

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE TA 1211/87 OF
D.P. No. 6238/83

NAME OF THE PARTIES Dr. K. V. ... Applicant

Versus

U. P. Govt. Respondent

Part A.

Sl.No.	Description of documents	Page
1	Index sheet	41 to 43
2	order sheet	44 to 46
3	Judgment order dt. 29-01-92	47 to 49
4	Petition	50 to 52
5	Annexure	53 to 55
6	Affidavit	56 to 58
7	Power P.C. Ag. record	59 to 64
8	Rejoinder Affidavit	65 to 68
9	Application for Certified Copy	69
10		
11		
12		
13		
14		
15		
16		
17		
18		

CERTIFICATE

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

Dated

Counter Signed.....

Section Officer/In charge

P. Chatterjee
Signature of the
Dealing Assistant

8/

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

M. K. Varma
-vs
4-01

FORM OF INDEX

O.A./T.A./R.A./C.C.P./ No.


12/11/87

PART - I

1. Index Papers
2. Order Sheet
3. Any other orders
4. Judgement
5. S.L.P.

:- 1 to 2,
:- 3 to 7.
:- ~~8 to 13~~ NIL
:- 8 to 13
:- NIL


DY. Registrar


Supervising Officer


Dealing Clerk

29/12/88

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

NIL

Dealing Clerk



29/12/88

V.K. Mishra

ANNEXURE -A

CAT

CENTRAL ADMINISTRATIVE TRIBUNAL

Circuit Bench, Lucknow

Opp. Residency, Gandhi Bhawan, Lucknow

INDEX SHEET

CAUSE TITLE 1211 of 19 87 U

NAME OF THE PARTIES M. K. Verma

Applicant

Versus

Union of India Respondent

Part A, B & C

Sl. No.	Description of documents	PAGE
<u>A</u>	<u>Index Sheet</u>	<u>A1 - A3</u>
<u>A</u>	<u>Order Sheet</u>	<u>A4 - A7</u>
	<u>Judgment Dt. 21.1.92</u>	<u>A8 - A10</u>
	<u>Disposed of</u>	
	<u>Writ Petition</u>	<u>A11 - A26</u>
	<u>Annexure</u>	<u>A27 - A57</u>
	<u>Affidavit</u>	<u>A58 - A59</u>
	<u>Power / Sri P. C. Agarwal</u>	<u>A60</u>
	<u>Counter Affidavit</u>	<u>A61 - A68</u>
	<u>Annexure</u>	<u>A70 - A73</u>
	<u>Rejoinder Affidavit</u>	<u>A74 - A83</u>
	<u>B file</u>	
	<u>Writ Petition with Annexure</u>	<u>B84 - B134</u>
	<u>and affidavit</u>	
	<u>Counter Affidavit</u>	<u>B-135 - B-147</u>
	<u>Rejoinder Affidavit</u>	<u>B-148 - B157</u>
	<u>C file</u>	
	<u>Misc. Papers</u>	<u>C-158 - C175</u>

05-02-92

2

Annexure -B

CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench, Lucknow
Opp. Residency, Gandhi Bhawan, Lucknow

APPLICATION No. _____ of 19

TRANSFER APPLICATION No. _____ of 19

OLD WRIT PETITION No. _____ of

CERTIFICATE

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

Dated :

COUNTER SIGNED :

Signature of the
dealing Assistant

Section Officer/Court Officer

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 1211 of 1987 CH

APPELLANT
APPLICANT

M. K. Varma

VERSUS

DEFENDANT
RESPONDENT

DDV

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
7/12/09	<p>Hon Justice K. Prath, VC. Hon. K. J. Raman, Am.</p> <p>No one is present for the applicant. Shri V. P. Pal, the Law Asst. of OPs 1 to 3 is present and accepts notice. Notices were issued from Allahabad Office to the Counsel for both the parties on 25/0/09. By way of extra precaution notices be issued afresh to the applicant by name and also to his Counsel & further to opposite party No. 4. The opposite parties may file counter within four weeks to which the applicant may file rejoinder within two weeks thereafter. List for admission orders on 10/1/90.</p> <p>Am VC</p>	<p>5/12 Case has been recd from CAT AIBL Case is not closed in CAT/RA file Date was fixed from CAT, AIBL file is attached Submitted to order 4/11/90 Notices were issued on 4/11/90. No undelivered copy cover has been return back submitted for order 10/1/90</p>

45

12/11/07/17

X

10-1-90

Hon. J.P. Sharma, J.M.

4

Applicant is present in person. On V.P. Lal, the Law Asst. of O.P. No 1 to 3 is present. On the request of applicant, the case is adjourned to 14.3.90 for order

le
J.M.

OK

Case is not admitted

No CA filed
S.F.O.

14.3.90

Hon. D.K. Agrawal, J.M.

Hon. K. Obayya, A.M.

Shri R.S. Pandey for applicant.

Shri Anil Srivastva for respondents 1 to 3.

Respondent No. 4, despite notice does not appear.

Therefore, the proceedings will proceed ex parte against him.

Admit.

Let counter affidavit be filed within 4 weeks, rejoinder within 2 weeks thereafter. List it on 11.7.90 for hearing.

eel/

A.M.

Del
J.M.

up filed
17/4

11-7-90

no sitting. Adj. to 27/8/90

OK

27-8-90

Division Bench is not available Adj. to 28-9-90

L/c for the reports has filed counter duly served on the applicant. No RA filed. Submitted for hearing.

23/10/90
26/9

28.9.90

Hon'ble Justice K. Nath, V.C
Mr. K. Obayya, A.M.

On the request of A. Srivastava Council for respondent. Case is adjourned

23.10.90

(A.M.)

Ab

12/11/87

(5)

23.10.90

No sitting Adj to 5.11.90

(W)

5.11.90

Hon'ble Mr. D.K. Agrawal. J.M.
Mr. M.V. Bridger. AM

Due to resolution of Bar Association
Case is Adj to 18.12.90.

18.12.90

No sitting Adj to 21.2.91.

(W)

B.O.C.

21.2.91

No sitting Adj to 1.7.91.

1/7/91

Hon. Mr. Justice B.C. Srivastava, VC.
Hon. Mr. A.B. Gorthi, AM.

CA/RA have been
served.

S.F.H. 20/6

No one appears for the parties.
Adjourned to 4/7/91 for
final hearing.

f
AM.

VC.

2

4.7.91.

Hon. Mr Justice V.C. Srivastava - VC
Hon. Mr A.B. Gorthi AM

On the request of counsel for
the both parties case is adjourned
to 23.9.91 for h.f.

f

AM


VC

5/4

No 8.7 mg aff n 27.11.91
S

No strings adp to 24.6.92

Received
Prinastan A4
11/3/92

111. 2 ✓

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


Writ Petition No. 6238 of 1983

District: LUCKNOW


1. Madhav Krishna Verma aged about 50 years son of
Sri Banwari Lal, Senior Typist
Office of the Divisional
Railway Manager, North-Eastern
Railway, Lucknow.
2. Diwaker Raha son of Arun Chandra Raha, Senior Typist
Office of the Divisional Railway
Manager, North-Eastern Railway
Lucknow.

.. Petitioners

Versus

- 
1. The Union of India through General Manager, North-
Eastern Railway, Gorakhpur.
 2. The General Manager, North-Eastern Railway, Gorakhpur
 3. The Divisional Railway Manager, North-Eastern Railway
Lucknow.
 4. Krishan Lal son of Bhoja Ram, Senior Typist, Office of
the Divisional Railway Manager, North-Eastern Railways
Lucknow.

.. Opp. Parties


Writ Petition Under Article 226 of the
Constitution of India

Recd Copy for Opaw 1003 only

Chandra
22.11.83 AS

for Unsub check
AS

7

12

4/6

MEMO:

~~Impressed~~

Twenty Adhesive Rs. 200/-

Total

Correct but final Court fee return

will be made on receipt of lower

Court record.

In time up to

Papers filed. Copy of P. O.

should also be filed.

10/11 - Bench

Last Sup. on 12.25.9-83

Best known

Pro. of Annexure sought to be quashed should
be corrected in the
original case.

Reviewed

22/11/83

les
22/11

Defect removed
PS Family
22/11/83

(25)

Hon. Kat. G. J.
Hon. SSA. V.

Put up after two weeks.

Set V

23-11-83

P.

A
T
88
(8)

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH LUCKNOW.

...

Registration T.A. N . 1211 of 1987
(W.P. No. 6238 of 1983)

Mahadav Krishna Verma
and another

... ..

Applicants/
Petitioners.

Versus

Union of India and others

... ..

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. A.B. Gorthi, Member (A)

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

The applicants who were appointed on the posts of Junior Typist on 10.1.1953 and 2.6.1952 were subsequently confirmed on the said posts with effect from 3.9.1954 and 19.5.1956. In the year 1969 different sections of North Eastern Railway were integrated and a full fledged division was constituted. Vide order dated 21.11.1953 issued by the Railway Board, the principles of determining the seniority of staff of integrated railways were laid down. It was laid down that in grades in which a combined seniority has to be drawn up, the seniority in each grade will be in accordance with the length of service in the grade, both officiating and permanent, as on the date of integration, and that in applying the above principles, the position as on the date of integration will be taken. The biggest cadre among the integrating will form the basis into which will be interpolated the staff of the other unit in such manner that they are placed below the ^{person 2} ~~junior men~~ with longer service. It was also laid down that interse seniority in the several integrating units will not be disturbed. Now in the division in which the applicants were working, applicant no. 1 was placed at

66

Sl. No. 2. When the seniority list of Mechanical Unit was published, Sri Sohan Lal made a representation that being senior to Mr. Q.S. Rasool, he should have been given promotion to the post of Senior Typist. His representation was allowed and he was given promotion to the post of Senior Typist with effect from the date his junior Mr. Q.S. Rasool was promoted. The promotion of Sri Rasool as Senior Typist prior to 1.6.1964 was treated as fortuitous for the purposes of seniority.

2. Now the respondents have made this position clear and have stated that on appeal of Sri Kishan Lal, respondent no. 4, the General Manager (P) Gorakhpur has decided that one Sri Sohan Lal Sr. Typist was given seniority position and proforma fixation w.e.f. 20.11.1963 and Sri Q.S. Rasool was promoted as Sr. Typist from 1.6.1964 and it was also decided that promotion of Sri Q.S. Rasool prior to 1.6.1964 would be treated as fortuitous for the purpose of seniority position and proforma fixation from 1.6.1964 i.e. the date when Sri Q.S. Rasool was promoted as Sr. Typist. The seniority position of Sri Kishan Lal will be above to Sri Rasool. Now the said Q.S. Rasool joined the division in which the applicant was working on his own request and as such, under para-312 of the Railway Establishment Manual, he was to be given bottom seniority. Infact, it has also been admitted by the respondents who state that he was given bottom seniority and taking this into consideration, the appeal of respondent no. 4 was allowed and notional fixation was done and he was given seniority above the said Q.S. Rasool, and in view of the fact that the said respondents became

A70


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12

senior to Sri Q.S. Rasool, he also could have become senior to the applicant, because his length of service was more than the applicant. The respondents are not very clear on the point and nowhere they have stated that the said Kishan Lal was senior to the applicant in view of the length of service or in view of the criteria which was laid down by the Railway Board in its letter dated 21.11.1953 referred to above. The applicant has made reference to the seniority list, which indicates that the joining date of Kishan Lal has been shown 10.11.1953 while the applicant no.2 joined the service on 2.6.1952. On the basis of the date of joining their services, they claim that they have ^{to} given seniority over Kishan Lal. Even if, Kishan Lal was given seniority over Q.S. Rasool, their seniority can not be affected. The contention of the applicant can not be rejected in view of the Railway Board's circular and accordingly, this application is allowed to the extent that the respondents are directed again to prepare a seniority list strictly in accordance with the Railway Board's circular of the year 1953 laying the criteria for determining the seniority of the employees. Let it be done within the period of 3 months from the date of communication of the order and in case, the applicants become senior to the respondent no.4, all the consequential benefits including the pensionary benefits will be given to them in view of the fact that they are said to have retired from service. The application is disposed of with the above terms. Parties to bear their own costs.


Member(A)

Dated: 29.1.1992
(n.u.)


Vice-Chairman

Group - A - 14 (e)

A/10

A2

9411

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

Writ Petition No. of 1983

6230

Madhav Krishna Verma and
another

.. Petitioners

versus

The Union of India through General
Manager N.E. Railway and others

.. Opp. Parties

10666

INDEX

Sl. No.	Contents	Pages
1.	Memorandum of Writ Petition	1 to 16
2.	<u>Annexure No. 1</u> Rly. Board's order dated 21.11.53	17 to 19
3.	<u>Annexure No. 2</u> Seniority List published on 1.5.69	20 to 22
4.	<u>Annexure No. 3</u> Office Order dated 3.12.1965	23 and 24
5.	<u>Annexure No. 4</u> Combined representation made against the seniority given to Mr. Rasool.	25 to 27
6.	<u>Annexure No. 5</u> Seniority list duly modified was again published on 30.12.78	28 to 30
7.	<u>Annexure No. 6</u> Final Seniority list was again published on 3.3.79.	31 and 32
8.	<u>Annexure No. 7</u> Temporary appointment of opp. party no. 4 as Senior Typist vice Sri O.P. Oberai.	33
9.	<u>Annexure No. 8</u> Seniority list was modified on the representation of opp. party no. 4 vide order dated 28.11.1980.	34 and 35
10.	<u>Annexure No. 9</u> Representation of petitioner no. 1 dated 21.4.1981.	36 to 39

M. Verma

Index continued

11. Annexure No. 10
Petitioners again submitted
representation dated 4.7.83 requesting 40 to 44
personal interview and revision of
seniority list contained in
annexure no. 8.
12. Annexure No. 11
~~Representation~~ 45
Letter dated 26.2.1972
13. Annexure No. 12
Selection Grade provided to 46 and 47
opposite party no. 4 vide
letter dated 5.9.1983
14. Affidavit 48 and 49
15. Vakalatnama 50

M. S. Pandey

R. S. Pandey
(R. S. PANDEY)
Advocate
Counsel for Petitioners

Lucknow
Dated: 21-11-83

CIVIL

GENERAL INDEX

SIDE

CRIMINAL

Chapter XLI, Rules 2, 9 and 15

Nature and number of case W.P.No. 6238-83Name of parties Madhav Krishna Vama vs. Union of IndiaDate of institution 23-11-83

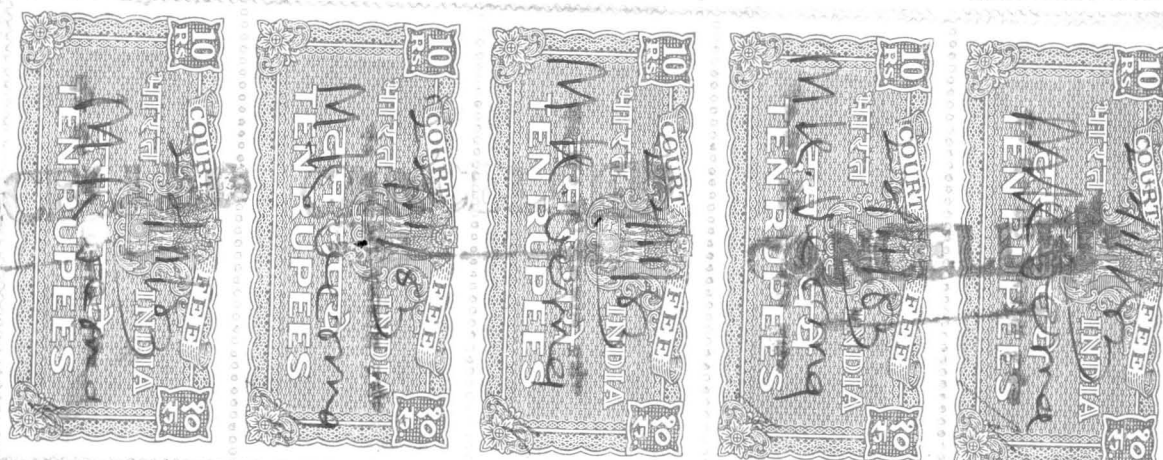
Date of decision _____

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
					Rs. P.			
	1-	W.P. No. 6238-83	50	—	202.00			
	2-	Power	1	—	5.00			
	3-	Order 1934 (W) 655 for sh	6	—	7.00			
	4-	Order sheet	1	—	—			
	5-	Bevel copy	1	—	—			

I have this _____ day of _____ 197 , examined the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that they bear Court Fee Stamps of the aggregate value of Rs. _____, that all orders have been carried out, and that the record is complete and in order up to the date of the certificate.

Date _____

Munsarim
Clerk



In the Honble High Court of Judicature at Allahabad
Lucknow Bench Lucknow

20 of 2001

Ra-
22-11-83

W. f. No.

OF 1983

Madhav Krishna Sharma
and another

petitioners

VS

Union of India and others

App. State

R. S. Bhat
Counsel for petitioners

The humble petitioners most respectfully submit
as under:

1. That the petitioner No. 1 was appointed on the post of Junior Typist with effect from 10.1.1953 and the petitioner no. 2 was appointed on the post of Junior Typist with effect from 2-6-1952
2. That the petitioners were subsequently confirmed on the said post with effect from 3-9-1954 and 19-5-1956 respectively.
3. That the petitioners were posted as Junior Typist in the Engineering Branch of opposite party no. 1 at Lucknow.
4. That the petitioner no. 1 and 2 were promoted to the post of Senior Typist with effect from 2.8.1969 and 10-8-1964 respectively and working on the said post since then.
5. That in the year 1969 different sections of opposite party no. 1 were integrated and a full fledged Division was constituted. Thus in this Division the people of other branches were merged. The employees of Mechanical Unit were also merged in this Division.
6. That in the year 1953 the Railway Board issued



M. M. M. M.

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1/4

orders vide No. 53/CQI/8/3 dated November 21, 1953 with regard to the principles of determining the seniority of staff on integrated railways. It was stipulated that in grades in which a combined seniority has to be drawn up, the seniority in each grade will be in accordance with the length of service in the grade, both officiating and permanent, as on the date of integration. It was further laid down that in applying the above principles the position as on the date of integration will be taken. The biggest cadre among the integrating will be taken. The biggest cadre among the integrating unit will form the basis into which will be interpolated the staff of the other unit in such manner that they are placed below the junior man with longer service.

7. That it was also laid down that inter-se seniority in the several integrating units will not be disturbed. A true copy of the Railway Boards' order dated November 21, 1953 is being filed herewith as Annexure No. 1 to the writ petition.

8. That after the merger/integration of Mechanical Unit with the Division a combined seniority list was published in the month of May, 1969 by the opposite party no. 1 and then it was revealed that the petitioner no. 1 was placed at serial no. 2. A true copy of this list is being filed herewith as Annexure No. 2 to this petition.

M. V. Venu.



9. That when the seniority list of Mechanical Unit was published, Sri Sohan Lal made a representation that being senior to Mr. Q.S.Rasool he should have been given promotion to the post of Senior Typist. The representation of Mr. Sohan Lal was allowed and he was given promotion to the post of Senior Typist with effect from the date his junior Mr. Q.S.Rasool was promoted. An Office Order to this effect was issued on 3.12.1965 and it was also mentioned in the said order that the promotion of Sri Rasool, Senior Typist, prior to 1.6.1964 will be treated as Fortuitous for the purposes of seniority. A true copy of this Office Order is being filed herewith as Annexure No. 3 to the petition.

10. That after the merger of Mechanical Unit and Accounts Unit in the Lucknow Division a Seniority list was published on 1.5.1969 (contained in Annexure 2) but the petitioners could not know it earlier than 5.4.1978.

11. That the petitioners were told by Mr. Kishan Lal (opposite party No. 4) that Mr. Q.S.Rasool has joined this Division on his own request so he should be placed at the bottom. Para 312 of Chapter III of Indian Railways Establishment Manual reads as under:

" The Seniority of Railway servants
transferred at their own request from



M. K. Verma

one Railway to another should be allotted below that of the existing confirmed and officiating railway servants in the relevant grade in the promotion group in the new establishment irrespective of the date of confirmation or length of officiating service of the transferred railway servants. "

12. That thereafter the petitioners alongwith 3 other persons viz. Kishan Lal, Lala Dhar and Babu Lal made a combined representation against the illegal seniority given to Mr. Q.S.Rasool as he joined this Division on his own request. It was also requested that the petitioners and others may be placed above Mr.Q.S.Rasool in accordance with law. A true copy of this representation is being filed herewith as Annexure No. 4 to the writ petition.

13. That on the representation of the petitioners and others (contained in annexure no. 4) the Divisional Personnel Officer, N.E.Railway, Lucknow vide its order dated 30.12.1978 issued a modified seniority list and the petitioner no. 1 was placed at serial no. 6 and petitioner no. 2 at serial no.3. A true copy of this seniority list is being filed herewith as Annexure No. 5 to the writ petition.



Reference

14. That a perusal of annexure no. 5 will indicate that Sri Q.S.Rasool joined in Ex-DME's Office Gonda on transfer from F.A. and C.A.O/GKP on his own request on 24.5.1958, hence he was declared junior to Mr. Kishan Lal in the Junior Typist grade.

15. That the Seniority List as contained in annexure no. 2 will also indicate that Sri Kishan Lal was junior to petitioner no. 1 in junior typist's grade. The petitioner no. 1 was at serial no. 2 while Mr. Kishan Lal was at serial no. 4.

16. That the petitioners challenged the validity of seniority list contained in annexure no. 5 on the ground that Sri Kishan Lal was promoted as Senior Typist with effect from 1.4.1970 whereas the petitioner no. 1 was promoted to the post of senior typist with effect from 2.8.1969 and petitioner no. 2 was promoted as senior typist with effect from 10.8.1964. On this representation the Divisional Personnel Officer of opposite party no. 1 vide its order No. E/11/55/QRS/ dated 3.3.1979 issued final seniority list. A true copy of this list is being filed herewith as Annexure No. 6 to the writ petition.

17. That a perusal of annexure no. 6 shall indicate that Sri Kishan Lal was placed at sl.no. 6 while petitioner no. 1 was placed at sl.no.5 and petitioner no. 2 at sl. no. 2.



18. That Sri Kishan Lal, junior typist, was temporarily promoted as Senior Typist vice Sri O.P.Oberai, Senior Typist, who was posted as Steno, with effect from 1.4.1970. A true copy of Office Order issued by Divisional Personnel Officer of opposite party no. 1 vide its No. E/K/Typist LJJ dated 11/12. 5.1970 is being filed herewith as Annexure No. 7 to the writ petition.

19. That ~~the~~ Sri Kishan Lal who was placed at serial no. 6 in the seniority list contained in annexure no. 6, represented against his position and the General Manager, N.E.Railways, Lucknow issued a corrigendum vide its order No. KA/KishanLal/Pra.Ta/80 dated 28.11.1980 and modified the seniority list and placed the opposite party no. 4 at serial no. 2. A true copy of this order is being filed herewith as Annexure No. 8 to the writ petition.



20. That the order of opposite party no. 2 as contained in annexure no. 8 will show that opposite party no. 4 was given seniority from the date of Sri Q.S.Rasool was promoted i.e. 1.6.1964. But this order also shows that Sri Q.S.Rasool joined the post of Senior Typist on 1.4.1970 (deemed date).

21. That the order contained in annexure no. 7 will also show that opp. party no. 4 was promoted to the post of Senior Typist w.e.f. 1.4.70 vice Sri O.P.Oberai who was promoted as Steno.

22. That it may very respectfully submitted that the opposite party no. 4 was placed senior to Sri O.P. Oberai on whose post he was promoted.

23. That a perusal of annexure no. 8 will indicate that the petitioner no. 1 was placed at sl.no. 6 and petitioner no. 2 on serial no. 3 in contravention to the final seniority list as contained in annexure no.6.

24. That the petitioners were not served with the order contained in annexure no. 8 and only on 21.4.1981 they came to know about the corrigendum issued on 28.11.1980. Thus the petitioner no. 1 represented the matter to General Manager (P), N.E.Railways, Gorakhpur on 21.4.1981 and requested that the seniority list be published in accordance with the seniority list published on 3.3.1979 (annexure no. 6). A true copy of the representation of petitioner no. 1 dated 21.4.1981 is being filed herewith as Annexure No.9 to the writ petition.



25. That inspite of best efforts of the petitioner the seniority list (which was illegally drawn) contained in annexure no. 8 was not revised and as such the petitioners submitted again a representation dated 4.7.1983 to Divisional Railway Manager, Lucknow and requested him to kindly rectify the mistakes and also also a personal interview. But neither the seniority list was corrected nor any personal interview was

M. K. Khanna

allowed to the petitioners. A true copy of the representation of petitioner no. 1 is being filed herewith as Annexure No. 10 to the writ petition.

26. That the orders contained in annexure no. 8 is arbitrary, capricious, illegal and malafide in as much as it does not disclose the basis on which Sri Kishan Lal has been shown senior to the petitioners when actually he was promoted on 1.4.70 (as per annexure no. 7) while the petitioners were promoted to the post of senior typists with effect from 2.8.1969 and 10.8.1964 (annexure no. 8) respectively.

27. That it may also be submitted that petitioner no. 1 was confirmed on the post of senior typist with effect from 1.1.1972 and petitioner no.2 with effect from 1.5.1969 while Sri Kishan Lal the opp. party no. 4 was confirmed on 1.1.1972. It may be submitted that even the confirmation letter No. E/254/1/Managing dated 26.2.1972 places petitioner no. 1 at serial no. 1 and Sri Kishan Lal at serial number 2. A true copy of this letter is being filed herewith as Annexure No. 11 to the petition.

28. That it is well settled that Seniority in the service shall be determined according to date of the order of appointment to it, provided that if

M. K. Sharma



the order of the appointment of two ~~xxx~~^{or} more candidates bears the same date, their seniority shall be determined according to the order in which their appointment has been notified. It is very respectfully submitted that the opp.party no. 1 and 2 have ignored the settled principles of law and have declared Sri Kishan Lal senior to the petitioners while they were earlier promoted to the post of senior typist than sri Kishan Lal.

29. That it is well settled that Seniority, normally is measured by length of the continuous officiating service - the actual is easily accepted as the legal. The petitioners are continuously officiating on the senior post w.e.f. 2.8.1969 and 10.8.1964 respectively while opp.party no. 4 was promoted on 1.4.70 as per annexure no. 7.

30. That it is very respectfully submitted that when opp.party no. 4 was promoted to the post of senior typist w.e.f. 1.4.70 how he can be treated to have joined the post of senior typist on 1.6.64. Sri Kishan Lal had never worked on the post of senior typist prior to 1.4.70. Thus the opp.parties have arbitrarily and illegally given him the benefit of proforma fixation of seniority. It is further submitted that it is well settled that seniority will depend on the length of continuous officiating service and can not be upset by later arrivals.



M. K. S. S.

31. That the opposite party no. 1 and 2 without any valid reasons have upset the seniority list contained in annexure no. 6 by publishing a corrigendum (annexure no. 8) to the above seniority list.

32. That the Indian Railway Establishment Manual (Second Edition) vide paragraph 302 of Chapter III " Rules Regulating Seniority of Non-Gazetted Rly. Servants " clearly lays down that ' unless specifically stated otherwise, the seniority amongst the incumbants of a post in a grade is governed by the date of appointment to the grade.' It is again submitted that petitioner no. 1 was appointed ^{in the said grade} on 2.8.1968, the petitioner no. 2 on 1.8.64 while opp.party no. 4 was appointed on 1.4.70 (annexure no. 6).



33. That paragraph 306 of the aforesaid Manual provides that ' candidates selected for appointment at an earlier selection shall be senior to those selected later irrespective of the date of posting except in case governed by paragraph 305 '.

34. That paragraph 309 of the said Manual further lays down that ' paragraph 306 above shall applies equally to seniority in promotion vacancies, due allowance being made, if any, in joining the new posts in the exigencies of service.

M. K. Meena

35. That paragraph 311 of the above mentioned Manual lays stress that ' seniority of Railway Servant on transfer from one cadre to another in the interest of administration is regulated by the date of promotion/ date of appointment to the ~~exa~~ grade as the case may be."

36. That it is very respectfully submitted that the provisions regulating seniority of non-gazetted railway servants as envisaged in the Indian Railway Establishment Manual nowhere permits the appointing authority to declare a person senior to another person who has been appointed earlier. Thus the seniority list as contained in annexure no. 8 is in contravention of paragraph 306 and 309 of the aforesaid Manual.

37. That it is well settled that where recruitment is from two sources with a view to integrating recruits from both sources after the recruitment seniority is to be determined from the date of entry into the cadre except where there has been a substantial violation of quota giving underserved advantage to one or other source - seniority ordinarily speaking is determined with reference to the date of continuous offication. The date of entry into the cadre of petitioner no. 1 is 2.8.1969, petitioner no. 2 is 10.8.64 and of opp. party no. 4 is 1.4.70.

38. That the Mandal Rail Prabandhak (Karmik) Lucknow vide its order No. SA.E./11/210/1/5 Bhag-Char dated



M. Verma

. 13 .

5.9.1983 has given the Selection Grade of Senior Typist in the grade of Rs. 425 - 700 to Sri Kishan Lal, opposite party no. 4, by virtue of his alleged seniority. A true copy of this order is being annexed herewith as Annexure No. 12 to the petition.

39. That it is very respectfully submitted that since the opposite party no. 4 was wrongly, arbitrarily and with malafide intentions declared senior to petitioner no. 1 and by virtue of the alleged seniority he has again been promoted to Selection Grade of Senior Typist and thus has again superseded the petitioner no. 1.

40. That the petitioners being aggrieved against and having no other alternative and efficacious remedy is filing the present writ petition on the following amongst other

GROUNDS :

- I. Because the orders contained in Annexure no. 8 is arbitrary, capricious, illegal and malafide.
- II. Because the impugned order does not disclose the basis on which opposite party no. 4 has been shown senior to the petitioners when actually he



W. K. Verma

he was promoted on 1.4.70 (annexure no. 7) while the petitioners were promoted to the post of Senior typists w.e.f. 2.8.69 and 10.8.64 respectively.

III.

Because the petitioners were confirmed on the post of Senior Typists on 1.1.72 and 1.5.69 respectively while opp.party no. 4 was confirmed on 1.1.1972 (as per annexure No. 11) .

IV.

Because the well settled principles that the seniority in the service shall be determined according to the date of the order of appointment have been ignored by opposite party no. 1 and 2 and have declared Sri Kishan Lal senior to the petitioners while they have been appointed earlier to the post of Senior Typist than Sri Kishan Lal.

V.

Because it is well settled that seniority normally, is measured by length of continuous officiating service, the actual is easily accepted as the legal. The petitioners are continuously officiating on the senior post w.e.f. 2.8.69 and 10.8.64 respectively while Sri Kishan Lal was promoted only on 1.4.70.

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VI.

Because opposite party no. 4 was promoted to the post of Senior Typist w.e.f. 1.4.70 and he

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never worked on the post of senior typist prior to 1.4.70 as such he can not be treated to have joined the post of senior typist on 1.6.64.

- VII. Because the seniority will depend on the length of continuous officiating service and can not be upset by later arrivals.
- VIII. Because the impugned orders have been passed in utter violation of paragraph 306 and 309 of Chapter III of the Indian Establishment Manual.
- IX. Because it is well settled that where recruitment is from two sources with a view to integrating recruits from both sources after the recruitment, seniority is to be determined from the date of entry into the cadre.
- X. Because opposite party no. 4 has been wrongly and with malafide intentions declared senior to the petitioners.
- XI. Because opposite party no. 1 and 2 have arbitrarily and illegally given the benefit of proforma fixation of seniority to opposite party no. 4 in contravention to the provisions contained in Chapter III of the Indian Railways Establishment Manual.

M. M. M.

Prayer

Wherefore, it is most respectfully prayed that this Hon'ble Court may kindly be pleased to issue:

- A. a suitable writ, order or direction in the nature of certiorari quashing the order dated 28.11.1980 contained in annexure no. 8 and the order dated 5.9.1983 contained in annexure no. 1ⁿ only to the extent so far it relates to opposite party no. 4.
- B. a suitable writ, order or direction in the nature of mandamus commanding opposite party no. 1 to 3 to promote the petitioners on the basis of seniority as contained in annexure no. 6 and opposite party no. 1 to 3 be commanded to pay the difference of salary from the date of promotion due to the petitioners.
- C. such other suitable writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.
- D. Cost of the petition be also awarded to the petitioners and against the opposite parties.

[Handwritten signature]

[Handwritten signature: RS Sandey]
Advocate
Counsel for Petitioners

Lucknow

Dated: 21-11-83

17-
A27
A/28

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

Writ Pet.No. of 1983.

M.K.Verma and another ----Petitioner.

Versus

The Union of India and others ----Opp-parties.

Annexure 1.

Copy of Rly.Bd.letter No.53/CQI/8/3 of 21st November, 1953, addressed to the General Managers, All Indian Railways etc.

Subject- Principles of determining seniority of staff on integrated Railways.

The Railway Board have given careful consideration to the recommendations of the Seniority Committee set up on the six integrated Railways and to the view of the National Federation of Indian Railwaymen and have decided that the following staff of the integrated Railways:-

- i) In grades in which a combined seniority has to be drawn up, the seniority in such grade will be in accordance with the length of service in the grade, both officiating and permanent, as on the date integration.

Note- Fortuitous or short officiating service of less than 3 months duration will be omitted.

- ii) Grade in (i) shows denotes the C.P.C.grade and its corresponding grades in the integrating units before the application of the C.P.C.



[Handwritten signature]

iii) Seniority will be determined separately for the substantive and officiating grades held on the date of integration.

iv) The inter-se-seniority in the several integrating units will not be disturbed.

Note-An exception will have to be made in the case of Railways in which the basis seniority has been determined on a fundamentally different basis like for instance, the date of confirmation.

v) In applying the above principles, the position as on the date of integration will be taken. The biggest cadre among the integrating will be taken. The biggest cadre among the integrating units will form the basis into which will be interpolated the staff of the other units in such manner that they are placed below the junior most man with longer service.

Note- In respect of the S.Rly., the M & SM cadre will form the basis cadre.

vi) In respect of the selection grades, staff who have already officiated on the date of integration will retain their places on the panels.

vii) All panels existing on the date of integration will be considered as cancelled, except to the extent that staff have already officiated.



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Note- The officiating should not be in fortuitous vacancies.

viii) New panels will be formed as with effect from the date of integration taking into account staff of all the integration units.

Note- Until the new panels are formed staff on the old panels may continue to officiate in vacancies but they should be advised that this does not give them any claim for promotion, nor will be period they so officiate count seniority subsequently.

2. The Board desire that it should be ensured that these principles are not departed from in framing the ~~comined~~ seniority lists as on the date of integration.

3. The seniority lists for class III staff should be framed in accordance with the principles ~~enumerated~~ enunciated above and the work completed as expeditiously as possible and the progress of work reported every month.

Please acknowledge receipt.

Sd.V.T.Narayananan,
Jt. Director Establishment Rly.Bd.

True-copy.



M. V. Narayanan

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

A30

W.P.NO. of 1983

M.K. Verma & others .. Petitioner
Vs.
The Union of India & others .. Opposite party

ANNEXURE NO. 2

N.E. RAILWAY

No.E/255/1

OFFICE OF THE
DIVISIONAL SUPDT./LUCKNOW.

Dt. 18.7.69

The DEN/DEE/DME/DOS/DCS/DSTE,
N.E. RAILWAY,
LUCKNOW JN.

Sub :- Provisional Combine Seniority list of Typists
of all grades of Ex-GD-LJN Distts. as on
1.5.69.

A provisional seniority list of Typists of all
grades viz. Sr. Typists (130-300) & Jr. Typists (110-180)
is sent herewith. Extra copies are also enclosed for
circulation amongst the staff concerned.

Any representation which the staff may desire to
make regarding the seniority position in the seniority list
should reach this office within one month from the date of
issue of the Seniority. No action will be taken on the
representation made by the staff after expiry of the stipu-
lated period.

Steps should be taken to ensure that the seniority
list is got noted by the staff concerned and their signature
is obtained in token of acceptance of the relative position
in the seniority list.

Please acknowledge receipt.

Sd/-
for DIVISIONAL PERSONNEL OFFICER
LUCKNOW.



A31

- 21 -

NORTH EASTERN RAILWAY

Combined Seniority list of Typists of all grades of D.S./LJN.

(GD & LJN Districts) as on 1.5.69

Sl. No.	Name	Under whom work-ing	Date of birth	Dt. of Apptt.	Dt. of prom. to Gr.	Confid. or Offg.	Length of service in the Gr.	Adjusted length of service	Place of Post-ing	Options for			
1	2	3	4	5	6	7	Y M D	Y M D	10	11	12	13	14

SENIOR TYPIST (130-300)

1.	Sri J.D. Dhingra	DEN/LJN	5.4.23	18.11.47	3.10.55	Cfd.	13 6 29	13 6 28	DS/LJN				
2.	" Baldeo Pd.	DEN/GD	23.7.25	13.5.48	1.4.56	"	13. 1 0	13 1 0	- do -				
3.	" U.N. Upadhyay	DEE/LJN	1.1.28	31.12.52	1.4.56	"	13 1 0	13 1 0	- do -				
4.	" K.C. Paul	DOS/LJN	11.1.16	28.4.43	25.4.51	"	8 0 6	8 0 6	- do -				
5.	" Q.S. Rasool	DME/GD	13.1.36	4.5.56	20.11.63	Offg.	5 5 11	5 5 11	- do -				
6.	" D. Raha	DCS/GD	1.9.30	2.6.52	10.8.64	"	4 8 21	4 8 21	L/O				
7.	" M.B. Srivastava	DSTE/LJN	3.1.33	6.5.60	1.6.65	Cfd.	3 11 0	3 11 0	DS/LJN				
8.	" Baboo Lal	- do -	4.7.32	14.7.59	16.9.66	"	2 7 15	2 7 15	- do -				

JUNIOR TYPIST (110-180)

1.	Sri O.P. Oberai	DEN/LJN	18.12.31	10.1.53	10.1.53	Cfd.	16 3 21	16 3 21	DS/LJN				
2.	" M.K. Verma	- do -	16.10.32	10.1.53	10.1.53	"	16 3 21	16 3 21	DS/LJN				
3.	" R.P. Pandey	DOS/LJN	7.1.33	3.4.56	3.4.56	"	13 0 8	13 0 8	DS/LJN				
4.	" Kishan Lal	DME/LJN	15.10.33	1.6.57	1.6.57	"	11 11 0	11 11 0	DS/LJN				
5.	" S.M.A. Rizvi	DME/GD	5.1.36	4.7.58	4.7.58	"	10 9 27	10 9 27	DS/LJN				
6.	" Biladhar	DEN/GD	2.1.36	19.6.59	19.6.59	"	9 10 12	9 10 12	L/O				

LJN LJN IZN

Contd.....2

1	2	3	4	5	6	7	8	9	10	11	12	13	14
7.	Sri Akhtar Hussain	DEE/LJN	22.12.36	23.9.59	23.9.59	Cfd.	9	7	8	9	7	8	DS/LJN
8.	" Gulam Jilani	DOS/CD	4.7.33	1.9.62	1.9.62	"	6	8	0	6	8	0	--- IZN LJN LJN
9.	" S.K. Asthana	DCS/CD	4.2.32	26.10.62	26.10.62	"	6	6	5	6	6	5	L/O LJN - -
10.	" Balgovind Pd.	DME/LJN	7.1.35	<u>24.9.56</u> 27.12.62	28.12.62	"	12	7	7	6	4	4	DS/LJN No option TC
11.	" S.C. Grover	DSTE/LJN	15.7.42	1.6.64	1.6.64	"	4	11	0	4	11	0	--- LJN LJN LJN
12.	" K.K. Nigam	DCS/LJN	28.12.43	12.1.65	12.1.65	"	4	3	19	4	3	19	DS/LJN
13.	" C.R. Yadava	ASTE/CD	20.3.44	19.10.65	19.10.65	Temp.	3	6	12	3	6	12	-
14.	" S.K. Banerji	AMO/BNZ	11.5.45	26.8.65	26.8.65	"	3	8	5	3	8	5	-
15.	" Ashwani Kumar	DMO/CD	5.12.45	21.10.65	21.10.65	"	3	6	10	3	6	10	-
16.	" A.K. Amra	DMO/CD	12.9.44	9.12.65	9.12.65	"	3	4	22	3	4	22	-
17.	" R.C. Srivastava	DEN/LJN	26.8.37	25.4.66	25.4.66	"	3	0	6	3	0	6	DS/LJN
18.	" Mahabir Pd. Arya	SS/GKP	-	4.1.69	4.1.69	"	0	3	27	0	3	27	GKP IZN IZN IZN
19.	" Som Prakash	SS/LJN	13.7.46	4.1.69	4.1.69	"	0	3	27	0	3	27	SS/LJN No option

NOTE :- S.K. Banerjee, AMO/BNZ shown at S.No.13
& C.R. Yadava, Typist, ASTE/CD shown at
S.No.14.

sd/-
for DIVISIONAL PERSONNEL OFFICER,
N.E. RAILWAY/LUCKNOW.



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

Writ Pet.No. of 1983.

M.K.Verma and another

---Petitioner

Versus

The Union of India and others

---Opp-parties

Annexure 3.

N.E.Railway.

Office Order.

Shri Sohan Lal, Junior Typist of D.M.E./IZN who has been promoted as Sr.Typist in scale Rs 130-300 w.e.f. 1.6.64, vide this office order No.E/IX/210/8/1, Typist dated 6.7.65, is allowed the benefit of promotion fixation of pay in scale Rs 130-300 without arrear from 20.11.63, the date his junior Shri Q.S.Rasool, Jr.Typist of DME/GD has been promoted as Sr.Typist in scale Rs 130-300 vide this office order No.EM/210/2/2(Typist) dated 10/16.1.64.

The promotion of Shri Q.S.Rasool, Sr.Typist of DME/GD prior to 1.6.64, will be treated as fortuitous for the purpose of seniority.

This has the approval of Chief Mech.
Engineer.

Sd.

For Chief Mech. Engineer(P).

contd.



M.K.Verma

No.E/IX/210/8/1/Typist Gorakhpur, dated 3.12.1965.

Copy forwarded for information and necessary action to:-

1. DME/IZN in reference to his letter No. E/2555/Mech./PC dated 25.9.65.
2. The DME/GD.
3. The FA & CAO/GKP.
4. The AME/FGR.
5. The Hd.Clerk seniority.

Sd.

For Chief Mech.Engineer(P).

True-copy.



इन दो आनरेबल हाई कोर्ट आफ जजिक्चर सेट इलाहाबाद, लखनऊ बेंच,

लखनऊ

रिट पेट्रिशन नं० आफ 1983

एम० कै० वर्मा ऐण्ड अदर्स ... पेट्रिशनर

वर्सेज

दो यूनियन आफ इंडिया ऐण्ड अदर्स ... अपोजिट पार्टी

सनेकर नं० 4

रजिस्टर्ड ए०डी०

सेवा में,

श्रीमान प्रवर उप महाप्रबन्धक (सतर्कता),
पूर्वोत्तर रेलवे,
गोरखपुर ।

महोदय,

विषय :- पूर्वोत्तर रेलवे पर मण्डलोपकरण के पश्चात् लखनऊ
मण्डल के टंकियों के वरोयता (सोनियारिटो) का
गलत निर्धारण ।

XXX

विनम्र निवेदन है कि पूर्वोत्तर रेलवे पर 1-5-1969 को
मण्डलोपकरण के पश्चात् लखनऊ मण्डल के टंकियों (110-180 और 130-300)
के वरोयता (सोनियारिटो) का बिल्कुल गलत निर्धारण किया गया है जिसका
पुष्टिकरण अब प्रकाश में आया है । अतः इस सम्बन्ध में लखनऊ मण्डल के हम
सभी निम्न हस्ताक्षरकर्ता प्रवर टंकिक निम्न तथ्यों के आधार पर अनुरोध करते
हैं कि आवश्यक कागजातों को अपने कब्जे में करके उचित जाँच कर हमारा
वरोयता का सही निर्धारण कराने की महान कृपा करें ।

1. लखनऊ मण्डल की स्थापना के पश्चात् लखनऊ और गोण्डा जिला के
अवर और प्रवर टंकियों की जो वरोयता सूची मण्डल कार्मिक अधिकारी, लखनऊ
के पत्र सं०-ई/255/1 दिनांक 18-7-69 के द्वारा जारी की गई थी (प्रतिलिपि



M. K. Verma

संलग्न), उसमें गोण्डा डिस्ट्रिक्ट के प्रवर टंकक श्री क्यू०यस० रसूल को हम सभी हस्ताक्षरकर्ता प्रवर टंककों से वरिष्ठ दिखाया गया है, यह पूर्णतः गलत है।

2. श्री क्यू०यस० रसूल, प्रवर टंकक 330-560 (रवि) को मूल नियुक्ति वित्त सलाहकार एवं मुख्य लेखाधिकारी, पूर्वोत्तर रेलवे, गोरखपुर के कार्यालय में दिनांक 4-5-56 को हुई थी जहाँ से श्री रसूल अपने स्वयं प्रार्थना पर स्थानांतरित होकर जिला यांत्रिक इंजीनियर, गण्डा के कार्यालय में दिनांक 24-5-56 को तैनात हो गये थे।

3. उल्लेखनीय है कि यदि श्री क्यू०यस० रसूल, प्रवर टंकक ने गोण्डा स्थानान्तरण के लिए प्रशासन से स्वयं अनुरोध न किया होता तो उन्हें उनके पैतृक (पैरेंट) लेखा विभाग से दूसरे विभाग में कैसे स्थानांतरित कर दिया गया।

4. पूर्वोत्तर रेलवे पर मण्डलीकरण की पुष्टि होने के पश्चात् शोध हो श्री क्यू०यस० रसूल, प्रवर टंकक ने अपना चतुरता तथा अपने सम्बन्धी और कार्मिक विभाग के सहयोग से अपना व्यक्तिगत मिसिल से गोरखपुर से गोण्डा स्थानान्तरण के सारे कागजात हो गायब कर दिये। श्री रसूल को व्यक्तिगत मिसिल में उनके मूल नियुक्ति स्थान (कार्यालय) के एक भी कागजात उपलब्ध नहीं है।

5. श्री रसूल को व्यक्तिगत मिसिल का यदि भ्रष्टाचार अवलोकन (पोस्ट-मार्टम) किया जाय तो स्वतः स्पष्ट हो जायेगा कि कर्मचारी ने अपने स्वार्थ के लिए प्रशासन की सम्पत्ति को किस प्रकार से नष्ट किया है। इनको पब्लिश का प्रथम पृष्ठ क्रम संख्या 46 से आरम्भ होता है जबकि उसी पृष्ठ पर क्रम संख्या 68 और 53 भी लिखा हुआ है और उसे काट दिया गया है। यानि आरम्भ के सभी पृष्ठों पर क्रम संख्या की कई बार काट-काट कर बदला गया है। इससे पहले के कागजात श्री रसूल को पब्लिश से कहा गए, यह केवल वह स्वयं ही बता सकते हैं। साथ ही ऐसा अनुमान किया जाता है कि श्री रसूल के अन्य गोपनीय कागजातों (सर्विस पेन्शनर इत्यादि) में भी अवश्य हेर-फेर किया गया होगा, जिस पर सारा उत्तर-दायित्व किसी न किसी कर्मचारी पर अवश्य हो होगा।

6. श्री क्यू०यस० रसूल, प्रवर टंकक ने अपना अनाधिकृत रूप से प्राप्त की गई वरिष्ठता की कल्पना रखने के लिए केवल अपना श्रेणी के कर्मचारियों की ही धोखा नहीं दिया बल्कि प्रशासन के साथ भी घोर विश्वासघात किया है जिसको उच्च स्तरीय 'गोपनीय जांच' अत्यंत आवश्यक और प्रार्थनीय है।

उपरोक्त तथ्यों के आधार पर श्रोमान जो से अनुरोध है कि श्री क्यू०यस० रसूल, प्रवर टंकक, लखनऊ मण्डल को व्यक्तिगत मिसिल तथा सर्विस पेन्शनर इत्यादि

को अविलम्ब अपने अधिकार में लेकर गोपनीय ढंग से उचित जांच कराने को कृपा करें और हम सभी प्रवर टंकियों के वरिष्ठता का सहो निर्धारण कराने को महान कृपा करें ताकि हमारा भविष्य सुरक्षित रहे, हम आपके सदैव आभारी रहेंगे ।

सादर,

संतान/यथोपरि

भवदीय,

- | | |
|-------------------|----|
| 1. (दिवाकर राहा) | ह0 |
| 2. (बाबू लाल) | ह0 |
| 3. (मा0कृ0 वर्मा) | ह0 |
| 4. (कृष्ण लाल) | ह0 |
| 5. (लालाधर) | ह0 |

प्रवर टंकक,

मण्डल अधीक्षक कार्यालय, पूर्वोत्तर रेलवे,
लखनऊ ।

दिनांक 5 अप्रैल, 1978

प्रतिलिपि श्री राम प्रकाश जो, सतर्कता अधिकारी/II, पूर्वोत्तर रेलवे,
गोरखपुर को आवश्यक कार्यवाही हेतु प्रेषित ।

XXXX



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD,LUCKNOW BENCH, LUCKNOWW.P.No. of 1983

M.K. Verma & others

..

Petitioner

Vs.

The Union of India & others

..

Opposite party

ANNEXURE NO. 5N.E. RAILWAYCORRIGENDUM

In reference to Sri Q.S. Rasool's explanation No. nil dated 13.8.78, in reference to this office letter No.E/II/55/SR dt. 2.8.78, the seniority position of Sri Q.S. Rasool, Sr. Typist (330-560) of this Division, Vis-a-vis S/Shri Diwakar Raha, Babu Lal, M.K. Verma, Krishan Lal & Liladhar, Sr. Typist (330-560) of this Division, as represented by them, vide their representation dated 24.5.78, has been reviewed.

2. In view of the fact that Sri Q.S. Rasool, was originally a hand of Accounts Deptt., having been appointed as Jr. Typist in scale Rs.60-130 PS in FA & CAO's Office/GKP on 4.5.58, and there being no authentic proof available, either in the official records of this office or in Hd. Qr.'s office/GKP or with Sri Q.S. Rasool himself, that his transfer from Ex-FA & CAO's Office/GKP to Ex-DME's Office, Gonda, on 24.5.58 (which was a separate seniority unit) was ordered on administrative grounds, and also considering the fact that there was no other Admn: expediency

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prevailing at that time, to have transferred a Typist of FA & CAO's Office/GKP to EX-DME's office/Gonda on Admn: grounds, he cannot be treated to have been transferred to EX-DME's office/Gonda on Admn: grounds. Accordingly he is re-assigned seniority as under in terms of para 312 of Indian Rlys. Estt. Manual :-

Name	Date of appointment	Existing position in the seniority list of Jr. Typist (60-130) PS issued by CME (P)/GKP as on 1.4.60	Seniority position as assigned now as a result of above review in the same seniority list	Remarks
Sri Krishan Lal	1.6.57	5	4	
" Q.S. Rasool	4.5.56 24.5.58 *	4	5	*Assigned seniority from 24.5.58 i.e. from the date he resumed duty in EX-DME's Office/Gonda, on transfer from FA & CAO/GKP, on own his request.

3. In result, therefore, Sri Krishan Lal is senior to Sri Rasool.

4. Consequent on above rectification, the seniority position of Sri Rasool vis-a-vis other Sr. Typists (330-560 RS) of this Division, is reassigned as under, in modification of the seniority list of Sr. Typists (330-560), as on 1.4.78 issued under this office No.E/255/Sr.Typist/LJN dated 18.8.1978 :-

Names re-arranged in order of seniority	Date of appointment	Date of promotion to grade	Existing position in the seniority list as on 1.4.78	Seniority position now assigned as a result of above review as on 1.4.78	Remarks
	1	2	3	4	5
Sri U.N. Upadhyaya	30.12.52	1.4.56	1	1	
" Krishan Lal	1.6.57 20.11.63 (Deemed date).	1.4.70	7	2	

Contd....3



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1	2	3	4	5	6
Sri Diwakar Raha	2.6.52	10.8.64	3	3	
" Babu Lal S/C	14.7.59	16.9.66	4	4	
" O.P. Oberai	10.1.53	27.5.69	5	5	Offg. as Steno 330-560
" M.K. Verma	10.1.53	2.8.69	6	6	
" Q.S. Rasool (Deem date)	<u>4.5.56</u> 24.5.58	<u>20.11.63</u> 1.4.70	2 (Deem date)	7	
" Ram Prakash Pandey	<u>3.4.56</u> July/58	22.9.71	8	8	Came on transfer from Vig. Deptt. in July/58 on his own request.
" S.M.A. Rizvi	4.7.58	22.9.71	9	9	
" Bal Govind Pd.	<u>24.9.56</u> 27.12.62	1.2.74	10	10	Came on transfer from CPO's office/GKP on 27.12.62 on his own request
" Lila Dhar S/C	29.6.59	12.8.76	11	11	

Sd/- Tej Bahadur Singh

23/12

DIVISIONAL PERSONNEL OFFICER.

N.E.RLY./LUCKNOW.

No.E/II/55/QR

Dated -12-78

Copy forwarded for information and necessary action to :-

1. Hd. Typist, DS's Office/LJN.
2. All Sr. Typists DS's Office/LJN & on line.
3. Union Dealing Clerk in office.
4. Secretary, NER Mazdoor Union, Lucknow Branch.
5. CPO/GKP in ref: to his D.O.No.E/255/14/Sr.Typist/VIII dated 21.9.78.
6. Shri Q.S. Rasool, Sr. Typist, LF's Office/CD.
7. S/C for P/cases.

Sd/- Tej Bahadur Singh
DIVISIONAL PERSONNEL OFFICER,
N.E.Rly./LUCKNOW.



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

W.P.No. of 1983

M.K. Verma & others .. Petitioner

Vs.

The Union of India & others .. Opposite party

Annexure No. 6

OFFICE OF THE DIVISIONAL SUPDT.
NORTH EASTERN RAILWAY
L U C K N O W

OFFICE ORDER

The corrigendum issued vide this office order No.E/II/55/SR dated 30.12.78 showing the seniority position of Typists as on 1.4.60 and Sr. Typists as on 1.4.78 is hereby cancelled and status quo ante is maintained in respect of i.e. S/Shri Diwakar Raha, Babu Lal, O.P. Oberai, M.K. Verma and Q.S. Rasool, Typists seniority should be assigned at S.No.7 and that of Shri Kishan Lal at S.No.6 above Shri Q.S. Rasool.

The final seniority will be therefore as under :-

Sl. No.	Name in order of seniority	Date of appointment	Date of promotion to grade	Seniority position now assigned as result of above review as on 1.4.78	Remark
<u>S/Shri -</u>					
1.	U.N. Upadhya	31.12.52	1.4.56	1	
2.	Diwakar Raha	2.6.52	10.8.64	2	
3.	Babu Lal (SC)	14.7.59	16.9.66	3	
4.	O.P. Oberai	10.1.53	27.5.59	4	Offg. Steno 330-560
5.	M.K. Verma	10.1.53	2.8.69	5	
6.	Kishan Lal	1.6.57	1.4.70	6	

Contd...2



M.K. Verma

Sl. No.	Name in order of seniority	Date of appointment	Date of promotion to grade	Seniority position now assigned as result of above review as on 1.4.78	Remarks
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S/Shri -

7.	Q.S. Rasool	4.6.56	20.11.63	7	Came on transfer (**)
8.	R.P. Pandey	<u>3.4.56</u> July 58	22.9.71	8	Came on transfer from Vig. Deptt. in July/58 on his own request.
9.	S.M. Rizvi	4.7.58	22.9.71	9	
10.	Bal Govind Pd.	<u>24.9.56</u> 27.12.62	1.2.74	10	Came on transfer from CPO's Office GKP on 27.12.62 on his own request.
11.	Lila Dhar	29.6.59	12.8.76	11	

(**) from FA & CAO/GKP to Ex-DME/GD on 24.5.58 on his own request.

Sd/- Tej Bahadur Singh
3/3/79
DIVISIONAL PERSONNEL OFFICER,
LUCKNOW.

No.E/II/55/QR Lucknow, dated 3rd March, 1979.

Copy forwarded for information and necessary action to :-

1. Hl. Typist, D.S. Office/LJN.
2. All Sr. Typists, Lucknow Division.
3. Union Dealing Clerk in office.
4. Secretary, N.E. Rly. Mazdoor Union, Lucknow Branch.
5. CPO/GKP in reference to his D.O.No.E/255/14/Sr. Typist/VIII, dated 21.9.78.
6. Sri Q.S. Rasool, Sr. Typist, LF's Office/GD.
7. Spare copy for P/cases.

Sd/- Tej Bahadur Singh
3/3/79
DIVISIONAL PERSONNEL OFFICER,
LUCKNOW.



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

Writ Pet.No. of 1983.

M.K.Verma and another

---Petitioner.

Versus

The Union of India and others

---Opposite-
parties.

Annexure 7.

N.E.Railway.

Office Order.

Shri Krishan Lal, Jr. Typist in scale Rs 110-180
being the Sr. Most incumbent, is temporarily
promoted to officiate as Senior Typist in scale
Rs 130-300 vice Shri O.P. Oberai, Sr. Typist ~~posted~~
posted as Steno w.e. from 1.4.70.

This is purely a temporary and adhoc arrange-
ment and shall therefore not confer any claim
for permanent retention over the post to Shri
Krishan Lal.

The pay of Shri Krishan Lal is fixed at Rs 160/-
in scale Rs 130-300.

Sd. Divisional Personnel Officer
North Eastern Railway
Lucknow.

No. E/K/Typist. L.J.N dated 11/12.5.1970

Copy for information and necessary action to:-

1. DAO/L.J.N, FA & CAO/GKP.
2. OS (G).
3. Hd. Rypist, Hd. Clerk (Estt. Bill and Managing).
4. Staff concerned.

Sd.
Divisional Supdt. (P)
Lucknow.

True-copy.



इन दो आनरेबल हाई कोर्ट आफ जजिक्चर सेट इलाहाबाद, लखनऊ बेंच, लखनऊ

रिट पेटोशन नं०

आफ 1983

रम० कै० बर्मा ऐण्ड अदर्स

... पेटोशनर

वर्सेज

दो यूनिशन आफ इंडिया ऐण्ड अदर्स

... अपोजिट पार्टी

रनेकार नं० ४

पूर्वोत्तर रेलवे

राशि - पत्र

महाप्रबन्धक (कार्मिक)/गोरखपुर के पत्र संख्या-का/255/कृष्ण लाल/
(IX) दिनांक 24-11-1980 के आदेशानुसार श्री कृष्ण लाल प्रवर टंक की वेतन-
मान 330-560 में वरोयता तथा प्रोन्नति पिसिसेशन जिस दिन से श्री क्यू० एस०
रसूल को पदोन्नति हुई है अर्थात् दिनांक 1-6-64 से दो जाती है, इन्हें इस
अवधि का किसी प्रकार का अन्य आर्थिक लाभ देय न होगा। अतः अब लखनऊ
मण्डल के प्रवर टंकों (330-560) को 1-4-1978 को वरिष्ठता सूची निम्न
प्रकार से निर्धारित की जाती है :-

क्र० सं०	नाम	जन्म तिथि	नियुक्ति तिथि	वेतन-मान में प्रवेश तिथि	स्थायी/ अस्थायी	अव्युक्ति
1.	श्री यू०यन० उपाध्याय	1-1-28	30-12-52	1-4-56	स्थायी	
2.	श्री कृष्ण लाल	15-10-33	1-5-57	1-6-64	„	
3.	श्री दिवाकर राहा	1-9-30	2-6-52	10-8-64	„	
4.	श्री बाबू लाल	4-7-32	14-7-59	16-6-66	„	
5.	श्री ओम प्रकाश ओबराय	18-12-31	10-1-53	27-5-69	„	आशुलिपि स्थानापन
6.	श्री रम०कै० बर्मा	16-10-32	10-1-53	2-8-69	„	
7.	श्री क्यू०एस० रसूल	13-1-36	4-5-56 -5-58	1-6-64 1-4-70	„	स्वेच्छा स्थानां- तुरण लेखा से (डोम डेट) यात्रिक विभाग

क्रमशः

क्र० सं०	ना म	जन्म तिथि	नियुक्ति तिथि	वैतनमान में प्रवेश तिथि	स्थायी/ अस्थायी	अभ्युक्ति
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सर्वश्री -

8.	आर०पो० पाण्डे	7-1-33	<u>3-4-56</u> -7-58	22-9-71	स्थायी	स्वेच्छा स्थानान्तरण विज० से परिचालन विभाग में ।
9.	स्स०स्म०स्म० रिजुवो	5-1-36	4-7-58	22-9-71	„	
10.	बाल गोबिन्द प्रसाद	7-1-35	24-9-56	1-2-74	स्थानापन	स्वेच्छा स्थानान्तरण कार्मिक से यांत्रिक विभा में ।
11.	लालधर	2-1-36	19-6-59	12-8-76	„	

ह० मोना शाह
कृते मंडल रेल प्रबन्धक (का)
लखनऊ ।

संख्या-का/कृष्ण लाल प्र० सं०/80

दिनांक 28-11-1980

प्रतिलिपि सूचनार्थं एवं आवश्यक कार्यवाही हेतु प्रेषित :-

- 1) महाप्रबन्धक (का), पूर्वोत्तर रेलवे, गोरखपुर ।
- 2) प्रधान टंकक/कार्यालय ।
- 3) सम्बन्धित कर्मचारिगण ।
- 4) यूनियन डोलींग लिपिक/मंडल कार्यालय ।

ह० मोना शाह
कृते मंडल रेल प्रबन्धक (का)
लखनऊ ।

28/11/80



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

Writ Pet.No. of 83.

M.K.Verma and another ----Petitioner.

Versus

The Union of India and others ----Opp-parties.

Annexure 9.

The General Manager(P),
N.E.Railway.
Gorakhpur.

Through- Proper Channel.

Sir,

Sub: Wrong fixation(proforma) of seniority of
Sri Krishen Lal as Sr.Typist in scale
330-560.

Ref:- 1) DR M(P)/ LJN's Show Cause Notice No.
E/K.L/T/79 dated 10.9.79.

2) My representation along with others dated
20/22.9.79 in reply to 'Show Cause Notice,
addressed to DRM(P)/LJN.

3) My further representation along with others
dated 31.12.78 addressed to the GM(P)/GKP.

With profound respect I beg to submit as under:-

That on repeated representations of the
Sr.Typists of LJN Division including myself, the
final seniority of Sr.Typists was finalised and
circulated under DPO/LJN's o.o.No.E/II/55/QSR,
dated 3.3.79, in which Sri Kishan Lal was rightly
given the seniority position below me as he is
junior to me in all respect i.e. both as Junior and
Sr. Typist. This was issued with the approval of
GM(P)/GKP.



M. K. Verma

That however, Sri Kishan Lal made a representation for assigning his seniority as Sr. Typist with effect from 20.11.63 vide Sri Q.S. Rasool in the Mech. Department of Ex-Regional Unit. Upon this, a 'Show Cause Notice' was issued to me and other Typists who are senior to Sri Kishan Lal vide DRM(P)/LJN's letter No.E/KL/T/79 dated 10.9.79.

That we made our representations against the 'Show Cause Notice' on 20/22.9.79 to the DRM(P)/LJN and on 31.12.79 to the GM(P)/GKP.

That fate of our representations have not been made known to us as yet but meanwhile it is learnt that Sri Kishan Lal has been declared senior to us including myself by the DRM(P)/LJN's Corrigendum No.Ka/Kishan Lal/Sr.T/80 dated 28.11.80. That a copy of the Corrigendum was not even given to me till date and it is by chance I come to know of the above change in the seniority position of Sr. Typist of LJN Division recently.

That in the said Corrigendum Sri Kishan Lal who was appointed on 1.6.57 has been assigned seniority of Sr. Typist from 1.6.64 whereas myself was appointed on 10.1.1953, have been given seniority of Sr. Typists from 2.8.69 on unfounded grounds.

That Sri Kishan Lal cannot claim seniority from 1.6.1964 during the Pre-Division Time when his seniority was confined to Mechanical Department after Lapse of 16 years. The position obtained



M. K. Verma

in the Mech.Deptt. in 1963-64, cannot be impartially judged after a lapse of 16 years but due to some pressures/pools Sri Kishan Lal has managed to achieve what was not admissible to him in Mech. Unit during pre-division time.

That the main stragedy of Sri Kishan Lal was that Sri G.S.Rasool, who was junior to me in the Mech. unit and as he got promotion(Fortuous) earlier than Sri Kishan Lal in the Mech.Unit, Sri Kishan Lal should be given seniority above him. In fact vide DPO/LJN's o.o.No.E/11/55/QSR dated 3rd.March, 79, Sri Kishan Lal's seniority position was levelled up above Sri Q.S.Rasool but now his seniority has again been levelled up in 2nd place instead of 6th place in the present Corrigendum dated 28.11.80, even declaring him senior to others who are actually senior to him both on the basis of actual dates of appointment and promotions.

Attention is invited in this connection to the GM (P)GKP's Corrigendum No.E/IX/59/Mech/UPDG/Typist dated 2.9.64 of Memorandum No.EM/G/20-71/Pt.V dated 28.11.63, and GM(P)'s o.o.No.E/210/8/1/Typist(IX) dated 14.9.1971, under which the benefit of proforma fixation of pay as Sr.Typist was granted to Sri Sohan Lal, Senior Typist of DS/IZN vice Sri Q.S.Rasool in the Ex-Mech.Unit. Since Sri Sohan Lal, Sr.Typist of DS/IZN was senior to Sri Q.S.Rasool in the Mech.unit, the benefit was admissible to him as Only One Post of Sr.Typist was available in the Mech.Department during the Crucial period.



P.K. Menon

Now that Sri Q.S.Rasool's date of promotion as Sr.Typist has been levelled down to 1.4.70, there is no ground to give the benefit of Sr. Typist to Sri Kishan Lal, from 1.6.64. If Sri Kishan Lal's case had been genuine, he should have represented to the CME during the years 1963 and 64 like Sri Sohan Lal of DS/IZN whose case was decided by the CME in the year 1964 itself i.e. much before the formation of this Division (as he was also working in the same unit). But Sri Kishan Lal remained silent through out and only in the year of 1979, he raked up the matter and surprisingly enough was granted the seniority position according to his desire. Actually Sri Kishan Lal took the advantage of his present posting under CA to DRM/LJN. Sri Kishan Lal can claim seniority as Br.Typist only from 1.4.70 i.e. his actual date of promotion as Sr.Typist and placed above Sri Q.S.Rasool and not above others.

Since the seniority is crucial in the matter of promotion in non-selection posts, I pray to your benighself to kindly look into the affairs impartially and arrange to assign correct seniority position to Sri Kishan Lal below me and above Sri Q.S.Rasool as was correctly done under DPO/LJN's o.o.No.E/11/55/QSR dated 3.3.79 so that undue benefits are not granted to him erroneously and illegally.

An early decision is earnestly solicited.

Thanking you,

Yours faithfully,

Sd.M.K.Verma) Sr.Typist,
Dated 21st. April, 1981. D.R.N's Office, N.E.Rly. Lucknow.

True-copy.



इन दो अनरेबुल हाई कोर्ट आफ बुद्धिचेर सेट इलाहाबाद, लखनऊ बेंच, लखनऊ

रिट पेटोशन नं०

आफ 1983

एम० कै० वर्मा एण्ड अदर्स

...

पेटोशनर

वर्सेज

दो युनियन आफ इंडिया एण्ड अदर्स

...

अपोजिट पार्टी

एनेक्सर नं० 10

मंडल रेल प्रबन्धक,
पूर्वोत्तर रेलवे,
लखनऊ।

महोदय,

विषय :- लखनऊ मण्डल के प्रवर टंक (330560) को
वरोयता का गलत निर्धारण।

xxx

संदर्भ :- महाप्रबन्धक/गोरखपुर को सम्बोधित प्रार्थी के
अनेकी प्रार्थनापत्र।

===

उल्लेखनीय है कि पूर्वोत्तर रेलवे पर मण्डलोकण के पश्चात् लखनऊ मण्डल के प्रवर टंक (330560) को वरोयता का सही निर्धारण न होने के कारण प्रवर टंकों ने सामूहिक रूप से वरोयता का सही निर्धारण करने के लिए महाप्रबन्धक/गोरखपुर से 1978 में अनुरोध किया था। पसस्वरूप मरेप्र(का)/लखनऊ के शुद्धिपत्र सं०-ई/11/55/क्यूएसआर/ दिनांक 23-12-78 के द्वारा प्रवर टंक (330-560) को वरोयता में सुधार किया गया। चूंकि यह एक पक्षीय सुधार था, अतः अन्य प्रवर टंकों के पुनः असंतोष प्रकट करने पर मरेप्र (का)/लखनऊ ने मुख्यालय के अनुमोदन से अपने का०आ०सं०-ई/11/55/क्यूएसआर दिनांक 3-3-79 द्वारा प्रवर टंक (330-560) को वरोयता का सही रूप से पुनः निर्धारण कर दिया।

उपरोक्त वरोयता निर्धारण पर मात्र श्री कृष्ण लाल, प्रवर टंक (जो मरेप्र/लखनऊ के गोपनीय सहायक के अधीन कार्यरत है) ने पुनः विरोध प्रकट किया और अपनी तैनाती स्थान का पराम्परा लाभ उठाकर तथा मुख्यालय

क्रमशः

पर अन्य श्रोतों से दबाव डलवाकर मरेप्र(का)/लखनऊ के का0आ0सं0-का/कृष्ण लाल/प्र0ट0/80 दिनांक 28-11-80 के माध्यम से प्रवर टंक (330-560) को वरोयता में पुनः अनियमित परिवर्तन करा दिया। आश्चर्य का विषय है कि प्रवर टंकों को वरोयता को मरेप्र(का)/लखनऊ द्वारा तीन-तीन बार परिवर्तन करने का क्या औचित्य है और कहाँ तक न्यायसंगत है, प्रशासन स्वयं नहीं जानता होगा। इसके विरोध में अन्य प्रवर टंक (330-560) ने महाप्रबन्धक/गोरखपुर को सही वरोयता निर्धारण के परिवर्तन को रोकने के लिये अनेकी प्रतिवेदन रजिस्ट्रो द्वारा भेजे। छेद का विषय है कि महाप्रबन्धक/गोरखपुर ने अस्तुष्ट प्रवर टंक के किसी भी प्रतिवेदन का आज तक कोई भी उत्तर नहीं दिया और अब उनके भविष्य जीवन के साथ प्रशासन द्वारा खेलवाड़ किया जा रहा है।

मण्डल रेल प्रबन्धक(का)/लखनऊ को उपरोक्त नोति से स्वतः स्पष्ट है कि प्रवर टंकों को सही वरोयता निर्धारण के मामले में रेल परिषद्, नई दिल्ली के पत्र सं0-ई53001/8/3 दिनांक 21-11-53 में दिये गए निम्नलिखित निर्देशों का सारासर उल्लंघन किया जा रहा है :-

"In grades in which a combined seniority has to be drawn up, the seniority in each grade will be in accordance with the LENGTH OF SERVICE IN THE GRADE, both officiating and permanent, as on the date of integration."

साथ ही, पूर्वोक्त रेलवे पर मण्डलीकरण के पश्चात् कर्मचारियों को सही वरोयता निर्धारण की नोति का उल्लेख महाप्रबन्धक(का)/गोरखपुर के पत्र सं0-ई/561/1 दिनांक 7-3-69 में निम्न प्रकार से दर्शाया गया है, परन्तु प्रशासन इसका भी पालन नहीं कर रहा है :-

"In respect of non-selection posts, staff promoted against regular vacancies on the basis of seniority-cum-suitability on the date of divisionalization, WILL RETAIN THEIR POSITION."

छेद है कि उपरोक्त अदेशों की उपलब्धता के बावजूद भी रेल के वे कर्मचारी "जिनके उज्ज्वल भविष्य की सोमा बहुत हो संकुचित है," प्रशासन द्वारा उनके उज्ज्वल भविष्य जीवन को निमर्म हत्या की जा रही है।

बिगड़ होकर प्रार्थी ने सांसद का सहारा लेकर महाप्रबन्धक/गोरखपुर से मामले में स्वयं हस्तक्षेप करने का अनुरोध किया, परन्तु सांसद के अनुरोध के



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भी अवहेलना कर, तथा श्री कृष्ण लाल, प्रवर टंक का मरेप्र/लखनऊ के कार्मिक शाखा के साथ घिनौने सम्बन्ध और प्रयासों के परस्पर मुख्यालय की भी अधिकार में रखा जा रहा है जिससे स्पष्ट है कि प्रार्थी की रेल प्रशासन द्वारा न्याय तभी सम्भव है जब कार्मिक शाखा के सक्षम अधिकारी (माननीय प्रमकाधि महोदय) स्वयं न्याय दिलाने का प्रयास करें और मुख्यालय की भी अधिकार में न रखकर सही वस्तुस्थिति से अवगत करायें ।

मुझे ज्ञात हुआ है कि निकट भविष्य में (बहुत शीघ्र ही) लखनऊ मंडल के टंक श्रेणी में भी अन्य श्रेणियों की भांति "अपग्रेडिंग" कार्यान्वित होने वाली है । श्री कृष्ण लाल, प्रवर टंक इस अपग्रेडिंग का अनाधिकृत रूप से पूरा-पूरा लाभ उठाने के लिए प्रयत्नशील हैं । यदि प्रवर टंक (330-560) को सही वरोयता निर्धारण से पूर्व श्री कृष्ण लाल, प्रोटो की अपग्रेडिंग का लाभ प्रशासन द्वारा दिया गया तो निश्चय ही प्रार्थी की बिगड़ होकर 'न्याय' की ओर में न्यायालय की शरण लेने के लिए बाध्य होना पड़ेगा ।

अतः श्रीमान जो से पुनः अनुरोध है कि कृपया मरेप्र(का)/लखनऊ के कार्यालय आदेश सं०-ई/॥/55/क्यूएसआर दिनांक 3-3-79 तथा सं०-ई/कृ०लाल/प्रोटो/80 दिनांक 28-11-80 का पुनः अवलोकन करें, प्रवर टंक (330-560) को सही वरोयता निर्धारण कर प्रार्थी के भविष्य जीवन की नष्ट होने से बचाने में अपना महान सहयोग प्रदान करें ।

सन्ध्यवाद,

भवदीय,

(दिवाकर राहा) हस्ताक्षर

(एम०के० वर्मा) हस्ताक्षर

प्रवर टंक

मंडल रेल प्रबन्धक कार्यालय,

पूर्वोत्तर रेलवे, लखनऊ ।

दिनांक जुलाई 4, 1983

प्रतिलिपि सूचनार्थ एवं न्यायोचित कार्रवाई हेतु अग्रसारित :-

1. माननीय श्री त्रिलोक चन्द्र जो, संसद सदस्य (लोक सभा) नई दिल्ली की महाप्रबन्धक, पूर्वोत्तर रेलवे, गोरखपुर को सम्बोधित उनके पत्र दिनांक 22-10-82 के संदर्भ में ।
2. माननीय श्री दयाराम जो शास्त्री, संसद सदस्य (लोक सभा), नई दिल्ली की महाप्रबन्धक, पूर्वोत्तर रेलवे, गोरखपुर को सम्बोधित उनके पत्र दिनांक 6-1-83 के संदर्भ में ।



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3. महाप्रबन्धक (कार्मिक), पूर्वोत्तर रेलवे, गोरखपुर को इस अनुरोध के साथ अग्रसारित कि वह कृपया निम्नलिखित अनियमितताओं का सहो रथ से पृष्टिकरण करने के पश्चात् प्रवर टंकक (330-560) को सहो वरोयता निर्धारण करने को कृपा करें ताकि निष्ठावान कर्मचारियों का भविष्य जोवन नष्ट न होने पावे :-

- (अ) रेल विभाग का वह कर्मचारी जो प्रार्थी के नियुक्ति के लगभग पांच वर्ष बाद नौकरी में आया और प्रार्थी को प्रोन्नति तिथि से क्रमशः 2 माह तथा पांच वर्ष पूर्व हो प्रोन्नति किया जा रहा है, यह कहाँ तक न्यायसंगत है ?
- (ब) यह भी एक विचारणीय प्रश्न है कि मण्डलोकण से पूर्व (यानी प्रोन्नति तिथि के 19 वर्ष बाद) अन्य विभागों (परिचालन तथा इंजनियरिंग) के कर्मचारियों को पूर्व निर्धारित वरोयता को परिवर्तन करने का मुख्य यांत्रिक इंजनियर, गोरखपुर को क्या अधिकार है ?
- (स) ज्ञातव्य है कि 1963 में प्रवर टंकक के एक ही रिक्त पद का लाभ सर्वश्री क्यू०एस० रसूल और सोहन लाल, दोनों ही 1964 से निरन्तर पा रहे हैं, फिर भी उसी पद का लाभ 19 वर्ष बाद एक तीसरे कर्मचारी (श्री कृष्ण लाल) को देना, रेल प्रशासन के किस नियम के अर्तगत मान्य है ?
- (द) उल्लेखनीय है कि सर्वश्री क्यू०एस० रसूल, सोहन लाल तथा कृष्ण लाल तीनों ही टंकक 1963 में यांत्रिक विभाग के जिला कार्यालय में कार्यरत थे और विभागीय वरोयता नियम के अन्तर्गत शासित थे । श्री सोहन लाल वरिष्ठतम टंकक, इज्जतनगर को उपेक्षित कर श्री क्यू०एस० रसूल, टंकक/गोंडा को 1963 में प्रवर टंकक के पद पर प्रोन्नति कर दिया गया था । पक्षस्वरूप 1964 में श्री सोहन लाल, टंकक, इज्जतनगर के रोष प्रकट करने पर श्री क्यू० एस० रसूल के साथ ही साथ श्री सोहन लाल, टंकक को भी प्रवर टंकक के पद पर प्रोन्नति कर दिया गया था । यह भी एक ज्वलंत प्रश्न है कि श्री कृष्ण लाल, टंकक ने भी 1964 में ही श्री सोहन लाल, टंकक को भाति प्रशासन के सम्मुख अपने इस दावे को क्यों नहीं प्रस्तुत किया, जो वह आज लगभग 19 वर्ष का समय व्यतीत हो जाने के पश्चात् (मंडलोकण के समय) प्रस्तुत कर रहे हैं और 1963 में प्रवर टंकक के एक ही रिक्त पद का लाभ तीसरो बार माग कर प्रशासन को अन्धकार में डकेल रहे हैं ।

क्रमशः



Miller

(य) श्री ओ०पो० ओबराय, प्रवर टंक (130-300) का चयन सर्व तैनाती आशुलिपिक पद पर दिनांक 1-4-70 को किया गया था और उनके रिक्त स्थान पर कार्यालय आदेश सं०-ई/के/टाइपिस्ट दिनांक 11/12-5-70 के द्वारा श्री कृष्ण लाल, टंक को प्रवर टंक के पद पर प्रोन्नति किया गया था। परन्तु मरेप्र(का)/लखनऊ को दूरदर्शिता के परिणामस्वरूप दिनांक 1-1-80 को प्रकाशित प्रवर टंकों को वरोयता सूची में श्री कृष्ण लाल को श्री ओ०पो० ओबराय, प्र०ट० से वरिष्ठ दर्शाया गया है। इससे स्पष्ट है कि कार्मिक शाखा के मतानुसार "एक पुत्र अशु में अपने पिता से बड़ा माना जायेगा।"

अतः श्रीमान जो से विनम्र निवेदन है कि कृपया उपरोक्त अनियमितताओं को ध्यान में रखते हुए, नियमानुकूल सखे वरोयता निर्धारण करने को कृपा करें ताकि किसी भी कर्मचारी का भविष्य जोवन नष्ट न होने पावे।

सधन्यवाद,

(दिवाकर राहा) ह०

(एम०के० वर्मा) ह०

प्रवर टंक,

मण्डल रेल प्रबन्धक कार्यालय,

पूर्वोत्तर रेलवे, लखनऊ।

दिनांक जुलाई 4, 1983



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

Writ Pet.No. of 1983.

M.K.Verma and another ----Petitioners.

Versus

The Union of India and others ----Opp-parties.

Annexure 11:

N.E.Railway.

The following Sr.Typists (130-300) and Typists (110-180) are hereby confirmed from the dates shown against each:-

Sl. no.	Name	Desg.	Grade.	Date from which confirmed.
1.	Sri M.K.Verma	Sr.Typists	130-300	1.1.72.
2.	" Kishan Lal	do.	do.	1.1.72.
3.	" Lila Dhar	Typist	110-180	1.1.72.
4.	" Akhtar Husain	do.	do.	1.1.72.

Sd.K.C.Verma,
Divisional Personnel Officer,
N.E.Rly. Lucknow.

No.E/254/1/Managing Dated 26.2.72

Copy forwarded for information and necessary action to:-

1. Hd.Typist in office.
2. Individual concerned.
3. Secy.Mazdoor Union/LJN.
4. Secy.PRKS/LJN.
5. Hd Clerk Cadre in office.
6. P.cases.

Sd.K.C.Verma,
Divisional Supdt.(P)
N.E.Railway, Lucknow.

True-copy.



M. Verma

In the Honble High Court of Judicature at Allahabad
Lucknow Bench Lucknow A56 1/57

W.P. No. OF 1983

Madhav Krishan Verma.
and another _____ Petitioners

VS

Union of India and others _____ Opposite Parties

ANNEXURE NO 12



Reference

रेल परिषद के पत्र सं०पी.सी./III, 80/यू.पी.जी./19 दि. 29-7-83 तथा महा प्रबन्धक(का०)/गोरखपुर के पत्र सं. 2/205/पी.सी./यू.पी.जी./83 दिनांक 8-8-83 के अनुसार ग्रुप 'सी' व ग्रुप 'डी' को कुछ कैटेगरी के वेतनमान एवं पदों (डिसिगनेशन) में प्रतिशत के आधार पर रीइस्ट्रक्चर्ड हो जाने के फलस्वरूप मैनेजिंग विभाग में प्रधान टंकक(550-750) को दो पद, प्रवर टंकक(425-700) का चार पद और टंकक ग्रेड वन (330-560) का 12 पद दिनांक 1-8-82 से प्राप्त हुआ है।

अतः निम्नलिखित कर्मचारियों को प्रधान टंकक प्रवर टंकक तथा टंकक ग्रेड वन पद पर दिनांक 1-8-82 के प्रोफार्मा वेतन निर्धारण का लाभ देय है तथा वास्तविक वेतन का लाभ दिनांक 1-8-83 से देय होगा।

क्रम सं.	कर्मचारियों का नाम	वर्तमान पद एवं वेतनमान	पोस्टिंग (स्टेशन)	प्रतिशत के आधार पर रीइस्ट्रक्चरिंग के फलस्वरूप पद-क वेतनमान	वेतन निर्धारण	विवरण
1-	यू.एन. उपाध्याय	प्रधान टंकक 425-700	मंडल कार्य लखनऊ	प्रधान टंकक 550-750	630/- 1-8-82 650/- 1-8-83	
2-	कृष्ण लाल	प्रवर टंकक 330-560	" "	प्रवर टंकक 425-700	530/- 1-8-82 545/- 1-8-83	
3-	दिवाकर राहा	" "	" "	" "	580/- 1-8-82 600/- 1-8-83	
4-	एल.एस. श्रीवास्तव	टंकक 260-400	स.एस.ओ.आर लखनऊ	टंकक ग्रेड 330-560	380/- 1-8-82 392/- 1-8-83	
5-	के०के० निगम	"	मंडल कार्य लखनऊ	" "	380/तुरन्त प्रभाव से	
6-	शमशुल हसन खां	"	एस.एस./गोरखपुर	" "	380/-	

391 टंक पर प्रमोशन का 3-8-82 से देय है।

सि 31/8/83

कृते मंडल रेल प्रबन्धक/का० लखनऊ
3-9-1983

सं. 2/11/210/1/5/मार्ग-चार
प्रतिलिपि आवश्यक कार्यवाही हेतु प्रस्तुत है।

- 1) महा प्रबन्धक/का० गोरखपुर।
- 2) प्रमोधि/लखनऊ
- 3) कार्याधी/बिल मैनेजिंग/परिचालन
- 4) प्रवर क्षेत्रीय अधीक्षक/गोरखपुर
- 5) एस.एस.ओ.आर/लखनऊ
- 6) सम्बन्धित कर्मचारी-गण।

सि 31/8/83

मंडल रेल प्रबन्धक/का० लखनऊ

31/8/83

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

Writ Petition No. of 1983



Madhav Krishna Verma & another .. Petitioners

Versus

The Union of India through General
Manager N.E. Railways and others .. Opp. Parties

AFFIDAVIT

I, Madhav Krishna Verma aged about 50 years
son of Sri Banwari Lal, Senior Typist, Office of the
Divisional Railway Manager, North-Eastern Railway
Lucknow do hereby solemnly affirm and state on oath
as under:

1. That the deponent is the petitioner no. 1
in the above noted writ petition and as such fully
conversant with the facts of the case.
2. That the contents of paragraphs 1 to 27, 29 to 39
are true to my own knowledge while those of paragraphs
— 38 and 40 — are believed by me to be true on
the basis of legal advise.



M. Verma

3. That the deponent has compared the annexures from their originals and they are the true copies of the same.

[Signature]

Deponent

Lucknow

Dated: 22.11.83

VERIFICATION

I the above named deponent do hereby verify that the contents of paragraphs 1 to 3 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed. So help me God.

Signed and verified this 22nd day of Nov, 1983 at Lucknow.

[Signature]

Deponent

I identify the deponent who has signed before me

[Signature]
Advocate.

Solemnly affirmed before me on 22.11.83 at 9.30 A.M./P.M. by the deponent *Madhav Krishna Verma* Sri Madhav Krishna Verma who has been identified by Sri R.S. Pandey, Advocate, High Court, Lucknow Bench.

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



[Signature]
OATH COMMISSIONER
High Court, (Lucknow Bench)
LUCKNOW

No. 22.11.83
Date

50

A60 2

ब अदालत श्रीमान

Honble High Court of Judicature at
Allahabad Lucknow Bench
महोदयवादी (मुद्दे)
प्रतिवादी (मुद्दा अलेह)

का

वकालतनामा

W.P. No.

OF 1983

Distt Lucknow

Madhav Krishan Verma
and anotherUnion of India and
others

बनाम

प्रतिवादी (मुद्दा अलेह)



नं० मुकद्दमा सन् १६ पेशी की ता० १६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री R.S. Pandey Advocate

Sri P.C. Agarwal Advocate

एडवोकेट

महोदय

High Court Lucknow

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 (परिवरानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें - 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 पैराकार को भेजता 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।

M. K. Sharma Bilakher Pote
हस्ताक्षर

साक्षी (गवाह).....साक्षी (गवाह).....

दिनांक 22.....महीना 11/83

नाम अदालत

नं० मुकद्दमा

नाम फरीकैन

Accepted

P.C. Agarwal
Advocate

Madan Krishna Verma and
another

.. Petitioners

versus

The Union of India through General
Manager N.E. Railway and others

.. Opp. Parties

INDEX

Sl. No.	Contents	Pages
1.	Memorandum of Writ Petition	1 to 16
2.	<u>Annexure No. 1</u> Hly. Board's order dated 21.11.53	
3.	<u>Annexure No. 2</u> Seniority list published on 1.9.69	
4.	<u>Annexure No. 3</u> Office Order dated 3.12.1965	
5.	<u>Annexure No. 4</u> Combined representation made against the seniority given to Mr. Rasool.	
6.	<u>Annexure No. 5</u> Seniority list duly modified was again published on 30.12.73	
7.	<u>Annexure No. 6</u> Final Seniority list was again published on 3.3.79.	
8.	<u>Annexure No. 7</u> Temporary appointment of opp. party no. 4 as Senior Typist vice Sri S.P. Oberoi.	
9.	<u>Annexure No. 8</u> Seniority list was modified on the representation of opp. party no. 4 vide order dated 28.11.1980.	
10.	<u>Annexure No. 9</u> Representation of petitioner no. 1 dated 21.6.1981.	

11. Annexure No. 10

Petitioners again submitted representation dated 4.7.83 requesting personal interview and revision of seniority list contained in annexure no. 8.

12. Annexure No. 11

~~XXXXXXXXXXXX~~

Letter dated 26.2.1972

13. Annexure No. 12

Selection Grade provided to opposite party no. 4 vide letter dated 5.9.1983

14. Affidavit

15. Vakalatnama

Advocate
Counsel for Petitioners

Location

Dated:

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

Civil Petition No.

of 1933

District: Lucknow

1. Madhav Krishna Verma aged about 50 years son of
Jai Bhagwati Lal, Senior Typist
Office of the Divisional
Railway Manager, North-Eastern
Railway, Lucknow.
2. Bhagwat Ram son of Arun Chandra Ram, Senior Typist
Office of the Divisional Railway
Manager, North-Eastern Railway
Lucknow.

.. Petitioners

Verma

1. The Union of India through General Manager North-
Eastern Railway, Gorakhpur.
2. The General Manager, North-Eastern Railway, Gorakhpur
3. The Divisional Railway Manager, North-Eastern Railway
Lucknow.
4. Arjun Lal son of Raja Ram, Senior Typist, Office of
the Divisional Railway Manager, North-Eastern Railway
Lucknow.

.. Opp. Parties

Civil Petition Under Article 226 of the
Constitution of India

The undersigned petitioners most respectfully submit
as under:

1. That the petitioner no. 1 was appointed on the post of Junior Typist with effect from 10.1.1954 and the petitioner no. 2 was appointed on the post of Junior Typist with effect from
2. That the petitioners were subsequently confirmed on the said post with effect from and respectively.
3. That the petitioners were posted as Junior Typist in the Engineering Branch of opposite party no. 1 at Lucknow.
4. That the petitioner no. 1 and 2 were promoted to the post of Senior Typist with effect from 2.4.1960 and respectively and working on the said post since then.
5. That in the year 1969 different sections of opposite party no. 1 were integrated and a full fledged Division was constituted. Thus in this Division the people of other branches were merged. The employees of Mechanical Unit were also merged in this Division.
6. That in the year 1953 the Union Board issued

orders vide No. 53/101/9/3 dated November 21, 1953 with regard to the principles of determining the seniority of staff on integrated railways. It was stipulated that in cases in which a combined seniority was to be drawn up, the seniority in each grade will be in accordance with the length of service in the grade, both pre-integration and post-integration. It was further laid down that in applying the above principles the position as on the date of integration will be taken. The highest seniority among the integrating units will form the basis into which will be interpolated the staff of the other unit in such manner that they are placed below the junior men with longer service.

7. That it was also laid down that inter-se seniority in the several integrating units will not be disturbed. A true copy of the Railway Board's order dated November 21, 1953 is being filed herewith as Annexure No. 1 to the writ petition.

8. That after the merger/integration of mechanical unit with the Division a combined seniority list was published in the month of May, 1959 by the petitioner. It was then that it was revealed that the petitioner's No. 1 was placed at serial No. 2. A true copy of this list is being filed herewith as Annexure No. 2 to this petition.

14. That a perusal of annexure no. 5 will indicate that Sri Q. B. Basool joined in Mr. B.S.'s Office on transfer from P.A. and C.A. on his own request on 24.3.1958, hence he was declared junior to Mr. Kishan Lal in the Junior Typist grade.

15. That the Seniority List as contained in annexure no. 2 will also indicate that Sri Kishan Lal was junior to petitioner no. 1 in junior typist's grade. The petitioner no. 1 was at serial no. 2 while Mr. Kishan Lal was at serial no. 4.

16. That the petitioners challenged the validity of seniority list contained in annexure no. 5 on the ground that Sri Kishan Lal was promoted as senior typist with effect from 1.4.1970 whereas the petitioner no. 1 was promoted to the post of senior typist with effect from 2.6.1969 and petitioner no. 2 was promoted as senior typist with effect from 10.3.1964. On this representation the Divisional Personnel Officer of opposite party no. 1 vide its order No. E/11/55/223/ dated 3.3.1970 issued final seniority list. A true copy of this list is being filed herewith as Annexure No. 6 to the writ petition.

17. That a perusal of annexure no. 6 will indicate that Sri Kishan Lal was placed at sl.no. 6 while petitioner no. 1 was placed at sl.no.5 and petitioner no. 2 at sl. no. 2.

one Railway to another should be
 allotted order that of the existing
 confirmed and officiating railway
 servants in the relevant grade in
 the promotion group in the new estab-
 lishment irrespective of the date of
 confirmation or length of officiating
 service of the transferred railway
 servants. "

12. That thereafter the petitioners alongwith 3 other
 persons viz. Kishan Lal, Lala Shri and Baba Lal made
 a combined representation against the illegal seniority
 given to Mr. G.S. Basal as he joined this Division on
 his own request. It was also requested that the
 petitioners and others may be placed above Mr. G.S. Basal
 in accordance with law. A true copy of this representa-
 tion is being filed herewith as Annexure No. 4 to
 the writ petition.

13. That on the representation of the petitioners
 and others (contained in annexure no. 4) the
 Divisional Personnel Officer, R.E. Railway, Lucknow
 vide its order dated 30.11.1978 issued a modified
 seniority list and the petitioner no. 1 was placed at
 serial no. 6 and petitioner no. 2 at serial no. 3. A
 true copy of this seniority list is being filed herewith
 as Annexure No. 5 to the writ petition.

18. That Sri Kishan Lal, junior typist, was temporarily promoted as Senior Typist vice Sri G.P. Oberoi, Senior Typist, who was posted as Steno, with effect from 1.4.1970. A true copy of Office Order issued by Divisional Personnel Officer of opposite party no. 1 vice Sri K/K/Typist LJB dated 11/12. 9.1970 is being filed herewith as Annexure No. 7 to the writ petition.

19. That the Sri Kishan Lal who was placed at serial no. 6 in the seniority list contained in memo no. 6, represented against his position and the General Manager, J.B. Malhotra, issued a certificate vice the order no. 11/Kishanlal/Pra.Ta/80 dated 28.11.1980 and modified the seniority list and placed the opposite party no. 4 at serial no. 2. A true copy of this order is being filed herewith as Annexure No. 8 to the writ petition.

20. That the order of opposite party no. 2 as contained in memo no. 8 will show that opposite party no. 4 was given seniority from the date of Sri G.P. Oberoi was promoted i.e. 1.5.1964. But this order also shows that Sri G.P. Oberoi joined the post of Senior Typist on 1.4.1970 (deceased date).

21. That the order contained in Annexure no. 7 will also show that opposite party no. 4 was promoted to the post of Senior Typist v.s.f. 1.4.70 vice Sri G.P. Oberoi who was promoted as Steno.

22. That it may very respectfully submitted that the opposite party no. 4 was placed senior to Sri O.P. Ghosal on whose post he was promoted.

23. That a perusal of annexure no. 8 will indicate that the petitioner no. 1 was placed at sl.no. 6 and petitioner no. 2 on serial no. 3 in contravention to the final seniority list as contained in annexure no. 6.

24. That the petitioners were not served with the order contained in annexure no. 8 and only on 21.4.1981 they came to know about the corrigendum issued on 20.11.1980. Thus the petitioner no. 1 represented the matter to General Manager (P), N.E. Railways, Gorakhpur on 21.4.1981 and requested that the seniority list be published in accordance with the seniority list published on 1.3.1979 (annexure no. 6). A true copy of the representation of petitioner no. 1 dated 21.4.1981 is being filed herewith as annexure No. 9 to the writ petition.

25. That in spite of best efforts of the petitioner the seniority list (which was illegally drawn) contained in annexure no. 8 was not revised and as such the petitioners submitted again a representation dated 4.7.1981 to Divisional Railway Manager, Lucknow and requested him to kindly rectify the mistakes and also give a personal interview. But neither the seniority list was corrected nor any personal interview was

allowed to the petitioners. A true copy of the representation of petitioner no. 1 is being filed herewith as Annexure No. 11 to the writ petition.

26. That the orders contained in Annexure no. 8 is arbitrary, capricious, illegal and malafide in as much as it does not disclose the basis on which Sri Kishan Lal has been given senior to the petitioners when actually he was promoted on 1.4.70 (as per Annexure no. 7) while the petitioners were promoted to the post of senior typists with effect from 2.8.1969 and 10.8.1964 (Annexure no. 8) respectively.

27. That it may also be submitted that petitioner no. 1 was confirmed on the post of senior typist with effect from 1.1.1972 and petitioner no. 2 with effect from 1.3.1969 while Sri Kishan Lal the opp. party no. 4 was confirmed on 1.1.1972. It may be submitted that even the confirmation letter No. B/254/L/Manager dated 26.2.1972 places petitioner no. 1 at serial no. 1 and Sri Kishan Lal at serial number 2. A true copy of this letter is being filed herewith as Annexure No. 12 to the petition.

28. That it is well settled that Seniority in the service shall be determined according to date of the order of appointment to it, provided that if

31. That the opposite party no. 1 and 2 without any valid reasons have upset the seniority list contained in annexure no. 5 by publishing a corrigendum (annexure no. 8) to the above seniority list.

32. That the Indian Railway Establisment Manual (Second Edition) vide paragraph 302 of Chapter III " Rules Regulating Seniority of Non-Sanctioned Employees " clearly lays down that " unless specifically stated otherwise, the seniority amongst the incumbents of a post in a grade is governed by the date of appointment to the grade." It is again submitted that petitioner no. 1 was appointed on 2.8.1968, the petitioner no. 2 on 1.8.64 while opp.party no. 4 was appointed on 1.4.70 (annexure no. 6).

33. That paragraph 306 of the aforesaid Manual provides that " candidates selected for appointment at an earlier selection shall be senior to those selected later irrespective of the date of posting except in case governed by paragraph 303 ".

34. That paragraph 309 of the said Manual further lays down that " paragraph 306 above shall apply equally to seniority in promotion vacancies, due allowance being made, if any, in joining the new posts in the exigencies of service.

5.9.1983 has given the Selection Grade of Senior Typist in the grade of Rs. 425 - 700 to Sri Kishan Lal, opposite party no. 4, by virtue of his alleged seniority. A true copy of this order is being annexed herewith as Annexure No. 11 to the petition.

39. That it is very respectfully submitted that since the opposite party no. 4 was wrongly, arbitrarily and with mala fide intentions declared senior to petitioner no. 1 and by virtue of the alleged seniority he has again been promoted to Selection Grade of Senior Typist and thus has again superseded the petitioner no. 1.

40. That the petitioners being aggrieved against and having no other alternative and efficacious remedy is filing the present writ petition on the following amongst other

GRUNDS :

- I. Because the orders contained in Annexure no. 8 is arbitrary, capricious, illegal and mala fide.
- II. Because the impugned order does not disclose the basis on which opposite party no. 4 has been shown senior to the petitioners when actually he

never worked on the post of senior typist prior to 1.4.70 as such he can not be treated to have joined the post of senior typist on 1.6.64.

VII. Because the seniority will depend on the length of continuous officiating service and can not be upset by later arrivals.

VIII. Because the impugned orders have been passed in utter violation of paragraphs 376 and 399 of Chapter III of the Indian Establishment Manual.

IX. Because it is well settled that where recruitment is from two sources with a view to integrating recruits from both sources after the recruitment, seniority is to be determined from the date of entry into the cadre.

X. Because opposite party no. 4 has been wrongly and with calafide intentions declared senior to the petitioners.

XI. Because opposite party no. 1 and 2 have arbitrarily and illegally given the benefit of preferential fixation of seniority to opposite party no. 4 in contravention to the provisions contained in Chapter III of the Indian Establishment Manual.

Prayer

Therefore, it is most respectfully prayed that this Hon'ble Court may kindly be pleased to issue:

- A. a suitable writ, order or direction in the nature of certiorari quashing the order dated 28.11.1980 contained in annexure no. 12 and the order dated 5.9.1981 contained in annexure no. 13 only to the extent so far it relates to opposite party no. 4.
- B. a suitable writ, order or direction in the nature of mandamus commanding opposite party no. 1 to 3 to promote the petitioners on the basis of seniority as contained in annexure no. 6 and opposite party no. 1 to 3 be commanded to pay the difference of salary from the date of promotion due to the petitioners.
- C. such other suitable writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.
- D. Cost of the petition be also awarded to the petitioners and against the opposite parties.

Advocate
Counsel for Petitioners

Enclosed

Dated:

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

Writ Pet.No. of 1953.

M.S.Verma and another

-----Petitioner.

Versus

The Union of India and others

-----Opp-parties

Annexure 1.

Copy of Hly.Hd.letter No.62/991/c/5 of 21st Novem-
ber, 1953, addressed to the General Managers, All
Indian Railways etc.

Subject- Principles of determining seniority
of staff on integrated railways.

The Railway Board have given careful considera-
tion to the recommendations of the Seniority Committee
set up on the six integrated railways and to the
view of the National Federation of Indian Railwaymen
and have decided that the following staff of the
integrated railways:-

- i) In grades in which a combined seniority has to be
drawn up, the seniority in each grade will be
in accordance with the length of service in
the grade, both officiating and permanent, as on
the date of integration.

Note- Fortuitous or short officiating service
of less than 3 months duration will be
omitted.

- ii) Grade in (i) above denotes the C.P.C. grade
and its corresponding grades in the integrating
units before the application of the C.P.C.

-2-

iii) Seniority will be determined separately for the substantive and officiating grades held on the date of integration.

iv) The inter-se-seniority in the several integrating units will not be disturbed.

Note-An exception will have to be made in the case of Railways in which the basic seniority has been determined on a fundamentally different basis like for instance, the date of confirmation.

v) In applying the above principles, the position as on the date of integration will be taken. The biggest cadre among the integrating will be taken. The biggest cadre among the integrating units will form the basis into which will be interpolated the staff of the other units in such manner that they are placed below the junior most man with longer service.

Note- In respect of the S.Rly., the M & JM cadre will form the basic cadre.

vi) In respect of the selection grades, staff who have already officiated on the date of integration will retain their places on the panels.

vii) All panels existing on the date of integration will be considered as cancelled, except to the extent that staff have already officiated.

Note- The officiating should not be in fortuitous vacancies.

viii) New panels will be formed as with effect from the date of integration taking into account staff of all the integration units.

Note- Until the new panels are formed staff on the old panels may continue to officiate in vacancies but they should be advised that this does not give them any claim for promotion, nor will be period they so officiate count seniority subsequently.

2. The Board desire that it should be ensured that these principles are not departed from in framing the combined seniority lists as on the date of integration.

3. The seniority lists for class III staff should be framed in accordance with the principles enumerated above and the work completed as expeditiously as possible and the progress of work reported every month.

Please acknowledge receipt.

Sd. V. I. Narayanan,
Jt. Director Establishment Bly. Bd.

True-copy.

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

Writ Pet.No. of 1983.

M.K.Verma and another

----Petitioner

Versus

The Union of India and others

----Opp-parti

Annexure 3.

N.E.Railway.

Office Order.

Shri Sohan Lal, Junior Typist of D.M.E./IXN who has been promoted as Sr. Typist in scale Rs 130-300 w.e.f. 1.6.64, vide this office order No.E/IX/210/8/1, Typist dated 6.7.65, is allowed the benefit of promotion fixation of pay in scale Rs 130-300 without arrear from 20.11.63, the date his junior Shri Q.S.Raseel, Jr. Typist of DME/GB has been promoted as Sr. Typist in scale Rs 130-300 vide this office order No.EW/210/2/2(Typist dated 10/16.1.64.

The promotion of Shri Q.S.Raseel, Sr. Typist of DME/GB prior to 1.6.64, will be treated as fortuitous for the purpose of seniority.

This has the approval of Chief Mech.
Engineer.

Sd.

For Chief Mech. Engineer(P).

contd.

No. 3/IX/210/3/1/Typist Gorakhpur, dated 3.12.1965.

Copy forwarded for information and necessary action to:-

1. DME/IAN in reference to his letter No. E/2555/Mech./PC dated 25.9.65.
2. The DME/GB.
3. The FA & CAO/GXP.
4. The AME/PCN.
5. The Hd. Clerk seniority.

Sd.

For Chief Mech. Engineer (P).

True-copy.

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

Writ Pet. No. of 1963.

M.K. Verma and another

---Petitioner

Versus

The Union of India and others

---Opposite
parties

Annexure 7.

N.E. Railway.

Office Order.

Shri Krishan Lal, Jr. typist in scale B 130-180 being the Sr. most incumbent, is temporarily promoted to officiate as Senior Typist in scale B 130-300 vice Shri G.P. Oberoi, Sr. typist asked posted as Sr. W.O. from 1.4.73.

This is purely a temporary and adhoc arrangement and shall therefore not confer any claim for permanent retention over the post to Shri Krishan Lal.

The pay of Shri Krishan Lal is fixed at B 167/- in scale B 130-300.

Sd. Divisional Personnel Officer
North Eastern Railway
Lucknow.

Re. E/K/Typist.

LJN dated 11/12.6.1973

Copy for information and necessary action to:-

1. DAG/LJN, VA & CAO/JNP.
2. OS(G).
3. Hd. Typist, Hd. Clerk (Ext. Bill and Managing).
4. Staff concerned.

Sd.
Divisional Asstt. ()
Lucknow.

True-copy.

Writ Pet. No. of 85.

U.K. Verma and another -----Petitioner.

Versus

The Union of India and others -----Opp-parties.

Annexure 9.

The General Manager(P),
R.E. Railway.
Gorakhpur.

Through- Proper Channel.

Sir,

Sub: Wrong fixation (proforma) of seniority of
Sri Krishan Lal as Sr. Typist in scale
33-36.

Ref:- 1) DR M(P)/ LJE's show Cause Notice No.
S/A.L/1/79 dated 1.9.79.

2) My representation along with others dated
2/22.9.79 in reply to 'show Cause Notice,
addressed to DRM(P)/LJE.

3) My further representation along with others
dated 31.12.78 addressed to the GM(P)/GMP.

With profound respect I beg to submit as under:-

That on repeated representations of the
Sr. Typists of LJE Division including myself, the
final seniority of Sr. Typists was finalized and
circulated under DRM(P)/LJE's s.o. No. L/11/55/LJE,
dated 3.3.79, in which Sri Krishan Lal was rightly
given the seniority position below me as he is
junior to me in all respect i.e. both as Junior
Sr. Typist. This was issued with the approval of
GM(P)/GMP.

That however, Sri Kishan Lal made a representation for assigning his seniority as Sr. Typist with effect from 2.11.63 vide Sri G.A. Masool in the Mech. Department of Regional Unit. Upon this, a 'Show Cause Notice' was issued to me and other typists who are senior to Sri Kishan Lal vide DDM(P)/LJN's letter No. 4/AL/T/79 dated 1.9.79.

That we made our representations against the 'Show Cause Notice' on 23/24.9.79 to the DDM(P)/LJN and on 31.12.79 to the GM(P)/GXP.

That fate of our representations have not been made known to us as yet but meanwhile it is learnt that Sri Kishan Lal has been declared senior to us including myself by the DDM(P)/LJN's Corrigendum No. 4/Kishan Lal/Sr. 1/63 dated 28.11.80. That a copy of the Corrigendum was not even given to me till date and it is by chance I come to know of the above change in the seniority position of Sr. Typist of LJN Division recently.

That in the said Corrigendum Sri Kishan Lal who was appointed on 1.6.57 has been assigned seniority of Sr. Typist from 1.6.64 whereas myself was appointed on 1.1.1953, have been given seniority of Sr. Typist from 2.8.69 on unfounded grounds.

That Sri Kishan Lal cannot claim seniority from 1.6.1964 during the re-division time when his seniority was confined to Mechanical Department after lapse of 16 years. The position obtained

A61

4/62

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

T.A. No. 1211 of 1987 (T)
(WRIT PETITION NO 6238 of 1983).

MADHAV KRISHNA VERMA AND OTHERS- PETITIONERS
VERSUS

UNION OF INDIA AND OTHERS - OPF. PARTIES.

F.F. 11.07.90

COUNTER REPLY ON BEHALF OF THE OPPOSITE PARTIES

NOS. 1 to 3:

I, K.K. Dhusia working as Senior
Divisional Personnel Officer in the office of
Divisional Railway Manager, North Eastern Railway,
Ashok Marg, Lucknow, do hereby solemnly affirms
and states as under :-

- 1) That the official above named is working
as Sr. Divisional Personnel Officer, North Eastern
Railway, Lucknow and is well conversant with the
facts of the case and has been authorised by opposite
parties No. 1 to 3 to file this reply on their behalf.
- 2) That the contents of para 1,2,3,4,5,6, and
7 of the writ petition are admitted.

(Contd..... 2)

प्रव२ मंडल कार्यालय अधिकारी
पूर्वोत्तर रेलवे, लखनऊ

Cited today
on 17.4.90
Dusha

3) That in reply to the contents of para 8 of the writ petition it is stated that the seniority position of the petitioner was placed at Sl. No. 2 in the seniority list of junior typist (Rs 110-180) in accordance with the principles laid down in Railway Board's letter dated 21-11-1953 (Annexure 1 of the Writ Petition).

4) That in reply to the contents of para 9 of the writ petition it is stated that Sri Sohan Lal had represented against his seniority position published on 1-4-1960 and 1-4-1964 in which one Shri Q. S. Rasool was shown senior to Shri Sohan Lal. The seniority position of Shri Sohan Lal was however, corrected and he was allowed the benefit of proforma promotion and fixation of pay in scale Rs. 130 - 300 (Revised Rs. 330 - 560) w.e.f. 1-6-1963 without payment of arrear of salary. A Copy of order dated 14-9-1971 passed by General Manager(Personal) / North Eastern Railway/ Gorkhpur issued in this connection is being filed herewith as Annexure No. C-1 to this reply.

5) That in reply to para 10 of writ petition it is stated that a combined seniority list of typist in all grades of Lucknow Division (comprising of Gonda and Lucknow District) as on 1-5-1969 was published on 18-7-1969. The name of the petitioner finds place at Sl.No. 2 under sub- head of Junior Typist (Rs. 110 - 180). A copy of the seniority list was given to the petitioner soon after the

542 नमस्ते कामकाज अधिकारी,
पूर्वोत्तर रेलवे, नवलखंड



(Contd..... 3)

publication and as such it is not admitted that the petitioners knew about this seniority after 5-4-1978.

6) That in reply to para 11 of the writ petition, it is stated that Shri Q.S. Rasool, was assigned seniority from 24-5-1958 i.e. from the date he resumed duty in Ex- ^{Dist. Mechanical} ~~Divisional~~ Railway ~~Engineer's~~ ^{Manager's} Office, Gonda on transfer from F A & C A O's Office, Gorakhpur on his own request, and he was accordingly assigned the bottom seniority vide corrigendum issued by the Divisional Personal Officer North Eastern Railway, Lucknow on 30-12-1978 (Annexure No. 5 of Writ petition) in accordance with the rules.

7) That the contents of paras 12,13,14, and 15 of the writ petition are not disputed.

8) That the contents of para 16,17,18 and 19 of the writ petition are admitted. On the representation made by Shri Kishan Lal Opposite party No. 4 the matter was referred to the General Manager, North Eastern Railway, Gorakhpur who after carefully examining the matter issued the order dated 24-11-80 communicated vide Divisional Railway Manager's letter dated 28-11-80 as contained in Annexure No. 8 to the Writ Petition. Vide aforesaid letter Kishan Lal was given proforma promotion w.e.f. 1-6-64 i.e. the date from which his junior Shri Q. S. Rasool was promoted and accordingly petitioners became junior to Kishan Lal.

9) That the contents of para 20.21 of the writ petition are not disputed but it is stated that the seniority position of the petitioners revised as contained in the Annexure No. 8 to the writ petition.

10) That in reply to para 22 of the writ petition, it is stated that from 1958 to 1978, the seniority position of Shri Krishna Lal, Opp. Party No. 4 was lower to Shri O.P. Oberai, but on revision of seniority in the year 1980, Shri Krishan Lal (Opposite Party No. 4) was placed senior to Shri O.P. Oberai as contained in Annexure No. 8 to the writ petition.

11) That in reply to the contents of para 23 of the writ, it is stated that the petitioner No. 1 was placed at Sl. No. 6 and petitioner No. 2 at Sl. No. 3 in the seniority list as contained in Annexure No. 8 to the writ petition. This fixation of seniority is in notification of the seniority contained in Annexure No. 6 to the writ petition and is not in contravention of the same as alleged.

It is further submitted that seniority position of typists list published on 3.3.79 by Divisional Personnel Officer, North Eastern Railway, Lucknow Gorakhpur and a final seniority position of senior typists Rs. 330-560 of Lucknow Division was published

(Contd..... 5)

on 28-11-80. A true copy of General Manager (Personal) 's Gorakhpur 's letter No. Ka/255/Krishan Lal/IX dated 24-11-1980 is being filed herewith as Annexure No. C-2 to this reply.

12) That the averments made in para 24 of the writ petition are denied. A perusal of Annexure No. 8 will indicate that a copy of the seniority position published on 28-11-1980 was also given to the staff concerned, including the petitioners. One copy of the seniority list in question was also filed in the personal case of the petitioner, statements contrary to it are denied.

13) That in reply to para 25 of the writ petition it is stated that the petitioner's representation dated 4-7-1983 was referred to General Manager (P), North Eastern Railway, Gorakhpur on 6-9-1983 and the same was decided by the General Manager (P), North Eastern Railway, Gorakhpur vide his letter dated 14/15/5/1984 communicated vide Divisional Railway Manager's (P) letter dated ^{26/5} 28-5-1984. A copy of said letter dated ^{26/5} 28-5-1984 is being filed herewith as Annexure No. C-3 to this reply.

14) That in reply to para 26 of the writ petition it is stated that the orders contained in Annexure 8 of the writ petition are legal and in accordance with rules. It is submitted that on appeal of Shri Krishan Lal O.P. No. 4, the General Manager (P) Gorakhpur has decided that one Shri Sohan Lal

592 मण्डल कार्यालय अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

Sr. Typist was given seniority position and proforma fixation with effect from 20.11.1963 and Shri Q. S. Rasool was promoted as Sr. Typist from 1.6.1964 and it was also decided that promotion of Shri Q.S. Rasool prior to 1-6-1964 would be treated as fortuitous for the purpose of seniority. Thus Sr^m Krishan Lal O.P. No. 4 was given the benefit of seniority position and proforma fixation from 1-6-1964 i.e. the date when Shri Q.S. Rasool was promoted as Sr. Typist. It was clearly mentioned in the office letter No. KA/255/Shri ^{Krishna} ~~Sehan~~ Lal /IX dated 24-11-1980 (Annexure C-2 to this counter reply. The seniority position of Shri Krishan Lal (O.P. No. 4) will be above to Shri Q.S. Rasool. Statements made contrary to it are denied.

15) That the contents para 27 of the writ petition are admitted to the extent that the Annexure 11 to the writ petition containing confirmation of the petitioner places petitioner No 1 at serial No. 1 and Shri Krishan Lal at Serial No. 2. It is however, submitted that the said Annexure No. 11 was issued in the year 1972 whereas the seniority position of Shri Krishan Lal vis a vis Shri Q.S. Rasool was decided in the year 1980.

16) That in reply to para 28, 29 and 30 of the writ petition, it is submitted that since

(Contd.....7)

542

मण्डल कार्यालय अधिकारी,
पूर्वोत्तर रेलवे, लखनऊ

Shri Krishan Lal (Opposite Party No. 4) was given proforma fixation as Senior Typist with effect from 1.6.1964, the question of petitioners being senior to him does not arise as petitioner ~~number~~ No. 1 was promoted as Senior Typist on 2.8.1969 and petitioner No. 2 on 10.8.1964. It is further submitted that after assigning the seniority position of Shri Q.S. Rasool to Shri Krishan Lal (Opposite party No.4), he became senior w.e.f. 1.6.1964 and not 1.4.1970 which was later-on rectified being an administrative error in terms of Railway Board's letter No. E (NG) 63-PM1/92 dated 15/17.9.1964. A true copy of Railway Board's letter dated 15/17.9.1964 is being filed herewith as Annexure No. C-4. Statements contrary to it are denied.

17) That the contents of para 31,32,33,34 & 35 of the writ petition connected with the provisions given in Railway Establishment Manual are not disputed. It is submitted that prior to formation of Lucknow Division in 1969, the petitioner No. 1 was working in Engineering Unit and petitioner No. 2 was working as Senior Typist in Commercial Unit whereas Sri Krishan Lal (Opposite Party No.4) was working in Mechanical Unit and Sri Q.S. Rasool also belonged to the Mechanical Unit. These were the different seniority Units maintaining the seniority position of the typists separately. After Divisionalisation in the year 1969, all these units were merged together for the purpose of Seniority. There was dispute of seniority between Sri Kirshan Lal & Sri Q.S.Rasool and both belonging to mechanical Unit and the same was decided by the competent authority, giving.

(Contd.....8)

the benefit of seniority with effect from 1-6-1964 to Shri Krishan Lal. As such the petitioners have no right to claim the seniority over Shri Krishan Lal as the dispute relates prior to formation of Division. Shri Q.S. Rasool had joined Ex- Lucknow District on bottom seniority in the Mechanical unit hence he was made junior to Shri Krishan Lal (Opposite party No. 4). Since Shri Krishan Lal was promoted as Senior Typist from 1-6-1964, the petitioners became automatically junior to him as they belonged to different units. Statement contrary to it are denied.

18) That in reply to para 36 of the writ petition it is stated that seniority list as contained in annexure no 8 is in accordance with the provisions of Indian Railway Establishment Manual. Statements contrary to it are denied.

19) That in reply to para 37 of the writ petition, it is stated that seniority position of Shri Krishan Lal (Opposite Party No. 4) and Shri Q.S. Rasool was decided by General Manager (P) North Eastern Railway, Gorakhpur as contained in Annexure No. 8 to the writ petition. The seniority position of Shri Krishan Lal in the cadre of Senior Typist was given with effect from 1-6-1964, hence he is senior to the petitioner. Statements contrary to it are denied.

502

मण्डल कार्यालय प्रभारी,
पूर्वोत्तर रेलवे, लखनऊ

(contd..... 9)

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20) That the contents of para 38 of the writ petition are not disputed.

21) That the contents of para 39 of the writ petition are denied. The Opposite Party No. 4 was declared senior to the petitioners in accordance with the rules and accordingly he was promoted to the post of Head Typist earlier to the petitioner.

22) That the contents of para 40 of the writ petition read with the grounds there-under are not admitted. The ground taken by the petitioner are not tenable in law.

23) That the petitioner is not entitled to the directions prayed from this Honorable Court and the writ petition is liable to be dismissed for the reasons given in the foregoing paragraphs.

Lucknow:

Dated: 12.4.80

542 मण्डल कार्यालय, लखनऊ
पुनर्विचार सेल, लखनऊ

VERIFICATION

I, the official above named do hereby verify that the contents of para 1 of this reply is true to my personal knowledge and those of para 2 to 23 of this reply are believed by me to be true on the basis of records and legal advice.

Lucknow:

Dated: 12.4.80

542 मण्डल कार्यालय, लखनऊ
पुनर्विचार सेल, लखनऊ

A7^o

North Eastern Railway

Office Order.

In partial modification of this office order No.E/IX/210/8/1/Typist dated 3.12.65, Shri Sohan Lal Sr.Typist of DS/IZN is allowed the benefit of proforma fixation of pay in scale Rs.120-300 without arrear w.e.f. 1.6.63 in terms of corrigendum No.E/IX/59/Mech/Updg. Typist dated 2.9.64 of Memorandum No.EM/G/20-71/Pt.V dated 28.11.63.

2. This has the approval of G.M.E.


Sd/-
for General Manager(P).

No.E/210/8/1/Typist (IX) Dated Sept. 14, 1971.

Copy forwarded for information and necessary action to : -

1. The FA & CAO/N.E.Railway/Gorakhpur.
2. The D.A.O./N.E.Rly/Izatnagar.
3. The DS(P)/N.E.Railway/ IZN & LYN.

Sd/-
(M.M.Mathur)
for General Manager (P).


याह मण्डल कार्यालय अधिकारी,
दुर्गापुर रेलवे, मधुबनी

Central Administrative Tribunal
Civil Bench, Lucknow
T.A. No. 1211 of 83 (T)
M.K. Verma & Co. 1/2, Ganga Ghat, Lucknow

Annexure - 2-4

Copy of Railway Board's letter No. E(NG)63-PMI/92 dated 15/17.9.1964, to General Managers/All Indian Railways and copy to others.

A73

.....
Sub: Hardships to Non-Gazetted staff due to Administrative errors - loss of Seniority and pay.

.....

It has been represented to the Board that some times due to Administrative errors staff are overlooked for promotion to Higher grades. This could either be on account of wrong assignment of relative seniority of the eligible staff or full facts not being placed before the competent authority at the time of considering promotions or some other reasons. Broadly, loss of seniority due to Administrative errors can be of two types : -

- a) Where a person has not been promoted at all because of Administrative errors, and
- b) Where a person has been promoted but not on the date from which he should have been promoted but for the Administrative error.

2. The matter has been considered and the Board desire that each such case should be dealt with on its merits. The staff who have lost promotion on account of Administrative errors should on promotion be assigned correct seniority vis-a-vis, their juniors already promoted irrespective of the date of promotion. Pay in the higher grade on promotion may be fixed proforma at the stage which the employee should have reached if he was promoted at the proper time. The enhanced pay may be allowed from the date of actual promotion. No arrears on this account shall be payable, as he did not actually shoulder the duties and responsibilities of the higher grade post.

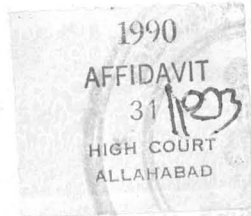
542 नगरपालिका अधिकारी
प्रतिर रेलवे नखन

A/25 SM28
FF 27/8/90

A79

Before the Central Administrative Tribunal, Circuit Bench
Lucknow

T.A. No. 1211 of 1987



Madhav Krishna Verma
and another

.. Petitioners

Versus

Union of India and Ors.

.. Opp. Parties

File today
On 27-8-90
C

REJOINDER AFFIDAVIT



I, Madhav Krishna Verma, aged about 57
years son of Sri Banwari Lal, Office of
Divisional Railway ^{Manager} N.E. Railways, Lucknow, do
hereby solemnly affirm and state on oath as
under:-

1. That the deponent is petitioner No. 1
in the above noted case as such conversant with
the facts of the case. The deponent has read
and understood the contents of counter-affidavit
filed by Sri K.K. Dhusia and a parawise reply
is being given as under.

Red duplicate
of the affidavit
Adv.
11/7/90

Madhav Krishna Verma

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2. That the contents of paragraph 1 of the counter affidavit needs no reply.

3. That the contents of paragraph 2 of the counter affidavit admits the contents of paragraph 1 to 7 of the petition, hence need no reply.

4. That the contents of paragraph 3 of the counter affidavit are matter of record, hence needs no reply.

5. That the contents of paragraph 4 of the counter affidavit are irrelevant, hence denied.

Sri Sohan Lal and Sri Q.S. Rasool belonged to ~~Accounts~~ ^{Mechanical} Cadre whereas the petitioners belonged to ^{Engineering} ~~Mechanical~~ unit (Engineering Branch) which was the biggest cadre. The fixation of inter-se seniority after merger of various cadres could not be disturbed in view of annexure no. 1 to petition. The basis of fixation of seniority in the integrated cadre is length of service and the alleged determination of inter-se seniority is irrelevant for the purposes of present petition.

6. That the contents of paragraph 5 of the counter affidavit are denied and those of paragraph 10 of the petition are reiterated as correct. The

M. K. K. K.

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petitioners were never given a copy of list as alleged and no date of furnishing the alleged copy has been given by opposite parties.

7. That the contents of paragraph 6 of the counter affidavit are matter of record, hence needs no reply.

8. That the contents of paragraph 7 of the counter affidavit admits the contents of paragraphs 12 to 15 of the petition, hence need no reply.

9. That from the contents of paragraph 8 of the counter affidavit so far it admits the contents of paragraph 16 to 19 of the petition, are not disputed, rest of the contents are denied. After merger of the cadres in the year 1969 there was no occasion for determination of inter-se seniority between Sri Q.S. Rasool and Sri Kishan Lal. The opposite parties have undertaken futile exercise in utter violation of the orders of Railway Board contained in Annexure No. 1 to writ petition. Since the petitioners were not afforded any opportunity of hearing they could not be made junior as alleged in paragraph under reply. Since the petitioners



M. K. Sharma

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are senior in length of service to Sri Kishan Lal they could not be placed belowⁱⁿ the integrated seniority list by any means.

10. That from the contents of paragraph 9 of the counter affidavit insofar it admits the contents of paragraphs 20 and 21 of the petition are not disputed, rest of the contents of paragraph under reply is denied. The contents of paragraph 20 and 21 of the petition are reiterated as correct. Since Sri Kishan Lal was promoted to the post of senior typist in the vacancy created by promotion of Sri O.P.Oberoi in place of Steno but opposite party no. 4 was placed above Sri O.P.Oberoi. The orders contained in annexure no. 8 is illegal and arbitrary.

11. That the contents of paragraph 10 of the counter affidavit are denied. The seniority of Sri Kishan Lal could not be re-determined in violation of Annexure No. 1 to petition wherein it has specifically been mentioned that length of service shall be basis of determination of seniority. It may further be pointed out that Sri Q.S.Rasool was wrongly promoted and he enjoyed full benefit



[Handwritten signature]

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of his promotion from 1958 to 1978 and his bottom seniority was not enforced. Consequently, he got undue promotion w.e.f. 1.4.1964 and since he was not reverted from his wrongly promoted post even after detection of mistake in the year 1965 and while giving promotion to Sri Kishan Lal and Sri Sohan Lal undue benefit has also been given to Sri Q.S. Rasool. In fact none of the said persons were entitled to be promoted as Senior Typist in the erstwhile mechanical unit. Hence If the benefit of proforma promotion and proforma seniority given to Sri Kishan Lal w.e.f. 1.4.1964 in the year 1978 is illegal, arbitrary and unwarranted. The petitioners can not be made junior to the persons who have put in lesser number of years of service on the basis of some notional seniority which came into existence due to wrong promotion of Sri Q.S. Rasool. The opposite parties can not take advantage of their own wrong thereby make the petitioners junior to Sri Kishan Lal.



12. That the contents of paragraph 11 of the counter affidavit are denied and those of paragraph 23 of the petition are reiterated as correct. The orders contained in Annexure No. C-2 to counter affidavit is illegal

M. K. Verma

= 6 =

The seniority in the integrated cadre could only be determined in accordance with the length of service and by no other basis. Once it was admitted ^{that} by Sri Q.S.Rasool was junior to Sri Sohan Lal he ought to have been reverted and Sri Sohan Lal ought to have been promoted. Had Sri Q.S.Rasool been reverted simultaneously with the promotion of Sri Sohan Lal in the year 1965, Sri Kishan Lal could not claim the benefit of promotion w.e.f. 1.6.1964 visa-vis Sri Q.S.Rasool. Sri Kishan Lal or Sri Sohan Lal were not promoted on the basis of service but were only promoted because of Sri Q.S.Rasool was promoted earlier. These matters can not ~~be~~ and could not ~~be~~ affect the seniority of petitioners in integrated cadre wherein the basis of determination of seniority is length of service. Sri Kishan Lal could not be given proforma promotion and seniority w.e.f. 1.6.1964 visa-vis Sri Q.S.Rasool as Sri Q.S.Rasool was not entitled for promotion w.e.f. 1.6.1964 on the basis of his bottom seniority.



13. That the contents of paragraph 12 of the counter affidavit are denied and those of paragraph 24 of the petition are reiterated as correct. The copy of seniority list was ^{not} given to

N. K. Verma

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the petitioners nor the same was in the knowledge of petitioners as alleged.

14. That the contents of paragraph 13 of the counter affidavit are denied. The Annexure No. C-3 i.e. the Divisional Manager's letter dated 26.5.1984 incorrectly mentioned as 28.8.1984 in the counter affidavit is in reply to the petitioners representation dated 20.10.1982 and not in reply to the letter dated 4.7.1983. It is not even a speaking order and was sent to the petitioners much after filing of present petition.



15. That the contents of paragraph 14 of the counter affidavit are denied, and those of paragraph 26 of the petition are reiterated as correct. As already pointed out Sri Kishan Lal could not be made senior to the petitioner.

16. That the contents of paragraph 15 so far it admits the contents of paragraph 27 of the petition are not denied, rest of the contents are denied. The decision of inter-se seniority of Sri Kishan Lal vis-a-vis Sri Q.S. Rasool is wholly unwarranted.

McDermott

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17. That the contents of paragraph 16 of the counter affidavit are denied and those of paragraph 28 to 30 of the petition are reiterated as correct. As already submitted that opposite party no. 4 can not be given seniority over the petitioners only because of wrong and illegal promotion of Sri Q.S.Rasool made by opposite party. The circular contained in Annexure C-4 does not apply in the facts and circumstances of the present case. The initial appointment of Sri Kishan Lal is later and the entire of length of service is also lesser than that of petitioners and hence Sri Kishan Lal could not be made senior ~~to~~ on some notional basis.

18. That the contents of paragraph 17 of the counter affidavit are denied except in so far it admits the contents of paragraphs 31 to 35 of the petition. Sri Kishan Lal could not be made senior on the basis of notional seniority.

19. That the contents of paragraph 18 are denied and those of paragraph 36 of the petition are reiterated as correct.

20. That the contents of paragraph 19 are denied and those of paragraph 37 of the petition are

M. Verma



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reiterated as correct.

21. That the contents of paragraph 20 needs no reply.

22. That the contents of paragraph 21 are denied and those of paragraph 39 of the petition are reiterated as correct.

23. That the contents of paragraph 22 are denied. Sri Kishan Lal can not be made senior to the petitioners on some notional basis.

24. That the contents of paragraph 23 are denied. It is well settled that the seniority can not be given from retrospective effect on the basis of some wrong promotion so as to affect other persons. The orders of opposite parties are illegal, arbitrary and malafide and violative of principles of natural justice in placing the petitioners below to Sri Kishan Lal.

Lucknow

Dated 11-3-90

M. K. Verma

Deponent

VERIFICATION

I, the above named deponent do hereby verify

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that the contents of paragraphs 1
to 3 of the rejoinder affidavit are true
to my own knowledge and those of paragraphs
to 24 of the affidavit are believed
by me to be true on the basis of legal advise.
No part of it is false and nothing material has
been concealed. So help me God. Signed and
verified this 11th day of July, 1990 at
Lucknow.



[Signature]
Deponent

I identify the deponent who has signed before me.

[Signature]
Advocate.

10-15-11-7-90
10-15-11-7-90
Advocate
the deponent who has signed before me
the contents of the affidavit which
have been read and explained
to him.

[Signature]

A. D. AHUJA
OATH COMMISSIONER
High Court, Lucknow Bench Lucknow
No. 3/11273
Date 11-7-90

Before the Central Administrative Tribunal
Bench at Lucknow.

The Registrar
The Central Administrative
Tribunal, Bench at
Lucknow.

Sub. Application for certified copy
of Judgment dated 29-1-92
in T. A. No 1211 of 1987
M. K. Verma vs Union of India

Sir,

In the above noted case I could
not receive the certified copy of
Judgment. In the circumstances,
the certified copy of the judgment
may ordered to be given to
me..

Thanking you.

R. S. Pandey
Counsel for
Applicant

Lucknow
Dated 9-3-92.

Enclosures.

① Two postal order of Rs 5/- each.
(Total Rs 10/-)

Received
11/3/92

4.19.433872
4.19.433873

10/-

9/3/92

1/10/92