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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
(Circuit Bench at Lucknow)  
Registration O.A. No.332 of 1986

Radhika Raman .... Applicant

Versus

Union of India & Others .... Respondents.

Hon. Ajay Johri, A.M.  
Hon. G.S. Sharma, J.M.

(By Hon. Ajay Johri, A.M.)

The applicant in this application filed under Section 19 of the Administrative Tribunals Act XIII of 1985 retired from the U.P. Civil Secretariat Lucknow where he was working as Under Secretary, in 1978. Prior to his appointment in the U.P. Civil Secretariat the applicant had worked on the post of Upper Division Clerk in the General Staff Branch of the Army Headquarters. He had joined the post on 14.5.1942 and worked there till 16.3.48. Thereafter he joined the post under U.P. Govt. on the forenoon of March 17, 1948. The applicant's case is that though he had put in 5 years 11 months and 3 days service under the Govt. of India yet he was denied any gratuity or any benefit of that service after his absorption in the U.P. Govt. He has claimed that <sup>✓ his</sup> each service with the Army Headquarters should

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be counted for his pensionary benefits. His representations made to the Govt. for the benefits after exchange of volume of correspondence between the U.P. Govt., Govt. of India and the C.D.A.(Pensions) office were rejected by the impugned order dated 4.2.85 issued by the Chief Administrative Officer, Ministry of Defence, Govt. of India, respondent No.3. The request was rejected on the ground that the counting of the service of the applicant could not be acceded to as it was not covered by the existing orders. According to the applicant the Govt. of India's orders issued under Departmental of Personnel letter of 31.3.82 (Annexure-12 of the application) were not applied to his case because they were <sup>31/</sup> and applicable with prospective effect to those who had retired after the issue of the letter denying its benefits to those who had retired earlier. The applicant's claim is that all employees of the Central Government who had rendered temporary service should fall within one and the same classification and an artificial segregation cannot be made by making the orders prospective and applicable to only those who <sup>31/</sup> on or retired after 31.3.82. He has prayed for the relief that the order dated 4.2.85 may be quashed and the Govt. of India's decision circulated by their letter of 31.3.82 arbitrarily fixing the date for the grant of

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benefit may also be modified so that the benefit becomes applicable even to those employees who retired earlier and that service from the period 14.5.42 to 16.3.48 be counted for pensionary benefits and he be paid the arrears on this account in his pension and gratuity alongwith interests at market rates.

2. The respondents in their reply to the application have not denied the facts that the applicant had served under the Army Headquarters as a temporary employee between the period 14.5.42 to 16.3.48 and that his name was struck off from the Army Headquarters' strength w.e.f. 16.3.48 when he was released for joining the U.P. Govt. where he joined on 17.3.48 against the permanent post. According to the respondents the relief sought by the applicant are not admissible to him as per rules. They have said that the orders for counting of temporary service for pension purposes were issued by the Department of Personnel on 31.3.82 and are applicable only to those officers who retired on that date or thereafter and since the applicant had retired on 13.8.78 his case was not covered under the Rules. At the relevant time, when he got transferred the rules and regulations that were in vogue, did not permit any such benefit. They had examined the matter in consultation with

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C.D.A. (Pensions) Allahabad and Ministry of Defence and since the applicant was holding a temporary post the service rendered by him was not considered countable towards pensionary benefits.

3. We have heard the applicant in person and Shri K.C. Sinha, the learned counsel for the respondents. The applicant's contentions raised before us were that he had applied to the U.P. Govt. through proper channel and he resigned this post on his absorption by the U.P. Govt. and the U.P. Govt. had also made a reference in 1964 asking the Army HQrs. if they would agree to the benefit of past services being given to the applicant. The application was opposed by the learned counsel for the respondents on the ground that the applicant was a temporary employee. He had no lien on the post and his name was struck off when he got selected by the U.P. Govt. and for temporary employees the benefit of counting of past service <sup>was</sup> ~~was~~ not available. We have also gone through the replication submitted by the applicant.

4. A copy of the Govt. of India, Department of Personnel O.M. No.3(20)/10/Pension(A)/79 dated 31.3.82 has been placed by the applicant at Annexure-12 of the application. This O.M. gives a decision on the

question of sharing on a reciprocal basis, the proportionate pensionary liability in respect of those temporary employees who had rendered temporary service under the Central Govt./State Govt. prior to securing posts under the various State Govt./Central Govt. on their own volition in response to advertisements or circulars and who <sup>32</sup> ~~were~~ eventually absorbed in their new posts. The decision conveyed said that to the extent such service would qualify for grant of pension under the rules of the respective Govt. proportionate pensionary liability in respect of the temporary service would be shared by the Govts concerned, on a service-share basis so that the Govt. servants are allowed the counting of their qualifying service for the grant of the pensionary benefits under the Govt. from where they retired. The gratuity benefit received by the Govt. employee for the temporary service under the Central/State Govts was however to be refunded by him to the Govt. concerned. This O.M. divided the Govt. servants in three categories. The first category was of those who had been retrenched and secured on their own employment under the other Govt. either with or without interruption. The second category was of those who while holding temporary posts applied for posts under the other Govt. through proper channels.

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with proper permission and the third category was of those who while holding temporary posts applied for posts under the other Govt. directly without permission and resigned their previous posts to join the new appointments. The benefits of this letter were allowed to the first and second categories and in cases falling under category 2 if an employee was required for administrative reasons, for satisfying a technical requirements, to tender a ~~resignation~~ <sup>or from</sup> a temporary post held by him before joining a new appointment, a certificate to this effect that such resignation has been tendered for administrative reasons was required to be issued by the authority accepting the resignation. This O.M. further said that the orders came into force with <sup>from</sup> from the date of issue and cases of all such Govt. servants retiring on this date and thereafter will be regulated accordingly.

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5. It is this fixation of a cut off date which is under challenge in this application because it is obvious that there has been no break between the date the applicant resigned the service under Central Govt. <sup>or appointment under</sup> and took over the U.P. Govt. and it has not been said that this resignation was a cause of denial of the benefits to the applicant. What has been ~~the~~

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<sup>34</sup> ~~also~~ emphasized in the reply by the respondents is that the orders contained in the O.M. of 31.3.82 were not applicable to the applicant because he had retired in 1978 and the orders only have prospective effect.

6. In 1987 S.C.C.(L&S) 350 R.L. Marwaha Versus Union of India & Others the Hon'ble Supreme Court in connection with Govt. servants holding pensionable posts absorbed by autonomous body where also pension scheme was in operation had held that denial of the benefit to those who had retired prior to the date from which the scheme became applicable was discriminatory. In this case the petitioner had served the Central Govt. on temporary basis and had joined the service of I.C.A.R. an autonomous body on the day he left the service of the Central Govt. Both the posts were pensionable. When he retired in September, 1980 he demanded that his pensionary benefits be computed by counting the period of service put in by him in the Central Government department as part of the qualifying service in view of the O.M. dated 20.8.84. This was denied and he was accorded pensionary benefits by reckoning his qualifying service only from the date he had joined the Department, on the ground that as he retired before the issue of the O.M., he was not

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entitled to the benefit in view of the prospective effect given to the O.M. by para 7 thereof. The Hon'ble Supreme Court while allowing this petition had observed that the Govt. order cannot be used against persons in the position of the petitioner to deny them the benefit of the past service. The observations made by the Hon'ble Supreme Court in para 8, 9 and 10 of the judgement were as follows :-

" 8. There is no dispute that the ICAR though it is a body registered under the Societies Registration Act, 1960, is a body which is sponsored, financed and controlled by the Central Government. There has been a continuous mobility of personnel between Central Government departments and autonomous bodies, like the ICAR both ways and the Government thought, and rightly so, that it would not be just to deprive an employee who is later on absorbed in the service of the autonomous body, like the ICAR the benefit of the service rendered by him earlier in the Central Government for purposes of computation of pension and similarly the benefit of service rendered by an employee who is later on absorbed in the Central Government service the benefit of the service rendered by him earlier in the autonomous body for purposes of computation of pension. If that was the object of issuing the notification then the benefit of such notification should be extended to all pensioners who had rendered service earlier in the Central Government or in the autonomous body as the

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case may be with effect from the date of the said government order. Now let us take the case of a person who had rendered service under the Central Government between January 1, 1953 and July 1, 1955 but who has retired from service of the ICAR in 1985. There is no dispute that such a person gets the benefit of the service put in by him under the Central Government for purposes of his pension. But another pensioner who has put in service under the Central Government during the same period will not get similar concession if he has retired prior to the date of the government order if paragraph 7 of that order is applied to him. The result will be that whereas in the first case there is pensionary liability of the Central Government in the second case it does not exist although the period of service under the Central Government is the same. This discrimination arises on account of the government order. There is no justification for denying the benefit of the government order to those who had retired prior to the date on which the government order was issued. The respondents have not furnished any acceptable reason in support of their case, except saying that the petitioner was not entitled to the benefit of the government order because the order says that it would not be applicable to those who had retired prior to the date on which it was issued. In the absence of any explanation which is worthy of consideration it has to be held that the classification of the pensioners who were working in the government/autonomous bodies into two classes merely

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on the basis of the date of retirement as unconstitutional as it bears no nexus to the object to be achieved by the order.

9. We do not also find much substance in the plea that this concession being a new one it can only be prospective in operation and cannot be extended to employees who have already retired. It is true that it is prospective in operation in the sense that the extra benefit can be claimed only after August 29, 1984 that is the date of issue of the government order. But it certainly looks backward and takes into consideration the past event that is the period of service under the Central Government for purposes of computing qualifying service because such additional service can only be the service rendered prior to the date of issue of the Government order. By doing so the government order will not become an order having retrospective effect. It still continues to be prospective in operation. Whoever has rendered service during any past period would be entitled to claim the additional financial benefit of that service if he is alive on August 29, 1984 under the government order but with effect from August 29, 1984.

10. In the result we hold that paragraph 7 of the government order cannot be used against persons in the position of the petitioner to deny them the benefit of the past service for purposes of computing the pension."

In the applicant's case also the final O.M. issued on 31.3.82 was after a lot of correspondence between

the Govt. of India and the State Govts. in respect of counting the service of temporary employees who had rendered service with either of them and thereafter who joined service with the other bodies. The purpose of the O.M. was to give the benefit of such temporary service. The ratio of the dicta laid down by the Hon'ble Supreme Court in Marwaha's case will be equally applicable to the applicant's case.

7. In D.S.Nakara and Others Versus Union of India 1983(2) SLR 2 46 where the eligibility for liberalised pension scheme on the basis of the date of retirement as mentioned in the memorandum came under challenge. The Hon'ble Supreme Court struck down the discriminatory portion and the benefits were granted to all pensioners governed by 1972 rules. The observations made by the Hon'ble Supreme Court in para 49 and 65 were as follows :-

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" 49. But we make it abundantly clear that arrears are not required to be made because to that extent the scheme is prospective. All pensioners whenever they retired would be covered by the liberalised pension scheme, because the scheme is a scheme for payment of pension to a pensioner governed by 1972 Rules. The date of retirement is irrelevant. But the revised scheme would be operative from the date mentioned in the scheme and would bring under its umbrella all existing pensioners and those who retired subsequent to that date. In case of pensioners who retired prior to the specified date, their pension would be computed afresh and would

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be payable in future commencing from the specified date. No arrears would be payable. And that would take care of the grievance in retrospectivity. In our opinion, it would make a marginal difference in the case of past pensioners because the emoluments are not revised. The last revision of emoluments was as per the recommendation of the Third Pay Commission (Raghubar Dayal Commission). If the emoluments remain the same, the computation of average emoluments under amended Rule may raise the average emoluments, the period for averaging being reduced from last 36 months to last 10 months. The slab will provide slightly under higher pension and if someone reaches the maximum the old lower ceiling will not deny him what is otherwise justly due on computation. The words "who were in service on 31st March, 1979 and retiring from service on or after that date" excluding the date for commencement of revision are words of limitation introducing the mischief and are vulnerable as denying equality and introducing an arbitrary fortuitous circumstance and can be severed without impairing the formula. Therefore, there is absolutely no difficulty in removing the arbitrary and discriminatory portion of the scheme and it can be easily severed.

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65. That is the end of the journey. With the expanding horizons of socio-economic justice, the Socialist Republic and Welfare State which we endeavour to set up and largely influenced by the fact that the old men who retired when emoluments were comparatively

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low and are exposed to vagaries of continuously rising prices, the falling value of the rupee consequent upon inflationary inputs, we are satisfied that by introducing an arbitrary eligibility criteria; being in service and retiring subsequent to the specified date for being eligible for the liberalised pension scheme and thereby dividing a homogeneous class, the classification being not based on any discernible/rationale principle and having been found wholly unrelated to the objects sought to be achieved by grant of liberalised pension and the eligibility criteria devised being thoroughly arbitrary, we are of the view that the eligibility for liberalised pension scheme of being in service on the specified date and retiring subsequent to that date in impugned memoranda, Exhibits P.1 and P.2 violates Article 14 and is unconstitutional and is struck down. Both the memoranda shall be enforced and implemented as read down as under: In other words, in Exhibit P.1, the words :

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" that in respect of the Government servants who were in service on the 31st March, 1979 and retiring from service on or after that date."

and in Exhibit P.2, the words:

" the new rates of pension are effective from 1st April, 1979 and will be applicable to all service officers who became/become non-effective on or after that date."

are unconstitutional and are struck down with this specification that the date mentioned therein will be relevant as being one from which the liberalised pension scheme becomes operative to all pensioners governed by 1972 Rules irrespective of the date of

(P.M.T.)

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retirement. Omitting the unconstitutional part, it is declared that all pensioners governed by the 1972 Rules and Army Pension Regulations shall be entitled to pension as computed under the liberalised pension scheme from the specified date, irrespective of the date of retirement. Arrears of pension prior to the specified date as per fresh computation is not admissible. Let a writ to that effect be issued. But in the circumstances of the case, there will be no order as to costs. Order accordingly."

8. Since the dispute in applicant's case is also in regard to the application of the O.M. of 31.3.82 and in view of the Supreme Court's observations in cases cited above, an arbitrary date cannot be fixed and a benefit made available for the purpose of counting temporary service cannot be denied to those who retired prior to 31.3.82, We direct the respondent to revise the pension payable to the applicant in accordance with the Govt. order of 31.3.82, giving him <sup>3/4 qualifying</sup> the benefit of the service rendered by him with the Central Govt. while computing his qualifying service for pension. The applicant would be entitled to recover the difference between the pension which he has drawn and which will be fixed now with effect from the date of issue of the O.M. i.e. 31.3.82. He will

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not be entitled to get any relief in respect of the period prior to 31.3.1982 or any interest on the arrears.

9. On the above considerations, the application is allowed accordingly. Parties will bear their own costs.

*S. Narasimha*

J.M.

*Supp. A.M.*

A.M.

Dated the 2<sup>nd</sup> Sept., 1988.

RKM

## उत्तर प्रदेश सरकार

सचिवालय प्रश्नासन ॥ अधिष्ठान ॥ अनुभाग-।

• संख्या: 6172/बीस-ई-1-89-95पी 15/74टी0पी0

ਲਖਨਾਨ : ਦਿਨਾਂਕ : 23 ਅਕਟੂਬਰ, 1989

## कार्यालय-ज्ञाप

॥ दुर्जा जोशी  
संधका सचिव ॥

श्री ओमकार नाथ मिश्र,  
सड्वोकेट,

29, निष्ठी रघुवर दयाल लेन,  
नरही, लखनऊ। (१०)

ਸੰਖਿਆ: ੬੧੭੨ ॥ ੧/ਬੀਸ-ਈ-੧-੮੯-੯੫੫੧ ॥ ੭੪ਟੀ੦ਤੀ੦, ਤ੍ਰਦਿਨਾਂਕ

प्रतिलिपि, सब रजिस्ट्रार, माननीय केन्द्रीय प्रशासनाधिकरण, सर्किंट बैच लखनऊ को सचनार्थी एवं आवश्यक कार्यवाही देतु प्रेषित ।

आत्मा है,

॥ दुर्गेशा जोऽप्ति ॥  
संयक्त सचिव ।

Reed may be  
given his own Advocate after  
he excepts  
giving his in. On how Reed may be  
getting his  
Promised  
28/4/08  
P.S. to John R.C.

members (A) of the Tribunal at F/A  
and the views of one member were  
conveyed to the applicant on 7.4.86. F/B  
on receipt of fresh application from  
the applicant, he has <sup>been</sup> asked to file  
the proper application as per requirement  
of the C.A.T. Act 1985. Hence  
the applicant has filed the application  
accordingly.

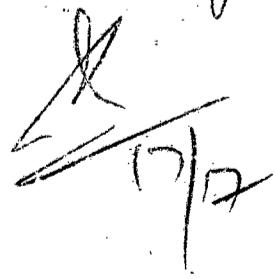
Ch. M.

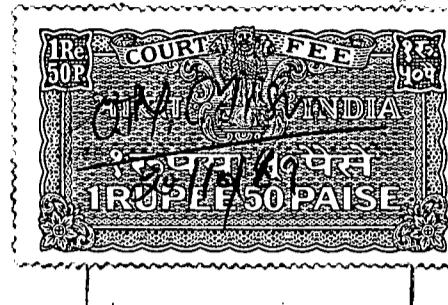
17/7/86

~~Dy. Rep. (AN)~~

The Application has been  
moved against the orders of 4.2.85-  
4-6.85. The applicant served a notice  
under Section 80 C.R. to the authority  
and his appeal was rejected on 8.6.85  
The case is covered under Section 20 & 21  
of C.A.T. Act 1985.

The matter is not pending  
before any court and is well within  
the jurisdiction of this Tribunal.





### वादी (अपीलान्ट)

श्री राधिका रमन

वादा/प्रार्थी

बनाम

## प्रतिवादी (रेस्पाडेन्ट)

## भारत संघ सर्व अन्य ----- प्रतिवादी गण

नं० मुकदमा ओ.ए.३३२/१९८६ नं० निर्णय खेत्री की ता० २-९-१९८८ १६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री<sup>३०३</sup> भीमकार भाथ मिश्र ; एडवोकेट, २९, डिप्टी रघुवर दयाल वकील लेन, नरही, लंखेंग, कौ उक्त धारा में प्रतिधारा भ०५ द्वारा प्रस्तुत भीरा धिका महोदय रमन की व्यक्तिगत पत्रावली लाने हेतु एडवोकेट

नाम अदालत मानुष नदी प्रयुक्ता समाधिकरण  
संकेत क्षयीकृती सुकदमा नं. ३००३३२/१९८६  
नाम फरोक्केन रायकिंग एम्प धनाम मानुष त्याग

को अपना वकील नियुक्त करके प्रतिज्ञा ( इकरार ) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय एवं अथवा अन्य वकील द्वारा जो कुछ पंरवी व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हारी विपक्षी ( फरीकसानी ) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त ( दस्तखती ) रसांद से लेवें या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पंरोकर को भेजता रहूंगा अगर मुकद्दमा अदम पंरवी में एक तरफ मेरे खिलाफ फँसता हो जूता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

साक्षी (गवाह) ~~प्रदीप देव~~ २३ अप्रैल १९८५  
दिनांक ~~प्रदीप देव~~ २३ अप्रैल १९८५

हस्ताक्षर... ०१ दुर्गा जोशी... शशांक प्रसाद, लखनऊ  
 संयुक्त सचिव अत्र लक्ष्मी  
 गाक्षी (गवाह) सार्विक सचिवालय प्रशासन विभाग  
 के अनुमोदन से ।  
 ... १० ... ... ... सन् १९४९ ई०

## स्वीकृत

**Order Sheet**

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ADDITIONAL BENCH ALLAHABAD**

Reg. No. .... 332 of 1986.

Radhika Rawat vs. U.O. 91

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
18-7-86.	<p>Hon. S. Zakeen Hasan, V.C. (S) Hon. Ajay Taxhar, A.M.</p> <p>Admit. Issue notice.</p> <p>Mr. K.C. Saini, Sr. Standing Counsel appearing for respondent (S) has been given 10 days from this date of 18-7-86 to file Counter affidavit written or orally. Defendant's affidavit if any may be filed within ten days thereafter.</p> <p>Put up on 29-8-86 for final hearing.</p> <p>Sd. V.C. Sd. A.M.</p> <p>ON</p> <p>Sri K. C. Saini, counsel for respondent, has taken copy of paper book alongwith notice of 28-8-86 for final hearing.</p> <p>He has given one month time for filing counter affidavit on 18-7-86.</p> <p>He has not filed any reply so far.</p> <p>Submtd.</p>	
26/8/86		

Graphite  
26/8

## Order Sheet

### IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH ALLAHABAD

No. 332 of 1986

Radhika Rama vs. U.O.I.

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1 29-8-86	2 Hon'ble S. Zahoor Hasan, V.C. Hon'ble Ajay Johri, Member(s)  Applicant appeared in person. Mr. K.C. Sinha puts in appearance and says for time to file counter affidavit. Counter affidavit may be filed within a month. Fifteen days thereafter are given to applicant to file rejoinder affidavit. Put it on 16-10-1986 for hearing.	3

# PART I

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

Radhika Raman - VI - V 05

FORM OF INDEX

O.A./I.A.T.R.A.T.C.C.P. No. 332 - 1986

## PART - I

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2.	Order Sheet	:- 14 Page
3.	Any other orders	:- X
4.	Judgement dt. 2.9.88	:- 15 page
5.	S.L.P.	:- X

28/12/88  
D.Y. Registrat

28/12/88  
Supervising Officer

28/12/88  
Dealing Clerk

Note :- If any original document is on record - Details.

Nil

- 1 - Petition A16 to A38
- 2 - CA - A59 to A71
- 3 - Power - A72
- 4 - Affidavits A73 to A76
- 5 - Applications for taking A77 to A79
- 6 - Affidavit A75 to A77
- 7 - (M/F No. F 20/47 - EV.57) A78 to A82
- 8 - No. 6172/Off. S. 1-89-95 A7/74 to A88
- 9 - Index sheet A89 to A92
- 10 - Power A93 A94 to A95
- 11 - Non copy notices A94 to A95

V.K. Mishra

28/12/88  
SOL Regd. 22/12/88  
22/12/88

Rechecked  
on 21-2-12  
over

File B/C destroyed on 9-5-12

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

LUCKNOW - Bench

INDEX-SHEET

CAUSE TITLE O.A. No 332 OF 1986

Name of the Parties Radhika Ramau

Versus

Union of India & Others

Part A, B & C

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**Order Sheet**

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH ALLAHABAD**

A2  
1

No. 332 of 1986

Radhika Raman vs Union of India and Others

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
28.2.86	<p>The application has been received through postal authorities.</p> <p>It is seen from the application that the applicant is a State Govt employee. He retired as Under Secretary in U.P. Civil Secretariate, Lucknow. The Applicant has requested for continuing the temporary service to be counted for pensionary benefits for the period from 14.5.42 to 16.3.48 when he served U.D &amp; Govt of India. It is for consideration whether a State Govt employee requesting for continuing his previous service for increase in pensionary benefits under State Govt can be dealt with by this Tribunal. It is felt that he should file application to State Tribunal Lucknow.</p> <p>Submitted for order.</p>	<p style="text-align: right;">J/28/2</p> <p style="text-align: right;">28/2</p> <p style="text-align: right;">Member</p> <p style="text-align: right;">Judicial memb</p>

28/2

State of Kerala  
High Court of Kerala

Hon. S. Zahoor Hasan, V.C.(J)

Hon. Ajay John, Member(A)

Admonit.

Issue notice.

Mr. K. C. Sinha, Sr.

Standing Counsel appearing

for the respondents takes  
notice on their behalf.

Mr. Sinha may file  
counter affidavit within  
a month. Rejoinder  
affidavit, if any, may  
be filed within ten days  
thereafter.

Put up on 29-8-1986  
for final hearing.

22 July 1986

18-7-1986 V.C. members

ff

High Court of Kerala, State of Kerala

EDV. 1986-2000, 1986-2000, 1986-2000

Sir V. K. Barman, Adv.  
for Petitioner.

3

### Order Sheet

#### IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH ALLAHABAD

Reg.

No. 384 of 1986.

V. K. Sengupta vs. U. C. I. & ors.

A2  
2

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1 2-8-86	Hon. D. S. Misra, A. M. Hon. G. S. Sharma, J. M.	2 3
	<p>The petitioner is not in order. Let the defects be removed within two days and put up on 11th Aug. 1986 for admission.</p> <p>Sd. D. S. Misra      Sd. G. S. Sharma A. M.                    J. M.</p> <p><i>Subj.</i> <i>D/S</i></p>	
11.8.86	<p>Hon. D. S. Misra - Member Hon. G. S. Sharma - "</p> <p>Despite notice issued earlier, none has put in appearance on behalf of the respondents. L. K. C. Sinha, learned counsel for the Standing Counsel for the Central Government is present, a copy of the paper book be issued to him He requests for some time for him file his reply within a month.</p>	

Set in Person

12

Sri K. C. Sunkla, Adv.

### Order Sheet

#### IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH ALLAHABAD

Reg.

No. 332 of 1986.

A2

3

Radhika Ramas vs. U.O. I.

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
18-7-86.	<p>Hon. S. Zaheer Hasan, V.C. (J) Hon. Ajay Jacharia, A.M.</p> <p>Admit. Issue notice.</p> <p>Mr. K. C. Sunkla, Standing Counsel appearing for respondents takes notice on their behalf. Sri Sunkla may file Counter affidavit within a month. Respondent affidavit if any, may be filed within ten days thereafter.</p> <p>Put up on 29-8-86 for final hearing.</p> <p><i>Sub/ 18/7</i></p> <p><i>OR</i></p> <p>26/8/86 Sri K. C. Sunkla, counsel for respondents, has taken copy of paper-book along with others during 28.7.86 for final hearing.</p> <p>He was given one month time for filing Counter affidavit on 10.7.86.</p> <p>He has not filed any reply so far.</p> <p>Submitted.</p> <p><i>Quashable 26/8</i></p>	

Sri K. C. Sunkla +  
his power  
Supplied  
Recd. Copy of  
Date 18

18

Order Sheet

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH ALLAHABAD

No. 332 of 1986.

(A2/11)

Radhika Rama vs. U.O.I.

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
29-8-86	<p>Hon'ble S. Zahoor Hasan, V.C. Hon'ble Ajay Jain, Member(s)</p> <p>Applicant appeared in person. Mr. R.C. Sinha puts in appearance and says for time to file counter affidavit. Counter affidavit may be filed within a month. Fifteen days <sup>17/1</sup> <del>will be given</del> thereafter are given to applicant to file rejoinder affidavit. Put up on 16-10-1986 for hearing.</p> <p style="text-align: right;">21</p> <p style="text-align: right;">V.C. Member(s)</p>	
22-10-86	<p>OK</p> <p>Time granted for filing reply has expired but no reply has so far been filed on behalf of respondent.</p> <p>Case is submitted for hearing as directed by court.</p> <p style="text-align: right;">C.R. 21/10</p>	

2

**ORDER SHEET**

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**

**ALLAHABAD**

(A2)  
(A3)

.....NO.....OF 198

.....VS.....

SL NO of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
	12-12-86	<p>Hon S. Zahoor Hasan, M.C. Hon A. J. Ayub, Johni, A.D.M.</p> <p>Sri R. Ramam for the applicant Sri K. C. Sinha for the respondent.</p> <p>2-1-87 is fixed for final hearing. No counter affidavit has been filed today. Put up on 2-1-87 for final hearing.</p> <p>In the meantime respondents can file counter affidavit if they so like.</p> <p style="text-align: right;">M. B.M.</p>	<p style="text-align: right;">OR</p> <p>Sri K. C. Saha, Counsel for respondent, has not filed any reply or form.</p> <p>Case is submitted for hearing as directed by court.</p> <p style="text-align: right;">A.I. 31/12</p>
	2-1-87	<p>Hon A. J. Ayub, Johni, M.C.(S) Hon S. Sharma, M.C.(S)</p> <p>Sri R. Ramam appearing in person requests for adjournment.</p> <p>Sri K. C. Saha for the respondent to pray for putting up for hearing on 23-2-87.</p> <p style="text-align: right;">B.M. D.M.</p>	<p style="text-align: right;">OR</p> <p>Case was adjourned to 23-2-87 for hearing on the request of applicant.</p> <p>Case is submitted for hearings as directed by court.</p> <p style="text-align: right;">A.I. 19/12</p>

आदेश पत्रक  
ORDER SHEET

अपील  
निर्देश आवेदन रजिस्टर में सं०

O.A. No. in Reference Application  
Appeal Register

332 ७१९८८

(A2)  
3  
(A2)  
6

अपील अनिकरण  
Appellate Tribunal

अपीलार्थी  
आवेदक

Appellant  
Applicant

अपीलार्थी  
आवेदक

वनाम

प्रत्यक्षी

Appellant  
Applicant

Vs.

Respondent

प्रत्यक्षी द्वारा  
Respondent

आदेश की क्रम संख्या  
और तारीख  
Serial number of  
order and date

संक्षिप्त आदेश, निर्देश दिते 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

18/८/८८

Hon. S. Zaher Hasam, V.C.  
Hon. Ajay John, M.R.O.)

Participate for hearing  
on 20-10-87 as requested.

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20/10/87

Hon. Ajay John, Am.  
Hon. A. S. Sharana, Jy.

On 26/3/87 the respondents were asked to file documents in rebuttal if any by 29/4/87. No documents have been filed till today. The learned counsel for the respondents, is not present. The case is adjourned to 9/11/87 for hearing. If no documents are filed by that date, the case will be decided on the basis of the documents already available.

sy

A.M.

Dr.

(कृपया P.T.O.)

## ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

.....Q.A.....No. 332.....of 1986.

Radhika Raman vs. Union of India &amp; Others

APR  
7

Sl. No. of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
		<p><u>OR</u></p> <p>An application for transfer of this case to Lucknow Circuit Bench has been filed before DR(J) and the same is submitted for orders. If approved, 27 April, 1988 may be fixed in this case before the Lucknow Circuit Bench. Notice issued to parties submitted.</p> <p>for path 7/4/88</p>	
20/4/88	<u>DR</u>	<p>Put up before Lucknow bench on 27/4/88.</p> <p>DR(J)</p>	

OA 332/86

13

Hon. Ajay Johri, AM  
Hon. G. S. Sharma, JM

The applicant in person is present. Smt. S. V. Ponde, an M.D.A. files an application on behalf of respondent no. 4. - Use the second

Seeking more time to produce the success.  
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Sri Radhika Ramam also requests that the documents, which he had requested for production, and a copy of the application was also given to Sri K. C. Simha, may be directed to be produced before us. Sri K. C. Simha may warrant to keep these documents ready for inspection if it is necessary.

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say no in case it is necessary  
is listed to that being

on 26.8.88.

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27.5.88

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26.0.00 fixed for hearing

26.8.88

Hon. Ajay Johri, Am  
Hon. G. S. Sharma, Jm

The applicant in person and Sri K.C. Sinha for the respondents are present. Sri S.K. Pandey, an official of the State Government has brought the record summoned by the applicant in a sealed cover and has moved an application claiming privilege. The Secretary concerned has filed an affidavit claiming privilege in his capacity as Head of the Department and it has been stated that these are unpublished <sup>official</sup> records relating to the affairs of the state and their disclosure will prejudice the public interest. The sealed cover is retained for the perusal of the Bench, it necessary, after hearing the arguments in the case. We are not deciding the question of privilege at this stage as the Courts/Tribunals can always see even privileged documents.

(RJ)  
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16

In the Central Administrative Tribunal, Additional  
Bench, Allahabad.

Radhika Raman .. Applicant

Versus

Union of India & others .. Respondents.

INDEX

Page Nos.

1. Application .. 1 to 16

2. Index of documents relied on 17 to 18

3. Annexures 1 to 12. 19 to 43

4. Power .. 44

Postal Brokers  
4. Bank draft for Rs 50.00 44-45.

No. DD 859204 dated

17.7.86 issued by *R. Ram*

S. P. Head P. O. Allahabad applicant

5. Five file size envelopes  
with Rs. Postage stamps  
mark Rs 6.05 for each.

(A)  
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In the Central Administrative Tribunal, Additional  
Bench, Allahabad.

Radhika Raman .. Applicant

Versus

Union of India & others .. Respondents.

INDEX

Page Nos.

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3. Annexures 1 to 12	19 to 43
4. Power Postal Brokers	44
4. Bank draft for Rs 50.00	44-45
No. DD 859204 dated 17.7.86 issued by S. P. Post Office, Allahabad	
Name _____ S. P. Post Office, Allahabad Applicant	
5. Five five size envelopes with Pre Postage stamps mark Rs 6.05 for each	

5, The Accountant General, U.P., III

C.P.A-3

Allahabad.

Respondents.

DETAILS OF APPLICATION

1. Particulars of the applicant:

i) Name of applicant Radhika Raman

ii) Name of father Late Sri Basudeo Narain.

iii) Designation and Office in which employed. Last employed in U.P. Civil Secretariat, Lucknow, as Under Secretary to Govt. in Appointment Department upto 30.6.1978 on which date the applicant retired on reaching the age of 58 years.

iv) Office address The applicant having retired, is no longer in any office.

Last office where applicant remained employed are given against preceding column (iii) above.

v) Address for service of all notices Radhika Raman, C-4 Sector-A, Mahanagar, Lucknow.

*Raman*

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2.(i) Name and designations of the respondents.

1. Secretary to Government of India, Ministry of Defence( Finance/Pension) Sena Bhawan, New Delhi.

2. Secretary to Government of India, Department of Personnel and Administration Reforms, Central Secretariat, New Delhi.

3. The Chief Administrative Officer, Ministry of Defence(M T/CAO/A-7), Government of India New Delhi-110036.

4. Secretary to the Government of Uttar Pradesh, Secretariat Administration Department, (Section E-1) Civil Secretariat, Lucknow.

5. Accountant General, U.P., Allahabad.

(ii) Office address of respondents.

(iii) Addresses for services of notice.

As shown in the preceding column(i) above.

3. Particulars of the order against which application is made.

(i) (a) Order No. 42152/MT/CAO/A-7 (GS) dated February 4, 1985 and

(b) Order No. 42152/MT/CAO/A-7 Dated June 4, 85

(c) Department of Personnel and Administrative Reforms OM No.3(20)/10/Pension(A)/79, dated 31.3. 1982 so far as it relates to restrict its scope from the date of issue and denies benefits laid down therein to those Central Govt. employees who retire before 31.3.1982.

(ii) (a) dated 4.2.1985

(b) dated 4.6.1985

(c) dated 31.3.1982.

*Revised*

iii)(a) & (b) passed by the Senior Administrative Officer for Chief Administrative Officer, Government of India, Ministry of Defence, New Delhi .

(c) passed by the Department of personnel and Administrative Reforms, Government of India, New Delhi .

iv)(a) & (b) relates to the rejection of the request for counting the temporary service of the applicant from 14.5.42 to 16.3.48 under the Government of India for purposes of pensionary benefits.

(c) Excluding the benefits of temporary service under the Government of India for pensionary benefits to those Central Government employees who retired from service before 31.3.1982 though such benefit was given to one Sri G.S. Mohar who was similarly situated as was the applicant. This order also artificially divides one homogenous class of Central Government employees who had rendered temporary service under the Govt. of India into two artificial compartments by extending the benefits laid down therein only to those who retire on or after 31.3.1982, which is arbitrary and against the equality rights guaranteed Under Article 14 & 16 of the Constitution of India.

4. Jurisdiction of the Tribunal.

*Not done*

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5. Limitation. The applicant further declares that the application is within limitation prescribed in Section 21 of the Administrative Tribunal Act 1985.

6. Fact of the case :

The facts of the case are given below :-

6.1 The applicant after obtaining his B.A. degree appeared at the written test at the G.H.Q. Trade Testing School, New Delhi in April 1942 and was selected and given three weeks training in office procedure. On the result of written test, he was recommended for the post of Upper Division Clerk in G. H.Q. The applicant joined the post on 14.5. 1942 in SD-8 in General Staff Branch at G. H.Q., New Delhi. He worked on this post most satisfactorily. He appeared at the qualifying examination held by Union Public Service Commission for absorption against permanent posts of Routine Grade Clerk in the attached offices of the Govt. of India. He also applied through proper channel for admission to the competitive examination advertised by the U.P. Public Service Commission for appointment to the posts of Upper Division Assistant in the Civil Secretariat, Lucknow as a war service candidate as some posts were reserved for war service candidates. The applicant's said application was forwarded by the authorities concerned. The applicant appeared at the said competitive examination

*D. Khan*

in 1947 and was declared suitable for appointment on the said post. On receipt of offer of appointment, the applicant requested the G.H.Q. authorities to relieve him from his post to enable him to join the permanent post of Upper Division Assistant under the U.P. Government. The applicant was relieved from G.H.Q. on the afternoon of 16th March 1948 and rejoined the said post under U.P. Government on the forenoon of March 17, 1948. Some months later the applicant received the result-sheet pertaining to qualifying examination from the Union Service Commission. According to that result the applicant was allotted post 1945 vacancy for appointment on the post of routine grade clerk under the Govt. of India. The applicant chose not to go back to Delhi as he was holding a higher post under the Govt. of U.P.

6.2 Though the applicant had put in 5 years 11 months and 3 days service under the Govt. of India but he was neither given any gratuity nor any benefits of that service under the U.P. Govt. Later on it transpired that G.H.Q. authorities struck off the name of the applicant from their strength from 17.3.1948 (Vide ~~isst~~ their letter dated 27.6. 1978-Annexure-1) though they should have retained his lien till 1.4.1950 on which date the applicant was confirmed on the post of Upper Division Assistant under the U.P. Govt. vice their G.M. No. 4490E/XX-50, dated July 5, 50

*DR*

(Vide Annexure-2) and the period between 17.3.48 to 31.3.50 should have been treated by respondent No.3 as on deputation with U.P. Govt. so that the benefit of the said service could count for pensionary benefits. This arbitrary action of respondent No.3 without giving the applicant a show cause notice was illegal and is not sustainable in the eye of law.

6.3 One Sri G. S. Mobar who was also holding the post of clerk under the Director General of Supplies under the Govt. of India during the IInd World war and his services were also declared as war service. He too appeared at the competitive examination held by the UP Public Service Commission for recruitment to the post of Upper Division Assistant in the U.P. Civil Secretariat, like the applicant, was also selected for appointment on the said post. He also joined the said post in the U.P. Civil Secretariat, Lucknow in March 48. In the case of Sri Mobar, the Govt. of India, Ministry of Supply in their letter No. 36/1/64ES-II dated 17.2.1964 (Annexure 3) agreed to count his temporary services from May 1, 41 to 15-3-48 towards pension and they also agreed that proportionate pensionary charges are to be allocated between the Central Govt. & the U.P. Govt. in accordance with Ministry of Finance (Department of Expenditure) letter No. F-20/4-EU/57, dated 11.2.1963, addressed to all

*W.M.*

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State Governments. The case of the applicant and that of Sri Mobar were quite identical in all respects.

6.4 According to the then existing rules of U.P. Govt. the applicant could earn his full pensionary benefits on completion of 30 years service upto the date of attaining the age of 58 years under the Govt. of U.P. The applicant, therefore, did not press for moving the Govt. of India to count his temporary services under them. In the year 1977 the pension rules were changed. Under the revised rules, U. P. Govt. servants could earn full pensionary benefits only after putting in 33 years of qualifying service. Then the applicant made a representation( dated 23.3.1977-Annexure-4)to U.P. Govt. to take steps to count his temporary service under the Govt. of India for pensionary benefits. The U.P.Govt. dropped the matter on the plea that it is not known what the rules will be on the date of applicant's retirement and they decided to take up the matter at the appropriate time. The applicant again made a representation dated 8.2.78(Annexure-5), on the eve of the date of his retirement. The U.P.Govt.then wrote to the Govt. of India in their letter No.3597/XX-E-1-78 dated 8.6.78 to count the temporary service under the central Govt. so that the applicant may earn full pension as his qualifying service under U.P.Govt. falls short by three years. The matter was referred by respondent No.3 to the Controller

By  
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of Defence Accounts(Pensions) Allahabad. After a long correspondence the C.D.A. (Pensions), Allahabad informed respondent No.3 that the services of the applicant cannot be counted unless the sanction of the Govt. of India is obtained. Respondent No. 3 then sent his letter No.42152/MT/CAO/A-7, dated 8.3.1982(Annexure-6) to respondent No. 4 with a copy to the applicant intimating the position as communicated by CDA(P) and requested that the service book of the applicant for the said period and a copy of the order by which the U.P. Govt. had appointed the applicant, be sent to him. The service book for the period 14.5. 1942 to 16.3.1948 being not traceable with U.P. Govt. was not sent but the rest of the comments including the photostat copies of the character roll for the said period was sent to respondent No.3. Due to not counting even three years applicant's temporary service out of five years 11 months and 3 days under Govt. of India the applicant was put to recurring loss of Rs.47/- per month from 1. 7.1978 to 31.3.1979 and loss of Rs.50/- p.m. from 1-4-1979 onward and a loss of gratuity amounting to Rs.1875/-. After exchange of a volume of correspondence between the U.P. Govt. and the Govt. of India, the U.P. Govt. in their letter No.7169/XX-E-1-95P-(5)/74 dated September 26, 1984(Annexure-7) reminded respondent No. 3 who in his letter No.42152/MT/CAO/A-7-GS, dated 4.2.85(Annexure-8) informed, the applicant and respondent No. 4 that the

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request for counting the service of the applicant cannot be acceded to as it is not covered by the existing orders.

6.S. On receipt of the said letter dated 4.2.1985 from respondent No. 3, the applicant got sent notice (annexure-9) Under section 80 C.P.C. through his lawyer to the respondents giving the ~~extension of~~ full history of the case and requesting that the rejection of the applicant's request amounts of discrimination within the meaning of Article 14 of the Constitution of India in the sense that in exactly the same circumstances & situation the temporary service of Sri G.S.Nobey under the Govt.of India have been counted by the Central Govt.who agreed to share pensionary charges with the UP Govt. & he was given benefits of his said temporary service for pension and gratuity.On receipt of the said notice,respondent No.3 in his letter No.42152/MT/CAO/A-7 Dt.3.5.85 (Annexure-10)informed the applicant&s lawyer that the case is being re-examined in consultation with the Ministry of Defence(Finance/Pension)and a further communication will follow.Ultimately respondent No.3 in his letter No.42152/MT/CAO/A-7, dated June 4,1985(Annexure-11)informed the applicant's lawyer that the applicant's case is not covered under the Department of Personnel and A.R.O.M.No.3(20)/10/PensionA/79, dated 31-3-1982(Annexure-12)as the said instructions are operative from the date of issue i.e. from

*Not done*

AM  
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31-3-1982 only and the employees who retired prior to the issue of that letter are not entitled to those benefits.

6.6 All the employees of the Central Govt. who had rendered temporary service under that Govt. and who retired on 31.3.1982 and before that date fall within one and the same homogeneous class and an artificial classification to segregate them from a particular date without any rationale with attract the equality clause of the Constitution of India. The division of employees of the central Govt. who had rendered temporary service under them, who form one homogeneous class into two artificial class by allowing the benefit of their temporary service only to such of them who retire from service on 31.3.1982 and thereafter & to deny such benefits to the same class of employees who retired prior to that date is wholly unconstitutional as such artificial classification is violative of Articles 14 & 16 of the Constitution of India. That part of the said O.M. which fixes the date as 31.3.1982 and thereafter for giving benefits laid down therein being unconstitutional is liable to be quashed and all such employees whose cases for grant of the benefits in question were under consideration on 31.3.1982 or from earlier date deserves to be declared entitled to those benefits.

7. Reliefs sought.

7.1 In view of the fact mentioned in para 6 above, the applicant prays for the following

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reliefs:

(a) This Hon'ble Tribunal be pleased to quash the orders contained in respondent 3 letters No. 42152/MT/CAO/A-7(GS) dated February 4, 1985 (Annexure-8) and No. 42152/MT/CAO/A-7, dated 4.6.1985 (Annexure- 11) as well as the arbitrary date fixing for grant of benefits laid down in O.M. No. 3(20)10-Pension-A-/79, dated 31.3.1982 (Annexure-12) only to those employees who retired on 31.3.1982 or thereafter and to direct the respondents to throw open the benefits contained in the said O.M. to the applicant as well as to others who were Central Govt. employees and had rendered temporary service under that Govt. but retired before 31.3.1982 and whose cases were under consideration on 31.3. 1982 and from before that date and declaring the applicant entitled to all the benefits mentioned in that O.M.

(b) to direct the respondents concerned to count the service of the applicant from 14.5.1942 to 16.3.1948 for pensionary benefits as was done in the case of Sri G.S.Mobar (full details of whose case have been obtained by respondent No.3 from the Department of Supply of the Central Govt. even if it necessitates the relaxation of the provisions of the said O.M. of Govt. of India as denial of this benefit amounts to discrimination within the meaning of Article 14& 16 of the Constitution of India and thus the decision of the respondents concerned are unconstitutional and deserve to be quashed.

*D.P.*

(c) to direct the respondent No. 2 to direct the concerned Accounts authorities to authorise payment of arrears of pension as well as gratuity etc. payable to the applicant after counting his temporary service under the Govt. of India alongwith interest at market rates from the date from which the arrears accrued due till the date of payment.

GROUND OF WHICH THE SAID RELIEFS ARE SOUGHT.

(i) the O.M. dated 31.3.1982 (Annexure-12) has artificially divided one and the same homogeneous of Central Govt. employees into two separate artificial compartments i.e. those having temporary service under the Central Govt. to their credit as retired from service before 31.3.1982 and those Central Govt. service having temporary service to their credit under Govt. of India as retired from service on 31.3.1982 and thereafter. This classification being without any rationale is violative of the right of equality enshrined in Article 14 and 16 of the Constitution of India and thus fixing of the said date is unconstitutional and is not sustainable in the eye of law. This principle has been highlighted by the Hon'ble Supreme Court of India in the case D.S. Nakara and others Vrs. Union of India and others.

(ii) When Sri G.S. Mobar who was similarly situated as the applicant in all respect was given the benefits of his temporary service under the Govt. of India was counted for pensionary benefits

*D.S. Nakara*

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PM  
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and the Central Govt. agreed to share the proportionate pensionary charges with the Govt. of U.P. Denial of the benefits of the temporary service of the applicant under the Govt. of India for pensionary benefits is violative of the applicant's fundamental rights guaranteed Under Article 14 of the Constitution of India. The said denial is, therefore, unconstitutional and is liable to be declared null and void and deserves to be quashed.

(iii) Respondent No. 3 without observing the principle of natural justice arbitrarily struck off the applicant's name from the strength of the establishment with effect from 17.3.1948 when the applicant had put in 5 years 11 months and 3 days service in the G.H.Q. The authorities should have retained his lien on his post till his confirmation on the post of U.D.A. under the Govt of U.P. so that the applicant's services could be counted for pensionary benefits. The said action of respondent No. 3, was therefore, illegal and not sustainable in the eye of law.

8. Interim order, if prayed for.

Pending final decision of the application, the applicant seeks the issue of the following interim order :-

(i) Respondent No.3 be directed to pay to the applicant every month half of the sum of Rs.50/- which falls short of his monthly pension due to

DR

not counting his temporary service under Govt. of India as well as half of the sum of Rs.1875/- which fall short as gratuity to which the applicant would have been entitled on completion of 33 years of qualifying service as in these days of all round deserves the applicant is facing acute financial strugency.

9. Details of remedies exhausted.

The applicant declares that he has availed of all remedies available to him under the rules (1) On receipt of the letter No.42152/ST/CAO/A-7 (G) dated 4.2. 1985(Annexure-8) from respondent No.3, a notice (Annexure-9) Under Section 80 C.P.C. on behalf of the applicant was sent by his lawyer to the Secretary to the Govt. of India, Ministry of Defence, Secretary to Govt. of India, Ministry of Finance, with copies to respondent No. 3 & 4 stating the full case. On receipt of this notice, respondent No. 3 intimated to the applicant's lawyer (ANNEXURE-10) that the matter is being reexamined and that a further communication will follow. When the request of the applicant was finally rejected in respondent No.3 letter No. 42152/ST/CAO/A-7 dated 8.6.1985, the cause of action arose on 8.6.1985 and thus this application is within limitation.

10. Matter not pending with any other court etc.

M. S. S.  
The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other Bench of the

Tribunal.

11. Particulars of Bank draft/postal order in respect of the application fee.

1. Name of the Bank on which drawn.

2. Demand draft No.

or

1. No. of Indian Postal No. 3 DD 859204 for Rs 50.00  
order(s) ~~(100) i.p.o. of Post office of Lucknow~~  
~~(1) No. 604467 for Rs 100.00~~

2. Name of issuing post office. High Court Bench Post office, Lucknow.

3. Date of issue of postal order(s) July 17, 1986.

4. Post office at which payable. Central Post office Allahabad.

12. Details of index.

An index in duplicate containing details of the documents to be relied upon is enclosed.

13. List of enclosures.

In verification.

I, Rachika Raman S/o late Sri Basudeo Narain aged about 65 years do hereby verify that the contents from 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place Lucknow:  
Dated. Dec. 1985.

Rachika Raman  
Signature of Applicant

To

The Registrar,  
Central Administrative Tribunal,  
Additional Bench, Allahabad.

(By) (17) 32

In the Central Administrative Tribunal, Additional  
Branch, Allahabad.

Radhika Raman .. Applicant  
Versus  
Union of India & others .. Respondents.

<u>Index of documents filed</u>	<u>Page</u>
1. Annexure-1 Letter No. 42152/MT/CAO(GS) dated 27. 6. 78 of respondent No. 3	19
2. Annexure-2 Govt. of U.P. O.M.No. 4490/E/EE/ 50, dated July 5, 1950.	20
3. Annexure-3 Govt. of India, Department of Supply letter No. 36/1/64/ESII dated February 17/1964, accepting pensionary liability by GIS in respect of temporary service of Sri G. S. Mobar, under Central Government.	21
4. Annexure-4 Representation dated 23. 3. 77 made by U.P. Government for taking steps to count his temporary service under Government of India for Pension	22
5. Annexure-5 Applicant's representation dated February 8, 1978 to U.P. Government for counting service under Government of India for pension.	23-27
6. Annexure-6 Respondent's 3 letter No. 42152/MT/CAO/A-7, dated 8. 3. 1982 saying the services of the application under the Government of India cannot be counted unless the sanction of Government of India is obtained.	28
7. Annexure-7 Government of Uttar Pradesh letter No. 7169/XX-E-1-95P(5)74 dated 26.9.1984 last reminder to respondent number 3 to intimate the decision taken by the Govt. of India in the matter.	29

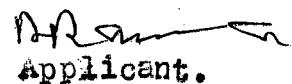
✓ 8. Annexure-8 Respondent 3 letter No. 42152/MT/ CAO A-7(GS) dated 4.2. 85 intimating that the request for counting applicant's service cannot be acceded to as it is not covered by the existing order. - - - 36

9. Annexure-9 Notice under section 80 C.P.C. sent to respondents 1 to 4 pointing out that rejection of applicant's request amounts to discrimination. - - - 31-38

10. Annexure-10 Respondent 3 letter No. 42152/MT/ CAO/A-7, dated 3.5.1985 intimating that the matter is being re-examined. - - - 39

11. Annexure-11 Respondent 3 letter No. 42152/MT/ CAO/A-7, dated June 4, 1985 rejecting the request for counting the applicant's service under the Govt. of India, cannot be acceded to. - - - 40

12. Annexure-12 Govt. of India, Department of Personnel and A.R.O.M. No. 3(20)P en-(A)/79, dated March 31, 1982. - - - 41

  
Applicant.

(14)

In the Central Administrative Tribunal, Allahabad.

Radhika Raman

..

Applicant

Govt. of India & others

Versus ..

Respondents.

Annexure-1

IMMEDIATE

No. 42152/MV/CAO/(GS)

BHARAT SARKAR, RAKSHA MANTRALAYA

MUKHYA PRASHASAN ADHIKARI KA KARYALAYA  
New Delhi, the 27th June 1978.

To

C.D.A. (Pensions)  
Allahabad.

Subject: Grant of benefit of service rendered from  
14.5.42 to 16.3.48 and payment of pension  
contribution.

Shri Radhika Raman now as Under Secretary to the  
Govt. of U.P. had served in ~~xxx~~ army HQ, GS Branch, He  
was taken on the strength of GS Branch with effect from  
14.5.42 as a tempy clerk at Rs.50/-pm in the scale of  
Rs.50-4-90-3-120- On being selected for a perment post  
in UP Govt. Sectt, he was struck off strength w.e.f.  
17.3.48.

2. Shri Radhika Raman is due to retire from service  
w.e.f. 1-7-78(FN). The UP Govt. have requested for grant  
of benefit of his previous service rendered in Army  
Hqs towards pension so that he may get thefull pension-  
ary awards, as in the case he will be having more than  
33 years service at his credit on 1.7.78. He joined UP  
Govt. service on 17.3.48.

3. In view of the above, CDA(Pensions), Allahabad, are  
requested to ~~xxxxxx~~ forward an audit report to the Govt  
of UP confirming that CDA(P) have no objection for payme-  
nt of pension contribution, if raised by the Govt. of  
UP, for the service rendered in Army Hq and paid from  
Defence Services Estimates, Immediately, under intima-  
tion to this office.

4. In view of the retirement of Shri Radhika Raman  
with effect from 1.7.78 and a representation to the  
Raksha Mantri for early settlement of the case, it is  
requested that the case be given TOP Priority.

Sd. XXXX(SxxSxgxxm)  
(S. S. Aggarwal)

Varisht Prashasan Adhikari  
Krite Kumhya Prashasan Adhikari

Copy to :-

Shri R. I. Verma, - with reference to their letter  
Joint Secretary No. 3597/2-E-1-1978 dated  
Sectt Admin(Est-1) 8-6-78  
Section, Govt. of UP, Lucknow(UP)

True Copy.

Arun Kumar

(ARUN KUMAR)

Assistant Hydrogeologist,  
Central Ground Water Board,  
Ministry of Irrigation,  
Govt. of India,  
LUCKNOW.

(20)

In the Central Administrative Tribunal, Allahabad  
Radhika Raman .. . . . .  
Versus  
Union of India & others.. . . . .  
Applicant  
Respondents.

Annexure-2.

G OVERNMENT OF UTTAR PRADESH  
SECRETARIAT ADMINISTRATION DEPARTMENT  
(ESTABLISHMENT)

No. 4490E/XX-50  
Dated Lucknow, July 5, 1950.

Office Memorandum

In continuation of Secretariat/Administration Department (Establishment) Office Memorandum No. 3815E(2)/XX-158/48, dated June 13, 1950, Sri Radhika Raman, Upper Division Assistant on probation is confirmed in his post with effect from April 1, 1950.

B.P.Joshi  
Deputy Secretary

No. 4490E(2)/XX-50

Copy forwarded for information to the :-

1. Accountant General, U.P. Allahabad.
2. Secretary, Public Service Commission, U.P. Allahabad.
3. Secretariat Administration Department (Accounts)
4. Sri Radhika Raman.

By order

Sd. B.J.Joshi  
Deputy Secretary.

*True Copy.*

*Arvin Kumar*

(ARVIN KUMAR)

Assistant Hydrogeologist,  
Central Ground Water Board,  
Ministry of Irrigation,  
Govt. of India,  
LUCKNOW,

(21)

In the Central Administrative Tribunal, Allahabad.

Radhika Raman

Versus

Govt. of India & others ..

*Applicant*

Respondents.

Annexure-3

No. 36/1/64-ES-II  
Government of India  
Department of Supply

From

Shri R. Rajgopalan,  
Under Secretary to Government of India

To

The Chief Secretary to the Government  
of Uttar Pradesh,  
U.P. Civil Secretariat, Lucknow.

New Delhi-1, the 17th Febr. 1964.

Subject:- Counting of service rendered by Sri Ganga  
Shanker Mohard under the Govt. of India  
towards pension-question of -

Sir,

I am directed to refer to your letter No. 2745/  
XXE-1-559P(6)/1963 dated the 17th December 1963, on  
the subject noted above and to say that the  
temporary service of Sri Ganga Shanker Mobar for ~~xx~~  
the period 1st May 1941 to 15th March 1948 in the  
late DG(S) was rendered in a pensionable establish-  
ment. Since your Government agree to this temporary  
service for the said period being counted towards  
pension, the proportionate pensionary charges are  
to be allocated between the Central Government and  
U.P. Government in accordance with the orders  
contained in the Ministry of Finance (Dept. of  
Expenditure) letter No. F-20(47-EV/57) dated 11th  
February 1963 addressed to all State Governments.

*Yours faithfully*

Sd. R. Rajgopalan  
Under Secretary to Govt. of  
India.

*ARUN KUMAR*  
Assistant Hydrogeologist,  
Central Ground Water Board,  
Ministry of Irrigation,  
Govt. of India,  
LUCKNOW.

राष्ट्रिका रम

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प्रार्थी

भारत सरकार तथा अन्य

लाम

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37

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अनेक्षर-4

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रेसांडेन्ट्स

सेवा में

उप सचिव,  
सचिवालय प्रशासन अधिकार अनुभाग-1,  
ज०प्र० शासन, लखनऊ।

महोदय,

सचिवालय प्रशासन अधिकार अनुभाग-1 के कार्यालय ज्ञाप संख्या 3180/20<sup>व</sup> 95पी(5)/74 दिनांक 16 जून 1976 के संदर्भ में मुझे यह निवेदन करना है कि 29 अप्रैल 1942 को मैं आर्मी हेड क्वारटर जरल स्टाफ ब्रॉन्च, स्टाफ इंस्युटी सेक्शन(र) में 120-300 के वैत्तनक्रम में प्रवर वर्ग सहायक के पद पर नियुक्त हुआ। इस नियुक्ति के पूर्व जी०एच०ए०देड ट्रेनिंग स्कूल, नई दिल्ली में प्रशिक्षण प्राप्त करने के पूर्व मुझे एक प्रतियोगात्मक परीक्षा में बैठना पड़ा जिसके आधार पर मुझे उक्त प्रशिक्षण में प्रवेश मिला। सफलता पूर्वक प्रशिक्षण पूरा करने के उपरांत मुझे उपरोक्त पद पर नियुक्त मिली। 16 मार्च १०८० को मैं वहाँ से अपने अनुरोध पर कार्यमुक्त छुआ ताकि मैं उत्तर प्रदेश सचिवालय में प्रवर वर्ग सहायक के पद पर कार्यभार ग्रहण करें। तदनुसार मैं १७ अप्रैल १९४८ एफ०एन० के सचिवालय अधिकार विभाग में प्रवर वर्ग सहायक के पद पर नियुक्त हुआ। मेरी लैताती लोक सेवा आयोग द्वारा आयोजित प्रतियोगात्मक परीक्षा के आधार पर वार सचिव अभ्यर्थी के रूप में हुई थी। आर्मी हेडक्वारटर से मेरी सेवा पुस्तिकास्वर्वं चरित्र पंजिका सचिवालय प्रशासन विभाग को प्राप्त हो चुकी है जो मेरी वैयक्तिक पत्रावली में उपलब्ध होनी चाहिए। उक्त सेवा पुस्तिका से मेरे द्वारा आर्मी हेडक्वारटर में की गई सेवा की सत्यापित किया जा सकता है। इससे पूर्व प्रस्तुत किये गये प्रार्थना पत्र में आर्मी हेडक्वारटर में की गई सेवा के संबंध में मैं साक्ष्य प्रस्तुत कर चुका हूँ। ऐसी दशा में मेरे द्वारा आर्मी हेड क्वारटर में वार सर्विस के रूप में की गई सेवा का लाभ मुझ यहाँ पेशन प्रयोजन हेतु गणनाकी जानी चाहिए क्योंकि मेरी राज्य शासन के अधीन कुल सेवा केवल 30 वर्ष ही होती है जो पूरी पेशन की अनुमत्यता के प्रयोजन हेतु अक्षम अंपर्याप्त है। ऐसी दशा में मेरा अनुरोध है कि वृम्या प्रश्नगत सेवा जो मेरे द्वारा आर्मी हेडक्वारटर में की गई है को सत्यापित करके महालेखाकार को भेज दिया जाये जिससे कि इसकी गणना पेशन हेतु की जा सके क्योंकि मैं ३० जून १९७८ की अधिवर्षता आधु प्राप्त करके के उपरांत सेवा निवृत्त हो जाऊँगा। यदि इस संबंध में विलम्ब होगा तो मुझे समय से पेशन मिलने में कठिनाई उत्पन्न होगी।

True Copy.

Arun Kumar

Assistant Hydrogeologist,  
Central Ground Water Board,  
Ministry of Irrigation,  
Govt. of India,  
Lucknow.

भवदीय

ह: राष्ट्रिका रम 23-3-77

अनु सचिव,  
नियुक्त विभाग।

(23)  
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In the Central Administrative Tribunal, Allahabad.

Rachika Raman ..  
Versus  
Union of India & others ..

Applicant  
Respondents.

Annexure-5

To

The Commissioner & Secretary,  
Secretariat Administration Department,  
(Establishment),  
U.P. Civil Secretariat,  
Lucknow:

Subject: Counting of War service for purpose of pension.

Sir,

I have to bring to your kind notice the following facts for consideration: -

That after graduating myself from the Allahabad University in the year 1942 I was selected as a trainee on the basis of a competitive test for 3 weeks training at the G.H.Q. Trade Testing School, New Delhi where I attended the said training course on the completion of which I secured about 75% marks in the final test and thus I qualified myself for direct appointment as Upper Division Clerk in the scale of Rs.120-9-300 and I was appointed in that on 29-4-1942.

That I worked as an U.D.Clerk in the General Head-quarter in General Staff Branch Staff Duties Directorate, Directorate of Weapons and equipment Military Training Directorate till March 16, 1948. During this period I also officiated as Superintendent and in token of the war services rendered by me I was awarded a certificate by the then Commander-in-Chief of India, General Auchenuk, a copy of which I am enclosing herewith for ready reference. That after my graduation I could very

(24)  
(25)

well have joined the U.P. Civil Secretariat as a lower Division Assistant and would have been promoted as U.D.A. after a couple of months but I joined the G.H.Q. where entry in service was comparatively more difficult.

That I appeared as a War Service candidate in the competitive examination held by U.P. Public Service Commission for recruitment of U.D.A.S. in the U.P. Civil Secretariat and qualified myself for appointment on the ~~post~~ said post and offered appointment as U.D.A.

That my total emoluments in the G.H.Q. in March 1948 was Rs. 265/- but I joined in the U.P. Civil Secretariat as U.D.A. on a reduced emoluments of Rs. 180/- only though I had also qualified for permanent appointment in the G.H.Q. on the basis of the competitive examination held by the Union Public Service Commission.

That such War Service candidates as had joined the State Service have been allowed to count the period of war service for purposes of pension as well as advance seniority and inflated pay but I even did not press of fixation of my pay and benefit of advance seniority on the basis of my war service and I also understand that the benefits of Central Ground Water Board, Ministry of Irrigation, war service is not being given even for purposes of pension to those war service candidates who joined subordinate service in the State on the basis of competitive examination held by the U.P. Public Service Commission.

That by giving the benefit of war service to

  
(ARUN KUMAR,  
Assistant Hydrogeologist,  
Central Ground Water Board,

Ministry of Irrigation,  
Govt. of India,  
LUCKNOW.

AM  
26

(25)  
MD

such candidates as had joined the state services for pension as well as advance seniority and inflated pay and denying all the said benefits to the such war service candidates as had joined the subordinate services in the State , the State Government has adopted a policy of discrimination as would appear from what has been stated above.

That the rule 357-S of the Civil Service Regulation is therefore discriminatory and thus violation of the fundamental rights guaranteed to the citizens of India under the Constitution of India. That it is anomalous that under article 357.A of C.S.R. the benefit of war service during 1914-18 has been allowed to be counted for civil pension under the State Government but no such benefit for war service during the second world war 1939-45 has been allowed.

That had I remained in G.H.Q. I would have got the benefit of my service from 29-4-42 to 16-3-48 for purposes of pension, seniority as well as pay but I also did not get any benefit for the said period either by the Central Government in the form of gratuity or any other financial benefit and the U.P. Govt. is also not counting my said service even for purposes of pension and my total service under the U.P. Govt.

Arun Kumar  
(ARUN KUMAR) falls short by three years for earning full pension.  
Assistant Hydrogeologist,  
Central Ground Water Board, That I had applied for counting atleast three  
Ministry of Irrigation,  
Govt. of India, years service out of my war service but my request  
LUCKNOW, has been deferred on the ground that it will be  
considered at the time of my retirement in case the  
rules permit.

That I understand that M.N.Mitra who also joined

(By  
27)

[26]  
[11]

the U.P. Secretariat as war service candidate was not been allowed to count the period of his war service for purposes of pension and his request to that effect has been rejected by the U.P. Government.

That I apprehend that my request for counting my three years services for purposes of pension will also meet the same fate as happened in the case of Sri Mitra.

That as I have derived no pensionary and benefit of my more than six years service in the Army Headquarters my case may be referred to the Government of India, Ministry of Defence to pay to the U.P. Government pensionary contribution atleast for three years out of my more than six years service under the Government of India in case rules of U.P. Government do not permit counting my war service for pension, so that I may not be put to recurring financial loss and I may be allowed full pension on the basis of 33 years of qualifying service.

That I have five months more to retire in attaining the age of 88 years and I trust that within such a short period the U.P. Government may not be able to amend their rules to count war service or service under the Govt. of India for purposes of pension and the result will be that I will

continue to suffer a recurring financial loss of Rs. 50/- every month during the remain period of my life.

I, therefore, request that my case may kindly

✓ (APUN CHHAKA)  
Assistant Engineer,  
Central Ground Water Board  
Ministry of Irrigation,  
Govt. of India,  
LUCKNOW.

राधिका रमा

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प्रार्थी

भारत सरकार तथा अन्य

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रेसोर्नेंट्स

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अनेक्षर-६

सं042152/समी/सीसओ/स-7

भारत सरकार

रक्षा मंत्रालय

मुख्य प्रशासन अधिकारी का कार्यालय

नई दिल्ली दिनांक 08-3-82

सेवा में

उप सचिव,  
उत्तर प्रदेश प्रशासन,  
सचिवालय प्रशासन (अधिकारी)  
अनुभाग । (लखनऊ) उत्तर प्रदेश ।

विषय: श्री राधिका रमा द्वारा सेवा मुद्रालय में दिनांक 14-5-42 से 16-3-48 तक की गई सेवा हेतु पेंशन का अंशदान ।

महोदय,

मुझे इस कार्यालय के समसंचयक पत्र दिनांक 4 जून 1981 के संदर्भ में यह कहने का निर्देश हुआ है कि सी 0डी 0४० (पेंशन) इलाहाबाद ने अब सूचित किया है हिंदू श्री राधिका रमा 14-5-42 से 16-3-48 तक की सेवा को तब तक मानने के लिए तैयार नहीं है जब तक हम पेंशन कार्यालय बिलटी के लिए भारत सरकार की स्वीकृत न लें लें । इसलिए आपसे अनुरोध है कि वृप्या हमें श्री राधिका रमा की सेवा पंजिका जौकि उत्तर लिखित समय की है तथा एक सत्य प्रतिलिपि आपके पन्ने की जिसके द्वारा उन्हें उत्तर प्रदेश सरकार ने नियुक्त किया था, मिजार ।

2- उपरोक्त दस्तावेज आने पर ही हम इस विषय में उन्नित कार्यवाही कर सकेंगे इसलिए आपसे अनुरोध है कि इस विषय में तुरंत कार्यवाही की जाए ।

भवदीय

ह: चैतन्य स्वरूप सख्तेना  
कृत मुख्य प्रशासन अधिकारी ।

प्रतिलिपि :-

श्री राधिका रमा,  
मकान नं ०३०-४, सेक्टर ८,  
महानगर, लखनऊ ।

==

True Copy.

Arjun Kumar

ARJUN KUMAR,  
Assistant Hydrogeologist,  
Central Ground Water Board,  
Ministry of Irrigation,  
Govt. of India,  
LUCKNOW.

~~AM 28~~

(27)  
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be referred to the Govt. of India, Ministry of Defence, for either serving pensionary contribution to the U.P. Government for the minimum period of 3 years out of my more than six years service under the Ministry of Defence or to compensate me for the loss in pension whichever may be considered possible by Govt. of India.

Thanking you.

Yours faithfully

Lucknow: Dated  
February 8, 1978.

Sd. (Radhika Raman)  
Under Secretary to Govt., U.P.  
Appointment Department.

True copy.

Arjun Kumar

(ARJUN KUMAR)  
Asstt. Inspector of Posts,  
Central Board of Revenue Board,  
Ministry of Finance,  
Govt. of India,  
LUCKNOW.

In the Central Administrative Tribunal, Allahabad.

राधिका रम्ज

प्रार्थी

भारत सरकार तथा अन्य

रेसाइन्ट्स

बनाम

PM  
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अनेक्षर-7

संख्या-7169/20-ई-1-95पी(5)/74

प्रेषक

विनोद चन्द्र पाण्डे,  
संयुक्त सचिव,  
उत्तर प्रदेश शासन ।

सेवा में

ब्लैच प्रशासनिक अधिकारी,  
कार्यालय मुख्य प्रशासनिक अधिकारी,  
रक्षा मंत्रालय, भारत सरकार,  
नई दिल्ली ।

सचिवालय प्रशासन (अधिकारी) अनुभाग-। लखनऊ दिनांक 26 दिसम्बर 84

विषय:- श्री राधिका रम्ज, सेवा निवृत्त असुन्त सचिव, उत्तर प्रदेश सचिवालय दबारा सेना मुख्यालय में दिनांक 14 मर्च 42 से 16 मार्च 1948 तक की गई सेवा हेतु पेंशन का अंशदान ।

महोदय,

उपर्युक्त विषयक उत्तर प्रदेश शासन के पत्र संख्या 2404/20-ई-95पी(5)/74 दिनांक 27 मर्च 1983, संख्या 5785/20-ई-1-95पी(5)/74 दिनांक 10 नवम्बर 1983 तथा तद्विषयक अनुस्मारक दिनांक 11 जनवरी 1984, 10 जुलाई 1984 तथा 29 अगस्त 1984 की ओर आपका ध्यान आकृष्ट करते हुए मुझे यह कहने का निदेश हुआ है कि यदि श्री रम्ज दबारा सेना मुख्यालय में की गई सेवाओं की पेंशन हेतु गणना किये जाने के प्रश्न पर निर्णय ले लिया गया हो तो राज्य सरकार को सूचित करने का कष्ट करें ।

भवदीय

(विनोद चन्द्र पाण्डे)  
संयुक्त सचिव ।

संख्या 7169(1)/20-ई-1-95पी(5)/74 तद्दिनांक ।

प्रतिलिपि श्री राधिका रम्ज, सेवा निवृत्त अनु सचिव, उत्तरप्रदेश सचिवालय, सी-4 सेक्टर स, महानगर, लखनऊ को सूचनार्थ प्रेषित ।

True copy.  
Arun Kumar

(ARUN KUMAR,  
Assistant Hydrogeologist,  
Central Ground Water Board,  
Ministry of Irrigation,  
Govt. of India,  
LUCKNOW.

आज्ञा से  
ह: विनोद चन्द्र पाण्डे  
संयुक्त सचिव ।

(30) (13)

In the Central Administrative Tribunal, Allahabad.

Radhika Raman .. Applicant

Versus (PM)  
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G ov t. of India & others .. Respondents.

Annexure-8

No. 42152/MT/CAO/A-7 (GS)

Government of India, Ministry of Defence,  
Office of the Chief Administrative Officer,  
New Delhi, the 04 Feb. 1985

To

The Deputy Secretary,  
Uttar Pradesh Administration,  
Lucknow, U.P.

Subject:- Counting of service in r/o Shri Radhika Raman in the AFHQ for the period from 14.5.42 to 16.3.48 for pension purposes.

Sir,

I am directed to refer to your letter No. 2404/20-E-1-95/P(5)74, dated 27.5.83 and to state that the case of Shri Radhika Raman (Ex-under Secretary to U.P. Govt.) for counting of his service in AFHQ was referred to Ministry of Defence (Finance/Pension), who have stated that the request of the officer cannot be acceded to as it is not covered under the existing orders.

Yours faithfully

Sd.R.Panwar  
Senior Administrative Officer  
For Chief Administrative Officer.

copy to :-

Shri Radhika Raman,  
C-4, Sector 'A',  
Mahanagar, Lucknow, (UP)

True Copy.

Arun Kumar

(ARUN KUMAR)  
Assistant Hydrogeologist,  
Central Ground Water Board,  
Ministry of Irrigation,  
Govt. of India,  
LUCKNOW.

(31) (4)

In the Central Administrative Tribunal, Allahabad.

Radhika Raman ..  
Versus ..  
Union of India & others ..

Applicant  
Respondents.

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Annexure-9

March 8, 1985.

To

The Union of India through

1. The Secretary to Government of India,  
Ministry of Defence,  
New Delhi.
2. The Secretary to Government of India  
Ministry of Finance,  
New Delhi.

Subject: Notice under section 80 C.P.C. regarding  
rejection of the legitimate claim of Sri  
Radhika Raman, for accepting pensionary  
liability by the Govt. of India in respect  
of the services rendered by him in the Army  
Headquarters from 14.5.42 to 16.3.48,

Sir,

Under the instructions of and on behalf of my  
client Sri Radhika Raman, retired Under Secretary to  
the Govt. of U.P., Lucknow now residing at C-4, Sector  
A, Mahanagar, Lucknow, I hereby give you notice under  
section 80 Civil Procedure Code as under :-

1. That my said client had rendered service in the  
Army H.Qs, New Delhi, from 14.5.42 to March 16, 48  
as U.D.C after undergoing three week's training at  
the S.N.Q. Trade Testing School, New Delhi.

2. That my client also appeared at the qualifying  
Examination held by the Union Public Service Commission  
Central Govt. of India, LUCKNOW.  
Ministry of Education, Govt. of India,  
Central Govt. of India, LUCKNOW.  
ion and had qualified for appointment as a routine  
grade clerk in the attached offices of the Govt. of  
India against post-1945 vacancies reserved for  
temporary clerks in the offices of the Govt. of

ARUN KUMAR

Assistant Legal Officer, Central Govt. of India, LUCKNOW.  
Ministry of Education, Govt. of India, LUCKNOW.

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India during the second World War but due to announcement of the result after my client had joined the U.P. Civil Secretariat, Lucknow as UDA he could not avail of the opportunity of being absorbed in the attached offices of the Govt. of India on the basis of the result of the said examination.

3. That the services of my client at the Defence Headquarters were declared to be war service. While my client was working in the Army Hd. Qrs. he applied for admission to the Competitive Examination for recruitment to the post of UDA as a war service candidate through proper channel in response to the advertisement published by the U.P. Public Service Commission inviting applications for admission to the said competitive Examination. Some of the said posts were reserved for war service candidates. My client being a war service candidate was exempted from payment of the examination fee for the said examination. My client on being declared successful at the said examination was offered the post of UDA by the Govt. of U.P.

4. That on receipt of the offer of appointment from the Govt. of U.P. on the post of UDA in the U.P. Civil Secretariat, my client requested in writing to be relieved from his post in the Army Hd. Qrs. to enable him to take over charge of the said post under the Govt. of U.P.

5. That the request of my client was acceded

ARUN KUMAR  
Assistant Collector  
Central Ground Water Board  
Ministry of Irrigation,  
Govt. of India,  
LUCKNOW.

to and he was relieved from the Army Headquarters on the afternoon of March 16, 1948 and he took over charge of the post of UDA in the U.P. Civil Secretariat, Lucknow, on the forenoon of March 17, 48 and thus there was no break of even one day in his service.

6. That my client did not get any benefit of the services rendered by him in the Army Hd. Qts. for purposes of pensionary benefits nor he was paid any gratuity for the said service by the Govt. of India.

7. That after joining the service under the U.P. Govt. my client made a representation to the U.P. Govt. to give him the benefit of his war service for fixation of his seniority etc. in the cadre of U.D.A. from the date of appointment in the Army HQ on the basis of his war service but his request was turned down by the U.P. Govt. arbitrarily on the ground that benefit of war service for pensionary benefits and fixation of seniority was admissible only to such war service candidates as had been appointed against gazetted posts under the U.P., Govt. That action of the U.P. Govt. was also discriminatory within the meaning of Article 14 and 16 of the Constitution of India.

8. That my client did not agitate the matter further as under the then existing rules only 30 years qualifying service was required for earning full pensionary benefits by the U.P. Govt. servants as my client could earn full pensionary benefits on completion of thirty years service under the U.P.

ARUN KUMAR  
Assistant Legal Officer,  
Central Govt. Board,  
Ministry of Union,  
Govt. of India,  
LUCKNOW.

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Govt. before attaining the age of 58 years according to the thenexisting rules.

9. That some time in 1977 the pension rules were revised with the result that under the revised rules U.P. Govt. servants were required to complete 33 years of qualifying service for earning full pensionary benefits. Thus my client's qualifying service under the U.P. Govt. was falling short by about three years for earning full pensionary benefits on the date of his attaining the age of superannuation.

10. That my client learnt that one Sri Ganga Shanker Mobar who had also rendered temporary service under the Govt. of India during the Second World War and had been appointed on the post of UDA in the U.P. Civil Secretariat, on the basis of the result of the same competitive examination at which my client had also qualified and had been appointed on the post of UDA in the U.P. Civil Secretariat, has been given the benefit of his said temporary service under the Govt. of India for pensionary benefits and the Central Govt. accepted to bear the pensionary liability in respect of the said service of Sri Mobar under them.

11. That then my client moved an application before the U.P. Govt. for allowing him the benefit of his

ARUN KUMAR  
said war service in the Army HQ for purposes of pension.  
assistant hydrogeologist  
Central Ground Water Board  
Ministry of Irrigation,  
Govt. of India,  
LUCKNOW. above 30 years service on attaining the age of 58 year  
and on that basis he will not get full pensionary  
benefits.

12. That this matter remained under the consideration of the U.P. Govt. at various levels and

My  
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ultimately they wrote to the Chief Administrative Officer, Ministry of Defence, New Delhi to convey their concurrence to accept pensionary liability in respect of the services rendered by my client under the Govt. of India on the analogy of the case of Sri Ganga Shanker Mobar who had also served in temporary capacity under the Govt. of India during the second World War and in his case the Central Govt. had accepted the pensionary liability in respect of his service.

13. That this matter was referred by the Chief Administrative Officer, Ministry of Defence, to the Controller of Defence Accounts (Pensions) Allahabad for audit report but this matter remained pending with them for over four years and ultimately they wrote to the C. A.O., Ministry of Defence, New Delhi, to obtain the sanction of the Ministry of Defence and only on receipt of the said sanction, action could be taken by them to accept pensionary liability in respect of the said service of my client in the Army H.Q. New Delhi.

14. That the Govt. of U.P. in their letter No. 4472/ XX-E-1-95P/5774 dated Sept. 19, 1979 requested the Controller of Defence Accounts (Pensions) Allahabad,

Arun Kumar  
- (ARUN KUMAR,  
Assistant Hydrogeologist  
Central Ground Water Board,  
Ministry of Irrigation,  
Govt. of India,  
LUCKNOW.)

with copy to the C.A.O., Ministry of Defence, that the concurrence of the Govt. of India may be conveyed for bearing the pensionary liability in respect of the services rendered by my client in the Army H.Q. or alternatively the Central Govt. may give to the State Govt. a lump sum amount of Rs. 7750/- representing the commuted value equivalent to the additional amount

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which would have been admissible to my client in case of his having completed 33 years of qualifying service. The said proposal was also repeated by the State Govt. in his letter No. 4155/XX-E-1-95P(S)/74 dated 30-8-1980. A series of reminders issued to the C.A.O. Ministry of Defence by the State Govt. also did not evoke any reply.

15. That the Chief Administrative Officer, Ministry of Defence in his letter No. 42152/MT/CAO/A-7 dated 8.3.82 and his subsequent letter of even number dated 5.8.82 asked for the service book and character roll of my client from the Govt. of U.P.

16. That photostat copies of the character roll alongwith the service book of my client were sent by the U.P. Govt. with their letter No. 6122/XX-E-1-95P(S)/74 dated 8,10.1982 to the C.A.O., Ministry of Defence, New Delhi. The matter remained pending in the office of the C.A.O., Ministry of Defence, New Delhi who did not send any reply to U.P. Govt. in reply to their more than half a dozen of reminders.

17. That in the last of January 1985 my client personally contacted the office of the C.A.O. MT/A-7 Section and then he came to know that on the analogy of the case of Sri Ganga Shanker Mobar a ~~pxxx~~ proposal was sent to the Ministry of Defence/Ministry of Finance for according sanction to accept pensionary liability by the Govt. of India in respect of the said services of my client in the army H.Q. but that proposal has been turned down by the Finance Ministry on the ground that there is no speciality

TARUN KUMAR,  
Assistant Hydrogeologist,  
Central Ground Water Board  
Ministry of Environment,  
Govt. of India,  
LUCKNOW.

in the case of my client to accord their concurrence to the proposal overlooking the fact that in the case of the said Sri Ganga Shanker Mobar who was similarly situated the necessary sanction was accorded accepting the pensionary liability in respect of the temporary services rendered by him under the Govt. of India during the second world war. On the basis of the said discriminatory advice of the Finance Ministry my client's case been rejected by the C.A.O. Ministry of Defence in his letter No. 42152/MT/CAO/A-7(GS) dated February 4, 1985,

18. That the action of the Ministry of Finance in rejecting the proposal is wholly arbitrary as pointed out in the foregoing paragraph. It is thus obvious the decision taken by the C. A.O. Ministry of Defence to reject the case of my client on the advice of the Finance Ministry is unconstitutional in terms of Article 14 & 16 of the Constitution of India.,

19. That the said Sri G.S.Mobar and my client being similarly situated formed one and the same class and the action of the Govt. of India to put my client in a separate artificial class amounts to discrimination according to the equality clause of Article 14 of the Constitution of India and the said action of the

ARUN KUMAR  
Assistant Hydrogeologist  
Central Govt. is, therefore, violative of my client's  
Central Govt. and Water Board,  
Ministry of Irrigation, fundamental rights and patently unsustainable in the

Govt. of India,  
LUCKNOW eye of law and is wholly unconstitutional and the  
same is liable to be declared null and void if the  
matter is taken to a court of law for adjudication.

20. That the cause of action has arisen at

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Lucknow on 15.2.85 when it came to the knowledge of my client that his legitimate request for accepting the pensionary liability by the Central Govt. for the services of my client under the Govt. of India has been rejected by the CAO Ministry of Defence on the advice of the Finance Ministry.

21. That in the circumstances it is requested that this matter may kindly be reconsidered in its correct perspective keeping in view the constitutional aspect of the case and necessary sanction be issued accepting the pensionary liability by the Govt. of India for the services rendered by my client in the Army H.Q. from 14.5.42 to 16.3.48 within sixty days of receipt of this notice failing which my client will be free to invoke the jurisdiction of the competent court of law at Lucknow where the cause of action has arisen, for the enforcement of his legal and constitutional rights and in that event the Govt. of India will be liable to pay the cost of the suit alongwith the cost of this notice.

Yours faithfully

Sd. Murli Manohar, Advocate

Copy of the above notice also forwarded for information and necessary action to :-

1. The Chief Administrative Officer, Ministry of Defence  
New Delhi.

2. The Secretary to Govt. of U.P. Sectt: Admn. Deptt.

(Sec E-1) U.P. Civil Secretariat, Lucknow.

ARUN KUMAR  
Assistant Hydrogeologist,  
Central Ground Water Board,

Ministry of Irrigation, Jt. C.P.,  
Govt. of India,  
LUCKNOW.

Sd. Murli Manohar, Advocate

Arunkumar

(39)  
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In the Central Administrative Tribunal, Allahabad.

Radhika Raman .. . . . .  
Versus  
Union of India & others. . . . .  
Applicant  
Respondents.

Annexure-10

No. 42152/MT/CAO/A-7  
Government of India, Ministry of Defence,  
Office of the Chief Administrative Officer,  
New Delhi, the 03 May 85

er

To

Shri Murli Manohar,  
Advocate,  
C-145 Mahanagar,  
Lucknow.

Subject: Notice under section 80 Civil Procedure  
Code regarding rejection of the legitimate  
claim of Shri Radhika Raman, for  
accepting pensionary liability by the  
Govt. of India in respect of the services  
rendered by him in the Army HQ from  
14.5.42 to 16.3.48.

Sir,

I am directed to refer to your notice dated  
8.3.85 in the above case and to state that the case  
is being re-examined in consultation with the  
Ministry of Defence (Finance/Pension).

A further communication will follow.

Yours faithfully

Sd. R. Tenwar

Senior Admin Officer  
for Chief Administrative Officer.

True copy.

Arun Kumar

(ARUN KUMAR)  
Assistant Hydrogeologist,  
Central Ground Water Board,  
Ministry of Irrigation,  
Govt. of India,  
LUCKNOW.

(40)

In the Central Administrative Tribunal, Allahabad.

Radhika Raman .. Applicant  
Versus  
Union of India & others.. Respondents.

Annexure-11

No. 42152/MT/CAO/A-7

Government of India, Ministry of Defence  
Office of the CAO,  
New Delhi-110036  
04 June 85

To

Shri Nurli M. Anohar,  
Advocate, C-145, Mahanagar,  
Lucknow (U)

Subject: Notice under section 80 Civil Procedure  
Code regarding rejection of the legitimate  
claim of Shri Radhika Raman for accepting  
pensionary liability by the Govt. of India  
in respect of the services rendered by him  
in the Army HQ from 14.5.42 to 16.3.48.

Sir,

I am directed to refer to your notice dated  
8.3.85 and our letter of even number dated 3.5.85  
and to say that our comments on the above notice are  
as in the succeeding paragraphs.

Shri Radhika Raman had served in AFHQ as  
Temporary LDC/UDC from 14.5.42 to 16.3.48 and  
subsequently on his selection for the post of Upper  
Division Asstt in the U.P. Govt., he was relieved of  
his duties in AFHQ wef 16.3.48 (AN) to take up the  
appointment in UP Govt accordingly.

As for counting his above service in AFHQ  
towards pensionary benefits, the case has already  
been examined in detail in consultation with the  
CDA (P) Allahabad and Min of Defence Finance(Pension).  
They are, however, of the opinion that the case of  
Shri Radhika Raman is not covered under the Deptt  
p/ Pers & AR OM No.3(20)/10/Pension(A)/79 dated  
31.3.82 as the instructions contained in that letter  
are operative from the date of its issue ie from  
31.3.82 only and the employees who retired prior to  
the issue of this letter are not entitled to those  
benefits.

In view of the above, we are helpless to make  
any concession in the case of Sri Radhika Raman as  
the concerned authorities in this case are not prepared  
to relax the provisions of the letter inid.

Yours faithfully,

Sd. R. Tanwar,

Senior Admin Officer  
for Chief Administrative Officer.

*True Copy*

(ARUNKUMAR)

Assistant Hydrogeologist,  
Central Ground Water Board,  
Ministry of Irrigation,  
Govt. of India,  
LUCKNOW.

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In the Central Administrative Tribunal,  
Additional Bench, Allahabad.

Rachika Raman

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Applicant

Versus

Union of India & others ..

Respondents.

Annexure-12

Copy of Govt. of India, Department of Personnel and A.R.O.M.No.3(20)Pen.(A), 79, dated 31-3-1982 as published on pages 73/74 of Swamy's Pension Compilation Ninth Edition, corrected upto 1st June 1983.

"(4) ALLOCATION OF PENSIONARY LIABILITY IN RESPECT OF TEMPORARY SERVICE RENDERED UNDER THE CENTRAL AND STATE GOVERNMENTS--- The Govt. of

India have been considering in consultation with the State Govts, the question of sharing on a reciprocal basis, the proportionate pensionary liability in respect of those temporary employees who had rendered temporary service under the Central Govt/State Govts. prior to securing posts under the various State Govts/Central Govts. on their own volition in response to advertisements or circulars, including those by the State/Union Public Service Commissions and who are eventually confirmed in their new posts. It has since been decided in consultation with the State Governments that proportionate pensionary liability in respect of temporary service rendered under the Central Govt. and State Govts to the extent such service would have qualified for grant of pension under the rules of the respective Govt. will be shared by the Govts. concerned, on a service-share

  
(ARUN KUMAR)

Assistant Geologist,  
Central Ground Water Board,  
Ministry of Irrigation,  
Govt. of India,  
LUCKNOW

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basis, so that the Govt. servants are allowed the benefit of counting their qualifying service both under the Central Govt. and the State Govts. for grant of pension by the Govt. from where they eventually retire. The gratuity, if any, received by the Govt. employee for temporary service under the Central or State Govts. will, however, have to be refunded by him to the Govt. concerned.

2. The Govt. servants claiming the benefit of combined service in terms of the above decision are likely to fall into one of the following categories:

(1) Those who having been retrenched from the service of Central/State Govts. secured on their own, employment under State/Central Govts. either with or without interruption between the date of retrenchment and date of new appointment;

(2) Those who while holding temporary posts under Central/State Govts. apply for posts under State/Central Govts through proper channel with proper permission of the administrative authority concerned;

(3) Those who while holding temporary posts under Central/State Govts apply for posts under State/Central Governments direct without the permission of the administrative authority concerned and resign their previous posts to join the new appointments under State/Central Govts.

The benefit may be allowed to the Govt. servants in categories (1) and (2) above. Where

ARUN KUMAR  
Assistant Inspector of English,  
Central Govt. Service Board,  
Ministry of Education,  
Govt. of India,  
LUCKNOW

an employee in category (2) is required for administrative reasons, for satisfying a technical requirements, to tender resignation from the temporary post held by him before joining the new appointment, a certificate to the effect that such resignation had been tendered for administrative reasons and/or to satisfy a technical requirement, to join, with proper permission, the new posts, may be issued by the authority accepting the resignation. A record of this certificate may also be made in his service book under proper attestation to enable him to get this benefit at the time of retirement. Govt. servants in category (3) will, obviously, not be entitled to count their previous service for pension.

3. The above arrangement will not apply to the employees of the Govt. of Jammu and Kashmir and Nagal--and.

4. These orders come into force with effect from the date of issue and cases of all such Govt. servants retiring on this date and thereafter will be regulated accordingly. #

True copy.

Homoplasies?

(ARTUN KUMARI)  
Assistant Engineer, Irrigat.,  
Central Govt. Water Board,  
Ministry of Irrigation,  
Govt. of India,  
LUCKNOW.

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Counter Affidavit  
in  
Regn No. 332/86

Radhika Raman

vs  
Union of India & Others

(59)

4/1/6  
26.3.87

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH

AT ALLAHABAD.

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CIVIL MISC. APPLICATION NO. \_\_\_\_\_ OF 1986.

(Under Section 151 of C.P.C.)

On behalf of

The Union of India and others ..... Applicants.

IN

REGISTRATION NO. 332 OF 1986.

Radhika Raman ..... Applicant.

Versus

The Union of India and others ..... Respondents.

To

The Hon'ble the Chief Justice and His other  
companion Members of the aforesaid Tribunal.

The humble petition of the abovenamed applicant  
most respectfully Showeth:-

1. That the full facts have been set out in the  
accompanying counter affidavit.
2. That it is necessary in the interest of justice  
that the reliefs sought by the applicant in his aforesaid

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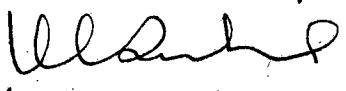
application may kindly be rejected.

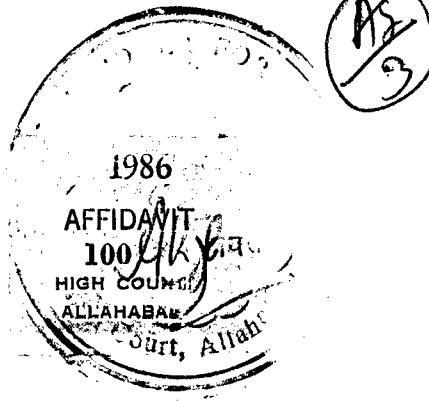
PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may be pleased to allow this application and reject the reliefs sought by the applicant in his aforesaid application.

And/or be further pleased to pass such other and further order which this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.

DATED/-

  
(K.C. SINHA),  
Addl. Standing Counsel,  
Central Government.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH

AT ALLAHABAD.

\*\*\*\*\*

COUNTER AFFIDAVIT

IN

REGISTRATION NO. 332 OF 1986.

Radhika Raman ..... .... Applicant.

Versus

The Union of India and others ..... Respondents.

Affidavit of Sri S.N SINGH

aged about 35 years son of

Late Shri Ray Nath Singh  
Deputy Chief Administrative Officer (Adm) in New Delhi

(Deponent)

I, the deponent abovenamed do hereby solemnly  
and state on oath, as under:-

1. That the deponent is posted as Def  
Administrative Officer (Adm) and is authorised  
counter affidavit on behalf of the responde

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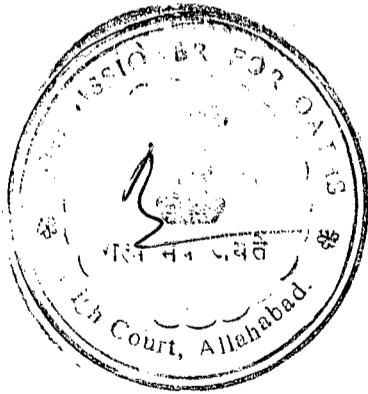
(2)

he is fully acquainted with the facts of the case deposed to below.

2. That the contents of the application filed by the applicant have been read over by this deponent and he has fully understood them and is in a position to reply the same.

3. That before giving parawise reply to the application it is necessary to give certain facts which may assist this Hon'ble Tribunal in deciding the controversies involved in the present application.

4. That the applicant Shri Radhika Raman retired Under Secretary, U.P. Government, served at Army Headquarters as Temporary IAC/UDC from 14-5-1942 to 16-3-1948. Subsequently on his selection for the post of the Upper Division Assistant in U.P. Government, he resigned his post and was struck off strength from Army Headquarters with effect from 16-3-1948 (afternoon). Shri Radhika Raman joined the U.P. Government on 17-3-1948 and retired as



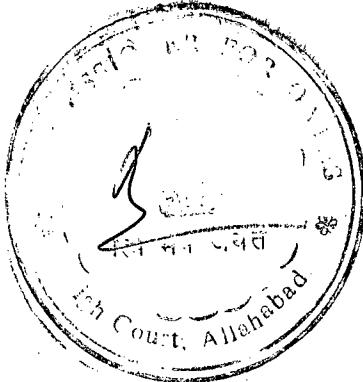
S. R. J.

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(3)

Under Secretary to U.P. Government with effect from 13-6-1978 on attaining the age of superannuation. As the applicant had rendered only 30 years of service as against 33 years of qualifying service required to get full pensionary benefits he could not get full pension from the State Government.

5. That the applicant had been representing to count the Temporary service he has rendered in Army Headquarters towards pensionary benefits. In this connection he had quoted a Government Order issued by the Department of Personnel and Training vide their letter No.3(20) Pension(A)/79 dated 31-3-1982 (Rule 14(5), page 28 of Central Civil Service (Pension) Rules, 1972). He had also quoted a case of one Shri Mohar in whose case it is stated by the applicant that the Temporary service has been counted towards pensionary benefits. The orders for counting the temporary service towards pension purposes were issued by the Department of Personnel vide above quoted letter and are applicable in case of Government servants retiring on the date of issue of letter or thereafter. The applicant retired from service with effect from 13-6-78.



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and his case is not covered under the rules. However, the case of the applicant was referred to the Controller of Defence Accounts (Pension), Allahabad, Ministry of Defence (Finance) and DP&AR (Department of Personal and Training) for their consideration. The case was considered and it was observed that the applicant had retired prior to issue of the Government Order dated 31-3-1982, and hence his case is not covered under the rules.

6. That in the absence of full facts of the case of Shri Mohar, it is not possible to make any comparison.

7. That the applicant was temporary employee in Armed Forces Headquarters and his service could not be counted as per the then existing Rules.

8. That the reliefs sought by the applicant are not admissible as per the Rules of the Government of India and hence the application filed by the applicant is wholly misconceived and is liable to be dismissed with costs.



Singh

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9. That the contents of paragraph nos. 1 and 2 of the application need no comments.

10. That in reply to the contents of paragraph no. 3 of the application it is submitted that the applicant retired Under Secretary, U.P. Government, with effect from 13-3-1978 had served at Army Headquarters on the post of Temporary LDC/UDC from 14-5-1942 ~~from to~~ 16-3-1948. Subsequently on his selection for the post of Upper Division Assistant in U.P. Government, he was struck of strength of his duties with effect from 16-3-1948 (afternoon). He has represented that service rendered in Army Headquarter should qualify for pension of the analogy of similarly placed case of Shri Ganga Shankar Mohar who served in Department of Supply before joining U.P. Government Department of Supply have expressed their inability at this beleted stage to make available the file leading to the issue of decision in the case of Shri Mohar. Since the details of case of Shri Mohar are not available, it cannot be stated that discrimination has been made in the case of the applicant. Orders for counting of temporary service for pension purpose were issued by the department

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of Personnel and Administrative Reforms on 31-3-1982 and are applicable in the case of officers who retired on that date or thereafter. The applicant retired from service with effect from 13-6-1978, his case is not covered under the rules.

10. That the contents of paragraph nos. 4 and 5 of the application need no comments.

11. That in reply to the contents of paragraph no. 6-1 of the application it is submitted that no records are available to say that the officer was appointed through proper channel.

12. That the contents of paragraph no. 6-2 of the application are not correct and as such are not admitted. The applicant was holding a temporary post of LDC with AFHQ and, therefore, he was not allowed to have any lien on his the LDC post of AFHQ. Shri Raman resigned his post of LDC in AFHQ on his selection with the U.P. Government



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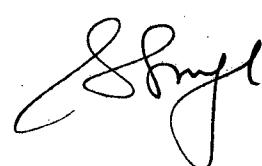
(7)

as U.D.C. He was not on deputation to U.P. Government.

As per the rules and regulations that were in vogue at the time pensionary/terminal benefits were not admissible to temporary Government Servants and hence he would not get any benefit.

13. That in reply to the contents of paragraph no.6-3 of the application it is submitted that the details of the case of Shri Mohar are not available with the Department of Supply at this belated stage. So, similarity or otherwise with the case of the applicant cannot be stated.

14. That in reply to the contents of paragraph no.6.4 of the application it is submitted that no comments are offered on submission of representation by the petitioner to the U.P. Government and their reply thereto. The matter, when referred to the office of the answering respondent was examined in consultation with the C.D.A.(P), Allahabad and Ministry of Defence (Fin/Pension). As such the applicant was holding a Temporary post of the L.D.C. in the AFHQ,



(8)

the service rendered by him was not countable towards pensionary benefits as per the rules and hence not admissible. Therefore, the question of incurring loss to the applicant does not arise.

15. That in reply to the contents of paragraph no. 6-5 of the application it is stated that in the absence of full fact of the case of Shri G.S. Mohar, it is not possible to make any comparison. The case of the applicant was examined in accordance with the rules and regulation and in consultation with the C.D.A. and Ministry of Defence/Finance. As the applicant was a Temporary employee in the AFHQ, his service could not be counted towards pensionary benefit as per the then existing rules.

16. That in reply to the contents of paragraph no. 6-6 of the application it is submitted that the Department of Personnel & AR orders dated 31-3-1982 is applicable only to those officers who retired or retiring on or after the issue of their letter. The applicant retired on 13-6-1978, and hence the above orders are not applicable in his case.

*Singh*

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17. That in reply to the contents of paragraph no.6-7 of the application it is stated that the reliefs sought by the applicant are not admissible to him as per the rules of the Government of India and hence should not be granted.

18. That with regard to the contents of paragraph no.7 of the application it is stated that since the applicant has failed to make out any case for interference by this Hon'ble Tribunal in the present proceedings, he is not entitled to any of the reliefs sought by him in the para under reply.

The grounds taken by him are not sustainable in the eyes of law and the application filed by the applicant is wholly misconceived and is liable to be dismissed with costs.

19. That in reply to the contents of paragraph no.8 of the application it is submitted that in view of the facts mentioned in the preceding paras of this counter affidavit, since the applicant has failed to make out any case for interference by this Hon'ble Tribunal, as such the interim order prayed for by the applicant, cannot be granted to him.

S. S. S.

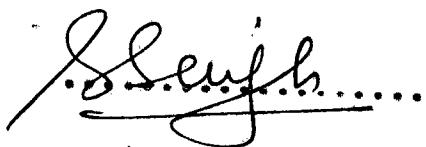
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20. That the contents of paragraph nos. 9, 10, 11, 12, and 13 of the application being matters of record, need no comments.

That the contents of paragraph nos. 1, 2 and 3 of this affidavit are true to my personal knowledge; those of paras nos. 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, & 20 15, 16, 17, of this affidavit are based on perusal of record; those of paras nos. 18 and 19 of this affidavit are based on legal advice; which I believe to be true that no part of it is false and nothing material has been concealed.

SO HELP ME GOD.

  
(DEPONENT)

I, D.S. Chaubey, Clerk to Shri K.C. Sinha, Additional Standing Counsel, Central Government, High Court, Allahabad, do hereby declare that the person making this affidavit and alleging himself to be Shri S.N. Sanyal is known to me personally.

  
(CLERK)

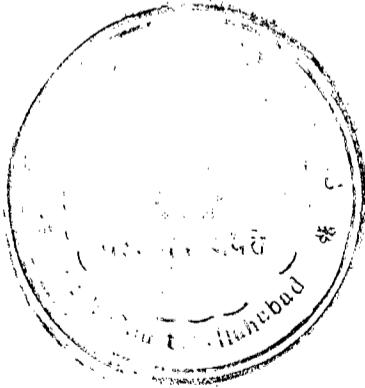
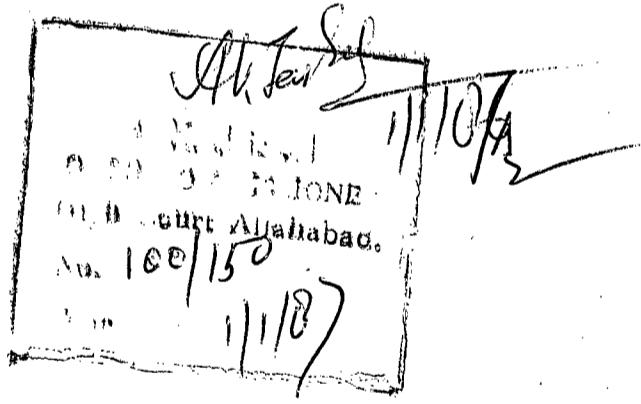
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(110)

Solemnly affirmed before me on this 18<sup>th</sup>  
day of December, 1986 at 5-30 A.M./P.M. by the deponent  
who is identified by the Clerk.

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

OATH COMMISSIONER :



(B1) ✓ (42)

## Before Central Administrative Tribunal Additional Bench Allahabad

Registration No. .... 332 .... of 1986 .....

District ... N. Delhi

Sh. Radhika Rana .... Applicant

### VERSUS

..... (under) ... Respondents

I/We ... Smt. S. N. Singh, after 35 years, S/o Shri

Mohini Singh, Deputy Chief Accountant

Officer (Retd) in the above matter hereby appoint and retain

SHRI KRISHNA CHANDRA SINHA, Advocate High Court

to appear, act and plead for me/us in the above matter and to conduct/prosecute and defend the same in all interlocutory or miscellaneous proceedings connected with the same or with any decree or orders passed therein, appeals and or other proceedings therefrom and also in proceedings for review of judgment and for leave to appeal to Supreme Court and to obtain return of any documents filed therein, or receive any money which may be payable to me/us.

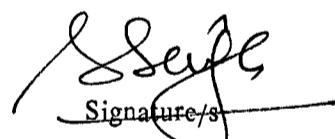
2. I/We further authorise him to appoint and instruct any other legal practitioner authorising him to exercise the powers and authorities hereby conferred upon the Advocate whenever he may think fit to do so.

3. I/We hereby authorise him/them on my/our behalf to enter into a compromise in the above matter, to execute any decree/order therein, to appeal from any decree/order therein and to appeal, to act, and to plead in such appeal or in any appeal preferred by any other party from any decree/order therein.

4. I/we agree that if/we fail to pay the fees agreed upon or to give due instruction at all stages he/they is/are at liberty to retire from the case and recover all amounts due to him/them and retain all my/our monies till such dues are paid.

5. And I/We, the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my own acts, as if done by me/us to all intents and purposes.

Executed by me/us this 03 day of Dec 1986 at

  
Signature/s

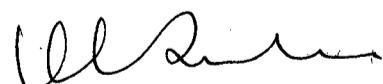
Executant/s are personally known to me he has/they have / signed before me

Satisfied as to the identity of executant/s signature/s.

(where the executant/s is/are illiterate blind or unacquainted with the language of  
vakalat )

Certified that the contents were explained to the executant/s in my presence  
in..... the language known to him/them who appear/s perfectly to understand  
the same and has/have signed in my presence.

Accepted



K.C. SINHA

Advocate

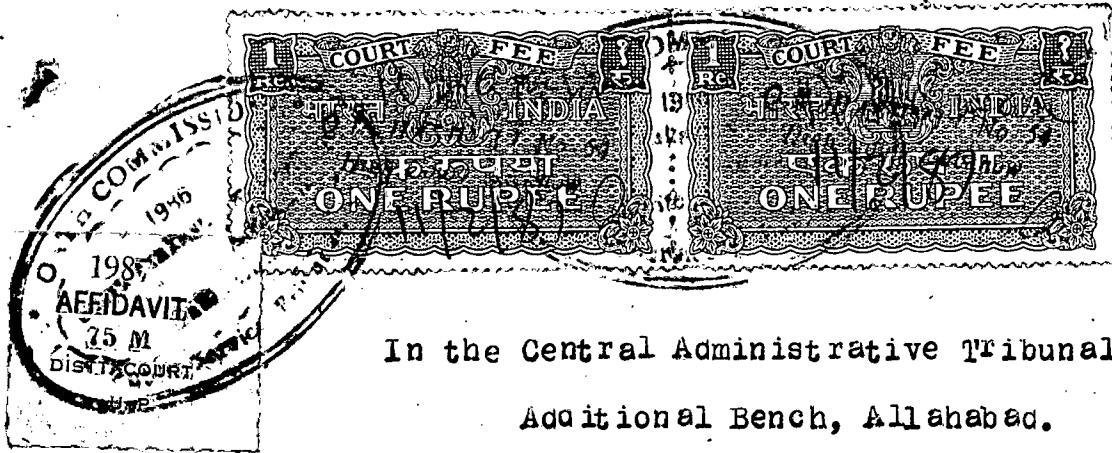
Additional Standing Counsel

Central Government

High Court-Allahabad

Counsel for Applicant/Respondents

No. 1 to 24/1/.....



In the Central Administrative Tribunal,

Additional Bench, Allahabad.

Application Registration No.332 of 1986

Radhika Raman --- -- Applicant

Versus

Union of India and others -- Respondents.

Rejoinder affidavit of the Applicant in reply to the Counter affidavit filed on behalf of Respondent No.3.

---

I, Radhika Raman aged about 66 years son of Late Sri Basudeo Narain presently residing in House No.C-4, Sector-A, Mahanagar, Lucknow do hereby state on oath as under:-

1. That the deponent above named has read and understood the contents of the Counter affidavit filed by Sri S.N.Singh on behalf of Respondent No.3 and is well acquainted with the facts deposed to below.
2. That the contents of para 1 to 3 of the Counter Affidavit need no reply.
3. That in reply to para 4 of the Counter affidavit it emphatically denied that the deponent had resigned his post in the Army Headquarters. In fact the deponent on being selected for appointment on the post of Upper Division Assistant in the U.P.Civil Secretariat on the basis of the Competitive Examination held by the U.P. Public Service Commission in the year 1947, the deponent submitted an application to the authorities concerned for being relieved from his post to enable him to join the said post under the U.P.Government. That deponent was not told at that time that <sup>o o</sup> his name was being struck off the strength with effect from the afternoon of 16.3.48.

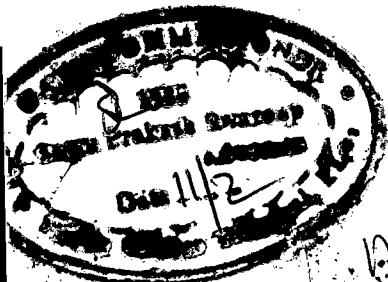
OATH COMMISSIONER

11/2/87

R. Raman

By virtue of having put in long meritorious services to the Central Government from 14-5-42 to 16-3-48 the lien of the deponent should have been retained till 31.3.1950 from which date the ~~ex-servant~~ deponent was confirmed on the post of Upper Division Assistant under the U.P. Government or the deponent should have been treated on deputation to the U.P. Government during that period to save him from losing retirement benefits for the period of the service under the Central Government. It is also asserted that the deponent retired as Under Secretary to Government of U.P. from 30-6-1978 afternoon and not from 13-6-78 as has been alleged by Respondent No.3.

4. That in reply to para 5 of the Counter affidavit it is stated that the orders contained in letter No.3(20) Pen(A) 79 dated 31.3.82 issued by the Government of India, Departments of Personnel denying the benefits of temporary service under the Central Government for pensionary benefits -s to the retirees who retired from service prior to 31.3.82 is hit by Article 14 and 16 of the Constitution of India as it divides one homogenous class of retirees into two artificial compartments contrary to the equality clause enshrined in Articles 14 and 16 of the Constitution of India. This assertion finds support from the verdict of the Hon'ble Supreme Court of India in the famous case of D.S.Nakara Versus Union of India and others (U.P.Services Cases 1983 Pages 263-303). That letter shall therefore be deemed to be a bar to confer the benefits of the temporary services rendered by the deponent under the Government of India for purposes pensionary benefits to him. The plea taken by Respondent No.3 to deprive the deponent of the benefit of his said temporary services in the Army Headquarters for pensionary benefits on the basis of the orders contained in the ~~letter~~ said letter of Department



*D.S.Nakara*

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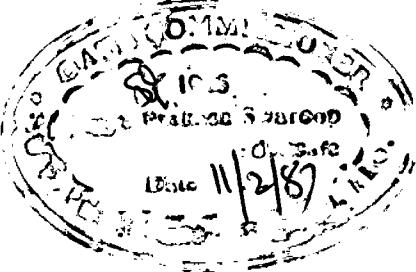
(No 3)  
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of Personnel stands demolished and the said order being illegal and unconstitutional is not enforceable in the case of the deponent.

5. That in reply to para 6 of the Counter affidavit it is stated that full facts of the case of Sri G.S.Mobar have been given in para 6.3 of the deponent's application and this assertion is supported by the Government of U.P. in their letter No. 4472, XX-E-1-95 P(5)-74 dated 19.9.79 addressed to the Controller of Defence Accounts (Pension) Allahabad and copy endorsed to Respondent No.3 and others. The identical case referred to in the said letter of U.P. Government relates to the case of Sri G.S.Mobar. The details of the case of Sri G.S.Mobar are also given in the Government of India letter dated February 17, 1964 a copy of which has been filed as Annexure 3 to the deponent's Application. It is thus clear that the benefit of temporary service of Sri G.S.Mobar under the Government of India was counted for pensionary benefits in similar circumstances. Therefore to deny the benefits of the temporary services rendered by the deponent under the Central Government for pensionary benefits is illegal and unconstitutional and it amounts to violation of the deponent's fundamental rights guaranteed under Articles 14 and 16 of the Constitution of India. The deponent is therefore entitled to the benefits of his temporary services under the Central Government for pensionary benefits when the U.P. Government is agreeable to this. A copy of the aforementioned letter dated 19.9.1979 of the U.P. Government is being filed as Annexure R-1.

6. That the contents of paras 7 and 8 of the Counter affidavit are emphatically denied and averments made in para 5 above are reasserted. The Application of the deponent therefore deserves to be allowed with costs.

7. That para 9 of the Counter affidavit needs no ~~replies~~ <sup>replies</sup>



M. S. S.

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8. That the contents of para 10 of the Counter Affidavit as alleged are not admitted and contents of para 4 and 5 of this Rejoinder affidavit are reasserted. It is also asserted that in view of the averments made in paras 4 and 5 above the deponent is legally entitled to all the reliefs claimed in this Applications with costs.

9. That para 10 which ~~agains~~ <sup>occurs b</sup> after ~~is~~ <sup>a</sup> para 10 a ~~part~~ of the Counter affidavit needs no reply in view of the averments made in paras 4 and 5 above.

10. That in reply to para 11 of the Counter affidavit it is stated that deponent had applied for admission to Competitive Examination of 1947 held by the U.P. Public Service Commission through Proper Channel and on that basis he was admitted to the said Examination. The deponent had applied for admission to the said Competitive Examination for appointment to the posts reserved for war service candidates. The U.P. Public Service Commission had admitted the deponent to the said Examination on the basis of the certificate given ~~off~~ by the Office of the Chief Administrative Officer, Ministry of Defence that the deponent had rendered war service in the II World War of 1939-45 and <sup>on</sup> that basis the deponent was exempted from payment of Examination <sup>fees</sup> which was payable by non-war service candidates. It is also stated that the character roll of the deponent for the period of service in the Army H.Q. was sent by Respondent No. 3 to the U.P. Government which forms part of the Character Roll of the deponent and the same is still available with the Government of U.P. in the Secretariat Administration Department (E-1 Section) and the same could be summoned and perused by this Hon'ble Tribunal. That Character roll would not have been sent to Respondent No. 4 had the Petitioner not been appointed on the post under the U.P. Government through Proper Channel.



M. L. S.

(5) P.M. P.M.

11. That the contents of para 12 of the Counter affidavit are not admitted and the assertions made in para 6.2. of the Application are reasserted.

12. That the contents of para 13 of the Counter affidavit are not admitted and the averments made in para 5 above and the assertions made in para 6.3. of the application are reasserted.

13. That the contents of para 14 of the Counter affidavit are not admitted and the assertions made in para 6.4 of the application are reasserted.

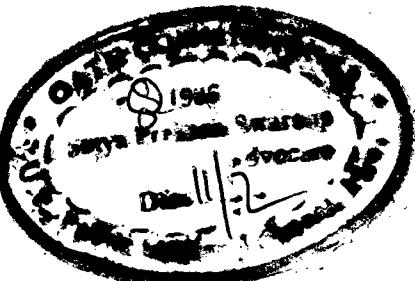
14. That the contents of para 15 of the Counter affidavit are not admitted and the assertions made in paras 4 and 5 of this Affidavit are reasserted.

15. That the contents of para 16 of the Counter affidavit are misconceived and the same are denied and the averments made in para 4 of this affidavit and assertions made in para 6.6. of the Application are reasserted.

16. That the contents of para 17 of the Counter affidavit are misconceived and are emphatically denied and it is asserted that in view of the averments made in para 4 of this affidavit the deponent is entitled to the benefits of his temporary service in the Army H.A. for pensionary benefits as asserted in para 6.7 of the application.

17. That the contents of para 18 of the Counter affidavit being misconceived are emphatically denied and it is asserted that this is a fit case for grant of the reliefs sought for in the Application as all the grounds are legally tenable as asserted in para 7 of the application.

18. That the contents of para 19 of the Counter affidavit are misconceived and are emphatically denied



*R. Bhattacharya*

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and it is asserted that the decision of the O.P. No.3 to deprive the deponent from the benefits of his temporary service in the Army H.Q. for pensionary benefits is illegal and unconstitutional and the applicant is entitled to the reliefs claimed in his Application together with costs.

19. That para 20 of the Counter affidavit needs no reply.

Lucknow:

10 January 1987.

*Ram C*  
Deponent.

Verification.

I, Radhika Raman, the deponent above named do hereby verify that the contents of para 1 to 19 of this affidavit are true to my personal knowledge and belief; no part of it is false. So help me God.

Signed and verified on this 11th day of January, 1987

at Lucknow.

*Ram C*  
Deponent.

I personally know the deponent who has signed before me.

*Shivay*  
Advocate.

Solemnly affirmed before me on this 11th day of January 1987 at 11.45 am by the deponent who has been identified by me.

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

*Shivay*

Oath Commissioner.

Constituted 11/2/1987

*Shivay*  
Radhika Raman Advocate

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which has been read over and understood by him on 11/2/1987

Constituted 11/2/1987

11/2/1987

(16/2) 19

इन दि तेंट्रल ऐडमिनिस्ट्रेटिव ट्रिब्युनल,  
सडीशनल बैंच, इलाहाबाद ।  
अप्लीकेशन रजिस्ट्रेशन नं ३३२ आफ १९८६

राधिका रमन

अप्लीकेंट

बतेज

पूनियन आफ इण्डिया सण्ड अर्द्द

रैस्पोडेंट

सेनेक्जर नं०-आर-।

संख्या-४४७२/बीत-ई-१-९५पी१५१/७४

प्रेषक,

तमाष चन्द्र चतुर्वेदी,  
उंप तचिव,  
उत्तर प्रदेश शासन ।

तेवा में,

कन्ट्रोलर आफ डिफेन्ट एकाउन्टेंट पेंशन।  
द्रोष्टी घाट-इलाहाबाद ।

तचिवालय पुश्तातन। अधिकारी। अनुभाग-। दिनांक लखनऊ १९ तितम्बर, १९७९  
विषय-आमी हेड क्वार्टर में २९-४-४२ से १६-३-४८ तक श्री  
राधिका रमन द्वारा की गई तेवा हेतु पेंशन अदान ।

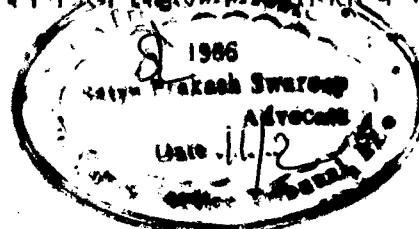
महोदय,

कृपया उपर्युक्त विषयक राज्य सरकार के पत्र संख्या-२९६२/बीत-ई-  
१-९५पी१५१/७४ दिनांक ।। जून, १९७९ का तंदर्भ लें ।

२- श्री राधिका रमन द्वारा रक्षा मंत्रालय, भारत सरकार के अधीन  
१४ मई, १९४२ से १६ मार्च, १९४८ तक की गई तेवा के विवरण मुख्य पुश्तातन  
अधिकारीखारत सरकार रक्षा मंत्रालय नई दिल्ली द्वारा आपको उनके पत्र संख्या-  
४२१५२/एमटी/तीसओजीस्ट।, दिनांक २५-१०-७८ द्वारा उपलब्ध कराए जा  
युके हैं। श्री रमन द्वारा भारत सरकार के अधीन की गई उक्त अवधि की तेवाओं  
की गणना उनके द्वारा राज्य सरकार के अधीन की गई तेवाओं में करते हुए,  
भारत सरकार द्वारा अनुपातिक पेंशनीय भारवहन करने का प्रस्ताव काफी  
तथ्य ते लम्बित है। ऐसे मामलों में जिनमें किती कर्मदारी द्वारा भारत  
सरकार के अधीन की गई तेवाओं का लाभ देकर अनुपातिक पेंशनीय भार बहन  
किया जाना हो, उक्त मंत्रालय, भारत सरकार। डिपाटमेंट आफ सकतपेन्डीचर।  
के पत्र संख्या-एफ-२०१४७-ई-बी/५७, दिनांक ।।.२.१९६३ का तंदर्भ देना आवश्यक होगा। इस पत्र में निहित निर्देशों के अनुसार करियद मामलों में भारत  
सरकार द्वारा अनुपातिक पेंशनीय भार बहन करने की तहमतिइत राज्य  
सरकार को पूर्व में प्राप्त हो चुकी है। अतः कृपया उपर्युक्तपत्र में निहित  
निर्देशों की पृष्ठभूमि में मामले का परीक्षण कर अपनी तहमति यथाजीपु  
उपलब्ध कराने की कृपा करें।

३- इति तंबंध में राज्य सरकार के उपरोक्त तंदर्भित पत्र है आपते यह  
भी अनुरोध किया गया था कि यदि भारत सरकार द्वारा इति राज्य सरकार  
को पेंशन के अंगादान दिस जाने में कोई आपत्ति पाई जाए तो श्री रमन  
को अहिकारी तेवा पूरी होने की दशा में अधिक मिलने वाले पेंशन लाभों  
को पूर्तिपूर्ति स्वरूप पेंशन सापेक्षतामुक्त तम्भलय लगभग ३३५०/- की धनराशि  
भक्षण

12/5/2023



भारत सरकार के द्वारा इस राज्य सरकार को एक मुहूर्त उपलब्ध करा दी जाए ।  
इस संबंध में आपसे कोई उत्तर नहीं प्राप्त हुआ है ।

4- मुझे आपसे यह अनुरोध करने का निदेश हुआ है कि कृपया अमर प्रस्तर-2 तथा 3 में वर्णित बैकल्पिक प्रस्तावों में से भारत सरकार को जो बिकल्प मान्य हो उससे राज्य सरकार को शारीर अवगत कराने की कृपा करें ।

महाराजा,

ह०/सुभाष चन्द्र चतुर्वेदी  
उप सचिव ।

संख्या-447211/बीत-ई-।-95घी 15।/74

तद दिनांक

प्रतिलिपि निम्नलिखित को तूचनार्थ सबं आवश्यक कार्यबाही हेतु  
प्रेषित:-

- 1- मुख्य प्रशासन अधिकारी, भारत सरकार, शक्ति मंत्रालय, नई दिल्ली 1,  
श्री रमन के पत्र दिनांक ।।-6-79 की प्रति आपको पूछाँकित है ।
- 2- महालेखाकार-1, उत्तर प्रदेश, पी0आर0-2, पैंशान इलाहाबाद ।
- 3- महालेखाकार, उत्तर प्रदेश, जी0र025अनुभाग लखनऊ ।
- 4- श्री राधिका रमन तेवा निवृत्त अनुसंचित सी0-4 टैक्टर-स-।  
महानगर लखनऊ को उनके पत्र दिनांक ।।-8-79 के संदर्भ में ।

आज्ञा ते  
ह० सुभाष चन्द्र चतुर्वेदी  
उप सचिव

। सत्य प्रतिलिपि ।



(1)  
Mo/Ch

In the Central Administrative Tribunal,

Additional Bench, Allahabad.

Application Registration No.332 of 1986

Radhika Raman --- --- --- Applicant

Versus

Union of India and others --- Respondents.

Application for taking on record Govt of U.P. (Respondent No.4) letter No.6608/20-E-70/141/81 dated Jan 1, 1987

The Applicant above named most respectfully states as under:-

1. That one Sri MN.Mitra who had joined the U.P.Civil Secretariat Service after having put in temporary service under the Ministry of Defence, Govt of India from 15-7-'40 to 31.10.1950, has been allowed the benefits of his said service for pensionary benefits consequent on the Central Government and the Government of U.P. having agreed to share proportionate pensionary liability. A copy of the U.P. Government said letter No.6608/20-E-70/141/81 dated 1.1.1987 addressed to the Accountant General, U.P. and copy to the Controller of Defence Accounts (Pensions) Allahabad, is being filed as Annexure-A.

2. That the Controller of Defence Accounts (Pensions) Allahabad who has agreed to share pensionary liability on behalf of the Central Government in respect of the temporary service rendered by Sri M.N.Mitra, refused similar request made by the Government of U.P. to the Government of India in the case of the Applicant as would be evident from Annexure-6 of the original Application. This action of the Central Government is discriminatory and in violation of the fundamental rights of the Applicant guaranteed under Article .....

*Raman*

(2)

14 and 16 of the Constitution of India.

3. ~~That~~ That it will thus be evident ~~from~~ the Applicant is also entitled to the benefits of his temporary services under the Government of India, Ministry of Defence from May 14, '42 to March 16, 1948 for purposes of pensionary benefits as applying two different standards in two similar cases is not permissible under Articles 14 and 16 of the Constitution of India.

P R A Y E R

Wherefore it most respectfully prayed that this application as well as Annexure-A annexed thereto may kindly be ordered to be taken on records in the interest of justice.

Lucknow:

March 22, 1987.

Raman  
(Radhika Raman)  
A P P L I C A N T

AEROMARINE

四

ਗੁਰੂ ਨਾਨਕ ਦੇਵ ਮਾਈ  
ਗੁਰੂ ਨਾਨਕ ਦੇਵ ਮਾਈ

卷之三

शह दोषात्तरा  
उत्तर प्रदेश  
मुमुक्षु

କରିବାକୁ କିମ୍ବା ଅକିରାଣ । କୁଣ୍ଡଳ

मोदी : दिव्या : १. दिव्या

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ਹਾਂਦਿਆਂ ਦੇਖੁ ਜਿਵੇਂ ਦੀ ਵਾਰ ਰਹੀ ਹੈ।

प्रदीपः

१५८०८ पट्टु । १५८०८  
सुन्दर कथित

660311 U20-6-1-101 16 U81. FG FG FU

प्रतिमिति निष्क्रियिति वा कृत्यार्थं तथा व्यापारं वा विद्यते

卷之三

८० एक्सोल खाड़ी एक्सेस एडेस्टर विल्सन, फ्रान्सिस

१० एकादश शुक्लाम विश्वा शुभावृत्ति

ଦିନ ପ୍ରାମାଣ୍ୟର କୁଳକ  
— ପ୍ରାମାଣ୍ୟ ପ୍ରାମାଣ୍ୟ

ପାଞ୍ଚାଳି ଯାତ୍ରି କୁରୁକ୍ଷେତ୍ର  
କିମ୍ବା କିମ୍ବା କିମ୍ବା

दी रात्रि का, ताजी की, रात्रि !

BY 100 %

ପିଲାଦ ପାନ୍ଦିର  
ପିଲାଦ ପାନ୍ଦିର  
ପିଲାଦ ପାନ୍ଦିର

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X/RS

Before:- The Central Administrative Tribunal, Circuit Bench  
Lucknow

Registration No. 26/88(2)/O.A.332/86

Radhika Raman .....Applicant

Versus

Union of India & others .....Respondents

F.F. 26-8-88

Sir,

The documents summoned ~~from~~ opposite party No 4, in the above suit have been brought to the court, but privilege is claimed for reasons disclosed in the accompanying affidavit. It is, therefore, prayed that the document may not be taken in evidence and may be allowed to be taken back.

*Bilawal*  
26/8/88.

~~D.G.C.~~ / Person Bringing the Document.

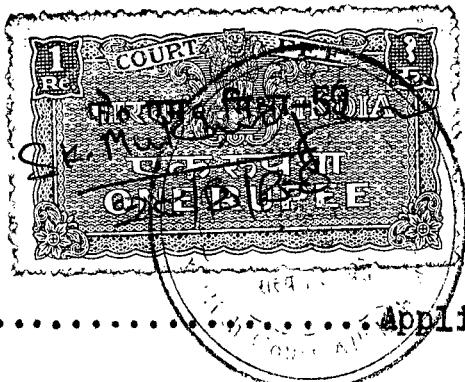
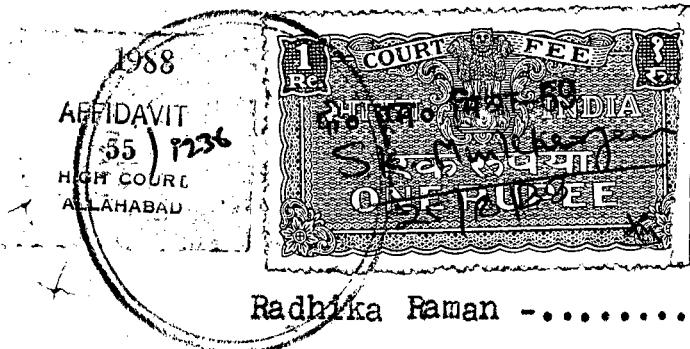
(Uttar Pradesh)  
(Sushil Kumar Sandey)  
U.D.A.

Secretariat Administration  
Department (Establishment)  
Section - 1; Civil Secretariat  
Lucknow.

(16)

Before :- The Central Administrative Tribunal, Circuit Bench,  
Lucknow

Registration No. 26/88(2)/O.A.332/86



Radhika Raman ..... Applicant

Versus

Union of India & others ..... Respondents

F.F. 26-8-88

AFFIDAVIT

I, S. K. Mukherjee, Secretary, Secretariat Administration Department, Civil Secretariat, Lucknow, do hereby solemnly affirm and state as follows:-

- (1) That the summonses/ orders; dated 27-4-1988 requiring the production of the personal file of the Applicant Shri Radhika Raman , in the above mentioned suit have been duly received.
- (2) That I as Head of the Department of Secretariat Administration am in charge and Control of the personal file of Shri Radhika Raman .
- (3) That I have carefully considered the contents of the said document(i.e. the personal file of Shri Radhika Raman)
- (4) That these documents are unpublished official records relating to affairs of the State and their disclosure will be prejudicial to Public interest. I, therefore, do not give



*Shri Radhika Raman*

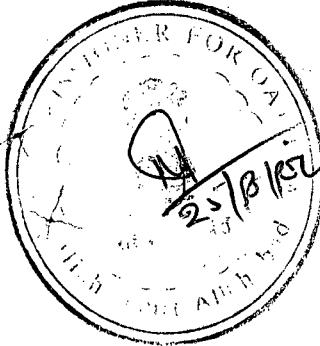
(A2)  
27

permission to anyone to produce the said documents in para 3 or to give any evidence derived therefrom.

(5) That the aforesaid documents are privileged under section 123 of the Indian Evidence Act.

Solemnly affirmed at Lucknow this day of

August 25, 1988.



Case No 55/1236

Solemnly affirmed before me in office today  
at 4:50 P.M. by Sri S.K. Mukherjee  
who is identified by Shri S.K. Pandey  
and to Sri .....  
I have satisfied myself by examining the deponent  
that he understands the contents of this affidavit  
which has been read out and explained to me

Charged Rs 1/-  
OATH COMMISSIONER

High Court, Allahabad  
Lucknow Bench

No. 55/1236

Date: 25/8/88

25/8/88 Amr

Solemnly  
(S.K. Mukherjee)

Secretary

Secretariat Administration  
Department

Civil Secretariat, Lucknow.

I identify the  
deponent who  
has signed before me  
S. K. Mukherjee  
25/8/88

(78)

(83<sup>+</sup>)

No. F. 20(47)-EV/57  
Government of India,  
Ministry of Finance,  
(Department of Expenditure)

From

New Delhi-2, the 11th February, 1963.

To

All State Governments  
(excepting J&K, Punjab and West Bengal),  
Finance Department.

Subject :- Allocation of pensionary liability between the Central  
and the State Governments as a result of the introduction  
of the Liberalised Pension Rules.

\*\*\*\*\*

Sir,

I am directed to refer to this Ministry's letter No.  
F. 20(47)-EV/57 dated the 21st May, 1960, (copy enclosed) on the  
subject noted above, and to say that in view of your Government's  
acceptance of the proposal contained therein, all pending cases in  
which the pensionary liability could not be allocated between the  
Government concerned for reason of diversity in the pension rules,  
P.T.O.

40  
S. No. F. 20 (47)-E.V/57  
Government of India  
Ministry of Finance  
Department of Expenditure  
New Delhi, the 21st May, 1960.

From

Shri D. D. Bhatia,  
Deputy Secretary to the Govt. of India

To

All State Governments,  
Finance Department,

Subject:- Allocation of pensionary liability between the  
Central and State Governments as a result of  
introduction of the Liberalised Pension Rules.  
\*\*\*\*\*

I am directed to invite a reference to this Ministry's letter No. F. 24(5)-EV/53, dated the 2nd March, 1953 (copy enclosed) and to say that the replies received thereto disclose that some of the State Governments do not favour the continuance of the arrangements of allocation of pensionary liability embodied in Section IV of Appendix 3 of Account Code, Vol. I., for the reason that pension rules of the State Governments and the Central Government are divergent. The Government of India thereupon examined the feasibility and utility of adopting a suitable alternative method for the allocation of pensionary charges which would at once ensure simplicity in accounting procedure and also uniformity. The salient features of the alternative method are contained in Annexure "A" to this letter.

2. The feasibility of adopting the alternative method referred to in the preceding paragraph from the view-point of audit and accounting was considered in consultation with the Comptroller and Auditor General. The alternative method was considered to be defective for the reasons stated in Annexure 'B'. After a careful consideration of the problem in all its aspects, the Government of India as well as the Comptroller and Auditor General are of the view that the existing practice of discharging the pensionary liability in accordance with the 'rule of proportion' as envisaged in Section IV of Appendix 3 of Account Code Vol. I is the best and the simplest in the existing circumstances and that any other method would bring in special complications which will increase work both in the administrative and audit offices and might also lead to delays in finalising pension cases. The Government of India trust that in view of the fact that the continuance of the existing practice in the matter of allocation of pensionary liability will not result in any appreciable extra expenditure, the State Government will have no objection to the existing arrangements being continued. In other words, the pensionary liability between the Central Government and State Governments may continue to be apportioned on the basis of the length of service rendered under each Government regardless of the fact that the pension rules of the Governments concerned may not be identical or may be altered as and when considered appropriate by the concerned Governments.

P.T.O.

the concerned Government. These rates require revision, as and when, the terms of pensionary benefits are altered. Frequent alteration in the rates of pension contribution will, besides making the accounting procedure more complex, might create a difficulty in the transfer of an officer from one Government to another.

(ii) Introduction of the new system will involve payment of pension contribution retrospectively from the date of joining duty by an officer under borrowing Government.

(iii) According to para (iv) of Annexure "A" when a Government servant is permanently absorbed under a borrowing Government, his pension is regulated according to the rules of that Government. If the rules of the borrowing Government are less liberal than those of the original lending Government, the interests of the Government servant will suffer and will render the provisions of article 4-A of the Civil Service Regulations nugatory.

(iv) The new procedure will cause delay in the sanction of pension, as both the pension sanctioning authority and the audit officer will like to ensure before sanctioning pension that necessary contributions have been received and adjusted.

Copy of letter No. F.24(5)-EV/53 dated the 2nd March, 1953 from Shri H. F. B. Pais, Deputy Secretary to the Government of India of all Part A States, Finance Department.

..... /to the Governments

Subject:- Allocation of pension among two or more Governments.

.....

Under the pensionary system which was in force before the Central Pay Commission made their recommendation, the rules followed by the Central and Provincial Governments were almost identical, and service pension involved only a single recurring payment to the retired Government servant. Since then there has been a divergence in the nature of benefits allowed by the various Governments. The main changes effected are briefly as follows:-

(1) Some State Governments, e.g. Uttar Pradesh and Madras, have granted retiring benefits which consist partly of pension and partly of a contributory provident fund cum insurance, whereas some other State Governments have adopted a scheme which is identical with that of the Central Government, as indicated below-

(2) The Government of India have evolved a liberalised scheme as detailed in their Office Memorandum No. F.3(1) Est. (Spl) /47, dated the 17th April, 1950, which involves one or more of the payments or the grant of concessions indicated below:-

- (a) a recurring monthly pension;
- (b) a retirement gratuity payable under paragraph 3(1) of the Office Memorandum cited above;
- (c) a death gratuity payable under paragraph 3(2) of the Office Memorandum;
- (d) a residuary gratuity payable under paragraph 3(4) of that Office Memorandum;

P.T.O.

Statement of Service of Temporary Government Servant recruited for the duration

1. Name **Mr. Radhika Ram an Sharma**  
 Father's Name **B. Basdeo Narayan.**

3. Date **Ayan**

4. Place of residence **Ballia (U.P.)**

5. Date of birth **18<sup>th</sup> July 1920**

6. Educational qualification **B.A. (Allahabad)**

7. Personal marks of identification. **Scar mark on left Calf** Signature of the Head of Office

Particulars of the post held	Date of appointment	Pay	Date of termination of appointment.	Nature and period of leave taken	Signature of the Head of Office
1	2	3	4	5	6
Loc. (Offg.) 17-20-300)	3.11.47	250/-	2.12.47 16 18.3.48 (A.M.)	✓	u.c. Lany For CAO
17-300)	3.12.47	165/-	18.3.48 (A.M.)	✓	u.c. Lany For CAO
On being selected for a permanent appointment in U.P. Secretariat Soc. w.e.f. 10.3.48 (A.M.) (D.O. P.I. 17/48)					
Pay re-fixed @ Re 160/- p.m. w.e.f. 1.1.47 under Prescribed Scale vide o.c. F.T.O. No 33/48					

Service rendered in  
Army HQ.

ment of Service of Temporary Government Servants recruited for the duration of the War (21)

1. Name. Mr. Radhika <sup>Ram</sup> Shaum

2. Father's Name. B. Basdeo Narayan

3. Race. Aryan

4. Place of residence. Ballia (U.P.)

5. Date of birth. 1st July 1920

6. Educational qualification. B.A. (Allahabad)

7. Personal marks of identification. Scar mark on left Calf.

*Head of Office*  
Signature of the Head of Office

Particulars of the post held.	Date of appointment.	Pay.	Date of termination of appointment.	Nature and period of leave taken.	Signature of the Head of Office.	Remarks.
1	2	3	4	5	6	7
S. Per.						
1. Clerk (No. 40-3-120)	29.4.42	50/-	31.5.42	E.L. for 11 days w.e.f. 2.7.43 Rejoined on 13.7.43		x plus 20% in allowance
2. (No. 60-5-100- 132-3-144)	1.6.42	60/-	30.6.42	(Do. no 192.03)		x Re-fixation vide DD Letter 2 11.9.30/123.7/2.5
3. Clerk (No. 120-9-200)	1.7.42	120/-	30.6.43			o Promotion
4. Do.	1.7.43	120/-	30.6.44			o Increment Do. No. 123/4.3
5.	1.7.44	130/-	30.6.45	earned leave w.e.f. 25-27.10.44 Rejoined on 28.10.44	FC.H.O.	✓ Increment
6.						✓ Increment
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155.						✓ Increment
156.						✓ Increment
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242.						✓ Increment
243.						✓ Increment
244.						✓ Increment
245.						✓ Increment
246.						✓ Increment
247.						✓ Increment
248.						✓ Increment
249.						✓ Increment

T. & T. FOX, N.Y. 10.

Paragraph 34 of Auditor-General's instructions issued under Fundamental Rule 74.



Name	.....	Name	.....
Race	.....	Race	.....
Residence	.....	Residence	.....
Father's name and residence	.....	Father's name and residence	.....
Date of birth	.....	Date of birth	.....
Exact height by measurement	.....	Exact height by measurement	.....
Personal marks for identification	.....	Personal marks for identification	.....
Signature of Government servant		Signature of Government servant	
Signature and designation of the Head of the Office or other authorising Officer		Signature and designation of the Head of the Office or other authorising Officer	
Name and address of the witness		Name and address of the witness	

Thumb and finger impressions of (non-gazetted) officer  
میڈارے کے ہاتھ کے انونہ اور انہی کے نشانات  
خینچنے  
خینچنے  
خینچنے  
خینچنے  
خینچنے  
خینچنے

Signature  
صوہی  
جعفر

Date: 17-12-2010

جعفر

جعفر



