

HL

Registration O.A.NO. 408 of 1990 (L)

• • • •

Applicant

VΣ.

Union of India & Others....

Respondents

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

Hon'ble Mr.A.B. Gorthi, Member(A)

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

The applicant was appointed as Gateman on 1.11.75 by Divisional Railway Manager in the N.E.Railway and he was promoted in the year 1977 as Patman in the Scale of Rs.210-270/-. Thereafter the applicant was promoted to the post of Shuntman in the year 1979 in the same pay scale of Rs.210-270/- which has been revised subsequently as Rs.800-1150/- w.e.f. 1.1.86. But according to the applicant despite the revision of the grade he has not been given the benefit of revised pay scale. In the year 1984 the applicant was sent for training at the Regional Training School Muzaffarnagar for advance training of Cabinman/Shunting Jamar and after qualifying the examination held on 17th October, 1984 the applicant by virtue of his seniority was promoted to the post of Shunting Jamar in the pay scale of Rs.1200-1800/- temporarily on officiating basis in the vacancy which was formed on account of retirement of one person. The promotion of the applicant was subject to the condition that the incumbents will be reverted as and when permanent posting orders are issued against the

(A7)

above vacancies, when seniors will be available for posting. The applicant was allowed to continue on the said post for about 4 years. The grievance of the applicant is that he has been unnecessarily reverted without ^{assigning} ~~assessing~~ any reason. Even though no permanent ⁱⁿ posting order was issued in respect of the said vacancy which was held by the applicant, the junior to the applicant was promoted to the post of Shunting Jamadar and is still holding his promotional post.

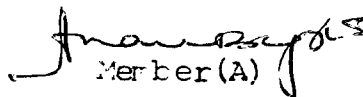
2. The respondents have resisted the claim of the applicant and stated that as a local arrangement the applicant was promoted and his promotion was purely on ad-hoc basis and he will be reverted as and when senior man becomes available for the said posting. But the promotion order was passed by the Junior Officer who had no authority to grant such promotion. The authority competent to grant such promotion is the senior scale officer i.e. Divisional Safety Officer. It is stated that one more jump was given to the applicant to the post of Shuntman Gr.I in the higher pay scale of R .950-1500/-. It appears that he had passed the qualifying examination, and for 4 years he was tolerated. During this period other persons who were qualified in the examination were promoted. With the result the applicant became junior. The respondents have stated that the petitioner's promotion to the post of Shunting Jamadar (Rs.1200-1300/-) would amount to supersession of his seniors..

3. In the Rejoinder affidavit the applicant stated that at the time of promotion only the applicant and one Shri Ram Sahai were available for promotion as the persons senior to the applicant were either holding the post of shunting Jamadar and other equivalent posts and as such there was no supersession

(f2)

of his seniors.

4. Accordingly this application deserves to be allowed and the reversion order dated 30.11.90 is quashed, and respondents are directed to decide the matter taking into consideration all the pleas and benefits of the applicant within 3 months from the date of communication of this judgment. The applicant shall be entitled to file a representation before the competent authority within 15 days from today. No order as to costs.


Member (A)


Vice-Chairman.

7th November, 1991. Lucknow.

(sph)

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

C.A.No. 408/90(L)

OF 19

Vs.

Sl.No.	Date	Office Report	Orders
(1)		Nitha Sumedh 8 16/12-90	14.12.90 Hon'ble Mr. Justice K.Nath, V.C. Hon'ble Mr. K.P. Obayya, A.I. Heard the applicant's counsel. Admit. Issue notice to respondents to file a counter affidavit within four weeks to which the applicant may file a rejoinder within two weeks thereafter. In the matter of interim relief also issue notice and list for orders on 11.1.91 as no Bench of this Tribunal is available within two weeks from now. Till then the operation of the impugned order dt. 30.11.90 continued in Annexure-I, shall remain stayed. Sd/ A.I. Sd/ V.C. Sd/ 11/19/ (2) OR Notices were issued on 10/12/90 Neither reply nor any unserved copy have been returned back. Acknowledgement has been received from m/o Rlys. S F O L 6/3/91
(2)			28/1/91 - No stay order dt. 8.3.91 (3) 20/1/91 20/1/91 No stay order dt. 8.3.91

GA 408/90.4

#1

6

Respondent

Joseph

... ..
... ..
... ..

Learned counsel for the respondents states that as the copy of counter affidavit given to him is complete and the ex page is ^{as such} clearly, rejoinder affidavit could not be till the order is made or so in the state to accept the application here in the court and to call the counter affidavit as such the learned counsel for respondents shall give him complete copy and in the books, or rather, and he may file rejoinder affidavit with the working list this case in the week commencing 20.12.1991. As ^{delay has been caused by respondents} ~~the plea has been taken~~ the interim order is extended till then and adjourned.

[Signature]

[Signature]

Recd copy.
M Nath
10.6.91 CHA
MERY, (25)
for Sri A. Nigam.

7

94 691 Hon Mr Justice K Nath, VC
Hon Mr. K. Chagga, AM.

Applicant's prayer for
for time to file rejoinder is
allowed to the extent that the
case may be taken up for
final disposal on 1-7-91
or which date the applicant
may file rejoinder

on

No RA filed
S.F.O
L
24/6

[Signature]
AM

[Signature]

VC. on

No RA filed
S.F.O
L
20/6

(PS)

17.9.91

State. Mr. Justice B.C. Sundararajan vs
State. Mr. A. B. Garkh AM

17

2

On the request of Gmt
State. appeal case is adjourn
to 7.11.91. Interim order will be made
by 11 date

AM

✓
✓

7.11.91

State. Justice C.C.S. vs
State. Mr. A. B. Garkh, AM

Arguments heard. Judgment
dictated. Separately.

AM

✓
✓

2nd copy of
Judgment

HHM - CM/HEP/LK
3/12/81
for Sh. Ashok Hegde
Adv.

This file has been
received today from
AMH

2.11/91

Received copy
for reference.

For Mh
J 8/12/91

(A)

13.12.90

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 408 of 1989 of (C),

APPLICANT(S) Shri Pawan Singh

RESPONDENT(S) C.O. & others

Deputy Reg.
YH
13/12

Particulars to be examined

Endorsement as to result of examination

- application*
1. Is the ~~appeal~~ competent ? *application*
 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*
 3. a) Is the ~~appeal~~ in time ? *application* *No*
b) If not, by how many days it is beyond time? *yes*
c) Has sufficient case for not making the application in time, been filed? *yes*
 4. Has the document of authorisation/ Vakalatnama been filed ? *yes*
 5. Is the application accompanied by B.D./Postal Order for Rs.50/- *yes*
 6. Has the certified copy/copies of the order(s) against which the application is made been filed? *yes*
 7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? *yes*
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? *yes*
c) Are the documents referred to in (a) above neatly typed in double 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? *yes*
- No*

(H2)

Particulars to be Examined

Endorsement as to result of examination

12. Are the application/duplicate copy/spare copies signed?
13. Are extra copies of the application with Annexures filed?
 - (i) Identical with the Original?
 - (ii) Defective?
 - (iii) Wanting in Annexures
 - (iv) Nos. _____ pages Nos _____?
14. Are the file size envelopes bearing full addresses of the respondents been filed?
15. Are the given address the registered address?
16. Do the names of the parties stated in the copies tally with those indicated in the application?
17. Are the translations certified to be true or supported by an Affidavit affirming that they are true?
 - a) Concise?
 - 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?
19. Whether all the remedies have been exhausted.

2 sets

Yes

Yes

Annexure is on both side

N.A.

No. of Respondent is 3

N.A.

Given No. 4

Yes

Yes

No

Yes

Yes

cinch/

13.12.90

D.R

Put up before the

Hon. Bench on 14.12.90

for order

R
OJH
13/12

3120 : THE HON'BLE CHIEF JUSTICE'S CHAMBER
OF DISTRICT COURT AT LUCKNOW

C.A. No. of 1933 (L)

Peoran Singh Applicant

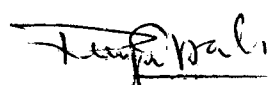
Versus

Union of India and others Opp-parties

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4.	<u>Annexure no.3</u> Photocopy of payslip for the month of August, 1930	 13 - 14
5.	Postal Order No. 32 415995 dated 11-12-90 for Rs. 50/- only.	
6.	Vakalatnama	

Lucknow : Dated,
December 11/13, 1933


Advocate
Counsel for the applicant

(410)

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT Bench, Lucknow

C.A. No. 408 of 1990 (L)

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing
Date of Receipt by Post.....

Deputy Registrar (Jt.)

Pooran Singh aged about 37 years
son of Sri Sarju Singh resident
of village -Dutt Nagar Bishen,
P.C.Bargon, District Gonda . . .Petitioner/applicant

Versus

1. Union of India through Ministry
of Railways, New Delhi
2. Divisional Railway Manager (C),
N.E.L. Ashok Marg, Lucknow
3. Assistant Operating Superintendent
(Ld) N.E.L., Ashok Marg, Lucknow

. . . Respondents/opp-parties

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNAL ACT 1985

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

The aforesaid application is being
preferred before this Hon'ble Tribunal against the
impugned order dated 30.11.90 passed by an authority
on behalf of opposite party no.2, reverting the

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Filed today
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applicant/petitioner from the post of Shuntin, Jaradar to Shuntman. A copy of the order dated 30.11.90 is being annexed herewith as Annexure no.1 to the application.

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, as the impugned order of reversion dated 30.11.90 has been passed at Lucknow and the applicant is posted at Gondia N.E.R. Station.

3. Limitation :

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

4. Facts of the case :

The brief facts of the case are as under :

(i) That initially the applicant/petitioner was appointed as Gateman N.E.R. 1.11.75 by the Divisional Railway Manager and was posted at Maskana Railway Station.

(ii) That the applicant has performed his duties honestly and efficiently and he was promoted in the year 1977 as Patman in the scale of Rs. 210-270 and posted at Narabganj Station.

(iii) That in the meantime the applicant

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was transferred to Gonda Station w.e.f. 17.11.78.

(iv) That thereafter the applicant/ Petitioner was promoted to the post of Shuntman in the year 1979 in the same pay scale of Rs. 210-270 which has been revised subsequently as 800-1150 w.e.f. 1.1.86. It may be pointed out here that through the petitioner was allowed to get the revised scale of Rs. 800-1150 w.e.f. 1.1.86 but actually he has not been paid salary in the revised scale.

(v) That in the year 1984 the applicant/ petitioner was sent for training at the Regional Training Schoolmuzaffarnagar for advance training of Cabinman/Shunting Jamadar and after qualifying the examination held on 17.10.84 for the purposes of promotion, being the senior most Shuntman the applicant/petitioner was promoted to the post of Shunting Jamadar in the pay scale of Rs. 1200-1800 temporarily on officiating basis in the vacancies on account of retirement of one Sri Ram Behari and other casualty, vide order dated 21.3.86. A perusal of the order would reveal that the promotion of the applicant was subject to the condition that the incumbents will be reverted as and when permanent posting orders are issued against the above vacancies, when Senior will be available for posting. A copy of the promotion order dated 21.3.86 is being filed herewith as Annexure no.2 to this application.

(vi) That it may be submitted that since the applicant was the Senior most qualified Shuntman

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there will be no possibility for posting of other senior person as provided in the promotion order.

(vii) That it may be further stated here that though the applicant was promoted in the scale of B. 1200-1300, he is getting salary only in the scale of B. 750-900. The payslip issued to the applicant in the month of August 1990 is evident that the applicant¹⁵ is getting lesser pay. A photocopy of pay slip is being annexed herewith as Annexure no.3 to this application. The applicant has requested the authorities several times to pay his salary in the promoted scale but no action has been taken in the matter and lastly some time in the month of November the matter was agitated through the Employees Union but instead of taking any action for payment of salary in the promoted scale the applicant was reverted.

(viii) That it may be submitted that the applicant is the layman in the matter of correspondence and representation, the matter was represented to the authorities through the Union.

(ix) That it may be submitted here that the applicant was reverted arbitrarily without assigning any reason due to mala fide intention as the authorities have been prejudiced due to representation through the employees Union.

(x) That it may be stated here that the persons junior to the applicant and promoted later on to the post of Shanti - Sahakar are still holding their promotional post. It may be pointed out here

पुनर्नायक

(A14)

-2-

that S/311 Mahesh Ambekar promoted in the year 1953 is still holding the post of Shanting Jadar at Jodhpur Station itself.

(ii) That it may be further submitted here that the applicant was appointed by the opposite party, No. 2, and as such the order of reversion has not been passed by the competent authority.

3. Grounds for relief with legal provisions :

(i) Because the applicant was promoted to the post of Shanting Jadar after qualifying the examination held on 17.10.54 for the purposes of promotion to the post of Shanting Jadar.

(ii) Because the applicant was promoted on officiating basis being the Senior most Shantman with the condition that he will be reverted as and when permanent posting orders are issued against the above vacancies when senior men will be available for posting.

(iii) Because since the applicant was a senior most Shantman, the condition provided in the promotion order is redundant.

(iv) Because the order of reversion has been passed as a punishment due to representation for payment of salary in the promotional scale through the employees union.

(v) Because the applicant has right to ~~him~~ receive the salary for the post, which he holds.

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(vi) Because the action of the opposite parties reverting the applicant is arbitrary, mala fide and against the provisions of Art 14 and 16 of the constitution of India.

(vii) Because the order of reversion has not been passed by the competent authority.

(viii) Because the persons junior to the applicant are still ~~not~~ working as shunting jamadar.

6. Details of remedy exhausted :

The applicant further declares that he had been reverted when his matter was agitated by the employees Union and there is no provision for taking representation or appeal against the order of reversion, which is passed by the incompetent authority.

7. The matter is not previously filed or pending in 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 this application has been made before any court or any other authority, or any other bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Relief sought

In view of the facts and grounds in para 4 and 5 of this application the applicant prays for following reliefs :

22/1/78

File

(A) That this Hon'ble Tribunal may be pleased to very graciously set aside the impugned order dated 30.11.90 contained as Annexure no.1 and applicant may be deemed to be continue on the post of Shanting Jamadar with all consequential benefits arising thereon.

(B) to direct the opposite parties to pay the difference of salary and allowances to the applicant in the scale of Rs. 1200-1800 w.e.f. 21.3.86.

(C) Any other relief which this Hon'ble Tribunal deems just and proper in the circumstances of the case.

(D) The cost may also be awarded in favour of applicant.

9. Interim order if any prayed for :

Pending final decision on the application the applicant seeks the following relief :

On the basis of facts and circumstances, grounds mentioned in the application alongwith its annexures, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to issue a suitable direction/order staying the operation of the impugned orders contained in Annexure No.1 in the interest of justice.

10. The humble applicant wants oral hearing through his counsel.

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-3-

11. Particulars of the postal order :

Postal order No. 02 415995 dated 11.12.90
for Rs. 50/- only is attached herewith.

Verification

I, Pooran Singh aged about 57 years
son of Sri Sarju Singh resident of vill-Dutta Nagar
Bishen, P.O. Bargaon District Gonda, do hereby
solemnly verify that the contents of para 1 to 4, 6 to 11
are true to my personal knowledge and those of
para 5 to — are true on the basis of legal
advice received and that have not suppressed any
material facts.

Place : Lucknow :
Dated : Dec. 14, 1990

पूरन सिंह

Signature of the
applicant

Advocate

Counsel for the applicant

Ans

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अप्लीकेन्ट

यूनिशन आफ इण्डिया तथा अन्य - - - - - ए अपो०-पाटर्जि

पूवात्तिर रेलवे

कार्यालय आदेश

श्री पूरन सिंह शर्टमैन वेत्नमान ₹ 800-1150॥ जिनकी तदर्थ पदोन्नति म० रे० प्र० परि० लखनऊ के कार्यालय आदेश सं० ई/१/२१०/म० ज०/८६ दिनांक २१-३-८६ के द्वारा शर्मा जमादार वेत्नमान ₹ १२००-१३००॥ में करके गोण्डा में पदस्थापित किया गया था को अब तत्काल प्रभाव से कर्मचारी के मूल पद गेटमैन एवं वेत्नमान ₹ ८००-११५०॥ में पदावत किया जाता है । एवं साथ साथ कर्मचारी को दिनांक २-१-८६ से अब तक पदावति की तिथि का स्थानापन्न भत्ता घाटाकर ₹ ९५०-१५००॥ में र० ९५०/- प्रतिमाह की दर से स्वीकृत किया जाता है ।

इस पर मंसुखिलानु का आदेश प्राप्त है।

कृते मण्डल रेल प्रबन्धाधिकारिका ०४
लखनऊ

सं० ई/पी वी० /पूरन सिंह दिनांक 30-11-90

प्रतिलिपि निम्न को सूचनार्थ एवं आवश्यक कार्यवाही

हेतु प्रेषित :-

1- प्रमलेवि/लहानु ज०

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(A/1)

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- 2- स्टेडी/गोण्डा
- 3- संबंधित कर्मचारी
- 4- मण्डल मंत्री नर्म/पी0आर0के0एस0/लहानउ जं9
- 5- कार्यालय/बिल पास, फोल्डर, पी0केस

कृते मण्डल रेल प्रबन्धाकाक्ष
लहानउ

True Copy

Amrpal
Sd/-

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(A2D)

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CI CUIT BENCH, LUCKNOW

C. A. No. of 1990(L)

Dooran Singh Applicant

Versus

Union of India and others Opp-parties

Annexure no.2

N.W. Railway

Office of Divisional Railway

Manager (C), Lucknow

Dated 21.5.86

OFFICE ORDER

Following senior most Shuntman at Gondar, qualified in the duties of Shunting Jamar are temporarily promoted to officiate as Shtg. Jamar in the existing vacancies on account of retirement of Shri Ram Binari, Shtg. Jm. and other casualities of Shtg. Jm. as represented by CIL/JL. This is purely a temporary arrangement and they will be reverted as and when permanent posting orders are issued against the above vacancies when Sr. men will be available for posting. They will have no claim of their seniority or their permanent absorption as Shtg. Jm.

1. Shri Ram Sahi, Shuntman/GD (260-400)
2. Shri Parun Singh, " " (210-270)

Since no other senior Shuntman qualified in the shunting Jm. duties are available at GD they may be put to work as shunting Jm. in the existing

पूरनायक

(A21) 12

-2-

vacancies subject of the conditions stated above.

Asstt. Cptg. Supdt. (Ld)
Lucknow

No. D/II/210/Shtg Jm./86

dated 21.3.86

Copy to :

1. A/C/Bill/CD
2. A/C/I/DJN
3. A/C/Bill, folder, Pass
4. SS & CYN/CD.

Asstt. Cptg. Supdt. (Ld)
Lucknow.

True Copy

- Singh Bah.
- J. Singh

पूरनीयै

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(422)

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

C.A. No. of 1990 (2)

Pooran Singh Applicant
Versus
Union of India and others Opp-parties

Annexure no.3

(Photocopy of pay slip for the month
of August 1990 is attached
herewith)

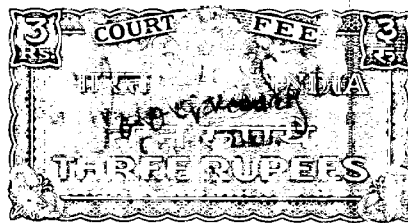
पूरन सिंह

Vakalatnama

A24

In the High Court of Judicature at Allahabad

SITTING AT



pooran Singh

VERSUS

Union of India and others

C A No.

of 1990 (L)

I | we the undersigned do hereby nominate and appoint Shri Priya Vrah
and Shri 48, Vainishi Marg, Lalbagh, Lucknow.

Advocate, to

be counsel in the above matter, and for me | us and on my | our behalf to appear, plead, act and answer in the above Court or any Appellate Court or any Court to which the business is transferred in the above matter, and to sign and file petitions, statements, accounts, exhibits, compromises or other documents whatsoever, in connection with the said matter arising there from, and also to apply for and receive all documents or copies of documents, depositions, etc, etc, and to apply for issue of summons and other writs or subpoena and to apply for and get issued any arrest, attachment or other execution, warrant or order and to conduct any proceeding that may arise thereout and to apply for and receive payment of any or all sums or submit the above matter to arbitration.

Provided, however, that, if any part of the Advocate's fee remains unpaid before the first hearing of the case or if any hearing of the case be fixed beyond the limits of the town, then, and in such an event my | our said advccate shall not be bound to appear before the court and if my | our said advccate doth appear in the said case he shall be entitled to an outstation fee and other expenses of travelling, lodging, etc Provided ALSO that if the case be dismissed by default, or if it be proceeded ex parte, the said advocate(s) shall not be held responsible for the same. And all whatever my | our said advocate(s) shall lawfully do, I do here by agree to and shall in future ratify and confirm.

ACCEPTED :

1r

Pooran Singh
Advocate

Signature of Client Priya Vrah

2-

Advocate

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BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCULAR BENCH AT LUCKNOW

-.-.-.-

O.A. No. 408 of 1990 (L)

Pooran Singh

.... Applicant

Versus

Union of India and

others

... Opposite
Parties.

-.-.-

COUNTER AFFIDAVIT TO THE APPLICATION/
PETITION BY OPPOSITE PARTIES

-.-.-.-

I, S K Budhiskoti

aged about

39 years, son of G. O. Budhiskoti

working as Sr. Divl. Suptg. Engineer in the office of
Divisional Railway Manager, North Eastern Railway
Lucknow, do hereby solemnly affirm and state
as under:-

1. That the deponent is posted as Sr. D.O. in the office of Divisional Railway Manager, Lucknow and he is fully conversant with the facts of the case deposed to hereunder. He has been authorised by the opposite parties No. 1 to 3 to file the instant affidavit and to do necessary pairvi in the case. The deponent has read and

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understood the contents of the application/
petition filed by the petitioner and is replying
to them on behalf and under the instructions
of the said opposite parties No. 1 to 3.

2. That before giving parawise replies to
the averments made in the petition, the deponent
craves leave of the Hon'ble Tribunal to state
certain background facts which are material and
are necessary to understand the issue in
dispute in its proper perspective and for
reaching the correct decision in the case as
under.

3. That the petitioner was appointed as
Gateman in the grade and scale of B. 196 - 232
on 11.11.1975 by the Assistant Operating
Superintendent Lucknow, the opposite party no. 3.

4. That pay scale of the Gateman (196-232)
was revised to Rs. 200-250 with effect from
1.1.1973 retrospectively by Railway Board's
order issued in the year 1976.

5. That vide order dated 19/21-7-1977,
the petitioner was transferred on the same post
of Gateman in the same grade and scale, which
has been revised to B. 200-250 by that time, to
Nawabganj.

6. That on 18.11.1978, the petitioner was
transferred to Londa as Pointsman in the same

grade and scale of Rs. 200-250 in accordance with the administrative exigencies.

7. That the petitioner was promoted from Pointsman (Rs. 200-250) to the next higher post of Shuntman in the grade and scale of Rs. 210-270 and was posted at Gonda vide Office Order dated 4.10.1980.

8. That the pay scale of Rs. 210-270 for the post of Shuntman ^{Gr. II} was revised to Rs. 800-1150 with effect from 1.1.1986 in accordance with the decision taken on the report of IVth Pay Commission.

9. That on 21.3.1986 the petitioner was purportedly given adhoc/officiating promotion by Assistant Operating Superintendent, the opposite party no. 3 as Shunting Janadar in the grade and scale of Rs. 330-480. It would be relevant to point out here that the said grade and scale of Shunting Janadar has been revised from Rs. 330-480 to Rs. 1200 - 1800 now.

10. That the said order, passed by the opposite party no. 3 dated 21.3.1986, was passed by mistake and was incorrect. In fact the order was passed by the opposite party no. 3 tentatively to meet the administrative exigencies to man the vacant post of Shunting Janadar as no one was available there, in the nature of local arrangement.

(A28)

That is why it was stated in the order dated 21.3.1986 itself that the arrangement was purely a temporary arrangement and the incumbent will be reverted as and when permanent posting orders are issued against the above vacancies, when senior man become available for the said posting. It was also specifically stated in the order that the person being given adhoc and time gap promotion would have no claim of seniority or permanent absorption as Shunting Janadar.

11. That the petitioner could not be given the said promotion in law and the local/stop gap arrangement could confer no right on the petitioner for continuance of the said benefit which would have been against the law, rules and regulations. Some of the reasons which make the said promotion or its continuance untenable are being given as under:-

- (a) The petitioner is too junior in the seniority list of Shuntan. In the seniority list dated 1.5.1984 issued for his substantive cadre of Shuntan, his name found place at serial no. 31. Again, the revised seniority list issued on 1.5.1987 after taking into account subsequent promotions etc, the petitioner's name finds place at serial no. 11. It is submitted that his seniors from serial no. 1 to 10 have not been promoted as Shunting Janadar.
- 1 In the circumstances, the petitioner's

promotion to the post of Shunting
Jamadar (1200-1800) would amount to
suppression of his seniors against
law and without any rhyme or reason.

(b) The post of Shunting Jamadar (1200-1800)
is a post 2 ladders above the post of Shuntman
Gr II (800-1150) on which the petitioner
has been given promotion and has been working.
Even if a person is selected to be promoted
from the post of Shuntman Gr II (800-1150),
it will be on the post of Shuntman Gr I in
the higher grade and scale of Rs. 950-1500
only. Ofcourse, the petitioner has not been
entitled even to the promotion to the lower
grade of Shunting Jamadar.

(c) The said promotion order dated 21.3.1986
(Annexure No. 2 to Application) itself is
without jurisdiction or the authority of law.
The Assistant Operating Superintendent was
not competent to make promotion of Shuntman,
which is a Class IV post, to the post of
higher scale of Shunting Jamadar which is a
Class III Post. The authority competent to
grant such promotion is the Senior Scale
Officer i.e. Divisional Safety Officer and
not the opposite party no. 3. In that view
of the matter, the said order is void ab
initio and is a nullity in law and was
passed by the answering opposite party no. 3
by mistake, inspired solely to meet out
the local exigencies. The same cannot,

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in any case, confer any right or benefit on the petitioner.

(1) Even the adhoc promotions can be made in order of seniority only. Since there are many seniors and suitable persons available, the petitioner could not be promoted at all ever and above them.

12. That according to restructuring of Group 'D' cadre effective from 1.8.82 vide Railway Board's letter No. PC III/80/UPG/19 dated 29.7.1983 the post of Shuntman Gr II (950-1500) and Shunting Janadar (1200-1800) are selection posts. The petitioner's substantive post, grade and scale is only Rs. 800-1150 i.e. the lower grade of Shuntman Gr II. Therefore, he has no right to be promoted to either the post of Shuntman Gr I in the higher grade and scale of Rs. 950-1500 or to the post of Shunting Janadar on the basis of seniority as such. He has to undergo selection and only when he is selected and expended in the select list for the next higher post of Shuntman Gr I (950-1500), he can be given the next promotion in accordance with inverse seniority in the panel/select list. A true copy of the extract of Railway Board's letter dated 29.7.83 is enclosed Annexure No.1 herewith as Annexure No. 1.

13. That the applicant has been called for selection 4 times out of which he appeared at 3 occasions but could not qualify even for promotion to the lower grade. On the 4th occasion i.e. in the selection held in pursuance of notification dated 10.8.1990 the petitioner, despite notice, did not choose to

appear in the examination and opted out. In the circumstances, the petitioner can raise no grievance against the impugned order which directs him to continue to work on his substantive post of Shuntman ^{Gr. II} in the lower grade (800-1150) to which only he is qualified. The deponent is giving hereunder the date of the notifications for selection held for the post of Shuntman, ^{Gr. I} (950-1500) and their results vis-a-vis the petitioner as under:-

- (a) No. E/11/254/Shuntman/87 dated 23.6.87. The petitioner appeared and failed.
- (b) No. E/11/254/Shuntman/88 dated 9.12.1988. The petitioner was called but the selection proceedings were cancelled on 4.5.1989.
- (c) No. E/11/254/Shuntman/87 dated 20.7.1989. The petitioner appeared in the selection and failed.
- (d) No. E/11/254/Shuntman/87 dated 10.8.1990. The petitioner did not appear in the examination though he was called.

14. That the petitioner approached the Union also and the case of the petitioner was taken up by the Union. An indepth study of the petitioner's case was made by the answering opposite parties. During the process the mistake of granting him

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stop gap/adhoc promotion as Shunting Jamadar was d-iscovered. The petitioner was thereafter placed back to his substantive grade and scale of Rs. 800-1150, as Shuntman, ^{Gr. II}. However, as the petitioner had actually worked on post of higher responsibility, though by mistake, he has also been granted officiating allowance of the post of Shuntman, ^{Gr. I} in the next grade and scale of Rs. 950-1500 vide impugned office order dated 30.11.1990 (Annexure No. 1 to the petition). The payment of difference amount would have been made to him but the answering opposite parties have been constrained to do so because the entire order itself has been stayed by the Hon'ble Tribunal vide its exparte order dated 14.12.1990.

PARAWISE REPLIES

15. That the contents of paras 1, 2 and 3 of the Application need not be replied through this affidavit. It is, however, submitted that no valid cause of action has arisen to the petitioner and the petition itself is misconceived, based on incorrect and twisted facts and material concealment, hence liable to be dismissed by the Hon'ble Tribunal with cost to the answering opposite parties.

16. That the contents of para 4 (i) of the application are denied as incorrect. The petitioner was appointed as Gateman (196-232) on 11.11.1975 by opposite party no. 3 and not by opposite party no. 2 as alleged.

Annexure No. 9

17. That the contents of para 4 (ii) of the petition are denied as incorrect. The petitioner was merely transferred to the same grade and scale of Gateman (200-250) vide office order dated 19.7.1977, a true copy of which is enclosed herewith as Annexure No. 9. The allegation that he was promoted to the post of Gateman in the grade and scale of Rs. 210-270 is incorrect and denied. The real facts in this regard have already been stated in the foregoing paragraphs.

18. That in reply to para 4(iii) of the petition, it is submitted that the petitioner was transferred to Gonda as Pointsman (200-250) vide office order dated 16.11.1978 in the cane season.

19. That the contents of para 4 (iv) of the petition are not admitted as stated. The petitioner was promoted from the post of Pointsman (200-250) to the post of ^{Grill} Shuntman (210-270) and posted at Gonda vide office order dated 4.10.1980 and not in 1979 as alleged by him. Only this much is admitted that the pay scale of of Rs. 210-270 was revised to Rs. 800-1150 with effect from 1.1.1986. Accordingly his pay has been charged in the said grade of Rs. 800-1150.

20. That in reply to para 4(v) of the petition, it is submitted that the petitioner was erroneously given adhoc/stop gap promotion as Shunting J. mader vide order dated 21.3.1986

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on local arrangement which has now been corrected. The real facts in this regard have already been stated in the foregoing paragraphs. As submitted in the foregoing paragraphs, post of Shunting Janadar is the selection post 2 ladders ahead than the post of Shuntman ^{Gr II} which the petitioner was holding on 21.3.1986. The 3 grades are being detailed as under:-

Shuntman (210-270) B. 800-1150(Revised)
Gr II Old

Shuntman (260-400) B. 950-1500(Revised)
Gr I Old

Shunting (330-480) B. 1200-1800(Revised)
Janadar Old

Under rules the applicant could not be allowed to officiate as Shunting Janadar (1200-1800) which amounts to double adhoc promotion. It is also submitted that the authority i.e. Assistant Operating Superintendent under whose signature the impugned order dated 21.3.1986 was issued, was not the competent authority to promote or make an order for payment in the grade and scale of B. 1200-1800. Furthermore the said promotion order dated 21.3.1986 was ^{not} issued by the P Branch which is ~~not~~ authorised to do so.

21. That the contents of para 4(vi) are incorrect hence denied. The real facts in this regard have already been stated in the foregoing paragraphs. The photocopies of the seniority list dated 1.5.1984 and 1.5.1987 are

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Annexure No. 3 & 4

being enclosed herewith as Annexure No. 3
and 4 respectively.

22. That the contents of para 4(vii) are in correct hence denied. It is submitted that the applicant was working as ^{Gr II} Bhuntman in grade of Rs. 210-270/800-1150 w.e.f. 6.10.1980 and his pay was accordingly charged in said scale and not in scale of Rs. 750-900 as alleged. It is submitted that there is no pay scale (750-900).

It is further submitted that the representations dated ^{17.8.87 and 7.2.88} ~~29.12.1987~~ of the applicant regarding officiating charge (Allowance) as shunting Janadar ~~was~~ considered. The matter was also represented through the Union. It was decided to pay him the officiating allowance in pay scale (950-1500) at Rs. 950/- w.e.f. 21.3.1986 and also the mistake in issuing the promotion order dated 21.3.1986 was corrected by the order dated 30.11.1990 which has been passed by the competent authority in order to correct the mistake which had crept in the original order of promotion dated 21.3.1986.

23. That in reply to para 4(viii) it is admitted that the matter was represented through Union. The same has been examined on merits and the decision has been taken as contained in order dated 30.11.1990 (Annexure No. 1 to the petition)

24. That the contents of para 4 (ix) are incorrect and denied. Real facts in this regard have already been stated in the foregoing paragraphs. No adhoc promotion could be given to the petitioner superseding his seniors. Furthermore, double adhoc promotion are strictly barred under the service rules of the petitioner. It is further submitted that the impugned order dated 30.11.1990 is more rectification of the mistake committed earlier and does not amount to any reduction in rank or reversion. In the circumstances, it does not attract the provisions of Discipline and Appeal Rules either.

25. That the contents of para 4 (x) are incorrect hence denied. It is emphatically stated that no person junior to the petitioner is working on the post of Shunting Janadar (1200-1800) as alleged. So far as Shri Jahid Hussain is concerned, he has been working as ^{Gr.I} Shuntman in the grade and scale of B. 950-1500. Said Shri Jahid Hussain was duly selected in the selection held earlier. Consequently Shri Jahid Hussain was promoted as Shunting Janadar (1200-1800) vide Order No E/II/210/Shunting Janadar/88 dated 12.10.1988, a true copy of which is enclosed herewith as

Annexure No. 4

Annexure No. 5

It would further be relevant to point out that the petitioner has been holding substantive post of ^{Gr.II} Shuntman in the lower grade and scale of B. 800-1150 which is not

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eligible even to be considered for promotion to the post of Shunting Jamadar and cannot even participate in the selection for that. The petitioner can be considered for the next promotion post of his grade and scale i.e. ^{Gr. I} Shuntman, Is. 950-1500. The opportunity was duly given to him 4 times ~~in which he failed~~ as stated in the foregoing paragraphs. Shri Zahid Hussain therefore, is not junior to the petitioner at all.

26. That the contents of para 4 (xi) is incorrect hence denied. The appointing authority of the petitioner is Assistant Operating Superintendent i.e. opposite party no. 3, whereas he has been reverted by the D.S.O. who is the competent authority.

27. That the contents of para 5 of the application are incorrect hence denied. None of the grounds stated in the petition are tenable either in law or in fact. The petitioner is not entitled to any of the relief claimed for and the petition is liable to be dismissed with cost in favour of the answering opposite parties.

It is further submitted that the applicant has not submitted any departmental representation against the impugned order dated 30.11.90. Hence also the petition is premature and liable to be dismissed on that count also.

प्रवर मंडल परिचालक, यकीलक,
पूर्वोत्तर रेलवे, लखनऊ

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28. That Annexure No. 1 to 5 have been compared by the deponent and are true/photocopies of their originals.

Lucknow/

Dated: 7.3.81

प्रवर मंडल पंजीयक,
पूर्वोत्तर रेलवे, लखनऊ

VERIFICATION

I the official above named, do hereby verify that the contents of paras 1 — of this counter reply are true to my own knowledge, those of the para 2 to 28 are believed by me to be true based on record and legal advice.

No part of it is false and nothing material has been concealed, so Help me God.

Lucknow/Dated: 7.3.81

प्रवर मंडल पंजीयक,
पूर्वोत्तर रेलवे, लखनऊ

Before the Honble Chief Administrative Tribunal
at Lucknow

CA No 408 of 1990 (L)

Pooam Singh - - - Applicant -

VERSUS

Union of India and - - - opposite parties
others

Prayer for

for

for

Annexure-I

Statement indicating the restructuring of Group 'G' & 'D' as Cadre (Annexure to Annexure-I)
M.Y. Ministry's letter No.PCII/80/UPG/19 dated 29.7.1983

Sl No.	Category	Existing scales(Rs)	Revised designation	Revised scale of posts.	Whether selection/no selection.	Remarks.
XX	YARD STAFF	XX	XX	XX	XX	
10.	Pointsman/Leverman Shuntman.	210-270	Pointsman/Leverman/ Shuntman/ Cabinman Gr.ii.	210-270	35	-
	Cabinman Gr.II	210-270	Pointsman/Leverman/ Shuntman/ Cabinman Gr.I	260-400	65	Selection.
	Cabinman Gr.I	225-308				

SA/-
(K.VENKATESAN)
JT.DIRECTOR ESTT: (F&A)
RAILWAY BOARD.

True copy

Before the Hon'ble Chief Administrative Officer
Central Board of Secondary Education

CA No. 400 of 1990 (L)

P
Pecram Singh

Applicant

Visu.

Unemployment and
other

opposite parties

Annexure No. II



A/L

1440

Annexure No. 2

43/C

पूर्वोत्तर रेलवे

=====

कार्यालय आदेश

=====

निम्नलिखित कर्मचारियों के स्थानान्तरण/उनके पारस्परिक सम्बन्धों के ^{37/4/77} ~~पत्र (वक्त)~~ किये जाने का आदेश सहायक परिचालन अधीक्षक ने दिया है।

1. श्री शिवकर गुप्ता, डि० गेटमैन (200-250) नवाबगंज का स्थानान्तरण मसकनावा के श्री पुरन सिंह गेटमैन की जगह पर किया जा रहा है।

2. श्री पुरन सिंह गेटमैन (200-250) ^{मसकनावा} ~~मसकनावा~~ का स्थानान्तरण क्र. 80 स० की जगह नवाबगंज किया जाता है।

इन्हे पास स्थानान्तरण भत्ता आदि देय नहीं होगा।

कुंजे मंडल अधीक्षक (कार्मिक)
लखनऊ।

सं० ई/सी सी/पी-7

दिनांक

19-7-77

आदेश की प्रतिलिपि सूचनार्थ :-

1. मंडल लेखा-धिकारी/ लखनऊ।
2. स्टेशन मास्टर/मनकापुर, मसकनावा, नवाबगंज।
3. यातायात निरीक्षक गौन्डा।
4. प्रधान लिफ्ट - बिल्ट ^{अनुमति}
5. सम्बन्धित कर्मचारी।

1105/108
4/12/77
40/12/77

कुंजे मंडल अधीक्षक (कार्मिक)
लखनऊ।

True copy

प्रवर मंडल अधीक्षक,
पूर्वोत्तर रेलवे, लखनऊ

By the Hon'ble Central Administrative Tribunal
Circuit Bench at Lucknow

CA No. 408 of 1990 (2)

Pecram Singh - Applicant
Versus

Union of India and
Others - opposite parties

Annexure No III

प्रवर मंडल, मनी मफ,
पूर्वोक्त, १९७७

संशोधित वरीयता सूची शॉटमैन 1216-2708 लखानऊ मण्डल दिनांक 1.5.64 को । यह वरीयता सूची इस कार्यालय के समसंख्यक पत्र दिनांक 15.9.64 के अतिप्रमाण में है ।

Amrapur No. 3

क्र.सं.	नाम	स्थान	जन्मतिथि	विवाह तिथि	पदोन्नति तिथि	कर्मभरण तिथि	विवरण
1	2	3	4	5	6	7	8
1.	सर्वश्री						
1.	गोपेन्द्र (1) C M/21027	जातिधरमण	9.10.27	20.7.57	4.7.67	1.5.69	शॉटमैन में छात्र
2.	विश्वनाथ सिंह S M/21027	अनूप	14.6.52	1.5.66	27.10.70		शॉटमैन में छात्र
3.	जयराम S M/21027	लखानऊ जं.	10.2.37	1.1.65	28.9.74	1.4.76	शॉटमैन में छात्र
4.	रमेश रसोगी S M/21027	लखानऊ जं.	16.9.45	1.7.65			शॉटमैन में छात्र
5.	शान्तिनाथ पांडे S M/21027	गोड्डा	21.1.39	1.1.65	16.10.76		शॉटमैन में छात्र
6.	अनूप S M/21027	गोड्डा	3.6.36	30.5.65	9.9.77		शॉटमैन में छात्र
7.	गोविंद हुसेन S M/21027		16.3.40	25.3.61	20.6.76		शॉटमैन में छात्र
8.	निसार अहमद	नकड़ा	5.7.44	3.1.65	29.6.78		शॉटमैन में छात्र
9.	हरि प्रसाद	शेखावाग	2.7.47	1.1.65	1.9.78		"
10.	मोहनीयाम	लखानऊ जं.	20.7.46	1.5.67	7.9.76		"
11.	भूपार अनुजाल	मैलानी	5.2.43	22.4.66	1.10.76		"
12.	अभिषेक प्रसाद	"	31.1.36	29.7.64	17.1.79		"
13.	पारसनाथ	नकड़ा	12.1.48	31.8.66	22.6.79		"
14.	राम नरेश	गोरखपुर	10.7.46	17.1.66			"
15.	भारदा प्रसाद	कानपुर अन.	15.4.44	1.2.67	13.7.79		"
16.	हरजीत सिंह	लखानऊ जं.	15.9.45	17.1.66			"

शॉटमैन में छात्र

True Copy

प्रवर संज्ञा

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-2-

1	2	3	4	5	6	7	8
सर्वो							
17. राम अहार	गोरखापुर	1.1.4C	16.2.62	13.7.79			
18. प्रेम रांकर	गोपडा	28.12.42	26.5.66	"			
19. नदी रघुल	गोरखापुर	11.1.44	15.2.62	"			
20. रेलगा चन्द्र	गोपडा	26.4.46	2.8.64	"			
21. चैन प्रसाद	गोपडा	16.7.44	26.12.67	17.7.79			
22. रंग म बाय सिंह	"	16.4.36	13.2.66	17.7.79			
23. देवाय राम	"	12.4.43	19.6.67	17.9.79			
24. परदेवांगी	गोरखापुर	23.1.47	23.10.67	15.10.79			
25. लल्लुराम	"	2.3.45	19.2.74	"			
26. पंचम लाल	गोपडा	7.5.37	11.11.69	12.11.79			
27. रामदेव तिलवारी	कानपुर अनठ	13.7.44	11.4.69	26.12.79			
28. उमादेवान्त पाण्डे	नकडा	6.6.48	16.10.71	"			
29. परम दंडा	गोपडा	3.5.44	11.11.75	"			
30. पुरन सिंह	लखानऊ जंठ	2.11.53	14.4.66	"			
31. लखानऊ जंठ	गोरखापुर	23.12.45	17.3.71	"			
32. लखानऊ जंठ	"	13.10.51	"	"			
33. लखानऊ जंठ	"	11.10.51	"	"			

गोरखापुर में पदोन्नति
गोपडा में पदोन्नति

गोरखपुर में पदोन्नति

गोरखपुर जमाते में पदोन्नति
गोरखपुर जमाते में पदोन्नति

गोरखपुर जमाते में पदोन्नति

प्रवर मंडल परिषद अध्यक्ष,
गोरखपुर जमाते, लखनऊ

सर्वश्री

क्र.	नाम	पता	3	4	5	6	7
25.	दीपही पीसि	गोणडा	3.3.54	22.6.73	6.10.66	-	-
26.	प्रेमला प्रसाद	"	1.1.49	5.12.74	"	-	-
27.	रामदेव तिवारी	गोणडा	10.6.45	24.10.69	"	-	-
28.	राम, लाल	"	10.5.42	20.5.60	6.11.66	-	-
29.	अजीत रत्नान	लखाना, कंठ	20.11.52	23.5.77	"	-	-
30.	डीरद्वार प्रसाद	कानपुर अनल	2.2.45	16.11.66	20.1.61	-	-
31.	डीरद्वार प्रसाद	गोरखपुर	10.0.46	29.7.71	10.2.61	-	-
32.	विनायक शंकर अनुपमा	लखाना कंठ	5.5.39	24.10.59	25.2.61	-	-
33.	हौरला प्रसाद	गोरखपुर	5.9.41	5.6.63	16.6.61	-	-
34.	संतोषा कुमार निगम	लखाना कंठ	26.10.54	5.12.75	27.9.61	-	-
35.	फैज अल्लाह	गोरखपुर	15.12.33	27.9.58	20.7.63	-	-
36.	लक्ष्मण	"	2.3.37	4.11.59	"	-	-
37.	ओमका प्रसाद	"	19.6.39	20.1.65	"	-	-
38.	राजेन्द्र सिंह	"	5.10.56	5.2.75	"	-	-
39.	राज शंकर अनुपमा	"	14.4.53	26.4.76	"	-	-
40.	दकील अहमद	"	21.1.45	11.5.76	"	-	-
41.	राम कुमार मोर	नफटा	1.1.56	10.11.75	10.11.63	-	-

सर्वश्री

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-4-

संख्या - ई/111/255/वरीयता सूची/सांठौन/C4

दिनांक - 11/2/1984

प्रतिनिधिप सूचनाई प्रीजात :-

1. रेशमान, अधीक्षाक/गोरखपुर, नकहाना, मोरडा, लखानऊ जं. रेशमाना, कानपुर अनवरगंज मैलानी
2. रेशमान मोरटर/ कर्मिपयरगंज, लखिमपुर
3. संविधात कर्मचारीगण । इस वरीयता के विवरद कोई भी प्रतिवेदन पर दो भाद के अन्दर देने के पर विचार किया जायेगा । इस अदाला के बाद प्राप्त प्रतिवेदनों पर विचार न किया जाये
4. मंत्री / मण्डल द्वा निम्न, पी.आर.के.एस.ल/लखानऊ जं. जल

इसे गजल रेल प्रकल्प कार्यात्मक
लखानऊ ।

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प्रद
लखानऊ

Examination
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^{He.}
Before the United Administrative Tribunal
Circuit Bench at Lucknow

OA No. 408 of 1970 (L)

Pooan Singh - - - Applicant
Versus

Union of India and - - - opposite parties
Officers



Annexure No. IV

प्रवर मंडल परिभाषित अधीक्षक,
पूर्वोत्तर रेलवे, लखनऊ

क्र.सं. नाम स्थान जन्मतिथि निधुक्ति तिथि पदोन्नति तिथि अनुपरोक्त तिथि विवरण

1	2	3	4	5	6	7	8
	सर्वश्री						
1-	राम आधार	गोरखपुर	1-1-40	16-2-62	13-7-79	13-7-80	
2-	प्रेम शंकर	गोष्ठा	28-12-42	26-5-68	"	"	
3-	बलई प्रसाद (असु जात)	गोरखपुर	11-1-43	9-10-65	"	"	5-5/1980
4-	वैन प्रसाद	गोष्ठा	10-7-44	26-12-67	"	"	10-1-80
5-	केशव राम	"	12-4-43	19-8-67	17-9-79	15-1-80	
6-	परदेवी	गोरखपुर	23-1-47	23-10-67	15-10-79		
7-	लालू राम	"	2-3-48	19-2-74	"	"	5/1/1980
8-	पंचम लाल	नकटानांनल	7-8-39	4-11-69	12-11-79	12-11-80	5/1/1980
9-	उमाकांत पंडे	सीध पीठ 80	6-6-48	11-4-69	6-10-80	6-10-81	5/1/1980
10-	परम डंश	नकटानांनल	3-6-44	16-10-71	"	"	5/1/1980
11-	श्री पूरन सिंह	गोष्ठा	12-11-53	11-11-75	6-10-80		5/1/1980
12-	कल्याण शंकर	गोरखपुर	23-12-45	14-4-66	"	"	5/1/1980
13-	सलउददीन	"	13-10-51	17-3-71	"	"	5/1/1980
14-	झगराधिल	"	11-3-46	27-5-68	"	"	5/1/1980
15-	बीठडीठ सिंह	गोष्ठा	3-3-54	22-6-73	"	"	5/1/1980
16-	केवला प्रसाद	"	1-1-49	6-12-74	"	"	5/1/1980
17-	राम रेड तिलारी	"	10-6-45	24-10-69	"	"	5/1/1980
18-	राम लाल	"	10-5-40	20-5-68	6-11-80		5/1/1980
19-	अमीनुर रहमान	फ़ज़लुल्लह	20-11-52	25-5-77	"	"	5/1/1980
20-	हरि द्वार प्रसाद	सीध पीठ 80	2-2-45	16-11-66	28-1-81		5/1/1980

प्रमाण-2

अवर मंडल परिचालन अधिकारी

पूर्वोक्त रेलवे, लखनऊ

1	2	3	4	5	6	7
	सर्वश्री					
21-	हरि प्रसाद	गोरखपुर	18-8-46	16-10-71	10-2-81	10-2-82
22-	होसला प्रसाद	गोंडा	6-9-41	5-6-63	16-8-81	16-8-82
23-	संतोष कुमार निगम	लखनऊ जंक्शन	29-10-54	5-12-75	27-9-81	27-9-82
24-	राजेन्द्र सिंह	गोरखपुर	5-10-56	6-2-75	28-7-83	28-7-84
25-	राम समुल (अनुनाद)	,,	14-4-53	28-4-76	,,	,,
26-	वकील अहमद	,,	21-1-45	11-5-78	,,	,,
27-	मोहम्मद गमी	सीध पीठ ९०	9-4-50	18-10-75	21-9-84	21-9-85
28-	रफी उल्ला	मैलानी	4-3-56	31-5-68	10-1-85	10-1-86
29-	मुन्ना प्रसाद पंडे	गोरखपुर	15-7-49	1-12-78	,,	,,
30-	शतीश कुमार	सीध पीठ ९०	20-5-56	25-8-76	,,	,,
31-	लाल बहादुर	लखनऊ जंक्शन	7-2-55	1-4-82	10-1-85	10-1-86
32-	कमला प्रसाद विवारी	गोंडा	30-1-52	,,	,,	,,
33-	सरोज कुमार पंडे	मैलानी	18-2-56	4-4-81	,,	,,
34-	देवी शंकर शुक्ला	लखनऊ जंक्शन	18-1-53	21-8-78	,,	,,
35-	शोभा राम विवारी	,,	3-9-58	17-12-81	15-11-84	15-11-85
36-	लालमन	गोंडा	15-10-59	15-7-83	9-1-87	9-1-88
37-	दीप कुमार	पेशवाबाग	5-8-61	15-5-84	,,	,,

लखनऊ रेल प्रशासन (जि.पि.डि.)

लखनऊ

प्रमाण: ---3

जनरल मंडल पाठान अवीक्षक,
पूर्वोत्तर रेलवे, लखनऊ

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Proposed Hon'ble Central Administrative Tribunal
Civil Bench at Lucknow

CA No. 400 of 1990 (L)

Pecram Singh - Applicant
Versus

Union of India and
- others - opposite parties

Annexure No. I S

प्रवर मंडल परिचालन अधिकारी,
पूर्व
लखनऊ

पूर्वोत्तर रेलवे

कार्यालय आदेश

=====

निम्नलिखित पदोन्नति/पदाव्यवस्था एवं पदस्थापना आदेश जारी किए जाते हैं जो तत्काल प्रभावी होंगे। रेलवे आवास कार्यमुक्त होने के 15 दिन के अंदर से रखा घाली कर दिये जायें अन्यथा अनुशासनिक कार्यवाही की जायेगी।

अ- शंटिंग जमादार 1200-1800 के चयन जिसका पराक्षाफल इस आदेश के अविरोधना सं. ई/11/254/रा. जमा. /88 दिनांक 29-9-88 द्वारा जारी किया गया है, में सफल निम्नलिखित तदर्थ शंटिंग जमादारों एवं शंटमैन 950-1500 की पदोन्नति एवं 'पोस्टिंग' उनके सम्मुख लिखे स्टेशन पर की जाती है।

क्रमांक	नाम	वर्तमान पद एवं स्टेशन	नियुक्ति स्टेशन	चयन निर्धारित	विवरण
1	2	3	4	5	6
सर्वश्री					
1-	कमला प्रसाद मिश्रा	तदर्थ शंटिंग जमादार/गोरखपुर 1200-1800	शंटिंग जमादार गोष्ठा 1200-1800	-	रिक्त स्थान पर
2-	सुल्ली लाल (अ. जा.)	सीपीए	सीपीए	-	"
3-	निसार अहमद	नरहाजंगल	गोरखपुर	-	"
4-	राम नरेश	गोरखपुर	"	-	"
5-	रामबोध पाण्डे	मैलानी	मैलानी	-	"
6-	मो० जखील	सीपीए	गोष्ठा	-	"
7-	पारस नाथ	नरहाजंगल	गोरखपुर	-	"
8-	राम सहाय	शंटमैन गोष्ठा 950-1500	गोष्ठा	1200/-	पदोन्नति पर
9-	शिवनंदन (अ. जा.)	सीपीए	सीपीए	100/-	"
10-	अखरी सुल्तान	"	गोष्ठा	1200/-	"
11-	जाखित हुसैन	गोष्ठा	"	1200/-	"
12-	शिव शंकर (अ. जा.)	लखनऊ जं.	सोतापुर	1200/-	"
13-	लक्ष्मण प्रसाद (अ. जा.)	गोरखपुर	गोरखपुर	1200/-	"
14-	निसार			1200/-	"

क्रमशः

प्रवर मंडल

पूर्वोत्तर

आदेशक,

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- 2 -

ब- निम्न तदर्थ शंटिंग जमादार जो शंटिंग जमादार 1200-1800 के कान में स
घोषित नहीं हुए हैं को उनके सम्पूर्ण पद पर पदावनति किया जाता है।

क्रमांक	नाम	वर्तमान पद एवं स्टेशन	पदावनति पर पद	वेतन निर्धारित
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सर्वश्री

1- मो. अम्बास	तदर्थ शंटिंग जमादार	शंटिंग 950-1500	1090/-
	गोरखपुर	गोरखपुर	
	1200-1800		
2- अब्दुल रज्ज	" कान. अन.	" कान. अन.	1090/-
3- शिव रतन	" लखनऊ जं.	" लखनऊ जं.	1090/-
4- मोहनी श्याम	" लखनऊ जं.	" लखनऊ जं.	1090/-
5- राम प्रसाद	" लखनऊ जं.	" लखनऊ जं.	1070/-
6- जैराम	" गोष्ठा	" गोष्ठा	1090/-
7- भूषर	" मैलानी	" मैलानी	1090/-
8- बलराम प्रसाद	" गोरखपुर	शंटिंग गोरखपुर	995/-
		800-1150	
9- कार्याशांकर	" लखनऊ जं.	" लखनऊ जं.	995/-

क्र. सं. अ 1, 6 एवं 12 को स्थानांतरण भत्ता, पास एवं कार्यालय अवधि देय है
अन्य को नहीं।

यह प्रमोवावी/लखनऊ के आदेश से जारी किया जाता है।

कृते मण्डल रेल प्रबंधक(का),
लखनऊ

सं. 11/210/शं. जमा. /88

दिनांक 12-10-88

PR-2
12/10/88

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाही हेतु पेषित :-

- 1- प्रमोवावी/लखनऊ।
- 2- स्टेशन अधीक्षक/गोरखपुर, न हाजंगल, गोष्ठा, सोतापुर, मैलानी, श्याम,
लखनऊ जं., एवं कानपुर अनवरगंज।
- 3- मुख्य थार्ड मास्टर/गोरखपुर, गोष्ठा।
- 4- कार्याधी/बिल, पास, फोल्डर अनुभाग।
- 5- सम्बन्धित कार्यकारीगण।
- 6- मण्डल मंत्री/नई
- 7- ...

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कृते मण्डल रेल प्रबंधक(का),
लखनऊ
PR-2
12/10/88

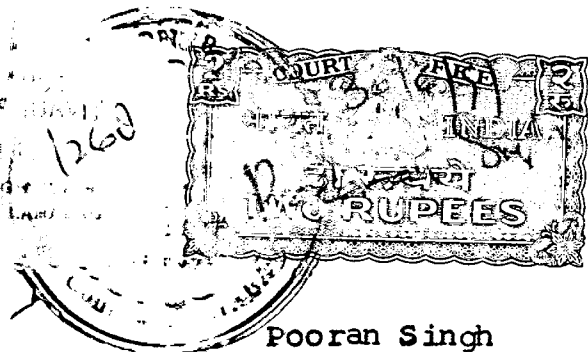
प्रवर मण्डल रेल प्रबंधक,
गोरखपुर

AUG

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH: LUCKNOW.

O.A. NO. 408 OF 1990 (L)



Pooran Singh

..

Applicant

Versus

Union of India and others ..

Opp. Parties

REJOINDER AFFIDAVIT

I, Pooran Singh, aged about 38 years, son of Sri Sarju Singh, resident of Village - Dutt Nagar Bishen, Post Office Bargon, District Gonda, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the applicant, who has read all the contents and is fully conversant with the facts deposed herein.
2. That the contents of para 1 and 2 of the counter affidavit need no comments.
3. That the contents of paras 3 to 6 of the counter affidavit are not disputed.
4. That the contents of paras 7 & 8 of the counter Affidavit are admitted. Moreover, it may be stated here that though the scale was revised to Rs. 800 - 1150, but the actually applicant has not been paid salary in the revised scale.

...2.



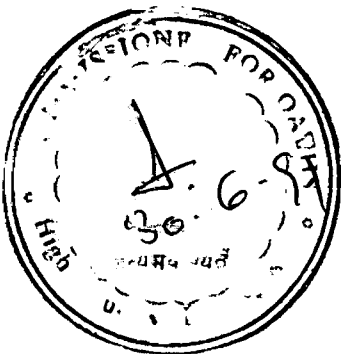
22/11/91

1980

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5. That the contents of para 9 of the Counter Affidavit are admitted.
6. That the contents of para 10 of the counter Affidavit are not admitted as stated. It may be submitted that the petitioner was promoted along with another person being the senior most Shuntman and as such, he has right to continue on that post.
7. That in reply to the contents of para 11(a) of the counter affidavit, it may be stated here that at the time of promotion only the petitioner and one Sri Ram Sahai, were available for promotion as the persons senior to the petitioner and Sri Ram Sahai were either holding the post of shunting Jamadar and other equivalent posts, and as such, there was no supersession of his seniors.
8. That in reply to the contents of para 11(b) (c), 12 of the counter affidavit, it may be stated here that the counter affidavit itself shows that as per Board's letter dated 29-7-1983, contained in averment 1 to the counter affidavit, the scale of Grade I and Grade II, Rs. 210-270 and Rs. 225-308, has been merged in one scale of Rs. 260-400, and since the petitioner was promoted in the scale of Rs. 210-270 in the year 1980, he became entitled to get the revised merged scale of Rs. 260 - 400, and as such, the persons placed in Shuntman Grade II & Grade I, both are eligible

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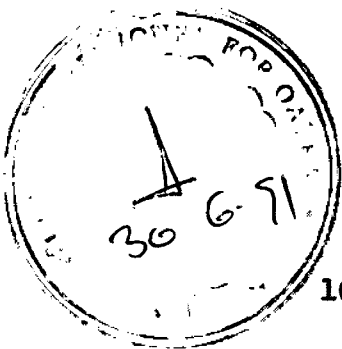
3.

for promotion to the post of Shunting Jamadar since the petitioner has qualified the advance training of Cabinman/Shunting Jamadar Examination held on 17-10-1984, he is eligible for promotion to the post of Shunting Jamadar. It may be pointed out here that the order of promotions, contained in Annexure - 5 itself shows that the persons working in the scale of Rs. 800 - 1150 viz. S/Sri Balai Prasad and Karuna Shankar were also considered for promotion. It may be further stated here that a bare perusal of the impugned order would reveal that the petitioner was promoted under the orders of the Divisional Railway Manager (Operating), vide order No. E/II/210/MO/86, dated 21-3-1986 and as such, the plea taken by the opposite parties in para under reply are wrong and misconceived.

9. That in reply to the contents of para 13 of the Counter Affidavit, it may be submitted that since the pay scales of Shuntman Grade I and II were merged in the scale of Rs. 260 - 400 (Revised in Rs. ⁹⁵⁰ 800 - 1500), there was no occasion to hold the selection for Grade I post.

10. That the contents of para 14 of the counter affidavit are admitted, to the extent that the impugned order of reversion was passed, when the petitioner approached the authorities through Union in respect of salary. Rest of the contents are denied.

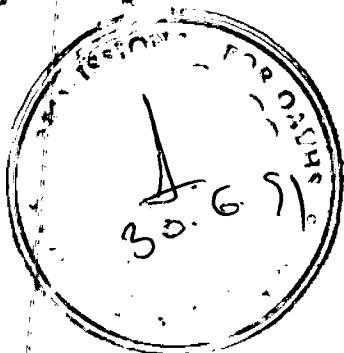
...4.



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11. That the contents of para 15 of the Counter Affidavit are emphatically denied.
12. That the contents of paras 16, 17 and 18 of the counter affidavit are not disputed.
13. That the contents of para 19 of the counter affidavit are not admitted as stated and those of para 4(iv) of the petition are reiterated.
14. That the contents of para 20 of the counter affidavit are admitted to the extent that the pay scale of Rs. 260-400 has been merged in the scale of Rs. 950 - 1500. Rest of the contents are emphatically denied.
15. That the contents of para 21 of the counter affidavit need no comments.
16. That the contents of para 22 of the counter affidavit are not admitted as stated. The petitioner has represented for payment of salary payable to the post of Shunting Jamadar and not for officiating charge (Allowance) as alleged by the opposite parties in para under reply, but still the petitioner has not been paid salary for the post of Shunting Jamadar on which he is working.



(AS3)

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17. That in reply to the contents of para 23, it may be stated [✓]here that on the representation of the petitioner through Union, the authorities have become prejudiced with the petitioner & have taken the arbitrary action.

18. That the contents of paras No. 24 and 25 of the counter affidavit are denied. Since the scale of Grade I and Grade II were merged in one scale, neither there was any double promotion, nor any mistake in the promotion of the petitioner as alleged by the opposite parties. It may be pointed out here that though the scales of were merged in one scale, the persons holding the posts in the alleged scale of Rs. 800-1150 have also been considered for promotion to the post of Shunting Janadar as shown in the promotion order dated 12-10-1988, contained in Annexure-5 to the Counter Affidavit.

19. That the contents of para 26 of the counter affidavit are admitted with the modification that the order of reversion has been passed by the D. S. O., who is neither the appointing

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authority, nor he has issued the order of promotion.

20. That the contents of paragraph 26 of the counter affidavit are denied. The petition is liable to be allowed with costs.

LUCKNOW:

DATED: 30.6.91

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DEPONENT

I, Pooran Singh, aged about 37 years, son of Sri Sarju Singh, resident of Village Dutt Nagar Bishen, P.O. Bargon, District Gonda, do hereby verify that the contents of para 1 to 7, 10, 11 & 17 are true to my personal knowledge and those 8, 9, 10 to 20 are believed be me to be true on the basis of legal advice received and that any material fact has not been suppressed.

LUCKNOW:

DATED: 30.6.91

420178

DEPONENT



Subscribed before me on 30.6.91
A. N. KHANAM
JATHI CHAND SINGH
High Court
Lucknow
No. 19/268
Dated 30.6.91

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

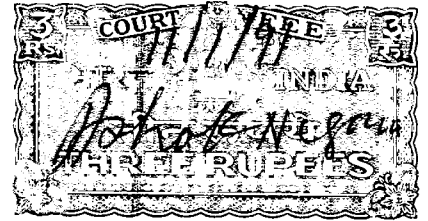
VAKALATNAMA

Before
In the Court of

Central Administrative Tribunal Bench Lucknow

OA No. 408 of 1980 (L)

Pooram Singh



Versus

Union of India and others

+/We. K. P. Singh, Dist. Rly. Manager, N.E. Rly. Lucknow
c K.B. Lal, Asstt. Cpty. Suptd. NER, Lucknow

do hereby appoint and authorise Shri. Ashok Nigam

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.

I/We hereby agree to ratify all acts done by the aforesaid Shri. Ashok Nigam

Railway Advocate, Lucknow

in pursuance of this authority.

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

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

(K.B. Lal)
सहायक परिचालन अधिकारी
पूर्वोत्तर रेलवे, लखनऊ

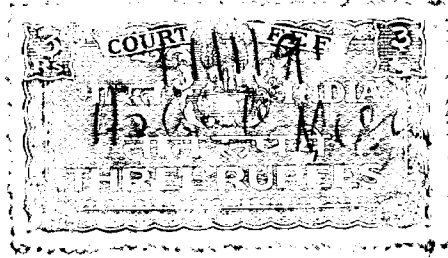
(O.P. No. 3)

(K.P. Singh)
10/1

(O.P. No. 2)

Accepted for C.P. above,

Ashok Nigam
Advocate
11.1.81



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वकालतनामा

Central Administrative Tribunal Bench Lucknow

के समक्ष

C.A. No. 408/90 (L)

के न्यायालय में

वादी
प्रतिवादी

Pooram Singh

दावेदार
अपीलायी

प्रतिवादी
वादी

Union of India and others

अर्जीदार
प्रत्यार्षी

भारत के राष्ट्रपति इसके द्वारा श्री Ashok Nigam Rly Advoate Lucknow

को उपर्युक्त, वाद/अपील/कार्यवाही में भारत संघ को और से उसजात होने, कार्य करने, आवेदन करने, अभिवदन करने और आगे कार्यवाही करने के लिए दस्तावेज दाखिल करने और वापस लेने, न्यायालय की आदेशिका स्वीकार करने, काउन्सेल, अधिवक्ता या प्लीडर नियुक्त करने और उन्हें अनुदेश देने, रुपया वापस लेने और उसका निक्षेप करने तथा उपर्युक्त वाद/अपील/कार्यवाही में भारत सरकार का साधारण तिनिधित्व करने और भारत संघ के लिए इस प्रकार उपसंजात होने, कार्य करने, आवेदन करने, अभिवदन करने और आगे कार्यवाही करने की अनुषांगिक सभी बातें करने के लिए नियुक्त और प्राधिकृत करते हैं। किन्तु यह इस शर्त के अधीन रहते हुए होगा कि जब तक भारत सरकार के समुचित प्राधिकारी से उस निमित्त पहले ही स्पष्ट प्राधिकार प्राप्त नहीं कर लिया गया है, तब तक उक्त काउन्सेल/अधिवक्ता/प्लीडर या उसके द्वारा नियुक्त काउन्सेल/अधिवक्ता/प्लीडर सभी या किसी प्रतिवादी/प्रत्यासी/अपीलायी/वादी/विरोधी पक्षकार के विरुद्ध उस वाद/अपील/दावा/प्रतिरक्षा/कार्यवाही को पूर्णतः या भागतः न तो वापस लेगा, न उसका अधिव्यजन करेगा, न ऐसा कोई करार करेगा या समझौता करेगा जिसके द्वारा वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित की जाए और न उससे उद्भूत या उसमें विवादग्रस्त सभी या किसी विषय को मध्यस्थ को निर्देशित करेगा, परन्तु आपवादिक परिस्थितियों में जब भारत सरकार के समुचित प्राधिकारी से परामर्श करने के लिए पर्याप्त समय नहीं है और वाद में समझौता करने में लोप करना निश्चित रूप से भारत सरकार के हित के प्रतिकूल होगा तो उक्त प्लीडर/अधिवक्ता/काउन्सेल ऐसा कोई करार या समझौता कर सकेगा जिसके द्वारा उक्त वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित हो जाय और ऐसे प्रत्येक मामले में काउन्सेल/अधिवक्ता/प्लीडर करार या समझौता करने के विशेष कारण बताते हुए उक्त अधिकारी को तत्काल संसूचित करेगा।

राष्ट्रपति इस प्राधिकार के अनुक्रम में श्री Ashok Nigam Rly Advoate Lucknow

द्वारा किए गए सभी कार्यों का अनुसमर्थन करने को सहमत हैं।

इसके साक्ष्यस्वरूप भारत के राष्ट्रपतिके लिए और उनकी और से इस विलेख को आज तारीख को सम्यक् रूप से निष्पादित किया जाता है।

तारीख 19

NER-84850400-8000-4784

Accepted for
O.P. above,
Ashok Nigam
Advoate
11.1.21

Sum) Wan
(S M N Islam)
निष्पादन करने वाले अधिकारी का पदनाम

प्रतिरक्षा/प्रतिरक्षा/प्रतिरक्षा
प्रतिरक्षा/प्रतिरक्षा/प्रतिरक्षा
For Union of India

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH - LUCKNOW

O.A No. 408/90 (L)

Pooran Singh

...

Applicant.

Versus.

Union of India & Others ...

Respondents.

Dated : 18.7.1991.

Hon'ble Mr. Kausal Kumar V.C

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



On the request of counsel for both parties case is adjourned to 17.9.91 for hearing. Interim order shall operate till next date.

J.M

V.C

Sd/-

Sd/-

// True copy //

[Signature] 22/7/91
Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow

[Handwritten signature]

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CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH : LUCKNOW

O.A No. 408/90(L)

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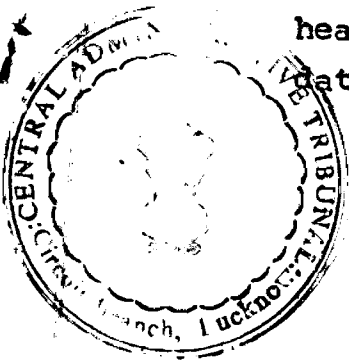
V.C

Sd/-

Sd/-

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J. M. S. 22/9/
Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow



Chandray