

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

General Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing: 10-4-80
Date of Receipt by Tribunal: 10-4-80

Registration No. 135 of 1980

APPLICANT(S)

Pratap

RESPONDENT(S)

U.O.

Particulars to be examined

Endorsement as to result of examination

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

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

(A2)

<u>Particulars to be Examined</u>	<u>Endorsement as to result of examination</u>
11. Are the application/duplicate copy/spare copies signed ?	Yes
12. Are extra copies of the application with Annexures filed ? a) Identical with the Original ? b) Defective ? c) Wanting in Annexures Nos. _____ pages Nos _____ ?	No
13. Have the file size envelopes bearing full addresses of the respondents been filed ?	No
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 ?	NA
17. Are the facts of the case mentioned in item no. 6 of the application ? a) Concise ? b) Under distinct heads ? c) Numbered consecutively ? d) Typed in double space on one side of the paper ?	Yes
18. Have the particulars for interim order prayed for indicated with reasons ?	Yes
19. Whether all the remedies have been exhausted.	Yes

dinesh/

24/4.1990

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

Hon'ble Mr. K. Obayya, A.M.

Heard, Shri A.K. Dixit counsel for the applicant. The applicant is agreed with the order of removal dated 17.5.1989, served on him on 22.7.89, whereby, the applicant was removed on the ground that he was found medically unfit. The applicants case is that he was medically re-examined Vide Memo dated 24.12.1988 on or after 24.12.1988 and found medically fit. The interim relief is also been prayed in the form of mandamus at this stage. It is not, dispute that the applicant is not in service since 22.7.1989 or so.

Yet, notice be issued to the respondents, to show cause as to why the petition is not been admitted and why the interim prayer made for be not granted. The respondents shall produce the medical examination results in original for pursual of the Tribunal along with the show cause reply.

List it for admission orders on interim relief matter on 13.7.1990.

Sd/-
A.M.

Sd/-
J.M.

rrm/

by
notice
given
&
10-5-90
D

13-7-90. No sitting. Ady. to 29/8/90

29.8.90

Hon. Mr. D.K. Agrawal, J.M.
Hon. Mr. K. Obayya, A.M.

No cause has been shown
by the respondents. List on 13-9-90
alongwith OA 271/90

"Mammal & Others vs Union
of India"

CR
Notices were
issued on 10.5.90.
Neither reply
nor any unserved reply.
Copies have been return
back.

S. J. A

28/9

by
A.M.

by
J.M.

(144)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

LUCKNOW CIRCUIT BENCH, LUCKNOW

Registration O.A. No.135 of 1990.

Pratap Applicant

Versus

Union of India & Others Respondents

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

Hon. Mr. M.M. Singh, Member (A)

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

This application under Section 19 of the Administrative Tribunals Act, 1985 is for quashing of the order of removal passed on 17.5.89 contained in Annexure-A1 with benefits of salary.

2. The respondents have filed counter; Shri A.K. Dixit for the applicant says that no rejoinder is to be filed. The case involves very short matter and therefore as agreed by the parties this petition is disposed of finally.

3. According to the applicant he was working as Casual Labour ^{since} ~~the~~ the year 1965 but according to the respondents the applicant started working since 1973 and after completing 120 days in continuous working he was treated as a decasualised labour. On 2.1.1984 he was subjected to a medical fitness examination and was declared medically unfit. It does not however appear that any order of termination of his service on that basis was passed in that context. According to the

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- 2 -

respondents the applicant colluded with the concerned staff and continued to remain in employment despite his medical ~~unfitness~~. In the screening done in 1988, it came to light that the applicant had failed in medical examination but he continued in service. On 29.7.84 he was sent for medical examination before D.M.O. where he was declared unfit on 2.8.84 and under the Rules he should have been terminated from the service. He was also served with a show cause notice on 6.1.89 to which the applicant replied on 3.2.89 after emphatically denying the contents. The reply was unsatisfactory. He was never sent for medical re-examination in 1988.

4. Annexure-A4 is the ~~reply dated~~ dated 3.2.89 in which he admitted that he had been declared medically unfit but added that he made an appeal and on a re-examination in consequence of the appeal he was found fit; he prayed that he may be retained in service.

5. However, the applicant, according to the respondents, vide para 12 of the written statement absconded from his duty from 6.1.89 and never joined duty. Ultimately, the impugned order of removal contained in Annexure-A1 dated 17.5.89 was passed in which it was mentioned that the applicant's reply to the show cause notice had been carefully considered but was found unsatisfactory because he had been found medically unfit. The order mentions that for the charge of being medically unfit, the applicant was found guilty and therefore he was removed from service with effect from 18.5.89. This order was undoubtedly passed under the Railway Servants (Discipline & Appeal) Rules, 1968 as ~~clearly~~ clearly mentioned on the top of impugned order Annexure-A1.

6. The simple grievance of the applicant is that the impugned order of termination by way of penalty, is wholly misconceived, unsustainable in the eyes of law and deserves to be quashed.

7. The learned counsel for the respondents urged in the first instance that the applicant had filed a departmental appeal against the termination order and that appeal is still pending and therefore this petition may not be entertained. The provision of requiring the applicant to exhaust departmental remedy before approaching the Tribunal is not a total bar to the entertaining of the application filed before this Tribunal. ^{Where} there is a violation of the principles of natural justice, this Tribunal is well within its competence to entertain the petition even during the pendency of the alternative remedy. In this connection it may also be mentioned that the appellate authority is expected to dispose of the appeal within six months and if it is not done within six months, the applicant who is aggrieved is at liberty to approach this Tribunal.

8. The learned counsel for the respondents has laid emphasis upon the conduct of the applicant after he was found medically unfit on 2.4.84. He says that the record held by the Department shows that in the medical certificate the expression 'Unfit' had been surreptitiously rectified to read as 'Fit' and it was for that reason that the applicant continued to remain in employment despite his unfitness. He therefore says that according

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- 4 -

to the fairness and justice the applicant is not entitled to claim remaining in service. Without making any further comment upon this point we should only say that the Department should have enquired about the facts after instituting an enquiry against the applicant in accordance with the provisions of the Railway Servants (Discipline & Appeal) Rules, 1968. That has not been done. There can be no presumption that any surreptitious act has been done by the applicant. It requires proof. The adequacy or quantum of proof is a matter to be determined by the disciplinary authority. The learned counsel for the respondents then said that ever since 1989 the applicant had been absconding and did not report for duty and therefore is not entitled for any salary. The learned counsel for the respondents referred to the reply dated 3.2.89 to the show cause notice in which he had complained that despite furnishing a reply dated 3.2.89 to the show cause notice dated 6.1.89 he was not being paid salary although he was reporting for duty and he was wrongly marked absent. The best course for the respondents was to institute a fresh enquiry against the applicant about his collusion with the concerned staff in continuing in the service.

9. We see no reason why the applicant may be refused his salary for the period from 17.5.89. If on the one hand the applicant had not approached the Department with clean hands, on the other hand the Department itself had acted with reckless negligence

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A7

- 5 -

about the case of the applicant. They ought to know the proper Rules under which a complaint or an act of misconduct as alleged by the learned counsel for the respondents ought to be investigated, tried and ultimately determined. If despite this knowledge they have chosen to act in an arbitrary manner in flagrant violation of the applicable rules, there is no reason to deny salary to the applicant from the date of removal from service. It is self evident that mere failure in medical test is not misconduct so as to attract disciplinary proceedings.

10. For the reasons indicated above, this petition is allowed and the order of removal contained in Annexure-A1 dated 17.9.89 is quashed. The applicant will be deemed to have continued in service and will be paid back wages as admissible under the Rules. It is open for the respondents to institute a fresh enquiry against the applicant under the applicable provisions. Parties shall bear their costs.

M M L

Member (A)

Ph

Vice Chairman

Dated the 13th Sept., 1990.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,
LUCKNOW

FORM I

(See Rule 4)

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNALS ACT, 1985.

O. A. No. 135/90 (2)

Pratap..

..Applicant.

Vs.

Union of India & others..

..Respondent.

CLAIM AGAINST REMOVAL ORDER DT. 17.5.89
(Read on 22.7.89) removing applicant
from Post of Gangman N.Rly.

COMPILATION NO. I

I N D E X

Noted for
24/4/90
Germier

Sl.No.	Description of Document	Page No.	Remarks
1.	Memo of Claim Petition.	1-11	
2.	Order No.E-6 PWI/SA N Dt.17.5.89 (read on 22.7.89) as Annexure A-1	12	
3.	Nakalatnama	13	

Other Documents Kept in Compilation No.II

Lucknow

Signature of Applicant

Dt. April, 1990

Filed Through:-

A.K. Dixit,
Advocate,

509/28-Ka, Old Hyderabad,
Lucknow.

For Use in Tribunal's Office

Date of Filing

or

Date of Receipt by Post

Registration No.

Signature of Registrar.

(A9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH,

LUCKNOW.

Central Administrative Tribunal

Circuit Bench Lucknow

Date of Filing 10-4-80

Date of Receipt by Post

V Deputy Registrar (J)

Pratap aged about 36 years son of Sri Brij Lal ,
resident of Village Dammar Khara, Post Chhonnia,
District Hardoi.

.. ..Applicant.

Versus.

1. Union of India Through General Manager,
Northern Railway, Head Quarters, Baroda House,
NEW DELHI.

2. Divisional Rail Manager, Northern Railway,
MOORADABAD.

3. Assistant Engineer, Northern Railway,
~~BAREILLY~~. HARDOI

4. PERMANENT WAY INSPECTOR, Northern Railway,
Sandila, Distt. HARDOI.

.. ..Respondents.

DETAILS OF APPLICATION

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

Application is preferred against following:-

(i) Order No.

E/6-PWI/SAN

(ii) Dated.

17.5.89(Received on 22.7.89)

(iii) Passed by.

Asstt. Engineer,
N. Railway HARDOI
(Respondent No.3)

A/10

(Photocopy of Impugned order attached as
Annexure No. A-1 in Compilation No.I).

2. Jurisdiction of Tribunal

The applicant declares that the subject matter of orders against which they want redressal is within the jurisdiction of the Tribunal.

3. Limitation

The applicant 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 petitioner started to work as Casual Labour under respondents 3 and 4 in the year 1965 and on the basis of completion of much more than 120 continuous days was given status of Decasualised/Temporary Gangman in the year 1984.

4.2. That on 2.8.84 petitioner was medically examined in which he failed but was not ousted from job instead on 24.12.88 was sent for Re-Medical Examination as per orders of Divisional Rail Manager Dt. 1.12.88 to whom petitioner represented.

A True Photocopy of Re-Medical Examination slip Dt. 24.12.88 issued by the Asstt. Engineer N.Rly. Hardoi is attached as Annexure A-2.

AM

4.3. That petitioner was issued with a Duty Pass No. 667665 Dt. 24.12.88 by Asstt. Engineer Hardoi to attend the Medical Re-examination.

4.4. That petitioner was Medically Re-examined and was told to have passed same. Medical Examination result was not given to him instead as per prevailing practise same was sent to the concerned office directly by the Medical Officer Bareilly Rly. Hospital.

4.5. That petitioner continued to perform his duties as usual and right from 1965 to now he was never subjected to any sort of complaint with regard to his work and efficiency touching or reflecting his physical capability.

4.6. That in the end of January 89 petitioner was served with a show cause notice No. E/6 CL Dt. 6.1.89 issued by Respondent No. 3 to the effect that he was sent for Medical Examination on 29.7.84 in which he was declared unfit vide Medical Memo No. 074506/469 Dt. 2.8.84 It was mentioned in this notice that as per rules his services should have been put to an end at the very initial stage but he was retained for certain reasons and now why his services be not put to an end for which an opportunity for explanation is given

A12

-4-

A True photocopy of aforesaid show cause notice Dt. 6.1.89 is attached as Annexure A-3.

4.7. That petitioner submitted reply of aforesaid show cause notice on 3.2.89 in which he stated that he has been declared fit in Re-Medical examination, the certificate of which is available in office.

True photocopy of petitioners reply Dt. 3.2.89 is attached as Annexure A-4.

4.8. That as petitioner was not being permitted to work from 6.1.89 inspite of his daily attending the job, he on 3.3.89 preferred a representation under Regd. Post No. 3053 and 3054 to the Respondents No.2 and 3.

True copy of representation dt.3.3.89 along with Photo copies of concerned Postal Receipts under which it was despatched is attached as Annexure A-5.

4.9. That on 22.7.89 petitioner was served with an order No.E/6PWI/SAN Dt. 17.5.89 passed by Asstt.Engineer, N.Rly. Hardoi, thereby imposing upon him penalty of Removal from service.

A True photocopy of Removal order

../5.

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-5-

dt. 17.5.89 has been attached as Annexure A-1
(in compilation No.I).

4.10. That perusal of order contained in Anx. A-1 goes to show that it has been passed under Railway Servant (Discipline & Appeal) Rules 1968 by way of Penalty.

4.11. That although the order Dt. 17.5.89 contained in Anx. A-I has been passed by way of Punishment in exercise of Disciplinary Action Powers but petitioner was never issued with a charge sheet, nor his reply as such was called for, neither any dates of enquiry were communicated to him nor any such enquiry was conducted.

4.12. That it is necessary to point out at this stage that Respondent No. 3 tried to Terminate services of Manni Lal and 6 others gangman on the basis of Medical unfitness, who challenged his action by preferring a claim petition O.A. No. 257-1989 (L) before this Hon'ble Tribunal in which the applicants e.g. Manni Lal and others also gave reference of Petitioner (of this claim) in para 10 of said claim petition.

4.13. That respondent No. 3 in para 10 of his written reply Dt. 5.10.89 in claim O.A. No. 257-1989 (L) replied as under:-

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That in reply to para 4.10 of the petition that the facts and circumstances of case Pratap son of Brij Lal were entirely different. In the said case the petitioner had made overwriting on the Medical Memo. - - - - -".

4.14. That this statement of Respondent No. 3 made in para 10 of written reply Dt. 5.10.89 in O.A. No. 257-1989 goes to show that petitioner had been given penalty of Removal from service for alleged and so called "Overwriting on Medical Memo". Whereas petitioner was never charged with this allegation and no opportunity of meeting out such allegation has been given.

4.15. That claim petition O.A. No. 257-1989 (L) has been allowed by this Hon'ble Tribunal on 6.4.90 and all Termination Notices have been quashed mainly on the ground that when petitioners (of claim No. 257-1989) were medically examined in the year 1984 but were permitted to continue upto 1989 with no complaint it is not fair and proper to dispense with their services in an arbitrary manner in which it is tried to be done.

ALS

Pending final disposal of said claim No. OA 257-1989 (L) implementation and operation of Termination Notices also stayed by this Hon'ble Tribunal.

4.16. That on receipt of Removal order Dt. 17.5.89 on 22.7.89 petitioner filed an appeal on 25.7.89 to the Divisional Engineer(II), Office of DRM Mooradabad under Regd. Postal Receipts No. 817 and 818.

True copy of appeal Dt. 25.7.89 along with photo copy of Regd. Postal Receipts No. 818 and 817 under which appeal was submitted is attached as Annexure A-6.

4.17. That so far petitioner has received no response of his appeal.

4.18. That since Respondents have so far not disposed off the appeal, petitioner has been left with no option but to prefer this claim petition before this Hon'ble Tribunal.

5. GROUND FOR RELIEF WITH LEGAL PROVISION

- A) Because from perusal of impugned order contained in Annexure A-1 and narration facts in para 4.13 and 4.14 it is clear that order has been passed by way of Punishment on account of allegation of specified Misconduct for which no enquiry

under prescribed Rules and Art. 311 of Constitution has been done.

- B) Because impugned order is clearly is Utter violation of Principles of Natural Justice.
- C) Because impugned order is highly arbitrary, illegal unjust and unfair.

6. Details of Remedies exhausted:

Applicant declares that he has availed of all the remedies as were available to him under Rules. Petitioner preferred Departmental Appeal by means of Annexure A-6 Dt. 25.7.89 which has not been responded in any manner so far.

7. Matters not previously filed or pending in any other court.

The applicants further declare that they have 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 petition 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 following reliefs:-

- (i) Removal order Dt. 17.5.89 contained in Annexure A-1 be declared illegal, null and void, as a necessary consequence of which petitioner be held entitled to have continued in service with all consequential benefits of salary, revised scale, increments, arrears, and seniority etc. with effect from 6.1.1989.
- (ii) Costs of the present claim petition and such other reliefs as may be deemed fit and proper in the circumstances of the case be allowed to the claimant as against the Respondents.

9. INTERIM ORDER IF ANY PRAYED FOR:

Pending final decision on the application, the applicant seeks the following interim order:-

- (i) Further implementation and operation of Removal order Dt. 17.5.89 contained in Annexure A1 be stayed and Respondents be ordered to let the petitioner continue on posts of DCL Gangman and also to pay him regular month to month salary.

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10. APPLICATION IS PRESENTED BY:

SRI ABHAYA KUMAR DIXIT,
ADVOCATE,
509/28-Ka, Old Hyderabad,
LUCKNOW.

11. Particulars of Bank Draft/
Postal Order filed in respect
of the application fee:

1.No. of Postal order/ 8-02 414137
Bank Draft.

2.Date of Postal Order/ 18/4/90
Bank Draft.

3.Post Office/Bank by which High Court Bench Lucknow
issued.

4.Payable at Post Office/ Allahabad
Bank at

12. LIST OF ENCLOSURES:

1. Demand Draft/
Postal Order.

2. Index of Compilation
No. I.

119

3. Paper Book of
Compilation No.I.

4. Paper Book of
Compilation No.II.

5. Paper Book of Compilation
No.II.

6. Vakalatnama.





नि. म. प्रताप

Sig. or Thumb Impression of applicant.

VERIFICATION:

I / We, Pratap do hereby verify that the contents of
paras 1 to 4 , 7, 9, 10 to 12 are true to my personal
knowledge and paras 5,6 and 8 are believed to be true on
legal advice and that we have not suppressed any material
fact.

Sig. or thumb Impression of applicant.

Date: April, 1990

Place: Lucknow.



नि. म. प्रताप.

Vs. Union of India & others--Opp. Parties
Annexure No. A

...E/G. Psikan

17/5/89

415.

9014 15233 107

Dr. S. S. S.

CROT/SAN

E/6

6/19/99

कारण-नोटित-शायन-संख्या ६/६ दिनांक ६/११/१९७७
 कार में घावके दिनांक ६/११/७७ के सम्बन्धमें प्र. नि. प्रान्तपालिका विभाग
 द्वारा हे. मु. नि. प्रान्तपालिका विभाग लिखित कारणों से संतोषजनक नहीं माना जाता है।
 आर. नि. प्रान्तपालिका विभाग लिखित कारणों से संतोषजनक नहीं माना जाता है।

उत्तर: मैं आपकी मित्रता तथा मेरे साथ आने पर (पैसे) के मुद्दे पर विचार कर रहा हूँ। सेवा के प्रति मेरी विनम्रता/मित्रता/परस्पर करने की आपकी भावना से मैं है। निमित्त, विनम्र है। उत्तर: आपकी (विधि) के मुद्दे पर मैं विनम्रता/मित्रता/परस्पर विनम्रता आता है :-

2. ऐल कम्पार्टी (सन्तुष्टासद तथा शशील) विषय, 1968 के निषेध 18 के अनुसार इन विधायकों विरुद्ध... को शशील की जा सकेगी यदि :-
(i) शरीर मिलने से 45 दिन के भीतर विधायक शशील की जावे, और
(ii) शशील की भाषा अनुचित या असद्वर्त न हो।
8. कृपया इस पत्र की प्रतिलिपि दें।

१५०/१७-१७७५, १७७५-१७७७
 १५०/१७-१७७५, १७७५-१७७७

ATTESTED TRUE COPY

Abhaya Kumar Dixit
Advocate
HIGH COURT
LUCKNOW.

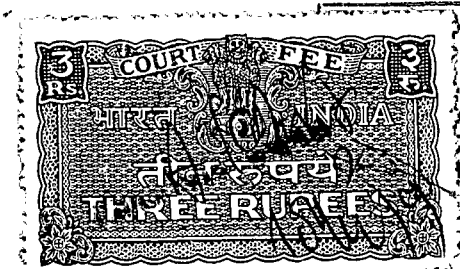
In the Central Administration Tribunal
Court Bench member

(A21)

(13)

वकालत नामा

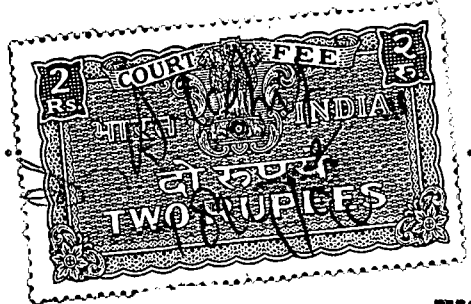
Pratap



के लिए

Union of India

न्यायालय श्रीमान



स्मृति नाम वादी
श्रीमान 509/28 Cold Hyderabad एडवोकेट
Mekuru वकील साहब

रजिस्ट्रार अदालत
नं० मुकदमा
करीकत

को व जिन वकील साहब को श्रीमान वकील अपनी ओर से भेजे उनको अपना वकील नियत करके बचन देता हूं और प्रतिज्ञा करता हूं कि उल्लिखित वकील साहब उपरोक्त मुकदमे व अपील व निगरानी में जो कुछ पेरवी वा उत्तर प्रयुत्तर करे या दावा व वकील निगरानी व बयान तहरीर दाखिल करें या कोई काम-जात या सनद इत्यादि पेश करें या वापस करे या हमारी ओर से इजराय डिगरी करके या रुपया जो हमें मिलने को है वसूल या राज नामा इकबाल दावा हमारी ओर करे या दाखिल करे या प्रतिवादी द्वारा दाखिल किया हुआ रुपया स्वयं अपने हस्ताक्षरों से या हमारी दस्तखत की हुई रसौद लेवे या जिम्मेदारी मुआवजा बाड या पुनर्वास भत्ता एग्गोटी अर्धवासी या बृद्ध जोतकार एक्ट आदि के बांड लेवे तथा किसी मुकदमे पक्ष आदि नियत यह सब मय हानि लाभ के जो मिसिल में कार्ववाही करेगे हमें स्वीकार होगा और नियत मेंहनताना न मिलने पर वकील साहब को अधिकार होगा कि वह उपरोक्त मुकदमें में अपील या निगरानी पेरवी न करे इस लिए वकालतनामा लिख दिया कि सनद रहें और आवश्यक समय पर काम आवें ।

Accepted.

गवाह

हस्ताक्षर

18/4/90

वि.म. प्रताप

गवाह

हस्ताक्षर

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,

LUCKNOW

COMPILATION NO. II

Pratap..

..Claimant.

Vs.

Union of India & others..

..Respondents.


I N D E X

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Filed by:-

Lucknow:

Dt. April, 1990


A.K. Dixit,
Advocate.

Priyap .. Claimant

Vs. Union of India & others--Opp. Parties
Annexure No.A

A23

Re: Medical Examination vide B.N.M. MS No. 2710/34/00
dated 1/11/00

उत्तर रेलवे/Northern Railway

बी.एम. 3/G.M.-3/BRC/M-1/M-2-02

यह कार्य उस समय करा जाता था कि, जब किसी जमादारी को सेवा के दौरान डाक्टरों
परीक्षा के लिए अपने आप को प्रस्तुत करने के लिए अधिकृत किया जाए

Form to be used when an Employee is granted Authority to present himself/herself for
Medical Examination during Service

नं./No. ... 116 ... शाखा या विभाग/Branch or Department

वर्ग (नाम) ... 35/1/00 ... जो वर्ग ... 35/1/00 ... में

पदनाम ... 35/1/00 ... पर (वह स्थान जहां

नियुक्त है) काम करने वाला कर्मचारी है।

*नियमित/नियमित द्वारा परीक्षा, *वर्ग ... 35/1/00 ... में (पदनाम) ... 35/1/00 ... में

के रूप में नियुक्ति के लिए द्वारा डाक्टरों परीक्षा, *विशेष द्वारा डाक्टरों परीक्षा पिछली प्रतिकूल

रिपोर्ट के पुनर्विचार के लिए द्वारा डाक्टरों परीक्षा के सम्बन्ध में अपने आप को प्रस्तुत करने के लिए

अधिकृत किया जाता है।

To the bearer (Name) ... age ... an employee serving as

(designation) ... in class ... at (place where employed) ...

authorised to present himself for :-

*Periodical re-examination, *Re-examination prior to promotion to class

as (designation) ... *Special re-examination, *Re-exam-

ination for reconsideration of previous adverse report.

पिछली बार ... 2.5/1/00 (तारीख) को ... 2.5/1/00 ... (पिछले परीक्षा

का पदनाम) ... 35/1/00 ... के लिए उसकी परीक्षा ली गयी थी और वह वर्ग ... 35/1/00 ...

के लिए नियुक्त किया गया था।

He was last examined on date ... at ... by (designation of

previous medical examiner) ... for class ... when he was passed fit

for class.

उसकी सेवा अवधि ... 4 ... वर्ष ... 4 ... महीने हैं।

His length of service is ... years ... months.

उसकी स्थायी शारीरिक पहचान चिह्नों की नीचे दी गयी है।

The following is a list of his permanent physical marks of identification.

1. One linear scar on the forehead ...

2. One linear scar on the forehead ...

स्थान/Station ... हस्ताक्षर/Signature ...

तारीख/Date ... 24/10/00 ... पदनाम/Designation ...

*जो लागू न हो उसे कोट दे/... whichever is inapplicable, उत्तर रेलवे, उत्तर

Assist. Engineer.

... M. B. ...

दि 24/10/00

...

Vs.

Annexure No. A

A24

उत्तर रेलवे
NORTHERN RAILWAY

अभिमान स्थापना अभ्यासः
७०२० ई. ई. ई.

2.07.

[illegible]

Notes

Noted
 आपकी दिनांक 29/11/04 को मजदूर विनिर्माण मजदूरों
 गुनाहवार के साथ अफसरों को दान देना मैं अफसरों को पत्र
 आपकी मेडिकल इन्सुलेशन/पत्रक भाग पुनर्निर्माण के लिए
 074506 डी 469 दिनांक 2-8-04 के द्वारा मजदूरों को
 मजदूरों को

जिम्हा गुप्त प्रकाशको ले सँग ही कामकी सेवा
राजर्षि वल पैनी-काहि ए वी। जन्तु कुछ कारणी चके कामकी
सेवा के सँग उमा। उमो न कामकी सेवा सगर्षि वल
की उमा।

25. 11. 1944

2-11 6/

ATTESTED COPY *From 2019*

Advocate
HIGH COURT
LUCKNOW.

Pratap .. Claimant

Vs.

Union of India & others--Opp. parties

Annexure No. A 4

3
A25

सेता में

श्रीमान सहायक अभियन्ता महोदय

उत्तर रेलवे हरदोई ।

विषय:- सामान्य परीक्षा द्वारा नोटिस जवाब:-

आफका पत्र संख्या ई/6 सी० एल दिनांक 26=7=84

महोदय

निवेदन है कि उक्त पत्र के सन्दर्भ में प्राप्ति आफकी अज्ञात कारणों से कि दिनांक 2.9.84 को मेडिकल के लिये मण्डल के कार्यालय विचारणा के लिये पुरादावादा गया और दिनांक 2=8=84 अयोग्य घोषित किया जिसकी प्रति तुरन्त आफके कार्यालय में दी गयी उसकी सुनवाई के लिये दोबारा पेश होने पर डाक्टर साहब ने प्राप्ति को योग्य घोषित किया और यह प्राप्ति पत्र भी आफके कार्यालय में दिया गया है जिसके अनुसार आफके कार्यालय पर ही प्राप्ति को स्वायुक्त किया गया था ।

अतः उक्त विषय में अन्य जानकारी अपने कार्यालय से ही प्राप्त करें

अतः श्रीमान जी सहायक अभियन्ता महोदय को ज्ञापित किया गया था उसी प्रकार प्राप्ति को रेल सेवा में रखा जाय।

आफकी महान कृपा होगी।

दिनांक 3=2=89

भवदीय

प्रताप पुत्र श्री राजलाल
डी०सी०एल० नैगमन
अधिनियम रेल पथ नरसिंह
उत्तर रेलवे सहायक

नि भाग

ATTN

Abhaya K. Singh
Lucknow.

4
A26
इन दि सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिब्यूनल सर्किट बैच , लखनऊ ।

प्रताप ---

---याची

बनाम

यूनियन आफ हण्डिया आदि---

विपक्षीगण

संलग्नक संख्या 5

=====

सेवा में,

श्रीमान मंडल रेल प्रबन्धक महोदय,
उत्तर रेलवे, मुरादाबाद।

श्रीमान्

विषय :- पुनः मेडिकल परीक्षण कराने हेतु व सेवाकाल के चयन हेतु ।

=====

निवेदन है कि प्रार्थी को दिनांक 24-12-88 को श्रीमान ए0ई0एन0,
हरदोई के आदेश से पुनः डाक्टर की परीक्षण हेतु बरेली भेजा गया परन्तु
प्रार्थी के तीन बार बरेली जाने के बावजूद भी डाक्टर साहब ने उसका परीक्षण
नहीं किया तथा दूसरी ओर प्रार्थी को ए0ई0एन0 महोदय ने 6-1-89 को सेवा
सम्पत्ति करने की नोटिस दी जिसकी उत्तर भी प्रार्थी ने 3-2-89 को दे
दिया ।

आज तक न तो प्रार्थी की सेवा समाप्ति निलम्बन या अन्य आदेश
ही दिया गया और न उसे 6-1-89 से केन ही दिया जा रहा है । यह नितान्त
अनुचित है। प्रार्थी बराबर ड्यूटी पर जाता है परन्तु उसे काम नहीं दिया

जाता है जबकि प्रार्थी का नाम पे शीट पर है। प्रार्थी से बराबर बताया जाता

है कि उसके संबंध में श्रीमान जी के कार्यालय से आदेश भेगाया गया है ऐसा

HIGH COURT
MUMBAI
ACKNOWLEDGE

क्रमशः 2

प्रतीत होता है कि प्रार्थी को मनमाने तरीके से गैर हाजिर दिखाकर उसे सेवा से हटाने की योजना की जा रही है दूसरी ओर जब तक प्रार्थी को कोई आदेश उसकी सेवा के संबंध में नहीं दिया जाता है वह किसी प्रकार की अपील आदि भी नहीं कर सकता है ।

उपरोक्त विषयम परिस्थितियों में प्रार्थी है कि प्रार्थी को उसकी डाकटरी परीक्षा व सेवा के संबंध में यथाशीघ्र स्पष्ट आदेश देने की कृपा की जाय। यदि तीन सप्ताह के अंदर प्रार्थी को कोई स्पष्ट आदेश नहीं दिये जाते हैं। और उससे यथा कार्य लेकर समस्त बकाया केनादि दिनांक 6-1-89 से नहीं दिया जाता है तो प्रार्थी उक्त अवधि के बाद इस मामले को न्यायालय में ले जाने को विवश होगा।

प्रार्थी,

नि०अ० प्रताप :-

दिनांक :- 3 मार्च, 1989.

॥ प्रताप पुत्र श्री बृज लाल ॥
डी०सी०एल० गैंगमैन,
रेल पथ निरीक्षक, सुण्डीला,
जिला हरदोई।

प्रतिलिपि:-

=====

श्रीमान असिस्टेंट ट इंजीनियर महोदय, उत्तर रेलवे, हरदोई।

ATTN

Amr

RECEIVED

नि अ प्रताप

128 6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH LUCKNOW

Pratap .. Claimant

Vs.

Union of India & others--Opp. Parties

Annexure No. A 5

बिमा नहीं NOT INSURED

अमान्य रकम डाक टिकटों का मूल्य रु० ५०
Amount of stamps affixed Rs. 50

एक रजिस्ट्रीय प्रमाणित किया गया
Received a Registered

प्राप्तवाले का नाम
Addressed to

प्राप्तवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

बिमा नहीं NOT INSURED

अमान्य रकम डाक टिकटों का मूल्य रु० ५०
Amount of stamps affixed Rs. 50

एक रजिस्ट्रीय प्रमाणित किया गया
Received a Registered

प्राप्तवाले का नाम
Addressed to

प्राप्तवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

ATTEST

Abhaya Kumar

High Court
LUCKNOW



Handwritten signature or initials.

(A29) 7

इन दि सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिब्यूनल सर्किट बैच, लखनऊ ।

प्रताप--

-- याची

काम

यूनियन आफ इण्डिया अगिद--

--विपक्षीगण।

संलग्नक संख्या 6

=====

सेवा में,

श्रीमान डिवीजनल इन्जीनियर महोदय॥ द्वितीय॥,
उत्तर रेलवे मण्डल, कार्यालय,
मुरादाबाद।

द्वारा-- उचित माध्यम ।

श्रीमान सहायक अभियन्ता महोदय, उत्तर रेलवे, हरदोई ।

प्रताप पुत्र श्री ब्रज लाल, डी०सी०एस्० गैंग मैन् अधीनस्थ श्रीमान रेल पथ
निरीक्षक महोदय, सण्डीला, जिला हरदोई, निवासी ग्राम डम्बर खोरा,
पोस्ट छोनइया जिला हरदोई--

--अपीलकर्ता ।

अपील अन्तर्गत नियम 18 रेल कर्मचारी
॥अनुशासन एवं अपील ॥ नियमावली 1968
किरूद्ध सेवा समाप्ति आदेश संख्या डी०६/पी०
डब्ल्यू०आर०/ सण्डीला दिनांक 17-5-89
प्राप्त दिनांक 22-7-89 संबंधित आदेश
की ॥ जै सी फो टो कापी अपीलकर्ता को
प्राप्त कराई गई है उसकी ॥ छाया प्रति
संलग्न है।

श्रीमान जी,

ATTEST

उपरोक्त विषया-तर्गत अपील से संबंधित निम्न तथ्य आपके समक्ष

अभिलेखित एवं सहानुभूति पूर्ण विचार के लिये प्रस्तुत है।

1- यह कि प्रार्थी ने वर्ष 1985 से कैजुअल लेबर के पद पर कार्य करना
HIGHER COURT
LUCKNOW.

प्रारम्भ किया था तथा कार्य दिवसों की निरंतरता के आधार पर उसे अक्टूबर 1984 में डी०सी०एल० ग्रेड में बढ़ाया गया ।

2- यह कि इससे पूर्व प्रार्थी को दिनांक 2-8-84 को डाक्टरी परीक्षा हेतु भेजा गया था जिसमें आयोजित होने पर प्रार्थी ने अपील की तदनुसार प्रार्थी की पुनः डाक्टरी हुई थी जिसमें वह योग्य घोषित किया गया ।

3- यह कि तब से प्रार्थी और किसी शिकायत का मौका दिये निरंतर कार्य करता रहा कि उसे 6-1-89 श्रीमान सहायक अभियन्ता हरदोई द्वारा हस्ताक्षरित पत्रांक डी०सी०एल० दिनांक 6-1-89 को प्राप्त हुआ जिसके द्वारा प्रार्थी से यह पूछा गया कि 2-8-84 में मेडिकल में फेल हो जाने के बाद कुछ कारणों के असे सेवा में रखा गया था अब क्यों न उसकी सेवा समाप्त कर दी जाय।

4- यह कि प्रार्थी ने उपरोक्त कारण बताओं सूचना का उत्तर दिनांक 3-2-89 को तथा पुनः प्रार्थी पत्र रजिस्टर्ड अंक से 3-3-89 को भेजा। प्रार्थी को 6-1-89 से वेतन भी नहीं दिया गया यद्यपि उसका नाम हाजिरी रजिस्टर पर 15-6-89 तक चलता रहा है परन्तु न तो प्रार्थी की हाजिरी अंकित की गई और न उसे वेतन ही दिया गया । यद्यपि वह काम पर नित्य प्रति उपस्थित होता रहा है।

5- यह कि उपरोक्त कारण बताओं सूचना दिनांक 6-1-89 के अतिरिक्त प्रार्थी को कोई अन्य आरोप पत्र, जांच सूचना, जांच अधिकारी की नियुक्ति की सूचना, या रेलवे कर्मचारी अनुशासन एवं अपील नियमावली 1968 के नियम 9 के अन्तर्गत किसी भी प्रकार की कार्यवाही या विधिक औपचारिकताओं के संबंध में नोटिस सूचना प्राप्त नहीं हुई ।

18 अप्रैल

6- यह कि प्रार्थी और कोई जांच की तिथि की सूचना प्राप्त हुये अचानक दिनांक 22-7-89 को प्रश्नगत आदेश संख्या डी० पी० डब्ल्यू० आर० / एस० ए० एस० दिनांक 17-5-89 की फोटो स्टेट कापी प्राप्त कराई गयी यद्यपि प्रार्थी के हस्ताक्षर प्राप्त स्वरूप नहीं लिये गये हैं।

18 अप्रैल

प्रश्नगत आदेश की फोटो कापी संलग्न है।

7- यह कि प्रश्नगत आदेश के अन्तर्गत से यह स्पष्ट है कि इसे रेल कर्मचारी अनुशासन तथा अपील नियमावली 1968 के अन्तर्गत क्रमशः 23

जारी करते हुये उसे दिनांक 17-3-89 से सेवा से निकालने का आदेश दण्ड स्वरूप पारित किया गया है।

8-

यह कि प्रार्थी को मौखिक रूप से यह भी बताया गया है कि प्रार्थी 17-3-89 तक का अपना बकाया क्रेतादि प्राप्त कर ले।

यह अपील प्रस्तुत करने के उपरान्त आर्थिक अभाव से पीड़ित होने के कारण प्रार्थी को जिस क्रेतादि की मद की भुगतान किया जायेगा उसके द्वारा ऐसा प्राप्त किया गया धन इस शर्त के अधीन समझा जावेगा कि मात्र क्रेतादि का बकाया प्राप्त कर लेने से संबंधित दंड आदेश दिनांक 17-5-89 प्राप्त दिनांक 22-7-89 की वैधता को सक्षम अधिकारियों या न्यायालय के समक्ष चुनौती देने की अधिकार समाप्त नहीं होगा वरन् सुरक्षित रहेगा। यदि क्रेतादि की बकाया प्राप्त करने से पहले श्रीमान जी का कोई अन्य या आदेश इस सम्बन्ध में प्राप्त नहीं होता है तो प्रार्थी यह समझ लेगा कि श्रीमान जी को प्रार्थी की यह शर्त मान्य है।

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यह कि उपरोक्त तथ्यों के अन्तर्गत यह अपील निम्न तथा अन्य आधारों पर प्रस्तुत की जाती है :-

आधार अपील

क्योंकि प्रार्थी को जब दंड आचरण व अपील नियमावली के नियम 6 के अन्तर्गत दिया गया है तो इसके पूर्व नियमावली के नियम 9 व 10 के अन्तर्गत बगैर विधिक प्रक्रिया यानी आरोप पत्र, उत्तर, सुनवाई की पूर्ण अवसर जाँच की तिथि सूचना व इसके बाद ही कारण बताओ सूचना जारी किये बगैर किसी भी प्रकार की दंड नहीं दिया जा सकता है।

क्योंकि प्रार्थी को न तो आरोप पत्र दिया गया न उसके मामले में उसे अवसर। जाँच की तिथि की सूचना आदि के बगैर जो भी कार्यवाही की गई है तो वह पूर्ण रूप से अवैधानिक है।

ATTN.

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क्योंकि जब प्रार्थी को "कुछ कारणवश" 1984 से 1989

तक नौकरी में रखा गया तो उसे इस प्रकार सरसरी कार्यवाही करके मनमाने पूर्ण तरीके से नहीं निकाला जा सकता है।

Abhaya K.

HIGH COURT
LUCKNOW.

॥च॥ क्योंकि किसी भी दशा में सेवा समाप्ति आदेश पिछली तारीखों से प्रभावी नहीं माना जा सकता है ।

॥च॥ क्योंकि आरोप पत्र और जांच के अभाव में प्रार्थी न तो अपना पक्ष ही प्रस्तुत कर सका और न उसे सुनवाई की समुचित अवसर ही मिला ।

अतः प्रार्थना है कि प्रस्तुत अपील स्वीकार करते हुये प्रश्नगत सेवा समाप्ति आदेश दिनांक 17-5-89 प्राप्त दिनांक 22-7-89 निरस्त किया जाय और प्रार्थी को सेवनादि एवं अन्य लाभों के समेत उसके पद पर पदावृद्ध करने की कृपा की जाय ।

प्रार्थी,

नि०अंगूठा प्रताप

दिनांक: 25 जुलाई 1989 ई०

॥ प्रताप ॥
पुत्र ब्रज लाल,

उपरोक्त ।

मैं प्रमाणित करता हूँ कि इस अपील में सारे तथ्य प्रार्थी ने अपनी जानकारी व विश्वास के आधार पर सत्य लिखे हैं और किसी भी अधिकारी के पद मर्यादा के विरुद्ध किसी भी प्रकार की अशोभीय भाषा का प्रयोग नहीं किया है ।

प्रार्थी,

नि०अंगूठा प्रताप

दिनांक : 25 जुलाई, 1989.

॥ प्रताप ॥

पुत्र ब्रजलाल

प्रतिलिपि आचरण व अपील नियमावली 1968 के नियम 21 ॥ 2॥ के अन्तर्गत प्रेषित ।

सेवा में,

श्रीमान सहायक अभियन्ता महोदय,
उत्तर रेलवे,
हरदोई।

ATTESTED

Abhay

Abhay

HIGH COURT
LUCKNOW.

Pratap .. Claimant

Vs. Union of India & others--Opp. Parties
Annexure No. A 6

433

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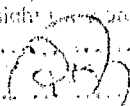
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ATTESTED

Abhaya K.

HIGH COURT
LUCKNOW.



निष्कर्ष

A34

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW.

BENCH: AT LUCKNOW.

**

CIVIL MISS. APPLICATION NO. 135 OF 1990.

(Under section 151 C.P.C.)

On behalf of

Union of India through General Manager,
Northern Railway, Head Quarters, Baroda,
House, New Delhi.

...Respondent.

IN

ORIGINAL APPLICATION NO. 135/1990(L)

Pratap ..

Applicant.

Versus

Union of India and others.

Respondents.

To,

The Hon'ble Chairman and his other accompanying
Members of the aforesaid Tribunal.

The humble application abovenamed of the
applicant Most Respectfully Showeth asunder.

1. That full facts are being given in the
accompanying written statement.

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for Peti.
13.9.90.

P.T.
13/9/90

A-35

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2. That as such it is in the interest of justice that this Hon'ble Court may be pleased to permit the respondent to place on record ~~the~~ of the present case. This written statement duly verified by the respondent in accordance with the Rules of the Administrative Tribunal Act and may be further pleased to reject the prayer for interim relief sought for as admittedly the applicant is not in service since 22.7.1989 otherwise the respondent shall suffer grave and irreparable loss and injury which can not be compensated in any manner whatsoever.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to permit the respondent to place on record of the present case. This written statement duly verified by the respondent in accordance with the Rules of the Administrative Tribunal Act and to reject the prayer for interim relief sought for as admittedly the applicant is not in service since 22.7.1989 otherwise the respondent shall suffer grave and irreparable loss and injury which can not be compensated in any manner whatsoever.

Shekhar Srivastava
(SHEKHAR SRIVASTAVA)
Counsel for the respondent.

Dated: - 1 / 8 / 1990.

DS

(A26)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW.
BENCH AT LUCKNOW.

—

ORIGINAL APPLICATION NO. 135 of 1990(L)

Pratap ..

Applicant.

Versus

Union of India and others..

Respondents.

WRITTEN STATEMENT OF BEHALF OF RESPONDENT.

1. That the deponent is at present posted as Assistant Engineer, Northern Railway, Hardoi and has been authorised to file this written statement on behalf of himself and respondent no. 1, 2 and 4.
2. That the deponent has read over the contents of the present application along with verification of the applicant under section 19 of the Administrative Tribunal Act and is filing this reply on behalf of himself and other respondent.

Pratap
सहायक अभियन्ता
उत्तर रेलवे; हरदोई
Asstt. Engineer
N. Rly. Hardoi

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3. That the contents of paragraph 1 of the application being matter of record may be verified therefrom.

4. That the contents of paragraph 2 and 3 of the application being legal and argumentative shall be suitably replied at the time of hearing of this application.

5. That the contents of paragraph 4.1 of the application as stated is denied. In reply it is stated that the applicant started to work as casual labour under respondents Nos. 3 and 4 in year 1973 and not 1965 as stated in the para under reply of the application and on his completing of 120 days of continuous working he was given the status of de-casualised worker in August, 1984.

6. That in reply to the contents of paragraph 4.2 of the application it is stated

B. Singh
सहायक अभियन्ता
उत्तर रेलवे; हरदोई
Asstt. Engineer
N. Rly. Hardoi

APB

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aka that no doubt the applicant was medically examined on 2.8.1984 in which he failed but he somehow managed to continue in service with the help of the then Assistant Superintendent, Late Sri U.L.Verma, and this fact came to light at the time of screening of this case and thereafter the applicant was sent for re-medical examination on 24.12.1988 but the applicant was not re-examined by the DMO/BE under Rules 15.1.1 and 15.2.4.

7. That the contents of paragraph 4-3 of the application is not denied.

8. That the contents of paragraph 4-4 of the application is denied. In reply it is stated that the applicant was not re-examined by DMO/BE under Rules 15.1.1 and 15.2.4 of standard of Medical Examination, 1975 as circulated under Railway Board No. 69/1+3/11 dated 6.12.1974.

B. Singh
सहायक अभियन्ता
उत्तर रेलवे, हरदोई
Asstt. Engineer
N. Rly. Hardoi

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9. That the contents of paragraph 4-5 of the application is denied. In reply it is further stated that the applicant was never working from 1965 and as such question of permitting him to work from 1965 does not arise at all. For the reasons given in the preceding paragraph of this written statement.

10. That the contents of paragraph 4-6 of the application is not denied. In reply it is further stated that at the time of Screening of the applicant's case done in 1988 it came to light that he had failed in medically examination but he continued in service with help ^{of} the then ~~of~~ Assistant Superintendent Late Sri U.L.Verma and that no formal appointment letter was issued to the applicant by the Competent Authority.

11. That the contents of paragraph 4-7 of the application is not denied being matter of record

TSinh
सहायक अभियन्ता
उत्तर रेलवे; हरदोई
Asstt. Engineer
N. Rly. HarDOI

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so far as the reply by the respondent is concerned but contents thereof is emphatically denied. In reply it is stated that the reply furnished by the applicant was unsatisfactory and he was never sent to be re-medically examined in 1984 nor he was fit for re-medical ~~examination~~ examination under Rules.

12. That the contents of paragraph 4-3 of the application as stated is denied. In reply it is stated that on the issuance of the show cause notice to the applicant on 6.1.1989 he went away on un-authorised leave and thereafter never joined his duty.

13. That on his preferring an appeal dated 3.3.1989 he was sent for re-medical examination to BMO/DE who refused to do the same under Rules 15.1.1. and 15.2.4.

TS Singh
सहायक अभियन्ता
उत्तर रेलवे; हरदोई
Asstt. Engineer
N. Rly. Hardoi


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14. That the contents of paragraph 4.9 and 4.10 of the application is not denied being matter of record, though the deponent is advised to state that said order has been passed ^{in a} for perfectly valid and legal manner and does not deserve any interference by this Hon'ble Court Tribunal in the present case ~~knasnnkhas~~ in as much as the alternative remedy of appeal has already been availed of by the applicant and same is still pending disposal and as such on the ground of alternative remedy alone, the present application deserves to be dismissed.

15. That the contents of paragraph 4.11 of the application being legal and argumentative shall be suitably replied at the time of hearing of the application.

16. That the contents of paragraph 4.12, 4.13, 4.14, and 4.15 of the application being matter of record may be verified therefrom. Only this much need


सहायक अभियन्ता
उत्तर रेलवे, हरदोई
Asstt. Engineer
N. Kly. Hardol

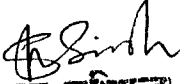
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to be stated at this stage in reply to the averments made specially in para 4.13 and para 4.14 of the application that the case of over writing on the medical memo attributed to the applicant in O.A.257 of 1989 does not seem to be directed against the applicant of the present case in as much as the applicant of original Application No.257 of 1989(L) where Manji Lal and six others to whom it seems the said allegations were directed. It may be further stated that the applicant has been removed from service on account of fact that he was found medically unfit for continuing on the post of Railway Gang Man.

17. That the contents of paragraph 4.16 of the application is not denied being matter of record.

18. That the contents of paragraph 4.17 and 4.18 of the application are not denied so far as


सहायक अभियन्ता
उत्तर रेलवे, हरदोई
Asstt. Engineer
N. Rly. Hardoi

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its relate to the non disposal of the appeal filed by the applicant. Now the respondents are only advised to state at this stage that they have received the copy of the judgement of O.A.No.257/89(L) only recently and the same shall be disposed of as early as possible.

19. That in reply to the contents of paragraph 5 application it is stated that the applicant has failed to enumerate sufficient grounds to successfully invoke the jurisdiction of this Hon'ble Tribunal and that the present application deserve to be dismissed.

20. That contents of paragraph 6 of the application is denied. In reply the deponent is advised to state that alternative remedy of appeal preferred by the applicant has still not been fully exhausted by the applicant as the appeal is still pending and as such on this ground of alternative remedy alone, the application deserve to be dismissed.

TSinh
सहायक अभियन्ता
उत्तर रेलवे, हरदोई
Asstt. Engineer
N. Rly. Hardoi

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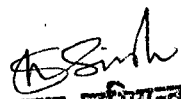
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21. That the contents of paragraph 7 of the application being matter of record may be verified.

22. That the contents of paragraph 8 of the application is denied. In reply the deponent is advised to state that as he has failed to enumerate sufficient grounds to successfully invoke the jurisdiction of this Honble Tribunal he is not entitled to the relief sought for in the para under reply of the application .

23. That the contents of paragraph 9 of the application is denied. In reply the deponent is advised to state that as the applicant is not working from 1989 even though he has absented himself unauthorisedly from 6/89 the question of granting him any interim relief does not arise at all.

24. That the contents of paragraph 10, 11 and of the application being matter of record need no reply.


सहायक अभियन्ता
उत्तर रेलवे, हार्दोई
Asstt. Engineer
N. Rly. HarDOI

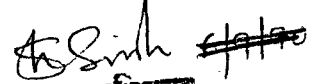
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V E R I F I C A T I O N

I, Surya Prakash S/O Hari Singh aged about 29 years at present posted as Assistant Engineer, Northern Railway, Hardoi do hereby verify that the contents of paragraph 1, 2 of this application are true to my personal knowledge, those of paragraphs Nos. 3, 5-13, 16-18, 21, 24 of this application is based on perusal of record and those of paragraphs Nos. 4, 14, 15, 19, 20, 22, 23 of this application are based on legal advice; which I believe to be true and that I have not suppressed any material facts.

PLACE: -

DATE: -


सुर्याप्रकाश प्रियन्ता
Signature of Applicant.
Asstt Engineer
N. Ry. Hardoi