

(See rule 114)

OA/TA/RA/CP/MA/PT ...102/96 of 20.....

*Versus*

# INDEX SHEET

Certified that the file is complete in all respects  
B. C. file weeded & destroyed

Signature of S.O.

Signature of Deal. Hand

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

2-4-70

Registration No. 102 of 1989 (C)

APPLICANT(S) Mr. Prakash

RESPONDENT(S) CC

Particulars to be examined

Endorsement as to result of examination:

1. Is the appeal competent ? Y
2. a) Is the application in the prescribed form ? Y  
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 ? Y  
b) If not, by how many days it is beyond time?  
c) Has sufficient case for not making the application in time, been filed?
4. Has the document of authorisation/ Wakaletnama been filed ? Y
5. Is the application accompanied by B.D./Postal Order for Rs.50/- Y
6. Has the certified copy/copies of the order(s) against which the application is made been filed? Y
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? Y  
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? Y  
c) Are the documents referred to in (a) above neatly typed in double copies ? Y
8. Has the index of documents been filed and paging done properly ? Y
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application? Y
10. Is the matter raised in the application pending before any court of law or any other Bench of Tribunal? N

<u>Particulars to be Examined</u>	<u>Endorsement as to result of examination</u>
11. Are the application/duplicate copy/spare copies signed ?	4/1
12. Are extra copies of the application with Annexures filed ?	4/1
a) Identical with the Original ?	
b) Defective ?	
c) Wanting in Annexures	
Nos. _____ pages Nos _____ ?	
13. Have the file size envelopes bearing full addresses of the respondents been filed ?	4/1
14. Are the given address the registered address ?	4/1
15. Do the names of the parties stated in the copies tally with those indicated in the application ?	4/1
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?	4/1
17. Are the facts of the case mentioned in item no. 6 of the application ?	4/1
a) Concise ?	
b) Under distinct heads ?	
c) Numbered consecutively	
d) Typed in double space on one side of the paper ?	
18. Have the particulars for interim order prayed for indicated with reasons ?	4/1
19. Whether all the remedies have been exhausted.	4/1

Signature

41/11

Brief Order, Mentioning Reference  
if necessary

How complied  
with and  
date of  
compliance

2-4-90

from N. Neth, R.C.  
from R. J. Farmer from

Mr B. P. Srivastava for Applicant  
gave notice. list for  
orders as well as admission  
order on 16.1.90.

The Cfr will explain how  
<sup>names</sup> ~~names~~ of the Nos 3-1 are  
included in Annexure - 1  
dated 26.3.90. and they were  
not included in Annexure A-2  
dated 8-3-90.

No appointments/promotions  
shall be made till that  
date, in pursuance of interview  
calls contained in Annexure - 1.  
The Cfr will also produce  
the record on that date.

for  
AM

for  
V.C.

Noticed  
on 14.9.90  
Cfr

Notices  
issued on 4.1  
Neither  
nor any un  
app. can be  
seen - also  
seen.  
S. F. PA

4.9.90

No settling of claims to 12.11.90

Cfr

Dinesh

CA 1, 2, 3  
filed 2

R. H. Filed  
today

4.9.90

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
499.	No suit day to 12/11/90	OK CA/RA have been assigned S.F.H.
12/11/90	Honble Mr Justice K Nath VC Honble Mr M. Y. Birlkar, J.M.  (On the request of State Bar Association, Council for respondents. By Mr. K. S. B. ...)	
10.12.90	Hon. Mr. Justice K. Nath. VC Hon. Mr. K. S. Birlkar, J.M.  Put up tomorrow for final hearing	
11.12.90	Hon. Mr. Justice K. Nath. VC Hon. Mr. K. S. Birlkar, J.M.  Put up tomorrow.	

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW.

(A1)3

M. Prakash ... Applicant.  
Versus  
Union of India & Others.. Respondents.

O.A. No.102/90

13.12.1990

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

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

Shri G.Kalwani for the applicant and  
Shri Anil Srivastava <sup>vs. T.N. Gupta</sup> for the respondents are present.

Two questions have arisen at this stage.

Firstly, the interpretation of the modification order dated 16.4.90 is to be given. In the interim order dated 2.4.90 orders were made that no appointment/promotion shall be made till the date fixed in pursuance of the interview call as contained in Annexure-I. When this matter came up before the Bench on 16.4.90, orders were passed that the respondents " may proceed to declare the results, except for one post which shall remain unfilled till the decision of the Tribunal". This clarification is being interpreted to signify two hurdles, namely not to declare the results of one post and to keep that one post unfilled. That is not the intention of the order. The intention as apparent from the order of 2.4.90 was only to stop appointment/promotion and not to stop the declaration of the results. By order dated 16.4.90, the Bench reiterated that results may be declared; only appointment of one of the posts was required not to be made. We therefore clarify that only one post shall be kept unfilled while all the results may be declared.

The second point arises out of two application dated 10.12.90 by the applicant, and dt. 5/10.12.90 by respondent No.3 alongwith which a selection examination notice dated 20.11.90 is enclosed. It appears that by this notice 34 persons have been called to take a written test to be followed by an interview in which the applicant and respondent No.3 are also to appear. The prayer made in these two applications is that the Department be directed not to hold a fresh written test and interview in pursuance of the notice dated 20.11.90. We have heard the learned counsel for the parties and we are of the opinion that the proposed examination under notice dated 20.11.90

.....P/

Received -  
14/12/90  
K.K. S. - B.

copy received  
by  
e. for Mr. A.

One copy  
received

A. D. 14/12/90  
B. D. 14/12/90  
R No. 3

M. Prakash  
10/12/90  
Applicant


800

(A1/4)

4.4.91 -

HON. MR. JUSTICE R. NATH VC  
HON. MR. A.B. GORDH AM

Put up tomorrow


  
AM.

  
VC

5.4.91

HON. MR. JUSTICE R. NATH VC  
HON. MR. A.B. GORDH AM

Argument heard Judgment  
Reserve

  
AM

  
VC

Recd copy  
B.N.M. per  
7/6/91  
Recd copy of  
A.B. GORDH  
2/8/91

Recd copy of  
order dated 26/5/91  
M.B.H.  
16/5/91  
Applicant

Received open, unsealed  
official record.  
dnt submit  
23/5/91

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD

O.A. No. 100  
T.A. No.

199 C(1)

DATE OF DECISION 06 1991

Shri. K. K. Singh Petitioner

Shri. K. K. Singh Advocate for the Petitioner(s)  
Versus

Union of India Respondent

Shri. K. K. Singh Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K. K. Singh, J.C.

The Hon'ble Mr. A. B. Gupta, J.C.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether to be circulated to all other Benches ?

.....

Ghanshyam/



A271

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH  
(LUCKNOW BENCH)

....

Registration O.A. No. 102 of 1990 (L)

Mahendra Prakash ..... Applicant

vs

Union of India through Chief

Workshop Manager, Loco Workshop,

Charbagh, Lucknow and others ... Respondents

Hon<sup>ble</sup> Justice K. Nath, V.C.

Hon<sup>ble</sup> Mr A.B. Gorthi, A.M.

(By Hon<sup>ble</sup> Mr. A.B. Gorthi, A.M.)

In this application under section 19 of the Administrative Tribunals Act 1985, Sri Mahendra Prakash, the applicant alleges that while only 4 candidates including himself qualified at a written test held on 15-12-1989 for promotion from Head Clerk to Assistant Superintendent, respondents no. 3 and 4<sup>were</sup> being illegally called for the interview alongwith<sup>the</sup> successful candidates. The applicant seeks our intervention to prevent this injustice to him. Subsequent to the filing of this application, the viva-voce also was held and the results finalised.

2. The applicant, a Head Clerk in Loco Workshop Lucknow appeared for a written examination held on 15-12-89 for promotion to the selection post of Assistant Superintendent (non-personnel) in the grade of Rs.1600 - 2060. 18 candidates were called, 15 appeared and 4 including the applicant qualified there at. Sri Jieut Bundhan (Respondent no.3) and Shri Ram Gopal (Respondent No.4) also took the written test, but did not secure the minimum qualifying marks i.e. 60%. So initially, only the 4 successful candidates were called for the

(A2)2

:: 2 ::

interview scheduled to be held on 16-3-1990, but it was postponed to 31-3-1990 when respondents no. 3 and 4 were also interviewed.

3. Admittedly, the applicant and respondents no. 3 and 4 belonging to Scheduled Caste (S.C. for short) community. Pass percentage for general candidates was 60%, but for S.C. candidates it was 10 out of 35 marks. This latter aspect, as stated by the Railway Authorities (Respondents no. 1 and 2), was in-advertently glossed over when the result of the written test was declared. Later on, realising that respondents no. 3 and 4 scored more than 10 out of 35 marks, they too were considered as having passed in the written test and called for the interview.

4. As per instructions of the Railway Board (Annexure-CA-I and CA-2) a general candidate must obtain 30 out of 50 marks in professional ability, and the marks allotted for written examination should be not ~~be~~<sup>be</sup> less than 35. As the applicant cast certain doubts on the fairness of the test conducted, we call for the official record. It is seen that in this particular examination, the division of marks was as shown below:

(a)	written examination	-	35
(b)	viva-voce	-	15
(c)	Leadership etc.	-	20
(d)	record of service	-	15
(e)	Seniority	-	15
<hr/>			
Total:			100

*[Handwritten signature]*

(A2/3)

:: 3 ::

5. In the written examination held on 15-12-79, the applicant secured 21 marks (i.e. 60%). The respondents no. 3 and 4 scored 13 and 12 marks respectively. Initially the applicant was among the successful candidates, as he scored 60% marks, but later on based on Railway Board's policy instructions, respondents no. 3 and 4 who scored more than 10 marks out of 35 were also declared successful and called for interview.

6. During the course of the hearing, the fairness of the conduct of the examination was assailed by the applicant making an issue of certain minor over-writings in the marks recorded<sup>1 and</sup> in the correctness of the allotment of marks under various heads in the test proceedings drawn by the Board of Officers. We, therefore, called a member of the Board, Shri Hemant Kumar, Deputy C.M.E. (Workshop) and recorded his deposition, giving opportunity to both the counsel to question him. Consequently, we are more<sup>1 than</sup> satisfied that there was no irregularity in the conduct of the examination, both written and oral, as also in the record of the marks allotted to each candidate. The question of inter se seniority between the applicant and respondent no.3 was also raised, <sup>1 and</sup> resolved in favour of respondent no.3, as the applicant came on a compassionate posting accepting bottom line seniority. The marks allotted for seniority to each candidate were also thus in order. The over writing found in a couple of places in the final Board's proceedings, cannot be faulted as marks tallied correctly with the average of marks allotted by each of the 3 members of the Board. The final result in which the applicant and respondent no.3 have been shown as 'passed' and respondent no.4 as 'failed' seems to us to be sufficiently in order. As there

was only one vacancy in S.C. Category and respondent no. 3 being senior to the applicant, the former was correctly recommended to be empanelled for promotion to the post of Assistant Superintendent (non-personnel). We, therefore, dismiss the application and vacate the interim orders passed in the case.

7. Suspension and unfounded fears seem to have driven the applicant to rush to this Tribunal with wild accusations of corruption and unfairness. We would have, therefore, made an order as to costs against the applicant, but have refrained from doing so bearing in mind the financial status of the applicant.

  
MEMBER (A)

  
VICE CHAIRMAN

(sns)

May  
~~April~~ 06, 1991.

Allahabad.

To,

The Deputy Registrar,  
Central Administrative Tribunal,  
Circuit Bench,  
Lucknow.

Subject :- Return of the official records pertaining  
to the case OA No. 102/90(L); Mahendra Prakash vs UOI  
decided on 6-5-91.

Dear Sir,

At the time of final hearing of the aforesaid  
case, on the instructions of the Honorable Tribunal, I have  
filed the official records also, pertaining to the said  
case.

Since now, the case has been decided hence the  
aforesaid official record may be returned to me.

*This case has been decided  
on 6.5.91. Without seal*

Thanking You,

*your official records  
is returnable.*

Lucknow,

*20/5*

2000-14-1-91 Nov  
10

Yours Faithfully,

*Anil Srivastava*  
(ANIL SRIVASTAVA)  
ADVOCATE

*Office*  
*21/5*  
*20/5*

*Received official  
records  
Anil Srivastava  
23/5/91*

Before the Central Administrative Tribunal,  
Lucknow Branch : at Lucknow.

Petition No. 102/90 (2)

Mahendra Prakash.

...

Petitioner

Vs.

Union of India and 3 others ...

Opp. Parties

-O-O-O-O-O-O-O-  
( I N D E X )

Sl. No. Particulars Page No.

1. P e t i t i o n

..

1-5

2. Annexure No. 1

..

6

3. Annexure No. 2

..

7-9

..

10

Filed today Power.

2/4/90

Lucknow, dated

2/4/1990

R. K. S. N. Singh  
Advocate,

Counsel for the Petitioner

Filed today  
2/4/90

A312

Before the Central Administrative Tribunal,  
Lucknow Branch :: at Lucknow.

←A  
C/P No. .... 102 of 1990 (C)

Mahendra Prakash aged about 37 years s/o.  
Late Sri Ganga Ram r/o. Vegetable Ground  
No. 48/A, Alambagh, Lucknow at present,  
working as Head Clerk (L.M.W.) Loco-Work  
shop, Charbagh, Lucknow.

... C/ Petitioner

Vs.

1. Union of India through Chief Workshop  
Manager, Loco Workshop Charbagh, Lucknow.
2. Dy. C.M.E. Loco Workshop, Charbagh,  
Lucknow.
3. Joti Bandhan s/o not known Head Clerk,  
Time-Office, Loco Workshop, Charbagh,  
Lucknow.
4. Ram Gopal Head Clerk Foundary Loco  
Workshop, Charbagh, Lucknow.

... Ps/Respondents

\*\*\*\*\*

Mahendra Prakash

2.

Details of applicant: Mahendra Prakash

Name of father .. Sri Late Ganga Ram

Age of applicant .. 37 years

Designation & Particulars ( B/o. V.G. 48-A at  
of officer with name & status ( Alambagh Lucknow, is  
in his employment, working and( working as Head Clerk  
last resided; ( Loco Workshop, Charbagh  
Lucknow.

Official address; L.M.S. Loco Workshop Charbagh,  
Lucknow.

Address of services Head Clerk, L.M.S. Loco Work-  
shop Charbagh, Lucknow.

Particulars of order against { Letter No. 314-E/SEIN/  
which application is made:- { Eon P/A.S. dt. 26.3.90

Interview, date in Chamber of  
of D.C.M.E. (W) Charbagh, 31.3.1990  
Lucknow.

The order passed by : C.M.E. Charbagh, Lucknow.

Subject in brief: Respondent no. 3 and 4 have been  
called on in Interview without  
having <sup>passed</sup> the written test.

\*\*\*

The humble petitioner respectfully begs to  
submit as under :-

1. That the Hon'ble Tribunal has got the jurisdiction  
to decide the case.

Mahendra Prakash



3.

2. That, the applicant declares that subject-matters of the order adduced, is without the jurisdiction of the Hon'ble Central Tribunal.
3. Limitation-- The applicant further declares that the application is within limitation as prescribed u/s. 21 of the Central Administrative Tribunal of 1985.

Facts of the case are given below:

1. That, a written test for the post of Assistant Superintendent was held on 15.12.89 in the office of Loco-Workshop Charbagh, Lucknow.
2. That, out of 18 persons in the written tests only 4 persons were declared successful in the written test of Asstt. Superintendent held in December, 1989; namely, 1. G.K. Dixit, 2. R.P. Srivastava, 3. U.S. Shukla, and applicant.
3. That, thereafter one month, two other failed candidates viz. respondents nos. 3 and 4 have been called in interview illegally by Chief Workshop Manager, Charbagh, Lucknow vide its letter no. 314-E/SEIN/Hcn. P/A.S. dt. 26.3.90.

Mahendra Rakesh

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4.

and interview dt. 31.3.90 the copy of same is being filed herewith as Annexure- No.1.

4. That the copy of the order by which, four men ~~respondents~~ were qualified is being filed herewith as Annexure-2 vide letter no. 314-2/P IV dated 27.2.90.
5. That, respondents 1 and 2 have illegally been called for interview, the respondent no. 3 and 4
6. That the order calling the respondents 3 and 4 for interview is arbitrary and without the jurisdiction.
7. That, the respondents 1 and 2 have exercised which are not vested in them, for calling the interview ~~which is not~~ to those persons who have been failed in written tests.
8. Details of remedy.. There is no speedy remedy. No petition has been filed before the Hon'ble Tribunal.
9. Relief sought : Four number of persons inclusive applicant for following reliefs:

Maheeta Pokshi

5/-

5.

- i) That this Hon<sup>ble</sup> Tribunal be pleased to quash impugned order dt. 31.3.90 as contained in Annexure-~~2~~ to this petition.
  - ii) That opp. parties 3 and 4 will be declared passed in interview, the petitioner will suffer irreparable loss, they will work on the same post as they are working at present ;
  - iii) That this Hon<sup>ble</sup> Tribunal be pleased to issue another suitable order as may deem fit, and an interim order, if any, be passed for ;
  - iv) that this Hon<sup>ble</sup> Tribunal be pleased to <sup>Quashed</sup> ~~stay~~ the impugned order dt. 31.3.90, contained in Annexure-<sup>To the result may be</sup> ~~2~~ <sup>Cancelled</sup>
- List of Enclosures.. Result of written test, Annex. 2 and Impugned order dt. 26.3.90 contained in Annex. 1.

Lucknow dated  
2/4/90

Mahendra Prakash  
Petitioner/Applicant

Through:

*B. C. Verma*  
Advocate,

Counsel for the Petitioner

Mahendra Prakash

13/1

6

1 NO I

उत्तर रेलवे  
NORTHERN RAILWAY

SS/LMS

उत्तर 99/801  
Gen. 99/801

L. No. 314E/Secy/Hon'ble

DA. 26.3.90

To,


- 1 - The Secy, Secy/Hon'ble  
2 - SS/OS, Fdy, Lms } Hon'ble CB/Lko.

Sub: Interview for the post of  
Asst. Secy. (Fdy) - 26/1 -

Ref: This office letter of even No.  
dt. 08.3.90

The date for Interview for the above  
post has now been fixed for 31.3.90  
at 11.00 hrs. All the following candidates may  
please be present to attend the same in the  
Chamber of Secy (Fdy) CB/Lko. -

- 1 - Sh. G.K. Dixit - Secy/Hon'ble
- 2 - Sh. P.P. Srivastava - Secy/OS
- 3 - Sh. U.G. Shukla - Secy/Hon'ble
- 4 - Sh. Mahendra Prakash (S/c) - HC/Lms
- 5 - Sh. Jitendra Nath (S/c) - HC/Fdy
- 6 - Sh. Ram Chandra (S/c) - HC/Fdy

  
For Secy/Hon'ble CB/Lko

Xmas - 1/1/90

1.0.0

(13/7)

1. No. 2

NORTH RAILWAY - Lucknow - 1000-2650

No: 314 /N/S in/Non 'P'/5 Dated 08/3/1990


- The Office Supdt./Production.
- The Shop Supdt., Boiler
- The Office Supdt., I-time Office.
- The Shop Supdt. (HR)
- Loco Shops Charbagh, Lucknow.

Sub: Selection for the post of ...  
(Non Personnel) Gr. P. 1600-2650.

.....

The following candidates may kindly be  
spared and directed to attend interview on  
16.3.90 at 15 hrs for the above post in the  
Chamber of Dy. C.M. (L) /CB/LKO:-

1. Sh. G. K. Dixit. HCL/Prod.
2. Sh. R. P. Shukla. HCL/BS
3. Sh. U. S. Shukla. HCL/TO
4. Sh. Mahendra Prasad  
(S/C) HCL/LMS

  
for Chief Works Manager  
Loco Charbagh, Lucknow.

\*Sadhvani\* 8/3/90

Jie/LMS.  
Noted to Sri M. Prakash HCL/LMS  
Noted  
13/3/90  
HCL/LMS

1000-2650  
1000-2650  
1000-2650



NORTHERN RAILWAY LOCOMOTIVE WORKS CHARR. AGH LUCKNOW

No. 3147/ IV

Dated . 28/11/39.

The office Supdt (Time Office)  
CC/LMS, LMS, POU, LS, DSL, YS, PDY,  
Rolling stock, PS IS, LS, etc.  
Ch/ Lucknow.

Sub:- Selection (written test) for the post of Asstt.  
Supdt. in Grade B. 1000-2000 in Nov. 'P' Group.

The date of selection for the above post has been fixed  
for 04-12-39 at 14.00 hrs. The following ministerial staff  
concerning with your section may kindly be advised about  
the same and spared to this office for appearing in the test  
accordingly.

1.	Sr. Sri	Ram Bahadur	HC/ LMS
2.		R.S. Yacav	HC/ T.O.
3.		R.A. Lal	HC/ R.S.
4.		R.K. Jha	HC/ PLS
5.		Gad. Bah. Singh	HC/ EL POU
6.		K.D. Dubey	HC/ LS
7.		G.K. Dixit	HC/ Prod.
8.		Ram Lakhan	HC/ DSL
9.		T.N. Gupta	HC/ DSL
10.		R.U. Advani	HC/ YS
11.		M.L. Sharma	HC/ T.S.
12.		R.P. Srivastava	HC/ PLS
13.		J.C. Rawat	HC/ PLS
14.		S.S. Shukla	HC/ T.O.
15.		U.S. Sukla	HC/ T.O.
16.		J. Bandhan (S/C)	HC/ T.O.
17.		Mahendra Ad. (S/C)	HC/ LMS
18.		Ram Copal (S/C)	HC/ T.O.

for Chief Works Manager  
.. PLY. Charragh Lucknow.

(A411)

21

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

Registration (C.A.) No.102 of 1990(L)

BE T W E E N  
=====

Lahendra Prakash

... Applicant.

versus

Union of India & others

... Respondents.

Fixed For : 16.4.1 00

COUNTER REPLY ON BEHALF OF  
RESPONDENTS NO. 1 and 2  
=====

I, Hemant Kumar, working as Deputy  
Chief Mechanical Engineer, Loco Workshop,  
in the office of *Chief Works Manager*,  
Northern Railway, Charbagh, Lucknow do hereby  
solemnly affirm and state as under ;

1. That the official abovenamed has been impleaded  
as respondent No. 2 and as such is fully  
conversant with the facts and circumstances  
of the applicant's case and has been authorised  
by the respondent No. 1 to file this reply on his  
behalf also.

*[Signature]*  
16/4/90



2. That the contents of the paras 1 and 2 of the original application being vague in nature do not call for reply. Since the applicant has himself alleged that this Hon'ble Tribunal has no jurisdiction to decide the case and which is emphasised in para 2 of the application, it means that the applicant ~~xx~~ himself do not desire to contest the case before this Hon'ble Tribunal hence this case is ~~is~~ fit to be rejected on this score only.

3. That the contents of the para 3 of the original application do not call for reply.

That reply to the facts of the case stated by the applicant are as below ;

4. That the contents of the para 1 of the original application are not disputed.

5. That the contents of the paras 2 and 3 of the original application are not admitted as alleged. Actually 18 persons were called for written test for the posts of Assistant

AM/3

Superintendent but out of 18 only 15 candidates appeared for the same. As per policy one who obtains 60% or more marks in the written is to be declared suitable for interview, accordingly 4 candidates namely S/Sri G.K. Dixit, R.P. Srivastava, U.S. Shukla and Mahendra Prakash (SC) i.e. the applicant were called for interview vide annexure No. 2 to the original application. As per instructions of the Railway Board, contained in its letter no. 2 (JCT) 63 CM/15/10 dated 13th July, 1970 further amended vide the Railway Board's letter No. 2 (JCT) I-72 CM 1/153 dated 12th December, 1973, the pass marks for the written test in case of Scheduled Caste and Scheduled Tribe candidates were relaxed to the extent that one who secures 10 or above out of 35 marks in the written test are also eligible for being called in the interview. When this fact came to the notice of the selection committee, the interview was postponed till the matter gets clarified. After clarification the respondents No. 3 and 4 who had secured 10

16/4/90

A4/4

.. 4 ..

<sup>note</sup>  
or marks in the written test were also called  
for the interview vide annexure No. 1 to the  
original application. Copies of said Railway  
Board's letter dated 13th July, 1970 and 12th  
December, 1973 are being filed herewith as  
Annexure No. C-1 and C-2 to this reply.

- 6- That the contents of the para 4 of the  
original application being matter of record  
is admitted.
7. That the contents of the paras 5 and 6 of  
the original application are categorically  
denied. The respondents No. 3 and 4 being  
Scheduled Caste candidates were correctly  
and legally called for interview as per  
relaxation in marks applicable in their  
cases vide Railway Board's letters dated 13th  
July, 1970 and 12th December, 1973 contained  
in annexure No. C-1 and C-2 to this reply.
8. That the contents of the para 7 of the  
original application are also categorically  
denied. The respondents No. 3 and 4 have

16/4/90

Am/S

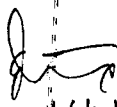
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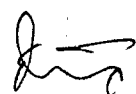
secured the qualifying marks in the written test as prescribed for Scheduled Caste and Scheduled Tribe candidates as per Railway Board's instructions.

9. That the contents of the paras 8 and 9 of the original application ~~are~~ are denied. The applicant could have made a representation to the department before approaching this Hon'ble Tribunal and otherwise also the final selection will be made on the basis of total marks obtained in written test as well as in the interview hence there is no question of any loss or gain to any candidate as one who obtains maximum marks in written test as well as in interview will be placed on the panel. As such there is no merit in the case and this original application is fit to be rejected with costs in favour of answering respondents.

Lucknow.

Dated : 16.4.90

  
16/4/90

  
16/4/90

.....6


.. 6 ..

VERIFICATION  
=====

I, the official abovenamed do hereby  
verify that the contents of para 1 of the  
reply is true to my personal knowledge and  
those of paras 2 to 9 of this reply is  
believed by me to be true on the basis of  
records and legal advice.

Lucknow.

Dated; 16.4.1990 .

  
16/4/90

(A-17)

Before The Honble Central Administrative Tribunal,  
Circuit Bench, Lucknow.

Registration No 102 of 1990(L)

Mahendra Prakash Vs. U.O.I. & Others.

Annexure No. C-1

311

Railway Board's letter No. E(SCT)68CM15/10 dated 13th July 1970.

In their letter No. E(NG)I/70/PM/22 dated 21st February 1970, the Board had decided that the staff who secure less than 15 marks out of 35 allotted for written test, as a part of selection, need not be called for *viva voce* test before the Selection Board for the reason that even if they get maximum of 15 marks in the *viva voce* they will not be able to secure minimum qualifying marks i.e., 30 out of 50.

In the case of Scheduled Castes and Scheduled Tribes this minimum limit of 30 out of 50 has already been reduced to 25 out of 50 in the categories where safety aspect is not involved vide Board's letter No. E(SCT)68CM15/10 dated 27th August 1978.

The Board have decided that in such categories the reserved community candidates need not be called for *viva voce* if they secure less than 10 marks in the written test for the reason, that even if they obtain 15 out of 15 marks in the *viva voce*, they will not be able to secure the minimum qualifying marks prescribed for them i.e., 25 out of 50.

*[Signature]*  
16/11/90  
16/11/90  
16/11/90

Before The Hon'ble Central Administrative Tribunal,  
Circuit Bench, Lucknow.

Registration No. 102 of 1990 (L)  
Mahendra Prakash Vs. U.O. 9. & others.

Annexure No C-2

315

Railway Board's letter No. E(NG)I-72PM1/158 dated  
12th December 1973.

Sub : Procedure for calling candidates for viva voce for  
filling up selection posts—Non-gazetted.

In terms of Board's letter No. E(NG)62PM1/22 dated  
5th October 1964 a candidate must obtain a minimum of  
30 marks out of 50 marks in "professional ability" and 60 marks  
on the aggregate for being placed on the panel for a selection post.  
According to Board's letter No. E(NG)65PM1/5 dated 29th  
October 1966, where both oral and written tests are held for  
adjudging the "professional ability", the marks for the written  
examination should not be less than 35. The Board have decided  
that a candidate must secure a minimum of 60 per cent marks in the  
written test for the purpose of being called in the *viva voce* test.

2. The procedure should also be followed in the case of  
general posts which are filled in accordance with Advanced  
Correction Slip No. 78 to para 216(g) of Chapter II of the  
Indian Railways Establishment Manual circulated *vide* the  
Board's letter No. E(NG)I-72PM1/158 dated 21st August 1972.

3. The above instructions will be applicable to Scheduled  
Caste and Scheduled Tribe candidates also so far as categories  
involving safety of travelling public are concerned. In regard to  
the categories where safety aspect is not involved, the instructions  
contained in Board's letter No. L(SCT)68CM15/10 dated 13th  
July 1970 will hold good.

Attested

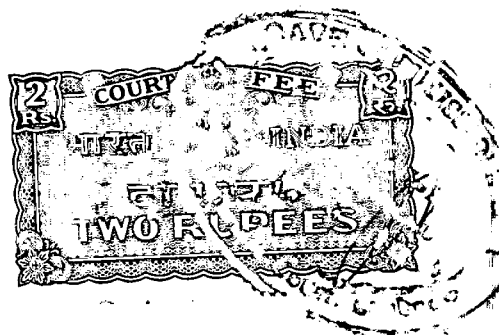
*[Signature]*

राय. शक्ति चण्डा  
वर रेलवे, लखनऊ  
स्वा. प्र. विभाग

*[Signature]*  
16/4/90

(AS/1)

Before the Hon'ble Central Administrative Tribunal  
Lucknow Bench, Lucknow.



1990  
AFFIDAVIT  
83 IM  
DISTT. COURT  
U. P.

Counter Affidavit on behalf of Respondent  
no. 3 .  
.....

In O.A. No. 102 /90 (L)

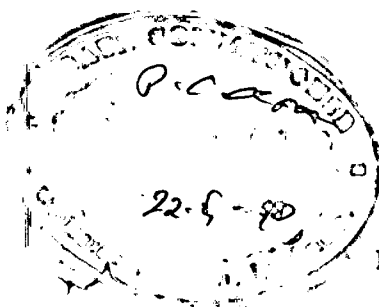
Mahendra Prakash

..Applicant

Versus

Union of India and others

...Respondents.



1. Joti Bandhan aged about 41 years  
son of Late Shri Shree Dhori

Head Clerk, Time Office, Loco Work Shop Charbagh

Lucknow do hereby solemnly affirm and state on  
oath as under :-

1; That the deponent is the respondent no.3  
in the above noted application as such is fully  
conversant with the facts stated below .

2; That the contents of para of application  
filed by the applicant has been readover and  
explained to the deponent and he has understood

*Handwritten signature*



its contents thereon.

3: That the Contents of para 1 to 3 of the application are not disputed .

4: That the contents of para 1 <sup>of facts of the case</sup> are not disputed.

5: That the contents of para 2 <sup>of facts of the case</sup> are not correct as stated above hence denied. It is stated that Chief Works Manager Loco workshop respondent no. 1 has wrongly declared the result of only 4 candidates instead of all six but subsequently rectified his mistake by issuing order no. 314E/ Fourth / 1 dated 26.3.90 intimating that the deponent and respondent no.4 being S.C. candidates are also been declared successful in written test, the copy of order dated 26.3.90 is filed herewith as annexure no. A 1 to this counter affidavit .

That the contents of para 3 <sup>of facts of the case</sup> are also denied

being incorrect and wrong . It is stated that the deponent was declared successful in written examination vide order dated 26.3.90 contained in Annexure no A-1 hence he was rightly called for interview held on 31.3.90, it is also stated that deponent hopes that he has also succeeded in Interview but the result of interview has yet not been illegally declared by respondent no. 2



*Handwritten signature/initials*

till now, inspite of the orders of this Hon'ble Tribunal.

7: That the contents of para 5 and 5<sup>of facts of the case</sup> are quite wrong and incorrect hence denied. It is stated that order dt. 27.2.90 was wrong which was rectified by respondent no. 1 and 2 by subsequent order dated 26.3.90 contained in annexure no. 1 to this counter Affidavit. It is also denied that respondent no. 1 and 2 were called for interview.

8: That the contents of paras 6 and 7<sup>of facts of the case</sup> are also wrong incorrect, misconceived hence denied. It is stated that the deponent has qualified the written examination and obtained standard marks he was declared successful and was called for interview by respondent no. 1 and 2 which is quite ~~legal~~ legal, proper and just and was within the legal jurisdiction of respondent no. 1 and 2.

9: That the contents of paras 8 are denied since the applicant has not sustained any legal injury nor <sup>any</sup> cause of action arose for the present application and even the applicant has not preferred any departmental appeal or representation as such has not exhausted the departmental remedies available to him hence the application

*Sine*

AS/4

141

is not maintainable and is liable to be dismissed.

10: That the contents of para 9 are denied and it is further stated that the present application is not maintainable and is liable to be dismissed with cost and the applicant is <sup>not</sup> entitled for any relief.

11: That the interim order dated 16.4.90 is liable to be vacated and respondent no. 1 and 2 may be directed to declare the deponent's result.

12: That this Hon'ble Tribunal by its order has restrained the respondent no. 1 and 2 <sup>not</sup> only to declare result of only one post but respondents no. 1 and 2 had illegally also withheld the deponent's result which is causing substantive loss and damages to the answering deponent.

Lucknow.

Deponent.

Verification

I, the above named deponent do hereby verify

that the contents of paras 1 to 12 are true to my own knowledge no part of it is false, nothing has been concealed so help me God. Signed and verified this 22<sup>nd</sup> day of May, 1990. in the court compound at Lucknow.

Deponent.

I know the deponent who has signed before me.

B. N. Mishra

22/5/90

(A5/7)

Before Central Administrative Tribunal  
Lucknow Bench Lucknow

Mahendra Prakash ——— Applicant  
Union of India vs. ——— Opposite party

D.A. No. 102/90

Annexure No A-1

STATE OF U.P.  
NORTHERN RAILWAY

SS/LMS

OFFICE OF THE  
Genl. Secy/Secy

L. NO. 314E/Soln/Hon Pias

DA. 26.3.90

TO,

- 1 - The OS/Prin. Secy/Ty.
  - 2 - SS/OS, Fdy, LMS
- L. NO. 314E/Soln/Hon Pias

SUB: To know the date of  
Admission to the post of  
Assistant Secy. to Govt.

Ref: This office letter of even NO.  
DA. 08.3.90

The date for Interview for the above  
post has now been fixed for 31.3.90  
at 11.00 AM. All the eligible candidates may  
please be present for the interview in the  
chamber of Secy. to Govt. (LMS) -

- 1 - Sh. Ch. Dixit, Secy.
- 2 - Sh. P. P. Singh, Secy.
- 3 - Sh. V. S. Shukla, Secy.
- 4 - Sh. Mahendra Prakash (S/c) - Hc/LMS.
- 5 - Sh. J. P. Chandra (S/c) - Hc/LMS.
- 6 - Sh. Ram Chandra (S/c) - Hc/LMS.

(Signature)

100 CWM/OS/LMS

True copy  
B.N. Mishra Adv.

AG/1

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Before the Hon'ble Central Administrative Tribunal  
Lucknow Bench : Lucknow.

Rejoinder affidavit in behalf of  
Mahendra Prakash (Petitioner)

.....

In O.A. No. 102/90 (L) dt. 2.4.90.

Mahendra Prakash.

...

Applicant

Vs.

Union of India and others

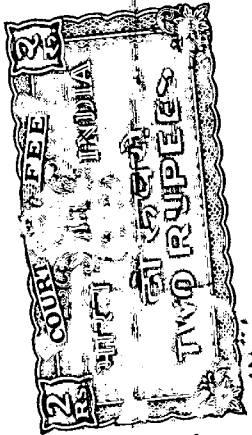
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Respondents.

Rejoinder Affidavit

I, Mahendra Prakash Head Clerk aged about 37 years s/o late Gaya Ram working as Head Clerk in the Goco Workshop Charbagh Lucknow, deponent do hereby solemnly affirm on oath as under :-

1. Respondents nos. 1 and 2 have declared the result on 27.2.90 all the 15 candidates those were appearing in the Asstt. Superintendent examination held on 15.12.89 and 16.1.90 out of 15 candidates, 4 candidates 1. Sri G.K. Dixit H/C 2. Sri Rajendra Prasad Srivastava H/C 3. Sri U.S. Shukla H/c and 4. Sri Mahendra Prakash S/C H/c. were declared Passed and rest 11 were declared failed by the respondent nos. 1 and 2 including Sri Jiyoti Bandhan H/C and Sri nan Gopal H/c were also declared failed by respondents no. 1 and 2, therefore, their names



Filed today  
4/9/90

Read duplicate  
Gutliya  
4/9/90

Mahendra Prakash

2.

not included Annexure 2 in interview letter dt. 8.3.90 was fixed on 16.3.90; and result declared dt. 27.2.90. The Hon'ble Judge has ordered on 2.4.90 to the respondents 1 and 2 to produce the record on 16.4.90 but respondents have not produced any record. Before Hon'ble Judge how their names are included in Annexure-1 after one month.

2. While all the candidates results were declared on 27.2.90 only 4 candidates were Passed and rest 11 were declared failed. The respondents 1 and 2, illegally called two failed candidates Sri Jyoti Bandhan and Sri Ram Gopal in interview and Sl. No. also changed in Annexure 1. The respondents 1 & 2 have not mentioned the reason of mistake and no any office order is issued by the respondents, for the result of dated 27.2.90 is wrong, it means the respondents 1 and 2 wanted to deceive the court as well as do the injustice between Sri Mahendra Prakash S/o Passed candidate to make forgery in result of failed candidates.

3. That if the result datee 27.2.90 was wrong how the result was declared by respondents 1 and 2 as well as Asstt. Personnal Officer O.S.(S) and both the dealing clerks and how the three candidates

3.

Sri G. K. Dixit H/c 2. Sri Rajendra Prasad Srivastava H/c and 3. Sri U.S. Shukla H/c were promoted as Asstt. Superintendent, the result declared dt. 27.2.90 the passed candidates and 11 candidates declared failed; on what basis the respondents 1 and 2 have rectified his mistake and nothing has been mentioned in counter. It means respondents 1 and 2 have taken Rs. 10 thousand from the failed candidates Jiyoti Bandhan H/c and 10 thousand from Ram Gopal H/c failed candidates to make forgery result after one month after changing examination books and result also, So they have not produced any record on 16.4.90 as required by Hon'ble Judge Central Administrative Tribunal Lucknow.

4. That the result declared by respondent 1 and 2 all the candidates on 27.2.90 vide Annexure-2 dt. 27.2.90 interview letter dt. 8.3.90 which is produced in Hon'ble Court by Sri Mahendra Prakash ME Passed candidate (applicant) on 2.4.90, two failed candidates Jiyoti Bandhan & Ram Gopal names were not included because they were declared failed by respondents on 27.2.90. If these 2 candidates were passed then how their names were not included in the result declared on 27.2.90 and interview letter dt. 8.3.90 Annexure-2 by the respondents.

Ag/ny

There is only one Post of S/C Asstt. Superintendent is vacant and one S/c candidate Mahendra Prakash s/c is declared Passed for this Post vide the Annexure-2 dt. 27.2.90 and interview letter dt. 8.3.90.

5. In Para 7, it is wrong that respondents 1 and 2 were called for interview, respondent 1 is the Chief Workshop Manager being result approving authority and respondent 2 is interviewing authority then how they have been called for interview as Asstt. Superintendent.

AS  
17/9/90

That Railway Board letter no.E(SCT)68 CM/15/10 of 13.7.70 and L.No.E(MG)I-72-PM1/158 dt. 12.12.73 attached with reply of respondents on 16.4.90 that is very old and already known by respondents and dealing clerks as well as GS(E) and Asstt.P. O. Loco Workshop CB Lko, so they have attached above letter on 16.4.90. If they do not know about this letter how they attached this letter, they have overlooked it with malaide intention to harass and do injustice with passed candidates Mahendra Prakash s/c who has been called for interview of Asstt. Superintendent on 16.3.90 by Annexure-2 dt. 8.3.90 by respondents 1 and 2.

Mahendra Prakash

7. That respondents 1 and 2 postponed the interview



176/5

5.

dated 16.3.90 with mala fide intention for being changed the result and examination, copies of failed candidates of Jiyoti Bandhan and Ramgopal who were declared failed by respondents 1 and 2 on dt. 27.2.90. After taking gratification of Rs 20,000/- from Jyoti Bandhan and Ram Gopal failed candidates and their result and copies were changed and declared Passed by respondents no. 1 and 2 ; further the respondents 1 and 2 announced the result/interview dt. 31.3.90 and two failed candidates' names illegally included of Jiyoti Bandhan and Ram Gopal after one month in Annexure 1 dt 26.3.90 with mala fide intention. The respondents 1 and 2 have committed serious forgery for earning money from the failed candidates/employees.

Kindly direct to the opp. parties 1 and 2 the following records should be produced in this Hon'ble Court that when they have changed the ~~failed~~ failed candidates result and declared them to be Passed :

Records required

1. Asstt. Superintendent examination copies the

AG/6

6.

(answer books) of Jiyoti Bandhan H/c and Ram Gopal H/c who were appeared in the Assistant Superintendent examination on 15.12.89 and they have been declared failed on 27.2.90.

2. Original result of Asstt. Suptt dt 27.2.90 and interview letter dt. 8.3.90 included in the Annexure no. 2 ;

3. Promotion order of Asstt. Superintendent 1. G.A. Dixit H/c 2. R.P. Privastava H/c 3. U.S. Chukla H/c, the written examination result of dt. 27.2.90.

After one month on 26.3.90 respondents 1 & 2 have made forgery in result of two failed candidates Jiyoti Bandhan and Ram Gopal who were declared failed by respondent 1 and 2 on 27.2.90. After taking Rs. 20,000/- the forged result dt. 26.3.90 not circulated by respondents 1 and 2 to the concerning shops and interview appearing of candidates those were appearing in interview of Asstt. Superintendent. The respondents 1 and 2 submitted the incomplete reply to this Hon'ble Court to receive them.

9. That respondents 1 and 2 wanted Rs 10 thousand

A6/2

7.

rupees from Mahendra Prakash H/c applicant and for the promotion of Asstt. Superintendent, When he could not pay the amount, the respondents 1 and 2 unnecessarily harassed to applicant and made forgery in result of failed candidates of Jiyoti Bandhan and Ram Gopal after taking the money amounting to Rs. 10,000 each failed candidates. Therefore respondents 1 and 2 have committed <sup>able</sup>unbear/forgery and declaring the results of failed candidates and were declared then passed in appearing of interview of Asstt. Superintendent, why the respondents 1 and 2 have declared and not published the result of respondents 3 and 4 Jiyoti Bandhan & Ram Gopal.

It is selection post and <sup>failed</sup>no/candidate can be called in interview without passing selection, so it is necessary to issue order to respondents no. 1 and 2 to promote Mahendra Prakash H/c as Asstt. Superintendent who has passed his test and he is suffering loss of his candidature., as such the failed candidates have been called for interview illegally namely Jiyoti Bandhan &

Mahendra Prakash

AG/8

8.

Ram Gopal who were failed in the written examination, so it is necessary that legal action be taken against the respondents 1 and 2 according to law.

maheendra kishor

Lucknow dated

Deponent

31/8/90

Verification

I, the deponent named above do hereby verify that the contents of Paras 1 to 9 of this Rejoinder affidavit are true to my own knowledge no Part of it is false.

maheendra kishor

Deponent

I identify the deponent who has signed before me.

Sundar Lal  
Advocate

11/3/91  
maheendra kishor  
Sundar Lal  
Advocate

11/9/90

maheendra kishor

(47/1)

Shri Hemant Kumar, Deputy C.M.E. (Workshop) Charbagh, Lucknow accompanied by Mr. Anil Srivastava counsel for the respondents 1 & 2 states with reference to the record of the examination held for the post of Asstt. Supdt. (Non Personnel) Northern Railway in December, 1989 and March, 1990:

I am Deputy C.M.E. and was a member of the Selection Committee which conducted the above examination. Paper No.8 of the file of the examination which is before me contains marks obtained by the candidates in the written test and notional seniority given to the candidates. This notional seniority has been described under the heading "Seniority" in this paper. Both Mahendra Prakash and Jit Bahadur, the applicant and respondent No.3 were awarded 4 marks each for notional seniority. On Sheet No.6 the column marked for seniority, for maximum marks of 15 contains the marks given to each candidate separately. On the sheet the applicant has been given 7 marks while the respondent No.3 has been given 9 marks.

EXPLANATION:

A The notional seniority marks are given for the candidates who appear in the written test of the selection. If a candidate has not secured the minimum qualifying marks to be called in the interview on the basis of written test alone then notional seniority marks are added to the written test marks, accordingly if the candidate qualifies the minimum prescribed marks for the written test as well as the seniority, then he becomes eligible to be called for interview. The purpose of notional seniority marks comes to an end at that stage.

Thereafter at the time of interview the seniority marks are allotted afresh. If the number

  
4/4/91

of candidates for the interview are more than 10 then the seniormost candidate is given 15 marks and the juniormost is given 3 marks and if the number of candidates at the interview is 10 or less then the juniormost is given 5 marks and the seniormost is given 15 marks. This is on the basis of the maximum marks of 15. This principle is given in Printed Serial No.4839.

In the present case there were 6 candidates for interview. The seniormost candidate was allotted 15 marks; the juniormost was allotted 5 marks. The remaining 4 candidates were given marks by distribution according to seniority i.e. 13, 11, 9 and 7 respectively.

In the marks for viva voce at Sheet No.6 there is no real over-writing in the marks allotted to the applicant Mahendra Prakash. The written marks are the average of the marks assigned separately by each one of the 3 members of the Selection Committee which are set out at Sheet Nos.1,2 and 3 of the record. The marks for viva voce allotted to the applicant Mahendra Prakash by the three members of the Board were 6, 9 & 8 whose average has been mentioned in Sheet No.6 to be 8.


The post of Asstt. Supdt. (Non Personnel) is a selection post by promotion from the field of Head Clerks. Among the Head Clerks, respondent No.3 Jicut Bandhan was senior to the applicant Mahendra Prakash as set out in Sheet No.8. Shri Jicut Bandhan is at item No.13 and Mahendra Prakash is at item No.14.

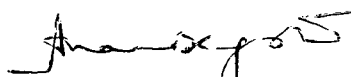
On the assertion made by Shri G.Kelwani, the learned counsel for the applicant that in


*[Handwritten signature]*  
4/4/91

Sheet No.6 the date of appointment of Jicut Bandhan is mentioned as 25.6.73 and that of Mahendra Prakash is mentioned as 11.1.72 and hence Mahendra Prakash is senior to Jicut Bandhan, I clarify that these are not the dates of appointment as Head Clerks but the dates of appointment to the service.

Shri T.N.Gupta, Advocate and Shri Anil Srivastava, Advocate say that they will not ask any question.

  
4/4/91

  
4 Apr 91

  
4.4.91