

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ~~Lucknow~~ BENCHOA/TA/RA/CP/MA/PT 255 of 20-90Victor Singh Applicant(S)

Versus

U.O.I & mother Respondent(S)

INDEX SHEET

| Serial No. | DESCRIPTION OF DOCUMENTS | PAGE |
|------------|---------------------------------------|----------|
| ① | Check List | 1 to 2 |
| ② | order sheet | 3 to 4 |
| ③ | Final Judgment dt. 25.6.92 | 5 to 9 |
| ④ | copy of petition with Annexure No.1. | 10 to 23 |
| ⑤ | Vakalatnama | 24 |
| ⑥ | comp. II Annexure 2 to 6 | 25 to 31 |
| ⑦ | M.P. 419/91 (condn. of delay) in C.A. | 32 |
| ⑧ | C.A. | 33 to 39 |
| ⑨ | R.A. | 40 to 49 |
| ⑩ | M.P. No. 106/91 | 50 to 53 |
| | | |
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Certified that the file is complete in all respects.

B & C file weeded out & destroyed. 29.6.12

Signature of S.O. 02/7/12

Signature of Deal. Hand

Central Administrative Tribunal
Lucknow Bench

Cause Title CA 255/90 of 1993

Name of the Parties

Victor Singh

Applicant

V e r s u s

Union of India

Respondents.

Part A. P.C.

Sl. No.

Description of documents

Page

1.

Check List

A1 - A2

2.

Order Sheet.

A3 - A4

3.

Judgement. 25/6/92.

A5 - A9

4.

Petition Copy

A10 - A23

5.

Annexure

A25 - A31

6.

Power

A24

7.

Counter Affidavit.

A32 - A39

8.

Rejoinder Affidavit.

A40 - A49

M.P. 106/91

A50 - A53

B - File

B - File B54 - B96

C - File C97 - C99

(AT)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 255 of 1989

APPLICANT(S) Victor Singh

RESPONDENT(S) D. C. A.

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

| <u>Particulars to be Examined</u> | <u>Endorsement as to result of examination</u> |
|---|--|
| 11. Are the application/duplicate copy/spare copies signed ? | yes |
| 12. Are extra copies of the application with Annexures filed ? | yes |
| a) Identical with the Original ? | yes |
| b) Defective ? | x |
| c) Missing in Annexures | |
| Nos. _____ pages Nos _____ ? | |
| 13. Have the file size envelopes bearing full addresses of the respondents been filed ? | N.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 ? | |
| b) Under distinct heads ? | |
| c) Numbered consecutively | |
| 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/

sent
7/8

(A3)

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/

Notices served
12-9-90

②

16.11.90

No sitting day to 17.12.90. On 12.9.90

Notices were issued

③

1.12.90

No sitting day to 6.3.91.

④

Neither reply nor any unsigned reply has been returned by S.F.H.

④ 6/3/91

Hon. Mr. Justice K. Math, Jr.
Hon. Mr. A.B. Gupta, J.M.

Shri Anil 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 rejoinders within one week thereafter. List for final decree on 17/4/91.

Am

V.C.

13/11/90

18.4.91

No sitting day to 25.7.91.

No CA filed
S.F.H.

24/11

AW

GA255/90L

21.2.92

No setting of D.B. adjorm to
20.4.92

20.4.92

No setting adj to 25.6.92

2

on
CA, RA have been
exchanged
Coke is ready
for hearing
S10H
23/6/92

(17)

THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

O.A. 255/90

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 Navneetlal Manilal Bhatt Vs. U.O.I. decided by the Supreme Court

(476)

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's

(46)

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

(42)

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 BB & 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."

(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.

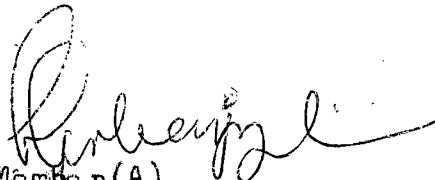
Non Ministerial

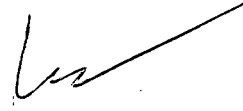
"All former provincial Govt. Ex-Company/ Ex-State Railway employees shall retire at the age of 58 years under clause (a) of Rule 2046 R-II irrespective of whether they have retained the pre-absorption terms and conditions or come over to the Indian Railway Rules.

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 respondents 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 Maniia 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

(22)

2 months. No order as to be costs.


Member (A)


Vice Chairman

smc

Lucknow
dt.25.6.92

A10

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

Original Application No. 288 of 1990. (L)

Central Administrative Tribunal

Circuit Bench, Lucknow

Date of Filing 17/8/90

Victor Singh

... Applicant Date of Receipt by Post.....

Versus

21/8
Deputy Registrar(J)

Union of India and Another ... Opposite Parties

52/17/8

INDEX

| S.No. | Particulars | Page No. |
|-------|--------------------------------------|----------|
| 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.

Filed today
17/8/90
noted for 29/8.

C.A. Basir
A1V

(AM)

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

O.A. No. 255 of 1990. (2)

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

can file

A12

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

Handwritten signature

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

for info

(A) 1/4

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:

2/1/1961

(A/S)

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 provision of Article 309 of the Constitution of India, empowers the Railway Board to make rules of general application to non-gazetted railway servants under its control. Thus, all rules &

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(416)

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 ~~an~~ 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~~ 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)

is misg.

412

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.

for holding

(A18)

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~~ pending final orders, dated 12-8-90
-- Annexure VI.

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

VIII Relief sought:

In view of the facts stated in
preceeding 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.

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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.

A20

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.

10/342/निपटता / लेट निपटता / 1990

मुद्रा पत्रांत

ਲਖਣਕ: ੧੮-੧੦-੮੭

मण्डल कार्यालय
लखनऊ दि० १४-१०-८९
परि० मण्डल लेखा अधिकारी लखनऊ। तद्विषय निम्न। उपर्या यह प्यास है
कि इस वसंतारयो का कार्य विषय निम्न का लेखा पोसा निम्नस्त दाने का तारिख
से पहले तैयार होना।
परि० मण्डल लेखा अधिकारी / उ०२० /
कार्यवाही है।

21- वरिष्ठ गण्डत लेजिस्लेशन ऑफिसर / उ०रे० / तहसील / पेट्याना को सूचना एवं आवश्यक कार्यवाही हेतु ।
22- महा प्रबन्धक, ग०। उत्तर देतये तहसील

महत्वाकांक्षी है। १००००० / ३००० / लखनऊ / पेट्रोल को सूचना एवं आवश्यक
महत्वाकांक्षी है। १००००० / ३००० / लखनऊ / पेट्रोल को सूचना एवं आवश्यक
१० ७-३/२९ ॥ १००००० / ३००० / लखनऊ / पेट्रोल को सूचना एवं आवश्यक
लखनऊ मण्डल के दफ्तर २१.१०.८४ के सन्दर्भ में सूचनाएं।
कार्यवाही हेतु। १००००० / ३००० / लखनऊ / पेट्रोल को सूचना एवं आवश्यक

90 7-इ/29 1 इंडीया 10 एं० दिनांक 21.10.84 के सन्दर्भ में सूचनाएं ।
तबलक मण्डल के धरि 0 हित निरीक्षण एवं हित निरीक्षणों को, सूचना एवं आवश्यक
कार्यवाही हेतु । यह ध्यान इस बात को दिया रहे कि स० अस्मिता एवं बाहर
के अन्य कार्यालयों से जो कि सेवा पंजिका पंजिका, छुट्टी का रिकार्ड अनुरोध
करते हैं वे कमचारियों की सेवा विवृत्त होते से, पहले सारी आवश्यक कार्यवाही
करते हुए सेवा पंजिका और छुट्टी का रिकार्ड तैयार कराके सेवा विवृत्त
मंत्रालय पहले से प्राप्त हो गये हों इस बात का धी ध्यान रहे कि कमचारियों
के पेशवा विवृत्त सेवा पंजिकाओं में संलग्न है और इस आशय की सेवा पंजिकाओं
में प्रविष्टियां कर दी गयी है ।
प्रबन्ध को आपसे रिपोर्ट

प्रबन्ध को आपरेटिव सोसाइटी रैंक 19 ए लिफाफे सजा मार्ग लखनऊ को
सूचनाएं दें कि ये इस बात का ध्यान रखें कि निम्नलिखित संतर्भ सूची में
उल्लिखित सेवा नियुक्त होने वाले कर्मचारियों के खिलाफ यदि कोई कर्म की
वकाया राशि हो तो उसकी सूचना सेवा नियुक्त होने से पहले दें अन्यथा
कर्मचारियों को उनकी सेवा नियुक्ति का मुताबक कर दिया जावेगा
गण्डल अनियन्ता / वाराणसी परिष्ठ अनियन्ता
जौनपुर लखनऊ केन्द्र

अन्यथा अतिशयता / वाराणसी परिसर अतिशयता से राजमऊ, राधापट्ट अतिशयता
जो नपुर लखनऊ के आलाह, प्रतापगढ़, राधापट्ट, प्रताप, लखनऊ के
अतिशयता से राजमऊ, राधापट्ट अतिशयता

जौनपुर लखनऊ फैजाबाद, प्रतापगढ़, रायबरेली, प्रयाग, लखनऊ, को रुखता हेतु यह कृपाया इस बात को सुनिश्चित करेगे कि सेवा विधुत होते याते अव्यवहारी निवृत्त होवे पेंशन विकल्प का फार्म भर दिया है उनकी सेवा पंजिका देना विधुत होने के 6 माह के पहले इस कार्यलय को उनकी सेवा पंजिका और स्टडी का रिपोर्ट आदि पूर्ण करा कर इस अनुभाग को भेज दिया जाता है 2 एजीएनक 1 कर्मिक 1 सहायक एजीएनक कार्मिक प्रमाण लिपिक एवं सम्बन्धित लिपिक कार्मिक अनुभाग मण्डल कार्यालय लखनऊ भेजे जायेंगे

रिपोर्ट आदि पूर्ण करा कर इस अनुभाग को रज दिया जाता है 2
लिपिक कार्मिक अनुभाग सहायक अजीलक कार्मिक प्रमाण लिपिक एवं सम्बन्धित
सेवा निवृत्त होवे वाते कर्मचारियों के सेवा निवृत्ति तिथि का न्वय करें
और यदि प्रटिहो तो उसे तुरन्त सूचित करें

एर और यदि प्रटिहो तो उसे तुरन्त सूचित करें

सहायक वाणिज्य अमीन / सहायक यश दूपाया सरी सम्बन्धित कर्मचारियों के

जिज्य सम्बन्धित सरी किया जागराणि को समय रहते हुये बुकता आते की

आवे 1

2nd 1000 from copy
 Apr 1979

कार्मिक शाखा के विभिन्न अनुभाग के प्रचारियों, यह सूट करा कि ए
1990-1990 विवृति के अन्तर्गत जाने वाले सभी कार्यवाहियों की पुस्तिकाएँ सेवा
निवृत्ति होते इस के तीस गणों में पूर्व गरिबी गण्डन तथा अपिनारी / लघुमऊ को सत्यापन
होने पर ही केज दिये जाने चाहिए। प्रमाण दियेगों के अन्तर्गत विवृति होने वाले
कार्यवाहियों को रोजगार क्षीक 1 विक्टर को सुरक्षा के सेवा विवृति वगैरे कि ऐसे तय
समय में 15 गहीन पूर्व कार्यवाही की जाती होती है सेवा निवृत्ति होने वालों की
सूची में जोपंजन तेरे वालों को दर्शाया गया है तो सम्बन्धित लिपिक कार्मिक शाखा के
प्रस्तुत की के पुनः एक बार फिर से जांच कर सेवा चाहिए जिसमें कि कोई भुटि न रह जाये
अतः एक बार पुनः आग्रह किया जाता है कि संबंधित लिपिक अजीतरण की
कार्यरत सेवा निवृत्ति वाले कार्यवाहियों को उनकी सेवा निवृत्ति होने वाली तिथि की
अवश्य ही कार्यपुस्तक पर देना चाहिए वाहे उनके स्थान पर रितीक मिले न मिले स्वयं
जिसके न दिये जाते पर यह स्वयं अनुगतम एवं अपील नियमों के अन्तर्गत कार्यवाही दिये
जाने के लिये उततरदायी होगा यह यह की सूट कर ले कि विषय में 1990-1990
एप 0 नियमों के अन्तर्गत सेवा निवृत्ति होने वाले कार्यवाही के यसे हाथ के अनुदे का
विभाग कार्मिक सी 101 केअपर के माग में स्पष्ट रूप से लगाकर इस अनुगत को अनुगत
को विभाग की व्यवस्था करने के लिये केने से पूर्व से सत्यापित करवादे यह सेवा निवृत्त
होने वाले कार्यवाहियों के घर पता और उनके साथ के कार्यवाही देना अपटी है अतः नही
इस का ही स्पष्ट रूप से सत्यापन अधिकारियों के हस्ताक्षर आदि करवा है।

29/10/90
श्री गण्डन रतन प्रोवेंकर
1990 / लघुमऊ

नोट:-

समस्त सम्बन्धित प्रचार अजीतरण समस्त सेवा निवृत्ति होने वाले कार्यवाहियों के मध्य इस
सेवा निवृत्त सूची का प्रचार करें एवं सेवा निवृत्त होने वाले कार्यवाहियों की सूची बनाकर
सुचना पट पर लगा दें।
इस का अनुपूरक जो अपना स्टेपलि ससेन्ट कार्य स्वयं करते हैं और उन्हने
अपनी यहाँ की सेवा निवृत्त सूची नहीं भेजी है। यह अपने यहाँ के कार्यवाहियों
जिन्का सेवा निवृत्त 1990 के अन्तर्गत होता है यह स्वयं सेवा निवृत्त होने वाले
कार्यवाहियों के विषय में उततर दायी होंगे।

29/10/90
L. M. 1990
[Signatures]

| 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. " Pama Kant | " Parmeshwar Din | " | SS /LKO | 521757 | |
| 4. " Jafrul Saidkhan | " Mohd. Mabi Khan | Cabinman | SS/LKO | 520416 | |
| 5. " Pana Lal | " Bajudh | SWM | KSF | 7300720 | |
| 6. " Mohd. Farid | " Mohd. Hussain | " | B.P.T. | 7513815 | |
| 7. " Baldeo Raj | " Lala Ahant Ram | M/M an | SS/BBK | I.297260/CS/155 | |
| 8. " Jagdish Pd. Srivastava | " Ambika Pd. | Free Service Clerk. | SS/LKO | | |
| 9. " R.K. Sireay | 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 Fvarry | | " | " | 521124 | |
| 14. " Usman Ahmad | | A.S. | DEM Office, LKO. | | |
| 15. " S.F. Gupta. | | Hd. Clerk | -do- | | |
| 16. " Bishwa Nath | Mangal Pd. | CM | LKO | | |
| 17. " Kalloo | Sri Durga | " | MS. | 821138 | |
| 18. " Gokaran Pd. | " Gopal Pd. | " | HCP | 523000 | |
| 19. " Tribeni Pd. | " Baljore | " | SHG | 301094 | |
| 20. " Satya Narain | " Purshattam Ram | " | SWER | 521202 | |
| 21. " Victor Singh. | | Head Clerk | Comm1. Sec. | 05030870 | |
| 22. " C.B. Mathur | | A.S. | Optg. A/Cs. | 05175446 | |
| 23. " Ayodhya Pd. | | AYM | LKO | | |
| 24. " Sundaria | Jangali | S/W | | 57756/31063 | |
| 25. " Narain | Soember | Mate | ICW/Loco | 511059/3P/32087 | |

In the Court of Munsif, District of ...

बअदालत श्रीमान

[वादी] अपीलान्त

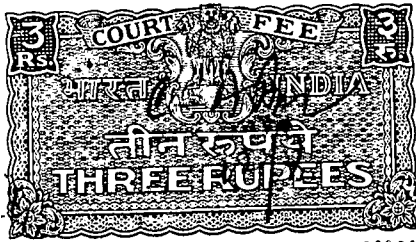
V. ...

... ..

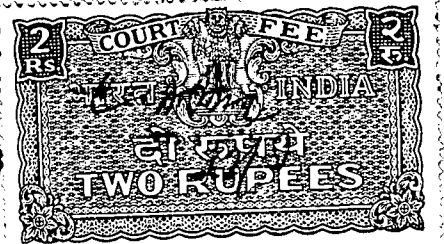
महोदय

वकालतनामा

प्रतिवादी [रेस्पान्डेन्ट]



(वादीअपीलान्त)



बनाम

प्रतिवादी (रेस्पान्डेन्ट)

नं० मुकदमा

सन्

पेशी को ता०

१९

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ऊपर लिखे मुकदमा में अपनी ओर से श्री

Shri C. A.

Om Prakash Agrawal, Advocate

महोदय

एडवोकेट

| | | |
|-----|------------|--------|
| नाम | मुकदमा नं० | परीकृत |
| ... | ... | ... |

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 करावे और रुपया वसूल करे या सुलहनामा व इकवालदावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करे या मुकदमा उठावे या कोई रुपया जमा करे या हमारी या विपक्षी (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 खिलाफ 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

...

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १९

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स्वीकृत

Accepted by

In the Central Administrative Tribunal, Allahabad,

Circuit Bench, Lucknow.

425

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 these 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)61RT1-10 of 2.1.62, Sl. No. ER4733/SE152/62 and E(W) 6SPFI of 4.6.55.

Call to Police from 10/11/84
Wd/11/84

A27

Annexure A-II

The Divl. Railway Manager,
North Eastern Railway,
Lucknow.

Sir,

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.30-1-35.
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/RT/16 of 18.12.82 Sl. No. NR 8206/ER3/83/SE4/83 and E(P&A)1-83/RT-28 of 9.5.84 Sl. No. NR8506/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.

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/Miptan/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. (Comm),
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.

*Compd by
Tran. Secy
G. M. Singh*

Victor Singh

(VICTOR SINGH)

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

Ligd A/P

Annexure

A-IV

To,

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

A20

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 referen-~~ce~~) 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 16.12.82 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. 30-1-35. 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,

Yours faithfully,

Victor Singh
(VICTOR SINGH)

Asstt. Superintendent/Casual.
DEM Office, N. Rly.:
LUCKNOW.

Col. S. S. Singh
22/10/90

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 ~~my~~ Loco Shed on 9.8.1950 on Rs. 27/- P.M. in grade Rs. 30-1-35.

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,

(Signature)
(VICTOR SINGH)

Asstt. Supdt/Comml.

DRM OFFICE N. RLY. LUCKNOW

Copy forwarded to:-

1) The Minister-Railways, Rail Bhawan New Delhi. I most humbly invite your honours 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,

11) The DRM "N. Rly Lucknow. ^{he} Will be please also see my above noted applications and favour me with his orders at the earliest in the matter.

(Signature)
(VICTOR SINGH)

Asstt. Supdt./Comml.

DRM Office-Lucknow

Registered.

A20

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 ~~x~~ 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 ~~x~~ orders.

Thanking you,

Yours faithfully,


(Victor Singh)

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

Dated: 12-8-90

(R2)

बीमा नहीं/NOT INSURED

लगाये गये डाक टिकटों का मूल्य रु० ० पै० ०
 Amount of stamps affixed Rs. 0

कमांक/No. **614**

एक रजिस्ट्री* प्राप्त किया
 Received a Registered* GM
 तारीख/Date 11.11.2014

पाने वाले का नाम M. R. H. A.
 Addressed to M. R. H. A.

पाने वाले अधिकारी के हस्ताक्षर
 Signature of Receiving Officer

बीमा नहीं/NOT INSURED

लगाये गये डाक टिकटों का मूल्य रु० ० पै० ०
 Amount of stamps affixed Rs. 0

कमांक/No. **615**

एक रजिस्ट्री* प्राप्त किया
 Received a Registered* George
 तारीख/Date 11.11.2014

पाने वाले का नाम George
 Addressed to George

पाने वाले अधिकारी के हस्ताक्षर
 Signature of Receiving Officer

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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 (d)

Victor Singh

.....

Applicant.

Versus

Union of India and Others

Respondents.

Exfer-25-7-91

APPLICATION FOR CONDONATION OF DELAY IN FILING

COUNTER REPLY.

That delay in filing counter reply is not intentional of 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, ~~Lucknow~~ Lucknow.

Dated: 25-7-1991

(ANIL SRIVASTAVA)
ADVOCATE

Counsel for Respondents.

A33

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. M. Tripathi working as ASST
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 con-
versent with the fact and circumstances of the case
Also (he) has been authorised on behalf of opposite
parties to answer.

Contd....2


1377
प्राधिकृत अधिकारी
उत्तर देते

A384

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. $20\frac{1}{2}$ 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



प्रमाणित किया जाता है

16/11/2011

A25

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 extended orders applicable to ministerial class III cadre.
7. That the contents of para IV(5) of the original application ~~submitted that provision~~ 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




सहायक क्रामिक अधिकारी
सुभाष रेसवे, ससावर

A36

8. That the contents of para IV(6) of the original application are wrong and as such denied. ^It is ~~accordingly~~ 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~~ 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. C₁ 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


पहिले नामिक अधिकारी
उत्तर रेलवे, लखनऊ

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. 23 of 1970—Navnit Lal Mami Lal Bhat Vs. Union of India—age of retirement of Railway employees who originally belonged to Ex. Co. Rlys or Ex. State Railways—Applicability of Rule 2046-R11 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. The age of retirement in this connection is invited to Railway Board's letter No. E(P&A)I-71/RT/1 dated 10/1/72 dealing with the implications of the judgement of the Supreme Court in Pitchumani's case.

2. The admitted facts in Pitchumani's case were that Sh. Pitchumani held his circular as discriminatory. The Supreme Court struck down the said letter dated 26/4/63 as discriminatory on the basis of their judgement in Pitchumani's case.

Accordingly, the Ministry of Railway have, with the approval of the President, decided that the instructions contained in their letter No. PC-62/RT-1 dated 26/4/63 should be superseded. If there are any cases similar to that of Navnit Lal Mami Lal Bhat Pending before courts of law, the same should be dealt within the light of the above decision after taking due legal advice including consultation 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 ex. State and Ex. Company Railway employees both Ministerial and non-Ministerial is, therefore, now as follows :-

MINISTERIAL
(i) 'All former provincial Govt. Ex. State and Ex. Company employees who fulfil the conditions prescribed in clause (b) of Rule 2046-R11 will retire at the age of 60 years irrespective of whether they are

can be classified separately from the other employees of the Indian Railways. In this view the Supreme Court struck down the new No. 23 Clause (b) substituted on December 23, 1967, as discriminatory to the extent the new Note required the rules of the Company or the State to have a provision similar to Clause (b) of Rule (2046-R-11).

In Navnit Lal Mami 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 5/12/62, the age of retirement of a Railway servant without any distinction was raised to 58. However in Navnit Lal Mami 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-1 dated 26/4/63.

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

in certain establishments like factories, mines and plantations employing not more than 300 workmen (other than a Badli workman or a casual workman), a definite number of the Amending Act may be purchased from the market.

- (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.

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

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.

- (i) No. S. 65017/1/76/D.I.A. dated 5.3.1976.
(ii) No. S. 11013/1/76/DIA (i), dt. 5.3.1976.
(iii) No. S. 11013/1/76/DIA(ii), dt. 5.3.1976.

In so far as the Railways are concerned, only factory establishments as defined 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 exercise of the Powers conferred by sub-section (1) of section 25 M and sub-sections (1) and (7) of section 25 N of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government, being the approving authority, hereby specifies the Chief Labour Commissioner (Central) to certain special provisions regarding lay off, retrenchment and closure of establishments.

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.

KNO

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

O.A.No.255 of 1990

Victor SinghApplicant

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
~~of~~ in reply to the application have been
admitted by the Opposite parties.

Filed today

OSB

17/2/92

K. 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 ~~where~~ whereas he had the right to continue upto the age of 60 years, he being a

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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 ^{1/4} = (6)

" 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,

K. S. Singh

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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

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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} ~~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.

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62

the benefit of retirement at the age of
 who was a ministerial staff and was given
 applicant was an ex company staff and
 light 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 Bhatt's
 A. Pitchumani, AIR 1972 SC Page 305.

Court in re Railway Board and another
 was placed by the Hon'ble ~~XXXX~~ Supreme
 Versus Union of India wherein reliance
 case of Navneet Lal Manni Lal Bhatt
 Supreme Court in Annexure C-1 in the
 parties have quoted judgement of the
 are reiterated to be correct. The Opposite
~~xx~~ 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)
 9) That averments made in para

are reiterated to be correct.
~~xx~~ 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)
 8) That averments made in para

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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 absorbtion 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. Aravind

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10) That averments made in para 10 of the counter in reply to para ~~IX(X)~~ 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 preceeding ~~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 preceeding 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.

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Dated: 10/1/92

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 advice.

Dated: 10/2

Applicant

at Lucknow.

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.

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:

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

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

Recd duplicate
from Thiruvash
Adv
5/3/91

Filed today
5/3/91

Victor Singh

AS/

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

V. S. Singh
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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 ~~these~~ 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.

It is therefore prayed that the Hon'ble Court may be pleased to allow the

V. K. Singh
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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.