

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

T.A 1024/87

CAUSE TITLE : C.R. NO. 539/87 OF

NAME OF THE PARTIES : S.N. Chaudhary.....Applicant

Versus

U.C. I. Secy.....Respondent

Part A.

Sl.No.	Description of documents	Page
1	Index sheet	A1 to A2
2	order sheet judgment order dt. 30/8/90	A3 to A5
3	Visit Petition Application/ Annexure	A6 to A32
4	Power	A33
5	Stay Application 1148, 7214	A34 to A35
6	Counter affidavit	A36 to A54
7	Inspection Application	A55 to A56
8	Com. A.Y.O. D/C 389	A57 to A66
9	Rejoinder affidavit	A67 to A77
10	Vakalatnama	A78 to A83
11	Notice & with any paper	A84
12	H.C. order sheet / Inspection	
13		
14		
15		
16		
17		
18		

CERTIFICATE

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

Dated 12-10-11.

Counter Signed.....

Rajiv Patel

Signature of the
Dealing Assistant

Section Officer/In charge

ANNEXURE - A

CAT

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

INDEX SHEET

CAUSE TITLE TA 1024/87 of 19

NAME OF THE PARTIES

S. N. Chowdhury

Applicant

Versus

Union of India

Respondent

Part A, B & C

S. No.	Description of documents	PAGE
1	Order Sheet	A 1 to A 3
2	Petition	A 4 to A 29
3	Power	A 30
4	Extra copy	A 31 to A 56
5	Order Application	A 57
6	App. for valuation of Stay order	A 58
7	Counter affidavit	A 59 to A 78
8	Power	A 79
9	In Paper	A 80 to A 83
10	Application for condonation of delay	A 84 to A 85
11	Supplementary Counter Affidavit	A 86 to A 92
12	App. for condonation of delay R.V.	A 93
13	Rejoinder Affidavit	A 94 to A 103
14	Order Sheet A.C.	A 104 to A 105
15	B. File	B 106 to B 153
16	C. File	C 154 to C 164

Order Sheet 7.1024/87

(S) (A)

Office Report

This is WP no 39182 Transferred
from the High Court under no Bench Reference.

Notices were ~~served~~ serving 1.11.88
by legal post both the parties

Notices has not received back
after service.

Submitted
MS

1.11.88

DR

No one appears for applicant.
Sent fresh notice to applicant
as well as to the council for 1.

5.1.89

DR

5.1.89

DR

No one appears put up
with office report on 27.2.89

DR

27.2.89

DR

No sitting due to longers
strike. Adj to 26.3.89

116

26.3.89

DR

It appears that no notices
have been served the order of 1.11.88
sent fresh notice to the applicant
as well as to the council, fixing 26.3.89

N.W.
Issued
25/4

DR

26/7/89

Re

Adv. counsel for the Respondent Shri A. K. Gaur is present. No service report given by the office CA has not been filed. It may be filed by D. S. O. office to submit a clear service report of notices to the applicant.

W
Registrar

23/8/89

Office Report

Notices issued to both the parties by regd. post on 14-9-88 and 25/4/89, but still neither any undelivered regd. cover nor any reply filed so far.

Shri A. K. Gaur, Adv. has filed vakalatname on behalf of resps. ~~no. 182~~ submitted for orders.

R

28.8.89

DR

On the request of the Counsel for the resps. reply can be filed by 28.9.89

DR

28.9.89.

DR

(X)

(X)

On the request of the counsel
for the respondents, the same
may be filed by 19.10.89.

DR

19.10.89.

On the next Reply
may be filed by 28.11.89
or
Regr

28.11.89

Respondent's counsel
present. Reply will be filed
28.11.89. As I filed
a short a reply. & 27.82
is present on file. Applicant
is not present. Today fresh
notice to applicant has been issued.
Twp. 22.12.89.

10000
13/11/89Det
18/11/89

OR
In compliance of
order dt. 28.11.89,
notice has been issued
to the applicant filing
22.12.89. No notice has
been sent to the court
so far as after service
of date after service
is committed.

20/12/89

22.12.89 Sri A.K. Jain
present not present
for the applicant. Reply
may be filed by 6.2.90

6.2.90 Sri A.K. Jain filed his
Valmiki name today by
Reply may be filed by
6.3.90

Regr
Regr

1024/07/11

30.8.90

Hon'ble D.R. Agrawal J.M.
u K. Chayya A.M.

None appears for the applicant
despite notice. Sri A. L. Sehgal stated
before us that he has not received any
instruction from the petitioner. Petition
is dismissed for want of prosecution.
The interim order stands vacated.

Deputed
counsel
J.S. B. Khurana
A.S. B. Khurana
10/1

P
(A.M.)

Def
(J.M.)

CIVIL

SIDE

CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case..... W.P. 539/82

Name of parties..... S. S. Nath Chouhan v/s Union of India

Date of institution..... 3.2.82

Date of decision.....

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
A	1	General Index	1		Rs. P.			
	2	Case Sheet	1					
A	3	Writ cert affidavit & annexes.	27	9	103	-		
B	4	Power	1	1	5	-		
		Comd. 11682 W.S.R Off. Post Day	1	1	5	-		
6.	Comd. 7214 (W)	7682	20-	-	7.00			
7.	Power		1-	-	5.00			
8.	Comd. 389 (W)	84 with supply C.R.	9-	-	7.00			

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

File no.	Serial no. of Paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2		4	5	6	7	8	9
					Rs. P.			
9-	Conal. 4712 (4)		11-	—	7.00			
	84, with RA							
10-	Power		1-	—	5.00			
11-	order Sheet		2-	—				

I have this

day of

198

examined

I have 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

Group No. A-1b-(f) Original copy

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) : LUCKNOW :

WRIT PETITION NO. OF 1982

539

(b) 1

A
b

SURYA NATH CHOWDHARI

... ... PETITIONER.

VERSUS

UNION OF INDIA AND OTHERS

... ... OPPOSITE PARTIES.

:_I_N_D_E_X_:

SL.NO.	DESCRIPTION OF PAPERS	PAGE NUMBERS
1.	Writ Petition under Article 226 of Constitution of India.	1 - 9
2.	A F F I D A V I T	10 - 11
3.	ANNEXURE NO. 1 (Impugned order dated 28.1.82)	12 - 13
4.	ANNEXURE NO. 2 (Order dated 10.4.75 passed by Asstt. Engineer)	14 - 15
5.	ANNEXURE NO. 3 (Petitioner's Appointment order dated 19.11.77)	16 - 17
6.	ANNEXURE NO. 4 (Circular letter dated 1.3.66)	18 - 25

LUCKNOW:

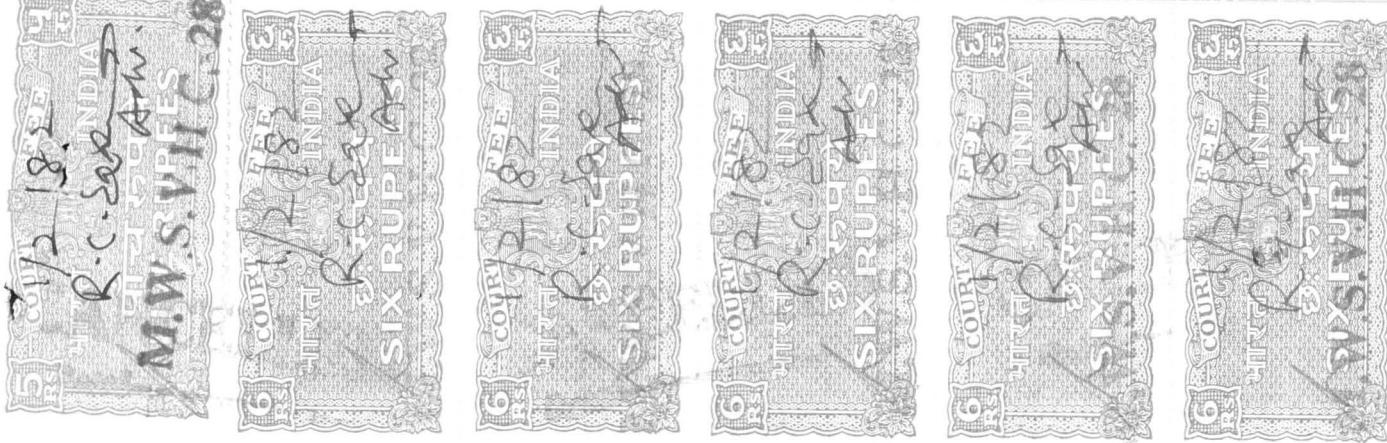
DATED: FEBRUARY 2, 1982.

(R.C. SAXENA)
ADVOCATE,
COUNSEL FOR PETITIONER

R.C. SAXENA
ADVOCATE

INDIA COURT FEE

60 RS.



In the sealable High Court of Judicature at Allahabad
(Lawns Bench): due now.

W.P.-No 239 of 1982

1. 20p 760/-
2. 40p 240/-
3. 100/-
21/2/82

CANCELED



Surya Nath Chowdhury - Petitioner
vs.

Union of India & others - Ap's.

Writ petition under Article 226 of the
Constitution of India.

Deo
C.R.C. Sale
Council for petitioner

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUCKNOW BENCH) : LUCKNOW :
WRIT PETITION NO. OF 1982

529

Surya Nath Chowdhari, aged about 30 years,
son of Sri Raghu Raj Chowdhari, resident of
Quarter No. T/36, Railway Coloney, Mailani,
District Lakhimpur Kheri.

--- PETITIONER.

VERSUS

1. The Union of India through the General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, Izetnagar.
3. Chief Tele-communication Inspector, North Eastern Railway, Izetnagar,

--- OPPOSITE PARTIES.

WRIT PETITION UNDER ARTICLE 226 OF CONSTITUTION OF INDIA

The petitioner named above most respectfully submits as under:-

1. That the present Writ Petition is directed against the order dated 28.1.1982, passed by the Opposite Party No. 2 reverting the petitioner from the post of Line Attendant, Grade Rs.210-290 to the post of Khalasi Grade Rs.196-232. A true copy of the impugned order dated 28.1.1982 passed by the opposite party No. 2 is filed herewith as Annexure No. 1 to this writ petition.



Surya Nath

Recd copy for of No 1303
Chandu
2.2.82
at 11.05 AM
in Cashier
ASR

On
Silver ~~impressed~~ ~~as 60 -/-~~
~~Adhesive~~ ~~as 40 -/-~~
Total ~~as 100 -/-~~

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

In time up to

Papers filed. Copy of B. ~~o.~~

~~Should also be filed.~~

~~Shri - Bench.~~

Last Day Am No 1 228-1-82

Chandu ~~as 100 -/-~~

~~2.2.82~~

~~8.00~~

21/2/82

Hon. H.N. Sethi, J.

Hon. R.C. Deo Sharma, J.

Admit.

Issue notice.

~~try~~ ~~as 50 -/-~~

of 3.2.1982.

~~Shri~~

W.G

2. That the petitioner on 18.2.1975 was initially appointed as Line Attendant on Casual Labour rates but after having continuously worked for a period of 4 $\frac{1}{2}$ months against the permanent post of Line Attendant his status was changed and he was temporarily appointed w.e.f. 18.6.1975 against the said permanent post of Line Attendant in the grade of Rs.210.290. A true copy of order dated 10.4.75 passed by the Assistant Engineer is filed herewith as Annexure No. 2, to this writ petition.

3. That the petitioner since the date of his appointment as Line Attendant has been working honestly and diligently without any complaint against his work and conduct and his service record has although been unblamished.

4. That in pursuance of Annexure No. 2 while the petitioner was given the status of a temporary Railway Servant in 1975 his pay was fixed Rs.210/- per month in the grade of Rs.210-290 and since then he has been regularly getting his all yearly increments in the said grade.

5. That in the year 1976 several persons holding the post of Khalasi (Grade Rs.196-232) and Line Attendant (Grade Rs.210-290) having acquired/given temporary status in Railway service were asked to appear before the Screening Committee constituted for the purpose of conducting the suitability test in order to select them for their regular appointments on the posts in question.

6. That the petitioner duly appeared in the aforesaid Screening/Suitability Test and was found fit



मुमुक्षु

AD

for his regular appointment. The medical examination of the petitioner was also conducted and being declared fit, he was appointed as Line Attendant in the regular manner. A true copy of the appointment order dated 19.11.1977 passed on behalf of Divisional Superintendent (Personnel) now known as Divisional Railway Manager (P) is filed herewith as Annexure No. 3 to this writ petition.

10

7. That after the appointment of the petitioner on the post of Line Attendant Grade Rs.210-290 w.e.f. 10.9.1976 in pursuance of Annexure No. 3, the opposite parties called the eligible persons to appear in the Trade Test so that they could be promoted and appointed against the posts of Line Attendants in the regular manner. The opposite parties conducted atleast 3 times the Trade Tests on different dates but did not call the petitioner to appear in these Trade Tests as his suitability for the post of Line Attendant was already adjudged in the year 1976 and having been found fit he was appointed to the said post in the regular manner vide Annexure No. 3 to this writ petition.

8. That the opposite parties scheduled to hold a Trade Test on 18.10.1981 for the purpose of selecting suitable persons for their promotion from the post of Khalasi, Grade Rs.196-232 to the post of Line Attendant, Grade Rs.210-290.

9. That the petitioner was neither given any prior intimation regarding the scheduled date of holding the Trade Test on 18.10.1981 by the opposite parties nor he himself had any knowledge about the same. While the petitioner was on his duty he was simply asked by opposite party No. 3 to sign a Memo in the evening of 17.10.1981 intimating him that he has to appear in



ग्रन्थालय

10/10/81

the Trade Test for the post of Line Attendant on 18.10.1981.

8/10/81

10. That as the petitioner had no prior notice/intimation that he had to appear in the Trade Test and that too without any opportunity for preparation, he shown his inability to appear in the said Trade Test. The petitioner also pointed out to the opposite party No. 3 that the petitioner has already been holding the post of Line Attendant in the regular manner since 10.9.76 in pursuance of Annexure No. 3 and he should not have been required to appear further in any test whatsoever for the same post for which he was already found suitable.

11. That the opposite party No. 3 did not listen to the petitioner and compelled him to give in writing that he does not want to appear in the Trade Test for any reason whatsoever scheduled to be held on 18.10.1981.

12. That the petitioner having been left with no option under the circumstances stated hereinbefore expressed his inability for appearing in the Trade Test and given in writing to the opposite party No. 3 that he is unable to appear in the trade Test scheduled to be held on 18.10.1981.

13. That thereafter the opposite party No. 2 passed the impugned order dated 28.1.1982 reverting the petitioner from the post of Line Attendant to the post of Khalasi, a true copy of which already forms part as Annexure No. 1 to this writ petition.

14. That the Chief Personnel Officer, Gorakhpur vide his circular letter No. E/IV/281/) dated 1.3.1966



22-11-1982

published the instructions based on various orders of the Railway Board received from time to time for the purpose of conducting the Trade Test of various staff in accordance with the said instructions. A true copy of circular letter dated 1.3.66 issued to all District Officers and Personnel Officers of the North Eastern Railway is filed herewith as Annexure No. 4 to this writ petition.

15. That a perusal of instructions contained in Annexure No. 4 clearly reveals specifically in para 7 of the said instructions that an employee should be given atleast a fortnight's notice for the Trade Test.

16. That para 15 of the aforesaid instructions further provides that in case a person has failed in a particular Trade Test he will be eligible to appear re-appear for further Trade Test at an interval of not less than 6 months. The maximum numbers of chances which are to be given to the person concerned for passing the Trade Test are four.

17. That the instructions contained in Annexure No. 4 nowhere provide that the consequence of either non-appearance of the person concerned in the Trade Test or his failure in the Test would disentitle him to hold the post for which he is being Trade Tested or he will be reverted to a post to which he was not even initially appointed.

18. That the impugned order contained in Annexure No. 1 is a penal order and visits the petitioner with the civil consequences and could not have been passed so arbitrarily without giving the petitioner any opportunity of having his say in the matter before the

(62)

order in question was passed by him.

(A/C)

19. That the effect of the impugned order contained in Annexure No. 1 is that the petitioner would lose the post of Line Attendant grade Rs.210-290 besides losing his seniority of the said post and would be put to work on the post of Khalasi grade Rs.196-232 on which post he was not even initially appointed causing him the pecuniary loss of money in respect of his salary.

20. That the opposite party No. 2 further failed to take into account the instructions contained in Annexure No. 4 specifically mentioned in para 7 and 16 that an employee should be given atleast a fortnight prior notice for the purpose of appearing in the Trade Test and further even to a person who fails in the Trade Test is to be given atleast 3 chances more to qualify the Trade Test. In the instant case the petitioner was neither given the prior intimation of 15 days for appearing in the Trade Test nor he had actually failed in the Test in question.

21. That the opposite party No. 2 acted absolutely in the arbitrary manner in reverting the petitioner from the post of Line Attendant to the post of Khalasi without considering the fact that the petitioner was already appointed to the post of Line Attendant in the regular manner in pursuance of Annexure No. 3 after adjudging him fit and suitable for the said post and he could not have been legally again required to appear in the Trade Test scheduled to be held on 18.10.81.

22. That the impugned reversion of the petitioner from the post of Line Attendant to the post of Khalasi

25/10/81

under the circumstances of the case amounts to removal that too without any opportunity and the same is not only against the principles of Natural Justice but is also in controvension of the provisions of Article 311 of the Constitution of India.

23. That the petitioner having about 7 years experience of ~~the~~ unblamished service does not fear in appearing in any Trade Test and is still ready for the same provided the same is considered necessary and he is given the requisite notice of atleast 15 days before holding the said Test.

24. That the petitioner is still holding the post of Line Attendant at Mailani in District Lakhimpur Kheri and the impugned order dated 28.1.82 contained in Annexure No. 1 has not been given effect to as yet. In case the operation of the impugned order is not stayed the petitioner will suffer an irreparable loss which cannot be compensated in terms of money.

25. That the petitioner feeling aggrieved and having been left with no other alternative afficacious remedy begs to prefer the present writ petition on the following amongst the other:

:_G_R_O_U_N_D_S_:

(i) Because the impugned order contained in Annexure No. 1 reverting the petitioner from the post of Line Attendant grade Rs.210-290 to the post of Khalasi grade Rs.196-232 is a panel order and the same could not have been passed by the opposite party No. 2 without giving any opportunity of having his say in the matter before passing the said order-

Digas Adwale



(ji) Because the impugned order contained in Annexure No. 1 under the circumstances of the case amounts to removal of the petitioner from the post of Line Attendant within the meaning of Article 311 of the Constitution of India and the same could not have been done so arbitrarily.

(iii) Because the opposite party No. 2 acted illegally in reverting the petitioner from the post of Line Attendant to the post of Khalasi on which post the petitioner was never appointed nor did he ever work on the said post.

(iv) Because the opposite party No. 2 totally ignored to consider that the petitioner had already been found fit for his regular appointment on the post of Line Attendant after successfully qualifying the Screening/Test for the post in question and was also declared medically fit as is evident from Annexure No.3 and he could not have been again required to appear in the Trade Test for the said post.

(v) Because the opposite party No. 2 further ignored to take into account the provisions of circular letter dated 1.3.66 (Annexure No. 4) specifically mentioned in para 7 and 16 of the said instructions according to which a person who even fails in the Trade Test gets 3 chances more to qualify the same.

(vi) Because the petitioner was not given the requisite notice of 15 days for appearing in the Trade Test scheduled to be held on 18.10.81 and his refusal to appear in the Trade Test was justified and could not have been considered a valid reason for his reversion.

Ansar Ali

: P_R_A_Y_E_R:

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

(a) issue a writ, direction or order in the nature of circiorary quashing the impugned reversion order of the petitioner dated 28.1.82 contained in Annexure No. 1 to this writ petition passed by the opposite party No. 2 in so far as it relates to the petitioner.

(b) issue a writ, direction or order in the nature of mandamus commanding the opposite parties to treat the petitioner still in continuous service with all benefits of the post of Line Attendant.

(c) issue a writ, direction or order in the nature of mandamus commanding the opposite parties to hold the Trade Test again if it is considered necessary after giving the petitioner due notice for the same.

(d) any other writ, direction or order which is deemed fit and proper under the circumstances of the case may also be passed in favour of the petitioner.

(e) 14 days notice may kindly be waived in view of the urgency of the matter.

Lucknow:

Dated: February 2, 1982.

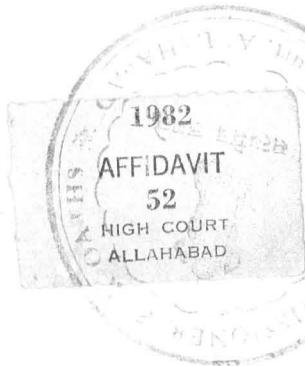
R.C. Saxena
(R.C. Saxena)
Advocate,
COUNSEL FOR PETITIONER.

1/1

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) : LUCKNOW :

Writ Petition No. of 1982



Surya Nath Chowdhari

--- Petitioner.

Versus

Union of India and others

--- Opposite Parties.

A F F I D A V I T

I, Surya Nath Chowdhari, aged about 30 years, son of Sri Raghu Raj Chowdhari, Resident of Quarter No. T/36, Railway Colony, Mailani, District Lakhimpur Kheri, do hereby solemnly affirm and state on oath as under:-

1. That the Deponent is the Petitioner in the above noted writ petition and is fully conversant with the facts of the case deposed to hereunder.
2. That the contents of paras 1 to 24 of the writ petition are true to my own knowledge.
3. That the Annexure nos. 1 to 4 are the true copies and the deponent has compared them with their originals.

Lucknow:

Dated: February 2, 1982.

सूर्यनाथ चौधरी
DEPONENT.

8/5

VERIFICATION

I, the Deponent named above, do hereby verify that the contents of paras 1 to 3 of this Affidavit are true to my own knowledge.

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

Lucknow:

Dated: February 2, 1982.

द्वारा दोषी
DEPONENT.

I identify the deponent who has signed before me.

Debendra Nath Chowdhury
ADVOCATE.

Solemnly affirmed before me on February , 1982, at a.m./p.m. by Sri Surya Nath Chowdhury, the deponent, who is identified by Sri R.C. Saxena, Advocate, High Court, Allahabad, Lucknow Bench, Lucknow.

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

S. Chandra

Oath Commissioner,
High Court, Allahabad,
Lucknow Bench.

5218

2-2-82

इन दि बनरेश्वर वार्ड कोर्ट आफ जूडीकेवर सेट इलाहाबाद (१२) (१३)
(लखनऊ बेन्च) : लखनऊ

प्रिट प्रिटीशन नं० आफ/ १९८२

१९

सूर्य नाथ चौधरी	प्रिटीशनर
	बनाम		
यूनियन आफ इण्डिया स्प्ह अदर्स	अपो०पार्टीज
	...		
	अनेजर नं०।	=====	

	कार्यालय आदेश	-----	

निम्नलिखित पदोन्नति, पदावनति स्वं तैनाती आदेश तत्काल से लागू होने के लिए जारी किस जाते हैं:-

- (1) श्री धरम राज, ला०ब०(२१०-२९०) कासगंज को समान वेतन व क्षमता पर दू०सं०नि०फ्तेहगढ़ के भूमीन बिल्डर स्थानान्तरित किया जाता है।
- (2) श्री अभिलाभ सिंह खलासी, इज्जतनगर को ला०ब०(२१०-२९०) के पद में द्रैठ टेस्ट उत्तीर्ण करने के पश्चात ला०ब०(२१०-२९०) में पदोन्नति करके क्रम सं० । की जगह कासगंज तैनात किया जाता है।
- (3) श्री विजय सिंह खलासी, इज्जतनगर को ला०ब० के द्रैठ टेस्ट में उत्तीर्ण होने के पश्चात ला०ब०(२१०-२९०) में पदोन्नति पर इज्जतनगर में श्री कालिका का०ब० की जगह तैनात किया जाता है।
- (4) श्री राम प्रीत तदर्थ ला०ब०/कासगंज को ला०ब० के द्रैठ टेस्ट में उत्तीर्ण होने के पश्चात ला०ब०(२१०-२९०) में पदोन्नति इक्के नियमित की जाती है तथा तैनाती श्री सूर्यनाथ तदर्थ ला०ब० मैतानी के स्थान पर की जाती है।
- (5) श्री कालिका प्रसाद ला०ब०(२१०-२९०) इज्जतनगर को समान वेतन व क्षमता पर उकानी स्थानान्तरित किया जाता है।
- (6) श्री राम बहादुर तदर्थ ला०ब० कासगंज को ला०ब०(२१०-२९०) की द्रैठ टेस्ट उत्तीर्ण करने के पश्चात नियमित पदोन्नति पर कासगंज में ही तैनात किया जाता है।
- (7) श्री सोरन सिंह तदर्थ ला०ब०कासगंज को ला०ब०(२१०-२९०) का द्रैठ टेस्ट उत्तीर्ण करने के पश्चात ला०ब० में नियमित पदोन्नति पर कासगंज में ही तैनात किया जाता है।



सूर्यनाथ-चौधरी

४८

(8) श्री तेजपाल तदर्थ ला०ब०इज्जतनगर को ला०ब० का ट्रैक्ट टेस्ट उत्तीर्ण करने के पश्चात ला०ब०(२१०-२९०) नियमित पदोन्नति पर दूर संचार नियंत्रक/इज्जतनगर के अधीन तैनात किया जाता है।

४९

(9) श्री वरिराम तदर्थ ला०ब०/राणा को ला०ब० का ट्रैक्ट टेस्ट उत्तीर्ण करने के पश्चात ला०ब०(२१०-२९०) में नियमित पदोन्नति पर राणा में ही तैनात किया जाता है।

(10) श्री लक्ष्मन तदर्थ ला०ब०(२१०-२९०) कासगंज को ट्रैक्ट टेस्ट पास न करने कारण जलासी (१९६-२३२) होने कारण में पदावनत करके दूर संचार नियंत्रक कासगंज के अधीन तैनात किया जाता है।

(11) श्री शिवनाथ जलासी/पीलीभीत को ला०ब० का ट्रैक्ट टेस्ट उत्तीर्ण करने के पश्चात ला०ब०(२१०-२९०) में नियमित पदोन्नति पर पीलीभीत तैनात किया जाता है।

(12) श्री सूर्य नाथ तदर्थ ला०ब० मैलानी को जलासी(१९६-२३२) में पदावनत करके दूर संचार नियंत्रक स्सोस्सार/इज्जतनगर के अधीन तैनात किया जाता है। इन्होंने ला०ब० के टेस्ट में न बैठने की इच्छा सिखित त्वय में दी।

६ यह बादेश प्रमसिदुई/इज्जतनगर के अनुमोदन से जारी किया जाता है। ब्र०सं० १, २, ४, ५, १२ को ज्वाइनिंग लीव, स्थानान्तरण भल डियुटी पास देय है।

४०अस्पष्ट २८.१.८२
कृते मण्डल रेल प्रबन्धक, इज्जतनगर

सं०ई/२१०/१/ला०ब०/सि/१/१।।।

प्रतिलिपि निम्न को सुननार्थ सर्व आवश्यक कार्यवाही देतु प्रेषितः-

- १-प्रमसिदुई/इज्जतनगर।
- २-सलेखि/इज्जतनगर।
- ३-दसनि/स्सोस्सार/इज्जतनगर।
- ४-दसनि/इज्जतनगर, कासगंज, फतेहगढ़, पीलीभीत।
- ५-कार्यालय(बिल)।
- ६-संबंधित कर्मचारी।
- ७-अभिलेखपाल

४०अस्पष्ट २८.१.८२

कृते मण्डल रेल प्रबन्धक, इज्जतनगर

सत्य प्रति
लिपि

सुप्रिय-चौधरी



4/9
X/21

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

(LUCKNOW BENCH) : LUCKNOW :

W. PETITION NO.

OF 1982

Surya Nath Chowdhari

... Petitioner.

Versus

Union of India and others.

... Opp. Parties.

ANNEXURE NO. 2

NORTH EASTERN RAILWAY

OFFICE ORDER

On completion of 4 months continuous service as casual labour and working against the permanent posts of Line attendants in grade 210-290 under CTCI (ACSR) IZN the following Casual labour are temporarily engaged as substitute Line attendants in grade 210-290 from the dates shown against each.

This is purely a local and tentative arrangement and will not confer upon them any claim for retention on the post or seniority. They will be replaced by suitable and trade tested staff without notice.

S.No.	Names	Station	Date of engage- ment as C.L.	Date from which attained T.V.	Pay Status
1.	Shri Devendra S/o Munshi Lal	IZN	18.2.75	18.6.75	210/-
2.	Shri Hari Ram Singh S/o Bhagwati Singh	"	18.2.75	18.6.75	210/-
3.	Shri Sheo Nath S/o Ram Shuhit	PBE	18.2.75	18.6.75	210/-
4.	Shri Vijai Singh S/o Chiman Lal	BJV	18.2.75	18.6.75	210/-

- 15 -

5. Shri Ram Priti
S/o Ram Pyare PP 1822.75 16.6.75 210/
6. Shri Surya Nath
S/o Raghurai MLN 18.2.75 18.6.75 210/
A
22

Sd/-
Divl. ASTT. ENGINEER/IZN.
No. E/227/VIII

Dated. 19.4.75

Copy forwarded for information and necessary
action to:-

1. CTCI/ACSR/IZN 2. DAO/IZN. 3. Individual concernd
4. HC/VII (Bills)
5. Record Clerk.

for Divl. Supdt. (P)

Izatnagar.

TRUE COPY

22-11-75-114



इन दि बानरेबुल हाईकोर्ट आफ छाडीकेचर ऐट, इलाहाबाद
(लबनजु बैच) : लबनजु
रिट पिटीशन नं० बाफ/1982

सूर्य नाथ चौधरी

बैनाम

पिटीशन

भूनियन बाफ इम्हिया स्पृह बदर्स

बपो०पाटीज

भूनेजूरा नं०३

कार्यालय बादेश

स्त्रीनिंग कमेटी द्वारा बनुमोदित हो जाने के उपरान्त जैसा कि मण्डल अधीक्षा (कार्मिक) इज्जतनगर के पत्र सं०ई/५७/सिंगल/स्त्रीनिंग/१, दिनांक १८.५.७६ में प्रकाशित किया जा चुका है, निम्नलिखित मध्यर्थी जो मेडिकल जॉच में सहायक चिकित्सा अधीक्षक/इज्जतनगर द्वारा उत्तीर्ण घोषित किये गये हैं, जैसा कि उनके नाम के सामने दिया गया है और पहले से ही स्वजी/बलासी/लाइन मटेन्डेम प्रैं कार्य कर रहे हैं को अस्थाई बलास वेतनमान १९६-२३२ में १९६/अतिमाह पर तथा अन्य सामान्य देय भत्तों पर नियमित रूप से नियुक्त किया जाता है तथा उनके सामने लिखे हुए स्वेच्छों पर तैनात किया जाता है।

वे उन सभी नियमों स्वं शर्तों से शासित होंगी जो चतुर्थ श्रेणी के अस्थाई कर्मचारियों के लिए लागू हैं। उन्हें रेलवे इन्जीनियरिंग इकाई के अन्तर्गत सभी सेवा शर्तों के अधीन सेवा में जाना पड़ेगा।

इनकी नियुक्ति इनके संतोषजनक कार्य, चरित्र स्वं पूर्ववृत्त के सत्यापन पर निर्भर होगी।

इनकी स्वजी के रूप में की सेवा की अवधि, वार्षिक वेतन वृद्धि के लिए तथा अन्य लाभ जो नियमानुसार देय है, माना जायेगा।

ब्र०सं०	नाम स्वं	पिता का नाम	मेडिकल वर्ग जिसमें उत्तीर्ण	प्रमाणपत्र सं० स्वं तिथि	स्वजी बलासी की तिथि	पैद स्वं वेतन मान	क्रिस्को विवरण अंतर्गत जिसमें नियुक्ति की गई है
१	श्री राम सेवक	पुत्र नन्दू	बी/स्क	८४	१६-१२-६९ दि० १६७-७५	१६-१२-६९ १९६-२३२	बलासी दू०प्र०नि० इज्जतनगर



1	2	3	4	5	6	7	8
2-	श्री जीम प्रकाश पुत्र हीरा लाल	बी/स्क 87दि04-8-75	16-12-73	खलसी 196-232	दूसंनिं इज्जतनगर		
3-	श्री मुहम्मद खुँ पुत्र नाबत खा	बी/स्क 323दि05-12-75	18-4-74	,,	,,		५५
4-	श्री शिवनाथ पुत्र राम सुभीत	स/तीन 327दि09-9-76	18-6-75 (स्वजी ला०ग०) 210-290	,,	,,	10-9	
5-	श्री राम वीर पुत्र बनवारी	बी/स्क 294दि02-6-8-76	19-7-71	,,	,,		
6-	श्री रफीक पुरामलिम	बी/स्क 205दि02-9-9-75	2-8-71	,,	दूसंनिं पूतेहगढ़		
7-	श्री पाल पुरो बल्लू	बी/स्क 343दि02-9-9-76	17-12-73	,,	दूसंनिं इज्जतनगर		
8-	श्री सभादत भली पुत्र नन्ह शाह	बी/स्क 108दि01-6-8-75	13-12-73	,,	,,		
9-	श्री सुर्यनाथ चौधरी पुरो रघुबीर चौधरी	स/तीन/326दि09-9-76	18-6-75 (स्वजी ला०ग०) 210-290	,,	,,	10-9-76	
10-	श्री हरी राम सिंह पुत्र भगवती सिंह	स/तीन 335दि01-6-8-76	,,	,,	,,		
11-	श्री राम प्रति पुत्र राम प्यारे	स/तीन 298दि02-7-8-76	,,	,,	,,		
12-	श्री विजय सिंह पुत्र चिमन लाल	स/तीन 338दि01-6-9-76	,,	,,	,,		
13-	श्री जूवाहर लाल विश्व- कमा पुत्र राम दास	स/तीन 637दि03-9-77	20-2-74	,,			
14-	श्री बृज लाल पुत्र उदय राज	बी/स्क 587दि01-1-8-77	30-10-75	,,	सि० नि० इज्जतनगर		
15-	श्री धर्म नाथ पुत्र मीतीलाल	स/तीन 594दि02-3-8-77	20-2-74	,,	सि० नि०		
16-	श्री स्त्र राम पुत्र शीभाराम	स/तीन 565दि01-1-8-77	21-3-74	,,	सि० नि० इज्जतनगर		
17-	श्री मदेस लाल पुत्र रामयादी	बी/स्क 101दि08-8-75	13-12-73	,,	दूसंनिं इज्जतनगर		
18-	श्री स्त्रन कुमार चक्रवर्ती बी/स्क 112दि0 27-8-75	13-12-73	,,	,,			
19-	श्री राम अवध प्रसाद पुरो राम सुन्दर प्रसाद	स/तीन चम्पे सं०५९६ दि०२०-८-७७	21-3-74	,,	सि० नि० इज्जतनगर		

ह०अस्पष्ट
सहायक कार्मिक अधिकारी,
इज्जतनगर

सं०ई/227/1/सि/

दिनांक 19-11-77

प्रतिलिपि निम्नलिखित को सूचनार्थ स्वं आदेशार्थ प्रेस्तुतः-

- सिंगनल निरीक्षक/इज्जतनगर, मथुरा, पूतेहगढ़, पीलीभीत।
- दूसं संचार निरीक्षक/इज्जतनगर, कासगज, फतेहगढ़।
- मुख्य दूर संचार निरीक्षक/स०सी०स०बा००/इज्जतनगर।
- पैण्डल लेखा अधिकारी/इज्जतनगर।
- संबंधित, कर्मचारियों को।
- प्रवान लिपिक(बिलू)
- अभिलेख पाल
- संसदुइ-फतेहगढ़-इज्जतनगर
- मासिदुइ-फतेहगढ़-इज्जतनगर

ह०अस्पष्ट
कृते पैण्डल अधिकारी(कार्मिक),
इज्जतनगर

सूत्य प्रति
सूर्यनाथ-पोष्टर

10/25

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

(LUCKNOW BENCH) : LUCKNOW :

WRIT PETITION NO.

OF 1982

Surya Nath Chowdhari

... Petitioner.

Versus

Union of India and others.

... Opp. Parties.

ANNEXURE NO. 4

NORTH EASTERN RAILWAY

S.NO. 393
No. F/IV/281/0

OFFICE OF THE
CHIEF PERSONNEL OFFICER
GORAKHPUR, Dated: 1.3.1966.

ALL DISTRICT OFFICERS,
ALL ASSTT. OFFICERS (in independent charge),
NORTH EASTERN RAILWAY

Reg:- TRADE TEST

The instructions in this circular are based on the various orders of the Railway Board received from the time to time and the decisions of the Trade Test Panel. This circular is intended to serve as a ready compendium of rulings on Trade Tests but does not in anyway supersede the existing rulings and instructions on the subject. In case of doubt or ambiguity, references should be made to the original orders.

2. The artisan staff on this Railway are classified as:-

- i) Unskilled
- ii) Sami-skilled
- iii) Basic Tradesmen
- iv) Skilled
- v) Highly skilled Gr. II
- vi) Highly skilled Gr. I.

27/7/82

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3. Basic trades are different from semi-skilled trades. Basic Tradesmen are considered to be learners and will be tested for promotion to skilled grades when they have acquired sufficient skill and knowledge. Basic tradesmen will be provided only in those trades and promotion groups where semi-skilled posts as such exist.

4. No man can pass from any of the above grades to a higher grade without passing the requisite trade test. There will normally be no trade test of Casual Tradesmen. Only those casual tradesmen will be trade tested who are likely to be absorbed in the Railway service as skilled artisans. The trade test of casual tradesmen will be done only with the express approval of the Head of the Department, who must certify that there are no eligible staff for trade test to that grade.

5. Trade tests will apply to artisan staff as follows:-

i) For promotion from unskilled to basic tradesmen or semi skilled grade.

An unskilled workman is eligible to be trade tested to the semi-skilled grade or to basic tradesman only after he has put in three years service as an unskilled worker in that group.

ii) For crossing the Efficiency Bar in the semi-skilled grade.

The trade tests will be coupled with an examination of service record.

iii) For promotion from basic tradesmen or semi-skilled to skilled grade.

A basic tradesmen/semi-skilled workman is eligible to trade tested only after he has put in two years service in the basic/semi-skilled grade.

iv) For crossing the Efficiency Bar in the skilled grade.

The trade tests will be coupled with an examination of service record.



27/7/82

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v) For promotion from skilled to highly skilled Grade II.

The trade test will be conducted as and when vacancies are likely to arise.

vi) For promotion from highly skilled Grade II to highly skilled Grade I.

The trade test will be conducted as and when vacancies are likely to arise.

6. Relaxation of the minimum service conditions quoted above can be permitted by the Trade Test Panel only after the Head of the Department certifies that all eligible men have been tested according to rules and none have passed the trade test. In the case of unskilled workers, it is necessary for the man concerning to have put in the minimum qualifying service in the same group. For example, if a gangman is transferred to a Workshop at his own request, he will be eligible to appear for the semi-skilled test in his group only after he has put in the minimum qualifying services in the workshop.

7. Staff should be called for trade test strictly in order of seniority as and when vacancies are likely to arise. As far as possible only the minimum number of men in strict order of seniority required for promotion should be called for trade test so that most of those who pass the trade test for higher categories do not have to wait for long for promotion to higher grade and no panel should be formed. A senior employee who has failed in six months from the date of the last trade test and if he passes the trade test he will be promoted in preference to a junior employee who may have passed the trade test earlier and may be waiting for promotion.

The employees concerned should be given at least a fortnight's notice for the trade test.

27/11/52
B.M.A. - 11/11/52

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A

A statement of staff to be trade tested should be prepared in form 'B' (N.E.-G.346) in triplicate. Two copies will be forwarded to the Trade Testing Officer alongwith from 'A' (N.E.-G 342) in duplicate. After the Trade Testing Officer has conducted the trade test; form 'A' should be filled in by the officer in duplicate. This will be there cord of the results of the trade test. To ensure that the Trade Testing Officer has adequately scrutinised the record of trade test he should personally score out items not applicable and initial the same. This work must not be delegated to any one else. Forms 'A' & 'B' in duplicate will then be returned by the Trade Testing officer to the District Officer. Form 'A' in duplicate and one copy of form 'B' should then be sent by the District Officer to the Secretary, Trade Test Panel, Gorakhpur for approval.

8. Trade Test will be conducted by an Asstt. Officer of the Technical department. In case of non-technical departments, a technical officer of the appropriate department should be nominated to conduct that trade test. The trade test will be supervised by a supervisor not below the rank of an Asstt. Foreman (or equivalent) in grade Rs.355-425. In case of trade test to the highly skilled grades, the trade test will be conducted by a Senior Scale Officer assisted by a Subordinate not below the rank of a Foreman (or equivalent) in grade Rs.370-475.

9. Trade tests will be conducted for promotion and for crossing the E.B. as per syllabus for the category embodied in the booklet-STANDARD TRADE TESTS. In respect of those categories for which no syllabus is

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laid down in the Standard Trade Tests book, the Head of Deptt. will prepare a draft syllabus for the trade tests and send it to the Trade Test Panel for approval.

10. No direct recruitment can be made to the semi-skilled grade. Basic tradesmen will also be selected after trade test only from the unskilled staff. There will normally be no direct recruitment to the skilled category. Direct recruitment to the skilled category, however, may be resorted to if the Head of the Department concerned certifies that eligible staff are not available for trade test as skilled artisan and that direct recruitment is essential in order to carry on the day to day work satisfactorily. The procedure for making such recruitment is laid down in G.M's letter No. F/240/8 dt. 29.7.63.

11. The trade Testing Officer should keep the following points in mind while filling in the Form 'A' :-

a) Column for ticket No. must not be left blank. If no ticket No. has been allotted to the staff concerned, appropriate remark should be endorsed under the column.

b) The syllabus No. of the test as per the Standard Trade Test booklet must be quoted under the column for code No. The serial No. of the practical test given to the workman as well as the identification marks on the work piece must be recorded under the column for distinguishing number.

c) The trade test form must be filled in ink only and all corrections must bear the dated initial of the Trade Testing Officer.

d) Both forms A & B must be countersigned by the District Officer concerned before sending the same to the Trade Test Panel.

12. The practical tests exhibits must be marked with distinctive identification Nos. and the distinctive No.

10/10/82
A.Y.

must be entered in the trade test form. The trade tests exhibits must be preserved by the Distt. Officer for a period of six months from the date of the trade test and must made available to the Trade Test Panel, if called for.

13. The results of the trade tests must not be announced before the approval of the trade Test Panel. The results of the trade test should be put up on the notice board for information. One copy of form 'A' duly approved by the Trade Test Panel will be returned to the Distt. Officer for placing the same in the Personal Case of the employee after making suitable entries in his service record.

14. The passing of trade test does not necessarily mean that the employee must be promoted. Promotion will depend on the existence of vacancies and when it is desired to fill them up.

15. A person who has failed in a particular trade test for promotion to the next higher grade will be eligible to reappear for further trade test at an interval of not less than six months. The maximum number of chances a person may be granted for passing the trade test for promotion is four. This limit will not apply for E.B. Tests. In the event of basic tradesman in the Workshops not passing the requisite trade test within the prescribed period the basic tradesman will revert to his original post in the unskilled grade. The maximum number of chances that may be given to the basic tradesman is three.

16. The trade test will consist of (a) Practical Test and (b) Oral Test. 60 marks are allotted for the practical test and 40 marks for the oral test. A candidate securing a minimum of 36 marks out of 60 on practical and 15 marks out of 40 in the oral test will be deemed to

संग्रहालय



v) To pass orders on the actual Trade Test *✓*
results submitted by the Trade Testing
Officer.

vi) To deal with all disputes or appeals arising
from Trade Test.

CHAIRMAN
TRADE TEST PANEL/N.E.RLY.
GORAKHPUR.

Copy to all personnel Officers, N.E. Railway,
for information.

SECRETARY
TRADE TEST PANEL/N.E.RLY.
GORAKHPUR.

TRUE COPY



In the Hon'ble High Court of Judicature at Allahabad
ब अदालत श्रीमान Dwarka Bunc, महोदय द्वा.

वादी(मुद्दे) S. N. Chowdhury
प्रतिवादी (मुद्दालेह) का वकालतनामा

1925
✓✓
✓✓



Surya Nath Chowdhury

वादी (मुद्दे)

बनाम

Union of India & others प्रतिवादी (मुद्दालेह)

1/30

नं० मुकद्दमा सन् १९ पेशी की ता० १९ ई०
ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

R. C. Sathu & Advocates
High Court Bench A.D.

एडवोकेट

महोदय
वकील

1/3

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

हस्ताक्षर द्वयनाथ चौधरी

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक २

महीना १

१९२५ ई०

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) : LUCKNOW :

C.M. Application No. 1148 (W) of 1982

In-Re:

Writ Petition No. of 1982



Surya Nath Chowdhari

--- Petitioner.

Versus

1. Union of India through the General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, N.E. Railway, Izetnagar.
3. Chief Telecommunication Inspector, N.E. Railway, Izetnagar.

--- Opposite Parties.

APPLICATION FOR STAY

That for the detailed facts and the reasons given in the Writ Petition supported by an Affidavit, it is most respectfully prayed that the operation of the impugned order contained in Annexure No. 1 so far as it relates to the reversion of the petitioner from the post of Line Attendant to the post of Khalasi, may be stayed during the pendency of this Writ Petition and an ad-interim order to the same effect may also be passed in favour of the petitioner.

Lucknow:

Dated: February 2, 1982.

(R.C. S.
Advoc.
COUNSEL FOR

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

C.M. AN. NO. 7214 (W) OF 1982



IN RE:

WRIT PETITION NO. 539 OF 1982

10 PLR 85
Sri H.S.L. Srivastava, son of Late
Shri B.L. Srivastava, aged about 57
years, r/o Railway Colony, Izatnagar .. Applicant

Surya Nath Chowdhary Petitioner

VERSUS

The Union of India & Others ... Opp. Parties.

APPLICATION FOR VACATION OF STAY ORDER

DATED 3.2.1982

The abovenamed applicant most respectfully
begs to state as under:-

That for the detailed facts and reasons
disclosed in the accompanying Counter Affidavit
it is respectfully prayed that the stay order dated
3.2.1982 granted in the above noted Writ Petition
may kindly be vacated in the interest of justice.

WHEREFORE it is request most respectfully prayed
that the stay order dated 3.2.1982 be vacated in
the interest of justice.

C. A. Bawali

LUCKNOW DATED:
JULY 27, 1982.

COUNSEL FOR OPP. PARTIES.



In The Honble High Court of Judicature at Allahabad

Lucknow Bench Lucknow

W.P. No 539 of 1982

18/2

Surya Nath Chowdhary - - - Petitioner

VS

Union of India and others - - - Opp. Parties

Counter Affidavit

H. S. L. Srivastava



H. S. L. Srivastava

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

COUNTER AFFIDAVIT

IN RE:

WRIT PETITION NO. 539 OF 1982



2/2

Surya Nath Chowdhary Petitioner

VERSUS

Union of India & Others Opp. Parties.

COUNTER AFFIDAVIT ON BEHALF OF OPPOSITE
PARTIES

I, H.S.L. Srivastava, son of late Shri B.L.

Srivastava aged about 57 years, resident of

Railway Colony, Izatnagar do hereby solemnly

affirm and state as under:

1. That the deponent is working as Assistant Personnel Officer, N.E. Railway, Izatnagar has read the contents of the above noted Writ Petition and he is fully conversant with the facts of the case.

2. That in reply to para 1 of the Writ Petition it is stated that the petitioner has been reverted from the post of Line Attendant in



H.S.L. Srivastava

...

the scale of Rs.210-290 to the post of Khalasi in the scale of Rs.196-232 as contained in the Office Order, Annexure-1 to the Writ Petition as he was posted as Line Attendant temporarily on local and tentative arrangement and was liable to be replaced by suitable and trade tested staff and the petitioner was replaced by the suitable and trade tested staff item 4 of the Annexure-1 to the Writ Petition. The petitioner had been called for the trade test for the post of Line Attendant notified on 17.9.1981, but the petitioner did not appear in the said trade test and gave his unwillingness to appear in the trade test. A copy of the notification notifying the name of the petitioner for trade test for the post of Line Attendant (Rs.210-290) and the unwillingness to appear in the test given by the petitioner is attached with the Counter Affidavit and are marked as Annexure-A1 and Annexure-A2 respectively.

3. That in reply to para 2 of the Writ Petition it is stated that the petitioner was engaged as a Casual Labour on daily rate with effect from 18.2.1975 and on completion of four months continuous service as Casual Labour, he was allowed temporary status of Khalasi in the scale



HSL Swaraj

....

b/s
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of Rs. 196-232 and was engaged to work as substitute Line Attendant in the grade of Rs. 210-290 with effect from 18.6.75, the date when he completed four months continuous service and attained the status of a temporary Railway servant. ^{1/2} His holding the post of Line Attendant was on temporary and on ad hoc basis without conferring upon him right for continuing in the post of Line Attendant. The petitioner was liable to be replaced by suitable and trade tested staff without notice. Since the petitioner was engaged as Casual Labour, he was screened for regular appointment for the post of Khalasi (Rs.196-232) and on having been approved for appointment as Khalasi (Rs.196-232) he was given regular appointment as a Khalasi in the scale of Rs.196-232 under D.R.M.(M)/IZN's Office Order No. E/227/1/Sig/VIII dated 19.11.77 which is Annexure-3 to the Writ Petition. The Petitioner was not engaged as Line Attendant (Rs.210-290) on permanent basis and against permanent vacancy. The statements contrary to it are denied.

4. That in reply to the contents of paras 3 and 4 of the Writ Petition it is stated that the petitioner was initially engaged to work as Casual Labour and posted to work as substitute

H.S.L.Swasthik



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Line Attendant on completion of four months continuous service on ad hoc and local and tentative arrangement without conferring any right to claim retention on the post of Line Attendant and that the petitioner was liable to be replaced by suitable and trade tested staff as is evident from Annexure-2 to the Writ Petition. The petitioner was allowed the pay and increments for the post of Line Attendant till he worked in that post prior to his replacement by the approved, suitable and trade tested staff.

5. That in reply to the contents of paras 5 and 6 of the Writ Petition it is stated that screening test of Casual Labours who had completed 4 months continuous service was held in 1976 to make regular appointment in class IV post like Khalasi in the scale of Rs.196-232 in which the petitioner also appeared and was approved for regular appointment as Khalasi in scale of Rs.196-232 as would be evident from the contents of Annexure-3 to the Writ Petition against serial number 4. It is denied that any test was held in 1976 for appointment as Substitute Line Attendant in scale of Rs. 210-290 and also that the petitioner was approved and selected for the post of Line Attendant. His

H.S.L. Smartink



b/7

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posting as substitute Line Attendant was purely local and tentative and subject to replacement by suitable and trade tested staff.

The statements contrary to it are denied.

✓/ut

6. That the contents of paras 7 and 8 of the Writ Petition are denied being incorrect and misleading. No trade test was held in 1976 or thereafter till 1981 for forming panel of suitable staff for the post of Line Attendant in scale Rs.210-290. The trade test for selecting the staff for the post of Line Attendant in scale of Rs.210-290 was held in 1981 calling the candidates including the petitioner in order of their seniority in scale of Rs.196-232, to appear in the test on different dates as indicated in the three notifications dated 19.5.1981, 23.6.1981 and 17.9.1981. It is denied that three ~~max~~ tests were held.

There was only one test which was held on different dates in the continued process and only one panel was drawn and published under D.R.M.(P)/ IZN No.E/781/1/Line Attendant/Sig/8 dated 7.12.81.

The petitioner was called to appear in the trade test but he did not appear and gave his unwillingness to appear in the trade test (Annexure-A2 to the Counter Affidavit) for the post of Line Attendant in the scale of Rs.210-290 and as such on formation of the panel of suitable



152. *Swastik*

6/8 (P)

staff for the post of Line Attendant, the petitioner who was working as Line Attendant on ad hoc basis was replaced by the suitable staff in accordance with the conditions mentioned in Annexure-2 to the Writ Petition. The petitioner had never appeared in the test for the post of Line Attendant (Rs.210-290) nor he was ever selected and approved for the post of Line Attendant. The test referred to by the petitioner held in 1976 was for screening the casual labour for regular appointment as Khalasi (Rs.196-232) and not for the post of Line Attendant. The statements contrary to it are denied.

7. That the contents of paras 9 to 12 of the Writ Petition as stated are denied being incorrect and after thought. The notice for readiness to appear in the trade test was notified under No. E/281/LA/1/Sig/8 dated 17.9.1981 (Annexure-A1 to the Writ Petition) showing the name of the petitioner and the intimation for keeping in readiness for the test was given to the petitioner by the Chief Tele. Communication Inspector, Izatnagar on telephone also on 21.9.1981. Furthermore the petitioner was served memo by the Chief Tele. Communication Inspector, Izatnagar in addition to telephonic message to appear in the trade test to be held on 17.10.1981. The petitioner



A.S.L. Srinivasa

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acknowledged receipt of the memo by putting his signature thereon, but he did not appear in the trade test and instead submitted his unwillingness on 17.10.1981 to appear in the trade test (Annexure-A2 to the Counter Affidavit) The letter of unwillingness does not contain anything of the fact that the petitioner had no notice or insufficient period of notice or that the petitioner wanted time for appearing in the test. Contrary to it, it contains that the petitioner did not want to appear in the test. Copy of memo dated 17.10.1981 served upon the petitioner by the Chief Tele. Communication Inspector, Izatnagar and its ~~receipt~~ receipt acknowledged by the petitioner is attached with this Counter Affidavit and is marked as Annexure-A3. The petitioner was not compelled or forced to sign any memo as alleged by him. The reasons for not appearing in the test stated by the petitioner in his letter of unwillingness dated 17.10.1981 (Annexure-A2 to the Counter Affidavit) were chosen by the petitioner of his own free will and knowing well the consequences of the stipulation contained in the order, Annexure-2 to the writ petition. The statements contrary to the above submissions are denied.

H.S.2

H.S.2 *Swarnarekha*

22/10/81

4-24

COMMISSIONER OF COURT, N.L.

8. That the contents of paras 13, 14 and 15 of the Writ Petition are admitted.

9. That in reply to the contents of paras 16 and 17 of the Writ Petition it is stated that circular letter referred by the petitioner are the guide lines for the Railway Administration for holding the test and for formation of panel in the manner laid down therein permitting the staff ~~to~~ who failed in the test to become eligible for appearing in the test again after six months, if the test is held, and not that the test will be arranged immediately after six months for such staff. So far no further trade test for the post of Line Attendant (Rs. 210-290) has been held after the one held in 1981. The circular also does not contain guide lines or instructions for ~~farmation~~ promotion and reversion to and from a post. The Rules are contained in the Codes and Manuals of the Railway Administration besides circulars issued by the competent authority.

10. That the contents of paras 18 and 19 of the Writ Petition are denied. No notice or further opportunity was required to be given to the petitioner in view of the clear stipulation



6/11

6/11

Sri Ram Preet a suitable and trade tested staff for the post of Line Attendant (Rs. 210-290) (Annexure-1 to the Writ Petition) and the petitioner has been reverted and posted to the post of Khalasi (Rs.196-232) for the post he is approved for regular appointment (Annexure-3 to the Writ Petition) as his appointment as Line Attendant was purely under local and tentative arrangement and he was liable to be replaced by suitable staff for the post of Line Attendant.

11. That in reply to the contents of para 20 of the Writ Petition it is stated that the petitioner was given proper notice and intimation for keeping himself in readiness to appear in the test as already stated in para 8 of the Counter Affidavit. As regards giving further chance to appear in the test for the post of Line Attendant, it is submitted that the petitioner will be given further opportunity when trade test for the post of Line Attendant (Rs.210-290) is held next. So far no further test had been held and as such the allegations of the petitioner are without substance.

12. That the contents of paras 21 and 22 of the Writ Petition are denied being incorrect



H.B. Swaraj
H.B. Swaraj

and devoid of any substance. The petitioner's appointment as Line Attendant (Rs.210-290) was purely under local and tentative arrangement and he was liable to be replaced by suitable staff (Annexure-2 to the Writ Petition) and the petitioner was never trade tested for the post of Line Attendant and found suitable, but the petitioner was tested for the post of Khalasi (Rs.196-232) as would be evident from Annexure-3 to the Writ Petition. The orders of reversion issued are not arbitrary but are in accordance with the Rules and stipulations contained in Annexure 2 to the Writ Petition. It also does not amount to removal as alleged. The petitioner has not been removed from the service. The order of reversion issued is an order simplicitor in accordance with the stipulation contained in Annexure-2 to the Writ Petition for which no notice was required to be given. The order of reversion in the instant case is neither against the principles of natural justice nor in ~~accuse~~ ~~stance~~ contravention of the provisions of the Article 311 of the Constitution of India. The statements contrary to it are denied.



H.S.L.Swaran

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NO 2

facts are given and on the basis of Rules on the subject as stated in details and in view of the orders of reversion issued he is not entitled to hold.

15. That the contents of para 25 of the Writ Petition are not admitted. The petitioner had alternative remedy by way of representation to the next higher authority of the Railway Administration but he has not submitted any representation and as such the Writ Petition is pre-mature and not maintainable.

16. That the grounds taken by the petitioner are not admitted being not maintainable and the writ is devoid of merits. The petitioner is not entitled to the relief claimed and the Writ Petition is liable to be dismissed with costs.

H.S.L. Sankarla

DEPONENT.



LUCKNOW DATED:
JULY 27, 1982.

VERIFICATION

I, the deponent abovenamed do hereby verify that the contents of paras 1 to 16 of this Counter ^{1 to 21} ~~and of paras 3 to 16 based on records~~ Affidavit are true to my personal knowledge, except the legal averments which are believed to be correct on the basis of legal advice.

H.S.L. Sankarla
DEPONENT.

LUCKNOW DATED:
JULY 27, 1982.

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6/15/23
X
X
I declare that I am satisfied by a perusal of the papers, record and details of the case narrated to me that the person making this Affidavit and alleging himself to be deponent is that person.

C. A. Basir
ADVOCATE.

Solemnly affirmed before me on 27/7/02

A. S. L. Srivastava
at 9:30 AM/PM by the deponent who

has been identified by Sri C. A. Basir, Adv.

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

Husain
OATH COMMISSIONER
High Court Allah
Lucknow Bench.
No. 26/325
Date 27/7/02

६/१६
१८
हन दी हाई कोर्ट आफ जुडिकैवर स्ट इलाहाबाद ।

(लखनऊ वैन्च) लखनऊ।

रिट पेटीशन नं आफ १६८२ ।

सूर्यनाथ चौधरी - - - - - पेटीशनर

बनाम

यूनियन आफ इन्डिया स्न्ड अवस - - - - अपौजिट पाटीज़

स्नेकजर नं ५/

पूर्वोत्तर रेलवे

कायालियमण्डल रेल प्रबन्धक(का)

सं हॉ२८१।ला०८०।१सि०।८ हज्जतनगर दिनांक १७८८-८१ ।

दूर संचार निरीक्षक।हज्जतनगर कासगंज,फतेहगढ़,

दूर संचार निरीक्षक।स्सीएसज १।हज्जतनगर ।

विषय :- लाहन अटेन्डेन्ट (२१०-२६०) के पद में ट्रैड टेस्ट ।

निम्नलिखित कर्मचारियों को उपरोक्तपद के ट्रैड टेस्ट में शामिल होने की सूचना दी जाती है, नियमानुसार इस पत्र को ट्रैड टेस्ट में शामिल होने की सूचना दी जाती है, नियमानुसार इस पत्र को ट्रैडटेस्ट में शामिल होने के पूर्व की सूचना समझीजाय । ट्रैड टेस्ट में शामिल न होने या होने की व्यव्हा।असिन्च्छा ०७ दिन के अन्दरइस कायालिय की अवश्य मैज दें ।



6/18 (1/2)

उपरोक्त कर्मचारियों की स्पष्ट बता दिया जाय कि यह पत्र
उन्हें ट्रूड टेस्ट में बुलाये जाने की गारन्टी नहीं है प्रथम बार में रिक्त
के बराबर कर्मचारीटेट में बुलाये जायेंगे तथा यह क्रम तब तक चलता
रहेगा जब तक कि योग्य अध्यक्षी उपलब्ध न हो जाय ।

यह भी स्पष्ट कर दिया जाय कि कोई भी अनुपस्थिति परीक्षा
नहीं होगी। जब तक की अनुपस्थितियाँ काबू के बाहर न हो ।

इस पत्र की एक प्रतिलिपिनोटिस बोर्डपर चिपका दी जाये ।
कृपया पावती में ।

ह०।-

कृते मण्डलरेल प्रबन्धक

हजाजतनगर ।

२- ससिदुही। हजाजतनगर, फतेहगढ़ ।

प्रतिलिपि :- प्रमसिदुही। हजाजतनगर ।

कृते मण्डल रेलप्रबन्धक। हजाजतनगर ।

सत्य प्रतिलिपि

6/19(XA)
हन दी आनरेबुलहाई कॉर्ट आफ जुडिकैवर स्ट हलाहाबाद ।

(लखनऊवेन्च) लखनऊ ।

रिट पेटीशन नं आफ १६८२ ।

63

सूर्यनाथ र्षि चौधरी - - - - - पेटीशनर

बनाम

यूनियन आफ इन्डिया सन्ड अव्स - - - - - अपोर्निट पाटीज़

सनेक्सर नं ४२

श्रीमान सी०टी०सी०आ०० स०सी०स०आ०० हजजतनगर ।

महोदय ।

सेवा में,

निवेदन है कि प्राथी० दिनांक १४-१२-७४ से लाहौन अटेन्डेन्ट के पोस्ट पर कार्यरत है और १४१२-७४ से आज दिनांक १७-१०-८१ तक लाहौन अटेन्डेन्ट के पद के लिये कई बारपरीक्षा ली गयी जिसमें प्राथी० को कमी नहीं बुलाया गया ।

प्राथी० को आज करीब करीब इसपोस्ट पर सात वर्षकार्यरत हारण्ये है ।

इसलिये श्रीमान जी से प्रार्थना है कि मैं इसपोस्ट के लिये परीक्षा नहीं देना चाहता हूँ ।

प्राथी०

सूर्यनाथ चौधरी

सलाह मैलानी ज० १७-१०-८१



H.S.L. Smarlaan

6/20
(4/20)
इन दी आनरेबुलहावी कोटी आफा जुडिकेवर स्ट हलाहाबाद ।

(लखनऊ वेन्च) लखनऊ ।

रिट पेटीशन नं

आफा १६८२ ।

५५

सूर्यनाथ चौधरी - - - - - पेटीशनर

बनाम

यूनियन आफा हन्डिया सन्ड अदस - - - - अपोजिट पाटीज़

सचेकवर नं ४३

मिमो

दिनांक १७-१०-८१

प्रेषक - सीटीसीआई स०सी० स०आर। हजजत

सेवा में, श्री सूरेया नाथ स०स० स०। स०स० स०स० स० स्ट हजजत

जैसा कि आपको टैलीफोन डारा सूचित किया गया था कि आपको दिनांक १७-१०-८१ को लाइन अटेंडेन्ट में टेस्ट में बैठना है। आज आप दिनांक १७-१०-८१ को लाठ०आ० के टेस्ट में बैठिये।

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सील ह०।-

(सूरेया नाथ चौधरी

(स०सी०स०स०आई०। हजजत)

सत्य प्रतिलिपि

H.S.L. Guleria

2035 APPLICATION FOR INSPECTION



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

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

Full Description of case	Whether case pending or decided	Full particulars of papers of which inspection is required	Name of person who will inspect record	If applicant is not a party reason for inspection.	Office report and order
W. P. no. 539/82 Surya Nath Choudhary Senior of India 2000	Pending	Parties will file in	C. A. Basu Asst. Registrar	Applicant is Reg. A. Jones.	Pls. do it Office Report D.R. Pls. do it Order for Inspection DRS Deputy Registrar 16/11/82 Date

Date

C. A. Basu
Signature of applicant or his Advocate

Inspection commenced at

on

19

16/11/82

Inspection concluded at

Inspected

Inspection fee paid by the applicant

C. A. Basu

Additional fee if any

08/11/82

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

C.M. Application No. 389/ of 1984

Union of India & others .. Applicants.

In re:

Writ Petition No. 539 of 1982

Surya Nath Chowdhari .. Petitioner

Versus

Union of India & others.. Opp. parties.



Application for condonation of delay

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

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

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

Lucknow:

Dated: *Aug. 4*, 1984

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

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

C.M.Application No. of, 1984

Union of India & others .. Applicants.

In re:

Writ Petition No.539 of 1982

Surya Nath Chowdhari .. Petitioner

Versus

Union of India & others .. Opposite parties.



Application for vacation of stay order

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

That for reasons set forth in the accompanying
supplementary counter affidavit it is prayed that this
Hon'ble Court may graciously be pleased to vacate
the stay order dated 3.2.1982 in the interest of
justice.

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

Lucknow: *for*

Dated: August 9 1984

46/3

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

Writ Petition No.539 of 1982

(S)

Surya Nath Chowdhari .. Petitioner

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Versus

Union of India & others .. Opposite parties



Supplementary counter affidavit
in reply to rejoinder affidavit
of petitioner dated 23.4.1984.

I, S. R. MISRA aged about 51 years
son of Sri Swajpal Misra working as Assistant
Personnel Officer, North Eastern Railway do
hereby solemnly affirm and state on oath as under:

10/1984

2. That the deponent is posted as Assistant Personnel Officer, North Eastern Railway Izatnagar and has read the rejoinder affidavit and has understood its contents. The deponent has been authorised to file supplementary affidavit in reply to the rejoinder affidavit of the petitioner.
3. That para 1 of the rejoinder affidavit need no comments.
4. That the averments made in para 2 of the rejoinder affidavit are not admitted. It is stated that the

b/n/s

petitioner was engaged as Casual labour w.e.f. 18.2.75 and was subsequently given the temporary status as Substitute line attendant in scale of Rs.210-290 ^{A/6c} w.e.f. 18.6.75 on completion of 4 months continuous service as casual labour vide office order No.E/227/VIII dated 19.4.76 with the clear understanding that his temporary engagement as Substitute Line Attendant is purely local and tentative arrangement and would not confer upon him any claim for retention on the post or seniority and he would be replaced by suitable and trade tested staff without notice. On being screened by the Screening Committee and approved he was appointed as regular temporary Khalasi in scale 196-232 at Rs. 196/- plus other admissible allowances vide office order No.E/227/1/Si dated 19.11.1977. It was further stipulated that he would be governed by rules and regulations applicable to class IV temporary employees. His appointment should be subject to his satisfactory work, conduct and verification of past services. However, his services rendered as Substitute shall be counted for annual increment and other benefits admissible to him under rules. It is reiterated that he was allowed to continue as Substitute Casual Labour Line Attendant in purely local and tentative arrangement with the clear understanding that this was a purely local and tentative arrangement and would not confer upon him any claim for retention on the post or seniority and he would be replaced by suitable and trade tested staff without notice under order dated 19.4.1976. The averment that the petitioner having already officiated against permanent vacant post for about 7 years as Line Attendant would be deemed to be

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suitable for the post in question and was not liable to be reverted on the ground of unsuitability without following the procedure prescribed under rules is not admitted. The Railway Board's instructions are not applicable in the case of the petitioner. Such instructions are applicable in case of only those staff who were promoted after being trade tested regularly and not those who were allowed on adhoc basis. The subject as issued under E(NG)I-82-PM-I dated 28.4.1982, photostat copy of which is filed herewith as Annexure M-1 to this supplementary counter affidavit.

Annexure M-1

¶x The averment of the petitioner that this suitability had already been adjusted and he was already appointed as regular Line Attendant vide annexure no.3 to the writ petition is against facts and not admitted. It is reiterated that he on being screened by the Screening Committee, was appointed as temporary Khalasi(196-232) and not Line Attendant as stated. Rendering 7 years continuous service on adhoc basis can in no way alter his promotion to regular promotion unless he is trade tested and declared successful as required under rules. As stated earlier the Railway Board's instructions are not applicable to the petitioner. In regard to the averment that the petitioner was not called to appear in the trade test at any time though the trade tests held during 1974-81 it is stated that the petitioner's appointment as Khalasi (196-232) was regularised vide office order dated 19.11.1977 only and thereafter no such trade test was held till 16.10.1981. The averment that the petitioner was not called for the

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trade test held on 17.10.1981 is incorrect. The averments of para 6 of counter affidavit dated 27.7.82 are reiterated.

In view of the facts stated above it is denied that due intimation of the trade test held in 1981 was not given to the petitioner and/or he was initially appointed appointed to the post of Line Attendant, and/or the reversion order suffer from any infirmity, or arbitrary and or against the principles of natural justice.

Since the order of reversion was innocuous and was not by way of any punishment ~~that~~ the question of affording any opportunity o f being heard before passing such order does not arise.

5. That the averments made in para 3 of the rejoinder affidavit are denied and in reply the contents of para 4 of the counter affidavit are reiterated.

6. That the averments made in para 4 of the rejoinder affidavit are denied.

7. That the averments made in para 5 of the rejoinder affidavit are not admitted in view of clear provisions of the Railway Board on the subject. The instructions quoted by the petitioner are not applicable in the case of the petitioner.

8. That the contents of para 6 of the rejoinder affidavit are denied. It is incorrect that the

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petitioner had no knowledge of the trade test. Rather he was having the full knowledge and submitted his unwillingness (Annexure 2 to counter affidavit dated 27.7.82). No such plea is averred in this para was ever taken at any stage and is an after thought and purposive for the instant petition. The petitioner submitted his unwillingness on the ground that he had been working on the post for the preceding 7 years.

9. That the averments made in para 7 of the rejoinder affidavit are denied and those of para 9 of the counter affidavit are reiterated.
10. That the averments made in para 8 of the rejoinder affidavit are denied and those of para 10 of the counter affidavit are reiterated.
11. That the contents of para 9 of the rejoinder affidavit are denied.
12. That the averments made in para 10 of the rejoinder affidavit are denied.
13. That the contents of para 11 of the rejoinder affidavit are denied.
14. That the averments made in para 12 of the rejoinder affidavit are denied and those of para 14 of the counter affidavit are reiterated.
15. That the contents of para 13 of the rejoinder affidavit are denied.

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affidavit are denied.

Lucknow:

Dated: ~~August~~ 10 1984

Deponent

Verification

I, the above named deponent do hereby verify that the contents of paras 1 & 2 of this supplementary affidavit are true to my personal knowledge, those of paras 3 to 15 are based on records hence believed to be true by me. No part of it is false and nothing material has been concealed in it so help me God.

Lucknow:

Dated: ~~August~~ 10 1984

Deponent

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

C. A. Basir
Advocate.

Solemnly affirmed before me on 10/9/84
at 9 a.m./p.m. by the deponent
who is identified by Sri C.A.Basir,

Advocate, High Court, Lucknow
Bench, Lucknow.

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

Ravi Swartava

OATH COMMISSIONER
75/913 (Road)
(Lucknow Bench)

No.

Date....

10/9/84

Surya Nath Choudhury vs Union of India & others

Annex 7-1



AK/60

पूर्वोत्तर सेवा

महाप्रब्रह्मक

कार्यालय : महाप्रब्रह्मक (का.)

दिनांक : 18/3/1982

क्रमांक 1312
मुद्रा ₹/१०/६/अन(बा)

कर्मी विभागाध्यक्ष,
कर्मी मंडल और प्रबन्धक,
कर्मी कार्यालय कार्यालयी,
कर्मी विभागाध्यक्षी(स्थापना),

नियम :- सम्मान्य वयोमृता के आधार पर अनुदासनिक
स्वं अपनी प्रब्रह्मा और पूरा किये जौरा नियमित घटन/
योग्यता परीक्षा के पश्चात प्रोन्नति कर्मवारियों को
18 महीने की जन्मिति के अन्दर पदान्वति-इससे सम्बन्धित
प्रब्रह्मा ।

बोर्ड के पत्र सं० ₹/(स्वं जी)।।।८२ पी.स्व।।।०६८८ दिनांक 28-4-82 की
प्रतिलिपि सुन्दरा, मार्गी दर्जन स्वं आन्यय कार्यालयी हेतु भेजी जा रही है।

उपरोक्त पत्र के क्षर्दर्पित बोर्ड के पत्र दिनांक ९-६-६५ की प्रतिलिपि इस
कार्यालय के गोपनीय पीपुल संघर्ष ₹/८/२५२/७(कान) दिनांक ३०-६-६५ दूरा रा
जाती रख्या गया है।

रु. १०/-
कर्मी महाप्रब्रह्मक (कार्यालय)

Copy of Beard's letter No. E(NG) I-82-PM-I Dtd. 28-04-82
to All G.Ms., Indian Rlys. & others.

SUB: REVERSION OF EMPLOYEES PROMOTED AFTER
DUE SELECTION/SUITABILITY WITHIN A
PERIOD OF 18 MONTHS WITHOUT FOLLOWING
DISCIPLINARY AND APPEAL PROCEDURE ON
THE BASIS OF GENERAL UNSUITABILITY PRO-
CEDURE REGARDING.

In terms of Ministry of Rlys. letter No. E(D&A) 65RG
6-24 dated 09-06-65, a person who is promoted to officiate
beyond 18 months cannot be reverted for unsatisfactory and
Appeal Rules. These orders are applicable to those employees
who have acquired the **prescription** right to the Officiating
post by virtue of their empanelment or having been declared
suitable by the competent authority and do not apply to
those Officers officiating as step gap arrangement on adhoc
basis and also to those cases where the employees duly
selected have to be reverted after a lapse of 18 months
because of cancellation of selection proceedings or due to
a change in the panel position consequent to rectification
of mistakes in seniority etc.

N.P.I.R. in P.N.M. Meeting held with the Railway Board
on 23/24.12.1981, pointed out that cases of reversion
falling within a period of 18 months on the basis of general
unsuitability should also be covered under the procedure
prescribed in Disciplinary & Appeal Rules i.e. due pro-
cedure of D. & A. Rules should be followed in such cases
of reversion on the basis of general unsuitability occurring
within

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

(Lucknow Bench) Lucknow

Civil Misc. Application No.

of 1984

IN-RE 539

Writ Petition No. 537 of 1982

5863 Surya Nath Chowdhari Petitioner.

Vs.

Union of India & Others Opposite Parites.

Application for condonation of delay in
filing Rejoinder Affidavit.

That due to inadvertence/mistake the Rejoinder Affidavit could not be filed with in time but the same is now ready and being filed herewith which may kindly be accepted and brought on record after condoning the delay in question.

Lucknow :

Dated 23/4/84

R.C. Saxena
(R.C. Saxena)
Advocate
Counsel for Petitioner

Surya Nath Choudhury vs Union of India & Ors

Annex 7-1



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पूर्वला नोट

कार्यालय : महाप्रबन्धक (का)

दिनांक : 18/3/1982

क्रमांक 1312
मुद्रा ₹/१०/६/अन(वार)

कमी प्रबन्धक
कमी पद्धति प्रबन्ध
कमी कार्यिक विधिकारी,
कमी वित्तमण्डलाधिकारी(स्थापना),

निष्पत्ति :- सम्मान्य क्षमता के आधार पर अनुशासनिक
स्वं अपील प्रक्रिया को पूरा किये गौरा निधिक्षत घटन/
क्षमता परीक्षा के पश्चात प्रोन्नति क्षमताप्रियों को
18 महीने की अवधि के अन्दर पदान्तिति-इससे सहजित्य
प्रक्रिया।

बोर्ड के पत्र मुद्रा ₹/(मन जी) 1-82 पी-सम 1-68 दिनांक 28-4-82 की
प्रतिलिपि सुनवा, मार्गी दर्जन स्वं आवश्यक कार्यालयी हेतु भेजी जा रही है।

उपरोक्त पत्र के अन्तर्भूत बोर्ड के पत्र दिनांक 9-6-65 की प्रतिलिपि-क्षम
कार्यिक के गोपनीय प्रतिपत्र संख्या ₹/८/२५२/७(वार) दिनांक 30-6-65 द्वारा
जारी रखा गया है।

रु. १/-
कमी प्रबन्धक (कार्यिक)

Copy of Board's letter No. E(NG) L-82-PM-I Dtd. 28.04.'82
to All G.Ms., Indian Rlys. & others.

SUB: REVERSION OF EMPLOYEES PROMOTED AFTER
DUE SELECTION/SUITABILITY WITHIN A
PERIOD OF 18 MONTHS WITHOUT FOLLOWING
DISCIPLINARY AND APPEAL PROCEDURE ON
THE BASIS OF GENERAL UNSUITABILITY PRO-
CEDURE REGARDING.

In terms of Ministry of Rlys. letter No. E(D&A) 65RG
6-24 dated 09-06-'65, a person who is promoted to officiate
beyond 18 months cannot be reverted for unsatisfactory and
Appeal Rules. These orders are applicable to those employees
who have acquired the **prescription** right to the Officiating
post by virtue of their empanelment or having been declared
suitable by the competent authority and do not apply to
these Officers officiating as step gap arrangement on adhoc
basis and also to those cases where the employees duly
selected have to be reverted after a lapse of 18 months
because of cancellation of selection proceedings or due to
a change in the panel position consequent to rectification
of mistakes in seniority etc.

N.F.I.R. in P.N.M. Meeting held with the Railway Board
on 23/24.12.1981, pointed out that cases of reversion
falling within a period of 18 months on the basis of general
unsuitability should also be covered under the procedure
prescribed in Disciplinary & Appeal Rules i.e. due pro-
cedure of D. & A. Rules should be followed in such cases
of reversion on the basis of general unsuitability occurring
within

J.P. R.S.I.

within 18 months of the period of promotion. This suggestion of the Federation was not agreed to. It was, however, agreed that broad guidelines should be laid down to determine the unsuitability of the employees for such reversion within a period of 18 months. Ministry of Ry. have accordingly evolved the following procedure for effecting the reversion of a person promoted after due selection within a period of 18 months of promotion, on account of unsatisfactory performance of the employees, such unsatisfactory performance being judged from :-

- (i) the annual Confidential reports of the employee, if already written;
- (ii) by calling for a special report on his performance, if Confidential Report has not been written so far;
- (iii) reversion should take place only after the incumbent has been warned for unsatisfactory performance and after having watched his subsequent performance after warning.
- (iv) decision for such reversion should be taken at the level of D.R.M. in the Division and Head of Department for Headquarter Controlled posts.

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

Civil Misc. Application No. 4912 (C) of 1984

IN-RE 539
Writ Petition No. 537 of 1982

5863
Surya Nath Chowdhari Petitioner.

Vs.

Union of India & Others Opposite Parites.

Application for condonation of delay in
filing Rejoinder Affidavit.

That due to inadvertence/mistake the Rejoinder Affidavit could not be filed with in time but the same is now ready and being filed herewith which may kindly be accepted and brought on record after condoning the delay in question.

WB 52
WB 10/10/84
Lucknow :

Dated 23/4/84

Q.W.S. 9/1
(R.C. Saxena)
Advocate
Counsel for Petitioner

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

Writ Petition No. 539 of 1982



Surya Nath Chowdhari
Vs
Union of India and Others Opposite-Parties

REJOINDER AFFIDAVIT

I, Surya Nath Chowdhari aged about 32 years S/o Raghu Raj Chowdhari R/o Quarter No. T/36, Railway Coloney, Mailani, District Lakhimpur Khiri, do hereby solemnly affirmed state on oath as under :-

1. That the deponent is the petitioner in the above noted case and he is well conversant with the facts deposed to hereunder.
2. That with reference to the contents of paragraph 2 of the counter affidavit it is respectfully submitted that the deponent's appointment on the post of Line Attendant was initially made on 18.2.75 on causal labour rates but after having continuously worked for a period of 4 months his status was changed and he was temporary appointed as substitute line attendant in grade Rs. 210-290 with effect from 18.6.75 vide order dated 19.4.75 contained in Annexure No.2 to the writ petition. The deponent's appointment on the post of line attendant was made against permanent

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vacant post and the deponent was regularly appointed against the said post vide order dated 19.11.77 contained in Annexure No.3 to the writ petition and before issuing order dated 19.11.77 the suitability of the deponent was adjudged and he was regularly appointed vide Annexure No.3 to the writ petition. The deponent having already officiated against permanent vacant post for about 7 years as line attendant he will be deemed to be suitable for the post in question and was not liable to be reverted on the ground of unsuitability without following procedure prescribed under Railway Servant's (Discipline And Appeal) Rules 1968. The order dated 9.6.65 issued by the Railway Board prohibiting reversion of Railway Employees on the ground of unsuitability of staff officiating in higher grade or post, is ~~filed~~ herewith as Annexure No. R-1 to this Rejoinder Affidavit.

So far as the contention of the Opposite parties that the deponent was called for the trade test for the post of line attendant vide notification dated 17.9.81 and the deponent did not appear in the said test and submitted his unwillingness to appear in the trade test, it is respectfully submitted that his suitability having been already adjudged and the deponent having been already appointed as regular line attendant vide Annexure No.3 and having successfully rendering about 7 years continuous satisfactory service will be deemed to be suitable for the post of line attendant grade Rs. 210-290 and



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would not be liable to be reverted in view of Railway Board's letter dated 9.6.65 contained in Annexure No.R-1. It would also be important to state here that the Opposite parties did not call the deponent to appear in the trade test at any time although they held the trade test several times during 1974 to 1981. It is also respectfully submitted that the notification contained in Annexure No.1 to the Counter affidavit was not served/made available or brought to the notice of the deponent at any stage of time. It is actually a letter issued from the office of Divisional Railway Manager (Personnel), Izet Nagar, addressed to signal inspectors Izet Nagar, Kasganj, Fatehgarh with a copy to Senior Divisional Signal and Tele-Communication Engineer, Izet Nagar and the same in absence of its notice to the deponent would not be taken to be sufficient compliance of the relevant rules applicable in the matter. The deponent by means of memo dated 17.10.81 contained in Annexure No.3 to the Counter affidavit was asked by Opposite Parties No.3 to sign memo in the evening of 17.10.81 while the deponent was on duty intimating him that he has to appear in the trade test for the post of Line Attendant on 18.10.81. Under the aforesaid circumstances the deponent submitted his unwillingness vide Annexure No.2 to the Counter Affidavit and the same is fully justified keeping in view the provisions of paragraph 7 and 16 of Annexure No.4 to the writ petition which prescribes atleast 15 days prior notice to be given to a Railway Servant for appearing in the trade test. Even otherwise also the deponent was not liable to be reverted to the post of Khalasi in as much as the deponent was never appointed to the said post.

Q.F.I.A. 1981

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The initial appointment of the deponent itself was made on the post of Line Attendant and a person can not be reverted below to the post to which he was never appointed ~~except~~ by way of punishment. The impugned order of reversion contained in Annexure No.1 in the writ petition is wholly arbitrary and against the principles of natural justice. The deponent was not even afforded the opportunity of hearing before passing the impugned order in question.

2. That the contents of paragraph-3 of the Counter Affidavit are denied and in reply the contents of paragraph-2 of the writ petition are reaffirmed as correct. It is further submitted that the deponent was never given the scale Rs. 196-232 for the post of Khalasi as stated in para under reply. The deponent was never appointed as Khalasi. He was actually appointed as line attendant in scale Rs.210-290 . The contents of Annexure No.2 and 3 proves the contention of the deponent and the contrary contention of the opposite Parties is false and denied.

That the contents of paragraph-4 of the Counter Affidavit as stated are not correct and denied and in reply the contents of para-3 & 4 of the writ petition are reaffirmed as correct.

4. That the contents of para-5 of the Counter Affidavit as stated are denied and in reply the contents of para-5 & 6 of the writ petition are reaffirmed as correct. There is no provision to give lower scale to a person who holds higher post and the deponent who was ~~ext~~

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initially appointed as line attendant in scale Rs. 210-290 cannot be given the scale of Rs. 196-232 pertaining to the post of Khalasi. Moreover the deponent has all along been performing the duties of the post of line attendant can in no case be given salary in the lower scale Rs. 196-232 pertaining to the post of Khalasi on which post he never worked.

5. That the contents of para-6 of the Counter Affidavit as stated are not correct and denied and in reply the contents of para 7 & 8 of the writ petition are reaffirmed as correct. The maximum period for adjudging the suitability of a Railway Servant is 18 months and if the Railway Servant successfully continuous to hold the post for a period of more than 18 months he can not be held unsuitable and can not be reverted in view of the provisions of Annexure No. R-1. The deponent under the facts and circumstances of the case will be deemed to be suitable for the post of line attendant and can not be required to be trade tested for the same post on which he sucessfully worked for a period of about 7 years without any adverse reports. The deponent unwillingness to appear in the trade test was fully justified for the facts and reasons given in para 2 of the Rejoinder Affidavit. The deponent can not be reverted from the post of line attendant to the post of Khalasi in the manner in which he has been reverted by the impugned contained in Annexure No.1 to the writ petition.

6. The contents of para 7 of the Counter Affidavit are denied and in reply the contents of para 9,10,11 & 12 of the writ petition are reaffirmed as correct.

(अपीली द्वारा)



The deponent was given no information on phone on 21.9.81 as stated in para under reply and more over there is no provision under rules to inform a Railway Servant to appear in the trade test on phone. The deponent was served memo dated 17.10.81 by Opposite Party No.3 in the evening of 17.10.81 intimating him that he has to appear in the trade tests on 18.10.81. Such a short intimation to appear in the trade test is contrary to the relevant rules and under such circumstances if Railway Servant refuses to appear in the trade tests his refusal can not be taken as his unwillingness and on that account he can not be reverted. A Railway Servant under rules further becomes entitled to reappear in the trade tests after an interval of not less than 6 months. Even to a candidate who fails in the trade tests he will be required to be recalled for trade test after 6 months and in case he qualifies, he will maintain his original seniority. In deponent's case he was not given any opportunity to appear in the trade tests after 6 months if his unwillingness to appear in the trade test as ~~exist~~ contained in Annexure No.2 to the Counter Affidavit was taken to be refusal under the facts and circumstances of the case and the impugned order of reversion passed for not appearing in the trade tests is wholly arbitrary and illegal.

7. That with reference to the contents of para-9 of the Counter Affidavit it is stated that the para 16 & 17 of the writ petition are correct. The circular letter containing in Annexure No. 4 to the writ petition contains the guide lines and they are to be

22-11-81-21021

followed strictly and are binding against the Railway authorities. If the unwillingness of the deponent was taken as refusal a further trade test was necessary to be held after 6 months to give him an opportunity to qualify for the post and if such opportunity would have been given and he would have qualified the impugned order of reversion would have been of no consequence and avail and the deponent would have been entitled to regain his seniority over his juniors who earlier qualified in the trade tests. Not holding trade test and passing impugned order that too without any opportunity in an abuse of power and is wholly unjustified.

8. That the contents of para 10 of the Counter Affidavit are denied and those of para 18 & 19 of the writ petition are reaffirmed as correct. The impugned order visits the deponent with the evil consequences and the same could have been passed after given opportunity to the deponent. The passing of panel order is a quasi-judicial Act and the same can not be allowed to be passed without even an opportunity of hearing. The deponent's appointment on the post of line attendant was against permanent vacant post and after about 7 years successful continuous service the same can not be considered as adhoc or tentative.
9. That the contents of para 11 of the Counter Affidavit in view of submissions already made are denied and those of para 20 of the writ petition are reaffirmed as correct. The deponent's reversion simply on the basis of his technical refusal is wholly arbitrary illegal.



(10) a/9
A/5

10. That the contents of para 12 of the Counter Affidavit are denied and those of para 21 & 22 of the writ petition are reaffirmed and correct.

11. That with reference to the contents of para 13 of the Counter Affidavit while reiterating the contents of para 23 of the writ petition it is respectfully submitted that the procedure adopted by the Opposite parties in intimating to the deponent to appear in the trade test is contrary to the relevant rules and instructions issued by the Railway Board. The deponent can not be put to suffer any loss for the faults of the Railway Authorities who acted contrary to the relevant provisions applicable in the matters.

12. That the contents of para 14 of the Counter Affidavit as stated are not correct and denied and in reply it is stated that before the impugned order could be implemented, this Hon'ble Court stayed the operation of the impugned order and the deponent is continuing on the post of line attendant.

13. That the contents of para 15 & 16 of the Counter Affidavit are denied and in reply the contents of para 25 of the writ petition are reaffirmed as correct and it is stated that the remedy by way of representation suggested by the Opposite Parites is no remedy as a matter of right and can not be construed as an alternative efficacious remedy so as to compare it with the remedy which available to the deponent under Article 226 of the Constitution. The writ petition bears merit and deserves to be allowed.

Lucknow :

Dated : 23.4.84

- (रामाय-रौद्री)

Deponent



VERIFICATION

(Signature) *AY 10*
A/Hb
I, the deponent named above do hereby verify
that the contents of para 1 to 13 of the Rejoinder
Affidavit except bracketed portions are true to my
own knowledge. Nothing material has been concealed
so help me God.

Lucknow :

Dated : 23.4.84

- 124 - *verso*

Deponent.

I identify the deponent who
has signed in my presence.

R. C. SAXENA *Advocate*
(R. C. SAXENA)
Advocate

Solemnly affirmed before me
on 23rd April, at 10 A.M./P.M.
by the deponent who has been
identified by Sri R. C. SAXENA,
Advocate High Court Bench at Lucknow.

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



Parman Singh
OATHS COMMISSIONER
High Court, Lucknow Bench
LUCKNOW
300/84
23-4-84

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

Writ Petition No. 539 of 1982

Surya Nath Chawdhary

...
...
Vs

petitioner
plaintiff

Union of India & others. Opposite Parties.

Annexure No. R-1

No. E (D & A) 653/ 26-24

Dated 9.6.85

Sub :- Reversion on ground of general unsuitability of staff officiating in higher grade or post.

In Shri N.K. Kamalakara Rao, Director Establishment's D.O. NOE55 BG-23, dated 21.5.56 it was ~~inter alia~~ stated that any person who is permitted to continue to officiate beyond 18 months cannot in future be reverted for unsatisfactory work without following the procedure prescribed in the Discipline and Appeal Rules. Those instructions were cancelled vide Board's letter No. E (D & A) 60 R G G-5 dated 1.2.60 and 14.5.60, thus permitting the ~~xxxxxx~~ reversion of an employee officiating in a higher post on grounds of general unsuitability at any time, and not necessarily within a period of 18 months, without following the procedure prescribed in the Discipline and Appeal Rules,

2. The Board have reconsidered the matter and feel that it would not be correct to effect such reversions after prolonged officiating period. They have therefore decided again that in future any person who is permitted to officiate beyond 8 months cannot be reverted for unsatisfactory work without following the procedure prescribed in the Discipline and Appeal Rules.





वकालतनामा

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) : LUCKNOW.

के न्यायालय में

WRIT PETITION NO. 539 OF 1982

वादी

Surya Nath Chowdhari

दावेदार

प्रतिवादी

अपीलार्थी

बनाम

तिवादी

Union of India & others

अर्जीदार

वादी

प्रत्यार्थी

भारत के राष्ट्रपति इसके द्वारा श्री.....C. A. Basir, Advocate, High Court, Lucknow Bench, Lucknow.

को उपर्युक्त वाद/अपील/कार्यवाही में भारत संघ की ओर से उपसंजात होने, कार्य करने, आवेदन करने, अभिवचन करने और आगे कार्यवाही करने के लिए दस्तावेज दाखिल करने और वापस लेने, न्यायालय की आदेशिका स्वीकार करने, काउन्सेल, अधिवक्ता या प्लीडर नियुक्त करने और उन्हें अनुदेश देने, रूपया वापस लेने और उसका निशेष करने तथा उपर्युक्त वाद/अपील/कार्यवाही में भारत सरकार का साधारण प्रतिनिधित्व करने और भारत संघ के लिए इस प्रकार उपसंजात होने, कार्य करने, आवेदन करने, अभिवचन करने और आगे कार्यवाही करने की अनुषांगिक सभी बात करने के लिए नियुक्त और प्राधिकृत करते हैं। किन्तु यह इस शर्त के अधीन रहते हुए होगा कि जब तक भारत सरकार के समुचित प्राधिकारी से उस निमित्त पहले ही स्पष्ट प्राधिकार प्राप्त नहीं कर लिया गया है, तब तक उक्त काउन्सेल/अधिवक्ता/प्लीडर या उसके द्वारा नियुक्त काउन्सेल/अधिवक्ता/प्लीडर सभी या किसी प्रतिवादी/प्रत्यार्थी/अपीलार्थी/वादी/विरोधी पक्षकार के विश्वदृष्ट उस वाद/अपील/दावा/प्रतिरक्षा/कार्यवाही को पूर्णतः या भागतः न तो वापस लेगा, न उसका अधिव्यवजन करेगा, न एसा कोई करार करेगा या समझौता करेगा जिसके द्वारा वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित की जाए और न उससे उद्भूत या उसमें विवादग्रस्त सभी या किसी विषय को मध्यस्थ को निर्देशित करेगा, परन्तु अपेक्षाकृत परिस्थितियों में जब भारत सरकार के समुचित प्राधिकारी से परामर्श करने के लिए पर्याप्त समय नहीं है और उद्दार दीता करने में लोप करना निश्चित रूप से भारत सरकार के हित के प्रतिकूल होगा तो उक्त प्लीडर/अधिवक्ता/ काउन्सेल द्वारा या समझौता कर सकेगा जिसके द्वारा उक्त वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित हो जाय और मामले में काउन्सेल/अधिवक्ता/प्लीडर करार या समझौता करने के विशेष कारण बताते हुए उक्त अधिकारी को सुनिचित करेगा।

C. A. Basir

राष्ट्रपति इस प्राधिकार के अनुक्रम में श्री.....C. A. Basir, Advocate, High Court, Lucknow Bench, Lucknow.

द्वारा किए गए सभी कार्यों का अनुसर्थन करने को सहमत है।

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

तारीख

19

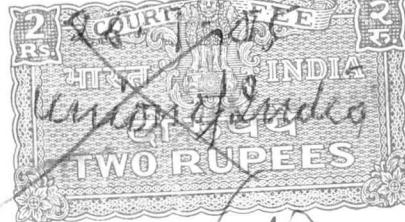
Tele communication
Inspector

North Eastern Railway,
NER-79801040-20000-2780 IZATNAGAR.

K. C. Varma
(K. C. Varma)

निष्पादन करने वाले अधिकारीका
पदनाम

DIVISIONAL RAILWAY MANAGER
N. E. RAILWAY, IZATNAGAR.



1134

NS/CCS

Before
in the Court of

VAKALATNAMA

In the High Court of Judicature at Allahabad
(Lucknow Bench) Lucknow.

With petition nos 34 of 62

Plaintiff
Defendant

Claimant
Appellant

Defendant
Plaintiff

Petitioner
Respondent
Off Parties

Versus

Union of India & Ors.

The President of India do hereby appoint and authorise Shri... *Rikhedwari Prasad*

Advocate Lucknow, Sri R. Prasad Advocate

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 money; 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 an 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... *Rikhedwari Prasad*
Advocate Lucknow, Sri R. Prasad Adv.
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

26.7.85

Designation of the Executive Officer,

NER-84850400-8000-4 7 84

*By chief personnel officer
North Eastern Railway
Cooch Behar.*

1/15

A/80

VAKALATNAMA

Before
in the Court of

In The Central Administrative Tribunal
Circuit Bench, Lucknow

TAN. 1024 of 87 (C)

Plaintiff

Defendant

S. N. Chaudhry

Claimant
Appellant

Versus

Defendant

Plaintiff

Union of India and others

Petitioner

Respondent

B. K. Shukla

Railway Advocate, Lucknow

The President of India do hereby appoint and authorise Shri..... B. K. Shukla
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..... B. K. Shukla

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

NER-84850400-8000-4784

S. M. N. (Islam)

Designation of the Executive Officer,

प्रवर्त बैंडल कार्यालयी,

इंदौर रेलवे, लखनऊ

Sr. Divisional Personnel Officer

S. B. Railway, Lucknow.

for Union of India

NS/CCS

VAKALATNAMA

81

Before
in the Court of

Central Administrative Tribunal ALLAHABAD

TA.N.1024/87(T)

Plaintiff
Defendant

S. N. Chaudhary

Claimant
Appellant

Versus

Defendant
Plaintiff

Union of India and others

Petitioner
Respondent

The President of India do hereby appoint and authorise Shri..... A. K. Gaur.....

Railway Advocate ALLAHABAD

..... 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. K. Gaur.....

Railway Advocate ALLAHABAD

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 Feb. 1989

Dated 1989

SER-84850400-8000-4784

A. K. Gaur
Designation of the Executive Officer,
(for Union of India)
Divisional Railway Manager
M. E. Railway, Izatnagar.

VAKALATNAMA

Before
In the Court of

Central Administrative Tribunal

ALLAHABAD

TA No. 1024 of 1987 (T)

A
87

S. N. Chaudhary.....

Versus

Union of India and others.....

I/Wc. R. N. Soni, Divisional Railway Manager, N.E.Rly

IZAT NAGAR (Bareilly).....

do hereby appoint and authorise Shri..... A. K. Gaur.....

Railway Advocate, Allahabad..... to appear, act apply and prosecute the above described Writ/Civil Revision/Case/Suit/Application/Appeal on my/our behalf, to file and take back documents, to accept processes of the Court, to deposit moneys and generally to represent myself/ourselves in the above proceeding and to do all things incidental to such appearing, acting, applying, pleading and prosecuting for myself/ourselves.

I/Wc hereby agree to ratify all acts done by the aforesaid Shri..... A. K. Gaur.....

Railway Advocate, Allahabad.....

..... in pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed by me/us this.....

..... day of.....

Feb. 1989.


(R.N. Soni)
Divisional Railway Manager
N.E. Railway, Izatnagar

T. A. No.

- 87

NS/CCS
64

वकालतनामा

कोटडीय दुर्वासा नामक अधिकारी

केसमें के समक्ष

कूलमाला देवी

केसमें के न्यायालय में
रजिस्ट्रेशन नं. 539/82 उच्च न्यायालय, इलाहाबाद
Regn. No. 1024/82(TL) अखिल देवी, अखिल देवी

कावी

प्रतिवादी

दावेदार

अपीलार्थी

प्रतिवादी

बादी

बनाम

अर्जीदार

प्रत्यार्थी

भारत संघ रुप. ५०

भारत के राष्ट्रपति इसके द्वारा श्री २३ दिसंबर १९८०, कूलमाला देवी

को उपर्युक्त वाद/अपील/कार्यवाही में भारत संघ की ओर से उपर्युक्त होने, कार्य करने, आवेदन करने, अभिववन करने और आपे कार्यवाही करने के लिए दस्तावेज दाखिल करने और वापस लेने, न्यायालय की आदेशिका स्वीकार करने, काउन्सेल, अधिवक्ता या प्लीडर नियुक्त करने और उन्हें अनुदेश देने, रुपया वापस लेने और उसका निम्नेप करने तथा उपर्युक्त वाद/अपील/कार्यवाही में भारत सरकार का साधारण तिनिधित्व करने और भारत संघ के लिए इस प्रकार उपसंजात होने, कार्य करने, आवेदन करने, अभिववन करने और आपे कार्यवाही करने की अनुषांगिक सभी बातें करने के लिए नियुक्त और प्राधिकरण करते हैं। किन्तु यह इस शर्त के अधीन रहते हुए होगा कि जब तक भारत सरकार के समुचित प्राधिकारी से उस निमित्त पहले ही स्पष्ट प्राधिकार प्राप्त नहीं कर लिया गया है, तब तक उक्त काउन्सेल/प्रधिवक्ता/प्लीडर या उसके द्वारा नियुक्त काउन्सेल/प्रधिवक्ता/प्लीडर सभी या किसी प्रतिवादी/प्रत्यासी/अपीलार्थी/बादी/विरोधी वक्तकार के विरुद्ध उस वाद/अपील/दावा/प्रतिरक्षा/कार्यवाही को पूर्णतः या भागतः न तो वापस लेगा, न उसका अधित्यजन करेगा, न एसा कोई करार करेगा या समझौता करेगा जिसके द्वारा वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित की जाए और न उससे उद्भूत या उसमें विवादग्रस्त सभी या किसी विषय को मध्यस्थ को निर्देशित करेगा, परन्तु आपवादिक परिस्थितियों में जब भारत सरकार के समुचित प्राधिकारी से परामर्श करने के लिए पर्याप्त समय नहीं है और वाद में समझौता करने में लोप करना निश्चित रूप से भारत सरकार के हित के प्रतिकूल होगा तो उक्त प्लीडर/अधिवक्ता/काउन्सेल एसा कोई करार या समझौता कर सकेगा जिसके द्वारा उक्त वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित हो जाय और ऐसे प्रत्येक मामले में काउन्सेल/अधिवक्ता/प्लीडर करार या समझौता करने के विशेष कारण बताते हुए उक्त अधिकारी को तक्ताल संसूचित करेगा।

राष्ट्रपति इस प्राधिकार के अनुक्रम में श्री २३ दिसंबर १९८०, कूलमाला देवी

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

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

तारीख 19

NER-84850400-8000- 4784

निष्पादन करने वाले अधिकारी का पदनाम
प्रवर मण्डल कार्मिक अधिकारी

प्रवर्त्तार रेलवे, लखनऊ

61
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench, Lucknow.

No. CAT/AKO/Jud/ 1003 1990³⁵ date the 01/01/90
T.A. No. 1024 of 1990 (T)

S. N. Chaudhary.....Applicants.

Varsus.

.....Union of India.....Respondents.

To Shri R. C. Sardana Adv.
High Court Lucknow

E - 3665, Rajajee Puram.

Hukamaw

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

Writ petition No. 539182
of 19.....
of the Court of H.C.
arising out of
of order dated
passed by in
.....

The Tribunal has fixed date
of30/12.....1990. The ~~for add.~~
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 sesl of the Tribunal this
...30... day of7.....1990.

J. M. D. 21/12/90
DEPUTY REGISTRAR

Bhartiya

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
23-A, THORN HILL ROAD, ALLAHABAD

NO. CAT/ALLD/JUD/

32932

DATED

19-1-88

T.A.NO. 1024 OF 1988 (T)

Surya Nath Choudhary Applicants'

VERSUS

Union of India & others Respondents'

To Surya Nath Choudhary 50 in R.R.
Choudhary, R.R. Quarters No 7/36, Railway
colony, Mairana District Lakhimpur
Kheri.

WHEREAS the marginally noted case has been transferred by
High Court - Lucknow under the provision of the Administrative
Tribunal Act (No. 13 of 1985) and registered in this Tribunal
as above.

Writ Petition No. 539
OF 1982 of the
Court of High Court - Lucknow
arising out of order dated
passed by _____
in _____

The Tribunal has fixed date
of 1-11-1988. The hearing
of the matter.

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

day of 14/9/88 1988

① The Union of India
through the General
Manager N.E. Railways
Gorakhpur.

DEPUTY REGISTRAR

copy of Notice
Red copy of Notice No. 1, 2, 3
for the per. No. 1, 2, 3
R. Choudhary on behalf of
A. K. Gauri
P. S. Singh
14/9/88

② ~~Divisional Railway Manager N.E. Railway~~
Jyotnagar.

③ ~~Chief Tele-communication Inspector~~
N.E Railway, Jyotnagar.

1 to 3 through S. N. A. K. Hawa Gaur
Advocate C.A.T, Allahabad.

5/2

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

No. CAT/Alld/Jud/37169/70 Dated the 26/7/1989

T.A.No. 1024 of 1989 (T)

(C/G)

Surya Nath Chaudhary Applicant's

Versus

V. O. J. Respondent's

To

① Surya Nath Chaudhary & Raghbir Singh Chaudhary
& Quoted No. T/36, Railway Colony, Maulam
District Lakhimpur Kheri.
② Sh. R. C. Saxena, Advocate, High Court
Lucknow.

Whereas the marginally noted cases has been transferred by _____ under the provision of the Administrative Tribunal Act 13 of 1985 and registered in this Tribunal as above.

Writ Petition No. _____

of 19 _____ 539
of the Court of _____
arising out of _____
of Order dated _____
passed by _____ in _____

The Tribunal has fixed date of 26-7-1989. The hearing of the matter.

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

matter will be heard and decided in your absence.

Given under my hand seal of the Tribunal this day of April 1989.

J. Mahendra
DEPUTY REGISTRAR

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

T.A. NO.1024 of 1987 (T)
(W.P. NO.539 of 1982)

S.N. Chowdhary Applicant.
Union of India & Others Respondents.

25.7.1990

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

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

Case is called. No one is present for the applicant. Notice issued to the respondents on 2.4.1990 is presumed to be served. Sri B.K. Shukla appears on behalf of the respondents. Office to issue notice to the applicant counsel by name. The case be listed for orders on 30th August, 1990.

Sd/-

A.M.

Sd/-

V.C.

// True Copy //

rmm/

Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow

O/C
150

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

T.A. NO.1024 of 1987 (T)

(W.P. NO.539 of 1982)

A
89

S.N. Chowdhary Applicant.

Versus

Union of India & Others Respondents.

30.8.1990

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

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

None appears for the applicant despite notice.

Sri R.C. Saxena stated before us that he has not received any instruction from the petitioner. Petition is dismissed for want of prosecution. The interim order stands vacated.

Sd/-

Sd/-

A.M.

J.M.

checked
SSB
519

11 True Copy 11

rrm/

J. M. D. G. P.
Deputy Secretary
Central Administrative Tribunal
Lucknow Bench
Lucknow

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) : LUCKNOW :

WRIT PETITION NO. OF 1982

(63)

Surya Nath Chowdhari, aged about 30 years,
son of Sri Raghu Raj Chowdhari, resident of
Quarter No. T/36, Railway Colony, Mailani,
District Lakhimpur Kheri.

---- PETITIONER.

VERSUS

1. The Union of India through the General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, Izetnagar.
3. Chief Tele-communication Inspector, North Eastern Railway, Izetnagar,

---- OPPOSITE PARTIES.

WRIT PETITION UNDER ARTICLE 226 OF CONSTITUTION OF INDIA

The petitioner named above most respectfully submits as under:-

1. That the present Writ Petition is directed against the order dated 28.1.1982, passed by the Opposite Party No. 2 reverting the petitioner from the post of Line Attendant, Grade R.210-290 to the post of Khalasi Grade R.196-232. A true copy of the impugned order dated 28.1.1982 passed by the opposite party No. 2 is filed herewith as Annexure No. 1 to this writ petition.

2. That the petitioner on 18.2.1975 was initially appointed as Line Attendant on Casual Labour rates but after having continuously worked for a period of 4 months against the permanent post of Line Attendant his status was changed and he was temporarily appointed w.e.f. 18.6.1975 against the said permanent post of Line Attendant in the grade of Rs.210.290. A true copy of order dated 10.4.75 passed by the Assistant Engineer is filed herewith as Annexure No. 2, to this writ petition.

3. That the petitioner since the date of his appointment as Line Attendant has been working honestly and diligently without any complaint against his work and conduct and his service record has although been unblamished.

4. That in pursuance of Annexure No. 2 while the petitioner was given the status of a temporary Railway Servant in 1975 his pay was fixed Rs.210/- per month in the grade of Rs.210-290 and since then he has been regularly getting his all yearly increments in the said grade.

5. That in the year 1976 several persons holding the post of Khalasi (Grade Rs.196-232) and Line Attendant (Grade Rs.210-290) having acquired/given temporary status in Railway service were asked to appear before the Screening Committee constituted for the purpose of conducting the suitability test in order to select them for their regular appointments on the post in question.

6. That the petitioner duly appeared aforesaid Screening/Suitability Test and

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) : LUCKNOW :

WRIT PETITION NO. OF 1982

5/10

SURYA NATH CHOWDHARI

... ... PETITIONER.

VERSUS

UNION OF INDIA AND OTHERS

... OPPOSITE PARTIES.

: INDEX:

SL.NO.	DESCRIPTION OF PAPERS	PAGE NUMBERS
1.	Writ Petition under Article 226 of Constitution of India.	1 - 9
2.	AFFIDAVIT	10 - 11
3.	ANNEXURE NO. 1 (Impugned order dated 28.1.82)	12 - 13
4.	ANNEXURE NO. 2 (Order dated 10.4.75 passed by Asstt. Engineer)	14 - 15
5.	ANNEXURE NO. 3 (Petitioner's Appointment order dated 19.11.77)	16 - 17
6.	ANNEXURE NO. 4 (Circular letter dated 1.3.66)	18 - 25

LUCKNOW:

DATED: FEBRUARY 1982.

(R.C. SAXENA)
ADVOCATE,
COUNSEL FOR PETITIONER

10/10/1981

for his regular appointment. The medical examination of the petitioner was also conducted and being declared fit, he was appointed as Line Attendant in the regular manner. A true copy of the appointment order dated 19.11.1977 passed on behalf of Divisional Superintendent (Personnel) now known as Divisional Railway Manager (P) is filed herewith as Annexure No. 3 to this writ petition.

7. That after the appointment of the petitioner on the post of Line Attendant Grade R.210-290 w.e.f. 10.9.1976 in pursuance of Annexure No. 3, the opposite parties called the eligible persons to appear in the Trade Test so that they could be promoted and appointed against the posts of Line Attendants in the regular manner. The opposite parties conducted atleast 3 times the Trade Tests on different dates but did not call the petitioner to appear in these Trade Tests as his suitability for the post of Line Attendant was already adjudged in the year 1976 and having been found fit he was appointed to the said post in the regular manner vide Annexure No. 3 to this writ petition.

8. That the opposite parties scheduled to hold a Trade Test on 18.10.1981 for the purpose of selecting suitable persons for their promotion from the post of Khalasi, Grade R.196-232 to the post of Line Attendant, Grade R.210-290.

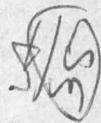
9. That the petitioner was neither given any prior intimation regarding the scheduled date of holding the Trade Test on 18.10.1981 by the opposite parties nor he himself had any knowledge about the same. While the petitioner was on his duty he was simply asked by opposite party No. 3 to sign a Memo in the evening of 17.10.1981 intimating him that he has to appear in

the Trade Test for the post of Line Attendant on 18.10.1981.

10. That as the petitioner had no prior notice/intimation that he had to appear in the Trade Test and that too without any opportunity for preparation, he shown his inability to appear in the said Trade Test. The petitioner also pointed out to the opposite party No. 3 that the petitioner has already been holding the post of Line Attendant in the regular manner since 10.9.76 in pursuance of Annexure No. 3 and he should not have been required to appear further in any test whatsoever for the same post for which he was already found suitable.

11. That the opposite party No. 3 did not listen to the petitioner and compelled him to give in writing that he does not want to appear in the Trade Test for any reason whatsoever scheduled to be held on 18.10.1981.

12. That the petitioner having been left with no option under the circumstances stated hereinbefore expressed his inability for appearing in the Trade Test and given in writing to the opposite party No. 3 that he is unable to appear in the trade Test scheduled to be held on 18.10.1981.



published the instructions based on various orders of the Railway Board received from time to time for the purpose of conducting the Trade Test of various staff in accordance with the said instructions. A true copy of circular letter dated 1.3.66 issued to all District Officers and Personnel Officers of the North Eastern Railway is filed herewith as Annexure No. 4 to this writ petition.

15. That a perusal of instructions contained in Annexure No. 4 clearly reveals specifically in para 7 of the said instructions that an employee should be given atleast a fortnight's notice for the Trade Test.

16. That para 15 of the aforesaid instructions further provides that in case a person has failed in a particular Trade Test he will be eligible to appear re-appear for further Trade Test at an interval of not less than 6 months. The maximum numbers of chances which are to be given to the person concerned for passing the Trade Test ar four.

17. That the instructions contained in Annexure No. 4 no where provide that the consequence of either non-appearance of the person concerned in the Trade Test or his failure in the Test would disentitle him to hold the post for which he is being Trade Tested or he will be reverted to a post to which he was not even initially appointed.

18. That the impugned order contained in Annexure No. 1 is a penal order and visits the petitioner with the civil consequences and could not have been passed so arbitrarily without giving the petitioner any opportunity of having his say in the matter before the

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JLW

order in question was passed by him.

19. That the effect of the impugned order contained in Annexure No. 1 is that the petitioner would loose the post of Line Attendant grade R.210-290 besides loosing his seniority of the said post and would be put to work on the post of Khalasi grade R.196-232 on which post he was not even initially appointed causing him the pecuniary loss of money in respect of his salary.

20. That the opposite party No. 2 further failed to take into account the instructions contained in Annexure No. 4 specifically mentioned in para 7 and 16 that an employee should be given atleast a fortnight prior notice for the purpose of appearing in the Trade Test and further even to a person who fails in the Trade Test is to be given atleast 3 chances more to qualify the Trade Test. In the instant case the petitioner was neither given the prior intimation of 15 days for appearing in the Trade Test nor he had actually failed in the Test in question.

21. That the opposite party No. 2 acted absolutely in the arbitrary manner in reverting the petitioner from the post of Line Attendant to the post of Khalasi without considering the fact that the petitioner was already appointed to the post of Line Attendant in the regular manner in pursuance of Annexure No. 3 after adjudging him fit and suitable for the said post and he could not have been legally again required to appear in the Trade Test scheduled to be held on 18.10.81.

22. That the impugned reversion of the petitioner from the post of Line Attendant to the post of Khalasi

under the circumstances of the case amounts to removal that too without any opportunity and the same is not only against the principles of Natural Justice but is also in confrvention of the provisions of Article 311 of the Constitution of India.

23. That the petitioner having about 7 years experience of the unblamished service does not fear in appearing in any Trade Test and is still ready for the same provided the same is considered necessary and he is given the requisite notice of atleast 15 days before holding the said Test.

24. That the petitioner is still holding the post of Line Attendant at Mailani in District Lakhimpur Kheri and the impugned order dated 28.1.82 contained in Annexure No. 1 has not been given effect to as yet. In case the operation of the impugned order is not stayed the petitioner will suffer an irreparable loss which cannot be compensated in terms of money.

25. That the petitioner feeling aggrieved and having been left with no other alternative afficacious remedy begs to prefer the present writ petition on the following amongst the other:

:_G_R_O_U_N_D_S_:

(i) Because the impugned order contained in Annexure No. 1 reverting the petitioner from the post of Line Attendant grade R.210-290 to the post of Khalasi grade R.196-232 is a panel order and the same could not have been passed by the opposite party No. 2 without giving any opportunity of having his say in the matter before passing the said order-

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(ii) Because the impugned order contained in Annexure No. 1 under the circumstances of the case amounts to removal of the petitioner from the post of Line Attendant within the meaning of Article 311 of the Constitution of India and the same could not have been done so arbitrarily.

(iii) Because the opposite party No. 2 acted illegally in reverting the petitioner from the post of Line Attendant to the post of Khalasi on which post the petitioner was never appointed nor did he ever work on the said post.

(iv) Because the opposite party No. 2 totally ignored to consider that the petitioner had already been found fit for his regular appointment on the post of Line Attendant after successfully qualifying the Screening/Test for the post in question and was also declared medically fit as is evident from Annexure No.3 and he could not have been again required to appear in the Trade Test for the said post.

(v) Because the opposite party No. 2 further ignored to take into account the provisions of circular letter dated 1.3.66 (Annexure No. 4) specifically mentioned in para 7 and 16 of the said instructions according to which a person who even fails in the Trade Test gets 3 chances more to qualify the same.

(vi) Because the petitioner was not given the requisite notice of 15 days for appearing in the Trade Test scheduled to be held on 18.10.81 and his refusal to appear in the Trade Test was justified and could not have been considered a valid reason for his reversion.

: P_R_A_Y_E_R :

(H.A.M)

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

(a) issue a writ, direction or order in the nature of circiorary quashing the impugned reversal order of the petitioner dated 28.1.82 contained in Annexure No. 1 to this writ petition passed by the opposite party No. 2 in so far as it relates to the petitioner.

(b) issue a writ, direction or order in the nature of mandamus commanding the opposite parties to treat the petitioner still in continuous service with all benefits of the post of Line Attendant.

(c) issue a writ, direction or order in the nature of mandamus commanding the opposite parties to hold the Trade Test again if it is considered necessary after giving the petitioner due notice for the same.

(d) any other writ, direction or order which is deemed fit and proper under the circumstances of the case may also be passed in favour of the petitioner.

(e) 14 days notice may kindly be waived in view of the urgency of the matter.

Lucknow:

Dated: February , 1982.

(R.C. Saxena)
Advocate,
COUNSEL FOR PETITIONER

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) : LUCKNOW :

Writ Petition No.

of 1982

100

Surya Nath Chowdhari

---- Petitioner.

Versus

Union of India and others

---- Opposite Parties.

AFFIDAVIT

I, Surya Nath Chowdhari, aged about 30 years, son of Sri Raghu Raj Chowdhari, Resident of Quarter No. T/36, Railway Colony, Mailani, District Lakhimpur Kheri, do hereby solemnly affirm and state on oath as under:-

1. That the Deponent is the Petitioner in the above noted writ petition and is fully conversant with the facts of the case deposed to hereunder.
2. That the contents of paras 1 to 24 of the writ petition are true to my own knowledge.
3. That the Annexure nos. 1 to 4 are the true copies and the deponent has compared them with their originals.

Lucknow:

Dated: February , 1982.

DEPONENT.

VERIFICATION

(Signature)

I, the Deponent named above, do hereby verify that the contents of paras 1 to 3 of this Affidavit are true to my own knowledge.

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

Lucknow:

Dated: February , 1982.

DEPONENT.

I identify the deponent who has signed before me.

ADVOCATE.

"Solemnly affirmed before me on February , 1982, at a.m./p.m. by Sri Surya Nath Chowdhari, the deponent, who is identified by Sri R.C. Saxena, Advocate, High Court, Allahabad, Lucknow Bench, Lucknow.

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

(8) श्री तेजपाल लदर्व लाठोब०/इज्जतनगर को लाठोब० का ट्रैक ट्रेस्ट उत्तीर्ण करने के पश्चात लाठोब०(210-290) नियमित पदोन्नति पर दूर संचार नियंत्रिक/इज्जतनगर के व्यक्तिन तेजात किया जाता है।

(9) श्री बरिराम लदर्व लाठोब०/रामा को लाठोब० का ट्रैक ट्रेस्ट उत्तीर्ण करने के पश्चात लाठोब०(210-290) में नियमित पदोन्नति पर रामा में ही तेजात किया जाता है।

(10) श्री सुखन लदर्व लाठोब०(210-290) बालगंज को ट्रैक ट्रेस्ट पास न करने वालक जलाली (196-232) दोने बार में पदाधनत करके दूर संचार नियंत्रिक कालगंज ट्रैक व्यक्तिन तेजात किया जाता है।

(11) श्री शिवनाथ जलाली/पीलीभीत को लाठोब० का ट्रैक ट्रेस्ट उत्तीर्ण करने के पश्चात लाठोब०(210-290) में नियमित पदोन्नति पर पीलीभीत तेजात किया जाता है।

(12) श्री युर्य नाथ लदर्व लाठोब० जैलाली को जलाली(196-232) में पदाधनत करके दूर संचार नियंत्रिक इसोस्यारा/इज्जतनगर के व्यक्तिन तेजात किया जाता है। इन्होने लाठोब० के ट्रेस्ट में न बैठने की इच्छा स्वीकृत रूप में दी।

(*) यह बादेश प्रप्रसिद्ध/इज्जतनगर के बहुमोटन से जारी किया जाता है। छोर्व० 1, 2, 4, 5, 12 को ज्ञारनिंग सीध, स्थानान्तरण भल डियुटी पास है।

इ0वस्पष्ट 20-1-82
कृते प्रबन्ध रेल प्रबन्धक, इज्जतनगर

स०ई/210/1/लाठोब०/सि/1/111

प्रतिलिपि निम्न को धूतनार्व इव बावस्तु वार्ताली देतु प्रेपितः-

- 1-प्रप्रसिद्ध/इज्जतनगर।
- 2-सर्वेध/इज्जतनगर।
- 3-दसनि/इसोस्यार/इज्जतनगर।
- 4-दसनि/इज्जतनगर, बालगंज, पतेहगढ़, पीलीभीत।
- 5-कायाधि(बल)।
- 6-वांचित कर्त्तारी।
- 7-वाभलेखपाल

इ0वस्पष्ट 20-1-82
कृते प्रबन्ध रेल प्रबन्धक, इज्जतनगर

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

(LUCKNOW BENCH) : LUCKNOW :

W. PETITION NO. OF 1982

Surya Nath Chowdhari ... Petitioner.

Versus

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

ANNEXURE NO. 2

NORTH EASTERN RAILWAY

OFFICE ORDER

On completion of 4 months continuous service as casual labour and working against the permanent posts of Line attendants in grade 210-290 under CTCI (ACSR) IZN the following Casual labour are temporarily engaged as substitute Line attendants in grade 210-290 from the dates shown against each.

This is purely a local and tentative arrangement and will not confer upon them any claim for retention on the post or seniority. They will be replaced by suitable and trade tested staff without notice.

S.No.	Names	Station	Date of engage- ment as C.L.	Date from which attained T.V. Status	Pay
1.	Shri Devendra S/o Munshi Lal	IZN	18.2.75	18.6.75	210/-
2.	Shri Hari Ram Singh S/o Bhagwati Singh	"	18.2.75	18.6.75	210/-
3.	Shri Sheo Nath S/o Ram Bhupit	PBE	18.2.75	18.6.75	210/-
4.	Shri Vijai Singh S/o Chiman Lal	BJV	18.2.75	18.6.75	210/-

✓ R/W

5. Shri Ram Priti S/o Ram Pyare	PP	1822.75	16.6.75	210/-
6. Shri Surya Nath S/o Raghurni	MLN	18.2.75	18.6.75	210/-

3d/-

Divl. ASTT. ENGINEER/IZN.

No. E/227/VIII

Dated. 19.4.75

Copy forwarded for information and necessary
action to:-

1. CTCI/ACSR/IZN
2. DAO/IZN.
3. Individual concerned
4. MC/VII (Bills)
5. Record Clerk.

for Divl. Supdt. (P)

Izatnagar.

TRUE COPY

18
J.D.

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

(LUCKNOW BENCH) : LUCKNOW :

WRIT PETITION NO.

OF 1982

Surya Nath Chowdhury

... Petitioner.

Versus

Union of India and others.

... Opp. Parties.

ANNEXURE NO. 4

NORTH EASTERN RAILWAY

S.NO. 393
No. F/IV/281/0

OFFICE OF THE
CHIEF PERSONNEL OFFICER
GORAKHFUR, Dated: 1.3.1966.

ALL DISTRICT OFFICERS,
ALL ASSTT. OFFICERS (in independent charge),
NORTH EASTERN RAILWAY

Reg:- TRADE TEST

The instructions in this circular are based on the various orders of the Railway Board received from the time to time and the decisions of the Trade Test Panel. This circular is intended to serve as a ready compendium of rulings on Trade Tests but does not in anyway supersede the existing rulings and instructions on the subject. In case of doubt or ambiguity, references should be made to the original orders.

2. The artisan staff on this Railway are classified as:-

- i) Unskilled
- ii) Semi-skilled
- iii) Basic Tradesmen
- iv) Skilled
- v) Highly skilled Gr. II
- vi) Highly skilled Gr. I.

10
29

3. Basic trades are different from semi-skilled trades. Basic Tradesmen are considered to be learners and will be tested for promotion to skilled grades when they have acquired sufficient skill and knowledge. Basic tradesmen will be provided only in those trades and promotion groups where semi-skilled posts as such exist.

4. No man can pass from any of the above grades to a higher grade without passing the requisite trade test. There will normally be no trade test of Casual Tradesmen. Only those casual tradesmen will be trade tested who are likely to be absorbed in the Railway service as skilled artisans. The trade test of casual tradesmen will be done only with the express approval of the Head of the Department, who must certify that there are no eligible staff for trade test to that grade.

5. Trade tests will apply to artisan staff as follows:-

i) For promotion from unskilled to basic tradesman or semi-skilled grade.

An unskilled workman is eligible to be trade tested to the semi-skilled grade or to basic tradesman only after he has put in three years service as an unskilled worker in that group.

ii) For crossing the Efficiency Bar in the semi-skilled grade.

The trade tests will be coupled with an examination of service record.

iii) For promotion from basic tradesmen or semi-skilled to skilled grade.

A basic tradesmen/semi-skilled workman is eligible to trade tested only after he has put in two years service in the basic/semi-skilled grade.

iv) For crossing the Efficiency Bar in the skilled grade.

The trade tests will be coupled with an examination of service record.

A statement of staff to be trade tested should be prepared in form 'B' (N.E.-G.346) in triplicate. Two copies will be forwarded to the Trade Testing Officer alongwith from 'A' (N.E.-G 342) in duplicate. After the Trade Testing Officer has conducted the trade test; form 'A' should be filled in by the officer in duplicate. This will be there cord of the results of the trade test. To ensure that the Trade Testing Officer has adequately scrutinised the record of trade test he should personally score out items not applicable and initial the same. This work must not be delegated to any one else. Forms 'A' & 'B' in duplicate will then be returned by the Trade Testing officer to the District Officer. Form 'A' in duplicate and one copy of form 'B' should then be sent by the District Officer to the Secretary, Trade Test Panel, Gorakhpur for approval.

8. Trade Test will be conducted by an Asstt. Officer of the Technical department. In case of non-technical departments, a technical officer of the appropriate department should be nominated to conduct that trade test. The trade test will be supervised by a supervisor not below the rank of an Asstt. Foreman (or equivalent) in grade R.355-425. In case of trade tes to the highly skilled grades, the trade test will be conducted by a Senior Scale Officer assisted by a Subordinate not below the rank of a Foreman (or equi- valen) in grade R.370-475.

9. Trade tests will be conducted for promotion and for crossing the E.B. as per syllabus for the cate- gory embodied in the booklet-STANDARD TRADE TESTS. In respect of those categories for which no syllabus is

4/9

v) For promotion from skilled to highly skilled Grade II.

The trade test will be conducted as and when vacancies are likely to arise.

vi) For promotion from highly skilled Grade II to highly skilled Grade I.

The trade test will be conducted as and when vacancies are likely to arise.

6. Relaxation of the minimum service conditions quoted above can be permitted by the Trade Test Panel only after the Head of the Department certifies that all eligible men have been tested according to rules and none have passed the trade test. In the case of unskilled workers, it is necessary for the man concerning to have put in the minimum qualifying service in the same group. For example, if a gangman is transferred to a Workshop at his own request, he will be eligible to appear for the semi-skilled test in his group only after he has put in the minimum qualifying services in the workshop.

7. Staff should be called for trade test strictly in order of seniority as and when vacancies are likely to arise. As far as possible only the minimum number of men in strict order of seniority required for promotion should be called for trade test so that most of those who pass the trade test for higher categories do not have to wait for long for promotion to higher grade and no panel should be formed. A senior employee who has failed in six months from the date of the last trade test and if he passes the trade test he will be promoted in preference to a junior employee who may have passed the trade test earlier and may be waiting for promotion.

The employees concerned should be given atleast a fortnight's notice for the trade test.

1/54

have passed the trade test.

17. Any complaint in connection with the manner of conducting the trade test must be made in writing to the Trade Testing officer during the course of the trade test itself. Any appeal or representation in connection with the results of the trade test will be addressed to the Chairman, Trade Test Panel and must be submitted to the Distt. Officer within one month of the date of the declaration of the results of the trade test. The appeal will be forwarded to the trade test panel along with the comments of the Trade Testing Officer and the Distt. Officer. The decision of the Trade Test Panel on all appeals and representations is final and there is no further appeal.

18. A Trade Test has been set up on this Railway. The composition of the Trade Test Panel is as follows:-

- 1) Chairman ... Dy. C.M.E.(W)(Ex:Officio)
- 2) Member ... Dy. C.E.(Bridges)(Ex:Officio)
- 3) Secretary ... Dy. Personnel Officer(Ruling)
(Ex: Officio)

19. The following duties have been assigned to the Trade Test Panel:-

- i) To see that Standard Trade Tests are initially prepared by each department to cover all categories of semi-skilled and skilled artisans of that department.
- ii) To examine the form of these standards Trade Tests and approve the same.
- iii) To give publicity to the approved forms of Standard Trade Test amongst the staff.
- iv) To meet as and when necessary with the Trade Test Panels of adjacent railways to have uniformity of Standards Tests.

- v) To pass orders on the actual Trade Test results submitted by the Trade Testing Officer.
- vi) To deal with all disputes or appeals arising from Trade Test.

CHAIRMAN
TRADE TEST PANEL/N.E.RLY.
GORAKHPUR.

Copy to all personnel Officers, N.E. Railway,
for information.

SECRETARY
TRADE TEST PANEL/N.E.RLY.
GORAKHPUR.

TRUE COPY

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

539

No.

82

of 198

Swaya Nath Choudhary vs. Cenvion of India

A
85

11/1

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
3-2-82	<p>Hon H.N. Seth, J Hon R. C. D. Sharma, J <u>Hon R. C. D. Sharma, J</u></p> <p>Admit, issue notice.</p>	<p>Sd H.N. Seth Sd R.C.D. Sharma 3-2-82</p>
- -	C.M. An. No. 1148 (W) 1982	- - - - -
- -	<p>Hon H.N. Seth, J <u>Hon R.C.D. Sharma, J</u></p> <p>Issue notice:-</p> <p>We direct that unless the petitioner has not already been served, he shall not be converted until further order to the post of Dhalari in pursuance of the order dated 20th of January, 1982 (Amendment to the writ petition).</p>	<p>Sd H.N. Seth Sd R.C.D. Sharma 3-2-82</p>
- -	Service report	- - - - -
- -	<p>The Sri Umesh Choudhury, advocate has accepted notice on behalf of all the opponents. Office proceed in O.C.</p>	<p>S.P. - 10-2-82 S.O. (Writ.)</p>

1215

APPLICATION FOR INSPECTION
(Chapter XXXIX Rule 6)

To

The Deputy Registrar,
High Court of Judicature
at Allahabad.

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



Full Description of case	Whether case pending or decided	Full particular of paper or papers of which inspection is required	Name of person who will inspect record.	If applicant is not a party reason for inspection.	Office report and Order.
	Pending	Inspecta 27th & last week on 8th month.	C. A. Basu 26. Advocate High Court	My Honour's m.t.c.	<p>Per <i>[Signature]</i> Office report</p> <p>D.R. Allow of Order for inspection.</p> <p>Slb 16/9/82</p> <p>Deputy Registrar.</p> <p>Date 16/9/82</p>

Date 16/9/82

Inspection commenced at

141.

on 17.9.1982

Inspection concluded at

Inspection fee already paid with
application Rs.

Additional fee, if any paid Rs.

Signature of applicant
or his advocate.

21/9/82

C. A. Basu Advocate