

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ✓

PRINCIPAL BENCH : NEW DELHI

OA No.1649/1997

Date of decision: 09.7.2003.

Mohinder Singh & Others

..

Applicants

(By Advocates: Sh. R.Venkataramani with Sh. B.S.Mainee)

versus

Union of India & Others

..

Respondents

(By Advocates: Sh. V.S.R.Krishna)

CORAM:

Hon'ble Shri V.K.Majotra, Member(A)

Hon'ble Sh. Shanker Raju, Member(J)

1. To be referred to the reporter or not? Yes

2. Whether it needs to be circulated to other Benches of the Tribunal?

S. Raju

(Shanker Raju)
Member(J)

Central Administrative Tribunal
Principal Bench

O.A.No.1649/1997
M.A.No.2611/2002

Hon'ble Shri V.K.Majotra, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

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New Delhi, this the 9th day of July, 2003

1. Mohinder Singh, s/o Chandgi Ram
2. Hari Krishan, s/o Keshwa Nand
3. Muni Lal Sharma, s/o Dhaneshwari Prasad
4. Nand Kishore, s/o Dharam Chand
5. Chhotey Lal, s/o Kedar Nath
6. Kali Charan, s/o Munshi Lal
7. Ram Ugresh, s/o Ram Jit
8. Kamlesh Kumari, d/o Pooran
9. Shyam Sunder, s/o Chuni Lal
10. Kanwar Pal Singh, s/o Bain Singh
11. Shiv Bahadur, s/o Ram Pher
12. Piara Lal, s/o Hans Raj
13. Narinder Kumar, s/o Hori Lal
14. Rajinder Kumar, s/o Lorinda Ram
15. Ganesh Dutt, s/o Amarnath
16. Yash Pal, s/o Madan Lal
17. Hari Singh, s/o Ram Chander
18. Satya Pal, s/o Nihal Chand
19. Kamaljit Singh, s/o Preetam Singh
20. Shiv Shankar P.V., s/o Valutha Kunjee
21. Som Raj, s/o Lachman
22. Vinod Kumar, s/o Muni Lal
23. Ram Kumar, s/o Chander
24. Prem Chand, s/o Jaishi Ram
25. Manohar Lal, s/o Bhagwan Dass
26. Danesh Kumar, s/o Munishwar Lal
27. Ram Lal, s/o Anant Ram Sharma
28. Om Kumar, s/o Mem Chand

29. Chedi Lal, s/o Ram Nath
30. Manohar Lal, s/o Bansi Lal
31. Ashwani Kumar, s/o Manohar Lal
32. Surinder Mohan, s/o Bal Kishan
33. Udai Singh, s/o Bishan Singh
34. Tulsi Ram, s/o Ram Naresh
35. Chand Kumar, s/o Nand Kishore
36. Darshan Singh, s/o Prem Singh
37. Sushil Kumar, s/o Gulchaman
38. Ramesh Chander, s/o Bhopal Singh
39. Ravi Shankar, s/o Madan Lal
40. Bhagwan Dass, s/o Daulat Ram
41. Suresh Kumar, s/o Tek Chand
42. Jamna Dass, s/o Lehna Ram
43. Ramesh Chand, s/o Mool Chand
44. Harphool Singh, s/o Sunda Ram
45. Sita Ram, s/o Nohri
46. Jawahar Lal, s/o Mata Din
47. Fateh Singh, s/o Ram Parshadh
48. Raja Ram, s/o Shankar
49. Ramesh Kumar, s/o Chothe Ram
50. Mohan Lal, s/o Ram Pher
51. Jagan Nath, s/o Ram Ajar
52. Moti Lal, s/o Lahori
53. Kalu Ram, s/o Shyam Kumar
54. Tota Ram, s/o Shiv Sharan
55. Hari Kishan, s/o Devi Parshad
56. Ram Sunder, s/o Prahlad
57. Jai Bhagwan, s/o Partap Singh
58. Bainkuth Lal, s/o Ascharaj Lal
59. Janak Raj, s/o Bachittan Singh

All working as Senior Clerk in
Northern Railway under the
control of General Manager

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Northern Railway, Baroda House
New Delhi. Applicants
(By Advocate: Sh. R.Venkataramani, Id. Senior Counsel
with Sh. B.S.Bainee)

Vs.

1. Union of India through
The General Manager
Northern Railway
Baroda House
New Delhi.

2. The Dy. Controller of Stores
Northern Railway General Stores
Shakurbasti
New Delhi.

.. Respondents

(By Advocate: Sh. V.S.R.Krishna)

ORDER

By Shri Shanker Raju, M(J):

By an order dated 25.1.2001, in OA 1649/1997 directions have been issued to respondents to determine the seniority of the applicants in Class-III posts of LDCs/MCCs reckoning their ad hoc officiation with all the consequential benefits.

2. The aforesaid order was challenged before the High Court of Delhi in CWP No.963/2002 wherein Writ Petition was disposed of with remitting of the case back to the Tribunal with the following order:

"Having heard the learned counsel for the parties we are of the opinion that the question which had arisen and would fall for consideration is as to whether while granting promotion to an official, the requirement of para 216 of the Railway Establishment Manual have been complied with. It does not appear from a perusal of the impugned judgement of the learned Tribunal that this aspect of the matter has been considered at all. We are, therefore of the opinion that the matter requires fresh consideration on this aspect by the Tribunal. The impugned judgement is set aside and the matter is remitted back to the learned Tribunal. Liberty is granted to the party to produce such evidence as may be found to be necessary for adjudication on the afore-said question."

3. In the light of the aforesaid, the limited question which is to be adjudicated is "whether in accord of ad hoc promotion to the applicants, requirements of Para 216 of the Indian Railway Establishment Manual, Vol. I have been complied with or not".

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4. Para 216 of the IREM provides as under:

"216.A. Ad hoc promotion against selection and non-selection posts:-

(i) Ad hoc promotions should be avoided as far as possible both in selection and non-selection posts, and where they are found inescapable and have to be made in the exigency of service, they should be resorted to only sparingly and only for a short duration of 3 to 4 months. The ad hoc promotion should be ordered only from amongst the seniormost suitable staff. As a rule a junior should not be promoted ignoring his senior.

(ii) The following further guidelines should be adhered to while ordering ad hoc promotions:-

(a) In case of non-selection posts which are filled on the basis of seniority cum suitability while there is no provision for any lengthy waiting list. The processing involved being not unduly cumbersome or time consuming the post shall be filled after following the prescribed procedure quickly. When these posts are to be filled by trade test, this should be conducted systematically. Necessity for ad hoc promotion is thus obviated.

(b) In regard to selection posts, it is essential that all the selection should be conducted regularly as per extant instructions. While there is no objection to ad hoc promotions being made in leave promotion against regular promotion should be made only after obtaining Chief Personnel Officer's approval. Proposal sent to Chief Personnel Officer for ad hoc promotion against regular vacancy should indicate detailed justification as to why regular selection could not be held. Chief Personnel Officer should keep record of having accorded approval to such ad hoc

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promotion and review the progress made in filling up these posts by selection persons every month. Chief Personnel Officer should also review selection to all posts afresh, whether such posts are controlled either at the Divisional level or at extra Divisional level. He should also keep the record of the categories where he has to approve ad hoc promotions and these records should be available to the Board's Officer on their visit to Railways.

(Board's letter No.E(NG) II/81/RC-1/1 dated 1.4.1981)

(c) Notification for ad hoc promotions against selection posts should specifically include a remark to the effect that the person concerned has not been selected for promotion and that his temporary promotion gives him no right for regular promotion and that his promotion is to be treated as provisional. For the purpose of drawing his pay which should not be drawn for more than three months without General Manager's specific sanction. The General Manager should issue provisional sanction for periods exceeding six months at a time and these powers should be exercised by the General Managers/Additional General Managers personally or by his senior Dy. General Manager.

(Board's letter No.E(NG) 1-73-PM-1/222 dated 23.2.1974; E-55/PM-1/19/3 dated 11.1.1955; E(NG) 1-79-PM 1-105 dated 26.4.1979 & E(NG) 1-77-PM 1-117 dated 17.10.77)

(iii) In any case no second ad hoc promotion shall be allowed.

(Board's letter No.E(NG) 1-85/PM/S-III dated 23.8.1985)"

5. Before proceeding to examine the aforesaid question, it is necessary to enumerate the brief relevant facts.

6. Applicants, 59 in number, were appointed as Class-IV employees from the periods 1974 to 1989. These applicants had been promoted as Lower Division Clerks and Mobile Checking Clerks, after adjudging their suitability in a written test on various dates from 1981 to 1987 against permanent vacancies.

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7. These applicants have further qualified examination for promotion to Class-III in their quota of 33.33%. Being aggrieved with their non-regularisation, OA 807/1987 filed by them was disposed of by this Tribunal on 13.11.1992 directing the respondents to regularise their services in view of the General Manager's order dated 31.12.1990.

8. In pursuant of the aforesaid, by orders dated 8.1.1993 and 6.3.1993 applicants had been regularised as LDCs/MCCs in the grade of Rs.950-1500(RPS), however, their seniority was not fixed.

9. In the aforesaid conspectus, some of the employees including one Jethanand and Others, represented to the respondents to accord them seniority, and by an order dated 22.12.1993, they had been regularised with seniority from 1981 though they have qualified test for Class-III in 1989.

10. Applicants had also qualified the suitability test for senior clerks were promoted as such by an order dated 9.5.1994.

11. Being aggrieved with non-accord of seniority OA 2417/96 filed before this Court was disposed of on 14.11.1996 directing them to file a detailed representation and respondents to pass a detailed speaking order.

12. By the impugned order dated 12.4.1997, referring to Para 302 of IREM ibid for assignment of the seniority from the date of ad hoc officiation was rejected and rather their seniority was ordered to be maintained from the date of their regular promotion. .

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13. In pursuance of the directions issued by the High Court as liberty was granted to the parties to produce such evidence as may be found to be necessary for adjudication, learned senior counsel Shri R.Venkataramani appearing with Shri B.S.Maine, produced before us a letter written by the Deputy Controller of Stores to the Railway Advocate, with reference to the comments in respect of OA 250/1991. By referring to Para 8, it is stated that a written suitability test was conducted on 27.6.1981 wherein 41 Class-IV employees were declared successful, and who had not filed any case before the Tribunal, they were absorbed existing vacancies of direct quota of Clerks. In this conspectus, it is stated that the aforesaid test was undertaken to adjudge the suitability of the applicants to the post as they were otherwise eligible under the Recruitment Rules and fulfilled all the requirements.

14. According to Shri R.Venkataramani, as per the directions of the High Court of Delhi, only limited issue which is to be examined is compliance of requirement of Para 216 of the IREM ibid and consideration on this aspect of the matter.

15. Shri R.Venkataramani, learned senior counsel would contend that as per the decision of the Constitutional Bench in Direct Recruitment Class-II Engineering Officers Association v. State of Maharashtra, JT 1990(2) SCC 715 which has been further interpreted in so far as the principles laid down in placeattum 'B' in State of West Bengal v. Aghore Nath Dey, 1993(3) SCC 371 the ratio laid down is as the promotion on ad hoc basis was permissible under the Rules and the applicants who had later on qualified the selection, their continuance as ad hoc against the permanent post would relate back the seniority from the date of their initial appointment and seniority could not be assigned from the date of regular promotion, i.e., in the year 1993.

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16. It is in this conspectus, the decision of Apex Court in T.Vijayan & Others v. Divisional Railway Manager & Others, JT 2000(4) SC 196 has been referred to contend that Para 216 of the IREM permits pending regular selection and ad hoc promotion, and as the regular selection had taken time, and at the time of ad hoc promotion, regular promotion was not immediately possible. Para 216 entitles benefit of ad hoc services rendered by the applicants for reckoning their seniority.

17. Moreover, by referring to a Constitutional Bench decision, in Rudra Kumar Sain v. Union of India, 2000(9) SCC 299, it is contended that ad hoc officiation once continued for a long, and the person posses requisite qualification for being appointed to the post and once the appointment is with

the approval and consultation of the appropriate authority, this continuance cannot be held to be stop gap or fortuitous.

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18. It is in this regard that one Shri Jethanand, a similarly circumstance, on his representation, had been assigned seniority with retrospective effect from ad hoc officiation, denial to the applicants, constitutes infringement of the cardinal principle of equality enshrined under Articles 14 and 16 of the Constitution of India.

19. Shri R.Venkataramani states that as per Para 216 of the IREM ibid, in a selection post, an ad hoc promotion should be avoided as far as possible, but in exigency of services to be resorted to sparingly, while according ad hoc promotion, senior most suitable staff is to be considered. In a selection post, selection should be regularly conducted. Ad hoc promotion should be resorted to against a regular post only after obtaining approval of the competent authority which is subjected to review. However, it is incumbent upon the authorities while ordering ad hoc promotion, to stipulate in the order, as to non-conferment of a right for regular promotion.

20. In this view of the matter, it is stated that with the approval of the competent authority, after subjecting the applicants to written examination adjudge their working knowledge for ad hoc promotion, they have been promoted on ad hoc basis. However, a stipulation has been made to the effect that they have

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no right to declare themselves successful for promotion to Class-III which is to be undertaken by a positive act of selection separately on regular basis. However, it is contended that as the ad hoc promotion was permissible under Para 216 of the IREM ibid, their qualifying the regular test, would have an affect of reckoning their ad hoc officiation towards seniority in Class-III post. Merely because the applicants have failed to be empanelled through qualified the selection, subsequent qualification would not in any manner affect the ad hoc service being reckoned towards seniority.

21. In nut-shell, earlier decision of this Court has been relied as a correct proposition of law.

22. On the other hand, learned counsel for respondents, Shri V.S.R.Krishna, contested the OA and vehemently opposed the contentions. According to him, confusion is due to simultaneous holding of suitability test for adjudging the working knowledge of the applicants for ad hoc promotion, and also the test for regular selection. Applicants appeared and failed to get empanelled the selection list. Accordingly, the initial appointments of the applicants was after subjecting them to a written test for adjudging their suitability for ad hoc promotion was not in accordance with rules as per the decision in Direct Recruit Class II Engg. Officers Association's case supra, their seniority is to be reckoned as per Para 302 of the IREM from the date of their regular appointment as Clerk.

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23. It is contended that at the time of ad hoc promotion, it was made clear to the applicants that promotion has been made as a stop gap arrangement, and was applicable to the category of Group 'D' having three years continuous service. This was on account of non-holding of selection. Ad hoc promotion was granted to the applicant with order thata they have no right for promotion to Class-III which is to be governed by a positive act of selection on a regular basis. Accordingly, the others who had appeared in the regular selection and were empanelled, were accorded the seniority. As the applicants have not been able to get empanelled on qualifying the regular selection, have not been accorded seniority. As the earlier selection was only to adjudge their suitability, would not amount to a regular process of selection, and in case of inter seniority of promotees those who had empanelled earlier and qualified, the regular selection, are to rank senior

24. In the aforesaid conspectus, it is stated that as Rule 216 does not envisage counting of seniority on ad hoc basis and seniority is to be reckoned from regular appointment in case of promotee, the seniority has been rightly assigned to the applicants.

25. In this background, it is stated that requirements of Para 216 have not been complied with.

26. Learned senior counsel, Shri R.Venkataramani, in rejoinder, contends that the applicants have not failed in the selection, but could

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not be empanelled due to the zone of consideration subject to availability of vacancies. As such on attainment of qualification, their seniority is to relate back to their initial ad hoc officiation which is in consonance with Rule 216 and in all fours covered by the ratio of the Apex Court laid down in T. Vijayan's case supra.

27. We have carefully considered the rival contentions of the parties and perused the material on record. Before we proceed to adjudicate the issue, it would be pertinent to highlight the settled position of law as reflected by the decisions of the Apex Court.

28. In Direct Recruitment's case supra, and Aghore Nath Dey's case supra, the following proposition has been laid down by the Apex Court:

"19. This Court in Direct Recruit Classs-II Engineering Officers Association & ors. v. State of Maharashtra & ors. [JT 1990 (2) SC 264 = 1990 (2) SCC 715 = 1990 (2) SCR 900] has laid down in principles (A) and (B) as under:-

"(A) Once an incumbent is appointed to a post according to rule, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation. The corollary of the above rule is that where the initial appointment is only ad hoc and not according to rules and made as a stop-gap arrangement, the officiation in such post cannot be taken into account for considering the seniority.

(B) If the initial appointment is not made by following the procedure laid down by the rules but the appointee continues in the post uninterruptedly till the regularisation of his service in accordance with the rules, the period of officiating service will be counted."

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21. It may be stated here that a 3-Judge Bench of this Court in State of West Bengal & Ors. v. Aghore Nath Deyy & Ors. [JT 1993 (2) SC 598 = 1993 (3) SCC 371] considered the principles as under (A) and (B) as set out above and explained as under:-

"There can be no doubt that these two conclusions have to be read harmoniously and conclusion (B) cannot cover cases which are expressly excluded by conclusion (A). We may, therefore, first refer to conclusion (A) that to enable seniority to be counted from the date of initial appointment and not according to the date of confirmation, the incumbent of the post has to be initially appointed 'according to rules.' The corollary set out in conclusion (A), then is, that 'where the appointment is made as a stop-gap arrangement, the officiating in such posts cannot be taken into account for considering the seniority.' Thus, the corollary in conclusion (A) expressly excludes the category of cases where the initial appointment is only ad hoc and not according to rules, being made only as a stop-gap arrangement. The case of the writ petitioners squarely falls within this corollary in conclusion (A), which says that the officiation in such posts cannot be taken into account for counting the seniority.

The conclusion (B) was added to cover a different kind of situation, wherein the appointments are otherwise regular, except for the deficiency of certain procedural requirements laid down by the rules. This is clear from the opening words of the conclusion (B), namely, 'if the initial appointment is not made by following the procedure laid down by the 'rules' and the latter expression 'till the regularisation of his service in accordance with the rules'. We read conclusion (B), and it must be so read to reconcile with conclusion (A), to cover the cases where the initial appointment is made against an existing vacancy, not limited to a fixed period of time or purpose by the appointment order itself, and is made subject to the deficiency in the procedural requirements prescribed by the rules for adjudging suitability of the appointee for the post being cured at the time of regularisation, the appointee being eligible and qualified in every manner for a regular appointment on the date of initial appointment in such

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cases. Decision about the nature of the appointment, for determining whether it falls in this category, has to be made on the basis of the terms of the initial appointment itself and the provisions in the rules. In such cases, the deficiency in the procedural requirements laid down by the rule has to be cured at the first available opportunity, without any default of the employee and the appointee must continue in the post uninterruptedly till the regularisation of his service, in accordance with the rules. In such cases, the appointee is not to blame for the deficiency in the procedural requirements under the rules at the time of his initial appointment, and the appointment not being limited to be a regular appointment, subject to the remaining procedural requirements of the rules being fulfilled at the earliest."

29. In T.Vijayan's case supra the following observations have been made by the Apex Court: -

"18. The above para indicates that ad hoc promotion is permissible pending regular selection. Once ad hoc promotion is found to be permissible under the Rules and respondents 4 to 143 were promoted on ad hoc basis in the exigencies of service, pending regular selection, which, incidently, took sufficient time as respondents 4 to 143 who were on official duty "on line" were not available at one point or at one time to facilitate the selection, the entire period of ad hoc service will have to be counted towards their seniority, particularly as all the respondents 4 to 143 were duly selected and their services were also regularised with effect from 16.12.1991 by order dated 18.1.1992. The concerned employees, including respondents 4 to 143 had already been alerted for the process of selection which had been started in 1988. While making direct recruitment against posts which were advertised in 1985, it was given out to the present appellants that their absorption and seniority was subject, inter alia, to the finalisation of the selection to the post of First Fireman which was in progress. The appellants, as stated earlier, were selected in 1988 and were put on two years' training as Apprentice whereafter they were absorbed by order dated 18.7.1990 appointment letters in which, it was clearly mentioned that their seniority was subject to the finalisation of the selection for promotion to the post of First Fireman which was in progress. The appellants, in this

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situation, cannot claim seniority over respondents 4 to 143 who had already been appointed to the posts of First Fireman on ad hoc basis and were after due selection regularised on those posts." (76)

30. If one has regard to the aforesaid and in the conspectus of the order passed by the High Court, remitting back the case, we have to consider whether requirements stipulated in Para 216 of the IREM ibid. have been complied with or not?.

31. Admittedly Para 216 permits ad hoc promotion against selection post pending regular selection. The same is to be accorded on approval of the concerned authorities. In the present case, applicants who were working in Group - IV, after being subjected to a suitability test, were promoted on ad hoc basis as per their seniority. It is also not disputed that the above promotion was pending regular selection, and is made against clear vacancies meant for applicants in their quota as prescribed under the Rules. It is also not disputed that subsequently, applicants have appeared in regular selection and were though qualified were not empanelled due to zone of consideration and limited vacancies. In the aforesaid conspectus as the ad hoc promotion which was permissible under the Rules, and has been ordered after adjudging suitability of the applicants with the prior approval of the competent authority, applicants who are undisputedly qualified in all respects as per the recruitment rules for Group - III posts, the requirements of Para 216 have been complied with. This is not the case of respondents that ad hoc promotion was either impermissible or the applicants were not qualified to be accorded ad hoc promotions.

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The Apex Court in T. Vijayan's case supra, in identical situation, taking resort to Rule 216 allowed the seniority to be reckoned from the date of continuance officiation on ad hoc basis. This is also in consonance with the Direct Recruit Class-II Engineering Association's case supra.

32. The contention putforth by the learned counsel for respondents that the applicants have not qualified regular selection, cannot be countenanced as there is nothing on record to indicate the same, what has been projected is that the applicants had failed to be empanelled. In fact, the General Manager, by an order dated 31.12.1990 regarding regularisation of ad hoc MCCs/LDCs, worked out a methodology which is as under:

"Reg: Regularisation of ad-hoc MCCs/Clerks Grade Rs.950-1500 (RPS).

The matter of regularisation of MCCs/Clerks has been considered and it has been decided to regularise the MCCs/Clerks as per following procedure:

All the 85 ad-hoc MCCs/Clerks who have completed 3 years of continuous ad-hoc service based on their seniority after adjudging their suitability by subjecting them to the prescribed test should be regularised subject to the availability of the posts of MCCs/Clerks against promotees quota;

A) Those who have already qualified the written and viva-voce test and have obtained 60% aggregate marks may be exempted from re-test.

B) Those who have qualified only written test may be exempted from the same and subjected only to viva/voce test.

C) Those who have not passed the written and viva-voce test should be subjected to both.

The regularisation should be done from the date of availability of vacancy against promotee quota in Group 'C' in Grade Rs.950-1500(RPS) and the Roster point should be followed accordingly. Similarly two ad-hoc typists working in Shakurbasti Depot may be regularised after passing suitability test against the vacancy of promotee quota of typist grade Rs.950-1500(RPS) being controlled by DRM/NDLS.

This has the approval of C.P.O."

33. If one has regard to the aforesaid, vacancies were available against promotion quota in Class-III, out of 59 applicants, 31 applicants had already been qualified the written as well as viva, on 5.12.1984 and 6.8.1985 respectively. Out of remaining 28 applicants, 19 are qualified to written test on 5.12.1984 but there has been delay in viva voce, they have qualified on 29.3.1993. The remaining 9 applicants have qualified written test in 1993. The question of applicability of Para 302 of the IREM has no relevance in view of the Constitutional Bench decisions of the Apex Court in Direct Recruit Class II Engg. Officers' Assn.'s case supra. as well as in R.K.Sain's case supra. As held by the Apex Court in State of Haryana v. Piara Singh, 1992(3) SLJ SC 34, if an employee on ad hoc basis continues uninterruptedly for long years, there arises a presumption as to availability of the work as well as vacancy.

34. Another contention putforth that others who have qualified earlier, in their case also, the seniority should relate back from the date of continuance officiation on ad hoc is concerned, nothing precludes the respondents, to assign the seniority to them as well.

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35. We are of the considered view, that once the applicants have qualified the regular test, their seniority is to be reckoned from the date of their continuance officiation on ad hoc basis, and they cannot be discriminated in so far as similarly circumstance, like Jethanand and others to whom the seniority has been assigned from ad hoc officiation. It is a cardinal principle of law that equals cannot be treated unequally. Assignment of seniority otherwise to the applicants would be an antithesis to the principles of equality enshrined under Articles 14 and 16 of the Constitution of India.

36. The Constitutional Bench decision in R.K.Sain's case supra, laid down the proposition that who possess the requisite qualification prescribed to a particular post and is appointed with the approval and consultation with the approval of the competent authority, and thereafter continues in the post for fairly long period, in the case of applicants for more than ten years, such appointment cannot be treated as a stop gap or fortuitous, then exclusion of those appointees to have their continuance length of services reckoned for seniority is erroneous. We respectfully follow the aforesaid ratio.

37. In the result, for the foregoing reasons, impugned order dated 12.4.1997 is set-aside. Respondents are directed to re-determine the applicants for Class-III post of MCC/LDC reckoning their ad hoc officiation in the said post Applicants would also be entitled to all the consequential

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benefits as per law. The above exercise shall be completed within three months from the date of receipt of a copy of this order. No costs. OA is allowed accordingly.

S. Rajm
(Shanker Raju)
Member(J)

V.K. Majotra
(V.K. Majotra)
Member(A)

/rao/