

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

## INDEX SHEET

CAUSE TITLE TA 1037 OF 1987NAME OF THE PARTIES M. S. PaulM. S. Paul Applicant

Versus

U O I Respondent

Part A, B &amp; C

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1	order sheet	A1 to A9 ✓
2	D.M.	A5 to A6 ✓
3	Judgement dt. 28-7-89	A7 to A11 ✓
4	Index sheet	A12 to A13 ✓
5	Petition copy / <u>Amendment</u>	A14 to A41 ✓
6	Power	A42 ✓
7	Application	A43 to A53 ✓
8	Amendment App. / <u>Power</u>	A54 to A72 ✓
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## CERTIFICATE

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

Dated 14/3/11 File B/C destroyed on 09-5-12

Counter Signed.....

Section Officer / In charge

Signature of the  
Dealing Assistant

(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

O.A./T.A. No. 1039/07 198

Applicant(s)

Versus

Respondent(s)

Sr. No.	DATE	Orders
10800	<u>Office report</u>	<p>An application has been received in this Tribunal for transferring the case to Circuit Bench Lko.</p> <p>If approve 26-8-08 may kindly be fixed for attendance before Registrar/D.R.(5).</p> <p>NOTICES have been issued to both the parties fixing 26-8-08.</p> <p>Submitted for orders.</p> <p><u>J.R.(5)</u></p> <p>List this Case before Circuit Bench Lko on 26.8.08 before Registrar/D.R.(5) for attendance.</p> <p><u>J.R.(5)</u></p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH AT LUCKNOW.

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*Ar*  
C.A./T.A. No. 1089  
1102 1987 (G)

M. S. Pany Applicant(s)

Versus

G.O.2 Respondent(s)

Sl. No.	Date	Orders
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*X*  
23.1.09

D.R

Sri A. Bhargava, Counsel for respondent power filed today. Counsel for applicant is also present. The case is fixed for final hearing on 28.3.09 as directed by the order of D.R. (3)

*[Signature]*  
D.R

(A.3)

Hon' Mr. D.S. Mishra, A.M.  
Hon' Mr. D.K. Agrawal, J.M.

28-3-89

The brief holder for the learned counsel for the applicant is present. Shri A. Bhargava learned counsel for the respondents states that he has not received the file from the counsel who was attending to the case at Allahabad. Shri A. Bhargava requests for further adjournment. The case is adjourned to 24-4-89.

This is <sup>a</sup>very old case on 1982, and it will not be possible to adjourn further on this ground.

J.M.

A.M.

22

OR

Counsel for applicant respondents was directed to file reply/objections to the amendment application which was filed in High Court. Counsel for respondents has not filed any objections so far. However the counsel for both the parties were agreed for final hearing in this case. Submitted for hearing.

2/4

Hon' Mr. D.S. Misra, A.M.  
Hon' Mr. D.K. Agrawal, J.M.

24/4/89

On the request of the learned counsel for the applicant, this case is listed for final hearing on 25-4-89. No further adjournment shall be allowed.

OR  
Case is submitted for hearing  
2/4

J.M.

A.M.

(sns)

(A)

10.7.89: Hon. D.K. Agrawal - J.M.

An application for adjournment has been received. However the ordersheet ~~at~~ dated 25.4.89 clearly mentions that no adjournment is to be granted to the applicant. Still in the interest of justice and on account of illness of the Counsel the case is adjourned to 12.7.89 for hearing.

~~12.7.89~~  
Hon. D.K. Agrawal - J.M.  
 No sitting of Division Bench today. Fixed 27.9.89 for hearing.  
 Member (J)  
12.7.89  
Hon. D.K. Agrawal - J.M.

Sri Raza Zahir brief holder of  
 Sri S.B. Verma appears for the applicant.  
 Sri Arjun Bhargava appears for the

A5

Registered

O/C

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD  
CIRCUIT BENCH, GANDHI BHAWAN  
LUCKNOW  
\*\*\*

No. CAT/CB/LKO/

Dated : 2/8/89

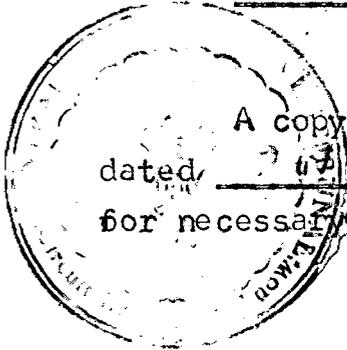
OFFICE - MEMO

Registration No. O.A. 1039 of 1937 (1)  
T.A.

M. S. 1-15 Applicant's

Versus

Union of India Respondent's



A copy of the Tribunal's Order/Judgement dated 27.7.89 in the abovenoted case is forwarded for necessary action.

[Signature]  
2/8/89  
For DEPUTY REGISTRAR (H)

Encl : Copy of Order/Judgement dated 27.7.89

To.

U. S. K. Singh, Secy. to the Tribunal (Applicant)  
2/8/89

dinesh/

[Signature]  
2/8/89

\*\*\*\*\*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD

\*\*\*\*\*

T.A. NO. 1039 1987 (L)  
T.A. NO.

DATE OF DECISION \_\_\_\_\_

M. S. Paul

PETITIONER

Shri. Raza Zabeer

Advocate for the  
Petitioner(s)

VERSUS

Union of India & Another

RESPONDENT

Arjun Bhargava

Advocate for the  
Respondent(s)

CORAM :

The Hon'ble Mr. Justice Kamleshwar Nath, VC

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? No
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether to be circulated to other Benches? No

Dinesh/

\*\*\*\*\*

28/7/89

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH AT LUCKNOW

Registration T.A. No.1039 of 1987(L)  
(W.P. No.1599 of 1982)

M.S. Paul ..... Applicant

Versus

Union of India & Another ..... Opposite Parties

Hon. Justice Kamleshwar Nath, V.C.

Writ Petition No. 1599 of 1982 mentioned above was received by transfer under Section 29 of the Administrative Tribunals Act XIII of 1985 for disposal by this Tribunal. The petition was filed on 9.4.1982 for a writ of certiorari to quash the applicant's retirement on 31.5.82 on superannuation on the basis of his date of birth being recorded as 19.5.24 in the service record. The age of superannuation was 58 years.

2. On 19.5.48 the applicant entered in the service of the erstwhile East Indian Railways as a Cleaner in the Running Shed in the Lucknow Division. His date of birth was then recorded as 19.5.24. The applicant says that he did not know the correct date of birth ~~at that~~ <sup>time</sup> and did not possess any documentary or other proof thereof at that time.

3. In the course of his service he took up High School examination. His case is that on the information received from his mother, his date of birth was recorded in the examination form as well as in the High School Examination, 1973, certificate to be 20.12.25. He said that he had made representations to the Department in 1954, 1955 and 1960 to rectify the date of his birth but the Department did not take any action there on. He

further said that the Department, nevertheless, issued seniority lists on 28.3.60, 7.10.61 and 12.10.61 in which his date of birth was indicated to be 19.5.24; and when the Department again issued a seniority list on 31.7.75, he made a representation, Annexure-4 on 16.10.75. He urged that he represented again on 12.6.81 which representation was dismissed on 30.12.81 by Annexure-9 on the ground that the last date for making the representation was 31.7.73. In course of time, it was notified to him that he would retire on 31.5.82 and therefore he filed the writ petition which has given rise to this case.

4. The Opposite Parties' case is that the applicant had given his own date of birth which was initially recorded in the service record as 19.5.24, that no value is to be attached to the date of birth recorded in a High School Certificate which was procured after entry into service, that there was no representation in 1955 and that after consideration of the period of time during which an employee could make a representation regarding his date of birth, the Railway Board took a decision contained in Annexure-B2 that the employees who were in service before 31.12.71, when the first circular Annexure-B1 was issued on the subject, could make their representation by 31.7.73, after <sup>which</sup> ~~that~~ no further representation could be entertained.

5. I have heard the learned counsel for the parties. It is the own case of the applicant that he did not know the correct date of his birth when he entered into service on 19.5.48 nor he had any proof

further said that the Department, nevertheless, issued seniority lists on 28.3.60, 7.10.61 and 12.10.61 in which his date of birth was indicated to be 19.5.24; and when the Department again issued a seniority list on 31.7.75, he made a representation, Annexure-4 on 16.10.75. He urged that he represented again on 12.6.81 which representation was dismissed on 30.12.81 by Annexure-9 on the ground that the last date for making the representation was 31.7.73. In course of time, it was notified to him that he would retire on 31.5.82 and therefore he filed the writ petition which has given rise to this case.

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5. I have heard the learned counsel for the parties. It is the own case of the applicant that he did not know the correct date of his birth when he entered into service on 19.5.48 nor he had any proof

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documentary or otherwise thereof. The important <sup>point</sup> ~~question~~ <sup>is</sup> that if the applicant had no proof, ~~the~~ <sup>no</sup> documentary or otherwise at the time of his entry into service on 19.5.48, how is it that he could receive information of the date of his birth from his mother at the time when he had subsequently submitted the form for admission to the High School Examination. The mother should have been alive even on <sup>19.5.48,</sup> ~~15.4.48~~ and if she was a correct source of the date of applicant's birth, it should have been possible to indicate it at that time. The own admission of the applicant in the petition that he had no "documentary or proof otherwise" of his date of birth at the time of the entry into service, negatives the value of the so called information of the date of birth subsequently received from the mother. That is why the case of the Opposite Parties in para 4 of the Counter Affidavit that no value can be attached to the statement of the date of birth, <sup>in the</sup> ~~any~~ certificate obtained after entry into the service, is not without force.

6. In the matter of making representations, the applicant has filed copy Annexure-1 of the year 1955 only; its receipt has been denied in para 4 of the Counter Affidavit. Copies of representations of 1955 and 1960 have not been filed; it is not possible to lay faith on a bare statement in that respect. It is significant that even if these representations were made, they do not appear to have been accepted by the Department and can well be considered to have been impliedly rejected when seniority lists were issued in 1960 and 1961 indicating the applicant's date of birth as 19.5.24. It does not appear that the applicant

made any representation after the issue of those seniority lists.

7. The next representation is dated 16.10.75, Annexure-7 which followed the seniority list of 31.7.75. Perhaps this was not considered by the Department. The last representation dated 30.12.81 was rejected by order Annexure-9 stating that the last date for making the representation was 31.7.73.

8. The Opposite Parties' case that the last date for submitting the representation was 31.7.73, is correct. It appears that the matter was considered initially by Railway Board's circular dated 3.12.1971, Annexure-B1 in which it was said that alteration in age after completion of period of probation or of three years of service whichever is earlier would not be permitted. Hardship was considered to have been caused by that circular to the cases of those employees who were already in service on 3.12.71 but could not avail of the opportunity afforded. That is why the Subsequent circular dated 4.8.72, Annexure-B2 was issued with a direction for wide publicity, and it was said that those persons who were in employment on 3.12.71 could make their representation by 31.7.73 but not thereafter and if they did make such representation, it would be considered according to Rules. The Department took a decision to treat 31.7.73 as the 'cut off date'. It is not said that the 'cut off date' was unreasonable.

Indeed, employees have to share responsibility for errors in their date of birth, and it is quite fair to fix a reasonable time during which such errors could be got rectified. In respect of employees who were on job on or before 3.12.71, a provision for making representations till 31.7.73 appears to be quite reasonable. There is no error therefore in the decision of the Opposite Parties that the applicant's

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representation dated 30.12.81, or for that matter  
dated ~~31.7.73~~<sup>16.10.75</sup>, were not entertainable after 31.7.73.

9. The applicant's learned counsel made a submission that Rule 145 of the Railway Establishment Code, Volume I did not fix any time limit during which representation could be made. This is not to say that the Rule had also provided that the representation could be made at any time. In other words, Rule 145 of the Railway Establishment Code contained a gap on the question of the period of time during which representation could be made. That gap could certainly be made good by means of administrative instructions which are contained in the circulars dated 3.12.~~1981~~<sup>1971</sup>, Annexure-B1 and dated ~~23.8.1982~~<sup>4.8.1972</sup>, Annexure-B2.

10. On a careful consideration of all the matters, I am satisfied that the impugned order does not suffer from any infirmity and the application deserves to fail. The application is dismissed. Parties shall bear their own costs.



Vice Chairman

Dated the 28th July, 1989.

RKM

CIVIL  
 SIDE  
 CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case W.P. 1599-82

Name of parties Madder Sudan Paul

Date of institution 9-4-82

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
					Rs.	P.		
	1	Imp. with Domes and affidavits	27	-	102	00		
	2	Power	1	-	5	00		
	3	Comd. 3385(W) of 82 ad. affidavits	7	-	7	00		
	4	Power	1	-	5	00		
	5	Comd. 6527(W) of 85	9	-	7	00		
	6	Power	1	-	5	00		
	7	Comd. 10562(W) of 85 with CA	15	-	7	00		
	8	order sheet	10	-	-	-		
	9	Buch City	1	-	-	-		

I have this \_\_\_\_\_ day of \_\_\_\_\_ 198 \_\_\_\_\_ examined the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that they bear Court-fee stamps of the aggregate value of Rs. \_\_\_\_\_ that all 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 AMU(J)

2708. A13

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Writ Petition No. 1599 of 1982

Madhu Sudan Paul ..... Petitioner

Versus

Union of India & another ..... Opposite Parties

I N D E X

	<u>Pages</u>
1. Writ petition.	... 1 & 9
2. Annexure No.1- Representation dated 27.6.1955.	... 10,
3. Annexure No.2- High School Certificate.	... 11 & 12
4. Annexure No.3- Gazette notification showing petitioner's roll no. and date of birth.	... 13 & 14
5. Annexure No.4- Representation dated 16.10.1975.	... 15,
6. Annexure No.5- Extract of seniority list.	... 16 & 17
7. Annexure No.6- Order of opp. party no.2 dt. 31.12.81 alongwith extract of the retirement list.	... 18- 21
8. Annexure No.7- Petitioner's request for interview dt. 30.12.1981.	... 22 &
9. Annexure No.8- Representation dt. 30.12.1981 handed to Dm on 6.1.82.	... 23 & 24
10. Affidavit.	... 25- 27
11. Vakalatnama.	... 28,
12. Stay application.	...

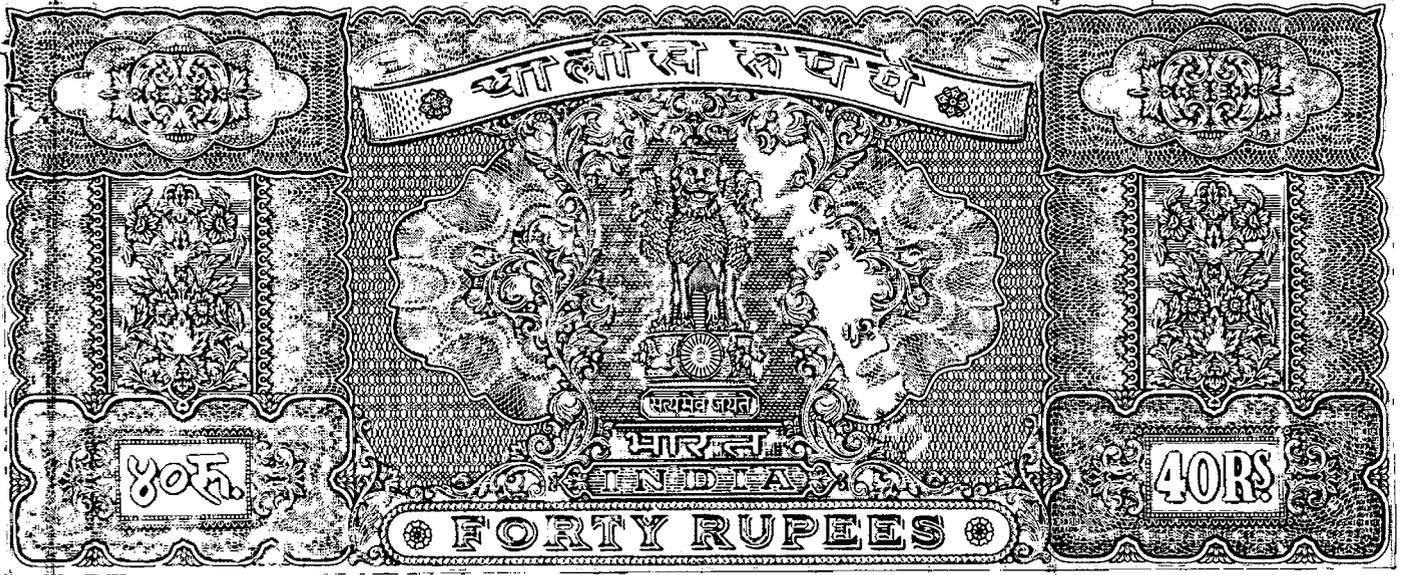
*V. K. Mishra*

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INDIA COURT FEE

A14

40 Rs.



In the Hon.ble High Court of Judicature  
At Allahabad Lucknow Bench L.W.  
WP no 1599 of 1902

Madhu Sudan Pal vs. Commission In death

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Writ Petition No. 1599 of 1982

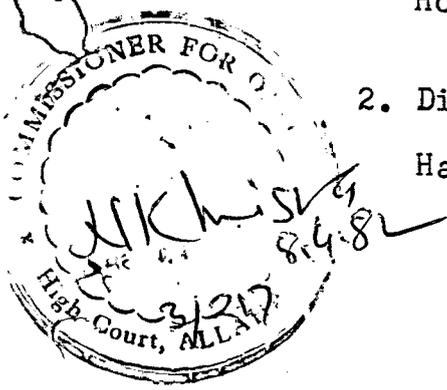
Madhu Sudan Paul, aged 56 years, son of late B.M. Paul,  
resident of Mohan Niwas, Murli Nagar, Lucknow.

.... Petitioner

Versus

1. Union of India through the General Manager, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.

.... Opposite Parties



Writ Petition Under Article 226  
of the Constitution of India.

The petitioner begs to submit as under :-

*M. Paul*

1. That the petitioner is working as Senior Clerk in the office of the Senior Divisional Electrical Engineer Northern Railway, Lucknow. He entered service as IV class employee on the post of cleaner in the running shed of the then East Indian Railway in Lucknow Division in the year 1948. The petitioner has served the railway adminis-

A16

tration diligently and sincerely and has a clean and satisfactory service record.

2. That at the time of his appointment on 19.5.1948 the petitioner was illiterate and could hardly read or write. In the absence of any documentary proof regarding his date of birth the same was recorded by the clerk concerned on the basis of his own assessment as 24 years. This is evident from the fact that the clerk concerned entered the petitioner's date of birth as 19.5.1924, that is, exactly 24 years from the actual date of appointment of the petitioner which is 19.5.1924. The petitioner at that time did not object to it as he himself did not have any proof documentary or otherwise of his actual date of birth. The petitioner, while in service, continued his education. His date of birth entered in school on the basis of the information received from his mother is 20.12.1925. This was accordingly entered in the High School ~~Certificate~~ form also and it is the actual date of birth of the petitioner as entered in his high school certificate for the examination in the year 1953 and the said certificate was received by the petitioner in the year 1954.

3. That the petitioner on the basis of passing high school examination got a temporary promotion from class IV to class III as Trains Clerk on 9.12.1954 by letter dated 2.12.1954.

4. That the petitioner, while working as Transhipment Clerk, made a representation to the Divisional Superintendent, Northern Railway, Lucknow, by Registered A/D letter dated 27.6.1955 regarding correction of his date of birth. This letter was received on 2.7.1955. This

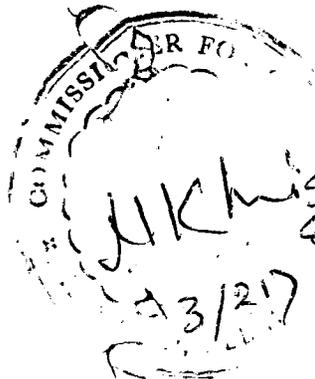
COMMISSIONER FOR  
 H.R.  
 24/11/54  
 2.4.82  
 33/2/7

husband

was in continuation to his earlier representation dated 16.4.1954 which was the first representation regarding correction of his date of birth. The petitioner along with this representation also submitted an attested copy of his high school certificate. True copy of the representation dated 27.6.1955 is filed as Annexure No.1, a photostat copy of the high school certificate for the examination 1953 showing petitioner's date of birth as 20.12.1925 is filed as Annexure No.2 and a photostat copy of the gazette notification showing the petitioner's roll no. and the date of birth is filed as Annexure No.3 to this writ petition.

5. That as no action was taken on his earlier representation, the petitioner made another representation, on 27.4.1960 after circulation of the seniority list on 28.3.1960 and thereafter on 12.10.1961 on circulation of another seniority list on 7.10.1961. But still no action was taken to correct the petitioner's date of birth in accordance with the high school certificate.

6. That thereafter when the seniority list of clerks of Electrical Branch as on 31.7.1975 was circulated in November 1975 the petitioner's name at sl.no.17 again showed his wrong date of birth as 19.5.1924. The petitioner was thus constrained to make another representation to the Divisional Superintendent requesting for correction of his date of birth in accordance with his high school certificate which is as 20.12.1925. The petitioner also enclosed therewith a copy of high school certificate. True copy of his representation dated 16.10.1975 is filed as Annexure No.4 and an extract of the seniority list of clerks of Electrical Branch, Lucknow Division, as on



Mishra

AIS

31.7.1975 showing the petitioner at sl.no. 17 is filed as Annexure No.5 to this writ petition.

7. That the petitioner in anticipation of his approaching retirement on attaining the age of superannuation, that is 58 years, again made a representation dated 12.6.1981 to the Divisional Railway Manager, Northern Railway, Lucknow.

8. That in spite of the aforesaid representation the list of persons due to retire in the year 1982 was issued in January 1982 according to which the petitioner is to retire on 31.5.1982 in accordance with the wrong date of birth entered as 19.5.1924. True copy of the order of opposite party no.2 dated 31.12.1981 for retirement of the railway personnel in 1982 along with an extract of the retirement list showing the petitioner's date of retirement on 31.5.1982 as Senior Clerk in the office of the Senior Divisional Electrical Engineer, Northern Railway, Lucknow, is filed as Annexure No.6 to this writ petition.

9. That the petitioner having no other alternative wrote a letter dated 30.12.1981 to the Divisional Railway Manager seeking an interview with him in order to apprise him of his grievance regarding correction of his date of birth as all previous representations in this connection had failed to receive any attention from the authorities concerned. The petitioner in response to his request was granted interview by the Divisional Railway Manager on 6.1.1982. The petitioner at the time of his interview with the Divisional Railway Manager handed over to him a detailed representation dated 30.12.1981

COMMISSIONER  
ALLAHABAD  
3/2/82

Instant

giving the background of his case and referred to Rule 145 of the Indian Railway Establishment Code, Vol. I and also the procedure for correcting the date of birth as laid down in the Railway Board Circular dated 3.12.1971. The Divisional Railway Manager after hearing the petitioner gave the following direction to the Divisional Personnel Officer :-

"Examine his case and let me know.

H.S. Chatta  
D.R.M./N.R./Lko/6.1.82"

True copies of the petitioner's request for interview with the Divisional Railway Manager dated 30.12.1981 and the representation dated 30.12.1981 personally handed over by the Petitioner to the Divisional Railway Manager on 6.1.1982 are filed as Annexure Nos. 7 and 8 respectively to this writ petition.

10. That in spite of the directions given by the Divisional Railway Manager to the Divisional Personnel Officer to examine the petitioner's case on the basis of the interview and the representation dated 30.12.1981 personally handed over by the petitioner on 6.1.1982 no steps have been taken by the authority concerned to examine the petitioner's case or to inform the Divisional Railway Manager. Thus it is evident that despite numerous representations made by the petitioner since the year 1954 no action has been taken by the railway administration to correct the petitioner's date of birth in accordance with Rule 145 of the Indian Railway Establishment Code, Vol. I and the Railway Board's letter dated 3.12.1971 regarding procedure for recording date of birth on entering Railway service and its alteration.

COMMISSIONER FOR  
JKH  
8-4-82  
3/2/82

*Insaul*

The Railway Board's letter No.E(NG)1170BR/i, dated 3.12.1971, is as follows:-

"Rule 145-RI lays down that every person, on entering Railway service, should declare his date of birth which shall not differ from any declaration, expressed or implied, for any public purpose before entering Railway service. The rule is not specific on the point whether the mere declaration given by the person should be accepted or it should be accepted only on production of a confirmatory documentary evidence. The Rule is also silent as to what confirmatory documentary evidence should be accepted for this purpose. As regards alteration of recorded date of birth, Rule 145(3) RI lays down that where a satisfactory explanation (which should ordinarily be submitted within a reasonable time after joining service) of the circumstances in which the wrong date came to be entered is furnished by the Railway servant concerned together with the statement of any previous attempt made to have the record amended, it is open to the competent authority to affect an alteration. No time limit has been given for alteration...."



*Insant*

11. That the petitioner being the senior most in the cadre of senior clerks has been sanctioned special pay of Rs.35/- per month in the grade of Rs.330-560 (Revised Scale) w.e.f. 1.10.1980 vide Divisional Office Order dated 29.3.1982. The petitioner by virtue of his

seniority is also due for promotion as Head Clerk in the higher grade of Rs.425-700. But owing to his impending retirement on 31.5.1982 the petitioner will be deprived of this chance of promotion.

*Insistent*



12. That aggrieved by the inaction of the railway administration to correct the petitioner's date of birth in accordance with his high school certificate despite repeated representations since 1954 and finally when he is being retired on 31.5.1982 on the basis of his wrong date of birth, the petitioner having no alternative efficacious remedy has preferred this writ petition on the following amongst other grounds:-

G R O U N D S

- (A) Because the petitioner's date of birth has been wrongly entered in his service record.
- (B) Because the petitioner's actual date of birth as entered in his high school certificate is 20.12.1925.
- (C) Because the opposite parties have failed to alter and correct the petitioner's actual date of birth in his service record on the basis of his high school certificate despite repeated reminders.
- (D) Because the opposite parties in not correcting the petitioner's date of birth as entered in his high school certificate have acted in contravention of rule 145 of the Indian Railway Establishment Code and the orders of the Railway Board dated 3.12.1971 laying down the procedure for this purpose.

*Vale D. Singh Patil*

- (E) Because the action of opposite parties in retiring the petitioner on the basis of his wrong date of birth is illegal, arbitrary and in violation of Article 16 of the Constitution of India.
- (F) Because the petitioner will suffer grave miscarriage of justice in case of his illegal and pre-mature retirement on the basis of incorrect age.

P R A Y E R

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

- (i) issue a writ, direction or order in the nature of mandamus commanding the opposite parties to correct the petitioner's date of birth in his service record in accordance with his high school certificate which is 20.12.1925;
- (ii) issue a writ, direction or order in the nature of certiorari quashing the petitioner's date of retirement on 31.5.1982 as shown in the retirement list for May 1982 (Annexure No. 6);
- (iii) issue a writ, direction or order in the nature of mandamus commanding the opposite parties not to give effect to the petitioner's date of birth as 19.5.1924 as wrongly entered in his service record;

*Navin Singh*

- (E) Because the action of opposite parties in retiring the petitioner on the basis of his wrong date of birth is illegal, arbitrary and in violation of Article 16 of the Constitution of India.
- (F) Because the petitioner will suffer grave miscarriage of justice in case of his illegal and pre-mature retirement on the basis of incorrect age.

P R A Y E R

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- (ii) issue a writ, direction or order in the nature of certiorari quashing the petitioner's date of retirement on 31.5.1982 as shown in the retirement list for May 1982 (Annexure No.6);
- (iii) issue a writ, direction or order in the nature of mandamus commanding the opposite parties not to give effect to the petitioner's date of birth as 19.5.1924 as wrongly entered in his service record;

*Navin Kumar Shukla*

(iv) issue such other writ, direction or order as deemed proper in the circumstances of the case;

(v) award the costs of the writ petition to the petitioner.

Dated Lucknow:  
April 8, 1982.

*Lal Mohan Pathak Shukla*  
(L.P. Shukla)  
Advocate,  
Counsel for the Petitioner.



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

Writ Petition No.                      of 1982

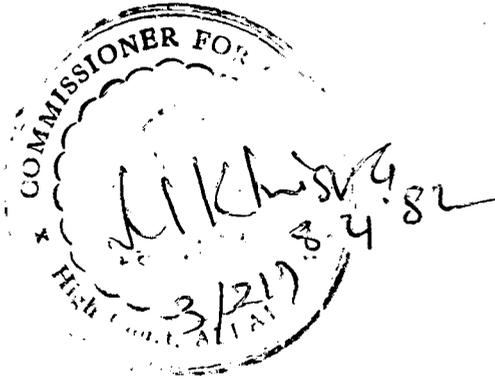
Madhu Sudan Paul                      .....                      Petitioner

Versus

Ujion of India & another                      .....                      Opp. Parties

ANNEXURE NO. 2

---



*Mishra*



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

Writ Petition No. of 1982

Madhu Sudan Paul ..... Petitioner  
Versus

Union of India & another ..... Opposite Parties

ANNEXURE NO. 3



*Madhu Sudan Paul*



15

#  
29

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

Writ Petition No. of 1982

Madhu Sudan Paul ..... Petitioner  
Versus  
Union of India & another ..... Opp. Parties

Annexure No. 4

To,

The Divisional Superintendent,  
Northern Railway,  
Lucknow.

Sir,

With reference to your No.847E/6-3(ELC) dated  
Nov. 1975 regarding seniority list of clerks of  
Electrical Branch, I beg to point out towards the  
enclosed list at serial no.17 of your letter wherein  
my date of birth has erroneously been given as 19.5.24.

According to my High School Certificate it should  
be as 20.12.25. Hence it is prayed that it should kindly  
be corrected and intimated to me and my seniority be fixed  
in that light. In support of my age a true copy of High  
School Certificate is enclosed herewith.

Thanking you in anticipation.

Enclosed:- True copy of  
High School  
Certificate.

Yours faithfully,

Sd/- M.S. Paul  
(M.S. Paul)  
Clerk,

Divisional Superintendent Office  
Hazaratganj, Lucknow.

Dated 16-10-1975.



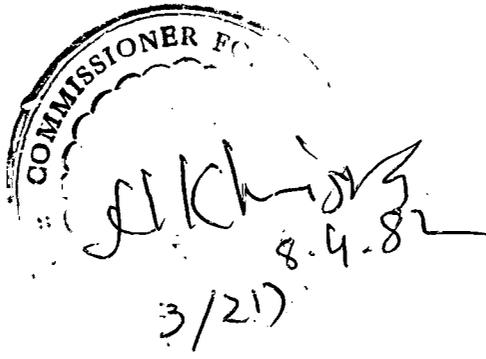
*husban*

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

Writ Petition No.                      of 1982

Madhu Sudan Paul	.....	Petitioner
	Versus	
Union of India & another	.....	Opp. Parties

ANNEXURE NO.5


  
 COMMISSIONER FC  
 8.4.82  
 3/217

*Instant*

*F)*

5

17

Seniority list of Electrical Branch of Lucknow Division as on 31.7.1975.

425-700  
230-560  
260-400  
Sanctioned Strength: Pt. Temp. W/O  
2  
10  
15  
2

COMMISSIONER  
High Court, Lucknow  
3/2/75  
4.4.75  
K.K. Mishra

W.S. Paul

S. no.	Name	Place of working.	Date of birth	Date of original appt.	Sub-grade	Date of appt. in sub-gr.	Date of confir- mation.	Date of Offe- Grade.	Date from which Office,	Remarks.
1	Sh. B. Srivastava	EC/Const	10.7.23	4.5.44	210-380	1.4.56	10.11.61	-	-	Transfer to HQ Office w.e.f. 17.9.70 AM.
2	J.S. Saxena	DEL/IKO	8.4.20	21.7.42	425-700	18.5.59	28.5.63	-	-	(Prev.) 425-700 G.II.70 joined on transfer from WPP/CB IKO on promotion.
3	J.E. Tewari	"	1.8.22	21.12.44	330-560	-	-	-	-	
4	H.K. Srivastava	DEL/IKO	5.1.22	25.10.43	-do-	25.5.57	25.5.58	-	-	
5	K.K. Srivastava	-do-	4.6.25	2.3.44	-do-	1.4.56	1.4.63	-	-	
6	S.K. Mukerjee	ELC/TS/ AM	30.3.28	17.7.46	-do-	1.4.56	1.4.63	-	-	
7	C.R. Mukerjee	DEL/IKO	24.10.24	20.11.46	-do-	1.4.56	1.4.63	-	-	
8	G.W. Gupta	-do-	15.12.38	13.5.55	-do-	1.4.56	1.4.63	-	-	
9	R.B. Tripathi	-do-	7.12.23	7.12.46	"	2.10.50	1.4.63	-	-	
10	H.P. Saxena	-do-	25.8.26	18.12.46	"	21.10.59	1.4.63 (Prev.)	-	-	
11	Ved Anrit	HRP/Elect/ IKO	27.3.26	14.6.49	-do-	11.1.60	1.4.64	-	-	
12	A.K. Sinha	-do-	9.9.24	14.5.46	260-400	14.6.46	24.12.54	330-560	26.5.65	
13	R. Phulnath Srivastava	PE/Const IKO	2.3.32	27.7.53	"	27.4.53	15.6.56	"	26.5.68	Copy.
14	H.R. Prasad	EP/TS/ CB/IKO	11.9.27	5.2.55	"	5.2.55	21.8.56	"	28.10.61	
15	Krishna Behari	EP/IKO/ Pump/IKO	10.7.26	18.4.55	"	18.4.55	1.3.57	-	-	
16	V.N. Privedi	EP/Elect/5	7.30	7.7.56	"	7.7.56	25.3.57	-	-	
17	W.S. Paul	DEL/IKO	19.5.24	19.5.48	-do-	19.5.48	16.9.57	-	-	

Contd...2.

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

Writ Petition No. of 1982

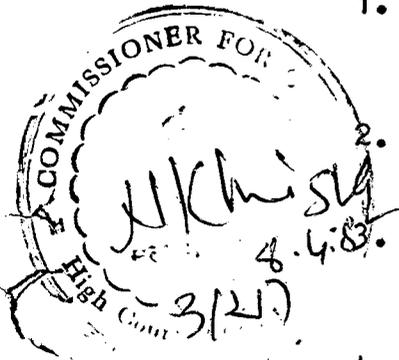
Madhu Sudan Paul ..... Petitioner  
Versus  
Union of India & another ..... Opp. Parties

ANNEXURE No. 6

NORTHERN RAILWAY  
Divisional Office,  
Lucknow: Dt. 31/12/81.

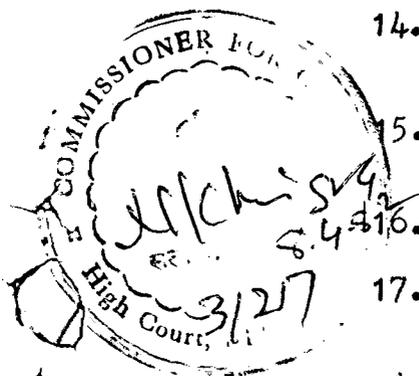
No.E/Settlement/Retirement/1982.

1. Sr. Divl. Accounts Officer, Lucknow (PF) to please see that PF Accounts of the staff are kept ready before their date of retirement.
2. Sr. DAO/N.Rly; Lucknow (Pension) for information and necessary action.
3. The General Manager (P)/N. Railway, Baroda House, New Delhi for information in ref. to his letter No.907E/297(EVA) dated 24.10.64.
4. The Sr. Welfare Inspectors and LIs on Lucknow Division for information and necessary action. They will please see that complete and upto date SRs are received in the Settlement Section alongwith upto date leave account from the Asstt. Engineer and other exterior Officers who maintain them well in advance before an employee is due to retire. They should also ensure that option from the staff for pensionary benefits are pasted in the SRs where necessary and necessary entries to that effect are also made.
5. The Manager, EPC Bank Ltd; 19A, Vidhan Sabha Marg/ Lucknow for information. They will please see that outstanding loan against any of the employees mentioned in the attached lists is cleared before their date of superannuation failing which the employee will be settled up.
6. Asstt. Engineer, I, II, Relaying Spl. LKO FD BSB-SLN PBH AND RBL PRG for information. They will please ensure that SRs of the retiring staff who opted for pension be submitted to this office 15 months prior to their retirement and in the case of SRPF options one year prior to their retirement to this office with complete settlement papers and leave accounts of the retiring staff.



*Insent*

7. The Station Supdts., LKO BSB ALD & PBH for information and necessary action.
8. The Station Masters - RBL ON ACND FDKS JLL BEK NFL NFKA LOT JFG BOY POF CIL MOF KEI SLN SRH PRG JPD SYK GANG ML JNU SHG CHH BTP HCP ANT KVC SOP AY PFM DYP ARP SHNG TKHP VAI AY LGO RCH DNW SYZ SEN TND LLJ AI NPB PTH KSF ULN CHBS SWPR UCR DTJ PHV SWS MGH LOS SGI KBF SME TQA TIKH AMS SKNR .
9. PWIs - PWI I LKO PBH JNU FD BEK PWI I/SLW UCR BCN JNH ROL ON RBL SHG PWI II/LKO SAW CIL PWI-II/LN? BSB JNU NHH KVG GANG PWI TD SLN, PRG
10. IOWs - PBH AHV LKO Estate LKO CB-LKO Line LKO IOW/LKO FD MGS BSH SLN RBL PHG.
11. Loco Foreman LKO PBH FD & BSB.
12. Medical Supdt., Indoor/CB/LKO, MS(Outdoor)CS/LKO, ADMO(C&W)/AHV/LKO, ADMO (Loco Shop)/CB/LKO, MEL.
13. CHI/LKO, Dy. CHCMGS, UG(Vending) BSB, T19Safety)/LKO CTI-LKO, IW(T)/LKO, UC(Vending)/LKO.
14. DME(DSL)NGS, CXP/LKO, FIO/LKO, HTWP/TL/BSB, HTXB/SLN CTXR-PBH, HTXR-JNU, NPO/SLN.
15. SEFO(TL)/LKO, ELC-JNU, ELC/TL/LKO, SEFO/BSB, ELC(HL)/LKO, ELC(Pump)LKO, EFO/AHV/LKO, SEFO/LKO.
16. SI(W)/PBH, SI(E)/BSB, SI(W)/BSB, SI(II)/LKO.
17. Area Officer, DRM OFFICE/LKO, GS/LKO, TCI(W)/LKO, GS/LKO, CTS-LKO, CIC(TBS)BSB, AOS/BSB.
18. SHI/AMV/LKO, CHI-CB/LKO, HI stn. CR/LKO, SBI/BSB, HI/PBH, HI/FD.
19. DEN-II/LKO APO(I), APO(II), APO(G) LKO DEN-I, DEN-III, DEE.
20. Relief Clerk CHC, (Ph), Supdt. Comml., Supdt. 'T' Acctt. Optg. A/cs., Bd. Conf. Steno, Supdt. Mech. RS(CR), AS(Store)/Pass, AS(Elec), Asstt. Hindi Officer, DHN Office, Lucknow for information and necessary action.
21. The SE, ASE and all Hd. Clerk, Dealing Clerks in Sec. DRM Office, LKO. They will please personall check up the date of retirement of the staff as given therein and intimate any error which might come to their notice.
22. ACS/LKO. He will kindly arrange to clear all outstanding Comml. debits of the staff concerned w in time.



*Mustaul*

Incharge of various groups in Establishment should note that SRs of the staff concerned in S&PF system should be sent to the Sr. DAO/LKO for verification one year in advance to the date of retirement. the pensionable staff should be handed over to the (Settlement) immediately as the action in all such is to be taken up fifteen months in advance, pension optee, have been distinguished in the retirement l

on the basis of information furnished by the dealing clerks which should be checked again.

It is once again emphasised that senior subordinates concerned must spare the retiring staff on their due date of retirement even in absence of relief, failing which they will render themselves liable to disciplinary action. All Subordinates should also note that in future, gratuity (SC to PF) bills of all the staff must bear clear, rolled LTI duly attested on the top of the form G-101 by the subordinate incharge concerned before sending the same to this office for arranging payment. They will also invariably furnish the present home address of the staff retiring. They optee or pensionary optee under clear signature of the competent authority.

Sd/ Illegible  
for Divl. Railway Manager,  
Lucknow.

Note:- All the senior subordinates are required to give wide publicity amongst the retiring staff and also the name of the retiring staff be exhibited on the Notice Board.

....



SHOWING PARTICULARS OF STAFF DUE RETIREMENT IN MAY/82 FOR THE PURPOSE OF PREPARING PREPARATION WORK IN ACCOUNTS OFFICE IN REGARD TO PAYMENT OF PROVIDENT FUND MONEY (REF. BD'S LETTER NO. 512E/1/28/3 DATED 6.9.1952.)

COMMISSIONER P...  
 3/3/82  
 8.4.82

Name	Father's name	Design.	PF L/cs. & Folio No.	Station worked during the pre-ceeding 6 mths.	Date of retirement	Cause of termination	Scale of pay	Rules Governed - i) Scale ii) PF iii) Leave	Pension or GRPF optee.	Remarks.
Shri Sumar	Shri Badal	Porter	51C084	SW-JMU 31.5.82	Retd. under age limit.	RS-CP0	SRPF Optee	"	"	"
" Ram Padernath	" Purni	Gatekeeper	5C6274/3P/35568	PW-I-JMU	"	"	"	"	"	"
" J.L.D. Sinha	" H. Dayal	GA. B.I.	509637/107/190033	SS-IKO	"	CPC	"	"	"	"
" A.S. Singh I	" Bhagwan- dax Singh	" GC	512354	SW-SIN	"	"	"	"	"	"
" Jeeo Raj	" Prithipal Khelasi	5C5112/37028	IOW-CB-IKO	"	"	"	SRPF	"	"	"
" Adarn Lal	" Ganoodin Gangman	507305	PW-I-KKAH	"	"	TLR	Pension Optee	"	"	"
Sgt. Dulariya	D/o Parimal	S/W-11	504021/31183	CH-I-CB-IKO	"	"	SRPF Optee	"	"	"
Shri Wahid Hussain	" Pitr Mohd. S/Bhadgar	"	"	IOW(Line)IKO	"	ES-OER	"	"	"	"
" Darsan Singh	" Teja Singh Welderi	520563/36331P	PW-I-I/IKO	"	"	RS-LR	Pension	"	"	"
" S.K. Awasthi	" S.D. Awasthi	BC	295868	SW-RBL	"	State-RS	"	"	"	"
" Merkenday Lal	" R.S. Lal	UOM(R)	417629	RS-RS	"	IL-R3	"	"	"	"
" S.B. Srivastava	"	AS (Store)	05004494	DRM Office/IKO	"	"	"	"	"	"
" M.S. Paul.	"	SR. Clerk (Elect.)	05103976	"	"	"	SRPF	"	"	"
" B.P. Srivastava	" Hari Shankar AS (Type)	"	1804311	"	"	"	Pension	"	"	"

*Handwritten signature*

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

Writ Petition No. of 1982

Madhu Sudan Paul ..... Petitioner  
Versus  
Union of India & another ..... Opp. Parties

ANNEXURE NO. 7

From

M.S. Paul,  
Senior Clerk,  
Elec. Foreman Office, CB.

Date December 30, 1981

To,

The Divisional Railway Manager,  
Northern Railway,  
Lucknow.

Through the proper channel.

Subject :- INTERVIEW.

Sir,

I humbly beg to state that I submitted several petitions after obtaining High School Certificate for alteration of date of birth as recorded in the School certificate but in spite of my approaches my representations have failed to receive any attention and consideration.

As the date of my superannuation is approaching and the non-disposal of my appeal will put me tremendous loss and this aspect compels me to seek interview to have your good self apprise my stand ~~press~~ personally for redress.

Hope to be favoured with an early interview.

Thanking you.

Yours faithfully,

Sd/- M.S. Paul  
(M.S. Paul)  
Senior Clerk.

COMMISSIONER FO  
\* (M.K. Khosla)  
8.4.84  
3/21)



That after sometime back, subsequent to submission of the school certificate, I was made to appear for promotion examination held then of class IV to class III and declared successful in the test and empanelled for promotion.

That the question of alteration of date of birth previously recorded and that of High School certificate although pressed from my side was however placed by the office before the competent authority for recording his decision and conveyance of the orders.

That I was promoted to class III category and again pressed forward the question of alteration of date of birth, but in action on the part of the office kept me with this vital point at a stand still stage thus suppressing all my claims and requests.

That even now, lately on 12.6.81 I submitted a petition afresh with a photostat copy of certificate for alteration of date of birth followed by a reminder on 12.11.81 which could not receive your kindness's attention due to non-placement of my appeal before you the competent appellate authority and this is how the office has been depriving me of my right of appeal and recorded orders thereon.

Now in the end I would like to request your goodness to please refer rule 145-RI Procedure to be followed where requests for an alteration of the recorded D.C.B. 19.5.24 supported by a copy of School certificate register and transfer certificate is made near the date of retirement and my request for alteration of the date of birth may please be dealt with accordingly, so that I may not be deprived of the benefit of the law and Rules applicable in the instant case.

Thanking you,

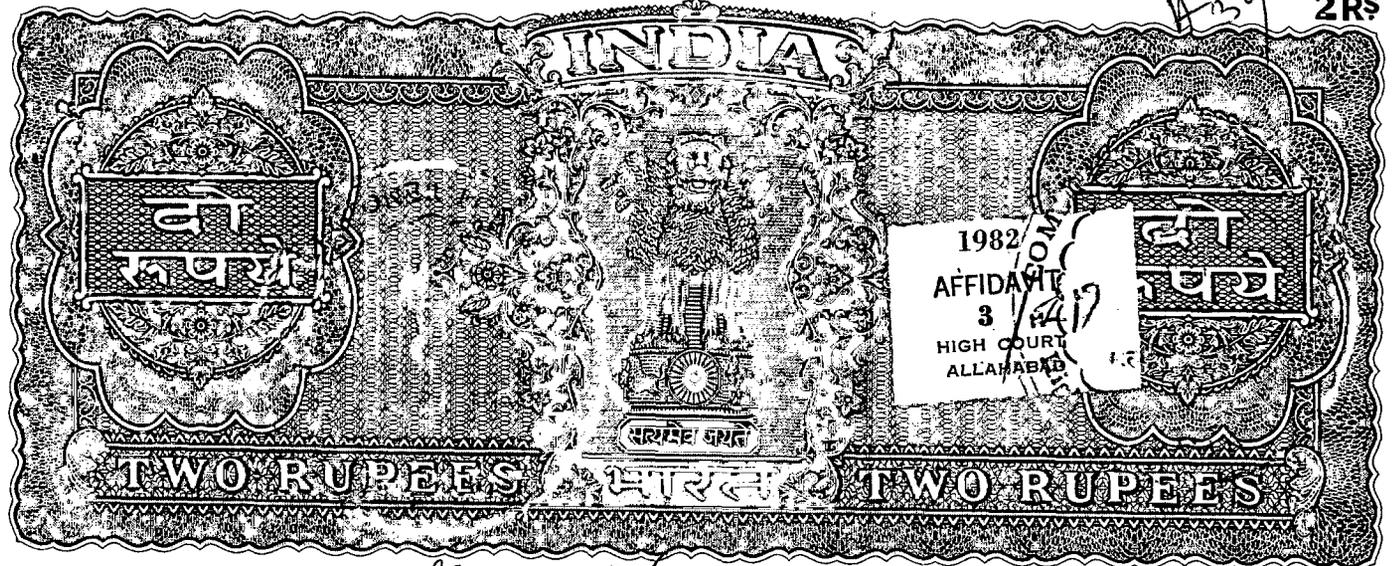
Yours faithfully,

Sd/- M.S. Paul  
(M.S. Paul)  
Senior Clerk.



*M.S. Paul*

*Likhishy*  
OATH COMMISSIONER  
High Court Allahabad.  
Lucknow Bench  
No. 31207  
Date 8.4.82



Affidavit in the High Court of Judicature at  
Allahabad,  
Sitting Bench Lucknow.

Madhu Sudan Pal vs. Union of India & L



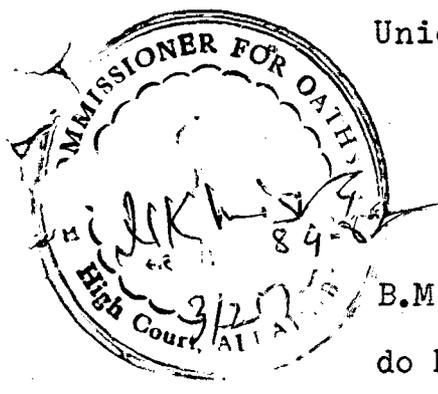
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
SITTING AT LUCKNOW

Affidavit  
In

Writ Petition No. of 1982

Madhu Sudan Paul ..... Petitioner  
Versus  
Union of India & another ..... Opp. Parties

A F F I D A V I T



I, Madhu Sudan Paul, aged 56 years, son of late B.M. Paul, resident of Mohan Niwas, Murli Nagar, Lucknow, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the petitioner in the above writ petition and as such is fully conversant with the facts of the case.
2. That the deponent has read the accompanying writ petition along with the annexures, the contents of which he has fully understood.
3. That the contents of paragraphs 1 to 11 of the writ petition are true to my own knowledge.
4. That Annexures Nos. 1 to 8 to the writ petition

*Handwritten signature*

#41

are the true copies duly compared from their duplicates and originals.

Dated Lucknow:

*Mudgal*  
Deponent.

April 8, 1982.

VERIFICATION

I, the above-named deponent, do verify that the contents of paragraphs 1 to 4 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed. So help me God.

Dated Lucknow:

*Mudgal*  
Deponent.

April 8, 1982.

I identify the above-named deponent who has signed before me.

*A Singh* & *C P. Shukla*  
Advocate.



Solemnly affirmed before me on 8.4.1982

at 12<sup>30</sup> a.m./p.m. by Sri Madhu Sudan Paul

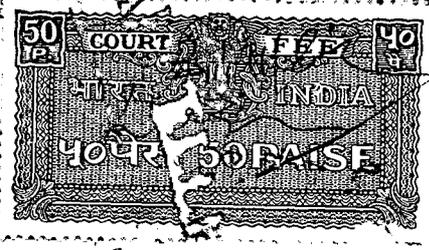
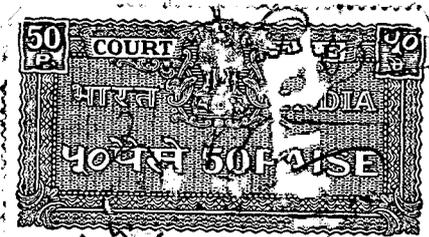
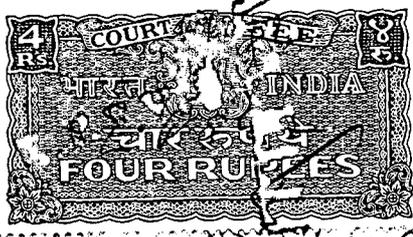
the deponent who is identified by

Sri — *A. Singh* —  
Clerk to Sri *L. P. Shukla*

Advocate, High Court, Allahabad.

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

*Mudgal*  
OATH COMMISSIONER  
High Court, Allahabad.  
Lucknow Bench  
31217  
8.4.82



Court  
Madras  
12/10

ब अट

वादी (मुद्दे)  
प्रतिवादी (मुद्दालेह)

का व

8/8/25  
रुपय

Sri Madhu Suddan Paul

वादी (मुद्दे)

वनाम  
प्रतिवादी (मुद्दालेह)

नं० मुकद्दमा सन् १६ पेशी की ता० १६ ई०  
ऊपर लिखे मुकद्दमा में अपनी ओर से श्री L.P. Shukla

C.700 Mahanagar W एडवोकेट  
महोदय  
वकील

नाम अदालत  
नं० मुकद्दमा  
नाम फरीकैन

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 वियत्ती [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 मैं यह स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने पैरो को मेजता रहूँगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

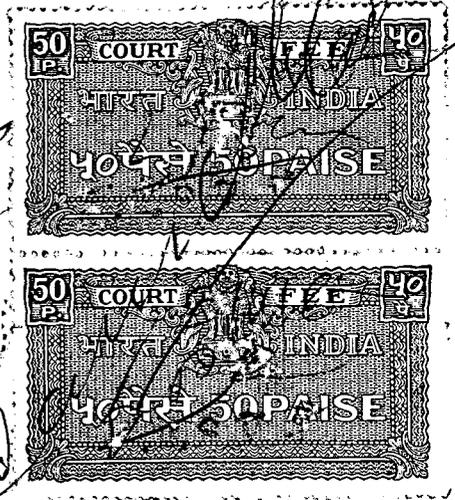
Madhu Suddan Paul

हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

दिनांक 8 महीना 4 १६८ ई०

Accepted  
Vardhina Shukla



3 CF = Rs 5/-  
32  
9/4/82

270

(10)

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

C.M. Application No. 33025(C) of 1982

In

Writ Petition No. 1599 of 1982

Madhu Sudan Paul ..... Petitioner/Applicant

Versus

Union of India & another ..... Opposite Parties

STAY APPLICATION

The applicant most respectfully begs to submit as under :-

1. That for the facts and circumstances stated in the writ petition it is most respectfully prayed that this Hon'ble Court may be pleased to stay the operation of the order of opposite party no.2 dated 31.12.1981 in so far as it relates to the petitioner/applicant seeking to retire him w.e.f. 31.5.1982 as Senior Clerk (Electrical) on the basis of his wrong date of birth.

*L.P. Shukla*

Dated Lucknow:

April 8, 1982.

(L.P. Shukla)  
Advocate,  
Counsel for the Applicant



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

Affidavit

In

Writ petition No. 1599 of 1982

Madhu Sudan Paul

...Petitioner

Versus.

Union of India & another

...Opp. Parties.

A F F I D A V I T

I, Madhu Sudan Paul, aged 56 years, son of Late B.M. Paul, resident of Mohan Niwas, Murli Nagar, Lucknow, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the petitioner in the above Writ petition and as such is fully conversant with the facts deposed to herein.
2. That the deponent's last representation to the Divisional Rly. Manager dated 30.12.1981 handed over to him during personal interview on the same date has been rejected on 6.5.1982 on the ground that the last date of submitting representation was 13.1.1973. A photo Stat copy of the

dated 6.5.1982 is filed as Annexure No. 9 to this affidavit. This order has not been served on the deponent and has been obtained from the office.

3. That the aforesaid order completely ignores the fact that the petitioner has made various representations prior to 13.1.1973. His earlier representation dated 27.6.1955 sent to the Divisional Suptd. Northern Rly Lucknow, has been filed as Annexure No.2 and to the Writ petition. It was sent by registered A/D and was duly received. A photostat copy of the postal receipt alongwith the A/D Card shewing that it was received by the D. S. Office is filed as Annexure No.10 to this affidavit.

4. That the deponent has been promoted as Head Clerk in the grade of Rs. 425-700 (R. S.) on adhoc basis with effect from 25.3.1982 by the notice issued by the Divisional Personnel Officer Lucknow. dated 18.5.1982. A photostat copy of the Notice date 18.5.82 is filed as Annexure No.11 to this affidavit.



Dated, Lucknow

May 31, 1982

*[Signature]*  
Deponent.

VERIFICATION

I, the above named deponent, do hereby verify that the contents of paragraphs 1 to 4 of this affidavit are true to my own knowledge. No part of it

A  
AG

3/11

-3-

is false and nothing material has been concealed.  
So help me God.

Dated, Lucknow,  
May 31, 1982

*[Signature]*  
Deponent.

I identify the above-named deponent  
who has signed before me.

*[Signature]*  
Advocate

*[Circular Stamp]*  
31.5.82

*[Signature]*

Prabhakar Tewari  
OATH COMMISSIONER,  
High Court, Allahabad,  
Lucknow Bench  
S, No. 36258/82  
Date 31/5/82

Solemnly affirmed before me on 31.5.82  
at 2.45 a.m./p.m. by Sri Madhu Sudan Paul  
the deponent who is identified by  
Sri Anandh Singh  
Clerk to Sri K.P. Shukla  
Advocate, High Court, Allahabad, Bench, Lucknow.

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

In The Hon'ble High Court of Judicature at Allahabad  
Sitting at Lucknow

Writ Petitioner No

Madhusudan Paul

HAT 3/8

Petitioner

vs.

Union of India & others

Opp. Parties

Annexure No - 9

Recd. 11/5/82

Recd. 10/01/82

OFFICE OF THE NORTHERN RAILWAY

Divisional Office,  
Lucknow.

No. H/6-3/H200.

Dt/- 6-5-82.

To,  
The SFO/LA/CB/  
Lucknow.

Sub :- Alteration in date of birth.

....

Ref :- Representation of Shri H.S. Paul  
dt/- 30.12.81.

....

The request of Shri H.S. Paul, Sr. Clerk  
under SFO/LA/CB/LKO, for change in date of birth  
has not been accorded to as the last date of subse-  
quon of representation was 31.7.73.

( K. K. Mishra )  
Sd/- Divl. Personnel Officer,  
Lucknow.

31/5/82

In The Hon'ble High Court of Judicature at Allahabad Sitingot Lucknow

Writ Petition No

Madhu Sudan Paul

versus

Union of India & others

Petitioner  
A A  
Opp. Parties

Annexure No - 11

जी.एल. 19/G.L. 19

जनरल 99-बड़ा/Genl. 99-Large

उत्तर रेलवे/NORTHERN RAILWAY

No. 56IE/6-3/Elect.

Divl. Office,  
Lucknow Dt. 18/5/82.

NOTICE.

The following promotions are hereby ordered.

- 1). Shri S.K. Mankerji, Hd. Clerk Gr. B. 425-700 (RS) under E.P.O./TS/AMV, Lucknow is temporarily promoted to officiate as Asstt. Supdt. Grade B. 550-750 (RS) on adhoc basis w.e.f. 25.3.82.
- 2). Shri M.S. Paul, Sr. Clerk Grade B. 330-560 (RS) under SEFO/LA/CB/LKO is temporary promoted to officiate as Hd. clerk in grade B. 425-700 (RS) on adhoc basis vice item 1 above w.e.f. 25.3.82,
- 3). Shri L.B. Nath, Singh Sr. clerk Grade B. 330-560 (RS) under SEFO/LA/CB/LKO is temporarily promoted to officiate as Hd. clerk in grade B. 425-700 (RS) against w/c post and will continue thereafter retirement of Shri Paul w.e.f. 25.3.82.

This has the approval of D.P.O. I.

Sd/-

for Divl. Personnel Officer,  
Lucknow.

Copy to:-

DEE/Lucknow.  
DEFO/LA/CB/Lucknow.  
EFO/TS/AMV/LKO.  
Sr. DCO/Lucknow.  
Supdt./bills.

Attested

20/5/82

20/5/82

20/5/82

Handwritten signature

Deputy Registrar

450

In reply to the query made by Hon Kaul, J. I am to submit as under:-

That on 28.5.82 I was handed over a list of Cases entered on an order sheet (which were unlisted on that day) comprising of about 26 Cases and odd by the Bench Secretary asking me to list those Cases on 31st May 1982 as verbally ordered by his Lordship. Hence the Cases were listed on 31.5.82.

That the said list was pinned to the register of Cases which are to be listed on a particular day but, somehow, it is not traceable at present.

That on the top of the said list by the Bench Secretary it was written "as per verbal direction of his Lordship the following Cases he listed on 31.5.82".

Submitted

2.6.82

A. D. Srivastava  
Asst

Writ Section

DR.

May kindly peruse the above report of Perki Clerk. Somehow the list supplied by the Bench Secretary is not traceable at present ~~in the~~

Submitted

SP

2-6-82  
S.O. (Writ)

In The Hon'ble High Court of Judicature at Allahabad Sitingot Lucknow

Writ Petition No

Madhu Sudan Paul

versus

Union of India & others

Petitioner  
X  
A  
Opp. Parties

Annexure No - 11

जी.एल. 19/G.L. 19

जनरल 99-बड़ा/Genl. 99-Large

उत्तर रेलवे/NORTHERN RAILWAY

No. 561E/6-3/Elect.

Divl. Office,  
Lucknow Dt. 18/5/82.

NOTICE.

The following promotions are hereby ordered.

- 1). Shri S.K. Makerji, Hd. Clerk Gr. Rs. 425-700 (RS) under E.P.O./TS/AMV, Lucknow is temporarily promoted to officiate as Asstt. Supdt. Grade Rs. 550-750 (RS) on adhoc basis w.e.f. 25.3.82.
- 2). Shri M.S. Paul, Sr. Clerk Grade Rs. 330-560 (RS) under SEFO/LA/CB/LKO is temporary promoted to officiate as Hd. clerk in grade Rs. 425-700 (RS) on adhoc basis vice item 1 above w.e.f. 25.3.82,
- 3). Shri L.B. Nath, Singh Sr. clerk Grade Rs. 330-560 (RS) under SEFO/LA/CB/LKO is temporarily promoted to officiate as Hd. clerk in grade Rs. 425-700 (RS) against W/C post and will continue thereafter retirement of Shri Paul w.e.f. 25.3.82.

This has the approval of D.P.O. I.

SD/-

for Divl. Personnel Officer,  
Lucknow.

Copy to :-

DEE/Lucknow.  
DEFO/LA/CB/Lucknow.  
EFO/TS/AMV/LKO.  
Sr. DAO/Lucknow.  
Supdt./bills.

Attested

20/5/82

20/5/82

...

Madhu Sudan Paul

31/5/82

Deputy Registrar -

#50

In reply to the query made by Hon Kaul, J. I am to submit as under:-

That on 28.5.82 I was handed over a list of Cases entered on an order sheet (which were unlisted on that day) comprising of about 26 Cases and odd by the Bench Secretary asking me to list those Cases on 31st May 1982 as verbally ordered by his Lordship. Hence the Cases were listed on 31.5.82.

That the said list was pinned to the register of Cases which are to be listed on a particular day ~~but~~, somehow, it is not traceable at present.

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Submitted

2.6.82

} AP. Srivastava  
Asst  
Writ Section

DR.

May kindly peruse the above report of Perkiel. Somehow the list supplied by the Bench Secreary is not traceable at present ~~which is~~

Submitted

SP

2-6-82

S.O. (Writ)

In The Hon'ble High Court of Judicature ~~at~~ Allahabad  
sitting at Lucknow

A 48 30

Writ Petition No

Madhu Sudan Paul \_\_\_\_\_ Petitioner  
vs.  
Union of India and others \_\_\_\_\_ opp. Parties

Annexure No. 10

No. 55

For Insurance Notices in return  
Stamps affixed except in case of airmail  
letters of not more than the initial weight  
prescribed in the Post and Telegraph Acts  
on which no acknowledgment is due.

Received & registered\*  
addressed to *Asstt. Personal Officer*

Initials of Receiving Officer *[Signature]*

Insured for Rs. (in figures) \_\_\_\_\_ (in words) \_\_\_\_\_

Insurance fee Rs. \_\_\_\_\_ Aa. \_\_\_\_\_ (in words) \_\_\_\_\_

Name and address of sender \_\_\_\_\_

27 JUN 55  
SEEL



Acknowledgment.

(To be returned to office of posting for delivery to sender)

Received & registered\*  
addressed to (name) *Sri, R. D. Gupta*  
*Asstt. Personal Officer*  
*Divl. Supdt. Office*  
*North India Railway*  
*Lucknow.*

Insured for Rs. \_\_\_\_\_  
Weighting (in words) \_\_\_\_\_

Signature of addressee \_\_\_\_\_  
Date of delivery \_\_\_\_\_

11. A. 3-27-55

*Madhu*

Joint Registrar.

A51

On the perusal of the order sheet of this Writ Petition it appears that it was presented on 9.4.1982 and subsequently admitted on 12.4.1982 with the direction that it be finally heard on 11.5.1982 with the stay application. Since 11.5.1982 was a Local Holiday on account of Mahabirji-ka-Mela, the case was listed on 12.5.1982 on which date it was ordered to be listed next week.

On 21.5.1982 it was directed to be listed on 26.5.1982.

On 26.5.1982 although this case was shown at Serial No. 3 for the purposes of admission, but it was not sent by the office to the Court. (Since the case being wrongly listed for admission) The entry with regard this fact was noted on the Cause List. of the Court. Although in view of Court's order it should have been listed for final hearing before the appropriate Bench. Since this was not done as such the learned counsel Sri L.P.Shukla, Advocate made a request to the Hon'ble Bench on 27.5.1982 instead of 26.5.1982 that the file be summoned from the office and be heard today. This request was orally made by the learned counsel and upon which the Court directed verbally that it shall be taken up next day i.e. on 28.5.1982. In view of this order the Bench Secretary informed the office through a slip that the case i.e. Writ Petition No. 1599 of 1982 be sent to this Court for 28.5.1982. After some time similar request was made by Sri Hargur Charan, Advocate for a case at Serial No. 9 of the list dated 26.5.1982, on which the Court was again pleased to order for taking it up tomorrow. The Bench Secretary then pointed out to the Court that for this purpose an application is to be made in writing by both the learned counsel. Since files were not available to the Court on that date. Sri Hargur Charan, Advocate immediately made an application in view of aforesaid order and his case was ordered on that application to be listed for 28.5.1982, but Sri L.P.Shukla, Advocate did not make such application as such no orders in writing could be passed.

On 28.5.1982 the Division Bench consisting of Hon'ble T.S. M. J and Hon'ble Mahavir Singh, J was constituted in Court No. also to receive all Fresh Bench Matters including

listed as well as unlisted cases. On that day Fresh Petition continued till 1.15 P.M. and also at 2.00 P.M. when the Bench again resumed few more Fresh Petition were presented for admission and orders. Upon this some learned Advocates then present in the Court started requesting the court that their cases were most urgent and important as such those cases be heard first. (Since it was last working day before Vacations and the Bench was only available upto 3.15 P.M.). Since it was not possible for the Court to take up all cases in which the request was made by the learned counsel and also the Fresh Petition which were presented at 2.00 P.M., the Bench desired me to sent the Fresh Petitions presented at 2.00 P.M. and one bundle of unlisted cases (which were about 20 cases in number) to Court No. 3 consisting of Hon'ble R.C. Deo Sharma, J and Hon'ble S. Saghir Ahmad, J at once and immediately after this orders the Bench took up some unlisted cases contained in the other bundle. After hearing two or three unlisted cases the Bench started dictating the judgment in Habeas Corpus petition which was heard before this Bench earlier. At about 3.00 P.M. the Hon'ble Bench desired me to sent all the remaining unlisted cases to Court No. 3 at once. Since the cases which were to be sent to Court No. 3 were approximately 40 or 45 in number, it was not at all possible for the Bench Secretary to write down the order on order sheet of each case and then to sent the same to Court No. 3. Besides, when all those cases were ordered to be sent by a general order of the Court in the presence of the learned counsel concerned the Bench Secretary sent those cases accordingly at once without delay to Court No. 3, and without making entries on any of the order sheet of the cases so transferred as per existing practice. I may point out that on several occasions when the cases from one Court are transferred to some other Court the order sheets are never filled in by the Bench Secretaries of the Court transferring such cases.

Under these circumstances stated above:

- (1) the order sheet for 26.5.1982 and 27.5.1982 could be filled because the file in question was not available with the Bench Secretary on those date

(2) on 28.5.1982 since by the said general order of the Court the cases were sent to Court No. 3 at 3.00 P.M. the order sheets remained unfilled.

Submitted.

*Ambika Narain*  
3.6.82

(Ambika Narain)

Bench Secretary Court No.

(1)

3.6.1982.

*Submitted to Hon'ble Sans-Vacation  
Judge*

*Discharge*

*S. A.*

*3/6/82*

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

(u)

C.M. Application No. 6527 of 1985.



29/11/85

Madhu Sudan Paul, aged about 58 years, son of  
Late B.N. Paul, resident of Mohan Niwas, Murli Nagar,  
Lucknow.

7030

--- Applicant/Petitioner.

Versus.

1. Union of India, through the General Manager,  
Northern Railways, Baroda House, New Delhi.
2. Divisional <sup>RAILWAY</sup> Manager, Northern Railways, Hazaratganj,  
Lucknow.

--- Opposite Parties.

In Re :

Writ Petition No. 1599 of 1982.

Madhu Sudan Paul --- Petitioner.

Versus.

Union of India, through the General Manager  
Northern Railways, and ~~another~~.

--- Opposite Parties.

Application for amendment of Writ Petition

No. 1599 of 1982.

contd...p-2,

64

This application of the Petitioner, most respectfully, sheweth : -

- 1- That on April 8, 1982 the Petitioner, above-named filed the above-noted Writ Petition which was admitted on the same day and in view of the urgency of the matter, it was ordered to be listed on ~~May~~<sup>h</sup> 11, 1982 along with Stay Application ( C.M. An.No.3385(w) of 1982 ) after notice to the Opposite Parties requiring them to file Counter Affidavits within two weeks and the Petitioner to file Rejoinder Affidavit within a week, thereafter.
- 2- That the ~~P~~<sup>n</sup>etitioner, through the Writ Petition and the Application for Stay had prayed for quashing the so-called date of retirement on 31-5-1982 as shown in the Departmental List of retirement ( ANNEXURE <sup>h</sup>No. 6 ) prepared on the basis of his wrong date of birth on assumption at the time of his entry into service and not in accordance with the actual date of birth<sup>h</sup> as recorded in the High School Certificate.
- 3- That, in the circumstances that followed, after 11-5-1982, the Writ Petition could not be heard and disposed of and in consequence the Application for Stay without any interim relief having been granted by this Hon'ble High Court, became infructuous after retirement of the Petitioner forced by the Opposite Parties on 31-5-1982.



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5/3

4- That the Opposite Parties No. 1 and 2, inspite of notice of this Writ Petition did not file their Counter Affidavits within the time granted by this Hon'ble High Court ; they, again, did not file the same on 30-8-1982, the date on which it was taken up for hearing and their counsel sought for one month's time to file Counter Affidavit, thereafter, they, again, on 3-9-1982 sought for six weeks' time for the purpose but no Counter Affidavits on their behalf has been filed upto this date.

5- That in view of the subsequent events and forced retirement of the Petitioner, inspite of his protests and in utter disregard and violation of the Departmental Rules, particularly, Rule 2046 (FR-56) of Indian Railway Establishment Code, Volume II applic<sup>^</sup>able in his case, it is expedient and necessary to amend the original Writ Petition in the following terms :

- (i)- After paragraph 11 of the W.P., a fresh Paragraph 11-A, be allowed to be added.
- 11-A. That in any case, the Petitioner is entitled to serve the Railways upto the age of 60 years, by virtue of his first appointment in Class IV post in the service of ex- East India Railways, holding ministerial post on 31-5-1982, the date on which he was forced to retire illegally in violation of the Railway Board's letter No. PC-67/R.T-



A 57  
5/4

- 4 -

-8 dated 22-9-1967 read with Rule 2046 (FR-56) of Indian Railway Establishment Code, volume II, as amended.

A true copy of the Railway Board's letter of 22-9-1967, referred to above, is filed hereto as ANNEXURE No. 9 to this Writ Petition.

(ii) Thereafter, another Paragraph 11-B be allowed to be added.

11-B. That the Petitioner, in the circumstances, is entitled to be called back to duty to serve the Railways upto 20 th. 1985 the date on which the Petitioner shall attain the age of 60 years in accordance with his age, recorded in the High School Certificate and, in the alternative, he is entitled to get his full average pay with all benefit increments and allowances, as if he would have been/continuing in service throughout.



(iii) In Paragraph 12, line 4, the words/after, & figures the word ' finally ' and in line 5 upto ' retired ' be deleted and after 31.5.1982 the following words be allowed to be added. " the date on which the Petitioner was forced to retire illegally ".

(iv) In the Grounds of Writ Petition, the additional ground marked as (G) be allowed to be added.

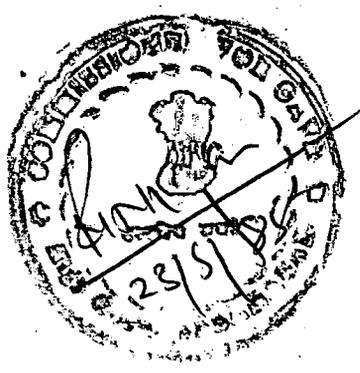
contd...5,

A 56  
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(G) Because the act of the Opposite Parties No.1 and 2 in forcing retirement of the Petitioner, illegally and prior to his attainment of the age of 60 years, that is before 20-12-1985 according to his date of birth recorded in the High School Certificate is without jurisdiction and void.

(v) In the Prayer columns, sub-paragraphs (iv) & (v) be allowed to be numbered as (v) & (vi) respectively and before those, a fresh sub-paragraph (iv) be added :

(iv) issue a writ, direction or order in the nature of mandamus commanding the opposite parties to call back the petitioner to duty to serve the Railways for the remaining period of his service upto 31-12-1985, the date ending for the month of December, 1985 ; 20-12-1985 being the date on which the petitioner shall attain the age of 60 years in accordance with his age recorded in the High School Certificate and pay him the back salary ; and in the alternative to pay him full average pay with all benefits, increments and allowances, as if he would have been continuing in service throughout.

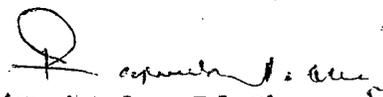


A 39

5/6

P r a y e r.

It is, therefore, humbly prayed that this Hon'ble Court may be pleased to order that the Petitioner's amendment application be allowed in its terms and that the consequential amendments thereof be incorporation in the original Writ Petition for the ends of justice.



(Rajendra Pd. Sharma); Advocate

Lucknow : Dated May 23, 1985.

Counsel for the  
Petitioner/Applicant.

160  
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7

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

LUCKNOW BENCH, LUCKNOW.

Writ Petition No. 1599 of 1982.

Madhu Sudan Paul - - Vs. - - Petitioner.  
Union of India, through the G.M., N.R. - Opp. Parties.

ANNEXURE No. 9

Circular No. 831-E/169/2/II(E-iv) dated 22-11-1967.

Sub.- Amendment to Rule 2046(FR-56) of Indian Railway Establishment Code, Volume II - clarification regarding -

A copy of Railway Board's letter No. PC-67/RT-8 dated 22-9-1967 is forwarded for information and guidance.



(1) ...

(2) ...

(3) ...

(4) Whether ex-Company staff, i.e., Ex-R.I. Railway Co./ A B Railway Co./ B D Railway Co./ N. Railway Co. etc. staff taken over by Indian Government Railways opted and to be governed by Indian Government Railway Rules, now holding ministerial posts may go upto 60 years of age subject to their fulfilling the conditions laid down in rule 2046 (b)-R-II.

The Board desire to clarify the position on the above points seriated as under :

(1) ...

(2) ...

(3) ...

(4) Yea.

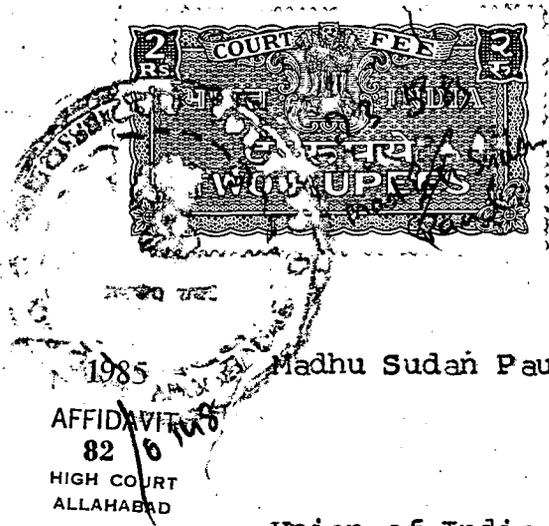
*P. N. Vigam*  
Advocate Oath Commissioner  
Allahabad High Court  
Lucknow Bench Lucknow

82/15148 Date 23/5/85 Lucknow : Dated May 23, 1985.

*[Signature]*  
Deponent

# 70  
5/4

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



A f f i d a v i t  
in Writ Petition No. 1599 of 1982.

Madhu Sudan Paul - - - Petitioner.

Versus.

Union of India, through the General Manager  
Northern Railways, and another - - - Opposite Parties.

AFFIDAVIT.

in support of application for  
amendment to the Writ Petition.

I, Madhu Sudan Paul, aged about 58 years, son of  
Late B.N. Paul, resident of Mohan Niwas, Murli Nagar,  
Lucknow, do hereby solemnly affirm and state as under:



- 1- That the deponent is the Petitioner in the above noted Writ Petition and the applicant hereto and therefore, he is fully conversant with the facts of the case and as stated hereafter.
- 2- That the deponent has read the contents of the amendment application and the ANNEXURE No.9 the contents of which he has fully understood.
- 3- That the contents of paragraphs 1 to 5-(1) to (v) are true to my own knowledge.

*Madhu*

H 71  
5/9

4- That annexure No.9 hereto is the true copy  
duly compared with its original.

Lucknow : Dated May 23, 1985.

*Madhu Paul*  
Deponent.

Verification.

I, Madhu Sudan Paul, the deponent, do hereby  
verify that the contents of paragraphs 1 to 4 of  
this affidavit are true to my own knowledge.

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

*Madhu Paul*  
Deponent,

Lucknow Dated May 23, 1985.

I identify the deponent who has  
signed before me,

*Rajendra Pd. Sharma*  
(Rajendra Pd. Sharma) Esq.  
Advocate.

Solemnly affirmed before me on 23.5.85  
at 2.35 A.M./P.M. by Sri Madhu Sudan Paul  
the deponent who is identified by  
Sri Rajendra Pd. Sharma Advocate  
clerk to Sri  
Advocate High Court, Allahabad.

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

*P. N. Nigam*  
Advocate Oath Commissioner  
Allahabad High Court  
Lucknow Bench Lucknow

No. 8... Date ... 23/5/85



442

6

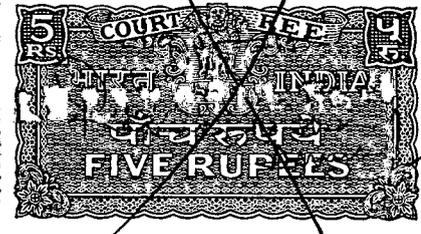
व्य अदालत श्रीमान् *Hon'ble High Court of Judicature*  
[ वादी ] वपीनान्द *at Madras, Madras Bench*  
प्रतिवादी [ रेंस्पाडेन्ट ] *वकीलतनामा*

*Mr. M. Ashu Sudan Pat*

839

टिकट

वाद



*Union of India & others*

नं० मुकद्दमा *W.P. 1598* बनाम प्रतिवादी (रेंस्पाडेन्ट)  
सन् *1902* पेशी की ता० *14* ई०  
ऊपर लिखे मुकद्दमा में अपनी ओर से श्री *Rajwara Prasad Shama*

*101* *Nagar Baplu Madras* *वकील*  
*महोदय*  
*एडवोकेट*

नाम अदालत  
मुकद्दमा नं०  
नाम करीबन

को अपना वकील नियुक्त करके प्रतिज्ञा ( इकरार ) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देही व प्रश्नोंत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल बावा तथा अपील निगरानी हमारी ओर से हमारी वा अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हारी विपक्षी (फरोकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जात्रा है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर *Sudan*

साक्षी (गवाह) \_\_\_\_\_ साक्षी (गवाह) \_\_\_\_\_

दिनांक *29-3-05* महीना \_\_\_\_\_ सन् *1905* ई०

स्वीकृत

*Handwritten signature*

*Handwritten signature*

*Accepted*  
*Rajwara Prasad Shama*  
*Advocate*  
*29-3-05*

A 1132

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

C.M. Application No. 10,562(u) of 1985

Union of India & another .. Applicants.

In re:

Writ Petition No.1599 of 1982

Madhusudan Paul .. Petitioner

Versus

Union of India & another .. Opp. parties.

11934



1 CF = Rs. 5/-  
380  
16/9/85

Application for condonation of delay.

The applicant, above named, most respectfully submits as under:-

That in the above noted case verification of record had to be done from different places which took sufficient time as such delay in filing the counter affidavit also occurred which was unavoidable.

Wherefore, it is prayed that the delay in filing the counter affidavit may please be condoned and the counter affidavit may be taken on record.

Lucknow:

Dated: Sept. 6 1985

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

C.S.  
Present  
16/9/85  
16/9/85

A 14

*Handwritten initials/signature*

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

Counter Affidavit  
In

Writ Petition No.1599 of 1982

Madhusudan Paul .. Petitioner

Versus

Union of India & .. opp.parties.

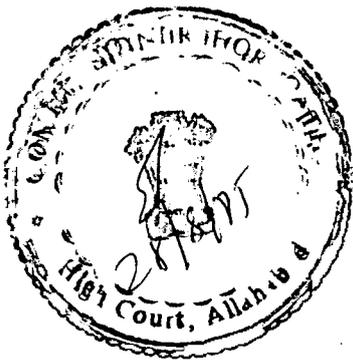


Counter affidavit on behalf  
of opposite parties.

I, *S.H. Jeychandani* aged about *56* years,  
son of *Sri Ansonal* working as Assistant  
Personnel Officer in the Office of Divisional Railway  
Manager, Northern Railway Hazratganj, Lucknow do  
hereby solemnly affirm and state on oath as under:-

1. That the deponent is working as Assistant  
Personnel Officer in the office of Divisional Railway  
Manager, Northern Railway, Hazratganj, Lucknow as  
such is fully conversant with the facts of the case.

2. That the deponent has read the writ petition,  
understood its contents and has been authorised by  
the opposite parties to file this counter affidavit  
on their behalf.



*Handwritten signature*

47523

3. That the contents of para 1 of the writ petition are admitted to the extent that the petitioner was appointed as Cleaner on 19.5.48 and is working as Senior Clerk.

4. That the averments made in para 2 of the writ petition are not admitted as this is incorrect to say that the dealing clerk concerned had assessed the age of 24 years of the petitioner at his own accord. The age of the petitioner as 24 years was certified by the IMO/E.I.Railway, Lucknow on 17.5.48. In case of staff who passed Matriculation certificates etc. after entering railway service, such certificates are not be taken as basis for revision of the recorded date of birth.

5. That the averments made in para 3 of the writ petition are not admitted. The petitioner has been promoted as Trains Clerk w.e.f. 20.12.1954 against quota reserved for promotion of class IV staff to class III and in which passing of High School is not required.

6. That the averments made in paras 4 and 5 of the writ petition are not admitted as after a gap of 23 years, it is not possible to search out the record of 1955. Further the question of changing the date of birth as 20.12.1925 on the basis of High School Certificate does not arise, in view of remarks given in para 4 of this counter affidavit.

7. That in reply to the averments made in para



Enclosed

A 76  
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4

6 of the writ petition only this much is admitted that the seniority list of Clerks as on 31.7.1975 was circulated under this office letter No. 247-E/6-3(EIC) dated 27.3.1975 and not in November, 1975 as mentioned by the petitioner in which it was already mentioned that if any of the employee had any objection or representation against fixation of seniority he may represent within 30 days and after that no representation is to be entertained and the seniority list shall be treated as final. The representation dated 16.10.1975 Annexure-4 to the writ petition has not been received in this office and also after a lapse of 30 days the petitioner's representation has got no weightage. Further the issue of seniority list is for the purpose of promotion and not for any attestation of service particulars viz. date of birth etc.

8. That the averments made in para 7 of the writ petition are admitted to the extent that the retirement list was announced on the basis of date of birth recorded in service record and rest of the contents of the para under reply are denied.

9. That in reply to the averments made in para 8 of the writ petition it is stated that the representation of the petitioner dated 12.6.1981 was in process. The retirement list of 1982 of all the staff on the Division due retirement has to be issued to facilitate payment of settlement dues.



*[Handwritten signature]*

A 78  
2/5

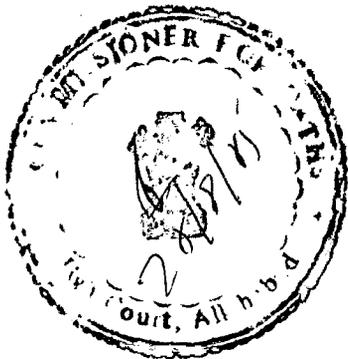
10. That the averments made in para 9 of the writ petition are admitted to the extent that Railway Board had issued circulars from time to time with regard to correction of date of birth. The same are annexed as Annexure B-1 and B-2 to this counter affidavit. Representation of the petitioner with regard to correction of date of birth was duly considered by the administration and the reply furnished with reasons is annexed at Annexure B-3 to this counter affidavit. It may be mentioned here that the first representation of the petitioner is dated 4.5.1982 vide Annexure-1 to the writ petition i.e. it was submitted one month before his retirement. Having made no representation prior to 31.7.1973 as provided in Railway Board's circulars the petitioner was advised accordingly. Thus the petitioner had no case for alternation of his date of birth as claimed.

Annexure B-1  
Annexure B-2

Annexure B-3

11. That the averments made in para 10 of the writ petition are not admitted. No representation for change in date of birth is to be entertainable after 31.7.73 as laid down in Printed Serial No.5719.

12. That in reply to the averments made in para 11 of the writ petition it is stated that the petitioner was allowed the special pay of Rs.35/- w.e.f. 1.10.1980 and he was promoted as Head Clerk in grade Rs.425-700(RS) vide this office letter No.561-E/6-3/Elect.dated 18.5.1982.



Enca

A-18  
7/6

13. That in reply to the averments made in para 12 of the writ petition it is stated that the petitioner is not entitled to the reliefs claimed.

Lucknow:

*[Signature]*  
Deponent

Dated: August 28, 1985

Verification

I, the above named deponent do hereby verify that the contents of paras 1 and 2 are true to my personal knowledge, those are paras 3 to 12 are based on records hence are believed by me to be true, and that of para 13 are based on legal advice. No part of it is false and nothing material has been concealed in it so help me God.

Lucknow:

*[Signature]*  
Deponent

Dated: Aug 28, 1985  
6/9



I identify the deponent who has signed before me.

*C.A. Basir*  
Advocate.

Solemnly affirmed before me on 28/8/85 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.

*[Signature]*  
OATH COMMISSIONER  
High Court, Allahabad,  
(Lucknow Bench)

No. 1/1003

Date 28/8/85

A M J

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

Writ Petition No.1599 of 1982

Madhusudan Paul .. Petitioner

Versus

Union of India & another .. Opp. parties.

Annexure No.B-1

Northern Railway HQrs. Office, No.93-E/Opt.II(Eiv)  
Baroda House, Dt. 5.1.1972.  
New Delhi. Serial No.5511

Copy of letter No.E(NG)II700BR/1. dated 3.12.71 from Joint  
Director Estt. Railway Board, New Delhi to the General  
Managers, All Indian CLW, DLW, ICDF, and others etc.etc.

\*\*\*\*\*

Sub: Procedure for recording date of birth on entering  
Railway Service and its alteration.

.....

Rule 145-RI lays down that every person, on  
entering Railway Service, should declare his date of birth  
which shall not differ from any declaration, expressed or  
implied, for any public purpose before entering Railway  
Service. The rule is not specific on the point whether  
the mere declaration given by the person should be accep-  
ted or it should be accepted only on production of a conf-  
irmatory documentary evidence. The Rule is also silent  
as to what confirmatory documentary evidence should be  
accepted for this purpose. As regards alteration of  
recorded date of birth, Rule 145(3)(iii) RI lays down  
that where a satisfactory explanation(which should  
ordinarily be submitted within a reasonable time after  
joining service)of the circumstances in which the wrong  
date came to be entered is furnished by the Railway ser-  
vant concerned together with the statement of any pre-



Done &

A 80

Vy

attempt made to have the record amended, it is open to the competent authority to affect an alternation. No time limit has been given for alteration.

2. The Board have revised the existing provisions of Rule 145 RI in the light of experience and have decided as under:-

(i) WHEN A CANDIDATE IS ABLE TO STATE HIS AGE.

(a) When a candidate declares his date of birth in accordance with paragraph 145-RI, he should be asked to produce confirmatory documentary evidence such as Matriculation Certificate or a Municipal Birth Certificate. If he is not able to produce such an evidence he should be asked to produce any other authenticated documentary evidence to the satisfaction of the appointing authority. Such authenticated documentary evidence could be the School Leaving Certificate, a Baptismal certificate in original or some other reliable document, However, horoscope should not be accepted as an evidence in support of the declaration of age;

(b) When a candidate is not able to produce a confirmatory documentary evidence or any other authenticated proof to the satisfaction of the appointing authority in accordance with above, he should be asked to produce an affidavit in support of the declaration of his age;

(c) In the case of Class IV employees care should be taken to see that the date of birth as declared on entering regular class IV service is not different from the declaration expressed or implied, given earlier at the time of employment as a Casual labour or as a subst

(ii) WHEN A CANDIDATE IS NOT ABLE TO STATE HIS AGE

Rule 145(2) (c) provides that when a person



*[Handwritten signature]*

A 8/2/79

unable to state his age it should be assessed by a Railway Medical Officer and the age so assessed entered in his record of service. The Board have now decided that this provision need not be retained and a person who is not able to declare his age, should not be appointed to Railway Service.

(iii) PERIOD FOR ALTERATION OF RECORDED DATE OF BIRTH

lays  
Rule 145(3)(iii) Railways/down that where a satisfactory explanation(which should ordinarily be submitted within a reasonable time after joining service) is submitted it is open to competent authority to alter recorded date of birth. The Board have had under consideration the period of time that should normally be accepted as a reasonable time for the purpose of Rule 145(3)(iii)-RI. They have decided that no alteration in date of birth should be allowed after completion of the probation period or three years service, whichever is earlier.

3. In view of the above decisions, the President in exercise of the powers conferred on him by the proviso to article 309 of the Constitution hereby directs that Rule 145 RI of the Indian Railway Establishment Code Volume I (Revised Edition) shall be amended as in the enclosed advance correction slips No.302 and No.303-RI.

4. Receipt of this letter may please be acknowledged.

.....

Copy of letter No.93-E/O-Pt.II(EIV) dated 5.1.72 from General Manager(P), Northern Railway, Headquarters Office, Baroda House, New Delhi to all Divisional Supdt.N.Rly. and copy to others.

Serial No.5511

Sub: Procedure for recording date of birth on entering Railway Service and its alteration.

.....



Signature

A 82  
7/50

A copy of Railway Board's letter No.E(NG) 1170'BR/1 dated 3.12.1971 is forwarded for information and guidance.

Please acknowledge receipt.

DA/As above.

.....

.....

Indian Railway-Establishment Code Volume-I(Revised Edition).

CORRECTION SLIP NO.302 RI.

Rule 145-RI

Delete clause(e) of sub-Rule(2) of this Rule.

(Railway Board's letter No.E(NG)II70BR/1

dated 3.12.71.

....

Indian Railway Establishment Code Volume I(Revised Edition )

ADVANCE CORRECTION SLIP NO.303 RI.

Rule 145-RI.

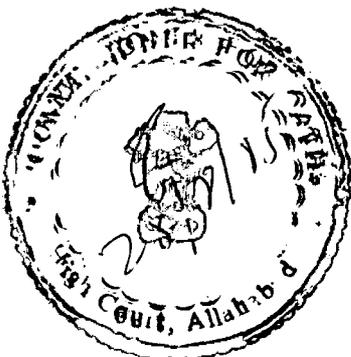
The following may be substituted for the existing bracketted provision occuring in clause(iii) of sub-rule (3) of this Rule.

"( Which should not be entertained after completion of the probation period or three years' service, whichever is earlier).

(Railway Board's letter No.E(NG)1170-BR/1 dated 3.12.71 ).

\*\*\*\*\*

.....



Signature

A 837

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

Writ Petition No. 1599 of 1982

Madhusudan Paul .. Petitioner

Versus

Union of India & others .. Opp. parties.

Annexure 9-2

Serial No.5719-Circular No.932/0-RI(EIV),dt.23.9.72

Sub:- Procedure for recording date of birth on entering Railway Service and its alteration.

.....

A copy of Railway Board's letter No.E(NG)II-70BR/1 dated 4.3.72 is forwarded for information and guidance. Railway Board's letter No.E(NG)-II-70BR/1,dated 3.12.71 referred to therein was circulated vide this office letter of even number dated 5.1.72(P.S. 5511). It may please be ensured that wide publicity is given to these orders amongst the staff through various publicity media to enable aggrieved staff to ask for rectification of any mistake in their recorded date of birth upto 31.7.73 as no second opportunity for this purpose will be given to them after 31.7.73.

Copy of letter No.E(NG)II70BR/1,dated 4.3.1972 from Dwarika Dass, Assistant Director, Estt.Railway Board to the General Managers, All Indian Railways and etc.etc.

Sub: Procedure for recording date of birth on entering Railway Service and its alteration.

.....

1. Attention is invited to advance correction slip



Signature

84  
7/12

No.303 to the Indian Railway Establishment Code Volume I forwarded with Railway Board's letter of even number dated 3.12.1971 which requires that requests for alteration of date of birth should not be entertained after completion of the probation period or three years service whichever is earlier.

2. It has been represented that the above amendment would cause hardship to the railway servants who were already in employment on 3.12.1971 and who did not take advantage of the provision of the rule regarding alteration of date of birth as it stood before the above amendment.

3. The Board have considered the matter and have decided that such employees may be given an opportunity to represent against their recorded date of birth upto 31.7.1973. Such requests should be examined in terms of the rule as they stood before the amendment.

4. The Board desire that vide publicity should be given to these orders through railway gazettes to enable aggrieved staff to ask for rectification of any mistake in their recorded date of birth. No second opportunity will be given after 31.7.1973 and all requests for alteration of date of birth thereafter should be disposed off strictly in accordance with the amendment referred to above.

\*\*\*\*\*

Serial No.5719-Circular No.93E/o-RI(EIV) dt.23.8.72.

Sub:- Procedure for recording date of birth on entering Railway Service and its alteration.

.....

A copy of Railway Board's letter No.E(NG)II-70BR/



for and

A 857/13

1, dated 4.8.1972 is forwarded for information and guidance. Railway Board's letter No.E(NG)-II-70BR/1, dated 3.12.1971 referred to therein was circulated vide this office letter of even number dated 5.1.1972(P.S. 5511 ). It may please be ensured that wide publicity is given to these orders amongst the staff through various publicity media to enable aggrieved staff to ask for rectification of any mistake in their recorded date of birth upto 31.7.73 as no second opportunity for this purpose will be given to them after 31.7.73.

Copy of letter No.E(NG)II70BR/1,dated 4.8.1972 from Dwarka Dass, Assistant Director, Estt., Railway Board to the General Managers, All Indian Railways and etc.etc.

.....

Sub:- Procedure for recording date of birth on entering Railway Service & its alteration.

1. Attention is invited to advance correction slip No.303 to the Indian Railway Establishment Code Volume I forwarded with Railway Boards's letter of even number dated 3.12.1971 which requires that requests for alteration of date of birth should not be entertained after completion of the probation period or three years service whichever is earlier.

2. It has been represented that the above amendment would cause hardship to the railway servants who were already in employment on 3.12.1971 and who did not take advantage of the provision of the rule regarding alteration of the date of birth as it stood before the above amendment.

3. The Board have considered the matter and have



*[Handwritten signature]*

A 869 / 14

decided that such employees may be given an opportunity to represent against their recorded date of birth upto 31.7.1973. Such requests should be examined in terms of the rule as they stood before the amendment.

4. The Board desire that vide publicity should be given to these orders through railway gazettes to enable aggrieved staff to ask for rectification of any mistake in their recorded date of birth. No second opportunity will be given after 31.7.1973 and all requests for alteration of date of birth thereafter should be disposed off strictly in accordance with the amendment referred to above.

\*\*\*\*\*

*[Handwritten signature]*



AGH

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

Writ Petition No.1599 of 1982

7/15

Madhusudan Paul .. Petitioner

Versus

Union of India & another .. Opp.parties.

Annexure B-3

NORTHERN RAILWAY

Divisional Office  
Lucknow.

No.E/6-3/Misc.

Dated 6.5.1982.

The SEFO/LA/CB  
Lucknow.

Sub: Alteration in date of birth

Ref:- Representation of Shri M.S.Paul dt/30.12.81

The request of Shri M.S.Paul, Sr.Clerk under SEFO/LA/CB/LKO, for change in date of birth has not been accorded to as the last date of submission of representation was 31.7.73.

Sd/-  
(K.K.Mehta ),  
for Divl.Personnel Officer,  
Lucknow.



*[Handwritten signature]*

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

ASG

Writ Petition No.1599 of 1982

Madhusudan Paul .. Petitioner

Versus

Union of India & another .. Opp. parties.

Annexure D-3

NORTHERN RAILWAY

Divisional Office  
Lucknow.

No.E/6-3/Misc.

Dated 6.5.1982.

The SEFO/LA/CO  
Lucknow.

Sub: Alteration in date of birth

Ref:- Representation of Shri M.S.Paul dt/30.12.81

The request of Shri M.S.Paul, Sr.Clerk under SEFO/LA/CO/LKO, for change in date of birth has not be accorded to as the last date of submission of representation was 31.7.73.

Sd/-  
(K.K.Mahta ),  
for Divl. Personnel Officer,  
Lucknow.

Filed to  
msb  
vls

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

LUCKNOW BENCH LUCKNOW

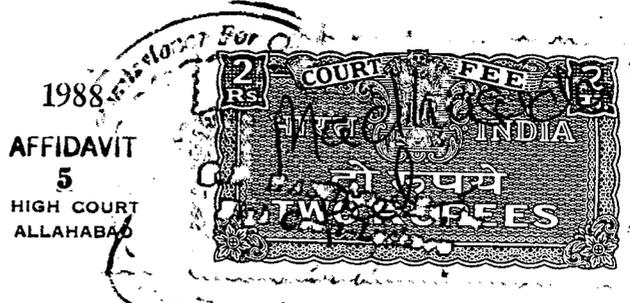
AS9

C.M. APPLICATION NO.

OF 1988

IN RE. 1039/87 (T)

WRIT PETITION NO. 1599 OF 1982



19-9-88

Madhusudan Paul

....

Petitioner

Versus

Union of India & another

....

Opp. Party

Rejoinder affidavit on behalf of the petitioner

I, Madhusudan Paul aged about 63 years son of  
B.N. Paul resident of Mohan Niwas Murli Nagar, Lucknow the  
deponent do hereby solemnly affirm and state on oath as

19-9-88

under :-

1. That the deponent is the petitioner himself and  
as such he fully conversant with the facts and  
circumstances of the case deposed herein as u
2. That the contents of para 1, 2 and 3 of the co  
affidavit needs no comments.

*Handwritten signature*

A90

3. That the averments made in para 4 of the counter affidavit are denied and it is added that the petitioner was illeterate and clerk recorded his date of birth on his own rough estimate in absence of any witness required by the rules. If the date of birth in <sup>Matriculation</sup> ~~Matriculation~~ certificate is proved to be correct it is immaterial that the petitioner passed matriculation ~~in~~ during service. It may be added.

4. That by subtracting 24 from the date of appointment the date of birth was fixed which is clearly incorrect, and the petitioner can prove correct date of birth by cogent evidence.

5. That as regards para 5 of the counter affidavit the annexure No.1 dated 5 Nov 1954 shows that application were invited from matriculate Class IV Staff.



1954 28

5. That averments made in para 6 & 7 of counter affidavit are reiterated. The papers are supposed to be in possession of respondents and they could search out and file the same, difficult in searching is no excuse. As already stated there is no legal bar in proving the date of birth by filing the matriculation certificate.

Mishra

6. That para 8 of the counter affidavit needs no comments.
7. That as regards para 9 of the counter affidavit averments made are reiterated.
8. That as regards para 10 of counter affidavit it is incorrect to say that no representation was made before 31.7.73 the petitioner's representation cannot be rejected merely on the ground that it was made beyond the period fixed by the passed in 1973 if there is cogent evidence to prove that date of birth is incorrectly recorded.
9. That as regards averment made in para 11 of counter affidavit are denied. The petitioner can prove even after 1973 by cogent evidence that date of birth ~~is~~ recorded is incorrect.
10. That para 12 of counter affidavit needs no comments.
11. That as regards para 13 of the counter affidavit ~~it~~ is wrong to assert that the petitioner is not entitled to relief claimed.
12. That it may be added that at any stage before his retirement a Government servant can get his date of birth corrected if he proves by

M. S. D.

A 92 ✓

cogent evidence that the date of birth has been incorrectly recorded and the it should therefore be corrected by putting the correct date of birth which has been proved by cogent evidence. As already stated the figure of 24 years was arrived at on rough calculation and it was subtracted from the date of appointment and the age ~~80~~ calculated was recorded. So there is no doubt that recorded date of birth is incorrect. The petitioners can prove correct date of birth by cogent evidence without any bar of limitation. In any case according to the rules and the Court's instruction the petitioners should have been made to retire at the age of 60 years and on this ~~ground~~<sup>score</sup> he is entitled to all consequential reliefs.

*[Signature]*

Deponent

Lucknow:Dated:  
Sept 19 ,1988

Verification

I, the above named deponent do hereby verify that the contents of paras 1 to 12 of this affidavit are true to my knowledge. Nothing is false and nothing material has been concealed so help me God.

*[Circular stamp]*  
*[Signature]*  
19-9-88

*[Signature]*

Deponent

Lucknow:Dated  
Sept 19 ,1988

I identify the deponent who signed before me.

*[Signature]*

Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE TA 1043 OF 1987

NAME OF THE PARTIES R. A. Agarwal

Applicant

Versus

V.O.I

Respondent

Part A, B & C

Sl. No.	Description of documents	Page
1	High Court order sheet	1 ✓
2	CAT order sheet	2 to 3 ✓
3	B. Index	4 ✓
4	Petition	5 to 22 ✓
5	Affidavit	23 to 25 ✓
6	Vakalatnamo	26 ✓
7	App for I.R. CM No. 46521	27 to 28 ✓
8	CA/RA	29 to 36 ✓
9	Judgement <u>27-6-90</u>	37 to 40 ✓
10		
11		
12		
13		

CERTIFICATE

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

Checked  
Dated 12-4-12

File B/C destroyed on 09-5-12.

Counter Signed.....

Section Officer / In charge

Signature of the  
Dealing Assistant



(A)  
2

Serial Number of the order entered	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
21/12/89	<p>Hon' Mr. Justice Kamleshwar Nath, V.C.  <u>Hon' Mr. K. Obayya, A.M.</u></p> <p>None appears for the applicant.  Issue fresh notice to the applicant (by name) as well as his counsel.  Shri Arjun Bhargava appears on behalf of Opposite parties. Opposite parties are directed to file counter within four weeks to which the applicant may file rejoinder within two weeks thereafter and list this case for <u>orders on 2/2/90.</u></p> <p><i>[Signature]</i> A.M.</p> <p><i>[Signature]</i> V.C.</p> <p>(sns)</p>	<p>OR  Case has been recd. from CAT, Andhra on 19/12/89.</p> <p>Case is admitted &amp; stay is also granted.</p> <p>CA/RA has not filed Date was fixed from CHT, Andhra.</p> <p>Submitted for order</p> <p>20/12</p> <p>OR  not registered</p> <p>10/1/90</p>
2/2/90	<p>Hon. Justice K. Nath, V.C.  <u>Hon. K. J. Ramani, A.M.</u></p> <p>Applicant has filed an application for amendment of the application. Sri Arjun Bhargava appearing on behalf of the opposite parties requests for and is allowed three weeks time to file reply and list for orders on 2/4/90.</p> <p><i>[Signature]</i> A.M.</p> <p><i>[Signature]</i> V.C.</p>	<p>OR  Notices were issued on 12/1/90.</p> <p>Neither nor any answer or reply has been received.</p> <p>S. F. order</p> <p>11/2/90</p> <p>OR  No reply filed S. F.</p> <p>20/13</p>

(A/13)

21/5/90

Hon. Mr. Justice B.C. Mathur V.C.,  
Hon. Mr. D.K. Agrawal, J.M.

Shri L.P. Mishra, learned counsel for the applicant & Shri A. Bhargava, learned counsel for the respondents are present. No reply has been filed by the respondents. The learned Counsel for the applicant seriously objects to any more time to be given to the respondents for filing their counter affidavit. As this is a very old case and this Tribunal on 2/4/90 had passed specific order that no further time would be given for filing counter affidavits. The counsel for the ~~applicant~~ <sup>respondents</sup> state that the papers were with the advocate at Allahabad, but he wants time to file counter affidavit on 25/5/90. This may be ~~ptd~~ <sup>ptd</sup> in the court on 25/5/90 at morning and the copy may be give to the counsel for the applicant. It ~~is~~ <sup>is</sup> made clear that no further time will be given and <sup>the</sup> case will be heard on that.

Sd/

D.K. Agrawal  
J.M.

*[Signature]*  
21.5.90  
V.C.

25-5-90.

~~Case not reached  
adjourned to 26.5.90~~

CA filed ~~no~~ <sup>in</sup> ~~presence~~ <sup>presence</sup> of counsel of parties - Dr L.P. Mishra & A. Bhargava, to ~~31.5.90~~ <sup>27.6.90</sup> be permitted. No adjournment shall be permitted. *[Signature]*

Respondent within

B.O.L.

Reply filed today  
25/5/90

CIVIL        SIDE  
 C.F.       

GENERAL INDEX

Sl. 2122-82  
 (Chapter XLI, Rules 2, 9 and 15)

(A/4)

Nature and number of case..... R. A. Agarwal. vs Union Bank  
 Name of paper.....  
 Date of institution..... 10-5-82 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
					Rs.	P.		
	1-	W.P. with Annex. and affidavits	18-	—	102	00		
	2-	Power	1-	—	5	00		
	3-	Contd. 4652/82 for sh	2-	—	—	—		
	4-	memo.	1-	—	—	—		
	5-	Power	1-	—	5	00		
	6-	order sheet	1-	—	—	—		

I have this day of 198 , examined

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

Date.....

Munsarim  
 Clerk

Group A-14(e)

(A/5)

3531

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

Writ Petition No. 2122 of 1982.

R.A. Agarwal

... Petitioner

Versus

Union of India and others

... Opp-parties.

I N D E X

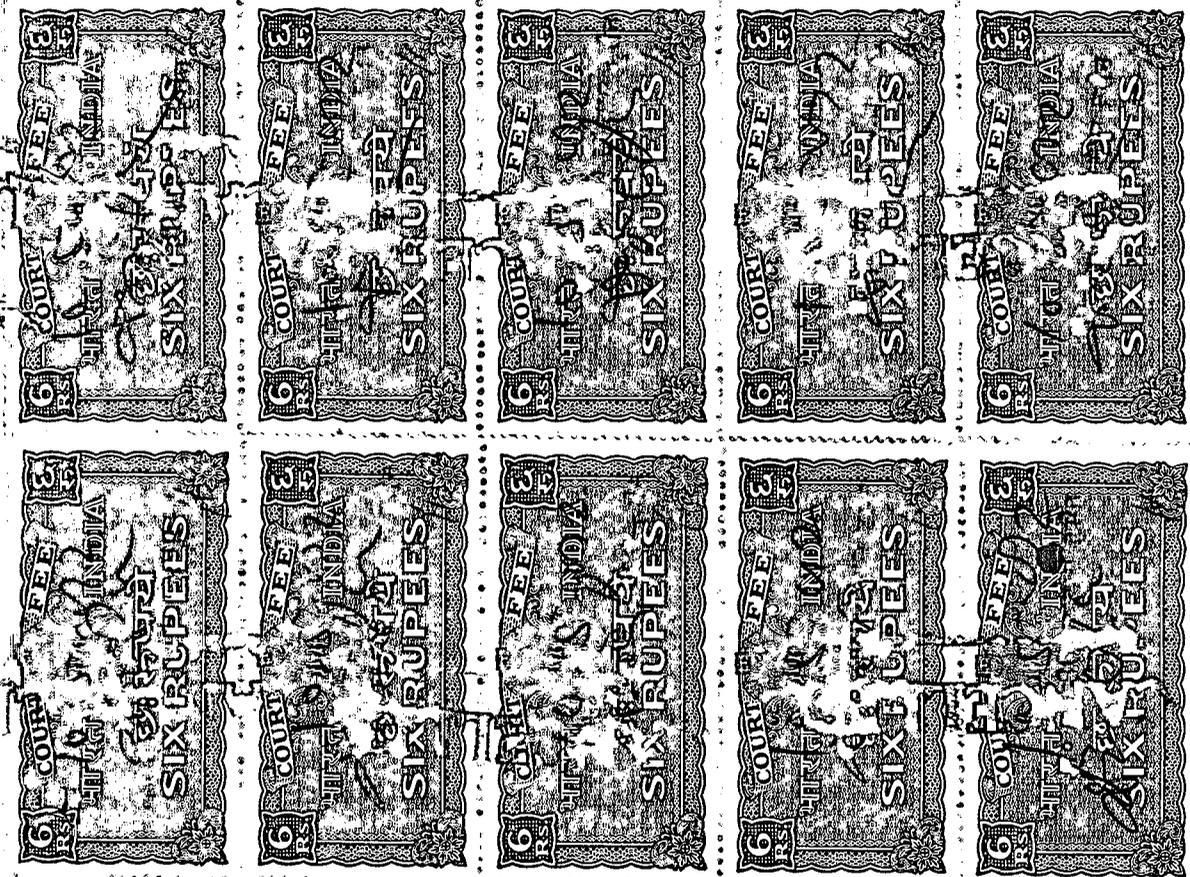
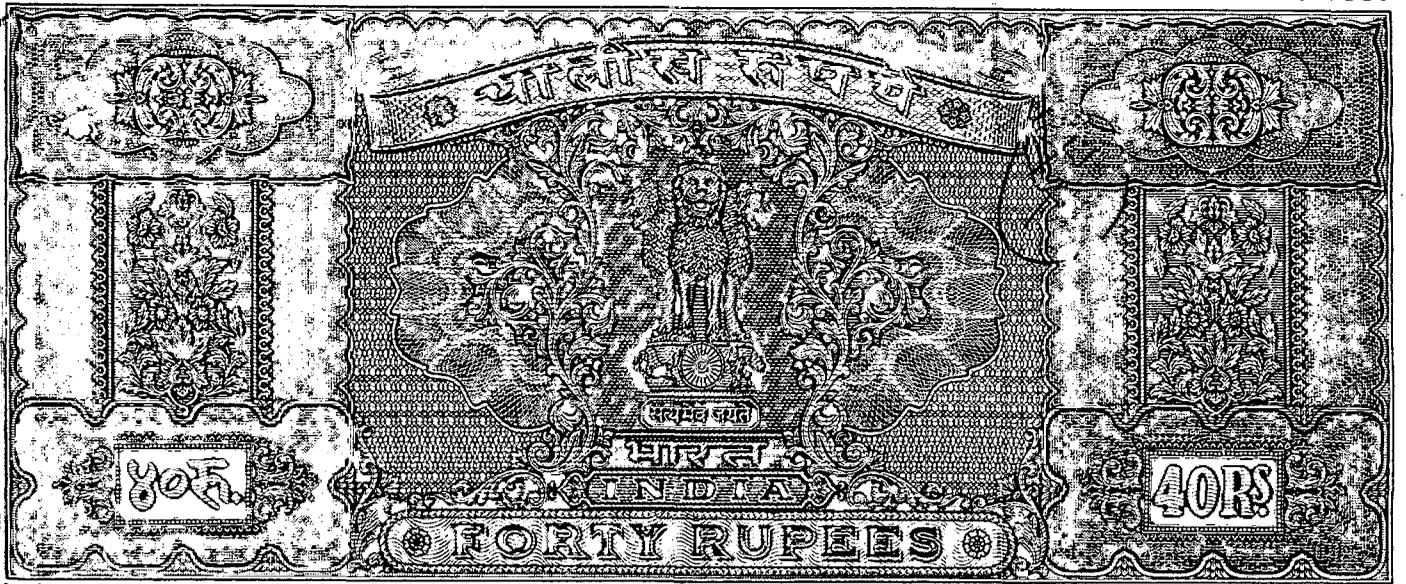
Sl No.	Particulars	Page No.
1.	Writ Petition	.. 1 - 9
2.	Annexure-1 (Order dt. 18.2.78 empanel- ing 8 candidates)	.. 10 - 11
3.	Annexure-2 (Order dt. 7.2.79 cancelling the promotion)	.. 12
4.	Annexure-3 (Order dt. 4th Feb. 1981 promoting the petitioner as T.I.)	.. 13 - 14
5.	Annexure-4 (Order of reversion dated 6.5.82)	.. 15 - 16
6.	Affidavit to the writ petition	.. 17 - 18
7.	Application for interim relief	.. 19 - 20

Dated Lucknow:

May 10, 1982.

(Dr. L.P. Misra)

Counsel for the Petitioner.



In the Honble High Court of Judicature at Allahabad  
 sitting at Lucknow  
 Vol. No. 2/22 of 1982

R. A. Agarwal

bedim

Union of India, Govt.

for Name

(A/5)

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

Writ Petition No. of 1982.

2/22

R.A. Agarwal, aged about 48 years, son of Sri  
K.P. Agarwal, resident of Mithla Bhawan, 30-Shashtri-  
Nagar, Lucknow-4.

... Petitioner

Ver sus

1. Union of India, through Secretary, Railways,  
Government of India, New Delhi.
2. General Manager, Northern Railway, Baroda House,  
New Delhi.
3. Divisional Railway Manager, Northern Railway,  
Lucknow Division, Hazratganj, Lucknow.
4. Divisional Personnel Officer, Northern Railway,  
Division Office, Hazratganj, Lucknow.

... Opp-parties.



RA Agarwal

WRIT PETITION UNDER ARTICLE 226 OF THE  
CONSTITUTION OF INDIA,

(A/O)

- 2 -

The petitioner, above named, most respectfully showeth as under :-

1. That the petitioner was initially appointed as Assistant Station Master (A.S.M.), Northern Railway, Lucknow Division.
2. That the post of Traffic Inspectors (T.I.s) is a selection post and the selection to the post of Traffic Inspector is made in accordance with the provisions contained in Chapter-II of the Indian Railway Establishment Manual.
3. That in the year 1977, 91 candidates appeared in the written test held for filling up the few <sup>regular</sup> vacancies of traffic inspectors. Out of those 91 candidates appearing in the written test, 18 candidates qualified the said written test and those 18 candidates were called for interview.
4. That all the 18 candidates qualifying the written test attended the interview on 8.2.78 held at the Divisional Headquarters of Northern Railway at Lucknow and out of them 8 candidates were found suitable and they were empanelled for the promotion of traffic inspectors. A true copy of the order dated 18.2.78 empaneling 8 candidates including the petitioner is being annexed herewith as Annexure-1 to this writ petition.
5. That a perusal of the panel prepared vide Annexure-1 makes it clear that the petitioner was



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placed at Serial No. 7 in the said panel.

6. That the promotion orders in accordance with the empanelment are issued in accordance with the position in the panel.

7. That after the declaration of the panel vide order dated 18.2.78, the petitioner like other empanelled candidates was sent for completing the requisite training known as 'P-16 Course' at Chandausi and the petitioner successfully completed the said training.

8. That the panel prepared vide Annexure-1 was partly given effect to and some of the empanelled candidates were promoted as T.Is and in the mean time an order dated 7.2.79 was passed cancelling the promotion orders issued on the basis of selection held vide Annexure-1. A true copy of the order dated 7.2.79 cancelling the promotion is being annexed herewith as Annexure-2 to this writ petition.

9. That the order dated 7.2.79 (Annexure-2) cancelling the promotions made vide Annexure-1 was challenged through Writ Petition No. 345 of 1979 - Mahavir Ram & another Vs. Union of India and others - and the said writ petition was allowed by a Division Bench of this Hon'ble Court vide order dated 8.10.80 and the Railway Board decided not to challenge the judgment & order passed by the Hon'ble High Court in the aforesaid writ petition and this decision was communicated to Divisional Railway Manager vide order dated 11.3.81.

Revised



10

10. That <sup>after</sup> allowing of the writ petition No. 345 of 1979, the candidates empanelled vide Annexure-1, who could not be promoted earlier, were promoted and the petitioner was also promoted as Traffic Inspector vide order dated Feb. 4, 1981. A true copy of which is being annexed herewith as Annexure-3 to this writ petition.

11. That one M.M. Jauhari found place at Serial No. 8 in the list of empanelled candidates circulated vide order dated 18.2.78 and his name further found place at Serial No. 6 in the order dated 4th Feb. 1981 whereas the petitioner was placed at Serial No. 7 in the list of empanelled candidates and at Serial No. 5 in the order dated 4th Feb. 1981.

12. That the scale of Traffic Inspector is Rs. 455-700 and the scale of the up-graded post of Traffic Inspector is Rs. 550-750/-.

13. That the post of Traffic Inspector, Faizabad was <sup>an</sup> up-graded post of Traffic Inspector in the scale of Rs. 550-750/- and the said post was down-graded vide order dated Feb. 4, 1981 (Annexure-3) in the scale of Rs. 455-700 (RS) and one M.M. Jauhari, who was placed at Serial No. 8 in the panel (Annexure-1) was appointed on that post.

Revised

14. That in the functioning of the Northern Railways the officials ~~who worked~~ whose work and conduct is found outstanding are assigned the special duties as



and when such occasions arise and the efficient officials of outstanding and meritorious service record are sent on special duties irrespective of their seniority.

15. That the petitioner was sent on special duties from time to time on several occasions and the persons who were working as Senior Traffic Inspectors were not assigned those special duties whereas the petitioner was chosen for those assignments.

16. That one S.D. Kharbanda is working as Traffic Inspector, Safety, Lucknow in ad hoc capacity and Sri Kharbanda has never been selected for regular promotion as Traffic Inspector. On the other hand Sri Kharbanda had appeared along with the petitioner for the selection held in the year 1977 and he could not qualify the written test and as such could not be selected as T.I.

17. That all of a sudden an order dated 6.5.82 has been issued sending back the petitioner as A.S.M. in the scale of Rs. 425-640/- which the petitioner held before his selection as Traffic Inspector. A perusal of the order dated 6.5.82, a true copy of which is being annexed herewith as Annexure-4 to this writ petition, further makes it clear that the post of Traffic Inspector, Raibareilly which was held by the petitioner after his selection as Traffic Inspector

RAibareilly

A/12

vide annexure-1, was up-graded in the scale of Rs. 550-750 and one P.S. Srivastava, Traffic Inspector, Sultanpur, who was also empanelled like the petitioner in the selection of Traffic Inspector by the same order has been promoted on the up-graded post of Traffic Inspector, Raebareli.

Handwritten scribbles and initials, possibly 'D/S'.

18. That it is noteworthy that the post of Traffic Inspector, Faizabad was an up-graded post and for the time being it was down-graded.

19. That the persons who are junior to the petitioner and who have not even been regularly selected as Traffic Inspectors are being retained as such whereas the petitioner has been asked by the impugned order (Annexure-4) to go back to his original post of Asstt. Station Master.

Handwritten marks including a triangle and other symbols.

20. That the appointing authority for the post of Traffic Inspector is Senior Divisional Personnel Officer.

21. That being aggrieved and having no alternative and efficacious remedy, the petitioner begs to prefer this writ petition on the following amongst other ;

RACARUWAL

-: GROUNDS :-

i) Because in the circumstances of the case the up-gradation of the post of Traffic Inspector, Raebareli

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was not legally permissible and if any up-<sup>gradation</sup>~~gradation~~ was to be made then it was to be made in regard to the post of Traffic Inspector, Faizabad which was earlier an up-graded post and was down-graded for the time being ~~was~~ when one M.M. Jauhari was appointed as Traffic Inspector.

- ii) ~~XXXX~~ Because the person who was placed below the petitioner in the panel is being retained as Traffic Inspector and the persons who have not even been selected regularly as Traffic Inspectors are being continued as Traffic Inspectors and the petitioner has been reverted to the post of A.S.M. That being so, the impugned order of reversion is not only illegal but is arbitrary and discriminatory and is violative of the provisions contained under Articles 16 and 14 of the Constitution of India.
- iii) Because the normal practice in the Railways is to assign the special duties to the outstanding officials and the petitioner was assigned the special duties from time to time and the reversion of the petitioner is not legally permissible.
- iv) Because the petitioner was selected as Traffic Inspector on regular basis through a regular selection as contemplated in Chapter-II of the Indian Railway Establishment Manual. That being so, the petitioner's reversion is illegal and without jurisdiction.

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- v) Because the factum of the post of Traffic Inspector, Faizabad earlier being an up-graded post and the same having been down-graded for the time being coupled with the factum of the said post not being up-graded and the post held by the petitioner being up-graded speaks in itself that the impugned order of reversion is arbitrary and capricious in nature.
  
- vi) Because the appointing authority for the post of traffic inspector is Senior Divisional Personnel Officer whereas the order of reversion has been passed by the Divisional Officer who is not the appointing authority of the petitioner.

-: P R A Y E R :-

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

- a) To issue a writ, order or direction in the nature of certiorari quashing the order dated 6.5.82 passed by the Divisional Personnel Officer, Northern Railway, Lucknow reverting the petitioner to the post of A.S.M. (contained in Annexure-4 to the writ petition).
  
- b) To issue a writ, order or direction in the nature of mandamus commanding the Opp-parties not to give effect to the order dated 6.5.82

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passed by the Divisional Personnel Officer, Northern Railway, Lucknow and not to revert the petitioner on the basis of the said order dated 6.5.82 (Annexure-4).

- c) To award the cost of this petition in favour of the petitioner.
- d) To issue any other order, writ or direction which this Hon'ble Court deems fit and proper in the circumstances of the case.



Dated Lucknow:  
May 10, 1982.

(Dr. L.P. Misra)  
Counsel for the Petitioner.

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10

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

Writ Petition No. of 1982.

R.A. Agarwal ... Petitioner

Versus

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

-----  
ANNEXURE-1  
-----

Northern Railway.

No. 752-E5/1/T.I.

Divl. Supdt.'s Office,  
Lucknow Dt. 18.2.78.

The Station Superintendent,  
Northern Railway,  
BSB & LKO.

Reg:- Selection for the post of Traffic  
Inspector in Scale Rs. 455-700 (RS).  
-----

As a result of selection for the post of  
traffic Inspector in R/S Rs. 455-700 held in this  
office on 8.5.77, 22.5.77, 29.8.77, 23.12.77 and  
9.2.78 the following have been found suitable for  
placement on the panel of traffic inspectors.

1. Sri H.S. Upadhy, SM/GNG.
2. Sri P.S. Srivastava, Dv. CHC/MGS
3. Sri V.B. Srivastava, TI/RBL
4. Sri S.M.L. Nigam, ASM/LKO
5. Sri P. Yadav, SCNI/MGS
6. Sri Mahabir Ram, S/C, Guard/Lucknow.
7. Sri R.A. Agarwal, ASM/LKO.
8. Sri M.M. Jauhari, ASM/LKO.

*R.A. Agarwal*



All are warned that retention of their names on the panel is subject to their work being satisfactory during the currency of the panel and the ... fact that they have been placed on the panel does not guarantee that they will be offered the post for which they have been selected.

Sd. R. Ram  
For Sr. Divl. Personnel Officer,  
Lucknow.

*Handwritten initials* Copy to : CHC/LKO  
SM/GNG, RBL,  
Dy. CHC/MGS  
ALL T.Is  
Sr. DOS/DOS/DSO  
Chief Clerk in Office.

*Handwritten signature*

*Handwritten mark*

149 12

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

Writ Petition No. of 1982.

R.A. Agarwal ... .. Petitioner  
Versus  
Union of India and others ... .. Opp-parties.

-----  
ANNEXURE-2  
-----

NORTHERN RAILWAY.

No. 752-E/5/1/TT Divl. Supdt's Office,  
Lucknow D/ 7.2.1979.

*Handwritten initials*

The Station Superintendent, N. Railway, Lucknow  
and Varanasi, Chief Controller Lucknow. Station Masters  
Gauriganj, Rae Bareilly, Phaphamau. Dy. Chief Controller,  
Moghaisarai.

TIs LKO FD BSB SLN PAG PBH RBL Safety Lucknow.

Copy to :- Sr. DOS/DOS/DSO LKO AOS BSB YS LKO

Relief clerk in Office.

Reg. Panel of Traffic Inspectors Scale  
Rs. 455-700 (RS).

As per Headquarter's Orders the panel of TIs  
Scale Rs. 455-700 (RS) as circulated vide this office  
letter of even number dated 18.2.1978, is hereby  
cancelled.

Sd. 7.2.79

V.K. Agarwal  
Sr. Divl. Personnel Officer,  
Lucknow.

True copy.

*Handwritten signature*

(A/19)

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

Writ Petition No. of 1982.

R.A. Agarwal

... Petitioner

Versus

Union of India and others

... Opp-parties.

-----  
ANNEXURE-3  
-----

NORTHERN RAILWAY.

Divisional Office

No. 757 E/S-1/TI

Lucknow, the 4th Feb. 81.

NOTICE

1. The following staff are hereby temporarily appointed to officiate as T.I. in scale as indicated against each in local ad-hoc arrangement. They are likely to be replaced by regular selected incumbents against Hd. Qrs. controlled post and the promotion of staff as T.I. Rs. 455-700 (RS) is subject to clearance by Hd. Qrs. Office.

These promotions will not give any prescriptive right for holding the posts on a regular basis unless and until such promotions are regularised in due course.

Sl. No.	Name /Sri	Present			Promoted/posted			Remarks
		Desig.	Stn.	Grade.	Desig.	Stn.	Grade	
1.	Inamul Haq	TI	FD	550-750	T.I.	PRG	700-900	Against vacancy.
2.	B.N. Srivastava.	SM	KEI	-do-	T.I.	BSB	-do-	-do-
3.	S.M.L. Nigam	Sr.ASM	LKO	455-700	T.I.	SLN	455-700	Vice Sh. R.D. Rai

Agarwal

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4.	Mahavir Ram (S/C)	Guard Spl.Gr.A	LKO	425-640	T.I.	Model Car.	455-700	already posted as SM/BLG.	Vice Sh. Sri Ram reverted.
5.	R.A. Agarwal	ASM	LKO	425-640	T.I.	RBL	-do-		Vice vacancy.
6.	M.M. Jauhari	ASM	LKO	425-640	T.I.	FD	-do-		Vice Item I by down grading.

2. The post of TI/FD scale Rs. 550-750 (RS) is down graded to scale Rs. 455-700 (RS) till further orders as a temporary measure.

3. Sh. Sri Ram, Offg. T.I. scale Rs. 455-700 (RS) in local ad-hoc arrangement is reverted back to his substantive post as Spl grade -A in scale Rs. 425-640 (RS) under SS/LKO.

Movements should be advised to this office.

Sd. Illegible

for Sr. Divisional Personnel Officer,  
Lucknow.

Copy to :-

1. CHC/LKO. It may please be ensured that S/Sri R.D. Rai and Sri Ram are spared atonce.
2. SS/LKO, BSB. AM/KEI, RBL. TIs concerned, Sr. DOS/LKO Sr. DSO/LKO. DOS/LKO, Sr. DAO/LKO. As (Bills). Relief Clerk.

*Agarwal*

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15

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

Writ Petition No. of 1982.

R.A. Agarwal

...

Petitioner

Versus

Union of India and others

...

Opp-parties.

-----  
ANNEXURE-4  
-----

NORTHERN RAILWAY

No. 757E/5-1/1018 T.I.

Divisional Office

Lucknow, dt/- 6.5.82.

NOTICE

1. Shri R.A. Aggarwal, Offtg. T.I./RBL grade 455-700 is posted back to his substantive post of ASM grade 425-640 under SS/Lucknow against an existing vacancy.
2. The post of T.I./RBL grade 455-700 is upgraded to scale Rs. 550-750 in lieu of the post of TI/FB which was down-graded to scale Rs. 455-700 vide this office notice of even No. dated 4.2.81 and consequent upon this upgrading Shri P.S. Srivastava TI/SLN grade Rs. 455-700 is temporarily promoted and on adhoc basis to officiate as TI grade 550-750 for a period of six months and posted as TI/RBL.

R.A. Agarwal

This is purely temporary local adhoc arrangement and will not confer upon Shri P.S. Srivastava any

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- 2 -

perspective right for similar promotion in future in preference to his seniors. His working may be watched for six months, a special report may be submitted to DRM ~~immediately~~ immediately thereafter by Sr. DOS through D.P.O.

3. Shri P. Yadav, Dy. CHC/Lobby/LKO grade 700-900 who was borne on the panel of SCNL grade 470-750 & T.I./grade 455-700, has opted for TI and as such he is posted as TI/SLN in grade Rs. 455-700 temporarily vice item ~~NO~~ No. 2 above.

This has the approval of DRM.  
Movement should be advised.

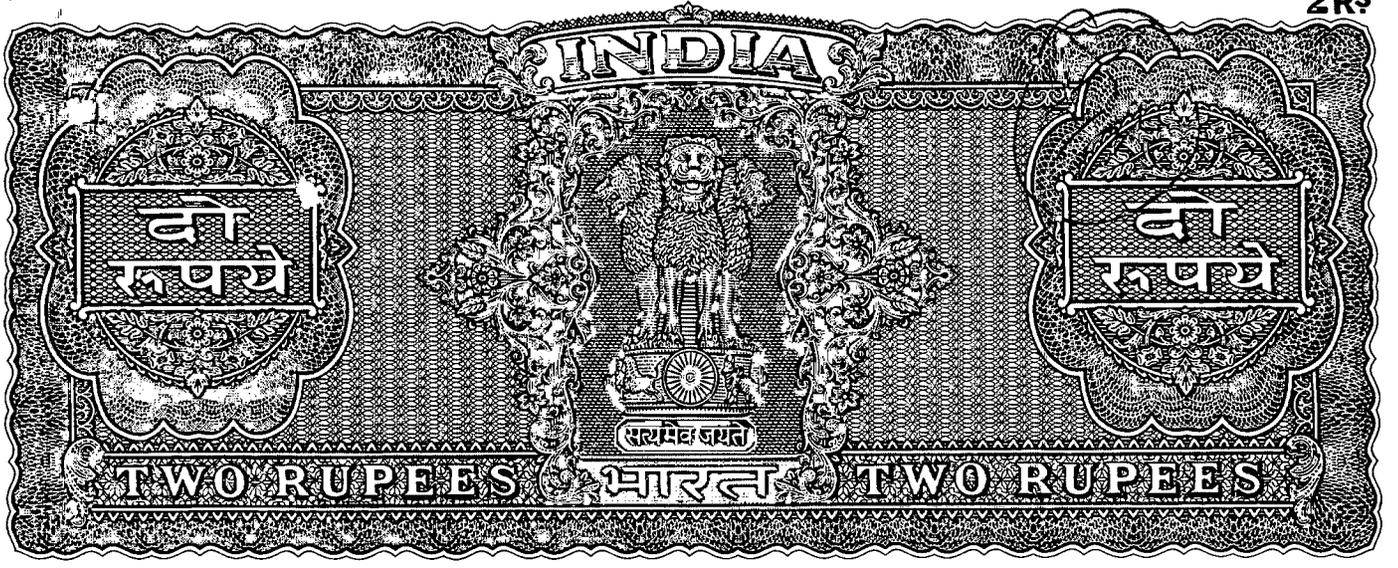
Sd. S.N. Misra

Divl. Personnel Officer,  
Lucknow.

Copy to :-

1. SS/LKO
2. CHC/LKO
3. Dy. CHC/Lobby/LKO
4. TIs RBL/SLN.
5. G.M.(P) N.Rly. Hd.Qrs. Office, N.Rly., Baroda House, New Delhi.
5. AS/Bills.
7. Sr. DOS/LKO.

Revised



In the Honble Hsh Court of Judicature at Allahabad  
 sitting at Lucknow

W.L. No.

of 1982

R. A. Agarwal -

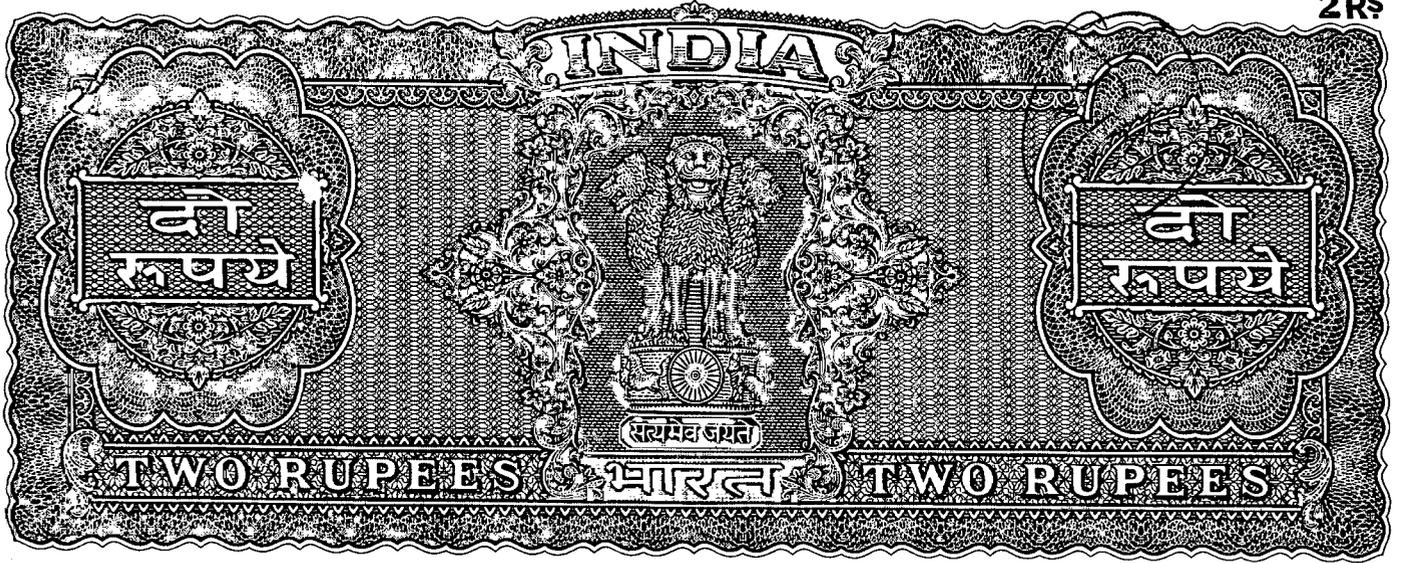
- Petitioner

v.

Union of India & ors -

- Respondent

AFFIDAVIT



In the Honble Hsh Court of Indistric of Allahabad  
 sitting at Lucknow

W.L. No.

of 1982

R.A. Agarwal - - - - -

s.

Union of India vers - - - - -

AFFIDAVIT

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24

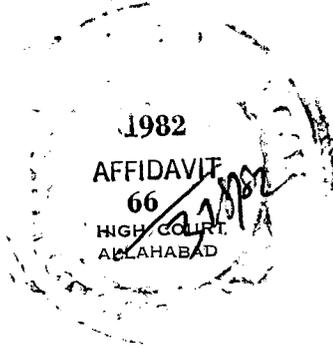
17

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

AFFIDAVIT

IN

Writ Petition No. of 1982.



R. A. Agarwal

... Petitioner

Versus

Union of India and others

... Opp-parties.

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I, R.A. Agarwal, aged about 48 years, son of Sri K.P. Agarwal, resident of Mithla Bhawan, 30-Shastri-Nagar, Lucknow-4, do hereby solemnly affirm and state on oath as under :-

Ty-d

1. That the deponent is the petitioner in the above noted writ petition and, as such, is fully conversant with the facts deposed to hereunder.

2. That the deponent has read the contents of the writ petition and has fully understood them.

Agarwal

3. That the contents of paragraphs 1 to 20 of the writ petition are true to the own knowledge of the deponent.

18

4. That the Annexures 1 to 4 to the writ petition are certified to be true copies of their originals.

Dated Lucknow:

May 10<sup>th</sup>, 1982.

*[Signature]*

Deponent

Verification

I, the above named deponent, do verify that the contents of paragraphs 1 to 4 of this affidavit are true to the own knowledge of the deponent. No part of it is false and nothing material has been concealed, so help me God.

Dated Lucknow:

May 10<sup>th</sup>, 1982.

*[Signature]*

Deponent

I identify the above named deponent who has signed before me.

*[Signature]*  
Advocate's Clerk.



Solemnly affirmed before me on 10/5/82 at 9.30 a.m./p.m. by Sri R. A. Agarwal

the deponent who is identified by

Sri S. P. Srivastava  
Clerk to Sri Dr. L. P. Mishra

Advocate, High Court, Allahabad.

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

High Court, Allahabad  
Lucknow Bench.

1275  
*[Signature]*  
10/5/82

ब अदालत श्रीमान High Court of Judicature at Allahabad  
Selling at auction महोदय

वादी(मुद्दई)  
प्रतिवादी (मुद्दालेह)

का

वकालतनामा



1928  
R. A. Agarwal

मुद्दई (मुद्दई)

वनाम  
Union of Indis Dohes प्रतिवादी (मुद्दालेह)

नं० मुकद्दमा सन् १६ पेशी की ता० १६ ई०  
ऊपर लिखे मुकद्दमा में अपनी ओर से श्री *A. P. Mishra*

एडवोकेट

महोदय

वकील

को अपना वकालत नियुक्त करके प्रतिज्ञा [इकरार] करना 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 सुनहनामा 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 विपत्ती [फरीकसानी] का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त [दस्तखती] स्सीद से लेवें या पंच नियुक्त करें - वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी । इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर

*Agarwal*

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

१६ ई०

नाम अदालत
नाम फरीकैन
नं० मुकद्दमा

Receipt  
*[Signature]*

(A)  
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In the Central Administrative Tribunal Allahabad  
Circuit Bench Lucknow.

T.A.No. of 1987  
(W.P.NO. 4652 of 1982)

R. A. Agarwal ..... Petitioner  
Versus  
Union of India and others ..... Opp. Parties.

Reply on behalf of the Opposite Parties.

Para 1: Needs no reply.

Para 2: Not denied.

Para 3: Not denied-

Para 4: Not denied.

Para 5: Not denied.

Para 6: Not denied.

Para 7: Not denied.

Para 8: Not denied.

Para 9: Not denied.

Para 10: Not denied.

Para 11: Not denied.

Para 12: Not denied.

Para 13: Not denied.

Para 14: Denied.

*R. Agarwal*  
..... 2  
Northern Railway

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Para 15: The contents being vague are not admitted. The petitioner, unless gives in detail of his special posting reply cannot be given.

Para 16: In reply it is submitted that the post of Traffic Inspector, Safety Lucknow is Ex cadre post, on which shri Kharbanda ~~is working~~ <sup>was posted</sup> in adhoc capacity. It is not denied that shri Kharbanda appeared and failed in the selection held in the year 1977.

Para 17: In reply, it is not denied that the petitioner was reverted back to his post of A.S.M. in the scale of Rs. 425- 640 vide orders dated 6.5.'82 as contained in Annexure 4 to the writ petition. It is also not denied that the Post of Traffic Inspector Rai Bareilly was upgraded in the scale of Rs. 550-750 and Shri P.S. Srivastava Traffic Inspector Sultanpur was promoted on upgraded post of Traffic Inspector Raebareilly.

Para 18: In reply it is not denied that the post of Traffic Inspector Faizabad was downgraded.

Para 19: In reply, it is stated that the petitioner has been reverted to his earlier post of A.S.M. as he was found unsuitable for the post of Traffic Inspector. The reversion due to unsuitability does not attract the provision of retaining the juniors. As such there is no illegality in the order passed reverting the petitioner to the post of A.S.M. earlier held by him before being promoted as T.I..

*[Signature]*  
Northern Railway 3

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Para 20: It is not denied that the appointing authority for the post of Traffic Inspector is \_\_\_\_\_

Para 21: Denied. There was an alternative remedy by way of representation etc. against reversion, which he did not avail, hence this writ petition is not maintainable.

It is also stated that none of the grounds are tenable under law.

It is also stated that the petitioner is not entitled to any relief claimed and the petition is liable to be dismissed with costs to the opposite parties.

Lucknow  
dated: 25.5.90

*Prabhu Das*  
Opp. Parties  
Asst. Personnel Officer,  
Northern Railway  
LUCKNOW

Verification:

I, *Shri Pujan Prasad* working as *Asst. Personnel Officer* in the office of D.R.M. Northern Railway Lucknow and being competent and authorised to sign and verify this reply, do hereby verify that the contents of paras 1 to 21 of this reply are true to best of my belief based on information derived from the record and legal advice recd.

*Prabhu Das*  
Asst. Personnel Officer,  
Northern Railway  
LUCKNOW

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,  
LUCKNOW

T.A. NO. 1043 OF 1987

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Fixed For - 27-6-90.

R.A. AGARWAL

... PETITIONER

VERSUS

UNION OF INDIA & OTHERS

... OPPOSITE PARTIES

REJOINDER AFFIDAVIT

Paras 1 to 13:- Need no reply.

Paras 14 & 15:- Denied and those of para 14 of the  
petition are reiterated. The petitioner  
was assigned the following special  
duties after being promoted as T.I.  
5.7.81 to 11.7.81 - Dilkusha Cabin  
Non Interlocking  
24.12.81 to 29.12.81 - Lucknow goods  
yard special duty.  
4.1.82 to 8.1.82 -do-  
12.1.82 to 19.1.82- Kumbh Mela, Prayag.  
23.1.82 to 27.1.82 - -do-  
18.3.82 to 21.3.82 - Lucknow goods yard.  
26.4.82 to 7.5.82 - Lucknow vice T.I.  
Lucknow in addition to  
his duties.

It is note worthy that the persons senior  
to the petitioner having been placed above  
him in the Panel, such as Mahabir Ram will  
available but the petitioner was assigned

Contd...2

received today  
28  
30/5/90

Agarwal

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the special duties. The copies of the few such ~~ask~~ also pertaining to assignment of special duties are annexed as ANNEXURE NOS. R-1 to R-3.

Para 16:- Need no comments except that Mr. Kharbanda was retained whereas the petitioner was sought to be reverted under the impugned order.

Paras 17 & 18:- Need no comments.

Para 19:- Denied as alleged. At no point of time any short coming in the functioning of the petitioner was pointed to him nor was any letter or notice issued to him requiring any improvement in his work. On the other hand, the petitioner was assigned the special duties which are assigned only to the outstanding T.Is.

Para 20:- Not denied.

Para 21:- Denied.

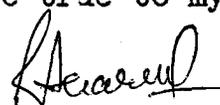
LUCKNOW

DATED 30-5-90  
Verification

  
PETITIONER

I, R.A. Agarwal verify this rejoinder affidavit do verify that the contents of para 1 to 21 of this rejoinder affidavit are true to my knowledge and legal advice received.

30-5-90

  
PETITIONER

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,  
CIRCUIT BENCH, LUCKNOW.

T.A. NO. 1043 OF 1987

R.A.AGARWAL

... PETITIONER

VERSUS

UNION OF INDIA & OTHERS

... OPPOSITE PARTIES

ANNEXURE NO.R-1

TI RBL

In view of critical situation prevailing in TI LKO's section having the report of stations closure due to shortage of staff- long hrs. on duty etc. and TI LKO having proceeded on leave, you are to remain at LKO to tidy up the matter. On 25.4.82 UTR was on the point of closing down.

Today 26.4.82 Bakkas has closed down

You will now look after TI LKO's section as well till his arrival and please remain at LKO and take stock of the situation and then bring back to shape crumbling organisation of TI LKO.

Sd/-Illegible

ABJ (6)

26.4.82

*R. Agarwal*

ANNEXURE R (2)

35

NO: TT 93/30/AK Mela/82

Dated: 6.1.82

ARUNACHAL PRADESH KUMBH MELA 1982

Reg: Deployment of Senior Supervisors on Lucknow Division.

Senior Supervisors mentioned below will be on Kumbh Mela duty at stations indicated against each. On arrival at their respective stations, they shall advise their location to the control.

Sl. No.	LOCATION	Name of Staff	Design.	P E R I O D			
				To	From	To	From
				12.1.82	21.11	7.2	
				10.1.82	31.11	9.2	
		S/Sri					
1.	PRAYAG GHAT	1. B.L. Dubey 2. S.N. Singh 3. R.A. Agarwal	WMI/PLP CYM/LKO EI/RBL				
2.	PRAYAG	1. H.K. Misra 2. S.D. Kharbenda 3. Manzoor Abbas	WII TI/S/II LI/S				
3.	PHAPHAMAU	1. I. Haq 2. P.S. Srivastava	EI/PRG TI/S IN				
4.	AEDDHYA	1. P.L. Bhargu 2. T.N. Verma	DE/LKO WMI/LKO				
5.	FALGABAD	1. H.M. Jauhari	EI/PD				
6.	Jaunpur	1. S.K. Prasad	WMI/BSB				
7.	Sultanpur	1. R.S. Pandey	L/CNL/SLN				
8.	Lucknow (Sta)	1. H.M. Dhyani 2. A.P. Dixit	EI/LKO WMI/LKO				
9.	Varanasi	1. K.D. Jha	WMI/BSB				
10.	Pratapgarh	1. Gopi Singh	EI/PRH				
11.	Rai-Bareilly	1. Mahabir Ram	EI (Sta)				

*(Signature)*

*(Signature)*  
(Nishanth M. Katara)  
Divl. Operating Supdt,  
Lucknow.

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ANNEXURE R(3)

Northern Railway

Divisional Office  
Lucknow.

NO. 77287/Workord/82

Dated: 4.1.1982

With effect from to-day (4.1.82) the following Senior Subordinates are deputed to work in Lucknow yard till 9.1.82:

<u>Sr.No.</u>	<u>Name</u>	<u>Designation</u>	<u>Shift</u>
1.	Shri R. A. Agarwal	FI/REL	0/8 hrs
2.	Shri H. C. Dewan	SWMI/LKO	8/16 hrs
3.	Shri H. K. Misra	WMI/LKO	16/24 hrs

The senior supervisors will be responsible in their respective shifts for monitoring the work done by the various yard pilots in both East and West end. Sick line placement and withdrawal, transference of Goods shed leads, clearing of mixed stock in the hump yard, etc., would be watched by each of the above named. One most important duty in each shift would be to watch the reception and despatch of through goods in both Up and Down directions. The target for FGs in LKO yard is only 15" and the trains must be started with this time. In this connection instructions have already been issued to the CWM, Lobby and the Control which must be read by above mentioned persons for compliance.

*(Signature)*  
(Nishanath K. Kataria)  
Divl. Operating Supt  
Lucknow.

FI/REL  
SWMI/LKO  
WMI/LKO

Reared

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

CIRCUIT BENCH  
LUCKNOW

A/37

T.A. 1043/87(T)

(Writ Petition 2122/82 of High Court of Judicature  
at Allahabad, Lucknow Bench, Lucknow)

R.A. Agrawal ...Petitioner

versus

Union of India & others ...Respondents

Hon. Mr. Justice K. Nath, Vice Chairman.

Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice K. Nath, V.C.)

The Writ Petition described above before us  
from High Court, Allahabad, Lucknow Bench  
stood transferred to this Tribunal under section 29 (i)  
of the Administrative Tribunals Act, 1985 for quashing  
of the order dated 6.5.82 (Annexure 4) whereby the  
petitioner was reverted from the post of Traffic Inspector  
to the post of Assistant Station Master.

2. It appears that while working as Assistant Station  
Master, the petitioner went through the selection test  
for the post of Traffic Inspector and was ultimately  
selected for appointment by panel dated 18.2.1978 (Ann. 1) &  
that panel having been cancelled on 7.2.79 (Ann. 2), a Writ  
Petition No. 345/79 was filed before the Hon'ble High Court  
of Allahabad, Lucknow Bench. The petition was allowed  
by order dated 8.10.80, with the result that the competent  
authority gave effect to the panel and the petitioner was  
promoted to the post of Traffic Inspector by order dated  
4.2.81 (Annexure -3). <sup>Cur</sup> ~~Prov~~ <sub>n</sub>viously enough, this order described

A/30

the appointment of the petitioner to be an adhoc arrangement likely to be replaced by a regularly selected incumbent.

3. On 6.5.82 the impugned order of reversion Ann. 4 was passed with the approval of the D.R.M. and issued by the Divisional Personnel Officer. The petitioner was <sup>posted</sup> ~~passed~~ back to the original post of Assistant Station Master.

4. The petitioner's case is that the petitioner had been regularly selected and promoted as Traffic Inspector and the averment in the promotion order Annexure -3 that it was an adhoc arrangement had no standing in the eyes of law. It was said that having been so promoted, he could not be reverted without an opportunity to show cause and without reasons. It was also pointed out in para 16 of the petition that one Shri S.B. Kharbanda <sup>who</sup> had failed at the selection for the post of Traffic Inspector in 1977, was nevertheless promoted to continue to work as Traffic Inspector while the petitioner was reverted and therefore the reversion was arbitrary.

5. The case in the counter is that the petitioner had been reverted because <sup>of unsuitability</sup> ~~his reinstatement~~ for the post of Traffic Inspector. It is pointed out in para 17 of the Counter that a reversion on account of unsuitability did not attract "the provisions of retaining the juniors", and therefore, there was illegality in the impugned reversion order.

6. In para 16 of the Counter it was admitted that Shri Kharbanda had failed in the examination and was promoted but continued to work as Traffic Inspector while the petitioner was reverted by the impugned order that ~~it~~ was sought to be explained by the statement that the appointment was adhoc and the post was ex-cadre post.

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7. We have heard Shri L.P. Mishra, Counsel for the petitioner and the learned counsel for the respondents and have gone through the record. We do not think that the petitioner's promotion as Traffic Inspector by order dated 4.2.81 (Annexure 3) could validly be stated to be an adhoc promotion/arrangement to be replaced on a regular selection. Indeed, as indicated above he had been promoted after a regular selection. We think therefore, that the principles which inhere to the posting or an officiating promotion in the matter of reversion, cannot be applied to regular employees appointed after regular selection and therefore, the principles of reversion for unsuitability cannot be extended to the case of the petitioner. He ought to have been given an opportunity to show that he did not suffer from what he may have been considered to be unsuitable for the post. Secondly, the respondents have completely failed to show that the petitioner was found to be unsuitable. Indeed, the pleadings of the respondents in the counter are wholly inadequate on this subject. The fact whether or not a person is <sup>unsuitable</sup> ~~entitled~~ for a post is inference from his performance and conduct; it is not a statement of fact by itself. It is the facts which could form the basis of "unsuitability", which should have been pleaded in the counter.

8. The learned counsel for the respondents says that he has not been able to get confidential record of the petitioner in which the matter of the petitioner's unsuitability may have been adjudged. The department has only to thank for it. There have been more than one opportunities to the respondents to file the ~~papers~~ appropriate counter and to keep the record available if so desired. We are satisfied that the mere failure of the respondents to get the confidential record ~~of~~ cannot

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~~be justified~~ ~~that~~ the respondents' case that the petitioner must have been found to be unsuitable for the post of Traffic Inspector.

9. The further case of the petitioner in the context of the continued employment of Kharbanda as Traffic Inspector in the light of the admitted facts on that point, is not without substance. The impugned order of reversion, considered in the totality of the facts and circumstances of the case, including the context of Kharbanda's matter, show that the order of reversion was also arbitrary. The petition must succeed.

10. The petition is allowed and the impugned order dated 6.5.82 (Annexure 4) reverting the petitioner from the post of Traffic Inspector to the post of A.S.M. is quashed. The petitioner shall be deemed to have continued to work as Traffic Inspector on and after 6.5.82. The operation of the impugned order had already been stayed by the interim order of the Hon'ble High Court. It is directed that the respondents shall accord such consequential benefits to the petitioner, as he may be found to be entitled to during the period from 6.5.82 upto date, including the claims, if any, for promotion etc, according to law. The respondents shall pay the costs to the petitioner which we assess at Rs 2000.00

  
Adm. Member.

  
Vice Chairman

Lucknow Dated: 27.6.90

Office

Photocopy of this judgment will not be issued; whenever a copy has to be issued it must be typed out correctly when issued



27.6.90

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

## INDEX SHEET

CAUSE TITLE TA 1037 OF 1987.....

NAME OF THE PARTIES M. S. Paul.....

M. S. Paul.....Applicant

Versus

U O I.....Respondent

Part A, B &amp; C

Sl. No.	Description of documents	Page
1	order sheet	A1 to A9 ✓
2	D.M.	A5 to A6 ✓
3	Judgement dt. 28-7-89	A7 to A11 ✓
4	Index sheet	A12 to A13 ✓
5	Petition copy / <del>Amendment</del>	A14 to A41 ✓
6	Power	A42 ✓
7	Application	A43 to A53 ✓
8	Amendment App. / Power	A54 to A72 ✓
9	Counter	A73 to A88 ✓
10	Register	A89 to A92 ✓
11		
12		
13		

## CERTIFICATE

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

Dated 14/3/11..... File B/C destroyed on 09-5-12

Counter Signed.....

Section Officer / In charge

Signature of the  
Dealing Assistant

(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

O.A./T.A. No. 1039/07 198

Applicant(s)

Versus

Respondent(s)

Sr. No.	DATE	Orders
10800	<u>Office report</u>	<p>An application has been received in this Tribunal for transferring the case to Circuit Bench Lko.</p> <p>If approve 26-8-08 may kindly be fixed for attendance before Registrar/D.R.(5).</p> <p>Notices have been issued to both the parties fixing 26-8-08.</p> <p>Submitted for orders.</p>
JCN 10/8	<u>D.R.(5)</u>	<p>List this Case before Circuit Bench Lko on 26.8.08 before Registrar/D.R.(5) for attendance.</p>
		<p><u>JCN</u> D.R.(5)</p>

Ar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH AT LUCKNOW.

\*\*\*\*

~~C.A.~~/T.A. No. 1089  
1102 1987 (G)

M. S. Pany Applicant(s)

Versus

G.O.2 Respondent(s)

Sl. No.	Date	Orders
A	<u>23.1.09</u>	<p><u>D.R</u></p> <p>Sri A. Bhargava, Counsel for respondent power filed today. Counsel for applicant is also present. The case is fixed for final hearing on 28.3.09 as directed by the order of D.R.(J)</p> <p style="text-align: right;"> <u>D.R</u></p>

☆

(A.3)

Hon' Mr. D.S. Mishra, A.M.  
Hon' Mr. D.K. Agrawal, J.M.

28-3-89

The brief holder for the learned counsel for the applicant is present. Shri A. Bhargava learned counsel for the respondents states that he has not received the file from the counsel who was attending to the case at Allahabad. Shri A. Bhargava requests for further adjournment. The case is adjourned to 24-4-89.

This is <sup>a</sup>very old case on 1982, and it will not be possible to adjourn further on this ground.

J.M.

A.M.

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OR

Counsel for applicant respondents was directed to file reply/objections to the amendment application which was filed in High Court. Counsel for respondents has not filed any objections so far. However the counsel for both the parties were agreed for final hearing in this case submitted for hearing.

2/4

Hon' Mr. D.S. Misra, A.M.  
Hon' Mr. D.K. Agrawal, J.M.

24/4/89

On the request of the learned counsel for the applicant, this case is listed for final hearing on 25-4-89. No further adjournment shall be allowed.

OR  
Case is submitted for hearing  
2/4

J.M.

A.M.

(sns)

(A)

10.7.89: Hon. D.K. Agrawal - J.M.

An application for adjournment has been received. However the ordersheet ~~at~~ dated 25.4.89 clearly mentions that no adjournment is to be granted to the applicant. Still in the interest of justice and on account of illness of the Counsel the case is adjourned to 12.7.89 for hearing.

~~12.7.89~~  
Hon. D.K. Agrawal - J.M.  
 No sitting of Division Bench today. Fixed 27.9.89 for hearing.  
 Member (J)

12.7.89  
Hon. D.K. Agrawal - J.M.

Sri Raza Zahir brief holder of  
 Sri S.B. Verma appears for the applicant.  
 Sri Arjun Bhargava appears for the

A5

Registered

O/C

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD  
CIRCUIT BENCH, GANDHI BHAWAN  
LUCKNOW  
\*\*\*

No. CAT/CB/LKO/

Dated : 2/8/89

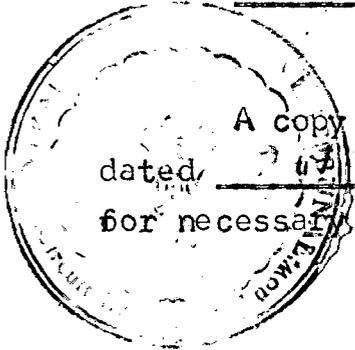
OFFICE - MEMO

Registration No. O.A. 1039 of 1937 (1)  
T.A.

M. S. 1-15 Applicant's

Versus

Union of India Respondent's



A copy of the Tribunal's Order/Judgement dated 27.07.89 in the abovenoted case is forwarded for necessary action.

[Signature]  
2/8/89

For DEPUTY REGISTRAR (H)

Encl : Copy of Order/Judgement dated 27.7.89

To.

[Signature] (Applicant)  
[Signature] 2/8/89

dinesh/

[Signature]  
2/8/89

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD

\*\*\*\*\*

T.A. NO. 1039 1987 (L)  
T.A. NO.

DATE OF DECISION \_\_\_\_\_

M. S. Paul

PETITIONER

Shri. Raza Zabeer

Advocate for the  
Petitioner(s)

VERSUS

Union of India & Another

RESPONDENT

Arjun Bhargava

Advocate for the  
Respondent(s)

CORAM :

The Hon'ble Mr. Justice Kamleshwar Nath, VC

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? No
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether to be circulated to other Benches? No

Dinesh/

\*\*\*\*\*

28/7/89

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH AT LUCKNOW

Registration T.A. No.1039 of 1987(L)  
(W.P. No.1599 of 1982)

M.S. Paul ..... Applicant

Versus

Union of India & Another ..... Opposite Parties

Hon. Justice Kamleshwar Nath, V.C.

Writ Petition No. 1599 of 1982 mentioned above was received by transfer under Section 29 of the Administrative Tribunals Act XIII of 1985 for disposal by this Tribunal. The petition was filed on 9.4.1982 for a writ of certiorari to quash the applicant's retirement on 31.5.82 on superannuation on the basis of his date of birth being recorded as 19.5.24 in the service record. The age of superannuation was 58 years.

2. On 19.5.48 the applicant entered in the service of the erstwhile East Indian Railways as a Cleaner in the Running Shed in the Lucknow Division. His date of birth was then recorded as 19.5.24. The applicant says that he did not know the correct date of birth ~~at that~~ <sup>time</sup> and did not possess any documentary or other proof thereof at that time.

3. In the course of his service he took up High School examination. His case is that on the information received from his mother, his date of birth was recorded in the examination form as well as in the High School Examination, 1973, certificate to be 20.12.25. He said that he had made representations to the Department in 1954, 1955 and 1960 to rectify the date of his birth but the Department did not take any action there on. He

further said that the Department, nevertheless, issued seniority lists on 28.3.60, 7.10.61 and 12.10.61 in which his date of birth was indicated to be 19.5.24; and when the Department again issued a seniority list on 31.7.75, he made a representation, Annexure-4 on 16.10.75. He urged that he represented again on 12.6.81 which representation was dismissed on 30.12.81 by Annexure-9 on the ground that the last date for making the representation was 31.7.73. In course of time, it was notified to him that he would retire on 31.5.82 and therefore he filed the writ petition which has given rise to this case.

4. The Opposite Parties' case is that the applicant had given his own date of birth which was initially recorded in the service record as 19.5.24, that no value is to be attached to the date of birth recorded in a High School Certificate which was procured after entry into service, that there was no representation in 1955 and that after consideration of the period of time during which an employee could make a representation regarding his date of birth, the Railway Board took a decision contained in Annexure-B2 that the employees who were in service before 31.12.71, when the first circular Annexure-B1 was issued on the subject, could make their representation by 31.7.73, after <sup>which</sup> ~~that~~ no further representation could be entertained.

5. I have heard the learned counsel for the parties. It is the own case of the applicant that he did not know the correct date of his birth when he entered into service on 19.5.48 nor he had any proof

further said that the Department, nevertheless, issued seniority lists on 28.3.60, 7.10.61 and 12.10.61 in which his date of birth was indicated to be 19.5.24; and when the Department again issued a seniority list on 31.7.75, he made a representation, Annexure-4 on 16.10.75. He urged that he represented again on 12.6.81 which representation was dismissed on 30.12.81 by Annexure-9 on the ground that the last date for making the representation was 31.7.73. In course of time, it was notified to him that he would retire on 31.5.82 and therefore he filed the writ petition which has given rise to this case.

4. The Opposite Parties' case is that the applicant had given his own date of birth which was initially recorded in the service record as 19.5.24, that no value is to be attached to the date of birth recorded in a High School Certificate which was procured after entry into service, that there was no representation in 1955 and that after consideration of the period of time during which an employee could make a representation regarding his date of birth, the Railway Board took a decision contained in Annexure-B2 that the employees who were in service before 31.12.71, when the first circular Annexure-B1 was issued on the subject, could make their representation by 31.7.73, after <sup>which</sup> ~~that~~ no further representation could be entertained.

5. I have heard the learned counsel for the parties. It is the own case of the applicant that he did not know the correct date of his birth when he entered into service on 19.5.48 nor he had any proof

,

documentary or otherwise thereof. The important <sup>point</sup> ~~question~~ <sup>is</sup> that if the applicant had no proof, ~~the~~ <sup>no</sup> documentary or otherwise at the time of his entry into service on 19.5.48, how is it that he could receive information of the date of his birth from his mother at the time when he had subsequently submitted the form for admission to the High School Examination. The mother should have been alive even on <sup>19.5.48,</sup> ~~15.4.48~~ and if she was a correct source of the date of applicant's birth, it should have been possible to indicate it at that time. The own admission of the applicant in the petition that he had no "documentary or proof otherwise" of his date of birth at the time of the entry into service, negatives the value of the so called information of the date of birth subsequently received from the mother. That is why the case of the Opposite Parties in para 4 of the Counter Affidavit that no value can be attached to the statement of the date of birth, <sup>in the</sup> ~~any~~ certificate obtained after entry into the service, is not without force.

6. In the matter of making representations, the applicant has filed copy Annexure-1 of the year 1955 only; its receipt has been denied in para 4 of the Counter Affidavit. Copies of representations of 1955 and 1960 have not been filed; it is not possible to lay faith on a bare statement in that respect. It is significant that even if these representations were made, they do not appear to have been accepted by the Department and can well be considered to have been impliedly rejected when seniority lists were issued in 1960 and 1961 indicating the applicant's date of birth as 19.5.24. It does not appear that the applicant

made any representation after the issue of those seniority lists.

7. The next representation is dated 16.10.75, Annexure-7 which followed the seniority list of 31.7.75. Perhaps this was not considered by the Department. The last representation dated 30.12.81 was rejected by order Annexure-9 stating that the last date for making the representation was 31.7.73.

8. The Opposite Parties' case that the last date for submitting the representation was 31.7.73, is correct. It appears that the matter was considered initially by Railway Board's circular dated 3.12.1971, Annexure-B1 in which it was said that alteration in age after completion of period of probation or of three years of service whichever is earlier would not be permitted. Hardship was considered to have been caused by that circular to the cases of those employees who were already in service on 3.12.71 but could not avail of the opportunity afforded. That is why the Subsequent circular dated 4.8.72, Annexure-B2 was issued with a direction for wide publicity, and it was said that those persons who were in employment on 3.12.71 could make their representation by 31.7.73 but not thereafter and if they did make such representation, it would be considered according to Rules. The Department took a decision to treat 31.7.73 as the 'cut off date'. It is not said that the 'cut off date' was unreasonable.

Indeed, employees have to share responsibility for errors in their date of birth, and it is quite fair to fix a reasonable time during which such errors could be got rectified. In respect of employees who were on job on or before 3.12.71, a provision for making representations till 31.7.73 appears to be quite reasonable. There is no error therefore in the decision of the Opposite Parties that the applicant's

2

representation dated 30.12.81, or for that matter  
dated ~~31.7.73~~<sup>16.10.75</sup>, were not entertainable after 31.7.73.

9. The applicant's learned counsel made a submission that Rule 145 of the Railway Establishment Code, Volume I did not fix any time limit during which representation could be made. This is not to say that the Rule had also provided that the representation could be made at any time. In other words, Rule 145 of the Railway Establishment Code contained a gap on the question of the period of time during which representation could be made. That gap could certainly be made good by means of administrative instructions which are contained in the circulars dated 3.12.~~1981~~<sup>1971</sup>, Annexure-B1 and dated ~~23.8.1982~~<sup>4.8.1972</sup>, Annexure-B2.

10. On a careful consideration of all the matters, I am satisfied that the impugned order does not suffer from any infirmity and the application deserves to fail. The application is dismissed. Parties shall bear their own costs.



Vice Chairman

Dated the 28th July, 1989.

RKM

CIVIL  
 SIDE  
 CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case W.P. 1599-82

Name of parties Maddur Sudan Paul

Date of institution 9-4-82

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	
					Rs.	P.			
	1	Imp. with Domes and affidavits	27	-	102	00			
	2	Power	1	-	5	00			
	3	Comd. 3385(W) of 82 ad. affidavits	7	-	7	00			
	4	Power	1	-	5	00			
	5	Comd. 6527(W) of 85	9	-	7	00			
	6	Power	1	-	5	00			
	7	Comd. 10562(W) of 85 with CA	15	-	7	00			
	8	order sheet	10	-	-	-			
	9	Buch City	1	-	-	-			

I have this \_\_\_\_\_ day of \_\_\_\_\_ 198 \_\_\_\_\_ examined the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that they bear Court-fee stamps of the aggregate value of Rs. \_\_\_\_\_ that all 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 AMU (J)

2708. A13

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Writ Petition No. 1599 of 1982

Madhu Sudan Paul ..... Petitioner

Versus

Union of India & another ..... Opposite Parties

I N D E X

	<u>Pages</u>
1. Writ petition.	... 1 & 9
2. Annexure No.1- Representation dated 27.6.1955.	... 10,
3. Annexure No.2- High School Certificate.	... 11 & 12
4. Annexure No.3- Gazette notification showing petitioner's roll no. and date of birth.	... 13 & 14
5. Annexure No.4- Representation dated 16.10.1975.	... 15,
6. Annexure No.5- Extract of seniority list.	... 16 & 17
7. Annexure No.6- Order of opp. party no.2 dt. 31.12.81 alongwith extract of the retirement list.	... 18- 21
8. Annexure No.7- Petitioner's request for interview dt. 30.12.1981.	... 22 &
9. Annexure No.8- Representation dt. 30.12.1981 handed to Dm on 6.1.82.	... 23 & 24
10. Affidavit.	... 25- 27
11. Vakalatnama.	... 28,
12. Stay application.	...

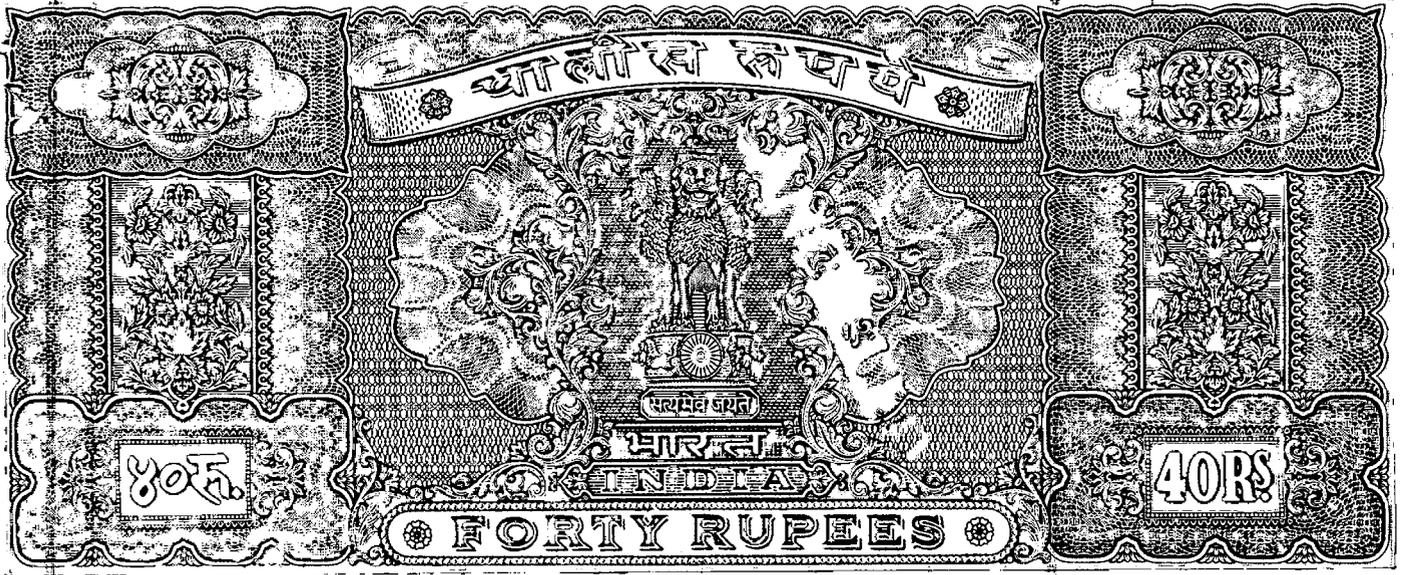
*V. K. Mishra*

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INDIA COURT FEE

A14

40 Rs.



In the Hon.ble High Court of Judicature  
At Allahabad Lucknow Bench L W  
WP no 1599 of 1907

Madhu Sudan pal vs. Commission In death

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

Writ Petition No. 1599 of 1982

Madhu Sudan Paul, aged 56 years, son of late B.M. Paul,  
resident of Mohan Niwas, Murli Nagar, Lucknow.

.... Petitioner

Versus

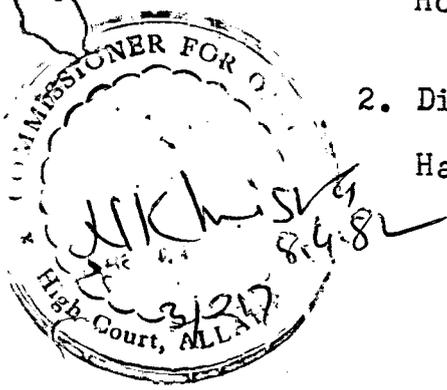
1. Union of India through the General Manager, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.

.... Opposite Parties

Writ Petition Under Article 226  
of the Constitution of India.

The petitioner begs to submit as under :-

1. That the petitioner is working as Senior Clerk in the office of the Senior Divisional Electrical Engineer Northern Railway, Lucknow. He entered service as IV class employee on the post of cleaner in the running shed of the then East Indian Railway in Lucknow Division in the year 1948. The petitioner has served the railway adminis-



*M.S. Paul*

A16

tration diligently and sincerely and has a clean and satisfactory service record.

2. That at the time of his appointment on 19.5.1948 the petitioner was illiterate and could hardly read or write. In the absence of any documentary proof regarding his date of birth the same was recorded by the clerk concerned on the basis of his own assessment as 24 years. This is evident from the fact that the clerk concerned entered the petitioner's date of birth as 19.5.1924, that is, exactly 24 years from the actual date of appointment of the petitioner which is 19.5.1924. The petitioner at that time did not object to it as he himself did not have any proof documentary or otherwise of his actual date of birth. The petitioner, while in service, continued his education. His date of birth entered in school on the basis of the information received from his mother is 20.12.1925. This was accordingly entered in the High School ~~Certificate~~ form also and it is the actual date of birth of the petitioner as entered in his high school certificate for the examination in the year 1953 and the said certificate was received by the petitioner in the year 1954.

3. That the petitioner on the basis of passing high school examination got a temporary promotion from class IV to class III as Trains Clerk on 9.12.1954 by letter dated 2.12.1954.

4. That the petitioner, while working as Transhipment Clerk, made a representation to the Divisional Superintendent, Northern Railway, Lucknow, by Registered A/D letter dated 27.6.1955 regarding correction of his date of birth. This letter was received on 2.7.1955. This

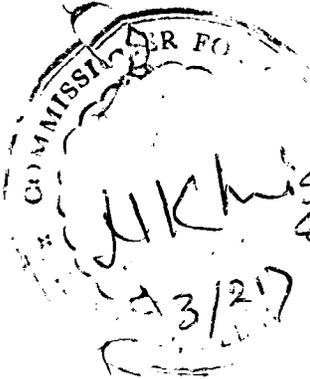
COMMISSIONER FOR  
 H.R.  
 24/11/54  
 2.4.82  
 33/2/7

husband

was in continuation to his earlier representation dated 16.4.1954 which was the first representation regarding correction of his date of birth. The petitioner along with this representation also submitted an attested copy of his high school certificate. True copy of the representation dated 27.6.1955 is filed as Annexure No.1, a photostat copy of the high school certificate for the examination 1953 showing petitioner's date of birth as 20.12.1925 is filed as Annexure No.2 and a photostat copy of the gazette notification showing the petitioner's roll no. and the date of birth is filed as Annexure No.3 to this writ petition.

5. That as no action was taken on his earlier representation, the petitioner made another representation, on 27.4.1960 after circulation of the seniority list on 28.3.1960 and thereafter on 12.10.1961 on circulation of another seniority list on 7.10.1961. But still no action was taken to correct the petitioner's date of birth in accordance with the high school certificate.

6. That thereafter when the seniority list of clerks of Electrical Branch as on 31.7.1975 was circulated in November 1975 the petitioner's name at sl.no.17 again showed his wrong date of birth as 19.5.1924. The petitioner was thus constrained to make another representation to the Divisional Superintendent requesting for correction of his date of birth in accordance with his high school certificate which is as 20.12.1925. The petitioner also enclosed therewith a copy of high school certificate. True copy of his representation dated 16.10.1975 is filed as Annexure No.4 and an extract of the seniority list of clerks of Electrical Branch, Lucknow Division, as on



Mishra

AIS

31.7.1975 showing the petitioner at sl.no. 17 is filed as Annexure No.5 to this writ petition.

7. That the petitioner in anticipation of his approaching retirement on attaining the age of superannuation, that is 58 years, again made a representation dated 12.6.1981 to the Divisional Railway Manager, Northern Railway, Lucknow.

8. That in spite of the aforesaid representation the list of persons due to retire in the year 1982 was issued in January 1982 according to which the petitioner is to retire on 31.5.1982 in accordance with the wrong date of birth entered as 19.5.1924. True copy of the order of opposite party no.2 dated 31.12.1981 for retirement of the railway personnel in 1982 along with an extract of the retirement list showing the petitioner's date of retirement on 31.5.1982 as Senior Clerk in the office of the Senior Divisional Electrical Engineer, Northern Railway, Lucknow, is filed as Annexure No.6 to this writ petition.

9. That the petitioner having no other alternative wrote a letter dated 30.12.1981 to the Divisional Railway Manager seeking an interview with him in order to apprise him of his grievance regarding correction of his date of birth as all previous representations in this connection had failed to receive any attention from the authorities concerned. The petitioner in response to his request was granted interview by the Divisional Railway Manager on 6.1.1982. The petitioner at the time of his interview with the Divisional Railway Manager handed over to him a detailed representation dated 30.12.1981

COMMISSIONER  
ALLAHABAD  
3/2/82

Instant

giving the background of his case and referred to rule 145 of the Indian Railway Establishment Code, Vol. I and also the procedure for correcting the date of birth as laid down in the Railway Board Circular dated 3.12.1971. The Divisional Railway Manager after hearing the petitioner gave the following direction to the Divisional Personnel Officer :-

"Examine his case and let me know.

H.S. Chatta  
D.R.M./N.R./Lko/6.1.82"

True copies of the petitioner's request for interview with the Divisional Railway Manager dated 30.12.1981 and the representation dated 30.12.1981 personally handed over by the Petitioner to the Divisional Railway Manager on 6.1.1982 are filed as Annexure Nos. 7 and 8 respectively to this writ petition.

10. That in spite of the directions given by the Divisional Railway Manager to the Divisional Personnel Officer to examine the petitioner's case on the basis of the interview and the representation dated 30.12.1981 personally handed over by the petitioner on 6.1.1982 no steps have been taken by the authority concerned to examine the petitioner's case or to inform the Divisional Railway Manager. Thus it is evident that despite numerous representations made by the petitioner since the year 1954 no action has been taken by the railway administration to correct the petitioner's date of birth in accordance with Rule 145 of the Indian Railway Establishment Code, Vol. I and the Railway Board's letter dated 3.12.1971 regarding procedure for recording date of birth on entering Railway service and its alteration.



*Insaul*

The Railway Board's letter No.E(NG)1170BR/i, dated 3.12.1971, is as follows:-

"Rule 145-RI lays down that every person, on entering Railway service, should declare his date of birth which shall not differ from any declaration, expressed or implied, for any public purpose before entering Railway service. The rule is not specific on the point whether the mere declaration given by the person should be accepted or it should be accepted only on production of a confirmatory documentary evidence. The Rule is also silent as to what confirmatory documentary evidence should be accepted for this purpose. As regards alteration of recorded date of birth, Rule 145(3) RI lays down that where a satisfactory explanation (which should ordinarily be submitted within a reasonable time after joining service) of the circumstances in which the wrong date came to be entered is furnished by the Railway servant concerned together with the statement of any previous attempt made to have the record amended, it is open to the competent authority to affect an alteration. No time limit has been given for alteration...."



*Insant*

11. That the petitioner being the senior most in the cadre of senior clerks has been sanctioned special pay of Rs.35/- per month in the grade of Rs.330-560 (Revised Scale) w.e.f. 1.10.1980 vide Divisional Office Order dated 29.3.1982. The petitioner by virtue of his

seniority is also due for promotion as Head Clerk in the higher grade of Rs.425-700. But owing to his impending retirement on 31.5.1982 the petitioner will be deprived of this chance of promotion.

*Insdant*



12. That aggrieved by the inaction of the railway administration to correct the petitioner's date of birth in accordance with his high school certificate despite repeated representations since 1954 and finally when he is being retired on 31.5.1982 on the basis of his wrong date of birth, the petitioner having no alternative efficacious remedy has preferred this writ petition on the following amongst other grounds:-

G R O U N D S

- (A) Because the petitioner's date of birth has been wrongly entered in his service record.
- (B) Because the petitioner's actual date of birth as entered in his high school certificate is 20.12.1925.
- (C) Because the opposite parties have failed to alter and correct the petitioner's actual date of birth in his service record on the basis of his high school certificate despite repeated reminders.
- (D) Because the opposite parties in not correcting the petitioner's date of birth as entered in his high school certificate have acted in contravention of Rule 145 of the Indian Railway Establishment Code and the orders of the Railway Board dated 3.12.1971 laying down the procedure for this purpose.

*Varender Singh*

- (E) Because the action of opposite parties in retiring the petitioner on the basis of his wrong date of birth is illegal, arbitrary and in violation of Article 16 of the Constitution of India.
- (F) Because the petitioner will suffer grave miscarriage of justice in case of his illegal and pre-mature retirement on the basis of incorrect age.

P R A Y E R

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

- (i) issue a writ, direction or order in the nature of mandamus commanding the opposite parties to correct the petitioner's date of birth in his service record in accordance with his high school certificate which is 20.12.1925;
- (ii) issue a writ, direction or order in the nature of certiorari quashing the petitioner's date of retirement on 31.5.1982 as shown in the retirement list for May 1982 (Annexure No.6);
- (iii) issue a writ, direction or order in the nature of mandamus commanding the opposite parties not to give effect to the petitioner's date of birth as 19.5.1924 as wrongly entered in his service record;

*Salim Singh*

- (E) Because the action of opposite parties in retiring the petitioner on the basis of his wrong date of birth is illegal, arbitrary and in violation of Article 16 of the Constitution of India.
- (F) Because the petitioner will suffer grave miscarriage of justice in case of his illegal and pre-mature retirement on the basis of incorrect age.

P R A Y E R

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

- (i) issue a writ, direction or order in the nature of mandamus commanding the opposite parties to correct the petitioner's date of birth in his service record in accordance with his high school certificate which is 20.12.1925;
- (ii) issue a writ, direction or order in the nature of certiorari quashing the petitioner's date of retirement on 31.5.1982 as shown in the retirement list for May 1982 (Annexure No.6);
- (iii) issue a writ, direction or order in the nature of mandamus commanding the opposite parties not to give effect to the petitioner's date of birth as 19.5.1924 as wrongly entered in his service record;

*Navin Kumar Shukla*

(iv) issue such other writ, direction or order as deemed proper in the circumstances of the case;

(v) award the costs of the writ petition to the petitioner.

Dated Lucknow:  
April 8, 1982.

*L.P. Shukla*  
(L.P. Shukla)  
Advocate,  
Counsel for the Petitioner.



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

Writ Petition No.                      of 1982

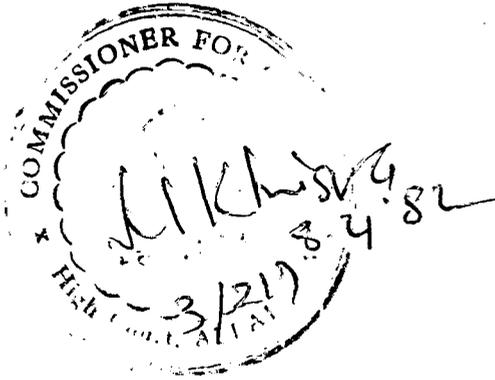
Madhu Sudan Paul                      .....                      Petitioner

Versus

Ujion of India & another                      .....                      Opp. Parties

ANNEXURE NO. 2

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*Handwritten signature*

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उच्च शिक्षण विभाग, मुंबई

एच डब्ल्यू डी एच एच डब्ल्यू डी एच

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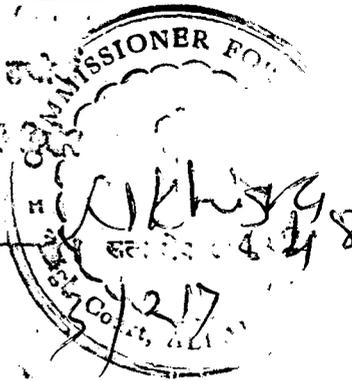
गर्भ सूची परीक्षा, १९५३

नाम: \_\_\_\_\_ नथू सुंदर पाल

वर्ग: \_\_\_\_\_ कॉलेज, एम. ए. कॉलेज, मुंबई

वर्ग: \_\_\_\_\_ इंग्लिश अंग्रेजी इण्डियन इण्डियन

दिनांक: \_\_\_\_\_  
१९५३ ई०



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(नीरविण हास गोदी)

पुणे ए०, एम० ए०.

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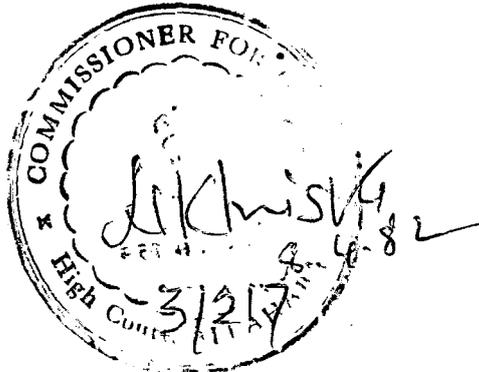
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
SITTING AT LUCKNOW

Writ Petition No. of 1982

Madhu Sudan Paul ..... Petitioner  
Versus

Union of India & another ..... Opposite Parties

ANNEXURE NO. 3



*Madhu Sudan Paul*



15

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

Writ Petition No. of 1982

Madhu Sudan Paul ..... Petitioner  
Versus  
Union of India & another ..... Opp. Parties

Annexure No. 4

To,

The Divisional Superintendent,  
Northern Railway,  
Lucknow.

Sir,

With reference to your No.847E/6-3(ELC) dated  
Nov. 1975 regarding seniority list of clerks of  
Electrical Branch, I beg to point out towards the  
enclosed list at serial no.17 of your letter wherein  
my date of birth has erroneously been given as 19.5.24.

According to my High School Certificate it should  
be as 20.12.25. Hence it is prayed that it should kindly  
be corrected and intimated to me and my seniority be fixed  
in that light. In support of my age a true copy of High  
School Certificate is enclosed herewith.

Thanking you in anticipation.

Enclosed:- True copy of  
High School  
Certificate.

Yours faithfully,

Sd/- M.S. Paul  
(M.S. Paul)  
Clerk,

Divisional Superintendent Office  
Hazaratganj, Lucknow.

Dated 16-10-1975.



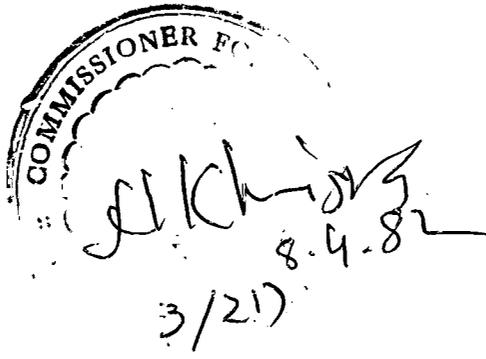
*husband*

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

Writ Petition No.                      of 1982

Madhu Sudan Paul	.....	Petitioner
	Versus	
Union of India & another	.....	Opp. Parties

ANNEXURE NO.5


  
 COMMISSIONER FC  
 8.4.82  
 3/217

*Instant*

*F)*

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17

Seniority list of Electrical Branch of Lucknow Division as on 31.7.1975.

425-700  
230-560  
260-400  
Sanctioned Strength: Pt. Temp. W/O  
2  
10  
15  
2

COMMISSIONER  
High Court, Allahabad  
3/2/75  
4.4.75  
K.K. Mishra

W.S. Paul

S. no.	Name	Place of working.	Date of birth	Date of original appt.	Sub-grade	Date of appt. in sub-gr.	Date of confir- -ation.	Date of Offe- -Grade.	Date from which Office,	Remarks.
1	Sh. B. D. Srivastava	EC/Const	10.7.23	4.5.44	210-380	1.4.56	10.11.61	-	-	Transfer to HQ Office w.e.f. 17.9.70 AM.
2	J.S. Saxena	DEL/IKO	8.4.20	21.7.42	425-700	18.5.59	28.5.63	-	-	(Prev.) 425-700 G.II.70 joined on transfer from WPP/CB IKO on promotion.
3	J.E. Tewari	"	1.8.22	21.12.44	330-560	-	-	-	-	
4	H.K. Srivastava	DEE/IKO	5.1.22	25.10.43	-do-	25.5.57	25.5.58	-	-	
5	K.K. Srivastava	-do-	4.6.25	2.3.44	-do-	1.4.56	1.4.63	-	-	
6	S.K. Mukerjee	ELT/TS/ AM	30.3.28	17.7.46	-do-	1.4.56	1.4.63	-	-	
7	C.R. Mukerjee	DEE/IKO	24.10.24	20.11.46	-do-	1.4.56	1.4.63	-	-	
8	G.W. Gupta	-do-	15.12.38	13.5.55	-do-	1.4.56	1.4.63	-	-	
9	R.B. Tripathi	-do-	7.12.23	7.12.46	"	2.10.59	1.4.63	-	-	
10	H.P. Saxena	-do-	25.8.26	18.12.46	"	21.10.59	1.4.63 (Prev.)	-	-	
11	Ved Anrit	HTR/Elect/ IKO	27.3.26	14.6.49	-do-	11.1.60	1.4.64	-	-	
12	A.K. Sinha	-do-	9.9.24	14.5.46	260-400	14.6.46	24.12.54	330-560	26.5.65	
13	Rajbala Pr. Srivastava	EC/Const IKO	2.3.32	27.7.53	"	27.4.53	15.6.56	"	26.5.68	Copy.
14	Har Prasad	EC/TS/ CB/IKO	11.9.27	5.2.55	"	5.2.55	21.8.56	"	28.10.61	
15	Krishna Behari	EC/IKO/ Pump/IKO	10.7.26	18.4.55	"	18.4.55	1.3.57	-	-	
16	V.N. Privedi	ELT/Elect/ IKO	5.7.30	7.7.56	"	7.7.56	25.3.57	-	-	
17	K.T. Paul	DEE/IKO	19.5.24	19.5.48	-do-	19.5.48	16.9.57	-	-	

Contd...2.

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

Writ Petition No. of 1982

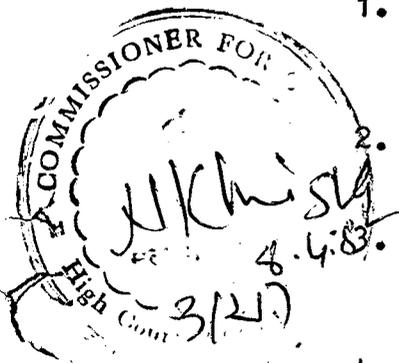
Madhu Sudan Paul ..... Petitioner  
Versus  
Union of India & another ..... Opp. Parties

ANNEXURE No. 6

NORTHERN RAILWAY  
Divisional Office,  
Lucknow: Dt. 31/12/81.

No.E/Settlement/Retirement/1982.

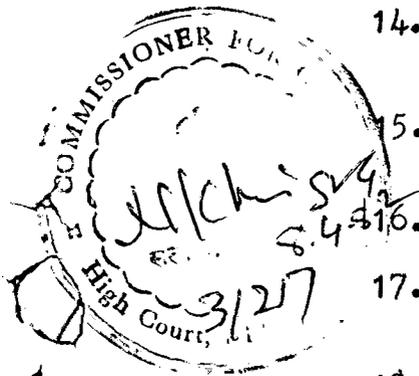
1. Sr. Divl. Accounts Officer, Lucknow (PF) to please see that PF Accounts of the staff are kept ready before their date of retirement.
2. Sr. DAO/N.Rly; Lucknow (Pension) for information and necessary action.
3. The General Manager (P)/N. Railway, Baroda House, New Delhi for information in ref. to his letter No.907E/297(EVA) dated 24.10.64.
4. The Sr. Welfare Inspectors and LIs on Lucknow Division for information and necessary action. They will please see that complete and upto date SRs are received in the Settlement Section alongwith upto date leave account from the Asstt. Engineer and other exterior Officers who maintain them well in advance before an employee is due to retire. They should also ensure that option from the staff for pensionary benefits are pasted in the SRs where necessary and necessary entries to that effect are also made.
5. The Manager, EPC Bank Ltd; 19A, Vidhan Sabha Marg/ Lucknow for information. They will please see that outstanding loan against any of the employees mentioned in the attached lists is cleared before their date of superannuation failing which the employee will be settled up.
6. Asstt. Engineer, I, II, Relaying Spl. LKO FD BSB-SLN PBH AND RBL PRG for information. They will please ensure that SRs of the retiring staff who opted for pension be submitted to this office 15 months prior to their retirement and in the case of SRPF options one year prior to their retirement to this office with complete settlement papers and leave accounts of the retiring staff.



*Insent*

7. The Station Supdts., LKO BSB ALD & PBH for information and necessary action.
8. The Station Masters - RBL ON ACND FDKS JLL BEK NFL NFKA LOT JFG BOY POF CIL MOF KEI SLN SRH PRG JPD SYK GANG ML JNU SHG CHH BTP HCP ANT KVC SOP AY PFM DYP ARP SHNG TKHP VAI AY LGO RCH DNW SYZ SEN TND LLJ AI NPB PTH KSF ULN CHBS SWPR UCR DTJ PHV SWS MGH LOS SGI KBF SME TQA TIKH AMS SKNR.
9. PWIs - PWI I LKO PBH JNU FD BEK PWI I/SLW UCR BCN JNH ROL ON RBL SHG PWI II/LKO SAW CIL PWI-II/LN? BSB JNU NHH KVG GANG PWI TD SLN, PRG
10. IOWs - PBH AHV LKO Estate LKO CB-LKO Line LKO IOW/LKO FD MGS BSH SLN RBL PHG.
11. Loco Foreman LKO PBH FD & BSB.
12. Medical Supdt., Indoor/CB/LKO, MS(Outdoor)CS/LKO, ADMO(C&W)/AHV/LKO, ADMO (Loco Shop)/CB/LKO, MEL.
13. CHI/LKO, Dy. CHCMGS, UG(Vending) BSB, T19Safety)/LKO CTI-LKO, IW(T)/LKO, UC(Vending)/LKO.
14. DME(DSL)NGS, CXP/LKO, FIO/LKO, HTWP/TL/BSB, HTXB/SLN CTXR-PBH, HTXR-JNU, NPO/SLN.
15. SEFO(TL)/LKO, ELC-JNU, ELC/TL/LKO, SEFO/BSB, ELC(HL)/LKO, ELC(Pump)LKO, EFO/AHV/LKO, SEFO/LKO.
16. SI(W)/PBH, SI(E)/BSB, SI(W)/BSB, SI(II)/LKO.
17. Area Officer, DRM OFFICE/LKO, GS/LKO, TCI(W)/LKO, GS/LKO, CTS-LKO, CIC(TBS)BSB, AOS/BSB.
18. SHI/AMV/LKO, CHI-CB/LKO, HI stn. CR/LKO, SBI/BSB, HI/PBH, HI/FD.
19. DEN-II/LKO APO(I), APO(II), APO(G) LKO DEN-I, DEN-III, DEE.
20. Relief Clerk CHC, (Ph), Supdt. Comml., Supdt. 'T' Acctt. Optg. A/cs., Bd. Conf. Steno, Supdt. Mech. RS(CR), AS(Store)/Pass, AS(Elec), Asstt. Hindi Officer, DHN Office, Lucknow for information and necessary action.
21. The SE, ASE and all Hd. Clerk, Dealing Clerks in Sec. DRM Office, LKO. They will please personally check up the date of retirement of the staff as given therein and intimate any error which might come to their notice.
22. ACS/LKO. He will kindly arrange to clear all outstanding Comml. debits of the staff concerned within time.

Incharge of various groups in Establishment should note that SRs of the staff concerned in SAPF system should be sent to the Sr. DAO/LKO for verification one year in advance to the date of retirement. The pensionable staff should be handed over to the (Settlement) immediately as the action in all such is to be taken up fifteen months in advance, pension optee, have been distinguished in the retirement



*M. Paul*

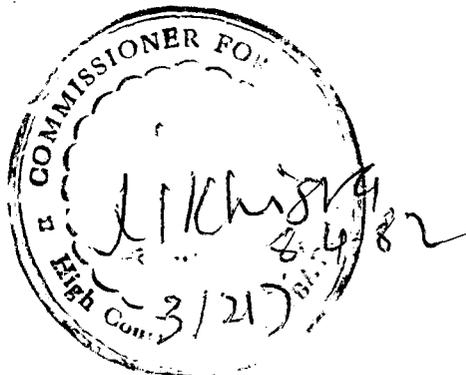
on the basis of information furnished by the dealing clerks which should be checked again.

It is once again emphasised that senior subordinates concerned must spare the retiring staff on their due date of retirement even in absence of relief, failing which they will render themselves liable to disciplinary action. All Subordinates should also note that in future, gratuity (SC to PF) bills of all the staff must bear clear, rolled LTI duly attested on the top of the form G-101 by the subordinate incharge concerned before sending the same to this office for arranging payment. They will also invariably furnish the present home address of the staff retiring. They optee or pensionary optee under clear signature of the competent authority.

Sd/ Illegible  
for Divl. Railway Manager,  
Lucknow.

Note:- All the senior subordinates are required to give wide publicity amongst the retiring staff and also the name of the retiring staff be exhibited on the Notice Board.

....



*Handwritten signature*

SHOWING PARTICULARS OF STAFF DUE RETIREMENT IN MAY/82 FOR THE PURPOSE OF PREPARING PREPARATION WORK IN ACCOUNTS OFFICE IN REGARD TO PAYMENT OF PROVIDENT FUND MONEY (REF. BD'S LETTER NO. 512E/1/28/3 DATED 6.9.1952.)



Sl. No.	Name	Father's name	Design.	PF L/cs. & Folio No.	Station worked during the pre-ceeding 6 mths. leave.	Date of retirement	Cause of termination	Scale of pay	Rules Governed - i) Scale ii) PF iii) Leave	Pension or GRPF optee.	Remarks.
1	Shri Sumar	Shri Badal	Porter	51C084	SW-JMU	31.5.82	Retd. under age limit.	RS-CPD	GRPF	Optee	
2	"	"	"	"	"	"	"	"	"	"	"
3	"	"	"	"	"	"	"	"	"	"	"
4	"	"	"	"	"	"	"	"	"	"	"
5	"	"	"	"	"	"	"	"	"	"	"
6	"	"	"	"	"	"	"	"	"	"	"
7	"	"	"	"	"	"	"	"	"	"	"
8	"	"	"	"	"	"	"	"	"	"	"
9	"	"	"	"	"	"	"	"	"	"	"
10	"	"	"	"	"	"	"	"	"	"	"
11	"	"	"	"	"	"	"	"	"	"	"
12	"	"	"	"	"	"	"	"	"	"	"
13	"	"	"	"	"	"	"	"	"	"	"
14	"	"	"	"	"	"	"	"	"	"	"
15	"	"	"	"	"	"	"	"	"	"	"
16	"	"	"	"	"	"	"	"	"	"	"
17	"	"	"	"	"	"	"	"	"	"	"
18	"	"	"	"	"	"	"	"	"	"	"
19	"	"	"	"	"	"	"	"	"	"	"
20	"	"	"	"	"	"	"	"	"	"	"
21	"	"	"	"	"	"	"	"	"	"	"
22	"	"	"	"	"	"	"	"	"	"	"
23	"	"	"	"	"	"	"	"	"	"	"
24	"	"	"	"	"	"	"	"	"	"	"
25	"	"	"	"	"	"	"	"	"	"	"
26	"	"	"	"	"	"	"	"	"	"	"
27	"	"	"	"	"	"	"	"	"	"	"
28	"	"	"	"	"	"	"	"	"	"	"
29	"	"	"	"	"	"	"	"	"	"	"
30	"	"	"	"	"	"	"	"	"	"	"
31	"	"	"	"	"	"	"	"	"	"	"
32	"	"	"	"	"	"	"	"	"	"	"
33	"	"	"	"	"	"	"	"	"	"	"
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39	"	"	"	"	"	"	"	"	"	"	"
40	"	"	"	"	"	"	"	"	"	"	"
41	"	"	"	"	"	"	"	"	"	"	"
42	"	"	"	"	"	"	"	"	"	"	"
43	"	"	"	"	"	"	"	"	"	"	"
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67	"	"	"	"	"	"	"	"	"	"	"
68	"	"	"	"	"	"	"	"	"	"	"
69	"	"	"	"	"	"	"	"	"	"	"
70	"	"	"	"	"	"	"	"	"	"	"
71	"	"	"	"	"	"	"	"	"	"	"
72	"	"	"	"	"	"	"	"	"	"	"
73	"	"	"	"	"	"	"	"	"	"	"
74	"	"	"	"	"	"	"	"	"	"	"
75	"	"	"	"	"	"	"	"	"	"	"
76	"	"	"	"	"	"	"	"	"	"	"
77	"	"	"	"	"	"	"	"	"	"	"
78	"	"	"	"	"	"	"	"	"	"	"
79	"	"	"	"	"	"	"	"	"	"	"
80	"	"	"	"	"	"	"	"	"	"	"
81	"	"	"	"	"	"	"	"	"	"	"
82	"	"	"	"	"	"	"	"	"	"	"
83	"	"	"	"	"	"	"	"	"	"	"
84	"	"	"	"	"	"	"	"	"	"	"
85	"	"	"	"	"	"	"	"	"	"	"
86	"	"	"	"	"	"	"	"	"	"	"
87	"	"	"	"	"	"	"	"	"	"	"
88	"	"	"	"	"	"	"	"	"	"	"
89	"	"	"	"	"	"	"	"	"	"	"
90	"	"	"	"	"	"	"	"	"	"	"
91	"	"	"	"	"	"	"	"	"	"	"
92	"	"	"	"	"	"	"	"	"	"	"
93	"	"	"	"	"	"	"	"	"	"	"
94	"	"	"	"	"	"	"	"	"	"	"
95	"	"	"	"	"	"	"	"	"	"	"
96	"	"	"	"	"	"	"	"	"	"	"
97	"	"	"	"	"	"	"	"	"	"	"
98	"	"	"	"	"	"	"	"	"	"	"
99	"	"	"	"	"	"	"	"	"	"	"
100	"	"	"	"	"	"	"	"	"	"	"

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

Writ Petition No. of 1982

Madhu Sudan Paul ..... Petitioner  
Versus  
Union of India & another ..... Opp. Parties

ANNEXURE NO. 7

From

M.S. Paul,  
Senior Clerk,  
Elec. Foreman Office, CB.

Date December 30, 1981

To,

The Divisional Railway Manager,  
Northern Railway,  
Lucknow.

Through the proper channel.

Subject :- INTERVIEW.

Sir,

I humbly beg to state that I submitted several petitions after obtaining High School Certificate for alteration of date of birth as recorded in the School certificate but in spite of my approaches my representations have failed to receive any attention and consideration.

As the date of my superannuation is approaching and the non-disposal of my appeal will put me tremendous loss and this aspect compels me to seek interview to have your goodself apprise my stand ~~press~~ personally for redress.

Hope to be favoured with an early interview.

Thanking you.

Yours faithfully,

Sd/- M.S. Paul  
(M.S. Paul)  
Senior Clerk.

COMMISSIONER FO  
\* (M.K. Khosla)  
8.4.84  
3/21)

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

Writ Petition No. of 1982

Madhu Sudan Paul ..... Petitioner  
Versus  
Union of India & another ..... Opp. Parties

ANNEXURE NO.8

From :

M.S. Paul Dated December 30, 1981.  
Sr. Clerk, Elec. Foreman's Office,  
Charbagh, Lucknow.

The Divisional Railway Manager,  
Northern Railway,  
Lucknow.

Through : Proper Channel

Sub: Alteration of date of birth.

Sir,

With utmost necessity and painful circumstances, I beg to lay the following few lines for favour of your kind perusal, consideration and orders.

That in the year 1948, after the expiry of my father while I was an illiterate, inexperienced youngman, entered railway class IV service as cleaner (Loco shed).

That at the time of appointment and joining service I was made to furnish my date of birth from knowledge and thus the wrong date of birth came to be entered.

That while working in class IV category, I through private coaching continued my studies and several years hard labour and effort could be able to pass High School Examination of the U.P. Board of High School and Inter Examination and placed in II Division.

That at the time of filling up forms for the aforesaid examination, my mother who was alive then, gave my correct date of birth which was recorded and later appeared in the certificate.

That while continuing in class IV service, after qualifying in the minimum education, I submitted a copy of the High School certificate for annexure with the service BOOK and correction of the date of birth.



-2-

That after sometime back, subsequent to submission of the school certificate, I was made to appear for promotion examination held then of class IV to class III and declared successful in the test and empanelled for promotion.

That the question of alteration of date of birth previously recorded and that of High School certificate although pressed from my side was however placed by the office before the competent authority for recording his decision and conveyance of the orders.

That I was promoted to class III category and again pressed forward the question of alteration of date of birth, but in action on the part of the office kept me with this vital point at a stand still stage thus suppressing all my claims and requests.

That even now, lately on 12.6.81 I submitted a petition afresh with a photostat copy of certificate for alteration of date of birth followed by a reminder on 12.11.81 which could not receive your kindness's attention due to non-placement of my appeal before you the competent appellate authority and this is how the office has been depriving me of my right of appeal and recorded orders thereon.

Now in the end I would like to request your goodness to please refer Rule 145-RI Procedure to be followed where requests for an alteration of the recorded D.O.B. 19.5.24 supported by a copy of School certificate register and transfer certificate is made near the date of retirement and my request for alteration of the date of birth may please be dealt with accordingly, so that I may not be deprived of the benefit of the law and Rules applicable in the instant case.

Thanking you,

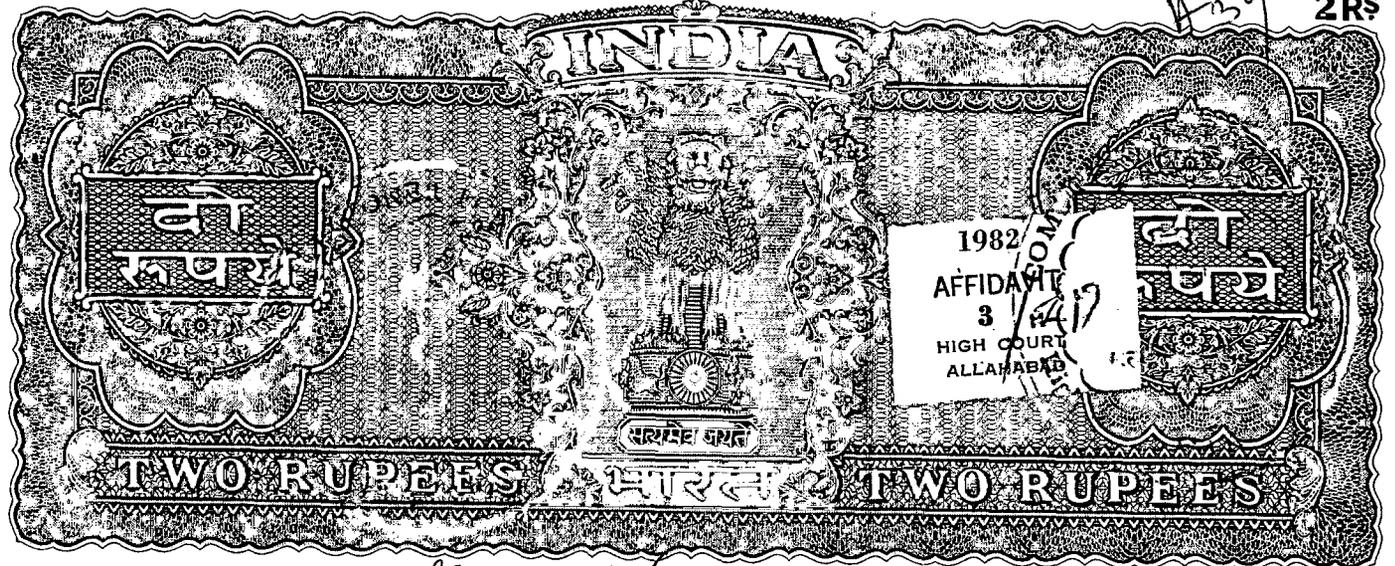
Yours faithfully,

Sd/- M.S. Paul  
(M.S. Paul)  
Senior Clerk.

*L.K. Paul*  
OATH COMMISSIONER

High Court Allahabad.  
Lucknow Bench

No. 3/207  
Date 8.4.82



Affidavit in the High Court of Judicature at  
Allahabad,  
Sitting Bench Lucknow.

Madhu Sudan Pal vs. Union of India & L



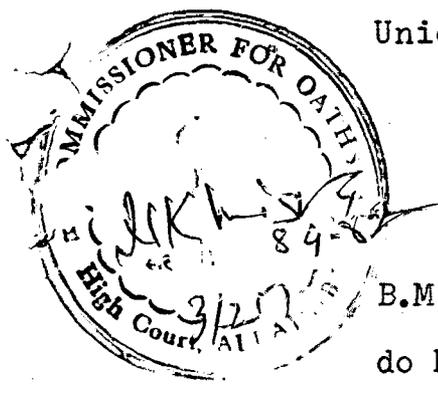
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
SITTING AT LUCKNOW

Affidavit  
In

Writ Petition No. of 1982

Madhu Sudan Paul ..... Petitioner  
Versus  
Union of India & another ..... Opp. Parties

A F F I D A V I T



I, Madhu Sudan Paul, aged 56 years, son of late B.M. Paul, resident of Mohan Niwas, Murli Nagar, Lucknow, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the petitioner in the above writ petition and as such is fully conversant with the facts of the case.
2. That the deponent has read the accompanying writ petition along with the annexures, the contents of which he has fully understood.
3. That the contents of paragraphs 1 to 11 of the writ petition are true to my own knowledge.
4. That Annexures Nos. 1 to 8 to the writ petition

*Madhu Sudan Paul*

#41

are the true copies duly compared from their duplicates and originals.

Dated Lucknow:

*[Signature]*  
Deponent.

April 8, 1982.

VERIFICATION

I, the above-named deponent, do verify that the contents of paragraphs 1 to 4 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed. So help me God.

Dated Lucknow:

*[Signature]*  
Deponent.

April 8, 1982.

I identify the above-named deponent who has signed before me.

*[Signature]*  
Advocate.



Solemnly affirmed before me on 8.4.1982

at 12<sup>30</sup> a.m./p.m. by Sri Madhu Sudan Paul

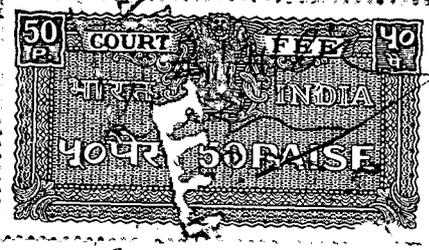
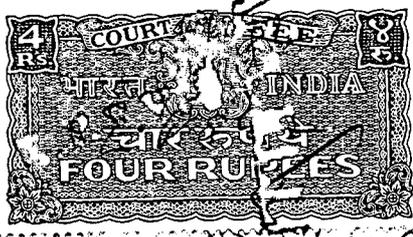
the deponent who is identified by

Sri — *A. Singh* —  
Clerk to Sri *L. P. Shukla*

Advocate, High Court, Allahabad.

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

*[Signature]*  
OATH COMMISSIONER  
High Court, Allahabad.  
Lucknow Bench  
31217  
8.4.82



Court Madras 12/10

#42

व अट

वादी (मुद्दे) का प्रतिवादी (मुद्दालेह)

Handwritten signature/initials

Sri Madhu Suddan Paul

वादी (मुद्दे)

वनाम प्रतिवादी (मुद्दालेह)

नं० मुकद्दमा सन् १६ पेशी की ता० १६ ई०  
ऊपर लिखे मुकद्दमा में अपनी ओर से श्री L.P. Shukla

C.700 Mahanagar एडवोकेट महोदय वकील

नाम अदालत  
नं० मुकद्दमा  
नाम फरीकैन

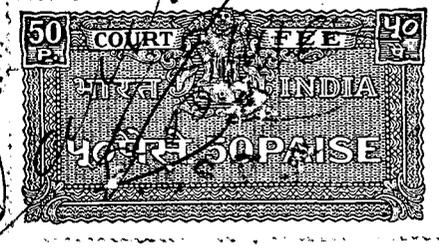
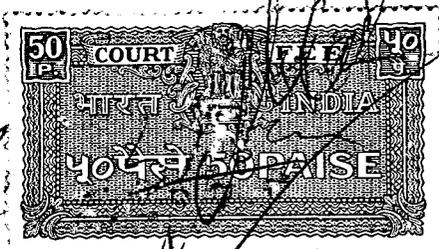
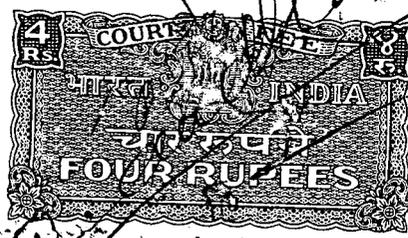
को अपना वकील नियुक्त करके प्रतिज्ञा [इकरार] करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या वियत्ती [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 मैं यह स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने पैरो को मेजता रहूँगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

Madhu Suddan Paul  
हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

दिनांक 8 महीना 4 १६८ ई०

Accepted  
Handwritten signature



3 C.F. = Rs 5/-  
9/4/82

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW

C.M. Application No. 33025(C) of 1982

In

Writ Petition No. 1599 of 1982

Madhu Sudan Paul ..... Petitioner/Applicant

Versus

Union of India & another ..... Opposite Parties

STAY APPLICATION

The applicant most respectfully begs to submit as under :-

1. That for the facts and circumstances stated in the writ petition it is most respectfully prayed that this Hon'ble Court may be pleased to stay the operation of the order of opposite party no.2 dated 31.12.1981 in so far as it relates to the petitioner/applicant seeking to retire him w.e.f. 31.5.1982 as Senior Clerk (Electrical) on the basis of his wrong date of birth.

*L.P. Shukla*

Dated Lucknow:  
April 8, 1982.

(L.P. Shukla)  
Advocate,  
Counsel for the Applicant



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

Affidavit

In

Writ petition No. 1599 of 1982

Madhu Sudan Paul

...Petitioner

Versus.

Union of India & another

...Opp. Parties.

A F F I D A V I T

I, Madhu Sudan Paul, aged 56 years, son of Late B.M. Paul, resident of Mohan Niwas, Murli Nagar, Lucknow, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the petitioner in the above Writ petition and as such is fully conversant with the facts deposed to herein.
2. That the deponent's last representation to the Divisional Rly. Manager dated 30.12.1981 handed over to him during personal interview on the same date has been rejected on 6.5.1982 on the ground that the last date of submitting representation was 13.1.1973. A photo Stat copy of the

dated 6.5.1982 is filed as Annexure No. 9 to this affidavit. This order has not been served on the deponent and has been obtained from the office.

3. That the aforesaid order completely ignores the fact that the petitioner has made various representations prior to 13.1.1973. His earlier representation dated 27.6.1955 sent to the Divisional Suptd. Northern Rly Lucknow, has been filed as Annexure No.2 and to the Writ petition. It was sent by registered A/D and was duly received. A photostat copy of the postal receipt alongwith the A/D Card shewing that it was received by the D. S. Office is filed as Annexure No.10 to this affidavit.

4. That the deponent has been promoted as Head Clerk in the grade of Rs. 425-700 (R. S.) on adhoc basis with effect from 25.3.1982 by the notice issued by the Divisional Personnel Officer Lucknow. dated 18.5.1982. A photostat copy of the Notice date 18.5.82 is filed as Annexure No.11 to this affidavit.



Dated, Lucknow

May 31, 1982

*[Signature]*  
Deponent.

VERIFICATION

I, the above named deponent, do hereby verify that the contents of paragraphs 1 to 4 of this affidavit are true to my own knowledge. No part of it

A  
AG

3/11

-3-

is false and nothing material has been concealed.  
So help me God.

Dated, Lucknow,  
May 31, 1982

*[Signature]*  
Deponent.

I identify the above-named deponent  
who has signed before me.

*[Signature]*  
Advocate

*[Circular Stamp]*  
31.5.82

*[Signature]*

Prabhakar Tewari  
OATH COMMISSIONER,  
High Court, Allahabad,  
Lucknow Bench  
S, No. 36258/82  
Date 31/5/82

Solemnly affirmed before me on 31.5.82  
at 2.45 a.m./p.m. by Sri Madhu Sudan Paul  
the deponent who is identified by  
Sri Anandh Singh  
Clerk to Sri K.P. Shukla  
Advocate, High Court, Allahabad, Bench, Lucknow.

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

In The Hon'ble High Court of Judicature at Allahabad  
Sitting at Lucknow

Writ Petitioner No

Madhusudan Paul

HAT 3/8  
Petitioner

vs.

Union of India & others

Opp. Parties

Annexure No - 9

Recd. 11/5/82  
[Signature]

OFFICE OF THE NORTHERN RAILWAY

Recd. 10/01/82  
[Signature]

Divisional Office,  
Lucknow.

No. H/6-3/H200.

Dt/- 6-5-82.

To,  
The SFO/LA/CB/  
Lucknow.

Sub :- Alteration in date of birth.

....

Ref :- Representation of Shri H.S. Paul  
dt/- 30.12.81.

....

The request of Shri H.S. Paul, Sr. Clerk  
under SFO/LA/CB/LKO, for change in date of birth  
has not been accorded to as the last date of subse-  
quon of representation was 31.7.73.

[Signature]  
( K. K. Mishra )  
Sd/- Divl. Personnel Officer,  
Lucknow.

31/5/82  
[Circular Stamp]

In The Hon'ble High Court of Judicature at Allahabad Sitingot Lucknow

Writ Petition No

Madhu Sudan Paul

versus

Union of India & others

Petitioner  
A  
A  
Opp. Parties

Annexure No - 11

जी.एल. 19/G.L. 19

जनरल 99-बड़ा/Genl. 99-Large

उत्तर रेलवे/NORTHERN RAILWAY

No. 56IE/6-3/Elect.

Divl. Office,  
Lucknow Dt. 18/5/82.

NOTICE.

The following promotions are hereby ordered.

- 1). Shri S.K. Mankerji, Hd. Clerk Gr. B. 425-700 (RS) under E.P.O./TS/AMV, Lucknow is temporarily promoted to officiate as Asstt. Supdt. Grade B. 550-750 (RS) on adhoc basis w.e.f. 25.3.82.
- 2). Shri M.S. Paul, Sr. Clerk Grade B. 330-560 (RS) under SEFO/LA/CB/LKO is temporary promoted to officiate as Hd. clerk in grade B. 425-700 (RS) on adhoc basis vice item 1 above w.e.f. 25.3.82,
- 3). Shri L.B. Nath, Singh Sr. clerk Grade B. 330-560 (RS) under SEFO/LA/CB/LKO is temporarily promoted to officiate as Hd. clerk in grade B. 425-700 (RS) against w/c post and will continue thereafter retirement of Shri Paul w.e.f. 25.3.82.

This has the approval of D.P.O. I.

Sd/-

for Divl. Personnel Officer,  
Lucknow.

Copy to:-

DEE/Lucknow.  
DEFO/LA/CB/Lucknow.  
EFO/TS/AMV/LKO.  
Sr. DCO/Lucknow.  
Supdt./bills.

Attested

20/5/82

20/5/82

20/5/82

Handwritten signature

Deputy Registrar

450

In reply to the query made by Hon Kaul, J. I am to submit as under:-

That on 28.5.82 I was handed over a list of Cases entered on an order sheet (which were unlisted on that day) comprising of about 26 Cases and odd by the Bench Secretary asking me to list those Cases on 31st May 1982 as verbally ordered by his Lordship. Hence the Cases were listed on 31.5.82.

That the said list was pinned to the register of Cases which are to be listed on a particular day but, somehow, it is not traceable at present.

That on the top of the said list by the Bench Secretary it was written "as per verbal direction of his Lordship the following Cases he listed on 31.5.82".

Submitted

2.6.82

A. S. Srivastava  
Asst

Writ Section

DR.

May kindly peruse the above report of Perki Clerk. Somehow the list supplied by the Bench Secretary is not traceable at present ~~in the~~

Submitted

SP

2-6-82  
S.O. (Writ)

In The Hon'ble High Court of Judicature at Allahabad Sitting at Lucknow

Writ Petition No

Madhu Sudan Paul

versus

Union of India & others

Petitioner

Opp. Parties

Annexure No - 11

जी.एल. 19/G.L. 19

जनरल 99-बड़ा/Genl. 99-Large

उत्तर रेलवे/NORTHERN RAILWAY

No. 561E/6-3/Elect.

Divl. Office,  
Lucknow Dt. 18/5/82.

NOTICE.

The following promotions are hereby ordered.

- 1). Shri S.K. Mankerji, Hd. Clerk Gr. B. 425-700 (RS) under E.P.O./TS/AMV, Lucknow is temporarily promoted to officiate as Asstt. Supdt. Grade B. 550-750 (RS) on adhoc basis w.e.f. 25.3.82.
- 2). Shri M.S. Paul, Sr. Clerk Grade B. 330-560 (RS) under SEFO/LA/CB/LKO is temporary promoted to officiate as Hd. clerk in grade B. 425-700 (RS) on adhoc basis vice item 1 above w.e.f. 25.3.82,
- 3). Shri L.B. Nath, Singh Sr. clerk Grade B. 330-560 (RS) under SEFO/LA/CB/LKO is temporarily promoted to officiate as Hd. clerk in grade B. 425-700 (RS) against W/C post and will continue thereafter retirement of Shri Paul w.e.f. 25.3.82.

This has the approval of D.P.O. I.

SD/-

for Divl. Personnel Officer,  
Lucknow.

Copy to :-

DEE/Lucknow.  
DEFO/LA/CB/Lucknow.  
EFO/TS/AMV/LKO.  
Sr. DDO/Lucknow.  
Supdt./bills.

Attended

Recd

20/5/82

...

*Madhu Sudan Paul*



In The Hon'ble High Court of Judicature at Allahabad  
Sitting at Lucknow

Writ Petitioner No

HAT 3/

Madhusudan Paul

Petitioner

vs.

Union of India & others

Opp. Parties

Annexure No - 9

Recd. 11/5/82  
[Signature]

दिनांक 10/05/82  
[Signature]

उत्तर रेलवे/NORTHERN RAILWAY

Divisional Office,  
Lucknow.

No. 11/6-3/Misc.

Dt/- 6-5-82.

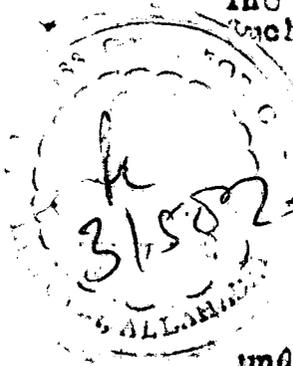
To  
The SEFO/LA/CB/  
Lucknow.

Sub :- Alteration in date of birth.  
....

Obj :- Representation of Shri M.S. Paul  
dt/- 30.12.81.  
....

The request of Shri M.S. Paul, Sr. Clerk  
under SEFO/LA/CB/LKO, for change in date of birth  
has not been accepted as the last date of sub-  
mission of representation was 31.7.73.

( K. K. Mehta )  
Sd/- Divl. Personnel Officer,  
Lucknow.



[Handwritten signature]

013 00

In The Hon'ble High Court of Judicature ~~at~~ Allahabad  
sitting at Lucknow

A 48 30

Writ Petition No

Madhu Sudan Paul \_\_\_\_\_ Petitioner  
vs.  
Union of India and others \_\_\_\_\_ opp. Parties

Annexure No. 10

No. 55

For Insurance Notices in return  
Stamps affixed except in case of airmail  
letters of not more than the initial weight  
prescribed in the Post and Telegraph Acts  
on which no acknowledgment is due.

Received & registered\*  
addressed to \_\_\_\_\_  
\_\_\_\_\_

Initials of Receiving Officer \_\_\_\_\_

Insured for Rs. (in figures) \_\_\_\_\_ (in words) \_\_\_\_\_

Insurance fee Rs. \_\_\_\_\_ Aa. \_\_\_\_\_ (in words) \_\_\_\_\_

Name and address of sender \_\_\_\_\_

27 JUN 55  
SEEL



Acknowledgment.

(To be returned to office of posting for delivery to sender)

Received & registered\*  
addressed to (name) Sini, R. D. Gupta  
Asstt Personal Officer  
Divl Suptt Officer  
North India Railway  
Lucknow.

Insured for Rs. \_\_\_\_\_  
Weighting (in words) \_\_\_\_\_

Signature of addressee \_\_\_\_\_  
Date of delivery \_\_\_\_\_

11. A. 3-27/55

Madhu

Joint Registrar.

A51

On the perusal of the order sheet of this Writ Petition it appears that it was presented on 9.4.1982 and subsequently admitted on 12.4.1982 with the direction that it be finally heard on 11.5.1982 with the stay application. Since 11.5.1982 was a Local Holiday on account of Mahabirji-ka-Mela, the case was listed on 12.5.1982 on which date it was ordered to be listed next week.

On 21.5.1982 it was directed to be listed on 26.5.1982.

On 26.5.1982 although this case was shown at Serial No. 3 for the purposes of admission, but it was not sent by the office to the Court. (Since the case being wrongly listed for admission) The entry with regard this fact was noted on the Cause List. of the Court. Although in view of Court's order it should have been listed for final hearing before the appropriate Bench. Since this was not done as such the learned counsel Sri L.P.Shukla, Advocate made a request to the Hon'ble Bench on 27.5.1982 instead of 26.5.1982 that the file be summoned from the office and be heard today. This request was orally made by the learned counsel and upon which the Court directed verbally that it shall be taken up next day i.e. on 28.5.1982. In view of this order the Bench Secretary informed the office through a slip that the case i.e. Writ Petition No. 1599 of 1982 be sent to this Court for 28.5.1982. After some time similar request was made by Sri Hargur Charan, Advocate for a case at Serial No. 9 of the list dated 26.5.1982, on which the Court was again pleased to order for taking it up tomorrow. The Bench Secretary then pointed out to the Court that for this purpose an application is to be made in writing by both the learned counsel. Since files were not available to the Court on that date. Sri Hargur Charan, Advocate immediately made an application in view of aforesaid order and his case was ordered on that application to be listed for 28.5.1982, but Sri L.P.Shukla, Advocate did not make such application as such no orders in writing could be passed.

On 28.5.1982 the Division Bench consisting of Hon'ble T.S. M. J and Hon'ble Mahavir Singh, J was constituted in Court No. also to receive all Fresh Bench Matters including

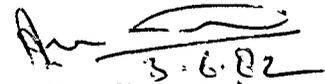
listed as well as unlisted cases. On that day Fresh Petition continued till 1.15 P.M. and also at 2.00 P.M. when the Bench again resumed few more Fresh Petition were presented for admission and orders. Upon this some learned Advocates then present in the Court started requesting the court that their cases were most urgent and important as such those cases be heard first. (Since it was last working day before Vacations and the Bench was only available upto 3.15 P.M.). Since it was not possible for the Court to take up all cases in which the request was made by the learned counsel and also the Fresh Petition which were presented at 2.00 P.M., the Bench desired me to sent the Fresh Petitions presented at 2.00 P.M. and one bundle of unlisted cases (which were about 20 cases in number) to Court No. 3 consisting of Hon'ble R.C.Deo Sharma, J and Hon'ble S. Saghir Ahmad, J atonce and immediately after this orders the Bench took up some unlisted cases contained in the other bundle. After hearing two or three unlisted cases the Bench started dictating the judgment in Habeas Corpus petition which was heard before this Bench earlier. At about 3.00 P.M. the Hon'ble Bench desired me to sent all the remaining unlisted cases to Court No. 3 atonce. Since the cases which were to be sent to Court No. 3 were approximately 40 or 45 in number, it was not at all possible for the Bench Secretary to write down the order on order sheet of each case and then to sent the same to Court No. 3. Besides, when all those cases were ordered to be sent by a general order of the Court in the presence of the learned counsel concerned the Bench Secretary sent those cases accordingly at once without delay to Court No. 3, and without making entries on any of the order sheet of the cases so transferred as per existing practice. I may point out that on several occasions when the cases from one Court are transferred to some other Court the order sheets are never filled in by the Bench Secretaries of the Court transferring such cases.

Under these circumstances stated above:

- (1) the order sheet for 26.5.1982 and 27.5.1982 could be filled because the file in question was not available with the Bench Secretary on those date

(2) on 28.5.1982 since by the said general order of the Court the cases were sent to Court No. 3 at 3.00 P.M. the order sheets remained unfilled.

Submitted.



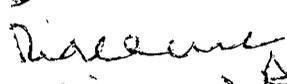
(Ambika Narain)

Bench Secretary Court No.

(1)

3.6.1982.

Submitted to Hon'ble Sans-Vacation  
Judge



3/6/82

A 54 S/1

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

(u)

C.M. Application No. 6527 of 1985.



29/11/85

Madhu Sudan Paul, aged about 58 years, son of  
Late B.N. Paul, resident of Mohan Niwas, Murli Nagar,  
Lucknow.

7030

--- Applicant/Petitioner.

Versus.

1. Union of India, through the General Manager,  
Northern Railways, Baroda House, New Delhi.
2. Divisional <sup>RAILWAY</sup> Manager, Northern Railways, Hazaratganj,  
Lucknow.

--- Opposite Parties.

In Re :

Writ Petition No. 1599 of 1982.

Madhu Sudan Paul --- Petitioner.

Versus.

Union of India, through the General Manager  
Northern Railways, and ~~another~~.

--- Opposite Parties.

Application for amendment of Writ Petition

No. 1599 of 1982.

contd...p-2,

64

This application of the Petitioner, most respectfully, sheweth : -

- 1- That on April 8, 1982 the Petitioner, above-named filed the above-noted Writ Petition which was admitted on the same day and in view of the urgency of the matter, it was ordered to be listed on ~~May~~<sup>h</sup> 11, 1982 along with Stay Application ( C.M. An.No.3385(w) of 1982 ) after notice to the Opposite Parties requiring them to file Counter Affidavits within two weeks and the Petitioner to file Rejoinder Affidavit within a week, thereafter.
- 2- That the ~~P~~<sup>n</sup>etitioner, through the Writ Petition and the Application for Stay had prayed for quashing the so-called date of retirement on 31-5-1982 as shown in the Departmental List of retirement ( ANNEXURE <sup>h</sup>No. 6 ) prepared on the basis of his wrong date of birth on assumption at the time of his entry into service and not in accordance with the actual date of birth<sup>h</sup> as recorded in the High School Certificate.
- 3- That, in the circumstances that followed, after 11-5-1982, the Writ Petition could not be heard and disposed of and in consequence the Application for Stay without any interim relief having been granted by this Hon'ble High Court, became infructuous after retirement of the Petitioner forced by the Opposite Parties on 31-5-1982.



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- 3 -

4- That the Opposite Parties No. 1 and 2, inspite of notice of this Writ Petition did not file their Counter Affidavits within the time granted by this Hon'ble High Court ; they, again, did not file the same on 30-8-1982, the date on which it was taken up for hearing and their counsel sought for one month's time to file Counter Affidavit, thereafter, they, again, on 3-9-1982 sought for six weeks' time for the purpose but no Counter Affidavits on their behalf has been filed upto this date.

5- That in view of the subsequent events and forced retirement of the Petitioner, inspite of his protests and in utter disregard and violation of the Departmental Rules, particularly, Rule 2046 (FR-56) of Indian Railway Establishment Code, Volume II applic<sup>^</sup>able in his case, it is expedient and necessary to amend the original Writ Petition in the following terms :

(i)- After paragraph 11 of the W.P., a fresh Paragraph 11-A, be allowed to be added.

11-A. That in any case, the Petitioner is entitled to serve the Railways upto the age of 60 years, by virtue of his first appointment in Class IV post in the service of ex- East India Railways, holding ministerial post on 31-5-1982, the date on which he was forced to retire illegally in violation of the Railway Board's letter No. PC-67/R.T-

contd ...p-4,



A 57  
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-8 dated 22-9-1967 read with Rule 2046 (FR-56) of Indian Railway Establishment Code, volume II, as amended.

A true copy of the Railway Board's letter of 22-9-1967, referred to above, is filed hereto as ANNEXURE No. 9 to this Writ Petition.

(ii) Thereafter, another Paragraph 11-B be allowed to be added.

11-B. That the Petitioner, in the circumstances, is entitled to be called back to duty to serve the Railways upto 20 th. 1985 the date on which the Petitioner shall attain the age of 60 years in accordance with his age, recorded in the High School Certificate and, in the alternative, he is entitled to get his full average pay with all benefit increments and allowances, as if he would have been/continuing in service throughout.



(iii) In Paragraph 12, line 4, the words/after, & figures the word ' finally ' and in line 5 upto ' retired ' be deleted and after 31.5.1982 the following words be allowed to be added. " the date on which the Petitioner was forced to retire illegally ".

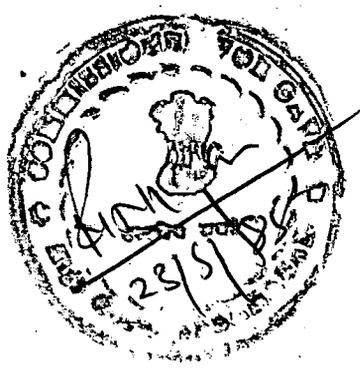
(iv) In the Grounds of Writ Petition, the additional ground marked as (G) be allowed to be added.

A 56  
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(G) Because the act of the Opposite Parties No.1 and 2 in forcing retirement of the Petitioner, illegally and prior to his attainment of the age of 60 years, that is before 20-12-1985 according to his date of birth recorded in the High School Certificate is without jurisdiction and void.

(v) In the Prayer columns, sub-paragraphs (iv) & (v) be allowed to be numbered as (v) & (vi) respectively and before those, a fresh sub-paragraph (iv) be added :

(iv) issue a writ, direction or order in the nature of mandamus commanding the opposite parties to call back the petitioner to duty to serve the Railways for the remaining period of his service upto 31-12-1985, the date ending for the month of December, 1985 ; 20-12-1985 being the date on which the petitioner shall attain the age of 60 years in accordance with his age recorded in the High School Certificate and pay him the back salary ; and in the alternative to pay him full average pay with all benefits, increments and allowances, as if he would have been continuing in service throughout.

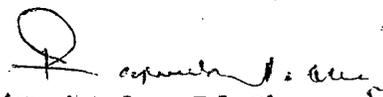


A 39

5/6

P r a y e r.

It is, therefore, humbly prayed that this Hon'ble Court may be pleased to order that the Petitioner's amendment application be allowed in its terms and that the consequential amendments thereof be incorporation in the original Writ Petition for the ends of justice.



(Rajendra Pd. Sharma); Advocate

Lucknow : Dated May 23, 1985.

Counsel for the  
Petitioner/Applicant.

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7

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

LUCKNOW BENCH, LUCKNOW.

Writ Petition No. 1599 of 1982.

Madhu Sudan Paul - - vs. Petitioner.  
Union of India, through the G.M., N.R. - Opp. Parties.

ANNEXURE No. 9

Circular No. 831-E/169/2/II(E-iv) dated 22-11-1967.

Sub.- Amendment to Rule 2046(FR-56) of Indian Railway Establishment Code, Volume II - clarification regarding -

A copy of Railway Board's letter No. PC-67/RT-8 dated 22-9-1967 is forwarded for information and guidance.



(1) ...

(2) ...

(3) ...

(4) Whether ex-Company staff, i.e., Ex-R.I. Railway Co./ A B Railway Co./ B D Railway Co./ N. Railway Co. etc. staff taken over by Indian Government Railways opted and to be governed by Indian Government Railway Rules, now holding ministerial posts may go upto 60 years of age subject to their fulfilling the conditions laid down in rule 2046 (b)-R-II.

The Board desire to clarify the position on the above points seriated as under :

(1) ...

(2) ...

(3) ...

(4) Yea.

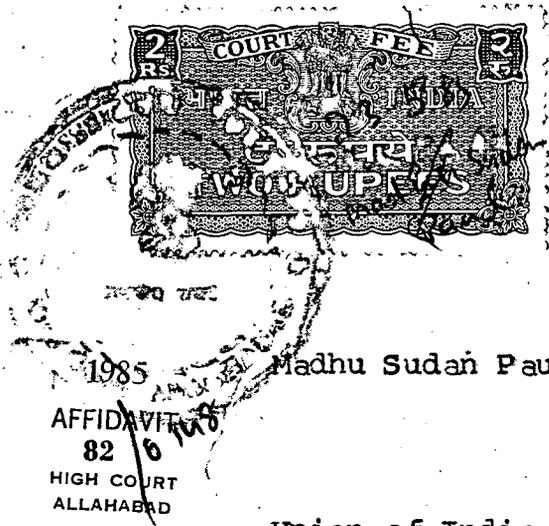
*P. N. Vigam*  
Advocate Oath Commissioner  
Allahabad High Court  
Lucknow Bench Lucknow

82/15148 Date 23/5/85 Lucknow : Dated May 23, 1985.

*[Signature]*  
Deponent

# 70  
5/4

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



A f f i d a v i t  
in Writ Petition No.1599 of 1982.

Madhu Sudan Paul - - - Petitioner.

Versus.

Union of India, through the General Manager  
Northern Railways, and another - - - Opposite Parties.

AFFIDAVIT.

in support of application for  
amendment to the Writ Petition.

I, Madhu Sudan Paul, aged about 58 years, son of  
Late B.N. Paul, resident of Mohan Niwas, Murli Nagar,  
Lucknow, do hereby solemnly affirm and state as under:



- 1- That the deponent is the Petitioner in the above noted Writ Petition and the applicant hereto and therefore, he is fully conversant with the facts of the case and as stated hereafter.
- 2- That the deponent has read the contents of the amendment application and the ANNEXURE No.9 the contents of which he has fully understood.
- 3- That the contents of paragraphs 1 to 5-(1) to (v) are true to my own knowledge.

*Madhu Paul*

H 71  
5/9

4- That annexure No.9 hereto is the true copy  
duly compared with its original.

Lucknow : Dated May 23, 1985.

*Madhu Paul*  
Deponent.

Verification.

I, Madhu Sudan Paul, the deponent, do hereby  
verify that the contents of paragraphs 1 to 4 of  
this affidavit are true to my own knowledge.

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

*Madhu Paul*  
Deponent,

Lucknow Dated May 23, 1985.

I identify the deponent who has  
signed before me,

*Rajendra Pd. Sharma*  
(Rajendra Pd. Sharma) <sup>Adv.</sup>  
Advocate.



Solemnly affirmed before me on 23.5.85  
at 2.35 A.M./P.M. by Sri Madhu Sudan Paul  
the deponent who is identified by  
Sri Rajendra Pd. Sharma Advocate  
clerk to Sri  
Advocate High Court, Allahabad.

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

*P. N. Nigam*  
Advocate Oath Commissioner  
Allahabad High Court  
Lucknow Bench Lucknow

No. 8... Date ... 23/5/85

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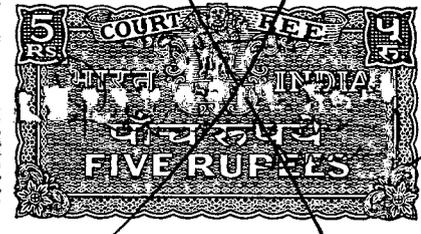
व्य अदालत श्रीमान् *Hon'ble High Court of Judicature*  
[ वादी ] बपीनान्द *at Madhav, Lucknow* महोदय  
-----बी-----का **वकालतनामा**  
प्रतिवादी [ रेंस्पाडेन्ट ]

*San Masbu Sudan Pat*

839

टिकट

वाद



*Union of India & others*

नं० मुकद्दमा *W.P. 1598* बनाम प्रतिवादी (रेंस्पाडेन्ट)  
सन् *1802* पेशी की ता० १६ ई०  
ऊपर लिखे मुकद्दमा में अपनी ओर से श्री *Rajwara Prasad Shama*

*101* *Nagar Bapn Lucknow* -----वकील----- महोदय  
एडवोकेट

नाम अदालत  
मुकद्दमा नं०  
नाम करीबन

को अपना वकील नियुक्त करके प्रतिज्ञा ( इकरार ) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देही व प्रश्नोंत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी वा अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हारी विपक्षी (फरोकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जात्रा है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर *Sudan*

साक्षी (गवाह) \_\_\_\_\_ साक्षी (गवाह) \_\_\_\_\_

दिनांक *29-3-* महीना \_\_\_\_\_ सन् *१६ ०५* ई०

स्वीकृत

*Handwritten signature*

*Handwritten signature*

*Accepted*  
*Rajwara Prasad Shama*  
*Advocate*  
*29-3-05*

A 1132

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

C.M. Application No. 10,562(u) of 1985

Union of India & another .. Applicants.

In re:

Writ Petition No.1599 of 1982

Madhusudan Paul .. Petitioner

Versus

Union of India & another .. Opp. parties.

11934



1 CF = Rs. 5/-  
380  
16/9/85

Application for condonation of delay.

The applicant, above named, most respectfully submits as under:-

That in the above noted case verification of record had to be done from different places which took sufficient time as such delay in filing the counter affidavit also occurred which was unavoidable.

Wherefore, it is prayed that the delay in filing the counter affidavit may please be condoned and the counter affidavit may be taken on record.

Lucknow:

Dated: Sept. 6 1985

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

C.S.  
Present  
16/9/85  
16/9/85

A 14

*Handwritten initials/signature*

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

Counter Affidavit  
In

Writ Petition No.1599 of 1982

Madhusudan Paul .. Petitioner

Versus

Union of India & .. opp. parties.



Counter affidavit on behalf  
of opposite parties.

I, *S.H. Jeychandani* aged about *56* years,  
son of *Sri Ansonal* working as Assistant  
Personnel Officer in the Office of Divisional Railway  
Manager, Northern Railway Hazratganj, Lucknow do  
hereby solemnly affirm and state on oath as under:-

1. That the deponent is working as Assistant  
Personnel Officer in the office of Divisional Railway  
Manager, Northern Railway, Hazratganj, Lucknow as  
such is fully conversant with the facts of the case.

2. That the deponent has read the writ petition,  
understood its contents and has been authorised by  
the opposite parties to file this counter affidavit  
on their behalf.



*Handwritten signature*

47523

3. That the contents of para 1 of the writ petition are admitted to the extent that the petitioner was appointed as Cleaner on 19.5.48 and is working as Senior Clerk.

4. That the averments made in para 2 of the writ petition are not admitted as this is incorrect to say that the dealing clerk concerned had assessed the age of 24 years of the petitioner at his own accord. The age of the petitioner as 24 years was certified by the IMO/E.I.Railway, Lucknow on 17.5.48. In case of staff who passed Matriculation certificates etc. after entering railway service, such certificates are not be taken as basis for revision of the recorded date of birth.

5. That the averments made in para 3 of the writ petition are not admitted. The petitioner has been promoted as Trains Clerk w.e.f. 20.12.1954 against quota reserved for promotion of class IV staff to class III and in which passing of High School is not required.

6. That the averments made in paras 4 and 5 of the writ petition are not admitted as after a gap of 23 years, it is not possible to search out the record of 1955. Further the question of changing the date of birth as 20.12.1925 on the basis of High School Certificate does not arise, in view of remarks given in para 4 of this counter affidavit.

7. That in reply to the averments made in para



Enclosed

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6 of the writ petition only this much is admitted that the seniority list of Clerks as on 31.7.1975 was circulated under this office letter No. 247-E/6-3(EIC) dated 27.3.1975 and not in November, 1975 as mentioned by the petitioner in which it was already mentioned that if any of the employee had any objection or representation against fixation of seniority he may represent within 30 days and after that no representation is to be entertained and the seniority list shall be treated as final. The representation dated 16.10.1975 Annexure-4 to the writ petition has not been received in this office and also after a lapse of 30 days the petitioner's representation has got no weightage. Further the issue of seniority list is for the purpose of promotion and not for any attestation of service particulars viz. date of birth etc.

8. That the averments made in para 7 of the writ petition are admitted to the extent that the retirement list was announced on the basis of date of birth recorded in service record and rest of the contents of the para under reply are denied.

9. That in reply to the averments made in para 8 of the writ petition it is stated that the representation of the petitioner dated 12.6.1981 was in process. The retirement list of 1982 of all the staff on the Division due retirement has to be issued to facilitate payment of settlement dues.



*[Handwritten signature]*

A 78  
2/5

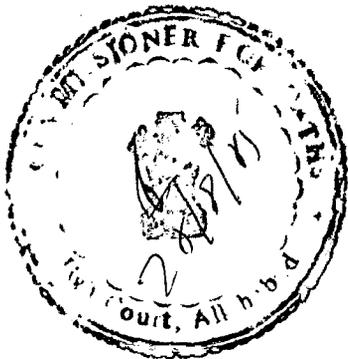
10. That the averments made in para 9 of the writ petition are admitted to the extent that Railway Board had issued circulars from time to time with regard to correction of date of birth. The same are annexed as Annexure B-1 and B-2 to this counter affidavit. Representation of the petitioner with regard to correction of date of birth was duly considered by the administration and the reply furnished with reasons is annexed at Annexure B-3 to this counter affidavit. It may be mentioned here that the first representation of the petitioner is dated 4.5.1982 vide Annexure-1 to the writ petition i.e. it was submitted one month before his retirement. Having made no representation prior to 31.7.1973 as provided in Railway Board's circulars the petitioner was advised accordingly. Thus the petitioner had no case for alternation of his date of birth as claimed.

Annexure B-1  
Annexure B-2

Annexure B-3

11. That the averments made in para 10 of the writ petition are not admitted. No representation for change in date of birth is to be entertainable after 31.7.73 as laid down in Printed Serial No.5719.

12. That in reply to the averments made in para 11 of the writ petition it is stated that the petitioner was allowed the special pay of Rs.35/- w.e.f. 1.10.1980 and he was promoted as Head Clerk in grade Rs.425-700(RS) vide this office letter No.561-E/6-3/Elect.dated 18.5.1982.



Enca

A-18  
7/6

13. That in reply to the averments made in para 12 of the writ petition it is stated that the petitioner is not entitled to the reliefs claimed.

Lucknow:

*[Signature]*  
Deponent

Dated: August 28, 1985

Verification

I, the above named deponent do hereby verify that the contents of paras 1 and 2 are true to my personal knowledge, those are paras 3 to 12 are based on records hence are believed by me to be true, and that of para 13 are based on legal advice. No part of it is false and nothing material has been concealed in it so help me God.

Lucknow:

*[Signature]*  
Deponent

Dated: Aug 28, 1985  
6/9



I identify the deponent who has signed before me.

*C.A. Basir*  
Advocate.

Solemnly affirmed before me on 28/8/85 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.

*[Signature]*  
OATH COMMISSIONER  
High Court, Allahabad,  
(Lucknow Bench)

No. 1/1003

Date 28/8/85

A M J

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

Writ Petition No.1599 of 1982

Madhusudan Paul .. Petitioner

Versus

Union of India & another .. Opp. parties.

Annexure No.B-1

Northern Railway HQrs. Office, No.93-E/Opt.II(Eiv)  
Baroda House, Dt. 5.1.1972.  
New Delhi. Serial No.5511

Copy of letter No.E(NG)II700BR/1. dated 3.12.71 from Joint  
Director Estt. Railway Board, New Delhi to the General  
Managers, All Indian CLW, DLW, ICDF, and others etc.etc.

\*\*\*\*\*

Sub: Procedure for recording date of birth on entering  
Railway Service and its alteration.

.....

Rule 145-RI lays down that every person, on  
entering Railway Service, should declare his date of birth  
which shall not differ from any declaration, expressed or  
implied, for any public purpose before entering Railway  
Service. The rule is not specific on the point whether  
the mere declaration given by the person should be accep-  
ted or it should be accepted only on production of a conf-  
irmatory documentary evidence. The Rule is also silent  
as to what confirmatory documentary evidence should be  
accepted for this purpose. As regards alteration of  
recorded date of birth, Rule 145(3)(iii) RI lays down  
that where a satisfactory explanation(which should  
ordinarily be submitted within a reasonable time after  
joining service)of the circumstances in which the wrong  
date came to be entered is furnished by the Railway ser-  
vant concerned together with the statement of any pre-



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Vy

attempt made to have the record amended, it is open to the competent authority to affect an alternation. No time limit has been given for alteration.

2. The Board have revised the existing provisions of Rule 145 RI in the light of experience and have decided as under:-

(i) WHEN A CANDIDATE IS ABLE TO STATE HIS AGE.

(a) When a candidate declares his date of birth in accordance with paragraph 145-RI, he should be asked to produce confirmatory documentary evidence such as Matriculation Certificate or a Municipal Birth Certificate. If he is not able to produce such an evidence he should be asked to produce any other authenticated documentary evidence to the satisfaction of the appointing authority. Such authenticated documentary evidence could be the School Leaving Certificate, a Baptismal certificate in original or some other reliable document, However, horoscope should not be accepted as an evidence in support of the declaration of age;

(b) When a candidate is not able to produce a confirmatory documentary evidence or any other authenticated proof to the satisfaction of the appointing authority in accordance with above, he should be asked to produce an affidavit in support of the declaration of his age;

(c) In the case of Class IV employees care should be taken to see that the date of birth as declared on entering regular class IV service is not different from the declaration expressed or implied, given earlier at the time of employment as a Casual labour or as a subst

(ii) WHEN A CANDIDATE IS NOT ABLE TO STATE HIS AGE

Rule 145(2) (c) provides that when a person



*[Handwritten signature]*

A 8/2/79

unable to state his age it should be assessed by a Railway Medical Officer and the age so assessed entered in his record of service. The Board have now decided that this provision need not be retained and a person who is not able to declare his age, should not be appointed to Railway Service.

(iii) PERIOD FOR ALTERATION OF RECORDED DATE OF BIRTH

lays  
Rule 145(3)(iii) Railways/down that where a satisfactory explanation(which should ordinarily be submitted within a reasonable time after joining service) is submitted it is open to competent authority to alter recorded date of birth. The Board have had under consideration the period of time that should normally be accepted as a reasonable time for the purpose of Rule 145(3)(iii)-RI. They have decided that no alteration in date of birth should be allowed after completion of the probation period or three years service, whichever is earlier.

3. In view of the above decisions, the President in exercise of the powers conferred on him by the proviso to article 309 of the Constitution hereby directs that Rule 145 RI of the Indian Railway Establishment Code Volume I (Revised Edition) shall be amended as in the enclosed advance correction slips No.302 and No.303-RI.

4. Receipt of this letter may please be acknowledged.

.....

Copy of letter No.93-E/O-Pt.II(EIV) dated 5.1.72 from General Manager(P), Northern Railway, Headquarters Office, Baroda House, New Delhi to all Divisional Supdt.N.Rly. and copy to others.

Serial No.5511

Sub: Procedure for recording date of birth on entering Railway Service and its alteration.

.....



Signature

A 82  
7/50

A copy of Railway Board's letter No.E(NG) 1170'BR/1 dated 3.12.1971 is forwarded for information and guidance.

Please acknowledge receipt.

DA/As above.

.....

.....

Indian Railway-Establishment Code Volume-I(Revised Edition).

CORRECTION SLIP NO.302 RI.

Rule 145-RI

Delete clause(e) of sub-Rule(2) of this Rule.

(Railway Board's letter No.E(NG)II70BR/1

dated 3.12.71.

....

Indian Railway Establishment Code Volume I(Revised Edition )

ADVANCE CORRECTION SLIP NO.303 RI.

Rule 145-RI.

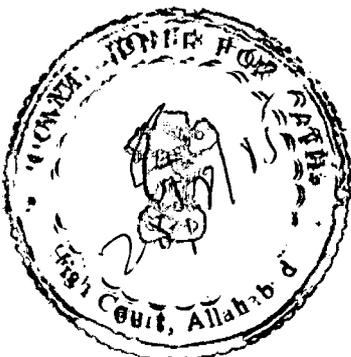
The following may be substituted for the existing bracketted provision occuring in clause(iii) of sub-rule (3) of this Rule.

"( Which should not be entertained after completion of the probation period or three years' service, whichever is earlier).

(Railway Board's letter No.E(NG)1170-BR/1 dated 3.12.71 ).

\*\*\*\*\*

.....



*Signature*

A 837

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

Writ Petition No. 1599 of 1982

Madhusudan Paul .. Petitioner

Versus

Union of India & others .. Opp. parties.

Annexure 9-2

Serial No.5719-Circular No.932/O-RI(EIV),dt.23.9.72

Sub:- Procedure for recording date of birth on entering Railway Service and its alteration.

.....

A copy of Railway Board's letter No.E(NG)II-70BR/1 dated 4.3.72 is forwarded for information and guidance. Railway Board's letter No.E(NG)-II-70BR/1,dated 3.12.71 referred to therein was circulated vide this office letter of even number dated 5.1.72(P.S. 5511). It may please be ensured that wide publicity is given to these orders amongst the staff through various publicity media to enable aggrieved staff to ask for rectification of any mistake in their recorded date of birth upto 31.7.73 as no second opportunity for this purpose will be given to them after 31.7.73.

Copy of letter No.E(NG)II70BR/1,dated 4.3.1972 from Dwarika Dass, Assistant Director, Estt.Railway Board to the General Managers, All Indian Railways and etc.etc.

Sub: Procedure for recording date of birth on entering Railway Service and its alteration.

.....

1. Attention is invited to advance correction slip



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No.303 to the Indian Railway Establishment Code Volume I forwarded with Railway Board's letter of even number dated 3.12.1971 which requires that requests for alteration of date of birth should not be entertained after completion of the probation period or three years service whichever is earlier.

2. It has been represented that the above amendment would cause hardship to the railway servants who were already in employment on 3.12.1971 and who did not take advantage of the provision of the rule regarding alteration of date of birth as it stood before the above amendment.

3. The Board have considered the matter and have decided that such employees may be given an opportunity to represent against their recorded date of birth upto 31.7.1973. Such requests should be examined in terms of the rule as they stood before the amendment.

4. The Board desire that vide publicity should be given to these orders through railway gazettes to enable aggrieved staff to ask for rectification of any mistake in their recorded date of birth. No second opportunity will be given after 31.7.1973 and all requests for alteration of date of birth thereafter should be disposed off strictly in accordance with the amendment referred to above.

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Serial No.5719-Circular No.93E/o-RI(EIV) dt.23.8.72.

Sub:- Procedure for recording date of birth on entering Railway Service and its alteration.

.....

A copy of Railway Board's letter No.E(NG)II-70BR/



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A 857/13

1, dated 4.8.1972 is forwarded for information and guidance. Railway Board's letter No.E(NG)-II-70BR/1, dated 3.12.1971 referred to therein was circulated vide this office letter of even number dated 5.1.1972(P.S. 5511 ). It may please be ensured that wide publicity is given to these orders amongst the staff through various publicity media to enable aggrieved staff to ask for rectification of any mistake in their recorded date of birth upto 31.7.73 as no second opportunity for this purpose will be given to them after 31.7.73.

Copy of letter No.E(NG)II70BR/1,dated 4.8.1972 from Dwarka Dass, Assistant Director, Estt., Railway Board to the General Managers, All Indian Railways and etc.etc.

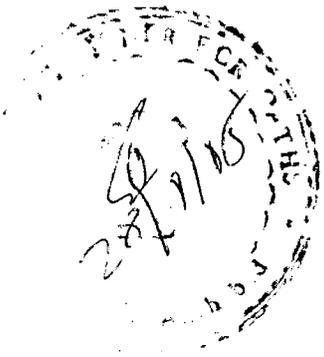
.....

Sub:- Procedure for recording date of birth on entering Railway Service & its alteration.

1. Attention is invited to advance correction slip No.303 to the Indian Railway Establishment Code Volume I forwarded with Railway Board's letter of even number dated 3.12.1971 which requires that requests for alteration of date of birth should not be entertained after completion of the probation period or three years service whichever is earlier.

2. It has been represented that the above amendment would cause hardship to the railway servants who were already in employment on 3.12.1971 and who did not take advantage of the provision of the rule regarding alteration of the date of birth as it stood before the above amendment.

3. The Board have considered the matter and have



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A 869 / 14

decided that such employees may be given an opportunity to represent against their recorded date of birth upto 31.7.1973. Such requests should be examined in terms of the rule as they stood before the amendment.

4. The Board desire that vide publicity should be given to these orders through railway gazettes to enable aggrieved staff to ask for rectification of any mistake in their recorded date of birth. No second opportunity will be given after 31.7.1973 and all requests for alteration of date of birth thereafter should be disposed off strictly in accordance with the amendment referred to above.

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*[Handwritten signature]*



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

Writ Petition No.1599 of 1982

Madhusudan Paul .. Petitioner

Versus

Union of India & another .. Opp.parties.

Annexure B-3

NORTHERN RAILWAY

Divisional Office  
Lucknow.

No.E/6-3/Misc.

Dated 6.5.1982.

The SEFO/LA/CB  
Lucknow.

Sub: Alteration in date of birth

Ref:- Representation of Shri M.S.Paul dt/30.12.81

The request of Shri M.S.Paul, Sr.Clerk under SEFO/LA/CD/LKO, for change in date of birth has not been accorded to as the last date of submission of representation was 31.7.73.

Sd/-  
(K.K.Mehta ),  
for Divl.Personnel Officer,  
Lucknow.



*[Handwritten signature]*

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

ASG

Writ Petition No.1599 of 1982

Madhusudan Paul .. Petitioner

Versus

Union of India & another .. Opp. parties.

Annexure D-3

NORTHERN RAILWAY

Divisional Office  
Lucknow.

No.E/6-3/Misc.

Dated 6.5.1982.

The SEFO/LA/CO  
Lucknow.

Sub: Alteration in date of birth

Ref:- Representation of Shri M.S.Paul dt/30.12.81

The request of Shri M.S.Paul, Sr.Clerk under SEFO/LA/CO/LKO, for change in date of birth has not be accorded to as the last date of submission of representation was 31.7.73.

Sd/-  
(K.K.Mahta),  
for Divl. Personnel Officer,  
Lucknow.

Filed to  
msb  
vls

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

LUCKNOW BENCH LUCKNOW

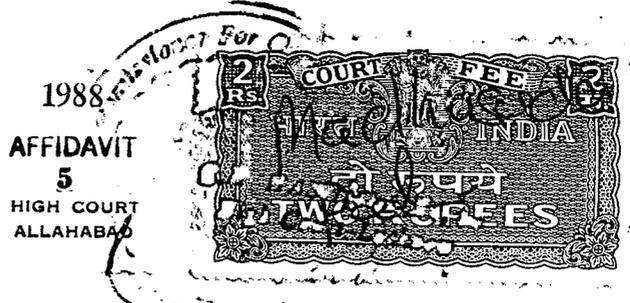
AS9

C.M. APPLICATION NO.

OF 1988

IN RE. 1039/87 (T)

WRIT PETITION NO. 1599 OF 1982



19-9-88

Madhusudan Paul

....

Petitioner

Versus

Union of India & another

....

Opp. Party

Rejoinder affidavit on behalf of the petitioner

I, Madhusudan Paul aged about 63 years son of B.N. Paul resident of Mohan Niwas Murli Nagar, Lucknow the deponent do hereby solemnly affirm and state on oath as

19-9-88

under :-

1. That the deponent is the petitioner himself and as such he fully conversant with the facts and circumstances of the case deposed herein as u
2. That the contents of para 1, 2 and 3 of the affidavit needs no comments.

*Handwritten signature*

A90

3. That the averments made in para 4 of the counter affidavit are denied and it is added that the petitioner was illeterate and clerk recorded his date of birth on his own rough estimate in absence of any witness required by the rules. If the date of birth in <sup>Matriculation</sup> ~~Madras~~ certificate is proved to be correct it is immaterial that the petitioner passed matriculation ~~in~~ during service. It may be added.

4. That by subtracting 24 from the date of appointment the date of birth was fixed which is clearly incorrect, and the petitioner can prove correct date of birth by cogent evidence.

5. That as regards para 5 of the counter affidavit the annexure No.1 dated 5 Nov 1954 shows that application were invited from matriculate Class IV Staff.



1954 28

5. That averments made in para 6 & 7 of counter affidavit are reiterated. The papers are supposed to be in possession of respondents and they could search out and file the same, difficult in searching is no excuse. As already stated there is no legal bar in proving the date of birth by filing the matriculation certificate.

Mishra

6. That para 8 of the counter affidavit needs no comments.
7. That as regards para 9 of the counter affidavit averments made are reiterated.
8. That as regards para 10 of counter affidavit it is incorrect to say that no representation was made before 31.7.73 the petitioner's representation cannot be rejected merely on the ground that it was made beyond the period fixed by the passed in 1973 if there is cogent evidence to prove that date of birth is incorrectly recorded.
9. That as regards averment made in para 11 of counter affidavit are denied. The petitioner can prove even after 1973 by cogent evidence that date of birth ~~is~~ recorded is incorrect.
10. That para 12 of counter affidavit needs no comments.
11. That as regards para 13 of the counter affidavit ~~it~~ is wrong to assert that the petitioner is not entitled to relief claimed.
12. That it may be added that at any stage before his retirement a Government servant can get his date of birth corrected if he proves by

M. S. D.

A 92 ✓

cogent evidence that the date of birth has been incorrectly recorded and the it should therefore be corrected by putting the correct date of birth which has been proved by cogent evidence. As already stated the figure of 24 years was arrived at on rough calculation and it was subtracted from the date of appointment and the age ~~80~~ calculated was recorded. So there is no doubt that recorded date of birth is incorrect. The petitioners can prove correct date of birth by cogent evidence without any bar of limitation. In any case according to the rules and the Court's instruction the petitioners should have been made to retire at the age of 60 years and on this ~~ground~~<sup>score</sup> he is entitled to all consequential reliefs.

*[Signature]*

Deponent

Lucknow:Dated:  
Sept 19 ,1988

Verification

I, the above named deponent do hereby verify that the contents of paras 1 to 12 of this affidavit are true to my knowledge. Nothing is false and nothing material has been concealed so help me God.

*[Circular stamp]*  
*[Signature]*  
19-9-88

*[Signature]*

Deponent

Lucknow:Dated  
Sept 19 ,1988

I identify the deponent who signed before me.

*[Signature]*

Advocate