

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE ... O.A. 157 OF 1989

NAME OF THE PARTIES ... Amar Nath Tewari Applicant

Versus

..... Union of India Respondent

Part A.

| Sl.No. | Description of documents | Page |
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| 1 | Order Sheet | 2 ✓ |
| 2 | Judgement | 2 ✓ |
| 3 | Petition | 8 ✓ |
| 4 | Petition Annexure | 3 ✓ |
| 5 | Power | 1 ✓ |
| 6 | Counter Reply | 6 ✓ |
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| 8 | Petition | 8 |
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| 13 | Index Sheets A1 to A2 | |
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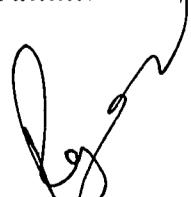
CERTIFICATE

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

Dated ..14/6/2011

B/C. destroyed on 09-5-12

Counter Signed.....



Section Officer/In charge


Signature of the
Dealing Assistant

(A21)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

O.A.No. 157/89

Amar Nath Tewari

Applicant.

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. A.B. Gorthi, Adm. Member.

(Hon. Mr. Justice U.C.S., V.C.)

The applicant joined the services of N.E. Railway on 29.11.1958 and got several promotions. In the year 1985 he was promoted as Fireman Grade II. He was further promoted to the post of Assistant Loco Foreman with effect from 15.1.1986 on adhoc basis. It has been stated by him that in the Panel prepared for the year 1989 his name did not find place in the seniority list, as the names of only 8 persons instead of 16 were included in it. If the names of 16 persons would have been included, he would have been one of them. He was reverted vide order dated 1.6.1989 against which he has come before this Tribunal.

2. In the counter affidavit it has been stated that the applicant has concealed certain relevant facts. As a matter of fact he had availed of three opportunities for test i.e. in the year 1986, 1988 and 1989 and in all the three tests he failed and as such is not entitled to promotion. In this connection reference was made to the case of Jetha Nand vs. Union of India (2990) 13 ATC 212)

3. The applicant, having availed of three opportunities and having failed in all, was rightly reverted when persons who were appointed prior to him had also been reverted. We direct that he may be given one more opportunity to appear in the test and in case he passes in the same, he may be given the desired appointment but if in the meantime, he has already been empanelled and provided the same post, this direction will not take effect. The application is disposed of finally with the above directions.

Shakeel/

Shakeel

A.M.

V.C.

V.C.

Lucknow Dated: 9.5.91.

Annexure - A
CAT-82
CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

INDEX - SHEET

CAUSE TITLE O.A. 157/89 OF 198

Name of the Parties Amar Nath Tewari

Versus

J.O.I (N.E.R)

Part A, B and C

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| A1 | Order sheet | 2 |
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| A6 | Counter Reply | 6 |
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| B1 | Petition | 8 |
| B2 | Annexure | 2 |
| B3 | Counter Reply | 6 |
| B4 | Rejoinder Affidavit | 4 |
| C | Admonition Application Vakalatnama and Official copy of the Notice | |

10/6/91

11/7/89
CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Reversion

Registration No. 157 of 1989

(L)

APPLICANT(S)

Amar Nath Jiwari

RESPONDENT(S)

U.O.S. and another (N.E.Rly.)

Particulars to be examined

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 cause for not making the application in time, been filed ?
4. Has the document of authorisation Vakalatnama been filed ?
5. Is the application accompanied by B.O./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 ?
c) Are the documents referred to in (a) above neatly typed in double space ?
8. Has the index of documents been filed and pageing done properly ?
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application ?
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal ?

Endorsement as to result of examination

yes

yes

yes

Four Sets

yes

NA

No

DD 784318 dt. 3/7
(50/-)

| | <u>Particulars to be Examined</u> | <u>Endorsement as to result of examination</u> |
|-----|---|--|
| 11. | Are the application/duplicate copy/spare copies signed ? | yes |
| 12. | Are extra copies of the application with Annexures filed ? | yes |
| | a) Identical with the Original ? | yes |
| | b) Defective ? | yes |
| | c) Wanting in Annexures | — |
| | Nos. _____ pages Nos. _____ ? | — |
| 13. | Have the file size envelopes bearing full addresses of the respondents been filed ? | No |
| 14. | Are the given address the registered address ? | yes |
| 15. | Do the names of the parties stated in the copies tally with those indicated in the application ? | yes |
| 16. | Are the translations certified to be true or supported by an Affidavit affirming that they are true ? | NA |
| 17. | Are the facts of the case mentioned in item no. 6 of the application ? | yes |
| | a) Concise ? | yes |
| | b) Under distinct heads ? | yes |
| | c) Numbered consecutively ? | yes |
| | d) Typed in double space on one side of the paper ? | yes |
| 18. | Have the particulars for interim order prayed for indicated with reasons ? | yes |
| 19. | Whether all the remedies have been exhausted. | NA |

dinesh/

May be listed before cont

on 11-7-89

107/89

S.C. (T)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

1

REGISTRATION NO. OA 157 of 1989 (L)

APPELLANT
APPLICANT

Arvind Math Tewari

DEFENDANT
RESPONDENT

Union of India

VERSUS

Serial
number
of order
and date

Brief Order, Mentioning Reference
if necessary

How complied
with and date
of compliance

11/7/09

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

Heard
Admit. Issue notice, Counter affidavit within 6 weeks, rejoinder, if any, thereafter within 2 weeks.
Issue show cause notice returnable within 2 weeks hereof as to why the interim relief
as prayed for by the applicant be not granted.
The short reply will also be given to the
replies, with reference be made in para 4.6
of the petition. fixed. 02.09.09 for final
hearing.

2

Member (J)

2/8/09

Hon. Justice K. Nath, VC.

Notices issued to the opposite
parties by registered post are deemed
to be served. Vakalatnama on
behalf of opposite parties has been
filed in favour of Anil Srivastava
who is unable to attend on account
of illness. Counter may be filed
within four weeks to which the
applicant may file rejoinder within
two weeks thereafter. List for
final hearing on 21-9-09 when
the matter for interim relief
also be taken up, if necessary.

OR
Case vs submitted
for admission
17/7/09

OR
notice issued
17/7/09

OR
Notices were issued
to the respondents
by registered post.
Whether reply nor
any unsworn reply
ever have been
submitted for
hearing

W
1/9

OR As directed by the
Court's order dt. 2.8.09
no reply has been filed
so far.
Submitted for order

20/9

VC.

RC

157/04(1)

2

157/2

Se 181
number
of
order
and date
(3)Brief Order, Mentioning Reference
if necessaryHow compli-
with and
date of
compliance

11-12-89 No. sitting Adj to 22-2-90.

(6)

L
11/12

22/2/90

Hon. Dadasree K. Watt, re
Hon. R. Bayya, Am.On
No RA filed
S. C. hearingL
20/2

The learned Counsel for
the applicant files rejoinder.
The opposite parties' counsel
refuses for an adjournment.
The case is adjourned for
final hearing on 14/3/90.

OR

S.R. 4

12/1

P
J.M.P
C.

(7) P

14.3.90

Hon. D. K. Agarwal J.M.
Hon. R. Bayya, A.M.

Shri A. N. Tiwari (applicant)
appears and states that his
Counsel is not available, so
he seeks adjournment. This
is the case of the year 1989.
There is no hurry about
the disposal of the case. Let
it be listed on 16-8-90.

P
J.M.De
J.M.OR
Not filed
S.P.M.
10/1

Dinesh

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH AT LUCKNOW

Original Appln. No. 157 of 1989(L)

BETWEEN

Amar Nath Tewari

...Applicant

AND

Union of India & others

...Respondents

filed today
Date
317

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

For use in Tribunals office;

.....

.....

Date of filing - 31/2/89

or

Date of receipt -

by post -

Registration No. 157/89(L)

Notice for
1/7/89
Bench K.Sivas
(H.S.)

Signature of the
Registrar.

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH AT LUCKNOW

Original Appn. No. 157 of 1989(L)

Between

Amar Nath Tewari

...Applicant

And

Union of India & others

... Respondents

I N D E X

1. Memo of Application 1-8
2. Annexure No. 1
Impugned order of reversion 9-11
dated 1.6.1989
3. Postal order
Bank Draft No. 11784318 Dated 3/7/89
for Rs 50/- only.
4. Vakalatnama

Place: Lucknow

Dated: 3/7/89

A. Ananam
Counsel for the applicant

Advocate

mmmm @cmo

A31

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH AT LUCKNOW

Original Appn. No. 157 of 1989(L)

Between

Amar Nath Tewari

...Applicant

And

Union of India

...Respondents.

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

DETAILS OF THE APPLICATION

PARTICULARS OF THE APPLICANT.

(i) Name of the applicant: - Sri Amar Nath Tewari

(ii) Name of father : - Sri Pt. Badri Pd. Tewari

(iii) Designation and office Asstt. Loco Foreman(R)
in which employed Loco shed, N.E. Railway,
Charbagh, Lucknow.

(iv) Office Address Loco Shed, N.E. Railway,
Charbagh, Lucknow.

(v) Address for service Asstt. Loco Foreman(R),
of all notices; Loco Shed, N.E. Railway,
Charbagh, Lucknow.

PARTICULARS OF THE RESPONDENTS:

(i) Name &/or designation of the respondents;

(i) Union of India through Secretary,
Ministry of Railways,
Gvt. of India, New Delhi.

(ii) Senior Divisional Mechanical
Engineer(L), N.E. Railway,
Lucknow

1- PARTICULARS OF THE ORDER AGAINST WHICH THE
APPLICATION IS BEING MADE;

The application on behalf of the applicant
is being made against the order of Opposite Party
No. 2 dated 1.6.1989 through which the petitioner
is being reverted from the post of Asstt. Loco Foreman
(R) to that of Driver 'A'.

(A3) 2

(2)

2- JURISDICTION OF THE TRIBUNAL:

The petitioner is posted at Lucknow Loco Shed, N.E. Railway, Charbagh, Lucknow as such this bench of this Hon'ble tribunal has jurisdiction.

3- LIMITATION

The applicant declares that the impugned order dated 1st June, 1989, hence it is well within the limitation prescribed Under Section 21 of the Administrative Tribunals Act. 1985.

4- FACTS OF THE CASE:-

The facts of the case are given below;

4-i. That the applicant originally joined the services in the N.E. Railways with effect from 29th November, 1958 as Engine Cleaner and since then he is continuing in the railways with quick and successive promotions due to his efficient and honest working.

4- ii. That the applicant was promoted as fireman grade II, then securing ~~six~~ promotions he became driver grade B in 1985. This was his 6th promotion in the service career of the applicant.

4- iii. That for officiating promotion the applicant was selected and further promoted to the post of Assistant Loco Foreman (R) with effect from 15.1.86

mmmer Recltd

and since then he had been performing his duties on the said post honestly and efficiently, at Lucknow.

4- iv. That the work and conduct of the petitioner on the said post of Assistant Foreman (R) has been absolutely satisfactory and nothing adverse was reported against him. That is why he was allowed to continue beyond 18 months on the promoted post of Asstt. Foreman (R).

4- v. That in the beginning of 1989 the Opposite Parties proceeded to draw a panel for regular promotion to the post of Asstt. Foreman (R) in N.E. Railways, Lucknow. For the purposes of said promotions various candidates were considered including the petitioner. However this aspect was duly ignored by the Opposite Parties that the petitioner had already worked satisfactory on the post of Assistant Foreman (R) for more than 3 years and in the panel the petitioner was not included.

4- vi. That there were 16 posts of Assistant Foreman (R) were available in Lucknow division but the panel was drawn only of 8 persons and remaining 8 posts were left out for want of suitable candidates or for any other reason.

(4)

4-vii. That inspite of non inclusion of the petitioner in the panel the petitioner ~~was~~ could continue on the post of Asstt. Foreman (R) on the remaining 8 posts which were not covered by any panel and which are not covered by any panel.

4-viii. That to the utter surprise of the petitioner that he has been received an order of reversion through an order dated 1st June, 1989 passed by Opposite Party No. 2 reverting him from the post of Assistant Foreman(R) to that of Driver passenger or Driver Grade A. This reversion will cause loss of emoluments to the petitioner.

4-ix. That it may be pointed out that the reversion of the petitioner is not warranted by any administrative exigencies or public interest. 8 posts are available which are not covered by any selected panel and the petitioner could continue on the post of Asstt. Foreman(R). Here it may also be pointed out that the petitioner had worked for more than 18 months on the higher post and unless he has ^{been} found unsuitable he should not have been reverted according to the directions issued by the Railway Board.

4-x. That according to the instructions of the Railway Board issued on 23rd June, 1982 mentioned at page 199 of the Railway Establishment Manual

MAY REVERT

P.B/S

(5)

(Jand), The adhoc promottee is not to be reverted for a period of 6 months inspite of the circumstances that he has failed for inclusion in the panel of the post concerned on which he is officiating on promotion. This 6 months have been mentioned for the reason that there could be a gap of 6 months between one panel and the other so a promottee official may have a chance to enter into the next panel. In this view of the matter the reversion of the petitioner is wrong.

4- xi. That various instructions of the railway contained in establishment manual also provides that such adhoc promottees who are working for a ^{satisfactorily} sufficient time should not be ousted from the panel. In this view of the matter the petitioner should not have been ousted from the panel and if so he should have been allowed to continue on the post of Assistant Foreman(R) and the reversion is to be ordered only in a situation where one has to be replaced by a duly ~~Empanelled~~ ^{promottee} committee. It has already been pointed out that 8 posts of Assistant Foreman(R) are available which are not covered by any panel and petitioner is not to be replaced by any ~~Empanelled~~ ^{promottee} committee. As such the reversion of the petitioner through Annexure No. 1 dated 1st June, 1989 is illegal, arbitrary.

Annexure 1

(6)

A3/6

4-xii. That if the petitioner is reverted he will suffer irreparable loss of finance and in other words, matters

5- RELIEF BEING SOUGHT:

In view of the facts mentioned as above paras of application, the humble petitioner prays for following reliefs;

(A) That this Hon'ble tribunal may be pleased to quash the impugned order of reversion dated 1.6.1989 contained as Annexure No.1 and the petitioner may be allowed to continue on the post of Assistant Foreman(R) with all consequential benefits.

(B) That any other relief what ever thinks fit and proper by this Hon'ble tribunal may be awarded to applicant along with cost of the case against respondents on the basis of following amongst other grounds;

(i) Because the reversion of the petitioner is not prompted by any administrative exigencies or public interest.

(ii) Because the reversion of the petitioner is arbitrary and discriminatory and violates the

Original Demand

A3/7

(7)

fundamental rights guaranteed under Arts. 14 and 16 of the Constitution of India.

(iii) Because the impugned reversion of the petitioner through Annexure no. 1 ~~is~~ amounts to punishment in violation of Art. 311 of the Constitution and principles of natural justice.

(iv) Because the impugned reversion of the petitioner through Annexure no. 1 is wholly arbitrary and malafide.

(v) Because if the reversion is given effect, the petitioner will suffer irreparable loss.

6- INTERIM ORDER IF PRAYED FOR:

Pending final decision of this application applicant seek the issue ^{following} ~~final~~ interim order;

in manu
"That this Hon'ble tribunal may be pleased to issue a suitable order/direction to respondents that the operation of the impugned order of reversion contained as Annexure no. 1 dated 1.6.89 may be stayed in respect of the petitioner pending disposal of the application in the interest of justice.

7- DETAILS OF REMEDY EXHAUSTED:

No remedy is available.

(A3/6)

(8)

8- MATTER IS NOT PENDING WITH ANY OTHER COURT ETC;

The applicant is declares that the matter regarding the relief sought in the application is not pending before any other court of law or has been rejected by any court of law.

9- DETAIL OF INDEX.

Index in deuplicate with details of document be relied upon as enclosed with application.

10- LIST OF ENCLOSURES;

Memo of application along with 3 annexures vide index as enclosed;

11. PARTICULARS OF POSTAL ORDER;

Postal order No. 11784318 dated 3/7/89
for Rs 50/- only.

VERIFICATION

I, Amar Nath Tewari, Son of Pt. Badri Prasad Tewari, Aged about 51 years, Working as Asstt. Foreman (R), N.E. Railways, Lockshed, Charbagh, Lucknow do hereby verify that the contents of paras 1 to 11 of this application are true to my personal knowledge and belief and that I have no suppressed any material facts.

Place: Lucknow

Dated: 3/7/89

SIGNATURE OF THE
APPLICANT

Through

A. Channan
Advocate

Counsel for the petitioner/applicant

9
Aut

कायालिय आदिरा

निम्नलिखित चालक जो एस्टेट्सफ (आरा) एफ मालिक, पी. एन. एल.,
लोको प्रेस ली, लोको प्रेस ली (रमिंग), रॉक्स सलाइकार वेन्यू (2000-3200)
के चयन में योग्य प्रोफिट किए गये हैं, को तदनुसार अस्थाई एफ से पदोन्नति का उनके
नाम के रास्ते अंकित शेडों में नियुक्त किया जाता है तथा जो तदर्थ स्टोर्स ए.एल.एफ (आरा)
वेतनमान में नियुक्त किया जाता है तथा जो उनी पद व
वेतनमान में नियुक्त किया जाता है :

| क्रमांक | नाम | वर्तमान पद | शेड | पदोन्नति | पदोन्नति पार | पदोन्नति पद व | नियुक्त शेड पार वेतन | निधारित |
|---------|-----------------------|-------------------------------------|---------|-----------------|--------------|---------------|----------------------|---------|
| 1- | सर्वश्री मनोहर लाल | प्रेसेजर चालक चारबाग | ए.एल.एफ | चारबाग | 3200/- | | | |
| | | (1640-2900) | (आरा) | (2000-3200) | | | | |
| 2- | दुर्जी राम | प्रेसेजर चालक गोरखपुर | | गोरखपुर | 3200/- | | | |
| | | (1600-2660) | | | | | | |
| 3- | बॉ.कै. मिशा | तदर्थ ए.एल.एफ गोप्ता | | गोप्ता | 3200/- | | | |
| | | (आरा) | | | | | | |
| 4- | दपनन्द प्रसाद | प्रेसेजर चालक चारबाग | | चारबाग | 2750/- | | | |
| | | (1600-2660) | | | | | | |
| 5- | ए.ए. आन | | | पी.एन.एल. लघुनज | 2750/- | | | |
| | | | | वैंड्रोल | | | | |
| 6- | रमेश लाल | | | | | | | |
| | | | | | | | | |
| 7- | ए.के. मजुमदार | तदर्थ ए.एल.एफ | | | 2750/- | | | |
| | | (आरा) | | | | | | |
| | | (2000-3200) | | | | | | |
| 8- | लक्ष्मी नारायण मिशा | प्रेसेजर चालक गोरखपुर ए.एल.एफ (आरा) | | मैलाना | 2300/- | | | |
| | | (1600-2660) | | | | | | |

पदोन्नति पार एक शेड से दूसरे शेड को स्थानांतरित किए गये कर्मचारियों को
स्थानांतरण पाए, स्थानांतरण भलाव व्यावेशिंग टाइम देय है।

क्रमांक

Attested
Kamesh Kumar (Guru Vasavada)

Bank Account

Am/2

10

प्रथम अधिकारमें ये वास्तव लक्ष्य रक्षा, इस रक्षा (अस्त) का उत्तर लक्ष्य रूप में कार्यात्मक है, को उनके नाम के सामने अंकित पद व वेतनमान व्यापारावनति कर अंकित शेषों द्वारा दस्थापित किया जाता है।

| | | | | | | |
|-----------|-----|------------|-----|------------|--------------|-----------|
| क्रमांक | नाम | वर्तमान पद | शेड | पदावनीत | पदावनीत | पदावनीति |
| | | व ग्रेड | | पद व ग्रेड | पद पर | पर वेत्तन |
| रावेश्वरी | | | | | नियुक्ति शेड | निर्धारण |

१- एस. के. श्रीवास्तव तदर्थ स.एस. गोरखपुर मेल/स्कूल. गोरखपुर 2420/-
 एप्रिल 2000-3200 चालक

2- आर. डी. शिंह पैसेंजर चालक 2200/-
(16042660)

3- धूव रंकर प्रसाद 2050/

| | | |
|-------------------------------|------|--------|
| 4- गोपा प्रसाद त्रिपाठी | गोपा | 2050/- |
| 5- गोपा | गोपा | 2050/- |

5- एम.जे. औरारी " गोरखपुर " गोरखपुर 2050/-
 6- दी.सन. वहन " "

0- अमासांश रिटारी ॥ गोण्ड ॥ ॥ गोण्ड ॥ 2050/-

| | | | |
|---|---------|---------|--------|
| १- राम मृति | गोरखपुर | चारबाग | 1900/- |
| | | गोरखपुर | 1750/- |
| नोट:- पदोन्तति प्राप्त करने वाले कर्मस्त्रातियों को शुचित किया जाता है जिते पदोन्तति पार आने वेतन मिर्धारण हेतु निम्नांकित विकल्प दे रखते हैं। | | | |

(अ) पदोन्नति वाले उच्च पद पर उसका प्रारंभिक वेतन सीधे नियम 2010(बी) एवं आर 22सी/आर-मा। के अंतर्गत बिना यह धन विषे निधारण किया जाय कि निचले स्तर के वेतनमात्र में उसकी वार्षिक बढ़ोत्तरी का मिलने दाली जाए।

(ब) पदोन्नति पर उसका प्रारंभिक वेतन नियम 2017(अ)एवं शान्ति ।

एप्रिल 22(ग)(१) के अंतर्गत निर्धारित किया जायेगा और निचले पद के देतनमान'में नियम 2010(बी)आरना। (एप्रिल 22 तक) के अनुसार उसकी अगली वार्षिक वेतनवृद्धि की तिथि से वेतनमान में निर्धारित किया जाय। पदोन्नति की तिथि से एक माह के अंदर यह विकल्प देख होगा और एक बार दिया गया विकल्प अंतिम माना जायेगा।

After Ed
Ramesh Kuri (gives fare
(fare)

कम्प ८

प्रश्न प्रस्तुति की असुरक्षित रूप से किया जाता है।

11

कृते मण्डल रैल प्रत्येक(का),

सं. ई/11/254/ए.एल.एफ. (आर) /पो. एन.एल. /
एल.आई. /एन.आई. /मुण्डा/८०

दिनांक १६-८-९ लखनऊ ११८

प्रतिलिपि: निम्न को युक्तनार्थ सर्वे जातेयक कार्यवाही हेतु प्रेषित:—

- 1- प्रमलेखि/लखनऊ, रलेखि/गोण्डा ।
- 2- प्रम्भाई/लखनऊ ।
- 3- राण. यां. इं. (एल) लखनऊ, गोण्डा एवं कानपुर अन्दरांज ।
- 4- लोको त्तेमैन/गोण्डा, गोण्डा, मैलानी, चारबाग एवं कानपुर अन्दरांज ।
- 5- कार्यालय अधी. /दिल्ली गोण्डा, गोण्डा व मण्डल कार्यालय में ।
- 6- वेतनदृदिध सर्वे प्लेट्टर लिपिक (मण्डल कार्यालय में) ।
- 7- मण्डल मंत्री/नर्सू व त्रिं. आर.के.एस. ।
- 8- रम्येधित रम्यचारीगण ।

कृते मण्डल रैल प्रत्येक(का),

लखनऊ

लखनऊ
१६-८-९
११८
लखनऊ
प्रम्भाई/गोण्डा
राण. यां. इं. (एल)
लोको त्तेमैन/गोण्डा
कार्यालय अधी. /दिल्ली
मण्डल मंत्री/नर्सू
रम्येधित रम्यचारीगण
प्रम्भाई/गोण्डा
राण. यां. इं. (एल)
लोको त्तेमैन/गोण्डा
कार्यालय अधी. /दिल्ली
मण्डल मंत्री/नर्सू
रम्येधित रम्यचारीगण

Before the Hon'ble Central Administrative Tribunal
Circuit Bench at Lucknow

बायदालत श्रीमान

महोदय

वादी (मुद्र्द्वारा)
मुद्र्द्वारा (मुद्रालेह)

का

Amar Nath Tewari

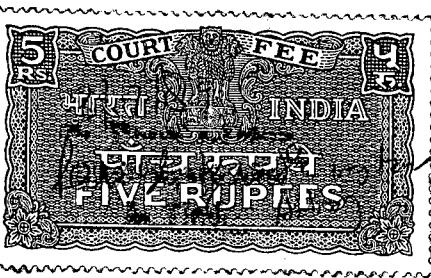
vs

वकालतनामा

— Applicant

Union of India and others

— Respondent



नं० मुद्रमा

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

सन पेशी की तातो

१९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री Sri A. Mamun, A.K. Chelur Nedi

S. K. Srivastava, R.K. Srivastava

वकील

एडवोकेट महोदय

बायदालत
नं० मुकद्दमा नाम
नाम करीकैन

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

मामूली रूप
हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

३

महीना

७

सन् १९ ई०

(A61Y)

In the Central Administrative Tribunal ,
Circuit Bench, Lucknow.

Registration (O.A) No.157 of 1989(L)

A. N. Tewari. Applicant.

Versus.

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

Fixed for 21.9.1989.

Counter Reply on behalf of Respondents.

*Recd Copy
Anil Kumar Chaturvedi
21/9/89 Adv.*
I, M. P. Singh working as Asst
Personal Officer in the office of Divisional
Manager, Railway, North Eastern Railway, Ashok Marg, Lucknow,
do hereby solemnly affirm and state on oath as under:

1. That the official above named is working under the respondents and is fully conversant with the facts of the case and having read the application, understood its contents, has been authorised by the respondents to file this counter reply on their behalf.
2. That the contents of paras 1 to 3 of the application do not call for remarks.

That reply to the contents of para 4 of the application is as below:-

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पूर्वोत्तर रेलवे, लखनऊ

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3. That in respect of the contents of para 4 (i) of the application, it is admitted that the applicant originally joined the services in the N.E. Railway on 29.11.1958 as Engine Cleaner but rest of the contents of the para are denied.

4. That the contents of para 4(ii) of the application are admitted.

5. That the contents of para 4 (iii) of the application is not admitted as stated. The applicant was never selected and then promoted to the post of Assistant Loco Foreman (Running) on 15.1.1986 (not on 15.1.1986 ^{as} wrongly stated in the application) but he was promoted to the said post purely on ad-hoc basis and on condition that on the said post he will not be given benefit of seniority, regular promotion and confirmation etc. A Photo copy of the promotion order dated 15.1.1986 is being annexed herewith as Annexure No.R-1 to this reply.

6. That the contents of para 4(iv) of the application is not admitted as stated. In fact the applicant was allowed to appear in the selection test for promotion to the post of Assistant Loco Foreman (Running) thrice i.e. in the years 1986, 1988 and 1989 but he failed each time. The said selection test consists of a written test followed by interview and the employees who qualify in the said selection are empaneled

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प्रहायक कान्सिक अधिकारी।
पूर्वोत्तर रेलवे, लखनऊ

- 3 -

for promotion to the post of Assistant Loco Foreman (Running). It is an open selection test. Since the applicant could not qualify in any of the three selection test for the said post hence he was reverted to this original post i.e. Driver grade 'B' after being found in efficient for the said post.

7. That the contents of para 4(v) of the application are not admitted as stated. The applicant wilfully concealed the the fact from this Hon'ble Tribunal that thrice he appeared for the selection ~~test~~ (i.e. written) ~~test~~ followed by interview) for promotion to the post of A.L.F.(R) but failed each time and therefore his name could not be included in the panel for regular promotion on the said post.

8. That in reply to the contents of paras 4(vi) &(vii) of the application it may be stated that as explained in the preceding paragraphs hereinabove the last selection for promotion to the post of A.L.F.(R) was held in the year 1989 and eight candidates could qualify in the said selection and accordingly they were ordered to be promoted but the applicant and other's employees who were even senior to the applicant and who were conditionally promoted purely on ad-hoc basis were ordered to be reverted to their original posts i.e. on the post they were working prior to their promotion on ad-hoc basis.

9. That the contents of para 4 (viii) of the

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पुस्तकालय, राजस्थान

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- 4 -

application are not admitted as stated. The correct position has already been explained in the preceding paragraph. However it may also be clarified that by the said reversion, the applicants emoluments will not decrease rather he would get more emoluments including running allowances etc. as passenger driver (1600-2660).

10. That the contents of para 4 (ix) of the application are not admitted as stated. The applicant was allowed to appear in the said selection three times but each time he was found unsuitable and could not qualify the selection, therefore he was reverted to his original post.

11. That the contents of para 4(x) of the application is denied as it does not apply to the cases of the applicant.

12. That the contents of para 4(xi) of the application are not admitted as stated. The applicant has also not quoted the exact provisions of the Establishment Manual. The competent authorities have no other option except to revert the applicant as he did not qualify the selection for promotion.

13. That the contents of para 4(xii) of the application is also denied. After reversion, the

21/9. 2021

(AGS)

- 5 -

applicant would not suffer irreparable loss of finance as alleged rather he would get more amoluments.

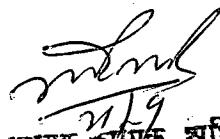
14. That in reply to the contents of para 5 of application, it is stated that for the facts and reasons stated hereinabove the applicant is not entitled to any relief as claimed rather this application itself is liable to be rejected with costs.

15. That in reply to the contents of para 6 of the application , it may be stated that the applicant would certainly not suffer with irreparable loss and injury if the interim relief is not granted to him at all.

16. That the contents of paras 7 तक 11 of the application do not call for reply.

Lucknow; Dated

21.9.1989

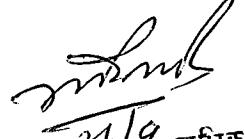

21/9
न्हायक कामक अधिकारी
पूर्वोत्तर रेलवे, लखनऊ

Verification.

I, the official above named do hereby verify that the contents of para 1 of this reply is correct on the basis of personal knowledge and those of paras 2 to 16 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

21.9.1989


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न्हायक कामक अधिकारी
पूर्वोत्तर रेलवे, लखनऊ

ATIV

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW

Original Application No. 157 of 1989

Amar Nath Tewari

... Applicant

Versus

Union of India & others

... Respondents

Rejoinder Affidavit to the Counter
Affidavit filed by Respondents.

*P 1
2/2/90*
Rejoinder
to the Counter
Affidavit
of the Respondents
2/2/90

I, Amar Nath Tewari, Aged about 52 years, Son of Sri Badri Prasad Tewari, Resident of North Eastern Railway Colony, Loco Shed, Charbagh, Lucknow do hereby solemnly affirm and state on oath as under;

1. That the deponent is the applicant in the above mentioned case, he has read the Counter Affidavit of the Opposite Parties as such he is conversant with the facts and circumstances of the case stated herein-after.
2. That in reply to the contents of paragraph 1 of the Counter Affidavit it may be pointed out that the deponent of the Counter Affidavit is not fully aware of the facts and circumstances of the case.
3. That the contents of paragraph 2 of the Counter Affidavit need no reply.
4. That in reply to the contents of paragraph

A7/2

(2)

3 of the Counter Affidavit, the contents of paragraph 4 of the application are reiterated as correct.

5. That the contents of paragraph 4 of the Counter Affidavit need no reply.

6. That the contents of paragraph 5 of the Counter Affidavit are not admitted as framed and those of contents of paragraph 4iii of the application are reiterated as correct. The applicant has a right to continue on the post of Assistant Loco Foreman (Running) as he is continuing on this post since January, 1986. More than $3\frac{1}{2}$ years has passed, the applicant is not to be reverted and there is no one duly selected candidate to replace the petitioner.

7. That the contents of paragraph 6 of the Counter Affidavit are not admitted as framed. The contents of paragraph 4iv of the application are reiterated as correct. It may be pointed out that in first and second selection referred there in no one qualified in the IIIrd test i.e. of 1989 only 8 persons qualified against 16 available posts. So far on 8 posts still no duly selected candidates are available and thus the ~~petitioner~~ applicant has a right to continue unless the selected candidates are available.

8. That the contents of paragraph 7 of the Counter Affidavit as alleged are wrong hence denied. The contents of paragraph 4vi~~00000000~~ of the

Memorandum

(A7/3)

(3)

application are reiterated as correct.

9. That the contents of paragraph 8 of the Counter Affidavit as alleged are wrong hence denied and those of contents of paragraphs 4(vi) and 4(vii) of the application are reiterated as correct. The applicant has not made any concealment. The position remained that the petitioner is entitled to continue.

10. That the contents of paragraph 9 of the Counter Affidavit as alleged are wrong hence denied and the contents of paragraph 4(viii) of the application are reiterated as correct. It may be further pointed out that the impugned reversion of the applicant will reduce his amoluments, the grade and other allowances, and in the refixation he will loose about 400/- p.m. The applicant was drawing on the higher post about 2500/- p.m. but the reversion has brought it to 1900/-.

11. That the contents of paragraphs 10 and 11 of the Counter Affidavit as alleged are wrong hence denied and those of related paragraph 4(ix) and 4(x) of the application are reiterated as correct. It may be further pointed out that the applicant is entitled to continue till duly selected suitable candidates for promotion are available.

12. That the contents of paragraph 12 of the Counter Affidavit as alleged are wrong hence denied and those of contents of paragraph 4(xi) of the

AN/14 Recd

A7/1

(4)

application are reiterated as correct. The provisions will be pointed out at the time of arguments and the provisions are also known as to the Opposite Parties. The recent decision of the full bench of the Central Administrative Tribunal has also confirmed the position taken by the applicant.

13. That the contents of paragraph 13 of the Counter Affidavit as alleged are wrong hence denied and those of contents of paragraph 4xii of the application are reiterated as correct.

14. That the contents of paragraphs 14, 15 and 16 of the Counter Affidavit as alleged are wrong hence denied and those of contents of paragraphs 5 to 11 of the application are reiterated as correct. Application is full of merits and deserves to be allowed with cost.

Place: Lucknow

Dated: 22.2.90

original record
DEPONENT

VERIFICATION

I, the above named deponent do hereby verify that the contents of paragraphs 1 to 14 of this affidavit are true to my personal knowledge.

Nothing material has been concealed and no part of it is false, so help me God.

Signed and verified on this 22 day of *February* 1990 at Lucknow.

I, identify the above named deponent who has signed before me.

Asit Kumar Chaturvedi
ADVOCATE.

27/2/90
DEPONENT