

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD.

T.A. No. 923 of 1986

Smt. Nirmala Kumari Saxena Plaintiff/
Applicant.

Versus

Union of India & others Defendants/
respondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

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

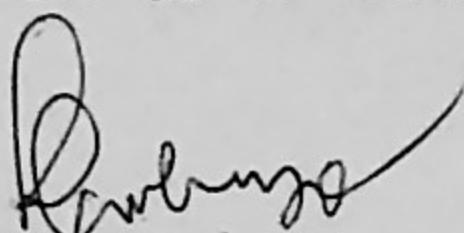
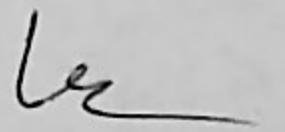
(By Hon'ble Mr. Justice U.C. Srivastava, V.C.)

The applicant, now substituted by her husband as his legal representative, filed a suit in the Court of Munsif, Kanpur, praying that a decree for mandatory injunction be passed in her favour directing the defendants for granting the increments to the plaintiff for the years 1973 to 1978 at the rate of Rs.8/- per annum and Rs.10/- per annum above Rs.360/- p.m. basic and also regularisation of pay, increments and arrears for the period 1.9.73 to 30.11.83. The grounds for the challenge are that the defendants had no jurisdiction to deny the plaintiff's increment which was earned by passing Hindi Type Writing test in January, 1978 which was due to her as per Government of India's instructions and there was no justification or ground in withholding her increments w.e.f. 1.9.73 onwards and the defendants never informed the plaintiff regarding the enforcement of efficiency bar against her which is a must under Circular issued by the Director General Post and Telegraph (G-I Deptt. of Personnel) O.M. No. 40/1/73-Ests(A) dated 31.12.73 which vitiates the entire proceedings.

2. The respondents/defendants in their reply have pointed out that her efficiency bar was stopped

prior to year 1973 and she was earlier suspended also. Regarding the confidential remarks of the years in respect of which the complaint has been made, it has been stated that she was warned thrice as per remarks in the confidential report of April, 1972 to March, 1973 i.e. one year earlier for keeping herself busy in private conversation with subscribers by neglecting her work and also announcing wrong position number. She had received a letter on 26.5.77 through which she was severely warned. As regards the confidential roll entry for the year 1975-76, she was punished vide order dated 24.10.75 for neglecting her duties and sleeping on position in night duties by stopping one increment for one year without effecting future increment. She was suspended w.e.f. 1.8.75 but later on the suspension order was revoked. Thus, it appears that due to dereliction in respect of duties, the said punishment was given to the applicant and due to said punishment, she was not allowed to cross the efficiency bar. But there is no denial of the fact that prior notice has been given to the applicant. In this connection a reference has been made to 'Padam Singh Jinha Vs. Union of India & others' (1974(1) SLR 594) in which it was held that the order preventing the crossing of efficiency bar should be passed either before the appointed date or shortly thereafter. In this case nothing like that was done. Taking into consideration the fundamental rule 55, the Madras Bench of Central Administrative Tribunal in 'K.N. Ahmed Ali Vs. Secretary Tourism Department, New Delhi & another' (ATC 1989 page 524) held that when no formal order is passed before the increment is stopped, the stoppage of increment is invalid and the person concerned will be entitled to the arrears of increment. Learned counsel for the respondents stated that formal order was passed in

the year 1975 but in respect of that year no claim has been made by the applicant and accordingly this application is allowed in respect of years 1973, 1974, 1976 and 1977 but it is rejected in respect of year 1978 because subsequent information was given. The respondents are directed to grant the said increments in respect of aforesaid years. Let it be done within a period of three months from the date of communication of this order. No order as to costs.


Member (A)
VICE CHAIRMAN.

DATED: JULY 20, 1992.

(ug)