

(AD)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

(1) O.A. No. 23/89

S.K. Pandey

Applicant.

versus

Union of India & ors.

Respondents.

(2) O.A. 12/90

Kumari Kamlesh

Applicant.

versus

Union of India & ors.

Respondents

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

(Hon. Mr. Justice U.C. Srivastava)

The above two applicants, who are educationally qualified, were employed as casual Typist on daily wages basis by the Railway Administration. Km. Kamlesh who is a Post Graduate, was engaged as a Clerk Typist on 23.2.87 in the Central Type Section against a clear vacancy @ Rs 17.95 per day from 23.2.87 to 31.7.1987 and @ Rs 20.15 per day from 1.8.1987 to 31.1.1988 and Rs 22.60 per day from 1.2.1988 to 8.2.1988. She, thus, continuously worked for more than 120 days, but she was not given the grade of Typist as well as temporary status. Her services were terminated on 8.3.1988, against which representations were made. No written order was given to her terminating her services and some Malis Chowkidars etc. who were not even Matriculate, were appointed as

as Typists on adhoc basis. She claimed that she having attained the temporary status, she is entitled to temporary status. Even casual labour could not be legally terminated without complying with the provisions of section 25(F) of the Industrial Disputes Act, 1947 and without notice of retrenchment, in the absence of which retrenchment/termination is void.

2. Counter affidavit has been filed and it has been stated in it that the application is barred by time and that she was utilised against a Group C post illegally without sanction and there was no question of acquiring any temporary status and that the post could have been filled up by the Railway Service Commission and not directly by the A.P.O., as was not her case. So far as limitation is concerned, it is to be seen that the applicant has been making representations after representations upto the year 1990 and placed reliance on certain Supreme Court decisions. Both these ~~prayers~~ objections deserve to be rejected and her prayer for condonation of delay deserves to be allowed. Although not stated in the counter affidavit, it was stated during the course of arguments that from the facts it could be pointed out that the file indicates that her work was not satisfactory. We are not entering into this question. There is no specific pleading that if on that ground services are terminated then it would amount to penal action.

3. So far as petitioner, S.K. Pandey is concerned, he says that he has been made sufferer, as he was a student in the Hindi Stenography in the I.T.I., Aliganj and left the training due to getting job under the

in

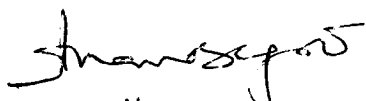
respondents. He worked for 190 days. Having been employed as casual labour on 18.2.87 as Clerk Typist worked 28 days in the month of March, 1987 and then continuously worked from 18.3.87 to 29.9.87 and thus, regularly worked for 190 days. In the counter affidavit the same ^{plea} has been taken that the post of Typist is a Group C post and the same is to be filled up by Railway Recruitment Board and cannot be filled up directly and there was no approval of General Manager also. His services, were, there-fore terminated on 8.3.88.

4. It may be pointed out that the appointment of the applicants was irregular but the salary was paid to them by the Railway Administration. The Railway Administration cannot escape its liability in this behalf that some subordinate has made appointment and the Railway Administration has taken benefit of such employment and has also paid for it, it cannot refuse the claim on this ground that the appointment was made on local level. Vide Railway Board's letter No. E(NG)II-77/CL/46 dated 8.6.81 defines casual labour as under:

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

4. Rightly or wrongly, both these applicants were employed as casual labour. It is to be noted that in the case of S.K. Pandey recommendation was also made to regularise him. So far as Km. Kamlesh is concerned

daily~~as~~ wages, have taken much more work from these persons and cannot turn down and say that they were not entitled to any relief. Even before terminating the work of a Typist which was taken by the Railway Administration from these persons, other work which a casual labour of their qualifications, could have been taken from them. Their services as a casual labour could not have been terminated in this manner. Their cases should have been referred to Railway Service Commission for appointment to the post of Typist and that too was not done. In the circumstances, the applications are allowed and the opposite parties are directed to consider the claim of the applicants for getting temporary status and the pay scale which could be given to ^{2 Item} her including the pay scale. The directions are to be complied within 2 months from the receipt of copy of this order.


J. N. Singh.


V.C.

Allahabad Dated 19-3-, 1991.

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW.

INDEX SHEET

CAUSE TITLE C.A. 23 of 1994 (L)Name of the parties S.K. Pandey Applicant.Versus.
Union of India (N.E. Reg.) Respondents.

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8	C.M. Application No. 294/09(L) A51 - A53	
9	File No. B54 - B90	
10	File No. C91 - C99	
11	Two Photostatic Judgment copy	

Two photocopies of the
judgment were taken and that the
same were submitted to the record
keeper.

check
2/12/11

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MK
23/6/11

Makath
27/4/92

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 23 of 1987(c)

APPLICANT (s) S. K. Sandey

RESPONDENT(s) C O 2

Particulars to be examined	Endorsement as to result of Examination
1. Is the appeal competent ?	Yes
2. (a) Is the application in the prescribed form ?	Yes
(b) Is the application in paper book form ?	Yes
(c) Have six complete sets of the application been filed ?	No
3. (a) Is the appeal in time ?	Yes
(b) If not, by how many days it is beyond time ?	—
(c) Has sufficient case for not making the application in time, been filed ?	—
4. Has the document of authorisation, Vakalat-nama been filed ?	Yes
5. Is the application accompanied by B. D /Postal-Order for Rs. 50/-	Yes (IPO No. 50000915, 20.10.17, 23.1.18)
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 by Counsel

(A3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
SPECIAL LEAVE CASE NO.

1989 (C) 23

S. K. Pandey Applicant(s)

Versus

U 2-4m Respondent(s)

Date	Orders
8/2/89	Hon. A. Sharma, A.M. Admit issue notice. file Reply by 9.3.89 thereafter RA may be filed by in another week. for 29.3.89 for final hearing. At the time of hearing the applicant should also produce the appointment order by which he was engaged by the respondents. Sd/- A.M. Jan 18/2/89
15/2/89	OB Notice issued to the respondent through Regd Post. from 29.3.89 for final hearing. Jan 15/2
20/3/89	CR Notice were issued to the repeats. through Regd Post. No undelivered and cover have been return back. No reply on behalf of the repeats have been filed. Jan 20/3/89

Hon' Mr. D.S. Mishra, A.M.

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

29/3/89

A request has been received from the learned counsel for the applicant for adjournment of the case. No reply has been filed on behalf of the respondents, and a request for adjournment has been received. The case is adjourned to 4-5-89. In the meantime the respondents may file reply within 3 weeks and the applicant may file rejoinder, if any, within a week thereafter.

J.M.
J.M.

bi
A.M.

(sns)

IT
No reply filed by
the learned counsel
for the respondents as directed
by the court's order of
28.3.89.
Submitted for order.

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

Hon' Mr. D.S. Misra, A.M.

h
3/5

4/5/89

Shri A. Srivastava, learned counsel for the respondents makes appearance and request for and is allowed 2 weeks time to file counter affidavit, to which the applicant may file rejoinder, if any, within a week thereafter. List this case for final hearing on 7-7-1989.

de
A.M.

Ja
V.C.

(sns)

OR
No reply has been
filed so far. Submitted
for order
6/5

DB
17/1/20

Terminated Term Service

A

~~5/11/2024/24/24~~

O A NO 23/8/21

Sunit Kumar Pandey

VS

Union of India (N.E. Reg)

S. P. N. Bapari

C/A - Sri R. Bapari

C/R in A. Srinivas

420209 - FA

29309 - FH

7709 - PD

10704 - FD

9-8-89 - FC

6-11-07 - PD

9/1/90 - FH

202 - FH

157 - FH

305 - A

31/5

30/9

A13

In the Central Administrative Tribunal

Additional Bench - Allahabad

Circuit Bench - Lucknow.

Registration no. 23 of 1989(L)

Sunil Kumar Pandey ... Applicant

Vs.

The Union of India & Others ... Respondents

Index.

Sl. no.	Particulars of papers	Page	Signature
		nos.	nos.
1.	Application	1 - 7	-
2.	Working Certificate	- 3 -	1
3.	Circular dt.21.1.37	-9- 10	2
4.	Circular dt.3.7.37	11 - 13	3
5.	Power	- 14-	-

J. 12/1/89

(P.N. BAJPAL)
Advocate
Counsel for the applicant.

Dated: 24.1.1989

AM

In the Central Administrative Tribunal

Additional Bench- Allahabad

Circuit Bench Lucknow.

Registration no. 23 of 1989 (1)

Application under Section 19 of the Administrative Tribunals Act, 1985

For use in Tribunal's Office.

Date of Filing :
OR

Date of Receipt :

By Post :

Registration no.:

Signature

Registrar.

A15

In the Central Administrative Tribunal Act.
Bench - Allahabad (Circuit Bench) Lucknow.

Registration no. 23 of 1939 (L)

Sunil Kumar Pandey, aged 20 yrs, S/O
Mr. Ram Prakash Pandey, House no. 47 Chhitla
Road, Lalkuner Lucknow.

... Applicant.

Vs.

1. The Union of India, Ministry of Railways
through the Secretary, Railways, Baro Nal Dain
2. The Divisional Railway Manager, N.W.P. Ry.
Lucknow.
3. The General Manager, Gorakhpur. (North Eastern
Railway) Gorakhpur.

... Opponents.

DETAILS OF APPLICATION

1. Particulars of the applicant.

- (a) Name of the applicant : Sunil Kumar Pandey
- (i) Name of Father : Ram Prakash Pandey
- (iii) Address : Type of house :
Office of the C.A.T.
Lucknow.
- (v) Is he in service of Govt. : Yes or No.
House no. 47, Chhitla
Road, Lalkuner,
Lucknow.

Small handwritten note

2.

2. Particulars of the respondents:-

- (i) Name and / or designation: (a) The Union of India, Ministry of Railways through the Secretary, Rly Board, No. Delhi.
- (b) The Divisional Railway Manager N.W. Rly. Lucknow
- (c) The General Manager, N.W. Rly, Gorakhpur

(ii) Office address of the respondents : As mentioned above.

((iii) Address for service of all notices : As above.

3. Particulars of the order against which application is made.

The application is against the following order.

- (i) Order no. : 241
- (ii) Date : 9.2.33
- (iii) Issued by : S.P. Rly. no.2
- (iv) Subject is : Transfer of Mr. A. S. ...
of ...
...

Sanjay Kumar Singh

...

...

...

redressal is within the jurisdiction of the Tribunal.

5. Limitation.

The petitioner further declared that the application is within the limitation prescribed in section 21 of the Administrative Tribunal Act, 1963.

6. Facts of the case.

The facts of the case are given below:-

- (1). That the educational qualification of the petitioner is graduate and he is fully qualified for the post of clerk in the department of Railway i.e. under the opportunities.
- (2). That the petitioner was engaged under the C.P.no. 2 on the post of clerk typist on 13.2.37. He had worked only 3 days in the month of Feb. 1937. He was allowed to work 23 days in the month of March, 37. He had continuously worked from 13.3.37 to 23.9.37. The total period of regular working comes 190 days. The working period is as under:-

From 13.2.37 to 20.2.37.
 From 23.2.37 to 23.2.37.
 From 2.3.37 to 13.3.37.
 From 13.3.37 to 31.3.37.
 From 1.4.37 to 30.4.37.
 From 1.5.37 to 31.5.37.
 From 1.6.37 to 30.6.37.
 From 1.7.37 to 31.7.37.
 From 1.8.37 to 14.8.37.
 From 15.8.37 to 31.8.37.
 From 1.9.37 to 23.9.37.
 From 3.10.37 to 31.10.37.
 From 26.10.37 to 31.10.37.
 From 1.11.37 to 30.11.37.
 From 1.12.37 to 24.12.37.
 From 26.12.37 to 31.12.37.
 From 1.1.38 to 21.1.38.
 From 23.1.38 to 30.1.38.
 From 27.1.38 to 31.1.38.
 From 1.2.38 to 26.2.38.
 From 1.3.38 to 2.3.38.
 From 3.3.38 to 3.3.38.

As per annexed documents

A-102

4.

(3) That the applicant was not allowed the salary of theforesaid working period, he has requested for its payment to the authorities concerned also to the higher authorities. The salary has been paid to the Petitioner after the long correspondence.

(4) That the Petitioner had worked from 18.2.1937 to 8.3.33. The Certificate issued by the Superintendent of the Section to this effect is filed herewith as annexure-1 to this Petition.

(5) That the petitioner has been treated as a Casual Labour (Typist) by the Co-operative. He has been paid the salary accordingly.

(6) That the petitioner had completed more than 180 days regular services and he had acquired the status of a temporary employee. He could not be terminated from the services according to the provisions contained in para 2001 of the Railway Establishment Manual.

(7) That the petitioner is also entitled to get the benefit of the Circulars dated 21.1.37 and 8.7.37. In these circulars it is mentioned that Casual Labour after completing 180 days continuous services shall acquire the status of temporary employee. The absence of one day has not been treated as discontinuance of the services. The copies of these circulars are filed herewith as annexure-2 to this Petition.

(8) All the services of the petitioner were discontinued without payment of gratuity.

4-2-33

orders No. 11. 8.8.38. It is illegal, and is violation of the termination of services rules. The notices are waiting to be issued.

(8) That the provisions of Art. 14 & 16 of the Constitution of India have been violated in ousting the Petitioner from his services.

(9) That the petitioner has suffered a great loss due to the joining in services of the Opp. parties. He was student in the Hindi Stenography in the I.T.I. Aliganj, Lucknow. He had left the training due to the getting the job under the Opp. parties. This facts have not been considered by the Opp. parties at the time of ousting the petitioner from his services.

(10) That the posts were vacant on the date of ousting the petitioner from his services. Several persons namely, Maqbool, Devendra, & Jugal, were appointed just after the termination of the petitioner.

(11) That the Opp. parties have given the appointment in this months to 13 persons namely Vinod Kumar, Mitra, and others. It shows that the posts are vacant on the date.

(12) That the petitioner is in continuous service of the Opp. parties in the eye of law and he is entitled to get the salary accordingly.

(13) That the Opp. parties according to reinstatement in service in the services of the petitioner and salary and other benefits which he is entitled to.

(14) That the services of the petitioner could

and further Party

7.

11. Particulars of Postal order in respect of the application fee.

1. Number of Indian Postal order. $\frac{DP}{5}$ 09991

2. Name of the issuing Post Office. *High Court Bench Lucknow*

3. Date of issue of Postal order *23-1-39*

4. Post Office at which payable : G.P. Allahabad.

12. Details of Index:-

An index in duplicate containing the details of the documents to be relied upon is enclosed.

13. List of enclosures:-

Certificate of working period	:	Annexure-1
Circular dt. 21.1.37	:	-do- -2
Circular dt. 8.7.37	:	-do -3

In verification:

I Sunil Kumar Pandey aged, about 20 years, S/O Sri Ram Prakesh Pandey, R/O, 47, Chhatrapur Road, Lucknow, ~~XXXXXXXXXX~~, do hereby verify that the contents from 1 to 13 are true to my personal knowledge and belief and that I havenot supported any material facts.

Place- Lucknow.

Dated - 24.1.39

Sunil Kumar Pandey
Signature of the Applicant.

To,

The Registrar,

Central Administrative Tribunal,

Additional Bench Allahabad, Circuit Bench, Lucknow.

A22

IN THE CENTRAL ADMINISTRATIVE APPEAL ADDL.

~~WAKAY (WAKAY)~~
BRANCH: ALLAHABAD (Circuit Branch)
L U S L I C H.

Sashi Kumar Pandey.

Petitioner.

V. rads.

Union of India and ors.

Opponents.

ANNEXURE NO. 1.

TO HON. MR. JAY CHANDRAN.

Certified that Shri Sashi Kumar Pandey son of Shri Ram Prasad Pandey, s/o 47, Chhatrapar Road Lucknow. He worked as typist in the control type section of Civil Railway Manager's office N.E.Rly. Lucknow from 18.2.37 to 3.8.33.

During the above period his work was found satisfactory, and I found him to be behaved towards his colleagues and supervisors.

I wish him success in life.

Ed. Illigions.

Signature of
Control Type Section.
Director, N.E. Ry. Manager
Office, N.E.Rly. Lucknow.

TRUE COPY

14-6-35

1 Submit
23-1-89

Sashi Kumar Pandey

Time
Date
Signature

A23

WILLIAM KULMER - 40000

20110717

V- read.

Union of India and Co.

6-11-1944

2.

22.4.2.

No. 4/57/0/1+II(V).

Office of the C. I. (P)

GMP DATED 21.1.1937.

44- HOURS OF DEATH.

000: 000-1 100000.

Ref. placed to the Director, Circular no. A/57/0/11 dated 20.10.34 (copy enclosed for reference). The instructions contained therein for the grant of temporary status to C.L. after completion of 120 days continuous service on open line have been reiterated by this office Circular no. A/57/0(V) dated 12.3.36 for its compliance rigidly.

1200 It has been reported that by the
General Secret of VARIO that the casual labourers
after completing 120 days continuous service in
open line are not being given temporary status
it is once again reiterated that the
instructions contained in Rly. Secy's letter
no. 4)RG)II-77/CL/46 dated 3.8.51 circular no.
VII this office circular no. 2/57/1/Pt.III
(77) dated 28.8.51 (Sl. no. 1105) for the grant
of temporary status to casual labourers after
completion of 120 days continuous service in
open line must strictly be adhered to.

1-1. Kuma Zouren;

14-00000 (P)

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#25

In the Central Intelligence Agency and
(100-100000) Alshamoo.
(100-100000) Alshamoo.

UN I Katar Fardo
Union of India, and ors.
Vidyal.

Decision of.
Appellate
Court-Final

Ante totum 7. 3.

11. 2. 2.

10. 1/87/2/G no 1/(V). 1987-1988 (A)

11. H. J. P. D. 1987-1988

add, David L. ...

REF ID: A67890
O/S II(V) ...
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T+ 1 8 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039 1040 1041 1042

1. James Bond

Interim provisions:

The following provisions shall apply to the period of 120 days or 180 days commencing from the date of the order of the Government.

(a) The period of absence of work shall be reckoned as a break in service if the employee is not paid wages or compensation for the period of absence.

(b) Notwithstanding anything to the contrary contained in any law or regulation, the period of absence of work shall be reckoned as a break in service if the employee is not paid wages or compensation for the period of absence. In the case of a break in service of 4 weeks (or 28 days) or more, the employee shall be deemed to have been dismissed from service.

(c) On completion of the period of absence, the employee shall be deemed to have been re-employed in the same position as before. If the employee is not re-employed in the same position, the period of absence shall be deemed to be a break in service. If the employee is not re-employed in the same position, the period of absence shall be deemed to be a break in service. If the employee is not re-employed in the same position, the period of absence shall be deemed to be a break in service.

(d) Non-performance of work on days of rest given under the Hours of Employment Regulation or under the Minimum Wages Regulation, 1950 and on days on which the employee is not required to work shall not constitute a break in service.

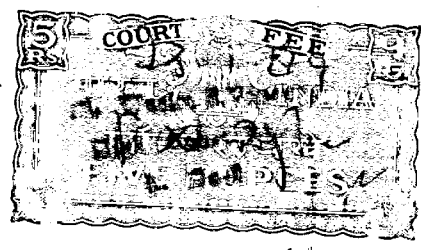
Trans 6/7

828

ब अवालत भीमान
वादी अपीलान्ट
प्रतिवादी रैस्पाडेन्ट

In the Central District Court of the District of Columbia
M. D. C.

वकालतनामा



अपीलान्ट)

बनाम

प्रतिवादी (रैस्पाडेन्ट)

नं० मुकद्दमा

सन

पेशी की ता०

१९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री प्रयाग नारायण बाजपेयी
एडवोकेट एवं श्री कार्तिकेय बाजपेयी एडवोकेट भैरौ जी रोड,
लखनऊ महोदय

नाम अवालत
मुकद्दमा नं०
राम फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे
बेता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील
द्वारा जो कुछ पेंरवी व जबाब देही व प्रश्नोंत्तर करें या कोई कागज बाखिल
करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल
करें या मुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर
से हमारी या अपने हस्ताक्षर से बाखिल करें और तसदीक करें मुकद्दमा
उठावें या कोई रुपया जमा करें या हमारी बिपक्षी (फरीकसानो) का
बाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती)
रसीद में लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह
सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार
करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता
रहूंगा अगर मुकद्दमा अदम पेंरवी में एक तरफा मेरे खिलाफ फंसला हो
जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह
वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

Receipt
K. B. J.
23.1.09

हस्ताक्षर Sunil Kumar Pandey

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन १९५९ ई०

(A29)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW.

Registration (O.A.) No. 23 of 1989(L)

B E T W E E N
=====

S.K. Pandey ... Applicant.

versus

Union of India and others ... Respondents.

Fixed For : 22.2.90.

SHORT COUNTER REPLY

I, Nisha Tiwari divisional working as
Personnel officer in the office of Divisional
Railway Manager, North Eastern Railway, Ashok
Marg, Lucknow do hereby solemnly affirm and
state as under :-

1. That the official abovenamed is working under the respondents and is fully conversant with the facts and circumstances of the Applicant's case and has been authorised by the respondents to file this short counter reply on their behalf.;
2. That by way of this application the applicant has sought relief that he may be declared in

A30

.. 2 ..

continuous service of the opposite parties on the post of typist.

3. That it may be clarified here that the post of typist is a group C post and as per extent rules the post of group C category are to be filled up through Railway Recruitment Board/ Commission and it can not be filled up locally and without screening .
4. That due to acute shortage of typist, which was adversely affecting the work of the administration, the then APO-1 illegally started taking work from the applicant on daily payment basis. This way the work was taken from the applicant but without any official sanction and with the connivence of the staff, against whom disciplinary actions are proposed to be initiated.
5. That ~~xx~~ ~~xx~~ the applicant was utilised between February 87 to March 88 and they were paid on daily rate basis.
6. That it may here further be clarified that the applicant was utilised against a group C

12

(A 3)

post though illegally ~~the applicant~~ and without any official sanction, there is no question of acquiring any temporary status as the said post are to be filled by the Railway ^{Recruitment} Service Board/Commission and it can not be filled up directly and by the APO, hence the said utilisation of the applicant is ab-initio illegal.

7. That the applicant was paid at daily rated basis for the period whenever ~~of~~ the work was taken from him during February 87 to March 88.
8. That even otherwise also any engagement/ utilisation made after 1980., an approval by the General Manager is mandatory but in this case neither the approval of the General Manager is taken nor his approval was asked for at the time of applicant's alleged utilisation.
9. That it seems that with the connivence of the staff concern and with great manipulations, the applicant alongwith others got himself
APO-1
utilised by the then/even without any formal

.. 4 ..

sanction. After this case coming to light, the disciplinary proceedings are proposed to be initiated against the concern employees.

10. That since the applicant was not utilised against a sanction post and with any formal approval by the competent authority no appointment/engagement/utilisation letter was issued to the applicant and whenever work was taken from him he was paid his daily wages for that period. This utilisation of applicant was made on day to day basis. After this case coming to light, since March 88 no work is being taken from the applicant and it was not necessary to issue any termination/non-engagement/non-utilisation orders against the applicant.
11. That since the applicant's utilisation itself is illegal and in utter contravention of the rules and procedure, no relief can be granted to the applicant.
12. That to corroborate the facts stated in this reply, the answering respondents may produce the 'confidential file' of the case before this

A33

.. 5 ..

Hon'ble Tribunal if the Hon'ble Tribunal so
desire.

Lucknow :

Dated : 22.2.90.


of
[illegible text]

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

I, the official abovenamed do hereby
verify that the contents of para 1 of this reply
is true to my personal knowledge and those of
paras 2 to 12 of this reply is believed by me
to be true on the basis of records and legal
advice.

Lucknow :

Dated : 22.2.90


22.2.90
3

A34

INDUSTRIAL DISPUTES ACT, 1947,
SECTION 25, SUB-SECTION (2),
INDIAN AIRLINES, PUNJAB.

Misc. Appl. No. 363 of 1990 (L)
In

Registration No. O. L. 6.23 of 1979.

F.F. 30/5/90

Sunil Kumar Pandey ... Applicant

Verans

Union of India ... Respondents

Rejoinder in reply to the counter filed
by the opposite parties.

I, Sunil Kumar Pandey, aged about 21 years,
son of Shri. Mr. Prakash Pandey, resident of House
No. 47, Chitrakoot Road, Ballia, Lucknow, do hereby
state as under:-

That the applicant has read the short
counter reply filed by opposite parties and has
to submit as under in reply thereto:-

Filed today
322
24/5/90

1. That the applicant who worked as casual
typist on daily wages, is a workman and railway
is an industry. The applicant had been in continuous
service of the opposite parties without break
for more than one year when his service was
terminated orally. Admittedly, the opposite parties
have not complied with the provisions of Section
25 of the Industrial Disputes Act and have
disobeyed the instructions of the Railway Board

47
30/5/90

in as much as neither written notice of termination was given nor reasons for retrenchment were given and even retrenchment compensation was not paid. Therefore, as held by the Hon'ble Supreme Court, the termination/disengagement of service is 'ab-initio' void and inoperative, the same being in violation of Section 25 F of Industrial Disputes Act and as such there is no cessation of service, and so mere declaration that the applicant continues to be in service with all consequential benefits in the relief claimed by the applicant which the applicant fully deserves.

2. That para 1 of the counter needs no reply.

3. That in reply to para 2, it is stated that the applicant has not only sought a declaration that he continues in the service of the opposite parties on the post of tourist from the date of termination but has also claimed other benefits including salary, etc. admissible including temporary status on completion of 120 days of service and scale/grade admissible to tourists.

4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

A36

4. That in reply to para 3, it is stated that the applicant was engaged on 12-2-87 as typist on daily wages basis by opposite parties in the Central Type Section of the office of the opposite parties against regular existing vacancies. The wages being paid being Rs. 17-35 per day from 12-2-87 to 31-7-87 and Rs. 20-15 per day from 1-8-87 to 31-1-88 and Rs. 22-60 per day from 1-2-88 to 8-3-88, but wages due to the applicant were not paid till date of disengagement on 8-3-88 and were paid after much correspondence in Dec. '88. It is not denied that post of a typist is a group C post, but it is also partly filled by direct recruitment and partly by promotion also from Class IV posts by process of screening/selection by Railway officers locally. Quota is also fixed for Class IV employees being 33 1/2 % vide Railway Board's letter No. 1(W)32 of 10-6-67 and Railway Board's letter No. 1(W)1/70/32P/63 of 6-4-72.

5. That in reply to para 4, it is stated that the opposite parties admit about shortage of typists and engagement of the applicant as typist on daily wages basis. The duty performed and work done by the applicant was not certified by the JCI, from the Type Section, who certified the engagement, and the daily attendance of the

24/11/88 300/41-3

(A37)

applicant and others and the performance of the
applicant for urgent work which was to be performed
urgently within a stipulated time i.e. the typing
of Station Working Rules in Hindi and English,
typing of ^{Book} of sanctions and other work as
certified by ^{R/1} ~~Amreure~~ ^u 1. This stupendous job
could be done only by engaging typists from
outside which was an administrative decision as
is borne out vide ^{R/1} ~~Amreure~~ 1. In face of this,
the enhancement, ~~rather~~ performance of job daily,
without break, including work on Sundays and
holidays, and non payment of dues at double
the normal rate on these days, is fully established.
The threat of action against the staff and APO
as indicated in this para has not been indicated
perhaps because the DT himself recommended to
the Accounts Section, for the payment of
accumulated salaries for 13 months to the
applicant to regularise the same vide Amreure
11, 22, 23, 24 ~~and~~ ^u 25.

6. That in reply to averments made in paras
5, 6 and 7, it is stated that the payment to the
applicant on daily rate basis was made after
about 8 months of disbursement. In Dec. 1977, the
payment order imposed the correct and due payment
at double the daily rate on Sundays and holidays.

25/10/77 41-3

A38

Besides, the applicant acquired temporary status after 120 days of engagement i.e. on 20-6-37 as per directives of the Railway Board and provisions of the Industrial Dispute Act, but neither temporary status was conferred on the applicant nor grade of Rs. 950-1500 to which the applicant became entitled was given.

While typists working in the same office - Central Tyne Section, under the same master, under the same roof, equal pay for equal work was denied arbitrarily to the applicant which is illegal and unjust and against railway rules. Thus, the applicant is entitled to get salary of Rs. 950-1500 from 20-6-37 in grade Rs. 950-1500 + allowances. In the circumstances, denial to the applicant of temporary status and grade is illegal and unjust in terms of provisions of Railway Board's circulars and Industrial Disputes Act.

Temporary status is conferred on workmen who are casual labour after 120 days of working and it cannot be denied on any grounds in terms of Railway Board's circulars, vide paragraphs 2 & 3.

7. That in reply to para 3, it is stated that the opposite parties admit in para 1 of the counter that there was acute shortage of typists.

After 30/11/47

The work to be performed was to be done within target time as details have been indicated in Annexures 1. The opposite parties also knew that the panel from Railway Service Commission was not available. The power to appoint casual workers for work of emergent nature is available for which prior sanction or post-facto sanction could and should have been taken. The lack of sanction cannot be a ground to deny to the applicant his rights accrued to him and vested in him for temporary status/grade/ screening and regularisation in terms of Railway Board's instructions and statutory provisions, vide Annexures 2 and 3. The applicant was receiving training in TET, Lucknow for stenographers' job and in the hope of better prospects, the applicant accepted the job of typist under the opposite parties who have engaged casual workers prior to the applicant's engagement and later also, casual workers were again engaged for doing casual jobs and got their screening done and bestowed on them temporary status which was denied to the applicant which is totally illegal, partial and discriminatory.

2. That the respondents made no attempt

21/10/2011 4/13

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श्रीमान् जी का. न्यायप निदेश देवुल्लम (नीति),
 का. न्यायप (नीति),

ଅଧିକାରୀ ମହୋଦୟ

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5044M n. O.A. No 12796

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denied. The applicant was called and engaged by the opposite parties and he performed his allotted duties within the target time for the work entrusted to the applicant by the opposite parties. About sanction, the prior sanction or post facto sanction should have been and could have been obtained if required from competent authority which if not done and if no action has been initiated so far, the applicant cannot be denied of the rights acquired by him in terms of statutes and statutory instructions vide Annexure 2 and 3.

9. That para 10 of the counter is not admitted as stated. Railway is an industry and the applicant was engaged orally and worked from 13-2-87 to 8-7-93 without break, each day and even on Sundays, thus he having completed over 380 days, i.e. over 240 days in 1 year, was retrenched/disengaged without any notice in writing and without indicating the reasons for his retrenchment. At the time of disengagement, wages due to him from the date of engagement till disengagement were not paid, which were paid to him after many reminders and representations, in Dec. 1993. This again is a clear breach of provisions of Payment of Wages Act. The applicant

4/11/94 3/11/94 4/11/94

A41

was not granted even temporary status after the expiry of 120 days from the date of engagement and as such, he was not even given credit of time and he was retrenched orally without payment of retrenchment compensation. Thus the order of disengagement is a nullity and against the provisions of Industrial Dispute Act, Sec. 25 F, and Railway Establishment Manual and Railway Board's circulars vide Annexures 2 and 3. In the circumstances alleged lack of engagement against sanctioned post or formal approval of the competent authorities are administrative failures which can neither over-ride nor nullify statutory provisions of the I. D. Act and the circulars of the Railway Board and the provisions of the establishment manual. ^hIs the order of disengagement is illegal for reasons given above and in the preceding paras, the applicant is entitled for reinstatement in service from the date of disengagement and for breach of Section 25 F of the Industrial Disputes Act. The applicant being a workman is entitled to 1 month's notice or one month's pay and allowances to be given along with one month's notice, in terms of Sec. 25 F of the Industrial Disputes Act. Any termination without such notice and without reasons for retrenchment would be illegal and

6/5/78
3/11/78
4/1/79

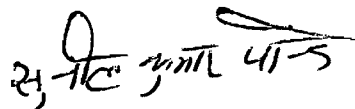
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The order of ret encumment being void,
'ab-i itio' and as such, termination does not
bring about cessation of services of the

(A43)

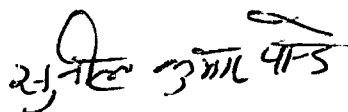
applicant and so the applicant continues to be in service and prays for orders accordingly with all consequential benefits.

11. That para 12 of the counter needs no comments, or reply.

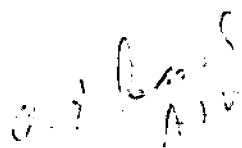

Applicant.

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

I, Sunil Kumar Pandey, do hereby verify that the contents of paras 1 to 11 of the rejoinder are believed to be true based on records and best advise.


Applicant.

Dated: 6/1/90
at Lucknow.


A10

सेवाओं,

प्रवर मण्डल कार्मिक अधिकारी,
पूर्वोत्तर रेलवे,
लखनऊ ।

महोदय,

विषय:- आकीस्मक टंककों की उपस्थिति का विवरण ।

संदर्भ:- आपका पत्रांक जेड/315/डीआरएम/सी.टी.एस/स्टाफ/दिनांक 23.9.1988 ।

आपके उपरोक्त पत्र के संदर्भ में सर्वश्री सुनील कुमार पाण्डे, सुभाष चन्द, अजय कुमार, विनोद कुमार कौजिया, तथा सुमारी कमलेश, संलग्न आकीस्मक टंककों की उपस्थिति का विवरण संलग्न स्टेटमेन्ट में दिया गया है । साथ ही साथ यह भी स्पष्ट किया जाता है कि इस अवधि में अत्यावश्यक कार्यो हिन्दी व अंग्रेजी में, स्टेशन कार्यप्रणाली का टंकण कार्य, बीओएसओ का टंकण कार्य, रेलवे स्टेशन, स्त्रीजिंग का टंकण कार्य एवं प्रतिदिन का कार्य आदि की अधिकता व इनको निधारित समय के अन्दर पूरा करके देने के कारण सभी टंककों को लगातार कार्य करना पड़ा । यहाँ तक कि छुट्टी के दिनों में भी बुकिंग करके टारगेट पूरा किया गया । अतः इन आकीस्मक टंककों को भी पूरे समय कार्य पर बुलाया गया जैसा कि संलग्न स्टेटमेन्ट से स्वतः स्पष्ट है ।

संलग्नक/द्वे यथापरि

चार पृष्ठों में (1)

उपरोक्त पत्रांक में
उपरोक्त पत्रांक में

12/10/88

12/10/88

3/11

10.10.88

टंकण अधीक्षक
मण्डल रेल प्रबन्धक, कार्यालय
पूर्वोत्तर रेलवे, लखनऊ

10/10/88

12/10/88

10/10/88

Annex R/2

A45

मार्च - फरवरी 1987

क्र.सं.	नाम	पद	उपदिष्ट ति तिथि	फरवरी 87 के कुल कार्य दिवस	विवरण
1	कुशीत कुमार पांडे	ATO टैक	18.2.87 से 20.2.87 23.2.87 से 28.2.87	9	
2	गुनागत वरुण	.	20.2.87 से - 23.2.87 से 28.2.87	7	
3	अरुण कुमार	.	20.2.87 से - 23.2.87 से 28.2.87	7	
4	गुण कर्मल	.	23.2.87 से 28.2.87	6	
5	विश्वरूप कुमार	.	24.2.87 से 28.2.87	5	

मार्च 1987			विव
सदस्य			कुल दिवस
1. कुशीत कुमार पांडे	ATO टैक	2.3.87 से 15.3.87 18.3.87 से 31.3.87	28
2. गुनागत वरुण	.	2.3.87 से 15.3.87 18.3.87 से 31.3.87	28
3. अरुण कुमार	.	2.3.87 से 15.3.87 18.3.87 से 31.3.87	28
4. गुण कर्मल	.	2.3.87 से 6.3.87 9.3.87 से 13.3.87 18.3.87 से 31.3.87	24
5. विश्वरूप कुमार	.	2.3.87 से 15.3.87 18.3.87 से 31.3.87	28

अप्रैल 1987			कुल दिवस

1.	कुशीत कुमार पांडे	ATO टैक	1.4.87 से 30.4.87 30
2.	गुनागत वरुण	.	1.4.87 से 30.4.87 30
3.	अरुण कुमार	.	1.4.87 से 30.4.87 30
4.	अरुण गुण कर्मल	.	1.4.87 से 30.4.87 30
5.	विश्वरूप कुमार	.	1.4.87 से 30.4.87 30

मई 1987 *****			विवर्तित कार्य दिवस
1.	कुशीत कुमार पांडे	ATO टैक	1.5.87 से 31.5.87 31
2.	गुनागत वरुण	.	1.5.87 से 31.5.87 31
3.	अरुण कुमार	.	1.5.87 से 31.5.87 31
4.	गुण कर्मल	.	1.5.87 से 31.5.87 31
5.	विश्वरूप कुमार	.	1.5.87 से 31.5.87 31

गुनागत वरुण
रिपोर्टिंग ऑफिस
मिस्टर
E-8.11

मिस्टर
गुनागत वरुण
उपनिर्देशक, टैक विभाग
महाराष्ट्र शासन,
पुणे-411 004

AV6

2

क्र.सं०	नाम	पद	उपस्थिति तिथि	कुल दिवस का योग	मिशन
जून 1987					
1	सर्वश्री सुनील कुमार पटि	आ० टंक	1.6.87 से 30.6.87	30 दिन	
2	सुभाष कट्ट	..	1.6.87 से 30.6.87	30	
3	अजय कुमार	..	1.6.87 से 30.6.87	30	
4	गुण कमलेश	..	1.6.87 से 30.6.87	30	
5	विनीत कुमार	..	1.6.87 से 30.6.87	30	

मास - जुलाई 1987					
1	सुनील कुमार पटि	आ० टंक	1.7.87 से 31.7.87	31 दिन	
2	सुभाष कट्ट	..	1.7.87 से 31.7.87	31	
3	अजय कुमार	..	1.7.87 से 31.7.87	31	
4	गुण कमलेश	..	1.7.87 से 31.7.87	31	
5	विनीत कुमार	..	1.7.87 से 31.7.87	31	

मास - अगस्त 1987					
1	सुनील कुमार पटि	आ० टंक	1.8.87 से 14.8.87 15.8.87 से 31.8.87	30 दिन	
2	सुभाष कट्ट	..	1.8.87 से 14.8.87 15.8.87 से 31.8.87	30	
3	अजय कुमार	..	1.8.87 से 14.8.87 15.8.87 से 31.8.87	30	
4	गुण कमलेश	..	1.8.87 से 14.8.87 15.8.87 से 31.8.87	30	
5	विनीत कुमार	..	1.8.87 से 14.8.87 15.8.87 से 31.8.87	30	

मास - सितम्बर 1987					
1	सुनील कुमार पटि	आ० टंक	1.9.87 से 29.9.87	29	
2	सुभाष कट्ट	..	1.9.87 से 29.9.87	29	
3	अजय कुमार	..	1.9.87 से 29.9.87	29	
4	गुण कमलेश	..	1.9.87 से 29.9.87	29	
5	विनीत कुमार	..	1.9.87 से 29.9.87	29	

अभिजात सचिव लिपि
सुनील कुमार पटि
अभिजात सचिव लिपि
अभिजात सचिव लिपि

अभिजात सचिव लिपि

अभिजात सचिव लिपि

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पृष्ठ 3.

क्र.सं.	नाम	पद	व्यक्तिगत विवरण	कार्य दिवस का योग	नियम
मार्च - अप्रैल 1987					
1.	सुनील कुमार पांडे	आउटरक	3. 10. 87 से 21. 10. 87 26. 10. 87 से 31. 10. 87	दिन 25	
2.	सुभाष कट्ट	आउटरक	3. 10. 87 से 21. 10. 87 26. 10. 87 से 31. 10. 87	25	
3.	अन्य कुमार	..	3. 10. 87 से 21. 10. 87 26. 10. 87 से 31. 10. 87	25	
4.	विनीत कुमार	..	3. 10. 87 से 21. 10. 87 26. 10. 87 से 31. 10. 87	25	
5.	सु. कर्मा	..	3. 10. 87 से 21. 10. 87 26. 10. 87 से 31. 10. 87	25	

मार्च - नवम्बर 1987					
1.	सुनील कुमार पांडे	आउटरक	1. 11. 87 से 30. 11. 87	30	
2.	सुभाष कट्ट	..	1. 11. 87 से 30. 11. 87	30	
3.	अन्य कुमार	..	1. 11. 87 से 30. 11. 87	30	
4.	सु. कर्मा	..	1. 11. 87 से 30. 11. 87	30	
5.	विनीत कुमार	..	1. 11. 87 से 30. 11. 87	30	

मार्च - दिसम्बर 1987					
1.	सुनील कुमार पांडे	आउटरक	1. 12. 87 से 24. 12. 87 26. 12. 87 से 31. 12. 87	30	
2.	सुभाष कट्ट	..	1. 12. 87 से 24. 12. 87 26. 12. 87 से 31. 12. 87	30	
3.	अन्य कुमार	..	1. 12. 87 से 24. 12. 87 26. 12. 87 से 31. 12. 87	30	
4.	सु. कर्मा	..	1. 12. 87 से 24. 12. 87 26. 12. 87 से 31. 12. 87	30	
5.	विनीत कुमार	..	1. 12. 87 से 24. 12. 87 26. 12. 87 से 31. 12. 87	30	

सुनील कुमार पांडे
सुनील कुमार पांडे
सुनील कुमार पांडे
सुनील कुमार पांडे
सुनील कुमार पांडे

Wills

UNITED STATES
 DEPARTMENT OF AGRICULTURE
 BUREAU OF PLANT INDUSTRY

UNITED STATES

Handwritten:
 Unit 144512115
 3111445
 144512115

1.	UNIT 144512115	1.3.88	2.3.88	1
2.	UNIT 144512115	1.3.88	2.3.88	1
3.	UNIT 144512115	1.3.88	2.3.88	1
4.	UNIT 144512115	1.3.88	2.3.88	1
5.	UNIT 144512115	1.3.88	2.3.88	1
6.	UNIT 144512115	1.3.88	2.3.88	1

1.	UNIT 144512115	1.2.88	2.2.88	1
2.	UNIT 144512115	1.2.88	2.2.88	1
3.	UNIT 144512115	1.2.88	2.2.88	1
4.	UNIT 144512115	1.2.88	2.2.88	1
5.	UNIT 144512115	1.2.88	2.2.88	1

1.	UNIT 144512115	1.1.88	2.1.88	1
2.	UNIT 144512115	1.1.88	2.1.88	1
3.	UNIT 144512115	1.1.88	2.1.88	1
4.	UNIT 144512115	1.1.88	2.1.88	1
5.	UNIT 144512115	1.1.88	2.1.88	1
6.	UNIT 144512115	1.1.88	2.1.88	1

UNIT 144512115

Handwritten: 1445

Annex 2/3

849

पूर्वोत्तर रेलवे

कार्यालय
मंडल रेल प्रबन्धक (कार्गो)
लखनऊ

सं०-वेड/315/डोआरएम/सोजोस्ट/स्टाफ दिनांक-9-9-1988

अधीक, टंकन अनुभाग/मुख्य टंकन,
केन्द्रीय टंकन अनुभाग,
मंत्रालय कार्यालय,
लखनऊ

विषय:- आजीवनक श्रमिकों को उपस्थित का विवरण।

कृपया तत्काल अधोहस्ताक्षरों को दो प्रतियों में सूचित करें कि आजीवनक टंकनों सर्वश्री तुनोल कुमार पाण्डे, तुनाथ चन्द्र, अजय कुमार, विनोद कुमार कन्नोजिया तथा कुंठ कमलेश ने पिछ-पिछ तिथि को कार्य किया था, जिससे उक्त आधार पर इन आजीवनक श्रमिकों के भुक्तान का प्रबन्ध किया जा सके।

कृते मंडल रेल प्रबन्धक (कार्गो)
लखनऊ

9072155
3/11

प्रतीतिप:-

कार्यालय अधीक (मैनेजिंग विवरण) लखनऊ उपरोक्त आजीवनक श्रमिकों को उपस्थित प्राप्त होने पर उक्त आधार पर उनके भुक्तान को व्यवस्था करें।

कृते मंडल रेल प्रबन्धक (कार्गो)
लखनऊ

डायरेक्टर कार्गो
लखनऊ

30/10/88

12/10/88

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A 50

पूर्वोक्ता रेलवे

कमलिय

मण्डल रेल प्रबन्धक (का०)

लखनऊ

दिनांक 6.12.88

सं० १०१३५५/१०००

मण्डल लेखा अधिकारी,
पूर्वोक्ता रेलवे,
लखनऊ ।

विषय:- श्री सुनील कुमार शर्मा व अन्य के पुराने बिल दो
बापसी रु० 35,226/-

संदर्भ:- जामका पत्र सं० डोस्टो/लख/ईएम/बिल/बोवेस/८८
दिनांक 24.11.88.

आपके उक्त पत्र के संदर्भ में निम्नलिखित जांचा दो जाती है:-

1. आरिस्मिक अमिक टैक्स के तहत में जिस समय इन अध्याधियों को लगाया गया था कोई वायलिय अधिश जाओ नहीं किया गया था, लेकिन इन कर्मचारियों ने कार्य दिया है, जिसको बुद्धि अधोशक, टैक्स अनुभाग ने बो है तथा मोस्ट ने बुरत आरिस्मिक अमिक दा पर भुगतान दिए जाने का आदेश दिया है। इस सम्बन्ध में कृपया संलग्नक देखें, जिस पर प्रमबाधि ने मोस्ट के आदेश रिक्थ बिसे है।
2. 1987 में इन अध्याधियों को उपस्थिति कार्डि विभाग को नहीं मिली अतः उस समय भुगतान नहीं किया गया। इन अध्याधियों के अध्याधिन पर मन्मर्ले को जानबोने को गई और बता लगा कि इन अध्याधियों से कार्य लिया गया है और भुगतान नहीं किया गया है अतः मोस्ट के बता पर यह अधिश दिया गया है कि जिस अधि में इन लोगों ने कार्य किया है उसका भुगतान किया जावे। बि वापस दिया जा रहा है कृपया भुगतान को व्यवस्था करें।

दृते मण्डल रेल प्रबन्धक (का०)

लखनऊ

आज्ञात अध्यक्ष
सुनील कुमार शर्मा

(A51)

IN CHIEF JUSTICE'S COURT,

JUDICIAL OFFICE, LUDHIANA.

Civil Misc. Application No. 284 of 1988 (4)

In Re :

Registration (D.M.) No. 22 of 1988 (1)

S.K. Pandey.

versus

Union of India and others

Filed For : 6.11.88

APPLICATION FOR CONSIDERATION OF THE

COURT IN 1988.

Filed today
6/11/88

1. Mr Nisha Tewari working as Divl

Personal Officer in the office of Divisional
Railway Manager, North Western Railway, Luck
Nagar, Ludhiana. He hereby solemnly affirm and
state as under :-

1. That the official above named is working under
the respondent and is fully conversant with
the facts and circumstances of the Applicant's
case and is an authorized signatory of the respondent.

(Signature)
मंडल कार्यालय अधिकारी
पूर्वोक्त रेलवे, लुधियाना

2.

that the ... of ...
2,2.00 of which ...
...
... 2 ...
...
...

3.

...
not traceable
...
...
...
...
...
...

4.

...
... 3.11.19 ...
...

5.

...
...
...

(B2412)

(A55)

.. 3 ..

for the said grant.

6. That due to administrative reasons, the
transfer of the grant to the said
in time.

THAT
== ==

That for the State of Karnataka, the
hereinafter is in most respectfully
that the transfer of the grant to the
shall be modified to the effect that the
concerned by the grant be granted to the
further time to the counter only.

acknowledged :

Dated : 6/11/05

[Signature]
6/11/05
पंडित कर्मिक अधिकारी
पूर्वोत्तर रेलवे, हावड़ा

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CC NO 8/92 in CA 23/89

CAUSE TITLE OF

NAME OF THE PARTIES S.K. Pandey Applicant

Versus

(UOI) Govt.

..... Respondent

Part A.

Sl.No.	Description of documents	Page
1	Index sheet Order sheet-	A1 to A2
2	Writ Petition / for review	A3 to A 20
3	Applications for dismissal of appli.	A21 to A29
4	Notice	A30
5	Order Copy dt. 30-4-92	A31
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		

CERTIFICATE

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

Checked Dated 28/12/11

Counter Signed.....

Section Officer In Charge

Signature of the
Dealing Assistant

(DPS)

passed in O.A. No. 23/89 and 12/90 decided by one common judgment dated 19.3.91.

6-
A.M.

V.C.

OR
Notices served on
7/5/92
②

28.7.92

No Sir + G.D. Massey
to 2.8.92

D.R.

Notice issued.

No unsigned notice

received back.

S. F. O.

3-8-92

Hon. Mr. Justice U.C. Sinisterra, V.C.
Hon. Mr. K. Obayya, A.M.

on behalf of the learned counsel
for the respondents it has been
stated that the order has been
complied. Shri C A. Bashir - learned
counsel for the applicant wants
copy of the order regarding compliance.
The same ^{may} be supplied within three
days from today.

list this case on 15-9-92

for orders.

(ug)

A.M.

V.C.

4/4

4/2

IN THE COURT OF THE DISTRICT OF COLUMBIA
IN EQUITY

Case No. 8 of 1892

In Re:

Contract No. 8/92 arising out of C. No. 23/89
and 12/90.

J. J. Anderson & others vs. J. J. Anderson & others.

FT
01/9

AND THE COURT OF THE DISTRICT OF COLUMBIA
DO HEREBY ORDER:

For the facts & circumstances set forth
in the Counter Affidavit it is ORDERED that the Court
ordered that the Contract No. 8/92 be dissolved and the
respondents be discharged from contract proceedings and
to pass any other order as this Honorable Court may deem
it fit in the interest of justice.

Testimony, etc;
Sept: 15, 1892

[Signature]
1891/92
(J. J. Anderson)
Attorney for the respondents

BEFORE THE HONBLE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH LUCKNOW

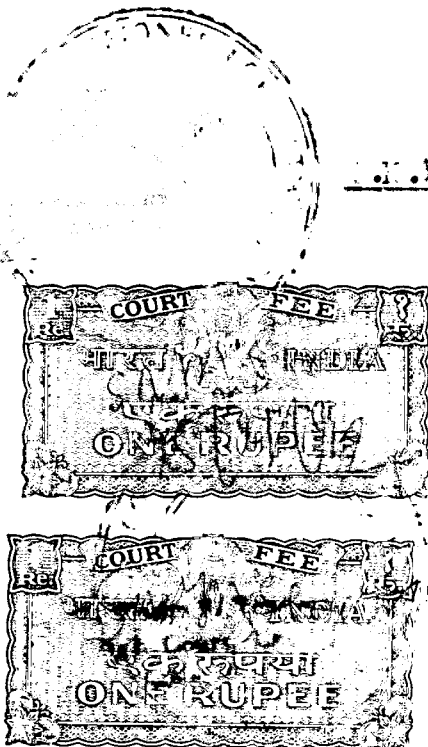
Contempt Petition No. 8/92 (I)

In Re:

C. A. No. 23/19 and C. A. No. 12/20

A. K. Fardey Vs. A. S. Chaturvedi & others.

STATEMENT OF PETITIONER OF THE
DEFENDENTS



I, A. S. Chaturvedi aged about 35 years presently
working as Sr. Divisional Personal Officer,
M. T. Rly., Lucknow, do hereby solemnly affirm
and state on oath as under :-



1-

That the deponent is authorised to swear on
behalf of Opp. Parties No. 1 & 3 also.

2-

That the deponent has gone through the
Contempt Application and is in a position to
reply the same.

Contd. 2/-

Shw. Chaturvedi
इस वकालत कार्यालय का अधिकारी
मुर्दास रेलवे, लखनऊ

3- That in C.I.No.23/49 and 12/90 this Hon'ble Tribunal while allowing the petition passed the following directions to the respondents :-

" In the circumstances, the applications are allowed and the opposite parties are directed to consider the claims of the applicants for getting temporary status and pay scales which could be given to them including the pay scales. The directions are to be complied within two months of receipt of the copy of this order "



That in compliance of the aforesaid order of this Hon'ble Tribunal the respondents have considered the claim of the applicants for providing temporary status and also the required pay scale and passed an order on 24-07-1992 vide D.R.M.(P) order No.1/II/104/line/Court Case/91 dated 24-07-1992 by which the

Contd..3/-

Sd/- S. S. Wale
होदर वरुणल कामिक अविजानी
मुदीतर रेलवे, लखनऊ

petitioners were granted temporary status and reinstated the petitioners in service.

(A true copy of the order dated 24-07-1992 is being annexed herewith as Annexure C1-I).

5. That in further compliance of the aforesaid order of this Hon'ble Tribunal the petitioner's pay has also been fixed in the approved pay scale of Rs.950 - Rs.1500 at the basic pay of Rs.950/- per month.

6. That although the petitioners have been taken back in service granting them approved pay scale of Rs.950 - Rs.1500 and temporary status in entire compliance of the directions of this Hon'ble Tribunal on 24-07-1992, but it is a matter of strange that the petitioners did not take trouble to invite the kind attention of this Hon'ble Tribunal regarding the compliance of the direction of this Hon'ble Tribunal, rather dragging the Contempt proceeding.



Signature
 श्री. ज. ल. क. शर्मा
 जिला न्यायाधीश, अलीगढ़

Contd. 4/-

7- That after the compliance of the aforesaid directions of this Hon'ble Tribunal, there remains no cause of action for the petitioners, as such the petition is liable to be dismissed and the respondents be discharged from Contempt proceeding.

Lucknow, Dated;

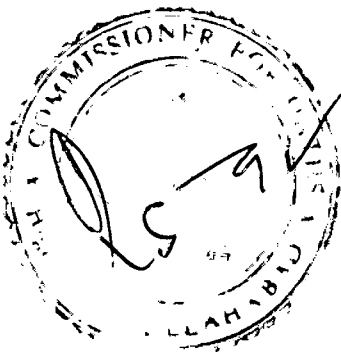
August 3, 1992

15.9.92

(S.M. ISLAM)

DEPONENT

VERIFICATION



I, the deponent named above do hereby verify that the contents of paras 1 & 2 of this affidavit are true to my personal knowledge and belief while those of para 3 & 7 on records and the annexure annexed with this affidavit is the true photostate copy of the original document. Nothing material has been concealed and no part of it is false.
SO HELP ME GOD.

Lucknow, Dated;

August 3, 1992

15.9.92

(S.M. ISLAM)

DEPONENT

X/26

I, Dharnesh Sinha, Advocate, High Court, Lucknow Bench Lucknow, do hereby declare that the person making this affidavit and alleging himself to be S.N.M. Islam is known to me from the perusal of the papers which he has produced in this Case. On that basis I can say that he is the same person and is personally known to me.

Dharnesh

Lucknow, Dated;
 August 3, 1992,
 15-9-92

(DHARNESH SINHA)
 Advocate

Solemnly affirm before me today *Sept 15* 1992 at 10.30 a.m./p.m., by Sri S.N.M. Islam the deponent, who has been identified by Sri Dharnesh Sinha, Advocate, High Court, Lucknow. I have satisfied myself by examining the deponent that he is the same person and state he fully understand the contents of this affidavit which have been read over and explained to him by me.

15-9-92

Al B. AHUJANI
 CATH COMMISSIONER

High Court, Lucknow Bench, Lucknow
 No. 98/11494
 Date. 15-9-92

X

Central Administrative Tribunal
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW BENCH LUCKNOW.

Contempt

Writ Petition No. 8/92

of 1992.

S.K. Pandey vs. State of U.P. and others

ANNEVURE - CA/I

पूर्वोत्तर रजिस्ट्रार

कार्यालय अदालत

माननीय केन्द्रीय प्रशासनिक अधिकरण लखनऊ बैंक द्वारा एस0के0 पाण्डेय बनाम भारत सरकार मुकदमा सं0 23/89 व कुमारी कमलेश बनाम भारत सरकार मुकदमा सं0 12/90 पर माननीय न्यायालय द्वारा दिनांक 19-3-91 को निम्न जजमेंट दिया गया :-

" The opp. parties are directed to consider the claim the applicants for getting temporary status and the pay scale which could be given to them including the pay scales"

उपरोक्त के अनुपालन में इस कार्यलय के समसंख्य कार्यालय अदालत दिनांक 9-7-91 द्वारा निम्नलिखित पूर्व आकस्मिक टैक जिन्होंने 120 दिन का सेवा उनकी नाम के सामने अंकित तिथि से पूरा कर ली थी को उनके आकस्मिक सेवा से निकलने का पूर्व तिथि पर टेम्परी स्टेटस (- 15 म स्केल) प्रदान करके अस्थाई टैक वेतनमान 950-1500 एवं समय समय पर देय भत्ता पर निम्न प्रकार लाभ दिया गया था तथा इस प्रकार इन्हें उक्त अवधि के वेतन का अंतर दिया गया था जैसा निम्न प्रकार है :-

कर्मचारी नाम	पद	प्रथम नियुक्ति तिथि	बार नम्बर का सेवा पूरा करने की तिथि	टैक 950-1500 पर अस्थाई स्टेटस प्रदान करने की तिथि	सेवा समाप्ति की तिथि
1- श्री एस0के0 पाण्डेय पुत्र श्री आर0पी0 पाण्डेय	कैजुअल टैक	18-2-87	17-6-87	18-6-87	8-3-88 (अप0)
2- कु0क-ले। पुत्री श्री गंगा बंशी सिंह	"	23-2-87	22-6-87	23-6-87	8-3-88 (अप0)

उपरोक्त दिए गए लाभ से कर्मचारी संतुष्ट नहीं हुए अतः पुनर्विलोकन के परचात मुकाबिले गीरबुपर की स्वीकृति पर इन अभ्यर्थियों को आकस्मिक श्रमिक के रूप में टैक (950-1500) का अस्थाई स्टेटस बरकरार रखते हुए उन्हें उसी अस्थाई स्टेटस

कुमारी

पर टिकट के दम में रेल सेवा में कार्य पर लिया जाता है।

इनका सेवास आकस्मिक श्रामिक / रजिस्ट्रार पर लम्बे नियमों से शासित होता है।

यह काम अधिकारी के अनुमोदन से जारी किया जाता है।

स०ई/११/२१०/मैने/कोट केस/९१

कृते मन्त्रालय रेल प्रबन्धक (का०)
लखनऊ दिनांक: २७-७-९२

प्रतिलिपि स्थिति-विहित की सूचनाएँ एवं आवश्यक दस्तावेजों के प्रेषण :-

- १) महाप्रबन्धक (कानि) गोरखपुर
- २) महाप्रबन्धक (विधि) गोरखपुर
- ३) प्रमलेधि/ लखनऊ
- ४) काग्रेसी (बिल) कार्यालय में व फोल्डर कार्यालय में
- ५) सा०र०स० अनुमति
- ६) मन्त्रालय/ नर्म/ पा०आ०के०स०
- ७) सम्बन्धित कर्मचारी

१) श्री एस०के० पाण्डेय पुत्र श्री आर०पी० पाण्डेय द्वारा श्री सा०र०स०

२) श्री कुमारी कमलेश पुत्री गंगा तबरा सिंह १५२ यासियारामबा

लखनऊ

कृते मन्त्रालय रेल प्रबन्धक (का०)

लखनऊ

२५/७/९२

१५-७-९२

X-5

Central Administrative Tribunal
IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW BENCH LUCKNOW.

Contempt

Writ Petition No. 8/92

of 1992.

S.K. Pandey vs. State of U.P. and others

ANNEXURE- CA/II

कर्मचारी अधिकारी

इस कार्यालय के समस्त कार्य आदेश दिनांक 24/7/92 के तारतम्य में निम्नलिखित आकस्मिक टंककी की स्वजा टंक 950-1500 के पद पर केन्द्रीय प्रशासनिक अधिकरण के लखनऊ के निर्णय दिनांक 19/3/91 के अनुसार उनके नाम के समक्ष अंकित स्थानी पर 950/... मासिक वेतन पर कार्य पर वापस लिया जाता है।

क्रमांक	नाम	कार्य पर वापस लेने का स्थान
1-	श्री एस.डी. पाण्डेय	प्रवर मंडल इंजीनियर दितीय के अधीन स्टेनो के स्ति पद के विरुद्ध।
2-	कुमारी कमलेश	प्रमोषि/लखनऊ अधीन लेखा विभाग में टंक के पद के विरुद्ध।

यह प्रमोषि द्वारा अनुमोदित है।

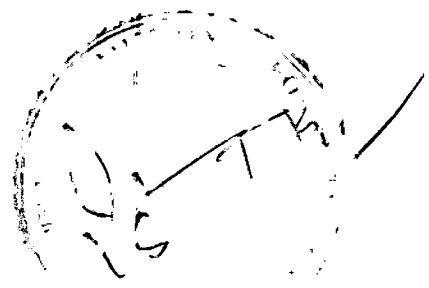
44
कृते मण्डल रेल प्रबन्धक (कार्मिक)
लखनऊ।

सं० ई/11/210/नै/कोर्ट केस/91

दिनांक 27-7-92

प्रतिनिधि निम्नलिखित की सुवनर्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

- 1- प्रमोषि/लखनऊ
- 2- प्रमोई (दितीय)/लखनऊ।
- 3- कर्मचारी (इंजीनियरिंग)/लखनऊ।
- 4- वेतन वृद्धि एवं फोल्डर लिपिक कार्यालय में।
- 5- मंडल मंत्री नर्म/पा० आर० के० एस०/लखनऊ।
- 6- संबंधित कर्मचारीगण।



44
कृते मण्डल रेल प्रबन्धक (कार्मिक)
लखनऊ।

Shri ...

को. का. प्रमो. वि. वि. वि.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

No. CAT/CB/LKO/JLL 1110 to 1111

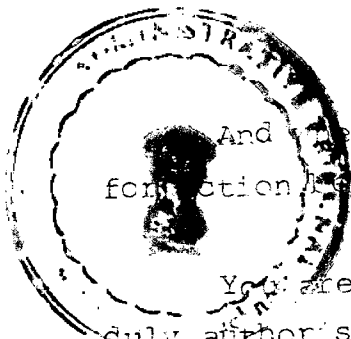
Date 7/5

CONTEMPT NO. 8/92(L) OF * 199 (L)

NOTICE OF CONTEMPT

1. To Union Of India , S.K. Bhatnagar, General Manager N.E. Railway Gorakhpur.
2. Smt S.M.N. Islam, Sri Divl. PERSONAL Officer North Eastern Railway Division Office Ashok Marg Lucknow.
3. Km. Nisha Tiwari, Sri. Divl. PERSONAL Officer N.E. Railway Divl. Office Ashok Marg Lucknow.

Whereas information is laid/a petition is filed/ mention made by Sunil Kumar Panday (Applicant) ^{and others} that you **You have not complied the order passed by this Hon. Tribunal Dt.19.3.91, S.K. Panday -Vs- Union Of India**



And whereas a petition has been registered against you for action being taken under the contempt of Courts Act, 1971.

You are hereby required to appear in person or through a duly authorised advocate on 28th day of 7/92 at CAT, Lucknow and on subsequent dates to which the proceedings may be adjourned unless otherwise ordered by the Tribunal and show cause why such action as is deemed fit under the Contempt of Courts Act, 1971 should not be taken against you .

Given under my hand and the seal of this Tribunal, this 7 day of 5/92 .

Deputy Registrar.
Central Administrative Tribunal .

01c

M. Panda .

Encl- Copy of order with notice

Central Administrative Tribunal

Lucknow Bench

Contempt No. 8/92(L)

S.K. Panday

.....

Applicant

-Vs-

Union of India

.....

Respondents.

20.4.92

Hon'ble Mr. Justice J.C. Srivastava -V.C.

Hon'ble Mr. A.B. Gorthi -A.N.

The contemner put his appearance in person. Learned counsel for the applicant states that despite service the respondents have not complied with the orders passed by this Tribunal on 6.3.92. and action may be taken against him. The contemptio opposite party requested one more opportunity to comply with the order. Granted. Even if on the next date the compliance has not been done a bail able warrant may be issued against the contemner. Issue fresh notices fixing 28.7.92 to the respondent as to why they should not be punished as they have not complied with the order passed in O.A. No. 23/89 and 12/90 decided by one common judgement dated 19.3.92.

Sd/

S.B.

Sd/

V.C.

// True Copy //

By Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow

✓

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Contempt Application No. 8 of 1992

IN

Original Application No. 23 of 89

Dated: 15.9.1992

Hon'ble Mr. Justice U.C. Srivastava, VC

Hon'ble Mr. K. Obayya, Member (A)

The learned counsel for the respondents states that the order of the tribunal dated 19.3.1991 has been complied and also filed counter-affidavit in this behalf. The learned counsel for the applicant has accepted this position. In this case, contempt has been made out for some time, but now order of the tribunal has been complied, as learned counsel for the applicant has accepted it. Accordingly, the application is consigned and notices are discharged.


A.M.


V.C.

Received
S. K. B. S.
5-11-92
Account
5-11-92

4/3

In the Hon'ble Central Administrative Tribunal,
Central Administrative Tribunal

Circuit Bench,

Circuit Bench, Lucknow

Date of Filing 6/2/92

Date of Receipt by Post

Lucknow.

7/1/92
Deputy Registrar (J)

Civil Contempt application No. 8 of 1992 (C),

Under Section 17 of the Central

Administrative Tribunal Act, 1985 arising

out of O.A.No.23 of 1989 and 12 of 1990

decided by one common judgement dated

19-3-91.

- 1) Sunil Kumar Pandey, aged about 23 years,
son of Shri Ram Prakash Pandey, House
No.47, Chitwapur Road, Lalkuan, Lucknow
- 2) Km. Kamlesh, aged about 23 years, daughter
of Shri Ganga Baksh Singh, resident of
House No.287/17, Kayam Khera, Aishbagh
Road, Lucknow.

...Applicants

Versus

Union of India through:

Shri B. K. Bhatnagar

- 1) General Manager, North Eastern Railway,
Gorakhpur.

- 2) Shri S. M. N. Islam, Sr. Divl. Personnel
Officer, North Eastern Railway, Divisional
Office, Ashok Marg, Lucknow.

- 3) Km. Nisha Tewari, Divl. Personnel Officer,
N.E. Railway Divl. Office, Ashok Marg, Lucknow.

....Opposite Parties.

Filed today

cyw
6/2/92

Sunil Kumar Pandey

Km. Kamish

In the above noted case, the applicants beg to submit that for detailed reasons set forth in the accompanying affidavit, the Hon'ble Court may be pleased to order for taking up the Opposite parties suitably for deliberate and wilful flouting and disregarding of the orders of the Hon'ble Court dated ¹⁵12-3-91, vide Annexure 1, allowing the applications and granting the reliefs claimed. The directions of the Hon'ble Court were ordered to be complied within 2 months from the receipt of the copy of the judgement. More than 10 months have passed and despite representation (Annexure 2), the Opposite parties had complied only partially after 7 months by payment of the difference between the pay in the rate of daily wages and temporary scale and that too, not in full and only upto the date of retrenchment. w

Suresh Kumar Pandey
Bm Kamlesh

2) That the Hon'ble Court in para 4 of the judgement were pleased to observe that "the services of the applicants could not have been terminated in this manner. Their case should have been referred to the service commission for appointment to the post of typist and that was not done. In the circumstances, applications are allowed."

3) That the applicants represented to the Opposite parties for honouring the orders of the Hon'ble Court dated 15-3-91 but the Opposite parties neither reinstated the applicants nor gave any reply to the representations submitted.

4) That the directions of the Hon'ble Court which were time bound have not been carried out fully so far despite representations.

5) That the Opposite parties ~~were~~ were duty bound to obey the orders of the Hon'ble Court. By avoiding and ignoring

Ram Kumar Pandey
Rm Ramkish

the implementation of the orders of the Hon'ble Court, this is a case of wilful, deliberate and recurring disobedience of the orders of the Hon'ble Court by the Opposite parties and thus it amounts to wilful contempt of Court which deserves to be taken up suitably.

Dated: 3/2/52

at Lucknow.

Suresh Kumar Pandey
Km. Kamlish
Applicants.

46

In the Hon'ble Central Administrative Tribunal,
Circuit Bench,
Lucknow.

Civil Contempt application No. of 1992.
under Section 17 of the Central Administrative
Tribunal Act, 1985 arising out of O.A. No. 23
of 1989 and 12 of 1990 decided by one
common judgement dated 15-3-91.

1) Sunil Kumar Pandey, aged about 23 years,
son of Shri Ram Prakash Pandey, House No. 47,
Chitwapur Road, Lalkuan Road, Lucknow.

2) Km. Kamlesh, aged about 23 years, daughter
of Shri Ganga Baksh Singh, resident of
House No. 287/17, Kayam Khara, Aishbagh Road,
Lucknow.

... Applicants

Versus

Union of India through:

Shri D. K. Bhatnagar

1) General Manager, N.E. Railway, Gorakhpur.

2) Shri S. M. N. Islam, Sr. Divl. Personnel Officer,
N.E. Railway, Divisional Office, Ashok Marg,
Lucknow.

3) Km. Nisha Tewari, Divl. Personnel Officer,
N.E. Railway, Divl. Office, Ashok Marg, Lucknow.

.... Opposite Parties.

Sunil Kumar Pandey

AFFIDAVIT

I, Sunil Pandey, aged about 23 years,
son of Shri Ram Prakash Pandey, House No.47
Chitwapur Road, Lalkuan, Lucknow, retired
typist of N.E. Railway, Lucknow Division
do hereby solemnly affirm and state on oath
as under:

1) That the deponent and the applicant
No.2 were engaged in type section for
typing work for the Opposite parties on
daily wages in their office on 17-6-87 and
22-6-87 respectively, and despite continuous
working for more than ^{2 1/2} 26 months, neither
wages were paid nor the deponent or
applicant No.2 were given temporary scale/
grade and scale of typists although their
attendance were duly maintained in the
registers and they were required sometimes ^{to leave}
even on Saturdays and Sundays as well. _{See?}

2) That the deponent and the applicant
No.2 were retrenched by oral order dated
8-3-88 without assigning any reasons, and

Sunil. Kumar Pandey



without notice under Section 25 F of the Industrial Disputes Act.

3) That the deponent and applicant No.2 filed applications as mentioned above challenging the illegal orders of the Opposite parties and these applications having identical case and common cause pertaining to engagement and disengagement of the applicants on daily wages working for more than 1 year without conferring of temporary status and grant of grade or scale, were decided by the Hon'ble Court of 15-3-91, holding that the deponent and the applicant No.2 were entitled to the reliefs claimed and the applications were allowed.

4) That retrenchment of the deponent by an oral order and of the applicant No.2 as well was ab initio illegal as no reasons for the retrenchment were given nor any written notice or retrenchment compensation and full dues as claimed were paid. Even the wages at the daily rate for the period

Sunil Kumar Pandey

the applicant and the deponent worked were not paid till the time of their retrenchment.

5) That the deponent made verbal reminders and written reminders for the payment and reinstatement but only the payment was made that too, not in full and no reply was given as to why the issue of their reinstatement is delayed.

6) That by avoiding and ignoring the implementation of the orders of the Hon'ble Court despite reminders and representations given by the deponent, this is a clear case of wilful, deliberate and recurring default of disobedience of the orders of the Hon'ble Court by the Opposite parties and amounts to contempt of Court.

Dated

3-8-92
at Lucknow.

Sunil Kumar Pandey
Deponent.

VERIFICATION

I, Sunil Kumar Pandey, the deponent
named above ~~has~~ hereby verify that the
contents of paras 1 to 6 of the affidavit
are true bases on personal knowledge
and that of para 6 is based on legal
advise. Nothing has been concealed or
suppressed, so help me God.

Dated: 3-2-92
at Lucknow.

Sunil Kumar Pandey
Deponent

I declare that I am satisfied by
perusal of the papers and records and
other details narrated by the person
alleging himself to be Sunil Kumar Pandey,
is that person.

Solemnly affirmed before me at 6.30
a.m/p.m. at Lucknow on 3-2-92 who is
identified by Shri Ravi Srivastave, Advocate,
Lucknow.

I have satisfied myself by examining
the deponent that he understands the
contents of the affidavit which have

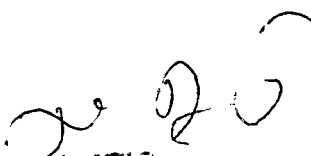
X/1

- 6 -

been read over and explained to him
personally by me.

Rai, Inatara
3/2/92

3 9 92


C. D. ARJUN
CATE COMMISSIONER
C. D. ARJUN
C. D. ARJUN
C. D. ARJUN

gintody

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

(1) O.A. No. 23/89

S.A. Pandey

Applicant.

versus

Union of India & ors,

Respondents.

(2) O.A. 12/90

Kumari Kamlesh

Applicant.

versus

Union of India & ors.

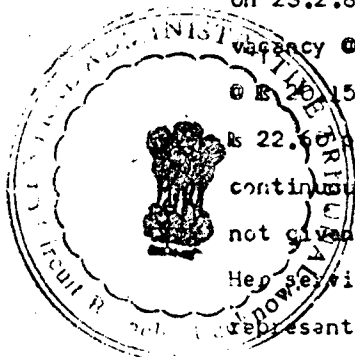
Respondents

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

(Hon. Mr. Justice U.C. Srivastava)

The above two applicants, who are educationally qualified, were employed as casual Typist on daily wages basis by the Railway Administration. Km. Kamlesh who is a Post Graduate, was engaged as a Clerk Typist on 23.2.87 in the Central Type Section against a clear vacancy @ Rs 17.95 per day from 23.2.87 to 31.7.1987 and @ Rs 20.15 per day from 1.8.1987 to 31.1.1988 and @ Rs 22.60 per day from 1.2.1988 to 8.2.1988. She, thus, continuously worked for more than 120 days, but she was not given the grade of Typist as well as temporary status. Her services were terminated on 8.3.1988, against which representations were made. No written order was given to her terminating her services and some Malis Chowkidars etc. who were not even Matriculate, were appointed as

34w



Semi Kumar Pandey
Km Kamlesh

4/3

as Typists on adhoc basis. She claimed that she having attained the temporary status, she is entitled to temporary status. Even casual labour could not be legally terminated without complying with the provisions of section 25(F) of the Industrial Disputes Act, 1947 and without notice of retrenchment, in the absence of which retrenchment/termination is void.

2. Counter affidavit has been filed and it has been stated in it that the application is barred by time and that she was utilised against a Group C post illegally without sanction and there was no question of acquiring any temporary status and that the post could have been filled up by the Railway Service Commission and not directly by the A.P.O., as was not her case. So far as limitation is concerned, it is to be seen that the applicant has been making representations after representations upto the year 1990 and placed reliance on certain Supreme Court decisions. Both these ~~prayers~~ objections deserve to be rejected and her prayer for condonation of delay deserves to be allowed. Although not stated in the counter affidavit, it was stated during the course of arguments that from the facts it could be pointed out that the file indicates that her work was not satisfactory. We are not entering into this question. There is no specific pleading that if on that ground services are terminated then it would amount to penal action.

3. So far as petitioner, S.K. Pandey is concerned, he says that he has been made sufferer, as he was a student in the Hindi Stenography in the I.T.I., Aliganj and left the training due to getting job under the



Sanjay Kumar
K.M. Kamlesh

respondents. He worked for 190 days. Having been employed as casual labour on 18.2.87 as Clerk Typist. worked 28 days in the month of March, 1987 and then continuously worked from 18.3.87 to 29.9.87 and thus, regularly worked for 190 days. In the counter affidavit the same ^{plea} has been taken that the post of Typist is a Group C post and the same is to be filled up by Railway Recruitment Board and cannot be filled up directly and there was no approval of General Manager also. His services, were, there-fore terminated on 8.3.88.

4. It may be pointed out that the appointment of the applicants was irregular but the salary was paid to them by the Railway Administration. The Railway Administration cannot escape its liability in this behalf that some subordinate has made appointment and the Railway Administration has taken benefit of such employment and has also paid for it, it cannot refuse the claim on this ground that the appointment was made on local level. Vide Railway Board's letter No. E(NG)II-77/CL/46 dated 8.6.81 defines casual labour as under:

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

4. Rightly or wrongly, both these applicants were employed as casual labour. It is to be noted that in the case of S.K. Pandey recommendation was also made to regularise him. So far as Km. Kamlesh is concerned

Sankar Kumar Pandey
Km Kamlesh

she has worked for more than 240 days within one year. In view of the provisions of section 25 F of the Industrial Disputes, Act, her services could not have been terminated unless the provisions of said section which provides as to how retrenchment is to be made. No notice of retrenchment was given to him, as such termination was void. She has worked for more than 120 days and claims temporary status but her appointment has been challenged on the ground that the casual labour are to be appointed by authority or in a particular manner but the same was not done, but her appointment was made at the local level. It may be so, but her wages came from Railway fund. In case her appointment was not regular, obviously the opposite parties, before terminating her services, should have considered the same. Even now they are to consider whether she is entitled to the benefit of 120 days for acquiring temporary status. It is only after considering the same in the light of the facts of vacancy and appointment of other persons, the decision is to be taken. So far as Shri S.K. Pandey is concerned, obviously in his case although he has not completed 240 days, in his case also the question, before terminating his services, of temporary status should have been considered and only thereafter his services could have been terminated. It may be that the post of Typist is a Group C post and the appointment is to be made in a particular manner but both these persons were engaged as casual labour, though at a local level, but for casual labour Railway Service Commission does not come in picture at all. The work of Typist was taken from the applicants which is taken from the employees of a particular scale. The Railway Administration, by paying

Sd/-
S. K. Pandey
H. K. Ramlesh

dailway wages, have taken much more work from these persons and cannot turn down and say that they were not entitled to any relief. Even before terminating the work of a Typist which was taken by the Railway Administration from these persons, other work which a casual labour of their qualifications, could have been taken from them. Their services as a casual labour could not have been terminated in this manner. Their cases should have been referred to Railway Service Commission for appointment to the post of Typist and that too was not done. In the circumstances, the applications are allowed and the opposite parties are directed to consider the claim the applicants for getting temporary status and the pay scale which could be given to her including the pay scale. The directions are to be complied within 2 months from the receipt of copy of this order.



A.M.

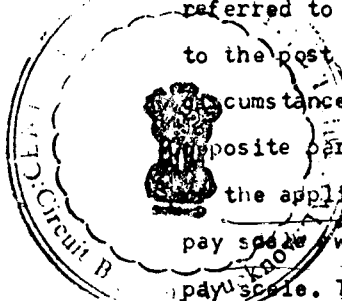
Allahabad Dated 13-3-1991.

Sunil Kumar Pandey
Rm. Kamblesh

C.T.C.

Attended
T.C.
AKS
Secy. to the
Administ. and
Circuit Bench
WCKNOW
10/4/41

dailway wages, have taken much more work from these persons and cannot turn down and say that they were not entitled to any relief. Even before terminating the work of a Typist which was taken by the Railway Administration from these persons, other work which a casual labour of their qualifications, could have been taken from them. Their services as a casual labour could not have been terminated in this manner. Their cases should have been referred to Railway Service Commission for appointment to the post of Typist and that too was not done. In the circumstances, the applications are allowed and the opposite parties are directed to consider the claim of the applicants for getting temporary status and the pay scale which could be given to her including the pay scale. The directions are to be complied within 2 months from the receipt of copy of this order.



A.M.

V.C.

Allahabad Dated 15-3-1991.

Sanjay Kumar Pandey
Rm Hamlesh

Attended
T.C.
AKS
Centre: Administrative and
Circuit Bench
LUCKNOW

10/4/91

To,

The Divisional Railway Manager,
North Eastern Railway,
Lucknow.

Sir,

Ref: O.A.No.23 of 1989 and
O.A.No.12 of 1990.

- 1) S. K. Pandey
- 2) Km. Kamlesh

Versus

Union of India and Others.
Decided on 19-3-91.

Sub: Your office memo dated 9-7-91.

Your kind attention is invited to the decision of these cases by the Hon'ble Central Administrative Tribunal, Lucknow on 19-3-91 by a common judgement. The Hon'ble Court while deciding this case had given some directions and granted the reliefs claimed. The directions were ordered to be complied within two months from the receipt of the copy of the orders. About five months have passed but compliance is not in sight.

You have mentioned about one direction viz "the Opposite Parties are directed to consider the claim of the applicants for getting temporary status and

Sunil Kumar Pandey
Km. Kamlesh

Sundar Kumar Pandey
RM Kaulash

particular scale. The Railway Administration
which is taken from the employees of a
work of typists was taken from the applicants
does not come into the picture at all. The
casual labour, the Railway Service Commission
is to be made in a particular manner, but for
typist is a group C post and the appointment
that - " It may be that the post of the
Hon'ble Court was pleased to observe (at page 5)
In para 4 of the judgement, the

applicants so far.
nor any reasons have been given to the
have not been looked into and implemented
in the judgement concerning the applicants
That other observations/directions

2)
directions of the Hon'ble Tribunal.
repeat the consequences for breach of
a word about reinstatement. I need not
two months of the order. You have not said
of pay, etc. have not yet been paid within
but not temporary status and even the arrears
of temporary scale of pay after 120 days
You have mentioned about only the grant
the pay scales which could be given to them."

A
X

by paying daily wages have taken much more work from these persons and cannot turn down and say that they were not entitled to any relief.....Their services as casual labour could not have been terminated in this manner. Their cases ^{should} ~~would~~ have been referred to the Service Commission for appointment to the post of typist and that too was not done. In the circumstances, the applications are allowed."

Your kind attention is invited to the decision of the Hon'ble Supreme Court 1981/2 SCA 11, "Termination by oral order - termination void ab initio - breach of Section 25 F. Such termination does not bring about cessation of the service of the ^{who} worker ~~is~~ continues in service."

That in a similar case in re Narendra Kumar Misra and 3 Others Versus Union of India and two others, OA No. 323 of 1987, CAU, Allahabad, the Hon'ble Tribunal were pleased to order that the applicants should be reinstated in service on the posts held by them earlier forthwith and in any event,

Sunil Kumar Pandey
Rm. Kamlesh

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within one month from the date of this order.

We further order that the applicants shall be regularised and absorbed against the regular posts after completing three years service from the date of initial engagement subject to fulfilling all other conditions in regard to qualifications, etc.....

The period of service already put in by them before their services were terminated would count for completion for three years period of service."

That in OA No.1101 of 1987,

Mahesh Kumar Singh Versus Union of India and Others, Principal Bench, New Delhi. While disposing off over 50 applications in this case of employees engaged orally or in writing and disengaged, the Hon'ble Tribunal summarised and directed as under:

" We hold that the length of the period of service put in by the applicants is in itself not relevant. Admittedly, all these applicants had been engaged as mobile booking clerks before 17-11-86. In the interest of justice, all of them deserve to be reinstated in service

Sumit Kumar Pandey
Km Ramkishan

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respective of the period of service put
in by them, those who have put in continuous
service of more than 120 days would be
entitled to temporary status with all
attendant benefits. All persons should be
considered for regularisation and permanent
absorption in accordance with the provisions
of the scheme.

In another case in re 1960, 12
"State, page 200, the Hon'ble C.A., Madras
were pleased to observe that the decision
given by the Civil Service Commission of some
employees in regard to their decision should
be applied to all employees in other
departments as well. The
Hon'ble Supreme Court in re Interpol Vadav
V. Union of India, 1965 2 SYP Page 248
were pleased to hold that -

"Therefore, those who could not
come to Court need not be at a comparative
disadvantage to those who rushed in here
if they are otherwise similarly situated,
they are entitled to similar treatment, if not
by or the also, by the hands of the Court."

In the circumstances, it is held

Sunil Kumar Pandey
K.M. Hanleth

that taking into view the facts and the case law quoted by the Hon'ble Supreme Court and the CAT, Lucknow and Allahabad and the latest judgement of your own railway of similar category of typists viz Inderpal Yadav and Others Versus Union of India and Others, O.A. No. 34 of 1989(L), the Hon'ble Lucknow Bench of CAT having ordered reinstatement and payment of back wages to the employees, there is no reason why this benefit cannot be extended to the applicants as well. It may be mentioned here that the Review Petition No. 361/91 filed by M.E. Railway Administration against the above order has also been dismissed by the Hon'ble CAT, Allahabad, Lucknow Bench, on 31-7-91. You may kindly be pleased to order for reinstatement, regularisation, and payment of wages due to the applicant ~~and~~ at the scale P. 950 - 1500 forthwith and dispose off this application in the light of the submissions made above.

Thanking you,

Sumil Kumar Pandey

Yours obediently,

Rm Ramkish