

## CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 354 of 1990(L)

Ram Pal Singh . . . . . Applicant

Versus

Union of India &amp; Others . . . . . Respondents

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

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

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

The applicant who joined Indian Army as Driver on 30.6.1975 and after his discharge from Army on 31.10.81 that is after 5 years of continuous service in the Army, the applicant was selected and appointed as peon in Thermit Portion Plant, Northern Railway, Charbagh, Lucknow within the quota prescribed for Ex-serviceman against a permanent post in the pay scale of Rs. 196-232 revised as 750-940. The applicant has actually worked as Motor Driver w.e.f. 21.9.1984 and he was paid over time as Motor Driver, but the salary of the peon was paid to him and not as for Motor Driver. He was transferred to a temporary construction division headed by Senior Engineer Doubling I Northern Railway vide order dated 16.5.1988, and the transfer allowance too was paid. He performed his duties as Driver under Senior Engineer, Doubling II Northern Railway, Kanpur Since 18.5.1988 where he was trade tested and passed the trade test. The applicant was called for screening, but the applicant was not screened, as he was appointed within the quota of Ex-serviceman without approval the General Manager Northern Railway, Baroda House, New Delhi. In the parent

Contd..2/-

:: 2 ::

department a permanent post of Driver became vacant, as such the applicant applied for transfer to the parent department on the said post as he was already working as a qualified Driver under Senior Engineer, Doubling II, Northern Railway, this request continued to remain pending. The permanent post of Driver fell vacant because of the transfer of previous incumbent, but a date for trade test was also fixed. The applicant made a representation and prayed for exemption from trade test as the applicant has already passed the said trade test, but the trade test did not take place. According to him he is entitled for a group 'C' post since beginning under the respondents but was arbitrarily and illegally appointed on group 'D' post and he made a representation against the same claiming that he was fully entitled to.

2. The application has not been opposed by the Railway Administration as well as intervenor. Subsequently it appears that the General Manager gave approval to the casual labour w.e.f. 21.9.1984, but the applicant has not been screened.

3. According to the respondents, unless the applicant is not screened that there is no question of giving him appointment and he can only be given appointment if the vacancy exists. The applicant's approval has been given w.e.f. 1984. The applicant became entitled to count a period of 3 years from the year 1984, after completion of that period, the applicant became entitled for screening <sup>and</sup> regularisation or re-trade testing, he can not be deprived of the same, if <sup>by</sup> certain misapprehension <sup>they</sup> did not allow him to be trade tested

Contd..3/-

:: 3 ::

or did not screen him. It is they who are at fault and the applicant can not suffer for the same.

4. Accordingly, the respondents are directed to screen the applicant without delay and if he passes the screening test in case, he still <sup>is</sup> required to appear in the trade test in which he <sup>is</sup> prepared to appear, he may also be trade tested along with the other and in case, he succeeds he may be given appointment. So far as the question of seniority is concerned, we make no observations except this that the seniority will now be determined in accordance with law taking into consideration that the applicant is entitled to certain benefits now with prospective effect. With the above observations, the application is disposed of finally. No order as to the costs.

  
Member (A)

  
Vice-Chairman

Lucknow Dated: 20.11.1992.

(RKA)

Central Administration (F.P.)  
Lucknow Bench

Case Title CA 354 of 1950  
Parties Ram Lal Singh

Union VERSUS of India

Part P.O.

Description of documents Page

1. Check List

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2. Order Sheet

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6. Power

A23

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8. Rejoinder Affidavit

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- MA No. 164/91 (Implementation) A 69 to A73  
Cura dated 12/1/52

B- File

~~Bench file Attached~~

~~B/C. Waghyaout destroyed~~

C- File

So (5)

29/8/12

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

Registration No. 354 of 1988 90 (L,

APPLICANT(S) Shri. Ram Pal Singh

RESPONDENT(S) C. O. I. & others

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

A2

Particulars to be Examined	Endorsement as to result of examination
11. Are the application/duplicate copy/spare copies signed ?	yes 4 Set
12. Are extra copies of the application with Annexures filed ?	yes
a) Identical with the Original ?	yes
b) Defective ?	x
c) Wanting in Annexures	
Nos. _____ pages Nos _____ ?	
13. Have the file size envelopes bearing full addresses of the respondents been filed ?	N.A. There are
14. Are the given address the registered address ?	4 Respondents
15. Do the names of the parties stated in the copies tally with those indicated in the application ?	yes in this application
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?	yes
17. Are the facts of the case mentioned in item no. 6 of the application ?	N.A.
a) Concise ?	9th Nov. 9
b) Under distinct heads ?	yes
c) Numbered consecutively	yes
d) Typed in double space on one side of the paper ?	yes
18. Have the particulars for interim order prayed for indicated with reasons ?	yes
19. Whether all the remedies have been exhausted.	yes

dinesh/

Put up before the Hon. Bench  
on 7.11.90 for Admission  
order file  
6.11.90

ofuP  
6/11

354/90 (L)

(A3)

(1)

7.11.90

Hon. Mr. M.Y. Priolkar - AM.  
Hon. Mr. D.K. Agrawal - JM

Due to suspension of Bar  
Association case is adj  
to 9.11.90

09.11.90

B.O.C.

(2)

9.11.90

Hon'ble Mr. M.Y. Priolkar, A.M.  
Hon'ble Mr. D.K. Agrawal, J.M.

= Shri A.K. Chaturvedi for applicant

Heard ADMIT.

Issue Notice. Counter by filed  
within 06 weeks, rejoinder within 2 weeks th  
thereafter.

As regards interim relief the  
applicant may be directed to appear in  
the trade Test scheduled to be held  
hereinafter as alleged (as stated by the  
counsel for the applicant at the Bar) in  
pursuance of notice dated 5.10.90 and further  
result will not be declared till 23.11.90.

List for disposal of interim matter  
on 23.11.90.

Sd/  
J.M.

Sd/  
A.M.

Sd/

notice given  
13-11-90

See original order  
in main petition

OR  
Notices were issued  
on 13.11.90  
Neither reply  
nor any answer  
replied has been  
received.  
S. P. S.  
13/11

APL

conclude.

this observation the application for implementation is rejected. While the third party is permitted as intervenor as directed above. Applicant files Rejoinder. Keep it on record. List this case for hearing on 13.8.91. The applicant will serve the copy of affidavit if any filed by him to the counsel for applicant as well as the opposite party within three weeks hereof.

*[Signature]*  
A.M.

*[Signature]*  
S.M.

13.8.91

Instn. Mr. Justice K. Natarajan v  
Instn. Mr. K. Gbanyu A.M.

On the request of both parties Court case is adjourned to 20.9.91 for hearing

*[Signature]*

*[Signature]*  
A.M.

*[Signature]*  
S.M.

20.9.91

D.R.

Both the parties are present. case is listed on 28/11/91

*[Signature]*  
S.M.

28.11.91

D.R.

Both the parties are present. Sri S. Venna files supp. Reply today. Now this case is listed for final hearing before the Hon. Bench. On 24/1/92.



CA 354/90- (AS)

24.1.92

No sitting of D.M. adjn  
18.2.92

18.2.92

No sitting of D.M. adjn 24.4.92

24.4.92

No sitting of D.M. adjn  
25.6.92

25.6.92

Case adj. 20.7.92  
to 20.7.92

note

20.7.92

No sitting of D.M. adjn  
to 3.8.92

CR  
S.F.H.  
30.7.92

3.8.92

No sitting of D.M.  
adjn 11.9.92

note

O.R.

CA/RA have

been exchanged.

10.9.92

No sitting of D.M.  
adjn 17.11.92

note

8/10/92

17.11.92

Adjn to 20.11.92

note

18.11.92

CA 354/90-  
adjn 24.4.92  
25.6.92  
20.7.92  
3.8.92  
11.9.92  
17.11.92  
20.11.92

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for 10/- only.

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Asit Kumar Chatterjee

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77

IN THE SUPREME COURT OF THE UNITED STATES

ON PETITION FOR WRIT OF HABEAS CORPUS

C.A.C. 354 of 1980(L)

1. John Doe,  
aged about 34 years,  
son of John Doe,  
resident of 123 Main Street,  
London, Ontario,  
Canada.

presently working as Motor Driver,  
and Inspector of Works,  
London Railway,  
London, Ontario.

... Applicant

Whereas

1. John Doe is the Secretary,  
London Railway,  
London, Ontario.
2. General Manager,  
London Railway,  
London, Ontario.
3. Chief Clerk and Chief,  
London Railway,  
London, Ontario.
4. Chief Clerk and Chief,  
London Railway,  
London, Ontario.

... Respondent

WITNESSED at London, Ontario this 19  
day of June, 1980.

*Filed today  
6/11/80*

*R. King*

(A10)

(2)

1. Part of the order against which the application is made;

The above said application is being preferred before Hon'ble Tribunal against the illegal and arbitrary act of Opposite Parties 2 to 4 for not allowing the applicant to appear in the road test of the Motor Driver to be conducted by the Opposite Party No. 4 and not treating the applicant as a person who is licensed as well as by providing the applicant group 'B' position to the fact that he is entitled for the same.

2. Jurisdiction of the Tribunal;

That the applicant is now as Motor Driver under Inspector of Motor, Bombay; 1 Northern Railway, Warangal, and now as well as a road test is being conducted as such on by Opp. Party No. 4 as such the bench of the Hon'ble Tribunal has jurisdiction to adjudicate the matter.

3. Limitation;

The applicant declares that the Opp. Party No. 4 or B.O.V. has orally informed the applicant <sup>on 3.11.90</sup> that he shall not be allowed to appear in the road test scheduled to be held on 8th of November, 1990 despite the fact that he is eligible and has applied through proper channel on 16th October, 1990. Hence it is well within the limitation prescribed under section 21 of the Hon'ble Motor Vehicle Rules Act 1946.

R. Pringle

AM

(3)

1. Facts of the case;

The facts of the case are as under;

1) That the Applicant passed 'Hissby ma' from Hindi Sahitya Sammelan which is equivalent to Intermediate of C.B. Board. The applicant joined Indian Army as Soldier on 10th June 1975 and was discharged from Army on 11th October, 1981 after more than 5 years of continuous satisfactory service in the Army by Commandant - Reserve Corps Centre and School, Ahmednagar, Maharashtra.

2) That the applicant was entitled for all benefits provided for ex-servicemen in various Govt. Departments and organizations. As such he applied to Cooperative Party No. 4 for a Group 'C' post in 1984 as he was entitled for the same keeping in view his services in the Army.

3) That the applicant was selected and appointed as peon by Cooperative Party No. 4 in Thane Station Plant, Northern Railway, Chhatrapati, Lucknow. This job prescribed for ex-servicemen against a permanent post on the pay scale of 190-220 revised as 750-940. The applicant joined on 1st September, 1984.

Rpsingh

4) That the applicant is working continuously working under Cooperative Party No. 4 with full honesty and devotion and has never been furnished any certificate by any superior authority. He

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(3)

applicant was also paid as Room but he actually worked as Motor Driver under (p) of the party No. 1 since 1st September, 1984. The applicant was paid over time as Motor Driver but he was paid salary for the post of Room. The applicant was entitled for salary for the post of Driver since 1st September, 1984 as he is actually worked as Driver but was not properly paid. He is entitled for salary for the post of Room.

(4) That the applicant was transferred from Thermit Post on 15th May, 1987 to Charbigh, Lucknow to a position of conductor on train on headed by Senior Engineer, Coaching I Northern Railway, Kanpur since 15th May, 1987. The applicant is an employee on 15th May, 1987 and was transferred to Charbigh on account of the transfer order for order. A copy of the transfer order dated 15th May, 1987 is being annexed to this application.

(5) That the applicant has performed his duties as Driver under Senior Engineer, Coaching I Northern Railway, Kanpur since 15th May, 1987 but was not paid salary for the post of Room.

R. B. Singh

(6) That the Senior Engineer, Coaching II Northern Railway, Kanpur conducted a trade test for Motor Driver on 15th May, 1987 in which the applicant appeared and passed the test. He was appointed as Driver.

(5)

with effect from 1 July, 1900 after approval by the Board of Directors of the Northern Railway, Dublin. A copy of the report on the subject of the proposed alterations is attached hereto as Exhibit A for the information of the Board.

(6) That the matter since 1900 has been called for consideration by the Board of Directors which is the parent corporation of the applicant. The applicant was referred before the Board for consideration under paragraph 1 of the Board's resolution to consider the application as the applicant was appointed as the agent of ex-servicemen without approval of the Board of Directors. It is also relevant to be stated that no action was taken in regard to the applicant as it was a joint venture of the Board of ex-servicemen and a permanent vacancy was filled by the regular payee since 1st October, 1900 with effect from 1st October, 1900.

(7) That the applicant was transferred from the office of Secretary, Dublin II Northern Railway, Dublin to his subordinate office of Inspector of Works, Dublin I, Northern Railway, Dublin, London on 11th April, 1900. The applicant then after transfer was under control of Secretary, Dublin II, Northern Railway, Dublin. The applicant was acting as Inspector of Works, Dublin I, Northern Railway, Dublin since 11th April, 1900 as shown by the following:-

R. Penry

(A13)

(2)

10) That the applicant is a permanent employee of the Government of India, under Opposite Party No. 4 in permanent post of Driver before his transfer in August, 1987 due to transfer of Mr. J. N. Das to Allahabad. As such the applicant applied for transfer to the parent department on the same post as he was already working as a qualified Driver under Senior Inspector, De Blant II, Northern Railway, Meerut. The request of the applicant is yet pending consideration. However the applicant has been transferred to Lucknow in April, 1990 in a Temporary Division.

11) That the Shop Superintendent of Meerut Plant, Northern Railway, Meerut, Lucknow Division, issued a notice on the 5th October, 1990 for trade test for the post of Motor Driver in the pay scale of Rs. 1500-1800 as a permanent post was vacant under Opposite Party No. 4 since August, 1987 due to transfer of Mr. J. N. Das. The last date for submission of application form was 20th October, 1990 and the trade test was scheduled to be held on 26th October, 1990. A copy of the notice dated 5th October, 1990 is being annexed herewith as Annexure No. 2 to this application.

R. Singh

12) That the applicant represented to Opposite Party No. 4 through his representation dated 25 October, 1990 for exemption from trade test as the applicant was already passed in the said trade test for the post of Motor Driver which was conducted by Senior Inspector,



AM

(7)

Doubling 14, Northern Railway, London on 12th July, 1988 and may be noted on the said post which is valid since August, 1988. It is here relevant to be stated that the applicant is working as Motor Driver since 1st September, 1984 and has been promoted as Motor Driver U.C.B. 12th July, 1988. The said representation dated 25th October, 1988 of the applicant was received on 15th October, 1988 by Sri Balraj Lal Sharma Senior Clerk, Recruitment Plant, Northern Railway, Chughra, Lucknow. A copy of the representation dated 25th October, 1988 is being annexed herewith as Annexure 5 to the application.

13) That the applicant has applied for trade test as per notice dated 25th October, 1988 on 15th October, 1988 received through proper channel by Sri Balraj Lal Sharma in the office of Inspector of Works, Doubling 1, Northern Railway, Alambagh, Lucknow on 15th October, 1988. A copy of the advertisement is being annexed herewith as Annexure 5 to the application.

14) That the Superintendent of Recruitment Plant, Northern Railway, Chughra, Lucknow displayed a notice on 25th October, 1988 by which it was notified that the trade test scheduled to be held on 20th October, 1988 has been postponed to 27th November, 1988. A copy of the notice dated 25th October, 1988 is being annexed herewith as Annexure 5 to the application.

R.K. Singh

(2)

15) That the applicant was met by Opposite Party No. 4 Sri M.C. Verma on 2nd November, 1990 in regard to the trade test for the post of Motor Driver as his representation dated 8th October, 1990 (Annexure no. 4) is yet pending consideration. Mr. Verma informed the applicant that he shall not be allowed to appear in the trade test scheduled to be held on 8th Oct. 1990 due to the fact that the applicant is not screened and regular employee of the Railway. It is here relevant to be stated that the applicant is deemed screened and regular employee as he is an ex-serviceman and was appointed against a permanent vacant post on regular pay scale since 1984 with effect from 1st Sept. 1984. The applicant was appointed with effect from 21st September, 1984 after completion of all the formalities.

16) That the applicant was entitled for a group 'C' post since beginning under Opposite Parties but was arbitrarily and illegally appointed on group 'D' post. However, the case of the applicant was examined by Opposite Party No. 2 in 1986 and it was directed to Opposite Party No. 4 through letter dated 24th April, 1986 that the applicant be considered for group 'C' post as soon as vacancy is available under Opposite Party No. 4. It is here relevant to be stated that vacancy occurred under Opposite Party No. 4 in August, 1988 but the applicant has not been considered on the said post. A copy of the letter dated 21.4.86 is being annexed here

R. Singh

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(9)

with as Exhibit 7 to this application.

17) That the Applicant thereafter submitted reminders regarding entitlement for pay loss on 28th March, 1933 and 18th January, 1934 but of no avail and the said representation/reminder are yet to find consideration.

18) That the Applicant represented to Opposite Party No. 2 through representation dated 23rd August, 1933 through proper channel for secured treatment as screened and regular employee as the Applicant is an ex-serviceman and was appointed against a permanent vacancy on a regular pay scale with effect from 1st September, 1934. A copy of the representation dated 23rd August, 1933 is being annexed herewith as Exhibit 8 to this application.

19) That the Applicant has worked as Motor Driver for more than 5 years in Indian Army and has also worked under Opposite Party as driver with effect from 1st September, 1934. The Applicant has passed for the test for the post of Motor Driver on 10th July, 1933. The Applicant has his passes for the Driving Licence for L.V./A.V.V./an L.V.V. since September, 1934. The Applicant has experience of more than 11 years as a driver, as such he is eligible for permanent post of Motor Driver available under Opposite Party. Since August, 1934 without passing the trade test.

R. K. Singh

(13)

20) That the applicant is entitled for fixation of pay under Opposite Parties on a group 'C' post holding to view his last pay drawn in the Indian Army as group 'C' employee on 31st October, 1931. The applicant has been arbitrarily and illegally denied the benefit of fixation of pay keeping to view the last pay drawn as well as group 'C' post. The same benefit has been granted by Opposite Parties to other staff of Locomotive Commission, Northern Railway, Charkagh, Lucknow.

21) That the balance of convenience and equity is in favour of the applicant for appearing in the trade test scheduled to be held on 3rd of November, 1930. As much this Hon'ble Tribunal may be pleased to direct the Opposite Party No. 4 to allow the applicant to appear in the trade test for the post of Helper or ver scheduled to be held on 3rd of Nov. 1930 in pursuance of notice dated 5th of October, 1930.

5. Grounds for relief as legal provisions;

1) Because the Opposite Parties has acted arbitrarily and illegally without any rhyme and reason.

R. Singh

2) Because the applicant is entitled for group 'C' post since 31st September, 1934 as he was discharged from Army for group 'C' post.

(11)

ii) Because the applicant was an ex-serviceman and not a regular employee, he was not on a regular pay scale on 1st September, 1984 after completing all the formalities.

iii) Because the applicant is a deemed screened and regular employee with effect from 1st September, 1984 as the applicant is an ex-serviceman.

iv) Because the applicant has worked as Driver under C of the Police since 1st Sept. 1984 but has been paid salary as Driver only with effect from 1st July, 1984.

v) Because the representation of the applicant has been screened by a regular employee as a condition of admission before C. Party C. 2.

vi) Because the applicant is entitled for a Group 'C' pay scale pursuant to C of the Party C. 2 on or after 1st April, 1984.

vii) Because the applicant has already passed the road test on 1st July, 1984.

viii) Because the applicant is eligible to be qualified for the post of Driver under C of the Party C. 2.

Risingh

ix) Because the applicant is being considered for a post on which the applicant is

AP9

(12)

worked with effect from 1st September, 1934.

xi) Because the Opposite Parties are acting in utter violation of Arts. 14 and 13 of the Constitution of India.

xii) Because the applicant is being penalised without compliance of provisions of law and principles of natural justice.

xiii) Because the applicant has already appeared before the screening board on 15.8.34 but the screening board refused to screen the applicant.

xiv) Because the applicant has applied for an entry in the trade test for Motor Driver in pursuance of the notice issued 5th October, 1933 and 13th October, 1933.

6. Details of remedy exhausted;

The applicant hereby declares that he has exhausted all the remedies available to him under the relevant service rules etc.

7. The matter has not previously filed or pending with any other court;

The applicant further declares that he has not previously filed any application with respect to this matter regarding the matter in respect of which application has been made before any court or any other authority or any

Revering

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(13)

other side of the Tribunal nor any such application, petition, or suit is pending before any of them.

3. Relief sought;

In view of the facts and circumstances mentioned in para 1 & 5 of this application the applicant prays for following reliefs;

- (A) That this Hon'ble Tribunal may be pleased to direct the Opposite Parties to allow the applicant to appear in the trial court scheduled to be held in pursuance of the notice dated 5th Oct. 1980 and remove the applicant as Motor Driver since initial appointment under Opposite Parties and fix his pay keeping in view the last pay drawn in the Indian Army, also to treat him as retired and regular employee since initial appointment.
- (B) That this Hon'ble Tribunal may further be pleased to direct the Opposite Parties to decide the representation of the applicant pending consideration before them.
- (C) That any other and further relief which this Hon'ble Tribunal seems fit and proper may also be awarded in favour of the applicant, along with cost.

Prayer

9. Interim order as prayed for;

Based on final decision, on the application the applicant seeks the following interim relief;

That this Hon'ble Tribunal may be pleased to direct the Competent Parties to allow the applicant to appear at the Grade test for the post of Motor Driver scheduled to be held on 3rd November, 1950 in pursuance of notice dated 5th October, 1950 and to treat the applicant as Motor Driver under Certificate No. 2 till the disposal of the application in the interest of justice.

10. The humble applicant wants only to bring through his counsel.

11. Particulars of the postal order

Postal order No. <sup>DD</sup> 24554 dated 5-11-50 for Rs. 50/- only.

DECLARATION

I, Ram Lal Singh, Aged about 34 years son of Shri Lal Singh, Resident of Railway Quarter No. 145/132 Barha Railway Colony, Alambagh, Lucknow presently working as Motor Driver under Inspector of Works, Coaching 1, Northern Railway, Alambagh, Lucknow do hereby verify that the contents of paragraphs 1 to 11 of this application are true to my personal knowledge except para-5 which is true on the

Ram Lal Singh



A22

(15)

brief of 1987 service received and that I have  
not suppressed any facts or facts.

Information is being provided under  
protection of. A.H. 1. 1918/44/27 1987 11th  
October, 1987.

*Asit Kumar Chaturvedi*  
Signature of the  
Applicant.

Place: Lucknow

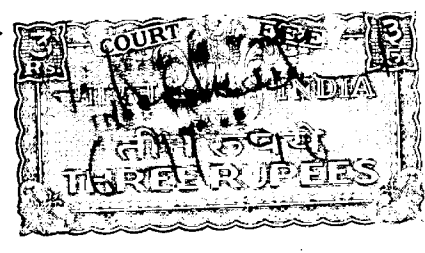
Date: 6.11.90

*Asit Kumar Chaturvedi*  
( Asit K. Chaturvedi )  
Advocate,  
Counsel for the applicant

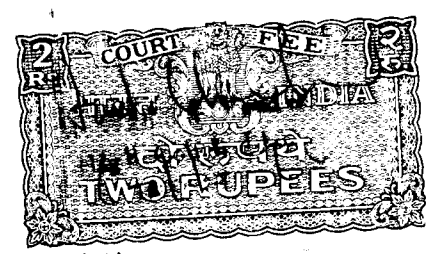
Before the Central Administrative Tribunal

वदालत भीमान्.....  
(वादी) अपीलान्त  
Lachner Bench.....महोदय

प्रतिवादी रेषपाडेन्ट



वक



वादी (अपीलान्ट)

Ram Pal Singh Vs Union of India & others  
बनाम प्रतिवादी रेषपाडेन्ट

नं० मुकदमा सन् पेशी को ता० १९ ई०

ऊपर लिखे मुकदमा में अपनी ओर से

Asit Kumar Chatterjee  
Bashie Building, Pandara, Lucknow  
वकील महोदय एडवोकेट

माम अदालत  
मुकदमा नं०  
नाम फरीकन  
बनाम

को अपना वकील नियुक्ति करके प्रतिज्ञा इकरार करता हूं और लिखे देता हूं इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवो व जबाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल कर या लौटावे या हमारी ओर से डिगरी जारी करावे और रूपया वसूल कर या मुलहनामा व इकबाल दावा तथा अपील खिगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और और तसदीक करें मुकदमा सठावे या कोई रूपया जमा करें या हमारी बिपक्षी (फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवे या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरवो में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी। इसलिए यह बकालत नोमा लिख दिया प्रमाण रहे और समय पर काम आवे

Asit Kumar Chatterjee

हस्ताक्षर R. Singh

साक्षी (गवाह) साक्षी (गवाह)

दिनांक 6/11/90 महीना सन् १९ ई०

IN THE MATTER OF THE ESTATE OF THE LATE

SHRI RAMESH CHANDRA BHATTACHARYA

(No. 354 of 1990 (L))

WILL

... of ...

Versus

Union of India

... of ...

Annexure

- .....
- |                            |       |
|----------------------------|-------|
| 1. <u>Annexure 1</u>       | - 1   |
| Copy of ... dated 16.7.90  |       |
| 2. <u>Annexure 2</u>       | - 2   |
| Copy of ...                |       |
| 3. <u>Annexure 3</u>       | - 3   |
| Copy of ... dated 16.7.90  |       |
| 4. <u>Annexure 4</u>       | - 4   |
| Copy of ... dated 8.10.90  |       |
| 5. <u>Annexure 5</u>       | - 5-6 |
| Copy of ...                |       |
| 6. <u>Annexure 6</u>       | - 7   |
| Copy of ... dated 15.10.90 |       |
| 7. <u>Annexure 7</u>       | - 8   |
| Copy of ... dated 24.4.96  |       |
| 8. <u>Annexure 8</u>       | - 9   |
| Copy of ... dated 12.8.87  |       |
- .....

Place: Lucknow

Date: 6-11-90

2/-

Asit Kumar Chatterjee

(Advocate)

Advocate

Office: ...

L. No. E/TPP/G/SS

Dated 16.05.88.

From :-

Shop Supt.

Thermit Portion Plant

N. Ry. Charbagh Lucknow:-

Sub:- Transfer of staff:-

Ref:- Dy/CE/C/PTNR. letter no. 220-E/Dy/CE/  
C/PTNR dt 15.05.88:-

With reference to above as approved by

Dy/CE/TM/NDRS. Shri Ramesh Singh S/O.

Shri Jai Pal Singh from is here by spared  
in the same capacity on date (A.N) to  
report to you for business duty

Necessary papers will follow:-

Copy to

(i) Dy/CE/C/PTNR.

(ii) SEN/TPP/NR/CB/HO for information

(iii) Dy/CE/TM/NDRS

(iv) SAO/CO/CB/NR/HO.

Phryl,

T.C

W. Chatterjee  
Hd.

Annexure No 1

To The Senior Engineer  
Overseeing D.  
N. Ry. KANPUR.

Shop Superintendent  
Thermit Portion Plant  
N. Railway, Charbagh  
LUCKNOW.

Annexure No 2

(2)  
A2E

Northern Railway

Office of the,  
Sr.Civil Engineer/D-II,  
Kanpur.

NOTICE

Shri Jas Pal Singh S/O. Shri Jas Pal Singh Ty. Status  
Khalasi grade Rs.750-940 (RPS), is promoted as a Driver in  
grade 950-1500 (RPS) from dt.18.7.83 on adhoc basis. It  
The employee may be informed that his promotion in grade  
Rs.950-1500(RPS) is purely on adhoc basis on this organisation  
& will not confer upon him any claim seniority Promotion over  
his seniors in future.

Authority:- CAO/C/DLI's letter no.220-E/I/C/St-VII/  
Loose dt. 6.12.83.

*Sd/-*  
Sr.Civil Engineer/D-II,  
Kanpur.

No.73-E/SEN/D/CNB.

Dated: \_\_\_\_\_

Copy forwarded for information & necessary action to:-

1. The C.A.O./C/DLI.
- ✓ 2. Dy.CE/C/PTNR.
3. S.A.O./C/ALD.
4. S/Copy.

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*P/Singh*

*T.C.  
Asst Chatterjee  
Adm*

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Rhsingh

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T.C.  
Asit Chaturvedi  
Bdr

Senior Engineer(TPP),  
N.Rly.,CB-Lucknow.

(Through Proper Channel)

Sub:- Trade Test for the post of Motor Driver  
Gr: 950-1500(RPS).

Sir, Ref:-Your Notice dt: 5/10/90 for the above post.

Respectfully, I beg to say that the above noted trade test notice is irregular & invalid, till my appeal regarding my screening is finalised by Hd.Qrs.Office as this can ~~give me~~ <sup>give me for</sup> my chance of promotion in Group 'C' under your kind control in terms of decision given by GM(Engg) NDLS vide his L/No.319-W/46/2 dt: 24.1.86, addressed to you, which warrants to provide me Group 'C' against Ex-serviceman quota whenever vacancy occurs. More over I have already qualified the test for this post under SEN(Doubling)II-Kanpur.

You are well aware that my case regarding screening and regularisation of my service is in process and high lights with CPC/NDLS with intervention of Railway Ministry. It is therefore requested to please stay this trade test till my appeal is finalised or I may be given chance of promotion under your kind control either on regular basis treating valid the test passed under SEN(D)/II-CNB or I may be given chance to reappear in the test at yours, if necessary.

I hope you will please pass reasonable orders to pend the ~~xxxxxx~~ test or I may be given chance of promotion on regular or adhoc basis to meet your immediate requirement. I have already officiated in this capacity on various occasions in TPP workshop-Lucknow.

Thanking you,

Yours faithfully,

Dated:-8/10/90

Rpsingh  
( Ram Pal Singh )  
Ex-Peon of TPP Workshop  
now Motor Driver under  
IO-1B-II/LAC

Rpsingh  
T.C.  
Hil Khattiwadi  
15.8.90  
Sh

The Sr. Civil Engineer,  
Thermit Portion Plant,  
N.Rly., Charbagh, Lucknow.

Through:- I.O.W.(D)-I, N.Rly., Alambagh, Lucknow.

Sub:- Application for Trade Test for the post of  
Motor Driver gr: 950-1500(RPS)

...

Sir,

Please refer to your letter No. TPP-G-SS-2 dated 5.10.90 of S.S./TPP, Charbagh, Lucknow. At present I am working as Motor Driver under IOW(D)-I, Alambagh, Lucknow. I am working as Motor Driver w.e.f. 18.7.88. I am an ex-serviceman as such I was appointed as peon in pay scale Rs. 750-940(RPS) w.e.f. 21.9.84 under SEN/TPP, LKO but later on w.e.f. 18.5.88 transferred to SEN(Const.)-D, N.Rly., Kanpur under whom I am presently working. I have already passed the Trade Test for the post of Motor Driver on 18.7.88 conducted by SEN(D)-II, N.Rly., Kanpur. As at present I am working in Construction Divn. as such I maintain permanent lien under you as peon.

I have been working as Driver in Army from 30-6-1976 to 30-10-1981. A photostat copy of the discharge certificate alongwith driving licence copy is being enclosed. I also possesses driving licence for HMV/MGV and LMV issued on 6.9.1984, a photo copy of the same is enclosed. The said driving licence is renewed upto 6.1.1993.

Moreover, I have preferred an appeal dt: 8.10.90 duly received by your office on 15.10.90 for exemption from Trade Test for the post of Motor Driver as I have already passed the trade test on 18.7.88. In the alternate I have also prayed for reappearing in the trade test for the post of Motor Driver. The said appeal is yet pending and it may be decided before the date of trade test i.e. 26.10.90.

The post of Motor Driver is vacant since August, 1988 due to transfer of Sh. Jain Dass. I have been applying for the same by transfer since 1988 the said applications are yet pending. However, I have earlier worked as officiating Motor Driver for about 3 months under you. The fact I have been continuously working under you as Motor Driver since initial appointment w.e.f. 21.9.84.

I have worked in class III as Motor Driver in Army and was discharged from the Army in same capacity as such I was entitled for appointment in class III as Motor Driver under you w.e.f. 21.9.84. But I was arbitrarily and illegally appointed in class IV and pay was reduced to the last pay drawn in the Army which cannot be done. I have been claiming my appointment as Motor Driver under you w.e.f. 21.9.84 alongwith difference of salary but the same has not been paid to me till date and the same applications are yet pending for your consideration. It is here relevant to be stated that I have been continuously performing the duties of Motor Driver under your w.e.f. 21.9.1984.

*Risingh*

T.C  
With Characteristic Jde



My applications/ representations for regularisation without screening test is pending under consideration before G.M., N.H.V., New Delhi as I am entitled for temporary status since initial appointment i.e. w.e.f. 21.9.1984 keeping in view that I am an ex-serviceman and is entitled for post within quota of ex-serviceman.

Therefore, it is most respectfully prayed that my candidature for the trade test for the post of Motor Driver to be held on 26.10.90 may be considered and I may be permitted to appear subject to the decision made by the competent authority on the ~~range~~ representations/appeals of the applicant which are pending for consideration, in the interest of justice.

Thanking you,

Yours faithfully

Dated: 15-10-90

DA  
Thru (3)

Grover to Clerk  
16/10/90

Rampal Singh  
( RAMPAL SINGH )  
Ex peon of TPP Workshop,  
N.H.V., Charbagh, Lucknow  
now Motor Driver under  
I.O.W.(D)-I, AMV/LKO.  
...

Rampal Singh

T C  
Smt Chattervedi  
Adv



THE HON. CHIEF JUSTICE OF THE SUPREME COURT OF INDIA

SECRETARY TO THE GOVERNMENT

OF INDIA

General Singh

... Application

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SECRETARY

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Sub:- ... and

Ref:- ... and

... and

Rd Singh

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T.C  
Sd/- Chaturvedi  
Sd/-

A33

To

The General Manager,  
R.Rly., Hd. Qrs. Office,  
Baroda House/New Delhi.

(Through Proper Channel)

Sub:-Debarring my name from Screening test  
conducted in the office of Sd.(TP), Charbagh,  
Lucknow on 12/8/88.

...

Sir,

Respectfully, it is to bring to your kind notice that I was recruited as Peon against Ex.Serviceman quota by Sd.(TP)/R.Rly., CB-Lucknow on 21/9/84 which was later on approved vide Gd(Lngg:)/ADLS L/No.318-W/40/2/Pt.II dt:24/4/86, but inspite of my name included in the screening list, I was not entertained for the screening test by the Screening Committee on 12/8/88 on the baseless plea that my recruitment was not approved by Gd/ADLS. In this way, I have suffered for nothing due to lapse on the part of administration. It was not a mistake to fulfill the ex.serviceman quota. It was rather foremost duty of administration to implement it in its true perspective as per your strict orders.

It is therefore requested to please regularise my name for screening through C.T.L./ADLS and Dy.CE(TM)/ADLS & SE./TPP-ADLS to provide me a livelihood in class IV although I was entitled for Group(C) service against this quota being retired from military as a Class III employee.

I hope your honour could consider my case favourably on humanitarian ground.

Thanking you,

Yours faithfully,

Dated:- 22/ 8 /1988.

रामपाल सिंह

(RAM PAL SINGH) S/o  
Sh. Jai Pal Singh, Peon  
S/o Sh. K.R. Singh, Rly. Qr. No. 11/50-3,  
Central P.O. House Colony,  
Alambagh-Lucknow.

R.K. Singh

T.C  
H. C. Chattervedi  
Hd.

~~PA~~ ~~CA~~ (A34)  
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW.

T.A.No.354/90(L)

Sri Ram Pal Singh

....Applicant

Versus

Union of India and others

....Respondents

WRITTEN STATEMENT ON BEHALF OF RESPONDENTS

I, B-J. VERMA, presently posted as Sr Civil Engineer, in the Thermit Portion Plant, Northern Railway, Charbagh, Lucknow solemnly state as under :-

1. That the undersigned is presently posted as Senior Civil Engineer, in the Thermit Portion Plant, Northern Railway, Charbagh, Lucknow is competent and duly authorised by the respondents to file this reply to the above mentioned application made by the applicant under Section 19 of the Administrative Tribunals Act, 1985 (hereinafter referred as 'application'). The undersigned has read and understood the contents of the application and is well conversant with the facts stated hereunder.
2. That the contents of paragraph 1 of the application, as stated, are not admitted. It is respectfully submitted that the applicant is not entitled to appear in the Trade Test for the post of Motor Driver at present as his service is not regularised as a Class IV (Group 'D') employee, and therefore, he can not be appointed on a Group 'C' post. Moreover, the applicant is not working in the Thermit Portion Plant at present as he was transferred as peon under the Senior Engineer, Doubling-II, Kanpur on 16.05.1988 on his own request.
3. That the contents of paragraph 2 need no comment.
4. That in view of submissions already made in paragraph 2 of this statement, the contents of paragraph 3 are not admitted.
5. That the contents of paragraph 4.1 need no comment.

A35

6. That the contents of paragraph 4.2 are not admitted. It is respectfully submitted that the applicant by way of his application dated 25.10.1983, had applied for 'any service' to earn his livelihood, on the basis of which he was given appointment as Casual Labour Khallasi on daily wages with effect from 21.09.1984 against 'Temporary Labour Advice', but was paid arrears of C.P.C. Scale Grade Rs.196-232(Revised Scale) with effect from 21.09.1984. His appointment was made without any advertisement notice and without approval of the General Manager, Northern Railway, New Delhi, which was essential.

7. That the contents of paragraph 4.3 are admitted only to the extent that the applicant was appointed as Casual Labour Khallasi on daily wages by the letter of the Senior Engineer, Thermit Portion Plant, Northern Railway, Charbagh, Lucknow No.TPP/NR/E-II dated 20.09.1984 with effect from 21.09.1984 against T.L.A. vacancy on trial basis only. It is specifically denied the applicant was appointed as peon against a permanent post in grade Rs. 196-232(RS), later revised to Rs.750-940(RPS).

8. That the contents of paragraph 4.4 are admitted only to the extent that the applicant had worked under the Senior Engineer, Thermit Portion Plant, Northern Railway, Charbagh, Lucknow till his transfer to another establishment on his own request on 16.05.1988 without any punishment, warning or censure. But it is not admitted that he had worked as driver since 21.10.1984. He did drive the utility van occasionally for some time during the period December, 1986 to July, 1987 for which he was paid the officiating allowance Rs.858.20 and overtime Rs.704.00 as per rules.

9. That the contents of paragraph 4.5 are admitted only to the extent that the applicant was spared to join the post of peon under Senior Engineer, Doubling-II, Northern Railway, Kanpur on transfer on his own request vide letter of Shop Superintendent, Thermit Portion Plant, N. Railway, Charbagh, Lucknow No.E/TPP/G/SS dated 16.05.1988 but as far as the payment of transfer allowance is concerned, the same are denied for want of knowledge as there is nothing to indicate such payment in the record at Thermit Portion Plant.

10. That the contents of paragraph 4.6 of the application are denied for want of knowledge, as the applicant is at present working under Senior Engineer, Doubling-II, Northern Railway, Kanpur which is a different establishment independent of Thermit Portion Plant, Charbagh, Lucknow.

11. That the contents of paragraph 4.7 are not admitted for want of knowledge. It is, however, submitted that from the perusal of Annexure No.2 to the application it is evident that the service of the applicant Sri Ram Pal Singh are not yet regularised as Class IV (Group D) employee and the promotion of applicant as a Driver has been made purely on ad hoc basis which shall not confer upon him any claim of seniority promotion over his seniors in future.

12. That the contents of paragraph 4.8 are admitted only to the extent that the applicant appeared before the 'Screening Committee' but he could not be screened as the Screening Committee held that the applicant was not eligible to be called for screening test as there was no approval from the General Manager (P), Northern Railway, New Delhi in this connection for appointment, as such, his services as Class IV (Group D) were not yet regularised.

13. That the contents of paragraph 4.9 are not admitted for want of knowledge.

14. That the contents of paragraph 4.10 are admitted only to the extent that a post of Driver is vacant since 1988, but the applicant not be considered or trade tested unless his service as Class IV (Group D) employee is regularised and he becomes eligible for the post according Trade Test Rules alongwith other rules on the subject.

15. That the contents of paragraph 4.11 are admitted to the extent that a post of Driver was vacant and a notice for the Trade Test which was due to be held on 26.10.1990

was issued by the Shop Superintendent, Thermit Portion Plant, Northern Railway, Lucknow on 5.10.1990, but this Trade Test was open to the employees of the Thermit Portion Plant.

16. That the contents of paragraph 4.12 are admitted with a clarification that the applicant had submitted his representation dated 8.10.1990 to the Senior Engineer, Thermit Portion Plant, Northern Railway, Lucknow which was received in office on 15.10.1990, but the same was returned to the Inspector of Works, Construction, D-II, Northern Railway, Lucknow vide letter No.TPP/NR/E/SEN dated 29.10.1990 for forwarding the same through proper channel and to inform the applicant that the Trade Test for the post of Driver was being conducted in accordance with rules on the subject.

17. That the contents of paragraph 4.13 are admitted.

18. That the contents of paragraph 4.14 are admitted.

19. That the contents of paragraph 4.15, as stated, are not admitted.

20. That the contents of paragraph 4.16 are not admitted. It is respectfully submitted that the General Manager (Engineering), Northern Railway, Lucknow by his letter No.319/W/46/II dated 24.04.1986 had only advised that the applicant Sri Ram Pal Singh may be considered for a Group C post as soon as a vacancy becomes available under Senior Engineer, Thermit Portion Plant, Northern Railway, Lucknow after his service as Class IV (Group D) employee are regularised and he becomes eligible for Group C post in accordance with rules. It is worthwhile to mention that the applicant was transferred as peon under Senior Engineer, Doubling-II, Northern Railway, Kanpur on 16.05.88 on his own request and was no longer working in Thermit Portion Plant, N.Railway, Charbagh, Lucknow.

21. That the contents of paragraph 4.18 need no comment.

22. That the contents of paragraph 4.19 as stated are not admitted. It is respectfully submitted that the applicant is not entitled to be appointed as Driver in



Thermit Portion Plant, Northern Railway, Charbagh, Lucknow.

23. That the contents of paragraph 4.20 are not admitted

24. That in view of the submissions already made in the forgoing paragraphs, the undersigned is advised to state that the balance of convenience does not lie in favour of the applicant.

25. That in view of the submissions already made in the present reply, the undersigned is advised to state that none of the grounds enumerated as paragraphs 5(i) to 5(xiv) are <sup>not</sup> tenable in law.

26. That the contents of paragraphs 6 and 7 need no comment.

27. That the undersigned, on the basis of legal advice respectfully submits that the present application is devoid of merit and the applicant is not entitled for any relief claimed by him in paragraph 8 of the application.

28. That the undersigned, on the basis of legal advice respectfully submits that the applicant is not entitled for any interim relief as prayed by him in paragraph 9 of the application.

29. That the contents of paragraphs 10 and 11 need no comment.

Lucknow, Dated :  
December , 1990.

VERIFICATION

I, B. J. VERMA, presently posted as Senior Civil Engineer, , Thermit Portion Plant, Northern Railway, Charbagh, Lucknow hereby verify that the contents of paragraph 1 are true to my personal knowledge and those of paragraphs 2 to 23 are based on record and the same are believed to be true. The contents of paragraphs 24 to 28 are based on legal advice and the same are believed to be true. The contents of paragraph

A37

28 are believed to be true.

Lucknow, Dated :  
December , 1990.

*an*

Senior Engineer,  
THERMAL SECTION PLANS  
Railway, Lucknow.

PA

Ave

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL :  
Circuit Bench, Lucknow .

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O.A. No. 354 of 1990 (L)

RAM PAL SINGH ..... Applicant  
Versus  
UNION OF INDIA AND OTHERS. Respondents.

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Rejoinder to the Written Statement on  
behalf of the respondents filed by Mr.  
B.J. Verma, Senior Civil Engineer.

....

1. That in reply to para 1 of the written statement it is stated that Sri B.J. Verma has not been authorised by the opposite parties nos. 1, 2 and 3 to file the written statement on their behalf as in the written statement regarding some averments of the application it is being said by Sri B.J. Verma that he has no knowledge. The applicant is presently working under the Senior Engineer, Doubling II, Northern Railway, Kanpur, a temporary construction unit, which is within the jurisdiction of the opposite parties nos. 1 and 2. As such the Hon'ble Tribunal may be pleased to reject the written statement filed by Mr. B.J. Verma on behalf of opposite parties nos. 1 to 3 .

22.4.91

Ram Pal Singh

2. That the contents of para 2 of the written statement are denied and the contents of para 1 of the application are reiterated as correct. It is stated that the applicant was appointed as Peon on regular pay scale against a permanent post with effect from 21-9-1984. The opposite party no. 2 has issued a letter dated 2-2-1991 by which the applicant's appointment as peon on regular pay scale on a permanent post has been accorded approval with effect from 21-9-1984. As such the applicant is a regular employee on a Group 'D' post. True copy of the letter dated 2-2-1991 is being annexed as Annexure No.3-1 to this Rejoinder. The applicant was entitled for appointment on a group 'C' post with effect from 21-9-1984 within the ex-servicemen quota but due to non-availability of a Group 'C' post, the applicant was appointed on a Group 'D' post. The opposite party no. 2 through letter dated 24-4-1986 (Annexure No.7 to the application) has already directed the opposite party no. 4 that the applicant be considered for a group 'C' post as soon as a vacancy becomes available under opposite party No. 4. The applicant was entitled for the post of Motor Driver, a group 'C' post, since August, 1983 as the said post shall vacant keeping in view the opposite party no. 2 letter dated 24-4-1986.

It is here relevant to mention that the applicant is possessed of a driving licence for heavy motor vehicle with an experience of 11 years as motor driver. The applicant has also passed Trade Test on 18-7-1988 conducted by Senior Engineer Doublang II, Northern Railway, Meerut. As such the applicant is fully

Ram Lal (S), 6

eligible and qualified for appointment on the post of Junior Engineer without trade test.

The applicant is a permanent employee of the J.P. S. Co. party no. 1 and maintains his lien under the J.P. S. Co. party no. 4 as he was transferred under Junior Engineer Drawing II, Northern Railway, Kanpur on administrative ground on payment of transfer allowance. It is vehemently denied that the applicant was transferred on his own request. No employee under the Junior Engineer Drawing II, Northern Railway, Kanpur, is a permanent employee of that very unit of the said unit is in itself a temporary construction unit.

2. That the contents of para 2 of the written statement need no reply.

3. That the contents of para 3 of the written statement are correct and the contents of para 3 of the application are reiterated as correct.

4. That the contents of para 5 of the written statement need no reply.

5. That the contents of para 6 of the written statement are correct and the contents of para 4.2 of the application are reiterated as correct. It is stated that the applicant applied for appointment under J.P. S. Co. party no. 4 drawing in view his affiliation and experience within the ex-servicemen quota. The applicant was appointed on a group 'D' post with effect from 11-9-1964 as no group 'C' post was available. The applicant was entitled for

11/11/64

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a group 'B' post with effect from 21st September, 1984 and as such the opposite party no. 2 issued a letter dated 24.4.1986 for appointing the applicant on a group 'C' post as soon as a vacancy is available under the opposite party no. 4. The vacancy was available on August, 1984 under the opposite party no. 4. The applicant was appointed within the ex-servicemen quota after screening by the competent authority and as such the opposite party no. 2 has issued the letter dated 24.4.1986 (Annexure no. 7 to the application) and 2-2-1991 (Annexure R-1 to the Rejoinder).

7. That the contents of para 7 of the written statement are denied and the contents of para 4.3 of the application are reiterated to be correct. It is stated that the applicant was screened and selected within the ex-servicemen quota and was appointed as peon against a permanent post in the regular pay scale with effect from 24.9.1984. The post of peon on which the applicant was appointed and still holds a lien on the said post/IS a permanent post under the opposite party no. 4. The applicant is entitled for a group 'C' post with effect from 24-9-1984 within the ex-servicemen quota which has been accepted by the opposite party no. 2 through letter dated 24-4-1986.

8. That the contents of Paras 8 and 9 of the written statement are denied and the contents of paras 4.4, and 4.5 of the application are reiterated as correct.

Ram Lal Singh

Am

It is noted that the applicant was appointed as a  
... with effect from 1st September, 1984, but has  
... as motor driver since 1st September,  
1984. The applicant was not transferred by the  
... on the request of the applicant  
... administrative  
... which shall be evident from the transfer  
order dated 19th May, 1984 (Annexure No. 1 to the  
...). The applicant was not transferred  
... was made on adminis-  
trative grounds. The applicant is entitled for a  
... motor driver since 01-9-1984  
... driver within the ex service-  
... dated 24.1.1986  
... to the applicant. The applicant  
... under the opposite party  
... unit  
... permanent lien in the  
... unit.

6. The contents of paras 11, 12 and 13 of the  
... of the contents of  
paras 4.6, 4.7 and 4.8 respectively of the  
... It is  
... filed by  
... parties,  
... to the ...  
... Railway, Ranpur, is  
... the  
... the  
... as an authority working

Remitted 50/6

A45

among the opposite parties nos. 1 and 2; as such the opposite parties nos. 1 and 2 cannot submit before the Tribunal that they have no knowledge regarding the facts relating to the office of the Senior Engineer Doubling II, Northern Railway, Hanpur. The applicant has passed Trade Test for motor driver on 12-7-1982 conducted by an authority equal in rank and status to the opposite party no. 4. The post of motor driver is an ex cadre post and as such the appointment on the said post is made from amongst the employees already working and who are eligible for the said post on the basis of merit of the trade test and not on the basis of seniority. The opposite party no. 4 should not conduct any trade test in pursuance of the notice dated 5-10-1990 (Annexure No. 3 to the application) as the applicant has already passed the trade test and is entitled for appointment keeping in view the opposite party no. 2 letter dated 24-1-1986. The opposite party no. 2 has accorded approval to the appointment of the applicant with effect from 21-9-1984 through letter dated 3-2-1991 (Annexure 3-1).

10. That the contents of para 13 of the written statement are denied and the contents of para 4.9 of the application are reiterated as correct.

11. That the contents of paras 14, 15 and 16 of the written statement are denied and the contents of paras 4.10, 4.11 and 4.12 of the application

*Remitted to the Tribunal*



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- 7 -

as reiterated is correct. It is stated that the opposite party no. 4 is conducting the trade test with mala fide motive as the applicant has already passed the trade test and is entitled for appointment on the post of motor driver - a group 'C' post on the basis of the opposite party no. 2 letter dated 24th April, 1986. The request of the application for transfer back to the post of motor driver under the opposite party no. 4 is pending consideration. No trade test should be held in pursuance of the notice dated 3-10-1990, but the applicant should be transferred on the post of motor driver without any trade test. The applicant holds a permanent lien under the opposite party no. 4 as no employee holds a lien in the Construction unit which is a temporary unit. The applicant unless protest applied for the trade test in pursuance of the notice dated 8th October, 1990.

12. That the contents of paras 17 and 18 of the written statement need no reply.

13. That the contents of paras 19 and 20 of the written statement are denied and contents of paras 4.15 and 4.16 of the application are reiterated as correct. It is stated that the appointment of the applicant with effect from 21st September, 1984 has been accorded approval by the opposite party no. 2 through letter dated 2-2-1991 (Annexure 41). The applicant was entitled for appointment on a group 'C' post within the ex-servicemen quota,

Ram Lal Singh

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with effect from 1st September, 1984, but was not appointed to the group 'C' post as no post was available. However, through the letter dated 24th April, 1986 the opposite party no.2 directed <sup>or</sup> the opposite party no. 4 ~~not~~ appointing the applicant on a group 'C' post as soon as the vacancy is available. The applicant holds a permanent lien under the opposite party no. 4.

14. That the contents of para 21 of the written statement need no reply.
15. That the contents of paras 22, 23, 24, and 25 of the written statement are denied and in para thereto the contents of paras 4.19, 4.20, and 4.21 and the grounds enumerated as para 5(i) to 5(xiv) of the application are reiterated as correct. It is stated that the applicant is on sick leave since long and he has undergone major operation in the Northern Railway Hospital, Lucknow. The applicant will appear in the trade test in pursuance of the Hon'ble Tribunal interim order dated 6th November, 1990 after the fitness of the applicant although the applicant has already passed the said trade test on 18th July, 1988.
16. That the contents of para 26 of the written statement need no reply.
17. That the contents of paras 27 and 28 of the written statement are denied and the contents of paras 8 and 9 of the application are reiterated

Ram Lal Singh

(Aid)

is correct. It is stated that the application is full of merits and the application deserves to be allowed with costs to the applicant.

18. That the contents of para 16 of the written statement need no reply.

Ranjit Singh,

Dated Lucknow: Applicant.

April 1991.

Verification

I, Ranjit Singh, aged about 35 years, son of Sri Jai Ram Singh, resident of Railway Quarter No.1 P.O. /16-B, Barha Railway Colony, Alambagh, Lucknow, presently working as a motor driver under Inspector of Works Stalling 1, Northern Railway, Alambagh, Lucknow, do hereby verify that the contents of paras 1 to 18 of this affidavit are true to my personal knowledge. I have not suppressed any material facts.

Ranjit Singh,

Dated Lucknow. Applicant.

April 1991.

Asst Kumar Chaturvedi  
Advocate  
Counsel for the Applicant

Aug

Before the Central Administrative Tribunal,  
Circuit Bench, Lucknow.

.....

C.A. No. 364 of 1990 (L)

Ram Pal Singh ..... Applicant

Versus

Union of India and others .. Respondents.

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Annexure R-1

Head Quarter Office,  
Baroda House,  
New Delhi.

No.22C-3/190-WV/PLE/loose/E-IV

Dated 3-2-91.

The Dy. L.E. / T.N.  
Headquarters Office,  
Baroda House,  
New Delhi.

Sub: -Case of Ram Pal Singh Ex.Service-  
man for his absorption in Group 'C'  
Cadre.

Ref: Your office letter No. 319-W/144 referred to  
this office.

The competent authority has accorded the post  
facto sanction for engagement of Shri Ram Pal Singh  
Ex serviceman as 'Casual Labour Peon' w.e.f.  
21-09-84. This may also be shown in the statement  
of recruitment of ~~an~~ ex-service man on Rly.

sd/- Mithai Lal  
For General Manager (P).

TRUE COPY :

Ram Pal Singh

Asit Kumar Chaturvedi  
Adv

CA

(AS)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW.

O.A.No.354/90(L)

Sri Ram Pal Singh

....Applicant

Versus

Union of India and others

....Respondents

SUPPLEMENTARY REPLY ON BEHALF OF RESPONDENTS

I, B.J.Varma, presently posted as Senior Civil Engineer, Thermit Portion Plant, Northern Railway, Charbagh, Lucknow solemnly state as under:-

1. That the undersigned is presently posted as Senior Civil Engineer, Thermit Portion Plant, Northern Railway, Charbagh, Lucknow, and is competent and duly authorised to file this supplementary reply on behalf of the Respondents. The undersigned has read and understood the contents of the rejoinder filed by the applicant and is well conversant with the facts stated hereunder.

2. That the present supplementary reply is being filed due to certain subsequent development which has taken place after the reply on behalf of the Respondents had already been filed, and also because of the fact that certain allegations have been levelled against the undersigned in the rejoinder filed against the reply on behalf of the Respondents.

3. That the contents of paragraph 1 of the rejoinder are not admitted. It is most respectfully submitted that the undersigned has been duly authorised by the General Manager, Northern Railway, Head Quarters Office, Baroda House, New Delhi, and is ready to produce relevant document as and when directed by this Hon'ble Tribunal. It is further submitted that the applicant has not impleaded Senior Engineer, Doubling-II, Northern Railway, Kanpur, under whom the applicant is working at present and most of the record of the applicant is in possession of the Senior Engineer, Doubling-II, Northern Railway, Kanpur as the applicant is under his direct subordination, and he is the necessary party to certain averments made in the present case. Moreover, it is neither essential, nor necessary/obligatory that every case/record

Filed today  
28/11/91

Senior Engineer,  
Thermit Portion Plant,  
Northern Railway, Lucknow

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be sent/reported to the General Manager, Northern Railway, Head Quarters Office, Baroda House, New Delhi, or other higher authorities in respect of Group 'D' or 'C' staff, unless specially called for, as they are kept in the offices where the Group 'D' or 'C' staff are posted under the Competent Authorities. Under these circumstances, certain averments of the application were denied for want of knowledge.

4. That the contents of paragraph 2 of the rejoinder, as stated, are denied. It is most respectfully submitted that eventhough, the post facto sanction of the Competent Authority has been received by the undersigned vide letter No.220-E/190/XV/PLE/Loose/E-IV dated 3.02.1991 issued by the General Manager (P) Northern Railway, Head Quarters Office, Baroda House, New Delhi for engagement of the applicant as **Casual Labour Peon** with effect from 21.09.1984, but he is not yet screened and/or regularised as a regular employee on Group 'D' post, and therefore, he is neither eligible nor entitled for the post of Motor Driver, which is a Group 'C' post.

5. That the contents of paragraph 3 of rejoinder need no comment from the Respondents.

6. That the contents of paragraph 4 of the rejoinder are denied and in reply thereto, the contents of paragraph 4 of the reply are reiterated.

7. That the contents of paragraph 5 of rejoinder need no comment from the Respondents.

8. That the contents of paragraph 6 of rejoinder are denied and in reply thereto, the contents of paragraph 6 of the reply are reiterated.

9. That the contents of paragraph 7 of the rejoinder are denied and in reply thereto, the contents of paragraph 7 of the reply are reiterated.

10. That the contents of paragraph 8 of the rejoinder are denied and in reply thereto, the contents of paragraphs 8 and 9 of the reply are reiterated with a clarification that 'post facto' sanction of the Competent Authority has been communicated to the undersigned vide letter No.220-E/190/XV/PLE/Loose/E-IV dated

Senior Civil Engineer,  
PORTION PLANNING  
Railway, Lucknow

(A52)

dated 3.02.1991 issued by the General Manager (P), Northern Railway, Head Quarters Office, New Delhi, for the engagement of the applicant as **Casual Labour Peon** with effect from 21.09.1984, It will not, however, automatically entitle him to be appointed as Motor Driver, which is a Group 'C' post.

11. That the contents of paragraph 9 of the rejoinder are denied and in reply thereto, the contents of paragraphs 10, 11 and 12 of the reply are reiterated. It is respectfully submitted that as explained in paragraph 3 and 4 of this supplementary reply, it is neither necessary nor obligatory that in each case of Group 'C' and 'D' staff, the matter be reported, or the record be sent to the General Manager, Northern Railway, Head Quarters Office, Baroda House, New Delhi, or to other officials unless especially/specifically called for. Further, by being given 'post facto' sanction for the Group 'D' post of **Casual Labour Peon** by the Competent Authority, the applicant, does not, automatically become entitled for Group 'C' post of Motor Driver.

12. That the contents of paragraph 10 of the rejoinder are denied and in reply thereto, the contents of paragraph 13 of reply are reiterated to be correct.

13. That the contents of paragraph 11 of the rejoinder are denied and in reply thereto, the contents of paragraphs 14, 15 and 16 of the reply are reiterated.

14. That the contents of paragraph 12 of the rejoinder need no comment.

15. That the contents of paragraph 13 of the rejoinder are denied and in reply thereto, the contents of paragraphs 19 and 20 of the reply are reiterated.

It is further submitted that no employee can be treated as regular Group 'D' employee unless he is screened according to the **Printed Serial No.8351**, a true copy of which is being annexed herewith as **ANNEXURE No.A-2** to this supplementary reply. It is also submitted that Group 'D' staff, must put in a minimum of 3 years of service before they can be considered for promotion to Group 'C' post in terms of **Printed Serial No.4786**, a true copy of which is being annexed herewith as **ANNEXURE No.A-1** to this reply. It is, therefore, evident that the applicant is neither a regular Group 'D' employee (as he has not yet been screened), nor, he is eligible to be considered for Group 'C' post of Motor

*Dr.*  
Civil Engineer,  
PORTION PLANT  
Railway, Lucknow

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Driver as he has not put in the requisite minimum of 3 years' regular service as Group 'D' employee.

16. That the contents of paragraph 14 of the rejoinder need no comment from the Respondents.


17. That the contents of paragraph 15 of the rejoinder are denied and in reply thereto, the contents of paragraphs 22, 23, 24 and 25 of the reply are reiterated to be correct.

18. That the contents of paragraph 16 of the rejoinder need no comment.

19. That the contents of paragraph 17 of the rejoinder are denied and in reply thereto, the contents of paragraphs 27 and 28 of the reply are reiterated.


20. That the contents of paragraph 18 of the rejoinder need no comment from the Respondents.

Lucknow, Dated:  
November , 1991.

  
Engineer,  
Thermit Portion Plant  
Northern Railway, Lucknow

#### VERIFICATION

I, B.J.Varma, presently posted as Senior Civil Engineer, Thermit Portion Plant, Northern Railway, Charbagh, Lucknow hereby verify that the contents of paragraph 1 of this supplementary reply are true to my personal knowledge and those of paragraphs 2 to 20 are based on record and the same are believed to be true. That no part of this supplementary reply is false and nothing material has been concealed. So help me God. ,

  
Lucknow, Dated :  
November , 1991.

  
Engineer,  
Thermit Portion Plant  
Northern Railway, Lucknow



AS4

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW.

O.A.No.354/90(L)

Sri Ram Pal Singh

....Applicant

Versus

Union of India and others

....Respondents

ANNEXURE No.A-1

Serial No.4786 - Circular No.831-E/253/Z-II(Eiv), 9.9.1969.

Sub:- Promotion from Class IV to Class III Service.

A copy of Railway Board's letter No.E(NG)I-69CFP/9 dated 6.8.69 is forwarded herewith for information and necessary action.

In this connection attention is invited to CPO's confidential D.O.letter No.E-340/5-II dated 26.4.69 (to D.Ss only) wherein they were asked to collect date regarding Class IV Matriculate employees having over 3 years service. In view of Railway Board's letter ibid all Class IV staff having 3 years service whether Matriculate or otherwise are now eligible to appear in selection for promotion from Class IV to Class III posts.

It is desired that immediate action to hold the selection may now be taken to ensure that the quota reserves for Class IV employees in Class III posts does not remain unfilled.

Copy of Railway Board's letter No.E(NG)I/69CFP/9 dated 6.8.69.

Sub:- As above.

The Board have under consideration the question whether any further relaxation should be made in regard to eligibility of Class IV staff for the purposes of promotion to Class III service. The various aspects of this issue were also discussed in the last General Manager's conference. The Board have after careful consideration decided that the minimum period of continuous service to be put in by Class IV employee should be reduced from 5 to 3 years.

2. It has been represented to the Board that in the case of Class IV employees who are Matriculates, the minimum period of service may be waived altogether. The Board have not agreed to this and have decided that these staff should also be eligible to appear for Class III service only after putting in 3 years service.

3. The Board desire that it should be ensured that selection and promotion of Class IV staff to Class III posts is made to the full extent of the quota provided. Steps should be taken to ensure that these examinations are held regularly so that staff can get promotion wherever due without any delay.

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TRUE COPY

Sd/-  
CHIEF CLERK  
N. Railway, Lucknow

ASS

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW.

O.A.No.354/90(L)

Sri Ram Pal Singh

....Applicant

Versus

Union of India and others

....Respondents

ANNEXURE No.A-2

क्र०सं० 8351

संख्या- 220ई/190-बारह (ई-4)

दिनांक 16.7.1983

विषय:- नैमित्तिक श्रमिकों की वरीयता निर्धारित करना ।

रेल मंत्रालय के पत्रांक ई(एन०बी०)11/83/सी.एल./एच०सी०/दिनांक 17.5.83 की प्रतिलिपि अपने अनुलग्नकों सहित सूचना मार्गदर्शन एवं आवश्यक कार्रवाई हेतु प्रेषित की जा रही है ।

Copy of Railway Board's letter No. as referred to above.

Sub:- Fixation of seniority of Casual Labour.

Consequent on Andhra Pradesh High Court's judgment in W.P.1403/1980 filed by Sri D.V.Satyanarayana and 14 others of Mechanical Department Secunderabad Division, the Ministry of Railways have decided that conditions governing seniority of Casual Labour should be regulated on the basis of amended para 2511(a) of the IREM with immediate effect.

2. Advance correction slip making necessary provision in the Indian Railway Establishment Manual in respect of the above matter is enclosed for your information.

This has the sanction of the President.

**INDIAN RAILWAY ESTABLISHMENT MANUAL**  
**ADVANCE CORRECTION SLIP NO.135:**

The following amendment is made in para 2511(a) of the I.R.E.M. which may be read as under:-

"Casual labour treated as temporary are entitled to all the rights and benefits admissible to the temporary railway servant as laid down in Chap.XXIII of the I.R.E.M. The rights and privileges admissible to such labour also include the benefit of Discipline & Appeal Rules. However, their services prior to absorption in temporary/permanent regular cadre after the required selection/screening will not count for the purpose of seniority and the date of their regular appointment after screening/selection shall determine their seniority vis-a-vis other regular employees. This is, however, subject to the proviso that if the seniority of certain individual employee has already been determined in any other manner, either in pursuance of judicial decisions or otherwise, the seniority so determined shall not be altered. Casual Labour shall be eligible to count only half the period of the service rendered by them after attaining temporary status on completion of 120 days continuous employment and before regular absorption as

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Railway, Lucknow.

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qualifying service for the purpose of pensionary benefits. Such casual labour who have attained temporary status will also be allowed to carry forward the leave at their credit to the new post on absorption in regular service. Daily rated casual labour or labour employed on projects will not be entitled to these benefits."

[Authority Board's letter No.E(NG) 11/83/CL/SC/9 dated]

*Qw*  
Senior Civil Engineer, TRUE COPY  
CHERNAI PORTION PLAN  
M. Railway, Lucknow

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW.

O.A. No. 354 OF 1990(L)

Ram Pal Singh

... APPLICANT

VERSUS

Union of India & Others

... RESPONDENTS

SUPPLEMENTARY REJOINDER TO THE SUPPLEMENTARY REPLY

ON BEHALF OF THE RESPONDENTS FILED BY MR. B.J. VERMA

I, Ram Pal Singh, aged about 36 years, S/o Shri Jai Pal Singh, R/o Railway Quarter No. 1, EC/16-B, Barha Railway Colony, Lucknow, presently working as Motor Driver under Inspector of Works, Doubling-I, Northern Railway, Alambagh, Lucknow.

2. That the Deponent is the Applicant in the Original Application, as such, fully conversant with the facts and circumstances of the case. The Deponent has read and understood the contents of the Supplementary Reply and states hereinafter.

2. That the contents of Paragraph 1 of the Supplementary Reply need no comments.
3. That the contents of Paragraph 2 of the Supplementary Reply are denied.
4. That the contents of Paragraph 3 of the Supplementary Reply are denied and the contents of Paragraph 1 of the Rejoinder is reiterated as correct. The Applicant was initially appointed under Respondent No. 4 and was administratively transferred to Kanpur but yet the Applicant's parent Department is continuing under Respondent No. 4. The Applicant has grievance against the Senior Engineer, Doubling-II, Northern Railway, Kanpur. As such, he is not a necessary party.
5. That the contents of Paragraph 4 of the Supplementary Reply are denied and the contents of Paragraph 2 of the Rejoinder are reiterated as correct. A casual labour can be promoted to a semi-skilled and skilled post without being first selected (screened) as Clause - IV Staff, keeping in view the Railway Board's letter dated 01.02.1965. A copy of the Railway Board's letter dated 01.02.1965 is being annexed as ANNEXURE No. R-2 to the Rejoinder. The Applicant's recruitment as regular Peon has been regularised through General Manager's letter dated 03rd February 1991 as the Applicant was recruited as regular

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Peon on a permanent post against Ex-Serviceman Quota. The Applicant was paid regular scale of pay and not daily wages from the very beginning of his appointment as Peon. In fact, the Applicant was entitled for recruitment and appointment on Class\_III post instead of Class\_IV post against Ex-Serviceman Quota keeping in view the Rules on the subject. The Applicant is entitled for preference over others in the Trade Test and in promotion for Group "C" post of Motor Driver keeping in view his entitlement in the initial appointment, being an Ex-Serviceman experience as Driver in the Indian Army as well as under the Respondents and also Respondent No. 2's letter dated 02nd April 1986, contained in Annexure No.7 to the Original Application. No screening is required in the case of the Applicant as he is an Ex-serviceman and was appointed within the Ex-serviceman's quota. However, persons junior to the Applicant and his contemporaries have been screened during July 1988 but the name of the Applicant was omitted on false and fictitious grounds of non-approval by the Respondent No. 2.

रामपाल सिंह 6.

That the contents of Paragraphs 5 & 7 of the Supplementary Reply need no comments.

7. That the contents of Paragraph 6, 8 & 9 of the Supplementary Reply are denied and the

(AEC)

contents of Paragraphs 4, 6 & 7 of the Rejoinder are reiterated as correct.

8. That the contents of Paragraphs 10 & 11 of the Supplementary Reply are denied and the contents of Paragraphs 8 & 9 of the Rejoinder are reiterated as correct. The Respondent No. 2, the Competent Authority has granted sanction to the Applicant's appointment as a regular Peon within the Ex-serviceman Quota as the Applicant is working on the permanent post of Peon w.e.f. 21st September 1984. The delay in sanction by the Competent Authority is due to administrative lapses and not any account of the Applicant. The Applicant was in fact entitled for appointment on 21st September 1984 on a Group "C" post within the Ex-serviceman Quota as he is an Ex-serviceman. The Applicant automatically became entitled to be appointed in the first available Group "C" post i.e. Motor Driver.

9. That the contents of Paragraphs 12 & 13 of the Supplementary Reply are denied and the contents of Paragraphs 10 & 11 of the Rejoinder are reiterated as correct.

10. That the contents of Paragraph 14 of the Supplementary Reply need no comments.

11. That the contents of Paragraph 15 of the Supplementary Reply are denied and the

(A61)

contents of Paragraph 13 of the Rejoinder are reiterated as correct. The Applicant is already a regular Peon, recruited against Ex-serviceman Quota. Hence, at this stage no screening is at all required. The Applicant was not screened in July 1988 when the others were screened, on a non-existing ground of non-sanction of the Applicant's recruitment by the Competent Authority. The Three Years service on Group "D" shall be accounted since 21st September 1984 keeping in view the Railway Board's Circular dated 31st July 1987. A copy of the Railway Board's Circular dated 31st July 1987 is being annexed as ANNEXURE No. R-3 to this Supplementary Rejoinder. The continuous temporary service rendered by the Casual Labour as well as Project Labour ~~before absorption~~ <sup>before absorption</sup> in Group "D" Cadre will be accounted in reckoning Three Years Service prescribed as eligibility condition for being considered for promotion to Grade "C" post. Keeping in view the Statement made by the Respondent in the Paragraph under reply, no regular Grade "D" employee was available who has completed Three Years of continuous service on November 1990.

12. That the contents of Paragraph 16, 18 & 20 of the Supplementary Reply need no comments.
13. That the contents of Paragraph 17 & 19 of the Supplementary Reply are denied and the

21/11/90 12/5/91



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contents of Paragraphs 15 & 17 are reiterated  
as correct.

JHET m 12.18

Lucknow,

DEPONENT

Dated : 24-3-92

V E R I F I C A T I O N

I, the above named Deponent, do hereby  
verify that the contents of Paragraphs 1 to 13  
of this Supplementary Rejoinder are true and  
correct to the best of my knowledge and belief  
derived from records. The legal parts of the  
paras are based on legal advice received,  
which is believed by me to be true and  
correct. Nothing material has been  
suppressed.

Verified this the 24<sup>th</sup> day of March  
1992, at Lucknow.

JHET m 12.18  
DEPONENT

A63

Annex N.R-2

XXXXXXXXXXXX

Serial No. 2395- Circular No. 1220./190-IV (Div) dated 10-5-1965.

Sub:- Employment of Casual Labour.

A copy of Railway Board's letter No. (NG) 643L/51 dated 1-2-1965 is sent herewith for information and guidance. The Board's letter No. (NG) 603L/15, dated 23-8-1962 and (NG) 623L/56, dated 16-1-1966, referred to therein were circulated vide this office letter No. 1220./190-IV (Div), dated 1-5-1962 (Serial No. 1751) and No. 341L/251/2 (Div), dated 4-2-1966 (Serial No. 1944), respectively.

Copy of Railway Board's letter No. (NG) 643L/51, dated 1-2-1965 to the General Manager, Eastern Railway, Calcutta and copy to General Managers, all Indian Railways.

Sub:- Employment of casual labour.

Reference your letter No. 3613/0, dated the 16-5-1964 on the above noted subject. The question raised is whether casual labour appointed on railways against vacant posts could be promoted to semi-skilled and skilled categories where regular staff are not available have first to be selected as Class IV staff before promotion to semi-skilled or skilled posts. The intention of the Board's orders is that such staff could be appointed against the percentage allotted them without their first being selected as Class IV staff. XXXX To this extent the order contained in Board's letter No. (NG) 623L/56, dated 16-1-1966, applies. The order is to be followed in this letter No. (NG) 603L/15 dated 23-8-62.

रामदास 12/5/65

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P.S.No. 9385  
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Copy of letter No.E(NG) 85-CLP/3 dt. 31.7.87  
from Jt. Director Estt(N) Railway Board to the General Managers  
All Indian Railways.

Sub: Promotion of Group 'D' employees of  
Engineering Department to Group 'C' post.

The NFR have raised a demand in the PNM at the Board's level requesting for temporary service rendered by the project casual labour before absorption in regular Group 'D' cadre being counted in reckoning three years service prescribed as eligibility condition for being considered for promotion to Group 'C' posts.

2. As the Railway Administrations are aware, continuous temporary service rendered by the Casual labour on the open line before their absorption in regular employment in Group 'D' posts is taken into account for reckoning three years service for being considered for promotion to Group 'C' posts in terms of this Ministry's letter No.E(NG) 64/CL/25 dated 25.7.64.

3. The matter has been considered carefully and it has been decided that since the project casual labour also are now granted temporary status on completion of the prescribed service as casual labour, the continuous temporary service rendered by them before absorption in regular Group 'D' cadre may be counted in reckoning three years service prescribed as eligibility condition for being considered for promotion by selection to Group 'C' posts subject to the condition that the service so rendered in analogous field only will be taken into account in keeping with the instructions contained in the Ministry's letter No.E-58/CLP/8 dated 30.6.59.

4. Please acknowledge receipt.

श्रीमती. श्री. सिंह

1165

STATE OF GUJARAT HIGH COURT AT AHMEDABAD :

Affidavit, Ahmedabad, Dated 11/11/86.

O.A. No. 354 of 1990 (L)

Shri. P. L. Singh ..... Applicant

VERSUS

Union of India and others. .... Respondents.

Objection to the application for impleadment moved by Mr. L. Singh.

....

1. That the contents of para 1 of the application of Mr. L. Singh, for impleadment, are denied. It is stated that the deponent has moved an O.A. No. 354 of 1990 before the Hon'ble Tribunal for the reliefs claimed in the original Petition. The deponent is entitled for appointment on the post of Motor Driver - a group 'C' post under the opposite party no. 4 within the ex-servicemen quota without trade test as the deponent has already passed the trade test on 18th July, 1986 and keeping in view the contents of letter dated 18th April, 1986 issued by the opposite party No. 2.

2. That the contents of para 2 of the application for impleadment are denied. It is stated that the

Ram Lal Singh

He is not an applicant as a person under the opposite party no. 1. The applicant post on regular basis of an employee of the railway within the service on 1-1-1911. The applicant of the department has been accepted and approved by the opposite party no. 2 through letter dated 2-2-1911. The applicant has already passed the trade test on 10-7-1911 conducted by the Engineer-in-Charge, II, Northern Railway, Kanpur. The applicant was eligible for trade test on 10.7.1911. As such he was called for the trade test.

7. That the contents of para 6 of the application for appointment are denied. It is stated that the post of motor driver is an ex cadre group 'B' post. As such the appointment is made on the basis of trade test from amongst the employees holding lien in the unit who are eligible for appointment on the post of Motor Driver. The person who has passed the trade test earlier is entitled for appointment on the post of motor driver prior to the ~~present~~ person who will pass the trade test later on. The applicant, Ali Zafar Masani, has not passed the trade test whereas the department has already passed the trade test on 10-7-1986. The applicant, Mr. Ali Zafar Masani, is not eligible for appointment as motor driver as he does not possess the driving licence for heavy motor vehicle and at the same time he has no experience of motor driver whereas the department possesses the experience of motor driver since the last about 15 years.

AC7

4. That the contents of paras 4 and 5 of the application for impleadment are denied. It is stated that no material fact has been concealed by the deponent before the Hon'ble Tribunal. The applicant, Mr. Ali Zaffar Hasain cannot claim any preferential right over the deponent for appointment on the post of motor driver, a group 'C' post keeping in view the fact that the deponent was entitled for appointment on a group 'C' post with effect from 11-8-1984 as he had already passed the trade test on 18-7-1980, possesses 15 years experience as motor driver, possesses driving licence for all types of vehicles and also the fact that the deponent is holding the post of motor driver since 18-7-1980 under Senior Engineer, Doubling II Northern Railway, Kanpur. Mr. Ali Zaffar Hasain is neither a proper nor a necessary party for being impleaded in the deponent's original application. As such the application of Ali Zaffar Hasain for impleadment in the deponent's Original Application deserves to be dismissed in the interest of justice.

Ram Pal Singh

Dated Lucknow.

Deponent.

April 1991.

Verification

I, Ram Pal Singh, aged about 26 years, son of Sri Jaspal Singh, resident of Railway quarter No. I. RC/16-B, Barha Railway Colony, Alambagh, Lucknow, presently working as motor driver under

(118)

Inspector of Works Doubling I, Northern Railway, Alam-  
bagh, Lucknow, do hereby verify that the contents  
of paras 1 to 4 of this Objection are true to  
my personal knowledge. I have not suppressed any  
material facts.

Rampal Singh

Dated Lucknow .

Deponent.

April 1991.

Asit Kumar Chattervedi  
Advocate  
Council for the Applicant

A/189

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

M. P. No. 164/91/L

Misc. Application No. of 1991

IN

Original Application No. 354 of 1990(L)

Ram Pal Singh.....Applicant

Vs.

Union of India & Others.....Respondents

APPLICATION FOR IMPLEADMENT

It is most respectfully submitted as under :-

- 1) That the above noted application has been moved by Shri Ram Pal Singh, the applicant in the original application, praying for allowing him to appear in the Trade Test required to be held for the purpose of promotion to the post of Motor Driver under respondent No.4.
- 2) That Shri Ram Pal Singh is still an un-skilled class IV daily wages employee and is not legally eligible to be called for in the Trade Test required to be held for the purpose of promotion of eligible candidate.
- 3) That the applicant is the senior most screened and regular employee holding the post of Khalasi under respondent no.4 and has a preferential claim for promotion to the post of Motor Driver in the pay scale of Rs.950-1500 (RSP) over Shri Ram Pal Singh who is even not eligible to be called for in the Trade Test being still a Casual Labour, on Daily Wages.
- 4) That Shri Ram Pal Singh has filed the aforesaid application under Section-19 of the Administrative Tribunal's Act No. 13 of 1985 concealing material facts and without



impleading the applicant, although the present applicant is senior to him having preferential claim for promotion.

5) That the impleadment of the present applicant in the aforesaid original application No. 354 of 1990(L) is necessary for the just and proper decision in the case, and if he is not impleaded as party to the aforesaid application, the claim of the present applicant for his preferential claim of promotion on the post of Motor Driver is likely to be adversely effected without any opportunity to put his case before this Hon'ble Tribunal.

P R A Y E R

It is, therefore, most respectfully prayed that in view of the aforesaid submission, the present applicant may be allowed/directed to be impleaded as party to the aforesaid Original Application No.354 of 1990(L) so that he may be able to put his case for his preferential promotion on the post of Motor Driver against Shri Ran Pal Singh, the applicant in the aforesaid application U/S 19 of Act No.13 of 1985.

-Lucknow

Dated : 4.4.1991

*Alizaf Hussain*

APPLICANT

VERIFICATION

I, Ali Zaffar Hussain S/o Shri Athar Hussain aged about 24 years employed as Khalasi under respondent No.4 in Thermit Portion Plant, Northern Railway, Charbagh, Lucknow do hereby verify that the contents of para 1 to 5 are true to my own knowledge and that I have not suppressed any material fact.

*Alizaf Hussain*  
APPLICANT

Lucknow

Dated : 4.4.1991

*Advocate*  
COUNSEL FOR APPLICANT

ब अदालत श्रीमान Before the Central Administrative Tribunal  
(Lucknow Bench): Lucknow. महोदय  
[वादी] अपीलान्त श्री Ali Zafar Hussain का **वकालतनामा**  
प्रतिवादी [रेस्पान्डेन्ट]

(टिकट)

वादी (अपीलान्त)

Ram Lal Singh

बनाम प्रतिवादी (रेस्पान्डेन्ट)  
01/10/354 (90) The Union of India & others  
मुकदमा नं० ५ सन् पेशी की ता० १६ ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

Advocate, High Court

E-3665, Raja Ji Prasad, dko.

वकील  
महोदय  
एडवोकेट

नाम अदालत  
मुकदमा नं० नाम  
फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपसे पैरोकार को भेजना रहूँगा अगर मुकदमा अबम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर Ali Zafar Hussain

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

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Accepted  
D. Zafar  
Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

O.A.NO.354 of 1990 (L)

Ram Pal Singh ..... Applicant  
Versus  
Union of India ..... Respondents

09.11.1990.

Hon'ble Mr. M.Y. Priolkar, A.M.

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

for  
Shri A.K. Chaturvedi/appl<sup>icant</sup>. Heard

ADMIT.

Issue Notice. Counter by filed within  
6 weeks, rejoinder within 2 weeks thereafter.

As regards <sup>interim</sup> relief the applicant  
may be directed to appear in the trade Test scheduled  
to be held here<sup>in</sup> after as all<sup>eged</sup> ( as stated by  
the counsel for the applicant at the Bar ) in pursuance  
of notice dated 05.10.1990 and further result will not  
be declared till 23.11.1990.

List for disposal of interim matter on  
23.11.1990.

*Checked by*  
*L*

Sd/-  
J.M.

Sd/-  
A.M.

// True Copy //

*Umar*  
Umar  
Administrative

Ms/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH

Gandhi Bhawan, Opp. Residency, Lucknow  
\*\*\*\*\*

No.OA/TA/ 5300 - 5303 dated the 13.11.90

G.A. NO. 354/90(L)  
Registration no. ----- of 1990

RAN PAL SINGH

APPLICANT

VERSES

UNION OF INDIA & OTHERS

RESPONDENT

1. UNION OF INDIA THROUGH ITS SECRETARY RAILWAY BOARD RAIL BHAWAN NEW DELHI
2. GENERAL MANAGER N.R.LY. BARODA HOUSE NEW DELHI.
3. CHIEF TRACK ENGINEER N.R.LY. BARODA HOUSE NEW DELHI.
4. CHIEF ENGINEER THERMIT PORTION PLANT N.R.LY. CHARBAGH LUCKNOW.



Please take notice that the applicant abovenamed has presented an application, a copy whereof is enclosed herewith, which has been registered in this Tribunal, and the Tribunal has fixed ----- 23 ----- day of ----- 11 ----- 1990 for the hearing of the said application.

If no appearance is made on your behalf by yourself or your pleaser or by some on duly authorised to act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this  
12 day of 11 1990.

  
DEPUTY REGISTRAR

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ENCL: COPY OF PETITION WITH COURT'S ORDER DATED 09.11.90