

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

**O.A.NO.** 650 of 1993  
**TWANNO**

**DATE OF DECISION** 18.4.2000

Railway Engineering Welfare Association and Ors **Petitioner**

Mr. P.C. Master **Advocate for the Petitioner [s]**  
**Versus**

Union of India and Ors **Respondent**

Mr. N.S. Shevde **Advocate for the Respondent [s]**

**CORAM**

**The Hon'ble Mr. A.S. Sanghavi : MEMBER (J)**

**The Hon'ble Mr.**

**JUDGMENT**

- 1, Whether Reporters of Local papers may be allowed to see the Judgment?
- 2, To be referred to the Reporter or not?
- 3, Whether their Lerdships wish to see the fair copy of the Judgment?
- 4, Whether it needs to be circulated to other Benches of the Tribunal?

...2...

1. Railway Engineering Welfare, Association having its office, At Lal Boarding, Prantij, Pin-383 205. District : Sabarkantha.
2. Narsingh Kasusingh (Gangman) Address as per No. 1 above : Applicant.

**(Advocate : Mr. P.C. Master)**

**VERSUS**

1. Union of India  
(Notice to be served through General Manager, Western Railway, Churchgate, Mumbai.)
2. Addl. Divisional Railway Manager, Having his office at Kothi compound, Rajkot.
3. Assistant Engineer, Western Railway, Near Meter Gauge Railway Station, Sabarmati, Ahmedabad. : Respondents.

**(Advocate : Mr. N.S. Shevde)**

...3...

ORAL ORDER

O.A. No. 650 of 1993

Date : 18.4.2000

PER : HON'BLE MR. A.S. SANGHAVI : MEMBER (J)

Neither Mr. P.C. Master, counsel for the applicants nor the applicants present. None was present on several last dates. O.A. is therefore dismissed for default. No order as to costs.

  
(A.S. Sanghavi)  
Member (J)

Pkn

DATE	OFFICE REPORT	ORDER
11.2.2000		<p>Mr.P.C.Master is not present. Adjourned to 18.4.2000.</p> <p><i>Ar</i></p> <p>(A.S.Sanghavi) (V.Rādhakrishnan) Member (J) Member (A)</p>
18.4.2000		<p>nkk</p> <p>None present for the parties.</p> <p>Oral order passed in the Open Court.</p> <p><i>Ar</i></p> <p>(A.S. Sanghavi) Member (J)</p> <p>Pkn</p>

DATE	OFFICE REPORT	ORDER
16-6-99		<p>At the joint request, adjourned to 11-8-99-</p> <p><i>AS</i></p> <p>(A.S.SANGHAVI) MEMBER (J)</p>
11.8.99		<p>At the request of Mr. Shevde, adjourned to 21.9.99.</p> <p><i>AS</i></p> <p>(A.S.Sanghavi) Memer (J)</p>
21.9.99		<p>At the request of Mr. P.C.Master, adjourned to 29.10.99.</p> <p><i>AS</i></p> <p>(A.S. Sanghavi) Member (J)</p>
29.10.99		<p>Time being over, adjourned to 14.</p> <p><i>P.C.</i></p> <p>(P.C.Kannan) Member (J)</p>
14.12.99		<p>Being a Division Bench matter, adj to 11.2.2000.</p> <p><i>AS</i></p> <p>(V.Radhakrishnar Member (A)</p>
		<p>nkk</p>

Date

Office Report

ORDER

1.9.98

At the request of Mr. Shevde, for filing  
appearances. Adjourned to 13.10.98.

*DR*

(P.C.Kannan)  
Member(J)

nkk

13.10.98

Being a Division Bench matter, adjourned to  
26.11.98.

*DR*

(V.Radhakrishnan)  
Member(A)

nkk

26.11.98

Mr. P.C.Master is not present. At the  
request of Mr. Shevde on behlaf of Mr. Kothari,  
adjourned to 8.2.99.

*DR*

(P.C.Kannan)  
Member(J)

*DR*  
(V.Radhakrishnan)  
Member(A)

nkk

8.2.99

Mr. Shevde files sick note today. Adjourned  
to 8.4.99.

*DR*

(P.C.Kannan)  
Member(J)

*DR*  
(V.Radhakrishnan)  
Member(A)

nkk

8.4.99

Mr. Master is not present. At the request of  
Mr. Shevde, counsel for the respondents, adjourned  
to 16.6.99.

*DR*

(P.C.Kannan)  
Member(J)

*DR*  
(V.Radhakrishnan)  
Member(A)

nkk

D.L.

## Office Report

## ORDER

6.1.98

Sick note filed by Mr. Kothari.

Adjourned to 11.03.1998.

( T.N.Bhat )  
Member (J)( V.Radhakrishnan )  
Member (A)

npm

11/3/98

- Notice issued on 12/3/98
- RPAD received from RES 2 & 3

Issue notice to respondents to nominate alternative counsel, in place of late Shri A.S. Kothari.

Adjourned to 29/4/98.

( P. C. Kannan )  
Member (J)( V. Radha Krishnan )  
Member (A)

29.4.98

As the Division Bench is not available today, adjourned to 2.7.98.

( V. Radha Krishnan )  
Member (A)

2.7.98

Mr. Shevde files appearance on behalf of the respondents and seeks and granted time upto 01.9.98.

( Laxman Jha )  
Member (J)( V. Radha Krishnan )  
Member (A)

\*SN

20.6.97

At the joint request of the learned advocates  
the matter is adjourned to 16th July, 1997.

*lun*  
(T.N. Bhat)

Member (J)

*lun*  
(V.Radhakrishnan)

Member (A)

npm

16.7.97.

Both the learned advocates are present.

Being a Division Bench matter, adjourned to  
27.8.1997.

*lun*  
(V.Radhakrishnan)  
Member (A)

ait.

Sick note filed by Mr. Kothari.

Adjourned to 26.9.1997.

*lun*  
(T.N. Bhat)

Member (J)

*lun*  
(V.Radhakrishnan)  
Member (A)

npm

Sick Note filed by Mr. A.S. Kothari

Adjourned to 25-11-97.

*lun*  
(T.N. Bhat)  
Member (J)

*lun*  
(V.Radhakrishnan)  
Member (A)

Pt

None present for the applicant.

Leave note filed by Mr. A.S. Kothari

Adjourned to 6.1.1998.

*lun*  
(T.N. Bhat)  
Member (J)

*lun*  
(V.Radhakrishnan)

ait.

Mr.P.C.Master is present. Sick note filed by Mr.Kothari

BEING A DIVISION BENCH MATTER  
ADJOURNED TO 19.2.97

*VR*  
V. Radhakrishnan  
Member (A)

19.2.97.

For want of time, adjourned to 27.3.1997.

*VR*  
(T.N.Bhat)  
Member (J)

*VR*  
(V.Ramakrishnan)  
Vice Chairman

ait.

27.3.97

Rejoinder filed by the counsel  
taken on record.

Adjourned to 29.04.1997.

*VR*  
( V.Radhakrishnan )  
Member (A)

npm

4.97.

Mr.P.C.Master is present. Sick note

filed by Mr.A.S.Kothari. Adjourned to

20.6.1997.

*VR*  
(T.N.Bhat)  
Member (J)

*VR*  
(V.Radhakrishnan)  
Member (A)

ait.

(G)

Date	Office Report	ORDER
19.12.96.		<p>Present : Mr.P.C.Master for the applicant. Mr.A.S.Kothari for the respondents.</p> <p>Learned counsel for the applicant submits that in compliance of the order dated 2.7.1996, no copy of fixation order has been delivered to him and it is not clear whether the Department has at all passed any such pay fixation order. Learned counsel for the applicant is also not in a position to give definite reply to the querry of the Court in this regard.</p> <p>In the circumstances, we think that the respondents are required to be directed to produce the copy of the pay fixation order if there is a else officer incharge of the case shall remain present in the Court ready to answer the querry of the Court. Call on 24.1.1997.</p> <p>Copy of this order may be made available to the learned counsel for the respondent for necessary follow up action.</p> <p style="text-align: right;">J (A.K.Mishra) Member(J)</p> <p style="text-align: right;">K.R (K.Ramamoorthy) Member(A)</p> <p>ait.</p> <p><i>Copy of all bldy prepared for Mr. A.S.Kothari Advocate Legal Advisor 26/12/96</i></p>

Date	Office Report	ORDER
3.10.1996		At the joint request of the learned advocates, adjourned to 15.10.1996.
15.10.96		At the request of Mr.A.S.Kothari, the matter is adjourned to 23.10.1996.
23.10.96		Time being over, adjourned to 4.11.1996.
4.11.96		Being a Division Bench matter, adjourned to 19.12.1996.

Date	Office Report	ORDER
1.8.96		<p>Leave note filed by Mr.A.S.Kothari. Being a Division Bench matter, adjourned to 9th August, 1996.</p> <p style="text-align: right;">(K.Ramamoorthy ) Member (A)</p> <p>npm</p>
9.8.96		<p>Being a Division Bench matter, adjourned to <del>2x9x</del> 3rd Sept.1996.</p> <p style="text-align: right;">(K.Ramamoorthy ) Member (A)</p> <p>npm</p>
3-9-96		<p>On account of sad demise of Shri G.A.Pandit, at the request from the Bar, adjourned. Call on 12-9-1996.</p> <p style="text-align: right;">(K.Ramamoorthy ) Member (A)</p> <p>ait.</p>
12.9.96		<p><del>Mrx</del> Sick note filed by Mr.Kothari. At the request of Mr.P.C.Master, the matter is adjourned to 19.9.1996.</p> <p style="text-align: right;">( K.Ramamoorthy ) Member (A)</p> <p>npm</p>
19.9.96		<p>Sick note filed by Mr.Kothari. At the request of Mr.P.C.Master, adjou to 3rd October,1996.</p> <p style="text-align: right;">(K.Ramamoorthy ) Member (A)</p> <p>npm</p>

Date	Office Report	ORDER
2.7.96.	<p>Both the learned counsels are present.</p> <p>Copy of pay fixation order passed by the respondent-department if any, may be made available to the applicant. The admission of this O.A. will not stand in the way of payment of such amounts as fixed by the respondent-department to the applicant. It is also open to the applicant to pursue the matter regarding short fall, if any in the pay fixed.</p> <p>Call on 1st August, 1996.</p> <p>Direct service as regards respondents no.2 and 3, permitted.</p> <p>Copy of this order may be given to the counsel for the applicant.</p> <p>12</p> <p>(K. Ramamoorthy) Member(A)</p> <p>Copy of this order may be given to the counsel for the applicant.</p> <p>12</p> <p>31/7/96</p>	<p>Both the learned counsels are present.</p> <p>Copy of pay fixation order passed by the respondent-department if any, may be made available to the applicant. The admission of this O.A. will not stand in the way of payment of such amounts as fixed by the respondent-department to the applicant. It is also open to the applicant to pursue the matter regarding short fall, if any in the pay fixed.</p> <p>Call on 1st August, 1996.</p> <p>Direct service as regards respondents no.2 and 3, permitted.</p> <p>Copy of this order may be given to the counsel for the applicant.</p> <p>12</p> <p>(K. Ramamoorthy) Member(A)</p> <p>Copy of this order may be given to the counsel for the applicant.</p> <p>12</p> <p>31/7/96</p>

Date

Office Report

ORDER

4f

16.4.96

P.C.Master is present. Mr.Anil S.Kothari, the concerned Railway Counsel has filed leave note. Hence, adjourned to 22.4.1996.

IR

(K.Ramamoorthy)  
Member(A)

ait.

22-4-96.

Mr.Anil S.Kothari files appearance.  
Adjourned to 1-5-1996.

R

(K.Ramamoorthy)  
Member(A)

ait.

1.5.96

Urgent Note No:5/96 in OA/650/93

Adjourned to 19.06.1996.

Meanwhile the counsel for the respondents-deptt. may find out whether the order stated in the note has been passed by the deptt. Note:5/96 stands disposed of.

Call on 19.06.1996.

IR

(K.Ramamoorthy)  
Member(A)

npm

19.6.96.

Being a Division Bench matter, adjourned to 2.7.1996.

R

(K.Ramamoorthy)  
Member(A)

ait.

DATE	OFFICE REPORT	ORDER
14/2/94		<p>As the learned Member of the Bench is not available, the matter is adjourned</p> <p>28/2/94</p>
		<p>K. RAMAMOORTHY MEMBER (A)</p>
28-2-94	<p>Memo of appearance not filed by Shri Kyada.</p> <p>15/3/94.</p>	<p>Mr. Kyada files appearance. Adjourned to 16-3-1994 for filing reply, etc.</p> <p>Mr. Kyada</p> <p>(K. Ramamoorthy) Member (A)</p> <p>(N.B. Patel) Vice Chairman.</p> <p>*AS.</p> <p>Admitted. May be fixed for final hearing in due course. Reply may be filed before the Office latest by 13.4.94, with a copy to Mr. P.C. Master, and rejoinder may be filed before the Office within 10 days after the filing of the reply, with a copy to Mr. Kyada.</p> <p>(K. Ramamoorthy) Member (A)</p> <p>(N.B. Patel) Vice Chairman</p>

ait.

Date	Office Report	Order
12.11.93		<p>None is present for the applicant. In the interest of justice the matter is adjourned to 14th December, 1993.</p> <p><u>M.R.Kolhatkar</u> <u>R</u> (M.R. Kolhatkar) (R.C. Bhatt) Member (A) Member (J)</p>
14-12-1993		<p>AIT</p> <p><u>M.A. 618/93</u></p> <p>M.A. allowed. Permission to file common application granted. M.A. stands disposed of.</p> <p><u>O.A. 650/93.</u></p> <p>At the request of Mr. Master conveyed through Mr. Rana adjourned to 10-1-94.</p> <p><u>R</u> <u>Y</u> (K. Ramamoorthy) (N.B. Patel) Member (A) Vice Chairman.</p>
10-1-94	<p>1) Notice issued on 14-1-94.</p> <p>2) Reff M: 2. f</p> <p>3 served.</p> <p>OF 11-2-94</p>	<p>Notice pending admission returnable on 14-2-94.</p> <p><u>R</u> <u>Y</u> (K. RAMAMOORTHY) (N.B. PATEL) MEMBER (A) VICE CHAIRMAN</p> <p>*AST</p>

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMED BAD

OA/TA/MA/RA/C.A. NO.

OA/650/93

Rly. Engrg. Welfare  
Assn. & Ors.

APPLICANT(S)

MR. P. C. Maeter

COUNSEL

VERSUS

U.O.L. Soc.

RESPONDENT(S)

COUNSEL

DATE	Officer Report	Orders
1.2.94	RPAID Seized	form. Ril. No 283 4 12
28.3.94	RPAID 2nd from Ril. No 283	Gen
9.8.94	Rep'l filed by S/o B.R. Jagat	

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMED BAD

OA/TA/MA/RA/C.A. No.

OA/650/1983

Rly. Engrg. Welfare  
Assm. Bells

APPLICANT(S)

MR. P.C. Master

COUNSEL

VERSUS

401 Bells

RESPONDENT(S)

COUNSEL

DATE	Officer Report	Orders

28/2

(24)

Date	Office Report	order
24.4.2002	Mr. Shevde says that the calculation have already been made and the negotiations are in the final stage. He promises to supply the copy to the learned advocate for the applicant. The difficulty has arisen because of the transfer of the official person and that the new officer will take decision after getting all the facts and figures. He seeks one more date. Adjourned to 25.6.2002.	
		<i>A</i> (G.C. Srivastava) Member (A)
25.6.2002	None present for the applicant. Mr. Master for the MA applicant is not present. Adjourned as a last chance to 11.7.2002.	<i>A</i> (A.S. Sanghvi) Member (J)
11/07/02	Time being over Adj. to 16/08/2002.	<i>A</i> (G.C. Srivastava) Member (A)
16/08/02	None present for the parties. Adj. to 09/09/02.	<i>A</i> (G.C. Srivastava) Member (A)

*CRS/**(G.C. Srivastava)  
Member (A)*

(W)

Date	Office Report	order
09/09/2002	18.9.2002	For applicant : Mr. P.C.Master Learned counsel for the applicant submits that this case was earlier heard by the Bench comprising of Hon'ble Mr. A.S.Sanghvi (J) and Mr. Mr. G.C.Srivastava, Member(A). List before appropriate bench on 18/09/2002.  <i>ccw</i> (G.C.Srivastava) Member(A) CMJ/  Heard learned advocate for boht the parties for some time. Mr. Shevde is directed to produce the departmental file pertaining to the applicant's posting their promotions. Copy of order be given to Mr. Shevde. Adjourned to 26.9.2002.  <i>ccw</i> (G.C.Srivastava) Member (A) sm In view of the resolution of the Bar Association abstaining from the work to protest against the attack on the Akshardham Temple at Gandhinagar, Adjourned to 14.10.2002.  <i>ccw</i> (G.C.Srivastava) Member (A) vtc.  <i>A</i> (A.S.Sanghvi) Member (J)
18.9.2002		
26.9.2002		

(26)

Date	Office Report	Order
14.10.2002		<p>This being a part heard matter. To be heard by the Bench consisting of Shri A.S. Sanghvi &amp; Shri G.C.Srivastava. Adj. to 30.10.02</p> <p>Sh (Shankar prasad) Member (A)</p> <p>An (A.S.Sanghvi) Member (J)</p> <p>vtc. Adjourned to 31/10/02.</p> <p>CG.C.Srivastava Member (A)</p> <p>An (A.S.Sanghvi) Member (J)</p> <p>MBT</p>
30/10/02		<p><b>M.A. 593 of 2000 With O.A. 650 of 93</b></p> <p>Heard the learned advocate of both the parties. In view of the reasons given in the M.A. the M.A. is allowed and the O.A. is restored to file. No order as to costs. M.A. 593 of 2000 stands disposed of.</p> <p>2. Heard the learned advocate of both the parties. O.A. is Reserved for Orders.</p>
10/10/03	<p>Judgment pronounced in open Court 10.10.03</p> <p>10/10/03</p>	<p>ee (G.C. Srivastava) Member (A)</p> <p>An (A.S. Sanghvi) Member (J)</p> <p>MBT</p>

**CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH**

**O.A. 650 of 1993**

**Date of Decision : 10/01/2003**

**Railway Engineering Welfare**  
**And Mr. Narsingh Kasu singh** : Applicant (s)

**Mr. P. C. Master** : Advocate for the Applicant (s)

Versus

**Union of India & Ors.** : Respondent (s)

**Mr. N. S. Shevde** : Advocate for the Respondent (s)

**CORAM:**

**THE HON'BLE MR. A. S. SANGHVI : MEMBER (J)**

**THE HON'BLE MR. G. C. SRIVASTAVA : MEMBER (A)**

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

- 2 -

1. Railway Engineering Welfare,  
Association having its office,  
At Lal Boarding, Prantij,  
Pin : 383 205.  
District : Sabarkantha.
2. Narsingh Kasusingh (Gangman)  
Address as per No. 1 above.

- Applicants -

**Advocate : Mr. P. C. Master**

Versus

1. Union of India  
Notice to be served through,  
General Manager, Western  
Railway, Church gate,  
Mumbai.
2. Addl. Divisional Railway Manager,  
Having its office at  
Kothi Compound,  
Rajkot.
3. Assistant Engineer,  
W. Rly., Near Meter Gauge Railway Station,  
Sabarmati,  
Ahmedabad.

- Respondents -

**Advocate : Mr. N. S. Shevde**

**JUDGMENT  
O.A. 650 of 1993**

Date : 10 /01/2003

Per Hon'ble Shri. A. S. Sanghvi : Member (J).

The applicant no. 1 Association has moved this O.A. for the redressal of the grievances of his members with regard to the

inaction of the Railway authorities to grant higher pay scale to the members of the Association. According to the petitioner No.1, Association is representing the Gangman, Gangmate, Trolley Man, Watchman etc in the open line. The members of the Association were appointed in clear vacancies but they have not been given the pay scale of Rs.210-270 and further revision of the scale of Rs.800-1150 from 1.1.86. It is contended by the applicants that the post of six employees have been upgraded and though some of the employees were given upgraded posts the resultant vacancies were not filled up in the scale of Rs.210-270. Some of the employees were given the upgraded posts but were not properly fitted in the scale and were kept in the scale of Rs.200-250/- i.e., Rs.775-1025 revised pay scale. This has resulted into large scale of heart burning and discrimination. A representation was also made by the employees on 15.1.92 for the revision of their pay but the representation has not yielded any result. Some of the employees were due for higher scale of 210-270 from 1.8.76 in 30% upgradation and 70% upgradation from 1.8.82 and even though this had been extended to the other units of the Engineering department such as Gangman under PWI, Rajkot / AEN Rajkot etc, <sup>*the same benefit is not extended to the applicants*</sup> The Association made efforts to get the redressal of their problem but the authorities concerned have not heeded to the representation of the Association also. According to the applicants, they are entitled to revision of pay scale of Rs.210-270 and thereafter from 1.1.86 Rs.800-1150/-. Since the respondents are not listening to the request of the Association this O.A. is filed. They have prayed

that the respondents be directed to grant the higher pay scales to these employees from the date on which these employees have become entitled to get the scale of Rs.210-270 and further higher scale of Rs.800-1150/- as per the revised pay scale and also to direct the payment of the difference in arrears of salary. Along with the O.A the schedule is also annexed giving particulars of the employees who are not given the benefit of the upgraded scale.

2. The respondents in their reply have inter alia contended that the O.A is barred by limitation as the benefit is claimed from 1982 and onwards and that since the benefit is sought from 1982 i.e., prior to the constitution of the Tribunal the Tribunal has no jurisdiction to entertain and try the claim. It is also contended that such an O.A. is not maintainable as many of the members shown in the schedule are not alive and such a joint application is not maintainable. The applicant no.2, 4, 8 and 16 are not alive while applicant no.19 has already retired whereas applicant no.18 and 62 have been removed from the Railway service. Many of the applicants were engaged as casual labourers and as such cannot be considered for getting any benefit of their past service as a regular one. It is also contended that no benefit can be given with retrospective effect as the Railway Board vide para 3 of the letter dated 18.3.93 has clarified that the vacancies arisen out of the cadre restructuring should be filled up by senior employees who should be given benefit of the promotion and arrears w.e.f. 1.3.93 ; whereas the normal benefits existing on 1.3.93 junior employees

should be posted by modifying the selection procedure but they will get promotion in higher pay from the date of taking over the rule from the date of normal rules of .... from the date of filling up of the vacancies and accordingly all the eligible persons have been promoted by order dated 12.3.94. According to the respondents out of 75 employees, 62 employees who are presently working have been promoted and so far as remaining 14 are concerned between 1985 to 1989 4 employees have died and one has retired in 1992. As regards the remaining 6 employees, they are not coming within the zone of consideration as per their seniority and therefore department has rightly not considered them. They have denied that the orders of upgradation of 70% and 30% w.e.f. 1.8.76 were issued. According to them w.e.f. 1.8.82, 110 posts were upgraded in the scale of Rs.210-270 and if there was any grievance in issuing any promotion at that point of time it was always open for the aggrieved persons to raise that question at that time. The same however cannot be raised after 10 years. They have prayed that the O.A. be dismissed with costs.

3. We have heard the learned advocates of both the parties and have carefully considered the rival contentions as well as various circulars issued by the Railway Board.

4. It is not denied by the respondents that the applicants are working as Gangman, Gateman, Trolley Man etc under PWI Prantiz in the open line and they have been working in clear and

permanent vacancies. It is also not denied by the respondents that the claim of the higher pay scale of Rs.210-270 by these employees has already been extended in the Rajkot Division vide D.O. No. EE-769/1 dated 22.5.84. It is submitted by Mr. Master learned advocate for the applicant that when one division has already extended the benefit of the higher pay scale to similarly placed employees the respondents cannot deny the same benefit to the applicants. He has pointed out that there is no cogent reason advanced by the respondents denying the benefit of higher pay scale of 210-270 to the applicants prior to 1.1.86 and revised pay scale of Rs.800-1150 from 1.1.86. He has pointed out that various representations were made by the employees as well as the Association and notice was also given through the advocate but they have fallen on the deaf years. Our attention was also drawn to the letter dated 27.4.93 of DRM Rajkot Annexure A/3 wherein referring to the restructuring of the cadre of the Engineering department he had asked for the details of Gangman, Gatekeeper and Trolley Man promoted to the scale of Rs.210-270 against the upgraded posts. According to Mr. Master, it is shown that the posts were upgraded in the ratio of 70% and 30% and the same was implemented by Rajkot division prior to 1.1.86.

5. It is not denied by the respondents that vide Board's letter No. PC III/91/CRC/1 dated 27.1.93 directions regarding cadre restructuring were issued by the Railway Board and subsequent to those directions some clarifications were also issued on 18.3.93. As

per these clarifications dated 18.3.93 Annexure R/4 the condition of the minimum period of 2 years service had been relaxed to one year and it was also clarified that the staff should be promoted as and when they complete one year on the old post of 1.3.93 or thereafter. It was clarified that this relaxation is applicable for the first promotion only which would mean that if a Railway servant becomes due for 2 promotions as a result of cadre re-structuring then the promotion cannot be given on 1.3.93 or thereafter subject to the completion of one year service in the existing pre promotion grade and the second promotion would be given after completion of the normal 2 years of the first promotion grade. It was also clarified that all vacancies arising out of the restructuring should be filled up by senior employees who should be given benefit of promotion of arrears w.e.f. 1.3.93 whereas for normal benefits existing from 1.3.93 junior employees should be posted by modified selection procedure but they would get the promotion from the date of the taking over the post as per the normal rules. The respondents have also annexed the statement dated 3/5.3.94 at Annexure R/5 showing the names of the Gateman, Gatekeeper and Trolley man in the scale of 750-1125 (Revised scale) provisionally promoted in the scale of Rs.800-1150/- and their fixation w.e.f 1.3.93 and onwards. This statement shows that 14 employees were promoted and given the scale of Rs.800-1150 w.e.f. 1.3.93 while six employees were promoted in the scale of Rs.800-1150/- with immediate effect i.e., w.e.f. 3.3.94.

6. The contention of the applicant is that fixation of their pay from 1.3.93 does not redress their grievances as their pay scale ought to have been fixed in the higher scale from 1982 onwards. The applicants have pointed that in response to the DRM Rajkot letter dated 3.2.94 the AEN Sabarmati had prepared a draft of the order dated 10.2.94 and this draft of the order for giving higher pay scale submitted to the DRM Rajkot takes into account the higher pay scale to be given to the employees from 1982 onwards and satisfied the demand of the applicants. Unfortunately, this draft order was not acted upon by the DRM Rajkot and hence the grievance still survives. This statement clearly reveals that most of the applicants were recruited prior to 1982 and as per the Railway Board's circular dated 20<sup>th</sup> December 1983 were entitled to claim the benefit of the higher pay scale w.e.f. 1.8.82 and thereafter. It appears that this circular was never implemented by the DRM Rajkot so far the case of the applicant under PWI Prantiz was concerned, though the same was implemented for Rajkot division. This is clearly a case of gross discrimination exercised by the authorities concerned in the case of two similarly placed group of employees relying on subsequent circular of the Board. The same applicants were given higher pay scale from 1.3.93 but their demand is that they ought to have been given the higher pay scale from the prior date of 82 or 83 as the case may be. The draft order prepared by the Sabarmati AEN on dated 10.2.94 and submitted for necessary orders by the DRM Rajkot clearly justifies the grievances

of the applicants. No reasons are however given by the DRM Rajkot for not implementing this draft order and giving higher pay scale to the employees only from 1.3.93.

7. It is no doubt true that the grievance is ventilated by the applicant about 10 years after the actual cause of action but then the question of the bar of limitation does not arise in their case as this is recurring cause of action. The cause of action arises to the applicants every month when they are paid less by the respondents and therefore it cannot be said that the delay in moving this O.A. disentitles the applicants from claiming the higher pay from the back date. However it is true that no orders for the payment of the arrears can be passed which are barred by limitation. It is also contended that many of the employees who are shown to be the applicants either died, removed from service or retired from the service. It is open to the respondents not to consider their cases for revision of the pay scale but so far others are concerned we find that they are entitled to the revision of their pay scale w.e.f. the date they had become entitled to and the same has been rightly shown in the statement prepared by the AEN Sabarmati on dated 10.2.94. The respondents are therefore required to be directed to implement the draft order prepared by the AEN Sabarmati on dated 10.2.94 for notionally fixing the pay of the surviving applicants. They will however be entitled to the arrears of the difference of pay only from one year prior to the filing of this O.A. i.e., w.e.f. 1.11.92. Those employees who retired after the filing of this O.A. also will be

entitled to the refixation of their pay in the revised pay scale and the difference of the arrears as applicable.

8. We therefore allow this O.A. to the extent of directing the respondents to notionally fix the pay of the surviving applicants on the date of the filing of this O.A. including those who have retired after filing this O.A. as per the draft order prepared by AEN Sabarmati on dated 10.2.94. They shall however be entitled to be paid the difference of arrears of the pay only from the date 1.11.92. This exercise be completed within 4 months from the date of the receipt of the copy of this order. The O.A stands disposed of with this directions. No order as to cost.

*G. C. Srivastava*  
(G. C. Srivastava)  
Member (A)

*A. S. Sanghvi*  
(A. S. Sanghvi)  
Member (J)

MBT

Date	Office Report	ORDER
12-11-03	<p><u>MA 662 103</u></p> <p>MA filed key the counsel. proceeded few extension of time upto 30-11-04 for compliance</p> <p><u>AB</u> 12/11/03 Office ABM</p> <p><u>AB</u> 12/11 MA typed on both sides</p>	

DATE	OFFICE REPORT	Q R J - R
14.11.03	<p>Mr. Shevde for the respondents seeks time <sup>after</sup> to move delay condoned application. Adjourned to 28.11.03.</p> <p><i>Sh</i> (Shankar Prasad) Member (A)</p> <p>MA Filed by Mr. N.S. Shevde Advocate for Respondent for condonation of delay</p> <p>MA posted for orders please.</p> <p><i>Sh</i> 25/11/03 <i>DRJ</i></p> <p><i>DRJ</i> 25/11/03</p>	<p><i>DR</i></p> <p>(A.S. Sanghvi) Member (J)</p>
28.11.2003	<p>Issue notice on MA/662/03 and MA/696/03 returnable on 22.12.03.</p> <p><i>Sh</i> (Shankar Prasad) Member (A)</p> <p>cns</p> <p>Notice from Aby. Engineering welfare Association (Panaji) returned unserveel with Postal Remarks "This name in office is closed" and Kept in Poste</p> <p><i>DR</i> 18/12/03 <i>DRJ</i></p>	<p><i>DR</i></p> <p>(A.S. Sanghvi) Member (J)</p>

## REPORT OF THE CHIEF CHARTERED ACCOUNTANT

DATE	OFFICE REPORT	ORDER
22/12/2003		<p>For applicant : Mr. N.S.Shevde  For respondents : None  Heard. Issue notice to applicant no.2 mentioned in the OA returnable on 27/01/2004.</p> <p><i>Sh</i>  (S. Shankar Prasad)  Member (A)</p> <p><i>DCV</i>  (D.C. Verma)  Vice Chairman (J)</p> <p>CMJ/</p>
27.1.2004	RPAD recd.	<p>Mr. P.C. Master for the opponents has filed a leave note. Mr. Shevde for the applicant also seeks time. Adjourned to 10.2.04.</p> <p><i>GR</i>  (G.R. Patwardhan)  Member (A)</p> <p><i>AS</i>  (A.S. Sanghvi)  Member (J)</p>
10.2.2004		<p>cns</p> <p>Mr. Shevde seeks further time on the ground that the Additional DRM has already passed an order extending the benefits as directed by the Tribunal to 52 persons. He says that the further implementation of the order is in progress. Mr. Master for the original applicant is present. Considering the request made we adjourned the M.A. to 27.2.2004.</p> <p><i>Sh</i>  (S. Shankar Prasad)  Member (A)</p> <p><i>AS</i>  (A.S. Sanghvi)  Member (J)</p> <p>KSB.</p>

MA 662/03 and 696/03 in O.A. 650/93

DATE	OFFICE REPORT	ORDER
27.2.2004		<p>Mr. Shevde seeks further time to see that payment is arranged.</p> <p>Adjourned to 19.3.2004.</p> <p><i>Sh</i> <i>A</i></p> <p>(Shankar Prasad) (A.S. Sanghvi) Member (A) Member (J)</p> <p>KSB.</p>
19.3.2004		<p>Mr. Shevde says that the calculation of the due amount is already made and due and drawn statement is also worked out and sent to the Account Office. He says that the payment would be made within short period. Considering that some progress is made, we adjourned the M.A. to 31.3.2004.</p> <p><i>Sh</i> <i>A</i></p> <p>(G.R. Patwardhan) (A.S. Sanghvi) Member (A) Member (J)</p> <p>KSB.</p>
31.3.2004		<p>Mr. Shevde for the respondents not present.</p> <p>Adjourned as a last chance to 12.4.04.</p> <p><i>Sh</i> <i>A</i></p> <p>(Shankar Prasad) (A.S. Sanghvi) Member (A) Member (J)</p> <p>cns</p>

DATE	OFFICE REPORT	ORDER
12/04/2004		<p>Mr. Shevde says that orders have been passed in respect of 14 more persons and sent to the Accounts Section. Information regarding <del>52 + 14</del> <sup>payments to</sup> i.e. 66 persons is not available. He should <del>xxxxx</del> ascertain position and inform us on the next date. List on 26/04/2004.</p> <p><i>Sh</i> (Shankar Prasad) Member (A)</p> <p><i>Sh</i> (D.C.Verma) Vice Chairman (J)</p> <p>CMJ/</p>
26-4-2004		<p>Mr. Shevde states that payment shall be arranged <del>in accordance with</del> of the salary for the month of April '04 payable in May '04. Adjourned to 12-5-2004.</p> <p><i>Sh</i> (Shankar Prasad) Member (A)</p> <p><i>Sh</i> (D.C.Verma) Vice Chairman (J)</p> <p>nk</p>
12.05.2004		<p>Mr. Shevde says that he is yet to receive the information regarding payment of arrears.</p> <p>List on 09/06/2004.</p> <p><i>Sh</i> (Shankar Prasad) Member (A)</p> <p><i>Sh</i> (D.C.Verma) Vice Chairman (J)</p> <p>CMJ/</p>

COPY OF  
order dtd. 11/6/04  
VPO 2  
16/6/04  
DRES)

FROM NO. 4

MA/307/04 in OA/650/93

Date

Office Report

O R D E R

13/5/04

MA/307/04  
MA 13 filed by  
MR. N. S. Shevde  
for respondent  
Advocate on 11/5/04  
for Ext. of time  
in OA 13 ~~not~~  
placed for order.

Am  
13/5

SAC 13/5 P  
SAC 13/5 P

14.5.2004

For MA applicants : Mr. N. S. Shevde  
For MA respondent : None

MA may be listed on 9.6.04.

S  
(Shankar Prasad)  
Member (A)

(D.C. Verma)  
Vice Chairman (J)

cns

7/6/03 MA's 662/03  
with MA 696/03  
few COD few filly  
MA 662/03 few  
extension of time  
MA 166/04 few  
CD in filly MA  
230/04 few ~~order~~  
ordered in MA  
662/03 01/6/04

May be taken  
along with MA  
307/04 and  
all the papers  
have to be taken  
along with these  
bakers

(A)  
ATB

Date	Office Report	ORDER
9.6.2004		<p>Mr. Shevde for M.A. applicants says that the payment is made to the original applicants today. Mr. Master says that he has no knowledge about the payment made to applicants, he seeks time to verify whether payment is made or not. Mr. Shevde is also directed to bring some proof of the payment made to some of the applicants if not all.</p> <p>Adjourned to 11.6.2004.</p> <p style="text-align: right;">A. S. Sanghvi</p> <p>(Shankar Prasad) Member (A) (A.S. Sanghvi) Member (J)</p> <p>K.S.B.</p> <p><u>MA/662/03 in OA/650/03</u></p> <p>Vide Tribunal's order dated 9.6.04, it is seen that Mr. Shevde stated that the payment <del>are</del> is made to the applicant. However, we <del>do not</del> <del>know how the payment is made to the original applicant and</del> it is still not been paid. It appeared that the railway authorities are deliberately dragging in making the payment to the applicant and are indulged <del>in</del> <sup>in</sup> <del>to</del> delaying the tactics. In view of this position, we direct the D.O. and D.P.O. to remain personally present to answer why the payment has not been made up till now and why <del>should not be</del> <sup>should not</sup> action taken against them. Adjourned to 5.7.2004.</p> <p><i>Copy of order be given to Mr. Shevde</i></p> <p>(Shankar Prasad) Member (A) (A.S. Sanghvi) Member (J)</p>
11/6/2004		cns

OA/650/93

FROM NO. 4  
MA/662/03, MA/696/03, MA/166/04, MA/230/04, MA/307/04 in OA/650/93

DATE	OFFICE REPORT	ORDER
5.7.2004		<p>MA/662/03 in OA/650/93</p> <p>MA is moved for extension of time since the orders passed in the OA were not complied with. We had given time to the respondents to first comply with the orders and then seek extension of time to comply with the orders. We now told that the orders passed in OA/650/93 are complied with and the payments have been made to the applicant, <del>as</del> <sup>on</sup> their representations <del>are</del> fixing the pay notionally as directed. The respondents have also made available a copy of the extract from Wage Register as well as a copy of the A.D.s in respect of letter has signed by the applicants substantiating the claims. These documents are taken on record. Considering the payment is made and the directions in the OA are fully complied with, we dispose of the MA as infructuous. No order as to costs.</p> <p>All the MAs also stand disposed of.</p> <p>AP</p> <p>(Shankar Prasad) Member (A)</p> <p>AS</p> <p>(A.S. Sanghvi) Member (J)</p> <p>cns</p>