

PRINCIPAL BENCH: NEW DELHI

INDERJIT LUTHRA & ANOTHER . . . APPLICANTS

UNION OF INDIA &amp; OTHERS . . . RESPONDENTS

B.B. MATHUR &amp; OTHERS ...APPLICANTS

UNION OF INDIA &amp; OTHERS . . . RESPONDENTS

**THE HON'BLE MR. P.K. KARTHA, VICE-CHAIRMAN (J)**

FOR THE APPLICANTS                      SHRI B.S. MAINEE, COUNSEL.

FOR THE RESPONDENTS                      SHRI P.H. RAMCHANDANI, SENIOR

1. Whether Reporters of Local Papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter, or not? *No*

(P.K. Kartha)  
Vice-Chairman(J)

May 15, 1992.

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1. OA NO.1521/89

DATE OF DECISION: 15.05.92.

...APPLICANTS

VERSUS

## ...RESPONDENTS

2. OA NO.1627/89

...APPLICANTS

VERSUS

## ...RESPONDENTS

CORAM: -

**THE HON'BLE MR. P.K. KARTHA, VICE-CHAIRMAN (J)**

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

SHRI B.S. MAINEE, COUNSEL.

SHRI P.H. RAMCHANDANI, SENIOR  
COUNSEL.

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE  
MR. I.K. RASGOTRA, MEMBER (A))

The above two O.As. raise common issues of law and of fact relating to the conferment of the seniority and consequential benefits from the date(s) they were appointed as Senior Investigators on the ground that adhoc appointment has been followed by regular appointment, in accordance with the Rules. In the circumstances, we propose to deal with both the OAs through this common judgement.

2. The necessary facts of the case are as under:-

i) OA 1521/89

The applicants herein were appointed as Computers in 1964 in the grade of Rs.150-300. They were later promoted as Junior Investigators in the grade of Rs.210-425 in the year 1989 substantively and further promoted as Senior

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Investigators on adhoc basis (Rs.325-550) w.e.f. 27th July, 1971 vide Department of Statistics Cabinet Secretariat office order No.74/71 dated 28.7.1971. They were regularised as Senior Investigators on the basis of the recommendations of the Departmental Promotion Committee (DPC) w.e.f. 15.11.1983.

Thereafter a review DPC was held in the year 1987 which culminated in the issuing of a fresh list of regular Senior Investigators. The names of the applicants, however, did not figure in this list and this led to the filing of OA No.984/86 (**Dina Nath & Others Vs. Union of India & Others**) by some of the colleagues of the applicants in the Tribunal, claiming seniority from the date of their adhoc promotions as Senior Investigators. There were 7 applicants in **Dina Nath** (supra) case besides 5 more persons who were impleaded as intervenors in the said O.A. Eight of the original applicants and intervenors were appointed in the course of 1971 as Senior Investigators on adhoc basis; two were appointed in 1972 and two in 1973. The said O.A. was decided on 10.8.1986 in favour of the applicants with the direction that "all the applicants and the intervenors shall be regularised as Senior Investigators from the dates of their initial adhoc promotion and they shall be entitled to seniority and other consequential benefits accordingly..."

The Review Application filed subsequently by some of the staff who were affected adversely was dismissed by the Tribunal while the S.L.P. No.16109/88 filed by the respondents in **Dina Nath** (supra) case was also dismissed by the Supreme Court vide order dated 30.1.1989. The applicants who were non-petitioners in **Dina Nath** (supra) and had also been continuously officiating on adhoc basis as Senior Investigators from 1971/1972 represented on 19.10.1988 to the respondents for extension of the benefit of reckoning seniority etc. from the date of adhoc appointment on the plea that they were identically situated,

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as the applicants in **Dina Nath** (supra). They were advised by the respondents on 29.3.1989 that their case was under examination. Having failed to achieve the desired relief they have filed these Original Applications under Section 19 of the Administrative Tribunals Act, 1985.

ii) OA 1627/89

The applicants S/Shri B.B.Mathur, R.P. Aggarwal, Kailash Chandra, B.K. Gupta and K.P. Sonkar herein too were appointed initially as Computers and promoted as Junior Investigators and later as Senior Investigators on adhoc basis in the years 1973 to 1977. All the other facts of the case are identical to what has been described above in OA 1521/89. We, therefore, do not consider it necessary to relate the minor details.

(iii) S/Shri Inderjit Luthra and S.K. Sharma in OA No.1521/89 and Shri B.B. Mathur & others in OA No.1627/89 have prayed for the extension of the benefit of reckoning their adhoc service as Senior Investigators for the purpose of seniority and other benefits as allowed to the applicants in OA No.984/1986 **Shri Dina Nath & Ors. Vs. Union of India & Ors. decided on 10.8.1988.**

3. The learned counsel for the applicants Shri B.S. Mainee pointedly referred us to **Dina Nath** (supra) case and submitted that the applicants who are senior to some of the beneficiaries in **Dina Nath** (supra) case would be discriminated if they are not allowed the seniority and consequential benefits with effect from the date they were appointed on adhoc basis.

The learned counsel further relied on the conclusion (B) of the **Direct Recruit Class II Eng. Officers' Ass. Vs. State of Maharashtra JT 1990 (2) SC 264** in support of his case.

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4. Shri P.H. Ramchandani, Senior Counsel for the respondents fairly conceded that the resistance to the claim of the applicants would be of little consequence and ineffectual in the circumstances the respondents are placed in.

5. We have heard the learned counsel for both the parties and considered the material on record. The case of the applicants is admittedly covered by the **Direct Recruit Class II Eng. Officers' Ass.** (supra) vide conclusion (B) which reads as under:-

"(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."

In view of the law laid down by the Hon'ble Supreme Court, the applicants in both these OAs are entitled to the same benefits which have been conferred on their colleagues vide judgement in **Dina Nath (OA 984/86) decided on 10.8.1988** (supra). We accordingly order and direct that all the applicants shall be regularised as Senior Investigators from the date of their initial adhoc promotion in that grade and they shall be entitled to seniority and other consequential benefits e.g. salary progression, and consideration for promotion to the next higher grade in accordance with the rules. We further direct that these orders shall be implemented most expeditiously but preferably within a period of 12 weeks from the date of communication of this order.

There will be no order as to costs. Let a copy of this order be placed in both the case files - a

*(Signature)*  
(I.K. RASGOTRA)  
MEMBER(A) 15/5/92

*(Signature)*  
(P.K. KARTHA)  
VICE-CHAIRMAN 15/5/92

May-15, 1992.