

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW.

INDEX SHEET

CAUSE TITLE TA 1044 OF 1987

NAME OF THE PARTIES B. P. Pandey Applicant

Versus

Union of India Respondent

Part A.

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CERTIFICATE

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

Dated 6/9/2011

Counter Signed.....

Section Officer/In charge

Signature of the
Dealing Assistant

Central Administrative Tribunal
Lucknow Bench

INDEX SHEET

Cause Title 71044/87 of 1993

Name of the Parties B.P. Pandey Applicant
Versus
Union of India Respondents.

Part A.E.C.

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P. No.

2123

of 1982

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
10-5-82	<p>Hon R.C.D.S., 7</p> <p>Hon S. Ahmed, 7</p> <p>Issue notice to the opposite parties nos 3, 4 and 5. The petitioner's learned counsel undertaken to serve the opposite parties set notices as given to him -</p> <p>This case will be taken up on 21-5-82.</p> <p>Sd R.C.D.S.</p> <p>Sd S. Ahmed</p> <p>10-5-82</p>	
- cl.	<p>C.M. An. No. 4653 (w) 82</p> <p>Hon R.C.D.S., 7</p> <p>Hon S. Ahmed, 7</p> <p>Issue notice to opposite parties nos 3, 4 and 5. The petitioner's learned counsel undertakes to serve the opposite parties -</p> <p>The petitioner on payment of usual charges if possible today.</p> <p>Sd R.C.D.S.</p> <p>Sd S. Ahmed</p> <p>10-5-82</p>	

Date	Note of progress of proceedings and routine orders	Dated which case is adjourned	
1	2	3	
	<p>21.5.82 fixed for attendance and for filing C.A. in W.D. with M.A. 463 (W) 82</p> <p>N.D. to C.A. No 3, 4 and 5 by R. and by sasti. And Notice issued to C.A. No 1 & 2 by R.</p> <p>Notices for C.A. No 3, 4 and 5 prepared and handed over to Mr. Hafizur Rahman Ach.</p>	<p>12/5/82</p>	
<p>21/5/82</p>	<p>Writ with CMA No 4653-82 for order</p> <p>Hon'ble K.S.V.</p> <p>Hon'ble S.S.A.</p>	<p>Notices along with duplicates received from C.A. No 3</p> <p>13/5/82</p>	<p>Hafizur Rahman Ach.</p>
	<p>Applicant I remain upon opposite parties Nos 3, 4 & 5</p> <p>Interim order dated 10.5.82 is extended till further orders.</p>	<p>21/5/82</p>	
<p>21.5.02</p>	<p>Hon'ble K.S. Varma. J</p> <p>Hon'ble S. Saghir Ahmad. J</p>		

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

wp No. 2/23 of 1982

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
13.02.82	<p><u>Report</u></p> <p>status arrived to app's 3 b's and handed over to the petitioner for service have been served on the parties concerned.</p> <p>Applicant to this effect in the court as ordered by court on 10.5.82</p> <p><i>for</i></p> <p><i>13.02.82</i></p>	
	<p><i>for</i></p> <p>Ann. Service report dated 13/8/82</p> <p>ab. nos 3 b's are served as per applicant's service in return.</p> <p>Proceed.</p> <p><i>M</i></p>	<p><i>have</i></p> <p><i>for</i></p> <p>19/8/82</p>
	<p><i>for</i></p> <p>4653(1)A</p>	<p>cl / A</p>

Brief Order, Mentioning Reference
if necessary

How complied
with and
date of
compliance

93

Hon' Mr. Justice Kamleshwar Nath, V.C.
Hon' Mr. K. Obayya, A.M.

21/12/89

Shri Mohd Ilyas counsel for the applicant
is present. Shri Arjun Bhargava counsel for
respondents is also present.
On the request of counsel for the applicant,
the case is listed for admission on 2-2-90.

(sns)

V.C.

Hon. Justice K. Nath, V.C.
Hon Mr. K. J. Ramam, AM

Admit -
Issue notice
list for orders on 3490.

AM V.C.

Hon. K. Nath, V.C.
Hon K J. Ramam, AM

Shri A. Bhargava appears on
behalf of opposite parties and
says he will file power and
counter within 4 weeks. Allowed.
Rejoinders may be filed within
2 weeks thereafter. List
for further orders on 23-5-90

AM

V.C.

OR

Case has been
read from CAT, AM
on 17.12.89.

Case is not
admitted but stay
is granted

CA/RA has not
filed

Date was fixed
from CAT, AM

Submitted to

order - 12/12

Submitted to cat

12/12

Noted by Justice

13/12

OR

Notice was
issued on 5.3.90

Under reply
now any unserved copy
copy has been return
back.

S. P. O.

20/12/90

OR

In compliance of
Court's order dt.
4.4.90, no reply has
been filed.

Submitted to order

17/12

22-90

See original
order on
main
petition

4-4-90

Dinesh

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

On the request of Shri.
Arjun Bhargava case is
adjudged to Rs 1000/- per order.

Dec
J.M.

Barrow
V.C.

1-8-90

No sitting adj. to 13/3/90

Sign

02.

No CA file

S. fu

126

No. 10
 S. 80
 I am writing to you regarding the case of the
 C.A. R. [unclear] who was [unclear] with [unclear]
 and [unclear] have been [unclear] in [unclear]
 C.A. [unclear] is [unclear] [unclear] [unclear]
 [unclear] on [unclear]. It would be ~~open to~~ ^{open to} [unclear]
 [unclear] to file C.A. with [unclear] [unclear]
 [unclear] delay with [unclear] [unclear] [unclear]
 [unclear] [unclear] [unclear] [unclear] [unclear] [unclear]
 [unclear] [unclear] [unclear] [unclear] [unclear] [unclear]
 [unclear] [unclear] [unclear] [unclear] [unclear] [unclear]

M. A. L.

2

25.10.90

No sitting Axi to 23.11.90.



OK
No CA bleed
wed SFH
L
2/15

23-1190

case. not searched Asyaumea

* 27.2.91

④

20c

No CA filed
S.P. Esc-Parte
recom.

27-291-

No setting adj to 10.5.91

Q

915

Am

1044/87

10.5.91

Hon. Mr. Justice U.C. Srivastava - re
Hon. Mr. A.B. Gorthi. Am

On the request of
counsel for applicant case
is adjourned to 25.7.91
for hearing.

Am

re

Am

25.2.91

No S.M. g. adj. to 25.9.91

Am

25.9.91

No S.M. g. adj. to 11.11.91

Am

OR

No CA filed

Submitting

for separate leave

11.11.91

Hon. Mr. A.B. Gorthi. Am.
Hon. Mr. S.N. Prasad. JM.

Am
27/11/91

On the request of A.R. Gorthi
Case is adj. to 30.1.92.

Am

Am

JM

30.1.92.

Hon'ble Mr. Justice U.C. Srivastava - V.C.
Hon'ble Mr. A.B. Gorthi - A.M.

It appears that by the lapse of time the application has become infructuous i.e. why no one ^{has} appeared. The respondent has ^{also} not filed any reply. When the Writ petition was filed by the applicant he was aged about 49 years and it appears that he has attained the of super-annuation. An interim order was granted by the

High Court staying the operation of the order
passed by the lower court and the applicant
thus continued to work on the post from which
he was reverted. The application of the applicant
is accordingly dismissed in non prosecution.
No order as to the costs.


A.E.


V.C.

(DPS)

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case.....*W.P. No. 2123-82*
Name of parties.....*B. D. Pandey Pandey* *vs. Union of India*
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-	<i>W.P. with affidavit and Annexes</i>	<i>39</i>	<i>-</i>	<i>102.00</i>			
	2-	<i>Powers</i>	<i>1-</i>	<i>-</i>	<i>5.00</i>			
	3-	<i>C.M.A. 4653(W) 82. for stay</i>	<i>2-</i>	<i>-</i>	<i>5.00</i>			
	4-	<i>Affidavit</i>	<i>1-</i>	<i>-</i>	<i>2.00</i>			
	5-	<i>Powers</i>	<i>1-</i>	<i>-</i>	<i>5.00</i>			
	6-	<i>Arch Sheet</i>	<i>2-</i>	<i>-</i>	<i>-</i>			
	7-	<i>Bunch copy</i>	<i>1-</i>	<i>-</i>	<i>-</i>			

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

Munsarim

Clerk

Date.....

Group. Ar 14 (F)

357.

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

W.D. 2123-82

B.D. Pandey Petitioner

Versus

Union of India Opp/Party.

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Lucknow

10.5.82

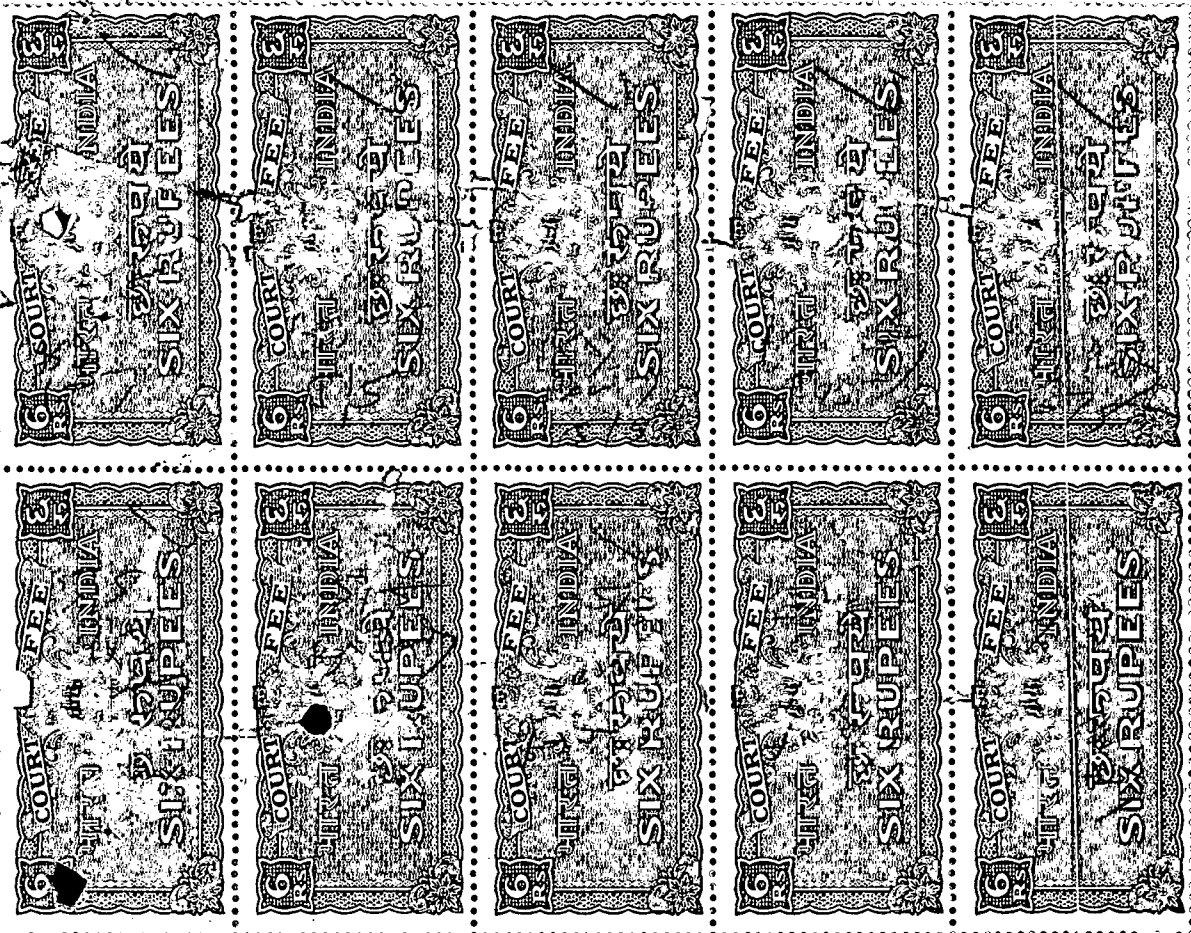
[Signature] *[Signature]*
Counsel for the Petitioner.

(M.D. ILIAS)

ADV.

INDIA COURT FEE

Ab / 40 Rs.



From the stamp and of the court at Hyderabad
B. D. Pandey is owner of India (the stamp)

2123-82

For
for

(M. D. ILIAS)

Address

Account for 12
Pulchra

संख्या 154 तारीख 4/5/82
दिनांक 4/5/82 म 91/31/पातड

...

... द्वारा द्रष्टव्य स्थाप्य विधि ... निमित्त कोर्ट ...



(A7 0)

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

(Lucknow Bench)

Writ Petition No. 2123 of 1982

B. D. Pandey son of Chandra Dutt T.C.I. Grade III,
Autotele Exchange, N. Railway, Hazratganj, Lucknow
r/o Sadar Bazar,antt. Lucknow. .. Petitioner

Vs.

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.
2. The Chief Signal and Telecommunication Engineer
(Tele) Baroda House, New Delhi.
3. Senior Signal and Telecommunication Engineer,
D.R.M. Northern Railway Office, Hazratganj,
Lucknow.
4. Chief Telecommunication Inspector, Northern
Railway, Hazratganj, Lucknow.
5. Divisional Railway Manager, Northern Railway,
Hazratganj, Lucknow. Opp. Parties

PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA

The humble petitioner begs to submit as under :-

1. That the present writ petition is directed against
the orders of the opposite parties for claiming
the issue of a writ of mandamus requiring the opp.
parties to act in accordance with law and treat the
petitioner as permanent to the post of Telecommunicati

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5/5/82
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(37)

Inspector Grade III and not to revert him to any subordinate post.

2. That the petitioner was working as T.C.M. grade I under C.T.I. Lucknow in the scale of Rs. ~~300-500~~³⁸⁰⁻⁵⁶⁰. The petitioner appeared in ^{availability} test for selection to the post of T.C.I. grade III. The petitioner was declared pass in the said test and a panel on the basis of the result was published through note No. 570-Sig0101-Pt. II dated 21-6-1979 division-wise. The true copy of the said result as published is Annexure (1) to this writ petition.
3. That on the basis of the said result the petitioner was promoted on 30-12-80 as TCI Grade III in the ~~scale~~ ^{scale} of Rs. 425-700, by Divisional Railway Manager, Lucknow vide order No. ~~2403/Trk/80/MT~~^{2403/Trk/80/MT} Tele. E/2 Tr. C T I/Lko, N. Rly, dated 30-12-80. Though the vacancy was clear nevertheless it was indicated in the promotion order that the promotion was an officiating and was on purely ad-hoc basis. The true copy of the promotion order is Annexure (2) to this writ petition.
4. That after the said promotion the petitioner was required to go to attend promotion course w.e.f. 1-2-81 to 31-5-81. After completing the training the petitioner appeared in the examination and interview and was declared successful with the result that the petitioner was awarded the certificate of having passed the TCI. Grade III promotion course. The true copy of the said certificate issued to the petitioner is annexure (3) to this writ petition.
4. That during the period w.e.f. 1-2-81 to 31-5-81

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8/5/82

[Signature]

Am RCD J.
Am S Ahmad J.

Issue notice to
the opposi-parties nos.
3, 4 and 5. The petitioner's
learned counsel undertakes
to serve the opposi-parties.
Let notice be given to him.
He will file affidavit of
service. The notices may
indicate that this case will
be taken up on 2-1-5, 1982.

10-5-1982
cns

Am ✓

2/2/90
1201. Justice K. Natar, VC
1201. K. J. Raman, Am.

Admt.

Issue notice to respondents
to file reply within four
weeks from the date the
applicant may file
rejoinder within two
weeks thereafter and
list for orders on 3/4/90.

Am

VC

Am

the petitioner remained under training and was not actually discharging the duties of T.C.I. Grade III even then the petitioner was designated and held the post of T.C.I. grade III and continued to be paid salary for that post which indicated that the petitioner was not working on ad-hoc basis vice Hira Lal, who had come back from the training when the petitioner was ordered to go for training and as such this fact itself proved that the petitioner was working on clear vacancy otherwise the petitioner could have been reverted when Shri Hira Lal came back from training and joined the post of T.C.I. grade III.

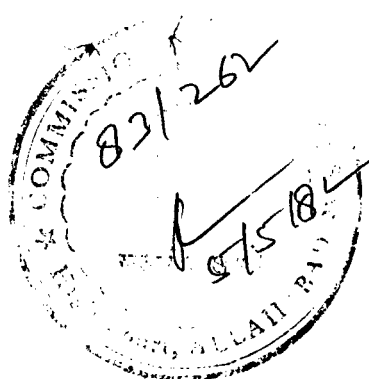
5. That no one can be confirmed or allowed to retain the clear vacancy of T.C.I. grade III unless he has undergone the training of T.C.I. grade III from ^{where} Ghaziabad or elsewhere ^{the} said technical training is imparted and examination and interview is held that is to say, the technical promotion course of T.C.I. grade III is essential for retention of the individual on the post of T.C.I. grade III, otherwise his retention will be unsafe and hazardous to the society. Since the petitioner was selected on the basis of a selection and suitability test therefore on promotion to the post of T.C.I. grade III the petitioner was required to under-go training and pass the same and the petitioner underwent x training and passed the same and was awarded the certificate for having being successful. The petitioner may submit that in the said promotion course of T.C.I. grade III at Ghaziabad the expenses over training and examination etc., for an individual trainee ranges from Rs. 25000/- to 30000/- as the trainee

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8/5/82

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is paid the salary of the post and the machines on which he works costs crores of rupees and the Engineers who impart the training are highly qualified and paid.

6. That although it was stated in the promotion order Annexure (1) that the petitioner was being promoted on ad-hoc basis vice Shri Hira Lal, who was booked for training of promotion course of T.C.I. grade III but the petitioner continued to hold the post of T.C.I. grade III even after the arrival of the said Shri Hira Lal and resuming duty of T.C.I. which fact clearly established that the petitioner was working against clear vacancy and the word ad-hoc in the promotion order was loosely used because on return from successful Ghaziabad technical training of promotion course of T.C.I. grade III the petitioner continued to work as T.C.I. grade III, when officiating and ad-hoc promotion could not exceed for more than 3 months.
7. That the performance and work of the petitioner had been under assessment and the assessment report had been sent to the immediate superior making the promotion and the same had although been found very satisfactory with the result that from the date of promotion to date there had not been a single adverse report, complaint or warning against the petitioner either on completion of 3 months or 6 months or 9 months or 12 months as required under the circulars issued by the Railway Board from time to time.
8. That although the petitioner had been promoted on 30-12-80 and had been continuously working as T.C.I. grade III having being duly empanelled in the



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Selection List published after the test was held, even then the petitioner was called upon to appear in a supplementary selection of T.C.I. grade III (R.S , Rs. 425-700 to be held on 27-12-81 at H.Q. Office, Baroda House, New Delhi at 10 hours. Since the petitioner had already passed the test and empanelled in the Selection List and thereafter had undergone the training and passed the same with a certificate , therefore the petitioner intimated the General Manager about these facts by representing his case.

9. That in the said supplementary Selection of T.C.I. grade III all persons, whether they were earlier selected and empanelled, or they have passed or not passed or have failed in the technical promotion course of T.C.I. grade III at Ghaziabad, or were qualified or not were called for selection, which clearly showed that the training and certificate of passing the Ghaziabad Training promotion course was of no consequence and all qualified or unqualified persons were kept at par for purpose of selection by opposite party No. 1. Not only this but persons who even did not go to attend the promotion course of T.C.I. grade III at Ghaziabad were also called for selection in the said supplementary Selection. This conduct of the ~~opposite~~ opposite parties clearly goes to show that they wanted to patronise some persons who were unable to undergo training and pass the examination and interview at Ghaziabad. That is to say this was an attempt to select persons who are unqualified over qualified incumbents and to make room for

8/12/82

5/5/82

Bhandari

untrained for trained, which is not only unjust and discriminatory but hazardous for safe running of trains and the society at large. What was apprehended in the supplementary selection came to pass inasmuch as trained and duly qualified persons were checked off whereas untrained and unqualified were accommodated. The post of T.C.I. is ~~not~~ a selection post ^{and} it is filled by empanelment by ^{conducting} the suitability test and then training the employee concerned and retaining him after passing the promotion course of training. The petitioner was found suitable after the suitability test and was consequently promoted to the post of T.C.I. grade III. The deponent states that the relevant papers are in the custody and power of the opp. parties which will make more clear the aforesaid position. The true copy of the list published by the ^{Supplementary} Selection Committee is annexure (4) to this writ petition.

10. That Shri S.S. Mathur was trained from Secunderabad and had passed the examination and interview and was promoted to the post of T.C.I. grade III like the petitioner but were called for the Supplementary Selection from the said list and others who had neither undergone promotion course training ^{or} nor passed the same and were unqualified as against we two were promoted and accommodated with the result that the said Shri S.S. Mathur filed a writ petition in this Hon'ble Court as writ petition No. 1696 of 1982 which was admitted and operation of the order stayed.

11. That on account of the publication of the said list the promotion orders are being issued and all those whose names are not in the list are being reverted. The reversion orders have been issued ^{but} the petition has not received and is likely to receive as others

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[Signature]

have received the orders which is composite in nature. The true copy of the said reversion order by which the petitioner is also subject of reversion with others is Annexure (5) to this writ petition.

12. That the petitioner has not been relieved of the post of T.C.I. grade III and as such he is holding that post still but is likely to be relieved on account of promotions made on the ~~xxx~~ basis of the supplementary selection List.
13. That as Shri K.L. Dhanija after promotion has been transferred under Dy. G & T E/Misra Agew/ Misra N New Delhi therefore his relieving the petitioner at the present moment is not possible but some other arrangement is likely to be made by the opposite parties for relieving the petitioner.
14. That the petitioner submits that Shri B.D. Shukla never attended 4 months' promotion course of T.C.I. grade III, but he was called to appear in the Supplementary Selection and he was declared successful whereas those who had successfully passed the promotion course of T.C.I. grade III like the petitioner and others have been checked off to make room for ~~u~~ others. This injustice will appear from the list appended to this writ petition as ~~a~~-nnexure (6).
15. That from time to time the Railway Board issued circular letter No. E/232/7 dated 23-6-64 and circular letter No. E/210/0/Com dated 31-1-66 which are in the nature of Regulation and are binding on all the officers of the Administration as the board is a statutory body and has been



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AM (2)

invested with the powers to issue such circulars on all matters concerning the railway matters. It is submitted that the circulars^f letters issued by the Railway Board are law and are binding on all concerned and any right which arises out of it is enforceable in the same manner as rights arising out of a statute.

16. That the Railway Board issued circular letter No. E/232/7 dated 23-6-1964 on the subject of reversion when it was found that in practice no proper system was being followed in this respect with the result that staff continue to officiate for a long time and then reverted, contrary to existing orders. ^fsome of the principles laid down by the two circulars mentioned in para 15 hereof are as under -

- (i) whenever an employee is put to officiate in a higher post, his immediate Superior should send an assessment report as soon as ⁸possible ~~possible~~ the employee has completed 6 months of officiating period. If this report is unsatisfactory a similar further report should be sent three months later i.e. at the 9 months officiating period and again 3 months later i.e. at the end of 12 months officiating period. If the first report is satisfactory further report need not be sent unless the employee deteriorates in the subsequent months.
- (ii) If the first and second report is unsatisfactory the officer should be warned that the report of his working has been unsatisfactory



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and unless he makes substantial improvement he is liable to be reverted.

(iii) That if third report at the end of 12 ~~months~~ months is also unsatisfactory, he should be promptly reverted and if he is to be given the further chance even after the third unsatisfactory report, the personal sanction of the Senior officer- head of the Department in the case of class III employee should be obtained and even after such sanction has been given to the employee is of no avail, he must be ~~promptly~~ promptly reverted before completing 18 months of officiating period.

(iv) That after repeated chances, if the employee does not improve his name shall be automatically be ~~deleted~~ deleted from the panel.

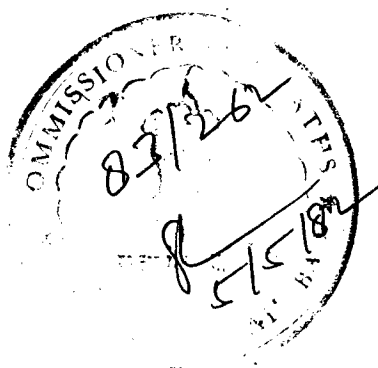
(v) That for promotion again the employee shall have to appear before selection committee afresh.

(vi) That in case of staff with satisfactory report, confirmation against available vacancies can be ordered after one year.

(vi) That after completing the officiating period of 18 months an employee cannot be reverted even for unsatisfactory work.

17. That the aforesaid two circulars issued by the Railway Board in 1964 and 1966 on the subject of reversion are binding on the opposite parties. The true copies of these circulars are Annexures (7) and (8) to this writ petition.

18. That it is submitted the opposite parties have totally ignored the terms of the circular in the same manner as has been indicated in these two



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circulars aforementioned. According to the letter and intent of these two circulars it is clear that whenever an employee is put to officiate in ~~aa~~^a a higher post his performance and work should be under scrutiny and assessment and even in cases of unsatisfactory work repeated chances should be afforded to the employee to make ^gimprovement, that is, reversion should not ordinarily be resorted to even in the case of unsatisfactory work. It follows therefore that it will be all the more undesirable and unreasonable to revert those employees whose work is satisfactory and further reversion can be ^gmade before completion of 18 months of officiating period if the work is unsatisfactory after repeated chances. There occurred to occasion to give any chance to the petitioner to make improvement as the petitioner's work had althrough had been satisfactory, and all his superiors were fully satisfied with his work and and he was never communicated and adverse entry during his continuous working as T.C.I. Gr. III. The petitioner has never been ^ggiven any show cause notice or any other communication indicating that he was to be reverted to the lower post from which he had ^g~~not~~ earlier promoted having worked in the higher post since December 30, 1980 to date. The petitioner has acquired lien on the post of T.C.I. grade III and he cannot be reverted to the lower post.

19. That the petitioner is advised to state that the effect of the two circulars of the Railway Board is that any employee who was officiating

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[Signature]

APX (11)

in a higher post for more than a year he should be confirmed. The petitioner has put in 16 months continuous satisfactory service^e. The petitioner could be referred in 6 months or 9 months or 12 months if his work was unsatisfactory and he would not have improved in spite of warnings and repeated chances. Nothing happened with the petitioner in the present case.

20. That it is submitted that when the circular letter prescribed a procedure, it has to be followed and its infraction amounts to acting arbitrarily and in disregard of the statutory ~~provisions~~^e provisions and those of Article 16 of the Constitution. It is submitted that the manner in which the opposite parties have checked off the petitioner who is qualified it is discriminatory. The juniors and unqualified like Sarvsri B.D. Shukla and K.L. Dharmija are juniors to the petitioner and they have never officiated as T.C.I. Grade III and the former never attended the promotion course of T.C.I. grade III in Ghaziabad and so he is also unqualified. The right to seniority^e is a substantive right of a public servant and reversion which would take away several months of meritorious^e service is unreasonable and illegal and is contrary to established practice^e and procedure.

21. That being aggrieved by the aforesaid action of the opposite party No. 1 to 5, the petitioner files this writ petition inter alia on the following grounds :-



G R O U N D S

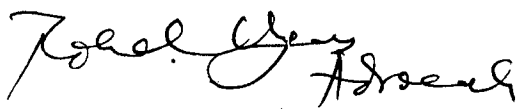
- (a) Because the reversion of the petitioner is arbitrary and infringes fundamental rights enshrined under ~~the~~ Articles 14 and 16 of the Constitution of India.
- (b) Because the action is contrary to the established procedure and the reversion of the petitioner is in utter disregard of the Rule of Law, and is also contrary to the principles of natural justice.
- (c) Because the authorities concerned have acted without jurisdiction.
- (d) Because promoting juniors and unqualified persons for technical job like T.C.I. grade III is not only hazardous to the safe running of the trains but is also hazardous to the society at large by reverting senior and duly qualified person like the petitioner.
- (e) Because the action of the opposite parties is discriminatory in accommodating juniors and unqualified persons for seniors and qualified hands.
- (f) Because the order of reversion is against the two circulars mentioned in the body of this writ petition and against rules in that behalf.
- (g) Because the impugned orders are illegal, unreasonable and causes irreparable ~~loss~~ loss to the petitioner.

The petitioner, therefore prays as under :-

- (i) that a writ, order or direction in the nature of certiorari may be issued

quashing the orders contained in annexure (5) to the writ petition.

- (ii) That a writ or direction in the nature of of mandamus may be issued commanding the opposite parties ~~to~~ not to revert the petitioner from the post of Telecommunication Inspector Grade III, (Tele-Communication Inspector T.C.I. Grade III) ~~K~~ to that of T.C.M. grade I or any subordinate post; and it may further be directed that the opposite parties may act in accordance with law as established by the Railway Board's Circular letters.
- (iii) That any other writ, direction or order that may be found to be suitable be issued.
- (iv) That costs of the writ petition may be awarded to the petitioner against the opposite parties.


(Mohd Ilyas)
advocate

Lucknow

Counsel for the petitioner

May 10, 1982.

120

(14)

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

Writ Petition No. of 1982

B. D. Pandey Petitioner
Vs.
Union of India Opp. Parties

A F F I D A V I T

I, B. D. Pandey aged about ⁴⁹~~40~~ years son of
Chandra Dutt/r/o ^Radar Bazar, Cantt. Lucknow do hereby
solemnly affirm as under :-

1. That the deponent is the petitioner in this writ petition and is well conversant with the facts of the case.
2. That the contents of paras 1 to 21 of this writ petition are true ^R to my own knowledge.
3. That the Annexures 1 to 8 of this writ petition are the certified copy. The Annexure - 5 ~~could not~~ ^R has not been served on the petitioner therefore its true copy has been made from the original issued to other incumbent.

B. D. Pandey

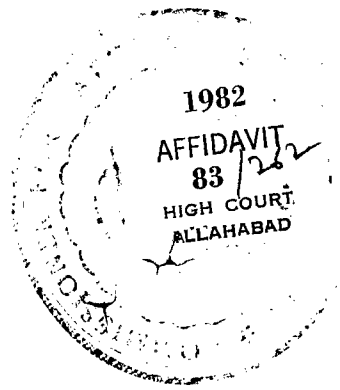
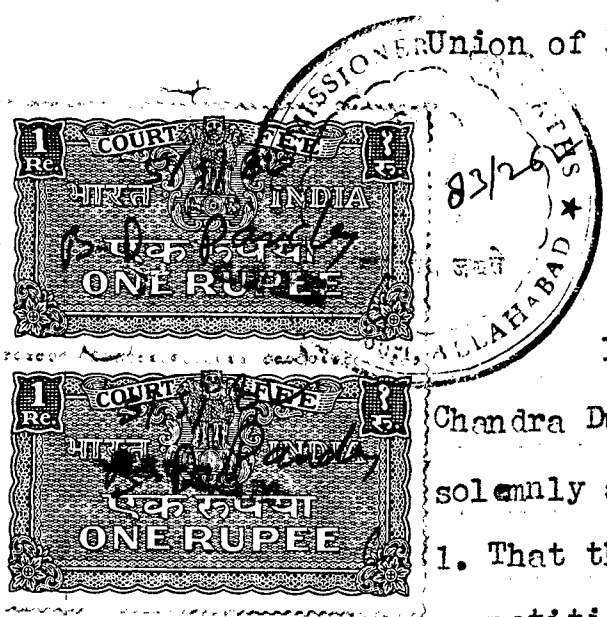
Deponent

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

B. D. Pandey

Deponent

I know the deponent
who has signed before me
R. K. Sharma
Advocate
5757 or

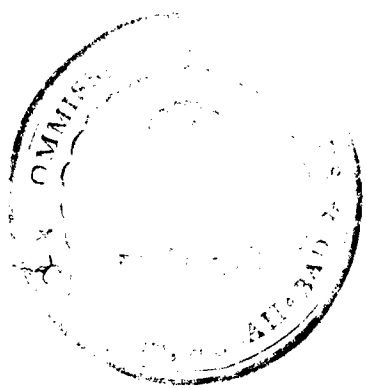


Solemnly affirmed before me on 5/5/82
at 1.30 a.m/p.m.

by the deponent *Dr B D Pande*

Who has been indentified by Shri Hafizur-Rahman
advocate of Allhabad, (Lucknow Bench)

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.



S R. Pande
Advocate
5/5/82
S. R. PANDA
OATH COMMISSIONER
High Court, Lucknow
Lucknow Bench, Lucknow
No. 83/262/82
Date 5/5/82

122
(16)

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

Writ Petition No. of 1982

B.D. Pandey Petitioner

Vs.

Union of India and others ... Opp. Parties

A N N E X U R E (1)

Teeljee
Counsel for Petitioner *AS*



Letter No. 570- 1/101-25.11

16 and 21.3.1979.

Subj- 1st essay test of non-communicable diseases/NTDs/
Gable pointers for selection of NTDs/NTDs.

1979

The result of the selection held in different division
on 3.3.1979 as received from the divisions, are given below
division-wise.

1979-80

Name and designation

Passed/Failed

Mr. Ram Lakshmi, BUL-60.11 (Not working under 101/16/12/12/12)	Passed.
Mr. Ram Lakshmi, BUL-60.11/12/12	Passed.
Mr. Lakshmi, BUL-60.11/12	Failed.
Mr. Lakshmi, BUL-60.11/12	Failed.
Mr. Lakshmi, BUL-60.11/12	Failed.

There was one absentee, namely Mr. Lakshmi, BUL-60.11/12
who reported sick since 3.3.79 and is still continuing sick.

1979-80

Name and designation

Passed/Failed

Mr. Lakshmi, BUL-60.11/12	Failed.
Mr. Lakshmi, BUL-60.11/12	Failed.
Mr. Lakshmi, BUL-60.11/12	Passed.
Mr. Lakshmi, BUL-60.11/12	Failed.
Mr. Lakshmi, BUL-60.11/12	Failed.
Mr. Lakshmi, BUL-60.11/12	Failed.
Mr. Lakshmi, BUL-60.11/12	Failed.
Mr. Lakshmi, BUL-60.11/12	Failed.
Mr. Lakshmi, BUL-60.11/12	Failed.
Mr. Lakshmi, BUL-60.11/12	Failed.

Submitted a copy of
High School Certificate and
as such is not required to
appear in the library test.

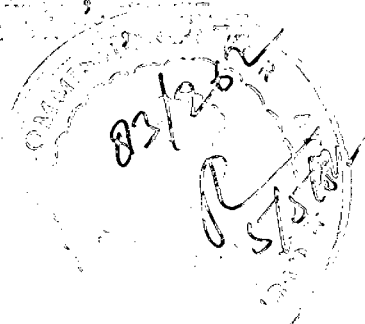
Mr. Lakshmi, BUL-60.11/12

It has stated that he has
already appeared in library
test held on 12.4.75 and was
called for written test of
BUL on 12.6.78 with letter
No. 754- 1/100/11/11/12/12.
However, the result of library
test of Mr. Lakshmi is not
available in the office
of 12.4.75.

1979-80

Mr. Lakshmi, BUL-60.11/12	Passed.
Mr. Lakshmi, BUL-60.11/12	Passed.
Mr. Lakshmi, BUL-60.11/12	Passed.
Mr. Lakshmi, BUL-60.11/12	Passed.
Mr. Lakshmi, BUL-60.11/12	Passed.
Mr. Lakshmi, BUL-60.11/12	Passed.

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124 (18)

LUCKNOW DIVISION

<u>Name and designation</u>	<u>Passed/Failed.</u>
Shri B.K.Banerjee TCM-I/LKO)
Shri R.L.Sharma --do--)
Shri C.P.Verma --do--)
Shri Chhotey Lal --do--)
Shri Mohd Hanif --do--)
Shri Hira Lal (Cable Jointer)/Lko)
Shri A.S.Sengupta, MGS)
Shri S.K.Raha, TCM-O/EP/LKO	Passed.
Shri Kesho Chand, TCM/MGS	Passed.
Shri B.D.Pandey, TCM-I (Line)/LUCKNOW	Passed. ✓
Shri Sadan Lal Seth, TCM-I/Manaras	Passed.
Shri Shiv Lal, TCM-I/PCP/BSB	Passed.
Shri G.K.Roy, TCM-I/PCP/MGS	Failed.
Shri Lachhman Prasad, TCM-I/LKO	Failed.
Shri Radhey Sham, TCM-I/LKO	Failed.
Shri Ram Dularey, TCM-I/LKO	Failed.
Shri B.N.Sonkar, TCM-I/LKO	Absent since 7.4.79
Shri Jagat Pal, TCM-I/LKO	Refused.

SSSTE/IM/CONST.

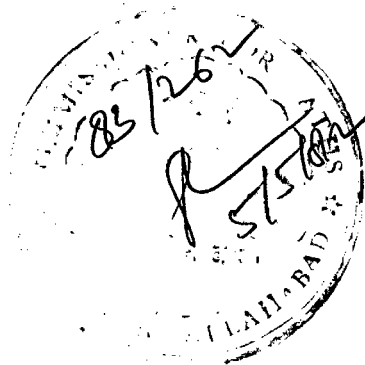
<u>Name and designation</u>	<u>Passed/Failed</u>
Shri Subhash Chander, TCM-I	Passed.
Shri Harish Chander, WM-II	Passed.
Shri S.N.Srivastava, TCM-I	They could not appear in the literacy test held on 6.3.79 due to some unavoidable reasons.
Shri Avtar Singh Sahota, TCM-II	
Shri Onkar Nath Dubey, WM-II	

SSSTE/ELE (HQ.OFFICE)

Shri Sham Sunder, W.M./I	Passed.
--------------------------	---------

Sd/-
PA/C.S.T.E.

JMS. 22.1.79.



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

Writ Petition No. of 1982

S. D. Pandey ... Petitioner
vs.

Union of India and others .. Opp. Parties

A N N E X U R E ()

Reddy
Counsel for Petitioner

83/262
15/5/82

200 (20)

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

Writ Petition No. of 1982
B.D. Pandey Petitioner
Vs.
Union of India and others .. Opp. Parties

No. Tele/E/2 dated 30-12-80
Tr. C T I/Lko
N. Ry.

Notice

Sri B.D. Pandey TCM/I under CTI/Lko ~~and~~ in scale 380/- 560/- (PS) is hereby promoted to officiate as TCI - Gr IIIV⁴ in scale Rs. 425/- 700/- purely on ad hoc basis and posted at lko vice Sri Heera Lal TCI/III booked for promotion course.

He has been declared medically fit in A-3 on 30/12/80 (No G 76586)

The promotion of Sri B.D. Pandey is purely on ad hoc basis in future promotions and to be reverted at any time on administrative ground without any notice.

Authority Lr D.O/Lko No. 75 25/2/II.I/77-79 of 17-12-80.

Sd/-
Chief Telecomm. Inspector
N. Ry. CB Lko.

C forwarded for information.

- (1) Sri DSTE/Lko
- (2) Sri DPO/Lko
- (3) Sri B.D. Pandey in office.

Chief Tele Comm. Inspector
N. Ry. C.B. Lko.

82/262
R
5/5/82

727 (21)

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

(Lucknow Bench)

B. D. Pandey

.. ..

Petitioner

vs.

Union of India

.. ..

Opp. Parties

ANNEXURE (3)

संख्या ३१-६-४१
२१-६-४१
२१-६-४१

नमस्ते किया जाता है कि श्री मोहन पांडेय
श्री मोहन पांडेय द्वारा संसार के
२१-६-४१ तक अधिकार प्राप्त किए हैं।
कोर्ट के पीछे उत्तरीय कर जा रहे हैं।
अच्छा

२-६-४१
१९४८

[Signature]

83/262
R 51582

7/28 (22)

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

Writ Petition No. of 1982

B.D. Pandey Petitioner

vs.

Union of India and others ... Opp. Parties

A N N E X U R E (4)

Really Yours
Counsel for Petitioner



NORTH INDIA RAILWAY

Headquarters Office,
Paroda House,
New Delhi.

NOTICE

A.S.C. has passed the following orders :-

The following staff who have been placed on the panel of Telecom. Inspector grade III 2,425-700(RS) vide this office letter of even number dated 25/2/82 may be appointed to officiate as such and posted on the Division/unit indicated against each :-

S. No.	Name	Present Division	Division to which posted on promotion as DCI Gr.III 2,425-700(RS)	Remarks
1.	Sh. O.P.Kalsi, TCM Gr.I	DLI	Delhi	Against an existing vacancy.
2.	" Dorshan Kumar, TCM Gr.I	HQ	HQ	--do--
3.	" R.P.Singh, TCM Gr.I	ALD	ALD	--do--
4.	" B.D.Shukla, -do-	LKO	LKO	--do--
5.	" S.L.Ahrol, TCM Gr.I	ALP	ALP	--do--
6.	" S.K.Wadera -do-	HQ	HQ	--do--
7.	" Rameshwar Kumar, Cable Joiner	DLI	DLI	--do--
8.	" O.P. Malhotra, TCM Gr.I	HQ	HQ	Vice Ch.Prom Lal Phasin who is posted against temporarily down-graded post of DCI Gr.II in HQ.
9.	" Gurbux Singh, TCM Gr.I	FZR	FZR	Against an existing vacancy.
10.	" Ashok Kumar, TCM I	DLI	DLI	--do--
11.	" M.L.Fog, TCM Gr.I	DLI	DLI	--do--
12.	" Sri Ram, TCM Gr.I	DLI	DLI	--do--
13.	" K.L.Dhamija, TCM Gr.I	LKO	Microwave/M	--do--
14.	" P.K.Sharma, TCM Gr.I	JU	JU	--do--
15.	" R.H.Upadheya -do-	ALD	ALD	--do--
16.	" Harroof Ahmed -do-	ALP	ALP	--do--
17.	" Shiv Om Prakash -do-	ALD	ALP	--do--
18.	" P.N.Shaha -do-	ALP	ALP	--do--
19.	" Rajinder Singh, TCM Gr.I	HQ	HQ	--do--

1730 (24)

S. No.	Name & Designation	Division where working	Posted as	Remarks
			DCI Gr.-45.III in Division	
20.	Sh. R.K. Biron, DCI Gr.I	ALD	ALD	Against an existing vacancy.
21."	S.K. Mathur, DCI Gr.I	ALD	ALD	--do--
22."	Shamsher Singh, -do-	ALD	ALD	--do--
23."	Hansi Lal (63), -do-	ALD	ALD	--do--
24."	Rajinder Kumar, -do-	MMH	MMH	--do--
25."	Yoginder Kumar, -do-	MB	MB	--do--
26."	Agha Ahmed Raza, -do-	MB	MB	--do--
27."	Kamal Kishore Saxena -do-	ALD	ALD	Vice Anil Kumar Nigam transferred to LKO against an existing vacancy.
28."	B.C. Gupta, -do-	ALD	MM(1)	Against an existing vacancy.
29."	S.D. Verma, -do-	ALD	MM(1)	--do--
30."	B.K. Dass -do-	MB	MM(1)	--do--
31."	H.B. Ranesh -do-	MB	MM(1)	--do--
32."	Ghan Lal Gool, -do-	PLI	PLI	--do--
33."	Guth Dev Kaushik -do-	PLI	PLI	--do--
34."	Vijay Kumar Sharma -do-	PLI	PLI	--do--
35."	Ravi Kumar Kapoor, -do-	PLI	PLI	--do--
36."	D.K. Singh, -do-	ALD	MM(1)	--do--
37."	J. Datta, -do-	ALD	MM(1)	--do--
38."	J.N. Sinshana, -do-	CSDE/C	CSDE/C	--do--
39."	V.K. Datta, -do-	ALD	MM(1)	--do--
40."	K.N. Misra, -do-	RE	RE	--do--
41."	Damodar Saran -do-	GZB Shop	GZB Shop	Vice H.B. Ranesh (CS) ttd. to LKO against an existing vacancy.
42."	Sriv Kumar -do-	--do-	GZB/ SGT School	Vice Ch. Verma Kumar ttd. to LKO against an existing vacancy.
43."	H.K. Gupta, -do-	JU	JU	Against an existing vacancy.
44."	Baldev Singh, -do-	PLR	PLR	--do--
45."	O.P. Srivastava -do-	ALD	MM(1)	--do--

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1262

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S. No.	Name & Designation	Division where working	Posted as TCI Gr. III in Division	Remarks
46.	Sh. A.K. Tatha, TCM Gr. I	DLI	HQ	Against temporary downgraded post of TCI Gr. II at Mangloi.
47.	" Ravinder Mohan, -do-	DLI	DLI	Against an existing vacancy.
48.	" Amarjit Singh, -do-	DLI	DLI	--do--
49.	" Som Dutt Sharma, -do-	DLI	DLI	--do--
50.	" Shyam Sunder Sobti, -do-	DLI	DLI	--do--
51.	" A.K. Garg, -do-	RE	RE	--do--
52.	" S.K. Arora, -do-	ALD	HW(?)	--do--
53.	" Surinder Mohan, -do-	TW(C)	TW(C)	--do--
54.	" C.N.P. Karta, -do-	BKN	BKN	Vice Sh. P.K. Tripathi ttd. to IKO against an existing vacancy.
55.	" Harbans Lal(SC), -do-	MB	FZR	Against an existing vacancy.
56.	" Varinder Singh, -do-	BKN	BKN	Vice Sh. Dharam Vir TCI Gr. III transferred to Dv. CSTE (HW) vice Sh. K.C. Tewari reverted.
57.	" Jai Parkash, -do-	ALD	RE	Against an existing vacancy.
58.	" Ram Dayal Maini (SC), -do-	MB	FZR	--do--
59.	" Bhanu Pratap(SC), -do-	DLI	RE	--do--
60.	" Dharam Paul Singh(SC), -do-	BKN	BKN	Vice Sh. Sawak Ram TCI Gr. III ttd. to IKO under CSTE ACER/LHO vice Sh. S.G. Mathur.
61.	" Mangal Ram (SC), Cable Jointer	HW(?)	HW(?)	Against an existing vacancy.
62.	" Mangal Singh(SC), W.M.	HW(?)	HW(?)	--do--

Advise date of change promptly.

Sd/-Illegible

5.4.82

Senior Personnel Officer (PC)

No. 754-E/102-III(EiiB) Dated: 5.4.1982.

Copy forwarded for information and necessary action to :

1. DRMs DLI, FZR, ALD, LKO, MB, BKN & JU
2. Dy. CSTE/MW(M), DR's Office, NDLS.
3. SS TE/TW DRMs Office, NDLS.
4. Chief Engineer/RE/AID
5. Dy. CSTE, Signal Shop, GZB.
6. SSTE S&T Training School, GZB.
7. CSTE/Const.)
8. APO/HQ) Baroda House, New Delhi.

R. K. Handley



27

1933

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

Writ Petition No. of 1982

B.D. Pandey Petitioner

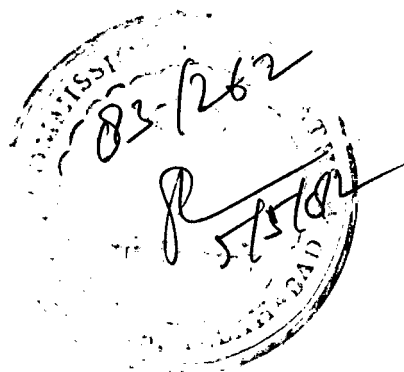
Vs.

Union of India and others ... Opp. Parties

ANNEXURE (5)

Teel Singh

Counsel for Petitioner



(28)
(734)

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

Writ Petition No. of 1982

B.D. Pandey Petitioner
Vs.

Union of India and ors Opp. Parties

Norther Railway.

No. 940E/II.I/80/II.

Divisional Office.
Lucknow. Dt. 26-4-1982

NOTICE

The following promotions and provisions are hereby issued to have immediate effect :-

1. Shri B.D. Shukla, T.C.M.-I/Lucknow in grade Rs. 380-560 (Rs , is promoted to officiate on T.C.I Gr. III (425-700 , and posted vice Shri B.K. Banerjee reverted.

2. Shri B.K. Banerjee, officiating TCI Gr. III 425-700 (Adhoc , on reversion is posted as TCI Gr. I 380-560 vice Shri B.D. Shukla.

3. Shri Anil Kumar Nigam, TCI grade III in grade 425-700/ on transfer from Allahabad Division, is posted as TCI Gr. III LR/Lko in the same grade vice Shri Heera Lal reverted.

4. Shri Hira Lal, officiating TCI Gr. III 425-700 (Adhoc , on reversion is posted as Cable Joinder Gr. I/Lko in grade 380-560 against an existing vacancy.

5. Shri K.L. Dhanija, TCI Gr. I 380-700 is promoted to officiate as TCI grade III 425-700 and transferred under Dy. G & T E/Misra agev/N/New Delhi.

B.D. Pandey

82/262
8/5/82

(A3)

6. Shri K.B. Ram, TCI. Gr. III 425-700 G2B Shaga, on transfer to this Division is posted vice Shri B.D. Pandey reverted.

7. Shri B.D. Pandey, officiating TCI Grade III 425-700 (Adhoc), on reversion as TCM Gr. I in grade 380-560 is posted vice Shri K.L. Dhanija.

8. Shri Basant Kumar, TCI grade III 425-700 G2B (S & T School), on transfer to this Division is posted vice Shri M.L. Sharma reverted.

9. Shri M.L. Sharma, officiating TCI grade 425-700 (Adhoc), is reverted as TCM Gr. I 380-560. His posting order as TCM Gr I will follow.

The above orders have the approval of Sr. D. TM (lko) Notes $\frac{2}{2}$ S/Shri B.D. Shukla and K.L. Dhanija will be promoted as TCI grade III after passing Medical Examination in Category -3.

For Divisional Railway Manager,
Lucknow.

Copy to :-

1. Sr. D STE/ Lucknow
2. Sri DPO/Lucknow
3. CTI/Lko
4. DEN N.Rly, Allahabad.
5. Principal MAC School, Ghaziabad.
6. Dy. DSTM /Microwara/M/NDLR
7. G.M. (), New Delhi in reference to his letter No. 754E/198-III (K II B), dated 5/14-4-82

True Copy

83/262

P 5/5/82

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

Writ Petition No. of 1982

B.D. Pandey Petitioner

Vs.

Union of India and others .. Opp. Parties

ANNEXURE (6)

1. Shri S.S. Mathur .. Successfully undergone
T.C.I Gr. III (Adhoc) 4 months promotion
Course of TCI.
2. Shri B.K. Banerjee .. Never attended 4 month
T.C.I. Gr. III (ad-hoc ; promotion
/ Course of TCI.
3. Shri R.L. Sharma .. Undergone 4 months
T.C.I. Gr. III (ad-hoc) of promotion
TCI Course, but failed
in the test and the
Interview held at the
end of the Course.
4. Shri Hira Lal DITTO DITTO
T.C.I Gr. III (Ad-hoc ,
5. Shri B.D. Pandey (Petitioner , Successfully undergone
T.C.I. Gr. III (ad-hoc) 4 months TCI Course of
promotion
6. Shri B.D. Shukla Never attended 4
T.C.I Gr. III (Ad-hoc , months' TCI Course
of promotion.
7. Shri Mohd Hanif Dittb Ditto
T.C.I Gr III (Ad-hoc ,
8. Shri Pyare Lal Unsuccessful in the 4
T.I.C. Gr. III months promotion Course

83/262

5/5/82

[Signature]

9. K.L. Dhanuja

..

Successfully completed

T.C.E. Gr. I & II.

4 months promotion

Course of T.C.E. Gr. III

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

Writ petition No. _____ of 1982
B. D. Pandey Petitioner
Vs.
Union of India and others.. .. . Respondents

A N N E X U R E (7)

Railway's letter No. E/232/7 dated 23.6.64 abb-Reversion of employees officiating a higher grade.

Under this office letter No. E(SS) 19-71 Pt VI(c) dated 6.2.63, a copy of Board's confidential letter No. E 9D & AO 61-G/6/36 dated 30-11-1961 was sent to all officers. As per Board's directions, efforts are to be made to confirm staff officiating in higher grades in clear vacancies, if they are found suitable, after trial over a reasonable period of not exceeding 18 months. It is, however, observed that in practice, no proper system is being followed in respect with the result that staff continues to officiate in higher grade for long periods and several cases staff who have officiated for long ~~periods~~ a number of years have been reverted on account of inefficient working. Such reversions are contrary to the extent orders.

2. With a view to ensure that a proper assessment of the working of staff officiating in higher grades, is made and action to revert such employees, as are found to be unsatisfactory in work in the higher grade, is taken in time, the following procedure is being introduced for strict compliance by all concerned.

3. Whenever an employee is put to officiate in a higher post, his immediate superior should send an assessment report/^{as} soon as the employee has completed 6 months of

23/262
P 57510
B. D. Pandey

officiating period. If this report is unsatisfactory a similar further report should be sent three months later i.e. at the end of 9 months officiating period and again 3 months later i.e. at the end of 12 months officiating period. If the first report is satisfactory further reports need not be sent unless the employee deteriorates in the subsequent months.

4. These assessment reports should be sent on to the authority who had ordered the promotion. In the case of the first and /or second report being unsatisfactory, the employee should be warned that the report on his working has been unsatisfactory and unless he makes a substantial improvement, he will be liable to be reverted.

5. If the third report, at the end of 12 months period is also unsatisfactory, he should be promptly reverted and if he is to be given a further chance even after the third unsatisfactory report, the personal sanction or the senior scale officer in the case of class IV employee and of a Head of Department in the case of Class III employee should be obtained even after such sanction has been obtained and opportunity given to the employee is of no avail, he must be promptly reverted before completing 18 months of officiating period. Order for reversion in such cases should not be passed by an authority lower than the authority who had ordered the promotion. When an employee is reverted for inefficient working from a selection post, his name will automatically be deleted from the panel. For promotion he will have to appear before a selection Board afresh. When an employee is reverted for inefficiency from a non-selection post his case should be reviewed at intervals of six months and if he is considered fit for promotion, he should be

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repromoted against the next vacancy.

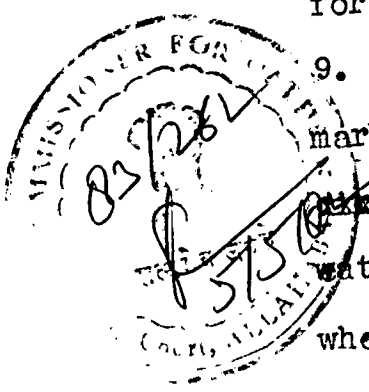
6. If it is proposed to revert an employee who had completed 18 months of officiating period other than by following the DAR procedure, the personal sanction of a Head of Department be obtained in the case of class IV employee and G.M's personal sanction must be obtained in the case of class III staff.

7. Since no officiating individual whose working is unsatisfactory & could have been allowed to continue beyond 18 months except under very special circumstances confirmation must be made after 2 years of officiating period has been completed subject to permanent post being available for the purpose. In the case of staff with satisfactory reports, confirmation against available vacancies, can be ordered after one year. It is proposed to defer the confirmation of an individual after 2 years G.M's prior sanction should be obtained.

8. If an employee is not confirmed in higher grade post for want of permanent vacancy he cannot be reverted after he has completed 18 months of officiating period on the charge of unsatisfactory working except after the following D A R procedure, the procedure being the same for confirmed employees or an officiating employee.

9. The assessment reports referred to above should be marked confidential and a proper record kept of these communications. The Establishment section should watch watch the case of such employee and initiate action when the employee complete 6 months of officiating period by putting up a note to the Executive Officer for the purpose.

10. The above procedure should also be followed in the case of Class III employee promoted to officiate in ~~case of~~ class II in their case, the assessment report



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should be sent to the ~~Board~~ Head of Department and where an officer has been reported adversely, the papers should be put up ~~the~~ before the GM for orders.

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

B.D. Pandey Petitioner

Vs.

Union of India and others Opp. Parties

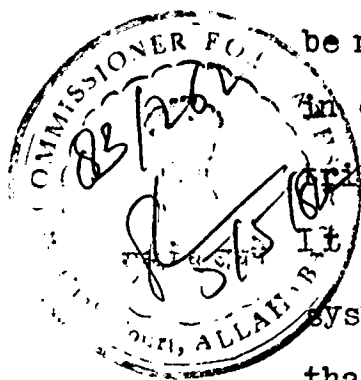
8
ANNEXURE ()

Always letter No. E/210/0/Com dt. 31-1-1966.

Subject :- Reversion of employees officiating in higher grade.

Attention is invited to this office confidential letter no. E/232/7 dt. 23.6.1964 vide which instruction were issued laying down the procedure to be followed in the matter of reversion of employees officiating in higher grade. The position has been further revised and instructions contained in the paragraphs which are issued in supersession of the instructions issued vide letter No. E/232/7 dated 23.6.66.

2. As per Board's directions contained in their letter No. E (DAR / 61-C-6-30 dated 30-11-1961 efforts are to be made to ~~not~~ confirm staff officiating in higher grade in clear vacancies, if they are found suitable, after trial, over a reasonable period not exceeding 18 months. It is however, observed that in practice no proper system is being followed in this respect with the result that staff continue to officiate in higher grade for long period and in several cases staff who have officiated for a number of years have been reverted on account of ~~inadequacy of staff~~ inefficient working. Such reversion are contrary to the extent orders.



B.D. Pandey

3. With a view to ensure that a proper assessment of the working of staff officiating in higher grades, is made and action to revert such employees as are found to be satisfactory in work in the higher grade is taken in time. the following procedure is being introduced for strict compliance by all concerned.

4. Whenever employee is not to officiate in/ a higher post which may be a selection post or non-selection post, his immediate superior should ~~send~~ send an assessment report as soon as the employee has completed 3 months officiating period to the authority who had ordered his promotion. In the case of an unsatisfactory report a warning letter should also be issued to the employee and in which instance of his failure should be pointed out to him. A similar further report should be prepared 3 months later i.e. at the end of 6 months officiating period and sent to the authority who had ordered the promotion. If this report is also unsatisfactory the employee concerned ~~may~~ may be reverted with personal sanction of a Senior Officer in the case of class IV employee and of a Head of Department in the case of class III employee.

If an employee is reverted after 6 months ~~to his~~ due to his unsuitability it is to be presumed that either his record of service was not consulted at the time of ordering his promotion or if consulted, it did not give a correct assessment of his ability and in case of selection posts the selection committee made an error of judgment in assessing his abilities. The aspect also should be examined by the authority ordering the reversion in every such cases.



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6. When an employee is reverted for inefficient working from a selection post, his name will be automatically deleted from the panel. For re-promotion he will have to appear before a selection Board afresh. Where no employee is reverted for inefficiency from a non-selection post his case should be reviewed at intervals of six months and if he is considered fit for promotion he should be re-promoted against the next vacancy.

7. In the terms of Board's letter No. E(D & A , 65-RG 6/24 dated 9.6.65 circulated under his office letter No. E/VII/232/7 (Con) dated 30.6.65, any person who is permitted to officiate beyond 18 months must not be reverted for unsatisfactory work without following the procedure prescribed in the Disciplinary and Appeal Rules.

8. A question may be raised whether the safeguard applies to persons who are officiating on promotion as a stop gap measure and not after a empanelment in the case of selection posts and after passing the suitability test (in the case of non-selection post , it is clarified that the aforesaid applies to only those employees who have acquired a prescriptive right to the officiating post by virtue of their empanelment or having been ~~not~~ declared suitable by the competent authorities. It does not apply to those officiating on promotion as a stop gap measure and also to those cases where an employee duly selected ~~has~~ to be reverted after a lapse of 18 months because of cancellation of selection and proceedings due to ~~change~~ change in the panel position consequent to rectification of mistake in seniority etc.

9. Since no officiating individuals whose working is unsatisfactory could have been allowed to continue beyond 18 months except under very special circumstances confirmation must be made after two years of off

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mation must be made after two years of officiating period has been completed subject to permanent post being available for the prupsoe. In the case of staff with satisfactory reports, confirmation against available vacancies can be ordered after one year, if it is proposed to defer the confirmation of an individual after 2 years G.M's prior sanction should be obtained.

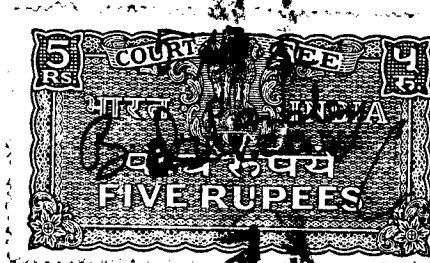
10. The assessment reports referred to above should be marked confidential and a proper record kept of those communication. The Establishment section should ~~watch~~ watch the case of each employee and initiate action when the employee completed 3 months of officiating period by putting up a note to the Executive Officer for the purpose.

11. That the above procedute should also be followed in the case of class III employees promoted to officiate in class II. In their case, the assessment report should be sent to the HQ and where the officer has been reported on adversely, the papers should be put up to the General Manager personally for his information and orders.

True Copy.

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व अदालत श्रीमान Honorable High Court of Judicature महोदय (40)
 वादी (मुद्दई) At Allahabad (Lucknow Bench)
 प्रतिवादी (मुद्दाअलेह) का वकालतनामा



14-57
 2
 7/5

B. D. Pondley

वादी (मुद्दई)

बनाम
Union of India

प्रतिवादी (मुद्दाअलेह)

नं० मुकदमा सन १६ पेशी की ता० १६ ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री Mohal. Jyoti Adhikari
S. R. A. Dargam Court Lucknow एडवोकेट महोदय
 वकील

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोंत्तर करें या 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 दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें--वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवें ।

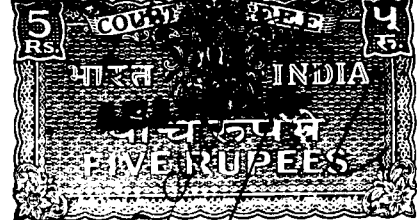
हस्ताक्षर B. D. Pondley

साक्षी (गवाह) _____ साक्षी [गवाह] _____

दिनांक 5 महोना 5 सन १९४६ ई०

अदालत
 नं० मुकदमा
 नाम फरीकसानी

Accepted
Box



Set = 25/5/12

In the Honourable High Court of Judicature at Allahabad.

Case No. 4653 of 1982 Lucknow Bench

Page 3

Writ Petition No. 2123 of 1982.

B. D. Pandey son of Chandra Mutt, T.C.I. Grade III,
Autotele Exchange, N. Railway, Hazratganj, Lucknow
r/o Sadar Bazar, Cantt. Lucknow. Petitioner.

Versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Chief Signal and Tele-Communication Engineer (Tele), Baroda House, New Delhi.
3. Senior Signal and Tele-Communication Engineer, T.R.M., Northern Railway Office, Hazratganj, Lucknow.
4. Chief Tele-Communication Inspector, Northern Railway, Hazratganj, Lucknow.
5. Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow. Opp Parties.

STAY APPLICATION FOR STAY OF OPERATION
OF ORDER CONTAINED IN ANNEXURE - 5.

It is most humbly submitted as under :-

1. That the petitioner is working as T.C.I. Gr. III and has not been relieved by Shri K.L. Dhamija who has been transferred to Delhi but the petitioner is likely to be reverted in view of order contained in annexure-5.
2. That the petitioner has set out grounds of challenging the said annexure-5 in the writ-petition.

(38)

Hon. R.C.D.S. J.
Hon. S. Ahmad J.

Issue notice to
opposite parties nos. 3, 4 and 5.
The petitioner is to attend
counsel undertakes to
serve the opposite parties - det
the notices he gives to the
learned counsel. The public
may indicate that this
application will be taken
up on 21.5.1982. Meanwhile
operation of the impugned
order dated 26.4.1982

contained in Annexure 5
shall remain stayed so far
as the petitioner is concerned,
till that date.

It copy of this order shall
be supplied to the learned
counsel for the petitioner
on payment of usual charges
if possible today.

10.5.1982
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Agm

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Fakir
Sd/-
10.5

(3) That it is expedient for the ends of justice that operation of order contained in annexure (5) may be stayed pending the decision of the writ petition.

therefore it ~~is~~ is respectfully prayed that the operation of the order contained in annexure (5) may be stayed pending the decision of the writ petition.

Kamal Ghosh

Lucknow

Counsel for the Petitioner.

10/5/82

749
12/2/82
4

in the Hon'ble High Court of Judicature At Allahabad,
(Lucknow Bench)

1982

AFFIDAVIT
26/3/82
HIGH COURT
ALLAHABAD

B. D. Pandey ..

Petitioner

Vs.

Union of India and others ..

Opp. Parties

Affidavit in support of service of
notices on the Opp. Parties No. 3, 4 and 5

I, B. D. Pandey aged about 46 years son of
Shri Chandra Dutt r/o Sadar Bazar, Cantt. Lucknow do
hereby solemnly affirm as under :-

1. That the deponent served the notice and duplicate
on opposite party no. 4 but opposite parties no.
3 and 5 declined to receive the same with the result
that the deponent despatched the same on
by registered post.
2. That steps for the issue of notices to the opposite
parties No. 1 and 2 were promptly taken.
3. That later on the opp. parties 3 to 5 received the
notices, as they are served. deponent

21.5.82

verification

I, the above named deponent do hereby verify that
the contents of paras 1 and 2 are true to my personal
knowledge and no part of it is false and nothing material
has been concealed so help me God.

D

Solemnly affirmed before me on 21-5-82 deponent
at 10.35 a.m./p.m by the deponent B. D. Pandey
who has been identified by Shri M. Piyas
advocate of High Court, Lucknow Bench.

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.

21.5.82

I have in
deponent who
has signed
before me.
21/5/82

B. D. Pandey

J. H. Thakur

25/3/82

21/5/82

N.R.

VAKALATNAMA

G.V. 3.

Before
In the Court of

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

Writ Petition No.2123 of 1982

Sri B.D. Pandey

Plaintiff
Defendant

Claimant
Appellant
Petitioner

Versus

Union of India and others

Defendant
Plaintiff

Respondent

The President of India do hereby appoint and authorise Shri. Siddharth Verma, ...
Advocate, C-16, K-Road, Mahanagar Extension, Lucknow

to appear, act, apply, plead in and prosecute the above described suit/appeal/proceedings on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying, Pleading and prosecuting for the Union of India SUBJECT, NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/Pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceedings against all or any defendants/respondents/appellant/plaintiff/apposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such/appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate of Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agrees to ratify all acts done by the aforesaid Shri... Siddharth Verma, Advocate, ...
in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the... 6th... day of July... 1982

Dated... 6.7.1982... 197

Designation of the Executing Officer

R.P.P. Delhi-1979-1763-7500 F

ACCEPTED
Siddharth Verma
(Siddharth Verma)
Advocate.

मुख्य कामका आधिकारी
प्रधान कार्यालय
बयौ दिल्ली

के समक्ष
के न्यायालय में

वादी
प्रतिवादी

प्रतिवादी
वादी

बनाम

दावेदार
अपीलार्थी
अर्जीदार
प्रत्यार्थी

भारत के राष्ट्रपति इसके द्वारा श्री.....

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

राष्ट्रपति इस प्राधिकार के अनुक्रम में श्री.....

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

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

तारीख 19....

निष्पादन करने वाले अधिकारी का पदनाम