cadre departments but relative seniority of persons within the same group of Ex-cadre posts will be determined by these rules.

- (vi) In the case of selection or promotion on the basis of seniority in a grade to which, according to the channels of promotion employees from different grades or categories are eligible to be considered the relative seniority of the staff shall be determined by the length of service in the grade in which the employee is serving immediately below the grade for which selection or promotion is being made.
- (vii) If the total services referred to in para 2 or sub-para (vi) above is the same, the seniority shall be determined by one of the following in order of priority:-
  - (a) Date of entry in to grade.
  - (b) Date of appointment to service.
  - (c) Date of birth.

7/2/2011

(Contd... 4)

2/8

(viii) Where promoting to any grade are to be made on a percentage basis from different categories, the combination of seniority will be confirmed to each such category separately. Where, however, promotions are to be made from more than one category without any such percentage limitation, the seniority of all the employees shall be combined in accordance with Rules (vi) and (vii) above.

(3) Definitions:-

(i) Selection Posts- All posts in grades of Rs. 200-300 and above and certain specified categories in grade lower than 300-500 are "Selection" Post.

(ii) Non-Selection Posts- All other posts are non-selection posts.

(4) Seniority lists shall be maintained for each category of staff in each grade in each unit viz. Railway, Department, Region, Zone or Area, District Sub-division, Branch or any other smaller unit declared as such. Seniority list will be published from time to time but at least once in 3 years.

(5) (i) Seniority on first appointment:- Seniority shall be fixed in the following order:-

(a) Ranking given by the Railway Service Commission for Class III staff other than Artisans and ranking given by the Trade Testing Officer for Artisan staff and basic trademen who are directly recruited.

NOTE:- The above rule shall apply provided the candidate joins service within the time allowed in the letter of appointment. In the case of those who do not join duty on or before the specified date, the date of appointment to the post shall govern their seniority and when two or more such candidates join on the same date, the original relative ranking shall ~~decide~~ decide the seniority.

(b) Date of appointment for other staff.

NOTE:- When two or more candidates join on the same date the date of birth shall determine the relative seniority, the older man being declared junior. If the date of birth is the same the seniority shall be determined by the appointing Authority of its discretion.

(ii) For a direct recruit appointed at a stage higher than the minimum in the time scale of pay grade, the authority competent to make the substantive appointment, to that grade shall at the time of appointment fix his seniority vis-a-vis others in the same grade. In cases where the competent authority feels that the candidate concerned should be given certain weightage in service regarding seniority taking into consideration the reasons for enhanced rate of pay on which he is started, it may with the sanction of the General Manager,

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give him weightage not exceeding the extent connected by the rate of pay in the time scale, and a deemed date of entry into the grade fixed accordingly. Where nothing is mentioned in the order of appointment, it shall be taken that the date of appointment would determine the seniority in the grade, irrespective of the enhanced rate of pay on appointment.

(c) The seniority of non-gazetted staff recruited through the Railway Service Commission should be determined as under:-

(1) Staff who are sent for initial training in the Railway Training Schools, should be placed on the seniority list of the relevant grade, on the basis of the merit order obtained as a result of the examination held at the end of the training period at the Training School when they are posted against working posts.

(2) In the case of staff who do not undergo any training the seniority should be determined on the basis of the merit order assigned by the Railway Service Commission.

(6) Seniority on promotion to higher grade - Promotion shall be made according to the rules specially framed for this purpose -

(i) Date of entry in the grade shall determine the seniority in all cases. All fortuitous promotions, Officiating promotions in ex-cadre posts or works-charged posts except to the extent mentioned in Rule 2(iv) and (v) above will be ignored.

(ii) When the date of entry is the same -

(a) In the case of non-selected posts, original seniority among the employees just before the promotion shall apply.

(b) In the case of selection posts ranking in the panel shall apply those selected on an earlier date ranking higher than those selected later.

(iii) The seniority of semi-skilled and skilled staff should be determined according to their dates of promotion in that category in a non-fortuitous manner, after they have duly qualified in the Trade Test provided they have passed in the first instance & person who fails in the first appearance but passes the Trade Test in a second subsequent appearance, will rank junior to those who passed in the first instance and have already been promoted his seniority being reckoned from the date of his promotion on the occurrence of a vacancy after he has duly qualified in the Trade Test.

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EXPLANATION NOTE:- (1) Except in the circumstances ~~stated~~ stated in Rule 5 (ii) above, when points in a particular grade are filled both by promotion from lower grades and by direct recruitment dates of entry into grade shall determine seniority. Normally filling by promotion shall be done before direct recruits are appointed. If the date of entry is the same, promoted men shall rank senior to direct recruits.

EXPLANATION NOTE:- (2) If there is delay in joining the posts to which promotion is ordered due to administrative reasons, such as delay in relief transfer to a distant place, etc. the employee shall not lose his seniority to the junior who joins earlier. But if it is due to the employee's defaults, he shall lose his seniority unless it is retained under orders of competent authority for valid reasons such as the employee's illness and sanctioned leave.

#### RULE -5A-

- (1) In the Accounts Department, seniority of permanent clerks class I will be determined on the basis of the date of confirmation and seniority of officiating clerks class I on the basis of position in the grade of clerk Class II.
- (2) In the Accounts Department seniority of permanent sub heads in the scale of Rs.150-225 will be determined on the basis of the date of confirmation and seniority of officiating sub-heads on the basis of position in the grade of clerks class I.
- (3) For all other staff in Accounts Department other than Accountants and Inspectors for whom rules for determining seniority are prescribed in Rules 134 and 131A of Accounts Code, Volume (I) viz. Class IV and Staff Stock Verifiers etc. Rules 6(1) shall apply.

This will take effect from 12th August, 1963.

(Authority:- Board's letter No.92 ACH/7/12/22 dated 12th August 1953).

#### (5) Seniority on Transfer:-

- (1) When an employee borne on District or Regional list is transferred on administrative grounds from one District or Region to another, he shall take his seniority in the new District or Region on the basis of the date of entry into the grade. Such transfers shall only be arranged under the personnel orders of the competent authority.

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- (2) If, however, the transfer is at his own request, he shall be placed at the bottom of the concerned seniority list in the substantive grade and promotion to higher officiating post, if any, determined with reference to his substantive position in the new office.

EXPLANATION NOTE:- Bottom seniority in the ~~case~~ case of permanent staff means seniority below all those confirmed in the same grade on the crucial date of transfer to another office and not below temporary or officiating employees on that date.

- (3) In the case of mutual transfer at the request of the employees, the senior of the two should be allotted the position vacated by the other man, the junior man being fitted into new seniority list below persons having the same seniority date or earlier.
- (1) In the case of an employee rendered medically unfit in the existing grade and absorbed in another grade for which he is declared fit, he shall take his seniority in the grade in which he is absorbed with reference to his pay below all those staff in the grade in the absorbing department when, however, he is re-promoted his original seniority in the former grade shall be restored to him.

An employee declared unfit in a medical category, say A or B should be absorbed in a suitable grade in the lower medical category in the department to which ~~the~~ he belongs in special case, if it is desired to absorb him in a ministerial post in the Personnel Branch or in a department other than the one to which he belongs, the prior and personal approval of the Chief Personnel Officer or the Head of the Department to which he is to be absorbed should be obtained. Such absorption in a post in the lower medical category should, as far as possible be in the same promotion group.

" Such staff should take their seniority below those who are in respect of the same rate of pay in the grade on the date of their absorption and not below all those staff in the grade in the absorbing department.

NOTE:- Same rate of pay on the date of absorption could be the basic pay in the relevant grade exclusive of the element of the running allowance. However for the purpose of the fixation of the pay in the case of running staff 99% of pay as representing the remaining allowances with continue to be allowed under the extant orders.

(Contd....6)

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These orders will have retrospective effect from  
22nd. October, 1956.

- (5) In the case of transfer on administrative grounds of an employee from one Department to another or from one category in a Department to another category in the same Department his seniority in the grade in which he is absorbed shall be determined by the length of service in a comparable grade and in a higher grade, if any rendered before such absorption, whether in an officiating or substantive capacity but excluding local or fortuitous promotion. If any difficulty or anomaly arises in fixing the seniority in accordance with this principle, the matter shall be referred to the General Manager with full particulars for decision.
- (6) In the case of transfer of an employee from one Department to another or from one category of a Department to another category in the same Department on grounds other than Administrative, he shall take his seniority at the bottom of the list in the grade in which he is absorbed.
- (7) In the case of mutual transfer at the requests of the employees from one Department to another senior of the two employees should be allotted the position vacated by the other man, the junior man being fitted into the new seniority list below persons having the same seniority date or earlier.
- (8) Seniority shall not be affected by any advance increment, if granted, unless the General Manager decides otherwise.

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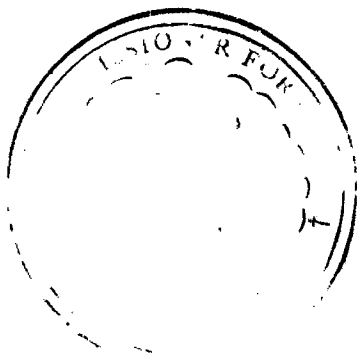
NOT TO BE QUOTED.

C.P.O's running Serial No.66,  
dated 3rd August, 1959.

Case No.E/255/5.

Published in N.E.Rly.,  
Fortnightly Gazette  
No.29 dated 16th.Oct.1959

*7/11/59*



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

WRIT PETITION NUMBER

OF 1981

R.K. AGARWAL &amp; OTHERS \_\_\_\_\_ Petitioner

VERSUS

UNION OF INDIA &amp; OTHERS \_\_\_\_\_ OPP. PARTIES.

The under noted temporary clerks are confirmed provisionally as clerk in scale Rs.55-130 with effect from 17-11-54.

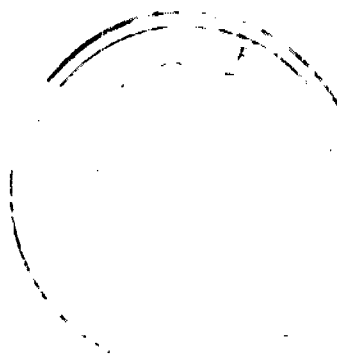
- 1) Sri Nikhil Chandra Chowdhury
- 2) Sri Nirmal Kumar Roy Chowdhury.
- 3) Sri Ved Prakash Kharbanda.
- 4) Sri Gokaran Nath Saxena
- 5) Sri Om Prakash Rastogi.
- 6) Sri Kamlesh Narain Saxena.

The above has approval of the DCOG (HQ)  
SN 25/N file No -120-SF/PII

Sd/-

PRESS SUPERINTENDENT.

*[Handwritten signature]*



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

WRIT PETITION NUMBER OF 1981

R.K.AGARWAL & OTHERS \_\_\_\_\_ Petitioner

VERSUS

UNION OF INDIA & OTHERS \_\_\_\_\_ OPP PARTIES.

N.E.RAILWAY PERSONNEL BRANCH GAZETTE No.16 of 27th.Jan.1953

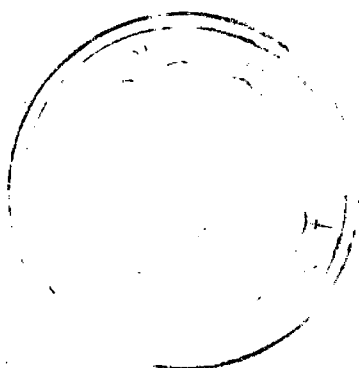
SENIORITY RULES:

SEC. IV } SENIORITY ON TRANSFER.  
EXTRACT OF ITEM NO.7 )

- (1) When an employee born on District or Regional list is transferred on administrative grounds from one District or Region to another he shall take his seniority in the new District or Region on the basis of his date of entry into the grade such transfer shall only be arranged under the Personal orders of the competent authority.
- (2) If however, the transfer is at his own request, he shall be placed at the bottom of the concerned seniority list in the substantive grade and promotion to higher officiating post, if any, determined with reference to his substantive position in the new office.

EXPLANATORY NOTE: Bottom seniority in the case of permanent staff means seniority below all those confirmed in the same grade on the crucial date of transfer to another office and not below temporary or officiating employees on that date".

Authority:- GM(P)/GKP's letter No.E/255/5 dt. 29/6 .1951.  
2/7 1954



(111)

In the Hon<sup>ble</sup> High Court of Judicature At Lucknow  
W.P.No. \_\_\_\_\_ of 1981

R.K. Agarwal & others \_\_\_\_\_ Petitioner

Versus

Union of India & Others \_\_\_\_\_ Opp. Parties

Counter Affidavit on behalf of the Opposite Parties.

I, Miss Meena Shah Aged about 47 years

Wife of Sri E.A. Shah resident of Kaisha Bagh  
Deccanow, at present working as ASST  
Personnel Officer in the North Eastern Railway  
Lucknow, do hereby solemnly affirm as under:-

- 1)- That the deponent is ASST Personnel Officer  
in the North Eastern Railway and as such is fully  
conversant with the fact and conversant of the case.
- 2)- That the deponent has read the above writ  
petition and has understood its contents and their im-  
plications thereof deposes as under:-
- 3)- That the contents of Paras 1 to 8 of the writ  
petition are admitted.

(Contd... 2)

4) That in reply to para 9 of the writ petition it is stated that, petitioner No. 1 was appointed as a temporary clerk on 9.8.55, in the Chief Engineer's Office, Gorakhpur. He came on transfer to Lucknow under RS/LJN on 9.4.56 on his own request, accepting the bottom seniority. Accordingly he was assigned seniority as per extant rules applicable. No. E(NG) 55 ERG-15 dated 30.2.58 para 5 (2) & Explanatory note. A true copy of the Railway Board's/GM(P)/GKP's letter is annexed herewith as Annexure AI to this counter affidavit. Petitioner 2 + 3 have joined Railway as temporary clerks on 1-10-54 and 1/12/54 respectively. They were also assigned seniority as per the extant seniority rules. The O.P. No. 4 was appointed on 12/2/54 as a clerk (in scale Rs. 55-139) and was confirmed from 17.11.54 as per office order issued by Press Suptt/GKP, a true copy of which is annexed as Annexure A-II to this counter Affidavit. The opposite party No. 4 was transferred under Ex. ASO/Lucknow on 11/6/56 and was assigned seniority below all the confirmed staff on the crucial date i.e. 11/6/56 as per the rules applicable to the Permanent Railway employees in the year 1956. The petitioners have deliberately concealed the above facts. The O.P. No. 5 to 8 were confirmed staff of Ex. Regional Office Lucknow and were assigned seniority below all the permanent staff as per extant rules at the time of bifurcation. Their seniority was fixed in terms of GM(P)/GKP's letter which is Annexure 2, to the W.P.

5) That the contents of paras 10, 12, 13 and 18 are admitted and needs no reply.

6) That the contents of para 11 of the W.P. are denied and it is further stated that, O.P. No. 5 to 8 were absorbed in New Distt. Office vide Regional Suptt., (P)/LJN's office order dt. 18/1/58 as clerks against existing vacancies. A true copy of the said letter dated 18/1/58 has been Annexed in with the W.P. as annexure 3.

7) That the contents of para 14 of the W.P. is <sup>denied</sup> ~~denied~~ and it is further stated that the instructions contained in GM/NER/GKP letter No. E/XI/191/26 dt. 23/12/57 were strictly followed.

8) That in reply to para 15 of the W.P. it is stated that Annexure 6 to the W.P. is an official letter issued by the O.S. No. 2 and it has nothing to do with the representation of the petitioners, which was considered by the competent authority.

9) That with regard to para 16 of the W.P. it is stated that the seniority of the O.P. Nos. 5 to 8 have been correctly fixed as per the extant rules and instructions.

10) That the contents of para 17 of the J.P. is denied.

11) That in reply to para 19 of the J.P. it is stated that the seniority list was circulated amongst the clerical staff of Establishment Branch of the Distt. Office of Lucknow and the changes were incorporated in the seniority list issued by C.P.O./GKP as on 1/4/61 filed as Annexure 7 by the petitioners in their petition.

12) That the contents of para 20 of the W.P. are denied and it is further stated that seniority is determined on the basis of length of service and other factors and the O.P. Nos. 4 to 8. were senior to the petitioners.

13) That the contents of para 21 of the W.P. is admitted to the extent of Annexure 8 to the W.P. but it is further stated that the Annexure is incorrectly reproduced and filed in the petition, the true copy of the ruling correct on the subject is being filed as Annexure A-III to the contents Affidavits.

14) The contents of para 22 of the W.P. is denied as per explanatory Note below para 7 of the Annexure A-III to the C.A.

15) That the contents of para 23 is admitted and needs no reply.

16) That the contents of para 24 is denied.

17) That with regard to contents of para 25 of the W.P. it is stated that the representation made by the petitioners in the years 1958, 1959 and 1961 were decided by CPO/GKP and the decision was communicated to all concerned.

18) That the contents of para 26 of the W.P. is denied.

19) That the contents of para 27 of the petitioner are not admitted as stated the promotion order of opposite party No. 4 issued earlier was not pending but promotions of opposite parties No. 5 to 8, were pending till further decision was received on the representation from GM/GKP and after the receipt of GM(P)/GKP's decision the promotion order opposite parties as 5 to 8 was also implemented.

20)- That the contents of para 23 of the Writ petition are not admitted. The opposite parties No. 4 to 8 were promoted being <sup>senior</sup> to the petitioners.

21)- That ~~facts~~ of the contents of para 29 of W.P. is denied.

22)- That the contents of para 30 of the W.P. is admitted.

23)- That the W.P. is not maintainable in this Hon'ble court and is liable to be dismissed with costs.

Lucknow, D<sup>y</sup>ted;

Deponent.

: VERIFICATION :

I, the deponent above named, do hereby verify that the contents of paras 1 to \_\_\_\_\_ of the affidavit are true to my own knowledge, those of paras \_\_\_\_\_ are based on records of the Administration believed to be true by me and those of paras \_\_\_\_\_ are based on legal advice. Nothing in it is false and nothing material has been concealed, So help me God.

LUCKNOW, DATED:

DEPONENT:

For reference quote:-

No. EPS-7, dated 3rd. August, 1959.

OFFICE OF THE  
GENERAL MANAGER,  
GORAKHPUR.

The following are published for information and guidance of all concerned:-

- (1) Copy of Railway Boards letter No.E(NG)59 SR6-15, dated 30th June, 1959.
- (2) Copy of Railway Boards letter No.E(NG)55 SR6-15 dated 14th March, 1951.
- (3) Copy of Railway Board's letter No.E59SR6/15/3(NG) dated 22nd October, 1958.
- (4) Copy of N.E Railway Seniority Rules, Circulated under this office letter No.E/259/3 dated 29th. June, 1951/2nd July, 1954 through upto date.

H.P. VERMA  
for General Manager.

- 
- (1) Copy of Railway Board's letter No.E(NG)55SR6-15, dated 30-6-1959:

Subject:- Determination of seniority of medically unfitted staff absorbed in other Departments. Reference: Railway Board's letter Nos.E 59 SR6/15/3(NG), dated 22nd October, 1958 and E(NG) 65 SR6-15, dated 14th March, 1957. A question has been raised as to how seniority should be determined in a case in which an employee originally found medically unfit for his category, and absorbed in an alternative appointment is restored to his original appointment on being subsequently declared fit for the post. The restoration may be either as a result of his being found fit on appeal or as a result of his becoming fit after some treatment. The Board have decided that the persons who properly appeal within the time limit laid down for appeals or whose appeal is entertained in a reasonable period waiving the time limit and get declared fit, should not lose their seniority or their claims for consideration for promotion for which they were eligible in the original category in which they were employed. In regard to other persons whether they are those who prefer delayed appeals and are declared fit or are such as take treatment and consequently get declared fit, while they should be permitted to be reported to their original category, their seniority if they were formerly confirmed in the grades in which they were, would be affected to the extent of any persons who away have been confirmed before their reabsorption into the original category. If, however, they were only officiating in the original category, then their seniority on restoration should be below the staff confirmed till then, but need not be affected vis-a-vis their original juniors who happen to be still officiating.

(Contd... 2)



(2) Copy of Railway Board's letter No. E(NG)55 SR6-15 dated, 16th March 1957.

Subject: Determination of seniority of medically unfitted staff absorbed in other Departments. - Reference: Railway Board's letter No. E55 SR6/15/3(NG), dated 22nd October, 1956. This Board have considered the matter further and have decided that for the purpose of determining the seniority of the medically unfitted staff who are absorbed in other alternative posts whether in the same Department or other Departments, the term "the same rate of pay in the grade on the date of absorption" used in the above letter should be the basic pay in the relevant grade, exclusive of the element of running allowance. However, for the purpose of fixation of pay in the case of the running staff, 50% of pay as representing the running allowances will continue to be allowed, under the extant orders. These orders will have retrospective effect from 22nd October, 1956.

(This disposes of Western Railway's letter No. E 1030/22, dated 8th December 1956 and Northern Railway's letter No. 831E/70-II(Loose) Div. dated 4th January, 1957.).

(3) Copy of Railway Board's letter No. E 55 SR6/15/3(NG) dated 22nd October, 1956.

Subject: Determination of seniority of medically unfitted staff absorbed in other Departments. - Reference: Correspondence ending with your reply to Board's letter No. E 55 SR6/15/3 dated 8th November, 1955. The Board have considered the question about the determination of seniority of medically unfitted staff absorbed in other departments and have decided that such staff should take their seniority below those who are in receipt of the same rate of pay in the grade on the date of their absorption and not below all staff in the grade in the absorbing departments.

(1) Copy of N.E. Railway Seniority Rules Circulated under this office letter No. E/255/5, dated 29th June, 1954/2nd July 1954 (brought up to date).

Rules for Determining Seniority of Non-Gazetted staff of N.E. Railway (other than Accounts Department staff).

(1) Application- These rules shall come into force with effect from 14th April, 1952, the date the N.E. Railway was formed. The seniority lists of staff shall be prepared in accordance with these rules after the initial relative seniority of staff on the integrating units on the date of formation of the regrouped N.E. Railway has been drawn up.

(2) Principles for Determining Seniority- The criterion for determining seniority of the staff shall be the total length of officiating and/or substantive service rendered by them in the grade.

(Contd... 3)

- (i) Inter-se-Seniority on the intergrating units and the relative seniority of staff of the partitioned Railways viz. Ex.B.A. and Ex.N. Railways vis-a-vis other staff, shall not be disturbed.
- (ii) Officiating services to an identical or higher grade which counts for increment in the particular grade in question will be counted for this purpose.
- (iii) In reckoning the total length of service, purely fortuitous officiating service should be excluded officiating in local arrangement should be treated as fortuitous.
- (iv) Periods of leave during which a persons would have continued to officiate had he not proceeded on leave, should not be excluded.
- (v) Officiating in post outside the cadre such as in the Grainshops etc. or against work charged posts, should not be counted in fixing seniority in the cadre except to the extent that staff concerned would have officiated in their parent cadre but for being away in the ex-cadre or work-charged, posts.
- NOTE:- Promotion to posts outside the normal cadre shall not necessarily be made according to seniority in the regular cadre as these posts are filled with due regard to the interest of Railway work both in the regular department as well as in the Ex-cadre departments but relative seniority of persons within the same group of Ex-cadre posts will be determined by these rules.
- (vi) In the case of selection or promotion on the basis of seniority in a grade to which, according to the channels of promotion employees from different grades or categories are eligible to be considered the relative seniority of the staff shall be determined by the length of service in the grade in which the employee is serving immediately below the grade for which selection or promotion is being made.
- (vii) If the total services referred to in para 2 or sub-para (vi) above is the same, the seniority shall be determined by one of the following in order of priority:-
- (a) Date of entry in to grade.
  - (b) Date of appointment to service.
  - (c) Date of birth.

- (viii) Where promoting to any grade are to be made on a percentage basis from different categories, the combination of seniority will be confirmed to each such category separately. Where, however, promotions are to be made from more than one category without any such percentage limitation, the seniority of all the employees shall be combined in accordance with Rules (vi) and (vii) above.

(3) Definitions:-

- (1) Selection Posts- All posts in grades of Rs. 200-300 and above and certain specified categories in grade lower than 300-500 are "Selection" Post.

- (ii) Non-Selection Posts- All other posts are non-selection posts.

(4) Seniority lists shall be maintained for each category of staff in each grade in each unit viz. Railway, Department, Region, Zone or Area, District Sub-division, Branch or any other smaller unit declared as such. Seniority list will be published from time to time but at least once in 3 years.

- (5) (i) Seniority on first appointment:- Seniority shall be fixed in the following order:-

- (a) Ranking given by the Railway Service Commission for Class III staff other than Artisans and ranking given by the Trade Testing Officer for Artisan staff and basic tradesmen who are directly recruited.

NOTE:- The above rule shall apply provided the candidate joins service within the time allowed in the letter of appointment. In the case of those who do not join duty on or before the specified date, the date of appointment to the post shall govern their seniority and when two or more such candidates join on the same date, the original relative ranking shall ~~ranked~~ decide the seniority.

- (b) Date of appointment for other staff.

NOTE:- When two or more candidates join on the same date the date of birth shall determine the relative seniority, the older man being declared junior. If the date of birth is the time the seniority shall be determined by the appointing Authority of its discretion.

- (ii) For a direct recruit appointed at a stage higher than the minimum in the time scale of pay grade, the authority competent to make the substantive appointment, to that grade shall at the time of appointment fix his seniority vis-a-vis others in the same grade. In cases where the competent authority feels that the candidate concerned should be given certain weightage in service regarding seniority taking into consideration the reasons for enhanced rate of pay on which he is started, it may with the sanction of the General Manager,

give him weightage not exceeding the extent connected by the rate of pay in the time scale, and a deemed date of entry into the grade fixed accordingly. Where nothing is mentioned in the order of appointment, it shall be taken that the date of appointment would determine the seniority in the grade, irrespective of the enhanced rate of pay on appointment.

- (c) The seniority of non-gazetted staff recruited through the Railway Service Commission should be determined as under:-
  - (1) Staff who are sent for initial training in the Railway Training Schools, should be placed on the seniority list of the relevant grade, on the basis of the merit order obtained as a result of the examination held at the end of the training period at the Training School when they are posted against working posts.
  - (2) In the case of staff who do not undergo any training the seniority should be determined on the basis of the merit order assigned by the Railway Service Commission.
- (6) Seniority on promotion to higher grade. Promotion shall be made according to the rules specially framed for this purpose:-
  - (1) Date of entry in the grade shall determine the seniority in all cases. All fortuitous promotions, Officiating promotions in ex-cadre posts or works-charged posts except to the extent mentioned in Rule 2(iv) and (v) above will be ignored.
  - (11) When the date of entry is the same-
    - (a) In the case of non-selected posts, original seniority among the employees just before the promotion shall apply.
    - (b) In the case of selection posts ranking in the panel shall apply those selected on an earlier date ranking higher than those selected later.
  - (11i) The seniority of semi-skilled and skilled staff should be determined according to their dates of promotion in that category in a non-fortuitous manner, after they have duly qualified in the Trade Test provided they have passed in the first instance & person who fails in the first appearance but passes the Trade Test in a second subsequent appearance, will rank junior to those who passed in the first instance and have already been promoted his seniority being reckoned from the date of his promotion on the occurrence of a vacancy after he has duly qualified in the Trade Test.

(Contd... 6)

EXPLANATION NOTE:- (1) Except in the circumstances mentioned in Rule 5 (ii) above, when points in a particular grade are filled both by promotion from lower grades and by direct recruitment dates of entry into grade shall determine seniority. Normally filling by promotion shall be done before direct recruits are appointed. If the date of entry is the same, promoted men shall rank senior to direct recruits.

EXPLANATION NOTE:- (2) If there is delay in joining the posts to which promotion is ordered due to administrative reasons, such as delay in relief transfer to a distant place, etc. the employee shall not lose his seniority to the junior who joins earlier. But if it is due to the employee's defaults, he shall lose his seniority unless it is retained under orders of competent authority for valid reasons such as the employee's illness and sanctioned leave.

**RULE -5A-**

- (1) In the Accounts Department, seniority of permanent clerks class I will be determined on the basis of the date of confirmation and seniority of officiating clerks class I on the basis of position in the grade of clerk Class II.
- (2) In the Accounts Department seniority of permanent sub heads in the scale of Rs. 150-225 will be determined on the basis of the date of confirmation and seniority of officiating sub-heads on the basis of position in the grade of clerks class I.
- (3) For all other staff in Accounts Department other than Accountants and Inspectors for whom rules for determining seniority are prescribed in Rules 134 and 131A of Accounts Code, Volume (I) viz. Class IV and Staff Stock Verifiers etc. Rules 6(1) shall apply.

This will take effect from 12th August, 1963.

(Authority:- Board's letter No.92 ACH/7/12/22 dated 12th August 1953).

**(5) Seniority on Transfer:-**

- (1) When an employee borne on District or Regional list is transferred on administrative grounds from one District or Region to another, he shall take his seniority in the new District or Region on the basis of the date of entry into the grade. Such transfers shall only be arranged under the personnel orders of the competent authority.

(Contd... 7)

- (2) If, however, the transfer is at his own request, he shall be placed at the bottom of the concerned seniority list in the substantive grade and promotion to higher officiating post, if any, determined with reference to his substantive position in the new office.

EXPLANATION NOTE:- Bottom seniority in the ~~new~~ case of permanent staff means seniority below all those confirmed in the same grade on the crucial date of transfer to another office and not below temporary or officiating employees on that date.

- (3) In the case of mutual transfer at the request of the employees, the senior of the two should be allotted the position vacated by the other man, the junior man being fitted into new seniority list below persons having the same seniority date or earlier.
- (1) In the case of an employee rendered medically unfit in the existing grade and absorbed in another grade for which he is declared fit, he shall take his seniority in the grade in which he is absorbed with reference to his pay below all those staff in the grade in the absorbing department when, however, he is re-promoted his original seniority in the former grade shall be restored to him.

An employee declared unfit in a medical category, say A or D should be absorbed in a suitable grade in the lower medical category in the department to which he belongs in special case, if it is desired to absorb him in a ministerial post in the Personnel Branch or in a department other than the one to which he belongs, the prior and personal approval of the Chief Personnel Officer or the Head of the Department to which he is to be absorbed should be obtained. Such absorption in a post in the lower medical category should, as far as possible be in the same promotion group.

- \* Such staff should take their seniority below those who are in respect of the same rate of pay in the grade on the date of their absorption and not below all those staff in the grade in the absorbing department.

NOTE:- Same rate of pay on the date of absorption could be the basic pay in the relevant grade exclusive of the element of the running allowance. However for the purpose of the fixation of the pay in the case of running staff 99% of pay as representing the remaining allowances with continue to be allowed under the extant orders.

(Contd...)

These orders will have retrospective effect from  
22nd October 1956.

- (5) In the case of transfer on administrative grounds of an employee from one Department to another or from one category in a Department to another category in the same Department his seniority in the grade in which he is absorbed shall be determined by the length of service in a comparable grade and in a higher grade, if any rendered before such absorption, whether in an officiating or substantive capacity but excluding local or fortuitous promotion. If any difficulty or anomaly arises in fixing the seniority in accordance with this principle, the matter shall be referred to the General Manager with full particulars for decision.
- (6) In the case of transfer of an employee from one Department to another or from one category of a Department to another category in the same Department on grounds other than Administrative, he shall take his seniority at the bottom of the list in the grade in which he is absorbed.
- (7) In the case of mutual transfer at the request of the employees from one Department to another senior of the two employees should be allotted the position vacated by the other one, the junior one being fitted into the new seniority list below persons having the same seniority date or earlier.
- (8) Seniority shall not be affected by any advance increment, if granted, unless the General Manager decides otherwise.

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NOT TO BE QUOTED.

C.P.O's running Serial B.66,  
dated 3rd August, 1959.

Case B.255/5.

Published in N.E. Ry.  
Fortnightly Gazette  
B.29 dated 15th Oct. 1959

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

WRIT PETITION NUMBER OF 1981

R.K. AGARWAL & OTHERS \_\_\_\_\_ Petitioner

VERSUS

UNION OF INDIA & OTHERS \_\_\_\_\_ OPP. PARTIES.

The under noted temporary clerks are confirmed provisionally as clerk in scale Rs. 55-130 with effect from 17-11-54.

- 1) Sri Nikhil Chandra Chowdhury
- 2) Sri Nirmal Kumar Roy Chowdhury.
- 3) Sri Ved Prakash Kharbanda.
- 4) Sri Gokaran Nath Saxena
- 5) Sri Om Prakash Rastogi.
- 6) Sri Kamlesh Narain Saxena.

The above has approval of the SCOS (Hd)  
(SN 25/N file No - 120-SF/P-II)

/ Sd/-

PRESS SUPERINTENDENT.



ANNEXURE (A.III)

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

WRIT PETITION NUMBER

OF 1981

R.K. AGARWAL & OTHERS \_\_\_\_\_ Petitioner

VERSUS

UNION OF INDIA & OTHERS \_\_\_\_\_ OFF PARTIES.

U.E. RAILWAY PERSONNEL BRANCH GAZETTE No. 16 of 27th Jan. 1953

oooo

SENIORITY RULES:

SEC. XI

} SENIORITY ON TRANSFER.

EXTRACT OF ITEM NO. 7 )

(1) When an employee born on District or Regional list is transferred on administrative grounds from one District or Region to another he shall take his seniority in the new District or Region on the basis of his date of entry into the grade such transfer shall only be arranged under the Personal orders of the competent authority.

(2) If however, the transfer is at his own request, he shall be placed at the bottom of the concerned seniority list in the substantive grade and promotion to higher officiating post, if any, determined with reference to his substantive position in the new office.

EXPLANATORY NOTE: Bottom seniority in the case of permanent staff means seniority below all those confirmed in the same grade on the crucial date of transfer to another office and not below temporary or officiating employees on that date.

Authority:- CM(P)/GEP's letter No. E/255/5 dt. 22/6 - 6954  
2/7 1954

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned	
1	2	3	
6/9/84 13/9/84	Moukumar He 880		
27/9/84 10/10/84 14/10/84 22/10/84 30/10/84	27.9.84 Houder Present		
9/11/84 15/11/84 22/11/84 22.11.84	Moukumar Houder		
	Adjourned at the request of Sri Rakesh Kumar, learned counsel for the petitioners.		
	22.11.1984		

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned	
1	2	3	
27-7-84	Fixed for hearing  Hon. K.N.L.G. Hon. K.N.M.G.  Stand out on the request made on behalf of Mr Robinson Mitra,  27-7-84 <del>from</del> 6 Hon 28-8-84 Wait for hearing the KNC the SCM  19. A.M.          21-8-84 Hous A? Hous Kumar? List in the next week correctly show the name of Mr Robinson Mitra and counsel the opp party instead of Mr R. Mitra.  Office 27-8-84		

Date	Note of progress of proceedings and routine orders	Dated which case is adjourned	
1	2	3	
5 x 03	<p>Don't know it</p> <p>Don't know it</p> <p>Don't know it</p> <p>Don't know it</p> <p>Don't know it</p>		
	<p>2.2.14</p>	<p>3/1</p>	
	<p>23.4.14</p> <p>3.4.14</p>	<p>3/1</p>	
<p>Fixed</p>	<p>Hougen</p> <p>100.00</p> <p>50.00</p>	<p>3/1</p>	
	<p>3-5.14</p>	<p>3/1</p>	
<p>3/1</p>			

Date	Note of progress of proceedings and routine orders	Dated which case is adjourned
1	2	3
4.2.83.	<p>388363m</p> <p>in T.S.M.J.</p> <p><del>388363m</del></p> <p><del>388363m</del></p> <p><del>388363m</del></p> <p><del>388363m</del></p> <p>100.07.83</p> <p>list this apl. in the</p> <p>last week of March, 1983.</p> <p>Ben</p> <p>Am</p> <p>4/24/83</p> <p>24.3.83 - Pol</p> <p>Project</p>	Tale I
2.4.83	<p>Cor 388363m</p> <p>in T.S.M.J.</p> <p>list for hearing in the 3rd</p> <p>week of July, 1983.</p>	<p>1st</p> <p>5</p> <p>1st</p>

10/1 A<sup>2</sup>/<sub>1</sub>

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

*W.P.*  
R.K. Agarwal vs. Union of India No. 3988 of 1981

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
10-8-81	<p>Hu. T.S. Misra J.</p> <p>Hu. S. Zaker Husain J.</p> <p>Admnl: Issue notice.</p>	
20	<p>C.M.A. No. 6903 (C) for stay</p> <p>Hu. T.S. Misra J.</p> <p>Hu. S. Zaker Husain J.</p> <p>Issue notice returnable at an early date.</p>	
	<p>29-9-1981 fixed w.p. misra J. on. n. 6903 (C) for attendance</p> <p>No. 9 to opposite parties Nos 4 &amp; 8 by Reg. Post.</p> <p><u>mess</u> 17/11/81</p>	<p>2/12/81</p> <p>2/12/81</p> <p>2/12/81</p> <p>2/12/81</p> <p>2/12/81</p>
	<p><u>Service Report in w.p. C.M.A. No 6903-81</u></p> <p>OR No 1 to 3 - Represented by C.S.C.</p> <p>OR No 4 to 8 - Represented by B.C. Saxena Adv.</p> <p>May proceed in O.C.</p>	<p>ON</p>

yes, proceed in O.C.

SP

19/3/82

17.3.82

Union of India and another	,...	Appellants.
Vs.		
Sri P.N. Tewari and others	...	Opp. Parties.

Hon<sup>l</sup> ble K.S. Verna, J.

Sd: K. S. Verma  
9.11.76

Section Officer  
Copying & Paper Book Section  
High Court - ALLAHABAD.  
Lucknow Bench.

Seal of  
High Court

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW BENCH, LUCKNOW.

SPECIAL APPEAL NO. 52 OF 1976

R. T. Sharma and others	...	Appellants.
Versus		
Sr. P.N. Tewari and others	...	Respondents.

Special Appeal against the judgment and order dated 11.10.1973 passed by Hon'ble Mr. Justice B.L. Guleri in W.P.No. 745 of 1969.

Lucknow Dated :- 9.11.1976

Hon'ble Hari Swarup, J.

Hon'ble K.S. Verma, J.

Delivered by Hon'ble Hari Swarup, J.

These special appeals have been filed against the judgment of the learned single Judge which he allowed the writ petition filed by certain employees of the Railway Administration. The petitioners were direct recruits to the post of Signallers and thereafter after taking training were appointed as Assistant Station Master. There were other employee who were working on the ministerial side. If a scheme of bifurcation of the Administration, the Regional Accounts Office at Lucknow and wound up and the staff working in the Office was given option to get absorbed into different cadres. The opposite parties No. 3 to 8 in the Writ Petition had opted for being absorbed in the cadre of Assistant Station Masters. The General Manager issued a circular for the implementation of the scheme per its Circular Letter dated December 23, 1957 (Annexure 1 to the writ petition). According to paragraph 13 of this circular letter the employees who were to be transferred outside the department were to be deemed to be as persons on transfer on the employee's own request and the normal rules regarding bottom seniority were to apply. In paragraph 14 of the Scheme the employees who were to be transferred to other cadres were to be given & weightage in matters of seniority. This was to be calculated on the basis of formula given in the paragraph with the maximum limits of 18 months. The employees who had opted for the Assistant Station Masters' cadre could join that cadre only according to the rules after obtaining a three months' training in Telegraphic, Transportation and Commercial Subjects in accordance with para. 121 in Chapter 1, Recruitment, Training and confirmation and Re-Employment of Employees, published in Indian Railway Establishment Manual Second Edition.



A dispute arose about the fixation of seniority of the transferred employees and the existing incumbents. There was some representation before the General Manager and the General Manager on the basis of the discussion issued a letter dated May 26, 1959, and on that basis the Divisional Superintendent issued a circular letter dated June 23, 1969 laying down the mode for determining the seniority. According to the direction contained in these letter the seniority of the out going employees was to be deemed ~~be~~ fixed on the basis of the date of bifurcation. These orders were challenged by the writ petitioners on the ground that they were against the scheme of absorption and the rules laid down by the Railway Board for determining seniority of employees. According to the writ petitioners the employees training to the cadres of Assistant Station Masters would get their priority on the basis of the date of their appointment in the cadre. Learned Single Judge postily accepted the contention of the writ petitioners and held that the seniority should be counted from the date of appointment in the cadre with a weightage of 18 months of advice. Against this judgment, both the Railway Administration and the other opposite parties in the writ petition have filed special appeals. Special Appeal No; 49 of 1973 has been filed on behalf of the Union of India while the special appeal No.52 of 1973 has been filed by the employees.

We have heard learned counsel for the parties, and do not find any error in the judgment of the learned Single Judge. We may, however, give our own reasons for the conclusion. Rules 311 and 312 in Chapter 2 governing the promotion of subordinate staff published in Indian Railway Establishment Manual second Edition issued by the Government of India, Ministry of Railway (Railway Board), provided for fixation of seniority on transfer. In case of the transfer in the interest of Administration Rule 311 provides :-

" Seniority of railway servants on transfer from one cadre to another in the interest of the administration is regulated by the date of promotion/date of appointment to the grade as the case may be."

Rule 312 provides for transfer on request:

" The seniority of railway servants transferred at their own request from the one railway to another should be allotted below that of the existing confirmed and officiating railway servants in the relevant grade in the promotion group in the new establishment irrespective of the date of confirmation or length of officiating service of the transferred railway servants."

Even though the circular provided that the transfers will be deemed to be transfers on request, neither party has pressed the case for fixing seniority according to rule 312. It rule 311 which has been relied upon by the ~~respondents~~ respondents in the present case. The grade in which the transferred employees were employed was Rs.60-130 and the grade of assistant station master to which they had been transferred was of Rs.80-170. The seniority will accordingly be counted from the date of promotion or the date of appointment to the grade of Assistant Station Masters which will naturally be the date of appointment in the cadre and not any other.

Learned counsel for the Railway Administration has contended that the subsequently order passed by the General Manager will amount to the modification of this rule 311 and will govern the special situation created by the implementation of the scheme of transfers. We do not find merit in this contention, firstly because the General Manager did not purport to make any rule but had purported to decide the dispute between certain parties not including the writ petitioners and secondly if it were to be a rule, it would be void as being inconsistent with rule 311. The rule making power of the General Manager is given in rule 158 published in the Indian Railway Establishment Code Vol.I Rule 158 provides:

" The General Managers of Indian Railways have full powers to make rules with regard to non gazetted railway servants under their control provided they are not inconsistent with any rules made by the President of the Railway Board."

The rule made by the General Manager providing for the counting of seniority from the date of bifurcation would be inconsistent with the rule made by the Railway Board printed as rule 311 in the Indian Railway Establishment Manual quoted above. It would thus not be operative.

In the result the appeals fail and are dismissed. In the circumstances, the parties will bear their own costs.

Sd/-Hari Swarup

Sd/-K.S.Verna  
9.11.76

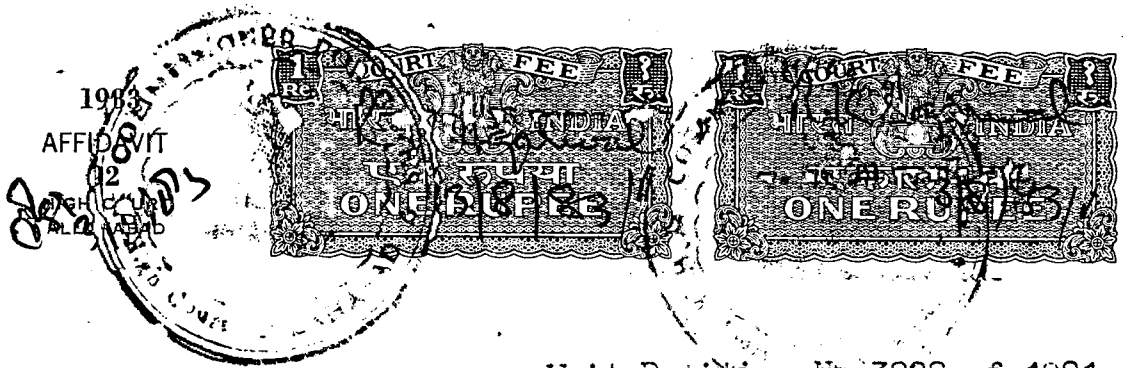
TRUE COPY

Sd/-Illegible  
10.12.76

Section Officer,  
Copying & Paper Book Section  
High Court-Allahabad  
Lucknow Bench.

Seal of  
High Court.

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



Writ Petition No. 3888 of 1981.

R.K. Agarwal and others. ---- Petitioners.

Versus

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

Rejoinder affidavit to the counter  
affida-vit filed on behalf of O.Ps. 1 to 3.

I, R.K. Agarwal aged about 49 years, son  
of Sri B.D. Gupta, resident of 104, Ra-11 Bazar,  
Kanpur, Cantt., do hereby solemnly affirm and state  
on oath as under:-

1. That the deponent is petitioner no. 1 in the  
above noted writ petition and hence is well acquainted  
with the facts of the case deposed hereunder:

2. That the contents of paras 1 to 3 of the  
counter affidavit need no reply.

3. That in reply to para 4 of the counter  
affidavit it is stated that the petitioner no. 1  
joined on 9.4.1956 at Lucknow in the bill section  
of Engineering Department which was and is a part  
of Establishment/ Personnel Branch. The opposite  
party no. 4 was transferred from Press Superintendent  
Office accepting bottom seniority while opposite



R.K. Agarwal

parties 5 to 8 were Ex.R.A.O. Staff. The rules as referred to in paragraph under reply (Explanatory Note) are not applicable to the opposite parties, as they have been transferred from other Department than the personnel Department. In the case of opposite parties 4 to 8, rule 6 will be applicable which provides that an employee transferred from one department to another department other than Administrative in grade, shall take his seniority at the bottom of the seniority list.

The deponent is advised to state that even if for the sake of argument it is taken that the Explanatory Note is applicable to opposite parties 4 to 8, then the rules itself will be void as it will be inconsistent with the rules 311 and 312 of the Indian Railway Establishment Manual, Second Edition, The rule making power of the General Manager is given in Railway Establishment Code Vol.I, Rule 158 provides that the General Manager of Indian Railways have full powers to make rules provided they are not inconsistent with any rules made by the President/Railway Board. The deponent is advised to state that under the relevant rules framed by the Railway Board. The seniority of opposite parties 4 to 8 will be counted according to the Rules from the date of joining in the new department not other service which have been rendered by the opposite parties in other departments.

4. That the contents of para 5 of the counter affidavit needs no reply.

5. That the contents of para 6 of the counter affidavit are not denied. However, it is stated that the opposite parties 5 to 8 were not entitled to a

R. K. Agarwal



3.

weightage of 1 ½ years as they were not transferred to non-ministerial open line category. They were transferred to ministerial cadre, hence the opposite parties 5 to 8 will be governed by clause 13 and not clause 14 of the circular. The deponent is advised to state that Regional Accounts Officer has no jurisdiction to give a weightage of 1 ½ years to opposite parties 5 to 8.

6. That the contents of para 7 of the counter affidavit are denied and those of para 14 of the writ petition are reiterated.

7. That the contents of para 8 of the counter affidavit are denied and it is stated that the annexure 6 (Para 5) relates to opposite parties no. 5 to 8 and not to any other person.

8. That the contents of paras 9 and 10 of the counter affidavit are denied as incorrect and those of paras 16 and 17 of the writ petition are reiterated.

9. That the contents of para 11 of the counter affidavit are denied and those of para 19 of the writ petition are reiterated.

10. That the contents of para 12 of the counter affidavit are denied as false and incorrect. The deponent is advised to state that length of service in the earlier department cannot be counted in the new department and in this regard earlier paragraphs of this affidavit may kindly be perused.

R. K. Agarwal

11. That in reply to para 13 of the counter affidavit it is stated that the extract of rules



referred in para 21 of the writ petition is only applicable to opposite parties 4 to 8 and not the explanatory note to rule 5.

12. That in reply to para 14 of the counter affidavit, those of para 22 of the writ petition are reiterated.

13. That para 15 of the counter affidavit needs no reply.

14. That the contents of para 16 of the counter affidavit are denied and those of para 24 of the writ petition are reiterated.

15. That in reply to para 17 of the counter affidavit, it is stated that no decision was ever communicated to the petitioners except vide annexures 10 to the writ petition. The deponent is advised to state that the seniority list published on 13.3.1962 was a provisional seniority list, which confers no right on the petitioners. After 13.3.62 no seniority list has been published till today though according to rules it should be published after every three years. As would be evident from annexure CA-6 to the counter affidavit filed on behalf of opposite parties 4 to 8 the matter was still under consideration and it has been disposed of only vide annexure 10 to the writ petition.

16. That in reply to para 16 of the counter affidavit

para 26 of the petition is reiterated.

17. That in reply to para 19 of the counter affidavit it is stated that if any promotion has been made, that will be subject to the decision of the writ petition.



R.K. Agarwal

18. That in reply to para 20 of the counter affidavit, ~~it is stated that if~~ those of paras 28 and 29 of the writ petition are reiterated.

19. That para 22 of the counter affidavit needs no reply.

20. That in reply to para 23 of the counter affidavit it is stated that the writ petition has full merits and it deserves to be allowed with costs.

21. That a writ petition No. 745 of 1969 P.N. Tewari & others Vrs. Union of India and others were filed by the Assistant Station Master in which the Ex. R.A.O Staff was given the benefit of 1½ years, that was allowed, on this petition the validity of the circular was challenged and the writ petition was allowed on 11.10.73 and it was held that the seniority of the incumbent will be counted from the date of joining in the new Department and not their earlier service. Against the decision of the learned Single Judge, the Ex.R.A .O. Staff and Union of India preferred a special appeal no.49 of 1973 which was dismissed on 9.11.76 by this Hon'ble Court and according to that also the petitioners who are Ex.R.A .O. staff are not entitled for a weightage of one and a half year and their seniority will be counted from the date of joining in the new new department irrespective of the fact that they have been confirmed in their earlier Department.



Lucknow dated  
Aug. 3, 1983.

R.K. Agarwal  
Deponent.

Verification.

I, the abovesaid deponent, do hereby  
 verify that the contents of paragraphs 1, 2, 4, 6, 8, 9, 10, 12 to 14, 16, 18 & 19 <sup>W</sup> \_\_\_\_\_

of this rejoinder affidavit are true to my own  
 knowledge, those of paragraphs 3 except bracketted, <sup>W</sup> 5, 7, 11, 15, 17 & 21 \_\_\_\_\_  
 are true to my information derived from the records and  
 those of paras 3 bracketted, 10 & 20. \_\_\_\_\_

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

Lucknow dated:  
 Aug. 3, 1983.

R. K. Agarwal  
 Deponent.

I identify the deponent who has  
 signed before me.

*Rashid*  
 Advocate.

Solemnly affirmed before me on 3/8/83  
 at 8.0 a.m./p.m. by Shri R. K. Agarwal  
 the deponent who is identified by Shri Rashid Kumar  
 Advocate, High Court, Lucknow.

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.

*Rashid*

OATH COMMISSIONER  
 High Court, Allahabad  
 Lucknow Bench.

92/22/18  
 3/8/83





In the Hon'ble High Court of Judicature at Allahabad,  
Lucknow Bench, Lucknow.  
Writ Petition No. 745 of 1969.

P.N. Tewari and others. .... Petitioners.

Versus

Union of India through the General Manager N.E. Railway  
Gorakhpur and others. .... Opp. Parties.

Writ Petition under Article 226 of the  
Constitution of India.

.....

Lucknow Dated: 11.10.73.

For Petitioner: Sri B.C. Saxena.

For Opp. Parties: Sri R.N. Trivedi.

" N. Banerji.

Hon'ble Gulati, J.

This is a petition under Article 226 of the Constitution be as many as 7 petitioners. They were appointed as signallors and Trainee Assistant Station Masters in the North Eastern Railway as shown below:

Sl. No.	Name	Date of appointment.	Initial grade.
1.	P.N. Tewari	2.3.56	Signaller.
2.	Sarjoo Singh	8.11.54	Signaller.
3.	S.B. Lal	12.8.54	Signaller.
4.	Harcharan Singh	16.9.54	Trainee ASM.
5.	S.S. Lal Gupta	11.12.52	Signaller.
6.	P.K. Das Gupta.	9.8.54	Signaller.
7.	N.D. Agarwal	31.8.57	Trainee ASM.

The opposite parties Nos. 3 to 8 (hereinafter called the contesting respondents) were initially appointed in the North Eastern Railway in the clerks grade in the Regional Accounts Office, Lucknow on the dates as mentioned below:-

Sl. No.	Name	Date of appointment.
1.	R. T. Sharma	11.3.49
2.	Abdul Mannan	23.1.54
3.	R.P. Kulshrestha	13.4.54
4.	I.B. Khare	24.11.54
5.	A.K. Mishra	12.7.56
6.	C.L. Yadav	29.11.54

In January, 1958 a bifurcation of the North Eastern Railway took place and as a consequence thereof the Regional Accounts Office at Lucknow was wound up and the staff working in that office was given an option of being absorbed in the following manner:-

- i) Transfer to Accounts Office Gorakhpur.
- ii) Transfer to Accounts Office Izatnagar to the extent of vacancies being available.
- iii)(a) Go to non-accounts Districts offices(if vacancies permit).
- (b) Go to a direct recruitment category as per para 11 of the General Manager(P) Gorakhpur's circular letter No.E/XI/191/26 dated 23rd December, 1957, addressed to the Regional Superintendents, N.E.Railway, Lucknow and Muzaffarnagar.

In para 11 of the aforesaid circular letter Trains Clerks, ticket Collectors, Tally Clerks, Booking Clerks and Assistant Station Master were mentioned at the direct recruit categories. The contesting respondents opted for being absorbed in the open line non-ministerial category of Assistant Station Masters grade and they were accordingly sent to the staff Training School on 15th January, 1958 to undergo the requisite training in the three subjects viz. Telegraphy, Coaching and transportation for appointment as Assistant Station Masters and were ultimately promoted to the post of Assistant Station Master on the dates shown below:-

<u>Sl.No.</u>	<u>Name</u>	<u>Date of Promotion.</u>
1.	R. T. Sharma	9.7.59
2.	Abdul Mannan	9.7.59
3.	R.P.Kulshreshtha	9.7.59
4.	I.B.Khare	6.10.59
5.	A.K.Mishra	6.10.59
6.	C.L.Yadav	25.9.59

The petitioner Nos. 1,2,3,5 and 6 also under sent the requisite training in the remaining subjects of coaching and transportation for appointment as Assistant Station Masters during the period shown below and were appointed as promoted as Assistant Station Masters on the following dates:-

<u>Sl.No.</u>	<u>Name</u>	<u>Period of training</u>	<u>Date of promotion as AS</u>
1.	P.N.Tewari	March 57 to May 57.	11.9.57
2.	Sarjoo Singh	Oct.56 to Dec.56	3.4.57
3.	S.B.Lal	March 56 to April 56	3.9.57
4.	Harcharan Singh	June 56 to Feb.57	16.9.57
5.	S.S.Lal Gupta	Oct.55 to 10.2.56	4.2.57
6.	P.K.Das Gupta	Oct.56 to Nov.56	25.4.57
7.	N.D. Agarwal.	31.5.56 to 27.2.57	21.1.58

A provisional seniority list of Assistant Station Masters as on 1st April, 1965 was prepared and circulated by the District Operating Superintendent N.E.Railway, Lucknow wherein the petitioners were shown senior to the contesting respondents. There was some representations against this list by petitioner No.5 and the contesting respondents and after the decision

of the representations a corrigendum was issued on 30th Oct. 1968 to the seniority list of Assistant Station Masters as prepared earlier on 1st. April 1965 and in the corrected list also the petitioners, including petitioner No.5 were shown senior to the contesting respondents. Even after the issue of corrigendum the contesting respondents were not reverted to the grade of Rs. 130-240 and they continued to work in the grade of Rs. 205-280/- to which they had been earlier promoted. It appears that the contesting respondents and other clerical staff absorbed on non-ministerial open line categories were not satisfied with the seniority list and the matter was taken up by the North Eastern Railway Employees Union. The Union held a meeting with the General Manager on 7th and 8th. November 1968 where certain decisions were taken with regard to the fixation of seniority. The contesting respondents are the members of the Union while the petitioner were not its members and as such, the petitioners were not present at the meeting between the Union and the General Manager. At this meeting it was decided that the seniority of the Assistant Station Masters should be fixed with reference to the date of bifurcation of the North Eastern Railway as a consequence where of the Regional Accounts Office at Lucknow was abolished. In this way by the decision taken in this meeting, the seniority list was revised and the petitioners were now placed below the contesting respondents in the seniority list. The petitioners have challenged this seniority list as contained in the letter dated 26th May, 1969 and in the Divisional Superintendents' letter No.E/II/255/4, dated 23rd June, 1969.

The contention of the learned counsel for the petitioner is that at the time when the bifurcation of the Railway took place and when the ministerial staff working in the Accounts Office at Lucknow was given an option a circular letter was issued by the General Manager(P) dated 23rd December, 1957. In para 14 of the letter it was provided that a weightage of one and half years will be allowed to such a ministerial staff as were subsequently absorbed in the Assistant Station Master cadre in lieu of their past services in the Railways the seniority list which was provisionally prepared this ~~was~~ weightage of one and half years was allowed to the contesting respondents and in the final list which was prepared later after some amendments allow weightage of one and half years was allowed to the respondents and even then the respondents came below to the petitioners in order of seniority. As a result of the meeting between the Railway employees Union and the General Manager(P) it was further decided that for purposes of fixation of seniority the date of bifurcation of the Regional Accounts Office at Lucknow should be taken into consideration in respect of the employees who were absorbed ultimately in the Assistant Station Masters cadre. In other words, the time spent by them in training was also included. The

contention of the learned counsel for the petitioner is that this was beyond the scope of the circular letter issued by the General Manager(P) on 23rd December, 1957 and the General Manager(P) was not competent to take such a decision. In any case, such a decision could not be taken behind the back of the petitioners. It was necessary that before taking this decision a notice should have been given to the petitioners for presenting their case. Admittedly no such notice was given to petitioners. The contention of the learned Counsel for the Railways and for the contesting respondents is that no final list of seniority was prepared before the list, which came to be prepared after the meeting with the General Manager(P) and the Railway Employees Union and the earlier seniority list was only a provisional one, which conferred no right upon the petitioners. This is not correct. The first list, of course was provisional. When the representations were made by the contesting respondents as also by the petitioner No.4, who has not been assigned a proper place in the seniority list, the matter was finally decided by the General Manager who by his letter dated 3rd August, 1968 addressed to the District Operating Superintendent N.E.Railway, Lucknow intimated the decision that the seniority of clerical staff absorbed in non-Ministerial open line categories should be fixed in accordance with para 14 of the General Manager's circular letter dated 23rd December, 1957 and further that the period of training of the contesting respondents should be excluded while fixing their seniority. Thereafter, the General Manager was not justified in reversing the decision without notice to the petitioners.

That apart, even on merits the letter decision of the General Manager appears to be wholly unjustified. Plainly, the category of Assistant Station Masters is a different category from the categories of Clerks and other Ministerial staff. The post of Assistant Station Master is a technical post and a person can be eligible for appointment to that post only after he had undergone a training in certain subjects. The petitioners were direct recruits to this cadre and they were appointed as Assistant Station Masters after completion of their training. For purpose of seniority the date of their appointment in this cadre was taken as the starting point. The ministerial staff which became surplus in the Lucknow Regional Accounts Office, could not automatically be ~~per~~ absorbed in this category. They had to undergo a training like the petitioners and after completing the training and passing the examination they became eligible for appointment to the cadre of Assistant Station Masters. Therefore, in their case also the date relevant for fixation of seniority should be the date when they came to be appointed as Assistant Station Masters after completion of their training. Their seniority could not be counted from an earlier date. They

- 5 -

were, of course, entitled to a weightage of one and half years in accordance with paragraph 14 of the circular letter of the General Manager dated 23rd December 1957. That would mean that they would be deemed to have been appointed one and half years earlier than their date of actual appointment. Beyond that their earlier services in the Regional Accounts Office, Lucknow could not be taken into consideration. Otherwise it would lead to distinction between the Assistant Station Masters like the petitioners who were appointed directly and the Assistant Station Masters who came to this cadre from the Accounts Section.

For the reasons stated above, I am satisfied that the grievance of the petitioners is justified. The petition is accordingly allowed. The letter No. E/231/T/ASM/3(ix) dated 26th May, 1969 and the letter of the Divisional Superintendent (P)/LJN No. E/II/255/4 dated 23rd June 1969 (Annexure 8) to the Writ Petition) are quashed. The result of this order would be that the petitioners shall be considered as senior to the contesting respondents in the cadre of Assistant Station Masters. In the circumstances of the case there will be no order as to costs.

Dated: 11.10.1973

Sd/- R.L.Gulati.

TRUE COPY

Registered

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD  
CIRCUIT BENCH, GANDHI BHAWAN  
LUCKNOW

\*\*\*

No. CAT/CB/LKO/

Dated : \_\_\_\_\_

OFFICE - MEMO

Registration No. O.A. \_\_\_\_\_ of 193 T.A.

\_\_\_\_\_  
Applicant's

Versus

\_\_\_\_\_  
Respondent's

A copy of the Tribunal's Order/Judgement.  
dated \_\_\_\_\_ in the abovenoted case is forwarded  
for necessary action.

For DEPUTY REGISTRAR (H)

Encl : Copy of Order/Judgement dated \_\_\_\_\_

To.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

dinesh/

\*\*\*\*\*

Mis.App.No. 171/89(L)  
In  
T.A. No. 832/87(T)

Hon' Mr. D.S. Misra, A.M.

13/6/89 By this Misc. Application a prayer has been made that the time be extended by a period of 2 months to enable them to comply with the orders of this Hon'ble Tribunal. Issue notice to Opposite parties returnable by 17-7-89 why the prayer be not granted.

*BL*  
Member (A)

(sns)

17.7.09 No sitting. Adj. to. 22.8.09 for order.

Hon' Mr. D.K. Agrawal, J.M.

22-8-89

The Misc application ~~171/89(L)~~ No. 171/89(L) is rejected as not pressed.

*Deo*  
J.M.

(SNS)

*o/r*  
Notice issued  
21.6.89

*o/r*  
No notices have been submitted for order.

*o/r*  
13/7  
Notices of o/s no. 5, 6, 7 and 8 have been received back with the report "Not submitted" submitted.

*o/r*  
13/7  
Notices were issued to the opposite party on 21.6.89. No reply was received. Any necessary order may be passed for submission of order.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW

Misc. Application No. 17/ of 1989

IN

T.A. No. 832 of 87 (T)

R.K. Agarwal and others

...

Applicant

V/s

Union of India and others

...

Respondents

To  
The Hon'ble Vice Chairman and his Companion  
Hon'ble Members

Humble application on behalf of Respondents No.1  
to 3 is as under :-

1. That this Hon'ble Tribunal was pleased to allow the application filed by the Applicant on 12.4.89 with a direction that the seniority of the Applicant will be fixed below all permanent and temporary employees on the crucial date and seniority of the opposite party No.4 who was transferred to Lucknow on 11.6.56 will be regulated in terms of para 226 of the Indian Railway Establishment Code Vol.I.

2. That the Hon'ble Tribunal has further directed that the Respondents will ~~may~~ take action to refix the seniority within two months from the date of judgement.

3. That the judgement was sent to the competent authority who has decided to implement the judgement delivered by this Hon'ble Tribunal.

4. That action has been initiated to comply with the directions of this Hon'ble Tribunal.

5. That the matter pertains to consulting of old records of large number of employees to give refixation to the Petitioner viz-a-viz Opposite party No.4 which will consume more time though every effort is being made to finalise the refixation ~~as soon as possible~~ in order to implement the judgement.

.....2

महायुक्त, लोक प्रशासन  
पूर्वांचल, लखनऊ

A per order  
of Hon'ble  
Court list  
this Misc.  
application  
before Hon'ble  
Court on  
13.6.89

08.6.89

Application  
is rejected  
as not pressed  
Sanjeev Kumar  
Holding Brief of A.N.V. Rao  
22/8/89




It is therefore, most respectfully prayed that this Hon'ble Tribunal be graciously pleased to extend the time by further period of two months to enable the Opposite parties to comply with the directions of this Hon'ble Tribunal.

I, M. P. Singh . . . . . s/ Late Shri Jagannath Singh  
aged about 44 years working as Asst. Personnel Officer  
in the Office of Divl. Railway Manager, N.E. Railway,  
Lucknow <sup>duly authorised by Respondent</sup> do hereby verify that the contents of paras 1  
to 5 of this Application are true to my knowledge based  
on perusal of records. No part of it is false and nothing  
material has been concealed. So help me God.

LUCKNOW

Dated: 7.6.89

  
DEPONENT  
न्यायक जॉनर अधिकारी  
पूर्वोत्तर रेलवे, लखनऊ

भारतीय-51 (क)/R.P.-51(a)

लिगाई गई डाक टिकट का मूल्य रु०.....

Stamp affixed

पंजीकृत मूल्यदेय

Received

पाने वाले का नाम

Addressed to

\* इससे पूर्व जब आवश्यक हो "बीमाकृत" शब्दके साथ यह पत्र "पारसल" अथवा रेलवे रसीद लिखें।  
\* Write here "Letter", "Parcel" or "Railway Receipt" with the word "insured" before it when necessary.

प्राप्तकर्ता से जो रकम वसूल करनी है  
Amount to be recovered from  
the addressee

प्राप्तकर्ता अधिकारी के हस्ताक्षर/Signature of the receiving officer

\* केवल जब डाक वस्तु का बीमा करना हो उनी समय मात्र जब अधिकाधिक बीमा  
द्वारा काट दिया जाय।  
\* To be filled in only when the articles is to be insured; out by means of two diagonal lines.

रु० (बर्कों में)..... (शब्दों में)..... के लिए बीमाकृत

Insured for Rs. (in fig)..... (in words)..... वजन (शब्दों में)..... ग्राम.....

बीमा शुल्क रु०..... P. Weight in words Grams

Insurance fee Rs.

P.

सं०/No

वे०

P.

प्राप्त किया

R. P. Registered

तारीख-मोहर

Date stamp

रु०

561944



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW

Misc. Application No. 17/ of 1939

IN

T. A. No. 832 of 87 (T)

R.K. Agarwal and others ... Applicant

V/s

Union of India and others ... Respondents

To,

The Hon'ble Vice Chairman and his Companion  
Hon'ble Members

Humble application on behalf of Respondents No. 1  
to 3 is as under :-

1. That this Hon'ble Tribunal was pleased to allow the application filed by the Applicant on 12.4.89 with a direction that the seniority of the Applicant will be fixed below all permanent and temporary employees on the crucial date and seniority of the opposite party No. 4 who was transferred to Lucknow on 11.6.56 will be regulated in terms of para 226 of The Indian Railway Establishment Code Vol. I.
2. That the Hon'ble Tribunal has further directed that the Respondents will ~~not~~ take action to refix the seniority within two months from the date of judgement.
3. That the judgement was sent to the competent authority who has decided to implement the judgement delivered by this Hon'ble Tribunal.
4. That action has been initiated to comply with the directions of this Hon'ble Tribunal.
5. That the matter pertains to consulting of old records of large number of employees to give refixation to the Petitioner viz-a-viz Opposite party No. 4 which will consume more time though every effort is being made to finalise the refixation ~~consequent upon~~ in order to implement the judgement.

*[Signature]*  
अध्यक्ष, न्यायिक आयोग,  
पूर्वोत्तर रेलवे, लखनऊ

It is therefore, most respectfully prayed that this Hon'ble Tribunal be graciously pleased to extend the time by further period of two months to enable the Opposite parties to comply with the directions of this Hon'ble Tribunal.

I, *M. P. Singh* . . . . . *s/o Late Shri Jagannath Singh*  
aged about 44 years working as *Asstt. Personnel Officer*  
in the Office of Divl. Railway Manager, N.E. Railway,  
*duly authorized by Respondent*  
Lucknow, do hereby verify that the contents of paras 1  
to 5 of this application are true to my knowledge based  
on perusal of records. No part of it is false and nothing  
material has been concealed. So help me God.

LUCKNOW

Dated: 7. 6. 88

*[Signature]*  
DEPONENT  
सहायक कामिक अधिकारी /  
पूर्वोत्तर रेलवे, लखनऊ

*Bench Copy*

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

Writ Petition No. 3888 of 1981.

R.K. Agarwal and others. --- Petitioners.

Versus

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

Rejoinder affidavit to the counter  
affidavit filed on behalf of O.Ps. 1 to 3.

I, R.K. Agarwal aged about 19 years, son  
of Sri B.D. Gupta, resident of 104, Ra-11 Bazar,  
Kanpur, Cantt., do hereby solemnly affirm and state  
on oath as under:-

1. That the deponent is petitioner no. 1 in the  
above noted writ petition and hence is well acquainted  
with the facts of the case deposed hereunder:

2. That the contents of paras 1 to 3 of the  
counter affidavit need no reply.

3. That in reply to para 4 of the counter  
affidavit it is stated that the petitioner no. 1  
joined on 9.4.1956 at Lucknow in the bill section  
of Engineering Department which was and is a part  
of Establishment/ Personnel Branch. The opposite  
party no. 4 was transferred from Press Superintendent  
Office accepting bottom seniority while opposite

*PC*  
*12*

2.

parties 5 to 8 were Ex.R.A.O. Staff. The rules as referred to in paragraph under reply (Explanatory Note) are not applicable to the opposite parties, as they have been transferred from other Department than the personnel Department. In the case of opposite parties 4 to 8, rule 6 will be applicable which provides that an employee transferred from one department to another department other than Administrative in grade, shall take his seniority at the bottom of the seniority list.

(The deponent is advised to state that even if for the sake of argument it is taken that the Explanatory Note is applicable to opposite parties 4 to 8, then the rules itself will be void as it will be inconsistent with the rules 311 and 312 of the Indian Railway Establishment Manual, Second Edition.) The rule making power of the General Manager is given in Railway Establishment Code Vol.I, Rule 158 provides that the General Manager of Indian Railways have full powers to make rules provided they are not inconsistent with any rules made by the President/Railway Board. The deponent is advised to state that under the relevant rules framed by the Railway Board. The seniority of opposite parties 4 to 8 will be counted according to the Rules from the date of joining in the new department not other service which have been rendered by the opposite parties in other departments.)

4. That the contents of para 5 of the counter affidavit needs no reply.

5. That the contents of para 6 of the counter affidavit are not denied. However, it is stated that the opposite parties 5 to 8 were not entitled to

3.

weightage of 1 ½ years as they were not transferred to non-ministerial open line category. They were transferred to ministerial cadre, hence the opposite parties 5 to 8 will be governed by clause 13 and not clause 14 of the circular. The deponent is advised to state that Regional Accounts Officer has no jurisdiction to give a weightage of 1 ½ years to opposite parties 5 to 8.

6. That the contents of para 7 of the counter affidavit are denied and those of para 14 of the writ petition are reiterated.

7. That the contents of para 8 of the counter affidavit are denied and it is stated that the annexure 6 (para 5) relates to opposite parties no. 5 to 8 and not to any other person.

8. That the contents of paras 9 and 10 of the counter affidavit are denied as incorrect and those of paras 16 and 17 of the writ petition are reiterated.

9. That the contents of para 11 of the counter affidavit are denied and those of para 19 of the writ petition are reiterated.

10. That the contents of para 12 of the counter affidavit are denied as false and incorrect. The deponent is advised to state that length of service in the earlier department cannot be counted in the new department and in this regard earlier paragraphs of this affidavit may kindly be perused.

11. That in reply to para 13 of the counter affidavit it is stated that the extract of rules

referred in para 21 of the writ petition is only applicable to opposite parties 4 to 8 and not the explanatory note to rule 5.

12. That in reply to para 14 of the counter affidavit, those of para 22 of the writ petition are reiterated.

13. That para 15 of the counter affidavit needs no reply.

14. That the contents of para 16 of the counter affidavit are denied and those of para 24 of the writ petition are reiterated.

15. That in reply to para 17 of the counter affidavit, it is stated that no decision was ever communicated to the petitioners except vide annexures 17 to the writ petition. The deponent is advised to state that the seniority list published on 13.3.1962 was a provisional seniority list, which confers no right on the petitioners. After 13.3.62 no seniority list has been published till today though according to rules it should be published after every three years. As would be evident from annexure CA-6 to the counter affidavit filed on behalf of opposite parties 4 to 8 the matter was still under consideration and it has been disposed of only vide annexure 10 to the writ petition.

\* para 26 of the petition is reiterated.

16. That in reply to para 16 of the counter affidavit

17. That in reply to para 19 of the counter affidavit it is stated that if any promotion has been made, that will be subject to the decision of the writ petition.

*[Handwritten signature]*



18. That in reply to para 20 of the counter affidavit, <sup>21</sup> it is stated that those of para s 28 and 29 of the writ petition are reiterated.

19. That para 22 of the counter affidavit needs no reply.

20. That in reply to para 23 of the counter affidavit it is stated that the writ petition has full merits and it deserves to be allowed with costs.

21. That a writ petition No. 745 of 1969 P.N. Tewari & others Vrs. Union of India and others were filed by the Assistant Station Master in which the Ex. R.A.O Staff was given the benefit of 1½ years, that was allowed, on this petition the validity of the circular was challenged and the writ petition was allowed on 11.10.73 and it was held that the seniority of the incumbent will be counted from the date of joining in the new Department and not their earlier service. Against the decision of the learned Single Judge, the Ex.R.A .O. Staff and Union of India preferred a special appeal no.49 of 1973 which was dismissed on 9.11.76 by this Hon'ble Court and according to that also the petitioners who are Ex.R.A .O. staff are not entitled for a weightage of one and a half year and their seniority will be counted from the date of joining in the new new department irrespective of the fact that they have been confirmed in their earlier Department.

Lucknow dated  
Aug. 3, 1983.

Deponent.

6.

Verification.

I, the abovenamed deponent, do hereby  
verify that the contents of paragraphs 1, 2, 4, 6, 8, 9,  
12 to 14, 16, 18 & 19 \_\_\_\_\_

of this rejoinder affidavit are true to my own  
knowledge, those of paragraphs 3 *except bracketted*, 5,  
7, 11, 15, 17 & 21 \_\_\_\_\_  
are true to my information derived from the records and  
those of paras 3 *bracketted*, 10 and 20 \_\_\_\_\_

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

Lucknow dated:  
Aug. 3, 1935.

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  
Advocate, High Court, Lucknow.

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.

*12/13*

Registered *oie*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, AT ALLAHABAD  
CIRCUIT BENCH, GANDHI BHAVAN  
LUCKNOW  
\*\*\*

No. CAT/CB/LKO/

Dated the 10.7.89

Registration T.A.No. \_\_\_\_\_ of 198 (T)

Applicant's

Versus

Respondent's

To

Whereas the marginally noted cases has been  
Transferred by \_\_\_\_\_ under the provision of the  
Administrative Tribunal Act 13 of 1985 and registered in this  
Tribunal as above

Writ Petition No. 288/81  
of 198 of the High Court  
Court at Lko.  
of \_\_\_\_\_ arising out  
order dated \_\_\_\_\_ passed by \_\_\_\_\_  
in \_\_\_\_\_

The Tribunal has fixed  
Date of 17.7.1989

The hearing of the matter.

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

on your behalf the matter will be heard and decided in your  
absence.

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

*D. S. D. Singh*  
For Deputy Registrar (J)

dinesh/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, AT ALLAHABAD  
CIRCUIT BENCH, GANDHI BHAVAN  
LUCKNOW

0932 Dated the 10.7.89

R. K. Aggarwal

Applicant's

Conium <sup>Versus</sup> of Gordian

71) ~~R.K. Agarwal. Sr. Inv. B-1~~ Respondent's

To

To

② S. M. Reza S/o Syed. Jomel Hussain.

③ J. P. Saxeena S/o - Late B. Z. Saxeena

Whereas the marginally noted cases has been

Transferred by \_\_\_\_\_ under the provision of the Administrative Tribunal Act 13 of 1985 and registered in this Tribunal as above.

Writ Petition No. 1107/1998  
of 1998 of the

Court at \_\_\_\_\_  
of \_\_\_\_\_ arising out  
order dated \_\_\_\_\_ passed by \_\_\_\_\_  
\_\_\_\_\_ in \_\_\_\_\_

The Tribunal has fixed  
Date of \_\_\_\_\_ 1938

The hearing of the matter.

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

on your behalf the matter will be heard and decided in your absence.

Given under my hand and seal of the Tribunal  
this \_\_\_\_\_ day of \_\_\_\_\_ 1953.

For Deputy Registrar(J)

dinesh /  
All working. Sameer. clerks in office Mr. D.R.M. (P)  
Mr. E. Reddy. Ishala Mary Heo.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH  
LUCKNOW.

..

Misc. App. No. 171 of 1989 (L)

in  
TA. No. 832 of 1987 (T)

R.K. Agarwal & others Versus Union of India & others

Hon'ble Mr. D.S. Mishra, A.M.

By this Misc. Application a prayer has been made that the time be extended by a period of 2 months to enable them to comply with the orders of this Hon'ble Tribunal. Issue notice to Opposite parties returnable by 17.7.89 why the prayer be not granted.

Sd/-  
Member(A)

Dated/ 13.6.89/

certified True copy

D.S. Mishra

10/7/89