

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE O.A. 374 of 1990 (V)

Name of the parties _____

Union of India

Applicant.

Versus.

Bans Raj Yadav

Respondents.

Part A.B.C.

Sl No.	Description of documents	Page
1.	Check list-	A1 - A2 ✓
2.	order sheet	A3 ✓
3.	Judgment- dt 11-12-90	A4 - A7 ✓
4.	Petition	A10 - A20 + A22 ✓
5.	Annexures	A21 - A33 + A38 ✓
6.	Index	A34 + A39 ✓

Bench copy NilC copy C1 - C2

B/C were deleted / destroyed

Sgt
SOL

am

(H)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Central Administrative Tribunal
Circuit Bench, Lucknow.

Date of Filing

Date of

Registration No. 374 of 1989 902

21/11/90

21/23/11/90

APPLICANT(S) ~~State~~ The Union of India

RESPONDENT(S) or another

21/11

Bansraj Yadav or another

particulars to be examined

Endorsement as to result of examination

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

yes

yes

yes

yes

Impugned order,
dated 4.9.90

N.A.

yes

yes

yes

yes

yes

yes

No

(A2)

Particulars to be Examined

Endorsement as to result of examination

1. Are the application/duplicate copy/spare copies signed?
2. Are extra copies of the application with Annexures filed?
 - a) Identical with the Original?
 - b) Defective?
 - c) Wanting in Annexures Nos. _____ pages Nos _____?
3. Have the file size envelopes bearing full addresses of the respondents been filed?
4. Are the given address the registered address?
5. Do the names of the parties stated in the copies tally with those indicated in the application?
6. Are the translations certified to be true or supported by an Affidavit affirming that they are true?
7. Are the facts of the case mentioned in item no. 6 of the application?
 - a) Concise?
 - b) Under distinct heads?
 - c) Numbered consecutively?
 - d) Typed in double space on one side of the paper?
8. Have the particulars for interim order prayed for indicated with reasons?
9. Whether all the remedies have been exhausted.

u sets

yes

yes

Joint application

N.A. only two respondents

yes

N.A.

after No. 4

yes

yes

yes

yes

dinesh

① Joint application has not been filed in this application.

21.11.90

D.R.

Put up before the Hon. Bench,

on 27.11.90 for orders

21 23 11 9.

21/11

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Copy meant for respondent No. 1
shall be delivered to him

lost for admission on 11-12-90.

In the meantime the applicant may ~~dispose~~^{with} deposit the amount awarded ~~under~~^{with} the prescribed authority under the Payment of Wages Act which shall not be paid to the respondent till further orders. Copy of the order be given to the counsel for applicant within 24 hours.

~~51~~ M. M. 1
 AM.

W
C

Recd copy
of memo to Phil
Bauer re Tucker
Respondent
30/11/90

Notice given
30-11-90

GR

Notices were issued
on 30 11-90

on 30-11-80
Neither reply nor
any unsemed repd. - our
have been relation basis
S. F. A. L

5712

Reed City Yards
Rosa
R/S
31/12/1990

देखा
 वाद की कपी वां
 आदेश की कपी
 तथा जो इस वाद
 पहिवादी नं० २
 प्राप्त किया
 रु० ७९ रु० मा० पा०
 कलकत्ता
 मजिस्ट्रेट एंड सत्राई
 एंडी
 २१/११/१०

(All)
CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

O.A. No. 374 of 1990

Union of India & another Applicants.

versus

Bans Raj Yadav and another Respondents.

Shri Anil Srivastava Counsel for Applicants.

Shri Bans Raj Yadav Applicant in person.

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

Hon. Mr. K. Obayya, Adm. Member.

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

This application under section 19 of the Administrative Tribunals Act, 1985 is for quashing the order dated 4.9.90 (Annexure A-1) passed by respondent No.2, the prescribed authority under the Payment of Wages Act, 1936 in proceeding under section 15 of the said Act. Counter has been filed by Shri Bans Raj Yadav, the opposite party No. 1 who is present in person. Shri Anil Srivastava appearing on behalf of applicants says that no rejoinder will be filed. The case involves short point of jurisdiction of the prescribed authority and therefore, we have heard the learned counsel for the applicants as well as the applicant on merits and dispose of this matter finally at the stage of admission.

2. It appears that by judgment dated 23.12.88 in T.A. 853/86 filed by the present respondent No. 1 Shri Bans Raj Yadav against the present applicant the question of promotion of Bans Raj Yadav against the restructured post in the grade of Rs 550-750 and of

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computation of his leave in terms of certain directions of the Railway Board for purposes of leave encashment had arisen. The relevant para of judgment of the Tribunal is as follows:

"We further direct that the plaintiff's case will be examined by the defendants for consideration of the following:

- (a) for promotion against the restructured post in the grade of Rs 550-750, and
- (b) for computation of his leave in terms of Railway Board's Directive of January, 1980, and if he is found eligible for promotion ect., he will be given the reliefs ~~xxx~~ as indicated in paras above. This should be done within a period of three months from the date of receipt of these orders."

3. Shri Bans Raj Yadav appears to have raised a grievance under section 15 of the Payment of Wages Act, 1936 before the prescribed authority whose judgment (Ann. -1) dated 4.9.90/^{is} impugned in this case. A perusal of the judgment shows that since the respondent there, namely the present applicants were alleged to have not paid the applicant's wages despite the Tribunal's orders dated 23.12.88 amounting to Rs 10,573.00. Shri Bans Raj had prayed for award of those wages plus ten times compensation. The judgment also shows that while appearance was made on behalf of present applicants before the prescribed authority, the presence was not supported by the latter authority and although the prescribed authority gave opportunity to the present applicants to contest the case and also to submit a

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letter of authority, they did not avail of that opportunity. The prescribed authority, therefore, decided the case exparte. The prescribed authority relied upon the affidavit filed by Bans Raj Yadav on the merits of the case and observed that the judgment of this Tribunal directed that if the criterion of promotion to the scale of Rs 550-750 was on the basis of seniority/suitability, then the case of Bans Raj Yadav ought to be decided on that basis for the period from 1.10.80 to the period when he retired on superannuation, which the present applicants were directed to do within a period of three months. The prescribed authority observed that since no orders had been passed by the present applicants, although Bans Raj Yadav was fit for promotion, it was proper to accept the exparte version of Shri Bans Raj Yadav. It is on this basis that the prescribed authority directed the present applicants to pay Rs 10,573.00 as wages plus four times of allowances as compensation and certain amounts of costs.

4. The contention of Shri Anil Srivastava on behalf of applicants is that the prescribed authority under the Payment of Wages Act had no jurisdiction to decide the entitlement of Shri Bans Raj Yadav for promotion or for payment of any wages on the basis of supposed promotion. The contention of Bans Raj Yadav is that the proper remedy applicable to the applicants against the order of the prescribed authority was either to apply for setting aside the said exparte order or to file an appeal under section 17 of the Payment of Wages Act.

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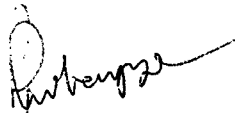
5. We have carefully considered the material on record and the provisions of sections 15 and 17 of the Payment of Wages Act. It is not possible to accede to the contention of Shri Bans Raj Yadav that the judgment of this Tribunal had directed that he must be promoted to the restructured post in the grade of Rs 550-750. The Tribunal had recorded in unmistakable terms that the respondents there, that is the present applicants, shall examine the case of the applicant namely Shri Bans Raj Yadav for promotion to that post. Shri Bans Raj Yadav referred to the contents of para 6 of the Tribunal's judgment to say that the Tribunal had ordered promotion; that is not correct. The Tribunal had clearly mentioned that in case promotion to the grade of Rs 550-750 was to be based on seniority/suitability, his case should also be considered in accordance with his seniority and fitness for fixation against the post with effect from 1.10.80 to the date of his retirement." The Tribunal went ^{on} to observe that if Bans Raj Yadav was otherwise fit, would be entitled to have his case considered for the same, and to the retirement benefits according to the revised fixation. Thus, the directions of the Tribunal in unmistakable terms was that the present applicants were to examine the case of Shri Bans Raj Yadav for promotion. There was no direction to promote him straightaway. The same situation prevails in respect of the relief concerning the computation of leave for purposes of encashment. The observation of the prescribed authority that the present applicants did not pass orders in compliance of the judgment


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8. Shri Anil Srivastava has also invited our attention to Annexure A-3 and A-4, orders dated 6.3.90 and 16/20.8.90 respectively concerned with claim of promotion and computation of leave of Shri Bans Raj Yadav, the respondent No. 1 before us and points out that the prescribed authority under the Payment of Wages Act was misled to believe that no orders had at all been passed by the present applicant in compliance of the judgment dated 23.12.88 (Ann. A-2 of this Tribunal. It is needless to make any comments on this contention because the applicants had an opportunity to indicate this situation before the Payment of Wages Authority which they did not do.

9. In the result, this application succeeds and order dated 4.9.90 (Annexure A1) of the prescribed authority under the Payment of Wages Act is quashed.


Adm. Member.


Vice Chairman.

Lucknow Dt. December 11, 1990.

A/B

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW.

Registration O.A. No- 374 of 1990 (L)

(Under Section 19 of the Central Administrative
Tribunal Act, 1985)

Union of India and others Applicants/Petitioners
Versus
Bans Raj Yadav and others Respondents/Opp- Parties

Complition No. 1:-

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1.	Application/Petition	1 to 10
2.	<u>Annexure No. A-1</u> Impugned order dated 4.9.90	11 to 12
3.	Vakalatnama	

Lucknow.

Dated: 21-11-90

Date of Filing. 21-11-90

Shri Uday
20/11/90
Signature of the Applicant.

प्रा (मंडल कार्मिक अधिकारी
पूर्वोत्तर रेलवे, लखनऊ)

noted for 21/11/90
Shri Srivastava
21/11/90

Anil Srivastava
Advocate
Counsel for the Applicants

Central Administrative Tribunal
Lucknow
Date of filing 21/11/90
Date of hearing 23/11/90
21/11/90

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW.

Registration O.A. No. 374 of 1990 (L)

(Under Section 19 of the Central Administrative
Tribunal Act, 1985)

1. Union of India through General Manager,
N.E. Railway, Gorakhpur.

2. Senior Divisional Personnel Officer,
N.E. Railway, Ashok Marg, Lucknow.

..... Applicants/Petitioners.

Versus

1. Bans Raj Yadav S/o Late Shri Mawal,
R/o House No. C-322, Indira Nagar,
Lucknow.

2. The Prescribed Authority (Conciliation Officer)
Payment of Wages Act, 1936, ^{Cum} Asstt. Labour
Commissioner, Lucknow.

..... Respondents/Opp. Parties.

Filed today
21/11/90
Details of the Application

Particulars of the Applicant:-

- (a) Name of applicant:- Union of India through
General Manager, NE Railway,
Gorakhpur and others.
- (b) Designation of : Office of Senior Divisional
Office Railway Manager, N.E. Railway
Gorakhpur Lucknow.

Smt. Usha
20/11/90

Contd.....2

प्रति मंडल कार्यालय अधिकारी
पूर्वोक्त विभाग, लखनऊ

4/12

(c) Office Address:- Divisional Railway Manager,
N.E. Railway, Lucknow.

(d) Address for service: Sri Anil Srivastava, Advocate,
B-9, Sector H, Aliganj, Lucknow.

Particulars of the Respondents:

1. Bans Raj Yadav S/o Late Shri Mawal,
R/o House No. C-322, Indira Nagar,
Lucknow.

2. ~~Bans Raj~~ The Prescribed Authority (Conciliation Officer)
Payment of Wages Act, 1936, ^{cum} Assistant ^{Labour} Commissioner,
Lucknow.

I. Particulars of the order: The present application/
against which the applica- petition is being filed
tion is made:- against order dated 4.9.90
contained in Annexure No.A-1
passed by Prescribed Authori-
ty, Payment of Wages Act,
1936, ^{cum} Assistant Labour
Commissioner, Lucknow in
F.W. Case No. 315 of 1989.

(i) Order No. : Nil
(ii) Dated : 4.9.90
(iii) Passed by : Prescribed Authority, Payment
of Wages Act, 1936, ^{cum} Assistant
Labour Commissioner, Lucknow.
(iv) Subject in Brief : By means of the present
application/petition under
section 19 of the Central
Administrative Tribunal Act,

Smt. Uday
20/11/90

यु. वल. मंडल कार्यालय अधिकारी
पूर्वोक्त रेलवे, लखनऊ

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1985, the applicants/petitioners
challenge to pay the payment of the compensation amounting
to Rs. 53,065/- only to the
Respondent No.1 *vide order dated 4.9.90.*

II. Jurisdiction:

----- The applicants/petitioners declare
that the subject matter of the order against which
the applicants/petitioners want ~~the~~ redressal is within
the jurisdiction of the Tribunal.

III. Limitation:

----- The applicants/petitioners further
declare that the application is within the limitation
prescribed under section 21 of the Administrative
Tribunal Act, 1985.

IV. Facts of the Case:-

(1) That the present original application/petition
is directed against the most illegal and arbitrary
order dated 4.9.90 passed by the Prescribed Authority
Payment of Wages Act, 1936 cum Assistant Labour
Commissioner, Lucknow in F.W. Case No. 315 of 1989.
A copy of the said order dated 4.9.90 is being
filed herewith as Annexure No. A-1 to this original
application/petition.

(2) That to bring home certain facts, it may
be stated that initially the respondent No. 1 filed
a suit No. 294 of 1985 before the Court of Civil
Judge, Lucknow with reliefs that his date of birth

Sm 2/11/90

प्रदत्त मंडल कार्यालय कार्यालयी
पुणे, महाराष्ट्र

Contd....4

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should be changed to 27.2.1925 and his retirement in 1981 be set aside with consequential benefits and if the date of birth can not be altered he should be declared to have been promoted to the grade of Rs. 550-750 with effect from 1.10.1980 and allowed 146 days leave encashment and revised settlement dues as may become entitled to him by virtue of this promotion.

(3) That after commencement of the Central Administrative Tribunal Act, 1985 the aforesaid suit was transferred to this Hon'ble Tribunal at Allahabad vide Registration (T.A.) No. 853 of 1986. This Hon'ble Tribunal at Allahabad consisting of Hon'ble Justice A. Banerji, Chairman (J) and Hon'ble A. Johri, Member (A) finally disposed of the said case vide their judgement dated 23.12.88. A copy of the said judgement dated 23.¹².88 is being filed herewith as Annexure No. ^A2 to this original application/petition.

4. That aggrieved by the aforesaid judgement dated 23.¹².1988 (Annexure No. A-2) the respondent No. 1 preferred a Review Application before this Hon'ble Tribunal which was decided against the respondent No. 1 vide order dated 29.6.1989.

(5) That after exhausting the aforesaid remedies the respondent No. 1 yet again filed a contempt application which is registered as Civil Miscellaneous Application (Contempt) No. 12 of 1989(L) before this Hon'ble Tribunal and which is pending final disposal before this Hon'ble Tribunal. The next date fixed

Shri W. L.
22/11/90
मंडल कार्मिक अधिकारी
पूर्वोत्तर रेलवे, लखनऊ

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for final disposal in this case is 22.11.90.

(6) That it may here be specifically stated that in pursuance of the directions of this Hon'ble Tribunal the judgement dated 23.12.88 passed in T.A. No. 853 of 1986 has already been complied with by the applicants/petitioners. A copy of relevant orders passed in pursuance of T.A. No. 853 of 1986 are being filed herewith as Annexures Nos. A-3 and A-4 to this application/petition.

(7) That a perusal of annexure nos. A-3 and A-4 to this application/petition would further clarify that the judgement dated 23.12.88 contained in Annexure No. A-2 has been fully complied with by the present applicants/petitioners.

(8) That it is seen that the ^{respondent's No-1} ~~applicant's~~ ~~petitioner's~~ grievances in pursuance of compliance of the judgement dated 23.12.88 ~~of the judgement~~ ~~dated 23.12.88~~ have been fully met and now no further ~~the~~ grievance in respect of the same exists.

(9) That ignoring all the aforesaid facts the ^{respondent No 1} ~~applicant/petitioner~~ preferred an application No. 315 of 1989 before the Prescribed Authority, Payment of Wages Act for payment of his wages alleged to be in compliance of this Hon'ble Tribunal's judgement dated 23.12.88. A copy of such application is being filed herewith as Annexure No. A-5 to this application/petition.

Shri 20/11/90
प्रव. मंडल कार्मिक अधिकारी
पूर्वोक्त रेलवे, जखनड

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(10) That the petitioners/applicants are advised to state that since contempt application is already pending before this Hon'ble Tribunal, respondent No. 2 had no jurisdiction to entertain such application.

(11) That inspite of the fact that the contempt application has not yet been disposed of, the respondent No. 2 proceeded to make an award against the applicant/petitioners even without waiting for the judgement to be ^{passed} ~~presented~~ in the contempt case.

(12) That the application No. P.W. Case No. 315 of 1989 has been filed allegedly for the execution of this Hon'ble Tribunal's judgement dated 23.12.88 which itself ^{is} not maintainable.

(13) That the respondent No. 2 has no jurisdiction to make an award against the judgement passed by this Hon'ble Tribunal.

(14) That the respondent No. 2 is guilty of concealment of fact as before the respondent No. 2 he never disclosed that against the judgement dated 23.12.88 he had already filed a Review Application which has been dismissed and he has also filed a contempt application which is still pending nor he disclosed before this Hon'ble Tribunal in the contempt application that he has filed an application before the respondent No. 2

Sm 2/11/90

प्रव. मंडल कार्यकारी अधिकारी
पूर्वोच्च न्यायालय, लखनऊ

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- 3 -

for redressal of his grievances arising out of judgment dated 23.12.88.

(15) That having no other alternative and efficacious remedy available to the applicants/petitioners they are filing the present application for redressal of their grievances.

V. Grounds on which the applicants/petitioners
seeks Belief :

(a) Because, the order dated 4.9.90 suffers from patent error of law and fact and is liable to be set aside.

(b) Because the respondent No. 2 had no jurisdiction to proceed with the case as the contempt application in respect of subject matter is still pending before this Hon'ble Tribunal.

(c) Because the said award has been passed ex-parte without appreciating the correct facts of the case.

(d) Because, the respondent No. 1 has not come with clean hands during the proceedings of the said case No. 315 of 1989, the order dated 4.9.90 is perversely illegal and liable to be set aside.

Shu Z. W. L.
20/11/90

पूव संदल कारिः अधिकारी
पूवोत्तर रेलवे, लखनऊ

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(e) ~~That~~ Because, the respondent No. 2 is not competent to pass any order said to be in execution of the ^{judgement} ~~order~~ dated ^{23.12.88} ~~4.9.90~~ passed by ^{this Hon'ble Tribunal, the order dated 4.9.90 passed by} the respondent No. 2 is illegal, malafide and has been passed in excess of his jurisdiction.

(f) Because, the respondent No.2 has passed the impugned order dated 4.9.90, even ~~in~~ without applying his mind.

(g) Because, the impugned order dated 4.9.90 is patently illegal, malafide, perverse, arbitrary and has been passed in excess of jurisdiction *and without appreciating the proper evidence.*

VI. Details of the remedy exhausted:

The applicant declares that he has exhausted all the remedies available to him under the relevant Service Rules.

VII. Matter not pending in any other Court:

The applicants further declare that they have not filed any other suit, writ, application before any other court or Tribunal regarding the subject matter of the case.

VIII. Relief:-

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

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20/11/90
याद सहाय
पुणे, दि. 20/11/90

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- (i) To set aside the order dated 4.9.90 passed by the Prescribed Authority, respondent No. 2 Annexure No. A-1 to this application/petition.
- (ii) To pass such other and further order as this Hon'ble Tribunal deems fit and proper under the circumstances of the case.
- (iii) To allow this application/petition with costs in favour of the applicants/petitioners.

IX. Interim Relief:

That in view of the facts stated in the present application/petition it is in the interest of the justice that this Hon'ble Tribunal be pleased to stay the operation of order dated 4.9.90 passed by the respondent No. 2 contained in Annexure No. A-2 to the application/petition in as much as if the decretal amounts is paid to the respondent No. 1 it will not be possible for the petitioner Railway Administration to recover the same from the respondent No. 1 in the event of the present petition being allowed by this Hon'ble Tribunal, since the Respondent No. 1 has already retired from service.

X. That the instant petition is being directly filed in the Registry of this Hon'ble Tribunal by the petitioners through their counsel Shri Anil Srivastava Advocate.

Shri Anil Srivastava
20/11/90

Contd....11

यदु मंडल कार्मिक अधिकारी
पूर्वोत्तर रेलवे, लखनऊ

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XI. Particulars of Postal Order in respect of the
application fee.

- (i) Postal Order No. B. 02 415845
(ii) Name of issuing Post Office Nirala Nagar
Lko
(iii) Date of issuing of Postal Order 20-11-90
(iv) Postal Office at which payable. Allahabad

XII. List of Enclosures:-

As per details given in the Index.

VERIFICATION

I, SMN Islam

Smr Wley
20/11/90
यार मंडल कारिग अधिकारी
पूर्वोत्तर रेलवे, लखनऊ.
aged about 33

years, son of Shri SM Omals working as Sx
D P O North Eastern Railway, Lucknow

do hereby verify that the contents of paragraphs
..... I are true to my personal
knowledge and paras IV (1 to 5), VI, VII, VIII and XII are
based on perusal of papers and paragraphs II, III, IV, V, VI, VII, VIII and IX
believed to be true on legal advice,
and that I have not suppressed any material facts.

Place: Lucknow

Dated: 21-11-1990

Smr Wley
20/11/90

यार मंडल कारिग अधिकारी
पूर्वोत्तर रेलवे, लखनऊ

Union of India Vs. Bans Raj Yadav

Annexure No. A-1

प्राधिकारी वेतन भुगतान अधिनियम एवं सहायक प्रमायुक्त, 23-ए0पी0सेन रोड,
लखनऊ।

पी0डब्लू0वाद सं0-315/89

श्री बंसराज यादव

वादी

बनाम

सीनियर डिप्टी जल परसूनल आफिसर,
एन0ई0रेलवे, अशांक मार्ग, लखनऊ।

प्रतिवादी

निर्णय

वर्तमान वाद श्री बंसराज यादव द्वारा सीनियर डिप्टी जल आफिसर एन0ई0रेलवे, अशांक मार्ग, लखनऊ के विरुद्ध लाया गया है। वादी ने कहा है कि उसकी नियुक्ति हेड क्लर्क/आफिस सुपरिन्टेन्डेन्ट ग्रेड-11 के पद पर सीनियर डिप्टी जल परसूनल एण्ड टेलीकोम्यूनिकेशन इंजीनियर, एन0ई0रेलवे लखनऊ में थी। प्रतिवादी वादी का वेतन भुगतान करने हेतु जिम्मेदार है। वादी का वेतन सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिब्यूनल इलाहाबाद के आदेश दि0 23-12-88 के बावजूद भुगतान नहीं किया गया है। वेतन न भुगतान की गई रकम का विवरण एनेक्चर "ए" में अंकित है जिसकी कुल रकम रु0 10,573/- है। वादी ने कहा है कि यह रकम दस गुना क्षतिपूर्ति सहित भुगतान कराई जाय।

वाद की सुनवाई हेतु उभय पक्षों को बुलाया गया।

समुचित अवसर दिये जाने के बावजूद प्रतिवादी की तरफ से कोई उपस्थिति नहीं हुआ, अतः दि0 30-1-90 को उनके विरुद्ध एक पक्षीय कार्यवाही किये जाने का आदेश पारित किया गया।

दिनांक 7-2-90 को वादी ने अपने कथन की पुष्टि में शपथ पत्र दाखिल किया। दि0 7-2-90 को ही प्रतिवादी की तरफ से वाद पुनर्स्थापन का भी प्रार्थना पत्र दिया गया परन्तु दि0 7-2-90 तक प्रतिवादी प्रतिनिधि का अधिकार पत्र नहीं लगा था। प्रतिवादी के प्रार्थना पत्र के निस्तारण हेतु दिनांक 11-5-90 को तिथि निश्चित थी परन्तु दि0 11-5-90 को जनरल डेट हो जाने के कारण प्रतिवादी के प्रार्थना पत्र का निस्तारण दि0 28-5-90 को किया गया। दि0 28-5-90 तक प्रतिवादी प्रतिनिधि का अधिकार पत्र दाखिल नहीं था और न तो प्रतिवादी प्रतिनिधि उपस्थित हुए थे अतः उनका प्रार्थना पत्र दिनांक 7-2-90 निरस्त कर दिया गया। इस प्रकार वर्तमान वाद में प्रतिवादी पक्ष का कथन नहीं जाना जा सका।

वादी ने यह दावा सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिब्यूनल इलाहाबाद के निर्णय दि० 23-12-88 के आधार पर किया है। सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिब्यूनल इलाहाबाद ने अपने आदेश दि० 23-12-88 में यह उल्लेख किया है कि यदि 550-750 के वेतनक्रम में प्रोन्नति का मामला सीनियारिटी कम सुटे-बिल्टी के आधार पर निर्णयित होना है तो वादी का केस भी उसकी सीनियारिटी एवं फिटनेस के आधार पर दि० 1-10-80 से सेवा समाप्ति की तिथि तक निर्णयित किया जाना चाहिए। वादी का कथन है कि माननीय औद्योगिक न्यायाधिकरण के आदेश के बावजूद प्रतिवादी द्वारा इस केस में कोई निर्णय नहीं किया गया जबकि वह प्रोन्नति के बर्ष योग्य है। माननीय न्यायाधिकरण द्वारा तीन माह के अन्दर वादी के सम्बन्ध में आदेश पारित करने का निर्देश दिया गया था। न्यायाधिकरण द्वारा निर्दिष्ट समय के भीत जाने के बाद वादी द्वारा वर्तमान वाद दायर किया गया है। वर्तमान वाद में प्रतिवादी की तरफ से अपना कथन प्रस्तुत नहीं किया गया है। अतः ऐसी परिस्थिति में वादी का दावा स्वीकार करना उचित प्रतीत होता है।

चूंकि सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिब्यूनल इलाहाबाद के आदेश के बावजूद प्रतिवादी द्वारा वादी के सम्बन्ध में कोई आदेश नहीं पारित किया गया था और न ही प्रतिवादी वर्तमान वाद में उपस्थित होकर अपना पक्ष ही प्रस्तुत किये, अतः उचित प्रतीत होता है कि वादी को क्षतिपूर्ति के रूप में दावे की रकम का चार गुना भुगतान कराया जाय।

आदेश

उपरोक्त विवेचन के आधार पर प्रतिवादी सीनियर डिवीजनल परसनल आफिसर, एन०ई०रेलवे, अशोक मार्ग, लखनऊ को निर्दिष्ट किया जाता है कि वह वादी के दावे की रकम का रु० 10,573/- तथा क्षतिपूर्ति के रूप में इसका चार गुना अर्थात् रु० 42,292/- तथा वाद व्यय के रूप में रु० 200/- इसप्रकार कुल रु० 53,065/- रु० त्रैपन हजार पैंसठ मात्र का भुगतान आदेश पारित होने के 15 दिन के अन्दर वादी को करें।

आदेश आज दिनांक 4-9-90 को मेरे हस्ताक्षर एवं मोहर से जारी किया गया।

डी० जे० सिंह
प्राधिकारी वेतन भुगतान अधिनियम एवं
सहायक प्रमोद्युक्त, लखनऊ

वीर/

1. Date of Application 17-10-90
2. Date of Order 23-12-88
3. Words 607
4. Date of Case 4-9-90
5. Date of Issue 23-10-90
6. Compared by 23/10/90

संस्थापित

वरिष्ठ लिपिक 23/10/90
कार्यालय एप एम एल एलन-क्षेत्र, लखनऊ

VAKALATNAMA

Before The Central Administrative Tribunal Bench, Lucknow
In the Court of

O.A. No. of 1980 (L)
Union of India through General Manager, NE Railway, Gorakhpur
Sr. Divl. Personnel Officer NE Rly. Lucknow

Versus

Bans Raj Yadav & another
I/We. S.M.N. Islam Sr. Divl. Personnel Officer
North Eastern Railway Lucknow

do hereby appoint and authorise Shri. Anil Srivastava, Pradeep Kumar
Lucknow

Railway Advocate.....to appear, act apply and prosecute the above described Writ/Civil Revision/Case/Suit/Application/Appeal on my/our behalf, to file and take back documents, accept processes of the Court, to deposit moneys and generally to represent myself/ourselves in the above proceeding and to do all things incidental to such appearing, acting, applying, pleading and prosecuting for myself/ourselves.

I/We hereby agree to ratify all acts done by the aforesaid Shri. Anil Srivastava, Pradeep Kumar
..... Railway Advocate, Lucknow
.....in pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed by me/us this.....

21st day of 11 1980

Accepted
Anil Srivastava
Adv.
Accepted
Pradeep Kumar
Adv.

Shri. S.M.N. Islam
(S.M.N. Islam)
ज० मंडल कार्मिक अधिकारी
पूर्वोत्तर रेलवे, लखनऊ

(A22)
A/23

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CH. COURT BLANCH, LUCKNOW.

Registration O.A. No. 374 of 1990 (L)

(Under Section 19 of the Central Administrative
Tribunal Act, 1985)

Union of India and others Applicants/Petitioners

Versus

Bans Raj Yadav and others Respondents/Opp. Parties.

Compilation No. 2:-

INDEX

Sl.No.	Description of documents relied upon	Page No.
1.	<u>Annexure No. 2.</u> Judgement dated 23.12.88	1 to 8
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Lucknow.

Dated: 21-11-90

Date of Filing. 21-11-90

Smt. W. Jey
20/11/90
Signature of the Applicant.

प्र. मंडल कार्यालय अधिकारी
पूर्वोक्त नं. लखनऊ

Ant. Srivastava
Adv.

Before The Central Administrative Tribunal
Circuit Bench, Lucknow.

O.A. No. of 1990 (L)

Union of India Vs. Bans Raj Yadav

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Annexure No. A-2

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration (T.A.) No. 853 of 1986

Bansraj Yadava Plaintiff-Applicant.

Versus

Union of India Defendant-Respondent.

Hon'ble Justice A. Banerji, Chairman (J).
Hon'ble A. Johri, Member (A).

(Delivered by Hon. A. Johri, A.M.)

In this suit (Suit No. 294 of 1983), received on transfer from⁰ the court of Civil Judge, Lucknow under Section 29 of the Administrative Tribunals Act, 1985, the plaintiff, who was working on the North-Eastern Railway as a Head Clerk, and who stood retired in November, 1981 on the basis of his recorded date of birth, has sought reliefs that his date of birth should be changed to 27.2.1925 and his retirement in 1981 be set aside with consequential benefits and if the date of birth cannot be altered he should be deemed to have been promoted to the grade of Rs.550-750 with effect from 1.10.1980 and allowed 146 days leave ~~leave~~³ encashment and revised settlement dues as may become entitled to him by virtue of this promotion.

2. The plaintiff's case is that a wrong date of birth was recorded in his service record. He made a representation in July, 1980 for correction of the same on the basis of his Birth Register entries. His representation was not put up for consideration³ ~~by~~^{to} the competent authority. He, therefore, filed this suit in 1983.

Besides the question of his date of birth, in June, 1981 some restructuring of the cadre was done with retrospective



अध्यक्ष कासिक अधिकारी
प्रतिनिधि, लखनऊ

effect, i.e. from 1.10.1980. The plaintiff's claim is ^{32/ constructed} that he was entitled to be promoted to the ~~ex~~ posts with effect from 1.10.1980 and he assumed charge of the post so he should be paid the arrears but he has been denied this promotion. He has then sought yet another relief regarding encashment of leave. According to him he should have been allowed to commute his half pay leave which was lying to his credit to make up the total leave to be encashed ^{32/ up-} to 180 days as he had only 39 days leave on full pay and 210 days on half pay to his credit on 30.11.1981, and if he works upto 1983 he would earn more of full pay leave. He has also claimed interest on the amounts that will thus become payable to him.

3. In their written statement the defendants have said that the date of birth, as recorded by the plaintiff himself, is 11.11.1923 and he has been correctly retired on 30.11.1981. They have also said that leave on half average pay cannot be commuted and the plaintiff was not due promotion with effect from 1.10.1980. These averments of the defendants have, however, been challenged by the plaintiff in his rejoinder affidavit.

4. We have heard the plaintiff in person and Sri A.V. Srivastava, learned counsel for the defendants. The plaintiff has relied on the written statement which he has filed to advance his arguments. He contended that he was seeking relief for the change of date of birth for being given commutation of half pay leave for leave encashment, for promotion to the upgraded post and for interest on the arrears that are due to him. According to him, he had passed the High School examination in 1944 and joined service in 1945. But he came to know of his correct date of birth only in 1980 when he cross-

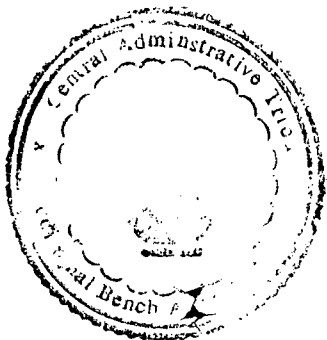


checked with the entries made in the Birth register in the village and, therefore, he approached the defendants for the change of his date of birth to 27.2.1925 instead of the one which he had earlier recorded which was 11.11.1923. He has also, in support of the request for change, given the dates of birth of his other brothers and sisters and contended that the entry made on 27.2.25 in the Birth Register pertained to him alone. On behalf of the defendants the contentions were challenged on the ground that the entries in the service record have been made by the plaintiff in his own hand-writing and there is no error in recording of the same and the plaintiff has also not submitted his original copy of the Matriculation Certificate. When he was asked to do the same he pleaded that it has been lost. It was further submitted by the learned counsel that for change of date of birth a target date was fixed in case of literate staff and even at that time when the circular was notified the plaintiff had taken no action. We have also perused the plaint and the written arguments submitted and the documents filed along with the plaint and replies.

5. It is not under dispute that the plaintiff had submitted his Matriculation Certificate when he joined service and had made entries of his date of birth on the basis of Matriculation Certificate in his own hand-writing in the service book. The plaintiff has accepted the same but his plea for requesting the change is that the date of birth recorded in the Matriculation Certificate differs from the one that has been recorded in the birth certificate in the village. Para 225 of the Indian Railway Establishment Code, Volume I lays down the procedure for the entry of date of birth in respect

सहायक कार्यालय अधिकारी /
पूर्वोत्तर रेलवे, कलकत्ता

of an employee when he joins railway service. This para says that every person, on entering railway service, shall declare his date of birth which shall not differ from any declaration expressed or implied for any public purpose before entering railway service. It also says that in the case of literate staff, the date of birth shall be entered in the record of service in the railway servant's own handwriting and that this date of birth as recorded in accordance with these rules shall be held to be binding and no alteration of such date shall ordinarily be permitted subsequently. There is, however, a provision that the General Manager in the case of Group C & D railway servant ^{or can} cause the date of birth to be altered where in his opinion it had been falsely stated by the railway servant, or where a satisfactory explanation (which should not be entertained after completion of the probation period, or three years service, whichever is earlier) of the circumstances in which the wrong date came to be entered is furnished by the railway servant concerned. Thus a date of birth which is recorded according to para 225 AI is binding and no alteration is permitted in the normal course. The plaintiff's plea that he came to know of the incorrect entry of his date of birth in the Matriculation Certificate only in 1980 is not liable to be accepted because in any case if he had any doubt about the correctness of his date of birth as entered in the Matriculation Certificate he should have not only taken action to get that date of birth corrected by the relevant educational authorities and also moved an application for change within a period prescribed in para 225(4)(iii) AI, i.e. within the period of probation or three years of service whichever was earlier. The entries in a



सहायक कनिष्ठ अधिकारी /
प्रतिनिधि लक्ष्मण

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Matriculation Certificate are considered reliable, though when the date of birth is declared for such purpose it is always declared by the guardian or the parents of the student ^{at the time when he or she} joins school, but once such a declaration has been made a subsequent request for change of date of birth on affidavit or on any other material with the motive to get some extra benefit will not effect the authenticity of the Matriculation Certificate. The entries made in the birth records in a village by illeterate village Chaukidar showing the date of birth by somebody else at his request do not also become evidence to support the request for a change. If the service record does not show any irregular or illegal entries and the entries have been made by the employee himself those entries cannot, in any case, be brushed aside by the statement that it was only in 1980 that a person came to know of certain entries in his birth register in the village. In any case a date of birth recorded in a service record duly attested by an officer of the department and signed by the employee and never disputed through out his long career of service of more than 30 years cannot become a subject matter of dispute on the eve of his retirement. In Government employment Matriculation Certificate, if obtained at the proper time, is given preference over any other document like horoscope, affidavit, etc. in the matter of entry of date of birth in the service records. The request of the applicant, therefore, for changing of date of birth on the eve of his retirement does not sustain itself and is liable to be rejected.

6. As far as promotion to the grade of Rs. 550-750 is concerned, the restructuring orders have not been annexed in any of the documents filed by the plaintiff,

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सहायक कार्मिक अधिकारी /
पूर्वोत्तर रेलवे, लखनऊ

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but if they were allowed fixation in restructured post with effect from 1.10.1980 and the plaintiff stood retired in November, 1981, it would appear that in case the promotion to the grade of Rs.550-750 was to be based on seniority-cum-suitability, the plaintiff's case should also have been considered in accordance with his seniority and fitness for fixation against the post with effect from 1.10.1980 to the date of his retirement. If he was otherwise fit, the fact that the orders came after his retirement, should not have come in his way of being fixed in the grade and given proforma promotion as well as due arrears for the period till he was in service. Since the defendants are also silent on this aspect the plaintiff would be entitled to have his case considered for the same and if he is found eligible for the promotion on the restructured post he would also become entitled to the retirement benefits according to his revised fixation.

7. On the subject of encashment of leave in January, 1980, the Railway Board issued instruction to the various Railways saying that although a Government servant did not possess any right to insist that leave already sanctioned and availed should be retrospectively commuted into leave of different kind, the leave sanctioning authority is competent to commute it retrospectively and the Board's directions were that on receipt of the request from the employees their cases may be considered on their own merits. But in July, 1981 Railway Board's further decision dated 10.6.1981 was conveyed to the Railways clarifying that the benefits of commutation was available only to the serving railway

प्रमुख कार्मिक अधिकारी /
पूर्वोत्तर रेलवे, लखनऊ

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employees and not to those who have already retired from service. The Railway Board's orders for commutation were issued in January, 1980 and were not applicable to the staff who had retired prior to this date in accordance with this clarification. The plaintiff had retired in November, 1981. Therefore, the benefit of the Railway Board's orders on commutation of one kind of leave to another in the context of encashment of leave would become applicable to the plaintiff and he will be entitled to get the relief due to him on this account.

8. In view of what has been said in the paras *supra*, in case the plaintiff becomes entitled to promotion to the grade of Rs.550-750 and is fixed proforma with effect from 01.10.1980 in this grade he will naturally become entitled to revised settlement dues also.

9. On the above considerations we reject the prayer of the plaintiff for the change of his date of birth. His date of birth would be as recorded in the official records i.e. 11.11.1923. We further direct that the plaintiff's case will be examined by the defendants for consideration of the following :-

- 32
- (a) for ~~franchise~~ ^{promotion} against the restructured post in the grade of Rs.550-750, and
- (b) for commutation of his leave in terms of Railway Board's directive of January, 1980, and if he is found eligible for promotion etc. he will be given the reliefs as indicated in paras above. This should be done within a period of 3 months from the date of receipt of these orders.
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10. The petition, Suit No.294 of 1983 is disposed of in the above terms. We make no order as to costs.

Sd/-
MEMBER (A).

Sd/-
CHAIRMAN (J).

Dated: December 23rd, 1988.

PG.

28/12/88

Sd/-

स्वायत्त न्यायाधीश /
पूर्वोक्त ऐजवे, लखनऊ



TRUE
COPY

Maharudraji

29/12/88

न्यायाधीश
अनुभाग अधिकारी
कन्द्रीय प्रशासनिक अधिकरण
भारतारक्त न्यायालय, इलाहाबाद

Maharudraji

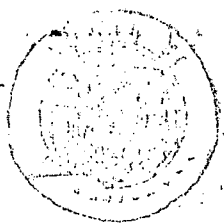
Member

Administrative Tribunal

Lucknow

Annexure No. A-3

(36)



कार्यालय, महाप्रबन्धक/कार्मिक
पूर्वोत्तर रेलवे, कोराखपुर
OFFICE OF THE GENERAL MANAGER
NORTH EASTERN RAILWAY
CORAKHPUR

दिनांक 06-3-90

पत्रांक आ/210/6/निविदा/भाग-11 (1x)

महोदय महोदय/कार्मिक,
पूर्वोत्तर रेलवे,
लखनऊ।

विषय: - श्री बंसराज यादव, भू. प्र. प्रधान लिपिक अधीन
प्रभसिद्ध कार्यालय, लखनऊ।

संदर्भ: - पत्रांक/11/लखनऊ का अ. स. पत्र ई/वी सी/
ब. रा. यादव दिनांक 5/6-2-90।

श्री बंसराज यादव, भू. प्र. प्रधान लिपिक, प्रभसिद्ध/लखनऊ
के मामले में यह शीघ्र किया जाता है कि रेल परिषद् के पत्र संख्या
आ सं-आ/81/यू पी सी/7 दिनांक 18-6-81 जिसे इस कार्यालय के पत्र
संख्या ई/204/10/पी सी (73)11/ भाग-1 दिनांक 24-6-81 द्वारा
जात किया गया है के अनुसूच (111)2 में निम्नलिखित पदों पर दिनांक
1-10-80 से रोकिए देने का आदेश नहीं है। इस आदेश के द्वारा
कर्मियों का लाभ उच्च पद पर कार्य भार ग्रहण करने की विधि से
मिलेगा ~~इस प्रकार कि वे अपने वर्तमान वेतन के आधार पर~~
~~अधिक वेतन प्राप्त कर सकेंगे~~ ~~इस प्रकार कि वे अपने वर्तमान वेतन~~
~~के आधार पर अधिक वेतन प्राप्त कर सकेंगे~~।

कार्याधी	-	700-900
मुख्य लिपिक	-	550-750
प्रधान लिपिक	-	425-700
अवर लिपिक	-	330-560
लिपिक	-	260-400

मुख्य लिपिक वेतन मान 550-750 का पद प्रवर्धन द्वारा
भरा जाना है जिसके लिए प्रवर्धन सम्मान कराया गया था परन्तु उससे
पहले ही श्री बंसराज यादव सेवा निवृत्त हो चुके थे अतः ऐसी परिस्थितियों
में उन्हें 1-10-80 से वेतनमान 550-750 में पदोन्नति का लाभ देखा
नहीं है। इस संदर्भ में स्थिति का स्पष्टीकरण इस कार्यालय के समस्त
पत्र दिनांक 14-6-84 को दिया जा चुका है जो मुकदमा नं० 284/83
द्वारा अमान्य भारत सरकार के संदर्भ में था।

सहायक कार्मिक अधिकारी /
पूर्वोत्तर रेलवे, लखनऊ

कृ. महा प्रबन्धक/कार्मिक

Union of India Vs. Bans Raj Yadav

A/3

Annexure No. A-4

मजिस्ट्रेट

पूर्वोत्तर रेलवे

कार्यालय

मंडल रेल प्रबन्धक(का०)

लखनऊ

दिनांक: 16.8.90

20

रौ० ई / कोर्ट केस / बाराज / लखनऊ

श्री बा० राज यादव,
भातपूँव प्रधान लिपिक,
सी-322, इन्द्रानगर,
लखनऊ ।

विषय: कम्प्यूटेशन आफ लीव

संदर्भ : आपका आवेदन दिनांक 03.4.82.

आपके संदर्भित आवेदन पर सक्षम अधिकारी (प्रमोद/ लखनऊ) द्वारा विचार किया गया । रेलवे बोर्ड का दिनांक 10.6.81 का पत्र अत्यधिक स्पष्ट है तथा महाप्रबन्धक(का०) गोरखपुर ने अपने पत्रांक ई /16/11 (वार) दिनांक 6.7.81 (जो संदर्भित पत्र को स्पष्ट करते हुये जारी किया है), के अनुसार " रेटासपेक्टिव कम्प्यूटेशन आफ लीव " का हानि केवल सेवारत कर्मचारियों को ही देना है न कि सेवानिवृत्त कर्मचारियों को । चूंकि आप ने " कम्प्यूटेशन आफ लीव " के लिये प्रार्थनापत्र सेवा निवृत्ति दि० 30.11.81) के पश्चात् दिनांक 03.4.82 को दिया, अतः यह नियमानुसार देय नहीं है ।

कृते मंडल रेल प्रबन्धक (का०)

लखनऊ

प्रतिलिपि - कोर्ट अनुभाग , म० रे० प्र० (का०) , लखनऊ कार्यालय
में , के सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित ।

कृते- मंडल रेल प्रबन्धक(का०)

लखनऊ

सहायक कार्यालय अधिकारी /
पूर्वोत्तर रेलवे, लखनऊ

Before the Central
Circuit Bench, Lucknow.
O.A. No. of 1990 (L)

Union of India Vs. Bans Raj Yadav

Annexure No. A-5

Before the Prescribed Authority under the Payment of
Wages Act 1936 (1V of 1936) for Lucknow Area
(Conciliation Officer, Lucknow).

Application No. 315 of 1989

Between

Bansraj Yadava S/o Late Sri Mawal H/o H. No. C-322, Indira
Wagar, Lucknow,

... Applicant

And

Senior Divisional Personnel Officer, N.F. Railway, Ashok
Marg, Lucknow, ~~for and on behalf of Union of India.~~

... Opp. Party.

That the applicant states as under:-

1. That Bansraj Yadava was a person employed in the
capacity of Head Clerk/Office Supt Grade II in the
office of Senior Divisional Signal & Telecommunication
Engineer, N.F. Railway, Lucknow.

The address of the applicant for the service of
all notices and processes is as noted above.

2. Senior Divisional Personnel Officer, N.F. Railway,
Ashok Marg, Lucknow is the person responsible for the
payment of his wages under Section 3 of the Act and his
address for the purpose of service of all notices and
processes is given above.

3. That applicant's wages have not been paid inspite

Bans Yadav

Signature

Print

Contd. . . . (2)

- 2 -

of order dated 13-12-1988 by the Central Administrative Tribunal Allahabad in Application No. 853 of 1988 in re. Banaraj Yadava vs. Union of India detailed in Annexure 'A' to this application unauthorisedly and has been made this illegal deduction under the provision of Payment of Wages Act.

4. That the applicant estimates the value of the relief sought by him at the sum of Rs. 10,573/- (Ten thousand Five hundred seventy three only).

5. That the applicant prays that a direction may be issued under Sub-Section (3) of Section 15 for:

(a) Payment of his deducted wages as estimated or such greater or lesser amount as the authority may find to be due,

(b) Compensation amounting to Rs. 1,05,730/- (One lac five thousand seven hundred thirty) equal to ten times of deducted wages and allowances of Rs. 10,573/-.

(c) Cost of the case.

The applicant certifies that the statement of facts contained in this application is true to the best of his knowledge and believe accurate.

Enclose Annexure 'A'

Dicknows Date d,

9-8-1989.

Banaraj Yadava

Applicant

True Copy
Banaraj Yadava
Applicant

सहायक कार्मिक अधिकारी /
प्रशिक्षण विभाग, इलाहाबाद

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH

Gandhi Bhawan, Opp. Residency, Lucknow

No.OA/TA/

5406

dated the 30-11-90

Registration no. 374 /90(L) of 1990

UNION OF INDIA & ANOTHER

APPLICANT

VERSES

BANS RAY YADAV AND ANOTHER

RESPONDENT

1- BANSRAY YADAV HOUSE NO-C-322 INDIRA NAGAR LUCKNOW.

2- THE PRESCRIBED AUTHORITY (CONCILIATION OFFICER) PAYMENT OF WAGES ACT 1936, CUM. ASST. LABOUR COMMISSIONER 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 ----- 11 ----- day of ----- 12 ----- 1990 for the hearing of the said application.

If no appearance is made on your behalf by yourself 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
29 day of 11 1990.

DEPUTY REGISTRAR

RECEIVED COPY OF PETITION WITH COURT'S ORDER DATED 27.11.90

Recd copy
one Bansi Yadav
Respondent no 1
30/11/90

Recd
K.K. Pande
on 29/11/90


2

A.
37

27.11.1990.

Hon'ble Mr. M.M. Singh, A.M.

Issue notice to show cause to the respondent No.2.



Sd/-
V.C.

29/11/90
mar Khan)

(Mohd. Umar Khan)
Court Officer,
Central Administrative Tribunal,
Circuit Bench,
LUCKNOW.

1981 (2) SLR 475 ^{Security Home Dept.}
He/All Pa 3. ^{Bank 2 Herms -}

order of mine found in Babay, 1st 7/10/81
Served at Prof. Gauri -

Solange, mine order is not served, it does not
become operation; since it was served at
Prof. Gauri, after 10/10/81 it is at Prof. Gauri.

a (1) Should file affected for return.

19-9-90

Am I

(2) ^{Sharda} PA under Payment of Act 2.

: App's working on He/OS held in the office of Senior Division
Signals Telecom Eng.

: App's wages have not been paid since then

Confession by An. A. 2 of 6 3/90 after
payment 2 by An. A. 4 of 16-8-90
after computation of loss.

23-12-88 2 CAT, details in An. A. working

R. 19573/

Def: 10,573 wgs + 10 transfer

1986
S. 15, 1986
PA concern claim amount of
deductions from wgs or delay
in payment of the wgs, including
"all matters incidental to such
claim".

: No one affected on behalf of State, hence no award by State

: 7/2/90 App files off demand; 12/2/90, off demand for
"retention" (settlement of demand) given within
within 10 days of receipt of demand. Paid 11/5/90
for receipt of 2/90 - App's by Govt. Secy +
offici 28/5/90

(2) - Deduction made from wgs,
if payment of wgs has been
delayed -

Person may apply to PA for
direction of ss(3)

- App's who made within 12 months
of deduction or deduction

(3) Direct refund of amount due
to wgs wgs wgs
+ calculation

At the period from 1-10-80 to the
period when

28/5/90 - App's of 7-2-90 ^{App's} a notice
R. a Republic of India, not a Govt. of India

the can be kept on the basis of CAT st 23/12/88
which held that if entire of off's promotion to
scale of 550-750 was on the basis of demand then
then off can also be kept on the basis of demand

he retired on

off's promotion, with direction to pay order in 3 months.
It is not to be taken into account the reason of the
off's