

## FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ~~Lucknow~~ BENCHOA/TA/RA/CP/MA/PT 384 of 20.90

Shakil Ahmed.....Applicant(S)

Versus

V.O.I 2 2003.....Respondent(S)

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Certified that the file is complete in all respects.

B & C file weeded out & destroyed. 1 Am 26.6.12Signature of S.O. Rajiv  
order 1/2

Signature of Deal. Hand

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

## INDEX SHEET

CA 384/90 D

Cause Title of 199

Name of the parties Shakil Ahmad Applicant.

Versus

Union of India

Respondents

Part A.E.C.

Sl. No.

Description of documents

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B. File

Petition Copy with Annexures

Counter

Rejoinder

W.M.S.M  
12/11/02

Central  
Date  
Year  
Deputy Registrar (P)

26/11/90  
26/11

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

Registration No. 384 of 1989 (2)

APPLICANT(S) Shakeel Ahmad

RESPONDENT(S) Union of India & others

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

Particulars to be ExaminedEndorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed ? Yes

12. Are extra copies of the application with Annexures filed ? Yes

a) Identical with the Original ? Yes

b) Defective ? No

c) Wanting in Annexures Yes

Nos. \_\_\_\_\_ pages Nos. \_\_\_\_\_

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

14. Are the given address the registered address ? Yes

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

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

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

a) Concise ? After reading

b) Under distinct heads ? Yes

c) Numbered consecutively Yes

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

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

19. Whether all the remedies have been exhausted. Yes

discrep/26.11.90  
D.R.

Put up before the Hon. Bend.

26/11/90

on 27/11/90 for orders

26/11/90

26.11.

27.11.1990.Hon'ble Mr. Justice K. Nath, V.C.  
Hon'ble Mr. M.M. Singh, A.M.

A.M.

Admit.

Issue notice to respondents to file a counter within four weeks to which the applicant may file a rejoinder within two weeks thereafter. List before the D.R.(J) on 22.01.1991 for fixing a date if possible after the completion of the record.

Ms/

Sd/-  
A.M.Sd/-  
V.C.

Notice issued

18/12/90

1 copy for  
respondent filed  
today

*SD/-  
A.M.*  
17/12/90

22.1.91

D.R.

Mr. D. P. Srivastava,  
2nd Counsel for  
the applicant is  
present today.  
No appearance  
has been made  
on behalf of the  
respondent.

Counter has not  
been filed. Respondent  
to file counter  
by 6/2/91.

8.2.91

D.R.

Both the parties  
are absent today.  
No. C.A. filed till  
today. Respondent  
to file it by 7/3/91

i/c *D.P.S.*

③

0. A. 384/90 (L)

(A)

12.8.91

D.R.

Shri D. P. Srivastava

is present for the  
applicant. He files  
an application for  
orders before the Hon.

Bench. Later on

Sri Anil Srivastava

files his 'vakalat  
namo' with counse

Reply on behalf of  
the Respondents.

Hence this case is

listed on 20/9/91

for filing Rejoinder

20.9.91

D.R.

Counsel for the applicant

promise to file

Rejoinder by 25/10/91

case is listed on

25/10/91. *De* 211

(5)

A

22.5.92  
D.R.

Both the parties are present. Ryvinder has been filed today.

Now this case is to be listed before the Hon. Bench for hearing

on 17/7/92. AKR  
22/5/92  
S.O.

17.7.92

Case not reached adjourned to 26.8.92

B.R.

OR  
S.F.H.  
Re 25.8.92  
S.O.H.  
15/9/92

26.8.92

Case not reached  
Adjourned to  
16.9.92.

October

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
(LUCKNOW BENCH)  
LUCKNOW.

D.A. NO.

386/90

199 (L)

T.A. NO.

Date of Decision

Shakeel Ahmed

Petitioner.

Shri C. Parasuram

Advocate for the  
Petitioner(s).

VERSUS

Union of India

Respondent.

Shri Ashwani Kumar

Advocate for the  
Respondents

CORAM

The Hon'ble Mr.

Justice V. C. Giridhar, V.C.

The Hon'ble Mr.

K. Bhagat, D.M.

1. Whether reporter of local papers may be allowed to see the Judgment ?
2. To be referred to the reporter or not ?
3. Whether to be circulated to other benches ?
4. Whether their Lordships wish to see the fair copy of the Judgment ?

VICE-CHAIRMAN/MEMBER

X

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A. No. 384 of 1990

Shakeel Ahmad

Applicant

versus

Union of India & others

Respondents.

Shri O.P.Srivastava, Counsel for Applicant  
Shri Anil Srivastava, Counsel for Respondents.

Coram

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

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

The applicant was working as casual labour Khalasi and was screened for regular absorption. The screening test was held in the year 1986-87 and the name of the applicant was placed at serial No. 438 in the combined panel of successful candidates. On 29.9.88 a direction was issued to post the candidates after completing the requisite formalities. The applicant was selected and placed in the panel. More than one year thereafter the medical fitness certificate was issued on 22.10.89. Vide letter dated 3.11.89 which was addressed to the Assistant Engineer, N.E.Railway, it was instructed that the name of the applicant finds place at serial No. 18 and he has passed the A-3 category medical examination, the applicant was to be appointed and posted under respondent No. 5. According to the applicant nothing was informed

W

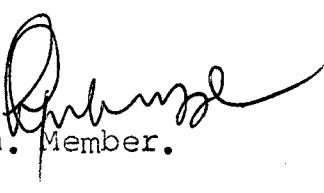
to the applicant for a long time, as he kept waiting as told by respondent No. 5, when he contacted him and the applicant came to know that one Sri Bhola whose name was at serial No. 19 of the panel was given appointment by respondent No. 5 and he was not while he stood at serial No. 18. The applicant ran from pillar to post and ultimately he made a representation on 19.3.90 to respondent No. 3 who directed the respondent No. 5 to issue appropriate orders appointing the applicant and posting him as regular Khalasi, copy of which has been filed as Annexure -4 to this O.A., but even then the applicant was not given appointment.

2. The respondents have opposed the application and in the counter it has been stated that it is correct that the applicant was placed at serial No. 18 in the panel but he did not report for duty and another person was appointed. It has not been stated by the respondents that any letter was sent to the applicant intimating that he has been empanelled and he should report for duty. It appears a case of gross injustice. The respondents have taken a plea that the life of the panel is only for one year and as such the applicant was not given the appointment although he was examined and found medically fit. It cannot be accepted that the applicant was summoned and he could not report for duty. In case, the respondents have given appointment to other person and the applicant could not report for duty, the respondents are responsible for not giving the appointment to the applicant. He has

AA  
A

made reference to the Railway Board letter dated 3.3.1982 which states that the panel of screened casual labours remain alive till all the screened casual labours are given posting.

3. In view of what has been said the respondents are directed to give immediately appointment to the applicant without any delay and thereafter adjust his seniority position, as if he was given appointment on the due date. Let it be done within a period of one month from the date of receipt of a copy of this order.

  
Adm. Member.

  
Vice Chairman.

Shakeel/

Lucknow: Dated 16.9.92.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

OA. NO. 384 OF 1990(L)

Sakeel Ahmad .. .. .. .. Applicant

Versus

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

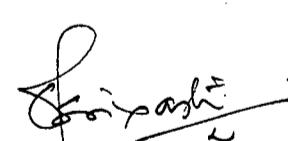
I N D E X

COMPLIATION NO. I

SL. NO.	DESCRIPTION OF PAPERS	PAGE NO.
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1.	Application	... ..	1 - 9
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2.	Power (Vakalatnama)	... ..	10 - 00
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(O.P. SRIVASTAVA)

ADVOCATE

LUCKNOW DATED:  
NOVEMBER , 1990.

COUNSEL FOR THE APPLICANT.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

O.A. NO. 384 1990(1)

Central Administrative Tribunal

Circuit Bench, Lucknow

Date of filing 26/11/90

Date of issue 26/11/90

Deputy Registrar(J)

SSW  
26/11

Sakeel Ahmad, aged about 29 years,  
son of Mohd. Safiq, resident of C/o  
Abdul Bari, N.E. Railway, Aishbagh  
Gate No. 2, Lucknow.

.... Applicant

Versus

1. Union of India through General Manager, N.E.Rly. Gorakhpur.
2. The Divisional Railway Manager, N.E. Railway, Ashok Marg, Hazratganj, Lucknow.
3. Senior Divisional Engineer (II), N.E. Railway, Ashok Marg, Hazratganj, Lucknow.
4. Assistant Engineer, N.E. Railway, Badshahnagar, Lucknow.
5. Assistant Engineer II, N.E.Rly, M.G. Marg, Gonda.

.... Opp. Parties/  
Respondents.

REMARKS

DETAILS OF APPLICATION :

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

The instant application is being filed seeking appropriate orders directing the Respondents to appoint and post the applicant as regular Khalasi at appropriate place.

Contd. . 2

filed today

SSW  
26/11/90

26/11/90

2. Jurisdiction of the Tribunal:

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

3. Limitation:

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

4. Facts of the case :

4.1 That by way of the instant application the applicant prays for appropriate directions directing the Respondents to appoint and post the applicant as regular <sup>Khalasi</sup> ~~Casual labour~~ as he has already been selected and empanelled for being posted as such.

4.2 That so far as the facts of the case are concerned the applicant while functioning as casual labour Khalasi was screened for regular absorption. As the applicant was fully eligible and suitable he was empanelled for being appointed and posted as regular Khalasi having passing the screening test. The screening test was held in the year 1986-87 under the Respondent No.4 and the name of the applicant was placed at serial no. 438 of the combined panel of successful candidates.

17/10/89

4.3 That there after vide letter dated 29.9.1988 issued under the signatures of the Respondent No. 4 the directions were issued to post the candidates after completing the requisite formalities. It was stated in the said letter dated 29.9.1988 that in terms of the minutes of the meeting dated 29.7.1988 and the verbal directions of the Respondent No. 3 dated 17th September 1988 regarding filling of the vacancies of Class IV staff working under different Assistant Engineers from the existing screened panel, a separate list as per the A, B, C and D was prepared and annexed for appropriate action. A true copy of the aforesaid letter dated 29.9.1988 is being filed herewith as Annexure-1 to this Application.

4.4 That as the applicant was duly selected and empanelled to be posted as Regular Class IV employee on the post of Khalasi, the applicant was duly medically examined and a fitness certificate declaring the applicant as medically fit for appointment. The said medical fitness certificate was issued on 22.10.1989. A true copy of the said medical fitness certificate dated 22.10.1989 is being filed herewith as Annexure-2 to this Application.

4.5 That thereafter vide letter dated 3rd November 1989 addressed to the Respondent No. 5 it was instructed that as the name of the applicant finds place at serial No. 18 in <sup>Annexure</sup> L.C. of the screened panel and he has passed

20/10/89

the A-3 category medical examination, the applicant was to be appointed and posted under Respondent No.5. Hence the verified records pertaining to Applicant was sent to Respondent No. 5 for appropriate action. A true copy of the aforesaid letter dated 3.7.1989 along with ~~✓ annexure C of 15 panel list.~~ containing the name of the applicant at serial number 18 is being filed herewith as Annexure-3 to this application.

ANNEXURE-3

4.6 That thereafter when the applicant contacted the Respondent No. 5 for posting order, the applicant was assured that he should wait for the written orders which shall be supplied to him at appropriate time. But when nothing was informed to the applicant for a long time and the applicant came to know that Sri Bholu whose name appears at serial number 19 of the panel contained in ~~✓ said panel annexure~~ ~~A.C~~ and filed as part of annexure-3 to this application, has been given appointment and posting by the Respondent No.5 leaving the applicant whose name appears at serial number 18, the applicant contacted and requested the Respondent No. 5 in the month of Jan. 1990 for issuing ~~✓ appointment~~ the orders of regular promotion and posting.

4.7 That ~~then the~~ Respondent No. 5 firstly asked the applicant to come again and again but when the applicant visited him several times, the Respondent No. 5 informed the applicant that a fresh

80/14/2002

order will be required from the Respondent No. 3 for appointing and posting the applicant as regular Khalasi.

4.8 That thereafter the applicant ran from pillar to post for appropriate orders in this connection but he was replied nothing. Ultimately the applicant made a representation on 19.3.1990 to Respondent No. 3 narrating the entire facts requesting to look <sup>i</sup> into the matter and directed the Respondent No. 5 to issue appropriate orders appointing and posting the applicant as regular Khalasi. However, nothing has been informed to the applicant so far in this regard. A true copy of the aforesaid representation dated 19.3.1990 is being filed herewith as Annexure-4 to this application.

4.9 That the applicant has never been informed anything after he was medically examined. The applicant remained waiting for the orders of appointment and posting but he has been discriminated in the matter as juniors to the applicant whose name appears below the applicant in the panel has been given regular appointment and posting.

4.10 That the Respondents could not deny the applicant the regular appointment and posting as the applicant has already been declared successful and fit to be regularly appointed as a Class IV employee and posted as regular Khalasi. The

ANNEXURE-4

impugned inaction and callous attitude of the Respondent is absolutely arbitrary and discriminatory effecting the life and livelihood of the applicant and as such is violative of the provisions of Part III of the Constitution of India along with other statutory provisions.

4.11 That the applicant has come to know that the post of Khalasi against which the applicant should have been appointed and posted consequent upon screening and empanelment is going to be filled in by some other candidates from outside and once the post is filled in, the applicant will be in hot waters. It is, therefore, expedient in the interest of justice that the Respondents be directed to keep the said post vacant during pendency of the case.

5. Grounds for relief with legal provisions:

- i) Because once the applicant has been screened and empanelled having been found successful, he cannot be denied regular appointment.
- ii) Because the applicant was never communicated with any information by the Respondents regarding appointment and posting.
- iii) Because the applicant was duly medically examined in the year 1989 and thereafter the order of appointment and posting was to be issued to him for which he was asked to wait but the Respondent No. 5 without sending any information to the applicant appointed juniors to the applicant whose names are below the applicant in the panel

FC

as contained in Annexure-3 to this application.

iv) Because there is absolutely no rhyme or reason to keep the matter pending and in not issuing the order of appointment and posting to the applicant.

v) Because the attitude of the respondents is wholly arbitrary, unwarranted, unfounded and illegal in as much as they cannot keep silence in the matter of applicant's appointment and posting when the applicant has already been empanelled. This attitude of the Respondents has deprived the applicant of his right to life and livelihood which is violative of the provisions of Part III of the Constitution of India besides the above provisions.

6. Details of the remedies exhausted:

The applicant declares that he has availed of all the remedies available to him under the relevant service rules, etc.

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

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

8. Reliefs sought :

In view of the facts mentioned in para 4 above the applicant prays for the following reliefs:-

214/09/89/2

AP

a) This Hon'ble Tribunal may kindly be pleased to direct the Respondent to appoint and post the applicant as a regular Khalasi Class IV employee with effect from the date the next below candidate to the applicant in the panel as contained in Annexure-3 to this application has been given appointment and posting with all consequential benefits including Pay allowances etc.

b) This Hon'ble Court may further be pleased to direct the Respondents to make payment of entire salary to the applicant within a period of 2 weeks from the date of the order of this Hon'ble Tribunal and allow the applicant to work with immediate effect.

c) This Hon'ble Court may pass any other orders which are found just and proper in the circumstances of the case.

d) to award the cost of this application.

Grounds for the relief are same as have been given in para 5 above.

9. Interim Order, if any prayed for :-

Pending final decision on the application the applicant seeks the following reliefs:-

This Hon'ble Tribunal may kindly be pleased to direct the Respondents to keep one post of regular Khalasi vacant during the pendency of the case lest the applicant will not be able to get the appointment due

to non-availability of post and the purpose of filing this application will be thwarted.

10. In the event of application being sent by registered post, it may be stated whether the applicationxxxx applicant desires to have oral hearing at the admission stage and if so, he shall attach a self-addressed post card or Inland Letter, at which information regarding the date of hearing could be sent to him.
11. Particulars of ~~Bank Draft~~/Postal Order filed in respect of the application fee.

No. □ 02 415969. dt 20/11/90

Amount - Rs 50/-

12. List of enclosures : As per Index I and II.

VERIFICATION

I, Sakeel Ahmad, son of Mohd. Safiq, aged about 29 years, working as Khalasi in N.E. Railway.

Lucknow, resident of C/o Abdul Bari, N.E. Railway.

Aishbagh Gate No. 2, Lucknow, do hereby verify that the contents of paras 1 to 12 are true to my personal knowledge and paras \_\_\_\_\_ are believed to be true on legal advise and that I have not suppressed any material fact.

Lucknow Dated:  
November , 1990.

*Sakeel Ahmad*  
APPLICANT.

*S. S. S.*  
ADVOCATE.



In The Central Administrative Tribunal, Allahabad  
ब अदालत भौमान Circuit Bench, Lucknow. महोदय

दावी अधीकारी

Shri. Shakeel Ahmed  
प्रतिवादी (रेस्पाइंट)

वकालतनामा  
Applicant

Q.A. No. . . . . 1990(C)

दिनांक

दावी (अधीकारी)

Shakeel Ahmed

Applicant

दावाम

प्रतिवादी (रेस्पाइंट)

Union of India vs

Respondents

न० मुकद्दमा

सन्

पेशी की तात्त्विकता

११ दि.

झंसर लिखे मुकद्दमा में अपनी ओर से धो ओ० पी० श्रीवास्तव एडवोकेट  
एवम् श्री डॉ प० श्रीवास्तव (एडवोकेट)  
द६७, पुराना महानगर निकट फातिमा अस्पताल, लखनऊ-२२६००२ महोदय



को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें तो लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या मुलहनामा व इकबाल दावा तथा अधीकल निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक, करें मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर पुक्त (दस्तखती) रसीद से लेवे या वंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह मौ स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपनी पैरोकार को भेजता रहूँगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर महीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर श्रीवास्तव

साक्षी (परवाह)

साक्षी (परवाह)

दिनांक

महीना

सन् ११ दि.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

O.A. No. 384 of 1990 (L)

Sakeel Ahmed .... .... Applicant

VERSUS

Union of India and others ... Respondents

I N D E X

COMPLIATION NO. II

S1. Description of papers Page No.  
No.

1.	ANNEXURE - 1 Letter dated 29.9.88 issued by the Respondent No. 4.	1 - 00
2.	ANNEXURE - 2 Medical fitness Certificate dated 27.10.1989.	2 - 00
3.	ANNEXURE - 3 Letter dated 3.11.89 alongwith A C con- taining the name of the applicant.	3 - 4
4.	ANNEXURE - 4 Representation dated 19.11.90 of the Petitioner/ Applicant.	5 - 6

*(Signature)*  
(O.P. SRIVASTAVA)  
ADVOCATE

LUCKNOW DATED : NOVEMBER , 1990. COUNSEL FOR THE APPLICANT.

In The Central Administrative Tribunal, Allahabad, Circuit Bench, Lucknow  
Shakil Ahmed O.A. 1990

Union of India & others V/S

ANNEXURE - 1

NORTH EASTERN RAILWAY

No. W/347/BNZ/E-14/misc.

The AEN/STP, MLN, GD/I, GD/II.

Sub: Posting of class IV staff from the screened panel of AEN/BNZ & LJN.

Office of the  
Assistant Engineer/BNZ,  
Dated 29/9/1988.

In terms of minutes drawn during progress report meeting of Sr.DEN/I with AEN's on 29.7.88 issued vide his NC W/567/LJN/I/II/W-1 dated, 29.7.88 and verbal directions of Sr.DEN/II/LJN on 17.9.88 regarding filling up of the vacancies of class IV staff under different AEN's from the existing screened panel as above, a list of as per annexure 'A', 'B', 'C' and 'D' is enclosed for taking further needful action in respect of their posting at the places where needed. The subordinates under whom they are going to be posted be suitably instructed to verify their antecedent, medical category and other relevant particulars before they are put to actual work. Equal number of Casual labours should be spared from the places where permanent incumbents are being posted.

29/9/1988  
Assistant Engineer,  
Badshahnagar.

- 1) Copy to IOW/CPA, ASH, BNZ, PWL/CPA, ASH, BNZ, ML, BNY(R) and Horticulture Inspector and Janitor for information and necessary action please. The person noted be directed as ordered.
- 2) Copy to DRM/Engg/LJN.
- 3) Copy to DRM(P)/LJN.
- 4) Copy to Sr.DAO/LJN.
- 5) Copy to Secretary, NERMU/LJN.

29/9/1988  
Assistant Engineer,  
Badshahnagar.

21st Oct 1989  
S. J. S.

In The Central Administrative Tribunal, Allahabad, Circuit Bench, Lucknow  
2

Shakil Ahmed

O.A. - 1990

Union of India & others

V/S

Applicant

Respondents

ANNEXURE - L

128

00355

एन. ई-एम. 2  
N. E.-M. 2

पूर्वोत्तर रेलवे N. E. RAILWAY

आर० बी० मेडि०सी० 8  
R. B. Med./C. 8

चिकित्सा-विभाग/MEDICAL DEPARTMENT

द्वितीय  
SECOND

प्रमाण-पत्र-अध्यर्थी की जारीरिक आरोप्ता

CERTIFICATE-PHYSICAL FITNESS OF CANDIDATE

(रेलवे में नियुक्ति के लिये, आरोप्ता के लिए अध्यर्थी की वाक्टरी-परीक्षा के समय प्रयुक्त प्रमाण-पत्र)  
(Certificate to be used when a candidate is Medically examined for fitness for appointment to a Railway.)

41

(वितरन-पत्र के लिये प्रति)  
(COPY FOR PAY SHEET)

तीसरा पत्र Third Foil

प्रस्ताव/औषधालय लेशालय  
Hospital/Dispensary सं. PR/128/३१-७०  
No.

मैं प्रमाणित करता हूँ कि मैंने (नाम) लूटी अल्पावधि अवधि के लिये अध्यर्थी की परीक्षा की है। इनका हस्ताक्षर/बांगड़ा निशान नीचे दिया गया है। A - 3  
पद पर नियुक्ति के लिये अध्यर्थी की परीक्षा की है। इनका हस्ताक्षर/बांगड़ा निशान नीचे दिया गया है। A - 3

I do hereby certify that I have examined (Name) \_\_\_\_\_  
(age) \_\_\_\_\_, a candidate for appointment as (designation) \_\_\_\_\_  
(Class) \_\_\_\_\_ in the \_\_\_\_\_ branch/department whose

\*Signature/Thumb impression has been appended below in my presence.  
इस प्रकार की नियुक्ति के लिये मैं इहें \*आरोप्य/अनारोप्य समझता हूँ।  
I consider him \*fit/unfit for such appointment.

For Age three

Ch. Ree

रेलवे मर्डन डिपिलिमाइशन  
पूर्वोत्तर रेलवे

कार्यालय पाली विभागिक

काशी

Ch. Ree

रेलवे चिकित्सा विभाग के हस्ताक्षर  
Signature of Railway Medical Examine.

प्रशंसनी पाली विभागिक

..... अधिकारी.....  
एड/Designation.

शकिल अहमद

अध्यर्थी का हस्ताक्षर/बांगड़ा निशान  
Signature/Thumb Impression of Candidate.

कार्यालय मुहर.....  
Office Seal

दिनांक/Date 24-10-1989

\*वितरन की आवश्यकता न हो, काट दें।  
Strike out where inapplicable.

1) 1" dia boil mark on the left leg

2) 1" dia boil mark on site in the left thigh

Ch. Ree

In The Central Administrative Tribunal, Allahabad, Circuit Bench, Lucknow  
Shakil Ahmed v/s Union of India & others (3) 1990  
ANNEXURE - 3

## पूर्वी लार रैलवे

## कार्यालय सदायक इन्जी

(प) लखनऊ।  
दिनांक 3/11/89

सं ई/227/1/छोनिंग/85

## संशयक इन्जीनियर/ ।। गोप्ता ।

विषयः - चतुर्थ श्रेणी पद पर नियुक्ति के संबंध में

कृपया सशाधक एन्जी० बादशाहनगर के पद सं० ३४७/बादशाह/  
 ई/।/विविध दिनांक २९-५-३८ का अवलोकन करें जिसमें अनुलानका (सी) दूवारा  
 इस उपर्युक्त डल के २० छोन्त कैजुआल लेबर यापके उपर्युक्त में पोर्टिंग हेतु भैजे गए  
 थे जिसमें ब्रम सं० १८ पार्टीशी राकील अहमद पुत्र श्री सं० शफी का नाम  
 आता है जिसकी नियुक्ति यापके उपर्युक्त में दोना है ।

श्री राकील अहमद पुत्र मो० राफी का मूल/सत्यापित प्रति आभलेष्य जो इस उपर्युक्त में उपलब्ध है, आप के पास रिकार्ड स्वं उचित कार्यवाही हेतु भेजा जाता है।

- 1- जन्म तिथि की सत्यापित फैटीप्रति - जन्म तिथि 21-5-61 है
- 2- मूल डाक्टरो परीषा प्रधान पत्र - चिकित्सा शैणी स - 3 उत्तीर्ण है
- 3- दो मूल चर्टिं प्रमाण - पत्र दो अलग- अलग अधिकारियों द्वावारा जारी किये गये हैं
- 4- पुलिस बेरोफिकेशन के तीन फार्म पर्सनल से भरे हुये ।

स० /सात

## सहायक इन्जीनियर (प०) / लेवल नं. ३

प्रायः विद्युत् (प्रायः)

१०००२० लखनऊ

25. -

6/11/89

~~True  
Dated  
1966~~

## ପାତ୍ରାଳ୍ୟ କାଣ୍ଡା

४५

4

यनुत्तमनक - 'स'

ब्राह्मिक नाम एवं लिता का नाम वर्तमान कार्य पुनर्ले मेडिकल लेनाती विवाह  
स्थल प्राप्ति प्राप्ति श्री रमेश

स्वामी श्री

१.	राम राज पुड़ राम देलवन कानि/बाद०	421	र/3	सहायक इन्जी(11)
(अनु० जाति)				गोप्ता
२.	चिनगु पुन्र संरजु	रेपनि/बाद०	422	र/3
३.	सोती पुन्र दयाराम		423	"
४.	सहत लाल सिंह पुन्र बैजनाथ सिंह	कानि/ऐश्वर्या	424	र/3
(स०० टी०)				"
५.	गजेंद्र कुमार पुन्र फूलचन्द्र	रेपनि/सीपीर	425	र/3
६.	मधुर पुन्र लाल	रेपनि/ऐश्वर्या	426	र/3
७.	दोनदयाल पुन्र सुखलाल	रेपनि/मल्हो	427	र/3
८.	गोप्य नाथ पुन्र सुधराज	उनि/लज०	428	र/3
९.	देवी प्रसाद पुन्र गया प्रसाद	रेपनि/सीपीर	429	र/3
१०.	म०० नईम पुन्र अब्दूल समद	रेपनि/ऐश्वर्या	430	र/3
११.	राम-लाल पुन्र शोटे (अनु० जा०)		431	र/3
१२.	द्वाइवर राम पुन्र इन्द्र देव राम		432	"
१३.	कन्हई पुन्र राजमन	रेपनि/बाद०	433	र/3
१४.	नवीर अहमद पुन्र अहमतहल्ला उनि/लज०		434	र/3
१५.	परमानन्द मिश्च पुन्र राम तीरुष्म मिश्च		435	र/3
१६.	विनगु प्रसाद पुन्र श्रीराम(अनु० जा०)	कानि/बाद०	436	र/3
१७.	राम कुमार पुन्र अयोध्या	रेपनि/ऐश्वर्या	437	र/3
१८.	म०० शकील पुन्र म०० सकी		438	र/3
१९.	भीजा पुन्र लहस	रेपनि/बाद०	439	र/3
२०.	मूल कट उमकुरा	रेपनि/ऐश्वर्या	440	र/3

केवल बीमा

सहायक इन्जीनियर २१।१।८।  
वद्रालगां

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In The Central Administrative Tribunal, Allahabad, Circuit Bench, Lucknow

Shakil Ahmed

O.A. 1990

Union of India & others

VS

Applicant

Respondents

ANNEXURE - 4

सेवा मे,

श्री मान अवर मंडल रेल प्रबंधक,  
पूर्वोत्तर रेलवे लखनऊ ।

महोदय,

विषय:- डियुटी हेतु प्रार्थना-पत्र ।

प्रार्थी 'श्री मान जी' की सेवा मे कुछ तत्व रखना चाहता है आशा ही नहीं वरन् पूर्ण विश्वास है कि श्री मान जी श्री प्रत्यक्ष उचित न्याय देंगे ।

1- यह है कि प्रार्थी 'की स्थीरिंग लेस्ट इन्जीनियरिंग विभाग मे सहायक इन्जीनियर लखनऊ बाटशाह नगर के उपमंडल मे वर्ष 1986-87 मे सम्पन्न हुआ जिसमे प्रार्थी ' सफल घोषित हुआ और उसका नाम पेनल मे क्रम संख्या 429 दर्शाया गया है ।

2- यह है कि दिनांक 29-8-88 को इन्जीनियरिंग विभाग मे सम्पन्न हुए प्रोग्रेस रिपोर्ट मे अवर मंडल इन्जीनियरिंग द्वितीय लखनऊ के माध्यक आदेशानुसार उस समय के सहायक इन्जीनियर पूर्वोत्तर लखनऊ । अप सहायक इन्जी ० द्वितीय श्री एम० आर० वाहन के पत्र संख्या डब्लू/३४७/स० ०११०५०१/इ-१/मिस दिनांक 29-9-88 को संलग्नक संख्या १८ के अनुसार प्रार्थी ' की स्थाई नियुक्ति हेतु सहायक इन्जीनियर स्थानी ० गोण्डा के कार्यालय मे भेजा गया था । जिसकी फोटो प्रार्थी ' अपकी सेवा मे तंदर्श हेतु संलग्न है ।

3- यह है कि सहायक इन्जी ० स्थानी ० गोण्डा के कार्यालय से प्रार्थी ' के घर के स्थायी पते से स्थायी नियुक्ति हेतु अब तक कोई पत्र या कार्यालय आदेश अब तक नहीं भेजा गया है । जिससे प्रार्थी ' को नियुक्ति को कोई सुधना नहीं मिले । उस पेनल के संलग्नक संख्या मे २० स्थीर अधिकारी का नाम आ जिसमे है । १९ अधिकारी की नियुक्ति स० ३० इ०११०१ स्थानी ० गोण्डा द्वारा ही हुकी है ।

4- यह है कि प्रार्थी 'ने सहायक इन्जी ० गोण्डा श्री वाई०कौ०श्री वास्तव अव सेवा निवृत्त । से जनवरी माह मे मिला तो उसने प्रार्थी ' की नियुक्ति न करके कहा कि उस आदेश पर दुबारा प्रवर मंडल इंजी ० द्वितीय श्री एस० कौशल रैना से दुबारा आदेश करा लाओ । इस पर प्रार्थी ' श्री रैना जी से व्यक्तिगत मिला और उससे सारी बातें बतायी परन्तु बड़े खेद के साथ श्री मान जी को सुचित करना पड़ रहा है कि अब तक उन्होंने प्रार्थी ' की नियुक्ति हेतु कोई आदेश नहीं दिया जिससे प्रार्थी ' तथा उसका परिवार मुझे मर रहा है । और कोई सुनवाई नहीं हो रही है ।

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5- यह है कि प्राथी' की डाक्टरी परीक्षा भी हो चुकी है । जिसमें प्राथी' उत्तीर्ण हो चुका है । इसके अतिरिक्त प्राथी' की जन्म तिथि प्रमाण-पत्र एवं प्रमाण-पत्र, डाक्टरी परीक्षा प्रमाण-पत्र तथा अन्य अभिलेख सहायक इन्जीनियर लेखनका के यहाँ से सहायक इन्जीनियर । एम०जी०। गोण्डा के कार्यालय में भेजा जा चुका है ।

6- यह है कि पैनल में प्राथी' के जुनियर अर्टिमियों की रेखाओं नियुक्ति की जा चुकी है । परन्तु प्राथी' के नियुक्ति तथा डिप्युटी ट्रेने में विवरण बदल ही रहा है । इसका कारण प्राथी' हे अधिक श्री मान जी ही जानते हैं ।

7- यह है कि सहायक इन्जीनियर । एम०जी०। गोण्डा के अधीन चतुर्थ श्रेणी में कार्य निर्णय क्षम गोण्डा के अधीन अभियंता है । इसकी जानकारी प्राथी' की विवरण सूची से ह छ है ।

अतः श्री मान जी से अनुरोध है कि उपरोक्त तथा को अवलाक्षण करते हुए प्राथी' की नियुक्ति तथा डिप्युटी ट्रेने की महत्वी रूपा प्रदान करें । जिससे प्राथी' तथा उसका नारा परिवार गुहमरे हे बच सके ।

उपरोक्त कृष्ट के लिए प्राथी' श्री मान जी का सदैव आभारी रहेगा ।

आपका प्राथी'

दिनांक:- 19-3-90

। शक्ति ल अहमद ।

पुत्र श्री मौ० शरीक,  
श्रीन कन्दीडे, पैनल पौजी जन न०४३६

४८-१८-१९८८  
४८-१८-१९८८

मान अहमद

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW.

*Petition*  
Civil Misc. ~~Application~~ No. 465 of 1991(L)

In re

Registration (O.A.) No. 384 of 1990(L)

Sakeel Ahmad ..... Applicant.

Vs.

Union of India and 8ther..... Respondents.

APPLICATION FOR CONDONATION OF DELAY IN FILING  
COUNTER REPLY.

That delay filing counter reply is not  
intentional or deliberate but due to administrative  
and bonafide reasons, which deserves to be condoned.

P R A Y E R

Wherefore, it is most respectfully prayed  
that in the interest of justice, delay in filing  
counter reply may kindly be condoned and counter  
reply may be taken on record.

Dated: 12-8- 1991

*Anil Srivastava*  
(ANIL SRIVASTAVA)  
ADVOCATE

Counsel for respondents.

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

O.A. No. 384 of 1990 (L)

Sakeel Ahmad ..... Applicant

Versus

Union of India and others ..... Respondents

COUNTER REPLY ON BEHALF OF ALL THE RESPONDENTS

I, S. M. N. Islam working as  
S<sup>r</sup> D. P. O. in the office of Divisional Railway  
Manager, North Eastern, Railway, Ashok Marg, Lucknow  
do hereby solemnly affirm and state as under:-

1. That the official above named is working  
as S<sup>r</sup> D. P. O. in the office of Divisional  
Railway Manager, North Eastern Railway,  
Ashok Marg, Lucknow and has gone through  
the averments made in the application and  
as such fully conversant with the facts and  
circumstances of the case and also has been  
fully authorised to answer on behalf of  
all the respondents.

Subsider  
एडल कार्यालय अधिकारी,  
प्रवृत्ति देखने वाला

Contd.... 72

2. That the contents of paras 1 and 2 of the original application do not call for any reply.
3. That in reply to the contents of para 3 of the original application, it is stated that on the facts of this case this original application appears to be time barred.
4. ~~xx~~ That reply to the contents of para 4 of the original application are as below:  
That in reply to the contents of para 4.1 of the original application, it is stated that the respondent No. 4 received the panel list dated 29.9.88 regarding 20 screened candidates only on 30.9.88 in which ~~xx~~ the applicant was placed at serial No. 18. The applicant for the reasons best known to him did not report for duty within time before the respondent No. 5 after taking the spare memo from the office of the respondent No. 4. Since the applicant did not report for duty in time, hence the formalities regarding the posting of other candidates of the said panel list was completed. Thereafter the applicant reported ~~xx~~ for duty before the respondent No. 5 on 4.12.89.

Contd....3

*S. M. S. H. A.*  
मुख्य संचालक कार्यालय अधिकारी,  
मुख्यमंत्री कार्यालय, लखनऊ

after taking/producing the letter dated 3.11.89 as contained in Annexure No. 3 to the original application. Since the list of the said panel was only a year as per rules and the respondent No. 5 had already completed the formalities regarding the said panel the applicant was again sent back by the respondent No. 5 to ~~respondent~~ report to Assistant Engineer (W) North Eastern Railway, Lucknow for his absorption. A copy of the letter dated 5.4.90 sent by the respondent No. 5 to the respondent No. 3 is being filed herewith as Annexure No. C-1 to this counter reply.

Ann. No. C-1

5. That the contents of para 4.2 to 4.5 of the original application, so far they are matter of record, they are admitted but rest of the contents of paras are denied. The applicant has also concealed the facts that when he reported for medical examination.

6. That the contents of para 4.6 of the original application are denied. The applicant for the reasons best known to him did not report for his duty before the respondent No. 5 prior to 4.12.89. Since the applicant neither reported for his duty nor his residential address was available on record

Contd.....4

Subulari  
पृष्ठ कामिक अधिकारी,  
पुर्वोत्तर रेल्यू, लखनऊ

before the respondent No. 5, hence no information can be given to him on this regard. Since the applicant was not present at the relevant time, ~~hence~~ hence Sri Bhola whose name appears at serial No. 19 was given appointment vide order dated 31.10.88.

7. That the contents of para 4.7 of the original application are categorically denied. The applicant be put to strict proof for the same. When the other candidates can report for duty in time, the applicant for the reasons best known to him, avoided to join duty with the result that the life of the said panel expired even before he could join duty.
8. That in reply to the contents of para 4.8 of the original application, it is stated that as would be clear from a perusal of Annexure No. 4 to the original application, the said representation has been sent to none of the answering respondents, hence the answering respondent can not be called upon to reply the same.

Contd.....5

*Sri Bhola*  
प्रदर्शन कामिन अधिकारी,  
पुस्तक द्वारा, नगरनगर

9. That the contents of para 4.9 of the original application are not admitted as alleged. As explained in para 6 of this reply, since the applicant did not report for duty within time, hence his junior in the said panel was given appointment.

10. That the contents of para 4.10 and 4.11 are denied. The applicant for the reasons best known to him did not report for duty within time. He has also not stated that when he reported for medical examination and how much time was taken in the medical examination since all the other candidates including at serial No. 19 reported for duty within time hence they were duly given appointment. The applicant approached the respondent No, 5 only when the life of the said panel had already expired, hence he could not be given appointment.

11. That the gounds taken in para 5 of the original application are irrelevant, misconceived, false and incorrect and as such present application is liable to be dismissed against the applicant and in favour of the answering respondents.

Contd.....6

Shukla  
Shukla  
Advocate

12. That the contents of paras 6 and 7 do not call for reply.

13. That in reply to the contents of paras 8 and 9 of the original application, it is stated that there is no merit in the instant case, and on the facts and circumstances stated hereinabove this original application is liable to be dismissed with costs in favour of the answering respondents and against the applicant.

Lucknow: Dated:

..... 1991.

*S. N. S. R.*  
एडल कानूनी अधिकारी,  
पुस्तक रेलवे, लखनऊ

VERIFICATION

I, the official above named do hereby verify that the contents of para 1 of the original reply are true to my personal knowledge and those of paras 2 to 13 of this reply are believed by me to be true on the basis of records and legal advice.

Lucknow: Dated:

..... 1991.

*S. N. S. R.*  
एडल कानूनी अधिकारी,  
पुस्तक रेलवे, लखनऊ

**VAKALATNAMA**

8/11

Before  
In the Court of

Central Administrative Tribunal Bench Lucknow

OA No. 384 of 1990 (L)

Sakeel Ahmed

Versus

Union of India and others

✓/We. K. P. Singh, Divl. Rly. Manager NER Lucknow.

..... and Alok Kumar Verma, Sr. Divl. Engr. II NER Lucknow

do hereby appoint and authorise Shri. Anil Kumar Tora

Lucknow

Railway Advocate, Lucknow 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, to 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.

✓/We hereby agree to ratify all acts done by the aforesaid Shri.

Railway Advocate, Lucknow

..... in pursuance of this authority.

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

12/12/90  
Shri

..... day of ..... 198 ..

31.12.90  
(Alok Kumar Verma)

Sr. Divl. Engineer (II)  
N. E. Rly., Lucknow

Accepted by

मंडल रेलवे प्रबन्धक,  
पूर्वोत्तर रेलवे, लखनऊ

(K. P. Singh)

Accepted  
Anil Kumar Tora  
12/12/90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

O.A. NO. 384 OF 1990(L)

Sakeel Ahmad ... ... ... Applicant

VERSUS

Union of India and others ..... Respondents

REJOINDER REPLY TO THE COUNTER REPLY OF THE  
RESPONDENTS.

1. That the contents of para 1 of the Counter Reply need no comments.
2. That the contents of para 2 of the Counter reply need no comments.
3. That the contents of para 3 of the Counter reply are denied as incorrect while those contents of Para 3 of the Original Application are reiterated as correct.
4. That the contents of para 4 of the Counter reply are denied to the extent they are contrary to the contents of para 4.1 of the Original Application which are reiterated as correct. It is further ~~not~~ stated that the applicant was medically examined vide medical certificate dated 24th October, 1989 as contained in Annexure-2 to the Original Application. Thereafter vide letter

Filed today

as per  
22/5/92

9/10/92

SC

dated 3.11.1989, a copy of which has been filed as Annexure-3 to the Original Application with the compilation No. II. The Respondent No. 4 asked the Respondent No. 5 to make appointment of the applicant on a class IV post as the applicant has been duly selected and his name finds place at serial number 18 on the basis of letter dated 29.9.1988. This letter was never served upon the applicant. After the applicant was medically examined, he received no letter or order or any communication from the Respondents in any manner whatsoever. It is vehemently denied that the applicant not reported for duty within the time before the Respondent No.5 after taking the spare memo from the office of ~~the~~ the office of the Respondent No.4 with the direction to get his posting order from the Respondent No.5. As a matter of fact the applicant had waited for the order of his posting from the Respondents but when he received nothing, he contacted the Respondents and made representations as stated in the Original Application. The answering Respondents have not filed any document proving that the applicant was served with an order of posting or was issued any spare memo as alleged, yet the applicant did not join. When the Respondent No.4

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asked the Respondent No. 5 to allow the post to the applicant vide order dated 3.11.1989 the applicant reported for duty on 4.12.1989 admitted in para under reply, the Respondent No. 5 was bound to allow the deponent's joining and posting but as the Respondent No. 5 was interested in his own men he did not allow posting and joining of the deponent maliciously. It is also stated that there is no rule which provides that the Panel of screened casual labours expires on expiry of one year. The panel of screened casual labours remains alive till all the casual labours empanelled are given posting and joining. The answering Opposite Party has not referred the provisions of law or filed a copy thereof in support of this averment. When the Respondent No. 4 himself ordered for posting the applicant on 3.11.1989 and the applicant reported for duty before the Respondent No. 5 on 4.12.1989 there was no occasion to disallow the applicant's posting and joining on any ground whatsoever. It is further stated that it has been provided in Railways Board's letter No. E(Eng.) 11-79/CL/7 dated 3.3.1982 that the panel of screened casual labours remain alive till all the screened casual labours are given posting. The copy of the Annexure-C1 referred to in para under reply along with the Counter affidavit has not been supplied

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to the applicant along with the duplicate served this on him. The contents of para have been verified on the basis of record hence the answering Respondent be directed to produce that record on the basis of which he has made this averment that the applicant was issued orders/spare memo yet the Respondents did not report for duty. No date of such order or spare memo has been mentioned by the answering Respondents.

5. That the contents of para 5 of the Counter Reply need no comments to the extent they are in consonance with the contents of para 4.2 to 4.5 of the Original Application which are reaffirmed. The rest contents of para under reply are, however, denied. ~~The applicant~~ It is further stated that the applicant has not concealed any fact as alleged. The applicant was asked to appear for medical examination and he appeared and was declared medically fit vide certificate dated 24.10.1989. A true copy of the said certificate has already been filed as Annexure-2 to the O.A. with compilation No. II.

8.6 That the contents of para 6 of the Re Counter Reply are vehemently denied as incorrect, false, fabricated and a white lie. The contents of Para 4.6 of the Original Application are reiterated as correct. It is further stated that the applicant was never issued any orders requiring

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him to report for duty before the Respondent No.5. It is absolutely incorrect that the applicant failed to report for duty before the Respondent No. 5 prior to 4.12.1989. As a matter of fact the Respondent No. 5 was inclind to appoint his own men hence he ignored and by passed the applicant maliciously and given appointment to Sri Bholawho was junior to the applicant. It is absolutely incorrect that the applicant was not present at the relevant time. It is respectfully submitted that in the above noted reply it has been stated that Sri Bholo was given appointment vide order dated 31.10.1988, when the applicant was medically examined and declared medically fit on 27.10.1989. Sri Bholo has been given appointment when in fact he was standing next below to the applicant in the panel of screened casual labours. This paragraph has also been verified on the basis of record hence the answering the Respondents be directed to produce the record to prove the contents of the para under reply. It is categorically stated that neither the applicant was given any order, directions or anything asking him to report for duty before the Respondent No.5 nor any communication was made with the applicant by any other authority of the department hence the averment that the applicant did not report for duty is wholly concocted and smacks of strong

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malafide against the applicant.

7. That the contents of para 7 of the Counter Reply are emphatically denied as incorrect, false and fabricated while those contents of para 4.7 of the Application are reiterated as correct. When the applicant was not given any order or information asking him to report for duty or to submit his joining before any officer, how the applicant could go to which place and to report for duty to whom. The answering Respondent must be put establish this assertion that the applicant did not report for duty in spite of the orders, directions or information served upon him. It is wholly misleading to state that the life of panel is limited to one year. There is no such provision under which the panel of the screened casual labours remains alive only for one year. The panel of screened casual labour remains alive till all the screened casual labours are duly absorbed and posted.

8. That the contents of para 8 of the Counter Reply are denied to the extent they are contrary to the contents of para 4.8 of the Original Application are reiterated as correct. It is further stated that the applicant has never informed the higher authorities detailing the entire facts and circumstances requesting that the concerned authorities are playing with the life and liveli-

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applicant hence appropriate orders be passed, but unfortunately no body came to his rescue. Even if the representation was not properly addressed the same could have been directed to the appropriate authority. But it is no explanation that the respondents are not responsible for posting and appointing the applicant even if he has been properly empanelled consequent upon screening test. The applicant visited several times to the office of the D.R.M., N.E.R., Hazratganj, Lucknow to get some orders in his case. The applicant's parivar was also registered at serial number 2060/1063 in the office of the D.R.M., N.E.R., Lucknow but without any yield. The applicant made representations on 28.3.1990, 5.4.90, 16.4.90, 16.5.1990 and again on 19.7.90 repeatedly praying that he be allowed posting and joining as he has already been screened and found fit but his cry failed to yield any result as the Respondents are were going to appoint someone else. It is worthwhile to mention that the addl. D.R.M. on 19.7.1990 passed an order on the request of the applicant asking the senior Divisional Engineer, the respondent No. 3 to furnish the details of the case of applicant nothing was done. The orders passed by the additional Division Railway Manager on 19.7.90 is being produced below:-

21/5/06 09/8/90

"अधिकारी ने Interview किया। दो बार केस आएको बाबत  
कर चुका हूँ। दिनांक 5-4-90 तथा 16-4-90। रवेद हूँ  
कि अभी तक वस्तुतिकात से अकात नहीं कराया जाया  
है। कृपया, केस चुराते प्रस्तुत करें।"

Sd:  
A.D.R.M.

9. That the contents of para 9 of the Counter  
~~Reply~~ Reply are denied as incorrect while those  
contents of para 4.9 of the O.A. are reiterated  
as correct. A detailed reply has already been  
furnished in this regard. Nevertheless it is  
further stated that the applicant never failed  
to report for duty within the time as alleged.  
As a matter of fact the petitioner was never  
asked, instructed or directed in any manner  
whatsoever to report for duty within the stipulated  
time to any officer, hence the question to appear  
for duty within time does not arise. The junior  
to the applicant has wrongly been appointed  
by the Respondents.

10. That the contents of para 10 of the Counter Reply  
are denied as incorrect, false and fabricated  
while those contents of paras 4.10 and 4.11 of  
the O.A. are reiterated as correct. As the  
applicant was never directed, ordered or instruc-  
ted ~~in~~ in any manner to report for duty before  
any authority within any spell of time, it was  
wholly impossible for the applicant to report  
for duty before any authority. The applicant

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has always been assured that he will be given posting orders to join his duties before the authority referred in the order itself, but so far no such orders have been issued to him and junior to the applicant has been given posting arbitrarily and discriminatorily. It is wholly misleading to state that the life of the panel of the screened casual labours is one year. If the life of the said panel is only one year then how the applicant was medically examined on 27.10.1989 when the life of the panel dated 20.9.1988 as appears from Annexure-1 to the O.A. with compilation No. II was already expired on 28.9.1988. How the order dated 3.11.1989 asking the Respondent No.5 to post the applicant was issued when the panel itself was not in existence. It is evident from the perusal of Annexure-3 to the O.A. filed with the Compilation No. II that the applicant was to be appointed and posted till 3.11.1989 when the directions were issued to the Respondent No. 5 but when the applicant contacted the Respondent No. 5 on 4.12.1989, he was not given posting. This palpably indicates the malafides of the Respondents

11. That the contents of para 11 of the Counter Reply are denied as incorrect while those contents of

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(Signature)

as para 5 of the O.A. are reiterated as correct.

The grounds urged by the applicant are well tenable in the eye of Law and the Original Application deserves to be allowed with cost.

12. That the contents of para 12 of the Counter Reply need no comments.
13. That the contents of para 13 of the Counter Reply are denied as incorrect while those contents of paras 8 and 9 of the O.A. are reiterated. It is further stated that the applicant is entitled to get relief sought for and the Original Application deserves to be allowed with cost.

VERIFICATION

I, Sakeel Ahmad, son of Mohd. SAFIQ, aged about 29 years, resident of C/o Abdul Bari, N.E.Railway, Aishbagh Gate No. 2, Lucknow, do hereby verify that the contents of paras 1 to 13 of this Rejoinder Reply are true to my knowledge and belief and on the basis of legal advise and that I have not suppressed any material fact.

21/10/91  
Sakeel Ahmad

Lucknow Dated:  
1991.

APPLICANT.

(Signature)

ADVOCATE

(15)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,  
CIRCUIT BENCH, LUCKNOW

MISC. PETITION NO. 166 OF 1991 (R)

SHAKEEL AHMAD

...

APPLICANT

VERSUS

UNION OF INDIA & OTHERS

... OPPOSITE PARTIES/  
RESPONDENTS

O.A.NO. 384 OF 1990 (L)

Fixed for 12.8.1991.

APPLICATION FOR ORDERS

Sir,

On behalf of the applicant, it is most respectfully submitted as under:-

1. That the above-noted case was admitted on 27.11.1990 and notices were issued to the opposite parties.
2. That despite of several opportunities to file counter affidavit, no counter affidavit has been filed so far by the opposite parties/respondents.
3. That it appears that the respondents do not want to file any counter reply.

*Filed today*  
*S. P.*  
*12/8/91*

WHEREFORE, it is most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to fix this case before the Bench for orders please, For this act of kindness the applicant shall ever pray.

LUCKNOW

DATED 12.8.1991.

*R*  
(O.P. SRIVASTAVA)  
Advocate,  
COUNSEL FOR THE APPLICANT