

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CA No 270/89

CAUSE TITLE .....

OF .....

NAME OF THE PARTIES .....

Reshmi Kumar

Applicant

Versus

UOI 808

Respondent

Part A.

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CERTIFICATE

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

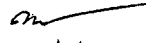
Chetkar

Dated ..14.12.11....

Counter Signed.....



Section Officer/In charge

  
Signature of the  
Deputy Assistant

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE O.A. 270 of 1989 (L)

Name of the parties Sushil Kumar  
Applicant.

Versus.

Union of India and others. Respondents.

Part A.B.C.

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6	Annexure	A29-A40
7	<del>File B</del>	<del>B49-B88</del>
8	<del>File C</del>	<del>Nil</del>
	one Judgment photocopy	

Check  
24/6/2011

Shaksh  
195A2  
P.T.O. →

50 (E)

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

Central Administrative Tribunal

Circuit Bench, Lucknow

Date of 28/4/89

Date of

Registration No. 270 of 1989(2)

Deputy Registrar

APPLICANT(S) Sushil Kumar

RESPONDENT(S) Union of India & others

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent?
2. a) Is the application in the prescribed form?  
b) Is the application in paper book form?  
c) Have six complete sets of the application been filed?
3. a) Is the appeal in time?  
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?
5. Is the application accompanied by S.D./Postal Order for Rs.50/-
6. Has the certified copy/copies of the order(s) against which the application is made been filed?
7. a) Have the copies of the documents/referred upon by the applicant and mentioned in the application, been filed?  
b) Have the documents referred to in (a) above duly attached by a Gazetted Officer and numbered accordingly?  
c) Are the documents referred to in (a) above neatly typed in double space?
8. Has the index of documents been filed and paging done properly?
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application?
10. Is the matter raised in the application pending before any court of law or any other Bench of Tribunal?

yes

yes

yes

2 Set filed

yes

-

-

yes

yes

yes

yes

yes

yes

yes

yes

-

(A2)

Particulars to be Examined

Endorsement as to result of examination

11. Application/duplicate copy/spare copies signed ? yes
12. Are extra copies of the application with Annexures filed ? —
- a) Identical with the Original ? yes
- b) Defective ? —
- c) Wanting in Annexures —
13. Have the 10 1/2 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 ? —
19. Whether all the remedies have been exhausted. yes

Cineash/

270/1286

:: 2 ::

(1)

(A3)

H

Serial  
number  
of  
order  
and dateBrief Order, Mentioning Reference  
if necessaryHow complied  
with and  
date of  
compliance

18.1.89

See  
original order  
on  
main petition

Hon. Mr. D.K. Agarwal, J.M

Hon. Mr. K. O. Garg, J.M

Admit. Issue. notice. List this case as  
2-12-89 for order/hearing.

AM

O.M.

NOT  
Note on 12/1/89OR  
Notices were  
issued on 11/1/89.Neither reply  
nor any amendment  
of order has been  
received.Submitted for  
orderL  
2/1/89

(2)

22/12/89

Hon' Mr. Justice Kamleshwar Nath, V.C.

Shri C.A. Basir counsel for the applicant  
is present. Shri Atul Kirti holding brief of  
Mr. K.C. Jauhari counsel for the respondents,  
requests for and is allowed four weeks time  
to file counter reply to which the applicant  
may file rejoinder within two weeks thereafter.  
List this case for orders on 2-2-90.

Vice Chairman

(sns)

OR  
No reply filed  
S.P. order

12/1/89

(3)

12/2/90

Hon. Justice K. Nath, J.C.

Hon. K. T. Ramani, J.M.

The learned counsel for  
the applicant is present.  
No one is present for the  
respondents. Courts have not  
been filed. List the case  
for ex parte hearing.

on 2/4/90

R.

OR  
CA not filed  
S.P. ex parte  
hearing

Dinesh

for

Am

V.C.

28/1

270/89(L)

2

A4

Serial  
number  
of  
order  
and date

Brief Order, Mentioning Reference  
if necessary

How complied  
with and  
date of  
compliance

4

2/4/90

Hon. Justice Mr. K. Nair V.C.  
Hon. Mr. K. J. Raman A.M.

On the request of both  
the parties case is adjourned  
to 2-7-90

W  
A.M.

W

V.C.

5

2/7/90

No sitting adjourn to 10.10.90

W

10.10.90

No sitting adj to 9.11.90

7

9.11.90

Hon Mr M. V. Bhalakar AM  
Hon Mr D. K. Agrawal JM

OR

No CA filed  
for recall  
hearing

On the request of both the  
parties case is adjourned to  
1.1.91

W

JM

W  
AM

8

1.1.91

No sitting adj to 19.3.91

9 Dinesh

19.3.91

No sitting adj to 17.5.91

W

## CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

## LUCKNOW CIRCUIT BENCH

\*\*\*\*

REGISTRATION O.A.NO.270/89

Sushil Kumar ... ..Applicant

Versus

Union of India &amp; Others ... ..Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. A. B. Gorthi, Member(A)

(By Hon'ble Mr. Justice U.C.S., V.C.)

The applicant qualified for the post of Apprentice Mechanic after appearing in the oral and written examination which took place in pursuance of an advertisement. Thereafter the applicant received a registered letter dt. 16.12.1974 intimating him that the Commission has recommended his name for appointment and he would get appointment in due course. But no letter was received by the delinquent employee. Meanwhile the applicant learnt that candidates selected alongwith him were receiving training. But the efforts of the applicant did not succeed. The applicant met the S.P.O. (Recruitment) on 7.3.1976 who directed the applicant to see his sub-ordinate. It was then known that the letter of appointment, in fact, was sent to him but by mistake it was sent on in-correct address. The applicant was assured that the mistake would be corrected and he will get his appointment very soon. On the contrary the applicant was informed vide letter dated 18.3.1976 from S.P.O. (Recruitment) New Delhi that he will not be appointed to the above post as the panel of the same had lapsed. Thereafter the applicant

represented again to the S.P.O.(Recruitment) and under advice of the counsel issued a registered notice Under Section 80 C.P.C. to the General Manager, Northern Railway, Baroda House, New Delhi dt. 24.1.77 narrating all the facts and challenging the orders of the S.P.O. (Recruitment) dt. 18.3.1976 being illegal and arbitrary. Thereafter vide letter dt. 19.5.77 he was sent for training after he was declared that he passed the medical examination. The mistake was thus rectified, it appears, ~~that~~ as it was the fault of the Railway Administration. The respondents have not filed any counter affidavit despite service. On earlier date Mr. Siddiqui, Advocate appearing for Mr. K.C. Johri Railway Counsel prayed for some time to file the reply. In view of the facts stated above the applicant should not be subjected to suffer for the mistake of the Govt. or its officers. Consequently the applicant cannot be made to suffer for the mistake or errors committed by the Railway Administration itself. Accordingly the prayer of the applicant appears to be justified. The application is accordingly allowed and the respondents are directed to fix the seniority of the applicant by placing his name over and above the others and placing him, may it be at bottom, of his batch when the appointment letters of his batch were issued. The applicant will get seniority but no back wages for the period will be given to him for the said period. The seniority shall be rectified and corrected within a period of three months from the date of the communication of this order. No order as to costs.

  
MEMBER(A)

  
VICE CHAIRMAN

DATED: 20 May, 1991

(ss) (LUCKNOW)

... ..



A  
D

In the Hon'ble Central Administrative Tribunal,  
Allahabad, Circuit Bench, Lucknow.

Circuit Bench, Lucknow  
Date of Filing 28/9/89  
Date of Receipt by Post.....

CAT Case No. 270 of 1989.(L)

Shri Sushil Kumar

Deputy Registrar(J)  
... Applicant

Versus

Union of India and another

... Respondents

I N D E X

Sl.No.	Description of Papers	Pages
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2.	Annexure A 1 Impugned order dated 6-4-89	19 to 19
3.	Annexure A 2 Intimation from Railway Service Commission about the applicant's selection dated 16-12-74	20
4.	Annexure A 3 Representation to the GM, regarding delay in the appointment dated 19-1-76.	21 to 22
5.	Annexure A 4 Delay in appointment against category No.31, Notice No.3/73-74 dated 31-1-76.	23
6.	Annexure A 5. Representation regarding delay in appointment to Sr. Personnel Officer, New Delhi dated 8-3-76.	24
7.	Annexure A 6 Reply of the SPO (Recruitment) dated 18-3-76.	25
8.	Annexure A 7 Representation in reply to SPO Recruitment letter dated 17-7-76	26 to 28
9.	Annexure A 8 Notice under Section 80 CPC to General Manager, Northern Railway, New Delhi dated 24-1-77.	29 to 34
10.	Annexure A 9. Appointment letter from Sr. Personnel Officer(R), New Delhi dated 14-2-77.	35
11.	Annexure A 10 Representation dated 3-4-85 to GM(P), Northern Railway, Delhi.	36 to 37
12.	Annexure A 11 Representation dated 15-3-88 to GM(P), New Delhi.	38

Lucknow: Dated 27/9 1989.

(C.A. Basir)  
Counsel for Applicant

Noted for  
18/10  
C.A. Basir  
Adv.  
Stamp & file today  
28/9/89

Skumar

A  
9

In the Hon'ble ~~Adm~~ Central Administrative  
Tribunal, Allahabad, Circuit Bench,  
Lucknow.

C.A.T. Case No. 270 of 1989. (2)

Shri Sushil Kumar s/o Shri Ram Gopal, aged  
about 40 years, Resident of Rakabganj, Lucknow  
at present working as Chargeman 'A', C & W  
Workshop, Northern Railway, Alambagh, Lucknow.  
.....Applicant.

Versus

Union of India through -

1. General Manager (Personnel),  
Northern Railway, Baroda House, New Delhi.
2. Deputy Chief Mechanical  
Engineer (W), C & W Shops, Alambagh, Lucknow.  
.....Respondents.

1. Particulars of the orders  
against which this application is made.

This application is being  
filed against the order dated 4-4-89/6-4-89  
No. PC/S. Kumar/Chargeman 'A' of Deputy Chief  
Mechanical Engineer (W), C & W Shops, Alambagh,  
Lucknow disposing of applicant's representa-  
tions pertaining to resotration of his

Bm  
Sk Kumar

seniority along with other batch-mates vide  
Selection of applicant by Railway Service  
Commission, Allahabad No. RSC/NR-40 dated  
16-12-74 rejecting the representation for  
reasons set forth in the order vide Annexure A1  
Page 19

2. The applicant declares that  
the subject matter of the order against  
which he wants redressal is within the  
jurisdiction of the Tribunal.

3. The applicant further  
declares that the application is within  
the limitation prescribed under Section 21  
of the Administrative Tribunal Act, 1985.

4. Facts of the case.

a) That the Railway  
Service Commission, Allahabad advertised for  
selection for the post of Apprentice  
Mechanics vide Employment Notice No. 3/73-74  
in news papers dated 15-10-73.

b) That the applicant  
also applied for these posts and he was  
called for written test at Allahabad on  
18-8-74.

c) That after success  
in written examination, the applicant was

Ans  
Sharma

A  
11

called for the interview by Railway Service Commission which was held on 8-10-74 at ~~Allahabad~~ *Lucknow* Allahabad.

*By* d) That the applicant received a registered letter No. RSC A-40 dated 16-12-74 from the Railway Service Commission, Allahabad, intimating to the applicant that the commission had recommended the applicant's name for appointment to the General Manager, Northern Railway and he would get his appointment letter in due course from the Northern Railway G.M.'s Office (Annexure A 2). *Page 20*

e) That the applicant waited for sufficiently long time for the appointment letter from GM's office and so in October 1975, the applicant personally met the SPO/Recruitment, Northern Railway, New Delhi and was assured that the applicant would be receiving intimation regarding his training shortly.

*By* f) That having no reply from the GM, Northern Railway, the applicant reminded the GM, Northern Railway for the appointment letter (Annexure A 3) *Page 21-22*

*Skuman* g) That meanwhile, the applicant learnt that candidates selected

along with the applicant were receiving training in Systems Training School, Lucknow since April 1975 but even call letter was not issued to the applicant to join training. Therefore, the applicant again sought personal interview with the SPO (Recruitment), Northern Railway and apprised him about the full situation. A letter was also delivered to him requesting him to issue the appointment letter for the applicant. The applicant was assured by the SPO that the intimation for the appointment and training would be sent to him soon but nothing was heard in the matter. (Annexure A 4) Page 23

h) That not having heard anything from the SPO (Recruitment), the applicant again visited Delhi on 7-3-76 and met SPO (Recruitment) who directed the applicant to see his subordinates. It was then known that the letter of appointment was sent by Northern Railway authorities on a wrong address by the mistake of the office and the applicant was assured that the mistake would be corrected and the applicant would get his appointment letter within a week. The fact of dispatch of the appointment letter of the applicant to a wrong address by Northern Railway office was told to the

*Shuman*

applicant by the SPO (Recruitment) on 8-3-76  
vide Annexure A 5. *Page 24*  
*A*

i) That contrary to the assurance given to the applicant by the SPO (Recruitment), Northern Railway, New Delhi the applicant got a letter No. 220/E/260 XIV (Recruitment) dated 18-3-76 from SPO (Recruitment) New Delhi that the applicant's request for the appointment to the above post cannot be considered as the life of the panel recommended had lapsed vide Annexure A 6. *Page 25*  
*A*

j) That on receipt of this letter, applicant again represented to the SPO (Recruitment) and copy to the GM, ~~GMB~~ and Railway Service Commission about this matter and under advise from the Counsel issued a Registered Notice under Section 80 CPC to the General Manager, Northern Railway, Baroda House, New Delhi dated 24-1-77 narrating all the facts and challenging the orders of SPO (Recruitment) dated 18-3-76 being illegal and arbitrary, as the applicant having been selected by the Railway Service Commission and the entire panel having been approved by the General Manager, and the letters of appointment having been issued to all except the applicant who was not

*10/2*  
*Chakraborty*

given a chance to report for duty, was discriminatory, illegal, arbitrary and unjust and that the applicant cannot be denied appointment due to delay on account of lapses of the Railway administration. The Applicant also claimed immediate appointment and also for compensation at the rate of Rs. 600/- per month from the date the applicant's batch-mates were sent for training. (Annexures A 7 and A 8) *Page 26-28, 29-34*

k) That thereafter, vide letter dated 14-2-77, No. 220/E/262 - XIV/Recruitment, the applicant was informed about the decision of the administration that the applicant would be sent for training for the post of Apprentice ~~charge~~ Chargeman as and when course starts and the applicant was called for training on 19-5-77, which he joined after the medical examination (Annexure A 9) *Page 35*

l) That in between 1975 to 1977, two subsequent panels which were operated after the applicant's selection became senior to the applicant due to administrative error in not sending the applicant for training with his batch mates who were selected with the applicant, as the address to which the letter was dispatched

*Skumar*

was wrong and it was a deliberate omission on the part of some official of the administration to redirect timely the letter to the applicant at his correct address. These actions display the malafides of the opposite parties and the applicant cannot be made to suffer for the same.

m) That the applicant repeatedly represented after his posting on 16-6-77 for restoration of his seniority according to panel against employment notice No.3/73-74 it being manifestly clear that the applicant was denied his rightful place of seniority due to administrative error (Annexure A 10). *Pgs 26-27*

n) The applicant submitted many representations as under, the last being dated 15-2-88 for restoration of seniority according to panel of employment notice No.3/73-74 dated 16-12-74 (Annexure A 11), it being manifestly clear that the applicant is being denied his rightful place in seniority list due to Administrative error. *Pgs 28*

o) That due to this wrong action of the Administration, the applicant has suffered a loss of Rs.600/- per month with effect from March 1976 when

*Sharma*



the applicant's batch mates were sent for training. Many of the the applicant's batch-mates have since then been promoted as Deputy Shop Superintendent. Thus, the applicant suffered loss of seniority, loss of grade and loss of promotion.

p) That having received no reply from the Railway administration regarding restoration of the applicant's seniority, the Uttar Railway Karamchari Union sought the intervention of the Labour Commissioner, Government of India, Lucknow on 23-11-85 by giving a strike notice and raising industrial dispute about this matter but the dispute ended in failure on 16-1-87, vide orders dated 16-1-87 of Assistant Labour Commissioner, Lucknow observing --

" Since there is no possibility of any settlement despite of sincere efforts, the dispute ended in a failure. The Union is willing for arbitration whereas the ~~man~~ management views could not be ascertained in their absence."

q) That the opposite party No.2 has communicated his decision on the applicant's representation vide Annexure A 1 without application of mind

*Suman*

which is manifestly clear from the fact that while the applicant had raised strongly the issue of dispatch of appointment letter at wrong address by the Railway Administration and the administration's failure to verify timely the correct address when the letter was returned undelivered by rechecking the records and the Administration failed to send the letter at the correct address. Thus, the applicant cannot lose his seniority due to administrative lapses and errors, and therefore, the seniority position of the applicant has to be considered along with the applicant's batch-mates, as prepared by the Railway Service Commission vide RSC letter No. RSCA - 40 dated 16-12-74.

r) That rules 306, 314 and 317 of the Indian Railway ~~Establishment~~ Establishment Manual being statutory rules and the Railway administration being bound by these rules and the rules providing that 'candidates selected for appointment at an earlier selection shall be senior to those selected later irrespective of the date of posting' and rules 314 and 317 strengthen this contention that the person selected earlier will remain senior. Therefore, the

*Skumar*

applicant fully deserved seniority along with his batch-mates of 1974 selection.

5. Grounds of relief with legal provisions.

a) Because the panel of candidates selected by the Railway Service Commission against the employment notice No.3/73-74 dated 16-12-74 of Charge-man on Northern Railway containing the name of the applicant as advised by the Chairman Railway Service Commission to the applicant having <sup>been</sup> ~~being~~ approved by the GM, Northern Railway and the same having been operated, The applicant acquired a vested right for appointment and for training like other candidates of the panel.

b) Because the dispatch of the appointment letter under Registered cover to the wrong address by the Northern Railway administration and the return of registered letter at their office and then non disptach of the same for more than 2 years at the correct address to the applicant dispite pepresentations and personal interviews was an administrative error resulting in depriving of the opportunity of joining training to the applicant as

*Skumar*

given to other candidates selected with the applicant. This action of the opposite parties was arbitrary and discriminatory.

c) Because opposite parties by their mala fide action as mentioned in preceding paras the applicant was deprived of getting training and the appointment along with his batch-mates of 1973-74 selection which is manifest from the fact that despite personal interviews and representations, the administration kept mum, and took action only after receipt of 80 CPC notice.

d) Because opposite parties delayed the dispatch of the appointment letter/training for sufficiently long time even after the receipt of 80 CPC notice when 2 batches junior to the applicant had been sent for training and the applicant was sent for training in June 1977, vide Annexure A 9. During the period from <sup>April</sup> ~~August~~ 1975 to June 1977, many candidates were selected by the Railway Service Commission in 1975, 76 and 77 and they were all sent for training and had also joined working posts and thus they were made senior to the applicants which was arbitrary, discriminatory, illegal and

APV

Skumar

unjust.

e) Because the impugned order is prejudicial to the applicant as it is manifestly clear from the fact that the panel prepared by the Railway Service Commission was operated in toto after its approval by General Manager when due to administrative error, the applicant whose name was also approved, was ignored from being sent for training for 3 years thus in terms of rules 306, 314 and 317 of the Indian Railway Establishment Manual, the applicant's seniority has to go with his batch mates of 1973-74 panel.

f) Because final seniority list has been prepared in contravention of rules 306, 314 and 317 of the Indian Railway Establishment Manual and the rules being statutory rules, they have to be followed.

g) Because it is settled law as per judgements of the Hon'ble High Courts that " if there is delay in rectifying an error on account of administrative error/lapses, the right of Government servant cannot be affected by such administrative lapse vis a vis the

*Skumar*

seniority and the consequential benefits for delays on the government account."

h) Because provisions of rules 306, 314 and 317 of the Indian Railway Establishment Manual being statutory and mandatory, no authority has the power to change the principles of seniority which is contrary to the provisions of the said rules. The persons selected cannot be denied their statutory rights and therefore, their seniority has to be fixed along with their batchmates and they should be treated senior to the persons not selected i.e. those coming in later selection batches.

i) Because the Hon'ble Central Administrative Tribunal having held in many cases that " the promotion of juniors ignoring seniors for no fault of the seniors makes seniors entitled to claim for promotion from the date the junior was promoted with consequential benefits."

j) Because the Hon'ble High Court has also held that " if a person is eligible for appointment and he is not considered for appointment, then Article 16 will be violated because the

*Mr*

*Skumar*

powers of the state to make appointments is subject to Constitutional limitations and it has not got the same right or power of a citizen."

k) Because it has also been held by the Hon'ble High Court that " the candidates selected by the Public Service Commission for certain posts and in matters of appointment particularly denial of appointment to one of the selected candidates without reason, while all other selected candidates were appointed, was held illegal entitling the aggrieved candidate to relief under Article 226 of the Consitution of India with effect from the date of Government order appointing all other candidates and the petitioner was also entitled to all the benefits from the said date."--1986 LIC 1661.

6. Details of the remedies exhausted.

The applicant declares that he has availed of all the remedies available under the relevant service rules.

Representations dated 19-1-76, 31-1-76, 8-3-76, 17-7-76, 24-1-77, 3-4-85, 13-3-88 may kindly be perused.

*epw*  
Skumar

7. Matter not previously  
filed or pending with any other court.

This matter was taken up also by Uttar Railway Karamchhari Union with the Assistant Labour Commissioner which ended in failure on 16-1-87.

Now the matter is not pending with any other court or authority. No writ petition or suit was filed before any court regarding the matter in respect of which this application is being made.

8. Reliefs sought.

The applicant prays to the Hon'ble Court that it may be pleased to issue:

a) Orders or directions to the opposite parties to restore the seniority of the applicant with his batchmates with effect from the date of Government order appointing the applicant's batchmates with consequential and all the benefits, with effect from the said date.

9. Interim order, if any,  
prayed for.

No.

Shuman



10. Application is being filed through the applicant's counsel, Shri C.A. Basir, Advocate, 152, Ghasyari Mandi, Lucknow-226001.

11. Bank draft No. 2880068 dated 8-9-89 for Rs. 50/- in favour of the Registrar, Central Administrative Tribunal, Allahabad, of Bank of India, Lucknow payable to Bank of India, Allahabad.

12. List of enclosures

The annexures being filed are true copies and have been compared by the applicant. They are as under:

Annexure A 1:

Impugned order dated 6-4-89

Annexure A 2:

Intimation from the Railway Service Commission about the applicant's selection dated 16-12-74.

Annexure A 3:

Representation to the General Manager, regarding delay in the appointment, dated 19-1-76.

Annexure A 4:

Delay in appointment

*SK*  
*Suman*

against category No.31, Employment Kkn  
Notice No.3/73-74 dated 31-1-76.

Annexure A 5:

Representation regarding  
delay in appointment to Senior Personnel  
Officer, New Delhi dated 8-3-76.

Annexure A 6:

Reply of the Senior  
Personnel Officer(Recruitment) dated 18-3-76

Annexure A 7:

Representation in reply  
to Senior Personnel Officer's(Recruitment)  
letter dated 17-7-76.

Annexure A 8:

Notice under Section  
'1) 80 CPC to General Manager, Northern  
Railway, New Delhi dated 24-1-77.

Annexure A 9:

Appointment letter from  
Senior Personnel Officer(Recruitment), New  
Delhi dated 14-2-77.

Annexure A 10:

Representation dated  
3-4-85 to General Manager(P), Northern  
Railway, Delhi.

Annexure A 11:

Representation to  
General Manager(P), New Delhi dated 15-3-88.

*Sharma*

13.

Power.

Sushil Kumar  
Applicant.

VERIFICATION

I, Sushil Kumar, s/o

Shri Ram Gopal, working in the office of  
Carriage and Wagons Workshop, Northern  
Railway, Alambagh, Lucknow as Chargeman 'A'  
resident of Rakabganj, Lucknow, do hereby  
certify that the contents of paras 1 to 4, 6  
to 12 are true to my personal  
knowledge and paras 5 <sup>Contents 7</sup> to  
are believed to be true on legal advise,  
and that I have not suppressed any material.

Sushil Kumar  
Signature of applicant.

14/1

A  
27  
19

NORTHERN RAILWAY

Office of the

Dy.CME 'W' C&W Shops  
Alambagh, Lucknow.

No.PC/S.Kumar Ch/Man'A'

Dated:6.4.1989

Sushil Kumar Ch/Man'A',  
c/o Shop Supdt.Machine Shop,  
N.Rly.Alambagh.

Sub:Restoration of seniority alongwith my  
other batchmates selected vide Rly.  
service commission Allahabad letter No.  
RSC/NR-40 dt.16-12-84.

Ref:Your application dt.15-3-1988

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With reference to-above,it is stated that the  
merit position of the candidates in apprentice  
categories is decided on the basis of the marks  
obtained in the final examination of completion of  
prescribed training.

It is therefore informed you that there is  
no mistake on the part of administration to assign  
you lower merit position.

Sd/-

for Dy.CME 'W' C&W Shops,

Alambagh, Lucknow

S Kumar

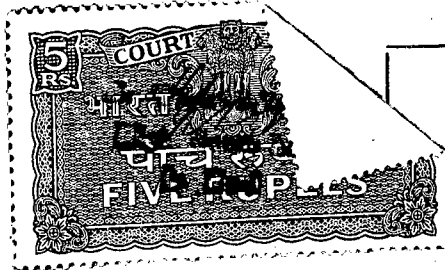
SW

व अदालत श्रीमान्

[ वादी ] अपीलान्ट

## वकालतनामा

प्रतिवादी [रिस्पॉण्डेंट]



टिकट

Sh. Shal

वादी (अपीलान्ट)

प्रतिवादी (रिस्पॉण्डेंट)

बनाम

Munir &amp; Anwar

नं० मुकद्दमा

सन्

पेशी की ता०

११ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Sh. C. A. Baniar and Sh. Ran. Sr. 1/2/20

वकील

महोदय

एडवोकेट

नाम अदालत  
मुकद्दमा नं०  
नाम फरीकन

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

हस्ताक्षर

Sh. Kumar

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् ११

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स्वीकृत

Accepted  
E. Anwar

A  
29

In the Hon'ble Central Administrative Tribunal,  
Allahabad, Circuit Bench, Lucknow.

CAT Case No.                      of 1989.

Shri Sushil Kumar

...Applicant

Versus

Union of India and another

...Respondents

I N D E X

Sl.No.	Description of Papers	Pages
1.	Application	1 to 18
2.	Annexure A 1 Impugned order dated 6-4-89	19 to 19
3.	Annexure A 2 Intimation from Railway Service Commission about the applicant's selection dated 16-12-74	20
4.	Annexure A 3 Representation to the GM, regarding delay in the appointment dated 19-1-76	21 to 22
5.	Annexure A 4 Delay in appointment against category No.31, Notice No.3/73-74 dated 31-1-76	23
6.	Annexure A 5 Representation regarding delay in appointment to Sr. Personnel Officer, New Delhi dated 8-3-76	24
7.	Annexure A 6 Reply of the SPO (Recruitment) dated 18-3-76	25
8.	Annexure A 7 Representation in reply to SPO (Recruitment) letter dated 17.7.76	26 to 28
9.	Annexure A 8 Notice under Section 80 CPC to General Manager, Northern Railway, New Delhi dated 24-1-77.	29 to 34
10.	Annexure A 9 Appointment letter from Sr. Personnel Officer(R), New Delhi dated 14-2-77.	35
11.	Annexure A 10. Representation dated 3-4-85 to GM(P), Northern Railway, Delhi.	36 to 37
12.	Annexure A 11 Representation dated 15-3-88 to GM(P), New Delhi.	38

Lucknow: Dated                      1989.

*(C. A. Basir)*  
Counsel for Applicant.

Regd.

RAILWAY SERVICE COMMISSION,  
19, SARDAR PATEL MARG,

ALLAHABAD

RSEA/NR - 40

Dated: 16.XII, 1974.

Shri Sushil Kumar (Roll No. 13)

With reference to your application dated X  
to this Commission for the post of App. Mechanics  
Grade Rs. 205 - 280 Railway Northern of Commission's  
Employment Notice No. 3/73 - 74, Category No. 31,  
it is stated that:-

1. ~~You have not been selected.~~
- ✓ 2. You have qualified as far as the Examination/  
Interview is concerned but the final appointment will  
be made by the General Manager, N.Rly., New Delhi,  
who will, in due course send out an offer of  
appointment to you provided you are otherwise  
suitable.

NOTE: No further correspondence

will be entered into.

Sd/-

For ASSTT. SECRETARY,

RAILWAY SERVICE COMM-  
MISSION, ALLAHABAD.S Kumar

To,  
The General Manager,  
N.Rly.Hd. Quarter,  
Baroda House,  
New Delhi.

A.  
91

Sir;

Subject: Delay in appointment against category

No.31, Employment Notice No.3/73-74

dated 15-10-73, of Sushil Kumar s/o

Sri Ram Gopal, Roll No.13, application

No.A 668595.

---

I have come to know through Railway Service Commission, Allahabad vide their letter No.RSCA/NR -40 dated 16-12-74 that I have been selected for the post of Apprentice Mechanic and the final appointment is to be made by your office.

In this connection, I would like to inform you that my C I D police verification has been completed as far back as Eight and Six months respectively, since then I am waiting still instructions for medical examination and appointment letter.

It is very long time that has passed and I have received my appointment letter, etc. from your office, which has caused great anxiety and uncertainty in my career.

Hence, I request you to kindly inform me per return post about the same, so that I may be able to manage to be relieved from my present department.

S. Kumar



in which I have been working after three years  
Diploma in Mechanical Engineering.

Thanks you for the trouble.

Yours faithfully,

Sd/-

(Sushil Kumar)

s/o Sri Ram Gopal,

2/14 141, Nawabganj,

Kenpur (UP)

Dated: 19-1-76.

S. Kumar

da

To,  
The Sr. Personnel Officer (RP),  
Northern Railway Head Qrs.,  
Baroda House, New Delhi.

Subject: Delay in appointment for the post of App.

Mechanic against Cat. No. 31 Notice No. 3/73-74.

---

Sir,

I was selected by Railway Service Commission Allahabad for the post of Apprentice Mechanic as intimated to me vide their letter No. RSCA/NR -40 dated 16-12-76/74. Thereafter the CID, police verification was also done sometimes in 1975.

After a long wait, approached your office during Oct. '75, but I was not given the right position, telling me to still wait. Now I have come to know that the subject pannel has already been operated, people are already taking training at Lucknow.

Sir, as I have not received any such intimation I request your honour that my name may be considered and included in the recent batch sent for training in the current months and oblige.

Thanking you ~~for~~ in anticipation,

Yours faithfully,

(Sushil Kumar)  
s/o Sri Ram Gopal,  
H.No. 2/141,  
Nawabganj, Kanpur (UP)

Dated: 31-1-76

Copy handed over to:  
SPO (RP) by hand on  
31-1-76.

la

S. Kumar

To,  
The Senior Personnel Officer(RP),  
N.Rly., Hd. Quater, Baroda House,  
New Delhi.

Sub: Delay in appointment for the post of  
App. Mechanic against Cal. No. 31, Employment  
Notice No. 3/73-74.

---

Sir,

I was selected by Railway Service Commission  
Allahabad for the post of App Mechanic as intimated  
to me vide their letter No. RSCA/NR-40 dt. 16-12-74.

Today, I have come to know from your office  
that my appointment letter was issued on wrong address  
i.e. on 2/41, Nawabganj, Kanpur due to clerical  
mistake while the address should be 2/141, Nawabganj,  
Kanpur.

Hence, I request your honour to kindly issue  
me another appointment letter and to include my  
name in the recent batch which has started training  
in Jan. '76.

Thanking you,

Yours faithfully,

Sd/-

Sushil Kumar,  
2/141, Nawabganj,  
Kanpur.

One copy handed over to declining  
Asstt. Shri Thakur and one copy  
handed over to Sri Kochar  
personally on date 8.3.76

Sd/-

Sushil Kumar  
8-3-76.

Sushil Kumar

220 E/260 XIV(Rec II)

1A  
95

Dated: 18-3-76

Sh. Sushil Kumar,

s/o Sh. Ram Gopal,

House No. 2/141, Nawabganj,

Kanpur-2.

Sub: Appointment for the post of Apprentice  
Mechanic.

Ref: Your application dated 8-3-76.

---

Since the life of the panel has already been  
lapsed, it is regretted that your request for  
appointment for the above post cannot be  
considered at this end.

Sd/-

Sr. Personnel Officer (RP)

*Skumar*

A  
36

To,

The Sr. Personnel Officer (R.P.)

Northern Railway Headquarters

Baroda House,

New Delhi.

Dear Sir,

Your letter No. 223E/260-XIV (Recpt) dated 18-3-76 addressed to the undersigned was received by me. The contents of the letter I should be permitted to say are not only surprising but also ~~very~~ very shocking.

In this connection, you will please permit me to recall my personal visits to you on 8-3-76, when I handed over to you my letter dated the same personally pointing out <sup>to</sup> you, office mistake committed with regard to my postal address. On this date your good self promised to look to my case thoroughly and issue an appointment letter appointing me as App. Mech. Assistant against Category No. 31 employment Notice No. 3/73-74. Instead of receiving an appointment letter ~~from~~ from you, I was shocked to receive your letter under reference stating therein that I had not been selected, reasons of which are best known to your good self.

I may be permitted to state further just ~~to~~ to commurate the whole history of my case to you.

i) that I was selected by Railway Service Commission, Allahabad for appointment of

R. Kumar

-2-

App.Mech.and the General Manager, New Delhi would issue the appointment letter vide Railway Service Commission, Allahabad letter No.RSCA/NR/40 dated 16-12-1974 sent to me under registered cover.

ii) I awaited the said appointment letter till the month of October, 1975 and not receiving the so called appointment letter, I approached personally your Office and I was then promised that the appointment letter would be issued to me in due course of time latest by the month of Dec. 1975.

iii) Having come to know here at Kanpur that the batch of candidates approved by the Railway Service Commission, Allahabad subsequently in the year 1975 against employment notice No.1/74-75 had already been given appointment letters from your Office and such candidates had been receiving due training at Lucknow. I again approached your Office in person in the month of January 29th and 30th, 1976. Then I regret to say that my approach to the dealing assistant of the Department was not appreciated with the result that I had to approach your good self personally. In spite of your good efforts, I could not get any satisfactory reply either from the dealing Assistant or from your good self.

iv) I was then compelled to make a personal approach to the Secretary to the General Manager, Shri Shah, who had very kindly taken up my case and

[Signature]

Shuman

-3-

instructed you to look my case and to dispose it off at the earliest possible date.

v) Then you had very kindly informed the Secretary Sri Shah that my appointment letter would be issued to me in a week's time.

Now instead of getting an appointment letter from your good self, I received the letter under reference informing me that my candidature had been cancelled for no fault of mine.

I therefore request you to please go through my case afresh and do justice to my case.

Thanking you,

Yours faithfully,

Sd/-

(Sushil Kumar)  
2/141, Nawabganj,  
Kanpur.

Copies to:

1. The Railway Minister (by name), Govt. of India for his kind information and justice.
2. The General Manager, Northern Railway for information with a request to call for the whole case for his kind perusal and if justice demands decision in my favour to rectify it.
3. Chairman, Railway Service Commission, Allahabad for information and justice.

(Sushil Kumar)

*Sushil Kumar*

Gajendra Nath Chaturvedi  
M.A. (Eng.Litt., Pol.Sc.Hist)  
LL B, Sahitya Ratna  
Advocate.

HOME ADDRESS:  
128/15. Kidwai Nagar,  
KANPUR-11  
Court Compound, Kanpur  
Date: 24-1-77.

Regd. A. D.

The General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.

Notice u/s 80 C.P.C.

Dear Sir,

Under the instructions of my client, Shri  
Sushil Kumar son of Sri Ram Gopal r/o House No.  
2/141, Nawabganj, Kanpur, I write to you as under:

1. That the Railway Service Commission, Allahabad, advertised the posts for the selection of Apprentice Mechanics vide employment notice no. 3/73-74 at Cat. No. 31 in the press dated 15-10-73 and the last date for submission of the applications was 24-10-73.
2. That my client made an application with form no. A 668595 in response to the above advertisement and accordingly he was called for the written test at Allahabad on 18-8-74 vide letter no. RSCA/NR-40 dated 1-8-74 and he was allotted the Roll No. 13 (Thirteen). The examination was conducted at K.P. Girls School, Kamla Nehru Road, Allahabad.
3. That on the basis of the said written examination, my client was called for an interview by the Railway Service Commission and it was held on 8-10-74 at Allahabad. The interview letter was dated 23-9-74, and numbered as RSCA/NR-40.

Sushil Kumar



4.

-2-

4. That my client received a Regd. Letter from the Railway Service Commission intimating him that the Commission had ~~recommended~~ recommended his name for the appointment to the General Manager, Northern Railway and he would get the appointment letter in due course of time from the General Manager's Office. This intimation was dated 16-12-74, with reference no. RSCA/NR 40.

5. That the police verification and the CID enquiry about the candidate was made some times in the months of March to June 1975.

6. That after the said verification by the police and the CID, the candidate concerned i.e. my client waited long for the appointment letter from the General Manager office but he heard nothing upto the month of October 75 near about. My client made a personal approach in the office of the General Manager in the Month of Oct. 1975 and at that time he was told that he would get intimation regarding his training and appointment in due course of time.

7. That my client did not receive any intimation from the office concerned upto the end of Dec. 1975 as told in the office during his last visit there. He again was compelled to address a letter in the name of the General Manager, Northern Railway requesting him for early appointment; but my client heard nothing in its reply. The said letter has been duly received in the office.

*skumar*

-3-

8. That my client learnt from the System Training School, Northern Railway, Charbagh, Lucknow that the candidates of the above said examination select list had undergone training. This information created great anxiety in my client's mind and he personally went to Delhi and sought interview with the Senior Personnel Officer (R.P.) Northern Railway and appraised him about the full situation. My client delivered a letter also to him (SPO) during my client's meeting with him requesting for the appointment letter. My client was given assurance that he would get the intimation of his appointment and training within a couple of days but to his surprise and disappointment he got nothing in response to the assurance given during personal interview.

9. That my client waited upto the 1st week of March, 1976 for the appointment letter but he heard nothing and was again forced to visit Delhi on 7-3-76 and again sought interview with the Senior Personnel Officer (RP) Northern Railways and he directed to meet his subordinates but of no avail. During the meeting with subordinates personnels it was revealed that the appointment letter by mistake of the office, was sent on the wrong address to my client and he was assured that the mistake would be corrected and he would get intimation of appointment at the correct address within the week. This fact of sending the appointment letter on the wrong address to my client, was brought to the notice of SPO (RP) Northern Railway by an application dated 8-3-76 and

14/2

Skumar

the same has also been received in the office.

10. That to the utter surprise and in contrary to the assurance given to my client by the SPO(RP) N.R., Delhi, he got a letter no. 220 E/260 XIV (Rectt) dated 18-3-76 from the SPO(RP) N.R. New Delhi intimating him that his request for the appointment of the the above post cannot be considered as the life of panel recommended ~~xx~~ has been lapsed.

11. That after the receipt of the letter referred in the above para my client sent a Regd. letter to the SPO(RP) N.R. Delhi with the copies to the General Manager and the Chairman, Railway Service Commission. The applications have been duly received in the respective offices. After it, my client made personal approaches ~~x~~ in the office of the concerning officers at least 2 or 3 times but of no use. The last effort made in this direction was in the month of Dec. 1976 by my client.

12. That the letter no. 220/E/260 - XIV (Rectt) dated 18-3-76 of the SPO(RP) N.R. New Delhi is illegal without having any legal sanction behind it and it is not enforceable. My client has been selected legally by the Railway Service Commission Allahabad and he was never given a chance to report on duty without any reason. My client has a legal claim to get the appointment letter on the basis of the said recommendation of the Commission.

13. That the cause of action firstly arose when

*Shuman*

-5-

my client got the letter dated 18-3-76 no. 220 E/260-XIV(Rectt) of the SPO(RP) N.R. New Delhi on 24-3-76 when he was denied the rightful claim to get the appointment letter ~~from~~ from the Railway Administration. It is due to the negligence and lapse of the Railway Administration that my client is being deprived of his rightful and legal claim to get the appointment letter. It again arose on subsequent other dates when he did not get the letter of appointment and it still continues too.

14. That my client has been put to a loss since the date of his rightful claim of appointment of pays and allowances payable to my client on appointment on the post concerned. The loss comes about nearly to Rs. 600/- per month from March, 1975 when the candidates of the said select list was sent to training. My client will also suffer for the loss of seniority due to the negligence of the administration.

Through this notice, it is called upon that the letter no. 220 E/260 -XIV(Rectt) dated 18-3-76 of the SPO(RP) N.R. New Delhi may please be withdrawn and my client be appointed on the post of Apprentice Mechanic as per recommendation of the Chairman, Railway Service Commission regarding employment notice 3/73-74 of Cat no. 31 within the statutory period failing which my client will be compelled to take legal action against the Railway Administration for the appointment on the said post

*Skumar*

and for the recovery of loss and damages in the form of pay and allowances and seniority at your costs and risk which you please note carefully.

It is hoped that the Railway administration would avoid un-necessary litigation and would not like to drag my client to take the recourse of law.

Yours faithfully,

Sd/-

(G. N. Chaturvedi)

Advocate,

Court Compound,

Kanpur.

No. 220 E/262-XIV(Redt.)

Dated: 14-2-77

N.Rly.Hd.Qrs Office,  
New Delhi.

Sh. Sushil Kumar,

s/o Sh. Ram Gopal,

House No. 2/141, Nawabganj,

Kanpur-2.

Sub: Appointment for the post of App. Mech.Ref: Your application dated 14-12-76.

---

It has been decided that you will be sent for training for the above post as and when the course starts. You should be prepared to join that course failing to which no further chance will be provided.

Sd/-

Sr. Personnel Officer(RP)

*S. Kumar**SS*

A  
46      Annex A-10      36

To,  
The General Manager(P),  
Northern Railway,  
Baroda House,  
New Delhi.

Dear Sir,

Sub: Restoration of seniority along with my  
other batchmates selected vide Railway  
Service Commission Letter No. RSC/NR -40  
dated 16-12-74.

---

With due respect I beg to submit the  
following for your kind consideration.

That I was selected as apprentice Mechanic  
by Railway Service Commission, Allahabad vide letter  
no. RSC/NR-40 dated 16-12-1974 and recommended to the  
General Manager, N.Rly. for appointment as such.

That the office of the General Manager(P)  
N.Rly. Baroda House, New Delhi dispatched appointment  
letters to all the candidates selected vide subject  
letter including my self but due to an official  
error, my appointment letter was dispatched at a  
wrong address.

That all the candidates except my self joined  
the training as apprentice Mechanic in the month of  
April, 1975 but I was deprived of the opportunity  
due to an official error and no fault on my part.

That when I came to know of the fact, I  
approached the office of the General Manager(P)  
N.Rly. New Delhi personally and through several  
representations dated 19-1-76, 24-1-76, 31-1-76, 8-3-76  
17-7-76 and finally a notice U/s 80 & CPC, by my  
advocate was served on the General Manager, N.Rly.  
New Delhi for appointment as apprentice Mechanic  
and restoration of seniority which I would have got,  
had I been appointed along with my batch mates in  
April, 1975.

420

*S. Kumar*

-2-

That in response to the notice, I was appointed as apprentice mechanic on 16-6-77, but my seniority was not restored and thus I was superceded by my juniors of my batch as well as those appointed in the intervening period.

Therefore, it is prayed that my original seniority may please be restored of which I was deprived due to an official error, so that I do not become a victim of supercession by my juniors all along my service career.

Thanking you,

Yours faithfully,

Sd/-

Sushil Kumar,

C/Man Gr. 'B' 'C & W Fitter)

C & W Workshops, Alambagh,  
Lucknow.

Dated: 3-4-85.

Copy in advance to:

General Manager (P)  
N.Rly. Baroda House,  
New Delhi.

*SK Kumar*  
*SK*



To,  
The General Manager(P),  
Northern Railway,  
Baroda House,  
New Delhi.

Dear Sir,

Sub: Restoration of Seniority along with my  
other batch mates selected vide Railway  
Service Commission letter No.R.S.C./  
N.R.-40 dated 16-12-1974.

With due respect, I beg to submit the following  
for your kind consideration.

That I was selected as apprentice Mechanic  
by Railway Service Commission, Allahabad vide letter  
No.R.S.C./N.R.-40 dated 16-12-74 and recommend to the  
General Manager N.Rly. for appointment as such.

That the office of the General Manager(P)  
N.Rly. Baroda House, New Delhi despatched appointment  
letters to all the candidates selected vide subject  
letter including my self but due to an official  
error, my appointment letter was despatched at a  
wrong address.

That all the candidates except my self joined  
the training as apprentice Mechanic in the month of  
April, 1975 but I was deprived of the opportunity due  
to an official error and no fault on my part.

That when I came to know of the fact, I  
approached the office of the General Manager(P) N.  
Rly. New Delhi personally and through several repre-  
sentations dated 19-1-76, 24-1-76, 31-1-76, 8-3-76,  
17-7-76 and finally notice U/s 80 CPC by my advocate  
was served on the General Manager, N.Rly. New Delhi for  
appointment as apprentice Mechanic and restoration of  
Seniority which I would have got, had I been appointed  
along with my batch mates in April, 1975.

That in response to the notice, I was  
appointed apprentice Mechanic on 16-6-77 but my  
seniority was not restored and thus I was superceded  
by my juniors of my batch as were those appointed in  
the intervening period.

Therefore, It is prayed that my original  
seniority may please be restored of which I was  
deprived due to an official error, so that I do not  
become a victim of supercession by my juniors all  
along ~~the~~ my service career.

Thanking you,

Yours faithfully,

Sd/-

(Sushil Kumar)  
C/Man, Gr. A (C&W Fitter)  
C&W Workshops, Alambagh,  
Lucknow.

Dt. 15-3-88