

Central Administrative Tribunal
Lucknow Bench

Cause Title T.A. 1069/87 of 1993

WP 3622/82

Name of the Parties

Shashi Singh

Applicant

Versus

Union of India

Respondents.

Part A . P.C

Sl. No.

Description of documents

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- ⑥ Rejoinder Affidavit A100 to A113 file

C - File # C 114-C119

Electro copy of Petition, C.A.R.A &
Misc. papers.

Rgo.

SO(5)

Recheck
on 22-2-12
m

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

Application No - - - - - of 19

Transfer application No - - - - - of 19

Original Writ Petition No - - - - - of 19

C E R T I F I C A T E

Certified that no further action is required to be taken and that the case is fit for consignment in the record room.

Counter Signed.

Signature of the
Dealing Assistant.

Section Officer/Court Officer.

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

FORM OF INDEX

D.A./T.A./R.A./C.C.P./ No. 1069/1987

PART - I

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CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

D.Y. Registrat

Supervising Officer

Dealing Clerk

Index Papers

(Kulvir Singh)

(V.K. Mehta)

Note :- If any original document is on record - Details.

Any other orders

Dealing Clerk

Judgement

✓

Mishra

ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD
No. 3622

of 1982

3

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1 3.8.82	Hon'ble K.S. Verma J. Hon'ble S.S. Bhattacharya J.	3
	WP - Admit Notice on behalf of S.L. No. 164 has been accepted by C.S.C. Issue sub. ct. to S.L. No. 5.	
	stay - List the application for before Hon'ble Sir immediately 2 weeks.	
	20.8.82 fixed for hearing for filing C.A. in the Court No. 7331 (W)-82 14.9.82 & 16.9.82 by	Q.D. 10
26		Q.D. 10
23.8.82	23 - R - m p - C.P. 22	
	7331 (7) M in V.C. 83	T
	list after two weeks. In the mean time counter affidavit may be filed otherwise the application will be decided in absence of counter affidavit.	

23.8.82
S

(6)

Q.M.

Note of progress of proceedings and routine orders

Dated of
which
case is
adjourned

2

3

C.M.A.N.O. 1101 29/2/83

83 29/2/83

Put upon 3-2-83 alongwith
record.Sd/ U.C.S.
31/4/8383 C.M.A.N. 1101 (W) 83 for
J.M.U.C.S. 3

List again

3-2-83

8

29/2/83 ~~Not in C.R.~~ 29/2/83

1101(2)13

Khar U.C.S.T

Appeal & rejected.

B.R.
J.M.

Q.M.

Q

16/2/83
and
done

Q.M.

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No.

3622

of 198

W.D

v.s.

(5)

A.M

8

21

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	From T.S. Heran Two weeks time is allowed to file counter-affidavit	
14.10.82		14.10.1982
9.11.82	Opp. party is advised to file counter-affidavit on 16.11.82	9.11.82
15.10.82	Opp. party is advised through S. V. Chaudhury Advocate. Opp. party was not represented by S. D. K. Tiwari Advocate. Counter affidavit on behalf of Opp. party was not on the record. may appear pro se.	
	Yes	15.10.82
	SP	
	16.10.82	
	Janu. 1983	Chh
	7381 (712)	

(6)

(AU)

Note of progress of proceedings and routine orders	Dated of which case is adjourned
2	3
<u>Commr No 1101 (W) 83</u>	
83 Decr 15, 1983	
Put upon 3-2-83 along with record	
83 Commr No. 1101 (W) 83 for Jdu. U.C.S. 3.	
list again by 3-2-83 R	
26 16.2.83 Jdu. C.R. 01/2 24.2.83	
1101 (W) 83 Khar U.C.S. 3 Appeal & rejected. 3/2/83	
	AC and Mony
	OK

Order Sheet

TA no 1069 of 1987

Sardul Singh vs. UOS & Ors.

A1

7

A4

Serial
number
of
order
and dateBrief Order, Mentioning Reference
if necessary

①

How complied
with and
date of
compliance

23/3/90

Hon. Mr. D.K. Agrawal, J.M.
Hon. Mr. K. Obayya, A.M.Shri. R.C. Saxena, for the applicant
and Shri B.K. Shukla for the respondent
are present.The respondent counsel seeks
time to file counter affidavit. Allowed
let the counter affidavit be filed within
6 weeks, here of and rejoinder affidavit
if any, be filed within 2 weeks, there
after.

List it for hearing on 9/8/1990

This WNo 3622/82
received a transfer
from Lucknow High
(cont. along with other
WPs in May '82).On the date of
transfer the case was
admitted. CA filed
by respdt. 5 and RA
filed.Transfer notices issued
by Addl. offc, but neither
any reply nor any
undelivered cover record
back.

Submitted for orders.

R
4/11/89on
Notice to addl.
S
29/2/90

9-8-90.

no sitting adj't to 16-11-90

J.C.

J.M.

16/11/90

Hon. Mr. Justice K. Nath, VC
Hon. Mr. M.Y. Prakkar, J.M.On the request of Shri B.K. Shukla for
the respondent of the case is
adjourned to 19/12/90. The respondents
counsel will have last opportunity
of filing a counter within three
weeks to which the applicant
may file a rejoinder by the date
fixed. Shri Shukla also files
Vakalatnama on behalf of
respondents 3 & 4. Keep on
record.Notices were
instructed on 20/11/90
Notice of
affidavit has
been return back
with postal remark
"return to addl.
CA/TS 20/11/90
4th counter 8
J.C. 3/12/90
return
S.P.M.
S.P.M.M
No. CA
S.P.M
1

Dinesh

A.M.

R
VC

1069-87(T)

(06)

12.90 No sitting Adm to 28.2.91.

28.2.91 : No sitting case is adjourned

to 7.5.91 for hearing. *✓*

OK
No CA filed
on behalf of OP No. 864

3/5

11.4.91

D.R.

Respondent's side is
present. Applicant to
file Rejoinder by 11/11/91.

11.11.91

D.R.

Counsel for applicant is
present. He did not file
Rejoinder. He is ordered to
file Rejoinder by 22.1.92

7.5.91

D.R.

Both the parties
are present today.
Sri B. K. Ghatak, C.R.
files counter on
behalf of O.P. No. 1404
Today, case is to be
listed on 15/7/91 for
filing R.A. *✓*

15.7.91

D.R.

Applicant's side
is absent. O.P. is
present. Applicant to
file Rejoinder by
4/9/91. *✓*

(P)

(9)

T.A. 1069/87 A.S

22.1.92

D.B.

counsel for applica-

tant is present.

He has filed an application that

he does not want

to file a rejoinder

Hence, this case is

listed for orders

before the Hon.

Bench on 5/3/92

5-3-92

Hon Mr Justice U.C. Saxena - V.C.
Hon Mr A B Gorathi - A.M.

case is ripe for hearing.
List for hearing on 18.5.92

UR

VC

AM

18.5.92.

Hon'ble Mr. Justice U.C. rivastava- V.C.
Hon'ble Mr. K. Obayya - A.M.

Received

copy

16/92

Ch. Dr. B. K. Sudar
FCC (D.P.)

Sri R.C. Saxena learned counsel for the applicant states that inspite of giving notices and instructions to the applicant has not turnedup and it appears that he is not interested in the case. If the applicant himself is not interested to persue the matter this application appears be rejected and accordingly it is dismissed in non prosecution.

UR

V.C.

Group No A-11 (e)

6005

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) : LUCKNOW :

WRIT PETITION NO. ~~3622~~ OF 1982

3622

SARDUL SINGH

... ... PETITIONER.

VERSUS

UNION OF INDIA AND OTHERS

... OPPOSITE PARTIES.

:_I_N_D_E_X:_

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9.	ANNEXURE NO. 7 ... (Order dated 23/24.5.78 passed by Opposite Party No. 3)	25 - --
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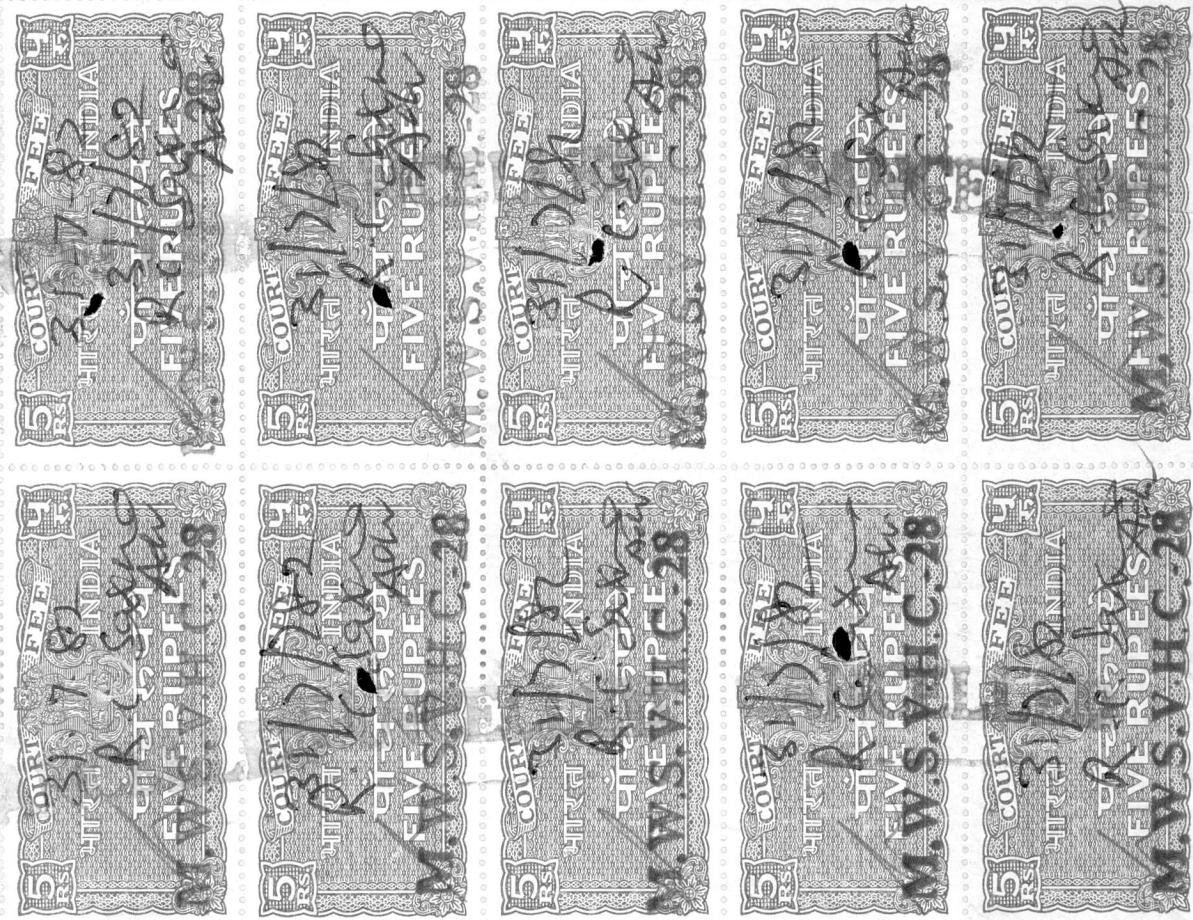
LUCKNOW: DATED:

Aug 9, 1982.

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

INDIA COURT FEE

50 Rs.



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) : LUCKNOW :

WRIT PETITION NO. 3622 OF 1982

Sardul Singh

... Petitioner.

Versus

Union of India and others

... Opposite Parties.

WRIT PETITION UNDER ARTICLE 226 OF CONSTITUTION OF INDIA

R.D

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

(LUCKNOW BENCH) : LUCKNOW :

WRIT PETITION NO. 3622 OF 1982

Sardul Singh, aged about 52 years son of
Late Sardar Jowala Singh, Chief Goods Clerk
(N.E.R.) Colonelganj, District Gonda.

... Petitioner.

Versus

1. The Union of India through the G.M.,
N.E.R. Gorakhpur.
2. Additional Chief Personnel Officer,
N.E. Railway, Gorakhpur.
3. D.R.M.(P), N.E. Railway, Ashok Marg,
Lucknow.
4. Sr. Division Railway Manager(C),
N.E.Railway, Ashok Marg, Lucknow.
5. R.C. Gupta, C.G.C., N.E.Railway,
Sitapur.

...Opposite Parties.



WRIT PETITION UNDER ARTICLE 226 OF THE THE CONSTITUTION
OF INDIA

1. That the present writ petition is directed against the order dated 7.7.82 passed by opposite party No. 3 modifying the earlier order dated 18.2.81 by which the petitioner was promoted to the post of Head Goods Clerk w.e.f. 27.1.78 and was given seniority w.e.f. the same date for the said post. A true copy of the impugned order dated 7.7.82 passed by opposite party No. 3 is filed herewith as Annexure No. 1 to this writ petition.

Sardul Singh

(2)

MEMO.
Impressed $1,56/-$ on arrest. Sc. Judds bags, night insur-
den Adhesive $1,50/-$ on ~~Sc. Judds~~ leather, night alcohol, insur-
Total $4,06/-$ on ~~Sc. Judds~~ leather, night alcohol, insur-
Correct but final Court fee report
will be made on receipt of lower
Court record.

In time up to ... and documents should be ready
Papers filed. Copy of ~~1~~ should also be filed.

Last unprüft erwarb Annexure 1 = 7-7-82

Authority

2/8/82

30/7/82

Issue notice to opposite
party no. 5.

3.8.1982

Recd copy of NJ 1/30/82
Signed cover filed
3/8/82

Chander

2/8/82

3/8/82

D.G.

2. That the petitioner as well as the opposite party No. 5 in the beginning of the year 1978 were holding the post of Senior Good Clerk under the opposite party No. 4 in the pay scale of Rs.330-560.

3. That the opposite party No. 3 vide order dated 27.1.1978 promoted the opposite party No. 5 and one Sri B.D. Sharma from the post of Senior Goods Clerk to the post of Head Goods Clerk in the pay scale of Rs. 425-640 totally ignoring the legitimate claim of the petitioner for promotion to the said post through the petitioner was senior to them. A true copy of the extract relevant of the promotion order dated 27.1.78, passed by opposite party No. 3 is filed herewith as Annexure No. 2 to this writ petition.

4. That when the opposite party No. 5 and Sri B.D. Sharma were promoted on the post of H.G.C. the petitioner was posted as Senior Goods Clerk at Tikunia, District Bahraich.

5. That it is not irrelevant to submit here that the petitioner is in fact senior and has been shown senior in the seniority list (Provisional) for the post of Senior Goods Clerk published vide letter dated 7.7.75. The petitioner has been shown at S.No. 23 while Sri B.D. Sharma and opposite party No. 5 have been shown at S. No. 24 and 25 respectively in the said seniority list as on 1.5.1975. A true copy of the relevant extract of the seniority list dated 7.7.75 is filed herewith as Annexure No. 3 to this writ petition.

6. That subsequently on 6.8.81 a fresh seniority list of S.G.C. and H.G.C. was published in which

Dandul Singh



(A)

petitioner has been shown senior to Sri B.D. Sharma and opposite party No. 5. A true copy of the relevant extract of the seniority list dated 6.8.81 is filed herewith as Annexure No. 4 to this writ petition.

7. That as the petitioner submitted above, about his legitimate claim for promotion in preference to Sri B.D. Sharma and opposite party No. 5, he made a representation to the competent authority as a result of which the opposite party No. 3 vide order dated 17.4.78 promoted the petitioner from the post of Senior Goods Clerk to the post of Head Goods Clerk and transferred him from Tikunia to Sitapur with the direction to join the promotion post at Sitapur within 15 days. A true copy of the promotion order dated 17.4.78 is filed herewith as Annexure No. 5 to this writ petition.

8. That as the petitioner's family circumstances were not such in which he could have left Tikunia for Sitapur and as he had a right to forego promotion, he vide application dated 23.4.78 addressed to opposite party No. 4 requested to accept his refusal for promotion and allow him to continue at Tikunia. A true copy of the application dated 23.4.78 is filed herewith as Annexure No. 6 to this writ petition.

9. That the opposite party No. 3 considered the petitioner's application dated 23.4.78 contained in Annexure No. 6, and accepted his refusal for promotion and allowed him to remain at Tikunia vide order dated 23/24-5-78. A true copy of order dated 23/24-5-78 passed by opposite party No. 3 is filed herewith as Annexure No. 7 to this writ petition.



Dandul Singh

10. That the opposite party No. 4 in utter disregard of the order contained in Annexure No. 7 transferred the petitioner from Tikunia to Jarwa vide order dated 17.7.78, a true copy of which is filed herewith as Annexure No. 8 to this writ petition.

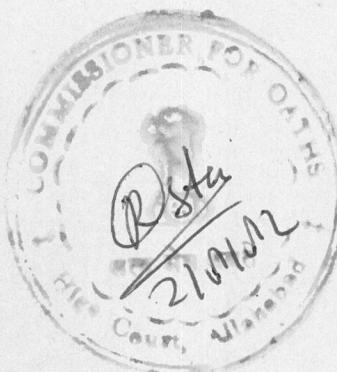
11. That the petitioner thereafter made a representation to opposite party No. 4 vide application dated 24.7.78 requesting him to promote him w.e.f. 17.4.78. A true copy of the application dated 24.7.78 is filed herewith as Annexure No. 9 to this writ petition.

12. That when the petitioner's application contained in Annexure No. 9 could not be decided within a reasonable time he vide application dated 2.9.78 send a reminder to the opposite party No. 3, a true copy of which is filed herewith as Annexure No. 10 to this writ petition.

13. That the opposite party No. 3 wrote a D.O. letter dated 12.9.78 to the Chief Personnel Officer regarding the matter of promotion of the petitioner from the post of senior Goods Clerk to the post of Head Goods Clerk, a true copy of which is filed herewith as Annexure No. 11 to this writ petition.

14. That the Chief Personnel Officer, N.E.Railway, Gorakhpur, vide his D.O. letter dated 22.12.1978 addressed to opposite party No. 3 communicated that the benefit of promotion to the petitioner cannot be given from retrospective date. A true copy of D.O. letter dated 22.12.78 is filed herewith as Annexure No. 12 to this

Dandu Singh



writ petition. This order was never communicated to the petitioner.

15. That thereafter the petitioner vide order dated 20.11.80 passed by opposite party No. 3 was promoted from the post of Senior Goods Clerk to the post of Head Goods Clerk in the pay scale of Rs.425-640 and was posted at Jarwa, District Bahraich. A true copy of the promotion order dated 20.11.80 is filed herewith as Annexure No. 13 to this writ petition.

16. That it is submitted that the opposite party No. 3 vide order dated 16.2.81 granted the regular promotion of the petitioner from the post of Senior Goods Clerk to the post of Head Goods Clerk with retrospective effect i.e., w.e.f. 27.1.78 and directed that the petitioner's name in the seniority list of Head Goods Clerk would be shown above the name of Sri B.D. Sharma. Sri B.D. Sharma was senior to Sri R.C. Gupta, the opposite party No. 5. A true copy of the order dated 16.2.81 passed by opposite party No. 3 is filed herewith as Annexure No. 14 to this writ petition.

17. That thereafter in the year 1981 selection for the post of Chief Goods Clerk was held in the office of opposite party No. 3 and its result was published vide notification dated 13.5.81. The petitioner, Sri B.D. Sharma, and opposite party No. 5, were selected for the post of Chief Goods Clerk in the scale of Rs.455-700. A true copy of the notification dated 13.5.81 of the selected candidates for the post of C.G.C. is filed herewith as Annexure No. 15 to this writ petition.

18. That in pursuance of the selection for the



Sandesh Singh

post of Chief Goods Clerk vide notification contained in Annexure No. 14, the petitioner on 6.6.1981 was promoted from the post of H.G.C. to the post of C.G.C. in the adhoc capacity. The regular promotion of the petitioner on the said post was made vide order dated 9.6.81 passed by opposite party No. 3. The opposite No. 5 was promoted from the post of H.G.C. to the post of C.G.C. vide order dated 31.8.81 passed by the opposite party No. 3. The true copies of the order dated 6.6.81, 9.6.81 and 31.8.81 passed by opposite party No. 3 are filed herewith as Annexure Nos. 16, 17 and 18 respectively to this writ petition.

19. That the opposite party No. 3 vide impugned order dated 7.7.82 contained in Annexure No. 1 referring to decision/order of Additional Chief Personnel Officer, N.E. Railway, Gorakhpur contained in Annexure No. 12 modified the earlier order dated 18.2.81 contained in Annexure No. 14 and held that the petitioner on the post of H.G.C. will get his seniority w.e.f. 22.11.80, the actual date of ^{assuming} shouldering the higher responsibility i.e. the post of H.G.C. on which the petitioner was promoted vide order dated 20.11.80 contained in Annexure No. 13.

20. That the effect of the impugned order contained in Annexure No. 1 is that the petitioner would become junior to the opposite party No. 5 so far as the post of H.G.C. is concerned and would loose the chances of further promotion to the post of Goods Superintendent on which the promotions are going to be made very soon.

21. That the petitioner feeling aggrieved by the impugned order contained in Annexure No. 1 preferred a representation to opposite party No. 3 vide representation

Dandul Singh

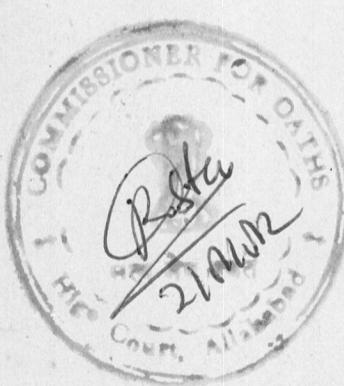


dated 14.7.82 which is still pending and has not been disposed off. A true copy of the representation dated 14.7.82 is filed herewith as Annexure No. 19 to this writ petition.

22. That as submitted earlier the petitioner being senior to opposite party No. 5 was entitled for promotion on the post of H.G.C. prior to opposite party No. 5 and the opposite party No. 3 by promoting the opposite party No. 5 on the said post vide order dated 27.1.78 contained in Annexure No. 2 committed error and acted discriminately. The petitioner was entitled for promotion w.e.f. 27.1.1978.

23. That the petitioner's promotion vide order dated 20.11.80 contained in Annexure No. 13 on the post of Head Goods Clerk will be deemed to have its effect w.e.f. 27.1.78 the date on which his junior was promoted and his seniority vis-a-vis opposite party No. 5 is also ~~to~~ liable to be fixed accordingly above the opposite party No. 5.

24. That the petitioner refused the promotion on the post of Head Goods Clerk on the condition that he will not be transferred from Tikunia to other place within a period of one year which refusal was accepted by the order dated 24.5.78 contained in Annexure No. 7 as such he was not liable to be transferred to Jarwa vide order dated 17.7.78 contained in Annexure No. 8 regarding which the petitioner made representations.



25. That the Railway Board vide circular letter No. E/NG-64 PMI-66 dated 21.1.65 had laid down the effects of refusal of promotion on transfer according to which a Railway servant who refuses promotion for a year ~~to~~ due to

Jandubhai

AK

unavoidable domestic reasons should not be transferred away for that year. A true copy of the Railway Board's Circular letter dated 21.1.1965 is filed herewith as Annexure No. 20 to this writ petition.

26. That the petitioner's transfer from Tikunia to Jarwa vide order dated 17.7.78 contained in Annexure No. 8 was in total violation of the Railway Board's circular letter dated 21.1.1965 contained in Annexure No. 20.

27. That in case the transfer of the petitioner from Tikunia to Jarwa was unavoidable under the administrative exigencies he should have been promoted from the post of Senior Goods Clerk to the post of Head Good Clerk on transfer and should have been made Senior to opposite party No. 5.

28. That it is respectfully submitted that in case an employee of the Railway is not promoted at his due date due to administrative error and is superceded by his junior, he is entitled to all the benifits of proforma fixation of his pay and seniority with effect from the due date and cannot be permitted to suffer a loss in view of Railway Board's letter No E/(NG) P.M.I-92 dated 15/17-9-64, a true copy which is filed herewith as A. No 91 to this writ.

29. That the petitioner feeling aggrieved and having no other alternative afficacious remedy prefers this writ petition on the following amongst the other

:_G_R_O_U_N_D_S_:

(i)

Because the promotion of opposite party

D. S. A. Ad. - 1

to the post of Head Goods Clerk w.e.f. 27.1.78 vide Annexure No. 2 was illegal in as much as the same was made without considering the legitimate claim of the petitioner who was senior to opposite party No. 5 on the post of Senior Goods Clerk.

(ii) Because the petitioner has been shown senior to opposite party No. 5 vide seniority list dated 7.7.75 contained in Annexure No. 3 and seniority list dated 6.8.81 contained in Annexure No. 4.

(iii) Because the petitioner being entitled for promotion to the post of Head Goods Clerk earlier to opposite party No. 5, his subsequent promotion on 20.11.80 vide Annexure No. 13 on the said post will be deemed to have been made w.e.f. 27.1.1978 the date on which his junior, the opposite party No. 5 was promoted.

(iv) Because the petitioner having refused promotion on 17.4.78 vide his application dated 23.4.78 contained in Annexure No. 6 on the condition that he will not be transferred from Tikunia, his transfer vide order dated 17.7.78 contained in Annexure No. 8 was illegal and in violation of the circular letter contained in Annexure No. 20.

(v) Because at any rate the refusal of the petitioner for promotion would not affect his seniority vis-a-vis the opposite party No. 5 on promotion post.

(vi) Because when some senior employee is superceded due to administrative error in the matter of promotion and

*Subsidiary
Advisory*

is subsequently promoted to rectify the error, he would get the entire benefits regarding seniority and fixation of pay with retrospective effect when his junior was

promoted in terms of Railway Board's letter dated NO E/ (N.G.) 63 PMI-92 dated 23-6-79. 15/17-9-64. contained in A. NO 21.

(vii) Because the order dated 16.2.1981 contained in Annexure No. 14 was perfectly legal and valid and the same was not liable to be modified by the impugned order contained in Annexure No. 1 even without giving any opportunity to the petitioner.

(viii) Because the impugned order makes the petitioner junior to opposite party No. 5 on the post of Head Goods Clerk though the petitioner was senior and has been shown in the seniority list contained in Annexure Nos. 3 and 4 and the same could not have been passed without giving any opportunity of showing cause.

(ix) Because the petitioner's case for promotion w.e.f. 27.1.1978 and fixation of seniority accordingly finds full support from the letter dated 12.9.78 sent by opposite party No. 3 to opposite party No. 2 contained in Annexure No. 11 to the writ petition.

(x) Because the petitioner would not suffer due to the mistakes committed by the Railway authorities in not promoting the petitioner at his due date and superceding him by his junior without any *legitimate or* reason.

: P_R_A_Y_E_R_:

WHEREFORE, it is most respectfully prayed

*D. S. S. S. A.
A. S. C. A.*

AI8

that the Hon'ble Court may be pleased to:-

(a) issue a writ, direction or order in the nature of certiorari quashing the impugned order dated 7.7.82 passed by opposite party No. 3 contained in Annexure No.1 and also the order dated 22.12.78 passed by opposite party No. 2 contained in Annexure No. 12 to the writ petition.

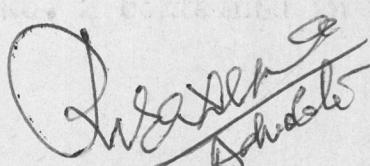
(b) issue a writ, direction or order in the nature of mandamus commanding the opposite parties to fix the seniority of the petitioner for the post of Head Goods Clerk above the opposite party No. 5.

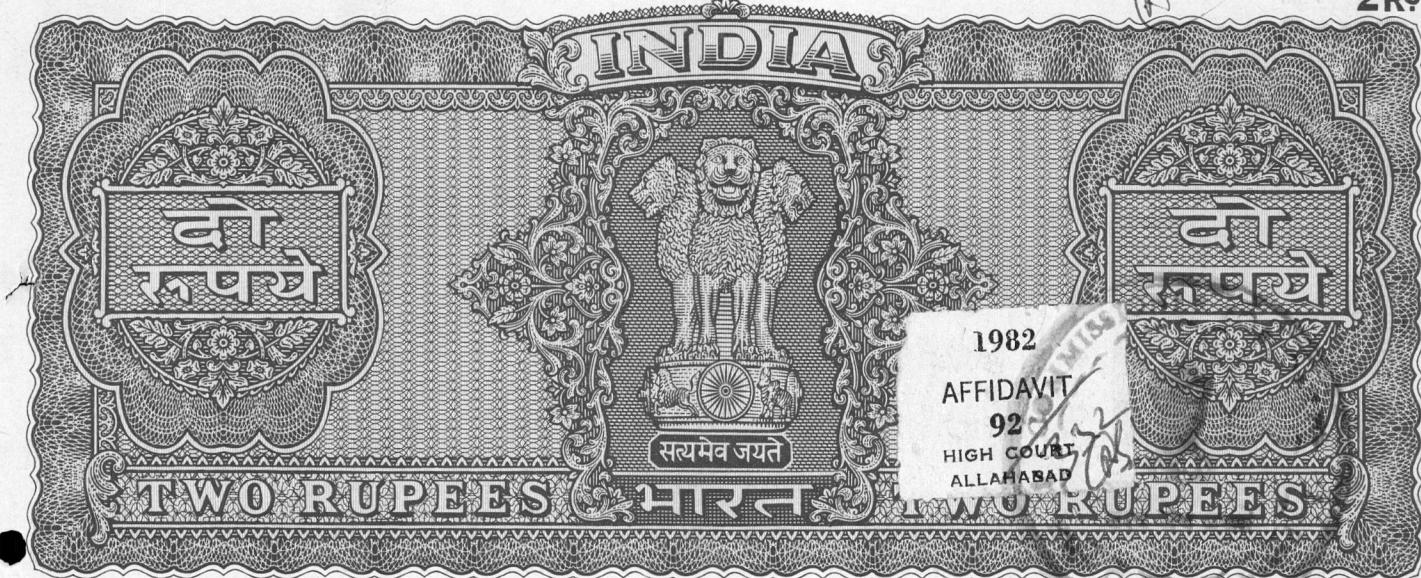
(c) issue a writ, direction or order in the nature of mandamus commanding the opposite parties to fix the petitioner's pay treating the petitioner promoted as Head Goods Clerk w.e.f. 27.1.78 and pay him the arrears thus accrued to him.

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

LUCKNOW:

DATED: Aug 2, 1982.


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



- 12 -

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

(LUCKNOW BENCH) : LUCKNOW :

WRIT PETITION NO. OF 1982

Sardul Singh

... Petitioner.

Versus

Union of India and others

... Opp. Parties.

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

A F F I D A V I T

A2
332
I, Sardul Singh, aged about 52 years, son of Late Sri Sardar Jowala Singh, Chief Goods Clerk, N.E.R. Colonelganj, District Gonda, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the Petitioner in the above noted Writ Petition and he is fully conversant with the facts of the case deposed to hereunder.

2. That the contents of paras 1 to 29 of the Writ Petition are true to my own knowledge.



(A20)

3. That the Annexure Nos. 1 to 20 of the Writ Petition are true copies of the originals and the deponent has compared them with their originals.

LUCKNOW:

DATED: Aug 2, 1982.

DEONENT.

Sardul Singh

VERIFICATION

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

Aug 2
That no part of it is false and nothing material has been concealed, so help me God.

LUCKNOW:

DATED: Aug 2, 1982.

DEONENT.

Sardul Singh

I identify the deponent who has signed before me.

R.C. Saxena
ADVOCATE. Advocate

Solemnly affirmed before me on Aug 2, 1982, at 10:15 a.m./p.m. by Sri Sardul Singh, the deponent, who is identified by Sri R.C. Saxena, Advocate, High Court, Allahabad, Lucknow Bench, Lucknow.

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

R.C. Saxena

(R.C. Saxena)

••••• COMMISSIONER,
High Court Allahabad.
Lucknow Bench.

S. No.

921332

Date

21/07/82

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

(LUCKNOW BENCH) : LUCKNOW :

WRIT PETITION NO.

OF 1982

Sardul Singh

... Petitioner.

Versus

Union of India and others

... Opp. Parties.

ANNEXURE NO. 1

N.E. RAILWAY.

OFFICE ORDER.

In partial modification of this office order No.E/85/GC/81 dt. 18.2.81, the seniority given to Sri Sardul Singh from 27.1.78 is withdrawn as A.C.P.O's decision vide No. E/210/15/14/C/Pt.II/Ex-LJN(VI) dt. 22.12.78 cannot be over-ruled by this office. He will get his seniority from 22.11.80 the actual date of shouldering the higher responsibility.

This issues with the approval of Sr. DPO.

DIVL.RLY.MANAGER(P)LJN

No.E/PC/RGG/ , Lucknow, dt. 7.7.82

Copy forwarded for information and necessary action to:-

1. Sri R.C. Gupta CGC/STP.
2. Sri Sardul Singh GGC/CLJ.

Sd/- Illegible
DIVL.RLY.MANAGER(P)LJN

TRUE COPY

Sardul Singh

पत्रांक द्व/ 11/283/15, जी०सी०/78

दिनांक, लखनऊ 27.1.1978

प्रतिलिपि आवश्यक कार्यवाही हेतु प्रेषित:-

- 1- मंडल लेखा अधिकारी, लखनऊ।
- 2- एस०जी०स०, गोरखपुर।
- 3- एरिया आफिसर, गोडांडा।
- 4- डी०सी०आई, मैलानी, सीतापुर, ऐश्वर्या, गोडांडा, सोहरतगढ़, गोरखपुर। पूर्व और प०।।
- 5- स्टेशन अधीक्षक, गोरखपुर और गोडांडा।
- 6- स्टेशन मास्टर, गोरखपुर कैन्ट, थामसनगंज, ऐश्वर्या, गोला, बस्ती, लखीमपुर, बलरामपुर, कानपुर अनवरगंज, नक्हाजंगल, लखनऊ सिटी, नौतनवा, सीतापुर, खलीलाबाट, बहराइच, बद्रीनी, पलिया, नानपरा मैलानी, आनन्दनगर, शोहरतगढ़।
- 7- प्रधान लिपिक, बिल, फुल्डर सेक्यान।
- 8- स्पेयर।

हस्ताक्षर

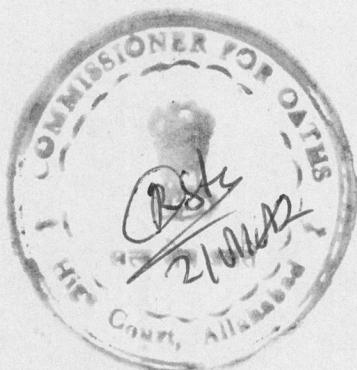
मंडल अधीक्षक। का रिक्त।

पूर्वोत्तर रेलवे

लखनऊ।

सत्य प्रति

Sandeep Singh



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

(LUCKNOW BENCH) : LUCKNOW :

WRIT PETITION NO. OF 1982.

Sardul Singh

... Petitioner.

Versus

Union of India and others

... Opp. Parties.

ANNEXURE NO. 3

AN EXTRACT OF PROVISIONAL SENIORITY LIST OF SR.GC(330-560)
AS ON 1.5.75 OF LUCKNOW DIVISION.

SANCTION STRENGTH

P T

S.No.	Name	Desig. & Stn.	Date of birth	Date of app't.	Date of Promotional Confirmation	Re-marks.
-------	------	---------------	---------------	----------------	----------------------------------	-----------

1.	2	3	4	5	6	7	8
----	---	---	---	---	---	---	---

1.	Sri Z.M. Rizvi	Sr GC/GKP	17.6.19	4.2.44	1.4.56	30.3.47	- Under sus-pen-sion
----	----------------	-----------	---------	--------	--------	---------	----------------------

x	x	x	x	x	x	x	x
23.	Sri Sardul Singh	Sr GC/TQN	14.12.29	20.6.49	8.7.65	1.5.69	-

24.	" B.D. Sharma	SrGC/LMP	10.8.30	5.7.49	30.6.65	2.2.71-
-----	---------------	----------	---------	--------	---------	---------

25.	" R.C. Gupta	SrGC/DAL	6.7.27	13.7.49	9.10.65	2.2.71-
-----	--------------	----------	--------	---------	---------	---------

x	x	x	x	x	x	x	x
---	---	---	---	---	---	---	---

68.	EKishori Lal	SrGC/STP	30.10.37	17.1.57	27.9.74	Offg.
-----	--------------	----------	----------	---------	---------	-------

Divisional Superintendent(P)
NER, Lucknow.

Letter No. E/Misc/Seniority/GC/ 75 dt. 7.7.75

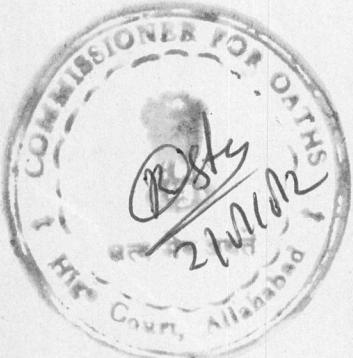
Copy forwarded to SS/GKP

Secretary PRKS & NEMU/LJN Divn.

Staff concerned

Station Masters TQN IMP TAL etc.

Sardul Singh



The seniority list of SRGC(330-560) is sent herewith for circulation among the staff. Representation if any, be sent to this office within 2 months from date of receipt of seniority list. No representation will be entertained after expiry of stipulated period.

Divl. Supdt. (P)

Lucknow.

.....
TRUE COPY

Sardul Singh



इन दि आनरेबुल हाई कोर्ट आफ जूडीकेचर ऐट इलाहाबाद
लखनऊ बेन्च : लखनऊ
रिट पिटीशन नं० आफ, 1982

सरदूल सिंह

...

पिटीशन

बनाम

यूनियन आफ इण्डिया एण्ड अदर्स

...

अपो०पार्टीज

...

अनेंजर नं० 4

पूर्वोत्तर रेलवे

संख्या ई/11/255/ज०००८१

कायालिय

मण्डल रेल प्रबन्धकाका।

लखनऊ: दि० २६.८.८।

१-स्टेशन अधीक्षक/गोरखपुर, गोण्डा, लखनऊ ज०।

२-स्टेशन मास्टर/मैलानी, पलियाकला, तिकोनिया, बेलराया, गोला गोकरननाथ,
लखीमपुर, सीतापुर, हरगाँव, बद्दम्भववह, बिसवा, लखनऊ सिटी,
ऐशबाग, कानपुर, अनवरगंज, डालीगंज, बादशाहनगर, जरवलरोड,
करनैलगंज, बहराइच, नानपारा, कतर नियाधीष्ट, नैपालगंजरोड,
बलरामपुर, तुलसीपुर, जरवा, पचपेड़वा, बढ़नी, नौगढ़, आनन्दनगर,
नौतनवा, नक्का जंगल, शोहरतगढ़, गोरखपुरकैन्ट, सहजनवा, खीलाबाद,
बस्ती, गोविन्दनगर, नवाबगंज, मिहिनपुरवा, मसकनवा।

विषय:- प्रधान जी०८१०। १४२५-६४०।, प्रवर जी०८१०। ३३०-५६०।

जी०८१०। २६०-४३०। को १.५.८। की अनन्तिम वरीयता सूची

उपरोक्त वरीयता सूची सम्बन्धित कर्मचारियों के बीच परिचालित करने हेतु भेजी जा रही है। यदि वरीयता सूची भें के विस्तृत कोई अपील होवे तो उसको इस सूची जारी करने की तिथि से दो माह के अंदर इस कायालिय में भेजी। निम्निचत अवधि के व्यतीत होने के बाद प्राप्त अपील मान्य नहीं होगी।

संलग्नक/यथोपरि

रु०/-

कृते मण्डल रेलवे प्रबन्धकाका।
लखनऊ

प्रतिलिपि सेक्रेटरी, पू०३०८० कर्मचारी संघ/लखनऊ को सूचनार्थ

प्रेषित।

कृते मण्डल रेलवे प्रबन्धकाका।
लखनऊ

प्रधान माल बाबू ४२५-६४०। लखनऊ मंडल की १०.५.१९८१ की तिथि में अनिन्तम वरीयता सुची

क्रमांक नाम रेखान जन्म तिथि नियुक्ति तिथि वेतनमान में पुस्तिकान की स्थानीकरण की तिथि तिवरण

१ २ ३ ४ ५ ६ ७ ८

सर्वश्री

१-	x	x	x	x	x	x	x
१२-	सरदूल	जिहं	जरचा	१४.१२.२९	२०.६.४९	२७.१.७८	स्थानापन्न
१३-	वीरोडीयमाँ	गोलागोकरन	१०.८.३०	१३.७.४९	२७.१.७८	स्थानापन्न	
१४-	x	नाथ	x	x	x	x	
१५-	आरामीयुक्ता	सहजनवा	६.७.२७	१३.४.४९	१७.४.७८	स्थानापन्न	

हू०
कृते मान्डल रेल प्रबन्धकालीन
लखनऊ।



Darul Uloom

PM

इन दि बानरेबुल शाई कोर्ट बाफ चूडीकेचर एट इलाहाबाद
लजनज बैच : लजनज

टिट पिटीशन नं०

बाफ 1982

सरदूल सिंह

१००

१०० पिटीशनर

बनाम

यूनियन बाफ इण्डिया स्प्ल बदस

१०० बपो०पार्टी

१००

बनेजर नं०५

=====

कायालिय मण्डल लैडीशिल

पूर्वोत्तर रेलवे

लुबन्हु

निम्नलिखित स्थानापन्न पदोन्नति व स्थानान्तरण भादेय जारी किये जाते हैं, जो तत्काल लागू होंगे। स्थानान्तरण पास माँगे जाँय तथा यदि किसी के पास रेलवे क्वार्टर है तो उसे स्थानान्तरण पर जाने के १५दिन के अन्दर छाली करना होगा।

- 1- श्री स०पी०कुरील, प्रवर माल बाबू (३३०-५६०) बलरामपुर की पदोन्नति प्रधान मालबाबू (४२५-६४०) में करके तुलसीपुर प्रधान मालबाबू के रिक्त स्थान पर पोस्ट किया जाता है।
- 2- श्री सरदूल सिंह, प्रवर माल बाबू (३३०-५६०) तिकुनिया की पदोन्नति प्रधान माल बाबू (४२५-६४०) में करके सीतापुर प्रधान माल बाबू के रिक्त पद पर पोस्ट किया जाता है।
- 3- श्री स०पी०पार्टी, माल बाबू (२६०-४३०) नक्शा जंगल की पदोन्नति प्रवर माल बाबू (३३०-५६०) में करके बलरामपुर श्री स०पी०कुरील प्रवर माल बाबू के स्थान पर पोस्ट किया जाता है।
- 4- श्री क०सी०बार्या, माल बाबू (२६०-४३०) लैडीमपुर की पदोन्नति प्रवर माल बाबू (३३०-५६०) में करके लैडीमपुर प्रवर माल बाबू के रिक्त स्थान पर पोस्ट किया जाता है।
- 5- श्री हरी कृष्ण वर्मा, माल बाबू (३३०-५६०) गोखलपुर की पदोन्नति प्रवर माल बाबू (३३०-५६०) में करके गोखलपुर प्रवर माल बाबू के रिक्त पद पर पोस्ट किया जाता है।
- 6- श्री जी०क०त्रिवेदी, माल बाबू (२६०-४३०) गोलगोकारननाथ की पदोन्नति प्रवर माल बाबू (३३०-५६०) में करके तिकुनिया श्री सरदूल सिंह, प्रवर माल बाबू के स्थान पर पोस्ट किया जाता है।



Sardul Singh

उपरोक्त कर्मचारियों को स्थानान्तरण पत्ता देय नहीं है।

यह गोदेश प्रवर मण्डल वाणिज्य अधीक्षक की अनुमति से जारी किया जाता है।

४०

मण्डल अधीक्षक(कर्मिक)/लखनऊ

संख्या ई-11/283/15/जी०सी०/78 लखनऊ दिनांक १७ अप्रैल, १९७८

प्रतिलिपि निम्नांकित को सूचनार्थ स्वं भावस्थक वार्यवाही हेतु प्रेषितः

- १- मण्डल लेजा अधिकारी/लखनऊ।
- २- शेत्र अधीक्षक/गोमपुर।
- ३- शेत्र अधिकारी/गोप्ता।
- ४- स्टेशन अधीक्षक/गोमपुर।
- ५- स्टेशन मास्टर/बलरामपुर, तुलसीपुर, तिकुनिया, सीतापुर, नकहाजंगल, लखीमपुर, गोला गोकरन नाथ।
- ६- वाणिज्य निरीक्षक/योहरतगढ़, गोमपुर(ज), मैलानी, सीतापुर।
- ७- प्रधान लिपिक/बिल, पास, फोल्डर बनुभाग।
- ८- संबंधित कर्मचारी।

४०

वृत्त मण्डल अधीक्षक(का)
लखनऊ।

सत्य प्रति

=====

Sandul Singh



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

(LUCKNOW BENCH) : LUCKNOW :

WRIT PETITION NO. OF 1982

Sardul Singh

... Petitioner.

Versus

Union of India and others

... Opp. Parties.

ANNEXURE NO. 6

To

The Senior Div. Commercial Supdt.
N.E. Railway
Lucknow.

Sub:- Refusal of Promotion as HGC.

R/Sir,

I beg to lay down the following for your favourable consideration.

That I have been promoted as HGC in scale Rs.425-640 and transferred to Sitapur vide your office order No.E/11/283/ N/HC/78 of 17.4.78.

That my wife is a patient of female disease and is under treatment of Lady Doctor since long and is improving.

That my two sons are reading in ~~XIX~~ ninth and seventh class at Tikunia and by shifting them to Sitapur their syllabus and books will be changed, therefore, in view of the above circumstances I am not in position to shift my family to Sitapur at present, hence, I forego my promotion as HGC and request your honour to please allow me to continue at Tikunia as Sr. Goods Clerk at present.

That I hope that your honour will realize my difficulty and accept my refusal for promotion and allow me to continue at Tikunia.

For this act of kindness I shall be ever grateful.

Yours obediently

Sd/- Sardul Singh
Sr GC TQN

23.4.78

TRUE COPY

Sardul Singh



८२४

इन दि बानरेवुल लाई क्रेट बाफ जूडीकेचर सेट इलाहाबाद
लजनज बैच, लजनज

टिट पिटीशन नं० बाफ, 1982

सरदूल सिंह

•••

••• पिटीशन

बनाम

यूनियन बाफ हण्डिया स्टड बर्दस

••• बपो०पाटीज

•••

बनेजार नं०७

=====

प्रुवैस्तर रेलवे

=====

कार्यालय बादेश

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श्री सरदूल सिंह, प्रवर माल बाबू(३३०-५६०) तिकोनिया, जिनकी
पदोन्ति प्रधान माल बाबू(४२५-६४०) में करके सीतापुर कार्यालय बादेश सं०
ई/११/२८३/१५/जी०सी०/७८, दिनांक १०.४.७८ द्वारा पोस्ट किया गया था
, उनकी प्रधान माल बाबू के पद पर पदोन्ति की अस्वीकृति की प्रार्क्षना को स्क
वर्ष के लिस स्वीकार किया जाता है तथा उन्हें प्रवर माल बाबू के पद पर
तिकोनिया में रोक दिया जाता है। इस अवधि में पदोन्ति दिये गये प्रधान माल
बाबू इनसे वरिष्ठ होंगे। श्री जी०के०त्रिवेदी, माल बाबू/गोला गोकरन नाथ को
पदोन्ति का बादेश बलग से किया जायगा।

यह प्रवर मंडल वाणिज्य अधीक्षक के बादेश से जारी किया जाता है।

कृते मंडल अधीक्षक(कार्मिक)
लजनज

संज्या ई/एस एस/जी०सी०/७८

दिनांक २३५.७८

प्रतिलिपि निम्नांकित को सुचनार्थ स्वं बावश्यक कार्यवाही हेतु प्रेषित

- १- मंडल लेखा अधिकारी, लजनज।
- २- स्टेशन मास्टर, तिकोनिया, सीतापुर, गोलागोकरन नाथ।
- ३- वाणिज्य निरीक्षक, मैलानी, सीतापुर।
- ४- प्रधान लिपिक, बिल, पास, फील्डर, अनुभाग।
- ५- संबंधित कर्मचारी।

कृते मंडल अधीक्षक(कार्मिक)
लजनज

सत्य प्रति

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Dandulleigh



इन दि बानरेबुल हाईकोर्ट बाफ चूडीकेचर सेट इलाहाबाद
लजनज बैच : लजनज

रिट पिटीशन नं० बाफ १९६२

सरदूल सिंह

•••

••• पिटीशन

बनाम

यूनियन बाफ इण्डिया स्प्ह बदर्स

••• अपो०पाटीजि

बनेजर नं०८
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पूर्वोत्तर रेलवे
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कार्यालय मंडल अधीक्षक(का)
लजनज, दिनांक १७.७.७८

कार्यालय भादेश
=====

श्री सरदूल सिंह, प्रवर माल बाबू (३३०५६०), तिकुनिया को
वर्तमान वेतन स्वं वेतनमान में प्रशासनिक गत्थार पर स्थानान्तरण करके जरवा
नियुक्त किया जाता है। यह भादेश तत्काल प्रशावी होंगी।

८०

प्रवर मंडल वाणिज्य अधीक्षक,
लजनज

सं० ई/स्स स्स/जी सी/७८

दिनांक १७.७.७८

प्रतिलिपि निम्नांकित दोग्रसूचनार्थ स्वं भावश्यक कार्यवाही हेतु :-

१-	मलेधि/लजनज	२- स्टेमा०/तिकुनिया स्वं जरवा
३-	दाणिज्य निरीक्षक, मैलानी स्वं गोंडा।	
४-	प्रलि(बिल)(पास) स्वं फोक्टर	
५-	संबंधित कर्मचारी।	

८०/-

कृते मंडल अधीक्षक(कार्मिक)

Saradul Singh



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

(LUCKNOW BENCH) : LUCKNOW :

WRIT PETITION NO. OF 1982

Sardul Singh

... Petitioner.

Versus

Union of India and others.

... Opp. Parties.

ANNEXURE NO. 9

To

The Senior Div. Commercial Supdt.
N.E. Railway,
Lucknow.

Sir,

Re:- Promotion as HGC in scale 425-640

Respectfully I beg to say that I refused my promotion as HGC Sitapur issued under your office endor. No. E/11/283/15/GC/78 of 17.4.78 which was accepted vide your office letter No. E/SS/GC/78 of 22.5.78 on the ground of my children education.

That now I have again been transferred to Jarwa as Sr. Goods Clerk vide your office order No. E/SS/GC/78 of 17.7.78 just within two months of my refusal for promotion.

That there is no education facility at Jarwa being a small village.

That now I have been compelled to put my children at Lucknow for their studies.

That when my transfer from Tikunia to Jarwa is done within the year of refusal of my promotion I would request your honour to kindly reconsider my refusal for promotion and give me promotion as HGC in scale 425-640 with effect from 17.4.78 which is my legitimate right.

I will be ever thankful to your honour for this act of kindness.

Yours faithfully,

Sd/- Sardul Singh
Sr. Good Clerk.
24.7.78.

TRUE COPY

Sardul Singh

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

W.P. No. of 1982

Sardul Singh

... Petitioner

Versus

Union of India & Others

... Opp. Parties.

ANNEXURE NO. 10

To

The Divisional Superintendent (P),
N.E. Railway, Lucknow.

Sir,

Reg:- Promotion and Transfer

Respectfully I beg to state that while working as Senior Goods Clerk/TQN I was promoted as HGC in scale 425-640 and posted at Sitapur vide your office letter No. E/11/283/15 GC/78 of 17.4.78. On the ground of children education I refused my promotion which was accepted vide your office letter No. E/SS/GC/78 of 23.5.78 and I was allowed to continue as Senior GC/TQN. Only after two months, I received orders of my transfer from TQN to Jarwa, vide your office letter No. T/SS/GC/78 of 17.7.78. Although in the transfer order it is not mentioned as to why I have been transferred, when I was supposed to continue at TQN atleast till the present school session. I have come to know that I have been transferred on some public complaint. Though as a loyal worker I made over the charge on 21.7.78 just after four days of transfer order and joined at Jarwa despite the disturbance of my children education. Yet I feel that the public complaint is vague and false and I am ready to face the enquiry if it is so constituted to enquire into the complaint.

While I have no desire to stay at TQN in view of the complaint lodged against me, yet I would to point out that on my refusal of promotion, under rule I had a right to stay at TQN for atleast one year and in case the administration transfer may to some other station within a year then I will be looser of promotion as well as disturbance of my children education being no educational facility at Jarwa.

I may humbly submit that Sri Sita Ram Gupta Booking Clerk, Barhni refused his promotion on domestic affairs as Senior Booking Clerk Anandnagar in the year 1976 but after a few months he was transferred in the same grade on administrative ground. On his representation he got his due promotion, which he had earlier refused.

In the above circumstances once again I pray your honour to reconsider my case for promotion as HGC as I have not been allowed to remain at TQN despite of my refusal for promotion. In case, it is not possible to promote me as HGC, then I may please be transferred to Aishbagh as Senior GC where/ a vacancy of Senior GC does exist, so that my children may continue their education for which I refused my promotion.

Thanking you,

Yours faithfully,

Sd/-

(Sardul Singh)

Senior Goods Clerk,

Dated 2.9.78.

Copy to the President,
The Mazdoor Union, N.E. Rly., Lucknow.

33333

44444

TRUE COPY

Sardul Singh



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

(LUCKNOW BENCH) : LUCKNOW :

WRIT PETITION NO.

OF 1982

Sardul Singh

... Petitioner.

Versus

Union of India and others

... Opp. Parties.

ANNEXURE NO. 11

North Eastern Railway.

Tej Bahadur Singh,
DPO/Lucknow.

Office of the
Divisional Supdt.(P)

D.O.No.E/SS/GC/78.

Lucknow dt. 12.9.78.

Dear Shri Madhav,

Sub:-Refusal of promotion effects thereon.

Under the extent rules, a Railway employee can select to forego his promotion in favour of retention at a particular place for one year and the next eligible man is promoted, if the refusal is accepted.

2. A case of Shri Sardul Singh, Sr.GC/TQN has presented a bit of problem in that this employee when promoted to the post of HGC in scale 425-640(RS) on 17.4.78 refused his promotion and he was intimated that the same has been accepted for one year. After three months, under administrative orders, he had to be transferred to another station and he has been spared also from that place. Now a question arises whether it is his right now which he has claimed through application for restoration of his promotion with retrospective effect or not? His argument mainly is that he has lost his seniority conditionally and his junior has been promoted and if the conditions are varied by the railway administration for administrative reasons on similar reasons his promotion should be restored retrospectively.

3. My own views are that normally the administration has a right to transfer an employee in the expediency of the service but after his request has been considered for non-promotion for a year and retention at a particular place which was a major condition for refusal of promotion, and if the employee has paid any consideration in the shape of non-promotion and loss of seniority temporarily, on annulling the contract the consideration should be restored which will have the effect of repromotion retrospectively. Kindly clarify.

With regards,

Yours sincerely,

Shri T.V. Madhav,
CPO/N.E.R./Gorakhpur.

Sd/-
(Tej Bahadur Singh)

.....

TRUE COPY

Sardul Singh

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

(LUCKNOW BENCH) : LUCKNOW :

WRIT PETITION NO. OF 1982

Sardul Singh

... Petitioner.

Versus

Union of India and others.

... Opp. Parties.

ANNEXURE NO. 12

N.E. Railway.

Ramesh Chandra,
Addl. CPO

Office of the
Chief Personnel Officer,

D.O. No. E/210/15/14/C/Pt.II/Ex.LJN(VI) dt. 22 Dec. 1978.

My dear Singh,

Sub:- Transfer of Shri Sardul Singh,
Sr. Goods Clerk/Tikunia to Jarwa.

Ref:- Sr.DCS/LJN's D.O. letter No.DCS/SS-26/76
dated 17, Nov. 1978.

The action of the division in transferring the above named Senior Goods Clerk from Tikunia is incorrect, when he had given his refusal for promotion. Proper action under D.A.R. could have been resorted to by the division in this instant case. It is not clear from your D.O.letter dated 12.9.78 whether all the facts of the case were brought to the notice of the Executive Officer and decision taking authorities before ordering the transfer.

2. The benefit of promotion in this case can not be given from retrospective date but can be given only from the date when Shri Sardul Singh has shouldered higher responsibilities of the post.

3. C.P.O. desires to know as to why the rules were not followed in this case.

Yours sincerely,

Sd/-

(Ramesh Chandra)



Shri Tej Bahadur Singh,
Divl. Personnel Officer,
N.E. Railway, Lucknow.

.....

TRUE COPY

Sardul Singh

४५८

इन दि बानरेबुल शाई कोर्ट बाफ जूडीकेवर ऐट इलाहाबाद
लजनजु बैच : लजनजु
रिट पिटीशन नं० बाफ, १९८२

सरदूल सिंह

• • •

पिटीशनर

बनाम

यूनियन बाफ इण्डिया स्प्ल अदार्स

• • • अपो०पार्टमेंट

मनेजर नं० १३

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कार्यालय माडल रेलवे प्रबन्धक

पूर्वोत्तर रेलवे

लुधि.नू.उ०

कार्यालय बादेश

निम्नलिखित बादेश जारी किये जाते हैं जो तत्काल प्रभावी होंगी।
कर्मचारी यदि रेलवे क्वार्टर में रहते हों तो स्थानान्तरण पर कार्यमुक्त होने से
१५दिन के बन्दर उसे आली कर दें बन्ध्यथा उनके विस्त्र बनुशासनिक कार्यवाही
की जायेगी।

१० महाप्रबन्धक (विधि), गोरखपुर के पत्र सं०सी/७८/रिट/११८४/
वाणिज्य/इलाहाबाद/७९, दिनांक १५-७-८० के द्वारा सूचित किया गया है कि
१९७९ का रिट पिटीशन नं० ७९१, उच्च न्यायालय इलाहाबा गोपीनाथ बनाम
भारत सरकार में ८-७-८० को रेलवे प्रशासन के पक्ष में निर्णय किया गया है।
इस निर्णय को कार्यान्वयित करते हुये निम्नलिखित बादेश जारी किये जाते हैं:-

(क) श्री नवल किशोर तदर्थ मुख्य माल बाबू (455-700) हरगाँव जिनको
इस कार्यालय बादेश सं०ई/११/२५४/१५/जी०सी०, दिनांक १७-९-७९ के अन्तर्गत
कनिष्ठ होने के कारण उनके मूल पद प्रधान माल बाबू (425-640) में
पदावनति किया गया था परन्तु उच्च न्यायालय द्वारा इस संबंध में जारी किया
गया स्थगन बादेश के अधार पर मुख्य माल बाबू (455-700) में बने रहे को
बब इनकी पहले की पदावनति बादेश को लागू करते हुए इस पद पर ४२८०
से तदर्थ स्प से बने रहने का बादेश दिया जाता है क्योंकि इनसे कनिष्ठ
श्री जी०पी०मझदार माल बाबू को तदर्थ पदोन्नति मुख्य माल बाबू में ४२८० से
किया गया है। वह हरगाँव में ही अपने वर्तमान घट पर बने रहेंगे।

(ब) श्री गोपी नाथ श्रीवास्तव प्रधान माल बाबू (425-640) जरवा
जिनको इस कार्यालय बादेश सं०ई/११/२५४/१५/जी०सी०, दिनांक १७-९-७९
के अन्तर्गत कनिष्ठ होने के कारण उनके मूल पद प्रवर माल बाबू (३३०-५६०)
में पदावनति किया गया था, परन्तु उच्च न्यायालय द्वारा इस सम्बन्ध में जारी



Handwritten signature

किया गया स्थान भादेश के भाषार पर प्रधान माल बाबू(425-640)में बने रहे थे को भब उक्त उच्च व्यायालय के निर्णय के भाषार पर प्रवर माल (330-560) में इनकी पदावनति के पिछले भादेश को लागू करते गहुस प्रवर माल बाबू के पद पर गोखपुर निम्नलिखित क्रमांक 3 के स्थान पर स्थानान्तरण स्वं पोस्ट किया जाता है।

४- श्री सरदूल सिंह प्रवर माल बाबू(330-560)कानपुर बनवरगंज की पदोन्नति प्रधान माल बाबू(425-640)में तदर्थ भाषार पर करके उपरोक्त । (ज) श्री गोपी नाथ श्रीवास्तव की पदावनति के फलस्वस्त्र तिक्त होने वाले प्रधान माल बाबू के स्थान पर जरवा पोस्ट किया जाता है। इनकी नियमित पदोन्नति भविष्य में प्रधान माल बाबू श्री(425-640)की होने वाली सुयोग्यता परीक्षा में उत्तीर्ण होने पर निर्भर करती है। इस तदर्थ पदोन्नति के भाषार पर भविष्य में वरीयता पदोन्नति भादि का दावा नहीं किया जा सकता है।

५- श्री ईस०स०लारी प्रवर माल बाबू(330-560)गोखपुर को उनकी प्रार्थनाभूमि पर उपरोक्त क्रमांक 2(श्री सरदूल सिंह) के स्थान पर कानपुर बनवर गंज स्थानान्तरण स्वं पोस्ट किया जाता है।

श्री गोपी नाथ श्रीवास्तव प्र०माल बाबू को रु० १५०/- स्थानान्तरण भत्ता देय है।

यह प्रमवाधी के भादेश से जारी किया जाता है।

रु०/-

कृते मण्डल रेल प्रबन्धक(कार्मिक)
लज्जनऊ

संख्या ई/११/२८३/१५/जी०सी०

दिनांक २०. ११.८०

प्रतिलिपि सूचनार्थ स्वं भावरयक कार्यवाही हेतु प्रेषितः-

- १- मण्डल लेन्डिवारी/लज्जनऊ
- २- महाप्रबन्धक(विधि)/गोखपुर।
- ३- ई०मधीक/गोखपुर।
- ४- टी०टी०स००/गोडा।
- ५- स्टेशन अधीक्षक/गोखपुर।
- ६- स्टेशन मास्टर/हरगाँव, जरवा, कानपुर, बनवरगंज।
- ७- वा०नि०/गोखपुर(उ०)सीतापुर, योहरतगढ़, ऐश्वर्य।
- ८- प्रधान लिपिक/बिल, पास, फोल्डर।
- ९- संबंधित कर्मचारी।

रु०/-

कृते मण्डल रेल प्रबन्धक(कार्मिक)
लज्जनऊ।

सत्य प्रति

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Dandulal Singh

इन दिन बानरेबुल हाई कोर्ट बाफ चूडीकेचर एट इलाहाबाद
लजनजु बैच : लजनजु

रिट पिटीशन नं० बाफ, 1982

सरदूल सिंह

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पिटीशनर

बनाम

यूनियन बाफ इण्डिया लिंग बर्दस

••••• बपो० पाटीजि

बनेजर नं० 14

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कार्यालय बादेश

श्री सरदूल सिंह, प्रधान माल बाबू(425-640) जरवा जो तदर्थ बाधा पर कार्यरत है तथा जिनकी प्रधान माल बाबू(425-640) में वरीयतानुसार पदोन्नति प्रशासनिक त्रुटियों से नहीं हो सकी परन्तु उनसे क्विन्ट सर्वश्री बी०डी०शर्मा, प्रधान-प्रभारी माल बाबू गोलागोकरननाथ स्वं बार०सी०गुप्ता प्रधान माल बाबू/सहजनवा, की पदोन्नति प्रधान माल बाबू(425-640)में इस कार्यालय बादेश सं०ई/11/283/15/जी०सी०/78, दिनांक 27-१-७८, द्वारा किया गया था। ब्रतः श्री सरदूल सिंह, जो इस कार्यालय बादेश सं०ई/11/283/15/जी०सी०, दिनांक 20-१-८०के बनुसार प्रधान माल बाबू (425-640)पद पर तदर्थ स्प से कार्यरत है की नियमित पदोन्नति प्रधान माल बाबू(425-640) में दिनांक 27-१-७८ से मान करके उसी तिथि से प्रधान माल बाबू(425-640)में श्री बी०डी०शर्मा प्रधान माल बाबू/गोलागोकरनना के ऊपर वरीयता निर्धारित किया जाता है।

इसमें प्रमलाखि के बादेश प्राप्त है।

कृते मण्डल रेल प्रबंधक(का)

लजनजु

संख्या ई/स्स०स्स०/बी०सी०/81 लजनजु दिनांक १६-२-८१
प्रतिलिपि सुचनार्थ स्वं बावश्यक कार्यवाही हेतु प्रैषितः-
१- स्टेशन अधीक्षक/स्टेशन प्रास्टर संबंधित कर्मचारियों को सूचित कर देना
२- मण्डल लेनाधिकारी/लजनजु।
३- स्टेशन प्रास्टर/जरवा, गोला गोकरन नाथ, सहजनवा, नानपारा।
४- स्टेशन अधीक्षक/गोरखपुर।

कृते मण्डल रेल प्रबंधक(कार्मिक)
लजनजु।

सूत्य प्रति

Dandubaili



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

W.P. No. of 1982

Sardul Singh ... Petitioner.
Versus
Union of India & Others ... Opp. Parties.

ANNEXURE NO. 15

N.E. RAILWAY
Notification

Names of candidates selected for the post of Chief Goods Clerks/Chief Transhipment Clerk in grade Rs.455-700 as a result of Selection Board Meetings held in DRM's Office /LJN on 18.4.81 and 19.4.81 and approved on 11.5.81.

Sl.No.	Names	Designation	Office/Stn. in which working	Position of panel	REMARKS
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CANDIDATES OF UNRESERVED COMMUNITIES:

S/Shri					
1. R.S. Pandey	Adhoc	CGC	LMP	2	
2. R.N. Pathak	"	"	NPR	4	
3. Sardul Singh	Hd.	GC	JAW	5	
4. B.D. Sharma	Adhoc	GGC	GK	6	
5. R.C. Gupta	Hd.	GC	SWA	7	
6. D.R. Mishra	"		KK KTG	8	
7. R.A. Vishwakarma	"		ANDN	9	
8. G.N. Srivastava	"		BNY	10	

Eight names only.

CANDIDATES OF SCHEDULED CASTE

1. M.P. Kuril	Adhoc	CGC	TLR	1	
2. Rama Kant	"	"	BLP	2	
3. Ram Milan	HGC		NPR	3	

Three names only.

CANDIDATES OF SCHEDULED TRIBE:

1. Minj Nestore	Adhoc	CGC	PLK	1	
-----------------	-------	-----	-----	---	--

One name only.

Note: The panel is provisional and subject to modification after finalisation of DAR proceedings against 2 candidates (General).
This has D.R.M's approval.

Sd/-
(DIVL.RLY.MANAGER(P)
LUCKNOW. 13.5.81

No. E/II/254/15/CGC, Lucknow: Dated 13.5.81.

Copy forwarded for information and necessary action to:-

1. SS/GD ASH
2. SMs/LMP NPR JAW GK SWA KTG ANDN BNY TLR BLP PLK.
3. GM(P) and (C)/GKP alongwith copies for publication in the N.E.Rly Gazette.
4. Individual concerned.
5. Notice Board.

Sd/-
(DIVL. RLY.MANAGER (P) LJN
13.5.81

TRUE COPY

Sardul Singh

इन दि गानरेबुल हाई कोर्ट गाफ जूठीकेचर स्ट इलाहाबाद
लज्जनज बैच : लज्जनज

टिट पिटीशन नं० गाफ, 1982

सरदूल सिंह

•••

••• पिटीशनर

बनाम

यूनियन गाफ इण्डिया स्टण्ड मदर्स

••• अपो०पार्टीज

•••

बनेजरनं० 16

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कार्यालय गोदेश

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नोटीफिकेशन

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त्री सरदूल सिंह, प्रधान माल बाबू(425-640) जावा, से वरिष्ठ स्वं कनिष्ठ व्यक्ति पद्धते से तदर्थ स्प में मुख्य माल बाबू पद पर वार्यरत है। अतः इनको श्री तदर्थ स्प से मुख्य माल बाबू(455-700) में पदोन्नति करके करनेलगंज त्री बाला प्रसाद श्रीवास्तव की मृत्यु से रिक्त हुये स्थान पर पोस्ट किया जाता है। त्री सरदूल सिंह मुख्य माल बाबू पद चयनीत घोषित किये जा चुके हैं। नियमित भादेश बाद में जारी किये जायेंगे।

इस पर प्रवर भंडल वाणिज्य नियंत्रक का भादेश प्राप्त है।

इ०

कृत मंडल रेल प्रबन्धक(वा०)
लज्जनज

संघ्या ई/सरदूल सिंह/प्रधान माल बाबू/८।

दिनांक ६६४।

प्रतिलिपि सूचनार्थ स्वं भावस्थक कार्यवाली हेतु निम्न की प्रेषित है।

- १- स्टेशन पास्टर जावा स्वं करनेलगंज।
- २- मलेधि/लज्जनज।
- ३- प्र०लिपिक बिल, फोल्डर, पास स्वं भंडार।
- ४- कार्यालय नियंत्रक(वा०)।
- ५- संबंधित कर्मचारी।

कृत मंडल रेल प्रबन्धक(वा०),
लज्जनज।



सत्य प्रति

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Sardul Singh

इन दि बानरेबुल हाईकोर्ट बाफ जूडीकेचर ऐट इलाहाबाद
लज्जनज बैच्य : लज्जनज
टिट पिटीशन नं० बाफ, 1982

सरदूल सिंह

••••

पिटीशन

बनाम

यूनियन बाफ इण्डिया स्टॉ बदर्स

•••• बपो०पाटीज

••••

बनेजर नं० १७

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कार्यालय मण्डल रेल प्रबन्धक(कार्मिक),
पूर्वोत्तर रेलवे
लज्जनज

कार्यालय भादेश

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निम्नलिखित दर्खाचार्टर्स का, जो इस कार्यालय के नोटीफिकेशन
सं०ई०/११/२८३/१५/सी०जी०सी०/दिनांक १३०८। द्वारा मुख्य माल बाबू/
मुख्य टी०बार०सी० (455-700) के पद पर पदोन्नति हेतु चयनीत घोषित हुए हैं
का पदोन्नति, पोस्टिंग, स्थानान्तरण स्वं नियमन भादेश जारी किया जाता है जो
तत्काल प्रभावी होगा।



यदि कोई भी संबोधित कर्मचारी रेल भावास के निवासी हैं तो वे
उसे कार्यमुक्त होने के १५दिन के अन्दर आली कर दें बन्ध्या उनके विस्तृ
भनुयासनिक कार्यालयी की जावेगी।

ब्र०सं०	नाम	वर्तमान पद स्व स्टेशन	पद स्वं वेतनमान जिस पर नियमित स्पृ से पदोन्नति	स्टेशन जहाँ पोस्ट किया पदोन्नति किया गया
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सर्वश्री				
१-भार०स्स०पाठे	तदर्थ मुख्य मालबाबू, लज्जीमपुर	मुख्य माल बाबू-455-700	दरांव	
२-भार०स्न०पाठक	वही- नैपालगंज रोड		दही-	नैपालगंज रोड
३-सरदूल सिंह	प्रधान मालबाबू/जरावा		दही-	करनलगंज
४-बी०ठी०शर्मा	तदर्थ मुख्य मालबाबू, गोलागोकरननाथ		दही-	सीतापुर
५-स्म०पी०कुरील	,, तुलसीपुर		दही-	तुलसीपुर
६-रामा कान्त	,, बलरामपुर		दही-	पलियाकला
७-मिन्ज निश्चोरे	,, पलिया कला		दही-	पलिया कला

सर्वश्री भार०स्स०पाठे स्वं स्म०पी०कुरील की पदोन्नति १०१०७९
से प्रभावी होगी।

इस भादेश पर प्रमवाधी का भनुमोदन प्राप्त है।

Dandul Singh

ह०/-
कृते मण्डल रेल प्रबन्धक(कार्मिक)
लज्जनज

AMY

सं०इ/११/२५४/१५/सी०जी०सी०

दिनांक ७६-१८८१

प्रतिलिपि सूचनार्थ स्वं प्रबन्धक कार्यवाही हेतु निम्न को प्रेषितः -

- १- स्टेशन अधी० गोप्ठा/गोप्तापुर स्वं लज्जनजु जं०।
- २- स्टेशन मास्टर, लज्जिमपुर जीरी, हरगाँव, नेपालगंज, रोड, जरवा, करनलगंज, गोला गोकरन नाथ, सीतापुर, तुलसीपुर, बलरामपुर स्वं पलिया क्लॉ।
- ३- म०ले० अधी०/लज्जनजु।
- ४- समस्त ही०सी०भार्ड०, लज्जनजु मण्डल।
- ५- शेत्रीय अधी०/गोप्तापुर।
- ६- ही०टी०स्स०गोप्ठा।
- ७- प्रधान लिपिक बिल्कुफोड्हा, पास स्वं भूतार।
- ८- कार्यालय अधी०(वा०)।
- ९- संबंधित कर्मचारी।

₹०/-

कृते मण्डल रेल प्रबन्धक(वा०)
लज्जनजु।

सत्य प्रति

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Shandul Seethi



इन दि आनरेबुल हाई कोर्ट आफ जूडीकेवर एट इलाहाबाद
लज्जनजु बैन्च : लज्जनजु

रिट पिटीशन नं० आफ 1982

साहूल सिंह

••••

पिटीशनर

बनाम

यूनियन आफ इण्डिया स्टेट बदस्त

•••• अपो०पाटीजि

बनेजा नं० १८

पूर्वोत्तर रेलवे

कार्यालय भादेश

श्री भार०सी०गुप्ता, प्रधान माल बाबू(425-640) सहजनवा, जो इस
कार्यालय नोटोफिकेशन सं०ई/११२५४/१५/सी०जी०सी०, दिनांक १३.३.८१ द्वारा
मुद्य माल बाबू/मुद्य टी०भा०सी०(435-700) पद पर पदोन्नति हेतु चयनित
योगित द्वारा हुये है, की पदोन्नति मुद्य माल बाबू (455-700) में की जाती है तथा
श्री बी०ठी०र्खर्मा मुद्य माल बाबू के निधन के फलस्वरूप मुद्य मालबाबू के रिक्तस्थान
पर सीतापुर पदस्थापित किया जाता है जो तत्काल प्रभावी होगा। यदि वह रेलवे
क्वार्टर में रहते हों तो स्थानान्तरण पर कार्यमुक्त होने से १५दिन के बन्दर भाली
कर दें अन्यथा उनके विस्त भनुशासनिक कार्यवाही की जायगी।

यह मवाखी के भादेश से जारी किया जाता है जिसमें प्रमवाखी का
भनुमीदन प्राप्त है।

कृते मण्डल रेल प्रबन्धक(वा),
लज्जनजु

सं० ई/११/२८३/१५/सी जी सी लज्जनजु दि० ३१.८.८।

प्रतिलिपि सूचनार्थ स्वं भावश्यक कार्यवाही हेतु प्रेषितः-

- १- मण्डल लेखा भधिकारी/लज्जनजु।
- २- श्वेत्रीय भधीकारी/गोरखपुर।
- ३- स्टेशन मास्टर/सहजनवा, सीतापुर।
- ४- वानि/गोरखपुर(प), सीतापुर।
- ५- प्रधान लिपिक/बिल, पाल, फेलहर, कार्यवी(वा)।
- ६- संबंधित भ्रष्टि कर्मचारी।
- ७- मलाप्रबन्धक(वा)/गोरखपुर।

इ०

कृते मण्डल रेलवे प्रबन्धक(वा),
लज्जनजु।

सत्य प्रति

==
Jadduldeen

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

W.P. No. of 1982

Sardul Singh ... Petitioner.
Versus
Union of India & Others. ... Opp. Parties.

ANNEXURE NO. 19

To
The Divisional Railway Manager (P)
N.E. Railway,
Lucknow.

Sir,

Sub: Assignment of wrong seniority.

Ref: Your Office order No. E/PC/RCG dt. 7.7.82

33

With profound respect I beg to submit as under:-

That, by your above office order, the seniority in the post of Hd.Goods Clerks (425-640) correctly given to me w.e.f. from 27.1.78 by your office order No. E/SS/GC/81 dated 16.2.1981 has been withdrawn and new seniority position arbitrarily and erroneously fixed from 22.11.80 without giving me an opportunity for representation against the same which has adverse consequences on my future promotions and detrimental to my interest.

That, it has been indicated in the impugned order that this has been done in the basis of ACPO's decision vide his No. E/210/15/14/C/Pt.II/Ex-LJN(VI) dt. 22.12.78, but a copy of the same has not been furnished to me.

That, however, it is manifestly clear that ACPO's decision dated 22.12.78 as mentioned above was already available with you while fixing my correct seniority vide your office order No. E/SS/GC/81 dt. 16.2.1981 and therefore, the question of withdrawing the seniority so fixed at a much later date subsequent to the receipt of ACPO's decision cannot legitimately arise.

That, the seniority now fixed vide your above office order dated 7.7.82 is, therefore, malafide and illegal and intended to give undue and unlawful benefit to my junior Sri R.C. Gupta Hd.GC in future promotion which is a non-selection post based solely on seniority.

That, attention is invited to the seniority list of Sr.GC (330-560) as on 1.5.75 published by your office in which my seniority position was correctly shown at Sr.No. 23 above Sri B.D. Sharma Sr. No. 24 and Sri R.C. Gupta Sr. No. 25, but I was left out for promotion to the post of HGC (425-640) which was seniority post and my juniors named above were promoted vide your office order No. E/II/283/15/GC/78 dt. 27.1.78 due to administrative error, as has been correctly admitted in your office order No. E/SS/GC/81 dt. 16.2.81 while giving me benefit of promotion and seniority w.e.f. 27.1.78 vis-a-vis the above named juniors.



Sardul Singh

A/

That, in the seniority lists of Sr.GC (330-560) and HGC (425-640) as on 1.5.81 published vide your No. E/II/255/GC/81 dt. 26.8.81, I have been assigned correct seniority over my juniors named above viz. Sri B.D. Sharma and R.C. Gupta. Unfortunately Sri B.D. Sharma has since died and Sri R.C. Gupta is making all efforts to supersede me in the next promotion which is due.

That, I am quite apprehensive that the facts of my supersession in the promotion of HGC (425-640) by my juniors S/Sri B.D. Sharma and R.C. Gupta were never brought to the knowledge of A.C.P.O. which culminated in his alleged decision communicated vide his letter dt. 22.1.78.

That, upon the hue and cry raised by me against supersession by my juniors Sri B.D. Sharma and R.C. Gupta I was promoted as Hd.GC vide your Office order No. E/II/283/15/GC/78 dt. 17.4.78 but was transferred to Jarwa which I had to refuse for one year. My refusal for one year was accepted vide your letter No. E/55/GC/78 dt. 24.5.78.

That, surprisingly soon after acceptance of my refusal for transfer and promotion for one year, I was transferred to Jarwa vide your letter No. E/55/GC/78 dt. 12.7.78 and I was compelled to carry out the transfer, this time without promotion.

That, consequently, my claim for promotion revived since the acceptance of my refusal of promotion and transfer was unilaterally scrapped and I was entitled to the promotion from 27.1.78 vis-a-vis my juniors S/Sri B.D. Sharma and R.C. Gupta.

That, however, no promotion was given to me despite my representations and then D.A.R. proceeding was instituted which was decided on 3.7.80 with only a censure. After the finalisation of DAR proceedings I was promoted from 22.11.80 and again upon my representations I was given the benefit of promotion and seniority as HGC (425-640) from 27.1.78 in recognition of administrative failure in terms of your office order No. E/SS/CC/81 sr. 16.2.81.

That, the benefits of seniority and promotion from 27.1.78 given to me by your letter dt. 16.2.81 is wholly justified and correct in terms of instructions contained in Railway Board's letter No. E/(NG)63PMI-8 dt. 23.6.67 and cannot be taken away illegally, arbitrarily and without giving me an opportunity of being heard.



I, therefore, request your honour to kindly look into all aspects and facts of the case and arrange to restore me the benefit of my promotion and seniority as HGC (425-640) with effect from 27.1.78 vis-a-vis my juniors S/Sri B.D. Sharma and R.C. Gupta as was correctly done by your office order dated 16.2.81 and arrange to set aside yours impugned office order dated 7.7.1982.

I also request your honour to promote me as GSR in scale Rs.550-750 by virtue of my seniority from 27.1.78 as HGC, before Sri R.C. Gupta is promoted to this scale and that I should not be superseded by him once

I also request that my present representation against your office order dt. 7.7.82 should be decided at a very early dt. and in any case before any further promotion of Sri R.C. Gupta so that justice and equality may prevail. Soliciting a very early reply, Yours faithfully,

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

W.P. No.

of 1982

Sardul Singh

... Petitioner.

Versus

Union of India and others.

... Opp. Parties.

ANNEXURE NO. 20

N.E. Railway

No.E/IV/210/30

Office of the Gen. Manager (P)
GKP dated 12.2.65.

To.....

Sub: Effects of refusal of promotion on transfer
stoppage of promotion-non-gazetted staff.

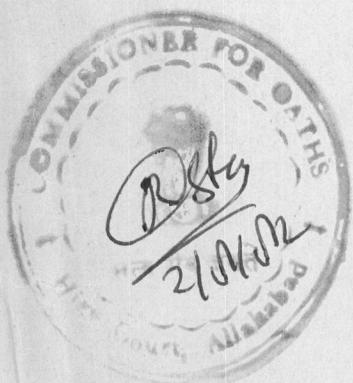
A copy of Rly Bd's letter no. E/NG 64 PMI-66 dt.
21.1.65 is forwarded for information and guidance.

Sd/-for General Manager.

Copy of letter No.E(NG) 64 PMI-66-Dated 21.1.65
from Railway Board, New Delhi, addressed to the G.Manager
All Indian Railways and copy endorsed to others:

Sub: Effect of refusal of promotion on transfer-
stoppage of promotion-non-gazetted staff.

It has been brought to the notice of the Board
that in the case of non-gazetted staff refusing to carry
out transfer on promotion to other stations due to
different reasons, Railway Adm. have imposed varying
conditions in regard to their further promotions. The
Board have carefully examined the practice obtaining on
different railways and have decided that the under mentioned
principles governing such type of cases should be
followed by all railway administrations.



(a) The employee should give in writing his refusal
and accept that he should not be eligible for promotion
to that post for a period of one year. This will apply
in the case of all promotions whether selection or non-
selection post. In both these cases an employee who
refuses promotion for a year due to unavoidable domestic
reasons should not be transferred away for that year.

(b) At the end of the period of one year if an employee
again refuses promotion his name should be removed from
the panel in the case of 'selection' posts and he will
be required to appear again for selection to that post.
In the case of non selection posts, he will again be
debarred for a period of one year. If the employee refuse
(after the lapse of one year), it shall be open to the
Adm. to transfer him in the same grade to another station
should the Adm. deemed fit it necessary to do so.

Sardul Singh

AMG

(c) The employee who refuses promotion will take his seniority from the date of his repromotion and all the persons promoted earlier will rank senior to him, irrespective of his previous position in the panel in the case of selection posts or his relative seniority in the case of non selection posts.

(d) It would be left to the Admin. to entertain request from the staff for post-ponement of promotion for very short period on account of grave domestic difficulties or other humanitarian considerations the employee concerned should be promoted after that period if there is a vacancy and his seniority will be fixed only from the date of his promotion.

Extract of copy of Bd's no. E(NQ) 64 PMI-660 dt. 10.1.66 circulated under GM(P) GKP No. C/IV/210/30 dt. 17.2.66.

Ref. Rly Bd's letter of even no. dated 21.1.65. The removal of the name from the panel will be automatic. In case of second refusal para (b) of Bd's letter dt. 21.1.61.

(2) If during the period of one year a vacancy arises either at that or another station he would not be considered for promotion. This would mean that the employee concerned shall be debarred for promotion against any post in the same grade wherever it exists for that period.

Copy of Rly Bd's letter No. NG/66 SR 7/41 dated 14.10.66 circulated under GM(P) GKP No. E/IV/210/30 dt. 21.11.66.

Sub: Effects of refusal of promotion-seniority.

Reference Bd's letter No. E/NG 64 PMI-66 dated 21.1.65 in partial modification in orders contained in item no. (c) of the letter under reference the Bd. would like it to clarify that an employee who refuses promotion will not however loose his seniority to ~~xx~~ another employee promoted to the same promotion category during one year period of penalty as a result of a future selection subsequently held.

.....

TRUE COPY

Deedul Haq



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

(LUCKNOW BENCH) : LUCKNOW :

WRIT PETITION NO.

OF 1982

Sardul Singh

... Petitioner.

Versus

Union of India and others

... Opp. Parties.

ANNEXURE NO. 21

No. 540

S.N. 2709

No.83/E/24-111(EIV)

Sub:-Hardship to non Gazzetted staff due to administrative errors less in seniority + pay.

A copy of Railway Board's No. E(NG)/63 PMI/92 dt.15/17.9.64 along with the Hindi Version is reproduced below for information and guidance.

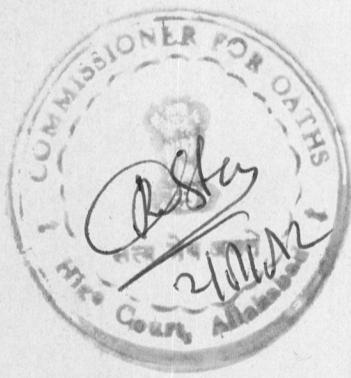
Copy of Railway Board No. E(NG)/63 PMI/92 dated 15/17.9.64 from Asstt.Director Establishment Railway Board to General Managers all Indian Railways etc.

Sub: As above.

It has been represented to the Board that some time due to administrative errors staff are over looked for promotion to higher grades. This should either be on account of wrong assignment of relative seniority of the eligible staff or full facts not being placed before the competent authority at the time of ordering promotion or some other reasons. Broadly loss of seniority due to administrative errors can be of two types.

(a) Where a person has not been promoted at all because of administrative errors and
(b) Where a person has been promoted but not on the date from which he should have been promoted but for the administrative errors.

This matter has been considered and the Board desire that each such case should be dealt with on its merits. The staff who have lost promotion on account of administrative errors ~~should~~ be assigned correct seniority vis-a-vis their juniors already promoted, irrespective of the date of promotion pay in the higher grade on promotion may be fixed proforma at the stage which the employee would have reached if he was promoted at the proper hand. The enhanced pay may be allowed from the date of actual promotion. No arrears on this account shall be payable as he did not actually shoulder the duties and responsibilities of the higher grade/post.



R. S. S.

(R. C. Srivastava)
OATH COMMISSIONER,

High Court, Allahabad.
Lucknow Bench

92/332

21 & 1 PM

.....

TRUE COPY

Accrued rights

Delhi High Court of Judicature at Ald
व अदालत श्रीमान (Lokman Singh) महोदय १५०

(वादी) अपीलान्ट
प्रतिवादी (रेस्पान्डेन्ट)

Sardul Singh कावकालतनामा



15/25

28/1/82

SARDUL SINGH

वादी (अपीलान्ट)

बनाम
Union of India and others
प्रतिवादी (रेस्पान्डेन्ट)

W.P.No

नं० मुकद्दमा

सन् १६

ग/1982

पेशी की तारीख

१६

ई०

ऊपर मुकद्दमा में अपनी ओर से श्री R.C. Saxena, Advocate
High Court Bench, delhi एडवोकेट वकील
महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता है और लिखे देता है कि इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करे या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहानामा 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 विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त कर 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 आवे।

Accepted

Quader

2/8/82

साक्षी गवाह

साक्षी (गवाह)

दिनांक

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महीना

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सन् १६८

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hastakshar..... daniel leigh

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

(LUCKNOW BENCH) : LUCKNOW : C-2
C.M. APPLICATION NO. 731 OF 1982

IN-RE
WRIT PETITION NO. 362 OF 1982



Sardul Singh, aged about 52 years, son of
Late Sardar Jowala Singh, Chief Goods Clerk,
N.E.R. Colonelganj, District Gonda. ... Petitioner.

Versus

1. The Union of India through the G.M.,
N.E.R. Gorakhpur.
2. Additional Chief Personnel Officer,
N.E. Railway, Gorakhpur.
3. D.R.M.(P), N.E. Railway, Ashok Marg,
Lucknow.
4. Sr. Division Railway Manager(C),
N.E.Railway, Ashok Marg, Lucknow.
5. R.C. Gupta, C.G.C., N.E.Railway,
Sitapur. ... Opp. Parties.

APPLICATION FOR INTERIM RELIEF

That for the detailed facts and the reasons
stated in the writ petition supported by an affidavit it
is most respectfully prayed that the opposite parties may
be directed to consider the case of the petitioner for
promotion to the post of Goods Superintendent Grade
Rs. 550-750 in preference to opposite party No. 5 treatin
him junior to the petitioner or any other suitable order
which the court under the facts and circumstances of the
case deem fit may also be passed in favour of the
petitioner.

LUCKNOW:

DATED: Aug 2, 1982.

*R. Basu
P. Chakrabarti*
COUNSEL FOR PETITIONER

see ↑ 310

390 *W. H. G.*

SEARCHED

194 WITTINGTON

Hon'ble K.S. Varma, I.
Hon'ble S.S. Ahmad, I

Reed
deepseed
in 81 82
Chand
81 82 Dec
in 81 82

List this application for
orders before an Hon'ble
Single Judge immediately
after two weeks during
which period the learned
counsel for the opposite
parties may file a
counter affidavit.

John KB
3.8.1982

APPENDIX B: THE 1990 APPENDIX B OF THE 1990 APPENDIX B

case where it is necessary to make a decision on the basis of the information available, the best course of action is to use the following procedure:

1. Define the problem clearly.
2. Identify all the relevant factors and their interrelationships.
3. Determine the objectives and constraints of the problem.
4. Generate alternative solutions.
5. Evaluate the alternatives based on their merits and demerits.
6. Select the best alternative and implement it.

W. H. Miller

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

T.A. No. 1069/87 (T)

Writ Petition No. 3622 of 82

(A/S)

Sardul Singh Petitioner

Versus

Union Of India and others Opposite Parties

COUNTER REPLY ON BEHALF OF OPPOSITE PARTIES No.1 to 4

I, S. M. N. Islam aged about 34

years, son of Shri S.M. Owais, do

hereby solemnly affirm and state on oath as
under :

1. That the official above named is working

as Div. Personnel Officer in the Office of

Divisional Railway Manager, North Eastern Railway,

Ashok Marg, Lucknow, and thus is fully conversant

with the facts of the case, and has been authorised

Sh. N. Islam
मंडल कार्मिक अधिकारी
पूर्वोत्तर रेलवे, लखनऊ

by the Opposite Parties No. 1 to 4 to file this counter reply on their behalf.

2. That with regard to the contents of para 1 of the Writ Petition only this much is admitted that annexure No. 1 attached to this Writ Petition was issued, and the rest of the contents of the said para are denied.

3. That with regard to the contents of para 2 of the Writ Petition, it is admitted that the petitioner and Opposite Party No. 5 were senior Goods Clerk in scale of Rs.330-560 in the beginning of the year 1978.

4. That in reply to the contents of paras 3 to 7 of the Writ Petition, it is stated that Opposite Party No. 5 and Sri B.D. Sharma were promoted as Head Goods Clerk in scale of Rs. 425-640 under orders, dated 27-1-78 (Annexure 2 to the Writ Petition). The petitioner's name for promotion was omitted due to clerical error, and when the same came to notice, the petitioner was also promoted as Head Goods Clerk

in scale Rs. 425-640 under the orders, dated 17-4-78
(Annexure No. 5 to the Writ Petition) posting the
petitioner on promotion at Sitapur station from
Tikunia station.

5. That in reply to para 8 and 9 of the Writ
Petition, it is stated that the petitioner did not
carry out his orders of promotion and transfer as
Head Goods Clerk (Rs.425-640) from Tikunia station to
Sitapur station. He refused his promotion, and
requested to allow him to continue as Senior Goods
Clerk in scale of Rs.330-560 which was accepted by the
Railway Administration for one year, and he was allowed
to continue as Senior Goods Clerk at Tikunia station
under orders, dated 23-5-78 (Annexure No. 7 to the
Writ Petition).

6. That with regard to para 10 of the writ
Petition, it is stated that the petitioner was transferred
in the administrative exigency from Tikunia station
to Jarwa station in the same pay scale (Annexure 8
to the Writ Petition) by the competent authority

after having considered the circumstances of the case arose on public complaint against the petitioner. The orders of transfer are legal and under the rules. The statement contrary to it is denied.

7. That in reply to the contents of paras 11 and 12 of the Writ Petition, it is stated that the petitioner in order to avoid the orders of transfer on public complaint represented to promote him again as Head Good clerk in scale Rs.425-640, which was already referred by him and finally accepted by the competent authority for one year, and, therefore, there was no point for the Railway Administration to revise the earlier decision before one year. The petitioner's request refusing his promotion in the higher grade and retention at Tikunia station was accepted by the Railway Administration, and he would have been allowed to continue as such for one year in the normal circumstances had the petitioner maintained proper relations with the Railway users, and there may not have been public complaint.

8. That the contents of para 13 of the Writ Petition

are admitted. However, it is further stated that Annexure 11 is an official correspondence between two officers of the department, and the same has no concern with the petitioner.

9. That with regard to para 14 of the Writ Petition while it is admitted that Annexure No. 12 of the Writ Petition was issued by the A.C.P.O./Gorakhpur to the D.P.O., Lucknow Junction, but as the same is an official communication from one to the other officer of the Railway Administration, it is not material for the petitioner and there was no point for its communication to the petitioner.

10. That with regard to para 15 of the Writ Petition, it is stated that the petitioner was promoted as Head Goods Clerk (Rs.425-640) on ad hoc basis subject to passing of suitability test as contained in the office order, dated 20-11-80 (Annexure No. 13 to the Writ Petition).

11. That with regard to para 16 of the Writ Petition, it is stated that the petitioner's deemed date of promotion was decided to be taken as 27-1-78 although he was not actually promoted as Head Goods Clerk on 27-1-78. The

Shri R. Bhandarkar
पुर्वोत्तर रेलवे, लखनऊ

petitioner was due to be promoted on 17-4-78 as Head Goods Clerk. On noticing that his name was omitted for promotion earlier the date of promotion was revised subsequently as 27-1-78 by an order, dated 16-2-81 (Annexure 14 to the Writ Petition), granting seniority above Sri B.D. Sharma.

12. That the contents of para 17 and 18 of the Writ Petition are admitted. It is, however, stated that the selection was held, and panel was declared on the basis of the seniority position of the petitioner as Head Goods Clerk taking his date of promotion of Head Goods Clerk as 27-1-78, but the same has been subsequently held to be not correct and now he has been allowed the seniority and promotion as Head Goods Clerk from 22-11-80, and the same would affect the position of seniority of the petitioner as Chief Goods Clerk (Rs. 425-640).

13. That the contents of para 19 of the Writ Petition are admitted. The petitioner has been given all the benefits and promotion as per his revised seniority in the category of Head Goods Clerk on the basis of his date of promotion as 22-11-80.

14. That with regards to the contents of para 20 of the Writ Petition, it is stated that the revision in the seniority position of the petitioner in the post of Head Goods Clerk (Rs. 425-640) on the basis of his actual date of promotion as 22-11-80 ordered by the competent authority under the provisions of the Rules will have an impact of the seniority and promotion of the petitioner in higher grades.

15. That the contents of para 21 of the Writ Petition are not admitted. The representation, dated 14-7-82 of the petitioner was considered and decided by the competent authority, and the petition ^{er} was advised under letter No. E/210/Si/CGC/82, dated 7/16-8-82. A true copy of the said letter is being annexed as Annexure No. R-1 to this Counter Affidavit.

16. That the contents of para 22 of the Writ Petition are denied being incorrect. The petitioner could not be promoted at the time when the junior was promoted due to clerical error. However, when the petitioner was promoted subsequently, he refused his promotion for one year which was accepted by the Railway

Shri Yashpal
मंदस्त कार्मिक आयोगी
पूर्वोचर रेलवे, लखनऊ

Administration, and his seniority was deferred ~~for~~ under the provisions of the rules. A copy of the Railway Board's letter No. E(NG)64M/66, dated 21-1-65 containing the instructions for fixing seniority on refusal of the employee is annexed with this counter affidavit as Annexure No. K-2. Thus there is no error in the orders and discrimination caused to the petitioner.

17. That the contents of para 23 of the Writ Petition are denied being not correct. The seniority of the petitioner has correctly been fixed in accordance with the rules as he refused his promotion.

18. That the contents of para 24 of the Writ Petition are denied. The refusal of promotion by the petitioner was accepted by the Railway Administration under normal circumstances. He was transferred within one year on administrative reason on public complaint for which there was no bar to transfer the petitioner.

19. That with regards to the contents of para 25 of the Writ Petition, the instructions contained in

the Railway Board's letter are admitted, but the circular in question dealt with the transfer of normal cases. The petitioner's transfer within one year from Tikunia to Jarwa was on public complaint for which there was no bar to transfer the petitioner.

20. That the contents of para 26 of the Writ Petition are not admitted. The transfer of the petitioner from Tikunia to Jarwa being under abnormal circumstances was not in violation of the Railway Board's circular letter, dated 21-1-1965 contained in Annexure No. 2 of the ~~Writ Petition~~ Counter affidavit.

21. That the contents of para 27 of the Writ Petition are denied. As the petitioner refused his promotion for one year and the same was accepted, his promotion within stipulated time i.e. one year was not admissible.

22. That the contents of para 28 of the Writ Petition are not admitted, and the Railway Board's letter, dated 15/17-9-64 referred by the petitioner is not applicable to the petitioner in the circumstances

SM2 Wlex
मंडल कामिक व्यवस्था कानून
पुरोत्तर रेलवे, गुजरात

of the case of the petitioner.

23. That the contents of para 29 of the Writ Petition read with the grounds thereunder are not admitted. The petitioner had alternative remedy to represent his case to the higher authority of the Railway Administration if he was aggrieved, but he has not resorted to the same. Hence the Writ Petition is not maintainable.

24. That the petitioner ~~is now entitled to the~~ has ~~directions~~ retired from service as Chief Goods Clerk in scale Rs.1600-2660 on attaining the age of superannuation w.e.f. 31-12-87 (after noon).

25. That the grounds taken by the petitioner are not tenable in law.

26. That the petitioner is not entitled to the directions prayed for and the petitioner is liable to be dismissed..

LUCKNOW: DATED
July --, 1990
January 30, 1991

(प्रमुख मंडल कार्मिक विभाग
पूर्वोत्तर रेलवे, लखनऊ)

VERIFICATION

I, the above named official, do hereby

verify that the contents of paras 1 of this reply is true to my personal knowledge, and those of para 2 to 26 are believed to be true on the basis of records and legal advice. Nothing material has been concealed, and nothing stated therein is false.

LUCKNOW: DATED

January 30, 1891

January 30, 1891

Shri 2 W. 30/1/91
मंडल कार्मिक अधिकारी
पूर्वोत्तर रेलवे, बहुत सु

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

T.A. No. 1069 /87 (T)

Writ Petition No. 3622 of 82

Sardul Singh Petitioner

Vs.

Union of India Opposite parties

Annexure-R

864

का. ई/210/14/बीपीएली/82

दिनांक 7/16.8.82

दी शारदा तिथि
मुख्य वाचामू

कायदात्व नियम रेल पुस्तकालय
कानून

विधाय :- परीक्षा देख आयोग द्वारा दिनांक 14.7.82 दर्शाया गया

...

ज्योतिका उच्चारा में आपको हुसिया किया जाता है तो आपकी
परीक्षा चलोगी तो जो ज्योतिका हुसिया किया गया उसके अस्ति विवराती का दर्शाया
का. ई/210-15/14/बीपीएली/14/रेल पुस्तकालय/कानून 22.12.70 के द्वारा
हल कायदात्व में प्राप्त इस दारा कार्रारीत किया जाता है ।

864/-

को नियम रेल पुस्तकालय कानून

True Copy

Shri *Wazir*
प्रवर मंडल कामिक अधिकारी
पूर्वोत्तर रेलवे, लखनऊ

165

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW
T.A. No. 1069/37 (T)

Sardul Singh

.....

Petitioner

Versus

Union of India and others Opp. Parties.

Annexure 1-2

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. E(NG)64M/66

New Delhi dated: 21/1/65

The General Managers,
All Indian Railways.

Sub:- Effects of refusal of promotion on
transfer stoppage of promotion non-
gazetted staff.

It has been brought to the notice of the Board that in the case of non-gazetted staff refusing to carry out transfers on promotion to other stations due to different reasons, Railway Administrations have imposed varying conditions in regard to their further promotions. The Board have carefully examined the practice obtaining on different Railways and have decided that the undermentioned principles governing such type of cases should be followed by all Railway administrations.

(a).-The employee should give in writing his refusal and accept that he would not be eligible for promotion to that post for a period of one year. This will apply in the case of all promotions whether to selection or non-selection posts. In both these cases, an employee who refused promotion for a year due to unavoidable domestic reasons should not be transferred away for that year.

(b).-At the end of the period of one year if an employee again refused promotion his name shall be removed from the panel in the case of selection posts and he will be required to appear again for selection to that post. In the case of non-selection posts he will again be debarred for a period of one year. If the employee refused promotion second..... to a selection/non-selection post after the lapse of one year it shall be open to the advise to transfer him in the same grade to another station, should the advise deem it necessary to do so.

True Copy
(c).-The employee who refused promotion will take his seniority from the date of his promotion and all the persons from the earlier will rank senior to him, irrespective of his promotion in the panel in ~~the case~~ of selection posts or his

प्रधान मंत्री कामिकरण
पूर्वोत्तर रेलवे, लखनऊ

relative seniority in the case of non-selection posts. D6

(d)-It would be left to the administration to entertain requests from the staff for postponement of promotion for very short periods on account of grave domestic difficulties or other humanization consideration. The employee concerned should be promoted after that period if there is a vacancy and his seniority will be fixed only from the date of his promotion.

Sd/-
(B.N. SONI)
ASSTT. DIRECTOR ESTABLISHMENT
RAILWAY BOARD.

No. E(NG)64 PMI-66 ---

New Delhi dated: 21/1/65

Copy forwarded to:-

- 1). The General Manager ICP Perambur Madras.
- 2). The General Manager DLW/Varanasi.
- 3). The General Manager CLW/----
- 4). The General Manager C.E. Railway Electrification.
- 5). The Chief Administrative Officer and Chief Engineer BBK Railway Projects Waltair.
- 6). The Director General RDSO Lucknow with 3 spare.

Sd/-
DIRECTOR ESTABLISHMENT
RAILWAY BOARD.

No. E(NG)64 PMI-66 ---

New Delhi dated 21/1/65

Copy (with 25 spares) forwarded for information to:-

- (1)-The General Secretary AIRF 125-S, Railway Quarters, Babar Road, New Delhi.
- (2)-The General Secretary NFIR, D, Janpath, NEW DELHI.

Sd/-
(KUMAR BAHADUR)

FOR SECRETARY RAILWAY BOARD.

DA: As above

Copy to all establishment Board-----branches of the Board Office.

**** *True Copy*

Sw. N. S.
प्रवृत्त मंडल कामिक अधिकारी
पूर्वोत्तर रेलवे, लखनऊ

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RECEIPT FOR PAYMENT TO GOVERNMENT

**FORM NO. 1, CHAPTER III, PARAGRAPH 26 FINANCIAL
HANDBOOK, VOLUME V, PART II**

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Department and office High Court of Judicature at
Received from Allahabad (Lucknow Bench).
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on account of Deed

Signature of Government Surveyor
granting Surveyor's
Stamp and Registration Fee



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

Civil Misc. Appln. No. (W) of 1982.

For Condonation of Delay in Filing Counter Affidavit.

In re:

Writ Petition No. 3622 of 1982.

Sardul Singh - - - - - Petitioner

Versus

The Union of India and others - - - Opposite Parties.

The applicant (opposite party no.) in the above-
noted petition respectfully begs to submit:

That owing to misplacement of the counter affidavit in the files of my counsel, the counter affidavit after being prepared could not be filed within the time allowed by this Hon'ble Court but now it is being filed hereto after a few days delay which is bonafide and accidental.

It is, therefore, respectfully prayed that the delay in filing the counter affidavit be condoned and the same be directed to be placed on the record.

Lucknow, Dated:
September 1, 1982.

(D.K.TRIVEDI)
Advocate,
COUNSEL FOR THE APPLICANT.



A
HIGH COURT
AFFIDAVIT
1982
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IN THE HON'BLE ALLAHABAD HIGH COURT SITTING AT LUCKNOW.

Writ Petition No. 3622 of 1982.

Sardul Singh - - - - - Petitioner.

Versus

The Union of India and others - - - Opposite Parties.

COUNTER AFFIDAVIT OF OPPOSITE PARTY NO.5.

I, R.C.Gupta, aged about 55 years, son of Late Sri Ram Swaroop Gupta, Chief Goods Clerk, North Eastern Railway, Sitapur, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is opposite party no.5 in the abovenoted writ petition, and is well-conversant with the facts deposed to hereunder.

2. That regarding the contents of para 1 of the writ petition it is stated that the impugned order was passed for correcting the mistake which was occasioned due to bonafide mistake.

3. That regarding the contents of para 2 of the

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8/9/82

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writ petition it is stated that the petitioner was posted at Tikunia whereas the deponent was posted at Aishbagh, Lucknow just before his promotion.

4. That the contents of paras 3 and 4 of the writ petition are incorrect as framed, hence denied. It is not disputed that the deponent was promoted vide letter DS(P) LJP office order no. E11/283/15/GC/78 dated 27.1.78 along with several other persons. In fact a number of persons were promoted in order of seniority, except those who were either under punishment or involved in some departmental enquiry or vigilence case. It is further stated that on 27.1.78 i.e. the date of promotion of the deponent, the petitioner Sardul Singh was under the order of punishment and further one of the orders of punishment was 'to stop' his increments for three months. The deponent is filing a true copy of order ACS/NE/KSN notice of imposing penalty number C/65/CP/IRRG/9/77 dated 23.9.77 as Annexure 'E-1' to this counter affidavit. In fact, at the time of promotion of the deponent i.e. on 27.1.78 the petitioner was not eligible for promotion and as such he was not promoted. It is further stated that the petitioner himself was aware of this fact and so he did not raise any objection or made any representation against the promotion list by which several persons including the deponent was promoted in January 1978. The order of promotion is dated 27.1.78 and the order has already taken effect and therefore now it is not open to challenge the said order. Sri Sardul Singh never protested or made representation challenging the promotions of any of the persons who were promoted on 27.1.78. It is further stated that afterwards when

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Sri Sardul Singh petitioner became free from the punishment and enquiry then he was also promoted to the post of Head Goods Clerk and he was transferred to Sitapur on the post of Head Goods Clerk. The petitioner was not willing to leave Tikunia even on promotion and therefore he moved an application foregoing his promotion as Head Goods Clerk. It is further stated that the said request of the petitioner Sardul Singh was accepted by DRM(P) vide letter dated 23.5.78 but it was made clear in the said letter that the person who will be promoted in between as Head Goods Clerk will be treated senior to the petitioner. The petitioner accepted the same and remained at Tikunia as Senior Goods Clerk. It is not disputed that the petitioner's transfer order from Tikunia to Sitapur was also cancelled and he remained at Tikunia. However, after some time several public complaints were received against the petitioner regarding his official working as well as behaviour and then enquiry under D.A.R. (Disciplinary Appeals Rules) was conducted by the Assistant Commercial Superintendent Sri O.P.Gupta and then the Railway Authorities in the interest of public at large transferred the petitioner from Tikunia to Jerwa vide Annexure '8' to the writ petition. It is further stated that the petitioner had accepted the transfer order and joined at Jerwa as Senior Goods Clerk and then the petitioner made a representation to the Senior Divisional Commercial Superintendent, N.E.Rly., Lucknow to remind him of his refusal for promotion with effect from 17.4.78 which is his legitimate right according to him. It is further stated that thereafter vide Annexure '10' to the writ petition the petitioner again made a request that either the



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petitioner may be promoted as Head Goods Clerk or the petitioner be posted as Senior Goods Clerk at Aishbagh, Lucknow. In fact, the petitioner wanted his posting according to his choice as Senior Goods Clerk and if his request was not acceptable then he wanted his promotion as Head Goods Clerk. The deponent is advised to state that nobody challenged the order of promotion dated 27.1.78 nor raised any grievance against the persons who were promoted on 27.1.78. It is further stated that the matter of petitioner Sardul Singh was further clarified by the Additional Chief Personal Officer, N.E.Rly., Gorakhpur vide his official letter no. E/210/15/14/C/Pt. 11/Extn.(VI) dated 22.12.78 filed by the petitioner as Annexure '12' that the benefit of promotion in this case cannot be given from retrospective effect but can be given only from the date Sri Sardul Singh shoulders higher responsibility of the post. It is further stated that as stated above the deponent is undisputedly senior to the petitioner as the deponent is working as Head Goods Clerk from 27.1.78 whereas the petitioner is working as Head Goods Clerk since 20.11.80. Even according to petitioner's request contained in Annexure '9' he wants promotion post from 17.4.78 which is also a later date from the deponent and therefore if his prayer for accepting his promotion retrospectively be also accepted even then he will be junior to the deponent as deponent was promoted as Head Goods Clerk on 27.1.78.

5. That in reply to the contents of para 5 of the writ petition it is stated that the contents of para 5 of the writ petition are not relevant for the

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purpose of the present writ petition as the seniority list of 1975 relates to the Senior Goods Clerks. It is, however, stated that the petitioner has not filed the seniority list of Head Goods Clerks prepared in the year 1978, in which the petitioner's name did not find place. A true copy of the seniority list of Head Goods Clerks upto 1.5.1978 is being made as Annexure 'E-2'. It is further stated that the deponent's name finds place at serial no.15 and no objection or representation was filed by the petitioner against the aforesaid seniority list.

6. That the contents of para 6 of the writ petition as framed are denied. It is a fact that the petitioner somehow manipulated and obtained an order from D.R.M(P), Lucknow, in February, 1981 giving him impression that the petitioner is senior to Sri B.D. Shafma as well as the deponent. The D.R.M.(P) Lucknow without giving any opportunity to Sri B.D.Sharma and the deponent and without considering the earlier decision given by the Additional Chief Personal Officer, N.E.Rly., Gorakhpur, contained in Annexure '12' of the writ petition changed the seniority of the deponent and further awarded the seniority to the petitioner from 27.1.78, which was not even claimed by the petitioner as is evident from Annexure '9' of the writ petition. It is further stated that no copy of the order passed by the D.R.M.(P), Lucknow was supplied to the deponent.

It is also stated that on the basis of the order passed by the D.R.M.(P), Lucknow, a fresh seniority list was circulated in August, 1981, vide letter dated 26.8.1981 contained in Annexure '4' of the writ petition on coming to know the above-mentioned seniority

Defence

list dated 28.8.78, the deponent filed an appeal before the D.R.M.(P), Lucknow, in November, 1981. A true copy of the appeal is being made as Annexure 'E-3' hereto. It is again stated that the deponent has pointed out that the date of promotion of the deponent as Head Goods Clerk was shown as 17.4.78 in the aforesaid seniority list which was *prima facie* incorrect as undisputedly the deponent was promoted on 27.1.78. The D.R.M.(P), Lucknow vide his order dated 24.5.1982, directed that the date of promotion of the deponent as Head Goods Clerk be corrected as 27.1.1978 instead of 17.4.1978. A true copy of the said order is being made as Annexure 'E-4' hereto. It is further stated that afterwards the D.R.M.(P), Lucknow by his order dated 7.7.1982, contained in Annexure '1' of the writ petition, corrected and modified his earlier order dated 16.2.1981, contained in Annexure '14' of the writ petition as the said order was against the decision of the Additional Chief Personal Officer, N.E.Rly. Gorakhpur, contained in Annexure '12' of the writ petition. It is stated that the petitioner in no way can claim the seniority as Head Goods Clerk from 27.1.1978.

7. That the contents of para 7 of the writ petition are denied. It is stated that the petitioner never vide his application to the Senior Divisional Commercial Superintendent, N.E.Rly., Lucknow contained in Annexure '9' of the writ petition ~~had~~ prayed for seniority from 17.4.1978. As stated above the petitioner was promoted from 17.4.1978 when he was free from the punishment and enquiry.

Defence

8. That the contents of para 8 of the writ

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petition need no reply. It is, however, stated that the petitioner did forego his promotion from 17.4.1978 by his own will.

9. That in reply the contents of para 9 of the writ petition it is stated that on refusal by the petitioner for promotion the transfer of the petitioner was stayed. It is further stated that while accepting the request of the petitioner it was clarified by the D.R.M.(P), Lucknow, that the persons promoted in between this period shall be treated as senior to the petitioner and the petitioner accepted the ~~same~~ same without any objection.

10. That the contents of para 10 of the writ petition are denied. It is stated that after the stay of the transfer of the petitioner at Tikunia, several complaints were filed before the Railway Authorities by the public against the activities of the petitioner and on the consideration of the said complaints it was found fit by the authorities that in the interest of public at large it was not proper to keep the petitioner at Tikunia and therefore the petitioner was transferred from Tikunia to Jerwa, District Bahrach. It is further stated that in this regard Disciplinary and Appeal Rules enquiry was also set up against the petitioner before the Assistant Commercial Superintendent, Lucknow.

11. That the contents of para 11 of the writ petition are disputed. It is further stated that the petitioner is not ever entitled to get the seniority from 17.4.1978.

Depute

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12. That the contents of para 12 of the ~~xxx~~ writ petition are not within the knowledge of the deponent hence denied.

13. That the contents of paras 13 and 14 of the writ petition need no reply.

14. That the contents of para 15 of the writ petition are not disputed. It is, however, stated that the said promotion was an ad hoc promotion subject to passing of departmental suitability test of Head Goods Clerks. It was also made clear in the said ~~letter~~ letter of promotion that the petitioner would not be entitled to claim any seniority on the basis of the present ad hoc promotion. It is further stated that the petitioner thereafter passed the departmental suitability test on 18.1.1981. A true copy of the said letter dated 8.5.81 is being made as Annexure E-5 hereto. It is pertinent to state here that the petitioner was entitled to claim his seniority only from 18.1.1981 for the post of Head Goods Clerk.

15. That the contents of para 16 of the writ petition as framed are denied. It is stated that the decision in the case of the petitioner had already been given by the Additional Chief Personal Officer, N.E.Railway, Gorakhpur, that the petitioner was not entitled to get the seniority with retrospective effect. The order dated 18.2.1981, passed by the D.R.M.(P), Lucknow, contained in Annexure '14' was passed in utter disregard to the order passed by the higher authority i.e. Additional Chief Personal Officer, N.E.Railway, Gorakhpur. It is further stated that

Dejups

the D.R.M.(P), Lucknow has not pointed out any administrative error which according to him occurred in not promoting the petitioner from 27.1.1978. It appears that the D.R.M.(P), Lucknow was not properly informed about the decision of the Additional Chief Personal Officer, N.E.Railway, Gorakhpur and the facts of the case and therefore he passed the said order giving seniority to the petitioner from 27.1.1978, which was not even claimed by the petitioner.

16. That regarding the contents of para 17 of the writ petition it is stated that for the selection for the post of Chief Goods Clerk the petitioner as well as the deponent and several other persons were called upon for written test vide letter no. E/11/254/15/CGC, dated 30.12.1980. A true copy of the said letter is being made as Annexure 'E-6' hereto. In the said test the deponent was shown at serial no.13 whereas the petitioner was placed at serial no.20. It is further stated that while calling the candidates for viva voce the deponent was shown senior to the petitioner. A true copy of the said letter dated 8.4.1981 is being made as Annexure 'E-7' hereto. However, in the meantime the petitioner obtained an order by D.R.M.(P), Lucknow, contained in Annexure '14' of the writ petition and therefore in the notification dated 13.5.1981 the petitioner was shown senior to the deponent which was corrected later on.

17. That regarding the contents of para 18 of the writ petition it is stated that on the basis of the incorrect order contained in Annexure '14', the petitioner was wrongly promoted on 9.6.1982 as Chief

Replies

Goods Clerk. It is further stated that at that time the deponent's appeals dated 17.7.81 and 20.6.81 ~~exhausted~~ challenging the promotion of Sri Pateshwari Pathak as Chief Goods Clerk, was pending before the D.R.M.(P), Lucknow. It is again stated that during the pendency of appeal itself the petitioner was promoted to the post of Chief Goods Clerk.

18. That the contents of para 19 of the writ petition need no reply.

19. That the contents of para 20 of the writ petition are denied. As stated above the deponent is entitled to be promoted in preference to the petitioner for the post of Goods Superintendent.

20. That the contents of para 21 of the writ petition need no reply. It is, however, stated that the petitioner has filed an appeal before the D.R.M.(P), Lucknow and the same is still pending. The petitioner has filed the present writ petition without exhausting the alternative departmental channel of appeal. The deponent is advised to state that the present writ petition is liable to be rejected on the ground of alternative remedy.

21. That the contents of para 22 of the writ petition as framed are denied. As stated above the deponent is senior and the petitioner's claim in the writ petition from 27.1.1978 is self-contradictory as the petitioner himself claimed seniority from 17.4.78 before the Railway Authorities.

Replies

22. That the contents of para 23 of the writ petition are denied. It is stated that as the petitioner himself claimed seniority before the Railway Authorities from 17.4.1978, therefore he was not entitled to claim seniority from 27.1.1978. It is further stated that no objection or appeal was filed by the petitioner against the seniority list published in August, 1978, in which the name of the petitioner did not find place at all.

23. That the contents of para 24 of the writ petition as framed are denied. As stated above the petitioner was rightly transferred from Tikunia to Jerwa.

24. That the contents of para 25 of the writ petition relate to a circular letter and hence no reply is needed. It is stated that even in those cases the Railway Authorities were empowered to take action including transfer of an employee in case of public complaints, misconduct of the employee etc.

25. That the contents of para 26 of the writ petition are denied.

26. That the contents of para 27 of the writ petition are denied. As stated above and also decided by the Additional Chief Personal Officer, N.E.Railway, Gorakhpur, the benefit of promotion can be given from the date on which the employee shoulders higher responsibility of the post.

Report

P.T.O.

27. That the contents of para 28 of the writ petition are denied. It is incorrect to say that the petitioner was not promoted on his due date or due to some administrative error.

28. That in view of the averments made above the writ petition is liable to be dismissed. ~~The deponent is further filing a true copy of Promotion order dated 27-1-72 as Annexure E-8 and fication of pay letter as Annexure E-9 to this Counter affidavit.~~

Lucknow, Dated:
August 1, 1982.

Deponent.

I, the deponent named above, do hereby verify that the contents of paras 1 to 27 of this affidavit are true to my own knowledge and those of paras 28 are true to my belief based on receipt of legal advice; that no part of it is false and that nothing material has been concealed. So help me God.

Lucknow, Dated:
August 2, 1982.

Deponent.

I identify the deponent on the basis of the papers produced by him. He has signed before me.

Shambhu Dayal Srivastava
Clerk to Sri D.K.Trivedi Advocate.

Solemnly affirmed before me on 2-9-82
at 10 a.m./p.m. by Sri R.C.Gupta,
the deponent who is identified by
Sri Shambhu Dayal Srivastava Clerk to
Sri D.K.Trivedi Advocate, High Court
Allahabad. I have satisfied myself by
examining the deponent that he under-
stands the contents of this affidavit
which have been read over and explained
by me.

Deputy Commissioner
High Court, Allahabad
Lucknow Bench
No. 792-A
Date: 2-9-82

Annexure 'E-1'

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

Writ Petition No. 3622 of 1982.

Sardul Singh - - - - - Petitioner.

Versus

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

Annexure 'E-1'

Notice of imposition of penalties under Rule 11 of
DAR 1968 except for dismissal/removal/compulsory
retirement etc.

No.C/65/CP/IRRG/9/77

Dated: 23.9.1977.

From: Divl. Supdt.(C) To: Sardul Singh, Sr.CV/TQM.
N.E.Rly., Lucknow.

With reference to your explanation to the
Memorandum of even no., dated 12.5.77, you are barely
informed that the undersigned has passed the following
orders:-

He has not submitted any defence. Evidently
he has none to offer. Stop his increment for three
months (WIT).

Sd/-

Asstt. Comml. Supdt.,
N.E.Rly., Lucknow.

Forwarded to DS(P)/LJN.
for information & nec. action.

True Copy

Replies

अनेज़र नं. 2

इन दि आनरेबुल इलाहाबा द हाई कोर्ट सिटिंग ऐट लखनऊ ।

रिट पिटीशन नं 3622 आफ 1982-

शारदूल सिंह ----- पिटीशनर

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यूनियन आफ इण्डिया एण्ड अर्दस ----- अपौ० पार्टीज़

अनेज़र नं 2

प्रधान माल बाबू (425-640) लखनऊ मण्डल को 1-5-78 की तिथि में
अनन्तिम बरियता सूची

स्वीकृत संख्या

स्थाई अस्थाई

क्र० सं०	नाम	स्टेशन	जन्मतिथि	नियक्ति तिथि	वेतनमान में स्थायीकरण प्रविष्टि की तिथि	विवरण
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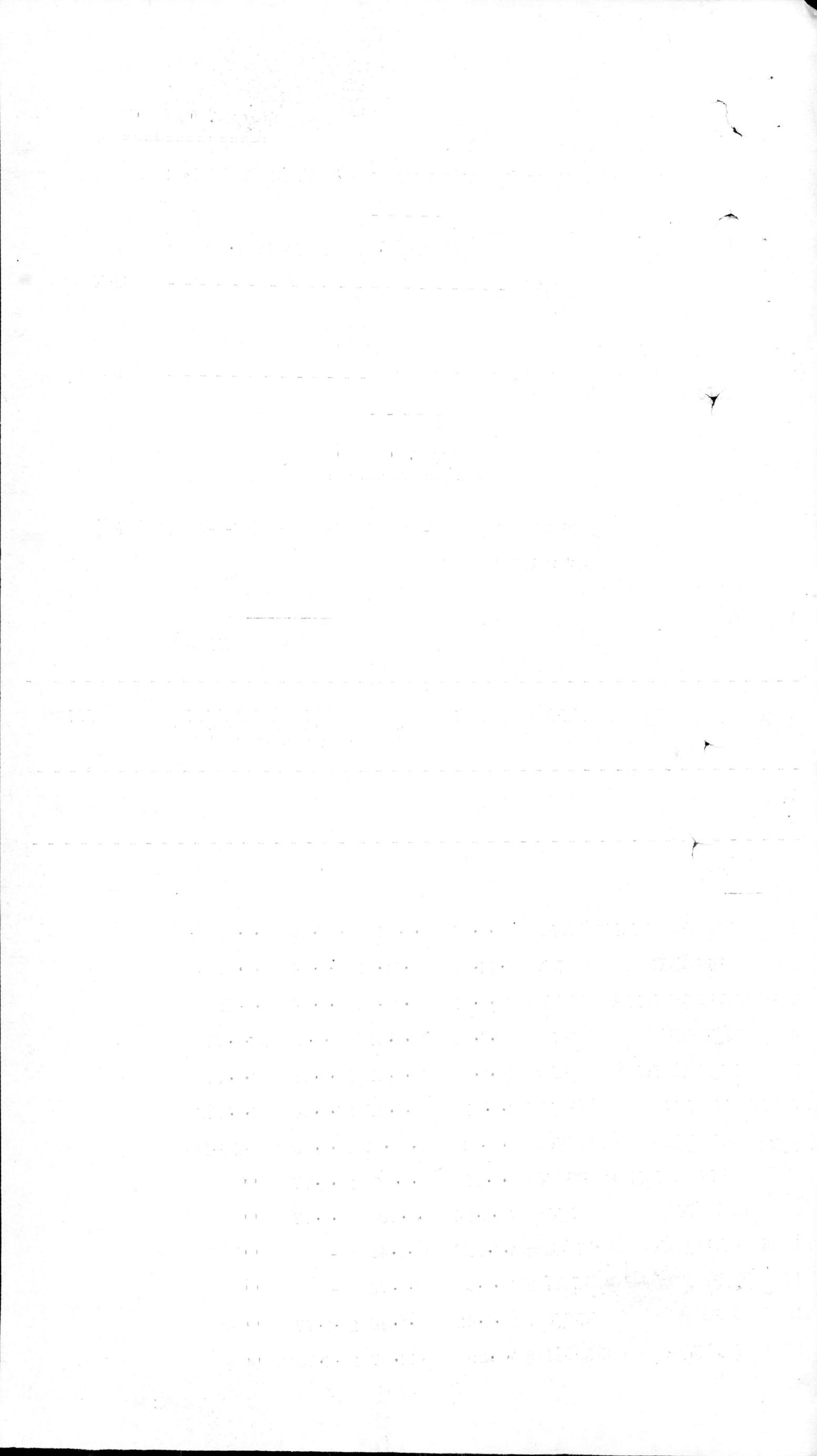
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सर्वश्री

1	श्री आर०स्न०श्रीवास्तव	रेशबाग	31-1-31	3-6-51	6-10-65	1-5-69
2	राम नाथ बेहल	सीतापुर	1-11-20	27-12-42	8-7-74	8-7-75
3	राम चन्द्र श्रीवास्तव	बहराइच	16-8-23	27-10-41	8-7-74	8-7-75
4	रामशंकर पाण्डे	वभनान	29-1-25	11-8-45	21-8-76	21-8-77
5	राम मूर्ति तिवारी	बढ़नी	19-2-26	16-8-45	21-8-76	21-8-77
6	पारसनाथ पाठक	मिहिनपुरवा	1-3-23	20-9-45	21-8-76	21-8-77
7	सम०पी०कुरील	तुलसीपुर	2-12-42	23-10-65	17-4-78	स्थानापन्न
8	पारसनाथ श्रीवास्तव	आनन्दनगर	1-3-26	27-7-46	25-8-77	..
9	नवल किशोर	गोरखपुर	16-7-24	7-6-48	25-8-77	..
10	जौ०पी०मजूमदार	नकाहाज़ंगल	1-1-23	10-3-45	-	..
11	मिन्ज निस्तकिरी	पलियाकलाँ	12-8-50	21-8-76	-	..
12	रामाकान्त	बलरामपुर	20-7-42	22-2-66	25-2-77	..
13	बाला प्रसाद	थामसनगंज	1-2-25	1-11-47	27-1-78	..

क्रमांक:



1 2 3 4 5 6 7 8

सर्वश्री

14 बी०डी०शर्मा गोला गोकरननाथ 10.8.30 5.7.49 27.1.78 स्थानापन्न

15 आर०सौ०गुप्ता ऐशबाग 6.7.27 13.7.49 27.1.78 "

16 जेस सुरीन गोरखपुर कैण्ट 24.3.51 21.8.76 27.1.78 "

17 राम मिलन नैपालगांज रोड 25.9.39 24.2.66 22.12.77 "

सं० ई/११/२५५/प्र०जी०सी०/७८ दिनांक ३१८.७८ २९६.७९ कृते मण्डल अधीक्षक(कार्मिक)

लखनऊ

उपरोक्त वरिष्ठता सूची सम्बन्धित कर्मचारियों को सूचित करने स्वं सरकुलेट करने हेतु भेजी जा रही है। यदि इसके विरुद्ध कोई अपील होते तो वरिष्ठता सूची के जारी करने के तिथि से दो माह के अन्दर इस कार्यालय में भेजे। नियमित अवधि के व्यतीत होने के बाद प्राप्त अपील मान्य नहीं होगा।

प्रतिलिपि सूचनार्थ स्वं आवश्यक कार्यवाही हेतु प्रेषित :-

1/ स्टेशन अधीक्षक/गोरखपुर ।

2/ स्टेशन मास्टर/सीतापुर, बहराइच, वभनान, बढ़नी, मिहीनपुरवा, बलरामपुर, आनन्दनगर, नकहाज़ंगल, पलियाकला, नैपालगांज रोड, थामसनगांज, गोला गोकरन नाथ, ऐशबाग, गोरखपुर कैण्ट ।

४० अपठनीय

कृते मण्डल रेलवे प्रबन्धक (कार्मिक)

लखनऊ

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

Writ Petition No. 3622 of 1982.

Sardul Singh - - - - - Petitioner.
 Versus
 The Union of India and others - - - - - Opp. Parties.

Annexure 'E-3'

To

The Divisional Rail Manager (P),
 North Eastern Railways,
 LUCKNOW.

Subject : Appeal against deliberate undue favour and promotion of Sri P.P.Pathak, A.C.I. as CGC Gonda in Scale (455-700), manipulation in records and further inserting of name of Sri Sardul Singh in the Seniority List of HGCs of L.J.N Division published on 1.5.81.

Respected Sir,

With a confidence to get quick and justified decision at least from your honour, I beg to submit and add once more the following, based on factual date and figures in reference to my previous appeals, as under :-

1. My date of promotion as HGC in scale (425-640) vide your office No. E/II-283/15/GC/78 dated 27.1.78 at item 4, is 27.1.78, which is further confirmed through the seniority list of HGCs (425-640) No. E/II/255/Sr GC/78 Dt. 31.8.78/29.6.79, while the date of promotion of Sri P.P.Pathak is 9.3.78 vide G2(P)/GKP letter No. P/210/15/17-2 Dt. 27.3.78 copies of which have already been submitted to your office with my appeals, i.e. Sri P.P.Pathak is much junior to me.

2. As per current A.V.C., an ACI can be promoted as CGC in the scale (455-700) only when he faces a selection and is declared as selected.

3. When the post of CGC at Gonda fell vacant, the then ACI in scale (425-640) was chosen out turn and promoted in adhoc as CGC in scale (455-700) and posted at Gonda on the sanctioned post of (550-750) in an irregular manner, ignoring and superseding the then senior HGCs whose date of promotion in scale (425-640) is 27.1.78 according to the Seniority list referred above, but out of those four persons, Sri Bala Prasad and B.D.Sharma died and Sri James Surin could not qualify in the selection of CGCs in scale (455-700) and I am the only man left affected by the irregular promotion of Sri P.P.Pathak.

4. Sri P.P.Pathak is involved in a vigilance case also.

5. The name of Sri P.P.Patham does not appear on the panel of candidates selected for the post of CGCs in scale (455-700), as notified vide N.E.Railway fortnightly Gazette No.7 of July 1981, page No.324 (case No. E/II/254/15/GC), which indicates that he has not been selected for the post of CGC.

Replies

6. The orders for his reversion have also been given by the headquarter which have been received in your office, but he and Sri R.N.Srivastava both are still allowed to continue to work as CGC at Gonda and ASH. respectively on sanctioned posts of (550-750) while Sri R.S.Pandey CGC/LMP who has topped the penal of LJN division, is being forced to shift from the sanctioned post of (550-750) at LMP, for which no arrangement has yet been done by the headquarter.

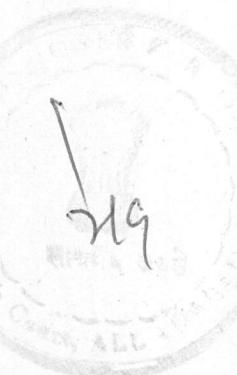
7. Sri P.P.Pathak is working as CGC/GD on the sanctioned post of (550-750) besides two posts in scale (455-700) at JEA and GKP have been kept vacant (Reserved) for him and Sri R.N.Srivastava while selected candidates of the penal are awaiting their promotion.

8. I have made series of appeals but many of them were thrown underground which could be unearthed only when I personally sought interview with the APO Miss Meena Shah, later the then Sr. DPO Sri A.K.Das and your goodself also and submitted the copies of those appeals but these are still lingered for decision, for the reason the letter in regard to the promotion of Sri P.P.Pathak as ACI in scale (425-640), the copies of which I have every time submitted with my appeals, is not available in his personal file and a copy of the same has been asked from GM(P)/GKP, who has sent the same to your office vide GM(P) letter No. E210/15/14-2 CGC 6 dated 20.8.81 and later another copy with a D.O. cover in the name of A.P.O. Miss Meena Shah, but the same is still not available in your office. It is not understood on what ground he was promoted as CGC/GD when his date of promotion in scale (425-640) was not available in his personal file and under what rule he was chosen for promotion for CGC (455-700) while A.V.C. does not permit an ACI till he qualifies in the selection. This indicates that Sri P.P.Pathak ACI was promoted as CGC purely with the sweet will of the dealing clerk or the letter in regard to his date of ~~promotion~~ file after his promotion as ACI in scale (425-640) has been removed from his personal file after his promotion which is now being asked from the head-quarter in order to make delay in the decision of the case for certain under-hand motive.

9. No seniority list of HGCs was published in the year 1980 because the irregular promotion of Sri P.P. Pathak would have come in lime light.

10. Now the things have been cooked to poison the seniority of the undersigned. The name of Sri Sardul Singh has been inserted along with date of promotion as 27.1.78 on item 12 of the seniority list of HGCs (425-640) published on 1.5.81 and my name has been placed on item 15 with date of promotion as 17.4.78 instead of 27.1.78 i.e. the efforts have been made to make me junior. It is not understood how his date of promotion in scale (425-640) has been shown as 27.1.78 when he has already refused his promotion when he was promoted and transferred to STP and later he was involved in various cases. He has been very recently selected and promoted in scale (425-640), I am happy to see that the cases against Sri Sardul Singh have been decided but it does not mean that he will be given the double benefit of seniority i.e. once due to the decision of the case and next even after his refusal for promotion. Thus he can never be senior to me in scale (425-640) as my promotion in that grade, had been

Replies



AS

19

done much earlier to that of him.

To sum up in brief, I can say that Sri Sardul Singh is Junior to me in scale (425-640) therefore, his name on the penal of CGCs should also come below my name. This has all been done by the dealing clerk to give undue favour to Sri P.P.Pathak. I, therefore request your goodself to look into the matter and examine the points referred above, personally and administer even handed justice. I believe, I will be placed at my proper and appropriate place in the seniority list of HGCs published on 1.5.81 and also in the penal of CGCs which has been published through the N.E.Rly. fortnightly Gazette No. 7 of July 1981 for which I shall ever remain grateful to your august self.

Thanking you, Sir,

Yours faithfully,

Dated: 22nd Nov. 1981.

Sd/- R.C.Gupta
(R.C.GUPTA)
Chief Goods Clerk
SITAPUR.



True copy

Regeps

अनैंजुर नं. E-4.

इन दि आनरेबुल इलाहाबाद हाई कोर्ट सिटिंग सैट लखनऊ ।

रिट पिटीशन नं 3622 आफ 1982.

थारदूल सिंह ----- पिटीशनर

ब ना म

यूनियन आफ इण्डिया स्पष्ट अदर्स ----- अपी0 पार्टीज

अनैंजुर नं. E-4-

पूर्वोत्तर रेलवे

कार्यालय आदेश

श्री आरो सी0 गुप्ता, प्रधान माल बाबू की पदोन्नति तिथि जो प्रधान माल बाबू की 1-5-81 की वरीयता सूची में 17-4-78 है वह उनके अपील पर पुनः संशोधित कर 27-1-78 कर दिया गया है ।

ह0 अपठनीय

कृते मण्डल रेल प्रबन्धक (का0)

लखनऊ

सौ ई /आर/5/जी0सी0

दि0 24-5-82

प्रतिलिपि सूचनार्थ स्व आवश्यक कार्यवाही हेतु :-

- 1) स्टेशन मास्टर /सीतापुर
- 2) मण्डल लेखा अधिकारी /लखनऊ
- 3) सम्बन्धित कर्मचारी श्री आरो सी0 गुप्ता /सी जी सी /सीतापुर

ह0 अपठनीय

कृते मण्डल रेल प्रबन्धक (का0) /लखनऊ

True copy

Digant

अनेज़र नं. 5.

इन दि आनरेबुल इलाहाबाद हाई कोर्ट सिटिंग ऐट लखनऊ ।

रिट पिटीशन नं 3622 आफ 1982.

शारदूल सिंह ----- पिटीशनर

ब ना म

यूनियन आफ इण्डिया एण्ड अर्द्द अर्द्द ----- अपो० पार्टीज़

अनेज़र नं. 5.

पूर्वोत्तर रेलवे

कार्यालय आदेश

इस कार्यालय मैं दिनांक 18-1-81 को प्रधान बी० सी० / प्रधान पी० सी० एवं प्रधान माल बाबू (425-640) के पद हेतु सम्पन्न हुई सुयोग्यता परीक्षा मैं निम्नांकित कर्मचारी सफल घोषित हुये हैं :-

- 1) सर्वश्री
राजेन्द्र प्रसाद, प्रवर बी० सी० / लखनऊ ज०
- 2) मोहम्मद रज़ा, प्रवर बी० सी० / कास्ती अब तर्द्ध प्रधान बी० सी० तुलसीपुर
- 3) गोपीनाथ श्रीवास्तव तर्द्ध प्रधान माल बाबू / बढ़नी
- 4) सरदूल सिंह, जिनकी प्रधान माल बा बू मैं नियमित पदोन्नति इस कार्यालय आदेश स० ई /एस. एस./बी० सी०/8। दि० 15-2-81 द्वारा की गई है ।
- 5) श्याम बिहारी लाल तर्द्ध प्रधान माल बाबू / मैलानी
- 6) कृपा शंकर श्रीवास्तव, प्रवर माल बाबू/गोडा

उपरोक्त सुयोग्यता परीक्षा मैं सफल घोषित होने के फलस्वरूप निम्नांकित तर्द्ध आधार पर पदोन्नति किये गये प्रधान बी० सी० / प्रधान माल बाबू (425-640) की पदोन्नति की उनके समुख अंकित तिथियों (कार्यभार संभालने की तिथि) से नियमित किया जाता है ।

Deputy

क्रम सं.	नाम	पद/स्टेशन	प्रधान माल बाबू / प्रधान बी. सी. (425-640) में पदोन्नति नियमित करने की तिथि
1	सर्वश्री राजेन्द्र प्रसाद	प्रवर बी० सी०/ लखनऊ	इनकी तदर्थ पदोन्नति प्रधान बी. सी. (425-640) में करके मनकापर पोस्ट किया गया है किन्तु इन्होंने मनकापर ज्वाहन नहीं किया है। कायं प्राप्त करने की तिथि से इनकी नियमित पदोन्नति मानी जायेगी।
2	मोहम्मद रज़ा	तदर्थ प्रधान बी० सी०/ तुलसीपुर	8-2-8।
3	गोपी नाथ श्रीवास्तव	प्रधान माल बाबू/बड़नी	11-3-8।
4	खाम बिहारी लाल	.. /मैलानी	29-4-80

यह मंवधी के आदेश से जारी किया जाता है।

कृते मंडल रेल प्रबन्धक (का०) लखनऊ
दि० 8-5-8।

प्रतिलिपि सूचनार्थ सर्व आवश्यक कार्यवाही हेतु प्रेषित :-

सं० ई / 11 / 254 / जीसी / सु प०

- 1) मंडल लेखा अधिकारी/लखनऊ
- 2) स्ट० अधीक्षक/लखनऊ ज०, गोडा
- 3) सम्बन्धित कर्मचारी
- 4) कार्यालय अधी० (वा०)
- 5) स्ट० मास्टर/तुलसीपुर, जरवा, बड़नी, मैलानी, मनकापुर
- 6) प्रधान लिपिक/बिल, फोल्डर सर्व भंडार

ह० अपठनीय

कृते मंडल रेल प्रबन्धक (का०), लखनऊ

True copy
Rajendra

अनैज़र नं. E6
=====
23

इन दि आनरेबुल इलाहाबाद हाई कोर्ट सिटिंग रैट लखनऊ ।

रिट पिटीशन नं 3622 आफ 1982
शारदूल सिंह ----- पिटीशनर

ब ना म

यूनियन आफ इण्डिया स्प्ह अदर्स ----- अपो० पार्टीज़

अनैज़र नं. E6
=====

पूर्वोत्तर रेलवे

सं ई / 11/254/सी.नी.सी. कार्यालय मण्डल रेल प्रबन्धक (का०)
पूर्वोत्तर रेलवे, लखनऊ
दि ० ३०-१२-८०

स्टेशन अधीक्षक / गोरखपुर, गोडा, रेशबाग, लखनऊ ज०

स्टेशन मास्टर / नैपालगंज रोड, कलतालगंज, गोला गोकरन नाथ, गोरखपुर
कैण्ट, बहराइच, लखीमपुर, सहजनवा, कर्निया घाट,
बढ़नी, थामसनगंज, भिहीनपुरवा, सोहरतगढ़, मस्कतवा,
आनन्दगढ़, मैलानी, जरवा, नौतनवा, तिकुनिया, वभनान,
तुलसीपुर, बलरामपुर, नानपारा, पचपेह़वा, बस्ती, पलिया
कला सीतापुर

विषय :- मुख्य माल बाबू, मुख्य टी.आर. सी. (455-700) पद के
लिये चयन ।

उपर्युक्त पद के चयन हेतु लिखित परीक्षा की तिथि बाद में सूचित
की जायेगी । परीक्षा मण्डल रेल प्रबन्धक के कार्यालय पूर्वोत्तर रेलवे, लखनऊ
में होगी । पत्र अभिकर्मियों की सूची संलग्न है । यह सुनिश्चित कर लें कि
चुनाव की सूचना सम्बन्धित अधियर्थियों को समय से दे दी जाये । यदि कोई
अभ्यर्थी अर्जित अवकाश आदि पर हो तो उसकी सूचना रजिस्ट्री पत्र द्वारा
उसके घर के पते से दे दी जाये ।

यह प्रकरण 14 को अन्तिम नामिका बनाने हेतु होगा । प्रस्तावित
नामिका में 3 स्थान अनु० जाति छ तथा । स्थान अनु० जन जाति के लिए

Refugee

आरक्षित होगा ॥

कृपया सम्बन्धित अभ्यर्थियों को सूचित कर दें कि वे लिखित परीक्षा हेतु पूर्ण रूप से तैयार रहें । उन्हें संक्षिप्त सूचना देकर लिखित परीक्षा में सम्मिलित होने हेतु बुलाया जायेगा । चयन में बैठने की इच्छा / अनिष्टा प्रत्येक अभ्यर्थी से लिखित प्राप्त कर इस कार्यालय को 10-1-8। तक आवश्य भेज दें ।

अनुपस्थित अभ्यर्थी अनुपस्थित परीक्षा में बैठने की सुविधा नहीं प्राप्त कर सकेंगे । यदि उनकी अनुपस्थिति उनकी समर्थता से बाहर है तो यह सूचना इस कार्यालय में लिखित परीक्षा के पूर्व ही प्राप्त हो जाना चाहिस ॥

सम्बन्धित आयर्थियों को आने - जाने की सुविधा हेतु आवश्यक इ. डी. पास अपनी ओर से देने की व्यवस्था करेंगे । प्रत्येक अभ्यर्थी को लेखन सामग्री स्वयं लानी होगी । केवल उत्तर पुस्तिका प्रशासन द्वारा उपलब्ध की जायेगी ।

कृते मौ० रौ० प्र०० (का०)

प्रतिलिपि सूचनार्थ सर्व आवश्यक कार्यवाही हेतु प्रेषित

- 1 - क्षेत्रीय अधीक्षक गोरखपुर
- 2 - मण्डल यातायात अधीक्षक गोप्ता
- 3 - वाणिज्य निरीक्षक, गोरखपुर (उत्तरी), गोरखपुर (प०) गोप्ता, सोहरतगढ़, बहराइच, मैलानी, सीतापुर, ऐशबाग

कृते मौ० रौ० प्र०० (का०)

लेखन

मुख्य माल बाबू सर्व मुख्य टी. जी. सी. (425-700) के चयन हेतु अभ्यर्थियों की सूची :-

(अ) सामान्य अभ्यर्थी :-

सर्वश्री :-

1- आर० एन० श्रीवास्तव	तदर्थ	मु० माल बाबू/ऐशबाग
2- आर० ए० शुक्ला	/ गोरखपुर कैण्ट
3- आर० सी० श्रीवास्तवा	/ बहराइच
4- आर० एस० पाण्डे	/ लखीमपुर

Refugee

5-	आर० एन० तिवारी	/गोरखपुर
6-	पी० एन० पाठक	/मिहीनपुरावा
7-	पी० पी० पाठक	/गोप्ता
8-	पी० एन० श्रीवास्तवा	प्रधान माल बाबू	/सोहरतगढ़
8-			तदर्थ मु० मा० बाबू/ सच० स०
९-	आर० एन० पाठक	तदर्थ मु० माल बाबू	/नैपालगांज रोड
१०-	नवल विशीर	/हरगाँव/नकाहा जँगल
११-	बाला प्रसाद श्रीवास्तवा	करनलगांज
१२-	बी० ढी० शर्मा	गोला गोकरन नाथ
१३-	आर० सी० गुप्ता	प्रधान माल बाबू	/सहजनवा
१४-	डी० आर० मिश्रा	/कतरनिया थाट/बढ़नी
१५-	के० पी० श्रीवास्तवा	/थामसनगांज
१६-	आर० ए० विश्वकर्मा	/आनन्द नगर
१७-	एस० के० नाथ	तदर्थ प्रधान टी० आर० सी०	/गोप्ता
१८-	कृपा शंकर	प्रवर माल बाबू	/गोप्ता
१९-	स्थाम बिहारी	तदर्थ प्रधान माल बाबू	/मैलानी
२०-	सरदूल सिंह	/जरावा
२१-	अब्दुल रज्फ	/बहराइच
२२-	जी० एन० श्रीवास्तवा	प्रवर माल बाबू/गोरखपुर/जरावा	
२३-	आर० एल० वर्मा	/गोरखपुर
२४-	सच० आर० मिश्रा	(लखनऊ ज० इन्द्रायरी)
२५-	बी० के० दास	/गोरखपुर कैण्ट
२६-	राम शंकर	गोला गोकरन नाथ
२७-	चन्द्रिका राम	/नौतनवा
२८-	पी० एस० कुशवाहा	/तिकुनिया
२९-	कुलदीप लाल	/गोरखपुर
३०-	जी० पी० अग्रहरी	/मसकनवा

(ब) अनुसूचित जाति के अध्यर्थी

Refugees

- १- श्री मिश्री लाल तदर्थ मु० टी० आर० सी०/गोरखपुर
- २- .. एम० वी० कुरील तदर्थ मु० माल बाबू /तुलसीपुर

3-	रामा कान्त	/बलरामपुर
4-	राम मिलन	प्रधान माल बाबू/नानपारा/नैपालगंज रोड	
5-	राम चेत	/पचपेड़वा
6-	.. गजावर प्रसाद	प्रवर माल बाबू	/गोरखपुर
7-	.. राम चन्द्र	/बस्ती
8-	.. धर्म प्रकाश	/गोरखपुर
9-	.. शिव नाथ	/आनन्दनगर

(स) अनुसूचित जन जाति अभ्यर्थी :-

1-	मिन्न निस्तोर	तदर्थ मु0 माल बाबू/पलिया कलाँ
2-	जेम्स सुरनि	प्रधान माल बाबू /गोरखपुर
3-	जास्पर टोमो /तिकुनिया

कृते

म0 रे0 प्रबन्धक (का0)

लखनऊ



True copy

Defunct

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

Writ Petition No. 3622 of 1982.

Sardul Singh - - - - - Petitioner.

Versus

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

Annexure 'E-7'

NORTH EASTERN RAILWAY

XR

LJN

Dt. 8/4/81.

SS/GKP, GD
SMS/LMP, NPR, GK, SWA, KTG, MIN. ANDN, JAW, BNY, GKC,
TQN, TLR, BIP, NNP, PPW, BST, PLK, TGS, STP.

No.E/II/254/15/CGC (.) Spare and direct Kama Prasad
Srivastava HGC/TGS, Dharam Prakash Sr. GC/GKP for last
absentee repeat last absentee written test of CGC/CTRC
(455-700) at 11 hrs. on 17/4/81 in this office (.)
Inform no further absentee written test will be held (.)
Spare and direct following staff for viva voce that
of CGC/CTRC (455-700) at 11 hrs. on 18/4/81 in this
office (.) R.S.Pandey Adhoc CGC/LMP, R.M.Tewary Adhoc
CGC/GKP, P.P.Pathak Adhoc CGC/GD, R.N.Pathak Adhoc
CGC/NPR, B.D.Sharma Adhoc CGC/GK, R.C.Gupta HGC/SWA,
Daya Ram Misra HGC/KTG/MIN, R.A.Vishwakarma HGC/ANDN,
Sardul Singh HGC/JAW, G.N.Srivastava Sr. GC/GKP/Adhoc
HGC/BNY, V.K.Dass Sr.GC/GKC, Ram Shanker Sr. GC/GK,
P.S.Kushwaha Sr. GC/TQN, Kuldeep Lal Sr.GC/GKP, Misri
Lal Adhoc STRC/GKP, M.P.Kuril Adhoc CGC/TLR. Rama Kant
Adhoc CGC/BLP Ram Milan HGC/NPR/NNP, Ram Chet HGC/PPW,
Gajadhar Pd. Sr.GC/GKP, Ram Chander Sr. GC/BST, Sheo
Nath Sr. GC/ANDN, Minj Nestore Adhoc CGC/PLK, James
Surin HGC/GKP, Jasper Toppo HGC/TQN (.) ENSILE (.)
Ensure compliance (.)

- DRM (P)

NOT TO BE TELEGRAPHED:

Copy in confirmation by dak.

Sd/- Illigible
for Divl.Rly. Manager: (P)/
8/4/81 LJN

Copy forwarded to:-

1)- SS/LJN to please spare Sri Hari Ram Misra, Sr.GC
attached in LJN enquiry for last absentee written test
of CGC/CTRC(455-700) at 11 hrs. on 17/4/81 in this
office. Also note and inform him that no further
absentee test will be held.
2- SS/ASH to please spare and direct Sri R.N.Srivastava

Defence

ADM 78

Adhoc CGC for viva voce test of CGC/CTRC (455-700) at
11 hrs. on 18.4.81 in this office (.) Ensure compliance.

Sd/- Illegible
8.4.81.

FOR DIVL. RAILWAY MANAGER: (P)
LUCKNOW.



True Copy

Replies

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

Writ Petition No. 3622 of 1982.

Sardul Singh - - - - - Petitioner.

Versus

The Union of India and others - - - Opposite Parties.

Annexure E-8

पूर्वोत्तर रेलवे

कार्यालय आदेश

निम्नलिखित पदोन्नति व स्थानान्तरण के आदेश दिए जाते हैं और इनका तुरन्त पालन किया जाय ।

स्थानान्तरण पास माँगी जायें और यदि किसी पास रेलवे क्वार्टर है तो उसे स्थानान्तरण पर जाने के 15 दिन के अन्दर खाली करना होगा ।

1/ श्री बाला प्रसाद, श्रीवास्तव, प्रवर माल बाबू (330-560) बस्ती की पदोन्नति प्रधान माल बाबू 425-640 में करके, थामसनगंज प्रधान माल बाबू के रिक्त स्थान पर पोस्ट किया जाता है ।

2/ श्री बी० डी० शर्मा, प्रवर माल बाबू, लखीमपुर 330-560 की पदोन्नति प्रधान माल बाबू 425-640 में करके गोला गोकरन नाथ श्री डी० पी० पाठक प्रधान माल बाबू के स्थान पर पोस्ट किया जाता है ।

3/ श्री डी० पी० पाठक, प्रधान माल बाबू बस्ती जिन्हें गोला गोकरन नाथ पोस्ट किया गया था, इस आदेश को रद्द किया जाता है और बस्ती में मुख्य माल बाबू के ब्राइन करने पर श्री डी० पी० पाठक के पोस्टिंग का आदेश पुनः जारी किया जायेगा ।

4/ श्री आर० सी० गुप्ता, प्रवर माल बाबू 330-560 ऐशबाग की पदोन्नति प्रधान माल बाबू 425-640 में करके ऐशबाग में प्रधान माल बाबू के रिक्त स्थान पर पोस्ट किया जाता है ।

5/ श्री जेमस सुरीन, प्रवर माल बाबू 330-560 गोरखपुर की पदोन्नति प्रधान माल बाबू 425-640 में करके गोरखपुर कैण्ट प्रधान माल

Replies

बाबू के रिक्त स्थान पर पोस्ट किया जाता है ।

- 6/ श्री गंगा प्रसाद सिंह माल बाबू गोरखपुर 260-430 की पदोन्नति प्रवर माल बाबू 330-560 में करके गोरखपुर में श्री जेस सुरीन के स्थान पर पोस्ट किया जाता है ।
- 7/ श्री एम० पी० कुरील, माल बाबू 260-430/कानपुर अनवरगंज की पदोन्नति प्रवर माल बाबू 330-560 में करके बलरामपुर श्री बी० एम० शुक्ला, प्रवर माल बाबू के स्थान पर पोस्ट किया जाता है ।
- 8/ श्री ढी० एन० मिश्र, माल बाबू 260-430/बस्ती, जिनकी पदोन्नति प्रवर माल बाबू 330-560 में करके गोरखपुर पोस्ट किया गया था, उसे रद्द करके अब श्री ढी० एन० मिश्र को प्रवर माल बाबू बस्ती में श्री बाला प्रसाद के स्थान पर पोस्ट किया जाता है ।
- 9/ श्री सूरज प्रसाद माल बाबू 260-430 बस्ती की पदोन्नति प्रवर माल बाबू 330-560 में करके गोरखपुर में श्री ढी० एन० मिश्र के स्थान पर पोस्ट किया जाता है ।
- 10/ श्री दुष्णन्त कुमार, विश्रामदाता माल बाबू खलीलाबाद को स्टेटिव माल बाबू बस्ती माल बाबू के रिक्त स्थान पर पोस्ट किया जाता है ।
- 11/ श्री राजेन्द्र कुमार विश्राम दाता माल बाबू/लखीमपुर को स्टेटिव माल बाबू कानपुर अनवरगंज, श्री एम० पी० कुरील के स्थान पर पोस्ट किया जाता है ।
- 12/ श्री राम दास वि० दाता माल बाबू नौतनवा को स्टेटिव माल बाबू नकहा ज़ंगल मालबाबू के रिक्त स्थान पर पोस्ट किया जाता है ।
- 13/ श्री राधा कृष्ण वर्मा, वि० दाता माल बाबू सीतापुर को उनकी प्रार्थना पर रिलीविंग माल बाबू लखनऊ सिटी श्री एस० बी० एल० श्रीवास्तव के स्थान पर पोस्ट किया जाता है ।
- 14/ श्री एस० एन० श्रीवास्तव, वि० दाता माल बाबू बहराइच को स्टेटिव माल बाबू गोरखपुर माल बाबू के रिक्त स्थान पर पोस्ट किया जाता है ।
- 15/ श्री रामरत्नी प्रसाद, वि० दा० माल बाबू बढ़नी को स्टेटिव माल बाबू नकहा ज़ंगल माल बाबू के रिक्त स्थान पर पोस्ट किया जाता है ।
- 16/ श्री जगदीश प्रसाद - वि० दा० माल बाबू पलियाकलां को स्टेटिव माल बाबू नकहा ज़ंगल माल बाबू के रिक्त स्थान पर पोस्ट किया जाता है ।

Rejukt



17/ श्री कृष्ण मुरारी वि० दा० माल बाबू नानपारा को स्टेटिव माल बाबू बस्ती माल बाबू के रिक्त स्थान पर पोस्ट किया जाता है ।

18/ श्री एस० बी० एल० श्रीवास्तव, रि० माल बाबू, लघनऊ सिटी को वि० दाता० माल बाबू नौतनवा श्री राम दास के स्थान पर पोस्ट किया जाता है ।

19/ श्री ओ० पी० निगम रि० माल बाबू सीतापुर को वि० दा० माल बाबू सीतापुर श्री राधा कृष्ण वर्मा के स्थान पर पोस्ट किया जाता है ।

20/ श्री शिवनाथ, रि० माल बाबू खलीलाबाद को वि० दा० माल बाबू खलीलाबाद श्री दुष्टन्त कुमार के स्थान पर पोस्ट किया जाता है ।

21/ श्री एस० के० शर्मा, रि० माल बाबू गोप्ता को वि० दा० माल बाबू बहराइच श्री एस० एन० श्रीवास्तव के स्थान पर पोस्ट किया जाता है ।

22/ श्री विजय चन्द्र यादव रि० माल बाबू आनन्द नगर को वि० दा० माल बा० बू बढ़नी श्री रामरत्नी प्रसाद के स्थान पर पोस्ट किया जाता है ।

23/ श्री श्रीकान्त मिश्र, रि० माल बाबू बस्ती को वि० दा० माल बाबू बस्ती श्री डी० एन० पाण्डे के स्थान पर पोस्ट किया जाता है ।

24/ श्री एम० के० त्रिपाठी, रि० माल बाबू / ऐशबाग को वि० दा० माल बाबू पलिया कलाँ, श्री जगदीश प्रसाद के स्थान पर पोस्ट किया जाता है ।

25/ श्री ए० सी० सक्सेना, रि० माल बाबू मैलानी को वि० दा० माल बाबू नानपारा श्री कृष्ण कुरारी के स्थान पर पोस्ट किया जाता है ।

निम्नलिखित कर्मचारियों को स्थानान्तरण भत्ता देय होगा ।

क्रमांक	नाम	पद व स्थेशन	वर्तमान वेतन	स्थानान्तरण भत्ता
सर्वश्री				
1/	दुष्टन्त कुमार	वि० दा० माल बाबू, खलीलाबाद	रु० 340/-	रु० 150/-
	<u>रोजन्द्र कुमार</u>	वि० दा० माल बाबू/ लखीमपुर	340/-	150/-

3/	राम दास	विंदा० माल बाबू/ 332/- नौतनवा	150/-
4/	स्स० एन० श्रीवास्तव	विंदा० माल बाबू/ 410/- बहराइच	150/-
5/	राम रत्न प्रसाद	विंदा० माल बाबू/ 420/- बढ़नी	150/-
6/	जगदीश प्रसाद	विंदा० माल बाबू 400/- पलिया	150/-
7/	वृृण्मुरारी	विंदा० माल बाबू/ 340/- नानपारा	150/-
8/	स्स० बी० एल० श्रीवास्तव	रि० माल बाबू/ लखनऊ सिटी	150/-
9/	स्स० के० शर्मा	रि० माल बाबू/ गोण्डा	112/50
10/	विजयचन्द्र यादव	रि० माल बाबू/ आनन्द नगर	150/-
11/	सम० के० त्रिपाठी,	रि० माल बाबू/ ऐशबाग	112/50
12/	स० सी० सर्कीना	रि० माल बाबू/ मेलानी	150/-

यह आदेश प्रवर मण्डल वाणिज्य अधीक्षक/लखनऊ के अनुमति से जारी
किया जाता रहा है और संख्या 8 (श्री डी० एन० मिश्र, माल बाबू/बस्ती)
पर मण्डल अधीक्षक का अनुमोदन प्राप्त है।

ह० अपठनीय

मण्डल अधीक्षक (कार्मिक)

पूर्वोत्तर रेलवे,

लखनऊ ॥

पत्रांक ई/11/283/15 जी० सी०/78 दिनांक लखनऊ 27/1/1978

प्रतिलिपि आवश्यक कार्यवाही हेतु प्रेषित :

1/ मण्डल लेखा अधिकारी, लखनऊ

2/ स्स० जी० ए० गोरखपुर ।

3/ सरिया आफिर / गोण्डा

4/ डी० पी० आई / मेलानी, सीतापुर, ऐशबाग, गोण्डा,

Replies

शीहरतगढ़, गोरखपुर (पूर्व) और (प०)

5/ स्टेशन अधीक्षक / गोरखपुर और गोण्डा ॥

6/ स्टेशन मास्टर / गोरखपुर कैप्ट, थामस नगंज, ऐशबाग, गोला, बस्ती, लखीमपुर, बलरामपुर, कानपुर, अनवरगंज, नकहा जंगल, लखनऊ सिटी, नौतनवा, सीतापुर, * खलीलाबाद, बहराइच, बढ़नी, पलिया, नानपारा, मैलानी, आनन्द नगर, शीहरतगढ़ ॥

7/ प्रधान लिपिक/बिल, फोर्डर सेक्शन

8/ स्पेयर ॥

ह० अपठनीय

मण्डल अधीक्षक (कार्मिक)

पूर्वोत्तर रेलवे,

लखनऊ ॥



True copy

Replies

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUCKNOW BENCH) : LUCKNOW :
WRIT PETITION NO. 3622 of 1982



Sardul Singh ... Petitioner.

Versus

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

REJOINDER AFFIDAVIT TO THE COUNTER AFFIDAVIT FILED BY
OPPOSITE PARTY NO. 5.

I, Sardul Singh, aged about 52 years, S/o late Sardar Jowala Singh, Chief Goods Clerk, N.E. Railway Colonelganj, District Gonda, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the petitioner in the above noted case and he is fully conversant with the facts deposed to hereunder.
2. That the contents of paragraph 2 of the Counter Affidavit are denied and it is respectfully submitted that the impugned order dated 7.7.82 modifying the order dated 18.2.81 promoting the deponent to the post of Head Goods Clerk w.e.f. 27.1.78 and giving him seniority from the same date, is wholly illegal.
3. That the contents of para 3 of the Counter Affidavit are not disputed.

Sardul Singh



4. That the contents of para 4 of the Counter Affidavit are denied and while reiterating the contents of para 3 of the writ petition, it is respectfully submitted that the deponent being senior to opposite party No. 5 was legally entitled to be promoted to the post of Head goods Clerk in preference to opposite party No.5 and it is quite wrong to say that he could not have been promoted to the post of Head Goods Clerk due to order dated 23.9.77 (Annexure E-1) vide which his increment for three months was to be withheld. As a matter of fact the due date for effecting the punishment of withholding increment was 1.7.1978 as he had already been granted his annual increment on 1.7.1977 and the punishment vide order dated 23.9.1977 was not liable to be enforced prior to 1.7.1978. The Railway Board vide letter No.E(D&A) 71RG6-23 dated 10.1.1974 laid down the procedure as to how the cases of the Railway employees who have been awarded the penalty of withholding of increments will be dealt with in the matter of promotion. A true copy of the said letter issued by the Railway Board is filed herewith as Annexure No. R-1 to this Rejoinder Affidavit.

53965



A perusal of Annexure No. R-1 clearly indicates that where the penalty imposed is withholding of increments and it becomes operative from a future date, the person concerned should be promoted in his turn and the penalty imposed in the promotion grade for a period which would not result in greater monetary loss. Thus it is clear that the deponent's promotion could not have been stopped for the reason that his increments was to be withheld vide order dated 23.9.77. In the present case promotions of Sri B.D. Sharma and opposite party No. 5 illegally ignoring the legitimate claim of the deponent occurred solely due to

Sardul Singh

Y

administrative error and for that the deponent would not suffer any loss. This contention of the deponent was accepted and realising the administrative error, the orders contained in Annexure No. 14 giving regular promotion to the deponent with effect from 27.1.78 and also the seniority ~~from~~ the said date were rightly passed by opposite party No. 3, and there was no mistake in the said order. It is quite wrong to say that the deponent was not eligible for promotion as such he was not promoted. The deponent's promotion to the post of Head Goods Clerk vide order dated 17.4.78 (Annexure No. 5 to the writ petition) is itself a proof that due representation was made and consequently his request was acceded to vide Annexure No. 5 to the writ petition. The deponent does not want to challenge the promotion of opposite party No. 5 but he claims that since he was senior to opposite party No. 5 and was ignored in the matter of promotion due to Administrative error, his pay should be proforma fixed and he may be given seniority above opposite party No. 5 who was junior to him in accordance with the provisions laid down in Railway Board's letter No.E(NG)/63 PMI/92 dated 15/17-9-64 contained in Annexure No. 21 to the writ petition.

58985


The deponent's promotion vide order dated 17.4.78 (Annexure No. 5 to the writ petition) and his transfer from Tikunia to Sitapur within a period of only two months after accepting his refusal to his promotion and transfer on the post Head Goods Clerk vide Annexure No. 7 was wholly illegal in view of Railway Board's circular letter dated 21.1.65 contained in Annexure No. 20 which provides that an employee who refuses promotion for a year due to unavoidable domestic reasons should not be transferred away for that

Sardul Singh

year. Since the deponent's promotion ought to have been made w.e.f. 27.1.78 in view of Railway Board's circular dated 15/17.9.64 contained in Annexure No. 21 to the writ petition, the promotion order dated 17.4.78 (Annexure No.5) and order dated 20.11.80 (Annexure No. 13 to the writ petition) should be deemed to be effective w.e.f. 27.1.78. The order dated 22.12.78 (Annexure No. 12 to the writ petition) issued by Addl. Chief Personnel Officer, opposite party No. 2 providing that the deponent cannot be given the benifit of promotion and seniority with retrospective effect i.e. 27.1.78 is wholly illegal and against the provision of Railway Board's letter contained in Annexure No. 21. The contention of opposite party No. 5 that he would be senior to the deponent as he was promoted w.e.f. 27.1.78 whereas the deponent was promoted to the said post w.e.f. 20.11.80 is not tenable in view of the fact that the promotion of opposite party No. 5 was itself illegal as the deponent was senior to him and could not have been superseded without any valid reason. Since the deponent could not be promoted in his turn in preference to opposite party No. 5 although he was senior to him due to Administrative error, he would not be made to suffer for the fault of Railway Administration. The other contentions of the opposite party No. 5 are denied in view of above submissions.



5. That the contents of paragraph 5 of the Counter Affidavit are not correct as stated and the same are denied and while reiterating the contents of paragraph 5 of the writ petition it is respectfully submitted that the seniority of the senior goods Clerks in which the deponent was shown senior to opposite party No. 5 is very much relevant for the purpose of promotion to the

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post of Head Goods Clerk and for maintaining inter-se seniority of the incumbants who were promoted from the post of senior goods clerks to the post of Head Goods Clerk. So far as the contention opposite party No. 5 regarding not showing the name of the deponent in the seniority list of the Head Goods Clerk contained in Annexure No. E2 is concerned is baseless in as much as the deponent who was not promoted to the post of Head Goods Clerk till then due to Administrative error, there was no question of inclusion of deponent's name in the said seniority list.

6. That the contents of paragraph 6 of the counter affidavit are denied and those of paragraph 6 of the writ petition are reaffirmed as correct. The contention of opposite party No. 5 that the deponent was given seniority w.e.f. 27.1.78 by the Divisional Railway Manager on some wrong impression is wholly incorrect. As a matter of fact the deponent was rightly given seniority w.e.f. 27.1.78. The decision of Additional Chief Personnel Officer contained in Annexure No. 12 to the writ petition was itself illegal and untenable in view of Railway Boards letter contained in Annexure No. 21 to the writ petition. Since the deponent was senior to opposite party No. 5 and was shown so in the seniority list of the senior Grade Clerks and could not be promoted to the post of Head Goods Clerk due to administrative error, there was no illegality in the order passed by Divisional Railway Manager giving seniority to the deponent w.e.f. 27.1.78 vide Annexure No. 14 to the writ petition and in such a case there was no necessity of supplying any copy of the said order to the opposite party No. 5 as alleged by him. As a matter of fact the seniority of opposite party No. 5 was never changed but actually the deponent was assigned the correct seniority by the Divisional Railway Manager.

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according to the rules ~~thx~~ on the subject. The name of the deponent in Annexure No. 4 was rightly shown above the opposite party No. 5 and since ~~thx~~ there was no mistake in determining the seniority in between the deponent and opposite party No. 5, the alleged appeal filed by the opposite party No. 5 ~~wide~~ Annexure No. E3 was of no consequence and avail. However the order contained in Annexure No. E4 was rightly passed by Divisional Railway Manager (P) Lucknow correcting the date of promotion of opposite party No. 5 from 17.4.78 to 27.1.78. Since the deponent was also promoted to the post of Head Goods Clerk w.e.f. 27.1.78, he was senior to opposite party No. 5 even though he was promoted w.e.f. 17 A.78. The order passed by Divisional Railway Manager (P) Lucknow dated 7.7.82 contained in Annexure No. 1 modifying his earlier order dated 16.2.81 contained in Annexure No. 14 on the basis of orders passed by Additional Chief Personnel Officer dated 22.12.78 contained in Annexure No. 12 to the writ petition is absolutely illegal and is against the direction issued by the Railway Board as per Annexure No. 21.

7. That the contents of paragraph 7 of counter Affidavit are denied and it is respectfully submitted that the deponent ought to have been promoted as Head Goods Clerk w.e.f. 27.1.78 instead of 17.4.78 as there was no legal impediment in his promotion w.e.f. 27.1.78. The contention of opposite party No. 5 that the deponent was under punishment and could not have been promoted is wrong and untenable in view of Railway Boards circular letter contained in Annexure No. R1 to this rejoinder affidavit.



8. That with reference to the contents of paragraph 8 of the counter affidavit it is submitted that the refusal for promotion and transfer from Tikuinia to Sitapur is not relevant in the present case as the deponent was

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legally entitled to be promoted to the post of Head Goods Clerk w.e.f. 27.1.78.

9. That with reference to the contents of paragraph 9 of the counter affidavit it is stated that the observations made in the order dated 23.5.78 contained in Annexure No. 7 to the ~~writ~~ writ petition are wholly illegal and contrary to the rules and rest of the contention of the opposite party No. 5 are denied.

10. That the contents of paragraph 10 of the counter affidavit as stated are not correct hence denied and in reply to it is stated that the deponent's transfer was wholly illegal in view of orders contained in Annexure No. 7 and 20 to the writ petition. Even otherwise also regarding the contention of opposite party No. 5 that the deponent's transfer was made due to certain complaints and on the basis of disciplinary Enquiry is wholly wrong. The complaints were duly enquired into and were not found to be correct.

11. That with reference to the contents of paragraphs 11 and 12 of the counter affidavit it is stated that the deponent requested for considering his case for promotion to the post of Head Goods Clerk in the event of his transfer inspite of his refusal and acceptance by the Railway authorities and under these circumstances he was entitled to be promoted w.e.f. 27.1.78.

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12. That with reference to the contents of paragraph 13 of the counter Affidavit it is stated that the deponent was legally entitled to be promoted w.e.f. 27.1.78 as he was not promoted due to administrative error. The decision of Addl. Chief Personnel Officer dated 22.12.78 contained in Annexure No. 12 to the writ petition ~~was~~ contrary to the

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Railway Boards letter dated 15/17-9-64 contained in Annexure No. 21 to the writ petition.

13. That the contents of paragraph 14 of the counter affidavit are not correct as stated hence denied and in reply it is stated that no suitability test is prescribed for promotion for the post of senior Goods Clerk to the post of Head Goods Clerk being non selection post. The deponent cannot be deprived of his seniority w.e.f. 27.1.78 which was the due date for his promotion.

14. That the contents of paragraph 15 of the counter affidavit are denied those of paragraph 16 of the writ petition are reaffirmed as correct. The decision of the Addl. Chief Personnel Officer dated 22.12.78 contained in Annexure No. 12 was wholly illegal as already submitted.

15. That with reference to the contents of paragraph 16 of the counter affidavit it is submitted that the post of Chief Goods Clerk is a selection post and after selection the deponent was shown senior to opposite party No. 5 on the basis of his promotion w.e.f. 27.1.78 vide Annexure No. 14.

16. That the contents of paragraph 17 of the counter affidavit are denied and those of paragraph 18 of the writ petition are reaffirmed as correct. There was no illegality in Annexure No. 14 to the writ petition.

17. That the contents of paragraph 19 of the counter affidavit are denied and it is stated that the impugned order contained in Annexure No. 1 to the writ petition is wholly illegal.

18. That the contents of paragraph 20 of the counter affidavit are denied.

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19. That the contents of paragraph 21 of the counter affidavit are denied and those of paragraph 22 of the writ petition are reaffirmed as correct. The deponent is entitled to get promotion and seniority from 27.1.78 in preference to opposite party No. 5 as he is senior to him.

20. That the contents of paragraph 22 of the counter affidavit are denied and in reply the contents of paragraph 23 of the writ petition are reaffirmed as correct.

21. That the contents of paragraph 23 of the counter affidavit are denied and those of paragraph 24 of the writ petition are reaffirmed as correct.

22. That with reference to the contents of paragraph 24 of the counter affidavit it is stated that due to complaints or any misconduct on the part of Railway employee, he cannot be transferred but actually the authorities are empowered to take disciplinary action.

23. That the contents of paragraphs 25 & 26 of the counter affidavit are denied and those of paragraphs 26 & 27 of the writ petition are reaffirmed as correct. The decision of Addl. Chief Personnel Officer was wholly illegal as already submitted.

24. That the contents of paragraph 27 of the counter affidavit are denied and those of paragraph 28 of the writ petition are reaffirmed as correct.

25. That the contents of paragraph 28 of the counter affidavit are denied and it is stated that the writ petition bear merit and deserves to be allowed.

Lucknow: ✓

Dated: 12.11.1982.

Sandul Singh
Deponent.

Verification

I, the deponent named above, do hereby verify that the contents of paras 1 to 25 of this Rejoinder Affidavit are true to my own knowledge.

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

Lucknow: ✓

Dated: 12. 11. 1982.

Sardul Singh

Deponent.

I identify the deponent who has signed before me.

R.C. Saxena
Advocate.



Solemnly affirmed before me on 12.11.1982, at 12.15 a.m./p.m. by Sardul Singh, the deponent, who is identified by Sri R.C. Saxena, Advocate, High Court, Lucknow.

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

S. A. Dhakne
OATH COMMISSIONER
High Court, (Lucknow Bench)
LUCKNOW
No. 539035
Date. 12/11/82

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) : LUCKNOW :

WRIT PETITION NO. 3622 OF 1982

Sardul Singh

... Petitioner.

Versus

Union of India and others

... Opp. Parties.

ANNEXURE NO. R-1

Railway Board's letter No. E(D&A) 71RG6-23
dated 10.1.1974

13. Procedure to be followed for promotion of railway servants who are under suspension and/or whose conduct is under investigation to a non-selection post - With regard to the promotion of such Railway servants within Class IV, from class IV to Class III and within Class III to non-selection posts, the following procedure should be followed:-

(i) Such a Railway employee, should not be promoted even if already considered as suitable and placed on the list of suitable persons, till after the result of the proceedings against him is known. There is however, no objection to promote him if he is not under suspension and the proceedings already initiated or proposed to be initiated are for the imposition of only a minor penalty.

(ii) Such a Railway employee, if not already borne on the list of suitable persons, should be called along with other eligible candidates to appear at the written/trade/suitability test or appear before the committee appointed for judging their suitability and his suitability for promotion should be assessed as in the ordinary course.

(iii) A list incorporating the number of qualified persons equal to the number of actual vacancies plus anticipated vacancies should be prepared keeping in view

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of the following:-

(a) It should exclude the names of qualified persons who are under suspension and/or against whom disciplinary proceedings for the imposition of a major penalty have been initiated or are proposed to be initiated.

(b) It should include the names of qualified persons who are not under suspension and against whom disciplinary proceedings for the imposition of only a minor penalty have been initiated or are proposed to be initiated.

(iv) The staff in the list should be advised in clear terms that their position in the list is liable to be altered, depending on the result of the proceedings against the staff referred to in item (iii)(a) above, who but for their suspension etc. would have been included in the list. Posts in the promotion grade should be kept reserved for the staff referred to in item (iii)(a) above and filled in an officiating capacity till finalisation of the proceedings against them.

(v) If, after finalisation of the disciplinary proceedings against the person under suspension etc., for whom a vacancy has been reserved, he is fully exonerated or his suspension is held to be wholly unjustified, he may be enlisted and promoted in his turn. In case, junior in the list gets promoted before the disciplinary proceedings against such Railway servant are finalised, he should be promoted by reverting the juniormost person, if necessary, and his pay on promotion should be fixed by allowing the intervening period during which he could not be promoted due to his suspension or his conduct being under investigation to be counted for increment in the higher grade, but arrears will not be admissible. This benefit of proforma fixation of pay in the higher grade should also be given to such a person if he is juniormost and it can be certified



As per due date

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that but for his suspension etc. he would have been promoted to the higher grade.

(vi) If, after finalisation of the disciplinary proceedings against the person under suspension etc., for whom a vacancy has been reserved he is held guilty but awarded only a minor penalty, he should automatically be assigned his due position in the list and his enlistment announced and he may be promoted in his turn. If his junior has already been promoted before interpolation of his name in the list, he should be promoted, reverting the junior most person if necessary and his pay on promotion should be fixed under the normal rules.

If, such a person is held guilty and awarded a major penalty other than 'dismissal', 'removal' or 'compulsory retirement', viz. (1) reduction to a lower time scale of pay, grade etc., or (2) reduction to a lower stage in the time scale of pay, his case should be referred to the authority which approved the original list for consideration whether he is suitable for promotion in spite of the penalty imposed on him. If he is considered suitable for promotion his case for promotion and fixation of pay etc. should be dealt with in the same manner as that of a person who is awarded a minor penalty as indicated above.

If, on the other hand, the person concerned is considered unsuitable for promotion, his case should be referred to the authority next above that which approved the original list and that authority should take a final decision regarding the suitability or otherwise for promotion of such a person. If he is considered suitable for promotion by the authority, his case should be dealt with in the same manner as that of a person who is awarded a minor penalty: If on the other hand, he is considered

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unsuitable for promotion by that authority, he should not be promoted on the basis of earlier decision regarding his suitability and the vacancy reserved for him should be carried forward for inclusion in the number of vacancies for formation of the next list.

While reviewing the cases of staff under suspension etc., on finalisation of the disciplinary proceedings against them, the competent authority may take an overall decision, having regard to the facts of the case, whether the person concerned is suitable for promotion even after the conclusion of the disciplinary proceedings.

(vii) The provisional list should be finalised after finalisation of the disciplinary cases against all the staff, for whom vacancies have been reserved, by interpolation of the names of such of them who are suitable, at the appropriate places. The list has to be kept as provisional till the finalisation of the last pending disciplinary case.

(viii) If before finalisation of the original list, it becomes necessary to form a next list, fresh list may be formed ~~as~~ in accordance with the prescribed procedure, subject to the following conditions:-

(a) The persons who were found suitable by the competent authority earlier but were not placed on the list due to their suspension etc., vide item (iii)(a) above, should not be called to appear for the next written/trade suitability test.

(b) For computing vacancies for holding the next written/trade/suitability test, the vacancies reserved for persons referred to in item (iii) (a) above, and whose cases have not been finalised should be taken into account.

(ix) The cases of persons falling under item (i)



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above, should also be dealt with, after finalisation of the disciplinary proceedings against them, keeping in view the principles laid down in paragraphs (v) and (vi) above. Where the person concerned is considered unsuitable for promotion, consequent on consideration by the competent authority of the result of the disciplinary proceedings, his name should be removed from the list. This should be done by the authority next above that which initially approved the list, after giving the person concerned an opportunity to explain his case against the proposed action.

Note: If a person becomes due for promotion after the finalisation of the disciplinary proceedings and penalty imposed is one of the following, he should be promoted only after the expiry of the penalty:

(1) Withholding of promotion.

(2) Withholding of increment.

(3) Reduction to a lower stage in a time scale; &

(4) Reduction to a lower time scale, grade or post.

Provided that where the penalty imposed is 'withholding of increment and it becomes operative from a future date, the person concerned should be promoted in his turn and the penalty imposed in the promotion grade for a period which would not result in greater monetary loss.

If the penalty imposed is 'censure', 'recovery from pay', withholding of passes and or P.T.Os or 'fine', he may be promoted when due.

(x). The mere fact that complaints have been received against a railway servant and some inquiries are being made against him departmentally or by S.P.E., should not stand in the way of his promotion, if he is otherwise eligible for promotion. The intention is that

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