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In the Central Administrative Tribunal
Principal Bench, New Delhi.

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Date of decision: 5th Oct. 1988

O.A. No. 1248/88
O.A. No. 1260/88.

Smt. Neeru Chadha & Anr. Vs. Union of India & Ors.
Shri Daya Parkash Vs. Union of India & Ors.

For the applicants: Shri Pankaj Kalra
 Shri N.M. Popli
 Shri J.P. Verghese.

For the respondents: Shri P.H. Ramchandani, Sr.
 Standing Counsel.
 Shri M.L. Verma, counsel.

CORAM:
Hon'ble Shri T.S. Oberoi, Member (J).
Hon'ble Shri I.K. Rasgotra, Member (A)

JUDGMENT.
(delivered by Hon'ble Shri T.S. Oberoi, Member).

O.A. No. 1248/88 and O.A. No. 1260/88
were filed, respectively, on 8.7.1988 and 11.7.1988,
under Section 19 of the Administrative Tribunals Act,
1985 praying for a direction to the respondents,
from the Tribunal, to regularise them, with all
consequential benefits, or in the alternative, to
give fair opportunity to the applicants, for
consideration against the posts, which they are holding
at present. Since the grounds taken and reliefs
claimed in both the O.As are similar, both are being
disposed of, by a common judgment.

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2. The facts emerging from the two O.As, briefly stated, are that the two applicants in O.A. No. 1248/88 namely, Mrs. Neeru Chadha and Mrs. Pawan Sharma, and the applicant in O.A. No. 1260/88, Shri Daya Parkash, a Scheduled Caste candidate, were appointed, on ad hoc basis, as Superintendent (Legal), in the Law Commission of India, on 17.7.1986 and 9.1.1987, respectively, for a period of six months or until further orders, whichever is earlier. The appointments were extended by the concerned respondent, from time to time, for a period of three months on each occasion, till 31.10.1988 (last extended vide Notification No. 3 (3) / 86 /LC dated 26.8.88). The process of filling up the posts of Legal Superintendents on regular basis, was initiated by respondent No. 3, on 10.10.1987, by issuing advertisement to this effect (p. 71), inviting applications, the last date for which was fixed as 9.11.1987. In response to the said advertisement, 274 candidates applied for the posts in question, including the three applicants before us. As, however, the number of candidates who applied was quite large, respondent No. 3 resorted to short-listing by increasing the requirement of experience and thus reduced the number of candidates to be eventually interviewed to 25, for which respondent No. 3 fixed July 6, 7 and 8, 1988, for holding interviews. This, however, did not include any of the applicants before us, and, accordingly, on learning about the same, they

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submitted a representation (pages 24-25 of the paper book), through the Law Commission, to the Chairman, Union Public Service Commission (UPSC), but on coming to know that their representation had been rejected by the UPSC, they filed the present O.As before this Tribunal. While admitting the applications for hearing, the Tribunal directed, as an interim measure, to subject the applicants to an interview, on that date itself, and if it was not possible so to do on that date, they should be interviewed on any other date to be notified to the applicants. The Tribunal further directed that the results of the applicants, and also of other candidates, should not be published and acted upon, till further orders. Also, as the sanction of the posts was likely to expire on 28.2.1989 and at the insistence of the learned counsel for the applicants that the applicants had acquired a right to continue in the posts, because of long posting on the same, the case was fixed for early hearing initially on 4.1.1989. But on 16.2.1989, when the O.As came up for hearing, none of the applicants, nor any one on their behalf was present, and so, both the O.As were dismissed for non-prosecution, vide orders dated 16.2.1989. The O.As were, however, later restored to earlier position, after considering the miscellaneous petitions moved on behalf of the applicants, explaining the reasons for their inability to be present on 16.2.1989, which were considered as sufficient, and the stay order earlier granted, was also extended till

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further orders. Thus, the applicants continue to be serving on the posts in question, on the basis of their initial appointment for six months, extended by the respondent concerned, from time to time, till 31.10.1988, and thereafter, till further orders, by virtue of the orders ^{dated 21.10.1988} passed by the Tribunal.

3. A few words about the qualifications and requisite experience in respect of the applicants, as mentioned in their respective O.As, duly supported with certificates/testimonials etc., may be given here. While applicant No. 1, Mrs. Neeru Chadha is LL.M. from the University of Delhi and the University of Michigan, U.S.A., applicant No. 2, Mrs. Sharma is a post-graduate in Law. Both the applicants also possess the requisite experience for the post in question. They had also completed about two years service as Superintendent (Legal), without any interruption, on the date of filing the instant O.A. As regards applicant No. 3, as stated by him, he is LL.M. in first division, from the Delhi University, and possesses 26 months research experience, alongwith teaching experience. Out of this spell, for three months he taught in the Delhi University; for 10 months, he was engaged in research in Law Commission; and for 13 months, he worked as an Editorial Assistant, and had been holding Junior Research Fellowship for three years and four months. Thus, according to him, apart from possessing the

requisite educational qualifications, he has also gained the experience prescribed for the post. Being a Scheduled Caste candidate, he was entitled to be appointed against the reserved vacancy, besides some other concessions in matter of age, etc. for appointment on a Government post.

4. In the counter filed on behalf of respondent No. 2, it is admitted that the applicants in both the O.As possess the requisite minimum educational qualification and experience prescribed under the Rules. Respondent No. 3, i.e. the UPSC, against whom the applicants have the main grouse, in the counters filed in respect of both the O.As, stated at the outset that the applications are misconceived and not maintainable under law. Admitting that applicants Smt. Neeru Chadha and Mrs. Pawan Sharma did possess the minimum educational qualifications and experience required for the post in question, the applicants were not called for interview for valid reasons. It is averred that where a large number of applications are received in response to an advertisement and it is not possible or convenient to interview all the candidates, the UPSC resort either to raising the qualifications and/or experience above the level prescribed in the advertisement, or by holding a screening test for that purpose so as to pick up the best among the available candidates for final interview. It is stated by the

respondent that all the candidates are sufficiently warned of this factum by supplying a copy of the instructions to candidates for recruitment by selection alongwith the application form, in which this eventuality is highlighted. According to the respondent, in response to advertisement for the post of Superintendent (Legal), a similar situation arose with the result that the UPSC had adopted some of such alternative criteria for short-listing and in the final purging, 25 candidates were selected for interview out of the total number of 274 applications which, however, did not include the three applicants before us. The respondent (No.3) has further stated in the counter that the selection was sought to be made on direct recruitment basis from open market and not limited to departmental candidates. Therefore, it was not appropriate to place the applicants on a different pedestal than the candidates from the open market. In the counter filed in respect of O.A. No. 1260/88, the respondent ~~xxx~~ rebutted the contention of the applicant with regard to having acquired the experience prescribed for the post. It is averred that research done in pursuit of Ph.D programme or experience gained on part-time assignments are not recognised by the respondent to count towards prescribed experience which rendered the applicant ineligible for being called for interview even against a reserved post.

5. Detailed arguments were addressed by both the sides. The learned counsel for the applicants in O.A. No. 1248/88, pleaded that the case of the applicants had to be viewed from various aspects, such as:

- (i) whether the applicants, who had put in nearly four years of service by now, can be thrown out, summarily;
- (ii) whether the process initiated by the UPSC is sustainable, and whether the Recruiting agency - U.P.S.C. - had the powers to update the minimum qualifications or it vests with the department; and
- (iii) whether the applicants, who were working on the posts in question for two years, on the dates interviews were fixed, were entitled to be called for interview and/or to be regularised by virtue of their conforming to the minimum qualifications coupled with in-service experience.

6. Elaborating the above aspects, the learned counsel pointed out that from the bio-data of the applicants, it will be seen that both the applicants in O.A. No.1248/88 fulfil the requirements as published in the advertisement; rather applicant No. 1, Mrs. Neeru Chadha, is much more qualified being a gold medalist, and also well spoken of, by no less authority than the then Chairman, Law

Commission himself, as would be seen from letter at pages 69-70 of the paper book (last paragraph). Further, both the applicants have already put in about two years of service as Superintendent (Law) before coming to the Tribunal and, therefore, cannot still be considered as ad-hoc. The learned counsel pleaded that they had virtually completed the prescribed period of probation before the process of recruitment was initiated by respondent No. 3, and the fact that the process was initiated late by the concerned respondents or the recruiting agency, should not put the applicants to a detriment and for that reason, they should not suffer.

7. By dilating upon the development of service jurisprudence in the recent years, starting with Rattan Lal & Ors. Vs. State of Haryana - AIR 1987 SC 478 - in which the Supreme Court deprecated the exploitation of services of petty employees by engaging them on short terms, and terminating their services at frequent intervals, in order to deny them the service benefits. In the second phase, as discernible from the case of Dhirender Chamoli & Anr. Vs. State of Uttar Pradesh - 1986 (1) ATR 172 - and Surinder Singh & Anr. Vs. the Engineer-in-Chief, C.P.W.D. and Anr. - ATR 1986 SC 74, decided on 17.1.1986, wherein the Supreme Court expressed the hope for better treatment to be meted out, in the days to come, to temporary/casual employees, engaged on ad hoc basis, emphasising that in the principle of equality before law and equal protection before law is implicitⁱⁿ the principle that there must be equal pay for work of equal value and it makes no difference

whether they are appointed in sanctioned posts or not, and so long as they are performing the same duties, they must receive the same salary and governed by the same conditions of service. Then came the judgments in Daily Rated Casual Labourers, employed under P&T Department through Bhartiya Dak Tar Mazdoor Manch V. UOI & Ors. - (1987(4) Judgments Today SC 164), and two other judgments on the same lines, i.e. U.P. Income-tax Deptt. Contingent Paid Staff Welfare Association V. UOI and Ors. (1987(4) SC 585, and the General Secretary, Bihar State Road Transport Corporation, Patna V. Presiding Officer, Industrial Tribunal, Patna (Judgments Today 1988 SC 29) wherein the Hon'ble Supreme Court held that the employees working for more than one year could not be arbitrarily removed, and went to the extent of directing the Government to create posts to absorb them. Similarly, in Inder Pal Yadav's case - 1985(2) SCC 648 decided on 18.4.1985, the Hon'ble Supreme Court directed to formulate some scheme to absorb the project labourers. This principle was adopted in the case of Dr. A.K. Jain & Ors. Vs. UOI - 1987 Suppl. SCC 497) decided on 24.9.1987, and those of the petitioners who had put in certain number of years of service, by a particular date, were ordered to be regularised by way of a scheme to be formulated for them. The learned counsel for the applicants pleaded that the above rulings give an idea about the thinking of the Apex Court, on the subject.

6. As regards the item (ii) on page 5 of this judgment, the learned counsel for the applicants

pointed out that the requirement of experience has been increased by respondent No. 3, beyond proportion, as according to the Rules notified on 2nd June, 1987, there was a requirement of two years teaching experience and/or research experience in law, for the post of Superintendent (Legal) and the same was mentioned as such in the advertisement dated 10.10.1987 for the post in question, whereas, according to the procedure devised by the UPSC, in order to short-list the candidates, this has been increased to eight years. Further, the learned counsel for the applicants, pointed out that, whereas, according to the counter filed by respondents 1 and 2, these applicants possessed the requisite educational qualifications and experience prescribed under the Rules for recruitment to the post applied for and they expressed their ignorance about the criterion adopted by respondent No. 3, for selecting the candidates for interview, respondent No. 3, the UPSC, have tried to justify the increase in the requirement of experience, with a view to reduce the number of candidates, by resorting to short-listing. This also goes to show that the employer of the applicants had no knowledge, nor their approval in this regard, was sought for, by the recruiting agency. The learned counsel for the applicants also pointed out that while screening as one of the measures to short-list the number of candidates may be permissible, updating the requirement of experience

may not be so, especially without the knowledge of the employer. The learned counsel further pleaded that the post of Superintendent (Legal) was the base post and, therefore, abnormal increase in the matter of experience or qualification should not have been resorted to, so that every eligible person could apply for the same, according to the Recruitment Rules, which were made in consultation with the UPSC. The learned counsel also cited a few rulings, such as 1987 (4) SCC 646 - Durga Charan Mishra Vs. State of Orissa & Ors. -, 1973 (1) SCR 249 - State of Haryana Vs. Shamsher Jung Bahadur & Ors., in support of his contention.

7. With regard to ^{the} aspect at item (iii) on page 7 of this judgment, on the point whether the applicants deserve any preferential treatment after having put in about four years of service with respondent No. 2 on the same post, the learned counsel for the applicants mainly relied upon the judgment of the Hon'ble Supreme Court in S.P. Gupta Vs. UOI & Ors. (1981 Suppl. SCC 87), wherein, it was, inter alia, held that a serving employee had a right to be considered for the same post, in the event of its being regularised, before any rank outsider is considered for the same. The learned counsel also drew strength to press the point from the judgments referred to in the earlier part of this judgment, adding that even though those judgments may not strictly relate

to the equivalent posts, involved in these O.As., yet they broadly provide the guidelines on the subject. The learned counsel referred to some of the judgments by various Benches of this Tribunal on this aspect of the case, such as Upender Nath Ojha Vs. UOI (1986(2) ATR 139) and Suparana Mukherjee Vs. UOI (1989 (A) ATC 37), in which also, services of the applicants therein, with long spells were ordered to be regularised. Further, dilating upon the provisions of the Constitution contained in Article 21 of the Constitution, the learned counsel for the applicants asserted that right to life and liberty includes the right to livelihood and no one can be deprived of the said right except under the procedure prescribed by law. Citing the judgments of the Supreme Court in Maneka Gandhi Vs. UOI - AIR 1978 SC 597, Olga Tellis & Ors. Vs. Bombay Municipal Corporation & Ors. - AIR 1986 SC 180 and Samir Kumar Mukerjee & Ors. V. General Manager, Eastern Railway & Ors. - ATR 1986(2) CAT 7, the learned counsel assailed the action of the respondents in denying ^{to} the applicants fair and equitable opportunity in not calling them for interview despite being eligible for the same. He stressed that the impugned action of the respondents has resulted in violation of the principles of natural justice. In short, the applicants have prayed for a direction to the

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respondents to regularise them in view of the high qualifications and experience possessed by them and meeting the eligibility criteria stipulated by the respondents.

8. The learned counsel for the applicant in O.A. No. 1260/88, while adopting all the points put forth by the learned counsel for the applicants in O.A. No. 1248/88, emphasised that besides being eligible in relation to the educational qualifications and experience prescribed for the post in question, the applicant is a Scheduled Caste candidate, and has left the earlier post, before joining the present assignment.

9. We have also heard the learned counsel for respondents 1 and 2, Shri P.H. Ramchandani, Sr. Standing Counsel, who, with equal vehemence, opposed the case of the applicants, for regularisation in the posts in question. The learned Sr. Standing Counsel emphasised that it would amount to throwing to the winds the right of equality and of equal opportunity of employment, enshrined in Article 16(1) of the Constitution in case the applicants are appointed on regular basis for the posts in question, ignoring many others, having much more qualifications and better experience. Shri Ramchandani contended that it will militate against the said constitutional

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provisions if the applicants are allowed to seek an entry into the service on a regular basis, under some pretext or the other. The learned counsel further emphasised that the applicants should not be allowed to gain an advantage under the cover of the court's stay order, as courts ~~are~~ generally that grant relief at/early stage. The learned counsel further pointed out that there was no abnormal delay in initiating the process of recruitment, as the posts were created only on 14.5.1986 and the Recruitment Rules were notified on 2.6.1987. After the notification of the rules, some time was expected to be taken in initiating the process of recruitment, keeping in view the load of work with the UPSC. The learned counsel further submitted that in this case, no regular selection process was set in motion and the applicants were just picked up, without even calling for the names from the Employment Exchange, or inviting applications from group 'C' employees, already working. The learned counsel further pointed out that most of the rulings relied upon in support of the applicants' case relate to lower posts and, as such, the courts generally give relief, to protect the petty employees, while the posts in question are group 'B' posts. Some of the rulings pertaining to group 'B' posts, cited by the learned counsel for the applicants, are distinguishable

in the matter of length of service put in by the applicants in those cases and also in some other material aspects. In the same context, the learned Sr. Standing Counsel for the respondents, pointed out that the measures resorted to by the Hon'ble Supreme Court in cases like A.K. Jain, Inderpal Yadav and Narender Chadha Vs. UOI and Ors., cited by the learned counsel for the applicants, during arguments, had special circumstances, prevailing in those cases, and cannot be made use of in the present cases, as that was a remedy evolved out in those cases in view of the peculiar circumstances of those cases.

10. Shri M.L. Verma, learned counsel for respondent No. 3, while reiterating some of the points urged by the learned counsel for respondents 1 and 2, further pleaded that the via-media resorted to by the UPSC, in restricting the number of candidates to be interviewed to 25, as against much larger number, who had applied for the posts in question, was permissible and justified, as held by the Hon'ble Supreme Court and also by some Benches of this Tribunal in a catena of judgments. In this regard, he referred to the judgment of the Hon'ble Supreme

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Court in Ashok Kumar Yadav Vs. State of Haryana - AIR 1987 SC 454 and the judgments of this Tribunal in Mrs. Jitender Gauba Vs. UBC - 1987(2) ATR 113; Satvir Singh Dahiya Vs. Union of India - 1990(1) SLJ 169, in which the method of short-listing by the UPSC as well as various criteria adopted, have been held to be valid. The learned counsel also pointed out that the applicants had submitted their representation (pages 24-25 of the paper book) on 4th July, 1988 and without waiting for any decision thereon, had come to the Tribunal, by way of present applications and, thus, had not exhausted the departmental remedies, as per Section 20 of the Administrative Tribunals Act 1985 and on this account also, the applications deserve to be dismissed.

11. We have given careful consideration to various points put forth by both the sides, as briefly discussed above. We have also perused the applications, replies thereto filed by the respondents, various documents submitted by both the sides and also the various judgments cited by them, in support of their respective contentions.

12. Out of the various points, for and against the case of the applicants, urged in the preceding

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paragraphs, we may take up, first, the point regarding short-listing resorted to by respondent No. 3 by updating the requirement/qualification regarding experience. We have examined the rival contentions in this regard in the light of the authorities cited, in support, by both the sides. In 1989(2) CAT p. 113 (Mrs. Jitender Gauba vs. UPSC and another), decided by the Principal Bench on 17.2.1989, it was held that in order to ensure the object of selecting the best possible amongst the applicants, curtailing^{of} the number of candidates to be interviewed, by increasing the qualifications uniformly, than what were prescribed, was perfectly valid and not at all violative of the provisions of Articles 14 and 16 of the Constitution. In para. 13 of the judgment, it was held:

"13. Mrs. Jitender Gauba did not rightly contend that the UPSC had no power of competence to evolve the criteria or short-list the applications where there were large number of applications as in the present case. We are also of the view that in a situation like the one or where there are a large number of applications to a small number of posts, it is perfectly legitimate for the UPSC to evolve further relevant criteria, examine the applications with reference to the relevant criteria and confine the process of selection to a reasonable number of candidates. If such a process is not done, the work of the UPSC, which is already over-burdened, will become almost impossible of performance and would lead to the failure of the system itself. From this, we have no doubt whatsoever that the UPSC was within its power in evolving the criteria."

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13. Again, in 1990(1) (CAT) SLJ 168 (Satbir Singh Dahiya Vs. UOI & Ors.,) relying upon a decision of the Madhya Pradesh High Court in Om Parkash Baburam Sharma V. State of Madhya Pradesh and Anr. - 1978(1) SLR 736 - this particular proposition, i.e. whether the Public Service Commission can fix any criterion other than those given in the advertisement on the fulfilment of which a candidate is eligible for appointment, came to be discussed, and was answered in the affirmative. It was further observed that UPSC as an expert body, constituted under the Constitution, to advise the Government with regard to selection of candidates, has unfettered right to evolve its own method of modus operandi for selection of most suitable candidates and for that purpose, "the Public Service Commission is free to screen the applicants, classify them in various categories according to their plus qualifications and/or experience, and call for interview only those candidates who fall within those categories, eliminating others who do not satisfy those criteria. Such classification does not tantamount to any hostile discrimination. Practicability may also require such categorisation ... Any person, who possesses the qualifications requisite for eligibility, has a right to apply for the post but there is no right to be called for interview, merely because he is eligible for being appointed. If the Public Service Commission has made categories of persons,

either of plus qualifications or of those possessing experience, no applicant can question his elimination at the threshold, if he does not come within such category."

14. Similar views about the competence of the UPSC to resort to short-listing were held in AIR 1987 SC 454 (Ashok Kumar Yadav Vs. State of Haryana) and 1988(8) ATC - SC 944 (Dr. M.C. Bindal V. R.C. Singh & Ors.). These rulings are not only later in point of time but also are more squarely applicable to the facts and circumstances involved in the present case. We accordingly find the short-listing by updating the criterion of experience, adopted by respondent No. 3, in the instant case, as valid.

15. Having dealt with the aspect of short-listing, we may next look into as to how the applicants were first appointed to the posts in question. From a perusal of the O.As and other relevant record, it is evident that applicants' names were not called for from the Employment Exchange, nor applications invited from other employees already serving in Grade 'C' posts. No names were invited from any other offices where persons of the requisite experience and qualifications could be available. In other words, no semblance of a procedure, to make selections to the posts, by considering some others eligible for the same, had been followed and only three applicants had just been picked up and appointed on the

posts. These were initially made for six months, clearly mentioning that these were on purely ad-hoc basis and will not confer any title on them for regular or permanent appointment. All subsequent extensions, from time to time, were also on the same terms and conditions. The applicants' claim for regularisation on the posts has, therefore, to be examined in this context and background. In a recent ruling - Judgments Today 1990(2) SC 264 - (Direct Recruits Class II Engineering Officers' Association and others vs. State of Maharashtra & Ors.), the Hon'ble Supreme Court, at page 271 (para. 13) has held:

"....If an appointment is made by way of stop-gap arrangement, without considering the claims of all the eligible available persons and without following the rules of appointment, the experience on such appointment cannot be equated with the experience of a regular appointee, because of the qualitative difference in the appointment. To equate the two would be to treat two unequals as equal which would violate the equality clause."

16. In this case, the applicants' appointments were made in July, 1986 and January, 1987, whereas the Recruitment Rules were notified on 2.6.1987, i.e. they were appointed much before the framing of the Rules, on purely ad hoc basis, and, therefore, to our mind, they do not acquire any right for regularisation on the posts.

17. Now, let us examine if the applicants can have any claim to the posts, in the light of various authorities cited by them, in support of their cases. Most of the rulings cited by them pertain to the cases under the Industrial Disputes Act, in

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which the courts are generally considerate to protect the rights of employees, as against the group 'B' posts, in the present case, in which the appointments have to be made in consultation with the UPSC. The cases of group 'B' posts, cited by the learned counsel for the applicants, are distinguishable in the matter of length of service or some other important aspects involved. For example, the case of Dr. A.K. Jain & Ors. Vs. UOI & Ors. (Supra) was different in its facts and other details. In that case, there were a large number of doctors, belonging to different Railways, and special measures to regularise their services had to be resorted to, in order to prevent dislocation of medical services of the Railways, and for alleviation of hardships to the employees and their families. Further, from the nature of the job of the applicants in that case, the measure was adopted by the Hon'ble Supreme Court, in order to tide over the shortage of professional personnel. Likewise, in the cases of Narender Chadha & Ors. Vs. UOI & Ors., and Inderpal Yadav Vs. UOI (supra), keeping in view of the long spells of service rendered by the applicants therein, special remedy had to be evolved out, in view of the peculiar circumstances of those cases. In the case of Upender Nath Ojha Vs. UOI, adverted to above, the appointment was on local basis, and was merely a stop gap arrangement. Similarly, in the case of Samir Kumar Mukherjee & Anr. Vs. General Manager, Eastern Railways, the persons engaged were volunteers to assist

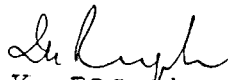
Railway Ticket Checking Staff. In another case of Suparana Mukherjee Vs. UOI (supra), the length of service put in by the applicant in that case, was nearly nine years, besides the essential requirement of sending three months salary alongwith the notice of termination of service, was not complied with, and hence, all these cases are materially different in their essential details and particulars.

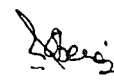
18. As regards the claim of the applicants on the basis of right to livelihood, based on certain authorities referred to by them, suffice it to say that the entire position is to be judged from the whole perspective. In this case, 274 candidates are stated to have applied in response to the advertisement for the posts, and after excluding twenty-five candidates interviewed by the UPSC, after resorting to short-listing, there remain 249 candidates, including the applicants. We are not aware what is the relative position of these three applicants, vis-a-vis the remaining 246 candidates. There may be many more superior to the applicants in respect of qualifications and experience, and some may be just equal to them. In nut-shell, in the face of this position, the applicants' claim for being considered for these posts will militate against the right of equality of many others out of the list of 274 candidates who might be equally or even more qualified than the applicants. The ruling of S.P. Gupta Vs. Union of India (supra) does not advance their case in any manner,

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because, firstly, it relates to extension of tenure
in the case of a High Court judge, and^{secondly,} the observations
therein, have been expressed in different context, i.e.
having worked for two years as an Additional Judge of
High Court, it may not be conducive in the interest
of justice, to allow to revert the Judge, to legal
practice again. Likewise, in the case of Lala Ram
Katiyar Vs. State of Uttar Pradesh & Ors., this question
also came to be considered. The post involved was that
of court staff in a District Court, as against Group
'B' posts involved in the present case and so, the
applicants' case does not get any strength from this ruling
as well.

19. As a result of the foregoing discussion,
we conclude that the applicants' claim both for
regularisation as well as for consideration of their
cases, on the basis of interviews carried out by the
UPSC, in pursuance of this Tribunal's order, fails.
Both the O.As are accordingly dismissed, and the stay
order earlier granted is vacated. The UPSC may go ahead
with the process of selection on the basis of interviews
in respect of 25 candidates short-listed by them.
In the circumstances of the cases, we make no order
as to costs.


(I.K. Rasgotra)
Member (A) 5/10/90

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(T.S. Oberoi)
Member (J)