

18/11

A

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 668 of 1986

APPLICANT (s) Lau Kumar

RESPONDENT(s) Union of India through The Director General R.D.S.O

Lucknow & 2 others

Particulars to be examined

Endorsement as to result of Examination

- | | |
|---|--|
| 1. Is the appeal competent ? | No. The application is not under the territorial jurisdiction of this Bench. |
| 2. (a) Is the application in the prescribed form ? | Yes |
| (b) Is the application in paper book form ? | Yes |
| (c) Have six complete sets of the application been filed ? | Yes, 8 sets filed |
| 3. (a) Is the appeal in time ? | Yes |
| (b) If not, by how many days it is beyond time ? | - |
| (c) Has sufficient case for not making the application in time, been filed ? | - |
| 4. Has the document of authorisation/Vakalat-nama been filed ? | Yes |
| 5. Is the application accompanied by B. D./Postal-Order for Rs. 50/- | Yes |
| 6. Has the certified copy/copies of the order (s) against which the application is made been filed ? | Yes |
| 7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? | Yes |
| (b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? | Yes |

Particulars to be Examined

Endorsement as to result of Examination

A
2

- (c) Are the documents referred to in (a) above neatly typed in double space? YB
- 8. Has the index of documents been filed and paging done properly? YB, Paging done in 3 copies only.
- 9. Have the chronological details of representation made and the outcome of such representations been indicated in the application? YB
- 10. Is the matter raised in the application pending before any Court of law or any other Bench of Tribunal? NO
- 11. Are the application/duplicate copy/spare copies signed? YB
- 12. Are extra copies of the application with Annexures filed? YB
 - (a) Identical with the original? YB
 - (b) Defective? NO
 - (c) Wanting in Annexures —
- Nos...../Pages Nos.....?
- 13. Have file size envelopes bearing full addresses, of the respondents been filed? YB [3 envelopes with stamps of Rs. 6=15 on 2 and 5=10 on one]
- 14. Are the given addresses, the registered addresses? YB
- 15. Do the names of the parties stated in the copies tally with those indicated in the application? YB
- 16. Are the translations certified to be true or supported by an Affidavit affirming that they are true? N.A.
- 17. Are the facts of the case mentioned in item No. 6 of the application? YB
 - (a) Concise? YB
 - (b) Under distinct heads? YB
 - (c) Numbered consecutively? YB
 - (d) Typed in double space on one side of the paper? YB
- 18. Have the particulars for interim order prayed for indicated with reasons? No
- 19. Whether all the remedies have been exhausted. YB

DR

Submitted by
Chandran
14-11-86

Order Sheet

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 ADDITIONAL BENCH ALLAHABAD

Reg. No. 668 of 1986.

Govt. of India vs. Union of India

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
① 18.11.86	<p>Hon. S. Zaheer Hasan, Jc. Hon. Ajay Johri, Jc (A)</p> <hr/> <p>Sri B.P. Sinhasara for the applicant heard. A month's notice to the respondents to file a reply by 7-1-87.</p>	
② 7-1-87.	<p>Hon. S. Zaheer Hasan, Jc. Hon. Ajay Johri, Jc (A)</p> <hr/> <p>Mr B.P. Sinhasara - for applicant Mr. A.K. Sinhasara filed vakalatnama on behalf of the respondents and prayed for a month's time to file counter affidavit.</p> <p>Put up on 9-2-1987</p> <p>M KA</p> <p>Am</p>	

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

.....NO. 668.....OF 1986

Lax Kumar VS.....

SL NO of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
⑤	18/3/87	<p>Deputy Registrar</p> <p>On the request of counsel for applicant, he is allowed to file rejoinder affidavit by 10/4/87.</p> <p><i>[Signature]</i> 18/3/87</p>	
⑥	10-6-87	<p>Deputy Registrar.</p> <p>On the request of parties counsel, the case may be laid before court for hearing on 11.5.87.</p> <p><i>[Signature]</i> 10/6/87</p>	

आदेश पत्रक
 ORDER SHEET

अपील
 निदेश आवेदन रजिस्टर में सं०

OA - 669/86

No. in Reference Application Register
 Appeal

अपील अधिकरण
 Appellate Tribunal

अपीलार्थी
 आवेदक

Appellant
 Applicant

अपीलार्थी
 आवेदक द्वारा

बनाम

प्रत्यर्थी

Appellant
 Applicant

Vs.

Respondent

प्रत्यर्थी द्वारा
 Respondent

आदेश की क्रम संख्या और तारीख Serial number of order and date	संक्षिप्त आदेश, निदेश दते हुए, यदि आवश्यक हो Brief order, mentioning reference, if necessary	पालन कैसे हुआ और पालन करने की तारीख How complied with and date of compliance
(10) 9/9/87	<p>Hon. D. S. Mishra - Am. Hon. G. S. Sharma - Jm</p> <hr/> <p>Sri A. V. Srivastava for the of respondents is is present. On the request of applicant's counsel, the case is adjourned to 17/11/87 for hearing.</p> <p>Am. Jm.</p>	
(11) 17/11/87	<p>no filing of 20.1.88</p>	

14.12.88. Honble A. Jaisri, AM.
Honble G. S. Sharma J.M.

(16)

Shri B. P. Srivastava for applicant
and Shri A. V. Srivastava for the
respondents are present.

On the request of counsel
for applicant. List this
case before Circuit Bench
Lucknow for hearing in the month
of January 1989 when court
will sit there.

J.M. - 3 AM.

(17)

7.2.89.

Office Report
Due to heavy load
of work, file could not
send before DR (1) for
fixing a date for Lucknow
Bench in January. Case
is submitted before DR (1)
for fixing next date.

(18)

10.2.89

odl

As per court order of 14.12.88
send the case to Lucknow Bench
Circuit Bench Lucknow fixing 29.3.89

7.2.89

[Signature]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 660 of 1986

APPELLANT
APPLICANT

VERSUS

DEFENDANT
RESPONDENT

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
14-9-9	<p>आपलप नै रक्षे अ काय 9/16/11/04 अ काय अ लक्ष अकाय अ / 9/16/11/04 अ अकाय अ अकाय अ</p>	<p>CM 243/09/14 filed by the applicant</p>
16/11/08	<p>No Sillint Adj. to 19.12.08. Both the parties are present.</p>	<p>OR The file for the applicant to file e.m. An No. 4/1/91 for summary decision submitted for order</p>
19/12/89	<p>Hon' Mr. Justice Kamleshwar Nath, V.C. Hon' Mr. K. Obayya, A.M.</p> <p>Shri Sahdev Singh counsel for the applicant is present. On a request made on behalf of Mr. A.V. Srivastava counsel for the respondents, put up this case tomorrow.</p> <p>A.M. (ens)</p> <p>V.C.</p>	<p>L 16/11/08</p>
20/12/04	<p>Hon Justice K. Nath, VC Hon. K. Obayya, Am.</p> <p>Applications for adjournment has been made on behalf of both the parties. List for orders on 4/1/91.</p>	<p>OR Submitted to adv. on CM An No 243/09/14</p>

At

660/08

7/8

22.11.90

No sitting Adj to 21.11.90

(W)

21.11.90 Hon. Mr Justice K. Nath v/c
Hon. Mr M. M. Singh Am

OR

No reply filed a.

C.M. 243/89

~~also pending~~

S. 50

19/11/90

On the request of Counsel
for respondent case is adjourned
to 23.11.90.

H. M. L.
Am.

[Signature]

23/11/90

Hon. Mr. Justice K. Nath, v/c.
Hon. Mr. M. M. Singh, Am.

Shri Sandeev Singh for the applicant
Shri V. K. Srivastava for the respondents.
The learned counsel for the respondents
requests for and is allowed two
weeks time to furnish reply to
the Misc. Appln. No. 243/89. dist
for final hearing on 25/1/90.

H. M. L.
Am.

[Signature]
V. C.

1/2

2/5

6.2

No sitting Adj to 26.2.91.

No sitting Adj to 14.5.91.

sitting adj to

MP 178/91

On the applicant
M. 10/9/90 duly
C. get reply.
20/11/90
S. reply filed

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD/C.B. LUCKNOW

OA 668

No.

OF 1986

Law Kumar vs.

b-0-11

A/9

Sl.No.	Date	Office Report	Orders
		<p>20.11.91</p> <p>OR MP 243-91L, MP 1970-91L & MP 310-91L are pending for disposal. objection filed S.F.O</p> <p>W 4/12</p>	<p>No staying order 9.12.91</p> <p>9.12.91</p> <p>Hon. U.C.S. VC Hon. A.B. Gorthi</p> <p>List the case on 12-12-91 In the mentioned learned Counsel for the reply may filed objection/ reply & the misc. applications</p> <p>AM VC</p>
		12.12.91	<p>Dec h Sad demise of Mr. B.D. Choudhary Adv. referred by bar-Council order 24.12.92</p> <p>Prad</p>
		24.12.92	<p>No staying order 3.4.92</p>
		3.4.92	<p>No staying order 8.5.92</p>
		8.5.92	<p>No staying order of DAB order 22.2.92</p>

A/10

Dated: 11.12.1992.

Hon'ble Mr. Justice U.C. Srivastava, VC
Hon'ble Mr. K. Obayya, Member (A)

As the counsel for the applicant is not present due to curfew in the city. As such the case is adjourned to 16.12.1992.

[Signature]
A.M.

[Signature]
V C

16-12-92

Due to Curfew Counsels are not available adjourn to 8.1.93

[Signature]

8.1.93 Hon Mr Justice U.C. Srivastava, VC
Hon Mr K Obayya, AM

OR
M. P. No. 1162/92
Filed
R
24/12/92

OR
M. P. 1162/92
Filed S.F.H.
R
6/1/93

Learned counsel for applicant states that copy of rejoinders has been sent to the respondents by post but the learned counsel for the respondents states that the same has not been received. Learned counsel for the applicant to supply the copy of the rejoinders to the learned counsel for respondents during the course of the day. List on 5-2-93.

[Signature] *[Signature]*

27.8.93

No sitting of D. M. adj do
22-9-93

more

A
11

22/9/93

Hon. Mr. S. N. Prasad, J. M.
Hon. Mr. V. K. Selt, A. M.

This case is adjourned
to 8/10/93.

in K
A. M.

J. M.

8.10.93

Adjourn to 9.11.93

more

9.11.93

No sitting of D. M.
adjourn to 12.12.93

more

14/12/93

Hon. Mr. S. N. Prasad, J. M.
Hon. Mr. V. K. Selt, A. M.

At the request of the
Counsel for the parties the
case is adjourned to
21-1-94.

in K
A. M.

J. M.

OR
SM
OR
21/9/93

OR
SM
OR
09/12/93

OR
SM
OR
13/12/93

OR

8/9/94

Hon'ble Mr. D. C. Verma, J.M.
Hon'ble Mr. S. Dayal, A.M.

Present:- Applicant - Clerk.

Respondents:- Sri. A.V. Sivaraman, etc.

Learned Counsel for the applicant Shri. Sahdeva Singh sent an application for adjournment. This case ^{is} of year 1986 & has been received on transfer from Allahabad Bench. List on 28/9/94 for hearing.

~~40~~

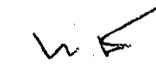

A.M.


J.M.

28-9-94

Hon. Mr. Justice B.C. Saksena, V.C.
Hon. Mr. V.K. Seth, A.M.

The learned counsel for the applicant is reported to be unwell. Sri. A.V. Sivaraman, learned counsel for respondents is present but on 19.10.94


A.M.


V.C.



10-2-95

DA 668/86

Hon Mr S. Das Gupta, AM.

Hon Mr De Vora, JM

A/B

Applicant in person. Shri A.V. Srinivasa learned counsel for respondents. Applicant says that his counsel is busy elsewhere.

but for hearing on 10-3-95

JM

W.P.
AM

D

10-3-95 - No setting of DB order to 31-3-95

31-3-95

Hon Mr V.K. Raju, AM
Hon Mr De Vora, JM

BOL

Applicant is present in person. Shri A.V. Srinivasa for respondents met, and is allowed 2 weeks time to seek instructions from the department and file objections if any.

but for order on 28-4-95

JM

W.K.
AM

D

02
HO. OBJECTOR FILED
30/3/95
MP 31/3/95
30/3/95

10-10-95

Hon Mr V.K. Seth, A.M.
Hon Mr D.C. Varma J.M.

Shri S. Singh for applicant
Shri S. Varma for respondents
Shri Singh Prasad for adjournment
but for hearing on 12.10.95

JM

VK
AM

A

12-10-95

Hon'ble Mr. v.K. Seth- A.M.

Hon'ble Mr. D.C. Varma- J.M.

For applicant - Sri Sahdeo Singh, learned counsel.

For respondents- Sri Siddhartha Varma, learned counsel

List for further hearing on 31-10-95.

K.N.

J.M.

VK
A.M.

31-10-95

No. Setup of D B Case is
over to 16-11-95

16-11-95

DK

Applicant present in person.
Appropriate bench is not avail-
able. Place before the triple
bench on 12-12-95 for hearing.

Bo

Pls see on
completing are
S/N
19/11/95

AK

DK

12-12-95

No. Setup of D.B. Case
to 11.1.96

668/86

13-3-96

02
Proceedings are
Completed
SFT
9/4/96

Hon. Mr. V. K. Seth, A.M.
Hon. Mr. D. C. Verma, J.M.

for Applicants vs. S. Singh, Adv.
for respondents - None.

list on 11-4-96 for
further hearing.

A

J.M.

V.K.
A.M.

11.4.96

Case adj. reached adjourn to
28.4.96
Done

28.4.96

Adj. adjourned to 10.5.96
Done

10.5.96

DR

Concerned Bench is not
available today. list this case before
concerned Bench on 22/5/96.

a
DR

h

28-5-96

DR

Concerned Bench is not available today. List this case before Concerned Bench on 09-7-96.

a

DR

9-7-96

No findings D. M. adjourn
02-0-96
Moe

2-0-96

Concerned Bench is not available today. List before Concerned Bench on 14-8-96.

d

DR

14-8-96

How Mr V-K seek. AM-
for Mr DC Wema JM

Applicant is present in person. As this is an old case, the case will be heard on the next date even in the absence of counsel for either party and disposed of if possible.
List on 9-9-96.

JM

AM

AM

02
01/01 PA have been
exchanged

02
Bleedings are
complete
3/11/96

30-10-96

DA 668/86

Hon Mr V.K. Gill, AMU
Hon Mr D. Chandra J.M.

Shri S. Singh for applicant.
Shri S. Sharma for respondent.
As prayed for by the learned
counsel for respondent, 4 weeks
time is granted to him to enable
him to file supplementary
Affidavit, indicating the date from
which the Architectural Directorate
of R.D.S.O. and the posts therein
stood abolished, or also whether
the order of the Railway Board
dated 15-3-1984 (GRA-2) enclosed
with supplementary reply to
interrogatories dated 22-1-91
was subsequently modified
and if so, a copy thereof.
but further hearing on

10-12-96

JM

V.K.
AM

[Signature]

10.12.96

No. 211/96 D. B. Chandra
10.1.97
D. B. Chandra

(8.1.97)

No. 211/96 D. B. Chandra
11-2-97
D. B. Chandra

CENTRAL ADMINISTRATIVE TRIBUNAL,
LUC NO. 100, LUC NO. 100.

O.A.No. 668/86

Dt. of decision 20-3-87

Law Number Petitioner(s)

Shri S. Singh Advocate for the petitioner(s)

VERSUS

U.O.I & others Respondent(s)

Shri S. Singh Advocate for respondent(s)

CORAM :-

HON'BLE MR. V. K. Singh, AM

HON'BLE MR. D. C. Singh, JM

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 Loreships wish to see the fair copy of the judgment ?
4. Whether to be circulated to all other Benches ?

SIGNATURE

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

Lucknow this the 20th day of March, 1997.

O.A. No. 668/86

HON. MR. V.K.SETH, MEMBER(A)

HON. MR. D.C. VERMA, MEMBER(J)

Lav Kumar, aged about 28 years, son of Shri Ram Chandra Barui, Draftsman Category B in Arch Cell. R.D.S.O. Metro Railway 33/1 Chaurangi Road, Calcutta.

Applicant.

By Advocate Shri S. Singh.

versus

1. Union of India through the Director General, R.D.S.O. Manak Nagar, Lucknow.

2. Director General R.D.S.O. Manak Nagar, Lucknow.

3. Joint Director, Arch Cell, R.D.S.O. Metro Railway, Calcutta.

Respondents.

By Advocate Shri S. Verma.

ORDER

HON. MR. V.K.SETH, MEMBER(A)

By means of this O.A. the applicant has assailed the order of the respondents dated 19.8.86. Through this order the applicant's representation of 30th June, 1986 for his promotion to the post of Draftsman grade A was rejected on account of the fact that the currency of the panel for the purpose had expired. He was however, informed that he has been promoted on adhoc basis in the Architectural Unit of Calcutta and he may wait for the orders in regard to the same. The applicant has also claimed promotion as Draftsman category A in accordance with panel prepared in march, 1984.

V.K.

2. Pleadings have been exchanged between the parties which we have carefully gone through. We have also given anxious thought to rival contentions advanced by the learned counsel for the two sides during the course of hearing.

3. The petitioner was initially appointed as Draftsman ^{Category} B in the Architectural Cell of R.D.S.O. and joined in that capacity the Metro Railway Calcutta on 30.7.1983. Vide an advertisement copy of which is enclosed with letter dated 27.10.83 of R.D.S.O. applications were invited inter alia for six vacancies of Draftsman A (Architecture (SC-2 S.T-2) for the Architectural Cell at Calcutta. After due process of selection which included a written/drawing test and an interview a panel of six names was prepared as per notice dated 21.3.1984 (enclosed as Annexure SRA -1 to the Supplementary reply to the interrogatories filed by the respondents.). The applicant's name figures at serial 4 of the said panel. This note has also mentioned that panel will remain current upto 18.3.1986. As per the averments of the respondents in their counter reply offers were issued to candidates at serial Nos. 1 and 2 of the panel against general vacancy and serial No. 6 against S.C. vacancy. The candidate at serial No. 6, it is stated, did not join. It is also stated that in the mean while the post of Draftsman B against which the applicant was working, was surrendered. With a view to avoiding retrenchment of the applicant, therefore, it was decided with the approval of the competent authority to operate the post of Draftsman A lying vacant due to non joining of S.C. candidate and accommodate the applicant against that vacancy. As a consequence, staff posting order dated 25.6.1985 was issued. The

L 5

applicant thereupon represented to the D.G. R.D.S.O. The applicant represented for appointment as Draftsman category A on the ground that he was working against the vacant post of Draftsman grade A Vide Memo dated 5.3.1986, In reply to his representation of 17.2.1986, the applicant was informed that he was at serial No. 4 and so far even the candidate at serial No. 3 had not been offered the appointment. Moreover, there was no possibility of extension of the sanctioned posts for the Architectural Unit at Calcutta. Therefore, the applicant's claim could not be accepted. Through the same Memo the applicant was also informed that he was not eligible for promotion as Departmental candidate in accordance with the extant rules of recruitment and promotion.

4. The applicant made a further representation in the matter on 30.6.1986 in which he has inter alia mentioned that he had come to know that the candidate at serial No. 3 had expressed his unwillingness and further that the government had lifted the ban on cases of filling up of the vacant posts. He therefore, prayed for sympathetic consideration of his case. The applicant was finally informed through a Memo dated 19.8.86 which is impugned in the present O.A. and the contents of which have been mentioned earlier (supra).

5. It may be incidentally mentioned that vide staff posting order No. 342 of 1986^{he} was ordered to be promoted on adhoc basis as Draftsman A. The said orders which included promotion of two others provided that the promotions will be current upto 30.9.86 only. It is learnt, as stated by the learned counsel the applicant never

✓ ✓

joined this adhoc promotion. It may further be mentioned that during the course of the pendency of the O.A. the applicant has been promoted as Draftsman category A with effect from 1.1.90 on adhoc basis.

6. The applicant's main contention is three fold. His first contention is that he was already holding the post of Draftsman grade A and had been selected for the said post. His second contention as mentioned during the narration of facts is that the ban on creation of filling up of posts had been lifted by the Government. His third contention is that the candidate at serial No. 3 had declined the offer.

7. The respondents dispute the above grounds. They argue that the applicant was accommodated as Draftsman B against the post of Draftsman A as is clear from the staff posting order annexed by the applicant himself with his O.A. As stated earlier, this was done to avoid retrenchment of the applicant. They therefore, urge that it could not be deemed that the applicant was holding the post of Draftsman A. We find force and merit in this contention of the respondents and the same is fully borne out from the wording of the aforesaid order. In fact, it was precisely this aspect which gave rise to the representation of the applicant.

8. In regard to the second contention of the applicant, the stand of the respondents is that the ban on creation and filling up of posts imposed by the Government and its subsequent lifting have nothing to do with the case of the applicant, as those orders were applicable to 'Non operational' posts and the same did not cover 'operational' posts

of Draftsman category A at the Calcutta Unit for which the applicant was making claim in the present O.A. Before we discuss this aspect, it would be helpful to go through the relevant portion of the letter of the Railway Board dated 15.3.1984. The same is reproduced below:

"GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RAILWAY BOARD

New Delhi dated 15.3.1984

Sub: Economy in administration and non-plan expenditure-ban on creation of posts on the Railways.

xx

(iv) Regarding non-filling up of vacancies of 'non-operational' posts where recruitment action has not been taken, such filling up may be deferred upto 30.9.84*. Where, however, panels for such non-operational vacancies have already been received upto the end of January or February 84, these may be utilised for filling up the vacancies, but further panels may be held in abeyance till 30.9.84 and allowed to be operated only thereafter.

*extended until further order vide W/Zen dt. 9.4.85."

It is apparent from a perusal of the above that the ban applied to non operational posts. It may be mentioned here that through a letter dated 29.7.86 the Railway Board relaxed the said ban applicable to non operational posts in respect of vacancies arising due to promotion, retirement, death etc. The learned counsel for the applicant fairly admitted

✓ 5

that the crux of the case was the interpretation of the expression 'non-operational' which, according to him included the post for which the applicant was making a claim in the present O.A. He was however, unable to produce any material in support of his contention. On the other hand, however, the respondents through a Supplementary Counter reply filed on 13.2.97 have interalia averred that the terms 'operational' and 'non operational' have not been categorically defined in the Indian Railway Establishment Code, Manual or in the letters. The term operational post refers to the posts of all categories of non-gazetted staff connected with operation and maintenance of the rolling stock 'passenger or goods train etc.' and includes 'non-gazetted staff' and the working on sanctioned projects in the process of creation of new assets. In view of the fact that the applicant or his counsel had not cited any material to controvert this interpretation, we have to accept the same. We may also mention that in our view such interpretation or classification appears to be quite rational and logical.

9. The applicant's next contention^{is} that whereas the S.C. candidate had not joined and, the candidate at serial No. 3 had submitted his unwillingness, It may be mentioned that the copy of the letter from S.K. Srivastava, the candidate at serial No. 3 annexed by the applicant himself, mentions that as more than two years (emphasis supplied by us) had passed.....I am not interested in joining R.D.S.O. This therefore, clearly demonstrates that Shri Srivastava the candidate at serial No. 3 had indicated his unwillingness only after the expiry of the currency of the panel and he was conscious of

the fact that the panel was current only for two years as indicated in the relevant notice. Further, it is undisputed that nobody junior to the applicant in the General Category was offered promotion to Draftsman category A. For the same reason we also do not find any merit in his contention that he should have been offered promotion in lieu of the S.C. candidate.

10. Viewed in the background of the conspectus of the case and the foregoing discussions, we find the claim of the applicant as devoid of merit. The O.A. is therefore, hereby dismissed. Parties shall bear their own costs.

~~MEMBER (J)~~

MEMBER(J)

L K

MEMBER(A)

Lucknow; Dated: 20-3-97

Shakeel/

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET

CAUSE TITLE CA 668/86 OF

NAME OF THE PARTIES Govt Kumaon

Applicant

Versus

..... U.O. T. Govt Respondent

Part A, B & C

Sl. No.	Description of documents	Page
1	Cheek list	A1 to A2
2	Order sheets	A3 to A17
3	Judgement order dt. 20-3-97	A18 to A24
4	CM-11092/87	A25 to A26
5	Copy of Petition/Amusement/Power	A27 to A58
6	Reply	A59 to 73
7	Rejendra Affidavit	A74 to A84
8	Supplementary Affidavit/S.C.A.	A85 to A90
9	M.P. No 228 D/C S.C.R.	A91 to A106
10	M.P. No 310/91 objections	A107 to A120
11	M.P. No 128/91	A121 to A124
12	M.A. No 92/87, M.P. No 1162/93, M.P. No 2000/94, M.P. No 879/95 dt 18-12-95, M.P. dt 8-8-95, M.P. No 14452/95	A125 to A148 + A166
13	dt 18-12-95 S.C.A.	A167 to A184

11 - S.C.A. A185 to A191

CERTIFICATE

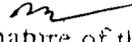
Certified that no further action is required to taken and that the case is fit for consignment to the record room (decided)

weeded out

Dated... 08/05/12

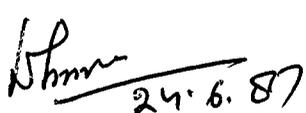
Counter Signed

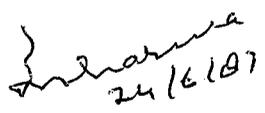

Section Officer / In charge


Signature of the
Dealing Assistant

which will cause grave and irreparable loss to him. The application is opposed by the learned counsel for the respondents on the ground that the applicant was ^{be} ~~appointed~~ appointed as Draughtsman Grade-B and that his transfer from Calcutta to Lucknow was ^{be} ~~in~~ a routine administrative order which had nothing to do with application praying for promotion as Draughtsman Grade-A.

2. We have heard learned counsel for the applicant and perused the record. On a perusal of the order dated 21.6.1987(annexure 1 to the petition), it is noticed that the applicant was posted to a post of Draughtsman Grade-B at Calcutta against the ~~post~~ Draughtsman-Grade B post which was falling vacant. We are, therefore, unable to accept the contention of the applicant that he ^{was} ever appointed to the post of Draughtsman Grade-A. We also find that the impugned order dated 9.6.87 is an order of the transfer of the applicant in the same capacity as Draughtsman Grade-B and it does not confirm the allegation of the applicant that by this order he has been reverted from the post of Draughtsman Grade-A to that of Draughtsman Grade-B. There is no substance in the allegation contained in the misc. application and the application is rejected.


A.M.


J.M.

JS. / 24.6.87

Req. No. 668 of 1986
Central Administrative Tribunal
Additional Bench
Allahabad, Patna, Jabalpur
Date of Filing 13.11.86 OR
Date of Receipt by Post

27

Chandra
Deputy Registrar.

Before the ~~Public~~ Central Administrative Tribunal
Additional Bench Allahabad

Index

in

Registration No. of 1986

between

Lav Kumar ... petitioner

and

Union of India and others ... Respondents

S.No.	Particulars	Pages
1.	Memo of petition	.1. to .14
2.	Annexure I Order dt. 21st June, 85	.15 to .16
3.	Annexure II Application dt. 28th Oct. 1985	.17 to .21
4.	Annexure III Reply dt. 5th March, 86	.22 to .23
5.	Annexure IV Application of Sunil Kumar	.24 to .25
6.	Annexure V Application dt. 30th June, 1986	.26 to .28
7.	Annexure VI Order dt. 19th Aug. 86	.29 to .30

Central Administrative Tribunal
Additional Bench At Allahabad
Date of Filing 13.11.86
Date of Receipt by Post
Deputy Registrar. (13.11.86)

B.P. Srivastava
(B.P. Srivastava)
Counsel for the petitioner

Lava Kumar

15/4/86

In the Central Administrative Tribunal
Additional Bench Allahabad

Registration No. of 1986
between

Lav Kumar ... Petitioner
and
Union of India and others ... Respondents

1. Particulars of the applicant :

Lav Kumar , aged about 28 years, son
of Shri Ram Chandra Barui , Draftsman
Category B in Arch Cell R.D.S.O. Metro
Railway 33/1 Chaurani Road, Calcutta.

Note: service of notice of the petitioner
may be served on Sri B.P. Srivastava,
advocate, 188-A Alopibagh, Jawahar Lal
Nehru Road, Allahabad.

2. Particulars of the Respondents :

(i) Union of India through the Director
General, R.D.S.O. Manak Nagar, Lucknow.

(ii) Director General , R.D.S.O. Manak
Nagar, Lucknow.

Lava Kumar

(iii) Joint Director , Arch Cell, R.D.S.O.
Metro Railway , Calcutta.

Note: The notice of the opposite parties may be served on the addresses given above.

3. That the present application is against the following order:

Order No. A.R.T./119/2/Part dated 19th August, 1986 (Annexure VI) passed by the Director General , R.D.S.O. Manak Nagar, Lucknow.

By means of the aforesaid order dated 19th August, 1986, the petitioner's representation dated 30th June, 1986 has been rejected in which the petitioner had requested that he be appointed as Draftsman Category A on the basis of the penal prepared for the said post.

4. That the petitioner declares that the subject-matter of the order against which he wants redressal is within the jurisdiction of this Hon'ble Tribunal.

5. That the petitioner further declares that the application is within the limitation prescribed under sec. 21 of the Administrative

Lava Kumar

Tribunal Act, 1985.

6. That the facts of the present case are as follows:-

(a) That the petitioner was initially appointed as draftsman Category B in the scale of Rs 330-560 in the Arch Cell Research Designs and Standard Organisation (hereinafter referred to as R.D.S.O.) Manank Nagar, Lucknow by the ~~Joint~~ Director General, R.D.S.O. The petitioner was directed to join Cell of R.D.S.O. Metro Railway Calcutta. The petitioner joined the said post on 30th July, 1983.

(b) That in June, 1985, the post of draftsman Category B was surrendered but the petitioner was directed to work as draftsman category A. An order dated 21st June, 1985 was issued mentioning therein that due to surrender of one post of draftsman B at Arch Cell Calcutta, the petitioner is posted as Draftsman B at Calcutta against the post of draftsman Category A.

A true copy of the said order dated 21st June, 1985 is being filed herewith as annexure I to this petition.

Lava Kumar

A
B

(c) That since 28th June, 1985, the petitioner has been holding the post of draftsman category A as directed by the Director General in his order dated 21st June, 1985 but the petitioner is being paid the salary of draftsman Category B.

(d) That the ⁶post of Draftsman Category A in the scale of Rs 425-700 were newly created. In order to fill up those six newly created posts of draftsman in the scale of Rs 425-700 an advertisement was published calling for applications from suitable candidates. The petitioner who was fully eligible submitted his application through proper channel. His application was recommended by the department for selection for the post of draftsman category A.

SRA-1
m/s m/s

(e) That thereafter a written test and interview was held by a duly constituted selection Committee. Several other candidates also appeared in the said selection. Thereafter a penal of six candidates found suitable was prepared, which was also approved by the competent authority and the said penal was declared in March, 1984. In the aforesaid penal the following

Lava Kumar

candidates were selected :

1. Km. Anita Saxena,
2. Sri Pradip Kumar,
3. Shri Sunil Kumar Srivastava
4. Shri Lav Kumar (Petitioner)
5. Shri Satish Kumar
6. Shri Munna Lal.

(f) That thus the petitioner's name in the aforesaid penal appeared at S.No. 4.

20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

(g) That while the process of implementation of the selected penal was going on a ban on the creation of posts and filling up the vacancies came into force. The aforesaid ban was lifted on 20th May, 1986.

(h) That in the mean time before the ban was in force Km. Anita Saxena and Pradip Kumar were already posted as Draftsman Category A and they joined their duties on 24th September, 1984 and 12th November, 1984. The candidate at S.No. 6 Munna Lal was also ordered to be appointed but he did not turn up to take charge

Lava Kumar

1/2/85

- 6 -

and he has not yet taken over charge of the post of draftsman category A and as far as the petitioner knows he has taken up jobs somewhere else.

(i) That the petitioner had submitted an application on 28th October, 1985 to the Director General R.D.S.O. Lucknow requesting therein that the petitioner be posted to the vacant post of draftsman category A. The petitioner had mentioned that he has already served in the Arch Cell of R.D.S.O. in the vacant post of draftsman category A. The petitioner mentioned that he is already holding the post of draftsman category A and that he has already been selected for the said post, as such he may be allowed to be continued in accordance with the penal prepared. The petitioner had also mentioned that his posting in the scale of draftsman category A will not in any way affect the seniority of the candidate whose name finds place in the said penal announced in March, 1984.

b17
A true copy of the said application of the petitioner dated 28th October, 1985 is being filed herewith as annexure II to this petition.

Lava Kumar

(j) That when no orders were passed on the aforesaid application of the petitioner he sent a reminder on 17th February, 1986.

(k) That the petitioner was thereafter given a reply on 5th March, 1986 mentioning therein that as the person at S.No. 3 Sunil Kumar Srivastava has not yet been offered appointment, therefore, the petitioner who is at S.No. 4 cannot be given appointment.

A true copy of the said reply of the department dated 5th March, 1986 is being filed herewith as annexure III to this petition.

+ 22

(l) That in the mean time, the candidate selected at S.No. 3, namely, Sunil Kumar Srivastava had taken up some appointment elsewhere therefore, he submitted an application on 23rd June, 1986 to the Director General General R.D.S.O. mentioning therein that he is not interested to join the aforesaid post.

See page 10 of CR

A true copy of the said application of Sunil Kumar Srivastava dated 23rd June, 86 is being filed herewith as annexure IV to this petition.

+ 24

(m) That when the petitioner came to know that Sunil Kumar Srivastava who was at serial

Lava Kumar

A
125

no.3 had already submitted an application showing his unwillingness to join the aforesaid post of draftsman category A , the petitioner submitted an application on 30th June, 1986 requesting therein that he may be posted as draftsman category A in the scale of Rs 425-700. The petitioner had also mentioned that the ban which was imposed has also been lifted with effect from 20th May, 1986 and as such there should not be any difficulty in posting the petitioner in accordance with the penal declared.

SEAL
expired

NOT
FILED

A true copy of the said application of the petitioner dated 30th June, 1986 is being filed herewith as annexure V to this petition.

125

~~xxx~~

(b) That the Director General R.D.S.O. has given a reply dated 19th August, 1986 mentioning therein that as the life of the penal has already exhausted , therefore, it is not possible to appoint the petitioner on the post of draftsman category A on the basis of the said penal.

A true copy of the said order dated 19th August, 1986 is being filed herewith as annexure VI to this petition.

(c) That the life of the penal is given in paragraph 217 of the Indian Railway Establishment

Lava Kumar

Manual . The said paragraph 217 reads as under:-

"Currency of the penal :

(a) Penals drawn by a selection Board and approved by the competent authority shall be current for two years from the date of approval by the competent authority or till these are exhausted whichever is earlier.

(b) An employee who once officiates against a non fortuitous vacancy in his turn on the panel shall not be required to appear again for fresh selection.

(c) In case an employee lower in the panel has officiated whereas one higher in the panel has not officiated for reasons beyond the latter's control , the latter employee will not be required to appear for fresh selection. "

(p) That a perusal of the paragraph 217 of the Manual would show that it mentions that

Lava Kumar

the penal drawn by the selection board shall be current for two years from the date of approval by the competent authority or till these are exhausted whichever is earlier.

(q) That in the present case, the penal which was prepared for appointment on the post of draftsman category A in March, 1984 due to the ban automatically was suspended and the ban was only lifted on 20th May, 1986. Thus the penal was not current during the period when the ban was there and after it was lifted the penal became again current, therefore, the allegation that the life of the penal exhausted after two years was completely illegal and wrong. The period under which the penal was under ban cannot be taken that the said penal was in currency.

(r) That the view taken by the opposite parties to that effect is illegal.

(s) That the petitioner has been advised that the aforesaid penal would be deemed to be current for complete two years excepting the period of ban that was imposed. As such the

Lava Kumar

the impugned order dated 19th August, 1986 annexure VI has been illegally passed.

(t) That not only this the names in the penal were placed in order of merit of the candidates. The candidates at S.No. 1 and 2 ^{Mr.} Anita Saxena and Pradip Kumar were already appointed on 24th September, 1984 and 12th November, 1984 respectively whereas Munna Lal had not joined the post. Sri Sunil Kumar Srivastava had already submitted his unwillingness to join the aforesaid post and he was at S.No. 3 and as such the petitioner who is at S.No. 4 should have been posted on the post of draftsman category A. The petitioner has been grossly discriminated in the matter of his employment in not appointing him on the said post on the basis of the said penal declared.

(u) That the action of the opposite parties is completely discriminatory as offer was ~~made~~ made to S.No. 6 of the penal whereas the persons between s.no. 2 to 5 were completely ignored.

(v) That in any view of the matter, the candidate at S.No. 3 Sunil Kumar Srivastava having refused to be appointed on the post of draftsman

Lava Kumar

category A and person at S.No. 6 who was offered appointment but had not taken up the charge leads to the conclusion that the petitioner who was at S.No. 4 ought to have been posted as drafts man category A and as such the opposite parties have grossly discriminated the petitioner and refused to appoint him.

(w) That the petitioner has been grossly discriminated in the matter of his employment specially the order that the life the penal had exhausted is completely wrong and illegal as during the suspended period due to the imposition of the ban the penal was not current. Its currency again started when the ban was lifted on 20th May, 1986 .

(x) That ~~such~~ as such the order dated 19th August, 1986 has been illegally passed and is liable to be set aside.

7. That in view of the facts mentioned above, the petitioner prays for the following reliefs:

p 29 (a) That the order dated 19th August, 1986 annexure VI may be quashed.

(b) That the opposite parties may be

Love Kumar

A/40

- 13 -

directed to appoint the petitioner as draftsman category A in the scale of Rs 425-700 in accordance with the penal prepared in March, 1984.

(c) that any other suitable order, ~~order~~ or direction of declaration may be issued which this Hon'ble Tribunal may deem just and proper in the circumstances of the case.

(d) to award the costs of this petition.

8. That no interim relief is prayed in the present case.

9. That the petitioner declares that the order has been passed by the highest authority namely, the Director General and as such no remedy is available under the relevant service rules.

10. That the petitioner further declares that the matter regarding which the present application has been made is not pending in any court of law or any authority or any other bench of this Tribunal.

11. Particulars of the postal orders:

1. Number of the postal order 813491

2. Post office from which purchased *Head Post office*

Lava Kumar

3. Date of issuing post office 13-11-86

4. Post office at which payable.

12. The index has already been appended in the beginning of the paperbook as such no separate index is needed.

13. That the list of enclosures is also given in the index and as such no list of enclosures is needed.

I, Lav Kumar aged about 28 years, son of Shri Ram Chandra Barui, Draftsman Category B in Arch Cell R.D.S.O. Metro Railway 33/1 Chaurangi Road, Calcutta, do hereby declare that the contents of paragraph nos. 1 to 13 of this petition are true to my personal knowledge and nothing has been suppressed.

Lav Kumar
Signature of the applicant

Place Allahabad

Dated Oct. , 1986

B. B. Swabhu
As
Counsel for petitioner

Lav Kumar

15 X/P

Before the Central Administrative Tribunal
Additional Bench Allahabad

Annexure I

in

Registration No. of 1986

between

Lav Kumar ... petitioner

and

Union of India and others' ... Respondents

Government of India

Ministry of Railways

Research Designs and Standards Organisation

Nanak Nagar

Lucknow 11

staff Posting order no. 234 of 1985

The following transfer/postings are ordered
in Arch Dt. Arch Cell Calcutta with immediate
effect :

- 1) shri Anand Khare, D/man A /Arch Cell, Calcutta
is transferred and posted in the same capacity
in Arch Dte. RDSO/Lucknow against and existing vac-
avancy.

Lava Kumar

16

A
43

- 2 -

ii) Due to the surrender of one post of D/Man B scale Rs 300-560 Arch Cell Calcutta w.e.f. 30/6/85 (AN) Shri Lava Kumar the only D/Man B at Arch Cell, Calcutta is posted as D/Man B at Calcutta against the post of D/Man A to be vacated by Shri Anand Khare, vide item (i) above.

2. The charge reports of the above staff may be sent to Estt. IV section immediately.

Sd. M.Lal

For Director Arch.

File No. ANT/119/2

Dated 25/6/85

Distribution

1. SPA/Dir (Arch) 2. JD/Arch (W) 3. JD/Arch (MIP) 4. JDE
5. SO/E.I. C.S.O. /E. III 6. SO/Mina. 7. Sc./Hindi 8. SO/Estt. 9. SO/Pass 10. Arch. section 11. Asstt. Arch. II/RDSO Arch. Cell, 7th Floor, 33-A Jawahar Lal Nehru Road, Calcutta. 12.

Sd. Illegible

RS
True copy

Lava Kumar

17
A/49

Before the Central Administrative Tribunal
Additional Bench Allahabad

Annexure II

in

Registration No. of 1986

between

Lava Kumar ... petitioner

and

Union of India and others ... Respondents

To

The Director General,
Research Design Standard Organisation
Manak Nagar,
Lucknow.

Sub. Regarding posting of applicant as Draftsman
Category A in R.D.S.O. (Arch. Cell).

Sir,

Most humbly and respectfully the applicant
begs to submit the following facts for your kind
consideration and necessary orders.

Lava Kumar

- 2 -

1. That the applicant was working as a Draftsman category B in the Arch. Cell/R.D.S.O. Metro Railway, Calcutta, ever since his appointment in July, 1983.

2. That the aforesaid post, against which the applicant was working, has been surrendered on the 30th June, 1985 that the applicant has been detained here and is now working against the vacant post of Draftsman category A but is not receiving the pay scale of that category. Instead he is still being paid the pay scale of Draftsman category B.

3. That as a result of selections made in 1984 for appointment to the post of Draftsman category A a panel list (valid for two years) containing names of six candidates, was drawn up and announced. The applicants name finds place at serial no. 4 in the panel list.

4. That candidates as no. 1 and 2 of the panel list, namely, Kumari Anita Saxena and Sri Pradeep Kumar have already joined and are working as Draftsman category A at Calcutta.

Lona Kumar

19

A
1/16

- 3 -

5. That candidate at S.No. 3 of the panel list Sri Sunil Srivastava is at present working in Harijan Welfare Development Corporation of U.P. Govt. at Lucknow. He has not joined as yet and no offer seems to have been made to him to join the post of category A.

6 That the name of the applicant finds place at S.No. 4 of the panel list and is serving in Arch. Cell of R.D.S.O.

7 That owing to financial stringency the Central government have announced imposition of ban on fresh appointment as an economy measure. It appears that owing to imposition of such ban no required progress have been made for absorption of other candidates mentioned in the panel list.

8. That the applicant is already holding appointment in R.D.S.O. and is working against the vacant post of Draftsman category A as stated in para 2 above. The applicant is of the view that his case is not for fresh appointment, as fresh appointment envisages that the candidates is a new entrant and is not already holding employment

Lava Kumar

20

A/UT

- 4 -

in the office set up and that he will commence his service from the date of appointment. Appointments of Kumari Anita Saxena and Pradeep Kumar are examples of fresh appointments as they were not holding appointments in R.D.S.O. previously. whereas the applicant is already holding appointment in R.D.S.O. and not seeking fresh appointment. What is therefore, needed in his case is simply the issuing of an order for his posting in the scale of Draftsman category A, against the vacant post on which he is already working.

9. That his posting in the scale of draftsman category A will in no way affect the seniority of candidates whose name finds place above his name in the panel list announced in 1984 as those who have already joined or may join the post in near future will always remain senior to him according to panel list and the applicant cannot claim seniority against them on the basis of his length of service.

10. That the applicants case also stands on a different footing from departmental promotion. The invitation to six posts was an open offer and was applicable equally to outside as well as to departmental candidates eligible for the post. The applicant availed of the opportunity

Lava Kumar

21

A/B

- 5 -

and applied through proper channel. Now his posting to draftsman category A cannot, perhaps, be ruled out on the ground of fresh appointment or his being not eligible for departmental promotion.

11. That every person in service aspires for promotion as it leads to monetary gain as well as in rank and status. The applicant is also no exception to it. The order for his posting as Draftsman category A will enable him to get a petty increase in his pay and allowances only. In other words he will only get the difference between the pay scales of category A. and B. as additional more amount than what he is getting at present.

Wherefore, it is prayed that in the light of facts stated above the case of the applicant be considered sympathetically and orders for his posting to the vacant post of draftsman category A be issued early. Thanks for the trouble given. Awaiting your esteemed decision early.

Yours faithfully,

Sd. Lava Kumar

Draftsman B
Arch Cell/R.D.S.O. Metro Railway
Calcutta.

copy to

1. Additional Director (Arch)
- 2.

True copy

Lava Kumar

इन हि सेंट्रल एडमिनिस्ट्रेटिव टिकुल ए डिशिनल ब्रान्च
हलाहावाद।

एनोवरन० (३)

इन
ए

रजिस्ट्रेशन नम्बर

आपका १६८६

(जिला)

श्री लव कुमार

पिटी शेर

वनाम

युनियन आपका इन्डिया आदि - - - - - रे स्या०

तार - रेल मानक।

भारत सरकार - परिवहन मंत्रालय

रेल विभाग

अनुसंधान अभिकल्प और मानक सर्वजन ।

पत्र संख्या :- पत्र सं० १०० आर० टी० ०१६६। २ पार्ट) दिनांक २-१६-६६

ज्ञापन

~~~~~

श्री लव कुमार नक्शा नवीस \* स \* कृत एक क ( कसकत्ता की उनके  
आवेदनपत्र दिनांक १७-२-६६ केसन्दर्भ में सूचित किया जाता है कि  
क्यों कि उनका नाम नक्शा नवीस \* के वेतमान ४२५ -७०० की

Lava Kumar

-२:-

वाहरी मती चयन सूची में क्रम सं० ४ पर है तथा अभी तक क्रम सं० ३ पर पदमा नित उम्मीदवार की नियुक्ति का अवसर नहीं दिया गया, हे/ और न हीवास्तु एकक कस्तकत्ता में स्वीकृत निर्माण प्रभाक्ति पदा की आगे बढ़ाये जाने की सम्भावना है। इसलिए उनका इस पद हे/ दावा अमान्य है।

२:- जहाँ तक उक्त पद के विद्द तबथ प्रवन्ध करने का प्रश्न है कि श्री लव कुमार को आगे सुचित किया जाता है कि वहकार विभागीय उम्मीदवार के वर्तमान भरती एवं पदान्ति नियमों के अनुसार इस पद के पात्र नहीं है।

३- श्री लव कुमार ने, अपने उपरोक्त आवेदन पत्र में दिनांक २८-१०-८५ के पत्र का भी उल्लेख किया है। क्या कि उक्त आवेदन पत्र उचित माध्यम द्वारा अगुसारित नहीं था। इसलिए उस पर वर्तमान विभागीय अनुदेश के अन्तगत कार्यवाही का प्रश्न नहीं उठा और इसकी सूचना उन्हें इस कार्यालय के समसंख्यक ज्ञापन दिनांक ३१-१-८६ द्वारा दी जा चुकी है।

एम०लाल ह/अस्पष्ट ०५-३-८६

कृते महा निदेशक।

संलग्नक- कुछ नहीं।

श्री लव कुमार नक्षानवी श स

अ०मा० वास्तु एकक ७ वी मजिल २०३३२ जवाहर लाल

नेहरु राठ कस्तकत्ता T ७१ (सत्य प्रति लिपि)

Lava Kumar

24

A/51

Before the Central Administrative Tribunal  
Additional Bench Allahabad

Annexure IV

in

Registration No. of 1986

between

Lav Kumar --- petitioner

and

Union of India and others ... Respondents

The Director General

R.D.S.O.

Manak Nagar, Lucknow.

Re: Appointment of the post of Jr. Asstt. scale 425.  
700.

Dear sir,

I would like to keep your attention towards appointment of senior Arch Asstt. held in March 84.

I was one of the candidate who get opportunity for getting a name in penal. I was on no. third in the penal. But as more than two years passed I have not received any information or correspondence according my appointment I.C.Hrs.

In this my period I tried for another job and I

Lava Kumar

25

*AS*

- 2 -

get it. Now I would like to state you that I am not interested in joining R.D.S.O. for the past case as stated above and if any one else going to appoint on above post I have no objection regarding in this matter.

In last I will again thankful to you for giving my name in penela.

With thanks

Yours sincerely

sd. Sunil Kumar Srivastava

230 Rajendra Nagar

Lucknow 226004

*15*

True copy

Lava Kumar.

इन दि सेंट्रल एडमिनिस्ट्रेटिव टिबुनल एडिशनल ब्रान्च

स्वाहा वाद।

एनेक्टर नं० (५)

इन

सिविल मिस० रजिस्ट्रेशन नम्बर

आपन १६८६

लव कुमार

पिटीशनर

वनाम

युनियन आपन इन्डिया एन्ड

अदसी

रेखा ०

सेवा में,

महा निदेशक,

अनुसंधान अमिकल्प एवं मानक संज्ञ,

मानक नगर, लखनऊ।

उचित माध्यम द्वारा :-

विषय :- नक्शानवीस का क्र० क के केंनमान रूपया ४२५।०००

के रिक्त पद पर नियुक्ति :-

महोदय।

Lava Kumar

-:२:-

आपके पत्र संख्या सञ्चार ०टी ०११६।२। पाट ( ) दिनांक ५-३-१९८६ पर विरहित पत्र व्यवहार के तन्दम में मुझे यह कहना है कि विरक्त सूत्र से मुझे पता चला है कि चयन सूची के क्रम सं० ३ पर पद/नामित उम्मीदवार श्री सुनील कुमार श्रीवास्तव ने मानक सॉठन में अपनी नियुक्ति की अनिच्छा व्यक्त की है और इसकी लिखित सूचना भी सॉठन कार्यालय को भेज दी है। ऐसी स्थिति में चयन सूची में प्राथी का नाम क्रम संख्या ४ पर होने के कारण अब नक्शा नवीस वर्ग के केंद्रमान ४२५-७०० के पद पर नियुक्ति किये जाने का उसका दावा मान्य हो जाता है। भारत सरकार द्वारा पदों के सृजन एवं रिक्त स्थानों की पूर्ति पर लाा प्रतिबन्ध भी अब उठा लिया गया है। अतः प्राथी के मामले में सहानुभूति पूर्वक विचार किये जाने की अपेक्षा की जाती है।

२:- कदाचित इस बात का उल्लेख करना आपासंगिक न होगा कि मैं नक्शा नवीस वर्ग (क) के केंद्रमान ४२५-७०० के रिक्त पद पर माह जुलाई १९८५ से कार्यभी कर रहा हूँ किन्तु मुझे केंद्र आदि निम्न वर्ग नक्शा नवीस वर्ग (ख) के केंद्रमान ३३०-५६० का ही दिया जा रहा है। जिसके कारण मुझे आर्थिक हानि उठानी पड़ रही है।

३:- अतएव अनुरोध है कि मुझे वर्ग (क) के केंद्रमान ४२५-७०० के रिक्त पद पर नियुक्ति किये जाने का आदेश शीघ्र



-३:-

जारी करने की कृपा की जाये ताकि कामान मंहगाई के समय में मुझे  
अरि आर्थिक हानि न उठानी पड़े।

आपके आदेश की प्रतीक्षा में

मकीय

लव कुमार

नक्शा नवीस वीस

वस्तु कोठ अथवा ० म०स०

मैदुरेल भवन कलकत्ता।

दिनांक ~~०००००~~ ३०-६-८६

ह अस्पष्ट

ह अस्पष्ट

३०-६-८६

ह अस्पष्ट

८/९-८६

18  
सत्य प्रतिलिपि

29

56

इन दि सेंट्रल एडमिनिस्ट्रेटिव टिबुनल एडिशनल ब्रान्च

इलाहाबाद।

एनेक्चर नं० (VI)

इन

रजिस्ट्रेशन नम्बर

आफ १६८६

लव कुमार

पिटीशनर

वनाम

यूनियन आफ इन्डिया

एन्ड अदर्स

रैस्था०

रैल्मानक लखनऊ

सील

टेलीफोन 56567 & 50017

टेलीक्स

535-330RDSB IN

भारत सरकार - रेल मंत्रालय।

अनुसंधान अभिकल्प और मानक संवर्धन,

पत्र संख्या ए०आर० टी०११६।२। पार्टी लखनऊ दिनांक १६-८-६६

ज्ञापन

श्री लव कुमार। नक्शा नवीस खै वास्तु, एक कलकत्ता का

उनके आवेदन पत्र स० दिनांक १०-६-६६ के सन्दर्भ में सूचित किया

जाता है कि क्या कि नक्शा नवीस का कौनसा नं० ४२५-७०० की

Lava Kumar

-:२:-

कीवहरी मरती की पदनामिका की अवधि समाप्त हो चुकी है। अतः उसे  
अवसंचालित नहीं किया जा सकता अतः उनकी इस पद पर नियुक्ति  
अवसंचालित नहीं है।

२- उन्हें वास्तु एकक कलकत्ता में नक्शा नवीस'क' की एक रिक्त  
के किन्हीं शीघ्र ही तदर्थ आचार पर पदान्ति किया जा रहा है,  
जिसकी वे प्रतीक्षा करें।

इ. २०२१ (२०२१) (२०२१)  
एम (शाल)

२

कृते महा निदेशक।

१६-८-८६

संलग्नक- कुछ नहीं।

श्रीलव कुमार।

नक्शा नवीस'क' वास्तु एकक (एम० टी० पी०)

७ वीं मंजिल

३३ ए जवाहर लाल नेहरू रोड

कलकत्ता-७१।

-य-----

18

( सत्यप्रतिलिपि )



158

Before the central Administrative Tribunal  
अभिभाषक प्रवक्ता (वकालतनामा)  
Allahabad

~~हाईकोर्ट ऑफ जूडीकेटर, इलाहाबाद~~

Registration नं० ..... सन् १९८६

Shri Jai Kumar

वादी/प्रतिवादी  
अपीलान्ट

बनाम

Union of India & Co

वादी/प्रतिवादी  
रेस्पान्डेन्ट

में कि श्री जय कुमार drafts man Category B

In Arch Cell R.O.S.O. Khatu Railway 33/1 Chisampur

Road, Cawcutta

उपरोक्त प्रकरण में मैं अपनी ओर के पक्ष समर्थन के हेतु

श्री बी० पी० श्रीवास्तव व श्रीमती उमा श्रीवास्तव, एडवोकेट हाईकोर्ट

१८८ ए, अलोपीवाम, जवाहरलाल नेहरू मार्ग, इलाहाबाद

को कानूनी निश्चित शुल्क (मेहनताना) नियत करके अपना अभिभाषक वकील (वकील) नियुक्त करता हूँ

करते हूँ यह स्वीकार करता हूँ कि उक्त सज्जन हमारी ओर से वाद-पत्र (अर्जी दावा), प्रतिवाद-पत्र (बयान तहरीरी), वाद स्वीकार पत्र, विवाद पत्र पुनरवलोकन एवं पुनर्निर्णय प्रार्थना पत्र (दरखवास्त), शापथिक कथन (हलफनामा इजराय) प्रवर्तन पत्र (दरखास्त), मूजवात अपील, निगरानी इत्यादि हर प्रकार के अन्य प्रार्थना आदि एवं लेखादि की प्रतिलिपियाँ अपने हस्ताक्षर करके न्यायालय में प्रस्तुत करें अथवा किसी पत्र पर आवश्यकतानुसार शापथिक पुष्टीकरण करें और आवश्यक सवाल जवाब करें और लेखादि की प्रतिलिपियाँ एवं हमारे प्राप्ति को अपने हस्ताक्षरी पावती देकर प्राप्त करें। हमारी ओर से किसी को मध्य पत्र, तथा साक्षी (गवाह माने और उससे सम्बन्धित प्रार्थना-पत्र प्रस्तुत करें तथा उसका समर्थन करें तथा तसदीक करें, वाद-पत्र उठावें, छोड़े अथवा समझौता करें तथा मुलहनामा दाखिल करें तथा उसके सम्बन्ध में प्रार्थना-पत्र दाखिल करके उसका समर्थन करें अर्थात् प्रकरण से सम्बन्ध करने वाली कुल कार्यवाही डिग्री के भर पाई होने के समय तक स्वतः या संयुक्त करें आवश्यकता होने पर किसी अन्य वकील महोदय को वकील करें। उक्त सभी कार्यवाही जो उक्त सज्जन करेंगे प्रत्येक दशा में अपने किये की भाँति हमको सर्वथा स्वीकार होगी अगर मैं कानूनी शुल्क उक्त सज्जन को न दूँ तो उनको अधिकार होगा कि वह हमारी ओर से मुकदमा की पैरवी न करें। उपरोक्त दशा में उक्त सज्जन का कोई उत्तरदायित्व न रहेगा।

अतएव यह अभिभाषक पत्र लिख दिया कि प्रमाण रूप से समय पर काम आये।

वकालतनामा मन्जूर है।

तिथि

13

मास

11

सं० 1986

जयकुमार

हस्ताक्षर  
जयकुमार  
हस्ताक्षर  
जयकुमार  
हस्ताक्षर  
जयकुमार

Before the Central Administrative Tribunal  
Additional Bench,  
Allahabad

Reply on behalf of the Respondents

in

Regn. No. 668 of 1986

Lava Kumar .. Applicant

Vs.

Union of India and others .. Respondents

I, S.Bhatia son of late Shri U.C.Bhatia aged about 52 years presently posted as Deputy Director Establishment-I in the office of Research Designs and Standards Organisation, Ministry of Railways, Manak Nagar, Lucknow do hereby solemnly affirm and state on oath as under:

1. That I am presently posted as Deputy Director Establishment-I in the office of Research Designs and Standards Organisation, Ministry of Railways, Lucknow and have been authorised on behalf of the Respondents No.1, 2 and 3 to file this reply. I have fully perused the relevant records relating to instant case and thus I am fully acquainted with the facts of the case deposed below.

.....2

उत्तर दिनेशक खासना - 1

अनुसंधान एवं विकास विभाग, लखनऊ

Recd Deopy  
R. U. waly  
for Sri B.P. Sinwartha  
26/2/87

A/6

2. That I have gone through the Application under reply filed by the Applicant alongwith the accompanying annexures and have understood the contents thereof.

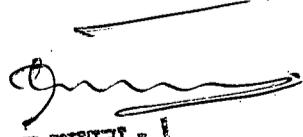
3. That the contents of paras 1, 2 and 3 of the Application call for no comments being a matter of record.

4. That the contents of para 4 of the Application are not admitted in the form they stand and are emphatically denied. In reply thereof, it is stated that as the Applicant had been and is still working at Calcutta, this Hon'ble Tribunal has no jurisdiction to entertain any grievance relating to the service matters of the Applicant.

5. In reply to the contents of para 6(a) of the Application, it is stated that the Applicant was appointed w.e.f. 30-7-1983 as D/man 'B' scale Rs.330-560/RS against a work-charged post in the Arch. Cell, Calcutta wing of Research Designs and Standards Organisation, on the basis of recruitment held for the said post.

6. That in reply to the contents of para 6(b) and 6(c), it is stated that the work-charged post of D/Man 'B' scale Rs.330-560/RS against which the Applicant was working at Calcutta, was surrendered w.e.f. 30-6-1985 and the

.....3



एप निदेशक स्थापना - 1  
अनुसंधान अधिभाग और मानक विभाग,  
रेल मंत्रालय, लखनऊ - 226011

A/6

Applicant being the junior most in the cadre of Draftsmen 'B' scale Rs.330-560/RS in Arch. Directorate was rendered surplus and faced retrenchment. With a view to avoid the retrenchment of the Applicant, it was decided with the approval of competent authority to operate the post of D/Man 'A' scale Rs.425-700/RS at Calcutta where the Applicant was working as D/Man 'B' scale Rs.330-560/RS to accommodate the Applicant who was surplus. Vide Staff Posting Order No.234 of 1986 (enclosed by the Applicant as annexure-I to Application) from the perusal of which it is evident that the Applicant was not posted as D/Man 'A' Gr.425-700/RS but on the contrary was posted as D/Man 'B' scale Rs.330-560/RS against the post of D/Man 'A' scale Rs.425-700/RS. It is further submitted that the Applicant was neither posted as D/Man 'A' scale Rs.425-700/RS nor he worked as D/Man 'A' scale Rs.425-700/RS, hence the question of payment of wages to him for the post of D/Man 'A' Scale Rs.425-700/RS, does not arise, and any other allegations to the contrary are not admitted and are denied.

7. That in reply to the contents of para 6(d), 6(e) and 6(f) of the Application, it is stated that an open market selection for the posts of D/Man 'A' scale Rs.425-700/RS for

.....4

  
उप निदेशक स्थापना - 1  
प्रनुसंधान अभिकल्प और मानक सं. प्र.  
रेल संग्रहालय, लखनऊ - 225011

A/12

2 existing and 4 anticipated vacancies was held on 10/12-3-84. As a result of this selection, a panel of 6 candidates was formed and the Applicant's rank in merit on panel was 4th. Any other allegations to the contrary are not admitted and are denied.

8. That in reply to the contents of para 6(g) and 6(h) of the Application, it is stated that it was decided to fill up 3 work-charged posts of D/Man 'A' scale Rs.425-700/RS amongst the candidates on the said panel. As per the Reservation Roster, one post of D/Man 'A' scale Rs.425-700/RS out of 3 work-charged posts of D/Man 'A' scale Rs.425-700/RS was reserved for Scheduled Caste candidate. The offer for the posts of D/Man 'A' scale Rs.425-700/RS therefore, was issued to candidates at S.Nos. 1 and 2 of the panel against general vacancies and to S.No.6 against Scheduled Caste reserved vacancy. The candidate at S.No.6 of the panel i.e. against the vacancy for Scheduled Caste, neither reported for duty nor any response was received from him. His name, therefore, was deleted from the panel with the approval of competent authority. In the meantime, the post of D/Man 'B' scale Rs.330-560/RS against which the Applicant was working was surrendered and the Applicant being junior most in the

...5



उच्च निर्देशक स्थापना - I  
अनुसंधान अभिकल्प और मा. . . . .  
देश मंत्रालय, लखनऊ - 226011

cadre of D/Man 'B' was rendered surplus in the category of D/Man 'B' scale Rs.330-560/RS in Arch. Directorate of Research Designs and Standards Organisation. With a view to avoid the retrenchment faced by the Applicant, it was decided with the approval of competent authority to operate the post of D/Man 'A' scale Rs.425-700/RS lying vacant due to the non-joining by Scheduled Caste candidate, in the grade of D/Man 'B' scale Rs.330-560/RS and accommodate the surplus D/Man 'B' i.e. Applicant against that vacancy. Had the answering Respondents issued the offer for the post of D/Man 'A' scale Rs.425-700/RS to the next candidate on the panel who was senior to the Applicant, the Applicant would have been retrenched and unemployed. The arrangement for the operation of post of D/Man 'A' scale Rs.425-700/RS as D/Man 'B' scale Rs.330-560/RS was made only to avoid the retrenchment of the Applicant and any allegations to the contrary are not admitted and are denied.

9. That in reply to the contents of para 6(i), 6(j) and 6(k) of the Application, it is stated that the Applicant had not submitted his application dated 28-10-85 for his posting as D/Man 'A' Gr.Rs.425-700/RS through proper channel. As the Applicant was posted as D/Man 'B' scale Rs.330-560/RS against the post of D/Man 'A' scale Rs.425-700/RS to avoid his retrenchment,

...6

the Applicant was working and discharging the functions of D/Man 'B' scale Rs.330-560/RS. As one more candidate senior to the Applicant was on the panel for the post of D/Man 'A' scale Rs.425-700/RS, the question of issuing him the offer for the post of D/Man 'A' scale Rs.425-700/RS ignoring the claim of his senior, does not arise. Had the answering Respondents issued offer to the candidate at S.No.3 of the panel for the post of D/Man 'A' scale Rs.425-700/RS, the Applicant who was at S.No.4 of the panel would have been out of employment.

10. That in reply to the contents of para 6(1) of the Application, it is stated that no such application from the candidate at S.No.3 of the panel seems to have been received in the office of the answering Respondents. Moreover, no such offer of appointment was given to Shri S.K.Srivastava for the post of D/Man 'A', scale Rs.425-700/RS.

11. That the contents of para 6(m) and 6(n) of the Application are not admitted and are denied in the form they stand. In reply thereof, it is stated that the Respondents' reply bearing No.ART/119/2/Pt dated 19-8-86 filed by Applicant as Annexure-VI to the Application, clearly

.....7



सुसंवाज अतिरिक्त कोर माला सुसंवाज,  
को संवाज, लखनऊ - 226011

P 24  
5/8

an  
empanelled  
candidate

A  
64

AS

indicates that due to the expiry of the currency of the said panel, it is not possible to post him as D/Man 'A' scale Rs.425-700/RS against that expired panel. However, in the same letter dated 19-8-86 filed as Annexure-VI to the Application by the Applicant, the Applicant was told to wait as he will be seen posted as D/Man 'A' scale Rs.425-700/RS on ad hoc basis and accordingly, the Respondents vide their Staff Posting Order No.342 of 1986 issued on 19-8-86 promoted the Applicant as a departmental candidate on ad hoc basis for the post of D/Man 'A' scale Rs.425-700/RS at Calcutta. A true copy of the said order is enclosed herewith and marked as Annexure-A1. The said order was served upon the Applicant, to which he has not submitted the charge report taking charge of the higher post of D/Man 'A'(ad hoc).

12. That the contents of para 6(o) and 6(p) of the Application call for no comments.

13. That except for the portion of Ban the rest of the contents of paras 6(q), 6(r) and 6(s) of the application are not

....8

  
एय निदेशक स्थापना - 1  
अनुसंधान अखिलत्व और भाषा संयोजन,  
देश मंत्रालय, लखनऊ - 226011

admitted and are denied. In reply thereof, it is stated that ban was not with respect to filling up work-charged and non-operational posts. A true copy of the letter of Railway Board in that behalf is enclosed herewith and marked as Annexure-A2. It is further submitted that persons at serial No.1 and 2 of the said panel were engaged during ban against work-charged posts and thus the panel was operated upon and it never remained suspended.

14. That the contents of para 6(t), 6(u), 6(v), 6(w) & 6 (x) are not admitted and are emphatically denied. In reply thereof, the contents of paras 8, 11 and 13 of this reply are reiterated. It is further stated that there had been no discrimination in the matter of employment of the applicant and the entire action of the answering Respondents is fully legal and as per extant rules on the matter and any allegations to the contrary are not admitted and are denied.

.....9

६५  
अनुसंधान अधिनियम और भा.स. संशोधन,  
रेल मंत्रालय, लखनऊ - 226011

15. That the contents of para 7 of the Application are not admitted and are emphatically denied. In reply thereof, it is stated that the applicant has utterly failed to make out any case for interference by this Hon'ble Court. As there had been no violation of any principles of natural justice or of any Rules, the applicant is not entitled for the reliefs claimed and the instant application is liable to be dismissed with cost.

16. That the contents of para 8 of the application being matter of record need no comments.

17. That the contents of para 9 of the application are not admitted and are denied. In reply thereof, it is stated that a further remedy lies by way of <sup>making</sup> ~~making~~ representation to the ~~Director General, R.O.S.O.,~~ <sup>New Delhi</sup> Ministry of Railways, ~~Delhi~~, which remedy the applicant had failed to avail and on this score alone the instant application is not maintainable and is liable to be dismissed.

18. That in reply to para 10 of the application, it is stated that the applicant is put to strict proof regarding the averments made therein.

19. That the contents of paras 11, 12 & 13

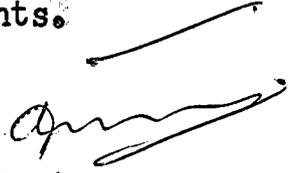
.....10



जि निदेशक स्थापना ५ ।  
एलुसंधान अफिद्वय २०११  
२० संतान्य, २०११ २६ ११

A/S

being matter of record need no comments.



Allahabad

Deponent - I

Dated: February , 1987.

अनुसंधान अभिकल्प और मानक विभाग,  
रेल संग्रहालय, बखतपुर - 226011

Verification

I, S. Bhatia son of late Shri U.C. Bhatia,  
Dy. Director/Estt-I, Research Designs and  
Standards Organisation, Ministry of Railways  
i.e. the deponent do hereby declare that  
the contents of paras 1 and 2 are true to the  
best of my knowledge and belief and that of  
paras 3 to 19 are stated to be true on the  
basis of office record. Nothing material  
in this case has been concealed. So help  
me God.



Allahabad

Deponent

Dated: February , 1987.

अनुसंधान अभिकल्प और मानक विभाग,  
रेल संग्रहालय, बखतपुर - 226011

Before the Central Administrative Tribunal  
Additional Bench,  
Allahabad

18/69

Reply on behalf of the Respondents

in

Regn. No. 668 of 1986

Lava Kumar .. Applicant

Vs.

Union of India and others .. Respondents

Annexure-A1

Government of India  
Ministry of Transport, Deptt. of Railways  
Research Designs and Standards Organisation

Manak Nagar,  
Lucknow-11

Staff Posting Order No. 342 of 1986

The following ad hoc promotions are ordered  
in Arch. Cell, RDSO/Calcutta w.e.f. 12-8-86(FN):

- i) Sri R.C.Singh, AAA/Arch. Cell, Calcutta  
is promoted as SAA, scale Rs.700-900  
against an existing vacancy.
- ii) Sri P.P.Singh Bhisht, D/man 'A', Arch.  
Cell/Calcutta is promoted as AA'A' scale  
Rs.550-750 vice Sri R.C.Singh.

.....2



सूचक निदेशक स्थापना - 1  
जनसंबंधन अधिकारी और मा. क. संकाय,  
देश संभालय, लखनऊ - 226011

iii) Smt. Lava Kumar, DM'B'/Arch. Cell,  
Calcutta is promoted as DM'A' scale  
Rs.425-700 vice Shri P.P.Singh Bhisht.

2. The above promotions will be current upto  
30-9-86 only. The staff should note that they  
will be entitled to pay and allowances of the  
higher posts only after they have completed  
22 days continuous service in higher grades. The  
above staff will have no right to claim similar  
promotion in future.

3. The staff should submit their charge  
reports to SO/E-IV through their Controlling  
Officers only.

DA/nil  
File No. ART/119/2  
Dated: /8/86.

Sd/-  
for JDS/Arch.(W)  
19.8.86

DISTRIBUTION

1. PA/Dy.DG
2. Addl.Dir.Arch.
3. DDE-I
4. JD/Arch.(W)
5. JD/Arch.(M)
6. SO/Arch.
7. SO/E-III
8. SO/Conf.
9. JDF
10. Staff concerned
11. P/file
12. Secy., Cl.III Staff Association.

----



RECEIVED  
19.8.86

Before the Central Administrative Tribunal

Additional Bench

Allahabad

Reply on behalf of the Respondents

in

Regn. No. 668 of 1986

Lava Kumar

.. Applicant

Vs.

Union of India and others

.. Respondents

Annexure-A3

Government of India (Bharat Sarkar)  
Ministry of Railways (Rail Mantralaya)  
(Railway Board)

No. E(G)84 EC2-1

New Delhi dt. 15-3-84

Addressed to the D.G., R.D.S.O., Lucknow and others

Sub:- Economy in administration and non-plan  
expenditure - Ban on creation of posts  
on the Railways.

Reference instructions contained in the  
Ministry of Railways letter No. E(G)79EC-2-7 dated  
15-10-81, and wireless message No. E(G)82EC2-2  
dated 6-4-83 as extended/modified from time to  
time and further directives issued by the  
Ministry, on the subject noted above.

....2

हय निदेशक स्थापना - 1  
अनुसंधान अतिक्रम और मानक संगठन,  
रेल मंत्रालय, लखनऊ - 226011

has not been taken, such filling up may be deferred upto 30-09-84. Where, however, panels for such non-operational vacancies have already been received upto the end of January or February, 84, these may be utilised for filling up the vacancies, but further panels may be held in abeyance till 30-09-84 and allowed to be operated only thereafter.

3. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

4. Hindi version will follow.

5. Please acknowledge receipt.

Sd/  
(T.K.Balasarmanian)  
Jt. Director Estt. Rly. Board.

Copy to:

Others.

उप निदेशक स्थापना - I  
अनुसंधान कार्यक्रम और शान्ति संगठन,  
रेल संग्रहालय, लखनऊ - 226011

A  
72

2. On further consideration of the matter, the Ministry of Railways wish to clarify the position as follows:•

(i) As far as the ban on creation of posts the existing restrictions contained in Board's letter of 15-10-1981 and wireless message dated 6-4-83 are concerned, these will continue to be in force ~~until~~ until further orders and there will normally be no question of relaxation till 30-09-1984.

(ii) Since the powers of the G.Ms. have been restricted, relaxations if any, under extremely exceptional circumstances, will be given only by this Ministry.

(iii) As for the creation of work-charged posts, though the General Managers have certain powers to create and extend the currency of the posts upto JA grade, they would have to exercise the same within the framework of the guidelines set out by this Ministry viz. 5% cut in plan outlay for 1983-84 and no prospects being entertained for additional allocation for plan works beyond the Budget allocations which will be intimated by this Ministry to the Zonal Railway Administration.

(iv) Regarding non-filling up of vacancies of 'non-operational' posts where recruitment action

....3



एव निदेशक स्थापना - 1  
अनुसंधान अधिकार और माक संगठन,  
देश मंत्रालय, लखनऊ - 225011

has not been taken, such filling up may be deferred upto 30-09-84. Where, however, panels for such non-operational vacancies have already been received upto the end of January or February, 84, these may be utilised for filling up the vacancies, but further panels may be held in abeyance till 30-09-84 and allowed to be operated only thereafter.

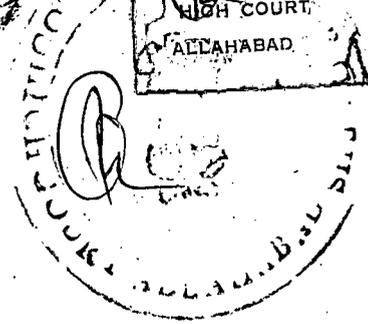
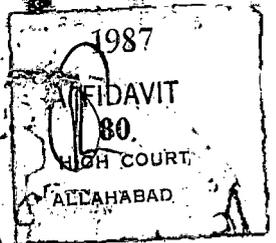
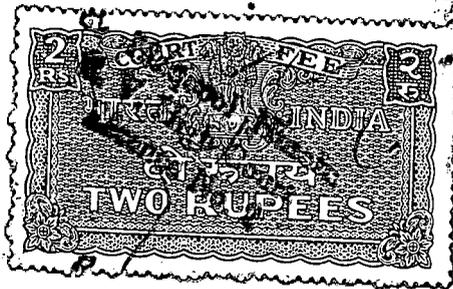
3. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.
4. Hindi version will follow.
5. Please acknowledge receipt.

Sd/  
(T.K.Balasubramanian)  
Jt. Director Estt. Rly. Board.

Copy to:

Others.

एव निदेशक स्थापना - 1  
जनसंघान अतिकल्प और मानक संकाय,  
रेल संसाधन, लखनऊ - 226011



*\* Recd - Today  
Cup  
1/4*

Before the Central Administrative Tribunal  
Additional Bench Allahabad

Rejoinder affidavit

in

Registration No. 668 of 1986

between

Shri Lav Kumar ... Applicant

Versus

Union of India and others ... Respondents

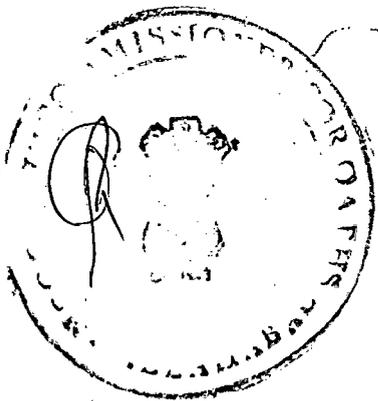
*Recd Copy  
Cup  
26/3/87*

Affidavit of Shri Lav Kumar  
aged about 28 years, son of  
Shri Ram Chandra Barui,  
Draftsman Category B in Arch Cell  
of R.D.S.O. Metro Railway 33/1  
Chaurangi Road, Calcutta.

(Deponent)

I, the deponent named above do hereby  
solemnly affirm and state on oath as follows:-

*Lav Kumar*

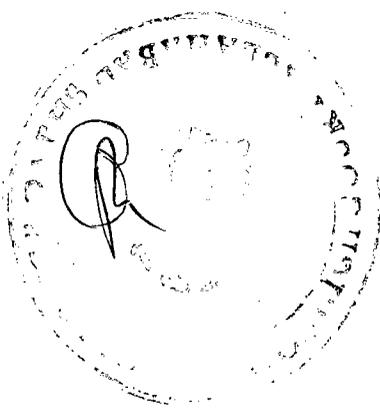


A/75

1. That the deponent is the petitioner in the above noted petition and as such he is fully acquainted with the facts deposed to below.

2. That the deponent has gone through the counter-affidavit of Shri S. Bhatia and he has fully understood the contents thereof.

3. That in reply to the contents of paragraph 4 of the counter-affidavit, the contents of paragraph 4 of the petition are reaffirmed as correct. The impugned order dated 19th August, 1986 annexure VI has been passed by the authority who is at Lucknow, as such this Hon'ble Tribunal has full jurisdiction to decide the matter in dispute. It is further submitted that the entire establishment relating to service matters of the employees of the R.D.S.O. such as transfer, posting, selection and filling up of vacancies, <sup>extension</sup> ~~exclusion~~ of posts etc. are being conducted by the Director General of R.D.S.O. Lucknow as an administrative head of Organisation from its Headquarters Lucknow, as such also this



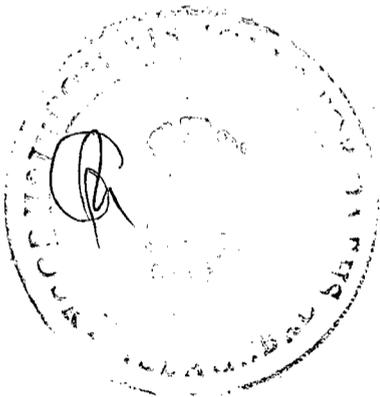
Lava Kumar

hon'ble Tribunal has got jurisdiction to entertain the grievance of the petitioner.

4. That in reply to the contents of paragraph 5 of the counter-affidavit, it is submitted that the alleged recruitment for the post of the petitioner was held at Lucknow and the petitioner was thereafter directed to join the post in the Cell of R.D.S.O. at Calcutta in the then existing vacancies at that place.

5. That in reply to the contents of paragraph 6 of the counter-affidavit, the contents of paragraph 6 (a) (b) and (c) of the petition are reaffirmed as correct. It is further submitted that the petitioner has been working continuously ever since his appointment on 30th July, 1983 and was almost at the verge of completing two years' <sup>period</sup> needed for the probation and confirmation to the said post when the post of draftsman category B was surrendered on 30th June, 85. Thus there was no question of the petitioner being rendered surplus and

Lava Kumar.



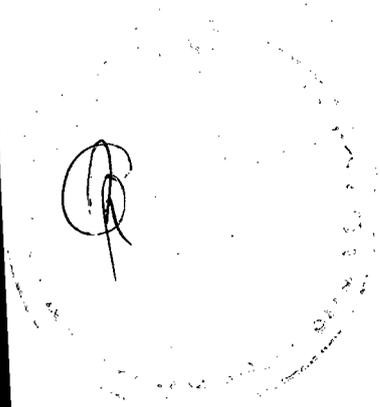
A  
TA

retrenched as the petitioner had already been selected for appointment to the post of draftsman category A , as a result of the selection held in March, 1984. The allegation regarding rendering the post as surplus and the consequential retrenchment of the deponent appears to be an afterthought.

If it is admitted that the post of draftsman category B was surrendered and the petitioner was posted as draftsman category A , then the petitioner atonce becomes entitled for the salary of the post of draftsman category A as the post of draftsman category B had already been abolished. In the order annexure I to the petition~~er~~ , the petitioner could only be appointed as draftsman category A and not draftsman category B because as the said post had already been rendered surplus . The petitioner has been discharging the duties and functions of the post of draftsman category A as the post and duties of the post of draftsman category B had already been rendered surplus.

6. That in reply to the contents of paragraph 7 of the counter-affidavit, the

Lava Kumar.



A  
/ 18

contents of paragraph (d) (e) and (f) of the petitioner are reaffirmed as correct. The opposite parties had never made any <sup>an</sup> announcement for ~~that~~ the said selection of two existing and four anticipated vacancies. In fact, it was all one and one selection without any qualification that two were existing post and four were anticipated vacancies. Actually it was all one list without even any waiting list. The alleged selection was made for all the six newly created post meant for Calcutta. Even in the penal list drawn up there was no mention that the said penal was for two existing and four <sup>an</sup> anticipated vacancies.

7. That in reply to the contents of paragraph 8 of the counter-affidavit, the contents of paragraph 6 (g) and (h) of the petition are reaffirmed as correct. The names of the candidates in the penal list were placed in order of merit and as such the appointment of candidates should have been gone according to serial number. The allegation that three work charged post of draftsman category A were to be filled up from the said penal appears to be an afterthought as at no point of time such a decision was at all announced. As already said earlier, the selection

Lava Kumar

A  
79

- 6 -

was held for six newly created post for Calcutta. The post ought to have been filled in according to merit list. Serial number 6 should not have been allowed to supersede the persons who were at serial number 2, 4 and 5. The allegation that the petitioner was rendered surplus and would have faced retrenchment is wrong and full facts have already been given earlier. The petitioner had already been selected for the post of draftsman category A and as such he should not have been rendered surplus. The person at serial no. 3 Sunil Kumar Srivastava having not joined the post the petitioner being at S.No. <sup>6</sup>7 ought to have been at once placed in his place. The opposite parties very well knew that Sunil Kumar Srivastava would not join and as such the petitioner easily could have been accommodated as he was the next person in the merit list.

8. That in reply to the contents of paragraph nos. 9 and 10 of the counter-affidavit, the contents of paragraph nos. 6 (i), (j) and (k) of the petition are reaffirmed as correct. The said application was given to the Director General R.D.S.O. at Lucknow, and the opposite parties very well knew about it. A copy was also

Lava Kumar.

endorsed to the Additional Director Arch R.D.S.O Lucknow. The allegation that one person senior to the petitioner, namely, Sunil Kumar Srivastava being there the post could not be offered to the petitioner is wrong. In respect it is also mentioned that the aforesaid Sunil Kumar Srivastava having already refrained from joining the post, therefore, the petitioner should atonce be offered the post as he was at S.No. 4 of the penal. The application of Sunil Kumar Srivastava was delivered in the office of R.D.S.O. on 23rd June, 1986 and a copy of the same was also furnished as annexure IV to the petition. The aforesaid Sri Sunil Kumar Srivastava had voluntarily withdrew his candidature by submitting the said application.

9           That in reply to the contents of paragraph 11 of the counter-affidavit, the contents of paragraph 6 (m) and (n) of the petition are reaffirmed as correct. The opposite parties were wrongly advised that the penal has expired. The penal was only suspended during the period when the ban was in existence . As soon as the ban was lifted

Lava Kumar.

the currency of the penal again started. It is further submitted that the petitioner had submitted an application through proper channel on 30th June, 86 and had also submitted another copy of the said application in the office of R.D.S.O. which was duly received on 8th July, 1986. In reply to the said application, the petitioner was given a reply dated 19th August, 86 intimating that the life of the penal had exhausted and therefore, it is not possible to appoint the petitioner to the post of draftsman category A on the basis of the said penal. It is further submitted that the request of the petitioner was for appointment of the newly created vacancies advertised and for which after due selection a penal list was drawn up. The petitioner had not asked for his promotion for posting on ad hoc basis. The allegations made to the contrary are wrong. The petitioner was legally entitled to be posted as draftsman category A on the basis of the selection held for the said purpose and for which the penal of six selected candidates was prepared.

10. That the contents of paragraph 13

Lava Kumar.

of the counter-affidavit are denied and those of paragraph 6 (q) (r) (s) of the petition are reaffirmed as correct. If the penal was never suspended then the petitioner ought to have been immediately posted as draftsman category A as <sup>(He was already working there)</sup> the person at S.No. 3 had <sup>also</sup> foregone his posting and thereafter it was only the petitioner who at S.No. 4 should have been immediately given the said post.

11. That the contents of paragraph 14 of the counter-affidavit are denied and those of paragraph 6 <sup>cut to</sup> (t)/(x) of the petition are reaffirmed as correct. The petitioner has been grossly discriminated in the matter of his employment.

12. That the contents of paragraph 15 of the counter-affidavit are denied and those of paragraph 7 of the petition are reaffirmed as correct. The petitioner has been advised that he is entitled to the reliefs claimed for in the petition. The petitioner has been illegally denied the post of draftsman category A, for which he was entitled after he was duly selected and placed in the penal on merits.

Lava Kumar

A  
83

13 That the contents of paragraph 17 of the counter-affidavit raise legal issues, hence they are not replied by an affidavit. However, the deponent has been advised to state that the contentions raised therein are wrong.

14. That in reply to the contents of paragraph 18 of the counter-affidavit, the contents of paragraph 10 of the petition are reaffirmed as correct.

I, the deponent named above do hereby solemnly affirm and state on oath that the contents of paragraph nos. 8, 12, 14 of this affidavit

are based on personal knowledge; that the contents of paragraph nos. 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 13, 15, 16, 17, 18

of this affidavit are based on record, which the deponent believes to be true; that the contents of paragraph nos. 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 13, 15, 16, 17, 18

of this affidavit are based on legal advice which the deponent believes to be true; that no part of this affidavit is false and nothing material has been concealed.

So help me God.

Lava Kumar  
Deponent

Lava Kumar

EXM

- 11 -

I, T.N.Singh, clerk to Shri B.P. Srivastava, Advocate, High Court, Allahabad do hereby declare that the person making this affidavit and alleging himself to be Shri Lav Kumar ~~Kumar~~ is known to me from the perusal of the papers which he has produced in this case. On that basis I can say that he is the same person.

*T.N. Singh*  
T.N. Singh 21.3.87

clerk

solemnly affirmed before me by the deponent today, the 21<sup>TH</sup> day of March, 1987 at about 11.00 a.m. /p.m. who has been identified by the clerk aforesaid.

I have satisfied myself by examining the deponent that he is the same person and has understood the contents of this affidavit which have been explained to him.

Oath Commissioner

G. M. TRIPATHI  
*G. M. Tripathi*  
OATH COMMISSIONER  
High Court, Allahabad  
C.No. 80/339  
Date 21.3.87

Lavakumar.

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDL. BENCH, ALLAHABAD

f. f. 25.1.91

Supplementary reply to the Interrogatories

IN

Registration O.A. No. 668 of 1986

Lav Kumar ... Applicant.

Vs.

Union of India & Others ... Respondents.

I, S. Bhatia, S/o late Shri U.C. Bhatia aged about 55 years presently posted as Deputy Director/Estt-I in the Office of the Research, Designs and Standards Organisation (Ministry of Railways) Lucknow do hereby solemnly state as under :-

1. That the Officer above named is presently posted as Dy. Director/Estt-I in the Office of the Research, Designs and Standards Organisation ( hereinafter called as RDSO) Lucknow and has been duly authorised on behalf of Respondents for filing the instant reply. The Officer above named has perused the available relevant records relating to the instant case and has also gone through the Petition under Section 22(3) (b) of the Act No.13 of 1985 filed by the Applicant hereinafter referred to as the application and has understood the contents thereof and thus he is fully acquainted with the facts and circumstances of the case deposed below :

*Filed today  
24/1/91*

एन. सिंघावत स्थापना - 1  
अनुसंधान, अभिकल्प और मानक संगठन,  
रेल मंत्रालय, लखनऊ - 226011

2. That the contents of para 1 of the application are denied as stated. In reply the contents of paras 6,7,9, 10 and 11 of the reply filed earlier on behalf of the Respondents to the original application are reiterated.

3. That the contents of para 2 of the application are emphatically denied. In reply the contents of para 13 of the earlier reply filled on behalf of the Respondents to the original application are reiterated. However, it is further stated as under :-

(a) That the ban was not with respect to filling up of work-charged posts as a result of which the selections were held for filling up work-charged posts of Draftsman 'A', panel of which was declared vide Notice dated 21.3.84.

(b) That it had never been the case of the Respondents that due to ban the applicant could not be promoted despite his name being on the panel. As a matter of fact the selections were held to fill up work-charged posts of Draftsman 'A'. Out of which one post was reserved for Scheduled Castes. Thus to fill up the said posts a panel of 6 persons were declared in which the name of the applicant was at S.No.4. This apart being work-charged posts the said panel was operated upon within the period of currency of the panel, as the order of ban was not effective to fill up work-charged posts.

4. That the contents of paras 3,4,5 and 6 of the application are emphatically denied. In reply the contents of paras 2 and 3(a) & 3(b) of the instant supplementary reply are reiterated. However, it is further stated that it is the own case of the applicant that due to imposition of ban in March 1984 the panel was automatically suspended and after its lifting it again became operative. The Respondents in their reply filed earlier had denied this averment of the applicant and also filed document in support of their contention. Thus the information sought through interrogatories had already been explained in detail in the reply filed earlier and it appears that in order to delay the early finalisation of the instant case the applicant has filed the application under reply. However as per directions of this Hon'ble Court the Respondents are furnishing information and supplying documents as directed by the Hon'ble Court.

5. That in reply to para 1 of the Interrogatory, it is submitted that a panel of 6 candidates was notified vide Notice No. Rectt/Adv/DMA(Arch)/83 dt. 21.3.84. In the said notice it was clearly mentioned that the said panel will remain current upto 18.3.86. The said panel was duly published and a copy of the same was also put up on the Notice Board. (A photo copy of the said notice dated 21.3.84 is enclosed herewith and marked as Annexure-SRA-I) Thus the panel was current upto 18.3.86.

6. That in reply to para 2 of the Interrogatory the contents of para 3(a), 3(b) and 4 of the instant supplementary reply and paras 6,7,9,10,11 & 13 of the reply

एच निदेशक स्थापना - I

अनुसंधान अधिकार्य और भाषा संयोजन,  
देश सत्राजय, लखनऊ - 226011

filed earlier on behalf of the Respondents to the original application are reiterated. It is again reiterated that the ban was not with respect to filling up of work-charged and operational posts. Since the selections were held and panel declared vide Notice dated 21.3.84 were to fill up work-charged posts of Draftsman 'A', the order of ban was of no consequence. In this respect it is further stated that in para 13 of the reply filed earlier on behalf of the Respondents to the original application in third line of the said para on page 8 word 'non' before word 'operational' was wrongly typed and it escaped notice at the time of filing of reply and as the said mistake was due to inadvertance, it may be read as "operational". However, ban was imposed to fill up non-operational posts vide Ministry of Railways letter No. E(G)84-EC2-1 dated 15.3.84, ( a photo copy of which is being again filed herewith and marked as Annexure SRA-2). However further instructions were issued by the Railway Board vide letter No. E(G)84 EC2-1 dt. 29.10.86 giving some relaxation to fill up non-operational posts ( a photo copy of which is enclosed herewith and marked as Annexure SRA-3). However, there is still ban to fill up non-operational posts with certain relaxations as given in the letter dated 06.08.86.

Thus there was no ban to fill up the workcharged posts of Draftsman 'A' regarding which the panel was notified vide Notice dated 21.3.84 and the panel was accordingly operated upon and it never remained suspended.

  
एक निर्देशक स्थायता - १

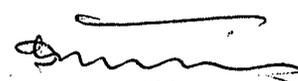
अनुसंधान अभिकल्प और प्रयत्न संगठन,  
रेल मंत्रालय, लखनऊ - 226011

7. That in reply to the contents of para 3 of the interrogatory the contents of paras 5 and 6 of the instant Supplementary reply are reiterated and any allegations to the contrary are denied. However, it is further stated that the contention of the Respondents are supported on the basis of documents, copies of which are filed as Annexure SRA-1, SRA-2 and SRA-3 to this Supplementary reply.

VERIFICATION

I, S. Bhatia, Dy. Director/Estt-I, Research, Designs and Standards Organisation, Lucknow do hereby verify that the contents of para 1 of the instant Supplementary reply are true to my personal knowledge and belief and these of para 2 to 7 are based on knowledge derived from the perusal of the record of the instant case kept in the official custody of the answering respondents. Nothing material has been concealed and nothing stated herein are false.

Verified this 22<sup>nd</sup> day of January, 1991 at LUCKNOW.

  
DEPONENT

उप निदेशक स्थापना - I  
अनुसंधान प्रविक्तन और मानक संगठन,  
रेल मंत्रालय, लखनऊ - 226011

XXXXX NOTICE

Annexure SRA-1

As a result of the recruitment held on 10.3.84 (written/drawing test) & 12.3.1984 (interview) for the post of D/Man 'A' (Arch), scale Rs. 425-700(RS) for Architectural Directorate of Research, Designs and Standards Organisation, the following candidates have been placed on the panel for the above post, in order of merit :-

- ✓ 1. Km. Anita Saxena D/o Sh. S.N.Lal
- ✓ 2. Sh. Pradeep Kumar S/o Sh. Vijay Singh
- ③ 3. Sh. Sunil Kumar Srivastava S/o Sh. S.D.Srivastava
4. Sh. Lava Kumar S/o Sh. R.C.Basri
5. Sh. Satish Kumar S/o Sh. R.C.Basri

Amended  
for the panel

- ⑥ 6. Sh. Munna Lal (S/Caste) S/o Sh. Chhange Lal

2. The panel will remain current upto 18.3.1986.

3. This has the approval of Additional Director(Arch.).

DA/N11.

Lucknow-226011.

Dated: 21.3.1984.

(File No. Rectt/Advt/DM 'A' (Arch)/83.

(L. Kandu Ina)  
Section Officer (Rectt)

DISTRIBUTION

1. Section Officer/E-IV.
2. Notice Board.

भारत सरकार रेल मंत्रालय  
अनुसंधान अभिकल्प और मानक संगठन

सूचना

अ०अ०मा०सं० के वास्तुशिल्प निदेशालय के लिए नक्शानवीस"क" वास्तु०  
वे.मा.रु. 425-700 पु. वे.पद हेतु दिनांक 10.3.84 लिखित नक्शा परीक्षा और  
12.3.1984 साक्षात्कार को हुई भर्ती परीक्षा के परिणामस्वरूप, उपर्युक्त पद हेतु  
निम्नलिखित उम्मीदवारों को योग्यताक्रम में पदनामित किया गया है:-

1. कु०अनीता सक्सेना पुत्री श्री एस.एन.लाल
2. श्री प्रदीप कुमार पुत्र श्री एस.एन.लाल पुत्र श्री विजयसिंह
3. श्री सुनील कुमार श्रीवास्तव पुत्र श्री एस.डी.श्रीवास्तव
4. श्री लवकुमार पुत्र श्री आरसी बसरी
5. श्री सतीश कुमार पुत्र श्री आरसी बसरी
6. श्री मुन्ना लाल पुत्र श्री अ.जा. पुत्र श्री छगे लाल

यह पदनामिका 18.3.1986 तक मान्य रहेगी।  
इसे अपर निदेशक वास्तु का अनुमोदन प्राप्त है।

संलग्न: कुछ नहीं।

लखनऊ - 226011

दिनांक: 21.3.1984

फाइल सं० रिक्ट/एडवट/डीएमए/आर्च/83

वितरण

आधिरस्था-4

2. सूचना पट

लि.क. 3/1/84  
लि० कन्दुलना  
अनुभाग अधिकारी, भर्ती

एच निदेशक स्थापना - 1  
अनुसंधान अभिकल्प और मानक संगठन,  
रेल मंत्रालय, लखनऊ - 226011

BENCH COPY

Central Administrative Tribunal

Lucknow Bench

Date of Filing

Date of Receipt by Post

13/11/87

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

Dr. B. K. Singh

M.P.No.

328/97

OF 1996

UNION OF INDIA AND OTHERS

.....APPLICANTS/  
RESPONDENTS

In:

ORIGINAL APPLICATION No.668 OF 1986

LAVA KUMAR

....APPLICANT

VERSUS

UNION OF INDIA AND OTHERS

....RESPONDENTS

APPLICATION FOR CONDONATION OF DELAY  
IN FILING SUPPLEMENTARY COUNTER REPLY

This application on behalf of respondents most respectfully showeth :-

1. That due to want of instructions, the Supplementary Counter Reply directed to be filed by the respondents could not be filed within the time prescribed by this Hon'ble Tribunal.
2. That the delay in filing Supplementary Counter Reply was unintentional and was due to the reason that sufficiently old documents were required to be searched out for the purposes of filing Supplementary Counter Reply.

WHEREFORE, it is most respectfully submitted that in the interest of justice this Hon'ble Tribunal may kindly be pleased to condone the delay in

Sharma

A/2

Central Administrative Tribunal

Lucknow Bench

Date of Filing.....

Date of Receipt by Post.....

-2-

Dy. Registrar (C)

filing Supplementary Counter Reply and the same which accompanies this application may pleased be taken on record.

Lucknow, Dated :  
November ,1996.  
12.02.1997

Sherma

(SIDDHARTH VERMA)

ADVOCATE,  
COUNSEL FOR APPLICANTS/  
RESPONDENTS.

A/93

Central Administrative Tribunal  
Lucknow Bench  
Date of Filing .....  
Date of Receipt by Post.....

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

ORIGINAL APPLICATION No.668 OF 1986

LICHA KUMAR .....APPLICANT

VERSUS

UNION OF INDIA AND OTHERS .....RESPONDENTS

SUPPLEMENTARY COUNTER REPLY  
ON BEHALF OF RESPONDENTS

I, N.N.SEHGAL, presently posted as Deputy Director (Establishment-I), Research Designs & Standards Organisation [Government of India - Ministry of Railways], Manak Nagar, Lucknow-226011, most solemnly state as under :-

1. That the undersigned is presently posted as Deputy Director (Establishment-I), Research Designs & Standards Organisation [Government of India - Ministry of Railways], Manak Nagar, Lucknow - 226011, and is competent and duly authorised by the respondents to file this Counter Reply on their behalf. The undersigned is well conversant with the facts stated hereunder.

2. That during the course of hearing of the

*N.N. Sehgal*  
**(N. N. SEHGAL)**  
Dy. Director/Estt-I  
R.D.S.O. (Min. of Rlys.)  
Manak Nagar, Lucknow-11

A/UP

above mentioned case on 30.10.1996, this Hon'ble Tribunal was pleased to direct the respondents to file their Supplementary Counter Reply on the following issues/facts :-

- i. The difference between an "operational" and a "non-operational" post with specific reference to the Railway Board's letter dated 15.03.1984 (a copy of which is annexed as Annexure No.SRA-2 to the application).
  - ii. Whether the instructions contained in the Railway Board's letter dated 15.03.1984 were applicable on the panel for the post of DM'A' announced on 21.03.1984 ? In other words, whether the post of DM'A' operated in Metro Transport Project, Calcutta, was an "operational" or a "non-operational" post ?
  - iii. In case, the post of DM'A' in Metro Transport Project was a "non-operational" post; whether any orders subsequent to those contained in Railway Board's letter dated 15.03.1984 extending the panel in question were ever issued ?
  - iv. Winding up of Architectural Directorate of R.D.S.O., when it was made ?
3. That in compliance of the orders of this Hon'ble Tribunal dated 30.10.1996, the present Supplementary Counter Reply is being filed on behalf of the respondents.
4. That the terms "operational" and "non-operational" posts have not been categorically defined in the Indian Railway Establishment Code, Indian Railway Establishment Manual and even in the letters/circulars issued by the Railway Board from time to time. However, in the terminology colloquially used in the Indian Railways, the term "operational post" refers to the posts of all categories of non-gazetted staff connected with the operation and maintenance of the Rolling

  
(N. N. SEHGAL)  
Dy. Director/Estt-I  
R.D.S.O. (Min. of Rlys.)  
Manak Nagar, Lucknow-11

M/S

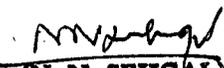
Stock (passenger or goods train etc.), and includes non-gazetted staff working on sanctioned projects in the process of creation of new assets.

5. That in the year 1984, when the panel of DM'A' was drawn and declared on 21.03.1984, the applicant was working in the Metro Trans<sup>port</sup> Project (abbreviated as MTP) as DM'B' against a work charged post. Since, the MTP was a sanctioned project in the process of creation of new asset, which had to be completed within a given time frame, the post of DM'B'/DM'A' of R.D.S.O. in the MTP were considered to be "operational posts", in view of the fact that these posts were required in connection with the creation, utilisation, operation and maintenance of new assets in the Railway (at Calcutta). Therefore, the applicant was an incumbent/candidate of an "operational post".

6. That it is respectfully submitted that though, the posts of DM'A' in MTP Calcutta, were "operational posts", the number of such posts which were to be operated were dependent on the field requirements, and therefore, variable.

7. That the posts of DM'A' in MTP Calcutta were "operational", is also evident from the fact that the ban on filling up of "non-operational" posts was enforced vide Railway Board's letter No.E(G)-84.EC-2-1 dated 15.03.1984, whereas the panel for the posts of DM'A' was declared vide notice dated 21.03.1984.

8. That in view of the submissions made in the foregoing paragraphs 3, 4, 5, 6 and 7 of this Supplementary Counter Reply, it is most respectfully submitted that the posts of DM'A'

  
(N. N. SEHGAL)  
Dy. Director/Estt-I  
R.D.S.O. (Min. of Rlys.)  
Manak Nagar, Lucknow-1

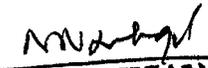
were "operational posts" and the provisions contained in the Railway Board's letter No.E(G)-84.EC-2-1 dated 15.03.1984 were not applicable in respect of the post of DM'A' (Arch), and therefore, the panel declared on 21.03.1984 (which was partly operated) did not survive beyond the specified date, i.e., 18.03.1986.

9. That there was no ban on the posts required for plan activities/construction etc., is also evident from the Railway Board's letter No.E(NG)II/91/PO/Genl/2 dated 24.06.1991, a true copy of which is being annexed as ANNEXURE No.SCA-1 to this Supplementary Counter Reply. Paragraph 1 of the said letter reads as under :-

"Several proposals are being received from the Railways for creation of non-gazetted posts, mostly without matching surrender. As you are aware, in terms of extant ban orders, while no ban is operative for posts required for plan activities/construction etc., for non-plan activities chargeable to revenue posts can be created only for new assets/new organisations."

10. That since, the ban on filling up of "non-operational posts" enforced vide Railway Board's letter dated 15.03.1984 was not applicable on the posts under reference, any question of any modification/extension of instructions contained in para 2(iv) of the Railway Board's letter dated 15.03.1984, in respect of "operational posts" of DM'A' under reference, does not arise.

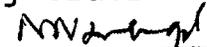
11. That the decision for winding up of Architectural Directorate of R.D.S.O. was taken by the Railway Board; in compliance whereof, a letter No.ART/119/2 dated 06.02.1987 was issued

  
(N. N. SEHGAL)  
Dy. Director/Estt-1  
R.D.S.O. (Min. of Rlys.)  
Manak Nagar, Lucknow-11

by the Director General, R.D.S.O., Lucknow, which was addressed to the General Managers, All Indian Railways/Construction Units/Production Units for absorption of staff rendered surplus consequent to winding up of Architectural Directorate of R.D.S.O. A committee of Joint Directors to go into the matter of redeployment of surplus staff of Architectural Directorate of R.D.S.O. was also set up. The report of this committee was submitted to the Railway Board. The Railway Board, vide their letter No.E(NG)II/87/PO/RDSO/17 dated 21.01.1988 directed the Director General, R.D.S.O to issue necessary transfer orders of the surplus staff in the light of recommendations made by the said committee. With the transfer of surplus staff to the various Zonal Railways, Construction Units, Production Units and/or their absorption in the R.D.S.O., the Architectural Directorate of R.D.S.O. was wound up some time in the year 1988. The applicant, who was working as DM'B' at that time, was absorbed in the B&S Directorate of the R.D.S.O., Lucknow. True copies of letter No.ART/119/2 dated 06.02.1987 and Railway Board's letter No.E(NG)II/87/PO/RDSO/17 dated 21.01.1988 are being annexed herewith as ANNEXURE No.SCA-2 and ANNEXURE No.SCA-3 to this Supplementary Counter Reply.

12. That the Railway Board vide their letter No.E(G).84.EC2-1 dated 29.07.1986 addressed to the Director General, R.D.S.O., Lucknow, relaxed the ban on filling up of "non-operational" posts to a very limited extent. A true copy of the said letter is being annexed herewith as ANNEXURE No.SCA-4 to this Supplementary Counter Reply.

13. That the applicant was promoted as DM'A' in pay scale Rs.1400-2300 (RPS) with effect from 01.01.1990 by means of Staff Posting Order No.1

  
(N. N. SEHGAL)  
Dy. Director/Estt-I  
R.D.S.O. (Min. of Rlys.)  
Manak Nagar, Lucknow-11

of 1990. The applicant is working on the said post on adhoc basis since then.

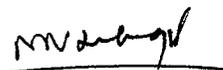
Lucknow, Dated:  
December 5, 1996.

  
(N. N. SEHGAL)  
Dy. Director/Estt I  
R.D.S.O. (Min. of Rlys )  
Manak Nagar, Lucknow-11

VERIFICATION

I, N.N.Sehgal, presently posted as Deputy Director (Establishment-I), Research Designs and Standards Organisation (Government of India - Ministry of Railways), Manak Nagar, Lucknow-226011, do hereby verify that the contents of paragraphs 1 and 3 of this Supplementary Counter Reply are true to my personal knowledge and those of paragraphs 2, 4, 5, 7, 8, 9, 10, 11, 12 and 13 are based on record and the same are believed to be true.

Lucknow, Dated  
December 5, 1996.

  
(N. N. SEHGAL)  
Dy. Director/Estt-I  
R.D.S.O. (Min. of Rlys )  
Manak Nagar, Lucknow-11

A  
29

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

ORIGINAL APPLICATION No.668 OF 1986

LUV KUMAR

....APPLICANT

VERSUS

UNION OF INDIA AND OTHERS

....RESPONDENTS

ANNEXURE No.SCA-1

GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)

E(NG)II/91/PO/Gen1./2

dated 24.6.91.

The General Manager,/  
All Indian Railways/  
Production Units.

Sub:- Proposal for creation of  
non-gazetted posts.

Several proposals are being received from the Railways for creation of non-gazetted posts, mostly without offering matching surrender. As you are aware, in terms of extant ban orders, while no ban is operative for posts required for plan activities/construction etc., for non-plan activities chargeable to revenue posts can be created only for new assests/new organisations.

2. General Managers are empowered to create non-gazetted posts with matching surrender, in consultation with their FA & CAOs, for new assets /new organisations. All other posts including operational posts, posts required to meet statutory requirements as also those required for Vigilance and Security organisations etc. can not be created by the Railway and these only need to be referred to Railway Board for creation.

3. As a corporate objective with a view to contain man power, it has been decided not to consider any proposal for creation of posts without matching surrender. With the upgradation in technology and changes in workin pattern, it should not be difficult for Railways to offer matching surrender for creation of posts. Railways should therefore make a concerted effort to contain man power by critically reviewing each proposal and creating posts only with matching surrender where found inescapable.

4. Accordingly, all proposals, hitherto sent by Zonal Railways and pending in Board's office are therefore being treated as withdrawn by the Railways, with the direction that these may be reviewed critically and the which are essentially

BY GENERAL MANAGER

BY DIRECTOR/ESTT-I (N.N. SEHGAL)

Dy. Director/Estt-I  
R.D.S.O. (Min. of Rlys.)  
Manak Nagar, Lucknow-1

A/100

-2-

required may be created under your powers with matching surrenders. In further proposals where creation of posts is possible within powers of GMs, should be processed at Zonal Railway level itself, offering suitable matching surrender. Proposals relating to creation of posts for operation and statutory requirements, as also -- those required for Vigilance & Security Organisations, need be referred to Railway Board. These proposal also, should invariably be accompanied by matching surrender. No proposal for creation of posts in categories other than those mentioned above need be processed at all.

5. It has been noted that proposals received from Railways for creation of additional posts contain a casual statement to the effect that matching surrender is not available. In rare cases of proposals sent in future to Board for creation of posts without offering matching surrender, the balance in the surplus staff-bank maintained at Zonal Headquarters level should be specifically indicated, duly certified by the officer maintaining the surplus staff-bank.

6. Please also note that in future, proposals are sent to Board for creation of posts only after these have been critically scrutinised at the level of General Manager and the justification accepted by him. This should invariably be mentioned in the proposal sent to the Board.

7. Please acknowledge receipt.

Sd/- (P.L.N.Sarma)  
Deputy Director Establishment/N  
Railway Board.

No.E(NG)II/91/PO/Gen1./2

New Delhi dated 24.6.91.

Copy forwarded to :- FA & CAO, All Indian Railways

Sd/- (P.L.N.Sarma)  
Deputy Director Establishment/N  
Railway Board.

TRUE COPY

*M N Sarma*  
(N. N. SEHGAL)  
Dy. Director/Estt-I  
R.D.S.O. (Min. of Rlys)  
Manak Nagar, Lucknow

A/101

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

ORIGINAL APPLICATION No.668 OF 1986

LQV KUMAR

....APPLICANT

VERSUS

UNION OF INDIA AND OTHERS

....RESPONDENTS

ANNEXURE No.SCA-2

GOVERNMENT OF INDIA  
(MINISTRY OF RAILWAYS)  
RESEARCH DESIGNS & STANDARDS ORGANISATION

Manaknagar, Lucknow-226011.

No.ART/119/2

February 6, 1987.

The General Managers,  
All Indian Railways including  
Construction Units/  
Production Units.

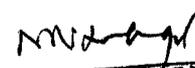
Sub: Winding up of Architectural  
Directorate of RDSO - absorption of  
Staff.

Railway Board have decided that Architectural Directorate of RDSO is wound up and existing staff of the Directorate absorbed in the Construction and Maintenance Cadres of the Civil Engineering Department of Zonal Railways/ Construction Units / Production Units / RDSO. To expedite this process, Board (M.E.) have also decided that staff can be taken up by the Railway/Production Units with their posts for a period of six months, after which the Railways/ Production Units have to return the posts, the staff being absorbed against the vacancies accrued in the meantime or the other new posts that may be created on your Railways or other maintenance activities for construction and not exclusively of the staff.

2. The options of the existing staff of the Architectural Directorate have been obtained. As it is the intention to transfer them to the maximum extent possible to places they had given their options, the transfer of such staff to the other units is in the administrative interest and accordingly their seniority is to be governed as per extant rules.

3. The staff of the Architectural Directorate are to be absorbed with Civil Engineering Cadre in the posts directly available for such staff or by suitable training to the design and drawing office work.

4. The bio-data of the staff who have opted for consideration to be absorbed in your

  
(N. N. SEHGAL)  
Dy. Director/Estt-1  
R.D.S.O. (Min. of Rlys.)  
Manak Nagar, Lucknow-11

A  
102

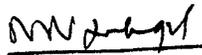
-2-

administration is enclosed. It is requested that your confirmation as to the number of persons and the details of the persons you are willing to consider for their absorption may be advised within a month of receipt of this letter or latest by 15th March, 1987. To the extent that confirmation have been given, the transfer orders will be arranged as soon as they are received from you.

Encl : As above.

Sd/- Illegible  
(V.V.Vasudeva)  
for Director General.

TRUE COPY

  
(N. N. SEHGAL)  
Dy. Director/Estt-I  
R.D.S.O. (Min. of Rlys.)  
Manak Nagar, Lucknow-11

A/103

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

ORIGINAL APPLICATION No.668 OF 1986

LUV KUMAR

....APPLICANT

VERSUS

ANNEXURE No.SCA-3

GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)  
(RAILWAY BOARD)

\*\*\*\*\*

New Delhi, dated 21.1.1988.  
No.E(NG)II/87/PO/RDSO/17.

The Director General,  
Research Designs & Standards Organisation,  
Lucknow.

Sub: Redeployment of the surplus staff of  
Architectural Directorate of RDSO.

\*\*\*\*\*

Reference correspondence resting with  
RDSO's D.O.letter No.ART/119/2 dated 20.7.1987.

2. the question of redeployment of the  
surplus staff of Architectural Directorate of  
RDSO was discussed with your JD(Admn) and  
Sr.Dy.DG by a committee of Joint Directors  
comprising JDE(N), JDCE(G) & JDER(R) Railway  
Board on 1st and 2nd September, 1987 when the  
line of action in this regard was finalised. A  
copy of the report given by the Joint Directors  
Committee is enclosed. Necessary action in the  
light of the recommendations made in the report  
may be taken and transfer orders in individual  
cases issued by you accordingly, if not already  
done, under advice to the Railway Board.

DA: As above. Sd/- Illegible.  
(M.KUJUR)  
DEPUTY DIRECTOR, ESTABLISHMENT (N)  
RAILWAY BOARD.

No.E(NG)II/87/PO/RDSO/17  
New Delhi, dated 21.1.1988.  
Copy alongwith enclosures to :

General Manager/Central, Eastern, Northern, North  
Eastern, Southern, South Central Railways & D.L.W

The Director, IRICEN, Pune.  
O.S.D., R.C.F., Kapurthala.

Sd/- Illegible.  
(M.KUJUR)  
DEPUTY DIRECTOR, ESTABLISHMENT (N)  
RAILWAY BOARD.  
E.B.(L.M.), Railway Board.

TRUE COPY

*M. N. Sehgal*  
(N. N. SEHGAL)  
Dy. Director/Estt-I  
R D.S.O. (Min. of Rlys.)  
Janki Nagar, Lucknow-11

A  
104

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

ORIGINAL APPLICATION No.668 OF 1986

LUV KUMAR

....APPLICANT

VERSUS

UNION OF INDIA AND OTHERS

....RESPONDENTS

ANNEXURE No.SCA-4

Copy of Railway Board's letter No.E(G).84.EC.2-1 dated 29.07.1986 addressed to DG/RDSO/Lucknow and others.

\*\*\*\*\*

Sub: Economy in administration and non-plan expenditure - ban on filling of posts on the Railways.

\*\*\*\*\*

Reference instructions contained in Para 2(iv) of the Department of Railways (Railway Board)'s letter of even number dated 15-3-84, as modified/extended from time to time, regarding non-filling up of vacancies of 'non-operational' posts where recruitment action has not been taken.

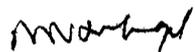
On further consideration of the matter, the Department of Railways have now decided that vacancies of 'non-operational' posts arising due to promotion, retirement, death, resignation, dismissal/removal or deputation may be filled up. This filling up is, however, subject to the provision that there are no staff available on the 'Special Supernumerary Lists' who can be re-deployed against such vacancies either directly or by suitable re-adjustment. In this connection, it may also be noted that instructions contained in para 2(4) of Board's letter No.E(G).82.EC.2-2 dated 12-7-84 are kept in view and complied with.

This issues with the concurrence of the Finance Directorate of the Department of Railways, Railway Board.

Hindi version is enclosed.

\*\*\*\*\*

TRUE COPY

  
(N. N. SEHGAL)  
Dy. Director/Estt-I  
R.D.S.O. (Min. of Rlys.)  
Manak Nagar, Lucknow-11

A  
105  
26  
24/11

Annexure SRA-2

GOVERNMENT OF INDIA (BHARAT SAMRAJ)  
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)  
(RAILWAY BOARD).

No. E(G)84 EC2-1.

New Delhi, dated 15 -3-1984.

The General Managers,  
All Indian Railways &  
Production Units etc.  
(as per standard list 'A')

Sub:- Economy in administration and non-plan expenditure - ban on creation of posts on the Railways.

Reference instructions contained in the Ministry of Railway's letter No. E(G)79 EC2-7 dated 15.10.81, and wireless message No. E(G)82 EC2-2 dated 6.4.83 as extended/modified from time to time and further directives issued by this Ministry, on the subject noted above.

2. On further consideration of the matter, the Ministry of Railways wish to clarify the position as follows :-

(i) As far as the ban on creation of posts and the existing restrictions contained in Board's letter of 15.10.81 and wireless message dated 6.4.83 are concerned, these will continue to be in force until further orders and there will, normally be no question of relaxation till 30.9.1984.

(ii) Since the powers of the G.Ms have been restricted, relaxations, if any, under extremely exceptional circumstances, will be given only by this Ministry.

(iii) As for the creation of work-charged posts, though the General Managers have certain powers to create and extend the currency of the posts upto JA grade, they would have to exercise the same within the framework of the guidelines set out by this Ministry viz. 5% cut in plan outlay for 1983-84 and no prospects being entertained for additional allocation for plan works beyond the Budget allocations which will be intimated by this Ministry to the Zonal Railway Administrations.

(iv) Regarding non-filling up of vacancies of 'non-operational' posts where recruitment action has not been taken, such filling up may be deferred upto 30.9.84. Where, however, panels for such non-operational vacancies have already been received upto the end of January or February, 84, these may be utilised for filling up the vacancies, but further panels may be held in abeyance till 30.9.84 and allowed to be operated only thereafter.

...2/-

Extended until further order with effect from 30.9.84

एच निदेशक स्थापना नं 1

अनुसंधान अधिकार और मानक संगठन,

226011

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW. P. P. 5. 8. 91

Misc. Application No. 310 of 1991. (L)

IN

OBJECTION ON BEHALF OF RESPONDENTS

TO

MISCELLANEOUS APPLICATION PREFERRED BY THE PETITIONER  
ON 5th APRIL, 1990 UNDER SECTION 22(3) (b) OF ACT 13  
OF 1985 READ WITH ORDER 11 RULE 11 OF THE CODE OF CPC

IN

Registration O.A. No. 668 of 1986.

Lav Kumar ..... Applicant.

Vs.

Union of India & Others ..... Respondents.

TO THE HON'BLE VICE CHAIRMAN AND THE OTHER HON'BLE  
ACCOMPANYING MEMBERS.

HUMBLE APPLICATION ON BEHALF OF THE RESPONDENTS  
IS AS UNDER :-

1. That for the facts and circumstances contained  
in the accompanying Objection which forms the part of  
the instant case, it is expedient in the ends of  
justice that the Application under reply be rejected.

P R A Y E R

It is, therefore, most respectfully prayed  
that this Hon'ble Court be graciously be pleased to  
reject the Application dated 5th April, 1991 filed  
by the Applicant.

( A.V. SRIVASTAVA )  
COUNSEL

Place: LUCKNOW.

Dated: 6 - 5 - 1991.

Filed today

ASU

24/5/91

88  
108

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

OBJECTION ON BEHALF OF RESPONDENTS

TO

MISCELLANEOUS APPLICATION PREFERRED BY THE  
PETITIONER ON 5TH APRIL, 1991 UNDER SECTION  
22(3) (b) OF ACT 13 OF 1985 READ WITH ORDER  
11 RULE 11 OF THE CODE OF CIVIL PROCEDURE

IN

Registration O.A. No. 668 of 1986.

LAV KUMAR ..... Applicant.

Vs.

UNION OF INDIA & OTHERS ..... Respondents.

I, S. Bhatia aged about 56 years s/o late  
Shri U.C. Bhatia presently posted as Dy. Director/  
Estt-I in the Office of the Research, Designs and  
Standards Organisation (Ministry of Railways),  
Lucknow, shweth as under :-

1. That I have been duly authorised by the  
Respondents to file the instant objections to the  
Application dated 5th April 1991 filed by the  
Applicant under Section 22(3) (b) of the Act 13 of  
1985 read with Order 11 Rule 11 of the Code of C.P.C.  
(hereinafter referred to as Application). I have  
carefully perused the relevant records relating to

उप निर्देश स्थापना - 1

प्रमुखस्थान में पत्राचार  
रेल मंत्रालय, काठमांडू - 22601

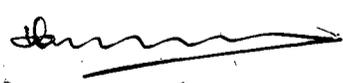
the instant case kept in the official custody of the answering Respondents and also the Application under reply and is thus fully acquainted with the facts deposed below.

2. That in the above mentioned case the counter and rejoinder affidavit have already been filed and the matter is ripe for hearing.

3. That further the Applicant filed an Application on 14th September 1989 through which three questions were put forth by him to be answered by the answering Respondent which have not only been answered in detail but also in support thereof documents have also been filed by the answering Respondent through their supplementary reply dated 22nd day of January, 1991.

4. That now the Applicant through the Application under reply has put-forth further questions which are not only against his own case set up by him in his Application but also not relevant as per the controversy involved in the instant case.

5. That neither any proper foundation and basis have been laid by the Applicant as to how and in which way the questions now put-forth through the Application under reply are material and relevant as per the controversy involved in the instant case nor regarding the same anything had been stated earlier by the Applicant in his main Application.

  
एप निदेशक स्थापना - 1  
अनुसंधान अभिकल्प और मानक संगठन  
रेलु संजालय, लखनऊ - 226011

6. That this apart there is no provision for serving interrogatories in the Central Administrative Procedure Rule 1987 and also the provisions of G.P.C. are not applicable before this Hon'ble Tribunal, and as such the Application under reply is not legally maintainable and is liable to be rejected.

7. That it is further stated that the Application under reply is not supported by any Affidavit and for that reason neither there is any verification clause. On this ground also the Application under reply is not legally maintainable and is liable to be rejected.

8. That this apart the questions put-forth in the Application under reply are arguments of the Applicant for which the Respondents reserve their right to reply the same at the time of the hearing of the instant case. It appears that in order to delay the early finalisation of the case, the Applicant has moved an Application under reply and the same is liable to be rejected.

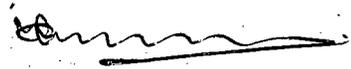
Place: LUCKNOW.  
 Dated: 6 - 5 - 1991.

  
 DE P O N E N T  
 एच निदेशक स्थापना - I  
 धनुषधर सिंह और मानक सिंह  
 एच मंत्रालय, लखनऊ - 226001

VERIFICATION

I, S. Bhatia, Dy. Director / Estt-I in the Office of the Research, Design & Standards Organisation (Ministry of Railways), Lucknow do hereby verify that the contents of paras 1 & 2 of the instant reply are true to my personal knowledge and belief and those of paras 3 to 8 are based on knowledge derived from the perusal of the record of the instant case kept in the official custody of the answering respondents and legal advice. Nothing material has been concealed and nothing stated herein are false.

Verified this 6th day of May, 1991 at LUCKNOW.



DEPONENT

जिसे स्थापना - !  
 अनुसंधान और जांच संयुक्त  
 रेल विभाग - लखनऊ

A/12

In the Central Administrative Tribunal, Circuit Bench  
Lucknow.

Replies and objections of applicant  
to

Misc. Application No. \_\_\_\_\_ of 1991  
Dated 6.5.1991 of the respondents  
by way of their objections to the  
Misc. Application of the applicant  
under Section 22(3)(b) of Act No. 13  
of 1985 read with Order 11 Rule 11  
of the C.P.C. 1908.

In re:

Registration O.A. No. 668 of 1986 <sup>ALL</sup>  
Fixed for 5.8.91.

Lav Kumar ..... Applicant  
Versus .....  
Union of India and others ..... Respondents

To

The Hon'ble Vice Chairman and other  
Hon'ble accompanying members.

The humble application on behalf of the  
applicant is as under:

For the facts, circumstances and the reasons  
contained in the accompanying replies and objections  
by way of counter affidavit of the applicant, the  
Hon'ble court may be pleased to find that there is no  
merit and force in the application of the respondents  
and the same deserves simple rejection and the appli-  
cation of the applicant dated 5.4.1991 deserves to  
be allowed.

Lucknow:

Dated July 17, 1991

*[Signature]*  
Counsel for the applicant

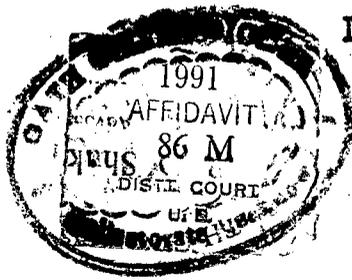
*Filed today*

*3/8/91*  
*18/7/91*

173

In the Central Administrative Tribunal, Circuit Bench,

Lucknow.



AFFIDAVIT in support of replies and objections of the applicant.

to

Misc. Application No. \_\_\_\_\_ of 1991  
Dated 6.5.1991 of the respondents  
by way of their objections to the  
Misc. Application of the applicant  
under Section 22(3)(b) of Act No. 13  
of 1985 read with Order 11 Rule 11  
of the C.P.C. 1908.

In re:

Registration O.A. No. 668 of 1986

Fixed for 5.8.91.

Lav Kumar

... Applicant

Versus

Union of India and others

... Respondents

COUNTER - AFFIDAVIT



I, Lav Kumar, aged about 32 years, son of Sri Ram Chandra ~~Barui~~ Barui, resident of House No. 44, Sunderbagh, police station Qaiserbagh, city Lucknow, the applicant, in the above noted application, do hereby solemnly affirm and state on oath as under:

1. That the deponent is the applicant in the above noted O.A. No. 668 of 1986 and he is well

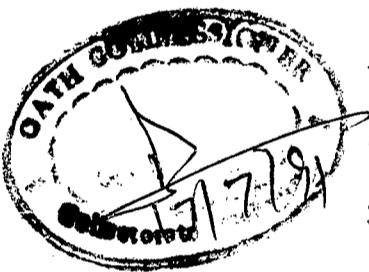
.... 2

Lava Kumar.

conversant with the facts and circumstances of the case. He has read, got explained to him and has understood the contents of the affidavit of Sri S. Bhatia, filed on behalf of the respondents in support of their objections. The said affidavit of his, is being referred to herein after briefly as the 'affidavit'.

2. That with reference to paras 1 and 2 of the affidavit, it is submitted that due to conduct of the respondents, the case is not ripe for final hearing. They have not filed due, detailed and proper replies to the questions made in para 3 of the application of the deponent dated 5.4.1991 and they purport to avoid precise and clinching answers and want to take advantage of their vague assertions. The rest and otherwise contents of paras under reply are denied.

3. That the contents of para 3 of the affidavit are not admitted as such. The respondents have not duly answered, let apart their having answered in detail, <sup>1/8</sup> althose questions put to them vide application of the deponent dated September 14, 1989. The documents filed by the respondents do not elicit informations desired from the respondents. They have given out the date of notification of the panel but not the date on which the panel was approved. The date of approval of the panel is a material date from which the currency of the panel starts. The



Lava Kumar.

A/115

respondents have also not disclosed specifically and precisely, the actual period of the ban i.e. they have not given the date on which the ban came into force and the date on which it <sup>t</sup>ood vacated.

4. With reference to para 4 of the affidavit, it is submitted that it is wholly incorrect on the part of the respondents to allege that the deponent has put forth any 'other questions' which according to the respondents are against the case of the deponent and are also not relevant. The <sup>deponent</sup> re-iterates that the information sought by way of clarification from the respondents is so very material for the just decision of the case. It is relevant and also obligatory on the part of the respondents to supply those. If the respondents are of the view that the other questions put forth, are against the case of the deponent, then respondents should not fight shy to come out with the information as elicited; rather they should welcome such queries from the deponent. They need not be so merciful towards the deponent's case. The respondents are making false pretexts to keep from the knowledge of the Hon'ble Tribunal the material informations elicited from the respondents.



5. That the contents of para 5 of the affidavit are misconceived and are wrong. The respondents submitted an evasive reply to the previous application of the deponent dated September 14, 1989 and as such the subsequent application dated 5.4.1991 was

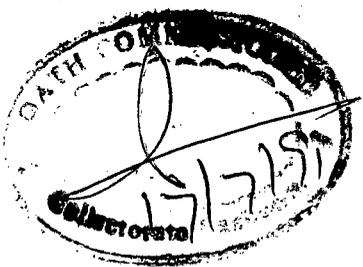
Lava Kumar.

necessitated. The foundations and the grounds are very well set in paras 1,2 of the application dated 5.4.1991. The procedure provides for making of such applications if the answers to the interrogatories served are not due, proper, precise, to the point and clinching which has been the case here in the replies of the respondents.

6. With reference to para 6 of the affidavit it is submitted that the allegations are not admitted. The cardinal principle of law is that every procedure is open and available to a court of judicial Tribunal to do justice in the matter in hand. It is not made out as to why instead of giving, rather suppressing the informations sought, the respondents are swearing in the name of provisions or procedural law. They are the best persons having special knowledge about the information sought and they by not giving out with ready precise reply are whiling away the time and making the case to linger.

7. That the procedure is <sup>to hand</sup> ~~not~~ maid of justice. The lack of affidavit to the application dated 5.4.1991 is not likely to render it inconsequential and the allegations of para 7 of the affidavit are simply not relevant.

8. That the contents of para 8 of the affidavit are not admitted. It is the deponent who is aggrieved at the hands of the respondents. It is the respondents who are trying to conceal the material information



A/IT

from the knowledge of the Hon'ble Tribunal and in that exercise of theirs, they are ~~making~~ delaying disposal of the case finally.

Lucknow:  
Dated July 17, 1991

Lava Kumar  
Deponent

Verification

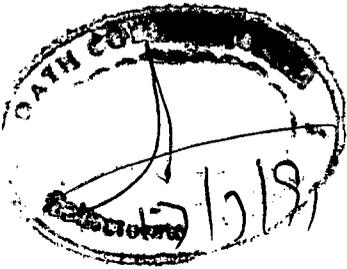
I, the abovenamed deponent do hereby verify that the contents of paras 1 to 5 of this affidavit are true to my own knowledge and the contents of para 6 to 8 are believed by me to be true.

Signed and verified this the 17th day of July, 1991 in the Civil Court compound, Lucknow.

Lava Kumar.  
Deponent

I identify the abovenamed deponent who has signed before me.

*[Signature]*  
Advocate



C. No. 86

10:30 AM by Lava Kumar.

*[Signature]*

AL

*[Signature]*  
17/7/91

A  
118

BEFORE THE ADMINISTRATIVE TRIBUNAL,

ADDITIONAL BENCH, LUCKNOW.

C.M. An No 243/09 (C)

In Re:

Registration No. 668 of 1986.

BETWEEN

Lav Kumar

.....

Petitioner.

And

Union of India and others.....

Respondents.

APPLICATION OF PETITIONER UNDER SECTION  
22(3)(b) OF THE ACT NO. 13 OF 1985.

The petitioner above named begs to submit as

follows :-

- Recd Copy*  
*16/9/89*
1. That the respondents in defence have taken the plea that the petitioner could not be absorbed and given the appointment pursuant to the approved ~~PANEL~~ PANEL because the tenure of two years of the panel had run out by efflux of time but they have nowhere disclosed in their replies or otherwise as to from which date to which particular date the PANEL remained in currency.
  2. That similarly, while the respondents come out with the plea that as there was the ban imposed so they

could act to provide the petitioner with an appointment pursuant to the Panel formed, during the period of the ban, but they have nowhere disclosed the ban period precisely.

3. That the above said informations are crucial to be before the Hon'ble Tribunal for a just determination of the matters in controversy and to resolve the crux of the matter.
4. That the above said informations are the matters of especial knowledge of the respondents based on the records maintained or otherwise the above said informations are within their power and reach in their official hierarchy.
5. That the respondents purport to intend to derive the advantage of vagueness and obscurity in their defence pleas and suppression of material informations and evidence.
6. That the petitioner, therefore wants to serve the respondent No. 2 the Director General (RDSO) Manak Nagar, Lucknow, the interrogatories herein after appearing to be answered on oath and alternatively to require him to produce the relevant documents, evidencing precisely the above said informations.

INTERROGATORIES TO BE ANSWERED BY THE RESPONDENT NO.2

1. What is the precise date from which the Panel for appointment to the posts of Draftsmen Category A, in question in this case, came in to force for the purposes of such appointment and the precise date on which, according to you the time of two years of the currency of the said Panel ran out?
2. The precise dates from which the ban by the Union of India, the respondent was imposed against appointments being made pursuant to the Panel in question here and the precise date on which the ban was relaxed and vacated?
3. Whether the dates of enforcement of the Panel and its expiry and the dates of enforcement of ban against appointments and vacation of such ban, as referred to in interrogatories No. 1 and 2 are based on any documents/communications.

Wherefore, it is most humbly prayed that the respondents No. 2 be ordered to answer the above noted interrogatories on oath or alternatively to produce the documents in answer to interrogatories No. 1 and 2 above.

Lucknow :

Dated : 27<sup>th</sup> July, 1989.

14.9

( SAHDEVA SINGH )

Advocate,

Counsel for the petitioner.

A/121

Before the Administrative Tribunal, Additional  
Branch, Sitting at Lucknow

In Re:

M.P. No. 128/41 (C)

R. S. No. 668 of 1986

Fixed for 14.5.91.

BETWEEN

LAV KUMAR

Petitioner

AND

Union of India and others

Respondants

Application of the petitioner under Section 22 (3)  
(b) of the Act No. 13 of 1985 read with order 11  
rule 11 of the C.P.C.

It is most respectfully submit as follows :-

1. That the petitioner on 14-09-1989 served the respondents No. 2, Director General (R.D.S.O.) Manak Nagar, Lucknow, some interrogatories to be answered.
2. That Shri S. Bhatia, the Deputy Director Establishment-I in the office of the Research, Designs and Standards Organisation, 'Ministry of Railways', Lucknow, vide his supplementary reply to the

... 2/..

P filed today  
5/4/91

Lava Kumar



interrogatories dated 22-01-1991, tried to answer the interrogatories ~~serve to the interrogatories~~ served by the petitioner, <sup>er</sup> ~~but~~ have not been directly, precisely and sufficiently replied. Rather evasive reply have been given and hence the necessity of this application for requiring the respondent no. 1 to answer further either by Affidavit or by Viva-voce examination, as the Hon'ble Tribunal orders.

3. The following remain to be answered by the said respondents;

(i) The Post of Draftsman category (A), as advertised, as penaled, and as mention<sup>ed</sup> in appointment letter issued to candidates, was not mentioned to be any work charged post why?

(ii) Is there any provision with the respondent for forming a panel or empanelling of the candidates for 'Work charged post'?

(iii) Whether work charged post carry time scale which was given and allow<sup>ed</sup> to the candidates empanelled as the petitioner.

(iv) Work charged post do not carry increment in pays and dearness allowance etc., but the candidates empanelled as the petitioner were allowed increments and dearness allowances and

A  
123

.. 3 ..

House rent allowance etc. why?

(v) Work charged employees remain in service during the limited period of time for which they are employed and ~~only~~ up to the time who ~~sease~~ with the cessation of the work. But in the case of the candidates ~~empanelled~~ as the petitioner the services are extended year-after-year and they are also transferred and made permanent which was the case with the candidates ~~empanelled~~ as the petitioner. Is not it a fact?

(vi) What is the precise connotation and definition of work charged emmployee?

(vii) In para 3 (i) and 3 (ii) of the supplementary reply to the <sup>er</sup>introgatories, the respondant no. 2 has tried to describe the post of Draftsman category (A) to be a work charged post. Why it was not mentioned so in the advertisement inviting applications, in the display of the panel list and in the appointments letter given to the candidates employed out of the panel so framed?O

Prayer

Wherefore, it is most humbly pray~~a~~ that the Hon'ble Tribunal to be pleased to direct the respondant no. 2 to give further replies or better

... 4/..

Lava kumar



replies of the interrogator<sup>er</sup>ies in the tune of the objections raised above as detailed in para 3 above or the Hon'ble Tribunal be pleased to direct the personal presence of the respondent no. 2 before the Tribunal for the Viva-voce examination or any other order to the above fact, as the Hon'ble Tribunal deems fit, may be passed.

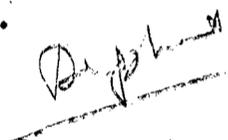
Lava Kumar.  
... Petitioner

  
... (SAHDEVA SINGH)  
Advocate

Counsel for the Petitioner

Dated : April 5, 1991.

Place : Lucknow



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH  
ALLAHABAD

Miscellaneous Application 92 of 1987

In

Registration No. 668 of 1986

Lava Kumar .. .. . Petitioner

Versus

1. The Union of India, through  
The Director General, RDSO,  
Manak Nagar, Lucknow.
2. The Director General,  
R.D.S.O. Manak Nagar,  
Lucknow.
3. The Joint Director, Architect  
R.D.S.O. Metro Railways, Calcutta.  
.. Respondents.

to,

The Chairman and his other companion  
member of the aforesaid Hon'ble Tribunal.

The petitioner above named most  
respectfully prays as under:

1. That for the reasons disclosed in the  
accompanying affidavit, it is necessarily in the

Received copy  
Ashfaqul  
clerk to Sr. A.V. Srivastava  
Adm. Off.  
18/6/87

Noted for  
24/6/87  
Adm. Off.  
or

Shri Tripathi  
SO Judicial

List this apph.  
before court - for orders  
on 24/6/87 as requested  
by learned Counsel -

Seen  
24/6/87  
DR (J)  
22/6/87

interest of justice that the operation of the  
order dated 9th June, 1987 passed by the Director  
may remain suspended otherwise the petitioner would  
suffer grave and irreparable loss.

P R A Y E R

Wherefore, on the facts stated in the  
accompanying affidavit, it is necessarily in the  
interest of justice that the operation of order  
dated 9th June, 1987 may remain stayed.

*B.P. Srivastava*  
(B.P. Srivastava) Advocate  
Counsel for the Petitioner

Allahabad :  
Dated: 10.6.87

2. That the aforesaid petition deals with the petitioners appointment as draughtsman Category 'A' on the basis of the panel prepared for the said post. A/28

3. That the petitioner was selected for the post of draughtsman Grade 'A' when panel of six successful candidates declared in March, 1984 and it was duly approved by the competent authorities. The petitioner's name finds place at serial No. 4.

4. That as the petitioner was not posted as draughtsman Category 'A', therefore, he had to prefer the present petition which was duly admitted by this Hon'ble C Tribunal.

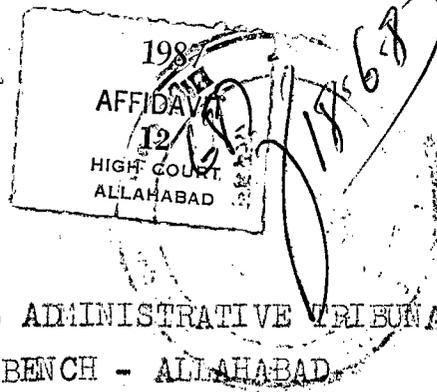
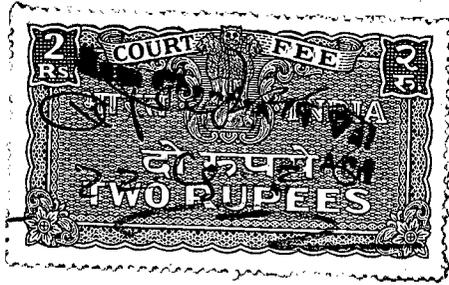
5. That since 28th June, 1985 the petitioner has been holding the post of draughtsman Category 'A' as directed by the Director General in his order dated 21st June, 1985 (Annexure - I).

6. That the petitioner has been discharging his duties as draughtsman Category 'A' to the entire satisfaction of his superior officers.

7. That the petitioner was surprised to see an order pasted on the Notice Board mentioning therein that the petitioner is transferred to Architectural Directorate, R.D.S.O. Lucknow as draughtsman Grade 'B'. A true copy of the said notice is filed herewith as annexure SA-I to this affidavit.

Lava Kumar





A  
12/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL  
BENCH - ALLAHABAD

Affidavit

IN

Civil Misc. Application No. of 1987

IN

Registration No. 668 of 1986

Lava Kumar ..

..Petitioner

Versus

The Union of India and  
others.

..Respondents.

Affidavit of Shri Lava Kumar  
Aged about 28 years son of  
Shri Ram Chander Barui,  
Draughtman Catagory 'B' in  
Arch Cell, R.D.S.O. Metro  
Railways, 33/1, Chowranghee  
Road, Calcutta.

(Deponent)



I, the deponent above named do hereby  
solemnly affirm and state on oath as under:

1. That I am the petitioner in the above noted  
petition and as such I am fully acquainted with the  
facts deposed to below:-

Lava Kumar.

8. That as already said earlier the A/129  
petitioner has been holding the post of draughts  
man Category 'A' since 28th June, 1985 and by  
virtue of aforesaid order dated 9th June, 1987  
the petitioner has been directed to hold the post  
of draughtsman Category 'B'.

9. That the action of the opposite parties  
is ~~unlawful~~ mala fide and prejudicial due to filing of the  
present petition in this Hon'ble Tribunal as a  
consequence of which the opposite parties have  
become prejudiced against the petitioner.

10. That the post exists and there is no  
justification to transfer the petitioner to R.D.S.O.  
Lucknow to hold lower post of draughtsman category 'B'.

11. That the ~~aforesaid~~ aforesaid order has been  
passed arbitrarily, illegally and in colourable  
exercise of the power.

12. That in the aforesaid circumstances  
it is necessarily in the interest of justice that  
the operation of order dated 9th June, 1987 may  
remain suspended, otherwise the petitioner would  
suffer grave and irreparable loss.

13. That the petitioner has not yet handed  
the post of  
over the charge of/draughtsman Category 'A'.

Lava Kumar



A/130

That the contents of paragraph No. 1 613 ✓  
of this affidavit and those of paragraph Nos.          ✓  
are true to the personal knowledge of the deponent  
and those of paragraph No.          ✓  
are based on ~~personal~~ perusal of papers on  
record and those of paragraph No.          ✓  
are based on legal advice, which all I believe to  
be true and nothing material has been concealed  
in it; no part of this affidavit are false; nothing  
material has been concealed.

Handwritten signature/initials

So help me God

Lava Kumar  
(Deponent)

I, T.N. Singh, clerk to Shri B.P.Srivastava,  
Advocate, High Court, Allahabad do hereby declare  
that the person making this affidavit and alleging  
himself to be above named deponent, is the same  
person who is known to me from the perusal of  
papers produced by him.

T.N. Singh  
T.N. Singh, (18, 6, 87)  
Clerk.



Solemnly affirmed before me on this... 18/6/87  
day of June, 1987 at about ... 4.20 a.s. p.m. by the  
deponent who is identified by the aforesaid clerk.

Lava Kumar

A  
131

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read over and explained by me to him.

*J. C. P. Gopal*  
Oath Commissioner  
*(18-6-8)*

*J*

*J. C. P. Gopal*  
14/2/68  
*(18/6/8)*

Lava Kumar

Amended S.A.J

S-T

GOVERNMENT OF INDIA/MINISTRY OF RAILWAYS  
RESEARCH DESIGNS AND STANDARDS ORGANISATION  
MANAK NAGAR/LUCKNOW-11

A  
132

Staff Posting Order No: 187 of 1987.

Sh. Lava Kumar, DM"B", Architect Cell, Calcutta is transferred to Architectural Directorate, R.D.S.O., Lucknow in the same capacity against an existing vacancy with immediate effect. He should submit his charge report to Section Officer/Estt-IV early.

DA: Nil

File No: ART/119/2(Pt-II)

( M.LAL ) 9/6/87  
for Director Architect.

DL-9-687

DISTRIBUTION

1. Dir.Arch.
2. JD/Arch(M)
3. SO/Arch.
4. SO/E-III
5. SO/Pass
6. SO/Hindi
7. SO/Adm.
8. SO/Confdl.
9. Sh. Lava Kumar, DM"B, Arch. Cell, RDSO, Calcutta. - 700071
10. Personal File
11. Secy. Class-III Staff Association.
12. Notice Board.
13. DDE-I

भारत सरकार-रेल मंत्रालय

अनुसंधान, अभिकल्प और मानक संगठन

मानकनगर, लखनऊ-11.

1987 का कर्मचारी नियुक्ति आदेश सं. 187

श्री लव कुमार नक्शानवीस "ड" वास्तु कोष्ठ/कलकत्ता को तत्काल प्रभाव से विद्यमान रिक्ति पर लसी स्थिति में वास्तुशिल्प निदेशालय/अ.अ.मा.सं./लखनऊ को स्थानान्तरित किया जाता है। वे अपनी चांजीरपोर्ट अनुभाग अधिकारी/स्थापना-4 को शीघ्र प्रस्तुत करें।

संलग्न/कुछ नहीं.

फाइल सं. एआरटी/119/2 पार्ट-2१.

दिनांक 6.6.1987.

वितरण-यथा अंग्रेजी में.

अनूदित-  
लखनऊ

Tie  
1/1

( M.LAL ) 9/6/87

कृते निदेशक/वा.स्तुशिल्प.

8-1-93

BEFORE THE ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH,  
LUCKNOW

Central Administrative Tribunal

Circuit Bench, Lucknow

Date of Filing ... 24-12-92

Misc. Petition No. 1162/DF 1993

Date of Receipt by Post. ...

Deputy Registrar(U)

Place before the Hon.  
Bench for orders  
on the date fixed.

In re:

Registration No. 668 of 1986

Between

Lava Kumar --- --- Petitioner

And

Union of India and others --- Respondents

Fixed for 8-1-1993

Application of Petitioner Lava Kumar under

Section 22(3) of the Act No.13 of 1985

The petitioner above named begs to state as

under:-

- 742
1. That the petitioner in para 6(d) of the main petition had averred that to fill up six newly created posts of Draftsmen category 'A' in the pay scale of Rs. 425-700, an advertisement was published calling for applications from suitable candidates and that the petitioner pursuant to the advertisement submitted his application through proper channel. The petitioner at the time of making the main petition avoided to make the petition bulky and he also could not visualize then that there might arise any dispute of the fact from the other

Lava Kumar.

side and that its filing may not be necessary and relevant in the circumstances narrated above. But the Opposite party have in answer to the interrogatories served by the petitioner have tried to make a totally new, rather a contradictory case, in as much as that while in para 13 of their original reply they have called the post in dispute to be 'non-operational posts' yet in para 6 of their supplementary reply to the interrogatories they have tried to describe the post 'to be operational' and have gone to the extent of seeking amendment of their initial admission. By taking such malefide somersault they have now tried to show that there was no ban for filling up of operational and work-charged posts and accordingly they are trying to justify communication to the petitioner Annexure No. VI to the original petition. All this makes the advertisement inviting applications as referred to in para 6(d) of the original petition becomes necessary and relevant which the petitioner wants to file along with as Rejoinder Affidavit Annexure No. 1.

2. That the different case of calling the Draftsman Category 'A' post in dispute as an operational / work-charged post, as mooted by the Respondents through the Replies to the interrogatories, is not borne now even from the letter dated 24-9-84 of posting given to Kumari Anita Saxena placed at ~~Serial No. 1~~ <sup>Serial No. 1</sup> of the panel. The petitioner after

such change in the stand taken by the Respondents tried

Lava Kumar.

to make a contract with said Anita Saxena, R.D.S.O. Lucknow and to procure her letter of posting for the purposes of getting photostat copy of it prepared and filed in this case. Kumari Anita Saxena was good enough to oblige the petitioner by handing over to him her original letter of posting.

In that letter too there is no mention that she was being posted on work-charged Draftsman category 'A' in the pay Scale of Rs. 425-700. There is also no mention that the post was 'operational' one and not non-operational. It also refers to rejoinder Affidavit Annexure No. I filed along with. The petitioner got himself prepared by the mechanical process of Xeroxing the photostat copy of the said letter of posting of Kumari Anita Saxena. He himself got compared the photostat copy so get prepared with the original handed over back to Kumari Anita Saxena and he has found the photostat copy to be the <sup>true</sup> ~~true~~ and correct reproduction of the original and ~~he~~ ~~xxx~~ certified the photostat copy to be the true copy of the original. He is filing along with the true photostat copy of the said appointment letter of Kumar Anita Saxena as Rejoinder Affidavit Annexure No. II.

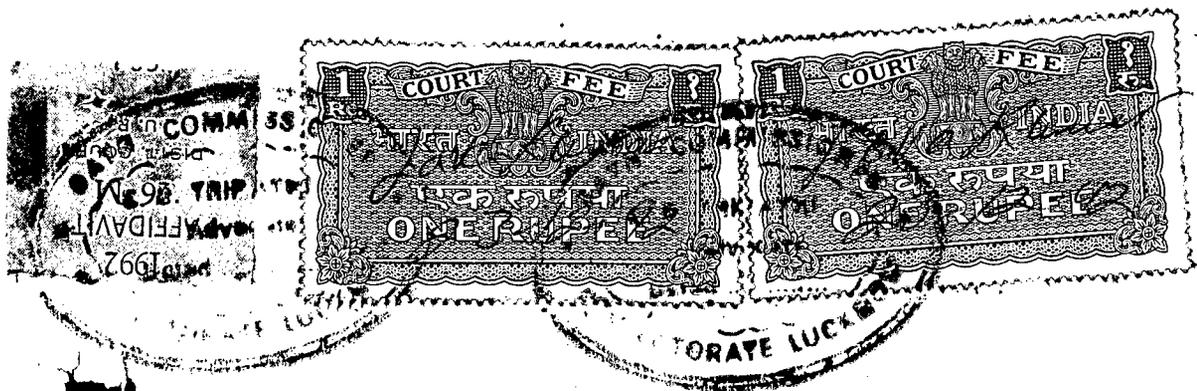
Lucknow

Dated December 23, 1992

Lava Kumar.  
Petitioner

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL  
BENCH, LUCKNOW

Misc Application No of 1993



In re:

Registration No. 668 of 1986

Between

Lava Kumar ----- Petitioner

And

Union of India and others ----- Respondents

Fixed for 8-1-1993

A F F I D A V I T

I Lava Kumar, aged about 32 years son of Sri Ram Chandra Barui, resident of House No. 44, Sunder Bagh, Police Station Qaiser Bagh, City, Lucknow, the applicant, in the above noted application do hereby solemnly affirm and state on oath as under .

1. That the deponent in para 6(d) of the main petition had averred that to fill up six newly created posts of Draftmen Category 'A' in the pay scale of Rs. 425-700, an advertisement was published calling for applications from suitable candidates and that the deponent pursuant to the advertisement submitted his

OATH COMMISSIONER  
E. B. TRIPATHI  
Advocate  
Dated 23/1/1993

Lava Kumar

A/133

application through proper channel. The deponent at the time of making the main petition avoided to make the petition bulky and he also could not visualise then that there might arise any dispute of the fact from the other sides and that its filing may not be necessary and relevant in the circumstances narrated above. But the opposit party have in answer to the interrogatories served by the deponent have tried to make a totally new, rather a contradictory case, in as much as that while in para 13 of their original reply they have called the post in dispute to be 'non operational posts' yet in para 6 of their supplementary reply to the interrogatories they have tried to describe the post 'to be operational' and have gone to the extent of seeking amendment of their initial admission. By taking such malafide somersault they have now tried to show that there was no ~~ban for~~ <sup>ban for</sup> filling up of operational and workcharged posts and accordingly they are trying to justify communication to the deponent Annexure No.VI to the original petition. All this makes the advertisement inviting applications as referred to in para 6 (d) of the original petition becomes necessary and relevant which the deponent wants to file alongwith as Rejoinder Affidavit Annexure No.I

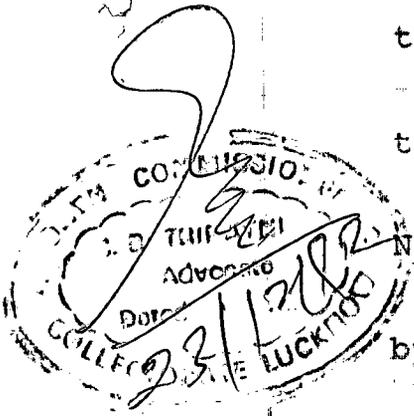
2. That the different case calling the draftsman



Lewakumar

128

Draftsman category 'A' post in dispute as an operational/  
work-charged post, as meted by the Respondents through the  
replies to the interrogatories is not borne now even from  
the letter dated <sup>AV</sup> 25-9-84 of posting given to Kumari Anita  
Saxena, placed at serial No.1 of the panel. The deponent  
after such changes <sup>in</sup> the stand taken by the Respondents tried  
to make a contact with said Anita Saxena, R.D.S.O., Lucknow  
and to procure her letter of posting for the purpose of  
getting photostat copy of it prepared and filed in this  
case. Kumari Anita Saxena was good enough to oblige the  
deponent by handing over to him her original letter of  
posting. In that letter too there is no mention that she  
was being posted as work-charged Draftsman category 'A'  
in the pay scale of Rs. 425-700 . There is also no mention  
that the post was 'operational ' one and not ' non-opera-  
tional '. It also refers to Rejoinder Affidavit Annexure  
No.1 filed along with. The deponent got himself prepared  
by the mechanical process of Xeroxing the photostat copy  
of the said letter of posting of Kumari Anita Saxena.  
He himself got compared the photostat copy so got prepared  
with the original handed over back to Kumari Anita Saxena  
and he has found the photostat copy to be the true and  
correct reproduction of the original and he certified the  
photostat copy to be the true copy of the original. He is



Lava Kumar



GOVERNMENT OF INDIA MINISTRY OF RAILWAYS  
RESEARCH DESIGNS & STANDARDS ORGANISATION

Tele: phone: 50567 & 50017  
Grams: RAILMANAK

REGISTERED ACK. DUE.

No. Rectt./advt/Tech/83-II

Date: 27/10/1983.

The Manager,

1. The Times of India, Bombay/Delhi.  $\mu$
2. The Assam Tribune, Gauhati.
3. The Tribune, Chandigarh.
4. The Deccan Herald, Bangalore.
5. The Hitavada, Nagpur.
6. The Indian Nation, Patna.
7. The Deccan Chronicle, Secunderabad.
8. The Northern India Patrika, Allahabad & Lucknow  $\mu\mu$
9. The Amrit Bazar Patrika, Calcutta  $\mu\mu$
10. The Madhya Pradesh Chronicle, Bhopal.
11. The Indian Express, New Delhi & Madras  $\mu\mu\mu$
12. The Employment News, P.T.I. Building, Parliament Street, New Delhi-110001 (5 spare copies)

$\mu$  For combined editions of Bombay and Delhi.

$\mu\mu$  For combined editions of Calcutta, Allahabad and Lucknow.

$\mu\mu\mu$  For combined editions of southern editions viz. Madras, Bangalore, Vijaywada and Cochin etc.

Dear Sir,

Sub: Recruitment of Technical Class-III  
staff for Research Designs 'and'  
Standards Organisation (R.D.S.O.)

The enclosed advertisement may please be published in one issue, immediately, in your classified columns subject to the following conditions that:

i) You agree to accept from us the same advertisement charges as you would be charging for similar advertisements of the other Central Government/Ministry/Establishment released to you in 1983-84 by the Director of Advertising and Visual Publicity.

ii) You agree to provide us a certified true copy of the current rate contract, between your paper and D.A.V.P. in respect of Central Government Advertisements released through D.A.V.P.. You also agree to show us the original rate contract, if required.

p.t.o.

Lava Kumar

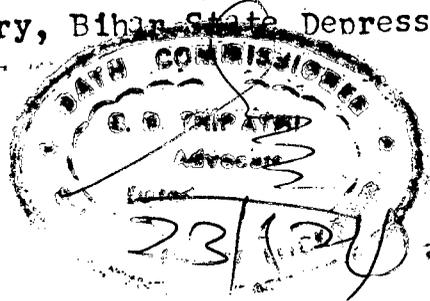
23/10/83

Copy, together with a copy of the advertisement, forwarded to:-

1. The General Manager, All Indian Railways, including CIW/Chittaranjan, DLW/Varanasi, ICF/Perambur/Madras-38 and DCW/Patiala.
2. The Chief Engineer (Constn.), South Eastern Railway, Railway Electrification Project, Calcutta.
3. The Secretary, Railway Board, Rail Bhavan, New Delhi.
4. The Secretary, Railway Service Commissions, Allahabad, Calcutta, Madras, Bombay, Muzzaffarpur, Gauhati and Secunderabad.
5. The Principal, I.R.S.E.T., Secunderabad.
6. The Principal, I.R. Institute of Advance Track Technology, Pune-1.
7. The Chief Secretary, Jammu & Kashmir State Government, Srinagar(J&K).
8. The Manager, Central Employment Exchange, Gurdwara Road, New Delhi.
9. The Regional Employment Exchange, Patna, Bombay, Delhi, Hyderabad, Nagpur, Madras, Ambala Cantt., Calcutta and Lucknow.
10. The Professional & Executive Employment Officer, Directorate of Training and Employment, U.P. 1 Guru Govind Singh Marg, Basmandi, Lucknow.
11. The General Secretary, Harijan Sewak Sang, Kingsway Camp, Delhi.
12. The General Secretary, Delhi Scheduled Caste Welfare Association, Ambedkar Bhavan, Rani Jhansi Road, New Delhi.
13. The Chairman, Scheduled Caste Uplift Union, B-13/88, Dev Nagar, Karolbagh, New Delhi.
14. The Office Secretary, Bharatiya Depressed Classes League, 13, Windsor Place, New Delhi.
15. The Office Secretary, Andhra State Depressed Classes League, Bluru, Distt. West Godavary,
16. The Office Secretary, Assam State Depressed Classes League, Lamb Road, Gauhati.
17. The Office Secretary, Bihar State Depressed Classes League, Patna.

.....4/-

Lava Kumar



37. The Secretary, Sakti Ashram, P.O. Sakti Ashram  
(Golpur Distt.) Assam.
38. The Secretary, Baram Ashram, Barama (Distt. Iamrup), Assam.
39. The Secretary, Mikir Hills Seva Kendra, Sarihajan,  
(Mikir Hills Distt.) Assam.
40. The Secretary, Assam Seva Samiti, Earl Road, Gauhati.
41. The Secretary, Adimjati Seva Ashram, Balagram, P.O. Tibu  
(Kamrup Distt.) Assam.
42. The Secretary, Adimjati Seva Mandal, Nibaran Ashram,  
P.O. Hinoe, Ranchi, Bihar State.
43. The Secretary, Santhal Pahadia Seva Mandal, P.O. Baidyanath  
Dham, Deoghar Distt. Santhal parganas, Bihar State.
44. The Secretary, Mambhum Adimjati Sevak Sangh, Gosaindi, h,  
P.O. Govindpur, Distt. Dhanbad, Bihar State.
45. The Secretary, Adim Sahar Jatiya Sabha, Ghatsila Distt.  
Singhbhum, Bihar State.
46. The Secretary, Santal Parganas Adimjati Sevak Sangh,  
Dumka, Distt. Santhal Parganas, Bihar State.
47. The Secretary, Bihar Raj Gond Sabha, Loco Quarters No. 62,  
C.D. Patna.
48. The Secretary, Bhil Seva Mandal, Dohad, Distt. Panchmahals.  
Gujarat State.
49. The Secretary, Raniparaj Seva Sabha, Vedchhi, Disstt. Surat,  
Gujrat.
50. The Secretary, Baroda Zila Pachat Varg Seva Mandal, Baroda.
51. The Secretary, Broach District Adiwasi Seva Sangh, Wajpipla,  
Broach Distt., Gujrat State.
52. The Secretary, Adivasi Seva Mandal, 6, Veer Nariman Road,  
Bombay.
53. The Secretary, West Khandesh Bhil Seva Mandal, Mandurbar,  
West Khandesh District, Maharashtra State.
54. The Secretary, Dang Seva Mandal, Nasik, Maharashtra State.
55. The Secretary, Adivasi Shikshan Prasarak Mandal, Veotmal,  
Maharashtra State.
56. The Secretary, Mahatma Gandhi Seva Sangh, Palghar, Thana  
Distt, Maharashtra State.

Lava Kumar

23/12/92

.....6/-

76. The Secretary, Ashok Ashram, Kalsi, Distt. Dehradun (U.P.)
77. The Secretary, Servants of India Society, Sarsa, Distt. Allahabad.
78. The Secretary, Bharat Mahajati Mandali, 101-A, Ballygunge. Place, Calcutta. (W.B).
79. The Director General, Resttlement, Ministry of Defence, Maulana Asad Marg, New Delhi. 11.
80. The Director General, Employment & Training, Sharm Shakti Bhavan, Rafi Marg, New Delhi.
81. The Secretary, Akhil Bharat Anusuchit Jati Parishad, 134, North - Avenue, New Delhi.

INSTITUTION OF ENGINEERING.

82. The Assam Engineering College, Gauhati.
83. The Jorhut Engineering College, Horhat.
84. The D.M. College, Imphal.
85. The Indian School of Mines, Dhanbad.
86. The M.B.B. College, Agartala.
87. The Engineering College, Bhagalpur.
88. The Regional Engineering College Durgapur (Burdwan Distt). W.B.
89. The Birla Institute of Technology, 56, Barackpore Trunk Road, Calcutta-50-
90. The M.B.C. Institute of Engineering & Technology, Burdwan.
91. The Indian Institute of Technology, Kharagpur (W.B.)
92. College of Engineering & Technology Hauz khas, New Delhi.
93. The Kashmir Government Polytechnic, Srinagar.
94. The College of Engineering, Osmania University, Hyderabad. 7.
95. The College of Engineering, Kakinda, Madras State.
96. The University College of Engineering, Andhara University, Waltair.
97. The Regional Engineering College, Warrangal.
98. The Regional Engineering College, Calcutta-5.
99. The college of Engineering, Trivandrum, Kerala.
100. The College of Engineering Trichur, Tamil Nadu.
101. The Government College of Technology, Coimbatore-3.
102. The Tniagaraian College of Engg., Madurai, Tamil Nadu.
103. The Karnatic Regional Engg. College, Suratukul, (S. Cenara).
104. The L.O. College of Engineering. Ahemdbad.
105. The Ma-ulana Azad College of Engineering, Bhopal (MP).
106. The Government College of Engg. & Technology, Raipur (M.).
107. The Indian Institute of Technology, Piwar, Bomba -17.
108. The V.J. Technical Institute, Matanga, Bombay-19.
109. Abhinavakala Mandir, Tilak Road, Pune-2.
110. The College of Engineering, Poona-5.
111. The Annamalai University, Chindambaram.
112. The Birla Technological Institute, P.D. Mesra, Ranchi.
113. The Thappar Engineering College, Patiala.
114. The Regional Engineering College, Dayal Ragh, Agra.
115. The Regional Institute of Technology, Jamshedpur.
116. The Government Engineering College, Jabalpur (MP).

Contd.....8/-

Lava Kumar

23/1.242

- 163. The Station Superintendent, Northern Railway Lucknow.
- 164. The Station Superintendent, North Eastern Railway, Lucknow.
- 165. The Divisional Railway Manager, Northern Railway, Lucknow.
- 166. The Divisional Railway Manager, North Eastern Rly., Lucknow.
- 167. The Principal, Govt. Girls Polytechnic, Lucknow.

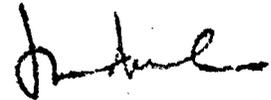
It is requested that wide publicity may please be given to this office advertisement notice by notifying in the Gazettes and displaying on Notice Boards etc. Applications of such of the candidate as are desirous of being considered for appointment in this office and fulfil the minimum requisite qualifications and experience etc. as mentioned in the said advertisement, may be forwarded to this office.

DA: One Advertisement.

Lucknow-226011.

Date: 27.10.1983.

File No. Rectt/Adv./Tech./82-II.

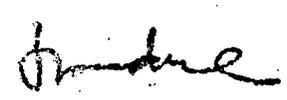


(L. Kandulna)  
for Director General.

Copy together with a copy of the advertisement forwarded to the following for giving wide circulation among staff concerned;

1. All Joint Directors, Sr. Dy. DG, Secretary to DG, RDSO, Lucknow.
2. DD/Estt-I DDE-II, SO/E-I, III, and IV, RDSO, Lucknow.
3. All RDSO Officers/Units located at out-stations.
4. Accounts Branch, RDSO, Lucknow. 2 copies.
5. Notice Board.

DA: One advertisement Notice.



(L. Kandulna)  
for Director General.

Pks.

Lava Kumar



A  
145

EMPLOYMENT NOTICE NO. RECTT/ADVT/TECH/83-II.  
DIRECTOR GENERAL, RESEARCH DESIGNS & STANDARDS ORGANISATION  
(MINISTRY OF RAILWAYS), MANAKNAGAR, LUCKNOW-226011, invites  
applications for the following categories of posts to reach  
latest by 12-12-1983 complete with attested copies of  
certificates, in support of age, qualifications, detailed  
experience and caste, on any Railway Service Commission  
forms obtainable from important railway stations, with crossed  
postal order of Rs.10/- and Rs.2.50 in the case of SC/ST  
candidates payable to the Joint Director Finance-cum-  
Administrative Officer, R.D.S.O. at G.P.O., Lucknow. The  
postal orders should not be earlier than the date of publication  
of this advertisement. The prescribed age limits and period of  
experience are applicable as on 12-12-1983. Upper age limits  
are relaxable as per rules. Candidates on appointment are  
liable to serve in Territorial Army as per extant orders.  
Separate applications with postal orders should be submitted  
for each category of post and photographs affixed thereon  
should bear full signature of candidates. On appointment  
candidates can be posted in any branch of RDSO in India.  
Requisite experience would count after the date of acquiring  
basic technical qualifications. Qualifications/Experience  
relaxable at discretion of Selection Board in the event of  
poor response. While calling for written test preference  
will be given to candidates possessing higher qualifications.  
Candidates belonging to un-reserved communities may be  
considered in case suitable SC/ST candidates do not become  
available. Successful completion of 5 years approved  
apprenticeship course on Zonal Railways/Production Units will  
be taken as equivalent to Diploma. Late and incomplete  
applications will not be considered. Free Railway Pass will  
be given to SC/ST candidates.

CATEGORY-1: Chief Research Assistant(Metallurgical)/Senior  
Inspector(Metallurgical), scale Rs.650-960(RS). Three vacancies-  
(reserved for SC-2 & ST-1) AGE LIMIT: 25 to 35 years.  
QUALIFICATIONS: Degree in Metallurgy or its equivalent or  
Degree of Master of Science in Physics/Inorganic Chemistry/  
Physical Chemistry followed by two year's experience, including  
period of training if any, in an approved establishment in the  
field of Metallurgy or allied fields OR 1st Class B.Sc.(Hons)  
in Chemistry or Physics with three year's experience including  
period of training, if any, in an approved establishment in the  
field of Metallurgy or allied fields OR B.Sc. with Physics  
and Chemistry as compulsory subjects and with not less than  
55% marks in aggregate followed by four years' experience  
including period of training, if any, in an approved establishment  
in the field of Metallurgy or allied fields.

CATEGORY-2: Chief Research Assistant(S&T), scale Rs.650-960(RS)  
Two vacancies like(reserved for SC-1) AGE LIMIT: 25 to 35 years.  
QUALIFICATIONS: Degree or its equivalent in Telecommunication/  
Electronics/Electrical Engineering from a recognised institute  
with two years suitable experience or Master's degree in  
Telecommunication/Electronics/Electrical Engineering from a  
recognised institution.

...2.

Lava Kumar

31/12/82

(2)

A  
143

CATEGORY-3: Chief Research Asstt(Civil); scale Rs.650-960(RS). Nine vacancies(reserved for SC-2 & ST-1). AGE LIMIT: 25 to 35 years. QUALIFICATIONS: Degree or its equivalent in Civil Engg. from a recognised institute with two years' suitable experience OR Master's Degree in Civil Engg. from a recognised institute.

CATEGORY-4: Statistician, scale Rs.700-900(RS). One vacancy (reserved for ST). AGE LIMIT: 20 to 35 years. QUALIFICATIONS: First or Second Class Master's Degree in Statistics; and one year's experience in collecting, analysing and interpreting statistical data. The candidates with knowledge of Psychometry will be preferred.

CATEGORY-5: Senior Research Asstt(Electrical). scale Rs.550-900(RS). One vacancy(reserved for ST). AGE LIMIT: 20 to 30 years. QUALIFICATIONS: Diploma in Electrical Engg. with 3 years' experience in electrical engineering works OR Degree or its equivalent in Elect.Engg.

CATEGORY-6: Design Asstt 'A'(Civil). scale Rs.550-750(RS). for Civil Designs Directorate. Ten vacancies(reserved for SC-3 and ST-2). AGE LIMIT: 20 to 30 years. QUALIFICATIONS: Diploma in Civil Engg. from a recognised institution with a minimum of 3 years' suitable experience in an Civil Engg. Organisation OR Degree or its equivalent in Civil Engineering from a recognised institution.

CATEGORY-7: Design Asstt.'A'(Mechanical). scale Rs.550-750(RS). seventeen vacancies likely(reserved for SC-4 & ST-4). AGE LIMIT: 20 to 30 years. QUALIFICATIONS: Diploma in Mechanical Engg. from a recognised institution with a minimum of 3 years' suitable experience in an Mech.Engg. Organisation OR Degree or its equivalent in Mechanical Engineering from a recognised institution.

CATEGORY-8: Arch.Asstt.'A' for Arch Cell at Calcutta. scale Rs.550-750(RS). Six vacancies(reserved for SC-2 & ST-2). AGE LIMIT: 20 to 30 years. QUALIFICATIONS: Matriculation or its equivalent and certificate/diploma in Architectural Assistantship or its equivalent from a recognised institution followed by three years' suitable experience in a qualified Architect's office or Architectural firm of repute OR Degree in Architecture or its equivalent from a recognised institution.

CATEGORY-9: Draftsman 'A'(Architecture) for Arch.Cell at Calcutta. scale Rs.425-700(RS). Six vacancies likely(reserved for SC-2 & ST-2). AGE LIMIT: 20 to 30 years. QUALIFICATIONS: Matriculation or its equivalent and certificate/diploma in Architectural Assistantship or its equivalent from a recognised institution followed by one year's experience in a qualified Architect's office or Architectural firm of repute.

CATEGORY-10: Draftsman 'A'(Civil). scale Rs.425-700(RS). Eight vacancies(reserved for SC-3 & ST-3). AGE LIMIT: 20 to 30 years. QUALIFICATIONS: Matriculation or its equivalent and Diploma in Civil Engg. from a recognised institution with one year's suitable experience.

Lava Kumar

Advocate  
Date  
23/11/2013  
URAVE KUMAR

(3)

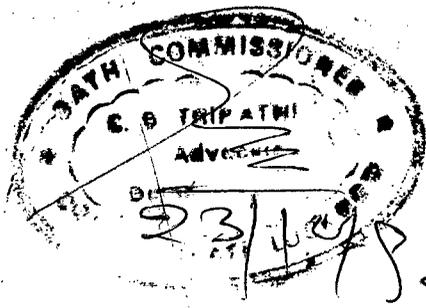
CATEGORY-11: Draftsman 'B' (Electrical: scale Rs. 220-560 (RS)). Three vacancies (reserved for SC-2 & ST-1). AGE LIMIT: 20 to 30 years. QUALIFICATIONS: Matriculation or its equivalent and certificate/Diploma in Draftsmanship in Electrical Engineering of I.T.I. Standard or its equivalent from a recognised institution alongwith a minimum of three years' suitable experience OR Matriculation or its equivalent and Diploma in Electrical Engineering from a recognised institution.

CATEGORY-12: Draftsman 'B' (Architecture) for Arch. Cell at Calcutta. scale Rs. 330-560 (RS). Two vacancies (reserved for SC-1 & ST-1). AGE LIMIT: 20 to 30 years. QUALIFICATIONS: Matriculation or its equivalent and Certificate/Diploma in Architectural Assistantship from a recognised institution.

CATEGORY-13: Tracer (Civil). scale Rs. 260-430 (RS). Fifteen vacancies (reserved for SC-3 & ST-4) AGE LIMIT: 18 to 25 years. QUALIFICATIONS: Matriculation or its equivalent and Certificate/Diploma in Draftsmanship of I.T.I. Standard or its equivalent in Civil Engineering from a recognised institution or trade apprenticeship successfully completed on Zonal Railways/Production Units.

CATEGORY-14: Tracer (S&T). scale Rs. 260-430 (RS). Twelve vacancies (reserved for SC-4 & ST-2). AGE LIMIT: 18 to 25 years. QUALIFICATIONS: Matriculation or its equivalent and Certificate/Diploma in Draftsmanship of I.T.I. Standard or its equivalent in Telecom/Electrical/Mechanical Engg. from a recognised institution OR trade apprenticeship successfully completed on Zonal Railways/Production Units.

CATEGORY-15: Lab. Asstt. (Psych.). scale Rs. 260-430 (RS). one vacancy (reserved for SC). AGE LIMIT: 18 to 25 years. QUALIFICATIONS: Degree of a recognised university with Psychology as one of the subjects.



Lava Kumar

②  
4/19

R. A. ANN. No. II

Government of India  
Ministry of Railways  
Research Designs & Standards Organisation

Lucknow- 11

No: ART/119/2

Dated: 4-9-84

MEMORANDUM

With reference to his/her application dated 12.12.83 and on the basis of the selection held in this office on 10.12.83. Shri/Km./Smt. Anita Saxena -s/o - p/o - w/o Shri S. N. Lal is offered a temporary post of DM (Arch. A) on Rs. 425/- p.m. in scale of Rs. 425-700 (BS) in the Arch. Cell of this office at Calcutta. In addition, he/she will be entitled to draw other allowances admissible under the Railway Board's rules from time to time. The appointment is provisional and shall be subject to the result of the writ petition pending in the Supreme Court regarding application of reservation rules.

2. The post is purely temporary, and is sanctioned upto 31-3-85 for MTP work and renewable from year to year. He/She is likely to remain at Calcutta for an indefinite period depending upon the exigency of work and will be considered for absorption at Lucknow when no longer required at Calcutta depending upon the vacancy position at that time. He/She will be on probation for a period of one year in the first instance. The probationary period can be extended by the Administration. During the probationary period his/her services are liable to be terminated with one month's notice on either side and without any reasons being assigned. The condition regarding the 'notice' period stipulated in the joining report to be signed by him/her on his/her taking over duty in this office will come operative on his/her successful completion of the probationary period.

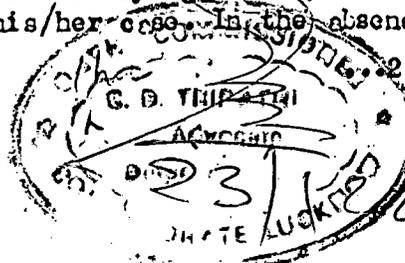
3. His/Her appointment will be subject to his/her being declared fit for Government service by the Divisional Medical Officer, South Eastern Railway, Calcutta and medical examination will be arranged by this office and Rs.12/- will be charged from him/her before he/she is sent for medical examination for the category, if not done earlier. He/She will have to take an oath of allegiance to India and to the Constitution of India as by Law established before taking up appointment in this office. He/She should also bring with him/her two attestation forms and a character certificate (copy enclosed) duly completed/attested by the authorities indicated therein.

4. It will not be possible for this office to arrange any residential accommodation (Department/private) for him/her on appointment and he/she will therefore, have to make his/her own arrangement in this respect at Calcutta.

5. No travelling or any other incidental charges for joining the post will be given to him/her by this office.

6. This offer is also subject to the condition that he/she has not more than one spouse living.

7. He/She should bring with him/her certificates in original testifying to his/her age, educational qualifications and experience being within the limits stipulated in the advertisement. He/She should also bring the original certificate issued by the District Magistrate certifying to his/her belonging to Schedule Caste/Tribe, if applicable to his/her case. In the absence of these



Lava Kumar

534

Before the central Administrative Tribunal,  
Additional Bench, Lucknow.

Misc. petition No. 2002 of 1994

In re :

Registration No. 668 of 1986

Between

Lava Kumar ..... petitioner

And

Union of India and others ... Respondents

Fixed for 19.10.1994

Place before the  
Hon'ble Bench  
for order on the 22.10.94

Application of petitioner Lava Kumar under section  
22(3) of the Act No. 13 of 1985 .

Dy. Registrar  
He

The petitioner above named respectfully submits as  
follows : -

File to day  
7-10-94

1. That the petitioner in para 9 of his claim  
petition has stated that the order ( communicated in  
letter No. A.R.T./119/2 part, dated 19th August 1986,  
Annexure VI) was passed by the highest authority, namely,  
the Director General and as such no remedy was available  
under the relevant rules.

2. That through inadvertance it was left over  
from being mentioned in the said para of claim petition  
that on receipt of the said order the petitioner did  
submit on 18th september 1986, an appeal through proper  
channel, to the Director General narrating full facts  
of the case to reconsider the matter and to issue order  
for his appointment to the post of draftsman category 'A'  
(scale Rs. 425-700) to save him from further loss of  
status and also pecuniary loss as he was performing the

Lava Kumar.

duties and functions of draftsman category 'A' but was being paid the pay of draftsman category 'B' (scale Rs. 330-560) . He continued to work in that capacity right from his appointment on 1.7.1985 till his transfer from Calcutta to Lucknow on 15.7.1987 . This period included the panel period of eight months and eighteen days from 1.7.85 to 18.3.1986 .

3. That the petitioner could not then foresee and visualize that the facts narrated above could also have some relevancy and impact with regard to the subject matter under dispute between the parties hence he is bringing the facts to the notice of Hon'ble Tribunal now for consideration and appreciation .

4. That after submission of aforesaid appeal , the petitioner began to wait, the decision and finding thereon but the petitioner was not obliged with any reply . He therefore submitted through proper channel a reminder on 6th October 1986 to the Director General making submission that in case the decision already communicated to the petitioner did not warrant reconsideration and stood as final and there be no objection, let the petitioner be permitted to agitate the matter before the central service Tribunal . A copy each of that said reminder was also sent to ( 1 ) the Director, Architecture and (2) Deputy Director [redacted], Establishment I .

5. That finding no reply to the above mentioned appeal, inspite of the reminder on 6.10.86 , the present claim petition under consideration was filed before the Hon'ble Tribunal at Allahabad , on

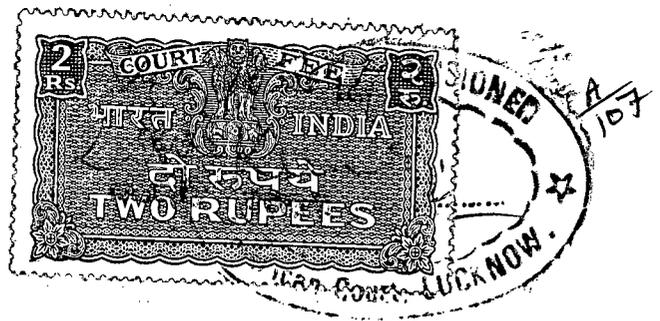
Kumar

12 / 13th November 1986 , which has been received  
on transfer for disposal here. A copy each of the  
appeal dated 18.9.1986 and reminder dated 6.10.1986  
aforesaid is submitted for perusal of the Hon'ble  
Tribunal as Rejoinder Affidavit Annexure III & IV.

Lucknow :

Dated: October 04, 1994

Lava Kumar.  
( Lava Kumar )  
petitioner



Before the Central Administrative Tribunal,

Additional Bench, Lucknow .

Miscellaneous petition No. of 1994

In re :

Registration No. 668 of 1986

Between

Lava Kumar

... petitioner

And

Union of India and others

... Respondents

Fixed for 19.10.94

A F F I D A V I T

I (Lava) Kumar , aged about 32 years son of Sri Ram Chandra Barui , resident of House No. 44, Sunder Bagh, Police station Qaiserbagh, city Lucknow, the applicant, in the above noted application , do hereby solemnly affirm and state on oath as under : -

1. That the deponent in para 9 of his claim petition has stated that the order (communicated in letter No. A.R.T./119/2 part, dated 19th August 1986, Annexure VI) was passed by the highest authority, namely, the Director General and as such no remedy was available under the relevant rules.

2. That through inadvertence it was left over from being mentioned in the said para of claim petition that on receipt of the said order the deponent did submit on 18th September 1986, an appeal through proper channel to the Director General narrating full facts of the



Lava Kumar.

108

case to reconsider the matter and to issue order for his appointment to the post of draftsman category 'A' (Scale Rs. 425-700) to save him from further loss of status and also pecuniary loss as deponent was performing the duties and functions of draftsman category 'A' but was being paid the pay of draftsman category 'B' (scale Rs. 330-560). The deponent continued to work in that capacity right from his appointment on 1.7.1985 till his transfer from Calcutta to Lucknow on 15.7.1987. This period included the panel period of eight months and eighteen days from 1.7.85 to 18.3.1986.

3. That the deponent could not then foresee and visualize that the facts narrated above could also have some relevancy and impact with regard to the subject matter under dispute between the parties hence deponent is bringing the facts to the notice of Hon'ble Tribunal now for consideration and appreciation.

4. That after submission of aforesaid appeal, the deponent began to wait, the decision and finding thereon but the deponent was not obliged with any reply. The deponent therefore submitted through proper channel a reminder on 6th October 1986 to the Director General making submission that in case the decision already communicated to the deponent (in letter dated 19.8.1986) did not warrant reconsideration and stood as final and there be no objection, let the deponent be permitted to agitate the matter before the Central Service Tribunal. A copy each of that said reminder was also sent to (1) the Director, Architecture and (2) Deputy Director ~~Establishment I~~, Establishment I.



Lava Kumar.

5. That finding no reply to the above mentioned appeal, inspite of a reminder on 6.10.1986, the present claim petition under consideration was filed by the deponent before the Hon'ble Tribunal at Allahabad on 12/13<sup>th</sup> November 1986 which has been received on transfer for disposal here. A copy each of the appeal dated 18.9.1986 and reminder dated 6.10.86 aforesaid is submitted for perusal of the Hon'ble Tribunal as Rejoinder Affidavit Annexure Nos. III & IV.

Lucknow : *h*  
 Dated : October 04, 1994  
 Lava Kumar.  
 Deponent

VERIFICATION

I, the above named deponent do hereby verify that the contents of para 1 to 5 of the affidavit are true to my own knowledge.

Signed and verified this day of October 4, 94 in court compound, Lucknow.

Lucknow : *h*  
 Dated : October 04, 1994  
 Lava Kumar.  
 Deponent

I identify the deponent who has signed before me.

*Sahdev Singh*  
 ( Sahdev Singh )  
 Advocate



To,

The Director General,  
Research Designs and Standards Organisation,  
Manaknagar,  
L U C K N O W.

(Through proper channel)

Subject: Regarding appointment of applicant as  
Draftsman Category 'A' (Scale Rs.425-700)  
in RDSO;

\*\*\*\*\*

Sir,

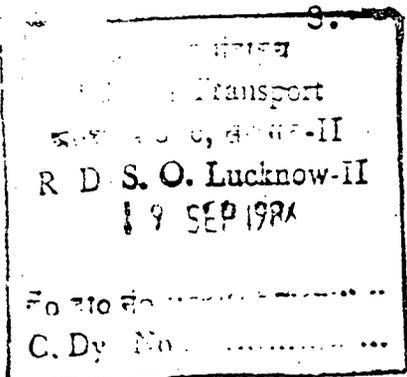
Most respectfully and humbly the applicant begs  
to submit the following facts for your kind consideration  
and necessary orders:-

1. That the applicant was appointed as Draftsman Category 'B' (scale 330-560) in Architectural Cell, RDSO and was posted to Calcutta where has been working ever since July 1983.
2. That the aforesaid post of Draftsman category 'B' was surrendered in June 1985, but he was detained there to work against a vacant post of Draftsman Category 'A' and has been working on this post since 28.6.85, but is being paid the pay scale of Draftsman category 'B'.

3. That while working there he had also <sup>applied</sup> as an outside candidate for direct recruitment to six vacant posts of Draftsman category 'A'. He was selected and a panel list containing names of following six candidates was announced. His name is at Sl.No

4.
 

|                         |                                                     |
|-------------------------|-----------------------------------------------------|
| 1) Km. Anita Saxena     | - (Joined duty on 29.9.84)                          |
| 2) Sri Pradeep Kumar    | - (Joined duty on 12.11.84)                         |
| 3) Sri Sunil Srivastava | - (Intimated unwillingness to join)                 |
| 4) Sri Lava Kumar       | - (Received no offer as yet.)                       |
| 5) Sri Satish Kumar     | - ( -do- )                                          |
| 6) Sri Munna Lal        | - (Offered appointment but did not turn up to join) |



*me chd to EY  
Sent to EY  
15/5*

- 4. That Kumari Anita Saxena and Sri Pradeep Kumar took over charge of their posts but Sri Munnal Lal did not turn up to take charge.
- 5. That while the process of implementation of selection panel was under way a ban on the creation of posts and filling-up of vacancies came into force. The ban was perhaps lifted on May 20, 1986.
- 6. That on 28.10.85 he submitted an application requesting his appointment to the vacant post of Draftsman category 'A' as he had been selected for that post and was also working against that <sup>post</sup> at Calcutta since 28.6.85. After three months on 17.2.86 he submitted a reminder <sup>and</sup> at the same time pointed <sup>cut</sup> that as the selection panel was in operation the question of extension of <sup>its</sup> period may be considered if no step had already been taken for the same.
- 7. That in reply to the said reminder he was informed through letter No. ART/119/2 (Part) dated 5.3.86 that his claim was not maintainable. Grounds that seemed probable then no longer hold good now.



In para 2 of that letter it was also stated that so far as the question of making adhoc arrangement to the post was concerned, he was not eligible for departmental promotion under the existing rules. It may be pointed out that in para 10 of this application dated 28.10.85 (copy enclosed with the reminder) he had made it clear that his case stands on a different footing from departmental promotion and his appointment to the post of Draftsman category 'A' at Calcutta is a direct recruitment post and he having been selected direct as <sup>an</sup> ~~outside~~ side candidate

Can not be ruled out on the ground of his being not eligible for departmental promotion. The post of Draftsman category A

candidate is entitled and eligible for appointment to the post against which he has been working since 28.6.85, even when selection panel was in force. It appears that under some misapprehension the question of his clear appointment to the direct recruitment post of category 'A' has been linked up with the question of his departmental promotion for which he did not ask for.

Recently he has been offered adhoc promotion to the post of Draftman category 'A' in the vacancy of Sri P.P. Singh Bhist, but he has not availed of the same as yet owing to non finalization of his case for regular appointment to the post of Draftsman category 'A'.

8. That after voluntary withdrawal of Sri Sunil Srivastava (Sl.No.3 of the panel list), as he informed in writing that he was not interested to join the post of Draftman Category 'A' in RDSO, and continuation of posts at Arch. Cell, Calcutta having been sanctioned upto 30.9.86, the applicant again made a request on 30.6.86 for his appointment to the said post but it was not acceded to.

He has been informed through letter No. ART/119/2 (Part) dated 19.8.86 that the panel period has expired, and his appointment to the said post was not possible now. It is in regard to the decision now communicated that the applicant seeks to make the following submissions:-

I. That the life of a selection panel formed and approved by the competent authority remain current for two years or till they are exhausted whichever is earlier. To implement the selectio panel offers of appointments were made to candidates at Sl. Nos. 1, 2 and 6 of the panel list. The First and second candidate of the list took over charge of their posts. Sl.No. 6 of the list Sri Munnalal did not turn-

contd. on 4.



achieved, the time of selection panel was allowed to run out and no fruitful effort was made to operate the panel when vacancies were there, ~~and~~ candidates were there, and time of about 16 months or so was at disposal. It supports the contention that no equality was shown in providing employment to candidates placed in similar circumstances. This apparently amounts to discrimination between candidates in the matter of offering employment opportunity when all were placed in similar situation and therefore hits the provisions of Article 14 of the Constitution which envisages equality before Law. The applicants case deserves consideration on this ground and the injustice done warrants removal.

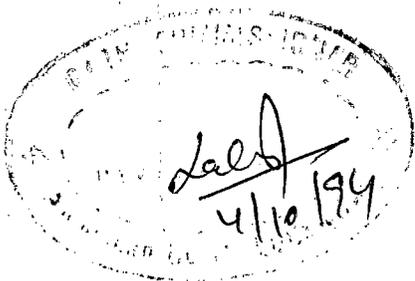
iii) In the aforesaid two letters dated 5.3.86 and 19.3.86 ~~no~~ no mention or reference has been made about the imposition of ban. As such the applicant should have normally refrained from making any submission. But as the imposition of ban was an unprecedented event and played a decisive role in adversely affecting the candidates, the applicant submission is that two state of affairs were running simultaneously. Implementation of Selection Panel envisaged the creation of posts and filling up of vacancies whereas the imposition of ban envisage the prevention of creation of posts and filling up of vacancies. The two were diametrically opposed to each other and obviously only one could operate at a time. The period of selection panel can be deemed ~~to~~ remain suspended and inoperative during the operation of ban, and as a measure to compensate for the injustice suffered by candidates for no fault of their own, the life of two years of selection panel, with the approval of competent authority, ~~could~~ could be extended as a special case, to the equivalent period for which ban was in force.



up to join. The submission is that names were placed in the list in order of merit of candidates and after appointment was to operate as seniority in the panel, hence offer should have been made in serial order, i.e. after sl No.1 and 2 of the list offer should have gone to sl No.3 then to sl No.4 and then to sl No. 5 and not to sl. No. 6 ignoring the opportunity to intermediary candidates. The act of exclusion of candidates<sup>at</sup> sl Nos. 3, 4 and 5 of the list shows that no equality was observed, rather a discrimination was made in offering appointment opportunity to ~~the~~ candidates placed in equal circumstances. The provisions of Article 13<sup>A</sup> of the Constitution of India which envisages equality before Law seem attracted. The applicant is of the view that his case warrants consideration.

ii) The next submission is that all the six posts of Draftmen category 'A' were direct recruitment posts. Accordingly direct selection of an equal number of candidate was made. Within a period of about 8 months or so, from the date of commencement of panel, appointments of two candidates, sl. Nos. 1 and 2 of the list, were made and candidate at Sl.No. 6 did not turn up to join. Now only 3 candidates (sl Nos. 3, 4 and 5 of the list) were left to be provided with against 3 vacancies within the currency of panel period of about 16 months or so. But no appointment opportunity seem to have been offered to any candidate during the currency period. Even the request of the applicant directly selected and working against a vacant post of Draftman category 'A' at Calcutta since 28.6.35 was not acceded to within the panel period. It therefore, goes to show that the selection panel was perhaps constituted only to provide employment to two candidates namely Kumari Anita Saxena and Sri Pradeep Kumar and the object of providing employment to them was when

contd. on 5.



A  
113

6.

P R A Y E R

It is, therefore, requested that in the light of facts stated above his case should be reconsidered and orders for his appointment to the post of Draftman Category 'A' be issued early to save him from further pecuniary loss which he has been suffering from 28.6.85.

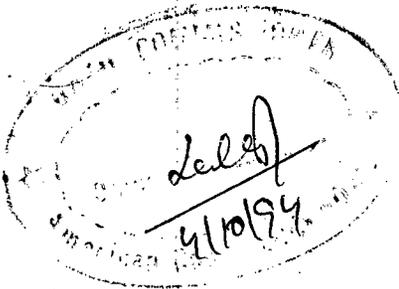
Awaiting early decision & reply.

Yours faithfully,

Lava Kumar.  
(Lava Kumar)

Draftman Category 'B'  
Arch. Cell RDSO Calcutta.

September, 18, 1986.



To,

A  
116

The Director General,  
Research Designs and Standards Organisation,  
Manek nagar,  
LUCKNOW.

(Through proper channel)

Subject: Regarding appointment of applicant as  
Draftsman category 'A' (Scales B425-700)  
in R.D.S.O.

Sir,

Reference enclosed copy of my representa-  
tion submitted on 13.9.86 and to say that the  
decision taken in the matter may kindly be communi-  
cated to the applicant. The applicant further sub-  
mits that in case your honour considers that the  
matter does not now warrant consideration and the  
decision already communicated to applicant stands  
final then he would respectfully request that if  
there be no objection he may kindly be permitted  
to agitate the matter before the Central service  
tribunal and reconcile himself to the verdict.

Yours faithfully,

Lava Kumar

(Lava Kumar)

D/Gen'l B

Arch. cell / R.D.S.O.  
H. Rly. Calcutta.

Date. October 6, 1986.

Copy to

1. Director (Arch)
2. Dy. Director establishment - I

RESEARCH DESIGN AND STANDARDS ORGANISATION  
LAKHIMPUR  
4/10/86

Recd  
(2) ✓  
6-10-86

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

Addl. Bench, at Lucknow.

In re:

Registration No. 668 of 1986

M.P. 519/95

Between

Lav Kumar

... Petitioner

Versus

Union of India and others

... Respondents

Fixed for 31.3.1995

Notice to produce document

Take notice that you are hereby required to produce and show to the Hon'ble Tribunal at the hearing of the above noted claim petition, the inspection report of the Deputy Director, Metro Railway, Calcutta, inspection made by Sri R.N. Srivastava, from 23.4.1986 to 25.4.1986 and forwarded by Sri Muneer Ahamad signing for the Joint Director Finance to the Director (ARCH)<sup>RDSO</sup>/LKO for information and early reply and copy endorsed to DD/Arch, RDSO, MTP, Calcutta for information and early parawise reply, wide endorsement No. V/EFFY/AIR/1131/Part-II/5/86/87 dated 27.5.86, together with the replies received, in your custody, possession and power, containing entry and reference to the composition of the staff of Arch. Directorate at Metro Railway/Calcutta relating to the sanctioned

534

117

Place before the  
Hon'ble Bench  
for orders on date fixed

By Registrar

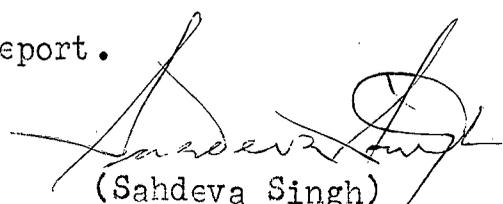
Filed today  
27/3/95

Raw Copy  
on  
16-3-95

strengths, working strengths, vacant posts, etc. of CAA, SAA and JAA, out of which working strength of one JAA stood down graded with effect from 1.7.1985 about which a remark was also contained seeking reply about the circumstances in which the post of JAA was being operated as DM'B', even though the panel for the same was already available, which report and the replies relate to the matters in question in the above noted claim petition and particularly to the petitioner Lav Kumar who was made to work on the down graded post referred to in the said inspection report.

Lucknow:

Dated March 15, 1995

  
(Sahdeva Singh)  
Advocate,  
Counsel for the petitioner.

To

Sri A.V. Srivastava,  
Advocate,  
Counsel for the respondents.

2709 Central Administrative Tribunal  
Lucknow Bench

Date of Filing

Date of Receipt by Post

Before the Central Administrative Tribunal,  
Additional Bench, Lucknow. Registrar (DD)

In re: Registration No.668 of 1986

Between

Lava Kumar ... Petitioner

Versus

Union of India and others ... Respondents

Fixed for 19.12.1995

(Part heard case)

The petitioner, Lave Kumar, in the above noted case, submits as under:

1. That the paragraph 322 of the Indian Railways Establishment Manual provide for seniority list to be shown to Railway servants.

The said paragraph 322 reads as under:

"The Railway servant may be permitted to see the seniority list in which their names are placed or if this cannot conveniently be arranged, they may be informed, on request of their place in the seniority list.

The staff may be allowed to represent about the assignment of their seniority position within a period of one year after the publishing of the seniority list.

.... 2

Lava Kumar.



120

( 2 )

By Registrar ( 7 )

No cases of revision of seniority list should be entertained beyond this period.'

2. That the petitioner is submitting with this application for perusal, two seniority lists marked as supplementary affidavit Annexures No.5 and 6 in respect of the Technical Class III staff of the then Architecture Directorate, which relate and pertain to his service.

(3) Seniority list I (Annexure No.5)

bearing date 1.4.1984 (Prov.)

(2) Seniority list II (Annexure No.6)

prepared after 1984. (As would be evident from the entry with regard to the date of appointment 12.11.1984 mentioned against the name of Sri Pradeep Kumar at Sl.No.16 on page 4 of the Seniority list II (Annexure No.6).



3. That a perusal of entries on pages 5 to 7 in the supplementary affidavit Annexure No.5, and on pages 3 to 4 in the supplementary affidavit Annexure No.6, with regard to posts of Draftsman Category 'A' (pay scale Rs.425-700) mentioned in the aforesaid seniority lists, shows that about four vacancies for appointment to the posts of Draftsman Category 'A'

Lava Kumar

( 3 )

By, Registrar ( 7 )

existed after the panel was declared on 21.3.1984. Two empanelled candidates at Sl.No.I and 2 of the panel list, Kumari Anita Saxena and Sri Pradeep Kumar were appointed on 21.9.1984 and 12.11.1984 respectively as Draftsmen Category 'A'. Likewise next two empanelled candidates at Sl.No.3 and 4 of the panel list, Sri Sunil Kumar Srivastava and Lava Kumar, the petitioner, himself, could have been appointed as Draftsmen Category 'A' against remaining two vacancies during the currency of the panel.

4. That the petitioner <sup>saw</sup> ~~found~~ these seniority lists in ~~the office~~ <sup>the office being seen by the staff of</sup> ~~the then Architecture Directorate and he got them copied by the mechanical process of xeroxing the photostat copy of the same.~~

5. That in this context the petitioner respectfully submits that if the opposite party expresses any doubt with regard to the authenticity, genuineness and veracity of these seniority lists ( Supplementary Affidavit Annexure No.5 and 6) then the petitioner most humbly prays that in the interest of justice, this Hon'ble Tribunal may be pleased to direct the opposite party to produce the seniority list for that period which must be available with them, and if the opposite party fail.



Central Administrative Tribunal  
Lucknow Bench  
Date of Filing .....  
Date of Receipt by Post .....

122

( 4 )

By, Registrar ( / )

to produce the same then the aforesaid seniority lists may be taken into consideration for deciding the case.

Lucknow:

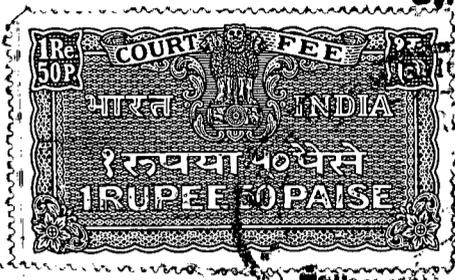
Dated 8.12.,1995

Lava Kumar  
(Lava Kumar)  
Petitioner



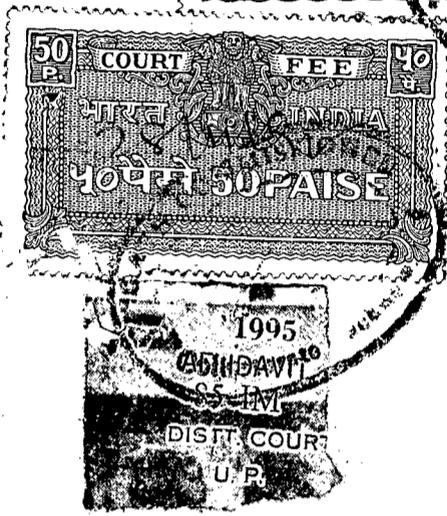
Before the Central Administrative Tribunal

Additional Bench, Lucknow



In re: Registration No. 668 of 1986

Between:



Lava Kumar

... Petitioner

Versus.

Union of India and others

... Respondents

AFFIDAVIT

I, Lava Kumar, aged about 36 years, son of Sri Ram Chandra Barui, resident of No. 44, Sunderbagh, Lucknow, the deponent, do hereby solemnly affirm and state on oath as under:

1. That the deponent is the petitioner in the above noted case, as such he is well conversant with the facts and circumstances of the case.

2. That the contents of paras <sup>1, 2 and 4</sup> of application are true to my own knowledge and those of paras 3 and 5 are believed to be true.



Lucknow:

Dated 8.12., 1995

Lava Kumar  
Deponent

Verification

I, the abovenamed deponent do hereby

A  
12/11

( 2 )

By, Registrar ( )

verify that the contents of paras 1 and 2 of this affidavit are true to my own knowledge.

I Signed and verified this the 8<sup>th</sup> day of December, 1995 in the Civil Court, Lucknow.

Lava Kumar  
Deponent

I identify the abovenamed deponent who has signed before me.



*[Signature]*  
Advocate  
8/12

0.12.95

deponent before me in office at  
at 10.00 AM  
who is identified by Shri  
Clerk to Shri  
I have satisfied myself by examining the  
deponent that he reads and understands the contents  
of this affidavit and that the facts set out are  
explained by me

*[Signature]*  
Registrar  
Civil Court, Lucknow

Central Administrative Tribunal

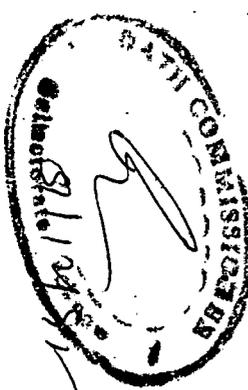
1/25

Seniority List I, Supplementary Affidavit Annexure 5.

Lucknow Bench DESIGNATION: DISTRICT JUDGE  
 Date of Birth: 1934.04.14 as on 1.4.1974 (Prov).  
 Date of Receipt by Post of Arch. Dto. as on 1.4.1974 (Prov).

1. No. of Arch. Dto. as on 1.4.1974 (Prov).  
 2. Date of Birth: 1934.04.14 as on 1.4.1974 (Prov).  
 3. Date of Receipt by Post of Arch. Dto. as on 1.4.1974 (Prov).  
 4. Date of Birth: 1934.04.14 as on 1.4.1974 (Prov).  
 5. Date of Receipt by Post of Arch. Dto. as on 1.4.1974 (Prov).  
 6. Date of Birth: 1934.04.14 as on 1.4.1974 (Prov).  
 7. Date of Receipt by Post of Arch. Dto. as on 1.4.1974 (Prov).  
 8. Date of Birth: 1934.04.14 as on 1.4.1974 (Prov).  
 9. Date of Receipt by Post of Arch. Dto. as on 1.4.1974 (Prov).  
 10. Date of Birth: 1934.04.14 as on 1.4.1974 (Prov).  
 11. Date of Receipt by Post of Arch. Dto. as on 1.4.1974 (Prov).  
 12. Date of Birth: 1934.04.14 as on 1.4.1974 (Prov).  
 13. Date of Receipt by Post of Arch. Dto. as on 1.4.1974 (Prov).  
 14. Date of Birth: 1934.04.14 as on 1.4.1974 (Prov).  
 15. Date of Receipt by Post of Arch. Dto. as on 1.4.1974 (Prov).

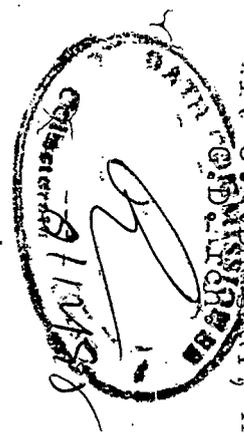
| No. | Name                            | 1           | 2        | 3        | 4        | 5        | 6        | 7        | 8        | 9        | 10       | 11       | 12       | 13       | 14       | Remarks                                |
|-----|---------------------------------|-------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------------------------------------|
| 1.  | J. O. P. Ghawla<br>Daman (Tech) | H 7.2.28    | 11.5.49  | 11.5.49  | 23.1.63  | 23.7.63  | 23.7.63  | 23.7.63  | 23.7.63  | 23.7.63  | 23.7.63  | 23.7.63  | 23.7.63  | 23.7.63  | 23.7.63  |                                        |
| 2.  | R. K. Vaidyan                   | H 23.1.34   | 23.11.63 | 23.11.63 | 23.11.63 | 23.11.63 | 23.11.63 | 23.11.63 | 23.11.63 | 23.11.63 | 23.11.63 | 23.11.63 | 23.11.63 | 23.11.63 | 23.11.63 |                                        |
| 3.  | H. L. ...                       | SC. 13.2.35 | 17.11.55 | 17.11.55 | 21.3.67  | 1.11.75  | 19.11.61 | 19.11.61 | 19.11.61 | 19.11.61 | 19.11.61 | 19.11.61 | 19.11.61 | 19.11.61 | 19.11.61 | on deputation to P&T Deptt. Arch. Dto. |
| 4.  | S. C. ...                       | SC. 13.2.35 | 17.11.55 | 17.11.55 | 21.3.67  | 1.11.75  | 19.11.61 | 19.11.61 | 19.11.61 | 19.11.61 | 19.11.61 | 19.11.61 | 19.11.61 | 19.11.61 | 19.11.61 | on deputation to P&T Deptt. Arch. Dto. |
| 5.  | S. C. ...                       | SC. 13.2.35 | 17.11.55 | 17.11.55 | 21.3.67  | 1.11.75  | 19.11.61 | 19.11.61 | 19.11.61 | 19.11.61 | 19.11.61 | 19.11.61 | 19.11.61 | 19.11.61 | 19.11.61 | on deputation to P&T Deptt. Arch. Dto. |
| 6.  | S. Y. H. Jaffery                | 6.4.37      | 23.4.63  | 23.4.63  | 10.2.71  | 10.10.79 | 13.7.66  | 900/-    | 1.2.79   |          |          |          |          |          |          | (do.)                                  |
| 7.  | O. P. ...                       | 30.6.37     | 14.12.65 | 14.12.65 | 5.6.72   | 25.10.79 | 9.1.75   | 900/-    | 1.6.75   |          |          |          |          |          |          | (do.)                                  |
| 8.  | G. D. ...                       | 13.4.40     | 30.12.72 | 30.12.72 | 30.12.72 | 30.4.72  | 30.4.72  | 900/-    | 1.1.73   |          |          |          |          |          |          | (do.)                                  |
| 9.  | S. D. ...                       | 22.10.35    | 1.61     | 30.1.51  | 1.6.76   | -        | 15.7.72  | 900/-    | 1.1.73   |          |          |          |          |          |          | (do.)                                  |
| 10. | S. D. ...                       | 20.7.34     | 25.7.57  | 25.7.57  | 22.2.79  | -        | 13.7.66  | 900/-    | 1.2.72   |          |          |          |          |          |          | ADO                                    |



**RESEARCH DESIGNS AND STAFFARD ORGANIZATION, MAHARAJGARH, PUNJAB-226 011**  
 Seniority List of Officers (M.A. Arch.) as on 1.7.83 (1983).

Name of Officer  
 Grade  
 Date of Birth  
 Date of Appointment  
 Date of Present Appointment  
 Date of Confirmation  
 Date of Present Promotion  
 Date of Present Service  
 Pay Band  
 Last Date of Retention Remarks  
 Present Grade

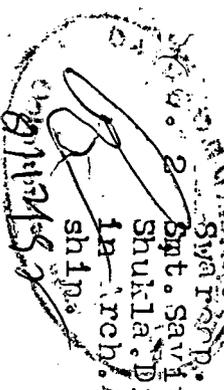
1. ~~H. D. Arch.~~ H 06.09.26 21.10.48 20.4.57 7.5.55 1.7.59 1.7.59 2.1.73 ADD  
 2. S. C. Jain, Dip. In D.M. Civil H 23.12.30 30.4.55 19.3.57 12.4.65 6.3.65 1.7.61 750/- 2.1.73 -" OFF as SV  
 3. S. P. Kaur, H 20.8.31 25.7.57 25.7.57 28.12.66 18.7.66 1.10.61 750/- 2.1.72 -" OFF as SV  
 4. M. A. Prudhapan H 22.10.51 30.1.61 30.1.61 21.3.67 15.7.72 1.2.62 750/- 2.1.73 -" OFF as SV  
 5. K. C. Dindia H 28.08.32 8.4.63 8.4.63 21.7.67 9.1.72 6.3.65 750/- 2.1.73 -" OFF as SV  
 6. S. K. Khanna, Dip. In Arch. M H 23.08.33 11.0.63 11.1.63 26.7.72 9.1.72 3.3.64 750/- 1.6.74 -" OFF as SV  
 7. A. M. Bhatia H 23.08.36 1.4.67 1.4.67 1.6.67 1.6.76 1.6.76 750/- 1.6.74 -" OFF as SV  
 8. P. S. Gupta H 23.10.41 9.1.62 9.1.62 3.1.63 14.10.77 8.2.64 750/- 1.7.74 -" OFF as SV  
 9. V. J. Jaiswal H 15.6.44 19.6.72 19.6.72 19.6.72 15.11.77 15.11.77 750/- 1.6.78 -" OFF as SV  
 10. V. Jay Kumar H 15.7.44 10.7.61 29.8.66 4.4.72 15.11.77 14.10.77 750/- 1.4.78 -" OFF as SV  
 11. C. P. Prasad H 11.11.36 3.6.57 17.1.69 3.8.72 10.10.79 10.10.79 750/- 1.8.78 -" OFF as SV



Control Administrative  
 Control Filing  
 Section Retention  
 11. 12. 13. 14.

| No.                                              | 3.                   | 4. | 5.      | 6.       | 7.       | 8.       | 9.       | 10.      | 11.   | 12.     | 13.                  | 14.                           |
|--------------------------------------------------|----------------------|----|---------|----------|----------|----------|----------|----------|-------|---------|----------------------|-------------------------------|
| 11                                               | Smt. Pushpa Katiya   | H  | 20.9.59 | 1.9.83   | 1.9.83   | 1.9.83   |          |          | 425/- | 1.9.83  | (H)                  |                               |
| 12                                               | Sh. Anand Khafé.     | H  | 14.5.58 | 2.7.83   | 2.7.83   | 2.7.83   |          |          | 425/- | 2.7.83  | MTP/Cell - Calcutta. |                               |
| 13                                               | P.P. Singh Bismt     | H  | 25.3.57 | 21.7.83  | 21.7.83  | 21.7.83  |          |          | 425/- | 21.7.83 |                      |                               |
| 14                                               | M.L. Sen (do)        | M  | 1.3.49  | 11.5.70  | 11.5.70  | 13.10.83 |          |          | 455/- | 1.10.83 | ADO                  |                               |
| 15                                               | (Kalyan Chakraborty) |    |         |          |          |          |          |          |       |         |                      |                               |
| 16-17                                            | Vac.                 |    |         |          |          |          |          |          |       |         |                      |                               |
| D/Man' B' - 5 Pt. + 1 MTP (Ty.) = 6 (330.560/RS) |                      |    |         |          |          |          |          |          |       |         |                      |                               |
| 1                                                | D.L. Agarwal         | H  | 20.1.47 | 26.9.67  | 26.9.67  | 26.9.67  | 15.11.77 | 15.11.77 | 500/- | 1.9.83  | ADO                  | Offe. as DMA                  |
| 2                                                | C.M.S. Mathur        | H  | 1.1.39  | 11.2.65  | 27.10.69 | 27.10.69 | 25.10.79 | 25.10.79 |       |         |                      | Offe. as at Cal.              |
| 3                                                | R.K. Gupta           | H  | 29.5.38 | 29.4.63  | 29.4.63  | 15.11.69 | 1.3.80   | 9.1.75   |       |         |                      | Working in Pakhal             |
| 4                                                | S.R. Goel            | H  | 26.4.50 | 9.6.70   | 9.6.70   | 24.8.73  | 20.7.82  | 20.7.82  |       |         |                      | ADO Offe. as DM' A            |
| 5                                                | J.K. Sharma          | H  | 1.7.52  | 14.5.74  | 14.5.74  | 14.5.74  | 19.8.82  | 19.8.82  |       |         |                      | Offe. as S. at MTP Cell, Cal. |
| 6                                                | M.A. Shah            | M  | 1.3.49  | 11.5.70  | 11.5.70  | 11.2.77  |          | 1.3.80   | 416/- | 1.12.83 |                      | Offe. as DM' A                |
| 7                                                | S.A. H. Rizvi        | M  | 15.7.73 | 20.3.79  | 20.3.79  | 20.3.79  |          |          | 380/- | 1.3.84  | ADO                  | (AO)                          |
| 8                                                | J.P. Srivastava      | H  | 8.9.51  | 18.11.78 | 18.11.78 | 18.11.78 |          |          | 380/- | 1.11.83 |                      | (AO)                          |
| 9                                                | H. S. J. J. J.       | H  | 3.1.45  | 25.2.69  | 25.2.69  | 22.10.80 |          |          | 404/- | 1.10.83 |                      |                               |
| 10                                               | Smt. Savita Shukla   | H  | 12.7.57 | 7.1.81   | 7.1.81   | 7.1.81   |          |          | 360/- | 1.1.84  |                      |                               |

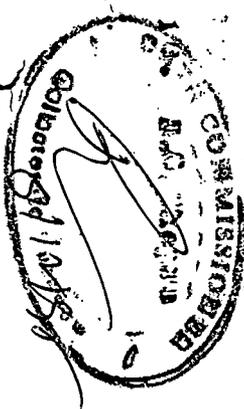
Central Adm. Staff College  
 Lucknow Bench  
 Date of Filing  
 Date of Receipt by  
 MTP/Cell - Calcutta.


  
 In Arch. A/  
 shlp.

Seniority List II, Supplementary Affidavit Amalgamated

| NAME         | Grade | Qualification | Dt. of Birth | Dt. of app't. in MUBO | Date of promotion in posts in higher grade | Confirmed as |
|--------------|-------|---------------|--------------|-----------------------|--------------------------------------------|--------------|
| 1. H. M. ... | ...   | ...           | ...          | ...                   | ...                                        | ...          |
| 2. ...       | ...   | ...           | ...          | ...                   | ...                                        | ...          |
| 3. H.C. ...  | ...   | ...           | ...          | ...                   | ...                                        | ...          |
| 4. ...       | ...   | ...           | ...          | ...                   | ...                                        | ...          |
| 5. ...       | ...   | ...           | ...          | ...                   | ...                                        | ...          |
| 6. ...       | ...   | ...           | ...          | ...                   | ...                                        | ...          |
| 7. ...       | ...   | ...           | ...          | ...                   | ...                                        | ...          |
| 8. ...       | ...   | ...           | ...          | ...                   | ...                                        | ...          |
| 9. ...       | ...   | ...           | ...          | ...                   | ...                                        | ...          |

General Administrative Tribunal  
 17/10/00  
 18/10/00  
 19/10/00  
 20/10/00  
 21/10/00  
 22/10/00  
 23/10/00  
 24/10/00  
 25/10/00  
 26/10/00  
 27/10/00  
 28/10/00  
 29/10/00  
 30/10/00  
 31/10/00  
 1/11/00  
 2/11/00  
 3/11/00  
 4/11/00  
 5/11/00  
 6/11/00  
 7/11/00  
 8/11/00  
 9/11/00  
 10/11/00  
 11/11/00  
 12/11/00  
 13/11/00  
 14/11/00  
 15/11/00  
 16/11/00  
 17/11/00  
 18/11/00  
 19/11/00  
 20/11/00  
 21/11/00  
 22/11/00  
 23/11/00  
 24/11/00  
 25/11/00  
 26/11/00  
 27/11/00  
 28/11/00  
 29/11/00  
 30/11/00  
 31/11/00  
 1/12/00  
 2/12/00  
 3/12/00  
 4/12/00  
 5/12/00  
 6/12/00  
 7/12/00  
 8/12/00  
 9/12/00  
 10/12/00  
 11/12/00  
 12/12/00  
 13/12/00  
 14/12/00  
 15/12/00  
 16/12/00  
 17/12/00  
 18/12/00  
 19/12/00  
 20/12/00  
 21/12/00  
 22/12/00  
 23/12/00  
 24/12/00  
 25/12/00  
 26/12/00  
 27/12/00  
 28/12/00  
 29/12/00  
 30/12/00  
 31/12/00



|                                                                |                             |          |          |         |     |          |                       |         |  |
|----------------------------------------------------------------|-----------------------------|----------|----------|---------|-----|----------|-----------------------|---------|--|
| 17. Katta Nay, Calcutta                                        | U/p In Arch. Assn. ship     | 17/6/64  | 24/8/64  | 24/8/64 | U/A | 30/3/79  | U/A                   | 230-600 |  |
| 18. B. B. Ghosh                                                | -do-                        | 20/4/60  | 9/6/70   | U/A     | AAA | 8/8/64   | U/A                   | 230-600 |  |
| 19. M. M. M. M. M.                                             | -do-                        | 25/12/60 | 14/8/64  | U/A     | AAA | -        | U/A                   | -       |  |
| 20. K. K. K. K. K.                                             | Metric                      | 15/10/68 | 28/11/66 | U/A     | AAA | 26/8/67  | U/A                   | 485-700 |  |
| 21. B. B. B. B. B.                                             | Design & U/waship           | 15/6/66  | 5/12/66  | U/A     | U/A | 7/1/74   | -do-                  | -       |  |
| 22. J. J. J. J. J.                                             | U/p. In Arch. Assn. ship    | 1/11/68  | 27/11/84 | -       | -   | -        | -                     | -       |  |
| <u>U/waship 'A' : 485-700(13 Pt. + 4 M/P/Cat.) - 17 Poles.</u> |                             |          |          |         |     |          |                       |         |  |
| 23. M. K. P. P. P.                                             | U/p. In Arch. D/waship      | 4/7/40   | 1/1/68   | U/A     | U/A | 25/1/67  | U/waship 'A'          | 485-700 |  |
| 24. D. L. D. D. D.                                             | U/p. In Arch. Assn. ship    | 20/1/47  | 26/9/67  | U/A     | U/A | 2/10/80  | U/waship 'A', 230-600 | -       |  |
| 25. R. K. R. K. R. K.                                          | (on delegation to U/waship) | 29/8/38  | 20/4/63  | U/A     | U/A | 15/11/69 | U/waship 'B'          | 230-600 |  |
| 26. A. K. A. K. A. K.                                          | U/p. In Arch. Assn. ship    | 1/7/68   | 8/2/61   | -       | -   | -        | -                     | -       |  |
| 27. J. F. J. F. J. F.                                          | U/p. In Arch. Assn. ship    | 8/9/61   | 28/11/78 | U/A     | U/A | 12/11/82 | -                     | -       |  |
| 28. T. B. T. B. T. B.                                          | -do-                        | 12/7/57  | 21/2/63  | -       | -   | -        | -                     | -       |  |
| 29. B. A. B. A. B. A.                                          | U/p. In Arch. Assn. ship    | 15/7/63  | 20/2/79  | U/A     | U/A | 25/1/63  | -                     | -       |  |
| 30. B. B. B. B. B. B.                                          | -do-                        | 16/2/60  | 10/2/63  | -       | -   | -        | -                     | -       |  |
| 31. B. B. B. B. B. B.                                          | -do-                        | 9/11/64  | 1/3/68   | -       | -   | -        | -                     | -       |  |
| 32. B. B. B. B. B. B.                                          | -do-                        | 19/2/60  | 1/3/63   | -       | -   | -        | -                     | -       |  |
| 33. B. B. B. B. B. B.                                          | -do-                        | 20/9/59  | 1/9/63   | -       | -   | -        | -                     | -       |  |
| 34. B. B. B. B. B. B.                                          | -do-                        | 14/8/66  | 2/7/68   | -       | -   | -        | -                     | -       |  |
| 35. P. J. P. J. P. J.                                          | U/p. In Arch. Assn. ship    | 26/2/57  | 21/7/68  | -       | -   | -        | -                     | -       |  |
| 36. M. M. M. M. M. M.                                          | -do-                        | 1/2/49   | 11/5/70  | U/A     | U/A | 11/2/77  | U/waship 'A'          | 230-600 |  |



U/waship 'A'  
230-600

A/31

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

O.A.No.668 OF 1986

LAVA KUMAR

....APPLICANT

VERSUS

UNION OF INDIA AND OTHERS

....RESPONDENTS

OBJECTIONS ON BEHALF OF RESPONDENTS  
AGAINST THE APPLICATION MOVED BY THE APPLICANT  
ON 08.08.1995

12 T  
Q. 10/10

I, N.N.SEHGAL, presently posted as Deputy Director, Establishment-I, Research Designs and Standards Organisation [Government of India - Ministry of Railways], Manak Nagar, Lucknow-226011, hereby most solemnly state as under:-

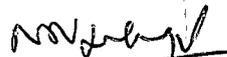
1. That the undersigned is presently posted as Deputy Director, Establishment-I, Research Designs and Standards Organisation [Government of India - Ministry of Railways], Manak Nagar, Lucknow - 226011, and is competent and duly authorised by the Respondents to file this objections on behalf of the Respondents. The undersigned has read and understood the application filed by the Applicant on 08.08.1995 and is well conversant with the facts stated hereunder.

  
(N. N. SEHGAL)  
Dy. Director/Estt-I  
R.D.S.O. (Min. of Rlys )  
Manak Nagar, Lucknow-226011

2. That in reply to the contents of paragraph 1 of the above mentioned application it is most respectfully submitted that on 15.03.1995, the learned Counsel for the Applicant served a copy of the document titled as a notice to produce document before ~~the~~ this Hon'ble Tribunal on 31.03.1995 on which date the above mentioned Original Application was fixed for hearing. However, on 31.03.1995, no hearing could take place. It is, however, most respectfully submitted that no orders have been passed by this Hon'ble Tribunal requiring the Respondents to produce the alleged Inspection Report referred in the alleged notice dated 15.03.1995.

3. That in reply to the contents of paragraph 2 of the application it is most respectfully submitted that as the most diligent search of the records could not ~~make available, being old,~~ the alleged 'Inspection Report' No.V/EFFY/AIR/1131/Pt.II/5/86/87 dated 27.05.1986 referred by the Applicant in his so called notice dated 15.03.1995 nor, it could be established that any such report was received in the Research Designs and Standards Organisation, Lucknow; the Applicant was required to submit a copy of the alleged Inspection Report within three days of the receipt of Memorandum No.E-VI/EPB-1908(Pt.1) dated 06/07.06.1995. It is further submitted that since, as per record, there is no ~~no~~ such Inspection Report as referred by the Applicant in his notice dated 15.03.1995, there was nothing unusual in asking the Applicant to produce the document referred by him.

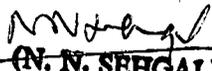
4. That the contents of paragraph 3 of the application, as stated, are not admitted. In reply thereto, it is most respectfully submitted that as per record, the alleged Inspection Report does not exist, nor there is any reference thereof, the the authenticity/veracity of the extracts of the so called Inspection Report filed as an annexure to his application dated 08.08.1995 can-not be established. Hence, the same are denied.

  
**(N. N. SEHGAL)**  
Dy. Director/Estt  
R.D.S.O (M...)  
Manik Nagar, Lucknow

A/123

It is further submitted that since, the Applicant has himself admitted that the alleged Inspection Report was neither endorsed to him, nor he was supposed to be in possession of the said report or a copy thereof; the burden lies on the Applicant to explain as to how he has produced the extracts from the said report and on what basis he can claim that the extracts which have been reproduced and annexed with his application dated 08.08.1995 have been taken from the alleged Inspection Report itself. It is, therefore, most respectfully prayed that in the interest of justice, this Hon'ble Tribunal may be pleased to direct the Applicant to produce the alleged Inspection Report and also to explain as to how and from where the Applicant got the same. In case, the Applicant fails to produce the same, it is most respectfully prayed that this Hon'ble Tribunal be pleased not to take any notice of any such Inspection Report, or its extract reproduced by the Applicant alongwith his application dated 08.08.1995.

5. That it is respectfully submitted further that a post in the category of Draftsman 'B' scale Rs.330-560 (RS) at Architecture Cell, Calcutta, against which the Applicant was working, was surrendered with effect from 30.06.1985 and the Competent Authority decided not to offer appointment on the post of Draftsman 'A' scale Rs.425-700 (RS) to the next empanelled candidate, Shri Sunil Kumar Srivastava, who held higher position at Serial No.3 whereas, the Applicant was at Serial No.4 in the panel of selected candidates. In order to obviate the retrenchment of the Applicant (which was obvious if the remaining panel for the post of Draftsman 'A' was operated), one post of Draftsman 'A' Rs.425-700 (RS) was downgraded and was operated as Draftsman 'B' in scale Rs.330-560 (RS). As a consequence of which, no post of Draftsman 'A' was left and therefore, the candidate at Serial No.3, Shri Sunil Kumar Srivastava could not be given appointment on the said post.

  
(N. N. SEHGAL)  
Dy. Director/Estt-1  
R.D.S.O. (Min. of P.W.D.)  
Manak Nagar, Lucknow

A  
134

That from the above it is evident that the above mentioned Original Application is devoid of merit and the same is liable to be dismissed.

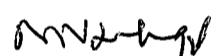
Lucknow, Dated :  
September 4, 1995.

  
**(N. N. SEHGAL)**  
**Dy. Director/Estt-I**  
**R.D.S.O. (Min. of Rlys)**  
**Manak Nagar, Lucknow**

VERIFICATION

I, N.N.SEHGAL, presently posted as Deputy Director, Establishment-I, Research Designs and Standards Organisation [Government of India - Ministry of Railways], Manak Nagar, Lucknow-226011 hereby verify that the contents of paragraph 1 of this objection are based on personal knowledge and those of paragraphs 2 to 5 are based on record and ~~the same are based on record and~~ the same are believed to be true.

Lucknow, Dated :  
September 4, 1995.

  
**(N. N. SEHGAL)**  
**Dy. Director/Estt-I**  
**R.D.S.O. (Min. of Rlys)**  
**Manak Nagar, Lucknow**

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDL. BENCH AT LUCKNOW

*J.R.*  
Dy. Registrar (1)

In re:

Registration No. 668 of 1986

MP/14452/95

Between

Lava Kumar

...

Petitioner

Versus

Union of India and Others

...

Respondents

Fixed for 8.8.95

The applicant, Lava Kumar, submits as under:

1. That a notice to produce document (Inspection Report of Dy. Director Metro Railway, Calcutta) on the date of hearing on 31.3.95 was served on 16.3.95 to Sri A.V. Srivastava, the then counsel of the Respondents.
2. That thereafter the applicant received in this connection a letter No. E.VI/EPB-1908 (Pt.1) dated 6.6.95 (copy enclosed) under the signature of Sri B.S. Rawat, dated 7.6.95 for Director General, RDSO, Lucknow, directing me to produce the said document (Inspection Report) within three days from the date of receipt of that letter.
3. That as the said document (Inspection Report) in question was not addressed or endorsed to the applicant he was not expected to be possessed of any copy as such of the same. Hence a reply (copy enclosed) was sent accordingly to the Director General, RDSO, Lucknow on 12.6.95, stating, inter alia, that whatever was available with the applicant would be produced before the Hon'ble Tribunal. The extracted notes from the document sought to be produced by the respondents, as available is accordingly filed herewith for appreciation.

Dated: Lucknow.  
Aug. 8, 1995

*Lava Kumar*  
(Lava Kumar)  
PETITIONER

*[Handwritten signatures]*

Telex : 0535-2424 RDSO-IN  
Fax : 91-0522-259972  
तार : 'रेलमानक' लखनऊ  
Telegram : 'RAILMANAK', Lucknow  
टेलीफोन/Tele : 50567 & 50017



सत्यमेव जयते

भारत सरकार - रेल मंत्रालय  
अनुसंधान अभिकल्प और मानक संगठन  
लखनऊ-226011.  
Government of India-Ministry of Railways  
Research Designs & Standards Organisation  
LUCKNOW - 226011

NO. E-VI/EPB-1908(Pt.1)

Dated: 06-6-85

MEMORANDUM

With reference to the petition filed by him in the Court, Shri Lava Kumar, JDA/B&S is hereby directed to submit a copy of the Inspection Report No. V/ENTY/AIR/1131/Pt. II/5/86/87 dated 27-05-1986, as referred in his petition, to this office (Estt. VI Branch) to process the case further. The said document is not available either in Accounts Branch or in Estt. Branch of ROSE. The copy of the Inspection Report may be submitted within three (03) days of the ~~receipt~~ receipt of this letter.

DA: Nil.

B. S. Rawat  
(B. S. Rawat) 716  
for Director General

Shri Lava Kumar  
JDA/~~RA~~ B&S  
B&S Stn.  
ROSE, Lucknow.

TC

*[Handwritten signature]*  
8/6/85

132

To

The Director General,  
B. D. O., Manak Nagar,  
LUCKNOW

Through Bepo Channel

Ref: Your No. E-VI/EPB-1908 (Pt.1), dated  
06.06.1995, under the signatures of  
Sri B.S. Rawat, dated 07.06.1995 for  
the D. G.

Sir,

Kindly refer to your above quoted letter and  
be pleased to appreciate that the Inspection Report  
No.. V/EPF/AIR/1131/Pt.II/5/86/87, dated 27.05.1986  
in question was not addressed or endorsed to me and  
I am not expected to be possessed of any copy, as such,  
of the same. But it is also not probably conceivable  
that the report is not available in the official  
records until and unless weeded out under some rules  
in that regard. Efforts may be made further at your  
end. I very much apprehend that your subordinates  
are set to suppress the report. Whatever is available  
with me shall be filed before the CAT for their appre-  
ciation.

Yours faithfully,

Lava Kumar.

( LAVA KUMAR )

JDA / B & S,

B & S Directorate RDSO,

LUCKNOW.

Dated: 12.6.95

Handwritten notes: 12/6/95, 12/6

Handwritten signature: T.C. [Signature]

A/38

EXTRACTED NOTES FROM THE DOCUMENT

INSPECTION REPORT OF DY. DIRECTOR/ARCH,  
METRO RAILWAY, CALCUTTA.

Name of Inspecting Officers: Sri R.N. Srivastava  
Date of Inspection: 23.4.86 to 25.4.1986

ATTENDANCE REGISTER

(Text not relating to petitioner, was not  
availed)

The composition of the staff of Arch Directorate at Metro Railway/ Calcutta are as under as per sanction<sup>of</sup> the work-charged post by M.T.P.:-

|           | <u>Sanctioned strength</u> | <u>Working strength</u> | <u>Vacant</u> | <u>Remarks</u>                |
|-----------|----------------------------|-------------------------|---------------|-------------------------------|
| 1. C.A.A. | 2                          | 2                       |               |                               |
| 2. S.A.A. | 4                          | 3                       |               |                               |
| 3. J.A.A. | 2                          | 1                       | 1 (14.2.86)   |                               |
|           |                            | 1                       |               | 1 (Down graded w.e.f. 1.7.85) |

The circumstances under which the post of J.A.A. is being operated as D.M.'B' need to be examined especially when the panel for the same is already available.

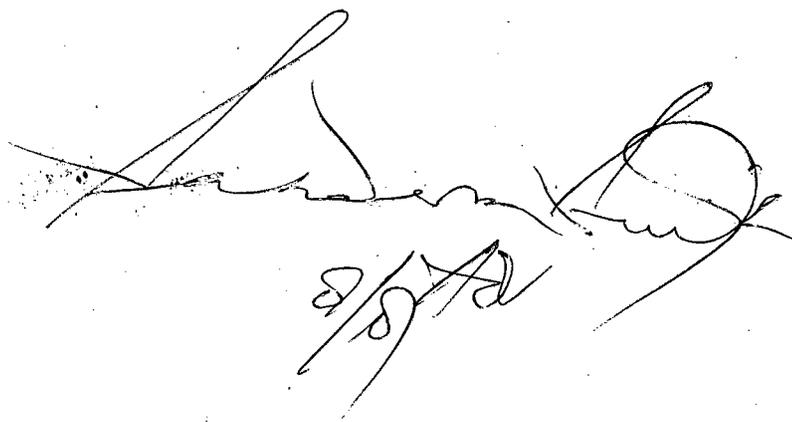


(Text not relating to petitioner was not  
availed.)

Sd/- Munir Ahmad  
For Joint Director Finance

No. W/Effy/AIR/1131/Part-11/5/86-87 Dated 27.5.1986  
Forwarded in duplicate to Director(Arch.)RDSO/Lko for  
information and early reply.  
Copy to Dy. Director/Arch. RDSO, MTP, Calcutta, for information  
and early parawise reply.

Sd/- Munir Ahmad  
for Joint Director/Finance.

A large, stylized handwritten signature in black ink, followed by the initials 'R/S' written below it.

A.  
141

170

SUPREME COURT CASES

(1988) 4 SCC

(1988) 4 Supreme Court Cases 170

(BEFORE RANGANATH MISRA AND M. N. VENKATACHALIAH, JJ.)

Civil Appeal No. 3003 of 1988+

NYADAR SINGH

ppellant;

List of Rulings.

A.  
140

ondents.

1. (1988) 4 SCC 170 (179, 180, 181)

Paras 25, 28, 30

pellant;

ndent.

2. 1982 (1) All India Service Law Journal.

Orissa 496 (497) D.B.

Para 3.

post

—

para.)

3. 1987 (1) Service Law Reporter,

Karnataka 422 (423, 424) D.B.

Para 3.

car

ber

~~1982 (1) Administrative Tribunal Cases 251~~

~~(Supreme Court)~~

~~Case of Delhi Administration~~

SE

TE

CE

SE

~~1984 (1) All India Service Law Journal,~~

~~(Delhi High Court) 696~~

~~Single Judge.~~

4. 1995 (13) Lucknow Civil Decisions, 144,

Single Judge.

such a wide meaning to be given to the power. In conceivable cases, the government servant may not have the qualifications requisite for the post which may require and involve different, though not necessarily higher, skills and attainments. Here enter considerations of the recruitment policy. The rule must be read in consonance with the general principles and so construed the expression 'reduction' therein would not admit of a wider connotation. The power should, of course, be available to reduce a civil servant to any lower time scale, grade, service or post from which he had subsequently earned his promotion. Thus an overall view of the balance of the relevant criteria indicates that it is reasonable to assume that the rule-making authority did not intend to clothe the Disciplinary Authority with the power which would produce such anomalous and unreasonable situations.

- (Paras 25, 28 and 30)
- Babaji Charan Rout v. State of Orissa, (1982) 1 SLJ 496 and Srinivasalingaswamy v. State of Karnataka, ILR 1985 Kant 1453, approved
- R. Gopal Rao v. CIT, (1976) 2 Mad LJ 508 (Mad HC); Mahendra Kumar v. Union of India, (1984) 1 SLJ 34; S. N. Dey v. Union of India, (1983) 2 SLJ 114 (All); C. S. Balakumar v. Inspector & Asst. CIT, (1987) 1 SLJ 18; P. V. Srinivasa Sastry v. Comptroller & Auditor General of India, (1979) 3 SLR 509; 1979 Lab IC (NCC) 122 (Kant) and Mahendra Kumar v. Union of India, (1985) 1 SLR 111, overruled
- Hussain Sasansaheb Kaladgi v. State of Maharashtra, (1988) 4 SCC 168; AIR 1987 SC 1627, distinguished

Service Law — Reduction in rank — Effects removal from a class, grade or category of post to a lower class or grade or category — Reduction in rank has a wider connotation than reversion inasmuch as while the concept of the former includes the latter vice versa is not always true — Constitution of India, Article 311  
(Paras 13 and 25)

Worthington v. Robinson, (1896) 75 LTR 446 (CA), approved

Service Law — Reduction in rank — Found to be unsustainable — Relief to be granted by Supreme Court under Article 136 — Constitution of India, Article 136

Heid:

Appellants in the two appeals have been reduced to posts lower than these to which they were initially directly recruited. As these penalties cannot be sustained under the law, in the normal course the penalties imposed would require to be set aside and the disciplinary authority directed to reconsider which other penalty it would now choose to impose. But, it would be somewhat unfair that at this distance of time the matters are reopened. Therefore, having regard to all the circumstances of the cases, the penalty of reduction in rank imposed on the appellants was set aside and it was directed that the period of service in the reduced post be treated as service in the post held by the appellants prior to imposition

A  
143

of the penalty, subject to the condition; however, that the appellants shall not be entitled to any difference of salary for and during the period of reduction. (Para 32)

Interpretation of Statutes — Plain meaning should be accepted — Question whether a differently conceived or worded statute would have yielded more reasonable and fair results need not be considered — In case of ambiguity harmonious and contextual construction commended (Paras 22 and 23)

Francis Bennion : Statutory Interpretation, 1984 edn., p. 390, referred to R-M/8973/CLA

Advocates who appeared in this case :

J. S. Bali and L. R. Singh, Advocates, for the Appellant in C.A. No. 3003 of 1988 ;

K. M. K. Nair, Advocate, for the Appellant ;

Kuldip Singh, Additional Solicitor General (A. Subba Rao, C. V. S. Rao and Hemant Sharma, Advocates, with him), for the Respondents.

The Judgment of the Court was delivered by

VENKATACHALIAH, J.—The special leave petition and the appeal — by two Central Government servants — raise an interesting point of construction of a Service Rule whether a Disciplinary Authority can, under sub-rule (vi) of Rule 11 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (Rules for short), impose the penalty of reduction on a government servant, recruited directly to a particular post, to a post lower than that to which he was so recruited : and if such a reduction is permissible, whether the reduction could only be to a post from which under the relevant Recruitment Rules promotion is to the one to which the government servant was directly recruited.

2. The petition and appeal are directed against the orders dated April 8/9, 1986 of the Central Administrative Tribunal, Delhi, and the order dated October 29, 1986 of the Central Administrative Tribunal, Gujarat, respectively, affirming the orders of the Disciplinary Authorities imposing on the petitioner and the appellant the penalty of reduction in rank to post lower than the one to which both of them were initially recruited.

3. There is a divergence of judicial opinion amongst the High Courts on the point : the Division Benches of the Orissa and Karnataka High Court have held that such a reduction in rank is not possible at all. (See : *Babaji Charan Rout v. State of Orissa* ; *Shivalingswamy v. State of Karnataka*.)

1. (1982) 1 SLJ 496

2. ILR 1985 Kant 1453

4. However, the Madras, Andhra Pradesh and Allahabad High Courts have held that there is no limitation on the power to impose such a penalty. (See : *R. Gopal Rao v. CIT*, *Mahendra Kumar v. Union of India*, *S. N. Dey v. Union of India*.) The Central Administrative Tribunal, Madras, in *C. S. Balakumar v. Inspecting Asstt. CIT* has also subscribed to this view.

5. There is yet a third view, as typified in *P. V. Srinivasa Sastry v. Comptroller & Auditor General of India* and the one taken by the Central Administrative Tribunal in the case from which the special leave petition arises, that such a reduction in rank is permissible provided that promotion from the post to which the government servant is reduced to the post from which he was so reduced is permissible, or, as it has been put, the post to which the government servant is reduced is "in the line of promotion" and is a "feeder service".

6. Special leave is granted in SLP (C) No. 9509 of 1986. Both the cases are taken up for final hearing, heard and disposed of by this common judgment.

7. A brief advertance to the facts of the cases is necessary :

SLP (C) No. 9509 of 1986 is by a certain Nyadar Singh, the unsuccessful petitioner before the Central Administrative Tribunal, New Delhi, and is directed against the Tribunal's Order No. T-564 of 1985 (SBCWP No. 1747 of 1980) dated February 28, 1986, rejecting his challenge to the order dated September 4, 1976, of the Disciplinary Authority imposing a penalty of 'reduction in rank' reducing the petitioner from the post of Assistant Locust Warning Officer to which he was recruited directly on October 31, 1960 and confirmed on December 27, 1971 to that of Junior Technical Assistant pursuant to certain disciplinary proceedings held against him. In 1974, he was working as an Assistant Locust Warning Officer at Nohar. On November 4, 1975 in respect of certain acts alleged to constitute misconduct on his part certain disciplinary proceedings were initiated against him which culminated in the order dated September 4, 1976 imposing the aforesaid penalty. The statutory appeal before the appellate authority was dismissed on April 24, 1979. Thereafter he filed a writ petition before the Delhi High Court which, after the coming into force of the Central Administrative Tribunal Act, 1985, stood transferred to and was disposed of by the Central Administrative Tribunal, New Delhi, by its

1. (1976) 2 Mad LJ 508 (Mad HC)
4. (1984) 1 SLJ 34
5. (1983) 2 SLJ 114 (All)
6. (1987) 1 SLJ 18
7. (1979) 3 SLR 509 : 1979 Lab IC (NOC) 122 (Kant)

order dated February 28, 1986, now under appeal. It is relevant to mention that in the year 1981, after the period of penalty of five years had spent itself out, the appellant was re-promoted to the post of Assistant Locust Warning Officer.

8. Civil Appeal No. 889 of 1988 is by M. J. Ninama, an Upper Division Clerk in the Post and Telegraph Circle Office, Ahmedabad, preferred against the Order No. OA 103 of 1986 dated October 29, 1986 of the Central Administrative Tribunal, Ahmedabad, rejecting appellant's challenge to the legality and correctness of the order dated May 15, 1988 of the Post Master General who in modification of the earlier orders imposing a penalty of compulsory retirement on him, substituted in its place the order imposing the penalty of 'reduction in rank' to the post of Lower Division Clerk pursuant to the findings recorded against the appellant on the charge of accepting illegal gratification. Appellant had been directly recruited as an Upper Division Clerk in the Office of the Post Master General, Gujarat Circle, Ahmedabad. He was reduced to the lower post of Lower Division Clerk until he was found fit after a period of five years from May 15, 1986. However, the appellant's seniority on re-promotion was directed to be fixed at what it would have been, without the reduction.

9. We have heard Shri J. S. Bali, learned counsel for the appellant Nvadar Singh and Shri K. M. K. Nair, learned counsel for the appellant Ninama; and Shri Kuldeep Singh, learned Additional Solicitor General for the respondents in both the appeals.

10. Rule 11 of the 'Rules' enumerates the penalties which may for good and sufficient reasons be imposed on a government servant. Sub-rule (vi) of Rule 11 provides:

11. The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a government servant namely:

Minor penalties : (*Omitted as irrelevant here.*)

Major penalties : \* \* \*

(vi) reduction to a lower time scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the government servant to the time scale of pay, grade, post or service from which he was reduced, with or without further directions regarding conditions of the restoration to that grade, or post or service from which the government servant was reduced and his seniority and pay on such restoration to that pay, grade, post or service;

11. According to the contention of the appellants' learned counsel, the appellants were, as a result of the imposition of the penalty, reduced in rank to a post lower than the one to which they were initially recruited, which on a proper construction of the rule, is not permissible. Learned counsel relied upon the decision of this Court in *Hussain Sasansaheb Kaladgi v. State of Maharashtra*<sup>8</sup>.

12. Shri Kuldip Singh, Additional Solicitor General, however, contended that this limitation which may be appropriate in the case of a 'reversion' which, as the very concept implies, could not be to a post which the government servant did not earlier hold, is inappropriate in a case of reduction in rank imposed as a penalty. Reduction in rank, according to learned Additional Solicitor General, has a wider import than 'reversion' and there is no reason why the power to impose this penalty which is permissible on the plain language of the rule be whittled down by any other consideration. The learned Additional Solicitor General sought to rely upon certain pronouncements of the High Courts.

13. The import of the expression 'reduction in rank' has been examined in the context of the constitutional protection afforded to government servants under Article 311(2) in relation to the three major penalties of 'dismissal', 'removal' and 'reduction in rank' and the constitutional safeguards to be satisfied before the imposition of these three major penalties. In Article 311(2) the penalty of "reduction in rank" is classed along with 'dismissal' and 'removal' for the reason that the penalty of reduction in rank has the effect of removing a government servant from a class or grade or category of post to a lesser class or grade or category. Though the government servant is retained in service, however, as a result of the penalty he is removed from the post held by him either temporarily or permanently and retained in service in a lesser post. The expression 'rank', in 'reduction in rank' has, for purposes of Article 311(2) an obvious reference to the stratification of the posts or grades or categories in the official hierarchy. It does not refer to the mere seniority of the government servant in the same class or grade or category. Though reduction in rank, in one sense, might connote the idea of reversion from a higher post to a lower post, all reversions from a higher post are not necessarily reductions in rank. A person working in a higher post, not substantively, but purely on an officiating basis may, for valid reasons, be reverted to his substantive post. That would not, by itself, be reduction in rank unless circumstances of the reversion disclose a punitive element.

8. (1988) 4 SCC 168 : AIR 1987 SC 1627

A  
147

14. The submission of the learned Additional Solicitor General in substance, is that while 'reversion' envisages that the lower post to which the government servant is reverted should necessarily be amongst those earlier held by him and from which he had come up on promotion, — the idea of reversion being a mere antonym of promotion — the importing of such a limitation into a case of "reduction in rank" imposed as a penalty would be doing violence to the express statutory language and an unwarranted fettering of the power of the disciplinary authority. The idea of reduction in rank, says the learned Additional Solicitor General, is much wider than the idea of reversion and there is no justification to whittle down the ambit of this expression consciously employed by the rule-making authority. Such a construction would create more difficulties than it might appear to solve and become counterproductive in the sense that even where the Disciplinary Authority desires to retain a government servant in service, though not in the same post but in a lower one, the Authority would be rendered helpless by such a construction being placed on the Rule.

15. The argument in favour of this construction of the rule is stated by a learned Single Judge in *Gopal Rao case*<sup>3</sup> thus :

In effect, what the learned counsel says is that there is no difference between the order of reversion and an order of reduction in rank, that it is well established that reversion can be only to a post which a person held earlier and that reduction also can only be to a post or class of service which the person occupied at any time before. . . . In my view, the expression "reduction in rank" covers a wider field than reversion to a lower post. It is true, the word "reversion" always connotes "a return to the original post or place". But the word "reduction" has no such limitation and therefore, reduction in rank extends even to a rank which the officer concerned never held.

16. Similar view has been taken by a learned Single Judge of the Andhra Pradesh High Court in *Mahendra Kumar v. Union of India*<sup>4</sup> :

. . . The Central Civil Services (Classification, Control and Appeal) Rules provide for several penalties which can be imposed for good and sufficient reasons. One of the major penalties contemplated by Rule 11 is "reduction to a lower . . . grade, post or service . . .", and I see no reason why this penalty cannot be imposed upon a person who, on the date of imposition of penalty, is continuing in the same post to which he was appointed by direct

recruitment. This is not a case of reversion of a government servant to his substantive post for want of vacancy or otherwise, but this is a case of reduction by way of punishment. I am unable to read any limitation upon the power of the Disciplinary Authority to impose this punishment on the petitioner, as suggested. No decision has also been brought to my notice supporting this contention....

17. It must, however, be observed that in the above case the High Court upheld the challenge of the appellant that there was no misconduct at all. The other observations as to the scope of the rule were, therefore, unnecessary for the decision of the case.

18. The opposite view is taken by the Orissa High Court in *Bahaji Chara: Rout v. State of Orissa*<sup>1</sup> and by a Division Bench of the Karnataka High Court in *Shivalingaswamy v. State of Karnataka*<sup>2</sup>. In the first case, there is no discussion of the matter as the Division Bench merely followed an earlier unreported decision of another Division Bench of the same High Court. In the Karnataka case, a person who had been directly recruited as "Village Accountant" had been reduced by the Disciplinary Authority to the post of "daftarband". The Division Bench interpreting an analogous rule in the State's Service Rules, held the reduction impermissible, observing:

... Rule 8(v) of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957, as amended, in our opinion, does not justify such an action. It will lead to most unreasonable results if a person directly recruited to a post is reduced to a post which he never came to hold in service. That is not the scheme of the CCA Rules and therefore we have no hesitation in holding that the Deputy Commissioner had no competence to impose the penalty of reducing the appellant to the post of Daftarband Attender when in fact he entered service only as Village Accountant. If the Disciplinary Authority felt that the gravity of the charges proved warrants that the appellant should be removed from service, it was open to the authorities to make an order either dismissing or removing him from service....

19. The third view of the matter which while holding such a reduction is permissible, but subject to the post to which the government servant is reduced being one from which promotion to the post from which reduction is effected is permissible, is to be found in *Srinivasa Sastrey case*<sup>3</sup> where Rama Jois, J. of the Karnataka High Court held: (S.I.R. p. 515, para 9)

... It is no doubt true that normally penalty of 'reduction in rank' is imposed only so as to bring down a civil servant to a lower time scale, grade, service or post, held earlier by him before

promotion and not below the post, grade, service, or time scale to which a civil servant was directly recruited, and it appears that it is also reasonable to do so. The learned counsel, however, could not substantiate the point with reference to the rule which empowered the Disciplinary Authority to impose the penalty of reduction in rank as it does not make any such differentiation....

20. This is also the view taken by the Tribunal in the first of the appeals now before us. The Tribunal held :

12. In the light of the aforesaid discussion we find that Rule 11(vi) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, on its true construction permits reduction in rank in the case of a direct recruit if the post to which he is reduced is in the line of promotion i.e. is a feeder service....

But as against this judicial opinion in *Srinivasa Sastry case*, the learned Judge, as author, (see *Services under the State* : Indian Law Institute, page 220) expressed the view :

Therefore, it is reasonable to take the view that a civil servant earns promotion by exhibiting his merit and ability and suffers reduction in rank instead of removal or dismissal for misconduct or inefficiency during his service in the higher post unless he is unworthy of being retained in the service and that the words 'reduction in rank' are used in Article 311 in this sense. It appears that the punishment by way of reduction in rank can be inflicted only against a civil servant who held a lower post and who has been promoted to the higher post :

21. The contention of the learned Additional Solicitor General that when a legislative authority uses the expression "reduction in rank" without imposing any limitations there is no justification to fetter or otherwise limit the plenitude of the idea of 'reduction', looks, at the first blush, seemingly plausible and even somewhat attractive. The view has commended itself for acceptance to some of the High Courts and Tribunals.

22. The meaning to be given to a particular statutory language depends on the evaluation of a number of interpretative criteria. Shorn of the context, the words by themselves are "slippery customers". The general presumption is that these criteria do not detract or stand apart from, but are to be harmonised with, the well accented legal principles. In a difficult case, the number of relevant interpretative criteria may be so high that the task of the court in assessing their effect is, correspondingly, difficult. Even the statutory language apparently free from the sins of semantic ambiguity might not.

in the context of the purpose, connote or convey its lexicographic thrust; but would acquire a different shade or colour imparted to it by the variations of the interpretation criteria. The ambiguity need not necessarily be a grammatical ambiguity, but one of appropriateness of the meaning in a particular context. Francis Bennion in his *Statutory Interpretation*, 1984 edn., p. 390 refers to the nature of the task in weighing the factors:

... it is necessary for the interpreter to assess the respective weights of the relevant interpretative factors and determine which of the opposing constructions they favour on balance....

We may speak of the factors tending in a certain direction as a bundle of factors. This is figurative, but then so is the idea of factors being 'weighed'. The court is unlikely even to consider the factors one by one, and certainly will not proceed in any mechanistic way....

We find that one bundle of factors favours one of the opposing constructions of the enactment, while the other bundle favours the other construction. (As to opposing constructions see Section 84 of this Code.) There may be factors drawn from a single interpretative criterion in both bundles....

23. It is true that where statutory language should be given its most obvious meaning — 'to accord with how a man in the street might answer the problems posed by the words' — the statute must be taken as one finds it. Considerations relevant to interpretation are not whether a differently conceived or worded statute would have yielded results more consonant with fairness and reasonableness. Consequences do not alter the statutory language, but may only help to fix its meaning.

24. As to whether a person initially recruited to a higher time scale, grade or service or post can be reduced by way of punishment, to a post in a lower time scale, grade, service or post which he never held before, the statutory language authorising the imposition of penalty does not, it is true, by itself impose any limitations. The question is whether the interpretative factors, relevant to the provision, impart any such limitation. On a consideration of the relevant factors to which we will presently refer we must hold that they do.

25. Though the idea of reduction may not be fully equivalent with 'reversion', there are certain assumptions basic to service law which bring in the limitations of the latter on the former. The penalty of reduction in rank of a government servant initially recruited to a higher time scale, grade, service or post to a lower time scale, grade, service or post virtually amounts to his removal from the higher post

A  
151

and the substitution of his recruitment to lower post, affecting the policy of recruitment itself.

26. In *Worthington v. Robinson*<sup>10</sup> where a supervisor of Inland Revenue was reduced in rank by statutory authority, referring to the effect of reduction in rank, though in a different context, brought about by the order of the statutory authority, the Court of Appeals understood the process as a dismissal from the higher post and re-appointment to the lower post. Rigby, L.J. observed:

I treat what has happened as a dismissal, because, though in effect he has been reduced to a lower position, his new appointment is in fact a re-appointment. If we could see any point in this action upon which there might be a possibility of his succeeding, we should be most anxious to give him the opportunity.

27. But action was dismissed because the civil servant was holding the office at the pleasure of the Commissioners under the Inland Revenue Regulation Act governing the situation.

28. There are, therefore, certain considerations of policy that might militate against such a wide meaning to be given to the power. In conceivable cases, the government servant may not have the qualifications requisite for the post which may require and involve different, though not necessarily higher, skills and attainments. Here enter considerations of the recruitment policy. The rule must be read in consonance with the general principles and so construed the expression 'reduction' in it would not admit of a wider connotation. The power should, of course, be available to reduce a civil servant to any lower time scale, grade, service or post from which he had subsequently earned his promotion.

29. The second, and perhaps equally relevant, consideration, is the anomaly that a rushing to its logical limits of such power might produce. In *Srinivasa Sastry case*<sup>7</sup>, the learned Judge of the Karnataka High Court visualised these anomalies thus: (S.I.R p. 516)

Acceptance of the contentions urged for the respondents would lead to incongruous and absurd results. To illustrate, could a doctor be reduced in rank to the post of a compounder, or an engineer to the post of a fitter, or a teacher in a High School to the post of a peon, or a scientific officer to the post of a ministerial officer, in the absence of any provision in the rules for the consideration of the case of the civil servant concerned, for promotion from the latter category to the former category? It appears to me that on a fair and proper construction of

10. (1896) 75 LTR 446 (CA)

Rule 11(vi) of the Rules, the condition precedent for the exercise of power under that rule by way of imposing penalty of reduction in rank to a lower post is, that the higher post from which the concerned civil servant is sought to be reduced must be a promotional post in relation to the lower post to which he is sought to be reduced.

30. The argument that the rule enables a reduction in rank to a post lower than the one to which the civil servant was initially recruited for a specified period and also enables restoration of the government servant to the original post, with the restoration of seniority as well, and that, therefore, there is nothing anomalous about the matter, does not, in our opinion, wholly answer the problem. It is at best one of the criteria supporting a plausible view of the matter. The rule also enables an order without the stipulation of such restoration. The other implications of the effect of the reduction as a fresh induction into a lower grade, service or post not at any time earlier held by the government servant remain unanswered. Then again, there is an inherent anomaly of a person recruited to the higher grade or class of post being asked to work in a lower grade which in certain conceivable cases might require different qualifications. It might be contended that these anomalies could well be avoided by a judicious choice of the penalty in a given fact-situation and that these considerations are more matters to be taken into account in tailoring out the penalty than those limiting the scope of the punitive power itself. But, an overall view of the balance of the relevant criteria indicates that it is reasonable to assume that the rule-making authority did not intend to clothe the Disciplinary Authority with the power which would produce such anomalous and unreasonable situations. The contrary view taken by the High Courts in the several decisions referred to earlier cannot be taken to have laid down the principle correctly.

31. The pronouncement of this Court in *Hussain Sasar Saheb Kaladgi v. State of Maharashtra* relied upon by the appellant is one which deals with a case of 'reversion'. Appellant in that case while working as a primary teacher in the services of the District Local Board offered himself for and was selected by direct recruitment to, the post of the Assistant Deputy Educational Inspector. But after four years he was sought to be reverted to the post of primary teacher. His suit for the declaration that the purported reversion was illegal and void was decreed by the trial court, but was dismissed by the High Court in appeal. This Court restored the decree of the trial court. As rightly pointed out by the learned Additional Solicitor General, the case dealt with the scope and limitations of the process of 'reversion' and is of no assistance in deciding the point under con-

sideration. But this does not make any difference to the conclusion we have reached.

32. The point now is as to what orders are to be made in these appeals. Appellants in the two appeals have been reduced to posts lower than those to which they were initially directly recruited. As these penalties cannot be sustained in the view we take of the rule, in the normal course the penalties imposed would require to be set aside and the disciplinary authority directed to reconsider which other penalty it would now choose to impose. But, we are of the opinion that it would be somewhat unfair that at this distance of time the matters are reopened. We think, having regard to all the circumstances of the cases the orders that commend themselves appropriate in the two cases are in terms following :

- (i) In the first of the appeals, appellant Nyadar Singh, has, after the period of the reduction in rank has spent itself out, been restored to the original position. It would, therefore, be sufficient to set aside the penalty imposed on him and direct that the period of service in the reduced post be treated as service in the post held by him prior to imposition of the penalty, subject to the condition, however, that the appellant shall not be entitled to any difference of salary for and during the period of reduction. In view of this, we think that the proceedings taken against him should come to an end and there is no need to remit the matter to the Disciplinary Authority for selection and imposition of a fresh penalty.
- (ii) In the case of M. J. Ninama the penalty of reduction in rank is set aside and he shall be restored to the post which he held before the imposition of the penalty. However, for the period, if any, served by him in the lower post pursuant to the penalty imposed on him, he shall not be entitled to the difference of salary. It will also not be necessary to remit his case for fresh consideration of the choice of the penalty having regard to the lapse of time.

33. It is ordered and the appeals disposed of accordingly.  
No costs.

scale of pay than others? There is none. The only answer of the respondents is that the drivers of the Delhi Police Force and the other drivers belong to different departments and that the principle of equal pay for equal work is not a principle which the Courts may recognise and act upon. We have shown that the answer is unsound. The classification is irrational. We, therefore, allow the writ petition and direct the respondents to fix the scale of pay of the petitioner and the drivers-constables of the Delhi Police Force at least on a par with that of the drivers of the Railway Protection Force. The scale of pay shall be effective from 1st January, 1973, the date from which the recommendations of the Pay Commission were given effect.

*Petition allowed*

### ORISSA HIGH COURT

*Original Jurisdiction Case No 527 of 1977*

*Decided on 21st October, 1981*

#### CORAM

The Hon'ble Mr. Chief Justice R.N. Misra

The Hon'ble Mr. Justice B.K. Behera

Babaji Charan Rout

*...Petitioner*

*Versus*

State of Orissa and others

*...Opp. Parties*

(i) Constitution of India, Article 311 - Reduction in rank, of petitioner by the disciplinary authority who is lower in rank by his actual appointing authority - Reduction in rank as such is not in compliance of Article 311(1).

Held that the appointing authority being the Revenue Divisional Commissioner merely because by a set of Rules subsequently framed the punishing authority in respect of the category to which the petitioner belonged was the Collector, the statutory requirement on the basis of the constitutional guarantee cannot be taken to be satisfied by the authorised officer imposing the punishment. The appointing authority continued to be the Revenue Divisional Commissioner as a fact and the subsequent authorisation vesting the power in the Collector to punish an officer of the petitioner's category did not amount to compliance of Article 311(1) of the Constitution. (Para 2)

(ii) Reduction in rank by way of disciplinary action—Reduction cannot be made to a lower rank than the initial recruitment (Para 3)

(iii) Disciplinary action—Utilisation of past conduct while considering the quantum of punishment without bringing the same in the notice of the delinquent official—It is not sustainable in the absence of the petitioner being put to notice. (Para 4)

Cases Referred :—

1. Santosh Kumar Panda v. State of Orissa and others, O.J.C. No. 577 of 1978 decided on 26-4-79 (Orissa High Court).

Advocates :

For the Petitioner : M/s. P. Palit, J. Patnaik & R. Mohapatra, Advocates.  
For the Opp. Parties : Government Advocate.

JUDGMENT

R N. Misra, J. Challenge in this application under Article 226 of the Constitution is to the order under Annexure 8 passed by the Collector, Kenojhar in a disciplinary proceeding imposing punishment of reduction of rank.

2. Three grounds have been raised at the hearing in support of the challenge, namely (1) the petitioner's appointing authority was the Revenue Divisional Commissioner as would appear from Annexure 1 dated 28-7-62, but the punishment of reduction which admittedly is a major penalty was imposed by the Collector—an authority inferior to the Revenue Divisional Commissioner. The provision of Article 311(1) of the Constitution which has a corresponding provision in the Service Rules has thus been violated ; (2) The petitioner's first appointment was as Naib Tahasildar, redesignated as Revenue Inspector. In that view of the matter, the petitioner could not have been reduced to a lower rank than the initial appointment by being made a Revenue Collection Moharir; and (3) The punishing authority was not entitled to take past conduct into account while imposing punishment without putting the petitioner to notice that such facts were contemplated to be utilised against him. In our view, each of these points has substantial force. The appointing authority being the Revenue Divisional Commissioner, merely because by a set of Rules subsequently framed the punishing authority in respect of the category to which the petitioner belonged was the Collector, the statutory requirement on the basis of the constitutional guarantee cannot be taken to be satisfied by the authorised officer imposing the punishment. The appointing authority continued to be the Revenue Divisional Commissioner as a fact and the subsequent authorisation vesting the power in the Collector to punish an officer of the petitioner's category did not amount to compliance of Article 311(1) of the Constitution.

3. There is no dispute that the petitioner's first appointment was to the grade of Revenue Inspector. The punishment admittedly reduced him to a lower rank than the original appointment. A Bench of this Court in an unreported decision in the case of *Santosh Kumar Panda v. State of Orissa & others* took the view that the punishment imposable in a disciplinary action could not be of reversion to a rank lower than the initial recruitment itself. The State Government accepted the decision of this Court and implemented it. We see no justification to take a different view in the instant case. The second contention raised by the petitioner must accordingly succeed.

4. In the second show cause notice (Annexure 6), the petitioner was called upon in the notice to show cause against the punishment (Annexure 6). The petitioner was told :—

1. O.J.C. No. 557 of 1978 decided on 26-4-79 (Orissa High Court)

A/156

"In the departmental proceedings drawn up against you under District Office Memo No. 44(3) dated 4-1-74, the findings of the Inquiring Officer (copy enclosed) on the charges of unauthorised absence from Government duty have been considered and accepted.

I propose to inflict upon you the punishment of reduction in rank to the next lower grade of Revenue Collection Moharir and hereby call upon you to show cause, if any, by 18-1-75 as to why the aforesaid punishment should not be inflicted on you."

In the order imposing the punishment in Annexure 8, the Collector stated :—

"After perusal of the findings of the Inquiring Officer and all relevant documents on the departmental proceedings drawn up against Sri Babaji Ch. Rout, R.I., Anandapur Tahasil (now under suspension) in District Office Memo No. 44(3) dated 4-1-74, I am satisfied that Sri Rout did not behave with a sense of responsibility and is unsuitable to discharge the responsibilities of the post of R.I. He has also been punished in the past with stoppage of increment but that does not seem to have brought about any change in his performance or attitude towards his job.

I, therefore, order his reduction to the rank of R.C.M. with effect from the date.....

The past conduct has thus been utilised while considering the quantum of punishment though the petitioner had never been put to notice that the same would be taken into account. It is not known as to what the punishment would have been if past conduct had not been taken into account. In fact, imposition of a major punishment has been justified by taking the past conduct into account. This certainly is not sustainable in the absence of the petitioner being put to notice that past conduct was proposed to be taken into account and he was not told what the past conduct really was.

5. The writ application must in the circumstances succeed. We allow the application, vacate the punishment and direct that the petitioner shall continue as Revenue Inspector without being affected by the impugned order and would be entitled to all service advantages as Revenue Inspector. The petitioner shall have his costs of the proceedings. Hearing fee is assessed at Rs. 100/- (one hundred).

Behera. J. I agree.

*Petition accepted*

tion on the power of the disciplinary authority as mentioned above, we are of the view that there is no merit in the prayer of the applicant for quashing the order dated 13.9.1985 of the second respondent.

7. The view we have expressed is quite in accord with the view expressed in Mahendra Kumar v. Union of India and another 1984(1) SLJ 34, in which it was held by the Andhra Pradesh High Court that a reduction by way of punishment to a post lower than the post to which the petitioner was initially directly appointed is valid and Gopal Rao v. Commissioner of Income Tax 1976(2) MLJ 514, where the Madras High Court has taken a similar view. Therein it was argued by the counsel of applicant that he was recruited only as a member of Class III service and as such could not be reverted to Class IV of which he was never a member. His contention was that reduction can only be to a post which the applicant held earlier at any point of time and not to a post never held by him. Just as reversion can be only to a post which a person held earlier, in the same manner reduction also could only be to a post or class of service which the person occupied at any point of time before. The High Court, however, rejected that contention and held that 'reduction' to a lower service or post cannot be equated to the expression "reversion" to a lower service, cadre or post, as contended by the applicant. The disciplinary authority vested with powers to impose penalty of reduction in rank can do so not only to a lower post which the concerned civil servant held earlier, but even to a lower post, which he did not hold at any point of time. This judgment has been referred to and concurred in by the Allahabad High Court as reported in 1983(2) SLJ 114.

The application is, therefore, dismissed.

Appeal dismissed

KARNATAKA HIGH COURT  
(D.B.)

Before Malimath CJ and Hakeem, J.  
W.A. No.423 of 1985  
Decided on 4.3.1985

Shivainga Swamy

Appellant

Versus

State of Karnataka

Respondent

For Appellant: Mr. H.S.Jois.

For Respondent: Mr. V.C.Brahmarayappa, Government Advocate.

Constitution of India, Article 311--Karnataka Civil Services (Classification, control and Appeal) Rules, 1957, rule 8(v)--Reduction in rank--Person directly recruited to a post--Order reducing him to the lower post by way of penalty cannot be passed--He can only be either dismissed or removed from service.

The appellant did not occupy the post of Village Accountant by the process of promotion from the cadre of Daftarband-Attender. He was directly recruited to the post of Village Accountant. Hence the maximum punishment that could be imposed against the appellant was to dismiss him from service from the post of Village Accountant. He could not have been reduced to a lower post such as Daftarband-Attender. Rule 8(v) of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957, as amended, in our opinion, does not justify such an action. It will lead to most unreasonable results if a person directly recruited to a post is reduced to a post which he never came to hold in service. That is not the scheme of the CCA Rules and therefore we have no hesitation in holding that the Deputy Commissioner had no competence to impose the penalty of reducing the appellant to the post of Daftarband-Attender when in fact he entered service only as Village Accountant. If the disciplinary authority felt that the gravity of the charges proved warrants that the appellant should be removed from service it was open to the authorities to make an order either dismissing or removing him from service. But they could not have made an order reducing him to the lower post of Daftarband-Attender. (Para 3)

#### ORDER

Malimath, C.J.-After admitting this appeal, with the consent of the Learned Counsel this appeal was taken up for final hearing today

2. The appellant was directly recruited as Village Accountant. When he was holding that post, a disciplinary enquiry was held against him in respect of certain charges. After the charges were held proved, the disciplinary authority namely the Deputy Commissioner has imposed the penalty of reducing him to the post of Daftarband and posted him as Attender. That order was affirmed on appeal by the Divisional Commissioner, the Appellate Authority. The challenge to the same in Writ Petition No. 2478/84 also failed. Hence this appeal.

3. On merits we find no good grounds to interfere with the finding recorded by the disciplinary authority that the appellant is guilty of the charges held proved. Sri Sridhar, Learned Counsel appearing for the appellant, however maintained that the authorities could not have imposed the penalty of reducing the appellant to the post of Daftarband-Attender. The appellant did not occupy the post of Village Accountant by the process of promotion from the cadre of Daftarband-Attender. He was directly recruited to the post of Village Accountant. Hence the maximum punishment that could be imposed against the appellant was to dismiss him from service from the post of Village Accountant. He could not have been reduced to a lower post such as Daftarband-Attender. Rule 8(v) of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957, as amended, in our opinion, does not justify such an action. It will lead to most unreasonable results

if a person directly recruited to a post is reduced to a post which he never came to hold in service. That is not the scheme of the CCA Rules and therefore we have no hesitation in holding that the Deputy Commissioner had no competence to impose the penalty of reducing the appellant to the post of Daftarband-Attender when in fact he entered service only as Village Accountant. If the disciplinary authority felt that the gravity of the charges proved warrants that the appellant should be removed from service it was open to the authorities to make an order either dismissing or removing him from service. But they could not have made an order reducing him to the lower post of Daftarband-Attender.

4. Hence this appeal is allowed, the order of the Learned Single Judge is set aside and the orders of the Divisional Commissioner and the Deputy Commissioner imposing penalty are hereby quashed. The finding recorded by the Deputy Commissioner that the appellant is guilty of the charges proved stands affirmed. We remit the case back to the Deputy Commissioner only for the limited purpose of examining the question of imposing appropriate punishment commensurate to the charges held proved against the appellant. The Deputy Commissioner is directed to dispose of the matter expeditiously after taking into consideration the explanation offered by the Appellant.

Appeal allowed

KARNATAKA HIGH COURT  
(D.B.)

Before Malimath, CJ & Mahendra, J.  
W.A. No. 1974 and 1977 of 1984  
Decided on 19-4-1987

I.T.C. Limited

Versus

Appellant

State of Karnataka

Respondent

For the Appellant: Mr. Shanthi Bhooshan for M/s. King and Patridge.

For the Respondent: Mr. N.Devadas, Govt. Advocate for R-1 & 3; Mr. K. Subba Rao for R-2.

A. Industrial Disputes Act, 1947, Sections 10(1) and 33(2)(b)-Reference--Power to refer to Labour Court/Industrial Tribunal & not to refer is an administrative exercise of power--It can be exercised at any time--Order pannel by Labour Court/Industrial Tribunal executable--Proceedings under Sections 33(2)(b) are not adjudication proceedings on a reference under Section 10 of the Act--Pendency of proceedings under Section 33(2)(b) no bar to refer the dispute under Section 10 for adjudication--Proceedings under Sections 33(2)(b) should stand concluded immediately on a reference

## ALLAHABAD HIGH COURT (LUCKNOW ENCH)

Hon'ble K. C. Bhargava, J.—KRIPA SHANKER and another *Versus* STATE OF U. P. and others—Writ Petition No. 22 of 1991, *Decided on* December 15, 1994.

(a) Services—Appointment—Select List—The Uttar Pradesh District Offices (Collectorate) Ministerial Service Rules, 1980—Appointments not made from select list due to ban on appointments imposed by orders issued by State Govt.—Period of validity of Select List expired during continuance of the ban—Held. Period during which ban was in operation—Should be excluded from the period of validity of the list.  
(Paras 14 and 15)

Hon'ble K. C. Bhargava, J.—The petitioners have approached this Court for a writ in the nature of certiorari quashing the impugned select list dated 1-12-90, order dated 1-12-90 passed by the opposite party no. 3 and order dated 10-12-90 passed by opposite party no. 2, contained in Annexures Nos. 8, 9 & 10 respectively. Further direction has been sought directing the opposite parties to appoint the petitioners with immediate effect on the post of junior clerks on the basis of the select list contained in Annexure-1.

2. The facts stated in brief are that for the posts of junior clerk in the ministerial establishment of Collectorate, Barabanki a recruitment test was held for filling permanent vacancies. A select list was announced on 2-10-1987 and the names of the petitioners were indicated at serial Nos. 25 & 26 in that list. This list was not allowed to expire, hence the same is still operative and the persons have to be appointed from this list. On the basis of the said select list the petitioners were given short term appointments from 18-11-89 to 31-12-89 vide Annexure-2. These appointments were made on the post of Assistant Wasil Baqi Navis/junior clerk. The vacancies were still lying but the opposite parties on account of arbitrariness and high-handedness have not given appointments to the petitioners on the said posts.

3. The District Magistrate in his letter dated 20-9-89 (Annexure-3) has indicated that six posts of junior clerk were vacant. Thereafter the Government by its order dated 16-10-89 created two new Tahsils, namely

A  
16a

A  
16)

Ram Nagar and Rudauli in district Barabanki. Several posts of Assistant Wasil Waqi Navis, six posts of Senior Assistants and eight posts of junior Assistants along with other posts have been created. That Govt. order is Annexure-4 to the writ petition. The Government was found to give appointments to the petitioners. The petitioner no. 1 made a representation on 13-11-90 and petitioner no. 2 made a representation on 14-11-90 which are contained in Annexures Nos. 5 & 6 respectively. On 9-11-90 the District Magistrate, Barabanki appointed six persons whose names were indicated at serial nos. 10, 13, 14, 17, 19 and 20 in the select list (Annexure-1). Copy of the said appointment letter is Annexure-7 to the writ petition.

4. There are Government orders to the effect that if candidates of any select list have been given appointment even in short vacancies then those persons have to be given appointments.

5 On the creation of new Tahsils, names of certain persons were forwarded by the Employment Exchange, but the name of petitioner no. 2, whose name was also registered in the employment exchange, was not sent when the requisition was sent by the District Magistrate. The names of persons who were registered after the name of petitioner no. 2 in the Employment Exchange were sent. Thereafter a test was held in the month of November, 1990 for selection of junior clerk. A merit list was prepared on 1-12-90 and 14 persons of that list have been appointed. Thereafter another 7 persons of that list were appointed on 10-12-90. True copies of that select list and orders dated 1-12-90 and 10-12-90 are Annexures Nos. 8, 9 & 10 respectively to the writ petition. The opposite parties have made appointments illegally and arbitrarily in order to appoint their own persons. The Rules under which the recruitments are to be made are known as "The Uttar Pradesh District Officers (Collectorate) Ministerial Service Rules, 1980" (hereinafter referred to as the Service Rules, 1980). It is further alleged that the selection committee was not constituted in accordance with rules and the persons in the selection committee were close relatives to the candidates, who have been given appointments and the list which has been prepared on 1-12-90 should be quashed on this ground alone. The selection committee has also not followed the rules and regulations of the Service Rules. It is further alleged that the opposite parties 2 & 3 have continued to make appointments from the select list

contained in Annexure-1 till 9-11-90, hence there is no reason or justification to deny the appointments of the petitioners from that list.

6. Opposite parties 1 and 2 have filed counter-affidavits. In this counter-affidavit it is alleged that no select list was published on 2-10-1987 as alleged in para 2 of the writ petition, but it was published on 8-10-1987. The petitioners were appointed on 18-11-89 on seasonal basis on the basis of select list of 1987. This appointment was upto 31-12-89 because in view of the order of the Commissioner, Faizabad, seasonal staff was to work upto 31-12-89. The list which was prepared in the year 1987 is not valid list now and it has been superseded after coming into force of the Rules of 1986 relating to direct recruitment. This list was valid upto 7-10-88 for a period of one year from the date of publication i. e. 8-10-1987. The Rules framed in 1986 is contained in Annexure-A-1. Since the period of petitioners' appointment has not been extended, it has come to an end on 31-12-89 and they could not claim further appointment. As the Government has imposed ban on appointments, therefore, appointments of the petitioners could not be made and the ban was still in force. On 16-10-89 two new Tahsils were created, but as there was ban on appointments, therefore, the petitioners could not be given any appointment. The copy of this letter is contained in Annexure-A-2-

7. In view of the Govt. order dated 24-9-90 when the ban was lifted only those persons were given appointment who had worked for certain period during the validity of the list of 1987. There is no illegality or irregularity in making appointments of those persons. The petitioners have not worked at all during the validity of the list prepared in 1987.

8. In view of creation of two Tahsils, no appointment could be made on account of the fact that new appointments were banned; moreover the period of the list prepared in 1987 has also expired by that time and there was no arbitrary and illegal appointment made by the opposite parties. There was also no malafide on behalf of the selection committee in making these recruitments or selections.

9. Learned counsel for the petitioner and the learned Standing counsel have been heard.

A  
762

A  
163

is  
37  
7.  
is  
w  
rk  
id  
of  
r a  
les  
ti-  
on  
rn-  
the  
-89  
ts,  
opy  
fted  
tain  
y or  
ners  
made  
r the  
here  
ties.  
aking  
coun-

10. Learned Counsel for the petitioner has argued that the list according to the petitioners was published on 2-10-87 while according to the opposite parties this list was published on 8-10-87. Learned counsel for the petitioner has argued that the ban which was alleged to be imposed was from 13-11-87 to 24-9-90. Therefore, the appointment of the petitioners could have been made after the ban was lifted. He has further argued that from the list Annexure-1, seven persons were later on appointed after lifting of the ban. He has further argued that in the year 1990 another recruitment was made. On 1-12-90, fourteen persons were appointed out of that list and thereafter 7 persons were appointed on 10-12-90. He has further argued that the petitioners could have been appointed in these vacancies after lifting of the ban because petitioners had worked for a period of more than one month from 18-11-89 to 31-12-89.

11. Now according to the facts appearing on the record, the list out of which appointments were made and copy of which is Annexure-1 to the writ petition, was published on 2-10-87 according to the petitioners and according to the opposite parties this list was published on 8-10-87. The date disclosed by the opposite parties as 8-10-87 is taken to be correct for the purposes of this case. Now this list continued upto one year i. e. 7-10-88. According to the allegations of the petitioners, their appointments were made for a fixed term from 18-11-89 to 31-12-89 which fact is verifiable by means of Annexure-2, which is the copy of the appointment letter issued by the office of the District Magistrate, Barabanki. The petitioners were also appointed in pursuance of this letter of appointment. This letter clearly goes to show that they were appointed for the period 18-11-89 to 31-12-89 and their appointments were purely temporary and their services could be terminated at any time without giving any prior notice.

12. It is an admitted fact which also finds place in para 13 of the counter-affidavit that the Government had imposed ban on fresh appointments on 13-11-87 and this ban continued till 23-9-90. The ban on fresh appointments was lifted on 24-9-90. This means that no fresh appointments could have been made by any department between 13-11-87 to 23-9-90 during the period the ban continued to remain in operation.

13. It may be recalled that the list Annexure-I through which the petitioners were selected, was published on 8-10-87 and only after one

164

month five days of publication of the list Government had imposed the ban. No appointments could have been made from this list after coming into force the ban imposed by the Government and only temporary appointments could have been made. It has not been indicated by the opposite parties who were in the knowledge as to whether there existed any vacancy on the date when the ban was imposed on 13-11-87 or all the vacancies were filled up before imposition of the ban.

14. It is also an admitted fact that the list which was published on 8-10-87 contained in Annexure-1 would be valid for a period of one year. The rules provide that the validity of the list will be one year from the date of publication. Therefore, this list remained in operation before the ban was imposed only for a period of one month five days. The remaining period of validity of the list expired during continuance of the ban.

15. Now the question arises as to whether the term of the list which is one year will expire during the period of ban or whether the period covered by the ban will be excluded from the period of one year for which the list survives according to rules. It has been provided in certain Acts that the period during which any action or proceeding is to be taken if stay order is passed by a court then the period during which the action or proceeding was to be taken gets extended by the period the stay order remained in operation, that is, the period during which the stay order was in operation is to be excluded from that particular period. These provisions are to be found as under the Land Acquisition Act etc. If the period during which the ban was imposed is not excluded then it will cause irreparable loss to the persons who were selected, but could not be appointed or offered appointment on account of imposition of ban. Therefore, the principle of natural justice also demands that the period during which the ban was in operation, should be excluded from the period of validity of the list.

16. Section 11-A of the Land Acquisition Act may be considered. This Section provides that the award is to be made by the Collector within a period of two years from the date of publication of the declaration. There is an explanation appended to the section which provides that in computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the

88  
165

3) L.C.D.

Kripa Shanker v. State of U. P.

149

ne said declaration is stayed by an order of a court shall be excluded. Thus  
to on this analogy it can safely be said that the period during which the ban  
t- on fresh appointments was imposed, has to be excluded from the period of  
te validity of the list.

es 17. According to the averments made in para 6 of the counter-affidavit  
the petitioners who were selected in the list Annexure-1 were given short  
term appointment from 18-11-89 to 31-12-89. It has further been alleged  
on by the opposite parties that these appointments were made on the seasonal  
r. basis and the sanction for appointment was only upto 31-12-89. When this  
re period expired the appointments came to an end. In para 13 of the counter-  
te affidavit it has been mentioned that after the ban was lifted on 24-5-90, the  
eg persons who had worked for some time during the period of one year, were  
given appointments. This fact has also been pleaded by the petitioners  
and on this analogy the petitioners were entitled to get appointments. It  
ch has not been mentioned in the counter-affidavit as to for what period those  
od persons out of the list published in the year 1987, had worked in the  
ch establishment. According to rules a person who had worked for more than  
is one month during validity of the list could get appointment even if the  
if period of list has expired. Therefore, it is apparent that the opposite  
or parties made appointments from the list published in the year 1987 after  
er the ban was lifted and these appointments were made on 9-11-90. The  
as names of these persons who were appointed by the opposite parties from  
vi- the list prepared in 1987 contained in Annexure-1 are to be found in  
od Annexure-7.

se 18. Learned counsel for the petitioners has further argued that two  
n- Tahsils were created by the Government on 16-10-90. This fact is admit-  
e, ted in para 10 of the counter-affidavit. According to the learned counsel  
ch for the petitioners, the petitioners had approached for their appointments  
ty on the newly created posts in these two Tahsils. According to the learned  
Standing counsel, no appointment could be made on account of the ban  
d. which was imposed by the Govt. No doubt it is correct that during the  
in continuance of the ban no fresh appointments could have been made; but  
n. appointments from the list could have been made by the opposite parties  
in in view of the fact that the validity of the list published on 8-10-87 conti-  
od nued till one year is completed excluding the period the ban remained in  
he force. Therefore, after lifting of the ban on 24-8-90 the vacancies which

166

were existing in the establishment should have been filled from the list published on 8-10-87. The opposite parties have not made appointments out of this list but have prepared a fresh list in the year 1990. The petitioners have preferential rights to be appointed on the vacant posts in the establishment than the persons of the newly published list in the year 1990.

19. Learned Standing Counsel has argued that Rule 26 has been changed. Copy of this amended rules is to be found in Annexure-C, A.-1 of the counter-affidavit. Those amendments do not have any bearing on the appointments of the petitioners. This only relates to the manner of preparation of list of general and reserved category candidates to be appointed.

20. Therefore, in view of what has been discussed above, it is apparent that the list which was published on 8-10-87 (Annexure-1) will continue to operate for full one year excluding the period of ban which was imposed on 13-11-87. The period of one year will be computed after deducting one month and five days from 24-9-90. Therefore, this list will expire sometimes in August, 1991. Hence, appointments out of the list contained in Annexure-1 could have been made upto that date. The petitioners had made representations to the opposite parties for their appointments. Annexure-5 is the representation made by petitioner no. 1 Kripa-shanker on 13-11-90 and Annexure-6 is the representation made by petitioner no. 2 Guru Prasad on 14-11-90. These representations were made during validity of the list but inspite of this fact the petitioners were not absorbed by the opposite parties.

21. The petitioners were, therefore, entitled to be appointed in the vacancies which were existing in the establishment on the date of lifting of the ban and within the period of validity of the list published on 8-10-87 contained in Annexure-1 in the manner as mentioned above.

22. The writ petition is partly allowed. It is directed that opposite parties 1 and 2 shall appoint the petitioners within a period of one month from the date a certified copy of this judgment is served on opposite party no. 2. No orders as to costs.

(Petition allowed partly.)

A/167

3741

Central Administrative Tribunal  
Lucknow Bench

18/12/85

Before the Central Administrative Tribunal  
Additional Bench, Lucknow

Date of Filing  
Date of Receipt by Post

Dr. Registrar (J)

In Re :-

Registration No. 668 of 1986

Between

Lava Kumar ... .. Petitioner.

Versus

Union of India and others ... .. Respondents,

Fixed for - 19. 12. 1995.

(Part Heard Case).

I, Lava Kumar , aged about 36 years , son of Sri R. C. Barui , resident of House No. 44, Sunder Bagh, Lucknow, do hereby solemnly affirm and state as under :-

1. That a Notice dated 15.3. 1995 was served on Sri A. V. Srivastava , the then Counsel of Respondents to produce the documents ( Inspection report ) as in the <sup>para</sup> <sub>regarding</sub> Composition of the staff of Architecture Cell at Calcutta, a mention was made about the operation of the post of Draftsman "A" ( Scale Rs. 425-700 ) down graded as Draftsman "B" ( Scale Rs. 330-560 ) with effect from 1.7. 1985, which fact particularly related to the petitioner who having been selected for direct appointment to the post of Draftsman "A" was made to work as Draftsman "B" after the surrender of the post of Draftsman "B" on 30.6. 85.

2. That thereafter the petitioner received a letter dated 6.6. 1995 from the Director General, , R.D.S.O. , Lucknow, directing the petitioner to produce the said document ( Inspection Report ) within three days from the date of receipt of that letter.

Contd....2

Lava Kumar

A  
168

- : 2 : -

Central Administrative Tribunal  
Lucknow Bench  
Date of Filing  
Date of Receipt by Post

Dr. Registrar ( )

3. That as the said report in question was not addressed to or endorsed to the petitioner, he was not expected to be possessed of any copy, as such, of the same. Hence a reply was sent accordingly to the Director - General on 12.6.95, stating, inter alia, that whatever was available with the petitioner would be produced before the Hon'ble Tribunal. Copies of aforesaid two letters dated 6.6.95 and 12.6.95 along with extracted notes from the Inspection Report were filed on 8.8.95 before the Hon'ble Tribunal for appreciation.

4. That thereafter the case was listed for hearing on 10.10.95 but the respondents filed on that date an objection (Application dated 4.9.95) alleging that the most diligent search of the records (being old) could not make available the said Inspection Report, nor it could be established that any such report was received in the office (R.D.S.O., Lucknow). It was alleged that in the absence of the said report the authenticity and veracity of the extract of notes filed by the petitioner on 8.8.95 could not be verified. The respondents also thereby requested the Hon'ble Tribunal to direct the petitioner to produce the said Inspection Report and in the event of failure of the petitioner to produce the said report, no notice should be taken on the extracted notes filed by the petitioner.

5. That in this context the petitioner respectfully submits that the Architectural cell at Calcutta consisted of a limited number of skeleton staff who knew that the

contd. 3

Lava Kumar

17/19

Central Administrative Tribunal  
Lucknow Bench  
Date of Filing  
Date of Receipt by Post

-3-

By, Registrar ( J )

petitioner was selected for direct appointment to the post of Draftsman category 'A' ( Scale Rs. 425-700 ) but he was down graded and made to work as Draftsman category 'B' ( Scale 330-560 ) against the vacancy of Draftsman category 'A' Sri Anand Khare who was transferred to Lucknow. The staff knew that the petitioner was a victim of <sup>in</sup>justice and therefore they sympathised with the petitioner. When the Inspection report was received in the Architecture cell, Calcutta, for taking action on the findings and shortcomings pointed out in the said report, the petitioner became aware of the fact and wanted to see and have a copy of the said report. The petitioner, therefore told this fact to his following colleagues working in the cell with him.

1. Sri R.C. Singh
2. Sri Rajesh Sharma ( ~~Sri R. K. Sharma~~ )
3. Sri J.P. Maurya
4. Sri P.P. Singh Bhisht
5. Km. Kavita Nandi .

The petitioner got a photostat copy of the Inspection Report but he does not now exactly remember the name of his colleague who gave him the copy, because the matter is now ~~more~~ <sup>about</sup> ten years old and occasion for the use of the same did not arise earlier. The petitioner gave all the papers ( including the said report ) to his counsel at Allahabad to file the claim petition before the Central Administrative Tribunal then at Allahabad. When the Additional Bench of the Central Administrative Tribunal was constituted at Lucknow, the records of the case were transferred to Lucknow for disposal. His counsel at

Lavakumar.

A  
1/10

-4-

By Registrar ( J )

Allahabad had told him that in case need arise he will file only the relevant extracts from the Inspection Report as the whole Report did not concern and relate to his case . A copy of the extracted notes was available in the case file received from the counsel and the same was filed before the Hon'ble Tribunal on 8.8.95 for appreciation. The photostat copy of the Inspection Report was not then available in the case file and the petitioner forgot to obtain the same from his counsel at Allahabad. As the Respondents have been insisting to file the Inspection Report ( photostat copy ) the petitioner has obtained the same and is now filing as Annexure 7 for perusal.

6. That there is no variation in between the contents of extracted notes filed on 8.8.95 with the contents of Inspection Report now filed as Annexure-7 . The doubt expressed over the authenticity and veracity of the contents of extracted notes filed earlier are denied and stands baseless and contradicted .

That it is most humbly prayed that no notice need now be taken on the objection raised by the Respondents in their application dated 4.9.95 and the Hon'ble Tribunal may be pleased to consider the contents of extracted notes filed by the petitioner on 8.8.95 for deciding the case.

Lucknow :

Dated : 14<sup>th</sup> Dec. 1995

Lava Kumar  
Deponent

Verification

I, the above named petitioner do hereby verify

contd. 5

Lava Kumar

A/171

that the contents of para 1 to 6 of this application are true to my own knowledge. No part of it is false and nothing material has been concealed. So help me God.

Lucknow :

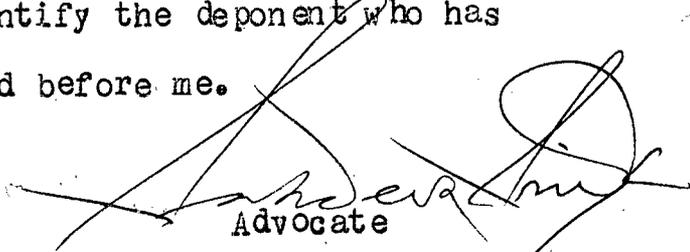
Dated : December 14, 1935

Central Administrative Tribunal  
Lucknow Bench  
Date of Filing  
Date of Receipt

Lava Kumar  
Deponent

By, Registrar ( )

I identify the deponent who has signed before me.

  
Advocate

INSPECTION REPORT OF DY. DIRECTOR ARCH  
METRO RAILWAY, CALCUTTA.

Name of Inspecting Officer : Shri R.N. Srivastava, SO/A/cs,  
Date of Inspection : 23.4.85 to 25.4.1985

Central  
Checks w Bench  
Date of filing  
Date of Receipt by Reg

1. ATTENDANCE REGISTER.

It was noticed during the verification of Attendance Register for March, 85 that Shri P.P.S. Bisht, JAA, was on LIP sanctioned w.e.f. 8.3.85 to 28.3.85 and w.e.f. 29.3.85 he reported sick upto 5.4.85. The nature of leave sanctioned to the employee was not indicated in the Register.

Shri P.S. Gupta, C.A.A. reported sick w.e.f. 18.4.85 to 27.4.85, but the nature of leave sanctioned was not indicated. Again he was sick w.e.f. 1.7.85 to 26.7.85 and 16.12.85 to 3.1.86. In both the cases the nature of leave was not indicated.

In the Attendance Register, three columns have been provided to watch the availability of leave at the credit of the employees as under:-

1. Leave on full pay (2) Leave on half pay
3. Leave without pay.

Office Order No. 7 of 1984, issued by the DY/D30 specifically pointed out that absence statements should reach S.O./XIII in triplicate and after making necessary entries in service books will record balance of leave on all the three copies and return one of them to the Directorate concerned. The copy returned by SO/XIII after recording balance of leave was not available.

In absence of the above statement, it was not possible to verify that the leave has been debited to their Leave Account. In absence of leave, the charges of over payment cannot be ruled out. This may be looked into the procedure as enunciated in the above Office Order are followed strictly.

The composition of the staff of Arch. Directorate at Metro Railway/Calcutta are as under as per sanction of the work charged post by RFP :-

|           | Sanctioned strength. | Working strength. | Vacant.     | Remarks.                     |
|-----------|----------------------|-------------------|-------------|------------------------------|
| 1. C.A.A. | 2                    | 2                 |             |                              |
| 2. S.A.A. | 4                    | 3                 | 1 (14.2.85) |                              |
| 3. J.A.A. | 2                    | 1                 |             | 1 (Down graded w.e.f. 17.85) |

The circumstances under which the post of JAA is being operated as D.G. need to be examined specially when the post for the same is already available.

Lavakumar

A  
1/3

Annexure 7

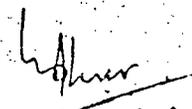
Central Administrative Tribunal  
Lucknow Bench  
Date of Filing  
Date of Receipt by Post

-: 2 :-

By, Registrar (A)

Shri O.P.Chawla, Asstt. Arch, handed over the charge on 23.2.86. Since then no officer has been posted. The Chief Engineer/Design/MTP in his letter No. MRSO/450/2/EE HSO/Pt. II dt. 14.4.1986, to D.G./HSSC mentioned that G.M./Metro Railway has desired to have a report on the performance and productivity of the Arch. Cell in MTP for advance review two months before to consider further reduction of the strength of Arch. Cell.

In fact one post of Joint Director/Arch was sanctioned for the exclusive use of the MTP. The Joint Director/Arch. is off and on visiting the Metro Railway from HSSC. Since this may badly tell upon the working of Arch Cell functioning in Metro Railway which is to be reviewed for its further sanction, it would be in fitness of things if this aspect may be examined so that the functioning of the cell may be more suitably generated.

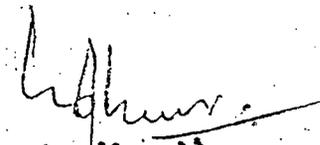
  
( Munir Ahmad )  
for Joint Director Finance.

No. W/Hry/AIR/1131/Part-II/5/86-87 Dated: 27.5.1986

Forwarded in duplicate to Director(Arch) HSSC/LKO. for information and early reply.

Copy to Dy. Director/Arch. H.S.P. HSSC, West Calcutta, for information and early parawise reply.

Lavakumar

  
(Munir Ahmad)  
for Joint Director/Finance.

A  
TH

Before the Central Administrative Tribunal,  
Addl. Bench, at Lucknow

In re:

Registration No. 668 of 1986

BETWEEN

Lav Kumar ... Applicant  
Versus  
Union of India and others ... Respondents

Fixed for 13.7.1995

The applicant in the above noted case,  
Lav Kumar, submits as under:

1. That the Government of India- Ministry of Railways, Research Design and Standards Organization has issued a staff notice dated Lucknow 5.7.1995 under the signatures of Sri T.K. Chattopadhyay for Director General, which staff notice has been widely circulated. The applicant is making a true copy of the said staff notice as Annexure to this very application.

2. That the staff notice Annexure read that the departmental selection for the specified category of posts of B. and S. Design of R.D.S.O. are likely to be held on any date after a period of 5 (five) weeks from the date of issue of this staff notice i.e. 5

Lava Kumar

B/S

( 2 )

weeks from 5.7.1995 expiring on 8.8.1995.

3. That in the staff notice, the petitioner has been placed at Sl.No. 13 in the (B) Category given in it, which is for the scale of Rs.1600-2600 and the applicant is also expected to be in readiness for appearing in the test.

4. That the above noted case is pending before the Hon'ble Tribunal as a claim by the petitioner for his having been appointed as Drafts Man, Category 'A' pursuant to the panel drawn in which he was placed at Sl.No.4.

5. That it is noteworthy that the seniority of the panelled incumbent is determined on the basis of their placement in the panel list, irrespective of the date of posting.

6. That it is knowledgeable that pursuant to the staff notice Annexure, only 4 to 5 persons are likely to be selected out of the Category (B) in which his name finds place at Sl.No.13.

7. That in case the petitioner before this Hon'ble Tribunal succeeds for having been posted pursuant to the panel dated 21.3.1984, he having been directly recruited and posted as draftsman category 'A', he would <sup>not</sup> have been required

Lava Kumar

A  
T/b

( 3 )

to appear in the test pursuant to the staff notice, Annexure and he would have been placed in the pay scale of Rs.1600-2660 automatically by virtue of direct recruitment and no question might have arisen at all for the applicant to appear at the departmental selection advertised through the staff notice, Annexure.

8. That under the circumstances narrated above, if the applicant is coerced or is otherwise made to appear at the departmental selection advertised vide Annexure, he is likely to be prejudiced still further in his employment of the R.D.S.O.

PRAYER

Wherefore it is most humbly prayed that the Hon'ble Tribunal may be pleased either to decide the above noted case of the applicant at an early date or at least the authorities (respondants) be restrained and commanded not to fill up at least one post out of the category (B) of the staff notice, Annexure.

OR

The very selection advertised through the staff notice, Annexure, be ordered to be deferred for a reasonable period till the decision of the

Lava Kumar

..... 4

B  
177

( 4 )

above noted case of the applicant or

Or

the Hon'ble Tribunal in the above noted circumstances be pleased to pass any other suitable order to mitigate the likely aggrievement of the applicant and the applicant ever prayas dutybound.

Lucknow:

Dated 11.7.1995

Lava Kumar  
(Lav Kumar )  
Applicant

GOVERNMENT OF INDIA : MINISTRY OF RAILWAYS  
RESEARCH DESIGNS & STANDARDS ORGANISATION

STAFF NOTICE

The departmental selections for the following categories of posts of B&S Design Dte, of RDSB, are likely to be held on any date after a period of five (5) weeks from the date of issue of this Staff Notice. The exact date, time & venue of the test will be notified in due course. Accordingly, the following candidates indicated against each category, are advised to keep themselves in readiness for appearing in the test :-

**(A) Chief Design Asstt. (B&S) scale Rs. 2000-3200 Controlling Officers**

|    |                        |                         |                          |
|----|------------------------|-------------------------|--------------------------|
| 01 | Sh. M. M. K. Sethi,    | SDA (B&S) Rs. 1600-2660 | ADE/B&S (SS)             |
| 02 | Sh. M. K. Pradhan,     | -----do-----            | -----do-----             |
| 03 | Sh. S. K. Sharma,      | -----do-----            | -----do-----             |
| 04 | Sh. Mata Prasad (SC)   | -----do-----            | -----do-----             |
| 05 | Sh. Piara Singh (SC)   | -----do-----            | Working under<br>DDMP/SS |
| 06 | Sh. Gurcharan Singh    | -----do-----            | ADE/B&S (SS)             |
| 07 | Sh. A. A. Ansari       | -----do-----            | ADE/B&S (CS)             |
| 08 | Dr. Mahesh Prasad (SC) | -----do-----            | ADE/B&S (SS)             |
| 09 | Sh. A. K. Vyas (SC)    | -----do-----            | ADE/B&S (CS)             |
| 10 | Sh. R. C. Nirmal (SC)  | -----do-----            | ADE/B&S (SS)             |

**(B) Sr. Design Asstt. (B&S) scale Rs. 1600-2660**

|    |                          |                         |                      |
|----|--------------------------|-------------------------|----------------------|
| 01 | Sh. S. Q. Raza,          | JDA (B&S) Rs. 1400-2300 | Working Under<br>TEN |
| 02 | Sh. R. N. Sarfar,        | -----do-----            | ADE/B&S (SS)         |
| 03 | Sh. Mangal Singh Maan    | -----do-----            | -----do-----         |
| 04 | Sh. Subhash Chandra      | -----do-----            | ADE/B&S (CS)         |
| 05 | Sh. S. M. Abid           | -----do-----            | -----do-----         |
| 06 | Sh. K. C. Sriyastava     | -----do-----            | ADE/B&S (SS)         |
| 07 | Sh. P. C. Dhanuk (SC)    | -----do-----            | -----do-----         |
| 08 | Sh. P. B. L. Saxena      | -----do-----            | -----do-----         |
| 09 | Smt. Anjana Bhasin       | -----do-----            | ADE/B&S (CS)         |
| 10 | Sh. Rajendra Prasad (SC) | -----do-----            | ADE/B&S (SS)         |
| 11 | Sh. M. R. Rastogi        | -----do-----            | ADE/B&S (CS)         |
| 12 | Smt. Dalvinder Kaur      | -----do-----            | -----do-----         |
| 13 | Sh. Lava Kumar           | -----do-----            | -----do-----         |
| 14 | Sh. V. K. Sobti          | -----do-----            | ADE/B&S (SS)         |
| 15 | Sh. R. L. Agnihotri      | -----do-----            | -----do-----         |

2. The Controlling Officers are also requested to get the above contents noted by the concerned staff and the same may be sent to Rectt. Section immediately.

DA: Nil

Lucknow-226011

Dated: 5/07/98

(File No. Rectt/ES/CDA (B&S))

*T. K. Chattopadhyay*  
(T. K. Chattopadhyay)  
for Director General

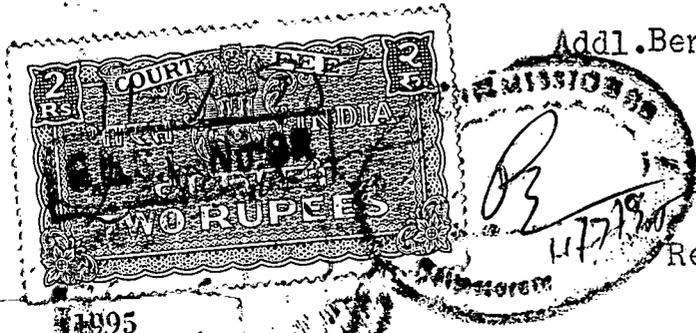
DISTRIBUTION

09 (B&S) - for information please. JDS/B&S/Insp., JDS/B&S/CB-I, CB-II, SB-I, II, SO/Civil, SO/E-VI, SO/Confdl., ADE/B&S (CS & SS), Staff Concerned, Notice Board, CTSA.

1/19

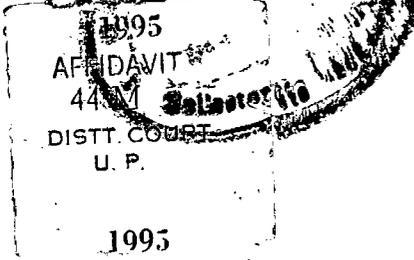
Before the Central Administrative Tribunal,

Addl. Bench, at Lucknow



In re:

Registration No. 668 of 1986



BETWEEN

Lav Kumar ... Applicant

Versus

Union of India and others ... Respondents

Fixed for 13.7.1995

AFFIDAVIT

I, Lav Kumar, aged about 36 years, son of Sri Ram Chandra Barui, resident of No.44, Sunderbagh, Lucknow, the applicant, do hereby solemnly affirm and state on oath as under:

1. That the Government of India- Ministry of Railways, Research, Designs and Standards Organization has issued a staff notice dated Lucknow 5.7.1995 under the signatures of Sri T.K. Chattopadhyay for Director General, which staff notice has been widely circulated. The applicant is making a true photostat copy of the said staff notice an Annexure to the application.

2. That the staff notice, Annexure read that the departmental selection for the



Lava Kumar

8/80

( 2 )

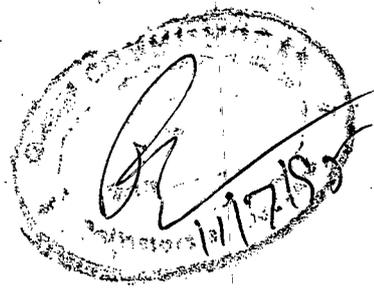
specified category of posts of B and S Design<sup>Dte</sup> of R.D.S.O. are likely to be held on any date after a period of 5 ( five ) weeks from the date of issue of this staff notice i.e. 5 (five) weeks from 5.7.1995 expiring on 8.8.1995.

3. That in the staff notice, the petitioner has been placed at Sl.No. 13 in the (B) Category given in it, which is for the scale of Rs.1600-2660 and the applicant is also expected to be in readiness for appearing in the test.

4. That the above noted case is pending before the Hon'ble Tribunal as a claim by the petitioner for his having been appointed as Draftsman, Category 'A' pursuant to the panel drawn in which he was placed at Sl.No.4.

5. That it is ~~made~~ note<sup>worthy</sup> that the seniority of the panelled incumbent is determined on the basis of their placement in the panel list, irrespective of the date of posting.

6. That it is knowledgeable that pursuant to the staff notice, Annexure, only 4 to 5 persons are likely to be selected out of the Category (B) in which his name finds place at Sl.No.13.



Lava Kumar

7. That in case the petitioner before this Hon'ble Tribunal succeeds for having been posted pursuant to the panel dated 21.3.1984, he having been directly recruited and posted as draftsman category, he would <sup>not</sup> have been required to appear in the test pursuant to the staff notice, Annexure and he would have been placed in the pay scale of Rs.1600-2660 automatically by virtue of direct recruitment and no question might have arisen at all for the applicant to appear at the departmental selection advertised through the staff notice, Annexure.

8. That under the circumstances narrated above, if the applicant is coerced or is otherwise made to appear at the departmental selection advertised vide Annexure, he is likely to be prejudiced still further in his employment of the R.D.S.O.



Lucknow:

Dated 11.7.1995

Lava Kumar  
Deponent

Verification

I, the abovenamed deponent do hereby verify that the contents of paras 1 to 5 ~~and 7~~ of this affidavit are true to my own knowledge and the

Lava Kumar

C.M. 44  
 H. A. M. Lava Kumar  
 S. D. Singh  
 I have verified the contents of this affidavit which has been read out and explained by me to the applicant on 11-7-95  
 Lucknow

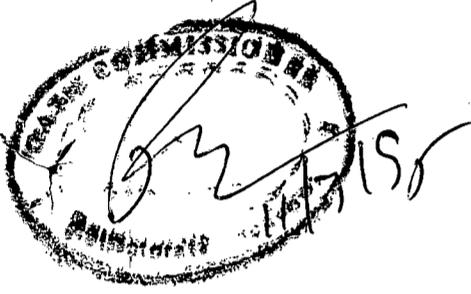
A  
182

( 4 )

contents of paras 6<sup>2</sup> and 8 are believed by me to be true.

Signed and verified this the 11th day of July, 1995 in the Civil Court's compound at Lucknow.

Lara Kumari  
Deponent



I identify the abovenamed deponent who has signed before me.

*[Handwritten Signature]*  
~~Advocate~~  
Advocate

C.A. 44  
I have satisfied myself by examining the deponent that he understands the contents of this affidavit and has read out and explained by me  
11/7/95  
Civil Court, Lucknow

Central Administrative Tribunal  
Lucknow Bench  
Date of Filing  
Date of Receipt by Post

3696

Place before the  
Hon'ble  
for order

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
AT LUCKNOW

MR. 1191/96

In re:  
O.A. No. 668 of 1986

By Registrar

Lava Kumar .. ... Petitioner

Versus

Union of India and others. ... Opp. parties.

Fixed for 30.8.1996

APPLICATION FOR EARLY DATE.

It is most respectfully submitted on behalf of the applicant Lava Kumar as follows:-

It is an old and part heard case, which was last ~~fixed~~ fixed for 29.5.1996 for hearing, but it was declared a public holiday of Moharrum. Now the next date has been fixed for 30.8.1996, which is a far off date.

WHEREFORE it is most humbly prayed that next date as fixed i.e. 30.8.1996 may be cancelled and an early date, as may be found convenient, may be fixed for hearing.

LUCKNOW:

DATE: JUNE 3, 1996

Lava Kumar  
( LAVA KUMAR )  
Petitioner.

Central Administrative Tribunal  
Lucknow Bench  
Date of Filing  
Date of Receipt by Post

A/184

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

AT LUCKNOW.

*JK*

Dy. Registrar In re:

O.A. NO. 668 of 1986

MB 368/96

Lava Kumar .. ... Petitioner

Versus

Place before the Union of India and others. .... Opp. parties.

for order dated ..... Fixed for. 13.3.1996

*JK*  
Dy. Registrar

APPLICATION FOR EARLY DATE

It is most respectfully submitted on behalf of the applicant Lava Kumar as follows:

It is an old and part heard case, which was fixed for 01.02.1996 for hearing, when the counsel for the applicant got indisposed in court and the case was adjourned to 08.02.1996 (will find noting to that effect in the cause list of that also) but when the applicant and his counsel reach the Tribunal on 08.02.96, it was disclosed that in the order sheet of 01.02.96 the same was posted for 13.03.96, which is a far off date.

WHEREFORE it is most humbly prayed that next date as fixed i.e. 13.03.1996 may be cancelled and an early date as may be found convenient, may be fixed for hearing.

LUCKNOW:

DATED: Feb-12, 1996

Lava Kumar  
(LAVA KUMAR)  
Petitioner.

*JK*

Received (Nephew of)  
for (Adv. S. Verma)

Dr. D. D. D. D.

are devising own definitions without there being any earthly base for it.

Out of the four (i) (ii) (iii) (iv) issues/facts mentioned in para 2 none were posed by the Tribunal in the form they have been set forth. The latter part of (iii) and (iv) never cropped up at the hearing and are their own malafides and mischevious innovations of other party. They have, there by, tried to streamline their baseless stand.

3. That contents of paras 5, 6 and 7 of supplementary Counter reply on behalf of Respondents are simply irrelevant. They cannot at their whim describe and designate any post to be "operational" or "non-operational" without there being any sanction for the same in law and the Rules or specific authority in that regard, particularly so in the wake of the fact that in none of the documents down from the appointment of the petitioner as Draftsman category "B" on the temporary post in Metro Transport Project to the last letter of the opposite Parties refusing appointment of the petitioner (Annexure VI) to claim petition, there appears the feigning reference to such categorisation as "operational" and non-operational", adopted and mooted for the first time to deprive the petitioner of his legitimate right, by such shifting and contradictory replies. The opposite parties for the first time have devised to allege that posts of Draftsman "B", Draftsman category "A" of Research Design and Standards Organisation in the Metro Transport Project were Considered to be "operational posts". What is this "Considered to be"? purely subjectively and for the first time in this supplementary counter reply, were it relates to the rights of the petitioner to life and livelihood by way

Stamp: A. G. Sinha, Advocate. 1/2/97

Contd.....3

Lava Kumar

A  
182

Dr. Registrar

of service . Let them show by any document addressed to the petitioner by which they made the petitioner aware of his having been ever holding a post, being "operational" one or "non operational" one. The counter replies are actuated with malafides and dishonest intentions of depriving the petitioner of his vested right of service and fundamental rights of livelihood.

4. That the contents of para 8 of supplementary Counter reply, are wrong and are denied except however the fact that the panel in question was partly operated but unlawfully refused from being operated to provide job to the petitioner pursuant to it.

5. That contents of para 9 of the supplementary counter reply are not admitted. The opposite Parties can not be permitted to justify their illegal acts on the basis of subsequent Annexure No. SCA-1 .

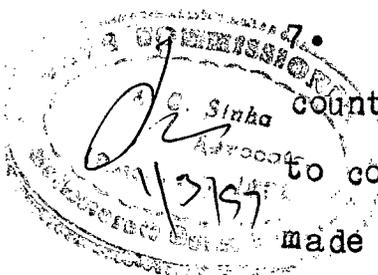
6. That contents of para 10 of the supplementary counter reply are not admitted. they can not be permitted to justify their illegal acts by devising a jugglery of nomenclatures and designations subsequently.

7. That with reference to para 11 of the supplementary counter reply, are simply irrelevant and they are intended to confuse the matters involved and in issue. The allegations made are not admitted.

8. That with reference to para 12 of the supplementary counter reply it is submitted that contents of the same are irrelevant. The Annexure No. SCA - 4 does not clinch the issue and embrace the matter at hand . Per se, it relates to posts

Contd....4

Lava Kumar



Handwritten notes at the top right of the page.

A/184

Dr. Lakshmi...

where recruitment action had not been taken but not to the posts where recruitment action had already been over before a declaration of a ban. Recruitment action relates to pre-panelling stage. After declaration of panel, it was the matter of posting and not recruitment as tried to be put forth by Supplementary Counter reply.

9. That with regard to contents of para 13 of the supplementary counter reply, the petitioner would submit that he was not allowed the benefit of panel declared on 21.3.84 and as such he had to appear in the departmental examination held for the selection ~~held~~ for the post of Draftsman Category "A" and on his attaining success he was posted to work as Draftsman category "A" on an ad hoc basis with effect from 1.1.91.

The petitioner was selected for appointment as a Draftsman category "B" in the scale of Rs 330-560, which was not a work-charged post. While working in that capacity the post of Draftsman category "B" was surrendered on 30.6.85. There was no other post of Draftsman category

"B" at Calcutta against which he could be posted or accommodated. He was posted on 1.7.85 to work as Draftsman category "B" against the post of Draftsman category "A" held by Sri Anand Khare, who had been transferred to Lucknow. The

most conspicuous and remarkable thing in the case of the petitioner is that there was no post of Draftsman category "B" against which he could be posted to work after surrendering

yet he was posted to work as Draftsman category "B" against the post of Draftsman category "A" held by Sri Anand Khare

Could he be expected to perform the work and duties of Draftsman category "B" when there was no such

Handwritten signature and date: 11/3/85

Lava Kumar

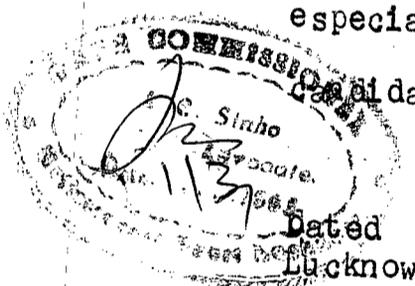
A/129

Obviously not. He performed the duties and work of post held by Sri Anand Khare right from the date of his appointment on 1-7-85 till the date of his transfer from Calcutta to Lucknow on 15.7.87 i.e, for a period of 2 years and 15 days which period included the panel period of 8 months 18 days. The panel period of 2 years was from 21.3.84 to 18.3.86 . He was paid the pay of Draftsman category "B" . He represented the matter vide ~~Annex~~ Annexure II of claim petition but his request was not acceded to. On the principle of equal pay for equal work he is entitled to this relief and prays that he should be deemed to have been appointed as Draftsman category "A" with effect from 1.7.85 , the date of his posting

Com

hook

Against the vacancy of Sri Anand Khare, . What legal justification could be there for Respondents to have not appointed the petitioner on the post of Draftsman category "A" pursuant to the panel in currency then on that vacant post of ~~category "A"~~ category "A" on transfer of Sri Anand Khare and especially so when it was decided not to appoint empanelled candidate Sri Sunil Kumar Srivastava at SLno 3 of the panel?



Dated Lucknow, March 1, 1997

Lava Kumar  
Petitioner .  
Deponent

Verification

I above named petitioner , do here by verify that the contents of paras 1 <sup>and</sup> 9 of the rejoinder application are true to my knowledge. <sup>and those of paras 2 to 8 are believed by me to be true</sup> No part of it is false and nothing material has been concealed. So help me God.

Dated , Lucknow, March 1 , 1997

Lava Kumar  
Deponent

I identify the deponent Lava Kumar, who has signed in my presence  
01/3/97 Adv

A/190

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH, LUCKNOW

In re: Registration No. 668 of 1986

Between :



Lava Kumar .. .. . Petitioner  
Versus  
Union of India and others .. .. . Respondents.

A f f i d a v i t

I, Lava Kumar, aged about 36 years, son of Shri Ram Chandra Barui, resident of No. 44, Sunder Bagh, Lucknow, the deponent, do hereby solemnly affirm and state on oath as under.

1. That the deponent is the petitioner in the above noted case, as such he is well conversant with the facts and circumstances of the case.
2. That the contents of paras 1 and 3 of Rejoinder application dated 1.3.1997 are true to my own knowledge and those of paras 2 to 8 are believed to be true.



Lucknow;  
Dated: 1.3.97

Lava Kumar  
Deponent.

19/3/97

100

2.

Verification

I, the abovenamed deponent do hereby verify that the contents of paras 1 and 2 \_\_\_\_\_ of this affidavit are true to my own knowledge.

signed and verified this the 1st day of March, 1997 in the Civil Courts Compound, at Lucknow.

Lucknow:Dated:  
March 1, 1997

Laxakumar  
Deponent

I identify the abovenamed deponent who has signed before me.

*[Signature]*  
Advocate.

CMA  
*[Signature]*  
*[Signature]*

93

*[Faded text]*

