

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE 04-181 OF 09

NAME OF THE PARTIES S. C. Srivastava Applicant

Versus

Union of India Respondent

Part A.

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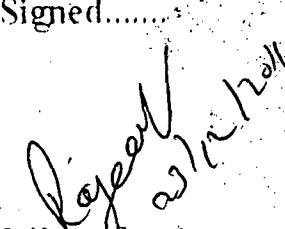
CERTIFICATE

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.....


Signature of the
Dealing Assistant


Section Officer in charge

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Det.

Subhal

1-8-89

Registration No. 181 of 1989(L)

Examining Officer(J)

APPLICANT(S) S. C. Srivastava

RESPONDENT(S) Union of India & others.

Particulars to be examined

Endorsement as to result of examination

| | |
|---|----------------------------|
| 1. Is the appeal competent ? | Yes |
| 2. a) Is the application in the prescribed form ? | Yes |
| b) Is the application in paper book form ? | Yes |
| c) Have six complete sets of the application been filed ? | 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 cause for not making the application in time, been filed ? | Yes |
| 4. Has the document of authorisation, Vakalatnamda 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 outcome 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 ExaminedEndorsement 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 ? *No*

19. Whether all the remedies have been exhausted. *Yes*

dinesh/

10/1/90 (C)

20 X. M.

Hon. D.K. Agarwal, A.M.
Hon. Mr. K. Obayya, A.M.

Second
order
in
main Petition

Admit

OK
No reply filed
submitted to
order

4/1/90

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 respondent 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)

g.f. hearing

26/2

26.2.90

Hon. Mr. Justice K. Nath, V.C.
Hon. Mr. K. J. Ramam, A.M.

Supplementary rejoinder filed on behalf of
Applicant. Counsel List. iii. Case for final hearing
on 7.3.90.

AM

VR

7-5-90

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

Hon. Mr. K. Obayya, A.M.

The bar is on strike.

Adjourning to 21-8-90. f. n.

Dee

S.M.

21/8/90 No Siting Adj to 26/11/90
K.P.

26/11/90

Case not reached. Adjourn to
28.1.91.

28.1.91

No Siting Adj to 19.4.91

19.4.91

No Siting Adj to 8.8.91
S B.O.C.

8.8.91

No Siting Adj to 21.10.91

S

OR

Short CA/RA filed
 S.P.H.

S
18/11

21.10.91 Mr. W.H. Haidari - 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 16/11/91.

(S.N. Prasad)

Member (Jndl.)

(Kanshal Kumar)

Vice Chairman

or
note crossed
S
7/11/91

DR
15/4/93

AP

OR
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
DR

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
DR

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 DR. on 19/8/93.

DR

19.8.93
DR

Counsel for applicant is present.
R.A. has not been filed. List
the case before DR. on 20.9.93
for filing Rejoinder.

(R1)

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

Date of order 7-6-94

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., : : : : : Respondents
Gorakhpur & another

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

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

JUDGMENT.

(By Hon. Mr.Justice B.C. Saksena, 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.

Book

.....2

AC

-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

Back

The 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

R/C

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

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 ~~not~~ ^{moot} 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

AID

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.

W. S.
ADMINISTRATIVE MEMBER.

B. Chakravarti
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)

P.D.

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

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Lucknow :

Dated : 31-7-89

Signature of the applicant

Senayana

For the use in Tribunals

Date of Filing 1-8-89

Reg
Regularisation No. 181/89(1)

Signature

for Regularisation

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW

ORIGINAL APPLICATION NO. 181 OF 1989(L)

116

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.

2. Jurisdiction of the Tribunal

The applicant declares that subject matter of the Order against which he wants to redresal is within the Jurisidiction 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 Scale (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.

ALC

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 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 205-³⁰⁸360 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 Eal. 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,

Encl/

77 u
Anwarganj from 18.7.77 to 23.12.78 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. Manual vide order No.E/II/Maggy/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.

Ans. Verdict



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 25.12.78⁷⁷ only and ignoring his services rendered by him as Running Room Janitor at Kanpur Anwargunj after absorption from 18.7.77 to 23.12.79⁷⁷ for the purpose of seniority and pay in scale 260-400 is unjustified misconceive & 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

Researched



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 ⁱⁿ _{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 ⁱⁿ seniority in the similar case with retrospective effect from 16.11.87 after counting his length of services ^{as Fireman B} in which is discriminative

and ~~equivalent~~
^{Volates}
~~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 refixation 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 assigned 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 ~~in~~ letter is annexed herewith

(A29)

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, Anwargunj has performed the duty of the post earring 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

✓
B.M. Mehta

ARV

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

"Rule 9(1) Seniority of Medically incapacitated staff : The medically incapacitated 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".

Auth^{ab} 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 ^{Seniority} in the cadre of clerk with retrospectiv^s 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 safe guard in article 14 and 16 of the Constitution of India.

Seniority
by

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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 much senior to him in seniority list.
5. Because Respondent No.2 have left over his working for purpose as Running Room Janitor/of seniority and fixation of pay and did not reopen 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, Goraihpur under Registered

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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 refix 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 refixed his seniority also in promotional cadre of senior clerks 330-560 and above in persuert to refixation 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 refixation of seniority from 16.11.67 with ~~consequential~~ ^{other} ~~consequences~~ ^{for} till benefit of salaries emoluments allowances and other amenities from ~~18.7.77~~ ^{18.11.77}.

18/11/77
S. S. N. N.

ANV

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 filed 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.

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 other's 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

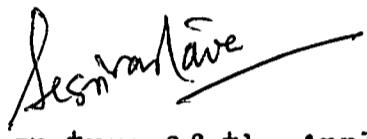
129

VERIFICATION

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, Charbagh,
Lucknow do hereby verify that the contents of paras 1 to
6, 7, 9612 ^{and 8}
~~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.

Lucknow :


Signature of the Applicant

Dated : 31.7.99

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. 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

| Sl No | Particulars | Page Nos |
|-------|---|----------|
| 1. | Annexure No.1 : Copy of the Divisional Railway Manager N.E. Railway, Lucknow Office Order No.E/II/Mangg/SCC/PC dated 24.12.77 | 1 |
| 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 | 2 |
| 3. | Annexure No.3 : Appointment Order of Rajendra Lal letter No.Ka/PC/Rajendra/80 dated 26.4.80 | 3 |
| 4. | Annexure No.4 : Transfer order of the applicant as Senior Record Lifter in DRM(P) Office, Hazratganj, Lucknow | 4 |
| 5. | Annexure No.4 : Posting order of the applicant as clerk | 5 |
| 6. | Annexure No.5 : Fixation of the pay of applicant in the cadre of clerk (260-350) | 6 |
| 7. | Annexure No.6 : Application of the applicant for correct fixation of the pay | 7 |
| 8. | Annexure No.7 : Application dated 1.3.80 for fixation of seniority in the cadre of clerk | 8 |

ASY

| <u>Sl No</u> | <u>Particulars</u> | <u>Page Nos.</u> |
|--------------|---|------------------|
| 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 | 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. | Sc 16 - 18 & 19 |
| 15. | Annexure No.14 : Letter of the Divisional Railway Manager (Personnel) Lucknow No.E/PC/SC/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 : DRH(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 3.7.89

N. E. RAILWAY

OFFICE ORDER

Sri Suresh Chandra Srivastava Medically decategorised F/Man 'B' (260-350) who was temporarily now absorbed 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/I/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 Chand Srivastava Sr.Janitor, under ALF/CPA amongst the medically decategorised 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

1/1/78
W. H. HAIDARI

Advocate High Court

Attestation

No - 2

1/16

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
EP8-162.

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
Advocate High Court

W. H. Haidari

ANNEXURE NO 3

पूर्वोल्लासे रेलवे

१८१०३

५१

कार्यालय आदेश

=====

श्री राजेन्द्र लाल भूतपूर्व पिटर 260-400 जो मेडीकल थे यो थी- 1 मैं
अनपिट ही गये थे तथा सी- 2 मैं पिट होने के कारण इस कार्यालय के पर्वक
पासी/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
स्थायोत्तम से तैनात किया गया ।

प्र. यां इ. वा इसके लिए ज्ञुमोदन प्राप्त है ।

४०

मुनेश्वर प्रसाद सिंह
कृते मैं रे. प्र. (वा),
लखनऊ

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

प्रतिलिपि सूचना तथा उचित कार्यवाची हेतु प्रेषित :-

- 1- मफ्ल लेखाधिकारी/लखनऊ
- 2- संया. इ०. (डीजल) कानपुर अनवरगंज ।
- 3- सहायक लोकी फोरमैन कानपुर अनवरगंज ।
- 4- प्र. लिपिक (बिल) मफ्ल कार्यालय ।
- 5- सम्बंधित कर्मचारी ।

४०

मुनेश्वर प्रसाद सिंह
कृते मफ्ल रेल प्रबंधन(वा),
लखनऊ

ATTESTED

३१/११७९

W. H. H. D. A. M.

Advoca. H. C. H.

Reserve address

ANNEXURE NO-4

पूर्वोत्तर रेलवे

P. NO-4

कायलिय आदेश

=====

निम्नलिखित तदर्थ पदोन्नति, पदावनति तथा नियुक्तियों के आदेश
जारी किये जाते हैं जो शीघ्र प्रभावी होंगे :-

- 1) श्री राम लुभाया, स्थानापन लिपिक (ईंजी०) वेतनमान (260-400) की पदावनति बतौर अभिलेखपाल (210-270) में करने के पश्चात इन्हें ईंजीनियरिंग विभाग में ही रोका जाता है। इनका वेतन प्रतिमाह (270/-) रख्ये निर्धारित किया जाता है।
- 2) श्री जटार्थकर दुबे, वरिष्ठ प्रवर अभिलेखपाल (कार्मिक), वेतनमान 225-308 की तदर्थ पदोन्नति बतौर लिपिक वेतनमान 260-400 में करने के पश्चात इन्हें ईंजीनियरिंग विभाग में क्र.सं. 1 के स्थान पर नियुक्त किया जाता है। इनका वेतन रु 342/- प्रतिमाह निर्धारित किया जाता है।
- 3) श्री सुरेश कन्द्र श्रीवास्तव, प्रवर अभिलेखपाल (यांत्रिक विभाग) वेतनमान 225-308 की तदर्थ पदोन्नति बतौर लिपिक ग्रेड 260-400 में करने के पश्चात इन्हें कार्मिक शाखा (ईंजी०) क्लैर अनुभाग में नियुक्त किया जाता है। इनका वेतन 320/- प्रतिमाह निर्धारित किया जाता है।
- 4) श्री डी. छ्वा० बरी, प्रवर अभिलेखपाल (225-308) की तदर्थ पदोन्नति बतौर टैक्क ग्रेड 260-400 में करने के पश्चात इन्हें श्रीमती दिव्यावती देवी, टैक्क जो मैटरनिटी अवकाश पर है 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 (का०) वेतनमान 225-308 की तदर्थ पदोन्नति बतौर लिपिक वेतनमान 260-400 में करने के पश्चात इन्हें कार्मिक शाखा में ही नियुक्त किया जाता है। हिज पे इज पिछ्ले हरठ रु 308/- पी.सम. इन स्केल रु 260-400.

ATTESTED

31/12/99

W. H. HAIDARI
Advocate High Court

M. S. R. A. M.

प्रमाण

ANNEXURE NO - 4

- 2 -

PN - 5

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क्रम संख्या 2, 3, 4, 5, 6 की पदोन्नतियाँ निर्तात अस्थायी रूप से तष्ठक

हैं तथा चार्ज ग्रहण करने के तिथि से दो माह तक प्रभावी रहेंगी। दो माह की समाप्ति पर ये सभी अपने मूल पद पर खत्त पदावनत ही जाएंगी।

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

ह०

कृते मण्डल अधीक्षक (कार्मिक) लखनऊ

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

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

- 1) मण्डल लेखा अधिकारी/लखनऊ
- 2) प्रजरेयांक्षि इंजोनियर/लखनऊ।
- 3) प्रवार मण्डल इंजोनियर/लखनऊ।
- 4) प्रदर परिचालन अधीक्षक/लखनऊ।
- 5) प्रधान लिपिक (वेतन, बिल, फोल्डर)।
- 6) संवित कर्मचारीगण।

ह०

कृते मण्डल अधीक्षक(कार्मिक) लखनऊ

ATTESTED
W. H. HAIDARI
Advoca. H. C. Court

Abenvalam

Acc

ANNEXURE -5.NORTH EASTERN RAILWAYOFFICE 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/Engg/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/-.

 D.S. (P)/LJN

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

Copy for information and n/a.

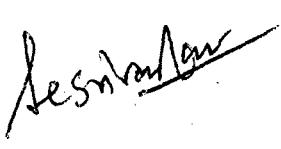
1. DAO/LJN.
2. OS/Cadre.
3. HCE/Medical Cadre.
4. Hd.Clerk Bill Managing.
5. Staff concerned.

ATTESTED

21.12.1978

W. H. HAIDARI
Advocate High Court

Sd/-.

 D.S. (P)/LJN

ANNEXURE - No - 6

Ad

To,

P.No - 7

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/Lister 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 menetary 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 ~~& increment~~ 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)II-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
31/10/79

R. H. HAIDARI
Advocate High Court

Srivastava

ANNEXURE - No-7

To,

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

P.No - 82

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 equelest 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 promoted 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 criterian 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 equelest 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

Divisional Manager

ANNEXURE No-8

दार्थलिंग आदेश ।

PNo. 9

143

श्री सुरेश लन्द्र श्रीवास्तव तदर्थ लिपिक (का०) जो फारदारैन वी
 (26०- ३५०) से मैडिकली निवर्जित होने पर प्रदाता अभियानाल वेत्तमान
 225-308 के रूप में इस कार्डलिपि के का० आदेश सं. ई/11/मैडिंग/
 एससीएस/पी सी दिनांक 24-12-77 द्वारा अवशोषित किये गये थे जो
 रेल परिषद के पद सं. ई०(सनजी) 11-79 आई भार ई 3:5 दिनांक
 22-5-79 के परिप्रेक्ष्य में उपरोक्त आदेश में परिवर्तन करके लिपिक देत्तम
 मान (26०-4००) में कानूनिक शाखा में अवशोषित किया जाता है ।

प्रवर मैं का अधिकारी

ਸੌ. ਈ/ਸੂ. ਚਨਨੀ/ਲਿਪਿਕਾ/ 80 ਲਖਨਊ ਦਿਨਾਂਕ 21-7-80

प्रतिलिपि सूचनार्थ स्वै जावशयक कार्यवाली हैतु :-

- १- मैडल लेखा अधिकारी/लखनऊ
- २- प्रथम लिपिक (बिल) कार्मित एवं यांत्रिक संदर्भ ।
- ३- फोल्डर लिपिक (काठ) ।
- ४- समर्पित कर्मिकारी ।

ATTESTED

~~1978~~ 31/7/89

W. H. HAIDARI
Advocate High Court

मु० प्र० सिंह

मैं ऐ. प्र. (दा) लखनऊ

Sebastians

DNo-16



ANNEXURE-9

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)II-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 declassified running staff in alternative posts and past cases decided otherwise need not be reopened.

In practical 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

31/7/79

W. H. HAIDARI
Advocate High Court

Signature

ANVAYAKA NO - 10

| क्र. सं. | नाम | जोड़ी रेड गोरा | 6-7-54 | 13-1-81 | 13-1-81 | कर घास |
|----------|------------------------|-------------------|---------|-----------|---------|--------|
| 116 | लिंग रुद्र | प्रोडगो (गोरा) | 15-3-56 | 16-1-81 | 16-1-81 | " |
| 117 | लिंग रुद्र (गोरा गोरा) | " | 6-7-57 | 16-1-81 | 16-1-81 | " |
| 118 | लिंग रुद्र (गोरा गोरा) | " | 10-2-56 | 20-1-81 | 20-1-81 | " |
| 119 | लिंग रुद्र (गोरा गोरा) | " | 5-10-53 | 21-1-81 | 21-1-81 | " |
| 120 | लिंग रुद्र (गोरा गोरा) | " | 5-7-58 | 21-1-81 | 21-1-81 | " |
| 121 | लिंग रुद्र (गोरा गोरा) | " | 4-8-59 | 11-7-3-51 | 17-3-81 | " |
| 122 | लिंग रुद्र (गोरा गोरा) | " | 5-10-53 | 21-1-81 | 21-1-81 | " |
| 123 | लिंग रुद्र (गोरा गोरा) | " | 5-7-58 | 21-1-81 | 21-1-81 | " |
| 124. | लिंग रुद्र (गोरा गोरा) | " | 4-8-59 | 11-7-3-51 | 17-3-81 | " |

कृते बहुत रुद्र प्रदर्शक (लाठो)

लग्ननारु

दिनांक । क्र. 9-81

क्र. १/११/२३३ / लिंग रुद्र लिंग रुद्र
प्राणित्वाद्य लुहनार्थ रुद्र लिंग रुद्र लिंग रुद्र लिंग रुद्र लिंग रुद्र लिंग रुद्र

1 प्रधान लिंग / हुनिमन / कार्यालय थे ।
2 फुल पन्नी / पीं लार के रस/लानऊ।
3 लग्ननारु कर्मचारीण।

कृते बहुत रुद्र प्रदर्शक (लाठो)

लग्ननारु।

कृते बहुत रुद्र प्रदर्शक (लाठो)

लग्ननारु।

कृते बहुत रुद्र प्रदर्शक (लाठो)

लग्ननारु।

कृते बहुत रुद्र प्रदर्शक (लाठो)

PA/lo-14

ANNEXURE -II

File

To,

The Divl. Rly. 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 up til 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

11/10/81

W. H. HAIDARI
Advocate High Court

Second signature

ANNEXURE NO. 1

मंगोलिया/कानूनी/लिपि 18-2-71 16-2-35 12-12-35 20-12-41 7-1-66 22-1-7-1 विल गंगोरखमुर/कोरेज- न्द्र अमुह भी

त्रिलोक जो श्रोतुस्तव

卷之三

१८८५ अप्रैल दिन विवाह
प्राप्ति देवी

卷之三

— १८ — उक्ता अस्थाना

१०८ शर्मा

१०८
दस्तावेज़ी

Annexure No 12

PjVd 16

卷之三

$$3-3=0 \quad | \quad 3-3=0$$

22-274 22-275 22-276

196-62 2-1273-5-273

2-12-30 6-9-73 6-9-73 अथवा

30-53 - 30-73 30-673 30-673 प्रदर्शन

1905-1973

2-12-35 18-2-7-1 18-2-7-1

1966-12-4 7-1-66-22-17-1

卷之三

ANNUAL REPORT

(32)

मर्याद रसन मिहडी मरेपु/का/लखनऊ ५.६.६३ १.२.६.०२ १.२.६.०२
मर्याद रसन मिहडी मरेपु/का/लखनऊ ५.२.५० ५.७.०३ १.३.२.८४ अथाह
मर्याद रसन मिहडी मरेपु/का/लखनऊ ५.८.३० ६.१.०५० १.७.०३ अपनी स्वर्य का प्राथमिक पार गोरखपुर से
आये

यो बन्दुमारह का वास्तव

हरिदास है

बन्दुमारी ललि(ऊजा) मर्यादिषि/गोडा

२५.६.४२ २१.१.१६६ ७.७.८३

१९ राजीव रंजन सकारिषि/गोडा १.७.५३ ११.२.८५ ११.२.८५
२ शम्म प्रसाद(अजा) बिल गोरखपुर १६.१.१५६ ११.२.८५ ११.२.८५
३ ठीं ठक्क वैरी कोज मरेपु/का/लखनऊ ७.६.२८ १६.६.०५४ ९.३.८४
४ आधिका दुमार चीधरी (अ ज जा) १.१.६८ २८.१०.८३ ९.३.०४
५ पी० के० सरकार ११ २३.१.३२ २५.१.५१ ९.३.०४
६ आर एस० पाण्डे ११ ३०.१.४। १.७.६० ९.३.३४
७ बैती भैति रेल प्रब्लधक(का)लखनऊ ११ १२.८७

३/२५६/११७८/०४ दिनांक प्रतिलिपि सचिनार्थ तथा आवश्यक कामियादी हित प्रियत:

- १) कामाधिषि/प्रतियन्त, पी० आर० कै० एस
- २) शुभ मत्ती/नर्म, पी० आर० कै० एस
- ३) सचिवभारत वापचिवारीगा

कहे- मै० वे रेल प्रब्लधक(का०)

लखनऊ

द्वारा

Shmet line No 72

P No. - 19
DKB

ANNEXURE-13

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. Husain 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 ~~was~~ assigned at serial No. 36 from 1.1.73.

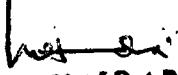
Please call my letter dated 1.10.81 and correct seniority accordingly.

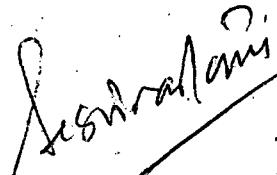
Yours faithfully,

Sd/-

(Suresh Chandra Srivastava

Clerk.

ATTESTED

W.H. HAIDARI
Advocate High Court



Dated 31.12.84.

पत्र सं. ई/पी.सी./सु.च. क्री./लि./86

दिनांक 16-1-86

मेरे प्रा. (गा),

लखनऊ

श्री रस. सी. श्रीवास्तव लि.

मार्गल रेल प्रबंधक (गा),

लखनऊ

विषय:- दरीयता सही करने के सम्बंध में।

आपको सूचित किया जाता है कि आपकी वरीयता लिपियां पढ़ ने सही रूप से निर्धारित की गई है। पिछली सेवा वो दिसी जन्म वेतन मान मैं नहीं लिपा जा सकता।

हॉ शिवमूर्ति

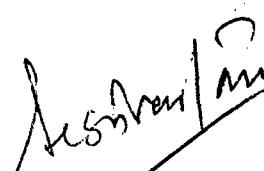
मेरे प्रा. (गा),

लखनऊ

TESTED

21/1/86

W. H. HAIDARI
Advocate High Court



(AS)

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 ~~fixed~~ post of Sr. Record Lifter on 6.11.78 on ad hoc basis which was regularised on temporary 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 deategorisation 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.

ATTESTED

31/7/86

W. M. HAIDARI
Advocate High Court

Dated 18.6.86.

Yours faithfully,
Sd/-.

(S.C. Srivastava)
Sr.Clerk.

ANNEXURE No-16

पूर्वोत्तर रेलवे

पा.० - २२

सं. ई/पो.सी./सुरेश श्री/प्र. लि. दिनांक 2-8-88

प्रेषक - मण्डल कार्यालय(का.), सेवा मैं - श्री सुरेश चन्द्र श्रीवास्तव
लखनऊ प्रवर लि.(वार्मिक)

विषय: - आपका प्रार्थना पत्र दि. 18-8-87 वरीयता निवारित
के सम्बंध मैं।

आपको इस कार्यालय के पत्र संख्या ई/पोसी/सुर्क्ष. श्री. / लि. / 86 दिनांक
16-5-86 के अंतर्भूत सूचित किया गया निर्णय सही है तथा उसे बदलने का
कोई जौचित्य प्रतीत नहीं होता।
कृपया नोट करें।

ATTESTED

W.H. HAIDARI

Advocate High Court

हैं

दृति. मैं रे. प्र. (का.),

लखनऊ

Subramaniam

To,

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

Sub:- Fixation of correct seniority.

Ref:- DRM(P) L.J.N's letter No. E/PC/Suresh Sri/Sr.C1/
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 & 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.

ACTESTED

W. H. HAIDARI
Advocate High Court

18.11.88

General M

Contd...2.

In the Central - Administration Bureau
Allahabad, Lucknow Branch

(239)

Sunesh Chandra Sinwala & clerks

Office of the Divisional Railway Manager (P)

NE. Rly. Lucknow.

Applicant

V.S.

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

Receiving

Slip/No. 895
PL/No. 895
Amount of Stamps affixed Rs. 1/-
Received a Registered Letter (1) 11/12/1948
Addressed to Mr. B. N. Chatterjee
Babuji Chatterjee
Insured for Rs. 100/- (in words)
Weight (in words) 116 gm
Insurance fee Rs. P. Weight (in words)
Weight (in words) 116 gm
Name and address of sender
Babuji Chatterjee

ANNEXURE - D

RECEIVED
Date-Stamp

Slip/No. 896
PL/No. 896
Amount of Stamps affixed Rs. 1/-
Received a Registered Letter (1) 11/12/1948
Addressed to Mr. B. N. Chatterjee
Babuji Chatterjee
Insured for Rs. 100/- (in words)
Weight (in words) 116 gm
Insurance fee Rs. P. Weight (in words)
Weight (in words) 116 gm
Name and address of sender
Babuji Chatterjee
Issued subject to terms and conditions in P. O. guide
Signature of Receiving Officer

ANNEXURE - D

RECEIVED
Date-Stamp

Slip/No. 897
PL/No. 897
Amount of Stamps affixed Rs. 1/-
Received a Registered Letter (1) 11/12/1948
Addressed to Mr. B. N. Chatterjee
Babuji Chatterjee
Insured for Rs. 100/- (in words)
Weight (in words) 116 gm
Insurance fee Rs. P. Weight (in words)
Weight (in words) 116 gm
Name and address of sender
Babuji Chatterjee
Issued subject to terms and conditions in P. O. guide
Signature of Receiving Officer

पात्र वाल अधिकारी के हस्ताक्षर
पात्र के अध्यान जारी करने वाले
Issued subject to terms and conditions in P. O. guide

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 L.J.N 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-I 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 assigned 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 revised pay proforma, failing which my client would be constrained to seek remedy in a proper court of Law.

Yours faithfully,

Lucknow:
Dated 31.1.1989.

Sd/-

(W.H. HAIDERI)
Advocate,

C-1807 Rajaji Puram,
Lucknow
226017.

ATTESTED
W.H. HAIDERI
W.H. HAIDERI
Advocate High Court

Registration

ANNEXURE NO - 18

P No 29

RE

In the Central Administrative Tribunal

Alibabad, Dehradoon Bench

Somesh Chandra Sircar, Sr. Clerk

In the office of the Divisional Railway Manager

NE Railway - Dehradoon

Applicant

V.S

Umor of India and others — Representants

ANNEXURE - 18

0276

560

Ch. M.

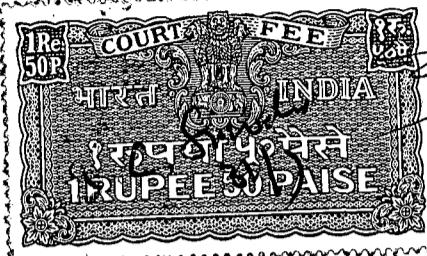
M.R.

Govardhan

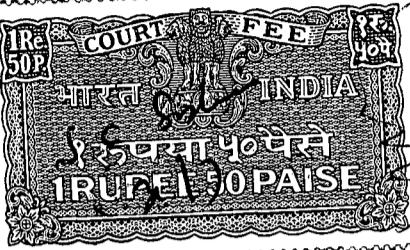
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In The Central Administrative Tribunal
बायदालत श्रीमान दिल्ली-चैन्स महोदय

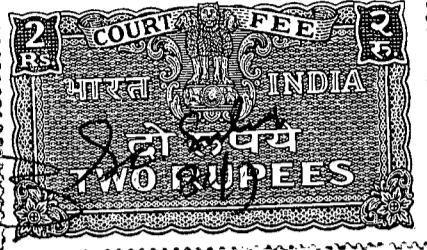
वादी (मुद्रा)
मुद्रा (मत्रालेह)



का



तकालतनामा



Mr. Chand Suraslawan
Advocate of the DRM(P) N.C. 24
नं० मुद्रमा

सन् १९४१ पेशी की तात्

१९४१ ई०

W. H. Hardani

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री
Advocate C-1807 Rajaji Puran वकील
दिल्ली, 22.6.41 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 (फरीकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी। मैं यह भी स्वीकार करता हूं कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को भेजता रहूंगा। अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर
Signature

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक 31.7.89

महीना सन् १९ ई०

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 instead 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

Legally yours
Contd..d.

ANNEXURE NO - 18

PNo 251

Gen

In the Central Administrative Tribunal
Almabazar, Dilkusha Branch

Sonash Chanda Sircilla S. Clark

v/s In the office of the Divisional Railway Manager

NE. Railway - Lucknow —————— Applicant

V.S.

Minor of India and others —————— Respondents

ANNEXURE - 18

1276

560

D.G.M

M.R

Gorakhpur



2
12-7-65
Central Admin
Tribunal
Almabazar
Dilkusha Branch

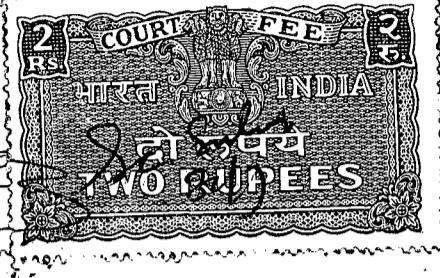
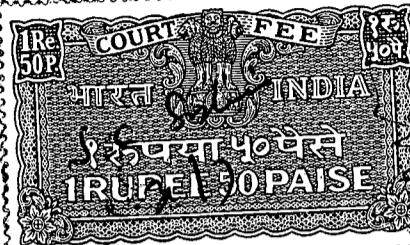
1276
560
Central Admin
Tribunal
Almabazar
Dilkusha Branch

In The Central Administrative Tribunal
बायालत श्रीमान महोदय १९८४

वादी (मुद्र्द्देश)
महाराजा (महालेह)

का

ତକାଳିତରାତ୍ରା



Shivash Chand Suras Laiya
for Clerk Office of the DRM(P) NCLB
Jodhpur नं० मुद्रमा सन।

Union of India
through General Manager N.C.R.
Central Pratibadi (RSPANDEEN)
Others

सन १९४७ पेशी की ता०

୧୯୭୭ ଫେବୃରୀ

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

W. H. Hardawi

Advocate C-1807 Rajaji Puran
Duncans. 226017. ४३

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 रूपया 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 रूपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रूपया 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।

Desiravani
हस्ताक्षर

साक्षी (गवाह) _____ साक्षी (गवाह) _____

साक्षी (गवाह)

दिनांक 31. 7. 89

महीना ————— सन् १९ ————— ई०

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 jcb of equivalent grade after my degradation, without any fault on my part.

8. That I have been put to heavy monitory 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. HIDARI
Advoca - H. gh Court

Received

465

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 16.5.86 and 24.8.86.

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.

बहल कामक अधिकारी
संसदीय सेवा, लखनऊ

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 Adminstrative Tribunal Act, which clearly lays down that dual reliefs cannot be claimed in one petition.
8. That even other wise 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.

महाल-सामिक आवकारी
मुख्यमंत्री, उत्तराखण्ड

46

- 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 limini.

Lucknow
dated: 19.10.'89

Alisha Piwai
Respondents.

पुरोत्तर रेलवे, लखनऊ

Verification.

I, *Alisha Piwai* working as *Div. Personnel 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.

Alisha Piwai

पुरोत्तर कार्मिक अधिकारी
पुरोत्तर रेलवे, लखनऊ

A/C

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 ^{reply} ~~MEMORANDUM~~ dated 19-10-89
filed by the Respondant.

The applicant begs to state as under : -

PT
L
ST/1/90

1. That the contents of para 1 of the short reply are denied as dragged. 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 ~~which~~ 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 Officer

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 ^{under} ~~of the~~ reference. His representation 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.

*✓
L.S. [Signature]*

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 ~~Janitor~~ Janitor in the scale of ~~Rs.260~~ Rs.260 to 400 (which was down graded in the scale of ~~Rs.205~~²²⁵ to 308) in his case only, to link the events followed after his medically de-categorisation and absorption on alternative post, in ~~this~~^{the} regard to the extent of rules and to show that the respondent No.2 has all along taking 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 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 denied the contents of paras 1 to 10 of the short reply filed by the Respondants.

Lucknow:
Dated : 4-1-90

Signature
Applicant

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 helo pe GOD.

Lucknow:

Dated : 4-1-90

Srivastava
Applicant

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

Advocate.

ANNEXURE = No. R-1

गोदार रेलवे
सार्विय आडेता

25/10
72

श्री मोहम्मद हसन, लिपिक/कार्यालय गोरखपुर, रेलवे बोर्ड
देतमसामन (330-560) में दिनांक 21-7-81 से देतम नियरिंग निम्न
स्थ तो किया जाता है। जोकि इस्तें दिनांक 1-1-73 से उरिया
का लाभ देने से कमिंस्ट कमियारी के अनुसार पदोन्नति का लाभ देतमसामन
330-560 में दिनांक 21-7-81 से प्रस्तावित है।

श्री मोहम्मद हसन, प्रबन्धक का देतम अब निम्न प्रकार की रूपीय
किया जाता है :-

21-7-81 से 452/-

21-7-82 से 469/-

21-7-83 से 471/-

21-7-84 से 480/-

21-7-85 से 500/-

कंपनी पर स्थान अधिकारी तथा लेहा विभाग का अनुग्रह
प्राप्त है।

मालिक

कृते माफ्तवे रेल प्रबन्धक(का)

लाल नज़ा

संक्ष/पीरी/मो०८०/प्रप्रियिता/३६

मिस्टर एन्ड एन्ड एन्ड

प्राप्ति कुनौन का अवधारण कर्तव्यी रूप प्रदान है।

1. प्राप्ति/लाल नज़ा

2. टाको कोर्टमैन/गोरखपुर जिला आयगा/गोरखपुर।

3. लेहा लिपिक

4. तंदंधित कमियारी

मालिक

कृते माफ्तवे रेल प्रबन्धक(का)

लाल नज़ा

मिस्टर (लाल नज़ा)

12/6/186

ATTESTED

W. H. HAIDARI
Advocate High Court

12/6/186

BENCH-COPY

In the Central Administrative Tribunal Allahabad
Circuit Bench, Lucknow

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 ^{Vainly} ~~making~~ the question of limitation the Respondents have tried to divert the attention of this Hon'ble Tribunal from the main ^{object} ~~sub~~ matter of the case which "Whether the Seniority of the ^{UN} 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

Argued

As Annexure N o S.R-1

374

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 ^{and} ~~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 6.9.86 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 and ~~of~~ limitation be dropped forever and the original application be listed for final hearing.

Lucknow :

Les Invitations
Appellant

Dated : 21.2.80.

Verification

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

Lucknow

Govind Chandra Srivastava
Applicant

Dated : 26.2.90

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 15/17.9.64 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

✓ CONSIDERED

(A)

- 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

26/2/92
W. H. HAIDARI
Advocate High Court

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

(Pagos from 78 to 88)

A small, roughly drawn oval containing a stylized face with large, dark, almond-shaped eyes and a small, dark nose. Below the face is a horizontal, cross-like mark.

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 Jobs

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.Bs¹ No.: E(NG) 11-70 RE 3-4 of 3-11-71) (S.No.: 5497)

KDG

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 declassified 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 declassified 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 declassified employee for absorption in a cadre, to look into cases where senior declassified employees

✓ 153, 154, 155, 156



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 prompted 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).

Amritpal Singh

Fixation of Pay

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

- 4 -

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.

(R)

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. 2E(NG) 11-73 RE 3/15 of 11-4-75 (N.R., S.N. 6302).

ATTESTED

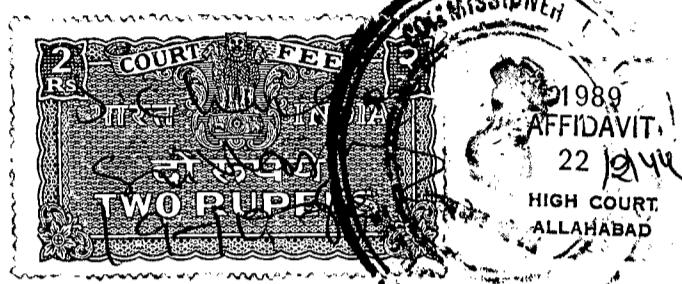
1st Dec 26/4/90

W. H. H. DABBI

Advocate H. L. Dabbi

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

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 Respondents.

5. That this Hon'ble Tribunal ordered the applicant ~~affidavit~~ to file in support of the report regarding the service and receipt of the notice upon the Respondents i.e The Divisional Railyaw 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

DeenraJaw
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

DeenraJaw
Deponent

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

DeenraJaw
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.

J. S.
22/4/93
I, S. M. N. Islam, aged about 36 years, son of Sri S. M. Owais posted as Sr. Civil 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 Clearner 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.

S. M. N. Islam
क्षेत्र बंदर लाइन अधिकारी,
पुर्वी रेलवे, लखनऊ
Sr. Divisional Personnel Officer
N. E. Rly. Lucknow

(2) That the claimant was promoted to the post of Fireman -II in the ~~scale~~ 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~~xxxxxxxx~~ 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 RIy. 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 ~~Janitor~~ 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

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Gr. Division

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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 ~~Rs.~~ 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 ~~category~~ 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 is denied. The Post of ~~Generator~~ ^{Janitor} at Kanpur Anwarganj was the post in the scale of Rs. 260-400 which was temporarily ~~lower~~ graded in the scale of Rs. 225-308.

AC
AS

(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 ANSWER 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.

S. N. Srivastava

कर्मचारी कानूनी विविधारी,
पुस्तकालय, पश्चिम

Divisional Personnel Officer
E. R. Railway, Lucknow

REGD

(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 , 1993.

S. M. J. Khan

For OPPOSITE PARTIES.

पश्चिम रेलवे विभाग

द्वितीय ईमानी, लक्ष्मण

Divisional Personnel Officer

R. B. Railway, Lucknow

Original copy

(4) 2/20

IN THE ADMINISTRATIVE TRIBUNAL AT LUCKNOW BENCH.

.....
O.A. No. 181 of 1980.

.....

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.

(Signature)
I Suresh Chand Srivastava aged about 55
years S/O Sri B.P. Verma 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 Ganj 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)

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 (in terms 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.

5. That the contents of para 5 of the counter reply is a matter of records hence admitted but it is ~~further~~ 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.

Rav

-: 3 :-

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 affedavit 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 cadre but the respondent purposely not submitted the Rules as it would have exposed their misconcive 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.

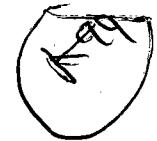
18. That the para 18 needs no comments.

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.

10/05/2018
29/01/2018



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 ~~xx~~ 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 respondent.

Suresh Chand Srivastava
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.

Suresh Chand Srivastava
DEPONENT.

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

LUCKNOW.

(W.H.HAIDRI)
ADVOCATE.

3.11.1993.

FF 19-10-89
19-10-89

NS/CCS
64

VAKALATNAMA

Before
In the Court of

CA No. 101 of 1989 (U)

S. C. Srivastava

Versus

Union of India and others

I/W. K. K. Bhunia

do hereby appoint and authorise Shri.....

Umesh Chandra, Advocate
and Shri Premod 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 198.....

Accepted
Premod Kumar
Adv.....

(K. K. Bhunia)

प्रकृति प्रदल कार्मिक अभियान
मुद्रात्मक दिवस, अल्प.....

NER-84850400-8000-4784

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

Premod Kumar
Adv

NS/CCS

AB1

VAKALATNAMA

Before Central Administrative Tribunal bench Lucknow
(in the Court of)
O A 101/89 (L)

Plaintiff SC Swarastava
Defendant

Claimant
Appellant

Versus
Defendant Union of India
Plaintiff

Petitioner
Respondent

The President of India do hereby appoint and authorise Shri V.K. Swarastava
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/Plaider 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. Swarastava
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. Dehuri
(S. M. N. Dehuri),
Designation of the Executive Officer,

Sr. Dual Personnel Officer
NEB Lucknow
for U.O.T.