

R-3

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH, LUCKNOW

J.A. 12/89

B.P. Misra

Applicant.

versus

Union of India & others

Respondents.

Hon. Mr. D.K. Agrawal, J.M.  
Hon. Mr. K. Obayya, A.M.

(Hon. Mr. D.K. Agrawal, J.M.)

This application under section 19 of the Administrative Tribunals Act, 1985 was admitted on 9.2.89 in respect of reliefs (a) and (c), reliefs (b) and (d) were not pressed. Reliefs (a) and (c) are the same. The prayer in relief clause (a) is that the order dated 31.5.58, as contained in Annexure -7 to the application be quashed and consequential benefits awarded to the applicant. The relief clause (c) is repetition of relief (a). The facts leading to this case are that the applicant was Hawaldar/Clerk in the Military for the period 11.11.42 to 4.12.45 and discharged on 5.12.45 on medical grounds. Thereafter, he was employed in the then East India Railway on 23.7.47 as a Clerk in Watch and Ward Department. The applicant finally retired from Railway service on 11.7.68. The Military service rendered by the applicant has already been counted as part of service for purpose of civil pension. However, the break in service with effect from

*L.K.M.*

6.12.45 to 22.7.47 has not been taken into account for the purpose of pension. The applicant represented that the said spell from 6.12.45 to 22.7.47 should also be counted for purpose of payment of pension. The Railway administration, vide Annexure-7 decided that interruption between the spells of services rendered under the Central Government and the Defence services will be treated as automatically condoned and the pre-interruption service will be treated as qualifying service for pension but the period of interruption itself cannot be reckoned as qualifying service for pension. Accordingly, it was held that the pension determined by the Railway Administration does not call for any change. Aggrieved with this order, the present claim petition has been filed. As mentioned above, reliefs (a) and (c) are confined only for increase in pension on the basis that the period of interruption itself should be counted as qualifying service for pension.

2. We have heard the learned counsel for the parties and perused the record. The necessary clause applicable for the purpose has been quoted by the applicant in para 6.2 of the claim petition as follows:

"When order is passed under article 356 (2314) allowing Military Service to count as part of the service qualifying for civil pension, it should be taken as carrying with it condonation of break, if any, between the Military and civil service."

Despite our best consideration, we are unable to

*DKG:ms*

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hold that the words quoted above can be interpreted to mean that the period of interruption can be reckoned as qualifying service for pension. The continuation is given for the broken spell i.e. despite a break in service the pre-interruption period of service is taken into account for the purpose of pension. However, there is no sanction for the proposition that the period of interruption itself will be taken into account for the purpose of pension. Therefore, the present claim petition, in our opinion, is misconceived.

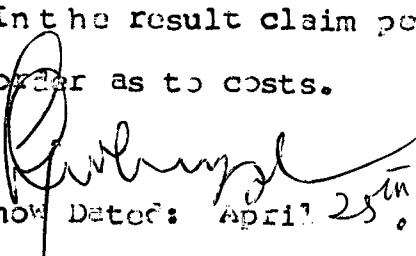
3. Before we part, we may also mention that the relief as contained in Clause (a) of para 9 of the claim petition only refers to an order dated 31.5.88 as contained in Annexure7. There is no reference in clause (a) or clause (c) of para 9 of the claim petition about the increment payable with effect from 1.4.64 or 1.4.65. However, the learned counsel for the applicant has debated the same at length. Therefore, we propose to deal with it in brief. The applicant's contention is that his pension has not been rightly calculated. The basis for the same is that he was not given increments on the post of Senior Clerk on 1.4.64 and 1.4.65. Therefore, it has been urged by him that if these two increments were given to him, his pension would have been calculated on the basic pay of Rs 220/-. According to the allegation contained in para 21 of the counter affidavit, filed by the opposite parties pension has been calculated on the basic pay of Rs 216/-. The learned counsel for the applicant contended that

*Declarandum*

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since pension accrues from month to month, therefore, bar of limitation would not apply. Even if it be so, we are of the opinion that there is no material on record to hold that the applicant was entitled to the increments on 1.4.1964 or 1.4.1965. The reason is that the applicant was never promoted to the post of Senior Clerk because he had not qualified at the written test which <sup>"was"</sup> a condition precedent for promotion to the post of Senior Clerk as alleged in para 11 of the Counter Affidavit. The applicant was merely granted proforma fixation of pay as Senior Clerk vide order of Railway Board dated 14.3.1969 (Annexure -2 to the claim petition) A reading of the said order indicates that he was granted proforma fixation of pay only upto 11.3.64. The allegation of the opposite parties, as contained in para 15 and 16 of the counter affidavit is to the effect that the applicant was transferred on the promoted post of Senior Clerk on 11.3.64 to Delhi. The applicant did not join. Therefore, he was not treated as Senior Clerk unless he was given officiating promotion at Lucknow on 16.3.66. In the circumstances, we are unable to hold that the applicant should have been made to earn increments in the promoted post of Senior Clerk on 1.4.64 or 1.4.65. In this manner, his pension has been rightly calculated on basic pay of Rs 216/- at the time of his retirement on 11.7.68. Consequently, we do not find any force in the arguments raised by the learned counsel for the applicant.

4. In the result claim petition is dismissed without any order as to costs.

A.M.   
Lucknow Date: April 28<sup>th</sup>, 1991.

NK Gyanu  
25/4/91  
J.M.

ANNEXURE - A

CAT

CENTRAL ADMINISTRATIVE TRIBUNAL  
Circuit Bench, Lucknow  
Opp. Residency, Gandhi Bhawan, Lucknow  
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INDEX SHEET

CAUSE TITLE: State vs. M/S. BSC of 1989 (1)

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State vs. M/S. BSC Applicant

Versus

Police Respondent

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Filed on 13-1-09

# CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001



Registration No. 12 of 1989 (C)

APPLICANT (s) B. P. Misra

RESPONDENT(s) U.O.C. & M.S.

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 ?	No
3. (a) Is the appeal in time ?	Yes
(b) If not, by how many days it is beyond time ?	—
(c) Has sufficient cause for not making the application in time, been filed ?	—
4. Has the document of authorisation, Vakalat-nama been filed ?	Yes
5. Is the application accompanied by B.D./Postal-Order for Rs. 50/-	1.p.o. No. DD 065192 dt 17-11-09 20.50/-
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 ?	Yes

22 4. 91

Hebl. Mr. D.K. Agarwal J.M  
Hebl. Mr. K. Obayya D.M

R/2  
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Put up tomorrow on  
Saral Jhansi case

4

JK

AP  
AM

22 4. 91

HON. MR D K Agarwal J.M  
HON MR K. Obayya D.M

argument of the  
Hear of the ~~both~~ parties  
Counsel Judgement tomorrow  
On 25 4. 91.

JK  
AP

JK  
JM

Re: Case of Sudha L

JK  
Court of And Justice  
29/4/91. muts

By fast to applicant counsel

629

8/5/91

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
M.C. / C.C. / M.C. C.H.O.

17/1

C.A./D. No. 12 1989(C)

B. P. Motra

Applicant(s)

Versus

U.O.L. 403

Respondent(s)

Date

Orders

2/2/89

Hm A. John, AM

Admit

Da respect relief A and relief C. This application is time barred and is not maintainable for other reliefs. The application is rejected in respect of the remainder.

Heard Sri Napernilak the learned counsel he does not press relief B & D. Respondent to file reply by 17.3.89. There after one week time for filing responses & the case is listed for hearing on 13.4.89.

Sd/  
AM

JMB

18/2/89

OB

Notices issued to the respondents No. 1 to 5 through Regd. Post from 13.4.89 for final hearing.

✓ 18/2/89  
JMB

OR

Notices fixing 17.3.89 for filing reply and 13.4.89 for final hearing have been issued to the respondents under registered post.

Neither any undelivered envelop nor any reply has been filed by respondents. Submitted for orders.

Chd  
11/6

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD  
CIRCUIT BENCH, LUCKNOW.

District : Lucknow

OA. 12 of 89 (C)

Between:

Bhagwant Prasad Misra .. Applicant  
Versus  
The Union of India through The General  
Manager Northern Railway, New Delhi etc. .. Respondents

APPLICATION U/S 19 OF THE ADMINISTRATIVE  
TRIBUNAL ACT, 1965

1. (i) Bhagwant Prasad Misra.  
(ii) Son of late Sheo Shanker Misra.  
(iii) The age of the applicant is about 78 years.  
(iv) Retired Senior Clerk under then Assistant  
Security Officer, Northern Railway, Divisional  
Office, Hazaraganj, Lucknow.  
(v) Same as given in paragraph 1(iv).  
(vi) C/o Shri D.K. Singh, Advocate 210, Civil Lines  
Barabanki.

2. (1) The Union of India, through the General Manager,  
Northern Railway, Baroda House, New Delhi.  
(2) The Chief Security Commissioner RPF, Northern  
Railway, Baroda House, New Delhi.  
(3) The Divisional Security Commissioner RPF/~~D.K.M.~~  
Office, Hazaraganj, Lucknow.  
(4) The Divisional Accounts Officer, Northern Railway,  
D.R.O. Office, Hazaraganj, Lucknow.

*Filed today  
Filed for 9/2/89  
Served on 13/1/89  
N. Raiwari*

(5) Inspector General R.P.F., Northern Railway,  
Baroda House ,New Delhi.

3. The applicant <sup>tion</sup> is against the following order:-

(i) Order No.731-E/110-RPF (Annexure No.7)

(ii) dated 31.5.1988

(iii) Passed by Chief Security Commissioner,RPF,  
Northern Railway Baroda House ,New Delhi-  
conveyed to the applicant by Divisional  
Security Commissioner/RPF,Lucknow, the  
opposite party No.3 vide letter No. PF/  
BEM/LKO/86 (Ex Sr.Clerk) dated 7.6.1988

(iv) Fixation of Pension and Pay with yearly  
increments and arrears which are not  
charged or paid.besides other reliefs.

4. That applicant declares that the subject matter  
of the order, against which he wants redressal, is within  
the jurisdiction of this Hon'ble Tribunal because the  
applicant was employed, posted and retired at Lucknow  
and within the Lucknow Division of Northern Railway,  
in Uttar Pradesh.

*Shagwanji M*

5. That the applicant further declares that the  
application is within the limitation prescribed in  
Section 21 of the Administrative Tribunals Act 1985

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because the impugned order is dated 31.5.1988, which has been conveyed to the applicant vide letter No. PF/BPL/LKO/86 (Ex Sr.Clerk) dated 7.6.88, issued by Divisional Security Commissioner/RPF, N.Railway, Lucknow.

6.

FACTS OF THE CASE

The facts of the case are given below:-

6.(1) That the applicant is an ex-Havaldar/Clerk of Indian Armed Forces and had been in active service overseas and was discharged from the Military on 5.12.1945 as he was declared unfit due to 21% disability. The applicant had served the Indian Armed Forces for and from 11.11.1942 to 4.12.1945.

6.(2) That thereafter the applicant was absorbed against reserved vacancy for War Service personnel as a clerk in the then E.I.Railway in the Watch and Ward department (Now Northern Railway R.P.F.) on and from 23.7.1947 and applicant's Military services rendered w.e.f. 11.11.1942 to 4.12.1945 were counted as qualifying service for all purposes by the

*W.B. 1942-45*

R.L.

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by the employers-opposite parties and break or gap period 5.12.1945 to 22.7.1947 i.e. from the date of retirement from the Military Service and before the date of joining service in Railway, is automatically condoned in terms of C.S.R. 356 and 2314 APP XX of Railway Establishment Code Vol.II and the said rule is quoted below:-

✓ "When order is passed under article 356 (2314) allowing Military Service to count as part of the service qualifying for civil pension, it should be taken as carrying with it condonation of break, if any, between the Military and civil service."

6. (3) That the applicant was confirmed as a junior clerk w.e.f. 1.6.1951.

6. (4) That in 1956 some posts of the clerks were upgraded in the department of the applicant at Lucknow and being one of the senior most clerks the applicant was entitled to be promoted hence the applicant made representations to the

27/5

authorities.

6. (5) That thereafter the applicant was promoted to the post of Senior Clerk vide security officer New Delhi letter No.752-E/3-RPF Pt II dated 15.9.1959 in the pay scale of Rs. 80-220 P.S. (Rs.130-300 A.M.) and was posted at Lucknow against upgraded post in the office of Assistant Security Officer , Lucknow and the promotion was made effective from 1.4.1956 and applicant was transferred from office of Principal Training Centre,Lucknow to the office of Assistant Security Officer,lucknow,where he joined and resumed hisduties on promotion on 21.10.1959.

6. (6) That thereafter the above said promotion order dated 15.9.1959 was cancelled vide security officer New Delhi letter No. 731-E/91-R.P.F. dated 14.11.1959 as a result of wrong interpretation of circular serial No. 199-circular No. 831-E/ 213(E IV) dated 21.11.67. This circular is to this effect that promotion after date 1.4.1956 were subject to passing of suitability

*and return*

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R/C

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test but the applicant was promoted w.e.f. 1.4.1956 and not after 1.4.1956. Inspite of cancellation of above said promotion order, the applicant continued on the post where he had joined after his promotion.

6.(7) That against the above said illegal cancellation of promotion order, the applicant represented his case to the General Manager, Northern Railway.

6.(8) That in the month of March, 1964, the applicant was told by the then Asstt. Security Officer, Northern Railway, Lucknow that the applicant had been transferred vide security Officer, New Delhi's order No. 752-E/3/1-RPF dated 10/11-3-64 to the head office New Delhi in the pay Scale of Rs. 80-220 P.S. but it was not mentioned in the transfer order dated 10/11-3-64 that the promotion of the applicant was effective from what date <sup>✓</sup> hence the applicant approached through proper channel to the Security Officer, New Delhi to clarify.

*Bhagwan D. Patel*

B/H

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the date of promotion because the applicant was entitled to his promotion ~~as~~ w.e.f. 1.4.1.56 & hence the applicant prayed for fixation of his pay and payments of arrears due and also wanted to ~~join~~ his ~~levee~~ <sup>join</sup>. The applicant also requested to post ~~for~~ the applicant at Lucknow in any of four offices of security department at Lucknow on the grounds that the wife of the applicant was seriously ill and son-in-law of the applicant was in Military Service with his posting in operational area hence family of the son -in-law was residing under the care of the applicant at Lucknow. It is also important to note that the security Officer , New Delhi had no jurisdiction and was not competent to order ~~inter~~ <sup>inter</sup> divisional transfer and the competent authority is defined in rule 2003(5) Indian Establishment Code Volume II. The Assistant security Officer, Lucknow had recommended the case of the applicant for retention at Lucknow .It is important to

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R/C

Note that neither the applicant was spared by Asstt. Security Officer nor any transfer order was given to the applicant personally and the applicant did not refuse to go on transfer on promotion to Head Quarter and applicant continued to work at his old post of posting since 21.10.1959 till the date of his retirement (11.7.1968).

6.(9) That it is important to note that in May 1964 a clerk of grade of the applicant was transferred from Head Quarter's Office to the Office of the Security Officer (East), Lucknow and two more clerks of the same grade were transferred from Allahabad and Moradabad Divisions to the office of security Officer (East), Lucknow during that very period. Besides these facts the applicant was also informed that his promotion would be effective on resumption of his duty.

6.(10) That thereafter the applicant was debarred for promotion vide security Officer R.P.F.

New Delhi notice No.752-E/3/1/R.PF dated  
8/14.4.1965 inspite of this fact that the  
applicant did not refuse to move on transfer.  
A true copy of the above letter is annexed  
herewith as annexure No.1 and later on it was  
told to the applicant that the applicant  
was debarred for one year only.

6.(11) That thereafter the applicant was promoted  
again w.e.f. 16.3.1966 with his posting at  
Lucknow at his old seat and post where he  
was already working but the applicant was  
not given his promotion from his due date  
i.e. 1.4.1956.

6.(12) That thereafter matter was referred to  
the Railway Board who decided the case  
of promotion of applicant making it effective  
from 1.4.1956 and the order of the Railway  
Board has been conveyed by the Northern  
Railway Head Quarter's Office New Delhi  
vide its letter No.69/E III/C/105 dated  
14.3.1966 to the Divisional Accounts Officer

*Substantiated*

S/1

Northern Railway, Lucknow whose true copy is annexed herewith as annexure No.2 . This annexure shows that Railway Board had already decided the dispute about the date of promotion of the applicant vide their letter No. E(-CT) 65 AE 8/229, dated 15.2. 1969 but the copy of the Board's order has never been given to the applicant.

6.(13) That before the decision of the Railway Board was being conveyed to the Devisional Accounts Officer, Lucknow , the applicant had already retired on 11.7.1968.

6. (14) That the Head Quarter's Office of Northern Railway had sent a pay fixation chart of the applicant to the Security Officer (E), Lucknow vide letter No. 752-L/ 3/1-RPF dated 19.6.69, whose true copy is annexed herewith as annexure No.3.

6.(15) That this annexure No.3 shows that the applicant has been given proforma

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fixation of pay for the period 4.1.1960 to 11.3.64 and no arrears of pay etc. were allowed to the applicant. Besides this the basic salary of the applicant was Rs.184-00 even upto 3.4.66 though on 1.4.64 the basic salary of the applicant might have been Rs. 192-00 and on 1.4.65 it would have been Rs. 200.00 and on 1.4.66 ~~it~~ would have been Rs. 208.00 and on 1.4.67 it would have been Rs. 216~~7~~.00 or 220.00 and on 1.4.68 it would have been Rs. 220.00 or more. A perusal of this annexure would further show that the pay of the applicant could not <sup>be</sup> raised from Rs. 200.00 due to ~~cross~~ of E.B. only because oral E.B. test could not be held till the date of retirement of the applicant though there was ~~no~~ fault on the part of the applicant.

6. (16) That thereafter applicant was given anticipatory pension on the maximum pay of Rs. 200-00 p.m. only because period of service



of applicant in military and gap between the military service and joining the service at the Railways were to be considered to compute the pension according to period of service and Lucknow office was always waiting for the decision which can be verified from the annexure No. 4 which is attached herewith as annexure No. 4.

6.(17) That after his retirement, on 5.1.88 the applicant gave an appeal to the Inspector General, R.P.F., Northern Railway ,New Delhi whose true copy is annexed herewith as annexure No.5 .

6.(18) That thereafter on appeal dated 5.1.1988 parawise report was called for from ~~divisional~~ RPF Office Hazaratganj, Lucknow ,who submitted a parawise report to the Chief Security Commissioner R.P.F. N. Rly. Barada House New Delhi vide No. PF/BPL/LKO/86 (Ex Sr.Clerk) dated 6/8-4-1988, whose photostat true copy is annexed herewith as annexure No.6.

*13/8/88*

RJH

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6.(19) That thereafter the Chief Security Commissioner took a final decision on 31.5.88 which is conveyed to the applicant vide letter No. PF/BEM/LKO/86 (ex.Sr.Clerk) dated 7.6.1988 by Divisional Security Commissioner/RPF.N.Railway, Lucknow whose true copy is annexed herewith as annexure No.7.

6.(20) That the final decision ~~is~~ is illegal and without consideration of this fact that the decision of the Railway Board contained in annexure No.2 has not been considered and it, has not been seen that the applicant was given anticipatory pension at Rs. 200-00 basic salary though the applicant's basic salary might have been Rs. 220-00 on the date of his retirement and due to non charging of correct pay and non considering the higher period of service the applicant is not getting due pension, sets of free travelling passes etc. and has suffered gratuity, fund etc. with arrears.

7. That the applicant is a retired person and

no appeal is provided against the last final order, which is under challenge hence now the remedy is only by way of this petition.

8. That the applicant further declares that he had not filed any application writ petition or suit, regarding the matter in respect of which this application has been made, before any court of law or any other authority or any other Bench of the Tribunal and nor any such application, writ petition or suit is pending before any of them.

9. That in view of the facts mentioned in para 6 above the applicant prays for and <sup>is</sup> entitled <sub>to</sub> the following reliefs:-

(a) That the order dated 31.5.88, passed by Chief Security Commissioner R.P.F., N.Rly., Baroda House, New Delhi conveyed to the applicant, contained in annexure No.7 to this application, may kindly be set aside holding that the applicant has been given less pension than he is entitled to get and the applicant be

Chagant Zir. Amizer

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given all yearly increments with all allowances and arrears thereof.

(b) That this also be held that the promotion of the applicant to the post of Senior Clerk be treated effective from 1.4.1956 for pension , length of service, gratuity, funds, free travelling passes and all other benefits.

(c) That the period (gap) 11.11.1942 to 11.7.1968 between military service and Railway's service be ordered to be treated in service for all purposes and issuing free travelling passes and other benefits available after the retirement.

(d) That the transfer cum promotion order dated 10/11-3-1964 be set aside alongwith the order of debarment for promotion to the post of senior clerk contained in annexure No.1.

(e) That the applicant be allowed pension according to latest rules and decisions of Hon'ble Supreme Court of India.

*Concorded by*  
*Shri M. S. Venkateswaran*

16.

(f) That the 12% interest may kindly be awarded against all arrears and unpaid money of the applicant.

(g) That the applicant be granted compensation for harassment and non payment of dues etc. to the applicant by the opposite parties besides costs of the case.

10. That pending final decision of the application, the applicant seeks issue of the following interim order:-

(a) That the pension be ordered be paid to the applicant by opposite parties according to basic salary of Rs. 220-00 per month.

(b) That two sets of free travelling passes be issued per year to the applicant and his family as per rule, because the applicant had completed 25 years of service and then retired.

11. That the application is presented by

Applicant Please

47/7

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hand with wakalatnama of his counsel.

12. That the applicant has attached to this application a postal order No. DD 065192 dated 17-11-1988, issued by Post Office High Court Bench, Lucknow for Rs. 50.00.

13. That the list of enclosures is -

(1) Letter No. 752 -E/3/1/R.P.F. dated 8/14.4.1969 (Annexure No.1)

(2) Letter No. 69/E III/C/105 dated 14.3.1969, issued by Northern Railway Head Quarters Office, New Delhi (Annexure No.2).

(3) Pay fixation Chart dated 19.6.69 (Annexure No.3).

(4) Letter dated 20.7.1987, sent by Senior Security Commissioner/RPF N. Railway, Lucknow to the Dy. Chief Security Commissioner N.Rly. Baroda House, New Delhi (Annexure No.4)

*Planned and printed*

18/10/88

.18.

(5) Appeal of the applicant to Inspector

General R.P.F., N.Rly. (Annexure No.5).

(6) Comments on Annexure No.5, submitted by

Lucknow Office of R.P.F. (Annexure No.6).

(7) Impugned order, which is under

challenge. (Annexure No.7).

#### VERIFICATION

I, Bhagwant Prasad Misra, S/o Shri Sheo  
Shanker Misra, aged about 75 years, R/o Village and  
Post Dhananli, District Barabanki, do hereby verify  
that the contents of paras 1 to 3, 6, 8, 10, 11, 12 and 13  
are true to my personal knowledge and paras 4, 5, 7 and 9  
are believed to be true on legal advice and that I  
have not suppressed any material fact.

Dated 30.10.1988

4-1-1989

Place:- Lucknow.

Bhagwant P. Misra

(BHAGWANT PRASAD MISRA)

Brigadier D. S. Misra  
Security Officer  
Central Railway, Secunderabad

AP/3

ANNEXURE NO.

No. 752-E/3/1\_EBF

Dated 8/14/65.

From, Security Officer, New Delhi

To, The Asstt. Security Officer, ... Railway,  
Lucknow.

Sub:- Shri B.R. Misra, clerk.

Your letter No. E II/64 dated 26.3.65.

Since the above named has not effected transfer to  
Delhi on promotion in grade 80/220, 130/300, ordered  
vide this office letter of even No. dated 11/3/64,  
inspite of issue of repeated reminders, he is  
debarred for promotion to grade 80-220/130-300.

Sd./-G.O. Purohit.

True Copy  
M. Nasarullah  
Adv.

13/4

Security Officer (E)

True Copy

Bansil

1/2

ANNEXURE NO. 2.

III COPY  
No. 69/...../C/105, Northern Railway  
Chedivl. Accounts Id. Quarters Office, Baroda House,  
Officer. New Delhi.  
Lucknow Dated/-14.3.1969

Sub.: - Alleged non-promotion of Shri B.P. Misra,  
Clerk, RPF, ASO's Office, N.Railway, Lucknow

A copy of Railway Board's letter No.E(SCT)65 AE 3/229,  
dated 15.2.69 on the above subject is sent herewith for  
information and necessary action.

Sd./- Illerible,  
for F.A. & C.A.O./E.

Copy of letter as referred to above

Reference copy of order resting with your Dy.CPO's D.O.  
letter No.752-E/3/1-RPF dated 13.5.68 on the above subject.  
The Board agree that Shri B.P. Misra may be allowed, as  
a special case the benefit of fixation of pay for the  
period from 4.1.60 to 11.3.64 by virtue of his position  
against the ungraded post with effect from 1.4.56 in  
terms of Board's letter No.E(S)/1/67/CPC-40, dated 7.3.57.  
The Board also agree to the waiver by you, in consultation  
with your F.A. & C.A.O. of the over-payment made in this  
case to the actual incumbent.

It is also observed that there is a lapse on the part of  
the administration in not arranging the promotion of Shri  
Misra w.e.f. 1.4.56. The Board desire that the responsi-  
bility for the lapse should be fixed and suitable action  
taken against the staff concerned under advice to them.

True copy  
M. Meherwanji

True copy

Praveen

R/103

EXHIBIT NO.

Northern Railway  
Headquarters Officer  
Baroda House, New Delhi  
No. 752-E/3/1-RPF      Dated: 19.6.69.

The Security Officer(E)  
Lucknow

Sub.: Fixation of pay of Senior Clerk B.P. Misra  
From 1.4.56 in P/Scale 80-220--

1.4.56	90.00	The payment of arrear is
<del>1.4.56</del>	<del>1.4.56</del>	to be given from 1.4.56
1.4.57	95.00	to 3.1.60.
1.4.58	100.00	
1.4.59	105.00	
In authorised scale Rs.130-300.		
1.7.59	155.00	
1.4.60	160.00	
1.4.61	168.00	Only formal fixation. Now arrears pay to be
1.4.62	176.00	allowed from 4.1.60 to 11.3.64
1.4.63	184.00	
16.3.66	192.00	
4.4.66	200.00	
4.4.68	208.00	

He was due to cross EB at the stage of 200/ in / S 130-300 but E.B. test which should have been oral could not be held as he retired on attaining the age limit on 11.7.68 A.M.

His service Roll, old and new, Personal file and fixation papers are sent herewith.

Sd./-Illegible

For Chief Security-Officer  
Copy to A.S.O./N. Rly., Lucknow.

True copy

Prabagwan Misra

True copy  
Prabagwan Misra

Bl. 2, Sector 4, Pusa Road, Lucknow, U.P. 226002

## ANNEXURE-4

RCW

Northern Railway.

No. PF/BPM/LKO/86 (Ex. Sr. Clerk)  
Dated: 20.7.1987.

Divisional RPF Office,  
Hazratganj, Lucknow.

Dy.  
The/Chief Security Commissioner,  
N.Rly., Baroda House, NEW DELHI.

Sub: Payment of Settlement dues to Sri B.P. Misra,  
Ex.Sr.Clerk/Security Branch, N.Rly., Lucknow.

Ref: HQrs office letter No.731-E/110-RPF D/- 1.12.86  
and this office letter of even no. dt. 16.12.86.

Sri B. P. Misra, Ex.Sr.Clerk, Security Branch, N.Railway, Lucknow Division has represented to this office for arranging his Settlement dues by condoning the period of break in service between date of Discharge from Military Service to the date of his enlistment in Railways i.e. from 05.12.1945 to 22.7.1947; which was not taken into a/c while settling him in 1958 on his superannuation.

It is requested that formal sanction of the competent authority to the condonation of break in service as stated in para 1 above may kindly be obtained and communicated to this office to enable to take further needful action at this end accordingly.

A perusal of the personal file of Shri Misra available in this office reveals that a reference was made by the Security Branch, Baroda House, New Delhi to the Supdt. (Pension), HQ office in connection with the condonation of break in non Military & Railway Service as advised in terms of HQrs letter No.720-E/1-RPF dated 4/12.6.1968 and the decision arrived at has not so far been communicated.

Early orders are solicited please.

*Sanction*  
20/7/87

Sr. Security Commissioner/RPF,  
N.Railway, Lucknow.

Copy to Shri B.P. Misra, Ex.Sr.Clerk, At Vill: & P.O. Dhanavli,  
via Haidergarh, Distt: Barabanki for information.

*Bhagwan P. Misra*

*True copy  
M. Mehta*

R.S  
R.S

Annexure No. 5

To  
The Inspector General  
R.P.F.N.Rly  
New Delhi.

Respected Sir,

Sub.: - Non-payment of Final pension and D.C.R.G.  
though twenty years as I was retired  
on and from 12-7-68 on provisional pension and  
D.C.R.G.

Before I proceed with my grievances I most submissively request to your honour to excuse me for making an encroachment on your valuable time but circumstances compelled me to do so. The salient features of my grievances are as under:-

1. That I am an ex-Hav-/ clerk(Combatant) of Armed Forces and had been on active service overseas in "paiforce" for about two years during 2nd Great World War. I was Boarded out with 20% disability and consequently discharged from the Military on and from 5/12/45.

2. That I was absorbed as a clerk in the E.I. Rly in the Watch & Ward Dept ( Bow N. Rly R.P.F.) on and from 23.7.47 and my military services from 11.11.42 to 4.12.45 were counted as qualifying service for all purposes i.e. for pension and other privileges and break in services i.e. for 5.12.45 to 22.7.47 between Military service and Civil ~~(2314) XXXXXXXXX XXXXX~~ service ~~XXXXX~~ is automatically condoned in terms of C.S.R. 356 (2314) APP. XXX of Rly Establishment Code Vol.II as such no sanction of competent authority is required in case of coded rule which runs as under:-

" When order is passed under Article 356 C.S.R. (2314) allowing Military service to count as it should be taken as carrying with it condonation of break, if any, between the Military and the Civil service."

3. That I was promoted against the upgraded post on

(Signature)

.2.

and from 1.4.56 vide security Officer, New Delhi's order No. 752-E/3-RPF(Pt.II) dated 15.9.59 and transferred from the office of principal, R.P.F. Training Central/LKO to the Asstt. Security Officers' Office, N.Rly Hazratganj, Lucknow duties on 21/10/59 against the upgraded post. My fixation ~~xxxxxx58xxxxxx68xx~~ of pay in ~~xxxxx4~~ P/S 80-220 from 1.4.56 to 1.4.59 in and A/S 130.300 Rs.184/- p.m. from 2/4/63 to 15.9.66 no yearly increment was given to me. on 16.3.66 my pay was again shown as Rs.184/- p.m. reason best known to Security Branch.

4. That I represented my case against this high handedness of Security Branch, New Delhi to the Rly Board, New Delhi. The Rly Board decided the case vide their letter No. E(SCT)65 AE8/229 dated 15.2.69 (copy attached for read reference). The security Branch/New Delhi has not taken any action and disobeyed the administrative order of Rly Board New Delhi. This they have done only to harass me and to save their skin for the wrong done in my case.

5. That I was retired on an from 12.7.68 and was granted anticipatory pension and D.C.R.G., paying that my fixation of pay as senior clerk is pending in the Chief Security Office, New Delhi.

6. That final settlement of pension and D.C.R.G. is to be done by the Commandant N.Rly.Hazaratganj, Lucknow and sole responsibility of not fixing my pay as senior clerk as directed by the Rly Board New Delhi vide their No. E(SCT) AE8/229 dated 15.2.69 (copy attached) lies on Chief Security Officer, N.Rly/New Delhi.

Under these circumstances I most submissively pray to your honour to be so gracious as to issue necessary directive to concerning authorities, giving the time limit to finalize the long outstanding case of nineteen years and as ~~lets~~ ~~will~~ speedily as possible so that this poor employee may get his well earned dues and privileges in his life time.

For this act of kindness I shall ever remain indebted to your honour and always pray your honour's longevity and prosperity.

Thanking your honour in anticipation and begging your pardon for the trouble caused to your honour.

Yours faithfully -

Sd./-

(Bhagwant Pd.Misra)

Ex-Senior Clerk

C/o Sri D.K. Singh Advocate  
Dated: 5.1.1988 210, Civil Lines, Barabanki.

True Copy

*gmrizzz*

Annexure No.6

Northern Railway.

Per Special Messenger.

No. PF/BPM/LKO/86 (Ex. Sr. Clerk)  
Dated: 06.4.1988.

Divisional RPF Office,  
Hazratganj, Lucknow.

The Chief Security Commissioner/RPF,  
N.Rly., Baroda House, NEW Delhi.

Sub: Payment of Final Pension & DCRG to Shri B.P. Misra,  
Retired Sr. Clerk, Security Branch, LKO Divn.

Ref: HQrs letter No.731-E/110-RPF dated 28.1.1988.

Parawise comments on the representation dt. 05.1.88  
of Shri B.P. Misra, Ex. Sr. Clerk, Security Branch, LKO Divn. are  
furnished as under as desired please:-

1. As per this office records, the abovenamed served in the Army as Hav. Clerk/Gr.III from 11.11.42 to 04.12.45 (i.e. 03 yrs. & 24 days) before his appointment in the Railway w.e.f. 23.7.1947 as Clerk in Grade E.55-130.

2. As regards his contention that his Military Services from 11.11.42 to 04.12.45 were counted towards qualifying service for all purposes is correct & as regards condonation of break in Military & Railway Services, as per Indian Railway Establishment Code Volume II IVth Rpt Re-Print C.S.R.356 (2314) (App.XXX) it lays down as under:-

" Break in service - When an order is passed under Article 356 C.S.R.(2314) allowing previous Military Service to count as part of the service qualifying for Civil Pension, it should be taken as carrying with it condonation of break, if any, in the Military Service or, the break, if any, between the Military Service & the Civil Service. "

Orders of the competent authority to the condonation of break in Military & Railway Services viz. for the period from 05.12.45 to 22.7.1947 may kindly be obtained and communicated to this office to enable to draw the Revised Pension & D.C.R.G. in respect of Shri B.P. Misra at this end accordingly.

3. Shri Misra was transferred from Training College/LKO to the office of Security Officer, N.Railway, Lucknow w.e.f. 03.11.59 in terms of HQrs letter No.752-E/3-RPF(Pt.II) dated 15.9.1959. As regards his fixation of pay, it was done by the HQrs office, Baroda House, New Delhi as per practice then prevalent in the Security Branch in that the whole Establishment matters of the Ministerial Staff of Security Branch of the Northern Railway was centralised in the Security Branch, Baroda House, New Delhi.

4. This para relates to HQrs office as the fixation of pay etc. as directed in Board's letter No.E(SCT)65 AE8/229 dated 15.2.69 which had a reference to the Dy. Comm C.P.O./N.Rly./ Baroda House, New Delhi's letter No.752-E/3/1-RPF dated 13.5.68 was to be finalised at the HQrs level where fixation of pay of all the Ministerial staff of Security Branch was being dealt with.

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S/2

:Page 2:

5. This para relates to HQrs office where the fixation of Pay of the representationist Ex.Sr.Clerk was pending, as per his own version.

6. After the fixation of Pay as claimed by the representationist Ex.Sr.Clerk Sri B.P. Misra is finalised by the HQrs office, needful action to ~~new~~/his Revised Pension/D.C.R.G. shall be taken at this end accordingly.

Details of fixation of Pay as done by HQrs office appears at page 10 of the S/R of the retired Sr.Clerk in A/S Rs.150-300.

Weightage of Military Service rendered by Sri B.P.Misra for the period from 11.11.42 to 04.12.45 (i.e. 03 yrs. & 24 days) duly verified by DAO/N.Railway/Lucknow appears at Page 6 of the S/R & the fixation made thereunder in A/S Rs.110-180 appears at Page 11.

Representation dt. 05.1.88 of Shri B.P. Misra alongwith his S/R are sent herewith as desired for favour of further needful action at your end please.

DA/02 (Representation & S/R of Sri B.P.Misra, Ex.Sr.Clerk).

Divl.Security Commissioner/RPF, Lucknow.

Copy to Shri B.P. Misra, Ex.Sr.Clerk, C/O Dr. Sri D.K.Singh, Advocate, 210, Civil Lines, Barabanki for information in ref. to his representation dt. 05.1.88 addressed to the IG/RPF/N.Railway, New Delhi.

1 mi copy  
AS

Bhagwanlal Misra



ANNEXURE NO. 7

Northern Railway.

Divisional RPF Officer,  
NRPF/ BPN/ LKO/ 76 (Ex. Sr. Clerk, Hazaribagh, Jharkhand, 1976)  
Hazaratganj, Lucknow

Copy

Dated 07.6.1988

Sri B.P. Misra,  
Ex. Sr. Clerk,  
Vills & P.O. Dhanaulti  
via Kaidergarh,  
Distt. Barabanki, U.P.

Sub:- Payment of Final Pension & D.C. R.G.  
to Shri B.P. Misra, Retired Sr. Clerk, Security  
Branch, LKO Divn.

...

The decision of the Chief Security Commissioner  
RPF, N.Railway, Barada House, New Delhi as communicated  
to this office under HQrs letter No, 731-E/110-RPF  
dated 31. 5.83 is reproduced below for your  
information:-

"As per instructions contained in Railway Board  
's letter No.F(E)III 78-PNI/3 dated 20.4.76,  
circulated under G....(P)/...Railway's serial No.  
65/3, interruption between the spells of ~~service~~  
~~services~~ rendered under the Central Govt.  
~~Defence~~  
and the ~~Defence~~ Services will be treated as  
automatically condoned and the re-interruption  
service will be treated as qualifying service  
for pension, but the period of interruption  
itself will under no circumstances be reckoned  
as qualifying service for pension. accordingly,  
he has already got full pensionary benefits  
admissible under the rules & nothing is now due  
to the above named. He may please be advised  
accordingly."

.....  
Please acknowledge receipt. Civil Security  
Commissioner/Railway, Lucknow, U.P.

Give copy  
S. B. Misra  
Hazaratganj, Lucknow

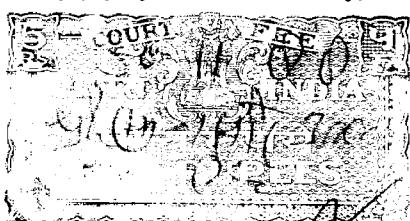
इ अदालत अधीकान्

| तदी | अपीलान्ट

प्रतिवादी (रेप्पाडेन्ट)

महोदय

## त्रिकालतनामा



दी (अपीलान्ट)

बनाम

प्रतिवादी (रेप्पाडेन्ट)

५० लुकहमा

सन् १९८०

पेशी की ता०

११ ई०

अपर तिले मुकहमा में अपनी ओर से श्री M. NASEERULLAH  
158/1st Gharan P. Road, Lucknow, A. A. ZAIL  
Shailendra Mishra, Advocate, (५०८) एम्पीएच ए, Pan Bazar  
Cal Rd. Lucknow.

अदालत	उत्तम
न० ८०	प्रतिवादी
भास्त्र	कुकहमा
कुकहमा	प्रतिवादी

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकहमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देही व प्रश्नोत्तर करें या कोई कागज वालिम करें या लीटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से वालिम करें और तसदीक करें मुकहमा उठावें या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानी) का वालिम किया हुआ रुपया अपने या हमारे हस्ताक्षर पुक्त (दस्तखती) रसीद से लेवे या यंच नियुक्त करें—वकील महोदय द्वारा की गई वह तब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को मेजता रहूंगा अगर मुकहमा अदम पैरवी में एक तरफा मेरे खिलाफ फँसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर जहाँ होगी इसलिए यह अकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

Braguant  
हस्ताक्षर

ताली (ववाह)

साक्षी (गवाह)

दिनांक

२१८०

महीना

सन् १९८०

स्वीकृत

३०th

३. ११.८०

Accepted  
Signed  
3/1/89

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL BENCH,  
SITTING AT LUCKNOW.

Registration No. 12 of 1989 (L).

...

B E T W E E N

B.P. Misra.

.....Applicant.

Versus

Union of India & others

.....Respondents.

Fixed for: 25-9-89  
31-10-89

COUNTER REPLY  
=====

I, A. S. Khan, working as  
Asstt Security Commr, R.P.F., Northern Railway,  
Lucknow, do hereby solemnly affirm and state as  
under :-

1. That the official above named is well conversant with the facts of the case and has read the claim petition and understood its contents and has been authorised by the Respondents to file this

2/1  
2/1

application on their behalf.

2- That the contents of paras 1 and 2 of the application need no comments.

3- That in reply to the contents of para 3 of the application it is stated that the pension and other post retirement benefits were correctly fixed and paid to the applicant and the letter dated 31.5.88 is not a final order by any stipulation as alleged.

4- That the contents of para 4 of the application do not call for any comments.

5- That in reply to the contents of para 5 of the application it is stated that the applicant retired with effect from 11.7.68 A.N. and accordingly all his post retirement benefits which were due to him as per rules were duly paid to him. The said letter dated 31.5.88 communicated to the applicant by the letter dated 7.6.88 is merely reiteration of the factual position of his case till the date of his retirement and the said letter are not final order. Since the applicant retired on 11.7.68 and duly accepted all his post retirement settlement dues hence he can

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not agitate the same matter by way of this application as it has become highly timebarred.

6- That the contents of para 6.1 of the application is not denied.

7. That the contents of para 6.2 of the application is not admitted as stated. The applicant was appointed in the railways with effect from 23.7.47 and his military service from 11.11.42 to 4.12.45 was counted as qualifying service for pension. However it may here be clarified that the period from 5.12.45 to 22.7.47 i.e. the gap of service between when he was discharged from military service and when he joined the railway service was treated as automatically condoned but this gap of service/interruption period was not reckoned as qualifying service for calculation of pension as per extent orders/rules.

8- That the contents of para 6.3 of the application is not denied.

9- That the contents of para 6.4 of the application is not admitted as stated. Sri P.K. Banerjee, S.B. Singh and T.P. Pathak who were senior to the applicant, were promoted from clerks to the said 3 up graded posts of senior clerk on Lucknow division with effect from 1.4.56.

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*[Handwritten signature/initials are present at the bottom left of the page.]*

10- That the contents of para 6.5 of the application is not denied.

11- That the contents of para 6.6 of the application is not admitted as stated. The applicant was promoted as senior clerk vide order dated 15.9.59 but since all the promotions as senior clerk after 1.4.56 were subject to passing the qualifying written test, the promotion order of the applicant dated 15-9-59 was cancelled vide by the Security Officer, R.P.F., Northern Railway, New Delhi's letter dated 14.11.59.

12. That the contents of para 6.7 of the application is not denied except there was no illegality in the said order dated 14.11.59.

13- That the contents of para 6.8 of the application is categorically denied. The Security Officer was fully competent to transfer the applicant from Lucknow to Delhi.

14- That the contents of para 6.9 of the application is denied being irrelevant.

15. That the contents of para 6.10 of the application is denied. The applicant despite repeated reminders did not comply with his transfer/

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promotion order dated 11.3.64, by which he was promoted as senior clerk and transferred to Delhi, hence he was debarred from this promotion vide annexure No.1 to the application.

*in reply to*

16- That the contents of paras 6.11 and 6.12 of the application it is stated that the applicant was promoted as senior clerk with effect from 16.3.66 and was allowed his arrears against this post from 1.4.56 to 3.1.60 (this over payment was waived by the Railway Board) . He was given proforma fixation of pay from 4.1.60 to 11.3.64 as per Railway Board's letter dated 14.3.69 as contained in annexure No.2 to the application.

17- That the contents of paras 6.13 and 6.14 of the application are not denied.

18- That the contents of para 6.15 of the application is denied as alleged. It is denied that the basic pay of the applicant as senior clerk up to 3.4.66 was Rs.184/- and it is also incorrect to say that the applicant was not granted increments on 1.4.67 and 1.4.68 because as per pay fixation statement dated 29.11.71, prepared by the Assistant Security Officer, Northern Railway, Lucknow, in whose office the

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the applicant was working at the time of his retirement. This pay fixation was finalised by the Divisional Accounts Officer, Northern Railway, Lucknow on 2.3.72.

19. That in reply to the contents of para 6.16 of the application it is further clarified that the entire military service period of the applicant from 11.11.42 to 5.12.45 was counted as qualifying service for all purposes and the break/gap between the military and railway services for the period from 5.12.45 to 22.7.47 was automatically condoned as also admitted by the applicant himself in his (Late/Timebarred) representation dated 5.1.88 but this period of break/gap/interruption of service is not reckoned as qualifying service for the purposes of calculation of post retirement benefits as per extent order/rules.

20- That the contents of paras 6.17 to 6.19 of the application are not denied. However it is pointed out that though the applicant retired with effect from 11.7.68 A.N. and maintained silence for about 20 years, without making any protest etc. the applicant made his first ever representation

dated 5.1.88, contained in annexure No. 5 to the application. The applicant has also not explained the cause of so much delay (20 years) in making the representation. Out of sheer goodwill, the representation of the applicant was duly replied by the railway administration but the applicant can not claim limitation on this score.

21- That the contents of para 6.20 of the application is denied as alleged. The reply given to the applicant vide the letter dated 31.5.88, communicated to him vide the letter dated 7.6.88 or not final decision/order but merely a reiteration of factual position till his retirement on 11.7.68 A.N.. The basic pay of the applicant was fixed at // at Rs.216/- (and not Rs.200/- as alleged) , as explained in para 18 hereinabove and the applicant is not entitled to claim any such relief as alleged.

22- That the contents of para 7 of the application is denied as alleged.

23- That in reply to the contents of para 8 of the application it is stated that the applicant has concealed material fact from this Hon'able Court by not stating that he had earlier filed a writ petition No. 439 of 1968 in Hon'able High

Court which was decided on 23.4.70. The applicant had also preferred an application No. 142 of 1972 in the Court of the Authority appointed under the Payment of Wages Act, 1937 (IV of 1936) for Lucknow area, in which he had claimed the less payment of his gratuity. The applicant has not discharged disclosed these facts before this Hon'able Tribunal.

24. That in reply to the contents of paras 9 and 10 of the application it is stated that the applicant has already been given all/full post retirement benefits admissible to him under the rules much before filing of this application and no further relief, as alleged, is due to him.

25. That the contents of paras 11 to 13 of the application need no comments.

*25/8/89*  
Lucknow:

Dated: 25.8.89

*25/8/89*  
(A. S. Khan)  
Asstt. Security Commissioner (RPF)  
क्षेत्रीक रुक्षा अधिकारी (रुक्षा एसी)  
Northern Railway, Lucknow.

V E R I F I C A T I O N  
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I, the above named official do hereby verify

That the contents of para 1 of this reply are true on the basis of personal knowledge and those of paras 2 to 25 of this reply are believed by me to be true on the basis of records and legal advice. Nothing material has been concealed.

Lucknow:

Dated: 25.8.89

*AS Khan* 25/8/89  
(A S Khan)  
Asstt. Security Commissioner (RPF)  
Northern Railway, Lucknow.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ~~BENCH~~, SITTING  
AT LUCKNOW

In re:- C.A. No.12 of 1989 (L)

Bhagwant Prasad Misra ..... Applicant

Versus

The Union of India & others ..... Respondents

REJOUNDER TO THE COUNTER REPLY

I, Bhagwant Prasad Misra, aged about 78 years, son of late Sheo Shanker Misra, r/o 210, Civil Lines, Barabanki, do hereby solemnly affirm and state as under:-

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1. That the contents of paragraph 1 of counter reply are denied to this extent that Shri S. Khan, who has filed

reply to the claim application is not fully conversant with the facts.

2. That the paragraph 2 of the counter reply needs no reply.

3. That the contents of paragraph 3 of counter reply are denied as alleged. The order under challenge in this petition is a final order and the applicant has



not been given the due pension and other post retirement  
benefits

4. That the contents of paragraph 4 of counter reply  
need no reply.

5. That the contents of paragraph 5 of counter reply  
are denied as alleged and in its reply contents of  
paragraph 5 of claim petition are reiterated. It is to  
say further that the representation of the claimant was  
under consideration and that has been finally decided by  
the Chief Security Commissioner, the opposite party No.2.

6. That the contents of paragraph 6.1 of the  
counter reply need no reply.

7. That the contents of paragraph 6.2 of the  
counter reply are denied and in its reply contents  
of paragraph 6.2 of the claim petition are reaffirmed  
to be correct. It is notable that inspite of automatic  
condonation in the gap of Military service and the  
railway service, the claimant has been allowed and  
given only one <sup>per year</sup> ~~free travelling~~ <sup>Complimentary</sup> ~~family~~ pass though he  
is entitled to get two passes because he has completed

20 years of service and the pension is also granted on qualifying service which comes to more than 20 years in the case of the claimant and on that period the claimant is further entitled to more gratuity.

8. That the contents of paragraph 8 of counter reply need no reply because that paragraph of the claim petition is not denied.

9. That the contents of paragraph 9 of the counter reply are denied and in its reply contents of paragraph 6.4 are reiterated. It is to further clarify that there was mass ~~up~~<sup>up</sup>grading of posts from 1.4.56 and in the first phase Shri P.K. Banarji, S.B. Singh and T.P. Pathak were promoted. In the second phase when Shri P.K. Banarji and Shri S.B. Singh were again promoted to higher post, the claimant was promoted to the post of senior clerk ~~again~~<sup>—st</sup> the existing upgraded posts at Lucknow in scale of Rs. 80-220 with retrospective effect i.e. w.e.f. 1.4.56.

10. That the paragraph 10 of the counter reply needs no reply.

11. That the paragraph 11 of counter reply is

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denied as alleged and in its reply contents of paragraph 6.6 are reaffirmed to be correct with this correction that the date of the circular No. 831-E/213 (E.IV) is 21.11.1957 and date of the said circular mentioned in paragraph 6.6 as 21.11.87 is incorrect and it must be read as 21.11.57.

12. That the contents of paragraph 12 of the counter reply are denied as alleged. The said order was illegal.

13. That the paragraph 13 of the counter reply is denied and in its reply paragraph 6.8 of the claim petition is reaffirmed to be correct.

14. That the paragraph 14 of the counter reply is denied and in its reply paragraph 6.9 is reiterated.

15. That the paragraph 15 of the counter reply is denied and in its reply contents of paragraph 6.10 are reaffirmed to be correct.

16. That the contents of paragraph 16 of counter reply are not disputed but contents of paragraphs 6.11 and 6.12 are reiterated.

17. That paragraph 17 of the counter reply needs

Pls. forward to Justice

(P&C)

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no reply because paragraphs 6.13 and 6.14 of the claim petition are not denied.

18. That paragraph 18 of the counter reply is denied as alleged and in its reply contents of paragraph 6.15 of claim petition are reaffirmed to be correct.

The applicant is not aware of any pay fixation statement dated 29.11.71 and the finalization of the same on 2.3.72. The chart itself speaks that no fixation from 1.4.1964 to 14.3.66 has been shown. It is notable that pay of applicant was Rs. 184.00 and it remained Rs.184.00 on 16.3.66 also and an increment was charged on 4.4.1966 making the salary of the applicant as Rs.192.00 as per annexure No. 3 of the application itself.

19. That the contents of paragraph 19 of counter reply are denied as alleged and in its reply paragraph 6.16 of the claim petition is reaffirmed to be correct. It is not clarified by the railways what benefit is given to the claimant before and after the joining of service in railways after automatic condonation of break in service.

(P&C)

20. That the contents of paragraph 20 of the counter reply are denied as alleged. After retirement the applicant made <sup>may</sup> representations to the railway authorities and at last an appeal was given to Inspector General of R.P.F., Northern Railway, New Delhi and that appeal was not a first representation and more than a dozen representations <sup>were</sup> prior to 5.1.88. The claim of the petitioner is not time barred as it is always alive.

21. That paragraph 21 of the counter reply is denied and <sup>in</sup> its reply paragraph 6.20 of the claim petition is reaffirmed to be correct .

22. That paragraph 22 of the counter reply is denied as alleged and in its reply contents of paragraph 7 of the claim petition are reaffirmed to be correct.

23. That paragraph 23 of the counter reply is denied as alleged . The alleged writ petition and application before the authority under the payment of Wages Act was not for the purposes of reliefs claimed in this petition. The petitioner wanted his retirement age could be sixty <sup>and</sup> not fifty eight. The main dispute has arisen after issuance

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of annexure No. 3 to the claim petition which dated  
19.6.69.

24. That paragraph 24 of counter reply is denied as  
alleged and in its reply paragraphs 9 and 10 are  
reaffirmed to be correct. The petitioner is still  
getting anticipatory pension as Rs. 200.00 per month and  
~~one~~ <sup>Complimentary</sup> only one free travelling ~~pass~~ is given to the  
claimant every year though he is entitled to get 2 free  
~~complimentary~~ family <sup>passes</sup> as he has completed 25 years and 8 months  
of service before he retired.

25. That it would be proper if the opposite parties  
are directed by this Hon'ble Tribunal to produce the  
service record and personal file of the petitioner for  
perusal and just decision of this case.

Lucknow:  
Dated: 12 . 1 . 1990

*Bhagwant Misra*  
( Bhagwant Prasad Misra )

#### VERIFICATION

I, Bhagwant Prasad Misra, the applicant, do hereby  
verify that the contents of paragraphs 1 to 24 of this  
rejoinder are true to my personal knowledge and those of  
paragraph 25 of this rejoinder are believed to be true.  
I have not suppressed or concealed any material fact.

Lucknow:  
Dated: 12 . 1 . 1990

*Bhagwant Misra*  
( Bhagwant Prasad Misra )