

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE TA No 873/82 W.O. No 6082/82 OF .....

NAME OF THE PARTIES Brijendra Kumar Applicant

Versus

P.C.I. East Respondent

Part A.

Sl.No.	Description of documents	Page
1	Index sheet	A1 to A2
2	Index sheet of order dt. 25-7-90	A3 to
3	Writ Petition/Annexure/Affidavit	A4 to A41
4	CM No. 7806/82	A42 to A48
5	CM No. 10306/82	A49 to A53
6	Interim relief	A54 to A73
7	Counter Affidavit	A74 to A81
8	H.C. order sheet	A82 to A86
9	Official Notices	A87 to A97
10	Copy Paper	A98 to A102
11	Vakalatnama	A103 to
12		
13		
14		
15		
16		
17		
18		

CERTIFICATE

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

Checked on Dated 14-10-11

Counter Signed.....

*[Signature]*  
14/10/2011

Section Officer/In charge

*[Signature]*  
Signature of the  
Dealing Assistant

CIVIL

SIDE

## GENERAL INDEX

CRIMINAL

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case.....

Name of parties.....

Date of institution.....

Date of decision.....

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
	2	3	4	5	6	7	8	9
					Rs. P.			
	1	General Index	1					
	2	<del>General Index</del>	1					
	3	Genl. Rel Official Cert	39	5	1.00			
				1	3			
	4	Power	1	1	5			
	5	Comp. 7806(w) 0822	7	-	7.00			
	6	Comp. 10306(w) 0882	6	-	7.00			
	7	Comp. 9621(w) 0683	19	-	7.00			
	8	order sheet	5	-	-			
	9	Bank entry	1	-	-			

I have this

day of

198 ,

examined

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

Date.....

Munsarim

Clerk

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

## INDEX SHEET

CAUSE TITLE TA 073/07 of 19 WP 6082/01

NAME OF THE PARTIES Brijesh Kumar

Applicant

Versus

Union of India & Respondent

Part A, B & C

A. file

Sl. No.	Description of documents	PAGE
1	order Sheet	A1 + A2
2	Petition	A3 to A41
3	Power	A42
4	O.P. copy.	<del>A43</del>
5	Appreciation	A43 to 81
6	Notice of H.C.	A82 to A86
7	Application for Interim Relief	A87 to A119
8	do ——— copy	A120 to A137
9	Counter Affidavit	A138 to A145
10	order Sheet H.C.	A146 to A150
11	<u>B. file</u>	B157 to B190
12	Counter Affidavit	B191 to B198
13	O.P. copy.	B199 to B206
14	<u>C. file</u>	C207 to C214



Group A 13(e)

9355

(13)

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

Writ Petition No. 6082 of 1981

Brijesh Kumar

Petitioner

Versus

Union of India & others.

Opp. Parties.

INDEX

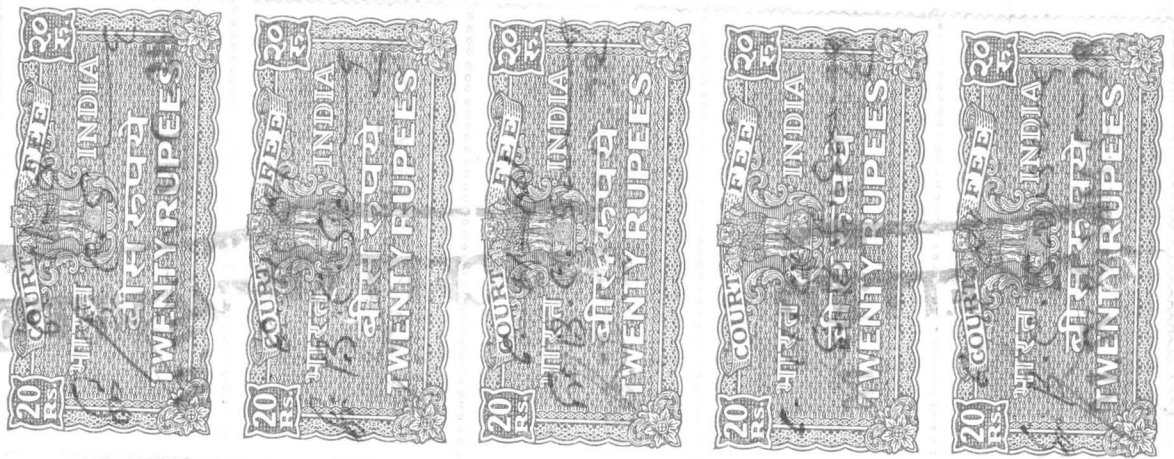
Sl. No.	Description of Papers	Annex. No.	Pages.
1.	Writ Petition		1-10
2.	Affidavit		11-12
3.	Annexure 1 ( letter dt. 1.1.71)	1	13-14
4.	Copy of appeal dt. 20.4.76	2	15-20
5.	Letter to appear at selection dt. 28/29-10-76	3	21-23
6.	Letter dt. 14.12.76	4	24
7.	Representation dt. 29.3.77	5	25-27
8.	Letter dt. 28/30-4-77	6	28
9.	Representation dt. 28-5-77	7	29-30
10.	Office order dt. 15-9-77	8	31-32
11.	Officer order dt. 24-8-79	9	33-34
12.	Representation dt. 1.8.78	10	35
13.	Representation dt. 29.8.80	11	36-39
14.	Vakalatnama		40

(B.C. Saksena)

Advocate  
Counsel for the petitioner

D. Dec. 1981.





5492100 ru  
2/12

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

Writ Petition No. 6082 of 1981

Brijesh Kumar, aged about 48 years, son of Sri Nand Kumar  
Sharma, resident of 80 Gurgovind Singh Marg, Lalquan Lucknow.

...

...

Petitioner

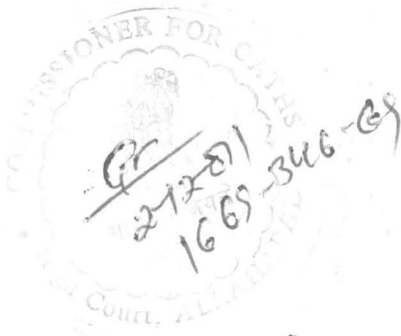
Versus

1. Union of India through the Secretary, Ministry of Railways,  
Ex-Officio Chairman, Railway Board, Rail Bhavan, New Delhi.
2. General Manager, N.E. Railway Gorakhpur.
3. General Manager ( Personnel ) C.M.E., N.E. Rly. Gorakhpur.
4. Chief Mechanical Engineer, N.E. Railway Gorakhpur.
5. M.R. Chaudhary, aged about 42 years, fathers name not known,  
Maintenance Inspector, C.M.E. Office, N.E. Rly. Gorakhpur.
6. Y.S. Sahani, aged about 36 years, father's name not known,  
Maintenance Inspector, C.M.E. Office, N.E. Rly. Gorakhpur.
7. Sri K.T. Singh, Addl. Chief Mechanical Engineer ( M ) N.E.  
Rly. Gorakhpur.

....

.....

Opp. Parties.



Brijesh Kumar

Recd copy to  
ep No 2 to 4 ady

Phande  
3/14/81 Adv

for 7/12/81

~~Expressed~~  
Five Adhesive Rs 100  
Total Rs 100

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

In time up to

Papers filed. Copy of P. O.

~~should also be filed.~~

Single - Bench.

Mr. K. S. Varnas, J

Mr. S. S. Alwad, J

Issue notice to  
the opposite parties  
to show cause why  
the petition be  
not admitted.

Last Imp Adv No 6 of 30-4-77  
and enter communication  
vide letter No 2/54/3 (con) dt  
5-9-81.

By 17/12/81 <sup>US</sup> Saghu  
Adv

2/12/81  
2  
2/12

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

1. That the petitioner joined the N.E. Railway on the 11th of September, 1957 on being recruited as an apprentice mechanical. On successful completion of 5 years training he was posted as a Charge Man, Grade C, in the year 1963.
2. That on the basis of the recommendation of the Third Pay Commission the two Grades of Charge Man 'C' and Charge Man 'B' amalgamated and constituted as one grade in the scale of Rs.425-700 w.e.f 1st of April, 1973. The petitioner thus became a Charge Man, Grade 'B' and was confirmed in that grade w.e.f. 1.4.75.
3. That the petitioner was promoted to the next higher grade of Charge Man 'A' in the scale of Rs.550-750, On 22-7-71 after having been selected by at a selection for the said post.
4. That the opposite-parties 5 and 6 were all along junior to the petitioner in all the three grades of the post of Charge Man viz Grades A, B & C having been appointed latter than the petitioner.
5. That a seniority list of Fitting Maintenance Staff of the Mechanical Department of the N.E. Railway in which the post of Charge Man, Grades A & B, and before 1.1.73 of Charge Man 'C' was circulated by means of letter No. E/255/8/8/Mech.(IX) dated August, 1975 issued by the opposite party no.3.

xx In the category of Charge Man Grade 'A' scale of Rs.335-425 ( AS)/ 550-750 ( RS) the petitioner's name was



*Brijesh Kumar*



Honble K S Varma, T.

Honble S S Ahmad, T.

Admit. Notice on behalf  
of opposite parties nos. 2 to 4  
has been taken by Mr. Umesh  
Chandra. Issue notice to other  
opposite parties.

8/7

S. S. Varma  
8.7.1982

shown at serial no.19 while that of opposite parties 5 & 6 were shown at serial nos. 23 & 24 respectively in total number of 24 persons whose names were indicated in the said category. To the best of the petitioner's knowledge the said opposite parties 5 & 6 preferred no objection against the seniority list and the same stood finalised.

6. That the next above post to that of Charge Man Grade 'A' is the post of Foreman ( Maintenance ) in the Fitting Maintenance Staff of the Mechanical Department. The post of Foreman is in the Grade of Rs.700-900 ( RS) and is 'non selection post '. The promotion to the post of Foreman is made on the principle of seniority subject to rejection of unfit. No written test or Viva Voce test is prescribed for filling up the said post. Promotion is made on the basis of the service record as evidenced from the annual character rolls of the last three years prior to the date of consideration for the said post.

7. That the opposite party no.6 was promoted on ad-hoc basis to the post of Foreman on the 17th of November, 1975 and order for his promotion was passed by the opposite party no.3 vide order dated 24th of March, 1976. The opposite party no.5 was also promoted in the adhoc capacity to the said post of Foreman scale Rs.700-900 in the year 1976.

8. That the petitioner though senior to the said opposite parties 5 & 6 was not promoted to the post of Foreman and as would be shown herein after his supersession was wholly illegal and contrary to the norms laid down by the General Manager for purposes of promotion to a non selection post.

9. That the opposite party no.2 by means of circular



*Brijesh Kumar*

letter No. E/254/O(Con) dated 1.1.71 indicated the guide lines and the procedure for filling up of selection and non-selection posts. A true copy of the said letter dated 1.1.71 is being annexed herewith as Annexure No.1 to this writ petition. Attention is invited to para 2 of the said letter which provides that in the case of non selection posts if the assessment of last report is "Average" but in the previous two reports it was 'Good' the staff should be promoted on the basis of the previous two good reports. If the last report is 'Good' while the two previous reports are 'Average' the staff in that case should also be promoted.

10. That as shown above the post of Foreman Grade 'A' scale Rs.700-900 is a non selection post and since the promotion of the opposite parties 5 & 6 came to be made in the year 1975 the assessment for promotion of the said post was required to be made on the basis of Character Roll for the years 1972-73, 1973-74 and 1974-75. It is said that the petitioner was assessed as good in the annual character roll for the year 1972-73 as also for the year 1974-75. The petitioner's assessment in the character roll for the assessment year 1973-74 (that is to say ending March 1974) was average. In accordance with the provisions of para 2 of the aforesaid letter dated 1.1.71 the petitioner was clearly entitled to have been promoted and his supersession was illegal.

11. That the petitioner aggrieved by his supersession preferred an appeal to the opposite party no.3 on the 20th of April 1976. The said representation evoked no response. A true copy of the letter dated 20-4-1976 is being annexed herewith as Annexure No.2 to this petition.

*Bojash Kumar*



12. That the opposite parties 5 & 6 were called to appear at a selection for the next higher post of Loco Foreman Grade Rs.840-1040 ( RS) by means of letter ~~dated~~ No. E/254/8/9-Pt I/IX dated 28/29-10-76 issued by the opposite party no.3. The petitioner's name was not shown among eligible candidates. The petitioner aggrieved by the said action submitted an appeal to the opposite party no.3 on the 10th of November, 1976. A true copy of the said letter is being annexed herewith as Annexure No.3 to this writ petition.

13. That in response to the petitioner's aforesaid representation dated 10th of November, 1976 the opposite party no.3 vide letter No. E-254/I-Part (M) III dated 14.12.76 informed the petitioner of his decision. A true copy of the said letter dated 14th December, 1976 is being annexed herewith as Annexure No.4 to this petition.

\* A perusal of the said letter would show that the reasons for the petitioner's supersession for the post of Loco Foreman Grade 700-900 were stated to be unsuitable for being so promoted. Consequently there being no justification for his being called to appear at the next higher selection of the post of Loco Foreman Grade 840-1040.

14. That the petitioner thereafter submitted a representation dated <sup>29</sup> 28th of March, 1977 to the opposite party no.2. With a view to place on record the facts stated and the grounds raised in the said letter a true copy thereof is being annexed herewith as Annexure No.5 to this writ petition.

Attention is invited to para 1 of the said appeal wherein it has been shown that the assessment and classification of the petitioner is 'Average' in the confidential report for

Boijish Kumar

COMMISSIONER  
21/11/81

the period ending March, 1974 was ~~not~~ wholly baseless. The reasons for such assessment had also not been communicated to the petitioner. The petitioner, therefore, in his said appeal dated 29th of March, 1977 requested that his case for promotion as Loco Foreman ( 700-900) as per his due turn may be considered and benefit of proforma fixation in that scale from the date of promotion of his juniors may be given since the same has occurred due to administrative error. The petitioner further requested that he may be allowed to appear at a supplementary selection for the post of Loco Foreman Grade 'A' ( 840-1040).

15. That in response to the petitioner's appeal dated 29th of March, 1977 he was communicated a letter bearing No. E/210/8/1(II) Pt. IV (IX) dated 28/30-4-77. A true copy of the said letter is being annexed here with as Annexure No. 6 to this petition. A perusal of the said letter would show that except for inviting petitioner's attention to the earlier communication dated 3rd December, 1976 no other reasons have been assigned in rejecting or ~~not~~ disposing of his ~~it~~ appeal dated 29th of March, 1977.

16. That aggrieved by the non consideration of appeals on merit the petitioner preferred further representation to the opposite party no. 3 on the 28th of May, 1977. With a view to place on record the facts stated in the said representation a true copy thereof is being annexed as Annexure No. 7 to this writ petition.

17. That the petitioner was, however, promoted to the post of Loco Foreman ( M I O ) Grade 700-900 by means of office

Ar  
24/2/81  
Brijesh Kumar

order bearing endorsement No. E/210/8/I(11) Pt.IV (IX) dated 15th of September, 1977 the petitioner's name was shown at serial no.2 in the list of four promotees. A true copy of the said office order is annexed herewith as Annexure No.8 to this writ petition.

18. That the petitioner was subsequently promoted in an ad-hoc capacity to the next higher post Loco Foreman ( M I O ) Grade 840-1040 on the 12th of September, 1979 and he ~~has~~ <sup>is</sup> continuing in that grade since then. The orders for the petitioner's promotion were communicated by means of office order No.276 dated 24th of August, 1979 issued under the signature of Divisional Railway Manager ( P ) Varanasi in terms of General Manager (Personnel) Gorakhpur Office order No. E/210/8/1(II) Pt.IV (IX) dated 19th July, 1979. It is stated that the petitioner was not communicated or served with a copy of the order dated 19th July, 1979 passed by the opposite party no.3. A true copy of the office order dated 24th of August, 1979 passed by the Divisional Railway Manager (P) Varanasi is being annexed herewith as Annexure No.9 to this petition.

19. That the petitioner preferred a representation dated 1-8-78 to the opposite party no.4 inviting his attention to the earlier representation dated 28th of March, 1978. A true copy of the said representation dated 1.8.78 is being annexed herewith as Annexure No.10 to this writ petition. The copy of the said representation was also endorsed to the opposite party no.3.

20. That the petitioner's representation and appeal seeking redress in the matter of his supersession in the grade of Rs.700-900 and non consideration for promotion to the next post

21/7/81  
Brijesh Kumar



in grade of Rs.840-1040 from due date and from proforma fixation of seniority and pay in both grades had evoked no response. The petitioner accordingly preferred a detailed representation to the opposite party no.2 on the 29th of September 1980. With a view to place on record the facts stated therein and the ground place in the said representation a copy there of is annexed herewith as Annexure No.11 to this writ petition. A copy of the said representation dated 29th of August, 1980 was addressed to the Minister of Railways, Rail Bhavan, New Delhi and it was duly delivered as per registered acknowledgement received in the said office on 10th of September, 1980.

21. That on consideration of the petitioner's aforesaid appeal parawise comments have been called for from the opposite parties 2 to 4. The said opposite parties finding that a clear case of administrative error <sup>✓ having ✓</sup> occurred in the petitioner's case being made out, with a view to forestall the accrual of benefit to the petitioner in the event of favourable decision being given by the Railway Board on his representations, The petitioner's character roll for the year 1980-81 has been spoiled. The petitioner by means of letter No. E/54/8(Con) dated 5.9.81 issued on behalf of opposite party no.4 has been communicated the following :-

" In an otherwise good report on you for the year 1980-81 the following has also been recorded :-

' Least concerned with work.

Does not go in depth. Unreliable.

Assessed as " Below Average ". "

22. That the petitioner has not at no time earlier to the recording of the so called adverse entry been communicated



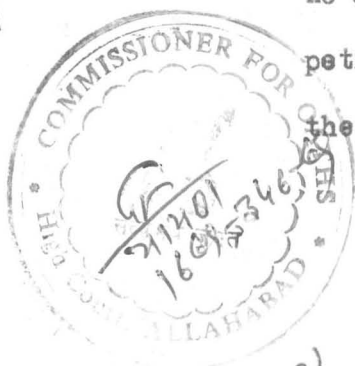
Brijesh Kumar

either verbally or in writing the alleged short comings in his work. The procedure provided for in para 1609 of the Indian Railway Establishment Code Vol. I has not been adhered to in recording the so called adverse entry.

23. That in the circumstances detailed above and having no other equally effective and speedy alternative remedy, the petitioner seeks to prefer this writ petition and sets forth the following, amongst others :-

GROUND S

- a) Because the petitioner's supersession to the post of Foreman is wholly illegal and clearly against the provisions contained in Annexure-1 to the writ petition.
- b) Because in view of the fact that the petitioner had been assessed as 'average' for one year and as 'good' for two years in the annual character roll of the previous three years to the date of selection for the post of Foreman. The petitioner was in terms of Annexure-1 clearly entitled to have been promoted.
- c) Because on the basis of the illegal supersession petitioner's further right to have been called and his case for promotion to have been considered for purposes of promotion to the next higher post of Loco Foreman Grade Rs.840-1040 was wrongly defeated and denied.
- d) Because since due to administrative error the petitioner could not be ~~pr~~ granted promotion to the post of Loco Foreman 700-900 and also to the higher grade of Rs.840-1040 the same was required to have rectified by treating the petitioner as having




been promoted in the lower grade as per his due promotion and benefit of proforma fixation be given to him on the date of the promotion to his juniors.

- e) Because the character roll entry for the year 1980-81, in the circumstances detailed in the petition, is clearly vitiated by colourable and malafide exercise of power.

RELIEFS

Wherefore it is respectfully prayed that this Hon'ble Court be pleased to issue :-

- i) ~~an~~ a writ of certiorari or a writ, order or direction in the nature of certiorari to quash the orders contained in Annexures Nos. 4 & 6 as also the <sup>character roll</sup> ~~petitioner's~~ entry referred to in para 21 of the writ petition.
- ii) a writ of mandamus or a writ, order or direction in the nature of mandamus commanding the opposite parties 2 to 4 to grant petitioner proforma seniority on the date his juniors, opposite parties 6 & 7 were promoted both in the grade of Rs. 700 - 900 and 840-1040 and also pay him the arrears of salary and allowances <sup>that</sup> ~~to be~~ accrued <sup>due</sup> ~~to him~~ accordingly.
- iii) such other writ, direction or order, including an order as to costs which in the circumstances of the case this Hon'ble Court may deem just and proper.

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

Lucknow: Dated:  
December , 1981.





In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

Affidavit

In

Writ Petition No. of 1981

Brijesh Kumar ... .. Petitioner

Vs.

Union of India & others. ... .. Opp. Parties.

I, Brijesh Kumar, aged about 48 years, son of Sri Nand Kumar Sharma, resident of 80 Gurgovind Singh Marg, Lalquan Lucknow, do hereby solemnly affirm and take oath as under :-

1. That the deponent is the petitioner in the above noted writ petition and as such is fully acquainted with the facts of the case.
2. That the contents of paras 1 to 23 of the writ petition are true to my personal knowledge.
3. That the annexures 1 to 11 of the writ petition are certified to be true copies of their originals.



Brijesh Kumar  
Deponent.

Lucknow: Dated;  
December 2, 1981

12

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

*Brijesh Kumar*

Lucknow: Dated:  
December 2, 1981.

Deponent.

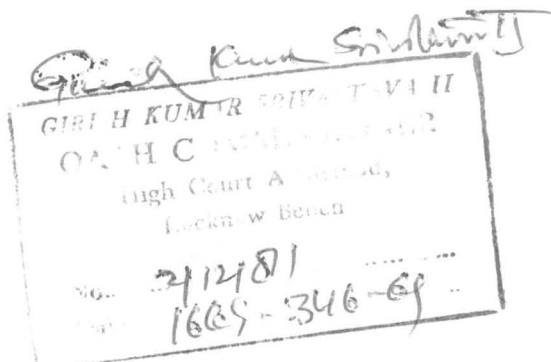
I identify the deponent who has signed before  
me.

*R.K. Srivastava*

( Clerk to Sri B.C. Saksena, Advocate )

Solemnly affirmed before me on 2nd day of December 1981  
at 9:15 A.M./P.M. by Sri Brijesh Kumar, the deponent  
who is identified by Sri R. K. Srivastava Clerk to B.C. Saksena  
Advocate, High Court, Lucknow Bench, Lucknow.

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



In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench , Lucknow .

-With- Writ Petition No. ----- 1981

Brijesh Kumar , ~~Agg~~ ... .... Petitioner

Vs.

Union of India & others. ... Opp. Parties.

Annexure No.1

NORTH EASTERN RAILWAY

CONFIDENTIAL  
No.M/254/O(Con)

OFFICE OF THE  
GENERAL MANAGER (P)  
GORAKHPUR DT. 1.1.71

All Heads of Departments,

All Divisional Supdt.

All Extra Divisions.

All Personnel Officers.

Sub:- Procedure for filling up selection and non-selection posts.

As per practice on this Railway till now and employees, whose assessment is 'Average' is considered as not yet fit for promotion.

Thus in the case of selection posts, even though an employee is empanelled for promotion to higher grade on ~~assessment~~ the basis of selection, he is not promoted in his turn if the assessment in the last report earned by him is 'Average' and ~~as~~ such a person has to wait till he earns a good report in the subsequent year. It has now been decided that in the case of selection posts, staff who have been empanelled by the Selection Board will in future be promoted to the higher grade even if their assessment in the last report earned by them is 'Average'.

2. In the case of non-selection posts, if the assessment in the last report is 'Average' but in the previous two reports it was 'Good' the staff should be promoted on the basis of the ~~previous~~ previous two good reports

*Brijesh Kumar*

14

-2-

reports. If the last report is 'Good' while the two previous report are 'Average' the staff in that case should also be promoted.

Sd/- K.B. Mathur,  
For General Manager.

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*Brijesh Kumar*



15

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

Annexure No.2

In

Writ Petition NO. of 1981

Brijesh Kumar ... Petitioner

Vs.

Union of India & others. ... Opp. Parties.

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To

The Chief Mechanical Engineer,  
North Eastern Railway,  
Gorakhpur.

Through: Proper Channel

Hon'ble Sir,

Sub: Irregular supersession by my juniors ignoring the rules.

Most respectfully, I beg to appeal against the irregular supersession by my juniors Sarvasri Y.S. Sahani and M.R. Choudhary.

I am hereby submitting the following facts in brief for your kind consideration and justice :-

- (1) That according to rules in vogue the promotion against non-selection post is made on confidential reports and if the assessment in the last report is average but in the previous two reports it was good the staff should be promoted on the basis of the previous two 'good' reports. If the last report is good while the previous are average the staff in that case should also be promoted.
- (ii) That my working in confidential report for the period ending 31st March, 1974 was assessed as average whereas my previous confidential reports as well as latter were

COMMISSIONER  
21/4/81  
Brijesh Kumar



*(Signature)*

not adverse for considering my promotion.

- (iii) That as per seniority list, issued from the office of the General Manager (P) Corakhpur while his letter No. E/255/8/8/Mech. (ix) dated 5.8.75, mine seniority stands as per serial No. 19th, whereas the seniority of Sri M.R. Choudhary and Sri Y.S. Sahani stand on the serial numbers 23rd and 24th respectively in the scale of Rs. 335-425 (A) (Rs. 550-750 RS) of Chargeman 'A' (fitting).
- (iv) That my junior Sri Y.S. Sahani Chargeman 'A' (fitting) (Rs. 550-750 Rs) was promoted on adhoc basis as Maintenance Inspector (Rs. 700-900 RS) vide IS (P)/LJN's Office order No. E/283/SM/Super/Pt) I dated 19.11.75 on & from 17.11.75 and he was again transferred and posted as Loco Foreman (M) in scale of Rs. 700-900 (RS) in GKP Loco Shed vide DS (P)/LJN's office order No. E/283/Shed-Maint Inspection/76 dated 17.1.76 on and from 16.2.76 he was promoted in grade 700-900 (RS) from Head Quarter Office GKP being Head Quarter controlled post vide (GM (P)/ GKP's office order No. E/210/8/IRG (ix) Pt. IV dated 24.3.76 when confidential report for the period ending 31.3.75 was not adverse for promotion.
- (v) That my promotion in grade Rs. 700-900 (RS) was not ordered although I always stand eligible for the same in view of the rule quoted in the sub-para (i) above and still I have not been considered suitable for promotion shocked me very much and great injustice caused to me when junior to me Shri Y.S. Sahani and Sri M.R. Choudhary were promoted in the grade Rs. 700-900 (RS) on and from March, 76 and January, 76 respectively whereas I was too eligible for promotion in grade Rs. 700-900 (RS) as per rule as brought out in Sub-para (i) above. In view of the following facts.

- (a) Assessment on confidential reports for last 3 years prior to the period ending 1975.

CHIEF COMMISSIONER  
*(Signature)*  
21/4/81

*Brijendra Kumar*

Prior to 1973 - No adverse report communicated.

1973 - No adverse report communicated.

1974 - Adverse communicated but it does not fulfill the conditions as laid down in rule 1608RI (extract enclosed as Annexure 'A')

1975 - No Adverse report communicated.

(b) Non-adherence of rule quoted in sub-para (i) above.

i) My two precious confidential reports at the time of considering my promotion were not adverse for promotion.

ii) My last confidential report at the time of considering promotion of my junior was not adverse for promotion.

(c) Depriving from promotion in grade Rs 700-900 (Rs).

Thus it is proved that my genuine claim for promotion in grade Rs 700-900(Rs) has been ignored in contrary to the rule on the subject.

(vi) That the above said aforesaid hardship has caused me due to administrative error and I am eligible (i) Promotion (ii) Seniority (iii) Proforma fixation of pay from date of promotion of my juniors in terms of railway Board's letter No. E(NG) 68 PMI/92 dated 15/17.9.64 copy enclosed as Annexure 'B'.

I, therefore, request your honour kindly to consider my case in view of the facts stated above and extend me justice by compensating me under for which I shall ever remain grateful.

- (a) Immediate promotion as Loco Foreman 'B' // Maintenance Inspector in the grade Rs.700-900 (RS)
- (b) Seniority in scale Rs.700-900 (RS) from the date my juniors have been promoted ignoring me.
- (c) Proforma fixation of pay in scale Rs.700-900 (RS) to the level of my juniors.

Thanking you,

Yours faithfully,

Sd/

(Brijesh Kumar )

Charge Man 'A'

(Rs.550-750 AS)

Working as ALF/Kashipur Shed.

Dated: 20-4-76



Brijesh Kumar

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow

Annexure No.2 (A)

In

Writ Petition No.                      of 1981

Brijesh Kumar                      ...                      Petitioner

Vs.

Union of India & others.                      ...                      Opp. Parties.

\*\*\*\*\*

EXTRACT OF PARA 1608 FROM INDIAN RAILWAY ESTABLISHMENT CODE  
VOLUME I. ( Revised Edition -1971)

" 1608. A gazetted railway servant shall not ordinarily be given an unfavourable confidential report before an opportunity has been taken, preferably at a personal interview or, if that is not practicable, by means of a personal letter pointing out to him the direction in which his work has been unsatisfactory or the faults of character or temperament & C. which require to be remedied. The manner and method of conveying to the gazetted railway servant that his work needs improvement in certain direction must be such that the advice given and the warning or censure administered, whether orally or in writing, shall, having regard to the temperament of the gazetted railway servant, be most beneficial to him. If, inspite of this, there is no appreciable improvement and an adverse confidential report has to be made, the facts on which the remarks are based should be clearly brought out."

.....



Brijesh Kumar

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

Annexure No.2(B)

In

Writ Petition No. of 1981

Brijesh Kumar ... Petitioner

Vs.

Union of India & others. ... Opp. Parties.

\*\*\*\*\*

Copy of Railway Board's letter No.E(NG)68 FMI/92 dt.15/17-9-64 to the CMS of all Indian Railways.

\*\*\*\*

Sub: Hardship to N.G.Staff due to administrative error-loss in seniority & pay.

.....

It has been represented to the Board that some times ~~the~~ due to administrative errors staff are over-looked for promotion to higher grades. This could either be on account of wrong assignment of relative seniority of the eligible staff on full times of ordering ~~seniority based~~ promotions or some other reasons. Broadly, loss of seniority due to administrative errors can be of two types.

- (a) Where a person has not been promoted but not on the date from administrative error and
- (b) Where a person has not been promoted but not on the date from which he should have been promoted but for the administrative error.

2. The matter has been considered and the Board desire that each such cases should be dealt with on its merits. The staff who have lost promotion on account of administrative errors should on promotion be assigned correct seniority vis-a-vis their juniors already promoted, irrespective of the date of promotion pay in the

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A/P

COMMISSIONER FOR  
Brijesh Kumar

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higher grade in promotion maybe fixed proforma at the stage which the employee would have reached if he was promoted at the proper time. The enhanced arrears on this account shall not be payable as he did not actually shoulder the duties and responsibilities of the higher grade posts.

DA: Nil

Copy of Railway Board's letter No. E(NG) 63PM/1/92 dt.20.10.65 to the General Managers of all the Railways.

....

Sub: Hardship to non-gazetted staff due to administrative error loss in seniority and pay.

Reference Railway Board's letter of even number dated 15/17th Sept. 1964 where in instructions had been issued for dealing with the cases of Railway servants who had suffered loss of seniority and pay on account of administrative error. It has been suggested to the Board that the aforesaid orders may be given retrospective effect to cover past cases. The Board have considered the matter and it is clarified that these orders are applicable to those cases in which the seniority lost due to an administrative error was detected and restored after 17.9.64 and not to those which were detected and finalised prior to 17.9.64.

( This also disposes of GM NER's letters No.631 E/25-III (BIV)

Please acknowledge receipt.

COMMISSIONER  
7/12/81  
Borjish Kumar

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

Annexure No.3

In

Writ Petition No. of 1981

Brijesh Kumar ... Petitioner

Vs.

Union of India & others. ... Opp. Parties.

\*\*\*\*\*

To,

The General Manager,  
North Eastern Railway,  
Gorakhpur.

Through: Proper Channel.

Subject:- Selection for the post of Loco Foreman in the Scale  
( 840-1040).

Ref: GM(P)GKP letter No. E/254/8/9-Pt I/IX dated 28/29-10-76.

Sir,

Most respectfully I beg to invite your kind attention that the Staff have been called for the appearing in the written test on 26.11.76 for the post of Loco Foreman A , the seniority has been ignored i.e. the Juniors have been called at the cost of neglecting the senior persons as the same has been done in the case of the applicant, as such Sri Y.S. Sahani & others are junior than me as per your office letter No. E/255/8/8mech(IX) dt. 5.8.76 under the heading of " Provisional Seniority list of LF/A, MIO, LF/B, ALF(M), Charge Man A & B. In the above list my position falls after Sri R.Kumar & mine seniority is the 19th where as Sri M.R. Chaudharies is 23rd & YS. Sahani's stands 24th.

*Brijesh Kumar*



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The following few facts are being appened below  
for your kind information.

(a) I belong to the batch of " Apprentice Mechanics of 1957"  
i.e. 19 years I have served the Railway sincerely so far.

(b) After completion of the training of the apprentice  
Mechanic I had been posted as FIC under Loco Shed Kasganj &  
remained alone with one ~~Sr.~~ Sr. FIC. Sri Puranmasi . During the  
period of February 1963 to July 1967 & during this stay, I had  
given the best performance of the Maintenances of the locomotives  
under my charge & the failure of the Engine were rarely heard  
on account of the poor maintenance.

(c) From July 1967 to February 1970 I have worked independently  
as AIF/LOCO Shed Fatehgarh against the post of ( 335/425) as shed  
Incharge. & shared the responsibility as FIC/FCR too and no failure  
of Engine occured on my Account during the period.

(d) I had been called in the selection ~~exam~~ for the post of  
AIF(M) & Charge Man A ( 335-425) In the year of 1971 & in written  
Test I have qual ified both the selctions but in the AIF (M) viva  
~~voice~~ voce test I was not considered since I would not procure  
professional qualifying marks, although, successfully (Practically)  
performance was given during the period, working as AIF, Loco Shed  
Fatehgarh.

(e) When the condition of the Loco Shed Mailani had been  
badly deteriorated during the posting of Sri C.L. Bhalla as Loco  
Foreman & MDN I had been sent vice ~~xx~~ him as LF / MLN to work  
independently vide D.S. (M)/LIn's letters No. M/CON/SS-I/73 dated  
20/22-9-1978 for about six months & run the shed very efficiently.

(f) Dring May, 1974 strike I was declared as loyal worker  
& accordingly I was awarded an advance increment vide D.S.(P)N's



Brijesh Kumar

letter No.E/132/21 II-I/Fitting dated 15.12.74.

(g) Again, I was considered competent to hold the independent charge & ACME/M, GKP's XR No. E/210/3/1(ii) Pt IV dt. 4.11.1974 & I was posted as ALF, loco shed Pilibhit, thereafter vide D.S. (P) IZN office order No.E/III/283/I-Optg (Mech) dt. 18.11.74. I had been posted as loco shed Kashipur as ALF vide Sri P.N. Chaubey & completing, successfully two years with the highly appreciation of over honourable D.S. IZN & D.S. (M)/IZN.

In the light of the above I request your judicious honour to consider my case priot to hold the selections, as I am senior to Sri Y.S. Sahani & several others, so that I may be ordered to attend this selection ( 840-1040) by utilizing the stick of justice at once.

Thanking you,

most obediently,  
Yours ~~faithfully~~  
Sd/-

( Brijesh Kumar )

Charge Man A 550-750)  
posted as ALF/Loco Shed  
Kashipur.

Dt. 10.11.76.

Advance copy to :-

The General Manager (Personal) GKP.  
Sri K.G. Balappa CME/GKP  
Sri H.D.Bhalla ACME/M/GKP  
for information and Immediate action please.





इन दि आनरेबल हाईकोर्ट आफ जूडीकेयर एट इलाहाबाद  
लजानउ बेन्च लजानउ

रिट पिटीशन नं                      आफ 1981

बृजेश कुमार ----- पिटीशनर

बनाम

यूनियन आफ इन्डिया तथा अन्य-----अपोजिट पार्टीज

एनेक्वर नं ---4---

पूर्वोत्तर रेलवे

संख्या ई /254/1-परि० (पां)/111

दि० 14-12-76

मं० अ० (का०)

श्री बृजेश कुमार

इज्जतनगर

सं० लो० फो०

काशीपुर

विषय लोको फोरमैन 'ए' 840-1040 को पद का चयन ।

संदर्भ :- आपके अभिवेदन दिनांक दि० 10-11-76

महां प्रबंधक (का०)/गोरखपुर ने अपने पत्र सं०-का/210/8/1(11)

भाग (IV) नवम दिनांक 30-11-76 के द्वारा आपके उक्त अभिवेदन के

3-12

संबंध में निम्नलिखित निर्णय भेजा है जो आपके सूचनाार्थ भेजा जाता है :5

" लोको फोरमैन वेतनमान 700-900 का पद वरीयता कम

योग्यता द्वारा भरा जाता है । चूंकि श्री बृजेश कुमार यद्यपि कि

वरीयता में सर्वश्री एम० आर० चौधरी तथा वाई०एस० अहनी से श्रेष्ठ है,

किन्तु योग्य नहीं सिद्ध होने से इसकी पदोन्नति लोको फोरमैन वेतनमान

700-900 में नहीं हो सकी । अतः इसको लोको फोरमैन 'ए' वेतनमान 840-

1040 पद के चयन में बुलाने का कोई औचित्य नहीं है "

कृत म० अ० (का०)

सत्य प्रतिलिपि



*Brijesh Kumar*

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8/99

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

Annexure No. 5

In

Writ Petition No. of 1981

Brijesh Kumar ... Petitioner

Vs.

Union of India & others. ... Opp. Parties.

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To

The General Manager,  
North Eastern Railway,  
Gorakhpur.

Through: Proper Channel.

Hon'ble Sir,

Sub: Supersession by junior in contrary to rule in vogue.

Ref:- Your letter No.L/10-/8/1(1) dated 31/3/-11/12-1975 &

D.S.(P)-12 M's letter No.L/254/1-Optg(M)/111 dt.

14.12.76.

*Brijesh Kumar*

Most humbly and respectfully I beg to state that the decision conveyed vide letter under reference on my representation dated 10/11/76 is not the fact that I being unsuitable was not eligible for promotion as Loco-Foreman (M) in the scale of Rs.700-900 which resulted supersession and in this connection I submit following lines for your kind consideration.

- (I) Sir, of course, in the confidential report for the period ending 1974, i.e. 1.4.1973 to 31.3.1974, I was classified as average which was communicated vide CME's letter No.L/54/B (con) dt. 3/10.74, but the reason for estimating my work as 'average' was not intimated, so as I would have understood



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my short comings. Actually, on transfer from Izatnagar Division to L.J.N. Division in the month of September, 1973 I was posted by the DME (L)/L.J.N.'s letter No.M/CON/SS-1/73 dt. 20/22.9.73 as AIF/MLN vice Sri C.L.Bhalla who was granted leave as the condition of the Mailani shed was deteriorated during his stayal. I was interested to bring up the maintenance of Locos of Mailani shed which I fulfilled according to DME (L)/L.J.N.'s desire till 16.12.1973 when regular replacement vide me was made by the Headquarter. Thereafter I was posted to Charbagh shed as Chargeman 'A' and I was interested to Schedule IV repairs from ~~in~~ middle of January 1974 and onward where I took sincere interest in maintenance. The condition of shed improved. But inspite of my sincere devotion to duty my work as was assessed as 'average' in the confidential report for the same period which shocked me much. I also could not know the reasons therefor which should have conveyed to me for my satisfaction.

- (II) The aforesaid confidential report is only the confidential report wherein my working has been assessed as 'average'.
- (III) So far I know, according to extent rules in the case of non-selection posts if the assessment in the, last report is 'average' but in the previous two reports it was 'good' the staff should be promoted on the basis of the previous two good reports. If the last report is good while the previous are 'average' the staff in that case, should also be promoted.
- (IV) Thus, even, if my confidential report for the period ended 1974 is considered to be 'average' yet I stand eligible for promotion as LF(M) (Rs.700-900) according to turn of my seniority as I would have been considered suitable for promotion according to aforesaid Rule which is in vogue, as my previous two confidential reports were good.

*Dayish Kumar*



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(V) Therefore, my supersession to my juniors, sarvashri M.R. Chaudhary and Shri Y.S. Sahani to the post of L.F. (M) (Rs.700-900) is against extent rules.

(VI) Besides, when the promotion of my juniors sarvashri M.R. Chaudhary & Shri Y.S. Sahani to the post of LF(M) (700-900) was considered my next C.R. i.e. 1975, was due and according to aforesaid extent rule, I was again eligible due for promotion as per my turn of seniority prior to my juniors, as confidential report for the year 1975 too is good.

(VII) In the circumstances, it would be appreciated that injustice has been made in my case of promotion resulting in supersession by my juniors which deprived me not only promotion in scale Rs.700-900 at my due turn but also deprived me from appearing in the selection of L.F. Gr. A) MIO (840-1040) wherein the aforesaid my juniors have been considered.

I, therefore, request your honour kindly to consider my case of promotion as LF(M) (700-900) as per my due turn in view of aforesaid administration error and extend me benefit of proforma fixation in scale Rs.700-900 from the date of promotion of my juniors as well as for appearing in the supplementary selection of LF Gr. 'A' /MIO (Rs.840-1040) for which I shall ever remain grateful to you.

Hoping for justice.

Yours faithfully,

sd/  
( Brijesh Kumar )  
Chargeman 'A'  
Posted as ALF/Loco Shed  
Kashipur.

Dated: 29.3.1977

Encls:

1. Copy of SR of 1974.
2. Copy of posting as ALF/MLN.

Copy in advance for sympathetic consideration to :-

- 1) G.M. (P)/NE Rly. Gorakhpur.
- 2) A.C.M.E.(M) N.E. Rly. Gorakhpur.

sd/

Brijesh Kumar





इन दि आनरेबल हाईकोर्ट आफ जूडीकेयर एट इलाहाबाद

लखनऊ बेंच लखनऊ

रिट पिटीशन नं

आफ 1981

बृजेश कुमार -----

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-----पिटीशनर

बनाम

यूनियन आफ इन्डिया तथा अन्य-----

-----अपोजिट पार्टी ज

एनेक्चर नं -6-----

कार्यालय मओ 0(का)

पत्रांक का /210/8/1(11)भाग चार (नवम)गोरखपुर दिनांक 28-4-77

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श्री बृजेश कुमार

चार्जमैन 'ए'

लोको सेड काशीपुर

द्वारा प्रवर मण्डलयांत्रिक इंजिनियर लखनऊ

विषय:- श्री बृजेश कुमार चार्जमैन ए काशीपुर

का अभिवेदन दिनांक 29-3-77 काशीपुर

स्टाफ सिक ग्राफिकल्स कैम्प काशीपुर से प्राप्त ।

आप को इस कार्यालय के सम्मुख पत्र दिनांक 3-12-76 द्वारा

बता दिया गया है कि लोकोफोरमैन वेतनमान 700-900 का पद वरीयता

कम योग्यता द्वारा भरा जाना है । चूंकि आप वरीयता में अग्रेष्ठ होते

हुये भी योग्य नहीं सिद्ध हुए अतः आप की पदोन्नति नहीं हो सकी

भविष्य की रिक्तियों में आप की पदोन्नति पर विचार किया जावेगा ।

हO अपठनीय

महा प्रबन्धक ( का )

सत्य प्रतिलिपि



Brijesh Kumar

इन दि आनरेबल सर्वोर्ट आफ जूडीकेचर एट हला हाबाद

लखनऊ बेन्च लखनऊ

रिट पिटीशन नं आफ 1981

बृजेश कुमार -----

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---पिटीशनर

बनाम

यूनियन आफ इन्डिया तथा अन्य -----अपोजिट पार्टीज

एनेक्चर नं 7---

अभिवेदन पत्र संख्या जन0/पर्यवेक्षक /50/भाग एक /काशीपुर

सेवा में,

महं प्रबन्धक (कार्मिक )

पूर्वार्त्तर रेलवे गोरखपुर ।

महं मान्यवर महोदय जी, द्वारा :- प्राप्तर चन्त

विषय :- नियम विरुद्ध जूनियरों को पदोन्नति सीनियरों की ओर  
करके दिया जाना ।

संदर्भ :- आपका पत्र सं0 :- का/210/8/1(11)भाग चार(नवम्)गोरखपुर  
दि 0 28/30-4-77

महोदय,

सेवा में सविनय पुनः निवेदन यह है कि प्राथी दो बार आपके दरबार

में न्याय हेतु अर्जी लगा चुका है (प्रथम 10-11-76 को तथा दूसरी 29-3-77

को अभिवेदन ) । यह मेरा दुर्भाग्य तथा भारतीय नागरिक होते हुये

आश्चर्य है कि आज देश की सुधृद जन तांत्रिक प्रणाली में भी नियम विरुद्ध

कार्य होते हुये न्याय पक्ष की ओर को जावे । यह एक अत्यन्त दुख दाई

विषय है । अतः आपसे पुनः अनुरोध है कि प्राथी के प्रति न्याय किया जावे ।

Brijesh Kumar

RECEIVED FOR

21/4/01

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अरोक्त संदर्भ में आपके कार्यालय से उसी भाषा में उत्तर दिया गया, अर्थात् चूंकि आप वरीयता में अश्लेष होते हुये भी योग्य नहीं सिद्ध हुये अतः आपकी पदोन्नति नहीं हो सकी जो कि आपके पत्र संख्या :- का/210/8/1(11) भाग चार (नवम्) गोरखपुर दिनांक 31/3-11/12-1976 की केवल मात्र पुनरावृत्ति मात्र है जब कि प्राथी ने दोनो बार अभिवेदन पत्रों में स्पष्ट तथा विस्तार से विगत दस वर्षों का अपनी सेवाओं के बारे में प्रामाणिक से वर्णन किया तथा समय समय पर वर्षों तक निम्न पद वेतन पर रह कर भी उच्च पद की जिम्मेदारी कंधापर, प्रशासन की आदेशानुसार, वहन करता रहा जिसका भी प्रामाणिक वर्णन प्राथी आपने दोनो विगत अभिवेदन पत्रों में किया है।

अतः आपसे करवद्ध निवेदन है कि प्राथी के विगत दोनो अभिवेदन पत्रों पर गम्भीरता पूर्वक विवेचन करने का कष्ट किया जावे तथा प्रशासनिक त्रुटियों के कारण प्राथी को जो हानि हुई उसकी समूति करने की दिशा में प्रशासनिक प्रशंसीय कदम उठाकर न्याय दिलाने का कष्ट किया जावे।

जिसके लिये, प्राथी आपका आजीवन आभारी रहेगा।

धन्यवाद।

आपका आज्ञाकारी

ह0 बृजेश कुमार

(बृजेश कुमार)

अग्रिम प्रतिलिपि

चार्ज मैन् - ए

वर्तमान सहायक लोको फोरमैन  
पद पर कार्यरत, काशीपुर।

1- माह प्रबन्धक (कार्मिक) गोरखपुर।

2- श्री एच0 डी0 भट्टा, ए0 सी0 एम0 ई0 गोरखपुर।

3- श्री के0 जी0 वलियप्पा, सी0 एम0 ई0 गोरखपुर।

दि0 28 मई, 1977



सत्य प्रतिलिपि

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इन दि आनरेबल लार्डकोर्ट आफ जूजेक्वर एट ह्वा लजाद  
लखनऊ बेन्च लखनऊ

रिट पिटीशन नं आफ 1981

बृजेश कुमार ----- पिटीशनर

बनाम

यूनियन आफ इन्डिया तथा अन्य----- अपोजिट पार्टीज

एनेक्चर नं ---8---

पूर्वोत्तर रेलवे

कार्यालय आदेश

यांत्रिक विभाग के निम्नलिखित फिटिंग सुपरवाइजर कर्मचारियों की पदोन्नति तथा स्थानान्तरण का आदेश तुरन्त लागू होने के लिए जारी किया जाता है।

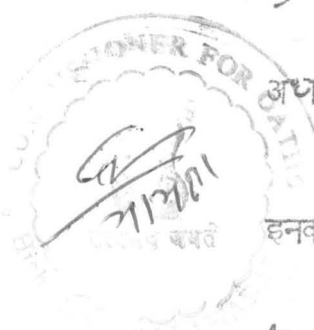
1- श्री एस० एस० सिंह चार्जमेंट ('ए' वेतनमान 550-750 अन्तर्गत मण्डल अधीक्षक वाराणसी की पदोन्नति फोरमैन मैकेनिकल (700-900) में करके गोण्डा रोड में के० सी० नन्दी द्वारा खाली की गई जगह पर तैनाती की जाती है।

2- श्री बृजेश कुमार चार्जमेंट 'ए' वेतनमान 550-750 काशीपुर रोड अन्तर्गत मण्डल अधीक्षक इज्जतनगर की पदोन्नति यम० झाई० ओ० वेतनमान 700-900 में करके यम० आई० ओ० मुख्यालय अन्तर्गत आ० मु० पा० इ(या०) गोरखापुर में की जाती है।

3- श्री महात्मा प्रसाद चार्जमेंट 'ए' वेतनमान 550-750 अन्तर्गत मण्डल अधीक्षक इज्जतनगर की पदोन्नति फोरमैन मैकेनिकल (700-900) में करके इनकी कासगंज रोड में तैनाती की जाती है।

4- श्री बोटै लाल चार्जमेंट 'ए' वेतनमान 550-750 बरेली सिटी अन्तर्गत

Brijesh Kumar



मण्डल अधीक्षक इज्जतनगर की पदोन्नति फोरमैन मैकेनिकल (700-900) में करके बनास शोड अन्तर्गत मण्डल अधीक्षक वाराणसी में तैनाती की जाती है ।

II) अरोक्त पदोन्नतियों सभी लागू होगी जब कर्मचारी विजिलेन्स /एसपीई डीप्लार मामलों से प्रभावित न हो ।

III) अरोक्त आदेश अति मु० यां० ई(यम)द्वारा अनुमोदित है ।

ह०/-

कृते महाप्रबन्धक ( कार्मिक )

पत्रांक का /210/8/1(11)भाग-5 '(नवम् ) गोरखपुर दिनांक 15/9/77

प्रतिलिपि सूचनार्थ एवं उचित कार्यवाही हेतु अग्राहित :-

(1) मण्डल अधीक्षक, इज्जतनगर लखनऊ वाराणसी /कर्मचारियों को बता दिया जाय कि स्थानान्तरण के आदेश को नही मानने पर उन्हें पदोन्नति से एक वर्ष के लिए अयोग्य समझा जायेगा ।

(2) मण्डल अधीक्षक (कार्मिक) इज्जतनगर, लखनऊ, वाराणसी ।

(3) अति० मु० यां० ई (यम) गोरखपुर

(4) सहायि (मुख्यालय) गोरखपुर ।

*Sanjiv Kumar*

ह० /-

कृते महाप्रबन्धक (कार्मिक)

सत्य प्रतिलिपि



इन दि आनरेबल जज कोर्ट आफ जूडिक्चर एट इलाहाबाद

लखनऊ बेन्च लखनऊ

रिट पिटीशन नं आफ 1981

बृजेश कुमार ----- पिटीशनर

बनाम

यूनियन आफ इन्डिया तथा अन्य ----- अपोजिट पार्टीज

एनेक्चर नं 9

कार्यालय आदेश 276

महाप्रबन्धक (कार्मिक) गोरखपुर के कार्यालय आदेश संख्या का /210/8(11) भाग 3 (नवम्) दिनांक 19-7,79 के अनुसार निम्नलिखित मेन्टेनेन्स सुपरवाइजरों का पदोन्नति / स्थानान्तरण आदेश जारी किया जाता है जो तत्काल लागू है

- 1) श्री बृजेश कुमार लोको फोरमैन (700-900) मउ जं० को तदर्थ स में एमआईओ (840-1040) सोनपुर पद पर पदोन्नति कर नियुक्ति सोनपुर मंडल में की जाती है ।
- 2) श्री एनएसएसिंह एमआईओ (700-900) वाराणसी को उनके अपने ही वेतनमान में स्थानान्तरित कर श्री बृजेश कुमार के स्थान पर मउ जं० में नियुक्त किया जाता है ।

अरोक्त क्रम सं० 1 के अन्तर्गत की गई तदर्थ पदोन्नति में वरीयता आदि का लाभ देय नहीं है ।

अरोक्त आदेश मु०पा०ई० द्वारा अनुमोदित है ।

ह०

कृते मंडल रेल प्रबन्धक (का)

वाराणसी

*Brijesh Kumar*





A/C

-2-

सं० ई/एम/210/11/शेड सुपर दिनांक 24-8-79

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित ।

1) महाप्रबन्धक (कां) गोरखपुर (2) मंडल अधीक्षक (का) सोनपुर (3)

लोको फोरमैन /मंडल वाराणसी

4) मंडल अधीक्षक /वाराणसी

5) प्रोत्तिष्ठित लीव इन्स्ट्रुमेंट बजट फरेल्लर तथा पास ।

6) सम्बन्धित कर्मचारी एवं व्यक्तिगत मिसिल ।

कृत मंडल रेल प्रबन्धक (का)

वाराणसी ।

*Pranish Kumar*

सत्य प्रतिलिपि



In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

Annexure No. 10

In

Writ Petition No. of 1981

Brijesh Kumar ... Petitioner

Vs.

Union of India & others. ... Opp. Parties.

\*\*\*\*

To

The Chief Mechanical Engineer,  
North Eastern Railway,  
Gorakhpur.

Through: Proper Channel.

Hon'ble Sir,

Sub: Irregular supersession by my juniors ignoring  
the rules.

Ref: Your letter No. E/210/8/1(II)Pt.IV(IX) dated  
28/30-4-77.

Most respectfully I intrude upon your previous time with  
humble submission that my petition dated 28.3.78 in regard to  
my supersession by my juniors, which is contrary to rules, has  
not yet been considered to extend me justice.

2. In support of my case, I mention that one Shri S.K. Bansal  
Grade III, who was also superseded ~~xxx~~ by not following the rules,  
have recently been allowed due seniority and proforma fixation  
of pay, but I am being deprived of the same, although my case is  
identical to him as would be revealed, if his case is perused.

3. I, therefore, request your honour kindly to consider my case  
and extend me justice as prayed for.

For this act of kindness I shall ever remain grateful.

Thanking you,

Yours faithfully,  
sd/

(Brijesh Kumar)

M.I.O/HQ.

CME's Office N.E. Rly.

Gorakhpur.

Dt. 1.8.78

Copy in advance for kind consideration  
and justice to:

1. The CME/NE. Rly. Gkp.

2. The C.P.O./NE Rly. GKP. 3). The ACME(M) NE.Rly.GKP.



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Brijesh Kumar

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(Handwritten signature)

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

Annexure No. 1

In Writ Petition No.                      of 1981

Brijesh Kumar                      ...                      Petitioner

Vs.

Union of India & others.                      ...                      Opp. Parties.

\*\*\*\*\*

To

The General Manager,

N.E. Railway,  
Gorakhpur,

Through: Proper Channel

Hon'ble Sir,

Sub: Supersession by junior in contrary to  
rule in vogue.

Most respectfully, I intrude upon your previous time with humble submission that despite my several representations in regard to my irregular supersession by my juniors for promotions as L.F. Gr. 'B' (Rs. 700-900) and L.F. Gr. 'A' (Rs. 840-1040) the justice has not been extended to me and as such under compulsion I had to seek your honour's attention in the matter.

2. So far I have been communicated entry of only one C.R. which was too "Average" for the year ending March/74 and according to prevalent rule it is not recognised as adverse, although as per laid down procedure vide Rule 1619 (1) R.I., the document in which the substance of an adverse report is communicated to Railway employee shall be prepared in duplicate, one copy being signed by the railway servant concerned and returned with his explanation, if any, and the other copy being

*Brijesh Kumar*



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retained by him for further reference, Therefore, no cognizance should be given to those C.Rs. which contains adverse entry, if any, but not communicated to employee concerned as by this omission the basis principle behind it is not fulfilled and thus the employee is deprived of from the benefit of opportunity, To sum up I submit following lines for your kind consideration :-

- (I) Sir, of course, in the confidential report for the period ending 1974, i.e. 1.4.1973 to 31.3.1974 I was classified as average which was communicated vide CME's letter No.1/54/B(con) dated 3.10.74, but the reason for estimating my work as 'average' was not ~~x~~ intimated, so as I would have understood my short-comings. Actually, on transfer from Izatnagar Division to Lucknow Division in the month of September 73 I was posted by the DM E (L)/LJN's letter No.M/CON/SS-1/73 dated 20/22-9-73 as ALF/MIN vice Shri C.L. Bhalla who was granted leave as the condition of the Mailani Shed was deteriorated during his stayal. I was interested to bring up the maintenance of Locos of Mailani Shed which I fulfilled according to DM(L)/LJN's desire till 16.12.1973 when regular replacement vide me was made by the Headquarter. Thereafter, I was posted to Charbagh Shed as Chargeman 'A' and I was interested to Schedule IV repairs from middle of January 1974 and onward where I took sincere interest in maintenance. The condition of Shed improved. But inspite of my sincere devotion to duty my work ~~was~~ was assessed as 'average' in the confidential report ~~from~~ for the same period which shocked me much. I, also could not know the reasons therefor which should have conveyed to me for my satisfaction.

Banijesh Kumar



- (II) The aforesaid confidential report is only the confidential report wherein my working has been assessed as 'average'.
- (III) So far I know, according to extent rules in the case of non-selection posts if the assessment in the, last report is 'average' but in the previous two reports it was 'good' the staff should be promoted on the basis of the previous two good reports. If the last report is good while the previous are 'average' the staff in that case, should also be promoted.
- (IV) Thus, even, if my confidential report for the period ended 1974 is considered to be 'average' yet I stand eligible for promotion as LF (M) (Rs.700-900) according to turn of my seniority as I should have been considered suitable for promotion according to aforesaid Rule which is in vogue, as my previous two confidential reports were good.
- (V) Therefore, my supersession to my juniors, sarvashri M.R. Chaudhary and Shri Y.S. Sahani to the post of L.F. (M) (Rs.700-900) is against extent rules.
- (VI) Besides, when the promotion of my juniors Sarvashiri M.R. Chaudhary and Shri Y.S. Sahani to the post of L.F. (M) (700-900) was considered my next C.R. i.e. 1975 was due and according to aforesaid extent Rule, I was again eligible due for promotion as per my turn of seniority prior to my juniors, as confidential report for the year 1975 too is good.
- (VII) In the circumstances, it would be appreciated that injustice has been made in my case of promotion resulting in supersession by my juniors which deprived me not only promotion in scale Rs.700-900 at my due turn but also deprived me from appearing in the selection of L.F. Gr.A MIO (840-1040) wherein the aforesaid my juniors have been considered.

*Brijesh Kumar*



39

I, therefore, request your honour kindly to consider my case of promotion as IF (M) ( 700-900) as per my due turn in view of aforesaid administration error and extend me benefit of proforma fixation in scale Rs.700-900 as well as in scale Rs.840-1040 from the date of promotion of my juniors as for which I shall ever remain grateful to you.

Hoping for justice.

Yours faithfully,

Sd/-  
( Brijesh Kumar )  
Maintenance Inspector, D.R.M.(Mech)'s  
Office/N.E.Rly/ Lucknow.

Copy in advance for sympathetic consideration to :-

1. The G.M. ( N.E.Rly ) Gorakhpur.
2. The Minister of Railways, Rail Bhawan, New Delhi.

Yours faithfully,

Sd/-  
( Brijesh Kumar )  
Maintenance Inspector D.R.M.(Mech)'s  
Office/N.E.Railway, Lucknow.

Dated: 19-8-1980

*Brijesh Kumar*





Copy to 402

Phumk  
11/8/82 AGV

Hon. Neelkumar J.

Hon. The selection  
for the post of Foreman grade  
Rs 040-1040 may take place  
if the same has not yet  
taken place but in that  
selection name of the  
petitioner shall also be  
considered. Let this matter  
again after three weeks.  
Counter affidavit may be  
filed within this period.

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11/8/82

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16-8-82

W  
24-8-82

the opposite-parties Nos.2 to 4 to grant the petitioner proforma seniority on the date his juniors, opposite-parties Nos.6 and 7 were promoted both in the grade of Rs.700-900 and Rs.840-1040 and also pay him the arrears of salary and allowances that accrued due accordingly has also been prayed for. 5/2 ✓ (S/R) 1/3

3- That as stated in para 21 of the writ petition the opposite-parties Nos.2 to 4, when they were required to submit parawise comments on the appeal preferred by the petitioner, finding that a clear case of administrative error has arisen have, with a view to forestall the accrual of benefits to the petitioner in the event of a favourable decision being given by the Railway Board on his representations, spoiled his character roll for the year 1980-81.

4- That against the Character Roll entry for the year 1980-81, referred to in para 21 of the writ petition, the petitioner-applicant had submitted several representations and reminders on 11.11.1981, 3.12.1981, 16.2.1982, 15.5.1982 and 2.8.1982. The petitioner-applicant by the said representations has repeatedly been requesting the authorities concerned to decide his representations against the adverse entry referred to in para 21 of the writ petition. The said representations have till date not been decided and disposed of. The petitioner-applicant in his representations has even indicated that disposal of the said representations was necessary in the interest of justice since his selection for

for

the post of M.I.O. grade Rs.840-1040 was in the offing and in the light of the said adverse entry the petitioner's case for promotion would not receive fair and equitable consideration.

5- That the opposite-parties 2 to 4 it appears got irked by reason of the filing of the writ petition. It is stated that notice of the writ petition was given to the counsel for the opposite-parties on 3.12.1981. It came up for orders on 17.12.1981 when a Division Bench of this Hon'ble Court was pleased to direct issue of notice to the opposite-parties to show cause why the writ petition be not admitted.

6- That the writ petition finally came up for orders as regards admission on 8.7.1982 having been adjourned on earlier two occasions viz., 29.4.1982 and 6.5.1982. The opposite-parties have filed no counter affidavit in reply to the writ petition till date, and the writ petition was admitted by a Division Bench of this Hon'ble Court on 8.7.1982.

7- That a further adverse entry in the petitioner's character roll has been recorded for the year 1981-82 in identical terms as the one for the year 1980-81 quoted in para 21 of the writ petition.

8- That a selection for the post of Loco Foreman M.I.O., grade Rs.840-1040 was intimated to be held on 26.6.1982. The same was, however, not held on that date and it has been now notified to be held on 17.8.1982.

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9- That the suitability at the selection is required to be assessed on the basis of the annual character roll entries for the last 3 years. Fifteen marks out of hundred are also under the relevant rules assigned for the purpose of seniority.

10- That the petitioner in view of the illegal supersession in the lower post of Loco Foreman grade Rs.700-900 would not get the proper marks on account of wrong fixation of seniority and his case for promotion would not get due and proper assessment by reason of the two annual entries recorded and awarded due to the mala fides of opposite-party No.4.

WHEREFORE, it is most respectfully prayed that this Hon'ble Court may kindly be pleased to pass an ad interim order restraining the opposite parties from holding the selection for the post of Foreman grade Rs.840-1040 scheduled on 17.8.1982. Pass such other order which this Hon'ble Court may, in the circumstances of the case, deem just and proper.

Lucknow:

Dated:

B.C. Saksena

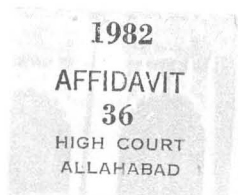
(B.C. Saksena)

Counsel for the petitioner-  
applicant.

8/9/82



In the Honble High Court of Judicature at  
Allahabad known Bench-RO



WP No 6882 of 1981

Brijesh Kumar

Petitioner

vs

Union of India & others — Opp. Parties



(6) *ST*

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

(A2)

Affidavit in support of the application  
for Interim Relief.

inre:

Writ Petition No.6082 of 1981

Brijesh Kumar ..... Petitioner.

Versus

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

.....

I, Brijesh Kumar, aged about 48 years,  
son of Sri Nand Kumar Sharma, resident of 80 Gurgovind  
Singh Marg, Lalquan, Lucknow, do hereby solemnly  
affirm and state on oath as under:-

- 1- That the deponent is the petitioner in the  
above noted writ petition and as such is fully  
acquainted with the facts of the case.
- 2- That the contents of paras 1 to 10 of the  
accompanying application for interim relief are true



*Brijesh Kumar*

- 2 -

to my personal knowledge.

2  
8/48  


Lucknow:

Brijesh Kumar

Dated: August 9, 1982

DEPONENT

I, the abovenamed deponent, do hereby verify that the contents of paras 1 and 2 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed, so help me God.

Lucknow:

Brijesh Kumar

Dated: August 9, 1982

DEPONENT

I identify the deponent who has signed before me.

R.K. Sinastava

(Clerk to Sri B.C. Saksena, Advocate)

Solemnly affirmed before me on 9.8.82 at 9.30 a.m./p.m. by Sri Brijesh Kumar the deponent who is identified by Sri Rakesh Kumar Srivastava, Clerk to Sri B.C. Saksena, Advocate, High Court (Lucknow Bench) Lucknow. I have satisfied myself by examining the deponent that he understands the contents of the affidavit which have been read out and explained by me to him.





DO NOT WRITE IN THESE SPACES

73072  
9.8.82



em no. 10306 CD/dh

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

Application for clarification of the order  
dated 24.8.1982 passed by Hon'ble Mr.  
Justice U.C. Srivastava on C.M. Application no  
7806 of 1982

in

Writ Petition no. 6082 of 1981

Brijesh Kumar

--Petitioner-  
applicant

versus

Union of India and others

--Opp-parties

This application on behalf of the applicant  
above-named most respectfully sheweth:-

1. That the applicant had filed an application for grant of interim relief which was numbered as C.M. Application no. 7806(w) of 1982.
2. That by the said application the applicant had prayed that this Hon'ble Court be pleased to pass an ad interim order restraining the opposite-parties from holding the selection for the post of Foreman grade Rs. 840-1040 scheduled for 16.8.1982 .
3. That after hearing the counsel for the parties Hon'ble Mr. Justice U.C. Srivastava was pleased to

A/S

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A/S

pass an order directing that the selection for the post of Foreman Grade Rs.840-1040 may take place if the same has not yet taken place but in that selection the case of the petitioner shall also be considered ignoring the adverse entries.

It may be pointed out that reference in the said order to adverse entries clearly was to those concerning the years 1980-81 and 1981-82 referred to in para 7 of the application.

4. That the applicants counsel on his filed noted the order passed by Hon'ble Mr. Justice U.C.Srivastava in short as indicating that the petitioners case be considered ignoring the adverse entries. The applicant was also informed of the said fact immediately after the order since the applicant was present in court on 24.8.1982 when the said application was taken up for consideration.

5. That a certified copy of the order was applied and the certified copy of the order as made available reads as under:-

"Heard. The Selection for the post of Foreman grade Rs.840-1040 may take place if the same has not yet taken place but in that selection name of the petitioner shall also be considered List this matter again after three weeks. Counter-affidavit may be filed within this period."

for

*(Handwritten signature/initials)*

*51*

6. That it appears that due to inadvertence or typographical error the direction by Hon'ble Mr. Justice U.C. Srivastava in the said order that the petitioners case be considered ignoring the adverse entries has been omitted.

Wherefore, it is respectfully prayed that this Hon'ble Court be pleased to clarify the said order and make amendment in the order dated 24.8.1982.

Dated Lucknow  
27.9.1982

*(Handwritten signature: B.C. Saxena)*  
(B.C. Saxena)  
Advocate  
Counsel for the petitioner

H. nebulosa

28. 253

*(Handwritten signature/initials)*

*8/5*

6. That it appears that due to inadvertence or typographical error the direction by Hon'ble Mr. Justice U.C.Srivastava in the said order that the petitioners case be considered ignoring the adverse entries has been omitted.

Wherefore, it is respectfully prayed that this Hon'ble Court be pleased to clarify the said order and make amendment in the order dated 24.8.1982.

*(Handwritten signature: B.C. Saksena)*

Dated Lucknow  
27.9.1982

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

*[Handwritten signature]*  
1/8

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



Affidavit  
in

Application for clarification of the order  
order dated 24.8.1982 passed by Hon'ble  
Mr. Justice U.C. Srivastava on C.M. Application  
no. 7806(w) of 1982

In

Writ Petition no. 6082 of 1981

Brijesh Kumar

-Petitioner-  
applicant

versus

Union of India and others

-Opp-parties



I, Brijesh Kumar, aged about 48 years, son of  
Sri Nand Kumar Sharma, resident of 80, Guru Govind  
Singh, Marg, Lal Kuan, Lucknow, <sup>the above-named applicant</sup> do hereby solemnly  
take oath and affirm as under:-

Brijesh Kumar

1. That the applicant had filed an application for  
grant of interim relief which was numbered as C.M.  
Application., No. 7806(w) of 1982.
2. That by the said application the applicant had  
prayed that this Hon'ble Court be pleased to pass an  
ad interim order restraining the opposite-parties from  
holding the selection for the post of Foreman grade  
Rs. 840-1040 scheduled for 17.8.1982.

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3. That after hearing the counsel for the parties Hon'ble Mr. Justice U.C. Srivastava was pleased to pass an order directing that the selection for the post of Foreman Grade Rs. 840-1040 may take place if the same has not yet taken place but in that selection the case of the petitioner shall also be considered ignoring the adverse entries.

It may be pointed out that reference in the said order to adverse entries clearly was to those concerning the years 1980-81 and 1981-82 referred in para 7 of the application.

4. That the applicants counsel on his file noted the order passed by Hon'ble Mr. Justice U.C. Srivastava as in short as indicating that the petitioners case be considered ignoring the adverse entries. The applicant was also informed of the said fact immediately after the order since the applicant was present in court on 24.8.1982 when the said application was taken up for consideration.

Dwijendra Kumar

5. That a certified copy of the order was applied for and the certified copy of the order as made available reads as under:-

"Heard. The selection for the post of Foreman grade Rs. 840-1040 may take place if the same has not yet taken place but in that selection the name of the petitioner shall also be considered. List this matter again after three weeks."





To



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Hon'ble ~~the~~ Senior Judge,  
High Court(Lucknow Bench),  
Lucknow.

Ref: Writ Petition No.6082 of 1981/ Brijesh Kumar Vs.  
Union of India and others).

A/34

1- That in the above noted writ petition an application seeking interim relief was filed on 16.8.1982 praying that an interim order restraining the opposite-parties from holding a selection for ~~the~~ the posts of Foreman Grade Rs.840-1040 scheduled for 17.8.1982 be passed. The said application was directed to come up on 17.8.1982 but unfortunately I, (the petitioner's counsel), due to illness, could not appear on 17.8.1982.

Gr. Discharge

Put up with the file today before 2.30 PM. State if any date has been fixed in the matter.

ul  
19.8.82

2- That the selection has been held on 17.8.1982. The absentees' selection is scheduled for 24.8.1982. If before the said date the stay application is not heard and disposed of the same could be rendered infructutous.

List it for 24.8.82

Isen  
19.8.82

WHEREFORE, it is prayed that the said stay application may kindly be directed to be listed or taken for orders on 23.8.1982.

Yoursfaithfully,

(B.C.Saksena)

Advocate,  
Counsel for the petitioner.

Lucknow:  
Dated: August 19, 1982

Listed.  
19/8/82

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(X/9)

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



Application for interim relief

C.M. Application No. 9621 (w) of 1983

Writ Petition No. 6082 of 1981

Brijesh Kumar, aged about 49 years, son of Sri Nand  
Kumar Sharma, resident of 80, Bax Gurgovind Singh  
Marg, Lal Kuan, Lucknow

Petitioner-applicant

versus

1. Union of India through the Secretary, Ministry  
of Railways- ex-officio Chairman, Railway Board,  
Rail Bhavan, New Delhi
2. General Manager, N.E. Railway, Gorakhpur
3. General Manager (Personnel), C.M.E.N.E. Railway,  
Gorakhpur
4. Chief Mechanical Engineer, N.E. Railway, Gorakhpur
5. M.R. Chaudhary, aged about 42 years, fathers name not  
known, Maintenance Inspector, C.M.E. Office, N.E.  
Railway, Gorakhpur
6. Y.S. Sahani, aged about 36 years, fathers name not  
known, Maintenance Inspector, C.M.E. Office,  
N.E. Railway, Gorakhpur
7. Sri K. T. Singh, Addl. Chief Mechanical Engineer, (M),  
N.E. Railway, Gorakhpur

Opp-parties

for

BK

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This application on behalf of the applicant above-named most respectfully sheweth:-

1. That by means of the above-noted writ petition the applicant has challenged his illegal supersession to the post of Foreman grade Rs. 700-900 as also the orders contained in Annexures nos. 4 and 6 to the writ petition rejecting the petitioners representation in that behalf.
2. That a further relief of mandamus commanding the opposite-parties nos. 2 to 4 to grant the petitioner proforma seniority on the date his juniors opposite-parties nos. 6 and 7 were promoted both in the grade of Rs. 700-900 and Rs. 840-1040 and also pay him the arrears of salary and allowances that accrued due accordingly has also been prayed for.
3. That as stated in para 21 of the writ petition the opposite-parties nos. 2 to 4, when they were required to submit parawise comments on the appeal preferred by the petitioner, finding that a clear case of administrative error has arisen have, with a view to freestall the accrual of benefits to the petitioner in the event of a favourable decision being given by the Railway Board on his representations spoiled his character roll for the year 1980-81.
4. That against the character roll entry for

*[Handwritten signature]*

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the year 1980-81 , referred to in para 21 of the writ petition, the petitioner-applicant had submitted several representations and reminders on 11.11.1981, 3.12.1981, 16.2.1982, 15.5.1982 and 2.8.1982. The petitioner-applicant by the said representations has repeatedly been requesting the authorities concerned to decide his representations against the adverse entry referred to in para 21 of the writ petition. The said representations have till date not been decided and disposed of. The petitioner-applicant in his representations has even indicated that disposal of the said representations was necessary in the interest of justice since his selection for the post of M.I.O. grade Rs. 840-1040 was in the offing and in the light of the said adverse entry the petitioner's case for promotion would not receive fair and equitable consideration.

5. That the opposite-parties 2 to 4 it appears got irked by reason of the filing of the writ petition. It is stated that notice of the writ petition was given to the counsel for the opposite-parties on 3.12.1981. It came up for orders on 17.12.1981 when a Division Bench of this Hon'ble Court was pleased to direct issue of notice to the opposite-parties to show cause why the writ petition be not admitted.

6. That the writ petition finally came up for orders as regards admission on 8.7.1982 having been adjourned on earlier two occasions viz., 29.4.1982 and 6.5.1982 . The opposite-parties have filed

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*(Handwritten signature/initials)*

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-4-

no counter-affidavit in reply to the writ petition till date and the writ petition was admitted by a Division Bench of this Hon'ble Court on 8.7.1982.

7. That a further adverse entry in the petitioner's character roll has been recorded for the year 1981-82 in identical terms as the one for the year 1980-81 quoted in para 21 of the writ petition.

8. That a selection for the post of Loco Foreman M.I.O. grade Rs. 840-1040 was intimated to be held on 26.6.1982, which was later notified to be held on 17.8.1982.

9. That the petitioner in view of the illegal supersession in the lower post of Loco Foreman grade Rs. 700-900 apprehended that he would not get proper marks on account of wrong fixation of seniority and his case for promotion would not get due and proper assessment by reason of the two annual entries awarded to him due to the mala fides on the part of opposite-party no. 4 and he preferred an application for interim relief in this Hon'ble Court which was numbered as C.M. Application no. 7806(w) of 1982. The applicant prayed that the opposite-parties be restrained from holding the selection for the post of Foreman grade Rs. 840-1040 scheduled for 17.8.1982.

10. That the said application came up for orders before Hon'ble Mr. Justice U.C. Srivastava and

*Per*

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His Lordship on 24.8.1982 was pleased to pass an order directing that the petitioners case shall also be considered. In the said order due to inadvertence it appears, it was not indicated that the petitioners case shall be considered without considering adverse entries which was the order his Lordship was pleased to pass on 24.8.1982. The petitioner accordingly made another application which was numbered as C.M. Application no. 10,306 (w) of 1982 and His Lordship, Hon'ble Mr. Justice U.C. Srivastava on 28.2.1983 was pleased to clarify that in the order dated 24.8.1982 it was stated that the petitioners case shall also be considered "that implies notwithstanding any entries his case will also be considered on merits."

11. That in view of the said clarification given by this Hon'ble Court the opposite-parties were bound to select the petitioner ignoring the adverse entries for the years 1980-81 and 1981-82 and that being so, have further due to mala fides intimated that in the confidential report for the year ending 1983 an adverse remark has been made. The said adverse remark was communicated to the petitioner by a letter dated 23.6.1983 a true copy of which is being annexed as Annexure no.1 to the affidavit accompanying this application. The petitioner aggrieved by the said adverse entry preferred a representation on 22.8.1983 a true copy of which is being annexed as Annexure no.2 to the affidavit accompanying this application.

Per

Handwritten initials 'MB' inside a circle.

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12. That a selection for the post of M.I.O. Loco Foreman grade Rs.840-1040 is scheduled to be held on 7.9.1983. Intimation of the said selection has been given by the letter dated 8.8.1983 a true copy of which is being annexed as Annexure no. 3 to the affidavit accompanying this application.

13. That at the said selection the petitioners case would not be fairly and properly considered in view of the adverse entries illegally awarded to him during the pendency of the writ petition.

14. That the petitioner at no time earlier than the year 1980- was awarded any adverse entry or any major or minor punishment whatsoever. His service record is wholly unblemished.

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

(i) to restrain the opposite-parties from holding the selection for the post of M.I.O. Foreman grade Rs. 840-1040 scheduled to take place on 7.9.1983 .

(ii) to pass such other order as in the circumstances of the case this Hon'ble Court may deem just and proper including an order that the post be left vacant so that in the event of the writ petition being allowed the petitioner could be adjusted against the same.

Dated Lucknow  
25.8.1983

*B.C. Saksena*  
(B.C. Saksena)  
Advocate  
Counsel for the applicant



7  
8/6/81

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



--  
Affidavit

in

Application for interim relief

-  
In

Writ Petition no. 4081 of 1981

Brijesh Kumar

-Petitioner-  
applicant

vs.

Union of India and others

-Opp-parties

I, Brijesh Kumar, aged about 49 years, son of  
Sri Nand Kumar Sharma, resident of 80, Gurgovind Singh  
Marg, Lal Kuan, Lucknow, the above-named applicant,  
do hereby solemnly take oath and affirm as under:-

1. That by means of the above-noted writ petition  
the applicant has challenged his illegal supersession  
to the post of Foreman grade Rs. 700-900 as also the  
orders contained in annexures nos. 4 and 6 to the writ  
petition rejecting the petitioners representation in  
that behalf.

2. That a further relief of mandamus ~~commanding~~  
commanding the opposite-parties nos. 2 to 4 to grant



Brijesh Kumar



the petitioner proforma seniority on the date his juniors opposite-parties nos. 6 and 7 were promoted both in the grade of Rs. 700-900 and Rs. 840-1040 and also by pay him the arrears of salary and allowances that accrued due accordingly has also been prayed for.

3. That as stated in para 21 of the writ petition the opposite-parties nos. 2 to 4, when they were required to submit parawise comments on the appeal preferred by the petitioner, finding that a clear case of administrative error has arisen have, with a view to forestall the accrual of benefits to the petitioner in the event of a favourable decision being given by the Railway Board on his representations, spoiled his character roll for the year 1980-81.



4. That against the character roll entry for the year 1980-81, referred to in para 21 of the writ petition, the petitioner-applicant had submitted several representations and reminders on 1.11.1981, 3.12.1981, 16.2.1982, 15.5.1982 and 2.8.1982. The petitioner applicant by the said representations has repeatedly been requesting the authorities concerned to decide his representations against the adverse entry referred to in para 21 of the writ petition. The said representations have till date not been decided and disposed of. The petitioner-applicant in his representations has even indicated that disposal of the said representations was necessary in the interest of justice since his selection for

*Brijesh Kumar*

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the post of M.I.O. grade Rs. 840-1040 was in the offing and in the light of the said adverse entry the petitioners case for promotion would not receive fair and equitable consideration.

5- That the opposite -parties 2 to 4 it appears got irked by reason of the filing of the writ petition. It is stated that notice of the writ petition was given to the counsel for the opposite-parties on 3.12.1981. It came up for orders on 17.12.1981 when a Division Bench of this Hon'ble Court was pleased to direct issue notice to the opposite-parties to show cause why the writ petition be not admitted.

6. That the writ petition finally came up for orders as regards admission on 8.7.1982 having been adjourned on earlier two occasions, viz., 29.4.1982 and 6.5.1982. The opposite-parties have filed no counter-affidavit in reply to the writ petition till date and the writ petition was admitted by a Division Bench of this Hon'ble Court on 8.7.1982.

7. That a further adverse entry in the petitioner's character roll has been recorded for the year 1981-82 in identical terms as the one for the year 1980-81 quoted in para 21 of the writ petition.

8. That a selection for the post of Loco Foreman M.I.O. grade Rs. 840-1040 was intimated to be held on 26.6.1982 which was later notified to be held on



Brijesh Kumar

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9. That the petitioner in view of the illegal supersession in the lower post of Loco Foreman grade Rs. 700-900 apprehended that he would not get proper marks on account of wrong fixation of seniority and his case for promotion would not get due and proper assessment by reason of the two annual entries awarded to him due to the mala fides on the part of opposite-party no.4 and he preferred an application for interim relief in this Hon'ble Court which was numbered as Q.M. Application no. 7806(w) of 1982. The applicant prayed that the opposite-parties be restrained from holding the selection for the post of Foreman grade Rs. 840-1040 scheduled for 17.8.1982.



10. That the said application came up for orders before Hon'ble Mr. Justice U.C. Srivastava and His Lordship on 24.8.1982 was pleased to pass an order directing that the petitioner's case shall also be considered. In the said order due to inadvertence it appears it was not indicated that the petitioner's case shall be considered without considering adverse entries which was the order His Lordship was pleased to pass on 24.8.1982. The petitioner accordingly made another application which was numbered as C.M. Application no. 10306 (w) of 1982 and His Lordship, Hon'ble Mr. Justice U.C. Srivastava on 28.2.1983 was pleased to clarify that in the order dated 24.8.1982 it was stated that the petitioner's case shall also be considered & "that implies notwithstanding

*Boojish Kumar*

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any entries his case shall also be considered on merits."

11. That in view of the said clarification given by this Hon'ble Court the opposite-parties were bound to select the petitioner ignoring the adverse entries for the years 1980-81 and 1981-82 and that being so, have further due to mala fides intimated that in the confidential report for the year ending 1983 an adverse remark has been made. The said adverse remark was communicated to the petitioner by a letter dated 23.6.1983 a true copy of which is being annexed as Annexure no.1 to this affidavit. The petitioner aggrieved by the said adverse entry preferred a representation on 22.8.1983 a true copy of which is being annexed as Annexure no.2 to this affidavit.

12. That a selection for the post of M.I.O. Loco Foreman grade Rs. 840-1040 is scheduled to be held on 7.9.1983. Intimation of the said selection has been given by the letter dated 8.8.1983 a true copy of which is being annexed as Annexure no.3 to this petition.

13. That at the said selection the petitioner's case would not be fairly and properly considered in view of the adverse entries illegally awarded to him during the pendency of the writ petition.

14. That the petitioner at no time earlier than the year 1980 was awarded any adverse entry or any major



*Pragish Kumar*

  
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or minor punishment whatsoever. His service record is wholly unblemished.

*Brijesh Kumar*  
Deponent

Dated Lucknow

25.8.1983

I, the deponent named above, do hereby verify that contents of paras 1 to 14 are true to my own knowledge. No part of it is false and nothing material has been concealed; so help me God.

*Brijesh Kumar*  
Deponent

Dated Lucknow

25.8.1983

I identify the deponent who has signed in my presence.

*R.K. Srivastava*

(R.K. Srivastava)

Clerk to Sri B.C. Saxena, Advocate



Solemnly affirmed before me on 25.8.83

at 12.55 a.m/p.m by *Brijesh Kumar*

the deponent who is identified by Sri *R.K. Srivastava*  
clerk to Sri *B.C. Saxena*

Advocate, High Court, Allahabad. I have satisfied myself by examining the deponent that he understands the contents of the affidavit which has been read out and explained by me.

*Periha Pandey*

JOINT COMMISSIONER  
High Court, Allahabad,  
Lucknow Bench.

25.8.83  
64/1222

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A/67

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

--

C.M. Application no. (w) of 198

in

Writ Petition no. 6082 of 1981

Brijesh Kumar

--Petitioner

vs.

Union of India and others

--Opp-parties

Annexure no.1

North Eastern Railway

Confidential  
No.E/54/8 (Con)

Office of the C.M.E.,  
Gorakhpur dated 23.6.1983

To

Shri Brijesh Kumar,  
M.I.O./ L.J.N.

Sub: Confidential report for year ending 1983.

*Brijesh Kumar*

In an otherwise good report on you for the year  
1982-83, the following has also been recorded:-

1. Ability to conduct enquiries  
shift evident and prepare reports. He may be able to do them but does not do the enquiries. The enquiries given to him are pending

2. Technical abilities

Technically not sound

3. Has his work been satisfactory? If not in what respect he has failed.

No. He failed to get any assistance of BG components and materials at his level

4. He does not feel obliged to do any work for the railways at his own initiative. Not yet fit for promotion.



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(2) These remarks are communicated to you with the intention to enable you to rectify your shortcomings and defects and not to discourage you in any way. It is hoped that you will take the advice of the right spirit.

(3) Please acknowledge receipt by signing on the attached duplicate copy of the letter, and return the same to the undersigned within a week of its receipt.

Sd. Illegible

For Chief Mechanical Engineer.



Brijesh Kumar



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

C.M. Application no. (w) of 1983

in

Writ Petition No. 6081 of 1981

Brijesh Kumar

--Petitioner

versus

Union of India and others

--Opp-parties

Annexure no.2

To

Chief Mechanical Engineer,  
North Eastern Railway,  
Gorakhpur

Through proper channel.

Sir,

Sub:- Confidential report of the year ending  
31.3.1983

Ref:- Your office letter no. E/54/8(con).  
dated 23.5.1983 received on 17.7.1983

Respectfully,

I have been awarded remarks in my annual  
confidential report for the year ending 31st March  
1983 and communicated the adverse entries to me.  
In this connection I beg to draw your kind attention  
to the following few lines:-

1. That, according to G.M.(P)'s circular letter  
no. E/54/2 (Iv) dated 20.7.1971 such adverse  
entries ought to have been finalised by the second  
week of May. This has not been done in my case  
and therefore the reports are bad in law being  
contrary to rules.



Brijesh Kumar

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2. That, the report should be confined to assessment based on failure or excellence of work entrusted and not general and vague the entries referred to are vague, indefinite and do not denote the failure of work entrusted to me and, therefore, contrary to G.M.'s order no. E/54/2 (Iv) dated 20.2.1971.

3. That during the course of my employment for the said period ending 31.3.1983, I have not been served with any unsatisfactory memo or shown my failure in work. During the period (1982-83) I have been entrusted the jobs of two MIOs ie. MIO (MG) as well as MIO (MG). Sri K.C.Nandi was posted in third week of July 1983 as MIO (BG) by your office but the then Sr. D.M.E./ IJN Sri Romesh Kumar did not take the job of M.I.O. (BG) from Sri K.C.Nandi and I was personally advised to continue as MIO(BG). Sr. DME/ IJN Sri Anil Kumar utilised Sri K.C. Nandi in special job regarding the census of Loco components spares of sheds of this division hence along with B.G. I had to look after M.G. also. With my great efforts and endurance the position of B.G. Locomotives came to normal.

4. That I had been under Railway medical sick with effect from 1.11.1982 to 6th June, 1983 due to my ill health. During this period as per records the maintenance of B.G. locomotives of Gonda shed



*Brijish Kumar*

deteriorated like anything. My sincerity in works was appreciated by the officer of Northern Railway on your face on the eve of meeting with AQME(W)C.B. shops, Lko N.R. on 14th July, 1983 by the Production Engineer, C.B/Shops " Sir, Sri Brijesh Kumar was very ~~popular~~ regular to meet us for B.G. material for N.E.Railway but last about 7 months he is not coming." On this your honour told him " Now Sri Brijesh Kumar will come regularly to meet you in connection with getting the assistance of B.G. Materials for N.E.Railway . "

5. That the adverse entries in my C.R. were intimated to you with the malafide and prejudice entertained by the then Sr. D.M.E./ L.J.N.

Therefore, the adverse entries in my confidential report (1982-83) are meaning less being contrary to the provision of 1609 RI read with 1619 RI. Under these circumstances, I submit that the adverse entries be expunged and am intimated about the action taken in speaking term.

Thanking you with regards,

Dated  
22.8.1983

Yours faithfully,  
Sd. Brijesh Kumar  
(Brijesh Kumar)  
Maintenance Inspector, Lucknow  
Division, N.E.Railway

Advance copy to CME/Gorakhpur, N.E.Railway for information.



Brijesh Kumar

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18/8/83

इन दि आनरेबुल हाई कोर्ट आफ जूस्टि केचर एट लखनऊ बेंच  
लखनऊ ।

रिट पिटीशन संख्या /आपाफ 1983

ब्रजेश कुमार

पिटीशनर

बनाम

उत्तर-प्रदेश यूनिवर्सिटी आफ हाइड्रियाँ ----- अपोजिट पार्टीज  
तथा अन्य

संख्या नं० 3-----

पंजीकृत/254/8/19 भाग-1 (नक) दिनांक 6/8/83

विषय: लोकमोरोमैन/ फा०आई०ओ० का 840-1040  
कनन ।

- (1) लिखित परीक्षा - 7-9-83 सिस्टम ट्रेनिंग स्कूल में 11 बजे
- (2) अनुपस्थित परीक्षा - 19-9-83 ,, ,, ,,
- (3) मौखिक परीक्षा 13-9-83 ,---- कार्यालय में 11 बजेसे
- (4) अनुपस्थित परीक्षा 20-9-83 ,, ,, ,, ,,

निम्नलिखित कर्मचारियों को कार्यमुक्त कर उपरोक्त स्थान  
और समय और तिथि को परीक्षा में सम्मिलित होने के लिये अवश्य  
भेज दे ।

साधारण जाति

- (1) श्री एस०एस० श्रीवास्तव , एस०आई० ओ० सौनपुर ।
- (2) ,, ब्रजेश कुमार ,, ,, ,, लखनऊ ।
- (3) ,, महात्मा प्रसाद एस० --- नखाटिया गंज ।
- (4) बी०एस० अरोरा ,, ,, मऊ जंक्
- (5) एस०ए० अकबर एस०आई०ओ० (मुख्यालय ) गोरखपुर ।



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(6) यू०एस० श्रीवास्तवा फोरमैन बी० (गोहा) डीजल रोड

(7) ए०पी०रामा - फोरमैन बी मैदानी

(8) बी०के० पाण्डे तदर्थ तो को फोरमैन (बी) कपरा

अनु० जाति

-----

(1) लाल सिंह फोरमैन बी सहरसा रोड

(2) श्री डी०आर० कामते फोरमैनबी के दरभंगा ।

अनु० जन जाति

-----

श्री वन०एस० सिंह फोरमैन बी० कसगंज

कृते महाअ० (का०)

Sanjosh Kumar

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74

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

Registration (T.A.) No. 873 of 87(T)

(Writ Petition No.6082 of 81)

B E T W E E N  
=====

Brijesh Kumar ... Petitioner /  
Applicant.

versus

Union of India ... Opp. Parties /  
Respondents.

Fixed For :

COUNTER ON BEHALF OF THE RESPONDENTS

NO. 1 to 4 and 7.  
=====

I, B.L. Prasad working as Senior Personnel  
officer (Mech) in the office of Chief Personnel  
officer North Eastern Railway, Gorakhpur

Ashok Marg, Lucknow do hereby solemnly affirm and  
state as under ;


प्रवर कार्मिक अधिकारी  
पूर्वोत्तर रेलवे, गोरखपुर

1. That the official abovenamed is working under the

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respondents and is fully conversant with the facts and circumstances of the applicant/petitioner's case and has been authorised by the respondents to file this counter reply on their behalf;

2. That the contents of the paragraph No. 1 to 6 of the writ petition supported by an affidavit do not call for reply.
3. That in reply to the contents of the paragraphs No. 7 of the writ petition it is not disputed that opposite party No. 5 and 6 were promoted on adhoc basis to the post of Foreman(M) in grade 700-900 w.e.f. 5.1.76 and 24.3.76 respectively.
4. That in reply to the contents of the paragraph no. 8 pf the writ petition it is not disputed that the petitioner was senior to the said opposite parties no. 5 and 6. It is submitted that the petitioner could not be considered for promotion as Foreman (M) (700-900) by the competent authority on account of adverse remarks in confidential report. The opposite parties no. 5 and 6 had no such adverse entries against them, therefore, they were considered


  
प्रवर कार्मिक अधिकारी  
पूर्वोत्तर रेलवे, गोरखपुर



A/26

for promotion despite they were junior to the petitioner. It is also denied that the supersession of the petitioner was illegal and contrary to rules as alleged.

5. That in reply to the contents of the paragraph 9 of the writ petition the circular ~~xxxxxx~~ referred therein is not disputed.
6. That the contents of the paragraph no. 10 of the writ petition are not admitted as drafted. It is submitted that the petitioner was not considered suitable for promotion to grade 700-900 by the Competent Authority. The criteria for promotion is seniority cum suitability and the criteria for judging the suitability are entries made in the confidential report. The opposite party No. 5 was promoted as Foreman (M) 700-900 on 5.1.76 while the opposite party No. 6 was promoted as Foreman (M) (700-900) on 24.3.76. At the time of promotion the entries in confidential report as on 31.3.75 and prior to that were available. It is submitted that the entries in confidential report as on 31.3.74

  
प्रवर कार्मिक अधिकारी  
पूर्वोत्तर रेलवे, गोरखपुर



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31.3.73, 31.3.72, 31.3.71 and 31.3.70 were 'average'. Thus, it would be aparent the five reports prior to that on 1975 were 'average' while the instructions on the question of promotion are that if last report indicates 'good' previous two reports should be 'average'.

7. That the contents of the paragraph no. 11 of the writ petition are denied. On the records available in the Railway Administration there are no such representation as alleged in paragraph under reply.

8. That in reply to the contents of the paragraph no. 12 of the writ petition it is submitted that more arose absolutely no question of calling the petitioner for selection of Loco Foreman (840-1040). His representation dated 10.11.76 was considered and a reply was sent to Divisional Superintendent (P) North Eastern Railway, Izatnagar vide General Manager (P), Gorakhpur's letter No. E/210/8/1(II)-Part IV (IX) dated 30-11-76.

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प्रवर कार्मिक अधिकारी  
पूर्वोत्तर रेलवे, गोरखपुर

*(Signature)*  
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9. That in reply to the contents of the paragraph no. 13 of the writ petition the position has already been explained in the above paragraphs No. 11 and 12 and the same has been suitably replied.

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10- That in reply to the contents of the paragraph no. 14 of the writ petition it is submitted that the petitioner's appeal dated 29.3.77 was considered by the competent authority and the same was rejected. The petitioner thus was not found suitable for being promoted as Loco Foreman (Rs. 700-900). The averments contrary to the same are denied.

11. That in reply to the contents of the paragraph no. 15 of the writ petition only this such is admitted that the petitioner had been replied through letter dated 28/30.4.77. Rest of the averments as made in the paragraph under reply are denied and as such are not admitted.

*(Signature)*  
प्रवर कामिक अधिकारी  
पूर्वोत्तर रेलवे, गोरखपुर

12. That in reply to the contents of the paragraph

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no. 16 of the writ petition the appeal of the petitioner dated 28.5.76 is admitted.

13. That the contents of paragraph no. 17 of the writ petition are not ~~admitted~~ disputed.

14. That in reply to the contents of paragraph no. 18 of the writ petition it is submitted that the petitioner has been promoted as MIO / Loco Foreman (840-1040) on adhoc basis vide GM(P) Gorakhpur's letter office order No. KA/210/8(II) Part IV(IX) dated 29.7.79.

15. That the representation as referred to in paragraph no. 19 of the writ petition is not available in the records of the Railway administration.

16. That the contents of paragraph No. 20 of the writ petition are not admitted.

17. That in reply to the contents of the paragraph No. 21 of the writ petition it is submitted that in 1981 the petitioner was again given an adverse remarks and the same was communicated vide letter

*(Handwritten signature)*  
प्रवर कार्मिक अधिकारी  
पुर्वोत्तर रेलवे, गोरखपुर

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No.E/54/8(Con) dated 5.9.81.

18. That in reply to the contents of paragraph no.22 of the writ petition it is submitted that the petitioner was working in Izathnagar Division During 1975-76. At the time of supersession since the record of Izathnagar division was destroyed in fire accident in February, 1980 hence the same was not available and as such no reply can be given.
19. That the contents of the paragraph no.23 of the writ petition are not admitted.
20. That in reply to the contents of the paragraph no.24 of the writ petition it is submitted that the petitioner was transferred from Sonapur Division to Lucknow Division. Vide GM(P)/GKP's letter No.KA/210/8/1/II Pt.V/IX dated 7.7.80 as adhoc MIO (840-1040). He was reverted as Foreman (M) in scale Rs.700-900 and posted as MIO/BG Construction under CE (Const.) Gorakhpur vide Office Order No. KA/210/8/1/II Pt.VI/IX dated 30.5.84. Thereafter after vide office order No.E/210/8/1(II)<sup>Pt.6</sup>/IX dated 25.9.84. Shri Brijesh Kumar was posted as Foreman (M) in scale Rs.700-900 in Kanpur Anwarganj.
21. That in reply to the contents of paragraph No.25 of the Writ petition it is submitted that the petitioner continued as Foreman (M) in scale Rs.700-900 upto 11.11.1985 after which he took

प्रवर कार्यालय अधिकारी  
पूर्वोत्तर रेलवे, गोरखपुर

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voluntary retirement from the Railway service,  
This petition itself now stands infructions and  
as such liable to be dismissed accordingly.

22. That even otherwise no grounds has been made out  
by the petitioner for interfearance by the Hon'ble  
Court. The petition is totally devoid of merits  
and as such is liable to be dismissed with cost.

Gorakhpur

Sr. Personnel Officer (Mech)

Dated 25.4.90

अवर कार्मिक अधिकारी  
गुवाँतिर रेलवे,

VERIFICATION

I, the official above named do hereby verify that  
the contents of para 1 of this reply is true to my  
personal knowledge and those of paras 2 to 22 of  
this reply is believed by me to be true on the  
basis of records and legal advice.

Gorakhpur:

Dated 25.4.90

Sr. Personnel Officer (M)

अवर कार्मिक अधिकारी  
गुवाँतिर रेलवे,

# ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No.

of 198

vs.

Date	Note of progress of proceedings and routine orders	Dated which case adjourned
1	2	3
17-12-81	<p>Dec. K.S. Ramana J.</p> <p>Dec. S.S. Ahmad J.</p> <p>Issue notice to the opposite parties to show cause why the petition be not admitted.</p> <p>Sol. K.S.V.</p> <p>Sol. S.S.A.</p> <p>17-12-81</p>	
	<p>11.2.82</p> <p>PROCESS FEE REPORT in W. P.</p> <p>G.M. Appln. No. ....</p> <p>The Counsel for Petitioner/applicant has not taken steps for service of O. Ps. Nos. 1, 5, 5.2 within time allowed under Rules of Court.</p> <p>SUBMITTED</p> <p>SUBMITTED</p> <p>Key</p> <p>1-2-82</p>	
11.2.82	<p>Hon. H.N. Seth J</p> <p>Hon. S.S.A. J</p> <p>Steps taken</p>	
	<p>17-3-1982 fixed v. writ cum</p> <p>for all</p> <p>Noted to opp parties re 1, 5, 5.2 by</p>	

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned	
1	2	3	
	15.3.82		
		Duni	
		On 04	
		Aunt	
	27.4.82	Bo	
		B	
	<u>Service report in Wb</u>		
	O.P. No 2 to 4 - Received by Sh. Umesh Chandra	Aor	
	O.P. No 1, 5 to 7 - Regd. covers have not returned back or placed.	No C.A. or power filed.	
		Submitted	
		S. K. S. S.	
	27.4.82	Bo	
	Wm for Dada	Bo	
	In MS-5		
	In P.A. W. C. S.		
	Put up tomorrow	27/4/82	

# ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No.

6082

of 1981

vs.

1/83

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
28.4.82	<p>Writ for orders.</p> <p>Hon. M.S.J.</p> <p>Hon. K.W. Hegde J.</p> <p>Put up for order</p> <p>K.W. 20/4/82</p>	
27.7.82	<p>8.7.82 Writ for order.</p> <p><del>6.5.82</del></p> <p>the 10.8.82 J.</p> <p>de 8.11.82 J.</p> <p>Admitted ✓</p>	B
<p><b>PROCESS FEE REPORT in W. P.</b></p> <p>C. M. Appln. No. .... X .....</p> <p>The Counsel for Petitioner/applicant has not taken steps for service of O. P. No. 1527 within time allowed under Rules of Court.</p> <p><b>SUBMITTED</b></p> <p>Swadesh</p> <p>29/11/82</p>		

26. 11.82

8.11.82



Date	Note of progress of proceedings and routine orders	Dated which case is adjourned
1	2	3
16.8.82	C.M. No. 7806(5) / 82 Hon. V.E.S.S.	
	Put up tomorrow.	
	Sd/- V.P. Singh	
	16.8.82	
17.8.82	C.M. No. 7806-82 / 82 Hon. V.E.S.S.	
	Adjourned at the request	
	of En B.C. Saena.	
	17.8.82	
	R	
24.8.82	Jai-Corn	Jai-Corn
	7806 C.M. No.	
	Hon. V.E.S.S.	
	Stay granted	
	By the	
	Sd/-	
	Superior	
15.9.82	B.C. Saena	
	P.R.	

Date

Note of progress of proceedings and routine orders

Dated  
which  
case is  
adjourned

1

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3

282

Wm W. S. Dask  
for McIntosh  
for Shurt

Learned Counsel states  
that the registered envelopes  
sent to the respondents have  
not returned. If that is so then  
the office report is incorrect.  
Office is directed to make a  
proper report.

By *[Signature]*

3-12-02

MHS/-

### Report

82

In compliance with court  
order of 3.12.02 it is  
submitted that notices  
issued on 12.2.02 in  
compliance with order of  
17.12.01 to show cause  
why the petition be not  
admitted have not been  
received back so far.  
But learned counsel has  
not supplied regd cover  
etc for compliance of order  
order of 07.02 for which  
report was made by the office.  
Submitted.

*[Signature]*  
01.12.02

(A/10) 8/6 8/1

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.D.

No.

6002

of 198 1

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
6.10.82	C.M. 10306 W.D. for clearing of <del>order</del> for order non U.C.S.J.	6.10.82
	Put up with the record SA U.C.S.J. 6.10.82.	T. K. U.C.S.J.
15.2.83	<del>16.2.82</del> from C.M. 10306 W.D. H. U.C.S.J.	T. K. U.C.S.J.
21.2.83	C.M. 10306-82 W.D. H. U.C.S.J.	
28.2.83	C.M. 10306-82 W.D. H. U.C.S.J. Apples disposed of.	
	B.C. 8/28/82	
	B/C	

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

\*\*\*\*\*

No. CAT/Alld/Jud/

Dated the :

I.A. No. 873 of 1987

Brijesh Kumar

APPLICANT'S

VERSUS

Union of India

RESPONDENT'S

To

- 1- Shri B.C. Saxena, Advocate, Lucknow High Court  
Lucknow.
- 2- Shri Umesh Chandra, Advocate, Lucknow High Court  
Lucknow.

Whereas the marginally noted cases has been  
transferred by H.C. Lko Under ~~Section~~ the  
provision of the Administrative Tribunal Act XIII of 1985 and  
registered in this Tribunal as above.

Writ Petition No. 3082  
of 1981.  
of the Court of H.C. Lko  
arising out of order  
dated \_\_\_\_\_  
passed by \_\_\_\_\_ in

The Tribunal has fixed date  
of 20-11-1989 1989. The  
hearing of the matter at C.A.T. Lko.

If no appearance is made  
on your behalf by your some  
one duly authorised to Act and  
plead on your behalf

the matter will be heard and decided in your absence.

Given under my hand seal of the Tribunal this

24th day of August 1989.

dinesh/

DEPUTY REGISTRAR



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH  
Gandhi Bhawan, Opp. Residency, Lucknow

\*\*\*

No. CAT/Alid/Transfer/3772<sup>to</sup> Dated the 30/11/90

Brijesh Kumar

APPLICANT'S

VERSUS

Union of India

RESPONDENT'S

- ① Brijesh Kumar son of Brij Kumar Sharma to B. G. Singh marg Lalpuran Lko
- ② To Union of India through the Secretary Ministry of Railways E. E. Office Chairman Railway Board Railway Bhawan New Delhi
- ③ General Manager N.E. Railway Gorakhpur
- ④ General Manager (P) C.M.E. N.E. Rly Gorakhpur

Whereas the marginally noted cases has been transferred by H.C.L.K. under the provision of the Administrative Tribunal Act XIII of 1985 and registered in this Tribunal as above.

Writ Petition No. 6002/81  
of 1990. of the Court of H.C.L.K.

The Tribunal has fixed date of 26.4.90 1990. The hearing of the matter.

arising out of order dated \_\_\_\_\_ passed by \_\_\_\_\_ in \_\_\_\_\_

If no appearance is made on your behalf by your some one duly authorised to Act and plead on your behalf.

The matter will be heard and decided in your absence. given under my hand seal of the Tribunal this 25 day of 1 1990.

dinesh/

DEPUTY REGISTRAR

- ⑤ M. R. Chaudhary maintenance Inspector C.M.E. office N.E. Rly. Gorakhpur
- ⑥ Y. S. Shahane, maintenance Inspector C.M.E. office N.E. Rly. Gorakhpur
- ⑦ Shri K. T. Singh Addl. Chief mechanical Engineer (M) N.E. Rly. Gorakhpur



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH

Gandhi Bhawan, Opp. Residency, Lucknow

\*\*\*\* 14873/87

No. CAT/Alld/Transfer/ 3777

Dated the 2/3/90

Brijish Kumar

APPLICANT'S

VERSUS

Union of India

RESPONDENT'S

To

M. R. Choudhary, maintenance, Inspector

C.M.E. office N.E. Rly. Gorakhpur

Y.S. Shahani maintenance Inspector

C.M.E. office N.E. Rly. Gorakhpur

Whereas the marginally noted cases has been transferred  
by 11 C.A. 1100 under the provision of the Administrative  
Tribunal Act XIII of 1985 and registered in this Tribunal as above.

Writ Petition No. 6002/89  
of 1990. of the Court of

The Tribunal has fixed date of  
26-2-90 1990. The hearing  
of the matter.

arising out of order dated

If no appearance is made on your  
behalf by your some one duly authorised  
to Act and plead on your behalf.

passed by

in

The matter will be heard and decided in your absence.  
given under my hand seal of the Tribunal this 23  
day of 1 1990.

dinesh/

DEPUTY REGISTRAR

① Shri K. T. Singh  
Engineer (m)

Addl. Chief Mechanical  
N.E. Rly. Gorakhpur

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH  
Gandhi Bhawan, Opp. Residency, Lucknow

No. CAT/Alld/Transfer/ 3775 Dated the 21/3/90

Brish Kumar APPLICANT'S

VERSUS

Union of India RESPONDENT'S

To M. R. Choudhary, maintenance, Inspector  
M.E. office N.E. Rly. Gorakhpur  
Y. S. Shihani maintenance Inspector  
M.E. office N.E. Rly. Gorakhpur

Whereas the marginally noted cases has been transferred  
by H. C. Lko under the provision of the Administrative  
Tribunal Act XIII of 1985 and registered in this Tribunal as above.

Writ Petition No. 6002/81 The Tribunal has fixed date of  
of 1990. of the Court of 16.4.90 1990. The hearing  
H. C. Lko of the matter.  
arising out of order dated      If no appearance is made on your  
     passed by      behalf by your some one duly authorised  
     to Act and plead on your behalf.  
in     

The matter will be heard and decided in your absence.  
given under my hand seal of the Tribunal this 25  
day of 1 1990.

dinesh/

10/12/90  
DEPUTY REGISTRAR

⑦ Shri K. T. Singh Addl. Chief Mechanical  
Engineer (m) N.E. Rly. Gorakhpur



CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

T.A. NO.873 of 1987 (T)  
(W.P. NO.6082 of 1981)

Brijesh Kumar

.....

Applicant.

Versus

Union of India & Others

.....

Respondents.

25.7.1990

Hon'ble Mr. Justice K. Nath, V.C.

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

Case called. No one is present for applicant.

Shri A.N. Verma for the respondents. Notice by Registered Post were issued to the applicant on 17.4.1990, have been returned with the postal report dated 26.4.1990 that the applicant had died. Shri A.N. Verma for the respondents says that according to the Pairokar of the Department informal news is that the applicant had died.

In the circumstances, this petition is disposed of as abated.

Sd/-

A.M.

Sd/-

V.C.

// True Copy //

Deputy Registrar

Central Administrative Tribunal

Lucknow Bench,

Lucknow

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read by  
Mr. Mohan  
7-8-90  
for NO. 7



*For the Honble High Court of Judicature at Allahabad.*

*Wickham Beech Wickham*

महोदय

व आदालत श्रीमान

वादी (मुद्दे) *for Plaintiff*

नकालनवासी



*Prayesh Kumar*

वनाम

*Union of India Officers.* प्रतिवादी (मुद्दे)

वादी (मुद्दे)

*14/5/12*

नं० मुकदमा १६८१ पेशी की ता० १६ ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

*Dr. B. C. Lalsona Advocate* एडवोकेट

महोदय वकील

को अपनी वकील नियुक्त करके प्रतिवा [इकार] करना है और  
लिख देता है इस मुकदमा में वकील महोदय स्वयं अपनी अन्य  
वकील द्वारा जो कुछ पैरा व जवाबदेही व प्रयत्नों करे या अन्य  
कोई कानून दलिल करे या लौटावे या हमारी ओर से दिगारी  
जारी करावे और अपना वसूल करे या सुलहनामा या इकबाल  
दावा तथा अपनी व निगरानी हमारी ओर से हमारे या अपने  
हस्ताक्षर से दलिल करे और तबदीक करे या मुकदमा उठावे  
या कोई अपना जमा करे या हमारी या विपक्षी [फरीकमान] का  
दाखिल किया गया अपने या हमारे हस्ताक्षर-युक्त [हस्ताक्षर]  
रसीद से लेवे या पंच नियुक्त करे - वकील महोदय द्वारा की  
गई वह कार्यवाही हमको सर्वथा स्वीकार है और हमारी इसलिख  
यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर

काम आवे ।

हस्ताक्षर

*Prayesh Kumar*

साक्षी (गवाह)

दिनांक

१६ ई०

NS/CCS

# VAKALATNAMA

Before

in the Court of

The Central Administrative Tribunal Circuit Bench / Lucknow

TA no 073/87 (T)/CAT/CKB

Plaintiff  
Defendant

Brijesh Kumar

Claimant  
Appellant

Versus

Defendant  
Plaintiff

Union of India and Others

Petitioner  
Respondent

The President of India do hereby appoint and authorise Shri... A. N. Verma... Railway

Advocate / Lucknow

to appear, act, apply, plead in and prosecute the above described suit/appeal/proceeding 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/proceeding against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate or 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 agree to ratify all acts done by the aforesaid Shri... A. N. Verma... Railway

Advocate / Lucknow

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of

India this the ..... day of ..... 198 .

Dated ..... 198

(K. K. Shukla)  
Designation of the Executive Officer,

Sr. Divisional Personnel Officer  
N E Railway / Lucknow -  
for Union of India)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
Circuit Bench, Lucknow.

No. CAT/AKO/Jud/ 4288

date the 17/4/90

T.A.No. 873/87... (V) of 1990 (T)

Brishesh Kumar.....Applicants.

Varsus,

Union of India.....Respondents.

To: ~~Br~~ Brishesh Kumar S/o Sri Nand Kumar  
Sharma, H/o 80 Gurgorind Singh  
Marg, Lalguan  
Lucknow

Whereas the marginally noted cases has been transferred  
by H.C. LKO.....under the provision of the Admini-  
strative Tribunal Act, 13 of 1985 and registered in this Tri-  
bunal as above.

Writ petition No. 682/81.....  
of 19.....  
of the Court of H.C. LKO.....  
arising out of  
of order dated.....  
passed by.....in  
.....

The Tribunal has fixed date  
of 25.7.90.....1990. The Order  
hearing of the matter.  
if no appearance is made  
on your behalf by our some one  
duly authorised to Act and Plead  
on your behalf.

The matter will be heard and decided in your  
absence. Given under my hand and seal of the Tribunal this ....  
17....day of.....1990.

DEPUTY REGISTRAR

Shartiya



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C/A

*(Handwritten signature)*

A/97

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

4173  
Recd of  
24.8.90

T.A. NO.873 of 1987 (T)  
(W.P. NO.6082 of 1981)

Brijesh Kumar	.....	Applicant.
	Versus	
Union of India & Others	.....	Respondents.

25.7.1990

Hon'ble Mr. Justice K. Nath, V.C.  
Hon'ble Mr. K. Obayva, A.M.

Case called. No one is present for applicant.

Shri A.N. Verma for the respondents. Notice by Registered Post were issued to the applicant on 17.4.1990, have been returned with the postal report dated 26.4.1990 that the applicant had died. Shri A.N. Verma for the respondents says that according to the Pairokar of the Department informal news is that the applicant had died.

In the circumstances, this petition is disposed of as abated.



checked  
318190

Sd/-  
A.M.

Sd/-  
V.C.

// True Copy //

rmr/

Deputy Registrar  
 Central Administrative Tribunal  
 Lucknow Bench,  
 Lucknow  
 318