

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE O.A-181 OF 89

NAME OF THE PARTIES S-C. Srivastava Applicant

Versus

Union of Indise Respondent

Part A.

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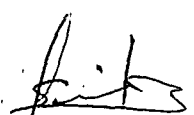
CERTIFICATE

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

Dated 09-6-11

Counter Signed.....

Section Officer In charge

  
Signature of the  
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

41

1-8-89

Registration No. 181 of 1989(L)

APPLICANT(S) S. C. Srivastava

RESPONDENT(S) Union of India & others

<u>Particulars to be examined</u>	<u>Endorsement as to result of examination</u>
1. Is the appeal competent ?	yes
2. a) Is the application in the prescribed form ?	yes
b) Is the application in paper book form ?	yes
c) Have six complete sets of the application been filed ?	four sets have been filed
3. a) Is the appeal in time ?	yes
b) If not, by how many days it is beyond time?	No
c) Has sufficient case for not making the application in time, been filed?	yes
4. Has the document of authorisation/ Vakalatnama been filed ?	yes
5. Is the application accompanied by B.D./Postal Order for Rs.50/-	yes
6. Has the certified copy/copies of the order(s) against which the application is made been filed?	yes
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	yes
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	yes
c) Are the documents referred to in (a) above neatly typed in double space ?	yes
8. Has the index of documents been filed and paging done properly ?	yes
9. Have the chronological details of representation made and the out come of such representation been indicated in the application?	yes
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?	No

12

Particulars to be Examined

Endorsement as to result of examination

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 ? No
  - c) Wanting in Annexures No

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 ? yes
17. Are the facts of the case mentioned in item no. 6 of the application ? yes
  - a) Concise ? yes
  - b) Under distinct heads ? yes
  - c) Numbered consecutively ? yes
  - d) Typed in double space on one side of the paper ? yes
18. Have the particulars for interim order prayed for indicated with reasons ? yes
19. Whether all the remedies have been exhausted. yes

dinesh/

10/1/09 CC

20 x. 04

Hon. D.K. Agarwal, AM  
Hon. Mr. K. Obayya. AM

Admit

See original  
adv  
main Petition

CR  
No reply / filed  
submitted to  
adv

4/1/94


Hon' Mr Justice Kamleshwar Nath, V.C.

Hon' Mr K. Obayya, A.M.

5/1/90

Learned counsel for the applicant files rejoinder to the short counter. Learned counsel for the respondents says that short counter is based on the plea of limitation. List this case on 26-2-90 for hearing on the question of limitation.

  
A.M.

  
V.C.

(sns)

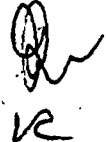
S.F. heard  
26/2

26.2.90

Hon. Mr. Justice K. Nath. KC  
Hon. Mr. K.J. Ramon AM

Supplementary rejoinder filed on behalf of applicant. Counsel list for final hearing on 7.5.90.

  
AM

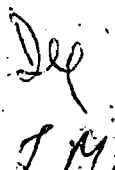
  
KC

7-5-90

Hon. Mr. D.K. Agarwal J.M.  
Hon. Mr. K. Obayya. AM

The bar is on strike.  
Adjourned to 21-8-90 F.H.

  
AM

  
J.M.



21/8/90 No sitting Adj to 26/11/90  
Ok

26.11.90 Case not reached Adjourn to 28.1.91.

28.1.91 No sitting Adj to 19.4.91

19.4.91 No sitting Adj to 8.8.91  
J Doc.

8.8.91 No sitting Adj to 21.10.91  
J

OR

Short CA/RA filed  
S.F.H.  
h  
CS/H

21.10.91 Mr. W.H. Hardani - Counsel for the applicant.  
None present for the respondents

Admit subject to the plea of limitation raised by the respondent.

Issue fresh notice to respondents to file detailed counter reply within four weeks, rejoinder, if any within two weeks thereafter. Parties to appear before DR(T) on 16/12/91.

(S.N. Prasad)  
Member (Judl.)

(Kanshal Kumar)  
Vice Chairman.

OR  
note & issued  
7/11/91

15/4/93

D.R.  
15/4/93

Counsel for the applicant is present. CA has not been filed. Respondents are directed to file the same on 20/5/93.

✓

20/5/93  
D.R.

Both the parties are present. Counter has been filed. R.A., if any, be filed on the date fixed. List this case before me on 14/7/93.

✓

14.7.93  
D.R.

Counsel for the applicant is present. Counter has been filed; R.A. has not been filed. The same may be filed on the date fixed. List this case before D.R. on 19/8/93.

on

✓

19.8.93  
D.R.

Counsel for applicant is present. R.A. has not been filed. List this case before D.R. on 20.9.93 for filing Dejoinder

✓

OR  
CA has been filed  
(for PR)  
SCA has been filed

12/4/93

OR  
Counter reply has been filed  
before D.R.  
19/7/93

OR  
CA has been filed  
for PR  
13/7/93

OR  
CA has been filed  
for PR  
20/9/93



Counsel for the applicant  
is present. R-A has not  
been filed yet again, but  
this case before the Honorable  
Bench on 04/11/93 for orders.



of 1941  
for before  
Bench

4

~~2011/93~~

OB

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Spartan

7/1/09

CR  
CR Exchange  
already  
Exchange  
Schmitt for  
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✓

at  
Submitted to

Heaven

25/3/92

4.11.12

Case not reached adjourn  
18.12.93

16.12.93

Moiling of 0 m. app.  
2-7-1-94

7-1-94

NO Suing. C.D. only  
10.11.96

21.2 Sy

2 Hem-m. S. Al. Dressel 3m  
 2 Hem-m. 12. 90. Selu. km

On In-quest. at General

4.4.14

L. 15  
Dm

4-9-89

Hon. Mr Justice R K Varma, VC  
Hon. Mr V K Seel, AM

Mr. W. H. Standen  
learned counsel for  
the applicant. Move for  
the respondent, and this  
case in the next week,

Am

Rkr

(R1)

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

Date of order 7-6-89

O.A. No.181 / 1989 (L)

Suresh Chandra Srivastava                    :::::                    Applicant

(By Shri W.H.Haidari,  
Counsel for the applicant)

Vs.

Union of India, through  
General Manager, N.E.Rly,  
Gorakhpur & another                    :::::                    Respondents

° (By Shri V.K.Srivastava,  
Counsel for respondents)

Hon'ble Mr. Justice B.C. Saxena, Vice-Chairman.  
Hon'ble Mr. V. K. Seth, Administrative Member.

J U D G M E N T.

(By Hon. Mr. Justice B.C. Saxena, V.C.)

The Divisional Railway Manager (Personnel) N.E.Rly., Lucknow, by his letter dated 16-5-1986 had rejected the applicant's claim for fixation of his seniority in the cadre of clerk from 16-11-1967 (copy of the said order is Annexure-14). The applicant preferred a representation dated 18-7-1987 for review of the order, but the same was rejected by the D.R.M. (P), Lucknow, by his letter dated 2-8-1988, copy of which is Annexure-16. The applicant has impugned both the aforesaid orders.

2. This O.A. was admitted on 20-10-1989 subject to the question of limitation. Counter-affidavit and rejoinder affidavit have been exchanged.



AB

-2-

3. We have heard learned counsel for the parties.

4. The brief facts giving rise to this O.A. are that the applicant claims that he was promoted as Firman 'B' in the scale of Rs.260-380 from 16-11-67 and continued in that post upto 29-9-1976. He was declared medically unfit in medical category A/One and fit in category C/2 on 29-9-1976 due to an accident on duty. Admittedly the appropriate medical category for the post of Fireman 'B' is Category A/One. The applicant was absorbed as Running Room Janitor in the scale of Rs.260-400 at Kanpur, Anwargunj from 18-7-1977 by down-grading the said post to the scale of Rs.225-308. By an order dated 24-12-1977 the applicant's pay was fixed at the maximum of scale of Rs.308/-. Subsequently by an order dated 24-12-1977 he was posted as Senior Record Lifter in the then pay scale of Rs.225-308 and his pay continued to be fixed at Rs.308/- maximum. The applicant was promoted to the post of Junior Clerk 'B' in the then pay scale of Rs.260-400 and his pay was fixed at Rs.320/-. He preferred an appeal and his pay was fixed at Rs.382/- by order dated 30-12-1978. By an order dated 21-7-1980 he was posted as Clerk in the scale of Rs.260-400. The applicant has been assigned seniority from 24-12-77, the date from which he was posted in equivalent grade post of Clerk in the scale of Rs.260-400. The applicant questions the validity of this order dated 24-12-77 by which he was absorbed by temporarily down-grading the post of Janitor.

...3

Boh

He claims that he should have been absorbed as Running Room Janitor without down-grading the then scale of Rs.260-400 and 30% should have been added to the minimum as well as maximum of the scale pay of Firman 'B' (Rs.260-350) for the purpose of identifying equivalent posts as contained in Railway Board's letter dated 2-9-1977. The applicant's claim, for fixation of seniority in the grade of Rs.260-400 from 16-11-67, the date of his promotion to the post of Firman 'B', and to have continued in the equivalent grade of Clerk, as noted in his representation, has been rejected.

5. The respondents, in their short counter-affidavit, have taken the plea that the petition is highly belated. The cause of action as disclosed in the petition and reason of the reliefs claimed had accrued to the applicant in the year 1977 and thereafter in 1979. The O.A. was filed in the year 1989.

6. The applicant has filed supplementary rejoinder and has taken the plea that the respondents have tried to divert the attention of this Tribunal of the main subject matter of the case which is whether the seniority of the applicant has been correctly fixed according to rule.

7. The short question which falls for consideration is whether the applicant is entitled to the reliefs claimed by him. The applicant has prayed for the following reliefs :-

- (a) A direction be issued commanding the respondents to re-fix his seniority in

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the cadre of Clerk (Rs.260-400) from 16-11-1977.

- (b) An order or direction to the respondents to re-fix his seniority also in the promotional cadre of Senior Clerk in the pay scale of Rs.330-560 and above in pursuant to the re-fixation of his seniority in the cadre of Rs.260-400.
- (c) A direction to make consequential promotion of the applicant in higher grade arising out of his re-fixation of seniority from 16-11-1967 with other benefits of salary, emoluments, allowances and other amenities from 18-7-1977.

8. Significantly the applicant in his relief clause has not sought any relief against the two orders dated 16-5-1986 and 2-8-88 (Annexures-14 & 16). In paragraph 1, however, he has referred to these orders and has indicated that the application is directed against the aforesaid two orders. Even assuming that the applicant is seeking reliefs against the aforesaid orders contained in Annexure-14 & Annexure-16, it is to be pointed out that the applicant by his representation, which was rejected by the aforesaid 2 orders, has raised claim for fixation of seniority in the grade of Rs.260-400 from 16-11-67. Admittedly seniority is to be fixed on the basis of length of service in a grade. The order passed by the D.R.M.(P), Lucknow, posting the applicant as Running

Boh

AM

Room Janitor by temporarily down-grading the scale of the said post to one of Rs.225-308 was passed on 24-12-1977. The applicant made a representation after issuance of the seniority list of clerks by the D.R.M.(Personnel) through his letter dated 19-9-1981 in which the applicant was assigned seniority at Sr.No.95 from 24-12-1977 (Copy of the seniority list is Annexure-10). The applicant has not impugned this seniority list deliberately, otherwise it would have been highlighted that the petition is highly belated. Against the seniority list he has preferred a representation on 1-10-1981. In these circumstances, since the applicant cannot question and has not questioned the orders posting him in the alternative post of Running Room Janitor by down-grading the said post, the applicant cannot claim re-fixation of his seniority on the assumption that the orders passed in 1977 and 1979 were illegal. So long as the said orders stand, the seniority assigned to the applicant cannot be said to be illegal. It is <sup>not</sup> ~~not~~ <sub>bel</sub> to observe that while questioning assigning of seniority, the applicant cannot question the collateral issue of posting and appointment. He was entitled to seniority only on the basis of the orders of posting and appointment and not on the basis of assumption that the orders passed in 1977 and 1979 are illegal.

9. In view of the discussion herein above the applicant has failed to make out a case for grant of reliefs prayed for. The O.A. is highly belated. Representation against the assigning of seniority

Bel

AD

does not permit the applicant to re-agitate and question the validity of the orders passed in 1977 and 1979. The O.A. is accordingly dismissed. No order as to costs.

*h se*  
ADMINISTRATIVE MEMBER.

*Bacharawa*  
VICE-CHAIRMAN.

Dated: 7/6/94, Lucknow.

(tgk)

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH LUCKNOW

Deputy Registrar(J)

ORIGINAL APPLICATION NO. 181 OF 1989 (L)

Suresh Chandra Srivastava, Senior Clerk, Office  
of the Divisional Railway Manager (Personnel)  
N.E. Railway, Hazratganj, Lucknow, resident of  
House No.25, Lokman Gunj, Charbag, Lucknow

... .. Applicant

— Versus

1. Union of India through General Manager N.E.  
Railway, Gorakhpur  
... .. Respondent No.1
2. Divisional Railways Manager (Personnel) N.E.  
Railway, Hazratganj, Lucknow  
... .. Respondent No.2

Application under Section 19 of the Adminis-  
trative Tribunal Act 1985

I N D E X

<u>Sl No</u>	<u>Particulars</u>	<u>Page Nos.</u>
1.	Application	
2.	<u>Annexure No.1</u> : Copy of the Divisional Railway Manager N.E. Railway, Lucknow Office Order No.E/II/Mangg/SCC/PC dated 24.12.77	1
3.	<u>Annexure No.2</u> : Extract from Railway Board letter No.E/(NG) II/77/RE 3-2 dated 2.9.77 cir- culated vide GM(P)GKP No.E/255/ 9/(Av) dated 23.9.77	2
4.	<u>Annexure No.3</u> : Appointment order of Rajendra Lal letter No.Ka/ Pc/Rajendra/80 dated 26.4.80	3
5.	<u>Annexure No.4</u> : Transfer order of the applicant as Senior Re- cord Lifter in DRM(P)Office, Hazratganj, Lucknow	4
6.	<u>Annexure No.4</u> : Posting Order of the applicant as clerk	5
7.	<u>Annexure No.5</u> : Fixation of the pay of applicant in the cadre of clerk (260-350)	6

Filed today

11/1/89

11/1/89

6-9-89

L. Srivastava

L. Srivastava

A14

<u>Sl No</u>	<u>Particulars</u>	<u>Page Nos</u>
8.	<u>Annexure No.6</u> : Application of applicant for correct fixation of the pay	7
9.	<u>Annexure No.7</u> : Application dated 1.3.80 for fixation of seniority in the cadre of clerk	8
10.	<u>Annexure No.8</u> : Division Railway Manager (Personnel) order No.E/SL/Clerk/80 dated 21.7.80 regarding regularising the services of the applicant in the cadre of Senior Record lifter in cadre of clerk.	9
11.	<u>Annexure No.09</u> : Copy of the Railway Board Order No.E(NG) II-79 RE 3/5 dated 22.5.79	10
12.	<u>Annexure No.10</u> : Seniority list of clerk dated 19.9.81.	11-18
13.	<u>Annexure No.11</u> : Representation of applicant dated 1.10.81 for correct fixation of seniority of applicant	14
14.	<u>Annexure No.12</u> : Seniority list of the clerk dated 1.12.84	15-18
15.	<u>Annexure No.13</u> : Copy of the application dated 31.12.84 regarding seniority list	19
16.	<u>Annexure No.14</u> : Letter of the Divisional Railway Manager (P) Lucknow No.E/PC/SC/Clerk/86 dated 16.5.86 regarding seniority of applicant.	20
17.	<u>Annexure No.15</u> : Representation of applicant dated 18.6.86	21
18.	<u>Annexure No.16</u> : DRM (P) Lucknow letter No.E/PC/Suresh Sri/Sr Clerk/ dated 2.8.88 regarding seniority of the applicant.	22
19.	<u>Annexure No.17</u> : Representation of the applicant dated 31.10.88 to General Manager NE Rly Gorakhpur and other's for correct fixation of the seniority of the applicant.	23-25

*Resubmitted*

715

Sl No

Particulars

Page Nos.

20. Annexure No.18 : Notice under  
Section 80 C.P.C. to General  
Manager, NE Railway, Gorakhpur  
and Division Railway Manager  
(Personnel) Hazratganj, Lucknow

26 - 29

21. P o w e r

Lucknow :

*Sentabala*

Dated : 31-7-89

Signature of the applicant

For the use in Tribunals'

Date of Filing 1-8-89

*Reg.*  
Regularisation No. 181/89(L)

Signature

for Regularisation



(18)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH  
LUCKNOW

ORIGINAL APPLICATION NO. 181 OF 1989 (L)

Suresh Chandra Srivastava, Senior Clerk, Office of  
the Divisional Railway Manager (Personnel) N.E.  
Railway, Hazratganj, Lucknow resident of House No.25  
Lokman Ganj, Charbag, Lucknow

... .. Applicant

Versus

1. Union of India Through General Manager N.E.  
Railway, Gorakhpur

... .. Respondent No.1

2. Divisional Railway Manager (Personnel) N.E.  
Railway, Hazratganj, Lucknow

... .. Respondent No.2

Details of application

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

(a) Divisional Railway Manager (Personnel),  
N.E. Railway, Lucknow, letter No.E/PC/SC/  
clerk/86 dated 16.5.86. Rejecting his  
claim for fixation of applicant seniority  
in cadre of clerk from 16.11.67 in refe-  
rence to Annexure No.14.

(b) Divisional Railway Manager (Personnel) N.E.  
Railway, Lucknow letter No.E/PC/Suresh Sri/  
Sr.Clerk/ dated 2.8.88 Rejecting the Appli-  
cant's petition dated 18.7.87 in reference  
to Annexure No.16.

*Sanjay Kumar*

(A17)

2. Jurisdiction of the Tribunal

The applicant declares that subject matter of the Order against which he wants to redressal is within the Jurisdiction of the Tribunal.

3. Limitation

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

4. Fact of the case

1. That the applicant was promoted as Fireman 'B' Scale (260-350) from 16.11.67 and continued upto 29.9.76.
2. That the applicant was declared medically unfit in medical Category 'A'/one and fit in C/2 on 29.9.76 due to an accident on duty and became handicap.
3. That due to his medical unfitness in the appropriate medical category of A/one required for fireman 'B' the applicant was temporarily absorbed as Running Room Janitor (Scale 260-400) at Kanpur, Anwargunj from 18.7.77 by down grading the post of Janitor in Sclae (225-308) fixing his pay at the maximum of the scale of Rs.308/- vide Divisional Superintendent (Personnel) N.E. Rly, Lucknow office order No.E/II/Mangg/SCS/PC dated 24.12.77. A copy of the office order is annexed herewith forming part of this petition as Annexure No.1.

*For signature*

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4. That the decision of the Divisional Railway Superintendent (Personnel) N.E. Railway, Lucknow to down grade the post of Running Room Janitor Kanpur, Anwar Gunj in scale (260-400) to scale (225-308) only to absorbed the applicant as stated in his order referred to above in para 3 is unjust, arbitrary and misuse of power. The applicant was fireman 'B' in scale (260-380) which is equivalent to (260-400) in other categories .
5. That the applicant should have been absorbed as Running Room Janitor at Kanpur, Anwargunj without down grading its existing scale (260-400) adding 30% to the minimum as well as maximum to the scale of pay of fireman 'B' in scale (260-350) for the purpose of identifying equivalent posts as contain<sup>ed</sup> in Railway Board letter No.E(NG)II/77/RE 3-2 dated 2.9.77 circulated vide GM (P) GKP No.E/255/9/(Av) dated 23.9.77 SN 4309 EP8-162 An extract from the above order is annexed herewith forming part of this petition as Annexure No.2.
6. That Divisional Supdt (P) has not operated the post of Running Room Janitor (260-400) in down grade cadre 205-308<sup>309</sup> neither before his absorption nor after his transfer as is evident from Annexure No.1 referred to above and from the appointment order of Rajendra Bal. A copy of letter No.Ka/PC/Rajender/Janitor/80 dated 26.4.88 is annexed herewith forming part of this petition as Annexure No.3.
7. That the applicant has actually performed the duties as Running Room Janitor at Kanpur,

Anwarganj from 18.7.77 to 23.12.78<sup>77</sup> in scale (260-400) and is entitled to get his pay and allowances in that scale which has been arbitrary denied by respondent No.2.

8. That the applicant was transferred to the office of the Divisional Rail Manager (Personnel) N.E. Railway, Lucknow and posted as Senior Record Lifter in scale (225-308) vide office order No.E/II/Managg/Scale/PC dated 24.12.77 and his pay was fixed at Rs.308.00.
9. That the applicant was again posted as Clerk(260-400) from 6.11.78 on adhoc basis and which was regularised on temporary basis from 30.12.78 and his pay was fixed at Rs.320.00 per month by Divisional Rail Supdt (Personnel), Lucknow vide letter No.Ka/II/Eng/Scale/ dated 6.11.78. A copy of the order is annexed herewith forming part of this petition as Annexure No.4.
10. That the pay of applicant was again fixed at Rs.382/- taking into consideration his basic pay and 30% Running allowance in Revised Scale of pay in (260-400) in term of para 2613 of Estb. Mannual vide order No.E/II/Magg/Scale/PC dated 27.12.78 A copy of the Divisional Supdt (P) office order is annexed herewith forming part of this petition as annexure No.5.
11. That the applicant made an appeal dated 29.10.79 to Divisional Railway Manager; NE Railway Lucknow against his posting in down graded post (225-308) instead of (260-400) and for the correct fixation of pay his pay. A copy of the application is annexed herewith forming part of this petition as Annexure No.6.

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12. That the applicant also submitted another application to Divisional Rail Manager, N.E. Railway Lucknow for the fixation of his seniority in the cadre of clerk (260-400) from 16.11.67 for continuing his services as fireman 'B' in equivalent cadre of clerks (260-400). A copy of the application dated 1.3.80 is annexed herewith forming part of this petition as Annexure No.7.
13. That the Divisional Railway Manager (Personnel) Lucknow vide his order No.E/SC/Clerk/80 dated 21.7.80 regularised the services of the applicant as senior record lifter in scale (225-308) from 24.12.77 in scale (260-400). A copy of the order is annexed herewith forming part of this petition as annexure No.8.
14. That the modified order of the Senior Divisional Personnel Officer as referred above in para 13 for counting the services of applicant as senior record lifter (225-308) in scale of clerk (260-400) from ~~24.12.78~~<sup>24.12.77</sup> only and ignoring his services rendered by him as Running Room Janitor at Kanpur Anwargunj after absorption from 18.7.77 to 23.12.~~78~~<sup>77</sup> for the purpose of seniority and pay in scale 260-400 is unjustified misconceived and is not in accordance with the instruction contain in Board's order No.E(NG) II-79 RE 3/5 dated 22.5.79. A copy of the order is annexed herewith forming part of the petition as Annexure No.9.
15. That a seniority list of the clerks was circulated by Divisional Railway Manager (Personnel) Lucknow vide his letter No.E/II/255/Minist/Lucknow dated 19.9.81 in which applicant was



assigned seniority at serial No.95 from 24.12.77  
A photocopy of the above seniority list is  
annexed herewith forming part of this petition  
as annexure No.10.

16. That the applicant made an appeal against seniority list requesting therein for assigning his seniority in the cadre of clerk from 16.11.67. A photocopy of the appeal dated 1.10.81 is annexed herewith forming part of this petition as annexure No.11.
17. That the Divisional Railway Manager (Personnel) Lucknow circulated a second seniority list vide his letter No.E/255/II/L/84 dated 1.12.84 in which the name of the applicant was placed at serial no.63 and that of another medically unfit and de-categorised fireman 'B'. Sri Mohd Hussain at serial no.36. A photocopy of the seniority list is annexed herewith forming part of this petition as annexure No.12.
18. That Sri Mohd Hussain was junior to him in the category of fireman 'B' as well as in cadre of clerk as his date of promotion is 1.1.73 and in fireman 'B' grade. The category of clerk after being medically de-categorised he was absorbed as a clerk on 17.11.79, but he has been given seniority <sup>in</sup> with category of clerk with retrospective effect from 1.1.73 by counting his length of previous service as fireman 'B' for fixation of pay and seniority in equivalent grade of clerks but the applicant has not been allowed <sup>in</sup> seniority in the similar case with retrospective effect from 16.11.87 <sup>as Fireman B</sup> after counting his length of services <sup>in</sup> which is discriminative
- Seniority*

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<sup>Violates</sup>  
and ~~equivalent grade~~ and the seniority rules. The respondent No.2 is required to produce the original proceeding and record before the Hon'ble Tribunal in respect of the fixation of pay and seniority of Mohd Hussain clerk at the time of his appointment as a clerk and on subsequent days re-fixation of his pay and seniority in that cadre.

19. That the applicant made an appeal against fixation of seniority vide his application dated 31.12.84. A copy of application is annexed herewith forming part of this petition as annexure no. 13.
20. That the Divisional Railway Manager (Personnel), Lucknow informed the applicant vide his letter No. E/PC/SC/Clerk/86 dated 16.5.86 that his seniority was correctly fixed and his previous services rendered in other categories cannot be taken into account. A copy of the order letter is annexed herewith forming part of this petition as Annexure No.14.
21. That the applicant made an representation against the letter of the Divisional Railway Manager (Personnel) Lucknow dated 16.5.86 vide his application on 18.6.86. A copy of the application is annexed herewith forming part of this petition as annexure No.15.
22. That the DRM(P) Lucknow vide his letter No.E/PC/Suresh Sri/Sr.Clerk/ dated 2.8.88 declined to assign him seniority in the cadre of clerk from 16.11.67 and intimated him that correct decision has been taken in assigning seniority. A copy of DRM (P) Lucknow ~~is~~ <sup>in</sup> letter is annexed herewith

Seniority

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forming part of this petition as annexure No.16.

23.23. That the applicant submitted another representation to DRM (P) Lucknow, General Manager, Gorakhpur and Chief Personnel Officer, Gorakhpur under registered letter No.895, 896 and 897 respectively dated 31.10.88 but no reply has been received. A copy of the above application is annexed herewith forming part of this petition as annexure No.17.

24. That on 31.1.89 the applicant through his Council got served a notices under Section 80 C.P.C. upon General Manager, N.E. Railway, Gorakhpur and DRM(P) Lucknow requesting them to assigned correct position of seniority in scale (260-400) from 16.11.67 and fixation of his pay accordingly as per extent rule failing which he would be constrained to seek remedy in the proper court, but no reply has been received. A copy of the notice is annexed herewith forming part of this petition as annexure No.18.

5. Grounds for relief with legal provisions

1. Because the decision of the Respondent No.2 to down grade post of the Running Room Janitor, Kanpur, Anwarganj in scale (260-400) to (225-308) to absorbed the applicant on the down graded post is unjust, misconceived, ill-advised, arbitrary and amounts to misuse of power.

2. Because the applicant during his posting as Running Room Janitor Kanpur, Anwarganj has performed the duty of the post earning grade 260- his services in that capacity is to be counted in the equivalent grade 260-400 after his posting as a clerk for the purpose of seniority

*Seniority*



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as per extent seniority rule for medically incapacitated staff absorbed in the alternative post. The relevant seniority rule is reproduced below :

"Rule 9(1) Seniority of Medically in capacitated staff : The medically in capacitated staff should be in the alternative post, whether in the same or other cadre, having regard to their back ground and experience of earlier posts and should be allowed seniority in the grade of absorption with reference to total length of service rendered in equivalent/corresponding and highr grade irrespective of the rate of pay fixed in grade of absorption under extent rules. This is subject to the proviso that if a medically decategories employee happens to be absorbed in the cadre from which he was originally promoted, he will not be placed above his erst while seniors in the grade of absorption".

Authority Board's letter No.E(NG)63-3R6-31 dated 26 August 1986"

3. Because Respondent No.2 has allowed in a similar case of Mohd Husain fireman 'B' who after being medically decatageries on 11.4.79 was absorbed as a clerk 260-400 on 17.11.79 has been assigned <sup>Seniorly</sup> in the cadre of clerk with retrospective effect from 1.1.73 but the applicant has been deprived of his right in reference to his seniority to be fixed from 17.11.67 and this amounts to discrimination and violation of the constitution<sup>al</sup> safe guard in article 14 and 16 of the Constitution of India.

Seniorly

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4. Because Mohd Hussain was junior to him in category of fireman 'B' as well as in clerks and he cannot be ~~made~~<sup>made</sup> senior to him in seniority list.

5. Because Respondent No.2 have left over his working for purpose e as Running Room Janitor/of seniority and fixation of pay and did not reopen<sup>ed</sup> it after receiving Rly Board circular No.E(NG)II-79 RE-3/5 dated 22.5.79 (in reference to annexure No.9) he has committed a manifest error of law by counting his services only as senior Record Lifter for purpose of seniority in grade 260-400. (In reference to annexure No.8).

6. Details of the remedies exhausted

The applicant declared that he has availed of all the remedies available to him under the relevant service rules :

(a) That the applicant in reference to Divisional Railway Manager (Personnel) letter No.E/PC/Suresh Chandra Sri/Clerk/86 dated 16.5.86 submitted a review application to respondent no.2 to look into the case of applicant personally in reference to annexure No.15.

(b) That the applicant preferred an appeal dated 31.10.88 to General Manager N.E. Railway, Gorakhpur, and Chief Personnel Officer, N.E. Railway Gorakhpur through Divisional Railway Manager (Personnel) Lucknow for correction his seniority in reference to annexure No.17.

(c) That on 31.1.89 applicant through his Council got served notice in the office of Divisional Railway Manager (Personnel), Lucknow and to General Manager N.E. Railway, Gorakhpur under Registered

See serial 10

notice no.0276 dated 1.2.89 requesting the respondent to re-assigned the seniority of applicant and to be fixed his pay in reference to annexure No.18.

7. Matter 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 with this application has been made before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Relief Sought

In view of the facts mentioned in para 6 above the applicant prays for the following reliefs :

- i. That a direction be issued commanding the Respondents to re-fix his seniority in the cadre of clerk 260-400 from 16.11.67.
- ii. That by an order or direction the Respondent be directed to re-fix his seniority also in promotional cadre of senior clerks 330-560 and above in pursuence to re-fixation of seniority in cadre of 260-400.
- iii. That by order or direction the respondent be directed to make consequential promotion of applicant in higher grades arising out of his re-fixation of seniority from 16.11.67 with ~~con-~~ <sup>other</sup> ~~sequential~~ ~~sequences~~ ~~till~~ benefit of salaries emoluments allowances and other amenities from 16.11.67 to 18.7.77.

12/1

iv. That any other relief the Hon'ble Tribunal deem fit.

v. That the cost of this petition be awarded to the applicant from the respondents.

9. Interim order, if any prayed for : Nil

10. Mode of filing the petition

The petition is being filing in the court through Council of the applicant who will be present at the time of admission.

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

(a) Postal Order No.DD/4 854895

(b) Value of the postal order - Rs.50.00

12. List of enclosures :

1. Annexure No.1 : Copy of the Divisional Railway Manager N.E. Rly Lucknow office Order No.E/II/Mangg/SCC/PC dated 24.12.77.
2. Annexure No.2 : Extract from Railway Board letter No.E(NG)II/77/RE 3-2 dated 2.9.77 circulated vide GM (P) GKP No.E/255/9/(Av) dated 23.9.77
3. Annexure No.3 : Appointment Order of Rajendra Lal letter No.Ka/PC/Rajendra/80 dated 26.4.80.
4. Annexure No.4 : Transfer order of the applicant as Senior Record Lifter in DRM(P) Office, Hazratganj, Lucknow.
5. Annexure No.4 : Posting order of the applicant as clerk.
6. Annexure No.5 : Fixation of the pay of applicant in the cadre of clerk (260-350).
7. Annexure No.6 : Application of the applicant for correct fixation of the pay.

12/1

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8. Annexure No.7 : Application dated 1.3.80 for fixation of seniority in the cadre of clerk.
9. Annexure No.8 : Division Railway Manager (Personnel) Order No.E/SC/Clerk/80 dated 21.7.80 regularising the services of the applicant in the cadre of Senior Record Lifter in cadre of clerk.
10. Annexure No.9 : Copy of the Railway Board Order No.E(NG)II-79 RE 3/5 dated 22.5.79
11. Annexure No.10 : Seniority list of clerk dated 19.9.81.
12. Annexure No.11 : Representation of applicant dated 1.10.81 for correct fixation of seniority of applicant.
13. Annexure No.12 : Seniority list of the clerk dated 1.12.84.
14. Annexure No.13 : Copy of the application dated 31.12.84 regarding seniority list.
15. Annexure No.14 : Letter of the Divisional Railway Manager (P) Lucknow No.E/PC/SC/Clerk/86 dated 16.5.86 regarding seniority of applicant.
16. Annexure No.15 : Representation of applicant dated 18.6.86.
17. Annexure No.16 : DRM(P) Lucknow letter No.E/PC/ Suresh Sri/Sr Clerk/ dated 2.8.88 regarding seniority of the applicant.
18. Annexure No.17 : Representation of the applicant dated 31.10.88 to General Manager, N.E. Railway Gorakhpur and others for correct fixation of the seniority of the applicant.
19. Notice under Section 80 C.P.C. to General Manager N.E. Railway, Gorakhpur and Divisional Railway Manager (Personnel) Hazratganj, Lucknow

*Suresh Sri*

29

V E R I F I C A T I O N

I, Suresh Chandra Srivastava son of Shri B.P.

Khare age 51 years, working Senior Clerk in the office of  
Divisional Railway Manager (Personnel) N.E. Railway

Lucknow resident of House No.25 Lokman gunj, Charbag,

Lucknow do hereby verify that the contents of paras 1 to 4

<sup>6, 7, 9 & 12</sup>  
<sup>5 & 8</sup>  
~~23~~ are true to my personal knowledge and paras ~~24~~ believed  
to be true on legal advice and that I have not suppressed any material fact.

*Suresh Chandra*  
Signature of the Applicant

Lucknow :

Dated : 31.7.99

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH  
LUCKNOW

Original Application No. /81 of 1989 (4)

Suresh Chandra Srivastava, Senior Clerk, Office of  
the Divisional Railway Manager (Personnel), N.E. Rly  
Hazratganj, Lucknow resident of House No.25, Lokman  
gunj, Charbag, Lucknow

..... Applicant

Versus

1. Union of India through General Manager, N.E.  
Railway, Gorakhpur  
..... Respondent No.2
2. Divisional Railway Manager (Personnel) N.E.  
Railway Hazratganj, Lucknow  
..... Respondent No.2

Application under Section 19 of the  
-----Administrative Tribunals Act 85-----

<u>Sl No</u>	<u>Particulars</u>	<u>Page Nos</u>
1.	<u>Annexure No.1</u> : Copy of the Divisional Railway Manager N.E. Railway, Lucknow Office Order No.E/II/Mangg/SCC/PC dated 24.12.77	1
2.	<u>Annexure No.2</u> : Extract from Railway Board letter No.E/(NG) II/77/RE 3-2 dated 2.9.77 cir- culated vide GM (P) GKP No. E/255/9/(Av) dated 23.9.77	2
3.	<u>Annexure No.3</u> : Appointment Order of Rajendra Lal letter No.Ka/PC/Rajendra/80 dated 26.4.80	3
4.	<u>Annexure No.4</u> : Transfer order of the applicant as Senior Record Lifter in DRM(P) Office, Hazratganj, Lucknow	4
5.	<u>Annexure No.4</u> : Posting order of the applicant as clerk	5
6.	<u>Annexure No.5</u> : Fixation of the pay of applicant in the cadre of clerk (260-350)	6
7.	<u>Annexure No.6</u> : Application of the applicant for correct fixa- tion of the pay	7
8.	<u>Annexure No.7</u> : Application dated 1.3.80 for fixation of seniority in the cadre of clerk	8

Sl No

Particulars

Page Nos.

9. Annexure No.8 : Division Railway Manager (Personnel) Order No.E/SG/Clerk/80 dated 21.7.80 regularising the services of the applicant in the cadre of Senior Record Lifter in cadre of clerk 9
10. Annexure No.9 : Copy of the Railway Board Order No.E(NG)II-79 RE 3/5 dated 22.5.79 10
11. Annexure No.10 : Seniority list of clerk dated 19.9.81 11 — 13
12. Annexure No.11 : Representation of applicant dated 1.10.81 for correct fixation of seniority of applicant 14
13. Annexure No.12 : Seniority list of the clerk dated 1.12.84 15 — 18
14. Annexure No.13 : Copy of the application dated 21.12.84 regarding seniority list. ~~16~~ ~~18~~ ~~19~~
15. Annexure No.14 : Letter of the Divisional Railway Manager (Personnel) Lucknow No.E/PC/SG/Clerk/86 dated 16.5.86 regarding seniority of applicant 20
16. Annexure No.15 : Representation of applicant dated 18.6.86 21
17. Annexure No.16 : DRM(P) Lucknow letter No.E/PC/Suresh Sri/Sr.Clerk dated 2.8.88 regarding seniority of the applicant. 22
18. Annexure No.17 : Representation of the applicant dated 31.10.88 to General Manager NE Rly Gorakhpur and other's for correct fixation of the seniority of the applicant. 23 - 25
19. Annexure No.18 : Notice under Sec. 80 C.P.C. to General Manager, NE Rly Gorakhpur and Division Railway Manager (Personnel) Hazratganj, Lucknow 26 - 29

Lucknow

Signature of the applicant

Dated 31.7-89

*Sesivallan*



N. E. RAILWAYOFFICE ORDER

Sri Suresh Chandra Srivastava Medically decategorised F/Man 'B' (260-350) who was temporarily ~~obsorbed~~ observed as R.R. Janitor under ALF/CPA by temporarily downgrading the post of Janitor (260-400) to scale Rs. 225-308/- vide this office order No. E/I/227/Pt. III dt. 18.7.77 till Sri B.K. Singh, medically decategorised Dr. 'B' (425-640) and absorbed as Janitor (260-400) joins duty there, is now absorbed as Sri Record Lifter in scale Rs. 225-308/- and is posted to Mech Branch to this office against the existing vacancy.

The pay of Sri Suresh Chand Sri. on absorption as Sr. Record Lifter (225-308) is fixed at Rs. 308/- (max).

This issue with the approval of DPO/LJN.

Sd/-.

DIVL. SUPDT. (P)/LJN.

No. E/II/Mangg/SCS/PC LJN Dt. 24.12.77.

Copy for information and necessary action to:-

1. DAO/LJN.
2. ALF/CPA in ref. to his letter No. E/1/77 dt. 15.12.77. He will please spare the above named for transfer as Sr. R/L to this office at once. Arrangement to post a relief in place of Sri Suresh Chand Srivastava is being made separately.
3. W.I./HQ in office. He will please take immediate action to post a suitable relief in place of Sri Suresh ~~xxx~~ Chand Srivastava Sr. Janitor, under ALF/CPA amongst the medically decatorised staff awaiting absorption in alternative categories.
4. HC(E) (Mech-Bills).
5. HC(E) (Mangg. Bills).
6. Staff concerned through ALF/CPA
7. Sr. DME/LJN.
8. Folder/Increment clerk in office.
9. S/Copies for P/P. Case.
10. HC(E) (Mech) Cadre).

Sd/-.

DIVL. SUPDT. (P) LJN.

ATTESTED

W. H. HAIDARI

Advocate High Court

*Reshma*

No - 2

(756)

ANNEXURE - 2.

Railway Board letter No. E (NG) II/77/RE 3/2  
dated 2.9.77 circulated vide GM(P)/GKP No.  
E/255/9/(AV) dated 23.9.77, SN 4309  
EP8-152.

Sub:- Absorption of Medically incapacitated  
staff in alternative employment.

The Board have reconsidered the matter and  
it has now been decided that 30% should be added  
to the minimum as well as maximum the scale of  
pay of the running staff for purposes of identifying  
"Equivalent posts."

ATTESTED :  
*W. H. Haidari*  
W. H. HAIDARI  
Advocate High Court

*Resimulano*

पूर्वोत्तर रेलवे

PA/3

31

कार्यालय आदेश।

=====

श्री राजेन्द्र लाल भूतपूर्व फिटर 260-400 जो मेडीकल थ्रेफी बी-1 में अनफिट हो गये थे तथा सी-2 में फिट होने के कारण इस कार्यालय के पत्रक पोसी/राजेन्द्र/फि./78 दि. 12-1-78 के द्वारा तीन माह के लिए जेनीटर 260-400 के पद पर तैनात किया गया था इसी पद तथा वेतनमान में स्थायीकरण से तैनात किया गया।

प्र. यां. ई. का इसके लिए अनुमोदन प्राप्त है।

ह0

मुनेश्वर प्रसाद सिंह  
कृते मं. रे. प्र. (का),  
लखनऊ

पत्र सं. का/पो.सी./राजेन्द्र/जेनीटर/80 दि. 26-4-80

प्रतिलिपि सूचना तथा उचित कार्यवाही हेतु प्रेषित :-

- 1- मण्डल लेखाधिकारी/लखनऊ
- 2- स.या. ई. (डीजल) कानपुर अनवरगंज।
- 3- सहायक लोको फोरमैन कानपुर अनवरगंज।
- 4- प्र. लिपिक (बिल) मण्डल कार्यालय।
- 5- सम्बंधित कर्मचारी।

ATTESTED

W. H. HAIDARI  
Advocate, Lucknow

ह0

मुनेश्वर प्रसाद सिंह  
कृते मण्डल रेल प्रबंधक(का),  
लखनऊ

*Responsible*

पूर्वोत्तर रेलवे

P. No-4

कार्यालय आदेश

=====

निम्नलिखित तदर्थ पदोन्नति, पदावनति तथा नियुक्तियों के आदेश।

जारी किये जाते हैं जो शीघ्र प्रभावी होंगे :-

- 1) श्री राम लुभाया, स्थानापन्न लिपिक (इंजी.) वेतनमान (260-400) की पदावनति बतौर अभिलेखपाल (210-270) में करने के पश्चात इन्हें इंजीनियरिंग विभाग में ही रोक़ा जाता है। इनका वेतन प्रतिमाह (270/-) रखे निर्धारित किया जाता है।
- 2) श्री जटारकर दुबे, वरिष्ठ प्रवर अभिलेखपाल (कार्मिक), वेतनमान 225-308 की तदर्थ पदोन्नति बतौर लिपिक वेतनमान 260-400 में करने के पश्चात इन्हें इंजीनियरिंग विभाग में क्र.सं. 1 के स्थान पर नियुक्त किया जाता है। इनका वेतन रु. 342/- प्रतिमाह निर्धारित किया जाता है।
- 3) श्री सुरेश चन्द्र श्रीवास्तव, प्रवर अभिलेखपाल (यांत्रिक विभाग) वेतनमान 225-308 की तदर्थ पदोन्नति बतौर लिपिक ग्रेड 260-400 में करने के पश्चात इन्हें कार्मिक शाखा (इंजी.) कैंडर अनुभाग में नियुक्त किया जाता है। इनका वेतन 320/- प्रतिमाह निर्धारित किया जाता है।
- 4) श्री डी. जे. बेरी, प्रवर अभिलेखपाल (225-308) की तदर्थ पदोन्नति बतौर टंकक ग्रेड 260-400 में करने के पश्चात इन्हें श्रीमती दिव्यावती देवी, टंकक जो मैटर्निटी अवकाश पर हैं के स्थान पर नियुक्त किया जाता है। इनका वेतन 342/- प्रतिमाह निर्धारित किया जाता है।
- 5) श्री शीतला प्रसाद, प्रवर अभिलेखपाल (परिचालन विभाग) 225-308 की तदर्थ पदोन्नति बतौर लिपिक (260-400) में करने के पश्चात इन्हें कार्मिक शाखा में नियुक्त किया जाता है। इनका वेतन प्रतिमाह 320/- निर्धारित किया जाता है।
- 6) श्री अनन्तराम, प्रवर अभिलेखपाल (का0) वेतनमान 225-308 की तदर्थ पदोन्नति बतौर लिपिक वेतनमान 260-400 में करने के पश्चात इन्हें कार्मिक शाखा में ही नियुक्त किया जाता है। रिज पे इज पिक्ड अप रु. 308/- पी.एम. इन स्केल रु. 260-400.

ATTESTED

31/12/99

W. H. HAIDARI  
Advocate High Court

M. S. R. T. S.

क्रमशः

739

क्रम संख्या 2, 3, 4, 5, 6 की पदोन्नतियां नितांत जथाती एवं तदर्थ हैं तथा चार्ज ग्रहण करने के तिथि से दो माह तक प्रभावी रहेंगी। दो माह की समाप्ति पर ये सभी अपने मूल पद पर स्वतः पदावतत हो जायेंगे।

उपरोक्त मंडल कार्मिक अधिकारी के अनुमोदन से जारी किया जाता है।

ह0

कृते मण्डल अधीक्षक (का0) लखनऊ

सं. का/11/इंजी./स्केल चेक लखनऊ दिनांक 6-11-1978

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

- 1) मण्डल लेखा अधिकारी/लखनऊ
- 2) प्रचर वांकि इंजीनियर/लखनऊ।
- 3) प्रचर मण्डल इंजीनियर/लखनऊ।
- 4) प्रचर परिचालन अधीक्षक/लखनऊ।
- 5) प्रधान लिपिक (वेतन, बिल, पेंडर)।
- 6) संबंधित कर्मचारीगण।

ह0

ATTESTED

W. H. HAIDARI

Advocate High Court

कृते मण्डल अधीक्षक (कार्मिक) लखनऊ

Secretary

ANNEXURE -5.

Page 6

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NORTH EASTERN RAILWAY

OFFICE ORDER

In partial modification of this order No. E/II/Engg/Scale Clerk dated 6.11.78, the officiating Clerk medical cadre of DS/Office/LJN in Grade 260-400 is fixed of Rs.382/- instead of Rs.260/- taking into consideration his basic pay plus 30% running allowance in Revised Scale of pay in terms of para 2613 office Manual.

Shri Suresh Chand was formerly Fireman 'B' in grade 260-350/- on being medically decategorised was absorbed on Sr.Record Lifter on Lower pay Rs.308/- in Gr.225/-308/- Office Order No.E/II/Manegg/Scale/PC dt. 25.12.77. He has since been promoted as clerk 260-400 on adhoc basis in terms of this o.o. No.E/II/Engg/Scale Clerk dt.6.11.78 to his pay on further promotion as clerk(260-400) is fixed above in terms of Rule 2613 of Estt. Manual.

This issue with the accounts concurrence,

Sd/-.

~~DM~~ D.S.(P)/LJN

No.E/II/Magg/Scale/PC Dt. 27.12.78.

Copy for information and n/a.

1. DAO/LJN.
2. OS/Cadre.
3. HCE/Medical Cadre.
4. Hd.Clerk Bill Managing.
5. Staff concerned.

ATTESTED

23/12/79

W. H. HAIDARI  
Advocate High Court

*[Signature]*

Sd/-.

D.S.(P)/LJN

ANNEXURE - No - 6

To,

The Divisional Rly. Manager,  
North Eastern Railway,  
Lucknow

Through: Proper Channel.

Sir,

Sub:- My posting as Clerk on regular basis.

\*\*\*

With profound respect I beg to state that as a result of accident while on duty, I was declared unfit for A/one but fit in C/one and C/two on 29.9.1976. Following this I was temporarily absorbed as Janitor at CPA in scale 225-308 and I performed the duties of a Janitor from 18.7.77 to 24.2.78. Thereafter I was temporarily posted as Sr. R/Lifter and posted in your office.

That by your office order No. R/II/Engg/Scale check. dated 6.11.78 I was temporarily promoted as Clerk(P) in scale 260-400 under your kind control and I have been doing the duties of clerk(P) from 21.11.1978.

That in terms of Rly. Board's circular No. E(NG)II-79 RE3/5 dated 22.5.79 I should have been absorbed as clerk 260-400 direct and not as Janitor or Sr. R/Lifter on being medically decategorised by adding 30% of the element of running allowance to minimum as well as maximum of the scale of pay as running staff for the purpose of identifying equivalent post" and absorbed in alternative category accordingly. But this has not been done which has caused me heavy monetary loss.

My pay before absorption in alternative category was 296-. The pay fixed at Rs. 382/- on promotion as clerk 260-400 vide your No. E/II/Managg/scale/PC dt. 30.12.1978 is also not correct in terms of Rly. Board's circular quoted above.

I therefore request your honour to kindly arrange to post me as a clerk in scale 260-400 as a regular measure and also arrange to fix my pay & element, in this scale of clerk as admissible on absorption by adding 30% of the element of running allowance for the purpose of identifying equivalent post as contained in Rly. Board's circular No. E(NG)11-77 RE 3/2 dated 2.9.1977.

And for this act of your kindness and justice I shall always remain grateful.

Yours faithfully,

Dated: 29.10.79

( S.C. Srivastava )  
Clerk DS(P)'s office  
NER/LUCKNOW

ATTESTED

W. H. HAIDARI

Advocate High Court

ANNEXURE - No-7

To,

The Divisional Railway Manager,  
N.E. Railway,  
Lucknow

P.V. - 8 (42)

Respected Sir,

Sub:- Fixation of correct seniority.

\*\*\*

Necessity obliges me to approach your honour with the following few lines for your kind consideration and favourable orders:-

1. That I was working as Fireman 'B' (260-350) since 16.11.67 to 29.9.1976.
2. That I was declared unfit in A/one medical category and fit in C/2 on 29.9.1976.
3. That due to my medical unfitness in the appropriate medical category of A/one required for Fireman 'B' (260-350) I was temporarily absorbed in down-graded post of Janitor in scale Rs.225-308) on 13.7.77 being no post of my equalist grade adding 30% of the minimum and maximum grade of F/man 'B' (260-350) at that time with the assurance to absorb in the equalist grade in near future.
4. That I was transferred to this office and was posted as Sr.R/Lifter 225-308 instead of absorbing me as Sr.Clerk (330-560) on 24.12.1977.
5. That I was p-romoted as clerk 260-400 from the post of R/Lifter on 6.11.1978 on adhoc basis which was regularised on temporary basis on 30.12.1978.
6. That the criterion for fixing the seniority is length of service in the grade.
7. In view of the above I pray your honour to fix up my seniority as clerk from 16.11.67 as the administration failed to provide me alternative job of equalist grade after my decategorisation being no fault of mine.
8. I have been put to heavy monetary loss due to wrong fixation of my seniority.

Kindly, therefore, look into the matter personally and do the needful to meet the ends of justice for which I shall be highly obliged.

Yours faithfully,

Dated: 1.3.1980

ATTESTED  
W. H. HAIDARI  
Advocate High Court

*Signature*



कार्यालय आदेश

D.No. 9

श्री सुरेश चन्द्र श्रीवास्तव तदर्थ लिपिक (का०) जी फायरमैन की (260-350) से मेडिकली निवर्जित होने पर प्रचार अभिलेखपाल, वेतनमान 225-308 के रूप में इस कार्यालय के का० आदेश सं. ई/11/मैडिंग/एससीएस/पी सी दिनांक 24-12-77 द्वारा अवशोषित किये गये थे जो रेल परिषद के पत्र सं. ई०(सनजी) 11-79 आई आर ई 3:5 दिनांक 22-5-79 के परिप्रेक्ष्य में उपरोक्त आदेश में परिवर्धन करके लिपिक वेतनमान (260-400) में कार्मिक शाखा में अवशोषित किया जाता है।

प्रचार में का. अधिकारी

सं. ई/सु.चत्री/लिपिक/80 लखनऊ दिनांक 21-7-80

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाही हेतु :-

- 1- मैडल लेखा अधिकारी/लखनऊ
- 2- प्रधान लिपिक (बिल) कार्मिक एवं यांत्रिक संचर्ग।
- 3- पोस्टर लिपिक (का०)।
- 4- सम्बन्धित कर्मचारी।

ATTESTED

W. H. HAIDARI  
Advocate High Court

हो  
मु० प्र० सिंह

? मं. र. प्र. (का) लखनऊ

*Secretary*

ANNEXURE-9

P/10-10

704

Copy of Rly. Board's letter No. E(NG)II-79 RE 3/5 dated 22.5.79 addressed to GMs All Indian Rlys, and others.

Sub:- Absorption of medically incapacitated staff in alternative employment.

Reference Railway Board's letter No. E(NG)11-77 RE 3/2 dt. 2.9.77 wherein it was decided that 30% of the element of running allowance should be added to the minimum as well as maximum of the scale of pay of the running staff for purposes of identifying equivalent posts for absorbing medically decategorised running staff in alternative posts and past cases decided otherwise need not be reopened.

In partial modification of Board's above orders the Ministry of Railways have decided that past cases where there has been acute hardship can be examined by Railway Administration on merits and reopened if they do not adversely affect others.

ATTESTED

W. H. HAIDARI  
Advocate High Court

*Signature*

Signature No 10

R No-11

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संविधान (260-400)

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# ANNEXURE No - 10

-8-

क्र.सं.	विवरण	मोडो रोड	मोडो रोड	मोडो रोड	मोडो रोड
118	सिद्धार्थ	6-7-54	13-1-81	13-1-81	सर्वाथ
119	सिद्धार्थ	15-3-56	16-1-81	16-1-81	"
120	सिद्धार्थ (सिद्धार्थ)	6-7-57	16-1-81	16-1-81	"
121	सिद्धार्थ	10-2-56	20-1-81	20-1-81	"
122	सिद्धार्थ	5-10-53	21-1-81	21-1-81	"
123	सिद्धार्थ	5-7-58	21-1-81	21-1-81	"
124	सिद्धार्थ	4-8-59	17-3-81	17-3-81	"

सिद्धार्थ रोड  
सिद्धार्थ रोड प्रस्ताव (ला0)  
लगाऊ

दिनांक 13-9-81

सं.ई/11/255/सिद्धार्थ सिद्धार्थ/लगाऊ

प्रतिनिधि सुद्वारा एड" जलसंधारण कार्यवाही हेतु अर्जित

- 1 प्रधान सिद्धार्थ / सुनिश्चन/ कार्यवाही भू ग
- 2 सिद्धार्थ मन्त्री / पी.आर. के एस/लगाऊ।
- 3 समन्वित कार्यवाही।

सिद्धार्थ रोड प्रस्ताव (ला0)  
लगाऊ

3/12/81  
1981

12/10-14

ANNEXURE -II

SE

To,

The Divl. Ply. Manager(P),  
N. E. Railway,  
Lucknow.

Sub:-Fixation of seniority.

Ref:-Seniority list of Junior Clerks  
published under your No.E/255/11/LJN  
dated 19.9.81.

Sir,

Sir, with due respect I beg to state that I have  
~~again~~ given several application regarding  
correction of my seniority, but has not been  
decided upto now.

In this connection please call my applications  
dated 29.10.79 and 1.3.80 in which I have represen-  
ted my case in detail and decide my case of pay  
and seniority accordingly.

My seniority position is at serial No.95  
as shown in seniority list is not correct and  
its need to be assigned from 16.11.67.

Yours faithfully,

Sd/-.

(Suresh Chandra Srivastava)

Dated 1.10.81.

Clerk.

ATTESTED

*W. H. Haidari*

W. H. HAIDARI  
Advocate High Court

*Suresh Chandra Srivastava*

सर्वश्री समूहसमूह धान	मंगरेप्र/कालधनज	28-8-32	25-9-50	25-9-50	स्थाई	प्रवर लिपिक में स्थानपन्न
1- सर्वश्री	मंगरेप्र/कालधनज	28-8-32	25-9-50	25-9-50	स्थाई	प्रवर लिपिक में स्थानपन्न
2- एसकेओवास्तव	22-1-30	9-12-52	9-12-52	16-11-57	स्थाई	स्थाई
3- जेएसएन सिंह	24-4-29	10-1-53	10-1-53	16-1-58	स्थाई	स्थाई
4- वाओओधवन	20-1-30	4-2-53	4-2-53	16-1-58	स्थाई	स्थाई
5- एसएसएसओदिको	10-2-31	23-3-56	23-3-56	23-3-56	स्थाई	स्थाई
6- एसएसएसओदिको	7-5-35	5-5-50	5-5-50	6-5-50	स्थाई	स्थाई
7- सुलान अहमद धी	कंगरेप्र/का/लखन	7-7-36	21-10-55	21-10-55	स्थाई	स्थाई
8- एसएसएसओदिको	10-7-30	9-7-50	9-7-50	9-7-50	स्थाई	स्थाई
9- एसएसएसओदिको	17-7-30	3-10-50	3-10-50	3-10-50	स्थाई	स्थाई
10- आरएसओमोनी	15-7-36	17-1-56	17-1-56	17-1-56	स्थाई	प्रवर लिपिक
11- सतासतासतासता	6-4-40	20-4-59	20-4-59	20-4-59	स्थाई	प्रधानलिपिक में स्थानपन्न
12- एसएसएसओदिको	लोको प्रे/गोएसपुर	4-12-29	10-6-57	10-6-57	स्थाई	स्थाई
13- जेएसएसओदिको	मंगरेप्र/का/लखन	1-1-37	13-12-56	13-12-56	स्थाई	प्रधानलिपिक में स्थानपन्न
14- हरीशचन्द्र तिवारी	1-1-38	26-1-57	15-2-60	15-2-60	स्थाई	स्थाई
15- देवोचरण दिक्षित	10-7-30	5-7-58	26-11-60	26-11-60	स्थाई	स्थाई

Signature

119

ANNEXURE No 12

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विल गोरखपुर/कैज 20-12-41 7-1-66 22-1-71 स्थाई प्रचार लिपिक में स्थानापन्न

मं० रं० आ० 12-12-35 18-2-71 18-2-71 ग्रहो विधि सहायक में स्थानापन्न

लाल जो श्रीवास्तव 4-5-40 24-9-64 24-9-64 31-1-72

लाल जो श्रीवास्तव लोको शेड/गोरखपुर 5-1-34 24-9-54 1-1-73

गोपाल सिंह मं० रं० आ०/का०/लखनऊ 25-8-53 30-6-73 30-6-73 स्थाई प्रचार लिपिक में स्थानापन्न

आनंद सन्तोष आनंद 2-12-30 6-9-73 6-9-73 अस्थाई

नारायण अलौ 25-7-54 13-11-73 13-11-73

गाली सुधा अस्थाना 10-6-62 5-12-73 5-12-73

रं० रं० कै० श्री शर्मा 22-1-40 22-2-74 22-2-74

सुन्दर नाथ श्रीवास्तव 10-8-51 13-3-74 13-3-74

उपस्थित

A-80

Signature





# ANNEXURE NO. 12

सर्वश्री सैयद रसन मेहदी	मरिपु/का/लखनऊ	5.6.63	12.6.82	12.6.82	अस्थाई	अपनी स्वयं का प्रार्थना पर गोरखपुर से
श्री प्रो. कुमार खोसला	..	5.2.50	1.7.83	1.3.84	1.3.84	आप
श्री हरिदास दे	..	1.7.30	6.11.50	7.83	7.83	
श्री बनवारी लाल (अजा)	सकाधि/गौडा	25.6.42	21.11.66	7.7.83	7.7.83	

श्री राजीव रंजन	सकाधि/गौडा	1.7.50	11.2.84	11.2.84		
श्री राम प्रसाद (अजा)	बिल गोरखपुर	15.11.56	11.2.84	11.2.84		
श्री टी. डब्लू. वैरी	मरिपु/का, लखनऊ	7.6.20	16.6.54	9.3.84		
श्री आशु कुमार चौधरी (अ ज जा)	..	1.1.65	28.10.83	9.3.84		
श्री पी. के. उ सरकार	..	23.1.32	25.1.51	9.3.84		
श्री आर एस पाट्टे	..	30.1.41	1.7.50	9.3.84		

कृते मंडल रिल प्रबन्धक (का) लखनऊ

दि/25/11/84 दिनांक  
प्रतिलिपि संचार्य तथा आवश्यक कार्यवाही हेतु प्रेषितः

- 1) कासाधि/यनियन
- 2) मंडल मंत्री/नमू, पी. आर. के. एस.
- 3) संबंधित तमचारीगा.

कृते मंडल रिल प्रबन्धक (का) लखनऊ

AS

ANNEXURE-13

P No. - 19

Dated 31.12.84.

To,

The D.R.M. (P),  
N.E. Railway,  
Lucknow.

Sub: -Seniority list of clerk 260-400  
letter No. E/255/II/L/84 dated 1.12.84.

Sir,

With reference to above seniority list I beg to state that in spite of my several application for seniority my seniority has not been corrected.

In the above seniority list I have been assigned seniority at Serial No. 63 from 24.12.77 instead of 16.11.67 and Sri Nohd. Husein who is junior to me in the Category of Fireman 'B' as well as clerk has been made senior to me his seniority has been ~~xxx~~ assigned at serial No. 36 from 1.1.73.

Please call my letter dated 1.10.81 and correct seniority accordingly.

Yours faithfully,

sd/-

(Suresh Chandra Srivastava

Clerk.

Dated 31.12.84.

ATTESTED

*W. H. Haidari*  
W. H. HAIDARI  
Advocate High Court

*S. Chandra Srivastava*

पत्र सं. ई/पी. सी./सु. च. श्री./लि./86

दिनांक 16-11-86

824

म. र. प्र. (का),

लखनऊ

श्री एस. सी. श्रीवास्तव लि.

महल रेल प्रबन्धक(का),

लखनऊ

विषय: - वरीयता सही करने के सम्बंध में ।

आपकी सूचित किया जाता है कि आपकी वरीयता लिखित पत्र में सही रूप से निर्धारित की गई है । पिछली सेवा को किसी अन्य वेतन मान में नहीं लिया जा सकता ।

हो शिवमूर्ति

म. र. प्र. (का),

लखनऊ

ATTESTED

31/11/86

W. H. HAIDARI  
Advocate High Court

*Handwritten signature*



To,

The Senior Divisional Personnel Officer,  
N. E. Railway,  
Lucknow.

Respected Sir,

Sub:-Fixation of correct seniority.

Ref:-Your letter No.E/PC/SCS/Clerk/86  
dated 16.5.86.

Necessity obliges me to approach your honour with the following few lines for your kind consideration and favourable orders:-

1. That I was working as Fireman B (260-350) since 16.11.67 to 29.9.76.
2. That I was declared unfit in A/1 medical category and fit in C2 on 29.9.76.
3. That due to my medical unfitness in the appropriate medical category of A/1 required for Fireman-B(260-350), I was temporarily absorbed in downgraded post of Janitor in scale Rs.225-308 on 18.7.77 being no post of my equivalent grade adding 30% of the minimum and maximum grade of Fireman B(260-350) at that time with the assurance to absorb in the equivalent grade in near future.
4. That I was transferred to this office and was posted as Sr.Record Lifter 225-308 instead of absorbing as Sr.Clerk 330-560 on 24.12.77.
5. That I was promoted as clerk 260-490 from the ~~xxxx~~ post of Sr.Record Lifter on 6.11.78 on ad hoc basis which was regularised on temporarily basis on 30.12.78.
6. That the Criteria for fixing the seniority is length of service in the grade.
7. In view of the above I pray your honour to fix up my seniority as clerk from 16.11.67 as the administration failed to provide me alternative job of equivalent of grade after my decategorisation being no fault of mine.
8. I have been put to a heavy monetary loss due to wrong fixation of my seniority

Kindly therefore, look into the matter personally and do the needful to meet the ends of justice, for which I shall be highly obliged.

Yours faithfully,  
sd/-.

(S.C.Srivastava)  
Sr.Clerk.

ATTESTED

W. K. HAIDARI  
Advocate High Court

Dated 18.6.86.

पूर्वोत्तर रेलवे

V/11/10 - 22

सं. ई/पी.सी./सुरेश श्री/प्र. लि.

दिनांक 2-8-88

प्रेषक - म्हाल कार्यालय (का.);  
लखनऊसेवा में - श्री सुरेश चन्द्र श्रीवास्तव  
प्रवर लि० (कार्मिक)विषय: - आपका प्रार्थना पत्र दि. 18-8-87 वरीयता निर्धारण  
के सम्बंध में।

आपको इस कार्यालय के पत्र संख्या ई/पी.सी./सुरेश श्री./लि./86 दिनांक  
16-5-86 के अंतर्गत सूचित किया गया निर्णय सही है तथा उसे बदलने का  
कोई औचित्य प्रतीत नहीं होता।

कृपया नोट करें।

ATTESTED

W. H. HAIDARI

W. H. HAIDARI  
Advocate High Court

हो

कृते. मै. रे. प्र. (का.),

लखनऊ

S. S. S. S. S.



To,  
The Divl. Rly; Manager(P),  
N.E. Railway,  
Lucknow.

Sub: Fixation of correct Seniority.

Ref: -DRM(P) L/N's letter No. E/PC/Suresh Sri/Sr.Cl/  
dated 2.8.88.

Sir,

Necessity obliges me to approach your Honour with the following few lines for your kind consideration and favourable orders:- My seniority has not been fixed and my request has been turned down by your letter cited above.

1. That I was working as Fireman B 260-350 since 16.11.67.
2. That I was declared Unfit in A/One in Medical category and fit in C2 on 29.9.76.
3. That due to my medical unfitness in the appropriate medical category of A/One required for Fireman B (260-350) I was temp. absorbed in down graded post of Janitor in scale 225-308 on 18.7.1977 being no post of my equivalent grade by adding 30% of the minimum of and maximum grade of Fireman 'B' 260-350 at that time with assurance to absorb in equivalent grade in near future.
4. That I was transferred to this office and was temporary posted as Sr. R/Lifter 225-308 on 24.12.77.
5. Again I was temporarily posted as clerk 260-400 for two months in 'P' branch for the post of Sr. R/Lifter on 6.11.78 on ad hoc basis which was regularised on temporary basis on 31.12.78 and my seniority is fixed on 24.12.77 instead of 16.11.67.
6. That the criteria for fixing the seniority is length of service in the grade.
7. I, therefore, request your honour to kindly arrange to post me as a clerk 260-400 is regular me assure on 18.7.77, and also, arrange to fix up my pay in the scale of due as admissible and absorption adding 30% of element of running allowance for the purpose of identifying equivalent post contained in Rly. Board's letter No. E(NG)II-77 RE 3/2 dt. 2.9.77 and also fix up my seniority as clerk from 16.11.67 as the Administration failed to provide me alternative job of equivalent grade after my decategorisation being no fault of mine.

ACCEPTED

W. H. HAIDARI  
Advocate High Court

Contd...2.

ANNEXURE - No. 17

PN 257

89

In the Central - Administrative Tribunal  
Allahabad, Lucknow Bench

Suresh Chandra Suresh Chandra S. Chandra

Office of the Divisional Railway Manager (A)

NE. Ry. Lucknow

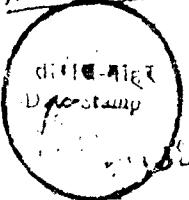
Applicant

VS

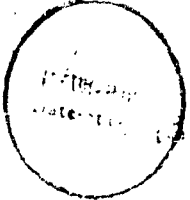
Union of India through G.M. NE. Ry  
G.R.P. and others

Respondent

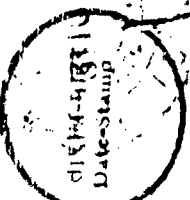
क्रमांक/No. **895** ANNEXURE - D  
PLA 3  
संवाए गये डाक टिकटों का मूल्य रु. 2.00  
Amount of Stamps affixed Rs. 2.00  
एक रजिस्ट्री बीमा प्राप्त किया  
Received a Registered Insurance  
पति वाले का नाम **रा. म. च. 1/1/48**  
Addressed to **रा. म. च. 1/1/48**  
बीमा की रकम (शब्दों में) **3110**  
Insured for Rs. (in figures) **3110** (in words)  
बीमा शुल्क रु. **3110** वजन (शब्दों में)  
Insurance fee Rs. **3110** Weight (in words)  
भेजने वाले का नाम व पता  
Name and address of sender  
डाकघर निर्देशिका में दर्ज है



क्रमांक/No. **896**  
PLA 3  
संवाए गये डाक टिकटों का मूल्य रु. 2.00  
Amount of Stamps affixed Rs. 2.00  
एक रजिस्ट्री बीमा प्राप्त किया  
Received a Registered Insurance  
पति वाले का नाम **रा. म. च. 1/1/48**  
Addressed to **रा. म. च. 1/1/48**  
बीमा की रकम (शब्दों में) **3110**  
Insured for Rs. (in figures) **3110** (in words)  
बीमा शुल्क रु. **3110** वजन (शब्दों में)  
Insurance fee Rs. **3110** Weight (in words)  
भेजने वाले का नाम व पता  
Name and address of sender  
डाकघर निर्देशिका में दर्ज है  
शर्तों के अधीन जारी की गई  
Issued subject to terms and conditions in P. O. guide  
पति वाले अधिकारी के हस्ताक्षर  
Signature of Receiving Officer



क्रमांक/No. **897** ANNEXURE - D  
PLA 3  
संवाए गये डाक टिकटों का मूल्य रु. 2.00  
Amount of Stamps affixed Rs. 2.00  
एक रजिस्ट्री बीमा प्राप्त किया  
Received a Registered Insurance  
पति वाले का नाम **रा. म. च. 1/1/48**  
Addressed to **रा. म. च. 1/1/48**  
बीमा की रकम (शब्दों में) **3110**  
Insured for Rs. (in figures) **3110** (in words)  
बीमा शुल्क रु. **3110** वजन (शब्दों में)  
Insurance fee Rs. **3110** Weight (in words)  
भेजने वाले का नाम व पता  
Name and address of sender  
डाकघर निर्देशिका में दर्ज है  
शर्तों के अधीन जारी की गई  
Issued subject to terms and conditions in P. O. guide  
पति वाले अधिकारी के हस्ताक्षर  
Signature of Receiving Officer



Scanned by



Registered A.D. Notice

From: Sri Suresh Chandra Srivastava,  
Senior Clerk,  
Office of Divisional Manager(P) N.E.Rly.,  
Lucknow.

Through : Sri W.H. Haidri, Advocate  
C-1807 Rajaji Puram,  
Lucknow-226017.

To: 1. The General Manager, N.E. Railway,  
Gorakhpur.  
2. The Divisional Rly. Manager(P)  
N.E. Railway, Lucknow.

Sir,

Under the instruction from my client above name, I hereby serve you with the following notice under section 80 C.P.C.:-

1. That the order contained in your DRM(P)'s LJN No.E/PC/SureshChandra/Sr.Clerk, dated 2.8.88, violates the principles of equity before law as embodied in the Articles 14 and 16 of the Constitution of India. A photostat copy of the letter is annexed herewith, as Annexure-1 forming part of this notice.
2. That my above noted client is a medically unfit railway staff, and on absorption in the equivalent grade (260-400) has a right to be fixed in seniority from 16.11.67, as per extent rule.
3. That my client has suffered physically, mentally and financially, due to inordinate delay and the denial of his right claim as contained in his application dated 18.8.87, a copy of which is annexed herewith as Annexure-2 forming part of this notice.
4. That with the facts and circumstances quoted above, you are hereby called upon to revise the seniority position of the applicant Sri Suresh Chandra Srivastava, and assign his position in the Seniority List in the pay scale of Rs.260-400 from 16.11.67 as at proper place and charge his pay accordingly by preparing a revise pay proforma, failing which my client would be constrained to seek remedy in a proper court of law.

Lucknow:  
Dated 31.1.1989.

Yours faithfully,

Sd/-.

(W.H. HAIDRI)  
Advocate,

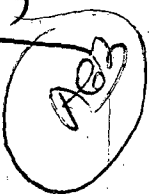
C-1807 Rajaji Puram,  
Lucknow  
226017.

ATTESTED  
*W. H. HAIDARI*  
W. H. HAIDARI  
Advocate High Court

*Suresh Chandra Srivastava*

ANNEXURE No - 18

PN 029



In the Central Administrative Tribunal

Mumbai Bench

Suresh Chandra Suresh & Co. Clerk

In the office of the Divisional Railway Manager

NE Railway - Mumbai ——— Applicant

VS

Union of India and others ——— Respondents

ANNEXURE - 18

0276

560

D. G. M.

M. R.

G. S. P. 142



2

*[Signature]*

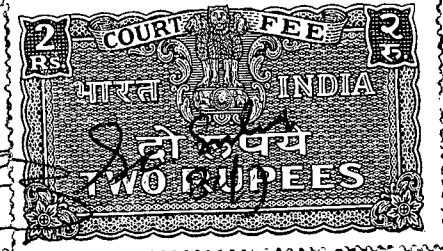
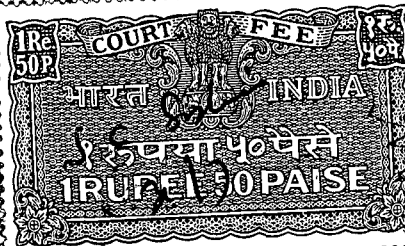
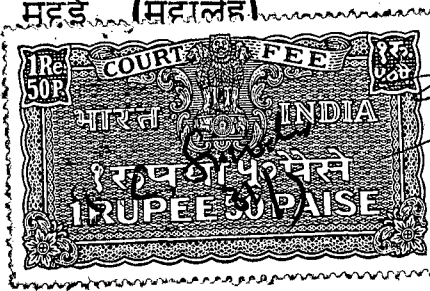
In The Central Administrative Tribunal  
बअदालत श्रीमान Lucknow - Bench महोदय

वादी (मुद्दई)

महर्षि (महालेह)

का

वकालतनामा



Sunesh Chandra Surasaini  
In Charge Office of the D.M(P) N.G.R.  
Lucknow नं० मुकद्दमा

Union of India  
Thorge General Manager N.G.R.  
बनाम C. 100 and प्रतिवादी (रेस्पान्डेन्ट)  
Others

सन 1989 पेशी की ता०

१९८९ ई०

W. H. Hardari

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Advocate C-1807 Raja ji Puri

वकील

Lucknow. 22.6.87.

एडवोकेट महोदय

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 (फरीकसानो) 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।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक 31.7.89

महीना सन् १९ ई०

Accepted  
W. H. Hardari  
31/7/89 Advocate

नाम अदालत  
नं० मुकद्दमा  
नाम फरीकन

To,

The Divisional Railway Manager(P),  
N.E. Railway, Lucknow.

Sub: Fixation of Correct Seniority.

Sir,

Necessity obliges me to approach your honour with the following few lines, for your kind consideration and favourable orders:

1. That I was working as Fireman-B in the scale of Rs.260-~~350~~ since 16.11.67.
2. That I was declared unfit in A/One in Medical category and fit in category C2 on 29.9.76.
3. That due to my medical unfitness, in the appropriate Medical category of A/One required for Fireman-B(Rs.260-350) I was temporarily absorbed in down graded post of Junitor in the pay scale Rs.225-308 on 18-7-1977, being no post equivalent to grade adding 30% of the minimum and maximum Grade of Fireman-B(260-350) at that time with assurance to absorb in the equivalent grade in the near future.
4. That I was transferred to this office and was temporarily posted as Sr.P/Lifter(225-308) on 24.12.77.
5. That I was temporarily promoted as clerk(260-400) for two months in 'P' branch for the post of Sr.P/Lifter on 6.11.78 on Ad Hoc basis which was regularised on temporary basis on 30.12.78 and my seniority was fixed on 24.12.78 insted of 16.11.67.
6. That criteria for fixing the seniority in the length of service in the grade.

ATTESTED

W. H. HAIDARI  
Advocate High Court

I, therefore, request your honour to kindly arrange to post me as a clerk(Rs.260-400) and regularise my services

Contd..d.

ANNEXURE No - 18

P No 29

In the Central Administrative Tribunal  
Allahabad, Lucknow Bench

(702)

Suresh Chandra Sureshwar S. Clerk

In the Office of the Divisional Railway Manager

NE Railway - Lucknow ——— Applicant

VS

Union of India and others ——— Respondents

ANNEXURE - 18

0276

560

L. G. M.

MER

Gorakhpur



2

CSM/2018/2

In The Central Administrative Tribunal  
बअदालत श्रीमान Lucknow Bench महोदय

वादी (मुद्दई)

महोदय (महोदय)

का

वकालतनामा



Suresh Chandra Suresh Chandra  
In Charge of the D.R.M(P) N.G. 124  
Lucknow नं० मुकद्दमा

Union of India  
Major General Mawar N.G. 124  
बनाम C. 124 प्रतिवादी (रिस्पान्डेंट)  
Alhem

सन 1989 पेशी की ता०

१९७९ ई०

W. H. Hardani

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Advocate C-1807 Raja ji Puri वकील

Lucknow. 226017.

एडवोकेट महोदय

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 (फरीकसानो) 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।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक 31.7.89

महीना सन् १९ ई०

Accepted  
W. H. Hardani  
31/7/89 Advocate

Annexure No - 18

P No - 2 D

- 2 -

as on 18.7.77 and also arrange to fix my pay in the scale due as admissible and period of absorption adding 30% of element of Running Allowance for the purpose of identifying equivalent post contained in Railway Board's letter No.E(NG)11-77 RE/3/2 dated 2.9.77 and also fix up my seniority as clerk from 16.11.67 as the Administration failed to provide me alternative job of equivalent grade after my degradation, without any fault on my part.

8. That I have been put to heavy monetary loss due to the wrong fixation of my seniority.
9. That in this connection I beg to invite your attention to a similar case of Sri Mohd. Husain, Shunter-B Grade, Gorakhpur Shed, who was medically decategorised on 11.4.79, and was absorbed as Junior Clerk in the grade of Rs.260-400 on 17.11.79 and has been given seniority of Junior Clerk with retrospective effect from 1.1.73. But I have been denied such seniority for no fault of my own.

Kindly look into the matter personally and do the needful, to meet the ends of justice, for which I shall ever remain highly obliged, otherwise give me permission to seek remedy in a court of law.

Yours faithfully,

Lucknow

Sd/-.

Dated 18.8.87.

(S.C.Srivastava(P)).

1. Copy to the General Manager/Gorakhpur, N.E.Rly. for information please.

ATTESTED

2. Copy to the Chief personall officer, N.E.Rly; ,Gorakhpur.

W. H. H. IDARI  
Advoca. High Court

*[Signature]*

AGS

In the Central Administrative Tribunal Allahabad  
Circuit Bench Lucknow.

O.A.No. 181 of 1989

Suresh Chandra Srivastava , ..... .... Applicant

Versus

Union of India and another ..... .... Respondents.

Short reply to show cause

It is submitted on behalf of the respondents as under:-

1. That the above case has been filed by the applicant for fixation of pay, seniority etc. The orders that have been challenged are dated 16.11.86 and 2.8.88.
2. That both the representations as contained in Annexure No. 13 and 15 are relating to the fixation of seniority. None of the representation concerns the fixation of pay or any other matter claimed in the petition.
3. That the representation dated 31.12.'86 as contained in annexure No. 13 to the application, was decided by the competent authority i.e. D.R.M. vide order dated 16.5.'86 as contained in Annexure No.14.
4. That no further representation is provided for under rules, much less to Sr. D.P.O. against the orders passed as aforesaid by D.R.M. and contained in annexure No. 14 to the application.

F.T.  
h  
2/12/89

*Chitra*  
मुख्य कार्यकारी अधिकारी,  
राज्य सेवा, बंगलूरु



ACB

- 2 -

5. That no appeal is provided for against the aforesaid order . Even assuming that an appeal lay, it could have been presented within 45 days on which date the order was passed and delivered to the applicant. As such the appeal if any could be filed against the order dated 16.5.'86 , but no appeal was filed. It is most respectfully submitted that a representation cannot take place of appeal, which was done in the present case.
6. That in the circumstances, the application filed by the applicant before the Tribunal is highly belated , not having been filed within one year of the order dated 16.5.'86. It is also submitted that having not filed an appeal, even if presumed to be there, the application is not maintainable.
7. That the application is also hit by Rule 10 of the the Rules framed under Administrative Tribunal Act, which clearly lays down that dual reliefs cannot be claimed in one petition.
8. That even otherwise the applicant cannot be allowed to raise the issue about the fixation pf pay, down grading of post etc. , they relating to the year as old as 1977.
9. That the plea taken in para 18 of the application, is also not available to the applicant at this stage, as the matter relates to the year 1979 and cannot be challenged in the year 1989. The same relates to old record, which is not yet available.

Adm. Officer  
पुणे जिल्हा, पुणे

481

- 3 -

10. That on the facts and circumstances stated above, the application filed by the applicant is not maintainable and is liable to be dismissed in limine.

Lucknow

dated: 19.10.'89

*Ashu R.*  
Respondents.

प्रवोक्तर रेलवे, लखनऊ

Verification.

I, *Ashu Tiwari* working as *Divl. Personal Officer* in the N.E. Railway 's D.R.M. Office at Lucknow and duly authorised to sign and verify this reply, do hereby verify that the contents of paras 1 to 10 of this reply are based on legal advice which is believed to be true.

*Ashu R.*

मण्डल कार्यालय अधिकारी  
प्रवोक्तर रेलवे, लखनऊ

117 (circled)

In The Central Administrative Tribunal,  
Lucknow Bench, Lucknow.

Original Appln.No.181 of 1989.

Fixed for 5.1.90

Suresh Chandra Srivastava ... Applicant

Versus

Union of India and others... Respondants.

REJOINDER to short <sup>reply</sup> ~~reply~~ dated 19-10-89  
filed by the Respondant.

The applicant begs to state as under : -

- P-I  
5/1/90
1. That the contents of para 1 of the short reply are denied as drafted. The applicant has filed the present case against the impugned order made in Annexure No. 14 and 16 respectively.
  2. That the contents of para 2 of the short reply are misconceived. The applicant has filed the present case against the single cause of action arising out of incorrect fixation of seniority ~~with~~ with consequential benefit.
  3. That the contents of para 3 of the short reply are misleading. The order dated 16-5-86 is not made by D.R.M. Sri Shiv Murti, Assistant Personal Officer has signed it on behalf of D.P.O.
- Personal

22

-2-

4. That the contents of para 4 of the short reply are misconceived and is falsely been interpreted, and it is not applicable in the present case. The impugned order as contained in Annexure No.14 is absolutely wrong and have been passed without observing the seniority rules by D.P.O and not by the D.R.M as stated in the short reply <sup>under</sup> of the reference. <sup>The</sup> ~~His~~ representation <sup>W</sup> dated 18-6-86 as contained in Annexure No.15 was correctly made to the Senior D.P.O to review the impugned order dated 16-5-86.
5. That the contents of para 5 of the short reply filed by the respondent are denied. And the contents of para 4 of this rejoinder as stated herebefore are reiterated.
6. That the contents of para 6 of the short reply are misconceived, hence denied. The final order of the Sr.D.P.O is dated 2-8-88 and the applicant has filed the present case within one year.
7. That the contents of para 7 of the short reply are misconceived, hence denied. It is again reiterated that the applicant has claimed only a single relief for re-fixation of seniority with consequential benefits.

Desiravel

20

8. That the contents of para 8 of the short reply as drafted are denied and it is to be stated that the applicant has raised the issue about the fixation of his pay as Running Room ~~XXXXXXXXXX~~ Janitor in the scale of ~~Rs.260~~ Rs.260 to 400 ( which was down graded in the scale of Rs.205<sup>225</sup> to 308 ) in his case only, to link the events followed after his medically de-categorisation and absorption on alternative post, in <sup>his</sup> ~~this~~ regard to the extent <sup>w</sup> of rules and to show that the respondent No.2 has all along taken wrong decision in his case.
9. That the contents of para 9 of the short reply are absolutely false and have been drafted to deprive the applicant of his right claims. It is asserted that all the old records are available in the office of <sup>the</sup> ~~the~~ Respondent No.2. The pay of Sri Mohd. Husain was re-fixed on the basis of the old records by the Respondent No.2 on 12.6.86. A photostat copy of the said order is Annexed herewith forming part of this Rejoinder as Annexure No. R-1.
- to produce
- The Respondent No.2 ~~reordered~~ the records as prayed in para no.18 of the application before the hon'ble Tribunal.
10. That the applicant reiterates the contents of para 1 to 24 of his application and denies the contents of paras 1 to 10 of the short reply filed by the Respondents.

Lucknow:  
Dated : 4-1-90

*Je Sni rastava*  
Applicant

*Je Sni rastava*

Verification

I, Suresh Chandra Srivastava, the applicant  
do hereby verify that the contents of paras 1 to 10  
of this Rejoinder are true to my own knowledge.

Nothing material has been concealed and no part of  
it is false. So help me GOD.

Lucknow:

Dated : 4-1-90

*Suresh Chandra Srivastava*  
Applicant

I identify the applicant who has  
signed before me and is personally  
known to me.

*[Signature]*  
Advocate.

ANNEXURE - No. R-1

जौहरी रेलवे

अध्यापक आदेश

23/1/90  
872

श्री मोहम्मद हसन, लिपिक/काग, गोरखपुर, गेड का वेतन  
वेतनमान (330-560) में दिनांक 21-7-81 से वेतन विवरण निम्न  
स्तर से किया जाता है। क्योंकि इन्हें दिनांक 1-1-73 से वरिष्ठता  
का लाभ देने से कनिष्ठ कर्मचारी के अनुसार पदोन्नति का लाभ वेतनमान  
330-560 में दिनांक 21-7-81 से प्रस्तावित है।

श्री मोहम्मद हसन, प्रचार लिपिक का वेतन अब निम्न प्रकार संशोधित  
किया जाता है :-

21-7-81 से 452/-

21-7-82 से 464/-

21-7-83 से 471/-

21-7-84 से 480/-

21-7-85 से 500/-

इस पर सक्षम अधिकारी तथा लेखा विभाग का अनुमोदन  
प्राप्त है।

MA(10)16

कुले मण्डल रेल प्रबंधक(का)

लखनऊ

सं० अ/पीसी/मो० ए०/प्र० लिपिक/३६

दिनांक 23-1-1990

प्रति श्री श्रीमान् रेल आचार्य कार्यालय प्रमुख -

1. प्रमुख/लखनऊ

2. लॉको फोरमैन/गोरखपुर जिला अनुभाग/गोरखपुर।

3. लेखर लिपिक

4. संबंधित कर्मचारी

MA(10)16

कुले मण्डल रेल प्रबंधक(का)

लखनऊ

का (10)16

12/6/86

अंश  
23/1/90

Jeshin/over

ATTESTED

W. H. HAIDARI  
Advocate High Court

BENCH COPY

In the Central Administrative Tribunal Allahabad  
Circuit Bench, Lucknow

ATB

O.A. No. 181 of 1989

Suresh Chand Srivastava .. .. . Appellant

Versus

Union of India & Others .. .. . Opp. Parties

Supplementary Rejoinder

It is submitted on behalf of the appellant  
as under :-

1. That by <sup>Raising</sup> ~~making~~ the question of limitation the Respondents have tried to divert the attention of this Hon'ble Tribunal from the main sub<sup>-ject</sup> matter of the case which <sup>is</sup> "Whether the Seniority of the applicant has been correctly fixed according to rule".
2. That in case of incorrect fixation of seniority due to administrative error the government has right to correct it and a copy of the Railway Board letter in this respect is annexed herewith forming part of this Supplementary Rejoinder as

As Srivastava



As Annexure No.SR-1

774

3. That no time limit has been provided in the Railway Board letter cited above in para 2.
4. That cause of the action accrued to the applicant on 1.12.84 when he was discriminated and assigned incorrect seniority position in Seniority List copy of which is annexed with original application as Annexure No.12.
5. That the applicant had been representing for the correct fixation of the seniority <sup>and</sup> ~~of the~~ final cause of action accrued to him on 2.8.88 as contained in Annexure No.16 filed with the Original application.
6. That on 6.9.84 this Hon'ble Tribunal directed the Respondent to quote rule for appointing medically de-categorise Railway's staff in lower cadre, but the respondent had purposely not submitted the rule as it would have exposed their misconceived and illegal action and injustice caused to the applicant. A complete rule in this respect for the information of this Hon'ble Tribunal is annexed herewith as forming part of this Supplementary rejoinder as Annexure No.SR-2.
7. That wherefore it is expedient in the interest of justice that the respondent's objection on the matter <sup>of</sup> ~~and time~~ limitation be dropped forever and the original application be listed for final hearing.

*Lesirastara*

Lucknow :

*Lesirastara*  
Appellant

Dated : 26.2.80  
*h*

(515)

Verification

I, Suresh Chandra Srivastava duly authorised  
verify that the contents of paras 1 to 7 of this  
Supplementary Rejoinder are true to my my personal  
knowledge and belief and that I have not suppressed  
any material fact. So help me God.

Lucknow

S. Srivastava  
Applicant

Dated : 26.2.80

Serial No.2709 - Circular No.831-E/25-III(Eiv), dated  
16.10.1964

Sub : Hardships to non-gazetted staff due to administrative errors - Loss in seniority and pay.

A copy of Railway Board's letter No.E(NG)63PMI/92 dated 15/17.9.64 is forwarded for information and guidance.

Copy of Railway Board's letter No.E(NG)63 PMI/92 dated 15/17.9.84 from Asstt. Director, Establishment, Railway Board, to the General Managers, all Indian Railways etc.

Sub : Hardships to non-gazetted staff due to administrative errors - Loss in seniority and pay.

It has been represented to the Board that sometimes due to administrative errors staff are overlooked for promotion to higher grades. This should either be on account of wrong assignment of relative seniority of the eligible staff or full facts not being placed before the competent authority at the time of ordering promotions or some other reasons Broadly, loss of Seniority due to administrative errors can be of two types :

- (a) where a person has not been promoted at all because of administrative error; and
- (b) where a person has been promoted but not on the date from which he should have been promoted but for the administrative error;

2. The matter has been considered and the Board desire that each such case should be dealt with on its merits. The staff who have lost promotion on account

*Reservations*



- 2 -

of administrative errors should on promotion be assigned correct seniority vis-a-vis their juniors already promoted irrespective of the date of promotion. Pay in the higher grade on promotion may be fixed proforma at the stage which the employee would have reached if he was promoted at the proper time. The enhanced pay may be allowed from the date of actual promotion. No arrears on this account shall be payable, as he did not actually shoulder the duties and responsibilities of the higher grade posts.

ATTESTED

Wt. on 26/2/90

W. H. HAIDARI

Advocate High Court

EXTRACT FROM RAILWAY ESTABLISHMENT RULES  
& LABOUR LAWS - BY B.S. MAINEE

(Pages from 78 to 88)

978

Alternative appointments to the medically  
unfitted staff and their seniority

An alternative job must be offered to a Railway servant, who has failed in vision test or has been otherwise declared physically unfit to continue in a particular post. Only that alternative job should be offered to him which he is capable to perform.

Suitable Job

That alternative job will be considered suitable, in which the emoluments do not fall more than 25% below the emoluments in the former post. The figure of 25% is in nature of a guide and not a rigid rule.

A railway servant with a large family and considerable commitments would merit greater consideration in the following categories of posts, if found otherwise suitable after proper screening :-

- (a) Power Controllers
- (b) Assistant Loco Foremen.
- (c) Instructors in Zonal Training School.
- (d) Janitors
- (e) Shedmen.
- (f) Job Recorders.
- (g) Telephone Clerks
- (h) Clerical staff in Control Office
- (i) Hostel Warden & Hospital Supdt.
- (j) Welfare Inspectors.
- (k) Wagon Movement Inspectors
- (l) Trains Clerks.

(R.Bs' No. E(NG) 11-70 RE 3-4 of 3-11-71)(S.No. 5497)

Medically incapacitated staff should not be absorbed in higher scales. In the case of running staff 30% should be added to minimum and maximum of the scale of pay of the running staff for purposes of identifying equivalent posts. (R.B's No.E(NG)II/77/RE 3-2 of 2-9-77) (N.R., S.N.6845). Past cases where there has been acute hardship can be examined on merits and re-opened if they do not adversely affect others. (R.B's No.E(NG) II-79-RE-3/5 of 22-5-79) (N.R., S.N. 7301). It has further been decided by the Railway Board that all cases where running staff have been absorbed in alternative appointment on or after 1-1-73 be reviewed and the benefits arising from the orders of 2-9-77 as given above be afforded to the running staff. (R.B's No. E(NG) II-79-RE 3/5 of 14-6-77) (N.R., S.N. 7345).

The following principles should be followed in absorption in alternative categories after medical decategorisation :-

1. Quite often it happens that due to vacancies not being available in equivalent grades a medically decategorised employee has to be offered absorption in a lower grade. In some cases such employees refuse the lower grades in the hope of vacancies in higher grades materialising. It should be open in such cases for an employee to accept a lower grade with a request that if a vacancy in a grade equivalent to what he held before decategorisation occurs in the same cadre he should be considered eligible for the same in preference to a junior medically decategorised employee. While the employee can be expected to put in an application when this contingency happens, it is also necessary for the administration suo moto, when considering a subsequently decategorised employee for absorption in a cadre, to look into cases where senior decategorised employees



may have been absorbed in lower grades in the same cadre during previous three years and initiate a review. Cases decided before 11-4-1975, need not be reopened unless there are very exceptional circumstances.

2. It is also not the intention that even after review the junior employee already absorbed and working in a higher grade should be displaced to make room for the senior. The senior may be promoted against the next vacancy arising in the grade and relative seniority in that grade refixed taking into account the position before medical decategorisation.

3. Where a junior has already been absorbed in an equivalent grade but a senior gets medically decategorised during the next three years period and has necessarily to be considered for absorption in the same cadre, but no vacancy in a similar grade is available, he may be provisionally absorbed in a lower grade with the understanding that the next vacancy occurring in the higher grade would be given to him. On such vacancy occurring and his being posted therein, seniority should be recast as per foregoing para.

4. There will be cases where a senior employee was absorbed in a grade taking into account his position before decategorisation and a junior subsequently got promoted to a higher grade but ultimately employment in a higher grade. It is not the intention that such cases which happened because of the efflux of the time should be reviewed. (R.B's No. E(NG) 1-78 SR 6/6 of 11-1-79) (N.R., S.N. 7195).

#### Fixation of Pay

The pay on absorption in an alternative post will be fixed at a stage corresponding to the pay previously drawn

contd..4

Reservations



in the post held in a substantive capacity or the officiating pay if he was not likely to revert there from, whichever is higher. In case there is no such stage in the scale his pay will be fixed just below the pay previously drawn by him and the difference between the stage and pay previously drawn may be allowed as personal pay to be absorbed in future increments.

#### Increment

A railway servant who has been decategorised from a post held by him in a permanent capacity will be given annual increment falling due during the period of leave with pay, and the pay arrived at after this increment will be taken as the pay last drawn in his former post for the purpose of fixing him up in the alternative post in which he is eventually absorbed.

If a permanent railway employee is absorbed in an identical scale, the period of service rendered by him (including the period passed on leave with pay) in his former post will count towards increment.

A railway servant absorbed in an alternative post will for all purposes have his past service treated as continuous with that in the alternative post. He will also continue to be governed by the conditions of service applicable to him before he was declared medically unfit.

#### Seniority

Seniority of such staff shall be fixed with reference to the length of service rendered in the equivalent or corresponding grade irrespective of the rate of pay fixed.

Resigned





In case of absorption in a lower grade total service in the equivalent and higher grade should be taken into account.

In some cases it may happen that junior running staff on being declared medically unfit are absorbed in a higher scale in a cadre while seniors have been absorbed earlier under similar circumstances against lower grade posts. The Railway Board have decided that in the matter of absorption of medically decategorised staff care has to be exercised to ensure that when more than one medically decategorised staff from the same cadre are absorbed in alternative employment in the same seniority unit or cadre, as far as possible, the case of any senior who, of necessity was absorbed in a lower post should be reviewed and efforts made to adjust the senior against the higher post and the junior taken only lower down either in the same grade or lower grade. (R.B's No.E(NG) 11-73 RE 3/15 of 11-4-75 (N.R., S.N. 6302).

ATTESTED

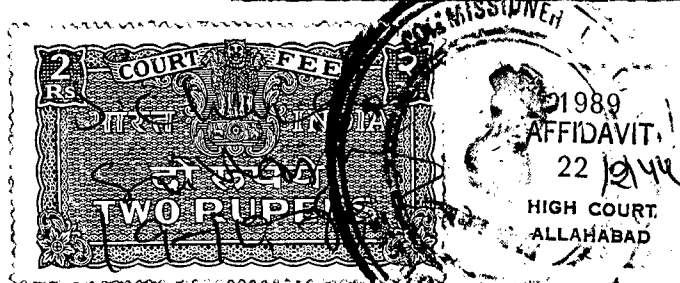
Wt. No 26/2/90

W. H. H. ADARI

Advoca H. H. H.

In The Central Administrative Tribunal  
Lucknow Bench, Lucknow.

Original Application No.181 of 1989.



Suresh Chandra Srivastava, Senior Clerk, Office of  
The Divisional Railway Manager ( Personnel) N.E.Rly.,  
Hazratganj, Lucknow , resident of H.No.25 Lokmanganj  
Charbagh, Lucknow... Applicant

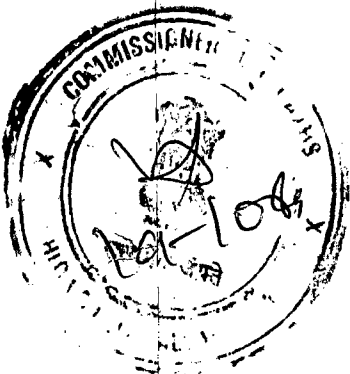
versus

The Union of India and another... Respondants.

AFFIDAVIT

I, Suresh Chandra Srivastava, aged about 52 years  
son of Sri B.P.Khare, resident of 25 Lokmanganj, Charbagh  
Lucknow, do hereby solemnly affirm and state on oath  
as under : -

1. That the deponent is the applicant in the O.A No.  
181 of 1989 filed by him in this Hon'ble Tribunal  
and as such he is fully conversant with the facts  
of the case deposed hereinunder.
2. That the above noted application was listed on  
on 19-10-89  
for admission/before this Hon'ble Tribunal.
3. That when the case was called out the counsel for  
the applicant was present but no one appeared on  
behalf of the Respondants.
4. That the counsel for the applicant informed that



*Suresh Chandra Srivastava*

*Filed today  
in  
19/10/89*

the notice issued by this Hon'ble Tribunal have been received in the Divisional Railway Manager's office at Lucknow , but no one is present on behalf of the Respondants.

5. That this Hon'ble Tribunal ordered the applicant <sup>affidavit</sup> to file in support of the report regarding the service and receipt of the notice upon the Respondants i.e The Divisional Railway Manager, N.E.Railway, Hazratganj, Lucknow.
6. That the above notice issued by this Hon'ble Tribunal was received by the Divisional Railway Manager, N.E.Rly, Hazratganj, Lucknow on 18-9-89.
7. That it is expedient in the interest of justice that the above application supported by this accompanying affidavit may very kindly be admitted

Lucknow

Dated : 19-10-89

*Deoniraj*  
Deponent

Verification

I, the above named deponent do hereby verify that the contents of paras 1 to 7 of this affidavit are true to my own knowledge.

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

Lucknow:

Dated : 19-10-89

*Deoniraj*  
Deponent

I identify the deponent, who has signed before me and is personally known to me.

*Advocate*  
Advocate.

Before the Central Administrative Tribunal,

Circuit Bench, Lucknow.

O.A. No. 181 of 1989

Suresh Chandra Srivastava ..... Claimant

VERSUS

Union of India ..... Opposite Party

COUNTER REPLY ON BEHALF OF OPPOSITE PARTIES.

I, S. M. N. Islam, aged about 36 years,  
son of Sri S. M. Owais posted as Sr. Divl  
Personnel officer in the office of  
Divisional Rly Manager N.E. Rly Lucknow, do hereby  
solemnly affirm and state on oath as under :-

(1) That the claimant was appointed as Engine  
Clearnear in L.F.(C.B.) Shed dated 15.1.1960 in  
the Scale of Rs. 70-85. The date of birth  
of the claimant was recorded in B. Card as  
30.6.1938 on the basis of copy of High School  
Certificate produced by the claimant.

(2) That the claimant was promoted to the post of  
Fireman -II in the ~~Scales~~ scale of Rs. 80-

95 with effect from 12.11.60 and again promoted on the post of Fireman 'B' in scale of Rs. 100-130 with effect from 25.11.64. However, the claimant was reverted to the post of F/M-II in the scale of Rs. 80-95 with effect from 15.7.1966.

- (3) That the claimant was again promoted as Fireman 'B' in scale of Rs. 100-130 with effect from 26.6.68. The pay scale of Rs. 100-130~~xxxxxx~~ of the post of Fireman 'B' was revised under Second Pay Commission as Rs. 225-308 with effect from 1.1.73 and this scale was again revised as Rs. 260-350 with effect from 1.1.73 vide Rly. Board Letter No. PC/III/73/Schedule/53 dated 10.1.75.
- (4) That the claimant was declared medically unfit for the post of Fireman 'B' in medical category A-1 but was fit in category C-1 and C-2 vide DMO/LJN Certificate A/411 dated 28.9.76 and on the basis the claimant was absorbed on alternative post of <sup>Janitor</sup> Generator in the scale of Rs. 260-400 after lowering the gradation of the said post in the scale of Rs. 225-308 to save the claimant from the hardship.
- (5) That again vide Order dated 24.12.77, the claimant was again absorbed on the post of Senior Record Lifter in the scale of Rs. 225-308 and pay of the Claimant was fixed on Rs. 308/- maximum.
- (6) That the claimant was promoted on the post of Junior Clerk 'B' in the scale of Rs. 260-400 and his pay was fixed at Rs. 320 and on his

Appeal his pay was fixed as Rs. 382/- instead of Rs. 320/- vide order dated 30.12.78.

- (7) That in terms of the Railway Board's Letter No. E(NG)-II-79 RI.3/5 dated 22.5.79, the claimant was provisionally absorbed as Record Khalasi in the scale of Rs. 225-308 and later on absorbed as Clerk in the scale of Rs. 260-400 vide office Order dated 21.7.80 and thus the claimant is entitled to get seniority of Clerk in the scale of x Rs. 260-400 with effect from 21.7.80.
- (8) That the contents of para 4.1 of the Claim Petition is not disputed.
- (9) That the contents of para- 4.2 of the Claim Petition is admitted to the extent that the claimant was declared medically unfit in the medical category A-1 and was declared fit in ~~xxxxxx~~ Category C-1 and C-Two vide DMO/LJN Medical Certificate No. A-411 dated 28.9.76.
- (10) That the contents of para 4.3 is not disputed.
- (11) That the contents of para-4.4 is wrong and is denied.
- (12) That the contents of para 4.5 is not disputed.
- (13) That the contents of para 4.6 is wrong and x is denied. The Post of <sup>Junior</sup> ~~Generator~~ at Kanpur Anwarganj was the post in the scale of Rs. 260-400 which was temporarily ~~down~~ graded in the scale of Rs. 225-308.

400

- (14) That the contents of para 4.7 of the Claim Petition are wrong and are denied. It is wrong that Claimant was absorbed in the scale of Rs. 225-308 and not in the scale of Rs. 260-400 as alleged. The claimant was not entitled to get the pay difference and its arrear.
- (15) That the contents of para 4.8 to 4.10 of the Claim Petition are not disputed.
- (16) That the contents of para 4.11 of the Claim Petition are wrong and are denied. The claimant was given the equivalent to the post of Clerk (Rs. 260-400) vide C.O.No. E/S.C. Srivastava/Clerk/90 dated 21.7.80. A true copy of the same is annexed herewith as ANNEXURE-01 to this counter reply.
- (17) That the contents of para 4.12 of the Claim Petition are wrong and are denied. The seniority of the Clerk was correctly fixed.
- (18) That the contents of para 4.13 of the Claim Petition are not disputed.
- (19) That the contents of para 4.14 of the Claim Petition are wrong and are denied.
- (20) That the contents of para 4.15 of the Claim Petition are wrong and are denied. The claimant was assigned seniority from 24.12.1977 from the date he was absorbed against the equivalent post of Clerk in the scale of Rs. 260-400.

1239

- (21) That the contents of paras 4.16, 4.17 and 4.18 of the Claim petition are wrong and are denied. The seniority was correctly assigned as per rules.
- (22) That the contents of para 4.19 of the Claim Petition are wrong and are denied.
- (23) That the contents of paras 4.20 to 4.22 of the Claim Petition are not disputed.
- (24) That the contents of paras 4.23 and 4.24 of the Claim Petition are wrong and are denied.
- (25) That the contents of para 4.25 of the Claim Petition are wrong and are denied. None of the grounds stated in the Claim Petition are tenable under law and the Claim Petition is liable to be rejected with cost.

LUCKNOW.

DATED: APRIL 14, 1993.

For OPPOSITE PARTIES.

प्रवर वंदन कार्यालय अधिकारी

दुर्गोत्तर रोड, लखनऊ

Sr. Divisional Personnel Officer

W. B. Railway, Lucknow



Original Copy

(47) 200

IN THE ADMINISTRATIVE TRIBUNAL AT LUCKNOW BENCH.

.....

O.A. No. 181 of 1989.

....

Suresh Chand Srivastava ..... Applicant.

v/s

Union of India Through General Manager,  
North Eastern Railway, Gorakhpur.

and others. .... Respondant.

....

REJOINDER AFFEDEVIT AGAINST THE COUNTER REPLY

ON BEHALF OF THE RESPONDANT.

I Suresh Chand Srivastava aged about 55 years S/O Sri B.P. Verma<sup>Verma</sup> presently working as a Clerk in the Office of the Divisional Rail Manager (Personal) North Eastern Railway, Ashok Marg Lucknow R/O No.25 Lokman Gani Charbagh, Lucknow solemnly state affirm and state on oath as under:-

1. That the deponent is himself applicant in the noted above original application and as such he is fully conversent with the case. He has read the counter reply filed on behalf of the opposite parties and his para-wise comments are as under:-

2. That the contents of Para 1 and 2 of the counter reply is a matter of records and it needs no comments.

.... 2/-.

-: 2 :-

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3. That only this much of the contents of para 3 of this counter reply is denied that the applicant was promoted as Fireman 'B' from 26.6.68. In fact the applicant was promoted as Fireman 'B' from 16.11.67 and continued upto 28.9.76. Thereafter he was medically declared unfit in A/one and fit in C/2 due to an accident on duty and became handicapped.

4. That the contents of Para 4 of the counter reply are admitted to the extent that after being declared medically unfit the deponent was temporarily absorbed as a Running Room Janitor in the equivalent scale Rs. 260-400 and it is further submitted that the respondent were not justified on lowering the gradation of that post in scale Rs. 225-308 to save the applicant from hardships. Infact that the respondent put the applicant to further hardships by fixing the Pay of applicant at Rs. 308/- in scale Rs. 225-308. The post of Running Room Janitor was in the scale of Rs. 260-400 and as per extent rules quoted in annexure no. A/5 of the original application should have been fixed at Rs. 382/-. Taking into consideration, his basic pay and 30% Running allowance in scale Rs. 260-400 (interms of para 2613 of the Establishment Manual vide Office Order No. E/II/Managing/Scale/PC dated 27.12.78 (which the respondent ultimately allowed after appeal from 30.12.78 as admitted in para 6 of the counter reply by the respondent.

Desired/Ans

5. That the contents of para 5 of the counter reply is a matter of records hence admitted but it is ~~fallacy~~ <sup>further</sup> submitted it was ill-advice action of respondent to put him on lower scale of Pay 225-308 instead of Rs. 260-400 which he was entitled.

.....3/-.

Page

6. That the contents of para 6 of the original application is a matter of records hence admitted and the contents of Para 4 of the rejoinder affidevit are reitreated.

7. That the contents of Para 7 of the counter reply are wrong and misleading hence denied. It is further submitted that on 6.9.89 this Hon'ble Tribunal directed ~~this~~ respondent to quote Rules for appointing Medically de-categorised Railway Staff in lower cader but the respondent purposely not submitted the Rules as it would have exposed their misconceive and illegal action and injury cause to the applicant and in reply to this para 6 of the supplimentary rejoinder dated 26.2.90 with annexure No. SR-2 are again reitreated.

8. That the contents of Para 8 of the counter reply needs no comments.

9. That the contents of Para 9 of counter reply needs no comments.

10. That the contents of Para 10 of the counter reply needs no comments.

11. That the contents of Para 11 is wrong hence not admitted and the contents of Para 4.4 of the original application are reitreated.

12. That the contents of Para 12 of the counter reply are wrong hence denied and the contents of para 4.6 of this original application are reitreated.



13. That the contents of Para 13 of the counter reply are wrong hence denied and the contents of Para 4.6 of the Original application are reitreated.

14. That the contents of Para 14 of the counter reply are wrong hence denied and the contents of Para 4.7 of original application are reitreated.

15. That the contents of para 15 needs no comments.

16. That the contents of para 16 of the counter reply are misconcieve wrong hence denied and the contents of Para 4.11 of the original application are reitreated.

17. That the contents of para 17 of the counter reply are wrong hence not admitted and the contents of Para 4.12 of the original application are reitreated.

18. That the para 18 needs no comments.

19. That the para 19 of the counter reply are wrong hence denied and the contents of para 4.14 of the original application are reitreated.

20. That the contents of para 20 of the counter reply are wrong hence denied and the contents of Para 4.15 ~~are reitreated~~ of original application are reitreated.

21. That the contents of Para 21 of the claim petition are wrong hence denied and the contents of Para 4.16, 4.17 and 4.18 of the original application are reitreated.

*Described here*



22. That the contents of Para 22 of the counter reply are wrong hence not admitted and the contents of para 4.19 of the original application are reitreated.

23. That the ~~xxx~~ contents of para 23 of the counter reply needs no comments.

24. That the contents of Para 24 of the original application are wrong hence denied and the paras 4.23 and 4.24 of the original application are reitreated.

25. That the contents of Para 25 of the counter reply are wrong and misconcieve as such denied. and the contents of 4.25 of the original application are reitreated and it is further submitted that the original application deserves to be allowed with cost against the respondant.

*Sesiravats*  
DEPONENTS.

VERIFICATION.

I Suresh Chand Srivastava do hereby verify that the contents of Para 1 to 24 are ture to my personal knowledge and on the facts based on the records and the contents of Para 25 are believed to be ture on legal advice and that I have not suppressed any material facts.

*Sesiravats*  
DEPONENT.

I identify the deponent who has signed and verified in my presence.

LUCKNOW.

(W.H.HAIDRI )  
ADVOCATE.

3.11.1993.

NS/CCS

64

Before

In the Court of

# VAKALATNAMA

In the Central Administrative Tribunal, Allahabad  
Circuit Bench - Lucknow

FF 19-10-89  
19-10-89

CA No. 101 of 1989 (U)

S. C. Srivastava

Versus

Union of India and others

I/W/ K. K. Dhuria

do hereby appoint and authorise Shri

Umesh Chandra, Advocate  
and Shri Pramod Kumar, Advocate

Railway Advocate, Lucknow to appear, act apply and prosecute the above described Writ/Civil Revision/Case/Suit/Application/Appeal on my/our behalf; to file and take back documents, to accept processes of the Court, to deposit moneys and generally to represent myself/ourselves in the above proceeding and to do all things incidental to such appearing, acting, applying, pleading and prosecuting for myself/ourselves.

I/We hereby agree to ratify all acts done by the aforesaid Shri Umesh Chandra

Railway Advocate, Lucknow

in pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed by me/us this

day of 1989

Accepted  
Pramod Kumar  
Adv

(K. K. Dhuria)

प्रव. मण्डल कायिक अधिकारी  
पूर्वोत्तर रेलवे, लखनऊ

NER-84850400-8000-4 7 84

Note: - Mr Umesh Chandra, Senior Advocate in  
appear in this case

Pramod Kumar  
Adv

NS/CCS

# VAKALATNAMA

Before  
in the Court of

Central Administrative Tribunal bench Lucknow

O A 101/89 (L)

Plaintiff  
Defendant

SC Smastara

Claimant  
Appellant

Versus

Defendant  
Plaintiff

Union of India

Petitioner  
Respondent

The President of India do hereby appoint and authorise Shri

VK Smastara

Rly Advocate Lucknow

to appear, act, apply, plead in and prosecute the above described suit/appeal/proceeding on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying, Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceeding against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agree to ratify all acts done by the aforesaid Shri

V.K. Smastara

Rly Advocate Lucknow

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the ..... day of ..... 198 .

Dated ..... 198

NER-84850400-8000-4 7 84

(S.M. N. Islam.)  
Designation of the Executive Officer,

Sr. Dir. Personnel Officer

NE Rly Lucknow

For UO