

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

File No 873/82

CAUSE TITLE. W.C. No. 6082/82 OF

NAME OF THE PARTIES ... Brijendra Kumar, Applicant

Versus

E.C.T. Bar

Respondent

Part A.

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CERTIFICATE

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

Check on Dated 19-10-11.

Counter Signed.....

Vijay Kumar
15/10/2011

Section Officer/In charge

m
Signature of the
Dealing Assistant

CIVIL

SIDE

GENERAL INDEX

CRIMINAL

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case.....

W.P. 6002-81

100

Name of parties.....

Brijesh Kumar

vs Union

B22/81

Date of institution.....

17-12-81

Date of decision.....

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any	
				Number of stamps	Value				
2	3	4	5	6	Rs.	P.	7	8	9
A 1	General Note	1							
A 2	Excerpts								
A 3	Set. Rec Official Copy	39		5-100					
A 4	Row	1	1	1	8				
B 5	Com. 7806(w) 882	7	-	7-00					
B 6	Com. 10306(w) 882	6-	-	7-00					
B 7	Com. 9621(w) 883	19	-	7-00					
B 8	order Sheet	5-	-	-	-				
B 9	Bank entry	1-	-	-	-				

I have this

day of

198

examined

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 orders have been carried out, and that the record is complete and in order up to the date of the certificate

Date.....

Munsarim

Clerk

ANNEXURE - A

CAT

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

1/2

INDEX SHEET

CAUSE TITLE TA-073/07 of 19

cop. 60 82/81)

NAME OF THE PARTIES Brijesh Kumar

Applicant

Versus

Union of India

Respondent

Part A, B & C

A file

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Group A 13 (e)

9355

10

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

Writ Petition No. 6082 of 1981

Petitioner

Brijesh Kumar

...

Versus

Union of India & others.

Opp. Parties.

I N D E X

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

D. Dec. 1981.



5/8/100 2/1/2
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 Gurgevind 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, father's 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

Need copy for
of No 2 to 4ady

Chandru
3/12/81 Adr

for 7/12/81

~~expressed~~
Adhesive Rs 100 - 00
Total Rs 100 - 00

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

~~In time up to~~

Papers filed. Copy of P. C.
~~Should also be filed~~
~~Chancery Bench.~~

Last Inst. No 6 Dr 30-4-72
and return Commonwealth
order bill No 2/54/8 (con) Dr
5-9-81.

Re
2/12/81
2/12

Mrs. K. S. Varma, I
Mrs. S. S. Ahmed, I

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

17/12/81
S. S. Ahmed
K. S. Varma

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.
- 6x In the category of Charge Man Grade 'A' scale of Rs.335-425 (AS) / 550-750 (RS) the petitioner's name was

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

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

letter No. E/254/0(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.

(S)D

Brijesh 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 29th 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.

B. Singh Kumar
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

the period ending March, 1974 was ~~mix~~ 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 annexedhere with as Annexure No. 6 to this petition. A perusal of the saidletter 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 ~~mix~~ 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

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~~ is 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/I(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

Brishn Kumar
21/7/81

(Signature)

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 thereof 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 ~~had~~ ^{✓ having w} 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 socalled adverse entry been communicated



Brijesh Kumar

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

Kumar
Brijendra

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 :-

G R O U N D 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 ~~pxx~~ 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 ~~petitioner's~~ ^{character} 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 ^{that} ~~to be accrued~~ ^{due} ~~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.Saksena)
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 Gurogovind 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.

Lucknow: Dated;
December 2, 1981

Brijesh Kumar
Deponent.

12
10

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

Deponent.

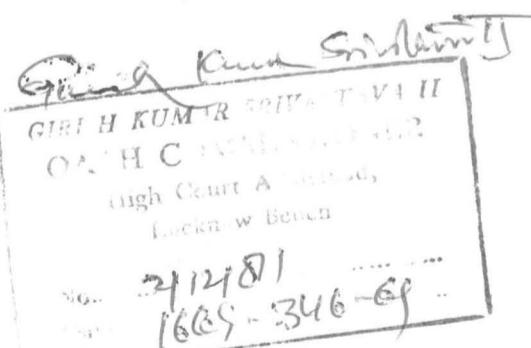
Lucknow: Dated:
December 2, 1981.

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* Esq. B.C.S.A. 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, etc.
Vs.

Petitioner

Union of India & others. ...

Opp. Parties.

Annexure No.1

NORTH EASTERN RAILWAY

CONFIDENTIAL
No. M/254/0 (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 ~~xxxxxxxxxx~~ 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 ~~xxxxxxxxxx~~ previous two good reports.

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.

Brijesh Kumar



(H.C.) 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.

To

The Chief Mechanical Engineer,
North Eastern Railway,
Corakhpur.

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 :-

- (i) 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



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 (^S) (Rs.550-750 RS) of Chargeman 'A' (fitting).
- (iv) That my junior Sri Y.S. Shahani 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 IS (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/I RG (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.
- (Signature)
- Brijesh 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.

- Brijesh Kumar*
- 
- (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 Shd.

Dated: 20-4-76

18
H/2

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



19
19

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 PMI/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 due to administrative errors staff are over-locked 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 ~~and~~ 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



Brijesh Kumar

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.

Boonyan
C/2
11/11/81
Kurnell
H.A.D.

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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/mech(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 & Y.S. 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 ~~six~~ 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 haveworked independently
as ALF/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
ALF(M) & Charge Man A (335-425) In the year of 1971 & in written
Test I have qual ified both the selctions butin the ALF (M) viva
~~exam~~ voce test I was not considered since I would not procure
professional qualifying marks, although, successfully (Practically)
pefformance was given during the period, working as ALF, 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)/LNs letters No. M/CON/SS-1/73 dated
20/22-9-1978 for about six months & run the shed very efficiently.

(f) During 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 IR 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 prior 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 ~~Extricably~~
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. Balippa GM/GKP
Sri H.D. Bhalla ACME/M/GKP
for information and Immediate action please.



इन दिन आनन्देश्वर हाईकोर्ट आफ जूडीकेवर सट छात्राबाद
लडानउ बेन्च लडानउ

रिट पिटीशन नं आफ 1981

कृष्ण कुमार ----- ----- ----- पिटीशनर

ବନାମ

यूनियन आफ हन्दिया तथा अन्य-----अपैजिट पार्टीजि
स्नेक्वर नं - 4 -

पूर्वोत्तर रेलवे

संख्या ई /254/ 1-परिं (या०) / ११ दिन १४-१२-७६

मं० ज० (का०)

हज्जतनगर

F40 14-12-76

ओ लेश कुमार

सं० ल० प०

काशीपर

विषय लौकिक प्रैरन्त्र 'ए' 840-1040 की पद वा चप्त ।

संदर्भ :- आपका अभिवेदन दिनांक ०१.०१.७६

महां प्रबंधक (का०)/गोखलपुर ने अपने पत्र सं०-का/२१०/८/१(11)

भाग (IV) नवम विनांक 30-11-76 के दृष्टांत आपके उत्तर अभिवेदन के 3-12

संवर्धन में निम्नलिखित निर्णय भेजा है जो आपके सूचनार्थी भेजा जाता है : ५

“ लौकी फौरमेन वेतनमान 700-900 का पद वरीयता कम

यो न्यता दृष्टा भरा जाता है। चूंकि श्री बृगेश कुमार यथोपि के वरीयता में सर्वश्री समो आरो चौथरी तथा वाईसस जलनी से ब्रेस्ट है,

किन्तु यीश्य नहीं सिद्ध होने से इसकी पदोन्नति लोकों परीरमेत वेतनमान

700-900 में नहीं हो सकी। जब इसकी लोको फ्रैंस में 'ए' बेतन मान 840-1040 पद के चयन में लोको वित्ती नहीं हैं।

वृत्ति म0 अ0 (का0)
सत्य प्रतिलिपि

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow.

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Bijay Kumar

Annexure No.5

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.

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 N.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



my short comings. Actually, on transfer from Izatgagar Division to LJN Division in the month of September, 1973 I was posted by the DME (L)/LJN's letter No.M/CON/SS-1/73 dt. 20/22.9.73 as ALF/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 Maihani shed which I fulfilled according to DME (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 ~~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.

- Brijesh 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 inthe 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 thelast 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 havebeenconsidered 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 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.

Brijesh Kumar
Hoping for justice.

Yours faithfully,

s.d/
(BrijeshKumar)
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.

s.d/

हन दि जानरेक्त लाईकोर्ट आफ जूडीवर एट छाताबाद



लघानउ बेन्च लघानउ

रिट पिटीशन नं

आफ 1981

बृंशा कुमार -----

-----पिटीशनर

बनाम

यूनियन आफ हन्निया तथा अन्य-----

सेवचर नै -----

कार्यालय मध्य०(का)

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

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श्री बृंशा कुमार

चार्जमैन 'ए'

लोको सेउ काशीपुर

दृष्टा प्रब्लर मण्डलांक्रिक इंजिनियर लघानउ

विषय:- श्री बृंशा कुमार चार्ज मैन ए काशीपुर

का अभिवेदन दिनांक 29-3-77 काशीपुर

स्टाफ सिक्कान्डॉल कैम काशीपुर से प्राप्त ।

आप को हस्त कार्यालय के सम्बन्धक पत्र दिनांक 3-12-76 दृष्टा

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

कम योग्यता दृष्टा भरा जाना है। चूंकि आप वरोपता में ऐस्ट लेते

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

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

ह० अपठनीय

महा प्रबन्धक (का)

सत्य प्रतितिपि



इन दि जानरेवुल हाईटीट आफ जू डीकेवर एट हालाल बाद

लडानउ बेन्च लडानउ

रिट पिटीशन नं आफ 1981

बृंश कुमार -----

--- पिटीशनर

बनाम

यूनियन आफ हन्ड्या तथा अन्य ----- अपीजिट पाटीजि

रेवर नं 7 ---

अभिवेदन पत्र संख्या जन०/पर्यवेक्षक /50/भाग एक /काशोपुर

सेवा में

मलौं प्रबन्धक (कार्मिक)

पूर्वार्त्तर रेलवे गोखापुर ।

मलौं मान्यवर मलौदय जी, दूरा :- प्रापर चेन्ट्र

विषय :- नियम विरुद्ध जूनियरों को पदोन्नति सोनियरों की जैवा करके दिया जाना ।

संदर्भ /- आपका पत्र सं० :- का/210/8/1(11)भाग चार(नवम्)गोखापुर
दि ० २८/३०-४-७७

मलौदय

सेवा में सविनय पुनः निवेदन यह है कि प्राधरों दो बार आपके दखार

में न्याय हेतु अर्जी लगा चुका है (प्रथम १०-११-७६ को तथा दूसरी २९-३-७७

को अभिवेदन) । यह मेरा दुर्भाग्य तथा भारतीय नागरिक हीते हुए

जास्तर्य है कि जाज देश की सुधूद जन तांत्रिक प्रणाली में भी नियम विरुद्ध

कार्य हीते हुए न्याय पक्ष की जैवा की जावे । यह एक अत्यन्त कुछ दाइ

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

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-2-

अरोवत संदर्भ में आपके कार्यालय से जी भाषा में

उत्तर दिया गया, अर्थात् चूंकि आप वरोक्ता में ब्रेष्ट होते हुये भी योग्य नहीं सिंटू 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 वेळ मात्र पुनरावृत्ति भात्र है जब कि प्रार्थी ने

दोनों बार अभिवेदन पत्रों में स्पष्ट तथा विस्तार से विगत क्षेत्र का अपनी सेवाओं के बारे में प्रामाणिक से वर्णन किया तथा सभ्य समय पर वर्षों तक निम्न पद केतन पर रह कर भी उच्च पद की जिम्मेदारी कीपर, प्रशाशन की जादेशानुसार, बल करता रहा जिसका भी प्रामाणिक वर्णन प्रार्थी आपने दोनों विगत अभिवेदन पत्रों में किया है।

अतः आपसे करकू निवेदन है कि प्रार्थी के विगत दोनों अभिवेदन पत्रों पर गम्भीरता पूर्वक विवेचन करने का कष्ट किया जावे तथा प्रशासनिक द्रुटियों के कारण प्रार्थी को जो हानि हुई ज्ञको समूर्ति करने को दिशा में ग्रामसमिक्षा प्रसंशनीय क्षम उठाकर न्याय दिलाने का कष्ट किया जावे।

जिसके लिये प्रार्थी आपका जाजीवन आभारी रहेगा।

धन्यवाद।

आपका आज्ञाकारी

ह० बृंश कुमार

(बृंश कुमार)

अग्रिम प्रतिलिपि

चार्ज मैन -ए

वर्तमान सत्रांयक लोकों पौरमैन पद पर कार्यरत काशोपुर।

१- मालप्रबन्धक (कार्मिक) गोरखपुर।



२- श्री स्व०ड०० भल्ला, स०१०५म०१०गोरखपुर।

३- श्री के० जी० वलियप्पा, स०१०५म०१०गोरखपुर।

दि० 28 मई, 1977

सत्य प्रतिलिपि

इन दि आनरेक्स लॉकीटू बाफ यूजेक्टर ८८ इसा लावा
लानज बेन्च लानज

रिट पिटीशन ने आफ १९८१

बृंश कुमार ----- ----- पिटीशनर

बनाम

यूनियन आफ इन्डिया तथा अन्य ----- अपीजिट पार्टी
एनेक्चर नं ८

पूर्वोत्तर रेलवे
कायर्टिय आदेश

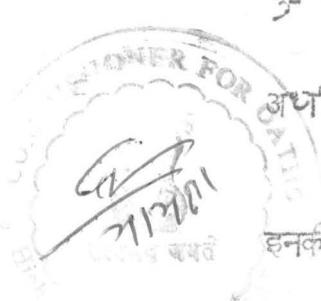
यांत्रिक विभाग के निम्नलिखित फिटिंग सुपरवाइजर कर्मचारियों
की पदोन्नति तथा स्थानान्तरण का आदेश तुरन्त लागू होने के लिए
जारी किया जाता है।

१- श्री स्स० स्स० सिंह चार्जमैन ('ए' केतनमान ५५०-७५० अन्तर्गत मण्डल
अधीक्षक वाराणसी की पदोन्नति फौरमैन मैनिकल (७००-९००) में करके
गोप्ता शीड में क० स०० नन्दो द्वारा छोलो की गई जगह पर तैनाती की
जाती है।

२- श्री बृंश कुमार चार्जमैन 'ए' केतनमान ५५०-७५० काशीपुर शीड
अन्तर्गत मण्डल अधीक्षक हज्जतनगर की पदोन्नति यम० स्याई० ज००
केतनमान ७००-९०० में करके यम० आई० ज०० मुख्यालय अन्तर्गत आ० बु० प००
डू०० गोप्ता शीड में को जाती है।

३- श्री महात्मा प्रसाद चार्जमैन 'ए' केतनमान ५५०-७५० अन्तर्गत मण्डल
अधीक्षक हज्जतनगर की पदोन्नति फौरमैन मैनिकल (७००-९००) में करके
हनकी लासगंज शीड में तैनाती की जाती है।

४- श्री छोटे लाल चार्जमैन 'ए' केतनमान ५५०-७५० बरेली सिटी अन्तर्गत



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मण्ड्ल अधीक्षक हज्जतनगर की पदोन्नति पर्वेरमैन मैकनिक्ल (700-900) में करके बनास्प शैड अन्तर्गत मण्ड्ल अधीक्षक वाराणसी में तैनाती की जाती है।

II) अरोक्त पदोन्नतियों सभी लागू होंगी जब कर्मचारी विजिलेन्स /स्सपोर्ट डीस्कार मास्टे से प्रभावित न हो।

III) अरोक्त आदेश अति मु0 यां0 है(यम)द्वारा अनुमोदित है।

रु0/-

कृते महाप्रबन्धक (कार्मिक)

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

प्रतिलिपि सूचनार्थ एवं उचित कार्यालय हेतु अस्तारित :-

(1) मण्ड्ल अधीक्षक, हज्जतनगर लडानउ वाराणसी /कर्मचारियों को बता दिया

जाय कि स्थानान्तरण के आदेश को नहीं मानने पर उन्हें पदोन्नति से एक वर्ष के लिए अयोग्य सम्भव जायेगा।

(2) मण्ड्ल अधीक्षक (कार्मिक) हज्जतनगर, लडानउ, वाराणसी।

(3) अति मु0 यां0 है(यम) गोरखपुर

(4) सकाधि (मुख्यालय) गोरखपुर।

रु0/-

कृते महाप्रबन्धक (कार्मिक)

सत्य प्रतिलिपि



इन दि जानरेवुल हर्डिकोर्ट आफ जूडीकेवर रट इलालाबाद

लखानऊ बैच्य लखानऊ

रिट पिटीशन नं आफ 1981

बृंश कुमार -----

---पिटीशनर

बनाम

यूनियन आफ हॉन्ड्या तथा अन्य ----- गपैजिट पार्टी

एनेक्वर नं 9

कार्यालय आदेश 276

महाप्रबन्धक (कार्मिक) गोरखापुर के कार्यालय आदेश संख्या का /2108(11) भाग 3 (नवम्) दिनांक 19-7-79 के अनुसार निम्नलिखित मेन्टेनेस सुपरवाईज़री का पदोन्नति / स्थानान्तरण आदेश जारी किया जाता है जो तत्काल लागू है।

1) श्री बृंश कुमार लोको फोर्मेन (700-900) मठ जं० को तदर्थे स्थान पर एमआईओ (840-1040) सौनपुर पद पर पदोन्नति कर नियुक्ति सौनपुर मंड्ल में की जाती है।

2) श्री सन०स००सिंह एमआईओ (700-900) वाराणसी को उनके अपने ही वेतनमान में स्थानान्तरित कर श्री बृंश कुमार के स्थान पर मठ जं० में नियुक्त किया जाता है।

अरोक्त अम सं०। के अन्तर्गत को गई तदर्थे पदोन्नति में वरीयता आदि का लाभ देय नहीं है।

अरोक्त आदेश मु०प्या००१० द्वारा अनुमोदित है।



ह०

बृंश मंपद्ल रेल प्रबन्धक (का)

वाराणसी

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-2-

सं० ई/सम/२१०/११/शेड सुपर दिनांक २४-८-७९

प्रतिलिपि सूचनार्थ स्वं आवश्यक कार्यालये द्वां प्रेषित ।

१) महाप्रबन्धक (का०) गोरापुर (२) मंडा अधीकार (का०) सोनमुर (३)

लोको फोरमेन /मठ वाराणसी

४) मौर्धि /वाराणसी

५) प्र० लिं० क्लि लीब हॉटेल मेन्ट बजट फैलर तथा पास ।

६) सर्बनिधत कर्म्मारी स्वं व्यविगत मिसिल ।

कृतै मंडा रैल प्रबन्धक (का०)

वाराणसी ।

सत्य प्रतिलिपि



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In the Hon'ble High Court of Judicature at Allahabad

(S) B
(S) B

Lucknow Bench, Lucknow.

Annexre 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 ~~him~~ 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 C.M.E/ME. Rly. Gkp.

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

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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



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HJM

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 basic 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 ~~not~~ 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 DME (L)/LJN's letter No.M/COM/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 DME(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.



Brijesh 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 L.F. (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, Sarvashiri 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 M.I.O (840-1040) wherein the aforesaid my juniors have been considered.

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 Mr. U/T~~
~~Chancery~~
~~11/8/82 AD~~

How reserved,
Held. 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.

⑦

west

Put up to tomorrow,

Mr

16-8-82

Mr
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.

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

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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 petitioner's case for promotion wouldnot 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.

R.D.

9- That the suitability at the selection is required to be assessed on the basis of the annual character roll entries of 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)

Counsel for the petitioner-applicant.

B.C.Saksena
G.P.T.



to the Honble High Court of Judicature at
Allahabad Lucknow Benaras K.O

WP No 6082. of 1981

1982
AFFIDAVIT
36
HIGH COURT
ALLAHABAD

Brijesh Kumar

Petitioner

25

Union of India vs. other - opp. parties



(6) 8/2

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

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
9/1/

to my personal knowledge.

Lucknow:

Dated: August 9, 1982

Brijesh Kumar

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:

Dated: August 9, 1982

Brijesh Kumar

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 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.

LCN
V.V.K. SAKSEN
OCTOBER 1982

9.30 AM
9.30 AM

8/6/1
D/AW
A/49

em no. 10306 C.M./dr

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

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 file noted the order passed by Hon'ble Mr. Justice U.C.Srivastava in short as indicating that the petitioner's 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

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

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

Home Affairs部

This is an application
for classification of the
order dated 24-2-82.

In the order it has
been stated that the
case of the petitioner
shall also be considered
that implies notwithstanding
any entry entries ~~extra~~
in this case will also be
considered as ~~sub~~ ^ugements
With this observation
the application is disposed
of.

28.2.82
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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.

B.C.Saksena

Dated Lucknow
27.9.1982

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

(Signature)

(Signature)

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

ONER P
53/921
11/10/82
SRI, Allahabad
I, Brijesh Kumar, aged about 48 years, son of
Sri Nand Kumar Sharma, resident of 80, Guru Govind
Singh, Marg, Lal Kuan, Lucknow, ^{the above-named applicant} 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.

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 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



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).

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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.

Govt. Incharge
Put up with
the file today before
2.30 P.M. State if
any date has been
fixed in the matter.

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 infructuous.

W.L.
19.8.82
List it for 24.8.82
B.C.S.
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.

listd.
19.8.82

Lucknow:
Dated: August 19, 1982

Yours faithfully,

B.C.Saksena
(B.C.Saksena)

Advocate,
Counsel for the petitioner.

PCWb

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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, Box Gurovind 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, father's name not known, Maintenance Inspector, C.M.E. Office, N.E. Railway, Gorakhpur
6. Y.S. Sahani, aged about 36 years, father's 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

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

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 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

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 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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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

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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 23.2.1983 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

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.

B.C.Saksena
(B.C.Saksena)
Advocate

Dated Lucknow

Counsel for the applicant

25.8.1983

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, Gurogovind 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



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

Borijesh Kumar

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 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 indicate 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. 10306 (w) of 1982 and His Lordship, Hon'ble Mr. Justice U.C.Srivastava on 23.2.1983 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

Brijesh 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 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.

Bojish Kumar

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

-6.-

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

Dated Lucknow

Brijesh Kumar
Deponent

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.

Dated Lucknow

Brijesh Kumar
Deponent

25.8.1983

I identify the deponent who has signed in my presence.

R.K. Srivastava
(R.K. Srivastava)
Clerk to Sri B.C. Saksena, 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. Saksena

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.

SWORN COMMISSIONED
High Court, Allahabad.
Lucknow Bench.

No. 25/8/83
Date - 64/12/83

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

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

Brijesh Kumar

Writ Petition no. 6082 of 1981

--Petitioner

vs.

Union of India and others

--Opp-parties

Annexure no. 1

North Eastern Railway

Confidential
No. E/5478 (Con)

Office of the C.M.E.,
Gorakhpur dated 23.5.1983

To

Shri Brijesh Kumar,
M.I.O./LJN.

Sub: Confidential report for year ending 1983.

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

Brijesh Kumar

25.8.83

- | | |
|---|---|
| 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. | |

(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.



Bojraj Kumar

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 yr 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 ~~any~~ my case
and therefore the reports are bad in law being
contrary to rules.



Brijesh Kumar

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 (BG) as well as MIO (MG). Sri K.C.Nandi was posted in third week of July 1983 as MIO (BG) by your office but 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. Locos 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. locos of Gonda ~~xx~~ 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 AQE(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 inspeaking 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 AQE/Gorakhpur, N.E.Railway for information.

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इन दि आनेबुल हाई कोर्ट आफ जूहे केचर एट लडानऊ बैच
लडानऊ ।

रिट पिटीशन रेख्या / अप्र० 1983

ब्रजेश कुमार

पिटीशनर

बनाम

उत्तर-ब्रेश यूनियन आफ हैप्प्यै तथा अन्य

स्नेक्जर न० 3.....

पंजिका/254/8/19 भाग-। (नक) दिनांक 6/8/83

विषय: तेकोमोरमैन/ एमआईओ० का 840-1040
बनन ।

- (1) लिभित परीक्षा - 7-9-83 तिस्तम ट्रैनिंग स्कूल मे ।। बजे
- (2) अनुपस्थित परीक्षा - 19-9-83 , , , ,
- (3) मैलिक परीक्षा 13-9-83 , , , कार्यालय मे ।। बजे से
- (4) मैलिक परीक्षा 20-9-83 , , , , ,

निम्नलिखित कर्मचारियों को कार्यमुवृत कर उपरोक्त स्थान

और समय और तिथि को परीक्षा मे सम्मिलित होने के लिये अवश्य
भेज दे ।

साधारण जाते

- (1) श्री एम०स० श्रीवास्तव, एमआईओ० सौनपुर ।
- (2) , , ब्रजेश कुमार , , , , लडानऊ ।
- (3) , , महात्मा प्रसाद एम० --- नडाउंगा गंज ।
- (4) बी०प्प० अरोरा , , , मउ० जंक
- (5) एम०ए० अकबर एम०आईओ० (मुहगाल्य) गोरखपुर ।

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(6) यूप्यस० श्रीवास्तवा फोरमैन बी० (गोडा) डीजल रेल

(7) ए०पी०इम० - फोरमैन बी० मेदानी

(8) बी०क० पाठ्य तदर्थी तोको फोरमैन (बी०) छपरा

अनु० जाँते

(1) लाल सिंह फोरमैन बी० सहरसा रेल

(2) श्री दो०आर० कामते फोरमैनबी० के दरभंगा ।

अनु० जन जाँते

श्री यन्धुल० सिंह फोर मैन बी० आसांज

Barjesh Kumar

कृते महात्र्मा (का०)

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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 ;

मुद्रित 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

प्रधार कार्मिक अधिकारी
पूर्वोत्तर रेलवे, मोराब्दा

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 (N) 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

प्रबन्ध कार्यालय
पूर्वोत्तर रेलवे, नो. १४२

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31.3.73, 31.3.72, 31.3.71 and 31.3.70 were 'average'. Thus, it would be apparent 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 x 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.

प्रधर कार्मिक अधिकारी
पूर्वोत्तर रेलवे, गोरखपुर

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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.

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 ~~that~~ 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.

मुख्य कानूनी अधिकारी
मुख्यतर रेलवे, गोरखपूर

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 ~~substantially~~ 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 MI⁰ / Loco Foreman (840-1040) on adhoc basis vide GM(P) Gorakhpur's letter office order No. KA/210/8(I) Part IV(IV) 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

DLB
राष्ट्र कार्मिक अधिकारी
रेलवे, गोरखपुर

A/149
X/80

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 Izatnagar Division During 1975-76. At the time of supersession since the record of Izatnagar 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 Sonepur 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 vide office order No. E/210/8/1(II)/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

मुद्रार कामिक अधिकारी
प्रोत्तर रेखा, गोरखपुर

Just

voluntary retirement from the Railway service.

This petition itself now stands infractions and
as such liable to be dismissed accordingly.

X
81

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

U. B. J.
Sr. Personnel Officer (Mech)

Dated 25.4.90

प्रबन्ध कार्यालय अधिकारी

मुख्यमंत्री रेप्रेन्टेटर

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

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:

U. B. J.
Sr. Personnel Officer (M)

Dated 25.4.90

प्रबन्ध कार्यालय अधिकारी

मुख्यमंत्री रेप्रेन्टेटर

8/8

8/8

X/8

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

(C.S.-D.)

No.

60072

of 198

vs.

Date	Note of progress of proceedings and routine orders		Dated which case adjourned
	1	2	
17-12-81	<p>Hon. T. S. Rama J. Hon. S. S. Ahmad J.</p> <p>Some notice to the opposite party to show cause why the petition be not admitted.</p> <p>Sol. T. S. V. Sol. S. S. A.</p>	17-12-81	
11.2.82			
	<p>PROCESS FEE REPORT in W. P.</p> <p>O. M. Appl. No.</p> <p>The Counsel for Petitioner/applicant has not taken steps for service of O. P. Nos. 1, 5, 5, 7 within time allowed under Rules of Court.</p> <p><i>Agenda</i></p>	<p>SUBMITTED</p> <p><i>Swallowed</i></p> <p><i>key</i></p> <p><i>1-2-82</i></p>	
11.2.82	<p>Hon. H. N. Seth J'</p> <p>Hon. S. S. A. - J</p> <p>Steps taken for all</p>		
	<p>17-3-1982 fixed & committed for all</p> <p>No. 3 to opp. parties in 1, 5, 7, 8</p>		

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	15. 3. 82	24-3-82 On 24-3-82 Amu
	27. 4. 82	27-4-82 B
	Service report in Wb	
	Op. No 264 - Received by S. Umesh Chandra Bcr	
	Op. No 1587 - Regd. covers have not returned back or placed. No CA or power filed.	Submitted 8-4-82 T.M. 82
	27. 4. 82 Wb for orders J. M. S. in BANCA	27-4-82 B
	Put up tomorrow	6-5-82 27/4/82

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 6082 of 1981

—VS.—

PROCESS-FEE REPORT to W. P.

C. M. Appln. No. X

The Counsel for Petitioner/applicant

has not taken steps for service of O. Pa.

Nov 1, 1877 within time allowed

Rules of Court.

SUBMITTED

Swedish
29/11/02

26. 0-02 8.8a B

Date

Note of progress of proceedings and routine orders

Dated
which
case is
adjourned

1

2

3

16.8.82 C.M. No. 7806(C) J.M.

Hon. V.E.S.S.

Put up tomorrow.

Self-vernished

16.8.82

17.8.82 Conv-7806-02 J.M.
drivesAdjourned at the request
of En B.C. Sreeno. L.

17.8.82

P

24.8.82

free-com

7806 C.M.

O.S.L

Hon. Mr. S. S.

Stay granted

P. S. S.

sup/for

15.9. A.L. Basha

P. S. S.

Date

Note of progress of proceedings and routine orders

Dated
which
case is
adjourned

1

2

3

282

W.M. Morris, D.A.S.K.
 Mr. McLean, Esq.
 Mr. Shand

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 ^{the} P.

MHS/-

3-12-82

Report

82

In compliance with counts
 one on 3-12-82 it is
 submitted that notices
 served on 12-2-82 in
 compliance with order on
 17-12-81 to show cause
 why the petition be not
 admitted have not been
 received back so far.
 But learned counsel has
 not supplied regard over
 etc for compliance of ~~order~~
 order on 8-7-82 for which
 report was made by the office.
 Submitted.

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

C.W.L.

No.

600/2

of 198 1

vs.

X/10

10/10

8/1

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
6.10.82	C.W.L. 10306/82 order for orders non-vest	for clearances
	Pursuance record non-vest	
		6.10.82.
		non-vest
15.2.83	16.2.82 from C.W.L. 10306/82 non-vest	non-vest
20.2.83	C.W.L. 10306-82 W.S. non-vest	
	Apples disposed of.	
		Boe 82872
		B/C

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

No.CAT/Alld/Jud/ *Wokosiboy* Dated the : 10/5
D.A. No. 873 of 1987

Brijesh Kumar APPLICANT'S

VERSUS

Union of India RESPONDENT'S

To

- 1- Shri B.G. Saxeena, Advocate, Lucknow High Court Lucknow.
- 2- Shri Dinesh 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. 6782
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 for 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/

V DEPUTY REGISTRAR

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

** 7A 079/87 (1) 1/3

No. C.A.T/Alld/Transfer/3777 Dated the 30/11/90

Brijesh Kumar 3777 APPLICANT'S

VERSUS

Union of India

RESPONDENT'S

- ① Brijesh Kumar & Sonu Kumar Sharma & to do b/w
Kulwinder Singh & Saroj Lalqayin Lko
② To Union of India through the Secretary Ministry of
Railways & the Office Chairman Railway Board
Railway Bhawan New Delhi
③ General manager N.E. Railway Gorakhpur
General manager (P) C.M.E. N.E. Ply. Gorakhpur

Whereas the marginally noted cases has been transferred
by H Ciles 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 H.C. 1981 16.4.90 1990. The hearing
arising out of order dated 1/1/90 If no appearance is made on your
passed by 1/1/90 behalf by your some one duly authorised
in 1/1/90 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 1/1/90.

dinesh/

DEPUTY REGISTRAR

- ⑤ M.R. Choudhary maintenance Inspector
C.M.E. office N.E. Ply. Gorakhpur
⑥ Y.S. Shahani, maintenance Inspector
C.M.E. office N.E. Ply. Gorakhpur
⑦ Shri K.T. Singh Addl. Chef mechanical
Engineer (m) N.E. Ply. Gorakhpur

239
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH
Gandhi Bhawan, Opp. Residency, Lucknow

No. CAT/Alld/Transfer/ 3777 Dated the 23/90

Brijesh Kumar APPLICANT'S

VERSUS

Union of India RESPONDENT'S

⑤ To M. R. Choudhary, Maintenance, Inspector
C.M.E. Office M.E. Bly. Gorakhpur
⑥ M. S. Shahani, Maintenance Inspector
C.M.E. office M.E. Bly. Gorakhpur

(Sd) (Sd)
Whereas the marginally noted cases has been transferred
by 11/08/90 under the provision of the Administrative
Tribunal Act XIII of 1985 and registered in this Tribunal as above.

Writ Petition No. 6082/90 The Tribunal has fixed date of
of 1990. of the Court of 16.2.90 1990. The hearing
arising out of order dated 16.4 of the matter.
passed by 16.4 If no appearance is made on your
in 16.4 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 23
day of 16.4 1990.

dinesh/

RECEIVED 21/3/90
DEPUTY REGISTRAR

① Shri K. T. Singh, M.I.B. - Chief Mechanical
Engineer (M) M.E. Bly. Gorakhpur

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

** 714873/87
No. CAT/Alld/Transfer/ 3775 Dated the. 21/3/90

Dinesh Kumar APPLICANT'S

VERSUS

Govt of India RESPONDENT'S

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

Whereas the marginally noted cases has been transferred
by 14.2.90 under the provision of the Administrative
Tribunal Act XIII of 1985 and registered in this Tribunal as above.

Writ Petition No. 6082/81 The Tribunal has fixed date of
of 1990. of the Court of 16.4.90 1990. The hearing
14.2.90 of the matter.
arising out of order dated If no appearance is made on your
passed by behalf by your some one duly authorised
in 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/

10/04/1990
DEPUTY REGISTRAR

⑦ Shri K. T. Singh Adl. 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)

✓
AS

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/-

Sd/-

A.M.

V.C.

checked
S.W.
318120

// True Copy //

Deputy Registrar

Central Administrative Tribunal

Lucknow Bench,

LUCKNOW

S.W.
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Plz sign
H. No. Cat
7/8/90
X

Post
and
4/8

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Learn of India's heroes. (प्राचीन)

三

一九三二年

16
Lamb

Brayesh Kumar



2 (ପ୍ରକାଶକ) ପ୍ରକାଶକ

11. مکانیزم (مکانیزم) فیزیک (فیزیک)

א. גָּמָרְתָּן

Welcomen Bereyde Wekend

Georg the Duke of Altenburg

440

VAKALATNAMA

Before The Central Administrative Tribunal Circuit Bench/ Lucknow
 in the Court of
 TA no 973/87 (T) /CAT /CKO

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.Karma...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.Karma...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. Phusia).....
 Designation of the Executive Officer,

Sr. Divisional Personnel Officer
 N B Railway | Lucknow -
 (for Union of India)

395

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench, Lucknow.

No. CAT/AKO/Jud/ 4288 date the 17/4/90

T.A.No. 873/87..(1).of 1990 (T)

Brijesh Kumar.....Applicants.

Versus.

Union of India.....Respondents.

To

Brijesh Kumar Slo Sei Nand Kumar
Sharma, Ho 80 Gajendra Singh
Mang. Lal Quan

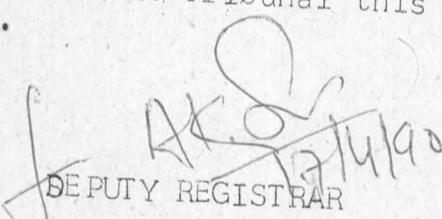
Lucknow

Whereas the marginally noted cases has been transferred
by H.C.L.K.O.....under the provision of the Adminis-
trative Tribunal Act 13 of 1985 and registered in this Tri-
bunal as above.

Writ petition No. 6082/81/.....
of 19.....
of the Court of H.C.L.K.O.....
.....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 seal of the Tribunal this
17.....day of.....1990.


Akash Kumar
DEPUTY REGISTRAR

Bhartiya/

C.I.A
4940

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

4173
Record of
27-4-90

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

[Signature]

A
X

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.

24/8

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
Sd/-
318190

Sd/-

A.M.

Sd/-

V.C.

// True Copy //

rmm/

[Signature]

Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow

[Signature]
Sd/-
318