

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 21st day of March 2002.

QUORUM : HON. MR. S. DAYAL, A.M.

HON. MR. RAFIQUDDIN, J.M.

I. Original Application No.495 of 2002.

1. M.K. Chaturvedi.
2. Ram Mila-n.
3. P.C. Agarwal.
4. Rakesh Kumar Nigam
5. Subodh Prasad.
6. Mukesh Sharma.
7. Jyoti.
8. R.K. Das.
9. Ram Kishore.
10. Lalit.
11. Matin.
12. Chandra Sheikhar Saraswat.
13. Masroor Hussain Khan.
14. Vinay Kumar Saxena.
15. Deepak Kumar Jauhari.
16. Ashok Kumar.
17. Narendra Saran Saxena.
18. Kishan Ram.
19. Rajesh Kumar.
20. Parmeshwari Dayal.
21. Hari Kishan.

All working as Typists in the North Eastern Railway and posted under the Railway Manager, North Eastern Railway, Izatnagar.

(Sri T.S. Pandey/Sri Janardan Sahai, Advocates).

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..... Applicants.

Versus

1. Union of India through the Chairman, Railway Board, New Delhi.
2. The General Manager, North Eastern Railway, Gorakhpur.
3. The Divisional Railway Manager, North Eastern Railway, Izatnagar.

(Sri V.K. Goel, Advocate)

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..... Respondents.

II. Original Application No. 618 of 1999.

1. Renu Vijay, Head Typist,
2. Ranjana Chaudhary, Head Typist,
3. Afaq Ahmad, Head Typist,
4. R.S. Yadav, Head Typist,
5. Hira Mani, Head Typist,
6. A.K. Srivastava, Head Typist,
7. Gautam Biswas, Head Typist,
8. Mohd. Shoeb Siddiqui, Head Typist,
9. Ramesh Chand, Head Typist,
10. Hari Ram, Head Typist,
11. Phool Chand Gupta, Head Typist,
12. S.K. Srivastava, Head Typist,
13. Syed Mushtaq Hussain, Head Typist,
14. Vijay Kumar Gupta, Head Typist,
15. S.K. Shukla, Head Typist,
16. Chhedi Lal, Head Typist,
17. Kishan Lal, Office Supdt. Grade I
18. P.D. Mishra, Office Supdt. Grade I
19. M.L. Sarkar, Office Supdt. Grade I
20. S.K. Agrawal, Office Supdt, Grade II
21. Ram Babu Srivastava, Office Sypdt. Grade II
22. RN Chaddha, Office Supdt Grade II
23. RR Chisty, Office Supdt. Grade II
24. Ram Naresh, Office Supdt. Grade II
25. Dhruv Prasad, Office Supdt. Grade II
26. Arifa Khan, Sr.Typist,
27. Ram Lot Yadav, Sr.Typist,
28. Ram Kishan, Sr.Typist,
29. M.P. Tiwari, Sr. Typist,
30. Shambhoo Nath, Sr.Typist,
31. RN Dhivapurkar, Senior Typist,
32. Uma Kant Malhotra, Sr.Typist,
33. AK Saxena, Sr.Typist,
34. V.K. Lal, Sr.Typist,
35. Sunita Sharma, Sr. Typist,
36. A.P. Srivastava, Sr. Typist,
37. Aruna Srivastava, Sr.Typist.
38. AK Bidhani, Sr. Typist,
39. Niazuddin, Sr. Typist,
40. Shoeb Uddin, Sr.Typist.
41. Urmila Srivastava, Sr.Typist,
42. Nandita Roy, Sr. Typist,
43. Sadhana Gupta, Sr.Typist,
44. Shashi Prabha, Sr.Typist.

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45. BK Bhattacharya, Typist,
46. Santosh Kumar Srivastava, Jr.Typist,
47. AK Tiwari, Jr.Typist,
48. R.K. Chaurasia, Jr.Typist,
49. Mohd. Aslam Siddiqui, Jr.Typist,
50. Mohd. Quddus Siddiqui, Jr. Typist,
51. Satish Chand, Jr. Typist,
52. Lakhon Singh, Jr.Typist,
53. Mata Prasad Gupta, Head Typist,
54. Ramesh Chand, Jr.Typist,
55. Prem Prakash, Jr.Typist,
56. Subhash Chand, Jr.Typist.
57. Suresh Ram, Jr.Typist,
58. Govind Prasad Gaur, Sr.Typist,
59. Ghanshyam Das, Sr. Typist,
60. Nirmal Yamdagani, Jr.Typist,
61. Shamim Ahmad Khan, Jr.Typist,
62. PN Mukerjee, Head Typist,
63. Dinesh Kumar, Head Typist,
64. NK Asthana, Jr.Typist,
65. Jaya Kumar, Jr. Typist,

All working under the Divisional Railway Manager,
Northern Railway, Allahabad

(Sri SS Sharma, Advocate)

..... .Applicants

Versus

1. The Union of India through the Chairman, Railway Board, New Delhi.
2. The General Manager, Northern Railway, Baroda House, New Delhi.
3. The General Manager, North Central Railway, Allahabad.
4. The Divisional Railway Manager, Northern Railway, Allahabad.

(Sri A. Tripathi, Advocate)

..... .Respondents

A N D

III. Oridinal Application No.659 of 2000.

1. Ram Raj s/o Late Chandrika Prasad.
2. Laxmi Kishor Sharan s/o Late L.K. Sharan.
3. B.P. Verma s/o Sri G.S. Verma.
4. Ramji s/o Late Girija Prasad.
All working as Chief Typists Under D.R.M., North Eastern Railway, Varanasi.
5. Subhas Banerjee s/o Sri S.N. Banerjee.
6. Sanatan Kumar Dubey s/o Sri Baij Nath Dubey.

7. Iqbal Ahmad s/o Late Mohd. Shami.
8. Abhay Kumar Sinha s/o Tarini Prasad Sinha.
9. Vishnu Lal s/o Shri Prakash Kumar.
10. Rameshwar Prasad s/o Shri B. Das.
11. Jitu Mishra s/o Roop Narain Mishra.
12. Vishwanath s/o Duli Chand.
All working as Head Typists under D.R.M., North Eastern Railway, Varanasi.
13. Gopal Chaterjee s/o Shri H.P. Chaterjee.
14. Bacchan Lal s/o Shri Radha Kishan.
15. Prabha Kumari Srivastava w/o Late A.K. Srivastava.
16. Brahma s/o Late Jatanbhar.
17. Chote Lal Ram s/o Late Bacchan Ram.
18. Meva Lal Sharma s/o Shri G.R. Sharma.
19. Ram Sarikh Yadav s/o Shri Tulsi Yadav.
All working as Senior Typists under D.R.M., North Eastern Railway, Varanasi.
20. Ram Naresh s/o Shri Brahma Nand.
Working as Senior Typist under Director Cancer Research Institute, North Eastern Railway, Varanasi.
21. Anil Kumar s/o Shri Rananand Lal, Senior Typist working under Commandent R.P.F., Varanasi.

..... Applicants.

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(Sri S.K. Om, Advocate)

Versus

1. Union of India through Chairman Railway Board, Rail Bhawan, New Delhi.
2. General Manager, North Eastern Railway, Gorakhpur.
3. Divisional Railway Manager, North Eastern Railway, Varanasi.
4. Senior Divisional Personnel Manager, North Eastern Railway, Varanasi.

(Sri P. Mathur, Advocate)

..... Respondents.

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A N D

IV. Original Application No. 739 of 2000.

1. Vijay Kumar Sinha s/o Late Akleshwari Prasad.
2. R.K. Vishwakarma s/o Samroo.
3. Ram Surat Prasad s/o Late Khemai.
4. Chauthi Ram s/o Late Kishore Ram.
5. Dhaneshwar Prasad s/o Uma Dutt.
6. Ram Nihore Prasad s/o Sripratap.
7. S.K.D. Dubey s/o Late P.K.D. Dubey.
8. J.P. Pandey s/o S.P. Pandey.

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9. U.S. Srivastava s/o Late K.N. Srivastava.
10. J.N. Parkar s/o Late J.N. Parkar.
11. Rajendra Prasad Srivastava s/o Late Shital Pd. Srivastava.
12. Bandhan Prasad s/o Sukhdeo.
13. Ishwar Saran Lal s/o Goberdhan Lal.
14. Brij Raman Srivastava s/o Jwala Prasad.
15. Rashid Hussain Khan s/o Zahid Hussain Khan.
16. Liyaquat Ali s/o Late Rafiullah.
All working as Chief Typist in North Eastern Railway,
Gorakhpur (Headquarter).
17. P.S. Khalko s/o Late Jaitun Khalko.
18. Mithai Lal s/o Late Yadunath.
19. S.P. Yadav s/o Chhotoo.
20. Sayed Sahid Ali s/o Late Sayed Ashique Ali.
21. S.K. Singha s/o Late G.N. Singha.
22. Mewa Prasad s/o Late Ram Pratap.
23. Sri Ram s/o Sri Ganesh.
24. Ashok Sinkoo s/o Ganga Dhar Sinkoo.
25. Sayed Khurshid Alam s/o Late Sayed Ashique Hussain.
26. Bhagwan Das Budhulia s/o Late Nathu Ram Budhulia.
27. Bada Kachhap s/o Sri Kandara Kachhap.
All working as Office Superintendent (Type) in North
Eastern Railway, Gorakhpur (Headquarter).
28. Ram Dulare s/o Late Muneshwar.
29. M.C. Jha s/o T.N. Jha.
30. Lal Jee Prasad s/o Late Chandrabali Sao.
31. S.B. Srivastava s/o Jagdish Srivastava.
32. Shyam Lal s/o Late Godhan Prasad.
33. A.K. Verma s/o Late D.N. Verma.
34. S.B. Kumar s/o Satnarayan Prasad.
35. Smt. Sukhmaya w/o A.K. Srivastava.
36. V.K. Gupta s/o L.D. Gupta.
37. Moti Lal s/o Ganga Prasad.
38. Alfred Roushan s/o Late P.C. Suren.
39. Premnandan Singh s/o Parsuram Singh.
40. A.N. Gupta s/o R.C. Gupta.
41. J.K. Lakhara s/o Mahesh Lakra.
42. Km. I.K. Maisi d/o K. Maisi.
43. Jairam Yadav s/o Deepak.
44. Achhey Lal s/o Late Mohan.
45. A.K. Srivastava s/o Late Bhagwat Prasad.
46. Bajrangi Lal s/o Inderjeet.
47. Govind Madhav s/o Late H.L. Gupta.
48. K.D. Sharma s/o Ram Dutt Sharma.
49. Aftab Ahmad s/o Late Abdul Rashid.

50. C.N. Dubey s/o R.B. Dubey.
51. S.K.L. Das s/o Late J.K.L. Das.
52. Narbdeswar Lal s/o B.B. Lal.
53. Nand Lal s/o Late Rampati.
54. Ashish Kumar Dev s/o Late B.P. Dev.
55. Ram Kalash s/o Sarvjeet.
56. Harendra Prasad s/o Shudheshwar Lal.
57. Phool Deo s/o Late Ram Lal.
58. Satish Chandra Saxena s/o Late Babu Ram.
59. Ghanshyam Pandey s/o Harihar Pandey.
60. Shivanand Srivastava s/o Late S.S. Srivastava.
61. Parasanjit Brown s/o Late P.S.C. Brown.
62. A.K. Gupta s/o B.P. Gupta.
63. Raj Kishore s/o Tirath.
64. Nisharullah Ansari s/o Late Hamidullah.
65. Satya Prakash s/o Late S.N. Sharma.
All working as Head Typist in North Eastern Railway,
Gorakhpur (Headquarter).
66. Vinay Kumar Upadhyaya s/o Bageshwar Upadhyay.
67. Ram Saran s/o Late Lalsa.
68. Ram Dhari Prasad s/o Lalman.
69. A.K. Singh s/o H.C. Singh.
70. Ram Naresh s/o Late Hira Lal.
71. A.N. Dwivedi s/o Gulab Dutt.
72. A.K. Srivastava s/o Late G.P. Srivastava.
73. Kanak Lata Patel w/o Anil Kumar.
74. Asharaf Ali s/o Late Asgar Ali.
75. A.K. Diwakar s/o R.L. Diwakar.
76. A.K. Singh s/o Chandrashekhar Singh.
77. A.K. Singh s/o Jang Bahadur Singh.
78. P.R. Bharti s/o Cheedi.
79. Smt. Mina Devi w/o Late N.K. Singh.
80. Musafir Ram s/o Late Kalloo Ram.
81. Smt. Saroj Chaudhary d/o Late Raja Ram.
82. Arjun Prasad s/o Late Murlidhar.
83. Sudershan Kashyap s/o Late Jeew Lal.
84. A.N. Pandey s/o Shankar Pandey.
85. R.N. Prasad s/o Late D.M. Ram.
86. Anil Kumar s/o Late Murlidhar Gupta.
87. Devendra Srivastava s/o S.L. Srivastava.
88. Uttam Chand s/o Kamla.
89. Rajesh Kumar s/o Late R.D. Lal.
90. Silwant Singh s/o Late S.L. Das.
91. R.B. Pandey s/o S.N. Pandey.
92. S.P. Chauhan s/o Late R.L. Chauhan.

93. Om Prakash s/o Late Dudhai Prasad.
994. Vinod Kumar Gupta s/o Late Ganga Prasad Gupta.
95. Shashi Kant Mishra s/o Shiv Kumar Mishra.
96. Ram Lakhman s/o Ludur.
97. Anil Kumar Sharma s/o R.C. Sharma.
98. Om Prakash Gupta s/o Ganga Prasad Gupta.
99. Farid Ahmad Khan s/o A.L. Khan.
100. Radhey Shyam s/o Dodhai.
101. R.K. Srivastava s/o R.K. Srivastava.
102. V.K. Gupta s/o R.S. Lal Gupta.
103. R.P. Vishwakarma s/o R.R. Vishwakarma.
104. Ramjee Bharti s/o Sangam Lal.
105. Ram Sewak s/o Gunnar.
106. Anwar Ahmad s/o Abdul Jabbar.
107. Upendra Kumar Singh s/o Rameshwar Singh.
108. Arjun Ram Verma s/o P.R. Verma.
109. Hari Narayan Singh s/o Jairaj Singh.
110. Asif Jamal s/o Md. Safiullah.
111. Hubedar Ali s/o Wali Mohd.
112. Rangi Lal s/o Hansa.
113. Tanweer Ahmad Ansari s/o R.A. Ansari.
114. Bhola Nath s/o Late Shiv Balak.
115. Safiullah s/o Late A. Hassan.
116. Matadeen Pandey s/o Late R.B. Pandey.
117. Raj Kumar Pandey s/o S.C. Pandey.
118. Shrikant s/o Late Jaglal.
119. Govind Singh s/o Late N. Singh.
120. Vijayee s/o Raghunath.
All working as Senior Typist in North Eastern Railway,
Gorakhpur (Headquarter).

(Sri S.K. Om, Advocate).

..... Petitioners.

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Versus

1. Union of India through Chairman, Railway Board, Rail Bhawan, New Delhi.
2. General Manager, North Eastern Railway, Gorakhpur.
3. Chief Personnel Officer, North Eastern Railway, Gorakhpur.

(Sri A. Sthalekar, Advocate).

..... Respondents.

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O R D E R

BY HON. MR. S. DAYAL, A.M.

These four Original Applications have been heard

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together because of common issues of facts and law involved.

2. O.A. 495 of 2000 has been filed by twenty one applicants, who are working as Typists seeking the setting aside of letter dated 8.3.2000 and notice dated 10.4.2000 praying that these two may not be given effect to.

3. O.A. 739 of 2000 has been filed by one hundred and twenty senior typists of North Eastern Railway, Gorakhpur with a prayer for quashing of letter dated 8.3.2000, a direction to the respondents to pay the same pay scales w.e.f. 1.1.96 to senior typists, head typists and office superintendent Grade II as were being paid to Senior clerks, head clerks and office superintendent Grade II in view of circular dated 16.10.97 of Railway Board. A direction is also sought to the respondents to provide new posts of Chief Office Superintendent (Type) in the scale of Rs.7450-11500 as provided in circular dated 10.5.98. A direction to the Railway Board is also sought to implement circulars dated 17.7.92 and 7.4.93 of the Railway Board and to prepare a common seniority list of typists and clerks of clerical cadre.

4. O.A. 659 of 2000 is a composite application of 4 chief typists, eight head typists and nine senior typists with the prayer to quash the letter dated 8.3.2000 of the Railway Board and the order dated 11.4.2000 of Divisional Railway Manager (Personnel), North Eastern Railway, Varanasi. A direction is also sought not to give effect to these two orders and not to make any recovery from the applicants.

5. O.A. 618 of 1999 is a composite application of three applicants who are superintendent Grade I, 6 applicants who are superintendent Grade II, 20 applicants who are head typists, 21 applicants who are senior typists and 15 applicants who are junior typists. The relief sought by

the applicants are directions to the respondents to implement Railway Board circulars dated 17.7.92 and 7.4.93 and to pay the same pay scales to senior typists, head typists and office superintendent grade II as were being paid to senior clerks, head clerks and office superintendents Grade II in view of circular dated 16.10.97.

6. The applicants in O.A. 618 of 1999 were permitted to add sub-clause 8(2) and 8(2)(a) to the O.A. by way of amendment as the corresponding pay scales in the cadre of typists of head typists and office superintendent Grade II were amended from Rs.4500-7000 to Rs.5000-8000 and from Rs.5000-8000 to Rs.5500-9000 by issuing orders dated 30.1.2001 and corrigendum dated 6.2.2001 but this was given effect to with prospective effect. The amendments result in limiting the controversy to grant of pay scales to typists as were given to senior clerks in order dated 16.10.97. Payment of arrears has also been prayed for. In O.A. 495 of 2001, the applicants have brought on record letter of Railway Board No. PC-V/98/DAC/1 Pt(4) dated 30.1.2001 which has been referred to in the amendment sought in O.A. 618 of 1999.

7. The applicants in O.A. 495 of 2000 have claimed that Railway Board issued circular dated 17.7.92 conveying their decision to merge the category of typists with that of clerks and directed that no indents would be placed for direct recruitment in the cadre of typists and pending indents would be frozen. The decision to add the vacancies

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of typists in the lowest grade to the vacancies of clerks and to make direct recruitment in the category of clerks in the two grades of Rs.950-1500 and 1200-2040 for non-graduates and graduates and the future direct recruits were to possess proficiency in typing besides other qualifications. By circular dated 7.4.93 of the Railway Board, it was provided that typists should also be given clerical work in addition to typing works. The Fifth Central Pay Commission recommended pay scales for clerical cadres only and mentioned no separate pay scales for the category of typists. These pay scales are given below with the corresponding pay scales of the Fourth Central Pay Commission :-

<u>Cl.1</u> Pay scales prior to Vth Central Pay Commission.	<u>Cl.2</u> Revised pay scales of Vth Central Pay Commission.
Rs. 950-1500	3050-4590.
Rs.1200-2040	4500-7000.
Rs.1400-2300	5000-8000.
Rs.1600-2660	5500-9000.
Rs.2000-3200	6500-10500.

8. The Railway Board by letter dated 16.10.97 assigned the scale of Rs.4500-7000 to senior clerks, Rs.5000-8000 to head clerks and Rs.5500-9000 to office superintendent Grade II. The Railway Board by letter dated 8.3.2000 directed respondent No.2 who is General Manager, North Eastern Railway to issue show-cause notices to the applicants and thereafter withdrew the above pay scales from senior typists, head typists and office superintendents Grade II and recover excess amount paid to them. The applicants were given notice dated 10.4.2000 asking them to show cause why grades mentioned in Annexure A to Schedule I of letter dated 16.10.97 be not given to the applicants. This had led the applicants to file the O.A.

[Signature]

9. The facts narrated in other applications are also identical. The applicants in O.A. 739 of 2000 have shown how the pay scales at various levels of cadres of typists and clerks were identical from first to fourth pay commissions and the Fifth Pay Commission had not made any recommendations to the contrary and the Railway Board have arbitrarily created the impugned pay scales.

10. We have heard the arguments of Sri T.S. Pandey, Sri S.K. Om and Sri S.S. Sharma for the applicants and Sri V. K. Goel, Sri Prashant Mathur and Sri Amit Sthalekar for the respondents. We have considered the pleadings on record.

11. It is not in controversy that the different grades in the cadre of clerks and typists corresponded to each other till the end of the period of IVth Central Pay Commission on 31.12.95. The Railway Board by order dated 16.10.97 which was interpreted differently Northern and North Eastern Zones and their subsequent clarification dated 8.3.2000 sought to change the correspondence by assigning a lower pay scale to senior typists, head typists and superintendent Grade II as compared to senior clerks, head clerks and office superintendent Grade II.

12. The applicants have claimed that ministerial cadre included both clerks and typists. They have in this connection referred to Railway Board letter No. E-4-VIII/RTI/92 dated 1.8.51 in which typists along with clerks have been classified as ministerial staff for purpose of Rule 2046(2)(a)-R-II relating to age of retirement of Railway servants. They have also referred to recommendation of the Pay Commission contained in paragraph 55.152 relating to common categories which reads as follows :

"Para 55.152
Language typists can be divided into four categories (i) typists in English (ii) typist in Hindi (iii) typist in Indian Languages other than Hindi and (iv) typists in foreign language. Typists category (i) and (ii) from part of the general clerical cadre of an organisation. They are treated as per in the matter of pay scale promotion avenues etc."

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13. It is clear from the classification of Railway Board that post of typist forms a part of the ministerial cadre. It is also clear from the recommendations of the Fifth Pay Commission that the Fifth Pay Commission has gone a step further and treated them as a part of the general clerical cadre in the matter of pay scale. We find that these two premises have been established by the applicants.

14. The applicants have claimed that the cadre of typists and cadre of clerks were completely merged by circulars of the Railway Board dated 17.7.92 and 7.4.93. The relevant parts of circular dated 17.7.92 reads as follows :

"Sub. :- Merger of cadre of Typists with Clerical cadre.

The above subject was discussed in the JCM/DC Meeting held on 5/6th June, 1991. Havind regard to the deliberations with the recognised Federations, Railway Board have decided as under :-

- i) With immediate effect, no indents shall be placed for direct recruitment from open market in the cadre of Typists. The pending indents shall also be frement, if no action has been initiated by Railway Recruitment Board.
- ii) In future, the vacancies of Typists in the Lowest grade shall be-- into the clerical cadre in the corresponding grade. Direct recruitment in Clerical cadre shall continue to be made as hither to in the two grades viz. in Grade Rs.950-4500 and Rs.1200-2040, as per percentage already prescribed.
- iii) All future direct recruitment from open market shall possess Typewriting proficiency of 30 words per minute in English or 25 words per minute in Hindi as an essential qualification besides prescribed educational qualification for the category of Clerks/ Senior Clerks.
- iv) These instructions also apply to Accounts Department in recruitment of Accounts Clerks and Junior Accounts Assistants.

2. There will be a joint examination for non-technical popular categories including posts of Clerks and Accounts Clerks as in the practice hitherto. However, the candidates who pass final test will be required to appear in the typewriting test in case of posts of Office Clerks, Accounts Clerks, which will be 5 times the number of vacancies for these categories, subject to the availability of candidates. Those who qualify in the typewriting test and come within 2, 1/2 times the numbers of vacancies will be called for interview along with other categories such as Commercial Clerks, Tickets Collectors and Train Clerks.

2.1. Similar procedure as outlined above will also be followed in case of graduate categories in respect of posts of Clerks, and junior Accounts Assistants with the other conditions for holding the examination for these categories remaining the same."

15. Circular dated 7.4.93 in vernacular reads as follows :-

"रेलवे बोर्ड के 17-7-1992 के सम संख्यक पत्र की ओर ध्यान आकर्षित किया जाता है जिसमें टाइपिस्ट संवर्ग की लिपिकीय छव्वी में विलय करने के लिए अनुदेश जारी किए गये थे, जो भावी भवित्यों पर लागू होने थे। यह ग्रुप "सी" और ग्रुप "डी" संवर्गों की पुर्ण संरचना के सम्बन्ध में बोर्ड के 27-1-1993 के पत्र संख्या 111/91/सी.आर.सी/। द्वारा जारी किए गये अनुदेशों को भी सम्बद्ध करता है, जिसमें कब तक की तुलना में और अब लिपिकीय संवर्ग के समकक्ष उच्चतर ग्रेडों में अधिक अनुपात में पद टाइपिस्टों के संवर्ग में मूल्यांकित किए गये हैं।

2- इस बात को ध्यान में रखते हुए कि लिपिकों की कोटि में भविष्य में भर्ती किए जाने वाले व्यक्तियों, जिनकी भर्ती कभी-कभार एक यूनिट में लिपिकों को कुल संख्या के बराबर हो सकती है, द्वारा उत्तरोत्तर टाइपिंग कार्य अपने हाथ में ले लेने तथा विभिन्न कार्यिंग मार्गोंन तथा अन्य इलेक्ट्रॉनिक उपकरण अपनाने के परिणामस्वरूप टाइपिंग के संवर्ग कार्य में कम्बी हो जायेगी ऐसे टाइपिस्टों के लिए कार्यभार बहुत कम हो जाने की आशा है। इसके अलावा यथा समय टाइपिस्टों की कोटि भी गमाप्त हो जायेगी। इसे ध्यान में रखते हुए रेलवे बोर्ड चाहता है कि हेत्रीय रेल प्रशासन निम्नतम ग्रेड में यथापेक्षित टाइपिस्टों की शिक्षितयों को लिपिकों की कोटि में अन्तरित करने के अलावा समग्र स्थिति की समीक्षा करे तथा मौजूदा टाइपिस्टों को टाइपिंग कार्य के अतिरिक्त समुचित लिपिकीय वर्गीय कार्य भी सौंपे।

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16. The learned counsels for the applicants also contended that the pay scales of the level of clerks and superintendent Grade I for both typist and clerks are the same and the anomalies have been created in the case of intermediate levels of senior clerks, senior typists, head clerks and head typists and superintendent Grade II.

17. The respondents have contested that these circulars lead to the conclusion that the cadre of clerks was completely merged with the cadre of typists. They have stated that at best the cadre of clerks and typists can be considered to have merged at the lowest rung of the two cadres. The seniority lists of typists and clerks have, however, remained separate at all levels till date. The promotions are being effected in the cadre of clerks and typists separately. Therefore, the theory of merger advanced by the applicants is fallacious.

18. We have considered the rival submissions. It is not denied that parity existed at various levels of the cadres of clerks and typists prior to order dated 16.10.97 which seeks to apply Fifth Commission scales to various posts in the Railways. The levels of senior typists, head typists and superintendent Grade II were down graded and were made lower than the scales given to senior clerks, head clerks and superintendent grade II on the clerkal side. The cadre of typists from a live and growing cadre was converted into a "vanishing cadre" by virtue of orders dated 17.7.92 and 7.4.93 referred to by us, earlier. The Railway Board by these two orders have taken steps to ultimately encompass the cadre of typists in the cadres of clerks when nomenclature of posts at the level of typists (if any person has remained in this grade after circular dated 17.7.92 was brought into force) senior typists, head typists and superintendent (Typing) Grade II will also



disappear. At present the distinction exists. It will disappear when all the incumbents of the posts of typists at various levels either retire or get promoted to the level of Supdt. Grade I. We, therefore, do not accept the premise that the two cadres have completely merged after circular of Railway Board dated 17.7.92 was brought into force. But the intention of the Ministry of Railways in finally doing away with the cadre of typists is clear from the contents of the orders dated 17.7.92 and 7.4.93 and a process has been set in motion already which will lead to termination of the cadre, of typists.

19. The learned counsels for the applicants contended that the Fifth Central Pay Commission did not recommend separate pay scales for the cadre of typists and clerks. On the other hand, it treated the cadre of typists to be a part of the general clerical cadre and, therefore, the pay scales prescribed for the clerical cadre were applicable to the cadre of typists and should have been so prescribed. The learned counsels for the respondents, on the other hand, have contended that the Fifth Central Pay Commission put a premium on higher qualification and because the educational qualification for directly recruited senior clerks in the clerical cadre was increased to graduation, the higher scale given to them was justified and the scales of next higher levels had to be enhanced. There was no such increase in qualification for the cadre of typists. They have also stated that the Pay Commission recommended higher pay scales for the cadre of clerks while they have recommended corresponding pay scales for all the other cadres in the Railways and, therefore, it had, by this recommendation, created distinction between the cadre of typists and clerks.

20. We have considered the submission of parties on this issue. We find that till Railway Board order contained

in the letter dated 16.10.97 was issued, there was complete parity between the grades of clerks and the grades of the typists. The issuance of order dated 16.10.97 disturbed this parity in Northern Railway. The parity was, however, continued in North Eastern Railway till order dated 8.3.2000 was passed and notice dated 16.4.2000 was issued. It is not denied by the respondents that parity was maintained as far as the initial grade of clerks and typists and the grade of supdt. Grade I was concerned. It was disturbed in the intermediate three grades. This situation continued till letter dated 30.1.2001 was issued to all General Managers, OSDs and CAOs of Indian Railways and production units by which the intermediate grades of 4500-7000 and Rs.5000-8000 were upgraded to Rs.5000-8000 and Rs.5500-9000 respectively w.e.f. the date of issue of the letter. This left the intermediate category of senior typists only below the parity which existed upto the Fourth Pay Commission between respective categories of clerks and typists.

21. We have further considered whether the Fifth Pay Commission authorised such a change of pay scales of intermediate cadres of typists vis-a-vis clerks while order dated 16.10.97 progress the application of Fifth Pay Commission scales to the cadre of clerks and typists respectively. It is clear from paragraph 55.152 and 55.153 of the report which reads as follows :-

"55.152 Language typists can be divided into four categories (i) typists in English, (ii) typists in Hindi, (iii) typists in Indian languages other than Hindi, and (iv) typists in foreign languages. Typists in category (i) and (ii) form part of the general clerical cadre of an organisation. They are treated at par in the matter of pay scales, promotion avenues etc.

55.153 There are some posts of language typists in Government of India. These are isolated posts in many offices, the largest concentration being in offices under the Ministry of Information and Broadcasting. The minimum requisite qualification for appointment to the post is matriculation with proficiency in typewriting in the specific Modern Indian Language (M.I.L.). In the absence of any promotional avenues, a demand has been made for upgradation

of the posts of language typist in the Ministry of Information and Broadcasting. The strength of this demand has been drawn from the case of Tamil typist in the Department of Health and Family Welfare, where a post of Senior Language typist has been created in the pay scale of Rs.1400-2300 by abolishing the post of Tamil typist in the pay scale of Rs.950-1500 and from the case of language typist in U.P.S.C. where the post has been upgraded to the scale of Rs.1600-2660. The Department of Personnel and Training has not evolved any policy/guidelines for promotion of language typists. However, in view of the fact that most of the regional languages have been adopted by one or the other State Governments as their official language and that such languages are taught in schools as one of the compulsory/elective subjects in addition to other common disciplines, it can be safely vouched that they are fully competent to perform other jobs related to the post of LDC. As such, we recommend that the posts of language typist be merged with the clerical cadres of the respective organisation/Central Secretariat Clerical Service in the case of Secretariat in the pay scale of Rs.950-1500. This will ensure adequate promotion opportunities for these typists."

22. The Fifth Pay Commission then went on to prescribe the pay scales of clerical cadre separately. It is clear that the same pay scales should have been made applicable to the cadre of typists also which was considered to be a part of the general clerical cadre. Prescription of separate scales for the cadre of typists and for cadre of clerks^{in the railways} was clearly not based on correct interpretation of the recommendations of the Fifth Central Pay Commission. The pay scales of the cadre of clerks and of typists were meant to be identical as before as per the recommendations of the Fifth Central Pay Commission and separate pay scales were prescribed by the Railway Board contrary to the recommendations of the Fifth Central Pay Commission.

23. We find that by application of the revised pay scales to the cadres of typists and clerks inequalities between the intermediate grades of the two cadres were created overnight. Senior typists who were equivalent to senior clerks, head typists, who were equivalent to head clerks and superintendent Grade II (Typing) who was equivalent to superintendent Grade II in the clerical cadre came one level below. Thus, senior typist was made equivalent ^{a level below} of senior clerk and office superintendent Grade II was made

a level below that of Office Supdt.II of the clerical cadre, the head typists was made equivalent of senior clerk and office superintendent Grade II was made equivalent of a Head Clerk. Thus, Railway Board letters dated 16.10.97 and 8.3.2000 had the effect of creating inequalities which was not and could not have been as per the recommendations of the Fifth Central Pay Commission.

24. The contention of the learned counsel for the respondents was that the two cadres were to remain separate till the incumbents of typists cadre who were recruited as typists were phased out. Therefore, the interests of those in typist cadre were not adversely affected. They also contended that higher qualifications of senior clerks required, higher pay scales and thus, the spirit of recommendations of the Fifth Central Pay Commission was followed.

25. This contention cannot be accepted because the cadre of senior clerks contained senior clerks with two qualifications - graduates and matriculates and both became entitled to the new pay scale and the cadre of head clerks and office supdt. Grade II also included both graduates and matriculates. By action of the Railway Board, those in the clerical cadre at intermediate levels became entitled to higher pay scales while those in the typist cadre were given lower pay scales downgrading them and affecting their prospects like their appointments on deputation posts and on higher echelons in which incumbents from both the cadres were considered. Graduate clerks had even before the recommendation of Fifth Central Pay Commission were recruited and had already been given incentives by way of promotion/induction as senior clerks. The ground given by the learned counsels for the respondents do not justify such an introduction of inequalities on 16.10.97 w.e.f. 1.1.96. We have perused the recommendations of the Fifth Central Pay Commission relating to the Ministry of Railways

Recommendations regarding clerical cadres in various departments of the Railways have been given in Paragraph 83.96, 83.138, 83.220 and 83.225 but we find no mention of the cadre of typists in any paragraph of the chapter. It is clear that the Fifth Central Pay Commission in view of its recommendations in para 153 and in view of the situation prevailing in the Ministry of Railways has taken the posts of language typists as part of the clerical cadre and has not, therefore, referred to the cadre of typists separately. The only conclusion with regard to the pay scales of the cadre of typists can thus, be that the recommendations pertaining to the cadre of clerks will apply to the cadre of typists.

26. The Railway Board has belatedly tried to correct the anomaly created by it by issuance of circular dated 30.1.2001 in which it has upgraded the pay scales of Head Typists and Supdt. Grade II but has given prospective effect to its orders. This action of the Railway Board is inadequate because of leaving out the level of senior typists which is a part of the cadre and because of giving prospective effect to its correction of pay scales of Head Typists and Supdt. Grade II.

27. In view of the findings, we declare the circulars dated 8.3.2000 and 10.4.2000 to be arbitrary and violative of Articles 14 & 16 of the Constitution and quash them. The respondents are directed to pay the applicants in the same pay scales, as were applicable to senior clerks, head clerks and office supdt. Grade II of clerical cadre as contained in order dated 16.10.97 w.e.f. 1.1.96. The compliance of these orders shall be made by the respondents within three months from the date of receipt of a copy of this order.

There shall be no order as to costs.