

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE TA 838 OF 1987

NAME OF THE PARTIES Mummi Lal Applicant

Versus

Union of India Respondent

Part A.

Sl.No.	Description of documents	Page
1	Central Index	1
2	Order Sheet	1
3	Judgment 28-10-88	2
4	Supplementary Affidavit with Annex	5
5	W.P. No 4239/81 C.A. and R.A.	138
6	Cond. memo power	
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		

CERTIFICATE

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

Checked as Dated 01/12/88

on

Counter Signed.....

Rgan

Section Officer/In charge

Signature of the  
Dealing Assistant

# Order Sheet

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH ALLAHABAD

No. TA 030/87 (T) of 1987

(H2/1)

VS

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	<p>Office report</p> <p>An application has been filed in this Tribunal for transferring the case No. 030 of 87 to the Circuit Bench, Lucknow. If approved, 23<sup>rd</sup> May, 1988 may kindly be fixed for hearing at Circuit Bench Lucknow. In this regard the notices may be sent to the parties counsel.</p> <p>JKG 5/6/88 List in Case before D.R.J. on 23<sup>rd</sup> May 1988 at Circuit Bench Lucknow for attendance.</p> <p>23.5.88. DATE</p> <p>on the request of counsel applicant this is adjourned to 22-7-88.</p> <p>22.7.88 Due to bad demise of Sri Bhatt, Adv. adjourned to 25.0.00</p> <p>Registrar</p>	3

030/0763

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
<p>25.8.88</p>	<p><u>DR</u></p> <p>Applicant is present in person. Case is adjourned to 19.9.88</p> <p><u>DR</u></p>	
<p>19.9.88</p>	<p><u>DR</u></p> <p>Applicant is present in person. Counter Affidavit and Rejoinder Affidavit have been exchanged. List this case before Court for final hearing on 24.10.88.</p> <p><u>DR</u></p>	
<p>24.10.88</p>	<p><u>Hon. D.S. Mirra. A.M.</u></p> <p>None is present, the Case is adjourned to 28.10.88 for hearing.</p> <p><u>DR</u></p>	

Central Administrative Tribunal, Allahabad.  
Circuit Bench-Lucknow.

(13/1)

Registration T.A.No. 838 of 1987

Munni Lal ..... Petitioner  
Vs.

Union of India & others ..... Respondents.

Hon. D.S.Misra, AM  
Hon. G.S.Sharma, JM

( By Hon. G.S.Sharma, JM)

In this writ petition under Article 226 of the Constitution of India received by transfer u/s.29 of the Administrative Tribunals Act XIII of 1985 from the Lucknow Bench of the High Court of Judicature at Allahabad, the petitioner has claimed the relief that according to the correct date of birth and conditions of service, he should be allowed to work till 31.8.1983. The High Court passed an interim order and under its protection the petitioner was allowed to serve the respondents till the desired date and he retired on 31.8.1983 on reaching the age of superannuation according to his own calculation. No other relief was claimed in the writ petition and as such, this writ petition has now become infructuous. The learned counsel for the petitioner invited our attention to amendment sought in the writ petition and his contention is that as the respondents have not paid the retirement benefits to the petitioner according to the extension made in his service, he is entitled to those benefits and in the said amendment this benefit was claimed by him. We have examined the amendment application but this relief is not there. The learned counsel now contends that if he files a fresh petition the same <sup>may</sup> ~~will~~ be barred by time and we should allow him one more opportunity to seek necessary amendment.

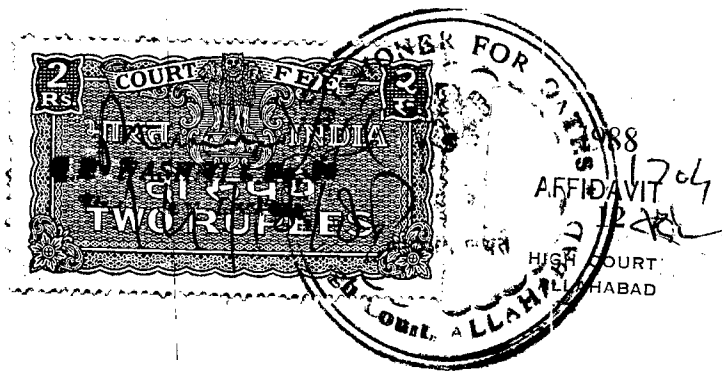
.2.

2. We have heard learned counsel for the parties. It is a writ petition of 1981 and the petitioner retired in 1983 and at this stage we do not feel convinced that we should allow any further amendment in this writ petition. The applicant may take suitable steps for his retiral benefits in accordance with law. This writ petition having become ~~infructuous~~ infructuous, is dismissed. There will be no order as to costs.

*Subramanian*  
28/10/88  
MEMBER (J)

*Sharma*  
MEMBER (A)

Dated: 29.10.1988  
kkb.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW.

Munni Lal ... Petitioner

Versus

Union of India & others ... Opposite p-arties.

T.A. 838 of 1987.

SUPPLEMENTARY AFFIDAVIT

I, Munni Lal, aged about 63 years, S/o Shri Behari Lal, R/o Village Qila Mohammadi Nagar, P.O. Bhadarukh, Tahsil and District Lucknow, the deponent, do hereby solemnly affirm on oath and state:

1. That the deponent is the petitioner in the above noted case and as such he is fully conversant with the facts deposed to herein.
2. That the opposite parties have not paid any Provident Fund, P.L.B (from Sept. '81 to Sept. '83), D.C.R.G., leave encashment and provisional pensionary benefits in spite of the Railway Board Letter No. E(P&A) I-78/RT-18 dated 1.6.1979. A photo copy of the same is being filed herewith as Annexure S-1 to this affidavit.

*Munni Lal*  
*(Munni Lal)*  
14.10.88  
COMMISSIONER FOR OATHS  
ALLAHABAD

Contd. page...2/-

~~Recd~~  
~~Munna Kalla~~

Received copy  
for OPs.

Sherma  
24/10/88  
(Siddharth  
Verma)  
Advocate  
Council for OPs

(2)

(Am)  
2

3. That in the circumstances it is desirable that opposite parties be directed to pay the same with 12 % per annum w.e.f. 30th September, 1983.

Lucknow:

Munni Lal  
— DEPONENT.

Dated 14.10, 1988.

I know the deponent who has signed before me.

Ak Shukla  
Advocate.

Verification

I, above-named deponent, do hereby verify that the contents of paras 1 & 2 of this affidavit are true to my personal knowledge while the contents of para 3 believed by me to be true on the advice of the counsel.

Munni Lal  
— DEPONENT

Lucknow:

Dated 14.10, 1988.



Solely affirmed before me on 14.10.88 at

3-15 A.P.M. by Sr. Munni Lal who has been  
identified by Sr. A.K. Shukla Advocate High  
Court, Lucknow Bench Lucknow.

Oath Commissioner  
High Court, Allahabad  
Lucknow Bench, Lucknow

12/11/04  
14/10/88

I have satisfied myself by examining the deponent  
that he has understood the contents of the affidavit  
which has been explained by me. (A.K. Shukla)



Munni Lal vs Union of India  
T A Case No 838/1987  
Annex S-1

Am-3

(3)

GOVERNMENT OF INDIA  
(BHARAT SARKAR)  
MINISTRY OF RAILWAYS

NO.E(P&A)I-78/RT-18

Dated: 1.6.1979.

The General Managers,  
All India Indian Railways,  
CIW DLW ICF & WA&P/Bangalore.

Sub:- Retirement age of Ministerial Staff.  
\*\*\*

Copies of the South Central Railway's letter No. P(R)579/II dated 11.6.1975 as also this Ministry's reply thereto contained in the letter NoE(P&A)I-78RT-18 dated 21.2.1979 are sent herewith for information and guidance.

Sd/-  
(I.K.RASGOTRA)  
Addl. Dy. Director, Pay Commission  
Railway Board.

DA: As above.

No.E(P&A)I-78/RT-18

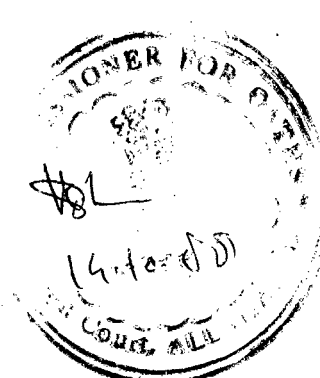
Dated 1.6.1979.

Copy forwarded for information to FA & CAOs, All Indian Railways, CLW DLW ICF & W&AP Bangalore.

Also copy to E(F)Spl. & F(E)III with 2 spares

\*\*\*SABRI\*\*\*

Munni Lal



232  
(Am)  
u

(4)

Copy of the GM South Central Railways/SC Letter No.P(R)  
579/PtII dated 11.6.1975 addressed to Secretary (Estt)  
Railway Board, New Delhi.

\*\*\*

Sub:- Retirement age of Ministerial staff.

\*\*\*

On this Railway, some cases have arisen where employees who are required to retire at the age of 58 years in terms of FR 56 approached court on the pleas that they are actually Ministerial servants and therefore, should be allowed to continue in service upto the age of 60 years under the provisions of rule 2046(b) R.II. There are also some cases filed by Ministerial employees not governed by this sub rule. Such petitions are filed by them on the eve of their attaining the age of 58 years and they have to be continued in service beyond that date as they generally obtained a stay order from courts restraining the Administration from retiring them when they reach the age of 58 years. By the time the final judgement of the court is received the employees would have served at least a year or more beyond the age 58 years.

2. There are no instructions of the Railway Board as to how the post retirement benefits should be regulated in such cases. This Railway therefore, has decided to regulate the post retirement benefit as under:-

In all cases where the staff have had to be continued beyond 58 years due to the stay orders obtained by them from courts and where the courts have ultimately dismissed the employees petitions or the judgements of the courts are not received by the time the employees reach the age of 60 years.

(i) The Pension and the DCRG/SC to PF in such cases would on completion of 58 years. The period of service beyond 58 years will be ignored.

(ii) Pensionary equivalent of the DCRG/SC to PF for the period of enforced employment beyond the age of 58 years will be recovered from the employees.

(iii) In the case of staff governed by contributory SRPF no bonus will be permitted for the period beyond the age of 58 years.

(iv) No pension will be given for the period after attaining the age of 58 years upto the date of actual relief.

Board may kindly consider the matter and issue

3.

\*\*\*SABRI\*\*\*

....contd....2



434  
17.7.28  
M  
5

-:: 5 ::-

detailed instructions. Pending approval of the Railway Board, action will be taken as indicated above.

4. This issues at the instance of the RA&CAO in consultation with the Law Officer of this Railway.

Sd/-  
(Y. KRISHNA MURTHI)  
for General Manager

Copy of Board's letter No.E(P&A)I-78/RT-18 dt 21.2.1979 addressed to the General Manager, South Central Railway Secundrabad.

Sub:- Retirement age of Ministerial staff.  
\*\*\*

Reference correspondence resting with your Railway's D.O.letter No.P(R)579/II dated 13.6.1978 on the above subject.

2. The points raised in your Railway's letter No.P(R) 579/II dated 11.6.1975 have been considered. In view of the circumstances explained therein, it is clarified that in such cases the period during which a Railway servant is allowed to continue in service beyond 58 years of age in compliance of the stay order is to be treated as re-employment and each case should be referred to the Ministry of Railways for orders.

3. Where, however, the petitions/suits filed by such employees are pending in the courts, even at the time when such railway servants attain the age of 60 years, the post retirement benefits in respect of such railway servants may be sanctioned provisionally on the basis of the service rendered till they attain the age of 58 years subject to the final decision of the court on their petitions/suits. The provisional Retirement benefits so granted will continue to be provisional as long as the petitions/suits are not finalised.

This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

Sd/-  
(N. PADMANABHAN)  
Jt. Director Estt., (P&A)  
Railway Board.

\*\*\*SABRI\*\*\*

COMMISSIONER FOR OFFICIALS  
HIGH COURT, ALMAHA  
17 JUL 1979

DM/2012-2672/76KW

Copy forwarded to W. Au. for information and guidance.

of the Director of Audit  
CB/14. N. R. B. House  
New Delhi  
18 Aug 79/EXP1

①

(B)

To,  
The Registrar,  
Central Administrative Tribunal,  
ALLAHABAD.

Dear sir,

TA No. 838/87 T.

Sub : Transfer of case of WP No. 4239/1981.

- - - - -

I had filed a writ petition no. 4239 of 1981 before the Honble High Court, Lucknow Bench, Lucknow and the same has been transferred to this Hon'ble Tribunal. It has come to my knowledge that a circuit Bench has been established in Lucknow.

Thus, I pray that my above noted case may kindly be transferred for hearing at Lucknow at the earliest and my council Sri. A.K. Shukla, Advocate of 3- Kazi Laxmi Bhai Marg, Lucknow be informed about it.

Yours faithfully,

(MUNNI LAL) Munni Lal

EX-CG-I

Village : Kila Mohammadi Nagar,  
P.O. BHADRUKI, Distt. Lucknow.

80(1)  
7/11/88  
Lee  
4/5/88  
\* Notes  
Issued for 23/5/88  
\* Court Bench 4-5-88  
HCO  
Jen

Registered

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

\*\*\*

No. CAT/CB/LKO/426-427

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

OFFICE - MEMO

Registration No. O.A. \_\_\_\_\_ of 1934  
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.

Recd. on  
Register

dinesh/

\*\*\*\*\*

(B3)  
1

7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
~~Circuit Bench~~ Bench Lucknow.  
22-A Thompson Road, Allahabad-211 001.  
Grandhi Bhawan Lucknow.

\*\*\*

No. CAT/Alld/Jud/30121 To 122 Dated the 12-5

T.A.No. 838 of 1937. (T)

Mumtaz Applicant's

Versus

Union of India & others Respondent's  
Mumtaz Lal, EXCC-I R/o Village Kila  
To Mohammedi Nagar P.O. Shahdada  
District Lucknow.

Whereas the marginally noted cases has been Transferred by High Court Lucknow under the provision of the Administrative Tribunal Act (No.13 of 1985) and registered in this Tribunal as above.

Writ Petition No. 4289/81 The Tribunal has fixed date of 23/5 of 1988. The hearing of court of High Court Lucknow the matter.  
arising out of order dated \_\_\_\_\_ If no appearance is ~~made~~  
passed by \_\_\_\_\_ made on your behalf by your some  
in \_\_\_\_\_ one duly authorised to Act and pled  
on your behalf the matter will be heard and decided in your  
absence.

Given under my hand seal of the Tribunal this \_\_\_\_\_ day of 13/5 1988

By Siddharth Verma, Court  
Advocate High Court  
Lucknow.

Devi Chandra  
DEPUTY REGISTRAR (J)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW.

Munni Lal ...

... Petitioner

Versus

Union of India & others

... Opposite P-arties.

T.A. 838 of 1987.

SUPPLEMENTARY AFFIDAVIT

I, Munni Lal, aged about 63 years, S/o Shri Behari Lal, R/o Village Qila Mohammadi Nagar, P.O. Bhadarukh, Tahsil and District Lucknow, the deponent, do hereby solemnly affirm on oath and state:

1. That the deponent is the petitioner in the above noted case and as such he is fully conversant with the facts deposed to herein.
2. That the opposite parties have not paid any Provident Fund, P.L.B (from Sept.'81 to S-ept.'83), D.C.R.G., leave encashment and provisional pensionary benefits in spite of the Railway Board Letter No. E(P&A)I-78/RT-18 dated 1.6.1979. A photo copy of the same is being filed herewith as Annexure S-1 to this affidavit.

Contd. page...2/-

*Munni Lal*

(2)

3. That in the circumstances it is desirable that opposite parties be directed to pay the same with 12 % per annum w.e.f. 30th September, 1983.

Lucknow:

DEPONENT.

Dated , 1988.

I know the deponent who has signed before me.

Advocate.

Verification

I, above-named deponent, do hereby verify that the contents of paras 1 & 2 of this affidavit are true to my personal knowledge while the contents of para 3 believed by me to be true on the advice of the counsel.

DEP-ONENT

Lucknow:

Dated 14-10, 1988.



*Munni Lal is Minister of Public Works  
T.A. Can No 838/1987  
Jmman Sri*

(3)  
GOVERNMENT OF INDIA  
(BHARAT SARKAR)  
MINISTRY OF RAILWAYS

NO.E(P&A)I-78/RT-18

Dated: 1.6.1979.

The General Managers,  
All India Indian Railways,  
CIW DLW ICF & WA&P/Bangalore.

Sub:- Retirement age of Ministerial Staff.  
\*\*\*

Copies of the South Central Railway's letter No. P(R)579/II dated 11.6.1975 as also this Ministry's reply thereto contained in the letter NoE(P&A)I-78RT-18 dated 21.2.1979 are sent herewith for information and guidance.

Sd/-  
(I.K.RASGOTRA)  
Addl. Dy. Director, Pay Commission  
Railway Board.

DA: As above.

No.E(P&A)I-78/RT-18

Dated 1.6.1979.

Copy forwarded for information to FA & CAOs, All Indian Railways, CLW DLW ICF & W&AP Bangalore.

Also copy to E(F)Spl. & F(E)III with 2 spares

\*\*\*SABRI\*\*\*

*Munni Lal*

14)

Copy of the GM South Central Railways/SC letter No.P(R) 579/PtII dated 11.6.1975 addressed to Secretary (Estt) Railway Board, New Delhi.

\*\*\*

Sub:- Retirement age of Ministerial staff.

\*\*\*

On this Railway, some cases have arisen where employees who are required to retire at the age of 58 years in terms of FR 56 approached court on the pleas that they are actually Ministerial servants and therefore, should be allowed to continue in service upto the age of 60 years under the provisions of rule 2046(b) R.II. There are also some cases filed by Ministerial employees not governed by this sub rule. Such petitions are filed by them on the eve of their attaining the age of 58 years and they have to be continued in service beyond that date as they generally obtained a stay order from courts restraining the Administration from retiring them when they reach the age of 58 years. By the time the final judgement of the court is received the employees would have served at least a year or more beyond the age 58 years.

2. There are no instructions of the Railway Board as to how the post retirement benefits should be regulated in such cases. This Railway therefore, has decided to regulate the post retirement benefit as under:-

In all cases where the staff have had to be continued beyond 58 years due to the stay orders obtained by them from courts and where the courts have ultimately dismissed the employees petitions or the judgements of the courts are not received by the time the employees reach the age of 60 years.

(i) The Pension and the DCRG/SC to PF in such cases would on completion of 58 years. The period of service beyond 58 years will be ignored.

(ii) Pensionary equivalent of the DCRG/SC to PF for the period of enforced employment beyond the age of 58 years will be recovered from the employees.

(iii) In the case of staff governed by contributory GRPF no bonus will be permitted for the period beyond the age of 58 years.

(iv) No pension will be given for the period after attaining the age of 58 years upto the date of actual relief.

3. Board may kindly consider the matter and issue

\*\*\*SABRI\*\*\*

....contd....2

634  
17.7.28

detailed instructions. Pending approval of the Railway Board, action will be taken as indicated above.

Sd/-  
(Y. KRISHANAMUNTHI)  
for General Manager

Sub:- Retirement age of Ministerial staff.  
\*\*\*

2. The points raised in your Railway's letter No.P(R) 579/II dated 11.6.1975 have been considered. In view of the circumstances explained therein, it is clarified that in such cases the period during which a Railway servant is allowed to continue in service beyond 58 years of age in compliance of the stay order is to be treated as re-employment and each case should be referred to the Ministry of Railways for orders.

*Munnidall* 4. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

L. M. H. 475  
 17 JUL  
 \*\*\*SABRI\*\*\*  
 Jm/2 AT 12-26/2 176 KW  
 Cgru forwarded to w. An.  
 information and guidance

Director Estt., (P&A)  
Railway Board.  
Office of the Director General  
of the Railway Board  
New Delhi.  
19th Dec. 1951

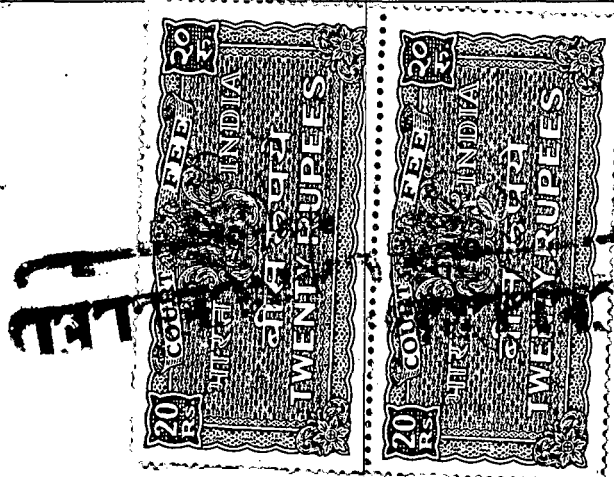
Group A 15(i)  
INDIA COURT FEE

5871

60RS.



2  
9965



Dep. 15600  
25400  
101000  
26/81

In the Honble High Court of Judicature at Allahabad  
Unknown Bench Unknown  
W.P. No 4229 of 81

Mumukshu

Petitioner

vs.

Union of India - respondent

app-party

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

Index  
IN RE: 4239  
Writ Petition No. of 1981.

MUNSI LAL . . . . . PETITIONERS.

VERSUS

UNION OF INDIA AND OTHERS . . . . . OPP. PARTIES.

I N D E X

<u>Sl. No.</u>	<u>particulars</u>	<u>page No.</u>
1.	Memo of Writ petition	1 to 10
2.	Affidavit	11 - 12
3.	Annexure No. 1.	13 - 14
4.	Annexure No. 2.	15 - 16
5.	Annexure No. 3.	17 - 18
6.	Annexure No. 4.	19 - 20
7.	Annexure No. 5.	21 - 22
8.	Annexure No. 6.	23 - 24
9.	Annexure No. 7-A	25 - 26
10.	Annexure No. 7-B	27
11.	Annexure No. 8.	28 - 29
12.	Annexure No. 9.	30 - 31
13.	<del>Annexure No.</del> Annexure No. 10-A	32
14.	<del>Annexure No.</del> Annexure No. 10-B	33 - 34
15.	Annexure No. 11.	35 - 36
16.	Annexure No. 12.	37 - 38
17.	Power (Vakalatnama).	39

PRESENTED BY

*B.L. Shukla*  
(B.L. SHUKLA)

COUNSEL FOR THE PETITIONERS.

LUCKNOW : DATED.

26.8.81

3

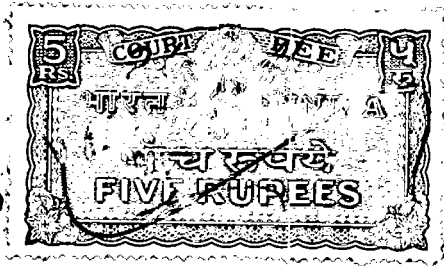
IN THE HONOURABLE HIGH COURT OF JUDICATURE AT LUCKNOW,

LUCKNOW Bench : Lucknow.

S.M. APP. NO. 714/5(2) OF 1981.

IN RE:

WRIT PETITION NO. 4239 OF 1981.



Munni Lal, Clerk Grade I, Office of the Senior Accounts Officer (W), Northern Railway, Chorbach, Lucknow; residing at village Gula Mohammadi Nagar, Post Office Bhaderu, Tehsil and District Lucknow. ....petitioner.

V.

1. The Union of India, through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Financial Advisor and Chief Accounts Officer, Northern Railway, Baroda House, New Delhi.
3. The Senior Accounts Officer (W) Northern Railway, Chorbach, Lucknow.

...Opp. Parties.

APPLICABLE FOR S.M.

The humble petitioner begs to submit as under :-

That for the facts and reasons given in the accompanying writ petition it is respectfully prayed that the application of Annexure No. 11 may kindly be ordered during the pendency of the above note writ petition.

Lucknow, Dated.

26.8.81

27

(Sd/-) (S.L. GILL) ADVOCATE & LEGAL CONSULTANT.

Hank S. Vining, 1.  
Hon. S. C. Malheur, 2.

---

Put up along with  
the ant petition on  
31-8-1981,

kel

27-8-81.

Issue notice to the opposite  
parties returnable by 14.9.1981.  
List this application for stay  
for orders on 15.9.1981. Till  
that date the order of retirement  
of the petitioner from the post  
of the Clerk Grade I shall not be  
given effect to.

L

Ks

27.8.1981

SMV

4611

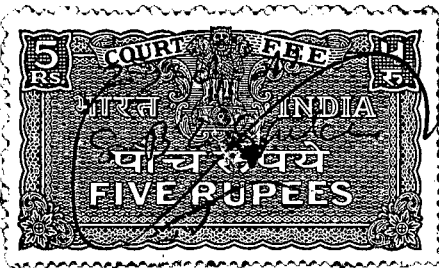
(4)

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

C.M. Application No. 7474 (W) of 1981.

In re:

Writ Petition No. 4239 of 1981.



10005m  
27/0/81

Munni Lal.

...

Petitioner.

Versus

Union of India and others. ... Opposite parties.

APPLICATION FOR AMENDMENT OF THE WRIT PETITION.

The petitioner above named most respectfully  
showeth:

For the facts and circumstances stated in  
the accompanying affidavit, it is most respectfully  
prayed that this Hon'ble court be pleased to permit  
the petitioner to amend his writ petition accordingly.

*M. S. Mulla*

Advocate,

Counsel for the petitioner.

Lucknow, Dated:  
August 27, 1981.



Honble K.S. Varma, J.  
Honble S.C. Mathur, J.

Allowed as prayed.

SM

... Ks  
27.8.1981

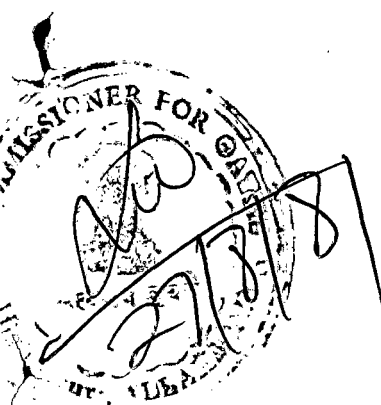
31.8.1981.

3. That it <sup>has</sup> become necessary to amend the writ petition and to add the following as paragraph 22 after paragraph 21 and existing paragraph 22 be read as paragraph 23 to the writ petition.

" Paragraph 22 - That the petitioner has received an order dated 26.8.1981 by which a final order has been passed ordering issue of notices for his retirement on 31.8.1981 even though the representation of the petitioner is still under examination. A true copy of the said order is being annexed as ANNEXURE No. 13 to the writ petition."

4. That in the circumstances it is also necessary that following be added in relief clause after clause (iv) and <sup>as clause</sup> ~~clause~~ (v).

" (v) Issue a writ, order or direction in the nature of certiorari quashing ANNEXURE No. 13 to the writ petition."



Munni Lal

Lucknow, Dated:  
August 27, 1981.

Munni Lal  
Deponent.

I, the above named deponent do hereby verify that the contents of paragraphs 1 to 3 including paragraph 22 sought to be added in the writ petition are true to my own knowledge and those

7

contents of paragraph 4 including clause (v) sought to be added in the writ petition are believed by me to be true. No part of it is false and nothing material has been concealed so help me God.

Munni Lal

Lucknow, Dated:  
August 27, 1981.

Deponent.

I, identify the deponent who has signed before me.

Amrinder

Choti BZ Shukla  
Advocate.

Solemnly affirmed before me on 27-8-81  
at a.m./p.m. by Munni Lal  
the deponent who is identified by  
Sri Niranjan Prasad  
clerk to Sri B.L. Shukla  
Advocate, High Court, Allahabad.

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

S.R. Mehta

OATH COMMISSIONER  
High Court Allahabad  
Lucknow Bench

Ac

Est

27-8-81



6

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

Lucknow Bench, Lucknow.

C.M.No. No. 7475 (W) of 1981.

In re

Writ Petition No. 4239 of 1981.

Munni Lal.

...

Petitioner.

Vs.

The Union of India, and others.

...

Opp-parties.

Application for Stay

Lucknow dated: 27.8.1981.

Hon. K.S.Varma, J.

Hon. S.C.Mathur, J.

Issue notice to the opposite-parties returnable by 14.9.1981. List this application for stay for orders on 15.9.1981. Till that date the order of retirement of the petitioner from the post of the clerk Grade I shall not be given effect to.

Sd. K.S.Varma.

Sd. S.C.Mathur.

27.8.1981.

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

WRIT PETITION NO. **4239** OF 1981.

MUNNI LAL, clerk Grade I, Office of the Senior  
 Accounts Officer (W), Northern Railway, Charbagh,  
 Lucknow; residing at village Qila Moh-mmedinagar,  
 Post Office Bhaderu, Tehsil and Distt. Lucknow.

.....PETITIONER.

Versus

1. The Union of India, through the General Manager,  
 Northern Railway, Baroda House, New Delhi.
2. The Financial ~~Manager~~ Advisor and Chief Accounts  
 Officer, Northern Railway, Baroda House, New Delhi.
3. The Senior Accounts Officer (W), Northern Railway,  
 Charbagh, Lucknow.

....OPPOSITE PARTIES

WRIT PETITION

UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

*Munni Lal* To

The Hon'ble Chief Justice and his other  
 companion judges of the aforesaid Court.

May it please ~~Y~~ please your Lordships!

The humble petitioner of the petitioner above named  
 most respectfully sheweth -

One impressed 10.60—00  
Two Adhesive 10.40—00  
Total 10.100—00

Correct but final Court-fee ~~will~~  
will be made on receipt of lower  
Court record.

In time up to

Papers filed. Copy of ~~the~~  
should also be filed

Ward - Bench

Writ of Habeas Corpus and  
Prohibition is sought for

Hon. K.S. Verma, J.

Hon. S.C. Mather, J.

By B.L. Shukla learned 28/8/01

Counsel for the petitioner prays  
that service on opposite parties 2 and  
3 may be effected through special  
messenger. Issue notice to opposite  
parties 2 and 3 fixing 31-8-1901.  
The opposite parties shall be  
required to show cause why the  
writ petition be not admitted.  
Service ~~on~~ on opposite parties 2 and 3  
shall be effected through special  
messenger costs of which shall  
be borne by the petitioner.

Rel

L. K.  
27-8-01.

.2.

1. That the petitioner is at present posted Clerk Grade 1 in the office of the opposite party no. 3 and was originally appointed as class IV employee on the 1st September, 1943 as a Temporary Peon in the Workshop Accounts Office (Ticket Supply Section Charbagh, Lucknow) when his date of birth was ascertained and recorded as 20th August, 1923 in accordance with Certificate issued by the Assistant Surgeon, East Indian Railway, vide certificate No. 1077 dated 31st August, 1943 showing his age 20 years.

2. That in the year 1958 the petitioner was required to furnish his school leaving Certificate to establish his Educational Qualifications for the purposes of promotion to class III (inferior) service in the Indian Railways.

3. That on obtaining the said School Leaving Certificate from Hari Chandra High School, Lucknow where the petitioner was educated, it was found that the date of birth of the petitioner was 5th September, 1925.

4. That the petitioner did not then become aware of any discrepancy in age recorded in his service ~~record~~ book and the age recorded in the School Leaving Certificate as the petitioner was never shown his service book in accordance with Rule 1942, Indian Railways General Code, Volume I. Rule 1942 is quoted below: -

Munni Lal

Hon'ble K.S. Varma, J.  
Hon'ble S.C. Mathur, J.

After we had passed the order on this writ petition directing that it may be listed for hearing on 31.8.1981, the petitioner moved an application for amendment of the writ petition.

Along with the application an order, Annexure 13 was filed which indicated that the notification for retirement of the petitioner has been issued without deciding his representation. The amendment is allowed. The earlier order passed today is recalled.

Admit. Issue notice to the opposite parties.

V K  
27.8.1981

SMY

Note:-

3 Reg. Given 12 Notice dt filed  
K.S.V.  
28/8/81



11  
3.

" ~~Amended~~ 1942- . It shall be the duty of every Head of Office to initiate action to show the Service-Book to the Railway Servants governed by provisions, rules under his administrative control every year and to obtain their signature in token of their having inspected the service book. A certified copy to the effect that he has done so in respect of the preceding financial year should be submitted by him to his next superior officer by the end of every September. The Railway servants shall inter-alia ensure before affixing their signatures that their services have been duly verified and certified as such. In the case of a railway servant on foreign service his signature shall be obtained in his Service Book after the Accounts Officer has made therein necessary entries connected with his foreign service. "

5. That early in the year 1980 the petitioner came to know that his service record has not been corrected in accordance with the School Leaving Certificate. His date of birth is still shown as 20th August, 1923 instead of 5th September, 1925 as shown in the Scholars Register. He, accordingly, made representation on 15th April, 1980 for the correction of the date of birth in the service records. A true copy of the said representation is being filed herewith as ANNEXURE No. 1 to this WRIT PETITION.

Munni Lal

That on the petitioner's application

6.

.4.

dated 15th April, 1980 the Financial Advisor and Chief  
Chief Accounts Officer asked for a report from the  
Senior Accounts Officer, Northern Railway, Charbagh,  
Lucknow. A true copy of the report is filed herewith as  
ANNEXURE NO. 2 to this writ petition. The said report  
shows that the petitioner submitted School Leaving  
Certificate to the Stores Accounts Officer, Charbagh,  
Lucknow and a true copy of the said School Leaving  
Certificate is available in the petitioner's service  
Record according to which his date of birth is  
5th September, 1925. The column of special qualification  
in the service records has been filled in on the  
basis of of the said School Leaving Certificate on  
21.1.1958 on the first page of the Service Roll and the  
same was also attested by the then Stores Accounts  
Officer, Charbagh, Lucknow. The report further stated  
that " It is apparent that while recording the  
qualification on the basis of the School leaving  
Certificate the date of birth as shown in the Transfer  
Certificate was not checked up then."

7. That having received no reply to his representa-  
tion the petitioner again made a representation to the  
party no. 2 and other authorities on 16.6.1980, 21.11.1980  
23.2.1981 and 24.2.1981. True copies whereof are filed  
herewith as ANNEXURES NOS. 3 to 6 to this writ petition.

Munni Lal

8. That in the month of March, 1981 the petitioner  
received a copy of the D.O. Letter dated 31.3.1981 bearing  
no. 78/ADM/C/2-Rep./Cs from Sri T.R. Chandra, Senior  
Accounts Officer (W)/CB, Lucknow to Sri Anant Ram

.5.

Accounts Officer (W) Northern Railway, Baroda House, New Delhi enclosing therein a copy of the letter No. 74/ADMN/A-25/5 dated 28.3.1981 requiring the petitioner to see the Additional Chief Accounts Officer with the original copy of his School Leaving Certificate. A true copy of the said letter along with its enclosure viz. copy of letter dated 28.3.1981 from the Financial Adviser and Chief Accounts Officer, to the Accounts Officer (W) Northern Railway, Charbagh, Lucknow is filed herewith as ANNEXURES 7-A and 7-B to this writ petition.

9. That as directed in the aforesaid letter the petitioner approached the Additional Chief Accounts Officer, Northern Railway, Baroda House, New Delhi, submitted his letter dated 16.4.1981. A copy of which is filed as ANNEXURE NO. 8 to this writ petition by which he explained as required that he did not make any representation regarding the correction of his age earlier as he was never shown his Service-Roll before and was not aware of the discrepancy regarding his date of birth. The School Leaving Certificate was also submitted along with the said letter.

10. That in confirmation of the facts stated in the earlier paragraph the petitioner was served with a copy of the letter of opposite party no. 2 on 4.5.1981. A true copy of which is being filed herewith as ANNEXURE 10.9 TO THIS Writ Petition. The letter reads as under:-

" Sri Munni Lal attended this office on 16.4.1981 but he could not produce the original School Leaving Certificate. A copy of which was produced

*Munni Lal*

(15)  
7.

decision is taken in the matter. A true copy of the said circular is filed herewith as ANNEXURE NO.12 to this writ petition.

14. That it appears that inspite of the fact that the Railway Administration became aware in the year 1958 of the discrepancy in respect of the age of the petitioner in the service records no steps were taken to correct the same nor was the service record ever shown to the petitioner in accordance with the provisions of Paragraph 1942 of the Indian Railways General Code, Volume I to draw the petitioner's attention to the fact to enable him to move the authorities.

15. That the petitioner has done every thing that was required from him to prove his correct age. The Railway Administration is also aware of the lapse committed by it in not making the correction of the age of the petitioner.

16. That the petitioner has submitted the best proof of the date of birth namely a true copy of the Scholars Register and Transfer Certificate. A true copy of which was duly attested by the Stores Accounts Officer, Charbagh, Lucknow which is already a part of the service-roll of the petitioner.

17. That inspite of the petitioner having furnished a true copy of the Scholars Register again the Railway Administration is insisting on the production of the original school Leaving Certificate which cannot be produced by him as the same has been lost. He, however

Munni Lal

(16)

.8.

obtained a fresh copy of the same from the school and has submitted it to the authorities.

18. That a perusal of Annexure No. 9 will show that the opposite party have already made up their mind ~~to~~ close the case if the document demanded by them is not produced.

19. That in view of the correspondence with the Railway authorities referred to above the petitioner has ~~given~~ grave apprehension that the Railway Authorities will reject the evidence submitted by the petitioner in proof of his age ( viz. the true copy of Scholars Register duly certified by the school authorities to be a true copy ) and reject the representation filed by him and retire him on 31.8.1981.

20. That even though the date of petitioner's retirement is only few days ahead i.e. 31.8.1981 no decision has been communicated to the petitioner by the Railway Administration.

21. That in the circumstances noted above it is necessary that the opposite parties be prevented ~~from~~ from acting contrary to law and doing grave injustice to the petitioner.

22. That being aggrieved the petitioner begs leave to file this Writ Petition for the following reliefs on the grounds noted below:-

A. Because the opposite parties have no jurisdiction to insist on the production

Munni Lal

.2.

of the same true copy of Scholars Register an attested copy of which was placed on the service roll of the petitioner in the year 1958 when he has already supplied a fresh true copy of the same document obtained from the same source .

3. Because the opposite party are bound to accept and act upon the true copy of the Scholars Register produced from proper custody.

C. Because the opposite party has no jurisdiction to reject a document which is legally admissible in evidence.

D. Because the opposite party are <sup>in</sup> duty bound to act fairly and in accordance with law.

E. Because the relevant document viz. a duly attested copy of the Scholars Register to prove the date of birth already being on the service roll of the petitioner .The demand of other evidence to prove the same is not bonafide.

P\_r\_a\_y\_e\_r.

Wherefore it is most respectfully prayed that the following reliefs may be given by this Hon'ble Court to the petitioner:-

- i). Issue a writ of Mandamus directing the opposite parties to decide the representation of the petitioner in respect of the correction of the date of birth in his service records.

*Muni Devi*

(18)

.10.

ii). Issue a writ of prohibition restraining the opposite parties from insisting on the production of the true copy of ~~Scholar~~ Register and Transfer Certificate issued to him in the year 1958 and a copy whereof ~~only~~ duly attested by competent Railway Officer was placed in the Service Roll of the petitioner was placed in the Service Roll of the petitioner in the year 1958.

iii). Issue a writ of Mandamus directing the opposite parties to accept and act upon all legally admissible evidence produced by the petitioner in support of his case before them.

iv). Direct the the opposite parties to act fairly and in accordance with law in deciding the Representation of the petitioner for the correction of the Date of Birth in his Service Record and not to retire him from service on 31.8.1981 in accordance with the Annexure No.11 to the writ petition.

Lucknow, Dated.

26.11.21

*Munni Lal*

*B.L. Shulla*  
( B. L. SHULLA )  
COUNSEL FOR THE PETITIONER.

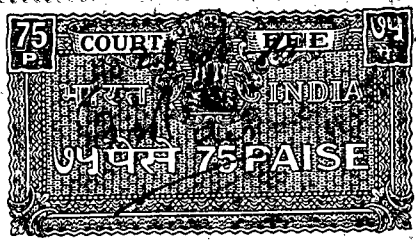
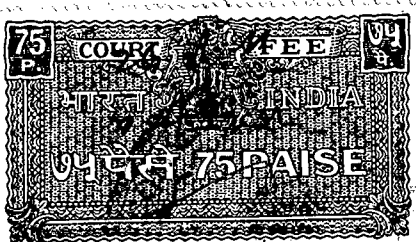
(A)

//

IN THE HONORABLE HIGH COURT OF JUDICATURE AT ALLAHABAD,  
SITTING AT LUCKNOW.

AFFIDAVIT

IN SUPPORT OF  
WRIT PETITION NO. 1981.



Munni Lal .

....Petitioner.

Vs .

Union of India and others .

....Opp. Parties .

A f f i d a v i t .

I, Munni Lal, aged about 55 years, son of Sri Chhari Lal, Clerk Grade I, in office of the Senior Accounts Officer (W), Northern Railway, Charbagh, Lucknow; residing at village Gila Mohammadi Nagar, Post Office Badara, Tehsil and District Lucknow; hereinafter referred to as the deponent, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the petitioner himself in the above noted writ petition and as such he is fully conversant with the facts of the case posed to below.

2. That the contents of paragraphs 1 to 7, 9, 11 to 15 & 17 and of the writ petition are true to my own knowledge while the contents of paragraphs 14, 18, 19 to 21 and 22 are believed by the deponent to be true on the legal advice.

*Munni Lal*



.2.

3. That the contents of Annexures 1 to 12 are the true copies of their respective originals and they have been compared by the deponent.

Munni Lal

Lucknow, Dated.

Deponent.

26-8-81

I, Munni Lal the deponent, do hereby verify that the contents of paragraphs 1 to 3 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed so. he to me God.

Munni Lal

Lucknow, Dated

Deponent.

26-8-81

I identify the deponent who has signed before me.

Am

(Niranjan Prasad)  
clerk to Sri B.L. Shukla, Advocate.

Solemnly affirmed before me on 26-8-81

at 9.10 am/pm by the deponent Munni Lal

who is identified by Sri Niranjan Prasad

clerk to Sri B.L. Shukla

Advocate, High Court Bench Lucknow.

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

OATH COMMISSIONER.

Ram Prasad Shukla

OA JER

No. 26/26-5

26-8-81

26-8-81

26/8/81

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

Annexure

in re:

Writ Petition No. \_\_\_\_\_ of 1981.

Munni Lal. .... Petitioner.

Vs.

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

Annexure No ....1....

The F.A. & C.A.O ( Adm ).

N. Rly., Baroda House,

New Delhi.

Through: Proper Channel.

Sir,

Sub:- Request for alteration of date of birth

Ref:- Rule 145 (3) Establishment Code Vol. 1.

Most humbly and respectfully, I beg to submit as  
under:-

1. That I was appointed as a cl. IV employee on 1.9.1943  
and now working as OG w.e.f. 17.1.1980 under SAO (W) CB/LK
2. That on entering Railway service, my date of birth  
was recorded as 20.8.1923 orally at the time of appointment  
and this was liable for amendment by the Administration  
on production of a confirmatory documentary evidence in

*Munni Lal*



14

(22)

-2-

that behalf.

3. That in the year 1958, I submitted School Leaving Certificate in support of my age and qualification on demand by the then S C (W)/AMV/LAO and the fact of its acknowledgement has been mentioned in my service Record (Top Sheet refers).

4. That my date of birth as recorded was not altered as "5.9.1925" according to Transfer Certificate by SAO (W)/AMV/LAO despite reasonable explanation submitted by me within time.

5. That I am a Scheduled Caste candidate and my economic condition is not too good.

Under the circumstances mentioned in Para 1 to 5 above, I would pray that necessary orders may kindly be passed in respect of alteration in the recorded date of birth (from 20.8.1923 to 5.9.1925 under the powers vested in your honour vide Rly. Bd's letter no. E(MG)64 BR1/2 dated 18.11.1964.

For this act of kindness, I shall be ever grateful to your honour.

Dated: 15.4.1980

Yours faithfully,

*Munni Lal*

(Munni Lal)  
CG I  
Office of SAO (W)/CB/LAO.

Copy to :

1. The Chief personnel Officer, R. Rly. New Delhi for information.
2. The Dy. CAO (W)/NR/AMV/LAO for confirmation of the facts stated in this application.

(Munni Lal)  
CG I of SAO (W)/CB/LAO.

TRUE COPY.

*20/5*

-2-

birth was recorded as 20.8.1923 in the Service Record.  
The Asstt. Surgeon E.I. Rly. Lucknow vide his certificate  
No. 1077 of 31.8.43 had also shown his age as 20 years,

Shri Munni Lal has stated in his application Dt. 15.4.80  
that he submitted a School Leaving Certificate in the  
1958 to the S.A.O.(W) AMV on demand ( which should be  
~~on the basis of this School Leaving Certificate~~ Stores  
Accounts Officer/Charbagh and not S.A.O (W) AMV ).

A true copy of this School Leaving Certificate is  
available in the Service Record according to which his  
dated of birth is 5.9.1925. The column "Special Qualifi-  
cation" has been filled in on the basis of this School,  
leaving Certificate ( T.C. ) on 21.11.58 on the 1st page  
of S.R. and also attested by the then Stores Accounts  
Officer/CB/Lucknow. It is apparent that while  
recording the "Qualification" on the basis of  
School Leaving Certificate, the date of birth as shown  
in the T.C. was not checked up, then.

He has over represented about wrong entry of Date of  
Birth so long. There is no reference available in this  
officer not has he made any mention of such reference  
in his application 15.4.80 and 16.6.80.

Sr. Accounts Officer (W),  
North Eastern Railway, Charbagh,  
L U C K N O W .

*Munni Lal*

TRUE COPY.

*25/10*

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

Annexure

in re:

Writ Petition No. . . . . of 1981.

Munni Lal. . . . . Petitioner.

vs.  
c

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

Annexure No. 3.

To

The P.A. & C.A.O (P&M),  
N. Rly., Baroda House,  
New Delhi.

Sir,

Sub: Request for alteration of date of birth.

In continuation of my representation dated  
15.4.1980 most humbly and respectfully I be to state as  
under:-

1. That I have applied for alteration of date of birth  
from 20.8.1923 to 5.9.1925 under the mandatory provisions  
of Establishment Code Vol. I.
2. That a period of about 2 months has passed and nothing  
has been heard so far.
3. That the ends of justice require utmost consideration  
of my application.

Munni Lal

25/8

-4-

Under the circumstances mentioned above, I would  
pray that necessary orders may kindly be passed in the  
matter if powers have been vested in your honour vide  
Rule 145 (3) R.I. in view of ruling given by a Court of Law  
circulated vide M. Rly.'s Printed Serial No. 3585.

" It is not within the competence of an authority  
lower than the one to whom powers delegated under  
Rule 145 (3) R.I. to alter the date of birth.

Dated 16.6.1980.

Yours faithfully,

( Munni Lal )

CGI

Office of the SAC (A)/CN/LM.

Copy to the Chief Personnel Officer, M. Rly., Baroda House,  
New Delhi, for information and necessary action.

TRUE COPY.

Munni Lal

12/6/8

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

Annexure

In re:

Writ Petition No. of 1981.

Munni Lal .. Petitioner.

Vs.

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

ANNEXURE NO. 4.

The General Manager,  
N. Rly., Baroda House, New Delhi.

Through Sr. A/Cs Officer (W) N. Rly., Charbagh, Lucknow.

Sir,

Sub: Request for alteration of date of birth.

Ref: My <sup>applications</sup> ~~representations~~ dated 15.4.80 and 16.6.80  
to F.A. & C.A.O N. Rly., New Delhi.

The humble petitioner begs to submit as under:-

1. That he was appointed as class IV employee on 1.9.1943 and is now working as a clerk Grade I in the office of the Sr. A/Cs Officer (W) N. Rly., CBZ Lucknow.
2. That on entering Railway Service on 1.9.1943 his date of birth was assessed as 20.8.1923 in terms of Rule 145 (2) (C) RI.

*Munni Lal*

*26/8*

3. That in the year 1988, the petitioner was asked to submit School Leaving Certificate in proof of his age, which was furnished accordingly.

4. That the local Railway Administration after verifying the facts mentioned in the above certificate accepted the correctness of entry of D.O.B. as 5.9.1925 in the Service Record (Top Sheet refers).

5. That the representations of the petitioner to the F.A. & C.A.O. have neither been entertained nor replied to, hence this appeal to your honour.

~~6. That the representations of the petitioner to the attention of~~

6. That the attestation of service Record by the petitioner if any, obtained by the administration may kindly be deemed to have been accepted the correctness of the entries in the record excluding the regarding his date of birth.

That humble petitioner, therefore, prays that his date of birth may kindly be altered as ( 5.9.1925 ) ( Fifth September nineteen hundred twenty five ) under the powers vested in your honour.

Yours faithfully

Dated : 21.11.80.

( Munni Lal )

CG. I

Office of SMO (W) CB/LAC.

Munni Lal

Copy forwarded to :-

1. The F.A. & C.A.O. Rly., Baroda House, New Delhi in ref. to applications dt. 15.4.1980 & 16.6.1980.
2. Railway Minister, Rail Bhawan, New Delhi.

TRUE COPY.

25/8



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

Annexure

in re:

Writ Petition No.

of 1981.

Munni Lal.

....Petitioner.

Vs.

Union of India and others.

....Opp. Parties.

ANNEXURE NO. 5.

The General Manager,  
N. Rly., Baroda House,  
New Delhi.

Sir,

Sub:- Correction in the recorded date of birth.

Reference is invited to the petition dated 21.11.1980 submitted by the humble petitioner in regard to alteration in the date of birth on the following grounds:-

1. A genuine clerical error has been made in amending it in accordance with the public document i.e. School leaving Certificate in the year 1958.
2. The humble petitioner should not be allowed to suffer for the mistakes, if any, committed by the administration or its Officers.
3. The humble petitioner is also making this application for condonation of delay, if any, in moving the authorities in this regard.

*Munni Lal*

*20/8*

30

22

-2-

It is, therefore, prayed necessary orders may kindly be passed and the petitioner informed at an early date.

Dated:- 23.2.1981.

Yours faithfully

( Minni Lal )

CGI.

Office of the SAO (W) /CB/LKO.

TRUE COPY.



*Minni Lal*

23 31

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

---

Annexure

in re:

Writ Petition No. of 1981.

Munni Lal . . . . . Petitioner.

Vs.

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

ANNEXURE NO. 6.

Hon'ble Minister for Railways,  
Govt. of India,  
Railway Board,  
New Delhi.

Respected Sir,

Sub :- request for alteration of date of birth.

Ref:- By applications dated 15.4.1980, 16.6.1980  
& 21.11.80 to F.A. & C.A.O. N. Rly.,  
New Delhi.

---

The humble petitioner begs to submit as under:-

- Munni Lal*
1. That he was appointed as Cl. IV employee on 1.9.1943 and is now working as a CG I in the office of the Sr. /cs Officer (I), MR/CB/Luc now.
  2. That on entering Railway service on 1.9.1943 his date of birth was assessed as 2.8.1923 in terms of Rule 145 (2) (G) RI.
  3. That in the year 1958 the petitioner was asked to submit School Leaving Certificate in proof of his age, which was

-2-

furnished accordingly.

4. That the local Railway Administration after verifying the facts mentioned in the above certificate, accepted the correctness of entry of Date of Birth as 5.9.1925 in the Servie Records (Top Sheet Refers).
5. That the representations of the petitioner to the F.A. & C.A.O. have neither been entertained nor replied to, hence this appeal to your honour.
6. That attestation of service record by the petitioner, if any, obtained by the Administration, may kindly be deemed to have been accepted, the correctness of the entries in the record excluding one regarding his date of birth.
7. That the humble petitioner should not be allowed to ~~to~~ suffer for the mistakes, if any, committed by the Administration or its officers.

The humble petitioner, therefore, prays that his date of birth may kindly be latered as (5.9.1925) (Fifth September, Nineteen hundred twenty five).

For this act of kindness I shall be much thankful to your honour.

Dated. 24.2.1981.

Yours faithfully,

(Munni Lal).

CG I

Office of the SMO (W) /CB/LAO.

TRUE COPY.

Munni Lal

24/8

33  
25

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

— — —

Annexure

in re:

Writ Petition No. \_\_\_\_\_ of 1981.

Munni Lal

...Petitioner.

Vs.

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

ANNEXURE NO. 7-A.

Northern Railway.

T.R. Chadha,  
SAO (W)/CB/LKO

Office of the  
Sr. Accounts Officer (W),  
Charbagh, Lucknow.

D.O. No. 78/Adm/C/2-Rep/CB.

Dated: 31.3.1981.

My dear Anant Ram,

Reg: Alteration in date of birth of Shri Munni Lal, Clerk Grade I in this Office.

Ref : You d.o. letter No. 80/Wc/ Hq/Complaint /Pt. III. dated 28.3. 1981.

....

*Munni Lal*

Please refer to Lok Nath's d.o. letter of even number dated 30.3.1981 on the subject. In this connection a copy of FA & CAO (Admn)'s letter No. 74/Adm/A/25/5 dated 28.3.1981 received later is also enclosed for your information and further action on the subject.

*25/8*

Shri Munni Lal has been advised to seek Addl. C.A. O. with the original copy of his School T.C. A

-2-

A copy of F.A. & C.A.O. (Admn)'s letter no. 74/Adm/A/25/5 dated 28.3.1981 has also been handed over to him for his information.

Yours sincerely.

sd/-

( T.R. Chandra )

Sri Anant Ram,  
A.C. (WC), N. Ry.,  
Baroda House, New Delhi.

Copy to P.A. & C.A.O., N. Railway, Baroda House, New Delhi for information with reference to P.A. & C.A.O.'s target date (10.4.1981) noted at S. no. 313. Copies of this office d.o. letter no. 78/Adm/C/2-Rep/C dated 30.3.81 are also enclosed along with original complaint.

Copy to Sri Munni Lal, Clerk Grade I, LHO for information along with a copy P.A. & C.A.O./Admn's letter no. 74/Adm/A/25/5 dated 28.3.1981.

sa/- illegible.

31.3.81.

S. C. (P.R. Chandra)  
(J)/CB/LHO.

TRUE COPY.

Munni Lal

26/8

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

Annexure

in re:

Writ Petition No.

of 1981.

Munni Lal.

.....Petitioner.

Vs.

Union of India and others.

... Opp. Parties.

ANNEXURE NO. 7-B.

Copy of letter No. 74 DM/A/25/5 dated 28.3.81 from  
F.A. & C.A.OO-dm., A. Rly., Baroda House, New Delhi to the  
Sr. Accounts Officer (W), 13/CB/ Lucknow.

Sub:- Alteration in the record date of birth of Shri Munni  
Lal CG I of your office.

Ref :- Your letter No. 70 DM/C/2/01.III/CB/Rep. dt. 18.12.

*Munni Lal*

Shri Munni Lal may be advised to see AOAC with the original  
copy of his school P.O. on which he is basing his claim. He  
should also state why he did not persevere for his case much  
earlier.

( This has C.O.'s approval ).

*25/8*

TRUE COPY.

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

Annexure

in re:

Writ Petition No. of 1981.

Munni Lal.

....Petitioner.

Vs.

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

ANNEXURE NO.8.

The Additional C.A. O. ,  
N. Rly., B. House, New Delhi,

Sir,

Subject: Alteration in the recorded date of birth  
of Sh. Munni Lal C.G. I of SAO (W)'s  
Office CB.

Ref:- Your 74Adm/A/25/5 dt. 28.3.81.

With reference to your letter cited above I have been  
directed by A.O. (W) CB/ to see your goodself on the above  
subject.

As regards remark for not ~~proceeding~~ pursuing this case  
earlier it is submitted that I was never shown my S.<sup>n</sup>.  
previously. When I came to know reg. my retirement I pursued  
the S.R. and found that the date of birth was wrongly  
shown therein which will be evident from the T.C. being

*Munni Lal*

*26/10*



37

29

-2-

presented personally. I therefore request that the date of birth in the SR. may kindly be amended as T.C. produced to your goodself in person.

Dt. 16.4.81.

Yours faithfully,

sd/- Munni Lal

( Munni Lal )  
CG. I  
SAO (W) CB.

TRUE COPY.

*Munni Lal*

26/8  
Munni Lal

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

Annexure No.

in re:

Writ Petition No.

of 1981.

Munni Lal.

....Petitioner.

Vs.

Union of India and others.

....Opp. Parties.

ANNEXURE No. 9.

Office of the  
Sr. A/cs Officer (W)  
MR/CB/Lucknow.

No. 78/Adm/C/2/Rep./Cb

Dated 4-5-1981.

Sr. Munni Lal,

CG I,

Incentive Section,

Office of Sd/O (W)/CB/LAO.

Sub: Alteration in the recorded date of Birth.

A copy of F.A. & C.A.C. (Adm)'s U.O. letter on the subject  
is reproduced below for necessary action.

Sd/- Illegible

Sr. A/Cs, Officer (W)

MR/CB/Lucknow.

Copy of U.O. letter No. 74/Adm/L/25/5 Dated 29.4.81 from  
F.A. & C.A.C. (Adm), Rly, Barod House New Delhi.

*Munni Lal*

*25/5*

-2-

" Shri Munni Lal attended this office on 16.4.81 but he not produce the original School Leaving Certificate a copy of which was produced by him in the year 1958 recording his date of birth. He may, therefore, please be advised to do the needful by 11.5.1981 at the latest, failing which his case will treated as closed. "

---

TRUE COPY.

Munni Lal

B  
25/8  
COU

32

## Annexure

Writ Petition No.

Munni L-1.

vs.

Union of India.

ANNEXURE NO. 10-A.

The F.A. & C.A.O. (adm)

N. Rly, Bardonia House,

New Delhi.

Through: Proper Channel.

Sir,

Sub: "Alteration in the recorded date of birth.

With reference to your L.O. letter no. 74/431m/4/25/5 dated 19.4.81 addressed to SAO (W) CB regarding submission of original School leaving certificate it is submitted that the original record of this is kept in the Scholars register in the School and a true copy of the same in original is sent herewith as desired for needful.

Doc. 5.5.81.

ours fait fu...y.

DA  
One T.C.  
सत्य प्रतिनिधि प्राप्ति किया  
होम कलेक्ट  
5/5/81

(Munni Lal)  
CGI  
Office of the SAO (W) CB/4c

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

Annexure.

In Re:

Writ Petition No. of 1981.

Munni Lal.

....Petitioner.

vs.

Union of India and others.

....Opposite Parties.

ANNEXURE NO. 10-B.

*Munni Lal*

*2/8*

Munni Lal

15

Union of India and others.

PERMITTED TO LEAVE THE SCHOOL UNDER  
 IN THE APRIL OF EDUCATION COASE

## SCHOLAR'S REGISTER &amp; TRANSFER CERTIFICATE FORM

Register No. 2018

Name of the institution Nar Chand Singh School Lucknow.Name of the scholar Munni LalOther wise religion Pasi (Hinduism)

Name, Occupation and

address of the parent Behan Pasi cultivation

or guardian

Date of birth of the 15. September 1935

Scholar

The last institution, if any, which the  
Scholar attended before joining this institutionNational School Alam bagh Lucknow.

(Sd)

Head Master / Principal

Infant class		Lower primary		Upper Primary		Lower Middle		Upper Middle		High School	Intermediate	Special classes	Any other classes	Conduct and work			
A	B	A	B	A11	B4	5	6	7	8	9-10	11-12	for vernacular	to be specified				
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18

Date of  
 admission  
 or  
 re-admission

10.7.41

सत्यप्रतिनिधि

Date of  
 removal  
 with  
 cause of  
 removal  
 e.g. non-  
 payment  
 of fees  
 removal of  
 family  
 expelled,  
 etc.

14/4/81  
 श्री सु. इन्द्रजीविट रावे  
 प्रमुख

28/3/62  
 Name strike  
 off for long  
 absence.

and  
 North East  
 1961-62  
 S. B. B. B. B.  
 and transfer

Sd S. M. B. B. B.  
 Principal

14/4/81

Date 12.10.1957

Munni Lal

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

Annexure

in re:

Writ Petition No.

of 1981.

Munni Lal.

....Petitioners.

VS .

The Union of India, and others.

....Opp. Parties.

ANNEXURE No. 11.

S.O.O. No. 37

Dated 31.3.81.

The under noted staff of this office will retire from service on attaining the age of 58 years w.e.f.

31.8.81. -

1. Shri M.L. Puri .....Stock Verifier.

2. " Mohd. Laris ..... C.G. I

3. " Munni Lal ..... C.G. I Subject to the decision received from H.D. Qrs, Office on his application for alteration in Date of Birth.

*Munni Lal*

sd/- illegible  
Sr. Accounts Officer,  
MR Charbagh, Lucknow.

Copy to:-

1. The F.A.C.A.O. (Adm). NRly., Baroda House, New Delhi  
with the request to post a S.V. Vice Shri M.L. Puri at  
at an early date.

2. Sr. DAC/CE/LDO.

3. SA/CB/LDO

4. S.O? /Inc.

5. S.O./F.

6. S.O. /PF.

*24/8*

.2.

7. S.O. /E.

8. Sri M.L. Puri, SV/CB/L KO.

9. Shri Mohd. Idris, CG I

10. Shri Murni Lal, CG I.

TRUE COPY.

Murni Lal

26/8



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

Annexure

in re :

Writ Petition No. of 1981.

Munni Lal. ....Petitioner.

Vs.

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

ANNEXURE NO. 1

Serial No. 158 Circular No. 93-E/O (Eiv)

Serial No. 158 Circular No. 93-E/O (Eiv), dated 6.9.1957.

Sub. Alteration in the date of birth in the service  
Register.

\* *Munni Lal* A copy of the Railway Board's letter No. E(NG)57 BRI/2, date 8.7.1957 is forwarded for information and guidance. The advance copy of the correction slip referred to therein was circulated under this office letter No. 831-E/8-III (CG-26) (Eiv), dated 11.4.1956.

Copy of Railway Board's letter No. E (NG)57 BRI/2, dated 8.7.1957 from the Assistant Director 'E' Railway Board, addressed to the General Managers, all Indian Railways and others.

Sub : Alteration in the date of birth in Service  
Registers.

It has been noticed by the Board that sub-rule 144(3) (iii) R-I as introduced by correction slip No. 190 dated

11-4-1953 has not been appreciated by the Railway Administrations. This Sub-Rule was introduced to exclude frivolous requests for alteration in the date of birth at the last minute near the date of retirement of the staff. Where an employee requests for an alteration in the recorded date of birth by producing a copy of school register and transfer certificates in support thereof, the ~~Board~~ ~~Employees~~ consider that till a final decision in the matter is taken, the employee concerned may be given the benefit of doubt even if his recorded age is beyond 55 years subject to the condition that his work is satisfactory, he is physically fit to continue in service and the further condition that in the case of staff working in workshops and on train passing etc. they will be subject to periodic medical examination for physical fitness.

For Northern Railway only. This is in pursuance of P.C. letter No. 93-E/46 (Evb), dated 3rd Nov, 1957 from Shri T. S. Dhar to Shri Mahesh Babu.

TRUE COPY.

26/10

साक्षी (गवाह) \_\_\_\_\_ साक्षी (गवाह) \_\_\_\_\_

हस्ताक्षर \_\_\_\_\_  
Munir Jall

काम आवे ।

यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर  
गई वह कार्यवाही हैमकी सर्वथा स्वीकार है और हमी इसलिख  
रसीद से लेवे या पंच नियुक्त करें - वकील महोदय द्वारा की  
दाखिल किया गया अपने या हमारे हस्ताक्षर-युक्त [हस्ताक्षर]  
या कोई रूपया जमा करें या हमारी या विपक्षी [फ्रीकसमानी] का  
हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावे  
दावा तथा अपील व निगरानी हमारी और से हमारे या अपने  
जारी करावे और रूपया वसूल करें या सुनहनामा या इकबाल  
कोई कागज दाखिल करें या लौटावे या हमारी और से हिमारी  
वकील द्वारा जो कुछ पुरावी व जवाबदेही व प्रयत्न करें या अन्य  
लिख देता है इस मुकदमा में वकील महोदय स्वयं अथवा अन्य  
को अपना वकील नियुक्त करके प्रतिज्ञा [इकामर] करता है और

नाम अदालत .....  
नं० मुकदमा .....  
नाम फरीकैन .....

महोदय

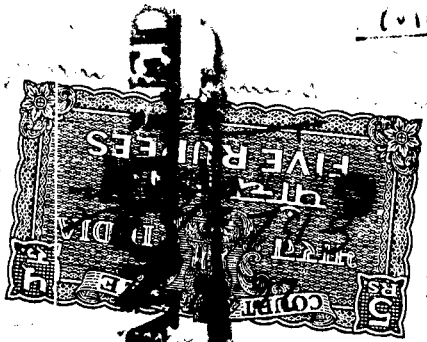
एडवोकेट

२०६० ई०

नं० मुकदमा \_\_\_\_\_ सन १६ \_\_\_\_\_ पक्षी की वा० \_\_\_\_\_  
ऊपर लिखे मुकदमा में अपनी ओर से श्री \_\_\_\_\_ १६ ई०

प्रतिवादी (मुदाखिर) \_\_\_\_\_  
वनाम

वादी (मुदई)



वकालतनामा

प्रतिवादी (मुदाखिर) \_\_\_\_\_  
वादी (मुदई)

व अदालत श्रीमान \_\_\_\_\_  
महोदय

શ્રીમતે વચ્ચેટ વોગેટદા

૫૭

દાદા મોદિદાદાદાદા લાલમતેવેચ  
લાલમતે

શ્રીમતે

W.P. No 4239 of 81

શ્રીમતે લાલ

મિત્રેશન

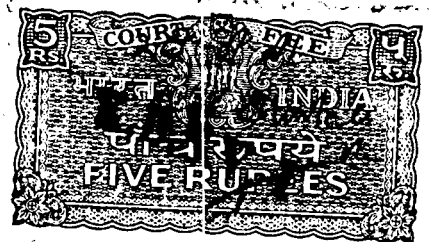
દાદા

પરિત્રા કામ કરિયા કારે — અગોગિદાદા

અપેરા મુલદા ૨ ને લલવાચ લિખામો વીનાઈ કા-  
વગોટી મુલદા વે ૬૭ ઠિમલ વાલો દે કાડલ મેલના  
દાલિલ વાલો કે.

28/8/81

શ્રીમતે શુભા  
e/o B L Shukla  
Advocate



URGENT  
Stay Proceeding

HIGH COURT OF JUDICATURE AT ALLAHABAD  
(LUCKNOW BENCH), LUCKNOW

CIVIL SIDE APPELATE JURISDICTION

No. 2780, dated Lucknow, the 1978

OFFICE MEMO

Mummi Lal C.M A—No. 7435 of 1978 W.P. No 4239-81

APPELANT,

VERSUS

The Union of India & others

RESPONDENT.

A copy of the Court's order, dated the 27-8-1978 instant in the above noted case is forwarded for necessary action.

Enclosures :

1. Copy of Application with copy of Court's order, dated 27-8-1978.
2. Copy of affidavit.

To

The Senior Accounts Officer (1)  
Northern Railway  
Charbagh, Lucknow

For Deputy Registrar.  
KWS  
28/8/78

**URGENT**  
Stay Proceeding

**HIGH COURT OF JUDICATURE AT ALLAHABAD  
(LUCKNOW BENCH), LUCKNOW**

51

CIVIL SIDE APPELATE JURISDICTION

No. 10589, dated Lucknow, the

10-9-1981

OFFICE MEMO

A—No. 742519 of 1981 = W.P. No. 4239 of 81

Munni Lal

C.M.

APPELLANT,


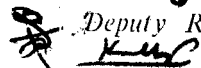
The Union of India & others **VERSUS**

RESPONDENT.

A copy of the Court's order, dated the **27-8-1981** instant in the above noted case is forwarded for necessary action.

Enclosures :

1. Copy of Application with copy of Court's order, dated **27-8-**
2. ~~Copy of affidavit.~~

  
Deputy Registrar.  
  
**28/8/81**  
J7 c/c

To

The The Union of India through the General Manager  
Northern Railway Baroda House  
New Delhi

**URGENT**  
Stay Proceeding

**HIGH COURT OF JUDICATURE AT ALLAHABAD**  
(LUCKNOW BENCH), LUCKNOW

CIVIL SIDE APPELLATE JURISDICTION

No. 10588, dated Lucknow, the 10-9-81

c.m.

OFFICE MEMO

A—No.

of 197

Munni Lal

APPELLANT,

The Union of India & others

VERSUS

RESPONDENT.

A copy of the Court's order, dated the 27-8-1981  
necessary action.

instant in the above noted case is forwarded for

Enclosures :

1. Copy of Application with copy of Court's order, dated 27-8-81
2. Copy of affidavit.

To

The

Financial Advisor & Chief Accounts officer  
Northern Railway Board House  
New Delhi

28-8-81  
Registrar.

o/c

In The Hon. High Court of Judicature  
at Allahabad (Lucknow Bench)  
WP No. 4239 of 1981.

(59)

Mannilal — Petitioner  
v  
Union of India & others  
— Respondents.

The Joint Registrar.  
I am <sup>herewith</sup> filing my power on  
behalf of Union of India. I  
pray that a copy of the NF  
and the stay application may  
be kindly furnished to me for  
filing the counter affidavit.

S. Sagor Kumar  
advocate  
Counsel for the petitioner

Lucknow  
Dated: 8-9-81

S. Sagor Kumar  
advocate  
8/9/81



# VAKALATNAMA



Before

In the Court of **HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW BENCH, LUCKNOW**

Plaintiff  
Defendant

Claimant  
Appellant  
Petitioner

Versus

Defendant  
Plaintiff

Respondent

The President of India do hereby appoint and authorise Shri. **Saghir Ahmad, Railway Advocate,**  
**..Lucknow..**

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

The President hereby agrees to ratify all acts done by the aforesaid Shri. **Saghir Ahmad, Railway Advocate, Lucknow**

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the...**31st. day. of. August**.....19**81**.

Dated...**31.8**.....198**1**

Designation of the Executive Officer

(**K. K. Suman**)  
**Dy. General Manager (G)**  
**N.R. Hd. Qs. Office**  
**Baroda House,**  
**Delhi.**



54/1

125/8  
28.9.81

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

--- 8656

C. Application No. (W) of 1981.

In re:

Writ Petition No. 4239 of 1981.

Munni Lal. ... Petitioner.

Versus

Union of India and others. ... Opposite parties.

APPLICANT FOR MODIFICATION OF ORDER  
by Honble Mr Justice K R Goyal

The humble petitioner above named vent  
respectfully sheweth:

For the facts and reasons stated in the  
accompanying affidavit, it is desirable that the  
Hon'ble court may be pleased to modify its order  
dated 15.9.1981 in the interest of justice and  
equity.

*Agast K. Sankar*  
Advocate,

Lucknow, dated:  
September 29, 1981.

Counsel for the petitioner.

55 8/2

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

C. Application No. ( ) of 1931.

In re:

Writ Petition No. 4239 of 1931.

Munni Lal. ... Petitioner.

Versus

Union of India and others. ... Opposite parties.

AFFIDAVIT

In support of Application for modification of the  
Stay order dated 15.9.1931.

I, Munni Lal, aged about 56 years, son of  
Sri Behari Lal, Clerk Grade I, in the office of the  
Senior Accounts Officer (A) Northern Railway, Shar-  
bagh, Lucknow, residing at Village Gila Chaudhedi  
Vagar, Post Office Maadrakh, Tahsil and District  
Lucknow, the deponent, do hereby solemnly affirm  
and state on oath as under:

1. That the above noted writ petition was  
admitted on 27th August '31 and their Lordship  
passed the order to the effect that ~~they~~ <sup>stay</sup> will  
continue upto 15th September, 1931.

2. That the application for stay came up  
for further orders when learned counsel for petitioner  
sought 24 hours time to file counter-affidavit

1931  
AFFIDAVIT  
32  
HIGH COURT  
ALLAHABAD

28/9/31  
Munni Lal

56 4/3

and the petitioner prayed 10 days time for filing the rejoinder-affidavit but due to some inadvertence the following order was passed ~~as per Court order~~:

" 15.9.1981 - Sri Saghir Ahmad prayed for and is allowed 24 hours time to file counter-affidavit, rejoinder-affidavit within a week. ~~xxx~~ List thereafter."

3. That the stay order was conditional as such it will cause great loss if the interim stay order is not extended.

4. That in the circumstances, it is desirable that this Hon'ble Court be pleased to modify its order and to pass suitable order.

Lucknow, dated:  
September 28, 1981.

Munir Hall

Deponent.

I, the above named deponent do hereby verify, that the contents of paragraphs 1 to 2 of this affidavit are true to my own knowledge based from the perusal of the record, contents of paragraph 3 are true to my own knowledge and those contents of paragraph 4 are believed by me to be true. No part of it is false and nothing material has been concealed so help me God.

Munir Hall

Lucknow, Dated:  
September 28, 1981.

Deponent.

who has signed before me.

57  
8/11  
*Am*  
for Sri B.L. Shukla  
Advocate.

Solemnly affirmed before me on 28-9-81  
at 9.25 a.m. ~~10 a.m.~~ by *Munni Lal*  
the deponent who is identified by  
Sri *Miranand Pd.*  
clerk to Sri *B.L. Shukla*  
Advocate, High Court, Allahabad.

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

*Munni Lal*

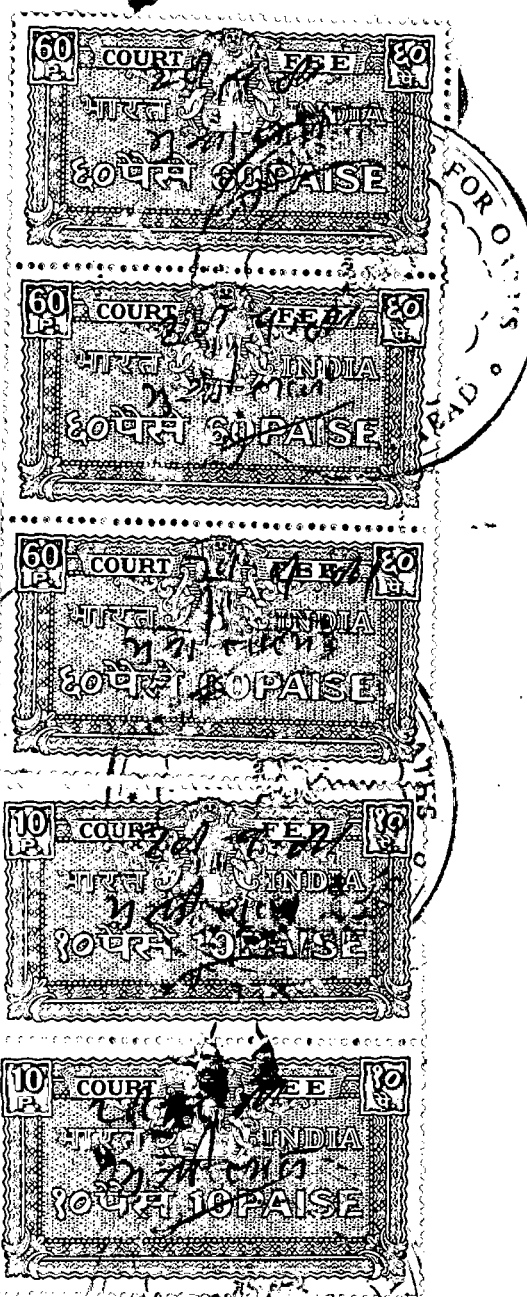
*Ram Pratap Shrivastava*

R. P. SRIVASTAVA  
OATH COMMISSIONER  
High Court Allahabad,  
Lucknow Bench.

No. .... 3213/4 .....  
Date ..... 28-9-81 .....

58

4/5



1981  
AFFIDAVIT  
31  
HIGH COURT  
ALLAHABAD

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

---  
REJOINDER-AFFIDAVIT

In re:  
Writ Petition No. 4239 of 1981.

Munni Lal. .... Petitioner.

Versus

Union of India and others. .... Opposite parties.

REJOINDER-AFFIDAVIT

I, Munni Lal, aged about 56 years, son of Sri Behari Lal, Clerk Grade 1, in the office of the Senior Accounts Officer (A), Northern Railway, Charbagh, Lucknow, residing at Village Dila Mohammadi Bazar, Post Office Bhadrakh, Tansil and District Lucknow ( hereinafter referred to as the deponent), do hereby solemnly affirm and state on Oath as under:

*Munni Lal*

20/9/01

1. That the deponent is the petitioner in the above noted writ petition and is fully conversant with the facts of the case deposed to herein.

2. That the deponent has gone through the counter-affidavit filed by the opposite party i.e. on behalf of the Union of India against the writ petition and has fully understood the contents of

59

8/6

the same. The deponent is filing this rejoinder-affidavit against the said counter-affidavit and the following facts are stated.

3. That the contents of paragraph 1 of the writ petition are reiterated and anything to the contrary contained in paragraph 3 of the counter-affidavit are denied. The deponent was appointed on East Indian Railway system and the Northern Railway was formed with effect from 14.4.1952. No statement or declaration in respect of age was then required to be made prior to medical examination at the time of first appointment.

4. That in reply to paragraph 3 of the counter-affidavit, the contents of paragraph 1 of the writ petition are reiterated. Admittedly the petitioner's age was recorded by the Medical Officer after medical examination as 20 years, which could be done only on an assessment of the physical and medical condition of the petitioner at the time of medical examination. The deponent is advised to state that even if it is assumed that the petitioner declared his age at the time of recruitment as 20 years he was still entitled to get it corrected if it was discovered that the earlier declaration was mistaken. A true true copy of circular No. 849-S/O (iv) dated 14/22-6-1957 filed here as EXHIBIT No. 14, will show that mis-declaration of the age of petitioner could not be reflection on conduct of the employer and he is entitled

21/9/57

Munish datt

to continue in service till the date of retirement

60  
8/7  
actual retirement which date should be recorded in the service certificate.

5. That the contents of paragraph 4 of the counter-affidavit are denied and the contents of paragraph 2 of the writ petition are reiterated and any thing to the contrary contained in this paragraph are denied. The school leaving certificate was furnished on demand by the Railway Administration by Circular No. 831-E/168(Eiv) dated 28.9.1957 along with the relevant extract of the list referred to in the Circular, a copy of which is filed herewith as ANNEXURE No. 15 to this rejoinder-affidavit.



6. That in reply to paragraph 5 of the counter-affidavit, it is submitted that the petitioner had produced in 1958 and again in 1981, a true copy of the Scholar's Register maintained in the ordinary course of business by a recognised educational institution. The document is genuine and it is not alleged by the respondents that it is not genuine nor ~~it~~ is it alleged that there was any tampering with the document. It is also apparent that enquiries have been made by the respondents from the Hari Chand Intermediate College, Lucknow and nothing could be discovered to show that the document was not genuine. The certificate is a Public document and unless contrary is proved, the entries contained therein can be presumed to be genuine.

Munni Lal



4/1/8

7. (i) That in reply to paragraph 6 of the counter-affidavit, it is submitted that appointment to Class III service whether by direct recruitment or promotion is deemed to be direct recruitment in accordance with Rule 6(v) Chapter I Section 3 of the Indian Railway Establishment Manual, which is quoted below:-

"Direct recruitment means the recruitment to the Class III service of any person not already in the service of the Railway, or a person in Class IV service whether by promotion or by selection along with outsiders, according to the procedure laid down for the recruitment."

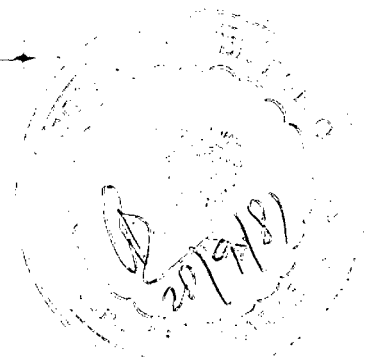
(ii) It has also been laid down by the Ministry of Home Affairs (Government of India) in its Circular No. 2/29/54-3-5 dated 12.11.1954 quoted below:-

"Appointing authority should ensure that claims regarding educational and other special qualifications and age are scrutinised at the time of appointments."

Appointment of Class IV the employee to a class III post is a fresh appointment.

(iii) That in view of the aforesaid rules it was the duty of the Railway Administration to ascertain at the time of promotion the relevant facts relating to qualifications and age. The School Leaving Certificate submitted in 1955 furnished the relevant information to the

*Munisell*



62  
8/9

Railway Administration and it was their duty to correct the Service Record accordingly.

(iv) The following extract of the notification of Government of India, Ministry of Home Affairs No. 12/29/56-RPS dated 22.3.1957 also supports the petitioner's contention that appointing authorities should have scrutinised the matter at the time of petitioner's promotion to Class III on the basis of School Leaving Certificate submitted by the petitioner in the year 1958:

" Appointment of a class IV employee to a Class III post is a fresh appointment and the person concerned can at best retain such rights on erstwhile Class IV post, as accrued to him before appointment to Class III."

(v) It is submitted that old paragraph 1942 of Indian Railway General Code Volume I was not applicable to the petitioner, as he held now pensionable post. Paragraph 1942 as amended in 1970 and quoted in paragraph 4 of the writ petition is applicable to the petitioner w.e.f. 12.10.1972 when he opted for Railway Liberalised Pension Rules including Family Pension Scheme for railway employees, 1964.

8. That in reply to paragraph 7 of the counter-affidavit, the contents of the same are denied and it is submitted that recruitment age for Class IV was fixed by paragraph 66 of the Indian Railway Establishment Manual quoted below

*Munir hat*



63

4/10

-6-

by which the recruitment age has been fixed between 18-25 years for the first time on 18.6.1953:-

"The age for recruitment should be between 18 and 25 years. Preference, may however, be given to candidates in the age group 18 to 24 years."

Prior to Railway Board's letter No. RRG/53 RCI/61 dated 18.6.1953, there was no recruitment age fixed by law. The petitioner at the time of appointment of 17 years 11 months 26 days.



9. That the contents of <sup>12</sup> paragraphs 9 and 10 of the counter-affidavit are not admitted as stated. Further it is submitted that original School Leaving Certificate cannot be produced by an individual because it is always kept as a record in the school and on the other hand the respondents have already made enquiries from the school concerned and have found nothing to show that the copy of the School Leaving Certificate filed by the petitioner was not a correct copy.

10. That the contents of paragraph 12 of the counter-affidavit call for no reply.

11. That the contents of paragraphs 13 and ~~14~~ 14 of the counter-affidavit need no reply.

12.

*Munshi hall*

64  
6/11

12. That the contents of paragraph 15 of the counter-affidavit are not admitted as stated. It is further submitted that the question of giving benefit of doubt does not arise at all as the age for giving benefit of doubt has been raised from 55 to 58 years. Further the petitioner has legal and valid claim to continue in service in view of what has been stated in the writ petition.

13. That in reply to the contents of paragraph 16 of the counter-affidavit, the contents of the same are denied as stated. The service book was never shown to the deponent. The averments made in this paragraph are denied.

14. That in reply to paragraphs 17 and 18 of the counter-affidavit, it is submitted that at the time of the petitioner entered service there was no minimum age for recruitment to Class IV service. It is therefore incorrect to say that he would not have been recruited, if he had disclosed his date of birth as 5.9.1925. The petitioner gave no declaration. His age was assessed by the Medical Officer. There was no concealment by the petitioner and in view of the fact that there was no minimum age of recruitment of Class IV at the time there was no suppression of fact by the petitioner. It was only when he obtained the School Leaving Certificate in the year 1958, that he became aware of the mistake in the record of his age. The copy of School Leaving Certificate produced

M. Muni Reddy

65  
8/12

in the year 1958, has been lost and accordingly he obtained a fresh copy from the same record and produced it before the respondents.

15. That in reply to paragraph 19 of the counter-affidavit, it is submitted that in accordance with the orders passed by the Railway Board ( Annexure No. 12 to the writ petition ) and the letter dated 31.3.1981 the petitioner could not be retired until decision of his application for alteration in the date of birth and the order dated 26.9.1981 ( Annexure No. 13 to the writ petition ) retiring the petitioner was without jurisdiction. The Railway Administration could not retire the petitioner before deciding his representation. Admittedly his representation has not been decided and if the petitioner had not obtained a stay order from this Hon'ble Court, he would have been illegally retired.

16. That the contents of paragraph 20 of the counter-affidavit are denied and it is submitted that the writ petition deserves to be allowed.

Munir Dutt

Lucknow, Dated:  
September 28, 1981.

Deponent.

I, the above named deponent do hereby verify that the contents of paragraphs 12, 13 & 96 1/2 are true to my own knowledge and those contents of paragraphs 7, 8 & 14 are based from the perusal of the record and are true to my own knowledge while the contents of paragraphs 4, 106, 124

66

4/13

-9-

are believed by me to be true as advised.  
No part of it is false and nothing material  
has been concealed so help me God.

Munni Lal

Lucknow, Dated:  
September 28, 1981.

Deponent.

*M* I identify the deponent  
who has signed before me.

Ammann

e/o Sri B.L. Shukla  
Advocate.

Solemnly affirmed before me on 28-9-81  
at 9.20 a.m./p.m. by Munni Lal  
the deponent who is identified by  
Sri Niranjan Red.  
clerk to Sri B.L. Shukla  
Advocate, High Court, Allahabad.

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

*Ram Pratap Singh*

R. P. S. GASTAVA	
OATH COMMISSIONER	
High Court Allahabad,	
Lucknow Bench.	
No. ....	31/324
Date .....	28-9-81

67 8/14

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

---

Writ Petition No. 4239 of 1981.

Munni Lal.

...

Petitioner.

Versus

Union of India and others. ... Composite parties.

ANNEXURE No. 14

Circular No. 849-E/O(Eiv) dated 14/22.6.1957.

Subject: Issue of service certificate.

The points raised in your letter quoted above  
have been considered and the reply is as under:-

- (i) In case of an employee retained in service beyond the date of superannuation as a result of wrong declaration given by him regarding his date of birth, the actual date of retirement should be recorded in the service certificate with a suitable foot-note as indicated below:-

"The employee was due to retire on-----  
on attaining the age of superannuation but  
was retained in service from -----to-----  
on account of his wrong declaration regarding  
his date of birth."

- (ii) No other reflection on account of mis-  
declaration of date of birth need be made  
against the conduct of the employees to be  
shown in the service certificate.

*Munni Lal*

True copy.



68  
4/15

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

---

Writ Petition No. 4239 of 1981.

Munni Lal.

...

Petitioner.

Versus

Union of India and others. ... Opposite parties.

ANNEXURE No. 15.

Copy of G.O. (P) Northern Railways' Circular  
No. 631-E/168 (Div) dated 22.9.1957.

---

Subject: Promotion of Class IV Staff to Class III scale  
B. 55-85.

The question of laying down a policy in respect of filling up of posts in scale B. 55-85 by promotion from suitable class IV staff in all the department on this Railway has been under consideration and it has been decided that a temporary measure pending final orders from the Railway Board, the categories of Class IV staff as shown in the enclosed list must should be held eligible for promotion to various posts in Grade 55-85 as detailed in the list subject to fulfilment of the conditions as laid down in the foot-note of the list referred to above.

This should be given wide publicity amongst Class IV staff.

Statement showing categories of Class IV staff eligible for promotion to Grade B. 55-85.

Munni Lal



69  
8/16

Department	Posts in Grade 55-85.	Categories in IV class eligible.	Whether promotion by selection or by seniority cum suitability.	Remarks
1.	2.	3.	4.	5.

Office (i) for clerks (i) All Class Seniority  
establis- (including office staff cum-  
ment. free service (both Divl) suitability  
clerks, out- and sub- with  
door clerks) offices) written  
except Ferro test.  
Printers in  
Scale below  
E. 55-85.

(ii) Record (ii) Record lifter  
Suppliers. Grade 40-60.

(iii) Ferro Ty- (iii) Ferro  
pers (Printers) Typers/  
Printers in  
Grade 40-60

Note - The promotion of Class IV staff to Class III  
Grade E. 55-85 will be subject to the following  
conditions:-

- (i) They must have put in 5 years service.
- (ii) They should be literate in English to  
qualify in the written test.

True copy.

Munni Lal

MISS  
28/9



the same. The deponent is filing this rejoinder-affidavit against the said counter-affidavit and the following facts are stated.

3. That the contents of paragraph 1 of the writ petition are reiterated and anything to the contrary contained in paragraph 3 of the counter-affidavit are denied. The deponent was appointed on East Indian Railway system and the Northern Railway was formed with effect from 14.1.1952. No statement or declaration in respect of age was then required to be made prior to Medical examination at the time of first appointment.

4. That in reply to paragraph 3 of the counter-affidavit, the contents of paragraph 1 of the writ petition are reiterated. Admittedly the petitioner's age was recorded by the Medical Officer after medical examination as 20 years, which could be done only on an assessment of the physical and medical condition of the petitioner at the time of medical examination. The deponent is advised to state that even if it is assumed that the petitioner declared his age at the time of recruitment as 20 years he was still entitled to get it corrected if it was discovered that the earlier declaration was mistaken. A true true copy of circular No. 849-L/6(Liv) dated 16/22-3-1967 filed herewith as ANNEXURE No. 14, will show that mis-declaration of the date of birth would cast no reflection on the conduct of the employee and he may be permitted to continue in service till the date of his

actual retirement which date should be recorded in the service certificate.

5. That the contents of paragraph 4 of the counter-affidavit are denied and the contents of paragraph 2 of the writ petition are reiterated and any thing to the contrary contained in this paragraph are denied. The school leaving certificate was furnished on demand by the Railway administration by Circular No. 831-LV/168(Liv) dated 28.9.1957 along with the relevant extract of the list referred to in the Circular, a copy of which is filed herewith as ANNEXURE No. 15 to this rejoinder-affidavit.

6. That in reply to paragraph 5 of the counter-affidavit, it is submitted that the petitioner had produced in 1968 and again in 1981, a true copy of the Scholar's register maintained in the ordinary course of business by a recognised educational institution. The document is genuine and it is not alleged by the respondents that it is not genuine nor it is it alleged that there was any tampering with the document. It is also apparent that enquiries have been made by the respondents from the Hari Chand Intermediate College, Lucknow and nothing could be discovered to show that the document was not genuine. The certificate is a Public document and unless contrary is proved, the entries contained therein can be presumed to be genuine.

7. (i) That in reply to paragraph 6 of the counter-affidavit, it is submitted that appointment to Class III service whether by direct recruitment or promotion is deemed to be direct recruitment in accordance with Rule 3(v) Chapter I Section 5 of the Indian Railway Establishment Manual, which is quoted below:-

" Direct recruitment means the recruitment to the Class III service of any person not already in the service of the Railway, or a person in Class IV service whether by promotion or by selection along with outsiders, according to the procedure laid down for the recruitment."

(ii) It has also been laid down by the Ministry of Home Affairs (Government of India) in its Circular No. 2/29/54-RPS Dated 19.11.1954 quoted below:-

" Appointing authority should ensure that claims regarding educational and other special qualifications and age are scrutinised at the time of appointments."

Appointment of Class IV employee to a class III post is a fresh appointment.

(iii) That in view of the aforesaid rules it was the duty of the railway administration to ascertain at the time of promotion the relevant facts relating to qualifications and age. The School Leaving Certificate submitted in 1953 furnished the relevant information to the

Railway Administration and it was their duty to correct the Service Record accordingly.

(iv) The following extract of the notification of Government of India, Ministry of Home Affairs No. 12/29/56-RP dated 22.3.1957 also supports the petitioner's contention that appointing authorities should have scrutinised the matter at the time of petitioner's promotion to Class III on the basis of School Leaving Certificate submitted by the petitioner in the year 1953:

"Appointment of a class IV employee to a Class III post is a fresh appointment and the person concerned can at best retain such rights on erstwhile Class IV post, as accrued to him before appointment to Class III."

(v) It is submitted that old paragraph 1942 of Indian Railway General Code Volume I was not applicable to the petitioner, as he held now pensionable post. Paragraph 1942 as amended in 1970 and quoted in paragraph 4 of the writ petition is applicable to the petitioner w.e.f. 12.10.1972 when he opted for Railway Liberalised Pension Rules including Family Pension Scheme for Railway employees, 1964.

8. That in reply to paragraph 7 of the counter-affidavit, the contents of the same are denied and it is submitted that recruitment age for Class IV was fixed by paragraph 66 of the Indian Railway Establishment Manual quoted below

by which the recruitment age has been fixed between 18-25 years for the first time on 18.6.1958:-

"The age for recruitment should be between 18 and 25 years. Preference, may however, be given to candidates in the age group 18 to 21 years."

Prior to Railway Board's letter No. E(NG)58 RCI/61 dated 18.6.1958, there was no recruitment age fixed by law. The petitioner at the time of appointment of 17 years 11 months 26 days.

9. That the contents of paragraphs 9 and 10 of the counter-affidavit are not admitted as stated. Further it is submitted that original School Leaving Certificate cannot be produced by an individual because it is always kept as a record in the School and on the other hand the respondents have already made enquiries from the School concerned and have found nothing to show that the copy of the School Leaving Certificate filed by the petitioner was not a correct copy.

10. That the contents of paragraph 12 of the counter-affidavit call for no reply.

11. That the contents of paragraphs 13 and ~~the xxx~~ 14 of the counter-affidavit need no reply.

12.

12. That the contents of paragraph 15 of the counter-affidavit are not admitted as stated. It is further submitted that the question of giving benefit of doubt does not arise at all as the age for giving benefit of doubt has been raised from 55 to 62 years. Further the petitioner has legal and valid claim to continue in service in view of what has been stated in the writ petition.

13. That in reply to the contents of paragraph 16 of the counter-affidavit, the contents of the same are denied as stated. The service book was never shown to the deponent. The averments made in this paragraph are denied.

14. That in reply to paragraphs 17 and 18 of the counter-affidavit, it is submitted that at the time of the petitioner entered service there was no minimum age for recruitment to Class IV service. It is therefore incorrect to say that he would not have been recruited, if he had disclosed his date of birth as 5.9.1925. The petitioner gave no declaration. His age was assessed by the Medical Officer. There was no concealment by the petitioner and in view of the fact that there was no minimum age of recruitment of Class IV at the time there was no suppression of fact by the petitioner. It was only when he obtained the School Leaving Certificate in the year 1958, that he became aware of the mistake in the record of his age. The copy of School Leaving Certificate produced



in the year 1958, has been lost and accordingly he obtained a fresh copy from the same record and produced it before the respondents.

15. That in reply to paragraph 10 of the counter-affidavit, it is submitted that in accordance with the orders passed by the Railway Board (Annexure No. 12 to the writ petition) and the letter dated 31.3.1961 the petitioner could not be retired until decision of his application for alteration in the date of birth and the order dated 26.9.1961 (Annexure No. 13 to the writ petition) retiring the petitioner was without jurisdiction. The Railway administration could not retire the petitioner before deciding his representation. Admittedly his representation has not been decided and if the petitioner had not obtained a stay order from this Hon'ble Court, he would have been illegally retired.

16. That the contents of paragraph 20 of the counter-affidavit are denied and it is submitted that the writ petition deserves to be allowed.

Lucknow, Dated:  
September 28, 1961.

Deponent.

I, the above named deponent do hereby verify that the contents of paragraphs 1 to 3, 9 & 11 are true to my own knowledge and to best of my belief. The contents of paragraphs 7, 8 & 14 are based on the perusal of the record and are true to my own knowledge while the contents of paragraphs 4 to 6, 12, 15 & 16

-9-

are believed by me to be true as advised.  
No part of it is false and nothing material  
has been concealed so help me God.

Lucknow, Dated;  
September 28, 1931.

Deponent.

I identify the deponent  
who has signed before me.

Advocate.

Solemnly affirmed before me on  
at a.m./p.m. by  
the deponent who is identified by  
Sri  
clerk to Sri  
Advocate, High Court, Allahabad.

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

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

Writ Petition No. 4239 of 1961.

Munni Lal.

...

Petitioner.

Versus

Union of India and others. ... Opposite parties.

ANNEXURE No. 14

Circular No. 849-E/O(Liv) dated 14/22.6.1957.

Subject: Issue of service certificate.

The points raised in your letter quoted above have been considered and the reply is as under:-

- (i) In case of an employee retained in service beyond the date of superannuation as a result of wrong declaration given by him regarding his date of birth, the actual date of retirement should be recorded in the service certificate with a suitable foot-note as indicated below:-

"The employee was due to retire on----- on attaining the age of superannuation but was retained in service from -----to----- on account of his wrong declaration regarding his date of birth."

- (ii) No other reflection on account of mis-declaration of date of birth need be made against the conduct of the employees to be shown in the service certificate.

-----  
True copy.

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

---  
Writ Petition No. 4239 of 1981.

Munni Lal. ... Petitioner.  
Versus  
Union of India and others. ... Opposite parties.

Annexure No. 15.

Copy of G.M.(P) Northern Railways' Circular  
No. 831-E/168(Miv) dated 28.9.1987.

---  
Subject: Promotion of Class IV Staff to Class III scale  
Rs. 55-85.

The question of laying down a policy in respect of filling up of posts in scale Rs. 55-85 by promotion from suitable class IV staff in all the department on this Railway has been under consideration and it has been decided that a temporary measure pending final orders from the Railway Board, the categories of Class IV Staff as shown in the enclosed list ~~will~~ should be held eligible for promotion to various posts in Grade 55-85 as detailed in the list subject to fulfilment of the conditions as laid down in the foot-note of the list referred to above.

This should be given wide publicity amongst Class IV staff.

Statement showing categories of Class IV staff eligible for promotion to Grade Rs. 55-85.

-----

Department	Posts in Grade 55-85.	Categories in IV class eligible.	Whether promotion by selection or by seniority cum suitability.	Remarks
1.	2.	3.	4.	5.

Office (i) for clerks (i) All Class Seniority  
 establish- (including office staff cum-  
 ment. free service (both Divl) suitability  
 clerks, out- and sub. with  
 door clerks) offices) written  
 except Ferro test.  
 Printers in  
 Scale below  
 55-85.

(ii) Record (ii) Record lifter  
 Suppliers. Grade 40-60.

(iii) Ferro Ty- (iii) Ferro  
 pers (Printers) Typers/  
 printers in  
 Grade 40-60

Note - The promotion of Class IV staff to Class III  
 Grade 55-85 will be subject to the following  
 conditions:-

- (i) They must have put in 5 years service.
- (ii) They should be literate in English to  
 qualify in the written test.

True copy.

82  
9/1

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



Writ Petition no.4239 of 1981

Munni Lal

...Petitioner

Vs.

Union of India and others

...Opp. Parties

Counter affidavit on behalf of  
opp. parties No 3

SR  
19/9/81

I, Lok Nath, aged about 56 years,  
son of <sup>late</sup> Sri Khem Chand, Accounts  
Officer(W), Northern Railway, Charbagh,  
Lucknow, do hereby solemnly affirm and state  
as follows;-

1- That the deponent is Accounts  
Officer(W), Northern Railway, Charbagh, Lucknow and  
is fully conversant with the facts deposed to herein.

2- That the deponent has read the  
writ petition filed by the petitioner and has  
understood its contents.

3- That only this much of para I  
of the writ petition is admitted that the petitioner  
was appointed as a Class IV employee (Temporary

*Khem Chand*



83  
92

(2)

peon) on 1.9.1943 in the Workshop Accounts Office (Ticket Supply section), Charbagh, Lucknow and that the petitioner (on the strength of the interim order of stay granted by this Hon'ble court) is at present working as Clerk, Gr. I, in the office of the opp. party no. 3. Rest of the contents of this para of the petition as stated are not admitted. It is submitted that the petitioner, at the time of his initial appointment, had himself declared his date of birth as 20.8.23 and the same was recorded as such in his service record. The allegation of the petitioner that his age was got assessed through a Medical examination is not correct. As a matter of fact, the petitioner who was being recruited in Govt. service, was medically examined as a routine measure and in the medical certificate, the petitioner was mentioned to be of 20 years of age. The petitioner was certified to be fit for appointment. A photostat copy of the medical certificate is filed herewith as Annexure A-I to this counter affidavit.

4- That the contents of para 2 of the writ petition as stated are denied. The petitioner was not required to furnish the so-called School



*Ream and*

84  
93

Leaving Certificate . There is no document on record to indicate that any demand of such a certificate was ever made from the petitioner. It may be stated that the petitioner in order to claim further promotion to the post of Daftari wanted to show that he had some standard of literacy and as such he himself filed an attested copy of the so-called School Leaving Certificate.

5- That in reply to the contents of para 5 of the writ petition, it is submitted that ~~the~~ in the attested copy of the School Leaving Certificate the petitioner has shown his date of birth as 5.9.25. A perusal of the certificate would show that the petitioner was admitted in class VIII in Hari Chand High School, Lucknow on 10.7.1941, but his name was struck off due to long absence on 28.3.1942. In the same Certificate, he is shown to have studied in National School Alambagh, Lucknow. On enquiries from Hari Chand High School (now Intermediate College), it was revealed that the application form of the petitioner and transfer certificate, which might have been issued by the National School Alambagh, Lucknow, were not available. The existence of the National School Alambagh, Lucknow could also not be established in spite of the efforts made by the Railway administration with the District Inspector of Schools, Lucknow.



*Recommend*



Bench Copy  
85

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

.....

Writ Petition no. 4239 of 1981

Munni Lal ... Petitioner

Vs.

Union of India and others ... Opp. Parties

Counter affidavit on behalf of  
opp. parties

I, Loke Nath, aged about 56 years,  
*Spec*  
son of Sri Khem Chand, Accounts  
Officer (W), Northern Railway, Charbagh,  
Lucknow, do hereby solemnly affirm and state  
as follows:-

1- That the deponent is Accounts  
Officer (W), Northern Railway, Charbagh, Lucknow and  
is fully conversant with the facts deposed to herein.

2- That the deponent has read the  
writ petition filed by the petitioner and has  
understood its contents.

3- That only this much of para I  
of the writ petition is admitted that the petitioner  
was appointed as a Class IV employee (Temporary

*Spec*

(2)

peon) on 1.9.1943 in the Workshop Accounts Office (Ticket Supply section), Charbagh, Lucknow and that the petitioner (on the strength of the interim order of stay granted by this Hon'ble court) is at present working as Clerk, Gr. I, in the office of the opp. party no. 3. Rest of the contents of this para of the petition as stated are not admitted. It is submitted that the petitioner, at the time of his initial appointment, had himself declared his date of birth as 20.8.23 and the same was recorded as such in his service record. The allegation of the petitioner that his age was got assessed through a Medical examination is not correct. As a matter of fact, the petitioner who was being recruited in Govt. service, was medically examined as a routine measure and in the medical certificate, the petitioner was mentioned to be of 20 years of age. The petitioner was certified to be fit for appointment. A photostat copy of the medical certificate is filed herewith as Annexure A-I to this counter affidavit.

4- That the contents of para 2 of the writ petition as stated are denied. The petitioner was not required to furnish the so-called School

*Ramdas*

Leaving Certificate . There is no document on record to indicate that any demand of such a certificate was ever made from the petitioner. It may be stated that the petitioner in order to claim further promotion to the post of Daftari wanted to show that he had some standard of literacy and as such he himself filed an attested copy of the so-called School Leaving Certificate.

5- That in reply to the contents of para 5 of the writ petition, it is submitted that ~~that~~ in the attested copy of the School Leaving Certificate the petitioner has shown his date of birth as 5.9.25. A perusal of the certificate would show that the petitioner was admitted in class VIII in Hari Chand High School, Lucknow on 10.7.1941, but his name was struck off due to long absence on 28.3.1942. In the same Certificate, he <sup>is</sup> shown to have studied in National School Alambagh, Lucknow. On enquiries from Hari Chand High School (now Intermediate College), it was revealed that the application form of the petitioner and transfer certificate, which might have been issued by the National School Alambagh, Lucknow, were not available. The existence of the National School Alambagh, Lucknow could also not be established in spite of the efforts made by the Railway administration with the District Inspector of Schools, Lucknow.

*Adm. as*

88

6- That in reply to the contents of para 4 of the writ petition, it is submitted that the petitioner's date of birth (20.8.23) was recorded in his ~~Particulars~~ Service record on his own declaration. It has continued in service record since then and this entry has been repeated in several documents, including Seniority list, issued from time to time. Reference in this connection may be made to the seniority list issued by the Financial Advisor and the Chief Accounts Officer, Northern Railway, New Delhi in his endorsement No:-

1. 69 Adm / B/7/G.L. D-20.2-70
2. 72 Adm / B/7/G.L. D-20.8-72
3. 75 Adm / B/7/2 D-20.3-75

and the seniority list issued by the Sr. Divisional Accounts Officer, Northern Railway, Lucknow in his endorsement no: 78 / Prashasan / Pad Kram suchi / Lucknow Dated 8-3-79

In this seniority list, there were specific columns for 'name', 'date of birth', 'Educational qualification', and 'date of appointment' etc. In all these seniority lists as submitted above, the date of birth of the petitioner was mentioned as 20.8.23, but the petitioner at no stage raised any objection and made no representation for change in the date of his birth. Para 1942 of the Indian Railways General Code, Vol. I, <sup>which</sup> ~~has~~ has been quoted by the petitioner in this para of the petition has

Ramdas

89

been introduced recently. Prior to the introduction of the new provision, Para 1942 read as under;

"It is the duty of every pensionable non-gazetted railway servant to see that his service book is properly maintained in order that there may be no difficulty in verifying his service for pension. The head of the office should, therefore, permit such a railway servant to examine his service book should he at any time desire to do so".

7- That in reply to the contents of para 5 of the writ petition, it is submitted that the petitioner was fully aware of the date of birth as recorded in his service record. As submitted above, 20.8.1923 is mentioned on the record as the date of birth on his own declaration at the time of his initial appointment/recruitment. This entry was repeated time and again in the various seniority lists issued in the year 1970, 1972, 1975, and 1979. It may be further submitted that even at the time of submission of attested copy of the School Leaving Certificate in the year 1978, the petitioner had not claimed that his date of birth be altered from 20.8.23 to 5.9.1925. This representation was not made by the petitioner even at the subsequent stage. In spite of the fact, that earlier entry of date of birth was repeated

*Remains*

in the various seniority lists as mentioned above. It is further submitted that the petitioner made representation on 15.4.80 to Financial Advisor & Chief Accounts Officer, New Delhi. It will be pertinent to mention here that the petitioner by disclosing his date of birth as 20.8.23 had obtained recruitment in the Railway Service, which otherwise would have been refused to him. (Had he declared the date of birth as 5.9.25, as on the basis of the said date of birth, he would have been below 18 years of age and, <sup>he was</sup> therefore, /not eligible for recruitment in government service). The petitioner having taken advantage of his own declaration cannot now be permitted to return round the claim that his date of birth should have been as 5.9.1925)\*

8) That the contents of para 6 of the writ petition are admitted except that it was on petitioner's application dt. 21.11.80 addressed to the General Manager, advance copy endorsed to the Financial Advisor & Chief Accounts Officer, New Delhi, a report was called for by the F.A. & CAO, New Delhi and not on the petitioner's application dt. 15.4.80.

9) That in reply to the contents of para 7 of the writ petition, it is stated that application dt. 16.6.80 was addressed to FA & CAO (Adm) and copy docketed to Chief Personnel Officer, New

The application dt. 21.11.80 was addressed to the General Manager, N.R and copies to FA & CAO New Delhi and the Railway Minister while application dt. 24.2.81 was addressed to the Railway Minister.

10) That the contents of para 8 of the writ petition are not disputed.

11) That in reply to the contents of the writ petition, it is submitted that the petitioner was granted personal hearing by the Addl. Chief Accounts Officer, New Delhi on 16.4.81. The petitioner did not produce original School Leaving Certificate before the Addl. Chief Accounts Officer, New Delhi, as will appear from a letter of Senior Accounts Officer (Adm) letter L.O. no. 74(Adm)/A/25 dt. 29.4.81 addressed to Senior Accounts Officer, Workshop, N.R. Charbagh. A copy of this letter sent by the Office was sent by the Senior Accounts Officer (W) Charbagh, Lucknow to the petitioner, in his letter no. 78ADM/C/II-Rep/CB dt. 4.5.81.

12) That the contents of para 10 of the petition are ~~also~~ not disputed.

13) That only this much of para 11 of the petition is admitted that on 5.5.81, the petitioner submitted a letter to opp. party no. 2

*Kamark*

through proper channel.

I4) That the contents of para I2 of the petition are not disputed.

I5) That the contents of para I3 of the writ petition as stated are denied. It may be stated that benefit of doubt can be given beyond 55 years of age and not 53 years of age.

I6) That in reply to the contents of para I4 of the writ petition, it is submitted that the date of birth in the ~~service~~ <sup>certificate</sup> recorded Service record was recorded on declaration of petitioner's himself. The petitioner had given his date of birth at the time of initial record as 20.8.23 and, therefore, the same was recorded in the Service record. In the year 1972, the petitioner submitted attested copy of School Leaving Certificate, <sup>but it</sup> ~~which~~ was ~~not~~ claimed by the petitioner that his date of birth may be altered or changed from 20.8.23 to 5.9.25. In the meantime, on several occasions the seniority lists were issued in ~~the~~ which name and date of birth of the petitioner also mentioned as 20.8.23. But the petitioner inspite of full knowledge of the Gradation list did not claim at any time that his date of birth should be altered to 5.9.25. It may be mentioned

*Remarks*



that service records were shown to the petitioner as and when requested to inspect them.

17) That the contents of para 15 of the writ petition are denied. It may be stated that the petitioner had obtained recruitment in the government service on the basis of declaration that he was 20 years of age and that his date of birth was 20.8.23. (Had the petitioner given his date of birth as 5.9.25 as is being claimed by him since 1930, the petitioner would not <sup>have</sup> been recruited in the government service at all, as he would have <sup>been</sup> below 18 years of age when he was appointed on 1.9.43 to the post of Peon.)

18) That the contents of para 16 of the petition as stated are denied. It may be stated that the petitioner was recruited on 1.9.43. He, as per his own showing, according to attested copy of the so-called School Leaving Certificate, had studied in Class VIII in the sessions 1941-42 as student of Hari Chand High School, Lucknow and immediately thereafter obtained recruitment in the government service. This certificate was concealed for obvious reasons by the petitioner at the time of his initial appointment in the year 1943 and was produced for the first time in the year 1958 to show his literacy standard. (Having concealed the School

*Examined*

94

-10-

Leaving Certificate at the time of his initial appointment and having not agitated the matter till 1980 in spite of the knowledge that his date of birth as per his own declaration was recorded in the service book as 20.8.23. (The petitioner cannot be permitted under law to take advantage of his own wrong. On alleged the/date of birth i.e. 5.9.25, the petitioner as submitted above, would have been below 18 years of age and was not eligible for recruitment in government service.)

19) That in reply to the contents of para 17 to 22 of the petition, it is submitted that representation submitted by the petitioner to F.A & C.A.O(Admn) and the General Manager are under consideration. The petitioner has already been afforded personal hearing and decision on his representation for alteration of his date of birth is expected to be taken shortly by the General Manager. In the meantime, the petitioner having attained the age of superannuation on the basis of date of birth already recorded in his service records, was to retire w.e.f. 31.8.81 afternoon, but he is continuing in service on the strength of an interim order of stay granted by this Hon'ble court.

*Ramdas*

95

That the deponent is advised to state  
the writ petition has got no merit, the grounds  
taken in the petition are not tenable in law, and  
the writ petition is liable to be dismissed with  
cost.

21) That the deponent certifies that  
Annexure A-I is a true copy.

Lucanow Dated.

Sept. 15, 1981

*Lucanow*  
Deponent

I, the above named deponent, do hereby  
verify that the contents of paras 1, 2,

and 21 are true to  
my own knowledge, those of 3/5/6, 7 except bracketed  
portion, 8/5/14, 16/17 except bracketed portion  
18 except bracketed portion, para 19  
are true to my knowledge based on records,  
which I believe to be true, those of bracketed  
portion of para 7, para 15 and para 20.

are based on the advice, and those of  
bracketed portions of paras 12, 18.  
are true to my belief. No part of it is false  
and nothing material has been concealed, so  
help me God.

Lucanow Dated:

Sept. 15, 1981

*Lucanow*  
Deponent

At Allah be good (Lucknow Bench)

Wf. 4239-8 (

Munni Lal ————— pe to him

$$v/s$$

Union of India & Mys, — Offshls

Counter Affidavit of Belkoff O.P. No 3

The Counter affidavit in the above noted writ petition is being filed herewith. It is within time as the Hon. Court had granted 24 hours' time yesterday. The Bench Copy of the Counter affidavit is also being filed herewith.

S. S. O'Sullivan  
advocate  
counsel for the  
opposite party.

Lucknow  
Dated: 16-9-81.

BL  
14/9/21

SP  
19/9/89

97 9/4

-4-

6- That in reply to the contents of para 4 of the writ petition, it is submitted that the petitioner's date of birth (20.8.23) was recorded in his ~~Certificate~~ Service record on his own declaration. It has continued in service record since this and this entry has been repeated in several documents, including Seniority list, issued from time to time. Reference in this connection may be made to the seniority list issued by the Financial Advisor and the Chief Accounts Officer, Northern Railway,

New Delhi in his endorsement No.:-

- ✓ 1. 69 Adm/B/7/E.L dt. 20-2-72 ✓
- ✓ 2. 72 Adm/B/7/E.L dt. 30-8-72 ✓
- ✓ 3. 75 Adm/B/7/2 dt. 20-3-75 ✓

and the seniority list issued by the Sr.Divisional Accounts Officer, Northern Railway, Lucknow in his endorsement no. 78 *Rashashan/Pad kam Suchi Lucknow* dt. 8-3-79.

In this seniority list, there were specific columns for 'name', 'date of birth', 'Educational qualification', and 'date of appointment' etc. In all these seniority lists as submitted above, the date of birth of the petitioner was mentioned as 20.8.23, but the petitioner at no stage raised any objection and made no representation for change in the date of his birth. Para 1942 of the Indian Railways General Code, Vol. I, ~~which~~ has been quoted by the petitioner in this para of the petition has



*Ramank*

98  
3

been introduced recently. Prior to the introduction of the new provision, Para 1942 read as under;

"It is the duty of every pensionable non-gazetted railway servant to see that his service book is properly maintained in order that there may be no difficulty in verifying his service for pension. The head of the office should, therefore, permit such a railway servant to examine his service book should he at any time desire to do so".

7- That in reply to the contents of para 5 of the writ petition, it is submitted that the petitioner was fully aware of the date of birth as recorded in his service record. As submitted above, 20.8.1923 is mentioned on the record as the date of birth on his own declaration at the time of his initial appointment/recruitment. This entry was repeated time and again in the various seniority list issued in the year 1970, 1972, 1975, and 1979. It may be further submitted that even at the time of submission of attested copy of the School Leaving Certificate in the year 1978, the petitioner had not claimed that his date of birth be altered from 20.8.23 to 5.9.1925. This representation was not made by the petitioner even at the subsequent stage. In spite of the fact, that earlier entry of date of birth was repeated

COMMISSIONER FOR OFFICIALS  
K. M. S.  
15-9-1978

*Ramank*

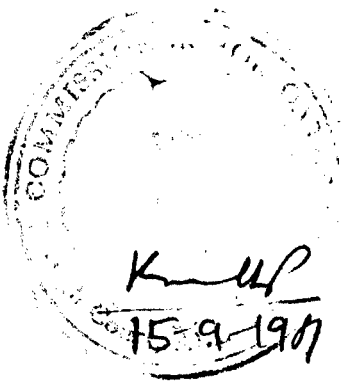
99

-6-

in the various seniority lists as mentioned above. It is further submitted that the petitioner made representation on 15.4.80 to Financial Advisor & Chief Accounts Officer, New Delhi. It will be pertinent to mention here that the petitioner by disclosing his date of birth as 20.8.23 had obtained recruitment in the Railway Service, which otherwise would have been refused to him. (Had he declared the date of birth as 5.9.25, as on the basis of the said date of birth, he would have been below 18 years of age and, <sup>he was</sup> therefore, /not eligible for recruitment in government service). The petitioner having taken advantage of his own declaration cannot now be permitted to return round the claim that his date of birth should have been as 5.9.1925).

8) That the contents of para 6 of the writ petition are admitted except that it was on petitioner's application dt. 21.11.80 addressed to the General Manager, advance copy endorsed to the Financial Advisor & Chief Accounts Officer, New Delhi, a report was called for by the F.A. & CAO, New Delhi and not on the petitioner's application dt. 15.4.80.

9) That in reply to the contents of para 7 of the writ petition, it is stated that application dt. 16.6.80 was addressed to FA & CAO (Adm) and copy docketed to Chief Personnel Officer, New



*Adm*

The application dt. 21.11.80 was addressed to the General Manager, N.R and copies to FA & CAO New Delhi and the Railway Minister while application dt. 24.2.81 was addressed to the Railway Minister.

IO) That the contents of para 8 of the writ petition are not disputed.

II). That in reply to the contents of the writ petition, it is submitted that the petitioner was granted personal hearing by the Addl.Chief Accounts Officer, New Delhi on 16.4.81. The petitioner did not produce original School Leaving Certificate before the Addl.Chief Accounts Officer, New Delhi, as will appear from a letter of Senior Accounts Officer(Adm) letter D.O.no.74(Adm)/A/25 dt. 29.4.81 addressed to Senior Accounts Officer, Workshop, N.R.Charbagh. A copy of this letter sent by the Office was sent by the Senior Accounts Officer(W) Charbagh, Lucknow. to the petitioner, In his letter no.78ADM/C/II-Rep/CB dt. 4.5.81.

I2) That the contents of para 10 of the petition are ~~not~~ not disputed.

I3) That only this much of para 11 of the petition is admitted that on 5.5.81, the petitioner submitted a letter to opp.party no.2

1



101

-8-

through proper channel.

I4) That the contents of para I2 of the petition are not disputed.

I5) That the contents of para I3 of the writ petition as stated are denied. It may be stated that benefit of doubt can be given beyond 55 years of age and not 58 years of age.

I6) That in reply to the contents of para I4 of the writ petition, it is submitted that the date of birth in the ~~Service record~~ <sup>certificate</sup> Service record was recorded on declaration of petitioner's himself. The petitioner had given his date of birth at the time of initial record as 20.8.23 and, therefore, the same was recorded in the Service record. In the year 1978, the petitioner submitted attested copy of School Leaving Certificate, <sup>but it</sup> ~~which~~ was not claimed by the petitioner that his date of birth may be altered or changed from 20.8.23 to 5.9.25. In the meantime, on several occasions the seniority lists were issued in ~~the~~ which name and date of birth of the petitioner also mentioned as 20.8.23. But the petitioner inspite of full knowledge of the Gradation list did not claim at any time that his date of birth should be altered to 5.9.25. It may be mentioned



*Handwritten signature*

162

-9-

that service records were shown to the petitioner as and when requested to inspect them.

I7) That the contents of para I5 of the writ petition are denied. It may be stated that the petitioner had obtained recruitment in the government service on the basis of declaration that he was 20 years of age and that his date of birth was 20.8.23. (Had the petitioner given his date of birth as 5.9.25 as is being claimed by him since 1980, the petitioner would not <sup>have</sup> been recruited in the government service at all, as he would have <sup>been</sup> below 18 years of age when he was appointed on 1.9.43 to the post of Peon.)

I8) That the contents of para I6 of the petition as stated are denied. It may be stated that the petitioner was recruited on 1.9.43. He, as per his own showing, according to attested copy of the so-called School Leaving Certificate, had studied in Class VIII in the sessions 1941-42 as student of Hari Chand High School, Lucknow and immediately thereafter obtained recruitment in the government service. This certificate was concealed for obvious reasons by the petitioner at the time of his initial appointment in the year 1943 and was produced for the first time in the year 1958 to show his literacy standard. (Having concealed the School

K-42  
15-9-1941

Remains

-10-

Leaving Certificate at the time of his initial appointment and having not agitated the matter till 1980 in spite of the knowledge that his date of birth as per his own declaration was recorded in the service book as 20.8.23. (The petitioner cannot be permitted under law to take advantage of his own wrong. On <sup>alleged</sup> the/date of birth i.e. 5.9.25, the petitioner as submitted above, would have been below 18 years of age and was not eligible for recruitment in government service.)

19) That in reply to the contents of para 17 to 22 of the petition, it is submitted that representation submitted by the petitioner to F.A & C.A.O (Admn) and the General Manager are under consideration. The petitioner has already been afforded personal hearing and decision on his representation for alteration of his date of birth is expected to be taken shortly by the General Manager. In the meantime, the petitioner having attained the age of superannuation on the basis of date of birth already ~~in~~ recorded in his service records, was to retire w.e.f. 31.8.81 afternoon, but he is continuing in service on the strength of an interim order of stay granted by this Hon'ble court.

Km 4P  
15-9-1981

Team

104  
9/11

-II-

20) That the deponent is advised to state that the writ petition has got no merit, the grounds taken in the petition are not tenable in law, and the writ petition is liable to be dismissed with cost.

21) That the deponent certifies that Annexure A-I is a true copy.

Lucknow Dated:

Sept. 15, 1981

*Ramank*  
Deponent

I, the above named deponent, do hereby verify that the contents of paras 1, 2,

and 21 are true to

my own knowledge, those of 3, 5, 6, 7 except

bracketed portions, 8, 14, 16, 17 except bracketed

portions, 18 except bracketed portion, 19

are true to my knowledge based on records,

which I believe to be true, those of bracketed

portion of para 7, para 15 and para 20.

are based on legal advice, and those of

bracketed portion of paras 17, 18

are true to my belief. No part of it is false

and nothing material has been concealed, so

help me God.

Lucknow. Dated:

Sept. 15, 1981

*Ramank*  
Deponent

*K. 48*  
*15-9-1981*

I identify the deponent who has  
signed before me.

*Rajendra Kumar*  
Sri M. A. Khan Advocate

Solemnly affirmed before me on 15-9-1987

at 8-35 a.m/p.m by Sri Lok Nath

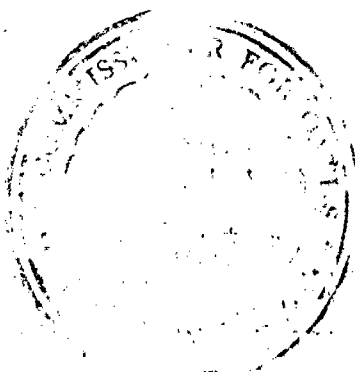
the deponent who is identified by

Sri *Rajendra Kumar*

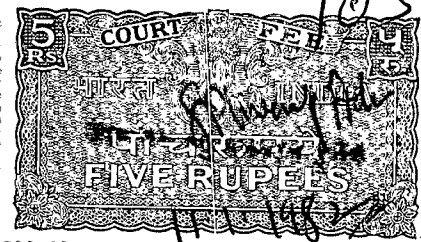
Clerk of Sri M. A. Khan Advocate

High Court Allahabad, Lucknow Bench, 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.



*K. M. S.*  
CIVIL COMMISSIONER  
High Court Allahabad  
Lucknow Bench  
No. 1112 of 1987  
Date 15-9-1987



G.V. 3

W P No 4239 of 1981 VAKALATNAMA

Before  
In the Court of

In the Honble High Court of Judicature at Allahabad  
Lucknow Bench, Lucknow

Plaintiff  
Defendant

Munni Lal Choudhary S.O  
(w) C.B/LC

Claimant  
Appellant  
Petitioner

Versus

Defendant  
Plaintiff

Union of India Respondent

The President of India do hereby appoint and authorise Shri. L. R. Acharya, Senior Advocate  
Shri. S. P. Swarup, Advocate, 4 South Avenue, Lucknow

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

The President hereby agrees to ratify all acts done by the aforesaid Shri. L. R. Acharya, Sr. Adv.  
Shri. S. P. Swarup, Advocate  
in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the.....19

23/12/81

Dated.....198

Accepted  
Shri L. R. Acharya  
Sr. Adv. will argue this  
case on behalf of the  
off. parties  
Javed to Shri L. R. Acharya  
S. P. Swarup

Designation of the Executive Officer  
Dy. General Manager (G)  
N. Rly. Hd. Q's. Office,  
Baroda House,  
New Delhi.

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

Cvl. Misc. An.No. 7407 (W) of 1982 106

In re:

Writ Petition No. 4239 of 1981

9826  
Munni Lal .. .. .

icfgrsr  
2/8  
Applicant/  
Petitioner

Versus

Union of India and others ...

Opp. Parties.

APPLICATION FOR VACATION OF STAY ORDER

NW  
30/1/82  
The abovenamed applicant most respectfully  
begs to submit as under:-

That for the facts and reasons stated in  
the accompanying Affidavit, it is desirable that  
the Hon'ble Court may be pleased to vacate its  
order dated 15.9.1981 in the interest of justice.

WHEREFORE it is most respectfully prayed  
that the stay order dated 15.9.1981 be vacated in  
the interest of justice.

Alad  
LUCKNOW: DATED,  
MARCH 18, 1982.

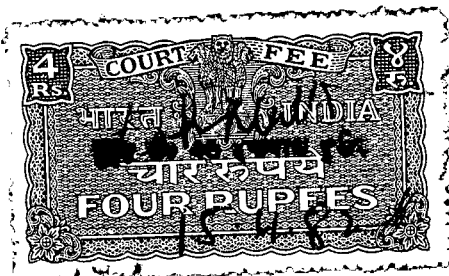
Advocate  
COUNSEL FOR OPP. PARTIES.

3.8.82

107 H

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

1982  
AFFIDAVIT  
81  
HIGH COURT  
ATALLAHABAI



AFFIDAVIT

In re:

Writ Petition No. 4239 of 1981.

Munni Lal

.... Petitioner

VERSUS

Union of India and others

..... Opp. Parties.

I, Loke Nath, aged about 56 years, son of  
Khem Chand, Accounts Officer (W), Northern Railway,  
Lucknow do hereby solemnly affirm and state as  
follows:-

1. That the deponent is Accounts Officer(W),  
Northern Railway, Lucknow and is fully conversant  
with the facts deposed to herein.

2. That the aforesaid Writ Petition was  
filed before this Hon'ble High Court in the  
month of August, 1981.

3. That an ad interim stay order was granted  
to the petitioner in the said Writ Petition in  
the following terms:

... 2.

*Loke Nath*



108

11/3

"Issue notice to the opposite parties returnable by 14.9.1981. List this application for stay for order on 15.9.1981. Till that date the order of retirement of the petitioner from the post of the Clerk Grade I shall not be given effect to".

4. That the said ad interim stay order has not been confirmed to be best knowledge of the deponent.

5. That it would be pertinent to note in this behalf that the Writ Petition relates to the change of the date of birth and consequent thereto the prolongation of the service of the petitioner or otherwise i.e. his retirement.

6. That the petitioner was due to retire on 31st August, 1981, but it seems that by a subterfuge he is still continuing and perhaps in the wrong compliance of the ad interim stay order as the said stay order was only upto 15th September, 1981.

7. That petitioner's representation regarding alteration in the date of his birth has been considered and rejected by the Chief Personnel Officer. The decision of the Chief Personnel Officer was conveyed by the Junior Accounts .....

*Remains*

109  
11/11

Officer (Administration) Headquarters Office, Baroda House, New Delhi to the Senior Accounts Officer (W), Norther Railway, Charbagh, Lucknow by his letter No. 74/Adm/A/25/5, dated 24.9.81. A copy of this letter is being filed herewith as Annexure A-1 to this Affidavit. A copy of this letter has also been noted over to the petitioner in office letter No. 79/Adm./C/Rep./CB dated 7.10.1981.

8. That in spite of the said information to the petitioner and also inspite of the fact that no stay order has been confirmed in the case of the petitioner he is still persisting to occupy the post which is an unauthorised act.

9. That it is expedient in the interest of justice that the ad interim stay order be vacated and the petitioner be asked to vacate his post.



LUCKNOW: DATED,  
MARCH 13, 1982.  
April 1/82

*Deponent*  
DEPONENT.

VERIFICATION

I, the above named deponent, do hereby verify that the contents of para <sup>14</sup> are true to my own knowledge and those of para <sup>12</sup> are true to my knowledge based on record, which I believe to be true. No part of it is false

.....

110  
11-5

and nothing material has been concealed, so  
help me God.

10-  
April

LUCKNOW: DATED,  
MARCH 15, 1982.

*[Signature]*  
DEPONENT.

I identify the deponent who

has been signed before me.

*[Signature]*  
ADVOCATE.

Solemnly affirmed before me on 15-4-82

at 9-10 AM/PM by *[Signature]*

the deponent who is identified by

Sri *[Signature]*  
Junior of

High Court Allahabad, Lucknow Bench,  
Lucknow.

*[Signature]*  
LS 11/82

*[Signature]*  
LS 11/82

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

281/81/292  
LS 11/82

111

11/6

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

Writ Petition No. 4239 of 1981

Munni Lal

.....

Petitioner

Versus

Union of India and others

.... Opp. Parties.

ANNEXURE - A-1

Copy of JAO/Adm's letter

No. 74/Adm/A/25/5 dated 24.9.1981.

"The appointment of Shri Munni Lal was made on the basis of declaration of the age and supported by Asstt. Surgeon, M.I. Rly. LKO vide his certificate No. 1077 dated 31.8.43 certifying that his age was 20 years. The employee himself had accepted the entry in respect of date of birth as 20.3.1923 in the service record through his L.T.I. which was witnessed and countersigned by the appointing authority.

In view of the above, the CPO who is the competent authority in this case has regretted to accede to the request of the employee to the change of date of birth from 20.8.1923 to 5.9.1925".

....

TRUE COPY

18/11/81

In the Honble High Court of Judicature at Allahabad  
Lucknow Bench

112

Time

80/

W. P. No. 4239 of 1982

19/10/82

FF-4/1/82

MUNNILAL

Religious

VS

UNION OF INDIA AND ORS. - - - - - opposite

Counter Affidavit to Vacations  
'S Stay Application

In the above noted writ petition  
I am filing counter affidavit  
to vacation of stay application  
within time. This was granted  
by Honble Court two weeks  
on dated 8/10/82

Let now be filed

19/10/82

For 20/10/82  
C/o B. L. Sharma  
Advocate

118

12/

80 2RS



In the Honble High Court of Judicature at Allahabad  
Ludhiana Bench Ludhiana

and

Visit Petition No 4239

— 1981

Commenced

\_\_\_\_\_ appearance

111

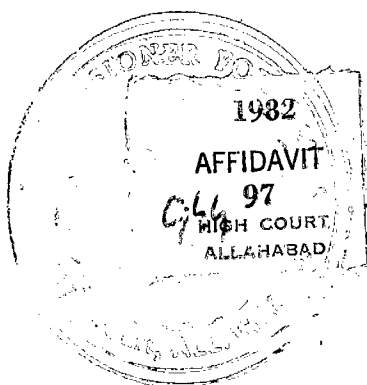
Under of Judge and also \_\_\_\_\_ app Bar

Counter Affidavit to vacate  
of Stay application



114  
✓✓

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



In re

Writ Pet. No. 4239 of 1981.

Munni Lal

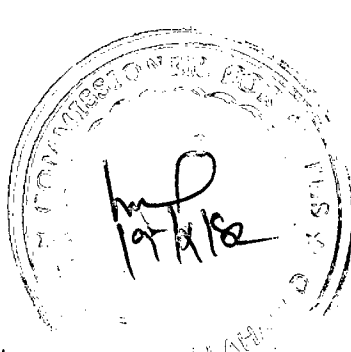
----Petitioner.

Versus

The Union of India, ~~through~~ and others

----Opp-parties.

Counter-affidavit to vacation of  
stay application.

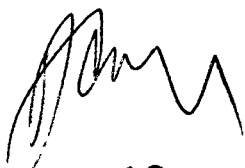


I, Munni Lal, aged about 56 years, son of  
Sri Behari Lal, Clerk Grade I, in the office of  
the Senior Accounts Officer (C) Northern Railway,  
Charbagh, Lucknow, residing at village Qila Mohammedi  
Nagar, P.O. Badrukh, Tehsil and Distt. Lucknow, do  
hereby solemnly affirm as under:-

*Munni Lal*

1. That the deponent is petitioner in the above-  
noted writ petition and as such he is fully  
conversant with the facts deposed to herein.
2. That the contents of paras 1, 2 and 3 of  
the affidavit of the opposite-parties need no  
reply.

Recs. Dupli-

A stylized handwritten signature, possibly reading "J. M. W.", written in dark ink.

19.10.82



115

12/3

-2-

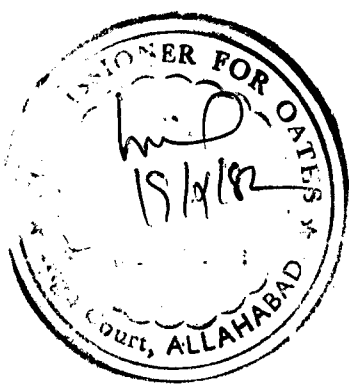
3. That the contents of para 4 are not denied.

4. That the contents of para 5 of the affidavit are not denied. However it is submitted that the order of retirement has been passed ignoring the relevant Rules and the representation of the deponent has been rejected.

5. That the contents of para 6 of the affidavit are not admitted as stated. It is further ~~and~~ submitted that the interim stay order granted by this Hon'ble Court was modified and extended on 29.9.81, as such the inference drawn by the opp-parties that the stay order was effective only upto 15.9.81 is incorrect.

6. That the contents of para 7 of the affidavit are not admitted as stated. It is further submitted that the representation of the petitioner was rejected by the Chief Personnel Officer without considering the relevant rules and circulars and the petitioner has also challenged the said rejection of the representation by way of an amendment of the writ petition.

7. That in reply to para 8 of the affidavit only this much is denied that the petitioner is still persisting to occupy the post unauthorisedly. In fact the petitioner is continuing in service and getting the pay and allowances of the post of Clerk Grade I under orders passed by this Hon'ble



Munni Lal

116

11/4

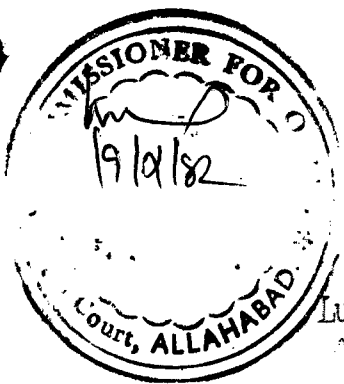
Court as it found it fit to admit the writ petition for hearing on merits and also passed a stay order.

8. That the contents of para 9 of the affidavit are denied. It is further submitted that the petitioner is still in service and the balance of convenience also lies in favour of the petitioner and in case the Hon'ble Court vacates the interim order the deponent who is the only bread earner in the family, will face hardship and starvation by his premature and illegal retirement.

Lucknow, dated,  
8.10.82

*Munni Lal*  
Deponent.

I, the deponent abovenamed verify that the contents of paras 1 to 8 are true to my own knowledge and no part of it is false and nothing material has been concealed so help me God.



Lucknow, dated,  
19.10.82

*Munni Lal*  
Deponent.

I identify the deponent who has signed before me.

*Advocate.*

Solemnly affirmed before me on 19.10.82 at Lucknow, P.M. by *Shri Munni Lal* the deponent who is identified by *Shri Nanda Lal* Pot.

*Clerk to Shri B. C. Shukla, Advocate High Court Allahabad.*

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

*Nanda Lal*

CATH CO. High Court, Allahabad.

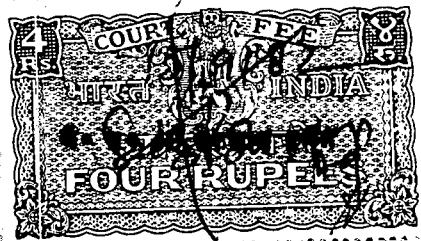
LUCKNOW. BEN

19-10-82

1333

117

## APPLICATION FOR INSPECTION



To,  
The Deputy Registrar,  
High Court of Judicature at Allahabad,  
( Lucknow Bench ) Lucknow.

Please allow inspection of the papers passed below. The application is urgent / Ordinary. The applicant is not a party to the case.

Full Description of case	Whether case Pending or decided	Full particulars Papers of which Inspection is required	Name of person who will inspect record	If applicant is not a party reason for inspection	Office report and order
Whit Petition No 4239 of 1981	Pending	Whit Petition No 4239 of 1981 28/12/81 re - Hemmi Lal vs Union of India & others	For self - Secretaries (Consistent with the law)	For perusal	<p>Office report</p> <p>Order for Inspection</p> <p>Deputy Registrar</p> <p>Date 20/1/82</p>

Date

Signature of applicant  
or his Advocate

Inspection commenced at

on

198

Inspection concluded at

Inspection fee paid by the applicant

Additional fee if any

Inspected  
M. V. Adv. 20/1/82

118  
13

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

908/83

C.M. An. No. (W) of 1983

In fe.

Writ Petition No. 4239 of 1981

Senior Accounts Officer (W)  
N.Rly., Charbagh, Lucknow

Applicant-  
Opp. Party No. 3

In re:

Munni Lal

.....

Petitioner

Versus

Union of India & Others

...

Opp. Parties.

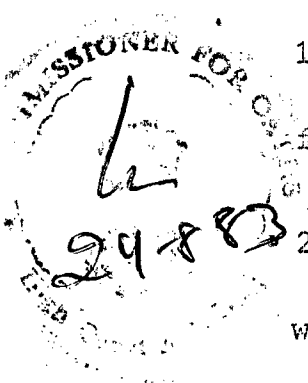
The above named applicant-Opposite Party  
met respectfully beg to state as under:-

1. That the aforementioned Writ Petition was  
filed before this Hon'ble Court on 27th August, 81.

2. That the main contention of the petitioner  
was that he is being retired as the date of his  
birth as mentioned in the official Railway record  
was wrong and that he should not <sup>be</sup> retired unless  
he attains the age of retirement (58 years) on  
30.9.1983.

2. That the said Writ Petition was admitted  
and ad interim stay order staying the retirement  
of the petitioner was granted.

3. That an application was filed on behalf of



70

Paul Amy  
~~Time com~~  
Epos BL Shulits  
for  
30/8/83

Mr. Nathan F. I.

first in the  
week commencing  
19/2 Sept. 1983. Mean-  
while if the petitioner  
wants to file another  
affidavit he may  
do so.

✓

7-9-83

2

119  
13/2

the Northern Railway representing Opposite Party No. 1 in the said Writ Petition for the vacation of the said stay order.

4. That the said application for vacation of stay order has neither been listed nor heard till date although the application was filed on 15th April, 1982.

5. That another application was again filed on behalf of the Opposite Party No. 1 in Sept. 1982 for early hearing of the case. In spite of the said application the matter has not been heard till date.

6. That now a situation has arisen when even according to the averment raised in the Writ Petition the petitioner is liable to be retired on 30th September, 1983 as the extended period of retirement expires on the said date.

7. That Sri Muni Lal, petitioner wants to take an undue advantage of the situation and has been raising a contention that he would not retire on that date also as the said order does not stand vacated and he is entitled to work till the said stay order is vacated.

8. That under the circumstances stated above it is expedient in the interest of justice that

24/8/83

the stay order passed in the said Writ Petition be vacated and in any case Sri Munni Lal be not permitted to work at his post after 30th September, 1983 when even the extended period as per his own version ~~expires~~.

WHEREFORE it is respectfully prayed that the said stay order passed on ~~27/7/81~~ be vacated and in any case Sri Munni Lal be not permitted to remain on his post after 30th September, 1983 when the extended period according to his own version also ~~expires~~ expires.

h  
24-883

*RRA Charya*  
ADVOCATE  
COUNSEL FOR THE APPLICANT-  
OPP. PARTY.

Lucknow Dated:  
August ~~24~~ 1983.

the stay order passed in the said Writ Petition be vacated and in any case Sri Munni Lal be not permitted to work at his post after 30th September, 1983 when even the extended period as per his own version ~~expires~~.

WHEREFORE it is respectfully prayed that the said stay order passed on ~~27/7/81~~ be vacated and in any case Sri Munni Lal be not permitted to remain on his post after 30th September, 1983 when the extended period according to his own version also ~~expires~~ expires.

h  
24-883

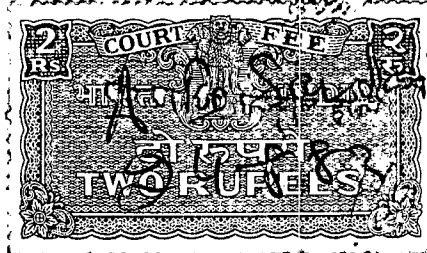
*R.R. Acharya*  
ADVOCATE  
COUNSEL FOR THE APPLICANT -  
OPP. PARTY.

Lucknow Dated:  
August ~~24~~ 24, 1983.



121  
13/4  
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
SITTING AT LUCKNOW

WRIT PETITION NO. 4239 OF 1981



1983  
AFFIDAVIT  
80/400  
HIGH COURT  
ALLAHABAD

Munni Lal

....

Petitioner

Versus

Union of India & Others

....

Opp. Parties.

A F F I D A V I T

I, A.B. Sardana, aged about 50 years, son  
of Sri S.N. Sardana Senior Accounts  
Officer, Northern Railway, Lucknow do hereby  
solemnly affirm and state on oath as under:

1. That the deponent is <sup>Opp. Party No. 3</sup> ~~Person on behalf of~~  
~~Opposite Parties~~ and as such he is fully conver-  
sant with the facts of the case.

2. That the contents of paras 1 to 8 of the  
accompanying application are true to my own

....

B.S. Sardana

122

13/5

knowledge, except the legal averments which are believed to be true on the basis of legal advice.

Lucknow Dated:  
August 24, 1983.

BS Sarda  
DEPONENT.

VERIFICATION

I, the above named deponent do hereby verify that the contents of paras 1 and 2 of this Affidavit are true to my own knowledge. Nothing material has been concealed and no part of it is false. So help me God.

Lucknow Dated:  
August 24, 1983.

BS Sarda  
DEPONENT.

I identify the deponent who has signed before me.

S. P. Swaroop  
Advocate.

Solemnly affirmed before me on 24-8-83 at 11:00 AM/PM by the deponent Sri A. B. Sarda who has been identified by Sri S. P. Swaroop Adv.

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

K  
OATH COMMISSIONER  
High Court, Lucknow Bench)

No. 80/400  
Date 24-8-83

24-883

Try. Form No. 385  
RECEIPT FOR

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

C.M. Application No. 6795 (W) of 1984

in re:

Writ Petition No. 4239 of 1981

one CF Receipt Rs 5/-  
N/099009. 10/7/84  
Munni Lal

... Petitioner/  
Applicant.

Versus

Union of India and others

... Opp. Parties.

Application for Amendment of the Writ Petition

The humble petition of above named  
petitioner/applicant most respectfully sheweth:-

1. That the opposite party No. 3 in the application for vacation of stay had sought that the petitioner should not be allowed to continue in service after 30th of September, 1983.



(34)

Hon. R. C. D. Sharma, J.

---

List with the  
record.

K✓

10.7.1984

ms

Hon. Prayal J.

Petitioner's counsel  
is allowed to amend the  
writ petition as prayed.  
Opposite parties counsel may  
file counter affidavit within  
three weeks. Reply  
may be filed within ten  
days thereof.

K✓

28-3-85

9

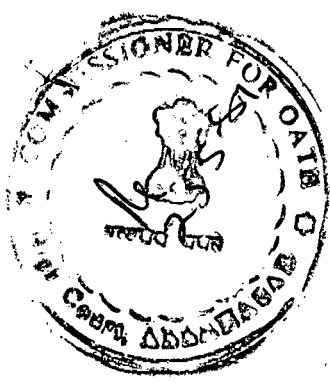
124

14  
2

- 2 -

2. That on the bases of the orders passed the petitioner has performed his duties till 30th of September, 1983 but he has not yet been paid the <sup>post</sup> retirement benefits according to the rules as the opposite parties have not yet decided the date of retirement in the case of the petitioner.
  
3. That a Division Bench of this Hon'ble Court has held the validity of rule 2046(e) R II in their judgment dated 1st of April, 1983 in Writ Petition No. 963 of 1978, Mohd. Habib Versus Union of India and others. A true copy of judgment is being filed herewith as Annexure-✓ to the writ petition.
  
4. That the petitioner was appointed as a class IV in the East Indian Railway, a state-owned railway on 1.9.1943 and after re-grouping of railways on 14.4.1952, he came to the Northern Railway. The history of service put in by the petitioner is as under:-

Munni Lal  
(Munni Lal)



Period	Post held	Grade	Service	Railwa
1	2	3	4	5
(a) 1.9.1943 to 4.6.1958	Peon	12-1-17/30½-35	Infe- rior	East Indian Railwa

225

14  
3

- 3 -

1	2	3	4	5
(b)	5.6.1958 to 19.11.1961	Daftary	35-1-50	Inferior Northern Railway.
(c)	20.11.1961 to 19.5.1963	Record Shorter/ Record Supplier	105-135	Ministe- rial. Northern Railway.
(d)	20.5.1963 to 26.4.1979	Clerk Grade II	260-400	Ministe- rial Northern Railway.
(e)	27.4.1979 to 22.6.1979	Clerk Grade I	330-560	Ministe- rial Northern Railway.
(f)	23.6.1979 to 16.1.1980	Clerk Grade II	260-400	Ministe- rial Northern Railway.
(g)	17.1.1980 to 30.9.1983	Clerk Grade I	330-560	Ministe- rial Northern Railway.

Murli Lal  
(Munital)



5. That on account of the subsequent events it has become necessary to amend the writ petition and to incorporate the grounds to challenge the Annexure No. 11 to the writ petition bearing Staff Office Order No. 37 dated 31st of March, 1981.
6. That the petitioner craves leave to amend the

126

14  
4

- 4 -

writ petition by adding para 28 after existing para 27 of the writ petition, grounds No. (g) and (h) after existing ground No. (f) and also ✓ ~~PRAYER~~ relief No. (VII) after existing relief No. (VI) in the writ petition in the following manner:-

"28. That the petitioner is entitled to serve upto the age of 60 years as he fulfils the conditions laid down in Rule 2046(e) RII in terms of clarificatory ~~conditions~~ ✓ instructions contained in para 4 of Railway Board's letter No. Pc-67/RT-8 dated 22.9.1967 as quoted below:-



Munni Lal  
(Munni Lal)

'Point No.4. Whether ex-company staff  
i.e. Ex-E.L. Railway Co./A.B.Railway  
Co./B.D. Railway Co./N.Railway Co.  
etc. staff taken over by Indian  
Govt. Railways opted and to be  
governed by Indian Govt. Railway  
Rules, now holding ministerial posts  
may go upto 60 years of age subject  
to their fulfilling the conditions  
laid down in rule 2046(b)-R II.  
Railway Board's clarification against  
Point No. 4.

Yes' "

127

14  
5

- 5 -

"(g). Because in view of the decision as indicated in Annexure- the petitioner is entitled to be retired after completing 60 years of aged."

"(h). Because in view of clarificatory instructions<sup>as</sup>/quoted above the petitioner is entitled to be retired after completing 60 years of age and in any case is entitled to salary benefits etc. according to the Rules."



"(VII) To issue a writ in the nature of certiorari quashing Annexure-11 to the writ petition."

Mumtaz Lall  
(Mumtaz)

P R A Y E R

Wherefore, it is respectfully prayed that This Hon'ble Court may be pleased to permit the amendment of the writ petition by adding the paragraphs 28, grounds (g) and (h) and also relief clause (VII).

Dated: Lucknow:  
25.5.1984.

10.7

Counsel for the Petitioner/  
Applicant.



128

14/6

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

.....

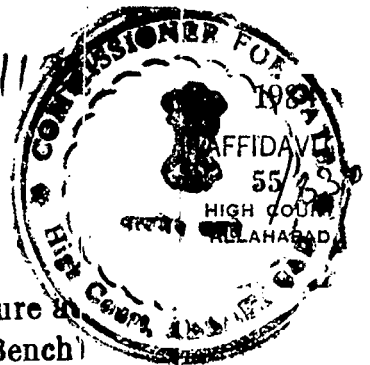
Fw CF mkr

CF-11  
(P)

Try. Form No. 385

**RECEIPT FOR PAYMENT TO GOVERNMENT**

(Form No. 1, Chapter III, Paragraph 26, Financial Handbook, Volume V, Part I)



-----  
Receipt No. **099010**  
Place Lucknow High Court of Judicature at  
Date 14/6/81  
Department and office, Allahabad (Lucknow Bench)

Received for  
the  
Cashier

f 1984

Writ Petition No. 4239 of 1981

Munni Lal

... Petitioner/  
Applicant.

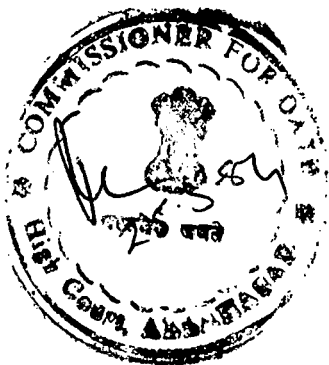
Versus

Union of India and others

... Opp. Parties.

Affidavit in support of Application for  
Amendment of the Writ Petition

.....



I, Munni Lal, aged about 59 years, son of  
Sri Behari Lal, resident of village Qila Mohammadi  
Nagar, Post Office Bhadderu, Tehsil and District

129

14/7

- 2 -

Lucknow, the deponent, do hereby solemnly affirm  
and state on oath as under:-

1. That the deponent is petitioner in the  
above noted writ petition and is fully  
acquainted with the facts deposed to herein.
2. That the contents of paragraphs 1 to 6, 23<sup>✓</sup>  
~~and grounds 9, 12 and clause VII~~ of the  
accompanying application for amendment of the  
writ petition are true to the knowledge of the  
deponent; that the contents of paragraphs  
\_\_\_\_\_ are  
based on record which the deponent believes  
to be true and that the contents of  
paragraphs \_\_\_\_\_ are  
based on legal advice which the deponent  
also believes to be true.
3. That Annexure-<sup>✓</sup> annexed with the accompanying  
application for amendment of the writ petition  
which is a true copy, has been compared with  
its original.



Dated: Lucknow:

25/5/1984.

Munni Lal  
(Munni Lal)

Deponent

Verification

I, the above named deponent, do hereby

130

14/8

- 3 -

solemnly verify that the contents of paragraphs 1, 2 and 3 of this affidavit are true to my knowledge. No part of it is false and nothing material has been concealed, so help me God.

Munnilal  
(Munnilal)

Dated: Lucknow:

Deponent

25/5/1984.

I identify the above named deponent who has signed before me.

*[Signature]*

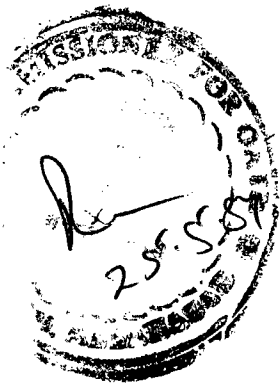
Clerk to Sri B. L. Shukla

Advocate.

Solemnly affirmed before me on 25.5.84 at 1.45 a.m./p.m. by the deponent Munnilal, who is identified by the aforesaid clerk Sri clerk of Shri Nitankar Prasad, C/o Sri B. L. Shukla Advocate, High Court, Allahabad, Lucknow Bench, Lucknow.

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

*[Signature]*  
High Court, Allahabad,  
Lucknow Bench.  
25/5/84



131

14/9

UTTAR PRADESH

FOR COPYING FEES ONLY



केवल नकल की फीस के लिए

आवश्यक स्थाप्य सहित माहौला पत्र देने की तारीख Date on which application is made for copy accom- panied by the requisite stamp.	नोटिस बोर्ड पर नकल लिया जाने की सूचना की तारीख Date of posting notice on notice board.	नकल बापिस दिए जाने की तारीख Date of delivery of copy.	नकल बापिस देने वाले अधिकारी का हस्ताक्षर Signature of official deliver- ing copy.
		U/14587/5/4/83 5-5-83 25/4/83 25/4/83	



Munni Lal  
(Munni Lal)

132  
14/10

In The High Court of Judicature At Allahabad,  
Lucknow Bench, Lucknow.

Writ Petition No. 363 of 1978

Mohd. Habib, ..... Petitioner.

Versus

Union of India through the Secretary Ministry of Railways  
ex-officio Chairman, Railway Board, Rail Bhawan, New Delhi &  
others. .... Opp- Parties.

Petition under Article 226 of the Constitution  
of India .

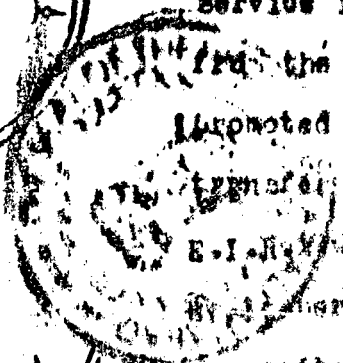
Lucknow Dated. 1st April, 1983

~~Presented by the petitioner through his~~  
Hon'ble  
Presented by T.S. Misra J.

Hon'ble D.N. Jha J.

(Delivered by Hon. T.S. Misra J.)

The facts set out in the petition are these.  
The petitioner was appointed on 29th March, 1943  
as Trade Apprentice in the erstwhile East Indian  
Railway, a State-owned railway. He continued in  
service till September, 1947. On the independence  
of this country the Central Government employees  
including the employees of the railways were asked  
to exercise their choice for service in India or  
Pakistan. The petitioner provisionally opted for  
service in Pakistan and was spared on 30.9.1947  
from the post of Fitter to which post he had been  
promoted in the year 1945. He was released on  
transfer to Pakistan by the divisional Superintendent,  
E.I. Railway, Lucknow vide his letter dated 27th  
September, 1947. The petitioner, however, within the  
prescribed time changed his provisional option and



Munir Lal  
(Munir Lal)

133

14/11

-2-

finally opted for service in India but, according to him, was not put back to duty. He agitated against the same and finally his efforts succeeded and he was ordered to be re-instated as a Fitter Khalsi vide letter dated 23rd May, 1960, annexure 1 to the writ petition. He contends that his year of birth is 1923. He is at present working under Fitter incharge Outdoor weighbridge and Pump, N. Railway, Charbagh, Lucknow. He was sent for medical examination in March 1960 prior to his being re-appointed, on the post of Khalsi. He was given a medical memo. in which his age was indicated as 34 years. The age of the petitioner in the medical certificate was endorsed 1920. The petitioner came to know of this fact in May 1976. Then he submitted a representation on 12th May, 1976 a copy of which is Annexure 3 to the petition. He sent another representation on 21st December, 1976 by way of reminder and the third representation on 16th February, 1977 but to no avail. He again submitted his representation on 20th June, 1977 before opposite-party no.4, vide Annexure 4 and another representation to the General Manager (P) N. Railway on 29th August, 1977 vide Annexure 5. The petitioner contends that he had not been informed of any decision taken on his various representations seeking alteration in the date of birth. The petitioner was, however, informed that he would have to desert office on 30th April, 1978 on attaining the age of 55 years treating the month of his birth as April 1920. The case of the petitioner is that his case is governed by clause (a) of rule 100 of the Indian Railway General...



Munni Lal  
(Munni Lal)

134  
14/12

-3-

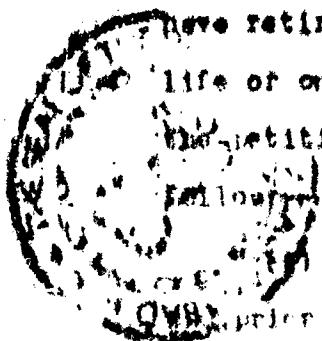
of the Indian Railway Establishment Code Volume II, hence he says that, according to the date of birth recorded in the service record prepared at the time of initial appointment in the year 1943, he would attain the age of 58 years in the year 1984 and would attain the age of 60 years in 1986 and as he is being called upon to retire, the petitioner has prayed for the quashing of the order contained in the letter dated 13th March, 1978, Annexure 6 to the petition. The petition has been opposed.

The learned counsel for the petitioner has submitted that even if the petitioner's date of birth is taken to be April 1920, the petitioner would have retired on 30th April, 1980 and not on 30th April, 1978 as has been alleged in Annexure 6 to the petition. This contention is based on the provisions of clause(s) or rule 2046 aforesaid. It has thus not been seriously contended before us that the year of birth of the petitioner is 1926 and not 1920. We, therefore, take it that the petitioner was born in April 1920. The sole question which now survives for consideration is whether the petitioner would

have retired on the completion of his 58 years of life or on completing 60 years as is contended by the petitioner. Clause(s) of rule 2046 reads as follows:-

"Railway servants in Class IV service or post prior to 1st December, 1962, were entitled to serve up to the age of sixty years including the new entrants to those categories shall

Munnilal  
(Munnilal)



135

14/13

-4-

continue to serve up to the age of sixty years." It is not disputed that the petitioner was a railway servant in Class W service. He had taken employment in the railways prior to 1st December, 1962. The question is whether he was entitled to serve up to the age of 60 years or not. Clause (a) of rule 2046 came up for consideration before the Patna High Court in *Karoon vs. Assistant Engineer, Eastern Railway Dina-pur and others* (1974 S.L.W.R. 420). In that case it was observed, -

"It is manifest from the rule that it fixes age of retirement at 60 not only for those railway servants in Class W service or post who prior to 1st December, 1962 were entitled to serve up to the age of 60 years but also for the new entrants to those categories. If the new entrants to those categories are entitled to be in service up to the age of 60 years, other railway servants in Class W service or post who prior to 1st December, 1962 were not entitled to serve up to the age of 60 years including the new entrants to those other categories should also be allowed to continue to serve up to the age of 60 years."

In that case it was urged on behalf of the railway that except the inferior railway servants of the railway Board, only those railway servants of Class IV who were governed by the ex-company rules or ex-state railway rules or rules of former provincial governments form the categories which are entitled to the benefit of rule 2046(a) as it stands at present after amendment

Munni Lal  
(Munni Lal)

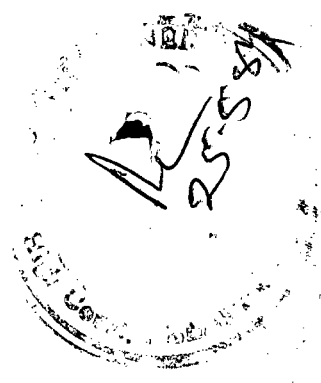


136

14/14

-2-

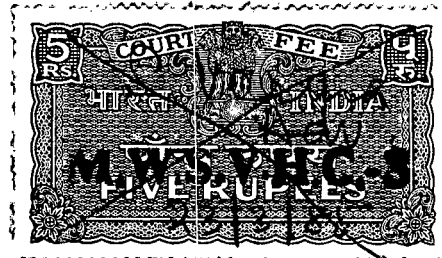
Repelling this contention it was observed that if that interpretation be given to this rule, then the respondents will be discriminating between class IV railway servants who were ex-company employees, ex-state railway employees and former provincial governments railway employees on the one hand and other class IV railway employees on the other, relying on the railway board and another vs. A. Pitchumani (A.I.R. 1977 Supreme Court, 808, and revert Lal Kani Lal vs. Union of India and others (1973 Labour Law Journal, Vol. 1, 428) it was observed that though there might be a reasonable classification of railway servants as ex-company employees and others, there is no nexus or relation between the classification and the object sought to be achieved and the rule, therefore, to that extent will be ultra vires. The Supreme Court in A. Pitchumani (supra) had struck down the words "if the rules of the company or the state had a provision similar to clause (p) above" in the note appended to rule 204B, clause (b) on the ground that this part of the note was discriminatory and violative of article 14 of the Constitution. For the same reasons the Patna High Court in the above-noted case struck down the workers who prior to 1st December, 1982 were entitled to serve up to the age of sixty years. We are in respectful agreement with the view expressed by the Patna High Court in that case. That being the position, the provisions of clause (a) of rule 207B aforesaid would apply to the case of the petitioner also. The petitioner was, therefore, entitled to serve up to the



Munir Lal  
(Munir Lal)



# VAKALATNAMA



G.V. 3

Before  
In the Court of

In the Hon'ble High Court of Judicature at Allahabad,  
Lucknow Bench, Lucknow  
Writ Petition No. 4239 of 1981

Sri Munni Lal

Plaintiff—  
Defendant

Claimant—  
Appellant—  
Petitioner

Versus

Union of India & others

Defendant—  
Plaintiff

Respondent  
Opp parties

The President of India do hereby appoint and authorise Shri... Siddharth Verma, Advocate,

C-16, K-Road, Mahanagar Extension, Lucknow

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

The President hereby agrees to ratify all acts done by the aforesaid Shri... Siddharth Verma,

Advocate

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the 23/3/85 1985

Dated 23/3/1985

N.R.P./P. Bagh Delhi-35--2,064/17--05-1983--6,000 F.

Accepted  
Shri  
(Siddharth Verma)  
Advocate

Designation of the Executive Officer (G)  
Dy. General Manager  
N. Rly. Hd. Qrs. Office  
Baroda House,  
New Delhi.

16/139

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P.

No.

4239

of 1981

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
27-8-81	<p>Hon. K.S. Varma J. Hon. S.C. Mathur J. Admit. Inne notice to the opposite parties. Sd. K.S.V. Sd. S.C.M. 27-8-81</p>	
20	<p>C.M. No. 7475-0201/Forstey. Hon. Hon. K.S.V.J. Hon. S.C.M.J. Inne notice to the opposite parties Returnable by 14-9-1981 list this applications for stay for orders on 15-9-1981. Sd. K.S.V. Sd. S.C.M. 27-8-81</p>	
	<p>14-9-1981 fixed w.p. with C.M. No. 742514 of 81 for all the</p>	
	<p>No. 25 opp. Subj. 2 &amp; 3 by Reg Post. Copy received by a R. K. V. Clerk to S.S. Adm. Advocate on behalf of opp. Subj. 1</p>	

Received by  
S.S. Adm.  
10/9/81

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned	
1	2	3	
15-9-81	L.M. No 7475-D1  Han Groel, J.  Sri Sagin AD pray for an adjournment 24 hours to file counter. Repairs in a week - last Thursday		
	15/9/81		
			5 (21) 34 min only 21 of 2
23-9-81	Service Report in L.M. + C.H. No 7425-D1 - C.P. No 1 - Represented by Sri Sagin Ahmad Advocate C.P. No 2 and 3 - Regel Cover not need back after service. <del>no power of attorney</del> No Power of C.H. 2 & 3 filed. For order. L.M. No 7425-D1		23-9-81
	seen service report at 23-9-81. op. 1 represented by chief clerk up court. Service on op. 2 and 3 deemed sufficient under chapter VIII rule 12, the rules of the court. proceed.		

24-9-81

1.10.81

CL/A

24-9-81

CL

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	28.1.82 <del>fixed</del> - CMA 7465(1) 9697(1) 11	cl / 11
	<u>CMA No 7407(1) 11</u>	cl / 11
3-8-82	San M Singh, 7 put up with the record SDM Singh 3-8-82	cl / 11 1 and 2 not a cl / 2
	A. 10. 11 9. 9. 11 <del>fixed</del> - CMA 7465(1) 11, 9697(1) 11 7407(1) 11	cl / 11 Put up
8.10.82	Fixed in CMA No 7475(1) - 82 for orders.  Hon. D. N. Jha J Request has been made on behalf of Sri B. Shukla to allow two weeks time to enable him to file counter affidavit. The prayer is allowed. List thereafter for orders. 8.10.1982,	

30-11-82  
CMA 7475(1) 11, 7407(1) 11  
cl / 11

1480 1/2

ORDER SHEET  
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 4239 of 198  
vs.

	Date	Note of progress of proceedings and routine orders	Dated which case adjourn
	1	2	3
		Hon. K N Goyal	
		Courts are regular affidavits have been <del>exchanged</del> filed list for orders in the week commencing on 19/10 October 1981. In the meantime, the earlier order dated 27.10.81 shall continue.	
		A copy of the order be given to the learned counsel on departing usual charge	
		29/9/81	
		20-10-81	
	20.10.81	C.M. No. 7675-81	
		Mr. J.S. Jaiswal	
		List after a fortnight i.e. 21.11.81 then the interim orders shall continue.	
		20.10.1981	

Date	Note of progress of proceedings and routine orders	Dated which case is adjourned
1	2	3
23.9.83.	Cmn. 7475-01. 8.7.82 02 for cons. 9.8.13-83. <u>the VCSG.</u>	
<div data-bbox="41 1210 229 1622" data-label="Text"> <p>82</p> </div>	<p>According to the petitioner's own case he is to retire, on 30.9.1983 and he has been working in view of the order passed by this Honble Court. The interim order dated 27.8.1981 is modified to the extent that the interim order shall remain in force upto 30.9.1983 whereafter it will automatically lapse. This disposes of the application no. 7407(W)/82 as well.</p> <p style="text-align: right;">23. 9. 83</p>	
3-9-83	<p>C. M. Am. no. 7475 (W) of 81 and 7407 (W) of 82 for cons. 9.8.13-83</p> <p><del>Honble S.C. Mathur, J.</del></p> <p><u>Honble S.C. Mathur, J.</u></p>	



141165

Wef.

-No.

4239

- of 198

**-VS.-**

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
19/11/82	<p>Lined up CM An No.</p> <p>7475781, 76407/82 for a d</p> <p><u>Archie Report</u></p> <p>So, on the request made on behalf of Sri L. O. Beharaya.</p> <p>19.11.1982</p> <p>by</p>	
	<p>Jan 83</p> <p>7475 (as A) 76407/82</p> <p>CM. An No 9813 @ 83 For vacation</p>	
7-9-83	<p>Sri Mathur</p> <p>list in the week commencing on 19th Sept 1983</p> <p>may do so.</p> <p>Sd/- Mathur</p> <p>7-9-83</p>	

22.9.13 Friday  
Muzinda, 7640 (SN) 11/10  
9813 (1013) (Muz)

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned	
1	2	3	
	dated 25.1.85 whereby notice of the case was required to be sent to Sri Siddharth Verma. Perhaps the office has not issued notice to him. In any case his name is not printed in the cause list. Re-list in the week commencing 18th of March, 1985 after printing the name of Sri Siddharth Verma in the cause list and issuing notice to him as indicated in the order dated 25.1.85.		
	BL/-	27.2.1985	
303	22-3-85 Jan		
	Cu 679511 NY		
	<i>(Signature)</i>		
	<i>Ja leonard</i>		
	<i>Putnam 27-3-1985</i>		
	<i>h</i>		
27355	<i>Han 12/1/85</i>	22-3-1985	
	<i>Putnam</i>		
	<i>B...</i>		
	<i>A...</i>		

PSUP A.P.1/1 Noh Nyayalya. - 13-4-83-173-1983-50,000 (E) 18103  
 28/3/85  
 H.N. K.N. Jayal  
 C.M. A.N. 2. 67951084 - is allowed  
 28/3/85

113<sup>b</sup>/<sub>5</sub>

# ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 6238 of 198  
10/11/05 vs. 10/11/05

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1.	2	3
10/11/05 25-109	Cum-6795-04 for order H.N. 4-2	
	As Sri L. R. Hacharya was appearing originally for the Northern Railway and he has left practice notice is to go to Sri Siddhanta Varma who is also on the panel of the Council of Northern Railway. He may obtain instructions so that the case may proceed further till in the last week of February 1905	
27.2.05	27.2.05 15.2.05 from 6295114	25/1/05
	<i>[Signature]</i> S. K. Wadgaonkar	
	Counsel for the petitioner	

correctly refers to this Court's order

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

**vs.**

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	<p>Amenudment not made</p> <p><u>6</u></p> <p>Ble</p>	Def