

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 71/94, 514/93, 733/93, 734/93, 44/94, 72/94,
~~73/94~~ NO. 79/94, 104/94, 152/94, 225/94.

DATE OF DECISION 3-6-1996.

Mr. D.V. Pandya & Ors. Petitioner s

Advocate for the Petitioner (s)

Versus

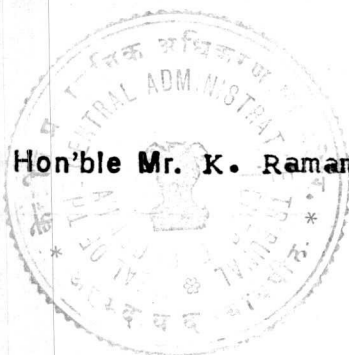
Union of India & Ors. Respondent s

Advocate for the Respondent (s)

CORAM

The Hon'ble ~~Mr.~~ Justice Mr. A.P. Ravani, Chairman.

The Hon'ble Mr. K. Ramamoorthy, Admn. Member.



O.A.No. 71/94

1. Devprasad Vinodral pandya
2. Vimal R. Joshi
3. P.N. Appu
4. J.D. Sarvaiya
5. Rohit R. Pathak
6. A.N. Sanghvi
7. D.J. Joshi
8. C.C. Rana
9. J.J. Shukla
10. B.M. Pandya
11. L.R. Patel
12. L.A. Zambre
13. N.S. Pathak
14. K.S. Shukla

All addressed to

C/o. P.N. Appu

Dy. Station Superintendent

Railway Station Probandar.

.....

Applicants.

(Advocate; Mr. P.H. Pathak)

Versus

1. Union of India
Notice to be served through
Chairman
Railway Board,
Rail Bhavan, New Delhi.

2. General Manager
Western Railway,
Churchgate, Bombay.

3. Divisional Railway Manager
Western Railway,
Bhavnagar Para, Bhavnagar.

.....

Respondents

(Advocate; Mr. R.M. Vin)

O.A.No. 514/93

1. M.A. Dhatiwala
2. N.C. Diwakaran
3. K.C. Dave
4. G.G. Shah
5. * V.B. Acharya
6. A.M. Shah
7. D.C. Patel
8. H.B. Parekh
9. B.U. Adwani
10. P.B. Joshi

All at present working as
Head Clerk in the office of
Chief Works Manager (Engineering
Workshop), Sabarmati, Western
Railway, Ahmedabad.

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Applicants

(Advocate; Mr. K.R. Raval)

Versus.



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1. Union of India, through
Secretary, Railway Board,
(Ministry of Railways),
New Delhi - 110 001.
 2. The General Manager,
Western Railway,
Churchgate, Bombay.
 3. Chief Works Manager
(Engineering Workshop)
Sabarmati, Ahmedabad.
 4. Shri Ambalal A.
working at present as
Chief Clerk in the office of
CWM(EW), Sabarmati,
Ahmedabad.
 5. Shri J.C. Waghela
at present working at
CWM(EW), Sabarmati,
Ahmedabad.
- Respondents
- (Mr. N.S. Shevde and
Mr. K.K. Shah for Resp.No.5)

O.A.No. 733/93

1. Shri R.K. Kachwa
 2. Shri Lalit Virendrakumar
 3. Shri Pawankumar Buddhanarayan
working as HD TTE, under
Respondent No.2.
- Applicants
- (Advocate: Mr. M.S. Trivedi)

Versus.

1. Union of India through
The General Manager,
W. Railway, Churchgate,
Bombay.
 2. The Divisional Rly. Manager,
DRM Office, W. Rly.,
Rajkot.
 3. The Divisional personnel Officer,
W. Rly, D.R.M. Office,
Rajkot.
- Respondents
- (Advocates: Mr. A.S. Kothari and
Mr. M.K. Paul for Resp.Nos.4, 5 & 6)

O.A.No. 734/93

Shri Tarachand T. Narwaney,
Aged 46 years, Occ; Service,
Add; working as Office Supdnt.,
Divisional Office,
Western Railway, Rajkot.

..... Applicant

(Advocate; Mr. B.B. Gogia)

Versus.

1. Union of India,
Owning and Representing
Western Railway, through
General Manager,
Western Railway,
Churchgate, Bombay.
2. Divisional Railway Manager
Western Railway,
Kothi Compound,
Rajkot.

..... Respondents

(Advocate; Mr. A.S.Kethari)

O.A.No. 44/94

1. Shri S.M. Batwala,
2. Shri M.V. Gandhi
3. Shri L.P. Kashyap
4. Shri Kanwarlal Gupta
5. Shri H.C. Lamba
6. Shri Arjun Bhatia
7. Shri Rajiv Gupta
8. Shri J.N. Nair
9. Shri R.S. Mishra,
- C/o. Shri S.N. Batwala,
Station Supdnt. W. Rly.,
Ahmedabad(BG) Stn.

..... Applicants.

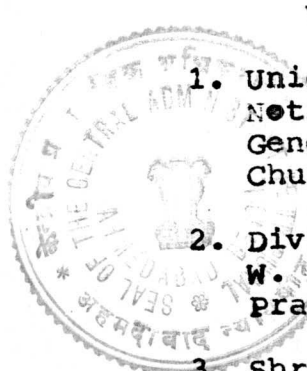
(Advocate; Mr. P.K. Handa)

Versus

1. Union of India
Notice to be served through
General Manager, W. Rly.,
Churchgate, Bombay.
2. Divisional Railway Manager(E)
W. Rly, Vadodara Divn.,
Pratapnagar, Vadodara.
3. Shri M.D. Rathodia,
Sr. Pass Guard,
C/o. Station Supdnt. W. Rly
Dabhoi Station, Dabhoi.
4. Shri M.N. Patel, Sr. Pass Guard,
C/o. Station Supdnt.,
W. Rly, Kosamba.

..... Respondents.

(Advocate; Mr. N.S. Shevde)



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O.A.No. 72/94

1. S.L. Sisodiya
2. L.G. Rana
3. B.P. Verma
4. Benjamin S
5. B.S. Gupta
All addressed to
C/o. S.L. Sisodiya
817/A, Filter Side,
Rly. Colony,
Freeland Ganj, Dahod.

.... Applicants.

(Advocate: Mr. P.H. Pathak)

Versus

1. Union of India
Notice to be served through
Chairman
Railway Board,
Rail Bhavan, New Delhi.
2. General Manager,
Western Railway,
Churchgate, Bombay.
3. Chief Works Manager (WR)
Rly. Work Shop,
Dahod.

4. Mr. L.N. Chauhan
5. Mr. S.K. Pithaya
6. Mr. B.H. Damer
7. Mr. P.R. Parmar
8. Mr. Ramsingh S
Resp.No.4 to 8 are working as
Head Clerks in the office of
CWM, Loco Workshop, Dahod.

..... Respondents.

(Advocate : Mr.N.S. Shevde &
Shri B.L. Chauhan & Ors.p in p)

O.A.No. 79/94

1. Sudhirkumar Kishanchand Mehrotra,
Aged about 50 yrs, Occ: Service
Working as Chief Ticket Inspector
(Amenities) at Bhavnagar Para,
Add: Commercial Section,
DRM's office, Western Railway,
Bhavnagar Para.
2. Satyanarayan purshottandasji Sharma
Aged about 52 yrs. Occ: Service,
working as Travelling Ticket Examiner
at Dhola Junction,
Add: C/o. C.T.I. Office,
Western Railway, Dhola Junction,
Dist: Bhavnagar.

3. Keekathial Oommen Varghese
Aged about 50 yrs.
Occ: Service, working as
Head Travelling Ticket Examiner
at Junagadh,
Add: C/o. C.T.I. Office,
Railway Station, Junagadh.

..... Applicants.

(Advocate: Mr. B.B. Gogia)

. Versus

1. Union of India,
Owning & Representing
Western Railway,
Through: General Manager,
Western Railway,
Churchgate, Bombay.
2. Divisional Railway Manager,
Western Railway,
Bhavnagar Para.

..... Respondents.

(Advocate: Mr. R.M. Vin)

O.A.No. 104/94

1. Shri K.J. Dave,
Age: 51 yrs. Occ: Service,
Add: Chief Clerk,
Railway Hospital, Rajkot.
2. Shri C.D. Sheth,
Age: 51 yrs. Occ: Service,
Add: Working as Chief Clerk
Asstt. Engineer's Office,
Western Railway, Jamnagar.
3. Shri J.V. Joshi,
Age: 51 years, Occ: Service,
Add: Chief Clerk, Works Branch,
Divisional Office,
Western Railway, Rajkot.
4. Shri A.P. Thadeshwar,
Age: 51 yrs. Occ: Service,
Add: Head Clerk,
Asstt. Engineer's Office,
Western Railway, Surendranagar.
5. Shri R.M. Jhalla,
Age: 53 yrs. Occ: Service,
Add: Head Clerk, Asstt. Engineer's Office,
Western Railway, Surendranagar.
6. Shri J.N. Dave,
Age: 57 yrs. Occ: Service,
Add: Head Clerk,
Asstt. Engineer's Office,
Western Railway, Sabarmati,
(Rajkot Division)

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7. Shri M.N. Natu,
Age: 57 yrs. Occ: Service,
Add: Head Clerk, Divisional Office,
Western Railway, Rajkot.
8. Shri P.P. Bhatt,
Age: 57 yrs. Occ: Service,
Add: Head Clerk, Divisional Office,
Western Railway, Rajkot. ... Applicants.

(Advocate: Mr. B.B. Gogia)

Versus.

1. Union of India,
Owning and Representing
Western Railway, through:
its General Manager,
Western Railway, Churchgate,
Bombay.
2. Divisional Railway Manager,
Divisional Office,
Western Railway, Rajkot.
3. Shri V.C. Chauhan,
Age: about 46 yrs. Occ: Service
Add: Office Superintendent,
U.O.W. Office, Western Railway,
Hapa Station (Dist: Jamnagar)
4. Shri K.K. Asari,
Age about: 41 yrs. Occ: Service,
Add: Office Superintendent,
P.W.I. Office, Western Railway,
Prantij (Rajkot Division)
5. Shri N.J. Parmar,
Age about 47 yrs. Occ: Service,
Add: Office Supdt,
Divisional Office,
Western Railway, Rajkot.
6. Shri Sailen Malder,
Age about 42 yrs. Occ: Service,
Add: Office Supdt, Asstt. Electrical
Engineer's Office, platform No.12
Western Railway, Ahmedabad Jn.
7. Smt. P.D. Parihar,
Age: about 42 yrs. Occ: Service,
Add: Chief Clerk, Asstt. Engineer's
Office, Western Railway, Mehsana.
8. Shri G.V. Parmar,
Age: about 32 yrs. Occ: Service,
Add: Chief Clerk, permanent Way
Inspectors' Office,
Western Railway, Sabarmati

9. Shri M.S. Malaviya,
Age: about 37 yrs. Occ: Service,
Add: Chief Clerk, permanent Way
Inspector's Office, Western Railway,
Rajkot.
10. Shri I.K. Parmar,
Age: about 30 years, Occ: Service,
Add: Chief Clerk
Senior Electric Foreman's Office,
Western Railway, Rajkot.
11. Shri Ramesh. M.
Age: about 30 yrs. Occ: Service,
Add: Chief Clerk,
Inspector of Works Office,
Western Railway, Surendranagar.
12. Shri Ramnivas Meena,
Adult, Occ: Service,
Add: Chief Clerk
permanent Way Inspector's Office(N)
Western Railway, Mehsana.

.... Respondents.

(Advocate: Mr. D.K. Mehta for
Resp.Nos. 7 to 12)

O.A.No. 152/94

1. Ratilal N. Jotangia,
Divisional Office,
Western Railway, Rajkot.
2. Shri A.R. Mansuri,
Divisional Office,
Western Railway, Rajkot.
3. Smt. M.M. Oza
Station Superintendent's Office
Western Railway, Jamnagar Station.
4. Shri R.J. Mehta,
Divisional Office,
Western Railway, Rajkot.
5. Shri A.D. Sidhpura,
Asstt. Loco Foreman's office,
Western Railway, Surendranagar.

..... Applicants.

(Advocate: Mr. B.B. Gogia)

Versus

1. Union of India,
Owning and Representing
Western Railway,
Through: General Manager,
Western Railway, Churchgate,
Bombay.
2. The Divisional Railway Manager,
Western Railway, Kothi Compound,
Rajkot.
3. ~~Shri M.S. Malaviya,~~

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3. Shri M.R. Makwana,
Adult, Occ; Service,
Add; Chief Clerk under Loco Foreman
Western Railway, Sabarmati(MG)
 4. Shri M.S. Birdi
Adult, Occ; Service
Add; Chief Clerk, under Chief
Train Controller's office,
Western Railway,
Kethi Compound, Rajkot.
 5. Shri M.N. Jadav
Adult, Occ; Service,
Add; Chief Clerk, General Branch,
Divisional Office, Western Railway,
Rajkot.
 6. Shri C.T. Chaudhary
Adult, Occ; Service
Add; Sr.Divisional Mech.Engineer(Diesel)
Western Railway,
Sabarmati (MG)
 7. Shri Shivrambhai K
Adult, Occ; Service,
Add; under Sr.Divl.Mech.Engineer(Diesel)
Western Railway, Sabarmati (MG)
 8. Shri M.S. Parmar,
Adult, Occ; Service,
Add; Chief Clerk under Chief Depot
Officer, Western Railway,
Ahmedabad (MG)
 9. Shri N.V. Chopda
Adult, Occ; Service,
Add; Chief Clerk, Operating Branch,
Divisional Office, Western Railway,
Rajkot.
- Respondents.

(Advocate; Mr. A.S. Kothari)

O.A.No. 225/94

1. Shri M.N. Banerjee
Adult, Occ; Service,
Add; Chief Clerk under Sr.Divl.
Mechanical Engineer(Diesel)
Western Railway, Sabarmati(MG)
2. Smt. K.C. Joshi,
Adult, Chief Clerk, Operating
Branch, Divisional Office,
Western Railway, Rajkot.
3. A.S. Bhatt
Adult, Occ; Service
Add; Chief Clerk, Asstt.Mechanical
Engineer's office, Western Railway,
Mehsana.

4. Shri H.D. Oza
Adult, Occ: Service,
Add: Chief Clerk, Operating Branch
Divisional Office, Western Railway,
Rajkot.
5. Shri P.N. Mehta
Adult, Occ: Service,
Add: Chief Clerk, General Branch,
Divisional Office,
Western Railway, Rajkot.
6. Smt. Arunaben S. Pandya
Adult, Occ: Service
Add: Chief Clerk, Commerce Branch
Divisional Office,
Western Railway, Rajkot.
7. Shri Shivrajsingh G. Bhim
Adult, Occ: Service,
Add: Divisional Office,
Western Railway, Rajkot.

..... Applicants.

(Advocate: Mr. B.B. Gogia)

Versus

1. Union of India
Owning and Representing
Western Railway, Through:
General Manager,
Western Railway, Churchgate,
Bombay.
2. Divisional Railway Manager,
Western Railway,
Kothi Compound,
Rajkot.

..... Respondents.

COMMON ORDER

O.A. No. 71/94
O.A. No. 514/93
O.A. No. 733/93
O.A. No. 734/93
O.A. No. 44/94
O.A. No. 72/94
O.A. No. 79/94
O.A. No. 104/94
O.A. No. 152/94
O.A. No. 225/94

Date: 3-6-1996.

Per: Hon'ble Justice Mr. A.P. Ravani, Chairman.

All these 10 OAs were decided by this
Tribunal as per order dated May 17, 1994. The
question involved in these OAs is whether an



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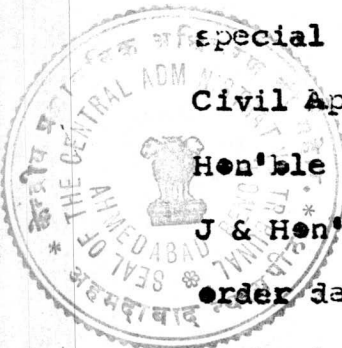
employee who secured accelerated promotion by virtue of reservation orders made in favour of SC/ST candidates would be entitled to count for further promotion, his seniority from the date of his promotion to such post or his basic seniority in the cadre from which he was promoted in the reservation quota will have to be taken into consideration?

2. The Ahmedabad Bench followed the decision of the Calcutta Full Bench rendered in OA No.854/90 and another Full Bench decision of Hyderabad Bench in OA No.759/87. On the basis of the aforesaid decisions, the Ahmedabad Bench directed that an employee was entitled to count his seniority from the date of his regular promotion, for further promotion, and that his basic seniority in the cadre from which he was promoted against reservation quota was not material for further promotion. On the basis of the aforesaid principle, necessary directions were issued in all the 10 cases by common order dated May 17, 1994 and all the applications were summarily rejected.

3. Applicants in one of the OAs i.e. OA No.71/94 challenged the legality and validity of the aforesaid order before the Hon'ble Supreme Court by filing Special Leave Petition. The Hon'ble Supreme Court granted special leave to appeal and the matter was listed as Civil Appeal No.4729 of 1996 and was decided by the Hon'ble Supreme Court (Hon'ble Shri Justice J.S.Verma, J & Hon'ble Shri Justice B.N.Kirpal, J) as per its order dated March 15, 1996. The Supreme Court passed a short order which reads as follows:

" Leave granted.

The point involved for decision in this appeal as indicated at the beginning of the impugned order made by the Tribunal is now



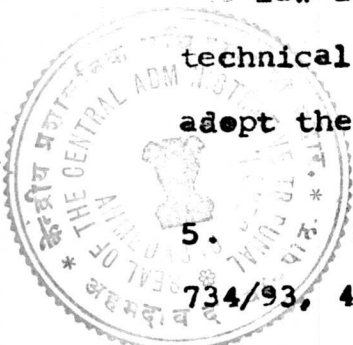
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settled by decisions of this Court, the most recent being Ajit Singh Juneja and Ors. vs. State of Punjab and Ors. (1996 (2) Scale 526). It has been clearly held that the benefit of the accelerated seniority obtained on promotion against any reserved vacancy to a candidate of that category is not available when relevance is of seniority for further promotion against a vacancy in the general category for which purpose the basic inter se seniority or panel seniority counts. To this extent, the decision of the Tribunal has to be modified. The case of each promotee has to be examined in that light in accordance with the principle clearly stated in Ajit Singh's case. For this reason, the impugned order of the Tribunal is set aside and the matter is remitted to the Central Admn. Tribunal, Ahmedabad Bench for a fresh decision of O.A. in accordance with law.

The appeal is disposed of. No costs."

4. In view of the directions contained in the order of the Supreme Court, the Ahmedabad Bench is required to decide the cases pending before this Bench accordingly. As per the directions, one of the matters i.e. OA No.71/94 has been remanded to the Ahmedabad Bench and it is required to be decided in accordance with law. As far as the other cases are concerned, they are also required to be decided in accordance with law laid down by the Supreme Court. To obviate technical hurdles, we have thought it proper to adopt the following course.

5. Remaining 9 OAs i.e. OA Nos.514/93, 733/93, 734/93, 44/94, 72/94, 79/94, 104/94, 152/94 and 225/94 up have been taken in suo moto review by us. Since the matters were decided by the Ahmedabad Bench at the



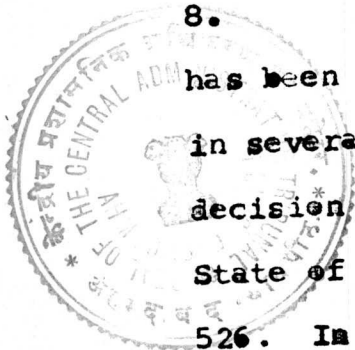
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admission stage itself, we heard the learned counsel for the parties requesting them to argue the matter finally because the points raised in the applications are directly covered by the decision of the Hon'ble Supreme Court. In view of the ^{position} ~~decision~~, the learned counsel appearing for both sides have conceded and requested to hear and decide all the cases finally at this stage only.

6. In view of the aforesaid decision, all these matters are being disposed of by this common judgement and order.

7. The applicants are employees of Railways in different cadres. Some of the applicants belong to reserved category while some of the applicants belong to general category. The grievance of the applicants is with regard to fixation of seniority in the promoted cadre. In some applications, the applicants belonging to reserved category have claimed that they should have the benefit of accelerated seniority even while considering the question of promotion to the higher post, while the employees belonging to general category claim that the benefit of accelerated seniority would not be available while considering the question of promotion to further posts.

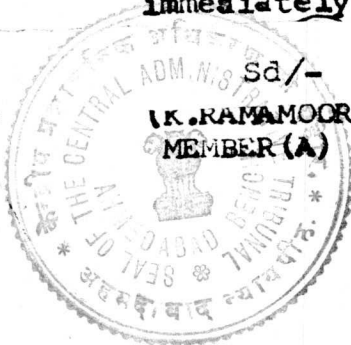
8. As indicated hereinabove, the controversy has been set at rest by the Hon'ble Supreme Court in several cases and the most recent being the decision in the case of Ajit Singh Juneja & ors. vs. State of Punjab and ors. reported in 1996(2) Scale 526. In the Civil Appeal No.4729 of 1996 which arose out of OA No.71/94 decided by the Ahmedabad Bench by common order dated May 17, 1994, the order passed by the Hon'ble Supreme Court has been extracted in its entirety.



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9. In view of the directions given by the Supreme Court, all these applications can be disposed of with a direction to the respondents to refix the seniority/promotion/reversion and take necessary suitable consequential steps in accordance with law laid down by the Supreme Court in the case of Ajit Singh Juneja (supra) within a period of three months from today. It is further clarified that it will be open to the employees concerned to make representation to the authority concerned pointing out the relevant decision of the Hon'ble Supreme Court laying down the law on this subject and the effect of the same on his/her seniority. If such representation is made within a period of one month from today, the same shall be taken into consideration by the authority concerned while complying with the directions contained hereinabove.

10. As per the aforesaid observations and directions, all these applications are disposed of finally. Ordered accordingly. The registry is directed to send a copy of this order to all the respondents immediately.



Sd/-
(K. RAMAMOORTHY)
MEMBER (A)

Sd/-

(A.P. RAVANI)
CHAIRMAN

तैयार करनेवाला

Prepared by:

बिनाम खर्च

Compared by:

सही की जाये

True Copy

20/10/96

अनुमान अधिकारी (न्या.)

केन्द्रीय प्रशासिक अधिकरण

Central Administrative Tribunal,

अहमदाबाद न्यायपीठ

Ahmedabad Bench

SNS


Date Office Report

ORDER

3.9.96

On account of sad demise of Shri G.A.Pandit
at the request from the Bar, adjourned.

Call on 9.9.1996.



(K. Ramamoorthy)
Member (A)

vtc.

9.9.96

Sick note filed by Mr.Kothari.


Adjourned to 23/9/96.


(K.Ramamoorthy)
Member (A)

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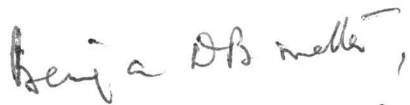
23-9-96


Sick note filed by Mr.Kothari. Adjourned
to 30-9-96.


(V.Radhakrishnan)
Member (A)

ssh*



0.9.96


Adjourned to 3.10.96.


(V.Radhakrishnan)
Member (A)

vtc.

Date	Office Report	ORDER
3.10.96	<p><u>M.A.581/96</u></p> <p>Notice of M.A. returnable on 11.10.96.</p> <p>(V. Radhakrishnan) Member (A)</p>	
11.10.96	<p>Adjourned to 23.10.96 due to public holiday is declared on account of election of Lok Sabha's member.</p> <p><i>Coi</i></p>	<p>ssh*</p>

Date	Office Report	ORDER
23.10.96		<p data-bbox="608 315 800 352"><u>M.A.581/96</u></p> <p data-bbox="582 378 1512 1524">Heard Mr. A.S.Kothari for the applicant and Mr. Trivedi appearing for the respondent, who is the applicant in O.A., says that his client has taken the file with him. The only prayer to grant four months further time to implement the order passed in O.A.733/93, which was disposed of by an order dated 3.6.96 with a direction to the respondents to refix the seniority/promotion/reversion and take necessary suitable steps in accordance with the law laid down by the Supreme Court in J.C.Malik's case and connected cases. The applicant has averred that the matter is likely to take some time as it is necessary to take steps. We are of the considered view that the matter is likely to take some time and to grant to the respondents in O.A.733/93 for a further period of four months. M.A. is, therefore, allowed.</p> <div data-bbox="582 1587 854 1726"><p data-bbox="677 1587 739 1650"></p><p data-bbox="582 1650 854 1726">(K.Ramamoorthy) Member(A)</p></div> <div data-bbox="1162 1486 1447 1726"><p data-bbox="1208 1486 1447 1650"></p><p data-bbox="1162 1650 1447 1726">(A.V.Haridasan) Vice Chairman</p></div> <p data-bbox="582 1789 646 1827">vtc.</p>

Date	Office Report	ORDER
23.10.96		<p data-bbox="602 315 797 355"><u>M.A.581/96</u></p> <p data-bbox="575 385 1521 1522">Heard Mr. A.S.Kothari for the applicant and Mr. Trivedi appearing for the respondent, who is the applicant in O.A., says that his client has taken the file with him. The only prayer to grant four months further time to implement the order passed in O.A.733/93, which was disposed of by an order dated 3.6.96 with a direction to the respondents to refix the seniority/promotion/reversion and take necessary suitable steps in accordance with the law laid down by the Supreme Court in J.C.Malik's case and connected cases. The applicant has averred that the matter is likely to take some time as it is necessary to take steps. We are of the considered view that the matter is likely to take some time and to grant to the respondents in O.A.733/93 for a further period of four months. M.A. is, therefore, allowed.</p> <div data-bbox="571 1648 851 1716" data-cs="2" data-kind="parent"><div data-bbox="571 1648 851 1716">(K.Ramamoorthy) Member (A)</div><div data-bbox="1164 1655 1444 1723" data-cs="2" data-kind="parent"><div data-bbox="1164 1655 1444 1723">(A.V.Haridasan) Vice Chairman</div></div></div> <p data-bbox="566 1794 643 1824">etc.</p>