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Central Administrative Tribunal
Lucknow Bench

WP 741/83

Cause Title TA 1123/87 of 1993

Name of the Parties P.K. Dhar & others Applicant

versus

Union of India Respondents.

Part A R.C

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The Part B check on 2.2/2/12 in:

Case filed that no further action is required to take and that the case fit for closing and sent to the record room (0)

S. G. G. 3

Handwritten signature

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

FORM OF INDEX

~~O.A./T.A./B.A./C.C.P./~~ No. 1123--1987

P.K. Dhal - vs - UoY.

PART - I

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21/1/88
DY. Registrar

[Signature]
Supervising Officer
(Kulbir Singh)

[Signature]
Dealing Clerk
(V.K. Mishra)

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

22
[Signature]
Dealing Clerk.
(V.K. Mishra)

2.

The petitioners respectfully beg to state as follows:-

1. That the petitioners are working as Assistants in the Research Designs and Standards Organisation, Lucknow.

2. That the present scale of pay of the Assistants after revision from time to time is Rs.425-800.

3. That the scale of pay of the Stenographers grade II is Rs.425-800.

4. That the scale of pay of the post of Section Officer is ⁶⁵⁰Rs.625-1200. It is class II post. Prior to the year 1963 promotion to the post of Section Officer was open to the Assistants only. Stenographers were not eligible for promotion to the post of Section Officer, which fact is evident from the recruitment rules for the post of Section Officers. A true copy along with the letter of the Railway Board is being filed herewith as Annexure 1 to this writ petition.

5. That in order to create avenue of promotion to the Stenographers working in the Research Designs and Standards Organisation (herein after referred to as the R.D.S.O.) the opposite party no.2 by his letter No. A/ES/Steno dated 22.8.61, addressed to the opposite party no.1 requested that the Stenographers working in the R.D.S.O. may also be made eligible for promotion

to the Class II Posts of Section Officers (Min) the R.D.S.O. A true copy of the said letter is Annexure 2 to this petition.



(4)

A/196

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

w.p.

No.

741

of 1983

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
10-2-83	<p>Mem SCM, 7 Mem SSA, 7</p> <p>Admit, notice on behalf of the opp. parties has been accepted by Sri D.S. Randalhawa.</p> <p>Sd SCM Sd SSA 10-2-83</p> <p>CM Ann O 1341 @ 83</p>	
10-2-83	<p>Mem SCM, 7 Mem SSA, 7</p> <p>It has pointed out to the w.p. deem fit and proper to pass</p> <p>Sd SCM Sd SSA 10-2-83</p>	
10-2-83	<p>Mem U.C.S., 7</p> <p>under mistaken belief same statement</p> <p>in the other w.p.</p> <p>Sd U.C.S. 10-2-83</p>	

(1)

AT 98 12/3

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.A. No. 741 of 1983

25.

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
	<p><u>Hon. S.S. Ahmad, J</u></p> <p>Learned counsel for Union of India prays for and is allowed three weeks further time to file a counter affidavit.</p> <p>List immediately after the expiry of three weeks. In the meantime the interim order dated 10.9.83 shall continue.</p> <p>26.7.83 P.S.</p>	
27.7.83	<p>19.8.83 fixed in court 1341 court for nouns</p>	single
3.9.83	<p>court 1306 court for reading</p> <p>26.9</p>	

Hon. S.S. Ahmad

Put up with the record next week
on 10.9.83

(9)

74/A/97
12/7

ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. _____

of 198 3

P. K. Dhar and others vs. Union of India and another

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
1.2.83	<p style="text-align: center;">Hon. S.C. Mathur, J. Hon. S.S. Dhanda, J.</p> <p>After admitting the writ petition we have ^{directed} by our order passed today, the ^{be laid before} the stay application to Court no. 5 for hearing and disposal by a learned Cople Judge. This order was passed on the basis of a statement made by Sri Kalia that a similar stay application in ^{similar} an ^{opent-} petition no. 2518 of 1980 was listed for hearing before that Court. An order has now been passed by Hon. U.C. Srivastava, J., that no such matter was listed before him. The stay application has ^{consequently} been ^{re-} introduced ^{re-} to ^{re-} the ^{re-} Court ^{re-} before ^{re-} us ^{re-} again.</p> <p>After hearing the learned Counsel for the parties we direct that the examination scheduled to be held on 12th and 13th Feb. 1983 shall be held but the result shall not be declared until further orders of this Court. The stay application shall come up for further orders before a learned Cople Judge on 7-3-83.</p> <p>A copy of this order shall be issued to the learned Counsel for the petitioner on payment of necessary charges today, if possible.</p>	

S. K. Dhar

kel

10-2-83.

(2)

to this petition else it will delay the matter.

I am afraid behind the back of those persons it would ^{not} be justified, ^{to pass any such order} but it would be open to the petitioners' counsel to raise this objection as and when an application for impleadment is made by those persons or by the Union of India.

[Signature]

31.7.1984

SK/-

f. sec Bk

*cont 2900 cur. M. for meeting some
in REPLY*

*dist with the need, if possible,
next week.*

*Salmon REPLY
3.8.84*

*22/8/84 to R.D.M. (f. sec Bk) cont 2900 cur. M.
p. 2000*

Hon R.C.D.S.S

REPLY

*Sri Randhawa, learned counsel
for the opposite parties, prays for and
is allowed twentyfour hours time to
file a reply to the application. Put
up tomorrow.*

[Signature]

*22.8.1984
C.M.*

23.8.84

Hon. R.C.D.S.S.

(b)

A201
3

12
6

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No.

741

of 198

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
23-8-84	<p><u>Hon. Mr. D.S.P.</u></p> <p>In view of the counter-affidavit filed in behalf of the opposite parties by Sri Ramdhawa and the averments made in para 6 thereof the selection in question has been quashed and fresh selection is scheduled to be made in November 1984. In this view of the matter, it is not necessary to pass any interim order or to recall the order passed earlier. The application for recalling the order stands disposed of accordingly.</p> <p>23.8.1984 CJ</p> <p style="text-align: right;">L. Das</p>	
19/12/84	<p style="text-align: center;">for a B.C.S.S. H.C.M.S</p>	

ORDER SHEET

(18)

IN THE HIGH COURT JUDICATURE AT ALLAHABAD
WP No. 741 of 1983

A202
12/7

Date	Note of progress of proceedings and routine orders	Date of which case is adjourned
1	2	3
21/3/85	fixed for hearing Hr UCS 5 Hr SCM 5	B/c
28/3/85		
	Cop. An 3604(w) 85 for Amendments	
4/4/85	fixed for hearing with Cop An 3604(w) 85. Hr UCS 5 Hr SCM 5 So	B/c
11/4/85		
18/4/85	Hr K N M 5 Hr SS 75 For orders see the order of date passed on the order Sheet of connected WP No 2516 of 1980. Dy/ 18-4-1985	

Jain

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17

Serial number of order and date

Brief Order, Mentioning Reference if necessary

How complied with and date of compliance

4.12.89

Hon. Justice K. Nath, V.C.
Hon. K. J. Raman, A.M.

No one is present for the applicant. On the application moved by the respondent, Sri S. Bhatia, on behalf of Sri A. V. Srivastava, learned counsel, put up this case tomorrow for orders.

LOR

[Signature]

A.M.

V.C.

Case has been recd. on 20.12.89. Case is admt. EXTRA. H. Date was from CRT, All. It is alter. Subm. be admt.

5/12/09

Hon. Justice K. Nath, V.C.
Hon. K. J. Raman, A.M.

~~For order...~~
of date passed on 7.12.89

LOR

[Signature]

A.M.

V.C.

Ne

(18) ~~18~~

1128/87

~~(5)~~

25.10.91

None present for the applicant
Sw A. Srinivasa Counsel for the
Respondents.

Issue notice to the applicant and
his counsel regarding transfer
of the matter to His Tribunal
returnable on 10.1.92.

~~S. H. Prasad~~
(S. H. Prasad)
Member (Jual)

~~K. K. Srinivas~~
(Kausal K. Srinivas)
vice Chairman.

Nok!

18/3/87

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (ALLAHABAD BENCH), ALLAHABAD.

~~G.A.NO.~~
T.A.NO. - 1123

OF 1987

(W.P. No. 741 of 1983)

Date of decision : _____

..P.K. Dhar and others.....Petitioner

..Sri Rakesh Kumar.....Advocate for the Petitioner

Versus

..Union of India & others.....Respondent

..Sri D.S. Ranadhara.....Advocate for the Respondent

CORAM:-

The Hon'ble Mr. Justice U.C. Sinha, Jc.

The Hon'ble Mr. K. Chatterjee (A)

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether to be circulated to all other Benches ?

Signature

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH LUCKNOW.

....

Registration T.A. No. 1123 of 1987
(W.P. No. 741 of 1983)

P.K. Dhar and others Petitioners.
Applicants.

Versus

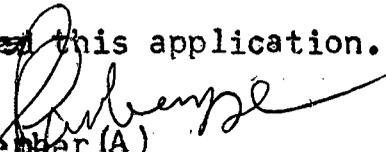
Union of India and others Respondents.

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

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicants, three in numbers, are working as Assistant§ in the Research Designs and Standards Organisation, Lucknow and by means of this application, they have prayed for a direction in the nature of certiorari quashing the provisions of the Recruitment and promotion rules making stenographers with five years service in the field of eligibili-ty to be promoted to the extent of 50% through Departmental Competitive Test as Section Officer (M) and also reservation of two posts of Section Officers in favour of Stenographers and further mandamus be issued directing the respondent no. 1 to consider and decide the joint representation preferred by the applicants and others Assistants dated 9.5.1980 and accordingly to modify in the light of the said decision the recruitment and promotion rules to the posts of Section Officers in the R.D.S.O. Similar matter came up before us for disposal in the case of (I.S. Kamthan and others Vs. Union of India and others) O.A. No. 402 of 1990 (L). This case has already been connected with O.A. No. 402 of 1990 (L) and O.A. No. 402 of 1990(L) has already been decided on 23.6.1992 at Lucknow Circuit Bench and we have dismissed O.A. No. 402 of 1990 after hearing the counsel of both the parties. In this case also same facts and reliefs are

involved and IIS Kamthan is also one of the applicant in this case. The judgment of O.A. No. 402 of 1990 (L) (I.S. Kamthan and others Vs. Union of India and others) will be applicable to this case also and accordingly we dismissed this application. No order as to costs.


Member (A)


Vice-Chairman

Dated: 18.5.92.

(n.u.)

A10

3.

6. That on a consideration of the aforesaid request the Railway Board decided to provide two posts of Section Officers (Min). to be reserved for the purposes of promoting permanent stenographers in the RDSO on ad-hoc basis. The Railway Board's said letter is dated 4.11.1963, a true copy of which is being annexed as Annexure 3 to this writ petition. By means of the said letter the Note viz., Note (2) was appended below the Recruitment Rules in respect of section officers to indicate the said fact of reservation of two posts for promotion by selection ^{on} ad-hoc basis from amongst the permanent stenographers in the RDSO with atleast ten years of service in the grade in that office.

Ann.3

7. That it appears that the Stenographers working in the RDSO wanted enlargement of the field of eligibility of their category for purposes of promotion against the Class II posts of section Officer (Min) and as a result of their efforts the Rly. Board by its letter No. E-64 RB/2/15 RB 1, dated 5.8.1964 proposed that Stenographers in the RDSO with 5 years service in the grade may be allowed to compete with the Assistants in the RDSO for the post of Section Officer to be filled as a result of departmental tests. The Railway Board's said letter was addressed to the Secretary, Union Public Service Commission, New Delhi, seeking its approval to the said proposal. A true copy of this letter dated 6.8.1964 is being annexed As Annexure 4 to this writ petition.

Ann 4

P.K. Dhar



A11

4.

8. That it appears that the Union Public Service Commission concurred with the aforesaid recommendation and as a result thereof the Recruitment Rules were further modified and Stenographers with five years service in the grade were placed in the field of eligibility along with the Assistants to compete for appointment against 50 per cent of the posts of section officers (Min) which were to be filled up on the basis of Departmental tests. This was in addition to the reservation of two posts made in favour of the Stenographers by means of Note (2) supra. The aforesaid amendment to the Recruitment Rules was circulated by means of opposite party no.1's letter dated 17.9.1964, a true copy of which is being annexed as Annexure No. 5 to this writ petition.

Ann.5



9. That the Assistants were also eligible for promotion to the posts of Establishment Officers besides that of section Officers (Min.) By reason of administrative rearrangement two posts of Section Officers (Min.) and two posts of Establishment Officers were surrendered thereby a further shrinkage of promotional avenues for Assistants working in the RDSO has resulted. In fairness in view of the said shrinkage the reservation of two posts of Section Officers (Min.) made in favour of the Stenographers by Note(2) appended to the Recruitment Rules should have been withdrawn but the same was not done.

P. K. Dhany

10. That on the contrary as would be evident from the facts indicated hereinafter the Stenographers

in the RDSO were provided with further avenue of promotion above the said posts exclusively and despite the same the amendment made in the Recruitment Rules in regard to the category of Section Officers (Min.) in their favour remained unchanged. It is stated that one post of Section Officer (Steno) in Class II, was created exclusively for promotion from amongst Stenos by means of Rly.Board's letter No.E(RB) 1-69,RB 7/15, dated 30th of December, 1970. A true copy of the said letter is being annexed as Annexure No. 6 to this writ petition.

Ann. 6

11. That further by means of the Rly.Board's letter No. PC III/73 PS/Rly.Bd. Sectt/Pt.II dated 27.7.1976, 16 posts of Stenographers in the RDSO were directed to be upgraded to the scale of Rs.650-00 - Rs.1040.00 from the scale of Rs.425.00 Rs.800.00 to provide further avenue of promotion exclusively to stenographers working in the RDSO. A true copy of the Rly. Board's aforesaid letter dated 27.7.76 is being annexed as Annexure 7 to this writ petition. It is relevant to state that as a result of upgradation of the said posts, they became gazetted class II posts instead of Class III non-gazetted.

Ann. 7

12. That from the facts indicated above in the preceding paras it would be apparent that 18 posts in higher grade viz. gazetted Class II were sanctioned exclusively with a view to provide further avenue of promotion exclusively to the

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A13

6.

stenographers working in the RDSO. Despite the same the amendments made in the Recruitment & Promotion Rules to the posts of Section Officer (Min.) in favour of the stenographers were not modified or done ~~any~~ away with though the said amendments were brought about ^{by} ~~above~~ ^{for} the reasons that the stenographers working in the RDSO had no further avenue of promotion. The fact that there was curtailment in the avenue of promotion of the category of Assistant working in the RDSO also wanted the amendments to the Recruitment Rules to be done away with.

13. That joint representations were made on behalf of the Assistants to the opposite party no.1, through opposite party no.2 seeking revision of existing Recruitment & Promotion Rules for Section Officers (Min.) in the R.D.S.O. It was submitted that due to upgradation of certain posts of stenographers they had been provided with adequate channel of promotion exclusively and, as such, a revision of the Recruitment Rules was warranted. A further plea was taken which is herein again reiterated that the Union Public Service Commission by its letter dated 23rd of October 1978 addressed to the opposite party no.1 had indicated in para 2 thereof that there was a uniform practice to allow only one promotional avenue to a post or a category of posts and in the opinion of the Union Public Service Commission, in view of the said basic principle, it would not be desirable to allow two promotional avenues to the



P. K. Dhar

Ann. 8

post of officer on Special Duty (TRRK) in the RDSO, which principle, it is respectfully submitted, would equally govern every other posts. A true copy of the said letter dated 23rd of October, 1978 is annexed as Annexure 8 to this writ petition. The said representation was forwarded to the Secretary, Railway Board by the opposite party no.2 in January 1980.

14. That out of the authorised permanent strength of Section Officers in the Railway Board's office a provision had been made providing for reservation of two posts of Section Officers for appointment of Stenographers in Grade I of Rly. Board Sectt. Stenographers Service selected on the basis of merit by a departmental promotion Committee for such appointment. With effect from 1st of August, 1969 when the Rly Board Sectt. Stenographers service Rules, 1977 ^{Came} ~~came~~ into force, the aforesaid reservation of two posts of Section Officers in favour of Rly. Board Sectt. Stenographers were dereserved.

15. That while the representation dated 12.9.1979 preferred by the petitioners and other Assistants working in the RDSO seeking revision of the Recruitment and Promotion Rules for section Officer (Min) was pending, it appears one Sri S.M.Kulkarni who was a stenographer in the RDSO, and was posted to work as Section Officer against one of the two vacancies reserved for RDSO stenographers sent personal letter dated 28th of January 1980 addressed

P.K.Dhar



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Ann. 9

to Sri V.C.A. Pamanathan the then member Engineering Rly. Bd. A true copy of the said letter is being annexed as Annexure 9 to this writ petition.

A perusal of the said letter would show that Sri Kulkarni indicated therein that he (Mr. Padmanathan) would be relinquishing office by March, 1980 and the status quo be maintained and two posts of Section Officers reserved for RDSO. stenographers be not dereserved. It appears that the said Member Engineering Railway Board who was the competent authority to take a decision with regard to the RDSO taking in-to consideration the personal difficulty which may be caused to Sri S.M. Kulkarni, decided to maintain the status-quo and consequently, the decision was communicated to the opposite party no.2 by a Railway Board's letter dated 21.2.1980 a true copy of which is being annexed as Annexure 10 to this writpetition. The Railway Board's decision was communicated by the opposite party no.2 in his turn to Sri G.S.Sethi the first signatory to the joint representation dated 12.9.1979 by his letter dated 1.4.1980, a true copy of which is being annexed as annexure 11 to this writ petition.

Ann. 10



Ann. 11

16. That in view of the fact that the conclusion of the Railway Board that chances of promotion available to the two categories of staff viz., Assistants and Stenographers in the RDSO were more or less similar and, therefore, status-quo be maintained being erroneous and contrary to the facts, the petitioners and other assistants & further made a joint representation to clarify the factual

P. K. Dhar

A16

9.

Ann. 12

position in that behalf. The said representation was submitted on 9th of May 1980. A true copy thereof is being annexed as Annexure 12 to this writ petition, with a view to place on record the facts stated and the pleas raised therein.

17. That the said representation dated 9.5.1980 was forwarded to the opposite party no.1 by the opposite party no.2 under its letter No.A/RT/O dated 5.6.80. A true copy of the said letter is being annexed as Annexure No.13 to this writ petition. With a view to show that the facts detailed in the said representation dated ~~9.6.1980~~ ^{9.5.1980} to indicate the factual position with regard to the avenue of promotion to the two categories of the staff viz. Assistants and Stenographers and which further shows the disparity in the avenue of promotion to the two categories were confirmed by the opposite party no.2. A true copy of the letter dated 5.6.1980 of the opposite party no.2 is being annexed as Annexure 13 to this writ petition.



Ann. 13

A perusal of the said letter would further show that the stenographers working in the RDSO also had submitted a representation countering the claim made by the petitioners and other Assistants in their representation. The opposite party no.2 in this letter stated that the facts indicated by the stenographers in their representation did not represent the correct picture.

P.K.Dhar

18, That a supplementary representation was

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submitted on behalf of the Assistants on 11.6.80 to bring to the notice of opposite party no.1 further facts to indicate the untenability of its reason contained in the letter dated 21.2.1980. A true copy of the said representation dated 11.6.80 is being annexed as Annexure 14 to this writ petition.

Ann. 14

19. That as stated earlier, there exist 18 Class II posts in the RDSO which are exclusively to be filled up from amongst the Stenographers. These ^{posts} ~~posts~~ include the posts of 17 posts of Senior Personal Assistants and one post of Section Officer (Steno). Besides these 18 posts two other posts of Section Officer on ad-hoc basis are available to the stenographers which were earmarked for them by means of Board's order dated 4.11.1963 (Annexure 3 to this writ petition), Only with a view to provide some avenue of promotion to the stenographers. Thus in all there are 20 class II posts available to the Stenographers whereas there are in all only eleven post of Section Officer (Class II) available to the Assistants. Out of these 11 posts of these Section Officers 50% have to be filled up by Departmental Competitive Examination in which Stenographers are also eligible to appear. The Class II post available to the Stenographers are exclusively for them and the Assistants are not eligible for promotion to the ^{Class II} ~~20~~ ^{for} posts of Stenographers.



20. That in view of the ~~developments~~ ^{developments} which took place after 1963 in the matter of promotional

P.K. Dhar

A18

11.

avenues of stenographers there is no case or justification for continuing reservation of two posts on adhoc basis of Section Officers which used to be filled up from amongst the Assistants and further to permit them to appear in the Departmental Competitive Examination in respect of 50 % posts of the Section Officers.

21. That by means of letter dated 10.10.80 opposite party no.1 had sought recommendations of the opposite party no.2 in the matter of recruitment and promotion for the post of Section Officer (Min.) A true copy of the said letter dated 10.10.80 is filed herewith as Annexure 15 to this writ petition. The opposite party no.2 sent his recommendations by means of letter dated 4.6.81 recommending for dereservation of two posts of Section Officers which had been reserved for promotion of stenographers on ad-hoc basis by means of order dated 4.11.63. It was also recommended for reducing the percentage for filling up vacancy of Section Officer by Departmental Competitive Examination from 50% to 33 %

Ann. 15

A true copy of the said letter dated 4.6.81 is filed herewith as Annexure 16 to this writ petition. The opposite party no.1 by means of letter dated 29.7.81 agreed for filling up 2/3rd vacancies by promotion from the Assistants on the basis of seniority subject to suitability and remaining 1/3rd from the Assistants and Stenographers through Limited Departmental Competitive Examination. Views of the department were sought urgently in the above matter but it appears that no action has been taken

Ann. 16



P. K. Dhar

so far amending the Recruitment and Promotion Rules.
A true copy of the letter dated 29-7-81 is being filed herewith as Annex (6A) to the writ-petition.

22. That while the matter regarding the amendment of Recruitment and Promotion Rules were under consideration, the opposite parties circulated notice for holding a competitive examination to fill up 50% posts of Section Officers by Limited Departmental Competitive Examination in 1980. Some Assistants filed a writ petition which has been numbered as Writ Petition No.2516 of 1980 - M.L. Bharadwaj and others vrs. The Union of India and another, which is still pending in this Hon'ble Court. First an interim order was passed to the effect that examination be held but the result may not be declared but subsequently this order was modified that the promotion, if made on the basis of the impugned examination, that shall be subject to the result of the writ petition.

23. That the opposite parties have again circulated a notice dated 5.11.1982 for holding Departmental Competitive Examination for selection of Section Officers (Min.) Class II on 12th and 13th February 1983. In the said notice Assistants, Stenographers and SPA (Senior Personal Assistants) have been made eligible to appear at the examination. A true copy of the ~~list~~ notice is filed herewith as Annexure 17 to this writ petition. A list has been prepared which includes a number of Senior Personal Assistants A true copy of the said list is filed herewith as Annexure 18.

Annex. 17

Ann. 18

P. K. Dhar

24. That it may be stated that Recruitment and Promotion Rules of Section Officers (Min.) do not provide



for promotion of Senior P.As. to the post of Section Officer (Min.). According to the said Rules only stenographers and Assistants are eligible to undertake the competitive examination. Inclusion of Sr. P.As in the list of eligibility candidates is in violation of the Rules.

25. That R.D.S.O. Class III staff Association, which is a recognised association, approached the opposite party no.2 against holding of the competitive examination in pursuance whereof official meeting was held on 11.1.1983 in which representatives of the aforesaid Association and opposite party no.2 also participated. The opposite party no.2 was the Chairman of the aforesaid meeting. In the said meeting opposite party no.2 had assured that he would look into the said matter, ^{but he has no copy of the minutes} but nothing has been heard from him so far. ^{A Copy} ~~Relevant extract~~ of the minutes relating to the above is filed herewith as Annexure 19 to this writ petition. The minutes of the meeting were signed by the representatives of the Association ^{and} ~~and of the~~ opposite party no.2. The petitioners all of sudden found that a list of eligible candidates was published on 1.2.1983 a copy of which has already been filed as Annexure 18.

26. That if the test of selection allowed to be held on the basis of the extent R & P Rules which on the basis of the facts detailed hereinabove merit a revision and deletion of the provision therein in favour of the Stenographers working in the RDSO

P.K. Shar

A21

as being eligible to compete against 50 % posts of the Section Officers required to be filled up by the departmental tests, the petitioners would suffer irreparable injury which could not be ultimately made good even in the event of the writ petition being finally allowed.



P.K. Dhar

27. That left with no other equally efficacious and alternative remedy available the petitioners beg to file this writ petition on the following amongst other grounds:-

GROUNDS

- i) Because the action of opposite parties 1 and 2 is wholly arbitrary and discriminatory.
- ii) Because the posts of Section Officers used to be filled up from the Assistants alone but to open some avenue for promotion to the stenographers at the first instance 2 posts of Section Officers were reserved on adhoc basis for them in the year 1963. Later on stenographers were also made eligible to undertake Limited Departmental Competitive Examination to the extent of 50 % vacancies. This was done to open avenue of promotion for Stenographers but there is no justification to continue the same in view of the fact that other avenue of promotions have been subsequently opened for them by nature of promotion to the

M.D.

A22

post of Senior Personal Assistants and Section Officers (Stenos) .

- iii) Because in all 20 class II posts have been made available to the Stenographers on promotion whereas there are only 11 posts of Section Officers for the Assistants out of which 50% are to be filled through Departmental ~~Committee~~ Competitive Test in which stenographers also have their share being eligible to appear at the said examination. The chances of promotion of Assistants have thus been ~~is~~) reduced to the extent that they would seldom get any promotion to the post of Section Officers.
- iv) Because under the Recruitment and Production Rules only Assistants and Stenographers are eligible to undertake the competitive examination but the notice (Annexure 17) dated 5.11.82 makes Sr. P.As. also eligible to take competitive examination. This is wholly in violation of the Recruitment and Promotion Rules.
- v) Because the action of the opposite party no.2 in proceeding to hold the selection for the posts of Section Officers (Min.) in the RDSO on the basis of the extant Recruitment and Promotion Rules even though it is satisfied that a revision of the said recruitment rules is warranted in view of the changed circumstances and the avowed purpose for making a provision in favour of the Stenographers in the said rules having lost its efficacy is wholly arbitrary and capricious.

McCar

- (vi) Because the Assistants are being discriminated in the matter of promotion visa-vis stenographers who have been more and much better chances of promotion whereas the chances of promotion to the Assistants have been highly reduced. It is violative of the provisions of Articles 14 and 16 of the Constitution of India.
- (vii) Because in view of the later developments there is no justification to continue the reservation of 2 posts of Section Officers reserved for stenographers in 1963 with a view to open some avenue of promotion for them.
- (viii) Because even according to the Union Public Service Commission only one avenue of promotion should be available but in the present case two avenues of promotion are being kept open for the Stenographers.
- (ix) Because even according to the opposite parties Rules require change but still due to inaction on their part no amendment in the Rules is being made to the detriment to the petitioners and Assistants of the R.D.S.O.

PRAYER

WHEREFORE it is respectfully prayed that this Hon'ble Court may be pleased:

- (a) to issue a writ, order or direction in the nature of certiorari ~~and~~ quashing the provisions of the Recruitment and Promotion Rules making

M. S. Rao

stenographers with five years service in the field of eligibility to be promoted to the extent of 50 % through Departmental Competitive Test as Section Officer (M) and also reservation of two posts of Section Officers in favour of the Stenographers,

- (b) to issue a writ of Mandamus, or a writ, order or direction in the nature of Mandamus commanding the opposite party no.1 to consider and decide the joint representation preferred by the petitioners and other Assistants dated 9.5.1980 and accordingly to modify in the light of the said decision the Recruitment and Promotion Rules to the posts of Section Officers in the RDSO,
- (c) to pass such other writ, order or direction including an order as this Hon'ble court may deem fit and proper in the circumstances of the case, and
- (d) to allow the writ petition with costs.

Lucknow Dated
Feb. 7, 1983.

Brijesh Kumar

(Brijesh Kumar)
Advocate

Counsel for the petitioners.

Certified that there is no defect in this petition.

Brijesh Kumar

Counsel for the petitioners.

(125) (12)

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. 11 of 1983

P.K. Dhar and others. --- Petitioners.

Versus

Union of India and another. --- Opp. Parties

Annexure No. 1

Copy of Railway Board's letter No. E 59RB3/29/RBI
dated 22.8.62 addressed to the Secy./U.P.S.C., New Delhi.
Copy to D.G.RDSO, Simla.

Sub: Recruitment Rules for the post of Secy.
to D.G., Dett. Officer and Section Officer
in the R.D.S.O.

I am directed to refer to the Commission's letter
No. F.3/19/(5)/61-R(A) dated 3.8.62 on the above noted
subject and to enclose herewith 8 copies of the Recruit-
ment Rules for the post of Secy. to D.G., Estt. Officer and
Section Officers, R.D.S.O.

It is also requested that the approval of the Commission
to the permanent absorption of Shri Lal Das as Secy. to
the Director General may be communicated early. Shri Lal
Das has been officiating as Secy. to the D.G. since 4.7.59
A.N. and is due to superannuation on 14.3.63, It will,
therefore, be very much appreciated if this matter is
treated as urgent.

Sd/-

(P. Lal)
Dy. Secy. Railway Board,

No. 59RD3/29/RBI/ dated 22.8.62

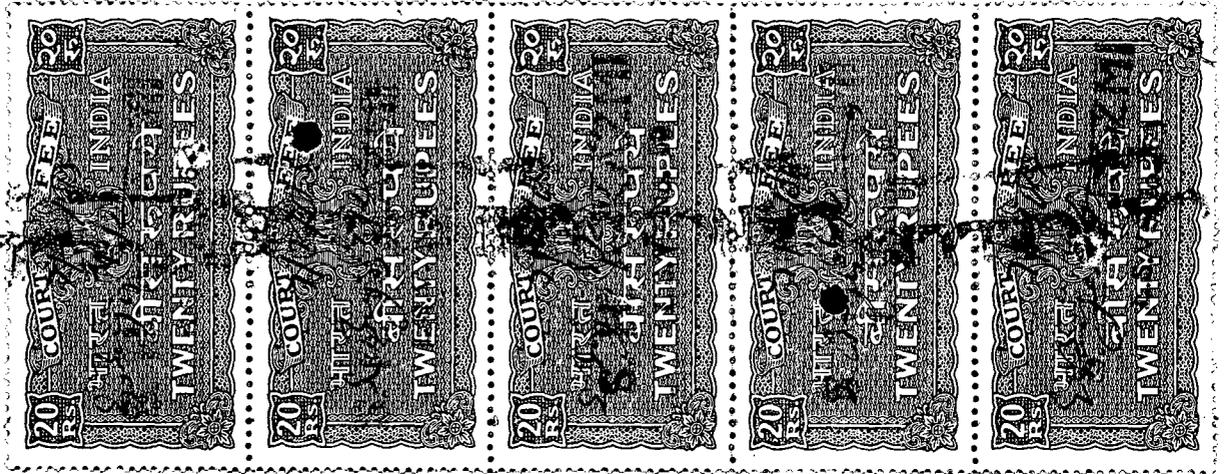
Copy together with a copy of the above recruitment Rules
is forwarded to the Director General, R.D.S.O., Elleraile, Sim
Simla.

Sd/-

(P Lal)
Dy. Secy. Rly., Board.

P.K. Dhar

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.



Writ Petition No. 74/ of 1983.

5825 100p,
9/7/2

1. P. K. Dhar son of Sri P.C. Dhar,
Assistant Selection Grade (Electrical)
Research Designs and Standards Organisation
Manak Nagar, Lucknow.
2. I.S. Kamthan son of ^{Lada} Sri S.C. Verma,
Assistant, Research Designs &
Standards Organisation, Manak Nagar, Lucknow.
3. Ajaib Singh son of Sri Bhagat Singh,
Assistant, Research Designs and Standards
Organisation, Manak Nagar, Lucknow.

--- Petitioners

Versus

1. Union of India through Secretary
Railway Board, Rail Bhavan, New Delhi,
2. Director General, Research Design and
Standards Organisation, Manak Nagar,
Lucknow.

-- Opposite Parties.

Writ Petition under Article 226
of the Constitution of India.

P. K. Dhar



P.K. Dhar

Recruitment Rules for the posts of Secy.to D.G.RSO and S.O. in RDSO

Name of post.	No. of Posts	Classification.	Scale of pay.	Whether Age selection limit post or none for Selecti-on dir. recits.	Whether Agesel tion limit for dir recitts.	Educational and other qualification requir -ed for direct recruits. Age Limit for dir recitts.	Whether Age and education quali fication prescribed for the dir. rectt. will supply in the case of promo tion.	Period of proba- tion if any.	Method of rectt. whether by dir. rectt. by promotion of transfer & % of the vacancies to be filled by various methods.	Incase of rectt by promotion transfer grades from which promotion to be made	If a DPC exists what is its composi tion.	Circumstances.
1.	2	3	4	5	6	7	8	9	10	11	12	13
1. Secy. to D.G.	1	GCS	Rs. 700/-	Select- ion.	N.A.	N.A.	N.A.	2 yrs	By promo- tion fail- ing which by trans- fer.	Promotion section. Officer & Estt. Officer (With 6 yrs service in the grade) XXX	Cl. I DPC	As required under the Rules.
Estt. Officer 1 Sec. Officers 9	1 9	GCS Cl. II	Rs. 350- 900	50% Selection	NA	N.A.	N.A.	-do-	By promo- tion.	Promotion Asstt. with 5 yrs service in the grade.	Cl. II DPC.	-do-

50% seniority cum fitness.

through de-
partmental
test.
50% on the basis of seniority
cum fitness.

Note: 1. A section Officer appointed as Establishment Officer shall get his grade pay plus a Special Pay of Rs. 150/- p.m.



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In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1983.

P. K. Dhar, and others. -- -- Petitioners.

Versus

Union of India and another. -- -- Opp. Parties.

Annexure No. 2

Copy of DG/RDSO Simla's letter No. A/ES/Steno dt. 28.8.1961 addressed to the Secretary Railway Board, New Delhi.

Sub: Eligibility of Stenographers for promotion to the Class II posts of Section Officers (Min.)

The stenographers in the Railway Board's office are eligible for promotion to the following higher grades:-

1. Private Secretary-Gazetted
Authorised scale Rs. 350-25-650
2. Section Officer (Stenographer) Gazetted
Authorised scale Rs. 350-900/-
3. Section Officer-Gazetted Authorised
Scale Rs. 350-900

2. The Stenographers in this office, although having the same scale of pay as applicable to their counter parts in the Bd's office have no avenue of promotion. They cannot be promoted against the posts mentioned in para 1(1) &(ii) above as these posts do not exist in this office. They are also not eligible for promotion in the class II posts of section officer (Min). in RDSO in accordance with the rules sent with Board's letter No. B57RB3/52(RBI) dated 11.5.1959. It is requested that the stenographers of this office may please be made eligible for promotion to the Class II posts of Section Officer (Min.) in the RDSO as in the case in the Bd's office.

3. It is further requested that the procedure and basis governing the eligibility and promotion of stenographer to the posts of section Officers in the Bd's office may also kindly be advised for being adopted in this office on receipt of Board's approval to the proposal in para 2 above.



P. K. Dhar

A.D. (2)

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1983.

P.K. Dhar and others. --- -- Petitioners.

Versus

Union of India and another. --- Opp. Parties.

Annexure No. 3

Copy of Railway Board's letter No. A 61 RB3/83(RBI)
dated 4.11.63 addressed to the Secy. UPSC New Delhi
Copy to D.G. RDSO/Simla.

Sub: Amendment of the recruitment rules for
the posts of Section Officer/Asst. Officer
in the R.D.S.O.

Sir,

With reference to Commission's letter No.
F.2/19(6)/63.R(R) dated 16.10.63, I am directed to
forward herewith eight copies of the recruitment rules
for the posts of section Officer/Asstt. Officer in the
Research Designs and Standards Organisation for record.

No. A 61RB3/83(RBI) New Delhi dated 4.11.63

Copy together with a copy of the revised recruit-
ment rules for the post of Establishment Officer/Section
Officer is forwarded to the Director General, RDSO
Simla.



P.K. Dhar

P.K. Dey

Recruitment Rules for the post of Secretary to D.G. Estt. Officers S.O. in RDSO.

Name of post.	No. of Post.	Classi- fication.	Scale of Pay.	Whether Selection post or non-selec- tion post.	Age limit for direct recruits.	Educational and other qualifica- tions requi- red for direct recruits.	Whether age and educati- onal qua- lification prescribed for the direct recruits will apply in the case of promotees	Period of pro- bation if any	Methodd of rectt whether by Dir. rectt. or by promo- tion or transfer to be of the Vac. to be fill ed by vari- ous methods	In case of rectt by promo- tion tra- nsfer grades from which promotion to be made.	If a DFC exists what is its compo- sition	Circumstances in which UPSC is to be consult ed in making rectt.
1	2	3	4	5	6	7	8	9	10	11	12	13
3. Section Officer	9	GCS Class II.	900/-	50% Selection 50% Seniority cum Fitness.	N.A.	N.A.	N.A.	2 years	By promo- tion 50% through departmental test 50% on the basis of seniority cum-fitness	Promotion Asstt.s with 8 yrs service in the grade.	Class II DPC	As required under the Rules.

- Note:
1. A section Officer appointed as Establishment Officer shall get his grade pay plus a special pay of Rs.150/- p.m.
 2. Two posts of Section Officer are reserved for promotion by selection on adhoc basis from among the permanent stenographers in RDSO with at least 10 years of service in the grade in that office.

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A30

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1983.

P.K. Dhar and others. --- Petitioners.

Vrs.

Union of India and another. --- Opp. Parties.

Annexure No.4

Copy

No. E 64RD-3/ 15/RBI

Dt. 5.8.64

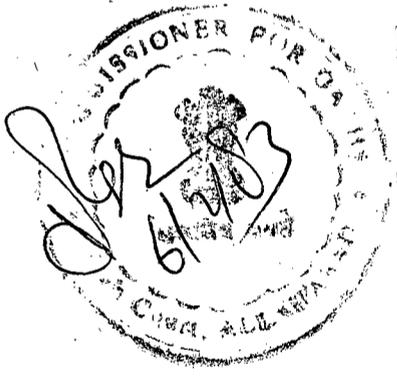
The Secy. UPSC, New Delhi.

Sub: Recruitment rules for the post of section
Officer (Ministerial) in the RDCO Min. of Rlys.

Sir,

In accordance with the Recruitment Rules drawn up in consultation with the commission for the posts of Section Officer (Ministerial) in the RDSO vide your letter No.F.3/19(5) 61-B(A) dt. 3.8.62 and F.3/19(6)/19 (G)/63-R(R) dt. 16.10.63 50% of posts in this grade are to be filled on the basis of Seniority cum fitness and the remaining 50% through departmental test from amongst Assistant with 8 years service in grade. Two posts of Section Office have also been reserved for promotion on adhoc basis from amongst the permanent Stenographers with at least 10 years of service in the grade in the RDSO vide your letter No.F.3/19(5)/71 R(R) dt. nil.

2. It has been represented by the Steno in the RDSO that consequent on the allotment of the same scales of



P.K. Dhar

A31 (24)

2.

pay viz. Rs.210-530 to both Assistants and Stenographers Grade II in the other Ministries, with the requisite service have been allowed to complete in the Limited Competitive Examination.

3. That on the analogy of these orders it is proposed that Stenographers in the RDSO with 8 years service in the grade be allowed to compete with the Assistant of these organisation for the posts of Section Officer to be filled as a result of the Departmental Competitive test.

4. The commission's approval to the above proposals may please be obtained and communicated at an early date.

Yours faithfully,

Sd/- P. Lal

Dy. Secretary Rly. Bd.

Copy to DG RDSO Simal for information.



P.K. Dhar

A32

(25)

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1983.
P.K.Dhar.& Ors. -- Petitioners
Versus
Union of India and another. -- Opp.Parties.

Annexure No. 5
=====

Government of India
, Ministry of Railways (Railway Board)

No.E64RB3/15(RBI) New Delhi 17.9.64.

The Secretary, UPSC
New Delhi

Sub: Amendment of the recruitment rules for
the posts of Section Officer (Ministerial)
in the RDSO Min. of Rlys:

Sir,

With reference to your letter No.F.3/19(3)-64-BR
dated 1.9.64 I am directed to forward herewith eight
copies of the revised recruitment rules for the post
of Section Officers (Ministerial) in the RDSO for record.

2. That this is in supersession of item no.3 of the
recruitment rules for the posts of section officer
forwarded vide this office letter No.F61EB3/83(RBI) dt
4.11.63.

Yours faithfully,

Sd/-

P.Lal Dy.Secry Rly B.

DA/As above.

Copy fo-gether with two copies of the revised recruit-
ment rules for the posts of section Officer in the RDSO
is forwarded to the Director General RDSO Simla.

DA/As above.

Sd/ P. Lal
Dy.Secy.Rly.Board (True copy)



P.K.Dhar

P.K. Dhay

Recruitment Rules for the post of Section Officer (Ministerial) in RDSO (Min. of Rlys)

Name of Post.	No. of post.	Classi- fication.	Scale of Pay.	Whether Selection post or non-selec- tion post.	Age limit for direct recruit.	Educational and other qualifica- tions requ- ired for direct recruits.	Whether age and educati- onal qua- lificaion prescribed for the direct recruits will apply in the case of promotees.	Period of proba- tion, if any.	Method of rectt whether by dir. rectt or by promo- tion or transfer to be of the vac- to be filled by vari- ous methods.	In case of rectt by promo- tion tra- nsfer grades from which promo- tion to be made.	If a DPC exists what is its compo- sition	Circumstances in which UPSC is to be consulted in making recruitment.
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.
Section Officer.	9	GCS Class II	Rs.350-900	50% Selection	N.A.	N.A.	N.A.	2 yrs	By promotion 50% through departmental test. 50% on the basis of seniority cum-fitness	Promotion Asstt/ Stenographers with 5 years service in the grade. Asstt. with 8 years service in the grade.	Class IIDPC	As required under the Rules.



- Notes: 1. Section Officer appointed as Establishment Officer shall get his grade pay plus a special pay of Rs.150/- p.m.
2. Two posts of section officer are reserved for promotion by selection on adhoc basis from among the permanent stenographers in RDSO, with atleast 10 years of service in the grade in that office.

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In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1983.

P.K. Dhar and others. --- Petitioners.

Versus

Union of India and another. --- Opp. Parties.

Annexure No.6
=====

Government of India
Ministry of Railways
(Railway Board)

No.E(RB)I-69/RB7/15 New Delhi-1 dt. 30.12.70

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

Sub: Re. organisation of the Central Secretariat
Stenographers Services CSSS Rules, 1962
applicability to RDSO.

Ref: Your letter No.A/R/RT/MS dated 18/20.8.69

The question of applicability of Central
Secretariat Stenographers services Rules, 1969 to RDSO
has been considered by the Board in detail, and it has
been decided not to apply these rules to RDSO.

The question of creating additional higher grade
post for the stenographers of RDSO has been examined
in the light of the cadre strength of Stenographers
and keeping in view the actual justification on the
basis of workload. The Board have decided that a post
of section officer (Stenos) in the grade Rs.350-900
may be created in the RDSO in lieu of the existing
post of Supervisor (Stenos) in the scale of Rs.210-530
plus 50/- special pay.



P.K.Dhar

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2.

Sanction of the Board is accordingly communicated to the creation of a post of Section Officer (Stenos) in the grade of Rs.350-900 in RDSO for a period of two years from the date it is filled, in lieu of the existing post of supervisor (Stenos). The date from which the post of Section Officer (Stenos) is operated may be intimated to this office.

Sd/- A. Krishna murty

Under Secretary, Railway Board.

DA: Nil.



P. K. Dhar

A36

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In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Annexure No. 7

Writ Petition No. of 1983

P.K. Dhar and others. --- -- Petitioners.

Versus

Union of India and another. --- -- Opp. Parties.

Government of India
Ministry of Railways
(Railway Board)

No. PC.III/73/PS/Rly.Bd.Sectt/Pt.II New Delhi Dt. 27.7.1976.

Sub: Provision of the posts of Senior Personnel Assistants through upgradation in the office of Research Designs & Standards Organisation on Railways.

The sanction of the President is hereby communicated to the following posts of Stenographers in grade Rs.425-800/RS being upgraded to grade Rs.650-1040 RS with effect from the date these are filled up:

	Existing gr Grade.	Grade in which to be upgraded
1(One post of Stenographer attached to Director General.	424-15-500-EB-15-560-20-700-EB-25-800 plus Special pay of Rs.50/- p.m.	650-30-740-35-880-EB-40-1040plus Special Pay of Rs.50/- p.m.
9(Nine) posts of Stenographers attached to Directors in Grade Rs.2500-2750(RS)	425-15-500-EB-15-660-20-700-EB-25-800	650-30-740-35-880-EB-40-1040
6(Six) posts of stenographers attached to Addl. Directors in grade Rs.2250-2500(RS) (Total 16 posts)		

2. Hindi version of this letter is enclosed.

P.K.Dhar



Sd/-
(GD Sud)
Jt. Director Pay Commission,
Railway Board.

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1983.

P.K. Dhar and others. --- -- Petitioners.

Versus

Union of India and another. -- Opp. Parties.

Annexure No.8

No.F3/19(5)/77-RR
Union Public Service Commission,
Dhopur House.

New Delhi-110011, the 23 Oct.1978

The Secretary,
Ministry of Railways,
Railway Board,
New Delhi.

Sub:Recruitment Rules for the post of
Officer on Special Duty (TRRC) in the
RDSO.

Sir,

I am directed to refer to your letter No. E(PS)1-
75/39/10 dated 18.5.1975 on the subject mentioned above
and to state as follows:-

2. The Railway Board have now intimated that the
posts of Assistant Research Engineer, Assistant
Design Engineer and Assistant Inspecting Engineer
which were proposed to be included in the feeder list for
promotion to the post of Officer on Special Duty (TRRC)
in the R.D.S.O., are already included in the field of
consideration for promotion to the post of Asstt. Director,



P. K. Dhar

2.

Bareilly.

Normally, while laying down promotion as a method of filling a post, the uniform practice is to allow only one promotional avenue to a post or a category of posts. In view of this basic principle, it would not be desirable to allow two promotional avenues to the posts mentioned above.

Yours faithfully,

Sd K.B. Parthasarthy,
Under Secretary, U.P.S.C.
Tele No. 369158.

True Extract.



P. K. Dhar

32

A39

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1983.

P.K.Dhar and others. --- -- Petitioners.

Versus

Union of India and another. -- Opp.Parties.

Annexure No. 9

Lucknow-11

Dt 27th Jan 1980

Respected Sir,

We hope this finds you and family well. Now I am working as Section Officer against one of the two vacancies, reserved for RDSO Stenographers. A reference has been made to the Board in this connection. In case the policy is now reversed and reservation discontinued, not only me but also the three other stenos in the chain promotion will get affected. A copy of the letter (addressed to Board) is enclosed for your information. I would, therefore, request your kind indulgence in this matter with a view to maintaining the status-quo and thus help me before relinquishing office by March 80.

I tried my best to seek an interview during your recent trip to Lucknow, but could not succeed due to your being busy.

Thanking you and with regards,

Yours sincerely,

DA:One

Sri V.C.A. Padmanabhan
Member Engineering, Railway Board
New Delhi.

Sd/-

(S.M.Kulkarni)



P.K.Dhar

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1983:

P.K.Dhar, and others. --- Petitioners.

Versus

Union of India and another. -- Opp.Parties.

ANNEXURE No. 10

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No.KRDI 79/44/67

New Delhi, dated 21.2.1980

The Director General
R.D.S.O.,
Lucknow.

Sub: Recruitment & Promotion Rules
for the post of Section Officer
(Ministerial) in R.D.S.O.

Ref: Your letter No.A/RT/O dated 1.1.80

In the light of the position explained in your letter quoted above, and in view of the fact that chances of promotion available to the two categories of staff - Assistants/Stenographers are more or less similar, the Board have decided to maintain the status-quo.



P.K.Dhar

DA: Nil.

Sd/ -
(P.B. Bhagat)

Under Secy.(E)I, Rly. Board.

A41 (34)

In the Hon'ble High Court of High Court of Judicature at
Allahabad, Lucknow Bench, Lucknow.

Writ Petition No. of 1983.

P.K.Dhar and others. --- Petitioners.

Versus

Union of India and another. Opp.Parties.

Annexure No. 11

Government of India Ministry of Railways.
Research Design & Standard Organisation.

Our Ref. A/RT/O

Lucknow 226011 dt 1.4.80

MEMORANDUM

With reference to the joint representation dated 12.9.79, requesting for provision of existing R & P Rules for the post of SO (Min) submitted by them, Sh.Sethi and others are advised that the Railway Board have considered the matter and decided to maintain the status quo in view of the fact that chances of promotion available to the two categories of staff-Assistant/ Stenographers are more or less similar.



DA/Nil

Sd/- B.R.Sharma
for Director General

P.K.Dhar

Sh.G.S.Sethi,
SO(MOW)/RDSO/Lucknow.

AMU

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.
**

Writ Petition No. of 1983.

P.K.Dhar and others. --- --- Petitioners.
Versus
Union of India and another. --- Opp. Parties.

Annexure No. 12.

To

The Secretary
Railway Board, Rail Bhavan,
New Delhi.

Sub: Revision of Existing R & P Rules for
the post of Section Officer (Ministerial)
RDSO.

Ref: Railway Board's letter No.E(RB)/1/79/44/
67 dated 21.2.1980.

Sir,

The Ministerial Staff of the RDSO have been
greatly shocked by the decision of the Railway Board
conveyed through Director General, RDSO's letter No.
A /RT/O dated 1.4.80 as under:-

"In view of the fact that chances of promotion
available to the two categories of staff-Assistant
and Stenographers are more or less similar, the
Board have decided to maintain the status quo.

2. It is clear that the points raised in the
representation dated 12.9.79 submitted by Assistants have
not been considered and the decision of the Board has been
influenced by other considerations than the normal cannon
of justice and equity.

3. The decision of the Board is not only derogatory to



P.K. Dhar

2.

to the interests of the clerical staff but also not amaintainable being repugnant to the statutory principle enunciated by the statutory body like UPSC vide their letter No.F3/19/5/77-BR dated 23.10.78 (Copy enclosed).

4. It is presumed that the position with regard to Class II (Gazetted) posts available for promotion to both the categories viz Assistants and Stenographer has not been provided to the Board by the RDSO Administration. A statement showing the comparative avenue of promotion for both the categories upto Cl II under the existing Rules is as under:-

Category	No.of Personnel in the category.	No. of Cl.II post available.	Mode of Selection.	Remarks.
Assistants	92	10 (Rs.650-1200) (Only 5 posts for seniority-cum-suitability and remaining 5 posts by competitive tests in which stenos and Asstts. both are eligible.	Seniority. 50% Competition. 50%	In the Competitive test against 50% post steno & Steno & Asstt. both are eligible.
Stenographers	112	20 (3 in scale Rs.650-1200 and 17 in scale Rs.650-1040		Exclusively from Stenographers Asst are not allowed to participate in any of the posts

It is also presumed that while making a reference to the Board the above position and the facts that as per UPSC's statutory principle - "that there should be only one



P.K. Dhar

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channel of promotion to one post or a category of posts" as enumerated in UPSC's letter dated 23.10.1978 referred to above were not at all brought out by the RDSO Administration. If the above presumption is not correct then one cannot do without concluding that some invisible influences had played its role in obtaining a retrograde decision against the Clerical staff, of RDSO.

5. Inconnection with the above decision of the Board the entire Ministerial staff or RDSO showed their resentment and met Director General/RDSO to place their grievances once again before him. The Director General gave a patient hearing to the staff and after hearing their views, assured that they can bring out all the facts again in a fresh representation and the RDSO Administration will request the Board to re-examine the case de-novo. Accordingly the following facts are again brought out for the perusal and just decision of the Railway Board:

Remarks.

Reasons.

1. The R & P Rules for SO(Min) should be reviewed immediately by providing promotion to Section Officer (Ministerial) strictly on the basis of seniority cum suitability from amongst Assistants only.

(i) In the Board's office Competitive examination are held every year for a number of posts. In RDSO a competitive test was held in 1966 and thereafter a long gap of 10 years in December 1976 and that too only for one post, thereby depriving the chances even competition to the eligible staff for ~~five~~ years together.

(ii) Asking an old person to compete with youngsters does



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not stand to any logic and any canon of justice particularly when he has already given best part of his life to the Administration.

- (iii) Every Assistant can aspire for at least one promotion in his long service if it is seniority cum suitability basis.
- (iv) In view of the changed cadre structure of the Class II posts available exclusively for Stenographers, there is no point in allowing them to participate in the competitive test. Therefore, these posts be filled strictly according to seniority cum suitability from amongst Assistants only.
- (v) As and ~~when~~ when there is a change in the scale or charge in the channel promotion charge in the existing rules becomes obligatory of the part of the Administration. Since a new channel of promotion to stenographers by introduction of SPA's grade in Class II (Gazetted) to the extent of 17 posts has been provided, the status quo in the
- (vi) It is pertinent to point out that in 1963 when the total strength of RDSO was 1347 there were 6 posts of Class II gazetted to dwell with the Estt. This strength

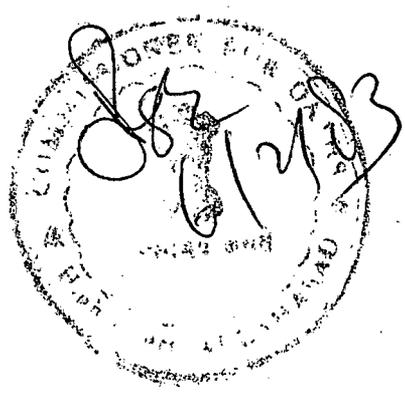


5.

of class II post had been reduced to 3. This reduction was effective by curtailing two posts of Establishment Officer and one Section Officer to provide the post of Dy. Director General. This reduction effected only clerical staff and not Stenos for whom 2 posts of Section Officer were allotted on adhoc basis. It is horrifying that the cadre on the basis of which the posts were created and who had been carrying these 17 years are being deprived of their legitimate right of promotion by continuing the existing R & P Rules, which were framed in 1963/1978 and not a tenable in view of the facts brought out above.

2. Two posts of S.O. (Min.) which were temporarily given to the Stenos on adhoc basis be given back to Assistant cadre.

- (i) Only 5 posts of SO(Ministerial) Class II are exclusively available for Assistants, whereas 20 class II are exclusively available for Stenographers.
- (ii) The two posts of SO(Min) Class II were allotted to Stenographers on adhoc basis when t they had no avenue of promotion. As new Stenographers are having sufficient channel of promotions to Class III II, therefore, no justification to claim the above two posts exclusively for them from the exclusive quota of the Assistants.
- (iii) As per UPSC's Statutory Rules " Only one promotional avenue to a post of category of p posts" It is against the basis principle that Stenographers are enjoying double promotional



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benefits. In this connection UPSC's letter to the Railway Board being No.F2/19(5)/77 /RR dated 23.10.78 is relevant.

- (iv) In this connection attention is also invited to para 9(3) of Rly. Board Staff service Scheme of 1969 wherein two posts of Section Officer reserved for Stenos, have been de-reserved with the coming into force the Rly.Board Sectt. Stenos Service Rule, 71 w.e.f. 1.8.69. Similar action should have been taken to dereserve the posts in RDSO with the introduction of R& P Rules, for SPA w.e.f. 27. 8.79.

6. In view of the clear facts brought out above the Railway Board are again requested to re-examine the entire case and communicate the reply within one month as to the selection is scheduled to be held on 12th and 13th July 1980.

- 1) amend the existing R and P rules by providing promotion to Section Officer (Ministerial) strictly by seniority cum suitability from amongst Assistants only,
- ii) restoration of two posts of Section Officer (Ministerial) allotted to Stenos on adhoc basis back to clerical cadre.
- iii) cancellation of proposed Section Officer (Ministerial) departmental competitive examination to be held in July, 1980.



Yours faithfully,

Sd/- M.L. Bhardwaj & others.

Lucknow.
Dated 9.5.80.

P.K.Dhar

(41)

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In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1983.

P.K. Dhar, and Ore-- --- Petitioners.

Vrs.

Union of India and another. -- Opp. Parties.

Annexure No. 13

5.6.1980

The Secretary
Railway Board,
New Delhi.

Sub: Resruiement and Promotion Rules for
the posts of Section Officer (Ministerial)
in RDSO

Ref: Railway Board's letter No.E(FE)/1/79/44/67
dated 21.2.80

With reference to their representation, the Assistants in RDSO were advised of the decision as communicated vide Railway Board's letter No.E(RB)I/79/44/67 dt 21.2.80 stating that in the matter of R & P Rules for the posts of Section Officers status quo would be maintained.

2. Not satisfied with the decision of the Railway Board, the Assistants have submitted the Joint Representation dated 9.5.80, a copy of which along with its enclosures is attached. Also at attached is a copy of the representation dt. 14.5.80 submitted jointly by Stenos of this organisation.

3. The position brought out in para 4 of the representation submitted by the Assistants with regard to availability of promotional avenues is factually correct. Similarly,



P. K. Dhar

the statement made by them in para 3 of their representation in respect of the principle of 'promotional avenue to a category of posts is also factually correct. The said principle has been enunciated in the UPSC's letter No.F3/19(5)/77/RR dt. 23.10.78 a copy of which has been submitted by them. The Assistants have also strengthened their claim for restoration of the two posts of Section Officer reserved on adhoc basis for Stenographers, on the analogy of para 9(3) of the Railway Board's Sectt. Service Rules, 1969

4. The figures given in the table appearing in para 4 of the representation submitted by the Stenographer give an impression as if the posts of Analyst and A-in-C are higher grade posts. The fact is that these posts are Cl.III posts sanctioned in the basic grade of Assistant, but carry special pay of Rs.50/- p.m. The Stenographers have also averred that the post of Section Officer (Hindi) forms a part of the general cadre to which Assistants as a category can seek promotion. This again is not factually correct as only Hindi Assistants are eligible for promotion to the post of Section Officer (Hindi).

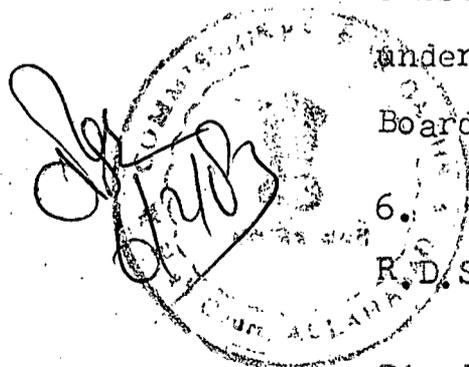
5. Action for holding selection to fill up the existing vacancies of Section Officers is in progress under the rules presently in force, in terms of Railway Board's letter no.E(RB)I-79/44/67 dated 21.2.1980.

6. The case has been seen by the Director General, R.D.S.O.

Sd/ B.R.Sharma

For Director General

DA: As above.



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In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1983.

P. K. Dhar and others. --- Petitioners.

Versus

Union of India and another. --- Opp. Parties.

Annexure No. 14

The Secretary,
Railway Board,
New Delhi.

Sub: Revision of existing R & P Rules for the
post of Section Officer (Ministerial)
RDSO and restoration of the posts of
S.O. to Assistant Cadre.

Ref: Our representation dated 9.5.80 in
reference to Board's letter No.E(RB)1/79
44/67 dt. 21.2.80.

Sir,

Vide our above representation request was made to
reconsider our request and communicate the reply within one
month as the selection is scheduled to be held on 12th
and 13th July 1980. It is requested that no reply to our
representation has been received till date. It will be
seen from the contents of our representation that Board's
decision quoted below is factually incorrect :



"In view of fact that chances of promotion
available to the categories of staff-Assistant
and Stenographers are more or less similar the
Board have decided to maintain the status quo."

2. It will be seen from the following tables that
avenue of promotion to the Assistants works out to between
5.4 to 10.8 whereas for the Stenographers it works out

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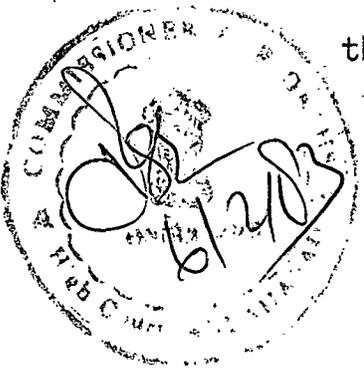
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to 22 % and hence it will be incorrect to conclude that the chances of promotion available for two categories were more or less similar.

Category	No. of Posts.	Number of Cl. II available for promotion	Avenue of promotion % basis.
Assistant	92	5 posts for seniority cum suitability and 5 posts by competitive test in which steno and Asstts. both eligible.	5.4 - 10.8 %
Stenographer	112	20 plus 5 (3) in scale of Rs 650-1200 and 47 from the 17 in scale of Rs.650-1040 and 5 from the common posts in scale Rs.650-1200 Available out of Assistants Cadre .	22 %

3. It may be further pointed out that whereas the channel of promotion for the Asstt. is only one but for the stenographers there are two avenue of promotions- one in their own channel and other ~~although~~ along with Assistant category This is in contradiction to the principles laid down ~~in~~ by the UPSC vide their letter No.F.3/19(5)/77-RR dated 28.10.78 the relevant extract of which is reproduced below:-

"Normally, while laying down promotion as a method of filling of post, the uniform practice is to allow only one promotional avenue to a post or category of posts. In view of this basic principle, it would not be desirable to allow two promotional avenues to the posts."



P. K. Dhar

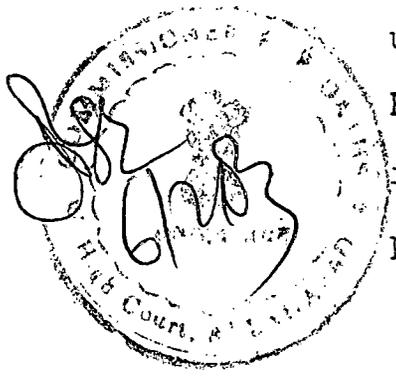
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4. It will thus be seen that Board's decision is presumably based on some incorrect data and also in violation to the general principle laid down by the UPSC and therefore needs revision to the extent that all class II posts (Section Officer(Min.)) should be open to the category of Assistants only and the class II posts available for stenographer category should be filled from them.

5. Further reference is invited to para 9(3) of the Railway Board's service Rule 1969 on the strength of which two posts of section office (Ministerial) were allotted to stenographers on adhoc basis were restored to Asstt. cadre with the introduction of Railway Board's Sectt. Stenographers service Rule 1971 w.e.f. 1.8.69.

6. Since the matter is urgent and has already been under consideration for quite some time and even one month has passed since the submission of our last application dated 9.5.80, it is requested that final reply may please be communicated every early and not later than 30.6.80. Pending decision on our representation the ensuing selection scheduled to be held on 12 & 13 July 1980 be postponed. Necessary instruction may kindly be issued to D.G.RDSO, to this effect. In view of the above, it is felt that the Board's decision conveyed vide their letter under reference is discriminating against the Asstts of RDSO with a resultant and corresponding discrimination in favour of the Steno of RDSO thus infringing the ~~previous~~ provision of the constitution of India.



Yours faithfully,

(M.L.Bhardwaj)
Asstts.

Dated 11.6.80

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In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. _____ of 1983.

P.K. Dhar and others. --- Petitioners.

Versus

Union of India and other. -- Opp. Parties.

Annexure No. 15

Government of India Ministry of Railways
Rail Mantralaya
Railway Board.

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No. RADI/79/44/67 New Delhi Dt 10.10.80

The Director General
RDSO
Lucknow.

Sub: Recruitment and Promotion Rules for
the post of Section Officer(Ministerial)
Ref: Your letter No.A/PT/O dt. 5.6.80

...

While forwarding separate recommendations of Assistant and Stenographers of the RDSO on the above Subject no recommendation have been made by your Administration. Before the matter is considered in consultation with the UPSC and the Department of Personnel & Administrative Reforms if necessary, your firm recommendation may please be furnished as early as possible.

(S.K.Ahuja)
Under Secretary END(I)
Railway Board.

P.K.Dhar



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In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1983.

P.K.Dhar and ~~xxx~~ others. -- Petitioners.

Versus

Union of India and another. -- Opp.Parties.

Annexure No. 16

No.A/RT/o

Dated 4.6.81

The Secretary
Railway Board
New Delhi.

Sub: Recruitment & Promotion Rules for posts
of Section Officer (Ministerial) in RDSO

Ref: Railway Board's letter No. ERBI/79/44/67
dt. 10.10.80

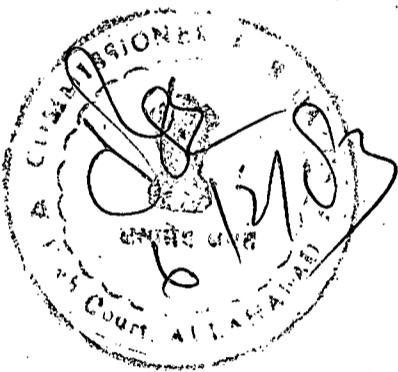
**

Vide this office letter No.A/PT/O dated 13.2.81
it was recommended as under:-

1. The posts of SO/Min. may be filled up to the
extent of 50% on the basis of seniority cum suitability
from the Assistants and the remaining 50% through
Limited Deptt. Competitive Examination, for which the
eligibility should be the same as at present viz.
stenographers SPAS and Assistants.

2. The posts of SPAS may be filled up as per
existing R&P Rules.

3. Out of the 3 posts of SOs/Min. presently re
served SPAS , two posts should be dereserved and
only one post of SO(Stenos) kept reserved for
Stenographers.



P.K.Dhar

2. The RDSO class III staff Association vide their letter No. OTSA/Genl/81 dated 28.4.81 (copy enclosed) have suggested inter-alia that the ~~prece~~ procedure followed in the Ministry of Railways be also followed in RDSO in this case. Since RDSO is an attached officer of the Ministry of Railways, it would appear reasonable to do so.

3. It is seen from Board's letter No. ERBI/79/46/67 dt 14.5.81 that the procedure followed in the Ministry of Railways is as under:-

- 1) 16% by direct recruitment by UPSC
- 2) 28% from the Assistants on Seniority-cum-suitability basis
- 3) 28% from amongst the staff with longest period of service on the basis of merit.
- 4) 28% from amongst the Assistants and Stenographers having continuous 5 years service in the grade through Limited Departmental Competitive Examination.

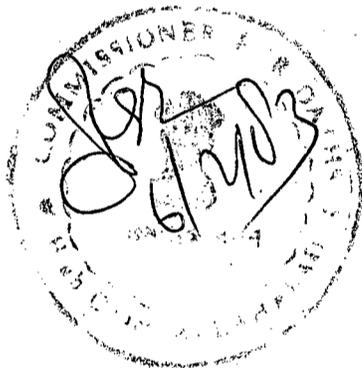
4. Since the percentage of 16 % by direct recruitment by UPSC vide item (1) above does not normally materialise and it is invariably not found possible to obtain candidates for filling up these posts in RDSO by direct recruitment by UPSC, it is felt that this percentage be distributed equally between the remaining three items, besides dereserving 2 out of 3 posts of SO/Min at present reserved for SPAs/Stenographers.

5. Board's early decision in the matter is requested. The Board are also requested for clarification of the issue referred to in para 3 of this office letter No. A/RT/O dated 20.5.81.

DA one

Sd/ L.F.X. Freitas
Director General.

P.K. Dhar



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In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1983.

P.K.Dhar and others. --- Petitioners.

Versus

Union of India and another. --- Opp. Parties.

Annexure No. 16-A

K.D.Saha,
Dy. Secretary.

29-7-81.

D.O.No. ERBI/79/44/67

Dear Shri Kulshreshtha,

Sub: Recruitment & Promotion Rules for
posts of Section Officer (Ministerial)
in R.D.S.O.

Please refer to the correspondence resting with
D.G., R.D.S.O. 's letter No.A/RT/O dated 4.6.81 on the
above subject in which it has been inter alia suggested
that the recruitment rules for posts of Section Officers
(Ministerial) in R.D.S.O. may be amended de-reserving
2 out of 3 posts of Section Officer/Min. at present
reserved for SPAS/Stenographers and for filling up of
the post of Section Officers in the following manner:-

- (i) 33 1/3rd from the Assistants on Seniority-cum-suitability basis.
- (ii) 33 1/3rd from amongst the staff with longest period of service on the basis of merit.
- (iii) 33 1/3rd from amongst the Assistants and Stenographers having continuous 5 years service in the grade through Limited Departmental Competitive Examination.

This has been done keeping in view the provisions for
filling up of the posts of Section Officers in R.D.S.O.

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In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1983.
P.K.Dhar and others. --- Petitioners.
Versus
Union of India and another. --- Opp. Parties.

Annexure No. 16-A

K. D. Saha,
Dy. Secretary. 29-7-81.
D.O. No. ERBI/79/44/67

Dear Shri Kulshreshtha,

Sub: Recruitment & Promotion Rules for
posts of Section Officer (Ministerial)
in R.D.S.O.

Please refer to the correspondence resting with
D.G., R.D.S.O. 's letter No. A/RT/O dated 4.6.81 on the
above subject in which it has been inter alia suggested
that the recruitment rules for posts of Section Officers
(Ministerial) in R.D.S.O. may be amended de-reserving
2 out of 3 posts of Section Officer/Min. at present
reserved for SPAS/Stenographers and for filling up of
the post of Section Officers in the following manner:-

- (i) 33 1/3rd from the Assistants on Seniority-cum-suitability basis.
- (ii) 33 1/3rd from amongst the staff with longest period of service on the basis of merit.
- (iii) 33 1/3rd from amongst the Assistants and Stenographers having continuous 5 years service in the grade through Limited Departmental Competitive Examination.

This has been done keeping in view the provisions for
filling up of the posts of Section Officers in R.D.S.O.

P. K. Dhar



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2. In this connection, it is pointed out that the relevant provisions in the RDSO for filling up of 28% of vacancies by Assistants with longest period of service has been struck down by the Delhi High Court. An appeal against the decision has been preferred to the Division Bench and a final decision is awaited. Against this background, it is not advisable to introduce any quota for promotion on the basis of length of service as Assistant, irrespective of seniority. It will be more apt if 2/3rd of the vacancies are filled up by promotion of Assistants on the basis of seniority cum suitability and the remaining 1/3rd from amongst the Assistants and Stenographers through Limited Departmental Competitive Examination. Clarifications asked for in para 3 of your office letter no. A/RT/O dated 20.5.81 have already been furnished in my D.O. of even number dated 3.6.81.

3. Your Administration's views with reference to personal in para 2 above, may kindly be furnished urgently to process further action.

Yours sincerely,

(K.D.Saha)

Dr.C.M.Kulshreshtha,
Director, Traffic Research
RDSO,
Lucknow.



P.k. Dhar

(AP) (SI)

MSO (M)

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. _____ of 1983.

P.K.Dhar and others. --- Petitioners.

Versus

Union of India and others. --- Opp.Parties.

Annexure No. 17

Government of India
Ministry of Railways
(R.D.S.O.)

STAFF NOTICE.

Sub: Limited Departmental Competitive Examination in
connection with the formation of a Panel to
fill the vacancies in the cadre of Section
Officers/Ministerial (Class II, Group 'B')
in R.D.S.O.

It is notified that a limited Departmental competitive examination for selection of section Officers/Ministerial (Class II, Group 'B') from amongst the Assistants/Stenographers of RDSO in scale Rs.425-800 RS/650-960 RS and SPAs in grade Rs,650-1040 as per the existing R & P Rules will be held on 12th and 13th February 1983.

2. Vacancies: There will be three vacancies, including anticipated ones, out of these ___ and ___ vacancy lies are reserved for SC and ST communities respectively.

3. Eligibility: Assistants/Stenographers of RDSO in scale Rs.425-800 RS/650-960 RS (including SPAs in gr. Rs.650-1040 RS) presently working on regular basis and have completed in this organisation 5 years service as on 1.10.1982 in the grades of Assistants/Stenographers, will be eligible to sit for the examination.

4. The subjects for the examination and the max. marks allotted to each paper and the scheme of examination are indicated below.



P.K. Dhar

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Paper No.	Subject.	Time allowed	Maximum Marks	Date of Examination and timings.
I	Noting, drafting & Preciis writing.	2½ hrs.	100	12-2-1983 from 10.30 hrs onwards.
II	(a) Procedure & Practice obtain ing in the Min. of Rlys. (b) General Knowledge of the Constitution of India and the practice and proce- dures in Parliament.	2½ "	100	12.2.1983 from 14.30 hrs onwards

Note: Some guidance on these subjects can be had from
 (1) Manual of Office Procedure issued by the Mini. of Rlys
 (ii) Main provisions of the Constitution of India; and Rules of Procedures and Conduct of business in the Lok Sabha and Rajya Sabha.

III	General Rules & Rly Act.	2½ Hrs	100	13.2.1983 from 10.30 Hrs on wards.
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Note: Knowledge of the following would be expected:

- (i) Indian Railway General Codes Vol.I and II
- (ii) Railway Board Act, and
- (iii) The Indian Railways Act.

Total marks. 300

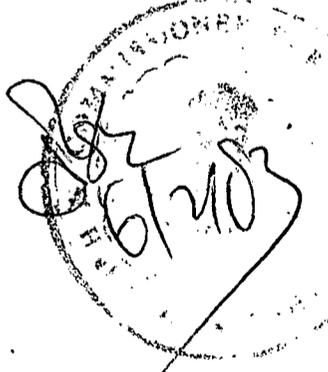
Interview: The candidates will be interviewed by a Committee and their CRS evaluated. 100 marks.

Note: The venue of the examination and the date/ time of interview shall be notified later on.

Candidates will be placed on the panel in the order of merit as reflected by the result of this examination. however, the appointments of selected candidates will be ordered subject to the final decision on the ~~merit~~ Writ petition no.2516 of 1980 pending in the Allahabad HighCourt Lucknow Bench.

Eligible candidates, who wish to compete in the examination should inform in writing through proper channel, the E-11 branch RDSO/Lucknow or or before 15.12.1982 Intimation of willingness must reach by 15.12.1982 and any application received thereafter will not be considered.

File No. EII/SLN/O/SO(Min.)/Comp. (82-85) Sd. B.R. Sharma
 for Director General.
 Lucknow 11, dated 5.11.1982.



P.K. Dhar

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A60

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No of 1983.

P.K. Dhar and others. --- -- Petitioners.

Versus

Union of India and other. --- Opp. Parties.

Annexure No. 18

GOVERNMENT OF INDIA
Ministry of Railways
(R.D.S.O.)

STAFF NOTICE

Sub: Limited Departmental Competitive Examination in connection with the formation of a panel to fill the vacancies in the cadre of Section Officer (Min) (Class II, Group 'B) in RDSO.

Ref: Staff Notice No. EII/SLN/O/SO(Min) Comp.(82-83) dt. 5.11.82.

A list of the eligible candidates who have expressed their willingness to appear for the above examination scheduled to be held on 12 & 13.2.1983 is enclosed. The staff concerned should report to Estt.II Branch in the Admn. Building at 10.00 hrs on 12.2.83. The Controlling officers/section incharges are requested to ensure that the contents of this notice are noted by the staff concerned under them.

DA: One list.

Sd/- 1.2.83
(B.R.Sharma)
for Director General.

P.K. Dhar

File No. EII/SLN/O/SO(Min).
Comp-(82-83) dt. 1.2.83.



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Distribution.

1. DDE-II, JDE, DDA, SO/Rectt, SO(E-I), SO/^{II}-III, SO/E-IV, SO/Stenos, SO/MCW, SO/MP, SO/Research, S.O/M&C, SO/Civil, SO/Confid., SO/S&T, AAO, Asstt./Arch Dte Asstt./Elec Dte, Asstt/TT, DTe, JDP, Asstt./Traffic Research Dte, Sr Dy.D.G., SPA/DG, DF, SO/ED, DD, DOC, Asstt./MRS(Eclc)
2. The Chief Admn. Officer (MTP)-R), Near Vikas Kuteer, Tilak Bridge, New Delhi (in r/o Sh.RD, Sharma & Sawari Lal)
3. The Secretary to the Hon'ble Governor, State Govt of U.P., Raj Bhavan, Lucknow (in r/o Sh.S.K.Jain, Steno Sr II of RDSO),
4. The Chief Project Manager, Rly. Electrification, Jaika Bhavan, (3rd floor) Commercial Road, Civil Lines, Nagpur (in r/o S/SR.CR Gopalakrishanan & N.Krishnamurthy Steno Gr.II)
5. The Principal, Rly. Staff College, Vadodara (in r/o Shri JM Bowlekar, Steno Gr.II of RDSO)
6. The Managing Director, Rail India Tech. & Economics Service Ltd., New Delhi House, 27 Barakhan Road, New Delhi (in r/o RN Sharma).
7. Jt. Director Insp(Elec.), RDSO C/o Integral Coach Factory Parambur, Madras (in r/o Sh.S.Govindarajan, SPA)
8. Chief Engineer (Const.) Brahmaputra Valley bridge project N.R.Railway Maligaon, Cauhati (in r/o Sh.EA Khan Office Supdt.)

P.K. Shar



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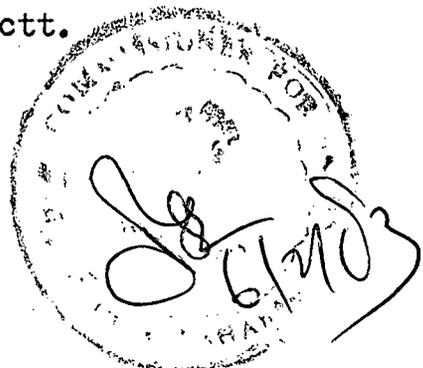
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List of eligible candidates who gave their willingness to appear in the Limited Departmental Competitive Examination for the post of Section Officer (Min) in RDSO to be held on 12 & 13-2-83.

<u>SNo.</u>	<u>Name & Designation</u>	<u>SNo.</u>	<u>Name & Designation</u>
	S/Shri		S/Shri
1.	B.N.Verma, PA	51	Salvinder Singh PA
2.	DP Shard, PA	52	DPPrabhakar PA
3.	Karnail Singh, PA	53	BN Dhavan PA
4.	M.Balasbrahmathan PA	54	HV Raghupathy PA
5.	SR Krishnamurthy PA	55	KR Moorty SPA
6.	MR Srivastava PA	56	RP Mittal PA
7.	GN Mallya, PA	57	Duli Chand Kardan Asstt
8.	GK Wadhwa, PA	58	Mihi Lal Asstt
9.	Jarnail Singh, PA	59	Ashutosh Dutta, Asstt
10	Mohinder Prakash PA	60	SNTiwari Asstt.
11.	KS Murthy SPA	61	HR Singh asstt.
12.	R.Subramanian, PA	62	SV Kananikeshwaran Asst
13.	RK Bholra, SPA	63	VB Dudeja PA
14.	D.Keshav Rao, SPA	64	KC Talwar Asstt
15.	MM Bhaya, PA	65	Roshan Lal Pharma Asstt
16.	AV Adishankar PA	66	NC Banerjee, Asstt
17.	RT Uppal, PA	67	JJ Hare Asstt
18.	OP Sharma, SPA	68	Brahn Dev Asstt
19	BD sharma, PA	69	Om Dubey Asstt
20	Sawari Lal PA	70	MM Mathur Asstt
21.	GN Shahani, Asstt.	71	RN Dixit Asstt
22.	GR Mehdiratta, PA	72	Ajaib Singh Asstt
23.	Tulsi Ram SPA	73	NS Budhai SPA
24	SK Jain, PS/Governor UP	74	TR Mooelri PA
25	GKV Naira PA	75	DN Tewari Asstt
26.	N.Krishnamurty, PA	76	SN Dutta Asstt
27	CR Gopalakrishnan PA	77	SK Bose Asstt
28.	KR Upadhyaya, PA	78	Arshad Ali Khan Asstt
29.	GR Bhugra, PA	79	NP Gosain PA
30.	KC Gupta, PA	80	S.Govindarajan SPA
31.	Avtar Singh PA	81	VK Sagar Asstt
32.	Basant Kumar PA	82	ML Behal Asstt
33.	Ram Kisha, PA	83	P.Srivastava PA
34.	GP Bhatnagar PA	84	KV Ramakrishnan PA
35	Dev Raj Main PA	85	K.Ramachandran SPA
36	VR Jose PA	86	MLMalhotra Asstt
37	K.Bhaskaran PA	87	PD Srivastava Asstt
38	CM Bowlekar PA	88	IS Kamthan Asstt
39.	RKBansal PA	89	Jagdish Chand Asstt
40.	I Souren, Asstt.	90	Gulam Husain PA
41	KA Velayudhan PA	91	PK Dhar Asstt
42	R.Jagadesan PA	92	MP Grover PA
43	R.Jage Raghavaendiran PA	93	Govind Lal PA
44.	M.Vedapuri PA		
45	PN Verma Asstt.		
46	RN Sharma, PA		
47	EA Khan Asstt		
48	TR Bhasin Asstt		
49	L.Kandulana SO/Rectt.		
50	KP Saxena, Asstt.		

P.K.Dhar



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AB3

In the Hon'ble High court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ petition No. of 1983.

P.K.Dhar and others. -- Petitioners.

Versus

Union of India and another. --- Opp.Parties.

Annexure No. 20.

Minutes of the meeting.



P. K. Dhar

In the Hon'ble High Court of Judicature at Allahabad

Annex 19

W.P. No. 103 P.K. Dhar vs UOI & Ors

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GOVERNMENT OF INDIA: MINISTRY OF RAILWAYS
RESEARCH DESIGNS AND STANDARDS ORGANISATION
MANAK NAGAR, LUCKNOW.

No. WS/OC/M.

Dated: 19.1.1983

Sub: Minutes of the meeting of the
Office Council held on 11.1.1983.

A copy of the minutes of the above meeting of RDSO Office Council is enclosed for necessary action. The Officers concerned are requested to please send the progress/ comments, in triplicate, to the undersigned in respect of the items pertaining to their Branch/Section latest by 21.2.1983. Hindi version will follow.

(P.N. Kapoor)
Secretary to B.G. 19/1/83

DA/One.

DISTRIBUTION:

1. All Directors
2. Sr. Dy. DG, JD/Estt., DD/E-II, DD/Admn., JD/P J DF TEN
DCOS SO/E-I SO/E-III SO/E-IV SO/Stenos SO/Rectt.
SO/Hindi AAO SO/Confdl. General Secy., RDSO Sports
Association Secy. to DG and Admn. Section.

1. Secy. Office Council (Sh. Subodh Behari
= President RDSO / Secy. to Office Council
Sh. G. N. Singh Secy. to Office Council
R. S. W. K. S.) } with 10 stamps

P. K. Dhar

6/2/83

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OFFICE COUNCIL, RDSO/LUCKNOW.

MINUTES OF THE MEETING OF THE OFFICE COUNCIL HELD
ON 11.1.1983 FROM 11.00 HRS ONWARDS IN THE
COMMITTEE ROOM, R.D.S.O., LUCKNOW.

P R E S E N T

Shri M.K.Gamkhar Chairman, Office Council.

OFFICIAL SIDE

- | | |
|--|--|
| 1. Shri S.K.Jagdhari, Sr.Dy. DG | 1. Shri Subodh Behari, Secy./OC(CTSA) |
| 2. Shri R.Mahto, JDF | 2. Shri R.N.Mandal, CTSA |
| 3. Shri K.Kumar, DD/Admn. | 3. Shri R.K.Mallick, CTSA |
| 4. Shri Dharam Singh, TEN | 4. Shri B.B.Choudhuri CTSA |
| 5. Shri K.K.Soni, SO/E-I
(Representing JDE) | 5. Shri Inderjeet Sharma, CTSA |
| | 6. Shri Gurmukh Singh,
Jt.Secy/OC(CFSA) |
| | 7. Shri N.B.Singh, CFSA |
| | 8. Shri Baboolal, CFSA |
-

This being his first meeting of the Office Council, the Chairman welcomed and assured the staff representatives of full cooperation from the Administration side, so as to increase the efficiency and effectiveness of the Organisation and to mitigate the grievances of the staff to the maximum possible extent. The staff side also assured the Chairman of their full cooperation in this regard.

The items listed on the Agenda were then taken up for discussion as follows:

1. Review of the minutes of Office Council meeting held on 28.8.1982 (Number assigned in brackets shows the no. given in the minutes of the meeting held on 28.8.82)
- 1.1 Supply of Uniforms to Malies and Khalasis in accordance with Home Ministry Rules(2/82)

DCO's

The staff representatives pointed out that there were a few categories of staff, like Malies, Khalasis and Wireman etc. which find place both in the Home Ministry Dress regulations and Railway Dress Regulations, making them eligible for supply of uniforms according to the scale and style prescribed in these two sets of rules and regulations, but these categories of staff were being denied this privilege in RDSO. The Chairman advised the staff representatives that the matter had been referred to the Railway Board for their approval for giving uniforms to a few categories of staff (including Malies). Board's approval is awaited. The staff representatives requested the Chairman to

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that proposals for creation of necessary higher grade posts (including posts of SOs) are made out at the earliest.

The Chairman agreed to keep the points expressed by the staff representatives in respect of promotional prospects, in view.

The staff representatives also brought out the case of regularisation of the promotion of four SOs promoted as a result of the last Limited Departmental Competitive Examination. In their view, this was not warranted in the light of the Court's order on the Writ Petition. The Chairman stated that the case will be looked into.

✓ The staff representatives informed the Chairman that Railway Board had ordered certain modifications in the R&P Rules for the post of SO/Ministerial in RDSO and requested that the same may be implemented. The staff representatives also requested the Chairman to order postponement of the notified limited departmental competitive examination for the post of SO/Ministerial scheduled for February, 1983. The Chairman advised that since the case has become subjudice, it was not intended to discuss the issue. However, he would have the papers examined for any action as deemed fit.

1.5 Rationalisation of Cadre structure in RDSO: (9/82)

JDE

The Chairman advised the staff representatives to expedite submission of a Memorandum, highlighting their proposals with justification on the subject of Cadre restructures, as agreed during the meeting held by them with M.E. on 1.10.1982 in Rail Bhavan, to enable the Administration to examine the same. The staff representatives wanted in connection with the memorandum to be submitted on the subject by them, a list of all the categories of staff, their number and pay scales. The Chairman agreed to give them this list.

1.6 Upgradation of technical staff in the pay-scale of Rs.550-750/RS to Rs.550-900/RS: (18/82)

JDE

DDA-II

The staff representatives were advised that a proposal was sent to the Board to allow uniform grade of Rs.550-900/RS to DDAs in RDSO, whose present grade was Rs.550-750/RS. They were also advised that the Board had directed to make revised proposals with matching surrender to compensate for the extra expenditure involved due to this upgradation. This issue was examined in consultation with the technical directorates of RDSO, and it was found that such matching surrender would not be feasible.

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1982-83 will be scheduled accordingly. Any suggestions/proposals can, however be given to the President for consideration.

1.10 Deduction at the rate of Rs.10/- from the salaries of Class III Temporary Railway Servants of RDSO towards Group Insurance cover under new Insurance Scheme from 1.1.1982:(23/82)

JDE
DDA

Staff representatives were advised that the directives on the subject provided that the rate of subscription and related benefits under the new scheme shall be determined with reference to the post held on a regular basis (not on ad hoc basis). Since the de-casualised staff have been regularised against group 'D' posts, they are not entitled for a higher rate of deduction.

The staff representatives read out provisions of para 2501(b) and 2511 of Establishment Manual, and stated that in their opinion, the temporary Class III Railway Servants on de-casualisation were eligible for higher insurance cover. The Chairman advised the staff representatives to furnish further details and facts on the issue to enable him to re-examine the same de-novo.

1.11 General Insurance premium from Class III Staff of RDSO: (25/82).

JDE
DDA

The Chairman advised the staff representatives that the matter has already been referred to the Railway Board and that their decision is still awaited. The staff representatives requested the Chairman to have the matter pursued so as to get the decision expeditiously.

1.12 25% of regular posts in the Artisan cadre be filled up by temporary status employees of RDSO: (26/82).

JDE

The staff representatives gave reference of Para 2511 of the Establishment Manual to justify their demand. The Chairman indicated that these provisions related to benefits to casual labour such as pay, leave, passes etc. For the filling up of posts of HS/SS categories, Board's orders vide their letter No.E(NG)II-77/CL/46 dated 14/15.7.82 are very clear and have to be followed. These orders stipulate that 25% of the vacancies only will be filled up by the de-casualised labour who have got temporary status. The matter was discussed at length. The staff representatives disagreed and held the view that the case existed under the rules for regularisation of de-casualised staff against newly created posts of skilled/semi-skilled posts. As a result agreement on this matter could not be reached.

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5. Condonation of break in service for absence on 19.1.82 (Bharat Bandh).

JDE
DDE-II
SO/
Condl.

While stressing the need for the Administration to maintain discipline, the Chairman informed the staff representatives that break in service ordered in the case of some absenting staff on the "Bandh" day cannot be condoned. On being pointed out from the staff representatives, the Chairman agreed that in all these cases the employees will be informed of break in service if not done already. The employees concerned are free in normal course to represent their case to the Administration.

6. Surplus Out-houses in RDSO.

DD/Admn.

The Chairman advised the staff representatives that a census had been taken by the TEN. According to this census, 19 out houses were allotted long back and in addition, there were 58 out-houses, out of which 45 are required for the occupants of the main house. Regarding the balance 13 out-houses, the Chairman advised that these out-houses cannot be segregated so as to ensure privacy for the occupants of the main house. These out-houses are very old and for reasons of heavy estimated costs, these cannot be provided with basic amenities such as bathroom, laterine, kitchen etc. provision for which is prescribed as per extant orders. The staff representatives stated that the information collected by the Admn. was not factually correct. They also pointed out that the Rly. Board has ordered to allot these surplus out-houses to the Class IV staff, so the orders of the Board must be implemented. They also stressed that no additional and extra amenities is needed to be provided at present. The Chairman advised the staff representatives to furnish facts and figures. They can offer for a further examination in the light of information to be submitted by them.

7. Regularisation of Class II(Tech.) Staff officiating on ad hoc basis:

DD/Estt-II
SO/Confd

The Chairman advised the staff representatives of the relevant rules prescribed by the Railway Board in regard to the promotions, DPCs, assessment based on CRs, etc. which are being followed in RDSO. It was also pointed out that this item pertaining to CRs was already discussed with ME in meeting held on 1.10.1982 and action

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decisions are endorsed to the recognised associations and under the circumstances, issue of yet another statement of actions taken on the items discussed in the Office Council meetings does not appear necessary. The staff representatives informed that the practice of attaching the statement of actions taken on the items discussed in Office Council Meetings held in the Board's office was also prevalent in the Board's Office and requested that the same should be adopted in RDSO as well. The Chairman advised the staff representatives that the position will be checked up to decide the future course of action in RDSO.

12. Supply of copies of rules/regulations to recognised staff associations:

DD/ Admn.
NFIR &
AIRF etc,
by the
Rly. Bd.
are being
endorsed

The Chairman informed the staff representatives that copies of the communications incorporating rules and regulations on staff matters and which are of staff interests, received from Railway Board and also endorsed to the recognised staff associations in RDSO as well. In addition, copies of all rules/orders of Board and RDSO Administration which relates the service conditions or other matters of the employees are sent to the directorates for information of the staff. The staff representatives pointed out two cases, viz., rules framed by the Administration in respect of allotment of quarters and their subsequent amendments, and holding of DICs, copies in respect of which had not been supplied to the recognised associations. The Chairman advised the staff representatives that these will be examined and necessary action taken.

13. Booking of Raj dhani Hall and Auditorium:

JDF
TEN

The Chairman advised the staff representatives that it was not intended to have any dealing with un-recognised associations. The Chairman, therefore, did not agree to the demand of the staff representatives to extend booking of Raj dhani Hall and Auditorium in favour of un-recognised staff associations. The item is treated as closed.

14. Implementation of agreements reached at the Departmental Council and National Council in RDSO:

DD/ Admn.

We are receiving orders on all matters discussed through Railway Board and these are implemented accordingly. After detailed discussions the item was treated as closed.

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performing functional duties which made them eligible for getting the protective clothings. The Chairman indicated that this will be examined.

19. Date of Next Meeting:

Secy to DG

It was decided to hold the next meeting on 8.3.1983.

20. Rules and Laws applicable to RDSO staff:

JD (Estt)
DD (Admn)

Since this item was of general nature, the Chairman asked the staff representatives to give a write-up on the specific points at issue, to get the same examined for taking appropriate action.

21. Schedule of the meetings of various committees formed in RDSO:

DD (Admn)
TEN
Genl. Secy.,
RDSO
Sports
Assocn.

The staff representatives pointed out that the periodicity or schedule of the meetings of various committees formed in RDSO in which representatives from the staff associations were included, have not been laid down and that in absence of such regular meetings, the interest of the staff was suffering. The staff representatives also pointed out that the decisions arrived at the periodical meetings of the Quarters Allotment Rules Committee were not being communicated to the recognised associations.

The Chairman advised the staff representatives that sports meetings are held once a year and the same is due next month. The meetings of the Canteen Management Committee are held regularly and that the last meeting was held on 4.1.1983. In regard to the Town Area Committee - which is an advisory committee, TEN will be asked to activate this Committee. In regard to the meetings of the Manak Railway School Committee, the periodicity is once in 4 months and this schedule is being adhered to. In regard to Quarters Allotment Rules Committee, the meeting is held as and when required. It was agreed to supply the copy of decisions taken at various Quarters Allotment Rules Committee. This item is treated as closed.

The meeting ended with a vote of thanks to the chair.

P. K. Dhar

(K. KUMAR)
Deputy Director (Administration)
RDSO/Lucknow.

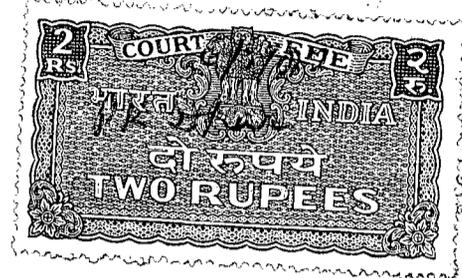


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In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.



Writ Petition No. of 1983.

P.K. Dhar and others. --- -- Petitioners.

Versus

The Union of India and another. Opp. Parties.

Affidavit.

I, P. K. Dhar aged about 52 years, son of Sri P.C. Dhar, Assistant Selection Grade, R.D.S.O., Manak Nagar, Lucknow, do hereby solemnly affirm and state as under:-

1. That the deponent is petitioner no.1 in the above noted writ petition and is fully conversant with the facts deposed to hereunder:-

2. That the contents of paragraphs 1 to 26 of the accompanying writ petition are true to my personal knowledge.

3. That annexures are true copies of their originals.



Lucknow Dated
Feb. 6, 1983

P.K. Dhar
Deponent.

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2.

Verification.

I, the abovenamed deponent, do hereby verify that the contents of paras 1 to 3 of this affidavit are true to my own knowledge. No part of it is false and nothing material ~~has~~ has been concealed, so help me God.

Lucknow Dated
Feb. 6, 1983.

P.K. Dhar
Deponent.

I identify the deponent who has signed before me.

Vishnu Dayal
Clerk of Sri Brijesh Kumar.



Solemnly affirmed before me on 6-2-83 at 11-00 a.m./p.m. by Sri P.K. Dhar the deponent who is identified by Vishnu Dayal Clerk of Sri Brijesh Kumar, Advocate, Lucknow. I have satisfied myself by examining the deponent that he understands the contents of the affidavit which has been read out and explained by me.

Shree
Anand Shukla
OATH COMMISSIONER
High Court, Allahabad
Lucknow Bench
27/2/83
6-2-83

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2.

Verification.

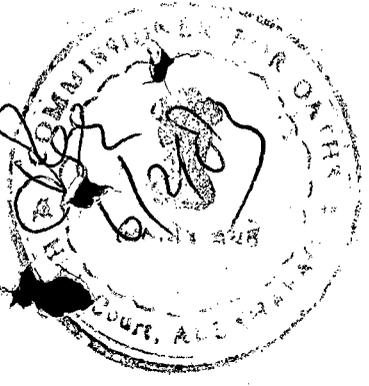
I, the abovenamed deponent, do hereby verify that the contents of paras 1 to 3 of this affidavit are true to my own knowledge. No part of it is false and nothing material ~~has~~ has been concealed, so help me God.

Lucknow Dated
Feb. 6, 1983.

P.K. Dhar
Deponent.

I identify the deponent who has signed before me.

Vishnu Dayal
Clerk of Sri Brijesh Kumar.



Solemnly affirmed before me on 6-2-83 at 11-00 a.m./p.m. by Sri P.K. Dhar the deponent who is identified by Vishnu Dayal Clerk of Sri Brijesh Kumar, Advocate, Lucknow. I have satisfied myself by examining the deponent that he understands the contents of the affidavit which has been read out and explained by me.

(Signature)
OATH COMMISSIONER
High Court, Allahabad
Lucknow Bench
27/2/83
6-2-83

नाम अदालत

मुकद्दमा

फरीकत नाम

महोदय को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखें देता हूँ इस मुकदमें में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी या जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुनहाना या इकबाल दावा तथा अपील व निगरानी हमारी ओर से दाखिल करें और तसदीक या मुकद्दमा उठावें या कोई रुपया जमा करें हमारी या बिपक्षी (फरीकतानी) का दाखिल किया हुआ रुपया अपनी या हमारी हस्ताक्षर युक्त दस्तखती रसीद से लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी इस लिखे यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे । ई०

Accepted
Bijesh Kumar
A. C. C.

हस्ताक्षर ① { P. K. Sharma } ② { S. K. Mathur } ③ { Jai Singh }
 (गवाह) P. K. Sharma साक्षी (गवाह) Jai Singh

दिनांक महीना 2 सन् १९४५

Accepted
Rakesh Kumar

स्वीकृत

(बृजेत कुमार, राकेश कुमार)

एडवोकेट

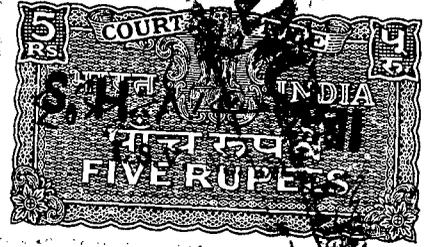
ब अदालत श्रीमान्
वादी [मुद्दई]

In the Hon'ble High Court of Madhya Pradesh
at Allahabad
महोदय

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वकालतनामा

प्रतिवादी [मुद्दाअलेह]



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P. R. DHAR for

बनाम

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वादी (मुद्दई)

Union of India for

प्रतिवादी (मुद्दाअलेह)

W.P.-No of 1983.
नं० मुकद्दमा सन् १९ पेशी की ता०

१९ ई०

ऊपर लिखे मुकदमे में अपनी ओर से श्री बृजेश कुमार,
राकेश कुमार

२८९/३१५ मोतीनगर, लखनऊ.....एडवोकेट

16. Annexure 15 N.Y. 22's letter dt. 10.10.20

17. Annex. 16. N.Y. 22's letter dt. 4.6.21 to the Railway Board.

18. Annex. 17. N.Y. 22's letter for examination dt. 5.11.22.

19. Annex. 18. Letter of eligible candidates dt. 1.2.23.

20. Minutes of the meeting. ---

21. Affidavit. --- --- ---

22. Vouchers. --- --- ---

Control for the railway board.

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1935.

1. P. K. Dhar son of Sri P.C. Dhar,
Assistant Selection Grade (Electrical)
Research Designs and Standards Organisation
Manak Nagar, Lucknow.
2. I.S. Rasthan son of ^{Late} Sri S.C. Verma,
Assistant, Research Designs &
Standards Organisation, Manak Nagar, Lucknow.
3. Ajaib Singh son of Sri Bhagat Singh,
Assistant, Research Designs and Standards
Organisation, Manak Nagar, Lucknow.

--- Petitioners

Versus

1. Union of India through Secretary
Railway Board, Kailashvan, New Delhi,
2. Director General, Research Design and
Standards Organisation, Manak Nagar,
Lucknow.

-- Opposite Parties.

Writ Petition under Article 226
of the Constitution of India.

The petitioners respectfully beg to state as follows:-

1. That the petitioners are working as Assistants in the Research Designs and Standards Organisation, Lucknow.

2. That the present scale of pay of the Assistants after revision from time to time is Rs. 425-800.

3. That the scale of pay of the Stenographers grade II is Rs. 425-800.

4. That the scale of pay of the post of Section Officer is Rs. 680-1200. It is class II post. Prior to the year 1963 promotion to the post of Section Officer was open to the Assistants only. Stenographers were not eligible for promotion to the post of Section Officer, which fact is evident from the recruitment rules for the post of Section Officers. A true copy along with the letter of the Railway Board is being filed herewith as Annexure 1 to this writ petition.

5. That in order to create avenue of promotion to the Stenographers working in the Research Designs and Standards Organisation (hereinafter referred to as the R.D.S.O.) the opposite party no. 2 by his letter No. A/ES/Steno dated 22.8.64, addressed to the opposite party no. 1 requested that the Stenographers working in the R.D.S.O. may also be made eligible for promotion to the Class II Posts of Section Officers (Min) in the R.D.S.O. A true copy of the said letter is filed herewith as Annexure 2 to this petition.

3.

Ann 3

6. That on a consideration of the aforesaid request the Railway Board decided to provide two posts of Section Officers (Min). to be reserved for the purposes of promoting permanent stenographers in the RDSO on ad-hoc basis. The Railway Board's said letter is dated 4.11.1963, a true copy of which is being annexed as Annexure 3 to this writ petition. By means of the said letter the Note viz., Note (2) was appended below the Recruitment Rules in respect of section officers to indicate the said fact of reservation of two posts for promotion by selection ^{on} ad-hoc basis from amongst the permanent stenographers in the RDSO with atleast ten years of service in the grade in that office.

Ann 4

7. That it appears that the Stenographers working in the RDSO wanted enlargement of the field of eligibility of their category for purposes of promotion against the Class II posts of section Officer (Min) and as a result of their efforts the Ry. Board by its letter No. 3-64 RD/2/15 RB 1, dated 5.8.1964 proposed that Stenographers in the RDSO with 5 years service in the grade may be allowed to compete with the Assistants in the RDSO for the post of Section Officer to be filled as a result of departmental tests. The Railway Board's said letter was addressed to the Secretary, Union Public Service Commission, New Delhi, seeking its approval to the said proposal. A true copy of this letter dated 6.8.1964 is being annexed as Annexure 4 to this writ petition.

8. That it appears that the Union Public Service Commission concurred with the aforesaid recommendation and as a result thereof the Recruitment Rules were further modified and Stenographers with five years service in the grade were placed in the field of eligibility along with the Assistants to compete for appointment against 50 per cent of the posts of section officers (Min) which were to be filled up on the basis of Departmental tests. This was in addition to the reservation of two posts made in favour of the Stenographers by means of Note (2) supra. The aforesaid amendment to the Recruitment Rules was circulated by means of opposite party no. 1's letter dated 17.9.1964, a true copy of which is being annexed as Annexure No. 5 to this writ petition.

Ann.5

9. That the Assistants were also eligible for promotion to the posts of Establishment Officers besides that of section Officers (Min.) By reason of administrative rearrangement two posts of Section Officers (Min.) and two posts of Establishment Officers were surrendered thereby a further shrinkage of promotional avenues for Assistants working in the RDSO has resulted. In fairness in view of the said shrinkage the reservation of two posts of Section Officers (Min.) made in favour of the Stenographers by Note(2) appended to the Recruitment Rules should have been withdrawn but the same was not done.

10. That on the contrary as would be evident from the facts indicated hereinafter the Stenographers

in the RDSO were provided with further avenue of promotion above the said posts exclusively and despite the same the amendment made in the Recruitment Rules in regard to the category of Section Officers (Sia.) in their favour remained unchanged. It is stated that one post of Section Officer (Steno) in Class II, was created exclusively for promotion from amongst Stenos by means of Rly. Board's letter No. 2(RB) 1-69, RB 7/13, dated 30th of December, 1970. A true copy of the said letter is being annexed as Annexure No. 6 to this writ petition.

Ann. 6

11. That further by means of the Rly. Board's letter No. PC III/73 PS/Rly. Bd. Sectt/Pt. II dated 27.7.1976, 16 posts of Stenographers in the RDSO were directed to be upgraded to the scale of Rs. 650-00 - Rs. 1040.00 from the scale of Rs. 425.00 - Rs. 800.00 to provide further avenue of promotion exclusively to stenographers working in the RDSO. A true copy of the Rly. Board's aforesaid letter dated 27.7.76 is being annexed as Annexure 7 to this writ petition. It is relevant to state that as a result of upgradation of the said posts, they became gazetted class II posts instead of Class III non-gazetted.

Ann. 7

12. That from the facts indicated above in the preceding parae it would be apparent that 16 posts in higher grade viz. gazetted Class II were sanctioned exclusively with a view to provide further avenue of promotion exclusively to the

stenographers working in the R.D.S.O. Despite the same the amendments made in the Recruitment & Promotion Rules to the posts of Section Officer (Min.) in favour of the stenographers were not modified or done away with though the said amendments were brought about ^{obviously} ~~allegedly~~ for the reasons that the stenographers working in the R.D.S.O. had no further avenue of promotion. The fact that there was curtailment in the avenue of promotion of the category of Assistant working in the R.D.S.O. also wanted the amendments to the Recruitment Rules to be done away with.

13. That joint representations were made on behalf of the Assistants to the opposite party no. 1, through opposite party no. 2 seeking revision of existing Recruitment & Promotion Rules for Section Officers (Min.) in the R.D.S.O. It was submitted that due to upgradation of certain posts of stenographers they had been provided with adequate channel of promotion exclusively and, as such, a revision of the Recruitment Rules was warranted. A further plea was taken which is herein again reiterated that the Union Public Service Commission by its letter dated 23rd of October 1978 addressed to the opposite party no. 1 had indicated in para 2 thereof that there was a uniform practice to allow only one promotional avenue to a post or a category of posts and in the opinion of the Union Public Service Commission, in view of the said basic principle, it would not be desirable to allow two promotional avenues to the

to Sri V.C.A. Pannanathan the then member Engineering Rly. Bd. A true copy of the said letter is being annexed as Annexure 9 to this writ petition.

Ann. 9

" perusal of the said letter would show that Sri Kulkarni indicated therein that he (Mr. Padmanathan) would be relinquishing office by March, 1980 and the status quo be maintained and two posts of Section Officers reserved for RDSO, stenographers be not dereserved. It appears that the said Member Engineering Railway Board who was the competent authority to take a decision with regard to the RDSO taking in-the consideration the personal difficulty which may be caused to Sri S.M. Kulkarni, decided to maintain the status-quo and consequently, the decision was communicated to the opposite party no.2 by a Railway Board's letter dated 21.2.1980 a true copy of which is being annexed as Annexure 10 to this writpetition. The Railway Board's decision was communicated by the opposite party no.2 in his turn to Sri J. S. Sethi the first signatory to the joint representation dated 12.9.1979 by his letter dated 1.4.1980, a true copy of which is being annexed as annexure 11 to this writ petition.

Ann. 10

Ann. 11

15. That in view of the fact that the conclusion of the Railway Board that chances of promotion available to the two categories of staff viz., Assistants and Stenographers in the RDSO were more or less similar and, therefore, status-quo be maintained being erroneous and contrary to the facts, the petitioners and other assistants further made a joint representation to clarify the factual

Ann. 12

position in that behalf. The said representation was submitted on 9th of May 1980. A true copy thereof is being annexed as Annexure 12 to this writ petition, with a view to place on record the facts stated and the pleas raised therein.

17. That the said representation dated 9.5.1980 was forwarded to the opposite party no.1 by the opposite party no.2 under its letter No.A/RT/O dated 5.6.80. A true copy of the said letter is being annexed as Annexure No.13 to this writ petition. with a view to show that the facts detailed in the said representation dated ^{9.5.80} ~~9.5.1980~~ to indicate the factual position with regard to the avenue of promotion to the two categories of the staff viz. Assistants and stenographers and which further shows the disparity in the avenue of promotion to the two categories were confirmed by the opposite party no.2. A true copy of the letter dated 5.6.1980 of the opposite party no.2 is being annexed as Annexure 13 to this writ petition.

Ann. 13

A perusal of the said letter would further show that the stenographers working in the PDSO also had submitted a representation countering the claim made by the petitioners and other Assistants in their representation. The opposite party no.2 in this letter stated that the facts indicated by the stenographers in their representation did not represent the correct picture.

18. That a supplementary representation was

submitted on behalf of the Assistants on 11.6.60 to bring to the notice of opposite party no.1 further facts to indicate the untenability of its reason contained in the letter dated 21.2.1980. A true copy of the said representation dated 11.6.60 is being annexed as Annexure 14 to this writ petition.

19. That as stated earlier, there exist 13 Class II posts in the KDCSC which are exclusively to be filled up from amongst the Stenographers. These ^{posts} ~~posts~~ include the posts of 17 posts of Senior Personnel Assistants and one post of Section Officer (Steno). Besides these 13 posts two other posts of Section Officer on ad-hoc basis are available to the stenographers which were converted for them by order of Board's order dated 4.11.1963 (Annexure 3 to this writ petition). Only with a view to provide some avenue of promotion to the stenographers. Thus in all there are 20 class II posts available to the Stenographers whereas there are in all only eleven post of Section Officer (Class II) available to the assistants. Out of these 11 posts of these Section Officers 50% have to be filled up by Departmental Competitive Examination in which Stenographers are also eligible to appear. The Class II post available to the Stenographers are exclusive for them and the assistants are not eligible for promotion to the 20 ^{Class II} posts of Stenographers.

developments
 that in view of the ~~development~~ which took place after 1963 in the matter of promotion and

avenues of stenographers there is no case or justification for continuing reservation of two posts on adhoc basis of Section Officers which used to be filled up from amongst the Assistants and further to permit them to appear in the Departmental Competitive Examination in respect of 50 % posts of the Section Officers.

21. That by means of letter dated 10.10.80 opposite party no.1 had sought recommendations of the opposite party no.2 in the matter of recruitment and promotion for the post of Section Officer (Min.) A true copy of the said letter dated 10.10.80 is filed herewith as Annexure 15 to this writ petition. The opposite party no.2 sent his recommendations by means of letter dated 4.6.81 recommending for dereservation of two posts of Section Officers which had been reserved for promotion of stenographers on ad-hoc basis by means of order dated 4.11.55. It was also recommended for reducing the percentage for filling up vacancy of Section Officer by Departmental Competitive Examination from 30% to 33 % A true copy of the said letter dated 4.6.81 is filed herewith as Annexure 16 to this writ petition. The opposite party no.1 by means of letter dated 29.7.81 agreed for filling up 2/3rd vacancies by promotion from the Assistants on the basis of seniority subject to suitability and remaining 1/3rd from the Assistants and Stenographers through Limited Departmental Competitive Examination. Views of the department were sought urgently in the above matter but it appears that no action has been taken

Ann. 15

Ann. 16

so far amending the Recruitment and Promotion Rules.

16A A true copy of the letter dt 29.7.81 is being filed herewith as Annexure 16A to the writ petition.

22. That while the matter regarding the amendment of Recruitment and Promotion Rules were under consideration, the opposite parties circulated notice for holding a competitive examination to fill up 50% posts of Section Officers by Limited Departmental Competitive Examination in 1980. Some Assistants filed a writ petition which has been numbered as Writ Petition No.2516 of 1980 - M.L. Bharadwaj and others vrs. The Union of India and another, which is still pending in this Hon'ble Court. First an interim order was passed to the effect that examination be held but the result may not be declared but subsequently this order was modified that the promotion, if made on the basis of the impugned examination, that shall be subject to the result of the writ petition.

23. That the opposite parties have again circulated a notice dated 5.11.1982 for holding Departmental Competitive Examination for selection of Section Officers (Min.) Class I on 12th and 13th February 1983. In the said notice Assistants, Stenographers and SPA (Senior Personal Assistants) have been made eligible to appear at the examination. A true copy of the list notice is filed herewith as Annexure 17 to this writ petition. A list has been prepared which includes a number of Senior Personal Assistants. A true copy of the said list is filed herewith as Annexure 18.

24. That it may be stated that Recruitment and Promotion Rules of Section Officers (Min.) do not provide

Annex. 17

Ann. 18

for promotion of Senior P.As. to the post of Section Officer (Ain.). According to the said Rules only stenographers and Assistants are eligible to undertake the competitive examination. Inclusion of Sr. P.As. in the list of eligible candidates is in violation of the Rules.

25. That R.D.S.O. Class III staff Association, which is a recognized association, approached the opposite party no.2 against holding of the competitive examination in pursuance whereof official meeting was held on 1.1.1985 in which representatives of the aforesaid association and opposite party no.2 also participated. The opposite party no.2 was the Chairman of the aforesaid meeting. In the said meeting opposite party no.2 had assured that he would look into the ^{vide para no.14 of the minutes} matter, but nothing has been heard from him so far. ~~Relevant extracts~~ ^{Copy} of the minutes relating to the above is filed herewith as Annexure 19 to this writ petition. The minutes of the meeting were signed by the representatives of the ~~association~~ and ~~of the~~ opposite party no.2. The petitioners all of sudden found that a list of eligible candidates was published on 1.2.1985 a copy of which has already been filed as annexure 18.

26. That if the test of selection allowed to be held on the basis of the extant R.D.S.O. Rules which on the basis of the facts detailed hereinabove merit a revision and deletion of the provision therein in favour of the Stenographers working in the R.D.S.O.

as being eligible to compete against 50 % posts of the Section Officers required to be filled up by the departmental tests, the petitioners would suffer irreparable injury which could not be ultimately made good even in the event of the writ petition being finally allowed.

27. That left with no other equally efficacious and alternative remedy available the petitioners beg to file this writ petition on the following amongst other grounds:-

GRUNDS
IN ARREST

- i) Because the action of opposite parties 1 and 2 is wholly arbitrary and discriminatory.
- ii) Because the posts of Section Officers used to be filled up from the Assistants alone but to open some avenue for promotion to the stenographers at the first instance 2 posts of Section Officers were reserved on adhoc basis for them in the year 1963. Later on stenographers were also made eligible to undertake a Limited Departmental Competitive Examination to the extent of 50 % vacancies. This was done to open avenue of promotion for Stenographers but there is no justification to continue the same in view of the fact that other avenue of promotions have been subsequently opened for them by nature of promotion to the

stenographers with five years service in the field of eligibility to be promoted to the extent of 50 % through Departmental Competitive Test as Section Officer (M) and also reservation of two posts of Section Officers in favour of the Stenographers,

- (b) to issue a writ of Mandamus, or a writ, order or direction in the nature of mandamus commanding the opposite party no. 1 to consider and decide the joint representation preferred by the petitioners and other Assistants dated 2.5.1980 and accordingly to modify in the light of the said decision the Recruitment and Promotion Rules to the posts of Section Officers in the RDSO,
- (c) to pass such other writ, order or direction including an order as this Hon'ble court may deem fit and proper in the circumstances of the case, and
- (d) to allow the writ petition with costs.

Lucknow Dated
Feb. 7, 1983.

(Sri Jesh Kumar)
Advocate

Counsel for the petitioners.

Certified that there is no defect in this petition.

Counsel for the petitioners.

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. N of 1963

P.K. Singh and others. --- Petitioners.

Versus

Union of India and another. --- Opp. Parties

Annexure No. 1

Copy of Railway Board's letter No. B 59RB3/29/RBI
dated 22.8.62 addressed to the Secy./U.P.S.C., New Delhi.
Copy to D.C.R.D.S.O., Simla.

Sub: Recruitment Rules for the post of Secy.
to D.G., P.D.O. and Section Officer
in the R.D.S.O.

I am directed to refer to the Commission's letter
No. F.3/19/(5)/51-P(A) dated 3.8.62 on the above noted
subject and to enclose herewith 3 copies of the Recruit-
ment Rules for the post of Secy. to D.G., P.D.O. and
Section Officers, R.D.S.O.

It is also requested that the approval of the Commission
to the permanent absorption of Shri Lal Das as Secy. to
the Director General may be communicated early. Shri Lal
Das has been officiating as Secy. to the D.G. since 4.7.59
A.M. and is due to superannuation on 14.3.63. It will,
therefore, be very much appreciated if this matter is
treated as urgent.

Sd/-

(P. Lal)

Dy. Secy. Railway Board,

No. 59RB3/29/RBI/ dated 22.8.62

Copy together with a copy of the above recruitment Rules
is forwarded to the Director General, R.D.S.O., Allahabad, Sim
Simla.

Sd/-

(P. Lal)

Dy. Secy. Rly., Board.

Recruitment Rules for posts of Secy. to D.G.RSO and Secy. to RSO

Name of post.	No. of Posts	Classif. tion.	Scale of pay.	Whether Age-rel action limit post or move for Selecti-on dir. recdts.	Age Limit for dir recdts.	Educational and other qualifica-tion requir-ed for direct Recruits.	Whether Age and of education proba-tion qualifi-cation if prescribed any. For the dir. recdts. will super-vise in the case of promo-tion.	Period of Probation	Method of Recdts. whether by dir. recdts. by promotion or transfer of the to be made vacancies to be filled by various Methods.	Incase of Recdts by promotion transfer Grades from which promotion is to be made	If a DPC exists what is its composition.	Circumstances.
1. Secy. to D.C.	1	GCS	Rs. 700/-	Select-ion.	N.A.	N.A.	N.A.	2 yrs	By promo-tion fall ing which by trans-fer.	Promotion section Officer (with 6 yrs service in the grade) xxx	CI. I	As required under the rules.
Estt. Officer	1	GCS	Rs. 350-	50% Selection	N.A.	N.A.	N.A.	do-	By promo-tion.	Promotion with 5 yrs service in grade.	CI. II	do-
Sec. Officers	9	CI. II	900	Selection	N.A.	N.A.	N.A.	do-	By promo-tion.	Promotion with 5 yrs service in grade.	CI. II	do-

50% seniority cum fitness.

through do-
partmental
test.

50% on the basis of seniority cum fitness.

Note: 1. A section Officer appointed as Establishment Officer shall get his grade pay plus a Special Pay of Rs. 100/- p.m.

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1983.

P.K. Dhar and others. --- Petitioners.

Vrs.

Union of India and another. --- Opp. Parties.

Annexure No. 4

Copy

No. E 6480-3/ 15/RBI Dt. 5.8.64

The Secy. UPSC, New Delhi.

Sub: Recruitment rules for the post of section
Officer (Ministerial) in the RDCO Min. of Rlys.

Sir,

In accordance with the Recruitment Rules drawn up in consultation with the commission for the posts of Section Officer (Ministerial) in the RDCO vide your letter No. F.3/19(5) 61-B(A) dt. 3.8.62 and F.3/19(5)/19 (D)/63-R(R) dt. 15.10.63 50% of posts in this grade are to be filled on the basis of Seniority cum fitness and the remaining 50% through departmental test from amongst Assistant with 8 years service in grade. Two posts of Section Office have also been reserved for promotion on adhoc basis from amongst the permanent Stenographers with at least 10 years of service in the grade in the RDCO vide your letter No. F.3/19(5)/71 B(A) dt. nil.

2. It has been represented by the Steno in the RDCO that consequent on the allotment of the same scales of

pay viz. Rs. 210-530 to both Assistants and Stenographers Grade II in the other Ministries, with the requisite service have been allowed to compete in the Limited Competitive Examination.

3. That on the analogy of these orders it is proposed that Stenographers in the XXXO with 3 years service in the grade be allowed to compete with the Assistant of these organisation for the posts of Section Officer to be filled as a result of the Departmental Competitive test.

4. The commission's approval to the above proposals may please be obtained and communicated at an early date.

Yours faithfully,

Sd/- P. Lal

Dy. Secretary Hly. Bd.

Copy to DC 2030 Bimal for information.

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. _____ of 1983.
P.R. Dhar. & Org -- Petitioners
Versus
Union of India and another. - Opp. Parties.

Annexure No. 5

Government of India
Ministry of Railways (Railway Board)

No. F64883/15(RAI) New Delhi 17.9.64.

The Secretary, UPSC
New Delhi

Sub: Amendment of the recruitment rules for
the posts of Section Officer (Ministerial)
in the RDSO Min. of Rlys:

Sir,

With reference to your letter No. P.3/19(3)-64-BR
dated 1.9.64 I am directed to forward herewith eight
copies of the revised recruitment rules for the post
of Section Officers (Ministerial) in the RDSO for record.

2. That this is in supersession of item no.3 of the
recruitment rules for the posts of section officer
forwarded vide this office letter No. F64883/83(RBI) dt
4.11.63.

Yours faithfully,

Sd/-

P. Lal Dy. Secy Rly B.

DA/As above.

Copy to-gether with two copies of the revised recruit-
ment rules for the posts of section Officer in the RDSO
is forwarded to the Director General RDSO Simla.

DA/As above.

Sd/ P. Lal
Dy. Secy. Rly. Board (True copy)

Recruitment Rules for the post of Section Officer (Ministerial) in RDSO (Min. of Rlys)

Name of post.	No. of post.	Classi- fication.	Scale of Pay.	Whether Age Selection limit for post or non-regular direct recruitment post.	Age and other qualifications required for direct recruits.	Whether age and educational qualification prescribed for the direct recruits will apply in the case of promotees.	Period of probation.	Whether direct recruitment or transfer to be of the vacant posts filled by various methods.	Method of recruitment whether by direct recruitment or transfer to be of the vacant posts filled by various methods.	In case of promotion by transfer from which promotion to be made.	If a DPC exists what is its composition	Circumstances in which DPC is to be consulted in making recruitment.
	1											
	2											
	3											
	4											
	5											
	6											
	7											
	8											
	9											
	10											
	11											
	12											
	13											

Section Officer.	9	GCS Class II	R.150- 900	50% Selection	N.A.	N.A.	2 yrs	50% through departmental stenographers with 5 years service in the grade.	50% through Assitt/ Stenographers with 5 years service in the grade.	Asstt. with 6 years service in the grade.	Class IIIFPC	As required under the Rules.
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- Notes: 1. Section Officer appointed as Settlement Officer shall get his grade pay plus a special pay of Rs.150/- p.m.
2. Two posts of section officer are reserved for promotion by selection on adhoc basis from among the permanent stenographers in RDSO, with atleast 10 years of service in the grade in that office.

Sanction of the Board is accordingly communicated to the creation of a post of Section Officer (Stenos) in the grade of Rs. 350-900 in RDSO for a period of two years from the date it is filled, in lieu of the existing post of supervisor (Stenos). The date from which the post of Section Officer (Stenos) is operated may be intimated to this office.

Sd/- A. Krishna murty
Under Secretary, Railway Board.

DA: NIL.

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Annexure No. 7

Writ Petition No. of 1983

P.K. Dhar and others. --- -- Petitioners.

Versus

Union of India and another. --- -- Opp. Parties.

Government of India
Ministry of Railways
(Railway Board)

No. PC. III/73/P/19y. Bd. Sectt/Pt. II New Delhi Dt. 27.7.1975.

Sub: Provision of the posts of Senior Personnel Assistants through upgradation in the office of Research Designs & Standards Organisation on Railways.

The sanction of the President is hereby communicated to the following posts of Stenographers in grade Rs. 425-800/RS being upgraded to grade Rs. 650-1040 RS with effect from the date these are filled up:

	<u>Existing gr Grade.</u>	<u>Grade in which to be upgraded</u>
1 (One post of Stenographer attached to Director General.	425-15-500-EB- 15-560-20-700- EB-25-800 plus Special pay of Rs. 50/- p.m.	650-30-740-35- 880-EB-40-1040 plus Special Pay of Rs. 50/- p.m.
9 (Nine) posts of Stenographers attached to Directors in Grade Rs. 2500-2750 (RS)	425-15-500-EB- 15-560-20-700 EP-25-800	650-30-740-35- 880-EB-40-1040
6 (Six) posts of stenographers attached to Addl. Directors in grade Rs. 2250-2500 (RS) (Total 16 posts)		

2. Hindi version of this letter is enclosed.

Sd/-
(GD Sud)
Jt. Director Pay Commissioner
Railway Board.

In the Hon'ble High Court of Judicature at Allahabad,

Lucknow Bench, Lucknow.

Writ Petition No. of 1983.

P.K. Bhat and others. --- --- Petitioners.

Versus

Union of India and another. --- --- Opp. Parties.

Annexure No. 3

No. 83/19(5)/77-AR

Union Public Service Commission,
Chopur House.

New Delhi-110011, the 23 Oct. 1978

The Secretary,
Ministry of Railways,
Railway Board,
New Delhi.

Subject: Recruitment Rules for the post of
Officer on Special Duty (TRAC) in the
R.D.C.

Sir,

I am directed to refer to your letter No. (PS) 1-
75/39/10 dated 16.5.1975 on the subject mentioned above
and to state as follows:-

2. The Railway Board have now intimated that the
posts of Assistant Research Engineer, Assistant
Design Engineer and Assistant Inspecting Engineer
which were proposed to be included in the feeder list for
promotion to the post of Officer on Special Duty (TRAC)
in the R.D.C., are already included in the field of
consideration for promotion to the post of Asstt. Director,

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1983.

P.K.Dhar, and others. --- Petitioners.

VERSUS

Union of India and another. --- Opp. Parties.

ANNEXURE No. 10

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No.KADI 79/44/61

New Delhi, dated 21.2.1980

The Director General
R.D.S.O.,
Lucknow.

Sub: Recruitment & Promotion Rules
for the post of Section Officer
(Ministerial) in R.D.S.O.

Ref: Your letter No.A/RI/O dated 1.1.80

In the light of the position explained in your
letter quoted above, and in view of the fact that
chances of promotion available to the two categories of
staff - Assistants/Stenographers are more or less similar,
the Board have decided to maintain the status-quo.

Sd/-
(P.E. Shastri)

DA: M11.

Under Secy.(S)I, Ry. Board.

In the Hon'ble High Court of High Court of Judicature at
Allahabad, Lucknow Bench, Lucknow.

Writ Petition No. of 1985.

P.K. Dhar and others. --- Petitioners.

Versus

Union of India and another. Opp. Parties.

Annexure No. 11

Government of India Ministry of Railways.
Research Design & Standard Organisation.

Our Ref. N/RT/O

Lucknow 226011 dt 1.4.80

MEMORANDUM

With reference to the joint representation dated
12.9.79, requesting for provision of existing R & P Rules
for the post of SO (Min) submitted by them, Sh. Sethi
and others are advised that the Railway Board have
considered the matter and decided to maintain the status
quo in view of the fact that chances of promotion
available to the two categories of staff-Assistant/
Stenographers are more or less similar.

DA/N11

Sd/- R. I. Sharma
for Director General

Sh. C. J. Sethi,
SO (HOW)/RDEO/Lucknow.

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.
**

Writ Petition No. of 1983.

P.K. Dhar and others. --- Petitioners.

Versus

Union of India and another. --- Opp. Parties.

Annexure No. 12.

To

The Secretary
Railway Board, Rail Bhavan,
New Delhi.

Sub: Revision of Existing R & P Rules for
the post of Section Officer (Ministerial)
RDEO.

Ref: Railway Board's letter No. S(RB)/1/79/44/
67 dated 21.2.1980.

Sir,

The Ministerial Staff of the RDEO have been
greatly shocked by the decision of the Railway Board
conveyed through Director General, RDEO's letter No.
A /RT/O dated 1.4.80 as under:-

"In view of the fact that chances of promotion
available to the two categories of staff-Assistant
and Stenographers are more or less similar, the
Board have decided to maintain the status quo.

2. It is clear that the points raised in the
representation dated 12.9.79 submitted by assistants have
not been considered and the decision of the Board has been
influenced by other considerations than the normal cannons
of justice and equity.

3. The decision of the Board is not only derogatory to

to the interests of the clerical staff but also not maintainable being repugnant to the statutory principle enunciated by the statutory body like UPSC vide their letter No. F3/19/5/77-BR dated 23.10.78 (Copy enclosed).

4. It is presumed that the position with regard to Class II (Gazetted) posts available for promotion to both the categories viz Assistants and Stenographer has not been provided to the Board by the RDO Administration. A statement showing the comparative avenue of promotion for both the categories upto Cl II under the existing Rules is as under:-

Category	No. of Personnel in the category.	No. of Cl. II post available.	Mode of Selection.		Remarks.
Assistants	92	10 (Rs. 650-1200) (Only 5 posts for seniority-cum-suitability and remaining 5 posts by competitive tests in which stenos and Asstts. both are eligible.)	Seniority. 50%	Competitive. 50%	In the Competitive test against 50% post steno & Steno & Asstt. both are eligible.
Stenographers	112	20 (3 in scale Rs. 650-1200 and 17 in scale Rs. 650-1040)			Exclusively from Stenographers Asst are not allowed to participate in any of the posts

It is also presumed that while making a reference to the Board the above position and the facts that as per UPSC's statutory principle - "that there should be only one

channel of promotion to one post or a category of posts" as enumerated in UPSC's letter dated 23.10.1978 referred to above were not at all brought out by the RDSO Administration. If the above presumption is not correct then one cannot do without concluding that some invisible influences had played its role in obtaining a retrograde decision against the Clerical staff of RDSO.

5. Inconnection with the above decision of the Board the entire Ministerial staff of RDSO showed their resentment and got Director General/RDSO to place their grievances once again before him. The Director General gave a patient hearing to the staff and after hearing their views, assured that they can bring out all the facts again in a fresh representation and the RDSO Administration will request the Board to re-examine the case de-novo. Accordingly the following facts are again brought out for the perusal and just decision of the Railway Board:

Remarks.

Reasons.

1. The R & P Rules for SG(Min) should be reviewed immediately by providing promotion to Section Officer (Ministerial) strictly on the basis of seniority cum suitability from amongst Assistants only.

(1) In the Board's office Competitive examination are held every year for a number of posts. In RDSO a competitive test was held in 1966 and thereafter a long gap of 10 years in December 1976 and that too only for one post, thereby depriving the chances even competitive to the eligible staff for five years together.

(11) Asking an old person to compete with youngsters

not stand to any logic and any canon of justice particularly when he has already given best part of his life to the Administration.

- (iii) Every Assistant can aspire for at least one promotion in his long service if it is seniority cum suitability basis.
- (iv) In view of the changed cadre structure of the Class II posts available exclusively for Stenographers, there is no point in allowing them to participate in the competitive test. Therefore, these posts be filled strictly according to seniority cum suitability from amongst Assistants only.
- (v) As and when there is a change in the scale or charge in the channel promotion charge in the existing rules becomes obligatory of the part of the Administration. Since a new channel of promotion to stenographers by introduction of SPA's grade in Class II (Gazetted) to the extent of 17 posts has been provided, the status quo in the
- (vi) It is pertinent to point out that in 1963 when the total strength of RDCO was 1347 there were 6 posts of Class II gazetted to dwell with the Stt. This strength

of class II post had been reduced to 3. This reduction was effective by curtailing two posts of Establishment Officer and one Section Officer to provide the post of Dy. Director General. This reduction effected only clerical staff and not Stenos for whom 2 posts of Section Officer were allotted on adhoc basis. It is horrifying that the cadre on the basis of which the posts were created and who had been carrying these 17 years are being deprived of their legitimate right of promotion by continuing the existing R & P rules, which were framed in 1963/1978 and not a tenable in view of the facts brought out above.

2. Two posts of S.O. (1) Only 5 posts of SO (Ministerial) Class II are (Min.) which were temporarily given to the Stenos on adhoc basis be given back to

Assistant cadre.

(ii) The two posts of SO (Min) Class II were allotted to Stenographers on adhoc basis when t they had no avenue of promotion. As new Stenographers are having sufficient channel of promotions to Class III II, therefore, no justification to claim the above two posts exclusively for them from the exclusive quota of the Assistants.

(iii) As per UPSC's Statutory Rules " Only one promotional avenue to a post of category of p posts" It is against the basic principle that Stenographers are enjoying double promotional

benefits. In this connection UPSC's letter to the Railway Board being No. P2/19(5)/77/RR dated 23.10.78 is relevant.

- (iv) In this connection attention is also invited to para 9(3) of Rly. Board Staff service Scheme of 1969 wherein two posts of Section Officer reserved for Stenos, have been de-reserved with the coming into force the Rly. Board Sectt. Stenos Service rule, 71 w.e.f. 1.8.69. Similar action should have been taken to dereserve the posts in RPSO with the introduction of R. P Rules, for SPA w.e.f. 27.8.79.

6. In view of the clear facts brought out above the Railway Board are again requested to re-examine the entire case and communicate the reply within one month as to the selection is scheduled to be held on 12th and 13th July 1980.

- i) amend the existing R and P rules by providing promotion to Section Officer (Ministerial) strictly by seniority cum suitability from amongst Assistants only,
- ii) restoration of two posts of Section Officer (Ministerial) allotted to Stenos on adhoc basis back to clerical cadre.
- iii) cancellation of proposed Section Officer (Ministerial) departmental competitive examination to be held in July, 1980.

Yours faithfully,

Lucknow.

Sd/- M.L. Chaudhary & others.

Dated 9.5.80.

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1983.

P.K. Dhar, and Ore-- --- Petitioners.

Vrs.

Union of India and another. -- Opp. Parties.

Annexure No. 13

5.6.1980

The Secretary
Railway Board,
New Delhi.

Sub: Recruitment and Promotion Rules for
the posts of Section Officer (Ministerial)
in RDSO

Ref: Railway Board's letter No. S(FE)/1/79/44/67
dated 21.2.80

With reference to their representation, the Assistants in RDSO were advised of the decision as communicated vide Railway Board's letter No. S(RB)I/79/44/67 dt 21.2.80 stating that in the matter of R & P Rules for the posts of Section Officers status quo would be maintained.

2. Not satisfied with the decision of the Railway Board, the Assistants have submitted the Joint Representation dated 9.5.80, a copy of which along with its enclosures is attached. Also attached is a copy of the representation dt. 14.5.80 submitted jointly by Stenos of this organisation.

3. The position brought out in para 4 of the representation submitted by the Assistants with regard to availability of promotional avenues is factually correct. Similarly,

the statement made by them in para 3 of their representation in respect of the principle of 'promotional avenue to a category of posts is also factually correct.

The said principle has been enunciated in the UPSC's letter No. F3/19(5)/77/RR dt. 23.10.78 a copy of which has been submitted by them. The Assistants have also strengthened their claim for restoration of the two posts of Section Officer reserved on adhoc basis for Stenographers, on the analogy of para 9(3) of the Railway Board's Sectt. Service Rules, 1959

4. The figures given in the table appearing in para 4 of the representation submitted by the Stenographer give an impression as if the posts of Analyst and A-In-C are higher grade posts. The fact is that these posts are Cl.III posts sanctioned in the basic grade of Assistant, but carry special pay of Rs.50/- p.m. The Stenographers have also averred that the post of Section Officer (Hindi) forms a part of the general cadre to which Assistants as a category can seek promotion. This again is not factually correct as only Hindi Assistants are eligible for promotion to the post of Section Officer (Hindi).

5. Action for holding selection to fill up the existing vacancies of Section Officers is in progress under the rules presently in force, in terms of Railway Board's letter no. S(RB)I-79/44/67 dated 21.2.1980.

6. The case has been seen by the Director General, R.D.S.O.

Sd/ J.R. Sharma

DA: As above.

For Director General

In the Hon'ble High Court of Judicature at Allahabad,

Lucknow Bench, Lucknow.

Writ Petition No. of 1933

P. K. Dhar and others, ----- Petitioners.

Versus

Union of India and another, ----- Opp. Parties.

ASSISTANT No. 14

The Secretary,
Railway Board,
New Delhi.

Sub: Revision of existing R & P Rules for the
post of Section Officer (Ministerial)
RMSO and restoration of the posts of
S.O. to Assistant Cadre.

Ref: Our representation dated 9.5.70 in
reference to Govt's letter No. 8(RB)1/79
dt. 21.2.69.

Sir,

With our above representation request was made to
reconsider our request and communicate the reply within one
month as the selection is scheduled to be held on 12th
and 13th July 1980. It is requested that no reply to our
representation has been received till date. It will be
seen from the contents of our representation that Board's
decision quoted below is factually incorrect:

"In view of fact that chances of promotion
available to the categories of staff-Assistant
and Stenographers are more or less similar the
Board have decided to maintain the status quo."

2. It will be seen from the following tables that
avenue of promotion to the Assistants works out to between
5.4 to 10.8 whereas for the Stenographers it works out

4. It will thus be seen that Board's decision is presumably based on some incorrect data and also in violation to the general principle laid down by the UPSC and therefore needs revision to the extent that all class II posts (Section Officer(Min.)) should be open to the category of Assistants only and the class II posts available for stenographer category should be filled from them.

5. Further reference is invited to para 9(3) of the Railway Board's service Rule 1969 on the strength of which two posts of section office (Ministerial) were allotted to stenographers on adhoc basis were restored to Asstt. cadre with the introduction of Railway Board's Sectt. Stenographers service Rule 1971 w.e.f. 1.8.69.

6. Since the matter is urgent and has already been under consideration for quite some time and even one month has passed since the submission of our last application dated 9.5.80, it is requested that final reply may please be communicated every early and not later than 30.6.80. Pending decision on our representation the ensuing selection scheduled to be held on 12 & 13 July 1980 be postponed. Necessary instruction may kindly be issued to D. S. RDSO, to this effect. In view of the above, it is felt that the Board's decision conveyed vide their letter under reference is discriminating against the Asstts of RDSO with a resultant and corresponding discrimination in favour of the Steno of RDSO thus infringing the previous provision of the constitution of India.

Yours faithfully,

(N.L. Bhardwaj)
Asstts.

Dated 11.6.80

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1983.

P.K. Dhar and others. --- Petitioners.

Versus

Union of India and other. --- Opp. Parties.

Annexure No. 15
~~*****~~

Government of India Ministry of Railways
Rail Mantralaya
Railway Board.

--

No. RADI/79/44/67 New Delhi Dt 10.10.80

The Director General
RDSO
Lucknow.

Subj: Recruitment and Promotion Rules for
the post of Section Officer (Ministerial)

Ref: Your letter No. A/PT/O dt. 5.6.80

...

While forwarding separate recommendations of Assistant and Stenographers of the RDSO on the above Subject no recommendation have been made by your Administration. Before the matter is considered in consultation with the UPSC and the Department of Personnel & Administrative Reforms if necessary, your firm recommendation may please be furnished as early as possible.

(S.K. Ahuja)

Under Secretary END(I)
Railway Board.

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. of 1983.

P.K. Dhar and ~~xxx~~ others. -- Petitioners.

Versus

Union of India and another. -- Opp. Parties.

Annexure No.

No. A/RT/o

Dated 4.6.81

The Secretary
Railway Board
New Delhi.

Sub: Recruitment. Promotion Rules for posts
of Section Officer (Ministerial) in RDSO

Ref: Railway Board's letter No. RBBI/79/44/67
dt. 10.10.80

**

Vide this office letter No. A/PT/C dated 13.2.81

it was recommended as under:-

1. The posts of SO/Min. may be filled up to the extent of 50% on the basis of seniority cum suitability from the Assistants and the remaining 50% through Limited Deptt. Competitive Examination, for which the eligibility should be the same as at present viz. stenographers SPAS and Assistants.
2. The posts of SPAS may be filled up as per existing RSP Rules.
3. Out of the 3 posts of SOs/Min. presently reserved SPAS, two posts should be dereserved and only one post of S (Stencos) kept reserved for Stenographers.

2. The RDSO class III staff Association vide their letter No.OTSA/Genl/81 dated 28.4.81 (copy enclosed) have suggested inter-alia that the ~~present~~ procedure followed in the Ministry of Railways be also followed in RDSO in this case. Since RDSO is an attached officer of the Ministry of Railways, it would appear reasonable to do so.

3. It is seen from Board's letter No.48BI/79/46/67 dt 14.5.81 that the procedure followed in the Ministry of Railways is as under:-

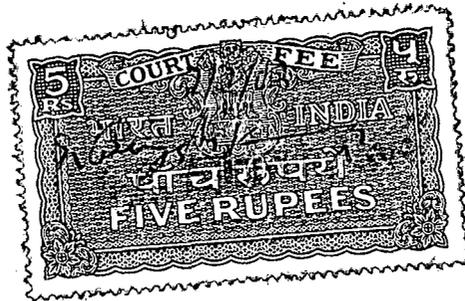
- 1) 16% by direct recruitment by UPSC
- 2) 28% from the Assistants on Seniority-cum-suitability basis
- 3) 28% from amongst the staff with longest period of service on the basis of merit.
- 4) 28% from amongst the Assistants and Stenographers having continuous 5 years service in the grade through Limited Departmental Competitive Examination.

4. Since the percentage of 16 % by direct recruitment by UPSC vide item (1) above does not normally materialise and it is invariably not found possible to obtain candidates for filling up these posts in RDSO by direct recruitment by UPSC, it is felt that this percentage be distributed equally between the remaining three items, besides dereserving 2 out of 3 posts of SO/Min at present reserved for SPAs/Stenographers.

5. Board's early decision in the matter is requested. The Board are also requested for clarification of the issue referred to in para 3 of this office letter No.A/RT/O dated 20.5.81.

A72 3/1

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.



C.M. Appln. No. 1341 (w) of 1983.

P. K. Dhar and others.

Petitioners.

Versus

Union of India and another.

Opp. Parties.

Application for Interim Relief.

wr. 741-83

The petitioners respectfully beg to state as follows:-

That for the facts stated and reasons disclosed in the accompanying writ petition and the affidavit it is respectfully prayed that the holding of examination scheduled for 12th and 13th February 1983 for promotion to the post of Section Officers (Ministerial) be stayed and an ad-interim order to that effect be also granted.

Lucknow Dated

Feb. 6, 1983.

Rakesh Kumar
Counsel for the Petitioners.

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4/2

In the High Court of Judicature at Allahabad
Lucknow Bench
LUCKNOW.

C.M. Application No. of 1984

Union of India and
others.

Applicants

In regard to

Writ Petition No. 741 of 1983

P.K.Dhar and others

Petitioners

v/s

Union of India and others

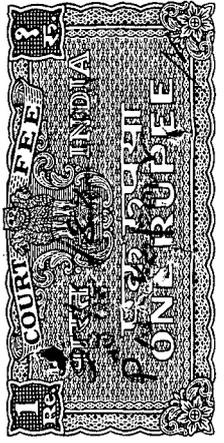
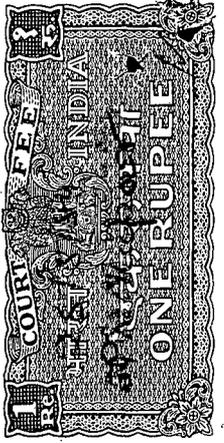
Op. parties

Affidavit in respect of application
for vacating stay order dated 10.2.1983.

..

I, P.N.Kapoor, aged 53, years, son of late
Shri A.N.Kapoor, resident of C/8-2, Manaknagar, Lucknow
do hereby solemnly affirm and state as under:-

- 1) That the deponent is Deputy Director Estt. II
in the office of the Director General, RDSO, Manaknagar,
Lucknow and is fully competent to affirm this affidavit
on behalf of the applicants mentioned in the abovenoted
application.
- 2) That the deponent has read and understood the
contents of the Writ Petition and the interim stay order
passed by this Hon'ble Court in the above noted petition,
and he is fully acquainted with the facts of the case
deposed hereinafter.
- 3) That the above noted writ petition was filed on
10.2.1983 challenging the R&P Rules for the post of
Section Officers (Min) in the RDSO, and the Writ Petition
was admitted the same day and the interim stay order was
passed on the said application as under:



[Handwritten signature]

A78
4/3

"Application for Interim Relief."

Lucknow dated: 10.2.1983
Hon'ble S.C. Mathur, J.
Hon'ble S.S. Ahmad, J.

After admitting the writ petition we by our order passed, today, directed the stay application be laid before Court No.5 for hearing and disposal. This order was passed on the basis of a statement made by Sri Kalia that a similar stay ~~listed for~~ application in a similar writ petition No.2516 of 1980 was listed for hearing before that Court. An order has now been passed by Hon. U.^c.Srivastava, J., that no such matter was listed before him. The stay application has consequently been placed before us again.

After hearing the learned counsel for the parties we direct that the examination scheduled to be held on 1-2th and 13th Feb. 1983 shall be held but the result shall not be declared until further orders of this Court. The Stay application shall come up for further orders before a learned Single Judge on 7.3.1983.

A copy of this order shall be issued to the learned counsel for the petitioner on payment of necessary charges today, if possible.

Sd. S.C. Mathur.
Sd. S.S. Ahmad.
10.2.1983."

- 4) That thereafter on August 1983, an application for vacating the interim stay order, alongwith the counter-affidavit, was moved in this Hon'ble Court, but no order appears to have been passed on our aforesaid application for the vacation of the stay order.
- 5) That in respectful obedience to the interim stay order dated 10.2.1983, the results of the limited departmental competitive examination held on 12th and 13th February, 1983 have not so far been declared. The position in this regard

~~was xxxxxx~~



A79

In the High Court of Judicature at Allahabad
Lucknow Bench
LUCKNOW.

C.M. Application No. of 1984

Union of India and
others.

Applicants

In regard to

Writ Petition No. 741 of 1983

P.K.Dhar and others

Petitioners

v/s

Union of India and others

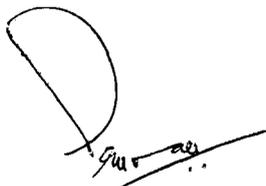
Op. parties

Affidavit in respect of application
for vacating stay order dated 10.2.1983 .

..

I, P.N.Kapoor, aged 53, years, son of late
Shri A.N.Kapoor, resident of C/8-2, Manaknagar, Lucknow
do hereby solemnly affirm and state as under:-

- 1) That the deponent is Deputy Director Estt.II
in the office of the Director General, RDSO, Manaknagar,
Lucknow and is fully competent to affirm this affidavit
on behalf of the applicants mentioned in the abovenoted
application.
- 2) That the deponent has read and understood the
contents of the Writ Petition and the interim stay order
passed by this Hon'ble Court in the above noted petition,
and he is fully acquainted with the facts of the case
deposed hereinafter.
- 3) That the above noted writ petition was filed on
10.2.1983 challenging the R&P Rules for the post of
Section Officers(Min) in the RDSO, and the Writ Petition
was admitted the same day and the interim stay order was
passed on the said application as under:



ASO

"Application for Interim Relief.

Lucknow dated: 10.2.1983
Hon'ble S.C. Mathur, J.
Hon'ble S.S. Ahmad, J.

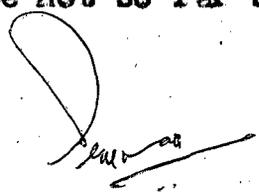
After admitting the writ petition we by our order passed, today, directed the stay application be laid before Court No.5 for hearing and disposal. This order was passed on the basis of a statement made by Sri Kalia that a similar stay ~~was~~ application in a similar writ petition No.2516 of 1980 was listed for hearing before that Court. An order has now been passed by Hon. U.O. Srivastava, J., that no such matter was listed before him. The stay application has consequently been placed before us again.

After hearing the learned counsel for the parties we direct that the examination scheduled to be held on 12th and 13th Feb. 1983 shall be held but the result shall not be declared until further orders of this Court. The Stay application shall come up for further orders before a learned Single Judge on 7.3.1983.

A copy of this order shall be issued to the learned counsel for the petitioner on payment of necessary charges today, if possible.

Sd. S.C. Mathur.
Sd. S.S. Ahmad.
10.2.1983."

- 4) That thereafter on August 1983, an application for vacating the interim stay order, alongwith the counter affidavit, was moved in this Hon'ble Court, but no order appears to have been passed on our aforesaid application for the vacation of the stay order.
- 5) That in respectful obedience to the interim stay order dated 10.2.1983, the results of the limited departmental competitive examination held on 12th and 13th February, 1983 have not so far been declared. The position in this regard



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was also explained specially in paras 22 and 24 of the counter-affidavit already filed against the Writ Petition.

6) That there are at present three vacancies of Section Officers (Min) to be filled up and there will be two more anticipated vacancies in June and August, 1984, when two of the officers will retire on attaining the age of superannuation, thus making the total number of vacancies as five.

7) That unfortunately, the relevant file not being traceable in the High Court for Inspection, the file has been reconstructed by the orders of the Hon'ble High Court and this has further considerably delayed the submission of the present application.

8) That the work of the RDSO Administration is suffering badly. In the absence of regular appointments against the existing vacancies, which can be got filled up only after the RDSO Administration is allowed to declare the results of the aforesaid limited departmental competitive examination held on February 12 and 13, 1983 subject to the final decision on the writ petition.

9) That in view of the averments made in the foregoing paragraphs, the interim stay order passed on 10.2.1983 is liable to be vacated.

[Signature]
Deponent.

Verification

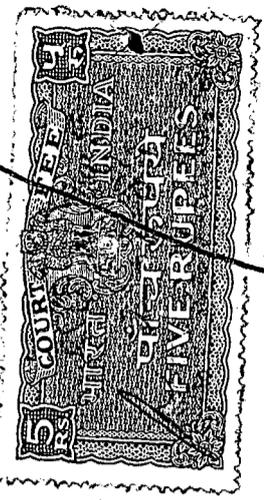
I, the abovenamed deponent, do hereby verify that the contents of paras 1 and 2 of this affidavit are true to my own knowledge and the contents of paragraphs 3 to 9 are true to my knowledge derived from records. No part of this affidavit is false and nothing material has been concealed. So help me God.

[Signature]
Deponent.

Lucknow
dated

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5



Before the Hon'ble Chief Justice,
Hon'ble High Court of Judicature at Allahabad,
Sitting at Lucknow.

C.M. Applications Nos. 6754 of 1984
" " " 8386 of 1983
" " " 1341 of 1983;

In re:-

Writ Petition no.741 of 1983

P.K. Dhar and Ors. ...Petitioners.

v/s

Union of India and others ..Opp.parties.

My Lord,

Respectfully it is submitted -

1- That the abovenoted applications were listed in the Cause List of today of Court no.6 (Hon'ble Mr. Justice R.C. Deo Sharma) at Sl. No. 17. But this list of court no.6 could not be taken up, as the Hon'ble Judge did not sit today.

2- That the matter is very urgent, as the results of the selection have been held up since February 1983 and our applications dated 3.8.1983 and dated 10.7.1984 for vacating of the Interim Stay Order Dt. 10.2.1983 have not yet been taken.

Wherefore, it is respectfully prayed that the abovenoted case may kindly be taken up tomorrow as an unlisted case.

Dated. 25.7.1984.
Lucknow.

D.S. Randhawa
(D.S. RANDHAWA)
Advocate,
Senior Standing Counsel,
Central Government
Counsel for Union of India & Ors.
(Opp.parties nos. 1 and 2)

*to be taken up tomorrow
unlisted matter.
25/7/84*

अदालत श्रीमान

अपीला

तिमादी [रिस्पॉडेण्ट]

श्री - - - - - का

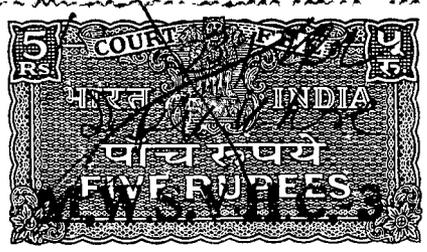
In the Hon'ble District Court
Judicial Officer at Allahabad

महोदय

AB3

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(टिकट)



P. K. Khare

Union of India

बनाम

प्रतिवादी (रिस्पॉडेण्ट)

NO. 741
मुकद्दमा

सन् 1983 पेशी की ता०

१६ ई०

लिखे मुकद्दमा में अपनी ओर से श्री

Shri P. K. Khare

श्री पी०के० खरे

वकील

महोदय

एडवोकेट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोंत्तर 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 या मुकद्दमा खटावें या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार की भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

I. S. Kamthan

Ajaib Singh

P. K. Dhar

आई०एस०कामथन

अजायब सिंह

पी०के० धर

साक्षी (गवाह)

J. D. Srivastava

साक्षी (गवाह)

L. K. D. R.

दिनांक

21 महीना

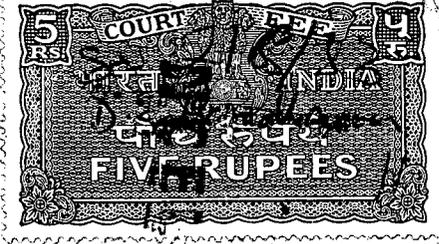
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Accepted

Handwritten signature and date 2/7

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW BENCH, LUCKNOW.

C.M. Application No. *83067* of 1983



Union of India and another Applicants.

In re:

Writ Petition No. 741 of 1983

P.K.Dhar and Others Petitioners.

Versus

Union of India and another Opposite Parties.

~~XXXXXXXXXX~~

Application for vacating Interim Stay Order.

The applicants, above-named, respectfully submit as under : -

That in view of the facts and reasons given in the accompanying Counter-Affidavit, the interim Stay Order dated 10.2.1983 passed by this Hon'ble Court is liable to be vacated.

Wherefore, it is respectfully prayed that the interim Stay Order dated 10.2.1983 may kindly be vacated.

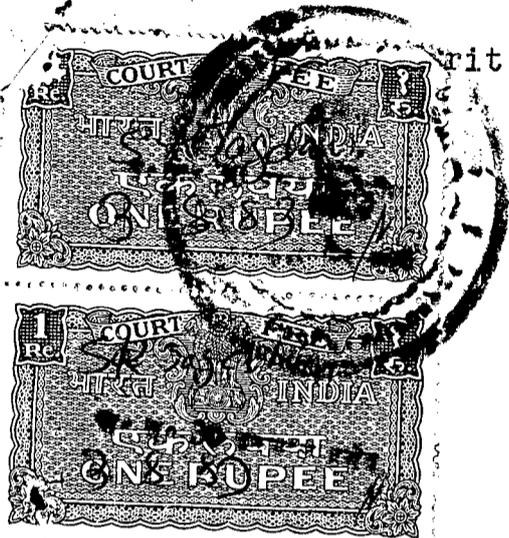
D.S. Randhawa

(D.S. RANDHAWA)
Advocate,

Lucknow: (Senior Standing Counsel, Central Govt.)
Dated: August 3, 1983. Counsel for Applicants.

AOS 6/5

IN THE HON'BLE HIGH COURT OF JUDICATUTE AT ALLAHABAD
LUCKNOW BENCH, LUCKNOW.



Writ Petition No. 741 of 1983



P.K.Dhar and others

..... Petitioners

Versus

Union of India and another

..... Opposite Parties.

Counter Affidavit on behalf of Opposite Parties.

I, S.K.Jagdhari aged about ⁴⁴ years, son of
Shri S.P.Jagdhari resident of Manak Nagar, Lucknow, do
hereby solemnly affirm and state as under : -

1. That the deponent is Senior Deputy Director-General posted in the R.D.S.O., Manak Nagar, Lucknow and he is competent to affirm this Counter Affidavit on behalf of opposite Parties.
2. That the deponent has read and understood the contents of the Writ Petition as well as those of the Stay Application and he is fully acquainted with the facts of the case deposed hereinafter.
3. That the contents of para 1 of the writ petition are not denied.
4. That the contents of para 2 of the writ petition are not denied. However, it is stated that certain

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posts of ~~Stenographers~~ ^{ASSISTANTS} of R.D.S.O. are designated as ~~Stenographers~~ ^{ASSISTANTS} (Selection Grade) and are in Scale of Rs.650-960.

5. That the contents of para 3 of the Writ Petition are not denied. However, it is stated that certain posts of Stenographers of RDSO are designated as Stenographers (Selection Grade) and are in scale Rs. 650-960.
6. That the contents of para 4 of the writ petition need no reply.
7. That the contents of para 5 of the writ petition are not denied, but the date of letter should read as 28.8.61 instead of 22.8.61.
8. That the contents of para 6 of the writ petition are not denied.
9. That in reply to the contents of para 7 of the writ petition, it is stated that the said letter dated 6.8.64 was addressed to the Union Public Service Commission for Commission's approval.
10. That in reply to the contents of para 8 of the writ petition it is stated that the Railway Board vide their letter dated 17.9.1964 issued the Revised Recruitment and Promotion Rules for the posts of Section Officers (Ministerial) in RDSO.
11. That the contents of para 9 of the writ petition are denied. It was not the Assistants but the Section Officers who were eligible for the posts of



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Establishment Officers in RDSO. The shrinkage in the cadre was due to re-organisation in the Administrative structure. It may be stated that, whereas in the case of Assistants, the promotional prospects were reduced as a result of posts of ED/SO having been surrendered, in the case of Stenographers the deservation of the two posts would have amounted to leaving no channel of promotion barring the one by way of limited departmental competitive examination to which both the categories were equally eligible.

12. That the contents of para 10 of the writ petition are not denied but it is stated that in lieu of the post of Supervisor (Stenos), a post of Section Officer (Stenos²) was created as per Board's letter dated 30.12.70. It is significant to mention that with the creation of the Class II post of SO (Stenos) in lieu of the Supervisor (Stenos²), even though the promotional prospects of the Stenographers were get enlarged, the Assistants could not be made eligible for promotion to the said post of SO (Stenos) for the obvious reasons that the functions of the Section Officers of the general cadre and those of the SO(Stenos) are basically different by virtue of the fact that the staff working under them have different types of duties to perform. The fact, however, is that the two posts of Section Officers, which were set aside on adhoc basis for promotion of Stenographers exclusively still remain reserved on ad hoc basis for the promotion of Stenographers.

13. That the contents of para 11 and 12 of the writ petition

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are not denied. However, it is stated that based on the general policy of the Government of India the posts of Stenographers were upgraded to Senior Personal Assistants grade Rs.650-1040 in gazetted cadre in all the Ministries of the Government of India. But, the scale is lower than that of Section Officers, which grade is Rs.650-1200. However, the upgradation in the cadre of Stenographers has not resulted in the curtailment of avenues of promotion of Assistants in RDSO.

14. That the contents of para 13 of the writ petition are denied. Since a copy of the Joint representation has not been annexed with the writ petition, no reply can be given. However, the observation made by the Union Public Service Commission is in regard to framing of the Recruitment and Promotion Rules for the technical post of Officer on Special Duty (Track Recording-cum-Research Car)- RDSO which is an ex-cadre post.



15. That the contents of para 14 of the writ petition need no reply. However, the Railway Board Secretariat Stenographers Service Rules 1971 are not applicable to RDSO.

16. That the contents of para 15 of the writ petition are not denied but the representation made by Assistants and Shri S.M.Kulkarni, Section Officer/RDSO were considered by the Railway Board and it was felt that the chances of promotion available to the two categories of staff viz. Assistants and Stenographers were ^{may} more or less similar and hence status quo ~~might~~ ^{may} be maintained. It may, however, be mentioned that both S/Shri V.C.A Padmanabhan

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Page 6

and S.M.Kulkarni have died.

17. That the contents of paras 16 & 17 of the writ petition are not denied. However, it is stated that the RDSO Administration expressed the views but the final authority to take ~~the~~ decision in the matter was the Ministry of Railways, Railway Board, who, in turn, could only take decision keeping in view the overall policy of the Government of India in such matters.
18. That in reply to the contents of para 18 of the Writ Petition only this much is stated that the representation is only from an individual viz. Shri M.L.Bharadwaj, who has already filed a separate writ Petition No. 2516 of 1980 on similar grounds for the same purpose.
19. That in reply to the contents of para 19 of the writ petition, it is stated that as stated above, it is a fact that certain posts of Stenographers were upgraded due to the general policy of the Government of India. Since they have to perform stenographic duties, the Assistants cannot be made eligible for the posts of Senior Personal Assistants. The sanctioned and working strength of stenographers is much more than that of Assistants and based on the yardstick and justification, more number of Section Officers posts could be created out of which the share as per existing R&P Rules will accrue to Assistants also. These Rules provide that 50% of vacancies are to be filled up by seniority from amongst Assistants



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only and the remaining 50% by Limited Departmental Competitive Examination from amongst Assistants as well as Stenographers with five years service in the respective grades. The SIU team of the Railway Board has already undertaken the job analysis and the work of finalisation in this connection is in progress.

20.

That in reply to the contents of para 20 of the writ petition it is stated that the posts of Senior Personal Assistants have been upgraded and allotted scale Rs. 650 - 1040, which is lower than that of Section Officer, scale Rs.650-1200. As such, the two posts of Section Officers for Stenographers still continue.

21.

That in reply to the contents of para 21 of the writ petition, it is stated that it is a fact that the Ministry of Railways called for the views of the RDSO, as stated in para 21 of the writ petition and the views of the RDSO were sent to the Ministry of Railways. It may further be added that the R&P Rules for the post of Section Officer (Min) are based on the R&P Rules of the Ministry of Railways and that of other Ministries and attached officers of the Government of India and are framed with the concurrence of the Union Public Service Commission and the Department of Personnel and Administrative Reforms and any suggestions/opinion made by the Director General, RDSO in this regard cannot be considered in isolation, as decision in the matter rests only in the Ministry



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of Railways. The procedure for any change in the R&P Rules involves consultation between the Ministry of Railways, Union Public Service Commission and the Department of Personnel, keeping in view the overall policy of the Government of India in such policy ^{matters}. ~~of the Government of India in such policy~~ which is a time consuming factor. ~~and various other administrative matters~~ ~~to be taken before any change in the R&P Rules is finally notified.~~ It may be reiterated that any changes in the R&P Rules have to be made by the Ministry of Railways, Union Public Service Commission and the Department of Personnel keeping in view the general policy of the Government of India for all Ministries. It may be mentioned that the Railway Board have now advised that since the case is subjudice, no action can be taken. The staff representatives through the Secretary, RDSO Class III staff Association have been accordingly advised.

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That in reply to the contents of paras 22, 23 and 24 of the writ petition, it is stated that the representation of Assistants and Counter-representation of Stenographers was under consideration. In the meantime, the Assistants chose to file a Writ Petition in the Hon'ble High Court in 1980, bearing No. 2516. The first circular for holding the Limited Departmental-competitive Examination was issued in 1979 and not in 1980, as stated. The court was, however, pleased to permit the RDSO Administration, vide their order dated 21.4.81, to fill up the vacancies so that the work may not suffer. A true copy of the order is filed herewith as Annexure No. A-1. Accordingly, the results of the

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selection held in 1980-81 were declared and four successful candidates were appointed, subject to the final decision of the Court on the writ petition, and similar orders of the Hon'ble High Court are solicited for the selection held in February, 1983. However, the Assistants have again chosen to file another Writ Petition on similar matter and similar grounds with a view to preventing the Administration to hold another examination, which was scheduled to be held in February, 1983. The Hon'ble Court has, however, been pleased to permit the RDSO Administration to conduct the examination, as scheduled, and the examination has actually been conducted in the month of February, 1983 and in all 56 candidates including Assistants have appeared in the said selection/examination, as per the existing R&P Rules. The Senior Personal Assistants have also been included for the reason that they are working in the grade Rs.650-1040, which is lower to the grade of Section Officer. Further, it is relevant to mention that the Senior Personal Assistants are still holding their lien in their substantive capacity as stenographers grade II, the category which is eligible for the competitive examination. As the circumstances are similar to the 1980-81 selection and in that case the Hon'ble High Court had permitted to fill up the posts subject to the final decision on the writ petition. Now, the court may be pleased to permit the Administration to declare the results of the selection held in February 1983, to enable fill up the posts/vacancies of Section officers lying vacant so that Government work may not suffer.

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23. That the contents of para 25 of the writ petition need no reply. However, it is stated that the functioning of the Class III staff Association and the Director General, RDSO is a matter outside the ambit of the petitioners' plea. It is relevant to mention that the Chairman Director General had advised vide para 1.4 of the minutes of the meeting referred to by the petitioners, that since the case had become subjudice it was not intended to discuss the issue.

24. That in reply to the contents of para 26 of the writ petition, it is stated that as indicated in the foregoing paragraphs, in accordance with the interim order dated 10.2.1983 passed by the Hon'ble High Court, the examination has already been conducted on 12 and 13.2.83, in which 56 candidates including Assistants, a category to which the petitioner belongs, have already appeared. The results could not be declared as per the directions of the Court for which it is prayed that the order dated 10.2.83 may be vacated as RDSO have to follow the existing R&P



(2) for approval of the Railway Board.

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25. Rules for the posts of Section Officers. *If the vacant posts of Section Officers are not filled in by 31.8.83 the posts are likely to come under the ban & cannot be filled up without the*
 That the deponent has been advised to state that, in view of the averments made in the foregoing paragraphs, the ~~stay~~ Application is liable to be dismissed and the interim Stay Order dated 10.2.1983 passed by this Hon'ble Court is liable to be vacated.

26. That the deponent has been advised to state that there is no infringement of any legal or Constitutional right and there is no error, much less any manifest

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error of law in the action taken by the opposite parties and the action is also not arbitrary and discriminatory.

27. That the deponent has been advised to state that the grounds taken by the petitioner are not tenable in law and the writ petition being without any merit is liable to be dismissed with costs.

Lucknow:

[Signature]
Deponent

Dated: August 2nd, 1983.

Verification

I, the above-named deponent, do hereby verify that the contents of paras 1,2 of the affidavit are true to my own knowledge, the contents of paras 3 to 24 are true to my knowledge derived from the office records and the contents of paras 25 to 27 are true to my knowledge based on legal advice. No part of this Affidavit is false and nothing material has been concealed. So help me God.



[Signature]
Deponent.

I identify the deponent, who has signed before me.

[Signature]
Advocate.

Solemnly affirmed before me on 2-8-83 at 11.5 AM/PM by Sri S.R. Jagdhan the deponent who is identified by Sri D.S. Randeewa Clerk to Sri Advocate High Court Allahabad.

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

Meena Pandey
JUDGE COMMISSIONER
High Court, Allahabad.
Lucknow Bench.

[Signature]

Co. 25/336
Date 2-8-83

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IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW BENCH LUCKNOW

Writ Petition No. 741 of 1980.

P.K. Dhar and others ...Petitioners

Versus

Union of India and another ...Opp. Parties.

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Annexure No.A1

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD (LUCKNOW
BENCH) LUCKNOW

C.M. APPLICATION NO. 5747 of 1980

M.L. Bhardwaj ...Petitioner

Versus

Union of India and others ...Opp. Parties.

Application for vacation of stay order
dated 10-9-80.

Lucknow dated 21.4.1981.

Hon'ble K.S. Varma, J.

On 11th December, 1980 an order was passed by this Court that the selection for the post shall be held on 12th December, 1980 but the result shall not be declared. After the order was passed an application as moved by the Union of India for the vacation of the stay order. In paragraph 4 of the application it has been stated that there is an urgency to fill up the vacancies of section officers and to

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put an end to the adhoc officiating arrangements so that the best talent is available. The application for vacation of the Stay order is contested by the petitioners.

Without expressing any opinion on the merits of the case the ends of justice would be met if respondents 1 and 2 are allowed to fill up vacancies so that their work may not suffer but the appointments made shall be subject to the result of the writ petition. The appointment orders issued to the appointees would clearly indicate that their appointment is subject to the decision of the writ petition. For the reasons stated above the order dated 11.12.80 is modified in the manner indicated above.



Sd/- K.S. Varma
21.4.1981.

True copy.
Sd/-
Section Officer
Judicial (B) Department
High Court, Lucknow Bench,
Lucknow.

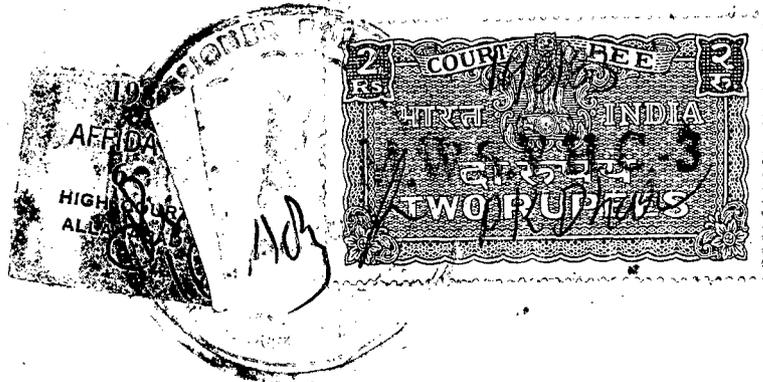
Signature

Meena Pandey
High Court, Allahabad
Lucknow Bench

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In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.



Writ Petition No. 741 of 1983.

P.K. Dhar and others. --- Petitioners.

Versus

Union of India and another. --- Opp. Parties.

Rejoinder Affidavit to the
Counter Affidavit dt. 3-8-1983.

I, P.K. Dhar, aged about 52 years, son of Sri P.C. Dhar, Assistant (Selection Grade) R.D.S. Manak Nagar, Lucknow, do hereby solemnly affirm State as under: -

1. That the deponent is petitioner no above noted writ petition and is fully cor with the facts deposed to hereunder:-

2. That paragraphs 1 to 10 of t affidavit need no comments.

3. That as to para 11 of the it is not denied that the Sectio were eligible for the post of E post of Establishment Officer



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promotion of Assistants through the ladder of S.O. (Ministerial). As prior to 1963 all the posts of S.O.(Min.) were filled as admitted by the respondent in para 6 of the counter affidavit from the Assistants. Later on because Steno had no avenue of promotion, 2 posts of S.O.(Min.) were given to Stenographers on adhoc basis. (When 2 posts of Estt. Officers and 2 post of Section Officers were surrendered resulting in appreciable decrease in the avenue of promotion of Assistants it would be logical that the two posts of S.O.(Min.) should have been restored to Assistants, but it was not done. It is further denied that the restoration of two posts of Section Officers to the Assistants would have resulted in the Stenographers having been left without any channel of promotion, as they were eligible, though unjustifiably, to the 50% quota of Limited Departmental Competitive Examination for the post of Section Officer (Min.)) Now the position is changed. Stenographers have at present 21 promotion posts exclusively for them.

4. That in para 12 of the counter affidavit it has been contended that the Assistants could not be made eligible for promotion to the post of SO (stenos) on the ground that the functions of the SO(Stenos) and SO(Min.) are different and the staff working under them have different types of duties to perform.

(In view of the above admitted fact the opposite parties should not mingle the two cadres of Assistants and stenographers for the purposes of promotion to higher post of S.Os.(Min.) which was initially done in a limited manner only with a view to provide



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some avenue of promotion to the Stenographers.)

5. That in reply to para 13 of the counter affidavit it is stated that the post of Senior Personal Assistants in the scale of Rs.650-1040 fall in the group B gazetted cadre and derive all the benefits of gazetted posts. Only Stenographers are eligible for promotion to the post of Senior Personal Assistants. With the introduction of these posts of Sr. Personal Assistants (Sr. P.As.) Rs.650-1040 numbering 18, the two posts of SO (Min.) which were given to Stenos on adhoc basis should have been restored to Assistants in R.D.S.O. as was done in the Railway Board's office but this has not been done in R.D.S.O. and the injustice perpetuated. In this connection para 9 of the Railway Board Secretariat Service Rules, 1969 may kindly be seen a copy of which is filed herewith as Annexure 19 (annexures 1 to 18 have been filed with the writ petition). With the upgradation of certain posts of Stenographs as Sr. P.As and Private Secretary to Director General and S.O. (Stenos) (Group B gazetted cadre) which are exclusively in the channel of promotion of Stenographers, tilted the balance in favour of the Stenographers in the matter of promotional prospects of the two categories of staff. In the above circumstances the original position should have been restored, and the promotion to the post of S.O. (Min.) should be restricted from amongst the Assistants only.)



6. That in reply to para 14 of the counter affidavit, it is stated that the joint representation

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referred to in para 13 of the writ petition is dated 9.5.80 (Annexure 12 to the writ petition). In this connection attention is invited to para 16 of the writ petition. A perusal of the last sentence of the Union Public Service Commission letter in question (Annexure 8 of the writ petition) would indicate that the Union Public Service Commission (hereinafter referred to as U.P.S.C.) has mentioned it a basic principle and has not considered desirable to allow two promotional avenue to one category of posts. This fact has been admitted by the opposite parties in their letter dated 5.6.80 (Annexure 13 of the writ petition). Whereas Stenos in R.D.S.O. are allowed two promotional avenues - one in the category of Sr. Personal Assistants/P. Secretary/Section Officer (Stenos) and the other in the category of S.O.(Min.) This is contrary to the principles enunciated by the U.P.S.C.

(It may be that the U.P.S.C. had made an observation about the basic policy while dealing with the Promotion Rules for technical post but the basic principle indicated by the U.P.S.C. will be applicable in all the matters of promotion. The U.P.S.C. has laid down about the promotional avenues as follows:-

" Normally, while laying down promotion as a method of filling a post, the uniform practice is to allow only one promotional avenue to a post or a category of posts. In view of this basic principle, it would not be desirable to allow two promotional avenues to the posts mentioned above. "



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The above position regarding promotional avenue has been accepted to be correct by the Director General, R.D.S.O. opposite party no.2 in his letter dated 5.6.80 (Annexure 13 to the writ petition).

7. That in reply to para 15 of the counter affidavit it is stated that the opposite parties have put the position in a wrong way. It is not the question of Railway Board Secretariat Stenos Service Rules, 1971 being made applicable to R.D.S.O. But the grievance is that in the Board's office w.e.f. 1.8.69 with the introduction of grade I posts (which are equivalent to Sr. P.As. posts in scale of Rs.650-1040 the two posts of S.O.(Min.) given to Stenos. were restored to the category of Assistants. Whereas in R.D.S.O. with the introduction of these posts of Sr. P.As, the two posts of S.O.(Min.) given to Stenos purely on ad-hoc basis have not been restored to the Assistants as done in the Board's Office. Therefore, it is not the question of applicability of Railway Board Sectt. Service Rules to R.D.S.O. but to have similar Recruitment and Promotion Rules of S.O.(Min.) posts in R.D.S.O. as in the Boards office as already admitted by the opposite party no.2 in para 21 that the Recruitment and Promotional Rules for the post of S.O.(Min.) are based on the Recruitment and Promotion Rules of the Ministry of Railways and that of other Ministries and attached offices of Govt. of India. It may be mentioned that in the Ministry of Railways (Rly. Board) the reservation of S.O.(Min.) posts for stenos does not now exist. Also, the percentage of post of S.O.(Min.) required to be filled



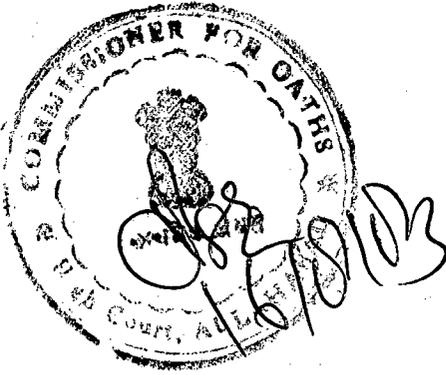
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through L.D.C.E. is only 28% in Board's office as against 50% in R.D.S.O. ~~and continuation~~ (Hence the reservation of two posts of S.O.(Min.) for stenos and continuance of 50% quota in L.D.C.E. in R.D.S.O. is discriminatory and should be dispensed with.)

8. That in reply to para 16 of the counter affidavit it is stated that a perusal of annexure 9 of the writ petition would reveal that it is a personal letter of Sh. S.M. Kulkarni, S.O.(Min.) (who had earlier worked directly under /sh. Padmanabhan in D.B.K. Rly. Project) to Shri V.C.Padmanabhan, ~~Mechanical~~ ^{Member} Engineer, Railway Board, New Delhi and not a representation as put forth by the opposite party. A perusal of the letter (Annexure 9) would further reveal that Sh. Kulkarni requested for indulgence in the matter for personal favour and Sri Padmanabhan, M.E. who was incharge of R.D.S.O.1 and the competent authority in the case shown indulgence in the matter. (Therefore, the decision given by the authority to maintain status quo in the Recruitment and Promotion Rules for the post of S.O.(Min.) was biased and away from the merits of the case.) It is not correct to say that the chances of promotion available to the two categories of staff i.e. Assistants and stenos. were more or less similar. As would be seen from annexures 12 and 15 of the writ petition there is a wide disparity in the promotional chances of Assistants and stenos in R.D.S.O. This fact has been admitted by the opposite parties in their letter dt. 5.6.80 (Annexure 13 to the writ petition). It was indicated in the



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annexure 14 that the promotional chances of Assistants were 10.8 % where as the Stenos had 22 % promotional chances. In this connection the position clarified in paras 16 and 17 of the writ petition is reiterated.

9. That in reply to para 17 of the counter affidavit it is submitted that over all the policy of the Government of India has not been indicated in the paragraph under reply. The view and basic principle as given out by the U.P.S.C. on the point have already indicated in the earlier paragraph of this rejoinder affidavit to the effect that there should not be two promotional avenues for one cadre. The petitioners are not aware of any policy of Government of India which would support the position that stenographers should have avenue of promotion to the higher posts which is restricted to them alone and also share the promotional avenues available to the Assistantants specially when the promotional avenue open to the stenographers alone is by no means less , rather they have more and better chance of promotion ⁱⁿ ~~for~~ their channel in comparison to the assistants. The assertions made in paras 16 and 17 of the writ petition are reiterated.



10. That in reply to para 18 of the counter affidavit it is stated that the representation dated 11.6.80 of Sh. M.L. Bhardwaj holds good as he is also an affected assistant and filing a writ petition by him does not alter the facts as stated in para 17 of the writ petition.

Bhardwaj

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Besides the representation dated 11.6.80 representations were submitted to the opposite parties earlier as well. Attention to those representations was drawn in the representation dated 11.6.80. Thus a request was already before the opposite parties to review the whole situation and frame appropriate rules and issue suitable orders restoring back the position relating to promotions as existed earlier. Annexure 12 to the writ petition is the representation dated 9.5.80. It was a joint representation on behalf of many other Assistants besides Mr. M.L. Bhardwaj. The representation was also forwarded by the opposite party no.2 to opposite party no.1 vide their letter dated 5.6.80 (Annexure 13 to the writ petition. It may be also pointed out that in the present writ petition there are some additional points also.

11. That the contents of paragraph 19 of the counter affidavit are denied. (In this connection it is mentioned that on the analogy of different duties and functions as the Assistants can not be made eligible for the post of Sr.P.As. it would not be justifiable to make eligible Stenos for the post S.O.(Min) particularly when they have been provided a separate and exclusive channel of promotion.) It may be mentioned that the post of S.O.(Min.) are created/sanctioned on the basis of workload of clerical work which are not performed or shared by Stenos. (and it would be quite improper to make Stenos. eligible for the post of S.O.(Min.). It



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would tantamount to deprive clerical staff, i.e. Lower Divisiona clerks, Upper Division Clerks and Assistants of their due chances of promotion.) The clerical strength (i.e. L.D.C./U.D.C./Assistants) is about 300 whereas the strength of Stenographers (Grade III and Gr. II is about 180 only. Therefore, it has been wrongly put forth by opposite parties that the strength of stenographers is much more than assistants whereas the fact is otherwise. The job analysis done by the SIU team and anticipatory creation ~~max~~ of Section Officers post on its result is irrelevant. It may, however, be pointed out that S.O. (Min.) posts are created on the basis of job analysis of clerical work-load and justification thereof whereas the post of Sr.P.A./P.S. are created on the basis of fixed yard stick based on the creation of the posts of officers. (Therefore, there is no justification to make stenos eligible for the post of S.O.(Min. in the Recruitment and Promotion Rules.) The Staff ~~INSPECTION~~ Unit(S.I.U.) examines only work-load and required strength of staff onits basis. (It has nothing to do with the recruitment and promotion Rules nor it can examine the demand of the petitioners for restoration of the original position, namely, confining the avenue of promotion to the post of S.Os to the Assistants alone. It is beyond the perview of the functions of S.I.U.) A clear effort has been made by the opposite parties to mislead this Hon'ble Court.

12. That the contents of para 20 of the counter affidavit ^{are} ~~is~~ not admitted, as stated. It may be pointed out that there is ^{no} higher post of scale 650-1040 for



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Assistants which is available to the stenographers only. The stenographers have two posts in the grade 650-¹²⁰⁰~~1040~~ exclusively for them, namely, Private Secretary to the Director General and Section Officer (Stenos). It is further submitted that in stead of marrying the chances of promotion of the assistants, the opposite parties should upgrade some more posts in the scale of 650-1040 for the stenos from amongst the post of Sr. P.As. in case it is considered necessary. At present two posts of Section Officers are already reserved for the stenographers on ad-hoc basis as indicated in the writ petition and earlier paragraphs of this rejoinder affidavit. Thus the stenographers have four posts in the scale of 650-¹²⁰⁰~~1040~~ and over and above that, they have also been made eligible to complete under 50 % quota of S.O.(min.) through competition. The reply submitted to paragraphs 13 and 15 of the counter affidavit may kindly also be perused.

13. That in paragraph 21 of the counter affidavit it has been stated by the opposite parties that inspite of the recommendations of the Director General, R.D.S.O., for revision of the Recruitment and Promotion Rules, for the post of S.O.(Min.), the change can not be effected as it involves consideration by the Ministry of Railways, UPSC and the Department of Personnel, keeping in view the policy of Government of India in such policy matters. It has further been stated that the Railway Board have since advised that as the case is sub-judice no action can be taken. The views of the U.P.S.C. on the question are clear and evident from their letter (Annexure 8 to the writ petition))



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in which it has been very clearly stated that it is a basic principle that as a matter of ~~practice~~ ^{practice} basis principle two avenues of promotion should not be open to a post or a category of posts. So far as the ~~views~~ ^{views} of the Director General, RDSO, are concerned, they can be seen from annexure 16 to the writ petition which is in favour of change in R. & Promotion Rules as urged by the petitioners. So far as view of the Railway Board is concerned, it is evident from annexure 16-A of the writ petition, which has recommended the filling up the posts of S.O. (Min.) by seniority to the extent of 2/3rd from amongst the Assistantants and 1/3rd from the L.D.C.E. from the Assistants and Stenographers both through competitive examination. It has not been indicated as to whose views are against the views of the three authorities mentioned above nor even the All India Policy of the Government on the issue in question has been indicated. The petitioners submit that the question is not ^{so} much of policy as of facts. The promotion to the post of S.O. (Min) was confined to assistants alone but ^{only} with a view to provide some avenue of promotion to the stenographers, they were also made eligible for the posts of S.O. (Min.) to certain extent. Since after opening the promotional avenue in their own channel of promotion that situation does not exist at all. (Hence there is no justification for their continuance in sharing the posts of S.O. (Min.)) It may be reiterated that the Assistants are not eligible for a higher job available to the Stenographers in their channel of promotion. The discrimination is apparent on the face of it and inaction



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4/108

is only with a view to harass the assistants as a class.

(In this connection it is relevant to point out that if no change in the R and Promotion rules can be made without the approval of UPSC and the department of Personnel, then how the Sr.P.As. in the grade Rs.650-1040 have been made eligible and permitted to appear in S.O.(Min.) Limited Departmental Competitive Examinations held in the month of December 1980 and February 1983 when there is no such provision in the Recruitment and Promotion Rules.) Apparently, no approval of UPSC and DP^A has been obtained to include Sr.P.As. in the aforesaid L.D.C.Es. and, therefore, the examinations held are violative of R and P Rules and need be quashed by the Hon ble Court. Secondly, if no action can be taken as the matter is subjudice, then why and how the L.D.E.S. have been held and the staff promoted as SOs, Secretary to Director General and Dy. Director. In this connection, it may be mentioned that Hon ble court have permitted to fill in the vacancies of SO(Min.) provisionally on the basis of LDCE held in December 80 subject to the decision of Writ Petition no.2536 of 1980. It would, however, be seen that Sri P.N. Kapoor has been promoted from S.O.(Min.) to the post of Secretary to D.G. and again from Secretary to D.G. to the post of Deputy Director/Estt. i.e., from one adhoc post to other adhoc and to the further adhoc post even without completion of prescribed probationary period ignoring all the rules and regulations and violating the relvant R. and P Rules for the respective posts. It hasnot been indicated if the Hon ble court's approval was obtained for these promotions if the matter was sub-judice.



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A-109

It is pertinent to mention that convinced by the imbalance of promotional avenues of Assistants and Stenos, the B.G., RDSO, had recommended the revision in Recruitment and Promotion Rules vide letter dated 4.6.1981 (Annexure 16 to the writ petition). The Ministry of Railways vide letter dt. 29.7.81 (Annexure 16 to the writ petition) counselled for filling up 2/3rd vacancies of SO(Min) by promotion from the Asstts. on the basis of seniority subject to ~~their~~ suitability and the remaining 1/3rd vacancies from Assistants and Stenos through Limited Departmental competitive examination. The Asstts. including those who are parties to the writ petition filed in the Hon'ble court have also given an undertaking vide their application dated 16.8.82 that they agree to withdraw the writ petition in case the Administration agree to make change in the R and P. Rules for the post of S.O(Min) and cancel the L.D.C. held earlier and dereserve 2 posts of S.O.(Min). In spite of all the facts mentioned above the attitude of inaction by the Administration on the plea that the matter is subjudice prove their malafide intention to carry on discrimination and injustice to the category of Assistants.

14. That the contents of para 22 of the counter affidavit are denied. It is incorrect to say that Assistants chose to file a writ petition in this Hon'ble Court (Writ Petition No. 2516 of 1980) while their representation for revision of R and P Rules was under consideration. In fact the Assistants submitted representations dated 12.9.79, 8.5.80, 11.6.80 and 13.9.80 requesting for amendment of existing R and P. Rules for the post of S.O.(Min.)



Prasad

A110

All the existing imbalances in the avenue of promotion of Assistants as compared to the Stenographers were brought out in the above representations. The representation dated 9.5.80 of the Assistants along with the representation of Stenos was forwarded to the Railway Board vide D.G. RDSO's letter No. A/RT/o. dated 5.6.80 (Annexure 13 of the writ petition) certifying that the entire position as given in the representation of Asstt. was factually correct and that given in the Stenos. representation was not correct. It was prayed in the various representations that till the Board takes some decision on the representations the competitive examination scheduled to be held in September/December 1980 should be suspended. But the R.D.S.O. administration decided to hold LDCE by issuing notice therefor. Another representation was submitted on 13.9.80. The Administration postponed the examination but again notified the date of examination to be held in December 80. The grievance of the Assistants is that once the highest authority, i.e., Rly. Board was considering the representation of Assistants its decision should have been awaited by the opposite parties particularly, when his recommendations were called for by the Board vide their letter dated 10.10.80 to dispose of the representation dated 9.5.80 and the examination could be held after the decision of the Railway Board was received. It may be mentioned that on the representation dated 9.5.80 forwarded to the Board by DG, RDSO, on 5.6.80 as mentioned above, the Board vide their letter



R. K. S. M.

A/111

No. ERB1/79/44/67 dated 10.10.80 (Annexure 15 to the writ petition) directed RDSO to give specific recommendations so that the representation of Asstt. could be decided. The recommendations from the DG, RDSO, were deliberately withheld nor any decision of the Board as mentioned, above, was made known to the Assistants but the RDSO Administration was going ahead in holding the LDCE ignoring genuine grievance of the Assistants. Feeling aggrieved by the discriminatory attitude of the Administration the Asstt.s were left with no option but to knock the door of the Hon'ble Court by filing the aforesaid writ petition no. 2516 of 1980. Again the Assistants submitted representations dated 16.8.82 and 14.11.82 requesting the Administration not to hold another LDCE till their representations were decided but paying no heed to the grievance of the Assistants the Administration again chose to hold the LDCE in February 1983 dated 5.11.82 (Annexure 17) Hence due to ~~the~~ indifferent attitude of the Administration the Asstts. had to seek shelter of the Hon'ble Court for justice by filing writ petition No.741 of 1983.

(As already submitted vide para 13) above the inclusion of Sr.P.As working in the grade Rs.650-1040 in the LDCE held in December 1980 and February 1983 is violative of the existing R and P Rules for the post of SO(Min.) inasmuch as there is no provision of Sr.P.As in the said rules and that the said rules do not provide for promotion of Sr.P.As to the post of S.O.(Min.) According to the said rules only Stenographers and Assistants are eligible to undertake the LDCE against 50% quota.) It may be mentioned that the post of Sr.P.As in scale Rs,650-1040 is a class II post for which there



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are separate R and P rule's notified vide No.ERB1(ERB)1-75/44/8 dated 27.8.79 which are approved by UPSC. It is the matter of consideration that how the holders of class II posts in the scale of Rs.650-1040 can be considered for another cadre of class II posts of SO(Min) in scale Rs.650-1200. As earlier admitted by the opposite parties in para above that any amendment to the R and P Rules require approval of Railway Ministry, UPSC and the Deptt. of Personnel. The inclusion of Sr.P.As in the aforesaid LDCEs is certainly without approval of the above mentioned authorities and also violative of R and P Rules and illegal. It may be mentioned that many Sr.P.As. previously promoted on provisional basis have now been made regular Sr.P.As and a few of the Sr.P.As who are working on regular basis were eligible to the post of S.O.(Min.) and they appeared in the LDCE which is in violation of the Rules. In this connection Annexures 22 + 25 may please be seen.

The argument that Sr.P.As. hold lien in their substantive capacity as Stenographers Gr.II which is eligible for the competitive examination does not hold good for inclusion of Sr.P.As in the LDCEs without the amendment in the R and P Rules by approval of the competent authorities i.e., Ministry of Railways, UP SC or DPAR in this case.

The opposite parties have requested the Hon'ble court to vacate the stay granted in the present writ petition on the analogy of the vacation order in Writ Petition No.2516 of 1980 so that they could declare the result of the LDCE held in February 1983 and thereby could fill in the vacancies of the posts of SO (Min.). It may be mentioned that this Hon'ble Court

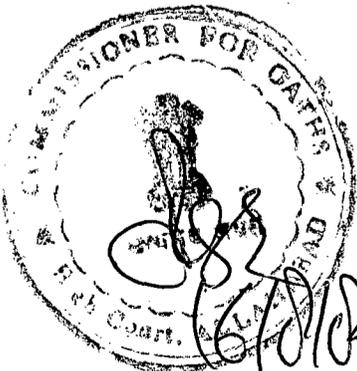


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A113

granted the stay order on Writ Petition no. 2516 of 1980 vide their order dated 21.4.81 (Annexure A1) on the plea of the Administration that there was an urgency to fill up the vacancies of Section Officers (Min.) and to end the adhoc officiating arrangement. It is submitted that as explained in detail against the remarks in the foregoing para 1 the Administration should have filled the vacancies of S.O. (Min.) as per Railway Board's letter No. ERBI/79/44/67 dt. 3.6.81 (Annexure 20 to this rejoinder affidavit) in reply to RDSO letter No. A/RT/054 dated 20.5.81 (Annexure 21 to this rejoinder affidavit), and Rule 9 of Rly. Board Secretariat Service Rules, 1969 from amongst the seniormost eligible Assistants but the Administration has deliberately chosen not to fill the vacancies.

The services of many of the Sr.P.As have been made regular. Some of the orders to that effect are being filed herewith as Annexures 22, 23, 24 and 25 to this Rejoinder Affidavit. In pursuance of the vacation of the stay order by this Hon'ble Court promotions were given by the opposite parties of the post of S.O. (Min) ~~min~~ with the mention that they should be subject to final result of the writ petition. Such S.Os. from amongst all the Stenographers have been further given ad-hoc promotions but there is no mention that such adhoc promotions are subject to the final result of the writ petition. This amounts to non-compliance of the orders passed by this Hon'ble court.



PKM

It is incorrect that the earlier writ petition and the present one stand on the same footing. In the present writ petition there are some additional

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points, for example, inclusion of Sr.P.As in the L.D.C.^E. which according to rules is open only for Asstt. and Stenographers.

There is no bar or restriction ~~is~~ placed on the opposite parties by the court prohibiting them from considering the representations of the petitioners and Assistants in spite of having filed a writ petition in 1980 . No decision has been taken by the opposite parties. The deponent begs to submit that since the opposite parties feel that it is administratively necessary to fill up the vacancies, the opposite parties should have taken steps for early decision on the points under their consideration to resolve the bottle neck which has been created due to their own inaction.

The R.D.S.O. had been advised from the Railway Board in some other matter where appointments were stayed by orders passed by the Hon'ble Delhi High Court, the Railway Board had advised that the posts could be filled upon the basis of length of service cum-merit from amongst the Assistants during the pendency of the writ petition. In view of the above, there is no question of the Government work suffering by reason of the order passed by this Hon'ble Court. The post in dispute can be filled up, as indicated by the Railway Board vide its letter dt. 3.6.81, a true copy of which is filed herewith as annexure 26 to this rejoinder affidavit. There are about 350 gazetted posts in the R.D.S.O. out of ^{of these nearly 1} 150 are filled up on adhoc promotions. There is no difficulty in filling up the posts in question by means of adhoc orders.



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It may further be stated that the opposite parties have not even filled up the 50% posts of SO(Min.) which are to be filled up only by seniority cum suitability from amongst the Assistants alone. This shows the hollowness of their contention that the Government work would suffer if the appointments are not permitted to be made on the basis of LDCE held in February 1983. If that was the position, there was no reason not to promote Assistants on the basis of seniority cum-suitability, which matter is not at all subjudice. The inaction in not taking a decision on the question involved on the pretext of 'sub-judice' is nothing but a deliberate harrassment to the Assistants.

15. That the contents of para 23 of the ~~stix~~ counter affidavit are denied. RDSO Class III Association is a representative body of entire class III staff of RDSO under the scope of joint Consultative Machinery, of which the petitioners are the members. Therefore, the functioning of the Association with relation to the action of the Director General as Chairman of the Office Council falls clearly within the ambit of the plea of the petitioners. Regarding the matter being subjudice the submissions made in para — above may please be seen.



16. That in reply to para 24 of the counter affidavit, it is stated that besides the submissions made in reply to paragraph 22, it is further submitted that the grounds on which vacation of stay order is desired by the opposite parties are malicious

R. K. Singh

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and mis representation of the facts. The plea that if the vacant posts of Section Officers (Min.) are not filled in by 31.8.83, the posts are likely to come under ban and cannot be filled up without approval of the Board. It may be mentioned that the Administration is deliberately not filling up the vacant posts of SO(Min.) numbering 3 at present from amongst the Assistants on the basis of seniority cum fitness despite representations from the seniormost effected Assistants. In this connection copies of the representations dated 16.3.83, 7.5.83 and 20.7.83 are annexed herewith as Annexures 26 27 and 28 to this rejoinder affidavit. As per Railway Board's letter No. E(RB)1-79/44/67 dated 3.6.81 (Annexure 21) in the event of non-availability of selected candidates the vacant posts of SO(Min.) are required to be filled by adhoc promotion of seniormost Assistants subject to suitability. (This is also in consistent to the rule no.9 of the Railway Board Secretariat Service Rules 1969 - corrected upto 1.5.80 (Annexure 19) which lays down that in the event of non-availability of candidates on the select list the vacancies will be filled by temporary promotion on the basis of seniority, subject to rejection of the unfit of the officers of the Asstts. grade who have rendered not less than 8 years approved service in that grade. Such promotions are likely to be terminated when persons included on the select list for the section officers grade become available to fill the vacancies.) Besides there are about more than 150 posts of officers (which works out to nearly 50% of the total sanctioned strength of gazetted cadre i.e. 300 of RDSO) in various



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grades viz. Class II and Class I (i.e. ADE/ARE/ Etc. in class II and DD/JDs in class I) which have been filled up on adhoc basis in RDSO and in many cases adhoc arrangements are continued for more than 5 to 8 years. It is significant to mention that some of the above mentioned adhoc promotees have also filed writ petitions but still their adhoc promotions are continued and the vacancies in these categories are also filled up but in the case of vacancies of S.O.(Min.) this procedure has not been followed. Therefore, the action not to fill the vacancies of SO(Min.) which numbering 3 only, at present, by adhoc promotion of the seniormost eligible Assistants on the basis of senioritycum-fitness is biased attitude and wilful harassment and calculated move on the part of the Administration/respondent and the vested interest. It is mentioned that if the vacancies are filled even now before 31.8.83 on adhoc basis as per rules and procedure indicated above the vacancies will not come under ban and the question of vacation of stay order on that ground will not arise.

It is also mentioned that the opposite parties have taken more than 5 months in filing the counter affidavit to this writ petition and during this period also they did not deliberately fill the vacancies of SO(Min.) to make ground for approaching this Hon'ble Court to vacate the stay on this false plea.

Therefore, wilful inaction to fill up the vacancies of SO(Min) and then to approach the Hon'ble High Court for vacation of stay order dated 10.2.83 on the grounds that the vacancies, if not filled are likely to come under ban is complete



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misrepresentation of facts to misguide and mislead the Hon'ble Court. Secondly, when the Administration feel that there is a need for revision of R and P Rules in view of the meagre avenue of promotion to the category of Assistants in RDSO as is apparent from Director General, RDSO's recommendations vide his letter No.A/RT/O dated 4.6.84 and Rly. Board's letter No.ERB1/79/44/67 dated 29.7.81 ~~and Railway Board's letter-~~ (Annexures 16 and 16-A to the writ petition) the holding of LDCEs on the basis of existing R and P Rules for the posts of SO(Min.) which lost its efficacy and to ask for vacation of the stay order of the Hon'ble Court on the ground is unjustified.

If the posts are filled up under Rule 9 of the Railway Board Secretariat Services Rules, 1969 as is being done in many other matters, there is no question of posts coming under ~~back bone~~.

17. That in reply to paragraphs 25, 26 and 27 of the counter affidavit, it is submitted that in view of the irregularities, contravention of rules and regulations in force and utter disregard of the Hon'ble Court orders on the subject by the Administration/opposite parties as mentioned in the foregoing paragraphs, the biased discriminatory attitude the request of the opposite parties for vacation of stay order may not be accepted and the LDCEs held in December 80 and February 1982 may be quashed entirely. It is also prayed that the existing R and P Rules for the post of S.O.(Min.) may be ordered



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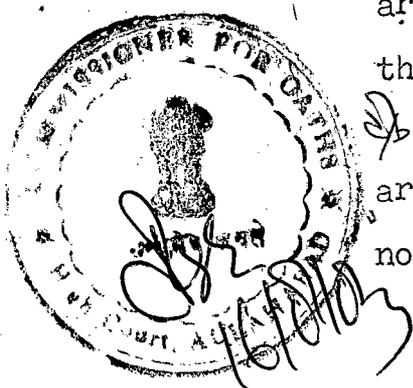
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to be revised as in according with Director General, RDSO's letter dt. 4.6.81, and Railway Board's letter dt. 29.7.81 ~~and~~ (Annexure 16 and 16-A of the writ petition),
d Feeling aggrieved by the unreasonable attitude of the Administration the petitioner pray to the Hon'ble court to confirm the stay order and to grant suitable relief to the petitioners finally after final hearing of the writ petition.

Lucknow dated August 6 1983.
d

Ramesh
Deponent.

I, the abovenamed deponent, do hereby verify that the contents of paragraphs d 1, 9, 10, 15, d and 12 & para 16 except bracketted portion d of this rejoinder affida vit are true to my own knowledge, those of paras d 10, 12 and 14 and paras d 3, 4, 6, 7, 8, 11 and 13 except their bracketted portion d are true to my information derived from records and those of paras d 2 and 5 and bracketted d portion of paragraphs 3, 4, 6, 7, 8, 11, 13 and 16 d are based on legal advice. No part of it is false and nothing material has been concealed, so help me God.



Lucknow dated Aug. 6 1983.
d

Ramesh
Deponent.

Ramesh

I identify the deponent who has signed before me.

Vishu Dayal
Clerkof Sri Brijesh Kumar.

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A/21

2.

temporary promotion on the basis of seniority, subject to the rejection of the unfit, of** officers of the Assistants' grade who have rendered not less than 8 years approved service in that Grade. Such promotions shall be terminated when persons included in the Select List for the Section Officers' Grade become available to fill the vacancies.

@ Provided that if any person appointed to the Assistants' grade is considered for promotion to the Section Officers grade, under this sub rule, all persons senior to him in the Assistants grade who have rendered not less five years' approved service in that Grades shall also be so considered for promotion notwithstanding the fact that they may not have rendered eight years' approved service in that Grade, provided further that the aforesaid condition of five years' approved service shall not apply to a person belonging to the Scheduled Castes or the Scheduled Tribes.

3. Out of the authorised permanent strength of the Section Officers' grade, two posts in that grade shall be reserved for the appointment of officers of Grade -A of the Railway Board Secretariat Stenographers' service selected on the basis of merit by a Departmental promotion Committee for such appointment.

The permanent posts specified in this sub-rule, shall be deeserved from the date of coming into force of the Rly. Board Secretariat Stenographers Service Rules, 1971, namely, the 1st August, 1969.



9(1) vide EBBI/70/37/2 dated 24.4.1971.

** Words 'permanent' deleted vide ERB-174/37/2 dated 19.12.1974.

@ Substituted vide ERB-I/76/9/2 dated 26.12.1978

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A/22

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. 741 of 1983.

P.K. Dhar and others. --- Petitioners

Versus

Union of India and another. -- Opp. Parties.

Annexure No. 20.

No. ART/O

Dated 20.5.81

My dear Saha,

Sub: Recruitment and Promotion Rules for
the post of Section Officer (Min.)
in R.D.S.O.

Thanking you for your letter No. ERB.I/79/46/67
dated 14.5.81.

2. It is mentioned in para 2 of the above letter
that the provision regarding Item(3) namely 28% from
amongst the staff with longest period of service on the
basis of merit has since been struckdown by the High
Court of New Delhi and that the matter is at present
sub-judice.

3. I shall be grateful to know as to how the
vacancies which would have otherwise been filled up by
this quota or 28% are being filled up during the interim
period while the matter is subjudice. Is it that adhoc
arrangements are being made on seniority-cum-suitability
basis or is it that the adhoc promotion are made from
the select list of the successful candidates in the
limited departmental competitive examination which is
being ~~grat~~ regularly held every year in the Board's off
Office? I shall be grateful for an early clarification.

With regards,

Yours sincerely,

Sd. C.M.K.



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In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. 744 of 1983

P.K. Dhar and others. --- Petitioners.
Vrs.
Union of India and another. --- Opp.Parties.

Annexure No. 21

No.E(RBI) 79/44(67) Dated 3.6.81.

Dear S.hri Kulshreshtha,

Sub: Recruitment & Promotion Rules
for the post of SO(Min.) in RDSO

Ref: Your D.O.No.A/RT/O dated 20.5.81

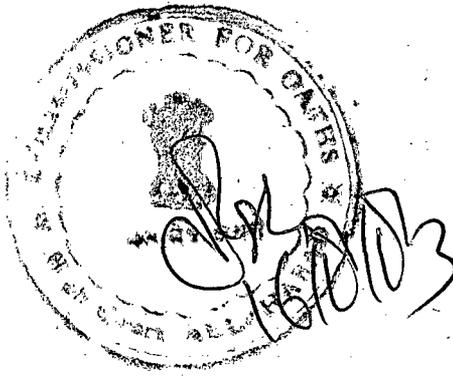
With reference to item (3) of this letter /office dated 14.5.81, it is clarified that 28% vacancies are filled from amongst Assistants only, on the basis of length of service-cum-merit. As the operation of this provision is suspended due to court's verdict, which is under appeal, the vacancies against this quota are treated as temporary vacancies and being filled from amongst Assistants on the basis of seniority cum-fitness, on.adhoc basis.

With regards,

Yours sincerely,

Dr.C.M.Kulshreshtha,
Director Traffic Research
R.D.S.O.,Lucknow.

Sd/- K.D.Saha



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A124 28

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. 741 of 1983.

P.K. Dhar and others. --- Petitioners.

Versus

Union of India and another. --- Opp. Parties.

Annexure No. 22.

Government of India
Ministry of Railways.
Research Designs & Standards Organisation.

OFFICERS' POSTING ORDER NO. 118 of 1982.

The provisional and temporary promotions of the following Grade II Stenos as Senior Personal Assistants in Group 'B' (Scale Rs. 650-1040/RS) ordered vide officers' Posting order Nos. 86 of 1976 and 100 of 1977 are treated as on regular basis from the dates indicated against each

- | | | | |
|-----|---------------------|------------|-------------------------|
| 1. | Shri Shambhoo Nath | 22.9.1976 | (Since retired) |
| 2. | " N.P. Ramakrishnan | 22.9.1976 | ---do--- |
| 3. | " Randhir Chand | 22.9.1976 | (Since promoted as S.C) |
| 4. | " J.K. Bhalla | 22.9.1976 | ---do--- |
| 5. | " T. R. Gulati | 22.9.1976 | (Since promoted as S.C) |
| 6. | " R. Raghavan | 25.9.1976 | --- |
| 7. | " Desh Raj | 22.9.1976 | (Since retired) |
| 8. | " R.S. Ramachandran | 22.9.1976 | --- |
| 9. | " B.N. Das Biswas | 22.9.1976 | --- |
| 10. | " J.S. Bhatnagar | 22.9.1976 | Since retired. |
| 11. | " M.L. Mallick | 22.9.1976 | --- |
| 12. | " K.K. Sharma | 22.9.1976 | --- |
| 13. | " B.R. Gupta | 15.12.1977 | --- |



16/01/83

Authority: (i) Railway Board's letter
No. ERBI/75/44/8 dated 21.4.82
(ii) D.G.'s orders dated 10.9.82 in file
No. DG/CRP-77/G.

R. K. Dhar

DA: ni,
Lucknow 226011.
Dated 25-9-1982.
File No. DG/CRP-77/G.

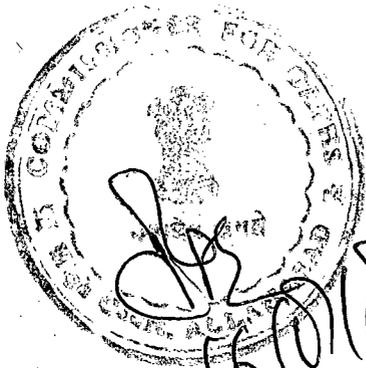
Sd/- J.S. Saigal 25/9/82
Sr. Dy. Director General

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29

DISTRIBUTION.

DS(E) DS(C) D(TR) DS(W) D(M&C) DR DS (S&T)
 D(TI) DS(MP) PA/Sr.DY.DG SECY. TO DG ADDL.DIR.STDS
 (TRACK) JD(F) ADS(TELE) JD (ESTT) DDE³/₄II
 DD (Admn.) TEN AAB-II SO(CIVIL) SO (M&C) SO(MCW)
 SO(RES) SO (S&T) SO(MP) SO(Rectt) SO/E-I SO/E-III
 Asstt.Elec.Dte. Asstt.(TI) Asstt.(TR) Secy. RDSO
 Officers' Association SO(Conf.) Estate Supvr. Security
 Insp. Pass Secn. Admn. Secn. Audit Officer
 Receptionist I & II Officers. concerned
 P/files Notice Boards SO(Stenos) SO (E-IV).



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A/26 29

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. 741 of 1983

P.K. Dhar and another. --- -Rs. Petitioners.
Versus
Union of India and another. -- Opp. Parties.

Annexure no. 23

Government of India
Ministry of Railways.
Research Designs & Standards Organisation.
Officers' Posting Order No. 138 of 1982.

Ref: Officers' posting order No. 99 of 1977
and 54 of 1978.

The provisional/adhoc promotions of the following
Stenos Grade II as Senior Personal Assistants in Group B
(Class II) Scale Rs. 850-1040/RS, ordered vide Officers
Posting order No. 99 of 1977 & 54 of 1978 are treated on
regular basis w.e.f. 13.10.1982.

- (i) Shri R.C. Gupta
- (ii) " N.S. Budhal S/C candidate
- (iii) " Tulsi Ram -do-

Authority : DG/RDSO's orders dated 16.12.1982
in file no. DG/CRP-77/G

(Hindi version will follow)

DA: nil

Lucknow -226011
dated 18.12.1982
File No. DG/CRP.77/ G

Sd. S.K. Jagdhari
Sr. Dy. Director General

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DS(Carr.) DS(MP) Dir.(EO) Addl. Dir.(Arch.) JDF
JD(Estt.) DDE-II DD(Admn.) Ten AAO-II
Audit Office SOE-1 SOE III SO(Stenos) SO(Confdl)
SO(MCW) SO(MP) SO(ED) ADE/Tele Secy./RDSO Officers
Association Pass Section Admn. Section Security Insp.
Estate Supervision Receptionists I, II Officers
Concerned, P/Files Notice Boards.



A/27 30

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Annexure No. 24

In
Writ Petition No. 741 of 1983.

P.K. Dhar and others. --- Petitioners.
Versus
Union of India and another. --- Opp. Parties.

Government of India, Ministry of Railways.
Research Designs & Standards Organisation.

Officers' Posting Order No. 4 of 1983
Ref: Officers' Posting Order No.12 of 1979

The Provisional/Adhoc promotion of Sh.R. Ramachandran
as Senior Personal Assistant in Group B(C1.II), scale
Rs,650-1040(RS) ordered vide O.P.O.No. 12 of 1979 is treated
on regular basis w.e.f. 13.10.1982.

Auth: DG's orders dated 5.1.1983
in file No.DG/CRP-77 / G.

Lucknow 226011
Date: 6.1.1983
File No.DG/CRP-77/G.

Sd.
(S.K.Jagdhari
Senior Dy. Director General.



DISTRIBUTION.

DR Addl. Dire Res.(Tract) JD(F) JD(Estt.) DD(Admn.)
DDE-II Ten AAO-II Audit Officer SOE-III
SO(Research) SO(Stenos) SE(Confdl.) DDE/Tele
Estate Supvr. Pass Sec. Admn.Sec. Receptionist-I & II
Officer concerned and P/File Secy./RDSO Officers Assocn
Asstt.Security Officer Notice Boards.

S.O.(Hindi) He may please arrange to issue Hindi version
to all concerned.

R.K.Singh

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In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. 741 of 1983.

P.K. Dhar and others. --- -Rs Petitioners.
Versus
Union of India and another. --- Opp.Parties.

Annexure No. 27

The Director,
R.D.S.O.,
Lucknow.

Sir,

Sub: Filling up of the posts of
Section Officers (Ministerial),

Kindly refer to my application dated 16.3.83 wherein it was requested that the two resultant vacancies of Section Officers (Ministerial) lying vacant w.e.f. 1.3.83 due to the retirement of S/^Shri PR Rao and YR Nagar, may be filled up on ad- hoc basis by promotion of seniormost Assistants.

2. The above case was also discussed with Sr.Dy.DG when he conducted 'get together' of staff working under him in connection with Railway week Celebrations. In the said discussions Sr.Dy.DG desired that a copy of Railway Board's letter No.E(RB)-I/79/44/67 dated 3.6.81 wherein it was mentioned that these vacancies can be filled from amongst seniormost Assistants on the basis of seniority cum-suitability, as an adhoc measure, may be given to him for examination. The letter in question was immediately given to Sr.Dy.DG.



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In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No.741 of 1983

P.K. Har and others. --- Petitioner.
Versus
Union of India and others. --- Opp. Parties.

Annexure No. 25

Government of India
Ministry of Railways
Research Designs & Standards Organisation.

Officers' Posting Order No.130 of 1982

In supersession of Officers' Posting Order no.119 of 1982, Shri S.Govindarajan, Stenographer (SG), Scale Rs.650-960 (RS), presently, working in RDSO. Inspection Cell at ICF., Madras is promoted as Senior Personal Assistant in Group 'B' (scale Rs.650-1040/RS) at RDSO Electrical Inspection Cell at ICF, Madras and is attached with Jt. Director Inspection (Elect) against the post of Senior Personal Assistant, transferred from RDSO/Luck now to RDSO/Madras, vide Railway Board's letter No.ERBI/82/41/21 dated 25.10.1982. For this purpose the element of the post of Sr. Personal Assistant attached to Addl. Director Research/Mech. (now downgraded Jt. Director, Research Mech. I/c) is transferred to R.D.S.O. Madras in exchange with the post of Stegrapher(SG) scale Rs.650-960 (RS) as a special case.



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2. As a result of the above, Shri K.S. Murthy, Offg. Senior Personal Assistant, presently attached with Jt. Director Research Mech. I/c, is posted in capacity temporarily with Dir.

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2.

Shri R.Raghavendran to class-III post, who was promoted as Sr. Personal Assistant on adhoc basis against the leave vacancy of Shri M.L.Malik SPA, vide OPO No.65 of 1982. Shri R.Raghavendran should report to Estt. II section for further posting.

3. Shri N.S.Budhal, Offg. Senior Personal Assistant attached to Addl. Director Stds/MP (now downgraded as Joint Director Stds.(MP) I/C) is posted in the same capacity to work with Director (ED).

4. Shri Harbhajan Singh, Steno. presently attached with Director (ED), on being replaced by Shri N.S. Budhal, should report to Estt. II section for further posting.

5. The above postings are ordered with immediate effect and the charge reports of the concerned officers may be forwarded to Estt.II/Confidential sections accordingly.

Authority : DG/RDSO's orders dated 16.11.82
in file No.DG/CRP-77/G.

(Hindi version will follow)

DA:nil

Lucknow 226011
Dated 18-11-1982
(File no.DG/CRP-77/G.)

Sd. S.K.Jagdhari
Sr.Dy. Director General



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2.

3. A perusal of relevant rules (p) of the Railway Board Sectt. Service Scheme will also leave no doubt that whenever the Select List of Section Officer is not available the vacancies of section Officers are filled in the Board's office from out of seniormost Assistants on the basis of Seniority cum suitability.

4. Even after a lapse of about 2 months, no orders have been issued in connection with the filling up of the two vacancies of section Officers (Min.) on adhoc basis, based on seniority cum suitability, as per instructions contained in the aforesaid Board's letter dated 3.6.81.

5. As the aforesaid two vacancies have now been lying vacant for over two months, it is requested that adhoc officiating arrangements as permitted in Railway Board's letter dated 3.6.81 may be made immediately as the pending court case is likely to take quite some time and it is apprehended that till then these vacancies may come under ban.

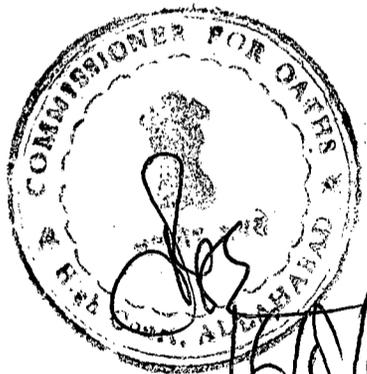
6. In view of the above an immediate action is solicited in the matter.

Thanking you,

Yours faithfully,

(M.L.Bhardwaj)
Assistant (SG)
Recct. Section
RDSO/Lucknow-11.

Dt. 7.5.1983.



16/0/03

R.S.M.

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2.

this vacancy four vacancies (including newly sanctioned post for Pass section) occurred, Out of these five vacancies 3 vacancies are required to be filled in on seniority basis. But as per clarification given in Board's letter dated 3.6.81 referred to above all the five posts are required to be filled on adhoc basis from Assistants pending posting of regular officers.

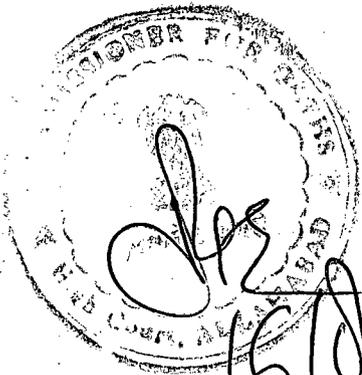
2. I, therefore, once again request you to kindly fill up the posts of SO(Min) lying vacant and order of my promotion against one of the 5 vacancies may be issued.

Thanking you in anticipation.

Yours faithfully,

Dated 20.7.83

(M.L.Bhardwaj)
Assistant(SG)
Rectt. Section.



R. Sharma

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench; Lucknow.

Writ Petition No. 741 of 1983.

P.K. Dhar and others. --- Petitioners.
Versus
Union of India and another. -- Opp. Parties.

Rejoinder Affidavit to the
Counter Affidavit dt. 3-8-1983.

I, P.K. Dhar, aged about 52 years, son of
Sri P.C. Dhar, Assistant (Selection Grade) R.D.S.O.,
Manak Nagar, Lucknow, do hereby solemnly affirm and
state as under: -

1. That the deponent is petitioner no. 1 in the
above noted writ petition and is fully conversant
with the facts deposed to hereunder:-

2. That paragraphs 1 to 10 of the counter
affidavit need no comments.

3. That as to para 11 of the counter affidavit
it is not denied that the Section Officers (Ministerial)
were eligible for the post of Estt. Officer but the
post of Establishment Officer was in the avenue of

through L.D.C. to only 20% in Board's office as against 50% in N.D.C. and maintenance (Hence the reservation of two posts of S.O.(Min.) for status and continuance of 50% quota in L.D.C. in N.D.C. is discriminatory and should be disposed with.)

8. That in reply to para 15 of the counter affidavit it is stated that a perusal of annexure 9 of the writ petition would reveal that it is a personal letter of Sh. S.L. Mulhori, S.O.(Min.) (who had earlier worked directly under Sh. Padmanabhan in D.D.K. Ry. Project) to Shri V.C. Padmanabhan, Mechanical Engineer, Railway Board, New Delhi and not a representation as put forth by the opposite party. A perusal of the letter (Annexure 9) would further reveal that Sh. Mulhori requested for indulgence in the matter of personal favour and Shri Padmanabhan, M.E. who was in charge of N.D.C. and the competent authority in the case shows indulgence in the matter. (Thus, the decision given by the authority to maintain status quo in the recruitment and promotion rules for the post of S.O.(Min.) was biased and away from the merits of the case.) It is not correct to say that the chances of promotion available to the two categories of staff i.e. Assistants and stenoes, were more or less similar. As would be seen from paragraphs 12 and 13 of the writ petition there is a wide disparity in the promotional chances of Assistants and stenoes in N.D.C. This fact has been admitted by the opposite parties in their letter dt. 2.6.50 (Annexure 13 to the writ petition). It was included in the

Further the representations dated 11.6.60 representa-
 tions were submitted to the civil service
 on 12.6.60. Attention to these representations
 was drawn to the representation of 11.6.60.
 Also a request was already before the opposite
 parties to review the whole situation and to issue
 appropriate rules of service suitable orders
 restoring back the position relating to promotions
 of the civil service. Reference is to the writ
 petition in the representation of 11.6.60. It was
 a joint representation on behalf of any other
 civil service employees. The representa-
 tion was also forwarded by the opposite party to
 the civil service on 12.6.60 vide their letter dated 1.6.60
 (reference 13 to the writ petition). It may be also
 noted that the civil service writ petition
 was also one of the points also.

11. That the contents of paragraph 19 of
 the minutes of 12.6.60 are as set out. (In this
 connection it is mentioned that on the analogy of
 different rules and functions as also in the
 case of the civil service for the post of G.P.S.
 it would not be desirable to make eligible persons
 for the post of G.P.S. (11a) particularly when they
 have an established conventional exclusive channel
 of promotion.) It may be noted that the posts of
 G.P.S. (11a) are created/sanctioned on the basis of work-
 load of clerical work which are not performed shared
 by them. (and it would be quite improper to make
 them eligible for the post of G.P.S. (11a). It

misrepresentation of facts to misguide and mislead the Hon'ble Court. Recently, when the Administration feel that there is a need for revision of R and P Rules in view of the narrow avenue of promotion to the category of Assistants in RDS as is apparent from Director General, RDS's recommendations vide his letter D.O./R/0 dated 5.6.54 and Railway Board's letter No. 2281/73/44/67 dated 29.7.51 ~~and Railway Board's letter~~ (Annexures 16 and 16-A to the writ petition) the holding of LDCs on the basis of existing R and P Rules for the posts of S.O.(Kin.) which lost its efficacy and to ask for vacation of the stay order of the Hon'ble Court on the ground is unjustified.

If the posts are filled up under Rule 9 of the Railway Board Secretariat Services Rules, 1959 as is being done in many other matters, there is no question of posts coming under back.

17. In a reply to paragraphs 25, 26 and 27 of the counter affidavit, it is submitted that in view of the irregularities, contravention of rules and regulations in force and utter disregard of the Hon'ble Court orders on the subject by the Administration/opposite parties as mentioned in the foregoing paragraphs, the biased discriminatory attitude the request of the opposite parties for vacation of stay order may not be accepted and the LDCs held in December 50 and February 1952 may be quashed in entirety. It is also prayed that the existing R and P Rules for the post of S.O.(Kin.) may be ordered

to be revised as in according with Director General, RPO's letter dt. 4.6.81 and Railway-board's letter dt. 29.7.81 and (Annexure 16 and 16-A of the writ petition) feeling aggrieved by the unreasonable attitude of the Administration the petitioner pray to the Hon'ble court to confirm the stay order and to grant suitable relief to the petitioners finally after final hearing of the writ petition.

Lucknow dated
August 16 1953.

Deponent.

I, the abovesaid Deponent, do hereby verify that the contents of paragraphs 1, 9, 10, 15 and 17 and para 16 except bracketted portion of this rejoinder affidavit are true to my own knowledge, those of paras 10, 12 and 14 and paras 3, 4, 6, 7, 8, 11 and 13 except their bracketted portion are true to my information derive from records and those of paras 2 and 5 and bracketted portion of paragraphs 3, 4, 6, 7, 8, 11, 13 and 16 are based on legal advice. No part of it is false and nothing material has been concealed, so help me God.

Lucknow dated
Aug. 16 1953.

Deponent.

I identify the deponent who has signed before me.

Clerkof Sri Brijesh Kumar.

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Case No. 100 of 1969

P. S. Singh and others — — — Plaintiffs.
Versus
Union of India and others. — — — Opp. Parties.

Articles 309 and 310 of the Constitution of India, 1950 (amended upto 1.5.69).

9. Recruitment to the Section Officers Grade

1. Subject to the provisions of sub-rule (3) recruitment to the substantive vacancies in the Section Officers Grade shall be made on the following basis, namely:-

The sixth of the substantive vacancies in the Section Officers Grade shall be filled by direct recruitment on the basis of competitive examinations held by the Commission for their purpose from time to time for recruitment to the Central Service Class I and Class II. The remaining vacancies shall be filled by the appointment or reinstatement of persons included in the select list for the Section Officers Grade. Such appointment shall be made in order of seniority in the select list except when for reasons to be recorded in writing, a person is not considered fit for such appointment in his turn.

2. Subject to the provisions of sub-rule (1) temporary vacancies in the Section Officers Grade shall be filled by the appointment of persons included in the select list for the Section Officers Grade. Any vacancies remaining unfilled shall be filled by the

IN THE HON'BLE HIGH COURT OF JUDICATURE AT
ALLAHABAD BENCH LUCKNOW.

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CMA No. (w) 790 (w) of 1984

in writ petition No. 741 of 1983



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P.K.Dhar and others

Petitioners

Versus

Union of India and

others

Respondents

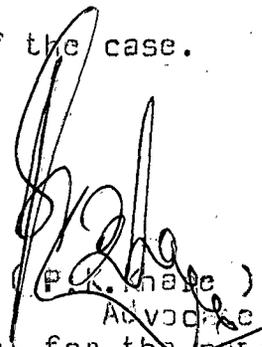
APPLICATION FOR RECALLING THE ORDER
DATED 31st JULY 1984 PASSED BY HON'BLE
MR. R.C.DEV SHARMA J.

The petitioner most respectfully states as
under:

1. That for the facts and reasons stated in the accompanying affidavit it is most respectfully prayed that the Hon'ble court may be pleased to recall the order dated 31st July, 1984 passed in

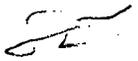
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the above noted writ petition by His Lordship Justice R.C.Dev Sharma and may make such other orders as this Hon'ble court may deem fit and proper in the circumstances of the case.


(P.K. Shah)
Advocate

Counsel for the petitioners

Dated: Lucknow the
2nd day of ^{Aug.} ~~July~~, 1984

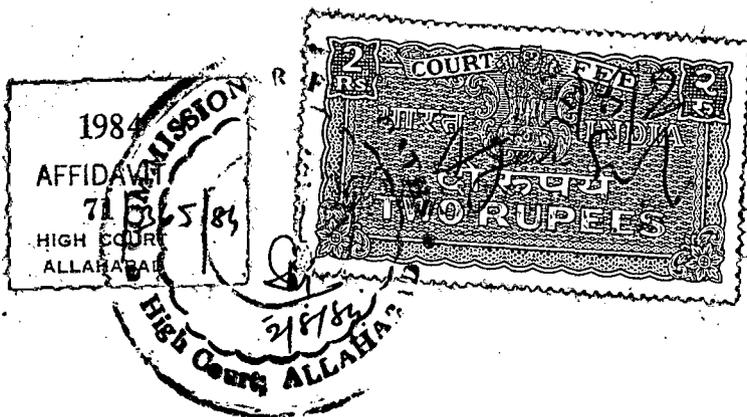


IN THE HON'BLE HIGH COURT OF JUDICATURE AT
ALLAHABAD LUCKNOW BENCH LUCKNOW.

S-137
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CMA No. (W) of 1984

In Writ Petition No. 741 of 1983



P.K. Khare and others

Petitioners

Versus

Union of India and
others

Respondents

A F F I D A V I T

I, *Ajaib Singh* Ajaib Singh, aged about 50 years son of Sri
Manak nagar
bhagat Singh, resident of C-34/1, ~~Manak nagar~~, Lucknow
do hereby on solemn affirmation state as under:

1. That the deponent is one of the petitioners in the above noted writ petition and as such is fully conversant with the facts deposed hereunder:
2. That by an interim order a division bench of this Hon'ble court had provided that the



Ajaib Singh

S/ A130
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examination impugned in the writ petition would take place but the result thereof shall not be announced. The said interim order has been vacated by His Lordship Mr. R.C.Dev Sharma j.

3. That recently in a similar situation when a Division Bench has passed an order which was vacated by a single ~~Member~~ Judge a Special Leave Petition was preferred by the petitioner before the Hon'ble Supreme Court, Delhi. The Supreme Court after obtaining requisite report from this Hon'ble court held that the order passed by a Division Bench cannot be vacated or revised by the Hon'ble single Judge of the said court. The true copy of the order of the Hon'ble Supreme Court is being annexed herewith as ANNEXURE-I to his writ petition.

4. That in view of the legal position as pointed out by the Hon'ble Supreme Court it will appear that the order passed by this Hon'ble court vacating the interim order is without jurisdiction. The equity demands that the order of the Supreme Court may be given effect to and the order passed by this Hon'ble court be put in abeyance till the matter is finally decided by a Division Bench.



Dated: Lucknow the 22nd day of July, 1984

Ajail Singh
Deponent

VERIFICATION

I, the above named deponent do hereby verify that the contents of paras 1 to 3 of the above affidavit are true to the best of my

.3.

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personal knowledge and those of paras 4 ✓ of the same affidavit are believed by me to be true. That no part of this affidavit is false and nothing material has been concealed; so help me God.

✓ Signed dated and verified this the 2nd day of ~~July~~ Aug ✓, 1984 at Lucknow.

Ajay Singh
Deponent

I identify the deponent who has signed before me.

A. Singh
Advocate



Solemnly affirmed before me on 2-8-1984.

At 11.00 A.M./P.M. by Sri *Ajay Singh* the deponent who is identified by Sri *A. Singh*, clerk, Sri *P.K. Khare*, Advocate of High Court of Judicature at Allahabad, Lucknow Bench, Lucknow.

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

S. S. ...
S. S. ...

Advocate & Commissioner
Allahabad High Court
Lucknow Bench, Lucknow.
No... 71-265-1984
Date... 2-8-1984

IN THE HON'BLE HIGH COURT OF JUDICATURE AT
ALLAHABAD LUCKNOW BENCH LUCKNOW.

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Writ Petition No.741 of 1983

P.K.Dhar and others

Petitioners

Versus

The Union of India and
others

Respondents

ANNEXURE-I

Item No.7

Court No.3

Section I

Supreme Court of India

Record Proceedings.

Petition for Special Leave to Appeal (Civil) No.8431

(From the Judgement and order dated 27.5.83 of the
High Court of Allahabad in Civil Misc. Applin

Raj Bahadur Vishwakarma

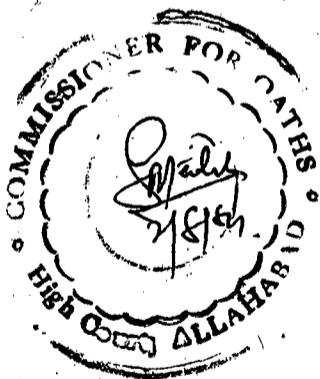
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Versus

Vice Chancellor, Narendra Dev
University

(For Directions)

Dated: 25.11.83: This petition was
hearing today.



Ajay K. S.

S. S. Sethi

Coram:

Hon'ble

Hon'ble Mr. Justice S. Murtaza Fazul Ali

Hon'ble Mr. Justice Savyasachi Mukerji

For the petitioner(s) : M.R.K. Sarg, Sr. Adv.

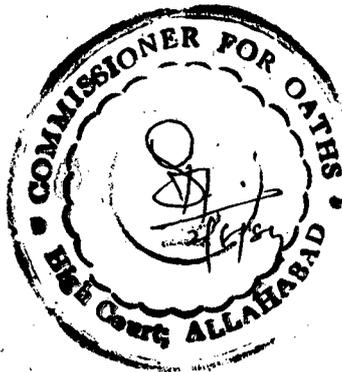
Mr. S.N. Singh & Mr. T.N. Singh Adv.

For the respondent(s) : Mr. Altaf Ahmad, Adv.

Upon ~~xxx~~ hearing counsel the court made the following order:

We have gone through the report of the High Court and the High Court has informed that the matter will be heard by Division Bench. In this view of the matter this petition is disposed of with the observation that the order of single judge dated 27th May, 1983 will be kept in abeyance until the matter is heard by the Division Bench. The application will be heard and disposed by the Division Bench.

Ajain...



(K.C. Sethi)
Court Master

S. S. Sethi

S. S. Sethi
Advocate & Commissioner
Allahabad High Court
Lucknow Bench, Lucknow.

No. 71 / 363 / 1983

Date 2 / 8 / 1983

AMZ

In the hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

C.M. Application No. (W) of 84.

In re:

Writ Petition No. 741 of 1983.

P.K.Dhar and others -----Petitioners.

Versus

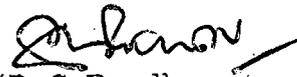
Union of India and others -----Respondent

Objections against the Application
for recalling the order dated 31.7.84,
passed by Hon'ble Mr. Justice R.C. Deo S.

The respondents-objectors, abovenamed respectfully
submit as under:-

That for the facts and reasons given in the
accompanying counter-affidavit, the petitioners'
Application for recalling the order dated 31.7.84
liable to be dismissed summarily.

Lucknow, dated,
August 23, 1984.


(D. S. Randhawa)
Advocate,

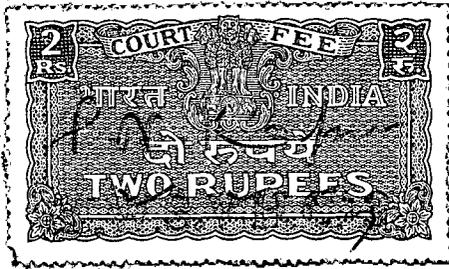
(Senior Standing Counsel of
the Central Government)

Counsel for the Respondents-
Objectors.

9/1/84

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Civil Misc. Application No. of 1984.



In re:

Writ Pet.No.741 of 1983.

P.K.Dhar and others -----Petitioners.

Versus

Union of India and others -----Respondents.

Counter-affidavit against the Affidavit
filed in support of the Application for
Recalling the order dated 31.7.84,
passed by Hon'ble Mr.Justice R.C.Deo
Sharma.



I, Prem Nath Kapoor, aged 53 years, son of
late Shri Amar Nath Kapoor, resident of C-8/2,
Manak Nagar, Lucknow, do hereby solemnly affirm
and state as under:-

1. That the deponent is Deputy Director Establish-
ment-II, in the Research, Designs and Standards
Organisation, Manak Nagar, Lucknow, and he is
fully competent to affirm this affidavit on
behalf of the respondents-(i) Union of India
through the Secretary, Railway Board, Rail Bhawan,
New Delhi,

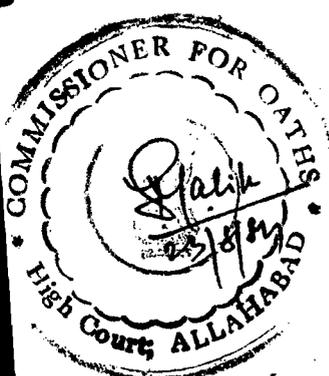
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(ii) Director General, Research, Designs and Standards Organisation, Manak Nagar, Lucknow.

2. That the deponent has read and understood the contents of the Application for recalling the order dated 31.7.84 passed by Mr. Justice R.C. Deo Sharma as well as the affidavit filed in support thereof and he is fully conversant with the facts of the case deposed hereunder.

3. That the contents of paras 1 and 2 of the Affidavit need no reply.

4. That in reply to the contents of para 3 of the affidavit, it is stated that the situation in the case in which the stay order was vacated by a Single Judge as referred to in this para was not at all similar. The impugned order in the Special Leave Petition before the Hon'ble Supreme Court, New Delhi, was the order dated 27.5.83 passed by an Hon'ble Single Judge of this Hon'ble High Court sitting at Lucknow, in Civil Misc. Application No. 6316(1) of 1983 in Writ Petition No. 1961 of 1983- Raj Bahadur Vishwakarma Vs. Vice-Chancellor, Narendra Deo University of Agriculture and Technology, Faizabad and others. A copy of the aforesaid Special Leave Petition No. 8431 of 1983 (Raj Bahadur Vishwakarma Vs. Vice-Chancellor,



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Narendra Deo University and others) has been obtained and some of the material facts gathered from the aforesaid special leave petition are stated as under:-

- i) that on 13.4.83, the writ petition was filed by that petitioner in the Hon'ble High Court challenging two orders of the Vice-Chancellor.
- ii) that on 14.4.83, Status quo was granted by the Hon'ble High Court and the writ petition was ordered to be listed on 25.4.83.
- iii) that on 25.4.83, the Hon'ble High Court allowed time to file rejoinder-affidavit against the counter-affidavit of the respondents and also ordered for listing the petition on 2.5.83. In the meanwhile, Status Quo as ordered earlier was to continue to remain in force.
- iv) That on 2.5.83, the Hon'ble High Court after hearing the counsels of both the parties was pleased to admit the writ petition and also pass the following stay order:-

"Operation of the two impugned orders of the Vice-Chancellor dated 31.3.83 shall remain suspended".



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A146

- v) the application for vacating the interim order dated 14.4.83 was set aside.

- vi) that on 19.5.83, again an Application for vacating the Stay Order dated 2.5.83 passed by the Division Bench of the Hon'ble High Court was filed by the Counsel of the respondents before the Hon'ble Single Judge.

- vii) that on 27.5.83, the Hon'ble Single Judge of this Hon'ble Court after hearing the counsel of the respondents but without giving any time to the counsel of the petitioner to file reply and giving him hearing vacated the stay order dated 2.5.83 passed by the Division Bench of this Hon'ble High Court.



viii) 5. That the situation in the present writ petition before the Hon'ble Single Judge of this Hon'ble High Court was entirely different from the situation as it existed in the aforesaid Writ Petition No.1961 of 1983 (Raj Bahadur Vishwakarma Vs. Vice-Chancellor, Narendra Deo University and others). The main points of distinction are as under:-

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i) that the present Writ Petition No.741 of 1983 (P.K.Dhar and others Vs. Union of India and others) was filed on 10.2.83 and the Division Bench of this Hon'ble High Court was pleased to admit and pass an interim stay order the same day. The relevant extract from this order is reproduced as under:-

"After hearing the learned counsels for the parties, we direct that the examination scheduled to be held on 12th and 13th. February, 1983 shall be held but the result shall not be declared until further orders of this Court. The Stay Application shall come up for further orders before the learned Single Judge on 7.3.83".

ii) that in the present case, the Division Bench of this Hon'ble Court has specifically ordered that the Stay Application would come up for further orders before a Single Judge for further orders, while in the other case, no such specific order was passed by the Division Bench of the Hon'ble High Court.

iii) that in the other case, the first application for vacating the earlier



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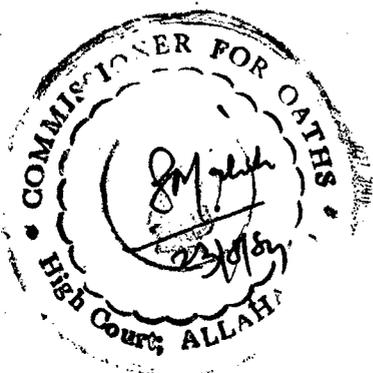
A148

stay order was rejected whereas in the present case, no Application for vacating the stay order was ever rejected.

iv) that in the other case, it was on the second application for vacating the Stay Order that the impugned order dated 27.5.83 vacating the Stay Order dated 2.5.83 was passed even without giving time to the counsel of the petitioner to file reply and giving him hearing, whereas in the present case, the order vacating the Stay Order was passed after hearing the counsels for the parties.

v) that, in the present case, the Interim Stay Order as passed by the Division Bench was to continue only till further orders to be passed by Hon'ble Single Judge, whereas, in the other case, the Stay Order as passed by the Division Bench was not time-bound. It is reproduced as under:-

"Heard Counsels for the parties.
The operation of the two impugned orders of the Vice-Chancellor dated 31.3.83 shall remain suspended".



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6. That in accordance with the orders dated 31.7.84 passed by this Hon'ble High Court, the Selection Board nominated by the Director General, R.D.S.O. evaluated the written examination papers of the 51 candidates. 3 candidates were declared successful, 2 candidates belonging to General Categories securing only pass marks and the third candidate belonging to Scheduled Caste community qualifying only on Scheduled Caste weightage considerations. The result of the Selection Board proceedings was announced on 3rd August, 1984 and the 3 successful candidates were interviewed by the Selection Board on 4th August, 1984. The selection proceedings were then put up to the Director General with the observations of the Selection Committee that considering the performance of the candidates in the written examination, it was felt that the question papers set for the above written examination were tough for the general calibre of the candidates and should have been more broad-based to enable better opportunity being available to large number of candidates and also the performance of the 3 candidates in the interview was mediocre. The Director General, therefore, cancelled the Selection proceedings with the directions that fresh selections should be held. Necessary notification in this regard is being issued and the proposed selection will now be held on 10th and 11th November, 1984.



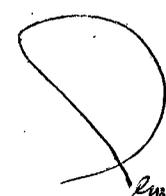
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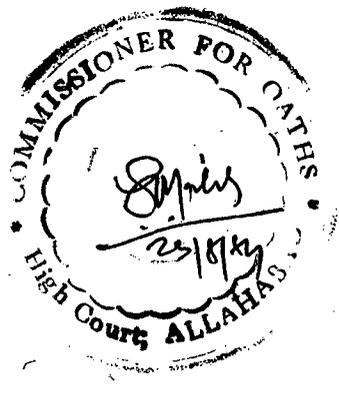
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7. That the deponent has^{been} advised to state that in view of the averments made above, the order dated 25.11.83 as passed by the Hon'ble Supreme Court of India in Special Leave Petition No.8431 of 1983 (Raj Bahadur Viswakarma Vs. Vice-Chancellor, Narendra Deo University and others) will not apply to the present case and the order dated 31.7.84, passed by the Hon'ble Single Judge in the present Writ Petition is perfectly within jurisdiction.

8. That the deponent has been advised to state that in view of the position stated above, the Application for recalling the order dated 31.7.84, passed by Hon'ble Mr. Justice R.C. Deo Sharma is liable to be summarily dismissed.

Lucknow, dated,
August 23, 1984.


Deponent.



Verification.

I, the abovenamed deponent do hereby verify that the contents of paras 1 and 2 of this affidavit are true to my own knowledge, the contents of paras 3 to 6 are true to my knowledge derived from office records and that the contents of paras 7 and 8

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are true to my knowledge based on legal advice. No part of this affidavit is false and nothing material has been concealed, so help me God.

Lucknow, dated,
August 23, 1984.

[Signature]
Deponent.

I identify the deponent who has signed before me.

[Signature]
Advocate,



Solemnly affirmed before me on 23.8.1984 at 3.00 A.M./P.M. by *Pran Nath Kapoor* the deponent who is identified by *Shri J. B. Pandey* *Adv. Dist. Court Lucknow Bench, Lucknow* Clerk to *Shri* Advocate High Court Allahabad.

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

[Signature]
S. S. Malik

Advocate Oath Commissioner
Allahabad High Court
Lucknow Bench, Lucknow.
No. 4/218/84
Date 23.8.84



In the Honble High Court of Judicature
Lucknow Bench, Lucknow

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Allahabad

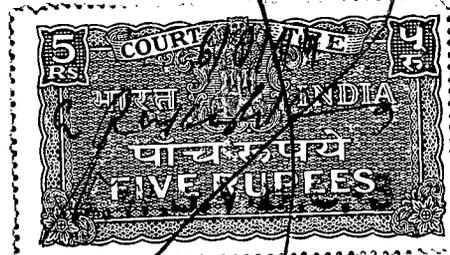
ब अदालत श्रीमान

महोदय

वादी (मुद्दे) (Petitioner)
प्रतिवादी (मुसल्लेह)

का

वकालतनामा



1358

P.K. Dhar & Co

वादी (मुद्दे)

बनाम

Union of India & Co प्रतिवादी (मुसल्लेह)

WP नं० मुकद्दमा 74) सन् १९८३ पेशी की ता० १९ ई०

उपर लिखे मुकद्दमा में अपनी ओर से

श्री

RAKESH KUMAR
ALOK KUMAR SINHA

एडवोकेट

महोदय

Advocates

289/314, Motinagar

(Near Gaudiya Path)

वकील

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीवसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लें या पंच नियुक्त करे - वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को भोजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरी वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

I.S. Kamthan
(I.S. Kamthan)

Ajaib Singh
(Ajaib Singh)

हस्ताक्षर...
T.K. Anand

साक्षी (गवाह)..... साक्षी (गवाह).....

दिनांक 6/1/83 महीना

accepted
accepted
Alak K. Sinha

B/C

नाम अदालत
नं० मुकद्दमा
नाम फरीकित



10/11/83
21/3
R153

1/12/83

In the Hon'ble High Court of
Judicature of Allahabad
(Lucknow Bench), Lucknow

Application for Amendment

C.M. Application No. 3604(w) of 1985

in

Writ Petition No. 741 of 1983

P.K.Dhar & Others Petitioners.

V/s

Union of India and others. . . . Opp: Parties.

This application on behalf of the above
named respectfully showeth:-

That due to certain ambiguities left in
the Writ Petition and subsequent to the filing
of the writ petition certain further developments
in the matter of creation/upgradation of posts
a few amendments in the writ petition have become
necessary for proper appreciation of the contention
of the petitioners. Hence it is expedient that
the following amendments may be allowed to be made
in the writ petition:-

Proposed Amendments.

- a) That paras 11, 12 and 19 of the writ petition
may be allowed to be substituted in the following
manner:-

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18/c

21-3-85

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11. That further by means of the Railway Board's letter No. PC III/79/PS Rly. Board Sectt/Part. II dated 27.7.76, 16 posts of Stenos in RDSO were directed to be upgraded to the scale of Rs. 650-1040 from scale Rs. 425-800 in group 'B' i.e. class-II Gazetted so as to provide further avenue of promotion exclusively to Stenographers working in RDSO. A true copy of the Railway Board's aforesaid letter dated 27.7.76 is annexed as Annexure-7 to the Writ Petition. Further, two more posts of Stenos in grade Rs. 425-800 were upgraded to the scale Rs. 650-1040(RS) in class-II vide Railway Board's letter No. PC III/73/PS/Rly. Bd. Sectt/ Pt. II dt. 29.9.79 and Railway Board's No. E RBI/80/44/59 dt. 20.1.81. Again 5 more posts of stenos gr. II Rs. 425-800 were upgraded to the post of SPAs in scale Rs. 650-1040 vide Railway Board's letter No. ERBI/80/44/59 dt. 18.7.84 which are placed as Annexure 18(a) and 18(b) respectively of the Writ Petition. It is relevant to state that as a result of upgradation of the said posts, they become gazetted class. II instead of class. III non-gazetted. One more post in class. II as Private Secy. to DG/RDSO in the scale Rs. 650-1200 has been sanctioned in lieu of one post of SPA in the grade Rs. 650-1040 plus Special pay of Rs. 50/- vide Railway Board's letter No. ERBI/82/41/24 dt. 15.3.83, a true copy of which is annexed as Annexure 18-C to the Writ Petition.

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12. That as stated in preceeding para there exists 24 posts in class. II in RDSO which are to be filled in exclusively from amongst Stenographers. These 24 posts include the 22 posts of Senior Personal Assistants one post of Section Officer (Stenos) and one post of PS to DG. Besides these 24 posts, two other posts of Section Officers are available on adhoc basis to the Stenographers which were earmarked to them by means of Railway Board's orders dated 4.11.63 (Annexure-6 to the Writ Petition), only with a view to provide some avenue of promotion ~~there~~ to the stenographers. Thus, there are as many as 26 class. II posts available for promotion to stenographers whereas there are 10 posts in all of Section Officers (Min) class. II available for promotion to the Assistants. Out of the 10 posts of Section Officers only 5 posts (50%) are available exclusively for the promotion of Assistants and the remaining 5 posts (50%) are filled up by Departmental Competitive Examination ⁱⁿ which Stenographers are also eligible to appear.

That from the facts indicated above it would be apparent that 24 posts in the higher grade viz. Gazetted class. II posts were sanctioned with a view to provide further avenue of promotion exclusively to stenographers working in RDSO. Yet the provisional amendment made in the Rectt. and Promotion Rules for the post of Section Officer (Min.) in favour of

J. S. Kaurhan

the Stenographers were not modified or done away with though the said amendment was brought out provisionally for the reason that stenographers in RDSO had no further avenue of promotion at that time. The fact that there were curtailment in the avenue of promotion open for the category of Assistants working in RDSO also necessitated the annulment of the amendments to the Recruitment and promotion Rules which were brought about in favour of the Stenos in the para 5,6,8 provisionally.

99. That as stated earlier, there exist 24 class-II posts in the RDSO which are exclusively to be filled up from amongst the Stenographers. These posts include the posts of 22 posts of Senior Personal Assistants, one post of Section Officer(Steno) and one post of PS to DG. Besides these 24 posts two other posts of Section Officer on ad-hoc basis are available to the Stenographers which were earmarked for them by means of Board's order dated 4.11.1963(Annexure 3 to this Writ Petition). Only with a view to provide some avenue of promotion to the Stenographers. Thus in all there are 26 class.II posts available to the Stenographers whereas there are in all only ten posts of Section Officers(Class .II) available to the Assistants. Out of these 10 posts of ~~these~~ Section Officers, 50% have be filled up by Departmental Competitive Examination in which Stenographers are also eligible to appear. The class.II posts available to the Stenographers are exclusively for them and the Assi stants are not eligible for promotion to the 26 p class.II posts for Stenographers.

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b) That the following new paras may be allowed to be made after para 26 of the Writ Petition, and para 27 may be renumbered as para 37.

27. That the Assistants have now and again represented for revision of R&P Rules for the post of SO(Min). Convinced by the unfavourable tilt in the avenue of promotion for the category of Assistants and after deliberations with the Stenographers and Assistants and the Class.III Staff Association the DG/RDSO made specific recommendation to the Railway Board vide his letter No.A/RT/80 dated 4.6.81(Annexure 16 of Writ Petition) which have been agreed to by the Railway Board vide their letter No.ERBI/79/44/67 dated 29.7.81(Annexure 16-A) but RDSO Administration not only deliberately withheld its implementation but held selection in 1980 on the obsolete R&P Rules. In the Ltd.Departmental Competitive Examination held in 1980 Assistants/Stenos (including SPAs working on adhoc basis)were made eligible to appear. The Administration also managed to hold on the basis of same obsolete R&P Rules a selection for the post of SO(Min) in Feb'83 which was however cancelled by the Administration due to irregularities and manipulations etc. involved in the marking of question papers.

28. Again DG/RDSO vide staff Notice No.E.II/SLN/O/SO(Min)/Comp/84-85 dt.25.8.84(Annexure 18-D to Writ Petition) and 21.11.84 held third selection on 11th to 13th Jan'85 on the basis of same R&P Rules which had lost its efficacy

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and the Administration itself felt that it needed amendment. Like the LDCE held in 1980 and 1983, in the Ltd. Departmental Examination in Jan'86 also, the Assistants/Stenographers (including Senior Personal Assistants in grade Rs.650-1040(RS) presently working on regular basis) were made eligible to appear in the said examination.

29. The SPA is a separate category of post in Class.II with separate cadre for which separate R&P Rules duly approved by the UPSC have been introduced w.e.f. 27.8.79 vide Railway Board's letter No.ERBI/75/44/8/Dated 27.8.79 (Annexure 18-E). The inclusion of SPAs in scale Rs.650-1040 (RS) in Class.II in the Ltd.Deptt. Comp.Examination held in the years 1980, 1983 (test since cancelled) and 1985 did not have the approval of the UPSC which is the only Competent Authority to make any relaxation in the R&P Rules. So the tests held in 1980, 1983 and 1985 were in violation of the approved R&P Rules for the post of SO(Min) to be filled through the Ltd.Deptt.Ex Comp.Examination without prior sanction of the UPSC to the amendment of the R&P Rules. Thus, the selection held in 1980,1983 and 1985 were not held as per approved R&P Rules laid down for the post of SO(Min).

30. The permanent post of Stenographers Gr.II(Rs.425-800) in class.III have been upgraded to the permanent posts of SPAs (Rs.650-1040) in class.II. The incumbents of SPA (Rs.650-1040) in class.II have been regularly promoted against the permanent upgraded posts of SPAs retrospectively w.e.f. 22.9.76(12 nos) and w.e.f. 15.12.77(1 No)

J. K. Chaudhary

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(Annexure 22 of the Writ Petition), and thus they have got no permanent posts of Stenographers Gr. II for their lien to fall back. Hence, the SPA in class. II are not eligible to appear in the selection alongwith the Assistants/Stenographers in Class. III for the post of SO(Min). The inclusion of SPAs in Ltd. Deptt. Comp. Examination for SO(Min) is an arbitrary act to give them a second avenue and channel of promotion at their own instance without the approval of the Competent Authority i.e. UPSC. Hence, the inclusion of SPAs in class. II LDCE for SO(Min) is arbitrary and in contravention of the approved R&P Rules for the post of SO(Min) which lays down that the Stenographers/Assistants with 5 years service are eligible. Therefore, the Ltd. Deptt. Comp. examination held in the years 1980, and 1985 need be quashed. (LDCE 1983 already cancelled by Administration).

31. In the selection for the post of SO(Min) in class. II held on 11th to 13th Jan'85 in response to Staff Notice No. E.II/SLN/O/SO(Min)/Comp.(84-85) dt. 25.8.84 (Annexure 18-D to Writ Petition) read with Staff Notice No. E. II/SLN/O/SP/Min/Comp.(84-85) dt. 21.11.84, the vacancies for which the selection has been held have been shown as under:-

5 vacancies (including existing and anticipated) out of these 2 vacancies are reserved for Scheduled Caste and Scheduled Tribe communities (one for each community).

One vacancy reserved for scheduled tribe community in the said selection held in Jan'85 as shown above is on a/c. of carry forward from the reservation made in the selection for SO(Min) held in the year 1980.

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In this connection, it is submitted that in terms of Railway Board's letter No. E(SCT)73GM/15/13 dt.17.8.74(Annexure 18-F to Writ Petition) in the case of Class.I and II posts filled by selection, the quota that remained unfilled in a selection/year itself will lapse as in this case there is no provision for carry forward.

Thus the calculation of vacancies shown as reserved for Scheduled-Tribe Community for which selection has been held in Jan'85 is erroneous.

Hence, the selection held in Jan'85 be declared null and void.

32. The Recruitment and Promotion Rules for the post of SO(Min) in class.II in RDSO as approved by the UPSC and intimated by the Railway Board vide their letter No. E 61/RB3/RB1/ dt.4.11.83(Annexure 3 to this Writ Petition) and No.ERBI/68/RB3/27 dt.4.10.68 (Annexure 18-G) provide that 50% of posts should be filled by promotion through Departmental test from amongst Assistants/Stenographers with 5 years service in the grade and 50% of posts on the basis of seniority cum-fitness from amongst Assistants with 8 years service in the grade. According to Rule 6 of the Railway Board's letter dt.4.10.68(Annexure 18-C₂ to Writ Petition),quoted above, the power to make any relaxation in the approved Rules is vested with the Union Public Service Commission.

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The selection for the post of SO(Min) class.II in RDSO held in January, 1985 as per Staff Notice No. D. II/SLN/O/SO(Min)/Comp./84-85 dt. 25.8.84 was arranged to fill in 5 (five) vacancies (including 2 vacancies reserved for Scheduled Castes and Scheduled Tribe communities (one for each Community)). In terms of extant Rules for the said selection, the field of consideration of ~~eligible~~ eligible employees for departmental selection is to be limited to 3 times of the number of vacancies. Accordingly to fill 5 vacancies the zone of consideration should be limited to 15 eligible candidates in the order of combined seniority of Assistants and Stenographers (relative inter-seniority to be maintained) who had given their willingness.

In the said selection for the post of SO(Min) class.II held in Jan'85 as many as 98 candidates (34 Assistants and 64 Stenographers including SPAs) who gave their willingness have been allowed to appear whereas according to zone of consideration, only fifteen (15) employees in the order of combined seniority of candidates of Assistants/Stenographers should have been made eligible to appear. Therefore, the selection for the post of SO(Min) in class.II held in Jan'85 is erroneous and need be declared null and void. In case the said selection for the post of SO(Min) class.II in Jan'85 was held on the basis of mode or method of

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selection/test/recruitment otherwise than laid down in the approved R&P Rules for the post of SO(Min) vide Railway Board's letter dt.4.10.68 quoted above, it is without the approval of the competent authority i.e. UPSC. The Staff Notice dated 25.8.84,27.10.84 and 21.11.84 issued in connection with the holding of the said selection indicate that DG/RDSO at its own interpreted the 'Departmental Test' as provided in the approved Rules to a "Limited Departmental Competitive Examination". This interpretation of the approved R&P Rules for the post of SO/Min. class.II does not carry the consent and approval of the competent Authority i.e. UPS C. Hence the said selection held in January 1985 for the post of SO(Min) in class.II was illegal and need be quashed.

33. In this connection, a perusal of Research Designs and Standards Organisation(Group-B Technical Posts)-Recruitment Rules 1983 regulating the method of recruitment in the group B in the Mechanical,Civil, Electrical and Signal & Telecommunication Engineering Departments as approved by the UPSC and forwarded under Railway Board's letter No.ERBI/72/44/24 dt.16.6.83 (Annexure 18 H to Writ Petition) would indicate that there exist a provision that 25% of the vacancies in the aforesaid various Engineering disciplines shall be filled through a Limited Departmental Competitive Examination. In these rules, a specific reference has been made that the vacancies shall be filled through Ltd.Deptt.Comp.Examination whereas in the case of R&P Rules approved by the UPSC for the

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post of SO(Min) there is no mention of the Ltd. Deptt. Comp. Examination, but it specifies that 50% of the vacancies should be filled by departmental test. There can not be two meanings of 'departmental test' or LDCE each in the same Organisation. Departmental test or LDCE are two different media of selection differentiated by the word 'competition' and by Zone of consideration (field of consideration) etc. Therefore, the interpretation of the words "Departmental test" to read as 'Ltd. Deptt. Comp. Exam' by DG/RDSO and to hold the test on that basis (i.e. LDCE) is misconceived and erroneous. Where the intention of the UPSC is to fill the vacancies through the Deptt. Comp. Exam, a specific reference has been made as indicated above in the R&P Rules for class.II Technical posts of RDSO.

Another example of specific mention of LDCE is that vide Rule 2 (1) (c) of the Schedule containing 'Regulation for the constitution and Maintenance of the Select list for the Section Officers and Assistants grade.I of the Railway Board Secretariat Service Rules, 1966, (Extract annexed as Annexure 18-J) A-Section Officers Grade- a specific reference has been made that the select list will be maintained from the persons selected on the results of the Limited Departmental Competitive Examination held by the Commission from time to time in order of their merit. It further ^{provides} ~~provide~~ that the rules for Competitive Examination referred to in clause(1) above shall be as determined by regulations made by the

J. K. Chatterjee

Central Govt. in the Ministry of Rlys. in consultation with the UPSC. It is, therefore, clear from the submission made above that where the LDCE is prescribed a specific reference has been made, regulations framed in consultation with the UPSC, which is the only Competent Authority, where as ⁱⁿ the R&P Rules for the post of SO(Min) in RDSO there is no mention of LDCE, no regulations framed in that respect in the consultation with the UPSC. The interpretation of 'Departmental test' in the R&P Rules for the post of SO(Min) in RDSO is the figment of ~~impr~~ imagination by DG/RDSO without the approval of the UPSC. Hence the tests held for the post of SO(Min) in 1980 and 1985 on the wrong interpretation of departmental test to read as LDCE are illegal and ultravires of the Statutory provisions in the R&P Rules and therefore, be declared Null and Void.

34. It is submitted that for making Ltd. Deptt. Comp. Examination applicable to the R&P Rules for the post of SO(Min) in class.II in RDSO with the approval of the UPS C it has to be examined whether the following pre-requisites as per extant Rules and instructions on the subject: which are essential for the scheme of LDCE can be made applicable. The reasons for its non-applicability are given in juxtaposition:-

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(1) The Scheme of LDCE apply only to vacancies for which normal selections are being processed or which may be conducted hereafter.

In the R&P Rules for the post of SO(Min) there is only one Selection i.e. 50% of vacancies are to be filled by departmental test; the remaining 50% vacancies are to be filled by promotion on the basis of seniority cum-fitness only, which is not a selection whereas the examination to fill in 75% vacancies & 25% vacancies herein referred to are both selection. In the former (i.e. rules for SO(Min)) the method of filling 50% vacancies by seniority cum-fitness is not a selection.

(ii) The LDCE(25%) should be held in the same year as ~~such~~ in which the normal selection is held for filling up 75% vacancies in group 'B'.

This cannot be made applicable to the R&P Rules for the post of SO(Min) as 50% of vacancies are filled by seniority-cum-fitness and there are ~~said~~ seldom chances of more than one vacancy in a year. Rather, there is not a single vacancy for a long chain of many years.

5) In the matter of seniority the number of vacancies to be filled at any one time through the mode of selection(75%) and competition 25%. The employees selected through the LDCE will rank junior to those empanelled through the media of selection(75%).

It is not so in the case of fixation of seniority of those promoted to the post of SO(Min) Group 'B' on the basis of seniority cum-fitness(50%) and departmental selection(50%). In that case the seniority is assigned in the ratio of 1:1. So, this criteria cannot be made applicable to the post of SO(Min).

4. The vacancies(75%) and (25%) are assessed at one time.

The vacancies through the media of seniority cum-fitness(50%) and 50% deptt. test are not assessed at one time. The vacancies in the case of SO(Min) are assessed as and when it occurs.

S. K. Anandan

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Thus, it is not feasible to make the essential requirements of LDCE applicable to the R&P Rules for the post of SO(Min). Hence the interpretation of DG/RDSO that 'Departmental test' is LDCE is misconception and the tests held in the years 1980 and 1985 be annuled.

35. On the results of Ltd. Deptt. Comp. Exam. held in Dec'80 for the post of SO(Min), the following employees were empanelled:-

- 1. Shri P.N.Kapoor
- 2. Shri Shyam Bhatia
- 3. Shri T.M.Murall
- 4. Shri N.N.Sehgal.

There were manourings, scriblings, erasing and manipulations in the above LDCE 1980, which led to the total revision of the result of selection and made the selection a farce. It is understood that an enquiry has been conducted in respect of the proceedings of the above selection by the Vigilance Branch of the Railway Board(Ministry of Railways), New Delhi. It is also learnt that the original result sheet of the examination held in 1980 has not been made available for inspection to Vigilance Branch of the Railway Board which act speaks of the ~~ka~~ malafide and manipulations in the said test. It is understood that the inquiry report of the Vigilance Branch is being hushed up or set aside because higher ups are involved. As the proceedings are confidential in nature, the petitioners have no records in this respect. The Hon'ble Court would

J. Cantan

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be gracious enough to ~~ex~~ call for the proceedings for perusal and in case some malafide is established, the above said selection held in 1980 need be quashed. It is significant to point out that DG, RDS O has cancelled the LDCE for the post of SO(Min) held in 1983 on similar grounds of irregularities involved in the proceedings of the test though on paper some other reasons have been recorded but it would be clear if the answer books of the candidates are perused.

36. It is submitted that the Hon'ble Court vide interim orders dated 21.4.1981 in the Writ Petition No. 2516 of 1980 ordered that the Respondents may fill the vacancies but the appointees may be informed that their appointments will be subject to the decision on the Writ Petition. As the promotions of S/Shri P N Kapoor, Shyam Bhatia, T.M. Murali and N.N. Sehgal as Section Officers (Ministerial) on the results of examination held in December, 1980 and subsequently those of S/Shri Kapoor and Shyam Bhatia to the two higher posts of Secretary to DG and Dy. Directors/Establishment even though they do not fulfill the conditions laid down in the approved R&P Rules for the said 2 posts, are subject to the decision of the Court on the said Writ Petition, they have not been impleaded.

J. G. Kaurhan

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c) That in the column 'grounds' of the writ petition, the ground nos (iii), (iv) and (vii) may be allowed to be substituted in the following manner:-

iii) Because in all 26 class. II posts have been made available exclusively to the Stenographers for promotion whereas there are only 10 posts of Section Officers(Min) for the Assistants out of which also only 50% are to be filled through Ltd. Departmental Comp. Examination in which Stenographers also have their share being eligible to appear at the said examination, leaving only 5 posts of class. II S O(Min) exclusively for Assistants. Thus, the chances of promotion of Assistants have been reduced to the extent that they would seldom get any promotion to the post of Section Officer(Min).

iv) Because under the approved Rectt. and Promotion Rules only Assistants and Stenographers are eligible to undertake the examination, but the Staff Notice dated 25.8.84 (Annexure 18-D) makes Senior Personal Assistants also eligible to take up the examination. This being without the approval of the Competent Authority i.e. UPSC, is wholly in violation of the approved Recruitment and Promotion Rules.

J. S. Kaurhan

B31A

vii) Because the reserved 2 posts of SO(Min) for Stenographers on adhoc basis had already been restored to the Assistants in the Railway Board's Office according to the sub para (3) of Rule 9 of Railway Board ^{Staff Service Rules} 1969 (Annexure 18-K to Writ Petition) when the Railway Board Sectt. Stenographers Service Rules 1971 came into force. In RDSO similar action to restore 2 posts of SO(Min) to the Assistants of RDSO was called for with the introduction of posts of SPAs in class.II in RDSO. In view of the latest developments by way of more avenue of promotion exclusively for Stenographers as compared to the Assistants, there is no justification to continue the reservation of 2 posts of Section Officers(Min) reserved for Stenographers, in 1963 on adhoc basis to open some avenue of promotion for them.

d) That after 'ground' no(ix) the following new grounds may be allowed to be made as grounds no (x) to (xiii)

x) Because vacancies notified in the Staff Notice dated 25.8.84 have been wrongly calculated for Selection held in 1985.

xi) Because the whole affair in the guise of 'Ltd. Deptt. Comp. Exam' instead of 'Departmental Test' for the post of SO(Min) as laid down in the R&P Rules was arroneous and misconception.

J. S. Chaudhary

xii) Because the selection held in 1985 was full of irregularities and manipulations in as much as that its eligibility was wrong, calculation of vacancy was wrong, method of selection was wrong, Therefore, it be declared null and void in the same manner as the RDSO Administration declared the selection held in 1983 as cancelled on the grounds of irregularities in its proceedings.

xiii) Because the principles of Natural Justice have been sacrificed with ulterior motives.

e) That in the column 'Prayer' the following new ~~xxx~~ prayers may be allowed to be made after prayer no(b) and the prayer nos(c) and(d) may be renumbered as prayers no(h) and (i)

c) to issue an order for cancellation of the Ltd. Deptt. Comp. Exams. held in the year 1980 and 1985 on account of inclusion of the category of SPA in class. II in scale Rs.650-1040(RS) in the said examinations for the posts of SO(Min) without the prior approval of the Competent Authority i.e. UPSC, which is the only Competent Authority to make any relaxation in the R&P Rules. Thus the examinations held in 1980 and 1985 were illegal and summarily in contravention of the approved R&P Rules for the said post of SO(Min).

d) to issue an order for cancellation of the Ltd. Deptt. Comp. Exam. held in the year 1980 on account of alleged irregularities involved into it after perusal of the enquiry report of the Vigilance Branch of the Railway Board.

J. S. Kantam

17/7/85

e) to issue an order for cancellation of Ltd. Departmental Comp. Exam. held in the year 1985 on account of holding " Ltd. Deptt. Comp. Exam" instead of "Departmental Test" as laid down in the UPSC approved R&P Rules for the posts of SO(Min) class.II.

f) to issue an order for cancellation of Ltd. Deptt. Comp. Examination held in the year 1986 on account of wrong calculation of vacancies as mentioned in para 31.

g) to issue an order or direction to DG/RDSO to refrain to hold any selection for the post of SO(Min) in class.II till the matter for revision of the R&P Rules for the post of SO(Min) is pending and to fill the vacancies of SO(Min) by promoting the Assistants on Seniority-cum-Suitability basis as a temp. arrangement as per procedure in the Board's office vide Rule 3(2) of the Railway Board Sectt. Steno's service Rules 1969 (Annexure 18-K) to the Writ Petition) and in terms of Railway Board's letter No. E(RB)I/79/44/67 dt. 3.6.81 (Annexure 18-L to the Writ Petition) which lays down that pending court case the vacancies of SO(Min) are to be filled from amongst Assistants on the basis of seniority-cum-fitness.

2. Therefore it is most respectfully prayed that the above amendments may be allowed to be incorporated in writ petition itself and ~~the~~ such other orders may also be passed as this Hon'ble Court may think fit and proper in the circumstances of the case.

JS Chauhan

R. K. Khare
(R. K. KHARE)
Advocate

Dated: 19.3.85
Lucknow-226011.

Counsel for the Petitioners



1985
AFFIDAVIT
87/137
HIGH COURT
ALLAHABAD

20 A/71

In the Hon'ble High Court of Judicature
of Allahabad (Lucknow Bench) Lucknow

Affidavit

in

Application for Amendment

in the Writ Petition No. 741 of 1983.

P.K.Dhar & others Petitioners.

Versus

Union of India and others. Opp: Parties.

I, I.S.Kamthan aged 50 years son of Shri S .C.Verma
Assistant RDSO Manak Nagar, Lucknow as one named
petitioners do hereby solemnly affirm as under:-

1) That subsequent to the filing of the writ petition
certain further developments have taken place in the
matter of creation/upgradation of posts which are
vital and have important bearing on the said writ
petition.

2) That inspite of all reasonable attention certain
ambiguities and errors have been left unrectified in
the writ petition at the time of filing the writ petition.

3) That in order to remove said ambiguities and errors
and to put forth the additional developments having
such bearing and for the proper appreciation of the
contentions of the petitioners it has become necessary
to allow the amendments as prayed for in the accompanying
application of the case writ petition.

Spal
19/3

I.S.Kamthan
Deponent

Dated: 19 . 3. 1985

Lucknow.

I the deponent named as one do hereby verify the contents
of para (a) to (e) of this affidavit are true to my own

2/ A/72

knowledge. No point of it is false and nothing material has been concealed. So help me 'GOD'.

G. S. Kamthan
Deponent

I identify the deponent who has signed in my presence.

A. G. S. Khare

Clerk to Shri P.K. Khare, Advocate.

Solemnly affirmed before

me on 19.9.85

at 8.40 A.M.

~~AM/PK~~ by Sri G.S. Kamthan

the deponent who is

identified by Shri A. S. Khare

clerk to shri P.K. Khare

Advocate High Court,

Allahabad. I have satisfied

my self by examining the

deponent that he understands

the contents of the affidavit

which has been read and

explained by me.



G. S. Rawat
1985

G. S. RAWAT	
OATH COMMISSIONER	
High Court, Allahabad;	
Lucknow Bench.	
No.	137/83
Date.....	19.9.85

In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench, Lucknow
Writ Petition No. 741 of 1983
P.K. Dhar & othersPetitioners

V/s.

Union of India & otherOpp:parties

Annexure No. 18-A

The Director General Ministry of Railways-Railway Board
RDSO/Lucknow. New Delhi.

No.ERBI/80/44/59

Dated: 20.1.81

Sub:Provision of Addl.Posts of Sr.Personnel Asstt.
for Directors/Addl.Directors in RDSO.

Ref:Your letter No.A/ES/CTP/Stenes dt.19.7.80.

...

In continuation of this office letter No.PC-III/73/PS-Rly.Bd.Sectt/Pt.II dt.29.9.79 the sanction of the ministry of railways is hereby communicated to the upgradation of one post of Stenographers Gr.II in the grade of Rs.425-800(RS) to Sr.Personal Asstt. in the grade of Rs.650-1040(RS) with effect from the date the posts is filled-up.

2. The proposal of upgradation of posts of other 3 posts of Stenographers to Sr.PA is under consideration separately.
3. This issues with the concurrence of the Finance Dte of the Ministry of Railways.

Sd/-
(S.K. Ahuja)
Secy. (E)-I Railway Board.

Copy to: JDR/RDSO/LKO.

- 2.The Directorate of Audit & Railway,New Delhi.
- 3.F(E)-I Branch,Railway Board, New Delhi.



S.K. Ahuja

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow

Writ Petition No. 741 of 1983

P.K. Dhar & othersPetitioners

V/s.

Union of India & otherOpp:parties

Annexure No. 18-B

GOVERNMENT OF INDIA MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No.ERBI/80/44/59.

New Delhi, dt.18.7.1984.

The Director General,
R.D.S.O.,
Lucknow.

Sub:Upgradation of 5 posts of stenographers in
scale Rs.425-800 as Sr.personal Assistants. in
scale Rs.650-1040 (RS).

Ref:(1) Sr.Dy.DG's D.O. letter No.DG/CRP-77/G dated
29.2.84 addressed to Member Engineering,
Railway Board.

...

Sanction of the Ministry of Railways is hereby
communicated to the upgradation of Five posts of Stenographers
Grade 'C' in scale Rs.425-800 to Senior Personal Assistants in
scale Rs.650-1040 (RS) (Class-II) from the date of issue of
this letter or the date from which the incumbents take over
charge of the upgraded posts, which ever is later.

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



Sd/-
(A.K.Basu)
Dy.Secretary(W)/Railway Board.

J. S. Kaur

25/11/76

In the High Court of Judicature at Allahabad
Civil Petition No. 731 of 1983

P. S. Sanyal & Co. v. Union of India & others - Petitioners
Vs
Union of India & other - Opp. Parties

Annexure No. 1, 2, 3, 4

Government of India
Ministry of Railways
Research Designs and Standards Organisation

STAFF NOTICE

Sub: Limited Departmental Competitive Examination in connection with the formation of a panel to fill the vacancies in the cadre of Section Officers/Ministerial(Class II, Group 'B') in RDSO.

Ref: This office Staff Notice No. EII/SLM/O/SO(Min)/Comp(82-83) dated 5.11.1982.

It is notified for the information of all the candidates who had appeared in the Limited Departmental Competitive Examination held on 12th & 13th February, 83 that the Director General has cancelled the selection and ordered fresh selections.

2. It is further notified that the Limited Departmental Competitive Examination for selection of Section Officers/Ministerial(Class II, Group 'B') will now be held on 10th and 11th November, 1984, as per the existing RDP Rules.

3. **Vacancies:** 5 vacancies (including existing & anticipated), out of these, 2 vacancies are reserved for Scheduled Caste and Scheduled Tribe communities (one for each community).

4. **Eligibility:** Assistants/Stenographers of RDSO in scale Rs. 425-800 (RS)/Rs. 650-960 (RS), including Senior Personal Assistants in grade Rs. 650-1040 (RS) presently working on regular basis and who have completed 5 years' service in this Organisation as on 25.8.1984 in the grades of Assistants/Stenographers, will be eligible to sit for in the aforesaid Limited Departmental Competitive Examination.

5. The subjects for the aforesaid Limited Departmental Competitive Examination, the maximum marks allotted for each paper and the scheme of the Examination are indicated below:

Paper No.	Subject	Time allowed	Max. marks	Date of Examination and timings.
I-	Noting, drafting & precis writing.	2½ hrs	100	10.11.84 from 10.00 hrs onward.
II-(a)	Procedure & practice obtaining in the Min. of Rlys.	2½ hrs	100	10.11.84 from 14.30 hrs. onward.

(b) General knowledge of the Constitution of India and the practice and procedures in Parliament.

....2/-

[Handwritten Signature]



In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow

Writ Petition No. 741 of 1983

P.K. Dhar & othersPetitioners

V/S.

Union of India & otherOpp:parties

Annexure No. 18-C

Ministry of Railways
(Railway Board)

No.ERBI/82/41/24

New Delhi

Dated: 15.3.83.

The Director General,
RDSO,
Lucknow.

Sub:Upgradation of the existing post of
Sr.PA(Scale Rs.650-1040 plus Spl.Pay of Rs.50/-p.m.)
attached to the DG/RDSO to that of Private Secy.
to DG scale Rs.775-1200(RS).

Ref:Your letter No.EI/S/ORG/1(Steno)dt.12.4.82.

...

Sanction of the Ministry of Railways is hereby
communicated to the creation of a post of private secy to DG
RDSO in scale Rs.775-1200(RS) for a period of one year.
Simultaneously, one permanent post of Sr.PA in scale
Rs.650-1040 with special pay Rs.50/- per month and one permanent
post of Stenographer Gr.III in scale 330-560(RS) should be
held in abeyance during the period the post of PS/DG, RDSO
is in operation.

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



Sd/-
(V.K.Rao)
Under Secy.(E)-I Railway Board.

J. Shankar

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Note: Some guidance on these subjects can be had from-

- i) Manual of Office Procedure issued by the Min. of Railways;
- ii) Main provisions of the Constitution of India; &
- iii) Rules of procedure & Conduct of Business in the Lok Sabha & Rajya Sabha).

Paper No.	Subject	Time allowed	Marks	Date of Examination and timings.
III-	General Rules & Railway Act.	2½ hrs	100	11.11.84 from 10.00 hrs onward.

Note: Knowledge of the following would be expected:

- i) Indian Railway General Codes Vol. I and II;
- ii) Railway Board Act, and
- iii) The Indian Railways Act.

Total: 300

Interview The candidates will be interviewed by the Selection Board and their CRs evaluated. ... 100 Marks

Note The venue of the Limited Departmental Competitive Examination shall be Central School, Manik Nagar, Lucknow.

6. Candidates will be placed on the panel in the order of merit, as reflected by the result of this Limited Departmental Competitive Examination. However, the appointments of selected candidates will be ordered subject to the final decision on the Writ Petition No. 2516 of 1980 and No. 741 of 1983 pending in the Allahabad High Court of Judicature, Lucknow Bench, Lucknow.

7. Eligible candidates, who wish to compete in the Limited Departmental Competitive Examination should submit their applications to Dy. Director/Estt-II, RDSO/Lucknow on or before 24.9.84 in the enclosed proforma and obtain a receipt in token thereof. Any application received after 24.9.84 will not be considered & no acknowledgements will be issued after 15.00 hrs on 24.9.84.

It is, therefore, in the interest of all eligible candidates to submit their applications in the prescribed proforma well in time.

File No. EII/SIN/O/SO(Min)/Comp(84-85)

Lucknow-225011

Dated: 25.8.1984

(P.N. [Signature])
for Director General



Distribution

DD(EII), DD(EI) DD(A) DCOS JD(P) SO(Recd) SO(EI) SO(EIII)
 SO(EIV) SO(Steno-Fass) SO(HCW) SO(HL) SO(Res) SO(MC) SO(ED)
 SO(Civil) SO(Conf) SO(SM) AAO AEE/Elec-D3 Asstt/Arch Dto
 Asstt/Exec Dto TEN Asstt/TI Dto Asstt/Traffic Res Dto
 Asstt/... Dto Analyst-2 copies SO(Hindi) EII/5 EII/7

...3/-

[Handwritten Signature]

A 178
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In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench-Lucknow

Writ Petition No. 741 of 1983

P.K.Dhar & others Petitioners.

Versus

Union of India & others Opp: Parties.

Annexure No. 18-E

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

No. E(RB)I-75/44/8.

New Delhi, dated 27-8-1979.

NOTIFICATION

In exercise of the powers conferred by the provision to article 309 of the Constitution, the President hereby makes the following rules regulating the method of recruitment to the posts of Senior Personal Assistants in the Research Designs and Standards Organisation, Lucknow of the Ministry of Railways, namely:-

1. Short title and commencement : (1) These rules may be called the Research Designs and Standards Organisation (Group 'B' non-technical posts), Recruitment Rules, 1979.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. Number of posts, classification and scale of pay:
The number of the said posts, their classification and the scales of pay attached thereto, shall be as specified in columns 2 to 4 of the Schedule annexed thereto.



J. K. Singh

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3. Method of recruitment, age limit, qualification etc:

The method of recruitment, age limit, qualifications and other matters relating to the said posts shall be as specified in columns 5 to 13 of the Schedule aforesaid.

4. Disqualification: No person,

(a) who has entered into or contracted a marriage with a person having a spouse living, or

(b) who, having a spouse living, has entered into or contracted a marriage with any person, shall be eligible for appointment to any of the said posts:

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.



Power to relax: Where the Central Government is of opinion that it is necessary or expedient so to do it may, by order, for reasons to be recorded in writing, and in consultation with the Union Public Service Commission, relax any of the provisions of these rules with respect to any class or category of persons.

6. Saving: Nothing in these rules shall affect reservations and other concessions required to be provided for the candidates belonging to the Scheduled Castes, the Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

J. S. Khan

THE SCHEDULE

Name of post.	No. of posts.	Classification	Scale of pay.	Whether Selection post or non-selection post.	Whether direct recruits.	Educational and other qualifications required for direct recruits.	Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees.	Period of probation if any.	Method of recruitment whether by direct re-ctt. or by promotion or by deputation/transfer & percentage of the vacancies to be filled by various methods.	In case of re-ctt. by promotion/ deputation/ transfer, grades from which promotion/ deputation/ transfer to be made.	If a DPC exists, what is its composition.	Circumstances in which UPSC is to be consulted in making recruitments.
Senior Personal Assistant	1	Group 'A' Railway Service.	Rs. 650-50-740-35-830-ED-940-1040.	(i) Non-Selection on the basis of seniority cum-fitness.	Not applicable.	Not applicable.	Not applicable.	2 years.	By promotion	(i) 50% on the basis of seniority cum-fitness from amongst Stenographers Grade 'C' with 8 years approved service in the grade. (ii) 50% from amongst Stenographers Grade 'C' with 5 years approved service in the grade on the basis of Limited Departmental Competitive Examination held by the Director General, Research Designs and Standards Organisation.	Group 'B' DPC (i) Deputy Director General, R.D.S.O. (ii) Two Directors, R.D.S.O. Members	The Union Public Service Commission shall be consulted while amending/relaxing any of the provision of these rules.



Signature

P.N. Mohile
Secretary, Railway Board
and ex-officio Joint Secretary to the Government of India.

(For insertion in Part-II, Section 3, Sub-Section (i) of the Gazette of India)

Signature
(D.D. Dharwad)

Under Secretary (B) I, Railway Board.

The Manager,
Government of India Press,
Mayapuri Industrial Area, Ring Road,
New Delhi.

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In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench-Lucknow
Writ Petition No.741 of 1983

P.K.Dhar & othersPetitioners.
Versus

Union of India & othersOpp:Parties.

Annexure No. 18-F

Railway Board's letter No.E(SCT)73 CM15/13 dated 17th
August 1974.

Sub: Reservation for Scheduled Castes and Scheduled Tribes in
posts filled by promotion-Promotions by selection from
Class III to Class II and from Class II to the lowest
rung of Class.I.

Reference Board's letter No.E(SCT)68CM15/10 dated 27th
August 1968.

2. In supersession of para B(1) of the above quoted
letter the Board after careful consideration have now decided
that 15 per cent and 7-1/2 per cent of the vacancies
should be reserved in favour of Scheduled Castes and
Scheduled Tribes respectively in promotions made on
the basis of selection from Class III to Class II
and from Class II to the lowest rung of Class I services
where the element of direct recruitment, if any, does not
exceed 50 per cent.

3. In such promotions, following instructions will apply:-

(i) Selection against vacancies reserved for Scheduled
Castes and Scheduled Tribes will be made only from
amongst those Scheduled Tribes Caste/Scheduled Tribe
Officers who are within the normal zone of consideration,
viz., (a) in the case of Class I Junior Scale the zone of
consideration will be prescribed number of officers
confined to Class II only and (b) in the case of Class II
service, the zone of consideration will be as defined in
Railway Board's letter No.E(GP)64/2/62 dated 20th June 1966,
as amended from time to time, read with letter No.E(GP)68/2/39
dated 12th March 1969.



J. S. Kantham

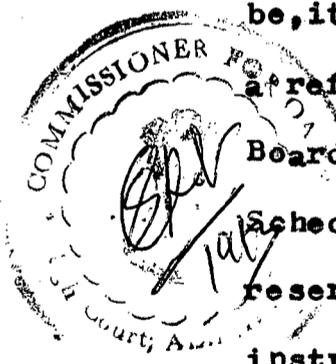
A/102
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-2-

(ii) The Select list should be prepared in which the names of all the selected offices, general as well as those belonging to Scheduled Castes and Scheduled Tribes should be arranged in the order of merit and seniority in accordance with the general principles of promotion to selection posts i.e., by placing the names in the three categories viz., 'Outstanding', 'very good' and 'good' in that order without disturbing the seniority interest within each category. This Select list should thereafter be followed for making promotions in the vacancies as and when they arise during the year.

(iii) For determining the vacancies to be reserved for Scheduled Castes and Scheduled Tribes in the panel, a separate roster on the lines of the roster prescribed in Annexure I to Railway Board's letter No.E(SCT)70CM15/10 dated 29th April 1970 (in which points 1,8,14,22,28 and 36 are reserved for Scheduled Castes and points 4,17 and 31 for Scheduled Tribes) should be followed.

(iv) If owing to non-availability of suitable candidates belonging to Scheduled Castes/Scheduled Tribes, as the case may be, it becomes necessary to de-reserve a reserved vacancy, a reference for de-reservation should be made to the Railway Board indicating whether the claims of Scheduled Caste/Scheduled Tribe candidates eligible for promotion against reserved vacancies have been considered as per general instructions. It should be borne in mind that no post in Class II or Class I (lowest rung) is to be de-reserved and filled by a general candidate before specific approval of the Railway Board has been obtained.



J. S. Chatterjee

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(v) In the event of an adequate number of Scheduled Castes/Scheduled Tribe candidates not being available in any particular year, there will be no carry forward of reserved vacancies in these cases.

(vi) While vacancies reserved for Scheduled Castes and Scheduled Tribes will continue to be reserved for the respective community only, a Scheduled Caste Officer may also be considered for appointment against a vacancy reserved for Scheduled Tribes, or vice versa in the same year itself in which the reservation is made, where a vacancy reserved for a particular community could not be filled by a candidate from that community.

(vvi) Where promotions in the above manner are first made on a long term officiating basis, confirmation should be made according to the general rule viz., that an officer who has secured earlier officiating promotion on the basis of his place in the select list should also be confirmed earlier and thus enabled to retain the advantage gained by him, provided that he maintains an appropriate standard. In such cases the principle of reservations would not apply again at the time of confirm action of promotee.



4. The above instructions take effect from 20th ~~July~~ July 1974. For calculating the number of vacancies available for reservations, all vacancies against which regular arrangements by promoting regularly selected persons have not been made till 19th July 1974 shall be taken into account, except where a panel has already been prepared by the Departmental Promotion Committee and approved by the appropriate authority.

J. K. Kanthar — X —

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In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench, Lucknow.

Writ Petition No. 711 of 1968

P. K. Dhar & others. Petitioners.

Versus

Union of India & others. Opp. Parties

Annexure no. [8-5]

Government of India
Ministry of Railways
(Railway Board)

No.E(RB)I/68/RB3/27

New Delhi, dt. 4.10.68

Notification

In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules regulating the method of recruitment to the gazetted (Ministerial) posts in the Research, Designs and Standards Organisation of the Ministry of Railways, namely:-

1. Short title and commencement:

- i) These rules may be called the Research, Designs and Standards Organisation (Gazetted Ministerial posts) Recruitment Rules, 1968.
- ii) They shall come into force on the date of their publication in the Official Gazette.

2. Application:

These rules shall apply to the posts specified in column 1 of the Schedule annexed hereto.

3. Number of posts, Classification and Scale of pay:

The number of posts, their classification and the scales of pay attached thereto shall be as specified in columns 2 to 4 of the said Schedule.

4. Method of recruitment, age limit, qualifications etc:

The method of recruitment to the said posts, age limit, qualifications and other matters connected therewith shall be as specified in columns 5 to 13 of the Schedule aforesaid.

5. Disqualifications:

- i) No person, who has more than one wife living or who, having a spouse living, marries in any case in which such marriage is void by reason of its taking place during the life-time of such spouse, shall be eligible for appointment to the said posts; and
- ii) No woman, whose marriage is void by reason of the husband having a wife living at the time of such marriage, or who has married a person who has a wife living at the time of such marriage, shall be eligible for appointment to any of the said posts.

Provided that the Central Government may, if satisfied that there are special grounds for so ordering, exempt any person from the operation of this rule.

of

...2/-

MISSION
1968

[Handwritten signature]

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6. Power to relax:

Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing and in consultation with the Union Public Service Commission, relax any of the provisions of these rules with respect to any class or category of persons or posts.

The Schedule

**

C.S. Parameswaran
Secretary, Railway Board.

**
(Here enter
the
schedule)

(For insertion in Part II, Section 3, Sub Section (1), of the Gazette of India).

P. Lal

(P. Lal)

Deputy Secretary, Railway Board.

The Manager,
Govt. of India Press,
New Delhi.

No.E(RB)I/68/RB3/27 New Delhi, dt. 4.10.68

Copy forwarded for information to:

1. The General Managers, All Indian Railways including CLW, DLW and ICF.
2. The Director General, R.D.S.O. Lucknow (with 3 spares).
3. The Principal, Indian Railway School of Permanent Way Engineering, Poona.
4. The Principal, Railway Staff College, Baroda.
5. The Principal, Institute of Railway Signal Engg. & Telecommunications, Secunderabad.

P. Lal

(P. Lal)

Deputy Secretary, Railway Board.

da. spares

No.E(RB)I/68/RB3/27 New Delhi, dt. 4.10.68

Copy forwarded with 8 spares to the Secretary, Union Public Service Commission, Dholpur House, New Delhi with reference to his letter No.F.3/19(9)/68-RR dated 7.8.68.

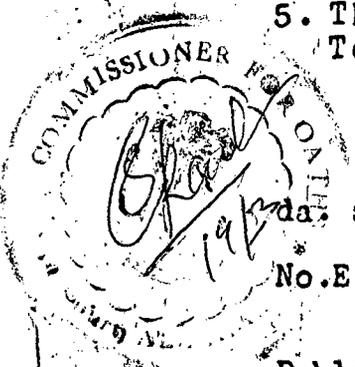
P. Lal

(P. Lal)

Deputy Secretary, Railway Board.

da. as above.

Copy to:
E(GP)I, E(O)I, E(O)II, E(O)III, E(RB)I and P.C
Branches of Railway Board.



J. S. Kumar

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Subject - Railway Board's letter No. R.M.B./G/HR/27 d:4.10.1963



Name of post.	Scale of posts. pay	Whether selection of non-selection post.	Method of recruitment, whether by direct recruitment or by promotion or by demerit transfer and percentage.	Increase of merit, by promotion/transfer/grades from which promotion/demerit transfer to be made.
1	2	3	4	5
				10
				11

1. Dy. Dir/Estt.

2. Asstt. Director Admn & Trg.

3. Secy. to D O.

4. Section Officer 10 R. 350-900 50% Selection 50% seniority-sen-fitness.

By promotion 87% through deptt. test @ 50% on the basis of seniority-sen-fitness.

Assistant/Senior Grade with 5 years service in the grade. @ Assistant with 2 years service in the grade.

Note: Two posts of Section Officers are reserved for promotion by selection on adhoc basis from among the permanent stenographers in ADSO with atleast 10 years of service in the grade in that office.

J. K. Khandan

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow

Writ Petition No. 741 of 1983

P.K. Dhar & othersPetitioners

V/S.

Union of India & otherOpp:parties

Annexure No. 18-H

EXTRACT TAKEN FROM RAILWAY BOARD'S NOTIFICATION NO.
77/44/24 DATED 16.06.83. ISSUED UNDER THE SIGNATURE OF
SHRI R.L. AGARWAL, UNDER SECRETARY (E)-I, RLY. BOARD.

G.S.2. In exercise of the power conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules regulating the method of recruitment to the Group 'B' posts in the Mechanical, Civil, Electrical, Signal & Tele-Communication Engineering and Traffic Department in the Research Designs and Standards Organisation, Lucknow of the Ministry of Railways, namely:-

1. Short title and commencement:- (i) These rules may be called, the Research Designs and Standards Organisation (Group 'B' Technical Posts), Recruitment Rules, 1983. (ii) They shall come into force on the date of their publication in the Official Gazette.

X

X

X

5. Power to relax: Where the Central Government is of the opinion that it is necessary or expedient to do so it may by order for reason to be recorded in writing and in consultation with the Union Public Service Commission, relax any of the provisions of these rules with respect to any class or category of persons.

X

X

X

R. K. Singh



EXTRACT TAKEN FROM THE SCHEDULE ENCLOSURE OF THE RLY. BOARD'S NOTIFICATION NO. ERB-I/77/44/24
 DT 16.06.83 ISSUED UNDER THE SIGNATURE OF SRI R.L. AGARWAL, UNDER SECRETARY (E)-I, RLY BOARD.

Name of post	No. of post	Classification	Scale of pay	Whether the selection post or non-selection post	Increase of recruitment by promotion/deputation transfer or non-selection grades from which promotion/deputation/tr nsfer to be made
1	2	3	4	5	6

Shyam

1) Assistant Design Engineer/Assistant Research Engineer/Assistant Inspecting Engineer/Assistant Liaison Engineer. (Mechanical Engineering Department.)	16*	Group 'B' (Gazetted) (non-Ministerial)	Rs. 650-30-740 -35-810-EB- 35-880-40- 1000-EB-40- 1200.	Selection	
* Assistant Design Engineer/Asstt. Res. Engineer/Asstt. Inspecting Engr/Asstt. Liaison Engr/ (Civil Deptt.)					
* Asstt. Design Engr./Asstt. Res. Engr./Asstt. Insp. Engr./Asstt. Liaison Engineer (Elect. Engr. Deptt.)					
* Asstt. Design Engr./Asstt. Res. Engr./Asstt. Inspecting Engr./Asstt. Liaison Engineer (S&T & Telecom. Engr. Deptt.)					



Promotion:

a) 75% of the vacancies shall be filled by promotion through selection (which will include ordinarily a written test and also a viva-voce test) of the

x x x

b) 25% of vacancies shall be filled through a limited departmental competitive examination open to all non-ministerial Group 'C' staff of the Mechanical Engineering Department holding the posts in the grade the minimum of which is Rs. 425/- in the revised scale and in higher Group 'C' Grade and have rendered a minimum of five years non-fortuitous service in the grade.

- * same as a) & b) above (except Civil Engr. staff instead of Mech. Engr. staff)
- * Same as a) & b) above (except Elect. Engr. staff instead of Mech. Engr. staff.)
- * same as a) & b) above (except S&T Engr. staff instead of Mech. Engr. Staff.)

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In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow

Writ Petition No. 741 of 1983

P.K. Dhar & othersPetitioners

V/S.

Union of India & otherOpp:parties

Annexure No. 18-J

Extracts from Railway Bd.'s Secretariat Service Rules, 1968
as corrected upto 1.5.1980.

SCHEDULE

Regulations for the constitution and maintenance of the Select Lists for the Section Officers' and Assistants Grades of the Railway Bd. Secretariat Service:

1. Constitution: Officers borne on the regularly constituted panels of the respective Grades immediately before the appointed day shall form the Select List for the concerned Grade, on such date.

A-Section Officers' Grade. **

2. Maintenance(a) Additions to the Select List for the Section Officers Grade shall be made in such manner as the Central Govt. in the Ministry of Railways may determine from time to time, keeping in view the existing and anticipated vacancies in equal proportions from :-

(a) % Officers of the Assistant Grade, who have rendered not less than eight years approved service in that Grade and are within the range of seniority, in the order of their seniority subject to the rejection of the unfit.

Provided that if any person appointed to the Assistants' Grade is considered for promotion to the Section Officers Grade under this clause, all persons senior to him in the Assistants' Grade who have rendered not less than five years approved service in that Grade, shall also be so considered for promotion, notwithstanding the fact that they may not have eight years approved service in that Grade; provided that the aforesaid condition of five years approved service shall not apply to a person belonging to the SC or the ST.

Continued page...2

K. Kaurhan

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(b) % Officers of the Assistants' Grade with the longest period of continuous @ service in that Grade, and assessed by a Selection Committee to be set up by the Ministry of Rlys. on the basis of merit as suitable for inclusion in the Select List for the SO Grade and

(c) persons selected on the results of the limited departmental competitive examination held by the Commission from time to time in the order of their merit.

The persons referred to in clauses(a), (b) and (c) shall be included in the Select List in the order of person from those referred to in Clause(a), one person from those referred to in clause(b) and one person from those referred to in clause(c) and so on in that order.

(2) The rules for the limited departmental competitive examinations referred to in clause(1) above shall be as determined by regulations made by the Central Government in Ministry of Railways in consultation with the Commission.

** ERBI/70/37/2 dated 24.4.71.

%The word "permanent deleted vide ERB-1/74/37/2 dt. 19.12.74
£added vide ERBI/76/9/2 dt. 26.12.73.

@The work 'approved' replaced by continuing' vide
No.ERBa/7003702 dt. 10.10.72.

&The words Ministry of Railways(Rly.Board) replaced by
Commission vide ERBI/71/10/13 dt.21.6.1972.



J. Sankaran

In the Hon'ble High Court of Judicature at Allahabad

Lucknow Bench, Lucknow

Writ Petition No. 741 of 1983

P.K. Dhar & othersPetitioners

V/S.

Union of India & otherOpp:parties

Annexure No. 18-K

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Extract of Rule No.9 of Rly.Bd.Secretariat Service Rules, 1969
corrected upto 1.5.83)

9. Recruitment to the Section Officers' and the Assistants
Grades.

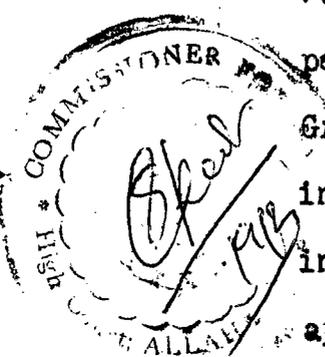
1) Subject to the provisions of sub-rule (3) recruitment to the substantive vacancies in the Section Officers' Grade shall be made on the following basis, namely :-

One sixth of the substantive vacancies in the Section Officers' Grade shall be filled by direct recruitment on the results of competitive examinations held by the Commission for this purpose from time to time for recruitment to the Central Services Class I and Class II. The remaining vacancies shall be filled by the substantive appointment of persons included in the Select List for the Section Officers' Grade. Such appointment shall be made in order of seniority in the Select List except when, for reasons to be recorded in writing, a person is not considered fit for such appointment in his turn.*

2) Subject to the provision of sub-rule (4) temporary vacancies in the Section Officers' Grade shall be filled by the appointment of persons included in the Select List for the Section Officers' Grade. Any vacancies remaining unfilled thereafter shall be filled by the temporary promotion on the basis of seniority, subject to the rejection of the unfit, of** officers of the Assistants' Grade who have rendered not less than 8 years' approved

Contd. page....2

J. K. Sankaran



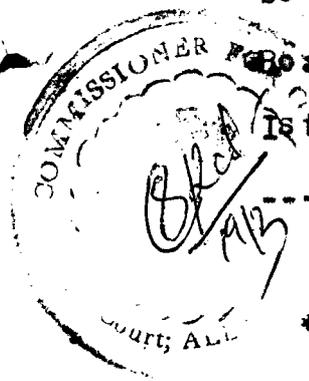
A/192 71

service in that Grade. Such promotions shall be terminated when persons included in the Select List for the Section Officers' Grade become available to fill the vacancies.

@ Provided that if any person appointed to the Assistants' Grade is considered for promotion to the Section Officers' Grade under this sub-rule, all persons senior to him in the Assistants' Grade who have rendered not less than five years' approved service in that Grade shall also be so considered for promotion notwithstanding the fact that they may not have rendered eight years' approved service in that Grade, provided further that the aforesaid condition of five years' approved service shall not apply to a person belonging to the Scheduled Castes or the Scheduled Tribes

3) Out of the authorised permanent strength of the Section Officers' Grade, two posts in that Grade shall be reserved for the appointment of officers of Grade-A of the Railway Board Secretariat Stenographers' Service selected on the basis of merit by a Departmental Promotion Committee for such appointment.

The permanent posts specified in this sub-rule, shall be dereserved from the date of coming into force of the Rly. Board Secretariat Stenographers' Service Rules, 1971, namely the 1st August, 1969.



* 9(1) vide ERB I/70/37/2 dated 24.4.1971.

** Words "permanent" deleted vide ERB-174/37/2 dated 19.12.1974.

@ Substituted vide ERB-I/76/9/2 dated 26.12.1978.

J. S. Karthar

Govt. of India
Ministry of Rlys. Annexure 20
Railway Board, New Delhi.

Dated: 3.6.81.

K.D.Saha,
Deputy Secretary
D.O.No.E(RBI)/79/44/67.

Dear Shri Kulshreshtha,

Sub: Recruitment & promotion Rules for post of Section Officers (Ministerial) in RDSO.

Ref: Your D.O.Letter.No.A/RT/O dated 20.5.81.

With reference to item (3) of this office letter dated 14.5.81, it is clarified that 28% vacancies are filled from amongst Assistant only, on the basis of length of service-cum-merit; As the operation of this provision is suspended due to Court's verdict, which is under appeal, the vacancies against this quota are treated as temporary vacancies and being filled from amongst Assistants on the basis of seniority-cum-fitness, on adhoc basis.

With regards,

Yours sincerely,
Sd/- (K.D.Saha)

Dr.C.M.Kulshreshtha,
Director Traffic Research,
RDSO
Lucknow.

Annexure -21

D.O.No.A/RT/O

Dated: 20/5/81

My dear Saha,

Sub: Recruitment and Promotion Rules for the post of Section Officer (Ministerial) in RDSO.

Thank you for your letter No.DRB.I/79/46/67 dated 14.5.81.

2. It is mentioned in para 2 of the above letter that the provision regarding item (3) namely 28% from amongst the staff with longest period of service on the basis of merit has since been struck down by the High Court of New Delhi and that the matter is at present sub-judice.

3. I shall be grateful to know as to how the vacancies which would have otherwise been filled up by this quota of 28% are being filled up during the interim period while the matter is subjudice. Is it that adhoc arrangements are being made on seniority-cum-suitability basis or is it that the adhoc promotion are made from the select list of the successful candidates in the limited departmental competitive examination, which is being regularly held every year in the Board's office? I shall be grateful for an early clarification.

Yours sincerely

In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench, Lucknow.

Writ Petition No.741 of 1983

P.K.Dhar & othersPetitioners.

Versus

Union of India & others.. . . .Opp:Parties

Annexure no.18-L

Railway Board, New Delhi.
Dated: 3.6.81.

K.D.Saha,
Deputy Secretary
D.O.No.E(RBI)/79/44/67

Dear Shri Kulshreshtha,

Sub: Recruitment & promotion Rules for post of Section Officers
(Ministerial) In RDSO.

Ref: Your D.O. letter No.A/RT/0 dated 20.5.81.

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With regards,

Yours sincerely,

Sd/-(K.D.Saha)

Dr. C. M. Kulshreshtha,
Director Traffic Research
RDSO
Lucknow.

D.O.No.A/RT/0

Annexure-21

Dated: 20/5/81.

My dear Saha,

Sub: Recruitment and Promotion Rules for the post of
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Thank you for your letter No.ERB.II/79/46/67
dated 14.5.81.

2. It is mentioned in para 2 of the above letter that the provision regarding Item (3) namely 28% from amongst the staff with longest period of service on the basis of merit has since been struck down by the High Court of New Delhi and that the matter is at present sub-judice.

[Handwritten signature]

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3. I shall be grateful to know as to how the vacancies which would have otherwise been filled up by this quota of 28% are being filled up during the interim period while the matter is under subjudice. Is it that adhoc arrangements are being made on seniority-cum-suitability basis or is that the adhoc promotion are made from the select list of successful candidates in the limited departmental competitive examination, which is being regularly held every year in the Board's office ? I shall be grateful for an early clarification.

Yours sincerely,

(C.M.S.)

Sd/- (Director Traffic Research)

(C.M.S.)

J. S. Kanthar



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