

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, MOTI MAHAL, LUCKNOW.

DATED: 24/1/94

Case Title O.A 352 1990 (L)

Name of Parties.

Sri Ram Narayan Applicant

versus

Union of India Respondents.

PART - A

<u>Sl.No.</u>	<u>Description of Documents</u>	<u>Page</u>
1-	Check-List	A - A1 ✓
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3-	Final Judgement <u>(23-10-92)</u> M.P.	A7 - A9 ✓
4-	Petition Copy	A10 - A30 ✓
5-	S.A. Annexure	A31 - A49 A61 - A73 ✓
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PART - B B110 - B128

needed and destroyed

~~By this order the court has directed the concerned authorities to produce the documents mentioned in the schedule to the court for perusal of the court.~~

Part - C

Petition Copy

Certified that no further action is required. The case is fit for consignment to record room.

Section Officer

Court Officer

Incharge

[Signature]
25/1/94

[Signature]
30/5)

Signature of Dealt Assistant.

[Signature]
24/1/94

(RN)

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A. No. 352 of 1990

Ram Narain

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

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

By means of this application, the applicant who has subsequently amended the application, has prayed that the respondents be directed to take trade test from the applicant before expiry of 6 months from the date of declaration of result of test of Shri Satya Narain i.e. 21.6.90 and further they be directed to hold the test on or after 21.6.90 in pursuance of Railway Board letter, after decision of the appeal.

2. The grievance of the applicant is that by the order dated 18.9.1990 the test for the post of Mistry was suspended. He was initially appointed as Mali and in between earned promotion and was waiting for his turn but has been deprived of the promotion and according to him he belongs to reserved category and was declared unsuccessful. The examination in which the applicant was to appear, has been suspended without any reason. The applicant made representation against the same and the applicant was informed that the date of next

A 8

examination will be communicated at an early date but no examination took place. One D.P. Singh, who was working as Crane Driver, retired in April, 1990 and this post was earmarked for S.C. candidate in the roster but even then the examination did not take place and promotion has been given to one Shri Lal Bahadur Singh who is due to retire in the year 1994 and the post in question is to be filled in by promotion and they want to promote Shri Satya Narain, who is due to retire in 1992, while the applicant is to retire in 1998 and they know that if the applicant is promoted once, Shri Satya Narain will not get the post with the result the post is still lying vacant.

3. The respondents have resisted the claim of the applicant saying that the applicant was not senior to Satya Narain and he cannot claim seniority over Shri Satya Narain and other persons. In the supplementary affidavit, it has been stated that the appeal of Shri Satya Narain has been finalised during the pendency of this application, by the Headquarters and as per directions, suitability test for the post of Mistry Crane Driver was taken and Shri Satya Narain was found suitable and letter was issued for promoting him and as Shri Satya Narain has already been promoted, there is no other post of Mistry Crane Driver and no other person can be promoted.

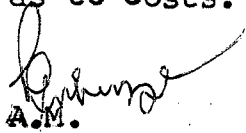
4. From the above position, it is clear that Shri Satya Narain has been appointed. The respondents are directed to consider the candidate ^{we} of the applicant and promote him in case he is suitable and for this

W

AD

let an examination be conducted as early as possible, and the applicant will be given due place. In case, the post is not available/vacant, whenever the post is vacant, the ~~xxx~~ applicant will be promoted and the case will not be given by default and he will be given his due place/post.

5. Application is disposed of as above with no order as to costs.


A.M.


V.C.

Shakeel/-

Lucknow: dated 23.10.92.

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

5/11/90

Registration No. 352 of 1989 90/2

5/11

APPLICANT(S) Shri Ram Narain

RESPONDENT(S) Union of India & others

Particulars to be examined application 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? *application yes*
3. a) Is the ~~appeal~~ application in time? *yes*
b) If not, by how many days it is beyond time?
c) Has sufficient case for not making the application in time, been filed? *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 Postal order 50/-*
6. Has the certified copy/copies of the order(s) against which the application is made been filed? *yes*
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed? *yes*
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly? *yes*
c) Are the documents referred to in (a) above neatly typed in double space? *yes*
8. Has the index of documents been filed and paging done properly? *yes*
9. Have the chronological details of representation made and the outcome 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*

Particulars to be Examined

Endorsement as to result of examination

- 11. Are the application/duplicate copy/spare copies signed ?
- 12. Are extra copies of the application with Annexures filed ?
 - a) Identical with the Original ?
 - b) Defective ?
 - c) Wanting in Annexures

yes 4 sets

A

No

yes

Nos. _____ pages Nos _____ ?

- 13. Have the file size envelopes bearing full addresses of the respondents been filed ?

N.A.

- 14. Are the given address the registered address ?

yes

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

yes

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

N.A.

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

Yes No. y

- a) Concise ?
- b) Under distinct heads ?
- c) Numbered consecutively
- d) Typed in double space on one side of the paper ?

yes

yes

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

yes

- 19. Whether all the remedies have been exhausted.

no

dinesh

Put up before the Hon'ble Bench on 8.11.90

at P
5/11/90

211
5/11/90

(1)

(1)
8.11.90

Hon. Mr. M. Y. Pralakar A.M.
Hon. Mr. D. K. Agrawal J.M.

A2

Due to resolution of Bar Association case is Adj to 9.11.90.

(2)

9.11.90

Hon Mr M. Y. Pralakar AM
for Mr DK Agrawal, JM

(1)
B.O.C

Shri DK Shukla is applicant.
The learned counsel for the applicant is not prepared for ~~ad hoc~~ case.

list for admission on 5.12.90

Jes
J.M.

by
J.M.

Honble Mr. Justice K. Nath, V.C.
Honble Mr. M. M. Singh, A.M

(3)

19-11-90

Issue notice to respondent

to show cause why the petition may not be admitted. In particular, they will explain why they should not hold a trade test before 21.12.90 and list for admission on 10.12.90

As per V.C's order at 19.11.90, this case is fixed on 19.11.90 for admission.
S.F.A.

See original order in main petition

Recd A.K. when the case may be disposed of finally.

19/11/90

Sd/
A.M.

Sd/
V.C.

notices Issued

OR
Notices were issued on 22.11.90
Neither reply nor any answer sent. case to be set aside.
S.F.A.

3

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD/C.B. LUCKNOW

No. 352

OF 1991

Vs.

AN

Sl.No.

Date

Office Report

Orders

16

OR

As mentioned in the court this case is fixed today i.e. 13.8.91

MP 430-91 L for interim relief filed.

He for the applicant has not incorporated amendment as per court order dt. 2.7.91

S. P. O

12/8/91

date is already fixed 7.8.91

12/8

MP 463-91 L

17

OR

MP 463-91 L filed by LIC for the applicant for Ind. I.R. application. Date is already fixed on 27.8.91

S. P. O

14/8

100

16

13-8-91 Hon Mr Justice K. N. Khanna, VC
Hon Mr. K. B. Jaiswal, AM

Shri A. K. Shukla for applicant -
Shri Anil Sonawala for order
Although the applicant has filed amended copy of the original Application, the amendment which was allowed by order dated 2-7-91, has not yet been incorporated in the learned Counsel for Applicant undertakes to incorporate the amendment within a week.

The respondent may file reply to M.P. 430/91 and same may be considered by order on 27-8-91.

A.M.

VC

16.8.91 Hon Mr Justice K. N. Khanna, VC
Hon Mr. K. B. Jaiswal, AM
M.P. 463/91 is before
learned; it needs no further order. Office will issue order M.P. 430/91 on 23.8.91

⑨
1-4-91

②

O.A 352/90

~~Hon. Mr. Justice K. Nathe~~
Hon. Mr. A.B. Goel A.M.
Hon. Mr. B.N. Prasad J.M.

Hon. Mr. A.K. Shukla, learned
Counsel for Applicant who requests
for permission to amend the original
Application in the light of certain
developments that took place since
its filing. Mr. Anil Srivastava
learned Counsel for Respondents
opposed the prayer, but the request
of the learned Counsel for Applicant
appears to be genuine and is
therefore allowed. The amendment
application will be filed within
two weeks from today.

list on 16-4-91.

J.M.

A.M.
K.C.

⑩

16-4-91

No sitting held on 13-5-91
J

MP 204/91 is filed

⑪

13-5-91

No sitting held on 22-5-91
J

16/4

⑫

23-5-91

No sitting held on 2-5-91
J

~~27-8-91 - No sitting held to~~

OR
LIC for the
applicant for filed
MP 204/91 for
amendment

S.fo
L
17

(B)

CA 3521902

(23)

29.10.91

No. 8119 of D.B. app. 2
6.11.91

2

AS

6-11-91

Hon Mr Justice U.C. Srinivas Reddy
Hon Mr A.B. Gorthi A.M.

OR
He for the applicant
has not incorporated
amendment in the
original application but
he has filed amended
copy.

Pending Applications

1. M.P. 430-91L for
1st Interim relief
no reply filed.

2. MP 463-91L for
2nd Interim relief
no reply filed

3. MP 576-91L for
1st Interim relief
no reply filed

4. MP 674-91 for
Amendment An.

5. MP 675-91
for summons of
Answer book.

CA/RA have been
exchanged in the main
Case.

Submitted for
order.

28/11/91
28/11/91

Case a. MP 755-91L filed
for H.C.

MP 756-91L filed
by HC for the records for
disposal.

S.P.O.

28/11/91

Applicant in person
Adjourn the case
to the month of
January, 92.

A.M.

VC

1.1.92 - No sitting day to 31.1.92

31.1.92 Hon'ble Mr. Justice U.C. Srinivas Reddy
Hon'ble Mr. - A.B. Gorthi - A.M.

None for the applicant
List this case for orders on
02.4.92.

(DPS) A.M.

VC

8.4.92 No sitting day to
4.5.92

M.P.No.1110/92

in

O.A.No. 352/90

AB


29/3/93. Hon.Mr. Justice U.C.Srivastava, V.C.
Hon.Mr. K. Obayya, A.M.

Learned Counsel for the applicant states that the Review Application has already been filed in this case. As such this application is rejected.



(tgk)

A.M.



V.C.



A/10

In the Central Administrative Tribunal, Circuit Bench,
Lucknow.

M.P. No. 430 of 1991

In:re:

O.A. No. 352 of 1990

Ram Narain Applicant.

Versus

Union of India and others Respondents.

Application for interim relief.

The applicant in the above noted case

respectfully prayed:-

1. That in the above noted case the counter and rejoinder have been exchanged between the parties.
2. That in para 9 of the counter it has been categorically stated by the opposite parties that next date of trade test is dependent of Satya Narain appeal which is still pending.

Filed today
S/N
26/7/91

राम नारायण

....2....

A 11

3. That on 19.7.1991 the respondent No.2 on the basis of influence exercised by one Sri. Lal Bahadur Singh has written a letter to the General Manager(P) Northern Railway, Baroda House, New Delhi wherein it has been mentioned that since the declaration of result of Satya Narain an year has passed and the Trade Test of Satya Narain be taken, by ignoring the claim of the applicant. A photocopy of the said order is being filed herewith as Annexure No. A-1 to this application.
4. That the opposite parties could promote the applicant without taking any test which they have purposely not done in order to give a room to one Satya Narain, a failed candidate.
5. That the matter is subjudiced and during the pendency of the case the respondents be restrained from holding any Test in favour of Satya Narain and in case they do so the applicant be also asked to appear in the test but his examination be not taken by Asst. Electrical Engineer namely Shri. Sardar Gurmail Singh, & by Sri. R.D. Gupta for which the

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....3....

applicant has already moved application to the
respondent No.2 as the applicant has strong
apprehension that incase the test is taken by them
he will be failed.

Wherefore it is prayed that the Test in
favour of Satya Narain (by virtue of Annexure No.1
the respondent be restrained from holding the same
in the ends of justice.

Lucknow:Dated:

26th July, 1991

21/7/1991

Applicant.

Verification

I, RamNarain , aged about 48 years, son of
Shri. Ganga Rrasad, resident of Hatta RamDas, Bagia
No.1 Gun Factory Road, Sadar Bazar ,Lucknow, do
hereby that the contents of paras 1 to 5 of the
app-lication are true to my personal knowledge.
Nothing material has been concealed and no part of
it is false. So help me God.

Lucknow:Dated:

26th July, 1991

21/7/1991

Applicant.

Carbide Administration Tribunal, New Delhi

Annex A 1

No. 901-E/W/ CBM/ 91/11

Dated: 19.7.91

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

A13

Sub:- Representation of Sri. Satya Narain H.S.I.
Cran Driver regarding suitability list for
the post of Mistry Cran Driver.

Ref: Your letter No. 740-8/ 498 /8 ii A at 10.7.91.

Sir,

Your letter referred above has been perused by
Counter signed that in the connection our recommendat-
ion is given herewith under.

Since Sri. Satya Narain was declared unsuitable
on 2.6.90 and more than a year has already pass and
senior most candidate of his 5 ade. his claim for
re-~~trage~~ Test is justified in my opinion as such
your decision may be furnished at your earliest.

Dy CEE (N) cu.

True Copy.

रिन ०१११५९

AM

BEFORE THE HON'BLE [REDACTED] CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

.....

Misc .Petition No.. 463 1991. (L),

In

O.A. No. 352 of 1990 (L).

18.10.91

Ram Narain Applicant.

Versus

UNION OF INDIA & OTHERS Respondents.

Ind Application for Interim Relief.

The applicant respectfully begs to state:-

1. That the applicant has already moved an application for interim relief.
2. That the second application came up on 5.8.1991 but neither the applicant nor his counsel had knowledge of its listing.
3. That owing to fault of clerk of the counsel the counsel could not attend the Hon'ble Court on 5.8.91 and in absence of the counsel the Hon'ble Tribunal has been pleased to fix 18.10.1991 for orders.
4. That the matter is urgent and in case it is not taken up early , the rights and interest of the

R
Filed today
12/8/91

.....2.....

A 15

applicant will be jeopardised .

Wherefore it is respectfully prayed that
the matter may kindly be taken up today in the interest
of justice.

Lucknow: Dated:
12th Aug, 1991.

Abhishek
Counsel for the applicant.

16

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

M. P. 576/91

Misc. Petition No. ~~352~~ of 1990 *21*

In

O.A. No. 352 of 1990

For 29.10.91

Ram NarainApplicant.

Versus

Union of India & others.Respondents.

IIIrd Application for Interim Relief.

The applicant respectfully begs to state:-

1. That the applicant has already moved an application for interim relief.
2. That the matter came upon 17.9.1991 but since counsel for Applicant was busy in the Hon'ble High Court. So neither could not be taken up and the Hon'ble Tribunal has been pleased to fix 29.10.1991 for orders.
3. That the matter is urgent and in case it is not taken up early, the rights and interest of the

Strongly
Opposed.
Shri K. K. Singh
Adv
18/9/91

Filed today
SP
18/9/91

A17

applicant will be jeopardised.

Wherefore, it is respectfully prayed that
the matter may kindly be taken up today and tomorrow
in the interest of justice.

Lucknow: Dated:

18th sept, 1991.

Ak Shukla

Counsel for the Applicant.

.....

Before the Hon'ble Central Administrative Tribunal,
(Circuit Bench, Lucknow)

A/Q

M.P.No. 674 1991 C,

In:re:

O.A. No. 352 of 1990

..... I.F. 6 (11/91)

Ram Narain Petitioner.

Versus

Union of India & Others, ... Cpp Parties./Respondents.

APPLICATION FOR AMENDMENT

The Petitioner in the above noted case
respectfully begs to state:-

1. That owing to subsequent development during
the pendency of the petition it has become necessary to
amend the petition and relief in the manner indicated
herein above .

2. That after existing paragraph No.4.22 the following
paras be added.

Para No.4.24 That inspite of the fact that without waiting
decision on the appeal filed by Mr Satya Narain before

Filed today

सुब
1/11/91

राम नारायण

....2.....

A19

Railway Board the respondent No.2 contrary to their own arrangements in para 7 and 9 to the counter the trade test was taken by him and Satya Narain was declared successful vide order dated. 23.10.1991 and promoted in grade Rs..1400-2300 temporarily which is being filed as Annexure No.8. hereto.

Para That the it may stated here that ~~stax~~ Satya Narain did not appear in the Trade Test and someone else appeared in the test in order make a room for him as the entire local office of respondent No.2 and the Union was very much interested to make a room for Sri. Satya Narain and while Test was not taken immediately after expiry of Six months when once Satya Narain ~~fixed~~ failed on 21.6.90 which is also contrary to rules . The applicant was informed vide Annexure No.6 to the petition that he would be informed of the test .

Para That the above fact can be verified in case answer books of the Trade test is summoned by the Hon'ble Tribunal in order to verifying the handwriting of Satya Narain.

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...3...

.....3.....

A 20

That the following grounds be added:-

(a). Because the order dated. 23.10.1991 promotion is arbitrary and malafide.

(b). Because Satya Narain never appeared in the Trade Test and as such the order dated. 23.10.1991 is without jurisdiction.

(c). Because the order has been passed in order to give a room to one General Candidate ~~of the~~ in order to defeat the claim of the petitioner.

That following the reliefs be added as:-

That The Hon'ble Tribunal be pleased to quash the order dated. 23.10.1991 after summoning the entire record right ~~for~~ from Trade Test to the passing of the order.

21/11/21/4

Wherefore the applicant/ petitioner prays that

the above amendment be order to be brought on record in

the ends of justice as indicates herein above.

Lucknow: Dated:
29 Oct, 1991.

Asok Shukla
Counsel for the Petitioner.

21/11/21/4

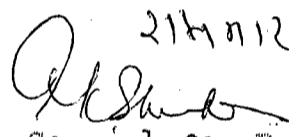
.... 4....

A 31

Verification

I, Ram Narain, aged about 51 years, son of Sri.
Ganga Prasad, R/C. House No.3 , Ram Das Ka Hata, B.ghiya,
Gun Factory Road, Sadar Cantt. Lucknow., ~~xxxxx~~ applicant
do hereby verify that the contents of paras 1 to
are true to my personal knowledge. and those of paras
are believed to be true on the basis of
legal advice received. Nothing material has been
concealed and no part of it is false. so help me God.

Lucknow: Dated: 29 Oct 91

21/10/91

Counsel for Petitioner./
Applicant.

.....

A 22

ANW 6

कार्यालय उप मुख्य विधुत अभियन्ता (कर्म.) चारबाग, लखनऊ

सं: 90-1/कर्म/सो.बो.एम./90

दिनांक 22-6-90

शाप: अधीक्षक (पावर)
उ०रे० लो०को०शाप,
चारबाग, लखनऊ।

विषय :- मिस्रो पद को परोक्षा प्ल के संदर्भ में ।

सूचित किया जाता है कि श्री सत्य नारायण, 103 सो०बो०एम०

को पत्र सं० सो.ओ.एन./जो.एस.एम./लख. दिनांक 21-6-90 द्वारा जसफल

धेषित किया गया है ।

कृपया उपरोक्त विषय के संदर्भ में श्री सत्य नारायण को सूचित करें एवं हस्ताक्षर लेजर पावती इस कार्यालय को भेजें ।

ह०/-

कृते उप मुख्य विधुत अभियन्ता
(कर्म) उ०रे० चारबाग, लखनऊ।

र। म। ग। र। म।

T L
[Handwritten signature]

N 23

ANN. 8

office of the Dy. Chief Electrical Engineer (W) E. Rly. C. B. Lucknow.

Office Order No. 88

Dated. 23.10.1991

The following order is issued to be given immediate effect ;--

Shri. Satya Narain (S/C) T.No. 103/CBM Crane Driver SK.Gr.I, who has been declared suitable for the post of Histry Crane Driver in Gr. Is 1400-2300 (RPS) vide this office letter No. 901/E/W/CBM/91/II Dated. 23.10.91, is temporarily promoted as Histry Crane Driver in Gr. Is. 1400-2300. (RPS) against short fall of S/C quota. He is posted under shop Supdt. (Power) Charbagh. against Existing vacancy

This has the approval of Dy. C. E. E. (W) C. B. Lucknow.

For Dy. Chief. Electrical. Engineer (W)
Northern Railway. Charbagh. Lucknow

Copy forwarded to:-

SAC/W/CE., SS/P/CE, CTK/CEM, E/Pass, Sr Clerk/Pay Bill, H.C/Pay Bill, AS/E, of this office for information and n/a. Two Copy Extra, one for office order book and one copy for case No-901/E/W/CBM/91/II.

T.C.
for

21/11/91

A 24

In the Central Administrative Tribunal, Circuit Bench,
Lucknow.

M.P.No. 675 of 1991 (4)

In:re :

O.A. No. Case No. 352 of 1990

.....

Ram NarayanPetitioner.
Applicant.

Versus

Union of India & another.Opp.Parties./Respond-
ent.

APPLICATION FOR SUMMONING OF ANSWER BOOKS OF SATYA
NARAIN

The applicant/ Petitioner respectfully begs to

state:-

Filed today
OSW
1/1/91

1. That contrary to the averment made by the
opposite parties in their reply the test was taken by
respondent No.2 under the influence of local union.

2. That Sri. Satya Narain never appeared in the test
and some one else in order to declare him successful so
the answer books for respondents be summoned and his

...2...

A 25

.....2.....

handwriting be sent to expert opinion in order
to ascertain the fact.

Wherefore it is prayed that the paper books
of Sri. Satya Narain be summoned for respondent No.2
and his handwriting be sent for expert opinion at the
applicants cost.

Lucknow :Dated:

29 Oct, 1991.



Counsel for the Applicant.

Applicant. /Petitioner

.....

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, (CIRCUT BENCH,) LUCKNOW.

.....

M.P. No.....1991

In re:

O.A. No. 352 of 1990(L)

.....

January

Ram Narain Applicant.

Vs.

Union of India & Others ... Opp. Parties.

APPLICATION FOR HEARING

The applicant in the above noted case respectfully begs to state as under:-

1. That during the pendency of the above noted case the applicant did not press for interim relief as in the Counter affidavit the respondents had come out with a categorical statement that the holding of examination will take place only after the decision of the appeal filed by a failed candidate, namely Sri. Satya Naryan..
2. That the respondents without for decision by Railway Board, New Delhi, maliciously took the examination and declared him successful whereas in the last examination he was failed. Moreover said Sri. Satya Narain did not appear in the examination and that is why the applicant has moved application for summoning of answerbooks and

Filed today

CSH

9/12/91

Abhishek

for tallying of his handwriting .

A27

3. That all this has been done in order to deprive the applicant's right to appear in the examination.

4. That the respondent No.2 is under control of one Sri. Lal Bahadur Singh, crane Driver grade I and soon after , retirement of Sri. Satya Narain on 31st January, 1992 said Sri. Lal Bahadur Singh would stake his claim by saying that the post is to be filled by roster point.

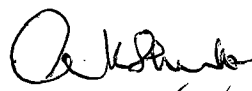
5. That affidavits between the parties have been exchanged .

6. That the case has been ordered to be listed in the month of January, 1992 and in case the hearing does not take place early the petition would become infructious.

WHEREFORE, the applicant respectfully prays that the matter be heard finally by fixing a date between 9th December, 1991 to 13th Dec, 1991.

Lucknow: Dated:

9th - Dec, 1991


Counsel for the Applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (CIRCUIT BENCH,)
LUCKNOW.

M.P.NQ. of 1991.

In: re:

O.A. No. 352 of 1990(L).

...

Ram Narayan Applicant.

Vs.

Union of India & Others Respondents.

Application for interim relief

The applicant respectfully begs to state:-

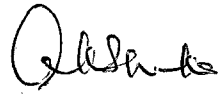
1. That has has stated in the amendment application that one Sri. Satya Narayan has been promoted and he would relise on 31.1.1992 and after his retirement the respondents is trying to fill the post by taking test of Sri. Lal Bahadur Singh.
2. That the facts stated in the petition and conduct of the respondents dñentitles them to hold the test in favour of Sri. Lal Bahadur Singh.
3. That in case the test in to held after retirement the respondents be restrained from holding the same or the applicant be permitted to appear in the said examination

A 29

Wherefore, it is prayer that the respondents be restored from holding of the examination which may be held after or before retirement of Sri. Satya Narayan in the ends of justice or else the applicant be permitted to appear in the examination.

Lucknow: Dated:

Dec, 1991.



Counsel for the Applicant.

.....

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
CIRCUIT BENCH LUCKNOW

A 30

CIVIL MISC. PETITION NO. 756 OF 1991 (C)

In re;

O.A. NO. 352 OF 1990 (L)

Ex In January

Ram Narayan.....

Applicant.

Vs.

Union of India & others.....

Opp. parties.

APPLICATION FOR DISMISSAL OF THE ORIGINAL
APPLICATION AS INFRACTUOUS,

That for the facts and reasons stated in the accompanying supplementary application, it is most respectfully prayed that in the interest of justice the present O.A. may be dismissed as infructuous.

Filed today

Lucknow;

Dated; 6-12-1991.

osr
9/12/91

Anil Srivastava
(Anil Srivastava)
Advocate

Counsel for the opp. parties.

A 31

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH LUCKNOW

O.A. NO. 352 OF 1990 (L)

Ram Narain

Applicant.

Vs.

Union of India and others.....

Respondents.

SUPPLEMENTARY APPLICATION

I, S.K. Puri, working as Deputy Chief
Electrical Engineer (W) Northern Railway, Charbagh,
Lucknow, do hereby solemnly affirm and state as
under:-

1. That the official above named has been
impleaded as respondent No. 2 in the present original
application and as such he is fully conversant with
the facts stated hereinafter.

2. That the answering opposite party crave leave
of this Hon'ble Tribunal to bring out the following
facts before this Hon'ble Tribunal which have taken
place during the pendency of the present original
application and due to which the present original
application has become infructuous.

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: 2 :

A 32

3. That it is also stated at the very out-set that till date, no interim order or stay order whatsoever has been granted in the present case.

4. That the rejoinder and counter in the present case have already been exchanged between the parties.

5. That during the pendency of the present Original application, the appeal of Sri Satya Narain has been finalized by the Headquarter's office at New Delhi vide GM(P) letter No. 940-E/498/ETTA, dated 14.8.91. A copy of the said letter dated 14.8.91 is being annexed herewith as Annexure S-1 .

6. That as per direction of the Headquarter's office at New Delhi, a suitability test of Sri Satya Narain for the post of Mistri Crane Driver was conducted by the answering respondent.

7. That as a result of said suitability test for the post of Mistri Crane Driver Sri Satya Narain was found suitable. A copy of letter dt. 22.10.91 issued by the respondent No. 2 to the same effect is being filed herewith as Annexure S-2 .

8. That accordingly Sri Satya Narain was

Done

promoted as Mistri Crane Driver in grade Rs. 1400-2300 (RPS) against short fall of Schedule Caste quota and he was posted under Shop Superintendent (Power) Charbagh Lucknow against the existing vacancy. A copy of office order No. 88 , dated 23.10.91 is being filed herewith as Annexure- S-3 .

9. That pursuant to the aforesaid order dated 23.10.91 contained in Annexure S-3 Sri Satya Narain has already joined his duties on the post of Mistri Crane Driver.

10. That since Sri Satya Narain has already been promoted and posted as Mistri Crane Driver against the existing vacancy and since there is no other post of Mistri Crane Driver to be filled by the answering respondent hence no person can be promoted on the said post unless a vacancy falls vacant.

11. That since there is no vacancy hence there is no requirement of taking any suitability test for the said post any more unless a vacancy falls vacant.

12. That in view of the aforesaid facts, the applicant can not be called for any suitability test for the post of Mistri Crane Driver.

13. That, however, it is further clarified that

Done

: 4 :

AS4

Sri Satya Narain is very shortly going to retire and pursuant to his retirement a vacancy will fall vacant and then the ^{eligible candidate} may be called for suitability test for the said post.

14. That accordingly the present original application has become infructuous and is liable to be dismissed as infructuous.

Lucknow;

Dated; 6-12- /1991.

S.K. Puri

S.K. Puri
Dy. Chief Electr. Engr (N)
N. Rly. Chhota Bundelkhand

Verification;

I, the above named official do hereby verify that the contents of para 1 are true to my own knowledge and those of paras 2 to 14 are based on records and legal advice. No part of it is false and nothing material has been concealed. So help me-god.

Lucknow;

Dated; 6-12- /1991.

S.K. Puri

S.K. Puri
Dy. Chief Electr. Engr (N)
N. Rly. Chhota Bundelkhand

R22-8-91
R
22/8/91



EIR
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Headquarters Office,
Baroda House, New Delhi.

No. 940E/498/EIIA.

Dated: 14.8.91

Annexure No 5-1

The DY. CEE(W),
N.Rly., CB-LKO.

AB5

Sub:- Rep. of Shri Satya Narain H.S. G.I Crane Driver regarding his suitability test for the post of Mistry Grange Driver.

Ref:- Your letter No. 901E/W/CBM/91/EII Dt. 22.7.91.

Since Shri Satya Narain H.S. Gr.I Crane Driver, who was trade tested to the post of Mistry Crane Driver Grade Rs.1400-2300(RPS) and declared unsuitable on 22.6.90, is eligible for fresh trade test after expiry of 6 months of earlier trade test; so far request of employee for giving him sufficient time before holding trade test, is concerned this issue has already been decided by you. *The employee may be advised accordingly.*

G.C. Saxena
(G.C. Saxena)
for General Manager (P).

Annexure No S-2

(59)

Northern Railway

No: CON/GSM/LKO.
Dt: 22.10.1991.

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Sub:- Suitability test of Shri Satya Narain,
103/CBM Gr.I Crane Driver for the post
of Mistry Crane Driver Gr.3s. 1400-
2300 (RPS).

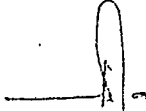
.....

As a result of suitability test held for
the post of Mistry Crane Driver grade
3s. 1400-2300(RPS) in the form of written
test & viva-voce on 9/10 and 21/10/91, Shri
Satya Narain, 103/CBM Gr.I Crane Driver has
been found SUITABLE.

The result may be declared accordingly.

This has the approval of Dy.CEE(W)/CB-LKO.

O.S.(E)/GB.


for Dy.CEE(W)/CB. 22/10/91

Annexure No S-3

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office of the Dy.Chief Electrical Engineer (W) N.Rly. C.B. Lucknow.

Office Order No. 88

Dated. 23.10.1991

The following order is issued to be given immediate effect ;--

Shri Satya Narain (S/C) P.No. 103/CBM Crane Driver SK.Gr.I who has been declared suitable for the post of Mistry Crane Driver in Gr.Bs 1400-2300 (RPS) vide this office letter No. 901/E/W/CBM/91/II Dated. 23.10.91. is temporarily promoted as Mistry Crane Driver in Gr.Bs.1400-2300.(RPS) against short fall of S/C Quota. He is posted under shop Supdt.(Fower) Charbagh.against Existing vacancy

This has the approval of Dy.C.E.E.(W) CB.Lucknow.

For Dy.Chief.Electrical. Engineer(W)
Northern Railway.Charbagh.Lucknow

Copy forwarded to:-

SAO/W/CB., SS/P/CB, CTK/CBK, E/Pass, Sr Clerk/Pay bill, M.C/Pay bill, AS/R, of this office for information and a/a Two Copy Extra, one for office order book and one copy for case No-901/E/W/CBM/91/II.

Two Copy Extra
Recd
23/10/91

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A 30

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

O.A. No. 352 of 1990.

Ran Narain ----- Applicant.

Versus

Union of India & another ... Respondents.

Form #1.

Application Under Section 19 Of The Administrative
Tribunals Act, 1985.

Title of the Case: Promotion.

<u>Sl.No.</u>	<u>Description of documents relied upon</u>	<u>Page Nos.</u>
1.	Application	1 to 8
2.	Annexure No.1: Option made by the applicant.	9
3.	Annexure No.2: Application dt. 28.8.90	10-11
4.	Annexure No.2 A- Result of Satya Narain.	12
5.	Annexure No.3 : Order dated. 18.9.90	13
6.	Annexure No.4: Representation submitted by the applicant.	14- 15,
7.	Annexure No. 5: Letter in reply to above representation. 15.10.90	16- 17
8;	Annexure No. 6: Request dt. 22.10.90.	18- 19
9.	Postal Order	
10.	Vakalatnama.	

Dated: 1990

Lucknow.

SIGNATURE OF THE APPLICANT.

For use in Tribunal's Office

Date of filing

or

Date of receipt by post:

Registration No.:

Registrar.
Signature for Registrar.

A 39

BEFORE IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (CIRCUIT BENCH) LUCKNOW.

Ram Narain, aged about 48 years,
son of Shri. Ganga Prasad, resident
of Hatta Ram Das, Bagia, No.1, Gun,
Factory Road, Sadar Bazar, Lucknow.Applicant.

Versus

1. Union of India through the
Secretary to the Government of
India, Ministry of Railways,
Rail Bhawan, Baroda House, New Delhi.

.....

2. Deputy Chief Electrical Engineer,
(Works), Northern Railway, Lucknow.

----- Respondents.

1. Details of application:

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

The application is being made against the order passed
~~order~~ by the ~~which the Test~~ for the Respondent No.2
dated. 18.9.1990, by which the Test for the post of
Mistry has been suspended.

A 40

2. Jurisdiction of the Tribunal:

The Applicant declares that the subject matter of the order , , against which he wants redressal, is within the jurisdiction of the Tribunal.

Limitation:

The Applicant further declares that the application is within the limitation period, prescribed in section 21 of the Administrative Tribunal Act, ~~1985~~ 1985.

4. Facts of the Case:

- 4.1. That the Applicant was initially appointed as Mali on 3.12.1962 in the office of the Divisional Superintendent, Northern Railway, in How Charbagh, Lucknow.
- 4.2. That after becoming successful in the Trade Test, the applicant was promoted as Semi - Skilled Crane Driver and thereafter as Skilled Crane Driver.
- 4.3. That the Applicant was further promoted as Skilled Crane Driver B Grade and is at present working as Crane Driver Grade A, bearing ticket No.108 CBM.
- 4.4. That the Applicant has always been a loyal worker

A41

and is an outstanding football player and has represented the Railways in national team.

4.5. That the Applicant belongs to Scheduled Caste.

4.6. That in order to get promotion to the post of Mistry, the Applicant made an option in the Office of the Respondent No.2 on 25.8.1990, a true copy of which is being filed as Annexure No.1 to this application.

4.7. That the Applicant also moved an application

on 28.8.1990 wherein he has mentioned that he has mentioned that he has exercised his option for the promoted post of Mistry on 25.8.1990 and since he belongs to Scheduled Caste, he may be promoted as

Mistry . It was also mentioned that one Shri. Lal

Bahadur Singh, Crane Driver bearing ticket No.110CBM,

who is interested to get the above post filled up in his favour, has been openly saying that the Applicant should without his option and in case the Applicant

appeared in the test he would fail the Applicant and

that the Applicant would never be promoted as the

said Shri. Singh had link with the officers of the

department and has strong hold in the Union. A true

copy of this application is being filed as Annexure

A 42

No.2 to this application.

4.8. That it may be mentioned here that one Shri. Satya Narain had appeared in the test for promotion as Mistry, who was working as Crane Driver, and also belonging to Scheduled Caste, was declared unsuccessful on 21.6.1990. A True copy of which is being filed as Annexure No.2A to this application.

4.9. That the examination/ Test, in which the Applicant was to be held on 25.9.1990 but the same has been suspended by order dated. 18.9.1990 and in this order no reason for the same has been mentioned. A True copy of this order is being filed as Annexure No.3 to this application.

4.10. That on getting the said information the applicant represented to the Respondent No.2 stating that he has never been informed as to when the examination would be held next. A true copy of this representation is being filed as Annexure No.4 to this application.

4.11. That inreply to the said representation the applicant was informed that the date of next examination would be communicated at an early date, a true copy of which is being giled as Annexure No.5 to this application.

4.12. That when nothing was heard of the date of examination, the applicant again submitted requests on 22.10.1990, true cop-ies of which are being filed as Annexure No.6 to this application.

4.13. That it is important to mention here that one Shri. D.P.Singh, who was working as Crane Driver ,retired in April, 1990 and this post was earmarked for SC candidate inthe roster.

4.14. That it is important to point out that Shri. Lal Bahadur Singh is very much interest that 6 months ' time may be lapsed so that Shri. Satya Narain may get the promotion to the post in question. who is----

due for retirement in January 1992. The intention of Shri Lal Bahadur Singh is that after 1992 (January) 1992, he will be able to get the post converted into general category post from SC, with his influence over the Union and officers of the department, and to get the post in his favour, as Shri. Singh is fully aware that once the Applicant is promoted to the post in question, he will not get the post in his favour, as the Applicant is due to retire in 1998 only. His intention is to delay the examination/ declaration of result by 6 months so that Shri. Satya Narain may be able to appear in the Examination, although he was declared unsuccessful in the test on 21.6.1990, and be promoted to the post in question.

4.15. That Shri. Lal Bahadur Singh is due for retirement in 1994 and that is why he wants that the post in question be filled up by promotion of Shri. Satya Narain,, who is to retire in 1992., and since the Applicant is due for retirement only in 1998, he knows that once the Applicant is promoted he would not get the post any time.

4.16. That it is pertinent to mention here that since the applicant has exercised option for

(25)

promotion as Mistry, he would not get promotion to any other post even though he is a ~~xxxxx~~ master craftsman.

4.17. That according to the applicant when the result of one Sri. Satya Narain was declared and he was found unsuccessful so according to rule the test should have been held within six months. Since result of Satya Narain is declared 21.6.1990 so in any case the test should have been held within six months as provided in the Railway Board Letter No.E-(NG) I-1-79 PM1 /1/2 /of 7.7.1979 serial No.NR-7346.

4.18. That non holding of test within six months for the date of declaration of result of Sri. Satya Narain gives a contingent cause of action to the applicant.

4.19. That according to Railways Boards letter No. E(NG)/17-78/PMI /139 of 27.10.1979 serial No.NR.-7438/SE/365/79 efforts should be made to provide trade test which are held twice a year so that vacancies do not remain unfilled.

4.20. That the respondents have failed to follow

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of action is subsisting and any delay on the part of the public authorities an individual can not be held responsible.

5- ~~Grounds~~

Grounds:-

- (i). Because the order suspending the test without assigning any reason is illegal, arbitrary and ~~unjustified~~ unjustified.
- (ii). Because non-fixation of date for next trade test is malafide and arbitrary.
- (iii). Because one Shri. Lal Bahadur Singh is interested to get the post in question filled in by Shri. Satya Narain, who is to retire in January, 1992, and after that to get the post reserved for himself.
- (iv). Because the representation of the applicant has not been decided & so far.
- (v). Because the petitioner/ applicant has been left with no other alternative.
- Vi). Because an individual has no control over the performance of the public duties like not holding test within six months from the date of declaration of result. The applicant can not be made to suffer.
- (vii). Because in view of admission of the respondent the authorities are bound to hold the test.

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(viii). Because the respondents have not followed various Railway Board letters which have been detailed out in paras 4.17 to 4.20 above.

6 . Details of remedies exhausted:

That the matter is so urgent that the applicant can not file representation and to wait for 6 months from the date of filing the said representation, as provided in the Act, as on expiry of 6 months the purpose of claim of the applicant will be defeated. However, he had filed the representation against not ~~holding~~ holding the test suspending the test.

7. Matters not previously filed or pending with any 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 or any other authority or any other bench of the Tribunal nor any such application, writ petition, or suit is pending before any of them.

8. Reliefs sought: -

(a). This Hon'ble Tribunal may be pleased to ~~direct~~ direct the respondents that the trade test may be taken from the Applicant before expiry of 6 months from the date of declaration of result of the test of Shri. Satya Narain i.e., ~~21.6.1990~~, 21.6.1990.

and respondents further be directed to hold the test on or after 21.6.1990 as per according to Railways Boards letters and ever it be immediately held after the decision of the appeal as admitted by the respondents.

Wherefore, it is respectfully prayed that the Hon'ble Tribunal be pleased to permit the application to amend his application as stated above in the ends of justice.

Lucknow: Dated:

July, 1991

(A.K. Shukla)

Advocate.

Counsel for the Applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
(CIRCUIT BENCH), LUCKNOW.

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O.A. No. 352 of 1990

Ram Narain .. Applicant
Versus
Union of India & another .. Respondents.

FORM - I

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

Title of the case: Promotion

Sl.No.	Description of documents relied upon	Page Nos.
1.	Application	1 to 8
2.	Annexure No.1: Option made by the applicant.	9
3.	Annexure No.2: application dt. 28.8.90	10-11
3A	<i>Annexure No.2 A Request of Salary</i>	12
4.	Annexure No.3: Order dated 18.9.90	13
5.	Annexure No.4: Representation submitted by the applicant	14-15
6.	Annexure No.5: Letter in reply to above representation.	16-17
7.	Annexure No.6: Request dt. 15.10.90	18-19
8.	Annexure No.7: Request/representation dt. 22.10.1990.	
9.	Postal Order	
10.	Vakalatnama	

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Date: 1990

Handwritten signature

Lucknow.

SIGNATURE OF THE APPLICANT

Handwritten signature and initials

For use in Tribunal's Office

Date of filing

or

Date of receipt by post :

Registration No. :

Signature
for Registrar

Central Administrative Tribunal
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (CIRCUIT BENCH)

LUCKNOW. Date of filing ... 5/11/90
Date of receipt by Reg.

Deputy Registrar (II)

Ram Narain, aged about 48 years,
son of Shri Ganga Prasad, resident
of Hatta Ram Das, Bagia No.1, Gun
Factory Road, Sadar Bazar, Lucknow. .. Applicant

5/11/90
5/11

Versus

1. Union of India through the
Secretary to the Government of
India, Ministry of Railways,
Rail Bhawan, Baroda House, New Delhi .. Respondents
2. Deputy Chief Electrical Engineer
(Works), Northern Railway,
Lucknow. .. Respondents.

1. Details of application

1. Particulars of the order against which the applica-
tion is made :

The application is being made against the
order passed by the Respondent No.2 dated
18.9.1990, by which the Test for the post
of Mistry has been suspended.

2. Jurisdiction of the Tribunal :

The Applicant declares that the subject
matter of the order, against which he wants
redressal, is within the jurisdiction of the
Tribunal.

filed today
5/11/90
5/11/90
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3. Limitation

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The Applicant further declares that the application is within the limitation period, prescribed in Section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case :

4.1. That the Applicant was initially appointed as Mali on 3.12.1962 in the Office of the Divisional Superintendent, Northern Railway, in IOW Charbagh, Lucknow.

4.2. That after becoming successful in the Trade Test, the applicant was promoted as Semi-Skilled Crane Driver and thereafter as Skilled Crane Driver.

4.3. That the Applicant was further promoted as Skilled Crane Driver B Grade and is at present working as Crane Driver Grade A, bearing ticket No. 108 CBM.

4.4. That the Applicant has always been ~~XXXX~~ ~~XXXXXX~~ a loyal worker and is an outstanding football player and has represented the Railways in national team.

4.5. That the Applicant belongs to Scheduled Caste.

4.6. That in order to get promotion to the post of Mistry, the Applicant made an option in the

21/11/21/47

Office of the Respondent No.2 on 25.8.1990, a true copy of which is being filed as Annexure No.1 to this application.

4.7. That the applicant also moved an application on 28.8.1990 wherein he has mentioned that he has exercised his option for the promoted post of Mistry on 25.8.1990 and since he belongs to Scheduled Caste, he may be promoted as Mistry. It was also mentioned that one Shri Lal Bahadur Singh, Crane Driver, bearing ticket no. 110 CBM, who is interested to get the above post filled up in his favour, has been openly saying that the Applicant should withdraw his option and in case the Applicant appeared in the test he would fail the Applicant and that the Applicant would never be promoted as the said Shri Singh had link with the officers of the department and has strong hold in the Union. A true copy of this application is being filed as Annexure No.2 to this application.

4.8. That it may be mentioned here that one Shri Satya Narain, had appeared in the test for promotion as Mistry, who was working as Crane Driver, and also belonging to Scheduled Caste, was declared unsuccessful on 21.6.1990. A true copy of which is being filed herewith as Annexure 2 A.

4.9. That the examination/test, in which the Applicant was to appear, was to be held on 25.9.1990 but the same has been suspended by order dated 18.9.90 and in this order no reason for the same has been

21/9/21/29

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mentioned. A true copy of this order is being filed as Annexure No.3 to this application.

4.10. That on getting the said information the Applicant represented to the Respondent No.2 stating ~~XXXXXXXXXX~~^a that he has never been informed as to when the examination would be held next. A true copy of this representation is being filed as Annexure No.4 to this application.

4.11. That in reply to the said representation the applicant was informed that the date of next examination would be communicated at an early date, a true copy of which is being filed as Annexure No.5 to this application.

4.12. That when nothing was heard of the date of examination, the applicant again submitted requests on ~~15.10.1990~~^a and ~~22.10.1990~~^{ab}, true copies of which are being filed as Annexures 6 ~~and 7~~^{ab} to this application.

4.13. That it is important to mention here that one Shri D.P. Singh, who was working as Crane Driver, retired in April 1990 and this post was earmarked for SC candidate in the roster.

4.14. That it is important to point out that * Shri Lal Bahadur Singh is very much interest that 6 months' time may be lapsed so that Shri Satya Narain may get the promotion to the post in question, who is

21/11/2011

ASG

due for retirement in January 1992. The intention of Shri Lal Bahadur Singh is that after 1992 (January 1992), he will be able to get the post converted into general category post from SC, with his influence over the Union and officers of the department, and to get the post in his favour, as Shri Singh is fully aware that once the Applicant is promoted to the post in question, he will not get the post in his favour, as the Applicant is due to retire in 1998 only. His intention is to delay the examination/declaration of result by 6 months so that Shri Satya Narain may be able to appear in the Examination, although he was declared unsuccessful in the test on 21.6.1990, and be promoted to the post in question.

4.15. That Shri Lal Bahadur Singh is due for retirement in 1994 and that is why he wants that the post in question be filled up by promotion of Shri Satya Narain, who is to retire in 1992, and since the Applicant is due for retirement ~~only~~ in 1998, he knows that once the Applicant is promoted he would not get the post ~~any~~ ^{for a long} time.

4.16. That it is pertinent to mention here that since the applicant has exercised option for promotion as Mistry, he would not get promotion to any other post even though he is a master craftsman.

5. Grounds

- (i) Because the order suspending the test without assigning any reason is illegal, arbitrary and unjustified.

21/11/2009

- (ii) Because non-fixation of date for next trade test is malafide and arbitrary.
- (iii) Because one Shri Lal Bahadur Singh is interested to get the post in question filled in by Shri Satya Narain, who is to retire in January 1992, and after that to get the post dereserved for himself.
- (iv) Because the representation of the applicant has not been decided so far.
- (v) Because the petitioner/applicant has been left with no other alternative.

6. Details of remedies exhausted

That the matter is so urgent that the applicant can not file representation and to wait for 6 months from the date of filing the said representation, as provided in the Act, as on expiry of 6 months the purpose of claim of the applicant will be defeated. However, he had filed the representation against not holding the test/cancelling the test.

7. Matters not previously filed or pending with any 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 or any other authority or any other bench of the Tribunal

21/11/1991

nor any such application, writ petition or suit is pending before any of them.

8. Reliefs sought :

- (a) This Hon'ble Tribunal may be pleased to direct the Respondents that the trade test may be taken from the Applicant before expiry of 6 months from the date of declaration of result of the test of Shri Satya Narain, i.e., 21.6.1990.
- (b) To pass any other suitable orders/directions which this Hon'ble Tribunal may deem just and proper.
- (c) To allow the cost of this application.

9. Interim order, if any, prayed for :

That pending decision of this application, the Respondents may be directed to take trade test from the applicant within 6 months from 21-6-90 and that the post in question (Mistry) may not be filled up by any ~~other~~ person, other than the applicant.

10. The application is not being sent by post, but is being submitted in the office of the Tribunal.

11. Particulars of Bank Draft/Postal Order, filed in

respect of the Application fee : Indian take

order bearing no 802418940
to SQP
Registration CAI Akshaya
date 26-10-90

12. List of enclosures :

- (1) Annexure No.1: Option made by the applicant.
- (2) Annexure No.2: Application dated 28.8.1990.
- (3) Annexure No.3: Order dated 18.9.90.
- (4) Annexure No.4: Representation submitted by the Applicant.
- (5) Annexure No.5: Letter of the Respondent no.2.
- (6) Annexure No.6: Request dated 15.10.1990
- (7) Annexure No.7: Request dated 22.10.1990.
- (8) Postal Order
- (9) Vakalatnama

VERIFICATION

xxx

I, Ram Narain, aged about 48 years, son of Shri Ganga Prasad, resident of Hatta Ram Das Bagia no.1, Gun Factory Road, Sadar Bazar, Lucknow, do hereby verify that contents of paras are true to my personal knowledge and paragraphs are believed to be true on the basis of legal advice and that I have not suppressed any material fact.

21/11/1990

Dated: 1990

Lucknow.

SIGNATURE OF APPLICANT.

21/11/1990

Ram Narain
Akshaya
Adv.

सेवा में,

Annex 3

AS 9

श्रीमान् उप मुख्य विद्युत अभियन्ता {कर्म०}
उत्तर रेलवे, चारबाग,
लखनऊ ।
द्वारा, शाप अधीक्षक पावर
उत्तर रेलवे, लोकोशाप,
चारबाग, लखनऊ ।

संबन्धित विषय:- ट्रेन ड्राइवर मिस्त्री पद की परीक्षा के स्थगित करने के सम्बन्ध में ।

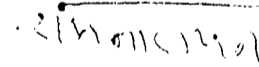
संदर्भ:- आपका पत्र संख्या १०१-ई/कर्म०/सी.बी.स्म.०/१० दिनांक १८.१.१०
तथा हमारा पत्र दिनांक २८.८.१०.

महोदय जी,

निवेदन है कि मैंने उपरोक्त मिस्त्री पद की परीक्षा हेतु काफी तैयारी कर ली थी।
तथा पूर्णरूपेण परीक्षा देने के लिए तैयार था, परन्तु अपानक आपके उपरोक्त पत्र दिनांक
१८.१.१० द्वारा ज्ञात हुआ कि परीक्षा स्थगित कर दी गई है। उसमें यह भी नहीं सूचित
किया गया है कि अगली किस तिथि को परीक्षा सम्पन्न होगी।

कृपया सूचित करने का कष्ट करें कि अब उपरोक्त परीक्षा किस तिथि को होना
निश्चित किया गया है।

आपका कृपार्काक्षी



श्रीराम नारायण {कर्म०} नं० १०८/सी.बी.
स्म.०, कार्यालय शाप अधीक्षक,
पावर उत्तर रेलवे, लोकोशाप,
चारबाग, लखनऊ ।

23-9-10
....

श्रीमान् उप मुख्य विद्युत अभियन्ता

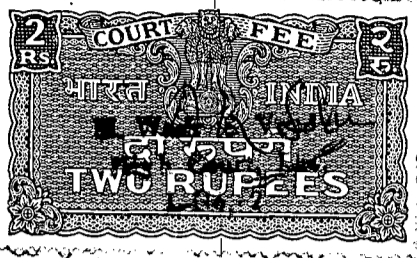
Vakalatnama

Central Administration India

In the High Court of Judicature at Allahabad

A B 6

SITT COURT FEE N



Ram Mehan

VERSUS

Heera of India Bank

Case No. *07A* of 19 *90*

I/we the undersigned do hereby nominate and appoint Shri _____
and Shri *A-k Shukla, & P.K. Srivastava*

Dr. RANI LAXMI BAI Mehan 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 advccate dcth 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 :

Ajay K. Sharma

1r Advocate

2- Advocate

Signature of Client

21/11/21/97

.....
.....

Before the Hon'ble Central Administrative Tribunal, Andhra Pradesh
Bengaluru

GA No — 1990 (L)

Ram Narayan — Appellant

vs

Union of India - Respondents.

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7.	Annexure No 6 - do -	18-19

Witness

Attest
(A.K. SHUKLA)
Advocate

समक्ष- केन्द्रीय लोक सेवा आधिकारण, लखनऊ।

कलेम पिटीशन नं० 11990

राम नारायण

पिटीशर

बनाम

यूनियन आफ इंडिया व अन्य

आपोजिट पार्टीज

संलग्नक संख्या-।

सेवा में,

शाम अधीक्षक विद्युत

इंजन कारखाना, वारबाग,
लखनऊ।

विषय:- मिस्त्री के स्थान पर प्रमोशन से सम्बन्धित आपसन।

महोदय,

मैं आपको सूचित करना चाहता हूँ कि मैं मिस्त्री के पद पर
प्रगति के लिये अपना "आपसन" दे रहा हूँ।

इससे सम्बन्धित परीक्षा में मैं सम्मिलित हूँ।

दिनांक- 25-8-90

भवदीय,

ह० रामनारायण

टि० नं० 108 सी० बी० एम०

इंजन कारखाना, वारबाग, लखनऊ।

ह०/ = अपठनीय,

शाम अधीक्षक विद्युत

इंजन कारखाना, वारबाग, लखनऊ।

वारबाग, लखनऊ।

सत्य प्रतिलिपि

Alloster True copy
Alloster
De

A 63 10

समक्ष- केन्द्रीय लोक सेवा आधिकरण, लखनऊ ।

क्लेम पिटीशन नं० /1990

राम नारायणपिटीशनर

बनाम

यूनियन आफ इंडियन व अन्यआपोजिट पार्टीज

संलग्नक संख्या - 2

सेवा में,

द्वारा- शाप अधीक्षक पारवर, चारबाग,

डिप्टी चीफ इलेक्ट्रिकल इंजीनियर,
लोक सेवा विभाग, चारबाग, लखनऊ।

उत्तर रेलवेज ।

विषय:- प्रोन्नति के सम्बंध में।

बहोदय,

मैंने अपना "आपशन" मिस्त्री के पद पर प्रोन्नति के लिये
दिनांक 25-8-90 को दे दिया है। मैं अनुसूचित जाति का हूँ जबसे
मैंने अपना "आपशन" मिस्त्री के पद के लिये दिया है उसी समय से
श्री लाल बहादुर सिंह क्रेन ड्राईवर टिकट नं० 110 सी०बी०एम० जे
स्वयं भी इस प्रोन्नति के इच्छुक है मूझे अनेक प्रकार के प्रलोभन
तथा भय आदि दिखा चुके हैं और सर्रास कहते हैं कि यदि तुमने
अपना आपशन नहीं बदला तो मैं तुम्हें, भी सत्य नारायण क्रेन
ड्राईवर टिकट नं० 103 सी०बी०एम० की भर्ति टेस्ट में फेल करा
देगे। और कभी भी प्रोन्नति नहीं होने देगे। वे कहते हैं कि
उनकी यूनियन और अधिकांश कार्य में पहुंच हैं।

श्री लाल बहादुर सिंह

11 ABY

अतः मेरा निवेदन है कि मेरा टेस्ट होते समय किसी अनुसूचित जाति के अधिकारियों की भी उपस्थिति रहे और निष्पक्ष रूप से मेरा टेस्ट लिया जायें।

लखनऊ : दिनांक:

28.8.1990

प्रार्थी,

॥ राम नारायण ॥

ह0/ राम नारायण,

" ट्रेन ड्राईवर "टिकट नं0 108-सी0बी0एम0
लेके कर्कशाप, वाराणसी, लखनऊ।

सत्य-प्रतिलिपि

राम नारायण

Mehta
True copy
Abhishek
Ash

समक्ष- केन्द्रीय लोक सेवा आधिकारण, लखनऊ

क्लैम पिटीशन नं०

12
/1990

A65

राम नारायण

...

...पिटीशनर

बनाम

यूनियन आफ इंडियन व अन्य

... अपोजिट पार्टीज

संलग्नक संख्या- 2A

कार्यालय उप मुख्य विद्युत अभियंता {कर्म०} चारबाग, लखनऊ।

संख्या/ 901/ई-/ कर्म०/सी०बी०एम०/90 दिनांक 22-6-90

शाप अधीक्षक, {पार}।
उ०रे० लोको शाप,
चारबाग, लखनऊ।

विषय:- मिस्त्री पद की परीक्षाफल के संदर्भ में।

सूचित किया जाता है कि श्री सत्य नारायण 103 सी०बी०एम०
के पत्र सं० सी०आ०७० एवं / जी०एस०एम०/ लखनऊ/ दिनांक 21-6-90
वह असफल घोषित किया गया है।

21/11/21/21/21

कृपया उपरोक्त विषय के संदर्भ में श्री सत्य नारायण को सूचित करे
एवं हस्ताक्षर लेकर पावती इस कार्यालय को भेजे।

ह०/

कृते- उप मुख्य विद्युत अभियंता, {कर्म०}
उ०रे० चारबाग, लखनऊ।

सत्य-प्रतिलिपि

Ames
Time copy
Anshu
Advocate

समक्ष- केन्द्रीय लोक सेवा आधिकरण नं० , लखनऊ।

क्लैम पिटीशन नं० /1990

राम नारायन ...

...पिटीशनर

A66

बनारस

यूनियन आफ इंडियन व अन्य ...आपुने 0पार्टीज,

सलगनक संख्या- 3

कार्यालय उप मुख्य विद्युत अभियंता, का० उत्तर रेलवे, चारबाग
लखनऊ।

पत्र संख्या- 901/ई-कर्म०/ डी०बी०एम०/90 दिनांक: 18.09.1990

शाप संख्या- अधीक्षक पावर,

उत्तर रेलवे लोको शाप,

चारबाग, लखनऊ।

विषय:- क्रेन ड्राइवर मिस्त्री पद की परीक्षा के स्थगित करने के सम्बन्धी में

सूचित किया जाता है कि श्री राम नारायन टिकट नं० 1088सी०बी
एम० क्रेन ड्राइवर ग्रेड-1, जिनकी उपरोक्त पद हेतु परीक्षा दिनांक
25.09.90 को होनी थी, स्थगित कर दी गई है। कृपया यह सूचित
करें तथा हस्ताक्षर लेकर पावती इस कार्यालय को भेजे।

यह उप मुख्य विद्युत अभियंता द्वारा अनुमोदित है।

हे०/ अपठनीय,

कृते/उपमुख्य विद्युत अभियंता का०

उत्तर रेलवे, चारबाग, लखनऊ।

प्रतिलिपि:- कर्मशाला विद्युत अभियंता आलमबाग, लखनऊ को सूचना के लिए

...

सत्य-प्रतिलिपि

M. S. P. me cm
A. S. P. me cm

21/9/90 (21/9/90)

कही कोई सुनियोजित योजना के अंतर्गत 6 माह व्यतीत कर
इस पद को आरक्षित वर्ग से हटाकर जनरल वर्ग भी न बना दी
जाये।

अतः आपसे मेरी निवेदन है कि इस सम्बंध में इस
स्थान की पूर्ति हेतु तुरंत टेंस्ट की पूर्ति हेतु तिथि निश्चित
करने की कृपा करें।

संलग्नक:- दिनांक:- 15-10-90 भवदीय,

ह0/॥राम नायन॥,

राम नायन॥,

टिकट नं0।08सी0बी0एम0

संलग्नक:- फोटो प्रार्थना पत्र

उप मुख्य विद्युत अभियंता,

कापी दिनांक 28-9-90

॥क0॥, उ0रे0 चारब ग,

लखनऊ

अग्रिम प्रतिलिपि: - उप मुख्य विद्युत अभियंता, ॥क0॥

उ0रे0 चारब ग, लखनऊ को आवश्यक
कार्यक ही हेतु प्रेषित।

महेहर-

प्राप्त किया = 16.10.90

सत्य-प्रतिलिपि

२१/१०/१९९०

Attested
True copy
Ashwina
Ashw

समक्ष- केन्द्रीय लोक सेवा आधिकारण नं० , लखनऊ

क्लैम पिटीशन नं० /1990

राम नाथयन

...

पिटीशनर

बनाम

यूनियन आफ इंडियन व अन्य

...

आपरोपार्टीज,

संलग्नक संख्या- 5

सेवा में,

श्रीमान् उप मुख्य विद्युत अभियंता १०१
उत्तर रेलवे, चारबाग, लखनऊ

द्वारा शाप अधीक्षक पावर,
उत्तर रेलवे, लोकोशाखा,
चारबाग, लखनऊ

विषय:- क्रेन ड्राईवर मिस्त्री पद की परीक्षा के स्थगित करने के
सम्बन्ध में।

संदर्भ:- आपका पत्र संख्या 901/ ई०/ कर्म०/सी०बी०एम०/90दिनांक
18.9.90 तथा हमारा पत्र दिनांक 28.8.90

महोदय, जी,

निवेदन है कि मैंने उपरोक्त मिस्त्री पद की परीक्षा हेतु काफी
तैयारी कर ली थी। तथा पूर्णरूपेण परीक्षा देने के लिये तैयार
था, परन्तु अचानक आपके उपरोक्त पत्रदिनांक 18.9.90 द्वारा
ज्ञात हुआ कि परीक्षा स्थगित कर दी गई है। उसमें यह भी नहीं
सूचित किया गया है कि अगली किस तिथि को परीक्षा सम्पन्न
होगी।

कृपया सूचित करने का कष्ट करें कि अब उपरोक्त परीक्षा किस

तिथि को होना निश्चित किया गया है।

AFO

आपका कृपांकक्षी,

राम नारायण टि० नं० 108 / सी
बी० एम० कार्यालय शाप,
अधीक्षक, पावर उत्तर रेलवे,
लोको शाप, चारबग, लखनऊ।

टि० नं० 108 / सी० बी० एम० आपके उपरोक्त

प्रार्थना पत्र पर अगर कोई ट्रेड टेस्ट की तारीख

निश्चित होगी आपके शीर्ष सूचित किया जायेगा।

23-9-90

ह०/ अपठनीय,

1.10.90

सत्य-प्रतिलिपि

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समक्ष- केन्द्रीय लोक सेवा आधिकरण नं० - लखनऊ

A71

क्लैम पिटीशन नं० /1990

राम नारायण

...

... पिटीशनर

बनाम

यूनियन आफ इंडिया व अन्य

... अपोजिट पार्टीज,

सलग्नक संख्या- 6

सेवा में,

श्रीमान् उपमुख्य विद्युत अभियंता, ॥कार्य ०॥
उत्तर रेलवे, चारबाग, लखनऊ।

द्वारा:- शाप अधीक्षक पावर ॥ चारबाग, लखनऊ।

विषय:- क्रेन ड्राइवर, मिस्त्री पद की परीक्षा के स्थगित करने के सम्बंध में

संदर्भ:- मेरी प्रार्थना पत्र दिनांक 28.9.1990

महोदय,

उपरोक्त संदर्भ में मुझे किन्तु निवेदन करना है कि उपरोक्त मेरी प्रार्थना पर शाप अधीक्षक पावर उत्तर रेलवे, लोकोशाप, लखनऊ के कार्यालय के लिपिक द्वारा के साथ यह लिख दिया गया है कि अथवा कोई टेस्ट की तारीख निश्चित होगी तब आपका शीघ्र सूचित किया जायेगा।

आज लगभग 15 दिन होने की हैं और मैं प्रतीक्षा करता रहा कि मुझे टेस्ट की तारीख सूचित की जायेगी किन्तु दुःख की बात है कि अभी तक मुझे कोई सूचना नहीं मिली। मुझे सन्देह हो रहा है कि कहीं कोई सुनियोजित योजना के अन्तर्गत 6 माह व्यतीत कर इस पद

21/10/1990

पद को आरक्षित वर्ग से हटाकर जनरल वर्ग भी न बना दी जाये।

अतः आपसे मेरी किन्तु निवेदन है कि इस सम्बंध में स्थान की पूर्ति हेतु तुरंत टेस्ट की पूर्ति हेतु लिपि निश्चित करने की कृपा करें।

लखनऊ: दिनांक: 15.10.1990

भवदीय,

ह0/॥राम नारायण॥

॥ रामनारायण॥

टिकट नं0 108/सी0बी0एम0

प्राप्त किया-

ह0/अपठनीय,

22 -10-90

संलग्नक:- फोटो प्राध्वना पत्र कपी-

दिनांक- 28-9"-90

अग्रिम प्रतिलिपि- उपमुख्य विद्युत अभियंता, ॥क॥,

उत्तर रेलवे कारबाग, लखनऊ को आकरयक

कार्यवाही हेतु प्रेषित।

सत्य-प्रतिलिपि

21/10/21/47
Alokesh Time egn
Alokesh
Adv

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH

LUCKNOW

A 73

Registration No. O.A. 352 of 1990

Ram Narain

Applicant.

versus

Union of India & others

Respondents.

Counter Reply on behalf
of respondents.

.....

I, *Om Pal Singh* working in the
office of
Deputy Chief Electrical Engineer (Works),
Northern Railway, **Charbagh**, Lucknow
do hereby solemnly affirm and state as under:

- Om*
1. That the deponent is working as *Dy. Chief Electrical Engineer (W)* in the office of Deputy Chief Electrical Engineer (Works), Northern Railway, Lucknow. He is fully conversant with the facts and circumstances of the case stated in the Original Application and has been fully authorized to answer on behalf of the answering respondents.

.....2

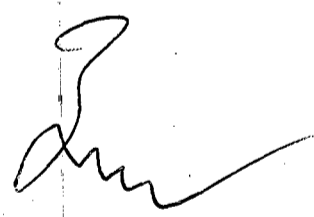
A 79

2. That the contents of paras 1 to 3 of the Original Application do not call for reply.

3. That reply of the para 4 of the original application is as under:

4. That the contents of paras 4(i) to para 4(6) of the original application are admitted.

5. That in reply to para 4(7) of the Original application, it is submitted that for the test of 'Cane Driver', proper procedure is being adopted and no third person is supposed to enter in the proceeding. It is further submitted that alleged Sri Lal Bahadur Singh can not ~~interfere or~~ influence or change the procedure for selecting or rejecting in the test. Hence such a plea of the applicant is without any substance.



6. That the contents of para 4.8 of the original application are admitted. It is further submitted that alleged Sri Satya Narain has submitted an appeal to the General Manager (P) Northern Railway, Baroda House, New Delhi on the plea that he was not given adequate time

A 75

for preparation for the test of Mistry. A copy of said appeal is being enclosed herewith as Annexure No C-1.

7. That in reply to para 4.9 of the original application it is submitted that the appeal of Shri Satya Narain is still pending with the General Manager (P), Northern Railway Baroda House, New Delhi and in case his appeal is accepted he may have to be called again for the test of Mistry Crane Driver. Therefore, in these circumstances the post has to be kept vacant till finalisation of Sri Satya Narain's appeal and as a consequence the test of Sri Ram Narain has been suspended.

It is pertinent to mention here that a letter to the General Manager(P) Northern Railway, Baroda House, New Delhi has been sent by opposite party No. 2 for expediting the appeal of Sri Satya Narain, H.SK. Gr. I. A copy of above said letter No. GOI-E/W/CBM/LKO/90 dated 20.11.90 has been enclosed herewith as Annexure C-2 to the present counter.

8. That in reply to para 4(10) of the original application it is submitted that since the exact date of finalisation of Shri Satya Narain's appeal pending before General

A 76-

Manager(P) Northern Railway Baroda House,
New ^Delhi is not known, the date for applicant's
test for Mistry cannot be declared exactly.

9. That the contents of para 4.11 of the original application are admitted. It is further submitted that the next date of trade test is dependant upon the date of finalisation of Shri Satya Narain's appeal which is pending and being chased for early finalisation by the opposite parties No. 2.

10. That in reply to para 4.12 of the original application, it is submitted that the contents of para 9 of the present counter are reiterated.

11. That the contents of para 4.13 of the original application are admitted. It is further submitted that for ~~filling~~ ^{relevant} filling up post, the ~~correct~~ rules are being followed.

12. That in reply to the contents of para 4.14 of the original application it is submitted that there is no question of administration getting influenced by alleged Shri L.B. Singh or any third person. It is stated that for filling up the particular post from Schedule

Caste /Schedule Tribe or general candidates exact rules prescribed by the Railway Board and Northern Railway Headquarters are being followed. Hence, there is no question of delaying the declaration of result by six months so that Shri Satya Narain may be able to appear in the examination.

13. That the contents of para 4.15 of the original application are admitted. It is further submitted that candidates are called for test based on their eligibility for the particular post and not keeping in view who is going to retire or who will be the next candidate for the said post. It is departmental procedure for filling up the post.

14. That in reply to para 4.15 of the original application it is submitted that the applicant is a Grade I Crane Driver and he has a right to be called for the test of Crane Driver Mistri on his turn and he has already submitted his option for promotion to the said post.

15. That The grounds taken in the said application are baseless, misconceived and

A 78

without any merit, as such the application is liable to be dismissed.

16. That in reply to the contents of para 6 of the original application it is submitted that the applicant will be given his due chance according to the procedure and his test has been delayed only for the reasons already mentioned above in the present counter affidavit.

17. That the contents of para 7 of the original application do not call for any reply.

18. That in reply to para 8 and 9 of the original application it is submitted that the relief claimed are baseless and as such the present ~~application~~ application is devoid of merit and liable to be dismissed against the applicant and in favour of respondents with costs.

Lucknow

Dt. Dec. 14, 1990

(OM PAL SINGH)

Dy. Chief Electr. Engr (10)
J. Rly. Gharbagh, LL

Verification

I, the deponent named above do hereby verify that the contents of paras 1 is based on personal knowledge and those of paras 2 to 18 are based on record. No part of it is false

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and nothing material has been concealed. So
help me God.

Lucknow.

Dt. Dec. 14, 1990

COM PAL SINGH

Deponent.

Dy. Chief Electr. Engg.
Rly. Charbagh LI

I identify the deponent who has signed
before me.

Ant Sivaram
Advocate.

3
12-11-90
R
15-9-90
Annexure No C-1

To
The General Manager (G),
Northern Railway,
Baroda House,
New Delhi.

THROUGH PROPER CHANNEL.

Respected Sir,

Sub:- Suitability test for the post of Mistry Crane
Driver grade Rs. 1400-2300 (RPS).

Most humbly and respectfully I would like to invite your kind attention towards my application dated 31-8-90 (copy enclosed) through which the detailed position of my case was explained for your information and sympathetic consideration, but it is about a fortnight period has been passed no favourable order /reply have been received so far.

I was called for the Trade Test of Mistry Crane Driver grade Rs. 1400-2300 (RPS) vide Dy.CEE(W)/CR-Lucknow's letter No.901-E/W/LKO/CRM/89-90 dated 22.5.90 being the seniormost SC candidate and the test was conducted on 5.6.1990. The letter was got noted by me on 24.5.90 and I was tested on due date mentioned above. In this way a fortnight period was not given to me for well preparation as per extant rule resulting in I could not succeed.

I made an appeal with CMM/Jocoshop/CR with full details of case through a representation dated 20.6.90 on which he had given his decision that objection should be reached before test and rejected my appeal (copy enclosed).

Therefore, it is requested again that please look into the matter personally and necessary orders be issued to Dy.CEE (W)/LKO to make nul and void the result declared vide Dy.CEE (W)/CR's letter No.901-E/W/LKO/CRM/90 dated 22.6.90 and I may be allowed for re-examination by giving sufficient period for well preparation as per extant rule. If any action will not be taken within 30 days i.e. before 25.9.90, I will be compelled to knock the door of competent Court of Law to seek justice for which Railway administration will be responsible.

I hope expeditious action on the application to save me from the harrasment and oblige.

Thanking you.

Yours faithfully,

Satyra Narain
(Satya Narain) 103CBM
H.S. Cr.I, Crane Driver,
E.No. 103/CRM,
under Dy.CEE (W)/CR-LKO.

Dated: 11.9.1990.

Copy to the Dy.Chief Electrical Engineer (C), N.Rly., CR-Lucknow for information.

Copy to the Secretary/NEMU, Elect.Branch, Lucknow for information and necessary action.

R

Annexure No C-2

(30)

Office of the Dy.C.E.E.(W)/Northern Railway, Charbagh, Lucknow.

No.901-E/W/CBM/LKO/90.

Dated: 22.11.1990.

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

AB/

Sub:- Representation of Shri Satya Narain, H.Sk.Gr.I Crane Driver regarding his suitability test for the post of Mistry Crane Driver Gr. Rs. 1400-2300 (RPS).

Ref:- (1) This office letter of even No. dated 18.9.1990.
(2) This office D.O. letter No. even dated 26.10.1990 addressed to Shri Mithai Lal, SPO(M)/Hd.Qrs.

Please refer to this office letter and D.O. letter cited above to which reply is still awaited. It is requested to decide the appeal of Shri Satya Narain, H.Sk. Gr.I Crane Driver at an early date and intimate to this office so that this office could arrange suitability test for the post of Mistry Crane Driver which has already been pended due to the appeal of Shri Satya Narain.

This may please be treated as Most Urgent.

Dy.Chief Electrical Engineer (W),
Northern Railway, Charbagh, Lucknow.

MLS/2+1.

AB

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(CIRCUIT BENCH), LUCKNOW.

A82

O.A. No. 352 of 1990 (L)

Ram Narain .. Applicant
Versus
Union of India & others .. Respondents.

REJOINDER AFFIDAVIT IN REPLY TO THE COUNTER-AFFIDAVIT
FILED ON BEHALF OF RESPONDENTS.

I, Ram Narain, aged about 49 years, son of Shri Ganga Prasad, resident of Matta Ram Das, Bagia No.1, Gun Factory Road, Sadar Bazar, Lucknow, do hereby solemnly affirm and state on oath as under :

1. That the deponent is the applicant in the above application and is fully conversant with the facts deposed hereunder. The contents of the counter affidavit have been read over and explained to the deponent and after understanding the same fully, he gives below the para-wise reply.

2. That the contents of para 1 of the counter affidavit call for no reply. However, it is submitted that the reply submitted by the Respondents does not inspite any confidence as they have given the reply in a very subtle manner by twisting the facts on the basis of their whims, in order to give room to one

Handwritten notes:
11-1-91
Need duplicate
about law
11/01/91

Handwritten: 21/11/91

Shri Satya Narain, who is being helped by the executives and local administration and also Union to induct him after taking test for the promoted post. A93

3. That the contents of paras 2, 3 and 4 of the counter affidavit call for no reply.

4. That the contents of para 5 of the counter affidavit are denied and in reply the contents of paras 4(7) of the application are reiterated to be true. It is submitted that the authorities are bound to strictly follow the rules and regulations in holding the examination and as such it was their duty to hold the examination in favour of the applicant/deponent after declaring the result of Sri Satya Narain. The action of the Respondents of not doing so makes it clear that they are very much interested to give the benefit to Shri Satya Narain after the lapse of 6 months as the rules provide that examination should be held twice in a year, and more specific when a candidate has been declared unsuccessful then he can ~~re~~ reappear in the examination provided 6 months are expired from the declaration of the result. All these go to show that Sri Lal Bahadur Singh is interested to get the said post in question in his favour so that after retirement of Shri Satya Narain the post, which is a reserved post, can be got dereserved, and can continue on the said post.

21/11/71 (19)

5. That the contents of para 6 of the counter

ABM

affidavit call for no reply. However, it is submitted that Shri Satya Narain, prior to filing of appeal to the authorities in Baroda House, New Delhi, had filed a representation to the local authorities, who after considering the said representation, had rejected the same vide order dated 18.8.1990, a photostat copy of which is being filed as Annexure No.R-1 to this rejoinder affidavit. It is submitted that once Shri Satya Narain appeared in the examination and was declared unsuccessful in the said examination he can not agitate by saying that he was given less than 10 days time for preparation of the test. This is an after thought. Further from the appeal of Shri Satya Narain itself it is clear that he was given more than the statutory period of 10 days as would appear from paragraph 2 of the representation, contained in Annexure C-1 to the counter affidavit, wherein he has stated that the test was conducted on 5.6.1990 and that the letter of holding the examination was got noted on 24.5.1990.

6. That the contents of para 7 of the counter affidavit it is submitted that the Respondents are not expected to wait for the result of the appeal filed by Shri Satya Narain as there was neither any stay for declaration of the result, during the pendency of the appeal nor there was any direction to the Respondents not to hold the examination in favour of the deponent. All these go to show that the Administration is very much interested and is well behind Sri Satya Narain to make room for him after declaration of the

21/11/21/99

A85

result, to keep silent for 6 months so that again test may be taken so that Shri Satya Narain may be given the post in question. It has also come to the knowledge of the deponent from Shri Satya Narain himself that the Administration is going to hold examination on 11.1.1991, in spite of the fact that the Respondents have taken the stand that they would not hold the test until the appeal, filed by Shri Satya Narain, is decided. It may be submitted that it is immaterial whether the appeal is decided or not, the authorities are bound to hold the test which is not being done by the local authorities in a very illegal and arbitrary manner. This is clear abuse of process and the same can not be permitted in a democratic set up like India. The Respondents are expected to strictly adhere and follow the provisions ~~contained~~ contained in Article 51A(h) of the Constitution of India. The deponent is filing herewith the relevant documents regarding holding of test within 6 months as Annexure R-2 to this affidavit.

21/11/12/13/14

7. That the contents of para 8 of the counter affidavit are irrelevant and have no bearing with the present case.

8. That the contents of para 9 of the counter affidavit are not admitted and in reply the contents of para 4.11 of the application are reiterated to be true. It is submitted that the authorities are not expected to wait for the result of the appeal of Shri Satya Narain. It may be submitted that in case the authorities

A 86

do not decide the appeal for years, will the local authorities (Respondents) keep on not holding the test?

9. That the contents of para 10 of the counter affidavit are denied and in reply the contents of para 4.12 of the application are reiterated to be true.

10. That the contents of para 11 of the counter affidavit call for no reply. However, it is submitted that the Respondents are not following the relevant rules for filling up the post in question.

11. That the contents of para 12 of the counter affidavit are denied and in reply the contents of para 4.14. of the application are reiterated to be true. It is clear from the conduct of the Respondents that every effort is being made to help Shri Satya Narain. It is further submitted that Shri Lal Bahadur Singh is very much interest to make the promotion of Shri Satya Narain on the post in question so that in the year 1992 Shri Staya Narain would ~~xxxx~~ retire and the post can be got converted from reserved quota to that of general and thereafter he may (Sri L.B.Singh) get the post in his favour. It is also submitted that Shri L:B. Singh is fully aware that if the deponent is promoted on the said he would retire only in the year 199x whereas Shri Satya Narain would retire in 1992. It is very strange ~~xxxx~~ that the appeal, submitted by Shri Satya Narain in September 1990, has not yet been decided.

2/11/91 (2/11/91)

AB7

12. That the contents of para 13 of the counter affidavit call for no reply. It is submitted that from the present facts and circumstances it is clear that the authorities are bent upon not to hold the test in favour of the deponent. They are interested to wait for 6 months so that Shri Satya Narain could be allowed with the view to promote/appoint him in the post in question, under the influence of Shri Lal Bahadur Singh and the Union.

13. That the contents of para 14 of the counter affidavit are replied that once the deponent has submitted his option, the authorities are ~~bound to hold the examination after declaration~~ ~~bound to hold the examination after declaration~~ bound to hold the examination after declaration of the result of Shri Satya Narain and not declaring the result and holding the examination, taking the plea that the appeal of the deponent is pending, is unjustified. It is submitted that this plea is the result of after though with the view to cover up their mistake and as such the Respondents can not be permitted to take this stand.

21/11/21/21/21

14. That the contents of para 15 of the counter affidavit are denied. It is submitted that all the grounds taken by the deponent in the O.A. are tenable and the application deserve to be allowed.

15. That the contents of para 16 of the counter affidavit are denied. It is submitted that if the Respondents are not interested in giving the promotion to Shri Satya Narain, they would have held

APP

the test and as the Respondents are not holding the test, the deponent has no hope of getting the promotion. It may also be submitted that even if the Respondents hold the test the deponent will definitely be declared unsuccessful.

16. That the contents of para 17 of the counter affidavit call for no reply.

17. That the contents of para 18 of the counter affidavit are misconceived; hence denied and in reply the contents of paras 8 and 9 of the application are reiterated to be true. The counter affidavit is liable to dismissed/rejected for swearing in false affidavit and not approaching this Hon'ble Tribunal with clean hands by the Respondents.

21/1/1991

Lucknow:

Deponent.

Date: January 11/1/1991.

VERIFICATION

I, the abovenamed deponent, do hereby verify that the contents of paras 1 of the instant affidavit are true to my personal knowledge and rest of the affidavit are partly true to my personal knowledge and partly believed to be true on the basis of legal advice received. Nothing material has been concealed and no part of it is false. So help me God.

21/1/1991

Lucknow:

Deponent.

Date: January 11/1/1990.

I identify the deponent who has signed before me.

AK Shukla

Advocate.

ALH R-1

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पत्र संख्या 90/-ई/उब्लू/सी.बी.एम.

दिनांक: 18-8-1990

सेवा में,

श्री सत्यनारायण 103/सी.बी.एम.
केन ड्राइवर पाठर शाखा, चारबाग,
लखनऊ।

विषय: केन ड्राइवर मिस्त्री बंद ग्रेड 1400-2300
की परीक्षा के सम्बन्ध में-

आपके प्रार्थना पत्र दिनांक: 28-6-90 जो इस कार्यालय
में 14-7-90 को प्राप्त हुआ था के संदर्भ में यह लक्ष्य कराया जाता
है कि स्वयं अधिकारियों के द्वारा आपके पत्र पर गहनता से विचार
करने पर यह निर्णय लिया है कि यह आपत्ति सम्बन्धी ट्रेड टेस्ट
में बैठने से पहले करनी थी।

अतः आपके द्वारा उपरोक्त बंद की परीक्षा में सम्बन्धी
भाव की शिकायत न्याय संगत नहीं है।

इसके लिए मुख्य कारखाना प्रबंधक लोको शाखा, चारबाग
के अनुमोदन प्राप्त है।

कृते उषा मुखर्जी, बिद्युत अभियन्ता
उत्तर रेलवे, चारबाग

प्रतिनिधि शाखा अधीक्षक, बाबर, चारबाग को इस आशय
के साथ कि श्री सत्यनारायण को.....

21/8/21/49

ANN R-2

A90

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employee has passed prescribed Trade Test. The Railway Workers' Classification Tribunal in their report submitted to the Government in May, 1948 emphasised that the fairest and best means of classifying the artisan staff in skilled and semi-skilled in each trade should be through the Trade test method. As straightway promotion from an unskilled category to a skilled category is not permissible, the Railway Board decided to create posts of 'Basic Tradesmen' in semi-skilled grade in a trade where there was no suitable avenue of advancement from unskilled category to skilled category (such as, Carpenters, Fitters etc.).

No man can pass from an unskilled to semi-skilled/Basic Tradesman grade and from Basic Tradesman/Semi-skilled grade to skilled grade unless he has passed the prescribed trade tests. Persons who fail to pass a trade test should be allowed further opportunities to qualify themselves for promotion (but not within six months from the date of the last test).

(Time schedules should be prepared for holding Trade Tests quarterly for the various categories of staff. R.B.'s No. E(NG)I-76PMI/21 (PNM/NFIR) of 30.10.76, Sl. No. NR6677).

The Trade tests will be arranged by an Assistant Officer of the branch concerned. The results of Trade Tests should be supervised by an officer not below the rank of Assistant Foreman. The trade test result with the recommendations of the Trade Testing Officer will be placed, through the Senior Scale officer of the branch concerned, before the Divl. Supdt./Supdt. Mechanical/Officer-in-charge of shops, or other officer of Deputy's rank who are competent to approve of the Trade Test assessments. The trade test assessments of the Electrical department staff in-work-shops will also be approved by Supdt. Mechanical or Dy. CME in charge of shops, as the case may be. In case of other departments outside the jurisdiction of Division or Mechanical Workshops the trade test assessments will be approved by officers of Deputy's rank of the departments concerned to be nominated for this purpose. (In Technical departments where there are officer(s) of Administrative rank the trade test reports may be assigned to such Divisional Officers. Where there are only Senior Scale Officers in any department in the Divisions the trade test reports may continue to be approved by the D.Ss.), (R.B.'s No. E(P&A) I-76/PS-5/WS.8 of 15.4.77, Sl. No. NR 6779, or by DRMs/ADRM's).

21/11/11

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obtained in written and viva voce test, [as in para (1)(viii) above read with para 1 (ix)]. *R.B.'s No. E(NG)I-72PMI-158 of 21.8.72, Sl. No. ER 8034. [See sub-para (g) below].

(d) Eligibility as regards number of staff to be called—See para (1)(iv) above.

(e) Selection Board—See para 1 (i) above. The Establishment Officer will put up the case to the next higher rank officer of the Branch concerned for nomination of the Selection Board pointing out the status of officers to be nominated and that the 3 officers will also include one SC/ST and one officer of the Personnel Branch, who may however be an officer of the next lower rank. The nominating officer will nominate three officers earmarking an officer as Chairman of the Board. (If written test is held an officer of the appropriate rank must be authorised to set question paper. Where possible, another officer should be nominated to evaluate the answer books. R.B.'s No. E(NG)I-67PMI/212 of 25.2.71, Sl. No. NR5279).

(f) Notifying staff—The date of selection, as ordered, will be notified to the staff well in advance. (In E. Rly. it has been decided that at least 10 days notice will be given to a candidate, both in respect of suitability/trade test as well as for regular selection. ER Sl. No. 3957. The procedure as to how advice re: a selection will be sent is indicated in their Sl. Nos. 3394 and 7396).

(g) No. of persons to be called for viva voce test—Where both oral and written tests are held, written test will first be held. No candidate from unreserved community should be called for viva voce test unless he/she secures 60% marks in the written test, i.e. one such candidate must secure 21 marks out of 35 in the written test to be eligible for being called for viva voce test. This rule will also apply in case of selection of unreserved community candidates in general posts and to SC/ST candidates in case of their selection in categories classified as 'safety posts'. In case of posts not classified as 'safety posts' as well as for general posts, the reserved community candidates will be called if they secure a minimum of 10 marks out of 35 in the written test. (R.B.'s Nos. E(NG) I-72PMI/158 of 12.12.73, 11.4.74, 11/16.4.74 and 14.9.74, Sl. Nos. ER 8384 & 8425/NR 6054 & 6124/SE125/74 & 41/74). ('Safety categories' referred to above have been listed in Board's letter referred to at page 80). In case of selections where only viva voce test is held all eligible candidates will be called.

214/12140

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL?,

(CENTRAL BENCH AT Lucknow.)

Supplementary Affidavit.

In:re:

O.A. No. 352 of 1990.

Ram Narain Applicant.

Versus

Union of India & others..... Opposite parties.

I, Ram Narain, aged about 49 years, son of Shri. Ganga Prasad, R/O. Hata Ram Das, Bagia No.1 Gun factory Road, Sadar Bazaar, Lucknow the deponent do hereby solemnly affirms on oath and state.

1. That the deponent is himself the applicant in the above noted case and as such he is fully conversant with the facts deposed to herein.

2) W 912179
2. That without even deciding the appeal by Head quarters office the respondent No.1 on the basis of the decision taken by the respondent No.2 has ordered for holding of test in favour of Satya Narain which is being filed herewith as Annexure No.S-1 to this affidavit.

3. That all this is being done on the basis of influence of the Local Union who is very much interested to get selected Satya Narain and the respondents could

...2...

A 93

hold the Test immediately after six months i.e. after 20.12.1990 but they after waiting yet another about 09 months very surreptitiously got the order for holding Trade Test in near future.

4. That the matter is subjudiced and when they have already stated on oath in their counter affidavit in para 7 and 9 that the next date of trade test will be subject to decision of the appeal preferred by Satya Narain and as such without taking decision in the appeal the respondents have no authority to hold the trade test.

5. That under the circumstances it is desirable that the respondents be restrained from holding trade test in favour of Sataya Narain.

Lucknow:Dated:

21/11/1991 Aug, 1991.

21/11/1991
Deponent.

Verification

I, the abovenamed deponent, do hereby verify that the contents of paras 1 to 5 of this Supplementary affidavit are true to my personal knowledge. Nothing material has been concealed, and no part of it is

false . So help me God.

Lucknow:Dated:

21/11/1991
Deponent.

....3....

I, identify the deponent, who has signed before me.

AD
Advocate.

Solemnly affirmed before me on

at A.M. /P.M. by Ram Narain, the deponent, has been
Identified by Shri. D.B. Singh/ P.K. Srivastava, Advocate,
Central Administrative Tribunal, Lucknow.

I have satisfied myself by examining the deponent
that he understands the contents of the affidavit
which have been read out and explained by me.

Pravara 51

NORTHERN RAILWAY

Headquarters Office,
Baroda House,
New Delhi. 14/8/91

No. 940E/498/EIIV.

The Dy. CBE (M),
M. Rly., CB-LKO.

Sub : Rep. of Shri Satya Narain H.S.G.I. Crane Driver
regarding his suitability test for the post of
Mister Orange Driver.

AGS

Ref : Your letter No. 901E/W/CBM/91/EII / Dv. 22.7.91.

Since Shri Satya Narain H.S. G.I Crane Driver, who
was trade tested to the post of Mistry Crane Driver Grade
3, 1400-2300 (HPS) and declared unsuitable on 22-6-30,
is eligible for fresh trade test after expiry of 6 months
of earlier trade test; so far request of employee for
giving his sufficient time before holding trade test, is
concerned this issue has already been decided by you.
The employee may be advised accordingly.

(G. C. Saxena)
for General Manager (P).

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW.

M. P. No. 280/92 *AY 6*

O.A. NO. 352 OF 1990.

Fix for 8.4.92

Ram Narain

... Applicant.

Versus

Union of India & others

... Respondents.

APPLICATION FOR BRINGING RELEVANT FACTS ON THE RECORDS.

The applicant respectfully beg to state that during the pendency of the above noted petition certain developments have taken place which necessitate the applicant to bring those facts on record by way of moving this instant application. Therefore the applicant prays that the facts which is being brought by the applicant in this accompanying application be considered at the time of disposal of the above noted case.

filed today

*o/su
6/4/92*

215/912/49

Lucknow

Dated 2-4-92

[Signature]

Counsel for the applicant.

IN THE HON'BLE ~~THE~~ CENTRAL ADMINISTRATIVE
TRIBUNAL, LUCKNOW.

O.A.NO. 352 OF 1990.

A 97

Ram Narain ... Applicant.

Versus

Union of India and Others.

... Respondents

AFFIDAVIT.

I, Ram Narain aged about 50 years son of Sri Danga Prasad resident of Ram Dass Ka Hata House No. 404, Bagia No.1. Sadar, Cantonment, Lucknow, the deponent do hereby solemnly affirm on oath and states as under :-

1. That the deponent is himself applicant in the above noted case and as such he is fully conversent of the facts which deposed as under :-
2. That inspite of clear orders passed by the respondents themselves that the applicant would be informed about the holding of the test for the promoted post but the Respondents in order to give a room to one failed candidate namely Late Sri ~~(S)~~ Satya Narain did not hold

217914/49

the test at the ~~appropriate~~ time and kept on waiting for more than a year whereas the Railway Circular provides that authorities are bound to take two examinations after six months in a year. Moreover there was not necessity for taking a test and the applicant could have been promoted without taking any test which they failed to do so and it was done at the behest of one Sri Lal Bahadur Singh who has the strongest hold in the Union and ~~the~~ authorities are under control of said Sri Lal Bahadur Singh and whatever Sri Lal Bahadur Singh desired got at the appropriate time by ignoring the claim of the applicant.

3. That it may be mentioned here that applicant had also filed a petition before the Central Administrative Tribunal, Allahabad which bears O.A.No. 55 of 1992 and the same was finally disposed off with the direction that the representation of the applicant be decided within two months.

4. That unfortunately Late Sri Satya Narain was promoted on the post but before it could be given effect in the papers he died and the applicant who have been given post which was illegally given to Late Sri Satya Narain as the Respondents kept the post in abeyance on the instructions of Sri Lal Bahadur Singh so that

2(17912146)

AGG

the post in question may be lapsed and after its lapse he may be promoted by taking the plea that the roster point does not exist and the post is to be filled by a general candidate. But at the very relevant time when Sri Lal Bahadur Singh was given ad-hoc promotion on 21.12.1991 that was illegal and without jurisdiction. As at the relevant time the post in question was meant only for Schedule Caste and said Sri Lal Bahadur Singh could not have been appointed on the said promotion post. Moreover in the said promotion order it has been provided that the promotion of Sri Lal Bahadur Singh would be subject to final order passed in the instant petition. A photo copy of the said promotion order is being filed as Annexure No. 5-1 to this affidavit.

5. That on the basis of the order passed by the Hon'ble Tribunal in O.A.No. 55 of 1992 the applicant has not been informed till date about the result of his representation but from subtly the Respondents instead of informing the applicant has sent a letter to the Counsel of the applicant.

21/11/21/49

6. That in the said letter it has been provided that on the recommendations of the Railway Board, Baroda House, New Delhi the suitability test was taken in favour of Late Sri Satya Narain and he was declared successful so

he was promoted as Train Driver Mistria against the roster point reserved for Schedule Caste. However, it may be mentioned that the applicant has already moved applications that Late Sri Satya Narain never appear in the test and some body else in his place answered the questions and i.e. why the applicant moved application for summoning the Answer Books of Sri Satya Narain for verification of his Hand-writing but unfortunately on account of his death now it becomes impossible to do so.

7. That it may be mentioned here that the post in question was to be carried up to 30.1.1992 as said earlier in the main petition as well as subsequent petition that from very beginning the applicant was apprehending that Sri Lal Bahadur Singh would get all the things done in his favour by over powering over the Executives and in which he has succeeded and in the midst i.e. before 31.1.1992 with out any information to the applicant it is stated by the Respondents that the suitability test of said Sri Lal Bahadur Singh was taken and he was promoted on ad-hoc basis on 31.12.91. In spite of the fact that the respondents long-back had given an assurance to the applicant that he would be informed about the holding of the suitability test in due course of time. This prima facie shows the conduct of the employer ~~xxxxx~~ and the Respondents are liable to be

21/12/1991

A10/

repriminded by their illegal actions done with the connivance of said Sri Lal Bahadur Singh.

8. That if the Hon'ble Court goes on to read of the relevant reply alongwith the documents filed by the Respondents, it comes out that the Respondents always played a game of Hid and Seek with the applicant and always kept him in dard. This apathy of the Respondents itself shows the malafide action and the applicant has been informed by the Respondents that since there was no set order passed by the Hon'ble Tribunal so whatever they desired have been doing on regular interval by ignoring of the facts and as well as legal position on the subject . A true copy of the order communicated to the applicant's Counsel by Registered Post which is being filed as Annexure No. 2 to this affidavit.

9. That in future what has been stated in various applications and in the instant application the appointment of Sri Lal Bahadur Singh on account of illegal doings of the Respondents is liable to be quashed. Moreover the Respondents did not bring the correct facts before the Railway Board and has always been forwarding the case of Late Sri Satya Narain and the local office of Respondent No. 2 never informed to the Respondent No. 1 regarding the fate of applicant. Thus, from it appears that

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Respondent No. 2 under the mis-guidance of Sri Lal Bahadur Singh has been doing all the illegal acts and even such Sri Lal Bahadur Singh was assured soonafter the death of Sri Satya Narain that he (Lal Bahadur Singh) would be promoted and will make all efforts to make a case of applicant redaunt.

10. That under the circumstances it is desireable that the Respondents be directed to cancell the appointment of Sri Lal Bahadur Singh and to treat the applicant to have been promoted soonafter the creation of vacancy on account of death of Sri Satya Narain with all consequential benefits.

Deponent.

Lucknow
Dated 2, March 1992.

217712149

VERIFICATION

I, the above named deponent do hereby verify that the contents of para 1 to 10 of this affidavit are true to my own knowledge and no part of this affidavit is false and nothing material has been concealed. So help me God.

Deponent.

Lucknow
Dated 2 April 1992.

217712149

SB/nc

ANH 1

N. Railway, Office of the Dy.C.E.E.(W)/Charbagh,Lucknow
Office Order No:105 Dated: 31.12.1991.

Following order is issued to be given immediate affect:

Shri Lal Bahadur Singh, T.No: 110/CBM, Grade-I Crane Driver who has been declared suitable for the post of Mistry Crane Driver in Gr.'s, 1400*2300(RPS) vide this office letter No: 901*E/W/CBM/91(II), dated 31.12.91 is promoted as Mistry Crane Driver Gr.'s, 1400*2300(RPS) on purely temporary and ad-hoc basis against existing vacancy.

NB: The employee must be informed that his promotion as Mistry Crane Driver is purely temporary and ad-hoc as the case is pending with Hon'ble Court and he will be automatically reverted if adverse decision arrived from Court.

This has the approval of DY.CEE(W)/CB.LKO.

Subscribed
for Dy.Chief Elect. Engineer(W)

Copy forwarded for information & n/action to:

- 1.SAO(W)/CB
- 2.SS(P)/CB
- 3.CTK/CB
- 4.E/pass of this office
- 5.E/Pay-bill of this office

Attached case copy

Subscribed

14/12/91

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ANN 2.
Registered A.D.

Office of the Dy.C.E.E.(W)/Northern Railway, Charbagh, Lucknow.

No.E/R.N./Court Case/90.

Dated: 3-3-1992.

Shri A.K. Shukla (Advocate),
8, Rani Laxmi Bai Marg,
Lucknow - 1.

A/109

Sub:- Reply of representation of Shri Ram Narain, T.No. 108/CMM.

Ref:- Judgement of CAT/ALB Bench ALB dated 17.1.92 in O.A. No. 55 of 92.

Shri Satya Narain (SC) T.No. 103/CMM, who is senior to Shri Ram Narain (SC) was called for the suitability test of Mistry Crane Driver on 21.6.90 and was declared unsuitable. Hence the next senior person Shri Ram Narain was asked for exercising option for the said post. Meanwhile Shri Satya Narain submitted the representation on 11.9.90 to the Administration stating that he was not given sufficient time to prepare for the test. This was considered and trade test of Shri Ram Narain which was to be held on 25.9.90 was pending.

Shri Satya Narain moved his representation through departmental channel which was examined at G.M.(P)/N.Rly., Baroda House, New Delhi's level and Shri Satya Narain was allowed to appear for the suitability test for the said post again. On having been found suitable he was promoted as Crane Driver Mistry against the Roster Point reserved for S/C.

The vacancy in question has again been converted into a general vacancy and person in general category who is senior to Shri Ram Narain, has been trade tested and promoted on ad-hoc basis.

In view of the aforesaid facts Shri Ram Narain could not be trade tested and promoted on the vacancy in question. Accordingly the representation of Shri Ram Narain contained in Annexure-5 to O.A. No. 55 of 92 is rejected. In his representation first petition filed in CAT, he has enclosed his representation dated 28.9.90 as Annexure-2. However the date in the Judgement in O.A. No. 55 of 92, it has been indicated that his representation is dated 28.8.90.

Since the post of Mistry is not a selection post, there is no Selection Committee consisting of three officers out of which there should be one SC/ST officer, but only one officer conducts suitability test and moreover there is no rule that for judging the suitability of S/C employee, a S/C officer should be nominated.

As Shri Satya Narain's representation was proper and was considered in his favour in N.Rly. Hdqrs. Office and also senior (S/C) to Shri Ram Narain, he was tested and promoted as Mistry against S/C Roster Point.

21/9/12/49
Shri Ram Narain (S/C) will be called for the suitability test of Mistry when the next vacancy against S/C Roster Point falls. Shri Satya Narain (S/C) was promoted as Mistry against Roster Point No. 1 reserved for S/C. The next vacancy for S/C will fall at Roster Point No. 8. The vacancies falling between Point No. 1 and 8 will go to the general candidates in order of seniority except Point No. 4 which is reserved for S/T candidates.

Ilw

By: Chief Electrical Engineer (W),
Northern Railway, Charbagh, Lucknow.

MLS/6+1.

Attested by
[Signature]

A/67

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH LUCKNOW.

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing 7-12-92
Date of Receipt by Post
Deputy Registrar (J)

M. P. NO. 1110 OF 1992

IN RE

O. A. NO. 392 OF 1990

Ram Narain

... Applicant

Versus

Union of India and others

... Respondents

Application for modification/clarification of the order dated 23.10.92 passed by Hon'ble Mr. Justice U.C. Srivastava and Hon'ble Mr. Justice K.B. Obeyya

Recd duplicate.
Please also intimate
me the date on which
this case is to be
taken up in advance.
Anil Srivastava
7/12/92

The applicant in the above noted case respectfully beg to state as under :-

1. That on 23.10.92 the Hon'ble Tribunal was pleased to dispose of the petition with certain directions.
2. That while dealing with the matter of Satya Narain the Hon'ble Tribunal has referred that one Satya Narain was found suitable and was issued for promotion order but the fact is that before said Sri Satya Narain join on the promotional post unfortunately he died which is already in record and by virtue of his death the post became vacant and on his place one Sri Lal Bihari Singh was given promotion on adhoc basis/ till the judgement passed



A/04

by this Hon'ble Tribunal.

3. That it may be stated that Satya Narain had died on 8.12.1991 and after his death the post automatically became under existances.

4. That under the circumstances and narrated above order needs a little modification in the light of what has been stated above.

PRAYER

Wherefore the applicant respectfully prays that this Hon'ble Tribunal be pleased to modify/clarify its order in the interest of justice as stated above.

A.K. Shukla
Sec
Counsel for the applicant.

Lucknow

Dated Dec 7, 1992.

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

A 157

O.A. No. 352 of 1990

Ram Narain

Applicant

versus

Union of India & Others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

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

By means of this application, the applicant who has subsequently amended the application, has prayed that the respondents be directed to take trade test from the applicant before expiry of 6 months from the date of declaration of result of test of Shrisatya Narain i.e. 21.6.90 and further they be directed to hold the test on or after 21.6.90 in pursuance of Railway Board letter, after decision of the appeal.

View
2. The grievance of the applicant is that by the order dated 18.9.1990 the test for the post of Mistry was suspended. He was initially appointed as Mali and in between earned promotion and was waiting for his turn but has been deprived of the promotion and according to him he belongs to reserved category and was declared unsuccessful. The examination in which the applicant was to appear, has been suspended without any reason. The applicant made representation against the same and the applicant was informed that the date of next

examination will be communicated at an early date but no examination took place. One D.P. Singh, who was working as Crane Driver, retired in April, 1990 and this post was earmarked for S.C. candidate in the roster but even then the examination did not take place and promotion has been given to one Shri Lal Bahadur Singh who is due to retire in the year 1994 and the post in question is to be filled in by promotion and they want to promote Shri Satya Narain, who is due to retire in 1992, while the applicant is to retire in 1998 and they know that if the applicant is promoted once, Shri Satya Narain will not get the post with the result the post is still lying vacant.

3. The respondents have resisted the claim of the applicant saying that the applicant was not senior to Satya Narain and he cannot claim seniority over Shri Satya Narain and other persons. In the supplementary affidavit, it has been stated that the appeal of Shri Satya Narain has been finalised during the pendency of this application, by the Headquarters and as per directions, suitability test for the post of Mistry Crane Driver was taken and Shri Satya Narain was found suitable and letter was issued for promoting him and as Shri Satya Narain has already been promoted, there is no other post of Mistry Crane Driver and no other person can be promoted.

4. From the above position, it is clear that Shri Satya Narain has been appointed. The respondents are directed to consider the candidate^W of the applicant and promote him in case he is suitable and for this

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let an examination be conducted as early as possible, and the applicant will be given due place. In case, the post is not available/vacant, whenever the post is vacant, the ~~saxx~~ applicant will be promoted and the case will not be given by default and he will be given his due place/post.

5. Application is disposed of as above with no order as to costs.

Shk

Sen
v.c.

Shakeel/-

Lucknow dated 23.10.92.

Certified Copy
Shk
23/10/92
Judicial Section
C A T.
LUCKNOW.