

(See rule 114)

OA/TA/RA/CP/MA/PT 07.287....of 2090

Versus

INDEX SHEET

Certified that the file is complete in all respects

Signature of Deal Hand

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Circuit Bench
Date of Filing 29/8/90
Date of Receipt by P.A.

Deputy Reg.

Registration No. 287 of 1989 90 (Lr)

30/8

APPLICANT(S) S. N. Mishra

RESPONDENT(S) V. C. G.

Particulars to be examined	Endorsement as to result of examination
1. Is the appeal competent ?	yes
2. a) Is the application in the prescribed form ?	yes
b) Is the application in paper book form ?	yes
c) Have six complete sets of the application been filed ?	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 sapce ?	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

Documents to be Examined

Endorsement as to result of examination

1. Was the application/duplicate
typed on separate paper?
2. Was there a copy of the application
in Annexure A?
3. Was it identical with the original?
4. Was it signed by the applicant?
5. Was it signed in Annexure A?
6. Was it signed by the applicant?
7. Was the application/duplicate
typed on separate paper?
8. Was the address of the
applicant given in the application?
9. Was the address of the
applicant given in the application?
10. Do the names of the parties
mentioned in the copies tally with
those indicated in the appli-
cation?
11. Was the translation certified
by the translator or supported by an
affidavit affirming that they
are true?
12. Are the names of the cases
mentioned in item no. 16 of the
application?
13. a) Correctly
b) Under distinct heads?
c) Separated conceptually?
d) Typed in double space on one
side of the paper?
14. Have the particulars for interim
order prayed for indicated with
reasons?
15. Whether all the species have
been exhausted?

yes

yes

yes

x

N.A.

yes

yes

yes

yes

yes

yes

yes

30/8

①

①

73

NO. 287 of 1990 (1)

30.3.1990

Hon'ble Mr. D.K. Agrawal, J.C.

Hon'ble Mr. K. Chetty, J.C.

Ward.

Admit.

Issue notice to respondents to file counter within 3 weeks, rejoinder may be filed within 2 weeks thereafter. List before D.R. on 30.10.90 for completion of pleadings.

As regards interim relief, issue notice to the respondents to show cause as to why the prayer of interim relief be not granted.

Meanwhile the operation of revocation order dated 10.5.90 (Annexure-9) shall remain stayed, because it is alleged in para 4.15 of the petition that the applicant has received the salary of Hagan movement Insp. etc. up to end of July 90. List on 11.9.1990 for interim matter.

sd/-
D.K.

sd/-
T.N.

Notices Issued
Shah
3-9-90

rrm/

②

14/9/90

Hon. Mr. Justice K. Nath, VC.

Hon. Mr. M.M. Singh, J.C.

No one is present for the applicant. Sri Arjun Bhargava is present for the respondents. Sri Bhargava requests for and is allowed two weeks time to file reply to the interim relief prayer and the case be put up on 8/10/90 for further orders. In the meantime, the interim order shall continue till then.

M M L
Arj

Di
VC.

OR

Notices were issued on 29.9.0
Neither reply nor any unserved copy cover has been returned back.

Date is already fixed 30.9.90 before D.R.

S F O

h
13/9

Nez

(14)

CA 287/90.L

(7)

13.3.91

No sitting Adj to 16.5.91

J

(8)

16.5.91

No sitting Adj to 20.8.91

J

~~20.8.91~~
20/8

(9)

20.8.91

No sitting Adj to 6.11.91

J

OR

No CA filed

S. P. H

6.11.91

Hon. Mr. Justice U.C. Srivastava - VC.
Hon. Mr. A. B. Garhi - AM.

31/12/91

Put up on 8.11.91 for
final hearing.

J
AM

ve.

8.11.91

Hon. Justice U.C. Srivastava - VC.
Hon. Mr. A. B. Garhi - AM.

On the request of Dr. L.P. Sahas
(advocate) case is adjourned to 16.1.92.

J
AM

ve.

16.1.92

No sitting of D.B adj to 16.3.92

J

16.3.92

No sitting of D.B adj to 25.5.92

J

CA filed
SPH
22/8

C.M.No.297/90

23/4/93

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

Hon.Mr. V.K. Seth, J.A.

Shri Arjun Bhargava, learned Counsel for the respondents states that the reversion order of the applicant has already been recalled and he has drawn our attention to counter affidavit in this behalf.

In view of the fact that the reversion order has been recalled, this application has become infructuous and as such it is dismissed as having become infructuous.

W.S.
Adv.


V.C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW

Shri Niwas Misra Applicant
Versus
Union of India & others Respondents

FORM -I

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNALS ACT, 1985.

For use in Tribunal's Office :

Date of filing _____

Registration No. _____

Filed today

29/8/90

*Noted for
29/8/90*

29/8/90

Shri Niwas Misra

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

O.A. No. 287 of 1990 (L)

Shri Niwas Misra Applicant

Versus

Union of India & others Respondents

I N D E X

	<u>Pages</u>
1. Application. ..	1 to 12
2. Annexure No.1- Applicant's promotion as WMI by order dated 23.7.1987. ..	13
3. Annexure No.2- Letter dated 14.3.1989 showing the applicant at serial No.1 of the panel of selected candidates for the post of WMI. ..	14
4. Annexure No.3- Letter dated 23.9.1989 declaring the applicant as pass. ..	15 16-17
5. Annexure No.4- Letter dated 2.4.1990 declaring the applicant as fail after more than 6 months. ..	18-17
6. Annexure No.5- Printed serial No.6062 dated 26.12.1973 ..	18
7. Annexure No.6- Letter dated 17.8.1990 sparing the applicant on completion of P-16 course. ..	19
8. Annexure No.7- Principal's letter dated 2.4.1990 arranging special course of P-16..	20
9. Annexure No.8- Notice dated 3.7.1990 declaring the result of the crash course held from 16.4.90 to 3.5.90. ..	21
10. Annexure No.9- Notice dated 10.5.1990 reverting the applicant. ..	22
11. Power. ..	23

Date : August , 1990.

Place : Lucknow.

Shri Niwas Misra
Sig. of the applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

O.A. No. 287 of 1990 (L)

BETWEEN

Shri Niwas Misra Applicant

AND

Union of India & others Respondents

DETAILS OF APPLICATION :

I. Particulars of the applicant :

- | | | |
|---|---|---|
| (i) Name of the applicant: | } | Shri Niwas Misra,
aged 42 years,
son of late Pt.
Lalji Misra, working
as Wagon Movement
Inspector in the
Operating Department,
Divisional Railway
Manager's Office,
Northern Railway,
Hazratganj, Lucknow,
resident of A-5
Radha Building,
Kamla Nehru Marg,
Chowk, Lucknow. |
| (ii) Name of the father : | | |
| (iii) Designation & office :
in which employed | | |
| (iv) Address for service of:
all notices | | |

II. Particulars of the Respondents :

- | | | |
|--|---|---|
| (i) Name/or designation of
respondents. | } | 1. Union of India
through the General
Manager, Northern
Railway, Baroda
House, New Delhi. |
| (ii) Office address of
respondents. | | 2. Divisional Railway
Manager, Northern
Railway, Hazratganj,
Lucknow. |
| (iii) Address for service of
all notices. | | 3. Divisional Personnel
Officer, Northern
Railway, Hazratganj,
Lucknow. |

Shri Niwas Misra

1. Particulars of the order against which application is made :

Application is made against the notice dated 10.5.1990 issued by the Divisional Personnel Officer, Northern Railway, Hazratganj, Lucknow, reverting the applicant from the post of Wagon Movement Inspector in grade Rs.1400-2300 (RPS) Guard in to grade Rs.1200-2040 (RPS).

2. Jurisdiction of the Tribunal :

The applicant declares that the subject matter of the notice against which he wants redressal is within the jurisdiction of the Tribunal.

3. Limitation :

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the case :

The facts of the case are given below :-

- 4.1 That the applicant was appointed as Sub Inspector in Railway Protection Special Force in Northern Railway, on 22.8.1972 and continued to work as such upto 1979.
- 4.2 That on his own request the applicant was transferred to the post of Guard in Traffic Department, Northern Railway, in 1979.
- 4.3 That the applicant worked on the post of Guard

Shri Nivas Mishra

from 1979 upto 22.7.1987. He was thereafter promoted on adhoc basis as Wagon Movement Inspector (WMI) in the grade Rs.1400-2300 by letter No. 22DE/5/3/WMI dated 23.7.1987. A photostat copy of the applicants promotion as WMI on adhoc basis by order dated 23.7.1987 is filed as Annexure No.1 to this application.

Annexure-1

4.4 That the applicant appeared for selection test for the post of Wagon Movement Inspector on which he was working on adhoc basis. The written test was held on 19.11.1988 and 26.11.88 and the viva voce was held on 14.2.1989.

4.5 That the applicant was selected and placed in the panel of WMI at serial No.1 along with Sri D.K. Menghi on the basis of the DRM's letter No. 757-E/3/WMI/88 dated 14.3.1989. A photostat copy of the letter dated 14.3.1989 showing the applicant at serial No.1 of the panel of selected candidates for the post of WMI is filed as Annexure No.2 to this application.

Annexure-2

4.6 That regularisation on the post of WMI on the basis of selection and empanelment was subject to passing P-16 course from the Zonal Railway Training School at Chandausi.

4.7 That the applicant was spared for being sent to P-16 course at Chandausi w.e.f. 15.6.1989. The course was completed on 18.9.1989 in which the applicant was declared pass by letter No.

Shri Nivans Mishra

29

Annexure-3

52/P-16/89 dated 23.9.1989. The applicant was accordingly spared and directed to report at the Headquarter Lucknow. A photostat copy of the letter dated 23.9.1989 declaring the applicant as pass is filed as Annexure No.3 to this application.

16.8

That subsequently by letter No.S-2/T/P-16(Yard)/90 dated 2.4.1990 the applicant was declared fail in P-16 course. No reasons were assigned as to why the applicant, who had been earlier declared pass by letter dated 23.9.1989, was subsequently declared fail by letter dated 2.4.1990 after a lapse of more than 6 months while the applicant was continuously working on the post of WMI on the basis of his regular selection and empanelment and thereafter on successful completion of P-16 course at Chandausi. A photostat copy of the letter dated 2.4.1990 declaring the applicant as fail without assigning any reasons and after a lapse of more than 6 months is filed as Annexure No.4 to this application.

Annexure-4

16.9

That in accordance with the printed serial No.6062 issued by the General Manager, Northern Railway, New Delhi, by letter No.844-E/212-IX (Rectt.) dated 26.12.1973 relating to number of chances to be allowed for passing promotion course by which it was decided that where passing the promotion course has been prescribed as pre requisite condition for promotion the staff is to be allowed to avail three chances

Shri N. S. Misra

A/c

-5-

Annexure-5

to pass the promotion course at the cost of the railway administration. After an employee has failed in the three chances he may be allowed to avail more chances at his own cost. A photostat copy of the printed serial No.6062 dated 26.12.1973 is filed as Annexure No.5 to this application.

Annexure-6

Q.10 That in terms of the aforesaid printed serial No.6062 dated 26.12.1973 the applicant was required to undergo P-16 course again for the second time by letter No.937 E/5-1/Pt.III dated 10.4.1990. The applicant was accordingly spared for the training course and has completed the same on 17.8.1990. After completion of the P-16 course the applicant was spared by letter No.52/T/P-16 Y/90 dated 17.8.1990 to report back for duty. A photostat copy of the letter dated 17.8.1990 sparing the applicant on completion of P-16 Course is filed as Annexure No.6 to this application.

Q.11 That the applicant throughout was getting his salary on the post of Wagon Movement Inspector in the grade Rs.1400-2300.

Q.12 That the applicant subsequently came to know that a special course of P-16 for yard staff who had failed in the earlier P-16 course has been arranged from 16.4.1990 to 3.5.1990 and the failed staff was required to be booked accordingly. This special course for yard staff, who

Shri Nishu Mishra

Am

-6-

had failed in P-16 course, was arranged as per the letter of the Principal dated 2.4.1990 of the Zonal Training School, Chandausi, where the P.16 course is held. A photostat copy of the Principal's letter dated 2.4.1990 is filed as Annexure No.7 to this application.

Annexure-7

Lg.13 That the applicant who had been subsequently declared fail by letter dated 2.4.1990 after being earlier declared pass by letter dated 23.9.1989 was not booked for the special course for yeard staff who had failed in P-16 course arranged from 16.4.1990 to 3.5.1990 as per the letter of the Principal dated 2.4.1990 although the applicant was fully entitled to be booked for the said special course while the other persons similarly placed were booked for the said special course. Thus the applicant was illegally and arbitrarily excluded which amounts to discrimination in violation of Article 16 of the Constitution of India.

Lg.14 That the result of the special course held from 16.4.1990 to 3.5.1990 for the yeard staff who had earlier failed in P-16 course was announced by the Principal of the Zonal Training School Chandausi by his notice dated 3.7.1990. A photostat copy of the notice dated 3.7.1990 declaring the result of the crash course held from 16.4.1990 to 3.5.1990 is filed as Annexure No.8 to this application.

Annexure-8

Lg.15 That ^{when} the applicant after completion of the P-16

Shri Nirmal Singh

112

-7-

course for which he was booked as per letter dated 10.4.1990 and was spared after completion of the course on 17.8.1990 resumed his duty at Lucknow on 20.8.1990, he was served with the notice dated 10.5.1990 by the DPD. The applicant who had been working as WMI/III in grade Rs.1400-2300 (RPS) was reverted as Guard in the grade Rs.1200-2040 (RPS) with immediate effect and posted in CHC/Lobby/LKO vice existing vacancy of Sri Kripa Kishan retired on 30.4.1990. Thus the notice of reversion dated 10.5.1990 was served on the applicant on 20.8.1990 although the applicant throughout the period from 10.5.90 the date of the notice upto 20.8.1990 the date of service of the said notice on the applicant after his return from completion of P-16 course at Chandausi was getting the grade of Wagon Movement Inspector, that is, Rs.1400-2300(RPS). It is, therefore, evident that the notice dated 10.5.1990 was not implemented in regard to the applicant. A copy of the notice dated 10.5.90 is filed as Annexure No.9 to this application.

Annexure-9

- 46.16 That the aforesaid notice of reversion dated 10.5.1990 served on the applicant on 20.8.1990 is wholly illegal, arbitrary and without jurisdiction inasmuch as the applicant as per the printed serial No.6062 as circulated by letter dated 26.12.1973 was entitled to avail three chances to pass the P-16 promotion course at the cost of the railway administration. The applicant therefore cannot be reverted on the basis of availing one chance as per the aforesaid printed

Shri Nivn's Mst A

A13

-8-

serial No.6062 dated 26.12.1973 which is fully applicable in his case.

16.17 That the applicant was also deprived to avail of the special course for yard staff who had failed in P.16 course arranged between 16.4.1990 to 3.5.1990 as per the letter of the Principal dated 2.4.1990 while others similarly placed were allowed to participate in the said special course and who also passed the said course. Thus the applicant was discriminated in the matter of service and promotion in violation of Articles 14 and 16 of the Constitution of India.

16.18 That the applicant was subsequently sent to the regular P-16 course for the second time as per the letter dated 10.4.1990 which concluded on 7.8.1990. The notice of his reversion was issued at his back on 10.5.1990 while the applicant was already undergoing the P-16 course at Chandausi. The applicant was not afforded any opportunity to show cause in violation of the principles of natural justice. The said notice was not served upon the applicant between 10.5.1990 and 17.8.1990 when he was undergoing the P-16 course at Chandausi. During this period he was also being paid the regular grade of WMI Rs.1400-2300 (RPS). Thus it is evident that the notice of reversion was never implemented in the case of the applicant and the applicant continued to receive the grade of WMI. The said notice dated 10.5.1990 therefore stands waived

Shri Nims Misra

(A14)

and is barred by the 'principle of estoppel'.

4. Grounds for relief :

- (A) Because the notice of reversion dated 10.5.1990 served on the applicant on 20.8.1990 is wholly illegal, arbitrary and without jurisdiction.
- (B) Because the notice dated 10.5.1990 was never implemented with immediate effect as alleged therein in respect of the applicant and the same, therefore, stands waived and the respondents are legally barred from enforcing the same.
- (C) Because the applicant under printed serial No.6062 circulated by letter dated 26.12.1973 was entitled for three chances at the cost of the railway administration and as such he cannot be reverted after failing only one chance. The applicant's reversion by notice dated 10.5.1990 is, therefore, illegal in terms of the aforesaid printed serial which is legally binding.
- (D) Because the applicant was illegally excluded from the special course for yard staff who had earlier failed in P-16 course while others similarly placed were booked for the said special course. The exclusion of the applicant is wholly illegal and arbitrary and amounts to discrimination in violation of Articles 14 and 16 of the Constitution of India.
- (E) Because the applicant was not afforded any oppor-

Shri Nivas Mishra

(A15)

-10-

tunity to show cause against the proposed reversion and the same was passed at his back in violation of the principles of natural justice.

6. Details of the remedies exhausted :

The applicant declares that as the notice dated 10.5.1990 reverting the applicant is wholly without jurisdiction and without affording any opportunity to show cause to the applicant, the same is liable to be challenged without exhausting the alternative remedy of representation.

7. Matters not previously filed or pending with any other court :

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court of law or any other authority or any other Bench of the Tribunal and nor any such application, writ petition or suit is pending before any of them.

8. Reliefs sought :

In view of the facts mentioned in para 6 above the applicant prays for the following reliefs :-

- (i) To quash the notice of reversion dated 10.5.1990 (Annexure No.9) as served on the applicant on 20.8.1990 after summoning the record;

Shri Nivins Mishra

- (ii) to direct the respondents not to revert the applicant from the post of WMI/III in grade Rs.1400-2300 (RPS) on which he is working;
- (iii) to pass such other order as may be deemed just and proper in the circumstances of the case.

7. Interim order, if any prayed for :

Pending final decision on the application, the applicant seeks issue of the following interim order :-

To stay the operation of the notice dated 10.5.1990 (Annexure No.9) reverting the applicant from the post of WMI/III in grade Rs.1400-2300 (RPS) to that of Guard in grade Rs.1200-2040 (RPS).

12. Particulars of postal order in respect of the application fee :-

1. Number of Indian Postal Order 8 02 414775
2. Name of the issuing Post Office H.E. Bawal
3. Date of issue of Postal Order 27/8/90
4. Post office at which payable Allahabad

13. Details of Index :

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

14. List of enclosures : As per index.

Verification

I, Shri Niwas Misra, aged about 42 years, son of late Pt. Lalji Misra, working as Wagon Movement

Shri Niwas Misra

Inspector in the Operating Department, Divisional Railway Managers Office, Northern Railway, Hazratganj, Lucknow, resident of A-5 Radha Building, Kamla Nehru Marg, Chowk, Lucknow, do hereby verify that the contents of paras 1 to 14 are true to my personal knowledge and belief, and that I have not suppressed any material fact.

Date : August , 1990.

Place : Lucknow.

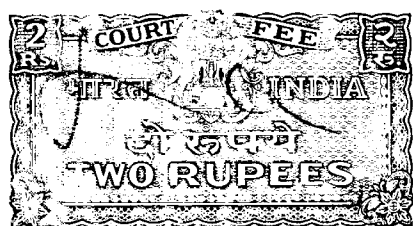
Shri Nivasa Mishra
Signature of the Applicant.

A18/23

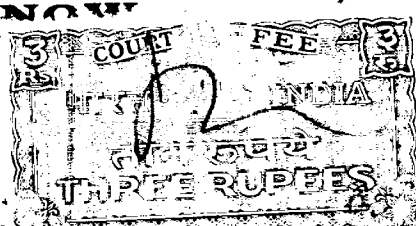
Vakalatnama

In the Central Administrative Tribunal
~~In the High Court of Judicature at Allahabad~~

SIT



KNOW



S.N. Misra

VERSUS

U.O. 1 & Others

No.

of 19

I | we the undersigned do hereby nominate and appoint Shri L. P. Shukla Adv
C-700 Mahamagar Lucknow
 and Shri _____

Advocate, to

be counsel in the above matter, and for me | us and on my | our behalf to appear, plead, act and answer in the above Court or any Appellate Court or any Court to which the business is transferred in the above matter, and to sign and file petitions, statements, accounts, exhibits, compromises or other documents whatsoever, in connection with the said matter arising there from, and also to apply for and receive all documents or copies of documents, depositions, etc, etc, and to apply for issue of summons and other writs or subpoena and to apply for and get issued any arrest, attachment or other execution, warrant or order and to conduct any proceeding that may arise thereout and to apply for and receive payment of any or all sums or submit the above matter to arbitration.

Provided, however, that. if any part of the Advocate's fee remains unpaid before the first hearing of the case or if any hearing of the case be fixed beyond the limits of the town, then, and in such an event my | our said advocate shall not be bound to appear before the court and if my | our said advocate doth appear in the said case he shall be entitled to an outstation fee and other expenses of travelling, lodging, etc Provided ALSO that if the case be dismissed by default, or if it be proceeded ex parte, the said advocate(s) shall not be held responsible for the same. And all whatever my | our said advocate(s) shall lawfully do, I do here by agree to and shall in future ratify and confirm.

ACCEPTED :

L. P. Shukla

Signature of Client Shri Nivas Misra

1rAdvocate

2-Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

O.A. No. 287 of 1990 (L)

Shri Niwas Misra Applicant

Versus

Union of India & others Respondents

List of Enclosures

Page Nos.

1. Applicant's promotion as Wagon Movement Inspector by order dated 23.7.1987. .. 13-
2. Letter dated 14.3.1989 showing the applicant at serial No.1 of the panel of selected candidates for the post of WMI. .. 14
3. Letter dated 23.9.1989 declaring the applicant as pass. .. 15-
4. Letter dated 2.4.1990 declaring the applicant as fail after more than 6 months. .. 16-17
5. Printed serial No. 6062 dated 26.12.73 relating to number of chances for P-16 course. .. 18-
6. Letter dated 17.8.1990 sparing the applicant on completion of P-16 Course. .. 19-
7. Principal's letter dated 2.4.1990 arranging special course of P-16. .. 20-
8. Notice dated 3.7.1990 declaring the result of the crash course held from 16.4.1990 to 3.5.1990. .. 21-
9. Notice dated 10.5.1990 reverting the applicant to the post of Guard. .. 22-

Date : August 29, 1990.

Place : Lucknow.

Shri Niwas Misra
Sig. of the applicant.

In the Central administrative Tribunal, Enquiry Bench Lucknow
O.A. No. 1199
Shri Misra Misra
Union of India & others
Applicants
Opp Parties
A19
13
ANNEXURE NO. 1

NOTIFICATION

No. 2204/5/3/1961

Divisional Office,
Lucknow. Dt. 25-7-1961.

NOTICE

Shri S.N. Misra, Grade Band Lucknow Scale Rs. 1200-2040 has been promoted to Band Scale No. 1400-2300 purely on ad-hoc basis against resultant vacancy existing at Band. The post will temporarily be filled at Lucknow.

This has the approval of Board (T)/A.O.

Movement should be advised to all concerned at once.

Signature
Divisional Personnel Officer,
Lucknow.

- C/-
1. S.O./A.O., Dy. S.O./A.O. 1,
 2. S.O./A.O., S.O., S.O. Office,
 3. S.O./A.O., Lucknow. S.O./A.O.
 4. S.O./A.O./Lucknow.
 5. Audit. Pay Bill, S.O./A.O., Lucknow.

Shri Misra Misra

Witnessed/True Copy

Signature

L. P. SHUKLA
Advocate

In the Central administrative Tribunal, Lucknow
of 1992
Shri Nivasa Misra
Union of India & others
Applicants
Opp Parties
Annexure No 2

NORTHERN RAILWAY

DIVL. RLY. MANAGER'S OFFICE
LUCKNOW.

No 757-E/3/WMI/88

DATED: /3/89

Sub: Selection of WMI in Grade Rs.1400-2300(RPS)

As a result of selection held for the post of wagon movement Inspector in Gr. Rs.1400-2300(RPS) on 19.11.88 and 26.11.88 (Written test) and on 14.2.89 (Viva voce), the following staff have been found suitable and placed on the panel. Their names are given below in order of seniority:-

1. Shri S.N. Misra, Guard/Lucknow.
2. Shri D.K. Menghi, Sr. Clerk, Lucknow.

The aforementioned staff should note that retention of their names on the panel is subject to their work remaining satisfactory during the currency of the panel. Menefact that their names have been placed on the panel is x no guarantee that they will be offered /continued on the post for which selected.

The P-16 course has been prescribed as pre-requisite qualification for the post of WMI in Gr. Rs.1400-2300 in terms of HQ's letter No. 757E/42(EB) dated 11.7.88 and the aforementioned staff required to pass the prerequisite course P-16 on the first opportunity for which it should be taken as notice and they should be ready to attend ZTS/CH for above course as and when arranged.

Shri Misra
for Divl. Rly. Manager
LUCKNOW
14/3/89
Northern Railway, Lucknow.

1. C/-Sr.DOS, Sr.DSO, DOS-I, II
2. AOS(M), (G)
3. Supdt. Trains branch.
4. Divl. Secy. NRMU.
5. Divl. Secy. URMU.

Shri Nivasa Misra

Shri Misra
L. P. S. ...
Advocate

In the Central administrative Tribunal, Lucknow

Shri Nirmal Mishra

Union of India & others

Annexure No 3

of 1991

Applicants

Opp Parties

Chandauli.

Dt: 23.9.89

No: 52/P16/89

The Divisional Railway Manager,
N.Rly., DLI, A.D. I.K.O. MB, PZR.

Sub:- P-16 Course from 16/6/89 to 18/9/89

On completion of the above course the following staff who were detained have been spared (all) of 23/9/89, and directed to report to their respective Hd.Qrs. The dates of their arrival at this school are noted against each. All the candidates have been declared spared.

S.NO.	Name	Design.	Stn.	Divn.	Date of arrival	Privilege.
1.	S/Shri				15.6.69	
2.	Mukti Ram	YM	DLI	FBI	16.6.89	L-10/8 to 11/8
3.	Anand Bhattacharya	GD	ALD	ALD	-do-	-do-
4.	F.C. Sarna	ASM	IKO	IKO	-do-	L-14.8.89
5.	Asharfi Lal	ISM	AMU	IKO	-do-	-do-
6.	Ramch Singh	YM	JUC	PER	-do-	L-14/8
7.	Avadh Bai	SYM	BBS	IKO	-do-	S/L 8/8, 9/8, one set
8.	Jhunjum	SYM	BBS	LK	-do-	Pass.
9.	Mohd. Hussai	YM	PER	IKO	-do-	L-11/8 S/L 12/8, 13/8
10.	Naretan Lal	AYM	IKO	IKO	-do-	L-11/8
11.	Mehesh Lal	Switchman	Bela	welli/MB	-do-	-
12.	S.N. Jha	-do-	CHTL	MB	-do-	-
13.	A.B. Lal Asthana	ASM	MB	MB	-do-	-
14.	Om Prakash Parasar	YM	MB	MB	16.6.89	-
15.	S.N. Misra	WLM	IKO	IKO	12.6.89	-

NOTE:- Item No. 3 and 4 detained for P/16 charting course.

Principal
Z.T.S./Chandauli.

संख्या सं 5, 6, 7, 8, 9, 10, 11, 12, 1, 2, 14, 13, 9, 1 को म. पुस्तक व म. जोका प्रकाशना व आज दिनांक 23.9.89 को स्थान (लिखित) जाता है

Shri Nirmal Mishra

Principal, T.S. Co.

U. P. State
Admission

In the Central administrative Tribunal, Bench Lucknow
 04 no
 Shri Nivas Misra
 Union of India & others
 Annexure No 4
 1990
 Applicants
 16
 16

Result No:800

NR-ZTS-CH- Cpurse:P/16(Yard) from 16/6/89 to 18/9/89

S.No.	Name	Design.	Stn.	Divn.	Result & Merits.
	S/Shri				
1-	Bal Kishan Sharma	Y.M.	DLI	DLI	Passed -15
2-	Sandeep Sidharth	"	"	"	FAILED
3-	Mukti Ram	"	"	"	Passed -25
4-	Raj Kumar Kakar	A.Y.M.	DKZ	DLI	Passed -07
5-	Ratan Kumar	"	"	"	Passed -24
6-	Sudesh Kr.Gupta	Sec.CNL	MB	MB	Supp.TT
7-	Devendra Kr.Megi	WMI	IKO	IKO	Passed -21
8-	Majahar Naseem	ASM	NSU	ME	Passed -02
9-	Adhish Kr.Saxena	ASM	IKO	IKO	Passed -10
10-	V.P.Upadhaya	CR/ZTS	-	-	Passed -05
11-	D.K.Jaim	ASM	Kharabad	DLI	Passed -18
12-	Jai Ram	Sec.CNL	AID	AID	Passed -08
13-	Prabhu Nath singh	Sec.CNL	Chunar	AID	Passed -13
14-	Anirudh Bhattacharaya	Guard	AID	AID	FAILED
15-	Gage singh	ASM	SKB	AID	Passed -18
16-	Manjhi Ram	Y.M.	TKD	DLI	Passed -05
17-	Y.g Raj	Y.M.	SSB	DLI	Passed -16
18-	Kishana Kr.Dewadi	ASM	IKO	IKO	Passed -11
19-	P.C.Saxena	"	IKO	IKO	Passed -22
20-	Sidh Nath Tewari	"	SIM	IKO	Passed -03
21-	Asharfi Lal	ASM	AMG	IKO	Passed -23
22-	Sunmi Lal	Y.M.	RE	BKN	Supp.(TT,CT,(Etab.))
23-	O.P.Sharma	Y.M.	RE	BKN	ABSENT (Sent in T.A.)
24-	O.P.Yadav	Y.M.	RE	BKN	ABSENT (Sent in T.A.)
25-	Ronak singh	"	JUC	FZR	(Supp.TT,CT,GT,)
26-	Dev Raj Sharma	"	JUC	FZR	(Supp.TT,CT,)
27-	Avadh Raj	AYM	BSB	IKO	FAILED
28-	Jhunjhun	"	"	"	(Supp.TT,CT,GT,)
29-	Ram Dular	"	PBH	IKO	(Supp.TT,CT,GT,)
30-	Mohd. Peer Husain	AYM	"	"	FAILED
31-	Narottam Lal	AYM	IKO	IKO	FAILED
32-	M.S.Negi	S.Man	NBD	MB	(Supp.TT,GT,)
33-	Mahesh Pal	S.Man	BLW	MB	(Supp.CT,)
34-	Sachiddanand Jha	S.Man	CH I	MB	(Supp.TT,GT,)
35-	Radhey Shyam Shukla	"	"	"	(Supp.TT,CT,GT,)
36-	S.C.Misra	"	MSDR	MB	(Supp.TT,GT,)
37-	Heera Lal	"	DNRA	MB	FAILED
38-	Naimudding Siddiqui	"	PMR	MB	Passed -04
39-	S.C.Pandey	"	KMT	MB	(SUPP.TH.)
40-	A.Z.Siddiqui	CR	GRS	CH	Passed -09
41-	Nand Lal Sharma	Y.M.	ASR	FZR	ABSENT (Sent in T.A.)
42-	Dharam Veer	WMI	MB	MB	Passed -14
43-	Vijay Kr.Upadhaya	Sec.CNL	MB	MB	Passed -14
44-	Om Prakash Rathi	Y.M.	DEE	BKN	FAILED
45-	Satish Kr.Srivastava	S.Man	IQB	MB	(Supp.TT,CT,GT,)
46-	Mahi Pal singh	WMI	TKD	DLI	Passed -12
47-	A.B.Lal Asthana	ASM	MB	MB	(Supp.TT,)

Attested/Tent Copy

Contd....2/-

L.P. SINGH
 Admin

17 A23

-2-

S.No.	Name	Design.	Stn.	Divn.	Result & Merits.
	S/Shri				
48-	M.S.Siddiqui	Sec.CNL	ALD	ALD	Passed -21
49-	Raj Bahadur Saxena	ASM	TSA	MB	(Supp.TT)
50-	P.B.Sinha	Sec.CNL	TDL	ALD	Passed -06
51-	Jai Prakash Misra	S.Man	MB		Supp.TH
52-	S.B.Mandal	Sec.CNL	MB		Passed -7
53-	Om Prakash Parashar	Y. M.	TKI		(Supp.TT)
54-	Dharam Nath singh				(Supp.TT)
55-	S.N.Misra	WMI	LKO		
56-	S.K.Misra	Sec.CNL	ALD		Passed- 19
57-	S.C.Misra	-do-	"		Passed- 20
58-	Anil Kr. Sharma	TR/ZTS-CH	-		Passed- 21

Appeared = 58, Passed = 29, FAILED = 29, Supp. = 14
Absent = 03

Principal
Z.T.S. CH

NO: 52/T/P-16(YARD)/90 Dt: 02/4/1990

Copy to:-

GM(P)/Hd.Qrs.Baroda House, New Delhi.
DRMs- N.Railway/IKO ALD MB DLI JU FZR BKN UMB
SPO(T&C)/NDLS, SPO(RP)/NDLS,
Secy./URMU & NRMU CH/Branch
SSM, Dealing Clerk, Notice Board, ZTS/CH
and CA/P, TR-I, CR-I, ZTS/CH

Result No. 80

NR-ZTS-CH- Course:- P16/A Supp. (Supp. Exam. March '90)

S.No.	Name	Design.	Stn.	Divn.	Results.
1.	Shri Jag Ram	S.Suptd.,	FD	Iko	Passed

NO: 52/T/P-16A/90 dt: 02/4/1990
(Supp.)

PRINCIPAL 24.4.90

Copy to:- DRM/IKO, GM(P)Hd.Qrs.B.House, NDLS
SPO(T&C) & SPO(RP)/NDLS
Secy./URMU & NRMU Ch Branch.
SSM, Dealing Clerk, Notice Board,
CR-I, TR-I, CA/P ZTS/CH

Attested (True Copy)

L. P. SHARMA
Attended

(10) (22)

In The Central administrative Tribunal
Circuit Bench Lucknow

OAM

1990

Shri. Muzo Muzia

Union of India & others

Applicant
vs
Opp. Parties

ANNEXURE No 5

Serial No. 1002-Circular No. 044-E/212-X (Acctt.), dated
20-12-1973.

Sub:- Promotion Course Number of chances to be allowed
for passing.

A copy of Railway Board's letter No. E(N) 1-73-P.I/196.
dated 5-12-73 together with copy of G.M./North Eastern
Railway, letter dated 24-6-72 referred ~~with~~ therein is sent
here with for information and necessary action.

Copy of Railway Board's letter No. E (N) 1-73 PMP/196,
dated 5-12-73 from Assistant Director establishment Rly.
Board addressed to the General Manager North-eastern Railway
Gorakhpur.

Sub:- Promotion Course-Number of Chances to be allowed
for passing.

Reference your letter No. E/286/2 (P) (V), dated 24th
June, 1973 on the above subject. The Board have considered
the matter and decided that in case of posts for which "Promoti-
on course" has been prescribed as prerequisite condition
to promotion, the staff may be allowed to avail of three
chances to pass the "Promotion Course" at the cost of the
Administration. After an employee has failed in three
chances, he may be allowed to avail of more chances at his
own cost.

Shri Nivas Muzia
Shri Nivas Muzia
Witnessed, True Copy

[Signature]

L. P. SHUKLA
Advocate

In the Central Administrative Tribunal, Circuit Bench Lucknow

Shri Nivasa Murza

Union of India & others

Annexure No

1991

Applicants

Opp Parties

19

उत्तर लेख

पत्रसं० : 52/टी/पी-16वाई/90

मंडल रेल प्रबन्धक

डोरे. लखनऊ

क्षेत्रीय प्रशिक्षण स्कूल

बदौली

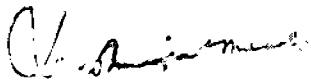
दिनांक 17/8/90

विषय - पी-16 वाई पाठ्यक्रम दिनांक 10/5/90 से 8/8/90 तक

इस कार्यालय के सम्बन्धित पत्रदिनांक 8/8/90 के अनुसार एम० एन० मिश्रा डब्ल्यू एन० आई० लखनऊ को माहल रुम की पुनः परीक्षा के लिए रोका गया था। उक्त उक्त पाठ्यक्रम का प्रशिक्षण पूर्ण करने के उपरान्त आज दिनांक 17/8/90 को अपराह्न से कार्यमुक्त करके स्थान कार्यालय को वापिस भेजा जाता है। इसीसे प्रशिक्षण हेतु दिनांक 10/5/90 को उपस्थिति दी थी। प्रशिक्षण के दौरान इसीसे दिनांक 2.8/6/90, 5.6.7/7/90, 13.16/8/90 का अवकाश लिया था।

Shri Nivasa Murza

Attested/True Copy



L. P. SHUKLA
Advocate

प्रमाणित
17/8/90
प्रमाणित
क्षेत्रीय प्रशिक्षण स्कूल
बदौली

In the Central administrative Tribunal Circuit Bench Lucknow

Shri Nivasa Murza

Union of India & others

O A No

of 1990

Applicants

Opp Parties

Annexure No 7

Northern Railway

No. 52/T/P-16 Spl/90 (52/4/90)

Zonal Training School,
Chandausi

Dated : 02/4/90

1. The General Manager(P),
Northern Railway,
Baroda House,
New Delhi

2. The Divisional Railway Manager, ALD, BKN, DLI, FZR, JU, MB
& UMB.

Sub: Special course P-16 Yard staff (failed
Candidates).

Ref: G.M.(P)/NRLS's letter No. 758-E/5(NRB)
Dated 28/3/90.

....

A special course for yard staff who had failed
in P-16 course, has been arranged from 16/4/90 to 03/5/90. The
staff may be booked accordingly.

Principal

Copy to :-

TR-1, SSM, CR-1, Dealer, ZTS/CH

Shri Nivasa Murza

Witnessed/T... Copy

(Signature)

L. P. Singh
Advocate

In the Central administrative Tribunal Circuit Bench Lucknow

Shri Nivasa Misra

Union of India & others

ANNEXURE NO 8

1991

Applicants

Opp Parties

21

NR/ZTS-CH - Course: P/16(Yard)Crash Course Result No:873
from 16/4/90 to 03/5/90

S.No.	Name	Design.	Stn.	Divn.	Result/Merit
5/Shri					
1.	Prabhakar Misra	Y.M.	LKO	LKO	FAILED -
2.	Babu Lal	AYM	FD	LKO	Passed -02
3.	Mohd. Chuttan	"	"	"	Passed -12
4.	Harinar singh	"	BSB	LKO	FAILED -
5.	Vijai Nath	"	"	"	FAILED -
6.	Darshan	YM	Dhandhanikalan	FZR	Passed -14
7.	Ram Avadh singh	"	ASR	FZR	Passed -03
8.	Nand Lal sharma	"	"	"	Passed -01
9.	Mohd. Peer Hussain	A YM	PEH	LKO	Passed -09
10.	A biul Khaliq	"	BSB	LKO	Passed -11
11.	Avadh Raj	"	BSB	LKO	Passed -07
12.	Heera Lal	S/Man Dhananora	MB		Passed -04
13.	Ram Dular	A YM	PEH	LKO	Passed -08
14.	Nafottam Lal	"	LKO	LKO	Passed -13
15.	Satya Pal	"	Chakribank	FZR	Passed -10
16.	Jhunjhun	"	BSB	LKO	Passed -06
17.	Ramesh Kr.Chug	"	Ratangarn	BKN	FAILED -
18.	Om Prakash Bathi	"	DSE	BKN	FAILED -
19.	Om prakash Yadav	"	FE	BKN	Passed -05
20.	Bagnunath Meena	CYM	Suratgarn	BKN	Passed -15

Appeared - 20, Passed- 15, FAILED- 05

Copy to:- 52/T/T/P-16/90 Dt:03/7/90

G.M.(P), SPO(T&C), SPO(RP&NDIS

DRMs-LKO, FZR, BKN, MB, Secy.NRMU/URMU/CH Branch

SSM, Dealing Clerk, CA/P, CR-I, TR-I, Notice Board, ZTS-CH.

PRINCIPAL

03.7.90

Shri Nivasa Misra

Dealing Clerk

L. C. Misra

Adm. Secy.

Shri Nivasa Mishra
Union of India & others

ANNEXURE - No 9

4199.
Applicant.
Opp Parties

(22)

NORTHERN ZONE

No:757E/5/3/MI/88.

Divisional Office,
Lucknow, 1/- .5.9.

NOTICE

The under noted orders are issued to have immediate effect:-

1. On being placed on the panel of MI/III in Gr. Rs. 1400-2300(RPS) vide this office letter of even no. dated 14.3.89 and ~~after~~ having been declared passed in P-16 course Shri D.K. Benghi, Sr. Clerk, Transportation Branch who was working as MI/III on ad hoc basis w.e.f. 18.5.89, is now regularised as MI/III in grade Rs. 1400-2300(RPS).
2. ~~After~~ ^{been} Having declared failed in P-16 course Shri S.N. Mishra, working as MI/III in Gr. Rs. 1400-2300 (RPS) on ad hoc basis is reverted as Guard grade Rs. 1200-2040(RPS) with immediate effect and posted under CHC/Lobby/LKO vice existing vacancy of Shri Kripa Kishan, retired on 30.4.90.

This has the approval of Competent authority.

[Signature]
for Divisional Personnel Officer,
Lucknow.

Copy to:-

1. Sr. DOS/LKO
2. CHC/LKO
3. CHC/Lobby/LKO
4. Sr. D O/LKO
5. Supdt. Pay Bill.

Collected/True Copy

[Signature]

L.P.O.

Adm. Secy.

Shri Nivasa Mishra

edvt

Page 4
A29

N.F.No. 138 of 1990. (L)

APPLICATION FOR DISMISSAL

Union of India & Others.....Applicant

In

C.A.No.287 of 1990 (L)

Shri Gobind Shukla Versus Union of India & Others.

against

To,

The Hon'ble Vice Chairman and his companion members of
the aforesaid Tribunal.

The humble petition of the above mentioned applicant
most respectfully Sheweth:-

1. That the facts and circumstances of the above case have
been set out in the accompanying affidavit which may kindly be
taken on record.
2. That for the facts and circumstances indicated in the
accompanying affidavit, the application filed by Shri Shri
Gobind Shukla lacks merit and is liable to be dismissed with
costs.

-: PRAYERS :-

Therefore it is respectfully prayed that in view of the
facts and circumstances mentioned in the accompanying affidavit
thus Hon'ble Tribunal may be kind enough to dismiss the appli-
cation with costs.

(DR. DINESH CHANDR.)

Counsel for the Applicant/Respondent.

Case is not to be
dismissed
R

Filed today
27/3/91

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT DELHI, NEW DELHI,
CIRCUIT BENCH, LUCKNOW.

COUNTER-AFFIDAVIT ON BEHALF OF RESPONDENTS 1 TO 3.

In

O.A.No.287 of 1990 (L)

Shri Sheo Gobind Shukla.....Applicant.

Versus

Union of India & Others.....Respondents.

I, K.B.Sharma aged about 56 years, son of Late Shri S.B. Sharma, Superintendent of Post Offices, Kanpur (N) Division, Kanpur do hereby solemnly affirm and state as under:-

1. That the deponent has read the application filed by Shri Sheo Gobind Shukla and has understood the contents thereof.
2. That the deponent is well conversant with the facts of the case deposed hereinafter.
3. That it will be worth while to give a brief history of the case as under:-

-: BRIEF HISTORY OF THE CASE :-

Shri Sheo Gobind Shukla entered the Department as Group 'D' employee and promoted w.e.f.28-6-1955 to clerical cadre as a result of passing Departmental examination. The applicant was further promoted to L.S.G. cadre on the basis of seniority cum fitness vide Memo No.STA/12-XA/LSG/SEL/80/7 dt.10-2-82. The

[Signature] Contd..2/-


// 2 //

applicant worked under different Supdt. of PCs whose observations with regard to the work and conduct of the applicant are being filed as Annexure.R-I.

The date of birth of the applicant as per record of this office is 3-1-1932 and date of continuous service in clerical cadre was 1-9-53. On completion of 30 years of service the name of the applicant alongwith his confidential record was sent to Director Postal Services, Kanpur for premature retirement. The High Power Committee reviewed the case and found that the applicant should be retired from Govt. service after giving 3 months notice on account of his unsatisfactory service record from the year 1972-73^{months}. Accordingly D.P.S., Kanpur issued notice to the applicant vide his No.ST/X-3/85 dated 14-10-85 which was delivered to the applicant on 15-10-85. In pursuance of the above, retirement order was issued vide S.P.O's KP(I) Memo No.B-1/13-A/80-81 dated 18-12-85 to retire the applicant from Govt.service w.e.f.16-1-86 F/N i.e. after completion of notice period. The applicant was accordingly retired from Govt. service on 16-1-86. The applicant on retirement filed an Industrial dispute case No.K-8/(2-34)/86-2 in Central Govt.Industrial Tribunal cum Labour Court, Kanpur which was dismissed as non maintainable.

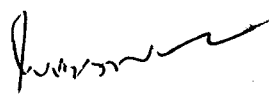
4. That the contents of paras 1 to 4 need no comments.

5. That in reply to para 5 it is stated that the application is barred by limitation under Sec.21 of the Administrative Tribunal Act, 1985 in as much as the cause of action arose as long

 Contd...3/-

back as 15-10-85 when the applicant was served with a notice for premature retirement and subsequently on 16-1-86 when the applicant was made to proceed on pre-mature retirement. His petition before the Hon'ble Industrial Tribunal cum Labour Court, Kanpur were without jurisdiction as the applicant was required to retire after completion of 30 years of qualifying service under the provisions of Rule 48 of the Central Civil Services (Pension) Rules, 1972.

6. That the contents of para 6.1 need no comments.
7. That in reply to para 6.2 it is stated that the applicant was promoted to L.S.G. cadre on the basis of seniority cum fitness. It was not a selection post where merit of the candidate plays a dominant role. It was simply a promotional post where seniority subject to fitness was the criterion. It is admitted that the Director Postal Services, Kanpur had become his appointing authority.
8. That the contents of para 6.3 are admitted to the extent that the applicant worked in the L.S.G. cadre at Akbarpur, Jhijnhak, Rura and Unnao Headquarter. Rest of the contents are denied. His work and conduct had been commented upon by his supervisory offices, a copy of which is being filed as annexure.R-I. Its perusal will reveal that the applicants work and conduct was not even satisfactory to retain ^{him} ~~with~~ in service in public interest any longer.
9. That the contents of para 6.4 are not admitted. Details



Contd...4/-

A33

// 4 //

of the adverse remarks given in the ACRs of the applicant from 1970-71 to 1985-86 are being filed as Annexure R-1.

10. That in reply to para 6.5 it is stated that as a result of scrutiny of the service records of the petitioner, he was not found fit to be retained in service in public interest after having completed thirty years of qualifying service.

11. That the contents of para 6.6 are not admitted. No further promotion above LSG was given to applicant in 1982 and thereafter.

12. That the contents of para 6.7 are not admitted as the same are not in the knowledge of the deponent.

13. That in reply to para 6.8 it is stated that the charge-sheet issued vide Memo D/Ture/85-86 dt.10-4-85 was decided on 10-1-86 and the applicant was let off with ^asevere warning, Charge-sheet issued vide Memo CR-9/SB-45/84-85 dt.1-5-85 was decided on 30-12-85 and recovery of Rs.45.50 was imposed on the applicant and Charge-sheet issued vide Memo CR-9/SB-370/82-83 dt.1-5-85 was decided on 18-12-85 and the applicant was let off with a "Censure". All the above three charges were issued under Rule 16 of the C.C.S(C.C.I.) Rules, 1965.

14. That the contents of para 6.9 are not in the knowledge of the deponent and hence denied.

15. That in reply to paras 6.10 and 6.11 it is stated that the reply of the applicant dt.4-11-85 was not received in the deponants' office. However, his representation dt.19-12-85

Contd..5/-

A34

// 5 //

which was received on 23-12-85 through the Post Master, Unnao was forwarded to the Director Postal Services, Kanpur on 30-12-85. The applicant was retired on 16-1-86 in pursuance of the Director's letter dt.14-10-85. The avement of the applicant that his premature retirement order was wrongly issued by the Supdt. of Post Offices, Kanpur (II) and not by the Director Postal Services, Kanpur who was the competent authority for the purpose is misconceived. As a matter of fact, the retirement orders were issued by the Director Postal Services, Kanpur and the Supdt. of Post Offices had only communicated those orders to ensure compliance of the said orders which were communicated to the applicant on 15-10-1985. The applicant was retired on 16-1-1986 after expiry of three months notice period.

16. That the contents of para 6.12 are misconceived. The order dt.18-12-85 issued by the Supdt. of Post Offices, Kanpur in pursuance of the Director of Postal Services, Kanpur's order No.SI/X-3/85 dt.14-10-85.

17. That the contents of para 13 are not admitted. As explained in the above paragraphs there was nothing malafide on the part of the Supdt. of Post Offices, Kanpur in issuing the retirement order in pursuance of the Director's order of 14-10-85.

18. That no comments can be offered with regards to the averments made in para 6.15 as the alleged representations

Contd..6/-

[Handwritten signature]

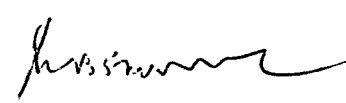
were not routed through the deponent.

19. That in reply to para 6.15 it is stated that the subject matter of the present application does not fall within the purview of the Industrial Dispute Act, 1947 and it has been confirmed by the Ministry of Labour, Govt. of India that the dispute arising out of the applicants premature retirement is not an industrial dispute as the order of pre-mature retirement was passed in accordance with provisions of Rule 48 of the Central Civil Services (Pension) Rules, 1972.

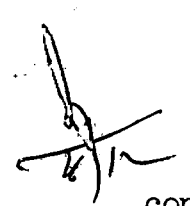
20. That the contents of para 6.16 need no comments.

21. That in view of the submissions made in the above paragraphs, the reliefs sought for in paragraph 7 and interim relief prayed for in paragraph 8 are not admissible and are liable to be rejected.

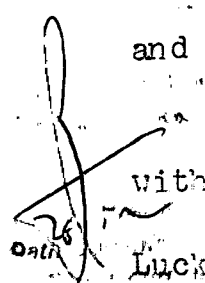
22. That the contents of paras 9 to 13 need no comments.

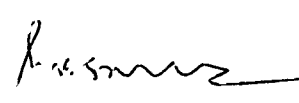

Deponent.

-: VERIFICATION :-

 I, the above named deponent do hereby verify that the contents of paras 1 to 13 of this affidavit are true to my personal knowledge and those of paras 14 to 16 are believed by me to be true based on records and as per legal advice of my counsel. That nothing material facts has been concealed and no part of it is false, so help me God.

Signed and verified this the 26th day of Dec 1990 within the court compound at Lucknow.


Lucknow.


Deponent.

Dated;

I identify the deponent who signed before me.


Advocate.

ANNEXURE-I

S.No.	Year	Remarks/punishment awarded	Name of the SPOs who recorded.
1.	1970-71	Average	Shri S.P. Ojha
2.	1971-72	Average	-do-
3.	1972-73	Consume vide memo no.SBC/135/71-72 dated 5.5.72 Severely warned vide memo No.L-4/Rura/72 dated 6.6.72 5.75/- was recovered vide FX-6/1/72-73 dated 16.2.73	-do-
4.	1973-74	While working as SPM Rura his work was not found satisfactory. Has not been found fit for independent charge.	Shri K.M. Khare
5.	1974-75	General performance very ordinary. Work during inspection was not found satisfactory by IPOs.	-do-
6.	1975-76	An ordinary worker.	-do-
7.	1976-77	An ordinary worker.	-do- (and Shri L.S. Mishra.)
8.	1977-78	The official was punished with the stoppage of increment for 6 months vide FX-4/10/75-76 dt.15.6.77	Shri L.S. Mishra
9.	1978-79	An ordinary xxxxxx worker	-do-
10.	1979-80	(1) Relation with fellow employees are not good. (2) Industrious but quarrelsome. (3) Not dutiful. (4) Not able to maintain calm and composure at the time of pressure of work. (5) General performance not upto the mark. He was punished with stoppage of increment of 6 months and debarred from holding independent charge vide memo no.SB 6/Jhinhak dated 10.3.80.	Sri M. Das
11.	1980-81	(1) One complaint is under enquiry.	-do-
12.	1981-82	(2) An average worker. No adverse.	-do-
13.	1982-83	(1) Slack in initiative drive (2) Not trust worthy. (3) Not free from doubt. He is involved in theft case of hand pipe and removal of furniture from Akbapur P.O.	-do- -do- -do-

14. 1983-84 {1} Performance was shown poor. Shri M. Das
{2} He is an ordinary worker with doubtful integrity.
15. 1984-85 Nothing adverse Shri V.R. Yadav.
16. 1985-86 (1) Multy punishments have been awarded to the official for his various lapses.
(A) Severe warning vide memo no.D/Rura /85-86 dated 10.1.86. Shri V.R. Yadav.
(B) Recovery of Rs.45-50 vide CR-9/SB-45/84-85 dated 30.12.85
(C) 'Censured' vide CR-9/SB-370/82-83 dated 18.12.85.
(2) Average worker, but absolutely unfit as supervisor.

True copy
J. C. S.

A37

वकालतनामा

Central Administration Tribunal
न्यायालय का नाम *Criminal Bench, Lucknow* नं० मु० ... 287 ... सन 1990
नाम फरीकैन ... *Shree Gyanesh Shukla vs. Shree Gyanesh Shukla*
किस्म दावा ...

उक्त मुकदमे में पैरवी करने के लिए मैं/हम ... *Sd/-y. Dinesh Chandra* ...
जाति ... निवासी ...

श्रीयुक्त *Dr. Dinesh Chandra, Adv. in Law, Standing Counsel, Lucknow*

को अपना वकील नियुक्त करता हूँ/करते हैं। आपको अधिकार है कि आप इस मुकदमे में हमारी ओरसे पैरवी व सवाल जवाब बहस करे व दस्तावेज व अन्य कागज उपस्थित करे व वापस लेवे। पंच नियुक्त करें व पंचनामा व पंच निर्णय के विरोध में कारण उपस्थित करें सुलहनामा व स्वीकृत पत्र उपस्थित कर दावा स्वीकार करे या उठा लेवे। डिग्री होजाने पर उसे कार्य रूप में परिणित करावे, डिग्री का रुपया तत्सम्बन्धी व्यय या अन्य कोई धन जो हमें प्राप्त होने को हो प्राप्त करे, कोर्ट फीस स्टाम्प व अन्य खर्चें दाखिल करें, व वापसी लेवे व रसीद देवे व नकल लेवे। मिसिल निरीक्षण करें व मुकदमा स्थगित करावे व अर्जीदावा व लिखित बयान उपस्थित करे व अपील या अन्य कोई प्रार्थना पत्र उपस्थित करे या शपथपत्र उपस्थित करे या हमारी ओर से मौखिक बयान दे। मुकदमे में गवाह तलब करावे या अपनी ओर से अन्य वकील नियुक्त करके मुकदमे की सब कार्यवाही करावे या अन्य उक्त मुकदमा सम्बन्धी जो आवश्यक कार्य हो करें।

सप्त

नाम न्यायालय
वाद संख्या
नाम

मैं/हम उक्त वकील साहब को उनकी फीस निश्चित करने के बाद उपरोक्त अधिकार देते हुए अपना वकील नियुक्त करता हूँ/करते है, और इकरार करता हूँ कि जो कुछ कार्य वकील साहब इस मुकदमे के सम्बन्ध में करेंगे वह हमारा किया हुआ समझा जायगा। हम स्वीकार होगा।

हस्ताक्षर प्रार्थी ... *Sd/-y. Dinesh Chandra* ...

साक्षी ... *Sd/-y. Dinesh Chandra* ...
Supt. of Post Offices
General Mail Division

स्वीकृत वकील ... *Sd/-y. Dinesh Chandra* ...
तारीख 22/11/90

17
A38

In the Central Administrative Tribunal Allahabad
Circuit Bench Lucknow.

O.A. 287 of 1990

Shri Niwas Misra

... Applicant

Versus

Union of India and others

.. Respondents.

Reply on behalf of the respondents

Para 1: Needs no reply.

Para 2: Needs no reply.

Para 3: Issue of notice dated 10.5.1990 by the
administration is not denied.

Para 4: Needs no reply

Para 5: Needs no reply.

Para 6:1; Needs no reply.

6.2: Needs no reply.

6.3: Issue of office order dated 23.7.'87 is not
denied.

6.4: Needs no reply.

6.5: Issue of DPM's letter No.757-E/3/WMI/8 dated
14.3.'89 as contained in Annexure No. 2 to
the application is not denied.

6.6: ~~Not denied~~. That in reply to the contents of
paragraph 6.6 of the application, it is submitted
that retention of the applicant as WMI was subject
to passing P-16 course from the Zonal Railway
Training School at Chandausi.

... 2

Received
25.4.99 at 4.15 PM
G. K. Pathak
for L. P. Shukla.

12 →
C 9/11

2/10/99

A39

- 2 -

Para 6.7 : That in reply to the contents of paragraph 6.7 of the application, it is not denied that the applicant was spared for being sent to P-16 course at Chandausi w.e.f. 15.6.1989 and that the said course was completed on 12.9.1989. It is also not denied that the staff who were detained at Chandausi were spared and directed to report to their respective Hd. Qrs. The genuineness of the annexure No. 3 to the application is in doubt, in view of the fact^{that} while sparing the staff from Chandausi, such words 'All the candidates have been declared as passed' are never mentioned, as the result is not prepared before sparing but is prepared and declared afterwards. It is further that even if it has been inadvertently mentioned, which is not admitted to be there, is due to some collusion or due to an administrative error. In fact the result was declared for the said course as Result No:800 on 2.4.1990 as contained in Annexure No. 4 to the application, in which the applicant failed to qualify the P-16 Course. Moreover the photostat copy has been obtained by the applicant, source of which has not been disclosed by the applicant and the applicant cannot take any advantage out of the said copy.

Para 6.8 : Issue of Letter No.S-2/T/P-16(Yard)/90 dated 2.4.1990 as contained in Annexure No. 4 to the application is not denied. It is not a subsequent, as alleged, but is the only paper by which result no. 800 pertaining to P-16 course for 16/6/89 to 18/9/89 was declared. It is also not

2.4.1990

240

- 3 -

denied that the applicant was sent for P-16 Course commencing 10/5/90 to 8/8/90 at Chandausi and was spared from Chandausi on 17.8.'90 vide letter No.52/T/P-16Y/90 dated 17.8.'90 as contained in Annexure No. 5 to the application.

Para 6.11:Not denied.

Para 6.12:Not denied.

Para 6.13:Denied. As is evident from Annexure No.8 to the application, as many as 2 staff from Lko Stn. and 9 from Lko Division reported for training for the said P-16 Course. Even otherwise, if he was not spared, he should have made a representation about his non inclusion for the said course which he failed to do, hence he can have no grievance on that account.

Para 6.14:Not denied.

Para 6.15:Issue of notice dated 10.5.1990 as contained in Annexure No. 9 to the application is not denied. The notice specified that the reversion is with immediate effect.

Para 6.16:That in reply to the contents of paragraph 6.16 of the application, the issue of printed serial no. 6062 is not denied. It is also not denied that the printed serial specifies that the staff can avail three chances at the cost of railway administration, but nowhere restricts the right of the administration not to revert him for his failure in P-16 Course.

Para 6.17: That the contents of paragraph 6.17 are denied. Even presuming that he was denied, he could have made a representation well in time to include and spare him for the P-16 special course, which he failed to do. Thus his case cannot come within the definition of discrimination or can be said to violate Article 14 and 16 of the Constitution of India. in any way.

Para 6.18: That in reply to the contents of paragraph 6.18 of the application, it is not denied that the applicant participated in the P-16 course held from 10.5.1990 to 8th. Aug. 1990 at Chandausi and was spared from there on 17-8-1990. It is admitted that office order was issued on 10.5.1990 reverting him to the post of Guard with immediate effect on his failure in P-16 Course. There was absolutely no necessity to afford any opportunity to show cause, in view of the fact that the reversion was not by way of punishment but was due to his failure in P-16 Course, which was a precondition of the promotion. Mere payment of the higher grade will not ipsofacto nullify the order dated 10.5.1990. It can also not be alleged by the applicant that the notice dated 10.5.1990 was waived at any time or stand waived or is barred by the principle of estoppel.

A-12

1. The applicant has filed an application for
relief from the...
2. The relief sought by the applicant is by way of
...
3. The relief sought by the applicant is by way of
...
4. The relief sought by the applicant is by way of
...

5. The relief sought by the applicant is by way of
...
6. The relief sought by the applicant is by way of
...
7. The relief sought by the applicant is by way of
...
8. The relief sought by the applicant is by way of
...
9. The relief sought by the applicant is by way of
...
10. The relief sought by the applicant is by way of
...

11. The relief sought by the applicant is by way of
...
12. The relief sought by the applicant is by way of
...

13. The relief sought by the applicant is by way of
...
14. The relief sought by the applicant is by way of
...

15. The relief sought by the applicant is by way of
...

16. The relief sought by the applicant is by way of
...

R. L. Lushner
21/1/92

Verification

1. Rajiv Kishan working as ASST Personnel
in the office of...
2. Rajiv Kishan working as ASST Personnel
in the office of...
3. Rajiv Kishan working as ASST Personnel
in the office of...
4. Rajiv Kishan working as ASST Personnel
in the office of...
5. Rajiv Kishan working as ASST Personnel
in the office of...
6. Rajiv Kishan working as ASST Personnel
in the office of...
7. Rajiv Kishan working as ASST Personnel
in the office of...
8. Rajiv Kishan working as ASST Personnel
in the office of...
9. Rajiv Kishan working as ASST Personnel
in the office of...
10. Rajiv Kishan working as ASST Personnel
in the office of...

11. Rajiv Kishan working as ASST Personnel
in the office of...
12. Rajiv Kishan working as ASST Personnel
in the office of...
13. Rajiv Kishan working as ASST Personnel
in the office of...
14. Rajiv Kishan working as ASST Personnel
in the office of...
15. Rajiv Kishan working as ASST Personnel
in the office of...
16. Rajiv Kishan working as ASST Personnel
in the office of...
17. Rajiv Kishan working as ASST Personnel
in the office of...
18. Rajiv Kishan working as ASST Personnel
in the office of...
19. Rajiv Kishan working as ASST Personnel
in the office of...
20. Rajiv Kishan working as ASST Personnel
in the office of...

R. L. Lushner