

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

(42)

O.A. No.
T.A. No.

441/98

199

DATE OF DECISION 11-3-1996Shri H.C. Sharma & Ors.

Petitioner

Mrs. Meera Chhiber

Advocate for the Petitioner(s)

Versus

U.G.I. & Others

Respondent

Shri P.H. Ramchandani,
Senior Counsel

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. S.R. Adige, Member (A)

The Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement? ☒
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? ☒
4. Whether it needs to be circulated to other Benches of the Tribunal? ☒

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

S.R. Adige
(S.R. Adige)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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O.A.No.441/90

Date of Decision: 11-3-1996

Hon'ble Shri S.R. Adige, Member (A)
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

1 Shri H C Sharma
son of Shri PC Sharma
Qr No.1352, Sector XII
R K Puram
New Delhi 110 W22

2 Shri Ramakant Sinha
son of Shri Mangali Prasad
Srivastava
A.20 Pushpanjali
Vikas Marg Extn.
Delhi 92

3 Dr Kanta Pant
w/o Gorky Pant
B.3/3, Multi-storied Flats
Peshwa Road
Gole Market,
New Delhi 110 001

4 Shri Sharafat Yar Khan
127, Laxmibai Nagar
New Delhi

5 Shri Shiv Kumar
son of late Shri Basant Lal
r/o N 541 Sector VIII
RK Puram
New Delhi 110-002

6 Mrs Karuna Srivastava
Asstt. Station Director
National Channel
All India Radio
New Delhi
r/o 104.C, Aram Bagh,
Pahar Ganj, New Delhi.

7 Shri M J Sahil
Asstt. Station Director
(Inspection)
All India Radio
Akashvani Bhavan
New Delhi 110 001

8 Ms Alka Pathak
407, Kalpana Nagar
Patel Marg
Ghaziabad 201 003

.. PETITIONERS

By Advocate: Mrs. Meera Chhiber
versus

1 Union of India
through its Secretary
Ministry of Information and
Broadcasting
New Delhi

2 Director General
All India Radio
Akashvani Bhavan
Parliament Street
New Delhi 110 001

3 Shri SN Santapat
Station Director
Allahabad

4 Shri S Krishnamurthy
Station Director

5 Shri Syed Yakub
Station Director

6 Shri C Gurunath
Station Director
DDK Bombay

7 Smt Meenakshi Desai
c/o Director General
All India Radio

8 Shri PR Reddy
Station Director

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- 9 Shri PC Joshi
Station Director
- 10 Shri Wivash Bose
- 11 Shri Somiron Choudhury
-
- 12 Shri S Satyanarayanamurthy
Station Director
- 13 Shri JL Batra
Dy Director, ESD
- 14 Shri R Mahadevan
Station Director
- 15 Shri V Thiruvengadam
Station Director
- 16 Shri BK Saha
- 17 Shri HR Salooja
Station Director
- 18 Shri PU Aiyooob
Station Director
- 19 Shri A Natarajan
Station Director
- 20 Shri NS Krishnamoorthy
Station Director
- 21 Shri PP Setia
Station Director
- 22 Shri V Appa Rao
Station Director

- 23 Kum Rita Mukherjee
Station Director
- 24 Shri Subas Choudhary
Station Director
- 25 Shri BR Kumar
Station Director
- 26 Shri AK Biswas
Station Director
- 27 Smt Vimla Mittal
Dy Controller of Production
- 28 Shri Giyan Singh Arya
Station Director
- 29 Shri GK Chaturvedi
Station Director
- 30 Shri D Balakrishnan
Station Director
- 31 Shri MC Verma
Asstt. Station Director
- 32 Smt Ved Kumari Kawatra
AD ESD
- 33 Shri Narayan Parwaani
Station Director
- 34 Shrikant Thakar
Asstt Station Director
- 35 Shri SS Sharma
Asstt. Station Director

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- 36 Shri Sukiriti Bhattacharya
Asstt. Station Director
- 37 Shri NN Maithani
Station Director
- 38 Shri SK Srivastava
Station Director
- 39 Shri SS Kapur
Asstt. Station Director, ESD
- 40 Shri KC Sharma
Asstt. Station Director
- 41 Shri KJ Borisha
Asstt. Station Director
- 42 Shri Sunny Lal Sonkar
Station Director
- 43 Shri Gajendra Nayak
Station Director
- 44 Shri JL Sikdar
Asstt. Station Director
- 45 Shri GR Parmar
Station Director
- 46 Shri DK Sinha
Station Director
- 47 Shri SK Sarkar
Station Director
- 48 Shri IK Nirala
Asstt. Station Director
- 49 Shri MK Sivasankaran
Asstt. Station Director

- 50 Shri Symanad Mishra
Asstt. Station Director
- 51 Shri MI Sharma
Station Director, ESD
- 52 Shri KC Swami
Asstt. Station Director
- 53 Shri JB Shinde
Asstt. Station Director
- 54 Shri Subrata Banerjee
Asstt. Station Director
- 55 Shri PN Trisal
Asstt. Station Director
- 56 Shri AS Raqim Ali
Station Director
- 57 Shri RC Bhatt
Asstt. Station Director
- 58 Shri NC Guha
Asstt. Station Director
- 59 Shri PN Verma
Asstt. Station Director
- 60 Shri M Raghunathan
Asstt. Station Director
- 61 Kum Hira Chadha
Asstt. Station Director
- 62 Shri MP Suri
Asstt. Station Director

- 63 Shri SB Kanjanvar
Asstt. Station Director
- 64 Shri MP Verma
Station Director
- 65 Shri SV Sharma
Asstt. Station Director
- 66 Shri Prince Jai Singh
Asstt. Station Director
- 67 Shri KS Unni
Asstt. Station Director
- 68 Shri MG Gautam
Station Director
- 69 Shri Ram Prakash
Asstt. Station Director
- 70 Shri SR More
Asstt. Station Director
- 71 Dr JP Gupta
Asstt. Station Director
- 72 Shri NMGR Krishna
Asstt. Station Director
- 73 Shri SK Ghosh
Asstt. Station Director
- 74 Shri Khetrabasi Behera
Asstt. Station Director
- 75 Shri KS Israni
Asstt. Station Director

- 76 Shri GK Marar
Asstt. Station Director
- 77 Shri SS Narayana
Asstt. Station Director
- 78 Shri KSGK Murthy
Asstt. Station Director
- 79 Shri Sitaram Sharma
Asstt. Station Director
- 80 Shri RN Jha
Asstt. Station Director
- 81 Shri BN Pandey
Asstt. Station Director
- 82 Shri Jai Pal Sharma
Asstt. Station Director
- 83 Shri VHS Bhatnagar
Asstt. Station Director
- 84 Shri VV Sastri
Asstt. Station Director
- 85 Shri TV Raghavacharyulu
Asstt. Station Director
- 86 Shri ES Sundarmurthy
Asstt. station Director
- 87 Shri Girish Chandra Bhatnagar
Asstt. Station Director
- 88 Shri Bhawar Lal Joshi
Asstt. Station Director

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- 89 Shri PC Ghosh
Asstt. Station Director
- 90 Shri BL Kaul
Asstt. Station Director
- 91 Shri M Bandyopadhyay
Asstt. Station Director
- 92 Shri K Anjaneyulu
Asstt. Station Director
- 93 Shri PN Roy
Asstt. Station Director
- 94 Shri D Arumugam
Asstt. Station Director
- 95 Shri YH Manake
Asstt. Station Director
- 96 Shri A Arulappan
Asstt. Station Director
- 97 Shri DP Jatav
Asstt. Station Director
- 98 Shri VS Panaare
Asstt. Station Director
- 99 Shri B Thanmawia
Asstt. Station Director
- 100 Smt. SS Dinsngdoh
Station Director
- 101 Kum Vanalliani
(Smt VL Liani)
Station Director

- 116 Shri SP Srivastava
Asstt. Station Director
- 117 Shri Sripati Chaki
Asstt. Station Director
- 118 Shri SR Lamba
~~Asstt.~~ Station Director
- 119 Shri RK Talib
Asstt. Station Director
- 120 Shri SK Sanyal
Asstt. Station Director
- 121 Shri SK Johar
Asstt. Station Director
- 122 Shri TK Sen
Asstt. Station Director
- 123 Shri JP Sharma
Station Director
- 124 Shri RP Mathur
By Director
- 125 Shri VA Vijayasarithi
Asstt. Station Director
- 126 Shri Jwala Prasad
Asstt. Station Director
- 127 Shri R Viswanadham
Asstt. Station Director
- 128 Shri SP Goverdhan
Asstt. Station Director
- 129 Shri U Rosaiah
Asstt. Station Director

130 Shri DK Roy
Asstt. Station Director

131. Shri GC Shuklabaidya,
Asstt. Station Director

(Respondents No.3 to 131 are to be
reserved through Respondent No.2)

... Respondents

By Advocate: Shri P.H. Ramchandani for Respondents 1 and 2
None for Respondents 3 - 131.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The applicants in this case are aggrieved by the provisional seniority list dated 17.4.89 (Annexure R-1) and the final seniority list dated 24.7.89 of Programme Executives published by the Respondents (Annexure A). According to them this seniority list which is stated by the respondents to be in pursuance of the judgement of this Tribunal in M.P. Verma & Ors. V. Secretary, Ministry of I&B and Ors. (O.A.No.663/96 decided on 5.2.88) is incorrect. They submit that the respondents have not implemented the judgement correctly. The Special Leave Petition filed by the Union of India against this judgement was dismissed on 19.7.88.

2. The main grievance of the petitioners are that while some of the other colleagues have been given the benefit of the services rendered by them as Programme Executives on ad hoc basis, they themselves have not been given this benefit of continuous officiation which amounts to discrimination. They, therefore, submit that the seniority list dated 24.7.89 which

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has been prepared ignoring their ad hoc service as Programme Executives should be quashed, otherwise they should also be given the benefit of the continuous officiation rule as made applicable to the other petitioners in M.P. Verma's case.

3. The brief facts of the case are that the applicants are direct recruits to the post of Programme Executives of 1975; Although two of them, namely applicants 1 and 2 S/Shri H.C. Sharma and R.K. Sinha were departmental candidates ^{were} they appeared in an examination and/directly recruited to the post of Programme Executives in 1975. The respondents state that all the applicants from 1 to 6 were respondents in M.P. Verma's case. The applicants have admitted this fact, excepting that applicant No.1, Shri H.C. Sharma, was not a respondent in that case. The learned counsel for the applicants, Mrs. Meera Chhiber, submits that they do not have any grievance with regard to the implementation of judgement in M.P. Verma's case strictly. She submits that as directed in para 23 of that judgement, the respondents ought to have prepared the seniority list in order to grant seniority to the applicants over respondents 3 to 92 by giving them the benefit of continuous service as Programme Executives from various dates. Her submission is that

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from the judgement it is clear that the case dealt with appointment of Programme Executives who had initially been appointed on ad hoc basis and later regularised from different dates. The Tribunal had, after considering the law in this regard, held in para 18 that "the applicants are entitled to claim the benefit of continuous officiation in the post of Programme Executives prior to their regularisation for the purpose of determining their seniority." The learned counsel submits that the judgement in M.P. Verma's case can only apply to persons similarly situated i.e. persons who have had ad hoc service and have been appointed to the post of Programme Executives and later regularised in that post but not to persons who do not fulfil these conditions and who cannot, therefore, be held to be similarly situated persons. The applicants submit that the relief in M.P. Verma's case was only granted to the 13 applicants in that case, whereas while implementing the judgement, the respondents have ^{not} only given the benefits to these applicants but to over a 100 other persons who had no grievance at all and who have not approached any court for any remedy. As a result of the respondents' action, a new seniority list has been published by the respondents in 1989 which is under challenge here.

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4. Applicants 1 and 2 claim that they were promoted to Programme Executives (Class II) posts in 1973-74 from the posts of Transmission Executives (Class III) on ad hoc basis because no promotions were made by the DPC.

However, they admit that in August 1974 they were both selected through UPSC also for the posts of Programme Executives and given regular appointments with effect from 2.4.75 and 4.4.75^{respectively}.

The applicants state that seniority list in 1977 was updated on 1.2.85 and this list was challenged by the 13 persons who are promotee Programme Executives in O.A.No.663/86 claiming that their seniority as Programme Executives should be reckoned from the date of initial ad hoc appointment. As mention above, this prayer was allowed.

5. The learned counsel for the applicants has relied heavily on the list of 19 Programme Executives who have not put in any ad hoc service (Annexure 3 to the rejoinder) who have benefited from the way respondents 1 and 2 have implemented the judgement in M.P. Verma's case. According to the learned counsel for the applicants, these people who had gained in seniority in the impugned seniority list had never been appointed on ad hoc basis but were appointed as Programme Executives on regular basis through DPC only after the applicants 1 and 2 were appointed on ad hoc basis with effect from 1973-74. This according to the learned counsel for the applicants is illegal and arbitrary because these

persons cannot be stated to be similarly situated as the applicants in M.P. Verma's case for the simple reason that they do not have any ad hoc service behind them.

Therefore, the submission is that the respondents have not at all correctly implemented the judgement in M.P. Verma's case.

6, The next main ground urged by the learned counsel for the applicants is that the respondents have wrongly implemented the judgement in M.P. Verma's case and extended the benefits to the others who had not even agitated about for long number of years, it/ apart from the fact that they were not similarly placed. Reliance has been placed on the judgements in Bhoop Singh Vs. UOI and ors (JT 1992(3) SC 322); UOI Vs. Ratam Chandra Samanta & Ors (JT 1993(3) 418) and Secretary to the Govt. of India and others V. S.M. Gaikwad (1995 Suppl(3) SCC 231). Her submission is that it is settled law that a judgement does not give a fresh cause of action to the others. She further submits that the judgement in MP Verma's case is only final between the parties inter se. She also refers to the provisions of Section 21 of the A.T. Act and S.V. Ramani Vs. D.G. ESIC (1995 (2) STJ 497) and Chaturvedi Vs. UOI (JT 1996(2) SC 114) and submits

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that the claim of the ^{private} respondents is clearly barred by limitation and therefore the benefit of M.P. Verma's judgement could not have been extended to others by the official respondents.

7. Another point taken by the learned counsel for the applicants is that the respondents in the guise of implementing the judgement in M.P. Verma's case have given a number of promotions to the respondents in flagrant violation of the Recruitment Rules, as some of them do not fulfil the eligibility conditions.

8. The respondents have filed their reply controverting the above claims. They submit that in implementation of the judgement in M.P. Verma's case, they had to revise the ~~seniority~~ list of Programme Executives as on 1.10.85 by placing the applicants in that O.A. en block senior to all the respondents 3 - 92 (i.e. direct recruits of 1975 including some of the applicants in the present O.A.). They submit that in the present case all the applicants are direct recruits of 1975, though as already mentioned above, applicants 1 and 2 were departmental candidates. They have referred to the judgement in G.S. Sharma Vs. UOI & Ors (OA 477-JK of 1989 decided on 6.3.90), in which another direct recruit candidate of 1975 had filed a similar petition in the Jammu Bench

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of this Tribunal seeking the benefit of the judgement in M.P. Verma's case, as he had also rendered ad hoc service in the post of Programme Executive during 1968-74. In that case the Tribunal rejected the applicant's claim holding that there was no material produced by him that he had been approved by the DPC when he was appointed as Programme Executive on ad hoc basis in 1973 and, therefore, he was treated as a direct recruit of 1975. The respondents, therefore, submit that the applicants in the present case have also not been given any benefits flowing from the judgement in OA No. 663/86, as they are similarly situated ^{as the applicants} ~~that~~ in case. They have further submitted that consequent upon the revision of the seniority of Programme Executives as on 01.10.85 in pursuance of the judgement in OA 663/86 ^{in 1989} / review DPCs have been held for the higher posts of Assistant Station Directors and Station Directors and their seniority list as on 1.7.90 have been published.

9. Shri P.H. Ramchandani, Senior counsel for the official respondents has submitted that the revision of the seniority list of Programme Executives in 1989 was in pursuance of the judgement in M.P. Verma's case. He

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submits that the benefit in this case has been extended to other similarly placed persons which has been upheld by this Tribunal in the judgement in G.S. Sharma's case (D.A.No.477/JK/89) in which it was held -

"Another grievance made by the learned counsel for the applicant was about the order dated 8.11.88 whereby the benefit of judgement of the Tribunal in M.P. Verma (supra) has been extended to similarly situated Programme Executives. The learned counsel for the respondents submitted in this connection that the other Programme Executives who were similarly situated had made representation for being granted the benefit of the decision rendered by the Tribunal in M.P. Verma (supra) and that such a benefit was correctly given to the other similarly placed Programme Executives. We are of the considered view that the benefit of the decision to other similarly placed Programme Executives has been rightly given. If such a benefit was not accorded to the other similarly placed Programme Executives, they could legitimately make a grievance on the basis of infraction of their Fundamental Rights guaranteed under Articles 14 and 16(1) of the Constitution. This point urged by the learned counsel for the applicant is thus held to be devoid of substance." (emphasis added)

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10. Shri P.H. Ramchandani, Senior Counsel for the respondents has also referred to CCP No.87/89 in O.A. 663/86 filed by Shri K.C. Sharma in which it was alleged that the judgement had not been implemented in full. His submission is that in this case also, the court was satisfied that the judgement has been implemented and the C.P. was discharged.

11. He has also relied on the judgement in M.P. Varma's case to show that the judgement not only applies in that case to the applicants/who were to be placed senior to the respondents 3 to 92 by giving them the benefit of continuous service as Programme Executives but the principle had to be extended to all those who were similarly placed as the applicants. This contention was upheld in G.S. Sharma's case (supra).

12. He submits that all the representations made to the provisional seniority list dated 17.4.89 have been examined in detail in the office memo. dated 24.7.89 (Annexure R-2). He states that the applicants were direct recruits of 1975, including applicants 1 and 2 who were actually not promoted by the DPC in 1974. With reference to Annexure 3 of the rejoinder i.e. the list of Programme Executives prepared by the applicants who have not put in ad hoc service

but given the benefit of the judgement in M.P. Verma's case to which the learned counsel for the applicants had taken serious objection, Shri P.H. Ramchandani submits that although it is correct that some of these people did not have any ad hoc service, they were regularly appointed as Programme Executives and were senior to the applicants. In the circumstances, he submits that these persons are similarly situated to the applicants in M.P. Verma's case must get similar treatment under the principles of equality embodied in Articles 14 and 16 of the Constitution. His argument was that if only the 13 applicants in M.P. Verma's case were given the benefits, a number of other persons who were senior to the applicants would be adversely affected and would be forced to file cases to have the benefits extended to them. He submitted that in fact one Shri D.R. Kapoor, who was one of the applicants, had filed an application in the Tribunal as also a few others. He, therefore, submits that wherever it was found that other persons were senior to any of the applicants in M.P. Verma's case, the benefit of that judgement was extended to those people. This has been done on the principle that they were similarly situated persons as Programme Executives, like the applicants in that case.

13. We have carefully considered the arguments advanced by both the learned counsel and the pleadings in this case.

14. Mrs. Meera Chhibber, learned counsel for the applicants had strongly urged that M.P. Verma's judgement which has been relied upon by both the parties should be read only in the context of the facts of that case. She relies on Sukhwant Vs. State of Punjab (JT 1995 (3) SC 495). Here ~~the~~ contention is that para 23 of the operative portion of the judgement which is ^{the} direction to respondents 1 and 2 to grant seniority to the applicants over respondents 3 to 92 should be read in the context of the facts that the applicants were given the benefit of continuous ^{officiation of} service following the adhoc service and regularisation. The applicants were no doubt held to be entitled to claim the benefit of continuous officiation in the post of Programme Executive prior to their regularisation for the purpose of determining their seniority vis-a-vis respondents 3 to 92. However, the respondents have justified the action of extending the benefit of the decision in M.P. Verma's case to other similarly placed Programme Executives who admittedly may not have ad hoc service but were regularly appointed as Programme Executives because they were senior to some of the applicants in that case.

In that case some of the applicants before us were admittedly respondents. In G.S. Sharma's case (OA 477-JK of 1989), the Tribunal had held that the extension of benefit of the decision in M.P. Verma's case to other similarly placed Programme Executives has been rightly given as otherwise those Programme Executives ^{will} ~~legitimately have~~ ^a grievance on the basis of the infraction of their fundamental rights guaranteed under Articles 14 and 16(1) of the Constitution. We are in respectful agreement with this judgement on this point. If such a benefit is not extended to other persons who are Programme Executives but confined only to the 13 applicants, as contended by the learned counsel for the applicants, it would lead to a very anomalous situation, namely, that persons who have been regularly appointed as Programme Executives and senior to the applicants in M.P. Verma's case would continue to have a depressed seniority in the revised seniority list only because they did not have ad hoc service which was later regularised. The Tribunal had also considered the matter in the case of K.C. Sharma V. UOI & Urs (CCP 87/89 in OA 663/86) and the Tribunal was satisfied that the CCP cannot be sustained on the ground of non implementation in full of the judgement in M.P. Verma's case. Therefore, the argument of the learned counsel for the applicants is without force and is rejected.

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15. The learned counsel for the applicants had also strongly urged that the impugned seniority list prepared in 1989 should be quashed on the ground of laches and delay because the persons who had been given the benefit of seniority over the applicants had themselves not agitated this matter for a long time. Therefore giving them the benefits was barred on the ground of limitation. We have carefully considered the cases referred to by the learned counsel in this regard. We find that the facts in Bhoop Singh's case and Shivram Mahadu Gaikwad's case (supra) are not at all applicable and are distinguishable on the facts from the present case. Here the official respondents, in implementing the judgement in M.P. Verma's case decided on 15.2.88 had to consider the issue with respect to other similarly placed persons in their employment ^{with PS} as those who were given the relief in that judgement. Therefore, this is not a case where the principle that the persons who have not agitated the matter cannot be given the reliefs long after the period of limitation is applicable. This ground urged by the learned counsel for the applicants is, therefore, without any force and is rejected.


16. Mrs. Meera Chhibber, learned counsel for the applicants had also argued that by the wrong implementation of the


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judgement in M.P. Verma's case the official respondents had given the other private respondents (promotees) further consequential benefits by way of promotions when they have not fulfilled the eligibility conditions prescribed in the relevant recruitment rules. For the reasons given above, we have come to the conclusion that the seniority list of Programme Executives dated 24.7.89 has been validly done in pursuance of the judgement in M.P. Verma's case and the applicants have not made out any case to quash this seniority list. That being so, the respondents cannot deny the consequential benefits flowing therefrom to those persons who are otherwise eligible. However, since the subsequent promotions from Programme Executives to higher posts were not directly raised in the application, we do not think it is necessary to deal with this issue. We do not also find any substance in the other grounds urged by the learned counsel for the applicants which justifies any interference in the matter.

17. In the result, the application fails and is dismissed.

No costs.


(SMT. LAKSHMI SWAMINATHAN)
MEMBER (J)


(S.R. ADIGE)
MEMBER (A)

11/3/96

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