

**Central Administrative Tribunal  
Lucknow Bench**

OA No.169/2005

Lucknow this the 16<sup>th</sup> day of March, 2009.

**Hon'ble Mr. Shanker Raju, Member (J)**  
**Hon'ble Dr. (Mrs.) Veena Chhotray, Member (A)**

Km. Laxmi Saxena, aged about 50 years, D/o late Shri R.B.L. Saxena, R/o B-130/2, R.D.S.O. Colony, Manak Nagar, Lucknow.

-Applicant

(By Advocate Shri Hari Ram)

**-Versus-**

1. Union of India, through the Principal Secretary, Ministry of Railways, Railway Board, New Delhi.
2. The Director General, Ministry of Railways, R.D.S.O, Manak Nagar, Lucknow.
3. The Executive Director (Pshycho.),  
Pshycho-Technical Directorate, R.D.S.O.,  
Manak Nagar, Lucknow. -Respondents

(By Advocate Shri N.K. Aggarwal)

**O R D E R (ORAL)**

**Mr. Shanker Raju, Member (J):**

Heard the counsel.

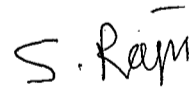
2. Applicant, who has been working as JSO on ad hoc basis since 2007 seeks promotion on ad hoc basis from the date her junior A. Kalita was promoted. The only explanation which has come-forth is that in 2006 the recruitment rules have been amended earlier to A. Kalita was appointed against direct recruitment quota with a stipulation that she would be reverted. This has been challenged by Kalita in OA-254/2003 whereby an order passed on 1.4.2003 holding that there has been a post of

JSO as per letter of the respondents dated 24.4.1996. The reversion of Kalita was set aside. In this view of the matter learned counsel would contend that being senior to Kalita when there was a vacancy in direct recruit quota applicant should have been considered in preference to Kalita which was not done amounts to infringement of Fundamental Right of applicant to be considered on a fair basis even on ad hoc basis for promotion.

3. In the light of the above, we dispose of the OA with a direction to the respondents to reconsider the claim of applicant for antedating her promotion on ad hoc basis from the date A. Kalita was appointed in the light of our observations and also in the light of the decision of the Tribunal keeping in light that Kalita was junior to applicant. As the amended rules have come into being only in 2006 without any retrospectivity, the recruitment rules in vogue in 1998 would be resorted to consider the claim of applicant. This shall be done by passing a reasoned and speaking order within a period of three months from the date of receipt of a copy of this order. No costs.

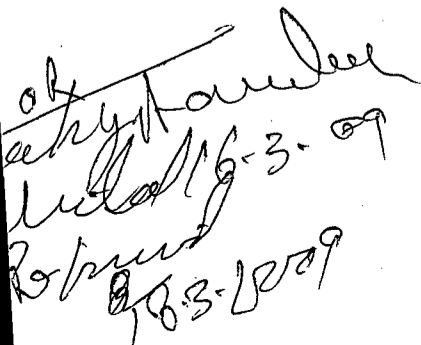


**(Dr. Veena Chhotray)**  
**Member (A)**



**(Shanker Raju)**  
**Member (J)**

'San.'

  
of  
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