

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOWINDEX SHEETCAUSE TITLE Contempt 24 of 1990 (U)O.A. 198<sup>in</sup> of 90 (U)

Name of the parties

N. K. Mukherjee

Applicant.

Versus.

U. O. D. (N. Rly.)

Respondents.

Part A.B.C.

Sl. No.	Description of documents	Page
1.	Judgment -	A1 - A4 ✓
2.	Contempt Petition	A5 - A9 ✓
3.	Annexures	A10 - A26 ✓
4.	Complainant affidavit -	A27 - A35 ✓
5.	R.A.	A36 - A59 ✓
6.	C.A. Resp. - 1	A60 - A73 ✓
7.	R.A. to C.A. of Resp. - 1	A74 - A76 ✓
	1. Notice, and copy of 26 <sup>2</sup> , A97	
	<del>Bench copy</del>	<del>A81 - A94</del>
	<del>C copy</del>	<del>C1 - C5</del>

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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
LUCKNOW CIRCUIT BENCH  
Civil Contempt Petition No.24 of 1990

In

Registration O.A.No.198 of 1990

N.K.Mukerji                      ....                      Applicant

Versus

Shri S.M.Vaish, General Manager,  
Northern Railway, Baroda House,  
New Delhi & Another. ....                      Respondents

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

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

(By Hon.Mr.A.B.Gorthi, A.M.)

Civil Contempt Application under Section  
17 of the Administrative Tribunals Act, 1985 is  
directed against Shri S.M.Vaish, General Manager  
and Shri R.N.Agha, Chief Personnel Officer, both  
of Northern Railway (respondents 1 & 2 respectively)  
~~for their~~ <sup>for their 2</sup> ~~further~~ alleged non compliance with the judgement  
dated 25.6.1990 of this Tribunal.

2.            The operative portion of the aforesaid  
judgement of this Tribunal reads as under :-

" The petition is disposed of with a  
direction to respondents No.1 & 2 to consider  
and decide the petitioner's representations  
dated 25.4.89 (Annexure-A.14) and those  
concerning his pay scale as mentioned in  
Annexures A.19 and A-20 with due regard to the  
remarks contained in Annexure-A.16 and fix  
the petitioner's seniority in the impugned  
seniority list (Annexure-A.1) and also  
to accord such consequential benefits to the  
petitioner in the matter of his pay etc. as  
found to be entitled to. The respondents

*Imagined*

(A2)

- 2 -

No.1 and 2 shall comply with these directions within a period of three months from the date of receipt of copy of this judgement unless they have already disposed of the representations referred to above<sup>n</sup>.

3. The contention of the respondents is that directions contained in our aforesaid judgement have been complied with. In support thereof a copy of letter No.754E/148-III/E1ia dated 15.1.91 has been produced as Annexure-C.3. It is apparent from this letter that in compliance with the order contained in the judgement in O.A. No.198/90 dated 25.6.90, the representation of Shri N.K. Mukherji togetherwith Annexures (A-19 and A-20) referred to in the judgement were examined by the Competent Authorities who then decided that Shri Mukherji was eligible for seniority benefit with effect from 12.10.76 i.e. from the date of entry in the grade of Rs. 700-900(RS) / Rs.2000-3200 (RPS) and not from 1.8.72 as claimed by him as he was not within the zone of consideration. This communication addressed to Shri N.K.Mukherji (the applicant) sufficiently establishes that there was due compliance with our judgement dated 25.6.90.

4. From the reply of the respondents, <sup>at 1</sup> which is obvious that they took the view that the applicant was junior to all those 18 persons who were given the benefit of the upgraded posts of Asstt. Shop Supdt. vide General Manager (P) Northern Railway letter No.754E/148-III(E1ia) dated 10.5.83 (Annexure-C.1). The

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- 3 -

applicant has not been able to show if any of the said 18 persons were junior to him and if so how? His main <sup>plan</sup> ~~plan~~ is that ~~since~~ he was given the upgraded post vide Office Order No.34 dated 13.5.73, with effect from 1.8.72 and hence his seniority should have been determined from that date. This was never accepted by the Railway Authority who maintained that the applicant was not eligible to be adjusted against the upgraded post. It seems that the Railway Administration initially decided to fill up the upgraded posts through selection, but the applicant together with some of his colleagues approached the High Court of Allahabad, Lucknow Bench, which decided that holding a selection for filling up the upgraded posts was not called for and that "as far as 18 persons including the petitioners were concerned no selection was to be held and the proposed selection to the posts of Foreman grade 'B' was without authority of law as the decision of the Railway Board carries the force of law". The said judgement cannot, in our view, be interpreted to <sup>I mean</sup> ~~be~~ that any direction was given to the effect that the petitioners were to be retained in their upgraded post even if they were found to be junior to some other deserving employees. The decision of the Railway Authorities to give the upgraded post to 18 persons (including 4 of the petitioners in the Writ Petition) was in accordance with the judgement of the High Court of Allahabad, Lucknow Bench.

5. So far as the judgement in O.A. No.198/90 is concerned, the directions of this Tribunal contained

*Amegns*

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- 4 -

in the judgement dated 25.6.90 read with the further directions issued on 5.3.91 ~~seems to~~ have been substantially complied with as can be seen from Annexures-C2 and C3. The main question of the seniority of the applicant, undoubtedly contentious, has been <sup>re-</sup>disolved by the respondents against the applicant. We are not to judge the merits or demerits of the decision taken by the Railway Administration, while examining this Contempt Petition. We are satisfied that the respondents have applied their mind to the issues raised by the applicant and gave a detailed order which has since been communicated to the applicant. Although there has been some delay on the part of the respondents to comply with our orders, we are satisfied that they are not guilty of contempt of this Tribunal.

6. We therefore reject the Contempt Petition. Notices issued to the respondents are hereby discharged.

  
Member (A)

  
Vice Chairman

Dated the 10 May, 1991.

RKM

(145)

In the Hon'ble Central Administrative Tribunal,  
Allahabad, Lucknow Bench, Lucknow.

Civil Contempt Application No. 24 of 1990 (C),  
under Section 17 of Administrative Tribunal  
Act, 1985.

arising out of O.A. No. 198 of 1990 decided  
on 25-6-90

W.K. Mukerji

...Applicant

Versus

i) Shri S.M. Vaish, General  
Manager, Northern Railway,  
Baroda House, New Delhi.

ii) Shri R.N. Agha, Chief  
Personnel Officer,  
Northern Railway, Baroda  
House, New Delhi.

...Respondents

1) In the above noted case, the applicant  
begs to submit that for detailed reasons set  
forth in the accompanying affidavit, the  
Hon'ble Court may be pleased to order for taking  
up the respondents No. 1 and 2 for contempt of  
Court for deliberate and wilful flouting and  
disobedience of the orders of the Hon'ble  
Court dated 25-6-90 (Annexure 1) regarding  
directions for deciding the applicant's  
representations vide Annexures A 1, A 19 and A 20  
of the petition regarding seniority and

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consequential ~~h~~ reliefs accruing thereafter with due regards to the remarks contained in Annexure A 16, with all consequential benefits concerning pay, promotion, etc. within 3 months from the date of receipt of copy of the Judgement.

2. That the applicant forwarded photo copy of the judgement dated 25-6-90 of the Hon'ble Court along with plaint with all Annexures through his Counsel under registered cover on 9-7-90 followed by a reminder dated 17-8-90 (Annexure 2 and 3). The applicant also sent the judgement, etc. through proper channel as well vide letter of Dy. C. ~~E~~ E. (W), Northern Railway, Lucknow dated 10-7-90 and 20-8-90 for compliance of the order and its reminders (Annexures 4 and 5).

3. That more than 4 months have passed and the opposite parties have not done anything in respect of the implementation of the order of the Hon'ble Court regarding disposal of the applicant's application and granting of consequential reliefs thereunder.

filed today  
11-12-90

for  
me

Ab

4. That earlier also due to deliberate ignoring and disobedience of the orders of the Hon'ble High Court, Allahabad and the Hon'ble Supreme Court, the applicant suffered loss of status and position at various stages including higher grade and promotion as his juniors were promoted and the applicant, despite having the judgements of the Hon'ble High Court and the Supreme Court <sup>in his favour</sup> ~~was~~ denied the reliefs granted to the applicant by the opposite parties mala fide. (Para 4/VIII of the plaint.)

5. That the applicant is retiring on 28-2-91 and the applicant being a resident of West Bengal, it may be inconvenient, difficult and expensive to do <sup>perusal</sup> ~~perusal~~ of his case from West Bengal.

6. That on 23-11-90, some official of the Northern Railway approached the applicant's Counsel and requested him not to move an application for contempt of Court for delay on the part of the opposite parties, as the orders of the Hon'ble Court were timebound i.e. 3 months time only for compliance. The applicant's

After  
law



(A7)

counsel stated that he informed the official that in case the applicant desires to move contempt application, it would be moved. However, the applicant's counsel received a letter on 4-12-90 dated 28-11-90 intimating by General Manager(P) that the applicant's case is being examined on war footing and the final decision when arrived at will be communicated to the applicant's counsel at once. (Annexure 6)

7. That the action of the opposite parties in not taking a decision on the applicant's representations vide Annexures A 1, A 19, A 20 of the petition and granting to the applicant consequential benefits which were denied to the applicant illegally, arbitrarily and malafide by the opposite parties, as the applicant's juniors were promoted in various promotion posts and the applicant was ignored. The applicant was not given stagnation allowance also.


8. That it being settled law that if

18/12

junior is promoted ignoring senior, the right to promotion from the date of his juniors promotion to the senior has to be recognised and the suppreceded senior has been declared to be entitled to back wages also.

9. That the Hon'ble Court having issued a command to the opposite parties, the same being time bound, the opposite parties failure to obey the same by avoiding a decision so far and even in the letter dated 28-11-90, received after 4 months to the effect that - " Final decision when arrived at will be communicated to you at once," amounts to wilful and deliberate recurring delay, default and disobedience of the orders of the Hon'ble Court and amounts to contempt of Court.

The Hon'ble Court is requested to take ~~suit~~ suitable action against the opposite parties for contempt of Court.


  
Applicant.

Dated: 9.12.90  
at Lucknow.

19

VERIFICATION

I, N.K. Mukerji do hereby verify  
that the contents of paras 1, 2, 4 and 9 are  
true based on records and of paras 3, 5 and 7  
are based on personal knowledge and of  
paras 6 and 8 based on legal advice and  
nothing has been suppressed.

  
Applicant

Dated: 9.12.90  
at Lucknow.

Annex 1

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

O.A. No. 198/90

N.K. Mukherjee ...Applicant.

versus

Union of India & others ...Respondents.

Hon. Mr. Justice K. Nath, Vice Chairman.

Hon. Mr. K. Obayya, Mem. Member.

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

This petition under section 19 of the Administrative Tribunals Act, 1985 is for a direction to the respondents to correct the petitioner's seniority as reflected in Annexure A-1 dated 3.4.89 by which the seniority lists annexed thereto was circulated and objections were called.

2. There appears to have been a precedent litigation in Writ Petition No. 681/1973 of the Hon'ble High Court of Judicature at Allahabad decided on 9.5.79 by the Lucknow Bench (Copy of the judgment is annexure A-3). That judgment had become final when the SLP was dismissed by the Hon'ble Supreme Court by order dated 27.4.81, contained in Annexure A-4.

3. It appears that the impugned seniority list was issued by letter dated 3.4.89 (Annexure A-1) and objections were invited by 25.4.89. The petitioner's objections are contained in Annexure A-14 dated 25.4.89 in which he claimed his placement above G.R. Diwan at serial No. 13 of the list of Annexure A-1. The petitioner's placement in the list is at 23. The petitioner's representation was to be



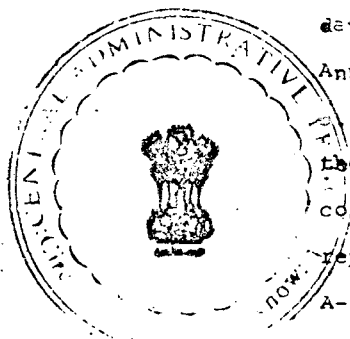
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decided by the General Manager (P), Northern Railway, Respondent No. 2. While forwarding the petitioner's case the Dy. Chief Mechanical Engineer remarked in his letter dated 8.9.89 (Annexure A-16) that in preparing the impugned seniority list, the judgment of the Hon'ble High Court had not been taken into account. The officer suggested that the petitioner may be assigned seniority from the date of his promotion as Deputy S.S. vide office order No. 34, <sup>According to</sup> as the ~~petitioner~~ <sup>petitioner</sup> no decision has been taken on the petitioner's representation so far.

4. It appears that the petitioner has further grievance that in the mean time there was anomaly and distortion in fixation of his pay. He submitted reminder Annexure A-19 dated 1.2.1990 on that subject which was forwarded by Annexure A-20.

We do not think it necessary to issue the notice to the respondents because on the respondents' own invitation contained in Annexure A-1 the petitioner had made the representation Annexure A-14 which was supported by Annexure A-16 and the respondents were clearly duty bound to consider and pass orders thereon. It goes without saying that the disposal thereof would also have affected the petitioner's claims of pay scale. The learned counsel for the petitioner conceded that the competent authority disposing of the representation are respondents 1 and 2. We, therefore, consider it adequate to issue a direction to them to dispose of the representations and pass appropriate orders.

6. This petition is disposed of with a direction to respondent No. 1 and 2 to consider and decide the petitioner's representations dated 25.4.89 (Annexure A-14) and those



A-12

9

concerning his pay scale as mentioned in Annexure A-19 and A-20 with due regard to the remarks contained in Annexure A-16 and fix the petitioner's seniority in the impugned seniority list (Annexure A-1) and also to accord such consequential benefits to the petitioner in the matter of his pay etc as found to be entitled to. The respondents 1 and 2 shall comply with these directions within a period of three months from the date of receipt of copy of this judgment, unless they have already disposed of the representations referred to above.



Adm. Member.

Vice Chairman

Lucknow Dated June 25, 1990.

Attested

True copy

21/6/90

Deputy Registrar

Central Administrative Tribunal

Lucknow Bench.

Lucknow

C.T.C

C.A. BASIR  
ADVOCATE

Annex 2

AVB 10

152, Ghasiari Mandi

Lucknow

July , 1990

To

The General Manager (P)

Northern Railway

Baroda House

New Delhi.

Through

The Deputy C.E.E.

Loco Shed, Northern Railway

Lucknow.

Sir,

Ref: C.A. No.198 of 1990, decided on 25.6.1990 -  
B.K. Mukerji Versus Union Of India and  
others, before the Hon'ble Central  
Administrative Tribunal, Lucknow.

Sub: Combined seniority list of Electrical  
Super/visors in grade 2000-3000 for  
Class II Service, vide D.O. letter No.  
186-Elec/G/8 23/50.3.1989 of C.E.E.,  
N. Railway, New Delhi, to Shri A.C.Sharma,  
Deputy C.E.E.(W), C.E.Workshop, N. Railway,  
Lucknow.

Enclosed please find herewith certified  
copy of judgement of the above case containing  
command/directions to you to consider and decide  
petitioner's representation dated 25.4.1989

Annexure A/9) and A/20 concerning refixation of

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*Certified  
to be true  
Copy*

114

pay scale and seniority. His representation sent earlier is at A-18. Observations of the Hon'ble Tribunal about Annexure A-16 deserve special attention. This annexure conveys the patently wrong orders issued and maintaining it by ignoring so many representations. The Hon'ble Court has also issued directions to accord such consequential benefits in the matter of his pay etc. as he may be found to be entitled to. The order is time-bound to the effect that the above mentioned directions (Para 6 of the judgement) shall be complied by you within 3 months from the date of receipt of the copy of the judgement, which is enclosed herewith.

Your special attention is invited to para 5 of the judgement wherein the Hon'ble Court were pleased to observe that there was no need to issue notice to you and the reasons being detailed, you may like to see the same.

I am enclosing true copy of the application moved by my client, on which the judgement was passed. The Hon'ble Court perused the order of award of grade to my client (450-575) (Annexure A-2) with effect from 1.8.1972 and also Annexure 6 regarding conferring of grade 450-575, vide order dated 22.4.1975, on other employees, yet the employees of this panel of 1975 were made senior which was illegal and arbitrary.

The Hon'ble Court was pleased to see the judgement of the Hon'ble High Court (Annexure A-3)



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in favour of my client, Mr. Mukerji, and the judgement of the Hon'ble Supreme Court rejecting special appeal (Annexure A-4).

The orders of implementation of the order took 2 years and deliberate missing, with malafide intention to harm Mr. Mukerji's interest, is clearly and patently manifest vide IV(VIII) Annexure A-5. It gave names of 18 persons but omitted Mr. Mukerji's name, who was petitioner no.6.

about consequential relief, you may like to peruse Annexure A-10 and A-17 and the claim of my client to be entitled to amounts claimed on the basis of correct seniority and A.B.R. my client also being entitled to 'stagnation allowance' and promotion as Principal Foreman in scale 840-1200. *as he is not called for selection for A.B.R. even* *ARE*

Due to wrong fixation of seniority, Mr. Mukerji was denied promotion at various stages and he has a right to promotion from the date his juniors were promoted and thus he becomes entitled to back wages also. This is now settled law as laid down by the Hon'ble Supreme Court in a number of cases.

It is requested that you will be pleased to expedite the matter in terms of Hon'ble C.A.T's judgement dated 26.6.1990.

Thanking you for the same.

Yours faithfully

(C.A. Basir)  
Advocate

Enc: 1. Copy of judgement  
2. Copy of claim appln.

Copy forwarded to General Manager, Northern Railway, Baroda House, New Delhi, for

*Certified to be true copy*  
*for*  
*un*

C.A. BASIR  
ADVOCATE

152, Chasliari Mandi  
Lucknow.  
August , 1990.

To

The General Manager (P)  
Northern Railway  
Baroda House  
New Delhi.

Through

The Deputy C.E.E.  
Loco Shed, Northern Railway  
Lucknow.

Sir,

Ref: O.A. No.198 of 1990 decided on 25.6.1990 -  
N.K. Mukerji Versus Union of India and others,  
before the Hon'ble Central Administrative  
Tribunal, Circuit Bench, Lucknow

Reg: Seniority of my client, N.K. Mukerji.

I had, in July, 1990, submitted to you the  
letter on the above subject, enclosing therewith a  
certified copy of the judgement of the Hon'ble Central  
Administrative Tribunal, Circuit Bench, Lucknow, in the  
above connection. This letter has been sent to you by  
Dy. C.E.E. Loco-Shed<sup>CB</sup>, Lucknow, on 10th July, 1990.

While I still await your kind orders on the  
subject, I hasten to draw your attention to the time  
limit ordered by the Hon'ble Tribunal.

I am confident that, in honouring the orders  
of the Hon'ble Tribunal, you will be pleased to pass  
suitable orders, within time.

Thanking you.

Yours faithfully,

*CA*  
(C.A. Basir)

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to be true  
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Jany  
1990*

Office of the Dy.C.M., (W)/Northern Railway, Charbagh, Lucknow.

No. 792-E/W/LKO/46.

Date: 30.7.1990.

The General Manager (P),  
Northern Railway,  
Baroda House,  
New Delhi.

Subj: O.A. No. 193 of 1990 decided on 25.6.90  
N.K. Mukerjee Vs Union of India and others  
before the Hon'ble CAT/Lucknow.

Enclosed please find herewith a certified copy of Judgment along-  
with other enclosures, submitted by Shri N.K. Mukerjee, SS/TI/AMV.  
The same are forwarded herewith for further necessary action per  
please.

DA/AM above (52 pages).

For Dy. Chief Electrical Engineer (W),  
Northern Railway, Charbagh, Lucknow.

Copy to the Chief Electrical Services Engineer, N.Rly., Baroda  
House, New Delhi for information and necessary action please.

Copy to WBE/AMV and Shri N.K. Mukerjee, SS/TI/AMV for information  
in reference to WBE/AMV's letter No. E/SUP/AMV/90 dated 9.7.1990.

RLA/C+1.

Certified  
to be  
copy  
true  
[Signature]

Annex 5

(118)

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Office of the Dy.C.E.E.(W)/Northern Railway, Charbagh, Lucknow.

No.752-E/W/LKO/46.

Dated: 20.8.1990.

The General Manager (P),  
Northern Railway,  
Baroda House,  
New Delhi.

Sub:- O.A. No. 198 of 1990 decided on 25.6.90  
Shri N.K. Mukerjee Vs Union of India and others  
before the Hon'ble CAT/Lucknow.

Ref:- This office letter of even number dated 10.7.90.

In the above reference a certified copy of Judgement submitted by Shri N.K. Mukerjee, Shop Supdt.(TL/AMV) was forwarded to your office for further taking necessary action vide this office letter of even No. dated 10.7.90 but no decision has been communicated so far. However Shri N.K. Mukerjee has submitted a reminder alongwith Advocate's appeal, is sent herewith for further action please.

DA/200.

For Dy.Chief Electrical Engineer (W),  
Northern Railway, Charbagh, Lucknow.

Copy to the Chief Electrical Services Engineer, Northern Railway,  
Baroda House, New Delhi for information and necessary action  
please.

Copy to Shri N.K. Mukerjee, SS/TL/AMV for information in  
reference to his reminder dated 17.8.1990.

MLG/4-12

certified true  
to be  
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for

BR

NORTHERN RAILWAY

HEADQUARTERS OFFICE  
BARODA HOUSE  
NEW DELHI.

NO.754-E/148-III (EIIA)

DT: 28/11/90

Shri C.A. Basir, Advocate  
152, Ghasiari Mandi,  
Lucknow.

Sub:- Combined seniority list of Electrical  
supervisor's in gr. Rs.2000-3200(RPS) for  
class-II service.

Ref:- O.A. No. 198 of 1990 decided on 25.6.90  
Sh. N.K. Mukerjee versus union of India  
and others before the Hon'ble CAT/LKO.

....

As per discussion with you in CAT/LKO by sublt(P) on  
23.11.90, the case of Sh. N.K. Mukherjee is  
being examined on war footing and final decision  
when arrived at, will be communicated to you at once.

*Copy to be sent to Mr. Basir*

*[Signature]*  
for GENERAL MANAGER(P.S.)

17

In the Hon'ble Central Administrative Tribunal,  
Allahabad, Lucknow Bench, Lucknow.

O.A.No.198 of 1990.

Decided on 25-6-90.

Civil Contempt Petition No.      of 1990.

N.K.Mukerji      ...Applicant

Versus

i) Shri S.M.Vaish, General

Manager, Northern Railway,

Baroda House, New Delhi.

ii) Shri R.N.Agha, Chief

Personnel Officer,

Northern Railway, Baroda

House, New Delhi.

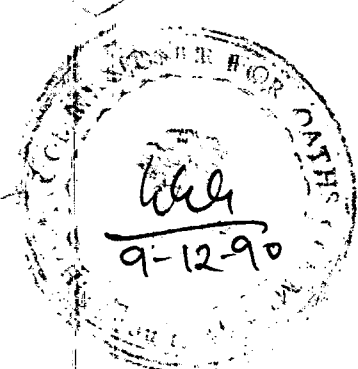
...Respondents.

AFFIDAVIT

I, N.K. Mukerji, son of Shri K.C.

Mukerji, aged about 57 years, Shop Superintendent,  
Train Lighting Shop, Carriage and Wagon Shop,  
Alambagh, Lucknow do hereby ~~we~~ solemnly affirm  
and state on oath as under:

1)      That the deponent had filed the  
above mentioned application which was  
numbered as O.A.No.198/90 and was decided

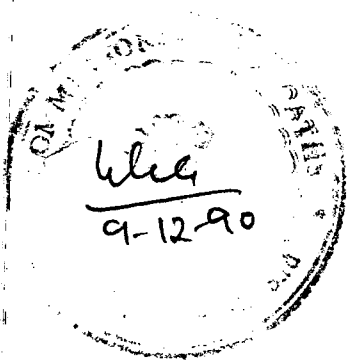


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by the Hon'ble Court on 25-6-90. (Annex 1)

2) That the application was filed against the wrong Combined Provisional Seniority List of Electrical Supervisors in grade Rs. 2000 - 3200 for Class II services issued by the Chief Electrical Engineer, Northern Railway, ~~Bar~~ Baroda House, New Delhi vide his D.O. Letter No. 186/Elect/G/8 dated 29/30 - 3 - 89 as communicated by the Workshop Electrical Engineer, Loco, Northern Railway, Lucknow's letter No. 752/E/W/Lko/46 dated 3-4-89 and distortion of seniority of the deponent and his supersession by the juniors at the different stages of the deponent's career, ignoring and flouting deliberately judgements of the Hon'ble High Court and Hon'ble Supreme Court in deponent's favour malafide causing loss of seniority, position status, denial of stagnation allowance, etc. to the deponent. That the application No. O.A. 198 of 1990 filed in this regard was decided by the Hon'ble Court on 25-6-90 and the Hon'ble Court was pleased to issue directions to the respondents No. 1 and 2 to consider and decide the deponent's

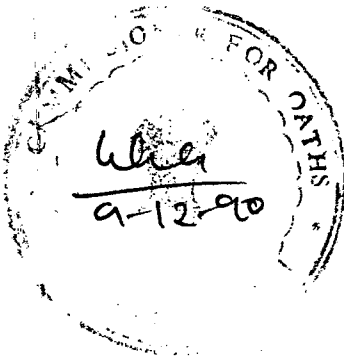


for  
3/2/90

122

representations dated 25-6-90 and Annexures A 1, A 19 and A 20 of the application and those concerning his seniority with consequential benefits with due regard to the remarks contained in Annexure A 16 and fixing the deponent's seniority in the impugned seniority list, Annexure A 1, and also to accord such consequential benefits to ~~xx~~ the deponent in the matter of his pay, etc. as found to be entitled to.

3. That the Hon'ble Court was further pleased to direct the Respondents No.1 and 2 that they shall comply with these directions within a period of 3 months from the date of receipt of the copy of the judgement, unless they have already disposed off the representations referred to above, vide Hon'ble Court's order at Annexure 1.



4. That the deponent forwarded a copy of the judgement of the Hon'ble Court and the plaint with all Annexures through his Counsel under registered cover on 9-7-90 and also through official channel on 10-7-90 and the

for

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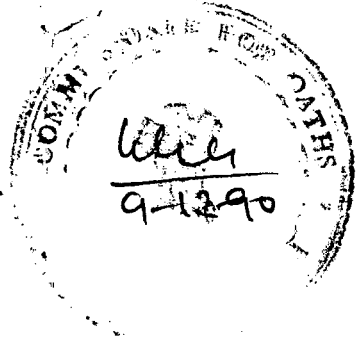


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reminders of the same on 20-8-90, vide  
Annexures 2,3,4 and 5.

5. That more than <sup>4</sup>/<sub>5</sub> months have passed but the opposite parties have not done anything in respect of the implementation of the orders of the Hon'ble Court regarding disposal of the deponent's representation and granting of consequential benefits.

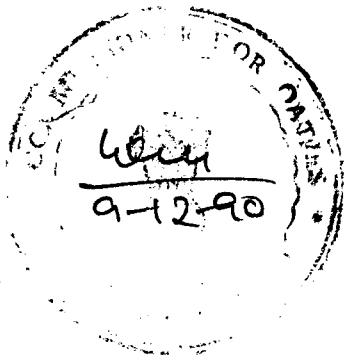
6. That on 23-11-90, i.e. after more than 4 months of judgement, some official met the deponent's counsel and requested ~~h~~ for time as the case could not be processed so far. The deponent's counsel informed the deponent that he told the official that the opposite parties have already committed disobedience of the orders of the Hon'ble Court as the Court had fixed 3 months time for deciding the issue of seniority and consequential reliefs and other reliefs accruing thereafter. The deponent's counsel further told the deponent that he communicated to the official that in case the deponent chooses to move contempt application, it would



for  
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be moved. However, the deponent's counsel received a letter dated 28-11-90 on 4-12-90 issued by the office of the opposite party No.2, that the deponent's case was ~~being~~<sup>u</sup> "being" examined on war footing and the final decision when arrived at will be communicated" to the deponent's counsel at once. That the action of the opposite parties in not taking a decision on the deponent's representations referred to above of the petition and not granting to the deponent seniority and consequential reliefs flowing thereafter which was denied to the deponent illegally, arbitrarily and malafide by the opposite parties as the deponent's juniors were promoted in various promotion posts and the deponent was ignored. The deponent was not even given stagnation allowance which was due to him.



7. That the deponent has been advised that it being settled law that if junior is promoted ~~xxxxx~~<sup>u</sup> ignoring the senior, the right to promotion to the senior has to be recognised and the superceded senior has been declared to be entitled to back wages also.

*[Signature]*  
12/5

45

8. That the Hon'ble Court having issued a command to the opposite parties the same being time bound, the opposite parties were bound to obey the same. By avoiding the decision so far and even in the letter dated 28-11-90 received after over 4 months to the effect that the final decision when arrived at will be communicated to the deponent's counsel, amounts to wilful and deliberate recurring default and disobedience of the orders of the Hon'ble Court amounts to contempt of Court.

*Devi*

Deponent.

Lucknow:

Dated: 9-12-90

VERIFICATION

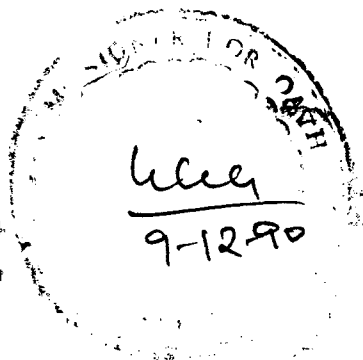
I, the above named deponent do hereby verify that the contents of paras 1, 2, 3 and 4 are true based on records, paras 5 are based on personal knowledge and paras 6, 7 and 8 are based on legal advice. No part of it is false and nothing material has been concealed in it so help me God.

*Devi*

Deponent

Dated: 9-12-90

Lucknow:

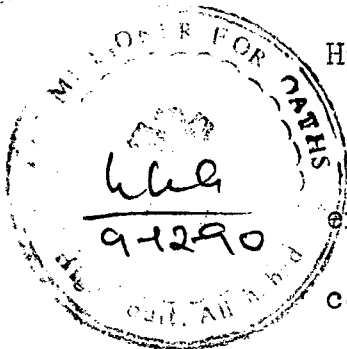


A26

I declare that I am ~~x~~ satisfied by the perusal of the papers and records and other details of the case narrated to by the person alleging himself to be Shri N.K. Mukerji is that person.

*Ravi Srivastava*  
Advocate.

Solemnly affirmed before me on 9/12/90 at 9-15 am/pm by the deponent who is identified by Shri & Ravi Srivastava, Advocate High Court, Lucknow Bench, Lucknow.



I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read out and explained to him by me personally.

*llh*  
Advocate  
High Court, Lucknow Bench, Lucknow

Date 9/12/90

(A28)

In the Hon'ble Central Administrative Tribunal,  
Lucknow Bench, Lucknow.

In Ref to:  
Civil Contempt Application No. 24 of 1990(L)

Fix for S-3-91

N.K. Mukerji ..... Applicant  
Versus  
Sri S.M. Vaish and others ..... Respondents

COUNTER REPLY ON BEHALF OF ALL THE RESPONDENTS

I, G.C. Saxena working as  
A.P.O./Elec. in the office of General Manager,  
Northern Railway, Baroda House, New Delhi do hereby  
solemnly state and affirm as under:-

1. That the deponent, named above, is working in the office of General Manager, Northern Railway, Baroda House, New Delhi and has gone through the averments made in the present contempt application and as such fully conversant with the facts and circumstances of the case and also has been authorised to answer on behalf of all the respondents.

Contd.....2

Collected

Filed today

13/2/91

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2. That before answering to parawise reply to the contempt application it is essential to give brief facts of the case. The history of the case relates to Mia Bhai Tribunal Award, received under Railway Board's letter No. PC 72/RLT-69/2 dated 12.3.73 by means of which 18 posts of EFO Grade Rs. 370-475(AS)/550-750(RS) in Electric Workshops were upgraded as Foreman Grade 'A' Rs. 450-575(AS)/700-900(RS) and redesignated as Assistant Shop Superintendent w.e.f. 1.8.70. The pay of the incumbents was to be fixed proforma w.e.f. 1.8.70 and arrears payable w.e.f. 1.8.72.

It is further submitted that in compliance of Court's judgement, railway administration accordingly without selection vide G.M. (P)'s letter No. 754-E/148/III/EDA dated 10.5.83 provided benefit, of upgradation against 18 to 18 senior most incumbents who were within the scope of promotion according to their assigned seniority in Grade Rs. 450-575/700-900(RS). A copy of letter has been enclosed as Annexure No. C-1 to present reply. This list includes some of the petitioners who come by virtue of their security for 18 up graded posts. But since the present applicant, according to his seniority did not fall within the zone of consideration against 18 upgraded post, he was not included in Annexure No. C-1, i.e. in list of upgradation.

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A29

- 3 -

3, That in reply to the contents of para 1 of the contempt application it is submitted that in compliance of the judgement of this Hon'ble Tribunal, dated 25.6.90, regarding directions for deciding the applicant's ~~xxxx~~ representations, a copy of which was received by the authority concerned on 30.7.90, therefore, all the relevant records were brought before the competent authority to deal with applicant's case on war footing within applicant's records before the competent authority, which were already under the process of tracing, some further time was required. It is further submitted that in this context Annexure No. 6 to the contempt application, General Manager (P) informed applicant's counsel regarding latest position and assured early disposal of applicant's case.

Also as per General Manager (P) assurance, representations of applicant were decided and communicated to him on 17.1.91. A copy of it has been enclosed herewith as Annexure No. C-2 to this counter reply.

In view of the above circumstances, there is no question of deliberate or wilful delay on the part of administration. Also the case was under examination at various stages and non-availability of records, which were under the process of tracing, an intimation was duly sent

Chakrabarti

Contd....4

A30

- 4 -

to applicant's counsel and subsequently the decision taken by the Administration. We communicated to the applicant who duly acknowledged the same.

4. That in reply to the contents of para 2 of the contempt application, it is submitted that copy of the judgement dated 25.6.90 was received by the concerned authority on 30.7.90 and in compliance of judgement was observed accordingly as stated in para 3 of present reply.

5. That in reply to para 3 of the contempt application it is submitted that applicant's representations have already been disposed off and communication to this effect has been made to applicant on 17.1.91. As such contrary to it is denied.

6. That the content of para 4 of the contempt application are denied. It is further submitted that since the applicant was not considered eligible for upgradation benefit from 1.8.70 as being very low in seniority position, the question of promotional ~~law~~ benefit on that account from 1.8.70 does not arise.

7. That the contents of para 5 of the contempt application has no relevance with the decision

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Contd.....5



A31

- 5 -

already taken by administration and communicated to applicant.

8. That the contents of the para 6 of the contempt application are admitted to the extent that a letter of General Manager(P), No. 754E/148/III/EITA dated 28.11.90 was sent under ~~xxx~~ registered A.D. to the petitioner's counsel Sri C.A. Basir, intimating that applicant's case is being examined on war footing and final decision when arrived at, will be communicated to applicant's counsel atonce, rest of the contents are denied.

9. That the contents of para 7 of the contempt application are wrong and as such denied. It is further submitted that in compliance of Hon'ble Central Administrative Tribunal's judgement, case of applicant was examined at various stages and decision taken thereon and communicated to the applicant. In the circumstances mentioned in para 2 of the reply are reiterated.

10. That in reply to para 8 of the contempt application it is submitted that applicant has been considered according to his assigned seniority as such promoting junior's to applicant is not of question hence the present para has no relevance with the applicant's case and denied.

*Arjun*

Contd.....6

A32

11. That in reply to the contents of para 9 of the contempt application it is submitted that the opposite parties tried their best to comply with the judgement of Hon'ble Court but due to the circumstances mentioned in para 2 of the present reply, intimation of which was also communicated to applicant's counsel accordingly that work is on war footing and also same was done and communicated to the applicant on 17.1.91.

In the aforesaid circumstances, delay if any, due to non-availability of records in time and decisions at various stage is not deliberate or intentional~~k~~ and is with clear hand, indicating and intimating latest proceeding to applicant's counsel showing no disobedience of the orders of the Hon'ble Court. Contrary to it is denied.

Lucknow.

Dated: 6/2/91

  
Deponent

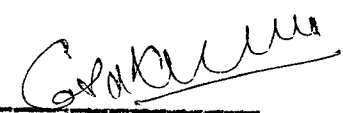
Asstt. Personnel Officer,  
V. Rly. New Delhi.

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

I, the official abovenamed do hereby verify that the contents of para 1 of this reply is true to my personal knowledge and those of paras 2 to 11 of this reply are believed by me to be true on the basis of records and legal advice,

Lucknow.

Dated: 6/2/91

  
Asstt. Personnel Officer,  
V. Rly. New Delhi.

251

Annisware No C-1  
NORTHERN RAILWAY

A33

Headquarters Office,  
Baroda House, New Delhi.

No. 754E/148-III(EIIA).

Dated 10/5/83.

The Divl. Rly. Managers;  
Rly., DLI-B-LKO-ALD-FZR-BKN&JU.  
DE (W) CB-LKO.  
DE (D) BKN-JU.  
DY. CPO (W) Jagadhri & Amritsar.  
and CPO (W) I-II-III-IV/DLI-LKO.  
HALL/Pair Shop, Delhi.  
DY. CPO (HQ) & DY. CPO (C).

READ  
11 MAY 1983  
RLY. NEW DELHI

Sub:- Grant of special pay as Foreman 'A' and up regarding the posts of Foreman 'B' to Foreman 'A' in Workshops.

Ref:- Railway Board's letter No. PC-72/LT-69/2 dated 12/3/73.

As a result of Lia. Bhai Tribunal Award received under Railway Board's letter quoted above, 18 posts of Electric Foremen Gr. 'B' Rs. 370-475 (AS) were upgraded to Grade Rs. 450-575 (AS) in Workshops vide this office letter No. 754E/148(EIIA) dated 13-4-73. Although these posts are classified as selection posts but in view of High Court/LKO bench/Lucknow observations no selection can be held so far these 18 upgraded posts are concerned as reproduced below:-

"Thus it is clear in the present case that the post of Foreman 'B' was only redesignated and upgraded, but the post itself was not changed and in view of Rly. Board's decision, so far as 18 persons are concerned, no selection is to be held and the proposed selection to these posts of Foreman 'B' is without authority of Law, as the decision of the Rly. Board carries the force of Law. The writ petition is allowed. Let a writ of mandamus be issued commanding the opposite parties not to hold selection of 18 posts of Foreman 'B' which were upgraded."

The special leave petition filed by the Rly. Administration against the above judgement was also dismissed by the Supreme Court on 27/4/81 and the judgement of the High Court/LKO bench is now final to be implemented.

In view of the above court judgement, it has been decided that the following 18 seniormost persons may be considered as posted against the above 18 upgraded posts in Grade Rs. 450-575 (AS)

700-900 (RS) without selection in term of instructions contained in P. No. 754E/148(EIIA) dated 6/4/73. They will, therefore, be entitled for all consequential relief as per the subject. The employees may also be informed accordingly.

(B)

1.83.

for General Manager (P).

Attested

# उत्तर रेलवे NORTHERN RAILWAY

जी०एल० 19/G.L.-19-

जनरल 99-बड़ा/Genl. 99-Large

A34

Names of Sr. most 18 persons considered selected in Grade  
Rs. 450-575 (23) / 700-900 (RS) without selection in view of  
Supreme Court judgement delivered on 27.11.81.

S. No.	Name	Last Position	Divn. Shops
1.	S/L. Bagga. <i>Reld</i>	Retired on 28/2/77	JU/Shpp.
2.	Narender Nath. <i>Reld</i>	-do- 2/4/74	JOM
3.	P.S. Ka. por. <i>Reld</i>	Shop Supdt/LKO.	
4.	A.K. Bannerjee <i>Reld</i>	Retd. on 30.11.80	
5.	K.B. Pandit. ✓	EFO/Hq.	
6.	A. B. Pandit. ✓	Offg. in Cl. II/RE.	
7.	P. K. Singh. <i>Reld</i>	Ass. LKO-Shpp.	
8.	Khazan Singh. <i>Reld</i>	Retd. on 10/4/80	
9.	Harjit Singh. ✓	Shop-Supdt/Con.	
10.	H. H. Gupta. <i>Reld</i>	Expelled on 25.2.77	
11.	P. S. Adiqua. ✓	✓ Shop supdt/AL	
12.	Sohn Singh. ✓	Shop Supdt/LKO-Shpp.	
13.	K. Singh (SC) ✓	Offg. in class. II.	
14.	B.S. Ma. ✓	✓ EFO/ALD.	
15.	V. K. Nath. <i>Reld</i>	Retd. on 30/6/77	
16.	R. L. Jaria. <i>Reld</i>	Offg. in Cl. II (Diencel/LKO)	
17.	L. and Singh. <i>Reld</i>	Retd. on 31.1.80	
18.	Mhar Singh. <i>Reld</i>	Retd. on 30-6-77	

Attested

Asstt. Personnel Officer,  
N. Rly., New Delhi

Annexure No C-2  
उत्तर रेलवे  
NORTHERN RAILWAY

जी०एल० 19/G.L.-19-

S.No 67

जनरल 99-बड़ा/Genl. 99-Large

A35

NORTHERN RAILWAY

Headquarters Office,  
Baroda House, New Delhi.

No. 754E/148-III/Elia

Dated: 15/1 Jan. 1991

Sh. N. K. Mukherjee,  
Shop Supdt (TL)  
AMV-LKO

Sub:- Civil contempt petition No. 198 of 1990  
filed in CAT/LKO by Sh. N. K. Mukherjee  
Shop Supdt (TL) AMV-LKO.

As per CAT/LKO's order vide their judgement in OA No. 198/90 dated 25.6.90, your representation dated 25.4.89 and those concerning annexures referred to in CAT Judgement have been examined by the competent authorities and have decided that you are eligible for seniority benefit w.e.f. 12.10.76 i.e. from the date of entry in Gr. 700-900 (RS) / 1000-3200 (RPS) and not from 1.8.72 as claimed by you as you were not within the zone of consideration.

Attested

Asstt. Personnel Officer  
N. R. L. New Delhi

( G. C. SAXENA )  
for General Manager (P)

A36

P

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

Civil contempt application No.24 of 1990(L)

N.K. Mukerjee                      ...                      Applicant

Versus

Shri S.N. Vaish and another ...                      Opposite Parties.

Rejoinder in reply to counter of opposite parties:

I, N.K. Mukerjee, applicant in the above  
noted case, do hereby state in reply to the  
counter filed that the applicant has read  
the counter of the opposite parties and has  
to state in reply as under:

1)            That in reply to para 1 of the counter  
reply, it is stated that the Hon'ble Court was  
pleased to order for issue of notice of  
contempt of Court against the Opposite parties  
No.1 and 2 named in the application of 14.12.90.  
The date fixed for reply being 18-1-91, when  
neither reply was filed nor any application for  
extension for time was moved and next date  
fixed was 13-2-91. On 13-2-91, counter reply was  
filed by one Shri G.C. Saxena, alleging to be  
working as APO, Electrical and alleging having

*Received duplicate  
Shri S.N. Vaish  
Adv.  
5/3/91*

*Ap  
enr*

been authorised by respondents to file the counter reply, but neither any application was moved for condonation of delay nor any written authorisation of the contemnors permitting him to file reply in writing has been filed along with the reply as such, it cannot be admitted and has to be ignored.

That contempt notice is always ~~2x~~ personal and opposite parties No.1 and 2 being contemnors and as per ruled framed under CAT act and the rules the reply should have been filed by the contemnors and the same not having been done, the counter reply has to be ignored by the Hon'ble Court. The written authorisation not having been filed by Shri G.C. Saxena of the contemnors along with counter reply, the same has to be ignored.

2) That in reply to paras 2 and 3 of the counter reply, it is stated that as per G.O(P) letter No.754-E/149/E II dated 10-4-73, Electric foreman B Grade 370 - 475 (AS) were upgraded to 450-575 (AS) only 18 posts and they were redesignated as Asstt. Shop Supdnt. in workshops only from 1-8-70 as per recommendations of Wian Bhai Tribunal. The applicant was

working in the workshop and became fully entitled to it. The B Grade foreman working outside workshops were not upgraded. Being incumbant of upgraded posts, the applicant was promoted with effect from 1-8-72. Arrears were also paid after upgradation and promotion with effect from the date of their appointment in their redesignated posts of Asstt. Shop Supdnt vide workshop Electric Engineer Order No. 34 dated 13-5-73. As a result of this, the applicant was promoted w.e.f. 1-8-72, vide Annexure R-1. The averments in the counter reply to the effect that the pay of incumbants was to be fixed proforma w.e.f. 1-8-70 and arrears payable w.e.f. 1-8-72 are totally false.

ii) That as per the Tribunal's recommendation, responsibility in the workshop being higher and hazardous than B Grade foreman working outside, all seniors as shown in the letter No. 754 E/148/III/E/II/A dated 10-5-83 were not promoted in 18 upgraded posts in the workshop i.e. in grade 450-575 (AS) on 1-8-72. Seniors working outside workshops had not challenged the upgradation of persons working in workshop which involves hazardous duty.

19



A39

iii) That sometime later, the General Manager, Northern Railway took the decision to hold selection for the post of Asstt. Shop Suptd./ Foreman A Grade 450-575 (AS) and called many including the applicant for ungraded post selection and examination. That this order of the General Manager was under challenge by the applicant and 6 others in Writ Petition No. 681 of 1973 filed against the Railway Administration by these 6 petitioners including the applicant, under challenge was the order of the Opposite party to hold examination for the post of Asstt. Shop Suptd. In the petition, the Railway administration had never challenged the entitlement of the applicant's upgradation against seniors or the plea now put forward after 12 years about the applicant not being in the zone of eligibility. All the 6 petitioners upgraded employees sought justice from the Allahabad High Court, Lucknow Bench and the Hon'ble Court passed an order, the operative portion of which has been quoted by the Opposite parties vide Annexure C-1. This has been tampered with which is patently manifest by a comparison with the original in as much as the words incorporated in the judgement being-

Handwritten initials in a circle.

" So far as 18 persons including the petitioners,"

the words including the petitioners was conveniently omitted with malafide intentions resulting in a number of representations by the applicant including reminders by the applicant's administrative head i.e. Dy.CME, Alambagh, Lucknow vide his DO DCME/741/Pt.5 dated 8-9-89 at Annexure A-16 of application and Annexure R-2,3,4 of the rejoinder. The wording used by Dy.CME in his DO letter to the Ex Chief Personnel Officer being -

" The judgement is categorical that the post of foreman B was only re-designated and upgraded and was not a selection post. Under the circumstances, the following supervisors of this workshop namely Sarva Shri R.K. Bhalla, SS(SE) and N.K. Mukerjee, SS(TL) should be assigned seniority from the date of their promotion to Asstt. Shop Supdnt. as per office order No.34 of WEE/ATV - Lko. dated 13-5-73. The issue has assumed urgency keeping in view the forthcoming supplementary selections

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for Group B electrical services to be held on 23-9-89. It is requested that decision on this subject may kindly be taken before the date of selection so that the effected

employees are not put to any hardships."

This was ignored and never replied by the opposite parties, which caused immense loss to the applicant as he was never called for selection in the Class II service which he was fully entitled to participate.

iv) That the judgement of the Hon'ble High Court, Allahabad dated 9-5-79 mentioned above was challenged by the opposite parties before the Hon'ble Supreme Court by way of SLP (Civil Appeal No. 6677 of 1979) against the order dated 9-5-79 of the orders of the Allahabad High Court in Writ Petition No. 681 of 1973 and this special leave petition was dismissed by the Hon'ble Supreme Court on 27-4-81. Thus, the judgement of the Hon'ble High Court having been upheld by the Hon'ble Supreme Court, it became binding on the applicant and the opposite parties both and the deliberate deletion of the applicant's name which is

442

apparent from Annexure C-1 itself filed by opposite parties clearly displays not only contempt of Court of both the Allahabad High Court and the Hon'ble Supreme Court's orders but wilful and deliberate disobedience of both the Hon'ble Courts and by filing a tampered document containing false and incorrect version and omitting words "including 'petitioners'" deliberately is an act not befitting the persons and highest authorities managing the Railway affairs when even reminders of the applicant and by the Dy. C.E., Lucknow to rectify the mistake of seniority with cogent reasons in view of pending selections were ignored. The applicant thus suffered loss by these deliberate and malafide omissions on the part of the opposite parties. In order to harm the applicant and benefit the favourites/ & as such, the averments about compliance of High Court's judgement are patently a false and malafide.

v) That resorting to preparing a document containing false statements intending that such a false statement may appear in evidence in judicial proceedings as <sup>true</sup> ~~to~~ and may cause any person to form an opinion and entertain an

AUS

erroneous opinion. Annexure C-1 is an embodiment of such a document by omitting deliberately words contained in the operative portion of the judgement causing applicant loss of pay, loss of promotion, loss of seniority and loss of position. Such mischief, be it from any quarter, howsoever high should not go unnoticed and deserves severest punishment. That malafide of the action can be judged from the fact that all representations filed by the applicant to rectify the seniority position of the applicant were ignored and were never acknowledged and even reference of Dy. C.E., Lucknow to CPC dated 8-9-89 was mercilessly, blatantly, illegally and deliberately ignored without assigning any reasons.

vi) That applicant having never forfeited his right to promotion for administrative failures and having retired on 28-2-91 after having hopelessly waiting and pining for fulfilment of his just claim and ~~hix~~ he has retired with a heavy heart with grief for reckless, malafide and unjust action perpetrated by cruel and inhuman bosses who failed to administer justice at this ~~gx~~ fag end of the

applicant's unblemished career in which he received appreciations and commendations, vide Annexure R-5 & 6.

vii) That Annexure C-1 and its authors stand exposed to the falsehood perpetrated to justify the action by arbitrary, unjust and illegal interpretation in face of judgements of the High Courts and the Supreme Court without any justification and the orders can never be legalised by the high status of the respondents. The Hon'ble High Court having observed -

" 18 persons including petitioners" and not 18 posts. The judgement having become final and binding upon the parties and it is patently manifest that the deviation done mala fide is a clear case of contempt and to continuously justify it till date is a recurring contempt deserving serious notice by the Hon'ble Court.

viii) That the judgements of the Hon'ble High Court and Supreme Court having become final about entitlement of applicant's including 5 other petitioners for upgradation and consequent seniority and other consequential

AUS

benefits flowing out of it stands fully established and final and not open to any other interpretation.

ix) That the plea put forward now in reply to the contempt notice that the applicant did not fall within the zone of consideration against 18 upgraded posts and therefore applicant was not included is patently bald, wrong and false and has been put forward to deny to the applicant his right to recover benefits in terms of NBR (next below rule) and the same having been quantified by the applicant and directed by the Hon'ble Court for consideration of all consequential benefits to which the applicant may be found entitled and not a word about the same having been said including other points as observed by Hon'ble Court, it displays issue of a cryptic order without application of mind and applicant now prays for the monetary relief as well.

3) That in reply to para 4 of the counter reply, it is stated that not only the plaint along with Hon'ble Court's judgement

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was sent under registered cover but it was followed by reminder dated 17-8-90, Annexure 2 and 3 of the contempt application, and the applicant, to ensure early reply, routed it through proper channel also for compliance but they were all ignored, vide Annexures 4 and 5 of the application.

4) That in reply to para 5 of the counter reply, it is stated that the averments are totally wrong as the perusal of the reply given ignores the points raised in various representations of the applicant to the opposite parties including letter of Dy.CME, Lucknow and the observations of the Hon'ble Court. The reply of the same was sent through proper channel by the applicant on 31-1-91 vide Annexure 2 of the counter, but it finds no mention in the counter reply. The averments, as they stand, amount to a recurring contempt and wilful disobedience of the orders of the Hon'ble High Court and Supreme Court and disregard of the orders of the Hon'ble Court.

5) That in reply to para 6 of the counter



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reply, it is stated that averments made in this para ~~re~~ are totally wrong and are not admitted. In view of detailed reply in preceeding paras, the defence put forward in this para needs quashing.

6) That in reply to para 7 of the counter reply, it is stated that the averments of the <sup>applicant are</sup> ~~application~~ totally relevant because ~~repre~~ the decision has been taken on 17-1-91 and representations were pending since the last ten years ~~th~~ and the belated decision itself clearly shows the malafide action and the loss caused to the applicant for the failure of the administration in not deciding the representations of the applicant and doing justice to him.

7) That in reply to para 8 of the counter reply, it is stated that the applicant's counsel was approached after 5 months of the judgement of the Hon'ble Court, when the time fixed by the Hon'ble Court for disposal of the representations was 3 months. This is how it was examined on so called 'war footing'.

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8) That in reply to para 9 of the counter reply, it is stated that the averments made in para 9 of the counter reply are totally <sup>wrong</sup> and hence denied and the averments made in para 9 of the application are reiterated as correct. That decision taken is most belated and wrong in view of detailed submissions in reply to paras 2 and 3 of the rejoinder.


9) That in reply to para 10 of the counter reply, it is stated that the averments made in this para are not admitted the same being totally wrong in view of submissions made in preceeding paras.

10) That in reply to para 11 of the counter reply, it is stated that the averments made in this para are not admitted. It is patently manifest that the opposite parties disregarded the time bound orders of the Hon'ble Court and did not even move for extension of time. The reply furnished is vague and the so called 'war footing' speaks of deliberate and intentional delay of the

AKF

order on part of the opposite parties.

11) That in view of the deliberate wrong and malafide action of the opposite parties sitting tight over the representations all these years and denying to the applicant his seniority, promotion and consequential benefits it is prayed that the opposite parties may be dealt with suitably in the contempt matter and directions may be issued to the opposite parties to grant to the applicant the due seniority from 1-8-72 <sup>in</sup> ~~and~~ the grade 450-575 and the consequential benefits flowing thereunder as claimed by the applicant and as recommended by the Dy. C.E., Lucknow to the Opposite party No. 2 which has been denied arbitrarily to the applicant for so long.

  
Applicant

Dated: 4-3-91.

at Lucknow.

Verification

I, V. K. Mukerjee, do hereby  
verify that the contents of paras 1 to 11 are  
true based on records and legal advice and

ASD

nothing has been suppressed or concealed.

  
Applicant.

Dated: 4-3-91.

at Lucknow.

MA

AS

Workshop Electrical Engineer Office  
Alambagh, Lucknow.

Office Order No. 24

Dated: 13-5-73.

Sanction is accorded by the Chief Electrical Engineer, New Delhi for the up-gradation of the following post of Electrical Foreman in scale Rs. 370-475 <sup>Rs. 475</sup> of Rs. 450-575 <sup>Rs. 575</sup> with effect from 1-8-70 on the recommendation of the Joint Tribunal.

Accordingly the following staff working in ~~WP/TL/AMV~~, ~~40/AMV~~, Production Control Organisation Office / Alambagh are fixed in scale Rs. 450-575 <sup>Rs. 575</sup> as per sanction by SMO/W/AMV. They will be entitled for the arrears pay as fixed in scale 450-575 <sup>Rs. 575</sup> w.e.f. 1.8.72.

They will hence forthwith be styled as Asstt. Shop Superintendant.

1. Shri K. Singh	WP/40/AMV	450-00	8.11.70.
2. Shri. Manoj Kumarji	WP/Prod./AMV	475-00	2.11.71
		500-00	2.11.72
3. Shri R.K. Mukerji	WP/Prod./AMV	450-00	1.6.72.
4. Shri Vishwa Nath	- AS -	450-00	3-8-71
		475-00	5.8.72
5. Shri R.K. Bhalla	WP/TL/AMV	450-00	16-2-72
		475-00	16-8-73

Asstt. Personnel Officer  
O & S Shop, AMV.

Copy to: WP/TL/AMV, WP/40, AMV, WP/Prod./AMV, WP/AMV, SMO/W/AMV for information and necessary action. WP/AMV may submit the supplementary bill for 1.8.72 at an early date.

Asstt. Personnel Officer  
O & S Shop, Alambagh.

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Annex R-2

SHAKEEL AHMED

उप मुख्य यांत्रिक इंजीनियर

(सवारो और माल डिब्बा)

उत्तर रेलवे

मालमवाग, लखनऊ

DY. CHIEF MECHANICAL ENGINEER

(C &amp; W) NORTHERN RAILWAY

ALAMBAGH, LUCKNOW

Dated: 8.9.1989.

D.O.No. DCM E/741/P4-V

Dear Shri Sikka,

**Subject:- Combined seniority list of Electrical Supervisors for Group 'B' service.**

There is discrepancy in the combined provisional seniority list of Electrical Supervisors in grade Rs. 2000-3200, for Group 'B' service issued vide G.M. (P)/NDLS's letter No. 752E/62-III(Eia) dated 30.6.89/3.7.89. Apparently, the judgment of the High Court in Writ Petition No. 681 of 1973, has not been taken into account while issuing the seniority list. The relevant extract from the judgment is reproduced below for your kind information:-

" Thus it is clear in the present case that the post of Foreman Gr. 'B' was only redesignated and upgraded but the post itself was not changed and in view of the Rly. Board's decision so far as 18 persons including the petitioners are concerned no selection is to be held and the proposed selection to these posts of Foreman Gr. 'B' is without authority of law as the decision of the Railway Board carried the force of law."

The judgment is categorical that the post of Foreman 'B' was only redesignated and upgraded and was not a selection post. Under the circumstances following supervisors of this Workshop namely S/Shri R.K. Dhalla, S.S. (A.C.) and N.K. Mukerji, S.S. (T.L.), should be assigned seniority from the date of their promotion to Dy.S.S. as per Office Order No. 34 of W.E.E./AMV-LKO (copy enclosed for ready reference.)

The issue has assumed urgency keeping in view the forthcoming supplementary selection for Group 'B' Electrical services to be held on 23.9.89. It is requested that the decision on the subject may kindly be taken before the date of selection so that the affected employees are not put to any hardship.

With regards,

Yours sincerely,

Shri K.L. Sikka,  
Chief Personnel Officer  
N.Rly., Baroda House  
New Delhi.

(Shakeel Ahmed)

C/- CESE, N.Rly., Baroda House, New Delhi.

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
(LUCKNOW BENCH) LUCKNOW.

CIVIL MISC. APPLICATION NO. 2029 (1) OF 1973  
FILED IN  
WRIT PETITION NO. 631 OF 1973.

P.S. Kapoor and others . . . . . Petitioners

Versus

1. Union of India through the Secretary, Railway Board, Rajl Bhawan, New Delhi.
2. General Manager (Personnel), N. Railway, Ramda House, New Delhi.
3. Chief Electrical Engineer, Northern Railway, Ramda House, New Delhi.
4. Workshop Electrical Engineer, Loco Workshop, Charbagh, Lucknow.

...Opposite-Parties.

Application for Interim Relief.

Dated Lucknow: 6.7.1973.

For applicant: Sri B.L. Shukla.

Hon'ble Onkar Singh, J.

Issue notice. Meanwhile the result of the selection which is to be held in 8-7-1973 shall not be declared till further orders.

Let this order be served on opposite party no.4, Workshop Electrical Engineer, Loco Workshop, Charbagh Lucknow through the Special Messenger at the expense of the petitioners.

Sd/- Onkar Singh

**TRUE COPY** 6.7.1973.

Rahman

Mohd. H. An  
for Superintendents 2/7/73

Copying Department

High Court - Allahabad  
Lucknow Bench

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Date on which application is made for copy accompanied by the requisite stamps.

Date of posting Notice on Board.  
22.5.79.

Date of delivery of copy.  
24.5.79.

Signature of Official delivering copy.

Bd/-

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW BENCH, LUCKNOW.

Writ Petition No. 681 of 1973.

Sri P.S. Kapoor and others,

..... Petitioners.

Versus

Union of India and others.

..... Opp. Parties.

Writ Petition under Article 226 of the  
Constitution of India.

Lucknow dated 9.5.79

Writ Petition No. 681 of 1973

P.S. Kapoor and others, V. Union of India and others.  
Hon'ble Mr. Verma, J.

Hon'ble U.C. Srivastava, J.

(Delivered by Hon'ble U.C. Srivastava, J.)

The petitioners to the Writ petition have challenged the examination to the post of Assistant Shop Superintendent in the Northern Railway on which they have been working on the ground that they being rightful incumbents to the said post, no selection to the same could be made to the said posts which are non selection posts.

The petitioners were selected to the posts of Electrical Foreman in the Grade of 335-425, but they were subsequently promoted in the next higher grade of Rs. 370-475 on the basis of seniority cum suitability, though no order for their confirmation was passed. According to the petitioners they were entitled to be confirmed in view of the Railway Board's circular in this behalf.

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In the year 1969 certain disputes were referred by the Government to the Railway Rates Tribunal for arbitration which was presided over by Mia Bhai, a retired Judge of the Gujarat High Court, and the said tribunal took certain decisions which were accepted. The demand of the National Federation of Indian Railways for grant of special pay of Rs. 150/- per month to Foreman A was accepted, while the demand for the grant of special pay of Rs. 100/- per month to Foreman B was not accepted and it was decided that all posts of Foreman B in the Grade of Rs. 370-475 in Mechanical, Electrical, Signal and Telecommunication Workshops and Foreman in Scale Rs. 335-485 in Civil Engineering Workshop be upgraded in scale of Rs. 450-575 and redesignated as Assistant Shop Superintendent with effect from 1.8.1970. It was also decided that the pay of incumbents of the upgraded posts be fixed proforma from 1.8.1970 under Rule 2013-B of the Railway Establishment Code Volume II. The Petitioners alongwith 12 other incumbents i.e., in all eighteen persons who were already working in the Workshop in Foreman Grade B were consequently upgraded and were placed in the scale of Rs. 450-575 and were also given enhanced arrears of pay with effect from the date of their appointment on the redesignated post of Assistant Shop Superintendent.

The General Manager Northern Railway subsequently decided to hold a selection for the post of Assistant Shop Superintendent/Foreman Grade Rs. 450-575 and called the persons including the petitioners and other incumbents of the upgraded posts for selection and examination. Against the said decision the petitioners filed a representation to the General Manager and Chief Electrical Engineer and on their representation the selection was postponed, but subsequently the Railway Administration again decided to hold a fresh selection and called 63 persons including the petitioners for the aforesaid 18 posts. The petitioners have filed the present writ petition challenging the same.

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Learned Counsel for the petitioners contended that in view of the decision of the Railway Tribunal contained in Annexure-1, which was accepted by the Railway Board in pursuance of which the petitioners were upgraded and redesignated, no selection for the said 18 posts could have been held as the said posts are non selection posts and the Railway Administration confused these posts with the posts of Foreman Grade A which was selection post.

The contention on behalf of the Railway Administration is that admittedly promotions were given to the petitioners, but they were never confirmed and officiated as Workshop Superintendents and that is why they were given a new grade, but the post being selection posts, the selection was being validly held under paragraph 210 of the Railway Establishment Manual mentioning the list of selection and non-selection posts contained in Appendix-6 and any deviation from the said list will need prior approval of the Railway Board.

No material has been placed before us from which it could be inferred that the posts in question are selection posts. It has been alleged that approval or holding selection was taken from the Railway Board. From the Railway Board's Circular copy of which has been annexed as Annexure-15 to the rejoinder affidavit it appears that the Railway Board did not take a decision to hold a selection of atleast these 18 posts on which the petitioners are working. The Railway Board decided that the posts of Assistant Shop Superintendent in the scale of Rs. 450-575 may be filled by positive act of selection and the posts of Shop Superintendents carrying a special pay of Rs. 150/- on the basis of suitability cum fitness. In the view of the Railway Board's decision it is clear that so far as these posts are concerned there is no question of holding the selection.

On behalf of the opposite parties it was contended that in view of MIA Bhai Railway Tribunal's decision the position has changed, by this contention does not carry any

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force in view of the decision of the Railway Rates Tribunal itself upgrading the re-designating the posts. The upgradation and redesignation of a post does not mean change of the post itself. In a case from Maharashtra which went up to the Supreme Court it was held that revision of pay Scales would not mean change of post, that is promotion from one class to other. The court made the following observation in the State of Maharashtra and others V Association of Maharashtra Education Service Class II Officers and others (1974 IV Supreme Court Cases 706 ).

"The contention that Lecturers in Class II of the Maharashtra Education Service must present themselves for selection before the public Service Commission was introduced apparently on a misunderstanding of the Scheme initiated by the University Grants Commission. That Scheme envisages no promotion of Lecturer from one Class to another. It concerns itself with the revision of pay scales of the collegiate teachers and its object was to raise the salary structure as one of the basic essentials, for improvement of educational Standards".

Thus it is clear in the present case that the post of Foreman Grade B was only redesignated and upgraded but the post itself was not changed and in view of the Railway Board's decision as far as 18 persons including the petitioners are concerned no selection is to be held and the proposed selection to these posts of Foreman Grade B is without authority of law as the decision of the Railway Board carries the force of law.

The writ petition is allowed. Let a writ of mandamus be issued commanding the opposite parties not to hold selection of 18 posts of Foreman Grade B which were upgraded, in view of the Railway Tribunal's decision in pursuance of which the petitioners and others were appointed. No order as to costs.

Sd/- K.S. Verma

Sd/- U.C. Srivastava,

9.5.1979.

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Item No. 9.

Court No. 7

Supreme Court of India.

Record of Proceedings.

PETITION FOR SPECIAL LEAVE TO APPEAL (Civil No. 6677 of 1979)

(From the Judgement and order dated 9.5.79 of the High Court

Allahabad in W.P. No. 681 of 1973)

The Union of India &amp; Ors.

PETITIONERS.

V E R S U S

MARI P.S. Kapoor &amp; Ors.

RESPONDENT(S)

(With appla. for ex-parte Stay)

Dated : 27.4.81 this petition was called on for hearing today.

COEAM

Hon'ble

Hon'ble Mr. Justice R.S. Pathak

Hon'ble Mr. Justice Beharul Islam.

For the Petitioner(s)

Mr. K. Bamerjee. AEC. Adil.

Miss. Subhashini, Adv.

For the Respondent.

Mr. Yogeshwer Prasad, Sr. Adv.

Mr. Ashok K. Srivastava, Adv.

Mrs. Romi Chabara.

UPON hearing cojaseel the Court made the following.

O R D E R

Special Leave Petition is dismissed.

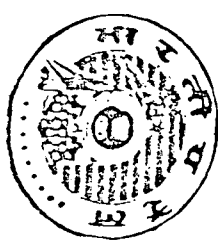
Sd/-

COURT MASTER.

\*H#201\*/

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Deputy Chief Electrical Engineer (W) Office, Lucknow  
Commendation Certificate



This certificate of merit and group/cash award of Rs. 100/- is granted to Shri N.K. MUKHERJEE Designation -Shop-Suptt.(TL) for his/her meritorious and efficient service rendered to the Railway Administration during the year 1990—

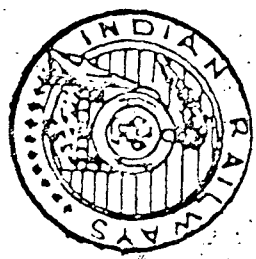
Citation :— He is very sincere and hard working supervisor. Also he maintained harmonious labour relation in his section throughout the year.

DY. CHIEF ELECTRICAL ENGINEER (W)  
Northern Railway, Charbagh,  
LUCKNOW

*Copy sent to  
10/06/90  
of Jee  
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CARRIAGE & WAGON WORKSHOP

NORTHERN



RAILWAY

ALAMBAGH LUCKNOW

MERIT CERTIFICATE

RAILWAY WEEK 1990

SHRI N. K. Mukherjee

DESIGNATION

SS/TL

IS GIVEN A CASH AWARD OF RS. 100 (One hundred) IN RECOGNITION OF  
HIS MERITORIOUS & OUTSTANDING SERVICE DURING THE

YEAR 1989-90

LUCKNOW

DATED 16-4-90

DR. C.M.E.(W)

A10

In the H<sup>n</sup>'ble Central Administrative Tribunal,  
Circuit Bench, Lucknow.

Civil Contempt Application No. 24 of 1990(L)

In Re:

Registration (O.A.) No. 198 of 1990 (L)

Ex For 16/4/91

N.K. Mukherjee ..... Applicant

Versus

Sri S.M. Vaish and others ... Respondents

COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 1

17/4/91

I, S.M. Vaish aged about 57 years son of  
Shri **M.L.Vaish** working as General  
Manager, Northern Railway, Baroda House, New Delhi  
do hereby solemnly affirm and state on oath as  
under:-

1. That the deponent abovenamed is working  
as the General Manager, Northern Railway  
Baroda House, New Delhi and is the respondent  
No. 1 himself and has gone through the  
averments made in the present contempt  
application and as such fully conversant with  
the facts and circumstances of the case and

Contd.....?

(A61)

is competent to reply on behalf of respondent No. 2 also.

2. That before giving the parawise reply to the instant contempt application, it is most respectfully submitted that the vide order dated 5.3.91 this Hon'ble Tribunal was pleased to reject the counter reply filed on behalf of respondents No. 1 and 2 on technical grounds that reply has not been signed by the alleged contemner.

3. That while rejecting the counter reply filed on behalf of the respondent No. 1 and 2 this Hon'ble Tribunal was further pleased to direct that last opportunity is being given to the respondent No. 1 namely Sri S.M. Vaish, the General Manager to file his own counter affidavit in reply and set out in detail all the terms which required from the judgement dated 5.6.90 and pass a speaking order.



4. That in compliance of the aforesaid order passed by this Hon'ble Tribunal on 5.3.91 Sri S.M. Vaish, the General Manager, Northern Railway i.e. the respondent No. 1 considered the matter of the applicant in great detail as per directions given by this Hon'ble Tribunal vide its order dated 5.3.91 and passed the speaking order in the official file on 22.3.91. As per



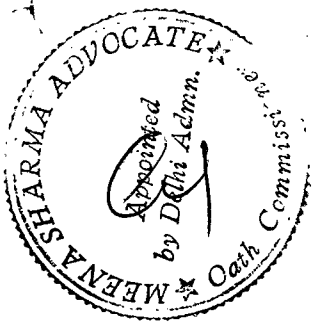
ALB 2

- 3 -

direction of the Hon'ble Tribunal the aforesaid file will be produced before this Hon'ble Tribunal on 16.4.91 i.e. when this case is fixed for final disposal. The office of the respondent No. 1 is trying to serve the communication of the said order passed by the General Manager upon the applicant personally ~~as well as~~ through his Controlling Officer and through registered post, which the answering respondent believe, would have been served upon the applicant till 16.4.91 i.e. the date for final disposal of this case. A copy of the said communication dated 22.3.91 is being annexed herewith as Annexure No. C-2 to this counter affidavit.

Ann. C-2

5. That to bring home certain facts, it is essential to give brief facts of the case. The history of the case relates to Hia Bhai Tribunal Award, received under Railway Board's letter PC 72/RLT-69/2 dated 12.3.73 by means of which 18 posts of Electrical Foreman Grade Rs. 370-475(AS) 550-750(RS) in Electric Workshops were upgraded as Foreman Grade 'A' Rs. 450-575(AS)/700-900(RS) and redesignated as Assistant Shop Superitnendent w.e.f. 1.8.70. The pay of the incumbents was to be fixed proforma w.e.f. 1.8.70 and arrears payable w.e.f. 1.8.72.



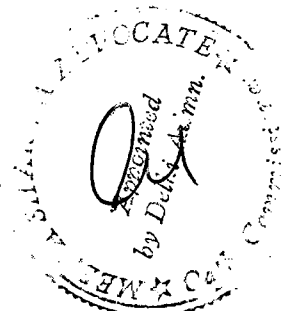
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A63

- 4 -

6. That it is further submitted that in compliance of Court's judgement, railway administration accordingly without selection, vide G.M.(P)'s letter No. 754-E/148/III/EJA dated 10.5.83 provided benefit of upgradation against 18 upgraded posts to 18 senior most incumbents who were within the scope of promotion according to their assigned seniority in Grade Rs. 450-575/700-900(RS). A copy of the said letter is been enclosed herewith as Annexure No. C-1 to the present affidavit. This list includes some of the petitioners who come by virtue of their seniority for 18 upgraded posts. But since the present applicant, according to his seniority did not fall within the zone of consideration against 18 upgraded post, he was not included in Annexure No.C-1, i.e. in list of upgradation.

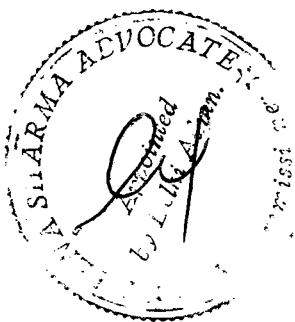
7. That in reply to the contents of para 1 of the contempt application it is submitted that in compliance of the judgement of this Hon'ble Tribunal, dated 25.6.90, regarding directions for deciding the applicant's representations, a copy of which was received by the authority concerned on 30.7.90, all the relevant records were brought before the competent authority to deal with applicant's case on war footing. It is further submitted that in this context <sup>vide</sup> Annexure No. 6 to the contempt application, General Manager (P)



informed applicant's counsel regarding latest position and assured early disposal of applicant's case . Since the relevant records ~~and~~ pertaining to the applicant are old one and since Railway is a very big organisation, hence the tracing of the all the relevant records took some time and accordingly when all the relevant files were made available to the competent authorities they duly disposed of the representations of <sup>the applicant as</sup> directed by this Hon'ble Tribunal. It is further submitted that in this context vide his letter as contained in Annexure No. 6 to the contempt application the G.M. (P) informed the applicant's counsel regarding the latest position and assured the early disposal of the applicant's case.

Also as per General Manager (P) assurance, representations of applicant were decided and communicated to him on 17.1.91. A copy of it ~~has~~ has been enclosed herewith as Annexure No.C-3 to this counter affidavit.

Ann. C-3



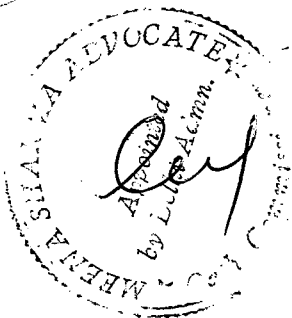
In view of the above circumstances, there is no question of deliberate or wilful delay on the part of Railway administration. Also the case was under examination at various stages but due to <sup>non</sup> availability of records, which were under the process of tracing, an intimation was duly sent to the applicant's counsel and subsequently the decision taken by the Railway

Administration in the light of the directions given by this Hon'ble Tribunal *were duly communicated to the applicant.*

However, when the case was taken up on 5.3.91, this Hon'ble Tribunal was pleased to direct the respondent No. 1 to pass a speaking order in light of judgement dated 25.6.90. Accordingly the respondent No. 1 passed a speaking order on 22.3.91 considering in detail, all the points which emerged from the judgement dated 25.6.90. A copy of the communication of the orders of the General Manager which is sought to ~~the~~ be served upon the applicant has already been filed as Annexure No C-2 to this counter affidavit.

8. That in reply to the contents of para 2 of the contempt application, it is submitted that copy of the judgement dated 25.6.90 was received by the Railway Administration on 30.7.90 and compliance of this Hon'ble Tribunal's judgement and directions were done as stated in para 7 of the present affidavit.

9. That in reply to the contents of para 3 of the contempt application, it is submitted that the applicant's representations have already been disposed off and communication to this effect



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has been made to the applicant and any allegations made ~~to the applicant~~ contrary to it are denied.

10. That the contents of para 4 of the contempt application are denied. It is further submitted that since the applicant was not considered eligible for upgradation benefit from 1.8.70 as being very low in seniority position, the question of promotional benefit on that account from 1.8.70 does not arise. It is also relevant to mention here that if the applicant would have been given benefit of upgraded post as alleged by him in the instant application, he would have superceded his seniors at that time. However it is further clarified that no junior to the applicant has been given benefit of the said 18 upgraded posts.

11. That the contents of para 5 of the contempt application has no relevance with the decision already taken by the railway administration and communicated to the applicant.

12. That the contents of the para 6 of the contempt application are admitted to the extent that a letter of General Manager (P) No. 754E/148/III/EIWA dated 28.11.90 was sent under registered A.D. to the petitioner's counsel Sri C.A.Basir, intimating that the applicant's case is being examined on war footing ~~and~~

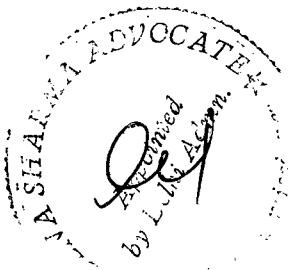
(A67)

and final decision when arrived at, will be communicated to the applicant's counsel at once but rest of the contents of this para are denied.

13. That the contents of para 7 of the contempt applicatio-n are wrong and as such denied. It is further submitted that in compliance of Hon'ble Central Administrative Tribunal's judgement, case of the applicant was examined at various stages and decision taken thereon and communicated to the applicant.

14. That the contents of para 8 of the contempt application are denied. No junior to the applicant was promoted, superceding the applicant against the said 18 upgraded posts.

15. That in reply to the contents of para 9 of the contempt application it is submitted that the respondents tried their best to comply with the judgement of Hon'ble Court but due to the circumstances mentioned in para 6 to 8 of the present affidavit, initmation of which was also communicated to applicant's counsel that applicant's work is being done on war foo-ting and assuring him of early disposal of the case.



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A68

In the aforesaid circumstances, delay if any, due to non-availability of records in time and decisions taken at various stages as per rules is not deliberate or intentional and is with clean hand, indicating and intimating latest proceeding to the applicant's counsel showing no disobedience of the orders of the Hon'ble Tribunal/Court. Any allegations <sup>contrary</sup> made/to it are denied.

Exxxxxx. New Delhi.

Dated: 27.3.9,

(S.M. Vaish )  
Deponent

VERIFICATION

I, the deponent above named ~~deponent~~ do hereby verify that the contents of para 1 of this counter affidavit are true to my personal knowledge and those of paras 2 to 15 of this counter affidavit are believed by me to be true on the basis of records and legal advice.

ADVOCATE  
SHARMA  
by Deput. Admn.  
Commissioner

New Delhi.

Dated: 27.3.9,

(S.M. Vaish )  
Deponent

I identify the deponent who has signed before me.

*Bechame*  
Advocate

169

Solemnly affirmed before me on 27-3-91  
at about 6 a.m./p.m. by Sri S.M. Vaish, deponent  
who is identified by Sri S.K. Chatterjee  
Advocate,

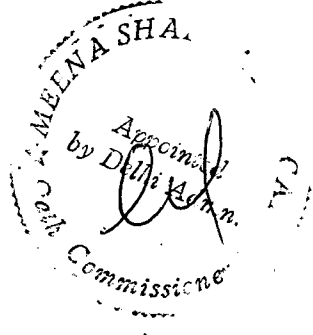
The deponent who has signed or put  
thumb impression in my presence  
is IDENTIFIED by me

I have satisfied my self by examining the  
deponent who understands the contents of paras  
which has been read out and explained by me.

Identified  
the deponent  
who is known to  
me

S.K. Chatterjee  
Advocate

*[Signature]*  
OATH COMMISSIONER.



Shri...S...M...Vaish, S/o  
S/o Shri...Shri...M...Vaish  
...A.M. Northern Railway  
Identified by Shri...Banadhar  
has solemnly affirmed before me  
New Delhi on 27-3-91  
that ... and explained  
to the deponent and is correct to his  
knowledge.

*[Signature]*  
Oath Commissioner, New Delhi.  
27/3/91



Annexure C-I  
NORTHERN RAILWAY

Headquarters Office,  
Baroda House, New Delhi.

No. 754F/148-III(EIIA).

Dated 10/5/83.

The Divl. Mly. Managers;  
Mly., DLI-MB-LKO-ALD-FER-BKN&JU.

DE (G) CB-LKO.

DE (G) BKN-JU.

Dy. CMD (H) Jagadhri & Amritsar.

DE (G) CB-LKO-II-III-IV/DLI-LKO.

WATER & Power Shop, Delhi.

Dy. CPO (HQ) & Dy. CPO (G).

Sub:- Grant of special pay as Foreman 'A' and up-gardening the posts of Foreman 'B' to Foreman 'A' in Workshops.

Ref:- Railway Board's letter No. PC-72/LT-69/2 dated 12/3/73.

As a result of Jia-Bhai Tribunal Award received under Railway Board's letter quoted above, 18 posts of Electric Foremen Gr. 'B' Es. 370-475 (A) were upgraded to Grade Es. 450-575 (B) in Workshops vide this office letter No. 754F/148(EIIA) dated 13-4-73. Although these posts are classified as selection posts but in view of High Court/ALD Lucknow bench/Lucknow observations no selection can be held so far these 18 upgraded posts are concerned as reproduced below:-

"Thus it is clear in the present that the post of Foreman 'B' was only redesignated and upgraded, but the post itself was not changed and in view of Mly. Board's decision, so far as 18 persons are concerned, no selection is to be held and the proposed selection to these posts of Foreman 'B' is without authority of Law, as the decision of the Mly. Board carries the force of Law. The writ petition is allowed. Let a writ of mandamus be issued commanding the opposite parties not to hold selection of 18 posts of Foreman 'B' which were upgraded."

The special leave petition filed by the Mly. Administration against the above judgement was also dismissed by the Supreme Court on 27/4/81 and the judgement of the High Court/LKO bench is now final to be implemented.

In view of the above court judgement, it has been decided that the following 18 seniormost persons may be considered as posted against the above 18 upgraded posts in Grade Es. 450-575 (B) 700-999 (B) without selection in view of instructions contained in Para 7 of Board's letter No. PC-72/LT-69/2 dated 12/3/73 circulated under this office letter No. 754F/148(EIIA) dated 6/4/73. They

will, therefore, be entitled for all consequential relief as per the subject. The employees may also be informed accordingly.

(FIRIT LAL)  
for General Manager (P).

83.

Attached  
Min  
Assistant Personnel Officer  
Railway  
Delhi

*A more over - 2*  
उत्तर रेलवे

NORTHERN RAILWAY

(471)

No. 754-E/148-III(MIA)

HEADQUARTERS OFFICE  
DARODA HOUSE  
NEW DELHI.

Shri N.K. Mukherjee (Retd.),  
Shop Supdt. (T.L.),  
C&W Shop,  
Alambagh,  
Lucknow.

March 22, 1991.

Sub: Civil Contempt Application No. 24/90(L) in  
O.A. No. 198 of 1990(L) Circuit Bench, Lucknow  
Shri N.K. Mukherjee versus Shri S.M. Valish, G.M.,  
N. Railway and others.

In compliance and as per orders passed by the Hon'ble Tribunal vide their orders dated 5.3.91, the competent authorities have examined the case of the applicant once again in light of the observations made by the Hon'ble Tribunal. The orders passed by the worthy General Manager are as following :-

As per directions of the Hon'ble Central Administrative Tribunal, Circuit Bench, Lucknow, the case has been examined by me considering all the relevant facts. Consequent upon Miabhey Tribunal Award, 18 posts of Electrical Foreman 'B' scale Rs. 370-475 in Electrical Workshops, were upgraded as Foreman grade 'A' scale Rs. 450-575 (AS) and they were re-designated as Asstt. Shop Supdt. with effect from 01.08.1970 vide N. Railway's order no. 754-E/148-III(MIA) dated 10.05.83. Northern Railway administration, initially, had decided to fill up these posts through the process of selection. However, consequent upon a petition filed by 6 persons including S/Shri N.K. Mukherjee and R.K. Bhalla, the High Court of Allahabad had held that these posts would be filled up on seniority basis and no selection could be held. This decision of High Court was further upheld by the Supreme Court.

Consequently, the process of filling up these 18 upgraded posts was done on the basis of seniority. 18 persons in order of seniority were granted grade 'A' (Rs. 450-575 AS) as per Miabhey Tribunal Award. These 18 persons included 4 of the petitioners but did not include remaining 2 petitioners namely Shri R.K. Bhalla and Shri N.K. Mukherjee. Since two were out of the range of seniority, their cases were obviously correctly ignored.

I find Shri Mukherjee has been making representations from time to time with the plea that since he was one of the petitioners in the case, he should have been granted the benefit of upgradation. This plea has no merit as only 18 posts were available and 18 senior persons were correctly accommodated as per orders issued vide this office letter No. 754-E/148-III(MIA) dated 10.05.1983. I am satisfied that while issuing these orders, the directions of High Court of Allahabad, Lucknow Bench, as up-held by the Supreme Court of India, were kept in view.

Contd...2

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I have also gone through the Annexure specifically mentioned by the Hon'ble CAT/Lucknow.

In his representation dated 25-04-1989, Shri Mukherjee has taken a plea that he was promoted as Elect. Foreman in scale Rs. 450-575 by Workshop Electrical Engineer, Lucknow as per recommendations of Miabhey Tribunal Award. When Miabhey Tribunal Award was announced and implemented, posts of Electrical Foreman 'A' were centrally controlled from Headquarters Office, W.P.E., Lucknow had, therefore, no authority to give any promotion whatsoever in implementation of Miabhey Tribunal Award and any orders issued by him locally were irregular. Shri Mukherjee has been rightly promoted on his turn through the process of selection and empanelled on 12.10.1978 as Asstt. Shop Supt. grade Rs. 450-575.

Annexure 'A' 16 is a letter from Dy. CME/Workshop, Lucknow which has arisen due to lack of understanding of the total position of the cadre which was controlled from Headquarters Office. Annexure A-19 and A-20 are only related to representation from Shri N.K. Mukherjee and refer to his representation dated 13.12.89. There is no new point made by him except again basing his plea on the judgement of Allahabad High Court. Since Shri Mukherjee did not fall within the zone of consideration his claim for benefits against upgraded posts is not tenable. Therefore, he is not due promotion against upgraded post, arrears payment and seniority on account thereof.

Shri Mukherjee may be advised accordingly."

It is hereby clarified that this letter is being issued to you in continuation of this office letter of even no. dated 15.1.1991 and 26.2.1991.

Please acknowledge receipt.

( G.C. Saxena )  
for General Manager(P).

Assistant Personnel Officer  
Delhi

Frame C-3

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**NORTHERN RAILWAY**

Headquarters Office,  
Baroda House, New Delhi.

No. 754E/148-III/Elia

Dated: 15/1 Jan. 1991

Sh. N. K. Mukherjee,  
Shop Supdt (TL)  
AMV-LKO

Sub:- Civil contempt petition No. 198 of 1990  
filed in CAT/LKO by Sh. N. K. Mukherjee  
Shop Supdt (TL) AMV-LKO.

As per CAT/LKO's order vide their judgement in OA No. 198/90 dated 25.6.90, your representation dated 25.4.89 and those concerning annexures referred to in CAT Judgement have been examined by the competent authorities and have decided that you are eligible for seniority benefit w.e.f. 12.10.76 i.e. from the date of entry in Gr. 700-900 (RS) / 1000-3200 (RPS) and not from 1.8.72 as claimed by you as you were not within the zone of consideration.

Attested

Asstt. Personnel Officer  
N. Rly., New Delhi

( G. C. SAKHIA )  
for General Manager (P)

Assistant Personnel Officer  
Northern Railway  
Delhi

(A7M)

PA

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

16/4/91

Civil Contempt Application No.24 of 1990(L)

in re:-

Registration O.A.No.198 of 1990(L)

N.K. Mukerjee: .....Applicant

Versus

Shri S.M.Vaish and another....Opposite Parties

Rejoinder in reply to the counter of Shri  
S.M.Vaish, respondent No.1.

I, N.K. Mukerjee, the applicant in the above noted case, do hereby state in reply to the counter of Shri S.M.Vaish that the applicant has read the counter of Shri S.M.Vaish and has to state in reply thereto as under:

- 1) That para 1 of the counter needs no reply except this that no authorisation or ~~letter~~ letter of authority permitting Shri Vaish to reply on behalf of Opposite Party No.2 has been filed. Thus, this reply has to be treated only on behalf of Shri Vaish and

Recd duplicate  
for Shri Vaish  
14/4/91

Filed today  
15/4/91

for

for

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there being no reply on behalf of the Opposite party No.2 on record so far, it is for the Hon'ble Court to decide the action, if any, in the circumstances.

2) That in reply to para 2, it is stated that the counter reply was not rejected on technical ground alone but also on other grounds as contained in paras 2 and 3 of the orders of the Hon'ble Court dated 5-3-91, viz not elucidating the points contained and the directions given by the Hon'ble Court in their judgement dated 25-6-90 in O.A.No. 198 of 1990.

3) That para 3 needs no reply.

Annex C 2

4) That in reply to para 4, it is stated that the letter dated 22-3-91 No.T 54 - F/148 - III (E) II A was received by the applicant but the order passed is neither speaking order nor indicates application of mind. The averments contained in this para are -

" The High Court at Allahabad had held that these posts would be filled up on

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seniority basis and no selection could be held."

does not find any mention in the judgement of the Hon'ble High Court. The Hon'ble High Court were pleased to direct in this judgement in the last but one paragraph that -

" So far as 18 persons including the petitioners are concerned, no selection is to held and the proposed selection to these posts of Foreman Grade B is without authority of law."

The Railways filed an appeal against this judgement before the Hon'ble Supreme Court and the Hon'ble Supreme Court were pleased to dismiss the special leave petition on 27-4-81 in S.L.P.No.6677 of 1979 from the judgement dated 9-5-79 of the judgement of Hon'ble High Court, Allahabad in writ petition No.681 of 1973.

This order of the Hon'ble High Court was implemented vide letter of General Manager(P) Northern Railway, New Delhi, dated 10-5-83 after 10 years of the filing of the Writ petition. In this letter, while the order of the Hon'ble High Court had been quoted in para 2

Annex C1

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of this letter, but the words -

" Including the petitioners."

after the words -

" 18 persons"

as contained in the Hon'ble High Court's orders were conveniently omitted malafide to the detriment of the applicant's interest and in clear breach of the Hon'ble High Court's orders. Thus, this itself is a clear ~~breach~~ case of contempt of the Hon'ble High Court and the Hon'ble Supreme Court. This wrong and malafide interpretation was the start of malafide action as instead of 18 persons ~~in~~ whose favour relief was granted by the Hon'ble High Court and as ordered by the Hon'ble High Court, the action was taken for filling of 18 upgraded posts on the basis of alleged seniority which was never mentioned in the judgement of the Hon'ble High Court. Thus, the applicant was deprived the relief granted to him by the Hon'ble Court without notice to the applicant after the applicant's retirement which is highly illegal and improper. In Annexure C-2, reference has been made about the

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representations of the applicant and it's disposal after 18 years for the 1st time after the applicant's retirement on totally wrong analogy i.e. 18 posts were available and 18 senior persons were correctly accommodated. In face of the orders of the Hon'ble High Court that so far as 18 persons including the petitioners are concerned, no selection is to be held. Thus, the promotions based on so called seniority were in breach of the High Court's orders. This decision now being communicated after the applicant's retirement for the 1st time on directions of the Hon'ble Tribunal is nothing but a device to justify the silence for 18 years and taking refuge illegally and wrongly behind the Hon'ble High Court's orders, which find no mention in the orders.

That repudiation of the applicant's claim for upgradation allegedly in pursuance of the High Court's orders has been answered now for the first time and this decision is in clear breach of seniority position and of the orders of both the Hon'ble High Court and Hon'ble Supreme Court, who were pleased

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to order -

" 18 persons including the petitioners" and not 18 posts".

That amongst the list of 18 persons promoted on 18 posts against the orders of the Hon'ble High Court are persons who perhaps got promotion because of good contacts with officers who matter. The Hon'ble High Court's orders does not mention " seniority or post ". It mentions only persons including the petitioners. The 6 petitioners including the applicant were senior most in the work shop and so they ~~have~~ had been promoted as per rules on upgraded posts with effect from 1-8-72, as per Railway Board's letter dated 12-3-73. (Annex R1)

Annex - R 1

That the applicant and other petitioners were promoted by Workshop Electric Engineer vide office order No.34 dated 13-5-73 duly approved by the Headquarters. To disown it now after 18 years and that too after the applicant's retirement and to say that the promotion was irregular is not permissible under the law, the same being illegal on the principle of estoppel and res-judicata and

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bars such orders.

That applicant's promotion in grade 450-575 (AS) was effected from 1-8-72 vide Annexure R 1 already filed in the O.A. No. 198 of 1990 (copy enclosed) and Govind Ram Diwani and B.S. Kalsi were selected in grade 450-575 (AS) on 26-8-75 vide Annexure R 2 and thus it is patently manifest that both of them are ~~are~~ junior to the applicant. Their further promotion was effected in Grade 840-1040 (RS) with effect from 16-10-79 whereas the applicant was granted the grade of 840-1040 (AS) with effect from <sup>4.9.82</sup> ~~16-10-79~~, vide Annexure R 3, 4 vide letter No. 454-~~2~~/<sup>4-9-82</sup> 148/III (EIA). It may not be out of place to mention here that Shri Kalsi ~~was~~ who was junior to the applicant, as stated above, by virtue of framing wrong seniority was called in Class II ~~although~~ selection also and the applicant was even denied the chance of appearing in the examination of Class II although senior. Thus, these patent irregularities on part of the Railway administration in fixing the applicant's seniority has deprived him of his seniority and promotions that were

Annex R 1

Annex R 2

Annex R-3

Annex R-4

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given to his juniors and thus as the applicant has been wrongfully denied promotion and <sup>not</sup> even being called for selection in Class II, the applicant is entitled for promotion from the date the above mentioned juniors were promoted with back wages and with all consequential benefits.

That the opposite parties averments regarding the applicant's non-promotion and that of Shri R.K. Bhalla who were among the 6 petitioners was that both were ignored because they were not within the range of seniority, is not only in violation of the Hon'ble High Court's orders pertaining to upgradation of the applicant but also against the seniority position of the applicant as stated in the preceeding para.

That with regard to Annexure A-16 / *of the apphc.*  
*Annex R-5* (Annexure R-5) of the application (copy enclosed), it is stated that the replies furnished by the Opposite parties is a bald statement and a non-speaking order. The alleged charge of lack of understanding against the Dy.C.M.E. is baseless as the Dy.C.M.E. has given cogent reasons while

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writing to General Manager(P) and to reply now when the applicant has retired and the Dy.C.M.E. is not posted at Lucknow, without any cogent reasons merits outright rejection.

In view of the submissions made in this para, the stand being taken for the first time in contempt proceedings should not and cannot be accepted. It has been held by the Hon'ble Supreme Court in their judgement - 1989 LIC 1364 in re K.D. Gupta Versus Union of India and Others -

" Contempt of Court's Act (70 of 1971) - Contempt proceedings - Order of ~~Supr~~ Supreme Court directing the authorities of Indian Army to reconsider the case of employee for promotion on basis of his medical categorisation continuing as S.I. - Authorities taking stand for the first time in contempt proceedings that lower medical categorisation is not connected with promotional entitlement of the employee - Promotion denied. Plea that no contempt has been committed

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as the case of employee was considered for promotional entitlement cannot be accepted."

That the Hon'ble Supreme Court in the case held that the total compensation of Rs.4 lacs would meet the ends of justice ~~ix~~ taking in view the consideration and fact such as duration of time for which the employee was subjected to various checks..... and consequent suffering which he underwent, loss of promotional prospects and fact that he would now be obliged to request to be released from service prematurely.

That in this case, after 17 years of filing of writ and after retirement of the applicant, despite numerous representations in this regard to the Opposite parties, the justification now put forward after 18 years for denial of the promotion to the applicant when his juniors had been promoted, merits outright rejection and award of compensation to the applicant which the Hon'ble Court may deem fit.

That the applicant is entitled and has

124

full right to claim promotion as Class II Officer from the date of his juniors promotions which has been duly recognised by the Hon'ble High Court and Hon'ble Supreme Court in various decisions viz. AIR 1974 Supreme Court, page 460 in re - State of Mysore Versus C.R. Sheshadari, AIR 1988, SC 1069 and it states -

" Wrongful denial of promotion - relief - back wages - held admissible even though employee did not work on promotion post."

The applicant prays in the circumstances that he should be granted all arrears and financial benefits which are due to him under the x rules.

5) That para 5 needs no comments.

6) That in reply to para 6, it is stated that the judgement of the Allahabad High Court referred in this para was disobeyed by the Opposite parties. This does not need any proof. The benefit of upgradation has been alleged to -

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" Have been granted to 18 senior -  
most incumbants who were within the  
scope of promotion."

Here again, while implementating the order,-

" Including the petitioners "  
as ordered by the Hon'ble <sup>High</sup> ~~Supreme~~ Court

was delieberately and conveniently ommitted  
to distort and twist the order to suit the  
whims of the officers who matter. The  
applicant's seniority position is fully  
borne out by the letter of Dy.CME, vide  
Annexure R-5 / Annexure A-16, and the  
applicant's representations, which were never  
replied and now they are being replied to  
after 18 years and after the applicant's  
retirement.

7) That the averments made in para 7 are  
not admitted as stated and those of para  
1 of the contempt application are reiterated  
as correct. It is again reiterated with force  
that the order passed on 22-3-91, Annexure C-2,  
is not a speaking order

*Shu*



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8) That in reply to para 8 of the counter, it is submitted that on the expiry of 3 months period, as ordered by the Hon'ble Court, for disposal of case expired on 25-9-90 and despite receipt of judgement neither action in terms of orders of the Hon'ble Court was taken timely nor the application for extension of time was moved.

9) That in reply to para 9, it is submitted that the applicant's representations have been disposed off after his retirement and after 9 months from the date of judgement of the Hon'ble Court, the orders of the Hon'ble Court being for disposal in 3 months time, and even now the orders are bald and non-speaking.

10) That averments made in para 10 are not admitted and those in para 4 of the application are reiterated as correct. The orders made now by the Opposite parties are in clear breach of the orders of the Hon'ble Court. With regard to the Opposite

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parties contention regarding the applicant's contention regarding non-eligibility for upgradation benefit from 1-8-70, it is totally wrong in view of the facts explained in the previous paras.

11) That the contents of para 11 are not admitted. The applicant's retirement without disposal of his representations when his juniors were promoted, speaks volumes of the mental agony, financial loss and loss of status suffered by the applicant. That as juniors were promoted ignoring the applicant's claim, the right of promotion to the senior has to be recognised and thus the applicant being a superseeded senior, is entitled to promotion with back wages also.

12) That the contents of para 12 do not call for any reply except that there was delay in disposal of the applicant's representations.

13) That the averments made in para 13 are

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not admitted and those of para 7 of the application are reiterated as correct. The applicants ~~xx~~ representation, Dy.CME's letter were both ignored and even the directions of the Hon'ble Court were ignored till the filing of this contempt application. The decisions taken and communicated in 1991 to the applicant are bald and non-speaking.

14) That the contents of para 14 are not admitted, and those of para 8 of the application are reiterated as correct. The Dy.CME's letter, vide Annexure R- 5 / Annexure A-16, clearly points out that the applicant and Shri R.K. Bhalla should be assigned seniority ~~x~~ from the date of their promotion to Dy.S.S. as per office order No. 34<sup>dated 13/5/73</sup> of WEE/AMV, Lucknow. This was neither done nor any cogent reasons have been given till ~~x~~ today by a speaking order and as to ~~why~~ why it could not be done ?

15) That the averments made in para 15 need no reply except that Opposite parties admit delay and they made no efforts to seek

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further extension of time after the expiry  
of the stipulated time period.

For detailed reasons set forth above,  
it is prayed that the Hon'ble Court may be  
pleased to decide the case in the light  
of the submissions made and grant to the  
applicant the reliefs prayed.

  
Applicant

Dated: 12/4/91

at Lucknow.

APP

Verification

I, N.K. Mukerjee, do hereby verify  
that the contents of paras 2, 7, 12, 13, 14 and  
15 are true based on records, paras 3, 5, 8, 9  
and 10 are based on personal knowledge and  
those of paras 1, 4, 6 and 11 are true based  
on legal advice and nothing has been  
concealed or suppressed.

  
Applicant

Dated: 12. 4. 91

at Lucknow.

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Herndon Electrical Engineer Office  
Albany, Lusk: 7.

Office Order No. 34

Period: 13-3-73

Remission is accorded by the Chief Electrical Engineer, New Delhi for the up-gradation of the following posts of Electrical Engineer in scale Rs. 370-475 <sup>Rs. 475-575</sup> of Rs. 450-575 with effect from 1-8-72 on the recommendation of the Joint Tribunal.

Accordingly the following staff working in ~~EP/TL/ANV~~, ~~AO/ANV~~, Production & Control Organisation Office /Albany and fixed in scale Rs. 450-575 as ascertained by ~~EP/TL/ANV~~. They will be entitled for the arrears pay as fixed in scale 450-575 as on 1.8.72.

They will hence forthwith be entitled as Asst. Shop Superintendant

1. Shri K. Singh EP/TL/ANV	450-00	2.11.70.
2. Shri M. S. Mahapatra <del>EP/TL/ANV</del>	475-00	2.11.71
	500-00	2.11.72
3. Shri P. N. Mahapatra EP/TL/ANV	450-00	1.6.72.
4. Shri Vidya Nath - Asst.	450-00	1-6-71
	475-00	1.6.72
5. Shri R. K. Bhalla EP/TL/ANV	450-00	16-8-72
	475-00	16-8-73

Asst. Personnel Officer  
Shop, ANV

Copy to: EP/TL/ANV, EP/AN, ANV, EP/TL/ANV, EP/TL/ANV, EP/TL/ANV for information and necessary action. ~~EP/TL/ANV~~ may submit the complementary bill for 1.8.72 as an only date.

Asst. Personnel Officer  
O. O. Shop, Albany.

Certified  
True copy  
of original  
file 107

Northern railway,  
Ed. Qrs. Office, Baroda House, New Delhi.

Letter No: 754/182(EIIA), dated 22-4-75

Sub:- Selection for the post of Electrical(SS) Gr.  
Rs. 450-575(AS).

As a result of written test held on 26/8/73, 27/10/74 and interview on 26/8/75 for the post of Electrical Foreman ASS(General Services) Grade Rs. 450-575(AS) the following persons have been placed in the panel. Their names are in the order of merit.

Name	Present designation and grade	Divn/Shop
1. Sh. Govind Ram	Offg. ASS 450-575	JU Shop
2. Sh. S. K. Chopra	Offg. EFO 370-475	FZR Divn.
3. Sh. B. S. Parhar	-do- -do-	DLI Divn.
4. Sh. B. S. Kalsi	-do- -do-	HQ
5. Sh. D. J. Hemrajani	-do- -do-	-do-
6. Sh. R. S. Sukheja	-do- -do-	FZR Divn.
7. Sh. B. K. Chandra	AEFO 335-425	DLI Divn.
8. Sh. S. L. Jhanji	-do- -do-	FZR Divn.
9. Sh. Niranjana Singh	Offg. EFO -do- (DSL)	TKD/DLI Divn.
10. Sh. Gian Singh	Offg. EFO 370-475	FZR Divn.
11. Sh. Dinesh Chandra	Offg. AEFO 335-425	HQ

The above staff may, however, be warned that the retention of their names on the approval list is dependent on their work remaining satisfactory during the currency of panel. The mere fact that have been placed on the panel is no guarantee that they will be offered the post of EFO(GS) for Gr. Rs. 450-575(AS) for which they have been selected.

The panel is final.

sd/-

( J. L. Khosla )  
for General Manager(P).

as per  
copy of  
original  
for

## NOTICE

C.E.S.B. passed the following orders if otherwise stated  
 1. Shri N.K. Mukerjee, presently working in 14.2.50./LKO is transferred to Lucknow Workshop and may be appointed to officiate as Shop Supt. in Grade Rs.840-1040(RS) against the vacancy of Shri P.K. ... since promoted to Class II, reversing local arrangements, if any.

2. Shri M.L. Bhagat, Shop Supt. 2.0E(JUC) FEA Division Grade Rs.840-1040(RS) is transferred in the same pay and grade and posted as Shop Supt./Amritsar Workshop against the vacancy of Shri M.L. Yadav, since promoted to Class II.

3. The Shop Supdt. element of the post of SS/OE/JUC Gr. Rs.840-1040(RS) may be transferred to Delhi Division temporarily to upgrade the post of SFO/TL/NPL from Rs.700-900(RS) to Grade Rs.840-1040(RS).

4. Shri P.D. Khandwal, SFO/TL/NPL Gr. Rs.700-900(RS) may be appointed to officiate as Elect. Foreman/TL/NPLS Gr. Rs.840-1040(RS) against the post upgraded vide item no.3 above.

5. Shri M.L. Bajaj, Asstt. Shop Supdt. Grade Rs.700-900(RS) Jagadhari Workshop is transferred to Lucknow Workshop and may be appointed to officiate as Shop Supdt. in grade Rs.840-1040(RS) against the new post of shop supdt. sanctioned vide this office letter No. 553-M/3/404 dated 8-6-1932.

6. Shri A.K. Jain, E.F.O. Grade Rs.550-750(RS) ASR/FEA Division who is under orders as transfer to Delhi Division as S.F.O. Grade Rs.700-900(RS) vide this office Notice of even number dated 16-4-31 is now retained on Porozpur Division and may be appointed to officiate as S.E.F.O./OE/JUC in grade Rs.700-900(RS) against the post downgraded to Rs.700-900(RS) vide item No.3 above.

His earlier transfer orders for Delhi Division referred to above may be treated as cancelled.

CONFIDENTIAL 2/

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copy of  
original  
[Signature]



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7. Orders vice Shri M.L. Bajaj will be issued separately.

8. The changes may please be given effect to immediately and to the effect of the order.

10-10-80 (No. 1000/80)

(Shri Lal)  
for Personnel Officer (M).

Dated: 4/9/1982.

No. 702-E/143-III (Lil).

Copy for information and necessary action to:-

1. Director General/REO/LKO.
2. Dy. Commr. (D)/CB-Lucknow.
3. Dy. Commr. (D)/N.R.V./M. C. S. W/Shop and Jagatpur Workshop.
4. D. A. C. /PZ-LKO.
5. S. E. E. /HQ in ref. to his note No. 116-Mec/C/8 dated 30.3.1982.
6. C. A. /C. A. E.

Police

27/4

Delhi  
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Station

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ADD G E E has passed the following orders

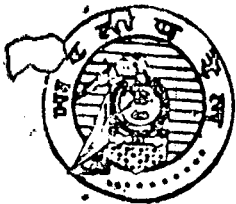
- 1 Shri N M Kalia officiating Shop Supdt Gr 840-1040(RS) working under Bridge M/S Juc is transferred to Pirozpur and posted as DEFO against the newly upgraded post
- 2 Shri G R Dewani officiating ASS Gr 700-900(RS) working under DAKE (W) JU is transferred to BKN Shop and put to officiate as SS in Gr Rs 840-1040(RS) and DED(W) against an existing vacancy by operating the ~~new~~ post of its original grade i.e. 840-1040(RS) when Dewani reports there
- 3 S K Chopra officiating RFO Gr Rs 700-900(RS) under DRM/FZR is promoted and put to officiate as SS Gr Rs 840-1040(RS) in Bridge M/S JUC against vacancy of N M Kalia item No 1.
- 4 Shri B S Parhar officiating SEFO gr Rs 700-900(RS) working under SEE(Const)-I, New Delhi is promoted and posted as SEFO in Gr Rs 840-1040(RS) in same capacity and organisation against newly created post
- 5 Shri B S Kalsi officiating SFO(P) Gr Rs 700-900(RS) working in CEE's office, Baroda House is promoted to Gr Rs 840-1040(RS) and posted as SFO(PLG) MD Qrs Gr Rs 700-900(RS) to Gr Rs 840-1040(RS) in lieu of the post of SFO(CHG)/Delhi Gr Rs 700-900(RS) already upgraded to Gr Rs 840-1040(RS) vide APO(M) D O letter No 803/5/4741(OPG)(Eia) dated 9/10/79 temporarily for a period of two months only. The post of SFO(CHG) Delhi will continue to be operated in Gr Rs 700-900(RS) for a period of two months
- 6 Shri R S Birdi officiating as SFO(PLG) Gr Rs 700-900(RS) working in CEE's office, Baroda House is posted as SFO in the same grade against vacancy of Shri B S Kalsi item No 5 above
- 7 Shri D S Hemrajani officiating as SFO gr Rs 700-900(RS) under DRM/AID is promoted to Gr Rs 840-1040(RS) and posted to officiate as SFO Gr Rs 840-1040(RS) under DRM/LKO against new upgraded post
- 8 Shri R S Sukheja officiating RFO Gr Rs 700-900(RS) under DRM/FZR is promoted to Gr Rs 840-1040(RS) and posted to officiate as SFO under SEE(Const)-I New Delhi vice Shri Gyan Singh SFO Since promoted to Class-II

Further action may please be taken accordingly

Sd/-  
G Ramchandran  
Sr Personal Officer (M)

No 754/143-III(Eia), dated 16/10/1979

Verified  
Copy of  
original  
file



R 5

Annexure R-34

SHAKEEL AHMED  
उप मुख्य यंत्रिक इंजीनियर  
(सबारी और माल सिन्हा)

23

उत्तर रेलवे

भालमवाग, लखनऊ

DY. CHIEF MECHANICAL ENGINEER  
(C & W) NORTHERN RAILWAY  
ALAMBAGH, LUCKNOW

Dated: 8.9.1989.

D.O.No. DCME/741/P4-V

Dear Shri Sikha,

Subject:- Combined seniority list of  
Electrical Supervisors for  
Group 'B' services.

There is discrepancy in the combined provisional seniority list of Electrical Supervisors in grade Rs. 2000-3200, for Group 'B' service issued vide G.M. (P)/NDLS's letter No. 732E/62-III(E1a) dated 30.6.89/3.7.89. Apparently, the judgment of the High Court in Writ Petition No. 681 of 1973, has not been taken into account while issuing the seniority list. The relevant extract from the judgment is reproduced below for your kind information:-

" Thus it is clear in the present case that the post of Foreman Gr. 'B' was only redesignated and upgraded but the post itself was not changed and in view of the Rly. Board's decision so far as 18 persons including the petitioners are concerned no selection is to be held and the proposed selection to those posts of Foreman Gr. 'B' is without authority of law as the decision of the Railway Board carried the force of law."

The judgment is categorical that the post of Foreman 'B' was only redesignated and upgraded and was not a selection post. Under the circumstances following supervisors of this Workshop namely S/Shri R.K. Bhalla, S.S. (A.C.) and N.K. Mukerji, S.S. (T.L.), should be assigned seniority from the date of their promotion to Dy. S.S. as per Office Order No. 34 of H.E.E./AM-100 (copy enclosed for ready reference.)

The issue has assumed urgency keeping in view the forthcoming supplementary selection for Group 'B' Electrical services to be held on 23.9.89. It is requested that the decision on the subject may kindly be taken before the date of selection so that the affected employees are not put to any hardship.

With regards,

Yours sincerely,

Shri K.L. Sikha,  
Chief Personnel Officer  
N.Rly., Bareda House  
New Delhi.

(Shakeel Ahmed)

C/- CESE, N.Rly., Bareda House, New Delhi.

Received

certified  
copy of  
original  
leave

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
~~ALLAHABAD BENCH~~

CIRCUIT BENCH LUCKNOW.

Regd. A/D  
23-A, Thornhill Road  
Allahabad, 201 001

Contempt No. 24/90(L) <sup>in C.A.</sup>  
<sup>198/90(L)</sup>  
Registration O.A. No. of 199

No. CAT/Alld/Jud 559570 5596

...M.K. MUKERJI.....

Applicant(s)

Versus

...S. N. VAISH & ONE ANOTHER

Respondent(s)

1. SHRI S.N. VAISH GENERAL MANAGER H.Rly. BARODA HOUSE NEW DELHI.
2. SHRI R.N. AGHA CHIEF PERSONNEL OFFICER H.RLY. BARODA HOUSE NEW DELHI.



Please take notice that the applicant above named has presented an Application a copy of whereof is enclosed herewith which has been registered in this Tribunal and the Tribunal has fixed 18.1.91 Day of January For. **DISPOSAL**

If, no appearance is made on your behalf, your pleader of my some one duly authorised to Act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this Day 20.12.90 of 1990.

*[Signature]*  
For Deputy Registrat  
(Judicial)

ENCL: COPY OF COURT'S ORDER DATED 14.12.90 WITH CONT. PETITION.

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW.

Contempt No. 24 of 1990(L)

N.K.Mukerji

...

Applicant.

Versus

Shri S.M.Vaish and another ...

Respondents.

14.12.1990

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

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

Heard the applicant's counsel. Issue notice to respondents to show cause why they may not be punished for committing Contempt of this Tribunal in so far as they have not yet complied with the orders dt. 25.6.90 in O.A. No. 198/90. It will not be necessary for them to present in person till further orders but they must file a reply on affidavit and in particular they will indicate how the matters stand with reference to their communication dt. 28.11.90 Contained in Annexure-6. List for disposal on 16.1.91.

Sd/

A.M.

Sd/

V.C.

//True Copy//

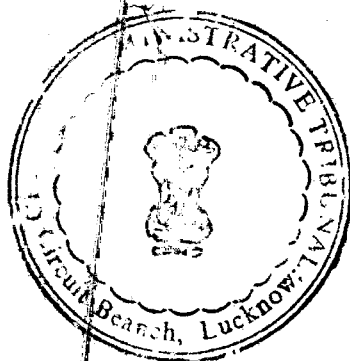
*Mehd. Umar Khan*  
(Mehd. Umar Khan)

Central Administrative Tribunal,  
Circuit Bench,  
LUCKNOW.

Sd/

Checked by

*26/12/90*



CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW.

Contempt No. 24 of 1990(L)

N.K.Mukerji ... Applicant.  
Versus  
Shri S.M.Vaish and another ... Respondents.

14.12.1990

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

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

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Sd/

A.M.

Sd/

V.C.

//True Copy//

(Mohd. Umar Khan)

Central Administrative Tribunal,  
Circuit Bench,  
LUCKNOW.

Sd/

checked by

26/12/90



CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW.

Contempt No. 24 of 1990(L)

N.K.Mukerji ... Applicant.

Versus

Shri S.M.Vaish and another ... Respondents.

14.12.1990

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

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

Heard the applicant's counsel. Issue notice to respondents to show cause why they may not be punished for committing Contempt of this Tribunal in so far as they have not yet complied with the orders dt. 25.6.90 in O.A. No. 198/90. It will not be necessary for them to present in person till further orders but they must file a reply on affidavit and in particular they will indicate how the matters stand with reference to their communication dt. 28.11.90 Contained in Annexure-6. List for disposal on 10.1.91.

Sd/

A.M.

Sd/

V.C.

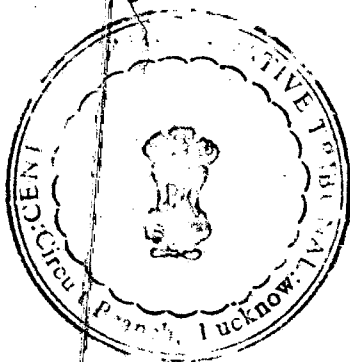
//True Copy//

(Mohd. Umar Khan)

Central Administrative Tribunal,  
Circuit Bench,  
LUCKNOW.

Sd/

checked by  
26/12/90



(5)

A/9

SPECIAL POWER OF ATTORNEY

in the court of Central Administrative Tribunal Circuit  
Bench, Lucknow

CCP No. 24 of 90 (L) in OA No. 198 of 90 (L)

N.K. Mukherji

Plaintiff  
Appellant  
Petitioner

VERSUS

Shri S.M. Vaish  
G.M. & other

Defendant  
Spondant  
Opposite Party.

KNOW ALL MEN by these presents that I, R.N. Aga, CPO/Admn.  
~~General Manager~~, Northern Railway, New Delhi do hereby appoint  
and authorise Servashri \_\_\_\_\_  
to appear, plead, and act for me jointly or severally in the  
above noted case and to take such steps and proceedings as may  
be necessary for the prosecution or defence of the said matter  
as the case may be and for the purpose to make sign verify  
and present all necessary plaints Petitions, written statements  
and other documents to compromise the suit, admit the claims and  
to lodge and deposit money in court and to receive payment  
from the court of money deposited and to file and withdraw  
documents from court and GENERALLY to act in the promised and  
in all proceeding arising thereof whether by way of execution  
appeal or otherwise or in any manner connected therewith as  
effectfully to all intents and purposes as I could act if  
personally present. I hereby agree to ratify and confirm  
whatever shall be lawfully done by virtue of these presents.

In witness where of I here to set my hand this day of

\_\_\_\_\_, 1990.

Accepted  
Anil Kivashra  
Adv.

*R.N. Aga*  
(R.N. Aga)  
Chief Personnel Officer (Admn.)  
~~GENERAL MANAGER~~  
NORTHERN RAILWAY  
NEW DELHI.



CENTRAL ADMINISTRATIVE TRIBUNAL

Circuit Bench, Lucknow.

Case 4.24/905

O.A.No. 198 of 1990 (L)

Shri N.K. Mukharji

..... Applicant

Shri S.M. Vaish & others

..... Respondents.

05.3.91

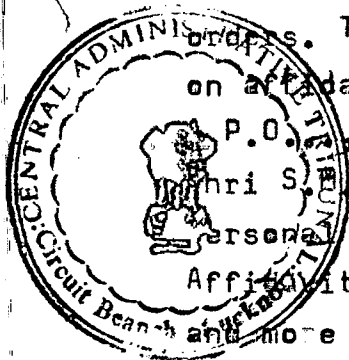
Hon'ble Mr. Justice D. Nath, V.C.

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

Shri C.A. Basir for the applicant and Shri - Anil Srivastva for the respondents are present. Orders were passed by this Tribunal on 14/12/90 to the respondents to show cause why they may not be punished for committing contempt and it was <sup>observed</sup> ~~observed~~ that it will not be necessary for them to be present in person till further orders. They were specifically directed to file a reply on affidavit. Reply has been filed by one Shri G.C. Saxena P.O., not by any of the two respondents namely Shri S.M. Vaish, General Manager and R.N. Aga, Chief Accounts Officer (Admn). In a contempt proceedings the Affidavit must be filed by the alleged contemner himself, and more so, when specific orders were passed by this Tribunal on 14.12.90. The respondents must file a reply on affidavit; they cannot ignore that direction and delegate the function to any-body or in particular Shri G.C. Saxena, A.P.O. The counter Affidavit filed by the A.P.O. is therefore rejected.

We also notice that the compliance letter dated 15.1.91 contained in Annexure-<sup>C2</sup> ~~C2~~ to the Counter Affidavit does not specifically elucidate the points which were contained in the directions given by this Tribunal in the judgement dated 25.6.90 which the respondents are alleged to have breached. It was specifically directed that the representation dated 25.4.89 and the other representation regarding the applicant's pay scale as mentioned in Annexure-A16 was a letter

and A20 must be decided with due regard to the remarks contained in Annexure-A16. Annexure-A16 was a letter Contd.....



Received  
Copy on behalf  
of A. Srinivasan  
Adm.

and A20 must be decided with due regard to the remarks contained in Annexure-A16. Annexure-A 16 was a letter dated 8.9.89 of the Deputy Chief Mechanical Engineer forwarding the applicant's case; The Dy.C.M.E. had mentioned that in preparing the impugned seniority list the judgement of the Hon'ble High Court <sup>had not</sup> been taken into account. The compliance letter Annexure-C2 does not indicate that the judgement of the Hon'ble High Court was taken into account or that the remarks of the Dy.C.M.E. as aforesaid were given due regard to.

The respondents have mistaken notion of contempt proceedings and therefore while we reject the present Counter affidavit we give an opportunity to respondent No. 1 Shri S.M. Vaish to file his own counter affidavit in reply and set out in detail all the points which emerged from the judgement dated 25.6.90 and pass a speaking order. The Counter Affidavit of respondent No. 1 must be filed within four weeks from today to which the applicant may file rejoinder within two weeks thereafter. The case shall be listed for final disposal on 16.4.91 on which date the respondent no. 1 shall also cause to produce the record in which the compliance of this Tribunal's judgement may have been done. A copy of this order may be given to the learned counsel for both the parties within two days.



Member (A)

Vice Chairman

Sd/

Sd/

// True Copy //

R.N.

*Handwritten signature/initials*

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

## INDEX SHEET

CAUSE TITLE O.A-198 of 1990 (C)

Name of the parties \_\_\_\_\_

: N. K. Mukherjee

Applicant.

Versus.

U. O. I. (N. Bly.)

Respondents.

## Part A.B.C.

Sl No.	Description of documents	Page
1	Order Sheet	A1 - A2 ✓
2	Judgment	A3 - A5 ✓
3	check list	A6 - A7 ✓
4	Petition	A8 - A23 ✓
5	Annexures	A24 - A51 ✓
	1 - Power	A52
	<del>Branch copy</del>	<del>A61 - B44</del>

File B/C weeded out / destroyed.

So (S)

ORDER SHEET

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

Contempt No. 24 OF 1990 L

N. R. Mukherjee Vs. S. M. Vansh

Sl.No.	Date	Office Report	Orders
		<p>OR</p> <p>He for the applicant has filed C.C.P No 24/90(L) in OA 190/90 against the Or-dt 25.6.90 delivered by Hon. Justice K. Nath △ Hon. K. Obayye A.</p> <p>S.F.O</p> <p>11/12</p>	
	14/12/90	<p>Hon. Mr. Justice K. Nath, J.C. Hon. Mr. K. Obayye, A.M.</p> <p>Heard the applicant's counsel. Issue notice to respondents to show cause why they may not be punished for committing contempt of this Tribunal in so far as they have not yet complied with the orders dt 25/6/90 in OA No. 190/90. It will not be necessary for them to present in person till further orders but they must file a reply on affidavit and in particular they will indicate how the matters stand with reference to their communication dt 28/11/90 contained in Annexure - 6.</p>	

List for disposal on 18/1/91.

A.M.

VC

Not issued

26-12-90

K

We also notice that the compliance letter dated 15.1.91 contained in Annexure-C2 to the Counter Affidavit does not specifically elucidate the points which were contained in the directions given by this Tribunal in the judgement dated 25.6.90 which the respondents are alleged to have breached. It was specifically directed that the representation dated 25.4.89 and the other representation regarding the applicant's pay scale as mentioned in Annexure-A19 and A20 must be decided with due regard to the remarks contained in Annexure-A16. Annexure-A16 was a letter dated 8.9.89 of the Deputy Chief Mechanical Engineer forwarding the applicant's case; the Dy.C.M.E. had mentioned that in preparing the impugned seniority list the judgement of the Hon'ble High Court had not been taken into account. The compliance letter Annexure-C2 does not indicate that the judgement of the Hon'ble High Court was taken into account or that the remarks of the Dy.C.M.E. as aforesaid were given due regard to.

The respondents have mistaken <sup>notion of</sup> ~~in committing~~ <sup>proceeding</sup> contempt and therefore while we reject the present Counter Affidavit, we give an opportunity to respondent No.1 Shri S.M.Vaish to file his own Counter Affidavit in reply and set out in detail all the points which emerged from the judgement dated 25.6.90 and pass a speaking order. The Counter Affidavit of respondent No.1 must be filed within four weeks from today to which the applicant may file rejoinder within two weeks thereafter. The case shall be listed for final disposal on 16.4.91 on which date the respondent No.1 shall also cause to produce the record in which the compliance of this Tribunal's judgement may have been done. A copy of this order may be given to the learned counsel for both the parties within two days.

Member (A)

Vice Chairman

Received Copy  
on behalf of  
A. Srivastava  
1/4

(K3)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

O.A. No. 198/90

N.K. Mukherjee

...Applicant.

versus

Union of India & others

...Respondents.

Hon. Mr. Justice K. Nath, Vice Chairman.

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

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

This petition under section 19 of the Administrative Tribunals Act, 1985 is for a direction to the respondents to correct the petitioner's seniority as reflected in Annexure A-1 dated 3.4.89 by which the seniority lists annexed thereto was circulated and objections were called.

2. There appears to have been a precedent litigation in Writ Petition No. 681/1973 of the Hon'ble High Court of Judicature at Allahabad decided on 9.5.79 by the Lucknow Bench (Copy of the judgment is annexure A-3). That judgment had become final when the SLP was dismissed by the Hon'ble Supreme Court by order dated 27.4.81, contained in Annexure A-4.

3. It appears that the impugned seniority list was issued by letter dated 3.4.89 (Annexure A-1) and objections were invited by 25.4.89. The petitioner's objections are contained in Annexure A-14 dated 25.4.89 in which he claimed his placement above G.R. Diwan at serial No. 13 of the list of Annexure A-1. The petitioner's placement in the list is at 23. The petitioner's representation was to be

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decided by the General Manager (P), Northern Railway, Respondent No. 2. While forwarding the petitioner's case the Dy. Chief Mechanical Engineer remarked in his letter dated 8.9.89 (Annexure A-16) that in preparing the impugned seniority list, the judgment of the Hon'ble High Court had <sup>not</sup> been taken into account. The officer suggested that the petitioner may be assigned seniority from the date of his promotion as Deputy S.S. vide office order No. 34, <sup>According to</sup> ~~as~~ the ~~petitioner~~ <sup>petitioner</sup> no decision has been taken on the petitioner's representation so far.

4. It appears that the petitioner has further grievance that in the mean time there was anomaly and distortion in fixation of his pay. He submitted reminders Annexure A-19 dated 1.2.1990 on that subject which was forwarded by Annexure A-20.

5. We do not think it necessary to issue the notice to the respondents because on the respondents' own invitation contained in Annexure A-1 the petitioner had made the representation Annexure A-14 which was supported by Annexure A-16 and the respondents were clearly duty bound to consider and pass orders thereon. It goes without saying that the disposal thereof would also have affected the petitioner's claims of pay scale. The learned counsel for the petitioner conceded that the competent authority disposing of the representation are respondents 1 and 2. We, therefore, consider it adequate to issue a direction to them to dispose of the representations and pass appropriate orders.

6. This petition is disposed of with a direction to respondent No. 1 and 2 to consider and decide the petitioner's representations dated 25.4.89 (Annexure A-14) and those

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(A5)

concerning his pay scale as mentioned in Annexure A-19 and A-20 with due regard to the remarks contained in Annexure A-16 and fix the petitioner's seniority in the impugned seniority list (Annexure A-1) and also to accord such consequential benefits to the petitioner in the matter of his pay etc as found to be entitled to. The respondents 1 and 2 shall comply with these directions within a period of three months from the date of receipt of copy of this judgment, unless they have already disposed of the representations referred to above.

Adm. Member.

Vice Chairman

Lucknow Dated June 25, 1990.

28/6/90



(AL)  
Circ  
Date  
Date  
14/6/90  
Deputy Registrar (1)

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

Registration No. 199 of 19890 (C)

APPLICANT(S) N. K. Mukherjee

RESPONDENT(S) U.O.C.

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/ Wakalatnama been filed?
5. Is the application accompanied by B.D./Postal Order for Rs.50/-
6. Has the certified copy/copies of the order(s) against which the application is made been filed?
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed?  
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly?  
c) Are the documents referred to in (a) above neatly typed in double space?
8. Has the index of documents been filed and paging done properly?
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application?
10. Is the matter raised in the application pending before any court of law or any other Bench of Tribunal?

yes

yes

yes

yes

yes

yes

yes

yes

yes

yes

yes

yes

yes

yes

yes

yes

(A7)

Particulars to be Examined

Endorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed?
12. Are extra copies of the application with Annexures filed?
  - a) Identical with the Original?
  - b) Defective?
  - c) Wanting in Annexures
 Nos. \_\_\_\_\_ pages Nos \_\_\_\_\_?
13. Have the file size envelopes bearing full addresses of the respondents been filed?
14. Are the given address the registered address?
15. Do the names of the parties stated in the copies tally with those indicated in the application?
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true?
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?
18. Have the particulars for interim order prayed for indicated with reasons?
19. Whether all the remedies have been exhausted.

ya

ya

No

ya

ya

JA

ya

ya

ya

dinesh/

In the Central Administrative Tribunal, Circuit Bench,  
Lucknow.

Original Appln. No. 198 of 1990 (2)

M.K. Mukherjee

... Applicant

Versus

Union of India and others

... Opp. parties.

Index

<u>Sl. No.</u>	<u>Particulars</u>	<u>Page No.</u>
1.	Application	1 to 15
2.	Copy of impugned order	16
3.	Postal order No.DD 4 827170 dated 29.5.1990	
4.	Power	

(C.A. Basir)  
Counsel for the Applicant

Lucknow: Dated

June 10, 1990.

f.T.  
Sub  
12/6/90

In the Hon'ble Central Administrative Tribunal  
Circuit Bench  
Lucknow.

198/90 (5)

N.K. Mukherjee, son of Sri K.C. Mukherjee,  
aged about 57 years, Alambagh, Lucknow.

----- Applicant

Versus

1. Union of India through General Manager,  
Northern Railway, Baroda House, New Delhi.
2. General Manager (Personnel), Northern  
Railway, Baroda House, New Delhi.
3. Deputy Chief Electrical Engineer, Carriage  
& Wagon Shop, Northern Railway, Charbagh,  
Lucknow.

----- Opposite parties.

Application under Section 19 of the Central  
Administrative Tribunal Act

Details of applicant

N.K. Mukherjee, Shop Superintendent,  
Train Lighting Shop, Carriage and Wagon Shop,  
Alambagh, Lucknow.

Particulars of Respondents

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. General Manager (Personnel), Northern Railway, Baroda House, New Delhi.
3. Deputy Chief Electrical Engineer, <sup>Loco shop</sup> ~~Carriage~~ & ~~Wagon Shop~~, Northern Railway, Charbagh, Lucknow.

I - Particulars of the order against which the application is made

That this application is being filed against wrong combined provisional seniority list of Electrical Supervisors in Grade of Rs.2000-3200 for Class II Services, issued vide Chief Electrical Engineer, Northern Railway, Baroda House, D.O. letter No.186/Elec/G/8 dated 29/30.3.1989 as communicated by Workshop Electrical Engineer, Loco, Northern Railway, Lucknow, letter No.752-E/W/LKO/46 dated 3.4.1989 and distortion of seniority of applicant and supersession of juniors at different stages of the applicant, vide Annexure A-1.

II - Jurisdiction of the Tribunal

That the applicant declares that the subject matter, the order against which he wants

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redressal, is within the jurisdiction of this Hon'ble Tribunal.

### III - Limitation

That the applicant further declares that this application is within limitation prescribed in Section 21 of the Administrative Tribunal Act.

### IV - Facts of the case

(i) That the applicant was selected to the post of Electrical Foreman in Grade Rs.335-425 on 15.3.1969 and was subsequently promoted in higher grade, that is 370-475 (AS) vide General Manager (Personnel), New Delhi, letter No.752-E/160-IV(E ii A), dated 8.2.1972 (at present the applicant is working in the scale of Rs.840-1040) and posted under Workshop Electric Engineer, Northern Railway, Charbagh, Lucknow.

(ii) That in 1969, on the basis of the decision of the Railway Rates Tribunal, known as 'Mian Bhai's Award', decision was taken by the Railway Board that all posts of Foremen 'B' in grade 370-475 (AS) In Mechanical/Electrical/Signal and Telecom workshop be upgraded in the scale of Rs.450-575 and re-designated as Assistant Shop Superintendent with effect from 1.3.1970.

See  
422

It was also decided that pay of the incumbants of the upgraded posts be fixed from 1.8.1970 under Rule 2013 of the Indian Railway Establishment Code Volume II.

(iii) That in accordance with the decision, four pbsts in grade Rs.370-475 (AS) were upgraded from 1.8.1970 and the applicant and 3 others working in grade 370-475, Foremen 'B' under Workshop Electric Engineer, were consequently upgraded in grade 450-575 (AS) and redesignated as Assistant Shop Superintendent. They were also paid arrears with effect from the date of their appointment in their redesignated post of Assistant Shop Superintendent (Electrical), vide Workshop Electric Engineer Office Order No.34, dated 13.5.1973. As a result of this order the applicant was promoted in the scale of Rs.450-575 with effect from 1.8.1972, vide Annexure A-2.

(iv) That some time later the General Manager, Northern Railway, took decision to hold selection for the post of Assistant Shop Superintendent/Foremen 'A' grade Rs.450-575 (AS) and called many including the applicant for upgraded post for selection and examination.

(v) That this order of the General Manager, Northern Railway, was challanged by the applicant and 5 others by way of writ petition No.681 of 1973 in re. P.S. Kapoor and others

413

Versus Union of India and others in Allahabad High Court, Lucknow Bench, which was decided on 9.5.1979.

(vi) That the Hon'ble High Court decided in applicants' favour holding that the post of Assistant Shop Superintendent was not selection post, but only upgraded posts and so there can be no question of holding selection for the 18 posts, that is 6 petitioners and 12 opposite parties of the writ petition, vide Annexure A-3.

(vii) That dissatisfied with the decision, the Railway administration went in appeal before the Supreme Court in re. Civil Writ Petition No.6677 of 1979 - Union of India Versus P.S.Kapoor and others. The Hon'ble Supreme Court dismissed this petition on 27.4.1981, vide Annexure A-4. Thus the judgement of the Hon'ble High Court was upheld as correct and final.

(viii) That while implementing the orders of the Hon'ble High Court as ratified by the Hon'ble Supreme Court, the General Manager (Personnel), Northern Railway, Baroda House, New Delhi, vide his letter No.754E/148-111-(E11A) dated 10.5.1983, issued letter that 18 posts of Electric Foreman 'B' grade Rs.370-475 (AS) were upgraded to Rs.450-575 (AS) in the workshop, as



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per decision of the Allahabad High Court and no selection can be held so far as 18 upgraded posts for 18 persons are concerned and the operative portion of the Hon'ble High Court's judgement was reproduced in this letter. In this letter, the words 'including petitioners' was conveniently and perhaps deliberately omitted. The letter also mentioned the name of the 18 persons who were entitled to consequential relief but omitted applicant's name whose name was at No.6 of the petitioners' list. This omission is malafide, arbitrary, illegal and amounts to contempt of court inasmuch as a deliberate action to deprive the applicant of a right granted by the Hon'ble High Court has been made. The action is malafide and amounts to playing fraud, both on the applicant and on the court's orders. A copy of such illegal order is Annexed as Annexure A-5.

(ix) That as a result of the above mentioned illegal, arbitrary and unjust order by flouting even the verdict of the Hon'ble High Court and Hon'ble Supreme Court, the applicant has suffered loss of pay, status, seniority and consequential losses as detailed below :-

(a) Eleven persons junior to applicant selected in grade Rs.450-575 (AS) on 22.4.1975 vide General Manager (Personnel), Northern Railway, New Delhi, letter No.754/E/182 (E 11 A), dated 22.4.1975 had been declared senior to the applicant, vide Annexure A-6

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(b) That despite applicant's date of promotion in the ~~order of~~ grade of Rs.450-575 (AS) being 1.8.1972, the applicant was declared junior to them although their date of being selected is 22.4.1975.

(c) That 11 junior persons got promotion in next higher grade, that is Shop Superintendent in the scale of Rs.840-1040 earlier than the applicant, though criteria for promotion was seniority-cum-suitability. Thus applicant was promoted in the same scale on 8.11.1982 against General Manager (Personnel) letter No.754-E/148 III (E ii A) dated 4.9.1982 but juniors were promoted on 16.10.1979 vide General Manager (Personnel) letter No.754/148 III (E ii A) dated 16.10.1979, vide Annexures 7 & 8. Sri G.R. Dewari is one such person.

(d) That due to late promotion on account of wrong seniority fixed in scale of Rs.2000-3200 (RS) the applicant also suffered loss in getting stagnation allowance to which he became entitled since, 1984, as per Annexures 9 & 10.

(e) That the applicant suffered further loss in not getting promotion to the post of Principal Foreman in grade Rs.840-1200 (RS) which is also not a selection post, vide 6.2.1979 letter No. PC III/73/PS-3/WS-1 dated 6.2.1979 Annexure A-11.

(APB)

(f) That due to wrong seniority of the applicant, he lost the field of eligibility and chance of ~~pro~~ appearing in Class II service in which his juniors were selected, Sri B.S. Kalsi (now Assistant Electrical Engineer) is one such person, vide General Manager (Personnel) note No.84/IRSEE/200 dated 16.5.1984, who is junior to the applicant, vide Annexure A-12.

(g) That vide General Manager (Personnel) letter No.752-E/162-V(E ii A) dated 31.12.1982, Annexure A-13, (in Class II service) thirtyeight candidates were called for selection, many of them were junior to the applicant ~~th~~ and the applicant was denied the chance of appearing which amounts to denial of his legitimate claim of being selected in Class II service.

(h) That the applicant submitted representation on 25.4.1989 against wrong fixation of seniority, forwarded by Deputy Chief Electrical Engineer (W), Northern Railway, Charbagh, Lucknow, on 25.5.1989 vide his letter No. 752-E/W/LKO/46 dated 25.5.1989 in response to the letter Dy.CEE/W/LKO letter No.752/E/W/LKO/46 dated 3.4.1989, stating the correct seniority place of applicant's seniority, viz. immediately before G.R. Dewani, serial No.13 of seniority list, but no reply has been received so far. Copies of representation dated 25.4.1989 and its forwarding letter dated 25.5.1989 are annexed as Annexures 14 & 15.

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(i) That the Deputy Chief Mechanical Engineer, Carriage and Wagon Shop, Northern Railway, Alambagh, Lucknow, vide his letter No.DCME/741 Part V, dated 8.9.1989, Annexure 16, strongly recommended for assigning correct seniority to the applicant from the date of applicant's promotion, to Dy. S.S. The Deputy Chief Mechanical Engineer impressed on the Chief Personnel Officer about genuine-ness of applicant's claim.

(j) That the applicant became entitled to the benefit of N.B.R.(next-below rule) from 16.10.1979 in scale Rs.840-1040 since his junior G.R. Dewani was promoted. The applicant thus becomes entitled to get Rs.26,721/-, as calculated vide Annexure 17.

(k) That the applicant had not been called for selection test and examination in Class II because of wrong fixation of seniority, although he was senior to so many amongst all those who were called and thus while the applicant was within the field of eligibility he was wrongly and arbitrarily denied the change of promotion. Applicant's junior, Sri B.S.Kalsi, was selected and posted in Class II service. Applicant is thus entitled to get retrospective promotion in Class II since he was arbitrarily excluded from appearing in the examination.

V - Grounds of relief, with legal provisions

(1) Because the applicant having been ignored from promotion because of the mistake committed by opposite parties, the applicant is, therefore, entitled for promotion with retrospective effect from the date his junior, B.S. Kalsi, was promoted in Class II Service as the applicant cannot be penalised for no fault of his. He cannot be said to have forfeited his right of promotion when he did not get promotion for no fault of his.

(2) Because it has been held by the Hon'ble Supreme Court that administrative orders, which involve civil consequences, the rule of natural justice should be followed, and an opportunity be given to the person who is going to be adversely affected by them.

(3) Because admittedly fixing seniority of a Government service to his disadvantage would surely affect his chances of promotion and as such under the principles of natural justice he must be given notice before revising his seniority in the list, to his detriment. Even the representations submitted have not been disposed off so far.

(4) Because junior to applicant having secured promotion, legally on the principle of NBR (next-below rule) the applicant is entitled

119

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to get promotion with effect from the date when the persons junior to applicant were promoted and also for payment of revised higher salary accruing to him on his promotion.

(5) Because Government cannot take advantage of its own wrong action and cannot with-hold what is due to his employee on account of illegally denied promotions.

(6) Because the applicant, by virtue of his seniority, had become entitled to promotions which were denied to him arbitrarily and illegally and the opposite parties prevented the applicant from performing duties of the promoted posts for no fault of his, so he cannot be denied the arrears of pay and the Government cannot take advantage of their error of delay in not promoting the applicant in time by not paying him the arrears.

(7) Because the opposite parties cannot take advantage of their own wrong actions and cannot withhold what is due to their employee on account of illegally denied promotion.

(8) Because the basic principle for determining the seniority being that seniority is determined with reference to appointment or promotion to a particular cadre because after recruitment and promotion they form one class and length of service in that class alone would

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be the basis for determining the seniority.

(9) Because the applicant has been ignored all along from promotion for the posts mentioned above and for being called for selection in Class II Service because of the mistake committed by the administration. It has been held by many High Courts that in such cases the employee cannot be penalised for no fault of his and he cannot be said to have forfeited his claim for salary when he did not get promotion for no fault of his.

(10) Because denial of seniority to him with effect from 1.8.1972 is thus wholly wrong and inequitable.

(11) Because the arbitrary orders which have affected the applicant's seniority effects his civil rights and therefore denial of his legal rights is illegal.

(12) Because the promotion of juniors ignoring the seniors for no fault of seniors entitles the seniors to claim promotion from the date the junior was promoted and for consequential benefits. It is prayed that the applicant may be restored his correct original position, rank, seniority and status in the Government service and his seniority as per original seniority list from 1.8.1972, as against 12.10.1976 wrongly shown. This is not open to

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any other interpretation in view of the judgements of the Hon'ble High Court and Supreme Court.

(13) Because the order of wrong fixation of seniority and treating persons junior to the applicant as seniors has been passed without giving any notice to the applicant.

VI - Representations sent by applicant in this regard are as under -

1. Dated 25.4.1989      Annexure 14.
2. Dated 13.12.1989      Annexure 18.
3. Dated 1.2.1990      Annexure 19.
4. Dated 3.4.1990      Annexure 20.

VII - The applicant declares that the matter is not pending with any other court.

VIII - Relief sought

The applicant prays to the Hon'ble Court that it may be pleased to :-

(a) Order the opposite parties for restoring the correct seniority position, that is with effect from 1.8.1972, as against 12.10.1976, and benefit of next-below rule be also granted alongwith promotions in scale Rs.840-1040 from 16.10.1979, since the junior, Sri G.R. Dewani, was promoted, and retrospective promotion in grade Rs.840-1200 (RS) as Principal Foreman with other consequential benefits.



A22

IX - Interim order, if any prayed for

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X - The application is being filed through the applicant's counsel.

XI - Postal order No. DD 4 827170 dated 25.5.1990 for Rs.50/- in favour of Registrar, Central Administrative Tribunal, Allahabad, is enclosed.

List of enclosures

1. Copy of letter of Workshop Electric Engineer, dated 3.4.1989.
2. Copy of order no.34 dated 13.5.1973.
3. Copy of judgement of Hon'ble High Court dated 9.5.1979.
4. Copy of order of Hon'ble Supreme Court dated 27.4.1981.
5. Copy of order regarding implementation of the order of Hon'ble High Court and Supreme Court.
6. Merit list of selected candidates in grade 450-575.
7. Promotion of Sri G.R. Devani dated 16.10.1979 in grade 840-1040.
8. Promotion order of applicant dated 4.9.1982.
9. Circular of Railway Board dated 4.8.1983
10. Calculation of stagnation allowance.
11. Railway Board circular dated 6.2.1979.
12. Posting order of Sri B.S. Kalsi, dated 16.5.1984.

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13. Call letter dated 31.13.1982.
14. Representation of applicant dated 25.4.1989.
15. Forwarding letter dated 25.5.1989.
16. D.O. letter of Dy. C.E. dated 8.9.1989.
17. Statement of arrears accruing if correct seniority is restored.
18. Representation of applicant dated 13.12.1989 forwarded by the authorities on 19.12.1989.
19. Reminder dated 1.2.1990.
20. Forwarding letter of reminder dated 3.4.1990.

Lucknow: Dated  
June/0 ,1990.

*N. K. Mukherjee*

Applicant

Verification

I, N.K. Mukherjee, the above named applicant, do hereby verify that the contents and facts stated in this application are true to my knowledge, except contents of para V based on legal advice which I believe to be correct.

Signed and verified this 10/6 day of June, 1990, in the court compound at Lucknow.

*N. K. Mukherjee*  
Applicant

424

Office of the Workshop Electrical Engineer, Lucknow, N.Rly.,  
Charbagh, Lucknow.

LR.752-E/N/LXD/46.

Dated: 3-6-1989.

A copy of D.O. letter No. 186-Eloc/G/S dated 29/30-3-1989 from Shri A.S. Sant, Chief Electrical Engineer, N.Rly., Baroda House, New Delhi to Shri A.C. Sharma Dy. CEE (W), CB Workshop, N.Rly., LKO alongwith seniority list is docketed to All Shop Superd. and Dy. Shop Superd. of AMV & CB Electrical Workshops for information and necessary action. In this connection staff may be asked that they may submit their appeal, if any, by 28.6.1989 so that the same may be sent to Headquarters for further action.

This may be treated as Urgent.

*L. Singh*  
Workshop Electrical Engineer,  
Lucknow, N.Rly., CB-Lucknow.

Copy of D.O. No. 186-Eloc/G/S dated 29/30-3-1989 from Shri A.S. Sant, Chief Electrical Engineer, N.Rly., Baroda House, New Delhi to Shri A.C. Sharma, Dy. CEE (W)/CB Workshop, N.Rly., LKO.

Combined provisional seniority list of Electrical Supervisors in grade Rs. 2000-3200 (Rs) for Class II.

I am enclosing herewith copy of combined Provisional (Part) seniority list of Electrical Supervisors prepared by 'P' Branch of Headquarters Office for promotion to Class II.

The above seniority list should be given wide publicity amongst the staff duly taking their signature with date and objection if any, against the above seniority list be furnished to SPO(M), Baroda House, New Delhi within 2 weeks from the date of receipt of this letter. It may be made clear to the staff that no objection would be entertained thereafter.

Simultaneously entered in respect of service particulars may please be checked from their service records and corrections if any be made and necessary advice be sent to SPO(M), Hd. Quarters Office also.

Please acknowledge receipt.

With best wishes,

DA/20 above

HLS/12+1.

Certified  
to be true copy  
Sup.  
*[Signature]*

# RECEIPT FOR THE DEPARTMENT OF AGRICULTURE, GOVT. OF INDIA

Sl. No.      Design.      S. No.      Grade.      Details.      Regular      Length of      Date of      No. of      No. of      No. of

protection      24.28.31.12.1973      10      10      10

1.      2.      3.      4.      5.      6.      7.      8.      9.      10.

1.	S/Sruti	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
2.	P.K. Bhaskar Rao (Jr)	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
3.	R.C. Awasthi	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
4.	A. Peter	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
5.	Dinesh Chandra	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
6.	Raghubir Singh	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
7.	C.P. Gupta	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
8.	S.S. Arshi	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
9.	A.K. Vaid	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
10.	K.L. Upad	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
11.	K.B. Pandit	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
12.	H.V. Sridhar	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
13.	B.S. Sharma	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
14.	Govind Rao Devant	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
15.	D.J. Hemrajant	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
16.	R.S. Subbaja	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
17.	B.S. Rang	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
18.	K.M. Tevarl	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
19.	S.P. Vasta	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
20.	J.C. Chetra	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
21.	I. Samuel	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
22.	R.K. Bhalla	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
23.	Jagjit Singh	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
24.	K.K. Mukherjee	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
25.	Karada Das Gupta	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
26.	E.H. Gupta	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
27.	Jeet Singh	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
28.	R.F. Sharma	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
29.	V.A. Fripethal	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
30.	Atij Bhushan	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
31.	E.S. Bajva	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
32.	K.K. Gurg	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
33.	P.D. Mahak	25.3.30	2375-3500	24.28.31.12.1973	10	10	10
34.	P.D. Mahak	25.3.30	2375-3500	24.28.31.12.1973	10	10	10

Copy filed for Govt. of India

In the Central Administrative Tribunal,  
Circuit Bench, Lucknow.

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Original Appln. No. 198 of 1990 (C),

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N.K. Mukherjee ... Applicant

Versus

Union of India and others ... Opp. parties.

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Paper book

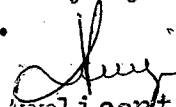
<u>Sl. No.</u>	<u>Particulars</u>	<u>Page No.</u>
1.	Application	1 to 15
2.	<u>Annexure A-1</u> : Copy of letter of Workshop Electrical Engineer, Northern Railway, Charbagh, Lucknow, dated 3.4.1989 containing seniority list.	16 to 17 18
3.	<u>Annexure A-2</u> : Copy of Workshop Electrical Engineer, Northern Railway, Charbagh, office order no. 34 dated 13.5.1973.	18
4.	<u>Annexure A-3</u> : Copy of judgment of Hon'ble High Court Allahabad, Lucknow Bench, dt. 9.5.1979 in writ petition no. 681 of 1973.	19 to 24
5.	<u>Annexure 4</u> : Copy of order of Hon'ble Supreme Court in Civil Special Appeal No. 6677 of 1979 dated 27.4.1981.	25
6.	<u>Annexure A-5</u> : Copy of order of headquarter office, Northern Railway, Baroda House, New Delhi regarding implementation of order of High Court/ Supreme Court.	26 to 27

7. Annexure A-6: Merit list of selected candidates for the post of Electrical (SS) in grade 450-575. 28
8. Annexure A-7: Promotion order of applicant's junior, G.R. Dewani, dated 16.10.1979 in grade 840-1040 (AS). 29
9. Annexure A-8: Promotion order of applicant dated 4.9.1982 in grade 840-1040. 30 to 31
10. Annexure A-9: Circular of Railway Board dated 4.3.1983 regarding grant of ad hoc increment due to stagnation at the maximum of pay scale. 32
11. Annexure A-10: Calculated statement of amount entitlement of stagnation allowance and Principal Foreman scale. 33
12. Annexure A-11: Railway Board Circular dt. 6.2.1979 regarding introduction of category of Principal Foreman in scale 840-1200. 34
13. Annexure A-12: Posting order of Applicant's junior, B.S. Kalsi, in Class II Service vide office order No.81/IRSEE/200 dated 16.5.1984. 35
14. Annexure A-13: Call letter of candidates for Class II Service dated 31.12.1982. 36
15. Annexure 14: Representation of applicant for correction of seniority dated 25.4.1989. 37
16. Annexure A-15: Forwarding letter of representation by Dy. CME, N. Railway, Charbagh, Lucknow, dated 25.5.1989. 38
17. Annexure A-16: D. O. letter of Dy. C.M.E., Northern Railway, Alambagh, Lucknow dated 8.9.1989 to C.P. O. regarding just claim of the applicant. 39
18. Annexure 17: Statement of amount of arrears accruing if correct seniority is restored. 40

19. Annexure A-18: Representation of applicant for correction of seniority dated 13.12.1989 and forwarded by department on 19.12.1989. 41
20. Annexure A-19: Reminder for quick disposal of representation dated 1.2.1990. 42
21. Annexure A-20: Forwarding letter of above by Dy. CEE, Northern Rly. Charbagh, Lucknow, dated 3.4.1990. 43
22. Annexure A-21: Forwarding letter of representation of applicant by Dy. CEE, Lucknow, dt.19.12.89. 44

Lucknow: Dated

June/0 ,1990.

  
Applicant





IN THE HONBLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
(LUCKNOW JUDGE) LUCKNOW.

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CIVIL MISC. APPLICATION NO. 2029 (M) OF 1973  
FILED IN  
WRIT PETITION NO. 631 OF 1973.

P.S. Kapoor and others . . . . . Petitioners

Versus

1. Union of India through the Secretary, Railway Board,  
Rail Bhawan, New Delhi.
2. General Manager (Personnel), N. Railway, Baroda House,  
New Delhi.
3. Chief Electrical Engineer, Northern Railway, Baroda  
House, New Delhi.
4. Workshop Electrical Engineer, Loco Workshop,  
Charbagh, Lucknow.

...Opposite-parties.

Application for Interim relief.

Dated Lucknow: 6.7.1973.

For applicant: Sri D.L. Shukla.

Hon'ble Onkar Singh, J.

Issue notice, meanwhile the result of the selection which is to be held in 8-7-1973 shall not be declared till further orders.

Let this order be served on opposite party no. 4, Workshop Electrical Engineer, Loco Workshop, Charbagh Lucknow through the Special Messenger at the expense of the petitioners.

Sd/- Onkar Singh

TRUE COPY 6.7.1973.

Mohd. A. Khan

Hannan

for Superintendent 7/7/73

Copying Department

High Court - Allahabad

Lucknow Bench

Subj. to the order

for

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IN THE HIGH COURT OF JUSTICE OF INDIA  
(Lucknow Bench), Lucknow

Application for Interim Relief  
Application No. 101 of 1970

The Petitioner prays that the following persons be  
appointed as members of the committee to be constituted

That the following persons be appointed as members of the committee to be constituted  
Under Provision No. of 1970

1. P. J. Kapoor, aged about 40 years son of Shri  
A. J. Kapoor, resident of 157 B, Panch Ali Talab  
Charbagh, Lucknow

2. M. K. Mohan, aged about 47 years son of Mr. C. J. J.  
Joshi, 10, Blue Square, Nandan Road, Lucknow

3. K. P. Singh, aged about 30 years son of Shri  
Ghanshyam Lal, resident of 157 A, Panch Ali Talab,  
Charbagh, Lucknow

4. V. H. Sharma, aged about 45 years, son of Shri  
B. B. Latt Sharma, resident of 28, Varanasi Road,  
Charbagh, Lucknow

5. K. K. Shalla, aged about 30 years, son of Shri A. K.  
Shalla, resident of 157 B, Panch Ali Talab, Lucknow

6. K. K. Maharajoo, aged about 35 years son of Shri  
K. J. Maharajoo, resident of Type III-1 Alambagh  
Road, Lucknow

Prayer

Verdict

1. Union of India through the Secretary, Railway  
Board, Rail Bhawan, New Delhi

for Union of India  
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Date on which application  
is made for copy accom-  
panied by the requisite  
stamp.

Date of  
posting  
Notice on  
Notice  
Board.  
22.5.79.

Date of  
delivery  
of copy.  
24.5.79.

Signature of  
Official  
delivering  
copy.

86/-

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW Bench? LUCKNOW.

Writ Petition No. 681 of 1973.

Sri P.S. Kapoor and others,

..... Petitioners.

Versus

Union of India and others.

..... Opp. Parties.

Writ Petition under Article 226 of the  
Constitution of India.

Lucknow Dated 9.5.79

Writ Petition No. 681 of 1973.

P.S. Kapoor and others, V. Union of India and others.

Hon'ble K.B. Verma, J.

Hon'ble U.C. Srivastava, J.

(Delivered by Hon'ble U.C. Srivastava, J.)

The petitioners to the Writ petition have challenged the ex-emption to the post of Assistant Shop Superintendent in the Northern Railway on which they have been working on the ground that they being rightful incumbents to the said post, no selection to the same could be made to the said posts which are non selection posts.

The petitioners were selected to the posts of Electrical Foreman in the Grade of 335-425, but they were subsequently promoted in the next higher grade of Rs. 370-475 on the basis of seniority cum suitability, though no order for their confirmation was passed. According to the petitioners they were entitled to be confirmed in view of the Railway Board's order in this behalf.

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In the year 1969 certain disputes were referred by the Government to the Railway Rates Tribunal for arbitration which was presided over by Mra. Bhai, a retired Judge of the Gujarat High Court, and the said tribunal took certain decisions which were accepted. The demand of the National Federation of Indian Railways for grant of special pay of Rs. 150/- per month to Foreman A was accepted, while the demand for the grant of special pay of Rs. 100/- per month to Foreman B was not accepted and it was decided that all posts of Foreman B in the Grade of Rs. 370-475 in Mechanical, Electrical, Signal and Telecommunication Workshops and Foreman in Scale Rs. 335-485 in Civil Engineering Workshop be upgraded in scale of Rs. 450-575 and redesignated as Assistant Shop Superintendent with effect from 1.8.1970. It was also decided that the pay of incumbents of the upgraded posts be fixed proforma from 1.8.1970 under Rule 2018-B of the Railway Establishment Code Volume II. The Petitioners alongwith 12 other incumbents i.e., in all eighteen persons who were already working in the Workshop in Foreman Grade B were consequently upgraded and were placed in the scale of Rs. 450-575 and were also given enhanced arrears of pay with effect from the date of their appointment on the redesignated post of Assistant Shop Superintendent.

The General Manager Northern Railway subsequently decided to hold a selection for the post of Assistant Shop Superintendent/Foreman Grade Rs. 450-575 and called the persons including the petitioners and other incumbents of the upgraded posts for selection and examination. Against the said decision the petitioners filed a representation to the General Manager and Chief Electrical Engineer and on their representation the selection was postponed, but subsequently the Railway Administration again decided to hold a fresh selection and called 63 persons including the petitioners for the aforesaid 18 posts. The petitioners have filed the present writ petition challenging the same.

entirely by  
T. M. S. S.  
M. S. S.

.....3/.....

Learned Counsel for the petitioners contended that in view of the decision of the Railway Tribunal contained in Annexure-I, which was accepted by the Railway Board in pursuance of which the petitioners were upgraded and redesignated, no selection for the said 18 posts could have been held as the said posts are non selection posts and the Railway Administration confused these posts with the posts of Foreman Grade A which was selection post.

The contention on behalf of the Railway Administration is that admittedly promotions were given to the petitioners, but they were never confirmed and officiated as Workshop Superintendents and that is why they were given a new grade, but the post being selection posts, the selection was being validly held under paragraph 210 of the Railway Establishment Manual mentioning the list of selection and non-selection posts contained in Appendix-6 and any deviation from the said list will need prior approval of the Railway Board.

No material has been placed before us from which it could be inferred that the posts in question are selection posts. It has been alleged that approval or holding selection was taken from the Railway Board. From the Railway Board's Circular copy of which has been annexed as Annexure-15 to the rejoinder affidavit it appears that the Railway Board did not take a decision to hold a selection of atleast these 18 posts on which the petitioners are working. The Railway Board decided that the posts of Assistant Shop Superintendents in the scale of Rs. 450-575 may be filled by positive act of selection and the posts of Shop Superintendents carrying a special pay of Rs. 150/- on the basis of suitability cum fitness. In the view of the Railway Board's decision it is clear that so far as these posts are concerned there is no question of holding the selection.

On behalf of the opposite parties it was contended that in view of Mia Bhai Railway Tribunal's decision the position has changed, by this contention does not carry any

*Amrinder Kaur*  
*for*

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force in view of the decision of the Railway Rates Tribunal itself upgrading the re-designating the posts. The upgradation and redesignation of a post does not mean change of the posts itself. In a case from Maharashtra which went up to the Supreme Court it was held that revision of pay Scales would not mean change of post, that is promotion from one class to other. The court made the following observation in the State of Maharashtra and others V Association of Maharashtra Education Service Class II Officers and others (1974 IV Supreme Court Cases 705 ).

"The contention that Lecturers in Class II of the Maharashtra Education Service must present themselves for selection before the public Service Commission was introduced apparently on a misunderstanding of the Scheme initiated by the University Grants Commission. That Scheme envisages no promotion of Lecturer from one Class to another. It concerns itself with the revision of pay scales of the collegiate teachers and its object was to raise the salary structure as one of the basic essentials, for improvement of educational Standards".

Thus it is clear in the present case that the post of Foreman Grade B was only redesignated and upgraded but the post itself was not changed and in view of the Railway Board's decision as far as 18 persons including the petitioners are concerned no selection is to be held and the proposed selection to these posts of Foreman Grade B is without authority of law as the decision of the Railway Board carries the force of law.

The writ petition is allowed. Let a writ of mandamus be issued commanding the opposite parties not to hold selection of 18 posts of Foreman Grade B which were upgraded, in view of the Railway Tribunal's decision in pursuance of which the petitioners and others were appointed. No order as to costs.

Copy to be sent to

by

10/1

Sd/- K.S. Verma

Sd/- J.C. Srivastava,

9.5.1979.

-0-0-0-



Item No. 9.

Court No. 7

Supreme Court of India.

Record of Proceedings.

PETITION FOR SPECIAL LEAVE TO APPEAL (Civil No. 6677 of 1979)  
 (From the Judgement and order dated 9.5.79 of the High Court  
 Allahabad in W.P. No. 681 of 1973)  
 The Union of India & Ors.

PETITIONERS.

V E R B U S

Hari P.S. Kapoor &amp; Ors.

RESPONDENT(S)

(With appla. for ex-parte Stay)

Dated :- 27.4.81 this petition was called on for hearing today.

COJAM

Hon'ble

Hon'ble Mr. Justice R.S. Pathak

Hon'ble Mr. Justice Beharul Islam.

For the Petitioner(s)

Mr. K. Banerjee. AEC. Adil.

Miss. Subhashini, Adv.

For the Respondent.

Mr. Yogeshwer Prasad, Sr. Adv.

Mr. Ashok K. Srivastava, Adv.

Mrs. Romi Chabara.

UPON hearing cojamel the Court made the  
 following.

O R D E R

" Special Leave Petition is dismissed.

Sd/-

COURT MASTER.

\*HH\*201\*/

Northern Railway

Headquarters Office,  
Baroda House, New Delhi.

No. 754E/148-III (EIIA).

Dated: 10.5.1983.

The Divl. Rly. Managers,  
N.Rly., DLI, MD, IKO, ALD, FZR, BKN & JU.  
Dy. CEE (W)/CD-Lucknow.  
DEE (W) BKN-JU.  
Dy. CEE (W) Jagadhri & Amritsar.  
SDE/Const I-II-III-IV/DLI-IKO.  
BAEE/Repair Shop, Delhi.  
Dy. CPO (HC) & Dy. CPO (G).

Subj:- Grant of special pay as Foreman 'A' and upgrading the posts  
of Foreman 'B' to Foreman 'A' in Workshops.

Ref:- Railway Board's letter No. PC-72/RLT-69/2 dated 12/3/73.

As a result of MIA-Bhai Tribunal Award received under Railway Board's letter quoted above, 18 posts of Electrical Foreman Gr. 'B' Rs. 370-475 (AS) were upgraded to Grade Rs. 450-575 (AS) in Workshops vide this office letter No. 754E/148 (EIIA) dated 13.4.73. Although these posts are classified as selection posts but in view of High Court/ALD Lucknow bench/Lucknow observations no selection can be held so far these 18 upgraded posts are concerned as reproduced below:-

"Thus it is clear in the present case that the post of Foreman 'B' was only redesignated and upgraded, but the post itself was not changed and in view of Rly. Board's decision, so far as 18 persons are concerned, no selection is to be held and the proposed selection to these posts of Foreman 'B' is without authority of Law, as the decision of the Rly. Board carries the force of Law. The writ petition is allowed. Let a writ of mandamus be issued commanding the opposite parties not to hold selection of 18 pots of Foreman 'B' which were upgraded."

The special leave petition filed by the Rly. Administration against the above judgement was also dismissed by the Supreme Court on 27/4/81 and the judgement of the High Court/LKO bench is now final to be implemented.

In view of the above court judgement, it has been decided that the following 18 seniormost persons may be considered as posted against the above 18 upgraded posts in Grade Rs. 450-575 (AS)/700-900 (R5) without selection in term of instructions contained in para 2 (ii) of Rly. Board's letter No. PC-72/RLT-69/2 dated 12/3/73 circulated under this office letter No. 754-E/148/EIIA dated 6.4.73. They will, therefore, be entitled for all consequential relief as per rules on the subject. The employees may also be informed accordingly.

DA/On reverse.

Sd/- Anrit Lal  
for General Manager (P).



27

A25

Names of Sr. most 18 persons considered selected in Grade  
Rs. 450-575 (AS)/700-900 (RS) without selection in view of  
Supreme Court judgement delivered on 27.4.1981.

Sr. No.	Name.	Last Position.	Divn. Shop
	S/Shri.		
1.	3.L. Bagga	Retired on 28/2/77	JU Shop.
2.	Karender Nath	-do- 2/4/74	JUDW
3.	P.S. Kapoor	Shop Supdt./LKO	
4.	A.X. Banerjee	Retired on 30.11.80	
5.	R.D. Pandit	EFO/IIQ.	
6.	A.N. Asaud	Offg. in Cl. II/III.	
7.	R.K. Nehru	ASS/LKO Shop.	
8.	Khazan Singh	Retd. on 30/4/80.	LKO Shop.
9.	Jagjit Singh	Shop Supdt./Con. II.	
10.	N.N. Gupta	Expired on 25.12.1978	JU Shop.
11.	H.U. Siddiqui	Shop Supdt./ALD.	
12.	Sohan Singh	Shop Supdt./LKO Shop.	
13.	K.P. Singh (SC)	Offg. in Class II.	
14.	B.S. Sharma	EFO/ALD.	
15.	Vishwa Nath	Retired on 30/6/76	LKO Shop.
16.	J.R. Bhatnagar	Offg. in Cl. II (Diasel/LKO).	
17.	L. Inder Singh	Retd. on 31.12.1980.	BKN Shop.
18.	Mohar Singh	Retd. on 30.6.1977.	RS/DLI.

*cutm*

*Sup*

Northern railway,  
Ed. Qrs. Office, Baroda House, New Delhi.

Letter No: 754/182 (EIIA), dated 22-4-75

Sub:- Selection for the post of Electrical (SS) Gr.  
Rs. 450-575 (AS).

As a result of written test held on 26/8/73, 27/10/74 and interview on 26/8/75 for the post of Electrical Foreman ASS (General Services) Grade Rs. 450-575 (AS) the following persons have been placed in the panel. Their names are in the order of merit.

Name	Present designation and grade	Divn/Shop
1. Sh. Govind Ram	Offg. ASS 450-575	JU Shop
2. Sh. S. K. Chopra	Offg. EFO 370-475	FZR Divn.
3. Sh. B. S. Parhar	-do- -do-	DLI Divn.
4. Sh. B. S. Kalsi	-do- -do-	HQ
5. Sh. D. J. Hemrajani	-do- -do-	-do-
6. Sh. R. S. Sukheja	-do- -do-	FZR Divn.
7. Sh. B. K. Chandra	AEFO 335-425	DLI Divn.
8. Sh. S. L. Jhanji	-do- -do-	FZR Divn.
9. Sh. Niranjan Singh	Offg. EFO -do- (DSL)	TKD/DLI Divn.
10. Sh. Gian Singh	Offg. EFO 370-475	FZR Divn.
11. Sh. Dinesh Chandra	Offg. AEFO 335-425	HQ

The above staff may, however, be warned that the retention of their names on the approval list is dependent on their work remaining satisfactory during the currency of panel. The mere fact that have been placed on the panel is no guarantee that they will be offered the post of EFO (GS) for Gr. Rs. 450-575 (AS) for which they have been selected.

The panel is final.

sd/-

( J. L. Khosla )  
for General Manager (P).

*Subm to Gen Mgr*  
*for*  
*in*

437

Add G E E has passed the following orders

- 1 Shri N M Kalia officiating Shop Supdt Gr 840-1040(RS) working under Bridge M/S Juc is transferred to Firozpur and posted as DEFO against the newly upgraded post
- 2 Shri G R Dewani officiating ASS Gr 700-900(RS) working under DAEE (W) JU is transferred to BKN Shop and put to officiate as SS in Gr Rs 840-1040(RS) and DED(W) against an existing vacancy by operating the ~~same~~ post of its original grade i.e. 840-1040(RS) when Dewani reports there
- 3 S K Chopra officiating EFO Gr Rs 700-900(RS) under DRM/FZR is promoted and put to officiate as SS Gr Rs 840-1040(RS) in Bridge M/S JUC against vacancy of N M Kalia item No 1
- 4 Shri B S Parhar officiating SEFO gr Rs 700-900(RS) working under SEE(Const)-I, New Delhi is promoted and posted as SEFO in Gr Rs 840-1040(RS) in same capacity and organisation against newly created post
- 5 Shri B S Kalsi officiating SFO(P) Gr Rs 700-900(RS) working in CEE's office, Baroda House is promoted to Gr Rs 840-1040(RS) and posted as SFO(PLG) HD Qrs Gr Rs 700-900(RS) to Gr Rs 840-1040(RS) in lieu of the post of SFO(CHG)/Delhi Gr Rs 700-900(RS) already upgraded to Gr Rs 840-1040(RS) vide APO(M) D O letter No 803/5/4741(OPG)(Eia) dated 9/10/79 temporarily for a period of two months only. The post of SFO(CHG) Delhi will continue to be operated in Gr Rs 700-900(RS) for a period of two months
- 6 Shri M S Birdi officiating as SFO(PLG) Gr Rs 700-900(RS) working in CEE's office, Baroda House is posted as SFO in the same grade against vacancy of Shri B S Kalsi item No 5 above
- 7 Shri D S Hemrajani officiating as SFO gr Rs 700-900(RS) under DRM/AID is promoted to Gr Rs 840-1040(RS) and posted to officiate as SFO Gr Rs 840-1040(RS) under DRM/LKO against new upgraded post
- 8 Shri R S Sukheja officiating EFO Gr Rs 700-900(RS) under DRM/FZR is promoted to Gr Rs 840-1040(RS) and posted to officiate as SFO under SEE(Const)-I New Delhi vice Shri Gyan Singh SFO Since promoted to Class-II

Further action may please be taken accordingly

Sd/-  
G Ramchandran  
Sr Personnel Officer (M)

No 754/143-III(Eia), dated 16/10/1979

*Cc to the Director*

*for*

*4*

## NORTHERN RAILWAY

Headquarters Office,  
Baroda House, New Delhi.NOTICE

*has*  
C.E.S.E. passed the following orders *if otherwise there is no objection.*

1. Shri N.K. Mukerjee, presently working in R.D.S.O./LKO is transferred to Lucknow Workshop and may be appointed to officiate as Shop Supdt. in Grade Rs. 840-1040 (RS) against the vacancy of Shri P. Ram Rao, since promoted to Class II, reversing local arrangements, if any.
2. Shri M.L. Bhagat, Shop Supdt. OE (JUC) FZR Division Grade Rs. 840-1040 (RS) is transferred in the same pay and grade and posted as Shop Supdt./Amritsar Workshop against the vacancy of Shri M.L. Yadav, since promoted to Class II.
3. The Shop Supdt. element of the post of SS/OE/JUC Gr. Rs. 840-1040 (RS) may be transferred to Delhi Division temporarily to upgrade the post of SFO/TL/NDLS from Rs. 700-900 (RS) to Gr. Rs. 840-1040 (RS).
4. Shri P.D. Khandwal, SFO/TL/NDLS Gr. Rs. 700-900 (RS) may be appointed to officiate as Elect. Foreman/TL/NDLS Gr. 840-1040 (RS) against the post upgraded vide item no. 3 above.
5. Shri M.L. Bajaj, Asstt. Shop Supdt. Grade Rs. 700-900 (RS) Jagadhari Workshop is transferred to Lucknow Workshop and may be appointed to officiate as Shop Supdt. in grade Rs. 840-1040 (RS) against the new post of Shop Supdt. sanctioned vide this office letter No. 553-M/3/404 dated 8-6-1982.
6. Shri A.K. Jain, E.F.O. grade Rs. 550-750 (RS) ASA/FZR Division who is under orders of transfer to Delhi Division as S.F.O. grade Rs. 700-900 (RS) vide this office Notice of even number dated 16-4-81 is now retained on Ferozepur Division and may be appointed to officiate as S.E.F.O./OE/JUC in grade Rs. 700-900 (RS) against the post downgraded to Rs. 700-900 (RS) vide item No. 3 above.

His earlier transfer orders for Delhi Division referred to above may be treated as cancelled.

*Labw/12/1/1982*

*Sur*

*Q*

Contd.....2/-

- 2 -

Sub: Grant of ad hoc increment to Group 'B' Group 'C' and Group 'D' employees stagnating at the maximum of their pay scales.

.....

The undersigned is directed to state that the Staff Side in the National Council (JCM) had made a demand in the 18th Ordinary Meeting of the National Council relating to the grant of 'Stagnation Increment'. The matter had been under consideration of the Government for quite some time. The President is now pleased to decide that all railway employees in Group 'B', Group 'C' and Group 'D' services/posts (whether working in the Secretariat or other offices) carrying pay scales, the maximum of which does not exceed Rs. 1200 p.m. and who have been stagnating or may hereafter stagnate at the maximum of their pay scales for two years or more i.e. who remained/will remain at the maximum of their pay scales for two years or more, should be granted a 'Personal Pay' equivalent to the rate of the increment last drawn by them in their pay scales. Employees against whom disciplinary cases are pending will, however, have to await the result of the pending disciplinary proceedings before being considered for the grant of this benefit.

2. The above element of 'Personal Pay' shall be taken into account as pay for all purposes as admissible under the normal rules including that of determining the class of Railway Passes/PTOs.

3. These orders take effect from 27th July, 1983 and will remain in force until further orders.

4. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

5. Hindi version will follow.

Now this is effective  
w.e.f. 1.7.87

*(K. Venkatesh)*  
Jt. Director, Estt. (P&A) at 4.10.83  
Railway Board

No. XP&A II-83/PP/Stag

New Delhi, dated 4-8-1983

Copy (with 40 spares) forwarded to the A.D.A.I. (Railways), New Delhi.

for Financial Commissioner,  
Railways.

...3

At the end of the day, the results were as follows:

1930  
(up to April)

APR

NO. PCIII/73/PS-3/WS-1

New Delhi, dated 6-2-79.

The General Manager,  
All Indian Railways &  
Production Units.

Sub : Introduction of the category of Principal Foreman  
in scale Rs. 840-1200.

.....

In partial modification of the orders contained in para 4 of this Ministry's letter of even number dated 27-11-78, the Ministry of Railways desire to clarify that the Shop Superintendents and Foremen 'A' who have attained the age of 50 years and have been working as such for 5 years may be considered for appointment as Principal Foremen in scale Rs.840-1200.

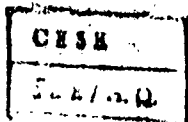
It has further been decided that there is no bar against the Principal Foremen in scale Rs.840-1200 now in Group 'C' (class III) appearing for general Group 'B' (Class II) posts both against 75% by way of selection and 25% by way of limited departmental competitive Examination, if they are otherwise eligible.

Sd/-

(K.K.N. NARAYANASWAMI )  
Joint Director, Pay Commission.  
Railway Board.

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to be true  
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for

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NORTHERN RAILWAY

Headquarters Office,  
Baroda House,  
New Delhi.

NOTICE

R.No.84/IRSEE/200

R/RD

On return from Railway Staff College, Vadodara, Shri V.K.Yadav is posted as ABE(PS), Headquarters Office vice Shri K.P.Singh reported sick.

Shri S.C.Dhoopar, Shop Supdt., Electrical Loco Shed, Ghaziabad is transferred to Allahabad Division, appointed to officiate in Class II Service and posted as A.E.E.(RSP)Tundla vice Shri V.K.Agarwal, who on relief proceeds on 35 days leave.

3. Shri B.S.Kalsi, Shop Supdt, Headquarters Office, is transferred to Ferozapore Division, appointed to officiate in Class II Service and posted as ABE/Amritsar vice Shri M.L.Yadav, who on relief proceeds on 45 days leave.

The promotion orders of Sarvashri S.C.Dhoopar and B.S.Kalsi have the approval of General Manager. The above posting orders have the approval of C.E.E.

NOTE: The promotion orders of Sarvashri S.C.Dhoopar & B.S.Kalsi are subject to their pass the prescribed Medical Examination.

*Roinder Lal Dhanan*  
for General Manager(P)

Dated: 16-5-1984.

No.940-E/174-IX(EIA)

Forwarded to FA&CAO (SB), Baroda House, New Delhi, DGMs-ALD, DLI, FZR, DAOs, ALD, DLI, FZR, SPO (M) & Bill Clerk EIA, Headquarters office for information and necessary action.

Copy forwarded for information to:-

1. All HODs through their PAs.
2. DRs, JU, BKN, MB & LKO.
3. Secretary, to G.M. AGM(O) & AGM(T), Addl.CVO, ADGM, A.S.(Confid.) CA/Dy.CPO (G).
4. The Enquiry Officer (Vig), Room No.403, DRM's Office, Delhi.
5. Dy.CME(W), LKO, AER, BKN, JU,
6. Shri V.K.Yadav, ABE (in office)
7. Shri V.K.Agarwal, ABE(RSO), Tundla.
8. Shri M.L.Yadav, ABE/Amritsar.

जे.ए.सी. यमुना शॉप सुप्ट. प्रमोशन नोटिस प्रकाशित  
श्री. व.के.यादव को २३/५/८४

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T.M. (P) /NDLS Letter No: 752-E/162-VI(E1a), Dt: 31/12/82

Selection for promotion to Class-II service for the post of AEE against 75% quota.

It has been decided to hold selection for promotion to Class-II service as AEE in Elec. Engineering Department against 75% quota. The staff shown in the list attached may please be directed to appear in the written test to be held in this office on 30-1-1983 at 10-30 hours.

The written will be held in Room No. 339 and 341-A (IIIrd floor) Annexi, Baroda House, New Delhi.

List of candidates called to appear in the selection of AEE (Class-II) against 75% quota.

1. Shri N. Raghavan	EEO/Kanpur
2. " A. S. Saini	WAEE/Bikaner
3. " R. C. Awasthi	SS/LKO
4. " Sunder Lal Dang	AEE/HQ
5. " A. D. Mathur	AEE/RE
6. " V. P. Wadhavan	AEE/TRD/ALD
7. " B. B. Saxena	SS/LKO
8. " M. L. Yadav	AEE/ASR
9. " P. S. Bose	SS/JUD
10. " Hardayal Singh	SS/FZR
11. " C. S. Sharma	SS/ALD
12. " S. S. Lal	CTPC/ALD
13. " S. C. Doofar	SEFO/GZB
14. " A. K. Vaid	CDM/HQ
15. " K. C. Uppal	TD/DLI
16. " Govind Ram Diwani	SS/JU
17. " D. S. Parhar	SS/Cons-I/DLI
18. " B. S. Kalsi	SS/HQ
19. " D. S. Hemrajane	SS/RS/DLI
20. " R. S. Sukheja	SS/FZR
21. " B. K. Chandra	SS/Cons/DLI
22. " S. L. Jhanji	SS/DLI
23. " R. L. Tuli	SS/ALJN
24. " B. S. Kang	EEO/TRD/SEE/ALJN
25. " K. M. Kiwari	CTPC/Cons/ALJN
26. " S. P. Vasta	CTFO/OHE/TL
27. " J. C. Chopra	CTFO/TRD/ALD
28. " C. V. Kulshrestha	CTFO/SLI
29. " M. N. Shukla	Chief Insp./CNB.
30. " P. C. Billa	SEFO/HQ
31. " A. P. Peter	SEFO/CNB
32. " Raghuvir Singh	SEFO/GZB
33. " C. P. Gupta	SEFO/HQ
34. " S. S. Arshi	SEFO/GZB
35. " A. C. Halhotra	SEFO/DLI
36. " I. Samuel	SEFO/ALD
37. " Madan Lal (SC)	SS/FZR
38. " PRM Rao (SC)	AEE/TRD/TDL

sd/-  
for G.M. (P)

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to be true  
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Dy. Chief Electrical Engineer, N.Railway,  
Charbagh, Lucknow.

Ann

Sub:- Combined Provisional Seniority list of Electrical  
Supervisor in grade Rs.2000-3200 (RPS) for Class-II.

Ref:- Your letter No. 752-E/W/LKO/46, dated 3/4/1989.

In reference to above I have to submit my appeal  
regarding correction of my seniority.

As per recommendations of Mia Bhai Tribunal, I was  
promoted to Elec. Foreman 'A' in a scale of Rs.450-575(  
i.e. Rs. 2000-3200 vide WEE/CB/LKO's office order No. 34,  
dated 13/5/73. Subsequently I got regular promotion  
alongwith selected panel K.B. Pandit, seniority  
position No. 10 as shown in seniority list.

As such my seniority position should have been adjusted  
immediately before G.R. Dewani No. 13.

It is requested to kindly correct the seniority list  
and advise.

Dated: 25/4/89.

Yours faithfully,

( N.K. Mukherjee )  
Shop Supt.  
Train Lighting Shop,  
Alambagh, LKO.

Certified  
to be true  
copy  
for  
file

Office of the Dy. C.E.S.E.(W)/Northern Railway, Charbagh, Lucknow.

No. 752-F/W/LKO/46.

Dated: 25/5/1989.

The Senior Personnel Officer (M),  
Northern Railway,  
Baroda House,  
New Delhi.

Sub:- Combined provisional seniority list of Electrical Supervisors in grade Rs. 2000-3200 (RPS) for Class XI.

Refs:- CTE/NDLS's letter (D.O.) No. 186-Elec/C/8 dated 29/30.3.89 to this office and copy to CPO/Adm./N.Rly./New Delhi.

In reference to above, the original appeal along with promotion order of Shri N.K. Mukherjee, Shop Supdt. is enclosed herewith for consideration and correct the seniority of concerned staff.

DA/2.

Dy. Chief Electrical Engineer (W),  
Northern Railway, Charbagh, Lucknow.

Copy to Shri N.K. Mukherjee, SE/TL/ANW for information.

Copy to C.E.S.E./Northern Railway, Baroda House, New Delhi for information please.

MIA/401.

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to be true  
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Annex A-16

SHAKEEL AHMED  
उप मुख्य यांत्रिक इंजीनियर  
(सवारी और माल डिब्बा)  
उत्तर रेलवे

39

आलमबाग, लखनऊ  
DY. CHIEF MECHANICAL ENGINEER  
(C & W) NORTHERN RAILWAY  
ALAMBAGH, LUCKNOW

Dated: 8.9.1989.

D.O.No. DCM/741/P4-V

Dear Shri Sikka,

**Subject:- Combined seniority list of  
Electrical Supervisors for  
Group 'B' service.**

There is discrepancy in the combined provisional seniority list of Electrical Supervisors in grade Rs. 2000-3200, for Group 'B' service issued vide G.M.(P)/NDIS's letter No. 752E/62-III(Eia) dated 30.6.89/3.7.89. Apparently, the judgment of the High Court in Writ Petition No. 881 of 1973, has not been taken into account while issuing the seniority list. The relevant extract from the judgment is reproduced below for your kind information:-

o Thus it is clear in the present case that the post of Foreman Gr.'B' was only redesignated and upgraded but the post itself was not changed and in view of the Rly. Board's decision so far as 18 persons including the petitioners are concerned no selection is to be held and the proposed selection to these posts of Foreman Gr.'B' is without authority of law as the decision of the Railway Board carried the force of law."

The judgment is categorical that the post of Foreman 'B' was only redesignated and upgraded and was not a selection post. Under the circumstances following supervisors of this Workshop namely S/Shri R.K. Bhalla, S.S. (A.C.) and N.K. Mukerji, S.S. (I.L.), should be assigned seniority from the date of their promotion to Dy.S.S. as per Office Order No. 34 of W.E.E./AMV-LKO (copy enclosed for ready reference.)

The issue has assumed urgency keeping in view the forthcoming supplementary selection for Group 'B' Electrical services to be held on 23.9.89. It is requested that the decision on the subject may kindly be taken before the date of selection so that the affected employees are not put to any hardship.

With regards,

Yours sincerely,

Shri K.L. Sikka,  
Chief Personnel Officer  
N.Rly., Bareda House  
New Delhi.

(Shakeel Ahmed)

C/- CESE, N.Rly., Bareda House, New Delhi.

Received

15-9-89  
(Mr. Bina)  
CESE  
certified  
to be  
true  
leaf  
for

Answer A-17

46

Statement shown appears due to rightful claim of applicant created due to distortion of seniority

Year	Pay	Di. I/R	Total	Class	Pay	Di. I/R	Total	Total	Note
1979	2700	1392	4092	2380	1434	4314	222	1	Summary prepared on the basis of monthly payment
1980	10800	4717	15517	11640	5006	16646	1129	2	Appears to be given since October 1979 when Shri G R Dhand Junior were promoted in Scale Rs 840-1040(Rs) as Shop Superintendent post
1981	10800	7620	18420	12120	8201	20321	1901	3	Appears to be given since May 1984 Shri B S Kalasi were promoted as Assistant Engineer (in class II) service in Scale Rs 650-1200(Rs)
1982	10920	9758	20678	12430	10438	22918	2240		
1983	11600	12065	23665	12430	12335	24665	1200	4	Principal Foreman Grade scale 840-1200(Rs) not claim as it is overlapped by class II service (Claimed)
1984	12080	14830	26910	12800	15180	27980	1070		
1985	12480	16716	29196	13280	18492	31772	2576	5	Stagnation allowance not claimed as on due on 1984 which was overlapped by Class II service as claimed
1986	18210	14801	33011	19805	15357	35162	2151		
1987	36600	3015	39615	39600	4136	43736	4121	6	Appears calculated upto April 1990
1988	37500	7536	45036	40800	8334	49134	4098		
1989	38400	11748	50148	42000	12491	54491	4343		
1990	13200	4920	18120	14000	5200	19200	1080		
Total	2215290	109118	324408	233385	116654	350539	26131		

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To

The General Manager (P)g  
Northern Railway,  
Bareda House,  
NEW DELHI.

Subj:- Anomaly in pay scale and distortion of seniority.

Ref:- CBE/NDLS NO letter Nos 184-Elec/O/O, dated 10/3/89 to Dy.CBE(N)/CD-LKO.

Sir,

Through proper channel

Please refer to my earlier representation dt. 25/5/89 and I would like to submit few lines for your favourable consideration please:-

In terms of your letter Nos 752-E/160-IV(E11A), dated 8/2/1972, I had been posted and worked as Electrical Foreman (Production) in Alambagh/Lucknow C&W Shops, in grade No. 370-475 (AS).

On re-recommendation of Mia-Bhai Tribunal and in terms of your letter No: 754-E/148(E111A), dated 10/4/73 I was promoted in gr. No. 450-575 (from 1-8-72 for up-graded post and designated as Assistant Shop Superintendent vide WSE/CH/LKO office order No: 34, dated 13/5/73 (arrears had also been paid)

Supreme Court had also confirmed the judgement of Allahabad High Court (Writ petition No. 681 of 1973) that collocation for up-graded post is not to be held for 18 persons including petitioners being petitioner thus I should have been regularized in 450-575 grade from 1/8/72 (since promoted)

It is surprised to note that my name had not been included in the list circulated vide your letter No. 754-E/148-III(E11A), dated 10/5/83 as not to appear for selection in grade No. 450-575 (AS) as per judgement of Allahabad High Court. With the result I had been denied my due seniority position in Gr. No. 450-575 (AS). Consequent upon this anomaly my junior Shri Govind Ram Dikane of present working as Shop Dupdt. in Jodhpur Workshops had got earlier promotion than me i.e., on 16/10/79 in next grade No. 840-1040 (RS) (vide your letter No: 754/182(E11A), dated 22/4/75 and 734/148 III (E11A), dated 10/10/79 where as I got my next promotion in grade No. 840-1040 (RS). Later despite senior to him - i.e., on 4/9/82 in terms of your letter No. 754-E/148 III (E11A), dated 4/9/82.

It is, therefore, requested that this anomaly be rectified and instructions may please be issued for the regularization of my pay and payment of arrears thereof.

In this connection all the photostat copies of your letter as referred above, are enclosed herewith for your perusal.

Thanking you,

Yours faithfully,

DATED: 13/12/89

(M.K. MUKHERJEE)

Shop Superintendent,  
Train-lighting Shop,  
C&W Shops, Alambagh, LKO.

DA/eeight  
copy to Mr. Emery  
for  
6/2

To

*HA*

The General Manager(P),  
N.Railway, Baroda House,  
New Delhi.

Sub:- Anomaly in Pay scale and distortion  
of seniority.

Ref:- My representation of 25/5/89 and 13/12/89  
forwarded by DY.CEE(W)/CB, Lucknow, vide  
No: 752-E/W/LKO/46, dt. 19/12/89 and  
25/5/89.

Sir,

please refer to my earlier two representations  
regarding ~~fix~~ re-fixation of pay and distortion of  
seniority. It is requested that early action may  
kindly be taken for settling the issue as I am on the  
verge of retirement.

Thanking you,

Yours faithfully,

Dated: 1/2/90.

*N.K. Mukherjee*  
(N.K. MUKHERJEE)  
Shop Supdt. (T.L.),  
Alambagh, Lucknow.

*copy to Encl.*

*See*

*in*

Office of the Dy. Chief Electrical Engineer (N), N. Rly., CD, Lucknow.

No. 752-E/W/LKO/46

Dated : 3-4-1990.

The General Manager (P)  
N. Rly., Baroda House,  
New Delhi

Subj: Anomaly in pay scale and distortion of seniority.

Reft: This office letter of even no. Dated 19-12-89  
reminder dt. 1-2-90.

o-o-o-o-o-o-o-o-o

Shri N.K. Mukerjee, shop Asst(TL), AMV, has submitted a reminder  
dated 2-4-90 on the above subject is forwarded herewith for necessary  
action please.

for Dy. Chief Elect. Engineer (w),  
N. Rly., Cherbagh, Lucknow.

DA: one

Copy to : Dy. CEE (Grievances), N. Rly., Baroda House, New Delhi for  
information and necessary action.

S.P.O.(N) and AFC(N), N. Rly., Baroda House, New Delhi for  
information and necessary action.

Shri N.K. Mukerjee, AS/TL/AMV for instruction in Ref. to his  
reminder dt. 2-4-90.

Subj: Anomaly in pay scale and distortion of seniority.

See

10



A-51

Office of the Dy. C.E.E. (W)/N.Rly./CL-Lucknow.

No. 752-E/W/LKC/46.

Dated: 19.12.1989.

The General Manager (P),  
Northern Railway,  
Baroda House,  
New Delhi.

Subj: Anomaly in pay scale and doctoration of  
seniority.

Refs: Applications of Shri R.K. Bhalla, SS/AC/  
Alambagh and Shri N.K. Mukerjee, SS/TL/AMV.

The following Shop Supds. (Elect.) working  
under the control of Dy. CEE (W)/CO have repre-  
sented vide their applications dated 18/12/1989  
and 13/12/1989.

1. Shri R.K. Bhalla, SS/AC/Alambagh.
2. Shri N.K. Mukerjee, SS/TL/Alambagh.

The applications of the above mentioned staff  
alongwith enclosures are being forwarded here-  
with for necessary action please.

DA/Two applications  
and 8 enclosures

For Dy. Chief Electrical Engineer (W),  
Northern Railway, Charbagh, Lucknow.

Copy to the Chief Electrical Services Engineer,  
Northern Railway, Baroda House, New Delhi for  
his kind information and necessary action please.

Copy to SS/AC/Alambagh and SS/TL/Alambagh for  
information in reference to their application  
dated 18.12.1989 and 13.12.1989.

certified  
to be true  
copy  
for

for

Indian British Central Association - Federal Allahabad  
for the District Bench

ब अदालत श्रीमान ..... होदय

[बादी] अपीलान्त

N. K. Mukherjee

प्रतिवादी [रेपान्डेंट]

Ministry of Law

वकालतनामा



बादी अपीलान्त

बनाम

प्रतिवादी (रेपान्डेंट)

नं० मुकद्दमा

सब

पेशी को ता०

१६

ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

C. A. Basu & Ravi Srinivasan HV

वकील

महोदय

एडवोकेट

नाम अदालत ..... नाम ..... बनाम .....  
मुकद्दमा नं० ..... फरीकत .....

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) कबता हूं और लिखे देता हूं कि इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगशी जारी करावें और रुपया बसूल करें या सुलहनामा व इकबालदावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसोद लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या अपने किसी पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसीलिए वह वकालत नामा लिख दिया प्रमाण रहे और समय पर काम आवे।

*(Signature)*

हस्ताक्षर .....

साक्षी (गवाह) ..... साक्षी (गवाह) .....

दिनांक ..... महीना ..... सन् १६ ई०

स्वीकृत