

Annexure - A
CAT- 82

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

INDEX - SHEET

CAUSE TITLE 257/89 (L) OF 190

Name of the Parties Manni Lal

Versus

Union of India

Part A, B and C

Sl. No.	DESCRIPTION OF DOCUMENTS	PAGE
A-1	Check. List.	2
A-2	Order Sheet	2
A-3	Judgement dt. 6-4-90 -	3
A-4	Petition copy	19
A-5	Power -	1
A-6	Annexures	3
A-7	Counter	10
A-8	Rejoinder	7
B-1	Petition copy	18
B-2	Annexures	3
B-3	Counter	10
B-4	Rejoinder	7
C-1	Power	1
C-2	Notice	1
C-3	Order copy	1
C-3	File joint done	1

R/C Bhatia-6-2-11

Certified that no further action is required and that
the case is fit for consignment to the record room (2)

SO (5)

Recheck
on 2/2/12
me

A-1
1

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing 12/9/89
Date of Receipt

Registration No. 257 of 1989(L)

Deputy Registrar (J)
12/9/89

APPLICANT(S) Manni Lal & Others

RESPONDENT(S) Union of India & Others

Particulars to be examined

Endorsement as to result of examination

- | | |
|--|-----------------|
| 1. Is the appeal competent? | yes |
| 2. a) Is the application in the prescribed form? | yes |
| b) Is the application in paper book form? | yes |
| c) Have six complete sets of the application been filed? | Two sets filed. |
| 3. a) Is the appeal in time? | yes |
| b) If not, by how many days it is beyond time? | — |
| c) Has sufficient case for not making the application in time, been filed? | — |
| 4. Has the document of authorisation/ Vakalatnama been filed? | yes |
| 5. Is the application accompanied by B.D./Postal Order for Rs.50/- | yes |
| 6. Has the certified copy/copies of the order(s) against which the application is made been filed? | yes |
| 7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed? | yes |
| b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly? | — |
| c) Are the documents referred to in (a) above neatly typed in double space? | yes |
| 8. Has the index of documents been filed and paging done properly? | yes |
| 9. Have the chronological details of representation made and the outcome of such representation been indicated in the application? | yes |
| 10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal? | — |

may be placed before the Hon'ble Court on 18-9-89 for admission order.

RS. to V.C.

12/9/89
RS. to V.C.

A-1
2

Particulars to be Examined

Endorsement as to result of examination

1. Application/duplicate copy/spare copies signed? yes
2. Are extra copies of the application with Annexures filed? —
3. a) Identical with the Original? yes
- b) Defective? —
- c) Wanting in Annexures —
- d) Other —
13. Have the file size envelopes bearing full addresses of the respondents been filed? —
14. Are the given address the registered address? yes
15. Do the names of the parties stated in the copies tally with those indicated in the application? yes
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true? —
17. Are the facts of the case mentioned in item no. 6 of the application? yes
- a) Concise? yes
- b) Under distinct heads? yes
- c) Numbered consecutively? yes
- d) Typed in double space on one side of the paper? yes
18. Have the particulars for interim order prayed for indicated with reasons? yes
19. Whether all the remedies have been exhausted? yes

Signed/

A-2
1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. SAND 257/89/H
of 198.

APPELLANT
APPLICANT

Mammur Lal

VERSUS

DEFENDANT
RESPONDENT

Union of India & ors.

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
19/9/89	<p>Hon'ble Mr. D.K. Agrawal, J.M.</p> <p>Heard Shri A.K. Dixit Counsel for the applicant. It is necessary to peruse the medical manual, therefore, put up this case on <u>21-9-89</u> for admission.</p> <p>Dep J.M.</p> <p>(SNS)</p>	<p>OR Case is submitted for admission 20/9</p> <p>257 Notice issued 26/9/89</p> <p>Notice is issued for perusal of the Bench. The Bench is to be informed of any development.</p>

A-2
2

:: 2 ::

OA No. 257/89 (C)

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
---------------------------------	--	--

8.12.89

Hon. Justice K. V. N. V. C.
- Hon. K. J. Raman, A.M.

Counsel counsel for the parties are present.
Let this case for final hearing on 5.1.90.
The interim order shall continue till 5.1.90.

Submitted for hearing
2/1/90

1990

A.M.

V.C.

Hon' Mr Justice Kamleshwar Nath, V.C.

Hon' Mr K. Obayya, A.M.

5/1/90

Shri A.K. Dixit counsel for the applicant and Shri D.C. Saxena counsel for the respondents are present. The case cannot be reached today, let it be listed on 5-3-90 as agreed to by the counsel for both the parties peremptorily for hearing.

The interim order shall continue till that date.

A.M.

(sns)

V.C.

Submitted for hearing
2/3/90

S.R.H.

2/4

Copy of Judgment

16/1/90

Recd copy
DC for
Counsel for Respondent B
18/4/90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH AT LUCKNOW

O.A. NO. 257/89 (L)

Mannilal and Others Applicants.
Versus
Union of India & Others Respondents.

Hon. Justice K. Nath, V.C.

Hon. Mr. K.J. Raman, A.M.

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

This is an application under Section 19 of the Administrative Tribunal Act, 1985 for quashing the orders dated 3.9.1989 contained in Annexure A1 to A7 whereby the applicants' service in Railway were terminated on Medical ground.

2. It is not necessary to go into the details of the case as appear in the Affidavits exchanged between the parties because we find that the case could be decided upon the basic facts regarding the Medical Examination itself.

3. It appears that the applicants' had been engaged as Casual Labourers, and were put for Medical Examination for fitness in the year, 1984. Whatever may have been the result of that Medical Examination, they continued in employment till 3.9.1989, when the impugned retrenchment orders were passed. The impugned order mentioned that the applicants were retrenched from service under Section 25(F) of the Industrial Disputes Act. The reason stated is that the applicants' were found

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according to the Medical Examination reports, unfit for the post of Gang Man.

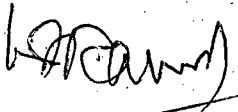
4. The question is whether they having been found unfit, if at all, in the year 1984, their services could have been terminated in the year 1989. The counter makes it out that the DMO, Northern Railway Bareilly and Medical Superintendent, Northern Railway Moradabad had informed the Department by Letters' dated 23.8.1989 and 21.8.1989 about the result of the applicants' Medical Examination, in which they had been found unfit for the post of Gang Man. Annexure 1 & 2 are supposed to contain this report. One of the persons named in Annexure 1, Shri Ram Shankar, is one ^{of} the applicants'; the rest of the applicants' are in Annexure 2. According to Annexure 1, the Medical Examination of Shri. Ram Shanker was done on 26.6.1985. According to Annexure 2, the Medical Examination of the rest of the Applicants' was done between April and Oct. 1984.

5. The contention of the learned counsel for the opposite parties is that the original report of Medical Examination never came to the Department in the appropriate time because the persons interested manipulated their non movement. Be that as it may, that fact remains that the person concerned with the despatch and receipt of the Medical Certificates must be the concerned staff of the Railway which couldnot, by itself, justify the Department to act upon these Medical Reports after 4 or 5 years. The established fact is that despite Medical Examination, the applicants were continued to be working as Gang Men for about 5 years. In our opinion, the impugned order of retrenchment is arbitrary and unreasonable and can not be sustained. The Department should

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have realised that the least they should have done was to subject the applicants for fresh Medical Examination in the year, 1989 before retrenching the applicants

6. The application is allowed and the impugned order of retrenchment of the applicants from service contained in Annexure A1 to A7 are quashed. They shall be treated to be continued in service and shall be paid their back wages, if not already paid. It will be open to the opposite parties to subject the applicants to a fresh Medical Examination for fitness in accordance with the applicable rules.


MEMBER (A)


VICE CHAIRMAN

Dated: 6th, April, 1990.

Deputy Registrar(J)

A-4
1
O.A. No. 257/89(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH,

LUCKNOW.

FORM I

(See Rule 4)

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNALS
ACT, 1985.

Manni Lal & others Applicants

Versus

Union of India & others Respondents

CLAIM AGAINST TERMINATION NOTICES

COMPILATION NO. I

I N D E X

Sl.No.	Description of documents	Page No.	Remarks
1.	Memo of application.	1 to 11	
2.	Impugned termination notices Dt. 3.9.89 (Annx. A-1 to A-7)	12 to 18	
3.	Vakalatnama	19	

LUCKNOW

12 SEPT. 1989

Signature of Applicant

Noted for
19.9.89.
12/9/89

For use in tribunal's office

Date of filing

or
Date of Receipt by Post
Registration No.

Abhaya Kumar Dixit
Advocate

Signature of Registrar.

Manni Lal

A-4
2

①

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH;

LUCKNOW.

GA. No 257 of 46

1. Manni Lal aged about 30 years, son of Sri Bhagga, resident of village Raghunath Purwa, Post Baghauli, District Hardoi
2. Daya Ram, aged about 38 years, son of Sri Jai Lal, resident of village Chirai Purwa, Post Baghauli, District Hardoi
3. Shakir Ali, aged about 38 years, son of Sri Munngy, resident of village Lalta Khera, Post Hathaura, District Hardoi
4. Ram Singh aged about 37 years, son of Sri Kalika resident of village Lalla Purwa, Post Kaurha, District Hardoi
5. Alladin aged about 38 years, son of Sri Rasool resident of village Khetuai, Post Nayagaon, Mubarakpur, District Hardoi
6. Ram Shankar aged about 35 years, son of Sri Gaya Prasad, resident of village Tirwa, Post Barwa, Sarsand, District Hardoi
7. Misri Lal aged about 29 years, son of Sri Behari, resident of village Tirwa, Post Barwa, Sarsand, District Hardoi

.. Applicants

V E R S U S:

1. Union of India, through Secretary to Department of Railways, Ministry of Railways, Rail Bhawan, NEW DELHI
 2. Assistant Engineer, N. Railway HARDOI
 3. Permanent Way Inspector, N. Railway, HARDOI
 4. Permanent Way Inspector, N. Railway, Sandila, District HarDOI
 5. Permanent Way Inspector, N. Railway, Safipur, District UNNAO (U.P.)
- . . . Respondents

DETAILS OF APPLICATION

1. Particulars of the order against which application is made:

(a) Order No.	E-6/Screening
(b) Dated	3.9.1989
(c) Passed by	Assistant Engineer, N. Railway, HARDOI (Respondent No.2)

(Photo copies of impugned orders are attached as Annexures A-1 to A-7 in compilation No. I)

2. Jurisdiction of Tribunal:

The applicants declare that the subject matter of orders against which they want redressal is within the jurisdiction of the Tribunal.

3. Limitation:

The applicants further declare that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunals Act 1985.

4. FACTS OF THE CASE

- 4.1 That applicants started their services under Administrative Control of Respondent No.2 and were discasualised, medically examined and screened as per biodatas given below :-

Sl. No.	Name	Year of engage-ments as casual labour	Year of discasualisation	Medical exam. done in	Screening done in
1.	Manni Lal	1978	Oct. 84	1984	Jan.88
2.	Daya Ram	1971-72	Oct. 84	1984	Jan.88
3.	Shakir Ali	1971-72	Oct. 84	1984	Jan. 88
4.	Ram Singh	1978	15.11.84	1984	10.5.89
5.	Alladin	1971-72	15.10.84	1984	Jan. 88
6.	Ram Shankar	1978	1985	1984	May 89
7.	Misri Lal	1978	3.10.84	1984	May 89

- 4.2 That prior to their discasualization the casual labour cards of all the petitioners were checked, verified and were got deposited, thereafter they were sent for Medical examination the last quarter of year 1984 and thereafter given DCL (Discasualisation) scale and are working since then, with no sort of complaint.

- 4.3 That since the date of their being DCL, applicants No.1 to 4 are posted under direct subordination of Permanent way Inspector Hardoi. Petitioner No.5 under Permanent Way Inspector Sandila and Petitioner No.6 and 7 under Permanent Way Inspector Safipur, District Unnao. It is necessary to point out that P.W-Is, Hardoi, Sandila and Safipur are under Administrative Control of Asstt. Engineer ...4

N. Railway Hardoi, respondent No.2.

4.4 That petitioner No.1 and 2 belong to scheduled caste (Raidas) community.

4.5 That Railway Board vide its circular No.76-BQ SCT/15/5 of 13.2.76 and 78/H/6/9 Dt. 7.7.78 have prescribed that in case of Medical Examination of SC/ST it should also be mentioned in the form (directing for medical examination) that in case they fail in requisite medical category, they may be examined in other category too for appointment in other category.

4.6 That Railway Board vide its circular No.79H/5/11 Dt. 22.8.78 and 19.11.79 have also prescribed periodical medical re-examination of serving Railway Employees.

True extract of all the above circulars (referred in para 4.5 and 4.6) as published on pages 543 to 544 of Railway Establishment Manual 1985 Ed. by Sri M.L. Jand is reproduced below:-

While directing the candidates for Medical Examination a duly filled inform containing all particulars should be given. In case of SC/ST it should also be mentioned that in case they fail in the requisite medical category, they may be mentioned that in case they fail in the requisite medical category. A representative of the department may accompany to identify him if the candidate (a, has no distinguishable mark, or (b) he has a large number of scars, moles etc.

A-4
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and it will not be possible for the medical officer to identify him. (Bd. No. 76-E(SCT) 15/5 of 13.2.76 and 78/H/5/9 dt. 7.7.78,

Periodical re-examination of serving Railway employees:

In order to ensure the continued ability of Railway Employees in Classes A-2, A-3, B-1 and B-2 to discharge their duties with safety, they will be required to appear for re-examination at the following stated intervals, throughout their service as indicated below:

Classes A.1, A-2, and A-3. At the termination of every period of three years calculated from the date of appointment until they attain the age of 45 years, and thereafter annually until the conclusion of their service. For footplate staff of High Speed Trains, PME will be once in 2 years upto 40 years and annually thereafter.

(79 H/5/11 Dt. 22.8.79 and 19.11.79)

4.7 That as stated above petitioners were medically examined in the year 1984 and again re-examined in the year 1987, their medical examination Report was sent directly to the office of Respondent No. 2, they were never told that they have not been found ^{un}fit in Medical examination or re-examination.

4.8 That petitioners were never charged to have committed any sort of negligence in discharge of their duties nor any hurdle came in their way on account of their physical/Health Condition.

LT1 Medical

A-4
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-6-

- 4.9 That petitioners were never issued with any sort of Notice to the effect that any of them was declared medically unfit and on their ground why their services be not dispensed with.
- 4.10 That one Sri Pratap son of Sri Brij Lal a DCL Gangman under P.W.1 Bandila was also said to have been medically unfit for which a show cause notice and thereafter an order under Railway Servants (Punishment and Appeal) Rules 1968 was passed against him.
- True Photocopies of show cause notice dated 6.1.86 and Punishment order dated 17.5.89 are attached herewith as ANNEXURES A-8 to A-9 in compilation No.2.
- 4.11 That without servicing any sort of prior show cause notice or resorting to prescribed procedure, all the petitioners were served with Termination Notices dt. 3.9.89 (Annexure A-1 to A-7) on 9.9.89.
- 4.12 That so far as petitioners know they were found medically fit otherwise how could they have been permitted to continue for about 5 years in service and were also screened in the year 1988 and 1989 as indicated in para 1 above.
- 4.13 That Railway Board vide its circular No. E(NG)11-7/CL/84 Dt, 3.1.12-1972 and E(NG) 11-80/CL/29 Dt. 29.3.83 have ordered that casual labour with 6 years of service should be medically examined with related standards.



LT/Mamical

Relevant extract of above circular (as published on page 549 of ML Jand's Book) is reproduced below:

Medical Examination of Casual Labour -relaxed standard:

It was given in Boards No. E(NG)11-71/CL/84 dated 31.12.72 and 10.5.73 that casual labour with 6 years service when sent for medical examination for absorption in regular service should be examined with relaxed standard as for 're-examination during service'. It has now been decided that those casual labours who had already been examined for appropriate medical category need not be examined any further. However they may be sent for periodical medical re-examination as is required in their regular service. ((ENG)11-80/CL-29.8.83)

4.14 That respondents have also not paid Retrenchment Compensation to the petitioners which is a condition precedent before taking recourse to section 25 F of Industrial Disputes Act, 1947 for which petitioners do not claim as the Termination Notices itself are illegal and void abinitio.

4.15 That thus having left with no other alternate, effections and speedy remedy left, petitioners beg to prefer this joint claim petition on the identical cause of action and praying for identical nature of reliefs on and amongst other;

5. GROUND S FOR RELIEF WITH LEGAL PROVISION:

A-4
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-8-

- A. Because in view of Annexures A-8 and A.9 petitioners have been dealt with a discriminatory treatment in the matters of employment.
- B. Because petitioners services can not be terminated without first giving them a prior charge sheet, show cause notice and elaborate enquiry prescribed under rules.
- C. Because any order effecting the civil rights of petitioner can not be passed in violation of Principles of Natural Justice.
- D. Because in any view of the matter petitioners are entitled for medical re-examination under relaxed standards.
- E. Because action of opposite parties is highly arbitrary, illegal unreasonable and contrary to settled Principles of Natural Justice, equity and fair play.

6. Details of Remedies exhausted:

Since Termination Notices have been issued without following prescribed procedure and no remedy is prescribed under the relevant service rules, and as the impugned notices of termination are clearly in violation of Principles of Natural Justice, no departmental remedy has been availed, neither it is permissible to be availed.

- LT/Mun-Lal
- 7. Matters not previously filed or pending with any other court.

A-4
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-9-

The applicants further declare that they have not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court or any other authority, or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Reliefs sought:

In view of the facts mentioned in para 4 of the above the applicants pray for the following reliefs :-

- (1) Notices of Termination dt. 3.9.89 contained in Annexures A-1 to A-7 be declared illegal, null and void and be accordingly quashed, as a necessary consequence of which petitioner's he held entitled to continue in service with all consequential benefits of salary, seniority etc.
- (ii) If necessary respondents be ordered to get the petitioners medically re-examined under relaxed standards of medical examination as prescribed by Railway Boards Circulars No. E(NG)11-71/CL/84 Dt. 31.12.72, and E(NG)11-80/CL/29 Dt. 29.8.83 and on being found fit in any category, to continue their engagement in appropriate post of that medical category.

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-10-

(iii) Cost of this petition, and such other relief as may be deemed fit and proper in the circumstances of the case be also awarded to the petitioner as against the opposite parties.

9. Interim order if any prayed for :

Pending final decision on the application, the applicants seek the following interim reliefs :-

(i) Impelementation and operation of Termination Notices Dt. 3.9.89 contained in Annexures A-1 to A-7) may be pleased to be stayed.

10. Application is presented by: Sri Abhaya Kumar Dixit, Advocate , 509/28 Ka, Old Hyderabad, Lucknow.

11. Particulars of Bank Draft/Postal Order filed in respect of the application fee:

1. No. of Postal order/Bank Draft. $\frac{DD}{4}$ 777115
2. Date of Postal order/Bank Draft. 12.9.89
3. Post Office/Bank by which issued. High Court Bench Lko
4. Payable at Post office/Bank at Allahabad.

12. List of enclosures:

1. Demand Draft/Postal order.
2. Index of Compilation No.1
3. Paper Book of Compilation No.1
4. Paper Book of compilation No.1
5. Paper Book of compilation No.2
6. Vakalatnama.

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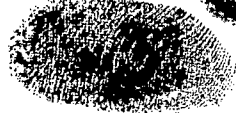
11

-11-

पुनर्ग

Signature of applicants

Lt. Mannilal



Lt. Shakti Ali



Lt. Aladdin



Lt. Daya Ram

रामशंकर

द: मिश्रीलाल

Verification:

We, Manni Lal & others do hereby verify that the contents of paras 1 to 4, 7, 9, 10 to 12 are true to my/our personal knowledge and paras 5, 6 and 8 are believed to be true on legal advice and that we have not suppressed any material fact.

Signature of the applicants

Lt. Mannilal



Lt. Ram Singh



Lt. Shakti Ali



Lt. Aladdin



Date: 12 Sept. 1989.

Place: Lucknow.

रामशंकर

द: मिश्रीलाल



Lt. Daya Ram

A-4
B

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HIGH COURT BENCH LUCKNOW
 MANMILAL AND 6 OTHERS APPLICANTS.
 VERSUS.
 UNION OF INDIA & OTHERS.. .. . OPPOSITE PARTIES.
AMBAURE NO. A

E/6 Screening
 date. 10/3/109

Office of the Asst Engineer
 N Rly. Haridwar

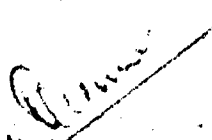
To Shri Manmihal Shri Shri Chagga
 Sec. G. Man. under Pail 11A1

Through: Pail 11A1000

Notice


Under clause (c) of Section 25 F of the Industrial
 Disputes Act (1947), I have by informing you
 that I have decided to retrench you with effect
 from 2/1/109 for reason explained as under:-

(आपके निलंबन के कारण - आपकी कार्यक्षमता में
 कमी के कारण)


 Asst Engineer
 N Rly. Haridwar

cf. Pail
 HET HARIDWAR information.

ATTESTED TRUE COPY


 Abhaya Kumar Dixit
 Advocate
 HIGH COURT
 LUCKNOW.



LT 1 Manmihal

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL OF INDIA BENCH LUCKNOW

MIN. ALIAS 6 OTHERS ..
UNION OF INDIA & OTHERS..

VERSUS.

..OFF-PARTY INS.

AMENDMENT NO. 3

14

E/L Secy-ning
dated 03/10/09

Shri B. K. Singh
H.R.S. Hardoi

Dr. Shri Sankar, N.S.I. - Shri M. M. Singh
Dr. B. K. Singh, Hardoi
Through : Pw/1/HARDOI

Notice

Under clause (c) of Section 25 of the
Industrial Disputes Act (14 of 1947), I have beg
inform you that I have decided to release
you with effect from 02/10/09 for reason
explained as under:-

(आपके मामले में मुझे यह जानकारी दी गई है कि आप
श्री श्री 2 वरुण मंडल (पु) में)

Shri
H.R.S. Hardoi

cf Pw/1/H for information.

ATTESTED TRUE COPY

Abhaya Kumar Dixit
Advocate
HIGH COURT
LUCKNOW.

LT/Mam. Cal

A-7/16

15

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIVIL BENCH LUCKNOW
 MANMATH LAL AND 6 OTHERS APPLICATION NO. 1
 VERSUS
 UNION OF INDIA & OTHERS.. .. .
 MEMORANDUM NO. A 4

216 Secy. to Govt.
d. 2.10.1967

From 9/10/67
11/11/67

Dr. Dr. Ram Singh Lohani
Del. Secy. to Govt. AD/HR
Through: Secy/HRD

Under clause 2 of the
Industrial Disputes Act (1947), I have by
this order directed that I have decided to remove
you with effect from 02/10/67 to the
explained as under:-

(The order published in the
G.O. No. 10003 dated 02/10/67)

[Signature]
Adm. Secy.
11/11/67

By: *[Signature]*

ATTESTED TRUE COPY

LT/Mam Lal



[Signature]
Abhay Kumar Dixit
Advocate
HIGH COURT
LUCKNOW.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CI RCUIT BENCH LUCKNOW
 MANILAL AND 6 OTHERS ..
 UNION OF INDIA & OTHERS..
 VERSUS.
 ..APPLICANTS..
 ..OPP. PARTIES..
 AMBATURE NO. A 5

16

E/S for coming
 dated 24/8/89

Office of the Asst Engineer
 H. R. HARDOI

To: Shri Atmadip Singh
 1st Gangwan under Pw/San
 Through Pw/San
Notice

Under clause (c) of Section 25 F of the
 Industrial Disputes Act (14/8/1947) I have by
 inform you that I have decided to retrench
 you with effect from 02/10/89 for reasons
 explained as under:-

(मैंने निम्नलिखित कारणों से आपको
 अलग कर दिया है कि आप के काम में
 कमी है और आप के काम में सुधार नहीं आ रहा है)

[Signature]
 Asst Engineer
 H. R. HARDOI

Cf. Pw/San/DIA for information.

ATTESTED TRUE COPY

LTI Manual

[Signature]
 Advocate
 HIG COURT
 LUCKNOW

MANUJILAL AND 6 OTHERS ..

VERSUS.

..APPLICANT..

UNION OF INDIA & OTHERS..

..OFF-PARTY..

APPEAL NO. 6

(17)

A-9
18

E/6 Screening
dated 03/10/09

Office of the Asstt Engineer
at Rly. Haridwar

Dr. Shri Ram Sharma & Co Gangadhar
Vice Gangman under Puri/SIPR

Through: Puri/SIPR

Notice

Under clause (1) of section 23 F of the
Industrial Disputes Act (1947) I hereby
inform you that I have decided to retrench
you with effect from 2/10/09 for reasons
explained as under:-

(उद्योग विधायक अधिनियम, 1947 के अनुच्छेद 23 F के अंतर्गत)
मैं आपको सूचित करता हूँ कि मैंने आपको 2/10/09 से प्रभावी रूप से
अपवर्गित करने का फैसला किया है।

Shri Ram Sharma
Asstt Engineer
at Rly. Haridwar

C/ Asstt Engineer, Sitapur City for information
& file please.

C/ Puri/SIPR for information.

ATTESTED BY COPY

L11 Manual

Abhaya Kumar
Abhaya Kumar, Clerk
HIGHER
LUCKNOW

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL OF UTTAR PRADESH LUCKNOW

MAHILAL AND 6 OTHERS ..

UNION OF INDIA & OTHERS..

VERSUS.

..APPLICANT NO.

..OFF. PART. NO.

AMENDMENT NO. 7

18

A-4
19

E/P to Hon'ble
Jt. J. 10/10/08

Office of the Asst. Engineer
H. R. G. - Haridwar

Re: The Ministry of the Union
Deputy Manager, Asst. S/P

Through: Asst. S/P

NOTICE

Under clause (1) of Section 25 F of the Industrial
Disputes Act (14 of 1947) I have hereby
inform you that I have decided to return
you with effect from 20/10/08 for reasons
explained as under:-

(1) The Industrial Disputes Act, 1947 - Sec. 25 F
25 F of 1947 Act (14 of 1947)

Signature

Asst. Engineer
H. R. G. - Haridwar

cc. Asst. Engineer, S. H. P. - City, for information
to the above.

cc. Asst. S/P for information.

ATTESTED TRUE COPY

Signature

Abhaya Kumar Dixit

Advocate

HIGH COURT

LUCKNOW.

LTI Man. Cont



वकालत नामा

A-5
1



न्यायालय श्रीमान ... *Central Administrative Tribunal*
Circuit Bench Lucknow

Mammidal & Ors
Union of India.

स्मृति ... *Mammidal & Ors* ... *Petitioners* ... बादी

श्रीमान *ABHAYA KUMAR Dixit*
Advocate. एडवोकेट
509/28 Kg, old Hyderabad वकील साहब
Lucknow

को व जिम वकील साहब को श्रीमान वकील अपनी ओर से भेजे उनको अपना वकील नियत करके बचन देता हूं और प्रतिज्ञा करता हूं कि उल्लिखित वकील साहब उपरोक्त मुकदमे व अपील व निगरानी में जो पैरवी या उत्तर प्रयुत्तर करे या दावा व वकील निगरानी व बयान तहरीर दाखिल करें या कोई कागजात या सनद इत्यादि पेश करें या वापस करे या हमारी ओर से इजराय डिगरी करके या रुपया जो हमें मिलने को है वसूल या राज नामा इकबाल दावा हमारी ओर करे या दाखिल करें या प्रतिवादी द्वारा दाखिल किया हुआ रुपया स्वयं अपने हस्ताक्षरों से या हमारी दस्तखत की हुई रसीद लेंवे या जिम्मेदारी मुआवजा बाड या पुनर्वास भत्ता एग्योटी अर्धवासो या बृद्ध जोतकार एक्ट आदि के बांड लेवे तथा किसी मुकदमे पक्ष आदि नियत यह सब मय हार्नि लाभ के जो मिलिल में कार्यवाही करेगे हमें स्वीकार होगा और नियत मेंहनताना न मिलने पर वकील साहब को अधिकार होगा कि वह उपरोक्त मुकदमें में अपील या निगरानी पैरवी न करें इस लिए वकालतनामा लिख कि दिया सनद रहे और आवश्यक समय पर काम आवें ।

गवाह - - - - - हस्ताक्षर
गवाह - - - - - हस्ताक्षर
हस्ताक्षर
हस्ताक्षर
हस्ताक्षर

Accepted.
Abhaya Kumar Dixit
Advocate

नाम अदालत
नं० मुकदमा
फरीकन

LUCKNOW.

Mamji Lal & others ..
Versus
Union of India & others ..
Respondents

COMPILATION NO-II

Sl. No.	Description of documents	Page No.
---------	--------------------------	----------

1. ANNEXURE A-8
Show cause Notice
Dt. 6.1.89 in respect
of Sri Pratap.

2. ANNEXURE A-9
Punishment order
Dt. 17.5.89 in
respect of Sri Pratap

LUCKNOW:

Dt. 12 Sept. 1989

Mamji Lal & others

12/8/89

LT/Mamji Lal

Handwritten: 181074
COPY

ATTEST

LT/Maurice

2007-08-01
 2007-08-01
 2007-08-01

5/6025 6/69 उत्तर रेलवे NORTHEN RAILWAY ३०२० २२६३

NORTHERN RAILWAY

8

•• I AM A •• 440 ••

• NOTES

•••••

.. JUN 9 1964

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT OF FLORIDA, IN AND FOR THE COUNTY OF ALACHUA

Advocate
HIGH COURT
LUCKNOW

Abhaya Kumar Dixit

copy

ATTESTED

L71
New

1740/17-175-91000 F

I HEREBY

DECLARE

That the above is a true and correct copy of the original document

and is being submitted for the purpose of the above mentioned case

and is being submitted for the purpose of the above mentioned case

1. That the above is a true and correct copy of the original document

and is being submitted for the purpose of the above mentioned case

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and is being submitted for the purpose of the above mentioned case

22. That the above is a true and correct copy of the original document

and is being submitted for the purpose of the above mentioned case

OFF. P. R. R. I. S.

APPL. P. R. R. I. S.

IN THE CENTRAL ADMINISTRATION OF THE UNION OF INDIA & OTHERS.

VERSUS.

UNION OF INDIA & OTHERS.

AND 6 OTHERS.

AMOUNT NO. 9

3/8-6

(2)

A-7
1

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW.

Written Statement on behalf of the respondents:

IN

Registration case No.257 of 1989(L)

Manni Lal and others - - - - - Petitioners

Versus

Union of India and others - - - - - Respondents

Written Statement of *Vijay Sharma*
-----Assistant Engineer
N. Railway, Hardoi.

Filed today
L
S/A

1- That I am serving as Assistant Engineer Northern Railway, Hardoi and have been arrayed as respondent No.2 in the above noted registration case. I am fully acquainted with the facts deposed ^{to} below

2- That I have read and understood the contents of the above noted registration case and am in a position to give a parawise reply.

3- That paras 1,2 and 3 of the petition need no comments.

4- That the averments made in paras 4.1 of the petition, as they stand are not admitted. It is further stated that the screening was done in January 1988, May 1989 and June 1989.

Recd Copy
A/S
12/10/89
for Approval

Copy filed
in Court
as case
is not allowed
DB
Sharma
5/10/89

A-7
✓

^{result}
the ~~receipt~~ of screening was withheld as the Medical memo in respect of Medical examination held in 1984 and 1985 of the petitioners were not on the record. It is further relevant to point out that D.M.O. N. Railway Bareilly and Medical Supdt N. Railway, Moradabad have sent communications dated 23.8.89 and 21.8.1989 respectively wherein it has been reported that petitioners have been found unfit. Photo stat copies of the aforesaid letters dated 23.8.89 and 21.8.1989 are ~~to~~ being filed herewith as Annexure 'I, II, & III' to this written statement.

5. That the averments made in para 4.2 of the petition are incorrect. It is further stated that prior to their ^{de casualisation} ~~secarnelisation~~ the petitioners No. 1, 2, 3, 4, 5 and 7 were sent for medical examination in 1984. The petitioner No. 6 was sent for medical examination in 1985. In fact (as explained and stated in para 4 of this written statement) the petitioners were found medically unfit, and they had full knowledge of the same. The petitioners however succeeded in getting ^{de casualised} ~~de casualisation~~ pay scale by manipulation and in collusion with the then Assistant Supdt AGEN HarDOI. They managed to continue and to get the Medical memos destroyed subsequently.

Shivam
5/10/89

A-7
3

6. That contents of para 4.3, 4.4., 4.5. and 4.6 need no comments. Suitable reply will be given at the time of arguments.

7. That the averments made in para 4.7 of the petition are incorrect and the same are ~~denied~~ ^{denied}. It is further stated that it is absolutely false to allege that Medical examination was done in 1987. The medical examination was done in 1984 and 1985. The petitioner had full knowledge of the fact that they had been found medically unfit.

8. That para 4.8. of the petition needs no comments.

9. That in reply to para 4.9 of the petition it is stated that the facts came to the knowledge of the answering respondent on 21.8.1989 and 23.8.89 when the DMO N.Railway Bareilly, and M.S. N.Railway Moradabad. (Annexures I and II to this written statement) sent report to the effect that the petitioners had been found medically unfit. Under these circumstances the question of taking any action earlier ~~did~~ did not arise. Moreover in cases of fraud time for taking action runs from the date of knowledge

Sharma
5/10/89

A-1
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-5-

12. That the contents of para 4.12 of the petition are not admitted. It is further stated that it was only at the time of screening (Jany. 19 88, May 1989 and June 1989). That the answering respondent came to know that the petitioner's have played ~~can played~~ a fraud upon the Railway Administration and consequently Medical reports (Annexure 'I and II') to this written, statement we are requisitioned.

13. That contents of para 4.13 of the petition are not admitted. Suitable reply will be given at the time of arguments.

14. That in reply to para 4.14 of the petition it is stated that the petitioners have played a fraud upon the Railway Administration and as such they are not entitled for any compensation. It is further relevant to point out that petitioners ^{having} ~~being~~ temporary ^{Status} ~~Railway servants~~, their services can at any

time be terminated by the Railway Administration as provided in Rule 149 of Railway Establishment code.

Annexure
5/10/89

A-7
4

4

of fraud.

10. That in reply to para 4.10. of the petition it is stated that the facts and circumstances of case of Pratap son of Brij Lal were entirely different

In the said case the petitioner had made over writing on the medical memo. In the instant case. The medical memo having been destroyed by the petitioners were not on the record. A fraud was ^{played} pledged upon the Railway Administration by the petitioners and the same came to light only when the reports from D.M.O. and M.S. N. Raly were received.

It is further pointed out that the contention of the petitioner if found to be correct, the petition is liable to be dismissed summarily as alternative remedy by way of Appeal has not been availed of by the petitioners.

11. That in reply to para 4.11 of the petition it is stated that no show cause notice was necessary in the circumstances of the case.

Summ
5/10/89

A-7
6

15. That para 4.15 of the petition is not admitted.

16. That para 5 of the petition is not admitted. None of the grounds taken in the petition are tenable.

17. That para 6 and 7 of the petition call for no comments.

18. That in reply to para 8 of the petition it is stated that the petitioners are not entitled for any relief.

19. That the petitioners have sought plural ~~reminders~~ ^{remedies} which is not permissible in view of Rule of Central Administrative Tribunal (Procedure) Ru 1987 the petition as framed is therefore not legal

Sharma
5/10/88 maintainable and liable to be dismissed summarily

A-7
7

27-

20. - That necessary parties viz, Divisional
Railway Manager, N. Railway, Divisional Medical Officer
N. Railway Bareilly and ^{Medical} ~~Moradabad~~ Supdt, N. Railway
Moradabad have not been impleaded and thus being so
the petition is not legally maintainable.

21. That the petitioners have played a fraud
upon the Railway Administration and they have not
approached the Hon'ble Tribunal with clean hands and
as such the petitioners conduct has disentitled them
for any relief and for which they are not entitled
even otherwise.

22. That the petition is devoid of merits
and is liable to be dismissed.

23. That in view of the facts and circumstances
stated above no case whatsoever is made out for
grant of interim relief and the ends of justice

Planned
5/10/87

-8-

required that the ex parte stay order dated 21.9.89
be vacated.

Sharma
Signature

I, *Vijai Sharma* deriving as
Assistant Engineer, N. Railway Hardoi, do hereby
verify that contents of paragraph 1 to 2 are true
to my personal knowledge and para 2,3,4,5,7,8,9
(Partly) 10 (Partly) 12, 15, are verified from record,
paras 6,9, (Partly) 10 (Partly) 11, 13, 14 and 15 to 23
are verified from legal advice which all the deponent
believed to be true and no part of it is false and
nothing material has been concealed.

So help me God.

Sharma
Signature

Dated: - 5/10/89
Lucknow

Annexure "I"

A-7
9

E/6 Serenising
dated 17/5/89

आमोना सहायक अभियन्ता
हरदोई

30- मजदूर/मिनीमल अधिकारी
पुरावाकाफ

विषय:- स्वस्थता - प्रमाण पत्र

मित्रों मित्रों नमस्कार मैं के प्रमाण पत्र (स्वस्थता/आवृत्ति) इस कार्डिन में अलग कर रहे हैं। इसका मजदूर/मिनीमल अधिकारी वरिष्ठ के आदेश पर तैयार करने का काम मैंने स्वस्थता अभियन्ता हरदोई के आदेशों के तहत में अधिकारी के निदेश पर तैयार कर दिया है।

- 1- श्री मरिचक स्टा. शक्तिन → SAN
- 2- " रामचंद्र स्टा. गंगाधर → SAN
- 3- " लोचन स्टा. गंगाधर → memofound in office
- 4- " कुशविंद स्टा. शक्तिन → " " " "
- 5- " कल्लू स्टा. शक्तिन → " " " "
- 6- " रामचंद्र स्टा. गंगाधर → Traced from DMO/MB

Slum No. 1 & 2

Bhaskar Singh Ramchandra Gangman
UNFIT IN AYETTHREE TO BEE ONE
copy record available certificate No 104209/306 dt 14.8.85

आयक अभियन्ता

उपर देवे, हरदोई

Asstt. Engineer

N. Rly. Haddor

Slum 2 Ramchandra 3/0 Gangman Pd

Gangman UNFIT IN AYETTHREE TO BEE ONE copy
record available certificate No 109504/203 dt 26.6.85

23.8.89 Divl. Medical Office
Northern Railway
BAREILLY.

1-C

Sharma

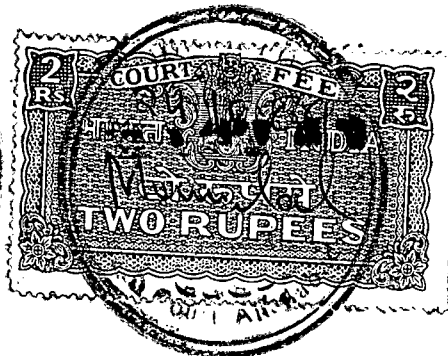
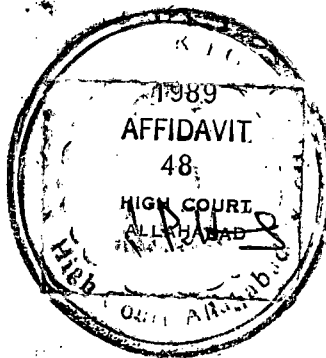
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,

LUCKNOW.

Rejoinder Affidavit on behalf of Applicants
in

O.A. No. 257 of 1989 (L)

Fixed on 24.10.1989



Manni Lal & others ..

Applicants

Versus

Union of India & others ..

Respondents

A f f i d a v i t

I, Manni Lal, aged about 30 years, son of Sri Bhagga, resident of village Raghunath Purwa, Post Bhagauli, District Hardoi do hereby solemnly affirm and state on oath as under :-

1. That deponent being petitioner No.1 is fully conversant with facts of case. He has been instructed and authorized on behalf of remaining petitioners (No.2 to 7) to file this Rejoinder Affidavit on their behalf also.

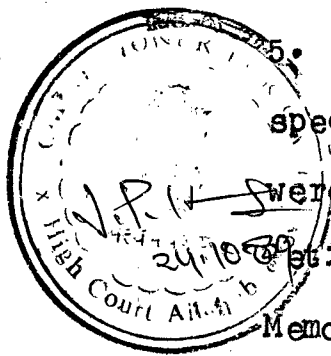
2. That contents of paras 1 to 2 of written statement (hereinafter referred as W.S.) need no reply.

3. That contents of para 3 of W.S. Needs no reply.

4. That contents of para 4 of W.S. so far as months of screening are concerned need no comments. Deponent has no knowledge with regard to correspondence made in

between respondents with regard to Annexure I. Persons mentioned at Sl. No. 1, 3, 4 and 5 in this document are none ~~a man of~~ among the petitioners. Persons mentioned at Sl. No. 2 and 6 in Annexure I of W.S. (e.g. Ram Shankar S/O Ganga Prasad and Ram Singh S/O Kalika) are amongst the petitioners. In respect of these two persons, it is mentioned in concerned Annexure that 'Fit Memo found in office' and 'Traced from D.M.O./M.B.' Therefore contention ~~case~~ of Respondents that Medical Certificate in respect of petitioner 'were not on the record' appears to be false.

So far as Annexure No. II to ^{WS} ~~us~~ is concerned it is submitted that in absence of Medical Certificates or their duplicates it can not be ascertained that Annexure No. II ^{is} is a genuine document. In no case it can be presumed that petitioners were medically examined in view of norms laid down by Railways Board as extracted in paras 4.6 and 4.13 of the claim petition. (It is noteworthy to point out that respondents have not denied these norms of Railway Board in their written statement).



That the contents of para 5 of W.S. are specifically denied, except that all the petitioners were sent to Medical Examination in the year 1984. Petitioners were neither handed over the medical fitment Memo nor there is any provision for the same. Petitioners were not even told that they have been found medically unfit, neither they had received any knowledge of the same. This allegation of respondents came to the notice of Petitioners for the first time only on receipt of Annexures A-1 to A-7 and never earlier to it.

मि. अ. म. लाल

Allegation of respondents to the effect that petitioners

A-8
3

3.

got themselves decasualized by manipulation and collusion with the then Asstt. Supdt. AEN Hardoi and they got the medical memos destroyed is specifically and categorically denied. Such a pleas is prima facie baseless. Respondents conduct that they have taken no action against such 'Asstt. Supdt. AEN Hardoi' further goes to show that such pleas is by way of ~~after~~ after thought and only to give colour to their defence.

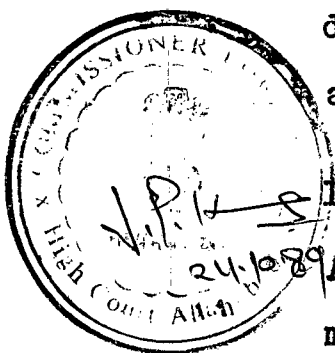
6. That in view of reply contained in para 4-6 of W.S., deponent also keeps his right reserved for meeting the same during course of arguments.

7. That contents of para 7 of W.S. are denied and these stated in paragraph 4.7 of claim petition are re-iterated to be correct.

8. That contents of para 8 of W.S. needs no reply.

9. That contents of para 9 of the W.S. are specifically denied. Plea of fraud is also specifically denied. It is further submitted that without specific details of alleged fraud, the plea is vage, irresponsible and baseless.

10. That contents of para 10 of W.S. are denied. As stated earlier in paras 5 and 9 plea of fraud, manipulation, allegation of getting the medical memos destroyed raised in paragraph under reply as well as raised else where in entire W.S. are denied in clear terms.



मि. सं. मन्नी लाल

(i) question of filing appeal against 'alleged' and 'co called' 'Medical unfitness' does not arise because such an order was never communicated to

petitioners. Moreover in view of Principle of law laid down by this Hon'ble Tribunal in 1989 U.P.L.B.E.E. 27 as well as by Hon'ble CAT Jabalpur in case reported at 1989 LIC 1620 the principles of bar of availability of alternate remedy can not be applied in the present case, in view of its peculiar facts and circumstances.

11. That contents of para 11 of W.S. are denied and those stated in para 4.1b of claim petition are re-iterated to be correct.

12. That contents of para 12 of W.S. are together with plea of allegation of fraud are specifically denied.

13. That contents of para 13 of the W.S. will be met during the course of arguments.

14. That contents of para 14 of W.S. are specifically and clearly denied. Para 304 of Railway Establishment Code (Old No.152 of 1971 and 1974 Ed.) reproduced below makes it clear that para 301 (Old 149) has no application in the present matter.



नि. डॉ. मनीलाल

304- TERMINATION OF SERVICE ON ACCOUNT OF INEFFICIENCY DUE TO FAILURE TO CONFIRM TO THE REQUISITE STANDARD OF PHYSICAL FITNESS. A railway servant who fails in vision test otherwise becomes physically incapable of performing the duties of the post which he occupies but not incapable of performing other duties. Should not be discharged forthwith but should be granted leave in accordance with rule 522. During the period of leave so granted such a railway servant must be offered some alternative employment on receivable emoluments having regard to his former emoluments. Further, the

A-8/3

.5.

extraordinary such portion of the leave granted in accordance with rule 522 should not be cut short purely on account of his refusing the first offer which is made to him, but he must be discharged if he does not accept one or more offers made during the period of his leave.

Note: The term 'former emoluments' in the case of running staff will include 40% of pay in the revised scales of pay.

15. That contents of para 15 of W.S. are not admitted and those stated in relevant paragraph of claim petition are reiterated to be correct.

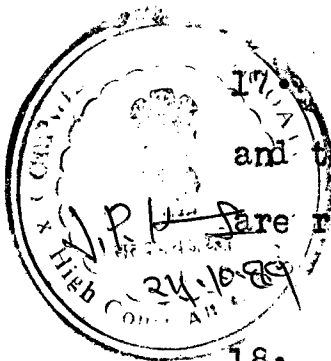
16. That contents of para 16 of W.S. are not admitted and those stated in relevant paragraph of claim petition are reiterated to be correct.

17. That contents of para 17 of W.S. are not admitted and those stated in relevant paragraph of claim petition are reiterated to be correct.

18. That contents of para 18 of W.S. are not admitted and those stated in relevant paragraph of claim petition are reiterated to be correct.

19. That contents of para 19 of W.S. as written. Relief prayed for in Sub claim petition is by way of alternate relief.

20. That contents of para 20 of W.S. Since the employer, i.e. the Union of 1 Appointing authority i.e. The Assistant has been implemented amongst the respondents,



वि.म. मन्नीलाल

not admitted
claim petition
is by

A-8
6

6.

Divisional Medical Officer to implead in present claim.

21. That contents of para 21 of W.S. are emphatically denied.

22. That contents of para 22 of W.S. ^{are} denied.

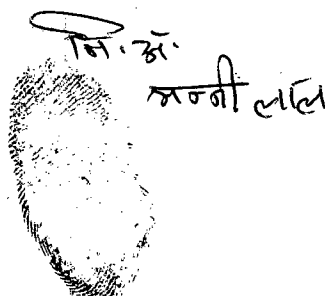
23. That contents of para 23 of W.S. are denied.

It is submitted that in view of admitted facts of the case that -

(i) Applicants having put in more than years and years of service as casual labour have acquired temporary status (as also admitted in para 14 of W.S.) they are entitled to protection of para 2511 Railway Establishment Manual together with respective provisions of Industrial Disputes Act.



(ii) Since the entire defence of respondents is to the effect that petitioners have played a fraud, manipulation, collusion, destroying of records etc. (Para 5, 9, 10, 12, 14 and 21 of the W.S.) the opportunity of hearing by way of charge sheet, enquiry, show cause notice etc. was must which lacks in the present case.



24. That in view of the facts stated in this rejoinder affidavit (and as summarised in para 23 above)

petitioners are entitled to reliefs prayed for along with interim relief.

Lucknow:

24 Oct. 1989

Deponent

Manni Lal

Verification:

I, the above named deponent do hereby verify that the contents of paras 11/18 to be true from my personal knowledge and paras 19/23 to be true from belief. No part of it is false and nothing material has been concealed. So help me God.

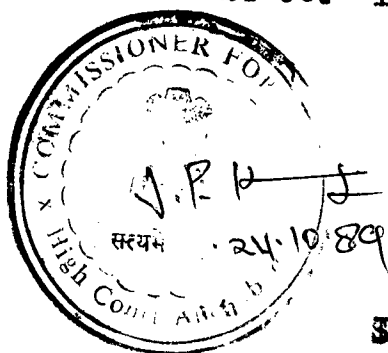
Lucknow: Dt.

24 Oct. 1989

Manni Lal
Deponent

I know and identify the deponent who has signed on this affidavit in my presence.

A.K.Dixit,
Advocate.



Solemnly affirmed before me by the Deponent Sri Manni Lal on 24th day of Oct. 1989 at 10.15 a.m./p.m. who is identified by Sri A.K.Dixit, Advocate of this court. I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read out and explained by me to him.

OATH COMMISSIONER

H.A. ...
Oath Commissioner.

No. 35/48/89

24.10.89