

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

Cause Title O.A. 99 of 1989 (U)

Name of the parties Nagendra Singh Applicant.

Versus

Union of India Respondents.

Part A.E.C.

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Certified that no further action is required to be taken and the case is fit
for conveyance to the record room (O.S.)

Checked
19/1/2012

S (5)

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

18/5/89
Registration No.

99 of 1989 (L)

(A1)
Regularisation
of Service

APPLICANT (s) Nagendra Singh

RESPONDENT(s) U09 & others (N. Rly.)

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, Vakalat-nama been filed ?
5. Is the application accompanied by B. 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/relied upon by the applicant and mentioned in the application, been filed ?
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?

yes

yes

yes

Five sets.

yes

-

-

yes

yes DD 841317 dt. 25.4.89
(50/-)

yes

yes

yes

Particulars to be ExaminedEndorsement as to result of Examination

(A2)

- (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 representations 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 ?
11. Are the application/duplicate copy/spare copies signed ?
12. Are extra copies of the application with Annexures filed ?
- (a) Identical with the original ?
- (b) Defective ?
- (c) Wanting in Annexures
- Nos...../Pages Nos..... ?
13. Have file size envelopes bearing full addresses, of the respondents been filed ?
14. Are the given addresses, the registered addresses ?
15. Do the names of the parties stated in the copies tally with those indicated in the application ?
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 ?
- (a) Concise ?
- (b) Under distinct heads ?
- (c) Numbered consecutively ?
- (d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for indicated with reasons ?
19. Whether all the remedies have been exhausted.

yes

yes

yes

No.

yes

yes

yes

-

-

No.

yes

yes

NA

yes

yes

yes

yes

yes

NIL

yes

May be listed
before court
on 18.5.89.

D. S. S. S.
... 05/5/89
S.O. (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

99/89(L)

REGISTRATION No. _____ of 198 .

APPELLANT
APPLICANT

Nagendra Singh

VERSUS

DEFENDANT
RESPONDENT

Union of India & ors

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

18/5/89

No sitting. The case is adjourned to 28/6/89 for admission.

(sns)
CM.

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

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

28/6/89

Shri K.P. Srivastava, learned counsel for the applicant is present.

Issue notice to respondents to show cause why the petition be not admitted.

In particular the opposite parties may indicate whether or not the applicant was treated to possess the status of temporary railway servant.

List this case for admission on 31/7/89.

[Signature]
A.M.

[Signature]
V.C.

(sns)

31/7/89

Hon' Justice K. Nath, V.C.

San. Srivastava, who makes appearance on behalf of opposite parties, requests for and is allowed two weeks time to file reply. List for admission on 14-8-89.

[Signature]
V.C.

*Copy Notice issued
Sh. 6-5-89*

*OR
Notices were issued to the respondents through regd post on 6.7.89. Neither reply nor any undelivered regd. cover have been returned back so far in the office submitted for admission.*

*OR
No reply has been filed by respondents. As directed by the court's order dt. 31.7.89 submitted for admission.*

Reply filed today 10/7

*Received
KJB
20/8
25/8/89*

16.4.1990 Hon. D.K. Agrawal, JM
 Hon. P.S. Habib Mohammad, AM

Sri K.P. Srivastava, learned counsel for the Applicant and Sri Sidhartha Varma, learned counsel for the Respondents are present and heard. Learned counsel for the Respondents wanted time to produce original documents but learned counsel for the Applicant contended that no documents have been referred to in the Counter Affidavit and, therefore, the case be heard. We acceded to the request of learned counsel for the Applicant.

Arguments of both the parties have been heard. Judgment reserved.

PSH
 AM

De
 JM

16.4.90
 amg.

19.4.90

Hon. D.K. Agrawal, JM.
 Hon. P.S. Habib Mohammad, AM.

O.A. has been disposed
 of by a separate order.
 No. order as to costs.

PSH
 AM

De
 JM-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLANADA

CIRCUIT BENCH LUCKNOW

O.A. NO. 99 1989. (L)

DATE OF DECISION 19 April, 1990.

Nagender Singh PETITIONER

Advocate for the
Petitioner (s)

VERSUS

Union of Indira RESPONDENT
others

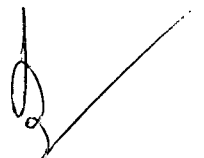
S. Verma Advocate for the
Respondent (s)

CORAM :

The Hon'ble Mr. D. K. Agarwal, Judd. member.

The Hon'ble Mr. P. S. Habib Mohammad, Adm. member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? ☒
2. To be referred to the Reporter or not ? ☒
3. Whether their Lordships wish to see the fair copy of the Judgement ? ☒
4. Whether to be circulated to other Benches ? ☒



AS

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

Original Application 99/89(L)

Nagendra Singh

...Applicant.

versus

Union of India & ors

...Respondents.

Hon. Mr. D.K. Agrawal, Judl. Member.

Hon. P.S. Habeeb Mohammad, Adm. Member.

(Hon. P.S. Habeeb Mohammad, A.M.)

was

Nagendra Singh, who ^{was} working as casual labour, *wireman* under Signal Inspector, Northern Railway, Lucknow, has filed this Application under section 19 of the Administrative Tribunals Act, 1985 with the prayer for the issue of the directions by the Tribunal to respondent No. 2 to take him back to duty, as he is a temporary railway servant and is governed by the service rules and orders of the Railway Code from time to time and has preference over his juniors, who have been engaged later on and he has further prayed for directions to the respondents to pay him his back wages from the day he had given an application to the Signal Inspector on. 5.8.87 for taking him back to duties as per his request vide Annexure A-4.

2. His case is that he was appointed as casual labour Wireman under the Signal Inspector, Northern Railway, Alambagh on 3.12.84 and worked upto 4.8.86. The total number of working days comes to 604 ⁴ ~~days~~ vide the photo-stat copy of the casual labour card and he had acquired status

✓

AC

for temporary railway servant and was governed by the Railway Servants (Discipline & Appeal) Rules, 1968. He was drawing C.P.C. scale in the regular scale of pay. He had given an application on 4.8.86 for grant of leave without pay from 5.8.86 to 4.8.87, as he had been selected for training in the trade of Electrician under the Principal, Northern Railway System Technical School, Lucknow. When he reported for duty after completion of the training on 5.8.87 to respondent No.2, he refused to take him on duty. The applicant has met the authorities for redressal but he has failed to obtain any redress from the department so far.

3. The contention of the respondents, ⁱⁿ as far the reply, is that the petitioner was working as a casual labour and on completion of 180 days continuous service as Assistant Wireman, he was being paid minimum pay scale plus Dearness Allowances as admissible under the rules, but he did not acquire the temporary status. He had not applied for leave for the purpose of any training, nor was any application for leave received in the office and he was never granted any leave for attending any training course. He had already passed the course of Electrician from I.T.I. prior to his engagement and it was on this basis that he was engaged as casual labour Wireman. He underwent on similar training for one year from 5.8.86 to 4.8.87 in the same trade from the System Technical School, Charbagh, Lucknow but this later training from August 86 to August 87 had been undergone by him without any leave or authorization and he had ~~therefore~~, absconded from duty. In the circumstances,

✓

A7

the department did not consider it possible to retain him on the ^{pay-}casual roll. The plea of the department is that no one ^{Can} has to undergo any such training ^{what} as to take leave or authorization from the department. Though, the applicant claims that he was at Dilawar Nagar on the 4th of August, 1986 to send his application, he was really present at Lucknow on that date. ~~Therefore,~~ Their contention is that he had not acquired temporary status and he ^{was} is absconding from duty.

4. During the course of arguments of the case, the learned counsel for the applicant drew attention to the fact that he had really applied for the leave without pay for the period from 5.8.86 to 4.3.87 but since the second respondent had failed to take the application, the same was sent under certificate of posting on 4.8.86 and therefore, it was not correct that no such application was sent by him prior to going for the training, though he could not produce any record to show that the leave applied for had been granted. He re-iterated that under the rules, the applicant had become eligible for acquiring the temporary status, even though the respondents claim that he had not acquired temporary status, but the legal position being that he had acquired temporary status, any ^{has} action to be taken against him under the relevant rules, ~~and~~ there was no justification for failing to take him to duty when he reported in 1987, after his training, which in any case was connected with his duties and had further improved his efficiency ~~for~~ his engagement under the railways.

AD

5. After going through the documents filed by the parties and giving our anxious consideration to the points advanced by the learned counsel for the parties, we find that there is no dispute on the fact that the applicant had completed 180 days of continuous service under the respondents. Not only 180 days [✓] then but the work card as casual labour produced by the applicant shows that he had continuously worked for the period from 3.12.84 to 4.8.86; a total period of 604 days.

6. [✓] In Chapter XXV on casual labour in the Railway Establishment Manual (Second Edition), 1968, published by the Railway Board, defines [✓] the casual labour and states ~~that~~ the periods after which they will acquire temporary status. Rule 2501 states as follows:

"(a) Casual labour refers to labour whose employment is seasonal, intermittent, sporadic or extends over short periods. Labour of this kind is normally recruited from the nearest available source. It is not liable to transfer, and the conditions applicable to permanent and temporary staff do not apply to such labour.

(b) The casual labour on railways should be employed only in the following types of cases, namely:

(i) Staff paid from contingencies except those retained for more than six months continuously: Such of those persons who continue to do the same work for which they were engaged or other work of the same type for more than ~~six~~ months without a break will be treated as temporary after the expiry of the six months of continuous employment.

(ii) Labour on projects, irrespective of duration, except those transferred from other temporary or permanent employment.

(iii) Seasonal labour who are sanctioned for specific works of less than six months duration. If such labour is shifted from one work to another of the same type e.g. relaying and the total continuous period of such work at any one time is more than six months' duration they should be treated as temporary after the expiry

✓

of six months of continuous employment. For the purpose of determining the eligibility of labour to be treated as temporary, the criterion should be the period of continuous work put in by each individual labour on the same type of work and not the period put in collectively by any particular gang or group of labourers.

Note-1. A project shouldcapacity of/railway the

2. Once any individual acquires temporary status, after fulfilling the conditions indicated in (i) or (iii) above, he retains that status so long as he is in continuous employment on the railways. In other words, even if he is transferr-ed by the administration to work of a different nature, he does not lose his temporary status.

3. Labour employed against regular vacancies whether permanent or temporary shall not be employed on casual labour terms. Casual labour should not be employed for work on construction of wagons and similar other work of a regular nature.

4. Casual labour should not be deliberately discharged with a view to causing an artificial break in their service and thus prevent their attaining the temporary status.

5. The term "same type of work" should not be too rigidly interpreted so as to cause undue suffering to casual by way of break in service because of a slight change in the type of work in the same unit. The various types of work to be considered as same type of work may be grouped as under."

7. It is therefore, clear that such casual labour who have been engaged for the six months' period, will be treated as temporary. In this case the applicant had not only worked for 180 days but he had worked for more than 600 days. Even if a formal order had not been issued treating him as temporary, the rules entitle him to be treated as temporary, as the six months' period has been completed, and therefore, we have to negative the contention of the respondents that he had not acquired the temporary status. As per rules, Rule 2511 in the same Establishment Manual, ¹¹⁵ are entitled to the rights and privileges admissible to temporary railway servants as laid down in Rule XXV of the Railway Establishment Manual and the rights and

(Mo)

privileges admissible to such labour also ^{means applying} applies to Discipline & Appeal Rules, 1968. Therefore, while it was open to the respondents to take disciplinary action, if he went for training without proper authority or without the leave being sanctioned, it was not in order, if they refused to take him on duty when he reported after undergoing the training. Matters like whether he had applied for leave and other incidental matters, can be gone into as per the provisions of Railway Servants (Discipline & Appeal) Rules, 1968. Therefore, a model employer like the Railways, instead of treating him as ~~an~~ absconding, should have, while taking action for breach of the rules, ^u should have dealt with him only under the rules. In the circumstances, since he has acquired the temporary status, there is no escape from the fact that he is an employee of the railway who has not been taken back to duty when he reported after the training, howsoever, ~~he~~ ^{is} unauthorised and without permission, his absence might have been. This does not mean that breach of discipline should be looked upon leniently. ^{At} ~~It~~ that is said is that since he ^{had} acquired temporary status under the rules, it is open to the respondents to proceed against the applicant under the Railway Servants (Discipline & Appeal) Rules, 1968. However, since he had applied for leave without pay for one year and has not subsequently worked upto date, he is not entitled to any back wages for the period till he is taken back to duty.

8. The respondents are directed accordingly, to take him back on duty and if they want to proceed against him under

the Railway Servants (Discipline & Appeal)Rules,
1968, they are at liberty to do so. However, as
the previous
mentioned in/paragraph, he will not be entitled to any
back wages. The order will be complied with within a
period of one month from the date of receipt of the
copy of this Order. There will be no order as to costs.

ADM. MEMBER.

19/4/1990

JUDL.MEMBER.

OK

Lucknow dated the

April, 1990.

(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.
CIRCUIT LUCKNOW.

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT 1985.

Nagendra Singh Vs Union of India and others.

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Compilation No.1.

Sl.No:-	Description of Documents relied upon.	Page No.
1.	Application	1 to 5
2.	vakalatnama.	6

For use in
tribunal's Office.

Nagendra Singh
SIGNATURE OF THE APPLICANT.

Date of filing.

Registration No. 99/89 (2)

Signature
for Registrar.

(18)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
CIRCUIT LUCKNOW.

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL'S ACT 1985.

Nagendra Singh Vs Union of India and others.

Central Administrative Tribunal

Circuit Bench, Lucknow

INDEX.

Date of Filing 25.5.89

Date of Receipt by Post.....

List before court on 18.5.89

Deputy Registrar 18/5/89

Compilation No.2.

Sl.No:	Description of documents relied upon.	Page No.
--------	--	----------

- | | | |
|----|--|--------|
| 1. | <u>Annexure No.A-1.</u>
Photo-stat copy of the Casual
Labour Card No.34645 issued
by Signal Inspector, Construction
Lucknow. | 7 to 9 |
| 2. | <u>Annexure No: A-2.</u>
Photo-stat copy of the application
dated 4.8.1986 for grant of
leave. | 10. |
| 3. | <u>Annexure No.A-3.</u>
Photo-stat copy of the U.P.C.
dated 4.8.1986. | 11. |
| 4. | <u>Annexure No.A-4.</u>
Certificate of Training(Photo-stat) | 12. |
| 5. | <u>Annexure No.A-5.</u>
Photo-stat copy of the application
dated 5.8.1987 for duty. | 13. |
| 6. | <u>Annexure No.A-6.</u>
Photo-stat copy of the representation
dated 23.8.1988. | 14. |

Nagendra Singh

SIGNATURE OF THE APPLICANT.

For use in Tribunal's
Office.

Date of Filing.

Registration No. 99/89(L)

Signature
for Registrar.

filed to by
noted for
18/5/89
KSL
5/5/89

CENTRAL ADMINISTRATIVE TRIBUNAL ALIAHABAD
CIRCUIT BENCH LUCKNOW
BETWEEN

Nagendra Singh - Applicant

AND

Union of India & others - Respondents

DETAILS OF THE APPLICATION:

1. Particulars of the applicant:

- i) Name of the applicant- Nagendra Singh
- ii) Name of father - Shri Maharaj Singh
- iii) Age of the applicant- About 29 years
- iv) Designation and particulars of office (name and station) in which employed or was last employed before ceasing to be in service-
Casual Wireman.
- v) Office address - Signal Inspector/Construction,
Alambagh, N.Railway, Lucknow.
- vi) Address for service of notice:
Village-Ishapur
P.O. - Malohabad
Distt- Lucknow

2. PARTICULARS OF THE RESPONDENT

- i) ~~UN~~ Name of the respondent-i) Union of India through
General Manager, N.Railway, Baroda House,
New Delhi.
- xxx) ii) Signal Inspector
(Construction) N.Railway,
Alambagh, Lucknow.
- iii) Dy.Chief Signal and
Telecom Engineer (C),
Northern Railway, Charbagh,
LUCKNOW.

3. PARTICULARS OF THE ORDER
AGAINST WHICH APPLICATION
IS MADE:

The application is not being made against any order

Nagendra Singh

contd 2..

AVB

but a direction to the respondents to take the applicant on duty.

Subject in brief :- The applicant was working as Casual labour Wireman under Signal Inspector (C), Northern Railway, Alambagh, Lucknow. The applicant gave application to the respondent No. 2 on 4.8.86 to grant him leave without pay for a year from 5.8.86 to 4.8.87 as the applicant had to ~~go~~ undergo training under the Apprentice Act under Principal, N. Railway System Technical School, Charbagh, Lucknow. After completion of training the applicant reported for duty on 5.8.87 in the same pay scale. The applicant was drawing CPC scale of pay. The respondent No. 2 and 3 neither took the applicant on duty nor any reply to my representation dated 5.8.87 and 23.8.87 were given. The applicant is entitled to be taken on duty being a temporary Railway servant.

4. Jurisdiction of the tribunal:-

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

5. Limitations:

The applicant further declares that the application is within the limitations prescribed in section 21 of the Administrative Tribunal Act, 1985.

6. Facts of the case

The applicant was appointed as casual labour Wireman under Signal Inspector/Construction/N. Railway, Alambagh, Lucknow on 3.12.84 and worked upto 4.8.86. The total number of working days come to 604 days (photo-stat copy of casual labour card is annexed as Annexure No. A-1)

Nageshwar Singh

contd 3

AM

2. That the applicant has acquired the status of temporary Railway servant and is governed under D&AR rules, 1968. The applicant was drawing CPC scale i.e. regular scale of pay.

3. That the applicant gave an application on 4.8.86 for grant of leave without pay from 5.8.86 to 4.8.87 as the applicant was selected for the training in the Trade of Electrician under Principal, Northern Railway System Technical School, Charbagh, Lucknow. (Photo-stat copy of the application is annexed as Annexure No. A-2).

4. When the respondent No. 2 refused to take the application the same was sent under posting certificate on 4.8.86 (photo-stat copy of the under posting certificate is annexed as Annexure A-3).

5. That the applicant under-gone the training in the trade of Electrician under the Apprentice Act from 5.8.86 to 4.8.87. A photo-stat copy of the certificate issued by the Principal, N. Railway, System Technical School, Charbagh, Lucknow is annexed as Annexure- A-4.

6. Just after completion of training, the applicant reported for duty on 5.8.87 to the Respondent No. 2 the Signal Inspector/Construction/N. Railway, Alambagh, Lucknow but the respondent No. 2 was silent on the issue (photo stat copy of the application is annexed as Annexure No. A-5).

7. The applicant again after meeting the respondent No. 2 several times the applicant gave his representation to the Senior Signal & Telecom Engineer/Construction for taking him on duty but there was no response.

Nagendra Singh

A/E

(photo-stat copy of the representation is annexed as Annexure No. A-6).

8. That the respondent No. 2 recruited new faces as is shown in the representation of the applicant in Annexure No. A-6)

9. The applicant is entitled to be back on duty being the temporary Railway servant and he has better claims over his juniors. Moreover the applicant is now better qualified in the field of electricity.

7. Details of the remedies exhausted

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

The applicant gave his representation to the Senior Signal & Telecom Engineer/Construction /N.Railway, Lucknow for taking him duty on 23.8.88 but there was no response (please see Annexure No. A-6).

8. Matters not previously filed or pending with any other court

The applicant further declares that he had not previously 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. Reliefs sought

In view of the facts mentioned in para 6 above, the

Nagendra Singh

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applicant prays for issue of direction in the nature of mandamus to the respondent No. 2 to take the applicant on duty because the applicant is a temporary Railway servant and is governed by DAR rules and other benefits as per orders of Railway Board from time to time and he has preference over his juniors who have been engaged lateron. The applicant has already exhausted the remedies. The Hon'ble Court is prayed further to direct the respondents to pay him the back wages from the day the applicant gave an application to Signal-Inspector/Construction/Alambagh, Lucknow on 5.8.87 for taking him on duty as per annexure NO. A-5.

10. Interim order if any prayed for:-

NIL

11. Particulars of postal order in respect of the application fee:-

1. Number of Indian Postal order *Rs 841317 for Rs 50/-*
2. Name of the issuing Post office *4, P O Lucknow*
3. Date of issue of postal order(s) *25-4-1989*
4. Post office at which payable- Head Post office, Allahabad.

12. List of enclosures - Six

Ann A-1 to A-6

VERIFICATION

I Nagendra Singh S/O Sh. Maharaj Singh aged about 28 years R/O Ishapur, Malihabad, Lucknow do hereby verify that the contents of paras 1 to 12 are true to my personal knowledge and on legal advice and that I am not suppressed any material fact.

DATE *26-4-1989*

PLACE *Lucknow*

Nagendra Singh
SIGNATURE OF THE APPLICANT

(6)

*Before Central Adm Tribunal Allahabad
circum- Lucknow*

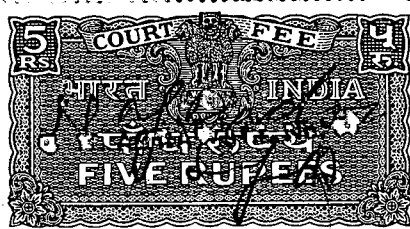
पञ्चालत श्रीमान्

महोदय

[वादी] अपीलान्त

प्रतिवादी [रेषाडेण्ट]

वकालतनामा



फी (अपीलाण्ट)

Nagendra Singh

एनाम *Union of India and others* प्रतिवादी (रेखाडेण्ट)

नं० मुकद्दमा

सम्

पेशी की सं०

१० ई०

उपर लिखे मुकद्दमा में अपनी ओर से श्री

K. P. Srivastava Advocate

वकील

महोदय

एडवोकेट

नाम अदासत
मुकद्दमा नं०
नाम फरीकस
एनाम

फो अपना वकील नियुक्त करके प्रतिज्ञा (इकराए) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पेरवी व जबाब देही व प्रश्नोंत्तर करें या कोई फामज याखिल करें या लौटावें या हमारी ओर से छिगरी चारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से याखिल करें और तसदीक करें मुकद्दमा उठावें या कोई खया जमा करें या हमारी बिपक्षी (फरीकसानी) का याखिल फिया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (बस्तखती) रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई बगु सय 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 पेरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह पञ्चालतनामा लिख दिया प्रमाण रहे और समय पर फाम आये।

Accepted

समजो (गवाह) *Aruna Chandra Bhattacharya*
पिनीज *M. L. 123 Bhattacharya*
Lucknow

हस्ताक्षर *नागेन्द्र सिंह*
Nagendra Singh
साक्षी (गवाह) *श्रीम. ईश्वरपुर जे. मलिक, कटौली*

महोना

सं० १०

००

Before Central Admin. Tribunal, Allahabad
Bench Lucknow
Nagendra Singh vs. Union of India

Annex. A-1

418

(6) (7)

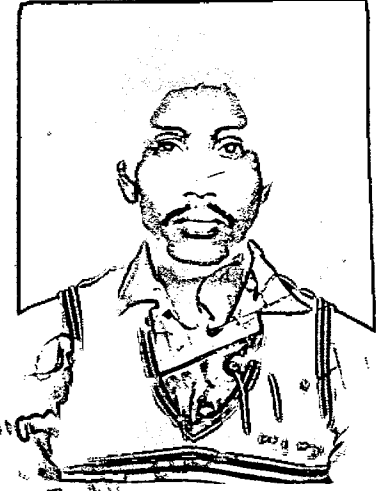
हिदायतें/INSTRUCTIONS

34603

1. जिस व्यक्ति को यह कार्ड जारी किया जाता है, वह इसकी अभिरक्षा के लिये उत्तरदायी है।
The person to whom this card is issued is responsible for its safe custody.
2. किसी भी हालत में दोहरा कार्ड जारी नहीं किया जायगा।
No duplicate card can be issued under any circumstances.
3. कार्ड खो जाने की स्थिति में इसकी सूचना तुरन्त दी जानी चाहिए।
In case of loss, the fact should be immediately reported.
4. प्रत्येक नयी नियुक्ति के समय इस कार्ड को निश्चित रूप से प्रस्तुत किया जाना चाहिए।
This card should invariably be produced at the time of every fresh appointment.
5. इस कार्ड के बिना, स्थायी नियुक्ति के सम्बन्ध में किये गए दावे पर कोई विचार नहीं किया जायेगा।
No claim for permanent absorption will be entertained without this card.
6. रेल सेवा में रहने के समर्थन में किसी अन्य साक्ष्य पर कोई ध्यान नहीं दिया जायेगा।
Any other form of evidence in support of his employment will not be taken cognisance of.
7. इस कार्ड के दुरुपयोग किए जाने पर कर्मचारी को सभी प्रकार की रेल सेवा के लिये अयोग्य घोषित किया जायेगा।
Any misuse of this card shall render its owner liable for being disqualified from Railway service of all kinds.

प्रथम नियुक्ति
Particulars to be

फोटो
(अधीनस्थ कर्मचारी
द्वारा प्रमाणित)
Photograph
(Attested by the
Subordinate)



पूरा नाम SH. NAGENDRA SINGH

Name in full

पिता का नाम Sh. Mahraj Singh

Father's Name

अनुसूचित जाति का सदस्य है अथवा नहीं Yes
Scheduled caste or not

अधीनस्थ ईंचार्ज के हस्ताक्षर
और पदनाम
Signature & Designation
of Subordinate in charge

Ans. M.
16.12.5

T. M. Singh
Advocate

(2)

(3)

प्रथम नियुक्ति के समय भरा जाने वाला वैयक्तिक व्योरा

Personnel Details to be filled in on first appointment

1. पूरा नाम (बड़े अक्षरों में) SH. NAGENDRA SINGH
Name in full (in Block letters)
2. पिता का नाम Sh. Mahraj Singh
Father's Name
3. जन्म तिथि 15-8-1960
Date of Birth
4. प्रारम्भिक अनियत नियुक्ति के समय आयु 24 yrs & 4 months
Age at initial casual employment
5. शैक्षिक योग्यता High School passed & I.T.I
Educational Qualification Electrician
6. व्यक्तिगत पहचान चिन्ह } (i) Boil mark on the right leg
Personal marks of identification } (ii) Boil mark on the left knee
7. प्रारम्भिक नियुक्ति के समय किस प्रकार का कार्य दिया गया Wire Man (Semi Skilld)
Nature of job on initial employment
8. स्थायी पता Vill. Ishapur
Permanent address Malihabad
डाकघर do
पोस्ट ऑफिस do
थाना do
पोलिस स्टेशन do
तहसील do
Tehsil Lucknow (U.P.)
जिला और राज्य do
District & State

9. उत्तराधिकारी का पूरा नाम Sh. Mahraj Singh
Name in full of heir
10. सम्बन्ध Father
Relationship
11. उत्तराधिकारी का स्थायी पता Shown as Calcutta, etc.
Permanent address of heir

L.T. I. of
Nagendra Singh
Nagendra Singh
Signature

अनियत मजदूर के हस्ताक्षर या
बायें अंगूठे का निशान
Signature or L. T. I.
of the Casual Labour

22/10/85
16-12-85

True Copy
attached

Kishu
Bavacali

Before Central Adm. Tribunal Lucknow Bench
Nagendra Singh vs Union of Indus and Mrs
A20
89
Annex A-1

(4)

अनियत मजदूर के रूप में काम करने का रिकार्ड
RECORD OF SERVICE AS CASUAL LABOUR

प्रारम्भिक नियुक्ति की तारीख 03-12-84
Date of initial employment

नौकरी की अवधि Period of employment		कार्य का स्वरूप Nature of assignment	पर्यवेक्षक के तारीख सहित हस्ताक्षर और पदनाम Sig. & Design. of Supr. with date
कब से From	कब तक To		
03-12-84	1-6-85	C/Wire man	= 180 days
02-6-85	14-11-85	- do -	= 165 days
03-11-85	contd.		345 days
			16.12-85
03-11-85	04-8-86	C/Wire man	= 259 days
Total No. of working days upto 04-8-86			= 604 days
			04-8-86

LUCKNOW.

(5)

अनियत मजदूर के रूप में काम करने का रिकार्ड
RECORD OF SERVICE AS CASUAL LABOUR

प्रारम्भिक नियुक्ति की तारीख
Date of initial employment

नौकरी की अवधि Period of employment		कार्य का स्वरूप Nature of assignment	पर्यवेक्षक के तारीख सहित हस्ताक्षर और पदनाम Sig. & Design. of Supr. with date
कब से From	कब तक To		

Low Cfg
A20

Handwritten signature and text.

Before Central Adm Tribunal Allahabad
Lucknow Bench

Ann-A-2

रखवा मे

Najendra Singh & Nag and Mrs

9
10

श्री मां रामे निरीक्षे निगार्थ वीमां

उ-२ : आलगातार लखनऊ

121

विषय - अवकाश २-२-१९८६ से ४-२-१९८६ तक

निवेदन

सावित्री निवेदन है कि प्राची नागेन्द्र सिंह का नाम ली.सी.
वर्क शाप नार्थन रेलवे के विद्युत की ट्रेनिंग स्कूल अहमदाबाद
के रहस्य नाम आया है। यह ट्रेनिंग २-२-१९८६ से आरम्भ होगी
और एक वर्ष की ट्रेनिंग ४-२-१९८६ से समाप्त होगी।

अतः आप से प्रार्थना है कि २-२-१९८६ से ४-२-१९८६ तक
मुझे आवैगामिन डूही देने की कृपा की जाए। जिसका
समाप्त होने के बाद मैं डूही का आडुगुं।

तक-विषय -

नाम

४-२-१९८६

Amr Singh

Advocate

प्राची -

नागेन्द्र सिंह (18/11/82)
आलगातार लखनऊ

Before Central Adm Tribunal
Lucknow Bench Allahabad
Mafendra Singh vs Union of India and others

Ann-A-3

(10)
(11)

A22

श्री. जी. सी. राजीव रेड्डी सर

श्रीमान सचिव शिक्षा के निदेशों विभागा
उत्तर प्रदेश शासन कायदा विभाग

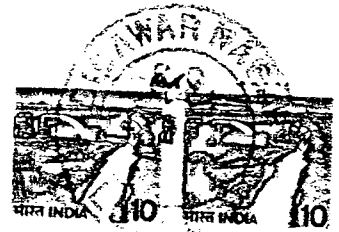
दी.

8.8.92-26

Tram City
attested

Kashy

Advocate



Before Central Adm Tribunal Allahabad Lucknow Bench Am. Ally
Nagendra Singh & UO 9 and this

NORTHERN RAILWAY: SYSTEM TECHNICAL SCHOOL: CHARBAGH: LUCKNOW.

S.No. 2

Dated: 27.2.1988

PROVISIONAL CERTIFICATE.

It is to certify that Shri Nagendra Singh son of
Shri Maharaj Singh who was registered as Trade Apprentice
in the Trade of Electrician with the Regional Directorate
of Apprenticeship Training, Kanpur under Registration No. KU-1/86/96/1
and who underwent his apprenticeship training at this
Establishment from 05.8.1986 to 04.8.1987 has been
declared passed at the 47th All India Trade
Test conducted by the National Council for Vocational Trades
from 26.10.87 to 30.10.87 at System Technical School
Charbagh, Lucknow
Centre securing marks 404 out of 650
(Four hundred four out of six hundred fifty)
He has also passed in the subject of Social Study.

This Provisional Certificate is issued pending the award
of the National Apprenticeship Certificate by the National
Council for Vocational Trades.

Nagendra Singh

Principal

N.Rly. System Tech. School,
Charbagh, Lucknow.

SIGNATURE OF APPRENTICE.

Principal

System Technical School

Charbagh, Lucknow

N.Rly. Charbagh, Lucknow

Advocate

Before Carline Adm. Tribunal
Luzon Beach Annex-A-5
Majendra Singh vs. Govt. of NCT

सेवा में

श्रीमान रामें निरीक्षक निर्माण विभाग
उत्तर पूर्व आसमकोत लोको-नर

13

224

प्रहारा

सौजन्य निवेदन है कि प्रती 11 मिनट समाप्त करके
उपाख्योत हो रहा है। कृपा करके मुझे ड्यूटी 11 गोरी
ड्यूटी का प्रार्थना प्र 2. 1. 1976 से 8. 1. 1976 तक
को प्रार्थना प्र जो आपके पास में बिना का जो आपके
पास होगा। अतः श्रीमान जी निवेदन है कि प्रती का
ड्यूटी वन में कहां करे प्रती जीवन में आगारी रहें।
धन्यवाद

वी०

2. 1. 1976

अंकी-

मेरे इलाकी जतिमि रामें निरीक्षक
आसमकोत को आप दी गई
मोहर हस्ताक्षर नहीं दिए

नाम-रिहें (रासायनिक विभाग)

रामें च. 1. 1. 1976 आसमकोत
का
Koh
Bavule

Before Court Adm. Tribunal Allahabad Ann-A-6
Luen now Bhel.
Najendra Singh vs. UOI and others

14/3

सेवा में,

श्रीमान वरिष्ठ सकेत रविवर संध्या अभियन्ता
निर्माण विभाग। उ०रे० बंगल रेल प्रबन्ध,
कार्यालय हजरत गंगा लखनऊ।

उपस्थित मध्यम अक्षर
=====

महोदय,

निवेदन है कि प्रार्थी मागेन्द्र सिंह पुत्र श्री महाराज सिंह निवासी ग्राम
ईशापुर डाकघर कटली गलिहावा जमवा लखनऊ, श्रीमान जी के अधिनियम
सहायक वायरमैन के पद पर कार्यरत था। प्रार्थी ने 3.12.84 से
4.8.86 तक अनिवर्त काम किया। जी कुल मिलाकर 604 दिन छोड़े हैं।
प्रार्थी की सी०बी०सी० स्कैल भी मिल गया था। परन्तु कुछ कारण वजह
4.8.86 से प्रार्थी ड्यूटी पर न आ सका। प्रार्थी रेलवे की रकट अंतिम
196। अधिनियम के तहतलीकी परीक्षा पर वायवाग लखनऊ में 5.8.86 से
4.8.87 तक विद्युत ट्रेड से ट्रेनिंग कर अप उत्तीर्ण कर लिया है।

आपने अपने यहाँ बहुत से नये सहायक वायरमैन की भर्ती किया है
जी निम्न है।

- 1- सुरेश कुमार सहायक वायरमैन
- 2- वीरेन्द्र कुमार सहायक वायरमैन
- 3- राकेश कुमार सहायक वायरमैन
- 4- आलीक कुमार यकवती 15। शीलेन्द्र श्रीवास्तव 16। रकीक अहमद
- 7- राम लखन आदि है।

रेलवे के नियमों के अनुसार नये व्यक्तियों के अर प्रार्थी की वरीयता
मिलनी चाहिए प्रार्थी की सी०बी०सी० स्कैल में पुनः भर्ती मिलनी चाहिए,
क्योंकि मैं उस नये आह्वानियों से सीनियर हूँ।

अतः श्रीमान जी से यह कुछ अनुरोध है कि प्रार्थी की फिर से पुनः नई
नियुक्ति का आदेश पारित करके की कृपा करें।

महान कृपा होगी।

Ym Cap
altak

Koh

Bevade

प्रार्थी
मागेन्द्र सिंह

23/8/87

वधू प्रती

१२/१२/८७

C/C (१२८)

श्रीमान वरिष्ठ सकेत स्वयं दूर संचार अभियंता (दिमार्ज)

- ३०.१०.८७

महोदय,

(अर्चन माध्यम द्वारा)

निवेदन है कि प्राप्ति की अचानक लक्षित अराज हो जाने के कारण प्राप्ति ड्यूरी पर न आ सका। अतः श्रीमान की से निवेदन है कि प्राप्ति ने ५.१२.८६ से ५.१२.८६ तक डॉ० वल्लभ द. १२.८६ से ५.८.८६ तक डॉ० जनश से इलाज करवाया। अतः प्राप्ति कायदा न होने के कारण प्राप्ति ओमवीर सिंह इलाज करवाया। सर्टिफिकेट संलग्न है।

अतः प्राप्ति एवं विलुप्त होकर स्वयं स्वस्थ हो आकर प्राप्ति को ड्यूरी देने की कृपा की जाय प्राप्ति जीवन भर आभारी रहेगा।

(नाम २-२-८७)

प्राप्ति

जागेन्द्र सिंह

५३ वायरमैन

S.I.C. आलमबाग

लखनऊ।

उत्तर रेलवे,
=====

रेल इंजन कारखाना,
=====

चारबाग लखनऊ.
=====

पत्र सं०- टीए/एल-भर्ती/81-82

दिनांक-22 नवम्बर-1985

नरोन्ड सिंह 5/0 — 1978

श्री. महाराज सिंह.....

पता: श्री. इश्वर प्रसाद.....

पो. कटौली-मालिहाबाद.

जि. लखनऊ.....

विषय:- 3 नवम्बर को हुये लिखित परीक्षा के आधार पर एक्ट अप्रेंटिस के भर्ती हेतु साक्षात्कार.

उपरोक्त विषय पर आपको सूचित किया जाता है कि आप साक्षात्कार हेतु दिनांक..17.12.85..को...9...बजे उत्तर रेलवे प्रणाली तकनीकी स्कूल, चारबाग लखनऊ के प्रधानाचार्य के कार्यालय में उपस्थित हों।

इस साक्षात्कार में उपस्थित होने के लिए आपको रेलवे प्रशासन द्वारा कोई यात्रा भत्ता आदि देय नहीं होगा और आपको लखनऊ में ठहरने आदि की व्यवस्था स्वयं करनी होगी। आप अपने साथ जन्मतिथि, शैक्षिक योग्यता, खेल-कूद आदि प्रमाण पत्र मूल रूप में लायें।

अनुसूचित जाति तथा अनुसूचित जनजाति के अभ्यार्थियों को जाति प्रमाण-पत्र जिलाधिकारी द्वारा प्रदत्त मूल रूप में लाना अति आवश्यक है तभी वे इस आधार पर चयन के अधिकारी समक्ष जायेंगे।

कृते अपर मुख्य यांत्रिक अभियन्ता (टो)

उ.रे., लखनऊ चारबाग लखनऊ.

Before the Central Administrative Tribunal,
Lucknow Bench, Lucknow.

O. A. No. 99/89(L)

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C.M. An No. 36/89 / 9

Nagendra Singh.

-----Petitioner

Versus

Union of India and others.

-----Opp-parties/
Applicants.

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Application for recall of order dated
27.10.1989 and for taking written
statement on behalf of opposite
parties on record.

It is most respectfully submitted as under :-

1. That the above mentioned case was last fixed for 27.10.89 for filing reply/orders but due to mistake, the undersigned erroneously noted the date to be 27.11.1989 and therefore, could not attend the case on 27.10.1989.
2. That the absence of undersigned on 27.10.89 was under mistake and was not deliberate.
3. That on 27.10.89, this Hon'ble Tribunal was pleased to fix the above mentioned case for exparte hearing on 13.12.89 due to non-submission of written statement on behalf of answering opposite parties, which is ready and is being filed with this application.

Sherring

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17/11/89

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4. That the undersigned most respectfully prays that the order dated 27.10.89 for ex-parte hearing of the case be recalled and the delay in filing written statement on behalf of answering opposite parties be condoned and the same may kindly be taken on record.

- P r a y e r -

Wherefore, it is most respectfully prayed that the order dated 27.10.89 be recalled and the delay in filing written statement on behalf of opposite parties be condoned and the written statement be ordered to be taken on record.

Lucknow, dated,
13.12.89
17.1.90

Shering
(Siddharth Verma)
Advocate.
Counsel for the opp-parties/
applicants.

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Before the Central Administrative Tribunal,
Lucknow Bench, Lucknow.

O.A.No.99/89 (L)

--

Nagendra Singh.

-----Petitioner

Versus

Union of India and others.

-----Opp-parties

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Written Statement on behalf of
answering opposite parties.

I, S.D. Misra son of Sri
Late G.D. MISRA presently working as
C.S.I.CE/ Lucknow in the office of Chief Signal
Inspector (consti), most respectfully submit as under:-

1. That I am presently working as Chief Signal
Inspector (CE)/ Lucknow in the Office of Chief Signal Inspe
tor (consti) - Lucknow and is looking after the above
mentioned case on behalf of the answering
opposite parties. I have read and understood
the contents of the above mentioned petition
and is duly authorised by the answering opposite
parties to file this reply on their behalf. I am
well acquainted with the facts stated hereunder.

Amr

2. That the contents of paragraph 1 of the
petition need no comments from the answering
opposite parties.

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3. That the contents of paragraph 2 of the petition are denied. It is most respectfully submitted that the petitioner was working as 'Casual labour'. On completion of 180 days of continuous service as Assistant Wireman, the petitioner was being paid minimum scale of pay plus dearness allowance admissible under law/rules, but he never acquired temporary status.

4. That the contents of paragraphs 3, 4 and 5 of the petition are denied. It is most respectfully submitted that the petitioner never applied for any leave, nor, there is any such application to that effect in the official records. The petitioner was thus never granted any leave. It is further submitted that the petitioner has already passed the course of Electrician from the Industrial Training Institute, of two years' duration vide Certificate No.3233 under roll No.L-984 from August, 1978 to July,1980 and on this basis, the petitioner was engaged as ¹⁴ 'Casual Assistant Wireman' in this Unit after holding necessary selection. Again, the petitioner had gone for similar training for one year, i.e. from 5.8.86 to 4.8.87 in the same trade i.e. for Electrician from the System Technical School, Charbagh, Lucknow. All such training was received by the petitioner without any leave/authorisation and he absconded from duties for years together. Under these circumstances, it is

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not possible to retain any person (including petitioner) on casual roll. It is further submitted that any person who is engaged in service, is required to take permission from the competent authority to undergo any professional/Educational training, but the petitioner never applied, nor was granted any leave/authorisation to undergo training of Electrician in the System Technical School, Charbagh, Lucknow.

Further, according to the Casual Labour Card of the petitioner, he was present on duty on 4.8.86 at Lucknow from 8.00 a.m. to 5.00 p.m., and it is totally false and baseless that the petitioner was at 'Dilawar Nagar' to send the application under reference under certificate of posting.

5. That the contents of paragraphs 6 and 7 of the petition are denied.

6. That the contents of paragraph 8 are denied being wrong. It is most respectfully submitted that Signal Inspector 'C' is not empowered to recruit any Wireman.

7. That the contents of paragraph 9 of the petition are denied, as the petitioner never acquired status of temporary Railway Servant and the question of his being senior does not arise as he absconded from duties without any intimation/

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authorisation. The claim of the petitioner that he is better qualified is also not correct and hence, denied.

8. That under the circumstances stated in the foregoing paragraphs, the undersigned is advised to state that the above mentioned petition is liable to be dismissed with costs.

Lucknow, dated,
13.12.89

S. D. Misra
C S I (C) Lucknow

Verification.

I, S. D. Misra presently working as Chief signal Inspector (C) Lucknow in the office of Chief signal Inspector (C) Lucknow do hereby verify that the contents of paragraph 1 of this statement is true from my own knowledge and those of paragraphs 2 to 7 are based on record and are believed to be true. The contents of paragraph 8 are based on legal advise and are believed to be true.

Lucknow, dated,
13.12.89

S. D. Misra
C S I (C) Lucknow
13.12.89.

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BEFORE CENTRAL ADMINISTRATIVE TRIBUNALS ALLAHABAD
LUCKNOW CIRCUIT LUCKNOW.

Registration No.OA 99/89 (L) .

Nagendra Singh Vs.Union of India and others.

REJOINDER AFFIDAVIT OF NAGENDRA SINGH, APPLICANT.

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S.No: Description of relied upon documents.	Page No:
1. Rejoinder affidavit.	1 to 4
2. <u>Annexure No: R-1.</u> Photo-stat copy of Printed Serial No.9544 in connection with granting of temporary status after 360 days continuous service to Project Casual Labourers.	5 to 8

LUCKNOW.

Nagendra Singh
SIGNATURE OF THE APPLICANT

DATED: 27 January y, 1990.

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22/2/90

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BEFORE CENTRAL ADMINISTRATIVE TRIBUNALS ALLAHABAD
LUCKNOW CIRCUIT LUCKNOW.

Registration No OA 99/89 (L).

Nagendra Singh Applicant.
Versus
Union of India and others. Opposite Parties.

REJOINDER AFFIDAVIT OF SHRI NAGENDRA SINGH,
APPLICANT.

I, Nagendra Singh, son of Shri Maharaj Singh
aged about ²⁹55 years, resident of Village Ishapur,
Distt: Lucknow, most respectfully sheweth as under:-

1. That I have gone through the paras of the counter-reply submitted by the Opposite Parties and under-stood the contents thereof. I have carefully perused the relevant records related to the case and I am thus acquainted with the facts of the case deposed below:-
2. That para 1 of the counter-reply needs no comments.
3. That in reply to para 2 of the counter-reply the contents of paragraph 1 of the application are reiterated.
4. That in reply to para 3 of the counter-reply the contents of paragraph 6.2 of the application are reiterated. It is most respectfully submitted that the opposite parties have admitted that the applicant was being paid minimum scale of pay plus Dearness Allowance admissible under Rules on completion of 180 days of continuous service as Assistant Wireman. The applicant has already completed 604 days continuous service from 3.12.1984 to 4.8.1986. As per extant rules - Printed

Contd....2.

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Serial No: 9544 issued by the General Manager, Northern Railway, Baroda House, New Delhi that the Project Casual Labour shall be granted temporary status after 360 days continuous service. In this way the applicant has acquired the temporary status and will be governed by the D& A Rules like temporary employees as per Para 2511 of Chapter XXV Indian Railways Establishment Manual. photo-stat copy of P.S.No:9544 is annexed as Annexure No: R-1.

5. That in reply to para 4 of the counter-reply, the contents of the same are denied. The contents of paragraph 6.3, 6.4 and 6.5. of the application are reiterated. It is further submitted that the petitioner applied for leave and on ^{presentation} ~~protection~~ of the same to the Signal Inspector/Construction he refused to take it and after that the applicant gave the application to his cousin brother to post the same under posting Certificate because the ~~alternat~~ applicant has no other alternative. The applicant was only engaged as casual labour as is being done by the Senior Subordinates. He was not appointed through selection process. The applicant joined the training for one year as an apprentice from 5.8.1986 to 4.8.87 for Electrician Trade from the System Technical School, Charbagh, Lucknow to have some ^{more} technical and practical knowledge. The applicant was not ~~absconded~~ from duty for years together. If the applicant was absconding the administration would have taken him up under D& A Rules 1968 which was not done because the administration was at fault in every respect..

The Railway Administration could have refused the
Contd...3.

Noted/Noted

leave or granted the leave without pay, but showed absconding for no action was initiated under D&A Rules ~~because of their administrative reasons~~ It is further submitted that the applicant was not absconding and as soon as the applicant completed his training he gave an application for joining duty on ~~4.8.1986~~ 5.8.87 (Annexure No: A-5 filed with the application) and the Certificate of training is filed as Annexure A-4 and the leave application is filed as Annexure No. A-2. The applicant himself has not posted the application in the Post Office but it was his cousin brother who posted the same there.

6. That in reply to para 5 of the counter-reply, the contents of paragraph 6 ^{6.7} and ~~6~~ of the petition are reiterated. Its contents have not been denied with specific reasons.

7. That in reply to para 6 of the counter-reply the respondents have engaged fresh cases and the contents of para ~~6~~ 6.8 of the petition are reiterated.

8. That in reply to para 7 of the counter-reply, its contents are denied. It is submitted that the applicant has acquired the status of temporary Railway Servant as per extant Rules, and he is entitled for back-wages with ~~reinstatement~~ ^{putting him on duty} because he has not been removed from service ~~by~~ by the Railway Administration on the alleged charge of absconding from the duty by the respondents. ^{I D Bel was also not removed}

Noted for duty

A38

9. That under the circumstances stated in the foregoing paragraphs and the contents of the application the undersigned is entitled for ~~reinstatement~~ ^{Duty} with back-wages from the date he reported for duty that is on and from 5.8.1987, ^{with consequential benefits} and the petition may be allowed with cost.

LUCKNOW

Nagendra Singh
APPLICANT.

DATED: 27 January, 90.

Verification.

I, Nagendra Singh, Ex Casual Wireman, do hereby verify that the contents of paragraphs 1 to 9 of this rejoinder is true to my personal knowledge, belief and legal advice. Nothing material has been concealed.

Verified and signed this 27th day of January, 1990 at Lucknow.

LUCKNOW.

Nagendra Singh
APPLICANT.

DATED: 27 January, 1990.

Amr R.D.

P.S.9544

GM letter NO. 220-E/190-XII-A/EIV dated 24.3.88

screening of casual labour

1. Introduction

Supreme Court in their judgements in case of Indarpal Yadav and others Vs. U.O.I dated 18.4.85 with final modification dated 11.8.86 and in case of Ram Kumar and others Vs. UOI dated 2.12.87 have directed that project casual labour shall be granted temporary status after 360 days continuous service (earlier there was no provision of granting temporary status to project casual labour) and that seniority lists of project casual labour should be an combined Division-wise Departmentwise and category wise. Further, Supreme Court observed that after granting temporary status in open line casual labour after 120 days and to project casual labour after 360 days of continuous service, there shall be no discrimination between these two sets of casual labour in grant of various privileges as admissible as per extent instructions.

It is in this context that the existing instructions on screening require to be reviewed.

2. Since no regular or temporary posts are required for engaging casual labour and for granting temporary status to casual labour, in terms of para 2511 (C) of chapter XXV of IREM and Rule 102 (13) RI casual labour are not to be treated as Railway servants, further various categories of casual labour like casual labour on daily wages, casual labour on scale rate of pay, casual labour attaining temporary status, casual labour appointed as substitutes, in skilled/unskilled categories are treated as casual labour. Such of the casual labour who are posted against post sanctioned for decasualisation under orders of competent authority or absorbed against regular vacancies by conducting screening will be treated as regular ones and after such regularisation, they will be entitled to all privileges as admissible to regular/temporary employees.

3. LIVE CASUAL LABOUR REGISTERS

Instructions have recently been issued vide P.S.NO.9191 dated 11.3.1987 PS NO. 9195 dated 12.3.87m P.S. 9349 dated 20.8.87 and P.S. 9438 dated 13.11.1987 elaborating the purpose and manner in which live casual labour registers are to be maintained and as to which of the casual labours are to be borne on the live casual labour register in each seniority unit. It was also stipulated that preferably such live casual labour registers, in each seniority unit, should be maintained in the register, wherein the names of those who were working and these who have been retrenched shall be entered and dates of retrenchment against retrenched labour shall be indicated.

As per provisions of Industrial Dispute Act, the re-engagement in the seniority unit has to be on the principle of last go, first in and for the retrenchment the principle will be last come, first go after complying with the provisions of Industrial Dispute Act. e.g. giving stipulated notices and compensation etc.

*Com C.M.
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Kod/sms*

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This casual labour register ~~wxxx~~ shall be maintained by each senior subordinate for open line casual labour and for project casual labour by Sr.DPO for their respective divisions, Department wise and categories wise. Sr.D.P.6s may note that they are already preparing combined seniority lists for project casual labour of their divisions, department-wise and category wise. These lists itself shall be treated as live casual labour register for the project casual labour on their division.

Heads of construction units CE/Con, CSTE/Con, CEE/Con shall also keep with them copies of consolidated combined seniority list of their project casual labour working on various divisions category wise for skilled/semi-skilled/unskilled for their record and supply copies of the same to Sr.DPOs. They will treat such lists as their live casual labour register for the division, which is not having project casual labour of its division. In any case engagement/retrrenchments will be done with approval of Sr.DPO of respective division.

4. Seniority units for the purpose of engagement, retrrenchment and re-engagement and maintaining live casual labour register.

For the purpose the seniority units of casual labour engaged on open line are senior subordinate wise (PS.NO. 7850).

For project casual labour, however, earlier the seniority units used to be senior scale officer wise which have been changed in terms of Supreme Court judgement quoted above and such seniority units of all Project casual labour will be division wise, departmentwise and category-wise for which combined seniority lists are to be prepared for project casual labour working in the division seniority for each department categorywise.

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Live casual labour registers are mentioned in para 3 above are to be maintained for these seniority units.

5. Seniority units for the purpose of screening

As per extant instructions from Railway Board, all civil regular v. ancies in open line or project (except in workshops/Electrical Diesel sheds where separate rules exist are required to be filled by screening of casual labour.

The screening in all the departments including Civil Engg. deptt. should be conducted on Divisional basis separately by each department and each category where both open line casual labour as well as Project casual labour working on open line and construction units in that category will be considered in order of their seniority.

To elaborate it is to advise that the seniority lists for the purpose of screening will be different than those mentioned in para 4 above. These seniority lists will be prepared where both sets of casual labour working in open line as well as on Project will be combined.

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and inter-se seniority will be prepared depending upon the total number of working days put in by each casual labour including broken as well as per extent instructions.

Earlier the screening of all departments other than Civil Engineering was being done with division as a unit except for Civil Engineering department where the screening was done with AEMs as a unit and project casual labour was also required to be considered. Now it has been decided that even for Civil Engg. department also the screening will be done division-wise wherein all the casual labour working under various AEMs and open line and the entire project labour working on the division, shall be considered. In Civil Engg. department, it has further been decided by Chief Engineer that the screening will be done separately for P.Way and other than P.Way category-wise (P.S. NO.9489 dt. 19.1.88).

SCREENING COMMITTEE

The screening committee shall be constituted in terms of P.S. NO. 8347 dated 17.3.83. They should include a member of SC/ST and one member from the minority community and other member and outsider of repute. The minimum number should be 3. Further the detailed instructions circulated from time to time in this regard should be strictly followed (see P.S. 7250, 8452, 8557, 8678 and 9024).

ASSESSMENT OF VACANCIES

The vacancies should be assessed in terms of P.S. No. 8005 and 8632 dated 15.3.82 and 6.12.84 respectively where existing and anticipated vacancies for the next one year should also be counted. The regular vacancies existing /sanctioned for maintenance and operation of the new assets on construction/project units should also be taken into account. The number of candidates should be 85% more than the vacancies/worked out, taken into account unforeseen eventualities.

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ELIGIBILITY

The instructions regarding eligibility of casual labour for screening have already been reiterated from time to time. Here it is only to mention that for screening depending upon the number of vacancies, certain minimum number of working days may be stipulated as on a particular nominated date upto which both sets of casual labour working on open line and the projects should be considered. There are also instructions that for screening only those casual labourers are to be considered who have put in 120 days continuous service (P.S. 7482 dt. 17.1.80, 7850 dt. 30.6.81 and 6422 dated 22.11.75).

The retrenched casual labour whose name exists on the live casual labour register and who have the requisite number of working days to their credit shall also be considered and they should be informed of the screening in a satisfactory manner.

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P42

While forming panel it should be ensured that SC/ST are given the requisite number of seats as per their quota. In case their requisite number is not available from amongst the existing casual labour shortfall should be made good by resorting to direct recruitment from open market. P. NO. 6462 dated 3.2.84. For this purpose 100 point roster for SC/ST will be observed (P.S. 2410).

Casual labour engaged after 1.4.72 without the approval of BWA /MODs and engaged after 1.1.81 without the approval of G.M. shall not be considered for screening except where post facto sanction have been obtained. Such labour, they can be considered.

Casual labour who have been retrenched and are not on roll may be considered for screening if they approach and apply to the Administration within the stipulated time at the time of screening (P.S.NO. 6546) dated 7.2.76 provided they have the requisite number of working days to their credit.

Casual labour who have not put in more than 120 days in the manner in which as stipulated in P.S.NO. 7045 dated 18.7.78 may also be considered if they are otherwise within the zone of consideration.

Those of casual labour who failed to attend on the previous occasions in the past, should not be called. P.S.NO. 6478 dated 14.3.84.

Casual labour engaged in hot water establishment and establishment of co-operative societies and canteens of Board and division may also be considered for screening depending upon their seniority (P.S.NO. 7382 dated 13.9.79).

LIFE OF PANELS

Panels of casual labour prepared for their regular absorption after screening would remain valid till the last person on the panel is absorbed. Regular requirements on open line as well as on projects shall be met with from such screened panels.

This issues after the consultation with both the recognised unions.

(S.S.Bali)
for General Manager (P)

Tommy
attested
K. S. Bali
Sd/- S.S. Bali