

## FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ~~Lucknow~~ BENCH

OA/TA/RA/CP/MA/PT 255 of 20.90

Viktor Singh.....Applicant(S)

Versus

V.O.I. &amp; another.....Respondent(S)

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Certified that the file is complete in all respects.

B8 C file weeded out & destroyed. V.Am  
29.6.12

Signature of S.O. 0217/22

Signature of Deal. Hand

Central Administrative Tribunal  
Lucknow Bench

Cause Title CA 255/93 of 1993

Name of the Parties

Victor Singh

Applicant

Versus

Union of India

Respondents

Part A : P.C

Sl. No.

Description of documents

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

Registration No. 265 of 1989

APPLICANT(S) Vikas Singh

RESPONDENT(S) U.C.G.

<u>Particulars to be examined</u>	<u>Endorsement as to result of examination</u>
1. Is the appeal competent ?	✓
2. a) Is the application in the prescribed form ?	✓
b) Is the application in paper book form ?	✓
c) Have six complete sets of the application been filed ?	✓
3. a) Is the appeal in time ?	✓
b) If not, by how many days it is beyond time?	✓
c) Has sufficient cause for not making the application in time, been filed?	✓
4. Has the document of authorisation/ Vakalatnama been filed ?	✓
5. Is the application accompanied by B.O./Postal Order for Rs.50/-	✓
6. Has the certified copy/copies of the order(s) against which the application is made been filed?	✓
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	✓
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	✓
c) Are the documents referred to in (a) above neatly typed in double space ?	✓
8. Has the index of documents been filed and pageing done properly ?	✓
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application?	✓
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?	✓

A2

1 2 3

Particulars to be Examined

Endorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed ? *yes*

12. Are extra copies of the application with Annexures filed ? *yes*

a) Identical with the Original ? *yes*

b) Defective ? *x*

c) Wanting in Annexures ? *x*

No.        pages Nos        ?

13. Have the file size envelopes bearing full addresses of the respondents been filed ? *No. A.*

14. Are the given address the registered address ? *yes*

15. Do the names of the parties stated in the copies tally with those indicated in the application ? *yes*

16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ? *yes*

17. Are the facts of the case mentioned in item no. 6 of the application ? *yes*

a) Concise ? *yes*

b) Under distinct heads ? *yes*

c) Numbered consecutively ? *yes*

d) Typed in double space on one side of the paper ? *yes*

18. Have the particulars for interim order prayed for indicated with reasons ? *yes*

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

dinesh/

19/6

(A3)

O.A. NO.255 of 1

29.8.1990

(1) Hon'ble Mr. D.K. Agrawal, J.M.  
 Hon'ble Mr. K. Obayya, A.M.

Heard. Admit. Issue notice to the respondents. Counter affidavit may be filed within eight weeks. Rejoinder affidavit may be filed within two weeks thereafter. As regards the interim order, we are of the opinion that no interim order is required to be passed at this stage. Issue notice to the respondents as to why the interim order prayed for be not granted. Listed for hearing on 16.11.1990.

See  
 original order  
 on  
 main petition

Sd/-

A.M.

Sd/-

J.M.

rrm/

GR

Notices issued

12-9-90

Notices were issued

(2) 16.11.90

No sitting adj. to 17.12.90. On 12.9.90

(3) 17.12.90

No sitting adj. to 6.3.91.

Neither reply nor  
 any unsworn resp. com.  
 has been received  
 S.C.H.

(4)

6/3/91  
 Hon'ble Justice K. Path, M.C.  
 Hon'ble Mr. A. B. Gorai, A.M.

Shri Ashok Srivastava makes  
 appearance on behalf of  
 respondents. He requests for  
 and is allowed four weeks  
 time to file a counter to  
 which the applicant may  
 file rejoinder within one week  
 thereto. List for final  
 hearing on 17.4.91.

AM

VC.

18.4.91.

No sitting adj. to 25.7.91.

OB

No CA filed

S.F.H.

D.Y/11

OA255/902

AM

21.2.92

No shifting of D.B. conforme  
20.4.92

2

20.4.92

No setting addi to 25.6.92

2

CA, RA have been  
exchanging add  
Coke is greedy  
for heat input  
23/6/92

THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD

O.A. 255/80

Victor Singh

...

Applicant

Vs.

Union of India & others ... Respondents

Hon Mr. Justice U.C Srivastava, V.C.

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

-----

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

By this application, the applicant claims that his age of superannuation was 60 years and he has been wrongly retired at the age of 58 years on 31.8.90. He entered in the Eastern Railway service in the capacity of a substitute cleaner under Loco Foreman, Pratapgarh which was taken over by the Northern Railway. Subsequently, the applicant was promoted as Assistant Superintendent in grade of Rs. 1600-2900 on the basis of seniority cum suitability, with the condition till the finalisation of selection of Assistant Superintendent grade, but the applicant retired before finalisation of his selection.

On behalf of the applicant, it has been stated that the Railway Board's Circular dated 18.12.82 provides, that a railway servant in Class IV group 'D' services who prior to 1.12.62 are entitled to be in service upto the age of 60 years including the new entrants to those categories shall continue to serve until the last date of the month in which he entered in the service.

As the applicant entered in the service prior to 1962, as such he could not have been retired at the age of 58 years. The respondents have pointed out that the circulars given by the applicant are not applicable. And the applicant's case is covered by Shri Navneet Lal Manilal Bhatt Vs. U.O.I. decided by the Supreme Court

with reference to Rule 2046 R-II and the Railway Board vide letter dated 17.9.76. According to the applicant, he was promoted to the Ministerial post of Clerk and by virtue of Ministerial staff, he has a right to continue in service up to the age of 60 years. As the applicant was appointed on the post of Cleaner in Class IV in 1942, the provisions governing terms and conditions are contained in Indian Railways Establishment Code Vol-II Rule 2046 (FR 56) which provides :

"A ministerial staff who has entered government servants on or after 1st April, 1938 -

(i) ..Not concerned

(ii).... ... shall ordinarily be required to retire at the age of 55 years. He must not be retained after that age except on public grounds which must be recorded in writing and with the sanction of the competent authority and he must not be retained after the age of 60 years, except in very special circumstances. The Ministerial servant has also been defined in Para 17 of Rule 2003 of the Estt. Code Vol-II.

"A railway servant of a subordinate service whose duties are entirely clerical and any other class of servants specially defined as such by a general or special order of a competent authority."

Further, in the Railway Board

with reference to Rule 2046 R-II and the Railway Board vide letter dated 17.9.76. According to the applicant, he was promoted to the Ministerial post of Clerk and by virtue of Ministerial staff, he has a right to continue in service up to the age of 60 years. As the applicant was appointed on the post of Cleaner in Class IV in 1942, the provisions governing terms and conditions are contained in Indian Railways Establishment Code Vol-II Rule 2046 (FR 56) which provides :

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"A railway servant of a subordinate service whose duties are entirely clerical and any other class of servants specially defined as such by a general or special order of a competent authority."

Further, in the Railway Board's Circular, according to the applicant, it has been provided that such persons like the applicant should be retired at the age of 60 years.

Prior to the decision of Navneetlal Manilal Bhatt's case, the case of one Shri A. Pichumani was decided which was followed by Navneetlal Manilal Bhatt's case who was also holding a permanent post in the company from March 31, 1938 in which he was to retire at the age of 60 years under the

(A)

new rule amending Rule 2046 R-II dated 11.1.67 providing a railway servant belonging to the ministerial category, he was entitled to continue in service till he attained the age of 60 years. But in the case of A. Pichumani, the new note to Clause (b) of Rule 2046 R-II substituted on 13-12-67 was applied and he was retired at the age of 58 years. because on 5.12.62, the Railway Board had raised the age of compulsory retirement of railway servants to 58 years, subject to ~~xxxxx~~ restrictions. It was held by the Supreme Court that once the employees of ex-company railways and ex-state railways who have taken up service under the railway administration had been treated alike upto 11 Jan. 1967, it followed that they could not again be classified separately from the other employees of Indian Railway Administration. In this view the new Note to Clause (b) substituted on 23rd Dec. 1967 by the Supreme Court was struck down as discriminatory to the extent that new note required the rules of the Company or the State to have a provision similar to Clause (b) of Rule 2046 R-II. In Navnaetlal Manilal Bhatt's case, a railway employee belonging to B.B & C.I. Railway Co. belonged to non-ministerial category was directed to be retired on attaining the age of 55 years. On 5.12.62 the age of retirement of railway servant without any distinction was raised to 58 years. The Supreme Court struck down the said letter dated 26.4.63 as discriminatory on the basis of their judgement in Pichumani's case. It was thereafter the Railway Board issued a letter in 1966 in regard to the retirement age of both non ministerial and ministerial employees :

Ministerial

(i) "All former provincial Government ex-state and ex-Co. employees who fulfill the conditions prescribed in Clause (b) of Rule 2046 R-II will retire at the age of 60 years irrespective of whether they are governed by the pre-absorption terms and conditions of Indian Government Railway Rules."

100

(ii) "All other former Provincial Govt. ex-Company and ex-State employees will retire at the age of 58 years under Clause (a) of Rule 2046 R-II irrespective of whether they are governed by the pre-absorption terms and conditions or by Indian Government Railway Rules.

Non Ministerial

"All former provincial Govt. Ex-Company/ Ex-State Railway employees shall retire at the age of 58 years under clause (a) of Rule 2046 R-II irrespective of whether they have retained the pre-absorption terms and conditions or come over to the Indian Railway Rules.

Now from the above, it is very clear that the applicant is a ministerial employee who should have been retired at the age of 60 years and the respondent have wrongly interpreted the same. When the applicant is in service, the retirement at the age of 60 years in this regard, could not have been curtailed. The respondents have mis-applied and mis-read not only in Navneet Lal Manial Bhatt's case and accordingly this application is allowed and the respondents ~~are~~ directed to treat the applicant as entitled to retire at the age of 60 years and accordingly, he should be treated in service up to the age of 60 years and consequential benefits and other benefits arising out of the same may be given to him within a period

11

-5-  
2 months. No order as to be costs.

*Arif Ali*  
Member (A)

*hs*  
Vice Chairman

smc

Lucknow  
dt. 25.6.92

A10

In the Central Administrative Tribunal, Allahabad,  
Circuit Bench, Lucknow.

Original Application No. 28 of 1990. (L)

Central Administrative Tribunal

Circuit Bench, Lucknow

Victor Singh

Date of Filing ..... 17/8/90  
... Applicant Date of Receipt by Post .....

Versus

Union of India and Another ... Opposite Parties

211  
Deputy Registrar (J)

SSM  
17/8

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1.	Application	1 to 10
2.	Copy of the impugned order	11 to 12
3.	Postal Order No. 02 467201 dt. 11-8-90	
4.	Power.	

(C.A. Basir)

Counsel for the applicant.

Dated:

at Lucknow.

mailed for 29/8.

O.A. Basir  
A) ✓

(A)

In the Central Administrative Tribunal,

Allahabad, Circuit Bench, Lucknow.

O.A. No. 255 of 1990.

Victor Singh

.... Applicant

Versus

Union of India & another .... Opposite Parties

Application under Section 19 of the

Administrative Tribunal Act.

Details of the applicant:

Victor Singh, son of Late Shri  
Samuel Singh, Assistant Superintendent,  
Commercial Section, Office of Divisional  
Railway Manager, Northern Railway, Lucknow.

Particulars of the respondents:

Union of India through:

- 1) General Manager, Northern Railway,  
Baroda House, New Delhi.
- 2) Divisional Railway Manager,  
Northern Railway, Lucknow.

I Particulars of the order against  
which the application is being made:

This application is being filed  
against wrong and illegal notice of retirement  
of the applicant on superannuation with effect

*Con/vidm*

from 1-9-90 at the age of 58 years, vide Notice No. 342/E/Niptan/Sewa Nivrat/1990 dated 18-10-89.

The entry of the applicant's name in the notice is at S.No. 21. The notice is in clear breach of rules framed by the Railway Board, on circulars mentioned vide Annexure II, providing retirement benefit at the age of 60 years, vide Annexure A I and A II.

II Jurisdiction of the Tribunal:

That the applicant declares that in the subject matter, the order against which the applicant wants redressal, is within the jurisdiction of the Hon'ble Court.

III Limitation:

That the applicant further declares that this application is within the limitation prescribed under Section 21 of the Central Administrative Tribunal Act.

IV Facts of the case:

1. That in the year 1950, the applicant who was below the age of 18 years, entered the erstwhile East Indian Railway Service in the capacity of a substitute cleaner under Loco Foreman, Pratapgarh, U.P. in grade of

*2. [Signature]*

(A13)

Rs.30-1/2-35 and was fixed at Rs.27 per month taking the age calculation between 15 to 18 years of the applicant, and therefore, his pay was fixed at Rs.27 per month by the Railway Administration.

2. That by dint of hard work and good performance, the applicant got promotion in the ministerial cadre and at present, the applicant is working as Assistant Superintendent Commercial, a Class III post in the office of the Opposite Party No.2.

3. That the name of the applicant has been shown in the retirement list issued by the office of the Opposite Party No.2 for retirement on 31-8-90 at the age of 58 years, vide Annexure I.

4. That the circular of the Railway Board, No.E(P & A) I 82 RT-16 of 18-12-82, S.No.NR 8206/ER 3/SE 4/83 and E(P & A) I - 83/RT - 28 of 9-5-84, S.No.NR 8500, SE 11384/ER/50/84 provides that a railway servant in Class IV/ Group D services who prior to 1-12-62 are entitled to be on service upto the age of 60 years including the new entrants to those categories shall continue to serve until the last date of the month in which he entered the service.

5. That the above mentioned circulars issued by the Railway Board were

Yours  
W.B.

(A14)

circulated to all the Railways including Northern Railway authorities and the applicant's service record available with the Opposite Party No.2 shows his entry in service in 1950 in Class IV, i.e. prior to 1962. The Opposite party No.2 should have ensured that premature retirement is avoided and the retirement is ordered on attaining the age of 60 years.

6. That in the circumstances explained in the para 5 above, it is patently manifest that the notice of retirement is illegal and arbitrary and against the rules and circulars issued by the Railway Board in this regard.

7. That the applicant learnt about the entry of his name in the retirement list and the applicant apprised the Opposite Party No.2 with representations drawing his attention to the Railway Board's circulars duplicating copies to the General Manager and the Hon'ble Minister for Railways. However, the representation have not even been acknowledged. The representations sent are as under:

2/2/1988

ANS

i) To, The Divisional Railway Manager, Lucknow on 8-6-90 - Annexure III.

Copy of the above sent to the Hon'ble Railway Minister.

ii) Reminder of the above to both the Divisional Railway Manager, Lucknow and the Railway Minister on 15-7-90 - Annexure IV.

iii) Representation to the General Manager (P), Northern Railway, New Delhi on 3-8-90 - Annexure V.

iv) Representation to the Divisional Railway Manager, Lucknow, to stay the proposed order of superannuation as the same being against Railway Board's circulars - pending final orders, dated 12-8-90 -

Annexure VI.

V. Grounds of relief with legal provision

1. Because Rule 157 contained in Chapter I of the Indian Railway Establishment Code, Volume I, which has been issued by the President in exercise of his powers vested in

him by the proviso of Article 309 of the

Constitution of India, empowers the Railway

Board to make rules of general applicability to non-gazetted railway servants under control. Thus, all rules

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Board in exercise of these powers have statutory force.

2. Because the circular of the Railway Board dated 18-12-82 having been framed, issued and circulated by the Railway Board providing that the Railway employees in Class IV, Group D service who prior to 1-12-62 are entitled to be on service upto the age of 60 years including new entrants to those categories shall continue to serve until the last date of the month in which he entered the service. Thus, this circular fully applied in the case of the applicant and he has a right to continue in service upto the age of 60 years i.e. upto 31-8-92.

3. Because this view has been taken and upheld in many cases decided by the Hon'ble High Court, Division Bench, in re -Writ Petition No. 963 of 1978 -Mohd. Habib Versus Union of India and Others, relying on some other judgements of other High Courts. The Hon'ble High Court in the concluding para were pleased to observe "that the petitioner was therefore entitled to serve upto the age of 60 years and the order requiring him to retire on 30-4-78 was therefore violative of Clause (2).

W.M.D.  
in

AI

of Rule 2046 of the Indian Railway Establishment Code.

4. Because para 2046 of the Indian Railway Establishment Code Volume II, 1974 edition states in para 2046 ~~as~~ (e) as under :

" Railway servants in Class IV service or post who prior to 1st December, 1962 were entitled to serve upto the age of 60 years including the new entrants to those categories, shall continue to serve upto the age of 60 years."

5. Because the Opposite Party No. 2 having quasi-judicial powers having passed no order on the representation of the applicant, the applicant begs ~~to~~ and prays for staying the order of retirement.

VI

Representations sent by the applicant:

i) To, The Divisional Railway Manager, Lucknow on 8-6-90 - Annexure III. Copy of the above to the Hon'ble Railway Minister.

ii) Reminder of the above to both the Divisional Railway Manager and the Hon'ble Railway Minister on 15-7-90 - Annexure IV.

(Ans)

iii) Representation to the General Manager (P), Northern Railway, New Delhi on 3-8-90 - Annexure V.

iv) Representation to the Divisional Railway Manager, Lucknow to stay the proposed order of superannuation as the same being against Railway Board's circulars - ~~regarding~~ pending final orders, dated 12-8-90 -- Annexure VI.

VII The applicant declares that the matter is not pending with any other court.

VIII Relief sought:

In view of the facts stated in preceding paras, the applicant prays: for:

That the Hon'ble Tribunal may be pleased to quash the order contained in Annexure I relating to the applicant's retirement on 31-8-90 and also direct the Opposite parties to follow the rules of the Railway Board as annexed at Annexure II, following the retirement age at 60 years, as given in the annexed annexure.

*Sub. W.H. M.*

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IX

Interim relief, if any, prayed for :

The applicant prays that the orders of his retirement on superannuation at the age of 58 years being patently wrong and illegal and against the directions of the Railway Board, they may be stayed till the disposal of the case.

X

That the application is being filed through the applicant's counsel.

XI

Postal Order No.02 467201 dated 11-8-90 for Rs.50 in favour of Central Administrative Tribunal, Allahabad is enclosed.

  
Applicant

Dated:

at Lucknow.

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VERIFICATION

I, Victor Singh, the above named applicant, do hereby verify that the contents and facts stated in the application are true to my knowledge except contents of para V which are based on legal advise and which are believed to be true.

Signed and verified this  
day of August, 1990.

  
Applicant.

ମହାଭାଗିତା

३४२/ निपटता / ऐति. नियुत्ता / १९९०

મહાત્મા પાયાતિય.

સંક્તા પ્રાયલિય  
લખાલા: ૩૫૦. ૧૪-૧૦-૪૭

मण्डल भारतीय । ८-१०-४७  
लखलऊ ३५० । ४-१०-४७  
गणकल लेजा अमिताली लखलऊ । गदियां शिला लपां यह व्यापार के  
कि इस व्यापार के लिये विद्युत लेजा व्यापार के लिये विद्युत लेजा व्यापार के  
से एहते व्यापार के ।  
यरिं गणकल लेजा अमिताली । ३०८० (लखलऊ प्रेस्याल) को सुधना एवं गतव्यय  
कार्यवाही हेतु ।  
महा प्रबन्ध शास्त्री । उत्तर रेत्तु लखलऊ ।  
१०-८-१०-४७

31- गुडा प्रबन्धालयात उत्तर ईतेहै ताफ- १००२०० लंब्धवलू पेट्ट्यालू को सूधना एवं गटवयु याफ.

48- 90 7-29. 100वी००४ दिनांक 21.10.84 दे. सनेही भू. सुविवारी।  
तज्जन्तु, महाराजा दे. दृष्टि० दिना. निरीधि० एवं दिना. निरीधि०

प्रबन्ध को आपरेटिव रोसाइटी के 19 ए विद्यालय एजामार्ट लिंक्ड को  
पूर्ववार्ष दें भी. ऐ क्या याते का रात्रि रक्षे कि विमनलिंगित संतान लुप्ती रो  
उत्तिलिंगित रैया विवृत्ति होने वाते कम्पवारियों के खिलाफ़ यदि नेंड लर्ज की  
वकाया राशि हो तो उत्तरी रुपवारेया विवृत्ति होने से पहले है उन्नेपारा  
कम्पवारियों लो उनकी रैया विवृत्ति का ग्रातार कर दिया बादेहा  
गणकल अक्षयन्ता वाराणसी यरिदर अपि  
जैनपुर लखनऊ की

6। उगानी ऐया विष्वित छोड़े के पहले है उन्हें उगानी की  
गणकल अनियन्ता वाराणसी विष्वित अनियन्ता उगानी के पहले है उन्हें उगानी  
गोदावरी लगानक फैजाबाद प्रापानगढ़ रायबरेली प्रपान तेजानक नो दूधता हुए  
वाह कृपाया इस बात फौसुनियत करें कि ऐया विष्वित होने वाले उन्हारी  
जिन्होंने फैजान विकल्प छाता फार्म सर दिया है उक्फी सेवा अनियन्ता हेड विष्विता  
होने के बाद के पहले हृप छातीय को उक्फी ऐया विष्विता गैर इटी फा  
रिकार्ड आदि पूर्ण फर्म छर इस अंगुराम को ऐया दिया जाता है 2  
अलीगढ़ लंडिन यहायक अलीगढ़ कानिक प्रगति लिपिया एवं सम्बन्धित  
तिपिक छातीय अंगुराम मण्डल कायलिय लगानक फौसुनियत किया जाता है कि  
ऐया विष्वित होने वाले नम्हारियाँ के ऐया विष्वित तिथि छाते विष्वित  
करें गैर प्रिय फिटिहो तो उसे तुरन्त योगित लरे 3  
सहायक वाणिज्य अलीगढ़ लगानक यह कृपाया यही सम्बन्धित अन्यारेयाँ के  
प्रिय रामप्रिया रामप्रिया यही फिटिया विवराणि को सम्प्र रहते हुये दुष्टां छाते 4  
प्रत्येक 5

1907 from copy  
W. H. Bishop

କିମ୍ବା ପୁଣି ମହାତମ ଶିଖିବେ ପ୍ରୟୋଗରେ

Gr. १०८०. / लंदन

卷之二

रायं स्त विष्णु निष्ठात् प्रथं गुलीवरणा समर्थ सेवा विष्णुत्तिः होमे वाते कर्मदारियोः। मध्य रुद्रं  
सेवा विष्णुत रुद्री छ प्रधार छ एवं सेवा विष्णुत्त छोमे वाते कर्मदारियोः। रुद्री विष्णुत  
रुद्रागा पट पर तंगा छ।

तेहुँ छारुप्य पूर्वित गो अपबा, रुद्रेयति रामेन्ट कार्य सर्वं लंते हैं अर्जीर उन्नेने  
अपबी यहाँ थी रामा विष्णुत सुधी वही भेजी है। यह अपने यहाँ के कर्मदारियों  
जिबका सेवा विष्णुत 1990 के अवधारित होला दे यह सर्वं सेवा विष्णुत होमे पाने  
कर्मदारियों दे विजय में उत्तर दायी होगे।

1970-1971  
Lorraine 1971  
Helen 1971

1.	2.	3.	4.	5.	6.
1. Sri Ram Pd.		Sri Sunder Lal	Gateman	CN	516817/38010
2. " Baboo.		" Ahmed Husain	Porter	SS / LKO	5230413
3. " Rama Kaot		" Parmeshwar Din	"	SS / LKO	521757
4. " Jafriul Saidkhan		" Mohd. Nabi Khan	Cabinman	SS/LKO	520416
5. " Pana Lal		" Bajudh	SWM	NSF	T300720
6. " Mohd. Farid		" Mohd. Hussain	"	B.P.T.	7513815
7. " Baldeo Raj		" Lala Ahant Ram	M/M an.	SS/BBK	T.297260/CS/155
8. " Jagdish Pd.	Srivastava	" Ambika Pd.	Free Service Clerk.	SS/LKO	
9. " R.K. Sirey		K.C. Sireu	IWT	LKO	28077/10P
10. " B.K. Banerjee		A.K. Banerjee	TC/III	LKO	514290
11. " G.R.Gupta.			Hd.Signaller	LKO	300896
12. " P.B. Bishwas			"	"	300891
13. " Ram Pyarry			"	"	
14. " Usman Ahmad			"	"	521124
15. " S.P. Gupta.			A.S.	DRM Office, LKO.	
16. " Bishwa Nath		Mangal Pd.	Hd.Clerk	-do-	
17. " Kalloo		Sri Durga	CM	LKO	
18. " Gokaran Pd.		" Gopati Pd.	"	TMS.	821138
19. " Tribeni Pd.		" Baljore	"	HCP	523000
20. " Satya Narain		" Purshottam Ram	"	SHG	301094
21. " Victor Singh.			Head Clerk	SWPR	523202
22. " C.B. Mathur			A.S.	Comm. Sec.	05030870
23. " Ayodhya Pd.			AYM	Optg.A/Cs.	05175446
24. " Sundaria		Jangali	S/W	LKO	
25. " Narain		Soember	Mate	ICW/Loco	57756/31063 511059/3P/38087

2 in free day

India Post Office, New Delhi

12/1

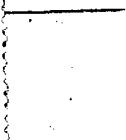
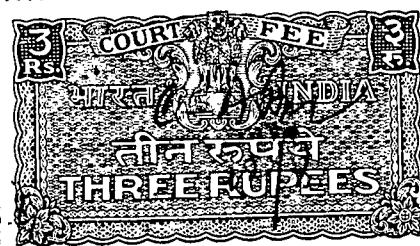
बदालत श्रीमान  
[वादी] अपीलान्ट

V. U. S. S.

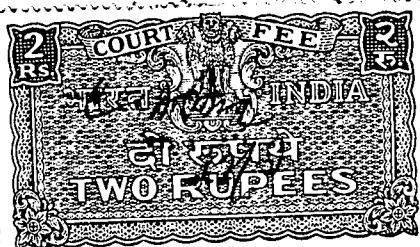
महोदय

मुकदमा नं.

प्रतिवादी [रेस्पान्डेन्ट]



(वादीअपीलान्ट)



बनाम

प्रतिवादी (रेस्पान्डेन्ट)

नं० मुकदमा सन्

पेशी को ता०

१९ ई०

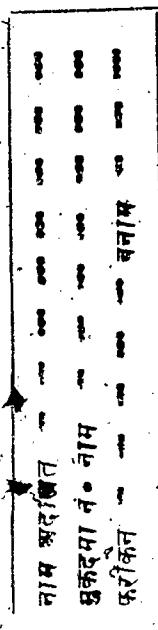
ऊपर लिखे मुकदमा में अपनी ओर से श्री

Shri C. A. Joshi, Barrister

Om Prakash Agrawal, Advocate

महोदय

एडवोकेट



को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया बद्धुल करें या सुलहनामा व इकबालदावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावे या कोई रुपया जमा करें या हमारी या विष्क्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवे या पंचनियुक्त करें वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वदा स्वीकार हैं और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या अपने किसी पैरोकार को भेजता रहूँगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलोक फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसीलिये यह वकालत नामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

Witness

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १९ ई०

स्वीकृत

In the Central Administrative Tribunal, Allahabad,  
Circuit Bench, Lucknow.

O.A. No. of 1990.

Victor Singh .. Applicant

Versus

Union of India and Another .. Opposite parties.

PAPER BOOK

S.No	Particulars	Page No.
1.	<u>Annexure A II</u> - Orders of the Railway Board.	13
2.	<u>Annexure A III</u> - Letter to DRM, Lucknow	14
3.	<u>Annexure A IV</u> - Reminder of the above letter to DRM and Rly. Minister.	15
4.	<u>Annexure A V</u> - Representation to the General Manager (P), New Delhi.	16
5.	<u>Annexure A VI</u> - Representation to the DRM, Lucknow to stay proposed order of super-annuation, dt. 12-8-90	17

(C. A. Basir)

Counsel for the applicant

Dated:

at Lucknow.

(iii) Railway servants in Class IV/Group 'D' service who prior to 1.12.62 were entitled to be on service upto the age of 60 years including the new entrants to those categories shall continue to serve upto the last day of the month in which he attains the age of 60 years.

(iv) Principals, Vice-Principals, School Teachers, Laboratory Assistants working in Railway Schools and Colleges shall retire from service on the afternoon of the last day of the month in which they attain the age of 60 years. In case the birthday falls on the first day of any month the retirement will take effect on the last of the previous month.

(R.B.'s Nos. E(P&A)I-82/RT-16 of 18.12.82, Sl. No. NRS206/ER 3/83/SE4/83 and E(P&A)I-83/RT-20 of 9.5.84, Sl. No. NR8508/SE113/84/ER50/84).

Q. 2. What are the records and rules to know that a railway servant is due to retire on superannuation on a particular date and how you may check irregular retention in service beyond the date of superannuation?

Ans. A Service register/record is maintained for all staff and as soon as a staff is appointed to a post his date of birth and other particulars about him are entered in such register/record. From this register/record it is known when such staff is due to attain the date of superannuation. Moreover, in every office/section of an office where establishment work on staff matters is done, a superannuation register has to be maintained, in which superannuation dates of all staff controlled by the office/section are maintained and from this record the officers/dealers in the office/sections can know from which date a staff is due to retire on superannuation. With a view to alert all concerned about the dates of superannuation of staff, the names of Group 'C' staff due to retire will be published 1 year in advance in Railway gazettes and in case of Group 'B' staff a notice to each individual will be issued 1 year in advance of the date of superannuation. As a further step to avoid irregular retention of staff in service, the officers/supervisory staff should be made responsible to keep a check on the entries in the Service Sheet of an individual staff working under them, every year in the month of January and bring out a list of such of the employees who are due superannuation during that year. This fact should invariably be brought to the notice of each employee and he should be asked to append his signature as a token of having been informed of his date of superannuation. These lists will be

\*If such notice (either through gazettes or in individual's name) is not issued, this will not confer any prescriptive right on the staff for retention in service. R.B.'s Nos. E(G)61/RT1-10 of 2.1.62, Sl. No. ER4783/SE/52/62 and E(W) 6SPFT of 4.6.55.

Copy to be given by  
[Signature]  
Copy

Expt B

The Divl. Railway Manager,  
Northern Railway,  
Lucknow.

Expt B

SIP,

Sub:- Retirement age upto sixty years.

With due regards and humble submission I beg to state the following few lines for your kind consideration and speedy action please:-

1. That I entered in the then East Indian Railway Services as Cleaner in Loco Shed on 9.8.1950 on Rs.27/- P.M. in grade Rs.30-/-35.

2. That the retirement list issued of the year where my name is borne in the retirement list in the month of August, 1990 at the age of 58 years which is arbitrary, illegal and breach of rule in terms of Railway Board's directives vide circular No. E(P&A)1-82/RM/16 of 18.12.82 Sl. No. NR 8206/ER3/83/SE4/83 and E(P&A)1-83/RM-28 of 9.5.84 Sl. No. NR8500/SE113/84/ER50/24 where it is clear indicative that a Rly. servant in class IV/Group 'D' Services who prior to 1.12.62 are entitled to be on service upto the age of 60 years including the new entrants to those categories shall continue to serve upto the last day of the month in which he attains the age of 60 years.

According to the above rule I am entitled to remain in service upto the age of 60 years and not 58 years as entered my name in the retirement list issued vide your No.342/Niptan/Seva Miyukt/1990, dt. 18.10.89.

In view of the above facts and circumstances, I pray your honour to kindly issue your orders for the undersigned services upto the age of 60 years in terms of Rly. Board's letters mentioned above and I be allowed to serve the Railway Administration till August, 1992 for which I shall be extremely obliged.

Yours faithfully,

Sd/-

( VICTOR SINGH )

Asstt. Supdt. (Commr),  
DRM Office, N.Rly., Lucknow.

Dated: 3.6.90.

- 1) Advance copy to the General Manager (P), N.Rly., Hd. Qrs. Office, Baroda House, New Delhi for information and necessary action.
- 2) Hon'ble Minister Railways, Rail Bhawan, New Delhi for information and necessary action please.

Victor Singh  
Expt B  
T. 2000  
M. 1000

( VICTOR SINGH )  
Asstt. Supdt. (Commr),  
DRM Office, N.Rly., Lucknow.

To,

The Minister (Railways),  
 Ministry of Railways,  
 Rail Bhawan,  
 NEW DELHI.

R2D

Sir,

Reg: Retirement age upto 60 years.

With due regards and humble submission I invite your attention to my representation dated 8.6.90 (copy attached for ready reference) in connection with the above in which I requested your honour to direct DRM N. Rly Lucknow to allow the undersigned to continue in service till August 92 in terms of Railway Board's directives under circular No. E(P & A)1-82/RT-16 of 18.12.82 sl. No. NR 8206/ER3/SE4/83 and E(P&A)1-83/RT-28 of 9.5.84 Sl. No. NR 8500/ SE 113/84/ER 50/84 where it is clear indicative that a Rly. Servant in Class IV Group 'D' Services who prior to 1.12.62 are entitled to be on service upto the age of 60 years including the new entrants to those categories shall continue to serve upto the last day of the month in which he attains the age of 60 years.

I entered in the then East Indian Railway Service in group 'D' category as cleaner in Loco Shed on 9.8.1950 on Rs. 27/- P.M. in grade Rs. 30- $\frac{1}{2}$ -35. In the Retirement list my date of retirement has been wrongly shown as 31.8.1990.

According to the above rule I am entitled to remain in service upto the age of 60 years i.e. upto August 1992.

I shall ever remain grateful and pray your honour to kindly issue your orders at the earliest in this matter.

Thanking you,

*Victor Singh*  
 (Victor Singh)  
 Asstt. Superintendent/Compt.  
 DRD Office, N. Rly.,  
 LUCKNOW.

Yours faithfully,

*Victor Singh*  
 (VICTOR SINGH)  
 Asstt. Superintendent/Compt.  
 DRD Office, N. Rly.,  
 LUCKNOW.

To,

The General Manager (personal),  
N. Rly Head Quarters Office,  
Baroda House,  
New Delhi.

Reg: Retirement age upto 60 years.

Sir,

With due respect and humble submission I invite your kind attention to my applications dated 8.6.90 and 15.7.90 in connection with the retirement age to which no decision on the matter has been received so far.

It is once again hereby stated that my name is shown in the retirement list in the month of August 1990 at the age of 58 years which is arbitrary, illegal and breach of rule in terms of Railway Board's directives vide circular No. E(P&A)1-82/RT-16 of 18.12.82 Sl. No. NR8206/ER3/83/SE4/83 and E(P&A)1-83/RT-20 of 9.5.84 Sl. No. NR 8508/SE113/84/ER50/84 where it is clear indicative that a Rly Servant in class IV/group 'D' services who prior to 1.12.62 are entitled to be on service upto the age of 60 years including the new entrants to those categories shall continue, to serve upto the last day of the month in which he attains the age of 60 years.

I entered in the then East Indian Railway services in class IV/group 'D' as cleaner in Loco Shed on 9.8.1950 on Rs. 27/- P.M. in grade Rs. 30- $\frac{1}{2}$ -35.

In the light of the above rule I am entitled to remain in service upto the age of 60 years and not 58 years i.e. upto August 1992.

I shall therefore, request and pray to your honour to kindly issue necessary orders at the earliest to save me from the hardships.

Thanking you,

Yours faithfully,

*Victor Singh*  
13/8/90

(VICTOR SINGH)  
Asstt. Supdt./Comml.  
DRM OFFICE N. RLY. LUCKNOW

Copy forwarded to:-

i) The Minister-Railways, Rail Bhawan New Delhi. I most humbly invite your honour's attention to my applications dated 8.6.90 and 15.7.90 and pray for kind intervention and issue orders for allowing me to serve the Rly. administration upto August 1992 in the light of Rly Board's aforesaid directives.

Thanking you,

ii) The DRM ". Rly Lucknow. Will be please also see my above noted applications and favour me with his orders at the earliest in the matter.

*Victor Singh*

Asstt. Supdt./Comml.

DRM Office-Lucknow

*Copy forwarded  
to DRM*

R20

Registered.

To,

The DRM,  
Northern Railway,  
Hazratganj,  
Lucknow.

Sir,

Sub: Retirement age upto 60 years.

Your kind attention is invited to my representations dated 8-6-90, 15-7-90 and 3-8-90 regarding my retirement notice at the age of 58 years. In terms of circulars quoted in these representations of the Railway Board, my age of superannuation is 60 years.

I therefore request you to please recall the notice of retirement on 31-8-90, which is illegal and against the instructions of the Railway Board.

It is further requested that pending final orders, you may be pleased to stay the orders of retirement keeping them in abeyance till further orders.

Thanking you,

Yours faithfully,

  
(Victor Singh)

Asstt. Superintendent Commr.  
DRM Office,  
N. Railway, Lucknow.

Dated: 12-8-90

(B3)

दीमा नहीं/NOT INSURED

लगाये गये डाक टिकटों का मूल्य रु० १० पै०  
Amount of stamps affixed Rs. 10/-

क्रमांक/No.

614

एक रजिस्ट्री\* प्राप्त किया  
Received a Registered\*

पाने वाले का नाम

तारीख/Date

Date/Stamp

Addressed to.....

A. R. H. A. D. I. C. C.

पाने वाले अधिकारी के हस्ताक्षर  
Signature of Receiving Officer

दीमा नहीं/NOT INSURED

लगाये गये डाक टिकटों का मूल्य रु० १० पै०  
Amount of stamps affixed Rs. 10/-

क्रमांक/No.

615

एक रजिस्ट्री\* प्राप्त किया  
Received a Registered\*

पाने वाले का नाम

तारीख/Date

Date/Stamp

Addressed to.....

George F. A. D. I. C. C.

पाने वाले अधिकारी के हस्ताक्षर  
Signature of Receiving Officer

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW.

Civil Misc Petition No. 419 of 1991 (LD)

In Re.

Registration (O.A.) No. 255 of 1990 (L)

Victor Singh ..... Applicant.

Versus

Union of India and Others ..... Respondents.

Exfor-25-7-91

APPLICATION FOR CONDONATION OF DELAY IN FILING

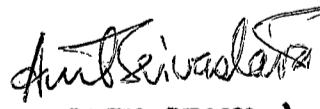
COUNTER REPLY.

That delay in filing counter reply is not intentional or deliberate but due to administrative and bonafide reasons, which deserves to be condoned.

P R A Y E R

Wherefore, it is most respectfully prayed that in the interest of justice, delay in filing reply may be taken on record, ~~acknowledged~~.

Lucknow.  
Dated: 25-2-1991

  
( ANIL SRIVASTAVA )  
ADVOCATE

Counsel for Respondents.

RB

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

O.A. NO. 255 of 1990

Victor Singh

Applicant.

...

Versus

Union of India & others. ....

Opp. Parties.

COUNTER REPLY

I, P. N. Tripathi working as ASSISTANT  
Personnel officer in the office of Divisional  
Railway Manager (Lit.), Northern Railway, Lucknow,  
do hereby solemnly affirm and state as under :-

1. That the official abovenamed is working in the office of Divisional Railway Manager (Lit.), Northern Railway, Lucknow and has gone through the averments made in application. He is fully conversant with the fact and circumstances of the case. Also he has been authorised on behalf of opposite parties to answer.

1177  
RECEIVED  
31/8/90

Contd...2

2. That the contents of para I to III of the Original Application do not call for any comments.

That the reply of the contents of para IV of the original application is given as under :-

3. That in reply to the contents of para IV (1) of the original application, it is submitted that applicant was initially appointed as cleaner w.e.f. 9.8.50 in the grade of Rs.20<sup>1</sup>/<sub>2</sub> to 35 and was fixed @ Rs.27/- per month w.e.f. 9.8.50.

4. That in reply to the contents of para IV(2) of the original application it is submitted that post of Assistant Superintendent/~~selection~~ commercial is a selection post. Therefore selection is made through a process of written test followed by viva voce. It is further submitted that applicant was promoted as Assistant Superintendent in grade of Rs.1600-2600 (RPS) on the basis of seniority-cum-suitability, with the condition, till the finalisation of selection of Assistant Superintendent & Grade but applicant retired before the finalisation of selection.

Contd...3

5. That the contents of para IV(3) of the original application are admitted.

6. That the contents of para IV(4) of the original application are misleading and as such denied. It is submitted that case of the applicant, is not covered by the provisions of circular quoted. It is stated that applicant, was appointed as cleaner in class IV and he was working as Assistant. Superintendent in Grade Rs.1600-2600 (RPS) before his retirement, meaning thereby, he was availing some pay scale and other benefits as such he was retired also under extenuating orders applicable to ministerial class III cadre.

7. That the contents of para IV(5) of the original application submitted that expression are misleading and as such denied. It is submitted that provisions of circular quoted in the para are not applicable in the case of the applicant. Therefore applicant has been retired on attainment of age of 58 years correctly.

Contd...4



ग्रामिक अधिकारी  
लखर रेस्टो. लखर

ASB

8. That the contents of para IV(6) of the original application are wrong and as such denied. It is further submitted that applicant has been retired according to provisions of circular applicable to the category of applicant.

9. That in reply to the contents of para IV(7) of the original application it is submitted that applicant's case is not covered under the provisions of circular stated here in the application. It is further stated that Supreme Court in the case of Navnit Lal Mani Lal Bhat Vs. Union of India has discussed the age of retirement of Ministerial and nonministerial staff who originally belonged to Ex-Railways or Ex ~~xxx~~ State Railways. Applicability of Rule 2046 RII. Also copy of Railway Board's Letter No. E(P&A) I-72/RT2 dated 17.9.76 is being filed herewith as Annexure No. C<sub>1</sub> to present counter reply.

10. That the grounds taken ~~xxx~~ are false, ~~mistaken~~ conceived, irrelevant, inconsistent and not applicable to instant case of applicant and as

Contd....5

प्रदीप शर्मा अधिकारी  
चित्र रेखा. रामकृष्ण

Copy of Rly. Board's letter No. E.(P&A)I-72/RT/2 dated 17/9/76.

Sub :—Supreme Court Judgement dated 7/3/73 in Civil Appeal No. 27 of 1970-Navnit Lal Mani Lal Bhat Vs. Union of India-age of retirement of Railway employees who originally belonged to Ex. Railways or Ex. State Railways-Applicability of Rule 2046-R.II them.

In the above judgement the Supreme Court struck down Railway Board's ministerial category, was directed to be retired on attaining the age of 55 years. letter No. PC-62/RT-I dated 26/4/1963 following their earlier judgement had entered the service of the BB&CI Railway on 30/11/29. The age of Pitchumani's case. Attention in this connection is invited to Railway Board's judgement in Ex. State Railways or Ex. State Railways-Applicability of Rule 2046-R.II them.

2. The admitted facts in Pitchumani's case were that Sh. Pitchumani had his permanent post in the Company on March 31 1938, that under the service conditions applicable to him when he was an employee of the Company he had the right to continue in service till he attained the age of 60 years, that on the other hand under the service conditions of the Company he had to retire at the age of 55 years and that all the same under the new Rule amending Rule 2046-R.II on Jan. 11 1967, as a railway servant belonging to the ministerial category Navnit Lal Mani Lal Bhat Pending before courts of law, the same should be entitled to continue in service till he attained the age of 60 years. Shri Pitchumani's right to continue in service till he attained the age of 60 years was sought to be interfered with by the new Note to Clause (b) of Rule 2046-R.II substituted on Dec. 23, 1967. This new Note had the effect of retiring Shri Pitchumani from service on the date he would be attaining the age of 58 years. This was because on 5/12/62 the Railway Board had raised the age of compulsory retirement of Railway servants to 58 subject to the exception mentioned in the relevant order. He challenged the legality and validity of the order retiring him from service on the date he would be attaining the age of 58 years. The Supreme Court held that once the employees of Ex. Co. R.II had taken up service under the Railway Administration similar to Clause (b) of Rule 2046-R.II

will be classified separately from the other employees of the Indian Railways. In this view the Supreme Court struck down the new Note. The new Note required the rules of the Company or the State to have a provision similar to Clause (b) of Rule 2046-R.II.

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ii. Navnit Lal Mani Lal Bhat's case the Railway servant who was an Ex. Company employee belonging to the BB&CI Rly. Co. and belonged to non-ministerial category, was directed to be retired on attaining the age of 55 years. On the basis of Railway Board's letter No. PC-62/RT-I dated 26/4/63, Shri Navnit Lal Mani Lal Bhat was asked to retire on attaining the age of 55 years on the basis of Railway Board's letter No. PC-62/RT-I dated 26/4/63.

Accordingly, the Ministry of Railway have, with the approval of the President, decided that the instructions contained in their letter No. PC-62/RT-I dated 26/4/63 should be superseded, if there are any cases similar to that of Shri Pitchumani's case. Pending before courts of law, the same should be dealt within the light of the above decision after taking due legal advice and consulting with the Law Officer, and taking into account the instructions contained in the Board's letter of 10/1/72 referred to earlier.

The position in regard to the age of retirement of all former provincial Govt. ex. State and Ex. Company Railway employees both Ministerial and Non-Ministerial is, therefore, now as follows :—

(i) All former provincial Govt. Ex. State and Ex. Company employees who fulfil the conditions prescribed in clause (b) of Rule 2046-R.II will retire at the age of 60 years irrespective of whether they are

1. Navnit Lal Mani Lal Bhat's case the Railway servant who was an Ex. Company employee belonging to the BB&CI Rly. Co. and belonged to non-ministerial category, was directed to be retired on attaining the age of 55 years. On the basis of Railway Board's letter No. PC-62/RT-I dated 26/4/63, Shri Navnit Lal Mani Lal Bhat was asked to retire on attaining the age of 55 years on the basis of Railway Board's letter No. PC-62/RT-I dated 26/4/63.

governed by the pre-absorption terms and conditions or by Indian Railway Rules.

(ii) All other former Provincial Govt. ex-Company and ex-State employees will retire at the age of 58 years under clause (a) of Rule R-II irrespective of whether they are governed by the pre-absorption terms and conditions or by Indian Government Railway Rules.

#### NON-MINISTERIAL

All former provincial Govt. Ex-Company/Ex-State Railway employees shall retire at the age of 58 years under clause 'a' of rule 2046-ZII irrespective of whether they have retained the pre-absorption terms and conditions or come over to the Indian Railway rules.

P. S. No. 6638

No. 381 E/1-IV(EVI) date 10.1.1976

A copy of Railway Bd's L/No. E(LL) 76AT/ID/1-3 dt. 27.4.1976 is forwarded herewith alongwith its enclosures for information & necessary action.

Copy of Railway Board's L/No. E(LL) 76AT/ID-1-3, dt. 27.4.1976

Sub :- Industrial Disputes Act, 1947-Amendment thereof-introduction of new Chapter VB regarding special provisions relating to lay-off, retrenchment and closure in certain establishments.

The Industrial Disputes Act, 1947 has been amended by the amendment Act No. 32 of 1976 which has since been notified in the Gazette of India on 25th March 1976. The amendment Act, 1947 (14 of 1947) the Central Government, being the appropriate Government, hereby specifies the Chief Labour Commissioner (Central) for the purposes of the said sections.

than 300 workmen (other than a Badli workman or a casual workman) quite number of the Amending Act may be purchased from the market.

The undermentioned notifications issued by the Ministry of Labour have been put into effect to provisions of the Amending Act No. 32 of 1976 are enclosed for information and guidance :

(i) No. S. 65017/1/76/D.IA, dated 5.3.1976.

(ii) No. S. 11013/1/76/D.IA (i), dt. 5.3.1976.

(iii) No. S. 11013/1/76/D.IA (ii), dt. 5.3.1976.

In so far as the Railways are concerned, only factory establishments as mentioned in clause (m) of Section 2 of the Factories Act, 1948, in which not less than three hundred workmen were employed on an average per working day in the preceding twelve months are covered by the special provisions of the Amending Act. The Railway Board desire that necessary steps should be taken to ensure that the provisions of aforesaid Amending Act and the Rules framed thereunder by the Central Government are, wherever necessary, complied with by the authorities concerned in cases of lay off, retrenchment of workmen of a factory employing 300 or more workmen and also for any closure of such an establishment.

Government of India

Ministry of Labour

New Delhi, dated the 5th March 1976

#### NOTIFICATION

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

fixed for 21/2

O.A. No. 255 of 1990

Victor Singh ....Applicant

Versus

Union of India and Others....Opposite Parties

Rejoinder in reply to the counter filed on  
behalf of Opposite Parties.

I, Victor Singh, the applicant in the above noted case beg to state that the applicant has read the counter and in reply to the same, begs to submit as under:

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

2) That ~~in~~ paras 1 to 3 of the counter need no reply as contents of these paras ~~or~~ in reply to the application have been admitted by the Opposite parties.

Victor Singh

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3) That averments made in para 3 of the counter in reply to para IV(1) of the application need no reply.

4) That averments made in reply to para IV(2) of the application are not admitted as stated in para 4 of the counter. The applicant was promoted as Assistant Supdnt. Commercial on the basis of seniority cum suitability, the post being ministerial post and being purely clerical. The applicant was retired from this post illegally at the age of 58 years as he, by virtue of his being a ministerial staff, had the right to continue in service upto the age of 60 years.

5) That averments made in para 5 of the counter in reply to para IV(3) of the application need no reply except this that the applicant was retired illegally on reaching the age of 58 years whereas he had the right to continue upto the age of 60 years, he being a

*Vidhan Singh*

*Ab*

railway company staff and a ministerial staff at the time of retirement.

6) That averments made in para 6 of the counter in reply to para IV(4) of the application are not admitted as stated.

The applicant was appointed as a cleaner in Class IV service in erstwhile E.I. Railway Company in 1950 which was taken over by the Government of India in 1952.

The provisions governing his terms and conditions are contained in Indian Railway Establishment Code, Volume II,

Annexure R-1, Rule 2046 (FR 56), 1951

edition, which provides that in Rule 2 B-(2)

" A ministerial staff who has entered government service on or after 1st April 1938 or (ii) not concerned .....

shall ordinarily be required to retire at the age of 55 years. He must not be retained after that age except on public grounds, which must be recorded in writing and with the sanction of the competent authority,

*Vilas Singh*

*VR*

and he must not be retained after the age of 60 years except in very special circumstances."

Ministerial servant has also been defined in para 17 of Rule 2003 of the Establishment Code, Volume II, means -

" A railway servant of a subordinate service whose duties are entirely clerical and in any other class of servants specially defined as such by a general or special order of a competent authority."

The applicant is thus fully covered by these rules as a railway company staff who entered government of India railway service in 1952 after it's taking over from the E.I.Railway company in whose service he had entered after 1938 and thus had a right to continue upto the age of 60 years, he being a ministerial staff. It may be stated here specifically that service conditions of company staff taken over by Central Government with specific assurance that service conditions of the company employees will not be

(2)

*W. D. Singh*

adversely affected. Thus, as the applicant is fully governed and covered by these assurances and rules, his retirement at the age of 58 years like others, is illegal and ultravires. It has been held in many cases of the Hon'ble High Court and Supreme Court that when the government takes over ~~any~~ private company, and gives such type of assurance, it is but fair that government should honour the same. The applicant being a ministerial servant and being a ministerial government servant at the time of retirement, therefore the date on which he claims the benefit of 60 years, is legally due to him.

It may be stated here that vide their letter dated 5-12-62, the age of retirement of railway servants was raised from 55 to 58 years but this was subject to restrictions regarding the continuance of a ministerial servant after 55 years upto the age of 60 years as provided for under subclause (b) of Clause (2) of Rule 2046.

7) That the averments made in para 7 of the counter in reply to para IV(5) of the application are not admitted as stated and those made in preceedings paras of the rejoinder are correct and those made in para IV(5) of the application are correct.

*Verifying*

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the benefit of retirement at the age of  
who was a ministerial staff and was given

applicant was an ex company staff and  
liedt of Pitchumani's case. There also, the  
pleased to dispose off this case in the  
case and the Hon'ble Supreme Court were  
Annexure C-1 is the copy of the Bhat's  
A. Pitchumani, AIR 1972 SC Page 305.

Court in re Railway Board and another  
was placed by the Hon'ble ~~Max~~ Supreme  
Treasus Union of India wherein reliaone  
case of Navneet Lal Mani Lal Bhat  
Supreme Court in Annexure C-1 in the  
parties have quoted judgment of the  
are reiterated to be correct. The Opposite  
as stated and those made in para IV(7)  
of the application are not admitted as  
9 of the counter in reply to para IV(7)  
That averments made in para  
(9)

are reiterated to be correct.  
as stated and those made in para IV(6)  
of the application are not admitted as  
8 of the counter in reply to para IV(6)  
That averments made in para  
(8)

60 years.

The circular of the Railway Board (Annexure C-1) filed by the Opposite parties is very clear and specific. This circular provides about ministerial staff and non ministerial staff vis a vis the age of retirement. This circular provides with regard to ministerial servant as under:

" All former provincial government ex state and ex company employees who fulfill the conditions prescribed in Clause B of Rule 2046 R 2 will retire at the age of 60 years irrespective of whether they are governed by pre absorption terms and conditions or by government railway rules."

The applicant being a ministerial staff and ex company railway staff is fully covered by the Supreme Court ruling in Pitchumani's case and in the circular, Annexure C-1.

*V. M. Singh*

10) That averments made in para 10 of the counter in reply to para ~~XXXV~~ V of the application are not admitted as stated. The grounds taken in para V are on the interpretation of Rule 2046 as stated in preceding ~~in~~ para are perfectly legal and valid.

11) That ~~in~~ averments made in para 11 of the counter in reply to para VI of the application are wrong and false and hence denied. Registered notices were sent and reminders also were sent to the Opposite parties and the registration postal receipts are being filed as Annexures R2 and R3.

12) That averments made in para 12 of the counter are not admitted and in view of submissions made in the preceding paras and in view of the law laid down by the Hon'ble Supreme Court, it is submitted that the applicant is entitled to continue upto the age of 60 years, with all consequential benefits.

Wdrlngt

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*Victor Singh*

Dated: 10/4/49

Applicant

at Lucknow.

VERIFICATION

I, Victor Singh, the applicant  
in this case, do hereby verify that  
submissions made in paras 1 to 12 of this  
rejoinder are correct to the best of my  
knowledge and on the basis of record and  
legal advise.

Dated: 10/2

Applicant

at Lucknow.

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or suspended and, by an order to be separately recorded, any allowance of which he was in receipt prior to his dismissal, removal or suspension ; or

✓ (b) if otherwise, such proportion of such pay and allowances as the revising or appellate authority may prescribe.

In a case falling under clause (a), the period of absence from duty will be treated as a period spent on duty. In a case falling under clause (b), it will not be treated as a period spent on duty unless the revising or appellate authority so direct.

**2045. [F. R. 55.] Leave under Suspension.**—Leave may not be granted to a railway servant at a time when he is under suspension.

### COMPULSORY RETIREMENT

**2046. [F. R. 56.]** (1) Except as otherwise provided in the other clauses of this rule the date of compulsory retirement of a railway servant, other than a ministerial servant, is the date on which he attains the age of 55 years. He may be retained in service after the date of compulsory retirement with the sanction of the competent authority on public grounds, which must be recorded in writing, but he must not be retained after the age of 60 years except in very special circumstances.

(2) (a) A ministerial servant, who is not governed by sub-clause (b), may be required to retire at the age of 55 years, but should ordinarily be retained in service, if he continues efficient up to the age of 60 years. He must not be retained after that age except in very special circumstances, which must be recorded in writing, and with the sanction of the competent authority.

Note.—The ministerial staff in the offices of the Railway Board, the Chief Controller of Standardization and the Chief Mining Engineer, coming under the above sub-clause shall be required to retire at the age of 56 years.

(b) A ministerial servant—

(i) who has entered Government service on or after the 1st April 1938, or

(ii) who being in Government service on the 31st March 1938 did not hold a lien or a suspended lien on a permanent post on that date,

shall ordinarily be required to retire at the age of 55 years. He must not be retained after that age except on public grounds which must be recorded in writing, and with the sanction of the competent authority and he must not be retained after the age of 60 years except in very special circumstances.

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

M.P. No. 106/91 (L),  
O.A. No. 255 of 1990.

R.G.P.

Victor Singh ... Applicant

Versus

Union of India and Others ... Opposite Parties.

Misc. Application No. of 1991.

Application under Section 151 C.P.C.

The applicant respectfully submits:

*Reed duplicate  
from Divash  
5/3/91*

1) That the applicant had filed an application which was numbered as above against wrong and illegal notice of retirement of applicant with effect from 31-8-90 on reaching age of 58 years by opposite party No. 2.

*Filed today  
5/3/91*

The applicant being an ex-company staff and holding a ministerial post i.e. Assistant Office Supdnt. (Commercial) on 31-8-90 had a right to continue in service till 60 years of age.

*W.M.J.*  
*102*

2) That applicant represented to Opposite Parties No. 1 and 2 and to the Railway Board

ASY

quoting rules and rulings and praying for the issue of orders for allowing the applicant to continue in service upto the age of 60 years but received no reply. (Annexure 3,4,5 and 6 of the application.)

3) That the applicant requested the Opposite Party No.2 to be pleased to recall the order of the applicant's retirement which is illegal and a request was also made to stay the issue of the order of retirement and keeping them in abeyance pending disposal of appeal. However, it was not even acknowledged. vide Annexure A-6.

4) That the applicant moved this application before the Hon'ble Court, which was admitted on 29-8-90. However, on the prayer of the applicant for interim stay, Hon'ble Court was pleased to order for issue of show-cause notice to opposite parties as to why the interim order prayed for may not be granted and 16-11-90 was the date fixed. No reply was filed and thereafter, 19-12-90 was fixed and even on this date too, no reply was filed by the opposite parties. The case is now fixed today.

W.D.  
ASY

for orders.

5) That there are decisions of the Hon'ble Supreme Court, Hon'ble Allahabad High Court, Hon'ble Madras High Court that the age of retirement of ex-company staff and ministerial staff to be 60 years and in some of these decided cases, interim stay was also granted in these cases.

6) That as the departmental appeal was pending against orders of retirement before the opposite parties, and a prayer was made for a stay of ~~exec~~ operations and implementation of the order of retirement and opposite parties despite having quasi judicial powers, the opposite parties should have stayed the order of retirement pending disposal of appeal which they failed to do. On a similar issue, the Hon'ble CAT, Madras were pleased to order stay pending disposal of appeal where the Railway authorities did not take any decision on the prayer for stay.

*V. M. S.*  
V.M.S.  
It is therefore prayed that the Hon'ble Court may be pleased to allow the

AS/

application and order that operation and  
implementation of the order of retirement  
passed by Opposite Party No.2 dated 2-8-90  
be stayed ordering status-quo-ante as on  
30-8-90.

  
Applicant

Dated: 5-3-91.

at Lucknow.