

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOWINDEX SHEETCAUSE TITLE O.A. 374 of 1990 (W)

Name of the parties

Union of India Applicant.

Versus.

Bans Raj Tadkar Respondents.Part A.B.C.

Sl. No.	Description of documents	Page
1.	Check List -	A1 - A2
2.	order sheet	A3 ✓
3.	Judgement - dt 11-12-90.	A4 - A21 ✓
4.	Petition	A10 - A22
5.	Answers	A21 - A33 + A38 ✓
6.	Power	A24 A39 ✓

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(A)

CENTRAL ADMINISTRATIVE TRIBUNAL Central Administrative Tribunal
CIRCUIT BENCH, LUCKNOW

Circuit Bench, Lucknow,

Date of File.

No. 11

21/11/90

Registration No. 374 of 1989 902 21/11/90

APPLICANT(S) The Union of India or another

RESPONDENT(S) as another or another or another

21/11

Banswari Yadav as another

particulars to be examined

Endorsement as to result of examination

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

Impugned Order,
dated 9.9.90.

Particulars to be ExaminedEndorsement as to result of examination

12. Are the application/duplicate copy/spare copies signed?

4 sets

13. Are extra copies of the application with Annexures filed?

yes

a) Identical with the Original?

yes

b) Defective?

Joint application

c) Wanting in Annexures

Ans. _____ pages Nos. _____ ?

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

N.S. Only 2nd respondent

15. Are the given address the registered address?

yes

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

N.S.

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

after way

a) Concise?

yes

b) Under distinct heads?

c) Numbered consecutively?

d) Typed in double space on one side of the paper?

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

yes

19. Whether all the remedies have been exhausted.

yes

dinesh

① Joint application has not been filed in this application.

yes

21.11.90

D.R.

Put up before the Hon. Bench,

on 27.11.90 for orders

21/11

23.11.90

27-11-90

Hon Mr. Justice K. N. Wadhwa
Hon Mr. M. M. Singh, A.M.

(AS)

Respondent Shri Bansraj present
in person and accepts notice.

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

Issue notice to show-cause
to the respondent no. 2,

list for admission on 11-12-90.

In the meantime the applicant
may ~~deposit~~ ^{with} deposit the amount
awarded ~~under~~ ^{under} 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

At M. M. /
A.M.

Mr
VC

Recd copy
of order & P.M.
Bansraj
Respondent
30/11/90

Recd
copy of order &
P.M.
Bansraj
Respondent
30/11/90

Recd
copy of order &
P.M.
Bansraj
Respondent
30/11/90

Recd copy
Bansraj
Respondent
31/11/1990

Notice issued
30-11-90

OR
Notices were issued
on 30/11/90

Neither reply nor
any unsworn resp. copy
have been received.

S. F. B. L
5/12

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

AII

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

(R)

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 etc., he will be given the reliefs ~~xxxx~~ 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

letter of authority, they did not avail of that opportunity. The prescribed authority, therefore, decided the case *ex parte*. 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 criterian 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 *ex parte* 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 *ex parte* order or to file an appeal under section 17 of the Payment of Wages Act.

4X

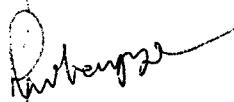
5. We have carefully considered the material on record and the provisions of sections 15 and 17 of the Payment of Wages Act. It is not possible to accede to the contention of Shri Bans Raj Yadav that the judgment of this Tribunal had directed that he must be promoted to the restructured post in the grade 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 ~~un~~mistakable 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

QJ

KA

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.

AB
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 v. Applicants/Petitioners

Versus

Suresh Raj Yadav and others v. Respondents/Opp-Parties

Complaint No. 1:-

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Sl.No.	Description of documents relied upon	Page No.
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2.	Annexure No. A-1 Impugned order dated 4.9.90	11 to 12
3.	Vakalatnama	

Lucknow.

Dated: 21-11-90

Suresh Raj
Signature of the Applicant.
20/11/90

Date of Filing. 21-11-90

Shri M. S. Patel
मंडल कार्मिक अधिकारी
पूर्वोत्तर रेजिन. लखनऊ

noted for 26/11/90
Shri S. Patel
21/11/90

Shri Girishwar Singh
Advocate
Counsel for the Applicants

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of filing.....
Date of hearing.....
21/11/90
23/11/90
21/11/90
21/11/90

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, 21/11/90
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.

21/11/90
CS/1
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.

Sub Wm
20/11/90

Contd.....2

(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:- contained in Annexure No.A-1
passed by Prescribed Authori-
ty, Payment of Wages Act,
^{cum} 1936, Assistant Labour
Commissioner, Lucknow in
P.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,

*Shri Raj
20/11/90*

*Yd/ मंडल कार्यालय विभागी
पूर्वोत्तर रेलवे, उत्तराखण्ड*

Contd.....3

1985, the applicants/petitioners challenge ~~the payment of~~ to pay 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 ~~to~~ 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 P.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

5/2/1949

Yd/ मंदल कार्यालय अधिकारी
पूर्ण दोष -

Contd....4

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.^{A-2} 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

21/11/91

मंडल कार्यिक अधिकारी
प्रबन्ध रेलवे, लखनऊ

Contd...5

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.

Sukhdev
20/11/90
मंडल कार्यिल अधिकारी
पूर्वोच्च देलवे, लखनऊ

Contd....?

- 7 -

(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 ~~presented~~ ^{passed} 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

Shizuharu
20/11/90

पूर्वी भारतीय धर्मिकारी
पर्वतीन्द्र रेत्नने, लखनऊ

Contd.....8

A/6
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for redressal of his grievances arising out of judgement 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.

Shw. Meenakshi
20/11/98

YDL मंडल लाइंस; नागिकारी
पूर्वांक रेल्वे, दिल्ली

Contd....9

(e) That Because, the respondent No. 2 is not competent to pass any order said to be in execution of the ~~order~~ judgement dated 23.12.88 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:-

*Subhela
20/11/90*

*YDL संसदीय विभाग
पर्यावरण विभाग*

Contd....10

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111

(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
26/11/90

ydl मंडल कार्मिक अधिकारी
पूर्वान्तर रेलवे, लखनऊ

Contd....11

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

Shri Wiley
26/11/90

I, S M N Debnath

पुरुष मंडल कार्यालय अधिकारी
aged about 33

years, son of Shri S M Debnath working as S M
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, V, VI, VII, VIII and XII are
based on perusal of papers and paragraphs IV, V, VI, VII
and VIII believed to be true on legal advice,
and that I have not suppressed any material facts.

Place: Lucknow

Dated: 21-11-1990

Shri Wiley
26/11/90

पुरुष मंडल कार्यालय अधिकारी
प्रबोधन रेलवे, लखनऊ

Union of India Vs. Bans Raj Yadav

Annexure No. A-1

प्राधिकारी वैतन भुगतान अधिनियम एवं सहायक अधियुक्त, 23-ए0पी0सेन रोड,
लखनऊ

पी0डब्लू0वाद सं0-315/89

श्री बंतराज यादव

--

वादी

बनाम

सीनियर डिवीजल परसनल आफिसर,
एन0ई0रेलवे, अरांग मार्ग, लखनऊ

प्रतिवादी

निर्णय

वर्तमान वाद श्री बंतराज यादव बदारा सीनियर डिवीजल आफिसर
एन0ई0रेलवे, अरांग मार्ग, लखनऊ के विलद लायागया है। वादी ने कहा है कि उसकी नियुक्ति हेड क्लर्क/आफिस सुपरिनेंट ऐड-11 के पद पर सीनियर डिवीजल उत्तिंगनल एण्ड टेलीकोम्यूनिकेशन इंजीनियर, एन0ई0रेलवे लखनऊ में थी। प्रतिवादी वादी का वैतन भुगतान करने हेतु जिम्मेदार है। वादी का वैतन तेन्द्रल एडमिनिस्ट्रेटिव ड्रिब्युनल इलाहाबाद के आदेश दिनो 23-12-88 के बावजूद भुगतान नहीं किया गया है। वेतन न भुगतान की गई रकम का विवरण एनेकजर ए में अंकित है जिसकी कुल रकम रु 10,573/- है। वादी ने कहा है कि यह रकम दस गुना धन्तिमूर्ति सहित भुगतान कराई जाये।

वाद की सुनवाई हेतु उभय पक्षों को बुलाया गया।

समुचित अवसरादिये जाने के बावजूद प्रतिवादी की तरफ से कोई उपस्थित नहीं हुआ, अतः दिनो 30-1-90 को उनके विलद एक पक्षीयार्पितात्वी किये जाने के आदेश पारित किया गया ।

दिनांक 7-2-90 को वादी ने अपने कथन की पुष्टि में शापथ पत्र दाखिल किया। दिनो 7-2-90 को ही प्रतिवादी की तरफ से वाद पुर्स्थापन का भी प्रार्थना पत्र किया गया। परन्तु दिनो 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 निरिचत थी। परन्तु दिनो 11-5-90 को जनरल डेट हो जाने के बास्तव प्रतिवादी के प्रार्थना पत्र को निस्तारण दिनो 28-5-90 को किया गया। दिनो 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 ट्रिब्युनल इलाहाबाद के निर्णय दिन 23-12-83 के आधार पर किया है। सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिब्युनल इलाहाबाद ने अपने आदेश दिन 23-12-88 में यह उल्लेख किया है कि यदि 550-750 के वैतनक्रम में प्रोन्नति का मामला सीनियारिटी कम सुधे-बिल्टी के आधार पर निर्णीत होना है तो वादी का केस भी उसकी सीनियारिटी एवं फिटनेस के आधार पर दिन 1-10-80 से सेवा समाप्ति की तिथि तक निर्णीत किया जाना चाहिए। वादी का लक्ष्य है कि माननीय अधिकारी न्यायाधिकरण के आदेश के बावजूद प्रतिवादी व्यारा इस केस में कोई निर्णय नहीं किया गया जबकि वह प्रोन्नति के बर्बाद योग्य है। माननीय न्यायाधिकरण व्यारा तीन माह के अन्दर वादी के सम्बन्ध में आदेशापारित करने का निर्देश दिया गया था। न्यायाधिकरण व्यारा निर्देशित समय के सीत जाने के बाद वादी व्यारा वर्तमान वाद दायर किया गया है। वर्तमान वाद में प्रतिवादी की तरफ से अपना काम प्रस्तुत की नहीं किया गया है। अतः ऐसी प्रतिस्थिति में वादी का दावा स्वीकार करना उचित प्रतीत होता है।

चूंकि सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिब्युनल इलाहाबाद के आदेश के बावजूद प्रतिवादी व्यारा वादों 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 अफिसर, एनोडॉलेने, अशोक मार्ग, लखनऊ को निर्देशित किया जाता है कि वह वादी के दावे की रकम का ₹ 10,573/- तथा क्षतिपूर्ति के रूपमें इसका चार गुना अर्थात ₹ 42,292/- तथा वाद व्यय के रूप में ₹ 200/- इसप्रकार लूल ₹ 53,065/- ₹ 200 ऐपन हजार पैसठ। मात्र का भुगतान आदेश पारित होने के 15 दिन के अन्दर वादी को करें।

आदेश आज दिनका 4-9-90 को मेरे हस्ताक्षर एवं सोहर से जारी किया गया।

! बी० ज० सिंह।
प्राधिकारी वैतन भगतान अधिनियम एवं
तदायक अमौयुक्त, लखनऊ।

वीर/

संग्रहीत दिन 23-10-90

4. Date of my signature	17-10-90
2. Date of my birth	13-X-50
3. Words	६०७
4. Date of birth	४-९-९०
5. Date of birth	23-10-90
6. Comparison	23-10-90

VAKALATNAMA

Before The Central Adminis to the Supreme Court, Lucknow
In the Court of

Union of India through General manager, NERailway Gorakhpur
O.A. No. 1980 (L)
S/o. Civil Personnel Officer NERly Lucknow

Versus

Bans Raj Yodav & another

I/We S.M.N. Islam S/o Civil Personnel Officer
North Eastern Railway Lucknow

do hereby appoint and authorise Shri Anil Smrastra, 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 Smrastra, 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 Smrastra
Adv.

Accepted
Pradeep Kumar
Adv.

S.M.N. Islam

मुख्य संचालक अधिकारी
प्रधान रेलवे, लखनऊ

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIVIL BENCH, LUCKNOW.

Registration O.A. No. 374 of 1990 (L) A/23

(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

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1.	<u>Annexure No. 2.</u> Judgement dated 23.12.88	1 to 8
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3.	<u>Annexure No. 4.</u> Order dated 16/20.8.90	10
4.	<u>Annexure No.5</u> Copy of Application dated 9.8.89	11 to 12.

Lucknow.

Dated: 21-11-90

Date of Filing. 21-11-90

Smt. Meenakshi
Signature of the Applicant.

प्र. मंडल कार्यक अधिकारी
एसीएस नं. 1. लखनऊ

Shri Sivasankar
S.A.

Before The Central Administrative Tribunal
Circuit Bench, Lucknow.

O.A. No. of 1990 (L)

Union of India Vs. Bans Raj Yadav

APR 2014
APR 2014

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 from 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~~ 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 consideration ~~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

राज्यक कार्यक अधिकारी।
प्रांतीक सरकार, उत्तर प्रदेश



effect, i.e. from 1.10.1980. The plaintiff's claim is that he was entitled to be promoted to the ~~old~~ ^{3/4 constructed} 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 ^{3/4 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 Railways Establishment Code, Volume I lays down the procedure for the entry of date of birth in respect

(b) (i) (ii)

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 (i) 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) (i), i.e. within the period of probation or three years of service whichever was earlier. The entries in a



कानूनी विधिकारी /
प्रतिवादी विधिकारी

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 ^{or at the time when he or she} student ~~who~~ 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 illiterate 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,

सहायक कार्मिक अधिकारी /
पूर्वोत्तर रेलवे, लखनऊ

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

स्त्रायण कार्मिक अधिग्राही / पूर्वोत्तर रेलवे, लखनऊ

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 :-

(a) for ~~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.

महाराष्ट्र कार्मिक अधिकारी
पुस्तकालय, लालबाग

332K
P. 20
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-: 8 :-

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.

10/12/1988
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मुख्य न्यूज वर्तावी /
प्रबोध रोज़गर, लखनऊ



TRUE
COPY

Mahendra Singh

29/12/1988

मुख्य न्यूज
बहुगांग वायकारी
कल्दाय प्रशासनिक अधिकारी
ग्राम पालिका, इलाहाबाद

लखनऊ मुख्य

मुख्य न्यूज

Central Administrative Tribunal

Lucknow - 226001

Before The Central Administrative Tribunal
Circuit Bench, Lucknow.
O.A. No. of 1990 (L)

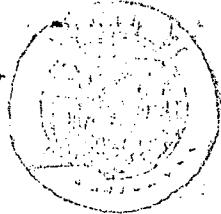
(9)

Union of India Vs. Bans Raj Yadav

Annexure No. A-3

(9)

File No. 30



वायरल्य, प्राप्तिक्रम/कार्यिक

पुर्वोत्तर रेल्यू, गोरखपुर

OFFICE OF THE GENERAL MANAGER
NORTH EASTERN RAILWAY
CORAKHPUR

दिनांक 06-3-90

प्राप्ति का/210/6/प्रिप्ट/भग-11 (18)

मैट्रिक रेल इंजिनियर/कार्यिक,
पुर्वोत्तर रेल्यू,
ब्रह्मपुर।

विषय: - श्री बंसराज यादव, भू-पूर्व उधान लिपिक अधीन
प्रमित्तिर्दृष्टि कार्यालय, लखनऊ।

विभाग: - राज्यपाल/।।/लखनऊ का अ-स-कर्म ई/वो ई/

क-ए-यादव दिनांक 5/6/2-90।

श्री बंसराज यादव, भू-पूर्व उधान लिपिक प्रमित्तिर्दृष्टि/लखनऊ
के मानसे में यह रैमिल दिया जाता है कि रेल परिषद् के पत्र संखा
वा लो-ना/।।/वृ-वी/।।/ दिनांक ।।-6-8। जिसे रेल कार्यालय के पत्र
संखा ई/205/।।/वी-वा(।।)।।/ भग-।। दिनांक ।।-6-8। द्वारा
जारी किया गया है के अनुकूल(।।)।। में निम्नलिखित पदों पर दिनांक
।।-।।-80 से शोधा देने जा आदेश नहीं है। इस आदेश के द्वारा
क्रमांकन का लाभ हजार एवं पार कार्य भार गहरा करने की तिथि से
मिलता है। इसके अनुकूल रेल कार्यालय के लिए निम्नलिखित
पदों के लिए निम्नलिखित विवरण सहित विवरण सहित दिया जाएगा।

कार्यालयी	700-900
मुख्य लिपिक	550-750
मुख्य लिपिक	425-700
उच्चर लिपिक	330-560
लिपिक	260-400

मुख्य लिपिक क्रेतन मान 550-750 का पद द्वारा द्वारा
भरा जाता है। जिसके लिए प्रवरण दर्शन कराया गया था। पान्ते इसके
पास हो श्री लक्ष्मण यादव सेवा निवृत हो चुके थे। अतः ऐसी परिस्थितियों
में उन्हें ।।-।।-80 में विवरण 550-750 में घोषित का लाभ देना दृष्टि
नहा है। इस दृष्टि में दिखता है कि इस कार्यालय के समर्थक
पत्र दिनांक ।।-।।-84 को दिया जा चुका है जो मुकदमा नं० 284/83
द्वारा दर्शन भारत सरकार के पदों में था।

कार्यालय कार्यिक अधिकारी।
पूर्वोत्तर रेल्यू, गोरखपुर।

कृति महा प्रबन्धक/कार्यिक

Before The Central Administrative Tribunal
Circuit Bench, Lucknow.
O.A. No. of 1990 (L)

10

Union of India vs. Bans Raj Yadav

✓
3

Annexure No. A-4

गोपनीय

पूर्वोत्तर रेलवे

कायालिय मेडल रेल प्रबन्धाक (का०)

लक्षान्तः

दिनांक: १६. ८. ९०

१०० ई / कोटीक्स / बैशाराज / लखानऊ

श्री द्वारा राज यादव,
भूतपूर्व प्रधान लिपिक,
सी-३२२, हन्द्रानगर,
लखनऊ।

विषयः कस्तुरीन आफ लीव

संदर्भ : अपका अवैदन दिनांक 03. 4. 82.

आपके संदर्भित आवेदन पर सैक्षम अधिकारी (प्रमसदूइ/ लहानऊ) द्वारा विवार किया गया । रेजवे बोर्ड का दिनांक 10. 6. 81 का पत्र अत्यधिक स्पष्ट है तथा महापूर्बन्धाक (का०) गोरखपुर ने अपने पत्रांक ३१/१६८। (बार) दिनांक 6. 7. 81 (जो संदर्भित पत्र को स्पष्ट करते हुये जारी किया है), के अनुसार " रेटरासपैकिटव कृष्णप्रेति कूमूलेशान आफ लीव " का लाभेभु केवल सेवारत कर्मवारियों को ही देना है न कि सेवानिवृत कर्मवारियों को । चूंकि आप ने " कूमूलेशान आफ लीव " के फलस्वरूप प्रार्थनापत्र सेवा निवृति दिन 30. 11. 81) के पश्चात् दिनांक 03. 4. 82 को किया, यतः यह नियमानुसार देय नहीं है ।

ਕੁਤੇ ਮੈਡਲ ਰੇਲ ਪ੍ਰਕਟਿਕ (ਛਾਤੀ)

प्रतिलिपि - कोटि अनुभाग, मैरो० प्र० (का०), लहानऊ कायलिय
मै, के सूचनार्थ एवं आकारक कायीवाही हेतु प्रेषित ।

कृते मैडल रेल प्रबन्धातक (का ०) लखानऊ

सहायक कार्यित अधिकारी

Before the Central
Circuit Bench, Lucknow.
O.A. No. of 1990 (L) (11)

Union of India Vs. Bans Raj Yadav

Annexure No. A-5

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

Application No. 315 of 1989

Between

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

... Applicant

And

Senior Divisional Personnel Officer, N.E. 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 Servt Grade II in the
office of Senior Divisional Signal & Telecommunication
Engineer, N.E. 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.E. 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

Bansraj Yadava

Signature

Printed

Contd. . . . (2)

of order dated 23-12-1988 by the Central Administrative Tribunal Allahabad in Application No. 853 of 1988 in re. Banraj Yadav 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 certify that the statement of facts contained in this application is true to the best of his knowledge and believe accurate.

Enclosed Annexure 'A'

Lucknow Dated,

9-8-1989.

Banraj Yadav

Applicant

True copy
Banraj Yadav
Applicant

महायक कानिंग अधिकारी /
परोना देवी, दर्रनऊ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH
Gandhi Bhawan, Opp. Residency, Lucknow *1/2*

No. OA/TA/

5406

dated the 30-11-90

O.A. NO. 370 / 90 (L)
Registration no. _____ of 1990

UNION OF INDIA & ANOTHER

APPLICANT

VERSES

BASIRAY YADW & ANOTHER

RESPONDENT

1. BASIRAY YADW HOUSE NO-C-322 IINDIRA 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 duty 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.

DR. 29/11/90
DEPUTY REGISTRAR

Recd. copy of petition with court's order dated 27.11.90

*Recd. copy of petition with court's order dated 27.11.90
K.K. Lalwani
on 29/11/90*

*Recd. copy of petition
One copy is given
Respondent no 1
30/11/1990*

MINISTRATIVE TRIBUNAL
CENTRAL CIRCUIT BENCH, LUCKNOW.

O.A.NO.374 of 1990(L)

Union of India Applicant
Versus
Bans Raj Yadav Respondents.

27, 11, 1990.

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

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

Respondent Shri Bans Raj present in person and accepts notice. Copy meant for respondent No.1 shall be delivered to him.

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

List for admission on 11.12.1990. In the meantime the applicant may deposit the amount a-warded with the prescribed authority under the Payment of wages Act which shall not be ^{paid off} ~~find to~~ ^{29/11} the respondents till further orders. Copy of the order be given to the counsel for applicant within 24 hours.

checked
S. M. S.
29/11

Sd/-

A.M.

Sd/-

V.C.

// True Copy //

Ms/

16/11/90
(Mohd. Umar Khan)
Court Officer,
Central Administrative Tribunal,
Circuit Bench,
LUCKNOW.

1981 (2) SLR 475 ~~Senior Home Eng.~~

HC/AIC, Part 3

~~Banker's order~~

order or mine form in Sabay by 31st of March &
served at Postf. office —

Sabay, Criminal order is not served, it does not
become operation; since it was served at
Postf. office, after completion arises at Postf. office.

(a) (1) Should be affected or not.

Should
order by PA under Pay and Work Act

16-2-90

Am I

: App. works on HC/OS held in the office of Senior District
Signals Telecom Eng.

: App. wages have not been paid as per order

Conferred by Am A 2 of 6 1/2% after
payment 2 by Am A 4(2) 16-2-90 to Rs 10,573/-
refugee compensation claim.

23-12-88 of CTP

, dated on the 14th

1986

Bldg : 10,573/- + 10% interest.

S. 15(1) of PW(A) general
PA concern claim amount of
deductions from wages or delay
in payment of the wages, including
"all matters incidental to such
claims".

(2) - Deduction made for wages,
pay and wages has been
delayed —

Person may apply to PA for
detract w/s(3)

— App. has made within 12 months
of deduction or deduction

(3) Direct refund of amount deducted
from wages

Calcutta

for the period from 1-10-80 to the
present when —

: 7/2/90 App. files off. claim; 12/1/88, applied for
"restitution" (settlement) given with
order letter of Regt. Rep. refund. Date 11/5
for Recd of 2/88 — After 1st Gud. &
date 28/5/90

28/5/90 — App. on 7-2-90 makes a written
R or Report off. claim, not asking for refund

It can be heard on the basis of CTP 1st 23-12-88
which held that if deduction of off. from the
scale of 55-750/- on the basis of family, then
then off. can also be deducted on that basis.

Refund to be given to the retired off.

Off. Committee with direction to form order in 3 months
but no order was given although the off. was withdrawn from service.

* It is worth to accept the written version of the
off.