

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

## TA 156/87 INDEX SHEET

CAUSE TITLE *Lev. No. 191/80*NAME OF THE PARTIES *S.C. Banerjee*

.....Applicant

Versus

*Union of India*

.....Respondent

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## CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

S.C. Banerjee - vs - Mr. &amp; Mr.

## FORM OF INDEX

D.A./T.A./P.A./C.C.P. No.

156/87  
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D.Y. Registrar

Supervising Officer

M. Dealing Clerk

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

Dealing Clerk

V.K. Mishra

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(iv) to issue a writ of mandamus or a writ, order or direction in the nature of mandamus commanding opposite-parties 1 to 3 to assign the petitioner seniority in the post of Stenographers on the basis of his being treated to have qualified at the examination conducted in 1972 and to assign seniority to him just above his immediate junior in the cadre of LDC/Time Scale Clerk.

(v) to issue such other writ, order or direction or order ~~which~~ including an order as to costs which in the circumstances of the case this Hon'ble Court may deem just and proper.

*There is no defect in the above order in the nature of writ petition.*

(B. C. Saksena)

Advocate

Counsel for the petitioner

Dated Lucknow

18.1.1980

*20*

S. C. Saksena

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

654

Writ Petition No. 191 of 1980

S.C.Banerjee

Petitioner

VS

Union of India and others

Opp-parties

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B.C.Saksena

( B.C.Saksena )

Advocate



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

Petition under Article 226 of the Constitution  
of India.

Writ Petition No. 191 of 1989

S.C. Banerjee, aged about 48 years, son of late Sri  
R.C. Banerjee resident of C-733-Sector C, Mahanagar,  
Lucknow

--Petitioner

versus

1. The Union of India through the Secretary, Ministry of Communications, Government of India, New Delhi
2. The Director General, Posts and Telegraphs, New Delhi
3. The General Manager, Telecommunications, Uttar Pradesh Circle, Lucknow
4. Saheb Dayal, adult, father's name not known, P.A. to Director of Finance and Telecommunications, U.P. Circle, Lucknow
5. N.C. Malhotra, adult, father's name not known, P.A. to the Deputy General Manager Telecommunications, Lucknow.
6. Afaq Ahmad Usmani, adult, father's name not known



S.C. Banerjee

qualified at the said examination. As a consequence of the said declaration of result, the petitioner was posted as a Stenotypist under the Divisional Engineer Telegraphs, Long Distance, Lucknow. The said posting was in the nature of a deputation. It is stated that the petitioner belonged to the cadre of Stenotypist of Lucknow Telephone Division and the Unit where he was posted, viz., D.E. ~~Telephones~~ Telegraphs, Long Distance was a different Unit and a different cadre. This fact can be gathered from Memo. no. STB/12 XB/CH V/8 dated 15.1.1969 issued from the office of the Postmaster General, U.P. Circle, Lucknow. A true copy of the said memo. is being annexed as Annexure no.1 to this petition.

4. That the petitioner continued to work under D.E. Telegraphs, Long Distance, Lucknow till February 1974.
5. That opposite-party no.2 vide his letter no. 7-55/68-PE.1 dated 20.5.1971 ordered conversion of posts of Stenotypists into Stenographers in the pay scale of Rs. 130-5-160-8-200-EB-10-300 subject to their passing a test in stenography.
6. That in compliance with opposite-party no.2's aforesaid order the Postmaster General, U.P. Circle vide his letter no. STC/M-2-72-4 dated 22.12.1972 conducted a test to fill up the converted posts though the petitioner who was an eligible candidate to appear at the said test was not informed about the holding of the said test. As stated in the preceding



Subs

paragraphs the petitioner's parent cadre was the D.E.Phones, Lucknow which was a Unit under the Postmaster General, U.P.Circle. The Unit of the Divisional Engineer Telegraphs, Long Distance, Lucknow did not fall under the administrative control of the Postmaster General, U.P.Circle, Lucknow. It was under the Regional Director, Telecommunications, New Delhi. Since the petitioner was an approved Stenographer on Circle level, he was eligible to appear at the examination for filling up the converted posts of Stenographers in scale Rs.130-300. Since the petitioner had not been informed of the holding of the said examination he could not prefer his application in the prescribed form for no fault of his. A copy of the said letter was not endorsed or sent to DET, Long Distance where the petitioner was working on deputation.



7. That another test/examination was conducted vide P.M.G. U.P.Circle, Lucknow's letter no. Staff C/M-22/73/4 dated 7.2.1973. In this letter also the name of the petitioner was again omitted to be shown amongst the eligible candidates and no copy of the same was given to the DET, Long Distance, Lucknow where the petitioner was working on deputation.

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8. That some time in the year 1973 due to re-organisation the Divisional Engineer Phones, Lucknow's Unit was taken out from the administrative control of the Postmaster General, U.P.Circle and placed

under the control of the District Manager Telephones Lucknow. The District Manager Telephones, Lucknow conducted an examination for the converted posts of Stenographers for his unit and the said District Manager Telephones by his letter no. ST-34/4/5 dated 8.2.1974 addressed to the DET, Long Distance, Lucknow and others indicated that the petitioner has been permitted to appear at the examination for recruitment to the post of Stenographer (English) and he was requested to direct the petitioner to report to Sri Bishan Swarup DEPhones (Administration). A true copy of the said letter is being annexed as Annexure no. 2 to this petition.

9. That in response to the said letter the petitioner appeared at the said examination and qualified at the same.

10. That consequent upon the declaration of the result of examination for recruitment of Stenographers held on 9.2.1974 the petitioner was appointed as Stenographer in the pay scale of Rs.330-560 by means of memo. no. ST/34/5/1 dated 19.2.1974 issued under the signature of Sri V. Rajagopal, the then District Manager, Telephones. A true copy of the said memo. is being annexed as Annexure no.3 to this petition.

11. That opposite-party no. 2, ~~by his~~ letter bearing no. 49/14/69-SPB -1 dated 20.5.1971 was circulated by the office of the Postmaster General vide his letter no. EST.A/X-166/IV dated 7.6.1971. A true



Se P. B. B. C. C. G. G.

copy of this said letter is being annexed as Annexure no.4 to this petition. Attention is invited to item B-4(i) by which it was provided that seniority is ~~to be~~ fixed from the date of confirmation in the grade of Lower Division Clerks/ Time Scale Clerks.

12. That a seniority list of stenographers was circulated by opposite-party no.3 vide his letter no. Staff/M-81-23/3 dated 7th September, 1978. A true copy of the said letter along with its one enclosure is being annexed as Annexure no.55 to this petition. A perusal of paragraph 1 of the said letter would show that assignment of seniority of stenographers as done by means of the said letter was purportedly on the basis of a letter of opposite-party no.2 bearing no. 206/4/78-STN/SPB-1 dated 5.8.1978. It is stated that the said letter was not annexed along with the letter of opposite-party no.3 dated 7.9.1978. The petitioner made a demand to be supplied with a copy of the said letter but the same was not done. It is further stated that the show-cause notice dated 25.10.1977 which is adverted to in the reference in the opening part of the letter dated 2.9.1978 was also never served on the petitioner and he was not called upon to show cause why the seniority be fixed on a different criteria than the one laid down in opposite-party 2's letter dated 20.5.1971 referred to in the earlier paragraphs. It is relevant to state that the opposite-party no.2's said letter dated 20.5.1971 was circulated and brought to the notice of the petitioner and persons similarly situated but copy of opposite-party no.2's



Sebawyer

letter dated 5.8.1978 was not so circulated nor brought to the notice of the persons concerned including the petitioner and as stated earlier even upon demand, the same was not furnished. Since the petitioner has at no time been served with a show cause notice dated 25.10.1977 relating to determination of seniority, he is not in a position to state the contents thereof, nor does it appear that along with the said show cause notice a tentative seniority list was either issued. The petitioner has tried to verify the contents of the said show cause notice and the letter of opposite-party no.2 dated 5.8.1978 referred to above from the office of the District Manager, Telephones, wherein he is presently working but he was given to understand that the said documents are not available in the said office.

13. That the petitioner was served on 26.9.1978 with a copy of opposite-party no.2's said letter dated 7.9.1978. A perusal of the said letter and the seniority letter accompanying thereto with the contents of the earlier letter of opposite-party no.2 dated 20.5.1971 had transpired that the criteria for determination of seniority has been changed. The petitioner preferred a representation dated 27.9.1978 through proper channel addressed to opposite-party no.3. With a view to bring on record the facts stated and the pleas raised by the petitioner in the said representation a true copy of the same is being annexed as Annexure no.6 to this petition.

Sebaugra

14. That opposite-party no.3 by his letter no.

Staff/M-81/23/3 dated 17.11.1978 addressed to the District Managers Telephones, Lucknow/Kampur and others indicated that the representations of the eleven Stenographers whose names were given in the said letter had been examined but in view of the clarification contained in opposite-party no.2's letter dated 5.8.1978 their request for refixing seniority as per the date of their confirmation cannot be ~~accepted~~ <sup>acceded to</sup> and accordingly the said representations were stated to have been rejected. Since a copy of the said letter was not endorsed to the petitioner, a true copy of the same is being annexed as Annexure no.7 to this petition.

15. That a perusal of the petitioners representation dated 27.9.1978(annexure 6) would show that the petitioner therein did not make a request for refixation of his seniority as per his date of confirmation in the clerical cadre. The inclusion of the petitioners name at serial no.3 of the list of eleven stenographers whose representations were being rejected by the said order dated 17.11.1978 appears to have been done mechanically without applying mind to the nature of the representation made by the petitioner.

Sebaugge  
 16. That the petitioner upon being informed of the rejection of his representation by means of the said letter dated 17.11.1978 sought interview with Mr. N.K.Mathur the then General Manager, Telecommunication, Lucknow and apprised him that the petitioner in his

representation had not raised the ground which appears to have been considered and rejected by the said letter dated 17.11.1978. The petitioner's ground was altogether different.

17. That it appears that opposite-party no.3 sent a communication to opposite-party no.2 in reply to the petitioners representation dated 27.9.1978. The said reply is contained in no. Staff/M-82-23/3 dated 28.12.1978. With a view to bring on record the contents of the said reply a true copy of the same is being annexed as Annexure no.8 to this petition.

18. That the petitioner on 26.11.1979 was served with a copy of letter bearing no. Staff/M-81-23/8 dated 17.11.1979 issued by opposite-party no.3 and addressed to the District Manager Telephones Lucknow. A copy of the said letter as served on the petitioner is being annexed as Annexure no.9 to this petition.

19. That in the seniority list issued along with letter dated 7.9.1978 the petitioner has been assigned seniority at serial no. 38. Since the said seniority list is a combined seniority list of Stenographers of the Postal and Telecommunication Wings of the U.P. Circle, such stenographers who are working in the Postal Wing have been excluded from being impleaded as opposite-parties to the present writ petition. Opposite-

*Subpoena*

parties nos 4 to 9 who are working in the Telecommunication Wing of the U.P.Circle and who have been erroneously assigned seniority over the petitioner are only being impleaded as opposite parties. The other persons are not necessary or proper parties and are, therefore, not being impleaded.

20. That in the circumstances detailed above and having no other equally effective and speedy alternative remedy the petitioner seeks to prefer this writ petition and sets forth the following, amongst others.

GROUND :

(a) Because a perusal of the letter dated 28.12.78 annexure 8 to the writ petition would clearly show that the petitioner though eligible had not been called to appear at the examination for the Stenographers conducted by the office of the Postmaster General and as such the petitioner is clearly entitled to re-fixation of his seniority from the date his immediate junior has been assigned seniority in the impunged seniority viz., 1972 instead of 1974.

(b) Because the petitioner who was working under

-11-

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the Divisional Engineer Telegraphs, Long Distance by way of deputation or foreign service was entitled to have been called to appear at a selection in his parent unit and having qualified in the first instance when he was given opportunity to appear it would be only equitable and just to treat the petitioner as having qualified at the first selection held in 1972.

(c) Because the petitioner having qualified is clearly entitled to the benefit of next below rule and assignment of seniority above his juniors in the cadre of Time Scale Clerk/ LDC from the date they have been assigned seniority as Stenographers.

(c) Because in the alternative and without prejudice, the assignment of seniority to Stenographers should have been done on the basis of the criteria indicated under opposite-party no.2's initial letter dated 20.5.1971.

(d) Because the letter dated 7.9.1978 in so far as it brings about a change in the criteria of assignment of seniority without due and proper notice to the persons concerned must be held to be violative of principles of natural justice.

Opposite party

(e) Because the rejection of the petitioner's representation by means of letter dated 17.11.1978 contained in annexure 7 was only mechanical and without application of mind and therefore deserves to be

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quashed.

(f) Because the rejection of the petitioners representation dated 27.9.1978 by means of letter dated 17.11.1978 contained in annexure 9 ignores the admitted fact that the petitioner was prevented from appearing at the examination for Stenographers conducted in the year 1972 -73 for no fault of his since he had not been informed of the holding of the said examination though he was eligible.

Wherefore, it is respectfully prayed that this Hon'ble Court be pleased:

(i) to issue a writ of certiorari or a writ, order or direction in the nature of certiorari to quash the communication no. Staff/M-81/23/8 dated 17.11.1978 contained in annexure no. 9.

(ii) to issue a writ of certiorari or a writ, order or direction in the nature of certiorari to quash the clarification said to contain in opposite-party no. 2's letter dated 5.8.1978 after calling <sup>upon</sup> the opposite-parties 1 to 4 produce the same.

Se Banerjee  
 (iii) to issue a further writ of certiorari or a writ, order or direction in the nature of certiorari to quash the seniority list dated 7.9.1978 in so far as it concerns opposite-parties nos. 4 to 9 and the petitioner.

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

(1)

INDEX SHEETCAUSE TITLE T.A. 156/87 of 199  
W.P. 191/80Name of the parties S. C. Banerjee Applicant.

Versus.

U.O.S. (P&T)

Respondents.

Part A.B.C.

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ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. 191 of 1970

Date

Note of progress of proceedings and routine orders

Dated of  
which  
case is  
adjourned

1

2

3

Mr. Misra - T

Mr. Bawali

Domil

C. A. ~~423~~ 423 (w) do for  
Slay.

(Issue notice)

4/80. 5-3-80 fixed with C.M.

An. no. 423 (w) 80 for  
Attendance

W.P. to C.P. 5 to 9th  
12-1-80 - 1st  
4-2-80

Service Report in W.P. with C.M.

An. 423 (w) - do.

O.P. Nos. 1 to 3 :- Represented by

Sri B. L. Shukla, Adv.

O.P. No. 4 to 9 :- Regd. covers

not recd. back as yet.

Submitted.

B. L. Shukla  
21/10/

## ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No.

of 198

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
	Hon. T. P. S. J.	
	As a request has been made on behalf of Mr. B. D. Shukla that the cause may be adjourned to day first in after 15th of April, 1981.	
		by
		10-4-81
24		n
24	15-4-81. Fixed on 423 (w) 80	S. S.
24-4-81.	Fixed on 423 (w) 80 for orders.	Byel
	Hon. K. S. Venk. J.	15/4/81
	list this application for orders on 4-5-81.	
	The Counter-affidavit may be filed by 30-4-81.	
	Rejoinder-affidavit, if any, may be filed by 2-5-81.	
		KB
		24-4-81

S. S.

**ORDER SHEET**  
**IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD**

No. \_\_\_\_\_ of 198

—VS.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
16.7.01	Cmvr 423-80 has the Royal J	
	Stand out at 14' illness Ship of Sri B.L. Shukla	
22.7.01	Cmvr 423-80 22/7/01 ans. the <del>West</del> Royal J	
	Sri B.C. Saxena Mats that the application has been infelicit. It is accordingly rejected as infelicit.	
	22/7/01	

(1)

A)

आ० अ० अ० १८  
T. A. T. 78आदेश पत्रक  
ORDER SHEET

अपील निर्देश आवेदन रजिस्टर में सं०

No. in Reference Application Appeal Register

T. A. 156/87

W. P. 191-80

अपीलकरण  
Appeal Tribunalअपील  
आवेदनAppell  
Applicअपील  
आवेदन द्वारा

बनाम

प्रत्यक्षी

Appeal  
Applicant

Vs.

Respondent

प्रत्यक्षीद्वारा  
Respondentआदेश की क्रम संख्या  
और तारीख  
Serial number of  
order and dateसंक्षिप्त आदेश, निर्देश देते हुए, यदि आवश्यक हो  
Brief order, mentioning reference, if necessaryपालन के से हुआ और पालन  
करने की तारीख  
How complied with and  
date of compliance

Office refest

W.P. 191-80 received on  
transfer from High Court H.C.

W.P. is admitted.

Case file no.

Petition filed on

Sedentary.

Petition pending for orders.

Notices issued for both the  
parties from 29-7-87 by 2nd post.No undelivered copy  
Cover sheet been return back.

Submitted for orders.

Decision taken  
27/10/

(2)

A3 (9)

आ० अ० अ० १८  
L. A. T-18आदेश पत्रक  
ORDER SHEETअपील  
निर्देश आवेदन रजिस्टर में सं०  
No. in Reference Application  
Appeal Register

PA-156/87 (CT)

अपील करण  
Appeal Tribunalअपील  
आवेदनAppeal  
Applic.अपील  
आवेदनAppeal  
Applic.प्रत्यर्थीद्वारा  
Respondentआदेश की क्रम संख्या  
और तारीखSerial number of  
order and date

वनाम

प्रत्यर्थी

Vs.

Respondent

संक्षिप्त आदेश, निर्देश देते हुए, यदि आवश्यक हो  
Brief order, mentioning reference, if necessaryपालन कैसे हुआ और पालन  
करने की तारीख  
How complied with and  
date of compliance

13/10/87

Hon. D. S. Misra - A.M.  
Hon. G. S. Sharma - J.M.

Shri Vineet Singh -  
the applicant files three rejoinder  
today. Counter-affidavit has also been  
filed by opposite party No. 7. A  
Supplementary counter-affidavit has  
been filed by respondent No. 2  
and -3. On the request of  
learned counsel for the  
applicant, he is allowed a <sup>subsequently</sup>  
1 week's time to file a rejoinder  
of any. The case is accordingly  
adjourned to 29/10/87 for  
hearing.

A.M.

} -  
A.M.

(कृ०५०७०/)

③ order sheet TA. 156/87  
AS..

30/3/88

Hon. D.S. D'Souza - Am.  
Hon. G.S. Sharman - JM

On the request  
of learned counsel for  
the applicant, the case is  
adjourned to 7/4/88 for  
hearing. No further time  
shall be allowed.

Am.

JM

3/4/88

Hon. A Jay John - Am.  
Hon. G.S. Sharman - JM

Sh. Nived - Saran for  
the applicant filed two  
supplementary rejoinders today.  
Sh. S. Nandam for the  
respondents M&T filed written  
arguments today. Sh. Shethar  
Surveshara & later on appeared  
for other respondents. The case  
is adjourned to 26/7/88  
for final hearing.

JM

Am.

3/4

⑩ 26.7.88. No. sitting adj. to 26.7.88  
m/s

⑥

A10

No 1 87

Pno.

80

5.1.9

⑯  
A

②7 3.12.90

No Setting adj

②8 25.1.91

No setting Adj to 25.1.91

Car is ready for  
heavy L  
6/3/91

Car is ready for  
heavy

8  
13.9.91

10

Hon. Mr. P. S. Habib Mohammad, A.M.  
Hon. Mr. J. P. Sharma, J.M.

15

Shri A. Mishra, for the applicant has filed power, by his brief holder Shri A. K. Chaudhury, Shri A. Mohney, for the respondent and Shri Shukla Srinivasan, for the private respondent No 4 & 5 are present. The matter is ready for hearing on 19/7/90.

J

sd.

J.M.

PSK

A.M.

24

19-7-90

NO sitting adj. to 20/7.

25

28-7-90

Hebhu Mr. J. S. K. Naik v.  
Hebhu Mr. K. Chayya A.M.

On the application of both -  
Pabla Counsel Case adjourned  
to 7-11-90 for hearing

J

A.M.

Dr  
V

26

T. H. A.

Hon. Mr. M. V. Desaikar A.M.  
Hon. Mr. D. K. Agarwal J.M.

Due to resolution of Bar Association  
case is adj. to 3-12-90

R.O.C

156/875

28  
8.3.91

Au

(17)

Mr. Justice V.C. Seervastaw - VC  
Mr. B. Gordh AM.

On the request of Counsel  
for applicant case is adj. to  
1.5.91 for hearing.

AM.

hs  
VC

1.5.91

No Sittings adj to 25.8.91

2

(31)

528877  
26.8.91

No Sittings adj to 17.9.91

3

(32)

17.9.91

No Sittings adj to 6.11.91

4  
B&C

TA 156-07 (r)

A12

18

1/2

6-11-91

Hon. Mr. Justice: V.C. Srivastava, V.C.

Hon. Mr. A.B. Gorla, A.M.

None appears on behalf of the respondents. The learned counsel for the applicant is present. Dr. D. Chandra counsel for Govt. of India will have to inform Shri A. Mohiley learned counsel for Union of India to appear. Shri A. Mohiley is directed to argue the case on behalf of Union of India.

List this case on 10-12-91 for

hearing.

Copies of the order may be given to the learned counsel for respondents.

I  
A.M.

le

V.C

(SPK)

10/12/91

Hon. Mr. Justice V.C. Srivastava  
Hon. Mr. A.B. Gorla A.M.

Arguments heard. Judgments delivered separately

I

I  
A.M.

V.C

Dec. of Judgments

V.C. Srivastava  
23/2/92

By Post to applicant  
on 25/2/92

working under District Manager, Telephones, Lucknow

7. S.N.Chatterji, adult, father's name not known, Steno to Senior Superintendent, Telegraphs Traffic, Allahabad.

8. J.P.Gupta, adult, father's name not known, Steno to Chief Superintendent, Central Telegraphs Office, Agra

9. S.B.Misra, adult, father's name not known, Steno. to Divisional Engineer Telegraphs, Bareilly

#### Opposite-parties

This humble petition on behalf of the petitioner, above-named, most respectfully showeth:-

1. That the petitioner was initially appointed in the Posts and Telegraphs Department, U.P. Circle, in <sup>June</sup> 1949.

2. That the petitioner was thereafter with effect from 24.4.1967 promoted to work as Steno-Typist under the Divisional Engineer ,Phones, Lucknow. The petitioner's said promotion was made on the basis of a test conducted locally by the D.E.Phones, Lucknow. A regular test on circle basis had not been held.

3. That the examination for recruitment to the cadre of Steno-Typist under the Postmaster General U.P. Circle was held some time in November 1968. The result of the said examination was declared by the office of the Postmaster General, U.P.Circle, Lucknow's Office Memo. no. STC/14/45/68/10 dated 19th December, 1968 and the petitioner amongst others was declared



Suba

## CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW.

....

T.A. No. 156 of 1987

(W.P. No. 191 of 1980)

S.C. Banerjee

... ...

Petitioner/  
Applicant.

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 applicant who was retired from service during the pendency of this application, earlier filed a writ petition before the High Court for quashing the communication dated 17.11.1979 issued by the General Manager Telephones Lucknow to the District Magistrate Telephone refusing to grant the prayer of the applicant regarding seniority on the ground that he qualified the test/ examination for promotion to the post of Stenographer only in the year 1974 and his seniority has been correctly fixed from that year vide an order dated 7.9.1978 and his seniority can not be fixed along with the candidates of 1972-73 who ~~did not~~ appeared in the said test. He also prayed for issue of a writ of certiorari to quash the clarification said to contain in the latter of the respondent no. 2 dated 5.8.1978 and also for quashing the seniority list dated 7.9.1978 in so far as it concerns the respondent nos. 4 to 9 and the applicant. The applicant also prayed for issue of a writ of mandamus commanding the respondents to assign him seniority in the post of Stenographers on the basis of his being treated to have qualified at the examination conducted in

- 2 -

1972 and to assign seniority to him just above his immediate junior in the cadre of L.D.C./Time Scale Clerk. The applicant was initially appointed in the P & T Department, U.P. Circle in the year 1949, and in the year 1967, he was promoted to work as Steno-Typist under the Divisional Engineer, Phones, Lucknow. The examination for the recruitment to the cadre of Steno-Typist under the Postmaster General U.P. Circle was held some times in the year 1968 and the applicant was declared qualified at the said examination. He was posted thereafter, as Steno-Typist under the Divisional Engineer Telephones, Lucknow, which posting was in the nature of deputation where he continued to work upto the month of February, 1974. Vide a letter dated 20.5.1971, the Director General Post and Telegraph ordered conversion of the posts of steno-typist to stenographer in the pay scale of 130-300 subject to the passing of test in the stenography. The test took place in the month of December, 1972 and thereafter in the year 1973. The grievance of the applicant is that he had no notice for appearing in the test ~~2000~~ of 1972 and 1973, and he could only appear in the year 1974 in which he passed in the very first attempt and thereafter he was appointed as Stenographer. According to the applicant he could not learn~~t~~ about the earlier examination. It is only in the year 1973, <sup>the come to know when</sup> whether the rules of seniority <sup>l were</sup> changed and the seniority list was published and the applicant was shown below the other respondents. Since the applicant could learned that he has <sup>been</sup> passed over in this manner and has been made junior to his juniors which led him to file representations after representations and ultimately approached <sup>to</sup> the High Court by filing a writ petition which by an operation of law Contd ... 3/-

of the applicant as ~~in case~~ he would have <sup>had</sup> a notice or information he would have not avoided for appearing in the examination, which was <sup>given</sup> benefit to him. ~~He~~ <sup>has not</sup> given information to appear in the examination, <sup>was thus</sup> obviously he lost a chance and deprived of his seniority. In view of the fact that the respondents are responsible for the said mistake, the applicant can not <sup>be made</sup> ~~mean~~ to suffer. It is settled principle that no one can be made to suffer because of the fault on the part of the Government. The applicant having succeeded in the first attempt it can now safely been concluded that, the applicant also <sup>had</sup> appeared in the examination of 1973 <sup>and he would have</sup> succeeded in the same, and accordingly, it will be deemed as if the applicant succeeded in the year 1972 and his seniority will be fixed over those who <sup>were</sup> ~~were~~ junior ~~to~~ him. As such, the applicant will be deemed to have been appointed to the post of steno typist not ~~only~~ from the year 1974 but from the year 1972, the year in which his juniors were appointed as stenographers. Though, the applicant having been deemed to be appointed from the year 1972, but he will not be entitled to get any monetary benefits from the year 1972-74, though he will be entitled to all other benefits including seniority or any other consequential benefits as well as pensionary benefits. The application is disposed of with the above observations. Parties to bear their own costs.

*Member (A)*  
Member (A)

*✓*  
Vice-Chairman.

Dated: 10.12.1991

(n.u.)

CIVIL

SIDE

CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case lot 1-8

Name of parties \_\_\_\_\_

Date of institution \_\_\_\_\_

Date of decision \_\_\_\_\_

AD

File no.	Serial no. of paper	Description of pa	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
A 1		General Index	1	-	—	—	—	
A 2		<del>order of court</del>	1	-	—	—	—	
3		Writ cert	38		102.00			
		Affidavit and Affix 100						
B 4		Process	1					
5		CM A 4300 D 2 fast	3		5.00			
6		Notice	12		—	—		
7		Counter affidavit	12					
8		Memo of Power	2		— 5.00			
9		order sheet	3	-	—	—		
10.		Barat 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.

Munsarim.

Clerk.

Date —

department. The logical reason also goes in favour

in favour of the applicant and not in favour of the

was working. As ~~the~~ matter of fact, presumption lies

Telephones Long Distance, in which office the applicant

that no information or notice was sent to the D.E.E.

been admitted by the respondents in the counter affidavit

who were allowed to appear in the examination. It has

from the eligibility list or the list of those candidates

that by mistake the name of the applicant was excluded

made despite the fact that G.M. himself has admitted

deliberately avoided. All these allegations have been

information of the said examination to which he

in the same campus, applicant could be supposed to have

appear. As the applicant's office was also located

who were interested did appear but the applicant did not

which was also pasted in the notice board, all those

notices were issued. As a result of the general notice,

notices were issued but as ~~the~~ matter of fact, general

2. According to the respondents, no individual

1972-73.

notice of the examination which took place in the year

specifically stated by the applicant that he had no

issued by the G.M. Telecommunications, it which it was

Manager Telecommunications and dated 23.12.1987 that too

reference to the Letters <sup>dt.</sup> 12.1.1990 by the General

to him. The applicant in this behalf has also made a

said test and ~~no~~ notice or any intimation was given

had denied that he had ~~any~~ information regarding the

the said test in the year 1972-73 and the applicant

the applicant by the respondents regarding holding of

of the applicant was on the notice which was issued to

has been transferred to the Tribunal. The main contention

of the applicant as in case he would have <sup>had</sup> a notice or information he would have not avoided for appearing in the examination, which was <sup>given</sup> benefit to him. ~~He~~ <sup>been</sup> has not given information to appear in the examination, <sup>was thus</sup> obviously he ~~lost~~ a chance and deprived of his seniority. In view of the fact that the respondents are responsible for the said mistake, the applicant can not <sup>be made</sup> ~~mean~~ to suffer. It is settled principle that no one can be made to suffer because of the fault on the part of the Government. The applicant having succeeded in the first attempt it can now safely been concluded that the applicant also <sup>had</sup> appeared in the examination of 1973 <sup>and he would have</sup> succeeded in the same, and accordingly, it will be deemed as if the applicant succeeded in the year 1972 and his seniority will be fixed over those who ~~were~~ <sup>were</sup> junior ~~to~~ to him. As such, the applicant will be deemed to have been appointed to the post of steno typist not ~~only~~ from the year 1974 but from the year 1972, the year in which his juniors were appointed as stenographers. Though, the applicant having been deemed to be appointed from the year 1972, but he will not be entitled to get any monetary benefits from the year 1972-74, though he will be entitled to all other benefits including seniority or any other consequential benefits as well as pensionary benefits. The application is disposed of with the above observations. Parties to bear their own costs.

*transcripts*  
Member (A)

*l*  
Vice-Chairman.

Dated: 10.12.1991

(n.u.)

CIVIL

SIDE

CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case lot 1-8

Name of parties \_\_\_\_\_

Date of institution \_\_\_\_\_

Date of decision \_\_\_\_\_

AD

File no.	Serial no. of paper	Description of pa	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
A 1		General box	1	-	—	—	—	
A 2		closed box	1	-	—	—	—	
A 3		visit cert	3		10/- 00			
A 4		Affidavit and Annexus						
B 4		Process	1					
S		CRA 4305 D 2 for 82	3		5/- 00			
6		Note in	12		—	—	—	
7		Counter ofidat	12		—	—	—	
8		Memo of Power	2		— 5/- 00			
9		order sheet	3		—	—	—	
10		Barad copy	1		—	—	—	

I have this

day of

197

examined

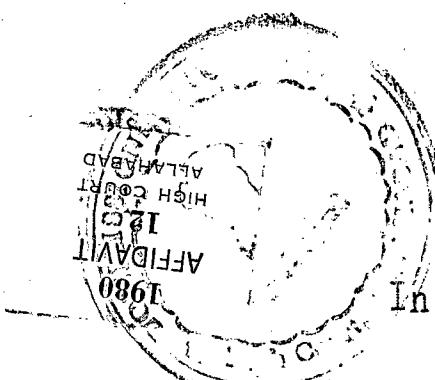
the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that they bear court-fee stamps of the aggregate value of Rs. , that all orders have been carried out, and that the record is complete and in order up to the date of the certificate.

Munsarim.

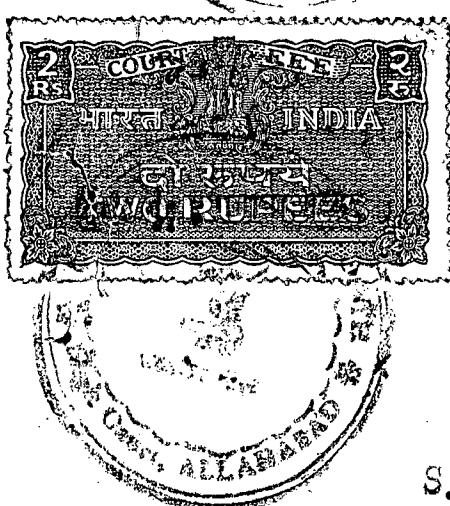
Clerk.

Date \_\_\_\_\_

A32

A  
32

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



Affidavit

in

Petition under Article 226 of the Constitution of  
India

Writ Petition No. of 1980

S.C.Banerji

Petitioner

versus

Union of India and others

-Opp-parties



I, S.C.Banerji, aged about 48 years, son of late Sri R.C.Banerjee, resident of C-723-Sector C, Mahanagar, Lucknow, do hereby solemnly take oath and affirm as under:-

1. That I am the petitioner in the above-noted writ petition and I am fully acquainted with the facts of the case.
2. That contents of paras 1 to 20 of the accompanying petition are true to my own knowledge.
3. That annexures 1 to 8 have been compared and are certified to be true copies.

Dated Lucknow  
23.1.1980

S.Banerjee  
Deponent

-2-

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

Dated Lucknow

*S. C. Banerji*  
Deponent

23.1.1980

I identify the deponent who has signed in my presence.

*G. R. Sinha*  
(Clerk to Sri B.C. Saksena, Advocate)

Solemnly affirmed before me on 23.1.80  
at 9.00 a.m/p.m by *S. C. Banerji*

the deponent who is identified by Sri *R. S. L.*  
clerk to Sri *B. C. Saksena*  
Advocate, High Court, Allahabad. I have satisfied  
myself by examining the deponent that he understands  
the contents of the affidavit which has been read out  
and explained by me.

Oath Commissioner  
High Court, Allahabad  
Lucknow Bench

No. 112 - 020

Date 23.1.1980

16

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

A34

Writ Petition No. of 1980

S.C.Banerjee ..... Petitioner

VS

Union of India & Others ..... Opposite Parties

Annexure No. 1

Office of the Postmaster General, U.P. Circle, Lucknow-1  
Memo No. STB/12-XB/Ch.IV/8 dated at Lucknow the 15.1.1969

As a result of examination for recruitment to the cadre of stenotypists declared under this office memo No. STC/M-45/68/10 dated 9.12.68 the following appointment and postings are hereby ordered with immediate effect.

Name	Unit in which working	Unit to which posted as Stenotypists
Shri P.L.Srivastava (approved)	Kanpur Telegraph Engg Dn.	D.E.T. T.A.X Kanpur
Shri Mohd Aquil Stenotypists	DET. TAX Kanpur	S.S.T.T. Kanpur
Shri S.P.Saxena (approved)	Rohilkhand Postal Dn	S.P.Os Bareilly
Shri S.N.Chatterjee (approved)	Allahabad Postal Dn	S.S.T.T. Allahabad
Shri Bhagwati Prasad Stenotypist	----do----	S.S.P.Os Allahabad
Shri Vithal Nath Kakkar (approved)	Sorter R.M.S 'A' Dn	S.S.R.M. Allahabad
S.C.Banerjee (approved)	Lucknow Telephone D.E.T.L/D Lucknow Dn. Working as unqualified Stenotypist under DET L/D Lucknow	D.E.T.L/D Lucknow



Sd/- Illegible  
For Postmaster General, UP

Copy forwarded for information and necessary action to:

*Sebanjee*

1. Sr Supdt of PO's, Allahabad
2. Supdt of POs Bareilly
3. Sr Supdt of Telegraph Traffic, Allahabad & Kanpur
4. D.E.Phones, Lucknow
5. D.E.T.Long Distance, Lucknow
6. Sr Supdt R.M.S. 'A' Dn Allahabad
7. D.E.T. TAXX Kanpur
8. DET Kanpur.

Sd/- Illegible  
For Postmaster General, U.P

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

Writ Petition No. of 1980

S.C.Banerjee ..... Petitioner

VS

Union of India & Others .... Opposite Parties

Annexure No. 2

Copy of letter No. STC/M-22/72/4 dated 22.12.72 from the Postmaster General, U.P. Circle, Lucknow addressed to all SSPOs/SPOs, All SSRMs, The DEst/DEsP, All SOTT, Accounts Officer ICO(SB), Agra, The Chief Supdt I/C CTO, Agra.

Sub: Examination for recruitment to the converted posts of Stenographers.

1. Your attention is invited to this office mem No. Even dated 7.7.72 under which it is notified to hold the above examination on 8.10.72 subsequently it was postponed for 22.10.72 and finally for further date.
2. It is now proposed to hold the above examination on 21.1.73 (SUNDAY)
3. The following officials in the Circle are approved on Circle level as Steno typist and it is incumbent on them to pass the prescribed test before they are posted as Stenographers in the scale of 130/300.
4. It is observed that most of the candidates under your Division have not submitted their application in the prescribed proforma so far. You are, therefore, requested to obtain their application in prescribed proforma (specimen copy enclosed) and send them with your recommendation.

In case the official is not willing to appear in the test, written statement to this effect may please be obtained and sent to this office immediately.

5. The examination will be held at the office of the Post Master General, UP Circle, Lucknow on 21.1.73 at 11 A.M (SUNDAY). Hall permit will be sent in due course.



S.C.Banerjee

<u>Sl.No.</u>	<u>Name of official</u>	<u>Division</u>
1.	S/S Kanti Prasad Sharma	SSPOs Agar
2.	" Bhagwati Prasad	SSPOs Allahabad
3.	" Shanker Lal	SSPOs Meerut
4.	" Mohan Lal	SSPOs Saharanpur
5.	" S.P. Saxena	SSPOs Bareilly
6.	" Yamuna Prasad Dubey	SPOs Faizabad
7.	" Ram Prasad Tripathi	SPOs Pratapgarh
8.	" V.N. Kakkar	SSRMs 'A' Dn Allahabad
9.	" Sheo Mohan Lal Srivastava	SSRMs 'O' Dn Lucknow
10.	" N.P. Srivastava	DET Allahabad
11.	" J.P. Gupta	DET Agra
12.	" P.L. Srivastava	DET Kanpur
13.	" Bisheshwar Nath	DET Lucknow
14.	" Jai Pal	DET Dehradun
15.	" Ram Pd Srivastava	DET Varanasi
16.	" S.B. Misra	DET Bareilly
17.	" K.C. Kukreja	DET Meerut
18.	" Bhisham Kumar	DET Moradabad
19.	" S.R. Dubey	DEP Agra
20.	" S.P. Srivastava	DEP Lucknow
21.	Miss P. Sylvester	Ch. Supdt I/C CTO Agra
22.	S/S S.N. Chatterjee	SSTT Allahabad
23.	" V.S. Kulshreshta	ICO(SB) Agra.

Sd/- Illegible

For Post Master General, UP



Rs. 10/-

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

Writ Petition No. of 1980

S.C.Banerjee ..... Petitioner

VS

Union of India & Others ..... Opposite Parties.

Annexure No. 2 A

Copy of letter No. ST-34/4/5 dated 8.2.74. from District Manager Telephones, Lucknow to (1) D.E.T.Long Distance, Lucknow (2) D.E.Phones (Mtce) Lucknow.

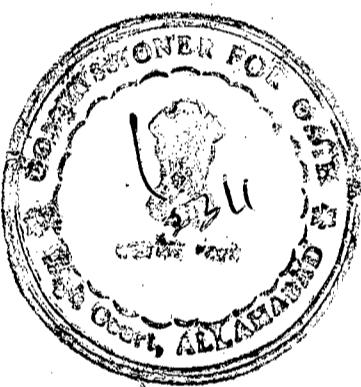
Subject: Examination for recruitment to the posts of Stenographers (English)

Reference: Your letter No. LD/E-137/87 dated 2.2.74  
(For D.E.T.L/D.EW)

The following officials have been permitted to appear in the above examination:-

1. Shri S.P.Srivastava Roll No.LTD-1
2. Shri S.C.Banerjee Roll No LTD-2

The candidates may please be directed to report to Shri Bishan Swarup, DEP(A) in the office Hall of this office, Telephone Exchange compound, Lucknow. Their Hall permits are sent herewith may please be delivered under clear receipt after attesting the signature of the candidate at the given space under your dated signature and designation seal.



Sd/- R.N.Trivedi

For District Manager Telephones  
Lucknow-226001

D.A Hall Permit.

*S.C.Banerjee*

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

Writ Petition No. of 1980

S.C.Banerjee.....Petitioner

VS

Union Of India & Others.....Opposite Parties

Annexure No. 2B

Copy of letter No. Staff C/M-22/73/4 converted dated Lucknow the 7-2-73 from the Post Master General, UP Circle, Lucknow addressed to SSPOs/SPOs/SSRMs/DEsT/SSTT/DEP.  
Sub: Examination for recruitment to the converted posts of Stenographers.

It is proposed to hold the next competitive examination for recruitment to the cadre of converted posts of Stenographers in the scale of 130/300 in the month of April'73. The time and venue of examination will be intimated later on.

The examination will comprise of a test in shorthand and transcription. The dictation in stenography will be given at a speed of 80 words per minute comprising of 560 words in English and will be dictated in 7 minutes. It will be required to be transcribed on type paper within 55 mts. A maximum of 5% mistake/omissions will be allowed in this test.

The following officials in the Circle are approved on Circle level as Stenotypists and it is incumbent on them to pass the prescribed test before they are posted as Stenographers in the scale of 130/300.

Attention of all the officials is invited to para of this office endst No STB/RC-21/3 dated 31.1.72 in which it has been made clear that all posts of Stenographers are required to be converted within 2 years of the date of issue of orders viz 20.5.71 that is before 20.5.73, The officials who cannot pass the test, shall be reverted to their clerical ~~marks~~ posts.

You are, therefore, requested kindly to obtain applications in the prescribed proforma sample enclosed from each official under you and forward them after verification and recommendation to this office by 15th March'73 positively.

Written notice may please be given to the officials noted below and their signatures obtained and forwarded to this office for record.

~~to, 20.3.73 with 20.5.73~~

The result of examination held on 21.1.73  
will be announced shortly.

<u>Sl.No.</u>	<u>Name of official</u>	<u>Division</u>
1.	S/S Kanti Pd Sharma	SSPOs Agar
2.	" Bhagwati Prasad	SSPOs Allahabad
3.	" Shanker Lal	SSPOs Meerut
4.	" Mohal Lal	SSPOs Saharanpur
5.	" S.P. Saxena	SSPOs Bareilly
6.	" Yamuna Praaad Dubey	SSPOs Faizabad
7.	" Ram Pd Tripathi	SPDs Pratapgarh
8.	" V.N. Kakkar	SSRM 'A' Dn Allahabad
9.	" Sheo Mohal Lal Srivastava	SSRM 'O' Dn Lucknow
10.	" N.P. Srivastava	DET Allahabad
11.	" J.P. Gupta	DET Agra
12.	" P.L. Srivastava	DET Kampur
13.	" Bisheshwar Nath	DET Lucknow
14.	" Jai Pal <del>DEK</del> Deekshadham	DET Dehradun
15.	" Ram Pd Srivastava	DET Varanasi
16.	" S.B. Misra	DET Bareilly
17.	" K.C. Kukreja	DET Meerut
18.	" Bhisham Kumar	DET Moradabad
19.	" S.R. Dubey	DEP Agra
20.	" S.P. Srivastava	DEP Lucknow
21. Miss	P. Sylvester	Ch. Supdt I/C CTO Agra
22. S/S	S.N. Chatterjee	SSTT Allahabad
23. "	V.D. Kulshreshta	ICO(SB) Agra

The receipt of this letter may please be acknowledged

K.J. Ansari/6-2-73

Sd/- Illegible

For Post Master General, UP

S. Chatterjee

In the Hon'ble High Court of Judicature at Allahabad  
 (Lucknow Bench) Lucknow  
 Writ Petition No. of 1980

S.C.Banerjee ..... Petitioner  
 VS

Union Of India & Others..... Opposite Parties

Annexure No.3

Memo No. ST/34/5/1

Office of the  
 District Manager Telephones  
 Lucknow-226001

Dated at Lucknow the 19.2.74

Consequent upon declaration of the result of examination for recruitment of Stenographers held on 9.2.74, Shri S.P.Srivastava, Clerk D.E.T. Office, Lucknow and Shri S.C.Banerjee Clerk of this office (On deputation to the office of D.E.T.Long Distance, Lucknow) are hereby appointed as Stenographer in the pay scale of Rs.330/560 against the existing vacancies with effect from the dates of their taking over the charge of this office.

Sd/- V.Rajagopal  
 District Manager Telephones  
 Lucknow-226001

Copy to:

1. The General Manager Telecom, Northern Region, Kidwai Bhawan, New Delhi. Shri S.C.Banerjee may kindly be arranged to be relieved for this District at a very early date in view of acute shortage of Stenographers in this District.
2. The P.M.G. UP Lucknow. As the staff for the Telecom Region is to be provided by the Circle it is requested that a substitute in place of Shri S.C.Banerjee may kindly be posted early.
3. The D.E.T.Long Distance, Lucknow. One copy is enclosed for the official
4. The D.E.P.(Mtce) of this office. One copy is enclosed for the official.

S.C.Banerjee

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

Writ Petition No.

1980

S.C.Banerjee ..... Petitioner

VS

Union of India & Others ..... Opposite Parties

Annexure No. 4

Copy of communication No.7-55/68-PE.I dated 20.5.71 from the D.G., P&T ND to all Heads of Circles.

Sub: Conversion of posts of lower Division Clerks and Time Scale Clerks with special pay for Stenographic work into P&T Circle/Administrative/Subordinate offices into Stenographers in the scale of pay of Rs.130/300.

The President is pleased to decide that all the existing posts of lower Division Clerks with a special pay of Rs.25/- p.m for stenographic work in Circles and Administrative offices and posts of Time scale clerks with special pay of Rs.25/- p.m in the subordinate offices both on Telecom and Postal sides sanctioned for Stenographic work, should be converted into the posts of Stenographers in scale of pay of Rs.130-5-160-8-200-EB-8-256 EB-8- 280-10-300.

2. The existing system of granting special pay to lower Division clerks and time scale clerks for performing Stenographic work shall be discontinued. The manner in which the posts of Stenographers are to be filled in is indicated in this office letter No.49-14/69-SPB.-I dated 20.5.71 copy of which is enclosed.

3. The pay of lower Division clerks in Circle/ Administrative offices and Time Scale clerks in subordinate offices who are getting special pay for stenographic work may on their appointment as Stenographers in the scale of Rs.130/300, be fixed in that scale as follows:-

(a) In respect of LDCs in Circle/Administrative offices working as Stenotypists with special pay, their pay may be fixed on appointment as Stenographers in the scale of Rs.130/300 on the analogy of FR.22(a)(ii) by taking into account the special pay drawn by them in the post of LDC as part of basic pay.



S.C.Banerjee

3(b). As regards Time Scale clerks, the special pay drawn by them while working as stenotypists shall neither be taken into account for fixation of pay nor shall be protected on their appointment as Stenographers in the scale of Rs.130/300, since special pay drawn in tenure post is not taken into account for pay fixation purposes vide Government of India, Ministry of Finance O.M.No. F-6(i)-E.III/8/65 dated 25.2.65 circulated under Directorate letter No.2-68/63-PAP dated 16.3.65. Fixation of pay in their case may, however, be done under the provisions of FR-22(C).

4. These orders take effect from the date of issue.

5. This issues with the concurrence of P&T Finance vide their U.O.No.21-23-FA-I/71 dated 17.5.71.

.....

Endst: RD/E.64 8/16 dt at New Delhi 31 the 5.6.71  
Copy forwarded to all D.Es. Steno Typist, All H/Clerks,  
All S.A for favour pf information.



Sd/- K.K.Dhir  
Accounts Officer O/O  
R.D.T. 2nd Floor,  
36, Janpath, New Delhi-1

Ex-Press

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

Writ Petition No.

1980

S.C.Banerjee ..... Petitioner

Vs

Union of India & Others..... Opposite Parties

Annexure No. 4 A

Copy of communication No. 49/14/69-SPB.I dated 20.5.71  
from the D.G. P&T ND to all Heads of Circles.

Sub: Conversion of posts of Stenotypists into those of  
Stenographers (130-300) procedures to fill up the posts.

Sir,

I am directed to refer to this office letter  
No.7-55/68-PE.I dated 20.5.71 wherein decision has been  
conveyed for the conversion of all the existing posts of  
LDCs with special pay of Rs.25/- or Time Scale Clerks  
with special pay of Rs.25/- for stenographic work into  
those of Stenographers in the scale of Rs.130/300.

2. The method of filling up the converted posts of  
Stenographers in the scale of Rs.130/300 has been under  
consideration and it has been decided that the following  
procedure may be adopted for filling up the converted  
posts of Stenographers.

A. Circle and Administrative Offices.

The existing Stenotypists in the Circle and Adminis-  
trative offices including those who have been appointed on  
an adhoc basis may be appointed to the converted posts of  
Stenographers. They shall however be required to qualify  
in a test in stenography at 80 words per minute within a  
period of two years from the date of their appointment to  
the converted posts, failing which they shall be reverted  
to their clerical posts.

B. Divisional Offices

The converted posts of Stenographers in the Divisional  
offices may be filled up on the basis of tests in stenogra-  
phy at the rate of 80 words per minute to which tests the  
existing stenotypists and those who had held the post  
earlier at some stage or other as well as Clerks, permanent  
or quasi permanent may be permitted to appear.



S.C.Banerjee

3. On their appointment to the posts of Stenographers, the officials concern should be placed on probation for a period of two years from their date of such appointment.

4. Interse seniority of Stenographers will be fixed as follows:

- Those who are already working as Stenographers in the scale of Rs.130/300 shall be enbloc senior to those appointed as Stenographers under ('A' & 'B') of para 2 above and their interse seniority would remain as it is.
- The seniority of Stenographers appointed under 'A' & 'B' of para 2 above will be determined on the following basis:
  - The permanent LDCs and Time Scale Clerks appointed to officiate as Stenographers will ~~not~~ have their seniority arranged according to the date of confirmation in either of the grades LDCs or Time Scale Clerks. Those confirmed on the same date will have their interse seniority fixed according to age.
  - The quasi permanent and temporary LDCs and Time Scale clerks appointed to officiate as Stenographers under 'A' & 'B' of para 2 above will have their seniority fixed on the basis of the date of continuous regular appointment either as LDC or Time Scale Clerks.
  - Those coming under (i) above will rank senior to those in (ii) above.
- After recruitment to all the existing posts of Stenographers as on date is made and after their seniority is fixed in the above manner seniority of Stenographers appointed to posts that arises after the date of issue of the letter would be based according to the general orders on the subject.

5. After the conversion of the posts of Stenotypists the cadre of Stenographers will be Circle cadre. Future recruits will be liable for transfer anywhere in the Circle. The existing Stenotypists can as far as possible be posted on their appointment of Stenographers at the same place where they are working but it should be clearly understood by one and all that when they are appointed to the cadre of Stenographers they are liable to be posted anywhere in the Circle.

Schaefer

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6. Immediate action may be taken to fill up the upgraded posts in the manner indicated above. After the existing posts are filled up in the manner indicated, future posts of Stenographers will be filled up 50% from outside recruits and 50% from the departmental officials. A suitable amendments to the recruitment rules will be issued separately.

Endst: No RD/E.64 B/15 dated at NEW DELHI 4.6.71

Copy forwarded to all D.Es all Stenotypists  
H/O Section for favour of information.

Sd/- K.K.Dhir  
Accounts Officer (S&E)  
G/O R.O.T. New Delhi.



Sebaoyee

In the Hon'ble High Court of Judicature at Allahabad

(Lucknow Bench) Lucknow

Writ Petition No. of 1980

S.C.Banerjee ..... Petitioner

VS

Union of India & Others.... Opposite Parties

Annexure No. 5

From

General Manager Telecom  
Lucknow

To

The P.M.G., UP Circle, Lucknow

The D.M.T. Kanpur

The D.M.T. Lucknow

DET Bareilly, Aligarh, Moradabad

Allahabad, Gorakhpur, Kanpur

SSPOs Saharanpur, Aligarh, Allahabad

Meerut, Bareilly Dn

Principal, PTCC Saharanpur

S.P.Os Faizabad, Sitapur, Bulandsahar

Mathura, Etawa, Fatehgarh

SSRMs Gorakhpur, Kanpur, Allahabad, Jhansi

CS/SSTT AD/AG/BR

STT Saharanpur

A.O. ICO (SB), Agra.

No. Staff/M-81-23/3 dated at Lucknow the 7th Sept' 79

Sub: Seniority list of Stenographers.

Ref: Your replies to this office letter No. Staff/M-81/77/3 dt 24.10.77 and representations received from Stenographers in response to the Show cause notice dt 25.10.1977.

1. It has been decided by the D.G. P&T New Delhi vide letter No. 206/4/78-STN/SPB-I dt 5.8.1978 that the seniority of Stenographers may be fixed as indicated below:-

- Stenotypists/clerks who had qualified in the first test on 23.4.1972 should rank senior to those who qualified in subsequent examinations.
- The seniority of Stenotypists/clerks who qualified in subsequent examinations may be fixed in order of in which they qualified as per their merit in each examination.

2. Accordingly the seniority list of the Stenographers has been revised and the revised seniority list is given in Annexure-I.

3. The officials may please be informed of these orders and supplied with one copy of the seniority list (Annexure-I) under receipt. spare copies are enclosed.

4. Representations received, if any, may be forwarded to the undersigned by name. It may be made clear that no representation received after 20 days from the date of receipt of this letter will be entertained.



*S. Banerjee*

5. It has also been decided by the P&T Directorate that the pay will be fixed from the date of the Stenotypists/Departmental officials qualified in the test of Stenography and not from a retrospective date as was allowed in some cases. The pay fixation cases of such officials who were allowed the benefit of pay fixation in Stenographers cadre from a date earlier than the date they qualified for it may be reviewed and their pay may be fixed correctly and the officials be informed of the position.

6. Prompt delivery of this letter alongwith seniority list to officials concerned may be ensured under proper acknowledgement.

7. Receipt of this letter may please be acknowledged by return of mail.

Sd/- K.S.Saxena.

Asstt. General Manager Telecom(Staff)  
For General Manager Telecom, UP Circle,  
Lucknow.

Copy to remaining DEs T/P,SSPOs/SPOs,SSRM,A.O.ICO(SB),  
Lucknow & Varanasi

O.S. PMG's office, Lucknow  
O.S. GMTs office, Lucknow } for information.

No.ST-34/5/5 dated 26.9.78

Copy forwarded for information to:-

1. Shri S.P.Srivastava, Stenographer
2. Shri S.C.Banerjee Stenographer

DA-two

Sd/- R.U.Tewari  
For District Manager Telephones  
Lucknow.226001

*Enclosed*

Sl. No.	Name in order of seniority	Date of birth	Office to which attached	Date of passing the examination.	Date of entry in grade	Remarks
					Date of entry in grade	Remarks
11.	Shri B.L.Kathuria	13.10.20	GMT Office	23.4.72	16.4.72	
12.	" Sahab Dayal	8.4.45	PMG Office	23.4.72	20.5.71	
13.	" N.C.Malhotra	21.12.48	GMT Office	23.4.72	20.5.71	
14.	" Afq Ahmad Usmani	28.1.49	PMG Office	23.4.72	20.5.71	
15.	" Farhat Hussain	-	DMT Kanpur	12.1.73	12.1.73	
16.	" Mohan Lal	11.1.43	SSPOs Saharanpur	6.5.73	6.5.73	
17.	Janmuna Prasad Dubey	5.8.42	SPoS Faizabad	6.5.73	6.5.73	
18.	" S.N.Chatterjee	8.5.32	SSTT Alahabad	6.5.73	20.5.71/6.5.73	
19.	" S.R.Dubey	1.7.25	A.O. ICO'SB) Agra	6.5.73	20.5.71/6.5.73	
20.	" J.P.Gupta	28.1.31	C.S. ETO-Agra	6.5.73	20.5.71/6.5.73	
21.	" Kanti Prasad	3.2.43	SSPOs-Agra	6.5.73	1.7.73	
22.	" S.B.Misra	1.8.35	DET-Bareilly	6.5.73	6.5.73	
23.	Rama Prasad Srivastava	16.3.33	DEP Varanasi	6.5.73	6.5.73	
24.	" V.N.Kakkar	21.11.41	PMG Office	6.5.73	6.5.73	
25.	" B.P.Srivastava	10.12.29	SSPOs Allahabad	6.5.73	20.5.71/6.5.73	
26.	" K.S.Kulshreshtha	20.4.33	DET-Agra	6.5.73	6.5.73	
27.	" Shanker Lal	5.7.23	SSPOs Meerut	6.5.73	20.5.71/6.5.73	
28.	" S.P.Saxena	4.1.40	SSPOs Bareilly	6.5.73	11.6.73	
29.	" Bhisham Kumar	27.7.23	DET-Moradabad	6.15.73	6.5.73	
30.	Miss P.Sylvester	4.7.28	DEP Agra	6.15.73	11.5.73	
31.	Shri S.M.L.Srivastava	28.6.30	PMG Office	6.15.73	20.5.71/6.5.73	
32.	" Krishna Murlai Lal	-	SSPOs Sitapur	19.8.73	15.10.73	
33.	" Saghir Ahmad Siddiqi	30.6.30	SPD's Sitapur	19.8.73	1.11.73	



*Superseded*

34.	Shri	R.K.Thatai	31.8.31	PTCC Saharanpur	19.8.73
35.	"	S.P.Ahuja	4.4.37	STI Saharanpur	19.8.73
36.	"	Kunj-Behari Lal	1.8.33	SPOs-Bulandsahar	19.8.73
37.	"	S.P.SriVastava	1.7.30	DMT Lucknow	2.3.74
38.	"	S.C.Banerjee	23.6.29	DMT Lucknow	2.3.74

15.10.73  
2.3.74  
9.4.74



Received

ASB

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

Writ Petition No. of 1980

S.C.Banerjee ..... Petitioner

VS

Union of India & Others..... Opposite Parties

Annexure No. 6

Shri N.K.Mathur  
General Manager Telecommunications  
Uttar Pradesh Circle  
Lucknow-226001

Lucknow  
27th Sept'1978

Through District Manager Telephones, Lucknow

Subject: Wrong fixation of seniority shown in the list circulated vide your Memo No. Staff/ M-81-23/3 dated 7.9.78 received by me on 26.9.78 - case of S.C.Banerjee, Steno to D.M.Telphones, Lucknow.

Sir,

With a heavy heart I approach your goodself for natural justice. The seniority list of Stenographers circulated vide your above cited memo has been delivered to me on 26.9.78 under signature. On going through the same I was astonished to note that my name has been shown at serial 38 keeping in view the date of passing the examination. In this connection I beg to lay down the following few lines for your kind & just consideration in the matter.

1. That I entered in the department in the year 1949 June.
2. That I have been working as Stenotypist under D.E.Phones, Lucknow since 24th April, 1967 and later on I was posted to D.E.T.Long Distance on deputation on 1.10.68 where I continued to work upto Feb'74.
3. That I was not at all informed of any test held on 23.4.72 by the then P.M.G UP and I was completely in dark about the examination held on 23.4.72 which is a question of my career. Neither the PMG nor the D.E.Phones care to inform me. Not only this I may be permitted to bring to your kind notice that any such examination that was conducted by the U.P.Circle, I was not informed at any stage which has resulted and put me to a



Sealed

loss for no fault of mine. Sir, I am sure you will agree that every one wants to have a better future and as such no one will like to doose the same. A review of conduct of examinations ( as per annexures attached) will clearly reveal the fact about my statement.

4. That an intimation about the conduct of such examination as on 23.4.72 or afterwards was ever communicated to me, I could not avail the opportunity for no fault of mine.

5. That the Lucknow Telephone District was formed in the year 1973 and a test of Stenographers was conducted by the District Manager Telephones Lucknow on 9.2.74 in which I was informed and I appeared and passed in the first attempt.

Under the circumstances stated above I am sure your honour will realise the facts of the case that when I was not informed at all stages, why & should I be made to suffer with no fault of mine.

In view of the above facts, I request your honour that I may kindly be given the seniority as on 23.4.72 having passed in the first attempt as stipulated in D.G., P&T letter mentioned in the above circular.

As mentioned in para 4 of your circular the petition should have been submitted to your office within 20 days from the date of receipt of the circular, I may mention that I received the said circular only on 26.9.78 and submitted my representation on 27.9.78.

I hope and trust that judicious decision will be taken in the matter and I may not be allowed to suffer for no fault of mine.

Thanking you,

Yours faithfully

(S.C.Banerjee)

Steno to D.M. Telephones

Lucknow.



*S.C.Banerjee*

In the Hon'ble High Court of Judicature at Allahabad  
 ( Lucknow Bench ) Lucknow  
 Writ Petition No. of 1980  
 S.C.Banerjee ..... Petitioner  
 VS  
 Union Of India & Others..... Opposite Parties.

Annexure No. 17

Copy of G.M.Telcom, UP Circle, Lucknow letter No.  
 Staff/M-81-23/3 dated 17.11.78 addressed to PMG, UP/  
 DMT, Lucknow/Kanpur, SSTM/Allahabad, DET. Kanpur/DEP. Agra/  
 SSP. Allahabad/Meerut, & SSRM 'A' Dn Allahabad.  
 Sub: Representation from Stenographers regarding  
 fixation of seniority.  
 Ref: Your No. .... dated 27.9.78

The representation of Stenographers noted below  
 have carefully been examined but in view of the clarifi-  
 cation contained in D.G., P&T New Delhi letter No.  
 206/4/78-STN/SPB.I dated 5.8.78, it is regretted that  
 their request to refix the seniority as per their date  
 of confirmation in clerical cadre cannot be acceded to.  
 Their representation are hereby rejected and they may  
 be informed accordingly.

1. S/S J.P.Gupta	Steno to C.S., CTB Agra
2. " R.K.Thatai	Steno to ... Saharanpur
3. " S.C.Banerjee	Steno to D.M.T.Lucknow
4. " P.L.Srivastava	Steno to DET. Kanpur
5. Miss P.Sylvaster	Steno to DEP Agra
6. S/S S.N.Chatterjee	Steno to S.S.T.T.Allahabad
7. " V.N.Kakkar	Steno to PMG Lucknow
8. " V.B.L.Srivastava	Steno to SSRM 'A' Allahabad
9. " Shankar Lai	Steno to SSP Meerut
10. " S.P.Srivastava	Steno to SSP Allahabad
11. Mrs J.K.Narula	Steno to DMT Kanpur



Sd/- K.K.Srivastava  
 Asstt. Director Telecom (Staff)  
 For General Manager Telecom  
 U.P.Circle, Lucknow

*Signature*

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

Writ Petition No. of 1980  
S.C.Banerjee ..... Petitioner

VS

Union of India & Others. .... Opposite Parties

Annexure No. 8

Copy of letter No. Staff/M-81-23/3 dated 28th Dec, 1978  
from the General Manager Telecommunications, UP Circle,  
Lucknow to Director General, P&T New Delhi-110001.

Sub: Fixation of seniority in the cadre of Stenographers.

Shri S.C.Banerji was a clerk working in the  
Lucknow Phones Division. He was declared qualified as  
Steno-typist by the PMG Lucknow vide his memo No. STB/  
12 XB/Ch. IV/8 dated 15.1.69 and posted under DET Long  
Distance Lucknow.

In the year 1971 the D.G., P&T New Delhi ordered  
for converting these Steno-typists into Stenographers  
in the scale of Rs. 130-5-160-8-200 EB-8-EB 200 EB-10-300  
subject of their passing a test in Stenography.

In compliance to above, a test was conducted by  
the PMG Lucknow vide his notification No. STC/M-22/72/4  
dated 22.12.72. This was circulated for information and  
necessary action to all the eligible candidates but the  
name of Shri Banerji was inadvertently left out. Also  
no information was given to the DET Long Distance,  
Lucknow.

Again another test was conducted vide PMG  
Lucknow letter No. Staff C/M-22/73/4 converted dated  
7-2-73. In this notification also copies to the candidates  
were given but the name of Shri Banerji was again  
left out inadvertently and no copy was given to DET  
Long Distance Lucknow. At this stage it is not possible  
to fix the responsibility for this.

In the meantime Lucknow Phones District was  
formed in the year 1973. As such, the next test was  
held in the year 1974 by the District Manager  
Telephones, Lucknow who informed Shri Banerji to appear  
in the test. Shri Banerji appeared in the test and qualified in the first attempt. Since then  
Shri Banerji is working as Stenographer under DMT Lucknow.



*Sealed/for*

AS4

Recently a seniority list of Stenographers in Telecom/Postal Wing has been circulated dated 7.9.78 in compliance to the instruction conveyed through the D.G., P&T letter No.206/4/78-STN/SOB.I dated 5.8.78 and since Shri Banerji qualified in the 1974, he has been shown junior to those who qualified in the previous year viz. 1972 and 1973.

Shri Banerji has preferred an appeal that since he did not get any information about the test conducted in the year 1972 and 1973 and as he qualified in the first attempt he should be considered for his seniority alongwith the candidates who qualified in the year 1972.

Though it is a fact that Shri Banerji was not informed about the test held in 1972 and 1973 by the PMG Lucknow and it is also correct that he passed test in the first attempt but if he is given the seniority alongwith the qualified candidates of the year 1972 the other candidates who have actually qualified in the year 1972 and 1973 may have objections to it as the seniority is to be fixed according to the year of their qualifying as per decision of the Directorate.

If the case is decided in favour of Shri S.C.Banerji he gets seniority over nearly 27 persons in the PMG/GMT Lucknow combined seniority list and 18 persons in the seniority list under GMT Lucknow.

In view of above your instructions are solicited.

Sd/- L.Prakash  
A.G.M. (Staff)

*Sehraee*



ASS

35

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

S. C. Banerjee

Petitioner

VS

Union of India and others . . . . . opposite Parties

Annexure No 9

Responses



ASB

Copy of communication No, Staff/M-81-23/8 dated 17.11.79 from the G.M.Telemcom, Lucknow to D.N.Telphones, Lucknow.

Subject: Fixation of seniority of Shri S.C.Banerjee(Steno)

The representation dated 27.9.78 of the above official has been thoroughly examined and considered. It has been seen that as he qualified the test/examination for promotion as Stenographer only in the year 1974, ~~1974~~ his seniority has been correctly fixed from 1974 under this office No. Staff/M-81-23/3 dated 7.9.78. His contention that his seniority may be fixed alongwith the candidates of 1972/73 during which he did not appear in the test, it is regretted, cannot be acceded to.

The official may be informed accordingly and acknowledgement obtained from him may be forwarded to this office for record.

No. ST-~~134~~/5/I/14 dated at Lucknow the 27.11.79.

Copy forwarded to Shri S.C.Banerjee, Steno, O/O D.M.T. Lucknow for information.

The acknowledgement proforma in duplicate in token of having received the GMT Lucknow communication noted above is enclosed herewith for signature and return for onward submission as desired by GMT Lucknow.

Encl: Two

  
For D.N.Telphones, Lucknow

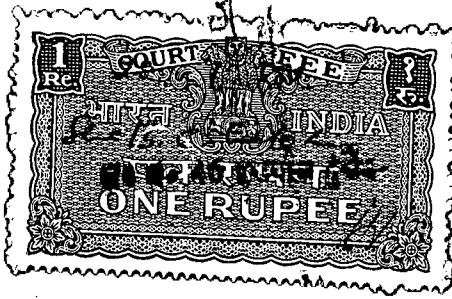
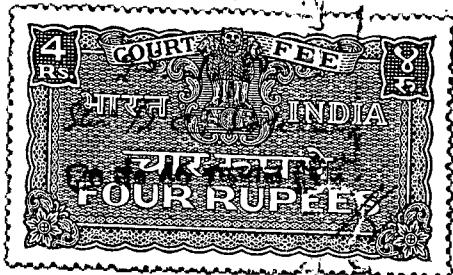


*S.C.Banerjee*

ब अदालत श्रीमान

वादी (मुद्दे) for Petitioner  
प्रतिवादी (मुद्दाअलेह)

बकालतनामा



S. C. Banerji

वादी (मुद्दे)

बनाम

Union of India and others

प्रतिवादी (मुद्दाअलेह)

नं० मुकदमा सन १९ पेशी की ता० १९ ई०  
ऊपर लिखे मुकदमा में अपनी ओर से श्री

Shri B. C. Salcena Advocate

एडवोकेट

महोदय  
बकालत

को अपना बकील नियुक्त करके प्रतिज्ञा इकरार करता हूँ और लिखे देता हूँ इस मुकदमा में बकील महोदय स्वयं अयबा अन्य बकील द्वारा जो कुछ पैरवी व जबाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर डिगरी जारी करावें और रुपया वसूल करें या सुख्खहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक (दस्तखतो) रसोद से लेवें या पंच नियुक्त करें बकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होमी इसलिये यह बकालत नामा लिख दिया कि बमाण रहे और समय पर काम आवे।

Accepted

हस्ताक्षर

Sebbarerjee

साक्षी (गवाह)

B. C. Salcena

साक्षी (गवाह)

दिनांक

महीना

१९

ई०

sd no 30

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W.P. No 191 of 80

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~~Opp. No 30~~

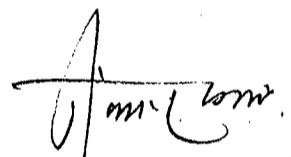
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26/8/2017 — 27/8/2017

26/8/2017 — 27/8/2017

19/5/81

30/4/81

  
G. S. Shinde  
Advocate

ASJ  
7/2

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

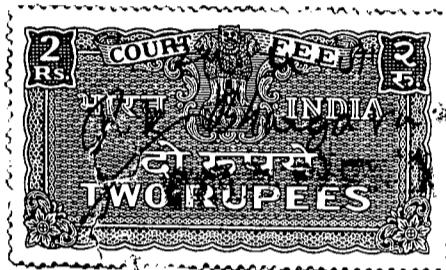
Writ Petition No. 191 of 1980.

S.C.Banerjee.....Petitioner

Versus

Union of India and others.....Opposite Parties

Counter affidavit to C.M.Application No. of 1980  
on behalf of opposite parties No. 1 to 3.



1981  
AFFIDAVIT  
4  
HIGH COURT  
ALLAHABAD



I, R.K.Bhargava, aged about 47 years, son  
of Shri Shiam Lal Bhargava, resident of 60 Patel  
Colony chandvaklak Nagar, Alambagh, Lucknow do hereby solemnly affirm  
and state as under:-

1. That the deponent is the Divisional Engineer, Telegraphs, Lucknow Division, Lucknow and is well conversant to the facts deposed to hereunder.
2. That the interim relief prayed for by the petitioner cannot be granted as the same is belated and the impugned orders have already been given effect to as would appear from the facts narrated below.

2

3. That the Director General, Posts & Telegraphs,

New-Delhi communicated his decision for fixation of

seniority of the stenographers under his letter No.

206/4/78-STN/SPB-I dated 5.8.78, which is Annexure X.1

hereto. In view of these orders the seniority list of

stenographers was prepared and circulated to all the

units, under General Manager, Telecommunications, U.P.

Circle, Lucknow letter ~~206~~ dated 7.9.78 and not 7.9.79,

which is Annexure 5 to the writ petition, for informa-

tion of concerned officials including the petitioner.

The petitioner made a representation against the

fixation of his seniority which was duly considered

and rejected under General Manager, Telecommunications

U.P. Circle, Lucknow No. Staff/M-81-23/8 dated

17.11.78 which is Annexure No.9 to the writ petition.

The decision of ~~xxx~~ his representation was duly

communicated to the petitioner, who acknowledged its

receipt;

4. That in view of the seniority fixed vide

letter dated 7.9.78 (Annexure No.5 to writ petition),

action for promotion of Time Scale Stenographer's



- 3 -

cadre on purely temporary and ad-hoc basis was

taken in pursuance of the instructions contained in

Director General, Posts and Telegraphs, New-Delhi,

Memo. No. 7-116-3 PE-1(pt) SPB-I dated 26.10.79

which is Annexure X-2, hereto and the following

Time Scale Stenographers have been promoted as P.A.

Grade II Stenographers, with effect from the dates

noted against each of their names, strictly arranged

in accordance with the seniority under General

Manager, Telecommunication, U.P.Circle, Lucknow

letters No. Staff/M-81-23/8 dated 24.11.79 and No.

Staff/M-81-23/8 dated 6.2.80 which are Annexures X-3

and X-4, hereto.

Name of Official

Date of Joining in P.A.  
Grade II

1. Sri Saheb Dayal Sharma

3.12.79 A/N

2. Sri N.C. Malhotra

24.11.78 E/N

3. Sri Afq Ahmed Usmani

27.11.79 E/N

4. Sri S.N. Chatterjee

16.12.79 E/N

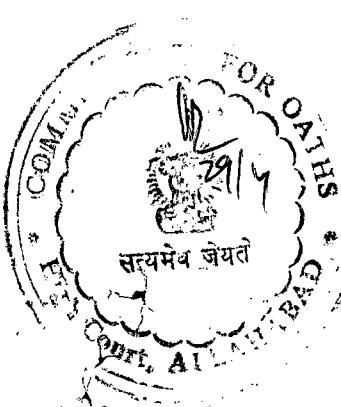
5. Sri J.P. Gupta

22.1.80 E/N

6. Sri K.S. Kulshrestha

18.2.80 E/N

5. That in view of the action taken in pursuance of the orders mentioned in the foregoing paragraph and the eligible officials having been promoted in the P.A. Grade II Stenographer's cadre on temporary



212  
212

and ad-hoc basis, they have since joined their posts as shown above. In the circumstances, the question for ~~not~~ grant of interim relief staying the operation of the orders dated 7.9.78 and 17.11.78 which are Annexures 5 and 9, respectively to the writ petition does not arise at this stage.

Dated: Lucknow the,  
29-4-1980.

DEPONENT

Verification

I, R.K.Bhargava, the deponent above named do hereby verify that the contents of paragraph 1 of this affidavit are true to my own knowledge, whereas the contents of paragraphs 2 & 5 thereof are believed to be true on the information derived from the perusal of official records and those of paragraphs 2 & 5 are on the basis of legal advice which the deponent believes to be true. No part of this affidavit is false and nothing material has been concealed; so help me God.

Dated: Lucknow the,  
29-4-1980.

DEPONENT

I identify the deponent who has signed before me.

*Nirankar Prasad*  
Clerk to Shri B.L.Shukla, Advocate

Solemnly affirmed before me on 29-4-1981 at 6.30 a.m./p.m. by Shri R.K.Bhargava, the deponent who is identified by Shri Nirankar Prasad, Clerk to Shri B.L.Shukla, Advocate, High Court Allahabad.

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

*R. P. Shukla*  
R. P. SHUKLA,  
OATH COMMISSIONER  
High Court Allahabad,  
Lucknow Beach,  
No. 9125  
Date 29-4-81

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

Writ Petition No. of 1980.

S.C.Banerjee ..... Petitioner

Versus

Union of India and others ..... Oppo. Parties.

(COPY)

Annexure X-1

J.K.Panjwani  
Asstt. Director General(SIN) D.O.No.206/4/78-STN/SPB-I

R&T Directorate  
New Delhi-110001.

Dated the 5.8.1978.

Dear Shri Nagar,

Kindly refer to your d.o. letter No. Staff/M-81/77/3 dated 3rd January, 1978, regarding issue of seniority list of Stenographers in respect of Postal & Telecom. wing in U.P. Circle etc.

2. According to the instructions contained vide item 12 of this office letter No. 49-14/69. SPB-I/Pt. dt. 24th November 1971, if a sufficient number of candidates did not qualify in the stenographer's test in the Circle as a whole, the matter was required to be referred to the Directorate for further instructions. It now appears from your letter under reference that while only one test was held in the year 1972 there were five more tests held during the years 1973 and 1974 irregularly by Postmaster-General, Lucknow, and in all 46 candidates could not qualify in these tests for stenographers including 7 official who qualified in the first test held on 23.4.1972. It is necessary that responsibility for holding of these irregular



2112  
2113

tests is fixed against the officer/officials concerned and result intimated to us. Since all the 39 candidates have subsequently qualified in the Stenographer's tests held during the year 1973 and 1974, they may be retained as Stenographers as a special case. Their seniority may be fixed according to para 4(i) and (ii) as proposed by you vide your letter referred to above.

3. As regards clarification sought in para 4(iii) and (iv) of your letter referred to above, it may be stated that their pay will be fixed from the date they qualified in the test. The pay fixation benefit to these officials cannot be given from retrospective date.

With regards,

Yours sincerely,

sd/-  
(J.M.Panjwani)

Shri B.L.Nagar,  
Director Telecom.(East),  
U.P.Telcom. Circle  
Lucknow.

True Copy

21/2/1975  
C. M. Panjwani



A65

78

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

Writ Petition No. of 1980.

S.C.Banerjee.....Petitioner

Versus

Union of India and others.....Oppo. Parties

Annexure X-2

Copy of letter No.7-116-73-PE-I(Pt)/SPB I dated 26 OCT 1979 from D.G.R&T New Delhi to All Heads of Postal/Telecom. Circle and Telephone Districts and other Administrative offices.

Sir,

I am directed to state that it has been decided in consultation with the Department of Personnel & Administrative Reforms that the Posts of Personal Assistants in the scale of Rs.425/700 attached to the officers in the grade of Rs.1500-2000 may be filled up from amongst Stenographers/Selection Grade Stenographers who have put in a minimum service of 5 years in the above post on the basis of seniority-cum-fitness on ad-hoc basis until further orders. Similarly, the posts of Senior Personal Assistants in the scale of Rs.560-900 attached to the Heads of Circles etc. may be filled up from amongst Personal Assistants who have put in a minimum of 5 years service in the grade on the basis of seniority-cum-fitness on ad-hoc basis until further orders. The recruitment rules for the above posts are now being framed accordingly.

2. The promotion to the selection grade in the scale of Rs.425-640 will however continue to be made from amongst stenographers (Rs.330-560) after having put in a minimum service of ten years in the grade.

True Copy

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29

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

Writ Petition No. of 1980.

S.C.Banerjee..... Petitioner

Versus

Union of India and others..... Oppo. Parties

Annexure X-3  
Copy

Indian Posts & Telegraphs Department.

Office of General Manager Telecom., U.P. Circle,  
Lucknow-226001.

No. Staff/M-8-10/79/8 Dated at Lucknow the 24.11.1979.

In pursuance of the instructions contained  
in D.G.P&T New Delhi letter No.7-116-73-PE-I(Pt)/SPB:  
I, dated 26th October, 1979, the following T/S Steno-  
graphers are hereby appointed to officiate as P.A.  
Grade II Stenographers cadre in the scale of Rs.425-  
700 on purely temporary and adhoc basis with effect  
from the date(s) they take over charge as such.

*C*  
*20/11/79*  
They should clearly understand their appointment  
is purely on adhoc basis and will not bestow on  
the person a claim for regular appointment in the  
P.A. Grade-II Stenographers cadre. The service rend-  
ered on adhoc basis would not count for purpose of  
seniority in the grade unless the appointment is  
regularised in due course. The official appointed on  
adhoc basis is liable to be reverted to the substantive  
cadre at any time if it was found that the offi-  
cial was not eligible for such promotion and his  
promotion has operated to the prejudice of ~~some~~ some  
identifiable person who would otherwise have been  
promoted



Sl.No.	Name of T/S Stenographer	Unit of Working
1.	Shri Saheb Dayal Sharma	% G.M.T. Lucknow
2.	Shri N.C. Malhotra	-do-
3.	Shri A.A. Usmani	-do-
4.	Shri S.N. Chatterjee	SSTT Allahabad
5.	Shri J.P. Gupta	C.S.C.T.O. Agra
6.	Shri S.B. Misra	D.E.T. Bareilly

The Officers under whom the officials at Serial 4, 5 and 6 above are ~~working~~ working should satisfy themselves that the officials have a satisfactory records of service and are not implicated in any disciplinary or vigilance case(s) before they are relieved for taking up their new assignments.

On their above promotion,/posting, the following officials are hereby attached with the officers noted against their names:

Sl. No.	Name of Stenographer	Officer with whom attached
1.	Shri Kewal Krishna	Director Telecom(C) IN
2.	Shri Saheb Dayal Sharma	D(F&A) C.O. Lucknow
3.	Shri N.C. Malhotra	Dy. G.M. C.O. Lucknow.
4.	Shri A.A. Usmani	D.M.T. Lucknow.
5.	Shri S.N. Chatterjee	D.T.E. Varanasi
6.	Shri J.P. Gupta	D.T.(Mtce) Lucknow.
7.	Shri S.B. Misra	D.T.(West) Dehradun.

sd/-  
(K.H.Khan)  
Dy. General Manager Telecom.  
U.P. Circle, Lucknow.

True Copy



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

Writ Petition No. of 1980.

S.C.Banerjee... ... ....Petitioner

Versus

Union of India and others... ....Oppo. Parties

Annexure X-4

COPY

INDIAN POSTS AND TELEGRAPHS DEPARTMENT  
OFFICE OF THE GENERAL MANAGER TELECOMMUNICATIONS  
U.P.CIRCLE LUCKNOW-226001.

Memo. No. Staff/M-81-10/79/8 Dated at Lucknow the  
6-2-80.

In pursuance of the instructions contained in  
D.G.P&T, New Delhi No.7-116-75-PE-I(Pt)SPB-I dated  
26.10.79, Shri K.S.Kulshrestha, T.S.Stenographer is  
hereby appointed to officiate as P.A.Grade-II cadre  
in the scale of Rs.425/700 on purely temporary and  
adhoc basis with effect from the date he taken over  
charges as such.

*10/2/80*  
He should clearly understand that his appointment  
is purely on adhoc basis and will not bestow on  
the person a claim for regular appointment in the P.A

Grade-II Stenographer's cadre. The service rendered on  
adhoc basis would not count for purpose of seniority  
in the grade unless the appointment is regularised in  
due course. The official appointed on adhoc basis is  
liable to be reverted to the substantive cadre at any  
time if it was found that the official was not eligible  
for such promotion and his promotion has operated to  
the prejudice of some identifiable person who would  
otherwise have been promoted.



The D.E.T.Agra under whom the above official is working should satisfy himself that the official has a satisfactory record of service and is not implicated in disciplinary or vigilance case(s) before he is relieved for taking up his new assignment.

On his above promotion the official Shri K.S.Kulshreshtha is posted under the D.T.(Mtce.) Lucknow. Shri A.A.Usmani will however, continue to be posted under D.M.T.Lucknow. This is in modification of the orders contained in this office no. even dated 2.2.80.

sd/-  
(K.H.Khan)  
Dy.General Manager Telecom.,  
U.P.Circle, Lucknow-226001.

Copy forwarded for information and necessary action to

1. The D.M.T.Lucknow.
2. The Director Telecom.(Mtce.) Lucknow.
3. The D.E.T.Agra
4. The Accounts section C.O., Lucknow.
5. -6 Officials concerned.
7. Spare

True Copy

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH

ALLAHABAD

**COUNTER AFFIDAVIT**

On behalf of Respondent Nos. 1, 2, & 3

IN

Re: Re: Ramkhan Clerk  
Son of Smt. Saroj  
Advocate  
10.10.87

REGISTRATION NO. 156 OF 1987 (T)

Arising out of Writ Petition No. 191 of 1980 )

Filed before the High Court of Judicature  
at Allahabad, Lucknow Bench, Lucknow.  
S.C. Banerjee...Vs... Union of India

Uni-

S.C. Banerjee . . . . . Petitioner

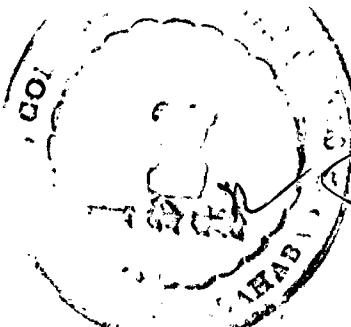
v\_e\_r\_s\_u\_s

Union of India & others.. . . Respondents.

A\_f\_f\_i\_d\_a\_v\_i\_t\_o\_f

RAM LAL, aged about 56 years,  
son of Shri Durgadas

Personnel Officer, Office  
of the General Manager, Tele-  
Communication, U.P. Circle,  
Lucknow.



*Signature*

•2•

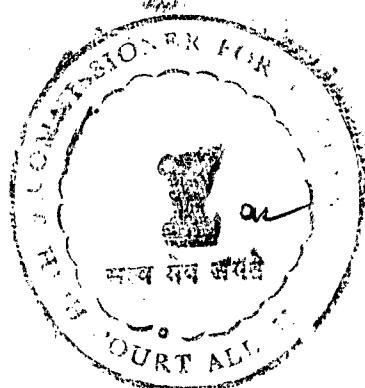
I, the deponent named above, do  
hereby solemnly affirm and state as follows :

1. That the deponent is working  
as the Personnel Officer in the office of  
the General Manager, Tele Communication ,  
U.P. Circle, Lucknow and has been authorised  
to look after this case and to file the  
present counter affidavit on behalf of  
respondent Nos. 1, 2 & 3 in the above noted  
case. He is, as such, fully acquainted with  
the facts of the case deposed to below :

2. That the deponent has read  
the contents of this writ petition,  
affidavit and Annexures filed in support  
thereof and has fully understood their  
contents .

3. That the contents of paragraph 1  
and 2 of the writ petition are not disputed .

4. That in reply to the contents



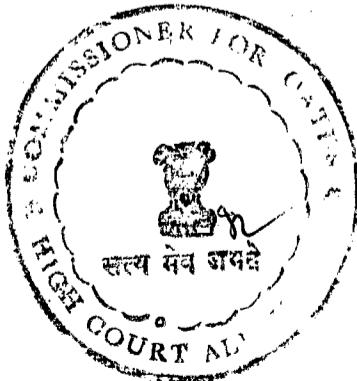
A handwritten signature in black ink, appearing to read "Dinesh Kumar".

•3.

of paragraph 3 of the writ petition only this much is admitted that the petitioner was declared successful in the examination and posted by the Post Master, General, U.P. Circle, Lucknow in the office of the Divisional Engineer ( Telegraphs ) Long Distance, Lucknow situate in the same premises of Divisional Engineer, Phones, Lucknow.

5. That the contents of paragraphs 4 and 5 of the writ petition are not disputed.

6. That in reply to the contents of paragraph 6 of the writ petition it is stated that the contents of the first sentence of the paragraph under reply are incorrect. It is submitted that the petitioner is inviting reference of the Director General's letter dated 20th of May, 1971 referred to in paragraph 5 of the writ petition in compliance to which the



*[Handwritten signature]*

.4.

first test for conversion of the post was held on the 23rd of April, 1972 the result of which was declared <sup>Lucknow</sup> ~~vide P.M.G~~ letter No. STC/M-22/71/4 dated 16-5-72. A copy whereof is being filed as Annexure CA-I to this Counter affidavit.

The letter of the Post Master General, Lucknow dated 22nd of December, 1972, quoted by the petitioner is in respect of the subsequent examination which was held on 21st of January, 1972.

7. That it is further submitted that the official was borne on the strength of Divisional Engineer, Phones, Lucknow under the control of the Post Master, General U.P. Circle, Lucknow and from there he was deputed to the office of the Divisional Engineer, Telephone Long Distance, Lucknow situated in the same compound. A copy of the notice for holding the stenographers' qualifying test was duly endorsed to the Divisional Engineer, Phones, Lucknow, which was the parent office of the petitioner, for wide publicity amongst the staff in his



.5.

strength. The said notice for holding of the test was also put on the notice board for information of all the officials who intended to appear in the test.

It is submitted that there was another Steno-typist working in the office of the Divisional Engineer, Phones, Lucknow who was also to appear in the test so as to become eligible for the post of Stenographer. Moreover, the petitioner was well aware of the fact that there was only one test to be held for the Stenogra. Steno-typists working in the Engineering Divisions after passing of which alone his service were to be counted as Stenographer.



The petitioner should, therefore, had taken care to affirm the date of such test in his own interest but he remained silent along. Besides, this test was

.6.

not open to the Steno-typist only but all the clerks whether Permanent or quasi-permanent, whosoever wished to appear in it, were eligible to appear in it. It was, therefore, neither obligatory nor necessary on the part of the department to serve individual notice of the examination to all the individuals. Wide publicity was given and all those who wished to appear in the test ought to have applied.

Since in the test ~~all~~ <sup>all</sup> clerical staff those who were working in ~~different~~ different district of the Provinces of Uttar Pradesh were eligible to appear, it was neither possible nor practicable by the department to get it noted by all the individual officials for the proposed test to take media of information by placing notification issued in connection with the said test on the official Notice-board which the department is having throughout and the practise which the department had adopted was

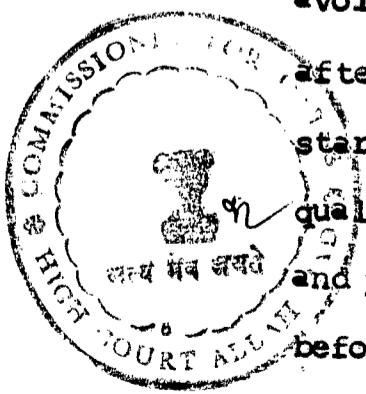


A handwritten signature in black ink, appearing to read "D. C. M. S." followed by a stylized surname.

.7.

not a new one but it was being carried out even since in the past also prior to holding and conducting the said departmental test and the same traditional practise in connection with the holding of departmental test and examination is still continuing .

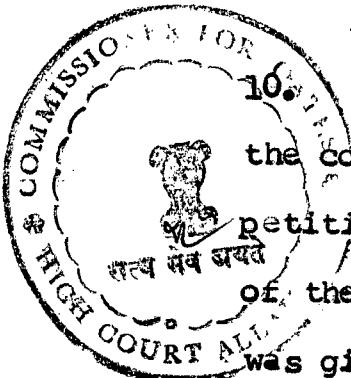
8. That it is further submitted that the petitioner, as a matter of fact entered in the department as Telephone Operator and he later on decided to change his cadre from the post of Telephone Operator to clerk and the year in which the said test was conducted he, as a matter of fact, was very poor in his speed of typing as well as in Shorthand and he , as such, intentionally avoided to appear in the said test and after passing more than six years he has started demanding seniority over those qualified Stenographers who had appeared and passed the test of Stenographers long before the petitioner .



8

9. That it is further submitted that all other persons whose cases were similar to that of the petitioner applied for permission to appear in the test whereas the petitioner having full knowledge of the test, as already stated above, intentionally avoided to apply for permission to appear in the test. After completing six years, as stated earlier, of the said examination he has come up with the lame excuse of not having been informed with the date of the holding of the test.

His case was, therefore, not only lacks merit but is also time barred and is liable to be rejected summarily.



10. That in reply to the contents of paragraph 7 of the writ petition it is submitted that the copy of the notice for holding of the test was given to all the units which were subordinate to the Post Master General.

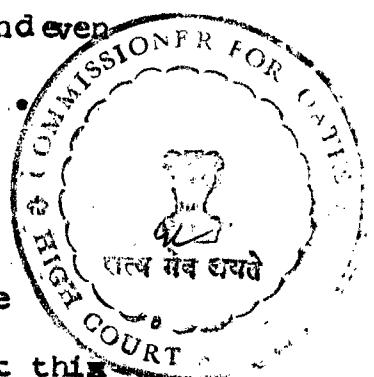
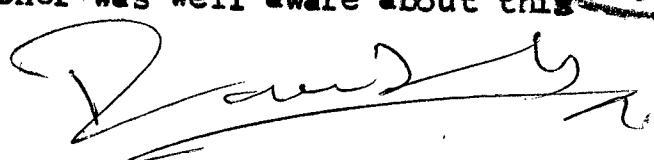
Coordinate to the Post Master General,

.9.

U.P. Lucknow at that time. Since a copy of the aforesaid notice was also given to the Divisional Engineer, Phones, Lucknow which was the parent office of the petitioner and was situate adjacent to the office of the Divisional Engineer, ~~Telephone~~ <sup>Telephone &</sup> Telegraphs, Long Distance, where the petitioner was working under deputation, in the same compound, no copy was endorsed to the Divisional Engineer, ~~Telephone~~ <sup>Telegraphs &</sup> Long Distance, Lucknow.

It is submitted that the petitioner, as already stated in the preceding paragraphs of this affidavit, did not represent about not being informed of the test either about holding such test or about the date of the test or when the result was declared and even afterwards for years together.

The fact is that the petitioner was well aware about this

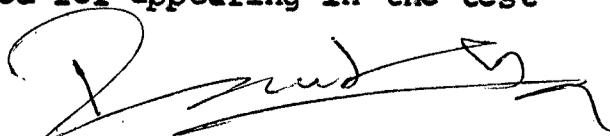



•10.

test, as already admitted by him in paragraph 12 of his writ petition, since Director General, Post & Telegraph letter No.49, 19, 79-SPB 1. dated 20th of May, 1971 was circulated and brought to his notice. Since he did not apply to appear in the test, he cannot now claim the benefits of seniority from earlier dates when he had not appeared and passed the test for the Stenographer cadre held on the 23rd of April 1972. His writ petition at this belated stage is time barred.

11. That the contents of paragraph 8 of the writ petition are admitted to the extent that the petitioner had applied for appearing in the Stenographer's test which was for the post

of Stenographers held by the District Manager, Telephones, Lucknow and was to be conducted by the District Manager, Telephones, Lucknow in the year 1974 and was accordingly permitted to appear in it. Prior to 1974, the petitioner had not applied for appearing in the test



A<sup>80</sup>

• 11 •

and, therefore, the question of permitting him in the earlier test did not arise.

12. That the contents of paragraph 9 of the writ petition are not disputed.

13. That in reply to the contents of paragraph 10 of the writ petition it is submitted that Annexure '3' to the writ petition is very clear. The petitioner was a clerk borne on the gradation list of Divisional Engineer, Phones, Lucknow ( Now District Manager, Telephone, Lucknow ) who after having a constructive notice about the test of Stenographers held from time to time ought to have availed the opportunity and passed the test at the earliest occassion .

It is clear whether the  
that when

petitioner had applied and appeared in  
the test for the post of Stenographer

*Donald B. Rumsfeld*

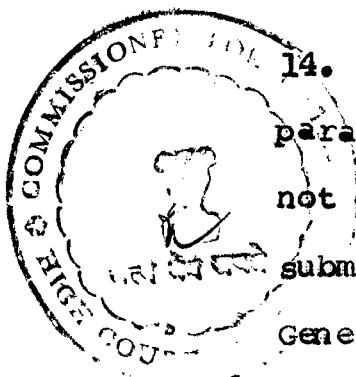
•12.

and was declared successful, he was given appointment as Stenographer in Lucknow Telephone District Lucknow as the test was held by the Director District Manager, Telephone Lucknow for the post of Stenographers held by him.

Since the petitioner did not appear in the earlier test held by the Post Master General, U.P. Circle for the post of Stenographer for the entire circle he cannot either claim or given seniority over those who passed the earlier test held by the Post Master General for the whole circle.

14.

That the contents of paragraph 11 of the writ petition are not correct, as stated therein. It is submitted that according to the Director General's instructions which ~~are~~ is



• 13.

Annexure 4-A to the writ petition, the seniority of the Stenographer was to be fixed in the prescribed manner after the candidates had qualified in the Stenographers test .

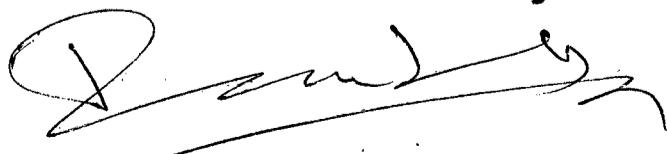
Since the petitioner and several other officials had not qualified in the Stenographer test within the stipulated period the whole case was <sup>referred to</sup> ~~reviewed by~~ the Director

General, Post & Telegraph, New Delhi Vide Director Telecom. (E) % G.M.T Lucknow D.O.N.C. Staff/M-81-77/3 dt. 3-1-78 wherupon ~~and~~ revised instructions were issued under

Director General, Post & Telegraph,  
New Delhi letter No. 206/4/78/SPB-I  
dated 5.8.1978, a true copy of which is  
being filed herewith and is marked as

Annexure C.A.-II to this counter affidavit. A copy of Director Telecom (E) D.O. dt 3-1-78, referred to above is also being annexed as Annexure C.A-II A to this Counter affidavit.

According to these instructions all such candidates who had subsequently passed the test during



ANNEXURE-II

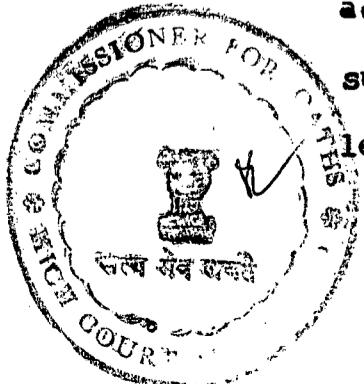
•14.

the year 1973 and 1974, their seniority was to be fixed as under :

(i) Steno-typist, clerks <sup>who</sup> ~~we had~~ <sup>12</sup> had qualified in the first test held on 23rd of April, 1972 should rank senior to those who qualified in subsequent examinations.

(ii) The seniority of Stenotypist who qualified in subsequent examinations may be fixed in order in which they qualified as per their merit in each examination.

15. That the contents of paragraph 12 of the writ petition are not admitted as stated therein. It is submitted that the Director General's letter dated 5th of August, 1978, referred



.15.

to by the petitioner was not a general letter and hence it was not considered necessary to supply copies of this letter either to the units or to the official. However, a gist of the letter was incorporated and circulated to the units which is Annexure '5' to the writ petition.

It is submitted that this circular letter was meant for the information of the official concerned which was duly circulated to all subordinate units. The show cause notice dated 25th of October, 1977 was served to those who were affected as per gradation list received from earstwhile Post Master General, U.P. Lucknow wherein the name of the petitioner was not included.

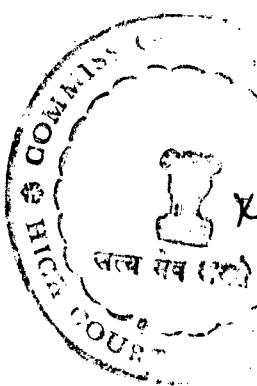


Since the petitioner was approved for promotion as Stenographer

•16.

by the District Manager, Telephone in his district, Lucknow prior to merger of the District Manager, Telephones, Lucknow with the General Manager, Tele Communication, U.P. Circle Lucknow the petitioner was not an affected person at the time of issue of show cause notice as original seniority list.

Thus the show cause notice was not served to the petitioner. It was only after 5th of August, 1978 when a decision was received from the Director General, Post & Telegraph, New Delhi in the case and the seniority of the petitioner was fixed accordingly. Non service of the show cause notice will not make the petitioner entitled for the benefit of the seniority as claimed by him in view of Director General's orders dated 5th of August, 1978, a gist of which was circulated under G.M.T. U.P. letter No. Staff/M-81-23-3 dated 7th of September, 1978 which is Annexure '5' to the writ petition.

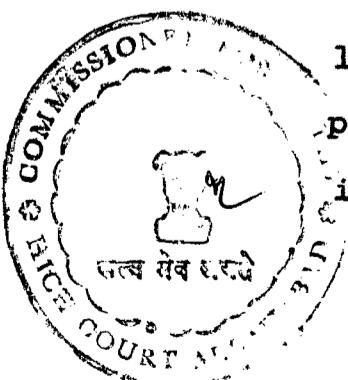


*[Handwritten signature]*

.17.

16. That the contents of paragraphs 13 and 14 of the writ petition are not correct as stated therein. It is submitted that on the creation of the cadre of Stenographer w.e.f. 20th of May, 1971 the existing Steno-typist who were working on special pay only were required to pass a speed test to become eligible for appointment to the post of Stenographer.

It is submitted that these Steno-typists were entitled to only one chance and those who either did not qualify or did not avail this chance were to be reverted to their substantive posts. It is stated that the petitioner did not appear in the said test held on the 23rd of April, 1972 or even in the next test held on the 21st of January, 1973 was to be reverted to his substantive post but due to dearth of Stenographers in the department, the petitioner along

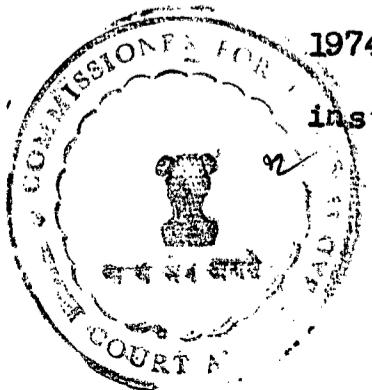


• 18.

with others continued to work as Steno - typists in a purely temporary and ad-hoc capacity.

Accordingly, in respect of such officials who could not pass the test but passed the test subsequently along with outsiders a reference was <sup>made</sup> ~~made~~ to the Director General, Post & Telegraph for deciding their seniority. The Directorate had decided under its letter No. 206/4/79-STN/SPB-I dated 5.8.78 that such officials will take their seniority according to their merit in the particular examination in which they had qualified. There has thus been no change in the order of seniority.

It is submitted that the petitioner qualified in the year 1974 and his seniority was correctly <sup>2</sup> fixed from 1974 in accordance with the Director General instructions referred to above. The petitioner



*D. S. D.*

19

was duly informed about this decision  
through <sup>E.D.</sup> ~~Parliament~~ M.T. Lucknow under  
G.M.T. Lucknow letter No. Staff/M-81-23 /5  
dated 17th of November, 1979., a true  
copy of which is being filed herewith  
and is marked as Annexure C.A.-<sup>E</sup><sub>III</sub> to this  
counter affidavit.

17 That the contents of paragraph 15 of the writ petition are not admitted as stated therein. It is submitted that since the underlying idea of the petitioner in his representation along with others was the fixation of seniority from the back date before he passed the test, on which decision of the Directorate was obtained as stated in the proceedings paragraphs of this affidavit, it was necessary to inform the petitioner which was <sup>since</sup> done.



The allegation that the  
a not  
was informed of the earlier

John H. Gaskins

•20.

test is not tenable as he was fully aware about holding of such examination and the date and programme of the test was also communicated to the Divisional Engineer, Phones, Lucknow which was his parent office, where it was given wide publicity and pasted on the Notice Board.

The office of the Divisional Engineer, <sup>Telegraphs</sup> ~~Telephone~~, Long Distance where the petitioner was working at that time was adjacent to the office of the Divisional Engineer, Telephones, Lucknow in the same compound where this notice ought to have come to his attention, rather the petitioner should have taken care to affirm the date of the test.

18.

That it is further submitted that there had been no representation from the petitioner either before the examination or after the declaration of the result of this examination. It can



•21.

be fairly taken that the petitioner failed to take the constructive notice to appear in the said examination designedly.

19. That ~~the~~ in reply to the contents of paragraph 16 of the writ petition only this much is admitted that the petitioner sought interview ~~with~~ <sup>with</sup> the General Manager, Telephones, U.P. Circle, Lucknow on the 27th of November, 1978 and his case was looked into and consequently a reference was made to the Post & Telegraph Directorate for fixation of his seniority even at the belated stage.

The Director General, Post and Telegraph, New Delhi vide his letter No. 206/34/79 STN dated 24th of October, 1979 decided that since the petitioner had qualified the test for promotion as Stenographer in the year 1974, his seniority may be fixed accordingly. He had no claim for fixation of seniority along with the



• 22.

recruits of 1972 and 1973 during which years he did not appear in the test. A true copy of the aforesaid letter of the Director

Annexure-~~III~~

IV

General, Post & Telegraph, New Delhi letter dated 24th of October, 1979 is being filed herewith and is marked as Annexure C.A. ~~IV~~ to this counter affidavit.

20.

That the contents of paragraph 17 of the writ petition are not admitted.

21.

That the contents of paragraph 18 of the writ petition are not disputed subject to the replies of paragraphs 13, 14 and 15 of the writ petition and the same are reiterated.

22.

That the contents of paragraph 19 of the writ petition are not correct as stated therein and in reply thereof it is submitted that the Steno-typist



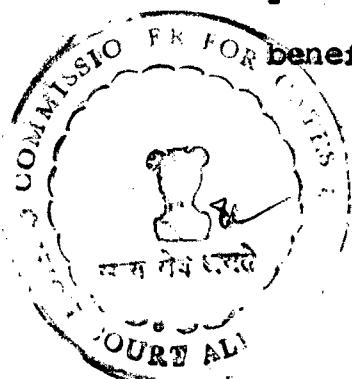
*D and J*

• 23.

cadre was converted to that of Stenographer with effect from 20th of May, 1971. There was only one test for the Steno-typist of the divisions and the posts of Steno-typist were to be converted in to those of Stenographers only after the test was held.

It is submitted that the test was of a competitive nature and a merit list of the qualified time scale clerks was to be drawn up and appointments were to be made to the converted posts of Stenographers as per the so drawn merit list to the extent of available vacancies.

Hence the petitioner who did not appear in the said test in the year 1972 and qualified in the year 1974 is not entitled to the benefit of seniority in Stenographers



.24.

cadre from 1972 over those who passed and qualified in the test held in the year 1972.

23. That the grounds taken by the petitioner in paragraph 20 of the writ petition are not tenable in law and as such the writ petition is liable to be dismissed with costs .

I, Ram Lal, the deponent named above do hereby solemnly affirm and swear that the contents of paragraphs 1 and 2

of this affidavit are true to my personal knowledge, that the contents of paragraphs

Nos. 3 to 23



*Signature*

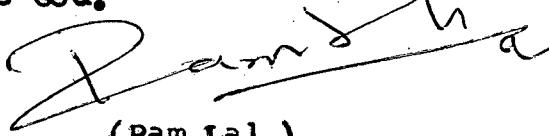
•25.

of this affidavit are based on perusal of relevant records of this case and that the contents of paragraphs 9.....8

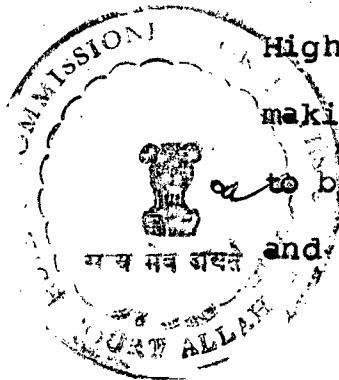
9.....8  
 of this affidavit are based on legal advice received from the <sup>Officer of the Department</sup> counsel which all I believe to be true ;

That nothing material has been concealed and no part of it is false.

So help me God.

  
 (Ram Lal )  
 DEPONENT.

R.C.Yadav Clerk to Sri  
 I, Ashok Mohiley, Advocate,



High Court, Allahabad declare that the person making this affidavit and alleging himself to be Sri Ram Lal is the same person and is personally known to me.



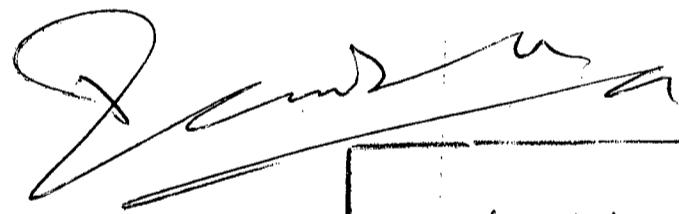
R.C.Yadav  
 Advocate.

.26.

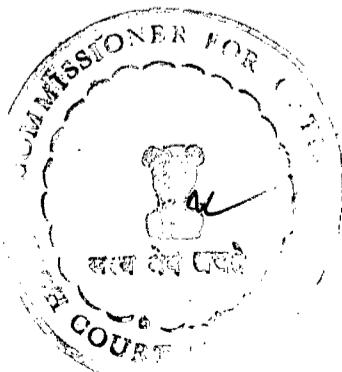
Solemnly affirmed before me on this  
17 th day of August, 1987 at 7:45 a.m./p.m by the  
deponent who has been identified as above.

I have satisfied myself by  
examining the deponent that he has fully  
understood the contents of this affidavit.

Oath commissioner.



gawahandef  
**OATH COMMISSIONER**  
High Court, Allahabad.  
No. 14/848  
12.8.87



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH

ALLAHABAD.

ANNEXURE NO. C.A.I

IN

COUNTER AFFIDAVIT

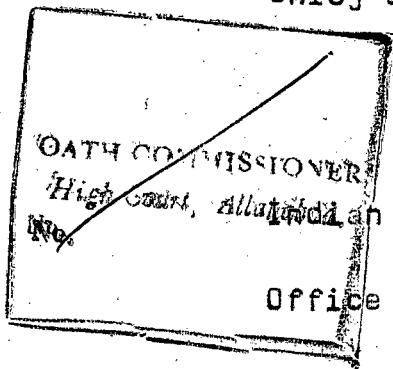
IN

REGISTRATION NO. 156 OF 1987 (T)

S.C. Banerjee ... .. .. Petitioner

V\_e\_r\_s\_u\_s

Unioj of India & others. ... .. Respondents



Subject :- Result of the examination of  
 2 recruitment to  
 recruitment to the cadre of Stenographers on  
 converted posts of Steno-typists.



*[Handwritten signature]*

AD

.2.

As a result of examination held  
on 23.4.72 for the appointment to the  
post of stenographers on the converted post  
of steno typist the following officials are  
declared to have passed the prescribed  
examination.

Roll. No.	Name	Unit
U.P.19	Sri Shaiquddin	Postal Division Moradabad
UP-56	Sri B.L.Kathorial	O/p A.O.I.C.O (SB) Lucknow.
UP-59	Sri Sahab Dayal	O/O. I.C.O (SB) Varanasi.
UP-65	Sri Navin Chandra Mathotra	O/O P.M.G.U.P. Lucknow
UP-66	Sri Vijai Kumar Srivastava	-do-
UP-67	Sri Afaq Ahmad Usmani	- do -
UP-68	Sri Ayub Ahmad	-do-

SB/-

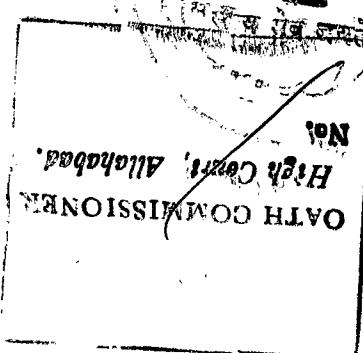
( S.M. Chatterji)

For Postmaster-General Lucknow.

No STC/M-22/A/4 all at Lucknow/

the 16-5-72.

*S. M. Chatterji*  
OATH COMMISSIONER  
High Court, Allahabad.  
No. 14/040  
17.8.82



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH

ALLAHABAD

ANNEXURE NO. C.A. ~~25~~ II

IN

COUNTER AFFIDAVIT

IN

REGISTRATION NO. 156 OF 1987(T)

S.C.Benorjee .. .. .. .. .. Petitioner

V\_e\_r\_s\_u\_s

Union of India & others. .. .. Respondents.

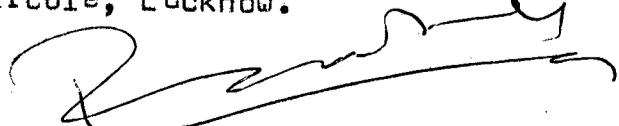
D.O. of the D.G.P&T New Delhi No

206/4/78-STN/SPB-I dtd. 5.8.78. From

J.M. Panjwani, A.D.C.(SPN), addressed to

Shri B.L.Nagar, Director Telecom(E), U.P.

Telecom: Circle, Lucknow.



.2.

Dear Shri Nagar,

Kindly refer to your DO Letter no. Staff/M-81/77/3 dtd. 3rd january, 1978 regarding issue of seniority list of Stenographers in respect of Postal and Telecom Wing in UP Circle etc.

According to the instructions contained vide item 12 of this office letter no. 45-14/69-SPB-I/PT. dtd. 24th November, 1977 if a sufficient number of candidates did not qualify in the Stenographers' test in the circle as a whole the matter was required to be referred to the Directorate for further instructions. It now appears from your letter under reference that while only one test was held in 1972 the year 1972, there were five more test held during the years 1973 and 1974 irregularly by Postmaster General, Lucknow and in all 46 candidates could qualify in these tests for stenographer including 7 officials who qualified in the first



.3.

test held on 23.4.72. It is necessary that responsibility for holding of these irregular tests is fixed against the officer/official concerned and result intimated to us. Since all the 38 candidates have subsequently qualified in the stenographer's tests held during the year 1973 and 1974, they may be retained as Stenographers as a special case. Their seniority may be fixed according to para 4(1) and (ii) as proposed by you vide your letter referred to above.

3. As regards clarification sought in para 4(ii) and (IV) of your letter referred to above, it may be stated that their pay

XXXX

will be fixed from the date they qualified

*Signature*

.4.

in the test. The pay fixation benefit to these officials cannot be given from retrospective date.

With regards.

Yours Sincerely,

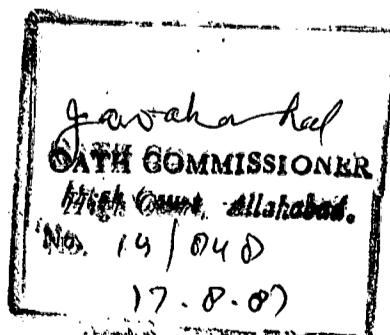
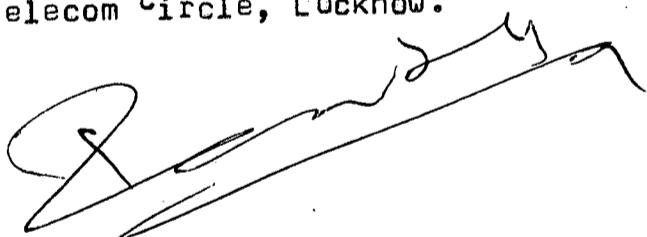
Sd/-

(Panjwani)

Shri B.L. Nagar

Director Telecom ~~East~~ (East)

U.P. Telecom Circle, Lucknow.



A102

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH

ALLAHABAD

ANNEXURE NO.C.A.-II-A

IN

REGISTRATION NO. 156 OF 1987 (T)

S.C.Benerjee .. .. .. .. Petitioner.

V\_e\_r\_s\_u\_s

Union of India & others .. .. .. Respondents

Director Telecom (E) D.O. No. Staff/M-81  
77/3



Office of the General Manager  
Telecom.

U.P.Circle, Lucknow-226001.

3rd January, 1988

Dear Shri Panjwani,

Kindly recall the discussion held  
by Shri K.K.Srivastva, A.D.T.(Staff) of this

.2.

office with you during his recent visit regarding issue of seniority list of Stonographers in respect of Postal & Telcom wings of U.P.Circle.

2. The issue relates to the final seniority list of temporary Stonographers who were formerly stenotypists and were brought to the cadre of Stonographers in pursuance of orders contained in Directorate letter No. 49/14/69-SPB-I, dt.

20.5.71. Case was further examined in this office and ~~sum~~ summarised as below:-

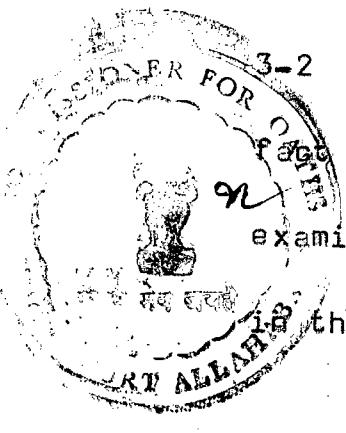
3. In the first examination held on 23.4.72, only seven candidates could come out successful against 68 permitted. The rest either failed or were absent from the examination. As sufficient number of candidates could not qualify in the aforesaid examination, (posts to be filled in being 46), a reference was required to be made to the Directorate as per clarific-



.3.

ation contained in para 12 of DG P&T communication No. 49-14/69-SPB-I, dt. 24.11.71, as only one attempt was permissible to the officials of the divisions ( vide para 4 of above letter).

3-1. But somehow no reference was made, and the unsuccessful candidates were permitted in five subsequent tests (details as per annexure-I). Some of the officials were given appointment letter by the then Director postal Services w.e.f. 20.5.71 allowing them the benefit of pay etc. from the same date ( on the basis of DG P&T Communication No. 2-80/72-PAP, dt. 8.5.73), though they passed the examination in 1973 or 1974.



This was done, ignoring the fact that the candidates who passed the examination in the specified scheduled period,

the first attempt should rank enbloc

*D. Srinivas*

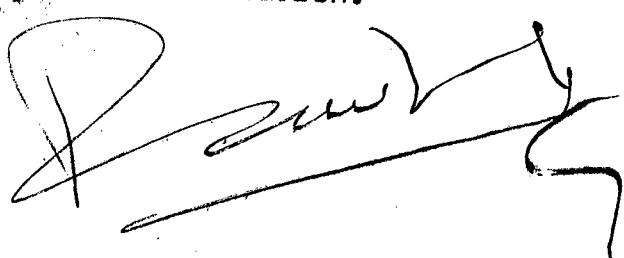
.4.

senior to all those who qualified in the subsequent tests which were also incidentially irregular.

4. Now the whole case has been re-examined by this office for fixing the seniority etc. it is proposed to take action on the following lines :-

1. Stenotypists/clerks who had had qualified in the first test held on 23.4.72 should rank senior to those who qualified in subsequent examinations.

2. The seniority of the stenotypists who qualified in subsequent examinations, may be fixed in the order in which they qualified as per their merit in each examination.



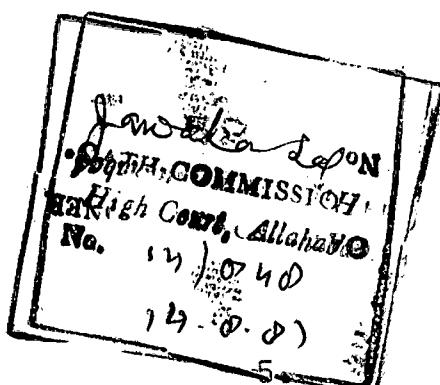
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.6.

iii. The benefit of appointment as Stenographers allowed to some stenotypists of the divisions who had qualified in more than one test w.e.f. 28.5.71 may be withdrawn and be given appointment from the date on which they passed the test.

iv. To avoid extraordinary monetary hardship to the aforesaid

officials, the pay fixed as per ex order of the appointment be allowed to be maintained.



As the option etc. are held up for want of finalisation of seniority, it is requested that an early confirmation of the above points may kindly be given.



Yours Sincerely.  
Sd/ B.L. Naik  
High Court  
Allahabad  
1970

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
ALLAHABAD.

ANNEXURE NO. C.A. III

IN  
COUNTER AFFIDAVIT

IN

REGISTRATION NO. 156 OF 1987 (T)

S.C.Banerjee .. .. .. .. Petitioner

V\_e\_r\_s\_u\_s

Union of India & others.. .. Respondents

Copy of Communication no. Staff/M-81

23/6 dated 17.11.79 from the GMT Lucknow  
to DMT , Lucknow.

Subject:- Fixation of seniority of Shri  
S.C.Banerjee(Steno)

\*\*\*\*\*  
The representation dated 27.9.73

•2.

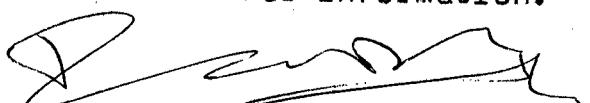
of the above official has been thoroughly examined and considered. It has been seen that as he qualified in the test/examination for promotion as Stenographer only in the year 1974. his seniority has been correctly fixed from 1974, under this office mp- Staff/ M-81-23/3 dtd. 7.9.78, His contention that his seniority may be fixed alongwith the candidates of 1972/73 during which he did not appear in the test it is regretted, cannot be acceded to:-

The official may be informed accordingly and acknowledgement obtained from him may be forwarded to this office for record.

No:- St-34/5/1/14 dated at Lucknow the

27.11.79

91  
Copy forwarded to Shri S.C.Banerjee,  
Steno, Office of DMT For information.

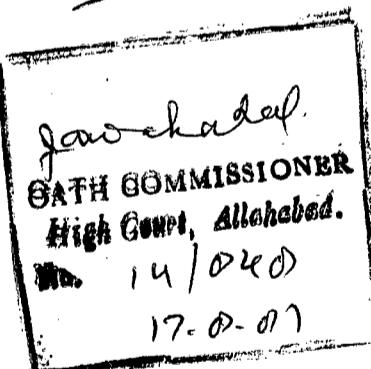


.3.

The acknowledgement proforma in  
duplicate in token of having received the  
GMT Lucknow communication <sup>referred</sup> above  
is enclosed herewith for signature and  
return for onward submission as desired by  
GMT Lucknow.

Sd/- S. C. Moshira

DMT Lucknow.



Allo

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH

ALLAHABAD

ANNEXURE NO. C .A. & IV

IN

COUNTER AFFIDAVIT

IN

REGISTRATION NO. 156 of 1987 (T)

S.C.Banerje .. .. .. .. .. Petitioner

V\_E\_R\_S\_U\_S

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

Copy of the D.G.P&T: New Delhi  
letter no. 206/34/79-STN dtd. 24.10.79, From  
M.S.Yegneshwaran, Asstt. Director General (STN)  
addressed to the G.M.T. Telecome /Lucknow.

Sub: # Fixation of seniority -case of  
Sh. S.C.Banerjee, Stenographer

Sir,  
I am directed to refer to your letter no.

.2.

Staff/ M-81 -23/3-82 dtd. 2.1.79 on the above subject and to say that since the official had qualified the test/ examination for promotion as stenographer only in the year 1974, his seniority may be fixed accordingly. He has no claim for fixation of seniority alongwith the recruits of 1972/73, during which he could not appear in the test.

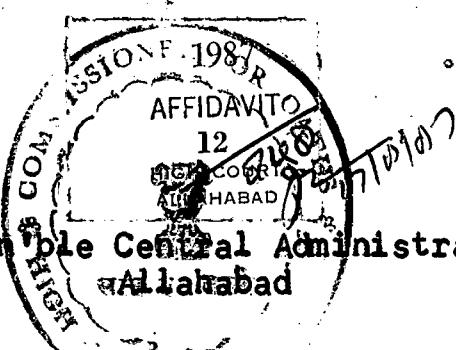
However, for this ~~lapse~~ <sup>lapse of</sup> of not including his name in the tests of 1972 -73 responsibility may be fixed under intimation to this office. It is further <sup>added</sup> ~~that~~ it is hard <sup>to</sup> to believe that the official working in Lucknow it self did not come to know <sup>of</sup> the tests conducted in 1972 & 1973. Moreover, when he come to know the tests ~~conducted~~ in 1974 he should at least at that time, have represented against not been allowed in the tests in 1972 & 1973. It may be intimated whether he represented at that time if so, what was the disposal of his representation.

Yours faithfully,

Sd/-  
(M.S.YEGNESHWARAN)  
ASSTT. DIRECTOR GENERAL  
(STN)

*Yegneshwaran*  
OATH COMMISSIONER  
High Court, Allahabad.  
No. 561848  
17.8.82

In the Hon'ble Central Administrative Tribunal  
Allahabad



12 A112

Registration No. 156 of 1987

S.C.Banerjee

Petitioner

Vs.

Union of India & others \_\_\_\_\_ Opposite Parties

Counter affidavit on behalf of Opposite Party  
No.4 to the Writ Petition

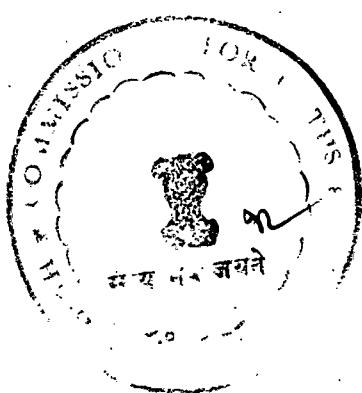
Recd copy  
Ramkhan Clerk to  
Srinivasan  
Advocate  
18.8.87

I, Saheb Dayal Sharma, aged about 42 years  
s/o Shri Kewal Ram Sharma, resident of 559 Kha/340  
New Sringar, Alambagh Lucknow do hereby solemnly  
affirm as under:

1. That the deponent is opposite party no.4 in the above noted case and is therefore well conversant with the facts deposed to hereunder:
2. 1 to 5 Contents of para 1 to 5 of the writ petition do not relate to the deponent.
3. Para 6 & 7 The petitioner was working as stenotypist on tenure basis with special pay. A perusal of para 2-B of D.G.P&T letter No.49/19/79-SPB.I dated 20.5.71 Annexure-I will show that not only the petitioner (working as stenotypist) but all ~~other~~ clerks quasi-permanent & permanent of the U.P.Circle whosoever wished to appear in the examination were eligible.

Roshanra

Contd. at P.2/...

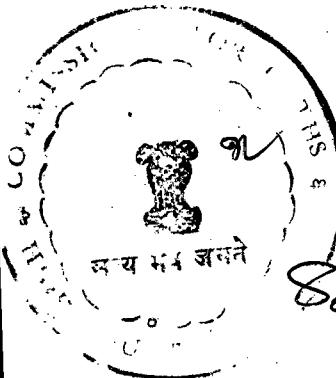


It was not a limited test for the stenotypists only and it was a general test. Contents of the above letter of DGPT dated 20.5.71 were in the notice of the petitioner as admitted by him in para 12 of his petition. The petitioner's statement that in compliance with opposite party No.2's order PMG vide letter no. STC/M-2-72-4 dated 22.12.72 conducted a test to fill up the converted posts is not correct. The first test was conducted by the PMG on 23.4.72 and its result was declared vide PMG No. STC/M-22/71/4 dated 16.5.72 annexure-II.

The deponent over whom the petitioner is claiming seniority was also not informed about the holding of the said test. But the deponent who was at that time working in the office of Accounts Officer ICO(SB) Varanasi was keen to appear in the test so he preferred an application and got the permission. It is worth notice that the petitioner being at Lucknow did not make any efforts to get the permission to appear in the test and in subsequent tests neither did he represent against his name not being included.

#### 4. Para 8, 9, 10

Stenographer cadre had become a Circle cadre vide DGP&T No. 49/14/69-SPH.I dated 20.5.71 annexure-I PMG U.P. Lucknow as permitted by the DGP&T vide para 12 of Comm. No. 49-14/69-SPB dated 24.11.71 to hold only one test for the U.P. Circle as a whole. The said test was held on 23.4.72. Even P.M.G. was not competent to hold another test, question of conducting test by the D.M.T. Lucknow a lower authority in 1974 does not arise.



SD Shrivastava

Contd. at P.3/...

- 3 -

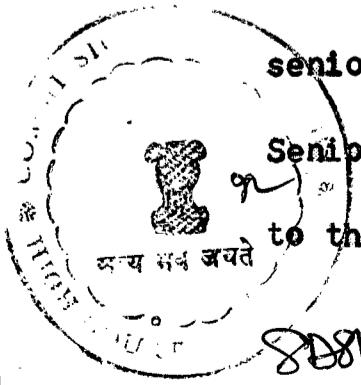
The petitioner in opening lines of para 8 of his petition states "District Manager Telephones conducted an examination for the converted posts of stenographers for his unit" and in the closing lines of the same para he says "The petitioner has been permitted to appear at the examination for recruitment to the post of stenographers" hence there is contradiction in his own statement. A perusal of DMT Lucknow letter no. ST-34/4/5 dated 8.2.74 annexure-III and letter no. ST-34/5/1 (Annexure-IV) dated 19.2.74 will reveal that it was a recruitment examination for the post stenographers in DMT Office Lucknow in which the petitioner appeared. It may be added that DMT Lucknow who was head of Lucknow District only was not at all competent to ~~conduct~~ conduct test for stenographers - a Circle cadre, only PMG who was the head of the circle was competent to take this test.

5.

Para 11, 12, 13

As the test conducted by DMT Lucknow was not in terms and conditions of DGP&T No. 49/14/69-SPB.I dated 20.5.71 and not at par with the test conducted by the PMG U.P. for the circle as whole in respect of converted posts of stenographers, hence provisions of para ~~8-4~~ <sup>24(b)(i)</sup> of DGP&T letter no. 49/14/69-SPB.I dated 20.5.71 regarding interest seniority does not apply in the case of the petitioner.

Seniority of the petitioner is to be fixed according to the general orders on the subject.



S. D. Sharma

Contd. at P. 4/...

6. Para 14 to para 20 - That contents of these paras of writ petition does not relate to the deponent.

Grounds

- (a) That the test conducted by the PMG was general in nature as all quasi permanent/permanent clerks, stenotypists were eligible to appear in the test but the petitioner did not appear in the said examination.
- (b) Since test was a general one & all the clerks were eligible to appear in the test, there seems no necessity to call anyone in particular. Had the petitioner applied, he would have got the permission. But he did not appear in the tests conducted by PMG.
- (c) The petitioner was never qualified in tests conducted for the circle cadre of stenographers by the PMG. He was appointed in a test conducted by the DMT Lucknow for his office though the DMT was not competent to hold the test. Since the test conducted by the DMT was not in terms & conditions of DGP&T provisions of interest seniority of DGP&T para ~~B-4(i)~~ <sup>24(b)(i)</sup> no.49/14/69-SPB.I dated 20.5.71 does not apply in this case.
- (d) There is no change in the criteria of assignment of seniority as it is based on para(c) of DGP&T Letter No.49/14/69-SPB.I dated 20.5.71.
- (e) That the contents of para (e) does not relate to the deponent.
- (f) That the petitioner was never prevented from appearing in the test in 1972-73 rather he did not prefer any application for appearing in the examination & did not appear in any of



28/8/1989

Contd. at P.5/...

the examination conducted by the PMG for Circle  
cadre of stenographers for U.P.Circle.

Dated

SD Sharma  
Deponent

Verification

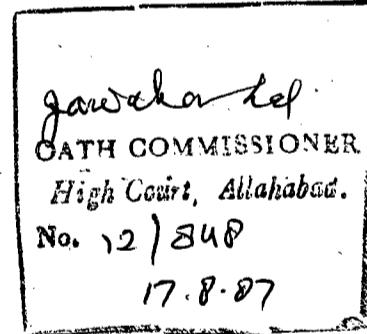
I, Saheb Dayal Sharma the deponent do hereby  
verify that the contents of para 1 to 20 & grounds  
(a) to (f) are true to my personal knowledge. No  
part of it is false and nothing material has been  
concealed. So help me GOD.

Dated

SD Sharma  
Deponent

This is to identify Shri Saheb Dayal Sharma  
Opp. Party No. 4 who has signed in my presence.

I solemnly affirm before me on the 17th day of August  
1987 at 7:35 p.m. by the deponent who has been identified  
as above.



SD Sharma

Annexure-I

Copy of communication No. 49/14/69-SPG.I. dated 20.5.1971  
from DGP&T New Delhi to all heads of circles

**Subject:-** Conversion of posts of stenotypists into those  
of stenographers (Rs.130-300)-Procedure to fill up  
the posts.

Sir,

I am directed to refer to this office letter no.  
7-55/68-PE.I dated 20.5.71 wherein decision has been  
conveyed for the conversion of all the existing posts of  
LDC with a special pay of Rs.25/- or I.S. clerks with a  
special pay of Rs.25/- for stenographic work, into those  
of stenographers in the scale of Rs.130/300.

The method of filling up the converted posts of  
stenographers in the scale of Rs.130/300 has been under  
consideration and it has been decided that the following  
procedure should be adopted for filling up the converted  
posts of stenographers:-

**A. Circle and Administrative offices**

The existing stenotypists in Circle and Admin. offices  
including those who have been appointed on adhoc basis may  
be appointed to the converted post of stenographers. They  
shall however, be required to qualify in a test in stenography  
at 80 words per minute with in a period of 2 years from the date  
of their appointment to the converted post, failing  
which they shall be reverted to their clerical posts.

**B. Divisional offices**

The converted post of stenographers in the divisional  
offices may be filled up on the basis of a test in stenography  
at the rate of 80 words per minute to which test the existing  
stenotypist and those who had held the post earlier at  
some stage or other as well as clerks permanent and  
quasipermanent may be permitted to appear.

**3.** On their appointment to the post of stenographer,  
the official concerned should be placed on probation for a  
period of two years from the date of such appointment.

**4.** Interse seniority of stenographers will be fixed as  
follows:-

(a) Those who are already working as stenographers in the  
scale of Rs.130/300 shall be en bloc senior to those appointed  
as stenographers under "A and B" of para 2 above and their  
interse seniority would remain as it is.

(b) The seniority of stenographers appointed under A and B  
of para 2 above will be determined on the following basis:-

(i) The permanent LDCs and I/S clerks appointed to officiate  
as stenographers will have their seniority arranged  
according to the date of confirmation in either of  
the grades of LDCs or time scale clerks. Those  
confirmed on the same date will have their interse  
seniority fixed according to age.

Contd. at P.2/...

S. D. Shrivastava

- 2 -

(ii) The quasi permanent and temporary LDCs and time scale clerks appointed to officiate as stenographers under A and B of para 2 above will have their seniority fixed on the basis of the date of continuous regular appointment either as LDC or time scale clerk.

(iii) Those coming under (i) above will rank senior to those in (ii) above.

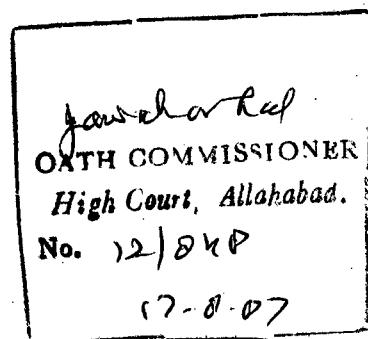
(c) After recruitment to all the existing posts of stenographers as on date is made and after their seniority is fixed in the above manner seniority of stenographers appointed to posts that arise after the date of issue of the letter would be based according to the general orders on the subject.

5. After the conversion of the posts of stenotypists, the cadre of stenographers will be a circle cadre. Future recruits will be liable for transfer anywhere in the circle. The existing stenotypists can as far as possible be posted on their appointment as stenographers at the same place where they are working but it should be clearly understood by one and all that when they are appointed to the cadre of stenographers they are liable to be posted anywhere in the circle.

6. Immediate action may be taken to fill up the upgraded posts in the manner indicated above. After the existing posts are filled up in the manner indicated, future post of stenographers will be filled up 50% from outside recruits and 50% from departmental officials. A suitable amendment to the recruitment rules will be issued separately.

8/8/1948

8/8/1948



A119

Signature - TP

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

Office of the Postmaster-General U.P.Circle, Lucknow

Sub:Result of the Examination of recruitment to the cadre of stenographers on converted posts of stenographers

As a result of the examination held on 23.4.72 for the appointment to the posts of stenographers on the converted posts of stenotypists, the following officials are declared to have passed the prescribed examinations:

<u>Roll.</u>	<u>Name</u>	<u>Unit</u>
UP-19	Shri Shafiq-Ud-Din	Postal Division Moradabad
UP-56	Shri B.L.Kathuria	% the AO.ICO(SB)Lucknow
UP-59	Shri Saheb Dayal	% the AO ICO(SB)Varanasi
UP-65	Shri Navin Chandra Malhotra	% the PMG U.P.Lucknow
UP-66	Shri Vijay Kumar Srivastava	-do-
UP-67	Shri Afaq Ahmed Usmani	-do-
UP-68	Shri Ayub Ahmed	-do-

Sd/H.M.Chatterji,  
for Postmaster-General.Lucknow

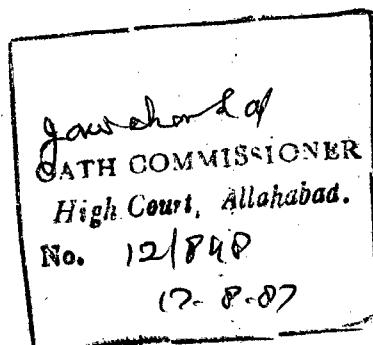
no. STC/M-22/71/4

dated at LW-1 the 16.5.1972

Copy forwarded for information and necessary  
action to:

1. All SSPOs/SPOs/SSRMs in U.PkCircle
2. All DEsP/DEsT/SSTTs/STTs I/C CTOs
3. Accounts Officers Saving Bank Internal  
Check Organisation Agra/Lucknow/Varanasi
4. Chief Supdt. CTO Agra
5. Chief Accounts Officer, Telecom Lucknow
6. Postmasters Lucknow/Kanpur

88 Noyes



- 8 - Annexure - III

Copy of memo. No. ST-34/4/5, dt. 8.2.74 from DMT Lucknow to 1.D.E.T.L/D Lucknow & D.E.P. (Mtce) Lucknow.

Subject: Examination for recruitment to the posts of  
Ref: Stenographers (English)  
Your letter No. LD/E-137/97, dt. 2.2.74 (for  
DET. L/D Lucknow).

The following officials have been permitted to appear in the above examination:

1. Shri S.P. Srivastava,	Roll No. LTD-1
2. Shri S.C. Banerjee	Roll No. LTD-2

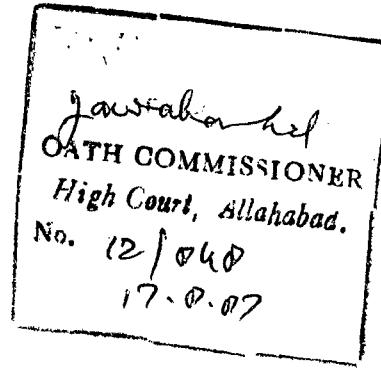
The candidates may please be directed to report to Shri Bishan Swarup DEP(A) in the office hall of this office, Telephone exchange compound, Lucknow. Their hall permits are sent herewith may please be delivered under clear receipt after attesting the signatures of the candidate at the given space under your dated signatures and designation seal.

Sd/- R.N. Trivedi  
for D.M.T. Lucknow

DA: hall permits

17.2.74

SDS/MS



— यहाँ तक

A121

-9-

Annex IV

Memo. No. ST/34/5/1

Office of D.M.T. Lucknow.

19.2.1974

Consequent upon declaration of the result of examination for recruitment of Stenographers held on 9.2.74, Shri S.P.Srivastava Clerk, D.E.T. Office Lucknow and Shri S.C.Banerjee, clerk of this office (on deputation to the office of D.E.T. Long Distance Lucknow) are hereby appointed as Stenographers in the pay scale of Rs.330/560 against the existing vacancies with effect from the dates of their taking over the charge of this office.

Sd/-V.Rajagopal  
D.M.T. Lucknow.

cc:

1. The G.M.M. N/R ND. Shri S.C.Banerjee may kindly be arranged to be relieved for this District at a very early date in view of acute shortage of stenographers in this District.
2. PMG. UP Lucknow. As the staff for the Telecom. Region is to be provided by the Circle, it is requested that a substitute in place of Shri S.C.Banerjee may kindly be posted early.
3. D.E.T. L/D Lucknow. One copy is enclosed for the official.
4. D.E.P(Mtce) of this office. One copy is enclosed for the official.

SD&Horing



*jawahar*  
OATH COMMISSIONER  
High Court, Allahabad.  
No. 52/040  
17.8.87



In the Hon'ble Central Administrative Tribunal Allahabad

Registration No. 156 of 1987

S.C. Banerjee ..... Petitioner

Vs

Union of India & others ..... Opposite parties

Counter affidavit on behalf of Opposite Party

No. 5 to the Writ Petition.

I, N.C. Malhotra, aged about 39 years

S/o Shri B.R. Malhotra, resident of 554/219/11A, Bijnor, Lucknow do hereby solemnly affirm as under:

That the deponent is opposite party No.5 in the above noted case and is therefore well conversant with the facts deposed to hereunder.

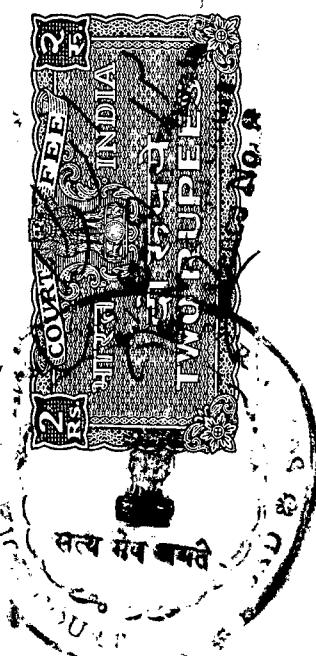
2. 1 to 5 - Contents of para 1 to 5 of the writ:

Petition do not relate to the deponent.

3. Para 6 & 7: The petitioner was working as stenotypist on tenure basis with special pay. A perusal of para 2\_B of D.G.P&T letter No.49/19/79-SPB.I, dated 20.5.1971 Annexure-I will show that not only the petitioner (working as stenotypist) but all clerks quasi-permanent & permanent of the U.P. Circle whosoever wished to appear in the examination were eligible. It was not a limited test for the stenotypists only and it was a general test. Contents of the above letter of DGP&T dated 20.5.1971 were in the notice of the petitioner as admitted by him in para 12 of his petition.

The petitioner's statement that in compliance with opposite party No.2 orders, P.M.G. vide No. STC/M-2-72/4, dated 22.12.1972 conducted a test to fill up a converted post of stenotypist is not correct. The first test was conducted by the P.M.G. on 23.4.1972 and its

contd...at P.2/-



Recd Copy  
Romahardon Clerk  
Smt Venketa Sastri  
18.8.87



*M. N. L.*

result was declared vide PMG No. STC/M-22/71/4, dated 16.5.1972 (annexure-II).

4. Para 8, 9, 10 Stenographer cadre had become a Circle cadre vide DGP&T No. 49/14/69-SPB.I, dated 20.5.1971 annexure-I. PMG UP Lucknow was permitted by the DGP&T vide para 12 of No. 49-14/69-SPB, dated 24.11.71 to hold only one test for the U.P. Circle as a whole. The said test was held on 23.4.72. Even PMG was not competent to hold another test, question of conducting test by DMT Lucknow, a lower authority in 1974 does not arise.

The petitioner in opening lines of para 8 of his petition states "District Manager Telephones conducted an examination for the converted posts of stenographers for his unit" and in the closing lines of the same para he says "The petitioner has been permitted to appear at the examination for recruitment to the post of stenographers" hence there is contradiction in his own statement. A perusal of DMT Lucknow letter No. ST-34/4/5, dated 8.2.74 annexure-III and letter No. ST-34/5/1 dated 19.2.74(annexure IV) will reveal that it was a recruitment examination for the post of stenographers in DMT office Lucknow in which the petitioner appeared. It may be added that D.M.T. Lucknow who was head of Lucknow District only was not at all competent to conduct test for stenographers - a circle cadre, only PMG who was the head of the Circle was competent to take this test.

5. Para 11, 12, 13

As the test conducted by DMT Lucknow was not in terms and conditions of DGP&T No.49/14/69-SPB.I, dated 20.5.71 and not at par with the test held by the PMG U.P., for the circle as whole in respect of converted posts of stenographers, hence provisions of para B-4(i)

of DGP&T letter No.49/14/69-SPB.I regarding interese seniority does not apply in the case of the petitioner.

Seniority of the petitioner is to be fixed according to the general orders on the subject.

Para 14 to 20 - That contents of these paras of writ petition does not relate to the deponent.

#### Grounds

(a) That the test conducted by the PMG was general in nature as all quasi permanent/permanent clerks, stenotypists were eligible to appear in the test but the petitioner did not appear in the said examination.

(b) Since test was a general one & all the clerks were eligible to appear in the test, there seems no necessity to call any one in particular. Had the petitioner applied, he would have got the permission. But he did not appear in the tests conducted by PMG.

(c) The petitioner never qualified in tests conducted for the circle cadre of stenographers by the PMG. He was appointed in a test conducted by the DMT Lucknow for his office though the DMT was not competent to hold the test. Since the test conducted by the DMT was not in terms & conditions of DGP&T provisions of interese seniority of DGP&T provisions in para 4(b)(i) of No.49/14/69-SPB.I, dated 20.5.71 does not apply in this case.

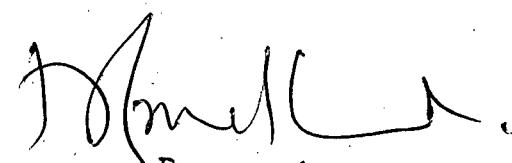
(d) There is no change in the criteria of assignment of seniority, as it is based on para(c) of DGP&T letter No.49/14-69-SPB.I, dated 20.5.71.

(e) That the contents of para(e) does not relate to the deponent.

(f) That the petitioner was never prevented from appearing in the test in 1972-73 rather he did

- 4 -

not prefer any application for appearing in the examination & did not appear in any of the examination conducted by the PMG for Circle cadre of stenographers for U.P. Circle.



Deponent

Dated:

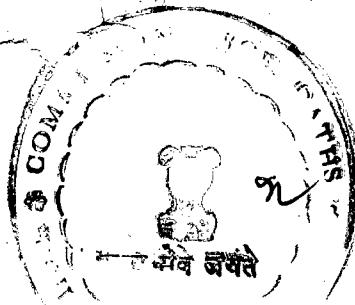
### Verification

I, N.C. Malhotra the deponent do hereby verify that the contents of para 1 to 20 & grounds (a) to (f) are true to my personal knowledge. No part of it is false and nothing material has been concealed. So help me GOD.



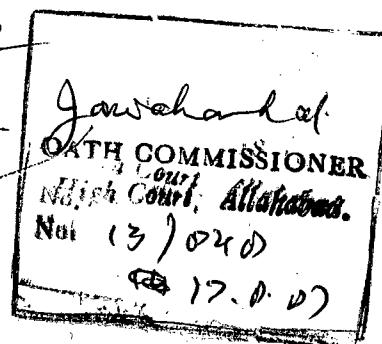
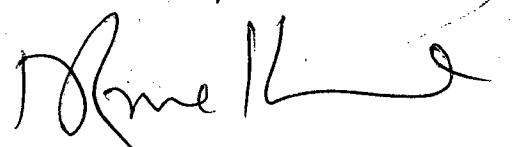
Deponent

Dated:



This is to identify that Shri N.C. Malhotra Opp. party No. 5 who has signed in my presence.

Solemnly affirmed before me this  
day 17th day of August at 1987 at  
11.00 P.M. by the Deponent that  
he has been identified as above.

A126

Annexure-I

Copy of communication No.49/14/69-SPB.I dated 20.5.1971  
from DGP&T New Delhi to all heads of circles

**Subject:- Conversion of posts of stenotypists into those  
of stenographers(Rs.130-300)-Procedure to fill up  
the posts.**

**Sir,**

I am directed to refer to this office letter no. 7-55/68-PE.I dated 20.5.71 wherein decision has been conveyed for the conversion of all the existing posts of LDC with a special pay of Rs.25/- or T.S. clerk with a special pay of Rs.25/- for stenographic work, into those of stenographers in the scale of Rs.130/300.

The method of filling up the converted posts of stenographers in the scale of Rs.130/300 has been under consideration and it has been decided that the following procedure should be adopted for filling up the converted posts of stenographers:-

▼ **A. Circle and Adminstrative offices**

The existing stenotypists in Circle and Admin.offices including those who have been appointed on adhoc basis may be appointed to the converted post of stenographers. They shall however, be required to qualify in a test in stenography at 80 words per minute with in a period of 2 years from the date of their appointment to the converted post, failing which they shall be reverted to their clerical posts.

**B. Divisional offices**

The converted post of stenographers in the divisional offices may be filled up on the basis of a test in stenography at the rate of 80 words per minute to which test the existing stenotypist and those who had held the post earlier at some stage or other as well as clerks permanent and quasipermanent may be permitted to appear.

3. On their appointment to the post of stenographer, the official concerned should be placed on probation for a period of two years from the date of such appointment.

4. Interse seniority of stenographers will be fixed as follows:

(a) Those who are already working as stenographers in the scale of Rs.130/300 shall be enbloc senior to those appointed as stenographers under "A and B" of para 2 above and their interse seniority would remain as it is.

(b) The seniority of stenographers appointed under A and B of para 2 above will be determined on the following basis:-

(i) The permanent LDCs and T/S clerks appointed to officiate as stenographers will have their seniority arranged according to the date of confirmation in either of the grades of LDCs or time scale clerks. Those confirmed on the same date will have their interse seniority fixed according to age.

Contd. at P.2/...

*M. S. N.*



- 2 -

(ii) The quasi permanent and temporary LDCs and time scale clerks appointed to officiate as stenographers under A and B of para 2 above will have their seniority fixed on the basis of the date of continuous regular appointment either as LDC or time scale clerks.

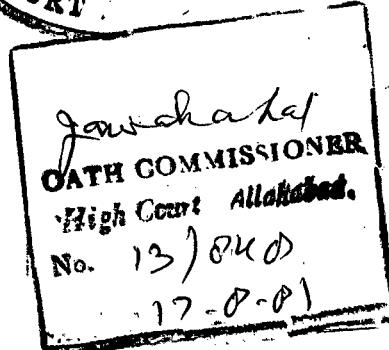
(iii) Those coming under (i) above will rank senior to those in (ii) above.

(c) After recruitment to all the existing posts of stenographers as on date is made and after their seniority is fixed in the above manner seniority of stenographers appointed to posts that arise after the date of issue of the letter would be based according to the general orders on the subject.

5. After the conversion of the posts of stenotypists, the cadre of stenographers will be a circle cadre. Future recruits will be liable for transfer anywhere in the circle. The existing stenotypists can as far as possible be posted on their appointment as stenographers at the same place where they are working but it should be clearly understood by one and all that when they are appointed to the cadre of stenographers they are liable to be posted anywhere in the circle.

6. Immediate action may be taken to fill up the upgraded posts in the manner indicated above. After the existing posts are filled up in the manner indicated, future post of stenographers will be filled up 50% from outside recruits and 50% from departmental officials. A suitable amendment to the recruitment rules will be issued separately.

D(mell)



JUN 26/72 A128

INDIAN POSTS AND TELEGRAPHS DEPARTMENT  
Office of the Postmaster-General U.P.Circle, Lucknow

**Sub:Result of the Examination of recruitment to the cadre of stenographers on converted posts of stenographers**

As a result of the examination held on 23.4.72 for the appointment to the posts of stenographers on the converted posts of stenotypists, the following officials are declared to have passed the prescribed examinations:

<u>Roll.</u>	<u>Name</u>	<u>Unit</u>
UP-19	Shri Shafiq-Ud-Din	Postal Division Moradabad
UP-56	Shri B.L.Kathuria	% the AO.ICO(SB)Lucknow
UP-59	Shri Saheb Dayal	% the AO ICO(SB)Varanasi
UP-65	Shri Navin Chandra Malhotra	% the PMG U.P.Lucknow
UP-66	Shri Vijay Kumar Srivastava	-do-
UP-67	Shri Afaq Ahmed Usmani	-do-
UP-68	Shri Ayub Ahmed	-do-

Sd/H.M.Chatterji,  
for Postmaster-General, Lucknow

no.SIC/M-22/71/4

dated at LW-1 the 16.5.1972

Copy forwarded for information and necessary action to:

1. All SSPOs/SPOs/SSRMs in U.P.Circle
2. All DESP/DEsT/SSTTs/STTs I/C CTOs
3. Accounts Officers Saving Bank Internal Check Organisation Agra/Lucknow/Varanasi
4. Chief Supdt. CTO Agra
5. Chief Accounts Officer, Telecom Lucknow
6. Postmasters Lucknow/Kanpur

*M. Chatterji*



Copy of memo. No. ST-34/4/5, dt. 8.2.74 from D.M.T. LUCKNOW  
to D.E.P. L/D Lucknow & D.E.P. (Mtce) Lucknow. **Annex III**

Subject: Examination for recruitment to the posts of  
Stenographers (English) **A129**  
Ref: Your letter No. LD/E-137/97, dt. 2.2.74 (for  
D.E.P. L/D Lucknow).

The following officials have been permitted to  
appear in the above examination:

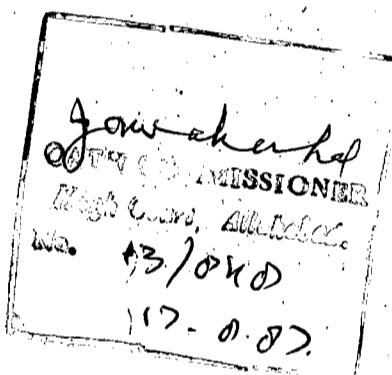
1. Shri S.P. Srivastava, Roll No. LTD-1  
2. Shri S.C. Banerjee, Roll No. LTD-2

The candidates may please be directed to report  
to Shri Bishan Swarup D.E.P.(A) in the office hall of  
this office, Telephone exchange compound, Lucknow. Their  
hall permits are sent herewith may please be delivered  
under clear receipt after attesting the signatures of  
the candidate at the given space under your dated  
signatures and designation seal.

Sd/-R.N.Trivedi  
for D.M.T.Lucknow

Office hall permits

*Home L*



Memo. No. SP/36/5/1

Office of D.M.T. Lucknow.

19.2.1974

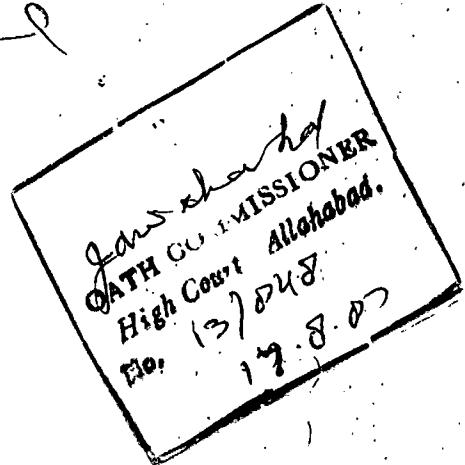
Consequent upon declaration of the result of examination for recruitment of Stenographers held on 9.2.74, Shri S.P.Srivastava Clerk, D.E.T. Office Lucknow and Shri S.C.Banerjee, clerk of this office (on deputation to the office of D.E.T. Long Distance Lucknow) are hereby appointed as Stenographers in the pay scale of Rs. 530/560 against the existing vacancies with effect from the dates of their taking over the charge of this office.

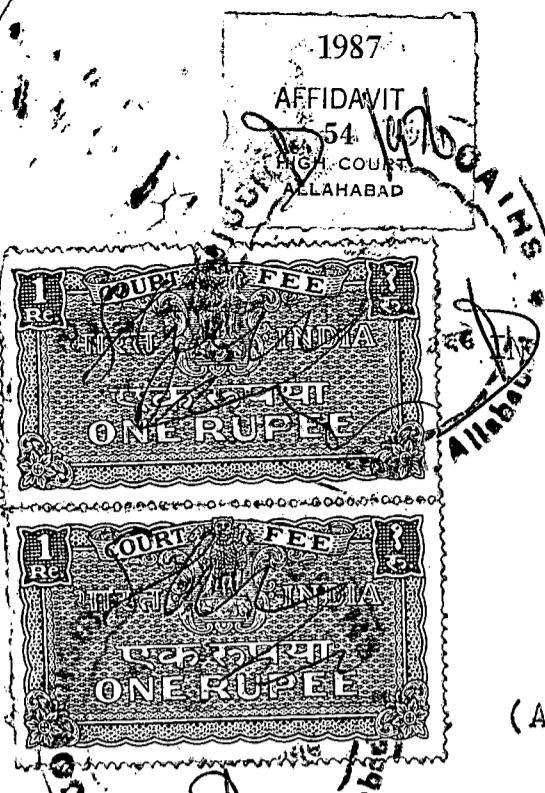
Sd/- V.Rajagopal  
D.M.T. Lucknow.

cc:

1. The G.M.T. (i/r) Shri S.C.Banerjee may kindly be arranged to be relieved for this District at a very early date in view of acute shortage of stenographers in this District.
2. DPG U/ Lucknow as the staff for the Telecom. Region is to be provided by the Circle, it is requested that a substitute in place of Shri S.C.Banerjee may kindly be posted early.
3. D.M.T. i/r Lucknow. One copy is enclosed for the official.
4. D.E.P (i/r) of this office. One copy is enclosed for the official.

M. H. L.





THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD

Counter Affidavit  
in  
Case Registration No. 156(T) of 1987  
(Arising out of Writ Petition No. 191 of 1980 )  
District Lucknow.

S.C. Banerjee ... ... Petitioner

versus

Union of India & Others ... Opposite Parties

Affidavit of S.N. Chatterjee S/o  
late R.N. Chatterjee, aged about  
55 years R/o D.32/41, Debnathpura,  
Varanasi.

Deponent.

The above named deponent do hereby solemnly  
affirm and state on oath as under: -

1. That the deponent is opposite Party No.7 in  
the above noted case.
2. That the writ petition filed by Shri S.C.  
Banerjee has been read over by the deponent and he  
has understood the contents of the same. He is well  
conversant with the facts of the case and as such  
is able to give a parawise reply as under:-
3. That the contents of Para No.1 of the Writ  
Petition need no reply.

*S.C. Banerjee*

4. That the contents of Para No.2 of the Writ Petition need no reply.
5. That the contents of Para No.3 of the Writ Petition are admitted. The deponent also qualified in the same examination alongwith the petitioner.
6. That the contents of Para No.4 of the Writ Petition are admitted.
7. That in reply to the contents of Para No.5 and 6 of the Writ Petition, it is respectfully submitted that all and only the Steno-Typists under the Postmaster General, U.P. Circle, Lucknow were supposed to be converted into stenographers vide letters dated 22.12.72 and 7.2.73 subject to their qualifying in the test of stenography. Accordingly the deponent was informed of the prescribed test. It is admitted that the copy of the above mentioned letters dated 22.12.72 and 7.2.73 were not sent to the Divisional Engineer Long Distance, Lucknow where the petitioner was working on deputation.
8. That the contents of para No.7 of the Writ Petition are admitted. Out of 23 officials, the name of the deponent appears in serial No.22. The name of the petitioner was not there in the list.
9. That the contents of Para No.8 of the Writ Petition are admitted.
10. That the contents of Para No.9 of the Writ Petition need no reply.
11. That the contents of Para No.10 of the Writ Petition are admitted.
12. That the contents of Para No.11 of the Writ Petition are admitted. It is further submitted that to meet the ends of justice orders issued by DG.P&T, ND dated 20.5.71 should be implemented.

*Subn. a/c*

13. That in reply to the contents of Para No.12 of the Writ Petition it is submitted that prior to the seniority list circulated vide General Manager Telecom, Lucknow letter dated 7th September 1978, another more authentic seniority list was circulated vide letter No. STB/M-81-12/3/L dated 26.3.75.

A true copy of the above mentioned seniority list dated 26.3.75 is attached hereto as Annexure CA-1 to this affidavit.

This seniority list was prepared in compliance to the instructions contained in Director General, Posts & Telegraphs, New Delhi No. 7-55/68-PE-1 and No. 49/14/69-SPB.I dated 20.5.71 which are attached as Annexures 4 and 4A to the Writ Petition. This seniority list does not include the names of Respondents No. 4,5 and 6 because of the fact that these 3 officials were not confirmed in any cadre. This seniority list is still in vogue in U.P. Postal Circle. The basis of seniority of stenographers as per above D.G. communication exists in all the Circles all over India.

14. That the contents of Para No.13 of the Writ Petition are admitted.

15. That in reply to the contents of Para No.14 of the Writ Petition it is submitted that among the representations rejected by the General Manager Telecom, U.P. Circle, Lucknow vide his letter dated 17.11.78, the representation of the deponent was also one. The rejection of the representation against show cause notice is itself against rules and in violation of Director General, Posts & Telegraphs New Delhi letter dated 20.5.71 just to help the juniors. The rest of the para under reply is admitted.

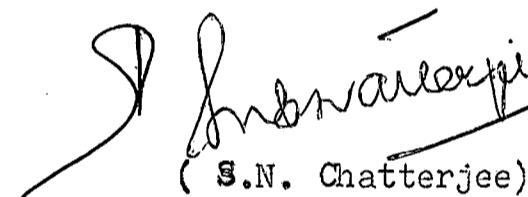
16. That the contents of para Nos 15,16,17,18,19 and 20 of the Writ Petition need no reply.

*Sanjay Agrawal*

17. That it is further respectfully submitted that the petitioner was the seniormost among all the steno-typists. The petitioner was in fact not informed about the qualifying tests which were conducted in the year 1972 and 1973 otherwise he would have been in the top of the list of the seniority list.

That the contents of paragraphs 1, 2, 3, 5, 6, 7 (partly) 8, 10, 12 (partly), 13 (partly), 15 (partly) and 16 of the affidavit are true to the personal knowledge of the deponent, those of para 4, 7 (partly), 9, 11, 12 (partly), 13 (partly), 14, 15 (partly) and 17 are based on informations derived from the perusal of the relevant papers on record, and those of paragraph nil are based on legal advice, that nothing material has been concealed and no part of the affidavit is false.

So held me God.

  
( S.N. Chatterjee).

Deponent.

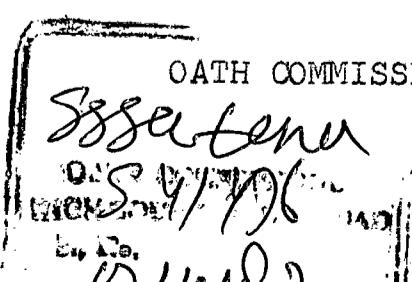
I, Shiva Nandan, Advocate, High Court, do hereby declare that the person making this affidavit and alleging himself to be Sri S.N. Chatterjee is known to me through the papers produced by him.

  
Shiva Nandan  
Advocate. 12/10/87

L.T. 9.08  
Deponent

  
Solemnly affirmed before me this 12th October 1987 at 2.00 P.M. by the deponent who has been identified by the Advocate above named.

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

  
OATH COMMISSIONER.

Shiva Nandan  
OATH COMMISSIONER  
12/10/87

CA-1

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ANNEXURE - I

INDIAN POSTS AND TELEGRAPHS DEPARTMENT  
OFFICE OF THE GENERAL MANAGER TELECOM U.P. CIRCLE LW.

From

The General Manager Telecom,  
U.P.Circle, Lucknow.

To

1. The D.Es/T/P in U.P. Circle
2. The D.E.T. Long Distance, Lucknow/Allahabad.
3. The D.E.T. Coaxial Maintenance, Kanpur.
4. The D.E.T. Microwave Project, Lucknow/Kanpur.
5. The D.E.T. Cable Construction, Bareilly.
6. The SSTT Allahabad/Bareilly/Lucknow/Kanpur and Varanasi.
7. S.T.T. Saharanpur.
8. The chief Supdt. C.T.O. Agra
9. The Principal, P&T Training centre, Saharanpur.
10. The S.S.P.Os/S.P.Os in U.P. Circle
11. The Postmaster class I/Kanpur/Lucknow.
12. The Accounts Officers E.B.Agra/Lucknow/Varanasi.
13. The Supdt. Forms & Seals, Aligarh.
14. The S.S.R.Ms in U.P.Circle
15. Postmaster General, U.P.Circle, Lucknow.

No. STB/H-81-12/3/L Dated at Lucknow the 26.3.75.

Sub: Combined seniority list of stenographers working under P.M.G. U.P.Circle and General Manager Telecom, U.P.Circle except those working under D.M.T. Lucknow and Kanpur.

A combined seniority list of stenographers compiled according to the instructions contained in the D.G's P&T ND No. x 7-55/68-PE-I dated 20.5.71, copy endorsed to all concerned under P.M.G. U.P. No. EST.A/X-1166/IV dated 7.6.81 is enclosed. This may be circulated amongst the stenographers working under you and acknowledgements from them may be obtained and kept on record in your office in token of having seen the same.

Any omission or discrepancy found in this seniority list may please be pointed out to this office with your comments within 15 days of the receipt of this letter. The list thereafter will be treated as final. All concerned may also please be informed of this.

Encl: As said.

Sd. G.S.-Gupta.  
Asstt General Manager (Staff).

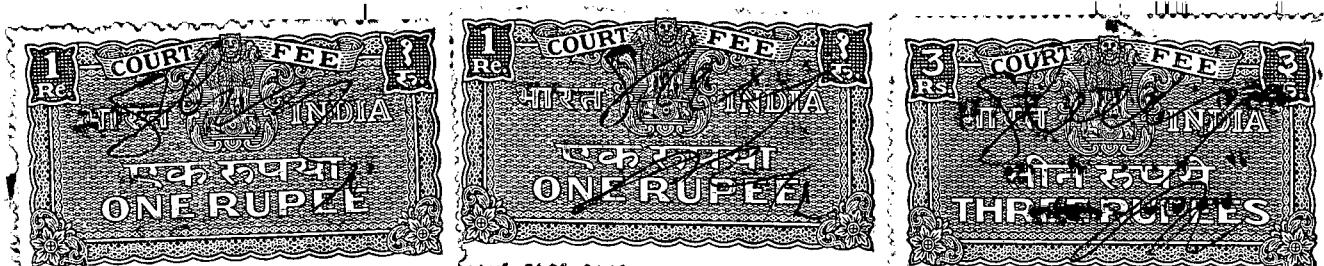
Manager

A13<sup>b</sup>

Statement showing the seniority of stenographers fixed  
in accordance with the DG.P&T orders contained in  
circular letter No. 7-55/68-PE-I dated 20.5.71

Sl. No.	Name of the Official	Date of birth	Office to which attached.	Date of continuous service in case of temporary stenogra- phers.	Date of substantive of entry in the appn cadre of T/S as clerk/L.D.C. Steno grapher
1.	Sri Ram Dulare Sharma	11.3.21	Steno to PMG, U.P.	/	21.7.43
2.	" T.H. Bhasin	5.2.26	C.O.	-	2.6.48
3.	" Brij Bahadur Mathur	16.10.19	C.O.	-	1.12.51
4.	" Ranjit Kumar Chatterjee	15.10.14	C.O.	-	1.12.56
5.	" K.C. Khanna	6.11.20	C.O.	-	6.4.57
6.	" G.C. Srivastava	10.11.35	C.O.	-	1.3.62
7.	" Kewal Krishna	8.9.36	C.O.	-	1.3.62
8.	" Kishori Lal Bhartiya	28.6.24	C.O.	-	24.10.63
9.	" Sheo Kumar Srivastava	12.10.27	C.O.	-	24.10.63
10.	" Mohd. Wahid	20.7.44	C.O.	-	25.7.67
11.	" R.N. Shukla	25.12.43	C.O.	-	Q.P.
12.	Miss P. Sylvester	4.7.28	DE Phones Agra	1.11.47	20.5.71 D
13.	Sri B.L. Kathura	13.10.20	C.O.	2.6.48	20.5.71 D
14.	" Shankar Lal	5.7.23	SSPOs Meerut	1.3.49	20.5.71 D
15.	" S.R. Dubey	1.7.25	AO. ICO. SB	21.7.48	20.5.71 D
16.	" Vijai Baha/ dur Lal Srivastava	14.10.26	SSRM Alld.	1.4.52	22.5.74 D
17.	" Bhisham Kumar	27.7.23	DET MRD.	18.6.53	1.11.71 D
18.	" <del>XXXXXX</del> <del>XXXXXX</del> <del>XXXXXX</del> S.N. Chatterjee	8.5.32	SSTT Alld.	1.11.53	20.5.71 D
19.	" Sheo Mohan Lal Srivastava	28.6.30	C.O.	1.4.54	20.5.71 D
20.	" Krishna Auta/ Agrawal	16.9.30	SP0s Etawah	1.8.55	D
21.	" P.L. Srivastav	3.4.29	DET KP	1.3.56	20.5.71 D
22.	" J.P. Gupta	28.1.31	CS. CTO Agra	1.3.56	D
23.	" Bagwati Pd.	10.12.29	SSPOs Alld.	1.12.56	D
	Srivastava	20.4.33			
24.	" K.S. Kulshrestha		DET Agra	1.4.57	6.5.73
25.	" Rama Pd.	13.6.33	DEP Agra	2.12.57	-
	Srivastava				I
26.	" Ram Krishna	31.8.31	PCTT Centre SHN	1.3.58	-
	Thatai				I
27.	" S.P. Ahuja	4.4.37	STT Saharanpur	1.9.62	-
28.	" Shaghir Ahmad Siddiqi	30.6.32	SP0s Sitapur		I

Subvalencia



*In The Central Administrative Tribunal, Allahabad*

वकालतनामा

A138

**हाईकोर्ट ऑफ जूडिकेचर एट इलाहाबाद**

इलाहाबाद

रिट/अपील Reg. No. 156(I) of सन् १९८७.

जिला

निगरानी

S. C. Banerjee.

वादी/प्रतिवादी

अपीलान्ट

वनाम

Union of India and Others.

वादी/प्रतिवादी

रेस्पान्डेन्ट

मैं कि Sri S. N. Chatterjee Reg. No. 7.

हम S/o late Sri R. N. Chatterjee, 1/0. D-32/41, Debuallip  
Varanasi.

उपरोक्त प्रकरण हम अपनी ओर के पक्ष समर्थन के हेतु

बिज्जन बागवी

एड बोर्ड

SRI SHIVANAND BAGCHI

बागवान

एडब्ल्यूकेट हाईकोर्ट

**Sri SHIVANAND**

B. BAGCHI.

इलाहाबाद को कानूनी निश्चित शुल्क नियत करके अपना अभिभाषक नियुक्त करते हैं, और स्वीकार करते हैं कि उक्त सज्जन हमारी ओर से वाद-पत्र, प्रतिवाद-पत्र, वाद स्वीकार पत्र, विवाद-पत्र, पुनर्वलोकन एवं पुनःनिर्णय प्रार्थनापत्र शापथियक कथन प्रश्नतन पत्र अपील, निगरानी इत्यादि हर प्रकार के अन्य प्रार्थना आदि एवं लेखादि की प्रतिलिपियाँ अपने हस्तान्तर करके न्यायालय में प्रस्तुत करें अथवा किसी पत्र पर आवश्यकतानुसार शापथियक पुष्टीकरण करें, और आवश्यक सबाल जवाब करें और लेखादि की प्रतिलिपियाँ एवं हमारे प्राप्तधन को अपने हस्तान्तरों द्वारा रसीद देकर प्राप्त करें। हमारी ओर से किसी मध्य पत्र, तथा साक्षी माने और उससे सम्बन्धित प्रार्थना पत्र प्रस्तुत करें तथा उसका समर्थन करें तथा तसदीक करें वाद पत्र उठावें, छोड़े अथवा समझौता करें तथा सुलहनामा दाखिल करें तथा उसके सम्बन्ध में प्रार्थना पत्र दाखिल करके उसका समर्थन करें अर्थात् प्रकरण से सम्बन्ध रखने वाली कुल कायवाही डिग्री भर पाई होने के समय तक स्वतः या संयुक्त करें। आवश्यक होने पर किसी अन्य वकील महोदय को वकील करें।

उक्त सभी कायवाही जो उक्त सज्जन करेंगे प्रत्येक दशा में अपने की भाँति हमको सर्वथा स्वीकार होगी। अगर हम कानूनी/निश्चित शुल्क उक्त सज्जन को न दे तो उनका अधिकार होगा कि वह हमारी ओर से मुकदमा की पैरबी न करें। उपरोक्त दशा में उक्त सज्जन का कोई उत्तरदायित्व न रहेगा।

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

12/10/87



A139

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

( ADDITIONAL BENCH )

ALLAHABAD

W/139

Rejoinder Affidavit - I

In

Writ Petition No. 156(T) of 1980 (1987)

S.C. Banerjee... ... ... Petitioner

Versus

Union of India and Others.. ... Respondents.

Affidavit of Sri S.C. Banerjee, a/a

58 years, S/O Late Sri R.C. Banerjee,  
r/o C-733, Sector 'C', Mahanagar, Lucknow.

The deponent abovenamed, do hereby solemnly affirm and state on oath as follows:-

1. That the deponent is the petitioner in this case and as such well acquainted with the facts deposed to below.
2. That the deponent has read the counter affidavit of Sri Ram Lal filed on behalf of the respondents no. 1, 2 and 3 alongwith the Annexures and has understood the contents thereof.
3. That the contents of paragraphs 1, 2 and 3 of the said counter affidavit need no reply.
4. That with regard to the contents of paragraph 4 of the said counter affidavit, it is submitted that true facts have been stated in paragraph 3 of the writ petition which are correct and reiterated. It is admitted by the respondents that the petitioner was working as a regular Steno-typist on Deputation with the Divisional Engineer Telegraphs Long Distance, Lucknow.



Recd Copy  
R.C. Banerjee  
Clerk to Shri  
Ashok Mahaling  
Advocate  
13/10/87

Rejoinder

A/140

A/139

5. That the contents of paragraph 5 of the said counter affidavit need no reply.
6. That with regard to the contents of paragraph 6 of the said counter affidavit, it is submitted that true facts have been stated in paragraph 6 of the writ petition which are reiterated. It is for the first time now after the filing of the counter, the petitioner has come to know of an examination for conversion of posts was held on 23.4.72 and the result of which was allegedly declared on 16.5.1972. Even about the examination held on 21.1.1973, the petitioner came to know of which on a much latter date when the seniority list was declared in 1978 and immediately thereafter the petitioner made a representation to the General Manager Telecommunication, respondent no.3.
7. That the contents of the paragraph 7 of the said counter affidavit are wrong and not admitted as stated therein. True facts have been given in paragraph 6 of the writ petition which are reiterated. For the sake of convenience, the petitioner is deviding the said paragraph 7 as 7A, B, C & D.
8. That with regard to the contents of paragraph 7A of the said counter affidavit, it is submitted that no notice for holding the Stenographers Qualifying Test in the year 1972 & 1973 was ever given to the petitioner or copy of the same given to the office in which the petitioner was working



*Scanned for*

on deputation. It is admitted by the answering-  
respondents that the petitioner was working on  
deputation in the office of the Divisional Engineer  
Telegraphs, Long Distance, Lucknow to whom also no  
notice of the said test was given and there was  
no communication whatsoever made to the petitioner  
with regard to the holding of the said test. Copy  
of the notice having been sent to the parent office  
of the petitioner does not mean that notice was given  
to the petitioner. It is further wrong to state that  
since the office of the petitioner where he was  
working on deputation, is in the same building as  
that of the parent office, hence the petitioner  
should have got notice. It is not understood that  
when individual notice was sent to all other candidates  
who were eligible for test (as is clear from  
Annexure '2' and Annexure '2B' to the writ petition  
which has not been denied), why notice of the said  
test was not given to the petitioner which was either  
deliberate or due to the negligence of the respondent  
but for no fault of the petitioner. It is relevant to  
state here that subsequent to the filing of the writ  
petition the representation of the petitioner, which  
although communicated to the petitioner as having  
been debited, was kept pending the attention of the  
higher officers which is clear from the D.O. letter  
No. Staff/M-81-21/8 dated 24.9.1980 written by

Sri S.K. Pandey, General Manager Telecommunication,  
and addressed to Sri P.S. Joshi, Deputy Director Ge  
Telecommunication, New Delhi. A true copy of the  
dated 12.11.80 is filed herewith as Annexure P  
to this rejoinder affidavit. It is  
letter that the Genera,



*Seal*

A142

has accepted that copies of the letters inviting the eligible candidates, it has been admitted by the department that Sri S.C.Banerjee was not informed about the tests held in 1972 & 1973 and that he qualified the prescriber test in 1974 when he was first intimated about the test in his very first attempt. The General Manager Telecommunication has further rightly stated that it was obligatory on the part of the department to have intimated the petitioner for the test and the plea of not having been informed is tenable and the request of the petitioner for being granted seniority alongwith the candidates qualified in 1972 appeared to be justified and acceptable. In addition in Annexure No.8 of the writ petition, the respondent No.3 while accepting the fact that the petitioner was not informed of the tests at any stage, has further said that if the petitioner's stand is accepted 27 persons will become junior to him, vis-a-vis the respondent No.3 admits that the petitioner's claim is just, genuine & acceptable but justice is being denied for protecting the interest of 27 officials. Even though 11 officials out of 27 officials have expressed their disagreement & represented vide (Annexure.7) of the writ petition against the seniority list, prepared by the respondent No.3 on the basis of D.G.P&T letter No.206/4/78-STN/SPB-I dt 5.8.78 which neither cancels nor supercedes the DG.P&T order No.7-55, 58-PE-I & 49/14/69-SPB-I dt 20.5.71 vide (Annexure. 4 & 4A) of the writ petition in which principles/methods for preparing the seniority list have been laid down & which is in vogue in all the Circles (Postal/Telecom) in India except Telecom Circle U.P. A bare perusal of these letters would make the entire case of the petitioner as well as the stand of the department absolutely clear. Inspite of this stand having been taken by the General Manager, justice is not being done to the petitioner merely because if the same is done then what about 27 persons who have been wrongly declared as senior to the petitioner, would be aggrieved by the same, which reasoning is not understood and is highly illogical and illegal.

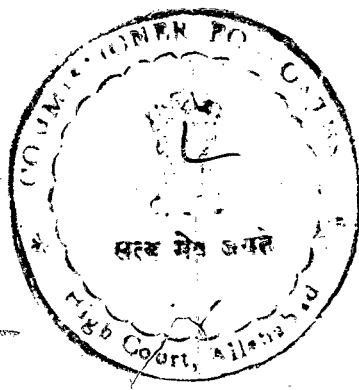
9. That the contents of paragraph 7B of the said counter affidavit are wrong. However, it is not understood as to what the answering-respondents want



*S.C.Banerjee*

to state in the said paragraph, which are wholly irrelevant and have no bearing to the case of the petitioner. It is wrong to state that the petitioner was at all aware of the fact that there was only <sup>A</sup> <sub>44</sub> One or more tests to be held for Steno-typist. It was for the first time in the year 1974 that the petitioner learnt about the test, and he appeared for the same and qualified in the first attempt only. Any averment to the contrary is wholly wrong and denied.

10. That the contents of paragraph 7C of the said counter affidavit are again denied. There was no question of the petitioner affirming the date of test as he had no knowledge of the same. It is wrong to state that it was neither obligatory nor necessary on the part of the department to serve individual notice of the examination to all the individuals (including the petitioner). If this was so then why individual notice was given to certain candidates as is clear from Annexure '2' and Annexure '2B' to the writ petition. It is also denied that any publicity was given of the said examination, as it has been admitted by the respondents that let aside any publicity, even no notice was given to the department in which the petitioner was working on deputation. Further it has been admitted by the General Manager Telecommunication U.P in his letter dated 12.11.1980 (filed as Annexure 'R.A.1' above) that it <sup>is</sup> <sub>not</sub> obligatory on the part of the department to have given notice to the petitioner. It is not understood as to how the deponent of the said counter affidavit has sworn

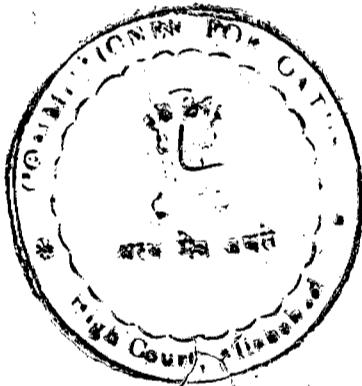


*Rebazar*

this affidavit on the basis of the information received from record without any written letters of the department on different position has been stated.

11. That the contents of paragraph 7D of the said counter affidavit are absolutely wrong and denied. It is reiterated that the department had given individual notice of the same to all the candidates and had grossly discriminated in not giving notice to the petitioner. It is wholly irrelevant to state that notification for the test was fixed on the notice-board of various departments whereas it is admitted by the respondents that no such notice was given to the department in which the petitioner was working nor any such information was fixed on the notice board of his department. It is absolutely wrong to state that the same practice was being adopted by the department in carrying out all departmental tests and this statement has been made only to mislead this court for the purposes of this case.

12. That the contents of paragraph 8 of the said counter affidavit are absolutely wrong and denied except that the petitioner joined as Telephone Operator and later changed to the cadre of Clerk. It has been deliberately concealed that the petitioner was upgraded as Steno-typist in the year 1964 and was confirmed as a regular Steno-typist in the year 1968 which is clear from Annexure '1' to the writ petition. The averment in the paragraph under reply that the petitioner was very poor in his speed of typing as well as in shorthand and intentionally avoided to appear in the said tests, is absolutely wrong and it is further been stated to misguide this court as he has started demanding seniority after

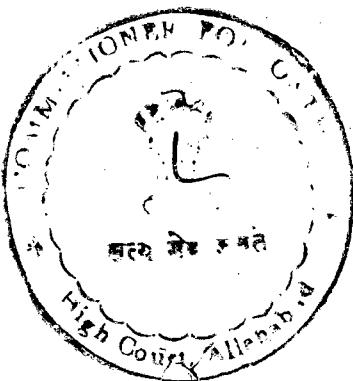


*SC/Barrett*

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6 years. The petitioner admittedly appeared in the examination at the very first opportunity in the year 1974 and qualified for the same and he represented in the year 1978 only when the seniority list was declared and he was illegally shown as junior to all these shown in the list whereas he ~~ought~~ to have been the senior most among the Stenographers. It is not understood as to how and from where the deponent of the said counter affidavit has derived this information ~~as~~ which according to the swearing Clause is based on information received from the Officer of the department; it has not been stated as to which Officer has informed the deponent of the said counter affidavit. The petitioner begs to state that strong action may be taken against the deponent of the said counter affidavit for making such deliberate false statement and misguiding this Hon'ble Court.

13. That the contents of paragraph 9 of the said counter affidavit are absolutely wrong and denied. It is reiterated that the petitioner had no knowledge of the tests having been held in 1972 and 1973 and it is wrong to state that the petitioner intentionally avoided to apply for permission to appear in the tests. Detailed facts have already been given in the preceding paragraphs which are reiterated. Again it may be stated that the deponent of the said counter affidavit has sworn on the basis of records that the petitioner had full knowledge of the tests which is absolutely wrong and the deponent of the said counter affidavit may be required to produce the record ~~.....~~ proving the same. In fact, it is to



*Chauhan*

the contrary and from the record it is absolutely clear that the petitioner had no information of any of the tests prior to 1974. These averments have been made in the paragraph under reply deliberately in order to harm the petitioner and misguide this Hon'ble Court. The case of the petitioner neither lacks merit nor is barred by time and the petitioner is liable to be granted the relief claimed by him.

14. That the contents of paragraph 10 of the said counter affidavit are wrong and not admitted and those of paragraph 7 of the writ petition are correct and reiterated. Detailed reply has already been given in the preceding paragraph of the counter affidavit and it may be stated again that the respondents made a mistake in not intimating the petitioner of any of the examinations held prior to 1974. It is admitted by the respondents that again no copy of the notice was endorsed to the Divisional Engineer Telephone, Long Distance Office in which the petitioner was working, let aside the individual notice to the petitioner. The question of the petitioner representing earlier did not arise as he was not aware of such examinations having been held. It is wrong to state that the petitioner was aware of the tests and there is no such admission by him in paragraph 12 of the writ petition. He did have knowledge of the letter dated 20.5.1971 but he could not apply to the tests as he has no knowledge of any test held on 23.4.1972 or later till the year 1974.

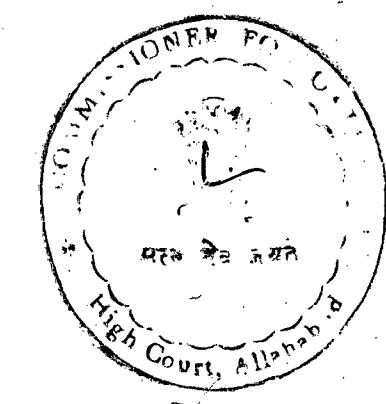


*Rebba*

Detailed facts have already been stated earlier. The petitioner was banking on the orders regarding seniority issued vide DG, P&T. ND No. 7-55/58-PE-I & 49/14/69-SPB.I dated 20.5.1971 till the date the seniority list vide (Annexure.5) of the writ petition was circulated <sup>made</sup> known to the petitioner in the year 1978, when the petitioner immediately represented his case. The petitioner is therefore well within time and liable to be allowed by this Hon'ble Court.

15. That the contents of paragraph 11 of the said counter affidavit is not admitted as stated therein and those of paragraph 8 of the writ petition are reiterated. It was in 1974 that the petitioner first came to know ~~of~~ <sup>that</sup> the examinations for the conversion of posts of stenographers was to be held and the petitioner was given notice to appear vide letter dated 8.2.1974 to the writ petition/in pursuance of that, petitioner ~~was~~ appeared in the examination and was selected for the same in his first attempt. The reason for the petitioner not having been appeared prior to 1974 has already been stated above and it was only due to the negligence and fault of the answering-respondents and not for any mistake on the part of the petitioner, for which he has been put in this disadvantageous position.

16. That the contents of paragraph 12 of the said counter affidavit need no reply except that the petitioner has qualified the test in his very first attempt.



*Ge Baccal*

17. That the contents of paragraph 13 of the said counter affidavit are wrong and denied and those of paragraph 10 of the writ petition are correct and reiterated. It may only be clarified and reiterated that the petitioner had no knowledge of ~~the~~ any earlier examination and he availed the very first opportunity given to him and qualified the test. However, he is entitled to his seniority which he ought to have been given and the same is admitted by the respondent No.3 in his letter dated 24x9x1980 12.11.1980 filed as Annexure-R.A.'1' above.

18. That with regard to the contents of paragraph 14 of the said counter affidavit, it is submitted that true facts have been given in paragraph 11 of the writ petition which are correct and reiterated. The letters 5.8.1978 and 3.1.1978 filed as Annexure-C.A'2' and '2A" to the counter affidavit are only D.O.letters and does not supercede nor cancells the provisions of the order dated 20.5.1971 filed as Annexure '4' and '4A' to the writ petition. True facts were not brought to the notice of the Director General Posts and Telegraphs nor any opportunity was given to the petitioner to represent his case before the D.O. letter was issued by the Director General on 5.8.1978. From the letter dated 3.1.1978 the case of the petitioner was not mentioned that the petitioner was not given notice for any of the examinations held in the year 1972 and 1973 and hence the D.O.letter dated 5.8.1978 was obtained from the Director General on misrepresentation of facts. It is clear from both these letters that there were many irregularities

*Ec Baeng*

which are committed by the respondent such as unsuccessful candidates being permitted in 5 subsequent tests and some officials having been given appointments with retrospective effect; all this was done by ignoring the various instructions and one order of respondents themselves. Had the case of the petitioner been represented in the said letter due to instructions for granting him the appropriate seniority would have been issued by the Director General. However, this having not been done, the letters/instructions have no effect to the case of petitioner. The basis for fixation of the seniority stated in the paragraph under reply is absolutely illegal, arbitrary and against the well established principles of law and liable to be set aside especially vis-a-vis the case of the petitioner.



19. That the contents of paragraph 15 of the said counter affidavit are wrong and not admitted as stated therein and those of paragraph 12 of the writ petition are correct and reiterated. It is admitted by the answering-respondents that the show cause notice dated 25.10.1977 was not served on the petitioner and hence there was no question of the petitioner having been given opportunity to represent his case before the seniority of the petitioner and other persons was fixed by the respondents. The answering-respondents state that the show cause notice was not given to the petitioner as he was not effected "at the time of issue of show cause notice." Although it is admitted by the respondents that ultimately at the time of issuance of the seniority list, the petitioner was effected. However, as stated that the petitioner was not effected even at the time of the issuance of the show cause notice is also wrong. It is absolutely illegal

*SCBeejee*

and wrong to state that non-service of the show cause notice will not make the petitioner entitled for the benefit of the seniority as claimed by him because as stated above the letter of the Director General dated 5.8.1978 cannot supercede and cancel the provisions of the order dated 20.5.1971 and even otherwise the said letter would not be applicable to the case of the petitioner. It is not understood as to why the respondents have yet not disclosed the contents of the show cause notice dated 25.10.1977 and now the letter dated 5.8.1978 which was not disclosed to the petitioner earlier, it is absolutely clear that the same is not applicable to the petitioner as true facts were not disclosed to the Director General.

20. That the contents of paragraph 16 of the said counter affidavit are not admitted as stated therein and those of paragraph 13 and 14 of the writ petition are correct and reiterated. The reasons for the petitioner not appearing in the examinations of 1972 and 1973 have already been explained in the preceding paragraphs and they were due to the own mistake of the answering-respondents. It is wrong to state that the petitioner was to be reverted to his substantive post whereas on the other hand the petitioner ought to have been confirmed as Stenographer in 1972 itself, had the respondents given him an opportunity to appear in the tests. It is wrong to state that the petitioner continue to work as Stenotypist, on a purely temporary and on adhoc basis whereas he had been regularised as Steno-typist in the year 1968 which is clear from Annexure '1' to this writ petition.



*Sebaeagle*

The deponent of the said counter affidavit has deliberately made these false averments and allegations against the petitioner only to harm the petitioner and misguide this Hon'ble Court. As already stated earlier, the seniority fixed according to the instructions in letter dated 5.8.1978 are absolutely illegal. The petitioner is entitle to his due seniority alongwith the candidates who had passed in 1972 and in such a case he would be senior most amongst all those shown in Annexure-C.A'3'; as such the seniority list dated 17.11.1979 is arbitrary,unlawful and liable to be quashed by this Hon'ble Court.

21. That the contents of paragraph 17 of the said counter affidavit are wrong and denied and those of paragraph 15 of the writ petition are correct and reiterated. As admitted by the respondents themselves, vide order dated 20.5.1971 only the Steno-typist to appear in the tests and they alone were given the effect for the tests in 1972 and the petitioner was deliberately or under mistake, excluded for having been called and given an opportunity for this. It is further admitted by the respondents that the representation of the petitioner was rejected alongwith the representations of others without application of mind, as the representation of the petitioner was on a totally different basis and could not be clubbed alongwith others. It is absolutely wrong to state that the petitioner had notice of the examinations prior to 1974, detailed facts have already been stated above and it has been admitted by the respondents themselves in the inter-departmental communication that the

Annexure No.7) of  
writ petition



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petitioner was not given any such notice. Notice to another department in the same compound as that of the petitioner would certainly not amount to notice having been given to the petitioner. The mistake was certainly on the part of the answering-respondents and the petitioner cannot be put to a disadvantageous position for no fault on his part.

22. That the contents of paragraph 18 of the said counter affidavit are absolutely wrong and denied. There was no occasion for the petitioner to make any representation prior to 1978 after the declaration of the seniority list as he was not aggrieved by any orders earlier. It is itself admitted by the answering-respondents that the petitioner was not effected at the time of the issuance of the show cause notice on 25.10.1977 as he was being given his due seniority from the date of his confirmation which was in the year 1952, but it was only after the letter of the Director General dated 5.8.1978 that the petitioner was effected and he illegally was not given his due seniority. Hence, there is no question of the petitioner making any representation earlier. It is reiterated that the petitioner had no notice, constructive or otherwise to appear in any of the tests prior to 1974.



23. That the contents of paragraph 19 of the said counter affidavit are not admitted as stated therein and those of paragraph 16 of the writ petition are correct and reiterated. The order passed on 24.10.1979 has been passed mechanically without

application of mind and the petitioners case has not been considered properly. It is clear from the order itself that the Director General himself admits that there has been lapse on the part of the department by not including the name of the petitioner in the tests of 1972 and 1973 and it has been directed that the responsibility for the same may be fixed under intimation to the Director General.

24. That the contents of paragraph 20 of the said ~~counter affidavit~~ writ petition are correct and reiterated. The letter filed as Annexure- '8' is a copy of the letter dated 20.12.1975 written by General Manager, Telecommunication, U.P to the Director General, Post and Telegraphs in which also it is admitted that notice of the examination in 1972 and 1973 were not given to the petitioner inadvertently nor was any information sent to the Divisional Engineer Telegraphs, Long Distance Lucknow where the petitioner was working. It is admitted by the General Manager that Shri S.C.Banerjee appeared at the first possible opportunity in the year 1974, when he was informed of the test and qualified in the first attempt immediately. The case of the petitioner has been favourably recommended by the General Manager to the Director General. The copy of the letter dated 23.12.1978 as referred to in paragraph 17 of writ petition is filed as Annexure-R.A.'2' to this rejoinder affidavit.

25. That with regard to the contents of paragraph 21 of the said counter affidavit, it is submitted that the contents of paragraph 18 of the writ petition are correct and reiterated. the order

*Sealed*

dated 17.11.1979 on the representation of the petitioner is absolutely illegal and liable to be set aside by this Hon'ble Court.

26. That the contents of paragraph 22 of the said counter affidavit are wrong and those of paragraph 19 of the writ petition are correct and reiterated. The test held in accordance with the order dated 20.5.1971 was held in the year 1972 and although the petitioner was eligible for the same but he was admittedly not given any notice for the said tests for which the answering-respondents alone are responsible. The petitioner is entitled to be given seniority with effect from 1972 and hence he ought to be declared as the senior most Stenographer in the list of 38 Stenographers shown in Annexure '5' to the writ petition which seniority has illegally not given to him.

27. That the contents of paragraph 23 of the said counter affidavit are absolutely wrong and denied. The seniority of the petitioner has wrongly and illegally been fixed and this writ petition is liable to be allowed with special costs to the petitioner and he is entitled for the financial benefits which would have accrued to him with retrospective effect alongwith the damages and the interest which may be granted by this Hon'ble Court.

*S. S. Seeraj*

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The deponent abovenamed do hereby declare that the contents of paragraphs 1 to 27 of this affidavit are true to my personal knowledge; which I believe to be true that no part of it is false and nothing material has been concealed. So help me God.

*R. Banerji*  
Deponent

I, Ram Lakhlan Clerk to Sri Vineet Saran Advocate High Court Allahabad do hereby declare that the deponent is known to me from the papers produced before me by him.

*Ram Lakhlan*

Solemnly affirmed before me on this 11th day of October 1987 at 9-55 AM by the deponent who has been identified by said clerk.

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

*L. Lal*

Oath Commissioner.
High Court, Allahabad.
34/840.
11-10-87

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In the Hon'ble Central Administrative Tribunal  
Allahabad

Registration No.156 of 1987

S.C. Banerjee ... ... Petitioner  
Vs.

Union of India & others ... Opposite Parties

ANNEXURE R.A. 'I'

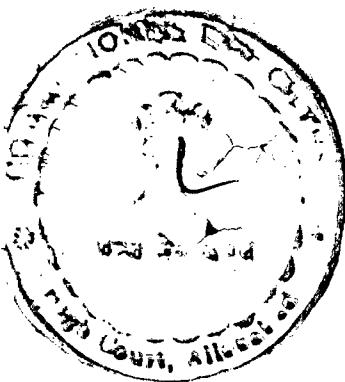
Copy of D.O. letter No. Staff/M-81/23/8 dated 12.11.80  
from Shri S.K.Pande, G.M. Telecom, UP Circle Lucknow  
addressed to Shri P.S.Joshi, D.D.G.(T) P&T Directorate.

My dear Joshi,

May I invite your kind attention to the  
~~REPRESEN~~ correspondence resting with your D.O.No.206/34/  
79-STN dated 8.9.80 regarding fixing of seniority of Shri  
S.C.Banerjee Stenographer. An interim reply in this  
connection was issued by Shri K.H.Khan, Dy. G.M. vide his  
D.O. of even No. dated 24.9.80. Another letter in the  
mean time has been received from Shri M.U. Khan, P.M.G. U.P.  
which has been addressed to you and copy endorsed to the  
undersigned wherein the P.M.G. has mentioned that since the  
seniority list of stenographers was processed and  
issued by G.M.Telemc vide his office letter No. Staff/M-  
81/23/3 dated 7.8.78 no further information was to be  
furnished by Postal Wing. A copy of this letter is  
enclosed at annexure I and II.

2. In D.G. P&T letter No. 206/34/79-STN dated  
24.10.79 in continuation to which you had written your D.O.  
letter dated 8.9.86, two points were mentioned as follows:-

- (i) That responsibility may be fixed for not  
including the name of the official Shri S.C.  
Banerjee in the test held in 1972 & 1973.
- (ii) To ascertain as to whether any representation  
was received from the officials regarding not  
allowing him in the test of 1972 and 73 when  
he was intimated about the examination in 1974.



(2)

3. Regarding issue (i) as already intimated to you earlier the examinations in 1972 and 73 were conducted by P.M.G. U.P. who had circulated the list of eligible candidates and as it is evident from the letter circulated from the office of the P.M.G. U.P. in 1972 & 73 (copies of which are enclosed at annexure II & III) the name of the official Shri S.C. Banerjee was not included in the list of the eligible candidates. As already indicated in this office Letter No. Staff/M-81-23/3 dated 2.1.79 addressed to P&T Directorate, it is a fact that Shri S.C. Banerjee was not informed about the tests held during 72 & 73 and he qualified the prescribed test during 1974 when he was intimated about the test in his very first attempt.

4. In view of the above it is felt that so far the question of fixing the responsibility is concerned the same will be ~~permitted~~ pursued with the P.M.G., U.P. Circle Lucknow for suitable action. However, so far as the disposal of the case goes there appears to be a definite slip on the part of the office i.e. not intimating Shri S.C. Banerjee who was then working on deputation under DET Long Distance Lucknow an organisation of R.D.T. ND. Since the official was working in another organisation other than the P&T Circle, his plea of not having known regarding the examination, particularly, when it was obligatory on the part of the department to have intimated him, appears to be tenable. As such it is felt that the request of the official for granting seniority along with the candidates having qualified in 1972 appears to be justified and acceptable, particularly in view of the fact that the official had qualified in the very first attempt when an intimation was given to him for appearing in the examination.



IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD

REGISTRATION NO. 156 of 1987

S.C.Banerjee ... ... ... Petitioner

VS

Union of India & Others ... ... Opposite parties

ANNEXURE R.A '2'

Copy of letter No.Staff/M-81-25/3 dated 23.12.1978 from the G.M.Telemc U.P.Circle to Director General P&T New Delhi-110001.

Subject: Fixation of seniority in the cadre of Stenographer

Shri S.C.Banerjee was a clerk working in the Lucknow Phones Division. He was declared qualified as Steno-typist by the PMG Lucknow vide his memo No. STB/12 XB/Ch.IV/8 dated 15.1.1969 and posted under DET Long Distance Lucknow.

In the year 1971 the DG P&T New Delhi ordered for converting these Stenotypist into Stenographers in the scale of 130-6-160-8-200-EB-8-280-EB-10-300 subject to their passing the test in stenography.

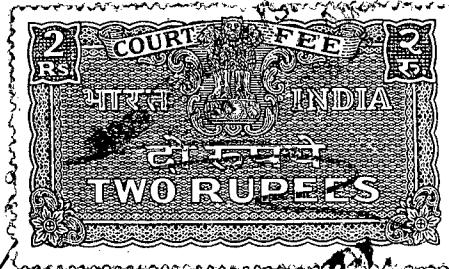
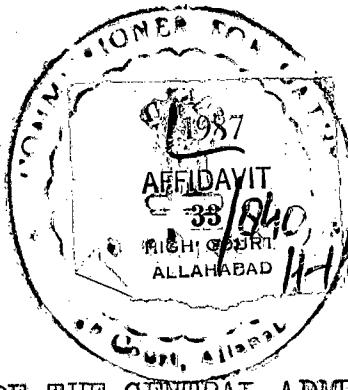
In compliance to above, a test was conducted by the PMG Lucknow vide his notification No. STC/M-22/72/4 dated 22.12.1972. This was circulated for information and necessary action to all the eligible candidates but the name of Shri S.C.Banerjee inadvertently left out. Also no information was given to the DET Long Distance Lucknow.

Again another test was conducted vide PMG Lucknow letter No.Staff/C/M-22/73/4 converted dated 7.2.1973. In this notification also copies to the candidates were given but the name of Shri S.C.Banerjee was again left out inadvertently and no copy was given to DET Long Distance Lucknow. At this stage it is not possible to fix the responsibility for this.

In the meantime Lucknow Phones District was formed in the year 1973. As such the next test was held in the year 1974 by the District Manager Telephones Lucknow who informed Shri Banerjee to appear in the Stenographers test. Shri Banerjee appeared in the test and qualified

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD.

REJOINDER AFFIDAVIT - II

IN

TRANSFER CASE NO. 156 (T) OF 1987

S.C. Banerjee

...

Petitioner

Versus

Union of India and others....

Respondents

Affidavit of S.C. Banerjee  
aged about 58 years S/o R.C.  
Banerjee, R/o C-733, Sector 'C'  
Mahanagar, Lucknow.

*Redacted*  
Redacted from  
S. C. Banerjee  
13.10.87

The deponent abovenamed do hereby solemnly  
affirm and state on oath as follows:

1. That the deponent is petitioner in this case and as such is well acquainted with the facts of the case deposed to below:
  
2. That the deponent has read the counter affidavit of Sri Saheb Dayal Sharma, Respondent No.4 and has understood the contents thereof.

2.

3. That the contents of paragraphs 1 and 2

of the said counter affidavit need no reply.

4. That the contents of paragraph No.3 of the

¶ said counter affidavit are wrong and denied and

those of paragraph Nos. 6 and 7 of the writ petition

are correct and reiterated. It may, however, be

stated that the petitioner was a Steno ~~XXXX~~ typist

and duly entitled to appear in the examination for

Stenographers in the year 1971 but was illegally

not informed of the same and was unable to appear

in the said examination as no notice was given to

him. It may be stated that the quasi permanent

and permanent clerks could not be entitled to appear

in the same examination of stenographers. It is

absolutely wrong to state that the letter dated

20.5.1971 was in the notice of the petitioner

whereas the petitioner had no knowledge whatsoever

of any such alleged examination for stenographers

nor was any such notice sent to the office where

the petitioner was working. The entire examination



*Sealed*

3.

was manipulated in order to favour some of the quasi permanent clerks like the respondent No. 4 who were actually not entitled to appear in the examination for stenographers. It may be submitted that no notice for holding the Stenographers' qualifying test in the years ~~1972~~ 1972 and 1973 was ever given to the petitioner or copy of the same was given to the office in which the petitioner was working on deputation and as such the petitioner had no knowledge of the same. It was for the first time in 1974 that the petitioner was intimated about the Stenographers test in which he qualified in the very first attempt. As regards the alleged first test on 23.4.1972 the petitioner had no knowledge of the same even at the time of the filing of the writ petition and it is only by the counter affidavit that the petitioner has learnt of any such examination held on 23.4.1972.



*SS:baue*  
The second part of paragraph 3 of the said counter affidavit is wrong and not admitted as

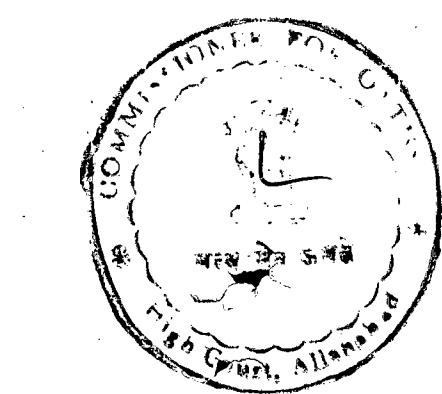
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stated therein. The respondent No.4 appeared in the stenographers test being illegible for the same as he was merely a quasi permanent clerk and was not entitled for the conversion of post to stenographer. However it is immaterial that the petitioner was working at Lucknow as neither his officers where he was working on deputation nor he was individually given any notice of the same and he had no knowledge of any stenographers test being held prior to 1974.

5. That the contents of paragraph 4 of the said counter affidavit are absolutely wrong and denied and those of paragraph Nos.8, 9 and 10 of the writ petition are correct and reiterated. The examination conducted by the District Manager Telephones Lucknow in 1974 was a perfectly legal and proper examination and the District Manager Telephones, as the head of the Circle at that time was competent to hold the Stenographers Test



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which was made clear by the District Manager Telephones, Lucknow vide his letter No. ST-34/5/18 dated the 9th June, 1981. However this question is not pertinent for the decision of this writ petition.

As regards the later part of the said paragraph under reply, it may be stated that there is no contradiction in the submissions made in the writ petition and it is reiterated that the District Manager Telephones, Lucknow being head of the Lucknow circle was fully competent to hold the examination and it is wrong to state that the Post Master General was competent to hold the test.

6. That the contents of paragraph 5 of the said counter affidavit are absolutely wrong and denied and those of paragraph Nos. 11, 12 and 13 of the writ petition are correct and reiterated. The petitioner is entitled to interse seniority not only



*Subba Rao*

6.

with effect from 1974 but from 20.5.1971 vide Director General Post & Telegraphs' letter No. 49/14/69-SPR-I dated 20.5.1971. Any averment~~s~~ to the contrary is absolutely wrong and illegal. The same being argumentative in nature shall be suitably replied at the time of hearing.

7. That the grounds stated in the counter affidavit are absolutely irrelevant and not material for the purposes of the writ petition. However, the grounds stated in the writ petition are correct and liable to be considered by this Hon'ble Court and the writ petition is liable to be allowed with costs throughout.



That the deponent abovenamed do hereby swear and declare on oath that the contents of paragraph Nos. 1, 2, 3, 4, 5, ~~and~~ 6 and 7 of this affidavit are true to my personal knowledge and that

*Sc Baigee*

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~~XXXX~~ no part of it is false and nothing  
material has been concealed in it.

So help me God!

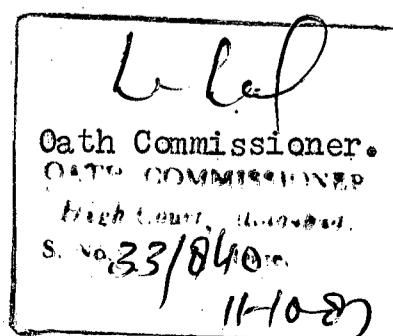
*Subaage*  
(Deponent)

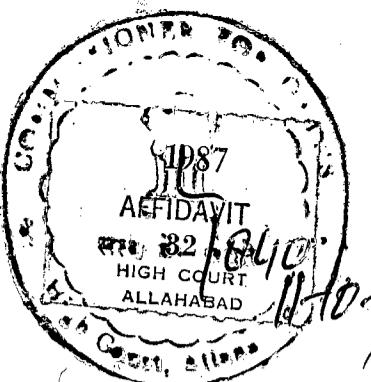
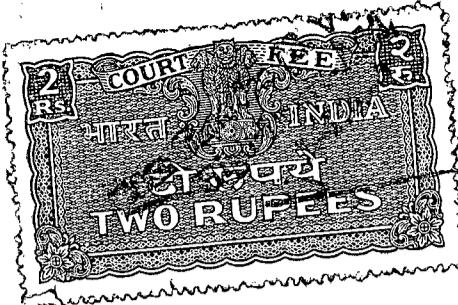
I, Ram Lakhan, Clerk to Sri Vineet Saran, Advocate,  
High Court, Allahabad, do hereby declare that the  
person~~x~~ making this affidavit, is known to me  
personally.

*Ramlakhan*  
(Ram Lakhan)

*Subaage*  
Solemnly affirmed before me this 11th  
day of October, 1987 at 9-50 A.M. by the deponent who  
is identified by the aforesaid clerk.

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





BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
ALLAHABAD.

REJOINDER AFFIDAVIT - III

IN

TRANSFER CASE NO. 156 (T) OF 1987

S.C. Banerjee

Petitioner

Versus

Union of India and others ...

Respondents

Affidavit of S.C. Banerjee  
aged about 58 years S/o R.C.  
Banerjee, R/o C-733, Sector 'C'  
Mahanagar, Lucknow.

The deponent abovenamed do hereby solemnly  
affirm and state on oath as follows:

1. That the deponent is petitioner in this case and as such is well acquainted with the facts of the case deposed to below:

2. That the deponent has read the counter affidavit of Sri N.C. Malhotra, Respondent No.5 and has understood the contents thereof.

3. That the contents of paragraphs 1 and 2 of the said counter affidavit need no reply.



Recd copy  
J. N. Malhotra  
13/10/87  
(Rep. No. 5)

Rejoined

2.

4. That the contents of paragraph No.3 of the said counter affidavit are wrong and denied and those of paragraph Nos.6 and 7 of the writ petition are correct and reiterated. It may, however, be stated that the petitioner was a Steno typist and duly entitled to appear in the examination for Stenographers in the year 1971 but was illegally not informed of the same and was unable to appear in the said examination as no notice was given to him. It may be stated that the quasi permanent and permanent clerks could not be entitled to appear in the same examination of stenographers. It is absolutely wrong to state that the letter dated 20.5.1971 was in the notice of the petitioner whereas the petitioner had no knowledge whatsoever of any such alleged examination for stenographers nor was any such notice sent to the office where the petitioner was working. The entire examination was manipulated in order to favour some of the quasi permanent clerks like the respondent No.5 who were actually not entitled to appear in the examination for stenographers. It may be submitted

*Seal*

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that no notice for holding the Stenographers' qualifying test in the years 1972 and 1973 was ever given to the petitioner or copy of the same was given to the office in which the petitioner was working on deputation and as such the petitioner had no knowledge of the same. It was for the first time in 1974 that the petitioner was intimated about the Stenographers test in which he qualified in the very first attempt. As regards the alleged first test on 23.4.1972 the petitioner had no knowledge of the same even at the time of filing of the writ petition and it only by the counter affidavit that the petitioner has learnt of any such examination held on 23.4.1972.

5. That the contents of paragraph 4 of the said counter affidavit are absolutely wrong and denied and those of paragraph Nos.8, 9 and 10 of the writ petition are correct and reiterated.

*S. Banerjee*  
The examination conducted by the District Manager Telephones, Lucknow in 1974 was a perfectly legal

4.

and proper examination and the District Manager Telephones, as the head of the Circle at that time was competent to hold the Stenographers test which was made clear by the District Manager Telephones, Lucknow vide his letter No. ST-34/5/18 dated the 9th June, 1981. However this question is not pertinent for the decision of this writ petition.



As regards the latter part of the said paragraph under reply, it may be stated that there is no contradiction in the submissions made in the writ petition and it is reiterated that the District Manager Telephones, Lucknow being head of the Lucknow circle was fully competent to hold the examination and it is wrong to state that the Post Master General was competent to hold the test.

6. That the contents of paragraph 5 of the said counter affidavit are absolutely wrong and denied and those of paragraph Nos. 11, 12 and 13 of the writ petition are correct and reiterated. The

*S. Chatterjee*

AT72

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petitioner is entitled to interse seniority not only with effect from 1974 but from 20.5.1971 vide Director General Post & Telegraphs' letter No. 49/14/69-SPB-I dated 20.5.1971. Any averment to the contrary is absolutely wrong and illegal. The same being argumentative in nature shall be suitably replied at the time of hearing.



7. That the grounds stated in the counter affidavit are absolutely irrelevant and not material for the purposes of the writ petition. However, the grounds stated in the writ petition are correct and liable to be considered by this Hon'ble Court and the writ petition is liable to be allowed with costs throughout.

*Sehawer*  
That the deponent abovenamed do hereby swear and declare on oath that the contents of paragraph Nos. 1, 2, 3, 4, 5, ~~and 6~~ and 7

A173

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of this affidavit are true to my personal knowledge and that no part of it is false and nothing material has been concealed in it.

So help me God!

SeBawage

(Deponent)

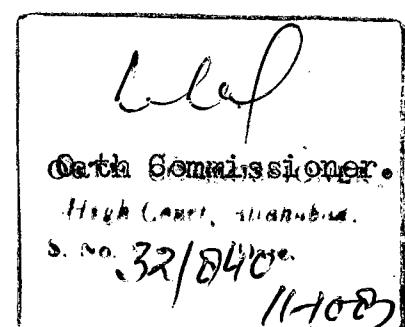
I, Ram Lakhman, Clerk to Sri Vineet Saran, Advocate, High Court, Allahabad do hereby declare that the person making this affidavit, is known to me personally.

Ram Lakhman

(Ram Lakhman)

Solemnly affirmed before me this 11th day of October, 1987 at 9-15 AM by the deponent who is identified by the aforesaid clerk.

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



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH

ALLAHABAD

CIVIL MISC. APPLICATION NO. \_\_\_\_\_ OF 1987

( Under Sec. 151 of the Civil Procedure Code)

ON BEHALF OF

RESPONDENT NOS. 1, 2 & 3 ..APPLICANTS

IN

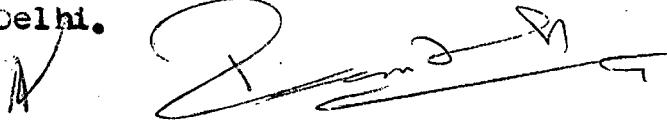
REGISTRATION NO. 1 OF 1987( T )

( Arising out of Writ Petition No. 191 of  
1980 filed before the Hon'ble High Court  
of Judicature at Allahabad, Lucknow Bench,  
Lucknow.

S.C. Banerji .. .. .. Petitioner

v\_e\_r\_s\_u\_s

1. The Union of India,  
through the Secretary,  
Ministry of Communications,  
Government of India,  
New Delhi.



ATTS

9/74

• 2.

2. The Director General,  
Posts and Telegraphs,  
New Delhi
3. The General Manager,  
Tele Communications,  
Uttar Pradesh Circle,  
Lucknow.
4. Sri Sahab Dayal, Adult,  
Father's name not known,  
P.A. to the Director of Finance and  
Tele Communication,  
Uttar Pradesh Circle,  
Lucknow.
5. Sri N.C. Malhotra, Adult,  
Father's name not known,  
P.A. to the Deputy General Manager,  
Tele Communications,  
Lucknow.
6. Sri Afq Ahmad Usmani, Adult  
Father's name not known  
working under the District Manager,  
Telephones,  
Lucknow.

*2/74*

A 76

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175

.3.

7. Sri S.N.Chatterji, Adult,

Father's name not known,

Steno to Senior Superintendent,

Telegraph Traffic,

Allahabad.

8. Sri J.P.Gupta, Adult

Father's name not known,

Steno to Chief Superintendent,

Central Telegraph Office,

Agra.

9. Sri S.R.Misra, Adult,

Father's name not known,

Steno to Divisional Engineer,

Telegraph,

Bareilly .. .. .. .. RESPONDENTS.

The applicants beg to submit  
as follows :

1. That full facts have already  
been given in the accompanying affidavit  
as well as in the main counter affidavit.



A/17

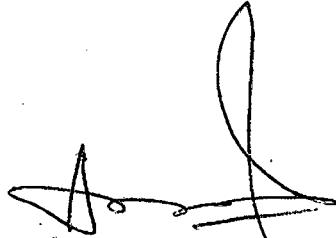
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P\_R\_A\_Y\_E\_R

It is, therefore, Most Respectfully  
prayed that in view of the facts enumerated  
in the accompanying supplementary affidavit  
this Hon'ble Court may graciously be pleased  
to dismiss the above noted writ petition  
filed by the petitioner challenging the  
seniority of respondent Nos. 4 & 5  
and their names may be deleted from the  
array of parties.

Dated : October , 1987 (Ashok Mohiley)  
Presenting Officer .



A178

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
ALLAHABAD

S\_U\_P\_P\_L\_E\_M\_E\_N\_T\_A\_R\_Y\_A\_F\_F\_I\_D\_A\_V\_I\_T

On behalf of Respondent Nos. 1, 2 & 3

IN

REGISTRATION NO. 1 OF 1987(T)

(Arising out of Writ Petition No. 191/1980)  
Filed before the Hon'ble High Court of  
Judicature at Allahabad, Lucknow Bench  
Lucknow.

S. C. Banerji .. .. .. PETITIONER

v\_e\_r\_s\_u\_s

1. The Union of India,  
through the Secretary,  
Ministry of Communications,  
Government of India,  
New Delhi.

2. The Director General,  
Posts and Telegraphs,  
New Delhi.



R. Banerji

•2.

3. The General Manager,

Tele communications,

Uttar Pradesh Circle,

Lucknow.

4. Sahab Dayal, Adult,

Father's name not known,

P.A. to Director of Finance and

Tele-Communication,

Uttar Pradesh Circle,

Lucknow.

5. Sri N.C. Malhotra, Adult,

Father's name not known,

P.A. to the Deputy General Manager,

Tele-Communications,

Lucknow.

6. Sri Afaf Ahmad Usmani, Adult,

Father's name not known

working under District Manager,

Telephones, Lucknow.

7. Sri S.N. Chatterji, Adult,

Father's name not known,

Steno to Senior Superintendent,

Telegraph Traffic,

Allahabad.

*Rawat*



A180

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179

•3.

8. Sri J.P.Gupta, Adult,  
Father's name not known,  
Steno to Chief Superintendent,  
Central Telegraph Office,  
Agra.

9. Sri S.R.Misra, Adult,  
Father's name not known,  
Steno to Divisional Engineer,  
Telegraphs, Bareilly .. .. RESPONDENTS.

A\_f\_f\_i\_d\_a\_v\_i\_t of

Ram Lal, aged about 56  
years, son of Sri Durga  
Prasad, Personnel Officer,  
Office of the General  
Manager, Tele Communica-  
tion, U.P. Circle, Lucknow.

- : DEPONENT : -



I, the deponent named above, do  
hereby solemnly affirm and state as follows

1.

That the deponent is working

*X - and -*

A 181

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.4.

as the Personnel Officer in the office of the General Manager, Tele-Communication U.P. Circle, Lucknow and has been authorised to look after the present case and to file this affidavit on behalf of respondent Nos. 1, 2 and 3 in the above mentioned case and, as such, he is fully acquainted with the facts of the case deposed to below :

2. That the petitioner by means of the aforesaid writ petition had challenged the order No. Staff/M-81/23/8 dated 17th of November, 1979 contained in Annexure '9' to the writ petition and had prayed for quashing the seniority list dated 7th of September, 1978 so far as it concerned the opposite party Nos. 4 to 9 and the petitioner.

He further prayed for a writ of mandamus commanding the opposite parties Nos. 1 to 3 to assign the petitioner's



*D. and E.*

A 182

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seniority on the post of Stenographer on the basis of his being treated to have qualified in the examination conducted in the year 1972 and to assign the seniority to him just above his immediate junior in the cadre of L.D.C./ Time Scale.

3. That in the counter affidavit filed on behalf of the department it has been averred that on creation of a cadre of Stenographer w.e.f. 20th of May, 1971 the existing Steno-typists who were working on special pay only were required to pass a speed test to become eligible for appointment as Stenographer.

These Steno-typists were entitled to one chance and those who either did not qualify or did not avail this chance were to be reverted to their substantive post. The petitioner did not appear in the test held on the 23rd of



*[Signature]*

.6.

April, 1971 or even in the next test held on the 21.1.1972 and as such was to be reverted to his substantive post/ due to but dearth of Stenographers in the department the petitioner along with others were detained to work as Steno-typist in purely temporary and ad-hoc capacity.

Accordingly in respect of such officials who could not pass the test but passed the test subsequently along with the outsiders, a reference was made to the Post and Telegraph Directorate for deciding their seniority. The Directorate had decided, under its letter No. 206/4/78-STN/SPB I dated 5th of August, 1978 that such officials will take their seniority according to their merit in a particular examination in which they had qualified.

The petitioner qualified in the year 1972 and his seniority was rightly fixed from 1974 in accordance with the

*X*

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Directorate General Instructions, referred  
to above.

4. That the Post Master General, U.P. Circle, vide his notice No. StaffC/M-22/71/10 dated 11th of August, 1971 informed for general information that it is proposed to hold a competitive examination for recruitment to the cadre of converted post of Stenographer in the scale of Rs.130-5-160-3-200 EB-3-EB-250-EB-10-300 in the office of the Post Master General, U.P. Circle, Lucknow.

It was notified that the existing Steno-typists and those who had held the post earlier at some stage or the other as well as the clerks permanent, quasi permanent are eligible to appear. Any departmental official who is eligible to appear in the above examination may apply for promotion.

~~Frank Ma~~

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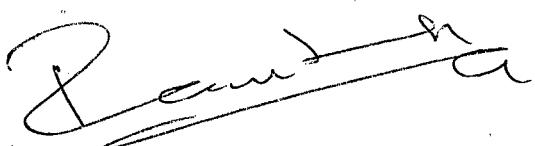
.8.

permission to appear in the examination through his Divisional Officer/existing gazetted head of office in the application form, a proforma of which is given on the reverse .

5. That a copy of the above mentioned circular dated 11th of August, 1971 was sent for display on the Notice-board of all the S.S.Ps, S.P.Os, S.S.R.M all DET/Phones etc. ◎

6. That from a perusal of the said notice it is evident that it was general notice for information of all concerned and nobody was called individually to appear in the test .

7. That the respondent No.4 sri Sahab Dayal Sharma in response to the



.9.

said notice dated 11th of August, 1971  
appeared in the said test conducted by the  
Post Master General on the 23rd of April, 1972  
and was declared successful vide Post  
Master General's Notice No. STC/M-22/71/4  
dated 16th of May, 1972.

8. That the petitioner  
in order to suppress the facts has  
intentionally referred to and relied upon  
the subsequent notice No. STC/M-22/72/4  
dated 22nd of December, 1972 in paragraph 6  
of the rit petition and has concealed the  
earlier notice dated 11th of August, 1971.

9. That it is submitted that  
as a result of the examination held on  
the 21st of January, 1973 for the  
appointment to the post of Stenographers  
on converted posts of Stenotypists in

*Ramdhara*



A 101

✓  
X/SL

•10.

pursuance to the of fice Memo No. Even dated 7th of July, 1972 no official could qualify in the examination and the petitioner was not at all effected by the said result as no one was appointed on the post of Stenographer on the basis of the examination held on the 21st of March, 1973 as no official could qualify in the aforesaid examination .

The petitioner by suppressing the aforesaid facts has impleaded some of the officials, respondent Nos. h h h and has challenged their seniority . Respondent Nos. h h h did not appear in the examination as they had appeared in response to the notice dated 11th of August, 1971 and were declared successful in the examination held on the 23rd of April, 1972 .



The reference of notice dated 22nd of December, 1972 by the petitioner

*Ramdev*

•11.

is of subsequent date and has no relevancy so far as respondent Nos. 4 and 5 are concerned as they had passed the examination eight months before the issue of notice dated 22nd of December, 1972.

10. That thus the mala fide intention of the petitioner is quite evident.

11. That it is, therefore, evident that the petitioner in order to make out his case has intentionally referred to the subsequent notice dated 22nd of December, 1972 in his writ petition and has concealed to refer the earlier notice dated 11th of August, 1971 under which respondent Nos. 4 and 5 had appeared in the examination and have been declared successful and have been

*Deo Jyoti*



•12.

declared successful and have nothing to do with the examination held in the notice dated 22nd of December, 1972.

12. That in view of the aforesaid facts it is submitted that the present writ petition is bad for misjoinder of respondent Nos. 4 and 5 and they have been unnecessarily arrayed as respondents in the writ petition .

13. That in view of the facts enumerated in the preceding paragraphs of this affidavit as well as in the main counter affidavit , it is Most Respectfully prayed that this Hon'ble Court may graciously be pleased to dismiss the present writ petition filed by the petitioner challenging seniority of respondent Nos. 4 and 5 and their names may be deleted from the arrary of parties .

*Ramsey*

A 190

A 189

•13.

I, the deponent named above,  
swear that the contents of paragraphs

~~lau~~ 182 — ~~lau~~  
~~lau~~ — ~~lau~~

of this affidavit are true to my personal  
knowledge, that the contents of paragraphs

~~lau~~ 3 to 13 — ~~lau~~

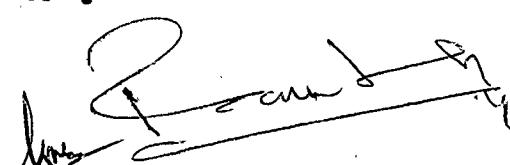
of this affidavit are based on perusal of  
the record; that the contents of paragraphs

~~lau~~ — ~~lau~~

of this affidavit are based on legal advice  
which all I believe to be true ; that nothing  
material has been concealed and no part of  
it is false.

So help me God.

TER FO:

  
DEPONENT

I, Ram Chander, Clerk to Sri Ashok  
Mohiley, Advocate, High Court, Allahabad  
declare that the person making this affidavit  
and alleging himself to be Sri Ram Lal

A191

A/98

•14.

is the same person and is personally known to me.

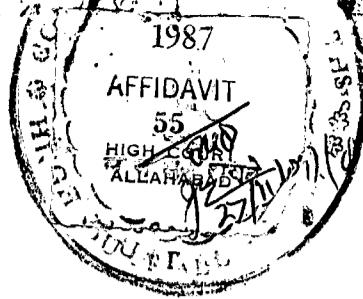
Mr Ramchandra

SOLEMNLY affirmed before me on this 13<sup>th</sup> day of October, 1987 at 10 am AM/PM by the deponent who has been identified as above.

I have satisfied myself by examining the deponent that he has fully understood the contents of this affidavit.

OATH COMMISSIONER.

Govind  
Govind  
S1/979  
(13.10.87)



A/192  
A/191

IN THE ~~CECIL~~ CENTRAL ADMINISTRATIVE TRIBUNAL: ADDITIONAL BENCH: ALLAHABAD.

Supplementary Counter Affidavit on behalf of : Respondents nos. 1, 2 and 3.

IN

Registration no. 156/87.

(Arising out of writ petition no. 191/80 filed in the High Court of Judicature at Allahabad: Lucknow Bench; Lucknow.)

S.C. Banerjee ... .. Petitioner.

Versus.

Union of India and others.. . Respondents.

Affidavit of Ram Lal, aged about 56 years, son of Sri Durga Prasad Personnel Officer, Office of the General Manager Telecom., U.P. Circle, Lucknow.

DEPONENT.

I, the deponent abovenamed do hereby solemnly affirm and state as under:

1. That the deponent is the personnel Officer in Office of the General Manager Telecom., U.P. Circle, Lucknow and as such he has been authorised to look after the aforesaid case on behalf of respondents nos. 1, 2 and 3 and as such, he is well acquainted with the facts of the case deposed to below.

2. That the deponent has read the rejoinder affidavit

*Ram Lal*

A/107

.2.

filed by Sri S.C.Banerjee in the aforesaid case and he has fully understood the contents thereof.

3. That in the rejoinder affidavit Sri S.C.Banerjee had stated several new facts and as such it has become necessary to give a suitable reply to the new facts alleged in the rejoinder affidavit which were not made in the writ petition itself.

4. That the contents of paras nos.1 to 5 of the rejoinder affidavit need no reply by means of this affidavit and the contents of para nos.1 to 5 of the counter affidavit of the answering respondents are reiterated as correct.

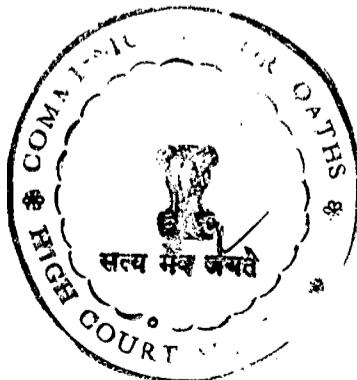
5. That ~~with regard to~~ the contents of para no.6 of the rejoinder affidavit are not correct and are denied. The petitioner in this paragraph has stated that " for the first time after filing of the counter affidavit the petitioner has come to know of the examination for conversion of post was <sup>held</sup> on 23.4.72 and the result of which was allegedly declared on 16.5.72." This statement is obviously false as the petitioner himself has filed a copy of G.M.T. R. & P. letter no. Staff/M-81-23/III 7/9/78 as Annexure-V to the writ petition .Paragraph no.1 of which is being reproduced as under:-

"Steno-typists/Clerks who had qualified in the first test held on 23.4.72 should rank senior to



.2.

those who qualified the subsequent examination". Further the seniority list of all the stenographers is also enclosed with it which shows the date of passing of various examinations of each stenotypist. The petitioner was ~~not~~ <sup>not only</sup> therefore, fully aware of this examination but also about the date of passing of various examination by each ~~official~~ mentioned therein. The petitioner has thus wilfully given false affidavit to suit his case. He has intentionally avoided to refer to the earlier notices dated 11.8.1971 and 7.7.72 as these notices were general notices which were not endorsed to any individual candidate/stenotypist but ~~were~~ <sup>in</sup> forwarded to all the officers concerned for U.P. Circle for information and for wide publicity. The application form for the examination for ~~intended~~ recruitment to the ~~conver~~ <sup>intended</sup> post of stenographers was also attached with these notices and all those who intended to appear in the examination were required to apply for taking permission to appear in the examination. The petitioner did not apply as he had ~~no~~ <sup>an</sup> intention to appear in the examination. The contents of para no.6 of the counter affidavit are reiterated and the contents of para under reply ~~convey~~ are denied. It is stated that the falsity of the petitioner's claim and the conduct of the petitioner is further illustrated by the fact that the petitioner is making wrong statements to mislead this Hon'ble Tribunal that he has come to know of the examination held on 23.4.72 and the result thereof after the counter affidavit was filed as alleged by him. In the writ petition which was



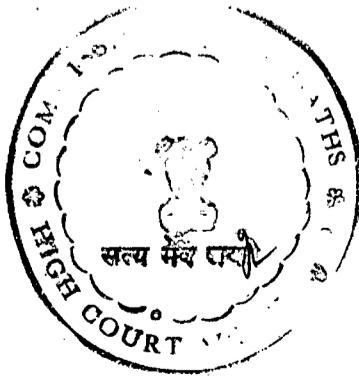
A195

199

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filed by the petitioner the petitioner had filed Annexure-VI , a copy of his representation dated 27th September, 1978 to Sri N.K.Mathur, General Manager, Telecom., U.P. Circle wherein para no.3 he has written as under:-

"That I was not at all informed of any test held on 23.4.72 by the P.M.G.U.P. and was completely kept in dark about the examination held on 23.4.72. It is a question of my career." This shows that the petitioner by making various wrong and misleading statements in the writ petition as well as in the rejoinder affidavit is trying to mislead this Hon'ble Tribunal. It is further stated that besides this it is also ~~the duty to~~ be made clear by the petitioner as to how he could come to know about the examination of 21.1.73 from the seniority list declared in 1978 when none of the officials mentioned therein has been shown to have passed the examination on 21.1.1973. The correct fact is that the petitioner was well aware of all the examinations and he intentionally and deliberately did not appear in the examination and has now at this stage after lapse of about six years had come up with the lame excuses of not having been informed of the examinations.



6. That the contents of para no.7 of the rejoinder affidavit are not admitted and the contents of para no.7 of the counter affidavit are reiterated as correct.

A196

R/196

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7. That the contents of para no.8 of the rejoinder affidavit are not admitted. It is reiterated that the general notice issued on 11.8.71 and 7.7.72 were issued to all the officers in U P. Circle and were also given wide publicity by displaying the same on the notice board. The proforma of application form for applying to the converted posts of stenographers' examination held in 1972 and 73 were also enclosed with the said notices and all the intending candidates were to appear in response to their notice for permission to appear in the examination of 1972-73 individual respectively. It is wrong to say that ~~individual~~ notices were sent for 1972 examination. The petitioner just to make out his case has wilfully referred to the subsequent notices dated 22.12.72 and has concealed to refer the earlier notices of 11.8.71 and 7.7.72 which were given wide publicity and were supposed to be in the knowledge of the individuals including the petitioner who intended to appear in the said examination of stenographer. It is further stated that besides the D.O. letter ~~no.~~ 12.11.1980 of Sri S.K.Pandey the then General Manager Telecom. U.P. Circle Lucknow was written in his personal capacity and was recommendatory in nature on sympathetic grounds looking at the old age of the petitioner as compared to qualified candidates who were much younger to the petitioner. Para no.2 sub-clause(1) of this D.O. letter read with its para no.3 makes clear that the then General Manager, Telecom.



*Revised*

A19

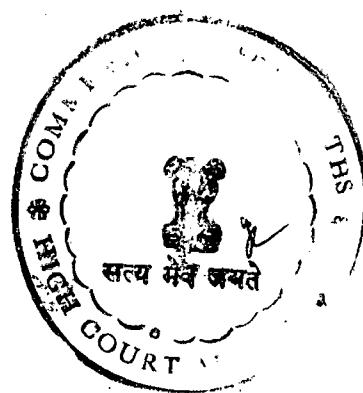
A/96

.6.

was himself not clear about the fact that for 1972 test no individual notice were given to any of the stenotypists and only general notice dated 11.8.71 was issued to all the officials of U.P.Circle.

This was because of the fact that ~~of the~~ tests were conducted by the P.M.G. ,U.P. and no material records were readily available before the G.M.T. <sup>absence of which</sup> in the Office, it was assumed that for 1972 examination as well individual notices were issued.

These recommendations were <sup>not</sup> accepted by the Directorate and were rightly rejected as the petitioner's case lacks merits. The recommendations on sympathetic considerations does not amount that the claim of the petitioner was justified on merits. It was gratuitous act on the part of the General Manager, Telocom. . It is further submitted that D.O. correspondence of the then G.M.Telocom. <sup>not</sup> which was <sup>not</sup> expected to be unauthorisedly obtained and made public by the petitioner. This was confidential communication and it was not expected from the petitioner to have filed such confidential correspondence with his writ petition. This act of the petitioner is unworthy of the conduct of a Government servant and tantamount to indiscipline and makes his integrity doubtful. The allegation of the petitioner regarding the change of principle/ method of fixing seniority in U.P.Telocom.Circle Lucknow is misconceived and is emphatically denied. The seniority of the officials who passed in



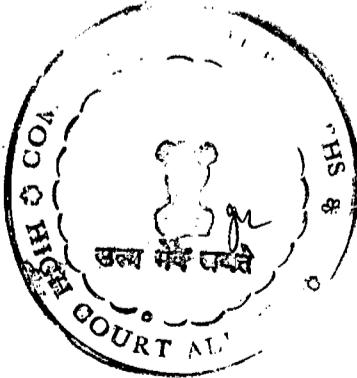
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subsequent examinations has been fixed according to para no.4-C of the Director General's letter dated 20.5.71 which is Annexure-4 A to the writ petition. It is further submitted that the assertions of the petitioner in para under reply that " Respondent no.3 admits that the petitioner 's claim just , genuine and acceptable but justice is being denied for protecting the interest of 27 officials." He further stated " inspite of this, steps have been taken by the General Manager, justice is not being done to the petitioner merely because if the same is done what about 27 persons who have been wrongly declared as senior to the petitioner would be aggrieved by the same" which reasoning is not understood and is highly illogical and illegal." is not correct. It is stated that this letter was written by the A.G.M. and not by G.M.T.. These recommendations were not accepted by the Directorate after looking into the facts of the case of the petitioner and the Directorate found that the claim of the petitioner is not worthy of consideration. It is denied that his claim was ever accepted and found just by the General Manager. It is stated that the General Manager rightly did not interfere with the examinations held on the mere complain of the petitioner as he found that the claim of the petitioner has become stale the examinations were held in the year 1972 and 1973 and the petitioner



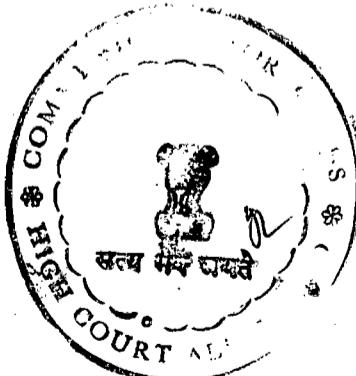
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was making grievances about those examinations in 1978 for the first time. Except the petitioner none had any grievance about those examinations in the department. The fact, therefore, remains that the petitioner allowed six years to go by before making a complaint about his grievances. In the meantime these stenotypists who had passed the examinations have become regular stenographers and had gained seniority in the service and some of them have retired. Therefore, those who continue to work as stenographers could justifiably think that as there was no challenge to their appointments within the period prescribed for a suit they could look forward to further promotion and higher benefits of retirement. The petitioner has not given any satisfactory explanation of delay in filing the present writ petition and it is stated that the petitioner's present writ petition is liable to be dismissed on this ground alone. It is further submitted that the whole case of the petitioner is that he was well aware that as per Director General, P&T letter dated 20.5.1971/there would be only one test for the recruitment to the converted post of stenographers. At the first instance the petitioner wilfully avoided to appear in the test held on 23.4.72 and subsequently in the year 1973 and later on when he came to know that in subsequent year notice dated 22.12.72 on the basis of which examination was held on 21.1.1973 notice were endorsed to all the steno-typists. He woke up



were endorsed to all

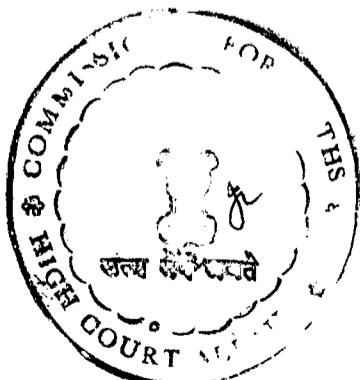
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as late as after six years of the examination to complain that in the previous years individual notices were not given to the steno-typists and that he had not received any individual notice and he had no information about the said examination. It is stated that the candidates who qualified the examinations held in the years 1972/73 have better claim for the seniority of the petitioner who cannot in any circumstances be given seniority over them for non of their fault and has already stated above the petitioner having raised up this issue after six years is not entitled to any relief or to disturb the seniority of the persons already appointed.

8. That the contents of para no.9 of the rejoinder affidavit are incorrect and not admitted. It is stated that the petitioner was aware of the fact that there would be one one test and he would be appointed as a stenographer only after passing this test as Director General's letter dated 20.5.1971 was in his notice. It is clear from para no.2B of the letter .



9. That the contents of para nos.10 and 11 of the rejoinder affidavit are not admitted and the contents of para nos.7 and 8 of the counter affidavit are reiterated as correct. It is further stated that along with notice dated 11.3.71 and 7.7.72 the proforma of the application form for permission to appear in the recruitment examination

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was also enclosed and all eligible candidates who wish to appear in the said examination were required to submit their application form to the P.M.C., U.P. for permission to appear in the said examination. It was, therefore, for the petitioner to have applied for the examination. As per Director General's letter dated 20.5.1971 all the clerks (quasi permanent and permanent) were also eligible to appear in the said test and as such it was, therefore, neither obligatory nor practicable to ~~issue~~ issue notices ~~to~~ <sup>to</sup> the individually to all the eligible officials ~~for~~ for the said examination. Accordingly, general notices were sent on 11.8.71 and 7.7.72 to all the officers of U.P. Circle for giving wide publicity of the examination. The petitioner is referring to the subsequent notice dated 22.12.72 for subsequent examination wilfully concealing the general notice of 11.8.71 and 7.7.72 for the test held on 23.4.72 and 21.1.1973 respectively. It is submitted that it has already been stated in the preceding paragraphs ~~xxix~~ that D.O. letter of the G.M.T. dated 12.11.80 based on his personal feelings was recommendatory in nature on ~~compassionate~~ compassionate & sympathetic ground considering the old age of the petitioner which ought not to have been misused by the petitioner. The examinations of 1974 which <sup>were</sup> ~~were~~ conducted by the D.M.T. Lucknow was of the district level to cope up with the need of the stenographers for the Office of D.M.T. Lucknow. The petitioner who qualified this



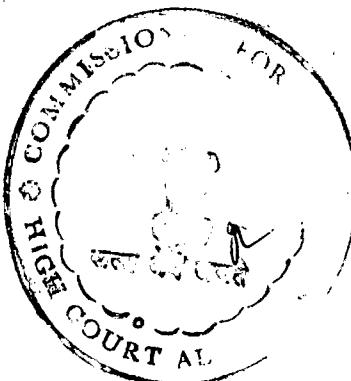
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examination in the year 1974 was also given his seniority accordingly. The manner in which the petitioner has managed to obtain the personal correspondence of the Head of circle and has misused it in such an irresponsible way is ~~marked~~ proof of his sense and devotion towards his duties and is liable to be dealt with departmentally.

10. That the contents of para no.12 of the rejoinder affidavit are misconceived and the contents of para no.7 of the counter affidavit are reiterated as correct. It is stated that the information in para no.7 of the counter affidavit was based and derived from the facts of the case. The D.G.'s letter dated 20.5.71 was admitted by the petitioner in para no.14 of his rejoinder affidavit was in his notice and it was clear to him that Stenotypist cadre will discontinue as the stenographers cadre have been created and a test to fill up the converted post of stenographers will be conducted by the P.M.G. He knew that it would be a competitive examination if he did not appear he will be reverted back. P.M.G. conducted a number of examinations giving the wide publicity to number of officials appeared from various divisions of U.P. Circle. The results were displayed. The petitioner was posted at Lucknow the Head-quarter of P.M.G. therefore, he should have taken care of confirming the date of such test in his own interest but he remained silent and did not



*Deepte*

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raise any objection is a sufficient proof that he did not possess the required speed in typing and shorthand. His contention that he passed the test in first attempt in 1974 does not prove that he had the requisite speed in 1972. It appears that he took sufficient time to prepare himself.

11. That the contents of para no.13 of the rejoinder affidavit are totally false and emphatically denied and the contents of para no.9 of the counter affidavit are reiterated as correct. From the averments made in the fore-going paragraphs as well as on the basis of the record relied on by the petitioner it is proved also beyond doubt that the petitioner was well aware of the position and he wilfully avoided to appear in the said test. The petitioner's case is time barred and lacks merits and is liable to be rejected summarily on this ground alone.

12. That the contents of para no.14 of the rejoinder affidavit are absolutely correct and not admitted and those of para no.10 of the counter affidavit are reiterated. It is stated that it has been made clear that general notice for the examinations of 1972 and 73 were notice to all the officers in the U.P. Circle. These notices were not endorsed to any individual but given wide publicity by the officials and those who intended to appear in the examination filled up the application form

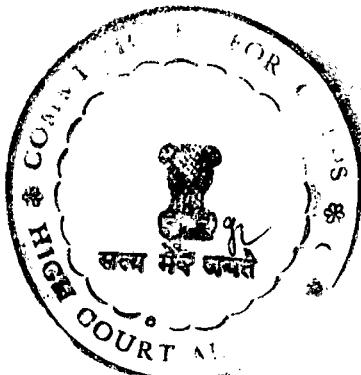


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a specimen of which was already available with these notices. The subsequent notice referred to by the petitioner in this paragraph and in para no.10 of the counter affidavit was sent to D.E.Phones which was the parent office of the petitioner. It is strange that the petitioner had admitted to have knowledge of the Director General's letter dated 20.5.71 but he is disputing his seniority which is based on para no.4-C of the said letter.

13. That the contents of para no.15 of the rejoinder affidavit are not admitted and the contents of para no.10 of the counter affidavit are reiterated as correct. A perusal of the letter dated 8.2.74 and 19.2.74 issued by D.M.T., U.P. Lucknow will go to show that it was an examination ~~form~~ for the recruitment of stenographers in the Office of the D.M.T. Lucknow whereas the letter dated 20.5.71 issued by the Director General, P.&T, New Delhi was for the examination for the recruitment to the converted post of stenographer in U.P. Circle. The petitioner, being a senior official ought to have noticed the difference between the two communications and even at that stage he ought to have protested his grievance but the petitioner's case lacks merits and by ~~that~~ <sup>that</sup> time he had no ~~pretension~~ <sup>time</sup> to represent and ~~then~~ he did not do so.



14. That the contents of para no.16 of the

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rejoinder affidavit need no reply except for the fact that the examination passed by the petitioner in the year 1974 was of district level for the Office of D.E.T. ~~W.H.~~ Lucknow and not one prescribed by the Director General vide letter dated 26.5.71.

15. That the contents of para no.17 of the rejoinder affidavit are not admitted and the contents of para no.13 of the counter affidavit are reiterated as correct. The petitioner did not appear in the examination held by P.M.C., U.P. in the year 1972 and 1973 and had passed the examination held by D.M.T., ~~W.H.~~ Lucknow in the year 1974. His seniority has, therefore, correctly been fixed in view of the existing orders issued by P&T D.G. Telecom./New Delhi according to his date of passing the said examination.

16. That the contents of para no.18 of the rejoinder affidavit are argumentative in nature and are not admitted. The true facts and order of the Director General, Telecom.P&T. which has statutory force of law have been mentioned in para no.14 of the counter affidavit and the same are reiterated as correct.



17. That the contents of para no.19 of the rejoinder affidavit are not correct and are

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emphatically denied. The correct position has been explained in para no.15 of the counter affidavit which is reiterated to be correct.

18. That the contents of para no.20 of the rejoinder affidavit are absolutely incorrect and are not admitted. The correct position has been explained in para no.16 of the counter affidavit which is reiterated. It is submitted that the petitioner had admitted in his rejoinder affidavit that he was in the knowledge of the D.G.'s letter dated 20.5.71. It was in accordance with that letter that only one test for the recruitment to the converted post of stenographer was to be held and those who has not qualified in the said test or failed to avail the chance were to be reverted back. Although notice to this effect was issued on 11.8.1971 and in the same manner notice dated 20.5.71 was ~~also~~ issued. It is very strange that ~~him~~ the petitioner being fully aware of the contents of the letter dated 20.5.1971 did not avail of that opportunity and wilfully abstained from appearing in the said examination. It was due to the dearth of stenographers in U.P. Circle that several other tests were held and the persons who did not qualify /appear in the said examination were allowed to work as steno-typists. The petitioner ~~have~~ knowledge of the letter dated 20.5.1971 ought to have known ~~that~~ <sup>that after</sup> the conversion of the post of steno-typist to that of stenographer



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the question of his continuance as steno-typist does not arise.

19. That the contents of para no.21 of the rejoinder affidavit are wrong and are not admitted. and the contents of para no.17 of the counter-affidavit are reiterated as correct. The petitioner has again given false statement on oath that only steno-typists were eligible to appear at the test of 1972 vide order dated 20.5.1971. As this is the matter of record the Hon'ble Tribunal may kindly verify that <sup>not</sup> only steno-typists <sup>but</sup> <sup>also</sup> quasi permanent clerks were ~~not~~ eligible to appear in the said test vide para 2-B of the Director General', P&T letter dated 20.5.1971 , which is Annexure-IV A to the petitioner's writ petition. The notice for the examination of 1972 and subsequent examination were sent to all the D.E. Telegraph/Phones in U.P. Circle and was given wide publicity by pasting the same on the notice boards in respective offices. The petitioner had full information of the test held but he avoided to appear deliberately.



20. That the contents of para no.22 of the rejoinder affidavit are incorrect and are not admitted. The petitioner has ,in vain,filed the

*Om Prakash*

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belated writ petition to confuse the whole issue regarding the issue of his inaction and non-representation with that of show cause notice which is not admitted. <sup>u</sup>that the petitioner was <sup>u</sup>in know of the examination held on 23.4.72 and its result which was declared on 16.5.1972 .

21. That the contents of para no.23 of the rejoinder affidavit are not admitted. and those of para no.19 of the counter affidavit are reiterated as correct. It is stated that it has already been stated that the notice for the examination of 1972 as notified by the Director of General, P & T letter dated 20.5.1971 was circulated on 11.8.71 as a general notice and was not endorsed to individual steno-typists. It was only the notice dated 22.12.1972 in respect of examination held of 21.1.1973 that the name of the petitioner was not included but the notice was sent to the <sup>D.E.</sup> <sup>Mucknow</sup> ~~Director~~, Phones for wide publicity.

22. That the contents of para no.24 of the rejoinder affidavit are not admitted. The contents of the letter was examined in the Directorate and the Directorate was not agreed to the recommendations of the General Manager, Telecom. On examination of the whole issue along with various records and the position taken by the Directorate was perfectly justified in <sup>the view of</sup> the facts

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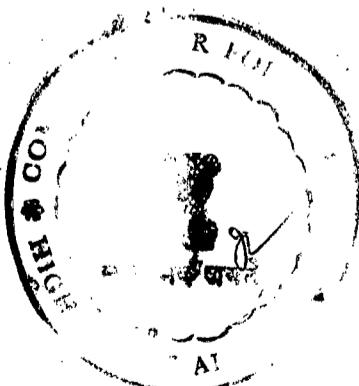
and circumstances disclosed ~~in the rejoinder affidavit~~ in the counter affidavit and the present affidavit.

23. That with regard to the contents of para no.25 of the rejoinder affidavit it is submitted that the contents of para no.21 of the counter affidavit are reiterated as correct.

24. That the contents of para no.26 of the rejoinder affidavit are incorrect and are not admitted and those of para no.22 of the counter affidavit are reiterated as correct. It is stated that the petitioner did not intentionally appear in the test held in the year 1972 and 1973. He passed the test in the year 1974. Therefore, he has ~~no~~ claim for seniority over those candidates who passed the test in the year 1972 and 1973. The petitioner had knowledge about the test having taken place even then the petitioner made no grievance and for the first time he made a grievance about holding of the said tests in the year 1978 after ~~paid~~ period of six years. The petitioner's claim is highly belated and is liable to be rejected on this ground and the seniority of the persons who had appeared in the examination held earlier and who had passed the ~~are in~~ test is ~~not~~ liable to be interfered ~~by~~ with on the ~~flimsy~~ grounds raised by the petitioner.

25. That the contents of para no.27 of the

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rejoinder-affidavit being wholly incorrect, are not admitted and the contents of para no. 23 of the counter affidavit are reiterated as correct. It is stated that the present petition is wholly misconceived and is barred by laches of limitation and is liable to be rejected.

I, the deponent abovenamed, do hereby verify and declare that the contents of para nos.

*g* .. .. *g* ..  
of this affidavit are true to my personal knowledge; those of paras nos. *g* .. *g* .. *g* ..

*g* .. .. *g* ..  
of this affidavit are based on information received from perusal of the papers on record; those of para nos. *g* .. *g* .. *g* ..

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



So help me God.

*Ramdas D*  
\_\_\_\_\_  
Deponent.

I, Ashok Mohiley, Advocate, High Court, Allahabad do hereby declare that from perusal of the papers which the deponent produced before me I am satisfied

*Allison*

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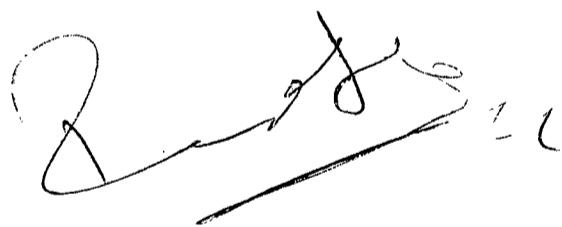
that he is the same person making this affidavit  
and alleging himself to be Sri Ram Lal.

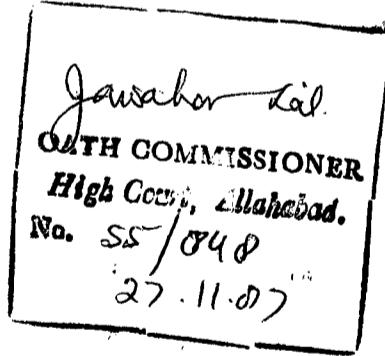
Advocate.

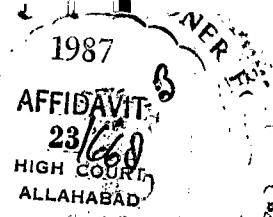
Solemnly affirmed before me on this 27<sup>th</sup> <sup>19</sup>  
~~November~~ Day of ~~October~~, 1987 at 8/10 a.m. ~~1987~~ by the  
deponent who is identified by the Advocate aforesaid.

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

Oath Commissioner







In the Hon'ble Central Administrative Tribunal  
Allahabad

Registration No. 156 of 1987

S.C.Banerjee ----- Petitioner

VS  
Union of India & others ----- Opposite parties

Counter

Supplementary affidavit on behalf of O.P.No.4

I, Saheb Dayal Sharma aged about 42 years  
s/o Shri Kewal Ram Sharma, resident of 559 Kha/340  
New Srinagar, Alambagh, Lucknow do hereby solemnly  
affirm as under:

That the deponent is Opposite party no.4  
in the above noted case and is therefore well conversant  
with the facts deposed to hereunder:

1. That the deponent No.4 intends to file a copy  
of the Notice no. Staff C/M-22/71/10 dated 11.8.71  
(Annexure-A) issued by the PMG. This is with reference  
to PMG's Memo No. STC/M-22/71/4 dated 16.5.72 already  
filed as annexure-II to the counter affidavit submitted  
on 18.8.87.

2. That a perusal of PMG's notice No.  
Staff C/M-22/71/10 dated 11.8.71 (Annexure-A) will  
reveal that it was a general notice and nobody was  
called individually to appear in the test.

3. That the petitioner only to make out his  
case has intentionally referred & relied upon  
subsequent notice no. STC/M-22/72/4 dated 22.12.72

S. Chaurasia

Contd. at P.2/...

Recd copy through  
O.P. on 13.10.87  
of S. Chaurasia

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in para 6 of his writ petition and concealed to refer earlier notice dated 11.8.71.

4. That the petitioner has made deponent No.4 as opposite party only to harass him as deponent No.4 is unconcerned with the PMG notice dated 22.12.72 relied upon by the petitioner in para 6 of his writ petition. In fact the deponent no.4 in response to PMG notice dated 11.8.71 appeared in the test conducted by the PMG on 23.4.72 & was declared successful vide PMG No. STC/M-22/71/4 dated 16.5.72 (Annex-II to counter affidavit). Thus the notice dated 22.12.72 referred to and relied upon by the petitioner in para 6 of his writ petition is of no consequence so far deponent no.4 is concerned.

R.D. Sharma  
Deponent

Verification

I, Saheb Dayal Sharma the deponent no.4 do hereby verify that the contents of paras 1 to 4 above are true to my personal knowledge. No part of it is false and nothing material has been concealed. So help me

S.D.

B.

R.D. Sharma  
Deponent.

This is to identify that Shri Saheb Dayal Sharma deponent no.4 who has signed in my presence.

I verify that he is the same person who is making this affidavit and is known to me from the 'perusal of the records' which he has produced.

Ravish  
12/10/87

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Solemnly affirmed before me on this 12th day  
of October, 1987 at 9:05 A.M. by the deponent who  
has been identified by the aforesaid clerk.

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

Oath Commissioner

anwalt

Mr. B. D. Doherty	OATH COMMISSIONER
23/668	12-10-87
Date...	

DEPARTMENT OF POSTS AND TELEGRAPHS

OFFICE OF THE POSTMASTER GENERAL, U.P.CIRCLE

Annexure-A

A215

No. Memo No. Staff C/M-22/71/10 dated at Lucknow the 11.8.71

Subj: Examination for recruitment to the converted posts of stenographers.

It is proposed to hold a competitive examination for recruitment to the cadre of converted posts of stenographers in the scale of Rs.130-3-160-8-200 EB-3-EB-200-EB-10-300 in the Office of the Post Master General U.P.Circle, Lucknow. The number of vacancies, the date, time and venue of examination will be intimated to the candidates later on. One Hindi knowing stenographer is also required.

2. The examination will comprise of a test in shorthand and transcription as also a test in typewriting. The dictation in stenography will be given at a speed of 80 words per minute comprising of 800 words in English which will be required to be transcribed on typewriter within 40 minutes. The typing test will comprise of typing of a piece of 400 words at a speed of 40 words per minute. 5% mistakes/omissions will be allowed in each test.

3. The existing Stenotypists and those who had held the post earlier at some stage or other as well as clerks, permanent, quasi-permanent are eligible to appear. Any departmental official who is eligible to appear in the above examination may apply for permission to appear in the examination through his Divisional officer/ Gazetted head of office in the application form a proforma of which is given on the reverse. The Divisional officer or the head of the office will entertain the applications received by him upto 4.9.71 and forward them after verification and recommendation to his office by 10.9.71. In respect of officials not recommended due to unsatisfactory service record; CRs should also be sent.

Wide publicity should be given to this notice amongst the eligible staff by Divisional officers or head of offices so as to permit clear 3 months notice to any intending candidate.

The receipt of this letter should be acknowledged.

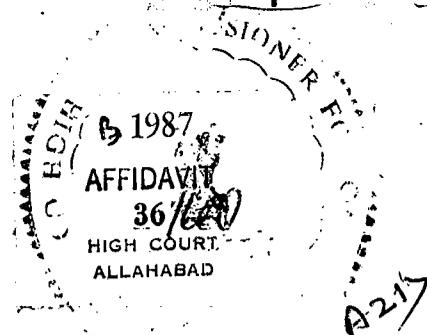
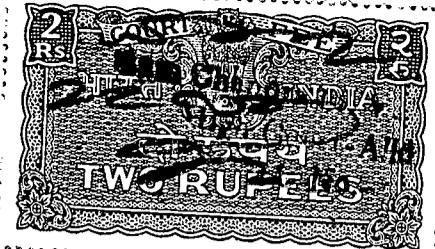
Sd/ Shri L.C.Ram  
For Post Master General U.P.

Copy to all:

1. All SPGs/SPOs/SSPMs
2. All DEst/Phones
3. The C.S.CIO Agra/Supdt.CIOs/DEs, SSITs.
4. Supdt P.S.O.Lucknow
5. Supdt. P.S.F.S.Aligarh
6. Manager R.L.O.
7. All Head clerks in C.O.Lucknow
8. Office notice Board in C.O.Lucknow
9. Accounts Officer, Telecom Accounts, Lucknow

Rehd  
Bhupinder Nath Dubey  
OAT COMMISSIONER  
Lucknow, Allahabad  
23/6/68  
12/8/71

88/29/19



In the Hon'ble Central Administrative Tribunal  
Allahabad

Registration No. 156 of 1987(T)

S.C. Banerjee ----- Petitioner

VS

Union of India & others - Opp. parties

*Read copy  
Karan  
29/1/85*

Supplementary counter affidavit on behalf of  
Respondent no.4 in reply to Rejoinder Affidavit II

1. I, Saheb Dayal Sharma aged about 42 years s/o  
Shri Kewal Ram Sharma, resident of 559 Kha/340  
New Srinagar Alambagh Lucknow do hereby solemnly  
affirm as under. That the respondent is opposite  
party no.4 in the above noted case and is therefore  
well conversant with the facts deposed to hereunder:

2. That the respondent has read the Rejoinder Affidavit II of Shri S.C. Banerjee,  
petitioner and has understood the contents thereof.

3. That the contents of paragraphs 1 to 3 of  
the said Rejoinder Affidavit II need no reply.

4. That the contents of para 4 of the said  
rejoinder affidavit II are wrong and denied.  
It is reiterated that D.G. letter No. 49/14/69-SPB.  
dated 20.5.71 was in the notice of the petitioner as  
admitted by him in para 12 of his W.P.

That the petitioner in order to mislead this  
Hon'ble court has raised a new issue that quasi Permanent

*SD Sharma*

Contd. at P.2/...

permanent clerks were not eligible to appear in the stenographers examination. This statement is contrary to the instructions contained in para 2B of D.G. P&T letter dated 20.5.71 (Annex.4A to the WP). It may, however, be stated that the respondent no.4 <sup>was</sup> appointed as stenotypist vide PMG No. Staff A/441 XS/Steno/8 dated 07.12.65 (Annexure-I)

That the petitioner's statement that even at the time of filing W.P. he had no knowledge of the examination conducted on 23.4.72 is false. He has himself filed Annexure-5 to his WP - seniority list of stenographers - indicating the date of passing the examination by the respondent no.4 as 23.4.72. The petitioner just to make out his case has willfully referred to subsequent notice dated 22.12.72 in paragraph 6 of his Writ petition and had concealed to refer to earlier notices dated 11.8.71 & 7.7.72 as these were general notices and nobody was called individually to appear in the examination & copies of these notices were given to all officers in U.P. It is reiterated that the petitioner has made respondent no.4 as opposite party to harass him as respondent no.4 had passed the examination 8 months before the issue of the said notice dated 22.12.72 relied upon in paragraph 6 of W.P.

5. That the contents of paragraph 5 of the rejoinder affidavit-II are false and denied. That the PMG who was head of the P&T in U.P. was alone authorised to make recruitment for

stenographers cadre. The petitioner's statement that DMT Lucknow was head of the circle is false as DMT is incharge of Lucknow Telephone District only. The petitioner has not referred to any rulings from the Director General P&T which makes the DMT Lucknow competent to conduct examination on circle level, he has cited a letter from DMT Office Lucknow whose authority is itself disputed. It is reiterated that there is contradiction in the statement of the petitioner in para 8 of WP which he has failed to clarify in rejoinder as he is confused whether he appeared in " recruitment examination" or "examination for the converted posts". A perusal of DMT Lucknow letter dated 8.2.74 & 19.2.74 (Annexure-III & IV to counter affidavit) will reveal that the petitioner was appointed in a recruitment examination conducted in 1974 by the DMT Lucknow for his office and not for converted posts of stenographers at circle level.

6. That the contents of para 6 of the rejoinder affidavit-II are wrong and denied. That the petitioner had no suitable reply to the paragraph 5 of the counter-affidavit so he has adopted face saving device that it will be replied in arguments. In fact the examination passed by the petitioner was not in terms and conditions of D.G. P&T No. 49/14/69-SPB.I dated 20.5.71 and not at par with

*SDS:htms* Contd. at P.4/...

A221

-5-

I, Ram Naresh Mishra, clerk to Shri Shekhar Srivastava, Advocate, do hereby declare that the person making this affidavit and alleging himself to be Shri Saheb Dayal Sharma is known to me <sup>personally</sup> ~~from the perusal of B papers and I identify him as the deponent.~~

*Ram Mishra*

Clerk.

Solemnly affirmed before me this 28th October, 1987 at ~~10.00 A.M./P.M.~~ by the deponent who has been identified as aforesaid.

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

Oath Commissioner.

*834.10*

Bafferty Naresh Dubey	
S.	36/668
Date.	28/10/87

*SD Sharma*

- 6 -  
Annexure - I

A 222

(1)

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

OFFICE OF THE POSTMASTER GENERAL U.P.CIRCLE

A 220

Memo No. Staff.A/441-XS/Steno/8 dated at LW the 7-12-65.

Shri Saheb Dayal, an outside approved candidate is temporarily and provisionally appointed as Stenotypist in the scale of Rs.110-3-131-4-155-EB-4-175-5-180 plus Rs.25/- (Rs.Twenty five only) special pay plus usual allowances and is attached to the Accounts Officer, Savings Bank Internal Check Organisation, Varanasi.

(2) He should clearly understand that his appointment is purely temporary and will not confer on him any right for permanent absorption in the P&T Department.

(3) He will not be entitled for any travelling allowance or joining time to join his appointment. He should join his appointment immediately.

(4) Charge report should be submitted.

Sd/- D.S.Sakalkale  
Director Postal Services U.P.

Copy to:-

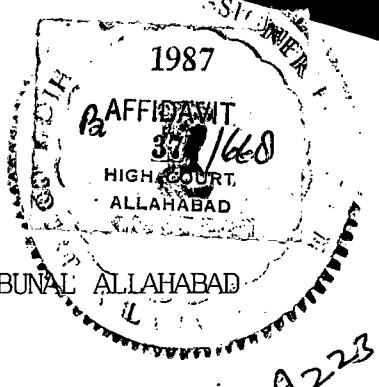
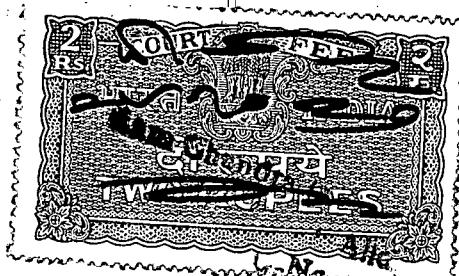
Dayal

1. Shri Saheb Dayal s/o Shri Kewal Ram 122-D-Sleeper Hut, II Storey(NEW) Alambagh, Lucknow
2. P.F. of the official
3. The Accounts Officer, S.B. Internal Check Organisation Varanasi
4. Postmaster Varanasi
5. Spare

Sd/- G.N.Tandon  
For Director Postal Services, U.P.

Sd/- G.N.Tandon

1/21/87  
IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD



Registration No.156 of 1987 (T) A 221

S.C.Banerjee \_\_\_\_\_ Petitioner

V/S

Union of India & others \_\_\_\_\_ Opp. parties

*Reed by  
Karan  
29/1/87*  
Supplementary counter affidavit on behalf of Respondent No.5 in reply  
to Rejoinder Affidavit III.

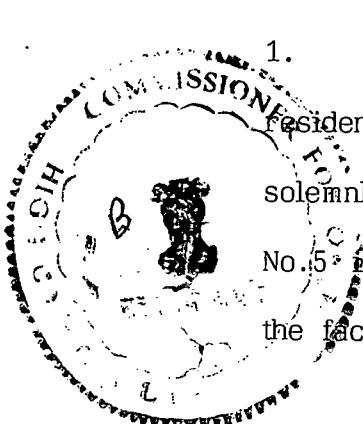
1. I, N.C.Malhotra aged about 38 years s/o Shri B.R.Malhotra, resident of 554/219 A/11, Bhimnagar, Alambagh Lucknow do hereby solemnly affirm as under. That the respondent is opposite party No.5 in the above noted case and is therefore well conversant with the facts deposed to hereunder:

2. That the respondent has read the rejoinder Affidavit III of Shri S.C.Banerjee, petitioner and has understood the contents thereof.

3. That the contents of paragraphs 1 to 3 of the said rejoinder affidavit III need no reply.

4. That the contents of para 4 of the said rejoinder affidavit

*Malhotra*



A 224

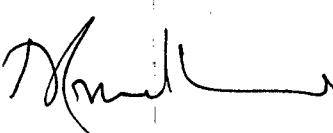
A 224

III are wrong and denied., It is reiterated that D.G.letter No.49/14/69-SPB I dated 20.5.71 was in the notice of the petitioner as admitted by him in para 12 of his W.P.

That the petitioner in order to mislead this Hon'ble court has raised a new issue that quasi/permanent clerks were not eligible to appear in the stenographers examination. This statement is contrary to the instructions contained in para 2 B of D.G.P&T letter dated 20.5.71 (annexure 4A to the W.P.)

That the petitioner's statement that even at the time of filing W.P. he had no knowledge of the examination conducted on 23.4.72 is false. He has himself filed annexure 5 to his W.P.-seniority list of stenographers -indicating the date of passing the examination by the respondent No.5 as 23.4.72. The petitioner just to make out his case has willfully referred to subsequent notice dated 22.12.72 in para 6 of his W.P. and had concealed to refer to earlier notices dated 11.8.71 and 7.7.72 as these were general notices and nobody was called individually to appear in the examination and copies of these notices were given to all officers in U.P. It is reiterated that the petitioner has made respondent No.5 as opposite party to harass him as respondent No.5 had passed the examination eight months before the issue of said notice dated 22.12.72 relied upon in para 6 of W.P.

5. That the contents of paragraph 5 of the rejoinder affidavit III are false and denied. That the PMG who was head of the P&T in U.P. was alone authorised to make recruitment for stenographers cadre. The petitioner's statement that DMT Lucknow was head of



A225

A  
225

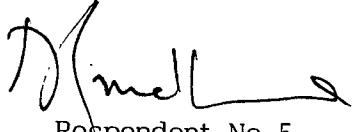
the circle is false as DMT is incharge of Lucknow Telephone District only.. The petitioner has not referred to any rulings from the Director General Posts & Telegraphs which makes the DMT Lucknow competent to conduct examination on circle level, he has cited a letter from DMT Office Lucknow whose authority is itself disputed.. It is reiterated that there is contradiction in the statement of the petitioner in para 8 of W.P. which he has failed to clarify in rejoinder as he is confused whether he appeared in "Recruitment Examination" or "Examination for the converted posts.". A perusal of DMT Lucknow letter dated 8.2.74 and 19.2.74 (annexure III & IV to counter affidavit) will reveal that the petitioner was appointed in a recruitment examination conducted in 1974 by the DMT Lucknow for his office and not for converted posts of stenographers at circle level.

6. That the contents of para 6 of the rejoinder affidavit III are wrong and denied. That the petitioner had no suitable reply to the paragraph 5 of the counter affidavit so he has adopted face saving device that it will be replied in arguments. Infact the examination passed by the petitioner was not in terms and conditions of D.G.P&T No.49/14/69-SPB.I, dated 20.5.71 and not at par with Circle level examination. Hence provisions of para 4(b)(ii) of D.G. letter dated 20.5.71 regarding interse seniority does not apply in the case of the petitioner. Accordingly the seniority of the petitioner has been fixed in accordance with para 4(c) of D.G.P&T letter dated 20.5.71 i.e. to the general orders on the subject.

*M*

1/23

7. The grounds stated in the counter affidavit are correct and writ petition is liable to be dismissed.

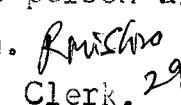
  
Respondent No.5.

Verification

I, N.C. Malhotra, the respondent No.5, do hereby verify that the contents of paras <sup>B</sup> 1 to 7 above are true to my personal knowledge. No part of it is false and nothing material has been concealed.

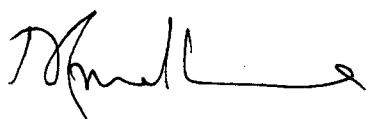
So help me GOD.



I, Ram Naresh Misra, a clerk to Sri Shekhar Srivastava, advocate, do hereby declare that the person making this affidavit and alleging himself to be the same person ~~is~~ is known to me from the record in his possession.   
Clerk. 29-10-87

Solemnly affirmed before me on this <sup>29</sup>th day of October, 1987, at 8.00 a.m./p.m. by the deponent identified above.

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



Prwab	
Balkunth Nath Dubey, OATH COMMISSIONER.	
OATHS COMMISSIONER	
High Court, Allahabad	
S. No.....	371608
Date.....	29-10-87



AFFIDAVIT

22/10/1987

HIGH COURT

ALLAHABAD

(22/10/1987)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
ADDITIONAL BENCH, ALLAHABAD.

Supplementary Rejoinder Affidavit I

In

Transfer Case No. 156 (T) of 1987

(Arising out of Writ Petition No. 191 of 1980  
- LUCKNOW BENCH)

S.C. Banerjee

Petitioner

Versus

Union of India and others

Opposite Parties

Affidavit of S.C. Banerjee  
aged about 58 years S/o  
Late Sri R.C. Banerjee, R/o  
C-733, Sector 'C', Mahanagar,  
Lucknow.

The deponent abovenamed do hereby  
solemnly affirm and state on oath as follows:-

1. That the deponent is the petitioner in this case and as such is acquainted with the facts deposed to below:

2. That the deponent has read the supplementary affidavit of Sri Ram Lal, filed on behalf of the Respondents No. 1, 2 and 3 and has understood the contents thereof.

Re cd. copy  
Recd. by Law Clerk to  
Sri Ashok Mukherjee  
Advocate

29/10/87

Rebaagel

A227

2.

3. That at the very outset it may be stated  
that the application alongwith the supplementary  
affidavit is misconceived and liable to be rejected.

The respondents are unnecessarily trying to harrass  
the petitioner and there was no reason for the  
filing of this supplementary affidavit specially  
when on the last date the said respondents had  
filed a detailed counter affidavit and the case was  
fixed for final hearing on 13.10.1987.

4. That the contents of paragraph No.2 of the  
said supplementary affidavit are not admitted as  
stated therein. The petitioner has filed the writ  
petition challenging the seniority list dated 7.9.1978  
as well as the order rejecting his representations  
and also the order/letter dated 5.8.1978 arbitrarily  
changing the criteria for fixing the seniority of  
the petitioner and others. The petitioner has also  
further prayed for a direction that the petitioner  
may be given due seniority after being treated to  
have qualified in the examination conducted in 1972.



*Gopal*

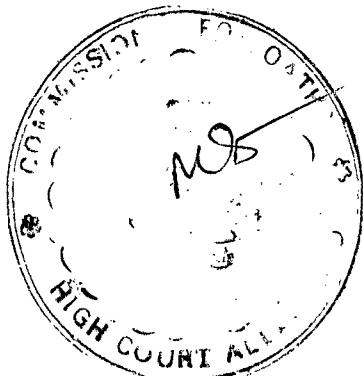
A228

3.

8/28

5. That the contents of paragraph 3 of the said supplementary affidavit are wrong and denied.

The order dated the 20th May, 1971 was passed to convert the post of steno-typist to stenographers after passing a qualifying examination and not a speed test as alleged in the paragraph under reply. It may be reiterated that the petitioner was duly qualified but not given the opportunity to appear in any of the qualifying examinations prior to 1973, when he appeared and qualified in the very first attempt. The further submissions made in the paragraph under reply that the steno-typists who were entitled to take chance and if they did not qualify or did not avail their chances, they were to be reverted to their substantive posts is absolutely wrong and against record. They shall be suitably replied at the time of the arguments of this case. The reasons why the petitioner could not appear in the qualifying test prior to 1974 have been duly explained in the main writ petition as well as in the rejoinder affidavit and it was solely



*Govardhan*

A229

4.

4/27

because of the fault of the respondents themselves and no fault of the petitioner. It is absolutely wrong to state that the petitioner was detained to work as steno-typist on a purely temporary and ad-hoc capacity. It may be reiterated that the

order/letter dated 5.8.1978 was obtained on mis-

representation of facts and detailed reply to this has already been given in the rejoinder affidavit.

This letter dated 5.8.1978 was passed without any due authority and without referring to the earlier letter of 20th May, 1971, giving the details for fixing the ~~xx~~ seniority on the basis of the qualifying examinations to be held for conversion of posts from steno-typist to stenographers.

The qualifying tests in 1972 and 1973 and 1974

were held in accordance with the instructions

contained in the letter dated 20.5.1971 and

after the same having been held the seniority

~~xx~~ ought to have been fixed according to the

instructions contained therein and the subsequent

change in the basis of fixing the seniority

contained in the letter dated 5.8.1978 is clearly



*G. S. S. S.*

A230

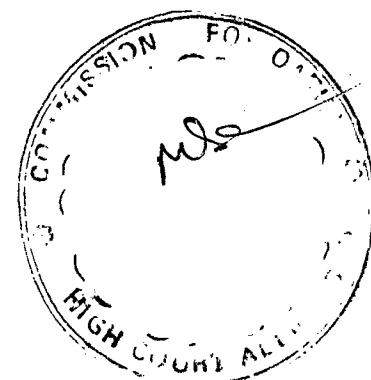
A230

5.

an after thought and a manipulation on the part of the respondents. This letter dated 5.8.1978 does not supersede the instructions contained in the letter dated 20.5.1971 and as such the mode of fixing the seniority in the letter of 20.5.1971 ought to prevail. It is absolutely wrong to state that the seniority of the petitioner has been rightly fixed from 1974, whereas he ought to be deemed to have passed the qualifying test in 1972.

6. That the contents of paragraph No.4 of the supplementary said/affidavit are absolutely wrong and denied.

The test to be held as per the instructions of letter dated 20.5.1971 for the conversion of posts to stenographer was merely a qualifying test and not a competitive examination for the recruitment of stenographers. The letter dated 11.8.1971 was not notified and it is for the first time that the petitioner has now come to know of such a letter having been issued.



*Rebated*

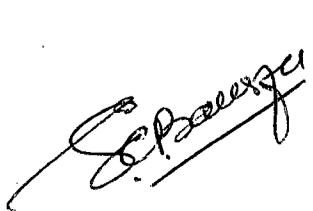
A231

9/29

6.

7. That the contents of paragraph No.5 of the said supplementary affidavit are not admitted as stated therein. No such notice was displayed on the notice board of the office of the petitioner where the petitioner was working on deputation i.e. the office of the Divisional Engineer, Telephones, Long Distance, nor was any such notice given to the Divisional Engineer, Telephones Long Distance or the petitioner. It may be reiterated that it is for the first time that the petitioner has learnt about any such examination through the said supplementary affidavit filed ~~by~~ <sup>on behalf of</sup> the respondents.

8. That the contents of paragraph No.6 of the said supplementary affidavit are wrong and denied. The alleged letter dated 11.8.1977 although deliberately not filed by the respondents No.1,2 and 3 with the supplementary affidavit, but it has been filed with the supplementary counter affidavit filed on behalf of the respondent No.4 and from a perusal of the same it is clear that the said letter was not for any particular examination to be

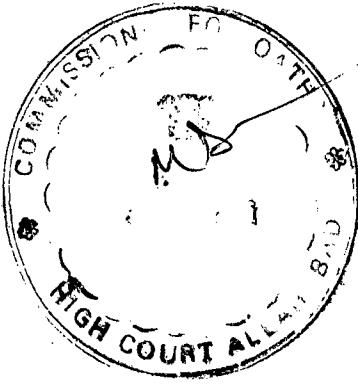


A 232

A/232

7.

conducted for a number of vacancies on any particular date, ~~at~~ time and ~~Venue~~. It was merely a general letter intimating about the qualifying test to be held at a future date for conversion of the post of steno typist to stenographers. A copy of that letter was marked to several offices but not to the office in which the petitioner was working. No examination on any particular date was conducted on the basis of this letter and it was only ~~xx~~ that subsequently notice was issued for the examination held in 1972 and 1973 for which notice ~~were~~ given to all the eligible candidates but the name of the name of the petitioner was inadvertently left out which position was admitted by the respondents themselves.



9. That the contents of paragraph No. 7 of the said supplementary are wrong and denied. However the respondent No.4 may have come to know of the notice dated 11.8.1971 and any other subsequent notice fixing the date of the examination on 23.4.1972 as such notice may have been given to his department

*Chandrasekhar*

A233

A233

8.

or office where he was working. It is admitted by the respondents themselves that such notice was not given to the petitioner or to his office where he was working.

10. That the contents of paragraph No. 8 of the said supplementary affidavit are absolutely wrong and denied. As stated earlier the petitioner has come to know of the notice dated 11.8.1971 only through this supplementary affidavit. Regarding the notice dated 20.12.1972 also the petitioner had come to know of the same only after the seniority list was declared in 1979.



11. That with regard to the contents of first part of the para 9 of the supplementary affidavit it is submitted that the petitioner has no knowledge of the same. As regards the second part of the said paragraph 9 of the supplementary affidavit it is submitted that the respondents No. 4 to 6 were necessary parties just as the petitioner, the said respondents had also appeared in the examination

*J. S. Bhatt*

A234

8/23/71

9.

for the conversion of posts which was held as per the instructions contained in the letter dated 20.5.71 and no two different scales of fixing the seniority can be applied by the respondents. Respondents No.4 and 5 cannot be held to be senior to the petitioner as

~~XXX~~ the basis for fixing their seniority is illegal and in challenge in this Writ Petition.

12. That the contents of paragraph No.10 of the said supplementary affidavit are absolutely wrong and denied; the petitioner has come ~~XXXX~~ with clean hands and a clear case of supercession and illegal action of the respondents taken against him. Such irresponsible statement made on behalf of the respondents No.1, 2 and 3 should be strictly dealt with by this Hon'ble Court.



13. That the contents of paragraph No.11 of the said supplementary affidavit are absolutely wrong and denied and the detailed reply has already been given in the preceding paragraphs and it may only be reiterated that it is through the supplementary

*Re: B. S. Sehgal*

A235

233

10.

affidavit under reply that the petitioner has come to know of the notice dated 11.8.1981.

14. That the contents of paragraphs No.12 and 13 of the said supplementary affidavit are absolutely wrong and denied. The averments made in the said supplementary affidavit makes it absolutely clear that the respondents No.1, 2 and 3 are in connivance with the respondents No.4 and 5 and they want to unduly favour the said respondents No.4 and 5 and harm the petitioner.

That the deponent abovenamed do hereby swear and declare on oath that the contents of paragraph Nos. 1 to 14 of this affidavit are true to my personal knowledge, those of paragraph Nos. 1 of this affidavit are based on the perusal of records, which all I believe to be true and those of paragraph Nos. 1 of this affidavit are based on the legal advice, that no part of it is false and that nothing material



A236

8/23

11.

has been concealed in it. So help me God!

*S. M. Singh*  
(Deponent)

I, S. M. Singh, Clerk to Sri A. B. Saran, Senior Advocate, High Court, Allahabad, do hereby declare that the person making this affidavit is known to me personally.

*S. M. Singh*  
(S. M. Singh)

Solemnly affirmed before me this 15<sup>th</sup> day of October, 1987 at 9:25 AM

by the deponent

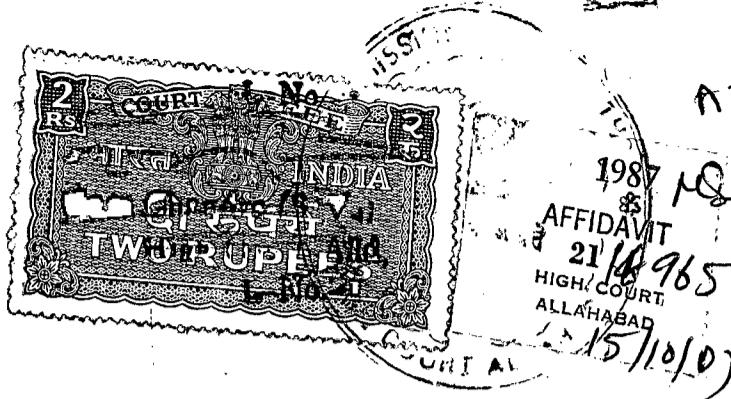
who is identified by the aforesaid clerk.

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

*M. S. Singh*  
OATH COMMISSIONER  
HIGH COURT, ALLAHABAD  
Sl. No. 22/965  
Date: 22/10/07

*M. S. Singh*  
Oath Commissioner.

Filed Today  
Shy  
7/4



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH

ALLAHABAD

Supplimentary Rejoinder Affidavit II

In

Transfer Case No. 156(T) of 1987

(Arising out of the writ petition no. 191 of 1980-

Lucknow Bench)

Recd. copy  
S. C. Banerjee... ... ... Petitioner.  
S. C. Banerjee  
29/10/87  
Versus

Union of India and Others... ... ... Respondents.

Affidavit of Sri S.C.Banerjee,  
aged about 58 years, Son of Late Sri  
R.C.Banerjee, resident of C-733,  
Sector -C, Mahanagar, Lucknow.

The deponent abovenamed, do hereby solemnly  
affirm and state on oath as follows :-

1. That the deponent is the petitioner in this case and as such well acquainted with the facts deposed to below.
2. That the deponent has read the Supp.Counter

Affidavit of Saheb Dayal Sharma, respondent no. 4 alongwith



S. C. Banerjee

A238

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238

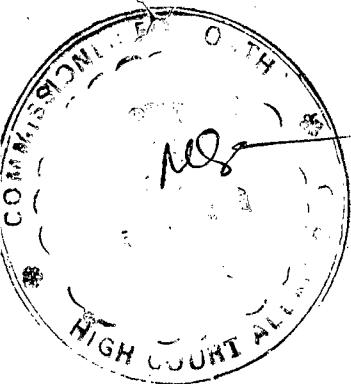
-2-

its annexures and has understood the contents thereof.

3. That with regard to the contents of paragraph 1 of the said Supp. Counter Affidavit, it is submitted that it is for the first time that the petitioner has learnt about the alleged notice dated 11.8.1971. From a bare perusal of the said notice ~~itself~~ it is itself clear that no copy of the same was marked to the office where the petitioner was working on deputation. It may be reiterated that the petitioner had no knowledge of the same.

4. That with regard to the contents of paragraph 2 of the said Supp. Counter Affidavit, it may be submitted that the alleged notice dated 11.8.1971 was a general notice only intimating that a test for the conversion of the post of Steno-Typist to Stenographer was to be held, but no date, venue and number of vacancies of any examination was mentioned in the said notice.

5. That the contents of paragraph 3 of the Supp. Counter Affidavit are wrong and denied. The reasons for

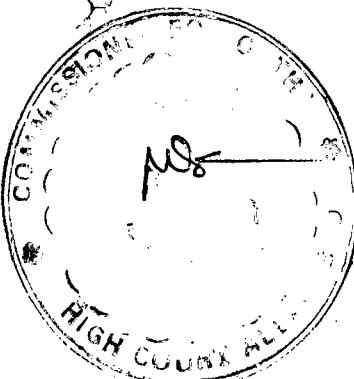


*J. S. Radhakrishnan*

-3-

the petitioner of ~~xx~~ not mentioning about the notice dated 11.8.1971 in the writ petition have already been explained above and the petitioner had rightly relied upon the notice dated 22.12.1972 which was given to all the eligible candidates but not the petitioner who was also an eligible candidate. The fault on the part of the department has been admitted by them. The subsequent notice was a notice for a particular examination which was allegedly given to all the eligible candidates and it was not a general notice as the one dated 11.8.1971.

6. That the contents of paragraph 4 of the said Suppl. Counter Affidavit are wrong and not admitted as stated therein. The respondent no. 4 may have come to know of the notice dated 11.8.1971 because it was sent to the office in which he was working, ~~xx~~ whereas the petitioner had no knowledge of the same as the said notice was not even sent to the office where the petitioner was working. The respondent no. 4 is a necessary party and has been rightly impleaded in the writ petition which is liable to be allowed with costs to the petitioner.



*Sebewge*

A240

238

-4-

I, the deponent abovenamed do hereby swear and declare on oath that the contents of paragraphs 1 to 6 are true to my personal knowledge, which I believe to be true that no part of it is false and nothing material has been concealed. So help me God.

*S.C.Banerjee*  
(Deponent)

I, Ram Lakhan, Clerk to Sri Vineet Saran, Advocate, High Court, do hereby declare that the person making this affidavit and alleging himself to be Sri S.C.Banerjee is that person. The deponent is known to me from the perusal of the records of this case.

*Ram Lakhan*  
(Ram Lakhan)  
Clerk.

Solemnly affirmed before me this 15<sup>th</sup> day of October, 1987 at 9:20 AM by the deponent who is identified by the aforesaid clerk.

I have satisfied myself by examining the deponent that ~~he~~ he understand the contents of this affidavit which has been readover and explained to him.

*MS*  
OATH COMMISSIONER

*MS*

MS	
OATH COMMISSIONER	
HIGH COURT, ALLAHABAD	
SL. No. 21/965	
Date	15/10/87

A241

8/29

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BENCH ALLAHABAD.

WRITTEN ARGUMENTS

C.A.T. REGISTRATION NO. 156(T) OF 1987.

(Arising out of Writ Petition No. 191 of 1980 )

District Lucknow

S.C. Banerjee     ...     ...     Petitioner

Vs

Union of India & Others     ...     Opposite Parties.

Written arguments on behalf of Respondent No.7

To

The Hon'ble Vice Chairman & his other companion

Hon'ble Members of this Hon'ble Tribunal.

The counsel for the Respondent most respectfully submits as under :-

The Respondent No.7 has already filed an affidavit on 12th October 1987 before the Court in which he had elaborately enumerated his pafawise comments on the writ petition No.191 of 1980 filed by Shri S.C. Banerjee against the injustices meted out to him in the matter of wrong fixation of seniority in the cadre of stenographers exclusively in the Telecom Circle, Lucknow.

The whole case may be summarised as below :-

1. That prior to 20.5.71 there were Lower Division clerks and Time Scale clerks getting a special pay of Rs.25/- for performing stenographic work into P&T Circle/ Administrative/Subordinate offices in the P&T organisation besides a very few stenographers attached to Postmaster General/General Managers and other higher officers.

The vast majority of staff belonged to LDCS/PSA special pay catering to the needs of various services in the P&T

whole of India.

2. That by Presidential orders as circulated vide Director General, Posts & Telegraphs, New Delhi communication No. 7-55/68.PE.1 dated 20.5.71 it was decided to convert the posts of LDCs and TSCs with special pay of Rs.25/- into the posts of stenographers in the then existing scale of Rs.130/300 and discontinuation of existing system of grant of special pay. These orders were effective from the date of issue of orders, i.e., 20.5.71 (Annexure 4 of W/P). In pursuance of the above orders, the Director General, Posts & Telegraphs, New Delhi issued a circular letter No. 49/14/69.SPG.I dated 20.5.71 to All Heads of Circles prescribing the method and procedures of filling up the converted posts of stenotypists into those of stenographers which ~~now~~ reads as under in Para 'A' of the aforesaid circular letter :-

"A. Circle and Administrative Offices:

The existing stenotypists in the Circle and Administrative offices including those who have been appointed on an adhoc basis may be appointed to the converted posts of stenographers. They shall however be required to qualify in a test in stenography at 80 words per minute within a period of two years from the date of their appointment to the converted posts, failing which they shall be reverted to their clerical posts". In para 'B' of the aforesaid circular letter, it was however also decided that "the converted posts of stenographers in the Divisional offices may be filled up to which test the existing stenotypists and those who had held the posts earlier at some stage or other as well as clerks, permanent or quasi-permanent may be permitted to appear".

As regards fixation of seniority of stenographers on their appointment, it was decided in a very clear

and unambiguous terms reading as under : -

" 4(b) The seniority of stenographers appointed under 'A' and 'B' of para 2 above will be determined on the following basis -

(i) The permanent LDCs and TSCs appointed to officiate as stenographers will have their seniority arranged according to the date of confirmation in either of the grades LDC or TSCs. Those confirmed on the same date will have their interse seniority fixed according to age.

(ii) The quasi-permanent and temporary LDCs and TSCs appointed to officiate as stenographers under 'A' and 'B' in para 2 above will have their seniority fixed on the basis of continuous regular appointment either as LDC or TSC.

(iii) Those coming under (i) above will rank senior to those in (ii) above.

(c) After recruitment to all the existing posts of stenographers as on date is made and after their seniority is fixed in the above manner seniority of stenographers appointed to posts that arise after the date of issue of the letter would be based according to the general orders on the subject."

3. According to the aforesaid orders of the D.G. P&T, New Delhi ( Rule making authority of the Department for all the circles in India ) the first combined test was conducted by the then Postmaster General, U.P. Circle, Lucknow (Head of U.P. Circle) on 23.4.72 permitting all stenotypists, all clerks permanent or quasi-permanent and temporary whosoever had applied in various offices of U.P. Circle in accordance with notice circulated to all officers in U.P. Circle, except the D.M.T. Lucknow or D.E. Long Distance vide P.M.G.U.P. No. Staff/M-22/71/10 dated 11.8.71. This test was conducted in accordance with para 2B of D.G. P&T, New Delhi orders dated 20.5.71

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In the aforesaid test only 7 officials were declared to have passed the prescribed examination. Among the 7 officials the names of S/Shri Saheb Dayal, Navin Chandra Malhotra and Afaq Ahmad Usmani (who were either quasi-permanent or temporary) also appeared at Sl. Nos. 3,4 and 6 vide PMG, U.P. Lucknow No. STC/M-22/71/4 dated 16.5.72.

Thereafter two more tests were conducted by the Postmaster General, U.P. Circle, Lucknow (Head of the Circle) one on 21.1.73 and the other on 6.5.73 at Lucknow exclusively for circle level stenotypists working in different offices in various stations vide PMG, U.P. Circle, Lucknow No. STC/M-22/74/4 dated 22.12.72 and No. Staff C/M-22/73/4 dated 7.2.73 (Annexure 2 of W/P).

In all 23 circle level stenotypists were permitted to appear in the test to qualify only at the prescribed speed as per para 2A of orders dated 20.5.71. The test conducted on 21.1.73 was annulled. The result of the other test held on 6.5.73 was declared vide PMG, U.P., Lucknow No. Staff C/M-22/7 3/4/Converted dated 11.5.73 in which 17 officials had qualified for appointment to the converted posts of stenographers (Annexure 1 of this written arguments). Accordingly Respondent No.7 being one of the officials having qualified in the test was appointed as stenographer with effect from 20.5.71 in accordance with D.G.P&T New Delhi orders No.2-80/72/PAT dated 8.5.74 vide P.M.G.U.P. Lucknow Memo. STB/M.81-2/3 dated 7.6.74 (Annexure II of written arguments). All these tests conducted by the P.M.G., U.P., Lucknow were in order as per D.G. orders dated 20.5.71. The policy was clear and is in complete consonance with D.G.P&T orders in para 4(c) of letter dated 20.5.71 that the tests will be conducted till the existing posts (existing upto 20.5.71 - date of issue of letter) are filled up and seniority fixed according to their gradation in LDC/T.S. clerks. The principle of becoming junior if passed later is therefore applicable only after all the posts existing upto 20.5.71 were filled up.

4. Accordingly the first combined seniority list of stenographers working in U.P.Circle, Lucknow, except those working under DMT, Lucknow and Kanpur was issued on 26.3.75 maintaining the interse seniority as per substantive entry in the cadre of LDC/TSC. In this seniority list the names of S/Shri Saheb Dayal Sharma, N.C. Malhotra and Afaq Ahmad Usmani had not at all come (referred as Respondents No.4,5 and 6 in the present case) as they were juniors

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to all the 24 officials listed in the seniority list having put in only a year or two years service prior to 20.5.71 and had no locus standi in the seniority list of stenographers of U.P. Circle. This seniority list has been filed by Respondent No.7 in his affidavit as Annexure. There was no dispute till then in the question of seniority of stenographers.

5. Shri S.C. Banerjee, Petitioner in this case was appointed in the Posts & Telegraphs Department in June and had been promoted as a Circle level stenotypists with effect from 15.1.69 vide Postmaster General, U.P. Circle, Lucknow No. STB/12 XS/Ch.IV/8 dated 15.1.69 alongwith Respondent No.7 and others (as per Annexure 1 of W/P). Shri S.C. Banerjee who was entitled to appear in the tests conducted by the then Postmaster General, U.P. Circle, Lucknow (Head of the Circle) on 23.4.72, 21.73 and 6.5.73 but he could not appear in the aforesaid tests as neither he nor his Divisional Head were intimated about such tests erroneously. The veracity of this fact is evident as per Annexures 2 and 2B of the W/P. However, having qualified in the test for stenographers on 9.2.74 conducted by District Manager Telephones Lucknow (Head of a minor circle) he was appointed as a stenographer. On being appointed as a stenographer he was having his seniority w.e.f. June 1969 as per orders contained in para 2(i) of D.G.P&T No.49/14/69.SPG.I dated 20.5.71.

6. The Dispute over seniority of stenographers arose exclusively only in U.P. Telecom Circle, Lucknow in the year 1977 after six years of appointment as stenographers in the grade with effect from 20.5.71 in conformity with para 4(i) and (ii) of D.G.P&T circular letter No.49/14/69.SPG.I dated 20.5.71 on issue of a show-cause notice by only General Manager Telecom, U.P. Lucknow No. Staff/M-81/77/3 dated 25.10.77 and overall change of en bloc seniority of 7 juniormost stenographers

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who had qualified in the test held on 23.4.72 vide G.M. Telecom, U.P. Lucknow No. Staff/M-31-23-3 dated 7.9.78 (Annexure 5 of W/P). This revised seniority list of stenographers was not accepted by the senior stenographers who had their positions according to the rule framed and formulated by the Director General, Posts & Telegraphs, New Delhi vide para ~~para~~ 4(i) and (ii) of No. 49/14/69-SPG.I dated 20.5.71 and 11 representations including the one of Respondent No.7 were filed with the G.M.Telcom, U.P., Lucknow but these were not accepted and rejected by the G.M.Telcom, U.P. Lucknow vide No. Staff/M-81-23/3 dated 17.11.78 on the analogy of clarifications obtained vide D.G. P&T New Delhi No.206/4/78-STB/SPB.I dated 5.8.78 (as per Annexure 7 of the W/P). This decision of rejection of representations was communicated by one Shri K.K. Srivastava, Asstt. Director Telecom (Staff), Lucknow, who had no power or authority to decide an issue which had already been decided by the Rule framing authority of the Department - Director General, Posts & Telegraphs, New Delhi, as stated above. The contents of D.G. P&T communication No.206/4/78-STB/SPB.I dated 5.8.78 under which the revision in the seniority list was purported to have been made, as mentioned in the G.M.Telcom, Lucknow letter dated 17.11.78, was not made wilfully known to any of the representationists/in order to avoid any further representations challenging the validity of revised seniority list of stenographers.

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Now, in the process of ~~ex~~ filings of affidavits and counter-affidavits before the Hon'ble Tribunal, an affidavit filed by the Personal Officer O/o G.M. Telecom, U.P. Lucknow in October '87, it is revealed that it was a d.o. letter No.206/4/78-STB/SPB.I dated 5.8.78 from one Shri J.M. Panjwani, Asstt. Director General (SPN) New Delhi addressed to Shri B.L. Nagar, Director Telecom, Lucknow in reference to his d.o. letter No. Staff/M-81/77/3 dated 3.1.78 bearing a reference to D.G. P&T New Delhi No.45-14/69-SPB.I/PT

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dated 24.11.71. This particular letter gives clarifications on certain issues of general nature arising in all the circles of India regarding conduction of tests of stenographers and does not contain any particular issue arising only in U.P. Telecom Circle, Lucknow. A copy of the same is filed as Annexure III of this written arguments). It clearly speaks against Point 3 "the question of holding a combined test does not arise at all. Time scale clerks in Divisions can be appointed to the converted posts after the test is held. EX LDCs in Circle and Administrative offices who are working as stenotypists can continue in the converted posts and they have been given a period of two years to pass the test," and against Point 7 "the examination for LDCs will be held at the Circle Headquarters and that for the time scale clerks at the Divisions Headquarters. A merit list of time scale clerks qualify in the examination will be drawn up for the whole circle and the candidates from that list will be appointed to the extent of available vacancies.". Thus, it is clear that for stenotypists on circle level a test is to be held and for time scale clerks and LDCs an examination is to be held and a merit list is to be prepared.

Since Shri S.C. Banerjee and other seniormost including Respondent No.7 were circle level stenotypists and were required to qualify in the tests and having fulfilled the prescribed conditions they were appointed as stenographers with effect from 20.5.71. The question of merit list does not arise in their cases, as this was meant for LDCs and T.S. clerks in the Division.

So far as the seniority of stenographers is concerned the same as has been fixed on on 26. 3.75 based on statutory rules of recruitment by the Director General, Posts & Telegraphs, New Delhi is maintainable which has the force of law. The Director General, Posts & Telegraphs, New

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Delhi is the only authority for framing statutory rules for the P & T Department which are applicable for the whole of India and none else. The Asstt. Director General has no power or authority to modify, change or alter any rules. This statutory rules of fixation of seniority of stenographers have been implemented and adhered to even in the U.P. Postal Circle, Lucknow and rest of India.

PRAYER

The Hon'ble Tribunal may be pleased to decide -

- (1) the seniority list of stenographers issued on 26.3.75 and fixation of seniority of Shri S.C. Banerjee as per his date of confirmation in the Time Scale grade maintainable by statutory rules of the Department having force of law and scrap the revised seniority list of stenographers issued on 7.9.78 which is biased, unlawful and has no coverage of statutory rules of the Department and not issued by the Director General, Posts & Telegraphs, New Delhi.
- (2) to give financial relief to Shri S.C. Banerjee and other seniormost stenographers inflicted upon them due to wrong fixation of seniority.

*Shivandan* 7/4/88  
(SHIVANANDAN)  
COUNSEL FOR RESPONDENT NO. 7

Date

7-4-88

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INDIAN POSTS AND TELEGRAPHS DEPARTMENT  
OFFICE OF THE POSTMASTER GENERAL, UTTAR PRADESH CIRCLE

Memo. No. Staff C/M-22/73/4/Converted Dt. at LW, the 11.5.73

Sub: Result of examination for recruitment to the cadre of  
Stenographers on converted posts of steno typists

....

As a result of the examination held on Sunday the  
6th May 1973 the following stenotypists have qualified  
for appointment to the converted posts of Stenographers.  
All concerned may be informed accordingly. The names  
have been arranged in order of merit.

Sl. No.	Roll No.	Name	Office in which working
1.	UP-1	S/S Mohan Lal	SSPOs Saharanpur
2.	UP-13	" Jamuna Prasad Dube	SPOs Faizabad
3.	UP- 6	" Bisheshwar Nath	DET Lucknow
4.	UP-18	" S.N. Chatterjee	SSTT Allahabad
5.	UP-9	" S.R. Dube	DEP Agra
6.	UP-2	" J.P. Gupta	DET Agra
7.	UP-4	" Kanti Prasad	SSPOs Agra
8.	UP-14	" S.B. Misra	DET Bareilly
9.	UP-11	" Ram Prasad Srivastava	DET Varanasi
10.	UP-17	" V.N. Kakkar	SSRM Allahabad
11.	UP-19	" Bhagwati Prasad Srivastava	SSPOs Allahabad
12.	UP-3	" K.S. Kulshrestha	A/C Office ICO SB Agra
13.	UP-21	" Shankar Lal	SSPOs Meerut
14.	UP-10	" S.P. Saxena	SSPOs Bareilly
15.	UP-5	" Bhisham Kumar	DET Moradabad
16.	UP-12	Miss. P. Sylvester	C.S. Agra CTO
17.	UP-22	Shri Sheo Mohan Lal Srivastava	SSRM Lucknow

Sd.  
for Postmaster General, U.P.

Copy for information and necessary action to :-

1. SSPOs Saharanpur/Agra/Allahabad/Meerut/Bareilly.
2. SPOs Faizabad.
3. DET Lucknow/Agra/Bareilly/Varanasi/Moradabad/DE Phones  
Agra.
4. SSRM Allahabad/Lucknow.
5. A/c Officer ICO SB Agra
6. C.S. Agra CTO
7. SSTT Allahabad.

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INDIAN POSTS AND TELEGRAPHS DEPARTMENT  
OFFICE OF THE POSTMASTER GENERAL U.P. CIRCLE LUCKNOW

Memo. No. STB/H-81/2/3 Dated at Lucknow 226001, A25  
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the 7.6.1974.

In pursuance of orders contained in D.G. P&T New Delhi Communication No. 2-80/72/PAT dated 8.5.73 circulated to all concerned under this office No. ACC/R-28/73/3 dt. 15.5.73  
Shri S.N. Chatterjee Stenographer Office of S.S.T.T. Allahabad has opted the scale of Stenographer 130/300 i.e., 330/560 with effect from 20.5.71 and accordingly he is appointed as officiating Stenographer with effect from that date.

This is in partial modification of this office memo. of even No. dated 8th Feb. 1974.

Sd. S.P. Gulati,  
DIRECTOR POSTAL SERVICES  
U.P. CIRCLE

Copy for information & necessary action to :-

1. S.S.T.T. Allahabad with one spare copy
2. C.A.O. Telecom Lucknow.
3. Official concerned Shri S.N. Chatterjee, Steno to S.S.T.T. Allahabad.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH

WRITTEN ARGUMENTS

On behalf of  
S.C. Banerjee ..... Petitioner

IN

Transfer Case No. 156(T) of 1987

(Writ Petition No. 191 of 1980)

S.C. Banerjee ..... Petitioner

Versus

Union of India and others..... Opposite Parties

The petitioner begs to state as under:

1. That the petitioner was recruited as Telephone Operator in June, 1949 and promoted as Steno-typist on 24.4.1967 after test conducted by Divisional Engineer (Phones), Lucknow.

2. That admittedly the petitioner was selected as Steno-typist (Post Master General U.P. Circle) vide Office Memo dated 19.12.1968. Petitioner belonged to the cadre of Lucknow Telephone Division but was admittedly working on deputation with D.E. Telegraph (Long Distance) cadre which is a different unit (See Annexure 1) to Writ). He continued to work on deputation with D.E.T. (Long Distance) till Feb. 1974.

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Res. Commsd enclosed  
*Aban*  
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(Ann 4 to writ)

3. That vide order dated 20.5.1971, the Director General (P & T) ordered conversion of Steno-typists to Stenographers (in higher payscale) subject to passing of test.

4. That P.M.G. (U.P. Circle) conducted test on 22.12.1972 for converted post of Stenographers. The petitioner, though eligible, was not informed (although in para 6 of the counter affidavit it is stated that the first test was conducted on 23.4.1972 but that is also not very ~~RELEVANT~~ material as the petitioner had no knowledge of the same also and has come to know of it for the first time through this counter affidavit).

5. That admittedly another test was held in Feb. 1973 of which the petitioner was again not informed and his name was not mentioned.

6. That in 1974, for the first time, when the petitioner was brought back in the administrative control of the Lucknow Telephone Division, then the petitioner received the intimation of the test being conducted for conversion of posts of stenographers vide letter of the District Manager Telephones dated 8.2.1974 (Annexure 2 to the writ).

7. That admittedly the petitioner appeared for the said examination and qualified in the very first attempt and was appointed as Stenographer vide order dated 19.2.1974 (Annexure 3 to the writ).

*H. N. M.*

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8. That in the year 1978 the seniority list was for the first time published and the name of the petitioner was shown at the last. The said seniority list was prepared arbitrarily and against the provisions and guidelines given in the order dated 20.5.1971 (Annexure 4 to the writ). The petitioner immediately made a representation dated 27.9.1978 (Annexure 6 to the writ) which was rejected by a general order dated 17.11.1978 (Annexure 7 to the writ) deciding the representations of 11 Stenographers. The representation of the petitioner was not considered and orders were passed mechanically and arbitrarily. The General Manager, Telecommunications (respondent No.3) wrote to the Director General (P & T) admitting that the name of the petitioner was inadvertently left out in the 1972 and 1973 examinations and hence the petitioner could not appear. In 1974 when the petitioner was informed for the first time, he qualified in the very first attempt and hence the grievance of the petitioner was genuine and correct (this letter is annexure 8 to the writ - averments made in paragraph 17 of the writ have not been categorically denied by the respondents No.1, 2 and 3 in para 20 of their counter affidavit).

9. That the respondents No.1, 2 and 3 have falsely stated in paragraphs 7, 8 and 9 of their counter affidavit that the petitioner had knowledge of the earlier tests held in 1972 and 1973 and have sworn the said paragraphs on the basis of information received from the officers of the

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Department and on the basis of the record. The said averments have been explained in paragraphs 12 and 13 of the rejoinder affidavit which may be perused and the petitioner begs to state that strong action may be taken against the deponent of the said counter affidavit for filing a false affidavit.

10. That it may be mentioned that individual notices were sent to all other candidates ~~which~~ who were eligible for appearing in the test in the years 1972 and 1973 (as is clear from Annexures 2 and 2B to the writ) and it is nowhere explained as to why the same was not done in the case of the petitioner which was either a deliberate action or due to the negligence of the respondents, but for no fault of the petitioner and the petitioner cannot be made to suffer for the same.

11. That it may be submitted that subsequently to the filing of the writ petition, the representation of the petitioner, which although communicated as having been decided, was kept pending in the eyes of the higher officials which is clear from the D.O. Letter dated 12.11.1980 written by the General Manager, Telecommunication to the Deputy Director General, Telecommunication (Annexure RA-1 to the Rejoinder affidavit). From this letter it is clear that the General Manager, Telecommunication has accepted that the petitioner was not informed about the tests held in 1972 and 1973 and when informed, the petitioner qualified in the very first attempt in 1974. It has been admitted that

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it was the obligation of the department to have informed the petitioner earlier and that the request of the petitioner for being granted seniority alongwith the candidates qualified in 1972 appear to be justified and acceptable. The claim of the petitioner therein has been accepted as just, genuine and acceptable, but justice is being denied to the petitioner (a ~~px~~ bare perusal of this letter will make the whole position clear).

12. That some controversy has been raised by the respondents in paragraph 14 of the counter affidavit that the seniority list has been fixed on revised instructions issued by the Director General (P & T) on 5.8.1978 which according to them supersedes the clear order dated 20.5.1971 (this has been clearly replied to in paragraph 18 of the <sup>Rejoinder</sup> counter affidavit which may kindly be perused). The alleged order dated 5.8.1978 was a D.O. letter obtained by misrepresentation of facts without explaining the case of the petitioner to the Director General and the same cannot supersede the earlier order dated 20.5.1971. [ Extract of the relevant Govt. of India Notification is enclosed herewith]

13. That it may be submitted that the test for conversion of post was merely a qualifying test to be passed and seniority of the candidate was not to be made depended on it.

14. That it is already admitted by the higher departmental officials that the claim of the petitioner is just, ~~is~~ genuine and acceptable

*Sharma*

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still the petitioner is not being given justice. Even the counter affidavit of the respondents was filed as late as in the year 1987/1988 although the writ petition was filed in the year 1980.

15. The petitioner has now retired long back and in case if justice is not done to his case, the petitioner shall suffer ~~the~~ irreparably. Even while in service the petitioner has been subjected to humiliation by being made to work under persons junior to him.

In these circumstances it is most humbly prayed that the petition of the petitioner may be allowed with special costs against the respondents.

*Saran*

(Vineet Saran)

Counsel for the petitioner

Dated: July, 1989.

P.S. The respondent Mr. Sri S.N. Chatterjee has filed his counter Affidavit and written arguments in which the factual position of the case has been admitted by him in totto.