

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH ALLAHABAD

Original Application No. 1276 of 1997

Date of Decision 11-8-2011

Dr. Hari Narain Misra

.....Applicant(s)

Shri N.K. Nair  
Sri M.K. Upadhyaya

.....Counsel for the Applicant(s)

VERSUS

Union of India & Ors.

.....Respondents(s)

Shri Himanshu Singh

.....Counsel for the  
Respondents(s)

CORAM :

Hon'ble Mr. S.N. Shukla, Member (A)  
Hon'ble Shri A.K. Bhardwaj, Member (I)

1. Whether Reporters of local News Papers may be allowed to see the Judgment? *yes*
2. To be referred to the Reporters or not? *yes*
3. Whether their Lordship wish to see the fair copy of the judgment. *yes*
4. Whether to be circulated to all the Benches.

*[Signature]*  
SIGNATURE

Present for Respondents :

Shri Himanshu Singh

*[Signature]*

**RESERVED**

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD  
BENCH ALLAHABAD**

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(THIS THE 11<sup>th</sup> OF August 2011)

**Hon'ble Mr. S.N. Shukla, Member (A)**  
**Hon'ble Mr. A.K. Bhardwaj, Member (J)**

**Original Application No.1276 of 1997.**  
(U/S 19, Administrative Tribunal Act, 1985)

Dr. Hari Narain Misra, aged about 50 years, son of Shri V.N Misra, resident of 37/35, Gillis Bazar, Kanpur, who was employed as Medical Officer, Ordnance Equipment & Parachute Factories Combined Hospital, Ordnance Equipment Factory, Cantt., Kanpur.

..... Applicant

***Versus***

1. Union of India through the Secretary, Ministry of Defence Production, Government of India, New Delhi.
2. The Chairman, Ordnance Factory Board/Director General of Ordnance Factories, 10-A, Shaheed Khudi Ram Bose Road, Calcutta.
3. The General Manager, Ordnance Equipment Factory, Kanpur.
4. Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi, through its Secretary.

..... Respondents

Present for Applicant :

Shri N.K. Nair  
Shri M.K. Upadhyay

Present for Respondents :

Shri Himanshu Singh

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**ORDER**  
**Delivered by Hon'ble Mr. A.K. Bhardwaj, Member (J)**

In response to the advertisement in terms of which applications were invited for appointment to the post of Assistant Surgeons Grade-1 in the Ordnance Equipment Factory (Ministry of Defence), Government of India, the applicant submitted application for his appointment. He was selected for such appointment. An appointment letter was issued to applicant on 31.12.1972 /1.1.1973 appointing him on the temporary post of Assistant Surgeon Grade 1 for a period of one year or till suitable candidates could be nominated by Union Public Service Commission, whichever event could take place earlier. The applicant continued holding said post since 1973. On 12.1.1987, he was intimated that his case for grant of revised scale of Rs. 700-1300 and also for his regularization was in progress. In the meantime, several Assistant Surgeons Grade-1, who were also working like applicant were also re-designated as Assistant Medical Officer in revised pay scale of Rs. 700-1300. Though the applicant was not re-designated as Assistant Medical Officer alongwith them but subsequently he was designated as Junior Medical Officer and was placed in scale of Rs. 650-1200. In the meantime, Government of India issued Circular dated 18.8.1975 emphasizing that the existing Assistant Surgeons Grade -1 should be screened by Departmental Promotion Committee and

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Class I scale of Rs. 700-1300 should be given only to such Doctors, who were in possession of M.B.B.S Degree and could be found fit after screening. It is the stand of the applicant that in terms of said Circular issued by Government of India no screening could be taken place and applicant continued to work as Junior Medical Officer till 1980 when his services were terminated vide order dated 26.6.1980 issued by Director General, Ordnance Factory Board, Calcutta. The said order provided that services of the applicant would stand terminated on expiry of 1 month from the date of receipt of the order. Against the order of his termination, the applicant filed suit in the Court of Munsif Kanpur. Suit was decreed and termination order was held to be illegal and ultra virus and respondents were directed to treat the applicant to be continuing in service. First Appeal preferred by the respondents against the order of Court of Munsif failed. Thereafter the respondents preferred Second Appeal before Hon'ble High Court which also failed as Hon'ble High Court dismissed the same summarily by order dated 25.10.1983. After dismissal of the Second Appeal, the applicant filed an Execution Petition before the Court of First Instance. As a result, the applicant was reinstated in service on 15.1.1985. In the reinstatement order, respondents had mentioned that the applicant was being reinstated in service as Ad-hoc

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Junior Medical even though earlier he was designated as Temporary Junior Medical Officer. In subsequent order issued soon after the order dated 15.1.1985, it was stated that wherever the adhoc was used the same was to be read as 'Temporary' and not 'ad-hoc'. The applicant preferred a representation for being declared as quasi permanent/permanent Junior Medical Officer. When the Execution Application filed by applicant before the Court of First Instance, which had passed the decree declaring his termination as illegal was still pending vide order dated 18.9.1986 issued by the President of India, the services of the applicant were terminated again. Few days thereafter i.e. on 27.09.1986, an advertisement inviting the application for short term Medical Officer in the Ordnance Equipment Factory, Kanpur where the applicant was working was published.

3. Aggrieved by the order of the termination of his services and appointment of several short term Medical Officer, subsequent to his termination and their continuance in service, the applicant filed O.A NO. 186 of 1987 before Lucknow Bench of this Tribunal. In the said O.A, contention of the applicant was that in circular dated 30.1.1979 it was provided that the services of Short Term Medical Officers should be terminated first and thereafter the services of the Adhoc Junior Medical

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Officer could be terminated. In the said O.A, the applicant further contended that 40 posts of S.M.Os. were sanctioned by the Government and the applicant being the senior most amongst the Junior Medical Officers, became eligible for the said post. Instead of regularizing him, the respondents terminated his services. Lucknow Bench of this Tribunal allowed O.A. NO. 186 of 1987 filed by the applicant quashing the order of termination dated 8.9.1986 and directing the respondents to consider the case of the applicant for regularization without requiring them to appear in interview, and on perusing the A.C.Rs within a period of four months from the date of communication of the order passed on 29.1.1992.

4. As is stated by respondents in their supplementary counter affidavit dated 29.6.1999, complying with the directions contained in aforementioned order dated 29.1.1992 passed in O.A. NO. 186 of 1987, the annual confidential report of applicant were sent to the Union Public Service Commission. After considering the petitioner for his regularization on the basis of said A.C.Rs, Union Public Service Commission did not consider him fit to be regularized in service.

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5. The applicant has filed present Original Application, contending that despite the order passed by Tribunal on 29.1.1992, he was not reinstated in service and his case for regularization was also not perused truthfully and sincerely. However, in para 22 of Original application, it is admitted that during the pendency of Contempt Petition, respondents had passed an order dated 6.11.1996 received by the applicant on 13.11.1996 reinstating him in service w.e.f. 19.9.1986 i.e the date following the date of termination of services of the applicant. It is admitted by the applicant that General Manager, Ordnance Equipment Factory, Kanpur issued a part II order dated 31.11.1996 providing that in compliance of order dated 29.1.1992, the applicant was being reinstated in service w.e.f. 19.9.1986. However, it is the stand of the applicant that despite the aforementioned order issued by Director General, Ordnance Factory Board and General Manager, Ordnance Equipment Factory, Kanpur, he was not allowed to resume his services. The applicant had admitted the fact of receiving an amount of Rs. 79,856/- vide cheque dated 3.1.1997 as arrear of salary from 30.1.1992 to 14.1.1993.

6. Raising the grievance of his non-reinstatement and non-payment of arrear of salary to him from 18.9.1996

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and also claiming his regularization, the applicant has filed the present Original Application claiming the following relief:-

- “(i) The respondent NO. 1, 3 and 3 be directed to permit the applicant to resume duty in terms of the order of reinstatement dated 6.11.1996 passed by the D.G.O.F, Calcutta and the Factory order Pt. II No. 2114 dated 29.11.1996, and to allow the applicant to remain in service, until his services are terminated by any legal and valid order.*
- (2) The respondent NO.1, 2 and 3 be directed to pay the applicant the entire arrears of pay and allowances for the period of the applicant's involuntary absence from duty from 19.9.1986, in terms of the judgment of this Tribunal dated 29.1.1992, the order of the D.G.O.F., Calcutta dated 6.11.1996 (Annexure A-3) and the Factory Order Part II No. 2114 dated 29.11.1996, (Annexure A-6) taking into consideration the due annual increments, wage revision and other service benefits due to the applicant and also to continue to pay further salary to the applicant as long as the services of the applicant are not terminated validly and legally.*
- (3) The respondent NO.1, 2 & 3 be directed to furnish to the respondent NO.4, the entire Annual Confidential Reports of the applicant for the period during which the applicant remained on duty, based on which the applicant used to be granted regular annual increments, the Efficiency Bar in the Time Scale of Pay was allowed to be crossed and the Union Public Service Commission continue to approve the continuation of the applicant in service and to make sincere efforts to get the services of the applicant regularized as required by the judgment dated 29.1.1992.*
- (4) The respondent NO. 4 be directed to reconsider the matter of regularization of the applicant in the light of the judgment of this Tribunal dated 29.1.1992 and on the basis of the genuine material and information and A.C.Rs of the applicant to be submitted by the respondents No.1 to 3 and to take necessary decision regularizing the services of the applicant”.*

7. Opposing the Original Application, respondents filed detailed counter affidavit and also supplementary counter affidavit. In the counter affidavit dated

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12.10.1998, it is stated by respondents that after perusing A.C.R of applicant U.P.S.C did not consider the applicant fit for regularization as Junior Medical Officer in the services of Ordnance Factories and as he was not considered fit for regularization, the directions regarding reinstatement of the applicant became inoperative automatically. Para 14 of said counter affidavit reads as under:-

*"14. That thus important aspect of the judgment and order dated 22.1.1992 became in operative automatically whereas judgment of the Hon'ble Tribunal was in two phases, 1<sup>st</sup> to quash penalty order dated 8.9.1986 and second to consider the case of the petitioner for regularization without requiring them to appear for interview, but after perusing the Annual Confidential Reports".*

8. On 22.2.2005, when present Original Application came up for hearing, the applicant placed reliance on the decision of the Tribunal passed in O.A. NO.1568 of 1994, (Dr. S.K Vermani Vs. Union of India and Ors). Relying upon the said judgment, learned counsel for the applicant contended that issue involved in O.A. NO. 1568 of 1994 was identical to one involved in the present Original Application. However, it was contended on behalf of respondents that against the order of Hon'ble High Court Uttaranchal, a Special Leave Petition had been preferred before Hon'ble Supreme Court and Hon'ble Supreme Court had stayed the operation of order passed by Uttaranchal High Court. Order dated 22.2.2005 reads as under:-

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"22.02.2005.

Hon'ble Mr. Justice S.R. Singh, V.C.

Hon'ble Mr. S.C. Chaube, A.M,

Sri N.K. Nair and Shri M.K. Upadhyay, learned counsel for the applicant and Shri A. Mohiley, learned counsel for the respondent.

The applicant in this case has placed reliance on the judgment of this Tribunal in O.A. NO. 1568/94, Dr. S.K. Virmani Vs. Union of India and Ors, a similarly circumstances Doctor, which judgment has been upheld by the Uttaranchal High Court. Sri A. Mohiley, learned counsel for the respondents submits that a special Appeal has been preferred against the Uttaranchal High Court and the Supreme Court has stayed the operation of the order passed by the Uttaranchal High Court. He prays for and granted two weeks and no more time to seek appropriate instructions in the matter and file such supplementary affidavit as he may consider it necessary.

List on 14.3.05.

Sd/

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V.C"

9. On 15.7.2005, the hearing of present O.A. was adjourned 'sine die'. Order dated 15.7.2005 reads as under:-

"15.7.2005

Hon'ble Mr. M.K Misra, A.M

Hon'ble Mr. K.B.S. Rajan, J.M

Shri M.K. Upadhyay, learned counsel for the applicant, Shri A. Mohiley, learned counsel for the respondents is reported to be ill.

The applicant in this O.A. has relied upon the judgment of this Court dated 5.7.2005 in O.A. NO. 1568/04. This order of the Tribunal was a subject matter of challenge before the Hon'ble High Court in W.P No. 1141/02. On this writ petition having been dismissed, the department has gone in S.L.P. before the Apex Court vide CC No. 1491/05 in which the Hon'ble Supreme Court has issued the notice and also stayed the operation of the impugned order therein. This order of the Apex Court would mean stay of order even of this Tribunal in O.A. NO. 1568/04.

In view of the above, this O.A. shall necessarily have to be adjourned 'sine die' and liberty is given to the parties to move necessary application after the final order of the Apex Court in the said S.L.P.

Sd/-

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10. Respondents had filed the counter affidavit dated 4.3.2005 taking the following stand therein:-

"5. That it is stated that the order dated 5.7.2002 passed by Central Administrative Tribunal, Lucknow Bench was passed on wrong appreciation of facts as well as provisions of law. In the aforesaid the Tribunal has given directions second time to reconsider the case of Dr. S.K. Vermani while by judgment and order dated 29.1.1992 similar directions were given by the Central Administrative Tribunal and the directions were complied with. As per directions contained in judgment and order dated 29.1.2002 case of S.K. Vermani was referred to Union Public Service Commission and Union Public Service Commission considered all the ACRs and after due consideration did not find him suitable for regularization.

6. That it is stated that on the similar issues Dr. S.K. Vermani had filed petition earlier. Therefore, Original Application being 1568 of 1994 filed by Dr. S.K. Vermani ought not to have been entertained by Central Administrative Tribunal on this ground alone. It is submitted that in terms of the recruitment rules Medical Officer as recruited through a competitive examination conducted by the Union Public Service Commission by selection through merit. Since Dr. S.K. Vermani had put in many years of adhoc service the learned Tribunal had directed to consider his case for regularization on the basis of his performance as is reflected in his ACRs. This consideration has to be effected by the Constitution Body like Union Public Service Commission on the basis of set criteria for selection. Once the case of the individual for regularization is considered and rejected by the Union Public Service Commission on the basis of ACRs, no further interference is called for especially in the matter relating to selections to Group 'A' posts.

9. That it is further stated that against the judgment the department had filed Special Leave Petition bearing NO. of 2005 (CC No. 1491 of 2005) Union of India & Others Versus Dr. S.K. Vermani. The said case was listed and heard before the Hon'ble Supreme Court on 14.2.2005. After arguments the Hon'ble Supreme Court was pleased to issue notice and has granted stay of the judgment of the Hon'ble High Court/Tribunal. A copy of the stay order passed by the Hon'ble Supreme Court is being filed herewith and is marked as Annexure CA-1 to this Affidavit.

10. That in reply to the contents of paragraph no. 1 (D) of the application, it is submitted that it is true that the writ petition of Union of India has been dismissed by the High Court of Uttaranchal but it is stated that the Union of India had filed Special Leave Petition on 3.1.2005 before the

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Hon'ble Supreme Court of India as in the present case the petitioner had moved an application NO. 4854 of 2004. A mention was got made before the Hon'ble Supreme Court of India and as such the said case was heard on 14.2.2005. After the arguments the Hon'ble Supreme Court was pleased to issue notice and granted stay of the judgment and order of the Hon'ble High Court of Uttaranchal in S.K. Vermani's case. It was pointed out to the Hon'ble Supreme Court that the observations of the Hon'ble High Court in its judgment to the effect that a candidate cannot be held to be unsuitable for regularization only because of being 'Average' or for that matter that 'Average' performance is counted only in the matter of promotion is not in consonance with either the law on the subject or on the merit of the case. In the question of regularization it is the merit that counts and average performance cannot be a criteria for regularization to a Group 'A' post. The court below erred in remitting the question of regularization of Dr. S.K. Vermani back to Union Public Service Commission on the ground that complete ACRs of Dr. Vermani were not sent to Union Public Service Commission and therefore, there was no proper consideration whereas respondents' officers and representatives of UPSC were also present in Court along with the record of the case and it is on the basis of the record that Dr. S.K. Vermani was not found fit for regularization. It is the prerogative of UPSC to adjudge the suitability of the incumbent for regularization. As such it is submitted that the judgment in the case of Dr. S.K. Vermani's case has not become final and has been stayed by the order of the Hon'ble Supreme Court.

11. That the contents of paragraph NO. 1 (E) of the application are totally misconceived and not admitted. It is stated the order for termination of service of Dr. S.K. Vermani was perfectly legal in view of the provisions of Rule 5 of Central Civil Services (Temporary Services) 1965 and he could not be appointed as regular Medical Officer without being selected by the Union Public Service Commission, New Delhi. It is stated the judgment and order dated 29.1.1992 of the Central Administrative Tribunal Bench at Lucknow was fully complied with but after consideration of the ACR Dossiers of Dr. S.K. Vermani by the Union Public Service Commission, New Delhi, UPSC found Dr. S.K. Vermani as unsuitable for being regularized in the post of Junior Medical Officer and as such Union Public Service Commission did not recommend regularization of service of Dr. S.K. Vermani.

12. That it is further submitted the learned counsel Central Administrative Tribunal Allahabad vide its judgment/order dated 5.7.2002 has repeated the same direction to approach Union Public Service Commission for regularization. Similar direction was also given to the respondent factory in the Hon'ble Central Administrative

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*Tribunal's order dated 29.1.1992 and was fully complied with at that time.*

13. *That Dr. S.K. Vermani was declared unfit for regularization of service by Union Public Service Commission vide their letter dated 14.1.1993 and this fact was duly communicated to Dr. S.K. Vermani vide Ordnance Factory Dehradun letter NO. MO/P/SKV/93 dated 10.3.1993. It is reiterated that Dr. S.K. Vermani was struck off the strength of Ordnance Factory, Dehradun on the date of Union Public Service Commission's decision i.e. 14.1.1993 and this decision was duly communicated to him.*
14. *That it is further submitted that Union Public Service Commission appoints Medical Officers on regular basis only on the basis of recommendations and Dr. S.K. Vermani could not qualify Union Public Service Commission examination and was not found suitable by the Union Public Service Commission for regularization even after perusing his ACRs. As stated above, since he was not found fit for regularization he had no claim for service at Ordnance Factory, Dehradun after 14.1.1993 i.e. from the date of order of Union Public Service Commission as there was no requirement of any specific direction on the part of the department.*
15. *That it is further stated that the judgment of the High Court of Uttaranchal is totally misconceived and directions to the extent that "merely on the basis of average performance a candidate cannot be held unsuitable for absorption" is against the assessment of the Commission for his regularization based on the assessment of his ACRs. In fact some of his ACRs were found to be adverse in nature. As per Department of Personal & Training O.M No. 22011/5/86-Estt (D) dated 10.3.1989 the bench mark for inclusion to Group 'A' posts from lower posts (even for promotion) was 'Good' and the bench mark continues to be 'Good' even now according to the revised OM of Department of Personnel & Training dated 8.2.2002. Since his overall assessment was found to be Average hence he was rightly not found suitable for regularization to a Group 'A' post. As already indicated hereinabove this post was to be filled up through open competitive examination and any regularization of adhoc appointment deprives the Commission of its constitutional role in the recruitment to Civil Posts.*
16. *That it was pointed out to the Hon'ble Supreme Court that the observations of the Hon'ble High Court in its judgment to the effect that a candidate cannot be held to be unsuitable for regularization only because of being 'Average' or for that matter that 'Average' performance is counted only in the matter of promotion is not in consonance with either the law on the subject or on the merit of the case. In the*

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question of regularization it is the merit that counts and average performance cannot be a criteria for regularization to a Group 'A' post. The Court below erred in remitting the question of regularization of Dr. S.K. Vermani back to Union Public Service Commission on the ground that complete ACRs of Dr. Vermani were not sent to Union Public Service Commission and therefore, there was no proper consideration whereas respondents' officers and representatives of UPSC were also present in Court along with the record of the case and it is on the basis of the record that Dr. S.K. Vermani was not found fit for regularization.

17. That it is stated that as already stated in the preceding paragraphs the judgment of the Central Administrative Tribunal/High Court of Uttaranchal at Nainital passed in writ petition NO.1141 of 2002 dated 21.8.2004 has been stayed by the Hon'ble Supreme Court of India in SLP No. of 2005 (CC NO. 1491 of 2005) filed by Union of India & Others Versus Dr.S.K. Vermani on 14.2.2005 and after arguments the Hon'ble Supreme Court of India was pleased to issue notice and has granted stay of the judgment. Therefore, it is submitted that the petitioner cannot take advantage of the said judgment in view of the fact that the judgment is in appeal before the Hon'ble Supreme Court of India and the same has not become final, as the Hon'ble Supreme Court of India has stayed the same".

11. Thus as can be seen from the aforementioned, it is the case of the respondents also that the issue involved in the present case is squarely covered by the decision of this Tribunal in O.A. No. 1568/04 (S.K. Virmani Vs. Union of India and Ors). In the said order, this Tribunal had issued following directions:-

"23. In the facts and circumstances OA is allowed. UPSC letter dated 14.1.1993 (Ann A-1) and para 3 of Factory order part II NO. 1185 dated 19.9.1996 (Ann AA 4) are quashed. The Applicant shall be deemed to be reinstated w.e.f. 19.8.1980 as per order dated 13.9.1996 of respondent No. 3. The applicant shall be allowed to work on the post of Junior Medical Officer and he will be entitled for the pay and allowances w.e.f. 19.8.1980 revised from time to time as applicable in the grade of Junior Medical Officer. The implementation of this order shall be ensured by respondent NO.2 within one month from the date of communication of this order. As regards the arrears respondents shall pay such

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*arrears of pay and allowances w.e.f 19.8.1980 till the date of reinstatement minus payment, if any, made earliest within 3 months and continue paying the monthly pay and allowances when due to future. The respondents are directed to consider the case of the applicant for regularization in consultation with UPSC without requiring the applicant to appear for interview after perusing the ACRs within a period of 3 months from the date of communication of this order.*

*24. We also award cost of Rs. 2000/- (Rupees two thousand only) to the applicant to be paid by respondent No.2 within 3 months as the applicant has been involved in litigation for more than two decades because of illegal action of respondents”.*

12. The aforementioned order of the Tribunal was upheld by High Court, Uttrananchal at Nainital by detailed order dated 21.8.2004. Paras 8 to 10 of the order of Uttrananchal High Court read as under:-

*“8. On confronted with a query by the Court to the effect that whether there exists any adverse material on the service record of the respondent NO.3 or not, which could only render the respondent NO.2 unsuitable for absorption, the learned counsel for the petitioners fairly submitted that there is no adverse material in the service record of the respondent NO.2. The suitability for absorption is to be judged on the basis of adverse material, if any, in the service record. A candidate cannot be held to be unsuitable for merger only because of his performance being average. Average performance may be a factor, which is counted in the matter of promotion while judging the merit. Merely, on the basis of average performance, a candidate cannot be held to be unsuitable for absorption.*

*9. Therefore, in our opinion, the Tribunal has rightly remitted the matter back to the UPSC for reconsideration of respondent NO.2 for absorption. We do not find any infirmity or illegality in the order of the Central Administrative Tribunal. The writ petition is devoid of merit and is liable to be dismissed.*

*10. Accordingly, the writ petition is dismissed. No order as to costs”.*

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13. Now Misc. Application NO. 1125 of 2011 has been filed on behalf of the applicant making a request to take the order of Hon'ble Supreme Court dated 3.2.2011 on record. In terms of said order, Hon'ble Supreme Court has upheld the decision of Hon'ble Uttaranchal High Court, in terms of which, the order passed in O.A. NO. 1568 of 1994 was upheld. The **order dated 3.2.2011 in Civil Appeal NO. 2458 of 2006 (Union of India and Ors Vs. Surendra Kumar Varmani)** reads as under:-

*"On hearing Mr. Wasim A. Qadri, learned counsel appearing for the Union of India and on going through the materials on record, we are firmly of the view that this case does not merit any interference by this Court in exercise of its jurisdiction under Article 136 of the Constitution.  
The appeal is dismissed.*

Sd/-  
Aftab Alam—J

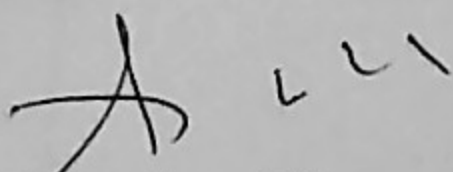
Sd/-  
R.M Lodha—J"

14. In view of aforementioned and being bound by order of the Hon'ble Uttaranchal High Court upheld by Hon'ble Supreme Court, we allow present Original Application, directing the respondents to deem the applicant in continuous service w.e.f. 19.9.1986 to 14.1.1993 when he was considered for his regularization by Union Public Service Commission and to grant him arrears of pay for the said period. The amount of arrear already paid to the applicant shall be adjusted. We deprecate the stand taken by the respondents in their counter reply holding that once the applicant was

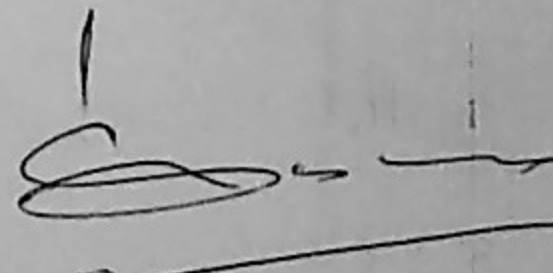
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considered for his regularization on 14.1.1993 and was not found suitable, order of this Tribunal dated 29.1.1992 quashing the order of termination and directing reinstatement of the applicant had become inoperative. If the applicant has not reached the age of superannuation, he would be reinstated in service forthwith. The respondents shall also consider the case of the applicant for regularization in consultation with U.P.S.C as on 14.1.1993 without requiring him to appear for interview and only by considering his available A.C.Rs within a period of three months from the date of communication of the present order. In case of being found fit for regularization, the applicant would be deemed in service of respondents as regular employee and would be entitled to 50% of admissible pay for the period from 14.1.1993 till the date of reinstatement or attaining the age of superannuation as the case may be. If the applicant is considered not fit for regularization, he would be entitled to 50% of the salary, admissible to him as on 14.1.1993 till reinstatement or attaining the age of superannuation, if the applicant has already attained such age.

No costs.

  
Member (J)

Manish/-

  
Member (A)