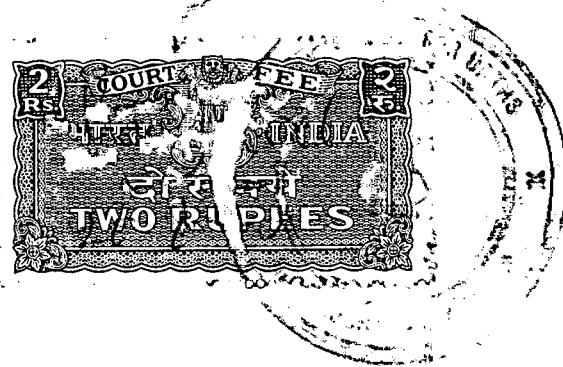


BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW.

T.A. NO. 850 OF 1987 (T)  
WRIT PETITION NO. 4953 OF 1981

A-57



Brij Lal

.....

Petitioner

Versus

Union of India  
and others

.....

Opp. Parties.

REJOINDER AFFIDAVIT TO THE WRITTEN STATEMENT  
OF OPPOSITE PARTIES

I, Brij Lal aged about 48 years, son of Shri Lakhai, resident of Pachperwa, Post - Fardhan, District - Kheri, do hereby solemnly affirm and state as under :-

1. That the deponent is the petitioner in the aforesaid Writ Petition which has been transferred to this Hon'ble Tribunal. The deponent has been explained the contents of the Written Statement in a shape of affidavit filed by Keshav Dev, the Senior Mechanical Engineer and after being fully conversant with the facts, gives replies to those as under :-

Contd.....2/

ESTD 1970

2. That the contents of paragraph 1 of the written statement need no reply.

3. That ~~xxxxxx~~ the contents of paragraph 2 of the written statement are denied and the contents of paragraph 1 of the writ petition are reiterated. The deponent was appointed by the Senior Divisional Mechanical Engineer and the opposite parties may produce the relevant records before this Hon'ble Court.

4. That the contents of paragraph 3 of the written statement are denied and the contents of paragraph 2 of the writ petition are reiterated. The deponent was appointed as permanent Fire-man-II and he was not officiating as Fire Man-II as alleged in para under reply.

5. That the contents of paragraphs 4 & 5 of the written statement are denied. There was no existing circumstance to show that it was ~~not~~ practicable to hold any enquiry for the allegations made against the deponent. It is also relevant to mention that a F.I.R. was lodged by one Mahesh Chandra Sinha against the deponent for which the deponent was tried by Chief Judicial Magistrate, Lakhimpur Kheri vide case No. 369 of 1979 in which the witnesses appeared. After considering the evidence on record, the Court recorded its finding that the allegations made against the deponent were false, incorrect and he was falsely implicated in the case, as such the deponent was acquitted. A photocopy of the judgement passed by C.J.M., Kheri dated 4.8.1982 is being filed herewith as ANNEXURE NO. R-1 to this affidavit.

6. That the contents of paragraph 6 of the written statement are denied and the contents of paragraph 5 of the writ petition are reiterated. The story of assault to a Senior Officer is totally false and as stated above, the Court has already recorded its finding that the deponent was falsely implicated in that case.

7. That in reply to the contents of paragraph 7 of the written statement, it is stated that in the case registered against the deponent, the Court has already recorded its finding that the deponent was falsely implicated in that case, as such that instance cannot be taken into consideration against the deponent.

8. That the contents of paragraph 8 of the written statement need no reply.

9. That the contents of paragraph 9 of the written statement are denied and the contents of paragraph 8 of the writ petition are reiterated.

10. That in reply to the contents of paragraph 10 of the written statement, it is stated that the order passed in the appeal is totally an un-speaking order and that does not show that the authority concerned has applied its mind.

11. That the contents of paragraph 11 of the written statement is absolutely incorrect, wrong and false. It is denied that the deponent was called in any enquiry said to be confidential fact finding enquiry and the deponent did not turn up in that. As a matter of fact, the deponent has no knowledge about any said enquiry and the deponent believes that no such enquiry took place but now the opposite parties are trying to make out a case against the deponent. The Divisional Superintendent has also not applied his mind and the copies served upon the deponent does not disclose any reason for not holding the enquiry. For the first time in the <sup>counter</sup> ~~rejoinder~~ affidavit, the so-called reason has been annexed as Annexure No.C-1 with the written statement. The Annexure No.1 filed with the written statement was not the only paper which was served upon the deponent. However, the deponent states that the reasons disclosed in Annexure No.C-1 is itself unreasonable and unsatisfactory in proceeding under Rule 14(ii) of DAR 1968. As a matter of fact, the Court directed at the time of admission of the writ petition to produce the said reasons but the opposite parties filed before the Court to produce. It appears that now a forged document has been prepared and has filed as Annexure No.C-1



EST 1911

12. That the contents of paragraphs 12 & 13 of the written statement, as stated, are denied and the contents of paragraphs 11 & 12 of the writ petition are reiterated. The appeal has wrongly been dismissed. No reason has been assigned for the dismissal of the appeal, as such it is illegal.

13. That the contents of paragraph 14 of the written statement  
need no reply.

14. That the contents of paragraph 15 of the written statement are denied as absolutely incorrect, wrong and false. The order of dismissal is liable to be set aside and the deponent is entitled for all the consequential benefits, as if the dismissal order did never exist.

15. That the contents of paragraph 16 of the written statement are denied as absolutely incorrect, wrong and false. The Writ Petition is liable to be allowed with cost in favour of the deponent.

Lucknow :

Dated : 28 Aug. 1990

2510917

[ DEPONENT ]

## VERIFICATION

I, the above named deponent, do hereby verify that the contents of paragraphs 1 to 15 of this affidavit are true to my own knowledge: Nothing is false and no material has been concealed by the deponent, so help me God.

Signed and verified this                    day of August 1990 in the High  
Court's Compound, Lucknow.

Lucknow : /

Dated 8 Aug. 1990.

[ DEPONENT ]

I identify the deponent who has signed before me.

[ Ishtiyaq Ahmad ] Clerk to  
Shri I.B. Singh, Advocate

Solemnly affirmed before me  
on the 28<sup>th</sup> at 10.30 A.M. P.M.  
by Shri Brij Lal,  
the deponent, who is identified by  
Mr. Ishtiyaqe Ahmad, Clerk to  
Shri I.B. Singh, Advocate,  
High Court, sitting at Lucknow.

that he has satisfied myself by examining the defendant  
which have been read over and explained by me to him.

Q. B. AMUJAW.  
OATH COMMISSIONER

Group A (b)

7375

In the HON'BLE HIGH COURT OF JUDICATURE, SITTING  
At Lucknow  
Writ petition No 11 of 1981

U953

A-11

Brij Lal ... ... Petitioner

versus

Union of India and others .. Opp. Parties.

INDEX

S.NO.	PARTICULAR	DATED	PAGES
1.	Writ Petition.		1, to 6
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3.	Annexure No. 2 order of dismissal of appeal	7.8.81	9
4.	Annexure No. 3 certified copy of the judgment passed in writ petition no. 1155 of 1978	26.10.78	10
5.	Affidavit	---	11

Lucknow:

Dated: 21.9.81

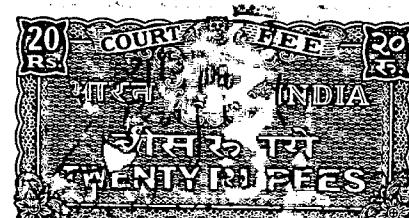
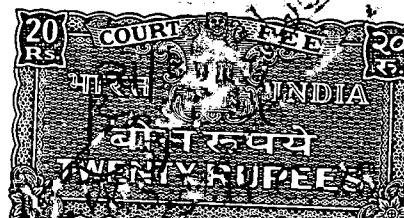
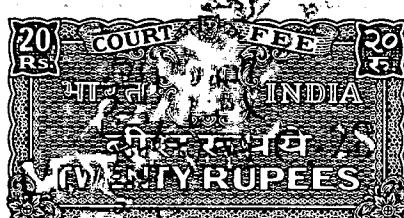
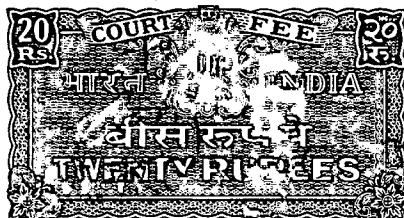
IB Singh  
(I.B.SINGH)  
Advocate

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

A-12

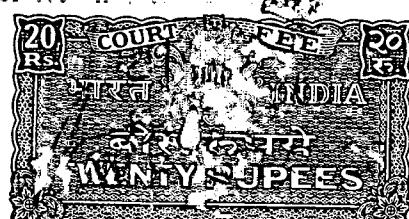
Writ Petition No.

1981.



Brij Lal son of Sri Lakhai, Resident of Village  
Pachparwa, Post Furdhan, Distt. Kheri, Ex-fireman D  
Mailani shed.

Petitioner.



54246/9

V<sub>S</sub>

1. Union of India, through General Manager, N.E. Railway, Gorakhpur.
2. Divisional Railway Manager, N.E. Railway, Lucknow Division, Lucknow.
3. Sr. Divisional Mechanical Engineer, N.E. Railway, Lucknow Division, Lucknow.

Opp. Parties.



T<sub>0</sub>

The Hon'ble Chief Justice and his companion Judges  
of the aforesaid court.

The humble petition of the above named applicant  
most respectfully shoeth as under :-

1) That the petitioner was appointed as fitter Khalasi by the opposite No. 3 on 21/1/65 and after due promotion was working as Fire-Man-II in the year 1978 when he met with the ill-fate of the order of dismissal from his service under Rule 14(2) of the

Cont'd. 2/-



✓ 250000

32:

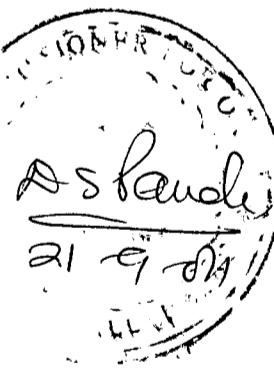
Discipline & Appeal Rule 1964-68 ( here and after called as D.A.R. ) on 12/12/78 by the opposite party No.2 who was then designated as Divisional Superintendent. The said order of the dismissal from the service of the petitioner is annexed as Annexure No. 3 of this petition.

- 2) That the petitioner was a permanent on his post and at the time of his dismissal his Pay-scale was Rs. 200-250 and was posted as Fireman-II in Mailani Shed.
- 3) That no charges, on which the penalty was imposed, were disclosed nor the petitioner was given address of the materials to which any such charges were based and the evidence in the support thereof, nor he was given opportunity to defend himself.
- 4) That the petitioner acted in a disciplined manner and has performed his duties consciously and devotedly and never any occasion arose for his superiors to have any comment about his duties work and behaviour.
- 5) That the petitioner never participated in any General Strike and has never been arrested or detained and on the contrary, there are so many railway workers and their leaders who participated in the General Strike and were arrested and detained, have been taken back in their respective jobs.

D.S. Pandey  
21-9-78

JMB

- 6) That there has been no L.I.R. or report or complained by any member of the staff for any illegal act, against the petitioner.
- 7) That before the impugned order contained in Annexure No. (1), the petitioner was never suspended, charge-sheet or no show-cause in any case, has been issued against him.
- 8) That there were no charges against petitioner and if there were any, these are not in the within the knowledge of the petitioner nor he was given any opportunity to meet any such charge.
- 9) That the petitioner preferred a review to the opposite party No. 1 on 21.1.79 and then also appeal to opposite party No. 2 & 3 through proper channel and reminders dated 2.4.80, 7.12.80 & 7.3.81 which was ultimately dismissed on 29.6.81/16.7.81 by the General Manager, M.E. Railway which the petitioner received on 7.8.81. The photocopy of the said order dated 29.6.81/16.7.81 is being filed herewith as Annexure No.2 of this petition. The letter of which was conveyed to the petitioner was signed by some officer for Divisional Railway Manager (Personnel), Lucknow.
- 10) That there were no circumstance before Shri R. M. Phasker, Divisional Superintendent, Lucknow (Divisional Railway Engineer) to invite special procedure for the removal of the petitioner from the service.

  
21-9-81

11) That General Manager, N.E. Railway has considered the case of the petitioner illegally, arbitrary and dismissed his appeal without applying his mind. Further, no opportunity was given to the petitioner by the General Manager for his personal hearing.

12) That the impugned order has been passed mechanically on cyclostyle paper only after filling the blanks in the name of the petitioner.

13) That the similar W.P. No. 1452/76, Juggal Dev and others Vs. Union of India and others, W.P. No. 1454/76, Keshav Prasad and another Vs. Union of India and others, W.P. No. 3438/76, Ram Shanker Vs. Union of India and others, W.P. No. 218/77, D.C. Tewari and others Vs. Union of India and others, W.P. No. 1155/78, Shiv Narain Lal and others Vs. Union of India and others on the similar facts, have been decided by this Hon'ble Court. The certified copy of W.P. No. 1158/78 is being filed as Annexure-3 of this petition.

14) That petitioner is entitled to enjoy the facilities of Railway Quarter, free passes, P.T.O's, and other facilities like educational facilities, medical facilities for his family which he was enjoying.

15) That the petitioner has no other alternative or speedy for efficacious remedy but to invoke the jurisdiction of this Hon'ble High Court on the following amongst other G R O U N D S :-

- i) because the impugned orders contained in Annexure 3 & 2 are bad in law and without jurisdiction.

- ii) because the orders regarding satisfaction are mechanical and the authority has not applied his mind to the facts and these circumstances are liable to be struck down.
- iii) because the principle of natural justice has been violated in as much as that no right of personal hearing has been granted to the petitioner even on the quantum of sentence.
- iv) because the impugned orders are vitiated by illegal, arbitrary, malafide, biased, vindictive mentality and bad exercises of jurisdiction.
- v) because the impugned orders are vague indefinite, false and without any basis.
- vi) because there was no circumstance warranting the exercise of power under Rule 14(2) of the said rules.
- vii) because dismissal of appeal is un-speaking and has been passed without applying the mind.
- viii) because the impugned orders are ultravires, illegal, void, invalid, contrary to the provisions of Article 311(ii) of the Constitution of India and Rules 9 to 13 of the said rules.
- ix) because the impugned orders in fact and in effect purports to take away the constitutional rights and the constitutional safe guard of the petitioner.

x) because the opposite parties have arbitrarily picked and chooses the petitioner for victimisation and have thereby arbitrarily, malafide irrationally and unjustly discriminated against him and denied him the equality of opportunity in matters relating to employment under the stage.

P R A Y E R

WHEREFORE, it is most respectfully prayed that this Hon'ble Court may be pleased to :-

1. To issue writ, order or directive in the nature of Certiorari quashing the impugned orders contained in Annexure 1, & 2.
2. To pass such order and further writ or directives as this Hon'ble Court may deem fit and proper in the circumstances of the case.
3. To award costs throughout to the petitioner.

D. Singh  
21-9-81

*IB Singh Adm.*  
( I.B. SINGH )  
ADVOCATE

LUCKNOW :  
Dated : Sept. 21, 1981

COUNSEL FOR THE PETITIONER.

*RECORDED*

A-18

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

Writ Petition No.

1981.

Brij Lal son of Sri Lakhai  
and Others

.....Petitioner.

Vs.

Union of India and Others

.....Opp. Parties.

ANNEXURE -I

N.E. Railway

Notice of imposition of Penalty

No. LD/55/Assault

Dated 12.12.78.

To,

Name - Sri Brij Lal

Father's

Name - Lekhai

Designation - Fireman-II Formerly Mailani Shed

Department - Mechanical

T.N. XX - Date of appointment 21-1-1965.

Station - Mailani - Scale of Pay Rs. 200-250

I, the undersigned being the authority empowered to dismiss or remove you from service as disciplinary authority, am fully satisfied that for the reason which have been recorded in writing, it is not reasonably practicable to hold an enquiry in the manner provided under the rules and exercise of Power vested in me as Disciplinary authority under Rule 14(ii) of the Discipline and Appeal Rules - 1968 read with proviso(g) to Article 311(2) of Indian Constitution and considering the circumstances of your case I have decided to dismiss you from service from the post of Fireman-II in the Scale of

D Shandy  
24-9-78

ES10101

Cont'd....

Rs. 200-250 with effect from 12.12.78 (Forenoon). A.V

2. Under Rule 18 of the Railway Servant's (D&A) Rules, 1968 an appeal against these order lies to Chief of Suptt. N.E.Railway, Gorakhpur provided :-

- (i) the appeal is submitted through proper channel within 45 days from the date of you receive orders :- and
- (ii) the appeal does not contain improper or disrespectful language.

Please acknowledge receipt this letter.

Signature - L.M. Bhasker  
Divisional Supt.  
N.E.R., Lucknow  
Designation of the Disciplinary Authority.

02540101

~~02540101~~

In the Hawke High Court of Judicature  
on Petition of Mr. <sup>Setting out</sup> Lubnow  
of 1981

o Brij Lal ... Jesus ... Retrievers  
Union of India and others ... off Rashtra

## ANNEURE - 2

पूर्वीत्तर रैलवे

## कार्यालय

ਲੁਧਿਆਣਾ ਪ੍ਰਦੇਸ਼ ਵਿਦਿਆਰਥੀ ਮੁਕਾਬਲਾ ।।।  
ਲੁਧਿਆਣਾ ਵਿਦਿਆਰਥੀ 29-6-81

167.8

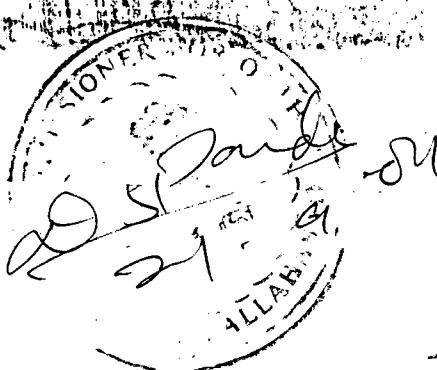
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ਭੂਲਪੂਰ੍ਵ ਫਾਗ ਏਸੇਨ ॥  
ਦੁਵਾਰਾ ਛੋਕੇ ਪੋਤਾਏਸੇਨ  
ਪ੍ਰਵਾਸਤਾ ਲੇਖੇ ਸ਼ਹੀਨ ॥

तिरुप्पी - दिसमिक्ष्य

भरी प्रबन्ध की गोरखपुर वे भाषणी व्याप्ति पे बार वापरे दिसेगल्लु  
क्षेत्री भाषणी बार पूछ बिचार किया ।

उन्होंने स्वलिंगत स्व थे तासकी गति सुनने लैलिए थोरा छाइट मिश्र थे लाल लावस्थवता नहीं समझे । उसीह के सभा उन्होंने परारत यात्रेश के फैर यद्यु करने में लक्ष्यरहित लालस करने से तुम्ह लाई दिया दे कि लासकी हिया गया है, चिकित्सा लागू रणगा म

द्वितीय मेल्ला द्वारा प्रयत्नक (कार्यक्रम)  
गुजरात



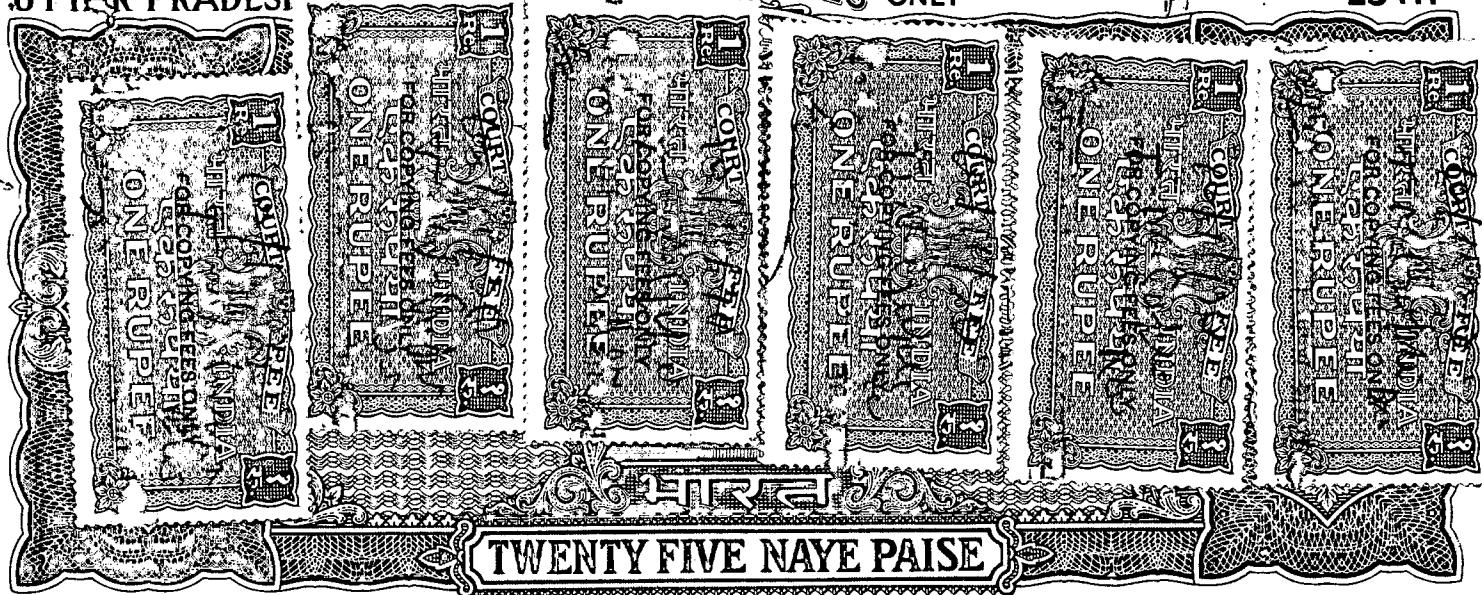
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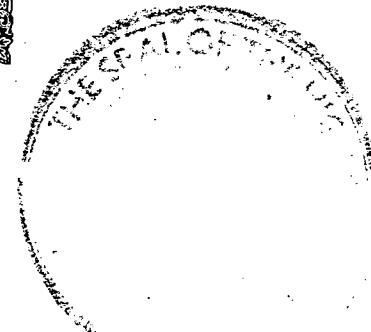


केवल नक्ल की फीस के लिए

Date on which application is made for copy accompanied by the requisite stamps.	Date of posting notice on notice board.	Date of delivery of copy.	Signature of official delivering copy.
आवश्यक स्टाम्प सहित प्रार्थना पत्र देने की तारीख 13-11-28	नोटिस बोर्ड पर नक्ल तैयार होने की सूचना की तारीख 16-11-28	नक्ल वापिस दिए जाने की तारीख 18-11-28	नक्ल वापिस देने वाले अधिकारी का हस्ताक्षर 18-11-28



18-11-28  
E-2269



Writ Pet. No. 1155 of 1978

Shri Ramai Lal & others

... Petitioners.

Versus

Govt. of India & others

... C.P. Parties.

W.L. PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

LUCK C. J. & J.D: 26-10-1978

Hon'ble U.C.Srivastava, J.  
Hon'ble K.N.Goyal, J.

(Delivered by Hon'ble K.N.Goyal, J.)

The petitioners are railway servants who have been dismissed without being afforded an opportunity of showing cause against their proposed dismissal. The orders purport to have been made under Rule 14(ii) of the Discipline and Appeal Rules, 1968, read with proviso(b) of Article 311 (2) of the Indian Constitution.

The only ground on which it has been held by the Senior Divisional Mechanical Engineer that it was not practicable to hold an inquiry is that the witnesses who would be produced against the petitioners were under fear and danger to their persons and as such they would not be in a position to depose freely. It is well settled that this is not a ground which can be validly treated to be a ground on which the authority can arrive at a conclusion that it is not reasonably practicable to hold an inquiry. Learned counsel for the opposite parties does not contest this legal position.

The writ petition is accordingly ~~inxaggm~~ allowed and the orders annexures 1, 2 and 3 to the writ petition are hereby quashed. There will be no order as to costs.

Decided  
21-10-1978

1/10/78  
16/11/78

Sd/- U.C.Srivastava.

Sd/- K.N.Goyal.

26-10-1978

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

WRIT PETITION No. 1155 of 1978

Sheo Narain Lal & others

....Petitioners.

Versus

Union of India & others

...Opp. Parties.

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

LUCKNOW DATED: 26-10-1978

Hon'ble U.C. Srivastava, J.  
Hon'ble K.N. Goyal, J.

(Delivered by Hon'ble K.N. Goyal, J.)

The petitioners are railway servants who have been dismissed without being afforded an opportunity of showing cause against their proposed dismissal. The orders purport to have been made under Rule 14(ii) of the Discipline and Appeal Rules, 1968, read with proviso(h) of Article 311 (2) of the Indian Constitution.

The only ground on which it has been held by the Senior Divisional Mechanical Engineer that it was not practicable to hold an enquiry is that the witnesses who would be produced against the petitioners were under fear and danger to their persons and as such they would not be in a position to depose freely. It is well settled that this is not a ground which can be validly treated that ~~this is not~~ a ground on which authority can arrive at a conclusion that it is not reasonably practicable to hold an inquiry. Learned counsel for the opposite parties does not contest this legal position.

The writ petition is accordingly allowed and the orders Annexures 1,2 and 3 to the writ petition are hereby quashed. There will be no order as to costs.

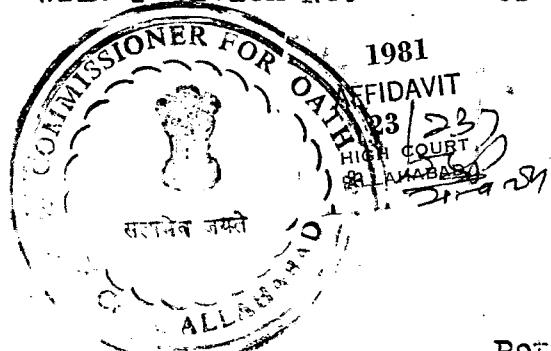
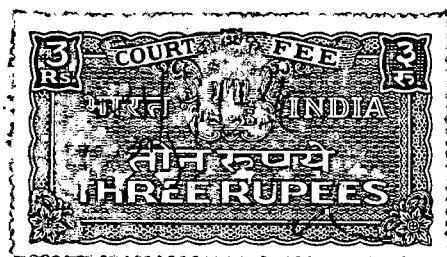
Sd/- U.C. Srivastava.

Sd/- K.N. Goyal.

26-10-1978

A 24

IN THE HON'BLE HIGH COURT OF JUDICATURE, SITTING AT LUCKNOW  
Writ Petition No. of 1981



Brij Lal ... Petitioner  
Versus  
Union of India, and others ... Opp. Parties

AFFIDAVIT

I, Brij Lal aged about 56 years son Sri Lakhai resident of Village Pachporwa, Post Puriyan, district Kheri, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the petitioner of the abovenoted petition as such is fully conversant with the facts deposed herein under:-
2. That the contents of para 1 to 15 of the writ petition are true to the own knowledge of the deponent.
3. That nothing material has been concealed by the deponent So help him God.

Lucknow:

23/9/81  
(Deponent)

Dated: 21-9-81

varification

I the abovenamed deponent do hereby verify that the contents of para 1 to 5 of this petition are true to his own knowledge, and nothing material has been concealed by him. So help him God.

Signed and varified on this 21 day of Sep. 1981 in the Court Compound.

Lucknow:

21/9/81  
(Deponent)

Dated: 21-9-81  
I identify the deponent who has signed before me on this day of Sep. 1981 at 11 a.m./p.m. by Sri Brij Lal who has been identified by Sri I.B.SINGH, Advocate High Court Lucknow.  
I have satisfied myself by examining the deponent that he understands the contents of the affidavit which has been read over and explained by me.

Dal Singh Handay  
O. S. P. & B. Advocate  
1. M. L. C. C. A. M. N. E. C. H. B. A. D.

23/25  
21-9-81

23/9/81

ब अदालत श्रीमान

वादी(मुद्दे)

प्रतिवादी (मुद्दालेह)

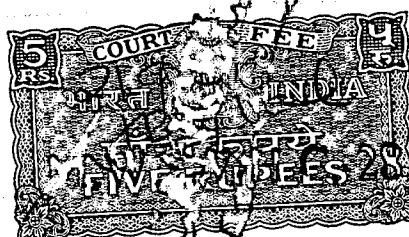
Hon'ble High Court of Judicature  
सर्वोच्च न्यायालय

महोदय

A-261

का वकालतनामा

C. P. No. 1981

1925  
२५१

Brij Lal

वादी (मुद्दे)

B/11

Union of India  
and others

प्रतिवादी (मुद्दालेह)

C. P. No.

1981

नं० मुकदमा सन् १६ पेशी की ता० १६ ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

I. B. Singh Ade.

एडवोकेट

महोदय  
वकीलअदालत  
ना० मुकदमा फरीक्की  
ना० नं० ना०

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  
जारी करावें और रूपया 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 रूपया जमा करें या हमारी या विपक्षी [फरीक्कीसानी] का  
दाखिल किया रूपया 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।

हस्ताक्षर ०२१०८०८

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक २।

महीना फ

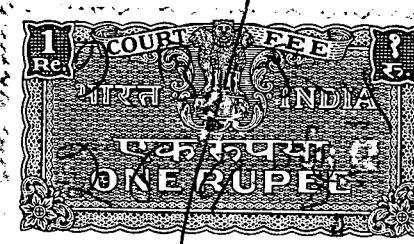
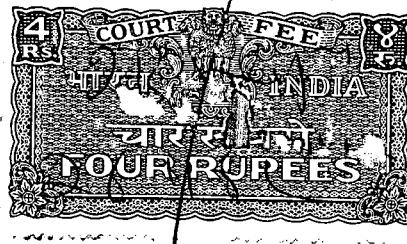
१६ ई०

A-27

C.M. No 4299/81/2

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

Writ Petition No. 4953 of 1981.



2 C.F. = Rs 5/-  
A-3  
29/4/81  
Brijlal son of Lakhai,  
Resident of Village-  
Packparwa, Post-Furdhan,  
Distt. Kheri, Ex-fireman II,  
Mailani-Shed, Mailani, Kheri,

..... Petitioner.

Versus

1. Union of India through General Manager, N.E.Railway, Gorakhpur.
2. Divisional Railway Manager, N.E. Railway, Lucknow Division, Lucknow.
3. Senior Divisional Mechanical Engineer, N.E. Railway, Lucknow Division, Lucknow. .... Opp. Parties

APPLICATION FOR INTERIM RELIEF

I, the above named petitioner applicant begs to state as under :-

That for the facts and reasons stated in the accompanying affidavit it is most respectfully prayed that this Hon'ble Court may kindly be pleased to direct the opposite parties to pay the salary of the petitioner during pendency of the writ petition or any other relief which this Hon'ble Court may think proper.

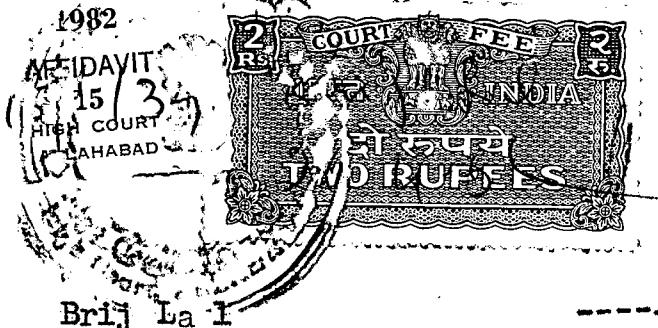
B/e  
Lucknow:  
Dated : Apr. 26, 1981

1/81/1  
(I.B. Singh)  
Advocate  
Counsel for the applicant.

A29 5/2

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

Writ Petition No. 4953 of 1981.



Brij Lal

Petitioner.

Versus

Union of India & others

Opp. Parties.

#### AFFIDAVIT

I, Brij Lal, aged about 36 years son of Shri Lakhai, Resident of village - Pachparwa, Post - Furdhan Distt. Kheri, do hereby solemnly affirmed and state on oath as under :-

1. That the deponent is the petitioner of the petition and is fully conversant with the facts deposes herein under :-
2. That the deponent became victim of illegal dismissal from his service on 12.12.1978 by the orders of opposite Party No.2.
3. That the deponent is not getting his salary and is not employed anywhere and has got no source of income as such the whole family of the deponent is on the verge of starvation.
4. That the deponent was dismissed under Rule 14(1) of Disciple and Appeal Rules 1964-68 which has been challenged in several writ petitions and the writ petitions have been allowed.
5. That the opp. parties are doing their best to oust the deponent from his quarters a/c. 1951 Loco Colaney Mairani, Kheri which is allotted in his name.

of 5/2/107

2.

6. That in writ petition No. 4882 of 1981, challenged on the similar ground, this Hon'ble Court has been pleased to direct the opposite parties to pay the salary of the petitioner of that petition.

7. That the petitioner has not paid the salary, he will suffer irrecoverable loss.

Lucknow: <sup>h</sup>  
Dated : Apr. 26, 1982.

*OS/AN/1*  
Petitioner.

V\_E\_R\_I\_F\_I\_E\_A\_T\_I\_O\_N

I, the above named petitioner, do hereby verify that the contents of paras 1 to <sup>7</sup> of this affidavit are true to my personal knowledge.

No part of it is false and nothing material has been concealed, so help me god.

*OS/AN/1*  
Petitioner.

Lucknow: <sup>h</sup>  
Dated 1 Apr. 26, 1982.

I identify the petitioner who has signed before me.

*I.B.Singh*  
(I.B.Singh)  
Advocate

Solemnly affirmed before me on 26/4/82 at 9.30....A.M./P.M. by Sri Brij Lal the deponent who is identified by Sri I.B. Singh

Advocate, High Court, sitting at Lucknow.

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

*V. N. SINGH*  
(V. N. SINGH)

Cath Commissioner,  
High Court Allahabad,  
Lucknow Bench.  
No 115/15/329  
Date 26/4/82.

IN THE HON'BLE HIGH COURT OF JUDICATURE SITTING AT  
LUCKNOW.  
Writ Petition No. 4953 of 1981.

*Bench copy*

Brij Lal son of Lakhai,  
Resident of Village-  
Pachparwa, Post-Furdhan,  
Distt. Kheri, Ex-fireman II,  
Mailani-Shed, Mailani, Kheri. .... Petitioner

Versus

1. Union of India through General Manager, N.E.Railway, Gorakhpur
2. Divisional Railway Manager, N.E. Railway, Lucknow Division, Lucknow.
3. Senior Divisional Mechanical Engineer, N.E. Railway, Lucknow Division, Lucknow. .... Opp. Parties

APPLICATION FOR INTERIM RELIEF

I, the above named petitioner applicant begs to state as under :-

That for the facts and reasons stated in the accompanying affidavit it is most respectfully prayed that this Hon'ble Court may kindly be pleased to direct the opposite parties to pay the salary of the petitioner during pendency of the writ petition or anyother relief which this Hon'ble Court may think proper.

*IBS/1*

(I.B.Singh)  
Advocate

Counsel for the applicant.

Lucknow:  
Dated : Apr. 26, 1982

p-31

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

Writ Petition B.4953 of 1981.

Drij Lal

Petitioner.

Versus

Union of India & others

Opp. Parties.

ANNAHATA

I, Drij Lal, aged about 36 years son of Sri Lakhai, Resident of village - Bachpura, Post - Durhan Distt. Bhor, do hereby solemnly affirm and state on oath as under :-

1. That the defendant is the petitioner of the petition and is fully conversant with the facts docketed herein under B.<sup>1</sup>.
2. That the defendant became victim of illegal dismissal from his service on 12.12.1978 by the orders of opposite Party B.<sup>1</sup>.
3. That the defendant is not getting his salary and is not employed anywhere and has got no source of income as such the whole family of the defendant is on the verge of starvation.
4. That the defendant was dismissed under Rule 14(2) of Disciple and Appeal Rules 1964-68 which has been disallowed in several writ petitions and the writ petitions have been allowed.

5. That the opp. parties are ~~doing their best~~ <sup>24</sup> to oust the defendant from his quarters which no. 195-F Loco Colony Marhami, Kheen allotted in his name.

6. That in writ petition B. 4882 of 1981, challenged on the similar ground, this Hon'ble Court has been pleased to direct the opposite parties to pay the salary of the petitioner of that petition.

7. That the petitioner has not paid the salary, he will suffer irrecoverable loss.

Lucknow  
Dated 10/10/81.

Petitioner.

VERIFICATION

I, the above named petitioner, do hereby verify that the contents of paras 1 to 6 of this affidavit are true to my personal knowledge.

No part of it is false and nothing material has been concealed, so help me God.

Petitioner.

Lucknow  
Dated 10/10/81.

I identify the petitioner who has signed before me.

(I.B.Singh)  
Advocate

Solemnly affirmed before me on 10/10/81  
at 10.00 A.M./P.M. by Sri  
the opponent who is identified by  
Sri

Advocate, High Court, sitting at Lucknow.

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

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

Misc. Application No. 3769 (c)  
of 1983.  
In Re  
Writ Petition No. 4953  
of 1981.

PC 26



14-2/2  
24/3/83

6617

Brij Lal, son of Kakhai, Resident of  
Village Pachparwa, Post-Furdha, Distt.  
Kheiri, Ex-fireman-II, Mailani-Shed,  
Mailani, Kheiri.

..... Petitioner.

Versus

1. Union of India, through General Manager, N.E. Railway, Gorakhpur.
2. Divisional Railway Manager, N.E. Railway, Lucknow Division, Lucknow.
3. Senior Divisional Mechanical Engineer, N.E. Railway, Lucknow Division, Lucknow.

..... Opp. Parties.

SECOND APPLICATION FOR INTERIM RELIEF :

The above named petitioner- applicant most humbly begs to state as under :-

1. That for the facts and reasons disclosed in the accompanying affidavit, it is most respectfully prayed that this Hon'ble Court may kindly be pleased to stay the operation of order dated 12.12.1988 and dated 7.8.1981, passed by the Opposite parties No. 3 & 2 respectively, contained in Annexure No. 1 & 2 to the Writ Petition. In alternative the opposite parties may be directed to pay the salary of the petitioner during the pendency of the Writ Petition, or any other relief which this Hon'ble Court may think proper, may be granted in favour of the petitioner.

Lucknow :  
Dated : March , 1983

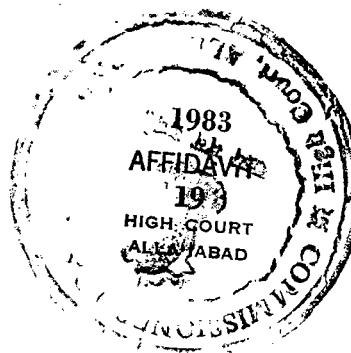
*B. Singh*  
Counsel for the the Applicant  
I. B. SINGH, Adv.

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

Misc. Appl. No. of 1983.

In Re

Writ Petition No. 4953 of 1981.



Brij Lal

.....

Petitioner

Versus

Union of India  
& others

.....

.....

Opp. Parties.

A F F I D A V I T

I, Brij Lal, aged about 37 years, son of Shri Lakhai, Resident of Village - Pachparwa, Post Furdhan, District Kheiri, do hereby solemnly affirmed and state on oath as under :-

1. That the deponent is the petitioner of the petition and is fully conversant with the facts deposes herein under :-
2. That the deponent became victim of illegal dismissal from his service on 12.12.1978 by the orders of opposite party No. 2.
3. That the deponent is not getting his salary and is not employed anywhere and has got no source of income as such the whole family of the deponent is on the verge of starvation.

Ex-Subpoena

.....2.....

4. That the deponent was dismissed under Rule 14(2) of Discipline and Appeal Rules 1964-68 which has been challenged in several Writ petitions ~~and~~ and the Writ Petitions have been allowed.

5. That the petitioner is in possession over the Quarter No. 195-F, in the Loco Colony, Mailani, District Eheiri which is allotted to the petitioner, the opposite parties are trying their level best to oust the petitioner from the said colony.

6. 8 That in Writ Petition No. 4882 of 1981, challenged on the similar ground, this Hon'ble Court has been pleased to direct the opposite parties to pay the salary of the petitioner of that petition.

7. That similar Writ Petitions, filed by the Railway Servants in Supreme Court, ~~have been~~ against the similar orders, the petitioners have been allowed to draw their salary which were lastly

02/01/08

.....3.....

*URGENT* *25/2/84* *A-39*

**APPLICATION FOR INSPECTION**



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

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

Full Description of case	Whether case pending or decided	Full particulars of papers of which inspection is required	Name of person who will inspect record	If applicant is not a party reason for inspection.	Office report and order
Brig. S. L. K. vs Union of India W.P. No 4953/81	Pending	Inspection of Paper & book	T. B. Singh / Adv.		Please V. K. Singh Office Report B2 Order for Inspection B2 Deputy Registrar 25/2/84 T. B. Singh / Adv.

Date 25/2/84

Signature of applicant or his Advocate

Inspection commenced at 1.25 PM on 25/2/84

Inspection concluded at 1.43 PM

Inspection fee paid by the applicant

Additional fee if any

*gratuitous  
V. K. Singh / Adv.*

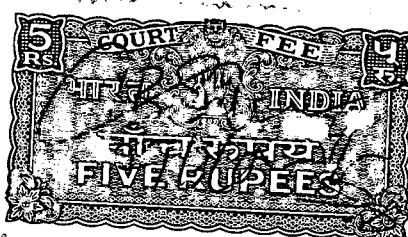
7/1

P-30

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

Civil ~~Ex.~~ Misc. Application No. 3081 (W) of '84  
in re

Writ Petition No 4953 of 1981



(C.Y.M.S.P.  
27/12/84)

Brij Lal, son of Lakhai, Resident of  
Village Pachperwa, Post Phardhan,  
District Kheiri, ex-Fireman-II, Mailani  
Shed, Mailani, District Kheiri.

.....

Petitioner-  
Applicant.

Versus

1. Union of India through General Manager,  
N.E.Railway, Gorakhpur.
2. Divisional Manager, N.E.Railway, Lucknow  
Division, Lucknow.
3. Senior Divisional Mechanical Engineer, N.E.  
Railway, Lucknow Division, Lucknow.

.....

Opposite  
Parties.

APPLICATION FOR INTERIM RELIEF

The above named petitioner-applicant most  
respectfully begs to state as under :-

1. That for the facts and reasons disclosed in  
the accompanying affidavit, it is most respectfully  
prayed that this Hon'ble Court may kindly be pleased to  
stay the operation of the order dated 12.12.1973 and

.....2.....

A-39

2

: 2 :

dated 7.8.1981, passed by the opposite parties No. 3 & 2 respectively, contained in Annexure No. 1 and 2 to the Writ Petition. It is further prayed that in alternative the opposite parties may be directed to pay the salary of the petitioner, during the pendency of the Writ Petition or may be pleased to grant any other relief which this Hon'ble Court may deem fit and proper in the circumstances.

*BSB*

*Adv.*

( I.B. Singh ) Adv.  
Counsel for the Applicant.

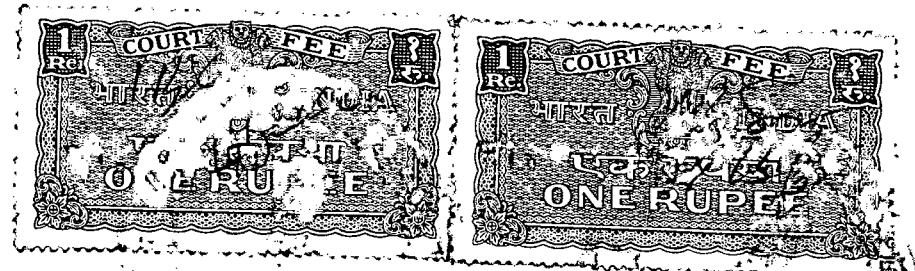
Lucknow :

Dated : March 27, 1984.

A-10  
3

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

Crl. Misc. Application No. (W) of 198



1984

AFFIDAVIT

HIGH COURT  
ALLAHABAD

Brij Lal ..... ..... Petitioner-  
Applicant.

Versus

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

AFFIDAVIT

I, Brij Lal, aged about 38 years, son  
of Shri Lakhai, Resident of Village Pachporwa, Post  
Phardham, District Kheiri, do hereby solemnly affirm  
and state as under :-

1. That the deponent is the petitioner in  
the above mentioned Writ Petition and is fully con-  
versant with the facts of the case, deposed here-  
in under :-

2. That the deponent became victim of illegal  
order of dismissal from his services of Fire-Man II

oc 2010  
21/3/84  
Mukesh

on 12.12.1978 by the orders of the opposite party No. 2. The ~~stay~~ order was passed without giving any opportunity to the deponent.

2. That the deponent is out of job and is not getting his salary and is not employed anywhere, having no source of income as such the whole family of the deponent is on the verge of starvation.

3. That the deponent was dismissed under order 14(2) of the Discipline and Appeal Rules which has been challenged in several petitions and most of the Writ Petitions have already been allowed. A certified copy of the judgement and order of this Hon'ble Court has already been filed alongwith the Writ Petition.

4. That in the Writ Petition No. 4882 of 1981 and in the Writ Petition No. 5874 of 1981 in which the petitioners services of those petitions were dismissed on the similar grounds, this Hon'ble Court has been pleased to direct the opposite parties to pay the salary to the petitioners in those petitions, and stay orders have been granted accordingly. A true copy of the stay passed in Writ Petition No. 5874 of 1981 is being filed as ANNEXURE NO. 1 to this affidavit.

5. That several Writ Petitions pending in Supreme Court the same question is involved which is involved in this petition and in those petitions too, Hon'ble Supreme Court has directed the employers to pay the salaries to the employees although the same are still pending in the Hon'ble Supreme Court.

27/3/81  
B. K. D.

6. That the first application was rejected by the Hon'ble Mr. Justice U.C. Srivastava and 2nd application was dismissed in non-appearance and this is the third stay application in this Hon'ble Court.

7. That the Writ Petitions itself was listed for hearing on 1.12.1983 and the Hon'ble Court was pleased to direct the office to repeat the case for hearing but till today the Writ Petition has not been listed for hearing.

8. That it will be in the interest of justice that this Hon'ble Court may be pleased to stay the operation of the order of dismissal of the deponent ~~till the~~ <sup>on</sup> dependency of the Writ Petition.

Lucknow :  
ck

( DEPONENT )

Dated : March 27, 1984.

#### VERIFICATION

I, the above named deponent, do hereby verify that the contents of paragraphs 1 to 7 of this affidavit, are true to my own knowledge and the contents of paragraph 8 are believed by me to be true.

Signed and verified this 27th day of March, 1984, in the Courts Compound, Lucknow.

Lucknow :  
Dated : March 27, 1984.

( DEPONENT )

I identify the deponent who has signed before me.

*I.B. SINGH*  
Solemnly affirmed before me on 27-3-84  
at 10.30 A.M. / P.M. by Shri. B.N. Lal  
the deponent who is identified by  
Shri I.B. Singh, Advocate,  
High Court, sitting at Lucknow.

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

22/3/84

377351  
27-3-84

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

Civil Misc. Application No. of 1984.

Brij Lal	.....	.....	Petitioner Applicant
Vorsus			
Union of India and others	.....		Opp. Parties.

ANNEXURE NO. 1

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

C.M.Am. No. 8460(W)-82 in re: Writ Petition No. 5874 of 1981

Ramesh Lal. .... Petitioner.

Vs.

Union of India and others. .... Respondants.

Application for Interim Relief.

Lucknow dated : 24.2.1983.

Hon. U.C.Srivastava, J.

It appears that three other persons have been dismissed alongwith the petitioner and three of them have filed writ petition at Allahabad and the said matter is pending before the Supreme Court, which has directed for payment of salary to the said three petitioners. The grievance of the petitioner is that his case is identical to the cases of those three petitioners and he may be paid his salary. Learned counsel for the Railway administration again prays for time today. There is no justification to grant time again, If other petitioners are getting their salaries, there is no reason why the petitioner of this case should not got his salary. The opposite parties are directed to pay salary to the petitioner from March 1983. However, it will be open to the Railway Administration to move application for modification of this order as and when an affidavit is filed pointing out the difference between these cases.

Sd. U.C. Srivastava.  
24.2.1983.

27/3/84

REVISION

A-114

In the Hon'ble Central Administrative Tribunal  
Circuit Bench, Lucknow

M.P. No. 426/90 (C)

Visc. application No. of 1990

in re:

T.A. No. 850 of 1987 ("")

( Writ Petition no. 4953 of 1981 )

Brij Lal ..... applicant

Versus

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

Application for condonation of delay

The respondents most respectfully submit as under :

*filed today  
S.S. 12/1/90*

1. That due to unavoidable and unforeseen reasons and also because of inadvertence, the counter affidavit in the writ petition could not be filed.
2. That the respondents have a good case in their defence and if they are not permitted to file the counter affidavit they would suffer irreparable loss.
3. That the delay is liable to be condoned.

WHEREFORE, it is most respectfully prayed that the Hon'ble Court may be pleased to condone the delay and permit the respondents to file the counter affidavit which may be brought as part of the record in the interest of justice.

*N*  
( ... Verma )

Advocate  
Counsel for the respondents.

Enclosure E 8. 6.1990

A-45

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW.

C. Afridi

.....  
T.A. no. 850 of 87(I)

Writ Petition no. 4953 of 1981

Brij Lal ..... Petitioner.

Versus

A  
Union of India & others. ..... Opp-parties.

Written statement on behalf of opposite  
parties.

I, Keshava Deo, working as Sr. Divisional  
Mechanical Engineer in the office of Divisional  
Railway Manager, Northern Eastern Railway, Lucknow, do  
hereby state as under:

1. That the deponent has read the petition filed  
by the petitioner and has understood the contents  
thereof. He has been authorised to file and verify  
the written statement on behalf of the respondents.



इत्यनियर (लोकी)  
K. Deo

2. That the averments of para---graph 1 of the  
writ petition are not admitted and are denied. It is  
submitted that the petitioner was appointed as Fitte  
Khalasi by <sup>and</sup> Asstt. Mechanical Engineer <sup>not</sup> by senior

Divisional Mechanical Engineer as stated by the petitioner vide copy of AME's office order no. 201 as well as no. F/227/2/M/Pt.III dated 20.1.1965.

3. That the contents of paragraph no. 2 of the writ petition are not admitted. The petitioner was not a permanent fireman II as alleged by him. He was officiating as Fireman II in the scale Rs. 210-270 and not in the scale of Rs. 200-250.

4. That in reply to the contents of paragraph no. 3 of the writ petition, it is stated that it was not practicable to hold any enquiry. There was apprehension of threat to the life and property of the witnesses who might have deposed against the petitioner.

5. That the contents of paragraph no. 4 of the writ petition are not admitted. The petitioner had assaulted Sri V.C.Sinha, Senior Divisional Mechanical Engineer, North Eastern Railway, Lucknow on duty on 17.10.78 in the office of the Loco Foreman Mr. Mailani and thereby committed serious misconduct of the highest order. He also used abusive and unparliamentary language against the aforesaid officer with dire consequences.

*[Handwritten signature and stamp of the petitioner, followed by a handwritten note in Hindi]*

प्रबन्ध भारत रेलवे इंजीनियर (लोको)  
पूर्वोत्तर रेलवे, लखनऊ

6. That in reply to the contents of paragraph no. 5 of the writ petition, it is stated that reference of General strike and arrest are irrelevant for the purposes of the present writ petition. It is respectfully submitted that the petitioner has

assaulted to a senior officer as has been stated above.

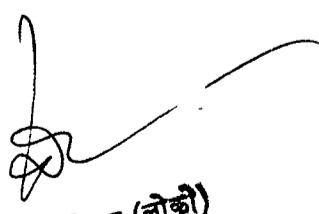
7. That the contents of the paragraph 6 of the writ petition are not admitted. It is stated that the FIR was lodged with G.R.P. Lakhimpur Kheri on 17.10.78 that is on the very date of incidence. A criminal case was filed by GRP in the court of Chief Judicial Magistrate, Lakhimpur Kheri.

8. That the contents of paragraph No. 7 of the writ petition do not call for any reply.

9. That in reply to the paragraph No. 8 of the writ petition, it is stated that the position has already been explained in the preceding paragraphs of this reply.

10. That in reply to the contents of paragraphs No. 9 of the writ petition it is submitted that appeal preferred by the petitioner was considered and decided by the General Manager, N.E. Railway, Gorakhpur which was communicated to the petitioner by the Divisional Railway Manager, N.E. Rly., Lucknow vide order dated 20.6. 1981/ 16.7. 89 (A/2 to WP).

11. That in reply to the contents of paragraph No. 10 of the writ petition it is stated that prior to disciplinary authority regarding its satisfaction for holding the enquiry and proceeding under Rule 14 (11) (DAR) a confidential fact finding enquiry was gone into to which the petitioner was called to attend the enquiry but the petitioner did not turn up. The Divisional Superintendent, N.E. Railway, Lucknow after going through the report of the enquiry officer and considering the facts of the case recorded his satisfaction that in the circumstances it was not reasonable and practicable to hold the enquiry in the manner provided under DAR/ 1968. A copy of reasons recorded by the Disciplinary Authority is filed herewith as Annexure C-I to this reply.



प्रबंध यांत्रिक इन्जीनियर (लोकी)  
प्रबंध यांत्रिक इन्जीनियर (लोकी)

A-40

13. That the allegations of paragraph no. 11 of the writ petition are denied. The appeal was considered by the General Manager who had rejected the same.

14. That the paragraph no. 12 of the writ petition are denied.

15. That in reply to the paragraph 13 of the writ petition, it is stated that the petitioner has since been dismissed from service, he is not entitled to the benefits as claimed in the paragraph under reply. He is occupying the Railway quarter at Mainlani unauthorisedly to which he is liable to vacate and pay the rent under rule.

16. That in reply to the contents of paragraph no. 14 of the writ petition, the deponent is advised to state that grounds set out in this para of the petition are not tenable in law, the writ petition has no merits and the same is liable to be dismissed.

Keshavadeo

I declare, dated,  
8.6.1990

१९९० मार्च द्वारा  
पूर्वोत्तर रेलवे, लखनऊ

I, the above-named deponent do hereby verify that the contents of para  
are true to my own knowledge, those of para  
are true to my knowledge based on record, which I believe  
to be true, and those of para  
are based on leg  
cvice. No part of it is false and nothing material has been  
concealed, so help me God.

Keshavadeo

I declare, dated,  
8.6.1990

पवर मण्डल यांत्रिक इंजीनियर (लोकी  
पूर्वोत्तर रेलवे, लखनऊ

पवर मण्डल यांत्रिक इंजीनियर (लोकी  
पूर्वोत्तर रेलवे, लखनऊ

A-UG

Annexure No C/1

(ii)

I have carefully gone through the Fact Finding Enquiry Report of Shri R.C.Bhandari, Sr.D.E.N./LJN nominated by me under my no.LD/SS/Assault dated 29.11.78 which is from page 1 to 8 of this file and accept the same. I am satisfied

(1) That Sri Brij Lal, Fireman (II) (formerly of Mailani Shed spared for transfer to Gonda Shed) assaulted Shri M.C.Sinha, Sr.Divl.Mechl.Engineer,LJN on duty on 17.10.78 in the office of LOCO FOREMAN, Mailani and thereby committed serious misconduct of the highest order;

(ii) That the said Sri Brij Lal used abusive and unparliamentary language against Sri M.C.Sinha, Sr.DME/LJN on duty on 17.10.78 in the office of Loco Foreman, Mailani and thereby committed gross insubordination and serious misconduct;

(iii) That the said Sri Brij Lal threatened Sri M.C. Sinha, Sr.DME/LJN on duty with dire consequences on 17.10.78 in the office of Loco Foreman, Mailani and thereby committed serious misconduct.

2. I am also satisfied that there is a reasonable apprehension, beyond doubt, of the threat to the life and property of the witnesses who might depose against the aforesaid Shri Brij Lal in the event of an enquiry and further that there is also an apprehension, beyond reasonable doubt, of the obstruction in the smooth conduct of Railway work in the Mailani shed area and an apprehension of breach of peace in the event of any disciplinary enquiry being initiated against the said Sri Brij Lal.

3. I, L.M.Bhanker, undersigned disciplinary authority in this case, am therefore fully satisfied that it is not reasonably practicable to hold any further enquiry in the manner provided under DAR and in after considering all the facts, circumstances and evidence of this case consider it fit to dismiss the aforesaid Sri Brij Lal,Fireman II, formerly Mailani Shed spared for transfer to Gonda Shed, from service under rule 14(ii) of DAR,1968 of the N.E.Railway read with proviso(b) of the Article 311(2) of Indian Constitution.

*L.M.Bhanker*

(L.M.Bhanker) 12.XII.78  
Divisional Superintendent  
N.E.Rly., Lucknow

(DISCIPLINARY AUTHORITY)

*BB*  
प्रधार मण्डल यांत्रिक इंजीनियर (लोको)  
पूर्वोत्तर रेलवे, लखनऊ

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW.

T.A. No. 850 of 1987 (T)  
Writ Petition No. 4953 of 1981

PT 54

Brij Lal

Petitioner

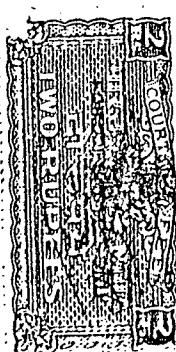
Union of India  
and others

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Versus

Opp. Parties.

ANNEXURE NO. R-1



161/  
1/214/113

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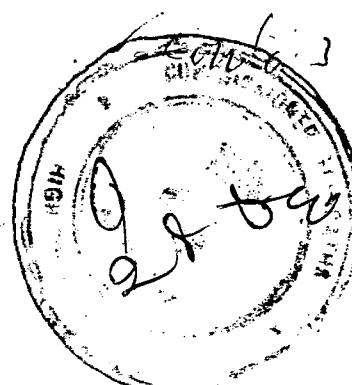
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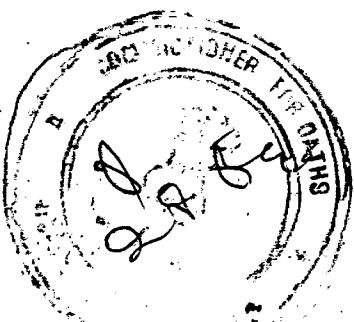
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सत्य प्रतिक्रिया  
मध्यभिलेखापाक (वाय)  
कल्पवक्षुष्ट लक्ष्मीपुर—काशी

COPIED BY      (b) 7  
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प्रधानमंत्री के देश प्रदेश विभाग का विभाग 21/2/1913  
प्रधानमंत्री के देश प्रदेश विभाग 20/2/1913  
प्रधानमंत्री के देश प्रदेश विभाग 24/2/1913



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वकालतनामा

C-11

With Central Administrative Tribunal  
Circuit Bench Lucknow. के समक्ष  
O.T. No. 380 of 87(1) के न्यायालय में  
Brig. Lal

वादी	दावेदार
प्रतिवादी	अधीलार्य
वादी	अर्जदार
वनस्पति	प्रत्यार्थी
Union of India and others	
AN Verma, Rly. Advocate, Lucknow	

भारत के राष्ट्रपति इसके द्वारा श्री को उपर्युक्त वाद/अपील/कार्यवाही में भारत संघ की ओर से उपसंज्ञात होने, कार्य करने, आवेदन करने, अभिवचन करने और आगे कार्यवाही करने के लिए दस्तावेज दाखिल करने और वापस लेने, न्यायालय की आदेशिका स्वोकार करने, काउन्सेल, अधिवक्ता या प्लीडर नियुक्त करने और उन्हें अनुदेश देने, रुपया वापस लेने और उसका निश्चेप करने तथा उर्य क्त वाद/अपील/कार्यवाही में भारत सरकार का साधारण विनियिक्त करने और भारत संघ के लिए इस प्रकार उपसंज्ञात होने, कार्य करने, आवेदन करने, अभिवचन करने और आगे कार्यवाही करने की अनुषांगिक सभी बातें करने के लिए नियुक्त और प्राधिकत करते हैं। किन्तु यह इस शर्त के अधीन रहते हुए होगा कि जब तक भारत सरकार के समुचित प्राधिकारी से उस निमित्त पहले ही स्पष्ट प्राधिकार प्राप्त नहीं कर लिया गया है, तब तक उक्त काउन्सेल/अधिवक्ता/प्लीडर या उसके द्वारा नियक्त काउन्सेल/अधिवक्ता/प्लीडर सभी या किसी प्रतिवादी/प्रत्यार्थी/वादी/विरोधी पक्षकार के विलम्ब उस वाद/अपील/दावा/प्रतिरक्षा/कार्यवाही को पूर्णतः या भागतः न तो वापस लेगा, न उसका अधिव्यवजन करेगा, न एसा कोई करार करेगा या समझौता करेगा जिसके द्वारा वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित की जाए और न उससे उद्भूत या उसमें विवादप्रस्त सभी या किसी विषय को मध्यस्थ को निर्देशित करेगा, परन्तु आपवादिक परिस्थितियों में जब भारत सरकार के समुचित प्राधिकारी से परामर्श करने के लिए पर्याप्त समय नहीं है और वाद में समझौता करने में लोप करना निश्चित रूप से भारत सरकार के हित के प्रतिकूल होगा तो उक्त प्लीडर/अधिवक्ता/काउन्सेल एसा कोई करार या समझौता कर सकेगा जिसके द्वारा उक्त वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित हो जाय और ऐसे प्रत्येक मामले में काउन्सेल/अधिवक्ता/प्लीडर करार या समझौता करने के विशेष कारण बताते हुए उक्त अधिकारी को तत्काल संसूचित करेगा।

AN Verma, Railway Advocate,  
Lucknow.

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

इसके साझेस्वरूप भारत के राष्ट्रपति के लिए और उनकी ओर से इस विलेख को आज तारीख को सम्मक्ष रूप से निष्पादित किया जाता है।

तारीख 19

NER-84850400-8000-4/84

Accepted  
Advocate

C. K. K. (Signature)  
निष्पादन करने वाले अधिकारी का पदनाम  
S. D. Verma, Personnel Officer  
M.B.Rly, Lucknow.  
For Union of India  
(O.P.W.I)

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

.....  
INDEX SHEET

Cause Title 74-NST of 1987 (T)  
to P. No. LAS 3/81

Name of the parties \_\_\_\_\_

Applicant.

Versus

Union of India \_\_\_\_\_

Respondents.

Part A.B.C.

SI No.

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(9) Response/objection to the Writ Petition		A-50 to A-63
(10) Writ Petition	<u>B2-file</u>	B-1 to B-7
(11) Judgment		B-8 to B12
(12) Writ Petition		B-12 to B-13
(13) Response/objection to the Writ Petition		B-14 to B-15
(14) Affidavit (to the Writ Petition)		B-20 to B-28
(15) P.		
(16) Writ Petition	<u>C-file</u>	C-1 to C-10
(17) Response/objection		C-11 to C-14

## ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

1953

of 1981

No.

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
1-10-81	Hear. T. S. Misra (P.)	
	Hear. S. Zakeer Hasan (A.)	
	Notice has been	
	accepted on behalf of the	
	opposite parties 1, 2 and 3.	
	The opp. parties are directed	
	to produce complete evidence	
	contained in the suit	
	1 on 15th Oct. 1981 before	
	that date.	
	Sd/- T. S. M.	
	Sd/- S. Z. H.	
	1-10-81	
15-10-81	Answerwards	P.
		B.
	15-10-81	

A-4

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P.

No.

4953

of 1984

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
	C.M. Anw o 3831 (W) 84 for interim relief	
27-3-84.	Ken R.C. DS, 7 Put up along with the record next week.	Sel. R.C. DS 27-3-84.
5/4/84	S. 4. 4. 84. Dec Cir. 3831 (W) 84	Cyril Hoosen
23.	4. 4. 84. Dec. 84 Cir. 3831 (W) 84	BLC
24.	4. 4. 84. Fixed with Mr. C. D. An 3831 (W) 84. for Hon KONG P. Hon KONG S	

Bc

## Order Sheet

TA 850/89

A-5

21/3  
particulars  
entered

Boylal

VS. NO 9

Serial  
number  
of  
case  
and dateBrief Order, Mentioning Reference  
if necessaryHow complied  
with and  
date of  
compliance

21.3.1990

Hon. Mr. D. K. Agrawal, J.M.,  
Hon. Mr. K. Obayya, A.M.

Shri. I. B. Singh, for the petitioner and Shri. S. Verma, for the respondents are present. This is writ petition filed in year. 1981. No counter affidavit has been filed, so far. We presume that Railway Administration is not interested in filing counter affidavit.

List it for hearing / ex parte hearing on 23.7.1990.

Meanwhile, the respondent, if they so desire, may file counter affidavit within 4 weeks, hereof. In case, counter affidavit is ~~has been~~ filed, the rejoinder affidavit, if any, be filed within 2 weeks, thereafter. The original records in any event must be produced by the respondent on the date of hearing, fixed above, failing which an adverse <sup>inference</sup> effect will be drawn against them.

sd:

23-7-90:

Hon'ble Mr. Justice K. Nath, VC,  
Hon'ble Mr. K. Obayya, AM

Sri Anil Srivastava, Advocate, informs that Sri Anil Verma, Advocate, would be appearing in this case and has sought for adjournment for the reason that he is ~~away~~ Listed for final hearing on 28-8-1990.

ES

(A.M.)

(V.C.)

Dinesh

CA filed with Anil for  
condonation of delay  
duly served on the  
applicant.

No I.R.A. filed  
S.P.H.

OR  
replied to  
S. 21/2/90

Notices were  
issued on 21/2/90  
No unopened  
reqd. cover has  
been return  
back.

S. F.O.

20/3  
In Unst. Clandest  
accepts notice on  
behalf of O.P. but  
no acknowledgment has  
been placed on 21/2/90  
in H.P. cover  
S. F.

C.A. 1141

105

88 T 850/87, T

A-6

9.8.91

Honbl. Mr. D.K. Agrawal J.M  
Honbl. Mr. K. Obayya A.M

On the request of both  
parties Court Case is adjourned  
to 25.4.91 for hearing

S.

D  
A.M.

D  
J.M.

CA/RA have been  
exchanged

S. P.M.

25/4

25.4.1991

Hon. Mr. D.K. Agrawal, J.M.  
Hon. Mr. K. Obayya, A.M.

Sri K.K. Singh brief holder of Sri I.B. Singh  
for the applicant. Sri Sanjiv Kumar, brief holder  
of Sri D.N. Verma for the respondents. The case  
is adjourned to 19.8.1991 for hearing.

D  
A.M.

D  
J.M.

(n.u.)

19.8.91

No Sittings adj to 23.9.91

D

23.9.91

No Sittings adj to 14.11.91

D

14.11.91

No Sittings adj to 13.12.91

D

## CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW.

...

T.A. No. 850 of 1987

(W.P. No. 4953 of 1981 )

Brij Lal ... ... ... Applicant.

Versus

Union of India and others ... ... Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was appointed as Fitter Khalasi on 21.1.1965 and was gradually promoted to the post of Fireman-II. In the year 1978, he was dismissed from service under Rule 14(2) of the Discipline & Appeal Rules, 1968 vide order dated 12.12.1978. According to the applicant, no enquiry took place and the reasons of the said order was not disclosed and he was abruptly faced <sup>wilc</sup> ~~the such~~ such a dismissal order, even though, he never participated in any strike or arrested or detained. Those who were arrested or detained were let off and no action against them was taken. Against his dismissal order, the applicant filed a review application before the General Manager, N.E. Railway, and appeal before the Divisional Railway Manager and Senior Divisional Mechanical Engineer ~~which~~ which were dismissed.

2. The applicant has challenged the order on the ground that it has been passed in the Mechanical manner which is in violation of the ~~rules of~~ <sup>principles</sup> of natural justice and without giving any opportunity to the applicant and without holding any enquiry by a ~~none~~ speaking order.

3. The respondents have defended their action by stating that the applicant had assaulted one Sri M.C. Sinha, Senior Divisional Mechanical Engineer, N.E. Railway on 17.10.1978 in the office of the Loco Foreman Mailani and thereby committed serious misconduct of the highest order. An F.I.R. was lodged with G.R.P. Lakhimpur Kheri on 17.10.1978 against the applicant. It is stated that prior to disciplinary authority recording its satisfaction for holding the enquiry and proceeding under rule 14(ii) of the (D & R) a confidential fact finding enquiry was gone into to which the applicant was called to attend the enquiry but the applicant did not turn up, and after going through the report of the enquiry officer, and considering the facts of the case, the disciplinary authority recorded its satisfaction that it was not practicable before the enquiry in the manner provided to the rules.

4. The averments made by the respondents are wholly insufficient to bring the action within the ambit of rule 14(II) of the (D & R) Rules. The <sup>so</sup> ~~so~~ called reasons are no reasons and can not be said to be <sup>germane</sup> ~~genuine~~ to the matter in issue. In the charge of beating official, enquiry is quite possible and it can always be held and accordingly, the <sup>from</sup> ~~dispense~~ <sup>having been</sup> ~~towards~~ the enquiry was an arbitrary action and can not be justified.

5. Accordingly, the application deserves to be allowed and the dismissal order <sup>dated</sup> 12.12.1978 and the order are quashed. The applicant shall be deemed to continued in service and is entitled to all consequent benefits. The period from the date of dismissal to this period, will be dealt with by the respondent.

- 3 -

accordance with law. However, it will open for the respondents to take disciplinary proceedings against the applicant as per rules. The application is disposed of with the above observations. Parties to bear their own costs.

*Amarsi S*  
Member(A)

*u*  
Vice-Chairman

Dated: 13.12.1991  
(n.u.)

## GENERAL INDEX

A 10

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case.....

L.P. 153-01

Name of parties..... Brij Lal vs. Union of India

Date of institution..... 1-10-81

Date of decision.....

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
A-1	1	General Decree	1		Rs. P.			
A-2	2	Order dated	1					
A-3	3	Court Rec'd Affidavit Date	10	6	103			
B-4	4	Process	1	1	5			
B-5	5	Order C.M.O. U299(w)-82 for & by	3	-	5.00			
B-6	6	C.M.O. 3769(w)	4	-	7.00			
B-7	7	C.M.O. 3831(w) OB 84	6	-	7.00			

I have this

day of

198

examined

I have examined the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that they bear Court-fee stamps of the aggregate value of Rs. 50/- that all orders have been carried out, and that the record is complete and in order up to the date of the certificate.

Date.....

Munsarim

Clerk