

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE 843 of 1987 (T)

W.P. No. 4700 of 81

Name of the parties Sunder Lal Srivastava

Applicant.

Versus.

Union of India

Respondents.

Part A.B.C.

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

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Rechecked on  
07/02/12  
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Reyes  
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File no.	Serial no. of Paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2		4	5	6	7	8	9
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	9	Rejada appdant	9	—	2.00			
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	12	Best copy	1	—				

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

Date.....

Munsarim

Clerk

No. of Order	Date of Order	ORDER WITH SIGNATURE	Office notice to action (if any) taken on order
	24-11-88	<p>DR J,</p> <p>File Recd to day from Allahabad.</p> <p>C.A &amp; RA have been exchanged in the High Court, &amp; list this case for final hearing on 22-12-88. Counsel for Respondent and applicant present in person.</p> <p><i>[Signature]</i></p>	
	22/12/88	<p>DR J,</p> <p>No sitting, Adjourned to 23-2-89 for Hearing</p> <p><i>[Signature]</i></p>	
	23/4/89	<p>Hon. A.S. Misra, A.M.</p> <p>Hon. G.S. Sharma, J.M.</p> <p>On the request received on the behalf of the applicant the case is adjourned to 27/4/89 for final hearing</p> <p><i>[Signature]</i> J.M. <i>[Signature]</i> A.M.</p>	<p>OR</p> <p>Case is set for final hearing</p>
	27/4/89	<p>Hon' Mr. D.S. Misra, A.M.</p> <p>Hon' Mr. D.K. Agrawal, J.M.</p> <p>Shri R.K. Srivastava, learned counsel for the applicant is present. On the request of the learned counsel for the respondents, the case is adjourn to 17-7-1989, for hearing.</p> <p><i>[Signature]</i> J.M. (sns) <i>[Signature]</i> A.M.</p>	
	17.7.89	<p>No sitting. Adjourned to 22.8.89 for hearing.</p> <p><i>[Signature]</i></p>	<p>OR</p> <p>Case is set for hearing.</p> <p><i>[Signature]</i></p>

h  
BCC

Case is submitted for hearing

CIR

ORDER SHEET

REGISTRATION No. 843 of 1987. (T)APPELLANT  
APPLICANTS. L. Srivastava

VERSUS

DEFENDANT  
RESPONDENTU. O. C.

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
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22.8.87

Hon. Mr. D.R. Agarwal, J.M.

Applicant is present in person. Sri J.R. Yadav, Dealing Assistant, carriage & wagon shop is also present on behalf of respondents. On the request of both the parties, the case is adjourned to 29.8.87 for hearing.

De  
J.M.OR  
Case is Subm  
for hearing  
L  
29/8

29.8.87

Hon. Justice K. Nath, V.C.

Sri R. K. Srivastava, learned counsel for the applicant is present. On the request of the learned counsel for respondents, Sri Arjun Bhargava, the case is adjourned to 19.9.87 for hearing.

De  
V.C.OR  
A Bhargava  
Power filed today  
L  
29/8OR  
Case is submitted  
for hearing  
L  
10/9Hon. Mr. D.R. Agarwal, J.M.

19-9-87

Sri Arjun Bhargava Counsel for respondents requests for time on the ground that he has received the case file late in the evening. He has seen the case file only yesterday from his counter part at Allahabad.

List this case on 19-10-87 for hearing. OR

De  
J.M.OR  
Case is submitted  
for hearing  
L  
10/9

(SNS)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD

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~~XXXXXX~~

T.A.NO. 843

1987(T)

DATE OF DECISION December, 1989

Sunder Lal Srivastava

PETITIONER

Advocate for the  
Petitioner(s)

VERSUS

Union of India & ors

RESPONDENT<sup>S</sup>

Advocate for the  
Respondent(s)

CORAM :

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

The Hon'ble Mr. K. Obayya, A.M.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? ☒
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether to be circulated to other Benches ? ☒

Dinesh/

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19/12/89

CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH, ALLAHABAD

.....

Registration T.A. No. 843 of 1987(T)  
(W.P. No. 4700 of 1981)

Sunder Lal Srivastava ..... Petitioner  
Vs.  
Union of India & ors ..... Respondents

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

Hon' Mr. K. Obayya, A.M.

( By Hon' Mr. K. Obayya, A.M. )

This is a transferred petition received from the High Court of judicature at Allahabad, Lucknow Bench, under section 29 of the Administrative Tribunals' Act No. XIII of 1985.

2. The petitioner Sunder Lal Srivastava retired from Railway service on 13.7.1981 as a Clerk in the production Office, Carriage and Wagon Workshop, Alambagh, Lucknow in the Northern Railway. He filed writ petition No. 4700 of 1981 on 10.9.1981 for issuance of direction in the nature of Mandamus to the opposite parties to compute his pension in accordance with law.

3. His case is that he was initially appointed in East Indian Railway in the year 1935 and confirmed as Clerk on 1-2-1938 (Annexure-I). He went on deputation to the Defence Department (War Emergency) and served as Clerk in the Central Ordinance Depot, Shahjahanpur from 15.7.1940 to 22-6-1945 (Annexure-II). On return from deputation, he was appointed as Clerk in the Railways Carriage and Wagon Workshop, Alambagh, Lucknow on 23-6-45 in which post he was confirmed on 1-1-1951. He requested the authorities to give him the benefit of the services rendered by him in the Defence Department as per Army Order No. 259/50 dated 14-11-1944 (Annexure-A-III) and the notifi-

cation dated 6.2.1946 (Annexure-A.IV). His representation in this regard was forwarded to General Manager (Personnel), East Indian Railway at Calcutta (Annexure-A-V). In response to his repeated requests ultimately the Railway Board in letter No.RE/8/421 dated 27.5.87 issued instructions for extending the benefit of war service towards fixation of pay(Annexure-VI). Thereafter he retired from service on superannuation on 13.7.1971.

4. On 1-5-1971 he represented to the authorities that by virtue of amendment of rule 2046 (FR-56) R-22 Railway Establishment Code and Hon'ble Supreme Court's decision (Annexure-A-VIII), he was entitled to be continued in service upto 60 years, and requested continuation of service till he attained 60 years. He approached the authorities through the president pensioners Welfare Organisation ( Annexure-A-IX ). His case was also taken up by President, City Congress Committee, Lucknow with Deputy C.M.E. ( Carriage and Wagon Workshop) Lucknow, but the President was informed that the petitioners' request cannot be considered as per rules (Annexure-A-X).

5. The Opposite Parties contend that the petitioner was appointed as a fresh candidate sponsored through employment exchange. The offer of appointment dated 20.6.45 was made to him for an emergency clerk's post in a leave vacancy terminable within 24 hours notice or without notice. He accepted the offer, he was medically examined and found fit and joined service on 23.6.1945. Since he was over aged for appointment, age relaxation was also given in his case (Annexure-CA-1 and CA-2). His request for benefit of war service was considered and orders issued vide staff order No. 543 dated 13.9.69. His pay was refixed by counting war service (Annexure-CA-4). Since he joined service in 1945, he is not entitled for the



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benefit under rule 2046 of Railway Establishment Code Vol.II to claim retirement at the age of 60 years. His pension has been worked out as per rules on the basis of last pay drawn and is being paid regularly. They deny the petitioners' appointment in 1935 or confirmation in 1938.

6. We have considered the contentions of both the parties and their arguments and also perused carefully the documents on record. The request of the petitioner is to add war service and also his pre war service in the railways, to his total service for the purpose of pension and other benefits. So far as war service is concerned, the respondents aver that this has been considered and his pay was fixed adding 4 years, 11 months and 8 days i.e. the total period from 15.7.40 to 22.6.45. His initial pay on 22.6.45 was raised to 45/- from Rs.40/-. We have seen CA-4 and we are satisfied that this has been taken into consideration. The petitioner also admits this in his petition. The only point now left for a decision is, whether the respondents should consider the services of the petitioner in the Electrical Department at Moradabad or not. The petitioners' claim is based on the documents filed by him. Annexure-A-1 is a certified copy of a certificate. Annexure-A-2 is a certificate about war emergency service, Annexures-A-3 & 4 relate to definition of war service for the purpose of recruitment to services. Annexure-A-5 is a letter dated 20-5-47 addressed to General Manager, East Indian Railway, Calcutta by Works Manager. Annexure-A-6 is a letter of the Railway Board approving the benefit of war service to the petitioner. Annexure-A-7 is representation by the petitioner to the Deputy Chief Mechanical Engineer, Alambagh dated 1-5-1971. Annexure-A-8 deals with the



amendment of rule 2046 and the instructions arising out of the Supreme Court decision dated 29.10.1971 in Civil Appeal No. 1768 of 1969 Railway Boards' Vs.

A. Pitchumani of South Central Railway. Annexure-A-9 is a notice to the authorities relating to pension, gratuity etc. Annexure-A-10 is a letter dated 10-3-1981 of Assistant Officer (Personnel) Carriage and Wagon Workshop, Alambagh, Lucknow addressed to Assistant Personnel Officer (Vigilance) Northern Railway, Baroda House, New Delhi rejecting the demand contained in the notice.

7. For our purpose Annexures-A-1, A-5, A-7 and A-9 are material. Annexure-A-1 is a copy of certificate according to which the petitioner was in the Electrical Department at Moradabad as a substitute Clerk on a pay of Rs.30/- per month during the periods from 25.11.35 to 23-12-35, 27-1-36 to 28-2-36, 11-4-36 to 10-5-36, 1-11-36 to 1-2-37. He was employed as Record Clerk on Rs.30/- per month (Grade of Rs.30 to 45) when he left the Department, and was confirmed on 1-2-1938. This certificate was issued on 28-8-1940 by District Electrical Engineer, Eastern Indian Railway, Lucknow. This is not a service record. The certificate is silent on vital information. It is not known when the petitioner was appointed to a regular post and since when he started work as a regular Clerk to be confirmed on 1-2-1938. Normally confirmation is after a period of probation. If he was only a substitute Clerk on 1-2-1937 certainly he could not be a confirmed Clerk on 1-2-1938. The petitioner has not filed copies of the orders appointing him on a regular basis and also orders confirming his service. He produced a photostat copy of Annexure-A-I when we called for the original orders. According to this when leaving the salary shown is Rs.86/- while Annexure-A-I shows, that the salary drawn last is Rs.36/-. In the absence of the orders of regular .....5/-

E

appointment and confirmation, no reliance can be placed on it. Further Annexure-A-9 which is again relied by the petitioner reads as follows:-

" In inviting a reference to the representation made by the aforesaid Shri Sunder Lal, (my client) resting with his representation (together with their enclosures) dated the 8.1.1972 and 10.8.1972 and subsequent his lawyers (Shri Jai Prakash Bajpai) legal notice under section 80 of civil procedure code, dated the 9th Nov. 1973, sent to you under registered A.D. Nos. 361 and 360 dated the 9th Nov. 1973, respectively I place below the following facts containing the whole aspect of the case and request a very early decision in the matter:-

1. That Shri Sunder Lal Srivastava was appointed to the post of a clerk in the office of the Works Manager C&W shops Alambagh), now Dy. Chief Mechanical Engineer(W) C&W shops) Alambagh, Lucknow on 23-6-1945. Prior to this Shri Sunder Lal served in Contral Ordinance Depot, Shahjahanpur from 15-7-1940 to 22-6-1945. This period was "war service" as stated hereinafter. . . . .

2. That on appointment in the aforesaid C&W shops, Alambagh, Lucknow, Shri Sunder Lal should have been given the benefit of 4 years, 11 months and 8 days of "war service" period, as stated above. This was not done. After a long correspondence on the subject and numerous representations by Shri Sunder Lal for about 22 years, during the course of his service, the Railway Board, accepted this period as "war service" vide Asstt. Director-Estt. Railway Board's letter no.E(SCT) /68 RE-8/421 dated the 27th May, 1969 to the General Manager, N.Railway, New Delhi (copy enclosed) Annexure-1. It stated "the services rendered by Shri Sunder Lal as a group clerk in COD, Shahjahanpur is war service.... As such there should be no difficulty for your administration in extending the benefit of "war service" to the employee on absorption on railways". ..... This is dated 20-7-1974.

In this no claim is made for regular service in the Railways prior to war deputation. On the other hand the documents produced by the respondents CA-1 and CA-2 clearly indicate that he joined railways in 1945 as a fresh candidate. This clearly established the fact that the petitioner had no lien in the railways and was not confirmed as claimed by him. There was no need for him to go through the travails of registration in the employment exchange, getting his name sponsored, and accept a post of emergency clerk, when he could have claimed permanent post as of right, if he had a lien in

the Department. In our view, the claim of the petitioner for pre-war service is not established.

9. The learned counsel for the applicant cited the following decision in support of his contention.

Railway Board vs. A. Pitchumani in Civil Appeal No. 7068/69 dated 29.10.71 reported in 1972 SC page 508.

In this case discrimination between Railway employees and those employed in Company and State Railways was held as violative of Article 14 of the Constitution. Note under Rule 2046 clause(b) of Railway Establishment Code was struck down enabling all the Ministerial Railway servants in service on or before 31.3.1938 to retire at the age of 60 years. The counsel for the applicant cited another case Ram Ratan Bakshi Vs. State of Punjab 1969 SLR page 353.

In this the applicant, a Veterinary Assistant Surgeon in the Punjab Govt. volunteered war service, and after return benefits of seniority, pay etc. was given, as his deputation was on lien, governed by Punjab Government rules. This will not apply to the petitioner, as his deputation to war service is not governed by any rule, nor he had any lien in the department. It is pertinent to note that the applicant has approached the authorities for the first time claiming benefit of service up to 60 years, through his representation dated 1-5-1971, when he was due to retire two months thereafter. We are of the view that the petitioners claim for inclusion of war service for the purpose of pay fixation etc. was considered and benefit given as per entitlement according to rules and his request dated 1-5-1971 for extension of service upto 60 years under rule 2046 of Indian Railway Establishment Code Vol.II was not considered as he was not eligible for this benefit being not a confirmed employee prior to 1.3.1938.

10. We consider that this is not a fit case to issue any

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direction to the respondents. The petition  
is, therefore, rejected without any order as  
to costs.

*[Signature]*  
A.M.

*[Signature]*  
J.M.

(sns)

December 19 , 1989

LUCKNOW.

Group A-14 (K)

Bench 7047.

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

4700

Writ Petition No. of 1981

Sunder Lal Srivastava

Petitioner

versus

Union of India and others opposite parties

I N D E X

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5.	Annexure no. 3	19-20
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Lucknow

dated 12/9 1981

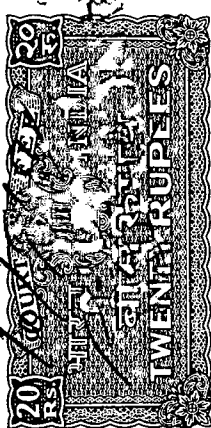
RK. Srivastava  
(R.K. Srivastava.)  
Advocate  
counsel for Petitioner

A 12

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

Writ Petition No.

of 1981



Sunder Lal Srivastava son of Shri Gopal Charan  
resident of 5, Subhan Nagar, Mashekganj ka chel,  
Lucknow.

petitioner

versus

1. ✓ Union of India, through the Secretary  
Government of India, Ministry of Railways,  
New Delhi.
2. ✓ General Manager, Northern Railways, Baroda  
House, New Delhi.
3. ✓ Chief Mechanical Engineer, (W), Carriage  
& Wagon Workshop, Northern Railways, Alambagh,  
Lucknow.

Opposite parties.

Writ petition

Under Article 226 of the Constitution of India

The petitioner above named begs to submit as  
under:-

1. That the petitioner was initially appointed  
in the East Indian Railways (as it was then known)  
in the year 1935 and was later on con... as a



Sunder Lal

clerk on 1-2-1938. A true copy of the certificate issued by the District Electrical Engineer, East Indian Railways dated 28-8-1940, is being annexed herewith as Annexure no. 1 to this writ petition.

2. That in the meantime, second world war had started and the petitioner was sent on deputation in the defence department (war emergency) This fact is ascertained from the annexure no. 1 herein above.

3. That during the period of deputation in the defence department the petitioner served as a clerk from 15-7-1940 to 22-6-1945. A true copy of the discharge certificate issued by <sup>Commandant</sup> ~~Cel. Commander~~, Central Ordnance Depot, Shahjehanpur is being annexed herewith as Annexure no. 2 to this writ petition.

4. That although the petitioner who was a confirmed employee (clerk in the railways) on return from deputation from the defence department had resumed duties in the railways and Carriage & Wagon Workshop Alambagh, Lucknow on 23-6-1945. However due to malicious act on the part of the authorities, the petitioner who was earlier a confirmed employee was again confirmed on 1-1-1951. Under these circumstances the petitioner had made several requests for giving him the benefit of the services rendered by him after his return from the defence department. This was in violation of the Army Order no. 259/50 pertaining



Sunder Lal

✓ to the receipt of the 20% for the resumed for war services  
✓ ~~to the receipt of the 20% for the resumed for war services~~  
✓ ~~to the receipt of the 20% for the resumed for war services~~

personally to other posts, definition of war services dated 14-11-1944. A true copy of the said letter dated 14-11-1944 is being annexed herewith as Annexure no. 3 to the writ petition.

5. That the above said orders were reiterated by another notification dated 6-2-1946. A true copy of the said notification is being annexed herewith as Annexure no. 4 to the writ petition.

6. That at no point of time, there was any controversy regarding non inclusion of the services rendered by the petitioner in the defence department which was known as "war services". However, to the utter surprise of the petitioner, benefit of the same has not been given to the petitioner for which he was entitled to.

7. That the representation of the petitioner was forwarded to the General Manager (Personnel) East Indian Railways, <sup>Calcutta</sup> by the Works Manager, <sup>Cow Shaps</sup> East Indian Railways, <sup>Dumbagh</sup> vide his letter dated 20-5-1947. A true copy of the said letter is being annexed herewith as Annexure no. 5 to the writ petition.

8. That the petitioner went on agitating the matter for getting his just claim of the services rendered by him in the defence department but it was only on 2-5-1969, that orders were issued from the headquarters of the Northern Railways, Berozda



*Sunder Lal*



House, New Delhi regarding fixation of the seniority of the Petitioner for war services Period. A true copy of the said letter is being annexed herewith as Annexure no. 6 to the writ Petition.

9. That a perusal of the aforesaid order would show that it was not applicable to the case of the Petitioner and the case of the Petitioner was different as has been specifically stated by him through annexure no. 1 to the writ Petition as the Petitioner was already confirmed employee in <sup>✓ on 1.2.38 ✓</sup> 1938 and therefore he went on deputation in the defence department in the year 1940.

11 That as a matter of fact the Petitioner was entitled to fixation of his salary and seniority atleast from 1938 if not earlier. Thus it is clear that the Petitioner is entitled to have all the benefits.

12 That similarly as per terms of rule 2046 of the Railway <sup>Establishment</sup> Employee Code Volume II ~~which~~ which was amended vide slip no. 233/R-22 by means of which the said rule 2046 was amended as follows:-

Rule 2046 "F.R.-56(a) except otherwise as provided in this rule every railway servant shall retire on the date he attains the age of 58 years.  
(b) ministerial railway servant who entered in service <sup>on 1.2.38</sup> in March 1938 and held on that date

- ✓ (1) a lien or a temporary lien on a permanent post or
- ✓ a permanent post in a provisional substitution class
- ✓ with claim of grade 2000 and continued to hold the
- ✓ same without interruption until he was confirmed
- ✓ in that post, shall be retained in it until the
- ✓ day he attains the age of sixty years



Sunder Lal

A note for the purpose of this clause explained a government service means the service rendered in ex. company and ex state railway and in the formal provincial government.

13 That on 1-5-1971 the Petitioner requested the authorities that as per Rules he was entitled to get benefit of Rule 2046 (FR-56) 2-22 quoted here above and he should be allowed to continue in service till the age of 60 years.

*Handwritten:* A true copy of letter dated 1.5.71 is annexed herewith as ANNEXURE No. 7. to this writ Petition.

14. That it may not be out of place to mention that the Hon'ble Supreme Court of India in October 1972 struck down as unconstitutional the part of clause B of the new Rule 2046 of the Indian Fundamental Rules, which prescribed the different ages for retirement of two categories of the railway employees. The Hon'ble Supreme Court of India declared the rule discriminatory and violative of Article 14 of the Constitution of India. Subsequently the Railway Board issued a circular no. 5539 stating that a person who have been ~~fully~~ *successfully* retired but had already completed 60 years of age, benefit of judgement should be given to them. A true copy of the said circular is being annexed herewith as annexure no. 8 to the writ petition.

15. That inspite of the above circular the opposite parties did not accede to the request of the petitioner and did not given benefit of the extended age of retirement and the services rendered by the

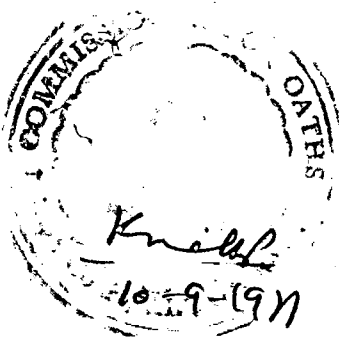


*Handwritten:* Sundry Lal

Petitioner during war time or even ~~the~~ Prior thereto as confirmed.

16 That being confronted by the inaction on the part of the opposite parties in not considering the request of the Petitioner, the petitioner approached the authorities through the <sup>President Pensions'</sup> ~~Chairman~~ Welfare Organisation U.P. and his letter dated 30-7-1974 was addressed to the General Manager, Northern Railway, Baroda House, New Delhi, and the opposite Party no. 3. In the said letter, the President of the organisation brought to the notice of the authorities that the Petitioner ~~xxxxx~~ was a low paid employee and he is entitled to the benefits as per rules and the same could not be curtailed except having recourse to law. A copy of the ~~undersaid~~ letter dated 30-7-1974 is being annexed herewith as annexure no. 9 to the writ Petition.

17. That it may not be <sup>out</sup> ~~house~~ of place to mention that the railway administration has been discriminating against the Petitioner in a most unwarranted manner. One Anil Chandra Dass, who has retired along with the Petitioner has been given the benefit of war service rendered by him and Pension has been ~~refixed~~ <sup>refixation</sup> ~~earlier~~ he was getting Rs. 103/- per month but now on ~~revision~~ <sup>pension</sup> he is getting a sum of Rs. 125/- per month after the decision of the authorities in his favour. It is further submitted that two more employees namely Mr. S.K. Chatterjee and Mr. K.K. Bhosh



Sunder Lal

who are juniors to the Petitioner in the Carriage & Wagon Workshop, Alambagh, Lucknow have been given benefit of war service rendered by them during war Period. Both of them were appointed in 1946 but have been given benefit from 1942.

18 That the Petitioner being a low paid employee had no other option but to approach the authorities. It is submitted that the Petitioner at no point of time has been lagging behind in placing his claim before the authorities.

19. That having failed to get redress and the discriminatory treatment being met out to the Petitioner by the authorities he approached the Hon'ble Railway Minister and the Hon'ble Prime Minister by a representation dated 26-8-1980. The Petitioner submitted that the Petitioner was a confirmed employee as Per annexure no. 1 to the writ Petition. It was further pointed out that the Railways Administration has extended the benefit of war service to many of the colleagues of the Petitioner including the cases of Anil Chandra Das and K.K. Ghosh, S.K. Chatterjee etc. -

20 That the Petitioner did not get any response. The Petitioner's pension was fixed at Rs. 113/- per month. With such a meagre amount of Pension and a family to support, without having any other earning member in his family, the Petitioner was advised to approach the authorities through persons in power.

~~The case of the petitioner was also taken~~



*Sundar Lal*

A/19

The case of the Petitioner was also taken<sup>up</sup>/by the President City Congress Committee, Lucknow. The ~~Petitioner~~ <sup>Shri. S. S. (C.C.) Rastogi</sup> (personnel department) intimated the President City Congress Committee, Lucknow that the case of the Petitioner was not justified and it would not be possible to acceded to the request of the Petitioner the same being against the rules.

21 That the Petitioner did not receive any reply sent by the <sup>Shri. S. S. (C.C.) Rastogi</sup> (personnel department) to the representation submitted by the President City Congress Committee, Lucknow as stated above.

22 That as the representation made by Shri Ram Kishore Rastogi, the President City Congress Committee, Lucknow, the Petitioner was not informed or communicated with any decision which could have been taken on the said representation. It was only on the 15th August 1981 (Independence day) that the Petitioner went to meet him, from where ~~the~~ it was revealed to the petitioner that the decision has already been communicated to him and a copy of the same has also been sent to the Petitioner. However, the Petitioner prior to this did not receive any copy of the communication sent by the <sup>Shri. S. S. (C.C.) Rastogi</sup> (personnel department) to Shri Rastogi. The Petitioner annexes the said communication dated 10-3-1981, received by him through Shri Rastogi on 15-8-1981, as Annexure no. 20 to the writ Petition.



Sunder Lal

8/10

23 That thus it is abundantly clear that the authorities are not at all willing to accept the legal request of the Petitioner to grant due Pension to the Petitioner after taking into consideration the service rendered by him during war Period in the defence department as a confirmed employee of the railways.

24 That in any case the Petitioner being entitled for ~~re~~ computation of service rendered by him in the defence department as war service under law and the same neither being gift nor courtesy it was not open to the authorities to deny the same to the Petitioner.

25 That even otherwise the right to receive Pension is the right of the Property ~~of the~~ and the Petitioner cannot be deprived of the same except in accordance with law.

26 That being aggrieved, the Petitioner having no other legal efficacious, speedy and alternative remedy left open begs to prefer this writ petition on the following amongst other grounds:

GROUND I.

- a) That the Petitioner ~~being~~ being a confirmed employee of the railways since 1938 the benefit of war services rendered by the Petitioner in the Defence department could not be denied to him.



Sunder Lal

- b) That the action of the opposite parties in the matter of pension etc, and not allowing the same to the Petitioner, is besides being malefide is an arbitrary action.
- c) That the Petitioner could not be retired before he reached the age of super-annuation i.e. 60 years and the same having been held by the Hon'ble Supreme Court of India the action of the opposite Parties in curtailing the benefit of the period of employment of the Petitioner by retiring the Petitioner at the age of 58 years as against 60 years was in violation of Rule 2046(F.R./56) sub clause x (b) and the opposite Parties have no jurisdiction to refuse the Petitioner the benefit of completed 60 years of service for the purposes of computation of Pension of the Petitioner and also the claim of the Petitioner is fully covered by the rules applicable in this behalf, it was not open for the opposite Parties to deprive the Petitioner of his legal claim. As such the action of the opposite Parties suffers from discrimination and arbitrary-ness.
- d) That the claim of the Petitioner being legally justified, the benefit of war service having been given to the similarly situated colleagues of the Petitioner by the opposite Parties, the



*Sunder Lal*

and  
the right ~~to~~ claim of the Petitioner could not  
be denied by the authorities on the ground that  
the Petitioner did not have any justification  
for receiving the benefit of war service  
and also curtailing the employment by retir-  
ing the Petitioner at the age of 58 years as  
against 60 years.

e) That the right of the Petitioner to receive  
Pension on the basis of the service rendered  
by the Petitioner had accrued to the Petitioner on  
the basis of service rendered by him in the  
railways at the time of his confirmation in 1938  
and thereafter on the basis of service rendered  
as war service in the Defence department, the  
action of the opposite parties in denying  
the benefit of such service rendered by him,  
by the authorities in computation of bonus is nothing  
but arbitrary and violative of the provisions  
of law in as much as the Petitioner could ~~only~~<sup>not</sup>  
be denied the right to receive Pension in accordance  
with law.

f) That the Petitioner being bona fide pursuing the  
the matter and Persuading the authorities to  
accept the just and legal claim of the Petitioner  
the Petitioner is entitled to ~~recomp~~  
recompensation of Pension in accordance with law.

g) That ~~by reason of the fact that~~ the Petitioner



*Sunder Lal*



having day to day cause of action in receiving lesser amount of Pension as against the Pension due to him in accordance with law the action of the opposite parties in depriving the Petitioner of his due Pension by not computing in accordance with law is in violation of law.

- h) That the right of the Petitioner to receive Pension being the Personal right of the Petitioner, the decision of the opposite Parties that the Petitioner was not justified in getting his Pension recomputed is in violation of law and in fact it is a decision to deprive the Petitioner of his Property in accordance with law.

Wherefore it is respectfully prayed that this hon'ble court may be pleased to:-

- i) issue a writ order or direction in the nature of mandamus directing the opposite Parties to compute the Pension of the Petitioner in accordance with law.
- ii) issue any other appropriate writ order or direction as this hon'ble court may consider in the circumstances of the case.

iii) to award cost of the petition.

Lucknow  
dated 6/5/1981

(R. K. Singhania)  
counsel for petitioner  
Attorney

Sundar Lal

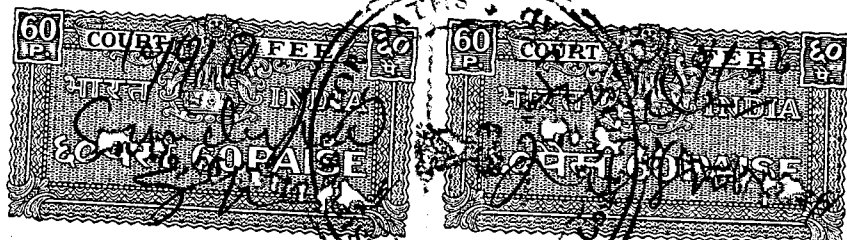
A/4  
24

13

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

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

1981  
AFFIDAVIT  
24 3  
HIGH COURT  
ALLAHABAD



Sunder Lal Srivastava

Petitioner

versus

Union of India and others

opposite Parties

Affidavit.

I, Sunder Lal Srivastava aged about 68 years son  
Shri Gopal Charan, resident of 5 Subhan Nagar, Lucknow  
do hereby solemnly affirm and state as under:-

1. That the deponent is the Petitioner in the  
above noted writ Petition and is fully conver-  
sant with the facts deposed to below.
2. That the contents of Paras 1 to 25 of  
the writ Petition are true from ~~parusal~~ my  
own knowledge, those of Paras \_\_\_\_\_ are  
true from perusal of records and those of \_\_\_\_\_  
Paras \_\_\_\_\_ are true from belief.

Lucknow

dated 10-9- 1981

Sunder Lal  
Deponent

I, as the deponent named above do hereby verify that

Kneel  
10-9-1981

the contents of Para 1 and 2 of the affidavit are true to my own knowledge. No part of it is false and no material fact has been concealed. So help me God.

Lucknow

dated 10-9-1981

*Sunder Lal*

Deponent

I, after perusal of record identify the deponent who has signed before me.

*[Signature]*

Advocate

solemnly affirmed before me on 10-9-1981 at 8.40 AM by the deponent who is identified by Shri R.K. Varma Advocate, High court.

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

*[Signature]*  
JATU COMMISSIONER  
High Court, Allahabad  
Lucknow Bench.

10.8.0 of 1981  
10-9-1981



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

Sunder Lal Srivastava

Petitioner

versus

Union of India & others.

.. Opposite parties.

Annexure no./

No. 2

~~If the certificate is lost~~

If the certificate is lost a duplicate will not be issued.

East Indian Railway

RI/EB-6-35

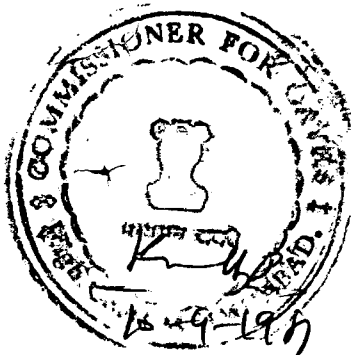
Certified that Mr. Sunder Lal son of Mr. Gopal Charan caste-Kayasth, born at mohalla Kisrol-Zillah-Moradabad was in the Electrical Department of this Railway from 25-11-1935 to 23-12-1935, 27-1-1936 to 28-2-1936, 11-4-1936 to 10-5-1936, 1-11-1936 to 1-2-1937. as a substitute clerk on Rs. 30/- p.m. and when leaving was employed as a Record Clerk on Rs. 36/- (Gr. 30-45) and was confirmed on 1-2-1938 at Moradabad.

His wages being Rs. 36/- P.m. (Rupees thirty six only) subs. pay on 13-7-40.

Statutory and distinguished Marks-cut mark

1/2" x 3/16" left cheek-cut mark on forehead close to left eyebrow.

Reasons for leaving Deputation to Defence Department (War-



Sunder Lal

A27

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-2-

- Emergency )

Conduct - Good  
Abilities - Average  
Station - Lucknow

Date. 28th August, 1940

sd/- K.V. Ranga Ram  
District Electrical Engineer  
E.I. Railway, Lucknow  
(Certifying Officer.)

\* To be written in words as well as in figures.

Thumb mark or signature of the  
employee

Countersigned.

True copy

*Sunder Lal*



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

Writ Petition No.                      of 1981

Sunder Lal Srivastava

Petitioner

versus

Union of India and others

Opposite Parties

Annexure no. 2

IAFO no. 1660

Serial No. 61

Discharge Certificate.

Unit of Establishment -

Central Ordnance Deptt.  
Shahjahanpur.

Name- Shri Sunder Lal

Father's name-B. Gopal Charam

No. 317

Religion-Hindu

Trade - Group Clerk

Caste-Kayasth

When recruited- 15th July '40    Age on recruitment - 26 years

Where - Shahjahanpur

Distinguishing marks-(left hand thumb impression)

A mole on the left temple.

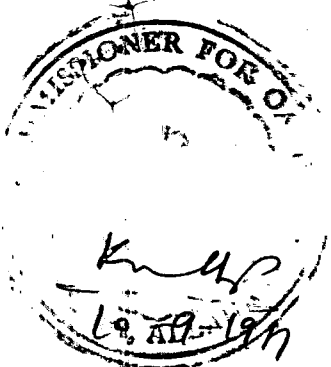
Photograph dated... at age of ...

Education                      - Literate in English

Nature of employment- War Emergency Estt. Shop-Control  
office.

Period of service.-From 15th July '40 to 7 July, 45.

Rate of pay last drawn - Rs. 50/- per month



Sunder Lal

Practical ability - Average

Conduct and general character- Good

Time keeping - Regular

Reasons for discharge - Own request

Particulars checked with records and certified correct.

sd. L.W. Knight  
Lt. Col. I.A.O.C.  
Commandant.

M. Uddin.  
I/c Labour  
Bureau

H.L. Bajaj Lieut  
O.O. Control  
24-8-45

Central Ordnance Depot  
Shahjahanpur  
Appointment issuing  
officer

True Copy

date of issue .. 25-8-45

*Sunder Lal*



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

Writ Petition No.      of 1981

Sunder Lal Srivastava

Petitioner

versus

Union of India & others.

.. opposite parties.

Annexure no. 3

Annexure to Army Order no. 259/50

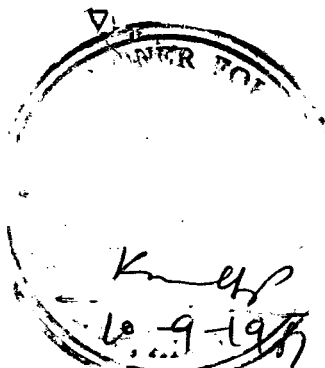
Recruitment to civil posts.

Revised definition of "war service"

New Delhi, November 14, 1944

An announcement was made in Home Department Press Communiqué of the 10th July, 1942 as to what would be recognised as "war service" for purposes of recruitment to be filled after the war by suitable candidates with war service says a communiqué. The following revised definition which will apply in the case of recruitment made in India to the Secretary of States and the Central Services is accordingly published for general information.

- a) Service of any kind in a unit or Formation liable for service overseas or in any operational area.
- b) Service in India under Military Munitions or Stores authorities with a liability to serve overseas or in any operational area.
- c) All other services involving subjection to ~~Naval~~ Naval Military or Air Force law.
- d) A period of training with a Military Unit or Formation involving liability to serve overseas or in any operational area.
- e) Service in any civil defence organisation specified in this behalf by the Central or the Provincial Governments.
- f(i) any service in connection with the prosecution of the war which a person is required to undertake by a competent authority under the provisions of any law for the time being in force and;



Sunder Lal



A 31

29

(ii) Such other service as may hereafter be declared as war service for the purposes of this definition.

Only whole time service of any of the kinds specified above will be recognised.

---

T.C.

Sunder Lal



(A 31) 21

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

Writ petition No. of 1981

Sunder Lal Srivastava Petitioner  
versus

Union of India & others. ... opposite Parties.

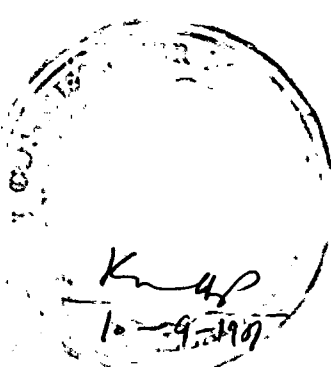
Annexure no. 1

Copy of the Government of India Home Department Memo no. 263/39/45/Ests-(R) dated 6-2-1946 reproduced below for information and guidance.

I am directed to say that services rendered by the Extra Tempy. Estt. on monthly rate of pay in the Formations, installations and units of the Master General of Ordnance Services qualifies as "war service" under clause (c) of the definition of "war service". *for the purpose of recruitment to "Reserved Vacancies" Services rendered by the members of the Extra Tempy. Estt who are not on monthly rate of pay does not qualify as "war service" as such service is not "whole time service."*

T.C.

Sunder Lal



(ASS) 22

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

Writ petition no. . of 1981

Sunder Lal Srivastava

Petitioner

versus

Union of India and others. ... Opposite Parties.

Annexure no. 5

East Indian Railways

M.S. No. IE2/8

Lucknow dated 20-5-1947

The General Manager-(P)  
East Indian Railways  
Calcutta

Re:- Absorption of ex. servicemen.

B.O. Sunder Lal was appointed on 23-6-1945 as an emergency clerk alongwith others without being passed by a properly constituted selection board and his appointment alongwith others was approved vide your M.S. No. ME-7C/P&3-IV dated 8-8-1945.

Before the approval as stated <sup>above</sup> was received, a Penal was formed on 31st July, 1945, in conformity of the recruitment rules and B.O. Sunder Lal's name was placed on the Penal at 3rd position.

On the date of appointment in this office, B.O. Sunder Lal had attained the age of 31 Years, 11 months and 19 days as intimated in this office M.S. No. IE2/2 dated 12-10-1945 therefore while communicating your sanction in M.S. No. ME-3/P-IV dated 8-8-1945, he (B.O. Sunder Lal) alongwith other employees who were overage on the date of appointment were declared from absorption in the regular cadre and as such all of them were transferred to the Grainshop organisation to avoid their discharge on being replaced by the staff placed on the penal fulfilling the recruitment rules.

B.O. Sunder Lal alongwith other overage clerks, as stated above, preferred an appeal for exemption from the age limit, on the analogy of exemption granted to the staff appointed as emergency measures few months before their entry to

K-4P  
10-9-1947  
Sunder Lal

AS4

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-2-

service in these shops vide your M.S. No. ME-7/C-Vol.III dated 3-5-45. The penal was forwarded to your office vide under cover of this office M.S.No. IE-2/2 dated 13-12-46 on which a decision is still awaited. Mr. D. Carmody was reminded for a decision by a D.O. letter no. of even dated 24-10-46.

B.O: Sunder Lal has now produced a certificate of service rendered in the Central Ordnance Depot, Shahjehanpur from July 15, 1940 to July 7, 1945, a period of about 5 years and claims a permanent post from 70% vacancies reserved for ex.servicemen. His name was registered under no. 2780/47 Mil--14-clerk dated 27-3-1947 with the Regional Employment Exchange, Lucknow.

I enclose herewith a copy of Discharge Certificate produced by B.O: Sunder Lal for your perusal and shall be glad if a decision in his case is communicated at an early date.

sd-~~xxxx~~-

Works Manager (C&W)

True copy

Sunder Lal



(135) 24

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

Writ petition No. of 1981

Sunder Lal Srivastava

petitioner

versus

Union of India and others.

opposite parties

Annexure no. 6

Northern Railway

Head Quarters' office  
Baroda House,  
New Delhi

dated 2-5-69  
6-69

B.R. Nigam  
A.P.O. (VI)

D.O. No. 145-E/C-11058 LWO(RB)/SSB

My dear Saxena,

Sub:- Fixation of seniority and initial pay of war service candidates on appointment to Railways - Shri Sunder Lal clerk, C&W shops, Lucknow. Reference from Shri A.C. Singh M.P.

Ref:- Correspondence resting with your office letter no. WMC/1145/1 dated 8-3-1969

A copy of Railway Board's letter no. E/ECT/68/RE8/421 dated May 27, 1969, is sent herewith for taking action thereon, immediately under advice to the office for communication to the Railway Board as desired by them.

This may please be acknowledged.

Yours sincerely  
sd/-B.R. Nigam  
(B.R. Nigam)

DA/one

Shri L.K. Saxena,

APO (C&W-AMV) Lucknow



Sunder Lal

A 36

25

Copy of Board letter no. E(SCT)RBS/421 dated 27-5-69.  
from Assistant Director-Estt. Railways Board, to the  
General Manager, Northern Railways, New Delhi.

Sub:- Fixation of seniority and initial pay of war  
service candidates on appointment to Railways  
Shri Sunder Lal clerk C&W shops, Lucknow- Reference  
from Shri A.C. Singh- M.P.

Before correspondence resting with your letter no.  
145E/C/11058/LWO(RB)SSB dated 19th April, 1969, on the  
above subject. The Board observe that the service  
~~rendered~~ rendered by Shri Sunder Lal as a group clerk  
in C.O.D. Shahjehanpur is "war service" and the same has  
been certified by the Army ~~Headquarters~~ Ordnance Corps  
Record office, Secunderabad vide their letter dated  
August 3, 1968. As such, there should have been no  
difficulty for your administration in extending the bene-  
fit of war service to the employee on absorption on Rail-  
way. They, therefore, desire that Shri Sunder Lal may be  
extended the benefit of his service in C.O.D. towards  
fixation of pay as is admissible to Ex. war service  
candidates. He will, however, not get the benefit of  
this service towards seniority as he does not appear  
to have been recruited against the reserve vacancy.

Action taken in the matter be advised for the information  
of the Board at an early date.

T.C.

Sunder Lal



(A37)  
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In The Hon'ble High Court of Judicature at Allahabad.  
(Lucknow Bench ) Lucknow.

Writ Petition No.

of 1981.

Sunder Lal Srivastava

Petitioner.

versus

Union of India & others

Opposite Party

ANNEXURE NO. 2

To,

The Dy. Chief Mechanical Engineer.  
C.&W. Shops, Alambagh.

Sir,

Most respectfully I beg to state that I was in Railway Service in the Electrical Department, Ex- E.I. Railway at Moradabad during the years from 1935 to 1940 and from there I worked as a clerk, in the Central Ordnance Department, Shahjahanpur (Defence Department during the war) on deputation.

On release from C.O.D. Shahjahanpur I joined C.&W Shops Alambagh on 23.6.45. I am entitled to get the benefit of Rule 2046 (F.R.56) RII i.e. I may be allowed to continue in service upto the age of 60 years. I was confirmed in previous Railway Service at



*Sunder Lal*

A 38

27

Moradabad on 1.2.38.

Attested copies of the Certificate from  
Electrical Foreman, E.I.R. Moradabad and District  
Electrical Engineer, E.I.R. / Lucknow are attached  
herewith please.

An early action solicited please.

Thanking you in anticipation.

Yours faithfully

D.A.

2 certificates.

Dated: 1.5.71.

(Sunder Lal)  
Clerk Production Office  
C.&W. Shops,  
Alambagh.

F.c.

Sunder Lal





A 39  
28

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

Writ Petition No.

of 1981.

Sunder Lal Srivastava

Petitioner

versus

Union of India & others

Opposite party

ANNEXURE NO. 8

Northern Railway  
Headquarters Office,  
Baroda House,  
NEW DELHI.

No. 831- E/169/2-

III (EI V)

Dated 17-1-1972.

All Divisional Supdts.,  
and Extra Divisional Officers,

FA & CAO (C) : Baroda House, New Delhi.  
Chief Auditor :

Serial No. 5539

Sub:- Amendment to Note under Rule 2046 (b) R-II-Supreme Court Judgement dated 29.10.71. in Civil Appeal No. 1768 of 1969- Railway Board versus A. Pitchumani of S.C. Railway.

A copy of Railway Board's letter No. E( P&A) 1-71/RT/11 dt. 10. 1.72 is sent herewith for information and guidance. Railway Board's letter no. FC62/RV/1 dated 23.12.67. referred to there in was circulated vide this office letter No. 831E/8/II (Eiv) dated 3.1.68 printed Serial no. 4182.

(440)

29

please acknowledge receipt.

(M.M. AGARWAL)  
for General Manager (P).

Copy to:-

1. General Secretary, URMU,  
166/1- Railway Bungalow,  
Rachkuin Road, New Delhi.
2. The General Secretary, URMU,  
115/E, Babar Road, New Delhi.
3. Shri Ganeshi Lal Sharma,  
Asstt. General Secretary, URMU Railway  
Quarter No. T- 35A. South colony Moradabad
4. Shri J.P. Chaubey President, URMU,  
Building 25-26 Naka Hindola,  
Arya Ganj/ Lucknow.

Copy of Railway Board's letter No. E (P&A)I- 71/RT/II;  
New Delhi dated 10.1.1972 to All the General Managers...

Sub:- Amendment to Note under Rule 2046 - (b) - RII-  
Supreme Court Judgment dated 29.10.71 in civil  
Appeal no. 1768 of 1969 - Railway Board versus A.  
Pitchumani of S.C. Railway.

The Supreme court in their judgment mentioned above have  
struck down as discriminatory and violative of Article 14  
of the Constitution the following part of the note below  
Rule 2046 (b) - RII contained in Advance Correction Slip  
No. 256- RII forwarded under Board's letter No. FC 62/RT/1  
dated 23.12.1967.

"If the rules of the Company or the state  
had a provision similar to clause (b) above."

Subject to this direction the judgment and the order of  
the Mysore High Court have been confirmed by the supreme  
Court.

2. In exercise of the powers conferred by the provision to  
Article 309 of the constitution the President is accordingly  
pleased to direct that the note under Rule 2046 (b) of the  
Indian Railway establishment Code Vol. II contained in

Advance Correction Slip No. 256-RII be amended as in the copy of Advance Correction Slip No. 308-RII enclosed

3. With this amendment the relevant note will read as under :-

"For the purpose of this clause the expression "Government Service" includes service rendered in a former ~~Provincial~~ Provincial government and in ex- Company and ex- State Railways".

4. The ~~South~~ South central Railway should settle all claims of Shri A. Pitchumani in respect of pay and allowances, retirement benefits etc. for the period between his attainment of 58 years and 60 years of age.

5. Persons who would be entitled to claim the benefits of the judgment of the supreme court in Pitchumani's case would fall under the following five Categories:-

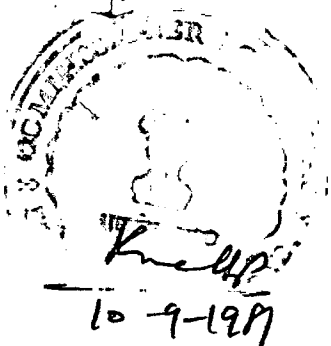
(a) Persons who have been wrongfully retired but have been directed to be reinstated by a court of law because they have not yet completed 60 years of age.

(b) Persons who have been wrongfully retired from service but have not yet completed 60 years of age but whose writ petitions/ other legal proceedings for quashing the order of retirement are still pending.

(c) Persons who have been wrongfully retired from service and have already completed 60 years but whose writ petitions/ other legal proceedings for quashing the orders of retirement are still pending.

(d) Persons who have been wrongfully retired but cannot claim to be reinstated in service because they have already completed 60 years of age but all the same claim the benefit of the judgment.

(ed) Persons who have been wrongfully retired from service but are claiming to be reinstated by virtue of the judgment of the Supreme court because they have not yet completed 60 years of age; and.



Sundar Lal

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31

6. In the case of persons coming under category (a) of Para 5 above on their reporting to the duty they should be reinstated and paid arrears of pay and allowances as admissible from the dates they were wrongfully retired upto the dates they are put back to duty.

7. In the case persons coming under category (b) of Para 5 above Railways should draw defence of the writ petitions/ other legal proceedings for quashing the orders of retirement in the light of the judgment of the Supreme Court. When those persons report to duty similar action as in the case of persons coming under category (a) should be taken.

8. In the case of persons coming under category (c) of Para 5 above the courts cannot direct reinstatement as they have already completed 60 years. In their cases the court proceedings have become infructuous. All the same when those persons apply for claiming the benefit of the Supreme Court judgment they will have to be treated as having continued in service from the dates they were wrongfully retired upto the dates they must be deemed to have superannuated on attaining the age of 60 years but the claim for pay and allowances would be subject to the law of limitation. Accordingly the payment of arrears of pay and allowances may be made only for such period prior to their attaining the age of sixty (i.e. between the dates when the persons were wrongfully retired and the date of superannuation on attaining the age of 60 years.) which falls within the period of three years backwards from the date of their application whether it is before or after the date of the judgment of the Supreme Court.

9. In the case persons coming ~~later~~ under category (d) of Para 5 above similar results as in the case of persons coming under categories (a) and (b) would follow on their applying to the Railway Administration claiming the ~~same~~ benefit of reinstatement in the light of the judgment of the Supreme Court. In other words they will have to be paid arrears of pay and allowances as admissible upto the dates they are put back to duty.

10. In the case of persons coming under category (e) of Para 5 above similar results as in the case of persons coming under category (c) would follow; the payment of arrears of pay and allowances may be made only for the period prior to their attaining the age of sixty (i.e. between the dates when the persons were wrongfully retired and the date of superannuation on attaining the age of sixty years) which falls within the period of three years backwards from the date of their application whether it is before or after the date of the judgment of the Supreme Court.



Sunder Lal

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11. In all these cases the arrears of pay and allowance admissible to the persons shall be reduced by the emoluments earned by them during their employment if any elsewhere. Where however in such employment elsewhere the emoluments earned exceed the arrears payable no arrears would be admissible.

12. Those persons who retired on attaining the age of 58 years but have not yet attained 60 years of age should be called back to report for duty immediately. They should be asked to deposit the amount of S.C. to P.F. employee's own contribution to P.F. Government contribution to Provident fund DCR gratuity and or the balance of the amount of the pension left after adjustment against the arrears of pay and allowances as the case may be already paid to them if any within one month from the date of their reporting for duty if such amount is not deposited by the prescribed date it should be treated as a loan granted to them and interest at the appropriate rate which is chargeable on other loans granted to the Railway servants recovered from their salary till they attain the age of 60 years when the amount again becomes due to be paid to them. It may be ensured that when the employee is finally settled, the amounts already received are correctly adjusted.

13. Please acknowledge receipt .

Advance Correction Slip to Indian  
Railway Establishment Code Vol. II.

A.C.S. No. 308 - RII

For the existing Note under rule 2046 (b) (FR56)  
-RII substituted vide Advance Correction Slip No.  
256 RII, substitute the following:-

"For the purpose of this clause the expression  
"Government Service" includes service rendered  
in a former Provincial Government and in  
ex-company and ex-state Railway."

(Authority Railway Board's letter No. E(P&A)I-.71/RT/11  
dated 10.1.72)



Sunder Lal

AMM 83

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

Writ petition No. of 1981

Sunder Lal Srivastava

Petitioner

versus

Union of India and others.

opposite parties

Annexure no. 8

Pensioners' Welfare Organisation U.P.

Head Office.

36, Gautam-Budd Marg  
Lucknow 20th July, 1974

Telephone no. 29357

No

To,

The General Manager,  
Northern Railways, Hd. quarter office  
Baroda House, New Delhi

2. The Deputy Chief Mechanical Engineer (W)  
Carriage & Wagon Shops, Northern Railway  
Alambagh, Lucknow.

Subject: Deduction from the salary of Shri Sunder Lal  
Retd. Clerk of C&W shops N. Rly. Alambagh, Lucknow  
on account of wrong and unlawful fixation of seniority and initial pay

Sir,

In ~~my~~ inviting a reference to the ~~representation~~  
representation made by the aforesaid Shri Sunder Lal, (my  
client) resting with his representation (together with  
their enclosures) dated the 8-1-1972 and 10-8-1972 and  
subsequent his lawyers (Shri Jai Prakash Bajpai) legal  
notice under section 80 of civil procedure code, dated  
the 9th Nov. 1973, sent to you under registered  
A.D. Nos. 361 and 360 dated the 9th Nov. 1973, respectively I place below the following facts containing the  
whole aspect of the case and request a very early decision in the matter:-

Sunder Lal

1. That Shri Sunder Lal Srivastava was appointed to the post of a clerk in the office of the Works Manager C&W shops Alambagh), now Dy. Chief Mechanical Engineer (W) C&W shops) Alambagh, Lucknow on 23-6-1945. Prior to this Shri Sunder Lal served in Central Ordnance Depot, Shahjehanpur from 15-7-1940 to 22-6-1945. This period was "war service" as stated hereinafter.

2. That on appointment in the aforesaid C&W shops, Alambagh, Lucknow, Shri Sunder Lal should have been given the benefit of 4 years, 11 months and 8 days of "war service" period, as stated above. This was not done. After a long correspondence on the subject and numerous representations by Shri Sunder Lal for about 22 years, during the course of his service, the Railway Board, accepted this period as "war service" vide Asstt. Director- Esstt. Railway Board's letter no. E(SCT) /68 RE-8/421 dated the 20th May 1969 to the General Manager, N. Railway, New Delhi (copy enclosed)-Annexure 1. It stated "the services rendered by Shri Sunder Lal as a group-clerk in COD, Shahjehanpur is war service.... As such there should be no difficulty for your administration in extending the benefit of "war service" to the employee on absorption on railways"

3. As a consequence of the aforesaid ruling of the Railway Board, Shri Sunder Lal

a) should have been appointed in 70% reserved vacancies for the war service Personnel vide Army Order no. 259/50 dated November 14, 1947 (ii) Government of India, New Delhi, Home Department Memo no. O.M. 30/44/48 Appts. dated 22-6-1949, His representation in this regard were submitted from time to time, but to no effect. The first representation was given on 28-2-1947, which was referred by WM C&W Shops, Alambagh, vide their M.S. No. IE-2/8 dated the 20-5-1947, to the Dy.-GM(P) E.I.Rly., Calcutta for decision to confirm Shri Sunder Lal against the 70% reserved vacancies for war service Personnel. In this connection it may be stated that his two contemporary incumbents (i) Shri S.K. Chatterjee, Typist and (ii) Shri K.K. Ghosh, clerks of C&W shops, Alambagh, appointed long after Shri Sunder Lal) whose claims were similar to those of Shri Sunder Lal as "war service" appointees were, later on absorbed in the 70% reserved vacancies, for the war service Personnel, because they were "Bengalis" and orders in their behalf were issued from GM's office, Calcutta vide Deputy GM (P) EIR, Calcutta letter no. AE 3835/DY.I dated 6-9-1948 which office was obviously dominated by the Bengalis. Both these incumbents, it may further be noted were much juniors in service to Shri Sunder Lal.

b) It follows that Shri Sunder Lal, should have been given 4 advance increments and his initial starting pay should have been fixed @ Rs. 55/- p.m. instead of Rs. 45/-

per  
xx month

P.m. as on and from 23-6-1945, which was fixed vide staff order no. 543 dated 13-9-1969) It may be noted that the last pay drawn by him in COD, Shahjehanpur was Rs. 50 P.m. and increments in lieu of "war service" must have <sup>been</sup> further advanced on this pay.

c) That the aforesaid staff order no. 543 dated 13-9-1969 (annexure 11) was thus under-estimated fixation of pay @ Rs. 45/- Per month and has consequently resulted in a loss of Rs. 5525.09 to Shri Sunder Lal, through the period of his service.

d) That the correct fixation of pay @ Rs. 55/- P.m. as initial starting pay as on 23-6-1945 would have been absolutely justified in this case and the resultant emoluments, as ascertained upto date should have amounted to Rs. 7218.49 (i.e. Rs. 4753.47 as difference in arrears due to wrong fixation and gratuity etc and Rs. 771.62 as arrears upto 30-6-1974 due to wrong fixation of pension and Rs. 1693.40 ~~durx~~ as amount of arrears vide S.O. No. 543 of 13-9-1969, paid to Shri Sunder Lal on 20-8-1971 out of which he has received during ~~20-8-1971~~ to the total period of his service Rs. 1693.40 only. As a result thereof a sum of Rs. 5525.09 is due to Shri Sunder Lal as a balance. A copy of this revised calculated statement is attached herewith as Annexure III. Arrears arising on account of re-fixation of initial pay should have been accounted for and paid to Shri Sunder Lal on the basis of and in compliance with the latest authority of the Railway Board's order vide their letter serial no. E(SCT)/68/RE/8/421 dated the 27th May 1969 and not on the basis of any other letter or order issued prior to it by the Railway Board, as has been done in the case of Shri Sunder Lal, because the Railway Board's letter under serial no. 1096 had always been treated as 'not applicable' in his case by Dy. CME (W), Alambagh, Lucknow in writing whenever referred to by Shri Sunder Lal for this purpose.

4) That the Pension and gratuity to Shri Sunder Lal should have been given to him including the aforesaid period of War Service viz. 4 years, 11 months and 8 days alongwith 26-years railway service aggregating 30 years 11 months and 8 days as Per Railway Pension Rules, 1950, but due to the wrong calculations, as disclosed in paras above, Pension and gratuity to Shri Sunder Lal has been given on a total period of service of 26 years only. It is requested that the Pension and gratuity amounts of Shri Sunder Lal should be recalculated as per Railway ~~Rumx~~ Pension Rules 1950 (corrected upto 1-9-1969) and all arrears arising therefrom be ordered to be paid.

5) That Shri Sunder Lal is being given only one set of free Pass every year i.e. on the basis of 26 years service period whereas he should have been given two sets of free Passes every year on the basis of total

K. L. P.  
10-9-1977

Sunder Lal



Period of 30 years 11 months and 8 days.

6) I am to add that the non payment of the aforesaid amount of Rs. 5527.09 to my client amounts in law as deduction from his "wages" as defined under Payment of Wages Act, 1936 and unless his claims are admitted and adjusted by payments forthwith, I will advise him to file a case under the aforesaid Act in the proper court in which case you will also be liable to pay compensation which may amount upto ten times the claim. I hope under the circumstances you will be good enough to settle the claim of my client Shri Sunder Lal at a very early date.

dated. 20th July, 1974

Encl; 4

Yours faithfully

sd/- J.L. Bhargava  
(J.L. Bhargava, Advocate &  
President Pensioner's Welfare  
Organisation U.P.)

T.C.

Sunder Lal

RECEIVED  
13 JUL 1974

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इन दि आनरेबुल हाई कोर्ट आफ जूडी कैवर रेट इलाहाबाद,

लखनऊ बेन्च, लखनऊ।

रिट पिटीशन नं० आफ १६८१

सुन्दरलाल

पिटीशनर

बनाम

यूनियन आफ इन्डिया व अन्य

अपोपाटीज

अनंजूर नं० १०

उत्तर रेलवे

एल०एच०एल०

एल०एन०बाजपेयी,  
सहायक कामिके अधिकारी

कायलिय उप मुख्य यात्रिक इन्जीनियर  
(कर्म०) सवारी एवं माल डिब्बा  
कारखाना, आलमबाग,  
लखनऊ।

अ०स०प०स०पी०सी०।एस०।लाल

दिनांक १०-३-१९८१

प्रिय रामचन्द्र,

विषय:- कर्मचारियों की शिकायतें - श्री सुन्दर लाल भूतपूर्व लिपिक  
का अध्यावेदन।

सन्दर्भ:- आपका अ०स०पत्र सं० १४५।एम०आर०।जी।६१।एस०जी०सी०।दिनांक

३-२-८१।

श्री सुन्दर लाल भूतपूर्व लिपिक ने अपने मामले में वकील द्वारा  
महाप्रबन्धक, नई दिल्ली और उप मु०मा०ई०।आलमबाग के नाम नोटिस  
जारी करा दिये हैं जिसकी पैरावाइज टिप्पणी इस कायलिय के  
समसंख्यक पत्र दिनांक १८-१-८१ के अन्तर्गत आवश्यक कार्यवाही पहले  
ही भेजी जा चुकी है।

इस सन्दर्भ में इस कायलिय के दिनांक २६-१-८१ के समसंख्यक  
अर्द्ध सरकारी पत्र की ओर भी आपका ध्यान आकषित किया जाता  
है जो आपके कायलिय के अ०स०पत्र सं० १४५-ई।सी।३८७।एल०एम०आर०  
बीनरस०एस०जी०।नि-



Sunder Lal

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जी०।एस०एस० जी०दिनांक २४-१-८१ के उत्तर में पूर्व ही प्रेषित किया जा चुका है।

जहाँ तक मामले की जांच का सम्बन्ध है इस कार्यालय के विचारानुसार श्री सुन्दर लाल भूतपूर्व लिफ्ट की मांग रेलवे नियमानुसार औचित्य पूर्ण प्रतीत नहीं होती है।

आपका ,

ह०- एल०एन०बाजपेयी ,  
(एल०एन०बाजपेई)

श्री रामचन्द्र,  
सहायक कार्मिक अधिकारी (शिक्षा यत)  
उ०रे०प्रधान कार्यालय, बड़ादा, हाऊस,  
नई दिल्ली।

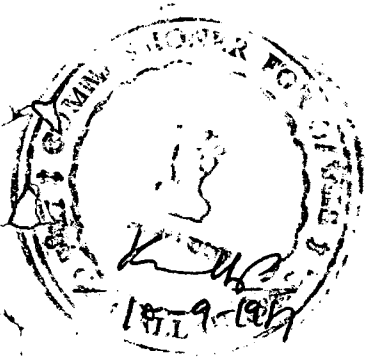
प्रतिलिपि:- सूचनार्थ:- (१) श्री राम किशोर रस्तोगी अध्यक्ष शहर कांग्रेस कमेटी (आई) लखनऊ को उनके पत्र संख्या ७८६।८० दिनांक २-६-८० के सन्दर्भ में।

२- श्री सुन्दरलाल श्रीवास्तव, ५ सुमान नगर मस्कगंज का ढाल,  
लखनऊ - २२६००१।

सत्य प्रतिलिपि

T.C.

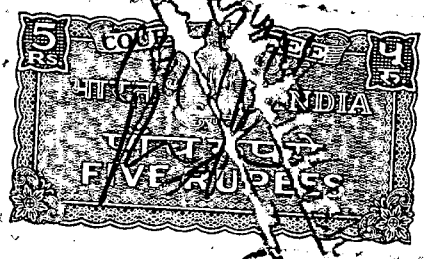
Sande Lal



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146 The Honble High Court of Judicature at Allahabad  
ब अदालत श्रीमान sitting at Lucknow महोदय

वादी (मुद्दे) का वकालतनामा  
प्रतिवादी (मुद्दामलेह)



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Slender Lal Srivastava

वादी (मुद्दे)

बनाम

Union of India & others -

प्रतिवादी (मुद्दामलेह)

नाम अदालत	नाम मुकदमा	नाम फरीकत
.....	.....	.....

नं० मुकदमा सन् १६ पेशी की ता० १६ ई०  
ऊपर लिखे मुकदमा में अपनी ओर से श्री  
Dr. R.K. Srivastava एडवोकेट

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

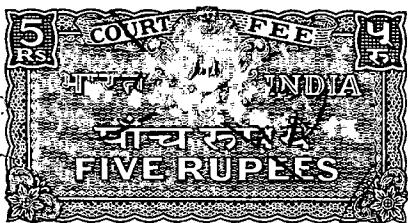
Accepted  
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Slender Lal

हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना १६ ई०



N.R.

VAKALATNAMA  
Pm 47007/1981

G.V. 3

Before  
In the Court ofIn the Honble High Court of Judicature at Allahabad  
Sitting at Lucknow.Plaintiff  
Defendant

Sunder dal Srivastava

Claimant  
Appellant  
Petitioner

Versus

Defendant  
Plaintiff

Re Union of India &amp; others Respondent

The President of India do hereby appoint and authorise Shri. C. A. Bashir, Railway Advocate,

52, Ghosiari, Mandi, 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 where 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 C. A. Bashir, 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 ..

Accepted  
C. A. Bashir  
Adv.

Dated.....1983.

N.R.—149/1—June, 1981—75,00 F.

Designation of the Executive Officer

Southern Railway, New Delhi

vi 8/10/83  
452  
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In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

C.M. Application No. 1300 P/C of 1983

Union of India & others .. Applicants

In re:

Writ Petition No. 4700 of 1981

Sunder Lal Srivastava .. Petitioner

Versus

Union of India & others .. Opp. parties.



ICF = Rs. 5/-  
A  
18/11/83

Application for condonation of delay

The applicants above named most respectfully  
beg to submit as under:-

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That in the above noted case some delay took place in filing the counter affidavit as enquiries had to be made from different places and verification of record had also to be done. Therefore, there was some unavoidable delay in filing the counter affidavit.

It is, therefore, prayed that the delay may kindly be condoned and the counter affidavit may be taken on record.

Lucknow:

Dated: Oct. 18 1983

( C.A. Basir ),  
Advocate  
Counsel for the applicants.

HCW  
25/3/83

AS3  
6/2

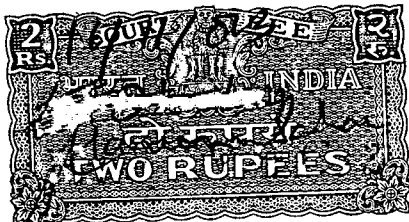
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
Lucknow Bench, Lucknow.

Writ Petition No.4700 of 1981

Sunder Lal Srivastava .. Petitioner

Versus

Union of India & others .. Opp.parties."



1983  
AFFIDAVIT  
46/11/83  
HIGH COURT  
ALLAHABAD



Counter affidavit on behalf  
of opposite parties.

I, Hanuman Sahai Sinha aged about 51 years son of Sri B.M.Lal resident of C & W 2, Alambagh, Lucknow do hereby solemnly affirm and state on oath as under:-

1. That the deponent is working as Works Manager in the Office of Dy.Chief Mechanical Engineer, C & W Northern Railway, Alambagh, Lucknow as such he is fully conversant with the facts of the case.
2. That the deponent has read the contents of the writ petition and understood the same.

Preliminary Objections.

3. That this petition is not maintainable and does not merit admission as the same is barred by time and the fact that there are laches and delay on the part of the petitioner it merits dismissal in limine

for the following reasons:-

(a) That the petitioner's claim being for alleged wrong fixation of pay at the initial stage i.e. in 1946 and its arrears and alleged pensionary benefits flowing out of this is governed by Indian Limitation Act and the cause of action having accrued in 1946, the date when <sup>demand &</sup> ~~claimed~~ for fixation alleged to have been claimed and the alleged resultant benefits which might have accrued are hopelessly belated suffer from laches and is clearly barred by time and so it is not maintainable.

(b) That making of representations and sending of reminders does not extend limitation and the claim of petitioner being stale at the date, should have been if at all by suit. The remedy being barred by limitation, its enforcement under Article 226 of the Constitution is impossible as discretionary relief in cases barred by limitation cannot be granted.

4. That in reply to para 1 of the petition it is stated that the petitioner was appointed as emergency clerk on 23.6.1945 in the Lucknow Workshop Office of the Railway. Before his appointment in this shop he was given an offer of appointment and was medically examined on 22.6.1945. Regarding his averments of previous appointments in the Workshop, the Railway Office has no records. A true copy of appointment letter and



Annexure A-1 & A-2 Medical report are filed herewith as Annexure A-1 & A-2 to this counter affidavit.

5. That in reply to para 2 of the petition it is stated that the Workshop Office has no record about his previous appointment and deputation.

6. That in reply to para 3 of the petition it is stated that copy of alleged discharge certificate (annexure-2) shows period of service from 15.7.1940 to 7.7.1948 indicating clearly his date of recruitment in the Ordnance Depot as 15.7.1940 and the reasons of discharge being on petitioner's request on 7.7.48. This certificate neither mentions his past service on the railway nor entry in respect of his deputation on the railways.

7. That in reply to para 4 of the petition it is stated that in terms of Railway Board's letter No. E(SCT)/68/RE8/421 dated 27.5.1969 as received from Hqrs. Office, Northern Railway, New Delhi vide Sri B.R.Nigam, A.P.O.s(VI) D.O.No.145-F/D/11058 Lko.(RBY) SSB dated 2.6.1969 petitioner has been extended benefits of his service in COD towards fixation of pay admissible to ex-War service candidates. He has not been allowed benefits of this service towards seniority as he did not appear to have been recruited against reserved vacancy. Accordingly fixation of his pay by counting war service from 15.7.1940 to 22.6.1945 has already been done by this office vide S.O.No.543/69 dated 13.9.1969, a true copy of which is filed herewith as Annexure A-3 to this counter affidavit.

Annexure A-3

ASG

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8. That para 5 of the petition relates to some circular and so does not call for any reply.

9. That in reply to para 6 of the petition it is stated that a decision in the matter was taken by the Railway Board vide their letter No.F(SCT)68/ RF8/421 dated 27.5.1969.(Annexure A-3 ).

10. That in reply to para 7 of the petition it is stated that this is being an old case, the representation dated 20.5.1947 is not readily available.

11. That the averments made in para 9 & 10 of the petition are denied as there is no record available with the opposite parties showing confirmation of the petitioner as stated in the petition.

12. That the averments made in para 11 & 12 are denied. In terms of rule 2046(b) ministerial railway servant who entered into Government service on or before 31.3.36 and held on that date a lien on a permanent post shall be retained in service till he attains the age of 60 years. Regarding petitioner his service are not continuous as per documents placed by the petitioner at annexure No.1, the petitioner himself showed his confirmation on 1.2.38 and from there the petitioner went on deputation ( as stated by him in para 2 of the petition) to defence department(War Emergency ) then in that case the petitioner should have been sent <sup>to</sup> back to his parent office i.e. DEE/EI Rly/MBD where the petitioner might be having his lien and there was no question of having been appointed in this office <sup>to</sup> which the petitioner



*[Handwritten signature]*

AS7

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without any hesitation accepted at the time of his fresh appointment on 23.6.1945 and the petitioner raised no point of his previous service nor indicated the same which he should have done.

13. That in reply to para 13 of the petition it is stated that the petitioner's claim for being governed under rule 2046(b) R II is nullified in view of extract of Office Order No.2,13,16,31,36 & 42 of 1938 as furnished by the Workshop Electrical Engineer/CB/Lko. vide his letter No.961-E/W/Lko/2 dated 14.12.1971.

14. That in reply to para 14 of the petition it is stated that the petitioner has been correctly retired on age limit of 58 years on 14.7.1971. The instructions contained under circular No.5539 do not apply in the petitioner's case.

15. That in reply to para 15 of the petition it is stated that the petitioner had already been granted benefit of war service in respect of fixation of pay as decided by the Railway Board vide letter No.E(SCT)/68/RF8/421 dated 27.5.69(Annexure A-3)

16. That in reply to para 16 of the petition it is stated that on the representation of one Sri J.L.Bhargava Advocate and President Pensioners Welfare Organisation U.P. the Hqrs. Office has already been apprised with the position of the case. This association has no recognition by Northern Railway.

17. That in reply to para 17 of the petition it is stated that the case of the petitioner had been disposed of on merits by the Railway Board vide their letter No.E(SCT)/68 RF8/421 dated 27.5.1969(Annexure A-3)

18. That para 18 of the petition relates to the letter of Hon'ble Minister.

19. That in reply to para 19 of the petition it is stated that detailed comments have already been given in reply to para 16 of the petition.

20. That in reply to paras 20 & 21 of the petition it is stated that the Workshop Office had already apprised the position of the case to Hqrs. Office vide letter No.PC/S/Lal dated 10.3.1981 as asked for by him on forwarding the letter of the said President City Congress Committee Lucknow by the Ministry of Railways.

21. That in reply to para 22 of the petition it is stated that the request of the petitioner was duly considered but there being no merit the same was not acceded to. However, President of the Pensioners Welfare Organisation was informed.

22. That in reply to para 23 of the petition it is stated that benefit of war service in respect of fixation of pay had already been granted to the petitioner by this office staff order No.543/69 dated 13.9.69, a true copy of which is filed herewith as Annexure A-4 to this counter affidavit.

23. That in reply to para 24 of the petition it is stated that the petitioner's pension has been correctly fixed according to the rules and there is no question of the petitioner being deprived of the same.

24. That for reasons set forth the petitioner's case has no merits and merits dismissal.

Lucknow:

Dated: <sup>Nov</sup> Oct. 9 1983

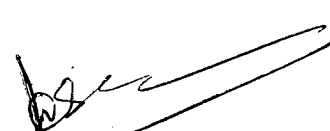
  
Deponent

Verification

I, the above named deponent do hereby verify that the contents of paras 1 & 2 of this counter affidavit are true to my personal knowledge, the contents of paras 4 to 23 are based on records and are believed to be true by me and those of contents of paras 3 & 24 are based on legal advice. No part of it is false and nothing material has been concealed in it so help me God.

Lucknow:

Dated: <sup>Nov</sup> Oct. 9 1983

  
Deponent

I declare that I am satisfied by the perusal of the records, papers and other details of the case narrated to me by the person alleging himself to be Sri Hanuman Sahai Sinha is that person.

C. A. Bari  
Advocate.

Solemnly affirmed before me on 9.11.83<sup>2</sup>  
at 7 a.m./p.m.<sup>2</sup> by the deponent who  
is identified by Sri C.A. Basir, Advocate,  
High Court, Lucknow Bench, Lucknow.

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



Ravi Srivastava  
OATH COMMISSIONER  
46/1044  
High Court, Lucknow Bench

No. 11-83  
Date

(461) 6/10

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

Writ Petitioner No.4700 of 1981

Sunder Lal Srivastava .. Petitioner

Versus

Union of India & others .. Opp.parties.

Annexure A-1

No. 1E2/2

EI-G96

EAST INDIAN RAILWAY

Office WORKS MANAGER,  
Station C & W SHOPS, ALAMBAGH.

Dated the 20th June, 1945.

To

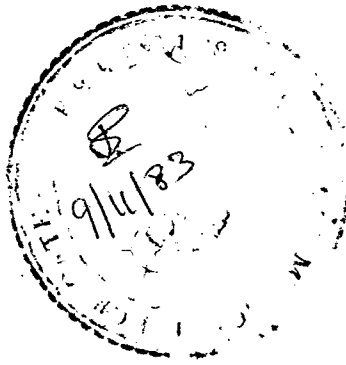
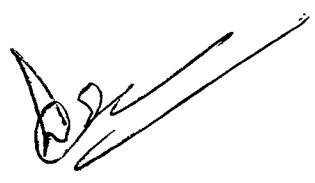
(Name) Babu Sunder Lal Chaudhary.

( Son of) Babu Gopal Charan Chaudhary.

(Address) C/o Babu Ambika Sahai B.A.Mohalla.

Bahadurganj Tarew, Shahjahanpur.

Regarding Temporary Appointment.

- 
1. I am prepared to offer you a post as a Emergency Clerk on a fixed pay of Rs.40/- per mensem, subject to your passing the prescribed medical examination by an authorised medical officer of this railway and(for subordinate staff only) production of your original certificates and satisfactory proof in support of your age, such as a birth or matriculation certificate, & C.
  2. It must be clearly understood that the appointment is terminable on 24 hours notice on either side except that no such notice will be required on return to duty of the absentee in whose place you may be engaged in which case your services will automatically terminate from the day the former resumes duty. Also no such notice will be required if the termination of service is due to your mental or physical incapacity or to your
- 

Removal or dismissal for serious misconduct.

3. You will not be eligible for any pension nor any benefit under the State Railway Provident Fund or Gratuity rules or to any absentee allowances beyond those admissible to temporary employees under the rules in force from time to time during such temporary service.

4. You will be held responsible for the charge and care of Government money, goods and stores and all other that may be entrusted to you.

5. You will conform to all rules regulations and ordinances applicable to your appointment.

6. If you intend taking up the appointment on these conditions, please signify your acceptance and return this form, a duplicate copy of which is enclosed for retention by you. In the event of your acceptance please call at this office by the immediately at the latest, failing which this offer will lapse and will not be renewed.

Signature & designation of the appointing authority. Sd/-Illegible WORKS MANAGER, rity.

I accept the offer on the terms detailed above.

Signature of candidate(or left thumb impression if illiterate)

Sd/- Sunder Lal Srivastava,  
Dated the 20/6/1945.

True copy



9/11/83



#63  
6/12

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

Writ Petition No.4700 of 1981

Sunder Lal Srivastava .. Petitioner

Versus

Union of India & others .. Opp.parties.

Annexure A-2

MDL44

EAST INDIAN RAILWAY

Medical Department

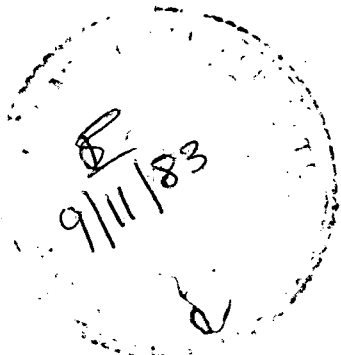
Name Sunder Lal Srivastava, Date 22/6/45

Fit

(SEAL) Sd/-Illegible,  
Assistant Surgeon,  
E.I.Rly., Lucknow.

True copy

*[Signature]*



AGY  
6/13

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

Writ Petition No.4700 of 1981

Sunder Lal Srivastava .. Petitioner

Versus -

Union of India & others .. Opp.parties.

Annexure A-3

B.R.Nigam  
A.P.O. VI.

NORTHER RAILWAY

HEAD QUARTERS OFFICE,  
BARODA HOUSE NEW DELHI.

D.O.No.145-E/C-11058 LWO(RB)/SSB & Dated 2/5/69

Sub: Fixation of seniority and initial pay of War  
Service candidates on appointment to Railways-  
Sh.Sunder Lal, Clerk C&W Shops Lucknow Reference  
from Sh.A.C.Singh. M.P.

---

Ref: Correspondence resting with your office letter  
No.WMC/1145/1 dated 8.3.69.

.....

A copy of Railway Board's letter No.E(SCT)68/  
RE8/421 dated 27.5.69 is sent herewith for taking action  
thereon, immediately under advice to this office for  
communication to the Railway Board as desired by them.

This may please be acknowledged.

Yours sincerely,

DA/= One

Sd/- Illegible.  
( B.R.Nigam )

Shri L.K.Saxena,  
APO(C&W) Amv, Lko.

True copy



8  
9/4/83

(AGS) 6/14

Copy of Board's letter No.F(SCT)68/RE8/421, dated 27.5.69, from Asstt.Director Estt.,Railway Board, to the General Manager, Northern Railway, New Delhi.

.....

Sub: Fixation of seniority and initial pay of War Service candidates on appointment to Railways- Sh.Sunder Lal Clerk, C&W Shops, Lucknow Reference from Sh.A.C.Singh, M.P.

...

Reference correspondence resting with your letter No.145-E/C/1/11058-LW0(RB)SSB dt.19.4.69 on the above subject. The Board observe that the service rendered by Sh.Sunder Lal as a Group Clerk in C.O.D.Shahjahanpur is "War Service" and the same has been certified by the Army Ordnance Corps Record Office, Secunderabad vide their letter dated 3.8.68. As such, there should have been no difficulty for your administration in extending the benefit of War Service to the employee on absorption on Railways. They, therefore, desire that Sh.Sunder Lal may be extended the benefit of his service in C.O.D. towards fixation of pay as is admissible to ex-~~WAR~~ War Service candidates. He will, however, not get benefit of this service towards seniority as he does not appear to have been recruited against the Reserve vacancy.

Action taken in the matter be advised for the information of the Board at an early date.

True copy



(Abb) 6/15

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

Writ Petition No.4700 of 1981

Sunder Lal Srivastava .. Petitioner  
Versus  
Union of India & others .. Opp.parties.

Annexure A-4

N.Rly.Dy.Chief Mechl.Engr's Office C & W Shops, Arr.  
Staff Order No.543 of 13.9.1969.

In terms of Rly.Board's letter No.E(SCT)68/RF8/421  
dated 27.5.69 as communicated vide G.M.(P)/NDLS D.O.  
letter No.145E/C-11058 LWO(RB)SSB dt.2.6.1969, the pay  
of Sri Sunder Lal, Clerk is fixed as under by counting  
war service from 15.7.40 to 22.6.45. This has been  
verified by the SAO 'W' / Alambagh.

In terms of Rly.Board's letter No.E(S)1-58CPC/114 dated  
4.2.61, circulated under G.M.(P)'s letter No.561E/O(Dup)  
(Eiv)dated 18.3.61 (Serial No.1096) Shri Sunder Lal will  
get the arrears only from 11.2.58. Arrears prior to  
11.2.58 will ~~be~~ not be paid.

Pay already drawn

Pay now refixed

Appointed as Emergency Clerk in Gr.40-2-42-3-45 on 23.6.45 on Rs.40/-	23.6.45 45/-	Pay fixed by counting 4 yrs.11 months 8 days War Service from 15.7.40 to 22.6.45.
23.6.46 Rs. 42/-	23.6.46 45/-	
1.1.47 Rs. 55/-	1.1.47 61/-	Fixed in terms of Saxena Chart A by counting 4 years 11 months 8 days War Service (15.7.40 to 22.6.45) and 1 year 6 months 8 days Rly.Service (from 23.6.45 to 31.12.46)
1.1.48 58/-	23.6.47 64/-	
1.1.49 61/-	23.6.48 67/-	
1.1.50 64/-	23.6.49 70/-	

9/11/83

Sd/- Illegible  
for Dy.C.M.E.(W), Amv, LKO.

✓

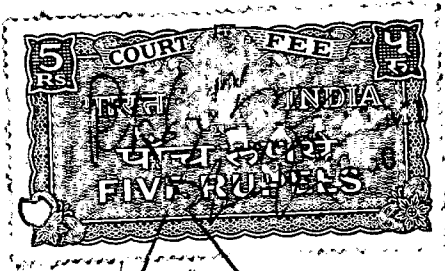
Ravi Swadawa  
OATH OF ALLEGIANCE  
HILL COUNTY, N.D.,  
JULY 1, 1983  
No. 9611044  
Date 9/11/83

(HCS) 7

*Case No 5238(oo)/84*

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

Writ Petition No. 4700 of 1981



*10/8/84*  
*7/5/84*  
*52302*

Sunder Lal Srivastava

Petitioner

versus

Union of India and others

Opp. Parties

Application for  
condonation of delay

The petitioner begs to submit as under:

That for the reasons ~~xxx~~ given in the accompanying Rejoinder affidavit it is respectfully prayed that the petitioner could not file the rejoinder affidavit earlier because of his illness and due to old age and also because of ~~xxx~~ ~~xxx~~ meagre means, the delay if any in filing the Rejoinder affidavit is bonafide and deserves to be condoned in the interest of justice and to pass such other orders as the nature of the case deems just and proper.

Lucknow

*R. L. Gupta*  
Advocate  
counsel for the petitioner

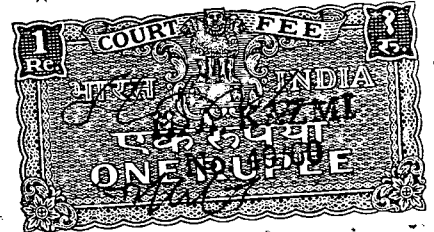
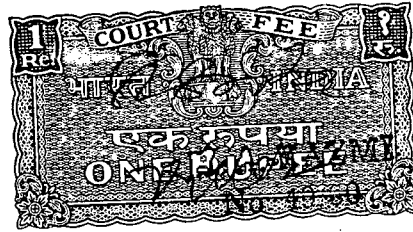
dated 7/5/ 1984

(A69)

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

Writ Petition No.4700 of 1981

1984  
AFFIDAVIT  
13  
HIGH COURT  
ALLAHABAD



Sunder Lal Srivastava

Petitioner

versus

Union of India & Others

Opp. Parties

REJOINDER AFFIDAVIT

TO THE COUNTER AFFIDAVIT OF SHRI HANUMAN SAHAI SINHA

I, Sunder Lal Srivastava aged about 72 years son of Shri Gopal Charan resident of 5-Subhan Nagar, Lucknow petitioner in the writ petition do hereby solemnly affirm and state as under:

1) That the deponent have read ~~the~~ the counter affidavit and has understood the contents thereof. At the outset the deponent denies each and every averment to the counter affidavit ~~in~~ ~~the~~ unless specifically admitted hereinafter.

2) That with regard to the contents of ~~the~~ of para 1 of the counter affidavit it is incorrect to say that the deponent to the counter affidavit is <sup>not</sup> at all conversant with the facts deposed therein. In as much as correct facts have not been put by him before this hon'ble Court.

3) That the contents of para 3 of the counter affidavit are incorrect and denied. It is incorrect to say that the petition is barred by laches or is delayed so as to oust the petitioner from maintaining the petition before this hon'ble court. In fact because of the wrong

Sunder Lal

fixation of pension, ~~xxx~~ the petitioner is suffering every-day which result in continuous denial of the fundamental rights of the petitioner to get his pension in accordance with law. Even the Supreme Court of India clearly laid-down law in Civil Appeal no.1768 of 1969 Railway Board Versus Pitchumani and others decided on 29.10.71 that the employees of the Railways like the petitioner could not be retired to their reaching at 60 years of age. The decision was also taken to that effect by the Railway Board vide Annexure no.8 to the writ petition. Even lately the Supreme Court of India has again laid-down law in D.S.Nakar's case that the Government in the matter of pension can not arbitrarily act so as to deprive the government servant of the pensionary benefits could accrue to them.

4) That the contents of para 3(a) & (b) ~~xxx~~ of the counter affidavit are incorrect and are denied. It is incorrect to say that the claim of the petitioner is beyond limitation. It is further submitted that the law of limitation appears to be correct and does not apply to the government or for the matter of that to the opposite party, the plea of limitation taken by the deponent to the counter affidavit is illegal and this hon'ble court may not permit the illegality to continue. The petitioner has a legal and fundamental right guaranteed under the Constitution of India to approach this hon'ble court for the enforcement of his fundamental rights.

5) That the contents of para 1 of the writ petition are reiterated and anything contrary to same in para 4 of the counter affidavit is denied. The Annexure no.1 wa



(A71)

9/3

issued by the Competent Authority of the East Indian Railways, the deponent to the Counter Affidavit had deliberately avoided to place correct facts before the hon'ble court by making concealment regarding Annexure No.A-1 and A-2 , it is submitted that the decision taken by the Government of India that war services rendered by the employees was to be taken into consideration by extending the benefits thereof to the employees during the war period, if so, fact had applied to the case of the petitioner, that the permanent service rendered by the petitioner as is evidenced by the Annexure no.1 was to be taken into account while deciding the case of length of service for the purpose of preparation of pension of the petitioner. It has been stated hereabove that the petitioner was confirmed w.e.f. 1.2.1938. The service rendered by the petitioner under the government could not be rendered unless for the purpose of pensionary benefits to the petitioner.

6) That the contents of para 2 of the writ petition are reiterated and any thing contrary to the same in para 5 of the counter affidavit are incorrect and denied

7) That the contents of para 3 of the writ petition are reiterated and those of para 6 of the counter affidavit are denied. It is further submitted that since the petitioner was already a confirmed employee in the East Indian Railways the petitioner had to be sent back to his parent department and it was for this reason that the petitioner was relieved from his service under the Defence Department of Government.

Sunder Lal

172

9/11

8) That the contents of para 4 of the writ petition are reiterated and anything contrary to those in para 7 of the counter affidavit are denied. By mere fixation of pay of the petitioner on the basis of war service rendered by the petitioner from 15.7.1940 to 22.6.45 the petitioner was given increments. Length of service rendered by the petitioner as war service and prior to ~~that~~ to under the East ~~India~~ Railways had not been counted or taken into consideration by the authorities while fixing the pension of the petitioner on the basis of service rendered by the petitioner. The non-fixation of the pension of the petitioner is also due to the fact that the petitioner was retired on reaching the ~~xx~~ age of 58 years which was even in violation of circular and decision of the Railway Board as contained in Annexure no.8.

9) That the contents of para 5 of the writ petition are reiterated and those in para 8 of the counter affidavit are incorrect and denied.

10) That the contents of para 6 of the writ petition are reiterated and anything contrary to same in para 9 of the counter affidavit are denied. Annexure no.A-3 does not contain any decision of the Railway Board in respect of the petitioner. The case of the petitioner was that the petitioner was entitled for the service rendered by him as war services for computation of his pensionary benefits. The petitioner having been the confirmed employee under the East ~~India~~ Railway on 1.2.38 the authorities in any way could deprive the petitioner of his rights to avail the benefits derive to the Railways employees under the Supreme Court of India Decision indicated in Annexure no.8 to the writ petition.

Sunder dal

A73

9/5

11) That the contents of para 7 of the writ petition are reiterated and those of para 10 of the counter affidavit are incorrect and denied. It is strange that the deponent to the counter affidavit has been able to file documents which according to him suits the opposite parties on the contrary any document which favours the petitioner are being denied. This itself shows that the opposite parties instead of placing correct facts before this hon'ble court are ~~playing~~ playing a game of hiding.

12) That the contents of para 9 and 10 of the writ petition are reiterated and those of para 11 of the counter affidavit are incorrect and denied.

13) That the contents of para 11 and 12 of the writ petition are reiterated and those of para 12 of the counter affidavit which are incorrect and denied. The deponent to the counter affidavit has wrongly stated the relevant date as 31.3.1936 instead of 31.3.1938. Rest of the contents of para under reply are incorrect and denied. In case the whole case of the petitioner has any re-fixation of seniority for the purpose to grant pension and it was because of this fact the petitioner has been agitating his grievance for the endorsement of his fundamental rights.

Sunder Lal

14) That the contents of para 13 of the writ petition are reiterated and those of para 13 of the counter affidavit are incorrect and denied. The deponent to the counter affidavit has strangely and perhaps deliberately not filed the orders referred to by him. Even otherwise the ~~xxxxxx~~ ~~xxxxxx~~ ~~xx~~ by ~~him~~ circulars or extract of

A74

9/6

~~XXX~~ ~~That the contents of para~~

this order can not override the provisions of law.

15) That the contents of para 14 of the writ petition are reiterated and anything contrary to same in para 14 of the counter affidavit are incorrect and denied. The decision by the Supreme Court of India in Civil Appeal no.1768 of 1969 decided on 29.10.71 and the Rule no.2046B of the Railway Establishment Code. In fact Sub-clause-D of clause-5 specifically covers the case of the petitioner. The deponent to the counter affidavit has tried to mis-interpret circular no.5539 (annexure no.8) only to conceal the material fact from this hon'ble Court. It is incorrect to say that the circular no.5539 which was basically issued to provide relief to the employees, like the petitioner who were illegally retired in violation of Rule 2046, the petitioner has urged before the authorities that the petitioner was entitled for being retired at the age of 60 years because the petitioner was entitled to get the benefit of Rule 2046. It is therefore incorrect to say that the circular no. 5539 did not cover the case of the petitioner. In fact by means of this circular the directions were issued to all the Divisional Superintendents of the Railways to correctly interpret Rule 2046 and to say that the employees who were retired at the age of 60 years and not 58 years. The directions were also issued to provide redress to such of the employees who were retired at the age of 58 years instead of 60 years on the basis of the wrong interpretation even to Rule 2046.

16) That the contents of para 15 of the writ petition are reiterated and anything contrary to same in para 15 o

Sunder dal

(A73) 97

the counter affidavit are incorrect and denied. It is incorrect to say that the petitioner was given benefits due to him, it is worthwhile to submit that the petitioner was confirmed on 1.2.1938. On 15.7.1940 the petitioner went on deputation to defence department (War-emergency). After having served in the War-emergency Establishment shop, <sup>✓</sup>and Control Office, the petitioner was <sup>✓</sup>relieved ~~discharged~~ on 22.6.1945. It is submitted that the petitioner was already <sup>✓</sup>a <sup>✓</sup>confirmed employee on 1.2.1938 the service rendered by the petitioner prior to his going to the defence department in connection with War Service, could not be denied to the petitioner while computing pensionary benefits etc. In fact the petitioner is constantly suffering loss in his ~~xx~~ pension which involves continuous violation of his fundamental rights guaranteed under the Constitution of India. It also ~~amounts~~ tantamounts to deprivation of the property of the petitioner not in accordance with law.

17) That the contents of para 16 of the writ petition are reiterated and ~~anyxxx~~ <sup>✓</sup> those of in para 16 of the counter affidavit are denied. The <sup>✓</sup>case ~~xxxx~~ of the petitioner was also taken up by the Pensioner's Welfare Organisation, Uttar Pradesh, of which the petitioner was a member. The grievance of the petitioner ~~xxx~~ <sup>✓</sup> ought to have been attended to by the authorities. It may not be out of place to submit that this Hon'ble Court in writ petition no.439 of 1968 decided on 23.4.1970 had taken a view that the Railway employee retired in violation of Rule 2046 was entitled <sup>✓</sup>for all benefits arising out of illegal pre-mature retirement. It is submitted that it was not open to the ~~ppposite~~ parties to have ignored the judgment of this hon'ble Court passed against them and in favour of the petitioner employee.

Simple del

A76

9/8

18) That the contents of para 17 of the writ petition are reiterated and those of para 17 of the counter affidavit are denied. It is incorrect to say that the matter of the petitioner was at all disposed of by means of Annexure no. A-3. In fact the deponent to the Counter affidavit has mis-conceived the whole case and has tried to mislead this hon'ble Court by mis-statement of facts.

19) That the contents of para 18 of the counter affidavit need no comments. But at the same time it is submitted that the petitioner had a right to raise his grievance before the authorities concerned.

20) That the contents of para 19 of the writ petition are reiterated and those of para 19 of the counter affidavit are incorrect. The petitioner reiterates that Mr. KK Ghosh Mr. SK Chatterji both who were junior to the petitioner and were also retired at the age of 58 years <sup>✓ of ✓</sup> were given the benefits/60 years employment by the Railway authorities. Similarly Mr. Anil Chand Dass <sup>✓</sup> who was Passenger Guide at Benaras whose case was similar to that of petitioner was extended benefit of war services as well <sup>✓ as ✓</sup> the retirement at the age of 60 years.

21) That the contents of para 20 and 21 of the writ petition are reiterated and those of para 20 of the counter affidavit are denied. The continuous payment of pension ignoring the period of employment rendered by the petitioner gives day to day cause of action. The petitioner is not seeking any right case against anybody else's vested rights. Inaction on the part of the authorities amounts to continuous violation of the fundamental right of the petitioner to get his pension fixed and paid in

Sunder Lal

(A77) 29

in accordance with law, specially Rule 2046 of Railway  
~~xxxxxxxxxxxxxx~~ Establishment Code.

22) That the contents of para 23 of the writ petition are reiterated and anything contrary to those of para 22 of the counter affidavit is denied. The petitioner has already stated hereabove and in the writ petition that the petitioner is entitled for fixation of pension and fixation of pay on the basis of service rendered by him as a confirmed employee of the Railways. ,the service rendered by him as War Service and thirdly the illegal retirement of the petitioner at the age of 58 years instead of 60 years in violation of Rule 2046 of Railway Establishment Code. All put together the petitioner is every month getting much less amount of pension as he would have been otherwise entitled in accordance with law.

23) That the contents of para 24 of the writ petition are reiterated and anything contrary to same in para 23 of the counter affidavit are incorrect and denied.

24) That the petitioner could not file the Rejoinder Affidavit because of his illness due to old age and also because of his illness due to old age and also because of meagre means, the delay in filing the Rejoinder Affidavit, if any is bonafide and deserves to be condoned in the interest of justice.

Lucknow  
dated 22/4 1984

Sunder Lal

Deponent

verification

I the above named deponent do hereby verify that the contents of para 1 to 29 are true to my own knowledge and those of paras are believed true on the basis of records. No part of it is false and nothing material fact has been concealed.

So help me God.

~~xxxxxx~~ Lucknow

dated 22/4 1984

Sunder Lal  
Deponent

(A78)

11/

ORDER SHEET  
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No.

4700

of 1981

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
21-9-81	Hon. K.S. Varma J. Hon. R.C. Deb Shukla J. Sett the petition for order in the ordinary course. Sd. K.S.V. Sd. R.C.D.S. 21-9-81	
15-12-81	15. 12. 81 In R.A. G.S. In S.R.S. No time left for B.O. etc. Sd. [Signature] D.S. 15/12/81	
21-12-81	The Shukla J. In Z.H.S.	
4-1-82	Writ for orders. Hon. Sethi J. Hon. S.S.A.J. S.O. 4-1-82	



SHEET

JUDICATURE AT ALLAHABAD.

No.

4700

of 1981

vs.

2	Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3	
	9/7/82	Went for order Honble Mr. V.S. Honble Mr. S.A.S. Copy on 2/2/82	
	23/8/82	Went for order Honble Mr. V.S. Honble Mr. S.A.S. So on	20 2
	24/8/82	24.8.82 fixed for Re order Honble Mr. V.S. Honble Mr. S.A.S. So Book 24/8/82	2
	9/10/82	Habeas Corpus Motion Honble Mr. M.M.S.	20 2

different

n

# ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No.

4700

of 1981

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
24/3/83	<p>23-3-83</p> <p>Housman</p> <p>HOD-MAN</p> <p>It has been wrongly listed.</p> <p>24.3.1983</p> <p>Union of India</p>	<p>24-3-83</p>
	<p>23-4-83</p> <p>Fixed for attendance card for filing C. A. in W. P. No. 1 to O. P. No 1 to 3 by R. P.</p>	<p>24-4-83</p>
16-11-83	<p>Service Report</p> <p>OP 1. Lower filed by Sri C A Baskin, Advr.</p> <p>OP 2 &amp; 3. Not received since 25-4-83</p> <p>Submitted</p> <p>16/11</p>	

AS



4700

\_of 198 (

**vs.**

[illegible]

## VARALATNAMA

Before the Central Administrative Tribunal, Allahabad.  
 In the Court of Registration 843 of 1987 (T)  
W.P. No. 4700/81

Plaintiff  
 Defendant

Sunder dal Srastava

Claimant  
 Appellant  
 Petitioner

Versus

Defendant  
 Plaintiff

The Union of India  
 and others

Respondent

The President of India do hereby appoint and authorise Shri Amit Stalker, Presenting  
Officer, Allahabad

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/appellant/plaintiff/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 Amit Stalker, Presenting  
Officer, Allahabad  
 in pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed for and on behalf of the President of Indian this the.....19 .

Accepted  
 Amit Stalker  
 Counsel for Respondent

Dated.....198 .

For & on behalf of the C.O.I.

N.R.P/R.Rd. (Pb. Bg.), Delhi-35 -11,110/11-8-1986--1,000 F.

उप मुख्य यान्त्रिक अभियन्ता (कर्म०)  
 पवारी एवं माल दिव्या कर्मशाला,  
 ०० रे०, आलमबाग, लखनऊ

Designation of the Executive Officer

(ARUN KUMAR NIGAM)  
 उप मुख्य यान्त्रिक अभियन्ता (कर्म०)  
 सवारी एवं माल दिव्या कर्मशाला,  
 ०० रे०, आलमबाग, लखनऊ

(C32)

The Registrar (J)  
The Central Administration Tribunal  
Allahabad Bench, Allahabad  
Dist. Board No: 003  
23rd Thakur Road, Allahabad

(3)

Sd,

Ref: Your letter no. CAT/ALD/Jud/3136304.23/8/88  
Registration No. 843 of 1987 (T)

Most respectfully it is requested that I am an old man  
of 79 years & due to syphilis I am quite unable to get Allahabad.  
As it is requested that my car no. (ind. Dist. No. 4700 of 1981)  
may kindly be inspected at Lucknow Bench Office so as to enable  
me to attend the Court at Lucknow ~~place~~ which has been fixed  
at on 26/9/88 for hearing of same.

BT-  
6/9/88

Yours faithfully,

Sd/- Lal Sunder

S, Suklan Nagar (Meharaj - the - Road)  
Lucknow - Dist. No. 2260/88

Tr. 21/11  
Lal Sunder  
on 22.11.88  
Issue notices  
also  
12/9/88

NOTES  
on 12.10.88 for file  
CD 814 of 22.11.88  
JCS  
12.10.88

0/4 (33)

Registered  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
Circuit ~~ALLAHABAD BENCH, ALLAHABAD~~ Lucknow  
Post Bag No. 013  
~~23 A, Thornhill Road, Allahabad 211 001~~

Gandhi ~~Bhawan~~ Lucknow

No.CAT/Alld/Jud/33555/056 Dated the 14/10

Registration T.A.No. 843 of 1987 (T)

Sunder Lal Srivastava Applicant's

Versus

Union of India & ors N.B.R. Respondent's

- To ① Sunder Lal Srivastava s/o Gopal Charan R/o  
5, Subhan Nagar, Mashakgangi Ka Dhal, Lko.
- ② Sh. Amit Shalika, Advocate, 32 ~~High~~  
Nyay Marg Allahabad.

Whereas the marginally noted cases has been  
Transferred by High Court Lko under the provision  
of the Administrative Tribunal Act 13 of 1985 and registered  
in this Tribunal as above.

Writ Petition No. <u>4700/</u> of 198 <u>81</u> . of the <u>High Court Lko</u> Court at _____ of _____ arising out of order dated _____ passed by _____ in _____	The Tribunal has fixed date of <u>29.11.1988</u> . For the hearing of the matter. If no appearance is made on your behalf by you or some one duly authorised <del>to</del> Act
---	---

on your behalf, the matter will be heard and decided in  
your absence.

Given under my hand and seal of the Tribunal  
this \_\_\_\_\_ day of 12.10. 1988.

dinesh/

J. Srivastava  
12.10.88  
for DEPUTY REGISTRAR (J)

(34)  
T.A. 843/87

To

The Deputy Registrar  
The Central Administrative Tribunal  
Allahabad Bench, Allahabad.

Post Bag No. 63

~~23-A~~ Thornhill Road, Allahabad - 20001

Ref: your no: CAT/ALD/Jud/32363 dt: 23.0.88

Registration T.A. No: 843/1987 (T)

Sub: Writ Petition No: 4700 of 1981 (High Court - Lucknow Bench  
my 1st application dt: 6.9.88 in response.

Dear Sir,

Most respectfully I beg to state that due old age of  
about 79 years & also an accidental injury in my legs I  
am quite unable to move anywhere. Therefore, it is requested  
that the above mentioned my case, fixed on 26.9.88 for hearing,  
may please be transferred to Lucknow Bench office, at Gandhi-  
(Tribunal)  
Bhawan Court office for hearing please.

Thanking you in anticipation,

Dr  
10/9/88

Yours faithfully

Sunder Lal Srivastava

S/o. Shri Gopal Charan (late)

R/o. J. Subramaniam, Mahatma - Ka - Bhad,  
Lucknow. - 226018

11/88

(3)

In Tre

In The Central Administrative Tribunal  
Allahabad

(35)

To,  
The Deputy Registrar  
Central Administrative Tribunal  
Allahabad.

Date, 18.4.88

Ref: Registration No. 843 of 1987 (T)  
(Civil Petition No. 4700 of 1981)  
Sunder Lal Sinha v/s. Union of India

Dear Sir,

The above civil petition has been filed by the petitioner for a direction to the Respondent to recompute the amount of pension payable to the petitioner, after counting the service rendered by the petitioner during Second World War -

The present civil petition is of the year 1981 and is very old. It is, therefore, requested that the case may be fixed for early hearing.

I am, herewith, filing my vakalatnamas on behalf of the Union of India, Respondent.

Thanking You,

Yours faithfully,

Anil S. Thakur  
(railway advocate)  
18.4.88.

S.O (T)

+ rap

18/4/88



76 (36)

Registered

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

\*\*\*\*\*  
No. CAT/Alld/Jud/3/864 Dated the 1/0/00  
T.A. No. 843 of 1987 (T)

S.L. Srivastava APPLICANT'S

Union of India <sup>Versus</sup> 2 others RESPONDENT'S.  
S.L. Srivastava, s/o Shri Gopal Charan, R/o 5  
Subhan Nagar Masakganj Ka dhal Lucknow.

Whereas the marginally noted cases has been  
Transferred by High Court under the provision of  
the Administrative Tribunal Act (No. 131 of 1985) and  
registered in this Tribunal as above.

The Tribunal has filed  
Writ Petition No. 4700/81 DATE OF 12-8 1988.  
of 198 on the The hearing of the matter.  
court at High Court Lko If no appearance is  
of \_\_\_\_\_ made on your behalf by  
arising out of order dated \_\_\_\_\_ your some one duly autho.  
\_\_\_\_\_ rised to Act and \_\_\_\_\_  
passed by \_\_\_\_\_  
in \_\_\_\_\_

on your behalf the matter will be heard and decided  
in your absence.

Given under my hand and seal of the Tribunal  
this 14/7 day of 1988.

① Union of India through  
the Secretary Government  
of India Ministry of Railways  
New Delhi.

(Deputy Registrar) (J)

② General Manager Northern Railway Baroda  
House New Delhi.

③ Chief Mechanical Engineer (W) Carriage  
& Wagon Workshop Northern Railway  
Alambagh Lucknow.

1 to 3 through Sri Anit Sthalke

Adv.  
CAT, ALLD

Received  
Anit Sthalke  
19.7.88