

# CENTRAL ADMINISTRATIVE TRIBUNAL

## AHMEDABAD BENCH

**O.A. NO. 71/94, 514/93, 733/93, 734/93, 44/94, 72/94,  
~~73/94~~, 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

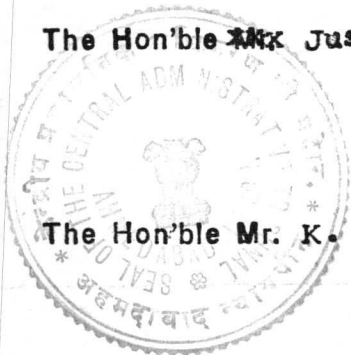
Union of India & Ors. Respondent s

Advocate for the Responde

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 Prebandar.

..... 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.

..... Applicants

(Advocate: Mr. K.R. Raval)

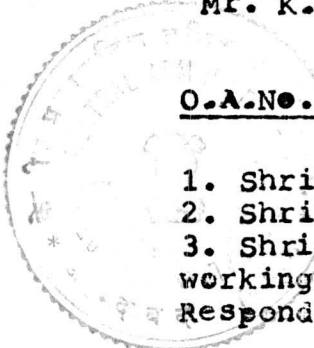
Versus.

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 Supdt.,  
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.Kothari)

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 Supdt. W. Rly,  
Ahmedabad(BG) Stn.

..... Applicants.

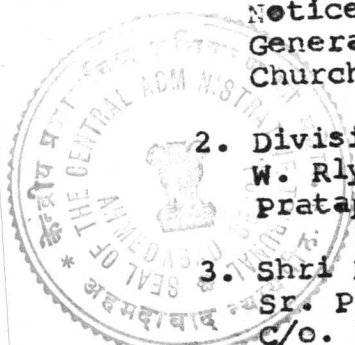
(Advocate: Mr. P.K. Handa)

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 Supdt. W. Rly  
Dabhoi Station, Dabhoi.
4. Shri M.N. Patel, Sr.Pass Guard,  
C/o. Station Supdt.,  
W. Rly, Kosamba.

....

(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.

(Advocate: Mr. P.H. Pathak)

..... Applicants.

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 M.L.V 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

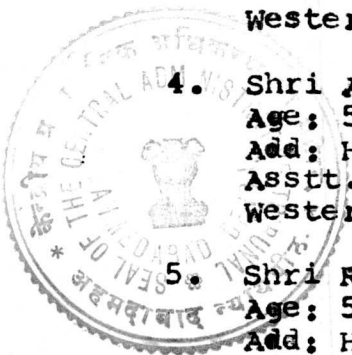
1. Union of India,  
Owning & Representing  
Western Railway,  
Through; General Manager,  
Western Railway,  
Churchgate, Bombay.
2. Divisional Railway Manager,  
Western Railway,  
Bhavnagar Para.

..... 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)



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

*msk*

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.

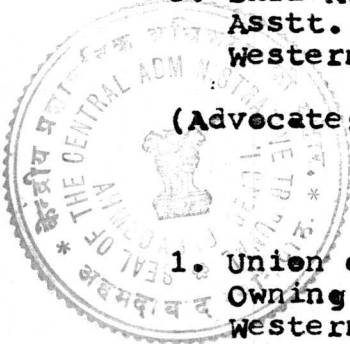
(Advocate: Mr. B.B. Gogia)

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.

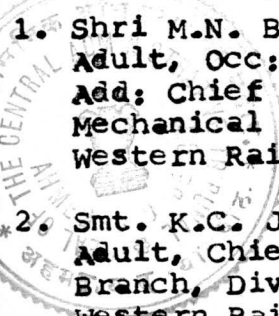
3. ~~Shri M.S. Malaviya,~~



*mk*

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.
- mb



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,  
Kethi 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

*me*

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

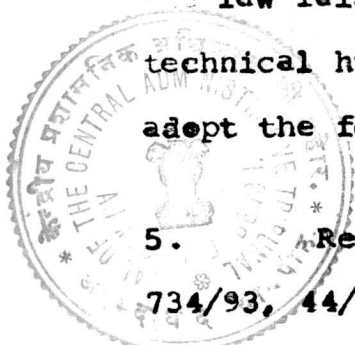
*ms*

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 have been taken<sup>up</sup> in suo moto review by us. Since the matters were decided by the Ahmedabad Bench at the



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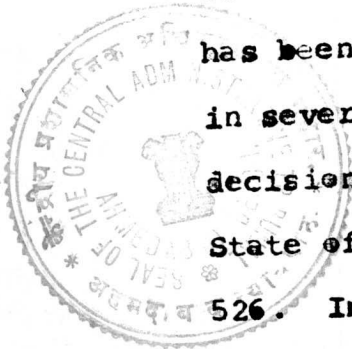
admission stage itself, we heard the learned counsel for the parties requesting them to argue the matter finally because the points raised in the applications are directly covered by the decision of the Hon'ble Supreme Court. In view of the <sup>position</sup> ~~aforesaid decision~~, the learned counsel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

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.

*gmb*





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

तेदार कार्यालय

Prepared by: *HR*

मिशन माल

Compared by: *HR*

सहि प्रमाणित

True Copy

*10/6/96*

अनुभाग अधिकारी (न्या.)

Section Officer (A)

केन्द्रीय प्रशासिक अधिकरण

Central Administrative Tribunal,

अहमदाबाद बेंच, 3,

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 10.9.1996.

  
(K. Ramamoorthy)  
Member (A)

vtc.

10.9.96


Sick note filed by Mr. Kothari. Adjourned to  
17.9.96.

  
(K. Ramamoorthy)  
Member (A)

ssh\*

17.9.96


Leave note and sick note filed by  
Mr. Gogia and Mr. Kothari respectively.  
Adjourned to 1.10.96

  
(K. Ramamoorthy)  
Member (A)

ssh\*

1.10.96

Being a Division Bench matter, adjourned  
to 29.10.96.

  
(V. Radhakrishnan)  
Member (A)

aab

Report

ORDER

M.A.585/96

Heard Mr. Kothari and Mr. Gogia.

The Division Bench, in a similar case, has granted extension of time as prayed for, as the applicant is averred that the matter is likely to take some time as it is necessary to take steps. In view of the averments made by the applicant extension of time is granted upto 20.12.96 as prayed for. M.A. stands disposed of accordingly.

(V.Radhakrishnan)  
Member(A)

vtc.

Date	Service Report	ORDER
3.9.96		<p>On account of sad demise of Shri G.A. Pandit at the request from the Bar, adjourned.</p> <p>Call on 10.9.1996.</p> <p>(K.Ramamoorthy) Member (A)</p>
10.9.96		<p>Sick note filed by Mr.Kothari. Adjourned to 17.9.96.</p> <p>(K.Ramamoorthy) Member (A)</p>
17.9.96		<p>ssh*</p> <p>Leave note and sick note filed by Mr.Gogia and Mr.Kothari respectively. Adjourned to 1.10.96</p> <p>(K.Ramamoorthy) Member (A)</p>
1.10.96		<p>ssh*</p> <p>Being a Division Bench matter, adjourned to 29.10.96.</p> <p>(V.Redhakrishnan) Member (A)</p>
		aab

Date	Office Report	ORDER
29.10.96		<p data-bbox="616 351 813 392"><u>M.A.585/96</u></p> <p data-bbox="692 417 1306 458">Heard Mr. Kothari and Mr. Gogia.</p> <p data-bbox="580 484 1478 978">The Division Bench, in a similar case, has granted extension of time as prayed for, as the applicant has averred that the matter is likely to take some time as it is necessary to take steps. In view of the averments made by the applicant extension of time is granted upto 20.12.96 as prayed for. M.A. stands disposed of accordingly.</p> <p data-bbox="1094 1090 1418 1156">(V.Radhakrishnan) Member(A)</p> <p data-bbox="580 1217 662 1258">etc.</p>