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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**NEW DELHI**

O.A. No.  
T.A. No. 43/87  
(CWP 2172/85)

198

and  
5 other O.A.s

DATE OF DECISION February 5, 1993.

Shri Ashok Mehta & Ors

Petitioners

Ms. Shymala Pappu, Sr. counsel Advocates for the Petitioner(s)  
S/Shri R.L. Sethi, Ajay Agarwal and  
C. Panda. Versus

Regional Provident Fund Commissioner Respondents  
and others.

Shri Ravinder Bhatt, Sh. N.N. Sehgal Advocates for the Respondent(s)  
with Shri H.R. Gupta,

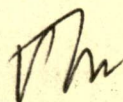
**CORAM :**

The Hon'ble Mr. Justice V.S. Malimath, Chairman.

The Hon'ble Mr. Justice Ram Pal Singh, Vice Chairman.

The Hon'ble Mr. I.K. Rasgotra, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? Yes

  
(V.S. Malimath)  
Chairman.



No. T-43/87  
(CWP 2172/85)

Date of Decision: FEBRUARY 5, 1993.

Shri Ashok Mehta & Ors. ... Petitioners.  
Vs. ...

Regional Provident Fund  
Commissioner & Anr. ... Respondents.

OA No. 1595/87.

Shri H.C. Bajaj ... Petitioner.  
Vs. ...

Regional Provident Fund  
Commissioner, Delhi. ... Respondent.

O.A. No. 1596/87.

Smt. Usha Monga ... Petitioner.  
Vs. ...

Regional Provident Fund  
Commissioner, Delhi ... Respondent.

O.A. No. 1599/88.

Shri R.K. Thapar & Ors. ... Petitioners.  
Vs. ...

Regional Provident Fund  
Commissioner ... Respondent.

O.A. 1405/89.

Shri K. Parameswaran and 9 others ... Petitioners.  
Vs. ...

Regional Provident Fund  
Commissioner, Kerala ... Respondent.

O.A. 1408/89.

Shri Joseph Verghese ... Petitioner.  
Vs. ...

Regional Provident Fund  
Commissioner & Ors. ... Respondents.

CORAM :

HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.  
HON'BLE MR. JUSTICE RAM PAL SINGH, VICE CHAIRMAN.  
HON'BLE MR. I.K. RASGOTRA, MEMBER (A).

For the Petitioners ... Ms. Shymala Pappu, Sr Counsel  
Shri R.L. Sethi, counsel,  
Shri Ajay Agarwal and Shri  
C. Panda, Counsel.

For the Respondents ... Shri Ravinder Bhatt, Shri  
N.N. Sehgal with Shri H.R. Gupta  
Counsel.

OPINION OF THE FULL BENCH  
BY HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.

A Division Bench consisting of the then Chairman, Justice

✓ Amitav Banerji and Shri I.K. Rasgotra, AM has referred the



following issues for the decision of the Full Bench:-

- a) Whether the officers promoted on the basis of seniority subject to the rejection of unfit and those promoted on the basis of being declared successful in the departmental qualifying examination should be treated as promotees and assigned seniority in accordance with the principle of seniority on the basis length of service;
- b) whether the rota quota principle of seniority is applicable only in the grades where there is an element of direct recruitment;
- c) whether the judgment in Mohinder Kumar & Ors. (supra) of the Hon'ble Supreme Court shall constitute a binding precedent (as held by the Full Bench of the Tribunal in R.D. Gupta's (supra) case, in the face of the judgment of the Constitution Bench of the Hon'ble Supreme Court in the Direct Recruit Class II Enqg. Officers's Ass. (supra); and
- d) whether it will be advisable to unsettle the seniority fixed on the basis of the rota quota principle in the two groups of recruitees to the grade of UDC at this point of time, as the same would have far reaching unsettling effect in managing the cadre of not only of the UDCs but also the posts in the higher grades."

The petitioners in all these cases joined service as Lower Division Clerks (for short 'LDCs') either in the Office of the Regional Provident Fund Commissioner, Delhi Region or <sup>in</sup> the Office of the Regional Provident Fund Commissioner, Kerala Region. The avenue for further promotion to the cadre of Upper Division Clerks (for short 'UDCs') is on regionwise basis and regulated by the Recruitment Rules appearing in the Third Schedule to the Employees Provident Fund (Staff and Conditions of Service) Regulations, 1962 (hereinafter referred to as 'the Rules'). The relevant portion of the Rules



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necessary for our discussion may be extracted as follows:

" Appointment to the following posts shall be made by promotion to the extent indicated in respect of each category of posts on the recommendation of the Departmental Promotion Committee.

Serial No.	Post	Quota to be reserved for departmental promotion.	Next lower grade from which promotion is to be made.
8.	Upper Division Clerks (Regional Offices).	50%	Promotion of Lower Division Clerks including Steno-typists, Telephone or Telex Operators in Regional Office on a regional basis on the basis of seniority subject to the rejection of the unfit.
		50%	Promotion of Lower Division Clerks including Steno-typists, Telephone or Telex Operators in the Regional Offices on the result of a competitive examination restricted to existing Lower Division Clerks including Steno-typists, Telephone or Telex Operators of the Region."

These Rules were further amended in November, 1984 by which the percentage of posts for promotion on the result of a departmental qualifying examination was reduced from 50% to 25% and a provision was made for direct recruitment to the extent of 25% to the cadre of UDCs. As we are concerned in this case with the operation of the Rules before their amendment, it is not found necessary to extract the amended provisions of the Rules. It is clear from these Rules that they prescribe two modes of promotion to the cadre of UDCs. The feeder category for both the modes of promotion is the same, viz. LDCs, Steno-typists, Telephone or Telex Operators in the Regional Office. Whereas 50% of the posts are required to be

✓ filled up by promotion on the basis of seniority subject to the



rejection of the unfit, the other 50% of the posts of UDCs are required to be filled up by promotion on the result of a competitive examination.

2. By Order No. Admn. 20(17)/61/ dated 1.11.1962, issued by the Office of the Central Provident Fund Commissioner, New Delhi, general principles for determining seniority of persons employed in the Employees' Provident Fund Organisation along with an explanatory memorandum were duly notified (hereinafter referred to as 'the Seniority Rules'). Seniority Rules 6 and 7 which are relevant may be extracted as follows:-

**"6. Promotees :**

- i) The relative seniority of persons promoted to the various grades shall be determined in order of their selection for such promotion; Provided that where persons promoted initially on a temporary basis are confirmed subsequently in an order different from the order of merit indicated at the time of their promotion, seniority shall follow the order of confirmation and not the original order of merit;
- ii) Where promotions to a grade are made from more than one grade, the eligible persons shall be arranged in separate lists in the order of their relative seniority in their respective grades. Thereafter, the Departmental Promotion Committee shall select persons for promotion from each list upto the prescribed quota and arrange all the candidates selected from different lists in a consolidated order of merit which will determine the seniority of the persons on promotion to the higher grade.

**7. Relative seniority of direct recruits and promotees:**

The relative seniority of direct recruits and of promotees shall be determined according to the rotation of vacancies between direct recruits and promotees which shall be based on the quotas of vacancies reserved for direct recruitment and promotion, respectively, in the Recruitment Rules. "



Paragraphs 6 and 7 of the Explanatory Memorandum to the Seniority

Rules which are relevant are extracted below:

"(c) Para 6 of the general principles:

Where promotions are made on the basis of selection by a Departmental Promotion Committee, the seniority of such promotees shall be in the order in which they are recommended for such promotion by the Committee. Where promotions are made on the basis of seniority subject to the rejection of the unfit, the seniority of persons considered fit for promotion at the same time shall be the same as the relative seniority in the lower grade from which they are promoted. Where, however, a person is considered unfit for promotion and is superseded by a junior, such person shall not, if he is subsequently found suitable and promoted, take seniority in the higher grade over the junior person who had superseded him.

(d) Para 7 of the general principles:-

A roster should be maintained based on the reservation for promotion and direct recruitment in the Recruitment Rules. Where the reservation for each method is 50% the roster will run as follows:-

(1) Promotion, (2) Direct recruitment, (3) Promotion, (4) Direct Recruitment and so on. Appointment should be made in accordance with this roster and seniority determined accordingly.

(Illustration: Where 75% of the vacancies are reserved for promotion and 25% for direct recruitment, each direct recruit shall be ranked in seniority below 3 promotees. Where the quotas are 50% each, every direct recruit shall be ranked below a promotee. If for any reason, a direct recruit or a promotee ceases to hold the appointment in the grade, the seniority list shall not be re-arranged merely for the purpose of ensuring the proportion referred to above). "

3. Seniority Lists of UDCs were prepared for the respective regions applying Rule 7 of the Seniority Rules read with clause (d) of the Explanatory Memorandum. Persons promoted on the results of the competitive examination, for the purpose of



application of Rule 7 of the Seniority Rules were regarded as direct recruits. The names of persons promoted on the basis of seniority subject to the rejection of the unfit and those promoted on the result of the competitive examination were given rankings in the seniority list by following clause (d) of the Explanatory

Memorandum which directs that their names should be arranged as

follows:-

- (1) Promotion,
- (2) Direct recruitment,
- (3) Promotion,
- (4) Direct Recruitment and so on.

4. A seniority list of UDCs made on this basis pertaining to

the Office of the Regional Provident Fund Commissioner, Chandigarh

was assailed before the Chandigarh Bench of the Central Administrative

Tribunal in MOHINDER KUMAR & OTHERS Vs. REGIONAL PROVIDENT FUND

COMMISSIONER & OTHERS in T-556 of 1986. The Chandigarh Bench by

its judgment rendered on 23.1.1987 held that it was wrong to treat

persons promoted on the result of the competitive examination as

direct recruits and that their seniority could not have been

determined by applying Rule 7 of the Seniority Rules read with

clause (d) of the Explanatory Memorandum. The Chandigarh Bench

directed recasting of the seniority list of UDCs treating all of

them as promotees. The judgment of the Chandigarh Bench in

Mohinder Kumar's case was challenged by the Regional Provident

Fund Commissioner & Ors. in the Supreme Court. After hearing the

counsel for the petitioners and the respondents, the Supreme

Court while declining to grant Special Leave to Appeal disposed

of the matter by its order dated 11.8.1987 as follows:

"We see no reason to entertain this Special



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leave petition. One ground in support of this Petition was that there is contrary decision by one of the Benches of the Administrative Tribunal. That difficulty will not continue by refusing to grant leave. We are of the view that the appropriate rule for determining the seniority of the officers is the total length of service in the promotional posts which would depend upon the actual date when they were promoted."

The question as to whether the view expressed by the Supreme Court that the appropriate rule for determining the seniority of the officers is the total length of service in the promotional posts which would depend upon the actual date when they were promoted is a binding precedent or not came up for consideration before a Full Bench of the Central Administrative Tribunal in OA 1147/88 - R.D. GUPTA AND OTHERS Vs. UNION OF INDIA AND OTHERS. The decision

rendered by the Full Bench on 7.8.1989 is reported in FULL BENCH JUDGMENTS OF CENTRAL ADMINISTRATIVE TRIBUNALS (Vol.II) PAGE 137.

The answers given in paragraph 34 of the judgment are as follows:-

"34. In the result, we held as follows:-

(i) The observation made by the Supreme Court in its order dated 11.8.1987 while dismissing the Special Leave Petition filed by the respondents against the judgment of the Chandigarh Bench of the Tribunal in MOHINDER KUMAR'S case, constitutes a binding precedent in the instant case.

(ii) The observation made by the Supreme Court in its order dated 11.8.1987 while dismissing the Special Leave Petition in Mohinder Kumar's case, cannot be construed as referring to any general rule or principle of seniority de hors the rules or as laying down any such rule or principle. Its true import and meaning is that inter se seniority of the promotees in the cadre of UDCs is to be determined on the basis of their total length of service which will be reckoned from the actual date of their promotion in accordance with the relevant recruitment rules. If an employee has been promoted after the D.P.C. has found him fit



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for promotion, that period will also count, even if his promotion may be termed as ad hoc, or temporary, or officiating. For determining the actual date of promotion, the period during which the employee had been promoted on an ad hoc basis by way of stop-gap arrangement de hors the recruitment rules, will have to be ignored.

(iii) The decision of the Hyderabad Bench of the Tribunal dated 13.10.1987, in the case of BODAPATI TULASIDAS to the extent that it relied upon and followed the decision in MOHINDER KUMAR'S case, and the observation of the Supreme Court in its order dated 11.8.1987 was right, but the reference to and reliance upon the decision of the Supreme Court in A.N. PATHAK'S case by the Tribunal was not correct as, in our opinion, the principle for determining inter se seniority between direct recruits and promotees which was in issue in A.N. PATHAK'S case, cannot be applied to determine the inter se seniority of two categories of promotees which was in issue before them, as it is before the Full Bench."

That was a case in which the Full Bench was required to examine the applicability of the principle laid down in MOHINDER KUMAR'S case for determining the seniority of UDCs in the Employees State Insurance Corporation. We are certainly bound to follow the law as declared by the Full Bench in GUPTA'S case. Even if we are required to examine the very same questions afresh, we would have also come to the same conclusion for the reasons to be presently stated in brief as follows:

Persons promoted on the result of a competitive examination conducted in accordance with the Rules cannot be regarded as direct recruits. Item 8 of the Rule pertaining to Upper Division Clerks expressly describes the mode of appointment on the result of a competitive examination as 'Promotion'. When the Rule itself expressly describes the method of appointment as 'promotion', we fail to see how it can be treated as 'Direct Recruitment'. Rule 7 of



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the Seniority Rules and the corresponding clause (d) of the Explanatory Memorandum cannot have any application as no direct recruitment is involved in filling up of the vacancies in the cadre of UDCs. Hence, we are left with only Seniority Rule 6. Clause (i) of Rule 6 of the Seniority Rules provides that seniority of persons promoted to the various grades shall be determined in the order of their selection for such promotion. If the confirmation is not made in the order of selection, seniority is required to follow the order of confirmation. Clause (ii) of Rule 6 of the Seniority Rules says that where promotions to a grade are made from more than one grade, the eligible persons shall be arranged in separate lists in the order of their relative seniority in their respective grades. The Departmental Promotion Committee is thereafter required to select persons for promotion from each list upto the prescribed quota and to arrange the candidates selected from different lists in a consolidated order of merit which will determine the seniority of persons on promotion to the higher grade. None of the clauses of the Seniority Rule 6 deal with determination of a combined seniority list integrating persons promoted by two different modes of promotion, that is, on the basis of seniority subject to the rejection of the unfit and on the result of a competitive examination. Our attention was not drawn to any other provision which regulates the preparation of combined seniority list of persons promoted to the cadre of UDCs by the aforesaid two different modes of promotion.

5. It is now well settled by the decision of the Supreme Court reported in 1988 (Supp) Supreme Court Cases 107 between NIRMAL KUMAR CHOUDHARY AND OTHERS AND STATE OF BIHAR AND OTHERS, that



in the absence of rules, the more equitable way of preparing the combined gradation list would be to take the total length of service in the common grade as the basis for determining inter se seniority.

This is precisely what the Supreme Court observed in its order dated 11.8.1987, while refusing to grant special leave in Mohinder Kumar's case. Hence it is not possible to accept the contention that the observation of the Supreme Court is per incuriam and not a binding precedent.

6. The Supreme Court in Mohinder Kumar's case has observed that the appropriate rule for determining the seniority of the officers is the total length of service in the promotional posts which would depend upon the actual date when they were promoted.

The second answer given by the Full Bench of the Tribunal in Gupta's case explains how this observation of the Supreme Court should be understood and applied. The Supreme Court has said that the seniority should depend on the total length of service in the promotional post and that the total length of service should be determined taking into account the actual date of promotion.

What this in the context means has been explained by the Full Bench in Gupta's case. It is made clear that if an employee is promoted after the DPC has found him fit for promotion, that period should count for seniority even if the promotion has been described as ad hoc or temporary or officiating. It is further clarified that the period during which the employee had been promoted on an ad hoc basis by way of stop-gap arrangement de hors the recruitment rules,

will have to be ignored. The clarification given by the Full Bench in Gupta's case is clearly consistent with the law laid down by

the Supreme Court in JUDGMENTS TODAY (2) S.C. 264 between



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THE DIRECT RECRUIT CLASS II ENGINEERING OFFICERS' ASSOCIATION  
AND OTHERS Vs. STATE OF MAHARASHTRA AND OTHERS. It has been

laid down that where an incumbent is appointed to a post according to rule, his seniority has to be counted from the date of his appointment irrespective of the date of his confirmation.

It is further laid down that ad hoc promotion made as a stop-gap arrangement cannot count for seniority. The principle 'B' laid down by the Supreme Court says that 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. Relying on this statement, it was urged before us that such of those who were appointed on ad hoc basis and later on regularised after selection by the D.P.C. are entitled to count the ad hoc service for seniority. It was also urged that even the ad hoc promotions were made in pursuance of the selection made by the D.P.C.

It was, however, shown by the counsel for the Department with reference to D.P.C. proceedings that the selection process adopted for making ad hoc appointments was not the same as the selection process for regular promotion. The D.P.C. selection was for ad hoc promotions and not for regular promotions. That is the reason, it was pointed out that even those appointed on ad hoc basis in pursuance of an ad hoc procedure of selection adopted by the D.P.C. were again subjected to consideration of the DPC when

regular promotions were required to be made. The quality and nature of selection process of the two was not on par. Hence, it would not be

right in these cases to treat the date of ad hoc promotion as the date



79 of promotion in accordance with the Rules. It was, however, contended that this does not make any difference so far as the application of principle 'B' is concerned which says that when promotion is not made according to rules and the employee is continued in service until regularisation in accordance with rules, the entire service shall count for seniority. The true scope and

ambit of principle 'B' has been explained in a later decision of the Supreme Court in the case reported in AIR 1991 SC 284 between

KESHAV CHANDRA JOSHI AND OTHERS ETC. AND UNION OF INDIA AND

OTHERS. The doubts in regard to the field of operation of principles

'A' and 'B' have been cleared by the Supreme Court. Paragraph 25

of the judgment which deals with this aspect may be extracted as

follows:

"As stated, the counsel for the promotees placed strong reliance on proposition 'B' while the counsel for the

Direct Recruits relied on proposition 'A'. The controversy is as to which of the propositions would apply to the facts of this case. The proposition 'A' lays

down that once an incumbent is appointed to a post according to rules, his seniority has to be counted

from the date of his appointment and not according to the date of his confirmation. The latter part thereof

amplifies postulating that where the initial appointment

is only ad hoc and not according to rules and is made as a stop-gap arrangement, the period of officiation in such

post cannot be taken into account for reckoning seniority.

The quintessence of the propositions is that the appointment to a post must be according to rules and not by way of

ad hoc or stop-gap arrangement made due to administrative exigencies. If the initial appointment thus made was

de hors the rules, the entire length of such service

cannot be counted for seniority. In other words the appointee

would become a member of the service in the substantive

capacity from the date of his appointment only if the

appointment was made according to rules and seniority would

be counted only from that date. Propositions 'A' and 'B'

cover different aspects of one situation. One must

discern the difference critically. Proposition 'B' must,



therefore, be read along with para 13 of the judgment wherein the ratio decidendi of Narendra Chadha was held to have considerable force. The latter postulated that if the initial appointment to a substantive post or vacancy was made deliberately, in disregard of the rule and allowed the incumbent to continue on the post for well over 15 to 20 years without reversion and till the date of regularisation of the service in accordance with the rules, the period of officiating service has to be counted towards seniority. This Court in Narendra Chadha's case was cognizant of the fact that the rules empower the Government to relax the rule of appointment. Without reading paragraph 13 and Proposition 'B' and Narendra Chadha's ratio together the true import of the proposition would not be appreciated. We would deal with the exercise of power of relaxing the rule later. After giving anxious consideration, we are of the view that the latter half of Proposition 'A' would apply to the facts of the case and the rule laid down in that half is to be followed. If the concerned rules provide the procedure to fix inter se seniority between direct recruits and promotees, the seniority has to be determined in that manner."

In view of this elucidation it is clear that principle 'B' would be applicable to cases where the initial appointment to a substantive post or vacancy is made deliberately in disregard of the rules and the incumbent allowed to continue in the post for long periods like 15 to 20 years without reversion till the date of regularisation of service in accordance with rules, there being power in the Government to relax the rules. In such a situation, service before regularisation has to be counted towards seniority.

If the rules empowered the Government to relax the rules of appointment, an inference of implied relaxation can be drawn. It is only in the presence of such facts and features that the period of service from the date of initial appointment made by not following the rules can count for seniority if the incumbent has continued in the post uninterruptedly till the regularisation of his service in accordance



with the rules. Principle 'B' comes into operation when exceptional circumstances mentioned above exist. Otherwise it is the normal rule in principle 'A' which applies to cases of appointment made de hors the rules and in such cases, the service rendered though continuous till the date of regularisation in accordance with rules will not count for seniority. It is, therefore, wrong to apply mechanically principle 'B' to every case of appointment made de hors the rules where the appointee continues in service until regularisation as per rules.

7. In the present set of cases, initial ad hoc promotions were made and the incumbents continued in those posts until their services were regularised in accordance with the Rules. They have not pleaded that their ad hoc promotions were made to substantive posts or vacancies, deliberately in disregard of the rules. Nor is it their case that the incumbents continued on the posts for long periods of about 15 to 20 years. The orders of ad hoc promotions clearly indicate that they were made in the exigencies of service stating that the ad hoc promotion does not confer any rights for regular promotion. Hence, service rendered as ad hoc promotees before regularisation of their services in pursuance of selection by regular

D.P.C. in accordance with the rules cannot count for seniority.

8. In the light of our above discussion, we answer the questions referred to us in the context of the facts of these cases as follows:-

- (a) The officers promoted on the basis of seniority subject to the rejection of unfit and those promoted on the result of the competitive examination shall be treated as promotees.

Persons promoted by both the modes of promotion shall be included in a common seniority list.



Their inter se seniority has to be determined on the basis of their total length of service which will be reckoned from the actual date of their promotion in accordance with the relevant recruitment rules.

Promotion by way of ad hoc or stop-gap arrangement made due to administrative exigencies and not in accordance with rules cannot count for seniority.

Principle 'B' laid down by the Supreme Court in THE DIRECT RECRUIT CLASS II ENGINEERING OFFICERS' ASSOCIATION AND OTHERS Vs. STATE OF MAHARASHTRA AND OTHERS will apply as explained by the Supreme Court in KESHAV CHANDRA JOSHI AND OTHERS ETC. Vs. UNION OF INDIA AND OTHERS only to cases where the initial appointment is made deliberately in disregard of the rules and the incumbent allowed to continue in the post for long periods of about 15 to 20 years without reversion till the date of regularisation of service in accordance with rules, there being power in the authority to relax the rules.

(b) The rota quota principle of seniority is not applicable for determining the seniority to the cadre of UDCs in these cases.

(c) The order of the Supreme Court in Mohinder Kumar's case constitutes a binding precedent as held by the Full Bench of the Tribunal in R.D. Gupta's case even after the judgment of the Supreme Court in the Direct Recruit Class II Engineering Officers' Association's case.



(d)

As the correct principles for determining seniority in the cadre of UDCs were clarified by the Supreme Court in Mohinder Kumar's case on 11.8.1987, and as cases in regard to seniority in the cadre of UDCs have been pending since long, it would not be just and proper to decline relief in regard to recasting of the seniority list on the ground that it would have far reaching and unsettling effect in managing the cadres of not only of the UDCs but also the posts in the higher grades.

(I.K.RASGO TRA)  
MEMBER(A)

(RAM PAL SINGH)  
VICE CHAIRMAN

(V.S.MALIMATH)  
CHAIRMAN

Attested  
Court Officer  
Central Administrative Tribunal  
Principal Bench, New Delhi  
Faridkot House,  
Copernicus Marg.



5.2.93

✓  
O.A.1405/89 with O.A.1408/89, O.A.1595/87, O.A.1596/87,  
O.A.1599/88, T.A.43/87(CW.2172/85).

Judgement of the Full Bench in answer to  
the reference announced in open court today. Cases  
to be listed before the appropriate Bench.

B.O.

C.O. C-I

18-2-93

Adjourned to 24-2-93.

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24-2-92

orders dictated and case  
disposed of

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Date of decision: 24.02.1993.

## Versus

2. OA No.1408/89

## Versus

3. OA No.1595/87

## Versus

4. OA No.1596/87

## Versus

5. OA No.1599/88

## Versus

6. T.A. No.43/87  
(C.W.2172/85)

## Versus

Coram:-

For the petitioners

None

For the respondents

Shri H.R. Gupta, Counsel  
(in OA No.1599/88)



Judgement (Oral)  
(Hon'ble Mr. Justice V.S. Malimath, Chairman)

In the light of the opinion rendered by the Full Bench in its judgement dated 5.2.1993 in these cases all these Original Applications are allowed and the following directions are issued:-

i) The seniority list of Upper Division Clerks of the Delhi Region and the Kerala Region as on 31.12.1984 shall be recast, following the principles laid down by the Full Bench.

ii) A provisional seniority list shall first be prepared within a period of three months from the date of receipt of the judgement and circulated to all persons likely to be affected by the same, inviting objections giving them reasonable period of not less than one month for that purpose.

iii) After considering the objections received to the provisional seniority list contemplated by the aforesaid directions a final seniority list as on 31.12.1984 of the Upper Division Clerks of the Delhi Region and the Kerala Region shall be prepared and published with utmost expedition.

iv) In the light of the final seniority list prepared following the aforesaid directions review of promotion shall be undertaken with utmost expedition.



v) Consequential monetary benefits flowing from the review of promotion shall be restricted to the period from the date of pronouncement of the opinion of the Full Bench on 5.2.1993, having regard to the fact that there was uncertainty in regard to the correct principles to be followed in the matter of preparation of seniority list. No costs.

2. Let a copy of this order be placed in all the case files listed together.

(I.K. Rasgotra)  
Member (A)

Court Officer

(V.S. Malimath)  
Chairman

'San'

Central Administrative Tribunal

From Bench, New Delhi

Comptroller Manager